

# Texas Historical Statutes Project

1981 SUPPLEMENT  
VOLUME 1

Agriculture Code  
Alcoholic Beverage Code  
Business and Commerce  
Education Code

Family Code  
Human Resources Code  
Natural Resources Code  
Parks and Wildlife Code  
Penal Code

Code of Criminal Procedure  
Tax Code  
Taxation  
Water Code



This project was made possible by the  
**Texas State Law Library**  
and a grant from the  
**Texas Bar Foundation.**

Digitized with permission from



THOMSON REUTERS

# West's Texas Statutes and Codes

1981 Supplement

to

Compact Edition

Volume 1

Constitution

---

Codes and Indexes

ST. PAUL, MINN.  
WEST PUBLISHING CO.

SUPERSEDED

COPYRIGHT © 1976, 1978, 1980 WEST PUBLISHING CO.

---

COPYRIGHT © 1982  
By  
WEST PUBLISHING CO.

## PREFACE

---

This 1981 Supplement to West's Texas Statutes and Codes, Compact Edition, includes the text of all the general and permanent laws of the State of Texas enacted at the Regular Session of the 64th Legislature (1975), the Regular and First Called Sessions of the 65th Legislature (1977), the Second Called Session of the 65th Legislature (1978), the Regular Session of the 66th Legislature (1979), the Regular and First Called Sessions of the 67th Legislature (1981) and the text of changes in the Texas Constitution as adopted by the people at the Elections held on April 22, 1975, November 8, 1977, November 7, 1978, November 6, 1979, November 4, 1980, and November 3, 1981.

The laws in West's Texas Statutes and Codes are under the same classification as Vernon's Annotated Texas Statutes and Vernon's Texas Codes Annotated. Therefore, the user of this Supplement may go from any article or section herein to the same article or section in the annotated editions, where the complete constructions of the laws by the state and federal courts, historical data relative to the origin and development of the law, and other helpful research aids, are conveniently available.

### New Codes

Included are the complete texts, as amended, of six new Codes adopted during the period covered by this Supplement under the Texas Legislative Council's statutory revision program, authorized by Civil Statutes, Art. 5429b-1:

Agriculture Code, enacted by Acts 1981, 67th Leg., ch. 388;

Alcoholic Beverage Code, enacted by Acts 1977, 65th Leg., ch. 194;

Human Resources Code, enacted by Acts 1979, 66th Leg., ch. 842;

Natural Resources Code, enacted by Acts 1977, 65th Leg., ch. 871;

Parks and Wildlife Code, enacted by Acts 1975, 64th Leg., ch. 545;

Tax Code, enacted by Acts 1979, 66th Leg., ch. 841, and Acts 1981, 67th Leg., ch. 389.

Disposition Tables, providing a means of tracing repealed subject matter into the new Codes, and detailed descriptive word Indexes, facilitating the search for specific provisions therein, are included following the text of each of the above new Codes.

## **PREFACE**

In addition, included is the complete text of Title 110B of the Civil Statutes, Public Retirement Systems, enacted by Acts 1981, 67th Leg., ch. 453. Title 110B was also adopted as part of the Legislative Council's statutory revision program. A Disposition Table providing a means of tracing repealed subject matter into new Title 110B is also included following the text of Title 110B.

### **Special Law Tables**

Special laws pertaining to education and water, enacted or amended in 1975, 1977, 1979, and 1981, are tabulated following the Education and Water Codes.

### **Indexes**

The index references following each Code and the Civil Statutes cover both new and amendatory laws. With respect to new laws the coverage is complete. For amendatory laws, references are added only when the existing Compact Edition references are inadequate to cover the changed provisions.

THE PUBLISHER

April, 1982

# TABLE OF CONTENTS

---

	Page
Preface .....	III
Effective Dates .....	VII
Cite This Book .....	IX
Constitution of the State of Texas 1876 .....	1
Proposed Amendments .....	1
Adopted Amendments .....	3
Index .....	18
Agriculture Code .....	21
Disposition Table .....	321A
Index .....	322
Alcoholic Beverage Code .....	377
Disposition Table .....	489
Index .....	497
Business and Commerce Code .....	515
Index .....	530
Education Code .....	533
Special Laws Table .....	678
Index .....	685
Family Code .....	703
Index .....	743
Human Resources Code .....	749
Disposition Table .....	831
Index .....	835
Natural Resources Code .....	853
Disposition Table .....	1083
Index .....	1097
Parks and Wildlife Code .....	1123
Disposition Table .....	1399
Index .....	1422
Penal Code .....	1465
Index .....	1489
Code of Criminal Procedure .....	1495
Index .....	1578
Tax Code .....	1591
Disposition Table .....	1837A
Index .....	1838

## TABLE OF CONTENTS

	Page
Taxation .....	1887
Title 122, Revised Civil Statutes, Taxation .....	1887
Title 122A, Revised Civil Statutes, Taxation—General .....	1900
Water Code .....	1911
Special Laws Table .....	2167
Index .....	2173

## EFFECTIVE DATES

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

Year	Session	Adjournment Date	Effective Date
1945	Regular	June 5, 1945	September 4, 1945
1947	Regular	June 6, 1947	September 5, 1947
1949	Regular	June 6, 1949	September 5, 1949
1951	Regular	June 8, 1951	September 7, 1951
1953	Regular	May 27, 1953	August 26, 1953
1954	1st C.S.	May 13, 1954	August 12, 1954
1955	Regular	June 7, 1955	September 6, 1955
1957	Regular	May 23, 1957	August 22, 1957
1957	1st C.S.	November 12, 1957	February 11, 1958
1957	2nd C.S.	December 3, 1957	March, 4, 1958
1959	Regular	May 12, 1959	August 11, 1959
1959	1st C.S.	June 16, 1959	September 15, 1959
1959	2nd C.S.	July 16, 1959	October 15, 1959
1959	3rd C.S.	August 6, 1959	November 5, 1959
1961	Regular	May 29, 1961	August 28, 1961
1961	1st C.S.	August 8, 1961	November 7, 1961
1961	2nd C.S.	August 14, 1961	November 13, 1961
1962	3rd C.S.	February 1, 1962	May 3, 1962
1963	Regular	May 24, 1963	August 23, 1963
1965	Regular	May 31, 1965	August 30, 1965
1966	1st C.S.	February 23, 1966	*
1967	Regular	May 29, 1967	August 28, 1967
1968	1st C.S.	July 3, 1968	*
1969	Regular	June 2, 1969	September 1, 1969
1969	1st C.S.	August 26, 1969	*
1969	2nd C.S.	September 9, 1969	December 9, 1969
1971	Regular	May 31, 1971	August 30, 1971
1971	1st C.S.	June 4, 1971	September 3, 1971
1972	2nd C.S.	March 30, 1972	June 29, 1972
1972	3rd C.S.	July 7, 1972	*
1972	4th C.S.	October 17, 1972	January 16, 1973
1973	Regular	May 28, 1973	August 27, 1973
1973	1st C.S.	December 20, 1973	*
1975	Regular	June 2, 1975	September 1, 1975
1977	Regular	May 30, 1977	August 29, 1977
1977	1st C.S.	July 21, 1977	*
1978	2nd C.S.	August 8, 1978	November 7, 1978
1979	Regular	May 28, 1979	August 27, 1979
1981	Regular	June 1, 1981	August 31, 1981
1981	1st C.S.	August 11, 1981	November 10, 1981

\* The laws enacted at this session were all emergency acts.

\*



## CITE THIS BOOK

Thus:

- West's Texas Const. Art. —, § —
- West's Texas Agriculture Code, § —
- West's Texas Alcoholic Beverage Code, § —
- West's Texas Business and Commerce Code, § —
- West's Texas Education Code, § —
- West's Texas Family Code, § —
- West's Texas Human Resources Code, § —
- West's Texas Natural Resources Code, § —
- West's Texas Parks and Wildlife Code, § —
- West's Texas Penal Code, § —
- West's Texas Code of Criminal Procedure, Art. —
- West's Texas Tax Code, § —
- West's Texas Taxation—General, Art. —
- West's Texas Water Code, § —
- West's Texas Business Corporation Act, Art. —
- West's Texas Election Code, Art. —
- West's Texas Insurance Code, Art. —
- West's Texas Probate Code, § —
- West's Texas Civil Statutes, Art. —
- West's Texas Civil Statutes Title 110B, § —

\*



**CONSTITUTION  
OF THE  
STATE OF TEXAS 1876**

**PROPOSED AMENDMENTS**

**ARTICLE III**

**LEGISLATIVE DEPARTMENT**

**REQUIREMENTS AND LIMITATIONS**

**§ 51-a. Assistance Grants and Medical Care for  
Needy Aged, Disabled and Blind Persons, and  
Needy Dependent Children; Federal Funds;  
Supplemental Appropriations**

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

Needy dependent children and the caretakers of such children.

The Legislature may prescribe such other eligibility requirements for participation in these programs as it deems appropriate and may make appropriations out of state funds for such purposes. The maximum amount paid out of state funds to or on behalf of any needy person shall not exceed the amount of Eighty Million Dollars (\$80,000,000) during any fiscal year, except that the limit shall be One Hundred Sixty Million Dollars (\$160,000,000) for the two years of the 1982-1983 biennium. For the two years of each subsequent biennium, the maximum amount shall not exceed one percent of the state budget. The Legislature by general statute shall provide for the means for determining the state budget amounts, including state and other funds appropriated by the Legislature, to be used in establishing the biennial limit.

Provided further, that if the limitations and restrictions herein contained are found to be in conflict with the provisions of appropriate federal statutes, as they now are or as they may be amended to the extent that federal matching money is not available

to the state for these purposes, then and in that event the Legislature is specifically authorized and empowered to prescribe such limitations and restrictions and enact such laws as may be necessary in order that such federal matching money will be available for assistance and/or medical care for or on behalf of needy persons.

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

Proposed by House Joint Resolution No. 62, Acts 1981, 67th Leg., p. 4220.  
For submission to the people in November, 1982.

**ARTICLE XVI**

**GENERAL PROVISIONS**

**§ 30. Duration of Offices; Railroad Commission**

Sec. 30. (a) The duration of all offices not fixed by this Constitution shall never exceed two years.

(b) When a Railroad Commission is created by law it shall be composed of three Commissioners who shall be elected by the people at a general election for State officers, and their terms of office shall be six years. Railroad Commissioners first elected after this amendment goes into effect shall hold office as follows: One shall serve two years, and one four years, and one six years; their terms to be decided by lot immediately after they shall have qualified. And one Railroad Commissioner shall be elected every two years thereafter. In case of vacancy in said office the Governor of the State shall fill said vacancy by appointment until the next general election.

(c) The Legislature may provide that members of the governing board of a district or authority created by authority of Article III, Section 52(b)(1) or (2), or Article XVI, Section 59, of this Constitution serve terms not to exceed four years.

Proposed by House Joint Resolution No. 77, Acts 1981, 67th Leg., p. 4222. For submission to the people in November 1982.

**§ 44. County Treasurer and County Surveyor**

Sec. 44. (a) Except as provided by Subsection (b) of this section, the Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County Treasurer and a County Surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.

(b) The office of County Treasurer in the counties of Tarrant and Bee is abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Auditor or to the officer who succeeds to the auditor's functions.

(c) Provided however, that the office of County Treasurer shall be abolished in the above counties only after a local election has been held in each county and the proposition "to abolish the elective office of county treasurer" has passed by a majority of those persons voting in said election.

Proposed by House Joint Resolution No. 119, § 1, Acts 1981, 67th Leg., p. 4225. For submission to the people in November, 1982.

Section 2 of Acts 1981, 67th Leg., H.J.R. No. 119, proposes the addition of a temporary provision to the Constitution to read:

"The constitutional amendment proposed by the 67th Legislature, Regular Session, abolishing the office of county treasurer in Tarrant and Bee counties takes effect on January 1, 1983. This provision expires when executed."

**CONSTITUTION  
OF THE  
STATE OF TEXAS 1876**

Adopted February 15, 1876

As amended to November 3, 1981

**ARTICLE I**

**BILL OF RIGHTS**

**§ 11a. Multiple Convictions; Denial of Bail**

Sec. 11a. Any person (1) accused of a felony less than capital in this State, who has been theretofore twice convicted of a felony, the second conviction being subsequent to the first, both in point of time of commission of the offense and conviction therefor, (2) accused of a felony less than capital in this State, committed while on bail for a prior felony for which he has been indicted, or (3) accused of a felony less than capital in this State involving the use of a deadly weapon after being convicted of a prior felony, after a hearing, and upon evidence substantially showing the guilt of the accused of the offense in (1) or (3) above or of the offense committed while on bail in (2) above, may be denied bail pending trial, by a district judge in this State, if said order denying bail pending trial is issued within seven calendar days subsequent to the time of incarceration of the accused; provided, however, that if the accused is not accorded a trial upon the accusation under (1) or (3) above or the accusation and indictment used under (2) above within sixty (60) days from the time of his incarceration upon the accusation, the order denying bail shall be automatically set aside, unless a continuance is obtained upon the motion or request of the accused; provided, further, that the right of appeal to the Court of Criminal Appeals of this State is expressly accorded the accused for a review of any judgment or order made hereunder, and said appeal shall be given preference by the Court of Criminal Appeals.

[Amended Nov. 8, 1977.]

**ARTICLE III**

**LEGISLATIVE DEPARTMENT**

**REQUIREMENTS AND LIMITATIONS**

**Section**

47. Lotteries and Gift Enterprises; Bingo Games.  
48-a, 48-b. Repealed.  
49-d-1. Additional Texas Water Development Bonds.

**Section**

50c. Farm and Ranch Real Estate Loans; Guarantee.  
51-b. Repealed.  
51-e, 51-f. Repealed.  
52f. Private Roads; Constuction and Maintenance by Counties of 5,000 or Less.

**§ 24. Compensation and Expenses of Members of Legislature; Duration of Sessions**

Sec. 24. Members of the Legislature shall receive from the Public Treasury a salary of Six Hundred Dollars (\$600) per month. Each member shall also receive a per diem of Thirty Dollars (\$30) for each day during each Regular and Special Session of the Legislature. No Regular Session shall be of longer duration than one hundred and forty (140) days.

In addition to the per diem the Members of each House shall be entitled to mileage at the same rate as prescribed by law for employees of the State of Texas.

[Amended April 22, 1975.]

**REQUIREMENTS AND LIMITATIONS**

**§ 47. Lotteries and Gift Enterprises; Bingo Games**

Sec. 47. (a) The Legislature shall pass laws prohibiting lotteries and gift enterprises in this State.

(b) The Legislature by law may authorize and regulate bingo games conducted by a church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs. A law enacted under this subsection must permit the qualified voters of any county, justice precinct, or incorporated city or town to determine from time to time by a majority vote of the qualified voters voting on the question at an election whether bingo games may be held in the county, justice precinct, or city or town. The law must also require that:

(1) all proceeds from the games are spent in Texas for charitable purposes of the organizations;

(2) the games are limited to one location as defined by law on property owned or leased by the church, synagogue, religious society, volunteer fire

department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs; and

(3) the games are conducted, promoted, and administered by members of the church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs.

(c) The law enacted by the Legislature authorizing bingo games must include:

(1) a requirement that the entities conducting the games report quarterly to the Comptroller of Public Accounts about the amount of proceeds that the entities collect from the games and the purposes for which the proceeds are spent; and

(2) criminal or civil penalties to enforce the reporting requirement.

[Amended Nov. 4, 1980.]

**§§ 48-a, 48-b. Repealed. April 22, 1975**

See, now, art. 16, § 67.

**§ 49-b. Veterans' Land Program**

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

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

The Veterans' Land Board may provide for, issue and sell not to exceed Nine Hundred and Fifty Million Dollars (\$950,000,000) in bonds or obligations

of the State of Texas for the purpose of creating a fund to be known as the Veterans' Land Fund, Seven Hundred Million Dollars (\$700,000,000) of which have heretofore been authorized. Such bonds or obligations shall be sold for not less than par value and accrued interest; shall be issued in such forms, denominations, and upon such terms as are now or may hereafter be provided by law; shall be issued and sold at such times, at such places, and in such installments as may be determined by said Board; and shall bear a rate or rates of interest as may be fixed by said Board but the weighted average annual interest rate, as that phrase is commonly and ordinarily used and understood in the municipal bond market, of all the bonds issued and sold in any installment of any bonds may not exceed the rate specified in Section 65 of this Article. All bonds or obligations issued and sold hereunder shall, after execution by the Board, approval by the Attorney General of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchaser or purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas; and all bonds heretofore issued and sold by said Board are hereby in all respects validated and declared to be general obligations of the State of Texas. In order to prevent default in the payment of principal or interest on any such bonds, the Legislature shall appropriate a sufficient amount to pay the same.

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

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

said Board shall be paid out of the moneys of said Fund in conformance with the Constitutional provisions authorizing such bonds; but the moneys of said Fund which are not immediately committed to the payment of principal and interest on such bonds, the purchase of lands as herein provided, or the payment of expenses as herein provided may be invested in bonds or obligations of the United States until such funds are needed for such purposes.

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

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

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

The lands of the Veterans' Land Fund shall be sold by said Board in such quantities, on such terms, at such prices, at such rates of interest and under such rules and regulations as are now or may hereafter be provided by law to veterans who served not

less than ninety (90) continuous days, unless sooner discharged by reason of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard or Marine Corps of the United States after September 16, 1940, and who, upon the date of filing his or her application to purchase any such land is a citizen of the United States, is a bona fide resident of the State of Texas, and has not been dishonorably discharged from any branch of the Armed Forces above-named and who at the time of his or her enlistment, induction, commissioning, or drafting was a bona fide resident of the State of Texas, or who has resided in Texas at least five (5) years prior to the date of filing his or her application, and provided that in the event of the death of an eligible Texas Veteran after the veteran has filed with the Board an application and contract of sale to purchase through the Board the tract selected by him or her and before the purchase has been completed, then the surviving spouse may complete the transaction. The unmarried surviving spouses of veterans who died in the line of duty may also apply to purchase a tract through the Board provided the deceased veterans meet the requirements set out in this Article with the exception that the deceased veterans need not have served ninety (90) continuous days and provided further that the deceased veterans were bona fide residents of the State of Texas at the time of enlistment, induction, commissioning, or drafting. The foregoing notwithstanding, any lands in the Veterans' Land Fund which have been first offered for sale to veterans and which have not been sold may be sold or resold to such purchasers, in such quantities, and on such terms, and at such prices and rates of interest, and under such rules and regulations as are now or may hereafter be provided by law.

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

All of the moneys attributable to any series of bonds hereafter issued and sold by said Board (a "series of bonds" being all of the bonds issued and sold in a single transaction as a single installment of bonds) may be used for the purchase of lands as herein provided, to be sold as herein provided, for a period ending eight (8) years after the date of sale of such series of bonds; provided, however, that so much of such moneys as may be necessary to pay interest on bonds hereafter issued and sold shall be set aside for that purpose in accordance with the

resolution adopted by said Board authorizing the issuance and sale of such series of bonds. After such eight (8) year period, all of such moneys shall be set aside for the retirement of any bonds hereafter issued and sold and to pay interest thereon, together with any expenses as provided herein, in accordance with the resolution or resolutions authorizing the issuance and sale of such additional bonds, until there are sufficient moneys to retire all of the bonds hereafter issued and sold, at which time all such moneys then remaining a part of said Veterans' Land Fund and thereafter becoming a part of said Fund shall be governed as elsewhere provided herein.

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

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

[Amended Nov. 8, 1977; Nov. 3, 1981.]

#### § 49-d-1. Additional Texas Water Development Bonds

(a) The Texas Water Development Board shall upon direction of the Texas Water Quality Board, or any successor agency designated by the Legislature, issue additional Texas Water Development Bonds up to an additional aggregate principal amount of \$200,000,000 to provide grants, loans, or any combination of grants and loans for water quality enhancement purposes as established by the Legislature. The Texas Water Quality Board or any successor agency designated by the Legislature may make such grants and loans to political subdivisions or bodies politic and corporate of the State of Texas, including municipal corporations, river authorities, conservation and reclamation districts, and districts created or organized or authorized to be created or organized under Article XVI, Section 59, or Article III, Section 52, of this Constitution, State agencies, and interstate agencies and compact commissions to which the State of Texas is a party, and upon such terms and conditions as the Legislature may authorize by general law. The bonds shall be issued for such terms, in such denominations, form and installments, and upon such conditions as the Legislature may authorize.

(b) The proceeds from the sale of such bonds shall be deposited in the Texas Water Development Fund to be invested and administered as prescribed by law.

(c) The bonds authorized in this Section 49-d-1 and all bonds authorized by Sections 49-c and 49-d of Article III shall bear interest at not more than 6% per annum and mature as the Texas Water Development Board shall prescribe, subject to the limitations as may be imposed by the Legislature.

(d) The Texas Water Development Fund shall be used for the purposes heretofore permitted by, and subject to the limitations in Sections 49-c, 49-d and 49-d-1; provided, however, that the financial assistance may be made pursuant to the provisions of Sections 49-c, 49-d and 49-d-1 subject only to the availability of funds and without regard to the provisions in Section 49-c that such financial assistance shall terminate after December 31, 1982.

(e) Texas Water Development Bonds are secured by the general credit of the State and shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

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

[Adopted Nov. 2, 1976.]

#### § 50c. Farm and Ranch Real Estate Loans; Guarantee

Sec. 50c. (a) The legislature may provide that the commissioner of agriculture shall have the authority to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed \$10 million. The bonds shall be called "Farm and Ranch Loan Security Bonds" and shall be executed in such form, denominations, and on such terms as may be prescribed by law. The bonds shall bear interest rates fixed by the Legislature of the State of Texas.

(b) All money received from the sale of Farm and Ranch Loan Security Bonds shall be deposited in a fund hereby created with the State Treasurer to be known as the "Farm and Ranch Loan Security Fund." This fund shall be administered without further appropriation by the commissioner of agriculture in the manner prescribed by law.

(c) The Farm and Ranch Loan Security Fund shall be used by the commissioner of agriculture under provisions prescribed by the legislature for the purpose of guaranteeing loans used for the purchase of farm and ranch real estate, for acquiring real estate mortgages or deeds of trust on lands purchased with guaranteed loans, and to advance to the borrower a percentage of the principal and interest due on those loans; provided that the commissioner shall require at least six percent interest be paid by the borrower on any advance of principal and interest. The legislature may authorize the commissioner to sell at foreclosure any land acquired in this manner, and proceeds from that sale shall be deposited in the Farm and Ranch Loan Security Fund.

(d) The legislature may provide for the investment of money available in the Farm and Ranch Loan Security Fund and the interest and sinking fund established for the payment of bonds issued by the commissioner of agriculture. Income from the investment shall be used for purposes prescribed by the legislature.

(e) While any of the bonds authorized by this section or any interest on those bonds is outstanding and unpaid, there is hereby appropriated out of the first money coming into the treasury in each fiscal year not otherwise appropriated by this constitution an amount that is sufficient to pay the principal and interest on the bonds that mature or become due during the fiscal year less the amount in the interest and sinking fund at the close of the prior fiscal year. [Adopted Nov. 6, 1979.]

§ 51-b. Repealed. Nov. 7, 1978

§§ 51-e, 51-f. Repealed. April 22, 1975

See, now, art. 16, § 67.

§ 52. **Counties, Cities, Towns or Other Political Corporations or Subdivisions; Lending Credit; Grants**

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) Any defined district created under this section that is authorized to issue bonds or otherwise lend its credit for the purposes stated in Subdivisions (1) and (2) of Subsection (b) of this section may engage in fire-fighting activities and may issue bonds or otherwise lend its credit for fire-fighting purposes as provided by law and this constitution.

[Amended Nov. 7, 1978.]

§ 52f. **Private Roads; Construction and Maintenance by Counties of 5,000 or Less**

Sec. 52f. A county with a population of 5,000 or less, according to the most recent federal census, may construct and maintain private roads if it imposes a reasonable charge for the work. The Legislature by general law may limit this authority. Revenue received from private road work may be used only for the construction, including right-of-way acquisition, or maintenance of public roads.

[Adopted Nov. 4, 1981.]

§ 65. **Public Bonds; Interest Rate; Conflicting Rates Repealed**

Sec. 65. (a) Wherever the Constitution authorizes an agency, instrumentality, or subdivision of the State to issue bonds and specifies the maximum rate of interest which may be paid on such bonds issued pursuant to such constitutional authority, such bonds may bear interest at rates not to exceed a weighted average annual interest rate of 6%. All Constitutional provisions specifically setting rates in conflict with this provision are hereby repealed.

(b) Bonds issued by the Veterans' Land Board after the effective date of this subsection bear interest at a rate or rates determined by the board, but the rate or rates may not exceed a net effective interest rate of 10% per year unless otherwise provided by law. A statute that is in effect on the effective date of this subsection and that sets as a maximum interest rate payable on bonds issued by the Veterans' Land Board a rate different from the maximum rate provided by this subsection is ineffec-

tive unless reenacted by the legislature after that date.

[Amended Nov. 3, 1981.]

## ARTICLE IV

### EXECUTIVE DEPARTMENT

§ 26. **Notaries Public**

Sec. 26. (a) The Secretary of State shall appoint a convenient number of Notaries Public for the state who shall perform such duties as now are or may be prescribed by law. The qualifications of Notaries Public shall be prescribed by law.

(b) The terms of office of Notaries Public shall be not less than two years nor more than four years as provided by law.

[Amended Nov. 6, 1979, eff. Jan. 1, 1980.]

## ARTICLE V

### JUDICIAL DEPARTMENT

#### Section

2. Supreme Court; Justices; Sections; Eligibility; Election; Vacancies.
3. Jurisdiction of Supreme Court; Writs; Clerk.
6. Courts of Appeals; Transfer of Causes; Terms of Judges.
16. County Courts; Jurisdiction; Appeals; Disqualification of Judge.

§ 1. **Judicial Power; Courts in Which Vested**

Sec. 1. The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

[Amended Nov. 8, 1977; Nov. 4, 1980, eff. Sept. 1, 1981.]

§ 1-a. **Retirement, Censure, Removal and Compensation of Justices and Judges; State Commission on Judicial Conduct; Procedure**

[See Compact Edition, Volume 1 for text of (1)]

(2) The name of the State Judicial Qualifications Commission is changed to the State Commission on Judicial Conduct. The Commission consists of eleven (11) members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) four (4) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; and (v) one (1) Justice

of the Peace; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership, except that the Justice of the Peace shall be selected at large without regard to whether he resides or holds a judgeship in the same Supreme Judicial District as another member of the Commission. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, those of class (iiii) by appointment of the Governor with advice and consent of the Senate, and the commissioner of class (v) by appointment of the Supreme Court from a list of five (5) names submitted by the executive committee of the Justice of the Peace and Constables Association of Texas, with the advice and consent of the Senate. The initial term of the commissioner of class (v) and the fourth commissioner of class (iiii) added by this amendment terminates on November 19, 1979. Each person holding office as a member of the Commission on the effective date of this amendment continues to hold the office for the term for which he was appointed.

*[See Compact Edition, Volume 1 for text of (3) and (4)]*

(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of six (6) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, suspension, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least six (6) members.

(6) A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, and any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature. Any person holding an office named in this subsection may be suspended from office with or without pay by the Commission immediately on being indicted by a State or Federal grand jury for a

felony offense; or, on the filing of a sworn complaint charging a person holding such office with willful and persistent conduct which is clearly inconsistent with the proper performance of his duties or which casts public discredit on the judiciary or on the administration of justice, the Commission, after giving the person notice and an opportunity to appear before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with or without pay, pending final disposition of the charge.

*[See Compact Edition, Volume 1, for text of (6) B]*

(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court or by a Master.

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private or public reprimand, or if the Commission determines that the situation merits such action, it may institute formal proceedings and order a formal hearing to be held before it concerning the public censure, removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals, or retired Judge or Justice of the Court of Criminal Appeals or the Supreme Court, as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. The Master shall have all the power of a District Judge in the enforcement of orders pertaining to witnesses, evidence, and procedure. If, after formal hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an order for involuntary retirement for disability or an order for removal, the office in

question shall become vacant. The Supreme Court, in an order for involuntary retirement for disability or an order for removal, may prohibit such person from holding judicial office in the future. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by law, and the filing of papers with, and the giving of testimony before, the Commission, Master or the Supreme Court shall be privileged, unless otherwise provided by law; provided that upon being filed in the Supreme Court the record loses its confidential character. However, the Commission may issue a public statement through its executive director or its Chairman at any time during any of its proceedings under this Section when sources other than the Commission cause notoriety concerning a Judge or the Commission itself and the Commission determines that the best interests of a Judge or of the public will be served by issuing the statement.

[See Compact Edition, Volume 1, for text of (11)]

(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, censure, retirement or removal. A recommendation of the Commission for the suspension, censure, retirement, or removal of a Justice of the Supreme Court shall be determined by a tribunal of seven (7) Court of Civil Appeals Justices selected by lot to serve in place of the Supreme Court.

[See Compact Edition, Volume 1 for text of (13)]

[Amended Nov. 8, 1977.]

## § 2. Supreme Court; Justices; Sections; Eligibility; Election; Vacancies

Sec. 2. The Supreme Court shall consist of the Chief Justice and eight Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters. No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person is licensed to practice law in this state and is, at the time of election, a citizen of the United States and of this state, and has attained the age of thirty-five years, and has been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years. Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years, or until their successors are elected and qualified; and shall each receive such compensation as shall be provided by law. In case of a vacancy in the office of Chief Justice or any Justice of the Supreme Court, the Governor shall fill the vacancy until the next general election for state

officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The Justices of the Supreme Court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present Constitution, and until their successors are elected and qualified.

[Amended Nov. 4, 1980, eff. Sept. 1, 1981.]

## § 3. Jurisdiction of Supreme Court; Writs; Clerk

Sec. 3. The Supreme Court shall exercise the judicial power of the state except as otherwise provided in this Constitution. Its jurisdiction shall be co-extensive with the limits of the State and its determinations shall be final except in criminal law matters. Its appellate jurisdiction shall be final and shall extend to all cases except in criminal law matters and as otherwise provided in this Constitution or by law. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

The Supreme Court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter, be required by law, and he may hold his office for four years and shall be subject to removal by said court for good cause entered of record on the minutes of said court who shall receive such compensation as the Legislature may provide.

[Amended Nov. 4, 1980, eff. Sept. 1, 1981.]

## § 4. Court of Criminal Appeals; Judges

Sec. 4. The Court of Criminal Appeals shall consist of eight Judges and one Presiding Judge. The Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court, and the Presiding Judge shall have the same qualifications and receive the same salary as the Chief Justice of the Supreme Court. The Presiding Judge and the Judges shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a Judge of the Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

For the purpose of hearing cases, the Court of Criminal Appeals may sit in panels of three Judges, the designation thereof to be under rules established

by the court. In a panel of three Judges, two Judges shall constitute a quorum and the concurrence of two Judges shall be necessary for a decision. The Presiding Judge, under rules established by the court, shall convene the court en banc for the transaction of all other business and may convene the court en banc for the purpose of hearing cases. The court must sit en banc during proceedings involving capital punishment and other cases as required by law. When convened en banc, five Judges shall constitute a quorum and the concurrence of five Judges shall be necessary for a decision. The Court of Criminal Appeals may appoint Commissioners in aid of the Court of Criminal Appeals as provided by law.

[Amended Nov. 8, 1977.]

**§ 5. Jurisdiction of Court of Criminal Appeals; Terms of Court; Clerk**

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

The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. The appeal of all other criminal cases shall be to the Courts of Appeal as prescribed by law. In addition, the Court of Criminal Appeals may, on its own motion, review a decision of a Court of Appeals in a criminal case as provided by law. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

Subject to such regulations as may be prescribed by law, the Court of Criminal Appeals and the Judges thereof shall have the power to issue the writ of habeas corpus, and, in criminal law matters, the writs of mandamus, procedendo, prohibition, and certiorari. The Court and the Judges thereof shall have the power to issue such other writs as may be necessary to protect its jurisdiction or enforce its judgments. The court shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

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

[Amended Nov. 8, 1977; Nov. 4, 1980, eff. Sept. 1, 1981.]

**§ 6. Courts of Appeals; Transfer of Causes; Terms of Judges**

Sec. 6. The Legislature shall divide the State into such Supreme judicial districts as the population and business may require, and shall establish a Court of Appeals in each of said districts, which shall consist of a Chief Justice and at least two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court. The Court of Appeals may sit in sections as authorized by law. The concurrence of a majority of the judges sitting in a section is necessary to decide a case. Said Court of Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law.

Each of said Courts of Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years and shall receive for their services the sum provided by law. Each Court of Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court which clerk shall receive such compensation as may be fixed by law.

On the effective date of this amendment, the Justices of the present Courts of Civil Appeals become the Justices of the Courts of Appeals for the term of office to which elected or appointed as Justices of the Courts of Civil Appeals, and the Supreme Judicial Districts become the Supreme Judicial Districts for the Courts of Appeals. All constitutional and statutory references to the Courts of Civil Appeals shall be construed to mean the Courts of Appeals.

[Amended Nov. 7, 1978; Nov. 4, 1980, eff. Sept. 1, 1981.]

**§ 16. County Courts; Jurisdiction; Appeals; Disqualification of Judge**

Sec. 16. The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed \$200, and they shall have concurrent jurisdiction with the Justice Court in all civil cases when the matter in controversy shall exceed in value \$200, and not exceed \$500, exclusive of interest, unless otherwise provided by law, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed \$500, and not exceed \$1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of

the court appealed from shall exceed \$20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original jurisdiction as may be prescribed by law and this Constitution.

The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law; and the County Court, or judge thereof, shall have power to issue writs of injunctions, mandamus and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other Court or tribunal inferior to said Court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law, and in such counties appeals from Justices Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law; and in all such cases an appeal shall lie from such District Court as may be prescribed by law and this Constitution. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law.

[Amended Nov. 7, 1978; Nov. 4, 1980, eff. Sept. 1, 1981.]

**§ 19. Justices of the Peace; Jurisdiction; Appeals; Ex Officio Notaries Public; Times and Places of Holding Court**

Sec. 19. Justices of the peace shall have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and exclusive jurisdiction in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, unless exclusive original jurisdiction is given to the District or County Courts, and concurrent jurisdiction with the County Courts when the matter in controversy exceeds two hundred dollars and does not exceed five hundred dollars, exclusive of interest, unless exclusive jurisdiction is given to the County Courts, and, as provided by law, when the matter in controversy exceeds five hundred dollars, concurrent jurisdiction with both the County

Courts and the District Courts in an amount not to exceed one thousand dollars exclusive of interest, unless exclusive jurisdiction is given to the County Courts or the District Courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the County Courts shall be allowed in all cases decided in Justices' Courts where the judgment is for more than twenty dollars exclusive of costs; and in all criminal cases under such regulations as may be prescribed by law. And the justices of the peace shall be ex officio notaries public. And they shall hold their courts at such times and places as may be provided by law.

[Amended Nov. 7, 1978.]

**ARTICLE VII**

**EDUCATION**

Section

4A. Applications for Patent to Land to School Land Board to Cure Defects.

**§ 4A. Applications for Patent to Land to School Land Board to Cure Defects.**

*Text of section added effective until*

*January 1, 1990*

Sec. 4A. (a) On application to the School Land Board, a natural person is entitled to receive a patent to land from the commissioner of the General Land Office if:

(1) the land is surveyed public free school land, either surveyed or platted according to records of the General Land Office;

(2) the land was not patentable under the law in effect immediately before adoption of this section;

(3) the person acquired the land without knowledge of the title defect out of the State of Texas or Republic of Texas and held the land under color of title, the chain of which dates from at least as early as January 1, 1932; and

(4) the person, in conjunction with his predecessors in interest:

(A) has a recorded deed on file in the respective county courthouse and has claimed the land for a continuous period of at least 50 years as of November 15, 1981; and

(B) for at least 50 years has paid taxes on the land together with all interest and penalties associated with any period of delinquency of said taxes; provided, however, that in the event that public records concerning the tax payments on the land are unavailable for any period within the past 50 years, the tax assessors-collectors of the taxing jurisdictions in which the land is located shall provide the School Land Board with a sworn certificate stating that, to the best of their knowledge, all taxes have been

paid for the past 50 years and there are no outstanding taxes nor interest or penalties currently due against the property.

(b) The applicant for the patent must submit to the School Land Board certified copies of his chain of title and a survey of the land for which a patent is sought, if requested to do so by the board. The board shall determine the qualifications of the applicant to receive a patent under this section. Upon a finding by the board that the applicant meets the requirements of Subsection (a) of this section, the commissioner of the General Land Office shall award the applicant a patent. If the applicant is denied a patent, he may file suit against the board in a district court of the county in which the land is situated with 60 days from the date of the denial of the patent under this section. The trial shall be de novo and not subject to the Administrative Procedure and Texas Register Act,<sup>1</sup> and the burden of proof is on the applicant.

(c) This section does not apply to beach land, submerged land, or islands, and may not be used by an applicant to resolve a boundary dispute. This section does not apply to land that, previous to the effective date of this section, was found by a court of competent jurisdiction to be state owned or to land on which the state has given a mineral lease that on the effective date of this section was productive.

(d) Application for a patent under this section must be filed with the School Land Board within five years from the effective date of this section.

(e) This section is self-executing.

(f) This section expires on January 1, 1990.

[Adopted Nov. 3, 1981.]

<sup>1</sup> Civil Statutes, art. 6252-13a.

ARTICLE VIII

TAXATION AND REVENUE

- Section
- 1-d-1. Open-Space Land.
- 1-f. Ad Valorem Tax Relief.
- 1-g. Development or Redevelopment of Property; Ad Valorem Tax Relief and Issuance of Bonds and Notes.
- 18. Equalization of Valuations; Classification of Lands; Single Appraisal and Single Board of Equalization.
- 19. Farm Products, Livestock, Poultry, and Family Supplies; Exemption.
- 21. Increase in Total Property Taxes; Notice and Hearing; Calculation.
- 22. Appropriations from State Tax Revenues; Rate of Growth.
- 23. Statewide Appraisal of Real Property; Enforcement of Uniform Standards and Procedures for Appraisal.

§ 1. Equality and Uniformity; Tax in Proportion to Value; Occupational Taxes; Income Tax; Exemption of Household Goods and Personal Property Homestead

Sec. 1. Taxation shall be equal and uniform. All real property and tangible personal property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in propor-

tion to its value, which shall be ascertained as may be provided by law. The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax. The Legislature by general law shall exempt household goods not held or used for the production of income and personal effects not held or used for the production of income, and the Legislature by general law may exempt all or part of the personal property homestead of a family or single adult, "personal property homestead" meaning that personal property exempt by law from forced sale for debt, from ad valorem taxation. The occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the State for the same period on such profession or business.

[Amended Nov. 7, 1978, eff. Jan. 1, 1979.]

§ 1-b. Residence Homestead Exemption

Sec. 1-b.

[See Compact Edition, Volume 1 for text of (a)]

(b) From and after January 1, 1973, the governing body of any county, city, town, school district, or other political subdivision of the State may exempt by its own action not less than Three Thousand Dollars (\$3,000) of the market value of residence homesteads of persons, married or unmarried, including those living alone, who are under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance or its successor or of married or unmarried persons sixty-five (65) years of age or older, including those living alone, from all ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than Three Thousand Dollars (\$3,000) as provided in the petition, of the market value of residence homesteads of disabled persons or of persons sixty-five (65) years of age or over shall be exempt from ad valorem taxes thereafter levied by the political subdivision. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from the same political subdivision in the same year but may choose either if the subdivision has adopted both. Where any ad valorem tax has theretofore been pledged for the payment of any debt, the taxing officers of the political subdivision shall have authority to continue to levy and collect the tax against the homestead property at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created. An exemption

adopted under this subsection based on assessed value is increased, effective January 1, 1979, to an amount that, when converted to market value, provides the same reduction in taxes, except that the market value exemption shall be rounded to the nearest \$100.

(c) Five Thousand Dollars (\$5,000) of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. In addition to this exemption, the legislature by general law may exempt an amount not to exceed Ten Thousand Dollars (\$10,000) of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person sixty-five (65) years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for the additional exemption authorized by this subsection for disabled persons and for persons sixty-five (65) years of age or older on economic need. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of this constitution. The legislature by general law may define residence homestead for purposes of this section.

(d) Except as otherwise provided by this subsection, if a person receives the residence homestead exemption prescribed by Subsection (c) of this section for homesteads of persons sixty-five (65) years of age or older, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person or that person's spouse who receives the exemption. However, those taxes may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements.

(e) The governing body of a political subdivision may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a

married or unmarried adult, including one living alone. The percentage may not exceed forty percent (40%) for the years 1982 through 1984, thirty percent (30%) for the years 1985 through 1987, and twenty percent (20%) in 1988 and each subsequent year. However, the amount of an exemption authorized pursuant to this subsection may not be less than Five Thousand Dollars (\$5,000) unless the legislature by general law prescribes other monetary restrictions on the amount of the exemption. An eligible adult is entitled to receive other applicable exemptions provided by law. Where ad valorem tax has previously been pledged for the payment of debt, the governing body of a political subdivision may continue to levy and collect the tax against the value of the homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature by general law may prescribe procedures for the administration of residence homestead exemptions.

[Amended Nov. 7, 1978, eff. Jan. 1, 1979; Nov. 3, 1981, eff. Jan. 1, 1982.]

#### § 1-d-1. Open-Space Land

Sec. 1-d-1. (a) To promote the preservation of open-space land, the legislature shall provide by general law for taxation of open-space land devoted to farm or ranch purposes on the basis of its productive capacity and may provide by general law for taxation of open-space land devoted to timber production on the basis of its productive capacity. The legislature by general law may provide eligibility limitations under this section and may impose sanctions in furtherance of the taxation policy of this section.

(b) If a property owner qualifies his land for designation for agricultural use under Section 1-d of this article, the land is subject to the provisions of Section 1-d for the year in which the designation is effective and is not subject to a law enacted under this Section 1-d-1 in that year.

[Adopted Nov. 7, 1978, eff. Jan. 1, 1979.]

#### § 1-f. Ad Valorem Tax Relief

Sec. 1-f. The legislature by law may provide for the preservation of cultural, historical, or natural history resources by:

- (1) granting exemptions or other relief from state ad valorem taxes on appropriate property so designated in the manner prescribed by law; and
- (2) authorizing political subdivisions to grant exemptions or other relief from ad valorem taxes on appropriate property so designated by the political subdivision in the manner prescribed by general law.

[Adopted Nov. 8, 1977.]

#### § 1-g. Development or Redevelopment of Property; Ad Valorem Tax Relief and Issuance of Bonds and Notes

Sec. 1-g. (a) The legislature by general law may authorize cities, towns, and other taxing units to

grant exemptions or other relief from ad valorem taxes on property located in a reinvestment zone for the purpose of encouraging development or redevelopment and improvement of the property.

(b) The legislature by general law may authorize an incorporated city or town to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area within the city or town and to pledge for repayment of those bonds or notes increases in ad valorem tax revenues imposed on property in the area by the city or town and other political subdivisions.

[Adopted Nov. 3, 1981.]

## § 2. Occupation Taxes; Equality and Uniformity; Exemptions from Taxation

Sec. 2. (a) All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; places of burial not held for private or corporate profit; solar or wind-powered energy devices; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions of purely public charity; and all laws exempting property from taxation other than the property mentioned in this Section shall be null and void.

[See Compact Edition, Volume 1 for text of (b)]

[Amended Nov. 7, 1978.]

## § 18. Equalization of Valuations; Classification of Lands; Single Appraisal and Single Board of Equalization

Sec. 18. (a) The Legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation, and

may also provide for the classification of all lands with reference to their value in the several counties.

(b) A single appraisal within each county of all property subject to ad valorem taxation by the county and all other taxing units located therein shall be provided by general law. The Legislature, by general law, may authorize appraisals outside a county when political subdivisions are situated in more than one county or when two or more counties elect to consolidate appraisal services.

(c) The Legislature, by general law, shall provide for a single board of equalization for each appraisal entity consisting of qualified persons residing within the territory appraised by that entity. Members of the board of equalization may not be elected officials of the county or of the governing body of a taxing unit.

(d) The Legislature shall prescribe by general law the methods, timing, and administrative process for implementing the requirements of this section.

[Amended Nov. 4, 1980.]

## § 19. Farm Products, Livestock, Poultry, and Family Supplies; Exemption

Sec. 19. Farm products, livestock, and poultry in the hands of the producer, and family supplies for home and farm use, are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the Legislature.

[Amended Nov. 3, 1981.]

## § 21. Increase in Total Property Taxes; Notice and Hearing; Calculation

Sec. 21. (a) Subject to any exceptions prescribed by general law, the total amount of property taxes imposed by a political subdivision in any year may not exceed the total amount of property taxes imposed by that subdivision in the preceding year unless the governing body of the subdivision gives notice of its intent to consider an increase in taxes and holds a public hearing on the proposed increase before it increases those total taxes. The legislature shall prescribe by law the form, content, timing, and methods of giving the notice and the rules for the conduct of the hearing.

(b) In calculating the total amount of taxes imposed in the current year for the purposes of Subsection (a) of this section, the taxes on property in territory added to the political subdivision since the preceding year and on new improvements that were not taxable in the preceding year are excluded. In calculating the total amount of taxes imposed in the preceding year for the purposes of Subsection (a) of this section, the taxes imposed on real property that is not taxable by the subdivision in the current year are excluded.

(c) The legislature by general law shall require that, subject to reasonable exceptions, a property owner be given notice of a revaluation of his property and a reasonable estimate of the amount of taxes that would be imposed on his property if the total amount of property taxes for the subdivision were not increased according to any law enacted pursuant

to Subsection (a) of this section. The notice must be given before the procedures required in Subsection (a) are instituted.

[Adopted Nov. 7, 1978, eff. Jan. 1, 1979. Amended Nov. 3, 1981.]

**§ 22. Appropriations from State Tax Revenues; Rate of Growth**

Sec. 22. (a) In no biennium shall the rate of growth of appropriations from state tax revenues not dedicated by this constitution exceed the estimated rate of growth of the state's economy. The legislature shall provide by general law procedures to implement this subsection.

(b) If the legislature by adoption of a resolution approved by a record vote of a majority of the members of each house finds that an emergency exists and identifies the nature of the emergency, the legislature may provide for appropriations in excess of the amount authorized by Subsection (a) of this section. The excess authorized under this subsection may not exceed the amount specified in the resolution.

(c) In no case shall appropriations exceed revenues as provided in Article III, Section 49a, of this constitution. Nothing in this section shall be construed to alter, amend, or repeal Article III, Section 49a, of this constitution.

[Adopted Nov. 7, 1978, eff. Jan. 1, 1979.]

**§ 23. Statewide Appraisal of Real Property; Enforcement of Uniform Standards and Procedures for Appraisal**

Sec. 23. (a) There shall be no statewide appraisal of real property for ad valorem tax purposes; however, this shall not preclude formula distribution of tax revenues to political subdivisions of the state.

(b) Administrative and judicial enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes, as prescribed by general law, shall originate in the county where the tax is imposed, except that the legislature may provide by general law for political subdivisions with boundaries extending outside the county.

[Adopted Nov. 7, 1978, eff. Jan. 1, 1979.]

**ARTICLE XV**

**IMPEACHMENT**

Section

9. Removal of Public Officers by Governor; Special Session to Consider Removal.

**§ 9. Removal of Public Officers by Governor; Special Session to Consider Removal**

Sec. 9. (a) In addition to the other procedures provided by law for removal of public officers, the governor who appoints an officer may remove the officer with the advice and consent of two-thirds of the members of the senate present.

(b) If the legislature is not in session when the governor desires to remove an officer, the governor shall call a special session of the senate for consideration of the proposed removal. The session may not exceed two days in duration.

[Adopted Nov. 4, 1980.]

**ARTICLE XVI**

**GENERAL PROVISIONS**

Section

15. Separate and Community Property of Husband and Wife.

16. Corporations with Banking and Discounting Privileges.

62, 63. Repealed. April 22, 1975.

67. State and Local Retirement Systems.

**§ 15. Separate and Community Property of Husband and Wife**

Sec. 15. All property, both real and personal, of a spouse owned or claimed before marriage, and that acquired afterward by gift, devise or descent, shall be the separate property of that spouse; and laws shall be passed more clearly defining the rights of the spouses, in relation to separate and community property; provided that persons about to marry and spouses, without the intention to defraud pre-existing creditors, may by written instrument from time to time partition between themselves all or part of their property, then existing or to be acquired, or exchange between themselves the community interest of one spouse or future spouse in any property for the community interest of the other spouse or future spouse in other community property then existing or to be acquired, whereupon the portion or interest set aside to each spouse shall be and constitute a part of the separate property and estate of such spouse or future spouse; and the spouses may from time to time, by written instrument, agree between themselves that the income or property from all or part of the separate property then owned by one of them, or which thereafter might be acquired, shall be the separate property of that spouse; and if one spouse makes a gift of property to the other that gift is presumed to include all the income or property which might arise from that gift of property.

[Amended Nov. 4, 1980.]

**§ 16. Corporations with Banking and Discounting Privileges**

Sec. 16. (a) The Legislature shall by general laws, authorize the incorporation of corporate bodies with banking and discounting privileges, and shall provide for a system of State supervision, regulation and control of such bodies which will adequately protect and secure the depositors and creditors thereof.

No such corporate body shall be chartered until all of the authorized capital stock has been subscribed and paid in full in cash. Except as may be permitted by the Legislature pursuant to Subsection (b) of

this Section 16, such body corporate shall not be authorized to engage in business at more than one place which shall be designated in its charter.

No foreign corporation, other than the national banks of the United States domiciled in this State, shall be permitted to exercise banking or discounting privileges in this State.

(b) If it finds that the convenience of the public will be served thereby, the Legislature may authorize State and national banks to establish and operate unmanned teller machines within the county or city of their domicile. Such machines may perform all banking functions. Banks which are domiciled within a city lying in two or more counties may be permitted to establish and operate unmanned teller machines within both the city and the county of their domicile. The Legislature shall provide that a bank shall have the right to share in the use of these teller machines, not situated at a banking house, which are located within the county or the city of the bank's domicile, on a reasonable, nondiscriminatory basis, consistent with anti-trust laws. Banks may share the use of such machines within the county or city of their domicile with savings and loan associations and credit unions which are domiciled in the same county or city.

[Amended Nov. 4, 1980.]

#### § 21. Public Printing and Binding; Repairs and Furnishings; Contracts

Sec. 21. All stationery, printing, fuel used in the legislature and departments of the government other than the judicial department, printing and binding of the laws, journals, and department reports, and all other printing and binding and the repairing and furnishing of the halls and rooms used during meetings of the legislature and in committees, except proclamations and such products and services as may be done by handicapped individuals employed in nonprofit rehabilitation facilities providing sheltered employment to the handicapped in Texas, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall in any way have a financial interest in such contracts, and all such contracts or programs involving the state use of the products and services of handicapped individuals shall be subject to such requirements as might be established by the legislature.

[Amended Nov. 7, 1978.]

#### § 59. Conservation and Development of Natural Resources; Conservation and Reclamation Districts

[See Compact Edition, Volume 1 for text of (a) to (e)]

(f) A conservation and reclamation district created under this section to perform any or all of the purposes of this section may engage in fire-fighting activities and may issue bonds or other indebtedness

for fire-fighting purposes as provided by law and this constitution.

[Amended Nov. 7, 1978.]

#### §§ 62, 63. Repealed. April 22, 1975

See, now, § 67 of this article.

#### § 67. State and Local Retirement Systems

Sec. 67. (a) General Provisions. (1) The legislature may enact general laws establishing systems and programs of retirement and related disability and death benefits for public employees and officers. Financing of benefits must be based on sound actuarial principles. The assets of a system are held in trust for the benefit of members and may not be diverted.

(2) A person may not receive benefits from more than one system for the same service, but the legislature may provide by law that a person with service covered by more than one system or program is entitled to a fractional benefit from each system or program based on service rendered under each system or program calculated as to amount upon the benefit formula used in that system or program. Transfer of service credit between the Employees Retirement System of Texas and the Teacher Retirement System of Texas also may be authorized by law.

(3) Each statewide benefit system must have a board of trustees to administer the system and to invest the funds of the system in such securities as the board may consider prudent investments. In making investments, a board shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. The legislature by law may further restrict the investment discretion of a board.

(4) General laws establishing retirement systems and optional retirement programs for public employees and officers in effect at the time of the adoption of this section remain in effect, subject to the general powers of the legislature established in this subsection.

(b) State Retirement Systems. (1) The legislature shall establish by law a Teacher Retirement System of Texas to provide benefits for persons employed in the public schools, colleges, and universities supported wholly or partly by the state. Other employees may be included under the system by law.

(2) The legislature shall establish by law an Employees Retirement System of Texas to provide benefits for officers and employees of the state and such state-compensated officers and employees of appellate courts and judicial districts as may be included under the system by law.

(3) The amount contributed by a person participating in the Employees Retirement System of Tex-

as or the Teacher Retirement System of Texas shall be established by the legislature but may not be less than six percent of current compensation. The amount contributed by the state may not be less than six percent nor more than 10 percent of the aggregate compensation paid to individuals participating in the system. In an emergency, as determined by the governor, the legislature may appropriate such additional sums as are actuarially determined to be required to fund benefits authorized by law.

(c) Local Retirement Systems. (1) The legislature shall provide by law for:

(A) the creation by any city or county of a system of benefits for its officers and employees;

(B) a statewide system of benefits for the officers and employees of counties or other political subdivisions of the state in which counties or other political subdivisions may voluntarily participate; and

(C) a statewide system of benefits for officers and employees of cities in which cities may voluntarily participate.

(2) Benefits under these systems must be reasonably related to participant tenure and contributions.

(d) Judicial Retirement System. (1) Notwithstanding any other provision of this section, the system of retirement, disability, and survivors' benefits heretofore established in the constitution or by law for justices, judges, and commissioners of the appellate courts and judges of the district and criminal district courts is continued in effect. Contributions required and benefits payable are to be as provided by law.

(2) General administration of the Judicial Retirement System of Texas is by the Board of Trustees of the Employees Retirement System of Texas under such regulations as may be provided by law.

(e) Anticipatory Legislation. Legislation enacted in anticipation of this amendment is not void because it is anticipatory.

[Adopted April 22, 1975.]

INDEX TO  
CONSTITUTION OF TEXAS 1876

**AGED PERSONS**

Tax exemption, residence homestead exemption, Art. 8, § 1-b.

**AGRICULTURAL LANDS**

Open space land, taxation, Art. 8, § 1-d-1.

Taxation, Art. 8, § 1-d-1.

**AGRICULTURE**

Bonds, guarantee, Art. 3, § 50c.

Loans, guarantee, Art. 3, § 50c.

**APPEALS**

Bail, denial of bail, Art. 1, § 11a.

**APPRAISALS AND APPRAISERS**

Taxation,

Single appraisal, Art. 8, § 18.

Standards, Art. 8, § 23.

**APPROPRIATIONS**

Taxation, rate of growth, Art. 8, § 22.

**BAIL**

Denial of bail, Art. 1, § 11a.

**BAR ASSOCIATION**

Judicial conduct commission, Art. 5, § 1-a.

**BINGO**

Generally, Art. 3, § 47.

**BOARDS AND COMMISSIONS**

Judicial qualifications commission, change of name to commission on judicial conduct, Art. 5, § 1-a.

**BONDS**

Agriculture, loan guarantee, Art. 3, § 50c.

Ranches, loan guarantee, Art. 3, § 50c.

Reinvestment zone, political subdivision, Art. 8, § 1-g.

Veterans land board, issuance authorization, Art. 3, §§ 49-b, 65.

**CHARITIES**

Bingo, Art. 3, § 47.

**CITIES AND TOWNS**

Bonds, reinvestment zone, Art. 8, § 1-g.

Local retirement systems, Art. 16, § 67.

Pledges, bond or note payments, tax increases, Art. 8, § 1-g.

Taxes and taxation, reinvestment zones, exemptions, Art. 8, § 1-g.

**COMMERCIAL PAPER**

Reinvestment zones, political subdivisions, Art. 8, § 1-g.

**COMPENSATION**

Judicial conduct commission, Art. 5, § 1-a.

Legislative members, Art. 3, § 24.

**CONFIDENTIAL INFORMATION**

Judicial conduct commission hearings, Art. 5, § 1-a.

**CONSERVATION AND RECLAMATION DISTRICTS**

Fires and fire prevention, Art. 16, § 59.

**COUNTIES**

Pensions and retirement, Art. 16, § 67.

**COUNTIES OF 5000 OR LESS**

Private roads, construction, Art. 3, § 52f.

**COURTS OF APPEALS**

Districts, Art. 5, § 6.

Judges, Art. 5, § 6.

Powers and duties, Art. 5, § 1.

Transfer of causes, courts of civil appeals, Art. 5, § 6.

**COURTS OF CIVIL APPEALS**

Judges,

Tribunal, Supreme Court justice censure, suspension, retirement or removal, Art. 5, § 1-a.

Supreme Court justice censure, suspension, retirement or removal, tribunal, Art. 5, § 1-a.

Transfer of causes, courts of appeal, Art. 5, § 6.

**COURTS OF CRIMINAL APPEALS**

Bail denial orders, appeal preference, Art. 1, § 11a.

Judges,

Presiding judge, qualifications, Art. 5, § 4.

Panels, sitting in panels, Art. 5, § 4.

Presiding judge,

Qualifications, Art. 5, § 4.

Sitting in panels, Art. 5, § 4.

Writs, authority to issue, Art. 5, § 5.

**CULTURAL RESOURCES**

Tax relief, state and political subdivisions, Art. 8, § 1-f.

**DEATH BENEFITS**

State and local retirement systems, Art. 16, § 67.

**DEVELOPMENT**

Reinvestment zones, political subdivisions, tax exemptions, bonds and notes, Art. 8, § 1-g.

**DISABILITY BENEFITS**

State and local retirement systems, Art. 16, § 67.

**DISTRICTS**

Courts of appeals, Art. 5, § 6.

**DOMICILE AND RESIDENCE**

Tax exemption, residence homestead exemption, Art. 8, § 1-b.

**ELECTIONS**

Bingo, permitting, Art. 3, § 47.

**EMPLOYEES RETIREMENT SYSTEM OF TEXAS**

Generally, Art. 16, § 67.

**FIRE DEPARTMENTS**

Credit, Art. 3, § 52.

**FIRES AND FIRE PREVENTION**

Conservation and reclamation districts, Art. 16, § 59.

Credit, Art. 3, § 52.

**FRATERNAL ASSOCIATIONS AND SOCIETIES**

Bingo, Art. 3, § 47.

**FUNDS**

Farm and ranch loan security, Art. 3, § 50c.

Veterans land fund, bond issuance, Art. 3, §§ 49-b, 65.

**GIFT ENTERPRISES**

Generally, Art. 3, § 47.

**GOVERNOR**

Impeachment, removal of public officers, Art. 15, § 9.

**HANDICAPPED PERSONS**

Homestead exemption, Art. 8, § 1-b.

State contracts, nonprofit rehabilitation facilities, Art. 16, § 21.

**HIGHWAYS AND ROADS**

Counties of 5000 or less, private roads, Art. 3, § 52f.

**HISTORICAL RESOURCES**

Tax relief, state and political subdivisions, Art. 8, § 1-f.

**HOMESTEAD**

Constitutional exemptions, Art. 8, § 1.

Residence homestead tax exemption, Art. 8, § 1-b.

Taxes and taxation, exemption, Art. 8, § 1-b(e).

**IMPEACHMENT**

Public officers, Art. 15, § 9.

**IMPROVEMENTS**

Bonds, reinvestment zones, Art. 8, § 1-g.  
Cities, towns and villages, reinvestment zones, Art. 8, § 1-g.

**INVESTIGATIONS**

Judicial conduct commission, Art. 5, § 1-a.

**INVESTMENTS**

Pensions and retirement, state-wide benefit systems, Art. 16, § 67.

**JUDGES**

Courts of appeals, Art. 5, § 6.  
Judicial conduct commission, Art. 5, § 1-a.  
Removal from office, judicial conduct commission, Art. 5, § 1-a.

**JUDICIAL CONDUCT COMMISSION**

Generally, Art. 5, § 1-a.

**JUDICIAL QUALIFICATIONS COMMISSION**

Change of name to commission on judicial conduct, Art. 5, § 1-a.

**JUDICIAL RETIREMENT SYSTEM**

Generally, Art. 16, § 67.

**JUSTICES OF THE PEACE**

Judicial conduct commission, Art. 5, § 1-a.

**LEGISLATURE**

Members,  
Compensation, Art. 3, § 24.  
Sessions,  
Duration, Art. 3, § 24.

**LIVESTOCK**

Tax exemption, Art. 8, § 9.

**LOANS**

Agriculture, guarantee, Art. 3, § 50c.  
Ranches, guarantee, Art. 3, § 50c.

**LOCAL RETIREMENT SYSTEMS**

Generally, Art. 16, § 67.

**LOTTERIES**

Generally, Art. 3, § 47.

**MASTERS**

Judicial conduct commission hearings, Art. 5, § 1-a.

**MUNICIPAL EMPLOYEES RETIREMENT**

Generally, Art. 16, § 67.

**NATURAL HISTORY RESOURCES**

Tax relief, state and political subdivision, Art. 8, § 1-f.

**NONPROFIT ORGANIZATIONS**

Bingo, Art. 3, § 47.

**NOTICE**

Revaluation of property, taxation, Art. 8, § 21(c).

**ORDERS**

Bail, denial of bail, Art. 1, § 11a.

**PENSIONS**

Generally, Art. 16, § 67.

**PERSONAL PROPERTY**

Homestead exemption, Art. 8, § 1.

**PLEDGES**

Reinvestment zone, bonds or notes, tax increases, Art. 8, § 1-g.

**POLITICAL SUBDIVISIONS**

Bonds, reinvestment zones, Art. 8, § 1-g.  
Hearings, tax increases, Art. 8, § 21.  
Homestead, tax exemption, Art. 8, § 1-b(e).  
Notice, revaluation of property, Art. 8, § 21(c).  
Pensions and retirement, Art. 16, § 67.  
Pledges, bond or note payments, reinvestment zones, tax increases, Art. 8, § 1-g.  
Taxation,  
Increases, notice, Art. 8, § 21.  
Reinvestment zones, exemptions, Art. 8, § 1-g.  
Relief from taxes, Art. 8, § 1-f.  
Residents homesteading exemption, Art. 8, § 1-b(e).  
Revaluation, notice, Art. 8, § 21(c).

**POULTRY**

Tax exemption, Art. 8, § 9.

**PREFERENCES**

Bail denial orders, appeals, Art. 1, § 11a.

**PRIVILEGED COMMUNICATIONS**

Judicial conduct commission hearings, Art. 5, § 1-a.

**PROCEDENDO**

Court of criminal appeals, issuance, power, Art. 5, § 5.

**PROCESS**

Court of criminal appeals, issuance, Art. 5, § 5.

**PUBLIC LANDS**

Free school fund land, issuance of patent, Art. 7, § 4A.  
Patents, free school fund land, Art. 7, § 4A.

**PUBLIC OFFICERS AND EMPLOYEES**

Impeachment, removal from office, Art. 15, § 9.  
Pensions and retirement, Art. 16, § 67.

**RANCHES**

Loans, guarantee, Art. 3, § 50c.  
Open space land, taxation, Art. 8, § 1-d-1.

**REDEVELOPMENT PLANS**

Political subdivisions, tax exemptions, bonds and notes, Art. 8, § 1-g.

**REINVESTMENT ZONES**

Political subdivisions, tax exemptions, bonds and notes, Art. 8, § 1-g.

**RELIGIOUS ORGANIZATIONS**

Bingo, Art. 3, § 47.

**REMOVALS FROM OFFICE**

Judicial conduct commission members, Art. 5, § 1-a.  
Public officers, Art. 15, § 9.

**RESIDENCE HOMESTEAD EXEMPTION**

Generally, Art. 8, § 1-b.

**SCHOOL FUNDS**

Free school funds, land purchased from, issuance of patents, Art. 7, § 4A.  
Patents, land purchased from free school fund, Art. 7, § 4A.

**SCHOOLS AND SCHOOL DISTRICTS**

Teachers,  
Retirement system, Art. 16, § 67.

**SECOND OR SUBSEQUENT OFFENSES**

Bail denial, Art. 1, § 11a.

**STANDARDS**

Taxation, appraisals, Art. 8, § 23.

**STATE AND LOCAL RETIREMENT SYSTEMS**

Generally, Art. 16, § 67.

**STATE CONTRACTS**

Handicapped services, nonprofit rehabilitation facilities, Art. 16, § 21.

**STATEMENT**

Judicial conduct commission, issuance, Art. 5, § 1-a.

**SUPREME COURT**

Censure of justice, Art. 5, § 1-a.  
Judges,  
Censure or removal, Art. 5, § 1-a.  
Judicial conduct commission, Art. 5, § 1-a.  
Removal of justice, Art. 5, § 1-a.  
Retirement of justice, Art. 5, § 1-a.  
Rules of court, procedure, Art. 5, § 1-a.

**SURVIVING SPOUSE**

Veterans land program, participation, Art. 3, § 49-b.

**TAXES AND TAXATION**

Aged persons, residence homestead exemption, Art. 8, § 1-b.  
Appraisals and appraisers,  
Single appraisal, Art. 8, § 18.  
Standards, Art. 8, § 23.  
Appropriations, rate of growth, Art. 8, § 22.  
Cities, towns and villages, reinvestment zones, tax exemptions, Art. 8, § 1-g.  
Disabled persons, residence homestead exemption, Art. 8, § 1-b.  
Exemptions,  
Ad valorem tax relief, Art. 8, § 1-f.  
Aged persons, resident homestead exemptions, Art. 8, § 1-b.  
Handicapped persons, resident homestead exemptions, Art. 8, § 1-b.  
Homestead, Art. 8, § 1-b(e).  
Livestock, Art. 8, § 9.  
Personal property homestead, Art. 8, § 1.

## INDEX TO CONSTITUTION

20

### TAXES AND TAXATION—Cont'd

Exemptions—Cont'd  
Poultry, Art. 8, § 9.  
Reinvestment zone, political subdivisions, Art. 8, § 1-g.  
Handicapped persons, resident homestead exemption, Art. 8, § 1-b.  
Homestead, exemption, Art. 8, § 1-b(e).  
Notice, revaluation of property, Art. 8, § 21(c).  
Rate of growth, appropriations, Art. 8, § 22.  
Reinvestment zone, political subdivisions, exemption, Art. 8, § 1-g.  
Relief from taxes, Art. 8, § 1-f.  
Residence homestead exemption, Art. 8, § 1-b.

### TAXES AND TAXATION—Cont'd

Revaluation of property, notice, Art. 8, § 21(c).  
Standards, appraisals, Art. 8, § 23.

### TEACHERS RETIREMENT SYSTEM

Generally, Art. 16, § 67.

### TERM OF OFFICE

Notaries public, Art. 4, § 26.

### TIMBER

Open space land, taxation, Art. 8, § 1-d-1.

### TRAVELLING EXPENSES

Legislature, members, Art. 3, § 24.

### VETERAN LAND FUND

Bond, issuance, Art. 3, §§ 49-b, 65.

### VETERANS

Surviving spouse, veterans land program participation, Art. 3, § 49-b.

### VETERANS LAND BOARD

Bonds, issuance authorization, Art. 3, §§ 49-b, 65.

### VETERANS ORGANIZATION

Bingo, Art. 3, § 47.

### VOLUNTEER FIRE DEPARTMENTS

Bingo, Art. 3, § 47.

### WEAPONS

Bail denial, second and subsequent offenses, Art. 1, § 11a.

# AGRICULTURE CODE

## TITLE 1. GENERAL PROVISIONS

Chapter	Section
1. General Provisions .....	1.001

## TITLE 2. DEPARTMENT OF AGRICULTURE

11. Administration .....	11.001
12. Powers and Duties .....	12.001
13. Weights and Measures .....	13.001
14. Warehouse Regulation .....	14.001
15. Family Farm and Ranch Security Program [Transferred] .....	15.001
16. Antifreeze Regulation .....	16.001

## TITLE 3. AGRICULTURE RESEARCH AND PROMOTION

41. Commodity Producers Boards .....	41.001
42. Natural Fibers and Food Protein Commission .....	42.001
43. County and Railway Agricultural Experiment Farms and Stations and County Demonstration Work .....	43.001

## TITLE 4. AGRICULTURAL ORGANIZATIONS

51. Farmers' Cooperative Societies .....	51.001
52. Cooperative Marketing Associations .....	52.001
53. Agriculture and Livestock Pools .....	53.001
54. Mutual Loan Corporations .....	54.001
55. Cooperative Credit Associations .....	55.001
56. Agricultural Finance Corporations .....	56.001

## TITLE 5. PRODUCTION, PROCESSING, AND SALE OF HORTICULTURAL PRODUCTS

### SUBTITLE A. SEED AND FERTILIZER

61. Inspection, Labeling, and Sale of Agricultural and Vegetable Seed .....	61.001
62. Seed and Plant Certification .....	62.001
63. Commercial Fertilizer .....	63.001

### SUBTITLE B. HORTICULTURAL DISEASES AND PESTS

71. General Control .....	71.001
72. Mexican Fruit Fly Control .....	72.001
73. Citrus Diseases and Pests .....	73.001
74. Cotton Diseases and Pests .....	74.001
75. Herbicide Regulation .....	75.001
76. Pesticide Regulation .....	76.001

Chapter	Section
77. Fire Ant Control .....	77.001
78. Noxious Weed Control Districts .....	78.001

### SUBTITLE C. GRADING, PACKING, AND INSPECTING FRUITS AND VEGETABLES

91. General Grades and Packs of Fruits and Vegetables .....	91.001
92. Tomato Standardization and Inspection .....	92.001
93. Citrus Fruit Standardization and Inspection .....	93.001
94. Citrus Fruit Maturity Standards .....	94.001
95. Citrus Fruit Coloring Matter .....	95.001
96. Sampling of Grain for Grading Purposes .....	96.001

### SUBTITLE D. HANDLING AND MARKETING OF HORTICULTURAL PRODUCTS

101. Handling and Marketing of Vegetables .....	101.001
102. Handling and Marketing of Citrus Fruit .....	102.001
103. Produce Recovery Fund .....	103.001
104. Marketing Orders .....	104.001

### SUBTITLE E. PROCESSING AND SALE OF FIBER PRODUCTS

111. Ginning and Compressing Cotton .....	111.001
112. Cotton Classing .....	112.001
113. Cotton Buying .....	113.001

### SUBTITLE F. PRODUCTION, PROCESSING, AND SALE OF NURSERY PRODUCTS

121. Grading of Roses .....	121.001
-----------------------------	---------

## TITLE 6. PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS

### SUBTITLE A. BEES AND NONLIVESTOCK ANIMAL INDUSTRY

131. Bees and Honey .....	131.001
132. Eggs .....	132.001
133. Poultry Improvement Board .....	133.001

§ 1.001

AGRICULTURE CODE

SUBTITLE B. LIVESTOCK

Chapter	Section
141. Commercial Feed .....	141.001
142. Estrays .....	142.001
143. Fences; Range Restrictions .....	143.001
144. Marks and Brands .....	144.001
145. Grading of Livestock .....	145.001
146. Sale and Shipment of Livestock .....	146.001
147. Livestock Commission Merchants .....	147.001
148. Slaughtering of Livestock .....	148.001

SUBTITLE C. CONTROL OF ANIMAL DISEASES AND PESTS

161. General Disease and Pest Control ...	161.001
162. Tuberculosis Control .....	162.001
163. Brucellosis Control .....	163.001
164. Scabies Control .....	164.001
165. Control of Diseases of Swine .....	165.001
166. Anthrax Control .....	166.001
167. Tick Eradication .....	167.001
168. Pullorum Disease and Fowl Typhoid Control .....	168.001

TITLE 7. SOIL AND WATER CONSERVATION

201. Soil and Water Conservation .....	201.001
202. Wind Erosion Districts .....	202.001

TITLE 8. PROTECTION AND PRESERVATION OF AGRICULTURAL OPERATIONS

251. Effect of Nuisance Actions and Governmental Requirements on Pre-existing Agricultural Operations .....	251.001
252. Family Farm and Ranch Security Program .....	252.001

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

Section	
1.001.	Purpose of Code.
1.002.	Construction of Code.
1.003.	Definitions.

§ 1.001. Purpose of Code

(a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the

legislature in Chapter 448 Acts of the 58th Legislature, Regular Session, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the agriculture law more accessible and understandable, by:

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

[Acts 1981, 67th Leg., p. 1015, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 1.002. Construction of Code

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

[Acts 1981, 67th Leg., p. 1015, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 1.003. Definitions

In this code:

- (1) "Commissioner" means the commissioner of agriculture.
- (2) "Department" means the Department of Agriculture.

[Acts 1981, 67th Leg., p. 1015, ch. 388, § 1, eff. Sept. 1, 1981.]

TITLE 2. DEPARTMENT OF AGRICULTURE

CHAPTER 11. ADMINISTRATION

Section	
11.001.	Department; Commissioner.
11.002.	Headquarters.
11.003.	Sunset Provision.
11.004.	Election and Term of Commissioner.

Section	
11.005.	Qualifications.
11.006.	Bond.
11.007.	Deputy Commissioner.
11.008.	Funds of the Department.

### § 11.001. Department; Commissioner

The Department of Agriculture is under the direction of the commissioner of agriculture, who is responsible for exercising the powers and performing the duties assigned to the department by this code or other law.

[Acts 1981, 67th Leg., p. 1016, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 11.002. Headquarters

The department headquarters are in Austin.

[Acts 1981, 67th Leg., p. 1016, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 11.003. Sunset Provision

The department is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the department is abolished and this chapter expires effective September 1, 1987.

[Acts 1981, 67th Leg., p. 1016, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 11.004. Election and Term of Commissioner

The commissioner is elected for a term of four years.

[Acts 1981, 67th Leg., p. 1016, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 11.005. Qualifications

The commissioner must be an experienced and practical farmer and have knowledge of agriculture, manufacturing, and general industry.

[Acts 1981, 67th Leg., p. 1016, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 11.006. Bond

Before assuming duties, the commissioner shall execute a bond in the amount of \$5,000 payable to the state and conditioned on the faithful performance of the duties of the office. The bond is subject to approval by the governor.

[Acts 1981, 67th Leg., p. 1016, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 11.007. Deputy Commissioner

(a) The commissioner shall appoint a deputy commissioner. In order to serve as deputy commissioner, a person must have practical knowledge of agriculture, horticulture, manufacturing, and related industries and of the proper method of marketing the products of those industries.

(b) The deputy commissioner shall take the oath of office required of the commissioner and shall execute a bond with two or more sureties in the amount of \$3,000 payable to the state and conditioned on the faithful performance of the duties of the office. The bond is subject to approval by the governor.

(c) The deputy commissioner shall perform duties assigned by the commissioner. In addition, the deputy commissioner shall perform the duties assigned by law to the commissioner during a necessary and unavoidable absence of the commissioner or during the commissioner's inability to act.

(d) The deputy commissioner serves at the will of the commissioner.

(e) The state shall pay the expenses incurred by the deputy commissioner while traveling on the business of the office under the direction of the commissioner.

[Acts 1981, 67th Leg., p. 1016, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 11.008. Funds of the Department

Except as otherwise provided by law, the department shall deposit all money collected or received by it in the state treasury to the credit of the general revenue fund.

[Acts 1981, 67th Leg., p. 1017, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 12. POWERS AND DUTIES

Section	
12.001.	Execution of Laws.
12.002.	Development of Agriculture.
12.003.	Agricultural Societies.
12.004.	Farmers' Institutes.
12.005.	Subsoiling, Drainage, and Irrigation.
12.006.	Development of Domestic and Foreign Markets.
12.007.	Plant Diseases and Pests.
12.008.	Grasses and Trees.
12.009.	Animals and Animal Products.
12.010.	Correspondence With Government Agencies and Others.
12.011.	Agricultural Resource Statistics.
12.012.	Irrigation Statistics.
12.013.	Employees.
12.014.	Annual Report.
12.015.	Cooperation With Texas A & M University and Experiment Stations.
12.016.	Rules.
12.017.	Use of Term "Texas Agricultural Product".
12.018.	Aflatoxin Testing.
12.019.	Agencies for the Sale of Agricultural Products.

### § 12.001. Execution of Laws

The department shall execute all applicable laws relating to agriculture.

[Acts 1981, 67th Leg., p. 1017, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.002. Development of Agriculture**

The department shall encourage the proper development of agriculture, horticulture, and related industries.

[Acts 1981, 67th Leg., p. 1017, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.003. Agricultural Societies**

The department shall encourage the organization of agricultural societies.

[Acts 1981, 67th Leg., p. 1017, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.004. Farmers' Institutes**

For the benefit of agricultural communities, the department shall conduct farmers' institutes at times and places throughout the state as necessary to best promote the advancement of agricultural knowledge and the improvement of agricultural methods and practices. The department shall publish and distribute the papers and addresses read or delivered at the institutes that the department determines to be of value to farming interests.

[Acts 1981, 67th Leg., p. 1018, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.005. Subsoiling, Drainage, and Irrigation**

For the purpose of extending the areas in which subsoiling is conducted, the department shall investigate subsoiling, its relation to agriculture, and the best method of effecting it in the different portions of the state. The department shall also investigate the problems of drainage and irrigation in different portions of the state.

[Acts 1981, 67th Leg., p. 1018, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.006. Development of Domestic and Foreign Markets**

The department shall investigate and report on the question of broadening the market and increasing the demand for cotton goods and all other agricultural or horticultural products in the United States and foreign countries. The department shall compile information beneficial to farmers, including information pertaining to:

- (1) the number of bales of cotton consumed by spinners in foreign countries;
- (2) the demand for cotton produced in Texas;
- (3) the methods and course of sales to foreign countries, showing the purchasers, brokers, and others who handle the cotton after it leaves the producers; and
- (4) countries with which trade could be increased, thereby creating a better outlet for trade and the best method for bringing consumer and purchaser together.

[Acts 1981, 67th Leg., p. 1018, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.007. Plant Diseases and Pests**

The department shall investigate the diseases of crops grown in this state, including grain, cotton, and fruit, to discover remedies. The department shall also investigate the habits and propagation of insects that are injurious to the crops of the state and the best methods for their destruction. The department shall supervise the protection of fruit trees, shrubs, and plants as provided by law.

[Acts 1981, 67th Leg., p. 1018, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.008. Grasses and Trees**

The department shall investigate and report on grasses, their value, and the cultivation of the varieties best adapted to the different sections of the state. The department shall collect and publish information relating to forestry, tree planting, and the best means of preserving and replenishing forests; encourage the planting and culture of nut trees; and recommend legislation necessary for the protection, restoration, and preservation of the forests of the state.

[Acts 1981, 67th Leg., p. 1018, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.009. Animals and Animal Products**

(a) The department shall inquire into subjects relating to stock raising, dairying, and poultry, the obtaining and rearing of the most valuable domestic animals and fowls, and the breeding and improvement of those animals and fowls. The department shall encourage the raising of fish and the culture of bees.

(b) The department shall investigate and report on producing wool and the utility and profit of sheep raising. The department shall also inquire into the culture, preparation for market, and manufacture of silk.

[Acts 1981, 67th Leg., p. 1018, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.010. Correspondence With Government Agencies and Others**

The department shall correspond with the United States Department of Agriculture, with the agriculture departments of the other states and territories, and, at the option of the department, with the agriculture departments of foreign countries and representatives of the United States in those countries, for the purpose of gathering information that will advance the interests of agriculture in the state. For the same purpose, the department may correspond with organizations and individuals whose objective is the promotion of agriculture in any branch.

[Acts 1981, 67th Leg., p. 1019, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.011. Agricultural Resource Statistics**

(a) The department shall collect and publish statistics and other information relating to industries of this state and other states that the department considers beneficial in developing the agricultural resources of this state.

(b) The department shall annually collect agricultural statistics. For that purpose, before January 1 of each year it shall furnish blank forms and instructions to the tax assessor of each county, including forms to be completed by the taxpayer relating to the taxpayer's acreage in cotton, grain, and other leading products of the state.

(c) The head of each state agency or institution shall furnish information for the purposes of this section at the request of the department.

(d) In performing duties under this section, the department may enter any manufacturing establishment chartered or authorized to do business in this state. Those establishments shall furnish appropriate information at the request of the department. [Acts 1981, 67th Leg., p. 1019, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.012. Irrigation Statistics**

(a) The department shall collect and publish statistics and other information relating to the irrigation of rice and other crops that the department determines to be beneficial in developing a more efficient system of laws safeguarding and defining the rights of users and sellers of water for irrigation purposes.

(b) For the purposes of performing duties under this section, the department may employ an engineer and expert having practical knowledge of the application of irrigation to the raising of rice and other crops.

(c) The department shall file with the governor and the legislature an annual report on irrigation. The report shall contain recommendations that the department considers beneficial to the industry. [Acts 1981, 67th Leg., p. 1019, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.013. Employees**

The department may employ personnel as the duties of the department require. [Acts 1981, 67th Leg., p. 1019, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.014. Annual Report**

(a) On or before November 1 of each year, the department shall submit to the governor a full report on the work and expenditures of the department during the preceding fiscal year. The governor shall transmit the report to the legislature.

(b) Under the direction of the department, the State Purchasing and General Services Commission

shall have printed not more than 10,000 copies of the annual report of the department. The department shall distribute the copies to farmers through the farmers' institutes or agricultural organizations or through other means as determined by the department.

[Acts 1981, 67th Leg., p. 1019, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.015. Cooperation With Texas A & M University and Experiment Stations**

This chapter does not affect the scope or character of the work of Texas A & M University or of the agricultural experiment stations, and the department shall cooperate with them in all matters relating to the agricultural and horticultural interests of the state.

[Acts 1981, 67th Leg., p. 1020, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.016. Rules**

The department may adopt rules as necessary for the administration of Sections 12.001-12.015 of this code.

[Acts 1981, 67th Leg., p. 1020, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.017. Use of Term "Texas Agricultural Product"**

(a) The department, by rule, shall regulate the use of the term "Texas Agricultural Product" and any symbol connected with that term in the selling, advertising, marketing, or other commercial handling of food or fiber products.

(b) On request of the department, the attorney general shall sue in a court of competent jurisdiction to enjoin a violation or threatened violation of a rule adopted under this section.

(c) A person commits an offense if the person violates a rule adopted by the department under this section. An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1981, 67th Leg., p. 1020, ch. 388, § 1, Sept. 1, 1981.]

**§ 12.018. Aflatoxin Testing**

(a) On request of any person, the department may test an agricultural product for aflatoxins.

(b) The department may set and charge a fee of not less than \$10 nor more than \$20 for testing under this section.

[Acts 1981, 67th Leg., p. 1020, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 12.019. Agencies for the Sale of Agricultural Products**

The department may establish agencies for the sale of farm, orchard or ranch products and may adopt rules for the operation of each agency.

[Acts 1981, 67th Leg., p. 1020, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 13. WEIGHTS AND MEASURES**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section 13.001. Definitions.
- 13.002. Enforcement of Chapter.
- 13.003. Chief Deputy of Weights and Measures.
- 13.004. Expenses.
- 13.005. Annual Report.
- 13.006. Records.

**SUBCHAPTER B. STANDARD WEIGHTS AND MEASURES**

- 13.021. Legal Standards.
- 13.022. Standard for Length and Surface.
- 13.023. Standard for Weight.
- 13.024. Standard for Liquid Capacity.
- 13.025. Standard for Solid Capacity.
- 13.026. Cord.
- 13.027. Standard Net Weight or Count Set by Rule.
- 13.028. Standard Weight Per Bushel for Certain Commodities.
- 13.029. Standard Net Weight and Labeling of Flour and Cornmeal.
- 13.030. Sale of Commodities by Net Weight.
- 13.031. Sale of Commodities by Proper Measure.
- 13.032. Standard Fill and Quantity Labeling for Commodities in Package Form.
- 13.033. Sale of Milk or Cream in Nonstandard Container.
- 13.034. Sale of Cheese, Meat, or Meat Food Product by Nonstandard Weight.
- 13.035. Price Advertisement; Misrepresentation of Price or Quantity.
- 13.036. False Representation of Commodity Quantity.
- 13.037. Use of False Weight or Measure.
- 13.038. Sale of Commodity in Violation of Subchapter.
- 13.039. Testing of Package by Sealer.
- 13.040. Stop-Sale Order.
- 13.041. Penalties; Defense.

**SUBCHAPTER C. INSPECTION OF WEIGHTS AND MEASURES**

- 13.101. Required Inspection.
- 13.102. Inspection Seal Required Prior to Sale.
- 13.103. Inspection of Water, Gas, and Electric Meters.
- 13.104. State Sealers.
- 13.105. County Sealers.
- 13.106. Local Sealers.
- 13.107. Sealer for More Than One Political Subdivision.
- 13.108. Powers and Duties of Sealers.
- 13.109. Rules Governing Sealers.
- 13.110. Inspecting, Testing, and Sealing.
- 13.111. Repair or Destruction of Incorrect Weights or Measures.
- 13.112. Tests for State Institutions.
- 13.113. Standards Used in Inspection.
- 13.114. Tolerances.
- 13.115. Fees for Department Inspection.
- 13.116. Use or Sale of Unsealed Weight or Measure.
- 13.117. Refusing to Permit Test of Weight or Measure.
- 13.118. Hindering Sealer.
- 13.119. Removal of Sealer's Tag.
- 13.120. Sale or Use of False Weights or Measures.
- 13.121. Disposing of Condemned Weight.
- 13.122. Penalties.

**SUBCHAPTER D. MEASUREMENT OF BUTTERFAT CONTENT OF DAIRY PRODUCTS**

- 13.201. Definition.
- 13.202. Dairy Advisory Board.
- 13.203. Babcock Test.
- 13.204. Other Tests.
- 13.205. Test Requirements.
- 13.206. Standards of Weight and Measure.

- Section 13.207. Licensing of Testers.
- 13.208. Department Supervision.
- 13.209. Rules.
- 13.210. Stop-Sale Order.
- 13.211. Duties of District or County Attorney.
- 13.212. Penalties.

**SUBCHAPTER E. PUBLIC WEAIGHER**

- 13.251. Definition.
- 13.252. Appointment of Public Weighers.
- 13.253. Election of Public Weighers.
- 13.254. Deputy Public Weighers.
- 13.255. Certificate.
- 13.256. Bond.
- 13.257. Recording of Weights and Measures.
- 13.258. Duties of the Department.
- 13.259. Penalty for Issuing a False Certificate.
- 13.260. Penalty for Issuing Certificate Without Authority.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 13.001. Definitions**

(a) In this chapter:

(1) "Weight or measure" includes a weight, scale, beam, or measure of any kind; an instrument or mechanical device for weighing or measuring; and an appliance or accessory connected with an instrument or mechanical device for weighing or measuring.

(2) "Sell" includes barter or exchange.

(b) A reference to the weight of a commodity in this chapter is a reference to the net weight of the commodity.

[Acts 1981, 67th Leg., p. 1022, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.002. Enforcement of Chapter**

The department shall enforce the provisions of this chapter and shall supervise all weights and measures sold or offered for sale in this state. The department may purchase apparatus as necessary for the administration of this chapter.

[Acts 1981, 67th Leg., p. 1023, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.003. Chief Deputy of Weights and Measures**

The commissioner shall appoint a chief deputy of weights and measures who, in the absence or inability of the commissioner, may perform any duty required by this chapter.

[Acts 1981, 67th Leg., p. 1023, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.004. Expenses**

The commissioner and chief deputy of weights and measures are entitled to reimbursement for actual expenses while traveling on state business.

[Acts 1981, 67th Leg., p. 1023, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.005. Annual Report.**

The department shall investigate conditions throughout the state, especially in cities and towns, with respect to weights and measures and the sale of goods by weight or measure, including foodstuffs, feed, fuel, and ice. Based on those investigations, the department shall annually report to the governor. Prior to each regular session of the legislature, the department shall file the annual reports and any recommendations with the legislature.

[Acts 1981, 67th Leg., p. 1023, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.006. Records.**

(a) The department shall maintain a complete record of all acts performed under this chapter, including a record of inspections made and of prosecutions for violations of this chapter.

(b) The department shall maintain an accurate record of the reports of county and local sealers of weights and measures.

(c) Records maintained under this section are public information.

[Acts 1981, 67th Leg., p. 1023, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 13.007 to 13.020 reserved for expansion]

**SUBCHAPTER B. STANDARD WEIGHTS  
AND MEASURES**

**§ 13.021. Legal Standards**

(a) The legal standard of weights and measures in this state is the standard of weights and measures adopted and used by the government of the United States. If the United States does not provide a standard of weight or measure for a commodity, the standard for that commodity is that established by this subchapter.

(b) The department may adopt rules for the purpose of administering this subchapter and bringing about uniformity between the standards established under this subchapter and the standards established by federal law. A person who violates a rule adopted under this subsection commits an offense.

(c) Except as otherwise provided by an express contract, a contract for work or sales by weight or measure shall be construed in accordance with the standards of this subchapter.

(d) The standards of this subchapter shall be the guide for making any adjustment of weights or measures under the law of this state.

[Acts 1981, 67th Leg., p. 1023, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.022. Standard for Length and Surface**

(a) The standard unit of length and surface is the yard. The yard is divided into three equal parts

called feet. Each foot is divided into 12 parts called inches. All measures of extension, including lineal, superficial, and solid measures, shall be derived and ascertained from the yard.

(b) For measure of a commodity commonly sold by the yard, including cloth, the yard may be divided into halves, quarters, eighths, and sixteenths.

(c) The rod, pole, or perch contains 5½ yards. The mile contains 1,760 yards. The Spanish vara contains 33⅓ inches.

(d) If land is measured by the English rule, the chain for measuring land shall be 22 yards long and divided into 100 equal parts called links.

(e) For land measure, the acre is measured horizontally and contains 4,840 square yards, and a square mile contains 640 acres.

[Acts 1981, 67th Leg., p. 1024, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.023. Standard for Weight**

(a) The standard for weight is the standard of avoirdupois and troy weights. Other weights shall be derived and ascertained from that standard.

(b) The avoirdupois pound bears to the troy pound the ratio of 7,000 grains to 5,760 grains. The avoirdupois pound is divided into 16 equal parts called ounces.

(c) The hundredweight consists of 100 avoirdupois pounds. The ton consists of 2,000 avoirdupois pounds.

(d) The troy ounce is equal to one-twelfth of a troy pound.

[Acts 1981, 67th Leg., p. 1024, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.024. Standard for Liquid Capacity.**

(a) The standard unit of measure of capacity for liquids is the gallon.

(b) The barrel consists of 31½ gallons. A hogshead consists of two barrels. Except as provided by Subsection (c) of this section all other measures of capacity for liquids are derived from the gallon by continual division by two, making half gallons, quarts, pints, half pints, and gills.

(c) A mechanism or machine that is adapted to measure and deliver liquid by volume and that indicates fractional parts of a gallon shall indicate the fractional parts either in terms of binary submultiple subdivisions or in terms of tenths of a gallon.

[Acts 1981, 67th Leg., p. 1024, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.025. Standard for Solid Capacity**

(a) The standard unit of measure of capacity for a solid is the half bushel.

(b) The peck, half-peck, quarter-peck, quart, and pint measures for solid commodities are derived

from the half bushel by successively dividing that measure by two.

(c) The bushel contains 2,150<sup>42</sup>/<sub>100</sub> cubic inches. The half bushel contains 1,075<sup>20</sup>/<sub>100</sub> cubic inches. The gallon contains 231 cubic inches.

(d) In measuring dry commodities, the measure may not be heaped but shall be stricken with a straight stick or roller.

[Acts 1981, 67th Leg., p. 1024, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.026. Cord

(a) A cord is equal to 128 cubic feet or the contents of a space 8 feet long, 4 feet wide, and 4 feet high.

(b) A cord of wood intended for use as fuel is the amount of wood contained in a space of 128 cubic feet when the wood is ranked and well-stowed and one-half the kerf of the wood is included.

[Acts 1981, 67th Leg., p. 1024, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.027. Standard Net Weight or Count Set by Rule

(a) The department by rule may establish a standard net weight or net count for any commodity and prescribe tolerances for those standards as the department considers necessary for the proper protection of the public.

(b) A person commits an offense if the person fails or refuses to comply with the rules adopted under this section.

[Acts 1981, 67th Leg., p. 1025, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.028. Standard Weight Per Bushel for Certain Commodities

If the following commodities are sold by the bushel and no agreement is made by the parties as to the measurement or weight, the bushel shall consist of the listed number of pounds:

barley	48 pounds
shelled corn	56 pounds
flax seed	56 pounds
oats	32 pounds
rye	56 pounds
wheat	60 pounds
cottonseed	32 pounds

[Acts 1981, 67th Leg., p. 1025, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.029. Standard Net Weight and Labeling of Flour and Cornmeal

(a) In this section:

(1) "Cereal flour" includes wheat, whole wheat, and graham flour.

(2) "Manufacturer" means the person who processes cereal into flour or corn into meal.

(3) "Package" includes a barrel, sack, bag, carton, or other container.

(b) The standard measures of cereal flour and cornmeal are packages containing net weights of 2, 5, 10, 25, 50, 100, 150, or 200 pounds avoirdupois. This subsection does not apply to cereals sold as grits.

(c) Each package of cereal flour or cornmeal shall be printed or marked in clearly readable figures and letters with the net weight of the package and:

(1) the name and address of the manufacturer;

(2) the name and address of the packer, if the flour or meal was not packed by the manufacturer; or

(3) the name and address of the distributor.

(d) If the name shown on the package is not the name of the manufacturer, the name must be preceded by "Manufactured for and Packed by" or "Distributed by" or a similar phrase, as applicable.

(e) The department may adopt rules as necessary for the administration of this section, including rules establishing reasonable variations and tolerances.

(f) This section does not apply to:

(1) the retailing of cereal flour or cornmeal directly to the consumer from bulk stock;

(2) the sale of flour to a bakery for its exclusive use;

(3) the exchange of flour or meal for wheat or corn between a gristmill and another mill grinding for compensation for producers; or

(4) the packing for sale, offering for sale, or sale of a prepared flour or meal designed for a special or limited use and packed and distributed in an identified original package of a net weight of five pounds or less.

(g) A person commits an offense if the person packs for sale, offers for sale, or sells in this state a cereal flour or cornmeal in a package that is not of the standard net weight prescribed by this section or is not labeled in accordance with this section.

[Acts 1981, 67th Leg., p. 1025, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.030. Sale of Commodities by Net Weight

(a) If a commodity is sold on the basis of weight, the net weight of the commodity shall be employed in the sale. A contract concerning goods sold on the basis of weight shall be construed to employ net weight.

(b) This section does not apply to bales of cotton.

(c) A person commits an offense if, in the sale of a commodity by weight, the person employs a weight other than net weight.

[Acts 1981, 67th Leg., p. 1026, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.031. Sale of Commodities by Proper Measure**

(a) Except as otherwise provided by this section, a liquid commodity shall be sold by liquid measure. A commodity, including a good, ware, or merchandise item, that is not liquid shall be sold by length, weight, or numerical count if the commodity has been or is capable of being sold by one of those measures.

(b) A liquid commodity may be sold by other than liquid measure if sold for immediate consumption on the premises where sold.

(c) A liquid commodity may be sold by weight if there is a general consumer usage to express the quantity of the commodity by weight and the expression gives accurate information as to the weight of the commodity.

(d) This section does not prevent the sale of:

(1) fruits, vegetables, or other dry commodities in the standard barrel or by other method provided for by state or federal law;

(2) berries and small fruits in boxes as provided for by other state law; or

(3) vegetables or fruits by the head or bunch if the vegetable or fruit is usually sold in that manner.

(e) This section does not apply to a commodity in an original package, which includes any wholesale or retail package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or the coverings or wrappings of a commodity, that is put up by the manufacturer, that may be labeled, branded, stenciled, or otherwise marked, and that makes one complete package.

(f) A person commits an offense if in violation of this section the person sells a liquid commodity by other than liquid measure or a commodity that is not liquid by a measure other than length, weight, or numerical count.

[Acts 1981, 67th Leg., p. 1026, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.032. Standard Fill and Quantity Labeling for Commodities in Package Form**

(a) For the purpose of preventing the sale of commodities in package form with containers that mislead the purchaser as to quantity, the department by rule may establish a standard fill for commodities in package form. The rules must be reasonable with respect to the physical characteristics of the container, the prevailing method of handling and transporting the package, and generally accepted good commercial practice in filling methods. The rules shall provide for reasonable variations and tolerances.

(b) Except as otherwise provided by this section, a commodity in package form, including cheese, meat, or a meat food product as defined by Section 13.034

of this code, shall be plainly and conspicuously marked on the outside of the package with:

(1) the net quantity of the contents in terms of weight, measure, or numerical count; and

(2) the name and place of business of the manufacturer, packer, or distributor.

(c) The department by rule shall provide exemptions from the requirements of Subsection (b)(1) of this section for small packages and from the requirements of Subsection (b)(2) of this section for packages sold on the premises where packed.

(d) The department by rule shall prescribe reasonable variations or tolerances for the statement of net quantity required under Subsection (b)(1) of this section.

(e) A box or carton used for shipping purposes containing a number of packages that are individually marked in accordance with Subsection (b) of this section is not required to be marked in accordance with that subsection.

(f) A commodity is in package form if for wholesale or retail it:

(1) is in a package, carton, case, can, box, bag, barrel, bottle, or phial, on a spool or similar holder, in a container or band, in a roll, ball, coil, skein, or other receptacle, or in coverings or wrappings of any kind;

(2) is put up by the manufacturer or, if put up prior to ordering, by the vendor;

(3) is suitable for labeling, branding, stenciling, or marking in another manner; and

(4) makes one complete package.

(g) This section does not apply to bales of cotton, commodities in package form of which the manner of sale is regulated by other law, or to stationery in tablet form.

(h) A person commits an offense if the person sells, keeps for sale, or offers or exposes for sale a commodity in package form that is:

(1) not labeled in accordance with this section;

(2) in a container that is made, formed, filled, or wrapped so as to mislead the purchaser as to the quantity of the contents; or

(3) in a container the contents of which fall below the standard fill prescribed by rule under Subsection (a) of this section.

[Acts 1981, 67th Leg., p. 1026, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.033. Sale of Milk or Cream in Nonstandard Container**

A person commits an offense if the person sells or keeps, offers, or exposes for sale milk or cream in bottles or other containers of a capacity other than one of the standard liquid measures provided for by Section 13.024 of this code.

[Acts 1981, 67th Leg., p. 1027, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.034. Sale of Cheese, Meat, or Meat Food Product by Nonstandard Weight**

(a) Except as otherwise provided by this section or Section 13.032 of this code, cheese, meat, and meat food products shall be sold by standard net weight.

(b) Cheese, meat, or a meat food product may be sold by other than standard net weight if sold for immediate consumption on the premises where sold.

(c) Poultry may be sold by live weight if weighed at the time of sale. Poultry dressed or killed prior to the time of sale, whether cooked or uncooked, shall be sold by net weight at the time of sale. Fresh-cooked poultry may be sold by the piece or by the head.

(d) A person commits an offense if, in violation of this section, the person sells or keeps, offers, or exposes for sale cheese, meat, or a meat food product by a measure other than standard net weight.

(e) In this section:

(1) "Meat or meat food product" includes fresh, cured, or salt meats; poultry; fish; sausage; chili; headcheese; souse meat; loaf meat; boneless meat; shredded meat; hamburger; and any other manufactured, prepared, or processed meat or meat food product.

(2) "Poultry" includes turkeys, chickens, ducks, geese, guineas, squabs, and all other domesticated fowl.

[Acts 1981, 67th Leg., p. 1027, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.035. Price Advertisement; Misrepresentation of Price or Quantity**

(a) If a price sign, card, tag, poster, or other advertisement displaying the price of a commodity or other item includes a whole number and a fraction, the figures in the fraction shall be of proportionate size and legibility to those of the whole number.

(b) A person commits an offense if the person:

(1) misrepresents the price of a commodity, item, of service sold or offered or exposed for sale; or

(2) represents the price or the quantity of a commodity, item, or service sold or offered or exposed for sale in a manner intended or tending to mislead or deceive an actual or prospective customer.

[Acts 1981, 67th Leg., p. 1028, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.036. False Representation of Commodity Quantity**

A person commits an offense if the person or the person's servant or agent:

(1) sells or offers or exposes for sale a quantity of a commodity or service that is less than the quantity the person represents; or

(2) as a buyer furnishing the weight or measure by which the amount of a commodity or service is determined, takes or attempts to take more than the quantity the person represents.

[Acts 1981, 67th Leg., p. 1028, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.037. Use of False Weight or Measure**

(a) A person commits an offense if the person or the person's servant or agent uses a false weight or measure in:

(1) buying or selling a commodity;

(2) computing a charge for services rendered on the basis of weight or measure; or

(3) determining the weight or measure of a commodity, if a charge is made for the determination.

(b) For the purpose of this section, a weight or measure is false if it:

(1) does not conform as closely as practicable to the official standards;

(2) is not accurate;

(3) is of a construction that is not reasonably permanent in adjustment or does not correctly repeat its indications;

(4) facilitates the perpetration of fraud; or

(5) does not conform to the specifications and tolerances established by the department under Section 13.114 of this code.

[Acts 1981, 67th Leg., p. 1028, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.038. Sale of Commodity in Violation of Subchapter**

A person commits an offense if the person or the person's servant or agent sells or keeps, offers, or exposes for sale a commodity in violation of this subchapter.

[Acts 1981, 67th Leg., p. 1029, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.039. Testing of Package by Sealer**

(a) A sealer appointed under Subchapter C of this chapter shall from time to time weigh or measure a package, or an amount of any commodity, that is kept or offered for sale, sold, or in the process of delivery, in order to determine:

(1) if the commodity is of the amount or quantity represented; or

(2) if the commodity is being offered for sale or sold in accordance with law.

(b) If a sealer finds that a package or any lot of a commodity contains less of the commodity than the amount represented, the sealer may seize the package or the commodity as evidence.

(c) A person commits an offense if the person or the person's employee or agent refuses to exhibit a commodity being sold or offered for sale at a given weight or quantity, or ordinarily sold in that manner, to a sealer for testing and proving as to quantity.

[Acts 1981, 67th Leg., p. 1029, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.040. Stop-Sale Order

(a) If the department has reason to believe that a commodity is being sold or kept, offered, or exposed for sale in violation of Section 13.030, 13.031, 13.032, 13.033, 13.034, 13.035, 13.036, or 13.037 of this code, the department may issue and enforce a written or printed order to stop the sale of the commodity. The department shall present the order to the owner or custodian of the commodity. The person receiving the order may not sell the commodity until discharged by a court under Subsection (b) of this section or until the commissioner finds that the commodity is in compliance with the applicable section.

(b) The owner or custodian of a commodity prohibited from sale by an order of the department is entitled to sue in a court of competent jurisdiction where the commodity is found for a judgment as to the justification of the order and for the discharge of the commodity in accordance with the findings of the court.

(c) This section does not limit the right of the department to proceed as authorized by other sections of this subchapter.

[Acts 1981, 67th Leg., p. 1029, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.041. Penalties; Defense

(a) An offense under Section 13.027 or 13.039 of this code is a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

(b) An offense under Section 13.029 of this code is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100.

(c) An offense under Section 13.021 or each of Sections 13.030–13.038 of this code is a misdemeanor punishable by a fine of not less than \$20 nor more than \$100, unless the accused has been previously convicted of the offense, in which case it is punishable by a fine of not less than \$50 nor more than \$200.

(d) It is a defense to prosecution under Sections 13.030–13.038 of this code that a discrepancy between the actual weight or volume at the time of sale to a consumer and the weight marked on the container or a discrepancy between the fill of a container and the capacity of the container is due to unavoidable leakage, shrinkage, evaporation, waste, or causes beyond the control of the seller acting in good faith.

[Acts 1981, 67th Leg., p. 1029, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 13.042 to 13.100 reserved for expansion]

### SUBCHAPTER C. INSPECTION OF WEIGHTS AND MEASURES

#### § 13.101. Required Inspection

(a) At least once each year, or more often as required by the department, a weight or measure shall be inspected and tested for correctness by a sealer if it:

(1) is kept for sale, sold, or used by a proprietor, agent, lessee, or employee in proving the weight or measure, including the size, quantity, extent, or area, of any item; or

(2) is purchased, offered, or submitted by a proprietor, agent, lessee, or employee for sale, hire, or award.

(b) A person who uses or keeps for use, or has or offers for sale, a weight or measure is responsible for having the weight or measure inspected and tested by a sealer.

(c) Unless the department requires an inspection more often than annually, a weight or measure that is inspected and found correct by a sealer may be kept for use, used, kept or offered for sale, or sold for one year without further testing.

[Acts 1981, 67th Leg., p. 1030, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.102. Inspection Seal Required Prior to Sale

(a) Except as provided by Subsection (b) or (c) of this section, a person may not sell a weight or measure unless it bears a valid inspection seal as to its correctness.

(b) A weight or measure that has been tested, sealed, and certified correct by the National Bureau of Standards may be kept or offered for sale or sold without being sealed under this subchapter.

(c) A weight or measure that after sale must be assembled before use may be kept or offered for sale or sold without first being sealed under this subchapter but, unless otherwise approved by the department, must be tested and sealed under this subchapter before use for weighing or measuring.

[Acts 1981, 67th Leg., p. 1030, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.103. Inspection of Water, Gas, and Electric Meters

(a) A water, gas, or electric meter is subject to inspection by the department either on its own motion or on complaint of a user. If the department finds a meter to be incorrect, the department shall order use of the meter discontinued until it is corrected.

(b) A person commits an offense if the person fails or refuses to comply with an order of the department under Subsection (a) of this section. Each day of failure or refusal to comply is a separate offense.

[Acts 1981, 67th Leg., p. 1030, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.104. State Sealers**

(a) The commissioner may appoint deputies, as provided for by appropriation, and inspectors, lecturers, and other employees of the department to serve as state sealers of weights and measures.

(b) The jurisdiction of a state sealer is coextensive with the limits of the state. A state sealer is entitled to inspect and test weights and measures in any district or locality designated by the department.

(c) A deputy appointed to serve as state sealer is entitled to reimbursement for actual traveling expenses while traveling on the business of the state. [Acts 1981, 67th Leg., p. 1031, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.105. County Sealers**

(a) The commissioners court of any county may appoint a county sealer of weights and measures. The county sealer is entitled to a salary set by the commissioners court. Neither the county sealer nor the county may charge a fee for inspecting, testing, sealing, repairing, or adjusting a weight or measure.

(b) In the same manner in which the county sealer is appointed, a commissioners court may appoint one or more deputy county sealers. A deputy county sealer is entitled to a salary set by the commissioners court and has the same power and authority as a county sealer if acting at the direction and under the instructions of the county sealer.

(c) The jurisdiction of a county sealer is coextensive with the limits of the county. [Acts 1981, 67th Leg., p. 1031, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.106. Local Sealers**

(a) The governing body of a city may appoint a local sealer of weights and measures and one or more deputy local sealers. The jurisdiction of a local sealer is coextensive with the limits of the city for which the sealer is appointed.

(b) Each local sealer and deputy local sealer is under the supervision of the department. As required by the department, each local sealer shall report to the department regularly on the basis of records maintained under Section 13.108 of this code. Failure or refusal to report is grounds for dismissal.

(c) If the department finds that a local sealer or deputy local sealer is neglecting the duties of the office, has refused to follow the recommendations and instructions of the department, is guilty of malfeasance in office, or is incompetent, the department shall prepare written charges that clearly state the offense. The department shall file the written charges with the governing body that appointed the sealer or with the city officer who supervises the sealer. The governing body or officer shall conduct a hearing on the charges not less than 10 nor more

than 20 days after receipt of the written charges. A copy of the charges and the order setting the hearing shall be served on the accused sealer at least seven days before the date of the hearing. At the hearing, the accused sealer is entitled to be represented by counsel and to present evidence in defense. If the accused sealer is found guilty of the charges, the governing body or officer conducting the hearing shall immediately remove the sealer from office.

(d) If the department, city governing body, or city supervising officer finds that a local sealer or deputy local sealer has accepted a bribe, a gift, or money from a person who is interested in procuring false weights and measures, the department, governing body, or officer shall immediately suspend the sealer from office.

(e) A local sealer or deputy local sealer commits an offense if the sealer fails or refuses to report to the department as required by this section or to carry out the instructions of the department. [Acts 1981, 67th Leg., p. 1031, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.107. Sealer for More Than One Political Subdivision**

(a) Two or more counties or a county and one or more cities located in that county may combine the whole or any part of their political subdivisions for the purpose of maintaining one set of standards and one sealer. The agreement to combine districts must be approved by the governing body of each participating political subdivision.

(b) Except as limited by the agreement, a sealer appointed under Subsection (a) of this section has the same authority, jurisdiction, and duties as if the sealer had been appointed individually by each of the parties to the agreement. [Acts 1981, 67th Leg., p. 1032, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.108. Powers and Duties of Sealers**

(a) In addition to inspecting, testing, and sealing weights and measures, each sealer and deputy sealer shall:

- (1) preserve all copies of the standards used in conducting tests and keep the standards in safe and good order when not in use;
- (2) keep a record of all work performed, including inspections made, and the name and post office address of each party:
  - (A) for whom a measurement, test weight, or inspection is made;
  - (B) whose weight or measure is condemned;
  - or
  - (C) who is prosecuted; and
- (3) keep a record of all violations of this chapter and report those violations to the department.

(b) The commissioner, the chief deputy of weights and measures, and all sealers have the same powers as peace officers in the performance of official duties.

(c) In the performance of official duties, a sealer, without a warrant, may enter any premises or stop any vendor or vehicle containing commodities for sale or delivery. The sealer may direct the vendor or vehicle to an appropriate place for the purpose of conducting tests under this subchapter.

[Acts 1981, 67th Leg., p. 1032, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.109. Rules Governing Sealers

The department shall issue instructions and adopt rules governing state, county, and local sealers as necessary to carry out the purposes of this chapter.

[Acts 1981, 67th Leg., p. 1032, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.110. Inspecting, Testing, and Sealing

(a) In accordance with this subchapter, each sealer shall inspect and test all weights and measures used in the locality to which the sealer is assigned or in the city or county in which the sealer is appointed.

(b) If a sealer determines that a weight or measure corresponds to official standards, the sealer shall place a seal or mark on the weight or measure under the sealer's name showing the date of inspection and that the weight or measure is correct. The sealer shall place the seal or mark so that it may be easily seen.

[Acts 1981, 67th Leg., p. 1032, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.111. Repair or Destruction of Incorrect Weights or Measures

(a) If, in the judgment of the sealer, a weight or measure found to be incorrect is not capable of being repaired, the sealer may condemn, seize, and destroy the weight or measure.

(b) If, in the judgment of the sealer, an incorrect weight or measure is capable of being repaired, the sealer shall place on the weight or measure a tag or other mark with the words "Out of Order." The owner or user of the weight or measure may have it repaired within 30 days, but may not use or dispose of it until it is reinspected and sealed. After repair, the owner or user shall notify the sealer and the sealer shall reinspect the weight or measure. If it is found to be correct, the sealer shall remove the out-of-order tag and seal the weight or measure as provided by Section 13.110 of this code.

[Acts 1981, 67th Leg., p. 1032, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.112. Tests for State Institutions

At least once each year, or more often as requested by the State Purchasing and General Services Commission or the governing body of a state institution, the department shall test each weight or measure used by a state institution for any purpose, including a weight or measure used in checking the receipt and distribution of supplies. The department shall report results of the test to the chairman of the governing body of the institution.

[Acts 1981, 67th Leg., p. 1033, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 13.113. Standards Used in Inspection

(a) The standards of weights and measures received from the United States and certified by the National Bureau of Standards are the state's standards by which all state and local standards of weights and measures are tried, authenticated, proved, and sealed.

(b) The department shall maintain the official standards in a safe and suitable place in the offices of the department. The standards may not be moved except for repairs or certification. The department shall maintain the standards in good order and shall submit them to the National Bureau of Standards for certification at least once each 10 years.

(c) In addition to the standards kept by the state, the department shall maintain a complete set of copies of the original standards for use in adjusting local standards or in the performance of other official duties. The department may purchase additional sets of standards as necessary for use by state sealers.

(d) At the request of a city, the department shall furnish the city with copies of the state's standards or test and approve other standards acquired by the city. The city shall reimburse the state for the actual cost of the standards furnished, plus the costs of freight and certification. All standards furnished to or tested for a city shall be true and correct, sealed and certified by the commissioner, and stamped with the letter "C". The copies used by a city may be of any suitable material or construction that the city requests, subject to approval by the department.

(e) The department shall inspect and correct the standards used by a local sealer at least once every two years. The department shall keep a record of the inspection and character of weights and measures inspected under this subsection. The city shall pay all expenses incurred in inspections under this subsection.

[Acts 1981, 67th Leg., p. 1033, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.114. Tolerances

(a) The department shall establish tolerances and specifications for commercial weighing and measuring apparatus used in this state. The tolerances and specifications shall be similar to those recommended by the National Bureau of Standards.

(b) A person commits an offense if the person fails or refuses to comply with the tolerances and specifications established under this section. [Acts 1981, 67th Leg., p. 1033, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.115. Fees for Department Inspection

(a) The department shall collect a fee in accordance with this section for each test of a weight or measure required by this subchapter or performed on request of the owner.

(b) The fee for testing a gasoline, kerosene, or diesel fuel pump may not exceed \$2.

(c) The fee for testing a scale may not exceed the following amounts:

SCALE CAPACITY	FEE
Less than 1,000	\$ 2
1,000 pounds or more but less than 4,999 pounds	\$ 5
4,999 pounds or more	\$ 20

(d) The fee for testing a metering device other than a propane or butane metering device is:

DELIVERY CAPACITY A MINUTE	FEE
Less than 50 gallons	\$ 2
50 gallons or more but less than 100 gallons	\$ 5
100 gallons or more	\$ 10

(e) The fee for testing a propane or butane metering device may not exceed \$20.

(f) The fee for testing a measuring device on a farm milk storage tank that is situated on a farm may not exceed the following amounts:

TANK CAPACITY	FEE
Less than 401 gallons	\$ 10
401 gallons or more but less than 601 gallons	\$ 15
601 gallons or more	\$ 20

(g) The fee for tolerance testing of a weight by the department's metrology laboratory is:

WEIGHT	FEE
Less than 1,000 pounds	\$ 1
1,000 pounds or more but less than 2,500 pounds	\$ 2.50
2,500 pounds or more but less than 5,000 pounds	\$ 5
5,000 pounds or more	\$ 10

(h) The fee for tolerance testing of a measure by the department's metrology laboratory is:

MEASURE CAPACITY	FEES
5 gallons or less	\$ 1
More than 5 gallons	\$ 1

plus 10 cents for each gallon over 5

(i) The department shall charge a fee of \$15 an hour for all precision testing performed by the metrology laboratory, prorated for each quarter hour.

(j) The department may collect the fees prescribed by this section only once annually unless requested to perform additional tests by the owner of the weight or measure.

(k) This section does not prevent a city from operating an agency for the testing of weights and measures.

[Acts 1981, 67th Leg., p. 1034, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.116. Use or Sale of Unsealed Weight or Measure

(a) A person commits an offense if the person or the person's servant or agent:

- (1) offers or exposes for sale, hire, or award or sells an unsealed weight or measure;
- (2) uses an unsealed weight or measure in:
  - (A) buying or selling a commodity or item;
  - (B) computing a charge for services rendered on the basis of weight or measure; or
  - (C) determining a weight or measure, if a charge is made for that determination; or
- (3) possesses an unsealed weight or measure.

(b) In this section, a weight or measure is unsealed if it has not been sealed within the past year in accordance with this subchapter.

[Acts 1981, 67th Leg., p. 1035, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.117. Refusing to Permit Test of Weight or Measure

A person commits an offense if the person neglects or refuses to exhibit a weight or measure under the person's control or in the person's possession to the department or a sealer for inspection or examination as required by law.

[Acts 1981, 67th Leg., p. 1035, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 13.118. Hindering Sealer

A person commits an offense if the person hinders or obstructs in any way the department or a sealer in the performance of official duties.

[Acts 1981, 67th Leg., p. 1035, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.119. Removal of Sealer's Tag

A person commits an offense if the person removes or obliterates a tag or device placed on a weight or measure under Section 13.110 or 13.111 of this code.

[Acts 1981, 67th Leg., p. 1035, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.120. Sale or Use of False Weights or Measures

(a) The department may condemn and prohibit the sale or distribution of any false weight or measure that is sold, offered for sale, or about to be sold in this state.

(b) A person commits an offense if the person or the person's servant or agent:

(1) offers or exposes for sale, hire, or award or sells a false weight or measure;

(2) possesses a false weight or measure; or

(3) sells, offers for sale, uses, or possesses for the purpose of sale or use a device or instrument to be used to falsify or intended to falsify a weight or measure.

(c) In this section, "false weight or measure" has the meaning assigned by Section 13.037 of this code.

[Acts 1981, 67th Leg., p. 1035, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.121. Disposing of Condemned Weight

A person commits an offense if the person or the person's servant or agent disposes of a weight or measure condemned under Section 13.111 or 13.120 of this code in a manner contrary to those sections.

[Acts 1981, 67th Leg., p. 1036, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.122. Penalties

(a) An offense under Section 13.103 of this code is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100.

(b) An offense under Section 13.116, 13.120, or 13.121 of this code is a misdemeanor punishable by a fine of not less than \$20 nor more than \$100, unless the accused has been previously convicted of the offense, in which case it is punishable by a fine of not less than \$50 nor more than \$200.

(c) An offense under Section 13.106, 13.114, 13.117, 13.118, or 13.119 is a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

[Acts 1981, 67th Leg., p. 1036, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 13.123 to 13.200 reserved for expansion]

## SUBCHAPTER D. MEASUREMENT OF BUTTER-FAT CONTENT OF DAIRY PRODUCTS

### § 13.201. Definition

In this subchapter, "board" means the Dairy Advisory Board.

[Acts 1981, 67th Leg., p. 1036, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.202. Dairy Advisory Board

(a) The Dairy Advisory Board serves in an advisory capacity to the department in public hearings conducted under Section 13.204 of this code.

(b) The board is composed of three members appointed by the governor with the advice and consent of the senate.

(c) In making appointments to the board, the governor shall appoint one member to represent the dairy proceeding industries, one member to represent the dairy production industry, and one member to represent consumers.

(d) Members of the board serve for terms of two years expiring on December 31 of even-numbered years.

[Acts 1981, 67th Leg., p. 1036, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.203. Babcock Test

The Babcock test is the official dairy test for use in this state by a person paying for milk or cream on the basis of butterfat content. A testing apparatus using another testing method may be used only if approved by the department under Section 13.204 of this code.

[Acts 1981, 67th Leg., p. 1036, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.204. Other Tests

(a) The department and the board shall conduct hearings on the approval, modification, or rejection of milk testing apparatus used to determine butterfat content or other components of milk. The department shall judge an apparatus on the basis of performance, accuracy, and testing specifications and may approve an apparatus for use in this state if:

(1) the apparatus meets specifications necessary to accurately determine the butterfat content or other components of milk;

(2) the testing method complies in every detail with the rules governing the Babcock and other tests; and

(3) the apparatus is approved by the Association of Official Analytical Chemists.

(b) The department may not approve a milk testing apparatus by brand, trade, or manufacturer's name.

(c) The department shall determine the frequency of hearings under this section with the approval of a majority of the board.

(d) Hearings under this section shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1981, 67th Leg., p. 1036, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.205. Test Requirements**

(a) A test used to determine the butterfat content of milk or cream shall be for clear butterfat, free from sediments, solids, and other foreign substances. The test shall be read at a temperature between 130° and 140°.

(b) Cream tests shall be weighed and may be taken only from milk or cream that has been thoroughly mixed by stirring with a suitable instrument. The scales used must be accurate and sensitive to a weight of 30 milligrams. The tester and the owner of the scales are jointly responsible for the accuracy of the scales.

(c) Each person licensed to conduct the test shall retain the sample of tested milk or cream in a cool, clean, sanitary place and in tightly stoppered bottles or tightly covered jars. The licensee shall properly label the sample and retain it until 6 p. m. of the next test day or longer as required by the department.

[Acts 1981, 67th Leg., p. 1037, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.206. Standards of Weight and Measure**

(a) The standards of weights and measures provided by Subchapter B of this chapter apply to the purchase of milk, cream, or butterfat in this state.

(b) The unit or standard of measure of capacity for use in the Babcock test is the true cubic centimeter or the weight of one gram of distilled water at four degrees centigrade.

(c) The department shall from time to time test individual bottles and pipettes used by persons conducting butterfat content tests in order to determine compliance with this section. The department shall report any violation to the attorney general or the county or district attorney in the county where the alleged violation occurred. The department shall seize and destroy all glassware or measuring devices found not to be of standard capacity.

[Acts 1981, 67th Leg., p. 1037, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.207. Licensing of Testers**

(a) Without holding a license issued under this section, a person may not operate a testing apparatus to determine the percentage of butterfat in milk or cream for the purpose of purchasing the milk or cream.

(b) A person is entitled to a license as a tester if the person is reliable, competent, and qualified to operate the apparatus in order to make an accurate test.

(c) Before issuing a license, the department may make necessary investigations of the qualifications of an applicant. The department may refuse to license an applicant that the department finds is not qualified under Subsection (b) of this section.

(d) The department shall collect a fee of \$10 for each license issued.

(e) A license issued under this section is valid for one year.

(f) The department may revoke the license of a person who the department finds has failed to comply with a provision of this subchapter or a rule adopted under this subchapter. The department may suspend for six months the license of a tester who is finally convicted of a second offense under Section 13.212 of this code.

(g) A licensee or a licensee's employer for valid reason may appoint a substitute tester for a period of 15 days. The reason for the appointment must be reported to the department. With approval of the department, the appointment may be extended for an additional period not to exceed 10 days.

[Acts 1981, 67th Leg., p. 1037, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.208. Department Supervision**

(a) The department may enforce the correct operation of butterfat tests performed in this state.

(b) At the time and place and to the extent the department considers necessary, the department shall sample, inspect, test, and analyze milk or milk products transported, sold, or offered or exposed for sale in this state in order to determine compliance with this subchapter.

(c) The department is entitled to enter any public or private premises, including a creamery, cheese factory, or other place where milk, cream, or dairy products are handled, during regular business hours, for the purpose of securing samples and checking tests performed.

(d) If the department discovers a violation of this subchapter, the department shall give prompt notice of the violation to the person who transported, sold, or offered or exposed for sale the milk or milk product.

[Acts 1981, 67th Leg., p. 1038, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 13.209. Rules**

After a public hearing, the department may adopt rules necessary to the enforcement of this subchapter, including rules governing the method of sampling, inspecting, and analyzing milk or milk products and rules establishing tolerances to be allowed.

[Acts 1981, 67th Leg., p. 1038, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.210. Stop-Sale Order

(a) If the department has reason to believe that any lot of milk or milk products is in violation of a provision of this subchapter, the department may issue and enforce a written or printed order to stop the sale of the lot. The department shall present the order to the owner or custodian of the lot. The person receiving the order may not sell the lot until discharged by a court under Subsection (b) of this section or until the department finds that the lot is in compliance with this subchapter.

(b) The owner or custodian of any lot of milk or milk products prohibited from sale by an order of the department is entitled to sue in a court of competent jurisdiction where the lot is found for a judgment as to the justification of the order and for the discharge of the lot from the order in accordance with the findings of the court.

(c) This section does not limit the right of the department or a county or district attorney to proceed as authorized by other sections of this subchapter.

[Acts 1981, 67th Leg., p. 1038, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.211. Duties of District or County Attorney

The county or district attorney of a county in which a violation of this subchapter occurs shall investigate and prosecute the violation. If necessary, the county or district attorney may sue to enjoin further violations of this subchapter.

[Acts 1981, 67th Leg., p. 1038, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 13.212. Penalties

(a) A person commits an offense if, without a license issued under Section 13.207 of this code, the person operates a testing apparatus to determine the percentage of butterfat in milk or cream for the purpose of purchasing the milk or cream. A person commits a separate offense for each lot of milk or cream tested.

(b) A person commits an offense if, in determining the quantity of fat in milk or cream, the value of milk or cream that is sold or purchased, or the value of milk or cream that is delivered to a place where milk or cream is purchased, the person or the person's agent:

- (1) falsely manipulates, overreads, or underreads a butterfat content test;
- (2) makes a false determination by butterfat content test; or
- (3) takes inaccurate samples.

(c) For the purpose of Subsection (b) of this section, a creamery, a cheese factory, a condensary, an ice cream plant, a milk plant, or a milk depot is included as a place where milk or cream is purchased.

(d) An offense under this section is a misdemeanor or punishable by a fine not to exceed \$1,000.

[Acts 1981, 67th Leg., p. 1039, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 13.213 to 13.250 reserved for expansion]

## SUBCHAPTER E. PUBLIC WEIGHER

### § 13.251. Definition

In this subchapter, "public weigher" means a person who is elected or appointed to issue an official certificate declaring the accurate weight or measure of a commodity that the person is requested to weigh.

[Acts 1981, 67th Leg., p. 1039, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2592, ch. 693, § 14, eff. Sept. 1, 1981.]

Section 15 of Acts 1981, 67th Leg., p. 2594, ch. 693 provides: "Section 14 of this Act takes effect on the effective date of House Bill 275, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 135, effective Sept. 1, 1981], and Sections 1 through 10 of that Act are repealed on that date."

### § 13.252. Appointment of Public Weighers

(a) The department may appoint public weighers of the following classifications:

- (1) appointed county public weighers, who may issue an official certificate only for the weight or measure of a commodity weighed in the county for which the public weigher is appointed; and
- (2) state public weighers, who may issue an official certificate for the weight or measure of a commodity weighed anywhere in the state.

(b) An appointed public weigher serves for a term of two years.

[Acts 1981, 67th Leg., p. 1039, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2592, ch. 693, § 14, eff. Sept. 1, 1981.]

Sections 11 and 12 of Acts 1981, 67th Leg., p. 346, ch. 135, provide: "Sec. 11. Completion of term. Unless removed from office under Article 5970, revised Civil Statutes of Texas, 1925, or unless the public weigher's certificate of authority is revoked for cause under Section 5 of this Act, a public weigher appointed or elected before the effective date of this Act is entitled to serve for the remainder of the term for which the public weigher was appointed or elected.

"Sec. 12. Transfer of records. The secretary of state shall transfer the files and records concerning the appointment of public weighers to the commissioner of agriculture."

### § 13.253. Election of Public Weighers

(a) The commissioners court of a county by order may provide for the election of a public weigher to serve only within the county for which the weigher is elected. The department may appoint one or more county public weighers to serve in a county in addition to a public weigher elected under this section.

(b) An elected county public weigher must obtain a certificate of authority as provided by Section 13.255 of this code and must execute a bond as provided by Section 13.256 of this code before issuing an official certificate of weight or measure. A

county public weigher elected under this section is subject to rules adopted by the commissioners court.

(c) A public weigher elected under this section serves for a term of two years and may be removed from office under Article 5970, Revised Civil Statutes of Texas, 1925.

[Acts 1981, 67th Leg., p. 1040, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2592, ch. 693, § 14, eff. Sept. 1, 1981.]

**§ 13.254. Deputy Public Weighers**

(a) A county public weigher, whether elected or appointed, may appoint the number of deputies that the public weigher believes necessary to assist the public weigher in weighing commodities within the county. The deputy may not issue an official weight certificate for a commodity weighed outside the county for which the deputy is appointed. A county public weigher shall notify the department of the appointment of a deputy. A deputy public weigher may serve in office until the expiration of the term of the county public weigher who appointed the deputy.

(b) A state public weigher may not appoint a deputy public weigher.

[Acts 1981, 67th Leg., p. 1040, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2592, ch. 693, § 14, eff. Sept. 1, 1981.]

**§ 13.255. Certificate**

(a) A public weigher, whether elected or appointed, or deputy public weigher may not officially weigh a commodity unless the weigher has obtained from the department a certificate of authority.

(b) The department shall collect a fee of \$25 before issuing a certificate of authority to a county public weigher or to a deputy public weigher and shall collect a fee of \$100 before issuing a certificate of authority to a state public weigher.

(c) The department may suspend or revoke the certificate of authority of an appointed public weigher or of a deputy of an appointed county public weigher for cause after a hearing as a contested case under the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). A public weigher or deputy public weigher whose certificate is suspended or revoked may not issue an official certificate of weight or measure.

[Acts 1981, 67th Leg., p. 1040, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2592, ch. 693, § 14, eff. Sept. 1, 1981.]

**§ 13.256. Bond**

(a) Each county public weigher, whether elected or appointed, and each deputy public weigher shall execute for the full term of office a bond that is in the amount of \$2,500, approved by the department,

and made payable to the county judge of the county for which the weigher is elected or appointed. The bond must be conditioned on the accurate weight or measure of a commodity being reflected on the certificate issued by the public weigher or deputy, on the protection of a commodity that the public weigher or deputy is requested to weigh or measure, and on compliance with all laws and rules governing public weighers. The bond shall be filed with the county clerk's office in the county for which the public weigher or deputy is appointed or elected. The bond is not void on first recovery. A person injured by the public weigher may sue on the bond.

(b) Each state public weigher shall execute a bond similar to the bond required under Subsection (a) of this section, except that the bond is for \$10,000, made payable to the State of Texas, and filed with the department.

[Acts 1981, 67th Leg., p. 1040, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, § 14, eff. Sept. 1, 1981.]

**§ 13.257. Recording of Weights and Measures**

A public weigher shall retain in a well-bound book a copy of all certificates of weight or measure that the public weigher or the weigher's deputy issues. The department and members of the general public may inspect the record on request.

[Acts 1981, 67th Leg., p. 1041, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, § 14, eff. Sept. 1, 1981.]

**§ 13.258. Duties of the Department**

The department shall supervise public weighers and shall adopt rules necessary to enforce this subchapter. On application by an interested party, the department shall review the weight or measure of a commodity certified by a public weigher and may require the commodity to be reweighed or remeasured.

[Acts 1981, 67th Leg., p. 1041, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, § 14, eff. Sept. 1, 1981.]

**§ 13.259. Penalty for Issuing a False Certificate**

(a) A public weigher or deputy public weigher who intentionally or knowingly issues a certificate of weight or measure giving a false weight or measure for a commodity weighed or measured commits an offense.

(b) An offense under this section is a Class B misdemeanor.

[Acts 1981, 67th Leg., p. 1041, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, § 14, eff. Sept. 1, 1981.]

### § 13.260. Penalty for Issuing Certificate Without Authority

(a) A person who intentionally or knowingly issues an official certificate of weight or measure for any commodity without first obtaining a certificate of authority under Section 13.255 of this code, who issues an official certificate of weight or measure after revocation of the person's certificate of authority, or who issues an official certificate of weight or measure without executing a bond as required under Section 13.256 of this code commits an offense.

(b) An offense under this section is a Class C misdemeanor.

[Acts 1981, 67th Leg., p. 1041, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2593, ch. 693, § 14, eff. Sept. 1, 1981.]

## CHAPTER 14. WAREHOUSE REGULATION

### SUBCHAPTER A. PUBLIC GRAIN WAREHOUSES

Section	
14.001.	Definitions.
14.002.	Limitation of Subchapter.
14.003.	Powers and Duties of Department.
14.004.	License Required.
14.005.	Licensing Procedure.
14.006.	Multiple Warehouses Operated Under a Single License.
14.007.	Requirement for Increasing Capacity.
14.008.	Posting of License.
14.009.	Bond.
14.010.	Recovery on Bond.
14.011.	Casualty Insurance.
14.012.	Additional Bond or Insurance.
14.013.	Bond or Insurance Cancellation.
14.014.	Inspections; Fee.
14.015.	Suspension, Revocation, or Denial of License.
14.016.	Operation After Revocation or Suspension of a License.
14.017.	Issuance of Scale Weight Ticket or Receipt.
14.018.	Receipt for Grain Owned by Warehouse Owner.
14.019.	Duplicate Receipts.
14.020.	Receipt Forms.
14.021.	Obligation to Deliver.
14.022.	Records.
14.023.	Termination of Storage.
14.024.	Discovery of Shortage; Refusal of Inspection.
14.025.	Injunction.
14.026.	Court Enforcement of Department Subpoena.
14.027.	General Penalty.
14.028.	Penalty for Operating Without a License.
14.029.	Penalty for Fraud.
14.030.	Penalty for Unlawful Delivery.
14.031.	Penalty for Fraudulently Issuing a Scale Weight Ticket or Receipt.
14.032.	Penalty for Changing a Receipt or Scale Weight Ticket After Issuance.
14.033.	Penalty for Depositing Grain Without Title.
14.034.	Penalty for Stealing Grain or Receiving Stolen Grain.
14.035.	Venue.

### SUBCHAPTER B. AGRICULTURE WAREHOUSE CORPORATIONS

14.101.	Application for Charter.
14.102.	Application for Charter by Amendment of Existing Charter.
14.103.	Denial or Revocation of a Charter.
14.104.	Fees; Certificate of Authority.
14.105.	Bond.

Section	
14.106.	Breach and New Bond.
14.107.	Certificate of Qualification for Officer or Employee.
14.108.	Directors and Meetings.
14.109.	Powers of a Corporation.
14.110.	Authority to Contract Debts.
14.111.	Issuance of Sinking Fund Bonds.
14.112.	Investment for Payment of Sinking Fund Bonds.
14.113.	Acts Requiring Authorization by Corporation.
14.114.	Division of Profits.
14.115.	Voluntary Liquidation.
14.116.	Forced Liquidation.
14.117.	Statement of Affairs.
14.118.	Examination of a Corporation's Affairs.
14.119.	Unsafe Corporations.
14.120.	Fire Insurance.
14.121.	Forms.
14.122.	Failure to Submit to an Examination.
14.123.	Storage Charges.
14.124.	Standards of Classification.
14.125.	Liability of a Corporation.
14.126.	Receipts.
14.127.	Receipt for Cotton Grown on Rented or Leased Premises.
14.128.	Exchange of Receipts.
14.129.	Receipt on Delivery.
14.130.	Applicability of General Laws.

### SUBCHAPTER C. OTHER PUBLIC WAREHOUSEMEN

14.201.	Definitions.
14.202.	Powers of the Department.
14.203.	Warehouse Examiners.
14.204.	Certificate to Transact Business.
14.205.	Application for Certificate.
14.206.	Bond.
14.207.	Receipts.
14.208.	Receipt for Cotton.
14.209.	Duplicate Receipts.
14.210.	Exchange of Cotton Receipts.
14.211.	Cotton Under Lien.
14.212.	Receipt to be Issued Only on Delivery.
14.213.	Delivery.
14.214.	Exceptions.
14.215.	Storage Charges.
14.216.	Revocation of a Certificate.

### SUBCHAPTER A. PUBLIC GRAIN WAREHOUSES

#### § 14.001. Definitions

In this subchapter:

(1) "Depositor" means a person who:

(A) deposits grain in a warehouse for storing, handling, or shipping;

(B) is the owner or legal holder of an outstanding receipt for grain; or

(C) is lawfully entitled to possession of the grain.

(2) "Grain" means wheat, grain sorghum, corn, oats, barley, rye, soybeans, or any other grain, peas, or beans for which federal grain standards are established.

(3) "Open storage grain" means grain that:

(A) is received for storage by a public grain warehouse;

(B) is not covered by a negotiable warehouse receipt; and

(C) is not owned by the warehouse in which it is stored.

(4) "Public grain warehouse" means a building, bin, or similar structure used for:

(A) the receiving, storing, shipping, or handling of grain for hire; or

(B) the purchasing and selling of grain, including grain on which payment is deferred.

(5) "Receipt" means a negotiable warehouse receipt issued by a warehouseman licensed under this subchapter.

(6) "License" includes a renewal of or an amendment to a license.

(7) "Scale weight ticket" means a load slip other than a receipt given to a depositor by a warehouseman licensed under this subchapter on initial delivery of the grain to the warehouse.

(8) "Receipted grain" means grain that is stored in a public grain warehouse and for which a Texas grain warehouse receipt has been issued and has not been canceled.

(9) "Storage grain" means grain that:

(A) is received in a public grain warehouse located in this state; and

(B) is not purchased by the lessee, owner, or manager of the warehouse receiving the grain.

(10) "Warehouseman" means a person engaged in the business of operating a public grain warehouse.

[Acts 1981, 67th Leg., p. 1046, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.002. Limitation of Subchapter**

This subchapter does not apply to:

(1) a warehouse covered by a license issued under the United States Warehouse Act;

(2) an individual producer-owner who does not receive from others grain for storage or handling for hire;

(3) a person whose business is manufacturing grain or selling manufactured grain at retail, unless the person also satisfies the definition of a warehouseman; or

(4) a person who receives grain with the intent of using the grain for planting seed or for feeding livestock on the premises where the grain is received, unless the person requests in writing to the department to be licensed.

[Acts 1981, 67th Leg., p. 1046, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.003. Powers and Duties of Department**

(a) The department shall administer this subchapter and may:

(1) investigate the storing, shipping, and handling of grain and complaints relating to these activities through the inspection of:

(A) any public grain warehouse;

(B) the grain stored in any warehouse; or

(C) all property and records pertaining to a warehouse;

(2) determine whether a warehouse for which a license has been issued or applied for is suitable for properly storing, shipping, or handling grain that is stored in or expected to be stored in the warehouse;

(3) include field seed within the definition given to "grain" by Section 14.001 of this code;

(4) require reports it determines are necessary in the administration of this subchapter;

(5) require a warehouseman to terminate storing, shipping, and handling agreements on revocation of a license;

(6) prescribe forms, including the form of receipts, bonds, or applications for licenses; and

(7) adopt rules necessary to carry out the provisions of this subchapter.

(b) In any hearing held by the department under this subchapter, the department may:

(1) examine under oath any person and examine books and records of any licensee;

(2) hear testimony and gather evidence for the discharge of duties under this subchapter;

(3) administer oaths; and

(4) issue subpoenas, effective in any part of this state, and require attendance of witnesses and the production of books.

(c) The department may appoint and fix duties and compensation of inspectors and other personnel and provide equipment necessary to enforce the provisions of this subchapter.

[Acts 1981, 67th Leg., p. 1047, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.004. License Required**

A person may not operate a public grain warehouse without first obtaining from the department a license in the person's name covering the warehouse.

[Acts 1981, 67th Leg., p. 1047, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.005. Licensing Procedure**

(a) The department may issue, renew, or amend a license following a determination that:

(1) the applicant has filed an acceptable bond and possesses sufficient insurance;

(2) the warehouse is suitable for storage of grain; and

(3) the applicant has complied with this subchapter and rules adopted under this subchapter.

(b) An applicant must file a separate application for each license, renewal, or amendment and shall

accompany each application for a license or renewal with a \$10 license fee. The department shall prescribe the information to be contained in the application.

[Acts 1981, 67th Leg., p. 1047, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.006. Multiple Warehouses Operated Under a Single License

(a) For the purpose of granting a license, the department may consider as one unit all warehouses owned or controlled by the warehouseman that are located in close proximity on the same general location.

(b) All public grain warehouses operating under a single license shall be treated as a single warehouse for the purposes of this subchapter, including the issuance of receipts and the receipt and shipment of grain. However, the department may approve an application requesting that any part of a warehouse be reserved and designated "not for public use." [Acts 1981, 67th Leg., p. 1048, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.007. Requirement for Increasing Capacity

A warehouseman may not use any increased warehouse capacity without first obtaining approval from the department.

[Acts 1981, 67th Leg., p. 1048, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.008. Posting of License

Each warehouseman shall immediately on receipt of a license post it in a conspicuous place in the office of the public grain warehouse.

[Acts 1981, 67th Leg., p. 1048, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.009. Bond

(a) In accordance with this section, each applicant for a license shall file or have on file a bond with the department.

(b) The bond must:

- (1) be payable to the State of Texas;
- (2) be executed by the applicant as principal;
- (3) be issued by a corporate surety licensed to do business as surety in the State of Texas; and
- (4) be in a form and contain terms and conditions prescribed by the department.

(c) The bond must be conditioned on faithful performance of:

- (1) each obligation of a warehouseman as to receipted grain and open storage grain under this subchapter and rules adopted under this subchapter, from the effective date of the bond until the license is revoked or the bond is canceled, whichever occurs first; and

(2) each obligation of a warehouseman under any contract with a depositor that exists on the effective date of the bond or is assumed after the effective date of the bond and before the license is revoked or the bond is canceled, whichever occurs first and whether or not the warehouse remains licensed.

(d) The bond must be in an amount of not less than \$15,000 nor more than \$500,000, based on the following rate:

(1) 20 cents per bushel on the first million bushels of storage capacity;

(2) 15 cents per bushel on the second million bushels of storage capacity; and

(3) 10 cents per bushel on all bushels of storage capacity above two million bushels.

(e) If the actual net worth of an applicant equals less than 20 cents per bushel of storage capacity, the applicant shall file a deficiency bond in an amount equal to the difference between the actual net worth and an amount determined by multiplying 20 cents times each bushel of storage capacity in the applicant's warehouse. A deficiency bond is in addition to the bond required of an applicant by this section, and the maximum amount of a bond provided by Subsection (d) of this section does not apply.

(f) In considering the reissuance of a license, the department may accept a certificate from a surety stating that a bond filed with the department has been renewed or continued.

(g) The applicant may give a single bond meeting the requirements of this section to cover all licensed facilities operated by him or her, except that each warehouse operated by the applicant must be covered by the bond in the amount of at least \$15,000.

(h) The liability of the surety of a bond required by this subchapter is limited to the face amount of the bond and does not accumulate for each successive license period during which the bond is in force. [Acts 1981, 67th Leg., p. 1048, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.010. Recovery on Bond

(a) If no action on the bond of a warehouseman is begun before the 31st day after the date of a written demand to the department, a depositor has a right of action on the bond for recovery of damages suffered by the depositor as a result of the failure of the warehouseman to comply with any condition of the bond.

(b) Recovery on a bond shall be prorated if claims exceed liability on a bond, but a depositor suing on a bond is not required to join other depositors in a suit. The burden of establishing proration is on the surety as a matter of defense.

[Acts 1981, 67th Leg., p. 1049, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.011. Casualty Insurance**

(a) Except as provided by Subsection (c) of this section, an applicant for a license must file or have on file with the department a certificate of insurance evidencing that:

(1) the applicant has an effective policy of insurance issued by an insurance company authorized to do business in this state; and

(2) the policy insures, in the name of the applicant, all grain that is or may be in the public grain warehouse for its full market value against loss by fire, internal explosion, lightning, windstorm, cyclone, or tornado.

(b) If a fire, an internal explosion, lightning, a windstorm, a cyclone, or a tornado destroys or damages grain in a public grain warehouse, the warehouseman shall, on demand by the depositor and presentation of a receipt or other evidence of ownership, make settlement with the depositor of the grain. The amount of the settlement shall be the average price paid for grain of the same grade and quality on the date of the loss at the location of the warehouse, minus warehouseman's charges and advances. If a settlement is not made before the 31st day following the date of demand, the depositor is entitled to seek recovery from the insurance company.

(c) An applicant is not required to file a certificate of insurance if the applicant certifies that all grain within the warehouse is owned by the applicant free of any lien.

[Acts 1981, 67th Leg., p. 1049, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.012. Additional Bond or Insurance**

(a) If the department determines that an approved bond or insurance policy is insufficient, the department shall require the warehouseman to give additional bond or insurance.

(b) If a license has been suspended or revoked or has expired, the department may require a bond from the warehouseman to protect depositors of grain for as long as any receipts remain outstanding. [Acts 1981, 67th Leg., p. 1049, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.013. Bond or Insurance Cancellation**

(a) A warehouseman may not cancel a bond or insurance policy approved by the department unless the department first gives written approval of a substitute bond or policy.

(b) The surety or insurer may cancel a bond or insurance policy by sending notice of intent to cancel by registered or certified mail to the department. Cancellation of a bond may not be effective before the 91st day following the day on which the surety mails notice of intent to cancel. Cancellation of an insurance policy may not be effective before the 31st

day following the day on which the insurer mails notice of intent to cancel. On receipt of notice of cancellation of a bond or insurance policy, the department shall promptly notify the warehouseman involved.

(c) The surety or insurer shall send a copy of the notice required by this section to any government agency requesting it.

(d) Notwithstanding any other provision of this subchapter, the department shall automatically suspend the license if the warehouseman fails:

(1) to file a new bond before the cancellation of a bond is effective; or

(2) to file a new certificate of insurance before the cancellation of an insurance policy is effective.

(e) The suspension of a license under this section continues as long as the warehouseman fails to maintain the bond or insurance required by this subchapter.

[Acts 1981, 67th Leg., p. 1050, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.014. Inspections; Fee**

(a) On request by the department, a warehouseman shall report to the department on the condition, conduct, operation, and business of each public grain warehouse that the warehouseman operates and all grain stored in those warehouses.

(b) A warehouseman shall permit the department to enter and inspect each public grain warehouse, its contents, and all records related to the grain stored in the warehouse. The warehouseman shall render to the department any assistance necessary for an inspection under this section.

(c) The department shall inspect each public grain warehouse at least once annually and may make additional inspections as the department considers necessary. A warehouseman may request that the department make additional inspections.

(d) The department shall collect from the warehouseman whose public grain warehouse is inspected an inspection fee for an annual inspection or an inspection requested by the warehouseman, but may not collect an inspection fee for other inspections. The inspection fee is \$1 for each 10,000 bushels or fraction of 10,000 bushels of licensed storage capacity of the warehouse inspected or \$15, whichever is greater.

[Acts 1981, 67th Leg., p. 1050, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.015. Suspension, Revocation, or Denial of License**

(a) The department may suspend, revoke, or deny a license, if, after an opportunity for a hearing, the department determines that the warehouseman has violated or failed to comply with a requirement of

this subchapter or a rule adopted under this subchapter.

(b) If the department considers it necessary, the department may suspend a license without hearing for a period not to exceed 30 days.

[Acts 1981, 67th Leg., p. 1050, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.016. Operation After Revocation or Suspension of a License

(a) If a license is revoked, the warehouseman shall terminate, in a manner prescribed by the department, all arrangements concerning storing, shipping, or handling grain in the warehouse.

(b) During a suspension of a license the warehouseman may, under the direction and supervision of the department, operate the warehouse and deliver grain previously received, but may not receive grain for storing, shipping, or handling.

[Acts 1981, 67th Leg., p. 1051, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.017. Issuance of Scale Weight Ticket or Receipt

(a) On receiving grain, a warehouseman shall issue to the person delivering the grain a serially numbered scale weight ticket in a form approved by the department.

(b) On application of a depositor, the warehouseman shall issue to the depositor a Texas grain warehouse receipt, which must be:

(1) in a form prescribed by the department; and

(2) in conformity with Chapter 7, Business & Commerce Code.

(c) A Texas grain warehouse receipt issued under this subchapter is subject to the provisions of Chapter 7, Business & Commerce Code.

(d) A Texas grain warehouse receipt is a negotiable document of title. A scale weight ticket is not a negotiable document of title.

(e) Except as provided by Section 14.019 of this code for duplicate receipts, a warehouse may not issue two scale weight tickets or two receipts bearing the same number during any calendar year.

[Acts 1981, 67th Leg., p. 1051, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.018. Receipt for Grain Owned by Warehouse Owner

A warehouseman may issue a receipt for grain that is owned by the warehouseman, in whole or part, and located in the warehouseman's warehouse. The negotiation, transfer, sale, or pledge of that receipt may not be defeated because of its ownership.

[Acts 1981, 67th Leg., p. 1051, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.019. Duplicate Receipts

(a) Except as otherwise provided by this subsection, if a receipt issued under this subchapter is outstanding, another receipt covering all or part of the grain covered by the initial receipt may not be issued by the warehouseman or any other person. If a receipt is lost, stolen, or destroyed, the owner is entitled to a new receipt as a duplicate or substitute for the missing receipt. The duplicate or substitute receipt has the same legal effect as the original receipt and must:

(1) state that it is in lieu of the original receipt; and

(2) bear the number and date of the original receipt.

(b) Before issuing a duplicate receipt, the warehouseman shall require an indemnity bond of double the market value of the grain covered by the missing receipt. The bond must be in a form and with a surety prescribed by the department to fully protect all rights under the missing receipt.

(c) A warehouseman may not become a surety on a bond for a lost, stolen, or destroyed receipt. [Acts 1981, 67th Leg., p. 1051, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.020. Receipt Forms

(a) The department shall supply all receipt forms unless the department in writing approves a privately printed receipt form requested by the warehouseman. The warehouseman shall request receipt forms on a form furnished by the department and shall accompany a request with payment to cover estimated costs of printing, packaging, and shipping, as determined by the department. If the receipts are privately printed, the printer shall provide the department with an affidavit showing the number of the receipts printed and their serial numbers. The department may require a warehouseman who uses privately printed receipts to provide a bond to cover any loss resulting from the unlawful use of a receipt. The department shall determine the form and the amount of the bond, but the amount may not exceed \$5,000.

(b) The department shall recover all receipts remaining unused after a license required by this subchapter is revoked or suspended.

[Acts 1981, 67th Leg., p. 1051, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.021. Obligation to Deliver

The obligation of a warehouseman to deliver grain to a person holding a receipt for grain stored in the public grain warehouse is controlled by Section 7.403, Business & Commerce Code.

[Acts 1981, 67th Leg., p. 1052, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 14.022. Records.

(a) Every warehouseman shall keep in a safe place complete and correct records and accounts pertaining to the public grain warehouse, including records and accounts of:

- (1) grain received and withdrawn from the warehouse;
- (2) unissued receipts in the warehouseman's possession;
- (3) receipts and scale weight tickets issued by the warehouseman; and
- (4) receipts returned to and canceled by the warehouseman.

(b) The warehouseman shall retain the records required by this section for the period of time prescribed by the department. The warehouseman shall retain copies of receipts or other documents evidencing ownership of grain or liability of a warehouseman as long as the documents are outstanding. If the documents are canceled, the warehouseman shall retain the documents or receipts for a period of not less than two years from the date of cancellation.

(c) The warehouseman shall:

- (1) clearly mark all canceled receipts "canceled" and mark on the face of each receipt the date of the cancellation;
- (2) keep records and accounts required by this section separate from the records and accounts of other businesses; and
- (3) keep in numerical order copies of the scale weight tickets issued by the warehouse.

(d) In records kept under this section, grain may be designated as company-owned grain only if:

- (1) the grain has been paid for and is wholly owned by the warehouse; or
- (2) the ownership of the grain has been transferred to the warehouse under a written contract of purchase.

(e) The warehouseman shall report to the department on forms furnished by the department the following information on scale weight tickets used in the warehouseman's business:

- (1) the number of scale weight tickets printed;
- (2) the serial numbers of the scale weight tickets printed; and
- (3) the printer of the scale weight tickets.

(f) The department may inspect any records required by this section at any reasonable time.

[Acts 1981, 67th Leg., p. 1052, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 14.023. Termination of Storage

A warehouseman desiring to terminate the storage of grain in the warehouseman's warehouse shall do so in accordance with Section 7.206, Business & Commerce Code.

[Acts 1981, 67th Leg., p. 1053, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 14.024. Discovery of Shortage; Refusal of Inspection

(a) If the department determines that a warehouseman does not possess sufficient grain to cover outstanding receipts and outstanding scale weight tickets issued or assumed by the warehouseman, or if a warehouseman refuses to submit records or property for lawful inspection, the department may give notice to the warehouseman requiring the warehouseman to:

- (1) cover a shortage;
- (2) give additional bond;
- (3) submit to an inspection considered necessary by the department; or
- (4) comply with any combination of the requirements authorized by this subsection.

(b) A warehouseman shall comply with the requirements of a notice issued under Subsection (a) of this section within 24 hours of notification by the department or within a longer time allowed by the department. If the warehouseman fails to comply, the department may petition the district court for the county where the warehouseman's principal place of business is located, as shown by the license application, for a court order authorizing the department to take possession of:

- (1) all or a portion of the grain located in the public grain warehouse or warehouses; and
- (2) all relevant records and property of the warehouseman.

(c) If the department takes possession of grain under Subsection (b) of this section, the department shall give written notice of its action to the surety on the bond of the warehouseman and may notify the holders of all receipts and scale weight tickets issued for grain, as shown by the warehouseman's records, to present their receipts or scale weight tickets for inspection or account for the absence of the receipts or scale weight tickets. The department may then audit and investigate the affairs of the public grain warehouse, especially with respect to the grain of which there is an apparent shortage. The purpose of the audit and investigation is to determine the amount of the shortage, and if practicable, to compute the shortage as to each depositor, as shown by the warehouseman's records. The department shall notify the warehouseman and the surety on the warehouseman's bond of the approximate amount of the shortage. The department shall notify each depositor affected by the shortage by sending notice to the depositor's last known address, as shown by the warehouseman's records.

(d) The department shall retain possession of grain obtained under this section until:

- (1) the warehouseman or surety on the bond satisfies the claims of all depositors; or
- (2) the court orders the department to surrender possession.

(e) If, during or after an audit or investigation authorized by this section or at any other time, the department has evidence that the warehouseman is insolvent or unable to satisfy the claims of all depositors, the department may petition the district court for appointment of a receiver to operate or liquidate the business of the warehouseman in accordance with law.

(f) At any time before the 11th day following the day on which the department takes possession of grain under this section, the warehouseman may serve notice on the department to appear in the district court of the county in which the public grain warehouse is located to show cause why possession should not be restored to the warehouseman. The court shall fix the time of the hearing not less than 5 nor more than 15 days from the date of service of the notice.

[Acts 1981, 67th Leg., p. 1053, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.025. Injunction

If, after 15 days' notice, a warehouseman refuses to comply with this subchapter, the department shall apply for an injunction. The courts of this state are vested with jurisdiction to issue a temporary or permanent injunction against:

(1) operation of a public grain warehouse or issuance of receipts or scale weight tickets without a license; and

(2) interference by any person with the carrying out by the department, or by a receiver appointed under Section 14.024 of this code, of duties and powers granted by this subchapter.

[Acts 1981, 67th Leg., p. 1054, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.026. Court Enforcement of Department Subpoena

A judge of a district or county court may order the attendance of witnesses or the production of relevant books and records subpoenaed by the department for the purpose of enforcing the provisions of this subchapter. The judge may enter the order whether the court is in term or on vacation. The judge may compel obedience to an order by proceedings for contempt.

[Acts 1981, 67th Leg., p. 1054, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.027. General Penalty

(a) A person commits an offense if the person violates a provision of this subchapter other than Section 14.022(d).

(b) An offense under this section is a Class B misdemeanor.

[Acts 1981, 67th Leg., p. 1054, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.028. Penalty for Operating Without a License

(a) A person commits an offense if the person:

(1) transacts any public grain warehouse business without first obtaining a license required by this subchapter; or

(2) continues to transact public grain warehouse business after a license has been revoked or suspended, except as permitted under Section 14.016 of this subchapter.

(b) An offense under this section is a felony of the third degree.

(c) A person commits a separate offense for each day business prohibited by this section is carried on. [Acts 1981, 67th Leg., p. 1054, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.029. Penalty for Fraud

(a) A person commits an offense if the person:

(1) issues or aids in issuing a receipt or scale weight ticket knowing that the grain covered by the receipt or scale weight ticket has not been actually received at the public grain warehouse;

(2) issues or aids in issuing a duplicate or additional negotiable receipt for grain knowing that a former negotiable receipt for the same grain or any part of the grain is outstanding except as permitted by Section 14.019 of this code; or

(3) fraudulently and without proper authority represents, forges, alters, counterfeits, or simulates any license, scale weight ticket, or receipt provided for by this subchapter.

(b) An offense under this section is a felony of the second degree.

[Acts 1981, 67th Leg., p. 1054, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.030. Penalty for Unlawful Delivery

(a) A person commits an offense if the person:

(1) delivers grain out of a public grain warehouse knowing that a negotiable receipt for the grain is outstanding and without possessing that receipt; or

(2) delivers a commodity out of a public grain warehouse:

(A) knowing that a nonnegotiable receipt or scale weight ticket is outstanding;

(B) without the prior approval of the person lawfully entitled to delivery; and

(C) without the delivery being shown on the appropriate records of the warehouseman.

(b) It is a defense to prosecution under this section that the person's action is:

(1) a sale or other disposition of grain in lawful enforcement of a warehouseman's lien or on a warehouseman's lawful termination of a storing, shipping, or handling agreement; or

(2) permitted by a rule of the department necessary to carry out this subchapter.

(c) An offense under this section is a felony of the second degree.

[Acts 1981, 67th Leg., p. 1055, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.031. Penalty for Fraudulently Issuing a Scale Weight Ticket or Receipt**

(a) A person commits an offense if the person fraudulently issues or aids in fraudulently issuing a receipt or scale weight ticket knowing that it contains a false statement.

(b) An offense under this section is a felony of the second degree.

[Acts 1981, 67th Leg., p. 1055, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.032. Penalty for Changing a Receipt or Scale Weight Ticket After Issuance**

(a) A person commits an offense if the person changes a receipt or scale weight ticket after its issuance.

(b) It is a defense to prosecution under this section that the change on the receipt or scale weight ticket is a notation by the warehouseman for partial delivery.

(c) An offense under this section is a felony of the second degree.

[Acts 1981, 67th Leg., p. 1055, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.033. Penalty for Depositing Grain Without Title**

(a) A person commits an offense if the person:

(1) deposits grain without having title to the grain or deposits grain on which there is a lien or mortgage;

(2) receives for the grain a negotiable receipt; and

(3) negotiates the receipt for value with intent to deceive and without disclosing the person's lack of title or the existence of a lien or mortgage on the grain.

(b) An offense under this section is a felony of the second degree.

[Acts 1981, 67th Leg., p. 1055, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.034. Penalty for Stealing Grain or Receiving Stolen Grain**

(a) A person commits an offense if the person:

(1) obtains or exercises control over grain stored in a public grain warehouse without the owner's effective consent and with the intent to deprive the owner of the grain;

(2) obtains from another person grain stolen from a public grain warehouse knowing that the grain is stolen; or

(3) exercises control over grain stolen from a public grain warehouse knowing that the grain is stolen.

(b) An offense under this section is a felony of the second degree.

[Acts 1981, 67th Leg., p. 1056, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.035. Venue**

Venue for a prosecution under this subchapter is in the county in which the alleged offense occurred.

[Acts 1981, 67th Leg., p. 1056, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 14.036 to 14.100 reserved for expansion]

**SUBCHAPTER B. AGRICULTURE WAREHOUSE CORPORATIONS**

**§ 14.101. Application for Charter**

(a) Any 10 or more persons may apply to the department for a charter to permit them to organize and operate as a corporation under this subchapter. Sixty percent or more of the applicants must be engaged in agriculture, horticulture, or stock-raising as a business and three-fourths or more of the applicants must be resident citizens of Texas.

(b) An application for a charter must contain:

(1) all information required by the general corporation laws of this state;

(2) the number of the corporation's directors; and

(3) the names and addresses of all directors selected for the first year of the corporation's existence.

(c) An application for a charter shall be accompanied by the affidavit of three of the applicants showing:

(1) that the capital stock is at least \$500, divided into shares of \$5;

(2) that not less than 50 percent of the capital stock is paid in; and

(3) if the capital stock has not been paid in in cash, a detailed statement as to the kind, character, and value of the property that is paid.

(d) The department may not grant an application for a charter if the corporation's warehouse or warehouses are to be operated in a city with a population of 40,000 or more.

[Acts 1981, 67th Leg., p. 1056, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.102. Application for Charter by Amendment of Existing Charter

(a) A warehouse chartered for the storage of farm, ranch, or orchard products that is not incorporated under this subchapter may amend its charter to become subject to this subchapter by:

- (1) approving the amendment by a majority vote of its stockholders; and
- (2) making application to the secretary of state and paying a fee of \$10.

(b) The department may require the warehouse to file a bond required by this subchapter, and the warehouse shall issue receipts authorized by the department.

[Acts 1981, 67th Leg., p. 1056, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.103. Denial or Revocation of a Charter

The department may revoke or deny a charter to do business under this chapter if it determines that sufficient warehouse facilities exist in a location where a new corporation seeks to do business. [Acts 1981, 67th Leg., p. 1057, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.104. Fees; Certificate of Authority

(a) The secretary of state shall issue a charter when:

- (1) the applicants pay the filing fee to the secretary of state; and
- (2) the department notifies the secretary of state that the applicants' application for a charter has been approved by the department.

(b) The filing fee for a charter is:

- (1) \$5 for a corporation with a capital stock of \$5,000 or less;
- (2) \$10 for a corporation with a capital stock of \$10,000 or less but more than \$5,000; and
- (3) \$25 for a corporation with a capital stock of more than \$10,000.

(c) When the secretary of state issues a charter, the department shall:

- (1) record the charter and provide the corporation with a certified copy of the charter; and

(2) provide the corporation with a certificate of authority showing that it has complied with applicable laws and is authorized to do business until the last day of April of the following year.

[Acts 1981, 67th Leg., p. 1057, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.105. Bond

(a) Before the charter and certificate authorized by Section 14.104 of this code are delivered to the corporation, the corporation shall execute a bond payable to the State of Texas and approved by the department.

(b) The department shall set the amount of the bond and may change the amount of the bond requirement to correspond with the volume of business done by the corporation.

(c) The bond shall be conditioned on:

(1) compliance by the corporation with this subchapter and the rules of the department that relate to the corporation;

(2) exercise of ordinary care by the corporation in the storage, preservation, and handling of all farm, ranch, and orchard products entrusted to it for storage or sale; and

(3) use of approximately correct classification, weights, grades, and measures by the corporation or under the corporation's authority.

[Acts 1981, 67th Leg., p. 1057, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.106. Breach and New Bond

(a) A person may sue for indemnity on the corporation's bond if the person is damaged by:

(1) a statement made by the corporation or under its authority in a certificate it issues in return for products stored by the corporation; or

(2) a breach of a condition of the bond by fault or dereliction of duty of the corporation or of a person authorized to act for the corporation.

(b) If the corporation's bond is impaired, after providing the corporation with notice, the department may require the corporation to furnish a new bond. If the corporation fails to provide the new bond before the 31st day following the date of the notice, the department may:

- (1) close the corporation;
- (2) liquidate the affairs of the corporation; and
- (3) discharge the debts of the corporation.

(c) If the department takes control of a corporation under this section, it may collect by suit or other means the amount of the bond that, with the assets of the corporation, is necessary to discharge the obligations of the corporation.

[Acts 1981, 67th Leg., p. 1057, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 14.107. Certificate of Qualification for Officer or Employee

(a) In order to operate as a corporation under this subchapter, each employee or officer engaged in the management of the corporation must obtain a certificate of qualification from the department.

(b) The department shall require the person seeking the certificate to present satisfactory evidence that he or she is qualified to perform the management duties of the corporation.

(c) The department shall collect a filing fee of \$1 for the certificate of qualification.

(d) A certificate of qualification may not be valid for more than two years and the applicant must obtain a new certificate after the expiration of the initial certificate in order to continue operation under this subchapter.

[Acts 1981, 67th Leg., p. 1058, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.108. Directors and Meetings**

(a) The board of directors of a corporation shall manage the business of the corporation.

(b) The board of directors shall be composed of not less than 3 nor more than 25 members of the corporation. Each member must be a Texas citizen and may not be on the board of directors of another corporation chartered under this subchapter.

(c) The members of the corporation shall elect the directors annually at a general meeting of the directors of the corporation. The bylaws of the corporation shall prescribe the time and place of the meeting, and notice of the meeting shall be sent to each member of the corporation at least two weeks prior to the meeting. Each member of the corporation, at all general and special meetings, shall have one vote.

(d) The directors may appoint or remove any officer or employee at their pleasure.

[Acts 1981, 67th Leg., p. 1058, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.109. Powers of a Corporation**

(a) A corporation has the same rights as a warehouseman and may perform all acts done generally by a warehouseman, including:

(1) selling any farm, ranch, or orchard product on a commission basis or on a basis agreed on by the corporation and its customers;

(2) purchasing, constructing, or leasing warehouses, landings, and buildings necessary for the corporation's business, including gins, storage tanks, silos, and other storage places necessary for storing, grading, weighing, and classifying cotton and farm products and preparing the products for market; and

(3) employing instrumentalities and agencies necessary for preserving, storing, and marketing farm, ranch, and orchard products to the best advantage of the corporation's members and customers.

(b) A corporation may loan money on:

(1) products placed in its warehouses, if the amount loaned does not exceed 75 percent of the market value of the products;

(2) chattel mortgages, if the amount loaned does not exceed 50 percent of the market value of the mortgaged property; and

(3) crop mortgages, if, with the exception of a landlord's lien, the crop has not already been mortgaged and the acreage securing the loan would ordinarily produce crops worth double the amount of the loan.

(c) A corporation may make loans only to its members and only for the purpose of enabling its members to produce or market a crop or a farm, ranch, or orchard product.

(d) A corporation may invest its capital stock and surplus in a home office building, and may invest capital stock, surplus, and undivided profits in bonds of the United States, this state, or a county, city, or district of this state. Any bond invested in must be authorized by law and have never been defaulted.

(e) A corporation may not receive deposits of discount commercial paper.

[Acts 1981, 67th Leg., p. 1058, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.110. Authority to Contract Debts**

A corporation chartered under this subchapter may contract debts.

[Acts 1981, 67th Leg., p. 1059, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.111. Issuance of Sinking Fund Bonds**

(a) Following deposit of securities in the state treasury under Section 14.112 of this code, a corporation may issue sinking fund bonds. The bonds must:

(1) be double the amount of the original capital stock;

(2) bear no more than six percent interest; and

(3) run for not more than 30 years.

(b) The department shall register the bonds after they have been issued and signed by the proper officers of the corporation.

(c) The face of the bond must contain:

(1) a statement that the principal on the bond is secured by securities required by this subchapter to be deposited in the state treasury;

(2) a statement that the interest contracted to be paid on the bond is secured by the general assets of the corporation; and

(3) a written or printed title that contains the post office address of the corporation and states, "Sinking Fund Bonds of \_\_\_\_\_ State Bonded Warehouse," with the blank space to be filled in with the name of the corporation.

(d) After the bonds have been issued and registered, the department shall return the bonds to the proper officer of the corporation, and the corporation may then place on the market and sell the bonds. The corporation may not sell the bonds at less than 90 percent of face value.

[Acts 1981, 67th Leg., p. 1059, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 14.112. Investment for Payment of Sinking Fund Bonds

(a) In order to issue bonds, a corporation must invest all or part of its capital stock in securities designated for the payment or investment of its capital. If the department approves the securities, they shall be deposited in the state treasury.

(b) The interest on the investments shall be paid annually into the state treasury and credited to the sinking fund for the liquidation of bonds issued by the corporation.

(c) The department may invest the interest in similar securities and shall deposit the securities in the state treasury to be used as a sinking fund to pay the principal sum of the bonds authorized by Section 14.111 of this code.

(d) The securities deposited in the state treasury under this section may be used only to liquidate the sinking fund bonds authorized by Section 14.111 of this code, but after the sinking fund bonds have been paid, the securities shall be returned to the corporation to become part of the general assets of the corporation.

[Acts 1981, 67th Leg., p. 1059, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 14.113. Acts Requiring Authorization by Corporation

(a) Unless authorized by the board of directors, an officer or employee of a corporation may not endorse, sell, pledge, or hypothecate any bond, note, or obligation of the corporation or any property deposited with the corporation in its capacity as warehouseman.

(b) The board of directors may authorize an officer or employee to endorse, sell, pledge, or hypothecate any bond, note, or obligation of the corporation or any property deposited with the corporation in its capacity as a warehouseman only at a regularly called and held meeting of the board. The proceedings of the meeting shall be recorded in the minutes of the corporation.

(c) Any action of an officer or employee in conflict with this section is void.

[Acts 1981, 67th Leg., p. 1060, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 14.114. Division of Profits

A corporation may, in accordance with its bylaws, divide its profits among its members in proportion to the amount of business transacted by each member. Before dividing profits, the corporation shall:

(1) pay 20 percent of the net profits on each year's business into the reserve fund until the reserve fund equals twice the amount of the capital stock at the time the corporation was chartered; and

(2) pay the subscribers to the capital stock a 10 percent dividend, or less if required by the bylaws of the corporation.

[Acts 1981, 67th Leg., p. 1060, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 14.115. Voluntary Liquidation

(a) A corporation may place itself under the control of the department by:

(1) notifying the department of its intent to come under its control; and

(2) placing a notice on its front door stating, "This institution is under the control of the Department of Agriculture."

(b) Notice by the department that it has taken control of the corporation or notice by the corporation under Subsection (a) of this section is sufficient to place the property and assets of the corporation under the department's control and bars all attachment proceedings on the property or assets.

[Acts 1981, 67th Leg., p. 1060, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 14.116. Forced Liquidation

(a) If an examiner's investigation discloses that a corporation is insolvent or that its continuance in business will seriously jeopardize the interest of its stockholders or creditors, the department shall immediately close the corporation and take charge of its property and effects.

(b) After taking charge of a corporation, the department shall investigate its financial condition as soon as practicable. If the department determines that the corporation cannot resume business or is insolvent, it shall report this information to the attorney general.

(c) On receipt of information under Subsection (b) of this section, the attorney general shall institute proceedings to have a receiver appointed for the corporation and to wind up the affairs and business of the corporation for the benefit of its creditors and members.

(d) After notice, hearing, and a determination that action is necessary, the judge may appoint a receiver to take possession of the property and effects of the corporation for the purpose of winding up the corporation's business or may issue any other order necessary to grant relief as the evidence and situation of the parties require. The judge may appoint a receiver or issue an order whether the court is in term or on vacation.

(e) The department may appoint a special agent to take charge of the affairs of an insolvent corporation until a receiver is appointed. The agent must meet all qualifications required of a warehouse examiner appointed under Subchapter C of this chapter, and the agent's compensation shall be paid out of the corporation's assets, if ordered by the court.

(f) A corporation may not be controlled by a special agent appointed under this section for more than 60 days.

[Acts 1981, 67th Leg., p. 1060, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.117. Statement of Affairs**

(a) Twice a year, or more often if required by the department, the department shall require a corporation to file with the department a statement of its affairs showing:

- (1) the condition of its reserve fund;
- (2) its assets and liabilities; and
- (3) any other information the department requires.

(b) A managing officer of the corporation shall swear to the statement and a majority of the board of directors shall attest to it.

[Acts 1981, 67th Leg., p. 1061, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.118. Examination of a Corporation's Affairs**

(a) A corporation is under the supervision of the department.

(b) The department shall examine the affairs of each corporation at least once a year and at other times if the department considers it necessary.

(c) The corporation shall pay to the department a just and reasonable fee, as determined by the department, for an examination under this section. The fee may not exceed:

- (1) \$5 for a corporation with a capital stock of less than \$2,500;
- (2) \$10 for a corporation with a capital stock of \$2,500 or more but not more than \$10,000;
- (3) \$20 for a corporation with a capital stock of more than \$10,000 but not more than \$25,000; and
- (4) \$200 for a corporation with a capital stock of \$1,000,000 or more.

(d) The department shall report the condition of a corporation to the attorney general, who may bring necessary action against the corporation if the examination shows that the corporation:

- (1) is insolvent;
- (2) has exceeded its powers;
- (3) is conducting its business in an unsafe manner; or
- (4) has failed to comply with any provision of this subchapter within a reasonable time of notification of noncompliance, not to exceed 30 days.

[Acts 1981, 67th Leg., p. 1061, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.119. Unsafe Corporations**

(a) If, during an examination of a corporation under Section 14.118 of this code, the department

has reason to believe that the capital stock of the corporation is impaired or that the corporation is conducting business in an unsafe or unauthorized manner, the department shall issue a written notice requiring the corporation to make good any impairment of capital stock or issue an order directing the discontinuance of unsafe and unauthorized practices and requiring compliance with the law, as applicable.

(b) The department shall require that erroneous entries in the books of a corporation be corrected and sums unlawfully paid out be restored to the corporation by the person responsible for the unlawful payment.

(c) The department may report to the attorney general and the attorney general may take appropriate action if:

- (1) a corporation fails or neglects to file a report required by this subchapter;
- (2) a corporation fails to comply with an order of the department under this subchapter;
- (3) the department determines that it is unsafe or inexpedient for a corporation to continue in business because of neglect or mismanagement;
- (4) the department determines that an officer has abused the trust of the office and harmed the corporation; or
- (5) the department determines that the corporation has suffered a serious loss by fire, repudiation, or other cause.

(d) The department may prohibit the storage of cotton or other inflammable commodities in an unsafe building or require a warehouse to be remodeled within certain specified dates but shall do so in a manner that does not unduly hamper or interfere with public convenience or business.

[Acts 1981, 67th Leg., p. 1062, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.120. Fire Insurance**

(a) The department shall require each corporation to carry fire insurance. The corporation shall obtain either a blanket policy or an individual policy from a solvent insurance company chartered under the laws of this state or having a permit to do business in this state.

(b) Except when the company is insuring grain or baled cotton, a fire, fire and marine, marine, or inland insurance company doing business in this state may not insure a building or its contents in an amount exceeding 10 percent of the aggregate of paid-up capital stock and surplus, unless the excess is reinsured by another solvent insurance company authorized to do business in this state.

(c) The department may also require any means and methods it considers necessary in each case to prevent loss by fire, weather, or depreciation of warehouse property.

[Acts 1981, 67th Leg., p. 1062, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.121. Forms**

(a) The department shall prescribe the form of all receipts, certificates, and records necessary to conduct the business of a corporation under this subchapter.

(b) All warehouse receipts shall be:

- (1) uniform in character; and
- (2) in the same class as prescribed by the department.

[Acts 1981, 67th Leg., p. 1062, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.122. Failure to Submit to an Examination**

(a) The department shall report to the attorney general if:

- (1) a corporation refuses to submit its books, papers, and correspondence to the department or an examiner;
- (2) a corporation is found to have violated its charter or the laws of this state; or
- (3) an officer of a corporation refuses to be examined under oath on questions relating to the corporation.

(b) The attorney general may proceed against a corporation whose activities have been reported under this section in the same manner as he or she may proceed against an insolvent corporation.

[Acts 1981, 67th Leg., p. 1063, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.123. Storage Charges**

(a) The department may set minimum storage charges for a warehouse operating under this subchapter.

(b) The department is not required to set equal charges at all places or all times and may take into consideration the local conditions and volume of business of each warehouse.

(c) The department shall consider the size of bales in setting charges for gin-compressed cotton.

[Acts 1981, 67th Leg., p. 1063, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.124. Standards of Classification**

(a) The department shall establish and keep for public inspection at reasonable times a record of standards of classification for cotton, corn, and other farm and ranch products subject to classification.

(b) The department shall furnish at cost to any person making a request copies of the standards of classification and standards of weights and measures.

(c) Each corporation shall keep at its warehouse copies of the standards of classification of the United States or of this state and the standards of weights and measures. The corporation shall make the standards available for inspection to persons storing products in the warehouses.

[Acts 1981, 67th Leg., p. 1063, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.125. Liability of a Corporation**

A corporation operating as a warehouse has the same liabilities and rights as a public warehouseman, including a lien for storage, insurance, warehouse charges, or any other warehouse service performed by the corporation.

[Acts 1981, 67th Leg., p. 1063, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.126. Receipts**

(a) A corporation shall:

- (1) number receipts consecutively in the order of issuance;
- (2) keep a record of each receipt issued; and
- (3) not issue a duplicate receipt or two receipts bearing the same number from the same warehouse during the same calendar year, except as provided by Subsection (b) of this section.

(b) If a receipt is lost or destroyed, the corporation shall issue a new receipt that:

- (1) bears the same date and number as the original receipt; and
- (2) is plainly marked "duplicate" on its face.

(c) Except as provided by Subsection (d) of this section, each receipt must have a blank form on its back, and the owner of the product for which the receipt is issued shall sign the form after indicating on it:

- (1) whether a preexisting and unsatisfied lien of any kind exists against the product at the time of storage; and
- (2) the amount of any existing lien.

(d) A warehouse manager may not issue a negotiable receipt unless the owner fills in and signs the form on the back of the receipt as required by Subsection (c) of this section, but may issue a nonnegotiable receipt without the information and signature required by Subsection (c) of this section.

[Acts 1981, 67th Leg., p. 1063, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.127. Receipt for Cotton Grown on Rented or Leased Premises**

(a) Except as provided in Subsection (b) of this section, a corporation shall issue, in the names of both the owner and the landlord, a receipt for cotton grown on rented or leased premises. In addition to the information required by Section 14.126(c) of this code, the receipt must contain a statement of the respective interests of the owner and the landlord in the cotton.

(b) The corporation shall issue a receipt in one name for cotton grown on rented or leased premises if the tenant or person storing the cotton:

- (1) receives written authorization from the landlord or the tenant to have the receipt issued in the name of either the tenant or the landlord; and

(2) presents the written authorization to the manager of the warehouse.

[Acts 1981, 67th Leg., p. 1064, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.128. Exchange of Receipts**

(a) A person may exchange a nonnegotiable receipt for a negotiable receipt by:

(1) returning the nonnegotiable receipt to the warehouse issuing the receipt; and

(2) complying with the provisions of this subchapter relating to negotiable receipts.

(b) When the negotiable receipt is surrendered or canceled, the warehouseman shall mark or stamp "canceled" in ink on the face of the receipt.

[Acts 1981, 67th Leg., p. 1064, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.129. Receipt on Delivery**

A corporation may not issue a receipt for goods until the goods are actually delivered to the warehouse or premises under control of the manager of the warehouse.

[Acts 1981, 67th Leg., p. 1064, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.130. Applicability of General Laws**

Every corporation organized under this subchapter is subject to the general corporation laws of this state.

[Acts 1981, 67th Leg., p. 1064, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 14.131 to 14.200 reserved for expansion]

SUBCHAPTER C. OTHER PUBLIC WAREHOUSEMEN

**§ 14.201. Definitions**

In this subchapter:

(1) "Public warehouseman" means a person who stores cotton, wheat, rye, oats, or rice, or any kind of produce, wares, merchandise, or personal property for hire.

(2) "Warehouse" means a house, building, or room in which the commodities listed in Subdivision (1) of this section are stored and protected from damage by the elements.

[Acts 1981, 67th Leg., p. 1064, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.202. Powers of the Department**

A warehouse operating under this subchapter is under the supervision of the department.

[Acts 1981, 67th Leg., p. 1065, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.203. Warehouse Examiners**

(a) The department shall appoint warehouse examiners to examine warehouses, including corporations chartered under Subchapter B of this chapter. The department shall not appoint more than one examiner for every 50 warehouses and corporations.

(b) In order to be an examiner, a person must:

(1) be a cotton grader and classer and a competent bookkeeper; and

(2) not own an interest in or be an officer or employee of:

(A) a warehouse company or corporation; or

(B) a firm engaged in purchasing or selling farm, ranch, or orchard products.

(c) Each examiner shall post a \$5,000 bond payable to the State of Texas, approved by the department, and conditioned on faithful performance of duties by the examiner.

(d) Each examiner shall file with the department an affidavit stating that the examiner will make fair and impartial examinations and will not:

(1) accept any gift or payment for an examination other than payment fixed by law; or

(2) reveal to anyone other than the department or a court of law the condition of or information about an examined corporation or warehouse.

(e) An examiner is not eligible to be appointed receiver of a corporation or warehouse that the examiner has examined.

(f) An examiner is entitled to reimbursement for actual and necessary expenses incurred in performing official duties.

[Acts 1981, 67th Leg., p. 1065, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.204. Certificate to Transact Business**

No person may operate a warehouse without first obtaining a certificate to transact business as a public warehouseman from the county clerk of the county in which the warehouse is located.

[Acts 1981, 67th Leg., p. 1065, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.205. Application for Certificate**

(a) In order to obtain a certificate to transact business, a person must apply in writing to the county clerk of the county in which the warehouse is to be operated. The application must state the name and location of the warehouse and:

(1) the name of each person with an interest as owner or principal in the warehouse; or

(2) if a corporation owns or manages the warehouse, the name of the president, secretary, and treasurer of the corporation.

(b) The clerk shall issue the certificate and retain for county records a copy of the application.

[Acts 1981, 67th Leg., p. 1065, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.206. Bond**

(a) A person receiving a certificate to transact business shall file a bond with the county clerk granting the certificate.

(b) The bond must be:

- (1) payable to the State of Texas;
- (2) of good and sufficient surety;
- (3) conditioned on faithful performance of the applicant's duty as a public warehouseman; and
- (4) in the amount of \$5,000.

(c) A bond is subject to approval by the county clerk and the clerk shall file approved bonds in the clerk's office.

[Acts 1981, 67th Leg., p. 1066, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.207. Receipts**

(a) The owner or depositor of property stored in a warehouse may request from the public warehouseman a receipt for the property stored in the warehouse.

(b) The receipt shall be signed by the public warehouseman or the warehouseman's agent and shall state:

- (1) that the receipt is issued by a warehouse;
- (2) the date of its issuance;
- (3) the name and location of the warehouse in which the property is stored; and
- (4) the description, quantity, number, and marks of the property stored.

(c) The public warehouseman shall number receipts consecutively in the order of their issue and shall keep a correct record of receipts issued available for public inspection at reasonable hours.

[Acts 1981, 67th Leg., p. 1066, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.208. Receipt for Cotton**

(a) A public warehouseman shall issue a warehouse receipt to any person who deposits cotton in the warehouseman's warehouse and requests a receipt.

(b) The receipt shall contain:

- (1) all information required to be included on a receipt by Section 14.207 of this code;
- (2) the date on which the cotton was received in the warehouse;
- (3) a statement that the cotton represented by the receipt is deliverable on return of the receipt properly endorsed and payment of charges for storage and insurance stated on the face of the receipt; and
- (4) a statement of the grade and staple of the cotton represented by the receipt.

(c) The statement of grade and staple of cotton required on receipts by this section shall be determined by a licensed public cotton classer. The public warehouseman may not charge the depositor of the cotton more than 25 cents per bale for the statement. If no licensed public cotton classer is available, the warehouseman may issue a temporary receipt that:

(1) does not contain a statement of grade and staple of the cotton;

(2) has the words "temporary receipt" clearly stamped on its face; and

(3) is exchangeable at any time after five days from the date of its issuance for a permanent warehouse receipt containing all information required by Subsection (b) of this section.

(d) Failure or neglect by a public warehouseman to comply with the provisions of this section is a ground for revocation of a certificate to transact business as a public warehouseman.

[Acts 1981, 67th Leg., p. 1066, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.209. Duplicate Receipts**

(a) A public warehouseman may not issue a duplicate receipt or two receipts bearing the same number from the same warehouse during the same calendar year, except as provided by Subsection (b) of this section.

(b) If a receipt is lost or destroyed, the public warehouseman shall issue a new receipt that:

(1) bears the same date and number as the original receipt;

(2) is plainly marked "duplicate" on its face; and

(3) is secured with a deposit:

(A) made by the person requesting the duplicate receipt; and

(B) acceptable to the warehouseman to protect a person who may hold the original receipt in good faith and for valuable consideration.

[Acts 1981, 67th Leg., p. 1067, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.210. Exchange of Cotton Receipts**

(a) A person may exchange a nonnegotiable receipt for cotton for a negotiable receipt for cotton by:

(1) returning the nonnegotiable receipt to the warehouse issuing it; and

(2) complying with the provisions of this subchapter relating to negotiable receipts.

(b) When the negotiable receipt is surrendered or canceled, the public warehouseman shall mark or stamp "canceled" in ink on the face of the receipt.

[Acts 1981, 67th Leg., p. 1067, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.211. Cotton Under Lien**

A person who buys, sells, or deals with cotton on which a lien or encumbrance exists is not liable for conversion of the cotton if:

- (1) the cotton is stored in a warehouse or is evidenced by a negotiable warehouse receipt issued by a public warehouseman; and
- (2) the person did not have actual knowledge of the lien or encumbrance at the time of the alleged conversion.

[Acts 1981, 67th Leg., p. 1067, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.212. Receipt to be Issued Only on Delivery**

A public warehouseman may not issue a receipt until the goods secured by the receipt are actually delivered to the warehouse and are under the control of the warehouseman issuing the receipt.

[Acts 1981, 67th Leg., p. 1067, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.213. Delivery**

(a) A public warehouseman shall deliver property held in the warehouse on:

- (1) presentation of a properly endorsed receipt issued by the warehouseman to represent the property; and
- (2) payment by the holder of the receipt of all proper warehouse charges on property represented by the receipt.

(b) Unless a receipt has been lost or canceled, a public warehouseman may not deliver property represented by a receipt until the receipt is surrendered and canceled.

(c) On delivery of goods represented by a receipt, the public warehouseman shall cancel the receipt by writing "canceled" in ink on the receipt and placing the warehouseman's name on the face of the receipt. A canceled receipt is void and may not be circulated.

(d) A public warehouseman who fails to comply with this section is liable to the legal holder of the receipt for the full value of the property represented by the receipt, based on the value of the property at the time of the default.

[Acts 1981, 67th Leg., p. 1067, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.214. Exceptions**

(a) This subchapter does not apply to private warehouses or the issuance of receipts by the owners or managers of private warehouses.

(b) This subchapter does not prohibit a public warehouseman from issuing the same types of receipts as issued by a private warehouse, provided that the faces of the receipts are plainly marked with: "not a public warehouse receipt."

[Acts 1981, 67th Leg., p. 1068, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.215. Storage Charges**

(a) The department may set minimum storage charges for a warehouse operating under this subchapter.

(b) The department is not required to set equal charges at all places or all times and may take into consideration the local conditions and volume of business of each warehouse.

(c) The department shall consider the size of bales in setting charges for gin compressed cotton.

[Acts 1981, 67th Leg., p. 1068, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 14.216. Revocation of a Certificate**

(a) A person may sue in the district court of the county in which a warehouse is situated to revoke the certificate of the warehouse.

(b) The person seeking revocation of the certificate shall provide the court with a written petition setting forth particular violations of the law, and the court shall conduct the trial with the same rules of process, procedure, and evidence used in civil cases.

[Acts 1981, 67th Leg., p. 1068, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 15. FAMILY FARM AND RANCH SECURITY PROGRAM [TRANSFERRED]**

*This chapter was transferred to Title 8 and renumbered as Chapter 252 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22.*

**CHAPTER 16. ANTIFREEZE REGULATION**

Section	
16.001.	Definitions.
16.002.	Registration of Antifreeze.
16.003.	Adulterated Antifreeze.
16.004.	Misbranded Antifreeze.
16.005.	Labeling Requirements.
16.006.	Antifreeze Standards.
16.007.	Inspection and Seizure of Antifreeze.
16.008.	Administration.
16.009.	Exceptions.
16.010.	Penalties.

**§ 16.001. Definitions**

In this chapter:

(1) "Antifreeze" means a substance or preparation intended to be used as a cooling medium, or to be added to the cooling liquid, in the cooling system of an internal combustion engine to prevent freezing of the cooling liquid or to lower its freezing point.

(2) "Label" means written, printed, or graphic matter on the immediate or outside container of antifreeze.

(3) "Person" means an individual, partnership, corporation, or association.

[Acts 1981, 67th Leg., p. 1078, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 16.002. Registration of Antifreeze**

(a) Before antifreeze may be sold, exposed for sale, or held within intent to sell in this state, it must be registered with the Department of Agriculture. The department shall register any antifreeze that is not adulterated or misbranded, as determined under Section 16.003 or 16.004 of this code. The department may not register an antifreeze that does not meet all requirements of this chapter.

(b) If the antifreeze is originally made, canned, or packed in this state, the original maker, canner, or packer, as applicable, shall apply for the registration. If the antifreeze is made, canned, or packed outside this state, the first receiver of the antifreeze in this state whose function is to distribute, sell, or consign the antifreeze to wholesalers or consumers shall apply for the registration. Regardless of where it is made, if the antifreeze is made by one person for another who is the original marketer of the antifreeze and who markets it under his or her own name or brand name, the original marketer shall apply for the registration.

(c) Each December, the person responsible for registration shall apply for registration and pay a registration fee of \$20 for each brand of antifreeze to be sold. Unless canceled, the registration is valid for the following calendar year.

(d) A change in the name, brand, label, trademark, or contents of a registered antifreeze invalidates the registration.

[Acts 1981, 67th Leg., p. 1078, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 16.003. Adulterated Antifreeze**

Antifreeze is adulterated if:

(1) it consists in whole or in part of any substance that will render it injurious to the cooling system of an internal combustion engine or will make the operation of the engine dangerous to the user; or

(2) its strength, quality, or purity falls below the standard of strength, quality, or purity under which it is advertised and sold.

[Acts 1981, 67th Leg., p. 1079, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 16.004. Misbranded Antifreeze**

Antifreeze is misbranded if:

(1) there is a false or misleading representation that is on the container or wrapper or in the literature accompanying the antifreeze and that makes reference to the antifreeze or relates or refers to it for the purpose of inducing its sale; or

(2) in package form it does not bear a label on the outside of the package showing:

(A) the name and place of business of the manufacturer, packer, canner, seller, or distributor; and

(B) an accurate statement of the quantity of the contents in terms of weight or measure.  
[Acts 1981, 67th Leg., p. 1079, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 16.005. Labeling Requirements**

The label of each container of antifreeze shall show:

(1) the name, brand, or trademark of the product;

(2) the name and address of the person who registered the antifreeze;

(3) the net weight or measure of the contents of the package or can; and

(4) the chemical base, contents, or formula of the antifreeze, unless a statement of that is prohibited by federal law, rule, or regulation.

[Acts 1981, 67th Leg., p. 1079, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 16.006. Antifreeze Standards**

The department, by rule, may establish standards for antifreeze.

[Acts 1981, 67th Leg., p. 1079, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 16.007. Inspection and Seizure of Antifreeze**

(a) For the purpose of investigating violations of this chapter, the department is entitled to access to all places where antifreeze is sold, stored, transported, or held for sale. The department may inspect and take samples of any antifreeze found during an investigation.

(b) The department, without a warrant, may seize antifreeze if:

(1) the manufacture, transportation, sale, or use of the antifreeze is prohibited by this chapter; or

(2) it is manufactured, sold, used, transported, kept, or offered for sale, use, or transportation, or possessed with intent to sell, use, or transport in violation of any provision of this chapter or a rule adopted by the department under this chapter.

[Acts 1981, 67th Leg., p. 1079, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 16.008. Administration**

The department shall administer this chapter and may adopt rules necessary to its implementation.

[Acts 1981, 67th Leg., p. 1079, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 16.009. Exceptions**

This chapter does not apply to:

(1) finished antifreeze that is in transit through this state or in storage in this state and is intended for sale outside this state;

(2) an antifreeze ingredient in transit or in storage intended for manufacturing, processing, mixing, packing, or canning in this state;

(3) a common or private carrier or warehouseman, or its employees, engaged in the lawful transportation or storage of antifreeze; or

(4) a public officer engaged in the performance of official duties.

[Acts 1981, 67th Leg., p. 1080, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 16.010. Penalties

(a) A person commits an offense if the person:

(1) sells antifreeze that does not meet all of the requirements of this chapter;

(2) fails to include on a label information required by Section 16.005 of this code;

(3) sells antifreeze that is not registered in accordance with Section 16.002 of this code; or

(4) alters, adulterates, or changes the composition of any brand of registered antifreeze without prior approval by the department.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$10 nor more than \$500.

[Acts 1981, 67th Leg., p. 1080, ch. 388, § 1, eff. Sept. 1, 1981.]

**TITLE 3. AGRICULTURAL RESEARCH AND PROMOTION**

**CHAPTER 41. COMMODITY PRODUCERS BOARDS**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section
- 41.001. Policy.
- 41.002. Definitions.

**SUBCHAPTER B. CERTIFICATION OF ORGANIZATIONS TO CONDUCT REFERENDUM AND ELECTION**

- 41.011. Petition for Certification.
- 41.012. Certification by Commissioner.

**SUBCHAPTER C. REFERENDA AND ELECTIONS**

- 41.021. Certified Organization to Conduct Referendum and Election.
- 41.022. Rules of Commissioner.
- 41.023. Notice of Referendum and Election.
- 41.024. Basis of Referendum and Election; Eligible Voters.
- 41.025. Candidates for Board; Write-In Votes.
- 41.026. Preparation and Distribution of Ballot.
- 41.027. Expenses of Election.
- 41.028. Exemptions for Producers.
- 41.029. Void Ballots.
- 41.030. Findings of Commissioner.
- 41.031. Certification of Results.
- 41.032. Subsequent Board Elections.
- 41.033. Election of Board From Districts.
- 41.034. Elections to Add New Territory.

**SUBCHAPTER D. ORGANIZATION, POWERS, AND DUTIES OF BOARDS**

- Section
- 41.051. Board Established.
- 41.052. State Agency.
- 41.053. Organizational Meeting; Terms of Office.
- 41.054. Officers; Bond.
- 41.055. Vacancy.
- 41.056. Majority Vote Requirement.
- 41.057. Compensation.
- 41.058. Powers and Duties.
- 41.059. Budget; Annual Report; Audits.
- 41.060. Depository Bank; Expenditure of Funds.

**SUBCHAPTER E. ASSESSMENTS**

- 41.081. Collection of Assessment.
- 41.082. Producer Exemption.
- 41.083. Producer Refunds.
- 41.084. Increase of Assessment.
- 41.085. Discontinuance of Assessment.

**SUBCHAPTER F. REMEDIES AND PENALTIES**

- 41.101. Failure to Remit Assessment.
- 41.102. Suspension or Revocation of License.
- 41.103. General Penalty.
- 41.104. Use of Funds for Political Activity.

**SUBCHAPTER A. GENERAL PROVISIONS**

§ 41.001. Policy

It is in the interest of the public welfare of the State of Texas that the producers of any agricultural commodity be permitted and encouraged to develop, carry out, and participate in programs of research, disease and insect control, predator control, education, and promotion designed to encourage the production, marketing, and use of the agricultural commodity. The purpose of this chapter is to authorize and prescribe the necessary procedures by which the producers of an agricultural commodity grown in this state may finance those programs. The programs may be devised to alleviate any circumstance or condition that serves to impede the production, marketing, or use of any agricultural commodity. [Acts 1981, 67th Leg., p. 1081, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 41.002. Definitions

In this chapter:

(1) "Agricultural commodity" means an agricultural, horticultural, viticultural, or vegetable product, bees and honey, planting seed, livestock or livestock product, or poultry or poultry product, produced in this state, either in its natural state or as processed by the producer. The term does not include rice, flax, or cattle.

(2) "Board" means a commodity producers board.

(3) "Commissioner" means the commissioner of agriculture.

(4) "District" means a geographical area within the jurisdiction of a board.

(5) "Processor" means a person within this state who:

(A) is a purchaser, warehouseman, processor, or other commercial handler of an agricultural commodity;

(B) processes planting seeds; or

(C) is the mortgagee of an agricultural commodity if the mortgage did not cover the commodity in its state as a growing crop and if the mortgage was executed at a time when the commodity was ready for marketing.

(6) "Producer" means a person engaged in the business of producing or causing to be produced for commercial purposes an agricultural commodity. The term includes the owner of a farm on which the commodity is produced and the owner's tenant or sharecropper.

(7) "Person" means an individual, firm, corporation, association, or any other business unit.

(8) "Secretary-treasurer" means the secretary-treasurer of a board.

[Acts 1981, 67th Leg., p. 1082, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 41.003 to 41.010 reserved for expansion]

#### SUBCHAPTER B. CERTIFICATION OF ORGANIZATIONS TO CONDUCT REFERENDUM AND ELECTION

##### § 41.011. Petition for Certification

(a) Any nonprofit organization authorized under the laws of this state representing the producers of an agricultural commodity may petition the commissioner for certification as the organization authorized to conduct an assessment referendum and an election of a commodity producers board.

(b) If the referendum and election are to be conducted in a limited area of the state, the petition must describe the boundaries of the area to be included.

(c) The petition must propose either a 6-member, 9-member, 12-member, or 15-member board.

[Acts 1981, 67th Leg., p. 1082, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 41.012. Certification by Commissioner

(a) Within 30 days following the day on which a petition for certification is received, the commissioner shall hold a public hearing to consider the petition.

(b) If the commissioner determines that, on the basis of testimony presented at the public hearing, the petitioning organization is representative of the producers of the agricultural commodity within the boundaries described in the petition and that the petition conforms to the purposes and provisions of

this chapter, the commissioner shall certify that the organization is representative of the producers of the commodity within the described area and is authorized to conduct the assessment referendum and board election.

[Acts 1981, 67th Leg., p. 1083, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 41.013 to 41.020 reserved for expansion]

#### SUBCHAPTER C. REFERENDA AND ELECTIONS

##### § 41.021. Certified Organization to Conduct Referendum and Election

In accordance with this subchapter and the rules of the commissioner, a certified organization may conduct a referendum of the producers of an agricultural commodity on the proposition of whether or not the producers shall levy an assessment on themselves to finance programs of research, disease and insect control, predator control, education, and promotion designed to encourage the production, marketing, and use of the commodity. At the same time, the certified organization may conduct an election of members to a commodity producers board for the commodity.

[Acts 1981, 67th Leg., p. 1083, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 41.022. Rules of Commissioner

In order to ensure efficient and honest elections and efficient canvassing and reporting of returns, the commissioner shall adopt rules regulating the form of the ballot, the conduct of the election, and the canvassing and reporting of returns.

[Acts 1981, 67th Leg., p. 1083, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 41.023. Notice of Referendum and Election

(a) The certified organization shall give public notice of:

(1) the date, hours, and polling places for voting in the referendum and election;

(2) the estimated amount and basis of the assessment proposed to be collected; and

(3) a description of the manner in which the assessment is to be collected and the proceeds administered and used.

(b) The notice under Subsection (a) of this section shall be published in one or more newspapers published and distributed within the boundaries described in the petition. The notice shall be published for not less than once a week for three consecutive weeks, beginning at least 60 days before the date of the election. In addition, at least 60 days before the date of the election the certified organization shall give direct written notice to each county agent in any county within the boundaries described in the petition.

[Acts 1981, 67th Leg., p. 1083, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.024. Basis of Referendum and Election; Eligible Voters**

(a) Subject to the approval of the commissioner, the certified organization may conduct the referendum and election under this chapter either on an area or statewide basis, as determined by the organization in its petition for certification.

(b) A producer of the agricultural commodity is eligible to vote in the referendum and election if:

- (1) the producer's production occurs within the area described in the organization's petition; and
- (2) the producer would be required under the referendum to pay the assessment.

[Acts 1981, 67th Leg., p. 1083, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.025. Candidates for Board; Write-In Votes**

(a) Any producer who is eligible to vote at the referendum and election is eligible to be a member or a candidate for membership on the commodity producers board.

(b) A potential candidate must file with the certified organization an application to have his or her name printed on the ballot. The application must be signed by the candidate and by at least 10 producers who are eligible to vote at the election. The application must be filed at least 30 days before the date set for the election.

(c) A voter may vote for board members by writing in the name of any eligible person whose name is not printed on the ballot.

[Acts 1981, 67th Leg., p. 1084, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.026. Preparation and Distribution of Ballot**

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

(b) The referendum provisions of the ballot shall specify a maximum rate for the authorized assessment.

(c) The election provisions of the ballot may be printed only with the names of candidates who have filed valid petitions under Section 41.025 of this code, but the ballot shall provide a space for write-in votes.

(d) The ballot shall provide a space for the voter to certify the volume of the voter's production of the commodity within the area described in the petition during the preceding year or other relevant production period, as designated on the ballot.

[Acts 1981, 67th Leg., p. 1084, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.027. Expenses of Election**

The certified organization is responsible for all expenses incurred in connection with the referen-

dum and election, but it may be reimbursed for actual and necessary expenses out of funds deposited in the treasury of the board if the assessment is levied and collected.

[Acts 1981, 67th Leg., p. 1084, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.028. Exemptions for Producers**

The original referendum and subsequent biennial board elections may provide exemptions for producers within the boundaries described in the petition if the exemptions are included in full written form on the election ballot and are approved by two-thirds or more of those voting in the election.

[Acts 1981, 67th Leg., p. 1084, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.029. Void Ballots**

(a) In any contest of an election, a ballot is void if the voter overstated his or her volume of production by more than 10 percent. Any other error in stating volume of production is not grounds for invalidating the ballot.

(b) If a ballot is void or if any other error is made in stating production volume, the returns shall be corrected and the results adjusted accordingly.

[Acts 1981, 67th Leg., p. 1084, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.030. Findings of Commissioner**

On receiving the report of the returns of a referendum and election, the commissioner shall determine:

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

(2) the total volume of production of the commodity during the relevant production period in the area described in the petition;

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

(4) the appropriate number of candidates receiving the highest number of votes for membership on the commodity producers board.

[Acts 1981, 67th Leg., p. 1085, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.031. Certification of Results**

If the commissioner finds that two-thirds or more of those voting in the election voted in favor of the referendum proposition or that those voting in favor of the proposition produced at least 50 percent of the volume of production of the commodity during the relevant production period, the commissioner shall publicly certify the adoption of the referendum proposition and issue certificates of election to those persons elected to the board. Otherwise, the com-

missioner shall publicly certify that the referendum proposition was defeated.

[Acts 1981, 67th Leg., p. 1085, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 41.032. Subsequent Board Elections

A commodity producers board shall conduct biennial elections for the purpose of electing members to the board. The board shall give notice and hold the election in accordance with the applicable provisions of this subchapter relating to the initial election and, to the extent necessary, in accordance with the rules of the commissioner.

[Acts 1981, 67th Leg., p. 1085, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 41.033. Election of Board From Districts

(a) In accordance with the rules of the commissioner, a certified organization or established board may provide for election of all or any number of the members of the board from districts. Each plan must be submitted to the commissioner for approval.

(b) In order to represent a district on the board, a person must reside within that district. Only voters residing in a district may vote for candidates for the position representing the district.

(c) With the approval of the commissioner, a district representation plan may be modified.

[Acts 1981, 67th Leg., p. 1085, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 41.034. Elections to Add New Territory

(a) Producers of an agricultural commodity in an area not within the jurisdiction of a board for that commodity may petition the commissioner to authorize a referendum within an area specified in the petition on the issue of whether or not the area is to be included within the jurisdiction of that board. The petition must be submitted to the commissioner at least 105 days before the date of the election at which the referendum is to be conducted.

(b) If the commissioner determines that in the area described there exists among the producers of the commodity an interest in becoming subject to the jurisdiction of the board that is substantial enough to justify a referendum, the commissioner may transmit the petition to the board with an order authorizing the board in its discretion to conduct the election at its own expense. The petition and order must be transmitted to the board at least 75 days before the date of the election.

(c) The referendum shall be held on the date of the biennial election of board members. The board shall give public notice of:

(1) the date of the election;

(2) the amount and basis of the assessment collected by the board;

(3) a description of the manner in which the assessment is collected and the proceeds administered and used; and

(4) any other proposition the board proposes to include on the ballot as authorized or required by this chapter.

(d) The notice under Subsection (c) of this section shall be published in one or more newspapers published and distributed, or generally circulated, within the boundaries described in the petition. The notice shall be published at least once a week for three consecutive weeks, beginning at least 60 days before the date of the election. In addition, at least 60 days before the date of the election the board shall give direct written notice to each county agent in any county within the described boundaries.

(e) A person is qualified to vote in the referendum if he or she is or, for at least one production period during the three years preceding the date of the referendum, has been a producer of the commodity whose production occurs within the area described in the petition.

(f) A producer who is qualified to vote in the referendum is eligible to be a member of or a candidate for membership on the board. If the board is elected from districts, a producer within the described boundaries may be a candidate only for at-large positions on the board, if any. In order to qualify as a candidate, the producer must comply with Section 41.025 of this code, except that the application shall be filed with the board and may not be filed before the first publication of notice under Subsection (d) of this section.

(g) In the area described in the petition, the ballot shall be prepared and distributed and the election shall be conducted in accordance with the rules of the commissioner under Section 41.022 of this code.

(h) Except as otherwise provided in this subsection, voters qualified to vote in the referendum are entitled to vote for candidates for membership on the board and for any other proposition printed on the ballot for the regular election. If board members are elected from districts, voters in the area described in the petition may vote only for at-large positions, if any.

(i) The ballots cast in the area described in the petition shall be canvassed, and the returns reported, separately from the ballots cast in other areas. On those returns, the board shall perform the functions of the commissioner described in Section 41.030 of this code, except that the board shall certify whether the referendum proposition carried or was defeated in the area described in the petition. If the referendum proposition is defeated, the ballots cast in the area described in the petition may not be counted for any other purpose. If the proposition carries, the returns shall be included in determining the election of board members and the outcome of other proposi-

tions. The area described in the petition becomes subject to the jurisdiction of the board on the day following the date that the result is certified.

[Acts 1981, 67th Leg., p. 1085, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 41.035 to 41.050 reserved for expansion]

**SUBCHAPTER D. ORGANIZATION, POWERS, AND DUTIES OF BOARDS**

**§ 41.051. Board Established**

If the commissioner certifies adoption of a referendum proposition under Section 41.031 of this code, the board is established and has the powers and duties prescribed by this chapter.

[Acts 1981, 67th Leg., p. 1087, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.052. State Agency**

Each board is a state agency for all purposes and is exempt from taxation in the same manner and to the same extent as are other agencies of the state.

[Acts 1981, 67th Leg., p. 1087, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.053. Organizational Meeting; Terms of Office**

(a) On receiving certificates of election from the commissioner, the members of the commodity producers board shall meet and organize.

(b) Members of the initial board shall draw lots so that one-third of the members shall hold office for two years, one-third for four years, and one-third for six years. Thereafter, members of the board serve for terms of six years.

(c) Each member holds office until a successor is elected and has qualified.

[Acts 1981, 67th Leg., p. 1087, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.054. Officers; Bond**

(a) The board shall elect from its number a chairman, a secretary-treasurer, and other officers that it considers necessary.

(b) The secretary-treasurer shall execute a corporate surety bond in an amount required by the board. The bond shall be conditioned on the secretary-treasurer faithfully accounting for all money that comes into the custody of the officer. The bond shall be filed with the commissioner.

[Acts 1981, 67th Leg., p. 1087, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.055. Vacancy**

The board shall fill any vacancy on the board by appointment for the unexpired term.

[Acts 1981, 67th Leg., p. 1087, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.056. Majority Vote Requirement**

A majority vote of all members present is necessary for an action of the board to be valid.

[Acts 1981, 67th Leg., p. 1087, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.057. Compensation**

Members of the board serve without compensation but are entitled to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

[Acts 1981, 67th Leg., p. 1087, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.058. Powers and Duties**

(a) The board may employ necessary personnel, fix the amount and manner of their compensation, and incur other expenses that are necessary and proper to enable the board to effectively carry out the purposes of this chapter.

(b) The board may adopt rules consistent with the purposes of this chapter.

(c) The board shall keep minutes of its meetings and other books and records that clearly reflect all acts and transactions of the board. The board shall open its records to examination by any participating producer during regular business hours.

(d) The board shall set the rate of the assessment. The rate may not exceed the maximum established in the election authorizing the assessment or a subsequent election establishing a maximum rate.

(e) The board may act separately or in cooperation with any person in developing, carrying out, and participating in programs of research, disease and insect control, predator control, education, and promotion designed to encourage the production, marketing, and use of the commodity on which the assessment is levied.

[Acts 1981, 67th Leg., p. 1087, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.059. Budget; Annual Report; Audits**

(a) The board shall file with the commissioner a proposed budget and may expend funds only after the commissioner has approved the budget.

(b) Accounts of the board are subject to audit by the state auditor.

(c) Within 30 days following the end of each fiscal year of the board, the board shall submit to the commissioner a report itemizing all income and expenditures and describing all activities of the board during the previous fiscal year.

[Acts 1981, 67th Leg., p. 1088, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.060. Depository Bank; Expenditure of Funds**

(a) The secretary-treasurer shall deposit all money received by the board under this chapter, including assessments, donations from persons, and grants from governmental agencies, in a bank selected by the board.

(b) Money received by the board may be expended for any purpose under this chapter.

(c) Funds assessed and collected under this chapter may not be expended for use directly or indirectly to promote or oppose the election of any candidate for public office or to influence legislation.

[Acts 1981, 67th Leg., p. 1088, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 41.061 to 41.080 reserved for expansion]

**SUBCHAPTER E. ASSESSMENTS****§ 41.081. Collection of Assessment**

(a) The processor at a commodity process point determined by the board shall collect the assessment. Except as provided by Subsection (b) of this section, the processor at that point shall collect the assessment by deducting the appropriate amount from the purchase price of the commodity or from any funds advanced for that purpose.

(b) If the producer and processor are the same legal entity, or if the producer retains ownership after processing, the processor shall collect the assessment directly from the producer at the time of processing.

(c) The secretary-treasurer of the board, by registered or certified mail, shall notify each processor of the duty to collect the assessment, the manner in which the assessment is to be collected, and the date on or after which the processor is to begin collecting the assessment.

(d) The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction. The processor shall furnish a copy of the document to the producer.

(e) Unless otherwise provided by the original referendum, no later than the 10th day of each month the processor shall remit the amount collected during the previous month to the secretary-treasurer of the board.

[Acts 1981, 67th Leg., p. 1088, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.082. Producer Exemption**

(a) A producer may exempt his or her product sales from assessment by filing a signed request for exemption with the processor at the time of each sale. The processor shall include copies of the exemption requests with the remittance of collected assessments to the secretary-treasurer.

(b) The commissioner shall prescribe the form of the request for exemption. The board shall furnish the prescribed form to each processor within the board's jurisdiction.

[Acts 1981, 67th Leg., p. 1088, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.083. Producer Refunds**

(a) A producer who has paid an assessment may obtain a refund of the amount paid by filing an application for refund with the secretary-treasurer within 60 days after the date of payment. The application must be in writing, on a form prescribed by the board for that purpose, and accompanied by proof of payment of the assessment.

(b) The secretary-treasurer shall pay the refund to the producer before the 11th day of the month following the month in which the application for refund and proof of payment are received.

[Acts 1981, 67th Leg., p. 1089, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.084. Increase of Assessment**

At any biennial board election, the board may submit to the voters a proposition to increase the maximum rate of assessment. The proposition is approved and the new maximum rate is in effect if two-thirds or more of those voting vote in favor of the proposition or if those voting in favor of the proposition produced at least 50 percent of the volume of production of the commodity during the relevant production period.

[Acts 1981, 67th Leg., p. 1089, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 41.085. Discontinuance of Assessment**

(a) If 10 percent or more of the producers participating in the program present to the secretary-treasurer a petition calling for a referendum of the qualified voters on the proposition of discontinuing the assessment, the board shall conduct a referendum for that purpose.

(b) The board shall give notice of the referendum, the referendum shall be conducted, and the results shall be declared in the manner provided by law for the original referendum and election, with any necessary exceptions provided by rule of the commissioner.

(c) The board shall conduct the referendum within 90 days of the date of filing of the petition.

(d) Approval of the proposition is by majority vote of those voting. If the proposition is approved, the assessment is abolished.

[Acts 1981, 67th Leg., p. 1089, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 41.086 to 41.100 reserved for expansion]

SUBCHAPTER F. REMEDIES AND PENALTIES

§ 41.101. Failure to Remit Assessment

(a) The board may investigate conditions that relate to the prompt remittance of the assessment by any producer or processor. If the board determines that a person has failed to remit to the board the assessment as required by this chapter, the board may:

- (1) independently institute proceedings for recovery of the amount due to the board or for injunctive or other appropriate relief; or
- (2) request the attorney general, or the county or district attorney having jurisdiction, or both, to institute proceedings in the board's behalf.

(b) Suit under this section may be brought in a court of competent jurisdiction in either Travis County or the county in which the transaction occurred.

(c) This remedy is cumulative of other remedies provided by law.

[Acts 1981, 67th Leg., p. 1089, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 41.102. Suspension or Revocation of License

In addition to other remedies provided by law, a violation of any provision of Subchapters B-E of this chapter is grounds for suspension or revocation of any license or permit issued by the commissioner. The suspension or revocation shall be conducted in accordance with the procedure provided by law for suspension or revocation on the basis of other grounds.

[Acts 1981, 67th Leg., p. 1090, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 41.103. General Penalty

(a) A person commits an offense if the person violates any provision of Subchapters B-E of this chapter.

(b) An offense under this section is a misdemeanor punishable by:

- (1) a fine of not less than \$50 nor more than \$200;
- (2) confinement in the county jail for not less than 10 days nor more than 6 months; or
- (3) both fine and confinement under this subsection.

[Acts 1981, 67th Leg., p. 1090, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 41.104. Use of Funds for Political Activity

(a) A member of a board commits an offense if the member:

- (1) wilfully spends or assists in spending money in violation of Section 41.060(c) of this code; or

(2) without causing or attempting to cause his or her dissent to be entered in the records or minutes of the board, participants in a meeting or session of the board in which money is authorized or directed to be expended in violation of Section 41.060(c) of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$1,000.

[Acts 1981, 67th Leg., p. 1090, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 42. NATURAL FIBERS AND FOOD PROTEIN COMMISSION

Section	
42.001.	Policy.
42.002.	Organization.
42.003.	Administration.
42.004.	Powers and Duties.
42.005.	Natural Fibers Committee.
42.006.	Food Protein Committee.
42.007.	Executive Committee.

§ 42.001. Policy

The policy of each state agency and each state educational institution involved in agriculture shall give equal emphasis to the production of, the increased use of, and the establishment of outlets for, farm products, especially cotton, oilseed products, wool, mohair, and other textile products.

[Acts 1981, 67th Leg., p. 1090, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 42.002. Organization

(a) The Natural Fibers and Food Protein Commission is composed of:

- (1) the chancellor of The Texas A & M University System;
- (2) the president of The University of Texas at Austin;
- (3) the president of Texas Tech University; and
- (4) the president of Texas Woman's University.

(b) The Natural Fibers and Food Protein Commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act the commission is abolished and this chapter expires effective September 1, 1987.

[Acts 1981, 67th Leg., p. 1091, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 42.003. Administration

(a) The members of the commission shall elect a chairman to serve for a term of two years.

(b) The commission shall meet at least once each year at a time designated by the chairman.

(c) Each member of the commission shall designate a person on his or her staff as a liaison officer to work with commission committees, commission staff, and agencies contracting or consulting with the commission.

(d) The commission may employ an executive director and necessary employees. The executive director shall coordinate the operations of the committees and staff personnel and shall oversee the work done for the commission by contracting or consulting agencies.

(e) Funds appropriated for the purpose of this chapter shall be expended at the direction of the commission on claims approved by a majority of the commission.

[Acts 1981, 67th Leg., p. 1091, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 42.004. Powers and Duties

(a) The commission shall conduct surveys, research, and investigations relating to the use of cotton fiber, cottonseed, oilseed products, other products of the cotton plant, wool, mohair, and other textile products.

(b) In performing its functions, the commission may contract with any state educational institution, state agency, or federal agricultural agency to perform services for the commission or for the use of the facilities of the agency. The commission may compensate the contracting agency from money appropriated for the purposes of this chapter.

(c) The commission may accept gifts and grants from the United States and from private sources for the purposes of this chapter, subject only to limitations contained in the gift or grant.

[Acts 1981, 67th Leg., p. 1091, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 42.005. Natural Fibers Committee

(a) The chairman of the commission, with the approval of the commission, shall appoint not more than 25 persons to a natural fibers committee. Persons appointed to the committee must be representative of the interests of persons in the natural fibers industry.

(b) Members of the committee serve for terms of two years expiring on the last day of the state fiscal year in odd-numbered calendar years.

(c) The committee shall elect a chairman annually.

(d) The committee shall meet in January and July of each year at a time specified by the committee chairman for the purpose of:

(1) reviewing the research done for the commission in areas involving natural fibers; and

(2) making annual recommendations to the commission for implementation of programs and further research.

[Acts 1981, 67th Leg., p. 1091, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 42.006. Food Protein Committee

(a) The chairman of the commission, with the approval of the commission, shall appoint not more than 25 persons to a food protein committee. Persons appointed to the committee must be representative of the interests of persons in the food protein industry.

(b) Members of the committee serve for terms of two years expiring on the last day of the state fiscal year in odd-numbered calendar years.

(c) The committee shall elect a chairman annually.

(d) The committee shall meet in January and July of each year at a time specified by the committee chairman for the purpose of:

(1) reviewing the research done for the commission in areas involving food protein; and

(2) making annual recommendations to the commission for implementation of programs and further research.

[Acts 1981, 67th Leg., p. 1092, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 42.007. Executive Committee

(a) The executive committee of the commission is composed of:

(1) the chairman of the natural fibers committee;

(2) the chairman of the food protein committee; and

(3) five persons appointed by the chairman of the commission with approval of the commission.

(b) In making appointments to the committee, the chairman of the commission shall appoint one representative of the wool industry, one representative of the mohair industry, two representatives of the cotton industry, and one representative of the food protein industry.

(c) Members of the committee appointed by the chairman of the commission serve for terms of two years expiring on the last day of the state fiscal year in odd-numbered calendar years.

(d) The committee shall elect a chairman annually.

(e) The committee shall meet semiannually at times specified by the committee chairman. The chairman of the commission may call or authorize special meetings of the committee.

(f) At its meetings, the committee shall review the work of the commission and advise the commission on matters relating to the programs and budgets of the commission.

[Acts 1981, 67th Leg., p. 1092, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 43. COUNTY AND RAILWAY AGRICULTURAL EXPERIMENT FARMS AND STATIONS AND COUNTY DEMONSTRATION WORK**

**SUBCHAPTER A. COUNTY EXPERIMENT STATIONS**

- Section
- 43.001. Definitions.
- 43.002. Establishment.
- 43.003. Petition and Election Order.
- 43.004. Application of General Election Law.
- 43.005. Election Ballot.
- 43.006. Election Returns.
- 43.007. Acquisition of Property.
- 43.008. Location.
- 43.009. Supervision.
- 43.010. Supplies and Improvements.
- 43.011. Labor.
- 43.012. Records.
- 43.013. Annual Report.
- 43.014. Public Inspection and Information.
- 43.015. Sale of Products.
- 43.016. Expenses
- 43.017. Lease of Station.

**SUBCHAPTER B. COUNTY DEMONSTRATION WORK**

- 43.031. Demonstration Work.
- 43.032. Terms of Agreement with Texas A & M University.
- 43.033. Expenses.

**SUBCHAPTER C. RAILWAY EXPERIMENT FARMS**

- 43.051. Establishment.
- 43.052. Method of Acquisition.
- 43.053. Number and Acreage Limitations.

**SUBCHAPTER A. COUNTY EXPERIMENT STATIONS**

**§ 43.001. Definitions**

In this subchapter:

(1) "Director" means the director of the county experiment station.

(2) "Experiment station" means an agricultural experiment farm and station established under this subchapter.

[Acts 1981, 67th Leg., p. 1093, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.002. Establishment**

In accordance with this subchapter, the commissioners court of any county may establish and operate an experiment station in that county.

[Acts 1981, 67th Leg., p. 1093, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.003. Petition and Election Order**

(a) If a number of qualified voters equal to 10 percent or more of the voters of the county who voted for governor in the last preceding gubernatorial election sign and present to the commissioners court a petition calling for establishment of a county experiment station under this subchapter, the commissioners court shall order an election on the propo-

sition to be held on the next uniform election date that is at least 30 days after the date of the order.

(b) The order must be signed by the county judge. Copies of the order shall be posted at the door of the county courthouse and at all post offices in the county.

[Acts 1981, 67th Leg., p. 1094, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.004. Application of General Election Law**

Except as otherwise provided by this subchapter, the election shall be conducted in accordance with general law relating to county elections.

[Acts 1981, 67th Leg., p. 1094, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.005. Election Ballot**

The ballot shall be printed to provide for voting for or against the proposition: "Establishment of a county experiment station."

[Acts 1981, 67th Leg., p. 1094, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.006. Election Returns**

The election officers shall certify to the commissioners court the number of votes cast for each proposition. If the majority of votes are cast in favor of establishing a county experiment station, the commissioners court shall declare the result and establish the experiment station in accordance with this subchapter.

[Acts 1981, 67th Leg., p. 1094, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.007. Acquisition of Property**

(a) The commissioners court shall acquire an amount of land reasonably expected to support an experiment station that will produce revenue sufficient to maintain the station, as determined by the court. The land and necessary improvements may be acquired either through donation with good title of land and sufficient houses, residences, and barns, or through purchase under Subsection (b) of this section.

(b) If approved at an election conducted under Chapters 1 and 2 of Title 22, Revised Civil Statutes of Texas, 1925, as amended, the commissioners court may issue bonds or warrants for the purpose of acquiring land and constructing buildings and improvements for an experiment station. The commissioners court may levy and collect a tax sufficient to pay the annual interest and to provide a sinking fund for the payment of principal on the bonds or warrants at maturity.

[Acts 1981, 67th Leg., p. 1094, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.008. Location**

The experiment station shall be located at or as near the county seat as practicable. If no land is donated for the station within two miles of the county seat, the commissioners court may acquire land for the experiment station anywhere in the county, having due regard for the benefits to be derived from the station.

[Acts 1981, 67th Leg., p. 1094, ch. 388, § 1 eff. Sept. 1, 1981.]

**§ 43.009. Supervision**

(a) The experiment station shall be operated in cooperation with, and in a manner similar to, state experiment stations. The director of the Texas Agricultural Experiment Station at College Station shall advise the county in the operation of the county's experiment station.

(b) The commissioners court shall appoint a director to supervise the operation of the experiment station and perform other duties prescribed by the court. In order to serve as director, a person must be a practical farmer and pass an examination relating to his or her general knowledge and education and to his or her knowledge of farming, stock raising, and other affairs incidental to successful farm life. The director of the Texas Agricultural Experiment Station or that director's designee shall prescribe and administer the examination.

(c) The director of a county experiment station is entitled to compensation of:

(1) a salary set by the commissioners court at not less than \$75 a month; and

(2) a residence at the station, free of cost to the director and his or her family.

[Acts 1981, 67th Leg., p. 1094, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.010. Supplies and Improvements**

The commissioners court shall supply the experiment station with all necessary buildings, equipment, and materials and shall provide for needed improvements. In addition, the commissioners court shall supply stock, including work stock and cattle for service and breeding purposes, as necessary to promote the improvement of the farm and stock raising industry of the county.

[Acts 1981, 67th Leg., p. 1095, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.011. Labor**

With the advice and approval of the commissioners court, the director may employ labor necessary to the operation of the experiment station. The county may not maintain paupers on the experiment station or permit them to work on the station.

[Acts 1981, 67th Leg., p. 1095, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.012. Records**

The director shall keep a complete and accurate record of:

(1) rainfall, temperature, winds, and general climatic conditions;

(2) the planting, cultivation, and marketing of all crops; and

(3) the management and observation of the station and the station's livestock.

[Acts 1981, 67th Leg., p. 1095, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.013. Annual Report**

The director shall make an annual report to the commissioners court detailing the methods employed and results received on the county experiment station. With approval of the commissioners court, the county shall publish the report and mail it without cost to each person in the county engaged in farming. The report shall be mailed to others on request and to each experiment station in the state, the office of the commissioner of agriculture, and the United States Department of Agriculture.

[Acts 1981, 67th Leg., p. 1095, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.014. Public Inspection and Information**

(a) The director shall at all reasonable times keep the experiment station open to public inspection.

(b) The director shall disseminate information to the public explaining the manner and methods of preparation, soil culture, cultivation, gathering, preservation, and marketing the products of the experiment station.

[Acts 1981, 67th Leg., p. 1095, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.015. Sale of Products**

(a) In accordance with the rules of the commissioners court, the director shall market and sell the products of the experiment station.

(b) The director shall remit proceeds from the sale of products to the county treasurer, who shall deposit the proceeds in the general fund of the county.

[Acts 1981, 67th Leg., p. 1095, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.016. Expenses**

On warrants drawn by the director and approved by the county judge, the county shall pay all expenses incurred in the operation of the experiment station, including the cost of labor and the director's salary, out of its general funds.

[Acts 1981, 67th Leg., p. 1096, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.017. Lease of Station**

(a) The commissioners court may not lease or allow to be leased an experiment station acquired by donation.

(b) The commissioners court may lease an experiment station acquired by purchase under Section 43.007(b) of this code to the state or to any agency of the federal government under terms agreed on by the court and the lessor.

[Acts 1981, 67th Leg., p. 1096, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 43.018 to 43.030 reserved for expansion]

**SUBCHAPTER B. COUNTY DEMONSTRATION WORK**

**§ 43.031. Demonstration Work**

The commissioners court of any county may establish and conduct cooperative demonstration work in agriculture and home economics in cooperation with Texas A & M University.

[Acts 1981, 67th Leg., p. 1096, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.032. Terms of Agreement With Texas A & M University**

The demonstration work shall be conducted on terms and conditions agreed to by the commissioners court and the agents of Texas A & M University.

[Acts 1981, 67th Leg., p. 1096, ch. 388, § 1 eff. Sept. 1, 1981.]

**§ 43.033. Expenses**

The commissioners court may employ any means and may appropriate and expend money as necessary to establish and conduct demonstration work under this subchapter.

[Acts 1981, 67th Leg., p. 1096, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 43.034 to 43.050 reserved for expansion]

**SUBCHAPTER C. RAILWAY EXPERIMENT FARMS**

**§ 43.051. Establishment**

For the purpose of aiding in the development of the agricultural and horticultural resources of Texas, any railway corporation operating in Texas may acquire, maintain, and operate or cause to be operated demonstration and experiment farms, orchards, and gardens.

[Acts 1981, 67th Leg., p. 1096, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.052. Method of Acquisition**

A railway corporation may acquire a farm, orchard, or garden by lease or purchase.

[Acts 1981, 67th Leg., p. 1096, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 43.053. Number and Acreage Limitations**

(a) A farm, orchard, or garden established under this subchapter may not exceed 1,000 acres in size.

(b) A railway corporation may not own or control more than four farms, orchards, or gardens under this subchapter.

[Acts 1981, 67th Leg., p. 1096, ch. 388, § 1, eff. Sept. 1, 1981.]

**TITLE 4. AGRICULTURAL ORGANIZATIONS**

**CHAPTER 51. FARMERS' COOPERATIVE SOCIETIES**

Section	
51.001.	Definition.
51.002.	Application of General Corporation Laws.
51.003.	Purpose.
51.004.	Powers.
51.005.	Assets.
51.006.	Area of Operation.
51.007.	Nonprofit Corporation; Division of Profits.
51.008.	Incorporators.
51.009.	Articles of Incorporation.
51.010.	Bylaws and Amendments to Articles of Incorporation.
51.011.	Copies of Articles, Amendments, and Bylaws; Filing With County Clerk.
51.012.	Membership.
51.013.	Voting.
51.014.	Membership Certificates.
51.015.	Notes as Subscription Contracts.
51.016.	Liability of Members.
51.017.	Withdrawal.
51.018.	Suspension; Expulsion.
51.019.	Contributors.
51.020.	Forms.
51.021.	Restriction on Use of Public Money for Incorporation.
51.022.	Name.
51.023.	Fees.
51.024.	Report.
51.025.	Exemption From Franchise Tax.

**§ 51.001. Definition**

In this chapter, "society" means a farmers' cooperative society incorporated under this chapter.

[Acts 1981, 67th Leg., p. 1097, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.002. Application of General Corporation Laws**

The general corporation laws of the state govern societies unless those laws conflict with this chapter.

[Acts 1981, 67th Leg., p. 1097, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.003. Purpose**

A society may be organized to enable its members to cooperate with each other for the purposes authorized by this chapter.

[Acts 1981, 67th Leg., p. 1097, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.004. Powers**

(a) A society may:

(1) borrow money and discount notes, not to exceed a total amount equal to five times its working capital;

(2) lend money to its members, on terms and with security as provided by its bylaws;

(3) act as an agent for its members in selling the members' agricultural products and in purchasing machinery and supplies for its members, including fire, livestock, hail, cyclone, and storm insurance;

(4) own and operate machinery and tools necessary to produce, harvest, and prepare for market farm and ranch products; and

(5) exercise any of the powers granted to cooperative marketing associations under Section 52.013 of this code.

(b) To be eligible to purchase insurance for its members, a society must be appointed and licensed as an agent of the insurance company from which the insurance is to be purchased. Commissions received by the society from the purchase of insurance for its members are corporate funds.

(c) A society may not lend money or act as an agent for any person other than a member of the society.

(d) Societies may join to establish and maintain joint agencies to accomplish the purposes for which they were incorporated.

[Acts 1981, 67th Leg., p. 1097, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.005. Assets**

A society shall have cash, notes acceptable to its directors, or other property, the combined value of which is \$500 or more.

[Acts 1981, 67th Leg., p. 1098, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.006. Area of Operation**

A society shall confine its activities and business operation to the community in which it is located. Its activities and business operation may not extend beyond the territory surrounding the town, village, or city designated as the society's place of business.

[Acts 1981, 67th Leg., p. 1098, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.007. Nonprofit Corporation; Division of Profits**

(a) A society is a cooperative and a nonprofit corporation.

(b) A society, on approval of its directors in accordance with its bylaws, may:

(1) transfer its profits to its surplus fund; or

(2) divide its profits among its members, in proportion to each member's cash contribution to the society's working capital and patronage to the society.

[Acts 1981, 67th Leg., p. 1098, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.008. Incorporators**

To be eligible to incorporate under this chapter, a person must be engaged in agricultural pursuits.

[Acts 1981, 67th Leg., p. 1098, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.009. Articles of Incorporation**

(a) The incorporators shall prepare articles of incorporation under the general corporation laws of the state and shall deliver the articles to the attorney general for approval.

(b) After the attorney general has approved the articles, the incorporators shall file them with the secretary of state under the general corporation laws of the state.

(c) The society shall file with the county clerk a certified copy of the articles in accordance with Section 51.011 of this code.

[Acts 1981, 67th Leg., p. 1098, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.010. Bylaws and Amendments to Articles of Incorporation**

(a) Each member of a society shall sign the bylaws of the society.

(b) A society shall obtain the approval of its bylaws and amendments to its articles of incorporation from the attorney general. After obtaining that approval, the society shall file the bylaws or amendments with the secretary of state.

[Acts 1981, 67th Leg., p. 1099, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.011. Copies of Articles, Amendments, and Bylaws; Filing With County Clerk**

(a) After filing and recording the articles of incorporation, an amendment to the articles, or bylaws, the secretary of state shall issue to a society two certified copies of the instrument.

(b) The society shall keep one certified copy of its articles, amendments to the articles, and bylaws in its files.

(c) The society shall file with the county clerk of the county in which the society is located a certified copy of the articles, amendments to the articles, and bylaws. The county clerk shall keep those copies for inspection by interested persons but is not required to record them.

[Acts 1981, 67th Leg., p. 1099, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.012. Membership**

(a) Membership in a society is limited to persons in the community in which the society is located who are engaged in agricultural pursuits.

(b) A person may become a member of a society only if the person is chosen to be a member by:

- (1) the incorporators at the time of incorporation; or
- (2) the board of directors under rules prescribed by the corporation's bylaws.

[Acts 1981, 67th Leg., p. 1099, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.013. Voting**

Each member of a society has one vote in the management of the society.

[Acts 1981, 67th Leg., p. 1099, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.014. Membership Certificates**

(a) If a subscriber for membership certificates gives notes for the certificates, a society may not issue the certificates until the notes have been paid in full.

(b) A subscriber who has not paid for the certificates in full is entitled to vote in the management of the society and may borrow from the society in accordance with the society's bylaws.

(c) A subscriber who has not paid for the certificates in full may not receive dividends from the society or share in a distribution of any of its assets.

(d) Membership certificates may not be transferred.

[Acts 1981, 67th Leg., p. 1099, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.015. Notes as Subscription Contracts**

Notes given for membership certificates of a society are valid subscription contracts and are the property of the society.

[Acts 1981, 67th Leg., p. 1099, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.016. Liability of Members**

(a) Except as provided by this section, a member of a society is not liable to the society or its creditors for an amount that exceeds the amount unpaid on the member's membership certificates. When the member pays for the certificates in full, the member's liability ceases.

(b) A society, by clear provisions of its bylaws, may provide that:

- (1) each member is liable for an amount, in addition to that provided by Subsection (a) of this section, equal to the price paid for the membership certificates owned by the member and payable on assessment of the board of directors for payment of the society's obligations; or

(2) each member may waive the right to claim personal property exempt from seizure for the member's obligations to the society.

[Acts 1981, 67th Leg., p. 1099, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.017. Withdrawal**

(a) A member of a society is entitled to withdraw from the society under rules prescribed by the society's bylaws.

(b) If a member withdraws, the society may return to the member money in an amount equal to the value of the member's contribution to the society's working capital.

[Acts 1981, 67th Leg., p. 1100, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.018. Suspension; Expulsion**

(a) As prescribed by the society's bylaws, a society may suspend or expel a member for misconduct.

(b) If a member is expelled, the society shall return to the member, at a time provided by its bylaws, money in an amount equal to the value of the member's contribution to the society's working capital.

[Acts 1981, 67th Leg., p. 1100, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.019. Contributors**

A person who is not engaged in agricultural pursuits may contribute to a society. The amount of the contribution may not exceed one-third of the outstanding working capital of the society.

[Acts 1981, 67th Leg., p. 1100, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 51.020. Forms**

(a) The attorney general shall prepare and file with the secretary of state forms for the following documents of a society:

- (1) articles of incorporation;
- (2) amendments of the articles;
- (3) bylaws;
- (4) rules of the society;
- (5) annual reports of the society to its members;
- (6) annual reports of the society to the secretary of state; and
- (7) any other forms necessary to make this chapter effective.

(b) The secretary of state shall cause the forms and copies of this chapter to be published and distributed to citizens of the state who are interested.

[Acts 1981, 67th Leg., p. 1100, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 51.021. Restriction on Use of Public Money for Incorporation

Public money appropriated to a department of state government or a state institution may not be used in organizing a society.

[Acts 1981, 67th Leg., p. 1100, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 51.022. Name

The name of a society must contain the words, "Farmers' Cooperative Society."

[Acts 1981, 67th Leg., p. 1100, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 51.023. Fees

(a) The secretary of state shall charge fees for filing articles of incorporation or amendments in accordance with this section.

(b) The fee for filing articles of incorporation is \$10.

(c) The fee for filing an amendment to the articles of incorporation is \$10.

[Acts 1981, 67th Leg., p. 1100, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 51.024. Report

(a) A society shall annually file with the secretary of state a report that shows the condition of its affairs.

(b) The report shall be made on a form that is available to the society under Section 51.020 of this code.

[Acts 1981, 67th Leg., p. 1101, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 51.025. Exemption from Franchise Tax

A society is not required to pay any annual franchise tax, except that a society is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if exempted by that chapter.

[Acts 1981, 67th Leg., p. 1101, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2785, ch. 752, § 15(a), eff. Jan. 1, 1982.]

## CHAPTER 52. COOPERATIVE MARKETING ASSOCIATIONS

### SUBCHAPTER A. GENERAL PROVISIONS

Section	
52.001.	Policy.
52.002.	Definitions.
52.003.	Nonprofit Organization.
52.004.	Application of General Corporation Laws.
52.005.	Associations Not in Restraint of Trade.

### SUBCHAPTER B. PURPOSE AND POWERS

52.011.	Purposes.
52.012.	Restrictions.
52.013.	General Powers.

Section	
52.014.	Interest in Other Corporations.
52.015.	Contracts and Agreements With Other Associations.
52.016.	Marketing Contract.

### SUBCHAPTER C. INCORPORATION

52.031.	Incorporators.
52.032.	Preliminary Investigation.
52.033.	Execution of Articles of Incorporation.
52.034.	Contents of Articles of Incorporation.
52.035.	Filing of Articles of Incorporation.
52.036.	Effect of Filing Articles of Incorporation.
52.037.	Amendment of Articles of Incorporation.
52.038.	Existing Corporations and Associations.

### SUBCHAPTER D. BYLAWS

52.051.	Adoption.
52.052.	Contents.

### SUBCHAPTER E. MEMBERSHIP CERTIFICATES AND STOCK

52.061.	Stock.
52.062.	Issuance of Membership Certificates.
52.063.	Issuance of Shares.
52.064.	Common Stock.
52.065.	Preferred Stock.
52.066.	Stock Issued on Purchase of Property.

### SUBCHAPTER F. MEMBERS

52.081.	Membership.
52.082.	New Members.
52.083.	Meetings.
52.084.	Notice of Meetings.
52.085.	Voting.
52.086.	Termination or Suspension of Membership.
52.087.	Liability of Members.

### SUBCHAPTER G. ADMINISTRATION

52.101.	Board of Directors.
52.102.	Officers.
52.103.	Removal of Officer or Director.
52.104.	Bond.
52.105.	Referendum.

### SUBCHAPTER H. FOREIGN COOPERATIVES

52.121.	Foreign Cooperative Considered Marketing Association.
52.122.	Permits to Do Business.

### SUBCHAPTER I. REMEDIES

52.131.	Breach or Threatened Breach of Marketing Contract.
52.132.	Induced Breach of Marketing Contract; False Reports.

### SUBCHAPTER J. FEES AND REPORTS

52.151.	Fees.
52.152.	Annual Report.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 52.001. Policy

The purpose of this chapter is:

(1) to promote and encourage intelligent and orderly production, cultivation, and care of citrus groves and marketing of agricultural products through cooperation;

(2) to eliminate speculation and waste in the production and marketing of agricultural products;

(3) to make production and distribution of agricultural products as direct as effectively possible between the producer and consumer; and

(4) to stabilize the production and marketing of agricultural products.

[Acts 1981, 67th Leg., p. 1102, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.002. Definitions**

In this chapter:

(1) "Agricultural products" includes horticultural, viticultural, forestry, dairy, livestock, poultry, and bee products and any farm and ranch product.

(2) "Marketing association" means an association organized under this chapter.

(3) "Member" includes a member of an association organized under this chapter without capital stock and a holder of common stock of an association organized under this chapter with capital stock.

[Acts 1981, 67th Leg., p. 1103, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.003. Nonprofit Organization**

Because a marketing association is organized not to make money for itself or for its members as individuals but only to make money for its members as producers, the association is considered to be a nonprofit organization.

[Acts 1981, 67th Leg., p. 1103, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.004. Application of General Corporation Laws**

The general corporation laws of the state apply to marketing associations unless those laws conflict with this chapter.

[Acts 1981, 67th Leg., p. 1103, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.005. Associations Not in Restraint of Trade**

(a) A marketing association is not a combination in restraint of trade or an illegal monopoly.

(b) Organizing under this chapter is not an attempt to lessen competition or to fix prices arbitrarily.

(c) Marketing contracts or agreements authorized by this chapter are not illegal or in restraint of trade.

[Acts 1981, 67th Leg., p. 1103, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.006 to 52.010 reserved for expansion]

SUBCHAPTER B. PURPOSE AND POWERS

**§ 52.011. Purposes**

(a) A marketing association may be incorporated to engage in any activity connected with:

(1) the production, cultivation, and care of citrus groves;

(2) the harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling, or use of agricultural products of its members;

(3) the manufacturing or marketing of by-products of its members' agricultural products;

(4) the manufacturing, selling, or supplying to its members of machinery, equipment, or supplies; or

(5) the financing of any of the activities authorized by this section.

(b) The activities authorized by Subsection (a) of this section may extend to nonmembers, to the production, cultivation, and care of lands owned or cultivated by nonmembers, and to products of nonmembers as limited by Section 52.012 of this code.

[Acts 1981, 67th Leg., p. 1103, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.012. Restrictions**

(a) A marketing association shall be operated for the mutual benefit of its members, as producers, and shall conform to one or both of the following requirements:

(1) a member of the association may not have more than one vote based on the member's ownership of stock or membership capital in the association; or

(2) the association may not pay dividends on stock or membership capital in excess of eight percent a year.

(b) A marketing association may deal in the products and supplies of nonmembers but is restricted to an amount that is not greater than the value of the products that it handles for its members.

[Acts 1981, 67th Leg., p. 1104, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.013. General Powers**

A marketing association may:

(1) engage in any activity connected with:

(A) the production, cultivation, and care of citrus groves;

(B) the marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling, or use of any agricultural products produced or delivered to it by its members;

(C) the production, manufacturing, or marketing of the by-products of those agricultural products;

(D) the purchase, hiring, or use by its members of supplies, machinery, or equipment; and

(E) the financing of an activity enumerated by Paragraphs (A) through (D) of this subdivision;

(2) borrow money and make advances to its members;

(3) act as an agent or representative of any member in an activity authorized by Subdivision (1) or (2) of this section;

(4) acquire, hold, own, exercise all rights of ownership in, sell, transfer, or pledge shares of capital stocks or bonds of a corporation or association, including a bank for cooperatives organized under the Farm Credit Act of 1933, engaged in an activity related to that of the association incorporated under this chapter or engaged in the handling or marketing of a product handled by the association;

(5) establish reserves and invest the money in those reserves in bonds or other property as provided by the association's bylaws;

(6) buy, hold, and exercise all privileges of ownership over real or personal property that is determined by the association to be necessary or convenient for, or incidental to, conducting and operating its business;

(7) perform, in or outside this state, acts that are necessary, suitable, or proper to accomplish the purposes and objectives permitted by this section or that are conducive to or expedient for the interest or benefit of the association, and may contract for the performance of those acts;

(8) possess and exercise, in or outside this state, all powers, rights, and privileges necessary for or incidental to the purposes for which the association is organized or the activities in which it is engaged; and

(9) exercise the rights, powers, and privileges that are granted by the laws of the state to general corporations and that are not inconsistent with this chapter.

[Acts 1981, 67th Leg., p. 1104, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 52.014. Interest in Other Corporations

(a) A marketing association may organize, operate, own, control, have an interest in, own stock of, or be a member of any other corporation, organized with or without capital stock, that is engaged in preserving, drying, pressing, canning, packing, storing, handling, shipping, using, manufacturing, marketing, or selling agricultural products handled by the association or the by-products of those products.

(b) If a corporation described by Subsection (a) of this section is a warehousing corporation, it may issue a legal warehouse receipt to the association or to any person. The receipt is adequate collateral limited to the current value of the commodity represented by the receipt. If a warehouse is licensed or licensed and bonded under the laws of this state or of the United States, its warehouse receipts may not be challenged or discriminated against because of the association's total or partial ownership or control of it.

[Acts 1981, 67th Leg., p. 1105, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 52.015. Contracts and Agreements With Other Associations

(a) A marketing association, by resolution of its board of directors, may make all necessary stipulations, agreements, contracts, and arrangements with any other cooperative corporation or association formed in this or any other state for the cooperative and more economical conduct of its business or a part of its business.

(b) Two or more marketing associations, jointly or separately, may use the same methods and agencies to conduct their respective businesses.

[Acts 1981, 67th Leg., p. 1105, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 52.016. Marketing Contract

(a) A marketing association may execute a marketing contract with its members requiring the members to sell, for a period not exceeding 10 years, all or a specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association.

(b) The contract may provide that the association may:

(1) sell or resell its members' products with or without taking title to the products; and

(2) pay to its members the resale price less necessary expenses.

(c) The expenses that may be deducted from the resale price under Subsection (b) of this section include:

(1) sales, overhead, and other expenses;

(2) interest on preferred stock, not exceeding eight percent a year;

(3) interest on common stock, not exceeding eight percent a year; and

(4) reserves, including reserves for redeeming any stock issued.

(d) A marketing association's bylaws and marketing contract may:

(1) fix as liquidated damages specific amounts to be paid by a member if the member breaches

the marketing contract regarding the sale, delivery, or withholding of products; and

(2) provide that the member will pay all costs, premiums for bonds, expenses, and fees if the association brings an action on the contract.

[Acts 1981, 67th Leg., p. 1105, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.017 to 52.030 reserved for expansion]

SUBCHAPTER C. INCORPORATION

§ 52.031. Incorporators

Five or more persons who produce agricultural products or three or more marketing associations may form a marketing association under this chapter.

[Acts 1981, 67th Leg., p. 1106, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.032. Preliminary Investigation

(a) Every group of persons considering the organization of a marketing association is urged to communicate with the department.

(b) On request, the department shall inform the group of:

(1) the results of a survey of the marketing conditions affecting the commodities to be handled by the proposed association; and

(2) the probability of the association's success as determined from those results.

[Acts 1981, 67th Leg., p. 1106, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.033. Execution of Articles of Incorporation

(a) Each marketing association shall prepare and file articles of incorporation signed by each incorporator.

(b) One of the incorporators shall acknowledge the articles before an officer authorized by the laws of the state to take and certify acknowledgments of deeds and conveyances.

[Acts 1981, 67th Leg., p. 1106, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.034. Contents of Articles of Incorporation

(a) The articles of incorporation must state:

- (1) the name of the association;
- (2) the term of existence, which may be perpetual;
- (3) the purpose for which the association is formed;
- (4) the location and street address of the association's principal place of business;
- (5) the number of directors; and
- (6) the term of office of each director.

(b) If the association is organized without capital stock, the articles must state whether property rights and interests of each member are equal or unequal, and if unequal, the general rules applicable to all members by which the property rights and interests of each are determined and fixed.

(c) If the association is organized with capital stock, the articles must state:

- (1) the amount of capital stock authorized;
- (2) the number of shares authorized;
- (3) the par value of the shares; and
- (4) if preferred stock is to be issued, the number of shares of common stock, the number of shares of preferred stock, the rights, preferences, and privileges granted, and the conditions under which the association may redeem the preferred stock.

[Acts 1981, 67th Leg., p. 1106, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2605, ch. 693, § 24, eff. Aug. 31, 1981.]

Section 24(b) of Acts 1981, 67th Leg., p. 2605, ch. 693, provides: "Subsection (a) of this section takes effect only if House Bill 1436 [so in enrolled bill; probably should read 'House Bill 1346'], Acts of the 67th Legislature, Regular Session, 1981, takes effect [Chapter 557]. If that Act does take effect, it is repealed on the effective date of this Act."

§ 52.035. Filing of Articles of Incorporation

(a) The incorporators shall file the articles of incorporation in accordance with the general corporation laws of the state.

(b) The incorporators shall file a certified copy of the articles with the department.

(c) If the association is formed with capital stock, the incorporators are not required to obtain subscriptions or payment for any part of the association's capital stock as a prerequisite of filing the articles.

[Acts 1981, 67th Leg., p. 1106, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.036. Effect of Filing Articles of Incorporation

When the articles of incorporation are filed with the secretary of state, all courts shall receive the articles or a certified copy of the articles as prima facie evidence of:

- (1) facts stated in the articles; and
- (2) compliance with requirements for incorporation under this chapter.

[Acts 1981, 67th Leg., p. 1107, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.037. Amendment of Articles of Incorporation

(a) A marketing association may amend the articles of incorporation at any regular meeting of the association or at a special meeting for that purpose.

(b) An amendment must first be approved by two-thirds of the directors and then, except as provided by Subsection (c) of this section, adopted by a majority vote of all members.

(c) An amendment of the rules required by Section 52.034(b) of this code for determining the property rights and interests of members of a marketing association formed without capital stock may be adopted by a vote or written consent of three-fourths of the members.

(d) After an amendment is adopted, the amendment shall be filed in accordance with the general corporation laws of the state.

[Acts 1981, 67th Leg., p. 1107, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 52.038. Existing Corporations and Associations

(a) Any corporation or association organized under prior law before March 1, 1921, may elect, by a majority vote of its members or stockholders, to adopt this chapter and become subject to it by:

(1) adopting the restrictions provided by this chapter;

(2) executing, in duplicate on forms supplied by the secretary of state, an instrument, signed and acknowledged by its directors, stating that the entity, by a majority vote of its members or stockholders, has decided to accept the benefits of and be bound by this chapter; and

(3) filing articles of incorporation in accordance with the requirements of Section 52.035 of this code except that the entity's directors shall sign the articles.

(b) The filing fee for the articles filed under Subsection (a) of this section is equal to the filing fee for an amendment to the articles of incorporation as provided by Section 52.151 of this code.

[Acts 1981, 67th Leg., p. 1107, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.039 to 52.050 reserved for expansion]

## SUBCHAPTER D. BYLAWS

### § 52.051. Adoption

(a) A marketing association shall adopt bylaws before the 31st day after the day on which the articles of incorporation are filed with the secretary of state.

(b) A majority vote of the members is necessary to adopt bylaws.

[Acts 1981, 67th Leg., p. 1107, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 52.052. Contents

The bylaws may provide for one or more of the following:

(1) the time, place, and manner of calling and conducting meetings of the association;

(2) the number and qualifications of the members;

(3) the number of members constituting a quorum;

(4) the right of members to vote by proxy, mail, or both and the conditions, method, and effects of the vote;

(5) the method by which a member that is an association may cast its vote;

(6) the number of directors constituting a quorum;

(7) the qualifications, compensation, duties, and terms of directors and officers;

(8) the time of the election of directors and officers and the method of giving notice of the election;

(9) the penalties for violations of the bylaws;

(10) the amount of entrance, organization, and membership fees, if any, the method of collecting the fees, and the purposes for which the association must use the fees;

(11) the amount, if any, that each member must pay for the association's cost of conducting business;

(12) the amount that each member is required to pay for services rendered to the member by the association, the time of payment, and the method of collecting the payment;

(13) the marketing contract between the association and its members;

(14) the requirements for ownership of common stock;

(15) the time and method by which a member may withdraw from the association or may assign or transfer common stock;

(16) the method of assignment and transfer of a member's interest or shares of common stock;

(17) the time and conditions on which membership ceases;

(18) the automatic suspension of a member's rights if the member ceases to be eligible for membership;

(19) the method and effect of expulsion of a member;

(20) the purchase by the association of a member's interest on the death, withdrawal, or expulsion of the member, on forfeiture of a membership, or at the option of the association; and

(21) the method by which the value of a member's interest is determined by conclusive appraisal by the board of directors.

[Acts 1981, 67th Leg., p. 1108, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.053 to 52.060 reserved for expansion]

SUBCHAPTER E. MEMBERSHIP CERTIFICATES AND STOCK

§ 52.061. Stock

A marketing association may be organized with or without capital stock.

[Acts 1981, 67th Leg., p. 1108, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.062. Issuance of Membership Certificates

When a member of a marketing association organized without capital stock has paid the membership fee in full, the association shall issue to the member a certificate of membership.

[Acts 1981, 67th Leg., p. 1108, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.063. Issuance of Shares

(a) Subject to this section, a marketing association organized with capital stock may from time to time sell and issue shares of capital stock in the manner and under the terms prescribed by its bylaws.

(b) A marketing association may issue common stock only to a person who satisfies the membership requirements prescribed by Section 52.081 of this code.

(c) A marketing association may not sell and issue shares of preferred stock to a person who is not a member of the association unless the association first complies with The Securities Act, as amended (Article 581-1 et seq., Vernon's Texas Civil Statutes).

(d) A marketing association may not issue shares of stock to a member until the member has fully paid for the shares.

(e) A marketing association may accept promissory notes of members as full or partial payment for stock. The association shall hold the stock as security for payment of the note. The association's retention of the stock does not affect the member's right to vote.

[Acts 1981, 67th Leg., p. 1109, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.064. Common Stock

(a) A stockholder may not own more than one-twentieth of a marketing association's issued common stock. A marketing association, by its bylaws, may limit the amount of common stock that one stockholder may own to an amount less than one-twentieth of the issued common stock.

(b) At any time, except when the association's debts exceed 50 percent of its assets, a marketing association may purchase its common stock at the book value conclusively determined by its board of directors and pay cash for the stock within one year thereafter.

(c) A person may not transfer common stock of a marketing association to a person who does not produce agricultural products handled by the association. The association shall state this restriction in its bylaws and shall print the restriction on each common stock certificate.

[Acts 1981, 67th Leg., p. 1109, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.065. Preferred Stock

(a) A marketing association organized with capital stock may issue preferred stock with or without the right to vote.

(b) The association may redeem preferred stock on conditions provided by the association's articles of incorporation and printed on the face of the stock certificates.

[Acts 1981, 67th Leg., p. 1109, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 52.066. Stock Issued on Purchase of Property

(a) If a marketing association organized with capital stock purchases stock, property, or an interest in property, it may discharge its obligations, in whole or part, by exchanging for its acquisition shares of preferred stock the par value of which equals the value of the purchased property as determined by the board of directors.

(b) In the transaction described by Subsection (a) of this section, the transfer of the purchased property to the association is considered payment in cash for the issued shares of preferred stock.

[Acts 1981, 67th Leg., p. 1109, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.067 to 52.080 reserved for expansion]

SUBCHAPTER F. MEMBERS

§ 52.081. Membership

(a) Membership of a marketing association is limited to persons who produce agricultural products handled by or through the association, including the lessees and tenants of land used to produce those products and any lessors and landlords who receive as rent part of the crop raised on the leased land. A marketing association may be a member of another marketing association.

(b) A marketing association shall admit members under terms and conditions prescribed in its bylaws.

(c) If a member of a marketing association organized without capital stock is not a natural person, the member may be represented by any individual, an associate officer, or one of its members, authorized in writing to act for it.

[Acts 1981, 67th Leg., p. 1110, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.082. New Members**

(a) A marketing association organized without capital stock may admit new members.

(b) If the property rights of the association's members are unequal, a new member is entitled to share the property of the association with the old members in accordance with the general rules stated in the articles of incorporation.

[Acts 1981, 67th Leg., p. 1110, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.083. Meetings**

(a) As prescribed by its bylaws, a marketing association annually shall hold one or more regular meetings of its members.

(b) The board of directors may call a special meeting of the association at any time.

(c) If, at any time, 10 percent or more of the members file with the board of directors a petition demanding a special meeting of the association and stating the specific business to be considered at the meeting, the board shall call the meeting.

[Acts 1981, 67th Leg., p. 1110, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.084. Notice of Meetings**

Not later than the 10th day before the day of a meeting of a marketing association, the association shall:

(1) mail to each member notice of the meeting and a statement of the purpose of the meeting; or

(2) if the bylaws so provide, publish notice of the meeting in a newspaper of general circulation in the area in which the association's principal place of business is located.

[Acts 1981, 67th Leg., p. 1110, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.085. Voting**

(a) Except as provided by Subsection (b) of this section, a member of a marketing association is entitled to one vote.

(b) A marketing association may provide in its articles of incorporation or bylaws for a member association or group to have more than one vote if the association providing for the vote:

(1) is organized primarily for the production, cultivation, and care of citrus groves or for processing and marketing citrus products;

(2) has its principal office in a county that has at least 500 acres of land planted in citrus groves; and

(3) includes as members one or more associations or groups organized on a cooperative basis.

(c) In accordance with a bylaw adopted under Section 52.052 of this code, a marketing association may provide for its members to vote by proxy or by mail.

[Acts 1981, 67th Leg., p. 1110, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.086. Termination or Suspension of Membership**

(a) In accordance with a bylaw adopted under Section 52.052 of this code, a marketing association may provide for the termination or suspension of membership in the association.

(b) If a member withdraws or is expelled from a marketing association, the board of directors shall:

(1) equitably and conclusively appraise the member's property interests in the association;

(2) fix the monetary amount of the interests; and

(3) before the first anniversary of the withdrawal or expulsion, pay to the member that amount.

[Acts 1981, 67th Leg., p. 1111, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.087. Liability of Members**

Except for debts contracted with the association, a member of a marketing association is not liable for the debts of the association in an amount that exceeds the amount that is unpaid on the member's membership fee or subscription to capital stock, including any unpaid balance on promissory notes given in payment for the stock.

[Acts 1981, 67th Leg., p. 1111, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.088 to 52.100 reserved for expansion]

**SUBCHAPTER G. ADMINISTRATION****§ 52.101. Board of Directors**

(a) A board of directors shall manage a marketing association.

(b) The board shall be composed of five or more directors who are elected by the members of the association.

(c) Except as provided by Subsection (d) of this section, a person must be a member of the association to be eligible to serve as a director.

(d) As prescribed by the bylaws of the association that is holding the meeting, a marketing association that is a member of the association may designate any of its members to vote on behalf of the member association or to serve as a director of the association holding the meeting.

[Acts 1981, 67th Leg., p. 1111, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.102. Officers**

(a) The directors shall elect:

(1) a president or chairman;

(2) one or more vice-presidents or vice-chairmen;

(3) a secretary; and

(4) a treasurer.

(b) To be eligible to serve as president, chairman, vice-president, or vice-chairman, a person must be a director.

(c) The directors may combine the offices of secretary and treasurer as secretary-treasurer.

(d) A bank or depository may serve as treasurer but is not considered to be an officer. If a bank or depository serves as treasurer, the secretary shall perform the usual accounting duties of the treasurer except that the secretary may deposit money only as authorized by the board of directors.

[Acts 1981, 67th Leg., p. 1111, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.103. Removal of Officer or Director**

(a) Except as provided by Subsection (f) of this section, a member of a marketing association may initiate removal of an officer or director by filing in writing with the association's secretary:

- (1) the charges; and
- (2) a petition that is signed by 10 percent of the members and that requests the removal of the officer or director in question.

(b) The members of the association shall vote on the removal at the next regular or special meeting of the association.

(c) Before the meeting the association, in writing, shall inform the officer or director of the charges.

(d) At the meeting the association shall give the officer or director and the person bringing the charges an opportunity to be heard in person or by counsel and to present witnesses.

(e) The association, by a majority vote, may remove the officer or director and fill the vacancy.

(f) If an association's bylaws provide for election of directors by districts with primary elections in each district, the petition for removal of a director must state the charges and must be signed by 20 percent of the members residing in the district from which the director was elected. The board of directors shall call a special meeting of the members residing in that district to consider removal of the director. The members in that district, by a majority vote, may remove the director.

[Acts 1981, 67th Leg., p. 1112, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.104. Bond**

(a) Each officer, employee, or agent who handles money or property of a marketing association or any money or property that is under the control or in possession of a marketing association shall execute and deliver to the association an indemnity bond that indemnifies the association and its members against any fraudulent, dishonest, or unlawful act by the bonded person and other acts as provided by the association's bylaws.

(b) If the officers and directors of a marketing association fail to require a person to execute a bond as required by Subsection (a) of this section, each officer and director is personally liable for all losses that would have been recovered under the bond if the person had been bonded.

[Acts 1981, 67th Leg., p. 1112, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.105. Referendum**

(a) On demand of one-third of the board of directors, the board shall refer to the entire membership of a marketing association for decision at the next special or regular meeting any matter that has been approved or passed by the board.

(b) The association may call a special meeting to consider the referred matter.

[Acts 1981, 67th Leg., p. 1112, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.106 to 52.120 reserved for expansion]

**SUBCHAPTER H. FOREIGN COOPERATIVES**

**§ 52.121. Foreign Cooperative Considered Marketing Association**

For the purposes of this chapter, a corporation or association organized, with or without capital stock, under a cooperative marketing act of another state or of the United States is considered to be a marketing association if the corporation or association:

- (1) satisfies the requirements of Section 52.012 of this chapter; and
- (2) is composed of persons who, as farmers, planters, ranchers, dairymen, or nut or fruit growers, produce agricultural products and who act collectively to process, prepare, handle, and market, in interstate and foreign commerce, the members' products.

[Acts 1981, 67th Leg., p. 1112, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 52.122. Permits to Do Business**

(a) Any cooperative marketing association incorporated under the laws of another state may apply for and be granted a permit to do business in this state. The association shall pay as filing fee the amount required of domestic corporations organized for a similar purpose.

(b) A marketing association is not required to have all or part of a paid-up capital to be entitled to a permit under Subsection (a) of this section.

[Acts 1981, 67th Leg., p. 1113, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.123 to 52.130 reserved for expansion]

## SUBCHAPTER I. REMEDIES

## § 52.131. Breach or Threatened Breach of Marketing Contract

(a) If a member breaches or threatens to breach a marketing contract, the marketing association may sue and, if successful, is entitled to:

- (1) an injunction to prevent further breach of the contract; and
- (2) a decree of specific performance of the contract.

(b) Pending the adjudication of an action filed under Subsection (a) of this section, the association is entitled to a temporary restraining order and preliminary injunction against the member if the association files:

- (1) a verified complaint showing the breach or threatened breach; and
- (2) sufficient bond.

[Acts 1981, 67th Leg., p. 1113, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 52.132. Induced Breach of Marketing Contract; False Reports

In a civil suit for damages, a person is liable to a marketing association for an amount equal to three times the amount of actual damages proven for each offense if the person, or where the person is a corporation, if an officer or employee of the corporation:

- (1) knowingly induces or attempts to induce a member of the association to breach the member's marketing contract with the association; or
- (2) maliciously and knowingly spreads false reports concerning the finances or management of the association.

[Acts 1981, 67th Leg., p. 1113, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 52.133 to 52.150 reserved for expansion]

## SUBCHAPTER J. FEES AND REPORTS

## § 52.151. Fees

(a) The fee for filing articles of incorporation under this chapter is \$10.

(b) The fee for filing an amendment to the articles of incorporation under this chapter is \$2.50.

(c) Each marketing association shall pay to the department an annual license fee of \$10. A marketing association is exempt from all other franchise or license taxes, except that a marketing association is exempt from the franchise tax imposed by chapter 171, Tax Code, only if exempted by that chapter.

[Acts 1981, 67th Leg., p. 1113, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2785, ch. 752, § 15(b), eff. Jan. 1, 1982.]

## § 52.152. Annual Report

(a) Each marketing association shall file an annual report with the department. The association shall prepare the report on forms furnished by the department.

(b) The report must contain:

- (1) the name of the association;
- (2) its principal place of business;
- (3) a general statement of its business operations during the fiscal year;
- (4) the amount of paid-up capital stock;
- (5) if it is a stock association, the number of shareholders;
- (6) if it is a nonstock association, the number of members and the amount of membership fees received;
- (7) the total of the operation expenses for the fiscal year;
- (8) the amount of its indebtedness or liability; and
- (9) its balance sheets.

[Acts 1981, 67th Leg., p. 1114, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 53. AGRICULTURE AND LIVESTOCK POOLS

Section	
53.001.	Definitions.
53.002.	Purpose.
53.003.	Incorporation.
53.004.	Corporation With Privileges of a Financial Pool.
53.005.	Bond to Do Business.
53.006.	Certification.
53.007.	Board of Directors.
53.008.	Officers.
53.009.	Officer's bond.
53.010.	Borrowing.
53.011.	Loans.
53.012.	Amount of Loans to a Person.
53.013.	Term of Loan.
53.014.	Interest.
53.015.	Additional Security.
53.016.	Renewal of Loan.
53.017.	Liquidation of Loan; Sale of Collateral.
53.018.	Disposal of Warehouse Receipt.
53.019.	Total Amount of Loans.
53.020.	Warehouses and Concentration Places.
53.021.	Agent.
53.022.	Charges.
53.023.	Statements.
53.024.	Penalty.

## § 53.001. Definitions

In this chapter:

(1) "Agricultural products" means farm, orchard, or dairy products. The term does not include livestock.

(2) "Financial pool" means an agricultural or livestock financial pool incorporated under this chapter.

(3) "Livestock" means cattle, sheep, goats, or swine.

[Acts 1981, 67th Leg., p. 1114, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.002. Purpose**

A financial pool may be organized to borrow and lend money for:

- (1) agricultural purposes; or
- (2) raising, breeding, fattening, or marketing livestock.

[Acts 1981, 67th Leg., p. 1115, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.003. Incorporation**

(a) Two or more persons may organize a financial pool under this chapter.

(b) An incorporator may be:

- (1) a corporation;
- (2) a state or national bank;
- (3) a state or national trust company; or
- (4) a cooperative association composed of persons who produce, or produce and market, staple agricultural products or livestock, or both.

[Acts 1981, 67th Leg., p. 1115, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.004. Corporation With Privileges of a Financial Pool**

(a) Three or more persons may incorporate for one or both of the following purposes:

- (1) to grow, store, prepare for market, and market agricultural products; or
- (2) to grow, fatten for market, and market livestock.

(b) A corporation organized under Subsection (a) of this section:

- (1) may use the agricultural products or livestock, or both, as security for financing its business; and
- (2) has all privileges of a financial pool in borrowing money to promote its business.

[Acts 1981, 67th Leg., p. 1115, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.005. Bond to Do Business**

(a) Before doing business in the state, a financial pool shall furnish a bond in an amount equal to at least 10 percent of the capital stock of the pool.

(b) The bond must be conditioned on the faithful performance of the financial pool's duties and responsibilities.

(c) The bond must be approved by the commissioners court of the county in which:

- (1) the financial pool is organized; or
- (2) the home office of the pool is located.

(d) The financial pool must certify the bond to the department.

[Acts 1981, 67th Leg., p. 1115, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.006. Certification**

The department shall issue to a financial pool a certificate of authority to do business under this chapter after the department:

- (1) receives the bond required by Section 53.005 of this code;
- (2) receives payment of a fee of \$10; and
- (3) determines that the bond is genuine.

[Acts 1981, 67th Leg., p. 1115, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.007. Board of Directors**

(a) A board of directors shall manage a financial pool.

(b) To be eligible to serve as a director, a person must be a member of the financial pool.

(c) The board may employ a manager and other persons to conduct the business of the financial pool.

[Acts 1981, 67th Leg., p. 1116, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.008. Officers**

(a) The board of directors of a financial pool shall elect the following officers of the pool:

- (1) a president;
- (2) a vice-president;
- (3) a secretary; and
- (4) a treasurer.

(b) The offices of secretary and treasurer may be held by one person.

(c) To be eligible to serve as an officer, a person must be a director.

[Acts 1981, 67th Leg., p. 1116, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.009. Officer's Bond**

(a) The secretary-treasurer and each officer in charge of management of the financial pool shall furnish to the pool a bond conditioned on the bonded person's faithful performance of his or her duties.

(b) The amount of the bond must be equal to at least five percent of the total capital stock and surplus of the financial pool.

(c) Until a person satisfies the requirements of this section, the directors of the financial pool may not permit the person to conduct the business of the pool.

[Acts 1981, 67th Leg., p. 1116, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.010. Borrowing**

(a) A financial pool may borrow money.

(b) As security for the money it borrows, the financial pool may use the security given by persons who borrow money from it.

(c) The financial pool may cooperate with the federal reserve banks and the federal farm loan banks under the federal laws affecting farm credits. [Acts 1981, 67th Leg., p. 1116, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.011. Loans**

(a) A financial pool may make a loan only if:

(1) the loan is made to a person who produces, or produces and markets, staple agricultural products or livestock; and

(2) those agricultural products or livestock are collateral for the loan.

(b) Agricultural products that are stored in bonded licensed warehouses and for which an existing negotiable bonded warehouse receipt was issued under Chapter 7, Business & Commerce Code, may be used as collateral for a loan under this chapter.

(c) Agricultural products used as collateral for a loan made under this chapter shall be insured by a stock insurance company authorized to do business in the state for an amount that is not less than the full amount of the loan.

(d) If a financial pool makes a loan secured by livestock, the livestock may remain in the possession of the owner or an agent or representative of the owner.

(e) A financial pool may make a loan of money secured by a mortgage on livestock or by shipping documents issued for livestock in transit. [Acts 1981, 67th Leg., p. 1116, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.012. Amount of Loans to a Person**

At any time the total amount of all loans to a person that are secured by agricultural products may not exceed an amount equal to 75 percent of the market value of those products.

[Acts 1981, 67th Leg., p. 1117, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.013. Term of Loan**

The maximum term for which a loan may be made by a financial pool is:

(1) twelve months if the collateral is agricultural products; or

(2) three years if the collateral is livestock.

[Acts 1981, 67th Leg., p. 1117, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.014. Interest**

On loans made by a financial pool, the pool may not charge interest at a rate that is greater than the rate of interest that farm loan banks are charging financial pools plus 1½ percent a year.

[Acts 1981, 67th Leg., p. 1117, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.015. Additional Security**

(a) At any time during the existence of a loan made by a financial pool, the pool may demand, as additional security, money in an amount equal to 75 percent of the market value of the collateral for the loan as determined on the date on which the loan was made, less the current market value of the collateral.

(b) The financial pool may sell all or part of the collateral if the borrower fails to provide money in accordance with Subsection (a) of this section.

(c) The financial pool shall credit all money received under Subsection (a) of this section to the account of the borrower and shall take the money into account when the loan is liquidated.

[Acts 1981, 67th Leg., p. 1117, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.016. Renewal of Loan**

A loan made by a financial pool may be renewed if the renewal is conditioned on one or both of the following:

(1) a new and agreed valuation of the collateral; or

(2) receipt by the pool of additional security.

[Acts 1981, 67th Leg., p. 1117, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.017. Liquidation of Loan; Sale of Collateral**

(a) A borrower may liquidate a loan made under this chapter at any time during the contract period of the loan by settlement of all claims of the financial pool against the borrower.

(b) When a loan made by a financial pool is satisfied, the pool shall deliver to the borrower a final receipt of settlement.

(c) If collateral is sold, the financial pool shall deliver any negotiable warehouse receipt to its maker and the receipt shall be canceled as provided by the laws of this state.

[Acts 1981, 67th Leg., p. 1117, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.018. Disposal of Warehouse Receipt**

Except as provided by this chapter, a person may not dispose of a negotiable bonded warehouse receipt that is:

(1) given to a financial pool as security for a loan; or

(2) held by the pool pending the sale of the collateral represented by the receipt.

[Acts 1981, 67th Leg., p. 1117, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.019. Total Amount of Loans**

The total amount of loans made by a financial pool that are outstanding at any time may not exceed an amount equal to 10 times the total of the capital stock and surplus of the pool.

[Acts 1981, 67th Leg., p. 1118, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.020. Warehouses and Concentration Places**

A financial pool may:

(1) own, maintain, and operate bonded and licensed warehouses if warehouses are necessary to conduct its business; and

(2) own or maintain concentration places, including railroad sidings.

[Acts 1981, 67th Leg., p. 1118, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.021. Agent**

A financial pool may be an agent for a borrower in the sale of collateral for a loan it has made.

[Acts 1981, 67th Leg., p. 1118, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.022. Charges**

(a) A financial pool may charge a reasonable fee as commission for its service as an agent in the sale of collateral. The commission on cotton may not exceed 50 cents for each bale sold.

(b) If a financial pool operates a bonded and licensed warehouse, it may charge fees for:

- (1) storage;
- (2) taking and handling samples; and
- (3) insurance.

[Acts 1981, 67th Leg., p. 1118, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.023. Statements**

On January 1, April 1, July 1, and October 1 of each year, each financial pool shall file with the department a sworn statement stating:

- (1) the amount of business done;
- (2) the number of negotiable receipts on which loans have been made and the value of the products represented by the receipts;
- (3) the total amount of the loans;
- (4) the total amount of the pool's obligations;
- (5) the persons to whom the pool's obligations are due;
- (6) the amount of interest paid by the pool on its obligations;

(7) the number of sales made for its clients;

(8) the gross receipts for each sale;

(9) the amount of the commission charged on each sale; and

(10) the number and value of all livestock mortgages and other security.

[Acts 1981, 67th Leg., p. 1118, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 53.024. Penalty**

(a) A person commits an offense if the person violates any provision of this chapter.

(b) An offense under this section is a misdemeanor or punishable by:

(1) a fine of not less than \$25 nor more than \$1,000;

(2) confinement in jail for not less than one year; or

(3) both fine and confinement under this subsection.

[Acts 1981, 67th Leg., p. 1118, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 54. MUTUAL LOAN CORPORATIONS**

Section	Purpose.
54.001.	Powers.
54.002.	Incorporators.
54.003.	Capital Stock Requirement for Incorporation.
54.004.	Capital Stock
54.005.	Investment by Other Corporations.
54.006.	Investment of Capital.
54.007.	Ratio of Capital to Loans.
54.008.	Loans and Discounts.
54.009.	Liability of Shareholder.
54.010.	Repurchase of Stock.
54.011.	Reports.
54.012.	Exemption From Franchise Tax.
54.013.	

**§ 54.001. Purpose**

A corporation may be formed under this chapter to aid shareholders of its common stock in:

- (1) producing, or producing and marketing, staple agricultural products; or
- (2) acquiring, raising, breeding, fattening, or marketing livestock.

[Acts 1981, 67th Leg., p. 1119, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 54.002. Powers**

(a) A corporation formed under this chapter may make loans to shareholders of its common stock for:

- (1) the production, or production and marketing, of staple agricultural products;
- (2) the acquisition, raising, breeding, fattening, or marketing of livestock; or
- (3) the purchase of capital stock of the corporation.

(b) To obtain money for loans, the corporation may purchase, sell, endorse, or discount notes of the shareholders of its common stock if the notes are secured by:

- (1) warehouse receipts or shipping documents for the shareholder's agricultural products;
- (2) chattel mortgages on the livestock or crops of the shareholder; or
- (3) other acceptable security.

(c) By endorsing a note under Subsection (b) of this section, a corporation becomes liable as a principal maker of the note.

[Acts 1981, 67th Leg., p. 1119, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 54.003. Incorporators

Ten or more persons, five of whom are citizens of this state, may form a corporation under this chapter.

[Acts 1981, 67th Leg., p. 1119, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 54.004. Capital Stock Requirement for Incorporation

At the time of filing the articles of incorporation, a corporation formed under this chapter must have fully paid-up capital stock of \$10,000 or more.

[Acts 1981, 67th Leg., p. 1119, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 54.005. Capital Stock

(a) The incorporators or the board of directors of a corporation formed under this chapter may divide the corporation's capital stock into preferred and common stock.

(b) If preferred stock is to be issued, the articles of incorporation must state:

- (1) the amount of preferred stock that the corporation may issue;
- (2) the conditions and procedure for the payment of dividends on preferred stock;
- (3) the rate at which preferred stock dividends are paid; and
- (4) the conditions and procedure for the retirement of preferred and common stock.

(c) A corporation may not pay dividends on its common stock until it has fully paid dividends on its preferred stock at the rate provided by its articles of incorporation.

[Acts 1981, 67th Leg., p. 1120, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 54.006. Investment by Other Corporations

After obtaining the approval of the banking commissioner, any corporation organized under the laws of this state other than a savings bank may invest any part of its money in the preferred stock of a corporation formed under this chapter.

[Acts 1981, 67th Leg., p. 1120, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 54.007. Investment of Capital

At all times, a corporation formed under this chapter shall have \$10,000 or more of its capital invested in securities approved by law for investment by savings banks.

[Acts 1981, 67th Leg., p. 1120, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 54.008. Ratio of Capital to Loans

(a) A corporation formed under this chapter shall automatically increase its capital stock at the rate of five percent of the amount of loans made by the corporation to shareholders of its common stock.

(b) The corporation's articles of incorporation and bylaws must state the requirement of Subsection (a) of this section.

[Acts 1981, 67th Leg., p. 1120, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 54.009. Loans and Discounts

(a) Except as provided by this subsection, each applicant for a loan or discount by a corporation formed under this chapter shall become a subscriber of the corporation's common stock in an amount equal to or greater than five percent of the amount of the loan or discount for which the person has applied. The board of directors may waive this requirement if the applicant owns a sufficient amount of stock at the time of application.

(b) An applicant shall pay for the stock required to be purchased under Subsection (a) of this section at or before the time that the loan is closed or the discount is granted.

(c) The requirements of Subsections (a) and (b) of this section must be stated in the articles of incorporation of a corporation formed under this chapter.

(d) A corporation formed under this chapter may not make loans in excess of an amount equal to 20 times its unimpaired capital stock represented by the part of its capital stock that is increased in accordance with Section 54.008 of this code.

(e) A corporation formed under this chapter may not charge a shareholder of its common stock interest on a loan at a rate that is greater than the rate of discount set by the Farm Credit Administration for discounts made by the federal intermediate credit banks plus three percent a year.

[Acts 1981, 67th Leg., p. 1120, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 54.010. Liability of Shareholder

(a) Except for debts contracted between a corporation formed under this chapter and a shareholder, a shareholder of common or preferred stock is not liable for the debts, contracts, or engagements of the corporation in an amount greater than the par value of the stock owned by the shareholder.

(b) Both common and preferred stock are non-assessable.

[Acts 1981, 67th Leg., p. 1121, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 54.011. Repurchase of Stock**

(a) A corporation formed under this chapter may purchase, out of its available funds, any of its outstanding stock.

(b) The corporation shall pay book value for stock purchased under this section, as conclusively determined by the corporation's directors.

(c) A corporation formed under this chapter shall state the provisions of Subsections (a) and (b) of this section in its articles of incorporation.

[Acts 1981, 67th Leg., p. 1121, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 54.012. Reports**

Before January 11 and July 11 of each year, a corporation formed under this chapter shall file with the secretary of state a report showing:

- (1) its financial condition on January 1 and July 1, respectively; and
- (2) the amount of outstanding preferred and common stock.

[Acts 1981, 67th Leg., p. 1121, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 54.013. Exemption From Franchise Tax**

Corporations formed under this chapter are not required to pay franchise taxes.

[Acts 1981, 67th Leg., p. 1121, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 55. COOPERATIVE CREDIT ASSOCIATIONS**

Section	
55.001.	Powers.
55.002.	Incorporators.
55.003.	Articles of Incorporation.
55.004.	Capital Stock.
55.005.	Loans.
55.006.	Ratio of Capital to Loans.
55.007.	Repurchase of Stock.
55.008.	Reports.
55.009.	Fees.
55.010.	Exemption From Franchise Tax.

**§ 55.001. Powers**

An association formed under this chapter may:

- (1) borrow money for and lend money to its members;
- (2) discount, rediscount, endorse, purchase, or sell notes, bills, or other evidences of indebtedness of its members that may be discounted or rediscounted under the rules prescribed by the Farm Credit Administration; and
- (3) exercise the powers authorized by the general corporation laws of this state unless the law granting the power conflicts with this chapter.

[Acts 1981, 67th Leg., p. 1121, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 55.002. Incorporators**

(a) Ten or more persons who fulfill the requirements of Subsection (b) of this section may organize a private cooperative credit association.

(b) To be eligible to be an incorporator a person must:

- (1) be a citizen of this state; and
- (2) be engaged in the production, or production and marketing, of staple agricultural products or in the raising, breeding, feeding, fattening, or marketing of livestock.

[Acts 1981, 67th Leg., p. 1122, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 55.003. Articles of Incorporation**

In addition to the requirements prescribed by the general corporation laws of the state, the articles of incorporation of an association formed under this chapter must state that the association may not obtain loans for, make loans to, purchase notes from, or discount notes for a person who is not a member of the association.

[Acts 1981, 67th Leg., p. 1122, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 55.004. Capital Stock**

(a) Except as provided by Subsection (b) of this section, an association may be organized under this chapter with or without capital stock.

(b) If an association formed under this chapter is organized to lend money secured by chattel mortgages on livestock, the association shall be organized with capital stock.

(c) An association formed under this chapter with capital stock automatically shall increase its stock at the rate of 10 percent of the amount of loans or discounts made by the association to its members.

[Acts 1981, 67th Leg., p. 1122, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 55.005. Loans**

(a) Each applicant for a loan or discount by an association formed under this chapter shall become a subscriber to the association's capital stock in an amount equal to 10 percent of the amount of the loan or discount for which application is made.

(b) The applicant shall pay for the stock required to be purchased by Subsection (a) of this section at or before the time that the loan is closed or the discount is granted.

[Acts 1981, 67th Leg., p. 1122, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 55.006. Ratio of Capital to Loans**

(a) The total amount of the outstanding loans or discounts of an association formed under this chapter may not exceed an amount equal to 10 times the

amount of the association's paid-up unimpaired capital stock.

(b) The articles of incorporation of an association formed under this chapter must state the requirement of Subsection (a) of this section.

[Acts 1981, 67th Leg., p. 1122, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 55.007. Repurchase of Stock

(a) The board of directors of an association formed under this chapter may authorize the purchase of the association's capital stock at the book value conclusively determined by the board and pay cash for the stock within one year thereafter if:

(1) the liabilities of the association are less than 50 percent of its assets; and

(2) the directors determined that the stock may be purchased without impairment of the association's financial condition.

(b) The board of directors in its discretion may retire pro rata stock held by a member or group of members whose loans have been paid in whole or part.

[Acts 1981, 67th Leg., p. 1122, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 55.008. Reports

Before January 11, April 11, July 11, and October 11, each association formed under this chapter with capital stock shall file with the secretary of state:

(1) an accurate report showing the association's financial condition and the amount of outstanding paid-up capital stock on January 1, April 1, July 1, or October 1 preceding the report; and

(2) a fee of \$2.50.

[Acts 1981, 67th Leg., p. 1123, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 55.009. Fees

(a) When the articles of incorporation of an association formed under this chapter are filed, the incorporators shall pay to the secretary of state a filing fee of \$10.

(b) Each association formed under this chapter without capital stock shall pay an annual license fee of \$10.

[Acts 1981, 67th Leg., p. 1123, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 55.010. Exemption From Franchise Tax

An association formed under this chapter is exempt from all franchise or other license taxes, except that:

(1) an association is not exempt from the annual license fee under Section 55.009 of this code; and

(2) an association is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if exempted by that chapter.

[Acts 1981, 67th Leg., p. 1123, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2786, ch. 752, § 15(c), eff. Jan. 1, 1982.]

### CHAPTER 56. AGRICULTURAL FINANCE CORPORATIONS

Section	
56.001.	Definitions.
56.002.	Purpose.
56.003.	Assets Represented by Acceptances of Banking Corporations.
56.004.	Capital Stock.
56.005.	Investment of Capital.
56.006.	Limit of Indebtedness.
56.007.	Stock Ownership.
56.008.	Regulation by Banking Commissioner.

#### § 56.001. Definitions

In this chapter:

(1) "Agricultural finance corporation" means a corporation formed under this chapter.

(2) "Ready marketable, staple, nonperishable agricultural products" means agricultural products that:

(A) are commonly dealt in ready markets so that their values are easily and definitely ascertainable and realized on short notice; and

(B) ordinarily do not substantially depreciate in quality during the period of immaturity of the obligations that are secured by or that represent those products.

[Acts 1981, 67th Leg., p. 1123, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 56.002. Purpose

An agricultural finance corporation may be organized to deal in:

(1) acceptances and other receipts that are used to aid or are issued because of the transportation, warehousing, distribution, or financing of ready marketable, staple, nonperishable agricultural products in domestic and foreign trade; and

(2) acceptances of banking corporations not secured by or representing any ready marketable, staple, nonperishable agricultural products.

[Acts 1981, 67th Leg. p. 1124, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 56.003. Assets Represented by Acceptances of Banking Corporations

At any time, the total assets of an agricultural finance corporation that are represented by acceptances of banking corporations not secured by or representing ready marketable, staple, nonperishable agricultural products may not exceed an amount equal to 10 percent of the unimpaired capital of the corporation.

[Acts 1981, 67th Leg., p. 1124, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 56.004. Capital Stock

At all times an agricultural finance corporation shall have authorized capital stock in the amount of \$500,000 or more.

[Acts 1981, 67th Leg., p. 1124, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 56.005. Investment of Capital**

At all times, an agricultural finance corporation shall have one-half or more of its paid-in capital invested in obligations of the United States, this state, or political subdivisions or incorporated cities of this state.

[Acts 1981, 67th Leg., p. 1124, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 56.006. Limit of Indebtedness**

(a) For the purposes of this section, the existing obligations of an agricultural finance corporation include the primary, secondary, fixed, and contingent obligations of the corporation but do not include an obligation for which a liable person has furnished to the corporation funds to pay the obligation at maturity.

(b) Except as provided by Subsection (c) of this section, an agricultural finance corporation may not enter into a contract of acceptance, guaranty, endorsement, or suretyship if the total of its existing obligations plus its obligations resulting from the contract exceeds an amount equal to five times the total of its unimpaired capital and surplus at the time of the contract.

(c) An agricultural finance corporation may exceed the limit set by Subsection (b) of this section if, before entering into the contract, the corporation obtains written authorization from the banking commissioner to do so. If authorization is obtained, the corporation may not exceed the limit set by the commissioner, and the limit set by the commissioner may not exceed an amount equal to 10 times the total of the corporation's unimpaired capital and surplus at the time of the contract.

(d) Except as provided by Subsection (e) of this section, if a corporation enters into a contract in violation of this section, the contract is unenforceable against the corporation.

(e) This section does not prevent the enforcement of a prohibited obligation by a holder who has acquired the obligation:

- (1) in due course;
- (2) for value;
- (3) before its maturity; and
- (4) without notice of its defect.

[Acts 1981, 67th Leg., p. 1124, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 56.007. Stock Ownership**

(a) Except as otherwise provided by this section, an agricultural finance corporation or any banking corporation or trust company, except a savings bank, may hold stock of:

- (1) an agricultural finance corporation; or
- (2) a corporation that is chartered under the laws of the United States or a state of the United States and that is principally engaged in financing

ready marketable, staple, nonperishable agricultural products.

(b) The total amount of stock held in accordance with Subsection (a) of this section may not exceed an amount equal to:

- (1) 10 percent of the capital and surplus of the acquiring corporation; or
- (2) 10 percent of the capital stock of the corporation of which the stock is to be held.

(c) Except in payment of debt, a banking corporation or trust company may not acquire stock of an agricultural finance corporation unless it first obtains express written authorization for the purchase from the banking commissioner under rules adopted by the banking commissioner.

(d) If a banking corporation or trust company acquires stock of an agricultural finance corporation in payment of debt, it shall promptly dispose of the stock unless it obtains express permission from the banking commissioner to retain the stock.

[Acts 1981, 67th Leg., p. 1125, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 56.008. Regulation by Banking Commissioner**

(a) An agricultural finance corporation is subject to the supervision and control of the banking commissioner and shall conform to the rules adopted by the banking commissioner.

(b) An agricultural finance corporation may not begin business until authorized to do so by the banking commissioner after it satisfactorily shows that it has complied with the law.

(c) An agricultural finance corporation is subject to the following requirements as if it were a state bank:

- (1) it shall make reports to the banking commissioner;
- (2) it shall permit periodic visitations and examinations conducted under the banking commissioner's direction; and
- (3) it shall pay fees for those examinations.

(d) The banking commissioner may take charge of and liquidate an agricultural finance corporation for causes prescribed for similar actions against a state bank.

[Acts 1981, 67th Leg., p. 1125, ch. 388, § 1, eff. Sept. 1, 1981.]

**TITLE 5. PRODUCTION, PROCESSING,  
AND SALE OF HORTICULTURAL  
PRODUCTS**

**SUBTITLE A. SEED AND FERTILIZER**

**CHAPTER 61. INSPECTION, LABELING, AND  
SALE OF AGRICULTURAL AND  
VEGETABLE SEED**

Section 61.001.	Definitions.
61.002.	Administration; Rules.

Section	
61.003.	Classification of Seeds.
61.004.	Labeling of Agricultural Seed.
61.005.	Labeling of Vegetable Seed.
61.006.	Labeling of Treated Seed.
61.007.	Certified Seed.
61.008.	Noxious Weed Content.
61.009.	Germination and Purity Testing.
61.010.	Inspection of Seed.
61.011.	Agricultural Seed Inspection Fee and Permit.
61.012.	Cancellation or Revocation of Agricultural Seed Permit.
61.013.	Vegetable Seed License.
61.014.	Stop-Sale Order.
61.015.	Seizure of Seed Not in Compliance.
61.016.	Exceptions.
61.017.	Prosecutions.
61.018.	Penalties.

### § 61.001. Definitions

In this chapter:

(1) "Agricultural seed" includes the seed of any grass, forage, cereal, or fiber crop, any other kind of seed commonly recognized in this state as agricultural or field seed, and any mixture of those seeds.

(2) "Vegetable seed" includes the seed of any crop that is grown in a garden or on a truck farm and is generally known and sold in this state under the name of vegetable seed.

(3) "Advertisement" means a representation, other than that on a label, disseminated in any manner or by any means and relating to seed within the scope of this chapter.

(4) "Labeling" includes any written, printed, or graphic representation in any form, including a label or an invoice, accompanying and pertaining to seed in bulk or containers.

[Acts 1981, 67th Leg., p. 1126, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 61.002. Administration; Rules

(a) The department shall administer and enforce this chapter and may employ qualified persons and incur expenses as necessary in performing those duties. The number of persons employed shall be set in the General Appropriations Act.

(b) The department may adopt rules as necessary for the efficient enforcement of this chapter. Before adopting rules under this chapter, the department shall:

(1) publish a description of the proposed action or the text of the proposed rules or amendments in three newspapers of general circulation throughout the state for three consecutive weeks; and

(2) conduct a public hearing on the proposed rule or amendment.

(c) The department may establish and maintain or provide for seed testing facilities as necessary to administer this chapter.

(d) Immediately after adopting a rule under Section 61.003, 61.006, or 61.008 of this code, the department shall give public notice of the rule in the manner provided by Subsection (b)(1) of this section. The department shall make available copies of the rule to any person who requests a copy.

(e) The department may cooperate with the United States Department of Agriculture in the enforcement of seed law.

[Acts 1981, 67th Leg., p. 1127, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 61.003. Classification of Seeds

The department by rule may classify and define types, kinds, classes, genera, species, subspecies, hybrids, and varieties of agricultural, vegetable, and weed seeds for the purposes of this chapter.

[Acts 1981, 67th Leg., p. 1127, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 61.004. Labeling of Agricultural Seed

(a) Except as otherwise provided by this section, each container of agricultural seed that is sold or offered or exposed for sale in this state shall bear or have attached in a conspicuous place a plainly written or printed label in English that contains the following information relating to the contents of the container:

(1) the name of the kind or the kind and variety of each agricultural seed component present in excess of five percent of the whole, and the percentage by weight of each;

(2) the lot number or other lot identification;

(3) for each named agricultural seed:

(A) the percentage of germination, exclusive of hard seed, as determined by rule of the department;

(B) the percentage of hard seed, if present; and

(C) the calendar month and year that the test was completed to determine the percentage of germination and hard seed;

(4) The percentage by weight of agricultural seeds other than those named on the label;

(5) the origin, if known, of all agricultural seeds;

(6) the percentage by weight of all weed seeds;

(7) the name and number per pound of each noxious weed seed;

(8) The percentage by weight of inert matter;

(9) the net weight; and

(10) the name and address of the person who labeled the seed or who sells or offers or exposes the seed for sale.

(b) If in accordance with the rules of the department the kind of seed in a container is generally

labeled by variety but the label does not state the variety, the label shall show the name of the kind and be printed with: "Variety Not Stated." The label on hybrid seed shall state that the seed is hybrid. A person may not use the word "type" in any labeling in connection with the name of an agricultural seed variety.

(c) If the origin of the seed is unknown, the label shall state that the origin is unknown.

(d) The noxious weed content shall be determined according to the method prescribed under Section 61.008 of this code and the stated content is subject to the tolerances established under that section.

(e) Following the statement of germination and hard seed, a label may show a statement of total germination and hard seed.

[Acts 1981, 67th Leg., p. 1127, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.005. Labeling of Vegetable Seed**

(a) Each container of vegetable seed that is sold or offered or exposed for sale in this state shall bear or have attached in a conspicuous place a plainly written or printed label in English that provides the information relating to the contents of the container required by this section.

(b) If the container weighs one pound or more, the label shall show:

- (1) the name of each kind and variety of vegetable seed component present in excess of five percent of the whole and the percentage by weight of each in order of predominance;
- (2) the kind and variety of seed;
- (3) the lot number or other lot identification;
- (4) the percentage of purity;
- (5) the germination and the date of the test to determine germination;
- (6) the name and number of noxious weed seeds per pound; and
- (7) the name and address of the person who labeled the seed.

(c) If the container weighs less than one pound, the label shall show:

- (1) the kind and variety of seed;
- (2) the calendar month and year of the germination test or the year for which the seed was packaged;
- (3) if the percentage of germination is less than the standard prescribed by rule:
  - (A) the percentage of germination, exclusive of hard seed;
  - (B) the percentage of hard seed; and
  - (C) the words "Below Standard" printed in a size not smaller than eight-point type; and
- (4) the name and address of the person who labeled the seed.

(d) The labeling requirements of this section are met if the seed is weighed from a properly labeled container in the presence of the purchaser.

[Acts 1981, 67th Leg., p. 1128, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.006. Labeling of Treated Seed**

(a) Seed that has been subjected to a treatment, or to which a substance has been applied, for the purpose of reducing, controlling, or repelling disease organisms, insects, or other pests that attack seeds or seedlings shall be labeled in accordance with rules of the department.

(b) The public hearing required by Section 61.002 of this code for rulemaking under this section shall be conducted in Austin.

[Acts 1981, 67th Leg., p. 1128, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.007. Certified Seed**

(a) A person may not sell or offer, expose, or transport for sale agricultural or vegetable seed that is represented by labeling or an advertisement to be certified seed unless:

- (1) a seed certifying agency has determined that the seed conforms to standards of purity and identity as to kind, species, subspecies, or variety in accordance with the rules of the certifying agency; and
- (2) the seed bears an official label issued by a seed certifying agency certifying that the seed is of a specific class, kind, species, subspecies, or variety.

(b) A person may not sell or offer, expose, or transport for sale seed labeled by variety name but not certified by an official seed certifying agency if it is a variety required by federal law to be sold only as a class of certified seed, except that seed from a certified lot may be labeled by variety name if used in a mixture by, or with the approval of, the owner of the variety.

[Acts 1981, 67th Leg., p. 1129, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.008. Noxious Weed Content**

The department by rule may classify noxious weeds and establish the rate allowed or prohibit the inclusion of a noxious weed in a container of agricultural or vegetable seed.

[Acts 1981, 67th Leg., p. 1129, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.009. Germination and Purity Testing**

(a) All agricultural or vegetable seed sold or offered, exposed, or transported for sale in this state shall be tested to determine the percentage of germination.

(b) Except as otherwise provided by this subsection, the germination test shall be performed within nine months, not including the calendar month in which the test was completed, immediately prior to being sold or offered, exposed, or transported for sale. The department by rule may designate a period of time longer than nine months if the department finds that the seed is packaged in a container or under conditions that will maintain the viability of the seed under ordinary conditions of handling during the longer period of time.

(c) At the request of a farmer or dealer, the department may conduct or provide for the testing of seed for purity and germination. The department may fix by rule and collect fees for tests made under this subsection.

[Acts 1981, 67th Leg., p. 1129, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 61.010. Inspection of Seed

(a) At the time, place, and to the extent the department considers necessary, the department shall sample, inspect, analyze, and test agricultural and vegetable seed transported, sold, or offered or exposed for sale in this state for sowing purposes in order to determine if the seed is in compliance with this chapter. The department shall promptly notify of any violation the person who transported, sold, or offered or exposed the seed for sale.

(b) The department shall adopt rules governing the methods of sampling, inspection, analysis, and testing and the tolerances to be allowed in the administration of this chapter. The rules adopted shall be in general accord with officially prescribed practice in interstate commerce.

(c) In order to gain access to seed or to records from authorized personnel, the department is entitled to enter any public or private premises during regular business hours or any land, water, or air conveyance at any time when the conveyance is accessible.

[Acts 1981, 67th Leg., p. 1129, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 61.011. Agricultural Seed Inspection Fee and Permit

(a) A person who sells, or offers, exposes, or otherwise distributes for sale agricultural seed within this state for planting purposes shall pay an inspection fee in the manner provided by Subsection (b) or (c) of this section. A person may not use both procedures for fee payment. The person shall pay the fee during each germination period that the seed remains offered or exposed for sale. If the germination test has expired on any seed, the custodian of the seed is responsible for payment of the fee.

(b) In order to pay the fee, a person may purchase from the department a label known as the "Texas

Tested Seed Label." The department by rule may prescribe the form of the label and the manner of showing the information required by Section 61.004 of this code. The purchaser shall attach the label to each container of seed sold or offered or otherwise distributed for sale. If the seed is in bulk, the person selling or offering, exposing, or otherwise distributing the seed for sale shall furnish the purchaser one Texas Tested Seed Label for each 100 pounds or fraction of 100 pounds of seed.

(c) Instead of purchasing a Texas Tested Seed Label, a person may pay the fee on the total number of pounds of seed sold or offered, exposed, or otherwise distributed for sale in this state. In order to pay the fee on this basis, the person must apply to the department for a permit. The department shall issue to each applicant a permit bearing an assigned number. The holder of the permit shall:

(1) maintain records, as required by the department, that accurately reflect the total pounds of seed subject to the fee that are handled, sold, or offered or distributed for sale;

(2) file with the department quarterly sworn reports covering the total pounds of all sales of seed subject to the fee sold during the preceding quarter; and

(3) affix to each container of seed subject to the fee or to the invoice of subject seed sold in bulk a plainly written statement of the information required under Section 61.004 of this code.

(d) Quarterly reports filed under Subsection (c)(2) of this section are due within 30 days after the last day of November, February, May, and August. Unless filed in accordance with prior written approval of the department for late filing, a person who does not file the report within the allotted time shall pay to the department a penalty of \$10 or an amount equal to 10 percent of the amount of fee due, whichever is greater.

(e) The department is entitled to examine the records of a permittee under Subsection (c) of this section during regular business hours. If the permittee is located outside of this state, the permittee shall maintain the records and information required by Subsection (c) of this section in this state or pay all costs incurred in the auditing of records at another location. The department shall promptly furnish to the permittee an itemized statement of any costs incurred in an out-of-state audit and the permittee shall pay the costs not later than the 30th day following the date of the statement.

(f) The department may set the fee, prescribe and furnish forms, and require the filing of reports necessary for the payment of the inspection fee.

[Acts 1981, 67th Leg., p. 1130, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.012. Cancellation or Revocation of Agricultural Seed Permit**

(a) The department may cancel an agricultural seed permit issued under Section 61.011(c) of this code if the permittee fails to observe the rules adopted, to file a report required, or to pay a fee required under that section.

(b) The department shall revoke the permit of any person who fails either to maintain records in this state or to pay for an out-of-state audit under Section 61.011(e) of this code.

[Acts 1981, 67th Leg., p. 1131, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.013. Vegetable Seed License**

(a) A person may not sell or offer, expose, or otherwise distribute for sale vegetable seed for planting purposes in this state unless the person possesses a valid vegetable seed license issued under this section.

(b) The department may fix by rule and collect a fee for the issuance of a vegetable seed license.

(c) An applicant for a vegetable seed license shall apply for the license on forms prescribed by the department.

(d) A vegetable seed license expires on August 31 of each year.

(e) A person who sells or offers, exposes, or otherwise distributes for sale vegetable seed in containers bearing the name and address of a licensee under this section is not required to be licensed under this section.

[Acts 1981, 67th Leg., p. 1131, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.014. Stop-Sale Order**

(a) If the department has reason to believe that agricultural or vegetable seed is in violation of any provision of this chapter, the department may issue and enforce a written or printed order to stop the sale of the seed. The department shall present the order to the owner or custodian of the lot of seed. The person who receives the order may not sell the seed until the seed is discharged by a court under Subsection (b) of this section or until the department finds that the seed is in compliance with this chapter.

(b) The owner or custodian of seed prohibited from sale by an order of the department is entitled to sue in a court of competent jurisdiction where the seed is found for a judgment as to the justification of the order and for the discharge of the seed in accordance with the findings of the court.

(c) This section does not limit the right of the department to proceed as authorized by another section of this chapter.

[Acts 1981, 67th Leg., p. 1131, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.015. Seizure of Seed Not in Compliance**

(a) The department may sue in a court of competent jurisdiction in the area in which the seed is located for the seizure of any lot of agricultural or vegetable seed that is not in compliance with this chapter.

(b) If the court finds that the seed is not in compliance with this chapter, the court may condemn the seed. Condemned seed shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in accordance with the law of this state.

(c) The court may not condemn the seed unless the owner or custodian of the seed is given the opportunity to apply to the court for the release of the seed or for permission to condition or relabel the seed to bring it into compliance with this chapter.

[Acts 1981, 67th Leg., p. 1131, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.016. Exceptions**

(a) Sections 61.001, 61.003-61.005, and 61.008 of this code do not apply to:

(1) seed or grain not intended for sowing purposes;

(2) seed in storage for cleaning or conditioning, if the label or other records pertaining to the seed bear the phrase "seed for conditioning"; or

(3) seed being transported or consigned to a seed cleaning or conditioning establishment for cleaning or conditioning, if the invoice or labeling accompanying the seed bears the phrase "seed for conditioning."

(b) The exceptions provided by Subsection (a) of this section do not affect the criminal liability of a person for false or misleading labeling or advertising of unclean seed under Section 61.018 of this code.

(c) This chapter does not prevent one farmer from selling to another farmer seed grown on his or her own farm without having the seed tested or labeled as required by this chapter if the seed:

(1) is not advertised in the public communications media outside the vendor's home county;

(2) is not sold or offered or exposed for sale by an individual or organization for the farmer; and

(3) is not shipped by a common carrier.

[Acts 1981, 67th Leg., p. 1132, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 61.017. Prosecutions**

(a) If the department has reason to believe that a person has violated any provision of this chapter, the department shall conduct a private hearing on the alleged violation, giving the accused the opportunity to appear and, either in person or by agent or attorney, present evidence. After the hearing, or without a hearing if the accused or the agent or attorney of the accused fails or refuses to appear,

the department may file with the appropriate district or county attorney the evidence of the violation or take other steps necessary to institute the prosecution of the violation. Venue for the prosecution is in the area in which the violation occurred.

(b) The county or district attorney or the attorney general, as applicable, shall institute proceedings at once against the person charged with the violation, if in his or her judgment the information submitted warrants the action.

(c) After judgment by a court in any case arising under this chapter, the department may publish any information pertinent to the issuance of the judgment in any media that it considers appropriate. [Acts 1981, 67th Leg., p. 1132, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 61.018. Penalties

(a) A person commits an offense if the person sells or offers, exposes, or transports for sale agricultural or vegetable seed within this state that:

(1) has not been tested for germination in accordance with Section 61.009 of this code;

(2) is not labeled in accordance with Section 61.004, 61.005, or 61.006 of this code, as applicable;

(3) has false or misleading labeling;

(4) is represented by a false or misleading advertisement;

(5) contains noxious weed seeds in excess of the limitations per pound, allowing for tolerances, prescribed under Section 61.008 of this code;

(6) has labeling or advertising subject to this chapter that represents the seed to be certified in violation of Section 61.007 of this code; or

(7) is labeled by variety name in violation of Section 61.007(b) of this code.

(b) A person commits an offense if the person:

(1) detaches, alters, defaces, or destroys any label provided for in this chapter or the rules adopted under this chapter;

(2) alters or substitutes seed in a manner that may defeat the purposes of this chapter;

(3) disseminates a false or misleading advertisement concerning agricultural or vegetable seed;

(4) fails to comply with a stop-sale order issued under Section 61.014 of this code;

(5) hinders or obstructs an authorized person in the performance of duties under this chapter;

(6) uses the word "type" in violation of Section 61.004(b) of this code; or

(7) violates any other provision of this chapter.

(c) An offense under this section is a misdemeanor punishable by a fine not exceeding \$50, unless the accused has been previously convicted of a similar offense, in which case the fine may not exceed \$200.

(d) If a person is prosecuted under this section for selling or offering or exposing for sale in this state agricultural or vegetable seed that is incorrectly labeled or represented as to kind, variety, type, treatment, or origin and that cannot be identified by examination, it is a defense to prosecution that the defendant obtained an invoice or grower's declaration giving kind, kind and variety, or kind and type, treatment, and origin, if required.

[Acts 1981, 67th Leg., p. 1132, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 62. SEED AND PLANT CERTIFICATION

Section	
62.001.	Definitions.
62.002.	State Seed and Plant Board.
62.003.	Classes of Certified Seed.
62.004.	Eligibility for and Standards of Certification.
62.005.	Licensing of Producers of Foundation, Registered, or Certified Seed.
62.006.	Registration of Plant Breeders.
62.007.	Protection of Foundation, Registered, and Certified Cotton Varieties.
62.008.	Certification of Seed and Plants.
62.009.	Seed and Plants From Outside the State.
62.010.	Revocation of Registration, License, or Certification.
62.011.	Penalties.

### § 62.001. Definitions

In this chapter:

(1) "Board" means the State Seed and Plant Board.

(2) The term "certified seed" or "certified plant" means a seed or plant that has been determined by a seed or plant certifying agency to meet agency rules and standards as to genetic purity and identity.

(3) "Plant" includes plant parts.

[Acts 1981, 67th Leg., p. 1134, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 62.002. State Seed and Plant Board

(a) The State Seed and Plant Board is an agency of the state. The board is composed of six members appointed by the governor with the advice and consent of the senate. Membership must include:

(1) one individual from the Soils and Crop Sciences Department, Texas Agricultural Experiment Station, Texas A & M University;

(2) one individual from the Department of Plant and Soil Sciences, Texas Tech University;

(3) one individual licensed as a Texas Foundation, Registered, or Certified seed or plant producer who is not employed by a public institution;

(4) one individual who sells Texas Foundation, Registered, or Certified seed or plants;

(5) one individual actively engaged in farming but not a producer or seller of Texas Foundation, Registered, or Certified seed or plants; and

(6) the head of the seed division of the department.

(b) An individual appointed from a state university or the department serves on the board as an ex officio member. A member serves for a term of two years and until a successor has qualified. Members serve without compensation but are entitled to reimbursement by the state for actual expenses incurred in the performance of their duties.

(c) A member whose employment is terminated with the agency or department from which the member was appointed or who ceases to be engaged in the business or professional activity that the member was appointed to represent vacates membership on the board.

(d) The board annually shall elect a chairman, vice-chairman, and secretary. The board shall meet at times and places determined by the chairman.

(e) The State Seed and Plant Board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act the board is abolished, and this chapter expires effective September 1, 1987.

[Acts 1981, 67th Leg., p. 1134, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.003. Classes of Certified Seed**

(a) The four classes of certified seed and plants are Breeder, Foundation, Registered, and Certified.

(b) A Breeder seed or Breeder plant is directly controlled by the originating or sponsoring person or the person's designee and is the primary source for the production of seed and plants of the other classes.

(c) A Foundation seed or Foundation plant is the progeny of Breeder or Foundation seed or plants and is produced and handled under the procedures established, in accordance with federal requirements, by a seed or plant certifying agency for the Foundation class of seed or plants for the purpose of maintaining genetic purity and identity.

(d) A Registered seed or Registered plant is the progeny of Breeder or Foundation seed or plants and is produced and handled under procedures established, in accordance with federal requirements, by a seed or plant certifying agency for the Registered class of seed or plants for the purpose of maintaining genetic purity and identity.

(e) A Certified seed or Certified plant is the progeny of Breeder, Foundation, or Registered seed or plants, except as otherwise provided by federal law, and is produced and handled under procedures established, in accordance with federal requirements, by a seed or plant certifying agency for the Certified

class of seed or plants for the purpose of maintaining genetic purity and identity.

[Acts 1981, 67th Leg., p. 1134, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.004. Eligibility for and Standards of Certification**

(a) The board may establish, not inconsistent with federal law, the eligibility of various kinds and varieties of seed and plants for genetic purity and identity certification and the procedures for that certification.

(b) The board may establish standards of genetic purity and identity, not inconsistent with federal law, for classes of certified seed and plants for which the board determines that standards are desirable. In establishing the standards, the board may consider all factors affecting the quality of seed and plants.

(c) The board shall report to the department the kinds and varieties of seed and plants eligible for certification and the standards adopted for certification eligibility.

[Acts 1981, 67th Leg., p. 1135, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.005. Licensing of Producers of Foundation, Registered, or Certified Seed**

(a) A person who wants to produce a certified class of seed or plant for which the board has established standards of genetic purity and identity may apply to the board for licensing as a Foundation, Registered, or Certified producer of seed or plants. To be licensed as a producer, a person must satisfy the board that:

(1) he or she is of good character and has a reputation for honesty;

(2) his or her facilities meet board requirements for producing and maintaining seed or plants for the certification generations desired; and

(3) he or she has met any other board requirements as to knowledge of the production or maintenance of seed or plants for the certification generations for which he or she applies to be licensed.

(b) The board may adopt rules governing the production and handling by licensed producers of certified classes of seed and plants to ensure the maintenance of genetic purity and identity.

(c) A license to produce Foundation, Registered, or Certified seed or plants is not transferable and is permanent unless revoked as provided in this chapter. A person licensed as a producer of Foundation, Registered, or Certified seed or plants is eligible to produce certified seed or plants, as provided in the license, of the class for which he or she is licensed or of any lower class of certified seed or plants, as determined by the board.

[Acts 1981, 67th Leg., p. 1135, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.006. Registration of Plant Breeders**

(a) A person engaging in the development, maintenance, or production of seed or plants for which standards of genetic purity and identity have been established by the board may apply to the board for registration as a plant breeder. The applicant shall apply on forms prescribed by the board and shall include with the application a nonrefundable registration fee of not more than \$100, as determined by the board. To be registered as a plant breeder, a person must satisfy the board that the person is skilled in the science of plant breeding. The board may require skill to be shown by evidence of accomplishments in the field and may require an oral or written examination in the subject.

(b) A certificate of registration is not transferable and is permanent unless revoked as provided in this chapter.

[Acts 1981, 67th Leg., p. 1135, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.007. Protection of Foundation, Registered, and Certified Cotton Varieties**

(a) The board shall adopt rules governing the registration for certification eligibility of newly developed varieties of cotton. A person desiring to register a new variety of cotton shall apply for registration to the board on forms prescribed by the board. To obtain registration for a new variety of cotton, a person must satisfy the board that the cotton to be registered is a distinct new variety and must meet board requirements regulating control of production, maintenance, and handling of the cotton for genetic purity and identity.

(b) On issuance of a certificate of registration for a new cotton variety, the board shall notify the department of the eligibility for certification of seed of the variety.

(c) After issuance of a certificate of registration for a new cotton variety, a person may not use the name given the new variety by the registrant in the sale of noncertified cottonseed for a period of 17 years from the date of issuance of the certificate of registration. This subsection does not apply to a variety for which an application is pending for United States plant variety protection, not specifying sale by variety name only as a class of certified seed, nor to a variety for which a certificate has been issued for United States plant variety protection, not specifying sale by variety name only as a class of certified seed.

(d) This section does not require registration of new varieties of cotton. On 10 days' notice to the board, a person may withdraw from the operation of this section a cotton variety previously registered to that person.

(e) This section does not prohibit contracts between a registrant and seedmen or farmers for the

production or sale of certified seed of the new cotton variety.

(f) This section does not prohibit one farmer from selling to another farmer cottonseed of a new variety grown on his or her own farm in accordance with Section 61.016(c) of this code.

(g) If the board determines that a critical situation exists because rain, hail, drouth, insects, or other natural elements beyond producers' control have reduced the supply of planting seed of a registered cotton variety, the board may hold a public hearing to determine the extent of the emergency. The board shall publish notice of the time, place, and nature of the hearing in at least three newspapers of general circulation in the state at least seven days before the hearing. At the hearing and after presentation of evidence from interested parties, the board may allow noncertified seed grown from certified seed of the variety in which a shortage exists to be sold by variety name for that crop year only. This subsection does not apply to a variety for which an application is pending for United States plant variety protection, specifying sale by variety name only as a class of certified seed, nor to a variety for which a certificate has been issued for United States plant variety protection, specifying sale by variety name only as a class of certified seed.

(h) This section does not apply to seeds marketed or approved for certification eligibility before September 1, 1969.

[Acts 1981, 67th Leg., p. 1136, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.008. Certification of Seed and Plants**

(a) The department is the certifying agency in Texas for the certification of seed and plants. The department shall employ a sufficient number of inspectors from persons nominated by the board to carry out the inspection provisions of this chapter. Inspectors must meet qualifications set by the board.

(b) A person who is licensed as a Foundation, Registered, or Certified seed or plant producer, who is registered as a plant breeder, or who has a certificate of registration for a cotton variety is eligible to have seed or plants of an eligible class and variety certified by the department. On request by a licensed producer, registered plant breeder, or registrant of a cotton variety to have seed or plants certified, the department shall inspect the producer's or registrant's fields, facilities, and seed or plants. Inspection may include tests approved by the board and carried out by inspectors under the authority of the department.

(c) After inspection, if the department determines that the production of seed or plants has met the standards and rules prescribed by the board, it shall cause to be attached to each container of the product a label identifying the seed or plant and the certified

class and including other information required by statute or by rule of the board. The board shall prescribe the format of the label.

(d) The department shall fix and collect a fee for the issuance of a certification label in an amount necessary to cover the costs of inspection and labels. [Acts 1981, 67th Leg., p. 1137, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.009. Seed and Plants From Outside the State**

(a) The department may adopt rules, including testing requirements and standards, which must be met before seed or plants represented to be of a certified class may be shipped into the state for distribution in the state. The rules adopted shall be designed to ensure buyers in the state of having available certified seed and plants of known origin, genetic purity, and identity and shall correspond to appropriate rules used in certifying seed and plants produced in Texas.

(b) The department may require inspections of seed and plants represented to be of a certified class and shipped into the state for distribution in the state and may collect fees to cover costs of inspection, as determined by the department. The department may require inspection fee payment before distribution in the state.

(c) A person may not distribute in this state seed or plants represented to be of a certified class and shipped into the state for distribution in the state, unless the person has first complied with any rules, including testing requirements, adopted by the department for seed or plants shipped into the state.

(d) A person may not sell or offer for sale in this state seed or plants represented to be of a certified class and shipped into the state for distribution in the state, unless the seed or plants have been certified by an official certifying agency in the state, province, or country of origin or have been certified by the department.

(e) Seed or plants shipped into the state for distribution in the state which are represented to be of a certified class and which are found by the department after investigation to violate the requirements of this section are restricted from distribution. In addition, the department may order the seed or plants in violation confiscated and retained under general supervision of the department. An owner or consignee of restricted or confiscated seed or plants may appeal the order by filing an appeal within 10 days of the order. Appeal is in the county court of the county where the seed or plants are restricted or were confiscated. The appeal in county court is by trial de novo. If no appeal is filed as provided in this section or if after an appeal in county court, the department's action is not reversed, the department may destroy confiscated seed or plants.

[Acts 1981, 67th Leg., p. 1137, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.010. Revocation of Registration, License, or Certification**

(a) If an inspector reports to the department that a registered plant breeder or licensed producer of Foundation, Registered, or Certified seed or plants has made exaggerated claims for products or has failed to observe any rule governing the maintenance and production of a certified class of seed or plants that he or she is registered or licensed to produce or maintain, the department may give written notice to the breeder or producer of the time and place of a revocation hearing to be held by the department not later than the 10th day following the day on which notice is issued.

(b) If at the hearing, the department finds that the registered plant breeder or licensed producer has made exaggerated claims or has violated any rule for the production and maintenance of the certified class of seed or plants involved, the department may revoke the registration or license and order the cancellation and withdrawal of all appropriate certification labels previously issued for the seed or plants.

(c) A registered plant breeder or licensed producer whose registration or license has been revoked and whose certification labels have been canceled and withdrawn may appeal the action to the board by filing a notice of appeal with the department within 30 days of the revocation. The department shall report the notice of appeal to the board, which shall give written notice of the time and place for an appeal hearing to the appellant. The hearing on appeal may not be less than 10 nor more than 30 days after the day on which notice of appeal is filed with the department. If the department's action is reversed at the appeal hearing, the board shall direct the department to reinstate the registration or license and reissue certification labels for seed or plants for which labels were previously canceled and withdrawn.

[Acts 1981, 67th Leg., p. 1138, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 62.011. Penalties**

(a) A person permits an offense if the person:

(1) sells or offers for sale in this state seed or plants with labeling or packaging accompanying the seed or plants using the terms "from officially inspected fields," "state inspected," "approved seed," "approved plants," "approved sods," "approved trees," "inspected fields," "foundation seed," "certified plants," or terms having the same meaning, unless the seed or plants have been certified as Foundation, Registered, or Certified seed or plants;

(2) represents himself or herself to be a registered plant breeder or licensed producer of Foundation, Registered, or Certified seed or plants un-

less he or she has been registered or licensed under this chapter;

(3) sells or offers for sale in this state Foundation, Registered, or Certified seed or plants that are not in compliance with this chapter or with the rules adopted under this chapter;

(4) sells or offers for sale seed or plants represented to be certified in explicit oral or written statements or by misleading oral or written statements if the seed or plants have not been certified or have not been certified as being of the class of which they are represented;

(5) violates Section 62.007(c) of this code;

(6) violates Section 62.009(c), (d), or (e) of this code.

(b) An offense under Subsection (a)(1), (a)(2), or (a)(6) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$10 nor more than \$100;

(2) confinement in county jail for not more than 30 days; or

(3) both fine and confinement under this subsection.

(c) An offense under Subsection (a)(3) or (a)(4) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$200 nor more than \$500;

(2) confinement in county jail for not more than 60 days; or

(3) both fine and confinement under this subsection.

(d) An offense under Subsection (a)(5) of this section is a misdemeanor punishable by a fine of not more than \$1,000.

[Acts 1981, 67th Leg., p. 1138, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 63. COMMERCIAL FERTILIZER**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
63.001.	Definitions.
63.002.	Commercial Fertilizer.
63.003.	Administration.
63.004.	Rules.
63.005.	Publications.
63.006.	Sales Among Manufacturers.

**SUBCHAPTER B. GRADES**

63.021.	Grade Statements.
63.022.	Grade Lists.

**SUBCHAPTER C. REGISTRATION**

63.031.	Registration Required.
63.032.	Application for Registration.
63.033.	Term.
63.034.	Fertilizers Ineligible for Registration.
63.035.	Refusal or Cancellation.

**SUBCHAPTER D. LABELING**

Section	
63.051.	Required Label.
63.052.	Misleading Label.
63.053.	Label Restrictions.

**SUBCHAPTER E. FEES**

63.071.	Inspection Fee.
63.072.	Quarterly Tonnage Report and Inspection Fee Payment.
63.073.	Collection Fee for Late Payment.
63.074.	Records; Additional Reports; Audits.
63.075.	Disposition and Use of Fees.

**SUBCHAPTER F. INSPECTION, SAMPLING, AND ANALYSIS**

63.091.	Inspection and Sampling; Entry Power.
63.092.	Procedure for Sampling and Analysis.
63.093.	Identification of Sample.
63.094.	Independent Analysis of Sample.
63.095.	Testing of Samples on Request.

**SUBCHAPTER G. ENFORCEMENT; REMEDIES**

63.121.	Detention of Fertilizer.
63.122.	Condemnation of Detained Fertilizer.
63.123.	Warnings.
63.124.	Suit to Recover Fees.
63.125.	Prosecutions.
63.126.	Appeal of Administrative Order or Ruling.

**SUBCHAPTER H. PENALTIES**

63.141.	General Penalty.
63.142.	Distribution of Misbranded Fertilizer.
63.143.	Distribution of Adulterated Fertilizer.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 63.001. Definitions**

In this chapter:

(1) "Board" means the board of regents of The Texas A & M University System.

(2) "Brand" means the term, design, trademark, or other specific designation under which a commercial fertilizer is distributed.

(3) "Bulk" means any lot of commercial fertilizer that is not in a closed container at the time it passes to the possession of the consumer and includes that fertilizer at any stage of distribution.

(4) "Container" means a bag, box, carton, bottle, barrel, tank, package, apparatus, device, appliance, or other item of any capacity into which a commercial fertilizer is packed, poured, stored, or placed for handling, transporting, or distributing.

(5) "Director" means the director of the program appointed under Section 63.003 of this code.

(6) "Distribute" means sell, offer for sale, expose for sale, consign for sale, barter, exchange, transfer possession or title, or otherwise supply.

(7) "Fertilizer material" means a solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant

nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop or for compounding a mixed fertilizer. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no grade claim is made other than to identify the product.

(8) "Grade" means the percentages by avoirdupois weight of total nitrogen, available phosphoric acid ( $P_2O_5$ ), and soluble potash ( $K_2O$ ) guaranteed in a fertilizer.

(9) "Mixed fertilizer" means a solid or nonsolid product that results from the combination, mixture, or simultaneous application of two or more fertilizer materials by a manufacturer, processor, mixer, or contractor. The term may include a specialty fertilizer or manipulated manure, but does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no grade claim is made other than to identify the product.

(10) "Manipulated manure" means a substance composed of the excreta of an animal, plant remains, or a mixture of those substances, for which a grade claim is made for a purpose in addition to identification of the product.

(11) "Official sample" means a sample taken by the director and designated as official by the director.

(12) "Registrant" means a person who registers a commercial fertilizer under this chapter.

(13) "Specialty fertilizer" means a fertilizer distributed primarily for nonfarm use, including use on or in home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, or nurseries. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no grade claim is made other than to identify the product.  
[Acts 1981, 67th Leg., p. 1140, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.002. Commercial Fertilizer**

(a) Except as otherwise provided by this section, a substance is a commercial fertilizer subject to this chapter if it is:

- (1) a fertilizer material;
- (2) a mixed fertilizer; or

(3) another substance, material, or element, including a pesticide, that is intended for use or is used as an ingredient or component of a mixture of materials that is used, designed or represented for use, or claimed to have value, in promoting plant growth.

(b) Unprocessed, unpackaged, or unmanipulated lime, limestone, marl, or gypsum is not a commercial fertilizer subject to this chapter.

(c) The excreta of an animal, plant remains, or mixtures of those substances, are not commercial fertilizers subject to this chapter if no claim of grade is made for the substance or mixture.

(d) A plant food element or additive other than nitrogen, phosphorus, or potassium, determinable by an acceptable method, may be incorporated into a commercial fertilizer and guaranteed only if, and in the manner, authorized by rule of the director. Any additional plant food element or additive is subject to the inspection, analysis, and other provisions of this chapter.

[Acts 1981, 67th Leg., p. 1141, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.003. Administration**

(a) This chapter is administered by a director appointed by the board.

(b) The office of the director is in College Station.

(c) The board may appoint a state chemist to whom the director may delegate the responsibility to make chemical analyses and tests required by this chapter.

(d) The director may delegate responsibilities or powers under this chapter to representatives.

[Acts 1981, 67th Leg., p. 1142, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.004. Rules**

Following a public hearing, the director may adopt rules relating to the distribution of commercial fertilizers that the director finds necessary to carry into full effect the intent and meaning of this chapter.

[Acts 1981, 67th Leg., p. 1142, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.005. Publications**

(a) At least annually, the director shall publish:

(1) information concerning the sales of commercial fertilizers, together with data on those sales that the director considers advisable;

(2) the results of the analyses of official samples of commercial fertilizers sold within the state as compared to the guaranteed analyses of those fertilizers; and

(3) a financial statement showing the receipt and expenditure of funds under this chapter.

(b) The director shall prescribe the form of a publication required under this section.

(c) The report on sales of commercial fertilizers shall separately show information concerning the sales for the fall and spring seasons.

(d) A publication under this section may not disclose the scope of operations of any person.

[Acts 1981, 67th Leg., p. 1142, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.006. Sales Among Manufacturers**

This chapter does not apply to, restrict, or void the sale of a commercial fertilizer by an importer, manufacturer, or manipulator to an importer, manufacturer, or manipulator who mixes fertilizers for distribution. This chapter does not prevent the free and unrestricted shipment of a commercial fertilizer to a manufacturer or manipulator who has registered the brand name as required by this chapter. [Acts 1981, 67th Leg., p. 1142, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 63.007 to 63.020 reserved for expansion]

**SUBCHAPTER B. GRADES**

**§ 63.021. Grade Statements**

Any statement of the grade of a commercial fertilizer shall be stated in whole numbers in the following order:

- (1) total nitrogen;
- (2) available phosphoric acid; and
- (3) soluble potash.

[Acts 1981, 67th Leg., p. 1143, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.022. Grade Lists**

Following a hearing held before or as early as practicable after June 30 each year, the director shall adopt and publish a list of the ratio or minimum grades of mixed fertilizers that the director considers adequate to meet the agricultural needs of this state.

[Acts 1981, 67th Leg., p. 1143, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 63.023 to 63.030 reserved for expansion]

**SUBCHAPTER C. REGISTRATION**

**§ 63.031. Registration Required**

(a) Before distributing a brand or grade of commercial fertilizer in this state, a person shall register the fertilizer with the director.

(b) A person is not required to register a brand or grade of commercial fertilizer that has been registered by another person.

[Acts 1981, 67th Leg., p. 1143, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.032. Application for Registration**

(a) Each application for registration of a commercial fertilizer shall include the following information relating to the fertilizer:

- (1) the name and principal address of the person responsible for distribution;
- (2) the brand and grade;

(3) the guaranteed analysis, listing the minimum percentage by avoirdupois weight of plant nutrients claimed, including a listing of the following elements in the following order and form:

Total Nitrogen .....	_____percent
Available Phosphoric Acid (P <sub>2</sub> O <sub>5</sub> ) ..	_____percent
Soluble Potash (K <sub>2</sub> O) .....	_____percent

(4) the sources from which the nitrogen, phosphorus, and potassium are derived; and

(5) a copy of the label required under Subchapter D of this chapter, including any symbol, design, or trademark.

(b) The guaranteed analysis of unacidulated mineral phosphatic materials and basic slag shall guarantee both the total available phosphoric acid and the degree of fineness. The guaranteed analysis of bone, tankage, and other organic phosphate materials shall guarantee the total phosphoric acid.

(c) The director may prescribe and furnish forms for registration of commercial fertilizers under this chapter.

[Acts 1981, 67th Leg., p. 1143, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.033. Term**

A registration of a commercial fertilizer is permanent unless:

- (1) the director or the registrant cancels the registration; or
- (2) the director requires new registration.

[Acts 1981, 67th Leg., p. 1143, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.034. Fertilizers Ineligible for Registration**

(a) The director may not register a mixed fertilizer in which the sum of the guarantees for nitrogen, phosphorus as available phosphoric acid, and potassium as potash is less than 24 percent by avoirdupois weight unless the fertilizer is a manipulated manure, specialty fertilizer, or commercial fertilizer that is sold only for its content of secondary components.

(b) The director may not register a fertilizer that contains a pesticide as defined by Chapter 76 of this code unless the pesticide has first been registered in accordance with that chapter.

[Acts 1981, 67th Leg., p. 1144, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.035. Refusal or Cancellation**

(a) The director may refuse to register a commercial fertilizer that is not in compliance with this chapter or a rule adopted under this chapter.

(b) Following a hearing, the director may cancel the registration of a commercial fertilizer if the director finds that:

- (1) the commercial fertilizer is in violation of a provision of this chapter;

(2) the registrant has failed to comply with a provision of this chapter or a rule adopted under this chapter; or

(3) the registrant has used fraudulent or deceptive practices in attempted evasion of this chapter or a rule adopted under this chapter.

(c) The director shall cancel all registrations of fertilizers of any person who fails to comply with Subchapter E of this chapter.

[Acts 1981, 67th Leg., p. 1144, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 63.036 to 63.050 reserved for expansion]

SUBCHAPTER D. LABELING

§ 63.051. Required Label

(a) Each packaged or bulk commercial fertilizer distributed in this state must have a label with the following information:

(1) the net weight of the package or lot; and

(2) the information required under Sections 63.032(a)(1), (a)(2), (a)(3), (a)(5) if applicable, and (b) of this code.

(b) The label required by this section shall be affixed to the container or printed on the side of the container in which a packaged commercial fertilizer is distributed. If the commercial fertilizer is distributed in bulk, the label shall be on or attached to the invoice or delivery ticket of the lot.

[Acts 1981, 67th Leg., p. 1144, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 63.052. Misleading Label

The label of a commercial fertilizer may not be misleading in any particular.

[Acts 1981, 67th Leg., p. 1144, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 63.053. Label Restrictions

Except as authorized by this chapter or a rule of the director, the label of a commercial fertilizer may not advertise, name, promote, emphasize, or otherwise direct attention to:

(1) one or more components or ingredients in the product unless the percentage and common name of the component or ingredient is clearly and prominently declared;

(2) one or more components or ingredients in the product to the exclusion of other components or ingredients;

(3) a constituent or element of a component or ingredient; or

(4) another manufacturer or person or a product of another manufacturer or person.

[Acts 1981, 67th Leg., p. 1144, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 63.054 to 63.070 reserved for expansion]

SUBCHAPTER E. FEES

§ 63.071. Inspection Fee

(a) For each state fiscal year, the registrant of a commercial fertilizer shall pay to the director an inspection fee of 25 cents per ton of commercial fertilizer distributed in this state or \$25, whichever is greater. The registrant shall pay the fee at the director's office.

(b) If more than one person is involved in the distribution of a commercial fertilizer, the last person who distributes to a dealer or consumer who is a nonregistrant shall pay the fee.

[Acts 1981, 67th Leg., p. 1145, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 63.072. Quarterly Tonnage Report and Inspection Fee Payment

(a) The person responsible for paying the inspection fee shall file with the director a quarterly sworn report setting forth the tonnage of each commercial fertilizer that the person distributed in this state during the preceding quarter. Each quarterly tonnage report must be accompanied by payment of the inspection fee due based on the tonnage reported for that quarter.

(b) A quarterly tonnage report and inspection fee payment is due before the 31st day following the last day of November, February, May, and August.

(c) The quarterly tonnage report shall be made on forms prescribed and furnished by the director. [Acts 1981, 67th Leg., p. 1145, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 63.073. Collection Fee for Late Payment

(a) If a person does not pay the inspection fee before the 31st day following the last day of a quarter, the registrant shall pay an additional collection fee equal to 10 percent of the inspection fee due or \$10, whichever is greater.

(b) A collection fee, together with the inspection fee, is due before the 41st day following the last day of a quarter. The director shall cancel the registration of a registrant who fails to pay the collection and inspection fees within that time period.

[Acts 1981, 67th Leg., p. 1145, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 63.074. Records; Additional Reports; Audits

(a) For the purpose of determining the accurate tonnage of commercial fertilizers distributed in this state or identifying or verifying quarterly tonnage reports, the director may require each registrant to maintain records or file additional reports.

(b) The director is entitled to examine at reasonable times the records maintained under this section.

(c) A registrant shall preserve and maintain in usable condition all records required by this section

and shall retain the records for a period of at least two years. The director may require a registrant to retain records for a period longer than two years if the director determines it to be in the public interest.

(d) If a registrant is located outside this state, the registrant shall maintain the records and information required by this section in this state or pay all costs incurred in the auditing of records at another location. The director shall promptly furnish to the registrant an itemized statement of any costs incurred in an out-of-state audit and the registrant shall pay the costs before the 31st day following the date of the statement.

[Acts 1981, 67th Leg., p. 1145, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 63.075. Disposition and Use of Fees

(a) The director shall deposit fees collected under this subchapter in the same manner as other local institutional funds of Texas A & M University. The fees shall be set apart as a special fund to be known as the Texas fertilizer control fund.

(b) The Texas fertilizer control fund shall be used, with the approval and consent of the board, for administering and enforcing this chapter, including paying the cost of:

- (1) salaries;
- (2) equipment and facilities;
- (3) registration;
- (4) publication of bulletins and reports; and
- (5) inspection, sampling, and analysis.

(c) Any fees collected under this subchapter that, in the judgment of the board, are not needed for the proper and efficient enforcement and administration of this chapter may, with approval of the board, be used for research relative to the value of commercial fertilizers.

[Acts 1981, 67th Leg., p. 1146, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 63.076 to 63.090 reserved for expansion]

### SUBCHAPTER F. INSPECTION, SAMPLING, AND ANALYSIS.

#### § 63.091. Inspection and Sampling; Entry Power

In order to determine if fertilizer is in compliance with this chapter, the director is entitled to:

- (1) enter during regular business hours and inspect any place of business, plant, building, or vehicle, and to open any bin, vat, or parcel, that is used in the manufacture, transportation, importation, sale, or storage of a commercial fertilizer or is suspected of containing a commercial fertilizer; and

- (2) take samples from fertilizer found during that inspection.

[Acts 1981, 67th Leg., p. 1146, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 63.092. Procedure for Sampling and Analysis

The director by rule shall prescribe the procedures for sampling and analysis of commercial fertilizers. The procedures must be in accordance with the official methods of the Association of Official Analytical Chemists or other methods that the director considers authentic by research and investigation. [Acts 1981, 67th Leg., p. 1146, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 63.093. Identification of Sample

(a) Each sample taken shall be sealed with a label placed on the container of the sample showing:

- (1) the serial number of the sample;
- (2) the date on which the sample was taken; and
- (3) the signature of the person who took the sample.

(b) Each sample shall be sent to the director. In addition, a report shall be set to the director stating:

- (1) the name or brand of commercial fertilizer sampled;
- (2) the serial number of the sample;
- (3) the guarantor of the sample;
- (4) the name of the person in possession of the lot sampled;
- (5) the date and place of taking the sample; and
- (6) the name of the person who took the sample.

(c) For the purpose of properly identifying a sample with the lot sampled, the director is entitled to examine and copy any invoice, transportation record, or other record pertaining to the lot.

[Acts 1981, 67th Leg., p. 1146, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 63.094. Independent Analysis of Sample

(a) If the director finds through chemical analysis or other method that a commercial fertilizer is in violation of a provision of this chapter, the director shall notify the manufacturer or other person who caused the fertilizer to be distributed and the consignee. The notice must be in writing and give full details of the director's findings.

(b) After receiving a notice under Subsection (a) of this section, the manufacturer or other person who caused the fertilizer to be distributed may request that the director submit portions of the sample analyzed to other chemists for independent analysis. After receiving a request, the director shall submit two portions of the sample analyzed to two qualified chemists selected by the director. If requested, the director shall also submit one portion of the sample to the person requesting independent analysis. A request under this subsection must be filed with the director before the 16th day following the day on which notice is given.

(c) Each of the chemists selected by the director under Subsection (b) of this section shall analyze the portion of the sample and certify findings to the director under oath. The findings shall be prepared in duplicate and the director shall forward one copy of each chemist's findings to the person who requested independent analysis.

(d) The three chemical analyses obtained under this section may be considered in determining whether a violation of this chapter has occurred.

(e) The person requesting independent analysis under this section shall pay the costs of the analysis. [Acts 1981, 67th Leg., p. 1147, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.095. Testing of Samples on Request**

In accordance with the rules of the director, any person may submit a sample of a commercial fertilizer to the director for analysis. The results of the analysis shall be for informational purposes only, may not identify the manufacturer, and may not be published.

[Acts 1981, 67th Leg., p. 1147, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 63.096 to 63.120 reserved for expansion]

**SUBCHAPTER G. ENFORCEMENT; REMEDIES**

**§ 63.121. Detention of Fertilizer**

(a) If the director has reasonable cause to believe that a commercial fertilizer is being distributed in violation of a provision of this chapter, the director shall affix to the container of the fertilizer a written notice showing:

(1) a statement that the fertilizer has been detained; and

(2) a warning to all persons not to dispose of the fertilizer in any manner until the director or a court gives permission or until the detainer notice expires.

(b) If the director finds that a detained commercial fertilizer is not in violation of this chapter, the director shall immediately remove the detainer notice.

(c) A detainer notice expires at the end of the 10th day following the day on which it was affixed unless, prior to that time, the director has instituted proceedings under Section 63.122 of this code to condemn the fertilizer.

[Acts 1981, 67th Leg., p. 1147, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.122. Condemnation of Detained Fertilizer**

(a) If, after examination and analysis, the director finds that a detained commercial fertilizer is in violation of a provision of this chapter, the director shall petition the district or county court in whose

jurisdiction the fertilizer is located for an order for the condemnation and confiscation of the fertilizer. If the court determines the the fertilizer is in violation of this chapter, the fertilizer shall be disposed of by sale or destruction in accordance with the order of the court.

(b) If a condemned commercial fertilizer is sold under Subsection (a) of this section, the proceeds of the sale, less court costs and charges, shall be paid into the state treasury.

(c) If the court finds that a violation of this chapter may be corrected by proper processing or labeling, the court may order that the fertilizer be delivered to the registrant for processing or labeling under the supervision of the director. Before entering that order, the court shall:

(1) enter the decree;

(2) require that all costs, fees, and expenses be paid; and

(3) require the registrant to post good and sufficient bond conditioned on the proper labeling and processing of the fertilizer.

(d) The registrant of the fertilizer shall pay all costs of the director's supervision of labeling or processing under Subsection (c) of this section. The court shall return the bond to the registrant when the director notifies the court that the commercial fertilizer is no longer in violation of this chapter and that the registrant has paid the expenses of supervision.

[Acts 1981, 67th Leg., p. 1148, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.123. Warnings**

If the director determines that a violation of this chapter is of a minor nature and that the public interest will be served and protected by the issuance of a written warning, the director may issue the warning instead of proceeding to detain the fertilizer.

[Acts 1981, 67th Leg., p. 1148, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.124. Suit to Recover Fees**

The director may sue to recover an inspection or collection fee due under Subchapter E of this chapter. Venue for a suit under this section is in Brazos County.

[Acts 1981, 67th Leg., p. 1148, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 63.125. Prosecutions**

(a) Each district attorney, criminal district attorney, or county attorney to whom the director reports a violation of this chapter shall cause appropriate proceedings to be instituted and prosecuted in the proper court without delay in the manner provided by law.

(b) Before reporting a violation of this chapter for prosecution, the director shall give the violator an opportunity to present his or her views.

[Acts 1981, 67th Leg., p. 1148, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 63.126. Appeal of Administrative Order or Ruling

(a) A person at interest who is aggrieved by an order or ruling of the director may appeal the order or ruling in the manner provided for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) Appeal under this section is by trial de novo as that term is known in appealing from the justice court and the burden of proof is not on the defendant.

[Acts 1981, 67th Leg., p. 1148, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 63.127 to 63.140 reserved for expansion]

## SUBCHAPTER H. PENALTIES

### § 63.141. General Penalty

(a) A person commits an offense if the person violates a provision of this chapter.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1149, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 63.142. Distribution of Misbranded Fertilizer

(a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute commercial fertilizer that:

(1) carries a false or misleading statement on, attached to, or accompanying the container; or

(2) makes a false or misleading statement concerning its agricultural value on the container or in any advertising matter accompanying or associated with it.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1149, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 63.143. Distribution of Adulterated Fertilizer

(a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute a commercial fertilizer that:

(1) has been damaged in a manner that reduces its value;

(2) has damage or an inferiority that has been concealed; or

(3) has added to it a substance that reduces its quality to make it appear of greater value than it is.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1149, ch. 388, § 1, eff. Sept. 1, 1981.]

## SUBTITLE B. HORTICULTURAL DISEASES AND PESTS

### CHAPTER 71. GENERAL CONTROL

#### SUBCHAPTER A. INSPECTIONS; QUARANTINES; CONTROL AND ERADICATION ZONES

##### Section

- 71.001. Quarantines Against Out-of-State Diseases and Pests.
- 71.002. Quarantines Against In-State Diseases and Pests.
- 71.003. Quarantines Around Pest-Free Areas.
- 71.004. Emergency Quarantines.
- 71.005. Movement of Plants From Quarantined Area.
- 71.006. Hearing.
- 71.007. Rules.
- 71.008. Control or Eradication Zone.
- 71.0081. Vehicle Inspections.
- 71.009. Seizure and Destruction of Plants, Plant Products, and Other Substances.
- 71.010. Appeals.
- 71.0101. Department of Public Safety to Cooperate.
- 71.011. Protection of Carrier From Damages.
- 71.012. Civil Penalty.
- 71.013. Criminal Penalties.

#### SUBCHAPTER B. INSPECTION OF NURSERY PRODUCTS AND FLORIST ITEMS

- 71.041. Definitions.
- 71.042. Duty of Department; Rules.
- 71.043. Chief Inspector.
- 71.044. Annual Inspection.
- 71.045. Certificate of Inspection.
- 71.046. Treatment or Destruction of Diseased or Infested Plants or Premises.
- 71.047. Expense of Treatment.
- 71.048. Appeal of Notice or Order.
- 71.049. Enforcement of Notice or Order.
- 71.050. Certificate to Accompany Shipment.
- 71.051. Importation Certificates.
- 71.052. Importation of Camellias.
- 71.053. Inspection of Shipments.
- 71.054. Protection of Carriers From Liability; Reporting of Unlawful Shipments.
- 71.055. Revocation of Certificate.
- 71.056. Inspection Fees.
- 71.057. Nursery Dealers and Agents.
- 71.058. Penalties.

#### SUBCHAPTER C. INSPECTION OF VEGETABLE PLANTS

- 71.101. Duty of Department; Rules.
- 71.102. Field Inspection.
- 71.103. Inspection Certificate.
- 71.104. Tomato Diseases and Insects.
- 71.105. Cruciferous Plant Diseases and Insects.
- 71.106. Pepper Diseases.
- 71.107. Onion Diseases and Insects.
- 71.108. Eggplant Diseases.
- 71.109. Sweet Potato Diseases and Insects.
- 71.110. Treatment or Destruction of Plants.

Section  
 71.111. Certificate for Imported Plants.  
 71.112. Protection of Carriers From Liability.  
 71.113. Revocation of Certificate.  
 71.114. Fees.  
 71.115. Packaging and Labeling of Certified Plants.  
 71.116. Penalties.

**SUBCHAPTER A. INSPECTIONS; QUARANTINES;  
 CONTROL AND ERADICATION ZONES**

**§ 71.001. Quarantines Against Out-of-State Diseases and Pests**

If the department determines that a dangerous insect pest or plant disease new to and not widely distributed in this state exists in any area outside the state, the department shall establish a quarantine against the infested area at the boundaries of the state or in other areas within the state.

[Acts 1981, 67th Leg., p. 1151, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.002. Quarantines Against In-State Diseases and Pests**

If the department determines that a dangerous insect pest or plant disease not widely distributed in this state exists within an area of the state, the department shall quarantine the infested area.

[Acts 1981, 67th Leg., p. 1151, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.003. Quarantines Around Pest-Free Areas**

(a) If the department determines that an insect pest or plant disease of general distribution in this state does not exist in an area, the department may declare the area pest-free and quarantine surrounding areas.

(b) Venue for a case arising under this section is in a county contained in the pest-free area.

[Acts 1981, 67th Leg., p. 1151, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.004. Emergency Quarantines**

(a) The department may establish an emergency quarantine without notice and public hearing if the department determines that a public emergency exists in which there is the likelihood of introduction or dissemination of an insect pest or plant disease that is dangerous to the interests of horticulture and agriculture in this state.

(b) The department may establish the emergency quarantine at the boundaries of the state or in other areas within the state.

(c) The emergency quarantine and rules adopted in order to prevent the introduction or spread of the pest or disease are effective immediately on establishment or adoption.

(d) An emergency quarantine expires 30 days following the date on which it was established unless

reestablished following notice and hearing as provided by this subchapter.

[Acts 1981, 67th Leg., p. 1151, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.005. Movement of Plants From Quarantined Area**

(a) Except as provided by Subsection (b) of this section, the department shall prevent the movement, from a quarantined area into an unquarantined area or pest-free area, of any plant, plant product, or substance capable of disseminating the pest or disease that is the basis for the quarantine or is not found in the pest-free area.

(b) A plant, plant product, or substance prohibited from movement by a quarantine established under Section 71.001, 71.002, or 71.004 of this code may be moved into an unquarantined area if moved under safeguards considered by the department to be adequate to prevent the introduction or spread of the pest or disease into the state or an unquarantined area.

[Acts 1981, 67th Leg., p. 1152, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.006. Hearing**

(a) Before quarantining an area under Section 71.001, 71.002, or 71.003 of this code, the chief entomologist of the department and, if appointed, one or more other persons appointed by the commissioner, shall hold a public hearing in a convenient and accessible place in order to investigate the pest or disease and determine if the pest or disease is a menace to a valuable plant or plant product. The persons conducting the hearing shall take the constitutional oath of office and may administer oaths to take testimony.

(b) The persons conducting the hearing shall record the proceedings and make a written report to the department with findings, and reasons supporting the findings as to:

(1) whether the pest or disease is a menace to an agricultural or horticultural crop;

(2) whether a quarantine is necessary or desirable; and

(3) if a quarantine is necessary or desirable, the best known means of controlling or exterminating the pest or disease.

(c) Following receipt of the report under Subsection (b) of this section, the department may establish the quarantine and adopt rules as necessary to the protection of the agricultural or horticultural interests of this state.

[Acts 1981, 67th Leg., p. 1152, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 71.007. Rules

In addition to other rules necessary for the protection of agricultural and horticultural interests, the department may adopt rules that:

- (1) prevent the selling, moving, or transporting of any plant, plant product, or substance that is found to be infested or found to be from a quarantined area;
- (2) provide for the destruction of trees or fruits;
- (3) provide for the cleaning or treatment of orchards;
- (4) provide for methods of storage;
- (5) prevent entry into a pest-free zone of any plant, plant product, or substance found to be dangerous to the agricultural and horticultural interests of the zone;
- (6) provide for the maintenance of a host-free period in which certain fruits are not allowed to ripen; or
- (7) provide for specific treatment of a grove or orchard or of infested or infected plants, plant products, or substances.

[Acts 1981, 67th Leg., p. 1152, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 242, ch. 22, § 2, eff. Sept. 1, 1981.]

### § 71.008. Control or Eradication Zone

(a) On request of the commissioners court of any county, the department shall investigate whether a certain insect pest or plant disease exists in the county. Based on that investigation, the department shall make a written report to the commissioners court stating:

- (1) the nature of the infestation, if any;
- (2) the best known method of controlling or eradicating the pest or disease;
- (3) the treatment or method necessary to be applied in each case; and
- (4) a detailed description of the method of making, procuring, and applying the recommended preparation or treatment and the time and duration of the treatment.

(b) After receiving the report of the department, the commissioners court may conduct a public hearing on the report. The commissioners court may publish the text of the report and notice of the hearing for two consecutive weeks in a newspaper of general circulation in each area under consideration. The commissioners court shall hold the hearing not less than 15 days after the first day of published notice. Any interested person is entitled to be heard at the hearing.

(c) After the hearing, the commissioners court shall make a written report of its conclusions to the department. If the commissioners court approves the recommendations of the department and deter-

mines that the recommended measures should be applied in the area under consideration, the commissioners court by order entered in its minutes shall request that the department establish a control zone or an eradication zone in each applicable area.

(d) If requested to establish a control or eradication zone under Subsection (c) of this section, the department shall issue a proclamation designating the appropriate area a control zone or an eradication zone, as applicable, and shall adopt rules governing the control or eradication of the pest or disease within the zone. No person may commit an act prohibited by the rules or refuse to perform an act as required by the rules.

(e) A commissioners court may appropriate funds from the general revenue of the county and employ aid as necessary to carry out this section.

[Acts 1981, 67th Leg., p. 1153, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 71.0081. Vehicle Inspections

(a) If the department establishes a quarantine or, without establishing a quarantine, determines that there is a likelihood of introduction or dissemination of an insect pest or plant disease that is dangerous to the interests of horticulture or agriculture in this state, the department may stop and inspect vehicles entering this state or moving within this state to determine if the vehicle contains a plant, plant product, or other substance capable of introducing or disseminating the pest or disease.

(b) The department may conduct inspections under this section on a continual or periodic basis, as the commissioner determines is necessary or effective.

(c) The department may adopt rules necessary to the conduct of inspections under this section.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 242, ch. 22, § 1, eff. Sept. 1, 1981.]

### § 71.009. Seizure, Treatment, and Destruction of Plants, Plant Products, and Other Substances

(a) The department shall seize any plant, plant product, or substance that it determines:

- (1) is transported or carried from a quarantined area in violation of a quarantine order; or
- (2) is moved into or within this state and is infested with an insect pest or infected with a disease dangerous to any agricultural or horticultural product, whether or not the plant, product, or substance comes from an area known to be infested.

(b) If a plant, plant product, or substance is seized under Subsection (a)(1) of this section, the department shall immediately notify the owner that the plant, product, or substance is a public menace and that it must be destroyed, treated, or, if feasible,

returned to the point of origin. If a plant, product, or substance is seized under Subsection (a)(2) of this section, the department shall immediately notify the owner that the plant, product, or substance is a public menace and that it must be destroyed or treated.

(c) If the owner of a plant, plant product, or substance seized under Subsection (a) of this section is unknown to the department, the department shall publish notice that, after a date not less than 10 days after the first day of publication, the department will destroy the plant, product, or substance. The department shall publish the notice for two consecutive weeks in a newspaper of general circulation in the county where the plant, product, or substance is found. The notice must describe the article seized. If the owner claims the article before the date for destruction set by the notice, the department shall deliver the article to the owner at the owner's expense. If the owner does not claim the article within the allotted time, the department may destroy the article or have it destroyed.

(d) If the owner of a fruit tree or fruit condemned by the department under this subchapter fails or refuses to destroy the tree or fruit immediately after being instructed to do so by the department, the department shall abate the nuisance and immediately destroy the tree or fruit or otherwise render the tree or fruit not a nuisance. In enforcing this subsection, the department shall call on the sheriff of the county in which the tree or fruit is located, and the sheriff shall cooperate with the department and render all assistance considered necessary by the person seeking to destroy the tree or fruit.

(e) The owner of a plant, plant product, or substance treated or destroyed by the department under this section is liable to the department for the costs of treatment or destruction, and the department may sue to collect those costs.

[Acts 1981, 67th Leg., p. 1153, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 242, ch. 22, § 3, eff. Sept. 1, 1981.]

**§ 71.010. Appeals**

(a) A person who is aggrieved and will be injured by a quarantine or whose property is to be destroyed by order of the department is entitled to appeal to the district court of any county in which the quarantine or order is established or issued. In order to appeal, the person must give written notice of appeal to the department not later than the 10th day following the date of the proclamation. The notice must name the district court in which the application is filed.

(b) Immediately after receipt of a notice of appeal, the department shall make a certified copy of the order or proclamation and transmit it to the district court named in the notice.

(c) On receipt of the application for appeal and copy of the order or proclamation, the clerk of the court shall docket the cause on the civil docket in the style: "\_\_\_\_\_, Commissioner of Agriculture vs. \_\_\_\_\_, defendant." The suit shall be tried in the manner provided for the trial of civil cases. The judgment of the court on final hearing shall be "that the orders and proclamations of the commissioner be approved and enforced" or "that said orders and proclamations be and are vacated and held for naught," as the court may determine.

[Acts 1981, 67th Leg., p. 1154, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.0101. Department of Public Safety to Cooperate**

The Department of Public Safety shall cooperate with the department in conducting inspections and enforcing the provisions of this subchapter.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 243, ch. 22, § 5, eff. Sept. 1, 1981.]

**§ 71.011. Protection of Carrier From Damages**

A carrier, including a railway, steamship, motorboat, bus, or truck, is not liable to a consignor or consignee for damages for refusing to receive and transport, or refusing to deliver across or into an area protected by a quarantine, any fruit, plant, shrub, or other carrier of an insect pest or plant disease in violation of an order or rule of the department under this subchapter.

[Acts 1981, 67th Leg., p. 1154, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 243, ch. 22, § 4, eff. Sept. 1, 1981.]

**§ 71.012. Civil Penalty**

(a) A private or common carrier, including a railway, steamship, motorboat, bus, or truck, that transports or delivers any fruit, plant, shrub, or other carrier of an insect pest or plant disease in violation of an order or rule of the department under this subchapter is liable to the state for a penalty in the amount of \$500.

(b) The attorney general shall institute suit for the recovery of a penalty under this section.

(c) Venue for a suit under this section is in Travis County.

[Acts 1981, 67th Leg., p. 1155, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 244, ch. 22, § 6, eff. Sept. 1, 1981.]

**§ 71.013. Criminal Penalties**

(a) A person commits an offense if, in violation of a rule adopted under Section 71.007 or 71.0081 of this code, the person:

(1) sells, carries, or transports a plant, plant product, or substance that is found to be infested

or infected or found to be from a quarantined area;

(2) sells, carries, or transports a plant, plant product, or substance into a pest-free zone;

(3) maintains ripening fruit during the host-free period on any tree declared to be a nuisance in the quarantine order;

(4) fails or refuses to administer the treatment provided for, including specific methods of spraying, removal of diseased parts, removal and destruction of fallen or culled fruits, or removal of weeds or plants that may be hosts or carriers of insect pests or plant diseases; or

(5) fails to store products in the manner required.

(b) An offense under this section is a misdemeanor or punishable by a fine not to exceed \$100.

(c) A person commits a separate offense for each plant or plant product sold or transported.

(d) An offense under this section may be prosecuted in any county in which the violation occurs.

[Acts 1981, 67th Leg., p. 1155, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 244, ch. 22, § 7, eff. Sept. 1, 1981.]

[Sections 71.014 to 71.040 reserved for expansion]

#### SUBCHAPTER B. INSPECTION OF NURSERY PRODUCTS AND FLORIST ITEMS

##### § 71.041. Definitions

In this subchapter:

(1) "Florist" means a person who maintains, grows, raises, or buys and offers for sale for profit florist items.

(2) "Florist item" means a cut flower, potted plant, blooming plant, inside foliage plant, bedding plant, corsage flower, cut foliage, floral decoration, or live decorative material.

(3) "Nursery product" includes a tree, shrub, vine, cutting, graft, scion, grass, bulb, or bud that is grown for, kept for, or is capable of, propagation and distribution for sale.

(4) "Nursery grower" means a person who grows more than 50 percent of the nursery products that the person sells, regardless of the variety sold or grown.

[Acts 1981, 67th Leg., p. 1155, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 71.042. Duty of Department; Rules

The department shall enforce this subchapter and may adopt rules as necessary for the immunity and protection of plants from diseases and insect pests, including rules that:

(1) regulate the traffic, growing, shipping, and selling of nursery products;

(2) provide for the inspection and control of florist items; and

(3) relate to city, private, or public parks, or shade trees, shrubbery, and ornamentals along city streets or property or on city residences.

[Acts 1981, 67th Leg., p. 1156, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 71.043. Chief Inspector

The commissioner shall appoint one person as chief inspector to inspect or supervise the inspection of nursery products, florist items, and premises in accordance with this subchapter.

[Acts 1981, 67th Leg., p. 1156, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 71.044. Annual Inspection

At least once each year, the department shall inspect each nursery, greenhouse, orchard, garden, florist, or other place growing for sale or offering for sale a nursery product, florist item, or other item of plant life in order to determine if the product, item, or premises are infected with a disease or insect pest injurious to human, animal, or plant life.

[Acts 1981, 67th Leg., p. 1156, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 71.045. Certificate of Inspection

(a) If on inspection the department determines that a nursery product, florist item, or other plant and the premises are free of disease or insect pests, the department shall issue a certificate of inspection to the owner, manager, or person in control of the product or item and the premises.

(b) A certificate of inspection shall show:

(1) the date of inspection;

(2) the name of the person making the inspection;

(3) the fee for the inspection; and

(4) an expiration date.

(c) A certificate of inspection is not negotiable or transferable and is void if sold or transferred.

(d) A person may not offer for sale a nursery product or florist item without a certificate of inspection issued under this section.

[Acts 1981, 67th Leg., p. 1156, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 71.046. Treatment or Destruction of Diseased or Infested Plants or Premises

(a) If the department determines that any nursery product, florist item, or premises are diseased or pest infested, the department shall take action necessary to abate the nuisance and protect the public health and welfare. If the department determines that the diseased or infested product, item, or premises should be treated or destroyed, the department

shall give written notice to the owner, manager, or person in control of the product, item, or premises.

(b) The department shall deliver the notice under Subsection (a) of this section in person or by registered or certified mail to the last known address of the person to whom the notice is directed. The notice shall be in a form prescribed by the department and signed by the commissioner or the commissioner's designee. The notice must:

(1) name the product, item, or premises to be treated or destroyed;

(2) give a brief statement of the facts found to exist; and

(3) give a brief statement of the reasons necessitating treatment or destruction of the product, item, or premises.

(c) Before the 11th day following the day on which notice is received, the person receiving the notice shall remove, destroy, or treat the product, item, or premises as directed by the department.

(d) For the purposes of enforcing this section, the department is entitled to enter on any premises in order to inspect, treat, or destroy any diseased or pest infested nursery product, florist item, or premises.

(e) The department is not liable for damages resulting from the exercise of duties under this section.

[Acts 1981, 67th Leg., p. 1156, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.047. Expense of Treatment**

(a) The owner, manager, or person in charge of the nursery product, florist item, or premises is liable for all expenses of treatment or destruction under Section 71.046 of this code.

(b) The department or the county attorney of the county in which the premises are located may sue to recover expenses under Subsection (a) of this section. If successful, the department or county attorney is entitled to an award of all costs of suit, including attorney's fees.

[Acts 1981, 67th Leg., p. 1157, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.048. Appeal of Notice or Order**

(a) A person who is aggrieved by an order or notice of the department or whose property is to be destroyed under an order or notice is entitled to appeal to the district court of Travis County or to a district court of the county in which the order or notice affects the person.

(b) In order to perfect an appeal under this section, the person must file suit before the 11th day following the day on which the person received the notice or order.

(c) A court may hear and determine an appeal under this section during term or vacation.

[Acts 1981, 67th Leg., p. 1157, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.049. Enforcement of Notice or Order**

(a) If the court decides against the appealing party under Section 71.048 of this code or if a party fails to perfect an appeal, the notice or order is final and the department shall enforce the notice or order and place the subject premises in compliance.

(b) On request of the department, a sheriff or constable shall accompany and assist the department in enforcement of the notice.

[Acts 1981, 67th Leg., p. 1157, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.050. Certificate to Accompany Shipment**

(a) Each nursery product or florist item offered for sale, consigned for shipment, or shipped by freight, express, or other means of transportation shall be accompanied by a copy of the certificate of inspection issued by the department.

(b) A copy of the certificate of inspection shall be attached to each car, box, bale, package, or item. If the car, box, bale, package, or item is delivered to more than one person, each portion shall also bear a copy of the certificate.

[Acts 1981, 67th Leg., p. 1157, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.051. Importation Certificates**

(a) A person may not ship a nursery product or florist item into this state without first filing with the department a certificate of inspection issued by the proper authority of the state from which the shipment originates.

(b) A certificate of inspection from another state must show:

(1) that the nursery product or florist item shipped has been examined by the inspection officers of the originating state;

(2) that the nursery product or florist item is apparently free from dangerous insect pests or contagious diseases; and

(3) if the department requires fumigation or other special treatment, that the nursery product or florist item has been properly fumigated or treated.

(c) If the department approves a certificate of another state filed under this section, the department shall issue to the person filing the certificate a permit allowing the person to ship the nursery product or florist item into this state. The permit shall be known as a Texas Importation Certificate.

(d) Each car, box, bale, or package of a nursery product or florist item shall bear a tag printed with a copy of the Texas Importation Certificate and the certificate of inspection from the originating state.

[Acts 1981, 67th Leg., p. 1157, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.052. Importation of Camellias**

(a) A balled or potted camellia plant with soil attached, a cut camellia flower, or a camellia plant with flower buds showing color may not be imported into this state unless the plant or flower is accompanied by a certificate of inspection from the appropriate official of the state of origin certifying that the plant or flower is free from camellia flower blight (*Sclerotinia camelliae*).

(b) A camellia plant or flower imported into this state without a certificate required by Subsection (a) of this section shall be destroyed or returned to the point of origin, as determined by the department.

(c) The department may adopt suitable rules governing the sale and shipment of camellias and other products as necessary for the control of camellia flower blight.

[Acts 1981, 67th Leg., p. 1158, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.053. Inspection of Shipments**

(a) The department shall inspect shipments of nursery products or florist items in this state to determine if the shipments are accompanied by the tags and certificates required by this subchapter.

(b) If the department finds that a shipment of a nursery product or florist item is not accompanied by a required tag or certificate, the department shall treat the shipment as infected and may destroy or dispose of the shipment. Money received from any sale of the shipment shall be deposited as other money collected by the department.

[Acts 1981, 67th Leg., p. 1158, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.054. Protection of Carriers From Liability; Reporting of Unlawful Shipments**

(a) A transportation company or common carrier is not liable for damages to a consignee or consignor for refusing to receive for transportation or refusing to deliver a shipment of a nursery product or florist item that is not accompanied by a tag or certificate required under this subchapter.

(b) A transportation company or common carrier shall immediately report to the department any shipment not accompanied by a tag or certificate required under this subchapter.

[Acts 1981, 67th Leg., p. 1158, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.055. Revocation of Certificate**

The department may revoke a certificate of inspection issued under this subchapter if it finds that the person to whom the certificate was issued:

- (1) made a false representation; or
- (2) violated or refused to comply with this subchapter or a rule or instruction of the department under this subchapter.

[Acts 1981, 67th Leg., p. 1159, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.056. Inspection Fees**

(a) The department shall fix by rule and collect inspection fees in accordance with this section.

(b) The fee for each inspection of an installation, an area, or premises, growing, selling, displaying, or handling nursery products shall be not less than \$10 nor more than \$25.

(c) The fee for each inspection of an installation, an area, or premises, where florist items are bought and sold or offered for sale shall be not less than \$5 nor more than \$15.

(d) The department shall fix the fee for inspection of nursery products or florist items for the issuance of an importation certificate.

(e) The department shall account for fees collected under this section in the manner and method prescribed by the state auditor.

[Acts 1981, 67th Leg., p. 1159, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.057. Nursery Dealers and Agents**

(a) A person who buys and sells or offers for sale a nursery product and who has facilities that maintain or preserve the nursery product and prevent that product from becoming dry, infested, or diseased is a nursery dealer and shall register a permanent address with the department. Each copy of a certificate of inspection issued to a nursery dealer shall show the address registered with the department.

(b) A person is a nursery agent if the person sells, offers for sale, or takes mail orders for the sale of a nursery product and:

- (1) is entirely under the control of a nursery grower or nursery dealer with whom the nursery product offered for sale originates; or
- (2) operates on a cooperative basis for handling a nursery product with a nursery grower or nursery dealer.

(c) A nursery agent shall possess proper credentials from the nursery grower or nursery dealer the agent represents or cooperates with. A nursery agent who fails to possess proper credentials is subject to this subchapter as a nursery dealer.

[Acts 1981, 67th Leg., p. 1159, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 71.058. Penalties**

(a) A person commits an offense if the person wilfully or negligently:

- (1) violates a provision of this subchapter other than Section 71.052 of this code; or
- (2) fails or refuses to comply with a notice, order, or rule of the department under this subchapter.

(b) A person commits an offense if the person imports a camellia plant or flower in violation of Section 71.052 of this code.

(c) An offense under Subsection (a) of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200. Each day that a person maintains premises in a condition not in compliance with this subchapter after receiving notice by registered or certified mail under Section 71.046 of this code is a separate offense.

(d) An offense under Subsection (b) of this section is a misdemeanor punishable by a fine of not more than \$100.

(e) A person commits a separate offense for each camellia plant or flower imported.

[Acts 1981, 67th Leg., p. 1159, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 71.059 to 71.100 reserved for expansion]

SUBCHAPTER C. INSPECTION OF VEGETABLE PLANTS

§ 71.101. Duty of Department; Rules

The department shall enforce this subchapter and may appoint inspectors and adopt rules necessary for that enforcement.

[Acts 1981, 67th Leg., p. 1160, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 71.102. Field Inspection

The department shall conduct field inspections of vegetable plants and certify those plants prior to the preparation for shipment in order to provide the purchaser of the plants with an honest and reliable opinion on the freedom of the plants from disease and fungus infection and insect infestation and to ensure the proper packaging and handling of certified plants.

[Acts 1981, 67th Leg., p. 1160, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 71.103. Inspection Certificate

(a) Except as provided by Subsection (b) of this section, if the department determines following field inspection that the vegetable plants inspected are apparently free of the diseases and insects listed in Sections 71.104–71.109 of this code, as applicable, the department shall issue a certificate tag or stamp for those plants. Plants certified under this section shall be known as “state certified plants.”

(b) In addition to field inspections of sweet potatoes, certification of that plant shall be based on prior inspection of seed potatoes in the field, treatment, and bedding inspections that the department considers necessary to provide clean slips for sale or shipment. Application for certification of sweet potato plants shall be made prior to harvesting time of the preceding season.

(c) The certificate tag or stamp shall be firmly affixed to each container or bundle of plants at the point of origin for shipment of the plants.

[Acts 1981, 67th Leg., p. 1160, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 71.104. Tomato Diseases and Insects

The department shall determine that tomato plants are apparently free from the following diseases and from damaging infestation of the following pests:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Nematode root knot	Heterodera marioni
Early blight	Alternaria solani
Collar rot	Alternaria solani
Grey leaf spot	Stemphyllium solani
Late blight	Phytophthora infestans
Fusarium wilt	Fusarium lycopersici
Verticillium wilt	Verticillium albo-atrum
Bacterial wilt	Bacterium solanacearum
Bacterial canker	Coryneil bacterium michiganense
Bacterial spot	Xanthomonas vesicatoria
Southern blight	Sclerotium rolfsii
Mosaic	Virus

INSECTS	SCIENTIFIC NAME OF ORGANISM
Garden fleahopper	Halticus citri
Thrips	Thrips tabaci and others
Flea beetle	Phyllotreta spp.
Serpentine leaf miner	Liriomyza pusilla

[Acts 1981, 67th Leg., p. 1160, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 71.105. Cruciferous Plant Diseases and Insects

The department shall determine that cruciferous plants, including cabbage, cauliflower, broccoli, and collards, are apparently free from the following diseases and from damaging infestation of the following insects:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Nematode root knot	Heterodera marioni
Blact rot	Bacterium campestre
Yellows	Fusarium conglutinans
Blackleg	Phoma lingam

  

INSECTS	SCIENTIFIC NAME OF ORGANISM
Aphid	Brevicoryne brassicae and Rhopalosiphum pseudobrassicae

[Acts 1981, 67th Leg., p. 1161, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 71.106. Pepper Diseases

The department shall determine that pepper plants are apparently free from the following diseases:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Nematode root knot	<i>Heterodera marioni</i>
Southern blight	<i>Sclerotium rolfsii</i>
Bacterial spot	<i>Xanthomonas vesicatoria</i>
Bacterial wilt	<i>Bacterium solanacearum</i>
Verticillium wilt	<i>Verticillium albo-atrum</i>
Mosaic	Virus

[Acts 1981, 67th Leg., p. 1161, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 71.107. Onion Diseases and Insects

The department shall determine that onion plants are apparently free from the following diseases and from damaging infestation of the following insects:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Pink root	<i>Phoma terrestris</i>

  

INSECTS	SCIENTIFIC NAME OF ORGANISM
Thrips	<i>Thrips tabaci</i>

[Acts 1981, 67th Leg., p. 1162, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 71.108. Eggplant Diseases

The department shall determine that eggplants are apparently free from the following diseases:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Nematode root knot	<i>Heterodera marioni</i>
Southern blight	<i>Sclerotium rolfsii</i>
Leaf spot and fruit rot	<i>Phomopsis vexans</i>
Verticillium wilt	<i>Verticillium albo-atrum</i>
Bacterial wilt	<i>Bacterium solanacearum</i>
Yellows	Virus

[Acts 1981, 67th Leg., p. 1162, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 71.109. Sweet Potato Diseases and Insects

The department shall determine that sweet potato plants are apparently free from the following plant diseases and insects:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Stem rot or wilt	<i>Fusarium batatis</i>
Black rot	<i>Sphaeronema fimbriatum</i>
Pox	<i>Cystospora batata</i>
Nematode root knot	<i>Heterodera marioni</i>
Internal cork	Virus

INSECTS	SCIENTIFIC NAME OF ORGANISM
Sweet potato weevil	<i>Cylas formicarius</i>

[Acts 1981, 67th Leg., p. 1162, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 71.110. Treatment or Destruction of Plants

(a) If, at the time of field inspection, the department finds a disease or insect listed in Sections 71.104–71.109, as applicable, the grower of the plants shall delimit the infection or infestation and clean the plants by use of a disinfectant.

(b) If infected or infested plants are not able to be cleaned under Subsection (a) of this section, the grower may destroy the part of the field infected or infested and the department may certify the remaining clean part of the field.

(c) The grower of the plants shall furnish all materials, labor, and supervision necessary for carrying out this section.

[Acts 1981, 67th Leg., p. 1162, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 71.111. Certificate for Imported Plants

(a) Except as provided by Subsection (b) of this section, a plant subject to certification under this subchapter that is shipped into this state shall have attached a certificate tag or stamp issued by the department and affixed at the point of origin.

(b) If another state has a vegetable plant certification program similar to the program established by this subchapter, the department may enter into a reciprocal fee agreement with the other state under which vegetable plants with a certificate tag or stamp issued by the other state are permitted to enter this state without a certificate tag or stamp issued by this state.

[Acts 1981, 67th Leg., p. 1163, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 71.112. Protection of Carriers From Liability

A transportation company or common carrier is not liable for damages to the consignee or consignor for refusing to receive for transportation or refusing to deliver plants subject to certification under this subchapter that are not accompanied by a certificate tag or stamp.

[Acts 1981, 67th Leg., p. 1163, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 71.113. Revocation of Certificate

The department may revoke a certificate tag or stamp issued to a plant grower who:

(1) makes a false representation; or

(2) refuses to comply with this subchapter.

[Acts 1981, 67th Leg., p. 1163, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 71.114. Fees

(a) A person applying for a certificate tag or stamp shall pay an inspection fee at the time of application.

(b) The inspection fee is \$5 plus not less than 25 cents nor more than \$1, as set by rule of the department, for each acre over five acres to be inspected.

(c) In addition to the inspection fee, a person applying for certification of sweet potatoes shall pay a fee of not less than one cent nor more than three cents for each certificate tag or stamp issued. [Acts 1981, 67th Leg., p. 1163, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 71.115. Packaging and Labeling of Certified Plants

(a) Each bundle or package of certified plants must be plainly labeled on the container with the count of the plants bundled or packaged. The actual count may not differ by more than five percent from the stated count.

(b) Sweet potato plants to be shipped must be packaged in bundles of 100 plants.

[Acts 1981, 67th Leg., p. 1163, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 71.116. Penalties

(a) A person commits an offense if the person:

(1) wilfully or negligently violates a provision of this subchapter; or

(2) makes a false representation of plants by use of a certificate tag or stamp.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$25 nor more than \$100.

(c) A person finally convicted of an offense under this section shall be removed from the list of certified growers for a period of 12 months.

[Acts 1981, 67th Leg., p. 1163, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 72. MEXICAN FRUIT FLY CONTROL

SUBCHAPTER A. GENERAL PROVISIONS

Section	
72.001.	Definitions.
72.002.	Administration; Rules.
72.003.	Peace Officer Power.
72.004.	Entry Power.
72.005.	Reports and Notices.
72.006.	Prosecutions.

SUBCHAPTER B. QUARANTINES

72.011.	Establishment.
72.012.	Persons and Premises Subject.
72.013.	Term.
72.014.	Designated Counties.
72.015.	Movement of Fruit in Violation of Quarantine; Certificate.

SUBCHAPTER C. INFESTATION CONTROL

Section	
72.021.	Determination of Infestation.
72.022.	Citrus Quarantine Advisory Committee.
72.023.	Method of Control.
72.024.	Host-Free Period.
72.025.	Unhusbandlike and Unsanitary Conditions; Orders of Department.
72.026.	Expenses of and Responsibility for Compliance with Order of Department.

SUBCHAPTER D. REMEDIES

72.041.	Appeal of Department Order.
72.042.	Enforcement of Department Order; Fees.
72.043.	Lien.
72.044.	Injunctions; Mandamus.
72.045.	Seizure of Ownerless Fruit.

SUBCHAPTER E. PENALTIES

72.061.	General Penalty.
72.062.	Failure to Comply with Department Order.
72.063.	Public Nuisance.
72.064.	Movement of Fruit in Violation of Quarantine.

SUBCHAPTER A. GENERAL PROVISIONS

§ 72.001. Definitions

In this chapter:

(1) "Host fruit" means a fruit susceptible to infestation by the Mexican fruit fly.

(2) "Mexican fruit fly" means the insect *Anastrepha ludens*, Loew.

(3) "Premises" means a grove, orchard, farm, yard, lawn, or tract of land on which citrus or other host fruit is grown, enclosed or unenclosed, or a barn, storehouse, warehouse, shed, boxcar, truck, or other building, receptacle, or conveyance capable of use for storing, packing, processing, or transporting citrus or other host fruits.

(4) "Quarantined area" means a county or part of a county under a quarantine or modified quarantine.

(5) "Sell" includes offer to sell, expose for sale, possess for sale, exchange, barter, or trade.

[Acts 1981, 67th Leg., p. 1165, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 72.002. Administration; Rules

(a) The department shall administer this chapter in order to control or eradicate the Mexican fruit fly in this state and to protect all premises in this state from that pest.

(b) The department may adopt rules, to be proclaimed by the governor, as necessary for the administration of this chapter.

[Acts 1981, 67th Leg., p. 1165, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 72.003. Peace Officer Power

A person in whom enforcement of any provision of this chapter is invested has the power of a peace officer in that enforcement.

[Acts 1981, 67th Leg., p. 1165, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.004. Entry Power**

In enforcing this chapter, the department may enter on any premises to inspect the premises or a tree, plant, shrub, or fruit growing or stored on the premises.

[Acts 1981, 67th Leg., p. 1165, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.005. Reports and Notices**

A report, notice, statement, or record required by this chapter shall be in English and, unless otherwise provided, shall be in writing.

[Acts 1981, 67th Leg., p. 1165, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.006. Prosecutions**

On request of the department, an enforcement officer, or another interested person, the district or county attorney of any county in which a violation of a provision of this chapter occurs shall prosecute the violation.

[Acts 1981, 67th Leg., p. 1165, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 72.007 to 72.010 reserved for expansion]

**SUBCHAPTER B. QUARANTINES****§ 72.011. Establishment**

(a) When advised of the existence of Mexican fruit fly within a county or part of a county in this state, the department shall certify that fact to the governor, and the governor shall proclaim the county or part of a county quarantined under this chapter.

(b) If the department determines that the exigencies of the situation require a modified quarantine, the department may designate a modified quarantined area to be certified to the governor for proclamation.

(c) The governor's proclamation of a quarantine under this section shall name each county, part of a county, district, or territory quarantined.

[Acts 1981, 67th Leg., p. 1165, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.012. Persons and Premises Subject**

The premises of each individual, whether an owner, lessee, renter, tenant, or occupant, within the area named in the quarantine proclamation are subject to the quarantine, even though not specifically named.

[Acts 1981, 67th Leg., p. 1166, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.013. Term**

A quarantine established under this subchapter is effective until modified or removed by the department.

[Acts 1981, 67th Leg., p. 1166, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.014. Designated Counties**

Cameron, Hidalgo, and Willacy counties are designated as quarantined for the purposes of this chapter.

[Acts 1981, 67th Leg., p. 1166, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.015. Movement of Fruit in Violation of Quarantine; Certificate**

(a) A person may not haul, truck or otherwise move citrus fruit from any premises or area that is under quarantine for Mexican fruit fly infestation by this chapter, by order of the department, or by proclamation of the governor in violation of the quarantine without a written permit or certificate issued by the department or an inspector of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, United States Department of Agriculture.

(b) A person may not move citrus fruit into this state from any state, nation, territory, or area that is under quarantine for Mexican fruit fly infestation by the department, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, United States Department of Agriculture, or by the sanitary authority of the state, nation, or territory from which the fruit is moved, without a certificate issued by the department.

(c) A person who has been issued a certificate under Subsection (a) or (b) of this section may not transport citrus fruit from a quarantined area to any place other than the place designated on the certificate.

(d) An owner, part owner, or caretaker may not permit or allow citrus fruit to be shipped or transported in violation of Subsection (a) or (b) of this section.

[Acts 1981, 67th Leg., p. 1166, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 72.016 to 72.020 reserved for expansion]

**SUBCHAPTER C. INFESTATION CONTROL****§ 72.021. Determination of Infestation**

(a) If an accredited entomologist finds or knows that the larvae of the Mexican fruit fly exist on premises within a quarantined area, the entomologist shall certify the fact of the infestation to the department.

(b) The department shall determine whether the infestation exists and the extent of the infestation. The department may refer the issue to the citrus quarantine advisory committee of any county in which the premises are located.

[Acts 1981, 67th Leg., p. 1166, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.022. Citrus Quarantine Advisory Committee**

(a) The commissioners court of a county in a quarantined area shall appoint a citrus quarantine advisory committee composed of four citrus growers and one representative of the department. The four citrus growers appointed by the court are subject to the approval of the department. The department shall nominate its representative on the committee.

(b) If advised by the department that an infestation exists on premises within the county, the advisory committee shall determine the extent of the infestation and recommend to the department the procedure for eliminating the infestation.

[Acts 1981, 67th Leg., p. 1167, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.023. Method of Control**

(a) Taking into consideration the recommendations of the appropriate citrus quarantine advisory committee, the department shall determine the best method of controlling or eradicating a Mexican fruit fly infestation.

(b) The department shall serve written findings and directions for control or eradication of the infestation on the owner of the infested premises. The owner shall immediately comply with the directions of the department.

[Acts 1981, 67th Leg., p. 1167, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.024. Host-Free Period**

(a) The department may adopt the host-free period adopted by the United States Department of Agriculture for Mexican fruit fly quarantine in this state. During a host-free period, host fruits may not be produced or permitted to remain on trees within a quarantined area.

(b) All old crop fruit shall be removed from premises in a quarantined area at the beginning of an annual host-free period.

(c) In addition to other fruits declared by the department to be host fruits, the following fruits are host fruits for the purpose of this chapter:

- (1) mangoes;
- (2) sapotas, including sapodillas, fruits of the family Sapotaceae and the genus Casimiroa, and all other fruits commonly called sapotas or sapotes;
- (3) peaches;
- (4) guavas;
- (5) apples;
- (6) pears;
- (7) plums;
- (8) quinces;
- (9) apricots;
- (10) mameys;

(11) ciruelas; and

(12) all citrus fruits, except lemons, sour limes, calamondin, and citrus fruit that, because of its stage of development during the host-free period, will mature during the period of the year not within the host-free period.

[Acts 1981, 67th Leg., p. 1167, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.025. Unhusbandlike and Unsanitary Conditions; Orders of Department**

(a) It is a public nuisance to maintain premises in a quarantined area in an unhusbandlike or unsanitary condition. A person maintains an unhusbandlike or unsanitary condition if the person:

(1) has host fruit on trees on the premises during the host-free period; or

(2) permits fallen, refuse, or cull fruit to remain on the ground or premises for a period of seven days or more during the harvest period.

(b) Within the harvest period, each person shall clean fallen, refuse, or cull fruit from his or her premises once in each seven-day period. The fruit shall be buried at a depth of not less than 18 inches below the surface of well-tamped soil or disposed of in another manner satisfactory to the department.

(c) The department may order each owner, part owner, or caretaker of premises subject to this chapter to place the premises in husbandlike and sanitary condition. The order shall be in writing, dated, and signed or stamped by the commissioner or the commissioner's designee. The order shall direct the owner, part owner, or caretaker to place the premises in husbandlike and sanitary condition under the supervision of an inspector of the department. If the owner is a nonresident, the department shall give the owner 10 days' notice of the order by registered mail.

[Acts 1981, 67th Leg., p. 1167, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.026. Expenses of and Responsibility for Compliance With Order of Department**

(a) If the department issues an order under Section 72.025(c) of this code, the owner, part owner, or caretaker of the premises involved shall furnish the labor necessary to comply with the order at his or her own expense.

(b) An administrator, executor, or guardian is responsible for the execution of orders under Section 72.025(c) of this code relating to premises that are part of an estate under the control of that person by reason of the administration or guardianship.

(c) A husband and wife are jointly and severally responsible for the execution of an order under Section 72.025(c) of this code in relation to their community estate. Each spouse is responsible for

the execution of an order in relation to his or her separate estate. In addition, each spouse is responsible for the execution of an order in relation to the other spouse's separate estate if he or she is the caretaker of premises belonging to the separate estate of the other spouse.

[Acts 1981, 67th Leg., p. 1168, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 72.027 to 72.040 reserved for expansion]

#### SUBCHAPTER D. REMEDIES

##### § 72.041. Appeal of Department Order

A person aggrieved by an order of the department may appeal to a court of competent jurisdiction within the county in which the premises subject to the order are located.

[Acts 1981, 67th Leg., p. 1168, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 72.042. Enforcement of Department Order; Fees

(a) If a person fails to comply with an order of the department under Section 72.025(c) of this code before the 11th day following the day on which the person received the order, the department shall file suit in a court of competent jurisdiction to have the premises subject to the order declared a public nuisance. In addition, the department may petition the court to appoint a receiver for the premises.

(b) In an action under this section, it is presumed that the person on whom the order was served was the owner, part owner, or caretaker when the time for compliance expired, and the state is required only to allege and prove that, at the time the order was served, the person was the owner, part owner, or caretaker of the premises subject to the order.

(c) Venue for a suit under this section is in the county in which the premises subject to the order are located.

(d) A court may hear and dispose of all issues in an action under this section in term or during vacation.

(e) The department may not be required to post a cost bond in an action under this section.

(f) The owner of the premises shall give notice as the court determines necessary.

(g) If the court finds the premises to be a public nuisance, the department may enter the premises and place them in compliance with the order. The owner shall pay to the department an amount not to exceed 25 cents a person, as allowed by the court, for each hour actually expended placing the premises in compliance with the order. In addition, the owner shall pay to the department the sum of \$25, not as a penalty but as reasonable compensation for the time involved in the execution of the order.

[Acts 1981, 67th Leg., p. 1168, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 72.043. Lien

(a) For the purpose of securing the payment of fees under Section 72.042 of this code, the department has a lien on all citrus fruit growing or standing on premises declared by the court to be a public nuisance. The department may enforce the lien in the manner provided by either Subsection (b) or (c) of this section.

(b) If no receiver has been appointed, the department may enforce the lien by selling at public sale to the highest bidder any fruit subject to the lien. The sale shall be conducted at the courthouse door. If a receiver has been appointed, the receiver shall conduct the sale. Proceeds of the sale in excess of the amount owed to the department shall be paid to the owner of the premises or to the county treasurer subject to the order of the owner.

(c) The department may fix the lien by filing the lien, a sworn statement of the indebtedness, and a description of the property subject to the lien with the county clerk of the county in which the premises are located. The lien must be filed before the 31st day following the last day of action by the department under Section 72.042(g) of this code. Within 24 months after filing the lien, the department shall file suit in a court of competent jurisdiction for collection of the account and foreclosure of the lien. Neither the department nor any person to whom the account is assigned may be required to post a cost bond in that suit. The court shall enter judgment for the debt with interest and costs of suit and foreclosing the lien on premises as the court determines necessary for defraying expenses, court costs, and the fees owed.

(d) In an action under Subsection (c) of this section, the department may file a separate statement and separate suit covering each necessary action of the department to enforce compliance or may wait until a number accrue and file one statement and one suit covering all necessary actions.

(e) A peace officer authorized by law to serve in the area in which the lien is enforced may perform the functions of the department under this section. [Acts 1981, 67th Leg., p. 1169, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 72.044. Injunctions; Mandamus

(a) If a person responsible for execution of an order under Section 72.025(c) of this code fails or refuses, or threatens to fail or refuse, to comply with the order, a resident of the county or part of the county in which Mexican fruit fly control or eradication is being conducted may sue for an injunction to compel that person to place the premises in sanitary conditions in accordance with this chapter. If the court finds that the person responsible for compliance has been served with a written order, that the premises are subject to the order, and that the

material allegations in the petition are true, the court shall enter an order commanding the person to comply immediately with the written directions of the department. A person who refuses to comply with the court's order may be punished for contempt of court.

(b) Any resident of this state may sue for an injunction or mandamus to compel compliance with this chapter or to restrain a violation of this chapter. Notice of the hearing to the opposite party may be given under the direction of the court, if the court determines that justice requires the notice.

(c) A court may hear and determine a cause under this section in term or in vacation.

[Acts 1981, 67th Leg., p. 1169, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.045. Seizure of Ownerless Fruit**

If the department is not able to locate an owner, part owner, or caretaker for premises in a county in which Mexican fruit fly control or eradication is being conducted, the department may seize any citrus fruit growing or standing on the premises and sell the fruit in the manner provided by Section 72.043(b) of this code.

[Acts 1981, 67th Leg., p. 1170, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 72.046 to 72.060 reserved for expansion]

**SUBCHAPTER E. PENALTIES**

**§ 72.061. General Penalty**

(a) A person who violates any provision of this chapter commits an offense.

(b) An offense under this section is a misdemeanor or punishable by a fine not to exceed \$200.

[Acts 1981, 67th Leg., p. 1170, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.062. Failure to Comply With Department Order**

(a) A person commits an offense if the person fails or refuses to comply with an order of the department under Section 72.025(c) of this code before the 11th day following the day on which the person received the order.

(b) An offense under this section is a misdemeanor or punishable by a fine not to exceed \$200.

[Acts 1981, 67th Leg., p. 1170, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.063. Public Nuisance**

(a) A person commits an offense if the person:

(1) fails or refuses to clean quarantined premises or dispose of fruit in accordance with Section 72.025(b) of this code; or

(2) maintains host fruit on trees on quarantined premises during the host-free period.

(b) An offense under this section is a misdemeanor or punishable by a fine not to exceed \$200.

[Acts 1981, 67th Leg., p. 1170, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 72.064. Movement of Fruit in Violation of Quarantine**

(a) A person commits an offense if the person violates a provision of Section 72.015 of this code.

(b) An offense under this section is a misdemeanor or punishable by a fine not to exceed \$200.

[Acts 1981, 67th Leg., p. 1171, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 73. CITRUS DISEASES AND PESTS**

Section	Definition.
73.001.	Policy.
73.002.	Citrus Zone.
73.003.	Dangerous Diseases and Pests.
73.004.	Movement of Infected Nursery Products Into Citrus Zone.
73.005.	Certificate of Inspection; Permit.
73.006.	Protection of Carrier From Damages.
73.007.	Department Employees and Expenses Outside the State.
73.008.	Penalties.
73.009.	

**§ 73.001. Definition**

In this chapter, "nursery product" has the meaning assigned by Section 71.041 of this code.

[Acts 1981, 67th Leg., p. 1171, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 73.002. Policy**

The state recognizes that the citrus industry is a valuable asset and that the citrus crop is highly susceptible to the ravages of insects, pests, and plant diseases. The state shall use all constitutional measures to protect this industry from destruction by pests and diseases.

[Acts 1981, 67th Leg., p. 1171, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 73.003. Citrus Zone**

The following counties are designated as the citrus zone of this state: Cameron, Willacy, Hidalgo, Starr, Zapata, Jim Hogg, Brooks, Kenedy, Kleberg, Nueces, Jim Wells, Duval, Webb, San Patricio, Refugio, Bee, Live Oak, McMullen, LaSalle, Dimmit, Maverick, Zavala, Frio, Atascosa, Wilson, Karnes, DeWitt, Victoria, Goliad, Calhoun, and Aransas.

[Acts 1981, 67th Leg., p. 1171, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 73.004. Dangerous Diseases and Pests**

(a) In accordance with Subchapter A, Chapter 71, of this code, the department shall establish quarantines against the following pests and plant diseases, which are not widely distributed in this state and are public nuisances:

- (1) Black scale (*Saissetia oleae*);
  - (2) Branch and twig borer (*Melalgus confertus*);
  - (3) Long-tailed mealy bug (*Pseudococcus adonidum*);
  - (4) Orange-peel miner (*Marmara* species);
  - (5) Withertip of lime (*Glocosporium limetticolm*); and
  - (6) False spider mite (*Brevipalpus* sp.).
- (b) For purposes of the citrus zone, the following pests and diseases are a public nuisance:
- (1) False spider mite (*Brevipalpus* sp.);
  - (2) Withertip of lime (*Glocosporium limetticolm*);
  - (3) Whitefly (*Aleyrodes*, *nubifera*);
  - (4) Woolly whitefly (*Aleurothrixus howardi*);
  - (5) Flocculent whitefly (*Aleurothrixus floccosa*);
  - (6) Guava whitefly (*Trialeurodes floridensis*);
  - (7) Bay whitefly (*Paraleurodes perseae*);
  - (8) Inconspicuous whitefly (*Bemesia inconspicua*);
  - (9) Florida spirea aphid (*Aphis spirecola*);
  - (10) Citrus root weevil (*Pachnaeus litus* Germar);
  - (11) Meleanose (*Phomopsis citri*);
  - (12) Rufous scale (*Selenaspidus articulatus*);
  - (13) Snow scale (*Unaspis citri*);
  - (14) Six-spotted mite (*Tetranychus sexmaculatus*);
  - (15) Purple mite (*Panohychus citri*);
  - (16) Orange sawyer (*Elaphidion inerne*);
  - (17) Spiny blackfly (*Aleurocanthus woglumi*);
  - (18) Citrus scab;
  - (19) Black scale (*Saissetia oleae*);
  - (20) Citrus mealy bug;
  - (21) Cottony cushion scale;
  - (22) Citrus thrips (*scirtothrips citri*, Moulton);
  - (23) Barnacle scale;
  - (24) California red scale;
  - (25) Oystershell scale;
  - (26) Citrus red spider; and
  - (27) Citrus fruit and storage rot.

[Acts 1981, 67th Leg., p. 1171, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 73.005. Movement of Infected Nursery Products Into Citrus Zone

A person may not ship into the citrus zone a nursery product infected with a pest or disease listed in Section 73.004(b) of this code.

[Acts 1981, 67th Leg., p. 1172, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 73.006. Certificate of Inspection; Permit

(a) A person may not ship a citrus nursery product or citrus fruit from outside this state into this state without first filing with the department a certificate of inspection issued by the proper authority of the state in which the shipment originates. The certificate must show:

(1) that the nursery product or fruit to be shipped has been produced in a county known to be free from the pests and diseases listed in Section 73.004(a) of this code; or

(2) that the nursery product or fruit has been fumigated by a method approved by the department that will render it free of pest or disease infestation.

(b) A transportation company or common carrier may not receive, transport, or deliver a shipment of a citrus nursery product or citrus fruit originating outside this state that does not bear:

(1) a shipping tag or label showing the certificate of inspection from the originating state; and

(2) a permit from the department.

(c) A transportation company or common carrier shall immediately report to the department any shipment of a citrus nursery product or citrus fruit that is not accompanied by the certificate and permit required by Subsection (b) of this section.

[Acts 1981, 67th Leg., p. 1172, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 73.007. Protection of Carrier From Damages

A transportation company or common carrier is not liable for damages to a consignor or consignee for refusing to receive for transportation or refusing to deliver a citrus nursery product or citrus fruit, or a package, bale, bundle, or box of that nursery product or fruit, that is not accompanied by the certificate and permit required under Section 73.006 of this code.

[Acts 1981, 67th Leg., p. 1173, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 73.008. Department Employees and Expenses Outside the State

This chapter does not authorize the department to expend money, send employees, or employ persons outside this state.

[Acts 1981, 67th Leg., p. 1173, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 73.009. Penalties

(a) A person commits an offense if the person violates a provision of Section 73.005 or 73.006 of this code.

(b) An offense under Section 73.005 of this code is a misdemeanor punishable by:

(1) a fine of not less than \$100 nor more than \$1,000;

(2) confinement in county jail for not less than 10 days nor more than one year; or

(3) both fine and confinement under this subsection.

(c) An offense under Section 73.006 of this code is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1173, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 74. COTTON DISEASES AND PESTS**

**SUBCHAPTER A. BOLL WEEVIL CONTROL**

- Section 74.001. Public Nuisance.
- 74.002. Approval and Enforcement of Cotton Producers Board Rules.
- 74.003. Entry Power.
- 74.004. Penalty.

**SUBCHAPTER B. PINK BOLLWORM CONTROL**

- 74.051. Definitions.
- 74.052. Policy.
- 74.053. Host Plants.
- 74.054. Regulation of Growing; Quarantines.
- 74.055. Regulation of Ginning.
- 74.056. Operation of Fumigation and Sterilization Plants.
- 74.057. Destruction of Host Plants.
- 74.058. Entry Power; Inspections.
- 74.059. Inspectors.
- 74.060. Cooperation With Federal Programs.
- 74.061. Penalty.

**SUBCHAPTER C. COTTON ESCROW ACCOUNTS**

- 74.081. Purpose.
- 74.082. Districts.
- 74.083. Election.
- 74.084. Voting.
- 74.085. Adoption of Subchapter.
- 74.086. Escrow Account.
- 74.087. Refund or Forfeiture of Escrow Funds.
- 74.088. Use of Forfeited or Unclaimed Escrow Funds or Unused Escrow Fees.
- 74.089. Eligible Depositories.
- 74.090. Escrow Fee.
- 74.091. Rules.

**SUBCHAPTER A. BOLL WEEVIL CONTROL**

**§ 74.001. Public Nuisance**

The *Anthonomus grandis* Boheman, known as the boll weevil, is a public nuisance and a menace to the cotton industry, and its eradication is a public necessity.

[Acts 1981, 67th Leg., p. 1174, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 74.002. Approval and Enforcement of Cotton Producers Board Rules**

If a cotton producers board is established and certified under Chapter 41 of this code, the department shall enforce the rules relating to control and

eradication of the boll weevil that are adopted by the board and are approved by the department. [Acts 1981, 67th Leg., p. 1174, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 74.003. Entry Power**

For the purpose of investigating compliance with rules of a cotton producers board under Section 74.002 of this code, the department is entitled to enter any field of cotton or premises in which cotton or its products are stored or held. The department is entitled to examine any product, container of cotton, or other substance that is subject to boll weevil infestation.

[Acts 1981, 67th Leg., p. 1174, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 74.004. Penalty**

(a) A person commits an offense if the person violates a rule relating to control and eradication of the boll weevil adopted by a cotton producers board under Chapter 41 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

(c) A person commits a separate offense for each day that a violation continues.

[Acts 1981, 67th Leg., p. 1174, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 74.005 to 74.050 reserved for expansion]

**SUBCHAPTER B. PINK BOLLWORM CONTROL**

**§ 74.051. Definitions**

In this subchapter:

(1) "Cotton" includes the cotton plant, cotton in the boll, cotton stalk, and all cotton products, including seed cotton, ginned lint cotton, cottonseed, and cotton hulls, but not including cotton oil or cotton meal.

(2) "Host plant" means a plant susceptible to infestation by pink bollworm.

(3) "Okra" includes okra stalks.

(4) "Pink bollworm" means the insect *Pectinophora gossypiella*, Saunders, in any stage of development, including the egg, larval, pupal, and adult stages.

[Acts 1981, 67th Leg., p. 1174, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 74.052. Policy**

The pink bollworm is a public nuisance and a menace to the cotton industry, and its eradication is a public necessity. The state shall employ all constitutional methods to control and eradicate the pink bollworm that scientific research demonstrates to be successful, including:

- (1) inspection of host plants in the field or host plant products where stored;
- (2) quarantine and fumigation of host plants and host plant products found to be contaminated;
- (3) supervision of the growing of host plants in areas known to be contaminated;
- (4) destruction of infested fields of host plants or of infested host plant products; and
- (5) prevention of planting of host plants in areas where infestation has been found.

[Acts 1981, 67th Leg., p. 1175, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.053. Host Plants

In addition to other plants determined by the department to be host plants, cotton and okra are host plants for the purpose of this subchapter. [Acts 1981, 67th Leg., p. 1175, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.054. Regulation of Growing; Quarantines

(a) The department may adopt rules governing the growing of a host plant in an area in which, under prior law, the governor proclaimed it unlawful to grow the host plant except under rules of the department. In addition to other necessary rules, the rules may include provisions for:

- (1) planting of seed from noninfested territory;
- (2) ginning at designated mills; or
- (3) milling or disinfecting of all seed products marketed within the area.

(b) If, under prior law, the governor proclaimed a quarantine against infested territory, no person may import into Texas from the quarantined territory a substance susceptible to pink bollworm infestation.

(c) The department shall maintain a rigid inspection of substances susceptible to pink bollworm contamination that are being carried from quarantined territory into this state.

[Acts 1981, 67th Leg., p. 1175, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.055. Regulation of Ginning

A ginner may not gin cotton from a regulated zone under this subchapter unless the ginner disinfects the seed in accordance with rules of the department.

[Acts 1981, 67th Leg., p. 1175, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.056. Operation of Fumigation and Sterilization Plants

The department shall own or lease fumigation and sterilization plants and operate those plants without cost to the host plant grower, or gin, compress, or mill owner.

[Acts 1981, 67th Leg., p. 1175, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.057. Destruction of Host Plants

(a) If the department considers it necessary to the protection of the cotton industry of this state, the department may destroy any host plant, host plant product, or field of host plants in which pink bollworm is found or which is probably contaminated by being near an infestation of pink bollworm.

(b) Before exercising its power under Subsection (a) of this section, the department shall report the condition to the governor, setting out in detail the area or amount of host plants or host plant products to be destroyed. The governor shall declare the host plants or host plant products to be a public menace.

(c) The department may take any action necessary to complete destruction of host plants or host plant products to prevent the spread of pink bollworm from the infested area.

[Acts 1981, 67th Leg., p. 1176, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.058. Entry Power; Inspections

For the purpose of enforcing this chapter or issuing permits, the department is entitled to:

- (1) enter any field of host plants or any premises in which a host plant or its product is stored or held;
- (2) examine any product, container, or substance susceptible to pink bollworm infestation; and
- (3) examine the records of a purchaser, handler, or common carrier of host plant products.

[Acts 1981, 67th Leg., p. 1176, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.059. Inspectors

(a) The department may employ and prescribe the duties of inspectors and other employees necessary to the administration of this subchapter.

(b) In order to be employed as an inspector under this section, a person must have two years' actual experience as an entomologist or two years' training as an entomologist in the science department of a reputable college or university.

[Acts 1981, 67th Leg., p. 1176, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.060. Cooperation with Federal Programs

The department shall cooperate with the United States Department of Agriculture in any measure authorized by, and undertaken in accordance with, federal law for preventing the introduction or establishment of pink bollworm in this state.

[Acts 1981, 67th Leg., p. 1176, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 74.061. Penalty

(a) A person commits an offense if the person:

(1) transports a host plant or host plant product by any means from any territory in this state that is quarantined and placed under restrictions by proclamation of the governor in accordance with prior law;

(2) violates a proclamation or a rule or restriction adopted under this subchapter;

(3) brings into this state any material contaminated with pink bollworm;

(4) plants, cultivates, grows, allows to grow, gathers, transports, or markets a host plant in or from any territory in this state that is quarantined or placed under restrictions by a proclamation issued under prior law;

(5) fails to comply with a rule adopted for the control and direction of host plant growing and marketing in a restricted or regulated zone;

(6) violates Section 74.055 of this code; or

(7) wilfully refuses or knowingly neglects to comply with a proclamation, rule, or restriction adopted and maintained for the protection of the cotton industry.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$50 nor more than \$500;

(2) confinement in jail for not less than 10 nor more than 30 days; or

(3) both fine and confinement under this subsection.

(c) It is a defense to prosecution under this section that the defendant's act or failure to act was in accordance with a rule adopted by the department. [Acts 1981, 67th Leg., p. 1176, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 74.062 to 74.080 reserved for expansion]

SUBCHAPTER C. COTTON ESCROW ACCOUNTS

§ 74.081. Purpose

The purpose of this subchapter is to grant additional powers to the department to aid the enforcement of the law relating to eradication of the pink bollworm.

[Acts 1981, 67th Leg., p. 1177, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 74.082. Districts

The department shall divide the state into districts of at least four cotton-growing counties each and shall designate a number for each district.

[Acts 1981, 67th Leg., p. 1177, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 74.083. Election

(a) On petition of 100 or more eligible voters, the department shall conduct an election to determine if the cotton growers of a district are to be subject to this subchapter. If this subchapter is adopted at an election, the department shall thereafter conduct an election each year to determine if this subchapter shall apply for the following year.

(b) An election under this section shall be conducted between September 1 and September 30 on a date during the ginning season designated by the department.

(c) The department shall publish notice of an election under this section in one or more newspapers of general circulation in each county contained in the district once each week for three consecutive weeks.

(d) The department shall prescribe forms, designate polling places, and adopt other rules necessary for the conduct of a fair election. The department shall designate at least one polling place in each county in the district.

[Acts 1981, 67th Leg., p. 1177, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 74.084. Voting

(a) In order to vote in an election under this subchapter, a person must be a cotton grower who:

(1) has applied for and received a permit to plant cotton, if a permit is required by the department under Subchapter B of this chapter; or

(2) is the owner and holder of an allotment card issued by the United States Department of Agriculture through the County Agricultural Services and Conservation Committee.

(b) Each voter is entitled to one vote regardless of the number of bales ginned or the volume of cotton grown.

[Acts 1981, 67th Leg., p. 1177, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 74.085. Adoption of Subchapter

If adoption of this subchapter is approved by majority vote of the eligible voters, the cotton farmers within the adopting district are subject to Sections 74.086-74.089 of this code, and the department may adopt rules necessary to implement those sections.

[Acts 1981, 67th Leg., p. 1178, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 74.086. Escrow Account

(a) At the time of ginning, each cotton grower shall pay to an agent of the department the sum of \$7.50 for each bale of cotton ginned. The agent shall collect the money at the gin where the cotton is ginned.

(b) At least once each week, the agent collecting the money shall deposit the receipts in a depository selected by the grower. If the grower has not selected a depository, the department shall make the selection.

(c) The depository shall hold the money collected from each grower in escrow for the purpose of assuring compliance by the grower with the rules of the department and the conditions of the grower's permit, if any, relating to planting and the destruction of cotton stalks.

(d) If the department requires a grower to obtain a permit to grow cotton during periods designated by the department, the application for the permit must provide that if the growers of a district have adopted this subchapter, the department is authorized to deduct an escrow fee from funds received and hold the balance in escrow until satisfactory destruction of stalks has been completed.

[Acts 1981, 67th Leg., p. 1178, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.087. Refund or Forfeiture of Escrow Funds

(a) If a grower completes satisfactory destruction of cotton stalks within a reasonable time designated by the department, the grower is entitled to a refund of all money deposited into escrow, less the escrow fee.

(b) If a grower wilfully fails or refuses to plow up cotton stalks or does not comply with rules adopted by the department for the eradication of pink bollworm, the grower forfeits the balance on deposit in the escrow account.

(c) Forfeiture under this section is not a penalty but is to assure plow up and conditioning by the grower and, if the grower fails or refuses to do so, to provide a method for the department to accomplish plow up and conditioning out of the deposited funds.

[Acts 1981, 67th Leg., p. 1178, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.088. Use of Forfeited or Unclaimed Escrow Funds or Unused Escrow Fees

(a) If the funds in an escrow account are forfeited, the department shall supervise the plow up or conditioning of the property of the defaulting grower and defray the costs by using the forfeited funds.

(b) Any balance remaining in an escrow account after subtracting the cost of plow up or conditioning and the escrow fee shall be paid to the depositor.

(c) The department may expend unclaimed escrow funds and unused escrow fees for research and improvement of present pink bollworm controls.

(d) The department shall account for all funds received and disposed of under this subchapter at the end of each calendar year.

[Acts 1981, 67th Leg., p. 1178, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.089. Eligible Depositories

An institution is eligible to be a depository for escrow accounts under this subchapter if it is:

(1) organized under the laws of this state or the United States to conduct a depository or fiduciary business; and

(2) domiciled in the district where the cotton growers adopted this subchapter.

[Acts 1981, 67th Leg., p. 1179, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.090. Escrow Fee

From each escrow account, the department is entitled to deduct an escrow fee not to exceed an amount equal to one percent of the total deposit. Fees collected under this section shall be used for the purpose of compensating inspectors and defraying other necessary costs in the administration of this subchapter.

[Acts 1981, 67th Leg., p. 1179, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 74.091. Rules

The department may adopt rules necessary to the administration of this subchapter.

[Acts 1981, 67th Leg., p. 1179, ch. 388, § 1, eff. Sept. 1, 1981.]

### CHAPTER 75. HERBICIDE REGULATION

Section	Purpose.
75.001.	Definitions.
75.002.	Herbicides.
75.003.	Dealer's License.
75.004.	Record of Sale.
75.005.	Permit; Fee.
75.006.	Inspection Before Issuing Permit.
75.007.	Types of Permits.
75.008.	Powder or Dry Herbicides.
75.009.	Term of Permit.
75.010.	Refusal, Amendment, or Revocation of Permit.
75.011.	Application of Herbicide.
75.012.	Applier's Records.
75.013.	Custom Applier's Bond; Crop Damage Insurance.
75.014.	Notice of Effects of Herbicide; Inspection.
75.015.	Equipment License; Fee.
75.016.	Regulation of Equipment.
75.017.	Rules.
75.018.	Enforcement.
75.019.	Employees.
75.020.	County Herbicide Inspector.
75.021.	Application of Chapter.
75.022.	Revocation and Reinstatement of Exemption.
75.023.	Penalties.
75.024.	

#### § 75.001. Purpose

The purpose of this chapter is to regulate the sale, use, and transportation of herbicides.

[Acts 1981, 67th Leg., p. 1179, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 75.002. Definitions

In this chapter:

- (1) "Application of a herbicide" means the spreading of a herbicide on real property having a continuous boundary line.
- (2) "Custom applicer" means a person who applies a herbicide to land or plants for hire.
- (3) "Equipment" means a device used to apply a herbicide.

[Acts 1981, 67th Leg., p. 1180, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 75.003. Herbicides

(a) This chapter applies to the following herbicides:

- (1) 2, 4-Dichlorophenoxyacetic Acid (2, 4-D);
- (2) 2, 4, 5-Trichlorophenoxyacetic Acid (2, 4, 5-T);
- (3) 2-Methyl-4-Chlorophenoxyacetic Acid (MCPA);
- (4) 2-(2, 4, 5-Trichlorophenoxy) propionic Acid (silvex);
- (5) Polychlorinated benzoic acids; and
- (6) derivatives and formulations of substances listed by Subdivisions (1)-(5) of this subsection.

(b) To prevent a hazard to desirable vegetation through drift or other uncontrolled application, the department may, after a public hearing, determine that this chapter applies to a substance, in addition to those listed by Subsection (a) of this section, that is used to control plants growing where they are not wanted.

[Acts 1981, 67th Leg., p. 1180, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 75.004. Dealer's License

(a) Except as provided by Subsection (b) of this section, a person may not sell, wholesale, distribute, offer or expose for sale, exchange, barter, or give away in this state, a herbicide in a container having a net capacity of more than 16 fluid ounces unless the person first obtains a dealer's license from the department.

(b) A person is not required to be licensed if the container described by Subsection (a) of this section:

- (1) has a net capacity that does not exceed one gallon;
- (2) contains a substance with a concentration of herbicide not exceeding 10 percent by volume; and
- (3) bears a label stating that its contents are for lawn use only.

(c) Except as provided by this subsection, an application for a dealer's license must be accompanied by a dealer's license fee for each warehouse or branch of the applicant's business. If the applicant's

principal office keeps and reports satisfactory records for all subsidiary branches, the applicant shall pay one license fee.

(d) The department by rule shall set the fee for a dealer's license in an amount not to exceed \$100.

(e) A dealer's license expires January 1 of each year.

[Acts 1981, 67th Leg., p. 1180, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 75.005. Record of Sale

(a) A person required to obtain a dealer's license by Section 75.004 of this code shall record each sale of a herbicide that is sold in a container having a net capacity of more than 16 fluid ounces and shall keep a copy of the record for at least two years after the date of the sale.

(b) The department shall adopt rules that prescribe the information to be stated in the records required by this section.

(c) The department may require that a copy of the records required by this section be submitted periodically to the department. The copies submitted to the department are public information.

(d) The department shall revoke the dealer's license if the licensee fails to submit a copy of the records as required by the rules adopted under Subsection (c) of this section. This penalty does not affect other penalties provided by this chapter. [Acts 1981, 67th Leg., p. 1180, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 75.006. Permit; Fee

(a) Except as provided by this section, a person may not apply a herbicide to any land or plants unless the person first obtains a permit to apply a herbicide from the department.

(b) An application for a permit to apply a herbicide must be accompanied by a permit fee set by the department in an amount not to exceed 10 cents an acre for the area to which the herbicide is to be applied.

(c) A permit is not required if during any one year the person applies a herbicide to a total acreage of 10 acres or less.

(d) The department by rule may exempt from the permit and fee requirement of this section:

- (1) a particular type of application of a herbicide; or
- (2) a governmental body.

(e) If the department finds that a type of application of a herbicide does not create a hazard in a particular area, the department by rule shall exempt that area from the permit and fee requirement of this section.

(f) A permit to apply a herbicide and payment of the permit fee is not required for experimental work

with a herbicide by the department, a recognized college or university, the United States Department of Agriculture, a governmental body, or a public organization if the entity gives written notice of the work to the department and does the work in accordance with rules adopted by the department. The department may exempt those entities from any other requirement of this chapter or rule adopted under this chapter.

[Acts 1981, 67th Leg., p. 1181, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 75.007. Inspection Before Issuing Permit

Before issuing a permit to spray a herbicide, the department is entitled to enter and inspect the area to be sprayed and the area surrounding it.

[Acts 1981, 67th Leg., p. 1181, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 75.008. Types of Permits

The department may issue:

- (1) an individual permit to apply a herbicide; or
- (2) a blanket permit.

[Acts 1981, 67th Leg., p. 1181, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 75.009. Powder or Dry Herbicides

(a) The department may not issue a permit to apply a powder or dry-type herbicide unless:

- (1) all particles of the herbicide can pass through a U.S. standard 10-mesh sieve; and
- (2) not more than one percent of the particles can pass through a U.S. standard 60-mesh sieve.

(b) The holder of a permit to apply a powder or dry-type herbicide may not apply a powder or dry-type herbicide that does not meet the requirements of Subsection (a) of this section.

[Acts 1981, 67th Leg., p. 1181, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 75.010. Term of Permit

(a) A permit to apply a herbicide expires:

- (1) when the herbicide has been applied to the area described by the permit;
- (2) when all acreage for which the permit was granted has been treated; or
- (3) if the acreage is not treated, on the 180th day after the day on which the permit was issued.

(b) If a herbicide is not applied to acreage for which a permit was issued, the person to whom the permit was issued, after filing a request for a refund, shall receive a refund equal to the amount of fees paid for acreage not treated.

[Acts 1981, 67th Leg., p. 1182, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 75.011. Refusal, Amendment, or Revocation of Permit

The department may amend, revoke, or refuse to grant a permit to apply herbicide.

[Acts 1981, 67th Leg., p. 1182, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 75.012. Application of Herbicide

(a) If a person applies a herbicide, the person shall act in accordance with rules adopted by the department.

(b) If a herbicide is applied by a custom applier, the person for whom the application of a herbicide is made and the custom applier shall jointly supervise the application in compliance with the rules adopted under Subsection (a) of this section.

(c) Regardless of whether a permit for the application of a herbicide is required under this chapter, each person before spraying a herbicide on land or plants, other than a lawn, shall:

- (1) give notice of intent to spray; and
- (2) submit a record of the spraying in accordance with rules of the department.

(d) If the department finds that an application of a herbicide is hazardous to crops or valuable plants in an area, the department may prohibit the application of a herbicide in that area for the period during which the hazard exists.

[Acts 1981, 67th Leg., p. 1182, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 75.013. Applier's Records

(a) Except as provided by Subsection (d) of this section, each person who applies a herbicide shall record each application of a herbicide that he or she makes and shall keep a copy of the records for at least two years after the date the application was made.

(b) The department shall adopt rules that prescribe the information to be stated in the records required by this section.

(c) To be eligible to hold a valid permit to apply a herbicide, a person must submit to the department, within a period prescribed by rule of the department, the record of each application of a herbicide made by the person. The department may require all persons who apply a herbicide to submit periodically to the department a copy of the records required by this section.

(d) A person, other than a custom applier, who applies a herbicide to a lawn is not required to make and keep the records required by Subsection (a) of this section for that application of a herbicide.

[Acts 1981, 67th Leg., p. 1182, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.014. Custom Applier's Bond; Crop Damage Insurance**

(a) Each custom applier shall:

(1) deposit with the department a surety bond approved by the department in the amount of \$20,000 plus \$2,000 for each piece of spraying equipment licensed for use by the custom applier; or

(2) subscribe for and hold a policy of crop damage insurance approved by the department with coverage in the amount described by Subdivision (1) of this subsection.

(b) A custom applier shall increase the amount of a bond or the amount of coverage of crop damage insurance by \$2,000 for each piece of spraying equipment used by the custom applier.

(c) A surety bond must be conditioned on compliance with this chapter and rules adopted under this chapter.

(d) Failure to perform the conditions of a bond resulting in injury to any crop or valuable plants is grounds for forfeiture of the bond to the person owning the crop or plants in a suit brought by the department or an interested party.

(e) The department shall prescribe requirements of crop damage insurance policies.

(f) The furnishing of a surety bond or crop damage insurance does not limit any civil or criminal liability incurred because of the negligent or unlawful use of a herbicide.

[Acts 1981, 67th Leg., p. 1183, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.015. Notice of Effects of Herbicide; Inspection**

(a) The department shall:

(1) inspect all crops reported to it as being affected by a herbicide;

(2) inspect the area surrounding the crops to find possible sources of drift; and

(3) report all findings concerning the affected crops.

(b) If a person's crops or plants are affected by drift of a hormone-type herbicide, the person shall notify the department of the effect. The person shall give notice before the crop is harvested or the plants are destroyed, whichever occurs first.

(c) If notice is not given in accordance with Subsection (b) of this section, it is presumed that there was no effect of a hormone-type herbicide. This presumption is rebuttable.

[Acts 1981, 67th Leg., p. 1183, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.016. Equipment License; Fee**

(a) A custom applier may not use equipment to apply a herbicide unless the equipment first is inspected and licensed by the department.

(b) The department shall inspect a piece of equipment before renewing an equipment license. If the equipment is used on an aircraft, the department shall inspect the equipment:

(1) during each 30-day period while the equipment is installed on the aircraft and is in use; or

(2) before the equipment is used, if removed from the aircraft and reinstalled after the 30th day after the day on which the equipment was last inspected.

(c) At the time of inspection, a custom applier shall pay an inspection fee of \$10 for each piece of equipment inspected.

(d) An equipment license expires on January 1 of each year.

[Acts 1981, 67th Leg., p. 1183, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.017. Regulation of Equipment**

The department by rule may:

(1) provide requirements for all equipment regardless of whether the equipment is required to be licensed;

(2) regulate or prohibit the use of equipment that may be hazardous in an area of the state; and

(3) define what constitutes an installation of equipment on an aircraft.

[Acts 1981, 67th Leg., p. 1184, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.018. Rules**

(a) Before the 21st day after the day on which the department receives, from an interested person, a written request for a revision of a rule, an exemption from a requirement of this chapter, or a prohibition of the spraying of a herbicide in an area, the department shall hold a public hearing to consider the request.

(b) Before the 10th day before the day on which a hearing required by this section is held, the department shall deliver notice of the hearing to each holder of a permit or license in the area affected by the hearing.

(c) The department may not hold more than one hearing to consider the condition of a particular area during a 90-day period unless the department determines that more frequent hearings are necessary.

(d) The department shall distribute in printed form all rules of the department adopted under this chapter and shall deliver a copy of those rules to each applicant for a permit or license.

[Acts 1981, 67th Leg., p. 1184, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.019. Enforcement**

(a) The department shall enforce this chapter and rules adopted under this chapter.

(b) If a county or district attorney refuses to act on behalf of the department in its enforcement of this chapter or a rule adopted under this chapter, the attorney general shall act on the department's behalf.

[Acts 1981, 67th Leg., p. 1184, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.020. Employees**

The department may employ inspectors and other employees necessary for the proper enforcement of this chapter and rules adopted under this chapter.

[Acts 1981, 67th Leg., p. 1184, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.021. County Herbicide Inspector**

(a) The commissioners court of each county may appoint and compensate persons to be herbicide inspectors for the area designated by the appointment.

(b) A county herbicide inspector shall cooperate with and work under the supervision of the department in enforcing this chapter and rules adopted under it.

(c) A county herbicide inspector has the powers of an employee of the department.

[Acts 1981, 67th Leg., p. 1184, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.022. Application of Chapter**

(a) Because there is no crop or vegetation of value susceptible to damage in the area, Sections 75.006–75.017 of this code do not apply to a county of this state, except Dawson County, that lies north or west of:

(1) the southern boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland counties;

(2) the eastern boundaries of Eastland, Stephens, and Young counties; and

(3) the southern and eastern boundaries of Clay County.

(b) Section 75.006–75.017 of this code do not apply to: Bandera, Brewster, Brooks, Burnet, Cameron, Coleman, Coke, Concho, Crane, Crockett, Dimmit, Duval, Edwards, Frio, Gillespie, Glasscock, Hidalgo, Irion, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, LaSalle, Lampasas, Llano, McCulloch, McMullen, Mason, Maverick, Menard, Mills, Montague, Nueces, Panola, Pecos, Presidio, Reagan, Real, Runnels, San Saba, Schleicher, Starr, Sterling, Sutton, Terrell, Tom Green, Upton, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala counties.

(c) Sections 75.004–75.017 of this code do not apply to Caldwell and Gonzales counties.

[Acts 1981, 67th Leg., p. 1184, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 75.023. Revocation and Reinstatement of Exemption**

(a) If the commissioners court of a county exempted by Section 75.022 of this code determines that a crop or vegetation of value that is susceptible to damage exists in the county or a portion of the county and evidences its determination by an appropriate order entered in the minutes of the court, Sections 75.006–75.017 of this code become effective in that county or portion of the county immediately on entry of the order.

(b) If the commissioners court of a county, all or a part of which has been removed from the exemption of Section 75.022 of this code under Subsection (a) of this section, determines that there is no longer a crop or vegetation susceptible to damage in that county or portion of the county, the court may order the exemption reinstated.

(c) If the commissioners court of a county that is subject to this chapter determines that there is no crop or vegetation of value susceptible to damage in the county or a portion of the county, the court by order may exempt the county or that portion of the county from the application of Sections 75.006–75.017 of this code.

(d) If a county or a portion of a county has been exempted under Subsection (c) of this section, the commissioners court may hold a hearing and enter an order revoking that exemption.

(e) Before an order may be entered under this section, the commissioners court shall hold a hearing to determine whether the order should be issued. The hearing may be held only once each year and only in the month of October, November, or December. Before the 10th day before the day on which the hearing is to be held, the commissioners court shall give notice of the hearing in at least one newspaper in the county.

(f) Before the 21st day after the day on which an order is entered, an interested person may appeal an order of a commissioners court issued under this section to district court to test the reasonableness of the commissioners court's fact-finding. On appeal, the district court shall follow the rules governing judicial review of contested cases under Section 19, Administrative Procedure and Texas Register Act (Article 6252–13a, Vernon's Texas Civil Statutes), and shall apply the substantial evidence rule. Appeals may be taken from the district court as in other civil cases.

(g) An order issued by the commissioners court under this section becomes effective January 1 of the year following the date of the hearing.

(h) The commissioners court shall notify the department of a change in the status of the exemption of a county or a portion of a county under this section.

[Acts 1981, 67th Leg., p. 1185, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 75.024. Penalties

(a) A person commits an offense if the person:

(1) applies a herbicide without a permit in violation of Section 75.006 of this code;

(2) acts in violation of Section 75.004(a) of this code;

(3) has a permit to apply a powder or dry-type herbicide and applies a herbicide that does not meet the requirements of Section 75.009 of this code;

(4) operates unlicensed equipment in violation of Section 75.016 of this code;

(5) fails to keep or submit records in violation of Sections 75.005 and 75.013 of this code; or

(6) violates or fails to comply with a rule adopted under this chapter.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$100 nor more than \$2,000;

(2) confinement in jail for not more than 30 days; or

(3) both fine and confinement under this subsection.

(c) The penalty provided by this section does not affect the civil liability of a person convicted under this section.

[Acts 1981, 67th Leg., p. 1186, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 76. PESTICIDE REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Section	
76.001.	Definitions.
76.002.	Pests.
76.003.	State-Limited-Use Pesticides.
76.004.	Department Rules.
76.005.	Notice of Hearing.
76.006.	Pesticide Examination and Testing.
76.007.	Cooperative Agreements; Grants-in-Aid.
76.008.	Exemption.

SUBCHAPTER B. LABELING

76.021.	Labeling Information.
76.022.	Conspicuous Lettering.
76.023.	Misbranded Pesticide or Device.

SUBCHAPTER C. REGISTRATION

76.041.	Registration Required.
76.042.	Content of Registration Application.
76.043.	Expiration and Renewal.
76.044.	Fees.
76.045.	Department Approval.
76.046.	Registration for Special Local Need.
76.047.	Denial or Cancellation of Registration.
76.048.	Experimental Use Permit.

SUBCHAPTER D. LICENSING OF DEALERS

Section	
76.071.	License Required.
76.072.	Expiration.
76.073.	Fees.
76.074.	Display of Dealer License.
76.075.	Records.
76.076.	Denial or Revocation of License.
76.077.	Exceptions.

SUBCHAPTER E. USE AND APPLICATION

76.101.	Coordination.
76.102.	Agencies Responsible for Certifying Pesticide Applicators.
76.103.	Program Contingent on Federal Funds.
76.104.	Agency Rules for Application of a Pesticide.
76.105.	License Required.
76.106.	Classification of Commercial and Noncommercial Licenses.
76.107.	Certification by More Than One Agency.
76.108.	Commercial Applicator License.
76.109.	Noncommercial Applicator License.
76.110.	Certified Applicator Examination; Reciprocal Agreements.
76.111.	Commercial Applicator Proof of Financial Responsibility.
76.112.	Private Applicator.
76.113.	Expiration and Renewal of Licenses.
76.114.	Records.
76.115.	Registration and Inspection of Equipment.
76.116.	Suspension, Modification, or Revocation of License.
76.117.	Property Owner Use.

SUBCHAPTER F. STORAGE AND DISPOSAL

76.131.	Rules.
---------	--------

SUBCHAPTER G. ENFORCEMENT

76.151.	Entry Power.
76.152.	Sampling.
76.153.	Stop-Sale Order.
76.154.	Injunction.
76.155.	Prosecutions.

SUBCHAPTER H. REMEDIES

76.181.	Appeal of Denial or Cancellation of Pesticide Registration.
76.182.	Appeal of Permit or License Denial, Suspension, Modification, or Revocation.
76.183.	Appeal of Stop-Sale Order.
76.184.	Reports of Pesticide Damage Claims.

SUBCHAPTER I. PENALTIES

76.201.	Offenses.
76.202.	Penalty.
76.203.	Defenses.

SUBCHAPTER A. GENERAL PROVISIONS

§ 76.001. Definitions

In this chapter:

(1) "Active ingredient" means:

(A) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that prevents, destroys, repels, or mitigates a pest;

(B) in the case of a plant regulator, an ingredient that through physiological action accelerates

ates or retards the rate of growth or rate of maturation or otherwise alters the behavior of an ornamental or crop plant or the product of an ornamental or crop plant;

(C) in the case of a defoliant, an ingredient that causes leaves or foliage to drop from a plant; or

(D) in the case of a desiccant, an ingredient that artificially accelerates the drying of plant tissue.

(2) "Animal" means a vertebrate or invertebrate species, including man, other mammals, birds, fish, and shellfish.

(3) "Antidote" means a practical treatment used in preventing or lessening ill effects from poisoning, including first aid.

(4) "Defoliant" means a substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

(5) "Desiccant" means a substance or mixture of substances intended to artificially accelerate the drying of plant tissue.

(6) "Device" means an instrument or contrivance, other than a firearm, that is used to trap, destroy, repel, or mitigate a pest or other form of plant or animal life, other than man or a bacterial, virus, or other microorganism on or in living man or other living animals. The term does not include equipment sold separately from a pesticide.

(7) "Distribute" means offer for sale, hold for sale, sell, barter, or supply.

(8) "Environment" includes water, air, land, plants, man, and other animals living in or on water, air, or land, and the interrelationships that exist among them.

(9) "Equipment" means any type of ground, water, or aerial equipment or contrivance employing motorized, mechanical, or pressurized power and used to apply a pesticide to land or to anything that may be inhabiting or growing or stored on or in the land. The term does not include a pressurized hand-sized household apparatus used to apply a pesticide or any equipment or contrivance for which the person applying the pesticide is the source of power or energy used in making the pesticide application.

(10) "Fungus" means a non-chlorophyll-bearing thallophyte, including rust, smut, mildew, mold, yeast, or bacteria, but not including a non-chlorophyll-bearing thallophyte on or in living man or other living animals or on or in a processed food, beverage, or pharmaceutical.

(11) "Inert ingredient" means an ingredient that is not an active ingredient.

(12) "Insect" means any of the numerous small invertebrate animals generally having a segment-

ed body and for the most part belonging to the class Insecta, comprising six-legged, usually winged forms such as beetles, bugs, bees, and flies. The term includes allied classes of arthropods, the members of which are wingless and usually have more than six legs, such as spiders, mites, ticks, centipedes, and wood lice.

(13) "Label" means the written, printed, or graphic matter on or attached to a pesticide or device or any of its containers or wrappers.

(14) "Labeling" means a label or any other written, printed, or graphic matter prepared by a registrant:

(A) accompanying the pesticide or device at any time; or

(B) to which reference is made on a label or in literature accompanying or referring to a pesticide or device, except accurate, nonmisleading references made to a current official publication of a federal or state institution or agency authorized by law to conduct research in the field of pesticides.

(15) "Land" means any land or water area, including airspace, and any plant, animal, structure, building, contrivance, or machinery, whether fixed or mobile, appurtenant to or situated on a land or water area or airspace, including any used for transportation.

(16) "License use category" means a classification of pesticide use based on the subject, method, or place of pesticide application.

(17) "Nematode" means an invertebrate animal of the phylum Nematelminthes and class Nematoda (an unsegmented roundworm with an elongated, fusiform, or sac-like body covered with cuticle) inhabiting soil, water, plants, or plant parts.

(18) "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(19) "Plant regulator" means a substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or rate of maturation, or otherwise to alter the behavior of an ornamental or crop plant or the product of an ornamental or crop plant, but does not include a substance to the extent that it is intended as a plant nutrient, trace element, nutritional chemical, plant inoculant, or soil amendment.

(20) "Regulatory agency" means a state agency with responsibility for certifying applicators under Subchapter E of this chapter.

(21) "Restricted-use pesticide" means a pesticide classified as a restricted-use pesticide by the Environmental Protection Agency.

(22) "Thallophyte" means a non-chlorophyll-bearing plant of a lower order than mosses and liverworts.

(23) "Weed" means any plant that grows where not wanted.

[Acts 1981, 67th Leg., p. 1188, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.002. Pests**

The department shall determine what organisms constitute pests for purposes of this chapter and may include in the list of pests:

(1) any insect, snail, slug, rodent, bird, nematode, fungus, weed, or other form of terrestrial or aquatic plant or animal life; or

(2) any virus, bacteria, or other microorganism, other than a virus, bacteria, or microorganism in living man or other living animals.

[Acts 1981, 67th Leg., p. 1190, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.003. State-Limited-Use Pesticides**

(a) After notice and public hearing, the department may adopt lists of state-limited-use pesticides for the entire state or for a designated area within the state.

(b) A pesticide may be included on a list of state-limited-use pesticides if the department determines that, when used as directed or in accordance with widespread and commonly recognized practice, the pesticide requires additional restrictions to prevent unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of use of the pesticide.

(c) The department may regulate the time and conditions of use of a state-limited-use pesticide and may require that it be purchased or used only:

- (1) with permission of the department;
- (2) under direct supervision of the department in certain areas under certain conditions; or
- (3) in specified quantities and concentrations.

(d) The department may require a person authorized to distribute or use a state-limited-use pesticide to maintain records of the person's distribution or use and may require that the records be kept separate from other business records.

[Acts 1981, 67th Leg., p. 1190, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.004. Department Rules**

After notice and hearing, the department may adopt rules for carrying out the provisions of this chapter, including rules providing for:

- (1) the collection, examination, and reporting of records, devices, and samples of pesticides;
- (2) the safe handling, transportation, storage, display, distribution, or disposal of pesticides and pesticide containers; and

(3) labeling requirements for pesticides and devices required to be registered under this chapter. [Acts 1981, 67th Leg., p. 1190, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.005. Notice of Hearing**

(a) Before adopting a rule under this chapter, the department or a regulatory agency shall publish notice of a public hearing in three newspapers of general circulation throughout the state. The notice must include the following information relating to the hearing:

- (1) the time;
- (2) the place;
- (3) the subject matter;
- (4) a general statement of the proposed action; and
- (5) the class or group of persons to be directly affected.

(b) Notice must be published under this section before the 10th day preceding the day of the hearing.

[Acts 1981, 67th Leg., p. 1190, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.006. Pesticide Examination and Testing**

(a) The department may contract with a state college or university, state agency, or commercial laboratory for examination of a pesticide. The department shall let contracts with commercial laboratories under this subsection on the basis of competitive bidding.

(b) The department shall make or provide for sample tests of a pesticide on request and may charge and collect a fee for the tests in an amount necessary to cover expenses incurred in making or providing for the tests.

[Acts 1981, 67th Leg., p. 1191, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.007. Cooperative Agreements; Grants-in-Aid**

A regulatory agency may receive grants-in-aid from any federal agency and may enter into cooperative agreements with a federal agency, an agency of this state, a subdivision of this state, or an agency of another state for the purpose of obtaining assistance in the implementation of this chapter.

[Acts 1981, 67th Leg., p. 1191, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.008. Exemption**

Sections 76.007, 76.104-76.106, 76.108-76.117, 76.151(b), 76.151(c), 76.154(b), 76.155, 76.181, 76.182, 76.184, and 76.201(d)(1) do not apply to a person who is regulated by the Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes).

[Acts 1981, 67th Leg., p. 1191, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 76.009 to 76.020 reserved for expansion]

## SUBCHAPTER B. LABELING

## § 76.021. Labeling Information

(a) Each pesticide distributed in this state shall bear a label containing the following information relating to the pesticide:

(1) the name, brand, or trademark under which the pesticide is distributed;

(2) the name and percentage of each active ingredient and the total percentage of inert ingredients;

(3) directions for use that are necessary for effecting the purpose for which the product is intended and, if complied with, are adequate for the protection of health and the environment;

(4) If the pesticide contains any form of arsenic, the percentage of total water-soluble arsenic, calculated as elementary arsenic;

(5) the name and address of the manufacturer, registrant, or person for whom the pesticide was manufactured;

(6) numbers or other symbols to identify the lot or batch of the manufacturer of the contents of the package; and

(7) a clear display of appropriate warnings, symbols, and cautionary statements commensurate with the toxicity or use classification of the pesticide.

(b) The labeling of each pesticide distributed in this state shall state the use classification for which the product is registered.

(c) The label bearing the ingredient statement under Subsection (a)(2) of this section shall be on or attached to that part of the immediate container that is presented or displayed under customary conditions of purchase and, if the ingredient statement cannot be clearly read without removing the outer wrapping, on any outer container or wrapper of a retail package.

[Acts 1981, 67th Leg., p. 1191, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 76.022. Conspicuous Lettering

Any word, statement, or information required by this chapter to appear on a label or in labeling of a pesticide or device shall be prominently and conspicuously placed so that, if compared with other material on the label or in the labeling, it is likely to be understood by the ordinary individual under customary conditions of use.

[Acts 1981, 67th Leg., p. 1192, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 76.023. Misbranded Pesticide or Device

(a) A pesticide or device is misbranded if:

(1) its labeling bears a statement, design, or graphic representation relating to the pesticide or

device, or the ingredients of either, that is false or misleading in any particular;

(2) it is an imitation of or is distributed under the name of another pesticide or device; or

(3) it is not conspicuously labeled in accordance with Section 76.022 of this code.

(b) A pesticide is misbranded if:

(1) its labeling bears any reference to registration under this chapter, unless the reference is required by a rule adopted under this chapter;

(2) it does not bear a label as required by Section 76.021 of this code; or

(3) its label does not bear information as required by Section 76.021 of this code or a rule adopted under this chapter.

[Acts 1981, 67th Leg., p. 1192, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 76.024 to 76.040 reserved for expansion]

## SUBCHAPTER C. REGISTRATION

## § 76.041. Registration Required

(a) Except as provided by Subsection (b) or (c) of this section, before a pesticide is distributed in this state or is delivered for transportation or is transported in intrastate commerce or between points within this state through a point outside the state, it must be registered with the department. The manufacturer or other person whose name appears on the label of the pesticide shall register the pesticide.

(b) Registration is not required for the transportation of a pesticide from one plant or warehouse to another plant or warehouse operated by the same person if the pesticide is used solely at the second plant or warehouse as a constituent of a pesticide that is registered under this chapter.

(c) Registration is not required for a chemical compound being used only to develop plot data as to the possible pesticidal action of the chemical.

[Acts 1981, 67th Leg., p. 1192, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 76.042. Content of Registration Application

(a) The application for registration of a pesticide shall include:

(1) the name and address of the applicant and the name and address of the person whose name will appear on the pesticide label, if not the applicant's;

(2) the name of the pesticide;

(3) a complete copy of all labeling to accompany the pesticide and a statement of all claims to be made for it, including the directions for use;

(4) the use classification, whether for restricted or general use, as provided by the federal Insecticide, Fungicide, and Rodenticide Act, as amended, or by a rule adopted under that Act;

(5) the use classification proposed by the applicant, if the pesticide is not required by federal law to be registered under a use classification; and

(6) other information required by the department for determining the eligibility for registration.

(b) The department may require the applicant to submit the complete formula for a pesticide, including active and inert ingredients, as a prerequisite to registration.

(c) The department may require a full description of the tests made and the results of the tests on which claims are based before approving registration of a pesticide that is not registered under federal law or for which federal or state restrictions on use are being considered.

(d) A person located outside this state, as a condition to registration of a pesticide, shall file with the department a written instrument designating a resident agent for service of process in actions taken in the administration and enforcement of this chapter. Instead of designating a resident agent, the person may designate in writing the secretary of state as the recipient of service of process for the person in this state.

[Acts 1981, 67th Leg., p. 1192, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.043. Expiration and Renewal**

(a) Registration of a pesticide expires annually on December 31.

(b) A person who applies for renewal of registration shall include in the renewal application only information that is different from the information furnished at the time of the most recent registration or renewal.

(c) A registration in effect on December 31 for which a renewal application has been filed and renewal fee has been paid continues in effect until the department notifies the applicant that the registration has been renewed or denied renewal.

[Acts 1981, 67th Leg., p. 1193, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.044. Fees**

(a) As a condition to registration or renewal of registration, an applicant shall pay to the department a fee of \$30 for each pesticide to be registered.

(b) If a person fails to apply for renewal of registration before March 1 of any year, the person, as a condition to renewal, shall pay a late registration fee of \$5 for each brand to be renewed, in addition to the renewal fee.

[Acts 1981, 67th Leg., p. 1193, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.045. Department Approval**

The department may not approve an application for registration unless the department finds that:

(1) the composition of the pesticide warrants the proposed claims made for it; and

(2) the pesticide, its labeling, and other materials required to be submitted under this chapter comply with the requirements of this chapter.

[Acts 1981, 67th Leg., p. 1193, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.046. Registration for Special Local Need**

(a) The department may register a pesticide for additional uses and methods of application not covered by federal regulation but not inconsistent with federal law, for the purpose of meeting a special local need.

(b) Before approving a registration under this section, the department shall determine that the applicant meets the other requirements of this subchapter.

[Acts 1981, 67th Leg., p. 1193, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.047. Denial or Cancellation of Registration**

(a) If the department has reason to believe that any use of a registered pesticide is in violation of a provision of this chapter or is dangerous or harmful, the department may conduct a hearing on denial or cancellation of registration.

(b) The department shall issue written notice of a hearing under this section to the registrant of the pesticide. The notice must contain a statement of the time and place of the hearing. The hearing shall be held after the 10th day following the day on which the notice is issued.

(c) After opportunity at the hearing for presentation of evidence by interested parties, the department may deny or cancel the registration of the pesticide if the department finds that:

(1) use of the pesticide has demonstrated uncontrollable adverse environmental effects;

(2) use of the pesticide is a detriment to the environment that outweighs the benefits derived from its use;

(3) even if properly used, the pesticide is detrimental to vegetation, except weeds, to domestic animals, or to public health and safety;

(4) a false or misleading statement about the pesticide has been made or implied by the registrant or the registrant's agent, in writing, verbally, or through any form of advertising literature; or

(5) the registrant has not complied or the pesticide does not comply with a requirement of this chapter or a rule adopted under this chapter.

[Acts 1981, 67th Leg., p. 1194, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.048. Experimental Use Permit**

(a) The department may issue an experimental use permit if the department determines that the applicant needs the permit in order to accumulate data necessary to register a pesticide under this chapter:

(b) A person may file an application for an experimental use permit before or after applying for registration.

(c) Use of a pesticide under an experimental use permit is under the supervision of the department and is subject to the terms and conditions, and valid for a period of time, prescribed by the department in the permit.

(d) The department may revoke an experimental use permit at any time if the department finds that:

(1) the terms or conditions of the permit are being violated; or

(2) the terms and conditions of the permit are inadequate to avoid any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of use of the pesticide.

[Acts 1981, 67th Leg., p. 1194, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 76.049 to 76.070 reserved for expansion]

**SUBCHAPTER D. LICENSING OF DEALERS****§ 76.071. License Required**

(a) A person may not distribute in this state a restricted-use or state-limited-use pesticide without a valid current pesticide dealer license issued by the department.

(b) Except as otherwise provided by this section, a pesticide dealer must obtain a license for each location in the state that is used for distribution. If the person does not have a place of business in this state, the person may obtain one license for all out-of-state locations, but shall file as a condition to licensing a designation of an agent for service of process as provided by Section 76.042(d) of this code.

(c) A person must apply for a pesticide dealer license on forms prescribed by the department. [Acts 1981, 67th Leg., p. 1194, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.072. Expiration**

A pesticide dealer license expires on December 31 of each year.

[Acts 1981, 67th Leg., p. 1195, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.073. Fees**

(a) An application for a pesticide dealer license must be accompanied by a nonrefundable annual

registration fee of not more than \$100, as fixed by the department.

(b) If a person fails to apply for a renewal of a pesticide dealer license before March 1 of any year, the person, as a condition to renewal, shall pay a late license fee of \$5 in addition to the renewal fee.

(c) A person licensed as a dealer under Chapter 75 of this code may not be required to pay an additional fee for the license prescribed in this subchapter. [Acts 1981, 67th Leg., p. 1195, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.074. Display of Dealer License**

(a) Each dealer shall prominently display the pesticide dealer license in the dealer's place of business.

(b) Failure to display a license as required by this section is a ground for revocation of the license. [Acts 1981, 67th Leg., p. 1195, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.075. Records**

(a) A licensed pesticide dealer shall maintain for a period of two years records of each restricted-use and state-limited-use pesticide sold. The department shall prescribe the information to be included in the records.

(b) The department may require a licensed pesticide dealer to submit records to the department. Failure to submit a record requested by the department is a ground for revocation of a license. [Acts 1981, 67th Leg., p. 1195, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.076. Denial or Revocation of License**

(a) If the department has reason to believe that an applicant has failed to comply with the requirements of this subchapter, or that a licensee has failed to comply with this subchapter or with a rule adopted under this subchapter, the department may conduct a hearing on denial or revocation of the person's license.

(b) The department shall issue written notice of a hearing under this section to the applicant or licensee. The notice must contain a statement of the time and place of the hearing. The hearing shall be held after the 10th day following the day on which the notice is issued.

(c) After opportunity at the hearing for presentation of evidence by the applicant or licensee, the department may refuse to issue a pesticide dealer license or may revoke a license, as applicable, if the department finds that the applicant or licensee has failed to comply with the applicable requirements of this subchapter or a rule adopted under this subchapter.

[Acts 1981, 67th Leg., p. 1195, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 76.077. Exceptions

(a) This subchapter does not apply to a manufacturer or formulator of a pesticide who does not sell directly to the user.

(b) This subchapter does not apply to a licensed pesticide applicator who:

(1) distributes restricted-use or state-limited-use pesticides only as an integral part of the pesticide application business; and

(2) dispenses the pesticides only through equipment used in the pesticide application business.

(c) This subchapter does not apply to a federal, state, county, or municipal agency that provides pesticides only for its own programs.

[Acts 1981, 67th Leg., p. 1196, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 76.078 to 76.100 reserved for expansion]

SUBCHAPTER E. USE AND APPLICATION

§ 76.101. Coordination

(a) The department is the lead agency in the regulation of pesticide use and application and is responsible for coordinating activities of state agencies. The department shall submit a state plan for the certification of pesticide applicators to the administrator of the Environmental Protection Agency.

(b) The department shall coordinate, plan, and approve training programs and shall use the public and private resources of this state, including state universities, colleges, junior colleges, community colleges, the Texas Agricultural Extension Service, and the Texas experiment station.

(c) The department shall make plans under this section on the basis of convenience to applicants, thoroughness of preparation and testing, and maximum economy in expenditures for this purpose. The department shall make full use of grants-in-aid and cooperative agreements in administering this subchapter.

[Acts 1981, 67th Leg., p. 1196, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 76.102. Agencies Responsible for Certifying Pesticide Applicators

(a) The department shall certify pesticide applicators involved in the following license use categories:

(1) agricultural pest control, including animal pest control;

(2) forest pest control;

(3) ornamental and turf pest control, except as provided by the Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes);

(4) seed treatments;

(5) right-of-way pest control;

(6) regulatory pest control;

(7) aquatic pest control; and

(8) demonstration pest control.

(b) The Texas Department of Health shall certify pesticide applicators involved in the license use category of health-related pest control.

[Acts 1981, 67th Leg., p. 1196, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2589, ch. 693, § 1, eff. Sept. 1, 1981.]

Section 13 of the 1981 amendatory act provides:  
 "Sections 1 through 12 of this Act [amending §§ 76.102, 76.103, 76.105, 76.108, 76.109, 76.111 to 76.113, 76.154 to 156, 76.202] take effect on the effective date of Senate Bill 602 [ch. 127, effective Sept. 1, 1981], Acts of the 67th Legislature, Regular Session, 1981, and that Act is repealed on that date."

§ 76.103. Program Contingent on Federal Funds

(a) The licensing of certified commercial and non-commercial applicators is contingent on the availability of federal funds to pay part of the costs of administering and enforcing the program.

(b) If federal funds and other funds made available for this program are not sufficient to pay all costs of administering and enforcing the program, the department shall certify that fact and discontinue the licensing of certified commercial and noncommercial applicators. The department shall publish notice of the discontinuance of the program in the Texas Register.

(c) If sufficient funds become available after discontinuance, the department shall certify the availability of sufficient funds to pay all costs of administration and enforcement of the program and shall resume the licensing of certified commercial and noncommercial applicators. The department shall publish notice of resumption of the program in the Texas Register.

(d) The department shall determine the effective date of discontinuance or resumption of the program, but the date may not be before the date of publication of notice in the Texas Register.

(e) During any period in which the program has been discontinued, a person is not required to have a license provided by this subchapter in order to use pesticides, but a person may be prosecuted for acts committed or omitted when the program was in effect.

[Acts 1981, 67th Leg., p. 1197, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2589, ch. 693, § 2, eff. Sept. 1, 1981.]

§ 76.104. Agency Rules for Application of a Pesticide

(a) The head of each regulatory agency may, after notice and public hearing, adopt rules to carry out the provisions of this subchapter for which the agency is responsible.

(b) Rules adopted under this section may:

(1) prescribe methods to be used in the application of a restricted-use or state-limited-use pesticide;

(2) relate to the time, place, manner, method, amount, or concentration of pesticide application or to the materials used in pesticide application; and

(3) restrict or prohibit use of a restricted-use or state-limited-use pesticide in designated areas during specific periods of time.

(c) A regulatory agency may adopt a rule under this section only after consideration of precautions or restrictions necessary to prevent unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide.

[Acts 1981, 67th Leg., p. 1197, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 76.105. License Required

(a) Except as otherwise provided by this section, a person may not use or supervise the use of a restricted-use or state-limited-use pesticide unless the person is:

(1) licensed as a certified commercial or non-commercial applicator; and

(2) authorized by the license to use the restricted-use or state-limited-use pesticide in the license use categories covering the proposed pesticide use.

(b) Subsection (a) of this section does not apply to an individual acting under the direct supervision of a certified applicator.

(c) For purposes of this section, an individual is under the direct supervision of a certified applicator if the individual is acting under the instructions and control of a certified applicator who is responsible for the actions of that individual and who is available if and when needed. The certified applicator is not required to be physically present at the time and place of the pesticide application.

[Acts 1981, 67th Leg., p. 1197, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2589, ch. 693, § 3, eff. Sept. 1, 1981.]

#### § 76.106. Classification of Commercial and Non-commercial Licenses

(a) The head of each regulatory agency may classify commercial and noncommercial licenses under subcategories of license use categories according to the subject, method, or place of pesticide application.

(b) A regulatory agency head shall establish separate testing requirements for licensing in each license use category for which the agency is responsible and may establish separate testing requirements for licensing in subcategories within a license use category.

(c) Each regulatory agency may charge a nonrefundable testing fee of not more than \$10 for testing in each license use category.

[Acts 1981, 67th Leg., p. 1198, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 76.107. Certification by More Than One Agency

(a) A person who wants to be certified as a pesticide applicator under license use categories regulated by more than one regulatory agency may do so by paying a single license fee to the agency regulating the person's primary business and meeting certification requirements for each category for which the person desires certification.

(b) A person certified under this section must pay testing fees required by each regulatory agency. [Acts 1981, 67th Leg., p. 1198, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 76.108. Commercial Applicator License

(a) A person who operates a business that applies state-limited-use or restricted-use pesticides to the land of another person for hire or compensation and who is required to be licensed by Section 76.105 of this code shall apply to the appropriate regulatory agency for a commercial applicator license issued for the license use categories and subcategories in which the pesticide application is to be made.

(b) A person shall apply for an original or renewal commercial applicator license on forms prescribed by the regulatory agency. The application shall include information as required by rule of the head of the agency and must be accompanied by an annual license fee of no more than \$100, as fixed by the head of the agency.

(c) The head of a regulatory agency may not issue an original commercial applicator license before the applicant has:

(1) filed with the agency evidence of financial responsibility as required by Section 76.111 of this code; and

(2) passed an examination under Section 76.110 of this code.

(d) The head of a regulatory agency may not issue a commercial applicator license if it has been determined that:

(1) the applicant has been convicted of a felony involving moral turpitude in the last five years;

(2) the applicant has had a license issued under this subchapter revoked within the last two years;

(3) the applicant, or the applicant's representative if the applicant is a business, has been unable to satisfactorily fulfill certification requirements; or

(4) the applicant for any other reason cannot be expected to be able to fulfill the provisions of this subchapter applicable to the license use category for which application is made.

(e) An individual to whom a commercial applicator license is issued is a certified applicator authorized to use and supervise the use of restricted-use and state-limited-use pesticides in the license use categories and subcategories in which the individual is licensed.

(f) If a license is issued in the name of a business, the business must have a certified applicator employed at all times. Failure to have a certified applicator employed is a ground for revocation of a business commercial applicator license.

(g) As a condition to issuance of a commercial applicator license, an applicant located outside this state shall file with the regulatory agency a written instrument designating a resident agent for service of process in actions taken in the administration and enforcement of this chapter. Instead of designating a resident agent, the applicant may designate in writing the secretary of state as the recipient of service of process for the applicant in this state. [Acts 1981, 67th Leg., p. 1198, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2590, ch. 693, § 4, eff. Sept. 1, 1981.]

**§ 76.109. Noncommercial Applicator License**

(a) A person who is required to be licensed under Section 76.105 of this code but who does not qualify as a commercial applicator or a private applicator shall apply to the appropriate regulatory agency for a noncommercial applicator license issued for the license use categories and subcategories in which the pesticide application is to be made.

(b) A person shall apply for an original or renewal noncommercial applicator license on forms prescribed by the regulatory agency. A nongovernmental applicant shall include with the application an annual license fee of not more than \$50, as fixed by the head of the regulatory agency. A regulatory agency may not charge a governmental entity applicant a license fee.

(c) The head of a regulatory agency may not issue an original noncommercial applicator license before the applicant has passed an examination under Section 76.110 of this code.

(d) An individual to whom a noncommercial applicator license is issued is a certified applicator authorized to use and supervise the use of restricted-use and state-limited-use pesticides in the license use categories and subcategories in which the individual is licensed.

(e) If a license is issued in the name of a governmental entity, the entity must have a certified applicator employed at all times. Failure to have a certified applicator employed is a ground for revocation of a governmental entity noncommercial applicator license.

(f) As a condition to issuance of a noncommercial applicator license, an applicant located outside this state shall file with the regulatory agency a written instrument designating a resident agent for service of process in actions taken in the administration and enforcement of this chapter. Instead of designating a resident agent, the applicant may designate in

writing the secretary of state as the recipient of service of process for the applicant in this state. [Acts 1981, 67th Leg., p. 1199, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2590, ch. 693, § 5, eff. Sept. 1, 1981.]

**§ 76.110. Certified Applicator Examination; Reciprocal Agreements**

(a) Each person applying for a license as a certified applicator must pass an examination demonstrating that the person:

(1) is properly qualified to perform functions associated with pesticide application to a degree directly related to the nature of the activity and the associated responsibility; and

(2) has knowledge of the use and effects of restricted-use and state-limited-use pesticides in the license use categories and subcategories in which the person is to be licensed.

(b) The head of a regulatory agency may waive part or all of any license examination requirements on a reciprocal basis with any other state or federal agency that has substantially the same examination standards.

[Acts 1981, 67th Leg., p. 1199, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.111. Commercial Applicator Proof of Financial Responsibility**

(a) Each applicant for a commercial applicator license shall file with the regulatory agency issuing the license:

(1) a bond executed by the applicant as principal and by a corporate surety licensed to do business in Texas as surety; or

(2) a liability insurance policy, or certification of a policy, protecting persons who may suffer damages as a result of the operations of the applicant.

(b) The bond or liability insurance policy is not required to apply to damages or injury to agricultural crops, plants, or land being worked on by the applicant.

(c) The bond or liability insurance policy must be approved by the regulatory agency and conditioned on compliance with the requirements of this chapter and rules adopted under this chapter.

(d) The amount of the bond or liability insurance required by a regulatory agency may not be less than \$5,000 nor more than \$100,000 for property damage insurance and may not be less than \$5,000 for bodily injury insurance. The head of a regulatory agency by rule may require different amounts of bond or insurance coverage for different classifications of operations under this chapter. At all times during the license period, the bond or liability insurance must be maintained at not less than the amount set by the agency head.

(e) At least 10 days before a reduction requested by a licensee or a cancellation of a bond or liability insurance policy, the party taking the action shall notify the head of the appropriate regulatory agency. If the party does not give that notice, the liability of the surety or insurer is limited to the bond or liability insurance policy.

(f) The head of a regulatory agency may accept a bond or liability insurance policy in the proper sum which has a deductible clause in an amount of not more than \$1,000 for the total amount of the bond or liability insurance policy required by this section. If the applicant has not satisfied the requirement of the deductible amount in any prior legal claim, an agency head may not accept a bond or policy with a deductible clause unless the applicant furnishes the agency with a surety bond that satisfies the amount of the deductible clause as to all claims that may arise as a result of the applicant's operation.

(g) Should the surety furnished under this section become insufficient or otherwise unsatisfactory, a licensee shall, on notice of the insufficiency or other defect, immediately file a new bond or liability insurance policy. A licensee may not operate as a commercial applicator during an uninsured period. Failure to file a bond or liability insurance policy or failure to maintain the surety in the required amount is a ground for suspension or revocation of a commercial applicator license.

[Acts 1981, 67th Leg., p. 1200, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2590, ch. 693, § 6, eff. Sept. 1, 1981.]

#### § 76.112. Private Applicator

(a) A person is a private applicator if the person uses or supervises the use of a restricted-use or state-limited-use pesticide for the purpose of producing an agricultural commodity:

(1) on property owned or rented by the person or the person's employer or under the person's general control; or

(2) on the property of another person if applied without compensation other than the trading of personal services between producers of agricultural commodities.

(b) A private applicator is not required to be licensed or certified to use restricted-use or state-limited-use pesticides.

(c) The department may establish a voluntary program to certify private applicators who wish to apply restricted-use pesticides in compliance with federal law.

(d) An employee qualifies as a private applicator under Subdivision (1) of Subsection (a) of this section only if he is employed to perform other duties related to agricultural production and provide labor for the pesticide application but does not provide the necessary equipment or pesticide.

[Acts 1981, 67th Leg., p. 1200, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2590, ch. 693, § 7, eff. Sept. 1, 1981.]

#### § 76.113. Expiration and Renewal of Licenses

(a) Each commercial or noncommercial applicator license expires on the last day of February of the year following the year in which it was issued.

(b) Except as provided by Subsection (c) of this section, a person having a valid current commercial or noncommercial applicator license may renew the license for another year without retesting by paying to the regulatory agency the annual license fee required by this subchapter.

(c) A licensee must undertake training, submit to retesting, or both, before renewal of a license if the head of the agency determines that additional knowledge is required in the license use categories or subcategories in which the licensee applies for renewal.

[Acts 1981, 67th Leg., p. 1201, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2591, ch. 693, § 8, eff. Sept. 1, 1981.]

#### § 76.114. Records

(a) A regulatory agency shall require each licensee to maintain records of the licensee's use of pesticides. The regulatory agency by rule shall prescribe the information to be included in the records.

(b) A regulatory agency may require a licensee to keep records of the licensee's application of a specific restricted-use or state-limited-use pesticide and may require those records to be kept separate from other business records.

(c) A licensee shall keep records required under this section for a period of two years from the date of the pesticide application.

(d) On written request of the regulatory agency, a licensee shall furnish the agency a copy of any requested record pertaining to the application of pesticides.

[Acts 1981, 67th Leg., p. 1201, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 76.115. Registration and Inspection of Equipment

(a) Each regulatory agency shall provide for the registration and inspection of equipment used in the commercial application of a restricted-use or state-limited-use pesticide.

(b) A regulatory agency may require repairs or alterations of equipment before further use.

(c) The head of a regulatory agency by rule shall adopt standards that must be met before equipment may be registered.

(d) Each piece of registered equipment shall be identified by a license plate or decal furnished by a regulatory agency at no cost to the licensee. The license plate or decal must be attached to the equipment in a manner and location prescribed by the regulatory agency.

[Acts 1981, 67th Leg., p. 1201, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.116. Suspension, Modification, or Revocation of License**

(a) The head of a regulatory agency that licensed a certified applicator may suspend, modify, or revoke any provision in the license of the certified applicator if the head of the agency finds that the licensee has:

- (1) made a pesticide recommendation or application inconsistent with the pesticide's labeling or with the restrictions on the use of the pesticide imposed by the state or the Environmental Protection Agency;
- (2) operated in a faulty, careless, or negligent manner;
- (3) refused or, after notice, failed to comply with an applicable provision of this chapter, a rule adopted under this chapter, or a lawful order of the head of a regulatory agency by which the licensee is licensed;
- (4) refused or neglected to keep and maintain the records required by this chapter or to make reports when and as required;
- (5) failed to maintain a bond or policy of insurance as required by this chapter;
- (6) made false or fraudulent records, invoices, or reports;
- (7) used fraud or misrepresentation in making an application for a license or renewal of a license; or
- (8) aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, conspired with a licensed or an unlicensed person to evade the provisions of this chapter, or allowed the licensee's license to be used by another person.

(b) A regulatory agency may temporarily suspend a license under this section for not more than 10 days after giving the licensee written notice of non-compliance. In order to suspend a license for more than 10 days or to modify or revoke a license, the regulatory agency shall conduct a hearing on the action. The hearing must be held before the 11th day following the day on which the agency issues written notice to the licensee of the time, place, and nature of the hearing.

[Acts 1981, 67th Leg., p. 1201, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.117. Property Owner Use**

This chapter does not prohibit a property owner from using in the property owner's house, lawn, or garden a pesticide that is labeled for that use, other than a pesticide that may be registered and classified for use only by certified applicators.

[Acts 1981, 67th Leg., p. 1202, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 76.118 to 76.130 reserved for expansion]

SUBCHAPTER F. STORAGE AND DISPOSAL

**§ 76.131. Rules**

(a) The department may adopt rules governing the storage and disposal of pesticides and pesticide containers for the purpose of:

- (1) preventing injury from storage or disposal to man, vegetation, crops, or animals; and
- (2) preventing any waterway pollution that is harmful to man or wildlife.

(b) A person may not store or dispose of a pesticide in violation of a rule adopted by the department under this section.

[Acts 1981, 67th Leg., p. 1202, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 76.132 to 76.150 reserved for expansion]

SUBCHAPTER G. ENFORCEMENT

**§ 76.151. Entry Power**

(a) For the purpose of inspection, examination, or sampling, the department is entitled to enter at reasonable hours any building or place owned, controlled, or operated by a registrant or dealer if from probable cause it appears that the building or place contains a pesticide.

(b) A regulatory agency is entitled to enter any public or private premises at reasonable times to:

- (1) inspect any equipment authorized or required to be inspected under this chapter or to inspect the premises on which the equipment is kept or stored;
- (2) inspect or sample land exposed or reported to be exposed to a pesticide;
- (3) inspect an area where a pesticide is disposed of or stored; or
- (4) observe the use and application of a restricted-use or state-limited-use pesticide.

(c) If a regulatory agency is denied access to any land to which access was sought at a reasonable time for any of the purposes listed in Subsection (b) of this section, the head of the regulatory agency may apply to a magistrate for a warrant authorizing access to the land for any of those purposes. On a showing of probable cause to believe that a violation of a rule relating to a purpose listed in Subsection (b) of this section has occurred, the magistrate shall issue the search warrant for the purposes requested.

[Acts 1981, 67th Leg., p. 1203, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 76.152. Sampling**

The department is entitled to take a sample for official analysis from any package or lot of pesticides found within this state.

[Acts 1981, 67th Leg., p. 1203, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 76.153. Stop-Sale Order

(a) If the department has reason to believe that a pesticide is in violation of any provision of this chapter, the department may issue and enforce a written or printed order to stop the sale of the pesticide. The department shall present the order to the owner or custodian of the pesticide. The person who receives the order may not sell the pesticide until the department determines that the pesticide is in compliance with this chapter.

(b) This section does not limit the right of the department to proceed as authorized by another section of this chapter.

[Acts 1981, 67th Leg., p. 1203, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 76.154. Injunction

(a) The department may sue in the name of the commissioner to enjoin any violation of a provision of this chapter. Venue is in the county in which the alleged violation occurred or is occurring.

(b) A regulatory agency may request an appropriate prosecuting attorney or the attorney general to sue to enjoin a violation or threatened violation of a provision of this chapter that is within the agency's responsibility.

[Acts 1981, 67th Leg., p. 1203, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2591, ch. 693, § 9, eff. Sept. 1, 1981.]

### § 76.155. Prosecutions

A regulatory agency may request the appropriate prosecuting attorney to prosecute a violation of a provision of this chapter.

[Acts 1981, 67th Leg., p. 1203, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2591, ch. 693, § 10, eff. Sept. 1, 1981.]

### § 76.156. Civil Penalty

(a) A person who violates a provision of this chapter or a rule adopted by a regulatory agency under this chapter is liable for a civil penalty of not less than \$50 nor more than \$1,000 for each day on which the violation occurs.

(b) A county attorney, a district attorney, or the attorney general shall sue in the name of the state for the collection of a civil penalty provided by this section.

(c) The appropriate regulatory agency may request an appropriate prosecuting attorney or the attorney general to bring suit under this section. [Added by Acts 1981, 67th Leg., p. 2591, ch. 693, § 11, eff. Sept. 1, 1981.]

[Sections 76.157 to 76.180 reserved for expansion]

## SUBCHAPTER H. REMEDIES

### § 76.181. Appeal of Denial or Cancellation of Pesticide Registration

(a) A person whose application for registration of a pesticide has been denied or whose registration for a pesticide has been canceled may appeal the action in the manner provided for appeal of contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) Appeal under this section is governed by the substantial evidence rule.

[Acts 1981, 67th Leg., p. 1204, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 76.182. Appeal of Permit or License Denial, Suspension, Modification, or Revocation

(a) A person whose application for an experimental use permit, pesticide dealer license, commercial applicator license, or noncommercial applicator license has been denied or whose experimental use permit, pesticide dealer license, commercial applicator license, or noncommercial applicator license has been suspended for more than 10 days, revoked, or modified may appeal the action in the manner provided for appeal of contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) Appeal under this section is governed by the substantial evidence rule.

[Acts 1981, 67th Leg., p. 1204, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 76.183. Appeal of Stop-Sale Order

(a) The owner or custodian of a pesticide to which a stop-sale order applies may appeal the order to a court of competent jurisdiction in the county where the pesticide is found.

(b) Appeal under this section is by trial de novo. [Acts 1981, 67th Leg., p. 1204, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 76.184. Reports of Pesticide Damage Claims

(a) A person claiming damages from a pesticide application may file with the regulatory agency that licensed the certified applicator whose action allegedly caused the damage a written statement claiming that the person has been damaged. To be eligible for consideration by the agency, the report must be filed before the 31st day following the day of the alleged occurrence or, if a growing crop is alleged to have been damaged, before the time that 25 percent of the crop has been harvested or before the 31st day, whichever is less. The report must contain the name of the person allegedly responsible for the application of the pesticide and the name of the owner or lessee of the land on which the crop is

grown and to which damage is alleged to have occurred. The regulatory agency shall prepare a form to be furnished to persons for use in filing damage reports. The form may contain other information that is required by the head of the regulatory agency.

(b) On receipt of a report, the regulatory agency shall notify the licensee, the owner or lessee of the land on which the alleged act occurred, and any other person who may be charged with responsibility for the damages claimed. The regulatory agency shall furnish copies of the report to those people on request.

(c) The regulatory agency shall inspect damages whenever possible and shall report its findings to the person claiming damage and to the person alleged to have caused the damage. In order that damage may be assessed, the claimant shall permit the regulatory agency and the licensee to observe, within reasonable hours, the land or nontarget organism alleged to have been damaged.

(d) Failure to file a report does not bar maintenance of a civil or criminal action. If a person fails to file a report and is the only person claiming injury from the particular use or application of a pesticide, the regulatory agency may, if in the public interest, refuse to hold a hearing for the denial, suspension, or revocation of a license issued under this chapter to the person alleged to have caused the damage. [Acts 1981, 67th Leg., p. 1204, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 76.185 to 76.200 reserved for expansion]

SUBCHAPTER I. PENALTIES

§ 76.201. Offenses

(a) A person commits an offense if the person distributes within this state or delivers for transportation or transports in intrastate commerce or between points within this state through a point outside this state, any of the following:

- (1) a pesticide that has not been registered as provided by this chapter;
- (2) a pesticide that has a claim, a direction for its use, or labeling that differs from the representations made in connection with its registration;
- (3) a pesticide that is not in the registrant's or manufacturer's unbroken immediate container and that is not labeled with the information and in the manner required by Section 76.021 of this code;
- (4) a pesticide:
  - (A) that is of strength or purity that falls below the professed standard or quality expressed on its labeling or under which it is sold;
  - (B) for which a substance has been substituted wholly or in part;

(C) of which a valuable constituent has been wholly or in part abstracted; or

(D) in which a contaminant is present in an amount that is determined by the department to be a hazard;

- (5) a pesticide or device that is misbranded; or
- (6) a pesticide in a container that is unsafe due to damage;

(b) A person commits an offense if the person:

- (1) detaches, alters, defaces, or destroys, wholly or in part, any label or labeling provided for by this chapter or a rule adopted under this chapter;
- (2) adds any substance to or takes any substance from a pesticide in a manner that may defeat the purpose of this chapter or a rule adopted under this chapter;
- (3) uses or causes to be used a pesticide contrary to its labeling or to a rule of the department limiting the use of the pesticide;
- (4) handles, transports, stores, displays, or distributes a pesticide in a manner that violates a provision of this chapter or a rule adopted by the department under this chapter; or
- (5) disposes of, discards, or stores a pesticide or pesticide container in a manner that is calculated to:

- (A) cause injury to man, vegetation, crops, livestock, wildlife, or pollinating insects; or
- (B) pollute a water supply or waterway.

(c) A person other than a person to whom the pesticide is registered commits an offense if the person uses for the person's advantage or reveals, other than to a properly designated state or federal official or employee, a physician, or in emergency to a pharmacist or other qualified person for the preparation of an antidote, any information relating to pesticide formulas, trade secrets, or commercial or financial information acquired under this chapter and marked as privileged or confidential by the registrant.

(d) A person commits an offense if the person:

- (1) commits an act for which a certified applicator's license may be suspended, modified, or revoked under Section 76.116 of this code; or
- (2) violates any other provision of this chapter.

[Acts 1981, 67th Leg., p. 1205, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 76.202. Penalty

An offense under Section 76.201 of this code is a Class C misdemeanor, unless the person has been previously convicted of an offense under that section, in which event the offense is a Class B misdemeanor.

[Acts 1981, 67th Leg., p. 1206, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2591, ch. 693, § 12, eff. Sept. 1, 1981.]

### § 76.203. Defenses

(a) It is a defense to prosecution under this subchapter that the defendant:

(1) is a carrier who was lawfully engaged in transporting a pesticide or device within this state and who, on request, permitted the department to copy all records showing the transactions in and movement of the pesticide or device;

(2) is a public official of this state or the federal government who was engaged in the performance of an official duty in administering state or federal pesticide law or engaged in pesticide research;

(3) is the manufacturer or shipper of a pesticide that was for experimental use only by or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides and the manufacturer or shipper held a valid experimental use permit as provided by this chapter; and

(4) manufactured or formulated a pesticide or device solely for export to a foreign country and prepared or packed the pesticide or device according to the specifications or directions of the purchaser.

(b) It is a defense to prosecution under Section 76.201(a)(3) of this code that the defendant is an applicator who, after acquiring an unbroken container, opened and transported the open container to and from application and storage sites as necessary. [Acts 1981, 67th Leg., p. 1206, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 77. FIRE ANT CONTROL

Section	
77.001.	Commissioners Court May Establish Program.
77.002.	Coordination With Other Programs.
77.003.	Cost of Program.
77.004.	Approval of Program by Department.
77.005.	Federally Funded and Approved Programs.

### § 77.001. Commissioners Court May Establish Program

The commissioners court of any county may establish, implement, and conduct a program for the eradication or control of the imported fire ant. [Acts 1981, 67th Leg., p. 1207, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 77.002. Coordination With Other Programs

The program established under this chapter may be conducted independently of or in conjunction with any related program conducted and financed by private or other public entities.

[Acts 1981, 67th Leg., p. 1207, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 77.003. Cost of Program

The commissioners court may expend any available county funds to pay for all or its share of the cost of a program established under this chapter, including funds derived from taxation under the 80-cent limitation of Article VIII, Section 9, of the Texas Constitution.

[Acts 1981, 67th Leg., p. 1207, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 77.004. Approval of Program by Department

(a) Except as provided by Subsection (b) of this section or by Section 77.005 of this code, the commissioners court shall obtain written approval by the department of the method of eradication to be used in any program established under this chapter. This approval must be obtained before the program is implemented.

(b) If the department does not grant approval of a method of eradication or propose an alternative method before the 61st day following the day on which the proposed method is submitted to the department, the commissioners court may proceed to expend county funds for implementation of the program using the method submitted to the department.

[Acts 1981, 67th Leg., p. 1207, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 77.005. Federally Funded and Approved Programs

Approval by the department under Section 77.004 of this code is not required in connection with any program that is financed totally or partially by federal funds and that is approved by the appropriate federal agencies.

[Acts 1981, 67th Leg., p. 1207, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 78. NOXIOUS WEED CONTROL DISTRICTS

### SUBCHAPTER A. GENERAL PROVISIONS

Section	
78.001.	Definitions.
78.002.	Legislative Determination.
78.003.	Noxious Weeds.
78.004.	Eligibility to Sign Petition.
78.005.	Eligibility for Voting.

### SUBCHAPTER B. CREATION OF DISTRICT

78.011.	Petition for Creation of District.
78.012.	Filing Petition.
78.013.	District Boundaries; Name.
78.014.	Hearing Required.
78.015.	Notice of Hearing.
78.016.	Hearing.
78.017.	Action After Hearing.
78.018.	Notice of Election; Election Orders.
78.019.	Election.
78.020.	Returns; Effect of Election.
78.021.	Expense of Creating District.

SUBCHAPTER C. ADMINISTRATION

Section

- 78.031. Board of Directors.
- 78.032. Initial Board of Directors.
- 78.033. Annual Meeting.
- 78.034. Compensation of Directors.
- 78.035. Officers.
- 78.036. Inspectors and Clerical Employees.

SUBCHAPTER D. ENFORCEMENT

- 78.041. General Enforcement Powers of Board.
- 78.042. Compliance Required.
- 78.043. Notice of Control Measures.
- 78.044. Inspection; Failure to Comply.
- 78.045. Equipment Cleaning Procedure.

SUBCHAPTER E. ASSESSMENTS AND APPROPRIATIONS

- 78.051. Assessment.
- 78.052. Special Election on Increased Assessment.
- 78.053. Collection of Assessment.
- 78.054. Deposit of Assessment.
- 78.055. Report to County Clerk.
- 78.056. Report to Department.
- 78.057. Appropriated Funds.

SUBCHAPTER F. DISSOLUTION OF DISTRICT

- 78.061. Petition for Dissolution.
- 78.062. Election Order.
- 78.063. Dissolution Election.
- 78.064. Returns; Effect of Election.
- 78.065. Dissolution.

SUBCHAPTER G. ANNUAL REVIEW TO EXCLUDE LAND IN CROSBY COUNTY

- 78.071. Annual Review.

SUBCHAPTER A. GENERAL PROVISIONS

§ 78.001. Definitions

In this chapter:

- (1) "Board" means the board of directors of a district.
- (2) "District" means a noxious weed control district.

[Acts 1981, 67th Leg., p. 1209, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 78.002. Legislative Determination

The legislature has determined that:

- (1) noxious weeds are present in this state to a degree that poses a threat to agriculture and is deleterious to the proper use of soil and other natural resources; and
- (2) reclamation of land from noxious weeds is a public right and duty in the interest of conservation and development of the natural resources of the state.

[Acts 1981, 67th Leg., p. 1209, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 78.003. Noxious Weed

For the purposes of this chapter, a weed or plant is considered to be a noxious weed if declared to be a noxious weed by:

- (1) a law of this state; or
- (2) the department acting under the authority of Chapter 61 of this code or any other law of this state.

[Acts 1981, 67th Leg., p. 1209, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 78.004. Eligibility to Sign Petition

In order to sign a petition under this chapter, a person must:

- (1) hold title to land located in the district or proposed district;
- (2) be 18 years of age or older; and
- (3) reside in a county all or part of which is located in a district or proposed district.

[Acts 1981, 67th Leg., p. 1209, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 78.005. Eligibility for Voting

In order to vote in an election under this chapter, a person must:

- (1) be a qualified voter;
- (2) reside in the district or in the proposed district;
- (3) own taxable property within the district; and
- (4) have rendered the property to the county tax assessor for taxation as required by law.

[Acts 1981, 67th Leg., p. 1209, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 78.006 to 78.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

§ 78.011. Petition for Creation of District

(a) Landowners may petition a commissioners court for the creation of a noxious weed control district authorized under Article XVI, Section 59, of the Texas Constitution.

(b) The petition must contain:

- (1) the signatures of 50 persons eligible to sign the petition or of a majority of the persons eligible to sign the petition, whichever is the lesser number;
- (2) the name of the proposed district; and
- (3) the boundaries of the proposed district.

(c) The petition may consist of more than one copy, and the signatures on each copy shall be added to determine if the total number of signatures required by this section have been obtained.

[Acts 1981, 67th Leg., p. 1210, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.012. Filing Petition**

(a) The petition must be filed in the commissioners court of the county in which the largest part of the district is located.

(b) The person filing the petition shall deposit \$500 in cash with the county clerk of the county in which the petition is filed.

[Acts 1981, 67th Leg., p. 1210, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.013. District Boundaries; Name**

(a) A district may include:

(1) a political subdivision or a defined district of this state;

(2) one or more counties, or a portion of one or more counties;

(3) all or a portion of a town, village, or municipal corporation; or

(4) a body of land separated from the rest of the district.

(b) A district may not include:

(1) less than 32,000 acres;

(2) territory located in more than five counties;

(3) territory in more than one county, unless approved by the majority vote of eligible voters who reside in the territory in each county proposed to be included in the district; or

(4) land located in another district.

(c) A district must bear a name containing the words "noxious weed control district."

[Acts 1981, 67th Leg., p. 1210, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.014. Hearing Required**

After receiving a petition for the creation of a district, the commissioners court shall set a date for a hearing to determine if an election should be held to create a district. The hearing may be held at a regular or special session of the court.

[Acts 1981, 67th Leg., p. 1210, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.015. Notice of Hearing**

(a) Except as provided by Subsection (b) of this section, the county clerk shall give notice of a hearing required by Section 78.014 of this code by publishing the notice two or more times, with an interval of seven or more days between the first and second publication, in a newspaper of general circulation in each county in which the proposed district will be located.

(b) If a county in which a proposed district will be located does not have a newspaper of general circulation, the county clerk shall give notice by posting the notice for two weeks or longer in four public places within the part of the county that is located in the proposed district.

(c) Notice required by this section must contain a statement of:

(1) the purpose of the hearing;

(2) the date, time, and place of the hearing; and

(3) the boundaries of the district, which may be defined by a general description that need not be a full legal description of the district.

[Acts 1981, 67th Leg., p. 1210, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.016. Hearing**

At a hearing required by Section 78.014 of this code, a person whose land is included in or may be affected by the proposed district may appear before the commissioners court and testify for or against the creation of the district. If the hearing lasts longer than one day, the commissioners court may adjourn the hearing to another day.

[Acts 1981, 67th Leg., p. 1211, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.017. Action After Hearing**

At the conclusion of a hearing required under Section 78.014 of this code, the commissioners court may:

(1) on a determination that the proposed district will provide a public benefit to a substantial portion of the land within the district, grant the petition;

(2) on a determination that certain land in the district will not benefit from the creation of the district, redefine the proposed district to exclude that land and grant the petition; or

(3) on a determination that the proposed district will not offer a public benefit or benefit to a substantial portion of the land included in the proposed district, refuse the petition.

[Acts 1981, 67th Leg., p. 1211, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.018. Notice of Election; Election Orders**

(a) After granting a petition under Section 78.017 of this code, the commissioners court shall order an election to be held to determine whether a district should be created.

(b) If the proposed district is located entirely in one county, the county clerk shall post the notice at the county's courthouse door and at four public places within the proposed district. If the proposed district is located in more than one county, the county clerk shall post the notice at each county's courthouse door and at four public places within the proposed district in each county.

(c) The county clerk shall post the notice before the 30th day prior to the date of the election.

(d) The notice must contain a statement of:

(1) the purpose of the election;

(2) the time of the election;

(3) the locations at which the election will be held; and

(4) the boundaries of the proposed district.

[Acts 1981, 67th Leg., p. 1211, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.019. Election**

(a) Except as otherwise provided by this section, the procedure for conducting an election must be in compliance with the election laws of this state.

(b) The commissioners court by order shall:

(1) create voting precincts in the proposed district;

(2) select a polling place or polling places within the precincts, taking into consideration the convenience of the voters; and

(3) appoint judges and other necessary election officers.

(c) Each eligible voter is entitled to vote at the election.

(d) Ballots for the election must be printed to provide for voting for or against the proposition: "Creating the district and making a uniform assessment of benefits not to exceed six cents per acre."

[Acts 1981, 67th Leg., p. 1211, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.020. Returns; Effect of Election**

(a) Immediately after the election, the election officers shall forward the results to the commissioners court. The commissioners court shall canvass the vote and enter an order declaring the result of the election.

(b) If the proposed district is located entirely in one county, the commissioners court shall issue an order declaring the creation of the district if the majority of votes cast in the county are for the proposition. If the proposed district is located in more than one county, the commissioners court shall issue an order declaring the creation of the district composed only of land in those counties in which a majority of votes are cast for the proposition.

(c) The commissioners court shall send a copy of the order to the county clerk of each county in which a portion of the district is located, and the county clerk shall file the order as a public record.

[Acts 1981, 67th Leg., p. 1212, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.021. Expense of Creating District**

(a) After the district is created, the county clerk shall:

(1) deduct from the fee deposited under Section 78.012 of this code an amount equal to expenses incurred by the commissioners court as a result of the creation of the district, including the expense of the election; and

(2) after receiving a voucher signed by the county judge, refund the remainder of the fee to the chairman of the board of the district within 30 days after the day of the election of the chairman.

(b) The board shall refund to the petitioners out of the first money collected by the district the full amount of the fee required under Section 78.012 of this code.

(c) If the commissioners court denies a petition or if the result of an election is against the creation of the district, the county clerk shall:

(1) deduct from the fee deposited under Section 78.012 of this code an amount equal to expenses incurred by the commissioners court as a result of consideration of the formation of the proposed district, including the expense of any election held; and

(2) after receiving a voucher signed by the county judge, refund the remainder of the fee to the petitioners or their agent or attorney.

[Acts 1981, 67th Leg., p. 1212, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 78.022 to 78.030 reserved for expansion]

**SUBCHAPTER C. ADMINISTRATION**

**§ 78.031. Board of Directors**

(a) The board of directors of a noxious weed control district is composed of five persons, each of whom must:

(1) hold title to land located in the district;

(2) be 18 years of age or older; and

(3) reside in a county all or part of which is located in the district.

(b) Except as provided by Section 78.032 of this code, the term of office of a director is two years. [Acts 1981, 67th Leg., p. 1212, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.032. Initial Board of Directors**

(a) The commissioners court that ordered creation of the district shall appoint five eligible persons to serve as the first board of directors of the district.

(b) If the district is composed of land in more than one county, the commissioners court shall appoint one director from each county within the district and fill any remaining vacancy by appointing a director from the district at large.

(c) Three of the directors of the first board shall serve from the date of their appointment until the first annual meeting of eligible voters, as authorized by Section 78.033 of this code, and the remaining two directors shall serve from the date of their appointment until the second annual meeting of eligible voters. The directors shall determine by lot which three directors shall serve until the first annu-

al meeting and which two directors of the board shall serve until the second annual meeting.

[Acts 1981, 67th Leg., p. 1213, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 78.033. Annual Meeting

(a) The chairman of the board shall call an annual meeting of the eligible voters in the district to be held on the fourth Saturday of each April.

(b) The chairman shall give written notice of the time and place of the meeting not later than the 10th day before the day of the meeting to each eligible voter in the district, as shown by the county tax assessor-collector's records in each county in the district.

(c) At the meeting, the eligible voters shall:

(1) elect successors to directors whose terms are expiring during the year of the meeting; and

(2) consider other business the board determines is proper to consider.

(d) A director elected under Subsection (c)(1) of this section must reside in the same territory from which the predecessor was required to be selected.

(e) A person entitled to attend the meeting may appoint a proxy to represent him or her at the meeting.

[Acts 1981, 67th Leg., p. 1213, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 78.034. Compensation of Directors

A director of the board is entitled to receive:

(1) \$5 a day for attending a meeting of the board, not to exceed \$60 a year; and

(2) 10 cents a mile for the distance the director actually travels between the director's residence and the place of a meeting of the board.

[Acts 1981, 67th Leg., p. 1213, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 78.035. Officers

The board shall annually elect a chairman and any officers it considers necessary. The board shall fill a vacancy in the chairmanship of the board or in an officer's position by appointing a director to fill the vacancy.

[Acts 1981, 67th Leg., p. 1213, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 78.036. Inspectors and Clerical Employees

(a) The board may employ one or more persons to perform inspections under Section 78.044 of this code.

(b) The board may set the compensation of an inspector, and an inspector is entitled to reimbursement for actual and necessary expenses incurred in making an inspection.

(c) The board may employ necessary clerical personnel.

[Acts 1981, 67th Leg., p. 1214, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 78.037 to 78.040 reserved for expansion]

### SUBCHAPTER D. ENFORCEMENT

#### § 78.041. General Enforcement Powers of Board

The board may:

(1) determine which noxious weeds are subject to control and what appropriate methods of control are to be used, including spraying, cutting, burning, tilling, or any other appropriate method;

(2) prescribe specific areas in the district in which control measures are to be used;

(3) prescribe the period during which control measures are to be used; and

(4) incur expenses and take other actions necessary to carry out the purposes of this chapter.

[Acts 1981, 67th Leg., p. 1214, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 78.042. Compliance Required

(a) A person who holds title to or possesses land in the district shall comply with control measures prescribed by the board under this chapter.

(b) The commissioner's court of a county located in the district shall comply with control measures prescribed by the board under this chapter for the purpose of controlling noxious weeds on rights-of-way of public roads and public land within the district.

[Acts 1981, 67th Leg., p. 1214, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 78.043. Notice of Control Measures

The chairman of the board shall give written notice to each person who holds title to or possesses land located in the district of:

(1) the control measures in effect on the person's land; and

(2) information necessary to enable the person to carry out the measures.

[Acts 1981, 67th Leg., p. 1214, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 78.044. Inspection; Failure to Comply

(a) A director or an inspector appointed by the board may enter land in the district to determine if:

(1) control measures are necessary; or

(2) control measures prescribed by the board are being carried out.

(b) If the board determines that a person who holds title to or possesses land that is located in the district is failing to comply with prescribed control measures, the board in writing shall order compliance with the measures within a stated time.

(c) If a person fails to obey an order issued under Subsection (b) of this section, the board may sue in the district court of the county in which the land is located for a mandatory injunction ordering compliance. If the court issues the injunction, the person

is liable for court costs and a reasonable attorney's fee, to be determined by the court.

[Acts 1981, 67th Leg., p. 1214, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.045. Equipment Cleaning Procedure**

(a) The board may prescribe rules requiring the cleaning of and the disposal of materials cleaned from farm implements and machinery brought into the district or moved from one part of the district to another part.

(b) The board shall give notice of rules prescribed under this section by:

(1) posting a copy of the notice of the adoption of the rules at four public places in each county located in the district not later than the 11th day before the effective date of the rules; and

(2) filing a copy of the adoption of the rules with the county clerk of each county located in the district.

(c) A person commits an offense if the person fails to obey a rule prescribed under Subsection (a) of this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$25 nor more than \$250.

[Acts 1981, 67th Leg., p. 1215, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 78.046 to 78.050 reserved for expansion]

**SUBCHAPTER E. ASSESSMENTS AND APPROPRIATIONS**

**§ 78.051. Assessment**

(a) The board may impose an annual uniform assessment on land within the district in order to pay the expenses of the district.

(b) The amount of the assessment may not exceed six cents an acre.

[Acts 1981, 67th Leg., p. 1215, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.052. Special Election on Increased Assessment**

(a) The commissioners court that ordered creation of an existing district with a maximum uniform assessment rate of less than six cents an acre may order an election to be held to determine whether or not the maximum uniform assessment rate should be raised to six cents an acre. The county clerk shall give notice in the manner provided by Section 78.018 of this code and the commissioners court shall conduct the election in the manner provided by Section 78.019 of this code.

(b) Ballots for the election must be printed to provide for voting for or against the proposition: "Increasing the maximum assessment rate to six cents."

(c) Immediately after the election, the election officers shall forward the results to the commissioners court. The commissioners court shall canvass the vote and declare the result of the election.

(d) If the district is located entirely in one county, the commissioners court shall issue an order declaring the increase of the maximum uniform assessment to six cents an acre. If the district is located in more than one county, the commissioners court shall issue an order declaring the increase of the maximum rate of assessment to six cents an acre only in those counties where a majority of votes cast are for the proposition.

[Acts 1981, 67th Leg., p. 1215, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.053. Collection of Assessment**

(a) The board may assess and collect an assessment imposed under this chapter by:

(1) appointing an assessor-collector to perform the duties;

(2) contracting with the county tax assessor-collector to perform the duties; or

(3) appointing an assessor to make an assessment and contracting with a county tax assessor-collector to collect the assessment.

(b) If the board appoints an assessor-collector under Subsection (a)(1) of this section, the board may require the assessor-collector to give bond in an amount determined by the board. The board may compensate the assessor-collector in an amount not to exceed an amount equal to five percent of assessments collected.

(c) If the board contracts with a county tax assessor-collector under Subsection (a)(2) of this section, the assessor-collector may retain as fees of office five percent of all assessments collected.

(d) If the board appoints an assessor under Subsection (a)(3) of this section, the board may compensate the assessor in an amount not to exceed an amount equal to 2½ percent of the assessments collected and the contracting county tax assessor-collector may retain 2½ percent of the assessments collected.

[Acts 1981, 67th Leg., p. 1215, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.054. Deposit of Assessment**

The person collecting assessments shall deposit the money collected into a district depository selected by the board.

[Acts 1981, 67th Leg., p. 1216, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.055. Report to County Clerk**

(a) The chairman of the board shall file a report before September 1 of each year with the county clerk of each county in which the district is located.

(b) The report must contain:

(1) a statement of the total amount of money received by the board during the 12 months ending the last June 30;

(2) an itemized statement of the total amount of money expended by the board during the 12 months ending the last June 30; and

(3) a statement of the amount of money on hand on the last June 30.

[Acts 1981, 67th Leg., p. 1216, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.056. Report to Department**

(a) Before September 1 of each year, the chairman of the board shall file a report with the department stating the amount of money received through the assessments by the district in the 12 months ending the last June 30.

(b) The department shall certify the amount stated in the report required by Subsection (a) of this section to the comptroller of public accounts.

[Acts 1981, 67th Leg., p. 1216, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.057. Appropriated Funds**

(a) Except as provided by Subsection (b) of this section, if the legislature appropriates funds for the control of noxious weeds, the comptroller shall issue a warrant to each district in an amount equal to the amount certified for the district by the department under Section 78.056 of this code.

(b) If the legislature appropriates an amount for the control of noxious weeds that is less than the total of all amounts certified by the department under Section 78.056 of this code, the comptroller shall issue a warrant to each district in an amount that is equal to that district's proportion of the total of funds certified under Section 78.056 of this code.

[Acts 1981, 67th Leg., p. 1216, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 78.058 to 78.060 reserved for expansion]

**SUBCHAPTER F. DISSOLUTION OF DISTRICT****§ 78.061. Petition for Dissolution**

(a) The eligible voters residing in a district may petition the board to conduct an election on the dissolution of the district.

(b) The petition must contain the signatures of 50 eligible voters or of a majority of the eligible voters in the district, whichever is the lesser number.

[Acts 1981, 67th Leg., p. 1217, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.062. Election Order**

(a) Before the 90th day after the day on which the board receives a petition for dissolution, the board shall order an election to determine whether the district should be dissolved.

(b) The chairman shall give notice of the election in the same manner as is required for publication of notice of a hearing under Section 78.015 of this code.

(c) Notice required by this section must contain a statement of:

(1) the purpose of the election; and

(2) the date, time, and place of the election.

[Acts 1981, 67th Leg., p. 1217, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.063. Dissolution Election**

(a) Except as otherwise provided by this section, the procedure for conducting a dissolution election shall be in compliance with the election laws of this state.

(b) The board shall:

(1) designate polling places in the district, taking into consideration the convenience of the voters; and

(2) appoint judges and the other necessary election officers.

(c) Each eligible voter is entitled to vote at the election.

[Acts 1981, 67th Leg., p. 1217, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.064. Returns; Effect of Election**

(a) After the election, the board shall:

(1) canvass the returns of the election; and

(2) enter an order declaring the result of the election.

(b) If a majority of votes are cast against the dissolution of the district, another election on the proposition may not be held within 12 months after the date of the election.

(c) If a majority of votes are cast for the dissolution of the district, the board shall enter an order declaring the district dissolved.

[Acts 1981, 67th Leg., p. 1217, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 78.065. Dissolution**

(a) After a dissolution order has been issued, the board may not exercise any power except to terminate the affairs of the district.

(b) If at the time of dissolution the district does not have sufficient funds to pay claims against the district and if annual assessments already imposed are insufficient to pay the claims, the board may impose and collect further annual assessments in an amount necessary to pay the claims.

(c) If at the time of dissolution there are no claims against the district, the board shall pay any remaining funds to the treasuries of the counties located in the district. Each county shall deposit the funds received to the credit of the general fund of the county. The amount of the payment to each county must be in the same proportion as the area of the county is to the total area of the district.

[Acts 1981, 67th Leg., p. 1217, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 78.066 to 78.070 reserved for expansion]

**SUBCHAPTER G. ANNUAL REVIEW TO EXCLUDE LAND IN CROSBY COUNTY**

**§ 78.071. Annual Review**

(a) The Commissioners Court of Crosby County shall establish a regular time once every calendar year to review petitions for excluding land from the district.

(b) The Commissioners Court of Crosby County shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 15 days and not more than 40 days before the date of the hearing.

(c) The notice shall advise all persons eligible to sign a petition under this chapter of their right to present petitions for exclusions and offer evidence in support of the petition and their right to contest any proposed exclusions based on either a petition or the court's own conclusions.

(d) A person eligible to sign a petition under this chapter within the district may file a petition with the commissioners court requesting that land be excluded from the district. A petition for exclusion shall be filed with the court at least 10 days before the date of the hearing and shall state clearly the reasons why the land will not benefit from inclusion in the district.

(e) After considering all evidence presented to it, if the commissioners court finds that the land described in a petition for exclusion does not benefit from inclusion in the district, the court shall declare the land excluded and shall redefine the boundaries of the district accordingly.

(f) The owner of the excluded land is not exempt from liability for any amounts due to the district prior to exclusion of the land.

(g) Land excluded from the district under this section may be included in the district at a later time after petition, notice, and hearing as provided in this section for exclusion of land from the district. [Acts 1981, 67th Leg., p. 1218, ch. 388, § 1, eff. Sept. 1, 1981.]

**SUBTITLE C. GRADING, PACKING AND INSPECTING HORTICULTURAL PRODUCTS**

**CHAPTER 91. GENERAL GRADES AND PACKS OF FRUITS AND VEGETABLES**

**SUBCHAPTER A. GENERAL PROVISIONS**

- |         |                            |
|---------|----------------------------|
| Section |                            |
| 91.001. | Department to Administer.  |
| 91.002. | Compliance with Standards. |
| 91.003. | Inspections.               |
| 91.004. | Certificate of Inspection. |
| 91.005. | Cooperative Agreements.    |
| 91.006. | Culls.                     |
| 91.007. | Package Markings.          |
| 91.008. | Penalty.                   |

**SUBCHAPTER B. CONTAINER STANDARDS**

- |         |                            |
|---------|----------------------------|
| 91.021. | Compliance With Standards. |
| 91.022. | Bushel Basket.             |
| 91.023. | Four-Basket Crate.         |
| 91.024. | Six-Basket Crate.          |
| 91.025. | Folding Onion Crate.       |
| 91.026. | Berry Box or Crate.        |

**SUBCHAPTER C. PEACH GRADES AND PACKS**

- |         |                        |
|---------|------------------------|
| 91.041. | Grades.                |
| 91.042. | Fancy Grade.           |
| 91.043. | Choice or No. 1 Grade. |
| 91.044. | No. 2 Grade.           |
| 91.045. | Peach Packs.           |

**SUBCHAPTER D. BERMUDA ONION GRADES**

- |         |                          |
|---------|--------------------------|
| 91.061. | Grading Characteristics. |
| 91.062. | Grade No. 1.             |
| 91.063. | Grade No. 1, Large.      |
| 91.064. | Boiler Grade.            |
| 91.065. | Grade No. 2.             |
| 91.066. | Grade No. 2, Large.      |
| 91.067. | Grade No. 3.             |
| 91.068. | Permissible Variations.  |

**SUBCHAPTER E. CABBAGE GRADES**

- |         |                         |
|---------|-------------------------|
| 91.081. | Grade No. 1.            |
| 91.082. | Grade No. 2.            |
| 91.083. | Permissible Variations. |

**SUBCHAPTER F. SNAP BEAN GRADES AND PACKS**

- |         |                          |
|---------|--------------------------|
| 91.091. | Grading Characteristics. |
| 91.092. | Grade No. 1.             |
| 91.093. | Grade No. 2.             |
| 91.094. | Permissible Variation.   |
| 91.095. | Snap Bean Packs.         |

**SUBCHAPTER G. BARTLETT PEAR GRADES AND PACKS**

- |         |                        |
|---------|------------------------|
| 91.111. | Extra Fancy Grade.     |
| 91.112. | Fancy Grade.           |
| 91.113. | Choice Grade.          |
| 91.114. | Packages and Markings. |
| 91.115. | Pear Packs.            |

**SUBCHAPTER H. IRISH POTATO GRADES**

- |         |                          |
|---------|--------------------------|
| 91.121. | Grading Characteristics. |
| 91.122. | Grade No. 1.             |
| 91.123. | Grade No. 2.             |
| 91.124. | Permissible Variations.  |
| 91.125. | Container Markings.      |

SUBCHAPTER I. SWEET POTATO INSPECTION  
AND CLASSIFICATION

Section	
91.141.	Availability of Department Services.
91.142.	Rules.
91.143.	Inspection Fees.

SUBCHAPTER A. GENERAL PROVISIONS

§ 91.001. Department to Administer

The department shall administer this chapter and adopt rules necessary for its enforcement. The department shall publish the rules and other information that will aid fruit growers, vegetable growers, and container manufacturers in complying with this chapter.

[Acts 1981, 67th Leg., p. 1220, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.002. Compliance With Standards

Grades and packs of fruits and vegetables must meet the standards established by this chapter.

[Acts 1981, 67th Leg., p. 1221, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.003. Inspections

(a) The department shall appoint inspectors to inspect fruits and vegetables, other than potatoes, under this chapter.

(b) Inspections shall be performed at the various shipping or loading stations in this state when requested by the growers or the shippers of fruits or vegetables, or by the shippers' agents, or by a person with a financial interest in the fruits or vegetables.

(c) Each person who requests an inspection shall pay a pro rata share of the expense of inspection.

[Acts 1981, 67th Leg., p. 1221, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.004. Certificate of Inspection

(a) The department shall furnish certificates of inspection or other forms to evidence that an official inspection has been made.

(b) After an applicant has paid a pro rata share of the cost of an inspection performed under this chapter, an inspector shall issue to the applicant a form to evidence that an official inspection has been made or a certificate of inspection that shows the grade, classification, pack, or other standard requirements of the fruits or vegetables.

(c) A certificate of inspection issued under this section is prima facie evidence of the grade, classification, pack, or other standard requirements of the fruits or vegetables as of the time of inspection.

[Acts 1981, 67th Leg., p. 1221, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.005. Cooperative Agreements

(a) The department may enter into cooperative agreements with the United States Department of Agriculture, or with any Texas firm, corporation, or association that is organized for that purpose, or both. An agreement may provide for the certification of grades of fruits and vegetables, other than potatoes, under this chapter.

(b) Department inspectors and a firm, corporation, or association that has executed a cooperative agreement shall obtain a license from the department, which shall be issued under department rules.

(c) In addition to the grades established by this chapter, the department may adopt the United States standards for the fruits and vegetables grown in this state, or the department may adopt rules concerning the grades, grading, or regulation of fruits and vegetables, other than potatoes, under this chapter.

[Acts 1981, 67th Leg., p. 1221, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.006. Culls

(a) Fruits and vegetables that are too small, ill-shaped, or poor in general quality to meet the standards of this chapter for any other grade are culls.

(b) A person may not ship culls unless the culls are marked "culls" and placed in a separate consignment from other fruits and vegetables.

[Acts 1981, 67th Leg., p. 1221, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.007. Package Markings

A package of fruits or vegetables for which a grade is established under this chapter that is offered for sale or prepared for shipment shall be plainly marked with:

- (1) the grade of the fruit or vegetable; and
- (2) the name and post office address of the shipper.

[Acts 1981, 67th Leg., p. 1221, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.008. Penalty

(a) A person commits an offense if, as a grower, shipper's agent, packer, or representative of a transportation company, the person:

- (1) refuses to allow an inspection under this chapter of fruits or vegetables that are packed or ready for shipment; or
- (2) violates a provision of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$100.

[Acts 1981, 67th Leg., p. 1222, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 91.009 to 91.020 reserved for expansion]

SUBCHAPTER B. CONTAINER STANDARDS

§ 91.021. Compliance With Standards

Containers used for the shipment of fruits or vegetables must meet the minimum standards established by this subchapter.

[Acts 1981, 67th Leg., p. 1222, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.022. Bushel Basket

A bushel basket must contain at least 2,150.4 cubic inches in the basket proper, regardless of the construction of the lid.

[Acts 1981, 67th Leg., p. 1222, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.023. Four-Basket Crate

(a) Each basket in a four-basket crate must be 5 by 8 inches at the bottom, 6 by 10 inches at the top, and 4 inches deep, must contain at least 201.6 cubic inches, and must hold at least three quarts dry measure.

(b) The heads of the crate must be 4½ by 11 inches at the bottom, 13 inches long at the top, and at least ⅞ of an inch thick.

(c) The veneer or boards on the bottom, sides, and top must be at least 4½, 4, and 5½ inches wide, respectively, at least ¼ of an inch thick, and 22 inches long.

(d) Crates and baskets must be made of good quality, substantial material. Both crates and baskets must be strong enough to withstand the usual strain of transportation and handling.

[Acts 1981, 67th Leg., p. 1222, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.024. Six-Basket Crate

Each basket in a six-basket crate must contain at least 268.8 cubic inches.

[Acts 1981, 67th Leg., p. 1222, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.025. Folding Onion Crate

A folding onion crate must be at least 19⅝ inches long, 11⅜ inches wide, and 9⅜ inches deep, as measured on the inside, and must contain at least 2,154.4 cubic inches.

[Acts 1981, 67th Leg., p. 1222, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.026. Berry Box or Crate

(a) A quart berry box or crate must hold at least 24 quart baskets, each of which must contain at least 67.2 cubic inches dry measure.

(b) A pint berry box or crate must hold at least 24 pint baskets, each of which must contain at least 33.6 cubic inches dry measure.

[Acts 1981, 67th Leg., p. 1222, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 91.027 to 91.040 reserved for expansion]

SUBCHAPTER C. PEACH GRADES AND PACKS

§ 91.041. Grades

The standard peach grades are fancy, choice or No. 1, and No. 2.

[Acts 1981, 67th Leg., p. 1223, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.042. Fancy Grade

(a) Fancy peaches:

(1) are medium to large in size;

(2) have good color for the variety; and

(3) are firm and sound, or are properly mature for shipment to a distant market.

(b) Fancy peaches shall be carefully picked and closely packed in bushel baskets or in four-basket or six-basket crates.

[Acts 1981, 67th Leg., p. 1223, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.043. Choice or No. 1 Grade

(a) Choice or No. 1 Grade peaches are:

(1) average in size and color for the variety;

(2) sound and firm, or properly mature for shipment to a distant market; and

(3) practically free of blemishes.

(b) Choice or No. 1 Grade peaches shall be carefully picked and closely packed in bushel baskets or in four-basket or six-basket crates.

[Acts 1981, 67th Leg., p. 1223, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.044. No. 2 Grade

Number 2 Grade peaches are all peaches that are not good enough for No. 1 Grade but are sound, suitable for market, and appropriate for reasonably distant shipment. A No. 2 Grade peach may have slight defects, including:

(1) small size;

(2) a slightly uneven surface;

(3) green color; or

(4) ripeness.

[Acts 1981, 67th Leg., p. 1223, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.045. Peach Packs

(a) The standard peach packs for a six-basket crate are:

(1) 72's, which are packed by placing 1 and 2 alternately in 4 rows, 2 layers high, 6 to the layer on end, blossom end up;

(2) 96's, which are packed by placing 2 and 2 alternately in 4 rows, 2 layers high, 8 to the layer on end, blossom end up;

(3) 138's, which are packed by placing 2 and 1 alternately in 5 rows, 3 layers high, 8 and 7 alternately to the layer, flat;

(4) 162's, which are packed by placing 2 and 1 alternately in 6 rows, 3 layers high, 9 to the layer, flat;

(5) 180's, which are packed by placing 2 and 2 alternately in 5 rows, 3 layers high, 10 to the layer, flat;

(6) 216's, which are packed by placing 2 and 2 alternately in 6 rows, 3 layers high, 12 to the layer, flat;

(7) 270's, which are packed by placing 3 and 3 alternately in 5 rows, 3 layers high, 15 to the layer, flat; and

(8) 324's, which are packed by placing 3 and 3 alternately in 6 rows, 3 layers high, 18 to the layer, flat.

(b) Layers in a package shall be tightly filled. The top layer shall extend approximately one inch above the rim or edge of the bushel basket, crate basket, or box.

(c) As nearly as possible, peaches in a package must be uniformly ripe.

[Acts 1981, 67th Leg., p. 1223, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 91.046 to 91.060 reserved for expansion].

#### SUBCHAPTER D. BERMUDA ONION GRADES

##### § 91.061. Grading Characteristics

(a) A bright onion has the attractive pearly luster normal for Bermuda onions.

(b) The diameter of an onion is the greatest dimension at a right angle to a straight line between the stem and the root.

(c) A mature onion is firm.

(d) An onion is sunburned if it is discolored from exposure to the sun. The green color running down the veins in the crystal wax variety is not characteristic of sunburn unless the surface between the veins is green.

(e) An onion is well shaped if it is generally round, although not necessarily having exactly the typical flat Bermuda shape. A well-shaped onion may not have three or more sides, be thick-necked, or be badly pinched by dry, hard soil.

(f) An onion is practically free from damage if on casual examination no injury is apparent.

(g) Onions are of one variety if they consist of one type, such as the crystal wax (white), white Bermuda (yellow), or red Bermuda (red), and not a mixture of types.

(h) An onion is sound if it is not water-soaked, decayed, sprouted, or otherwise defective.

(i) The white Bermuda (yellow) onion is noticeably pink if it has a pink color that is readily apparent on casual examination.

[Acts 1981, 67th Leg., p. 1224, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 91.062. Grade No. 1

Grade No. 1 Bermuda onions are:

(1) sound, mature, bright, well shaped, and of one variety;

(2) free from doubles, splits, bottle necks, and seed stems;

(3) practically free from damage caused by dirt or other foreign matter, moisture, sunburn, cuts, disease, insects, or mechanical devices; and

(4) at least two inches in diameter.

[Acts 1981, 67th Leg., p. 1224, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 91.063. Grade No. 1, Large

If more than 10 percent by weight of the onions in any lot of Grade No. 1 onions have a diameter of at least 3½ inches, the onions shall be designated Grade No. 1, Large.

[Acts 1981, 67th Leg., p. 1224, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 91.064. Boiler Grade

Boiler grade onions are onions that meet other Grade No. 1 requirements, but are at least one and not more than two inches in diameter.

[Acts 1981, 67th Leg., p. 1224, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 91.065. Grade No. 2

Grade No. 2 onions are:

(1) sound and of one variety;

(2) free from doubles, splits, bottle necks, and seed stems;

(3) practically free from damage caused by moisture, sunburn, cuts, disease, insects, or mechanical devices; and

(4) at least two inches in diameter.

[Acts 1981, 67th Leg., p. 1224, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 91.066. Grade No. 2, Large

If more than 10 percent by weight of the onions in any lot of Grade No. 2 onions have a diameter of at least 3½ inches, the onions shall be designated Grade No. 2, Large.

[Acts 1981, 67th Leg., p. 1225, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 91.067. Grade No. 3

Grade No. 3 onions do not meet the requirements of a higher grade but are:

(1) sound;

(2) free from doubles, splits, bottle necks, and seed stems;

(3) practically free from damage caused by moisture, sunburn, cuts, disease, insects, or mechanical devices; and

(4) at least one inch in diameter.

[Acts 1981, 67th Leg., p. 1225, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.068. Permissible Variations**

(a) In order to allow for variations incident to commercial grading and handling, any lot of onions may, as limited by this section, contain onions that do not meet the grade requirements for the lot's grade.

(b) In any lot of Grade No. 1, Large, or Boiler Grade onions, not more than six percent by weight may fail to meet the grade requirements.

(c) In any lot of Grade No. 1, Large, or Boiler Grade yellow onions, not more than five percent by weight may be noticeably pink.

(d) In any lot of Grade No. 2, Grade No. 2, Large, or Grade No. 3 onions, not more than 10 percent by weight may fail to meet the grade requirements. [Acts 1981, 67th Leg., p. 1225, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 91.069 to 91.080 reserved for expansion]

**SUBCHAPTER E. CABBAGE GRADES**

**§ 91.081. Grade No. 1**

Grade No. 1 cabbage is:

(1) sound, green in color, reasonably hard, and trimmed such that three or fewer outside leaves are left on a head;

(2) free from stem rot and other diseases;

(3) practically free from dirt, wormholes, and lice;

(4) uncracked and not showing signs of going to seed or turning white from age; and

(5) at least 1½ pounds but not more than 8 pounds in weight.

[Acts 1981, 67th Leg., p. 1225, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.082. Grade No. 2**

Grade No. 2 cabbage is sound cabbage that does not meet the requirements of Grade No. 1.

[Acts 1981, 67th Leg., p. 1225, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.083. Permissible Variations**

(a) In order to allow for variations incident to commercial grading and handling, any lot of cabbage may, as limited by this section, contain cabbage that does not meet the grade requirements for the lot's grade.

(b) In any lot of Grade No. 1 cabbage:

(1) not more than five percent by weight may fail to meet the size requirement; and

(2) not more than three percent by weight may fail to meet the grade requirements other than size.

[Acts 1981, 67th Leg., p. 1225, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 91.084 to 91.090 reserved for expansion]

**SUBCHAPTER F. SNAP BEAN GRADES AND PACKS**

**§ 91.091. Grading Characteristics**

A snap bean pod is overripe if:

(1) it does not snap when broken;

(2) it lacks abundant juice; and

(3) the beans in the pod show evidence of maturity.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.092. Grade No. 1**

Grade No. 1 snap beans are:

(1) sound, bright, clean, and of one variety and color;

(2) free from leaves, stems, spots, insect damage, disease, and overripe pods; and

(3) from one-half to full grown.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.093. Grade No. 2**

Grade No. 2 snap beans are snap beans that do not meet the requirements for Grade No. 1.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.094. Permissible Variation**

In order to allow for variations incident to commercial grading and handling, not more than three percent by weight of a lot of Grade No. 1 snap beans may be a different variety, but not a different color, from the rest of the lot.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.095. Snap Bean Packs**

Snap beans shall be packed in a hamper weighing at least 17 pounds net weight per one-half bushel when packed, or at least 34 pounds net weight per bushel when packed.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 91.096 to 91.110 reserved for expansion]

**SUBCHAPTER G. BARTLETT PEAR GRADES AND PACKS**

**§ 91.111. Extra Fancy Grade**

Extra fancy pears:

(1) are sound, clean, and bright;

(2) have natural color and shape; and

(3) are free from worms, specks, blemishes, bruises, and limb scar red fruit.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.112. Fancy Grade**

Fancy pears have the same qualities as extra fancy pears, except not more than 10 percent of a lot of fancy pears may have slight scars or blemishes that do not injure the texture of the fruit or its keeping qualities.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.113. Choice Grade**

Choice pears have the same qualities as fancy pears, except not more than 10 percent of a lot of choice pears may be misshapen or have worm strings that have healed.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.114. Packages and Markings**

Pears shall be tightly packed in clean standard boxes that are marked on one end with the grade and number of pears contained in the package and the name and post office address of the packer.

[Acts 1981, 67th Leg., p. 1226, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.115. Pear Packs**

The standard pear packs are:

(1) four-tier, which is packed in four layers and contains a minimum of 120 pears per box;

(2) five-tier, which is packed in six layers and contains a minimum of 135 and a maximum of 180 pears per box; and

(3) six-tier, which is packed in six layers and contains 216 pears per box or is packed in five layers and contains 195 or 210 pears per box.

[Acts 1981, 67th Leg., p. 1227, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 91.116 to 91.120 reserved for expansion]

**SUBCHAPTER H. IRISH POTATO GRADES****§ 91.121. Grading Characteristics**

(a) A potato is practically free from a named injury to the appearance if the injury is not readily apparent on casual examination and if damaged areas can be pared without appreciable waste in excess of that which occurs with perfect potatoes. Loss of the outer skin only is not an injury to appearance.

(b) The diameter of a potato is the greatest dimension at right angles to the longitudinal axis.

(c) A potato is free from serious damage if the appearance of the potato is not damaged from a named injury over more than 20 percent of the surface and if the damage can be removed by paring with waste of not more than 10 percent by weight in excess of that which occurs with perfect potatoes.

[Acts 1981, 67th Leg., p. 1227, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.122. Grade No. 1**

Grade No. 1 potatoes:

(1) are sound;

(2) are practically free from dirt or foreign matter, frost injury, sunburn, second growth, cuts, mechanical damage, or damage from disease or insects;

(3) are a minimum of 1¾ inches in diameter; and

(4) have similar varietal characteristics.

[Acts 1981, 67th Leg., p. 1227, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.123. Grade No. 2**

Grade No. 2 potatoes:

(1) are practically free from frost injury and decay;

(2) are free from serious damage caused by dirt or other foreign matter, sunburn, second growth, cuts, disease, insects, or mechanical injury;

(3) are at least 1½ inches in diameter; and

(4) have similar varietal characteristics.

[Acts 1981, 67th Leg., p. 1227, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.124. Permissible Variations**

(a) In order to allow for variations incident to commercial grading and handling, any lot of potatoes may, as limited by this section, contain potatoes that do not meet the grade requirements for the lot's grade.

(b) In any lot of potatoes not more than three percent by weight may fail to meet the grade requirements other than size.

(c) In any lot of potatoes not more than five percent by weight may fail to meet the grade requirements for size.

(d) In any lot of potatoes not more than three percent by weight shall be allowed for shrinkage on all new potatoes grown in this state.

(e) A fair and reasonable estimate of the dirt that adheres to potatoes shall be made, and the weight of the dirt shall be deducted from the gross weight of the potatoes. The estimate may be made by removing and weighing the dirt from three or more samples weighing at least 50 pounds each.

[Acts 1981, 67th Leg., p. 1227, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 91.125. Container Markings**

Potato containers shall be marked with the name and post office address of the grower or shipper.

[Acts 1981, 67th Leg., p. 1228, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 91.126 to 91.140 reserved for expansion]

SUBCHAPTER I. SWEET POTATO INSPECTION AND CLASSIFICATION

§ 91.141. Availability of Department Services

(a) A grower of sweet potatoes in this state may dispose of the grower's own crop without complying with or being subject to the provisions of this subchapter.

(b) Sweet potatoes that are brought into this state are subject to the provisions of this subchapter.

(c) The department shall inspect, grade, and classify sweet potatoes if inspection and classification are requested by a person who intends to sell or transport sweet potatoes in commercial quantities. [Acts 1981, 67th Leg., p. 1223, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.142. Rules

The department shall adopt rules that relate to the standards and procedures used to grade, classify, pack, and inspect sweet potatoes and that relate to marking containers, issuing certificates of inspection, and tagging transport vehicles.

[Acts 1981, 67th Leg., p. 1223, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 91.143. Inspection Fees

(a) A person requesting inspection shall pay a fee for the inspection in an amount set by rule of the department.

(b) The department shall set inspection fees at amounts that are approximately equal to the cost of providing inspection and classification services.

[Acts 1981, 67th Leg., p. 1223, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 92. TOMATO STANDARDIZATION AND INSPECTION

SUBCHAPTER A. GENERAL

Section	
92.001.	Policy.
92.002.	Definitions.
92.003.	Seasonal Application.
92.004.	Exceptions.
92.005.	Department to Administer.
92.006.	Notice.

SUBCHAPTER B. INSPECTION AND CERTIFICATION

92.011.	Inspection.
92.012.	Notice.
92.013.	Certificate of Inspection.

SUBCHAPTER C. CONTAINERS, GRADES, AND PACKS

92.021.	Standard Containers.
92.022.	Fancy and Choice Grades.
92.023.	Fancy Tomato Packs.
92.024.	Choice Tomato Packs.
92.025.	Uniformity Within a Pack.
92.026.	Deceptive Container Designations.

SUBCHAPTER D. COOPERATIVE AGREEMENTS

Section	
92.031.	Execution of Agreements.
92.032.	Licenses.
92.033.	Contributions.
92.034.	Payment of Contributions.
92.035.	Audit.

SUBCHAPTER E. PENALTIES

92.041.	Offenses.
92.042.	Penalty.

SUBCHAPTER A. GENERAL

§ 92.001. Policy

It is in the interest of the public welfare of this state to provide growers, shippers, carriers, receivers, and consumers with evidence of the quality, quantity, and condition of tomatoes they grow, ship, or purchase. The purpose of this chapter is to authorize and prescribe the procedures by which growers and shippers of tomatoes may secure prompt and efficient inspection, classification, and grading of their product at reasonable cost.

[Acts 1981, 67th Leg., p. 1229, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 92.002. Definitions

In this chapter:

(1) "Commercial quantity" means more than 500 pounds.

(2) "Cooperative agreement" means the agreement concerning shipping point inspection service having an October 1, 1931, effective date executed by the department and the United States Department of Agriculture, and all supplementary agreements executed by the department and Texas firms, corporations, or associations organized for that purpose.

(3) "Cooperative financing plan" means a system to finance and collect the expenses of inspection under a cooperative agreement.

(4) "Dealer" means a person who packs or delivers tomatoes in commercial quantities to a transporting agency for shipment.

(5) "Inspection certificate" means the joint federal-state inspection certificate under the cooperative agreement.

(6) "Inspector" means an employee of the department or the United States Department of Agriculture who is authorized to inspect or grade tomatoes or to certify tomatoes for shipment.

(7) "Person" means an individual, partnership, corporation, or association.

[Acts 1981, 67th Leg., p. 1229, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 92.003. Seasonal Application

This chapter is effective after March 31 and before July 16 each year.

[Acts 1981, 67th Leg., p. 1230, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 92.004. Exceptions**

(a) This chapter does not apply to:

(1) a sale or delivery of unpacked and unmarked tomatoes by the grower to another person for packing and resale;

(2) a bulk sale of tomatoes by the producer to a packer for grading, packing, processing, or storing;

(3) the conversion of tomatoes by a grower or packer into a tomato by-product;

(4) the sale of unpacked or unmarked tomatoes by a grower or packer to a person who operates a commercial by-product plant and who intends to convert the tomatoes into a by-product for resale; or

(5) a sale of tomatoes in less than commercial quantities.

(b) The department may permit a grower with an entire crop of tomatoes ripe on the vine to personally transport and sell those tomatoes to retail merchants or consumers. If the department determines that a permit granted under this subsection has been abused, the department may cancel the permit. [Acts 1981, 67th Leg., p. 1230, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 92.005. Department to Administer**

The department shall direct the inspection and certification of tomato grades, sizes, packs, markings, and container designations and may:

(1) adopt tomato container standards and grades that are not in conflict with federal standards and grades or those described in Subchapter C of this chapter;

(2) adopt rules relating to tomato inspections, standards, grades, packs, markings, and containers;

(3) adopt rules that in effect adopt a financing plan for inspection contributions under a cooperative agreement under Subchapter D of this chapter; and

(4) adopt rules relating to the issuance of licenses required under this chapter.

[Acts 1981, 67th Leg., p. 1230, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 92.006. Notice**

All notices provided for by this chapter shall be in writing unless this chapter specifically provides otherwise.

[Acts 1981, 67th Leg., p. 1230, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 92.007 to 92.010 reserved for expansion]

SUBCHAPTER B. INSPECTION AND  
CERTIFICATION

**§ 92.011. Inspection**

(a) In accordance with this subchapter, the department shall inspect tomatoes that a person intends to pack for transportation in commercial quantities.

(b) In the notice under Section 92.012 of this code, the packer or dealer may designate the location where the tomatoes are packed or the transportation point as the inspection site.

[Acts 1981, 67th Leg., p. 1231, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 92.012. Notice**

A person who intends to pack tomatoes for transportation shall give timely written or oral notice to the department:

(1) of the time and place the tomatoes are to be packed and transported; or

(2) that the tomatoes are to be packed and transported to the inspection station nearest the point of loading for transportation.

[Acts 1981, 67th Leg., p. 1231, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 92.013. Certificate of Inspection**

After completing a tomato inspection, the department shall give the dealer a certificate of inspection that complies with the requirements of the cooperative agreement.

[Acts 1981, 67th Leg., p. 1231, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 92.014 to 92.020 reserved for expansion]

SUBCHAPTER C. CONTAINERS, GRADES,  
AND PACKS

**§ 92.021. Standard Containers**

Containers used to transport tomatoes shall meet the minimum standards established for fruits and vegetables by Subchapter B, Chapter 91, of this code or the standards adopted by the department.

[Acts 1981, 67th Leg., p. 1231, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 92.022. Fancy and Choice Grades**

Fancy and choice tomatoes are:

(1) sound;

(2) free from undesirable scars, cat faces, and insect or other damage; and

(3) packed according to standards established by this subchapter.

[Acts 1981, 67th Leg., p. 1231, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 92.023. Fancy Tomato Packs

(a) The standard packs for a six-basket crate of fancy tomatoes are:

(1) 72's, which are packed by placing 2 and 2 alternately in 3 rows, 2 layers high, 6 to the layer, blossom end up, 12 to the basket;

(2) 84's, which are packed by placing 2 and 2 alternately in 4 rows on edge, 8 to the layer for the first layer, 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the second layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the third or last layer, 15 to the basket; and

(3) 108's which are packed by placing 3 and 3 alternately in 3 rows on edge, 9 to the layer for the first layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the second or last layer, 18 to the basket.

(b) The standard packs for a four-basket crate of fancy tomatoes are:

(1) 48's which are packed by placing 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the second or last layer, 12 to the basket;

(2) 56's which are packed by placing 2 and 2 alternately in 4 rows on edge, 8 to the layer for the first layer, and 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the second or last layer, 14 to the basket;

(3) 60's, which are packed by placing 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the second or last year, 15 to the basket;

(4) 64's which are packed by placing 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 1 and 2 alternately in 7 rows, on edge, blossom end out, 10 to the layer, 16 to the basket; and

(5) 72's, which are packed by placing 3 and 3 alternately in 3 rows on edge, 9 to the layer for the first layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the second or last layer, 18 to the basket.

[Acts 1981, 67th Leg., p. 1231, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 92.024. Choice Tomato Packs

(a) The standard packs for a six-basket crate of choice tomatoes are:

(1) 120's which are packed by placing 2 and 2 alternately in 4 rows on edge 8, to the layer for the first layer, and 3 and 3 alternately in 4 rows on edge, blossom end out, 12 to the layer for the second or last layer, 20 to the basket;

(2) 144's, which are packed by placing 3 and 3 alternately in 4 rows on edge, 12 to the layer for the first layer and 3 and 3 in 4 rows on edge, blossom end out, 12 to the layer for the second or last layer, 24 to the basket; and

(3) 180's, which are packed by placing 3 and 3 alternately in 5 rows on edge, blossom end out, 15 to the layer for the second or last layer, 30 to the basket.

(b) The standard packs for a four-basket crate of choice tomatoes are:

(1) 84's, which are packed by placing 3 and 3 alternately in 3 rows on edge, 9 to the layer for the first layer, and 3 and 3 alternately in 4 rows on edge, blossom end out, 12 to the layer for the second or last layer, 21 to the basket;

(2) 88's, which are packed by placing 3 and 3 alternately in 3 rows on edge, 9 to the layer for the first layer, and 1 and 2 alternately in 9 rows on edge, blossom end out, 18 to the layer, 22 to the basket;

(3) 96's which are packed by placing 3 and 3 alternately in 4 rows on edge, 12 to the layer for the first layer, and 3 and 3 alternately in 4 rows on edge, blossom end out, 12 to the layer for the second or last layer, 24 to the basket; and

(4) 104's, which are packed by placing 1 and 2 alternately in 9 rows on edge, 13 to the layer for the first layer, and 1 and 2 alternately in 9 rows on edge, 13 to the layer, blossom end out, for the second or last layer, 26 to the basket.

[Acts 1981, 67th Leg., p. 1232, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 92.025. Uniformity Within a Pack

As nearly as possible, tomatoes in a crate or package shall be uniformly ripe.

[Acts 1981, 67th Leg., p. 1232, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 92.026. Deceptive Container Designations

A person may not pack or ship tomatoes in a container or subcontainer that is imprinted or inscribed with a designation of grade, standard, count, arrangement, or pack that is false and misleading.

[Acts 1981, 67th Leg., p. 1233, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 92.027 to 92.030 reserved for expansion]

SUBCHAPTER D. COOPERATIVE AGREEMENTS

§ 92.031. Execution of Agreements

The department may enter into cooperative agreements with the United States Department of Agriculture, or with any Texas firm, corporation, or association that is organized for that purpose, or both. An agreement may provide for the amount of

contributions to be paid by dealers for inspection and grading services to be performed by the department under this chapter.

[Acts 1981, 67th Leg., p. 1233, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 92.032. Licenses

Department inspectors and a firm, corporation, or association that has executed a cooperative agreement shall obtain a license from the department.

[Acts 1981, 67th Leg., p. 1233, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 92.033. Contributions

(a) The legislature may not appropriate funds for the enforcement of this chapter.

(b) The department shall set contributions under this chapter in amounts that are consistent with the cost of maintaining inspection and grading services under the cooperative agreement.

(c) The contribution for each different inspection or grading service may be different.

(d) The amount of the contribution that the department may charge for services rendered is the prescribed amount or the actual cost of the service, whichever is less.

(e) The department shall hold or disburse the funds contributed under this chapter in accordance with the cooperative agreement.

[Acts 1981, 67th Leg., p. 1233, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 92.034. Payment of Contributions

(a) A packer or dealer shall pay the contribution under this subchapter to the inspector who inspects or grades the tomatoes.

(b) An inspector who renders an inspection or grading service shall withhold delivery of the inspection certificate until the contribution required under this subchapter is paid.

[Acts 1981, 67th Leg., p. 1233, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 92.035. Audit

(a) The accounts and records of the chief inspector of the department are subject to audit by the state auditor from time to time or on the written request of the commissioner.

(b) The state auditor shall make a written report of the results of an audit to the commissioner.

[Acts 1981, 67th Leg., p. 1233, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 92.036 to 92.040 reserved for expansion]

### SUBCHAPTER E. PENALTIES

#### § 92.041. Offenses

A person commits an offense if the person:

(1) knowingly or intentionally interferes with an employee of the department in the performance of a duty under this chapter;

(2) knowingly or intentionally fails to obey a rule adopted by the department under this chapter;

(3) delivers or accepts tomatoes for transport, or transports tomatoes that are not accompanied by a certificate of inspection;

(4) accepts tomatoes for transport if the inspection certificate that accompanies the tomatoes shows on its face that the tomatoes are not in compliance with this chapter;

(5) knowingly or intentionally delivers tomatoes for transport if the tomatoes are packed in a container or subcontainer that is deceptively marked concerning the grade, standard, count, arrangement, or pack of the contents;

(6) packs or transports tomatoes in a container or subcontainer that is deceptively marked concerning the grade, standard, size, count, pack, arrangement, brand, or trademark of the contents;

(7) transports tomatoes in an unauthorized container or subcontainer;

(8) sells, delivers for transport, or packs or consigns for sale tomatoes unless the tomatoes conform to the standards, grades, or classifications under this chapter;

(9) forges, falsifies, or changes an inspection certificate;

(10) is in business as a dealer in tomatoes while serving as commissioner or as an employee of the department, except that the commissioner and employees of the department may sell tomatoes they grow or produce; or

(11) violates a provision of this chapter.

[Acts 1981, 67th Leg., p. 1234, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 92.042. Penalty

An offense under Section 92.041 of this subchapter is a misdemeanor punishable by a fine of not more than \$200.

[Acts 1981, 67th Leg., p. 1234, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 93. CITRUS FRUIT STANDARDIZATION AND INSPECTION

### SUBCHAPTER A. GENERAL

Section	
93.001.	Policy.
93.002.	Application.

- Section  
 93.003. Exceptions.  
 93.004. Department to Administer.  
 93.005. Registered Brands and Trademarks.

SUBCHAPTER B. INSPECTION AND CERTIFICATION

- 93.011. Inspection.  
 93.012. Certificate of Inspection.  
 93.013. Rights of a Shipper Regarding Nonconforming Citrus Fruit.

SUBCHAPTER C. CONTAINERS, GRADES, PACKS, AND MARKS

- 93.021. Container Standards.  
 93.022. Fancy Bright Grade.  
 93.023. Bright Grade.  
 93.024. Fancy Russet Grade.  
 93.025. Russet Grade.  
 93.026. Orange Packs.  
 93.027. Satsuma and Tangerine Packs.  
 93.028. Grapefruit Packs.  
 93.029. Packing Standards.  
 93.030. Labeling.  
 93.031. Imported Citrus Fruit.  
 93.032. Permissible Variations.

SUBCHAPTER D. COOPERATIVE AGREEMENTS

- 93.041. Execution of Agreements.  
 93.042. Licenses.  
 93.043. Standards.  
 93.044. Contributions.

SUBCHAPTER E. PURCHASE OF CITRUS FRUIT BY WEIGHT

- 93.051. Requirement to Weigh; Public Weigher.  
 93.052. Certificate of Weight.  
 93.053. Fees.

SUBCHAPTER F. PENAL PROVISIONS

- 93.061. Offenses.  
 93.062. Penalty.

SUBCHAPTER A. GENERAL

§ 93.001. Policy

It is in the interest of the public welfare of this state to provide growers, shippers, carriers, receivers, and consumers with evidence of the quality and condition of the citrus fruit they grow, ship, or purchase. The purpose of this chapter is to authorize and prescribe the procedures by which growers and shippers of citrus fruit may secure prompt and efficient inspection and classification of their product at reasonable cost.

[Acts 1981, 67th Leg., p. 1235, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.002. Application

This chapter applies only in the citrus zone established under Section 73.003 of this code.

[Acts 1981, 67th Leg., p. 1236, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.003. Exceptions

(a) This chapter does not prevent:

(1) a grower of citrus fruit from disposing of the grower's own crop without complying with this chapter;

(2) a grower or packer of citrus fruit from manufacturing the citrus fruit into a by-product; or

(3) a grower or packer of citrus fruit from selling unpacked or unmarked citrus fruit to a person who operates a commercial by-products factory within the area to which this chapter applies and who intends to manufacture the citrus fruit into a by-product for resale.

(b) This chapter does not apply to a quantity of citrus fruit that amounts to five or fewer containers. [Acts 1981, 67th Leg., p. 1236, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.004. Department to Administer

The department:

(1) shall direct the inspection, grading, and classification of grapefruit and oranges;

(2) shall adopt and enforce rules relating to grading, packing, and marketing grapefruit and oranges;

(3) may adopt rules relating to marking containers, issuing certificates of inspection, and tagging transportation vehicles and other rules the department considers necessary to improve the methods by which grapefruit and oranges are marketed;

(4) may adopt rules that adopt a financing plan for inspection contributions under a cooperative plan under Subchapter D of this chapter; and

(5) shall adopt rules relating to the licenses required under this chapter.

[Acts 1981, 67th Leg., p. 1236, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.005. Registered Brands and Trademarks

(a) Brands and trademarks and their United States grade definition shall, if eligible, be registered with the department.

(b) To be eligible for registration, a brand or trademark must:

(1) be defined by the minimum requirements of a grade, or a combination of grades, established under this chapter; or

(2) meet or exceed the requirements of U.S. No. 2 grade.

[Acts 1981, 67th Leg., p. 1236, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 93.006 to 93.010 reserved for expansion]

SUBCHAPTER B. INSPECTION AND  
CERTIFICATION

**§ 93.011. Inspection**

(a) An authorized inspector shall inspect citrus fruit.

(b) A person who is subject to this chapter shall either notify the department of the time and place citrus fruit is to be loaded or report to the inspection station nearest the point of loading.

[Acts 1981, 67th Leg., p. 1236, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 93.012. Certificate of Inspection**

(a) After completing a citrus fruit inspection the inspector shall issue to the shipper a certificate of inspection that designates the grade of the citrus fruit inspected.

(b) A certificate of inspection issued under this section is prima facie evidence of the grade of the citrus fruit as of the time of inspection.

[Acts 1981, 67th Leg., p. 1237, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 93.013. Rights of a Shipper Regarding Nonconforming Citrus Fruit**

In a written instrument that is delivered to a consignor of citrus fruit, a shipper or carrier may reserve the right to reject and return the citrus fruit, or to hold the citrus fruit at the expense and risk of the consignor, if after inspection it is determined that the citrus fruit was delivered for shipment in violation of this chapter.

[Acts 1981, 67th Leg., p. 1237, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 93.014 to 93.020 reserved for expansion]

SUBCHAPTER C. CONTAINERS, GRADES,  
PACKS, AND MARKS

**§ 93.021. Container Standards**

(a) Citrus fruit shall be packed in closed containers that are approved by the department.

(b) The standard orange box is 12 by 12 by 12 inches, and the standard one-half orange box is 12 by 12 by 6 inches, both sizes being measured on the inside.

[Acts 1981, 67th Leg., p. 1237, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 93.022. Fancy Bright Grade**

Fancy bright oranges, satsumas, tangerines, and grapefruit are:

- (1) bright in color;
- (2) shapely in form;
- (3) practically free from skin defects and blemishes;

- (4) fine in texture;
- (5) reasonably thin;
- (6) heavy and juicy; and
- (7) free from frost damage.

[Acts 1981, 67th Leg., p. 1237, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 93.023. Bright Grade**

Bright oranges, satsumas, tangerines, and grapefruit are:

- (1) fairly bright in color;
- (2) less fine and smooth in texture, and have a thicker skin, than fancy brights; and
- (3) may have skin defects that do not affect the merchantable quality of the fruit.

[Acts 1981, 67th Leg., p. 1237, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 93.024. Fancy Russet Grade**

Fancy russet oranges, satsumas, tangerines, and grapefruit have the same general qualities as fancy bright grade citrus fruit except fancy russets have coloration that is golden russet.

[Acts 1981, 67th Leg., p. 1237, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 93.025. Russet Grade**

Russet oranges, satsumas, tangerines, and grapefruit have the same general qualities as bright grade citrus fruit except russets have coloration that is rusty brown.

[Acts 1981, 67th Leg., p. 1237, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 93.026. Orange Packs**

The standard orange packs are:

(1) 96's, which are packed by placing 3 and 3 alternately in 4 rows, 4 layers high, 12 to the layer;

(2) 126's which are packed by placing 3 and 2 alternately in 5 rows, 5 layers high, 13 and 12 alternately to the layer;

(3) 150's, which are packed by placing 3 and 3 alternately in 5 rows, 5 layers high, 15 to the layer;

(4) 176's, which are packed by placing 4 and 3 alternately in 5 rows, 5 layers high, 18 and 17 alternately to the layer;

(5) 200's, which are packed by placing 4 and 4 alternately in 5 rows, 5 layers high, 20 to the layer;

(6) 216's, which are packed by placing 3 and 3 alternately in 6 rows, 6 layers high, 18 to the layer;

(7) 252's, which are packed by placing 4 and 3 alternately in 6 rows, 6 layers high, 21 to the layer; and

(8) 288's, which are packed by placing 4 and 4 alternately in 6 rows, 6 layers high, 24 to the layer.

[Acts 1981, 67th Leg., p. 1238, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.027. **Satsuma and Tangerine Packs**

The standard satsuma and tangerine packs are:

(1) 90's, which are packed by placing 3 and 3 alternately in 5 rows, 3 layers high, 15 to the layer;

(2) 106's which are packed by placing 4 and 3 alternately in 5 rows, 3 layers high, 18 and 17 alternately to the layer;

(3) 120's, which are packed by placing 4 and 4 alternately in 5 rows, 3 layers high, 20 to the layer;

(4) 168's, which are packed by placing 4 and 3 alternately in 6 rows, 4 layers high, 21 to the layer;

(5) 196's, which are packed by placing 4 and 3 alternately in 7 rows, 4 layers high, 25 and 24 alternately to the layer;

(6) 216's, which are packed by placing 5 and 4 alternately in 6 rows, 4 layers high, 27 to the layer; and

(7) 224's, which are packed by placing 4 and 4 alternately in 7 rows, 4 layers high, 28 to the layer.

[Acts 1981, 67th Leg., p. 1238, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.028. **Grapefruit Packs**

The standard grapefruit packs are:

(1) 28's, which are packed by placing 2 and 1 alternately in 3 rows, 3 layers high, 5 and 4 alternately to the layer;

(2) 36's, which are packed by placing 2 and 2 alternately in 3 rows, 3 layers high, 6 to the layer;

(3) 46's, which are packed by placing 3 and 2 alternately in 3 rows, 3 layers high, 8 and 7 alternately to the layer;

(4) 54's, which are packed by placing 3 and 3 alternately in 3 rows, 3 layers high, 9 to the layer;

(5) 64's, which are packed by placing 2 and 2 alternately in 4 rows, 4 layers high, 8 to the layer;

(6) 80's, which are packed by placing 2 and 2 alternately in 4 rows, 5 layers high, 8 to the layer; and

(7) 96's, which are packed by placing 3 and 3 alternately in 4 rows, 4 layers high, 12 to the layer.

[Acts 1981, 67th Leg., p. 1238, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.029. **Packing Standards**

(a) Packed citrus fruit shall be uniform in size.

(b) Oranges, satsumas, and tangerines shall be packed "stem-in, twist" with the blossom end down in the first layer, and the stem end down in all other layers.

(c) Grapefruit shall be packed on edge, except the 80 pack shall be packed flat like oranges.

[Acts 1981, 67th Leg., p. 1239, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.030. **Labeling**

(a) Citrus fruit that is packed or offered for shipment under this chapter shall be marked with its official grade or labeled or stamped with a registered brand or trademark.

(b) Grapefruit that is transported, marketed, or sold in this state in original perishable form shall be marked with the name of the state or foreign country of its origin in letters that are at least three-sixteenths of an inch high, or with individual trade names or copyrighted trademarks that sufficiently identify the state or foreign country of origin.

(c) Subsection (b) of this section is satisfied if not more than 25 percent of a lot of citrus fruit is improperly or partially marked.

(d) A person may not pack citrus fruit in a used container or subcontainer unless the markings, certificates of inspection, and designations of brand, trademark, quality, and grade that do not apply to the contents have been removed or obliterated.

[Acts 1981, 67th Leg., p. 1239, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.031. **Imported Citrus Fruit**

Citrus fruit shipped into this state from any other state or territory shall comply with the grading, packing, and marking requirements of this chapter.

[Acts 1981, 67th Leg., p. 1239, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.032. **Permissible Variations**

The standards established under this subchapter may be varied to the extent that:

(1) there may be a 10 percent difference in size between the citrus fruit on the top and the citrus fruit in the interior of a pack; and

(2) there may be a 3 percent difference in quantity between the actual count in a pack and the count prescribed.

[Acts 1981, 67th Leg., p. 1239, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 93.033 to 93.040 reserved for expansion]

## SUBCHAPTER D. COOPERATIVE AGREEMENTS

## § 93.041. Execution of Agreements

The department may enter into cooperative agreements with the United States Department of Agriculture or with any Texas firm, corporation, or association that is organized for that purpose, or both. An agreement may provide for the inspection of citrus fruit and for the amount of contributions to be paid by dealers and shippers for inspection and grading services to be performed by the department under this chapter.

[Acts 1981, 67th Leg., p. 1239, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 93.042. Licenses

Inspectors and a firm, corporation, or association that has executed a cooperative agreement shall obtain a license from the department.

[Acts 1981, 67th Leg., p. 1239, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 93.043. Standards

In accordance with the terms of a cooperative agreement, the department shall adopt United States standards to be used when grapefruit and oranges are inspected under this subchapter.

[Acts 1981, 67th Leg., p. 1240, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 93.044. Contributions

(a) The legislature may not appropriate funds for the enforcement of this chapter.

(b) The department shall set contributions under this subchapter in amounts that are consistent with the cost of maintaining inspection and grading services and the issuance of certificates of inspection under this chapter.

(c) The contribution for each different inspection or grading service on each different commodity may be different.

(d) The amount of the contribution that the department may charge for services rendered may not exceed the actual cost of the service performed in a licensed packing house.

[Acts 1981, 67th Leg., p. 1240, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 93.045 to 93.050 reserved for expansion]

SUBCHAPTER E. PURCHASE OF CITRUS  
FRUIT BY WEIGHT

## § 93.051. Requirement to Weigh; Public Weigher

Citrus fruit that is purchased by weight prior to packing shall be weighed at the expense of the buyer by a public weigher.

[Acts 1981, 67th Leg., p. 1240, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 93.052. Certificate of Weight

(a) A public weigher shall issue a certificate of weight to a buyer or shipper of citrus fruit that is required to be weighed under this subchapter.

(b) The buyer shall deliver the certificate provided under this section to the seller prior to making an accounting or settlement on the transaction.

[Acts 1981, 67th Leg., p. 1240, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 93.053. Fees

A public weigher is entitled to receive a fee in the following amount as full payment for issuance of a weight certificate:

(1) 10 cents if a net load weighs, 7,000 pounds or less;

(2) 15 cents if a net load weighs more than 7,000 pounds but not more than 14,000 pounds; or

(3) 20 cents if a net load weighs more than 14,000 pounds.

[Acts 1981, 67th Leg., p. 1240, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 93.054 to 93.060 reserved for expansion]

## SUBCHAPTER F. PENAL PROVISIONS

## § 93.061. Offenses

A person commits an offense if the person:

(1) accepts for shipment or ships citrus fruit that is not accompanied by a valid certificate of inspection;

(2) ships citrus fruit in bulk except as provided by Section 93.003 of this code;

(3) prepares, delivers for shipment, loads, transports, offers for sale, or sells for shipment citrus fruit that is packed, loaded, or arranged to conceal the true grade or otherwise misrepresent the contents;

(4) mislabels a container of citrus fruit;

(5) while serving as the commissioner or as an employee of the department, is directly or indirectly in the business of buying or selling citrus fruit or dealing in citrus fruit on a commission basis;

(6) intentionally interferes with the commissioner or an employee of the department in the performance of duties;

(7) packs for sale, consigns for sale, or sells citrus fruit that does not conform to minimum grades under this chapter or that has not been inspected under this chapter; or

(8) violates a provision of this chapter.

[Acts 1981, 67th Leg., p. 1240, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 93.062. Penalty

An offense under Section 93.061 of this code is a misdemeanor punishable by:

- (1) a fine of not more than \$500;
- (2) confinement in county jail for not more than 90 days; or
- (3) both fine and confinement under this section.

[Acts 1981, 67th Leg., p. 1241, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 94. CITRUS FRUIT MATURITY STANDARDS**

**SUBCHAPTER A. GENERAL**

- |         |                            |
|---------|----------------------------|
| Section |                            |
| 94.001. | Definitions.               |
| 94.002. | Exceptions.                |
| 94.003. | Department to Administer.  |
| 94.004. | Appointment of Inspectors. |
| 94.005. | Staff and Expenses.        |

**SUBCHAPTER B. PACKING HOUSES**

- |         |                      |
|---------|----------------------|
| 94.011. | Registration.        |
| 94.012. | Notice of Operation. |

**SUBCHAPTER C. MATURITY STANDARDS**

- |         |   |
|---------|---|
| 94.021. | Grapefruit.                             |
| 94.022. | Oranges.                                |
| 94.023. | Determination of Soluble Solids.        |
| 94.024. | Determination of Anhydrous Citric Acid. |
| 94.025. | Unfit Citrus Fruit.                     |

**SUBCHAPTER D. CITRUS FRUIT INSPECTION**

- |         |   |
|---------|---|
| 94.031. | Inspection.   |
| 94.032. | Maturity Stamps.  |
| 94.033. | Inspection Sites.   |
| 94.034. | Inspection at a Grove.  |
| 94.035. | Inspection Fees.  |
| 94.036. | Denial of Certificate.  |
| 94.037. | Imported Citrus Fruit.  |
| 94.038. | Inspection for Substitution and Condemnation of Unfit Citrus Fruit. |

**SUBCHAPTER E. PENALTIES**

- |         |           |
|---------|-----------|
| 94.051. | Offenses. |
| 94.052. | Penalty.  |

**SUBCHAPTER A. GENERAL**

§ 94.001. Definitions

In this chapter:

- (1) "Distributing house" means a place that receives or ships, or a truck or railroad car that carries, citrus fruit that has been shipped into this state from another.
- (2) "Grove" means an area where citrus fruit is grown, including a yard, garden, or orchard.
- (3) "Packing house" means a place where citrus fruit is packed or prepared to be marketed or transported.

[Acts 1981, 67th Leg., p. 1242, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 94.002. Exceptions

This chapter does not apply to:

- (1) citrus fruit other than citrus grandis, osbeck, commonly known as grapefruit, and citrus sinensis, osbeck, commonly known as oranges;
- (2) a sale of citrus fruit "on the trees";
- (3) citrus fruit that is accepted for transportation or is being transported by a common carrier after December 15 and before September 1 of a year; or
- (4) transportation of citrus fruit from a grove to a packing house located in this state.

[Acts 1981, 67th Leg., p. 1242, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 94.003. Department to Administer

The department shall direct and supervise the inspection and certification of maturity of citrus fruit under this chapter and may adopt rules relating to:

- (1) the number and character of certificates of inspection and maturity;
- (2) inspection requests; and
- (3) seasonal requirements of citrus fruit for fitness for human consumption.

[Acts 1981, 67th Leg., p. 1242, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 94.004. Appointment of Inspectors

(a) On the recommendation of the commissioner, the governor may annually appoint as many citrus fruit inspectors to the department as are necessary to enforce this chapter.

(b) An inspector appointed under this section shall:

- (1) serve for a period of one year or less;
- (2) make the oath required by the constitution and file it with the secretary of state; and
- (3) provide a \$1,000 bond payable to the governor and conditioned on the faithful performance of the duties of inspector.

(c) In an emergency or if there is no inspector available to inspect citrus fruit in a particular locality, the department may appoint a special citrus fruit inspector who shall perform the duties of an inspector. A special inspector is not required to provide the bond otherwise required of an inspector by this section.

(d) The department shall reimburse citrus fruit inspectors for expenses necessarily incurred during the performance of their duties.

[Acts 1981, 67th Leg., p. 1242, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 94.005. Staff and Expenses

(a) The department may employ a chief of the maturity division.

(b) The department may employ a staff that is adequate to enforce this chapter effectively.

(c) The department may pay all expenses necessarily incurred to enforce this chapter.

[Acts 1981, 67th Leg., p. 1243, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 94.006 to 94.010 reserved for expansion]

#### SUBCHAPTER B. PACKING HOUSES

##### § 94.011. Registration

(a) Each year, the owner, manager, or operator of a packing house that is in operation during the fruit shipping season shall register the packing house with the department at least 10 days before packing or preparing citrus fruit for sale or transportation.

(b) The application for registration under this section must include the location, shipping points, and post office address of the packing house.

[Acts 1981, 67th Leg., p. 1243, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 94.012. Notice of Operation

After October 14 and before December 17 of each year, the owner, manager, or operator of a packing house shall notify the department in writing of the date packing operations are to begin. The notice is due at least seven days prior to beginning operations.

[Acts 1981, 67th Leg., p. 1243, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 94.013 to 94.020 reserved for expansion]

#### SUBCHAPTER C. MATURITY STANDARDS

##### § 94.021. Grapefruit

Grapefruit are mature if:

(1) the juice consists of 9 percent or more of soluble solids, when the ratio of soluble solids to anhydrous citric acid is at least 7.2 to 1;

(2) the juice consists of 10 percent or more of soluble solids, when the ratio of soluble solids to anhydrous citric acid is at least 7 to 1;

(3) the juice consists of 11 percent or more of soluble solids, when the ratio of soluble solids to anhydrous citric acid is at least 6.8 to 1; or

(4) the juice consists of 11.5 percent or more of soluble solids, when the ratio of soluble solids to anhydrous citric acid is at least 6.5 to 1.

[Acts 1981, 67th Leg., p. 1243, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 94.022. Oranges

Oranges are mature when the ratio of soluble solids to the anhydrous citric acid of the juice is at least 12.5 to 1.

[Acts 1981, 67th Leg., p. 1244, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 94.023. Determination of Soluble Solids

The percentage of soluble solids in citrus juice shall be determined by using a Brix hydrometer. The reading of the hydrometer corrected for temperature is the percent of soluble solids.

[Acts 1981, 67th Leg., p. 1244, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 94.024. Determination of Anhydrous Citric Acid

Anhydrous citric acid in citrus juice is equal to the total acidity of the juice, which is determined by titration using standard alkali and phenolphthalein as the indicator.

[Acts 1981, 67th Leg., p. 1244, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 94.025. Unfit Citrus Fruit

(a) Citrus fruit that is immature, unripe, overripe, frozen, frost damaged, or otherwise unfit for consumption may not be sold or offered for sale.

(b) Citrus fruit that is immature or otherwise unfit for consumption may not be prepared for sale or transportation, transported, or received for any purpose prohibited by this section, from December 16 to August 31 each year.

[Acts 1981, 67th Leg., p. 1244, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 94.026 to 94.030 reserved for expansion]

#### SUBCHAPTER D. CITRUS FRUIT INSPECTION

##### § 94.031. Inspection

(a) Citrus fruit may not be transported, or prepared, received, or delivered for transportation or market, after August 31 and before December 16 each year unless it has been inspected for maturity and approved by a department citrus fruit inspector or by a United States Department of Agriculture citrus fruit inspector and is accompanied by a maturity stamp.

(b) A certificate of inspection and maturity issued under this section must identify the citrus fruit to which it relates.

(c) An inspector appointed under Section 94.004(c) of this code shall sign certificates of inspection and maturity as "Special Citrus Fruit Inspector."

[Acts 1981, 67th Leg., p. 1244, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 94.032. Maturity Stamps

(a) If the requirements of this chapter are met and the department receives the fee required under this subchapter, the department shall issue maturity stamps to vendors and shippers of citrus fruit.

(b) The maturity stamp is evidence that the inspection fee has been paid.

(c) A vendor or shipper shall securely attach a maturity stamp to:

(1) each package of citrus fruit that is prepared for sale or delivery for transportation; or

(2) the bill of lading or other shipping receipt, if the citrus fruit is prepared for sale or delivery for transportation in bulk.

[Acts 1981, 67th Leg., p. 1244, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 94.033. Inspection Sites**

Citrus fruit shall be inspected and certificates of inspection and maturity issued only at a grove, registered packing house, or distributing house.

[Acts 1981, 67th Leg., p. 1245, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 94.034. Inspection at a Grove**

(a) A person may request and is entitled to receive a citrus fruit inspection by the department at a grove.

(b) An inspector shall test a representative sample of the citrus fruit in the grove in the presence of the owner of the grove or the owner's agent.

(c) Following inspection, the inspector shall issue a certificate of clearance that authorizes the removal and sale of citrus fruit that is satisfactory.

[Acts 1981, 67th Leg., p. 1245, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 94.035. Inspection Fees**

(a) A person who sells or ships citrus fruit after August 31 and before December 16 shall pay to the department a maximum fee of:

(1) 2.5 cents per standard box that is sold, transported, or delivered for transportation;

(2) 1.5 cents per one-half standard box, or other container that is one-half the size of a standard container, that is sold, transported, or delivered for transportation; or

(3) 2.5 cents per 80-pound lot, or portion of an 80-pound lot, that is sold or transported in bulk.

(b) The commissioner shall set the fees authorized by this section at amounts that are as nearly as possible equal to the cost of administering this chapter, and will reduce fees as necessary to prevent the accumulation of a surplus.

(c) The fees under this section are due when citrus fruit is prepared for market or transportation.

[Acts 1981, 67th Leg., p. 1245, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 94.036. Denial of Certificate**

A department inspector may not issue a certificate of inspection and maturity to a packing house that has not complied with Section 94.011, 94.012, or 94.025 of this code.

[Acts 1981, 67th Leg., p. 1245, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 94.037. Imported Citrus Fruit**

The department may test citrus fruit brought into this state from any outside area for marketing or sale if there is reason to believe that the citrus fruit does not comply with the maturity standards of this chapter for similar citrus fruit produced in this state.

[Acts 1981, 67th Leg., p. 1245, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 94.038. Inspection for Substitution and Condemnation of Unfit Citrus Fruit**

(a) The department may conduct tests of citrus fruit at any location where citrus fruit is offered for sale or for shipment if there is reason to believe that immature or green citrus fruit has been substituted for ripe citrus fruit.

(b) If after inspecting and testing citrus fruit that is being or has been prepared for sale or transportation the department determines that the citrus fruit is unfit for consumption, the unfit citrus fruit is condemned as a public nuisance and as detrimental to public health.

(c) The department or the sheriff of the county where the citrus fruit is located shall seize and destroy condemned citrus fruit.

(d) In lieu of seizure and destruction of condemned citrus fruit, the department may allow disposition by the owner in accordance with department rules.

[Acts 1981, 67th Leg., p. 1245, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 94.039 to 94.050 reserved for expansion]

SUBCHAPTER E. PENALTIES

**§ 94.051. Offenses**

A person commits an offense if the person:

(1) as a department inspector, falsifies a certificate of inspection and maturity or fails to collect the inspection fee under this chapter;

(2) operates a citrus fruit packing house, or packs or prepares citrus fruit for sale or transportation in a packing house, unless the person has registered the packing house and given the notices required under this chapter;

(3) sells, delivers, transports, or delivers or receives citrus fruit for transportation, unless the citrus fruit bears the stamps provided by the department to indicate that the fees on the citrus fruit have been paid;

(4) intentionally substitutes green fruit for ripe fruit that has received a clearance certificate;

(5) interferes with an authorized inspector in performing a requirement of this chapter; or

(6) violates any other provision of this chapter.

[Acts 1981, 67th Leg., p. 1246, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 94.052. Penalty**

An offense under Section 94.051 of this code is a misdemeanor punishable by:

- (1) a fine of not less than \$25 nor more than \$500;
- (2) confinement for not more than six months; or
- (3) both fine and confinement under this section.

[Acts 1981, 67th Leg., p. 1246, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 95. CITRUS FRUIT COLORING MATTER**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
95.001.	Definition.
95.002.	Application.
95.003.	Department to Administer.

**SUBCHAPTER B. MANUFACTURE, SALE, OR USE OF COLORING MATTER**

95.011.	Certification of Safety.
95.012.	License Required.
95.013.	Analysis by Department.
95.014.	Bond.
95.015.	Notice of Use.
95.016.	Standards for Use of Coloring Matter.
95.017.	Labeling.
95.018.	Variation From Licensed Coloring Matter.

**SUBCHAPTER C. INSPECTION**

95.031.	Periodic Inspection.
95.032.	Certificate of Inspection.
95.033.	Noncomplying Citrus Fruit.
95.034.	Inspection Fees.
95.035.	Condemnation of Unfit Citrus Fruit.

**SUBCHAPTER D. PENALTIES**

95.041.	Offenses.
95.042.	Penalty.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 95.001. Definition**

In this chapter, "coloring matter" means a dye, a liquid, a concentrate, a material containing a dye, or a combination of materials that react to form a dye, that is used to enhance the color of citrus fruit by the addition of artificial color to the peel.

[Acts 1981, 67th Leg., p. 1247, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.002. Application**

(a) This chapter does not apply to a process or treatment that merely brings out or accelerates the natural color of citrus fruit.

(b) This chapter does not apply to citrus fruit other than citrus grandis, osbeck, commonly known as grapefruit, citrus sinensis, osbeck, commonly

known as oranges, and citrus nobilis delicios, commonly known as tangerines, that are grown in this state.

[Acts 1981, 67th Leg., p. 1247, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.003. Department to Administer**

(a) The department shall administer this chapter and adopt rules necessary for its enforcement, including rules to assure that citrus fruit that has been treated with coloring matter does not unreasonably vary in color from the color of the best ripe fruit of the same variety generally produced in this state.

(b) The enforcement of this chapter and the rules adopted under this chapter shall be under the direction of the chief of the maturity division.

[Acts 1981, 67th Leg., p. 1247, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 95.004 to 95.010 reserved for expansion]

**SUBCHAPTER B. MANUFACTURE, SALE, OR USE OF COLORING MATTER**

**§ 95.011. Certification of Safety**

(a) Except as provided by this section, a person may not use a dye or color in the manufacture of coloring matter unless it has been certified harmless and suitable for use in foods by the United States Department of Agriculture.

(b) The department shall issue a temporary permit allowing the use of a color or dye for which certification is pending if:

- (1) analysis by the department determines that the color or dye contains antimony, arsenic, barium, lead, copper, mercury, zinc, other heavy metals, or other substances known to be injurious to health, only in amounts permitted in certified food colors by the United States Department of Agriculture; and
- (2) the cost of analysis is paid by the person who requests the temporary permit.

[Acts 1981, 67th Leg., p. 1248, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.012. License Required**

A person may not manufacture, use, or offer for use or sale a coloring matter for citrus fruit until the coloring matter is approved and the person is granted a license by the department.

[Acts 1981, 67th Leg., p. 1248, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.013. Analysis by Department**

(a) A person shall give the formula and a sample of a coloring matter, together with the formula of a noncertified dye used in the manufacture of the coloring matter, to the department before offering

to sell the coloring matter or allowing another person to use, sell, or allow the use of the coloring matter.

(b) On examination of a formula and analysis of a sample of coloring matter provided under this section, the department shall deny a request for a license under Section 95.012 of this code if:

(1) either the formula or the sample contains an ingredient prohibited under Section 95.011 of this code or any other ingredient known to be dangerous to health under the conditions of its use; or

(2) the sample varies materially from the formula.

(c) A formula provided under this section is confidential information that may not be disclosed outside the department except on court order as necessary to enforce this chapter.

[Acts 1981, 67th Leg., p. 1248, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.014. Bond**

(a) A person who obtains a license under Section 95.012 of this code may not exercise the license until the person executes a bond in the amount of \$5,000 payable to the governor and conditioned on the coloring matter being free from an ingredient that is harmful to the quality of citrus fruit or to health.

(b) A bond shall be cash or a surety bond cosigned by a surety company that is authorized to do business in this state.

(c) The department shall approve the form of bond.

(d) The aggregate liability on a bond may not exceed \$5,000.

(e) A person who has a claim against the bond may bring an action against the principal and the surety, jointly and severally. A judgment obtained against either the principal or surety, or both, shall include costs.

[Acts 1981, 67th Leg., p. 1248, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.015. Notice of Use**

A person shall notify the department before using or permitting the use of coloring matter on citrus fruit. If forms for that purpose are prescribed and furnished by the department, the notice must be on those forms.

[Acts 1981, 67th Leg., p. 1249, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.016. Standards for Use of Coloring Matter**

(a) A person may not apply coloring matter to citrus fruits unless the citrus fruit passes the state maturity tests and the tests required by this section.

(b) A person may not apply coloring matter to oranges unless:

(1) the juice of the oranges, extracted by hand without mechanical pressure, is at least 4.5 gallons per 1.4 bushels; and

(2) if the total of soluble solids of the juice is 9 percent or more, the ratio of total of soluble solids to anhydrous citric acid is at least 9 to 1; or

(3) if the total of soluble solids of the juice is at least 8.5 percent but less than 9 percent, the ratio of total soluble solids to anhydrous citric acid is at least 10 to 1.

(c) The Brix hydrometer shall be used to determine total soluble solids of citrus fruit under this section, and the reading of the hydrometer corrected for temperature is the percentage of total soluble solids.

(d) Anhydrous citric acid in citrus juice is equal to the total acidity of the juice as determined by titration, using standard alkali and phenolphthalein as the indicator.

[Acts 1981, 67th Leg., p. 1249, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.017. Labeling**

(a) Citrus fruit that is treated with coloring matter shall be marked "Color Added" in letters that are at least three-sixteenths of an inch high.

(b) Subsection (a) of this section is satisfied if no more than 45 percent of a lot of citrus fruit is imperfectly marked.

(c) If citrus fruit that has been treated with coloring matter is marked with a trademark, name, or brand by a two-line die in one operation, "Color Added" shall be placed above the trademark, name, or brand.

(d) A package of citrus fruit that has been treated with coloring matter that is sold, delivered for transportation, or transported shall be marked or securely tagged "Color Added" in letters that are at least three-fourths of an inch high.

(e) The department may adopt rules changing the requirements of this section in order to conform the practice of this state to federal standards.

[Acts 1981, 67th Leg., p. 1249, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 95.018. Variation From Licensed Coloring Matter**

A licensee or other person may not manufacture or use coloring matter that contains an ingredient that is prohibited under this chapter or that varies materially from the formula on file with the department.

[Acts 1981, 67th Leg., p. 1249, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 95.019 to 95.030 reserved for expansion]

## SUBCHAPTER C. INSPECTION

## § 95.031. Periodic Inspection

(a) The department shall periodically:

(1) inspect citrus fruit that has been or is to be treated with coloring matter; and

(2) sample coloring matter on the premises of a licensee under this chapter and analyze the sample.

(b) A person who uses coloring matter on citrus fruit shall periodically request inspection of the citrus fruit to be treated.

(c) In order to perform the inspections required under this section, the department may enter any place within this state where citrus fruit is prepared or colored under this chapter.

[Acts 1981, 67th Leg., p. 1249, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 95.032. Certificate of Inspection

(a) After completing a citrus fruit inspection, the inspector shall issue a certificate of inspection for all citrus fruit that meets the requirements of this chapter.

(b) A person may not make or issue a false certificate of inspection.

(c) A person may not sell, transport, or deliver for transportation citrus fruit that is not accompanied by a certificate of inspection.

(d) A certificate of inspection shall be in the form provided by the department and shall state that all inspection fees under this chapter have been paid.  
[Acts 1981, 67th Leg., p. 1250, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 95.033. Noncomplying Citrus Fruit

(a) Citrus fruit that does not pass inspection prior to coloring shall be packed or otherwise disposed of, in the presence of an inspector, without being colored.

(b) The inspector may designate a time within usual packing hours for the disposal of citrus fruit under Subsection (a) of this section.

[Acts 1981, 67th Leg., p. 1250, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 95.034. Inspection Fees

(a) The department shall collect a fee in the following amount from each person who applies coloring matter to citrus fruit:

(1) no more than one cent per container for each container with a capacity greater than one-half bushel;

(2) no more than one-half cent per container for each container with a capacity that is one-half bushel or less; or

(3) no more than one cent per 80-pound lot, or portion of 80-pound lot, for each lot that is sold or transported in bulk.

(b) The department shall set the fees authorized by this section at amounts that are as nearly as possible equal to the cost of administering this chapter.

[Acts 1981, 67th Leg., p. 1250, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 95.035. Condemnation of Unfit Citrus Fruit

(a) Citrus fruit that has been treated with coloring matter but that on inspection fails to comply with this chapter or a rule of the department, or is determined to be otherwise unfit for consumption, is condemned as a public nuisance and as detrimental to public health.

(b) The department or the sheriff of the county where the citrus fruit is located shall seize and destroy condemned citrus fruit.

(c) In lieu of seizure and destruction of condemned citrus fruit, the department may allow disposition by the owner in accordance with department rules.

[Acts 1981, 67th Leg., p. 1250, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 95.036 to 95.040 reserved for expansion]

## SUBCHAPTER D. PENALTIES

## § 95.041. Offenses

A person commits an offense if the person:

(1) without complying with this chapter, delivers or receives for transportation, transports, or sells citrus fruit that has been treated with coloring matter; or

(2) otherwise violates a provision of this chapter or a rule adopted under this chapter.

[Acts 1981, 67th Leg., p. 1251, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 95.042. Penalty

An offense under Section 95.041 of this code is a misdemeanor punishable by:

(1) a fine of not less than \$25 nor more than \$500;

(2) confinement for not more than six months; or

(3) both fine and confinement under this section.

[Acts 1981, 67th Leg., p. 1251, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 96. SAMPLING OF GRAIN FOR GRADING PURPOSES

Section  
96.001.  
96.002.

Definition.  
Standards for Sampling of Grain and Licensing of Samplers.

Section	
96.003.	Application for License; Issuance.
96.004.	Surety Bond.
96.005.	Revocation of License.
96.006.	Sampling by Unlicensed Sampler.
96.007.	Penalty.

**§ 96.001. Definition**

In this chapter, "grain" includes any grain, peas, or beans for which federal grain standards are established, including wheat, grain sorghum, corn, oats, barley, rye, and soybeans.  
 [Added by Acts 1981, 67th Leg., p. 2594, ch. 693, § 18, eff. Aug. 31, 1981.]

**§ 96.002. Standards for Sampling of Grain and Licensing of Samplers**

The department shall prescribe standards for the proper sampling of grain for grading purposes. In addition, the department shall prescribe reasonable qualifications for persons who may sample grain under a license issued by the department.  
 [Added by Acts 1981, 67th Leg., p. 2594, ch. 693, § 18, eff. Aug. 31, 1981.]

**§ 96.003. Application for License; Issuance**

(a) Any person may apply to the department for a license to sample grain for grading purposes.  
 (b) The application must be accompanied by a fee in a uniform amount set by the department and designed to offset the administrative costs of issuing licenses.  
 (c) The department shall issue a license to each applicant who meets the qualifications prescribed by the department.  
 [Added by Acts 1981, 67th Leg., p. 2594, ch. 693, § 18, eff. Aug. 31, 1981.]

**§ 96.004. Surety Bond**

(a) Immediately following issuance of a license, the licensee shall file with the department a surety bond that is payable to the state and meets other requirements prescribed by the department. The bond shall be in a uniform amount, not to exceed \$10,000, determined by the department to be sufficient to protect the owners of grain sampled by a licensee from damages resulting from an improper sampling.  
 (b) Any person damaged by an improper sampling may sue on the bond. The bond is not void on first recovery, and recovery on a bond shall be prorated if the claims exceed the amount of the bond.  
 [Added by Acts 1981, 67th Leg., p. 2594, ch. 693, § 18, eff. Aug. 31, 1981.]

**§ 96.005. Revocation of License**

Following a hearing, the department shall revoke the license of a licensed grain sampler who:  
 (1) fails to comply with the standards for sampling prescribed by the department; or

(2) fails to keep the bond in force in the amount required by the department.  
 [Added by Acts 1981, 67th Leg., p. 2595, ch. 693, § 18, eff. Aug. 31, 1981.]

**§ 96.006. Sampling by Unlicensed Sampler**

This chapter does not prohibit a person other than a licensed grain sampler from sampling grain for grading purposes.  
 [Added by Acts 1981, 67th Leg., p. 2595, ch. 693, § 18, eff. Aug. 31, 1981.]

**§ 96.007. Penalty**

(a) A person who is not licensed under this chapter commits an offense if the person represents himself to be a licensed grain sampler.  
 (b) An offense under this section is a Class B misdemeanor.  
 [Added by Acts 1981, 67th Leg., p. 2595, ch. 693, § 18, eff. Aug. 31, 1981.]

**SUBTITLE D. HANDLING AND MARKETING OF HORTICULTURAL PRODUCTS**

**CHAPTER 101. HANDLING AND MARKETING OF VEGETABLES**

Section	
101.001.	Definitions.
101.002.	Vegetables.
101.003.	License Required.
101.004.	License Categories.
101.005.	Application for License.
101.006.	License Fee.
101.007.	Issuance or Refusal of License.
101.008.	Term and Renewal of License.
101.009.	Licensee List.
101.010.	Transporting Agent or Buying Agent Identification Card.
101.011.	License or Identification Card Not Assignable.
101.012.	Cancellation of License or Identification Card.
101.013.	Payment of Purchase Price on Demand.
101.014.	Commission or Service Charge in Contract.
101.015.	Settlement on Grade and Quality.
101.016.	Records of Purchase.
101.017.	Record of Sale.
101.018.	Department Enforcement.
101.019.	Venue of Civil or Criminal Action.
101.020.	Penalties.
101.021.	Conflict With Antitrust Laws.

**§ 101.001. Definitions**

In this chapter:  
 (1) "Handle" means buy, sell, offer to sell, or ship for the purpose of selling.  
 (2) "Packer" means a person who prepares or packs vegetables for barter, sale, exchange, or shipment.  
 (3) "Person" means an individual, partnership, group of persons, corporation, or business unit.  
 (4) "Producer" means a person who is engaged in the business of growing or producing any vegetable.

(5) "Vegetable" means fresh produce generally considered a perishable vegetable, nut, or fruit, but does not include a citrus fruit.

(6) "Warehouseman" means a person who receives and stores vegetables for compensation. [Acts 1981, 67th Leg., p. 1251, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 101.002. Vegetables

(a) This chapter applies to vegetables whether or not packed in ice or held in cold storage, but does not apply to vegetables that have been manufactured into an article of food of a different kind or character.

(b) For purposes of this section, the effects of the following operations do not change a vegetable into an article of food of a different kind or character: water or steam blanching; shelling; chopping; adding color; curing; cutting; dicing; drying for the removal of surface moisture; fumigating; gassing; heating for necessary control; ripening; coloring; removal of seeds, pits, stems, calyxes, husks, pods, rinds, skins, peels, or similar items; trimming; washing with or without chemicals; waxing; adding sugar or other sweetening agents; adding ascorbic acids or other agents used to retard oxidation; mixing with several kinds of sliced, chopped, or diced vegetables for packaging in any type of container; or any comparable method of preparation.

[Acts 1981, 67th Leg., p. 1252, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 101.003. License Required

(a) Except as otherwise provided by this section, a person may not handle vegetables grown in this state, as owner, agent, or otherwise, without a license or an identification card issued by the department.

(b) This section does not apply to a retailer, unless the retailer:

(1) has annual sales of vegetables and citrus fruit that comprise 75 percent or more of the retailer's total sales; or

(2) employs a buying agent who buys directly from a producer.

[Acts 1981, 67th Leg., p. 1252, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 101.004. License Categories

(a) A person who is required by Section 101.003 of this code to be licensed shall apply to the department for licensing in the category described by this section that is appropriate to the actions of the person.

(b) Unless the person's actions are described by another subsection of this section, a person shall apply for licensing as a dealer.

(c) A person shall apply for licensing as a handler if the person buys or ships vegetables for canning, handling, or processing.

(d) A person shall apply for licensing as a commission merchant if the person:

(1) purchases vegetables on credit;

(2) takes possession of vegetables for consignment or handling on behalf of the producer or owner of the vegetables; or

(3) takes possession of vegetables for consignment or handling in a manner that does not require or result in payment to the producer, seller, or consignor of the full amount of the purchase price in United States currency at the time of delivery or at the time that the vegetables pass from the producer, seller, or consignor to the person.

(e) A person shall apply for licensing as a cash vegetable dealer if the person:

(1) purchases vegetables only from a licensee; and

(2) pays for the vegetables in United States currency before or at the time of delivery or taking possession.

[Acts 1981, 67th Leg., p. 1252, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 101.005. Application for License

(a) A person required under Section 101.003 of this code to be licensed shall apply for a license to the department on a form furnished by the department. The application must be made under oath and contain the following information:

(1) the full name of the applicant and whether the applicant is an individual, partnership, corporation, exchange, or association;

(2) the full name and address of the principal business office of the applicant;

(3) the address of the applicant's principal business office in this state;

(4) if the applicant is a foreign corporation, the state in which the corporation is chartered and the name and address of an agent in this state for service of legal process; and

(5) the length of time that the applicant has been engaged in business in this state.

(b) In addition to providing the information under Subsection (a) of this section, each applicant shall answer the following questions on the application:

(1) "Have you previously been licensed in this state to handle vegetables?"

(2) "If you answered that you have been previously licensed, has any license issued to you in this state ever been suspended or revoked?"

(3) "If you have answered that a license issued to you in this state has been suspended or revoked, when, where, and for what reason was the license suspended or revoked?"

(c) A person applying for a license as a cash dealer must indicate in the application that a cash dealer license is applied for.

[Acts 1981, 67th Leg., p. 1253, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.006. License Fee**

(a) Except as otherwise provided by this section, a person applying for a license shall include with the license application a license fee of \$25.

(b) A producer is not required to pay a license fee in order to be licensed as a dealer or handler if the producer handles or deals exclusively in the producer's own product.

(c) A person who applies for a license as a dealer under both this chapter and Chapter 102 of this code is entitled to pay a single license fee of \$25. The person's license shall reflect that the person is licensed to handle both citrus fruit and vegetables.

[Acts 1981, 67th Leg., p. 1253, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.007. Issuance or Refusal of License**

(a) Except as otherwise provided by this section, the department shall immediately issue a license to an applicant who:

- (1) tenders an application;
- (2) pays the license fee, if required; and
- (3) pays the appropriate fee to the produce recovery fund under Chapter 103 of this code, if required.

(b) If an applicant for a license indicates on the application that a previous license of the applicant has been or is suspended or has been revoked, the department may not issue a license to the applicant until the department is furnished with satisfactory proof that the applicant is, on the date of application, qualified to receive the license for which the applicant applied.

(c) The issuance of a license to a person who has suffered a previous suspension or revocation is discretionary with the department. In exercising that discretion, the department may consider:

- (1) the facts and circumstances pertaining to the prior suspension or revocation;
- (2) the financial condition of the applicant as of the date of the application;
- (3) any judgment by a court of this state that is outstanding against the applicant and is due and owing to a grower or producer of vegetables; and
- (4) any certified claim against the applicant by a grower or producer of vegetables that is under consideration by the department.

(d) Before refusing an application for a license under this section, the department shall conduct a hearing on the license application, and the applicant may appeal the decision of the department, in the

manner provided for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(e) If the department refuses an application for a license, the department shall deduct from the license fee tendered with the application the sum of \$5 for the purpose of defraying the costs incident to the filing and examination of the application. The department shall refund the balance of the license fee to the applicant.

[Acts 1981, 67th Leg., p. 1253, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.008. Term and Renewal of License**

(a) A license expires one year from the date of issuance.

(b) A license may be renewed by completion of a renewal application form and the payment of the license fee provided for issuance of the original license.

[Acts 1981, 67th Leg., p. 1254, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.009. Licensee List**

The department may publish as often as it considers necessary a list in pamphlet form of all persons licensed under this chapter.

[Acts 1981, 67th Leg., p. 1254, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.010. Transporting Agent or Buying Agent Identification Card**

(a) In accordance with the rules of the department, a licensee may apply to the department for a reasonable number of identification cards for:

- (1) transporting agents to act for the licensee in the transporting of vegetables; and
- (2) buying agents to act for the licensee in any act requiring licensing under Section 101.003 of this code.

(b) The department may collect a fee not to exceed \$1 for each card and shall issue transporting agent cards in a color different from buying agent cards.

(c) An identification card must bear:

- (1) the name of the licensee;
- (2) the number of the licensee's license;
- (3) the name of the agent; and
- (4) a statement that the licensee, as principal, has authorized the agent named on the card to act for and on behalf of the licensee, either as buying agent or transporting agent, as applicable.

(d) A buying agent or transporting agent shall carry the identification card on the agent's person at all times. On demand of the department or any person with whom the agent is transacting business, the agent shall display the identification card.

(e) If the holder of an identification card ceases to be the agent of the licensee, the agent shall immediately return the card to the department for cancellation.

[Acts 1981, 67th Leg., p. 1254, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.011. License or Identification Card Not Assignable**

A license or identification card is not assignable, and any attempt to assign voids the license or card. [Acts 1981, 67th Leg., p. 1255, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.012. Cancellation of License or Identification Card**

(a) On complaint of any person aggrieved, injured, or damaged as a result of a violation of this chapter by a licensee or the transporting agent or buying agent of a licensee, the department shall conduct a hearing on the cancellation of the licensee's license or the agent's identification card. The complaint must be filed within 12 months after the date of the act that aggrieved, injured, or damaged the complaining party.

(b) If, following the hearing, the department finds that the evidence warrants cancellation of the license or identification card, the department shall issue an order cancelling the license or card.

(c) The department shall conduct the hearing under this section, and the person whose license or identification card is canceled may appeal the decision of the department, in the manner provided for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The department may recess the hearing from day to day as justice requires. [Acts 1981, 67th Leg., p. 1255, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.013. Payment of Purchase Price on Demand**

(a) If a licensee causes a producer, seller, or owner, or an agent of a producer, seller, or owner, to part with control or possession of all or any part of the person's vegetables and agrees by contract of purchase to pay the purchase price on demand following delivery, the dealer shall make payment immediately on demand.

(b) If a person makes demand for the purchase price in writing, the mailing of a registered letter that makes the demand and is addressed to the licensee at the licensee's business address is prima facie evidence that demand was made at the time the letter was mailed.

(c) If the producer, seller, owner, or agent waives the right to payment of purchase price on demand, the contract for the handling, purchase, or sale of the vegetables must be in writing. The parties shall

prepare the contract in duplicate and set out in the contract the full details of the transaction. If the contract does not specify the time and manner of settlement, the licensee shall pay the full amount called for by the contract directly to the producer, seller, owner, or agent before the 31st day following the day of delivery of the vegetables into the licensee's control.

[Acts 1981, 67th Leg., p. 1255, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.014. Commission or Service Charge in Contract**

If a licensee handles vegetables by guaranteeing a producer or owner a minimum price and handles the vegetables on the account of the producer or owner, the licensee shall include in the contract with the producer or owner the maximum amount that the licensee will charge for commission, service, or both, in connection with the vegetables handled.

[Acts 1981, 67th Leg., p. 1256, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.015. Settlement on Grade and Quality**

(a) Except as otherwise provided by this section, a licensee shall settle with the producer or seller of vegetables on the basis of the grade and quality that is referred to in the contract under which the licensee obtained possession or control of the vegetables.

(b) If the vegetables have been inspected by a state or federal inspector in this state and found to be of a different grade or quality than that referred to in the contract, the licensee shall settle with the producer or seller of the vegetables on the basis of the grade and quality determined by the inspector.

(c) This section does not prevent parties, instead of an inspection, from agreeing in writing that the grade or quality of the vegetables were different from that referred to in the contract.

(d) Failure of a licensee to settle with a producer or seller on grade and quality in the manner provided by this section is a ground for revocation of the licensee's license.

(e) This section does not apply to vegetables that are obtained and handled by a licensee solely on a consignment basis without a price guarantee.

[Acts 1981, 67th Leg., p. 1256, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.016. Records of Purchase**

(a) A licensee or a packer, processor, or warehouseman may not receive or handle vegetables without requiring the person from whom the vegetables are purchased or received to furnish a statement in writing showing:

- (1) the owner of the vegetables;
- (2) the grower of the vegetables;
- (3) the approximate location of the land on which the vegetables were grown;

(4) the date the vegetables were gathered; and  
 (5) by whose authority the vegetables were gathered.

(b) The licensee, packer, processor, or warehouseman shall keep records of statements furnished under Subsection (a) of this section in a permanent book or folder and shall make the records available to inspection by any interested party.

[Acts 1981, 67th Leg., p. 1256, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.017. Record of Sale**

(a) Unless otherwise agreed to in writing by a licensee and the owner of the vegetables, a licensee who handles vegetables on a consignment or commission basis shall, on demand of the owner, seller, or agent of the owner or seller, furnish a complete and accurate record showing:

- (1) the date of sale of the vegetables;
- (2) the person to whom the vegetables were sold;
- (3) the grade and selling price of the vegetables; and
- (4) an itemized statement of expenses of any kind or character incurred in the sale or handling of the vegetables, including the amount of the commission to the licensee.

(b) The licensee shall furnish information demanded under this section before the 11th day following the date of demand by the owner, seller, or agent.

[Acts 1981, 67th Leg., p. 1256, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.018. Department Enforcement**

(a) For the purpose of enforcing this chapter, the department shall, on its own initiative or on receipt of a verified complaint, investigate all alleged violations of this chapter.

(b) For the purpose of conducting an investigation under this section, the department is entitled to free and unimpeded access at all times to all books, records, buildings, yards, warehouses, storage facilities, transportation facilities, and other facilities or places in which vegetables are kept, stored, handled, processed, or transported.

(c) The department is entitled to examine any portion of the ledger, books, accounts, memoranda, documents, scales, measures, or other matters, objects, or persons relating to a violation under investigation.

(d) Following an investigation, the department shall conduct hearings and take actions as it considers necessary, including issuance of an order for the suspension or cancellation of the license of a licensee who violated this chapter. The department shall conduct hearings under this subsection in the

county in which a violation is alleged to have occurred.

(e) If a person who has received at least 15 days' notice of an order of the department refuses to comply with that order, the department may seek temporary or permanent relief to require compliance. The district court has jurisdiction to grant that relief.

[Acts 1981, 67th Leg., p. 1257, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.019. Venue of Civil or Criminal Action**

The venue of a civil action or criminal prosecution instituted under this chapter is in the county in which the violation occurred or in which the vegetables were received by the licensee, packer, or warehouseman.

[Acts 1981, 67th Leg., p. 1257, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.020. Penalties**

(a) A person commits an offense if the person:

- (1) acts in violation of Section 101.003 of this code without first obtaining a license or after receiving notice of cancellation of a license;
- (2) acts or assumes to act as a commission merchant without first obtaining a license as a commission merchant;
- (3) acts or assumes to act as a transporting agent or buying agent without first obtaining an identification card;
- (4) as a transporting agent or buying agent, fails and refuses to turn over to the department an identification card in accordance with Section 101.010(e) of this code;
- (5) as a licensee, fails to furnish information under Section 101.017 of this code before the 11th day following the date of demand;
- (6) as a licensee, fails to settle with a producer or seller on the grade and quality of vegetables in the manner provided by Section 101.015 of this code;
- (7) as a cash vegetable dealer, pays for vegetables by a means other than United States currency; or
- (8) as a licensee, transporting agent, or buying agent, violates a provision of this chapter.

(b) An offense under this section is a misdemeanor or punishable by a fine of not more than \$500.

(c) A person commits a separate offense for each day the person acts in violation of Section 101.003 of this code without first obtaining a license or violates Subsection (a)(2) or (a)(3) of this section.

[Acts 1981, 67th Leg., p. 1257, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 101.021. Conflict With Antitrust Laws**

This chapter does not affect the application of Chapter 15, Business & Commerce Code. If any provision of this chapter is held to conflict with that chapter, the entire chapter is void.

[Acts 1981, 67th Leg., p. 1258, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 102. HANDLING AND MARKETING OF CITRUS FRUITS****SUBCHAPTER A. REGULATION OF CITRUS FRUIT DEALERS**

Section	
102.001.	Definitions.
102.002.	Citrus Fruit.
102.003.	License Required.
102.004.	License Categories.
102.005.	Application for License.
102.006.	License Fee.
102.007.	Issuance or Refusal of License.
102.008.	Term and Renewal of License.
102.009.	Licensee List.
102.010.	Transporting Agent or Buying Agent Identification Card.
102.011.	License or Identification Card Not Assignable.
102.012.	Cancellation of License or Identification Card.
102.013.	Payment of Purchase Price on Demand.
102.014.	Commission or Service Charge in Contract.
102.015.	Settlement on Grade and Quality.
102.016.	Buying by Weight.
102.017.	Records of Purchase.
102.018.	Record of Sale.
102.019.	Department Enforcement.
102.020.	Venue of Civil or Criminal Action.
102.021.	Penalties.
102.022.	Conflict With Antitrust Laws.

**SUBCHAPTER B. TRANSPORTATION OF CITRUS FRUIT**

102.101.	Identification Signs.
102.102.	Certificate.
102.103.	Exception.
102.104.	Penalty.

**SUBCHAPTER C. CITRUS MARKETING AGREEMENTS AND LICENSES**

102.151.	Policy.
102.152.	Definitions.
102.153.	Limited Application of Subchapter.
102.154.	Marketing Agreements and Licenses.
102.155.	Hearing.
102.156.	Findings.
102.157.	Terms of Agreement or License.
102.158.	Administrative Committee.
102.159.	Assessment.
102.160.	Approval by Producers and Handlers.
102.161.	Uniform Licenses.
102.162.	Fees.
102.163.	Amendment of Marketing Agreement or License.
102.164.	Suspension or Termination of Marketing Agreement or License.
102.165.	Suspension or Revocation of Individual License.
102.166.	Records.
102.167.	Powers and Duties of the Department.
102.168.	Enforcement by Civil Suit.
102.169.	Injunction.
102.170.	Attorney's Fees; Venue; Cumulative Remedies.
102.171.	Penalty.
102.172.	Conflict With Antitrust Law.

**SUBCHAPTER A. REGULATION OF CITRUS FRUIT DEALERS****§ 102.001. Definitions**

In this subchapter:

(1) "Handle" means buy, offer to buy, sell, offer to sell, or ship for the purpose of selling.

(2) "Packer" means a person who prepares or packs citrus fruit or a citrus fruit product for barter, sale, exchange, or shipment.

(3) "Person" means an individual, partnership, group of persons, corporation, or business unit.

(4) "Warehouseman" means a person who receives and stores citrus fruit for compensation.

[Acts 1981, 67th Leg., p. 1259, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.002. Citrus Fruit**

This subchapter applies to fresh, natural, canned, or processed citrus fruit, but only if grown in this state.

[Acts 1981, 67th Leg., p. 1259, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.003. License Required**

(a) Except as otherwise provided by this section, a person may not handle citrus fruit in this state, as owner, agent, or otherwise, without a license or identification card issued by the department.

(b) This section does not apply to:

(1) a retailer, unless the retailer:

(A) has annual sales of citrus fruit and vegetables that comprise 75 percent or more of the retailer's total sales; or

(B) employs a buying agent who buys directly from a producer;

(2) a person shipping less than six standard boxes of citrus fruit in any one separate shipment; or

(3) a person who ships a noncommercial shipment of citrus fruit.

[Acts 1981, 67th Leg., p. 1259, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.004. License Categories**

(a) A person who is required by Section 102.003 of this code to be licensed shall apply to the department for licensing in the category described by this section that is appropriate to the actions of the person.

(b) Unless the person's actions are described by another subsection of this section, a person shall apply for licensing as a dealer.

(c) A person shall apply for licensing as a handler if the person buys or ships citrus fruit for canning or processing.

(d) A person shall apply for licensing as a commission merchant if the person:

(1) purchases citrus fruit on credit;

(2) takes possession of citrus fruit for consignment or handling on behalf of the producer or owner of the fruit; or

(3) takes possession of citrus fruit for consignment or handling in a manner or under a contract that does not require or result in payment to the producer, seller, or consignor of the full amount of the purchase price in United States currency at the time of delivery or at the time the citrus fruit passes from the producer or seller to the person.

(e) A person shall apply for licensing as a cash citrus dealer if the person:

- (1) purchases citrus fruit only from a licensee;
- (2) receives the citrus fruit at the licensee's place of business; and
- (3) pays for the citrus fruit in United States currency before or at the time of delivery or taking possession.

[Acts 1981, 67th Leg., p. 1260, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.005. Application for License**

(a) A person required under Section 102.003 of this code to be licensed shall apply for a license to the department on a form furnished by the department. The application must be made under oath and contain the following information:

- (1) the full name of the applicant and whether the applicant is an individual, partnership, corporation, exchange, or association;
- (2) the full name and address of the principal business office of the applicant;
- (3) the address of the applicant's principal business office in this state;
- (4) if the applicant is a foreign corporation, the state in which the corporation is chartered and the name and address of an agent in this state for service of legal process;
- (5) the category of license for which the applicant is applying; and
- (6) the length of time that the applicant has been engaged in business in this state.

(b) In addition to providing the information under Subsection (a) of this section, each applicant shall answer the following questions on the application:

- (1) "Have you previously been licensed in this state to handle citrus fruits or perishable agricultural commodities?"
- (2) "If you answered that you have been previously licensed, has any license issued to you in this state ever been suspended or revoked?"
- (3) "If you have answered that a license issued to you in this state has been suspended or revoked, when, where, and for what reason was the license suspended or revoked?"

[Acts 1981, 67th Leg., p. 1260, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.006. License Fee**

(a) Except as otherwise provided by this section, a person applying for a license shall include with the license application a license fee of \$25.

(b) A citrus grower is not required to pay a license fee in order to be licensed to handle the grower's citrus fruit if the grower:

- (1) handles and markets only citrus fruit grown by that grower; and
- (2) handles 1,000 or fewer standard boxes, or the equivalent, during a 12-month period.

(c) A person who applies for a license under both this chapter and Chapter 101 of this code is entitled to pay a single license fee of \$25. The person's license shall reflect that the person is licensed to handle both citrus fruit and vegetables.

[Acts 1981, 67th Leg., p. 1261, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2594, ch. 693, § 16, eff. Aug. 31, 1981.]

**§ 102.007. Issuance or Refusal of License**

(a) Except as otherwise provided by this section, the department shall immediately issue a license to an applicant who:

- (1) tenders an application;
- (2) pays the license fee, if required; and
- (3) pays the appropriate fee to the produce recovery fund under Chapter 103 of this code, if required.

(b) If an applicant for a license indicates on the application that a previous license of the applicant has been or is suspended or has been revoked, the department may not issue a license to the applicant until the department is furnished with satisfactory proof that the applicant is, on the date of application, qualified to receive the license for which the applicant applied.

(c) The issuance of a license to a person who has suffered a previous suspension or revocation is discretionary with the department. In exercising that discretion, the department may consider:

- (1) the facts and circumstances pertaining to the prior suspension or revocation;
- (2) the financial condition of the applicant as of the date of the application;
- (3) any judgment by a court of this state that is outstanding against the applicant and is due and owing to a grower or producer of citrus fruit or of a perishable agricultural commodity; and
- (4) any certified claim against the applicant by a grower or producer of citrus fruit or a perishable agricultural commodity that is under consideration by the department.

(d) Before refusing an application for a license under this section, the department shall conduct a hearing on the license application, and the applicant

may appeal the decision of the department, in the manner provided for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(e) If the department refuses an application for a license, the department shall deduct from the license fee tendered with the application the sum of \$5 for the purpose of defraying the costs incident to the filing and examination of the application. The department shall refund the balance of the license fee to the applicant.

[Acts 1981, 67th Leg., p. 1261, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.008. Term and Renewal of License

(a) A license expires one year from the date of issuance.

(b) A license may be renewed by filing with the department a renewal application form and paying the license fee provided for issuance of the original license.

[Acts 1981, 67th Leg., p. 1262, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.009. Licensee List

The department may publish as often as it considers necessary a list in pamphlet form of all persons licensed under this subchapter.

[Acts 1981, 67th Leg., p. 1262, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.010. Transporting Agent or Buying Agent Identification Card

(a) In accordance with the rules of the department, a licensee may apply to the department for a reasonable number of identification cards for:

(1) transporting agents to act for the licensee in the transporting of citrus fruits; and

(2) buying agents to act for the licensee in any act requiring licensing under Section 102.003 of this code.

(b) The department may collect a fee not to exceed \$1 for each card and shall issue transporting agent cards in a color different from buying agent cards.

(c) An identification card must bear:

(1) the name of the licensee;

(2) the number of the licensee's license;

(3) the name of the agent; and

(4) a statement that the licensee, as principal, has authorized the agent named on the card to act for and on behalf of the licensee, either as buying agent or transporting agent, as applicable.

(d) A buying agent or transporting agent shall carry the identification card on the agent's person at all times. On demand of the department or any person with whom the agent is transacting business, the agent shall display the identification card.

(e) If the holder of an identification card ceases to be the agent of the licensee, the agent shall immediately return the card to the department for cancellation.

[Acts 1981, 67th Leg., p. 1262, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.011. License or Identification Card Not Assignable

A license or identification card is not assignable and any attempt to assign voids the license or card.

[Acts 1981, 67th Leg., p. 1262, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.012. Cancellation of License or Identification Card

(a) On complaint of any person aggrieved, injured, or damaged as a result of a violation of this subchapter by a licensee or the transporting agent or buying agent of a licensee, the department shall conduct a hearing on the cancellation of the licensee's license or the agent's identification card. The complaint must be filed within 12 months after the date of the act that aggrieved, injured, or damaged the complaining party.

(b) If, following the hearing, the department finds that the evidence warrants cancellation of the license or identification card, the department shall issue an order canceling the license or card.

(c) The department shall conduct the hearing under this section, and the person whose license or identification card is canceled may appeal the decision of the department, in the manner provided for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The department may recess the hearing from day to day as justice requires. [Acts 1981, 67th Leg., p. 1262, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.013. Payment of Purchase Price on Demand

(a) If a licensee causes a producer, seller, or owner, or an agent of a producer, seller, or owner, to part with control or possession of all or any part of the person's citrus fruit and agrees by contract of purchase to pay the purchase price on demand following delivery, the licensee shall make payment immediately on demand.

(b) If a person makes demand for the purchase price in writing, the mailing of a registered letter that makes the demand and is addressed to the licensee at the licensee's business address is prima facie evidence that demand was made at the time the letter was mailed.

(c) If the producer, seller, owner, or agent waives the right to payment of the purchase price on demand, the contract for the handling, purchase, or sale of the citrus fruit must be in writing. The

parties shall prepare the contract in duplicate and set out in the contract the full details of the transaction. If the contract does not specify the time and manner of settlement, the licensee shall pay the full amount called for by the contract directly to the producer, seller, owner, or agent before the 31st day following the day of delivery of the citrus fruit into the licensee's control.

[Acts 1981, 67th Leg., p. 1263, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.014. Commission or Service Charge in Contract**

If a licensee handles citrus fruit by guaranteeing a producer or owner a minimum price and handles the citrus fruit on the account of the producer or owner, the licensee shall include in the contract with the producer or owner the maximum amount that the licensee will charge for commission, service, or both, in connection with the citrus fruit handled.

[Acts 1981, 67th Leg., p. 1263, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.015. Settlement on Grade and Quality**

(a) Except as otherwise provided by this section, a licensee shall settle with the producer or seller of citrus fruit on the basis of the grade and quality that is referred to in the contract under which the licensee obtained possession or control of the fruit.

(b) If the citrus fruit has been inspected by a state or federal inspector in this state and found to be of a different grade or quality than that referred to in the contract, the licensee shall settle with the producer or seller of the citrus fruit on the basis of the grade and quality determined by the inspector.

(c) This section does not prevent parties, instead of an inspection, from agreeing in writing that the grade or quality of the citrus fruit was different from that referred to in the contract.

(d) Failure of a licensee to settle with a producer or seller on grade and quality in the manner provided by this section is a ground for revocation of the licensee's license.

(e) This section does not apply to a licensee who obtains and handles citrus fruit solely on a consignment basis without a price guarantee.

[Acts 1981, 67th Leg., p. 1263, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.016. Buying by Weight**

A licensee who buys citrus fruit by weight shall weigh the fruit on state-tested scales.

[Acts 1981, 67th Leg., p. 1264, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.017. Records of Purchase**

(a) A licensee or a packer, processor, or warehouseman may not receive or handle citrus fruit

without requiring the person from whom the citrus fruit is purchased or received to furnish a statement in writing showing:

- (1) the owner of the citrus fruit;
- (2) the grower of the citrus fruit;
- (3) the approximate location of the orchard where the citrus fruit was grown;
- (4) the date the citrus fruit was gathered; and
- (5) the person by whose authority the citrus fruit was gathered.

(b) The licensee, packer, processor, or warehouseman shall keep records of statements furnished under Subsection (a) of this section in a permanent book or folder and shall make the records available to inspection by any interested party.

(c) The department may periodically investigate licensees or persons alleged to be selling citrus fruit in violation of this subchapter and, without notice, may require evidence of purchase of any citrus fruit in a person's possession.

[Acts 1981, 67th Leg., p. 1264, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.018. Record of Sale**

(a) Unless otherwise agreed in writing by a licensee and the owner of citrus fruit, a licensee who handles citrus fruit on a consignment or commission basis shall, on demand of the owner, seller, or agent of the owner or seller, furnish a complete and accurate record showing:

- (1) the date of sale of the citrus fruit;
- (2) the person to whom the citrus fruit was sold;
- (3) the grade and selling price of the citrus fruit; and
- (4) an itemized statement of expenses of any kind or character incurred in the sale or handling of the citrus fruit, including the amount of the commission to the licensee.

(b) The licensee shall furnish information demanded under this section before the 11th day following the date of demand by the owner, seller, or agent.

[Acts 1981, 67th Leg., p. 1264, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.019. Department Enforcement**

(a) For the purpose of enforcing this subchapter, the department shall, on its own initiative or on receipt of a verified complaint, investigate all alleged violations of this subchapter.

(b) For the purpose of conducting an investigation under this section, the department is entitled to free and unimpeded access at all times to all books, records, buildings, yards, warehouses, storage facilities, transportation facilities, and other facilities or

places in which citrus fruit is kept, stored, handled, processed, or transported.

(c) The department is entitled to examine any portion of the ledger, books, accounts, memoranda, documents, scales, measures, or other matters, objects, or persons relating to an alleged violation under investigation.

(d) Following an investigation, the department shall conduct hearings and take actions as it considers necessary, including issuance of an order for the suspension or cancellation of the license of a licensee who violated this subchapter. The department shall conduct hearings under this subsection in the nearest city or town in the county in which a violation is alleged to have occurred.

(e) If a person who has received at least 15 days' notice of an order of the department refuses to comply with that order, the department may seek temporary or permanent relief to require compliance. The district court has jurisdiction to grant that relief.

[Acts 1981, 67th Leg., p. 1264, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.020. Venue of Civil or Criminal Action

The venue of a civil action or criminal prosecution instituted under this subchapter is in the county in which the violation occurred or in which the citrus fruit was received by the licensee, packer, or warehouseman.

[Acts 1981, 67th Leg., p. 1265, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.021. Penalties

(a) A person commits an offense if the person:

(1) acts in violation of Section 102.003 of this code without a license or after receiving notice of cancellation of a license;

(2) acts or assumes to act as a commission merchant without a license as a commission merchant;

(3) acts or assumes to act as a transporting agent or buying agent without an identification card or after receiving notice of cancellation of an identification card;

(4) as a transporting agent or buying agent, fails and refuses to turn over to the department an identification card in accordance with Section 102.010(e) of this code;

(5) as a licensee, fails to furnish information under Section 102.018 of this code before the 11th day following the date of demand;

(6) as a licensee, buys citrus fruit by weight and does not have the fruit weighed on state-tested scales;

(7) as a licensee, fails to settle with a producer or seller on the grade and quality of citrus fruit in the manner provided by Section 102.015 of this code;

(8) as a cash citrus dealer, pays for citrus fruit by a means other than United States currency; or

(9) as a licensee, transporting agent, or buying agent, violates a provision of this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$500.

(c) A person commits a separate offense for each day the person acts under Subsection (a)(1), (a)(2), or (a)(3) of this section.

[Acts 1981, 67th Leg., p. 1265, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.022. Conflict With Antitrust Laws

This subchapter does not affect the application of Chapter 15, Business & Commerce Code. If any provision of this subchapter is held to conflict with that chapter, the entire subchapter is void.

[Acts 1981, 67th Leg., p. 1265, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 102.023 to 102.100 reserved for expansion]

### SUBCHAPTER B. TRANSPORTATION OF CITRUS FRUIT

#### § 102.101. Identification Signs

(a) A motor vehicle, including a truck or tractor, that hauls citrus fruit in bulk or in open containers for commercial purposes on the highways of this state must be identified by signs showing:

(1) the name of the person who owns the vehicle; or

(2) the name of the person who leases or operates the vehicle.

(b) If a person licensed under Subchapter A of this chapter is the owner or operator of the vehicle, each identification sign must also show "Licensed Citrus Fruit Dealer" under the name of the person.

(c) The lettering on each identification sign must be at least three inches in height.

(d) An identification sign must appear on both sides of the vehicle or on both the front and the rear and must be affixed permanently or in another manner in which it may not easily be removed. If both a tractor and a trailer or two units are used in hauling the citrus fruit, both the tractor and the trailer or both units must be labeled with identification signs in the manner required by this subsection.

[Acts 1981, 67th Leg., p. 1266, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.102. Certificate

A person who operates a motor vehicle, including a truck or tractor, or a motor vehicle and a trailer for hauling citrus fruit in bulk or in open containers for commercial purposes on the highways of this

state shall, when operating the vehicle, have on his or her person a certificate or other document showing:

- (1) the approximate amount of citrus fruit being hauled;
- (2) the name of the owner of the citrus fruit; and
- (3) the origin of the citrus fruit.

[Acts 1981, 67th Leg., p. 1266, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 102.103. Exception

This subchapter does not apply to citrus fruit being hauled from the farm or grove to market or the place of first processing by the producer of the citrus fruit operating the producer's vehicle or by an employee of the producer operating a vehicle owned by the producer.

[Acts 1981, 67th Leg., p. 1266, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 102.104. Penalty

(a) A person commits an offense if the person:

- (1) operates a motor vehicle or a motor vehicle and trailer not identified in accordance with Section 102.101 of this code; or
- (2) operates a motor vehicle or motor vehicle and trailer without a certificate or document required by Section 102.102 of this code.

(b) An offense under this section is a misdemeanor or punishable by:

- (1) a fine of not less than \$100 nor more than \$500;
- (2) confinement in jail for not less than 30 days nor more than 6 months; or
- (3) both fine and confinement under this subsection.

[Acts 1981, 67th Leg., p. 1266, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 102.105 to 102.150 reserved for expansion]

SUBCHAPTER C. CITRUS MARKETING AGREEMENTS AND LICENSES

§ 102.151. Policy

The unreasonable waste and inefficient use of the citrus resources, caused by the marketing within this state of greater quantities of fresh citrus fruit than are reasonably necessary to supply the demands of the market, are not in the public interest. The difficulty inherent in an attempt of individuals to correlate within a reasonable degree the citrus production to current demand creates chaotic economic conditions in the citrus areas of the state of such severity as to imperil the ability of citrus producers

to contribute in appropriate amounts to the support of ordinary governmental and educational functions, thus tending to increase the tax burden of other taxpayers for the same purposes, and renders it impossible for producers to be reasonably assured of an adequate standard of living for themselves and their families. In the interest of the public welfare and general prosperity of the state, the unreasonable waste and inefficient use of citrus resources involved in the marketing of citrus fruit in this state should be eliminated, while at the same time preserving to citrus producers in the area covered by this subchapter an equality of opportunity.

[Acts 1981, 67th Leg., p. 1267, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 102.152. Definitions

In this subchapter:

- (1) "Citrus fruit" means grapefruit, oranges, and tangerines.
- (2) "Handler" means a person who packs or ships citrus fruit or causes citrus fruit to be packed or shipped in intrastate commerce.
- (3) "Intrastate commerce" means all commerce other than that which is in interstate commerce or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce.
- (4) "Person" means an individual, corporation, or association.
- (5) "Producer" means a person who is engaged in the production of citrus fruit in this state for commercial purposes or who is a substantial stockholder in a corporation engaged in the production of citrus fruit in this state for commercial purposes.
- (6) "Ship" means convey or cause to be conveyed in intrastate commerce by rail, boat, truck, or other means, not including parcel post or express, whether as owner, agent, or otherwise.
- (7) "Shipment" means the loading into a car or other conveyance for transportation in intrastate commerce.
- (8) "Variety" means the following classifications or groups of citrus fruit:
  - (A) oranges:
    - (i) early season oranges; and
    - (ii) valencias, including Lou Gim Gongs;
  - (B) grapefruit:
    - (i) Marsh and other seedless grapefruits, except pinks;
    - (ii) Duncan and other seeded grapefruits, except pinks;
    - (iii) seeded pinks; and
    - (iv) seedless pinks; and
  - (C) tangerines and temple oranges grouped as one variety.

[Acts 1981, 67th Leg., p. 1267, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.153. Limited Application of Subchapter**

This subchapter applies only to areas of three citrus fruit producing counties whose boundaries are contiguous and whose aggregate population according to the last preceding federal census is not less than 165,043. This subchapter does not apply to citrus fruit grown in other areas of this state. [Acts 1981, 67th Leg., p. 1268, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.154. Marketing Agreements and Licenses**

In accordance with this subchapter, the department may execute marketing agreements and issue licenses to persons engaged in intrastate commerce transactions in the marketing, processing, packing, shipping, handling, or distributing of citrus fruit. [Acts 1981, 67th Leg., p. 1268, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.155. Hearing**

(a) On its own motion or on application of a producer or handler of citrus fruit, the department may conduct a hearing on the execution of a marketing agreement or on the issuance of a license if the department has reason to believe that the marketing agreement or license will tend to effectuate the policy of this subchapter.

(b) The department shall conduct a hearing under this section in the area subject to this subchapter and shall within a reasonable time make the evidence and exhibits offered at the hearing available at a central point to any interested party. The department shall produce a transcript of the hearing and make it available to any interested party. [Acts 1981, 67th Leg., p. 1268, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.156. Findings**

(a) Following a hearing, the department may execute a marketing agreement or issue a license only if it finds that:

(1) the supply of a citrus fruit available for marketing exceeds or is likely to exceed the demand for the fruit at prices that will provide a reasonable return to representative producers of that fruit;

(2) the return to producers of the citrus fruit will tend to be increased through the operation of the marketing plan;

(3) the marketing plan may be operated without permitting unreasonable profits to producers of the citrus fruit and without unreasonably enhancing prices of the citrus fruit to consumers; and

(4) the marketing plan will tend to advance public welfare and conserve the agricultural wealth of the state by preventing threatened economic or agricultural waste and will tend to prevent chaotic marketing of the citrus fruit.

(b) The findings of the department, and the administration of any marketing agreement or license, shall be based on relevant considerations, including:

(1) the quantity of the several grades, varieties, and qualities of the citrus fruit under consideration and available for distribution to consumers in the marketing season during which the program is to be effective;

(2) the quantity of the several grades, varieties, and qualities of the citrus fruit required by consumers during the marketing season during which the program is to be effective;

(3) the cost of production of the citrus fruit;

(4) the general purchasing power of consumers of the citrus fruits;

(5) the general level of prices of commodities that farmers buy; and

(6) the general level of prices of other commodities that compete with or are used as substitutes for the citrus fruit.

[Acts 1981, 67th Leg., p. 1268, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.157. Terms of Agreement or License**

(a) Any marketing agreement executed or license issued may:

(1) limit or provide a method for limiting the total quantity of any grade, variety, size, or quality of citrus fruit that may be produced during one or more specified periods and marketed in or transported to a market in intrastate commerce;

(2) allot or provide a method for allotting the amount of citrus fruit or any grade, variety, size, or quality of citrus fruit that each handler may market in intrastate commerce;

(3) determine or provide a method for determining the existence and extent of a surplus of a citrus fruit or of any grade, variety, size, or quality of a citrus fruit, provide for the control and disposition of that surplus in a manner that does not burden or obstruct interstate or foreign commerce, and equalize the burden of a surplus elimination or control among the producers and handlers of the citrus fruit;

(4) provide for administrative committees under Section 102.158 of this code; and

(5) provide other terms or conditions incidental to and consistent with this section.

(b) If the marketing agreement or license allots or provides a method for allotting the amount of a citrus fruit that a handler may handle, the marketing agreement or license must:

(1) be under a uniform rule based on one or both of the following:

(A) the amount of the citrus fruit or grade, variety, size, or quality of the citrus fruit that

each handler has available for current shipment; and

(B) the amount shipped by each handler in a prior representative period, as determined by the department; and

(2) equitably apportion among all the handlers the total quantity of the citrus fruit or any grade, variety, size, or quality of the citrus fruit to be marketed in or transported to markets in intrastate commerce.

(c) A marketing agreement or license may include one or more of the terms and conditions under Subsection (a) of this section, but may not include others.

[Acts 1981, 67th Leg., p. 1269, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.158. Administrative Committee**

(a) A marketing agreement or license may authorize the department to select and define the powers and duties of one or more administrative committees to administer the program.

(b) The department may authorize an administrative committee to:

- (1) administer the license in accordance with its terms and provisions;
- (2) adopt rules to effectuate the terms and provisions of the license;
- (3) receive, investigate, and report to the department complaints of violations of the license;
- (4) recommend to the department amendments to the license; and
- (5) collect assessments in accordance with Section 102.159 of this code.

(c) The department may require an administrative committee to file reports of the activities and proceedings of the committee.

[Acts 1981, 67th Leg., p. 1269, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.159. Assessment**

(a) If an administrative committee is authorized to collect an assessment, for each marketing season or year in which the marketing agreement or license is effective the committee shall collect from each handler an assessment representing the handler's pro rata share of the estimated expenses incurred by the department in conducting hearings and incurred by the administrative committee in administering the agreement or license during the marketing season or year. The department shall estimate those expenses after each administrative committee submits to the department a proposed budget.

(b) An assessment levied under this section is a personal debt of each person assessed and is immediately due and payable to the administrative committee charged with collection. With the approval of

the department, an administrative committee may sue in its own name in a court of competent jurisdiction for the collection of an assessment.

(c) In accordance with the rules of the department, each administrative committee charged with the collection of assessments shall collect, report, and pay monthly to the department the amount of the assessments that the department determines will be necessary to defray the department's cost of administering the marketing agreement or license during the subsequent month.

(d) The department shall submit to each administrative committee charged with collecting assessments quarterly statements reporting the receipts and expenditures during the quarter in connection with the administration of the appropriate marketing agreement or license.

(e) An administrative committee may expend assessments for the purposes set forth in the marketing agreement or license under which the assessment is collected. The committee shall keep a full and complete record of those expenditures and the department is entitled to access to that record at any time.

(f) An administrative committee shall retain custody of assessments that are not paid to the department or expended under Subsection (e) of this section. At the close of the marketing season or year for which an assessment is collected, the committee shall return to each handler a pro rata share of assessments that are not paid to the department or expended by the committee.

[Acts 1981, 67th Leg., p. 1270, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.160. Approval by Producers and Handlers**

(a) A license may not be issued until:

(1) assented to in writing by:

(A) 51 percent of the total number of handlers of the citrus fruit; or

(B) the handlers of at least 51 percent of the total volume of the citrus fruit covered by the license; and

(2) the department determines that the issuance of the license is approved by:

(A) 66 $\frac{2}{3}$  percent of the producers who, during a representative period determined by the department, have been engaged in the production of the citrus fruit in commercial quantities in the area covered by the license; or

(B) the producers who, during the representative period, produced for market at least 66 $\frac{2}{3}$  percent of the volume of the citrus fruit produced for market in the area covered by the license.

(b) In determining the representative period under Subsection (a)(2) of this section, the department may select the crop season prior to the holding of a

hearing on the issuance of the license or any other period that the department determines to be representative.

(c) In determining the approval of producers under Subsection (a)(2) of this section, the department shall determine the approval or disapproval of the producers in respect to the issuance of any license or order or any term or condition of a license or order. The department shall consider the approval or disapproval of any cooperative association of producers that is engaged in marketing the citrus fruit for producers or is rendering service to or advancing the interest of those producers as the approval or disapproval of the producers who are members of, stockholders in, or under contract with the association. Approval by an association may be executed in the name of the association and is not required to set forth the names of the producers represented by the association.

[Acts 1981, 67th Leg., p. 1270, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.161. Uniform Licenses

If a license is issued under this subchapter, the department shall issue an identical license to each handler, processor, or distributor of the same class. [Acts 1981, 67th Leg., p. 1271, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.162. Fees

Each person applying for a marketing agreement or license shall submit to the department a filing fee of \$10 and a deposit in an amount that the department considers sufficient and necessary to defray the expenses of preparing and making effective the marketing agreement or license.

[Acts 1981, 67th Leg., p. 1271, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.163. Amendment of Marketing Agreement or License

(a) If the department has reason to believe that an amendment of a marketing agreement or license is necessary or desirable to achieve the policy of this subchapter, the department shall conduct a hearing on the proposed amendment in the manner provided for the original hearing on execution of the agreement or issuance of the license.

(b) Notice of a hearing under this section must refer to the marketing agreement to be amended by name and date of execution and must refer to the license to be amended by name and date of adoption.

(c) The department may adopt an amendment under this section if it finds that the proposed amendment:

(1) will not prevent the marketing agreement or license from meeting the requirements of Section 102.156 of this code; and

(2) will tend to facilitate the administration of the marketing agreement or license or will enable the marketing agreement or license to better meet the requirements of Section 102.156 of this code.

(d) A marketing agreement or license is not affected by a negative department finding under Subsection (c) of this section.

(e) In considering an amendment under this section, the department shall consider the evidence presented at the original hearing or a hearing on a previously proposed amendment.

(f) An amendment under this section is not effective until approved by the handlers and producers in the manner provided by Section 102.160 of this code.

[Acts 1981, 67th Leg., p. 1271, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.164. Suspension or Termination of Marketing Agreement or License

(a) The department shall suspend for a specified period or terminate the operation of a marketing agreement, a license, or a provision of a marketing agreement or license if the department finds:

(1) following investigation, that the agreement, license, or provision obstructs or does not tend to effectuate the policy of this subchapter; or

(2) that termination of the agreement, license, or provision is favored by a majority of the producers who, during a representative period determined by the department;

(A) have been engaged in the production of the citrus fruit in the area covered by the agreement or license; and

(B) produced more than 66% percent of the volume of the citrus fruit that was produced for market within the area of the state covered by this subchapter or was produced within the area of this state covered by this subchapter for market elsewhere.

(b) Termination of a marketing agreement, a license, or a provision of a marketing agreement or license is effective only if announced on or before the end of the current marketing period specified in the agreement or license.

[Acts 1981, 67th Leg., p. 1272, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.165. Suspension or Revocation of Individual License

After notice and opportunity for a hearing, the department may suspend or revoke the license of any person who violates a provision of the license.

[Acts 1981, 67th Leg., p. 1272, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.166. Records

(a) Each person subject to a marketing agreement or license shall:

(1) maintain records reflecting the person's operation under the agreement or license;

(2) permit the department to inspect those records; and

(3) furnish to the department information requested by the department relating to the person's operations under the agreement or license.

(b) Except as otherwise provided by this subsection, information obtained under this section is confidential and may not be disclosed to any person. The information may be disclosed to a person with a similar right to obtain the information or to an attorney employed by an administrative committee to give legal advice on the information. In addition, the information may be disclosed in response to a court order.

[Acts 1981, 67th Leg., p. 1272, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.167. Powers and Duties of the Department**

(a) The department may adopt rules and issue orders as necessary or desirable to carry out this subchapter.

(b) The department may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of relevant books, records, or documents. A person may not be excused from attending and testifying or from producing documentary evidence before the department in obedience to a subpoena on the ground that the testimony or evidence required may tend to incriminate the person or subject the person to a penalty or forfeiture. An individual may not be prosecuted or subjected to any penalty or forfeiture because of any transaction, matter, or thing concerning which the person is required to testify or produce evidence before the department in obedience to a subpoena. An individual so testifying is not exempt from prosecution and punishment for perjury committed in that testimony.

(c) The department may permit an administrative committee to use the various employees or officers of the department in carrying out this subchapter or a marketing agreement or license under this subchapter.

(d) The department may confer and cooperate with the authority of another state or the United States in order to secure uniformity in the administration of federal and state marketing agreements, standards, licenses, orders, or rules. The department may conduct hearings jointly with the United States Department of Agriculture.

(e) Not later than the 30th day before the first day of each regular session of the legislature, the department shall submit to the governor a full report of transactions under this subchapter during the preceding biennium. The report must include a complete statement of receipts and expenditures under this subchapter during the biennium.

(f) At the end of each month, the department shall report to the comptroller of public accounts, and the comptroller shall deposit in the state treasury, all money received under this subchapter. [Acts 1981, 67th Leg., p. 1272, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.168. Enforcement by Civil Suit**

(a) The state or, with the approval of the department, an administrative committee may sue a person who:

(1) wilfully exceeds any quota, allotment, or salable percentage fixed for the person under a license issued or rule adopted by the department;

(2) makes a shipment without first obtaining a required allotment or quota or qualifying to ship the person's salable percentage; or

(3) knowingly participates or aids in activities under Subdivision (1) or (2) of this subsection.

(b) If successful in a suit under Subsection (a) of this section, the state or administrative committee is entitled to recover an amount equal to three times the current market value of the citrus fruit excess or the citrus fruit shipment, as applicable. Funds recovered in a suit under this section shall be used in the administration of the license involved in the suit. [Acts 1981, 67th Leg., p. 1273, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.169. Injunction**

The attorney general or a district or county attorney on the attorney's own initiative may, or in response to a complaint shall, investigate violations of this subchapter. If the attorney believes that a violation has occurred, the attorney may sue in the name of the state for an injunction against a person who:

(1) is violating a provision of a marketing agreement, a license, or an order or rule of the department to which the person is subject; or

(2) engages in transactions mentioned in and regulated by a license during suspension or after revocation of the person's license.

[Acts 1981, 67th Leg., p. 1273, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 102.170. Attorney's Fees; Venue; Cumulative Remedies**

(a) In an action brought under Section 102.168 or 102.169 of this code, the judgment, if in favor of the plaintiff, shall provide that the defendant pay to the plaintiff a reasonable attorney's fee and all costs of suit. An action under those sections may be brought in the county where the defendant resides or where the act, omission, or part of the act or omission occurred.

(b) The remedies and penalties of this subchapter are cumulative and action or prosecution under a

section of this subchapter does not prohibit action or prosecution under another section of this subchapter or any other civil or criminal law.

[Acts 1981, 67th Leg., p. 1274, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.171. Penalty

(a) A person commits an offense if the person:

(1) violates a provision of a marketing agreement or license to which the person is subject; or

(2) engages in a transaction mentioned in and regulated by a license to which the person is subject during the suspension or after the revocation of the person's license.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$50 nor more than \$500;

(2) confinement for not less than 10 days nor more than 6 months; or

(3) both fine and confinement under this subsection.

(c) A person commits a separate offense for each day during which the person acts under Subsection (a) of this section.

[Acts 1981, 67th Leg., p. 1274, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 102.172. Conflict with Antitrust Law

If any provision of this subchapter conflicts with a provision of the civil or criminal antitrust law of this state, the antitrust law prevails.

[Acts 1981, 67th Leg., p. 1274, ch. 388, § 1, eff. Sept. 1, 1981.]

### CHAPTER 103. PRODUCE RECOVERY FUND

Section	
103.001.	Definitions.
103.002.	Fund.
103.003.	Board.
103.004.	Duties of the Board.
103.005.	Initiation of Claim.
103.006.	Investigation; Hearing on Claim.
103.007.	Payment of Claim; Refund of Filing Fee.
103.008.	Limits on Claim Payments.
103.009.	Reimbursement of Fund and Payment to Complaining Party by Commission Merchant.
103.010.	Subrogation of Rights.
103.011.	Fee.
103.012.	Rules.
103.013.	Penalty.

#### § 103.001. Definitions

In this chapter:

(1) "Board" means the Produce Recovery Fund Board.

(2) "Fund" means the produce recovery fund.

[Acts 1981, 67th Leg., p. 1274, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 103.002. Fund

(a) The produce recovery fund is a special fund with the state treasurer administered by the department, without appropriation, for the payment of claims against commission merchants licensed under Chapter 101 or 102 of this code.

(b) Fees collected under Section 103.011 of this code and 50 percent of the fines collected under Section 101.020, 102.021, or 103.013 of this code shall be deposited in the fund.

(c) The clerk of the county court or county court-at-law and the custodian of the county treasury funds shall keep separate records of all fines collected under Section 101.020, 102.021, or 103.013 of this code. On the first day of each January, April, July, and October, the custodian of the funds in the county treasury shall remit 50 percent of the fines collected under those sections to the comptroller of public accounts and the comptroller shall deposit that amount in the fund.

(d) No more than 10 percent of the fund may be expended during any one year for administration of the claims process.

[Acts 1981, 67th Leg., p. 1275, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 103.003. Board

(a) The Produce Recovery Fund Board is composed of three members appointed by the governor with the advice and consent of the senate. One member must be a producer, one must be a commission merchant licensed under Chapter 101 or 102 of this code, and one must be a member of the general public.

(b) Each member of the board must reside in a different state senatorial district.

(c) Members of the board serve for staggered terms of six years with the term of office expiring on January 31 of odd-numbered years.

(d) Members of the board are entitled to per diem and reimbursement for actual expenses incurred while carrying out their duties.

[Acts 1981, 67th Leg., p. 1275, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 103.004. Duties of the Board

The board shall:

(1) advise the department on all matters relating to the fund, including the fund's budget and the revenues necessary to accomplish the purposes of the fund;

(2) advise the department in the adoption of rules relating to the payment of claims from the fund and to the administration of the fund; and

(3) conduct adjudicative hearings on disputed claims presented for payment from the fund.

[Acts 1981, 67th Leg., p. 1275, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.005. Initiation of Claim**

A person who deals with a commission merchant licensed under Chapter 101 or 102 of this code in the purchasing, handling, selling, and accounting for sales of vegetables or citrus fruit and who is aggrieved by an action of the commission merchant as a result of a violation of terms or conditions of a contract made by the commission merchant may initiate a claim against the fund by filing with the department:

- (1) a sworn complaint against the commission merchant; and
- (2) a filing fee of \$15.

[Acts 1981, 67th Leg., p. 1275, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.006. Investigation; Hearing on Claim**

(a) After a claim is initiated, the department shall investigate the complaint and determine the amount due the aggrieved party. If the amount determined by the department is disputed by the commission merchant or the aggrieved party, the board shall conduct a hearing on the claim and determine the amount due the aggrieved party.

(b) A quorum of the board must be present in order to conduct a hearing. The board shall conduct the hearing and a party not satisfied with the decision of the board may appeal in the manner provided for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1981, 67th Leg., p. 1276, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.007. Payment of Claim; Refund of Filing Fee**

(a) If the amount determined by the department's investigation to be due the aggrieved party is not disputed by the commission merchant or the aggrieved party, the department shall pay the claim within the limits prescribed by this chapter.

(b) If a hearing is held on a disputed amount, the department shall pay to the aggrieved party the amount determined by the board, within the limits prescribed by this chapter.

(c) The department shall refund the filing fee to an aggrieved party who is awarded recovery from the fund.

[Acts 1981, 67th Leg., p. 1276, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.008. Limits on Claim Payments**

(a) In making payments from the fund the department may not pay the aggrieved party more than 60 percent of any claim for more than \$100.

(b) The total payment of all claims arising from the same transaction may not exceed \$10,000.

(c) The total payment of claims against a single commission merchant may not exceed \$25,000 in any one year.

(d) The department may not pay a claim against:

- (1) a commission merchant who was not licensed at the time of the transaction on which the claim is based; or
- (2) a cash dealer licensed under Chapter 101 or 102 of this code.

(e) Payments from the fund during a fiscal year may not exceed the amount of money deposited into the fund during that fiscal year, except that surplus funds remaining at the end of each fiscal year are available for the payment of claims during any succeeding year.

[Acts 1981, 67th Leg., p. 1276, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.009. Reimbursement of Fund and Payment to Complainant Party by Commission Merchant**

(a) If the department pays a claim against a commission merchant, the commission merchant shall:

- (1) reimburse the fund immediately or agree in writing to reimburse the fund on a schedule to be determined by rule of the department; and
- (2) immediately pay the aggrieved party any amount due that party or agree in writing to pay the aggrieved party on a schedule to be determined by rule of the department.

(b) Payments made to the fund or to the aggrieved party under this section shall include interest at the rate of eight percent a year.

(c) If the commission merchant does not reimburse the fund or pay the aggrieved party, or does not agree to do so, in accordance with this section, the department shall issue an order canceling the commission merchant's license and may not issue a new license to that person for four years from the date of cancellation. If the commission merchant is a corporation, an officer or director of the corporation or a person owning more than 25 percent of the stock in the corporation may not be licensed as a commission merchant under Chapter 101 or 102 of this code during the four-year period in which the corporation is ineligible for licensing.

[Acts 1981, 67th Leg., p. 1276, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.010. Subrogation of Rights**

If the department pays a claim against a commission merchant, the department is subrogated to all rights of the aggrieved party against the commission merchant to the extent of the amount paid to the aggrieved party.

[Acts 1981, 67th Leg., p. 1277, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.011. Fee**

(a) Except as otherwise provided by this section, a commission merchant or retailer licensed under Chapter 101 or 102 of this code shall pay an annual fee to the fund of \$200.

(b) A retailer who is licensed under Chapter 101 or 102 of this code and whose annual purchases of vegetables and citrus fruit are less than \$15,000 a year shall pay an annual fee of \$50.

(c) A person who is required by Subsection (a) of this section to pay a fee of \$200 and who is licensed in one of those classifications under both Chapters 101 and 102 of this code may pay a single fee of \$250. A person who is required by Subsection (b) of this section to pay a \$50 fee and who is licensed in that classification under both Chapters 101 and 102 of this code may pay a single fee of \$75.

(d) A person licensed as a cash dealer or a marketing association organized under Chapter 52 of this code that handles citrus fruit only for its members is exempt from payment of the fee under this section.

(e) The fee is in addition to any licensing fee paid and is due at the time of making the license application. The department may not issue a license to a person who fails to pay the fee.

[Acts 1981, 67th Leg., p. 1277, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.012. Rules**

With the advice of the board, the department shall adopt rules, consistent with this chapter, for the payment of claims from the fund.

[Acts 1981, 67th Leg., p. 1277, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 103.013. Penalty**

(a) A person commits an offense if the person acts or assumes to act as a commission merchant under Chapter 101 or 102 of this code without first paying the fee required by this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$500.

(c) A person commits a separate offense for each day the person acts in violation of this section. [Acts 1981, 67th Leg., p. 1277, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 104. MARKETING ORDERS****SUBCHAPTER A. GENERAL PROVISIONS**

Section	
104.001.	Policy.
104.002.	Definitions.
104.003.	Application of Chapter.

**SUBCHAPTER B. LISTS OF PRODUCERS AND HANDLERS**

104.021.	Compilation.
104.022.	Confidential or Public Information.

Section	
104.023.	Petition for Inclusion on List.
104.024.	Effects of Omission on Validity of Marketing Order.

**SUBCHAPTER C. REQUEST FOR MARKETING ORDER; HEARING**

104.041.	Petition.
104.042.	Notice of Public Hearing.
104.043.	Date and Location of Hearing.
104.044.	Public Hearing on Proposed Marketing Order.

**SUBCHAPTER D. VOTING ON MARKETING ORDER**

104.061.	Method of Voting.
104.062.	Number of Votes.
104.063.	Notice of Election; Ballots.
104.064.	Election Results.
104.065.	Disclosure of Particular Person's Vote.
104.066.	Adoption of Marketing Order.

**SUBCHAPTER E. MARKETING ORDER**

104.081.	Deposit for Expenses.
104.082.	Effective Date.
104.083.	Uniform Application.
104.084.	Territory Affected.
104.085.	Amendments.
104.086.	Term.
104.087.	Reapproval.
104.088.	Voluntary Termination.
104.089.	Public Hearing on Voluntary Termination.
104.090.	Voting on Voluntary Termination.
104.091.	Results of Election on Voluntary Termination.

**SUBCHAPTER F. MARKETING REGULATION**

104.101.	Marketing and Handling Limitations.
104.102.	Allocation of Commodity Handled.
104.103.	Grading of Commodity.
104.104.	Application of Marketing Standards.

**SUBCHAPTER G. MARKETING COMMITTEE**

104.121.	Appointment.
104.122.	Eligibility.
104.123.	Term; Compensation.
104.124.	Control and Duties.
104.125.	Powers.
104.126.	Liability of Member or Employee.

**SUBCHAPTER H. SURPLUS COMMODITIES**

104.141.	Identifying Surplus; Disposal.
104.142.	Stabilization Fund; Assessments.
104.143.	By-Product Pool.
104.144.	Facilities for Surplus Commodities.
104.145.	Pledging Commodity for Loan.
104.146.	Equalization Fund; Assessments.

**SUBCHAPTER I. ASSESSMENTS AND BUDGET APPROVAL**

104.161.	Levy.
104.162.	Assessment Rate.
104.163.	Recommendation and Approval of Budget and Assessment Rate.
104.164.	Personal Debt.
104.165.	Collection of Assessment.
104.166.	Disposition of Money at End of Fiscal Period.
104.167.	Disposition of Money After Termination of Order.

**SUBCHAPTER J. INSPECTION FOR VIOLATION OF MARKETING ORDER**

104.181.	Lot.
104.182.	Inspection of Commodity.

- Section
- 104.183. Warning Marking.
- 104.184. Notice of Noncompliance.
- 104.185. Reconditioning; Correcting Deficiency.
- 104.186. Petition for Court Order.
- 104.187. Court Order.
- 104.188. Proceeds of Sale.

SUBCHAPTER K. COURT ACTION

- 104.201. Judicial Review.
- 104.202. Injunction.

SUBCHAPTER L. RULES, RECORDS, AND REPORTS

- 104.221. Rules.
- 104.222. Records.
- 104.223. Inspection of Records.
- 104.224. False Reports.

SUBCHAPTER A. GENERAL PROVISIONS

§ 104.001. Policy

It is the policy of this state to:

- (1) foster, encourage, and assist agricultural producers and handlers to:
  - (A) prevent or correct adverse marketing conditions;
  - (B) prevent economic waste;
  - (C) develop more efficient and equitable methods of marketing agricultural commodities; and
  - (D) expand markets for agricultural commodities grown in the state; and
- (2) ensure the availability of high quality agricultural commodities marketed to satisfy the needs of the consumers of those commodities in this state.

[Acts 1981, 67th Leg., p. 1280, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 104.002. Definitions

In this chapter:

- (1) "Agricultural commodity" means a fruit or vegetable that is produced in this state for commercial purposes, whether it is in its natural condition or has been processed. The term does not include cotton or a by-product of cotton.
- (2) "Handler" means a person who is engaged in the business of distributing an agricultural commodity in intrastate commerce or in the business of processing, receiving, grading, packing, canning, preserving, grinding, crushing, or changing the form of an agricultural commodity to market the commodity in intrastate commerce. The term includes a commission merchant and a wholesaler but does not include a person who is engaged in manufacturing a product from an agricultural commodity that has been changed in form.
- (3) "Marketing committee" means an administrative body organized to administer a marketing program in conjunction with the department.

(4) "Marketing order" means an order issued by the department that prescribes rules governing the distribution, handling, or processing, in any manner, of an agricultural commodity in this state during a specified period.

(5) "Marketing program" means a plan for administering a marketing order.

(6) "Person" means an individual, corporation, association other than a cooperative marketing association, partnership, or other business unit.

(7) "Producer" means a person who is engaged in the business of growing, cultivating, or raising an agricultural commodity or who causes an agricultural commodity to be grown, cultivated, or raised.

[Acts 1981, 67th Leg., p. 1280, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 104.003. Application of Chapter

(a) This chapter does not apply to:

- (1) an order or rule issued by the Public Utility Commission of Texas; or
- (2) an order or rule concerning the operation of common carriers issued by the Interstate Commerce Commission.

(b) This chapter does not apply to a person:

- (1) who is a retailer of an agricultural commodity, except to the extent that the person is a producer or handler of an agricultural commodity;
- (2) who makes only casual sales of an agricultural commodity; or
- (3) whose sales of an agricultural commodity are:
  - (A) incidental to urban home ownership; or
  - (B) the result of activity other than a commercial farm or business venture.

[Acts 1981, 67th Leg., p. 1281, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.004 to 104.020 reserved for expansion]

SUBCHAPTER B. LISTS OF PRODUCERS AND HANDLERS

§ 104.021. Compilation

(a) The department shall compile a list of producers and a list of handlers. Each list must state:

- (1) the name and address of each producer or handler; and
- (2) the volume of each agricultural commodity that each person produced or handled during the preceding marketing season.

(b) If the department requests assistance, a trade association, cooperative marketing association, or handler shall assist the department in compiling the lists of producers and handlers.

[Acts 1981, 67th Leg., p. 1281, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.022. Confidential or Public Information**

(a) Information compiled in accordance with Section 104.021 of this code that concerns the volume of agricultural commodities produced or handled by a person is confidential. The information may be used only in the administration of this chapter by the department, a marketing committee, or a person named by a court order to receive the information.

(b) The names and addresses of producers and handlers compiled in accordance with Section 104.021 of this code are public information. The department shall make the names and addresses available for public inspection in the commissioner's office during normal working hours.

[Acts 1981, 67th Leg., p. 1281, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.023. Petition for Inclusion on List**

(a) If information concerning a producer or handler has been omitted from a list compiled in accordance with Section 104.021 of this code, the producer or handler, at any time, may petition the department to be included on the list.

(b) After the department receives substantiation that the petitioner is a producer and that the volume figures reported by the petitioner are correct, the department shall add the name and other information of the petitioner to the list of producers. [Acts 1981, 67th Leg., p. 1281, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.024. Effects of Omission on Validity of Marketing Order**

A marketing order may not be voided or altered and the execution of a marketing order may not be delayed because information relating to a producer or handler was omitted from a list compiled in accordance with Section 104.021 of this code.

[Acts 1981, 67th Leg., p. 1282, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.025 to 104.040 reserved  
for expansion]

**SUBCHAPTER C. REQUEST FOR MARKETING ORDER; HEARING****§ 104.041. Petition**

(a) Producers and handlers may file a petition to adopt a marketing order with the department.

(b) The petition must state:

(1) the name of the agricultural commodity to be affected by the proposed marketing order;

(2) a description of the territory to be affected by the proposed order;

(3) a general statement of facts that states the necessity for the proposed order;

(4) a proposed date and place for the public hearing on the proposed order; and

(5) a draft of the proposed order or a statement of the principal features to be included in the proposed marketing program.

(c) The petition must be signed by 25 percent or more of the persons whom the department lists as producers of the agricultural commodity and 25 percent or more of the persons whom the department lists as handlers of the agricultural commodity, and:

(1) the producers who sign the petition must have collectively produced during the preceding marketing season 25 percent or more of the state's total production of the agricultural commodity; and

(2) the handlers who sign the petition must have collectively handled 25 percent or more of the state's total production of the agricultural commodity handled during the preceding marketing season.

[Acts 1981, 67th Leg., p. 1282, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.042. Notice of Public Hearing**

(a) After a valid petition for adoption of a marketing order is filed, the department shall:

(1) cause notice of a public hearing on the proposed marketing order to be published in a newspaper of general circulation in Austin and in at least one other newspaper of general circulation elsewhere in the state on five consecutive days beginning before the 10th day before the day of the hearing; and

(2) before the 10th day before the day of the hearing, mail to each listed producer or handler that would be regulated by the proposed marketing order a copy of the notice and a statement of the proposed marketing order or the principal features of the proposed marketing order.

(b) The notice must state:

(1) the time and place of the hearing;

(2) the agricultural commodity and the territory to be affected by the proposed order; and

(3) that at the hearing the department will receive testimony and evidence concerning the accuracy of the department's lists of producers and handlers in addition to testimony concerning the appropriateness of the proposed marketing order.

[Acts 1981, 67th Leg., p. 1282, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.043. Date and Location of Hearing**

The department shall hold the public hearing on the proposed marketing order at the location stated by the petition for the order and on the date stated by the petition unless that date conflicts with the time requirements for notice prescribed by Section

104.042 of this code. If a conflict exists, the department shall set the date of the hearing.

[Acts 1981, 67th Leg., p. 1283, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.044. Public Hearing on Proposed Marketing Order**

(a) At a public hearing on a proposed marketing order, the department shall:

- (1) receive all testimony under oath; and
- (2) record the proceedings of the hearing.

(b) The department shall maintain on file in the office of the commissioner a copy of the record of the proceedings required by Subsection (a) of this section.

(c) At the public hearing the department shall receive evidence concerning:

- (1) the accuracy of the department's lists of producers and handlers;
- (2) the appropriateness of the proposed marketing order and the resulting marketing program;
- (3) the method of voting on the proposed marketing order; and
- (4) other necessary and relevant matters.

(d) The department may determine the validity of challenges to the accuracy of the department's lists of producers and handlers. The department's decision may be appealed to a court of competent jurisdiction.

(e) By a majority vote of those present, persons attending a public hearing on a proposed marketing order shall determine which provisions of the proposed marketing order, if any, are to be submitted to a vote of the producers and handlers who would be regulated by the proposed marketing order.

(f) The department may approve or disapprove, but may not modify, the proposed marketing order that the persons attending the public hearing determine to submit to a vote of the producers and handlers.

(g) If the department approves the submission of the proposed marketing order to a vote of the producers and handlers, the department shall:

- (1) make a finding that the proposed marketing order is consistent with the protection of the health, safety, and general welfare of the people of this state; and
- (2) before submitting the order to the vote, certify that the costs of administering the marketing program, including the cost of labor supplied by the department, are met by the proposed assessments, or proposed maximum rate of assessments, provided by the marketing order to be levied against the producers and handlers regulated by the order.

[Acts 1981, 67th Leg., p. 1283, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.045 to 104.060 reserved for expansion]

SUBCHAPTER D. VOTING ON MARKETING ORDER

**§ 104.061. Method of Voting**

(a) Persons attending a public hearing on a proposed marketing order shall determine, from the methods prescribed by Subsection (b) of this section, the method of submitting the proposed order to a vote of the producers and handlers who would be regulated by the proposed order.

(b) Producers and handlers shall vote on adoption of a marketing order by:

- (1) filing written assents to the order as proposed; or
- (2) voting in a referendum on the order as proposed.

(c) The department shall conduct the election in accordance with the method chosen under this section.

[Acts 1981, 67th Leg., p. 1284, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.062. Number of Votes**

(a) Except as provided by Subsection (b) of this section, each producer or handler who would be regulated by a proposed marketing order is entitled to one vote.

(b) A person who is both a producer and a handler and who is subject to regulation by a proposed marketing order as both is entitled to two votes. A person is not entitled to more than two votes.

[Acts 1981, 67th Leg., p. 1284, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.063. Notice of Election; Ballots**

(a) After a method of voting on a proposed marketing order is adopted, the department shall send to each person who is listed by the department as a producer or handler and who would be regulated by the proposed marketing order:

- (1) notice of the election on the proposed marketing order; and
- (2) a ballot for the election.

(b) The notice required by Subsection (a) of this section must state or be accompanied by a statement of:

- (1) the text of the proposed marketing order;
- (2) the method of voting on the proposed order;
- (3) the requirements for approval of the proposed order at the election;
- (4) the address of the department where the ballot is to be received; and

(5) the date, determined in accordance with Subsection (c) of this section, by which the ballots must be postmarked or received by the department.

(c) The department shall set the date by which a ballot must be received by the department or post-marked for delivery to the department. The date set by the department must be:

(1) after the 20th day after the day on which the ballot is sent to the voter by the department; and

(2) before the 61st day after the day on which the ballot is sent to the voter by the department.

[Acts 1981, 67th Leg., p. 1284, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.064. Election Results

(a) The department shall certify the accuracy of the results of an election on a proposed marketing order.

(b) After the department certifies the results of an election, the department shall:

(1) cause notice of the results to be published, on five consecutive days, in a newspaper of general circulation in Austin and in at least one other newspaper of general circulation elsewhere in the state; and

(2) maintain in the office of the commissioner a copy of the notice of the results for public inspection during normal working hours.

[Acts 1981, 67th Leg., p. 1284, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.065. Disclosure of Particular Person's Vote

The department may not disclose information concerning the manner in which a particular person voted to anyone other than the person, the person's attorney, or another person to whom a court order directs disclosure of that information.

[Acts 1981, 67th Leg., p. 1285, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.066. Adoption of Marketing Order

(a) If an election on a proposed marketing order is conducted by the filing of written assents, the order is adopted if:

(1) a majority of the producers entitled to vote and a majority of the handlers entitled to vote assent;

(2) the producers who assent collectively produced, during the preceding marketing season, 65 percent or more of the state's total production of the agricultural commodity to be affected by the proposed marketing order; and

(3) the handlers who assent collectively handled, during the preceding marketing season, 65 percent or more of the state's total production of the agricultural commodity to be affected by the proposed marketing order.

(b) If an election on a proposed marketing order is conducted by a referendum, the order is adopted if:

(1) 40 percent or more of the producers entitled to vote and 40 percent or more of the handlers entitled to vote cast ballots;

(2) a majority of producers voting and a majority of the handlers voting adopt the proposed marketing order;

(3) the producers voting to adopt the order collectively produced 65 percent or more of the total amount of the agricultural commodity to be affected by the proposed order produced during the preceding marketing season by all producers voting in the election; and

(4) the handlers voting to adopt the proposed order collectively handled 65 percent or more of the total volume of the agricultural commodity to be affected by the proposed order handled during the preceding marketing season by all handlers voting in the election.

[Acts 1981, 67th Leg., p. 1285, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.067 to 104.080 reserved for expansion]

### SUBCHAPTER E. MARKETING ORDER

#### § 104.081. Deposit For Expenses

Before issuing a marketing order, the department may require the petitioners for the order to deposit with the department an amount that the department determines to be necessary to pay the expenses of preparing, adopting, and effecting the marketing order.

[Acts 1981, 67th Leg., p. 1285, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.082. Effective Date

If a marketing order is approved in accordance with this chapter, the order takes effect on the 15th day after the day on which notice of the results of the election on the order was published or on the date specified in the marketing order, whichever is later.

[Acts 1981, 67th Leg., p. 1286, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.083. Uniform Application

A marketing order must state that the order is to be applied uniformly to all persons of the same class.

[Acts 1981, 67th Leg., p. 1286, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.084. Territory Affected

(a) A marketing order may affect the entire state or a designated part of the state.

(b) A marketing order must define the territory to be affected by it. If the territory affected is not the entire state, the order must describe the territory by county boundaries.

[Acts 1981, 67th Leg., p. 1286, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.085. Amendments**

(a) To amend a marketing order, the person petitioning for the amendment and the department shall follow the procedures for instituting a marketing order as prescribed by this chapter.

(b) If authority to institute a provision of a marketing order is delegated to a marketing committee in accordance with Section 104.124 of this code, the committee may alter the terms of the provision without regard to the procedures for instituting a marketing order.

[Acts 1981, 67th Leg., p. 1286, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.086. Term**

A marketing order expires on the fifth anniversary of its effective date unless:

(1) the order specifies an expiration date before its fifth anniversary;

(2) the order is formally terminated in accordance with this subchapter; or

(3) the order is reapproved in accordance with Section 104.087 of this code.

[Acts 1981, 67th Leg., p. 1286, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.087. Reapproval**

(a) During the last year that a marketing order is effective, the department shall hold a public hearing on the reapproval of the marketing order.

(b) The department shall give notice of the hearing and conduct the hearing in accordance with the notice and hearing requirements prescribed by Subchapter C of this chapter for a hearing on a proposed marketing order.

(c) If the participants at the hearing approve, the department shall submit the issue of reapproval of the marketing order to a vote of the producers and handlers regulated by the order. The department shall hold the election in accordance with the requirements for holding an election on a proposed marketing order as prescribed by Subchapter D of this chapter.

(d) If the producers and handlers reapprove the marketing order, a new term equal to the existing term of the order begins on the day that the existing term expires.

[Acts 1981, 67th Leg., p. 1286, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.088. Voluntary Termination**

The department shall conduct a hearing on the termination of a marketing order if presented with a petition to terminate a marketing order that is signed by 35 percent or more of the producers regulated by the order and 35 percent or more of the handlers regulated by the order and if:

(1) the producers who sign the petition, collectively, produced 35 percent or more of the volume of the agricultural commodity affected by the order produced during the preceding marketing season; and

(2) the handlers who sign the petition, collectively, handled 35 percent or more of the volume of the agricultural commodity affected by the order handled in the preceding marketing season. [Acts 1981, 67th Leg., p. 1287, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.089. Public Hearing on Voluntary Termination**

(a) After the department receives a valid petition for termination of a marketing order, the department shall give notice of a public hearing on the proposed termination of the order, and conduct the hearing, in accordance with the notice and hearing requirements prescribed by Subchapter C of this chapter for a hearing on a proposed marketing order.

(b) If the persons attending a public hearing on the proposed termination of a marketing order approve termination, the department shall submit the issue of termination to a vote of the producers and handlers regulated by the marketing order in accordance with the procedures for conducting elections on instituting a marketing order as prescribed by Subchapter D of this chapter.

[Acts 1981, 67th Leg., p. 1287, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.090. Voting on Voluntary Termination**

(a) If the election on the proposed termination of a marketing order is conducted by the filing of written assents, the order is terminated if:

(1) a majority of the producers regulated by the order and listed by the department as producers and a majority of the handlers regulated by the order and listed by the department as handlers assent;

(2) the producers who assent, collectively, produced during the preceding marketing season 50 percent or more of the volume of the total production of the agricultural commodity affected by the marketing order and produced by producers regulated by the order; and

(3) the handlers who assent, collectively, handled during the preceding marketing season 50 percent or more of the volume of the total production of the agricultural commodity affected by the marketing order and handled by the handlers regulated by the order.

(b) If the election on the proposed termination of the marketing order is conducted by a referendum, the order is terminated if:

(1) a majority of the producers regulated by the marketing order and voting on the proposal and a majority of the handlers regulated by the order and voting on the proposal vote to terminate the order;

(2) the producers voting to terminate the order, collectively, produced during the preceding marketing season 50 percent or more of the volume of the total production of the agricultural commodity affected by the order and produced by the producers regulated by the marketing order; and

(3) the handlers voting to terminate the order, collectively, produced during the preceding marketing season 50 percent or more of the volume of the total production of the agricultural commodity affected by the order and handled by the handlers regulated by the order.

[Acts 1981, 67th Leg., p. 1287, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.091. Results of Election on Voluntary Termination

(a) The department shall cause notice of the results of an election on the proposed termination of a marketing order to be published in accordance with the requirements prescribed by Section 104.064 of this code for publication of the results of a vote on approval of a proposed marketing order.

(b) If the producers and handlers vote to terminate the marketing order, the order terminates 15 days after the last day the notice required by Subsection (a) of this section is published.

[Acts 1981, 67th Leg., p. 1288, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.092 to 104.100 reserved for expansion]

### SUBCHAPTER F. MARKETING REGULATION

#### § 104.101. Marketing and Handling Limitations

A marketing order may provide for limiting the total amount of an agricultural commodity, or the total amount of a grade, size, or quality of the commodity, that may be:

(1) marketed by producers; or

(2) processed, distributed, or otherwise handled in this state by a producer or handler engaged in marketing, processing, distributing, or handling.

[Acts 1981, 67th Leg., p. 1288, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.102. Allocation of Commodity Handled

A marketing order may provide for the allocation of the amount of an agricultural commodity, or the amount of a grade, size, or quality of the agricultural commodity that:

(1) a handler may acquire from, or handle on behalf of, a producer of the commodity in this state, if the allocation is based on the amounts of the commodity produced or sold by producers in a marketing period that the department determines to be a representative period and if the order apportions equitably among the producers of the commodity the total amount of the agricultural commodity, or the total amount of a grade, size, or quality of the commodity, that is purchased or handled in the state; or

(2) a handler may process, distribute, or handle in this state, if the allocation is based on the amount of the commodity, or the amount of a grade, size, or quality of the commodity of the current season that each handler has available for processing, distribution, or handling or based on the amount of the commodity, or the amount of a grade, size, or quality of the commodity, that was processed, distributed, or handled by each handler in a period that the department finds is representative and if the order apportions equitably among all handlers regulated by the order the total amount of the commodity, or the total amount of a grade, size, or quality of the commodity, that is handled in this state.

[Acts 1981, 67th Leg., p. 1288, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.103. Grading of Commodity

(a) A marketing order may provide for:

(1) the establishment of grading standards for the quality, condition, size, maturity, or pack of an agricultural commodity that is delivered by producers to handlers, handled or prepared for market, or marketed by producers or handlers; and

(2) uniform grading of the commodity in accordance with standards established as provided by the marketing order.

(b) A minimum standard established in accordance with Subsection (a)(1) of this section may not be below a minimum standard provided by law for the commodity.

[Acts 1981, 67th Leg., p. 1288, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.104. Application of Marketing Standards

(a) If a marketing order or agreement requires the producers or handlers of an agricultural commodity that is affected by the marketing order to comply with minimum quality, condition, size, or maturity regulations, a person may not process, distribute, or otherwise handle a commodity produced in or outside this state that does not meet those minimum requirements except as provided by the order or agreement.

(b) The minimum quality, condition, size, or maturity regulations described by Subsection (a) of this

section do not apply to an agricultural commodity that is produced outside this state and that is in transit on the effective date of the regulations. [Acts 1981, 67th Leg., p. 1289, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.105 to 104.120 reserved for expansion]

SUBCHAPTER G. MARKETING COMMITTEE

§ 104.121. Appointment

(a) The commissioner shall appoint a marketing committee to assist the department in administering a marketing program.

(b) A marketing order may:

(1) provide for the appointment of members of the marketing committee from nominations made by the producers and handlers who are regulated by the marketing order; and

(2) prescribe the method of nomination.

[Acts 1981, 67th Leg., p. 1289, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 104.122. Eligibility

To be eligible to serve as a marketing committee member, a person must be a producer or handler who is regulated by the marketing order.

[Acts 1981, 67th Leg., p. 1289, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 104.123. Term; Compensation

(a) A member of a marketing committee serves until removed by the commissioner.

(b) A member of a marketing committee serves without compensation but is entitled to reimbursement for actual expenses incurred in the performance of official committee duties.

[Acts 1981, 67th Leg., p. 1289, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 104.124. Control and Duties

(a) The marketing committee is under the control of the department.

(b) The department may prescribe the duties of the committee in administering the marketing program. The duties may include:

(1) gathering information necessary to administer the marketing program;

(2) assisting in collection of assessments from producers and handlers; and

(3) receiving complaints of violations of the marketing order and reporting the complaints to the department.

[Acts 1981, 67th Leg., p. 1289, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 104.125. Powers

(a) The marketing committee may exercise powers prescribed by the marketing order in accordance with this chapter.

(b) The department may authorize a marketing committee to:

(1) employ necessary personnel, including attorneys in the private practice of law, and set the employees' compensation and terms of employment; and

(2) incur expenses that the department determines to be necessary for the committee to perform its duties in accordance with this chapter.

(c) The department shall pay for the expenses incurred by a marketing committee in accordance with Subsection (b)(2) of this section from money collected in accordance with this chapter.

(d) A marketing order may specifically delegate to a marketing committee the authority to institute any provision permitted by Sections 104.101-104.103 and 104.141 of this code.

[Acts 1981, 67th Leg., p. 1289, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 104.126. Liability of Member or Employee

A member or employee of a marketing committee is not personally responsible in any way to a person for an act performed in the course of official committee duties.

[Acts 1981, 67th Leg., p. 1290, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.127 to 104.140 reserved for expansion]

SUBCHAPTER H. SURPLUS COMMODITIES

§ 104.141. Identifying Surplus; Disposal

(a) A marketing order may prescribe a plan:

(1) for determining the existence and extent of the surplus of an agricultural commodity, or a grade, size, or quality of the commodity;

(2) for controlling and disposing of a surplus of a commodity; and

(3) for equalizing the cost of, or proceeds from, the elimination or control of the surplus among the producers or handlers regulated by the order.

(b) A marketing order that provides for the disposition of the surplus of an agricultural commodity, or the surplus of a grade, size, or quality of the agricultural commodity, or that delegates to a marketing committee the power to initiate a disposal program must provide for the disposal of the surplus to be accomplished in accordance with this subchapter by a stabilization fund, by a by-product pool, or by both.

[Acts 1981, 67th Leg., p. 1290, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.142. Stabilization Fund; Assessments**

(a) A marketing order may provide for the creation of a stabilization fund to:

(1) acquire any portion of the surplus of an agricultural commodity in fresh or processed form other than that processed in airtight containers; and

(2) direct the surplus acquired by money from the fund to noncompetitive uses or dispose of the surplus noncommercially.

(b) An assessment shall be levied on producers and handlers to provide money for the stabilization fund. The department shall establish an assessment rate based on the units in which the commodity is handled or marketed or on another uniform basis that the department determines to be reasonable and equitable.

(c) For convenience of collection, the department may collect an assessment owed by a producer from handlers of the commodity. A handler who pays an assessment owed by a producer may deduct an amount equal to the amount paid from an amount that the handler owes to the producer.

[Acts 1981, 67th Leg., p. 1290, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.143. By-Product Pool**

(a) A marketing order may provide for:

(1) the establishment of a by-product pool for an agricultural commodity, or for a grade, size, or quality of an agricultural commodity;

(2) the sale of the commodity in the pool; and

(3) the equitable distribution of the proceeds of the sale among persons participating in the pool.

(b) If a by-product pool is established, the marketing committee may:

(1) receive the commodity from each producer or handler participating in the pool;

(2) handle the commodity according to the grade, size, quality, or condition of the commodity; and

(3) account to each participating producer or handler on a pro rata basis for net proceeds of the sale of the commodity.

(c) The marketing committee may not market the products of the by-product pool in a form that would compete directly with the portion of the commodity marketed in regular channels of trade.

(d) The marketing committee may transfer any of the contents of the by-product pool without charge to charitable organizations or similar agencies under proper safeguards to ensure that none of the commodity competes directly with the unrestricted portion of the commodity.

(e) The marketing committee may dispose of the products of the by-product pool in regular marketing

channels in a manner and at times that the committee determines advisable if the manner and times are consistent with the maintenance of stabilized marketing conditions for the commodity.

[Acts 1981, 67th Leg., p. 1291, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.144. Facilities for Surplus Commodities**

If a marketing order authorizes the establishment of a stabilization fund or a by-product pool, the marketing committee may establish and operate facilities to store, finance, grade, pack, service, process, prepare for market, sell, and dispose of the acquired agricultural commodity but may not engage in commercial warehousing.

[Acts 1981, 67th Leg., p. 1291, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.145. Pledging Commodity for Loan**

A marketing committee has title to all of the commodity in a by-product pool established in accordance with this chapter to finance the operation of the pool and to handle the commodity. The committee may pledge all of the commodity in the pool to obtain a loan from a lending agency.

[Acts 1981, 67th Leg., p. 1291, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.146. Equalization Fund; Assessments**

If a marketing order authorizes the establishment of a stabilization fund or a by-product pool, the marketing committee may create an equalization fund and may maintain the fund by a uniform assessment on producers or some other uniform and equitable method. The committee may use the money in the fund:

(1) to remove inequalities between producers or handlers participating in the pool that result from errors in estimating production or surplus;

(2) to indemnify producers whose production, in whole or in part, is diverted from normal marketing outlets or diverted to by-products;

(3) for relief; or

(4) for other noncompetitive purposes permitted by the marketing order.

[Acts 1981, 67th Leg., p. 1291, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.147 to 104.160 reserved for expansion]

### SUBCHAPTER I. ASSESSMENTS AND BUDGET APPROVAL

**§ 104.161. Levy**

Each marketing order must provide for levying assessments in amounts sufficient to pay the necessary expenses incurred by the department in the

formulation, issuance, administration, and enforcement of the marketing order.

[Acts 1981, 67th Leg., p. 1292, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.162. Assessment Rate**

(a) Each marketing order must state the assessment to be collected or the maximum rate of assessment.

(b) The rate of assessment for producers may not exceed 2½ percent of the gross dollar volume of sales of the agricultural commodity made by all producers regulated by the order.

(c) The rate of assessment for handlers may not exceed 2½ percent of the gross dollar volume of purchases of the agricultural commodity from producers or 2½ percent of the gross dollar volume of sales of the agricultural commodity handled by all handlers regulated by the order during the marketing season for which the order is effective.

[Acts 1981, 67th Leg., p. 1292, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.163. Recommendation and Approval of Budget and Assessment Rate**

(a) The marketing committee shall recommend to the department:

- (1) a budget to cover the necessary expenses; and
- (2) the rate of assessment under this subchapter.

(b) If the department determines that the budget and assessment rate are proper and equitable and that they will provide sufficient money to pay incurred expenses, the department may:

- (1) approve the budget and assessment rate; and
- (2) order each producer and handler assessed to pay to the department, at the rate and in the installments prescribed by the department, an assessment based on the units in which the agricultural commodity is marketed, or on any other uniform basis that the department determines is reasonable and equitable.

[Acts 1981, 67th Leg., p. 1292, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.164. Personal Debt**

An assessment imposed in accordance with this subchapter is a personal debt of the person assessed. If the person fails to pay the assessment on or before the due date determined by the department, the department may:

- (1) file in a court of competent jurisdiction a complaint against the person for collection of the assessment; and

(2) to pay the cost of enforcing the collection of the unpaid assessment, add to the amount due an amount that does not exceed 10 percent of the unpaid amount.

[Acts 1981, 67th Leg., p. 1292, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.165. Collection of Assessment**

(a) Each marketing order must provide for the collection of assessments imposed in accordance with this subchapter.

(b) To conveniently collect producer assessments, the department may collect those assessments from the handlers of the commodity affected by the marketing order.

(c) If a handler pays to the department the assessment of a producer, the handler may deduct an amount equal to the amount paid from money that the handler owes to the producer.

(d) The department may require an assessed person to deposit in advance with the department an amount necessary for expenses. The department shall base the amount of the advance deposit on the estimated number of units to be marketed or handled by the person assessed or on any other uniform basis that the department determines is reasonable and equitable. The basis for determining the amount of the advance deposit is applicable to the marketing season for which the marketing order is effective.

(e) After the amount of money credited to the administrative account of the marketing order is sufficient to warrant an adjustment or at the end of the marketing season, the department shall adjust, to the proper amount assessed, the amount that the department requires a person to deposit in accordance with Subsection (d) of this section.

[Acts 1981, 67th Leg., p. 1293, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.166. Disposition of Money at End of Fiscal Period**

(a) After each fiscal period used by a marketing committee for budgeting, the department may:

- (1) refund, in accordance with Subsection (b) of this section, money in an amount equal to the amount of the assessments collected but not spent for expenses of the marketing order; or
- (2) carry over all or part of the unspent money to the next succeeding fiscal period if the department finds that the money is required to pay expenses of the marketing order.

(b) The department shall pay refunds made under this section on a pro rata basis to persons from whom, or on whose behalf, the assessments were collected.

[Acts 1981, 67th Leg., p. 1293, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.167. Disposition of Money After Termination of Order**

(a) Except as provided by this section, the department, after the termination of a marketing order, shall refund an amount equal to the amount of the assessments collected for expenses of the marketing order but not spent. The department shall pay the refunds on a pro rata basis to all persons from whom, or on whose behalf, the assessments were collected.

(b) If the department finds that the amounts to be refunded are so small that computation and remittance of the refunds are impractical, the department is not required to return the money.

[Acts 1981, 67th Leg., p. 1293, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.168 to 104.180 reserved for expansion]

**SUBCHAPTER J. INSPECTION FOR VIOLATION OF MARKETING ORDER**

**§ 104.181. Lot**

(a) As used in this subchapter, a lot is:

(1) a unit in which identical or similar items that are produced by one person are grouped or consolidated, in one or more containers or parcels, for packaging or transporting; or

(2) a cluster of identical or similar items that are produced by one person and that are included in the same shipping order, bill of lading, order of consignment, or other itemized transport order.

(b) This subchapter applies to any lot of an agricultural commodity affected by a marketing order regardless of where the lot is in the marketing channels in this state or who has possession of the lot.

[Acts 1981, 67th Leg., p. 1294, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.182. Inspection of Commodity**

(a) If the department or an authorized inspector receives a complaint alleging that a provision of a marketing order concerning the quality, condition, size, maturity, or pack of the agricultural commodity affected by the order or an enforcement rule concerning those factors has been violated, an authorized inspector who is discharging his or her duties in checking compliance with a marketing order may request a magistrate to issue an administrative inspection permit.

(b) If the magistrate finds that there is reason to believe that a violation described by Subsection (a) of this section has occurred, the magistrate shall issue an administrative inspection permit to allow the inspector access to specified agricultural commodities in specified locations.

(c) An inspector may hold any lot of an agricultural commodity that is subject to a permit for a reasonable period, not to exceed 24 hours for a perishable agricultural commodity or 72 hours for a nonperishable commodity, to enable the inspector to ascertain whether the lot complies with the marketing requirements of the order.

[Acts 1981, 67th Leg., p. 1294, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.183. Warning Marking**

(a) If after inspection an inspector determines that any lot of an agricultural commodity affected by a marketing order does not comply with the order, the inspector or another authorized person may affix to the lot an official notice, warning tag, or other appropriate marking that warns that the lot is being held and states the reasons for which it is being held.

(b) A person other than an authorized inspector or enforcing officer may not:

(1) detach, alter, deface, or destroy an official notice, warning tag, or marking affixed to a lot that is being held; or

(2) except on written permission of an authorized enforcing officer or by order of a court of competent jurisdiction, remove or dispose of the lot in a manner or under conditions other than as prescribed by the notice of noncompliance.

[Acts 1981, 67th Leg., p. 1294, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.184. Notice of Noncompliance**

(a) The department or an authorized person who is holding any lot of an agricultural commodity under this subchapter shall, by mail or in person, give to the person in possession of the lot, a notice stating:

(1) a description of the lot being held;

(2) the place where the lot is being held;

(3) the reason for which the lot is being held;

(4) the specific marketing order, marketing rule, or other rule and the section of the order or rule on which noncompliance is alleged; and

(5) the time allowed for reconditioning the lot or correcting the deficiencies as prescribed by Section 104.185 of this code.

(b) If given by mail, notice required by Subsection (a) of this section shall be mailed to the last known address of the person in possession of the lot.

(c) The person in possession of the lot shall notify the owner of the lot and every other person that has an interest in the lot that the person in possession of the lot has received notice of noncompliance.

[Acts 1981, 67th Leg., p. 1294, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.185. Reconditioning; Correcting Deficiency**

(a) The owner of any lot of an agricultural commodity that is being held shall recondition the agricultural commodity or correct the deficiency before:

- (1) the expiration of 48 hours after the time at which notice of noncompliance is given, if the commodity is perishable; or
- (2) the expiration of 72 hours after the time at which notice of noncompliance is given, if the commodity is nonperishable.

(b) If the lot is reconditioned or the deficiencies are corrected within the period prescribed by Subsection (a) of this section, the enforcing officer shall remove the warning tags or markings and shall release the lot for marketing.

(c) If the owner does not recondition the commodity or correct the deficiency, the enforcing officer, after receiving the consent of the owner of the lot, may:

- (1) divert the lot to other lawful uses; or
- (2) destroy the lot.

[Acts 1981, 67th Leg., p. 1295, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.186. Petition for Court Order**

(a) If the owner of any lot of an agricultural commodity being held does not recondition the agricultural commodity or correct the deficiencies within the period prescribed by Section 104.185 of this code, and if the owner fails or refuses to give the consent to divert or destroy the lot, the enforcing officer shall file in a court of competent jurisdiction in this state a verified petition requesting permission to divert the lot to any other available lawful use or to destroy the lot. The petition must state:

- (1) that the lot is being held;
- (2) the condition of the lot;
- (3) that the lot is located in the territorial jurisdiction of the court in which the petition is being filed;
- (4) that notice of noncompliance has been served in compliance with this chapter;
- (5) that the lot has not been reconditioned and the deficiencies have not been corrected as required by this chapter;
- (6) the names and addresses of the owner and the person in possession of the lot; and
- (7) that the owner has refused permission to divert the lot to other lawful uses or to destroy the lot.

(b) After the enforcing officer has filed the petition, the court may issue an order returnable in five days after service on the owner of the lot directing the owner to show cause:

- (1) why the lot should not be reconditioned or the deficiencies corrected; or

- (2) why the lot should not be diverted to other lawful uses or destroyed.

(c) The owner of the lot may:

- (1) recondition the lot or correct the deficiencies so that the lot complies with the marketing order and rules before the date on which the order to show cause is returnable; or

- (2) file with the court, at or before the hearing on the order to show cause, an answer stating why the lot should not be reconditioned or the deficiencies corrected or stating why the lot should not be diverted to other lawful uses or destroyed.

[Acts 1981, 67th Leg., p. 1295, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.187. Court Order**

If the owner of any lot of an agricultural commodity that is being held has not reconditioned the lot or corrected the deficiencies before the order to show cause is returned, the court may enter judgment ordering the lot to be:

- (1) reconditioned;
- (2) diverted to another lawful use;
- (3) destroyed in the manner specified by the court;
- (4) relabeled;
- (5) denatured or otherwise processed;
- (6) sold, as long as the lot is not sold in regular channels of trade; or
- (7) released on conditions imposed by the court, as long as the lot is not released in regular channels of trade.

[Acts 1981, 67th Leg., p. 1296, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 104.188. Proceeds of Sale**

If the court orders the sale of any lot of an agricultural commodity that is being held, the costs of storage, handling, and reconditioning or disposal shall be deducted from the proceeds of the sale and the balance, if any, shall be paid to the court for the account of the owner of the lot.

[Acts 1981, 67th Leg., p. 1296, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.189 to 104.200 reserved for expansion]

**SUBCHAPTER K. COURT ACTION**

**§ 104.201. Judicial Review**

(a) A court of competent jurisdiction may review a marketing order or an order of the department that regulates the administration of a marketing program and substantially affects the rights of an interested party.

(b) Proceedings for review must be begun within 30 days after:

- (1) the first day of publication of the notice of the election results on the marketing order; or
- (2) the effective date of the regulatory order.
- [Acts 1981, 67th Leg., p. 1296, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.202. Injunction

(a) The department may apply to a court of competent jurisdiction for appropriate injunctive relief after the department receives notice of a violation of:

- (1) a marketing order; or
- (2) a substantive rule adopted under a marketing order and this chapter.
- (b) If it appears to the court on an application for a temporary restraining order, on a hearing of an order to show cause why a preliminary injunction should not be issued, or on a hearing of a motion for a preliminary injunction, or if the court finds in such an action that a defendant is violating or has violated this chapter, a marketing order, or rule adopted under this chapter, the court:

- (1) shall enjoin the defendant from committing further violations; and
- (2) may order the defendant to pay costs of the prosecution of the action by the department.
- (c) An action under this section may be brought in the county in which:
- (1) the defendant resides; or
- (2) an act or omission, or a part of an act or omission, complained of occurred.

[Acts 1981, 67th Leg., p. 1297, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 104.203 to 104.220 reserved for expansion]

### SUBCHAPTER L. RULES, RECORDS, AND REPORTS

#### § 104.221. Rules

The department may adopt rules to facilitate the uniform administration and enforcement of marketing orders and marketing programs, including rules concerning:

- (1) procedures for receiving, depositing, and spending money collected as assessments under this chapter;
- (2) the preparation, handling, and payment of bills, salaries, and other obligations;
- (3) the establishment of maximum rates to be allowed for travel expenses of marketing committee members and employees; and
- (4) the preparation, verification, and filing of evidence relating to violations of marketing orders and marketing rules adopted in accordance with

this chapter and to other fiscal and administrative activities that the department determines are necessary to obtain reasonable uniformity, efficiency, and economy in the administration enforcement of marketing orders and marketing programs.

[Acts 1981, 67th Leg., p. 1297, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.222. Records

The department may require each handler subject to a marketing order to maintain books and records showing the handler's operations under the order.

[Acts 1981, 67th Leg., p. 1297, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.223. Inspection of Records

(a) If the department receives from a marketing committee or an individual a complaint that a handler has violated a marketing order, the department may request a magistrate to issue an order granting the department access to all or part of the handler's books and records that the department requires to be maintained under Section 104.222 of this code.

(b) If the magistrate finds that there is reason to believe that a violation has occurred, the magistrate shall issue the order requested under Subsection (a) of this section.

(c) If a handler who is served with an order of a magistrate and a demand by the department to furnish the books and records to the department fails to produce the requested books and records, the department may require the handler to present under oath before the commissioner testimony concerning the handler's operations under the marketing order. The handler is subject to the remedies available to the court to enforce its orders.

(d) Information obtained under this section is confidential and may not be disclosed except to:

- (1) a person with a right to obtain the information;
- (2) an attorney employed to give legal advice concerning the information; or
- (3) a person to whom a court order requires the information be given.

[Acts 1981, 67th Leg., p. 1297, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 104.224. False Reports

A person may not knowingly furnish a fraudulent or materially false report, statement, or record when this chapter requires the person to provide a report, statement, or record.

[Acts 1981, 67th Leg., p. 1298, ch. 388, § 1, eff. Sept. 1, 1981.]

SUBTITLE E. PROCESSING AND SALE OF FIBER PRODUCTS

CHAPTER 111. GINNING AND COMPRESSING COTTON

Section	
111.001.	Ginners; Public Use.
111.002.	Ginner's Record.
111.003.	Identification of Bales.
111.004.	Baling.
111.005.	Liability for Improper Baling.
111.006.	Commissioner of Labor and Standards to Enforce.
111.007.	Penalties.

§ 111.001. Ginners; Public Use

A person who operates a gin in this state for ginning cotton for commercial purposes shall be known as a ginner and is charged with the public use.

[Acts 1981, 67th Leg., p. 1298, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 111.002. Ginner's Record

Each ginner shall keep in a book a public record of all cotton brought to the ginner for ginning. The record shall show:

- (1) the amount of cotton received;
- (2) the date on which the cotton was received;
- (3) the name of the person who brought the cotton to the gin; and
- (4) the name of each person claiming to own the cotton.

[Acts 1981, 67th Leg., p. 1298, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 111.003. Identification of Bales

(a) Each ginner shall mark each bale of cotton with the following:

- (1) "B\_\_\_\_\_", filling the blank with the number of the bale as shown on the books of the gin;
- (2) the initials of each party who claims to own the cotton; and
- (3) an individual ginner's mark.

(b) The ginner's mark under Subsection (a) of this section shall be placed under the initials of the parties claiming ownership.

[Acts 1981, 67th Leg., p. 1299, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 111.004. Baling

(a) Each bale of cotton ginned by a ginner shall be wrapped so that:

- (1) the bale will be completely covered when compressed and the ends of the bale are closed and well sewn; and
- (2) the markings on the bale will remain intact and visible under ordinary conditions.

(b) In compressing, recompressing, baling, or re-baling cotton, each person owning, operating, or working for a compress in this state shall, prior to delivery of a bale to a common carrier, bind and tie the bale so that the bale is free of:

- (1) dangerously exposed ends of bands or buckles; or
- (2) dangerously exposed or protruding parts of ties, bands, buckles, or splices.

[Acts 1981, 67th Leg., p. 1299, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 111.005. Liability for Improper Baling

(a) A person who delivers to a common carrier a bale of cotton that is not tied or bound as required by Section 111.004(b) of this code shall forfeit to the state not less than \$50 nor more than \$250. A suit may be brought in the name of the state to recover that forfeiture.

(b) A person who receives for storage, loads for transportation, or transports in this state a bale that is not tied or bound as required by Section 111.004(b) of this code is liable for damages to any of the person's employees who is injured in the course of employment by a dangerously exposed end of band or buckle or dangerously exposed or protruding part of a tie, band, buckle, or splice. The employer and not the employee has the duty to inspect the bales of cotton.

[Acts 1981, 67th Leg., p. 1299, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 111.006. Commissioner of Labor and Standards to Enforce

The commissioner of labor and standards shall enforce this chapter and shall obtain and collect evidence of violations of this chapter by persons engaged in the business of compressing cotton. The commissioner of labor and standards shall file an annual statement with the governor showing in detail all expenses incurred in connection with the commissioner's duties under this chapter.

[Acts 1981, 67th Leg., p. 1299, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 111.007. Penalties

(a) A person commits an offense if the person operates a cotton gin for himself or herself or for commercial purposes without complying with this chapter.

(b) A person commits an offense if, as a ginner, the person:

- (1) fails, neglects, or refuses to keep a record in accordance with Section 111.002 of this code; or
- (2) fails, neglects, or refuses to mark a bale of cotton with the initials of each party who claims to own the cotton and with the ginner's mark in the manner required by Section 111.003 of this code.

(c) An offense under Subsection (a) of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200. An offense under Subsection (b) of this section is a misdemeanor punishable by a fine of not more than \$25.

[Acts 1981, 67th Leg., p. 1299, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 112. COTTON CLASSING

### Section

112.001.	Registered Public Cotton Classifier.
112.002.	Qualifications.
112.003.	Bond.
112.004.	Fee.
112.005.	Certificate of Classification.
112.006.	Records and Standards.
112.007.	Owner's Right to Class.
112.008.	Department Powers and Duties.
112.009.	Penalties.

### § 112.001. Registered Public Cotton Classifier

(a) Unless a person is a registered public cotton classifier under this chapter, the person may not:

- (1) grade or staple cotton for the public; or
- (2) issue or cause to be issued a receipt or ticket for cotton that is placed on the cotton for use by the public in the buying or selling of the cotton.

(b) A registered public cotton classifier is entitled to grade and staple cotton generally and to charge for services rendered.

[Acts 1981, 67th Leg., p. 1300, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 112.002. Qualifications

In order to qualify as a registered public cotton classifier, a person must:

- (1) furnish evidence of the person's good moral character;
- (2) obtain from the United States Department of Agriculture a license to grade or staple cotton and to certify the grade or staple of the cotton in accordance with the official cotton standards of the United States Cotton Standards Act (7 U.S.C. Sec. 51 et seq.); and
- (3) file with the department a copy of the license obtained under Subdivision (2) of this section.

[Acts 1981, 67th Leg., p. 1300, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 112.003. Bond

(a) Except as provided by the United States Cotton Standards Act (7 U.S.C. Sec. 51 et seq.), a registered public cotton classifier may not issue a certificate of classification in this state unless the classifier files a bond with the department and renews it annually.

(b) The bond is subject to the approval of the department and shall:

(1) be in the amount of \$1,000;

(2) be payable to the state for the use and benefit of any person who is damaged by a breach of a condition of the bond;

(3) bind the classer and surety to guarantee as approximately correct the classer's work in classing and stapling cotton; and

(4) bind the classer and surety to promptly indemnify any person who sustains financial loss by reason of a false class or staple made by the classer with intent to defraud or by reason of an untrue or misleading certificate issued by the classer or under the classer's authority with intent to defraud.

(c) In a suit on a bond, a person is not required to join the state as a party. Venue for the suit shall be as provided by general law.

(d) If a bond is impaired by suit or otherwise, the department may, by written notice, require the classer to make good the impairment. If the classer does not make good the impairment to the satisfaction of the department within a reasonable time following notice, not to exceed 30 days, the bond is void.

[Acts 1981, 67th Leg., p. 1300, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 112.004. Fee

At the time of registration and annually thereafter at the time the bond is renewed, the department shall collect a fee of \$5 from each person who is to be registered as a public cotton classifier.

[Acts 1981, 67th Leg., p. 1301, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 112.005. Certificate of Classification

(a) To each person for whom a registered public cotton classifier classes cotton, the classifier shall issue a certificate showing the class and other grade of the cotton classed.

(b) The courts of this state shall accept a certificate of classification issued by a registered public cotton classifier as prima facie evidence of the facts stated in the certificate.

[Acts 1981, 67th Leg., p. 1301, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 112.006. Records and Standards

(a) Each registered public cotton classifier shall keep in a well-bound book a complete record of all cotton classed and the persons for whom the cotton was classed. In addition, each registered public cotton classifier shall keep on hand a set of the United States standards of grades and staples.

(b) Each registered public cotton classifier shall keep his or her records, books, and standards open to public inspection at all reasonable times.

[Acts 1981, 67th Leg., p. 1301, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 112.007. Owner's Right to Class**

This chapter does not affect the right of a person to class the person's own cotton or the right of a person, including a cotton buyer, to class cotton purchased for the person or for another.

[Acts 1981, 67th Leg., p. 1301, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 112.008. Department Powers and Duties**

The department shall enforce this chapter and adopt rules consistent with this chapter that the department considers necessary, including rules prescribing the form of receipts, records, and certificates.

[Acts 1981, 67th Leg., p. 1301, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 112.009. Penalties**

(a) A person commits an offense if the person:

(1) classes and staples cotton for the public or issues receipts and tickets bearing the grade of the cotton for use by the public without complying with this chapter; or

(2) with intent to deceive or defraud, issues or causes to be issued a certificate of sample, weight, grade, or staple of cotton for commercial purposes.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1981, 67th Leg., p. 1301, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 113. COTTON BUYING**

Section	
113.001.	Definition.
113.002.	Registration of Cotton Buyers Required.
113.003.	Application for Registration.
113.004.	Fee.
113.005.	Registration.
113.006.	Term of Registration.
113.007.	List of Registered Cotton Buyers.
113.008.	Deduction Because of Bale Weight.
113.009.	Penalty.

**§ 113.001. Definition**

In this chapter "person" means an individual, association, partnership, corporation, or other private entity.

[Acts 1981, 67th Leg., p. 1302, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 113.002. Registration of Cotton Buyers Required**

A person may not purchase cotton on a forward contract from a person who grows cotton without first having registered with the department as a cotton buyer.

[Acts 1981, 67th Leg., p. 1302, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 113.003. Application for Registration**

In order to register with the department as a cotton buyer, a person must file with the department an application that includes:

(1) the name and address of the applicant; and

(2) the name of each trade association relating to cotton producing and marketing of which the applicant is a member.

[Acts 1981, 67th Leg., p. 1302, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 113.004. Fee**

An applicant shall submit a fee of \$25 with an application for registration as a cotton buyer.

[Acts 1981, 67th Leg., p. 1302, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 113.005. Registration**

The department shall register each applicant for registration as a cotton buyer before the 31st day following the day of application.

[Acts 1981, 67th Leg., p. 1302, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 113.006. Term of Registration**

Registration as a cotton buyer is valid for a period of one year after the date of registration.

[Acts 1981, 67th Leg., p. 1302, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 113.007. List of Registered Cotton Buyers**

The department shall publish a list of all registered cotton buyers and shall provide a copy of the list to interested persons without charge. The list may include the number of years that the person has been registered in this state as a cotton buyer.

[Acts 1981, 67th Leg., p. 1302, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 113.008. Deduction Because of Bale Weight**

(a) If a buyer of spot cotton has made a bona fide bid for cotton from a sample or bale and the sale price is agreed to between the buyer and seller, the buyer may not make any deduction from the total value of the cotton as agreed between the parties because of the weight of the bale, unless the bale weighs less than 400 pounds. If the bale weighs less than 400 pounds, the buyer may deduct not more than \$1.

(b) This section does not prevent a buyer from refusing to accept a bale of cotton weighing less than 350 pounds.

(c) If a buyer makes a deduction in violation of this section, the seller or grower of the cotton may recover from the buyer or ginner twice the amount of the deduction in the same manner as allowed by law for recovery for usury.

[Acts 1981, 67th Leg., p. 1302, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 113.009. Penalty**

(a) A person commits an offense if the person violates Section 113.002 of this code.

(b) An offense under this section is a Class C misdemeanor.

[Acts 1981, 67th Leg., p. 1303, ch. 388, § 1, eff. Sept. 1, 1981.]

**SUBTITLE F. PRODUCTION, PROCESSING,  
AND SALE OF NURSERY PRODUCTS**

**CHAPTER 121. GRADING OF ROSES**

Section	
121.001.	Purpose.
121.002.	Definition.
121.003.	Rose Grades.
121.004.	Certificate of Authority.
121.005.	Labeling.
121.006.	Inspection.
121.007.	Rules.
121.008.	Entry Power.
121.009.	Stop-Sale Order.
121.010.	Penalty.

**§ 121.001. Purpose**

The purpose of this chapter is to provide the department with the authority necessary to adopt rules and prescribe procedures for the inspection, grading, and labeling of all rose plants sold or offered for sale within this state.

[Acts 1981, 67th Leg., p. 1303, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 121.002. Definition**

In this chapter, "rose plant" includes a rose plant, cutting, or bush.

[Acts 1981, 67th Leg., p. 1303, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 121.003. Rose Grades**

(a) The department shall adopt grade classifications for rose plants, including a classification for ungraded rose plants.

(b) A person may not sell or offer for sale in commercial quantities or as a part of the regular operation of business a rose plant that is not graded in accordance with the grades adopted by the department under this chapter.

[Acts 1981, 67th Leg., p. 1303, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 121.004. Certificate of Authority**

(a) The department shall issue a numbered certificate of authority to each person who grades, sells, or offers for sale rose plants.

(b) A certificate of authority expires on December 31 of the year in which it is issued.

(c) Each grower, dealer, wholesaler, and processor shall pay an annual fee for a certificate of authority

based on the actual amount of work done by or under the direction of the department in administering this chapter. The department shall fix the fee in an amount not less than the following, according to the number of rose plants handled, sold, or offered for sale during the calendar year:

NUMBER OF PLANTS	FEE
Less than 100,000	\$15
100,000 or more but less than 500,000	\$25
500,000 or more but less than 1,000,000	\$50
1,000,000 or more	\$100

(d) A person who purchases graded stock but does not determine or influence the grade is exempt from payment of the fee required for a certificate of authority.

[Acts 1981, 67th Leg., p. 1304, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 121.005. Labeling**

(a) Each rose plant or shipment of rose plants shall be labeled with:

- (1) the proper grade; and
- (2) the number of the certificate of authority of the person selling or offering for sale the plant or shipment.

(b) A person may not sell or offer for sale in commercial quantities or as a part of the regular operation of business any rose plant or shipment of rose plants that is not labeled in accordance with the grades adopted by the department.

[Acts 1981, 67th Leg., p. 1304, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 121.006. Inspection**

(a) The department shall inspect and grade or verify the grade of rose plants that are offered for sale in this state.

(b) The department may accept the inspection, grading, and labeling of a rose plant or a shipment of rose plants performed by the authority of another state if:

- (1) the plant or shipment is plainly labeled with the grade or is plainly marked that the plant or plants are ungraded; and
- (2) the grade of the plant or plants is at least equal to the grade adopted by the department.

[Acts 1981, 67th Leg., p. 1304, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 121.007. Rules**

(a) Following notice and public hearing, the department may adopt rules necessary to carry out this chapter. Rules adopted under this chapter are effective only if approved in writing by the attorney general.

(b) The department shall publish rules adopted under this chapter in pamphlet form.

[Acts 1981, 67th Leg., p. 1304, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 121.008. Entry Power

The department shall enforce this chapter and is entitled to enter during normal business hours any place of business, farm, shed, or other location in this state where rose plants are grown, sold, offered for sale, or displayed.

[Acts 1981, 67th Leg., p. 1304, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 121.009. Stop-Sale Order

In enforcing this chapter, the department may issue and enforce a written or printed order to stop the sale of a rose plant or a shipment of rose plants that is not labeled with the proper grade. If an order is issued, a person may not sell the plant or shipment until it has been properly graded and labeled.

[Acts 1981, 67th Leg., p. 1304, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 121.010. Penalty

(a) A person commits an offense if the person advertises, sells, or offers for sale a rose plant or a shipment of rose plants that is not clearly and distinctly marked with a grade in accordance with the rules of the department.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$50 nor more than \$100.

[Acts 1981, 67th Leg., p. 1305, ch. 388, § 1, eff. Sept. 1, 1981.]

**TITLE 6. PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS**

**SUBTITLE A. BEES AND NONLIVESTOCK ANIMAL INDUSTRY**

**CHAPTER 131. BEES AND HONEY**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
131.001.	State Entomologist.
131.002.	Annual Report.
131.003.	Publications.
131.004.	Experimental Apiaries.

**SUBCHAPTER B. DISEASE CONTROL**

131.021.	General Powers and Duties of State Entomologist.
131.022.	Certificate of Inspection.
131.023.	Protective Quarantine.
131.024.	Restrictive Quarantine.
131.025.	Common Carrier Shipment.
131.026.	Sale of Queen Bee and Attendants.
131.027.	Duty to Report Diseased Bees.

Section	
131.028.	Entry Power.
131.029.	Seizure of Diseased Bees in Transit.
131.030.	Transfer of Bees to Moveable Frames.
131.031.	Enforcement.
131.032.	Bond in Legal Proceedings.
131.033.	Failure to Treat or Destroy; Cost.

**SUBCHAPTER C. BRANDING OF APIARY EQUIPMENT**

131.051.	Brand; Registration.
131.052.	Registration of Brand; Fee.
131.053.	Affixing Brand to Equipment.
131.054.	Transfer of Brand.

**SUBCHAPTER D. LABELING AND SALE OF HONEY**

131.101.	Definitions.
131.102.	Use of "Honey" on Label.
131.103.	Use of Bee, Hive, or Comb Design.
131.104.	Sale of Imitation Honey.
131.105.	Sale of Honey Mixtures.

**SUBCHAPTER E. PENALTIES**

131.151.	Disease Control.
131.152.	Apiary Equipment Brands.
131.153.	Labeling or Sale of Honey.

**SUBCHAPTER A. GENERAL PROVISIONS**

§ 131.001. State Entomologist

(a) The entomologist of the Texas Agricultural Experiment Station is the state entomologist of this state.

(b) The state entomologist serves in that position without fees or remuneration in addition to the salary as entomologist of the experiment station, but is entitled to reimbursement for actual and necessary expenses incurred in the discharge of duties as state entomologist.

(c) The state entomologist may employ assistants and inspectors as necessary, subject to the approval of the director and governing board of the experiment station.

(d) The office of the state entomologist is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the office is abolished effective September 1, 1985.

[Acts 1981, 67th Leg., p. 1306, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 131.002. Annual Report

The state entomologist shall make an annual report to the director and governing board of the experiment station giving a detailed account of the funds received and disbursed, the purpose for which the funds were disbursed, and prosecutions or legal proceedings brought under Subchapter B of this chapter or under Section 131.151 of this code.

[Acts 1981, 67th Leg., p. 1306, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.003. Publications**

The state entomologist shall publish information on methods and directions for treating, eradicating, or suppressing contagious or infectious diseases of honeybees, the rules adopted for those purposes, and other information that the state entomologist considers of value or necessity to the beekeeping interests of this state.

[Acts 1981, 67th Leg., p. 1306, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.004. Experimental Apiaries**

(a) The director of the Texas Agricultural Experiment Station may establish and maintain experimental apiaries for the purpose of experimenting with the culture of honey and studying honey yield and other beekeeping problems confronting the beekeepers of this state.

(b) Experimental apiaries established under this section are under the care, control, management, and direction of the director of the experiment station and may be operated in places in Texas chosen by the director. In locating the experimental apiaries, the director may take into consideration any donation of money or property to be used in the operation and management of the apiaries and may accept any lease of land on which to locate an apiary.

(c) The director may employ assistants and purchase equipment, supplies, and bees as necessary to the operation and management of the experimental apiaries.

(d) The director shall deposit receipts from the sale of any products of the apiaries or old equipment in the experiment station treasury to the credit of a fund known as the experimental apiaries sales fund. That fund may be expended by the director for any purpose connected with the experimental apiaries. [Acts 1981, 67th Leg., p. 1307, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 131.005 to 131.020 reserved for expansion]

**SUBCHAPTER B. DISEASE CONTROL****§ 131.021. General Powers and Duties of State Entomologist**

(a) In accordance with this subchapter, the state entomologist may adopt rules and act as necessary to control, eradicate, or prevent the introduction, spread, or dissemination of contagious or infectious diseases of bees.

(b) The state entomologist may prohibit shipment or entry into this state of any bees, honey, combs, or articles capable of transmitting diseases of bees from any state, territory, or foreign country except under rules adopted by the state entomologist.

(c) If the state entomologist finds or has reason to believe that the owner or keeper of any bees or the owner of an apiary has refused or is refusing to comply with a rule adopted under this subchapter, the entomologist may inspect the bees and, if necessary:

(1) burn any diseased colonies, appliances, or honey; and

(2) take other actions to eradicate the disease. [Acts 1981, 67th Leg., p. 1307, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.022. Certificate of Inspection**

(a) Except as otherwise provided by this section, all bees shipped into this state must be accompanied by a certificate of inspection signed by the official apiary inspector or entomologist of the state, territory, or country from which the bees are shipped.

(b) A certificate of inspection shall certify that the bees, combs, and hives are apparently free from diseases and must be based on an actual inspection of the bees performed not more than 60 days before the date of shipment.

(c) Before the 10th day preceding the date of shipment, a person shipping bees into this state shall file the following with the state entomologist:

(1) a certified copy of the certificate of inspection; and

(2) the names and addresses of the consignor and the consignee of the shipment.

(d) If bees are to be shipped into this state from a state, territory, or country that does not have an available official apiary inspector or entomologist, the state entomologist may issue a permit for shipment of the bees on presentation of suitable evidence that the bees are free from diseases.

(e) The state entomologist or an assistant or inspector of the state entomologist may confiscate and destroy any shipment of bees arriving at a point in this state not accompanied by a certificate of inspection.

(f) This section does not apply to a shipment of live bees in wire cages without combs or honey. [Acts 1981, 67th Leg., p. 1307, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.023. Protective Quarantine**

(a) The state entomologist may declare a protective quarantine of any district, county, precinct, or other defined area in which foulbrood or another disease of bees is not known to exist or in which a disease is being eradicated in accordance with this chapter.

(b) A person may not move or ship into an area quarantined under this section any bees, honey, appliances, or other articles capable of transmitting the disease quarantined against, except in accordance with the rules of the state entomologist.

[Acts 1981, 67th Leg., p. 1308, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.024. Restrictive Quarantine**

(a) If the state entomologist determines that the public welfare and necessity require establishment of a quarantine, the entomologist may declare a restrictive quarantine of any district, county, precinct, or other defined area in which diseased bees are located.

(b) A person may not move or ship from an area quarantined under this section any bees, honey, appliances, or other articles capable of transmitting the disease quarantined against except in accordance with the rules of the state entomologist.

[Acts 1981, 67th Leg., p. 1308, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.025. Common Carrier Shipment**

A common carrier, including a railroad or express company, may not accept for intrastate shipment any bees, used combs, or used hives or fixtures except in accordance with the rules of the state entomologist.

[Acts 1981, 67th Leg., p. 1308, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.026. Sale of Queen Bee and Attendants**

A person may not sell or offer for sale a queen bee and attendant bees in this state unless the bees are accompanied by:

(1) a copy of a certificate from an official apitary inspector or entomologist certifying that the apiary from which the queen bee was shipped had been inspected not more than 12 months before the day of shipment and found apparently free from any disease; or

(2) a copy of an affidavit made by the beekeeper that:

(A) the bees are not diseased to the best belief of the affiant; and

(B) the honey used in making the candy contained in the queen cage has been diluted and boiled for at least 30 minutes in a closed vessel.

[Acts 1981, 67th Leg., p. 1308, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.027. Duty to Report Diseased Bees**

If the owner or the person with control or possession of bees in this state knows that the bees are infected with American foulbrood or another disease, or knows of any other diseased bees, the owner or person shall immediately report to the state entomologist all facts known about the diseased bees.

[Acts 1981, 67th Leg., p. 1309, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.028. Entry Power**

For the purpose of examining bees to determine if the bees are diseased or for the purpose of determining if diseased bees are being transported, have been

transported, or are about to be transported in violation of this chapter, the state entomologist or an assistant or inspector of the state entomologist is entitled to enter during regular business hours any public or private premises, including a depot, express office, storeroom, car, or warehouse, in which bees are or may be located.

[Acts 1981, 67th Leg., p. 1309, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.029. Seizure of Diseased Bees in Transit**

The state entomologist or an assistant or inspector of the state entomologist may confiscate a shipment of diseased bees found in transit or in any depot, express office, storeroom, car, warehouse, or other premises awaiting transportation or delivery.

[Acts 1981, 67th Leg., p. 1309, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.030. Transfer of Bees to Moveable Frames**

(a) The state entomologist may order an owner or possessor of bees dwelling in hives that do not have moveable frames or do not permit ready examination to transfer the bees to a moveable frame hive within a specified period of time.

(b) If the owner or possessor of the bees fails to comply with an order under this section, the state entomologist may destroy or order destroyed the hives, including the honey, frames, combs, and bees. A person is not entitled to compensation for hives destroyed under this section.

[Acts 1981, 67th Leg., p. 1309, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.031. Enforcement**

(a) The state entomologist may enjoin any threatened or attempted violation of an order, quarantine, or rule and maintain other civil proceedings necessary to enforce this subchapter.

(b) The attorney general or a county or district attorney shall represent the state entomologist in actions under this section if requested to do so by the entomologist.

(c) Proceedings under this section shall be brought in a county affected by the violation of the order, quarantine, or rule.

(d) In enforcing this subchapter, the state entomologist may:

(1) compel the production of books, papers, and documents for examination by the state entomologist or another person;

(2) take testimony and compel the attendance of witnesses; and

(3) examine witnesses under oath.

(e) A sheriff or constable shall serve a paper, order, summons, or writ delivered to the sheriff or constable by the state entomologist and, if request-

ed, shall protect the state entomologist and assistants and inspectors of the state entomologist in the discharge of duties under this subchapter.

[Acts 1981, 67th Leg., p. 1309, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 131.032. Bond in Legal Proceedings

The state entomologist or an assistant or inspector of the state entomologist may not be required to give bond or other security in any legal proceeding that the entomologist, assistant, or inspector institutes or defends under this chapter in a court of this state.

[Acts 1981, 67th Leg., p. 1309, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 131.033. Failure to Treat or Destroy; Cost

(a) If an owner or possessor of bees fails to carry out instructions of the state entomologist to treat or destroy bees or equipment, the entomologist or an assistant or inspector of the state entomologist shall carry out the treatment or destruction and present to the owner or possessor, or to a tenant or agent of the owner or possessor, a bill for the actual costs of the treatment or destruction necessary to properly treat the disease.

(b) The owner or possessor of the bees shall pay a bill under this section not later than the 30th day after the day of the delivery of the bill or the mailing of the bill to the usual post office address of the owner or possessor.

(c) If a person fails to pay a bill under this section within the required time, the state entomologist shall certify the amount and items of the bill to the county attorney of the county in which the bees were located and the county attorney shall sue for recovery of the account. Money recovered by the county attorney shall be paid into the state treasury.

[Acts 1981, 67th Leg., p. 1310, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 131.034 to 131.050 reserved  
for expansion]

### SUBCHAPTER C. BRANDING OF APIARY EQUIPMENT

#### § 131.051. Brand; Registration

(a) The department shall maintain a system of registration of apiary equipment brands to identify equipment used by a beekeeper in an apiary.

(b) Each brand shall consist of three numbers separated by hyphens, with the first number signifying that the brand is a state-registered brand, the second number identifying the registrant's county of residence, and the third number identifying the registrant.

[Acts 1981, 67th Leg., p. 1310, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 131.052. Registration of Brand; Fee

The department shall register a brand for each person who applies for a brand and pays a recording fee of 50 cents.

[Acts 1981, 67th Leg., p. 1310, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 131.053. Affixing Brand to Equipment

A registrant shall affix the registered brand to his or her apiary equipment by burning or pressing the brand, in figures at least one inch high, into the wood or other material in a manner that shows the identification of the equipment. On a hive, the registrant shall affix the brand on one or both ends at a level even with the handhold. On other equipment, including a frame, intercover, top, bottom, or plank, the registrant may affix the brand in any place.

[Acts 1981, 67th Leg., p. 1310, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 131.054. Transfer of Brand

(a) A brand may be transferred only if:

- (1) the department approves the transfer; and
- (2) the transferor is selling all of the transferor's bees and equipment to the person to whom the brand is to be transferred.

(b) If a brand is to be transferred, the seller shall give a bill of sale for the bees and equipment that shows the seller's brand.

(c) A person may sell an individual piece of branded equipment, but the brand is not transferred to the buyer. If the buyer of the equipment has a brand, the buyer shall affix the buyer's brand below the brand of the prior owner.

[Acts 1981, 67th Leg., p. 1310, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 131.055 to 131.100 reserved  
for expansion]

### SUBCHAPTER D. LABELING AND SALE OF HONEY

#### § 131.101. Definitions

In this subchapter:

(1) "Pure honey" means the nectar of plants that has been transformed by, and is the natural product of, bees and that is in the comb or has been taken from the comb and is packaged in a liquid, crystallized, or granular form.

(2) "Label," as a noun, means written or printed material accompanying a product and furnishing identification or a description. The term includes material attached to a product or its immediate container, material attached to packaging that contains a product in its immediate container, and material inserted in an immediate container or other packaging of a product.

(3) "Label," as a verb, means to attach or insert a label.

(4) "Person" means an individual, corporation, or association.

[Acts 1981, 67th Leg., p. 1311, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.102. Use of "Honey" on Label**

A person may not label, sell, or keep, offer, or expose for sale a product identified on its label as "honey," "liquid or extracted honey," "strained honey," or "pure honey" unless the product consists exclusively of pure honey.

[Acts 1981, 67th Leg., p. 1311, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.103. Use of Bee, Hive, or Comb Design**

A person may not label, sell, or keep, expose, or offer for sale a product that resembles honey and that has on its label a picture or drawing of a bee, hive, or comb unless the product consists exclusively of pure honey.

[Acts 1981, 67th Leg., p. 1311, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.104. Sale of Imitation Honey**

A person may not label, sell, or keep, expose, or offer for sale a product that resembles honey and is identified on its label as "imitation honey."

[Acts 1981, 67th Leg., p. 1311, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.105. Sale of Honey Mixtures**

(a) A person may not label, sell, or keep, expose, or offer for sale a product that consists of honey mixed with another ingredient unless:

(1) the product bears a label with a list of ingredients; and

(2) "honey" appears in the list of ingredients in the same size type or print as the other ingredients.

(b) A person may not label, sell, or keep, expose, or offer for sale a product that consists of honey mixed with another ingredient and contains in the product name "honey" in a larger size of type or print or in a more prominent position than the other words in the product name.

[Acts 1981, 67th Leg., p. 1311, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 131.106 to 131.150 reserved for expansion]

**SUBCHAPTER E. PENALTIES**

**§ 131.151. Disease Control**

(a) A person commits an offense if the person:

(1) violates a provision of Section 131.023, 131.024, 131.025, 131.026, or 131.027 of this code;

(2) violates a rule or order of the state entomologist adopted under Subchapter B of this chapter;

(3) attempts to prevent an inspection of bees, honey, or appliances under the direction of the state entomologist under Subchapter B of this chapter;

(4) attempts to prevent the discovery or treatment of diseased bees;

(5) attempts to intimidate or interfere with the state entomologist or an assistant or inspector of the state entomologist in the discharge of official duties;

(6) as the owner or keeper of a diseased colony of bees, barter, gives away, sells, ships, or moves any diseased bees, honey, or appliances or exposes other bees to the disease;

(7) exposes, on the person's premises or elsewhere, any honey, hives, frames, combs, bees, or appliances known to be infected with disease in a manner that provides access to honeybees; or

(8) sells, offers for sale, barter, gives away, ships, or distributes honey taken from a colony of diseased bees.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$25 nor more than \$200.

(c) All fines collected under this section shall be deposited in the state treasury.

[Acts 1981, 67th Leg., p. 1311, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.152. Apiary Equipment Brands**

(a) A person commits an offense if the person, without authorization, tampers with a registered apiary equipment brand.

(b) An offense under this section is a misdemeanor or punishable by:

(1) a fine of not more than \$200;

(2) confinement in county jail for not more than 30 days; or

(3) both fine and confinement under this subsection.

(c) Each of the following is prima facie evidence of a violation of this section:

(1) unauthorized possession of equipment on which the brand has been tampered with;

(2) possession of branded equipment without a bill of sale or written proof of ownership; or

(3) use of a registered brand that is not registered to the person using the brand.

[Acts 1981, 67th Leg., p. 1312, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 131.153. Labeling or Sale of Honey**

(a) A person commits an offense if the person violates Section 131.102, 131.103, 131.104, or 131.105 of this code.

(b) An offense under this section is a Class B misdemeanor.

[Acts 1981, 67th Leg., p. 1312, ch. 388, § 1, eff. Sept. 1, 1981.]

## CHAPTER 132. EGGS

### SUBCHAPTER A. GENERAL PROVISIONS

Section	
132.001.	Definitions.
132.002.	Limitation of Chapter.
132.003.	Powers and Duties of Department.
132.004.	Adoption of Standards.
132.005.	Samples.
132.006.	Out-of-State Inspection of Records and Expenses.
132.007.	Egg Marketing Advisory Board.

### SUBCHAPTER B. LICENSING

132.021.	License Required.
132.022.	License Categories.
132.023.	Resident Agent for Service.
132.024.	License Year.
132.025.	Time for Payment of License Fee.
132.026.	Fee for Dealer-Wholesaler License.
132.027.	Fee for Processor's License.
132.028.	Fee for Broker's License.
132.029.	No Fee Required for Retailer's License.

### SUBCHAPTER C. INSPECTION AND LABELING

132.041.	Inspections.
132.042.	Grading and Classification Required.
132.043.	Inspection Fees.
132.044.	Labeling Requirements for Egg Containers.
132.045.	Sanitation Required.
132.046.	Special Requirements for Shipped Eggs.
132.047.	Uncartoned Eggs.

### SUBCHAPTER D. RECORDS

132.061.	Records.
132.062.	Invoice.

### SUBCHAPTER E. ENFORCEMENT

132.071.	Stop-Sale Order.
132.072.	Suspension of License.

### SUBCHAPTER F. PENALTIES

132.081.	General Penalty.
132.082.	Selling Inedible Eggs.
132.083.	Improper Use of the Prefix "U.S."
132.084.	Misleading Advertising.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 132.001. Definitions

In this chapter:

- (1) "Egg" means a chicken egg.
- (2) "Person" means an individual, firm, corporation, cooperative, or any other type of business entity.
- (3) "Shipped egg" means an egg produced outside this state and shipped into the state for purposes of resale.
- (4) "Texas egg" means an egg that is produced in this state.

[Acts 1981, 67th Leg., p. 1314, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 132.002. Limitation of Chapter

This chapter does not apply to a person selling only eggs that are produced by the person's own flock and for which the person does not claim a grade.

[Acts 1981, 67th Leg., p. 1314, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 132.003. Powers and Duties of Department

(a) The department shall administer this chapter and adopt and enforce necessary rules. Rules adopted and enforced by the department must be approved by the attorney general. The attorney general shall retain written approval of the rules for public inspection.

(b) The department shall annually publish information on the movement and sale of eggs and a report of the results of official inspections of eggs sold, offered for sale, or distributed within this state. Published information on the movement and sale of eggs may not disclose the scope of operations of any person.

(c) The department may:

(1) prescribe record forms and require the reporting of information as necessary in the administration of this chapter; and

(2) make reciprocal agreements with other states for the inspection of locations outside of the state at which eggs are classed, graded, and weighed.

[Acts 1981, 67th Leg., p. 1314, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 132.004. Adoption of Standards

Standards of shell egg quality, grade, and size shall be equal to those adopted by the United States Department of Agriculture.

[Acts 1981, 67th Leg., p. 1314, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 132.005. Samples

(a) The department shall prescribe methods of selecting samples of lots or containers of eggs. The methods must be:

(1) reasonably calculated to ensure a fair representation of the entire lot or container sampled; and

(2) similar to methods prescribed for sampling by the United States Department of Agriculture.

(b) The department may enter during ordinary business hours a place of business where eggs are held and take for inspection representative samples of eggs and containers to determine if this chapter has been violated.

(c) The department shall compensate a place of business located in this state for the actual cost of eggs taken as samples under Subsection (b) of this section.

(d) A sample of eggs taken under this section or an official certificate of grade is prima facie evidence in the courts of this state of the condition of the entire lot from which the sample is taken. [Acts 1981, 67th Leg., p. 1314, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.006. Out-of-State Inspection of Records and Expenses**

(a) If an inspection required by Section 132.041 of this code is performed at a location outside of this state, that location and the records relating to eggs inspected by a Texas licensee at that location are subject to inspection by the department as the department considers necessary.

(b) A licensee whose out-of-state location is inspected shall reimburse the department for actual and necessary expenses incurred during the inspection. If a licensee fails to pay those expenses before the 11th day following the day on which the licensee receives an invoice from the department, the department may:

- (1) automatically cancel the person's license; or
- (2) deny a license to any person who is connected with a person whose license is canceled because of a violation of this section.

(c) The actual and necessary expenses of the department for each inspection of an out-of-state location may not exceed:

- (1) \$50 per day for food, lodging, and local transportation of the inspector; and
- (2) the cost of the least expensive available space round trip air fare from Austin to the location to be inspected.

(d) The department shall schedule as many inspections as feasible within an area on each inspection trip. If more than one licensee is inspected in an area during an inspection trip, the expenses of the trip shall be divided equitably among the licensees inspected.

[Acts 1981, 67th Leg., p. 1315, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.007. Egg Marketing Advisory Board**

(a) The Egg Marketing Advisory Board is composed of:

- (1) the commissioner;
- (2) an extension service representative appointed by the head of the Poultry Science Department at Texas A & M University; and
- (3) nine persons appointed by the governor, including:
  - (A) three persons who are producers;
  - (B) three persons who are retailers; and
  - (C) three persons who are dealers, wholesalers, brokers, or processors.

(b) The commissioner and the appointed extension service representative serve as ex officio members of the board.

(c) The commissioner shall serve as chairman of the board.

(d) The board shall meet twice annually, but the chairman may call additional meetings.

(e) A member of the board must be a Texas resident.

(f) Members serve for staggered terms of six years and the governor shall fill any vacancy by appointment for the unexpired term.

(g) Members shall serve without pay, but are entitled to reimbursement for actual expenses incurred in attending to the work of the board, subject to the approval of the chairman.

[Acts 1981, 67th Leg., p. 1315, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 132.008 to 132.020 reserved for expansion]

**SUBCHAPTER B. LICENSING**

**§ 132.021. License Required**

(a) A person may not buy or sell eggs in this state for the purpose of resale without first obtaining a license from the department.

(b) This section does not apply to:

- (1) a hatchery buying eggs exclusively for hatching purposes;
- (2) a hotel, restaurant, or other public eating place where all eggs purchased are served by the establishment;
- (3) a food manufacturer purchasing eggs for use only in the manufacture of food products, except for a person who operates a plant for the purpose of breaking eggs for freezing, drying, or commercial food manufacturing; or
- (4) an agent employed and paid a salary by a person licensed under this chapter.

[Acts 1981, 67th Leg., p. 1316, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.022. License Categories**

(a) A person who is required by Section 132.021 of this code to be licensed shall apply to the department for licensing in the category described by this section that is appropriate to the actions of the person.

(b) A person shall apply for licensing as a broker if the person never assumes ownership or possession of eggs but acts as an agent for a fee or commission in the sale or transfer of eggs between a producer or dealer-wholesaler as seller and a dealer-wholesaler, processor, or retailer as buyer.

(c) A person shall apply for licensing as a dealer-wholesaler if the person:

(1) buys eggs from a producer or other person and sells or transfers the eggs to a dealer-wholesaler, processor, retailer, consumer, or other person; or

(2) produces eggs from the dealer-wholesaler's own flock and disposes of the production on a fully graded basis.

(d) A person shall apply for licensing as a processor if the person operates a plant for the purpose of breaking eggs for freezing, drying, or commercial food manufacturing.

(e) A person shall apply for licensing as a retailer if the person sells or offers to sell eggs to consumers in this state.

[Acts 1981, 67th Leg., p. 1316, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 132.023. Resident Agent for Service

Before receiving a license required by this chapter, an applicant whose home office or principal place of business is outside this state shall file with the department the name of an agent in this state for service of process in actions by the state or the department in the enforcement of this chapter.

[Acts 1981, 67th Leg., p. 1316, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 132.024. License Year

(a) Except as provided by Subsection (b) of this section, a license required by this chapter is valid from September 1 of each year through August 31 of the following year.

(b) A license issued to a new business under this chapter is valid from the date of issuance through the following August 31, unless the new license is issued in August, in which event the license is valid through August 31 of the following year.

[Acts 1981, 67th Leg., p. 1316, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 132.025. Time for Payment of License Fee

(a) An applicant for an initial license shall pay the license fee prior to the issuance of the license.

(b) An applicant for the renewal of a license shall pay the license fee during the month of August preceding the next license year.

[Acts 1981, 67th Leg., p. 1317, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 132.026. Fee for Dealer-Wholesaler License

(a) The license fee for each plant operated by a dealer-wholesaler is determined by applying the fee schedule provided by Subsection (c) of this section as follows:

(1) for an applicant for an initial dealer-wholesaler license, the schedule is applied to an estimate of the average weekly volume of the month in which the applicant will handle the most eggs through the applicant's first license year;

(2) for an applicant for renewal of a dealer-wholesaler's license who has been in business for less than one year, the schedule is applied to the average weekly volume of the month in which the licensee handled the most eggs through May of the first license year; and

(3) for any other applicant for renewal of a dealer-wholesaler license, the schedule is applied to the average weekly volume of the 12 months preceding the last May 31.

(b) The fee for an initial dealer-wholesaler's license shall be adjusted when records of the applicant's first license year are available.

(c) The fee schedule for a dealer-wholesaler is:

AVERAGE WEEKLY VOLUME PER PLANT	FEE
1 case or more but less than 10 cases ..	\$ 7.50
10 cases or more but less than 50 cases .....	\$ 15.00
50 cases or more but less than 100 cases .....	\$ 22.50
100 cases or more but less than 200 cases .....	\$ 37.50
200 cases or more but less than 500 cases .....	\$ 75.00
500 cases or more but less than 1,000 cases .....	\$112.50
1,000 cases or more but less than 1,500 cases .....	\$150.00
1,500 cases or more but less than 3,000 cases .....	\$300.00
3,000 cases or more .....	\$375.00

[Acts 1981, 67th Leg., p. 1317, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 132.027. Fee for Processor's License

(a) The license fee for each plant operated by a processor is determined by applying the fee schedule provided by Subsection (c) of this section as follows:

(1) for an applicant for an initial processor's license, the fee schedule is applied to an estimate of the average weekly volume of the month in which the applicant will handle the most eggs through the applicant's first license year;

(2) for an applicant for renewal of a processor's license who has been in business for less than one year, the fee schedule is applied to the average weekly volume of the month in which the licensee handled the most eggs through May of the first license year; and

(3) for any other applicant for renewal of a processor's license, the fee schedule is applied to the average weekly volume of the 12 months preceding the last May 31.

(b) The fee for an initial processor's license shall be adjusted when records of the applicant's first license year are available.

(c) The fee schedule for a processor is:

AVERAGE WEEKLY VOLUME PER PLANT	FEE
less than 250 cases . . . . .	\$30
250 cases or more but less than 500 cases . . . . .	\$45
500 cases or more but less than 1,000 cases . . . . .	\$60
1,000 cases or more . . . . .	\$75

[Acts 1981, 67th Leg., p. 1317, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.028. Fee for Broker's License**

The license fee for a broker is \$7.50.

[Acts 1981, 67th Leg., p. 1318, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.029. No Fee Required for Retailer's License**

A retailer need not pay a fee for a retailer's license.

[Acts 1981, 67th Leg., p. 1318, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 132.030 to 132.040 reserved  
for expansion]

**SUBCHAPTER C. INSPECTION AND LABELING**

**§ 132.041. Inspections**

(a) Grades and sizes established for eggs sold in this state must be established by inspection by a person licensed under this chapter.

(b) The inspection must be made at:

(1) the licensee's place of business within this state; or

(2) a designated location outside the state.

[Acts 1981, 67th Leg., p. 1318, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.042. Grading and Classification Required**

Eggs offered for sale shall be:

(1) classified as Texas eggs or shipped eggs, as applicable; and

(2) graded and weighed according to:

(A) consumer grade and weight classes, if the eggs are offered for sale to consumers; or

(B) wholesale grade and weight classes, if the eggs are offered for sale at wholesale.

[Acts 1981, 67th Leg., p. 1318, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.043. Inspection Fees**

(a) A person licensed under this chapter who first establishes the grade, size, and classification of eggs

offered for sale or sold in this state shall collect a fee of three cents per case of 30 dozen eggs on the first sale of the eggs.

(b) A processor licensed under this chapter shall pay an inspection fee of three cents per case of 30 dozen eggs on the processor's first use or change in form of the eggs processed.

(c) Licensees required by this section to collect or pay a special fee shall remit the fee monthly in accordance with rules established by the department. [Acts 1981, 67th Leg., p. 1318, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.044. Labeling Requirements for Egg Containers**

(a) A container in which eggs for human consumption are offered for retail or wholesale must be labeled with a statement showing:

(1) the size and grade of the eggs in the container;

(2) the address and license number of the person who graded and sized the eggs;

(3) the city and state in which the eggs were packed; and

(4) if the eggs are Texas eggs, that they are Texas eggs.

(b) The information required by Subsection (a)(1) of this section must be printed on the container in at least one-fourth inch bold-faced type. The information required by Subsections (a)(2) and (a)(3) of this section must be printed in at least 12-point bold-faced type. The statement of the classification of the eggs must be in accordance with rules of the department.

(c) A container required to be labeled under Subsection (a) of this section may not be deceptively labeled, advertised, or invoiced.

[Acts 1981, 67th Leg., p. 1318, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.045. Sanitation Required**

(a) Eggs shall be handled under reasonably sanitary conditions in compliance with the rules of the department.

(b) After being received from the producer, shell eggs intended for human consumption shall be handled in a manner that prevents undue deterioration.

(c) Eggs in the possession of a person engaged in the sale of eggs are presumed to be intended for human consumption unless the eggs are:

(1) denatured; or

(2) labeled in accordance with a specific intended use other than human consumption.

[Acts 1981, 67th Leg., p. 1319, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 132.046. Special Requirements for Shipped Eggs

Shipped eggs coming into Texas in cartons ready for retail sale must be at least Grade A, as established by a Texas licensee. Shipped eggs coming into Texas loosed packed must be inspected and graded by a Texas licensee at the licensee's place of business in Texas before being sold at retail. All shipped eggs must be transported under refrigeration in compliance with the rules of the department.

[Acts 1981, 67th Leg., p. 1319, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 132.047. Uncartoned Eggs

(a) Eggs offered for sale that are not in a carton must be in a container that:

(1) contains all information required by Section 132.044 of this code; and

(2) displays the information in legible letters at least one inch high on a sign attached to the container.

(b) This section does not apply to a retailer's sale of ungraded eggs if the eggs are clearly labeled as being ungraded and the retailer sells less than 120 dozen eggs a week.

[Acts 1981, 67th Leg., p. 1319, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 132.048 to 136.060 reserved for expansion]

## SUBCHAPTER D. RECORDS

### § 132.061. Records

(a) A licensed dealer-wholesaler or processor shall keep on file for two years a complete record of all eggs bought and sold, including:

(1) the name and address of the person from whom eggs were purchased or to whom eggs were sold;

(2) the number of cases or dozens of eggs sold in each transaction; and

(3) the date of each transaction.

(b) If a person required to keep records by this section is also a retailer and has purchased eggs in less than case lots, the person need not keep records indicating to whom eggs purchased from a particular dealer-wholesaler are sold.

(c) A person required to keep records under this section shall make the records available for inspection by the department at all reasonable times.

[Acts 1981, 67th Leg., p. 1319, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 132.062. Invoice

A licensed dealer-wholesaler or processor shall:

(1) deliver with each transaction, sale, or delivery a signed invoice stating the date, quantity, grade, and size of eggs sold; and

(2) keep a copy of the invoice for two years.

[Acts 1981, 67th Leg., p. 1320, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 132.063 to 132.070 reserved for expansion]

## SUBCHAPTER E. ENFORCEMENT

### § 132.071. Stop-Sale Order

(a) If the department determines that eggs are not in compliance with this chapter, the department shall issue and enforce an order to stop the sale of the eggs.

(b) A person may not sell eggs to which a stop-sale order applies until the department determines that the eggs are in compliance with this chapter.

(c) A person to whom a stop-sale order is issued may submit the eggs for reinspection to an authorized United States Department of Agriculture inspector. If on reinspection the eggs fail to meet the specifications of the grades with which they are labeled, the seller must re-mark or re-package the eggs to meet the specifications for their actual grades before selling the eggs.

[Acts 1981, 67th Leg., p. 1320, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 132.072. Suspension of License

If a person is convicted of an offense under this chapter, the department may suspend that person's license for a period not to exceed 90 days.

[Acts 1981, 67th Leg., p. 1320, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 132.073 to 132.080 reserved for expansion]

## SUBCHAPTER F. PENALTIES

### § 132.081. General Penalty

(a) A person commits an offense if the person violates a provision of this chapter.

(b) An offense under this chapter is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000.

[Acts 1981, 67th Leg., p. 1320, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 132.082. Selling Inedible Eggs

(a) A person commits an offense if the person sells, in bulk or in containers, eggs that are not denatured and are inedible for any reason, including eggs that are:

(1) leakers;

(2) affected by black, white, or mixed rot;

- (3) addled;
- (4) incubated; or

(5) contaminated by a blood ring or an embryo chick at or beyond the blood-ring stage.

(b) It is an exception to the application of this section that:

(1) the inedible eggs do not exceed five percent by count of the eggs sold; and

(2) the eggs are sold to:

(A) a dealer for candling and grading; or

(B) a breaking plant for breaking purposes.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000.

[Acts 1981, 67th Leg., p. 1320, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.083. Improper Use of the Prefix "U.S."**

(a) A person commits an offense if the person uses the prefix "U.S." on grades and weight classes of shell eggs that are not graded under official United States Department of Agriculture supervision.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000.

[Acts 1981, 67th Leg., p. 1321, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 132.084. Misleading Advertising**

(a) A person commits an offense if the person:

(1) advertises or sells shell eggs below the quality of Grade A by describing the eggs as "fresh," "yard," "selected," "hennery," "new-laid," "infertile," "cage," or with words that have similar meaning; or

(2) advertises eggs by price without also indicating the full, correct, and unabbreviated designation of size and grade of the eggs.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$1,000.

[Acts 1981, 67th Leg., p. 1321, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 133. POULTRY IMPROVEMENT BOARD**

Section  
133.001. Poultry Improvement Board.

**§ 133.001. Poultry Improvement Board**

(a) The Poultry Improvement Board of the Texas Poultry Improvement Association is the official state agency for the purpose of cooperating with the United States Department of Agriculture in administering the National Poultry Improvement Plan and

the National Turkey Improvement Plan and may adopt rules necessary to carry out the approved plans.

(b) The Poultry Improvement Board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act the board is abolished and this section expires September 1, 1987.

[Acts 1981, 67th Leg., p. 1321, ch. 388, § 1, eff. Sept. 1, 1981.]

**SUBTITLE B. LIVESTOCK**

**CHAPTER 141. COMMERCIAL FEED**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section
- 141.001. Definitions.
- 141.002. Commercial Feed.
- 141.003. Administration.
- 141.004. Rules; Minimum Standards.
- 141.005. Publications.
- 141.006. Custom Processing.

**SUBCHAPTER B. REGISTRATION**

- 141.021. Registration Required.
- 141.022. Application for Registration.
- 141.023. Term.
- 141.024. Changes in Guaranteed Composition.
- 141.025. Refusal or Cancellation.

**SUBCHAPTER C. LABELING**

- 141.051. Labeling of Packaged Commercial Feed.
- 141.052. Labeling of Bulk Commercial Feed.
- 141.053. Labeling of Customer-Formula Feed.
- 141.054. Labeling of Feed Containing Low-Grade Feeding Materials or Fillers.
- 141.055. Labeling of Feed Containing Medicine or Other Materials.

**SUBCHAPTER D. INSPECTION FEE**

- 141.071. Inspection Fee.
- 141.072. Tags or Certificates.
- 141.073. Tonnage Reporting.
- 141.074. Penalty for Late Payment.
- 141.075. Records; Additional Reports; Audits.
- 141.076. Refusal of Tag or Certificate; Revocation of Permit.
- 141.077. Disposition and Use of Fees.

**SUBCHAPTER E. INSPECTION, SAMPLING, AND ANALYSIS**

- 141.101. Inspection and Sampling; Entry Power.
- 141.102. Procedure for Sampling.
- 141.103. Identification of Sample.
- 141.104. Procedure for Analysis.
- 141.105. Independent Analysis of Sample.

**SUBCHAPTER F. ENFORCEMENT; REMEDIES**

- 141.121. Detention of Feed.
- 141.122. Condemnation of Detained Feed.
- 141.123. Warnings.
- 141.124. Suit to Recover Fees.
- 141.125. Prosecutions.
- 141.126. Venue for Civil and Criminal Actions.
- 141.127. Appeal of Administrative Order or Ruling.

## SUBCHAPTER G. PENALTIES

Section	
141.141.	General Penalty.
141.142.	Distribution of Customer-Formula Feed in Violation of Chapter.
141.143.	Distribution of Commercial Feed Without Registration, Labeling, or Payment of Inspection Fee.
141.144.	Refusal of Inspection or Sampling.
141.145.	Refusal to Pay Inspection Fee or Submit Records.
141.146.	Disposal of Detained Feed.
141.147.	Distribution of Misbranded Feed.
141.148.	Distribution of Adulterated Feed.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 141.001. Definitions

In this chapter:

(1) "Animal" means an animate being that is not human and has the power of voluntary action.

(2) "Brand" means the term, design, or trademark or other specific designation under which a commercial feed is distributed in this state.

(3) "Container" means a bag, box, barrel, package, carton, object, apparatus, device, or appliance in which commercial feed is packed, stored, or placed for handling or transporting.

(4) "Customer-formula feed" means a mixture of commercial feed or feed material all or part of which is furnished by the person who processes, mixes, mills, or otherwise prepares the mixture and which is mixed according to the specific instructions of the purchaser. The term includes a special formula feed or a made-to-order feed.

(5) "Director" means the director of the Texas Agricultural Experiment Station.

(6) "Distribute" means sell, offer for sale, barter, exchange, or otherwise supply.

(7) "Ingredient" means a constituent material of commercial feed.

(8) "Label" means a display of written, printed, or graphic matter on or affixed to a container or on an invoice or delivery slip.

(9) "Official sample" means a sample of feed taken by the director or the director's agent and designated as official by the director.

(10) "Purchaser" means a person who buys or otherwise acquires a commercial feed, customer-formula feed, or custom-mix or custom-mill service.

(11) "Ton" means a net weight of 2,000 pounds avoirdupois.

[Acts 1981, 67th Leg., p. 1323, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 141.002. Commercial Feed

(a) Except as otherwise provided by this section, a material is a commercial feed subject to this chapter if it is a simple, mixed, compounded, ground, unground, organic, or inorganic material used as a feed for an animal, including a vitamin, mineral, antibiot-

ic, antioxidant, medicine, drug, chemical, or other material used as an ingredient or component of a mixture of materials used as a feed for an animal.

(b) Except as specifically provided by this chapter, a customer-formula feed is a commercial feed subject to this chapter.

(c) The following are not commercial feeds subject to this chapter:

(1) unground hay;

(2) planting seed;

(3) cottonseed;

(4) whole grain not containing chemical adulterants;

(5) unadulterated cottonseed, peanut, or rice hulls;

(6) a feed product produced and sold by a farmer;

(7) an individual mineral substance not mixed with another material; or

(8) a material furnished by a purchaser for use in a customer-formula feed that was produced by the purchaser or acquired by the purchaser from a source other than the person whose services are engaged in the milling, mixing, or processing of a customer-formula feed.

(d) Regardless of whether a claim is made as to the prophylactic, therapeutic, or other purpose of the material, a mineral, vitamin, antibiotic, antioxidant, medicine, drug, or other material may be added to a commercial feed only if and in the manner authorized by the rules of the director. If guaranteed or claimed, the material is subject to inspection and analysis in accordance with the rules of the director. [Acts 1981, 67th Leg., p. 1324, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 141.003. Administration

(a) This chapter is administered by the director of the Texas Agricultural Experiment Station.

(b) The director may delegate responsibilities or powers under this chapter to representatives.

[Acts 1981, 67th Leg., p. 1324, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 141.004. Rules; Minimum Standards

Following notice and public hearing, the director may adopt rules as necessary for the enforcement of this chapter, including rules defining and establishing minimum standards for commercial feed. To the extent practicable, rules that define and establish minimum standards for commercial feed must be in harmony with the official standards of the Association of American Feed Control Officials. [Acts 1981, 67th Leg., p. 1324, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.005. Publications**

(a) At least annually, the director shall publish:

(1) information concerning the sales of commercial feeds, together with data on commercial feed production and use as the director considers advisable; and

(2) the results of the analyses of official samples of commercial feed distributed in this state as compared to the analyses guaranteed in the registration and on the label.

(b) The director may publish other information relating to feed as the director considers necessary or desirable to the public interest. The director shall prescribe the form of publications under this section.

(c) A publication under this section may not disclose the scope of operations of any person.

[Acts 1981, 67th Leg., p. 1325, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.006. Custom Processing**

This chapter does not apply to the mixing, milling, or processing of a material produced by a purchaser of commercial feed or acquired by the purchaser from a source other than the person who mixes, mills, or processes the material.

[Acts 1981, 67th Leg., p. 1325, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 141.007 to 141.020 reserved for expansion]

**SUBCHAPTER B. REGISTRATION**

**§ 141.021. Registration Required**

(a) Before distributing a brand of commercial feed in this state, other than a customer-formula feed, a person shall register the feed with the director.

(b) A person is not required to register a brand of commercial feed that has been registered by another person.

[Acts 1981, 67th Leg., p. 1325, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.022. Application for Registration**

(a) Each application for registration of a commercial feed shall include the following information relating to the feed:

(1) the name and principal address of the person responsible for distribution;

(2) the brand or the name under which the feed is to be distributed;

(3) the guaranteed analysis, listing in percentage by avoirdupois weight:

(A) the minimum percentage of crude protein;

(B) the minimum percentage of crude fat; and

(C) the maximum percentage of crude fiber;

(4) the maximum or minimum quantity determinable by laboratory method of each mineral, vitamin, antibiotic, antioxidant, medicine, drug, chemical, or other material; and

(5) the common or usual name of each ingredient used in the manufacture of the feed.

(b) If the home office or the principal place of business of the person applying for registration is located outside this state, the person shall deposit with the director a written instrument appointing a resident agent for service of legal process.

(c) If required by the director, application for registration must be accompanied by a label or other printed matter describing the product.

(d) An application for registration shall be submitted on forms furnished by the director. If the form is submitted in duplicate, the director shall provide the applicant with a copy of the approved registration.

[Acts 1981, 67th Leg., p. 1325, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.023. Term**

A registration of a commercial feed is permanent unless:

(1) the director or the registrant cancels the registration; or

(2) the director requires new registration.

[Acts 1981, 67th Leg., p. 1326, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.024. Changes in Guaranteed Composition**

The director may permit a change in the guarantee of the chemical or ingredient composition of a registered commercial feed if the registrant submits satisfactory evidence that the change will not result in a lowered feeding value of the product for the purpose for which it was designed.

[Acts 1981, 67th Leg., p. 1326, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.025. Refusal or Cancellation**

(a) Following notice and a hearing, the director may refuse to register a commercial feed that is not in compliance with this chapter.

(b) The director may cancel the registration of a commercial feed if the director finds that:

(1) the commercial feed is in violation of a provision of this chapter;

(2) the registrant has failed to comply with a provision of this chapter or a rule adopted under this chapter; or

(3) the registrant has used fraudulent or deceptive practices in attempted evasion of this chapter or a rule adopted under this chapter.

[Acts 1981, 67th Leg., p. 1326, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 141.026 to 141.050 reserved for expansion]

## SUBCHAPTER C. LABELING

**§ 141.051. Labeling of Packaged Commercial Feed**

(a) Each packaged commercial feed distributed in this state, other than customer-formula feed, must have a label with the following information:

(1) the net weight avoirdupois of the feed in the container, unless the net weight is shown on the container; and

(2) the information required on the registration application under Section 141.022(a) of this code.

(b) The manufacturer or other person distributing the feed shall affix the label required by this section to the outside of the container in a place prescribed by the director. The information must be grouped together and plainly printed in English in the size of type prescribed by the director.

(c) If the net weight is shown on the container rather than printed on the label, the net weight must be plainly printed in a conspicuous place in the size of type prescribed by the director.

[Acts 1981, 67th Leg., p. 1326, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.052. Labeling of Bulk Commercial Feed**

At the time of delivery of bulk commercial feed distributed in this state, other than customer-formula feed, the manufacturer or other person distributing the feed shall furnish the purchaser with a written or printed statement showing the information required on the registration application under Section 141.022(a) of this code.

[Acts 1981, 67th Leg., p. 1326, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.053. Labeling of Customer-Formula Feed**

(a) Except as provided by Subsection (b) of this section, a person distributing customer-formula feed in this state shall attach to the invoice furnished to the purchaser at the time of delivery a label showing:

(1) the name and address of the mixer, miller, or processor;

(2) the name and address of the purchaser;

(3) the date of sale;

(4) the name or brand and the number of pounds of each registered commercial feed used in the mixture; and

(5) the name and number of pounds of each other ingredient added to the mixture, including any ingredient supplied by the purchaser.

(b) If all ingredients for a customer-formula feed are furnished by the mixer, miller, or processor, the director may permit a customer-formula feed to be identified by means of an identifying name, number, or similar designation rather than by listing the

ingredients under Subsections (a)(4) and (a)(5) of this section. The director may adopt rules and prescribe forms for identification of a customer-formula feed under this subsection.

[Acts 1981, 67th Leg., p. 1327, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.054. Labeling of Feed Containing Low-Grade Feeding Materials or Fillers**

If a commercial feed contains hulls, shells, screenings, straw, stalks, corncobs, or other low-grade feeding materials or fillers, the name and percentage of the material or filler must be clearly and prominently printed on the label of the feed.

[Acts 1981, 67th Leg., p. 1327, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.055. Labeling of Feed Containing Medicine or Other Materials**

If a commercial feed contains a medicine, drug, or another material listed in Section 141.002(d) of this code, the label must show, in accordance with the rules of the director:

(1) the quantity of the material;

(2) a warning statement; and

(3) directions for use.

[Acts 1981, 67th Leg., p. 1327, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 141.056 to 141.070 reserved for expansion]

## SUBCHAPTER D. INSPECTION FEE

**§ 141.071. Inspection Fee**

(a) For each state fiscal year, a person who manufactures or distributes commercial feed or a component of commercial feed in this state, including a person who mixes, mills, or processes customer-formula feed, shall pay to the director at the director's office an inspection fee prescribed by this section.

(b) Except as otherwise provided by this section, the inspection fee is 12 cents per ton of commercial feed. With the approval of the board of regents of The Texas A & M University System, the director may reduce or increase the inspection in increments of 1 cent per fiscal year, as needed, to a minimum of 10 cents per ton or a maximum of 25 cents per ton.

(c) For each fiscal year or part of a fiscal year, a person who manufactures or distributes commercial feed in individual containers of five pounds or less may pay an advance inspection fee of \$25 for each brand of commercial feed manufactured or distributed. All others shall pay the fee on the basis of tags, certificates, or tonnage reporting, or a combination of those procedures, in accordance with this subchapter.

(d) A person is not required to pay an inspection fee on a portion of a customer-formula feed that is produced by the purchaser or acquired by the purchaser from a source other than the person who mixes, mills, or processes the mixture.

(e) The director by rule may provide that a person is not required to pay an inspection fee on commercial feed that the person manufactures or distributes solely for investigational, experimental, or laboratory use by qualified persons, if the investigation or experiment is conducted in the public interest.

[Acts 1981, 67th Leg., p. 1327, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.072. Tags or Certificates**

(a) In order to pay the inspection fee, a person may obtain from the director a tag or certificate printed with:

(1) a statement that all charges under this chapter have been paid; and

(2) the information required for a label under Subchapter C of this chapter.

(b) If the feed is not customer-formula feed and is distributed in a container, the person paying the fee shall affix a tag or certificate to each container of feed. If the feed is customer-formula feed or bulk feed, the person shall attach the tag or certificate to the invoice covering the feed.

(c) The director shall prescribe the form and denomination of tags and certificates under this section. If the actual cost of providing the tags or certificates, including the cost of printing and handling, is equal to more than 50 percent of the amount of the inspection fee, the director may charge the actual cost for the tags or certificates in addition to the amount of the inspection fee. The director shall give reasonable notice before charging the actual cost for tags or certificates.

[Acts 1981, 67th Leg., p. 1328, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.073. Tonnage Reporting**

(a) A person may pay the inspection fee on the basis of reports of the number of tons of feed manufactured or distributed in this state, regardless of the circumstances of the feed's entry into or presence in this state.

(b) In order to pay the fee on the basis of tonnage reporting, a person must apply to the department for a permit. In addition, the person shall deposit with the director:

(1) \$1,000 in cash or in securities acceptable to and approved by the director; or

(2) a surety bond approved by the director in the amount of \$1,000 that is payable to the State of Texas, executed by a corporate surety company authorized to do business in Texas or by at least

two good, sufficient, and solvent personal sureties, and conditioned on the faithful performance of the requirements of this chapter. The bond must be in a form prescribed by the director and is effective for the period of time prescribed by the director.

(c) If the director approves an application for a permit under this section, the director shall issue to the applicant a permit bearing an assigned number.

(d) The holder of the permit shall file with the director a quarterly sworn report setting forth the tonnage of all commercial feed that the person manufactured or distributed in this state during the preceding quarter. Each quarterly tonnage report must be accompanied by payment of the inspection fee due based on the tonnage reported for that quarter.

(e) A quarterly tonnage report and inspection fee payment is due before the 31st day following the last day of November, February, May, and August.

(f) The director may prescribe and furnish forms as necessary under this section.

[Acts 1981, 67th Leg., p. 1328, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.074. Penalty for Late Payment**

(a) If a person paying the inspection fee on the basis of tonnage reporting does not pay the fee before the 31st day following the last day of a quarter, the person shall pay a penalty equal to 10 percent of the inspection fee due.

(b) A penalty under this section is a debt and is recoverable out of the security deposited under Section 141.073(b) of this code.

[Acts 1981, 67th Leg., p. 1329, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.075. Records; Additional Reports; Audits**

(a) As required by the director, a person who pays the inspection fee on the basis of tonnage reporting shall maintain and furnish records that accurately reflect the total tonnage of feed manufactured, mixed, milled, processed, or distributed and the portion of the feed that is subject to the inspection fee. The director may require the person to file additional reports, including reports for the purpose of identifying or verifying the records maintained under this section.

(b) The director is entitled to examine at reasonable times the records maintained under this section.

(c) Unless otherwise authorized by the director, a person shall preserve and maintain the records under this section in usable condition for at least two years. The director may require a person to retain the records for a period longer than two years if the director determines it to be in the public interest.

(d) If a person is located outside this state, the person shall maintain records required under this section in this state or pay all costs incurred in the auditing of the records at another location. The director shall promptly furnish to the person an itemized statement of any costs incurred in an out-of-state audit and the person shall pay the costs before the 31st day following the date of the statement.

[Acts 1981, 67th Leg., p. 1329, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.076. Refusal of Tag or Certificate; Revocation of Permit**

(a) If a person fails to comply with this chapter or a rule adopted under this chapter, the director may:

(1) refuse to issue a tag or certificate to the person; or

(2) revoke the person's permit to pay the inspection fee on the basis of tonnage reporting.

(b) The director shall revoke the permit and cancel all registrations of a person who fails either to maintain records in this state or to pay for an out-of-state audit under Section 141.075(d) of this code.

[Acts 1981, 67th Leg., p. 1329, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.077. Disposition and Use of Fees**

(a) The director shall deposit fees collected under this subchapter in the state treasury to the credit of a special fund known as the feed control fund.

(b) The feed control fund shall be used, with the approval and consent of the board of regents of The Texas A & M University System, for administering this chapter, including paying the cost of:

(1) equipment and facilities;

(2) inspecting, analyzing, and examining commercial feed manufactured for distribution in this state; and

(3) experiments and research relative to the value of commercial feed.

[Acts 1981, 67th Leg., p. 1329, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 141.078 to 141.100 reserved for expansion]

**SUBCHAPTER E. INSPECTION, SAMPLING, AND ANALYSIS**

**§ 141.101. Inspection and Sampling; Entry Power**

In order to determine if feed is in compliance with this chapter, the director is entitled to:

(1) enter during regular business hours and inspect any place of business, mill, building, or vehicle and to open any container, bin, or parcel that is

used in the manufacture, transportation, importation, sale, or storage of commercial feed or is suspected of containing a commercial feed; and

(2) take samples from feed found during that inspection.

[Acts 1981, 67th Leg., p. 1330, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.102. Procedure for Sampling**

(a) The director shall take samples in the presence of the manufacturer or other person in possession of the feed or a representative of that person. If the person refuses to be present and take part in the sampling, the director may take samples in the presence of two disinterested witnesses.

(b) The director shall take samples in the number and quantity that the director determines to be representative of the lot of feed sampled.

(c) If the feed is in bulk, the director shall take portions at random from not less than four different locations in the bulk lot. The director shall thoroughly mix and divide those portions so that each part fairly represents the whole. Any of those parts may be considered the official composite sample of the bulk feed.

[Acts 1981, 67th Leg., p. 1330, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.103. Identification of Sample**

(a) Each sample taken shall be sealed with a label placed on the container of the sample showing:

(1) the serial number of the sample;

(2) the date on which the sample was taken; and

(3) the signature of the person who took the sample.

(b) Each sample shall be sent to the director. In addition, a report shall be sent to the director stating:

(1) the name or brand of the commercial feed or material sampled;

(2) the serial number of the sample;

(3) the manufacturer of the lot sampled, if known;

(4) the name of the person in possession of the lot sampled;

(5) the date and place of taking the sample;

(6) the name of the person who took the sample; and

(7) the name of each person witnessing the taking of the sample.

(c) For the purpose of properly identifying a sample with the lot sampled, the director is entitled to examine and copy any invoice, transportation record, or other record pertaining to the lot.

[Acts 1981, 67th Leg., p. 1330, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 141.104. Procedure for Analysis

(a) The director shall divide each sample into at least four equal portions and retain at least three portions for the purpose of independent analysis under Section 141.105 of this code.

(b) The analysis of a sample shall be made in accordance with the official methods of the Association of Official Analytical Chemists or other methods that the director considers authentic by research and investigation.

[Acts 1981, 67th Leg., p. 1331, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 141.105. Independent Analysis of Sample

(a) If the director finds through chemical analysis or another method that a commercial feed is in violation of a provision of this chapter, the director shall notify the manufacturer or other person who caused the feed to be distributed. The notice must be in writing and give full details of the director's findings.

(b) A person who receives a notice under this section may request that the director submit portions of the sample analyzed to other chemists for independent analysis. After receiving a request, the director shall submit two portions of the sample analyzed to two qualified chemists selected by the director. If requested, the director shall also submit one portion of the sample to the person requesting independent analysis. A request under this subsection must be filed with the director before the 16th day following the day on which the notice is given under Subsection (a) of this section.

(c) Each of the chemists selected by the director shall analyze the portion of the sample and certify findings to the director under oath. The findings shall be prepared in duplicate and the director shall forward one copy of each chemist's findings to the person who requested the independent analysis.

(d) The three chemical analyses obtained under this section may be considered in determining whether a violation of this chapter has occurred.

(e) Except as provided by this subsection, the person requesting independent analysis shall pay the cost of the analysis. If, as a result of the independent analysis, the director determines that a violation has not occurred, the director shall pay the cost of the analysis.

[Acts 1981, 67th Leg., p. 1331, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 141.106 to 141.120 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT; REMEDIES

§ 141.121. Detention of Feed

(a) If the director has reasonable cause to believe that a commercial feed is being distributed in violation of a provision of this chapter, the director shall affix to the container of the feed a written notice showing:

(1) a statement that the feed has been detained; and

(2) a warning to all persons not to dispose of the feed in any manner until the director or a court gives permission or until the detainer notice expires.

(b) If the director finds that a detained commercial feed is not in violation of this chapter, the director shall immediately remove the detainer notice.

(c) A detainer notice expires at the end of the 10th day following the day on which it was affixed unless, prior to that time, the director has instituted proceedings under Section 141.122 of this code to condemn the feed.

[Acts 1981, 67th Leg., p. 1331, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 141.122. Condemnation of Detained Feed

(a) If, after examination and analysis, the director finds that a detained commercial feed is in violation of a provision of this chapter, the director shall petition the district or county court in whose jurisdiction the feed is located for an order for the condemnation and confiscation of the feed. If the court determines that the feed is in violation of this chapter, the feed shall be disposed of by sale or destruction in accordance with the order of the court.

(b) If a condemned commercial feed is sold under Subsection (a) of this section, the proceeds of the sale, less court costs and charges, shall be paid into the state treasury.

(c) If the court finds that a violation of this chapter may be corrected by proper processing or labeling, the court may order that the feed be delivered to the owner of the feed for processing or labeling under the supervision of the director. Before entering that order, the court shall:

(1) enter the decree;

(2) require that all costs, fees, and expenses be paid; and

(3) require the owner of the feed to post good and sufficient bond conditioned on the proper labeling and processing of the feed.

(d) The owner of the feed shall pay all costs of the director's supervision of labeling or processing under Subsection (c) of this section. The court shall return the bond to the owner when the director notifies the

court that the commercial feed is no longer in violation of this chapter and that the owner has paid the expenses of supervision.

[Acts 1981, 67th Leg., p. 1332, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 141.123. Warnings

If the director determines that a violation of this chapter is of a minor nature and that the public interest will be served and protected by the issuance of a written warning, the director may issue the warning instead of proceeding to condemn the feed, reporting the violation for prosecution, or taking other administrative action.

[Acts 1981, 67th Leg., p. 1332, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 141.124. Suit to Recover Fees

The director may sue to recover an inspection fee or a penalty due under Subchapter D of this chapter. Venue for a suit under this section is in Brazos County.

[Acts 1981, 67th Leg., p. 1332, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 141.125. Prosecutions

(a) Each district attorney, criminal district attorney, or county attorney to whom the director reports a violation of this chapter shall cause appropriate proceedings to be instituted and prosecuted in the proper court without delay in the manner provided by law.

(b) Before reporting a violation of this chapter for prosecution, the director shall give the violator an opportunity to present his or her views.

[Acts 1981, 67th Leg., p. 1332, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 141.126. Venue for Civil and Criminal Actions

Except as provided by Section 141.124 of this code, venue for a civil action or criminal prosecution under this chapter is in the county in which the commercial feed is located at the time the alleged violation is discovered by or made known to the director.

[Acts 1981, 67th Leg., p. 1332, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 141.127. Appeal of Administrative Order or Ruling

A person who is aggrieved by an order or ruling of the director may appeal the order or ruling in the manner provided for contested cases by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1981, 67th Leg., p. 1333, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 141.128 to 141.140 reserved for expansion]

### SUBCHAPTER G. PENALTIES

#### § 141.141. General Penalty

(a) A person commits an offense if the person violates a provision of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1333, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 141.142. Distribution of Customer-Formula Feed in Violation of Chapter

(a) A person commits an offense if the person engages, conspires to engage, or causes another person to engage in the preparation, manufacture, or distribution of customer-formula feed in violation of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1333, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 141.143. Distribution of Commercial Feed Without Registration, Labeling, or Payment of Inspection Fee

(a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute commercial feed:

(1) that is required to be registered but is not registered in accordance with Subchapter B of this chapter;

(2) that is not labeled in accordance with Subchapter C of this chapter; or

(3) for which an inspection fee has not been paid in accordance with Subchapter D of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1333, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 141.144. Refusal of Inspection or Sampling

(a) A person commits an offense if the person refuses, conspires to refuse, or causes another person to refuse to permit entry, inspection, sampling, or the examination and copying of invoices or transportation records under Subchapter E of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1333, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.145. Refusal to Pay Inspection Fee or Submit Records**

(a) A person commits an offense if the person refuses, conspires to refuse, or causes another person to refuse to make records available, furnish reports, permit the examination of records, or pay an inspection fee in accordance with Subchapter D of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1333, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.146. Disposal of Detained Feed**

(a) A person commits an offense if the person disposes of detained feed in violation of Section 141.121 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1334, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.147. Distribution of Misbranded Feed**

(a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute commercial feed that:

(1) does not bear a tag or certificate, if the inspection fee is paid on the basis of tags or certificates;

(2) is not labeled in accordance with Subchapter C of this chapter;

(3) has a label that is false in any particular;

(4) has a container that is made, formed, or filled in a manner that is misleading; or

(5) purports to be or is represented as a commercial feed for which a definition of identity and a minimum standard have been prescribed by rule, but does not conform to the definition and standard.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1334, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 141.148. Distribution of Adulterated Feed**

(a) A person commits an offense if the person distributes, conspires to distribute, or causes another person to distribute commercial feed:

(1) that is of a composition, quantity, or quality that is below or is different from that which it is represented to possess by its label;

(2) that is moldy, sour, heated, or otherwise damaged, because of which it is injurious to animals;

(3) from which an ingredient has been omitted or extracted in whole or in part;

(4) that is inferior or is damaged and the inferiority or damage has been concealed;

(5) to which a substance has been added or with which a substance has been mixed or packed so as to deceptively increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is;

(6) that contains or bears a poisonous or deleterious substance that may render it injurious to animals under ordinary conditions of use;

(7) that contains a low-grade feeding material or filler but is not labeled in accordance with Section 141.054 of this code;

(8) that consists in whole or in part of a diseased, filthy, putrid, or decomposed substance, unless the substance has been rendered harmless by sterilization or other effective process; or

(9) that is otherwise unfit for feeding to animals.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1334, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 142. ESTRAYS**

Section	
142.001.	Purpose.
142.002.	Definition.
142.003.	Discovery and Impoundment.
142.004.	Notice of Estray; Estray Records.
142.005.	Advertisement.
142.006.	Recovery of Estray by Owner.
142.007.	Sale of Estray.
142.008.	Recovery by Owner of Proceeds of Sale.
142.009.	Escheat of Sale Proceeds.
142.010.	Use of Estray.
142.011.	Injury or Death of Estray.

**§ 142.001. Purpose**

The purpose of this chapter is to provide a method for finally disposing of an estray.

[Acts 1981, 67th Leg., p. 1335, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 142.002. Definition**

In this chapter, "estrays" means a stray horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jennet, hog, sheep, goat, or head of any species of cattle.

[Acts 1981, 67th Leg., p. 1335, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 142.003. Discovery and Impoundment**

(a) A person who discovers an estray on that person's property or on public property shall report

the presence of the animal to the sheriff of the county in which the animal is discovered. The person shall make the report as soon as reasonably possible.

(b) After receiving a report under Subsection (a) of this section, the sheriff or the sheriff's designee shall impound the animal and hold it for disposition as provided by this chapter.

[Acts 1981, 67th Leg., p. 1335, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 142.004. Notice of Estray; Estray Records

(a) After impounding an estray, the sheriff shall prepare a notice of estray stating at least:

- (1) the name and address of the person who reported the estray to the sheriff;
- (2) the location of the estray when found;
- (3) the location of the estray until disposition; and
- (4) a description of the animal, including its breed, if known, color, sex, age, size, markings of any kind, and other identifying characteristics.

(b) The sheriff shall file each notice of estray in the estray records in the office of the county clerk.

[Acts 1981, 67th Leg., p. 1335, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 142.005. Advertisement

If an estray has been impounded, the sheriff or the sheriff's designee shall make a diligent search for the owner of the estray in the county register of recorded brands. If the search does not reveal the owner, the sheriff or the sheriff's designee shall advertise the impoundment of the estray in a newspaper of general circulation in the county at least twice during the next 15 days and post a notice of the impoundment on the public notice board of the courthouse.

[Acts 1981, 67th Leg., p. 1335, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 142.006. Recovery of Estray by Owner

(a) The owner of an estray may recover possession of the estray at any time before the estray is sold under this chapter if:

- (1) the owner has provided the sheriff or the sheriff's designee with an affidavit of ownership under this section;
- (2) the sheriff or the sheriff's designee has approved the affidavit of ownership;
- (3) the approved affidavit of ownership has been filed in the estray records of the county clerk;
- (4) the owner has paid all estray handling expenses under this section;
- (5) the owner has executed an affidavit of receipt of estray under this section and delivered it to the sheriff; and

(6) the sheriff has filed the affidavit of receipt of estray in the estray records of the county clerk.

(b) An affidavit of ownership must contain at least the following information:

- (1) the name and address of the owner;
- (2) the date the owner discovered that the animal was an estray;
- (3) the property from which the animal strayed; and
- (4) a description of the animal, including its breed, color, sex, age, size, markings of any kind, and other identifying characteristics.

(c) The owner of the estray shall pay the expenses incurred by a person or by a sheriff, sheriff's designee, or the county in impounding, handling, seeking the owner of, or selling the estray.

(d) An affidavit of receipt of estray must contain at least the following information:

- (1) the name and address of the person receiving the estray;
- (2) the day of receipt of the estray;
- (3) the method of claim to the estray, either previous owner or purchaser at sale;
- (4) if purchased at sale, the amount of the gross purchase price of the estray;
- (5) the estray handling expenses paid; and
- (6) the net proceeds of any sale of the estray.

[Acts 1981, 67th Leg., p. 1336, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 142.007. Sale of Estray

(a) If the ownership of an estray is not determined before the 15th day following the day of the final advertisement under this chapter, the county has title to the animal and the sheriff or the sheriff's designee shall cause the animal to be sold at a public auction licensed by the United States Department of Agriculture. Title to the animal shall be considered vested in the sheriff or the sheriff's designee for purposes of passing good title, free and clear of all claims, to the purchaser at the sale.

(b) The purchaser of an estray at public auction may take possession of the animal on payment of the purchase price.

(c) The sheriff shall receive the proceeds of the sale of the animal and shall:

- (1) pay all estray handling expenses to those entitled to receive them;
- (2) execute a report of sale of impounded stock; and
- (3) cause the report of sale of impounded stock to be filed in the estray records of the county clerk.

(d) The net proceeds remaining from the sale of an estray after all estray handling expenses have

been paid shall be delivered by the sheriff to the county treasurer. The county treasurer shall deposit the net proceeds to the credit of the jury fund of the county for the uses made of that fund, subject to claim by the original owner of the estray as provided by this chapter.

[Acts 1981, 67th Leg., p. 1336, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 142.008. Recovery by Owner of Proceeds of Sale**

Within one year after the date of sale of an estray under this chapter, the original owner of the estray may recover the net proceeds of the sale if:

(1) the owner has provided the sheriff with an affidavit of ownership containing the information prescribed by Section 142.006(b) of this code;

(2) the sheriff has approved the affidavit; and

(3) the approved affidavit has been filed in the estray records of the county clerk.

[Acts 1981, 67th Leg., p. 1337, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 142.009. Escheat of Sale Proceeds**

After the expiration of one year from the date of sale of an estray under this chapter, the sale proceeds escheat to the state.

[Acts 1981, 67th Leg., p. 1337, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 142.010. Use of Estray**

During the period an estray is held by a person who impounded the estray, the animal may not be used by the person for any purpose.

[Acts 1981, 67th Leg., p. 1337, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 142.011. Injury or Death of Estray**

A person who has impounded an estray is liable for any abuse or negligent injury of the animal. If the animal dies or escapes while held by the person who impounded it, the person shall report the death or escape to the sheriff or the sheriff's designee under oath. That report shall be filed in the estray records of the county clerk.

[Acts 1981, 67th Leg., p. 1337, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 143. FENCES; RANGE RESTRICTIONS**

**SUBCHAPTER A. FENCING OF CULTIVATED LAND**

Section	
143.001.	Sufficient Fence Required.
143.002.	Gate.
143.003.	Trespass by Livestock on Fenced Property.
143.004.	Impoundment of Trespassing Livestock.
143.005.	Liability for Injury to Trespassing Livestock.

**SUBCHAPTER B. LOCAL OPTION TO PREVENT CERTAIN ANIMALS FROM RUNNING AT LARGE**

Section	
143.021.	Petition for Election.
143.022.	Election Orders.
143.023.	Election.
143.024.	Effect of Election; Adoption of Subchapter.
143.025.	Subsequent Elections to Adopt Subchapter.
143.026.	Repeal.
143.027.	Extension of Subchapter to Adjoining Area by Order.
143.028.	Fences.
143.029.	Trespassing Animals; Impoundment by Individual.
143.030.	Fees and Damages.
143.031.	Impounding of Animals by Sheriff or Constable.
143.032.	Sale of Impounded Animal.
143.033.	Injury to Trespassing Animal.
143.034.	Penalty.

**SUBCHAPTER C. LOCAL OPTION LIMITED FREE RANGE FOR HOGS**

143.051.	Petition for Election.
143.052.	Election Orders.
143.053.	Election.
143.054.	Effect of Election.
143.055.	Subsequent Elections to Adopt or Repeal Free Range.
143.056.	Combined Elections.

**SUBCHAPTER D. LOCAL OPTION TO PREVENT CATTLE OR DOMESTIC TURKEYS FROM RUNNING AT LARGE**

143.071.	Petition for Election.
143.072.	Exceptions; Countywide Elections.
143.073.	Election.
143.074.	Effect of Election; Adoption of Subchapter.
143.075.	Subsequent Elections to Adopt Subchapter.
143.076.	Repeal.
143.077.	Fences.
143.078.	Trespassing Animals; Impoundment by Individual.
143.079.	Fees and Damages.
143.080.	Impoundment of Animals by Sheriff or Constable.
143.081.	Sale of Impounded Animal.
143.082.	Penalty.

**SUBCHAPTER E. ANIMALS RUNNING AT LARGE ON HIGHWAYS**

143.101.	Definition.
143.102.	Running at Large on Highway Prohibited.
143.103.	Immunity from Liability.
143.104.	Herding of Livestock Along Highway.
143.105.	Impounding of Livestock.
143.106.	Enforcement.
143.107.	Conflict with Other Law.
143.108.	Penalty.

**SUBCHAPTER F. REMOVAL OF ADJOINING FENCES**

143.121.	Prohibition.
143.122.	Removal of Fence by Owner.
143.123.	Requiring Removal of Fence by Another Person.

**SUBCHAPTER G. USE OF GRAZING LAND UNDER COMMON FENCE**

143.131.	Definition.
143.132.	Use of Grazing Land Under Common Fence.
143.133.	Remedies.
143.134.	Penalty.

SUBCHAPTER A. FENCING OF CULTIVATED  
LAND

§ 143.001. Sufficient Fence Required

Except as provided by this chapter for an area in which a local option stock law has been adopted, each gardener or farmer shall make a sufficient fence around cleared land in cultivation that is at least five feet high and will prevent hogs from passing through.

[Acts 1981, 67th Leg., p. 1339, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.002. Gate

A person may not build, join, or maintain around cleared land in cultivation more than three miles lineal measure of fence running the same general direction without a gate that is at least 10 feet wide and is unlocked.

[Acts 1981, 67th Leg., p. 1339, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.003. Trespass by Livestock on Fenced Property

(a) If any livestock, including cattle, horses, or hogs, trespass on the cleared and cultivated land of a person, that person may file a complaint with a justice of the peace in the county in which the trespass occurred. On receiving the complaint, the justice shall summon two impartial and disinterested freeholders and shall, with those freeholders, examine the fence and land and determine if the person's fence was sufficient and what damages, if any, the person sustained as a result of the trespass. The justice and the freeholders shall certify their findings under oath in writing.

(b) If the justice and freeholders determine that the fence of the complaining person is sufficient, the owner of the trespassing livestock is liable to that person for damages resulting from the trespass. If the fence is found to be insufficient, the owner of the trespassing livestock is not liable to the complaining person.

[Acts 1981, 67th Leg., p. 1339, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.004. Impoundment of Trespassing Livestock

(a) If the same livestock trespass more than once on cleared and cultivated land, the owner, lessee, or proprietor of the premises on which the trespass occurs may impound the livestock if the person considers it necessary for the protection and preservation of the premises or the crops growing on the premises.

(b) A person who impounds livestock under Subsection (a) of this section shall turn the livestock over to the sheriff or a constable. The impounded livestock may be sold in order to compensate the injured person for damages and costs resulting from the trespass and impoundment.

[Acts 1981, 67th Leg., p. 1340, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.005. Liability for Injury to Trespassing Livestock

If a person whose fence is judged insufficient under this subchapter maims, wounds, or kills trespassing livestock by any means, including with a gun or a dog, the person is liable to the owner of the livestock for damages to that livestock.

[Acts 1981, 67th Leg., p. 1340, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 143.006 to 143.020 reserved for expansion.]

SUBCHAPTER B. LOCAL OPTION TO PREVENT  
CERTAIN ANIMALS FROM RUNNING  
AT LARGE

§ 143.021. Petition for Election

(a) In accordance with this section, the freeholders of a county or an area within a county may petition the commissions court to conduct an election for the purpose of determining if horses, mules, jacks, jennets, donkeys, hogs, sheep, or goats are to be permitted to run at large in the county or area.

(b) A petition for a countywide election must be signed by at least 50 freeholders. Except as otherwise provided by Subsection (c) of this section, a petition for an election in an area within a county must be signed by at least 20 freeholders.

(c) A petition for an election in an area may be signed by a majority of the freeholders in the area if the area has fewer than 50 freeholders and is between two areas of the county that have previously adopted this subchapter or is adjacent to another area, in that county or another county, that has adopted this subchapter. If the petitioning area is adjacent to an area in another county, the freeholders shall petition the commissioners court of the county in which the petitioning area is located.

(d) The petition must:

(1) clearly state each class of animal that the petitioners seek to prohibit from running at large; and

(2) describe the boundaries of the area in which the election is to be held, if the election is to be less than countywide.

[Acts 1981, 67th Leg., p. 1340, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.022. Election Orders

(a) After receiving a petition under this subchapter, the commissioners court at its next regular term shall order that an election be held throughout the county or in the petitioning area, as determined by the petition. The order shall designate a date for the election that is not less than 30 days after the date of the order.

(b) Immediately after passage of a commissioners court order for an election, the county judge shall issue an order for the election that specifies:

- (1) the petition and the action of the commissioners court;
- (2) each class of animal that is not to be permitted to run at large;
- (3) the territorial limits of the area to be affected;
- (4) the date of the election; and
- (5) the location of the polls.

(c) The county judge shall give public notice of the election by publishing the order under Subsection (b) of this section in a newspaper published in the county. If no newspaper is published in the county, a copy of the order shall be posted at the courthouse door and at a public place in each justice precinct for a countywide election or at three public places in the petitioning area for an election to be held in an area of the county. Notice must be given for at least 30 days before the date of the election. [Acts 1981, 67th Leg., p. 1341, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.023. Election**

(a) If the election is not countywide, the county judge at the time the election order is issued shall appoint election officers for the election. In order to serve as an election officer, a person must be a freeholder of the county and a qualified voter. The election officers may appoint their own clerks.

(b) If the election is countywide, it shall be held at the usual voting places in the election precincts. If the election is not countywide, the county judge shall designate the particular places in the petitioning area at which the polls are to be open.

(c) In order to vote at an election, a person must be a freeholder and a qualified voter.

(d) Ballots for the election shall be printed to provide for voting for or against the proposition, "Letting \_\_\_\_\_ run at large," with the blank space printed with the name of each animal designated in the election order.

(e) The election officers shall make returns to the county judge of all votes cast for each proposition not later than the 10th day after the day of the election. The commissioners court shall open, tabulate, and count the returns in the manner provided for general elections in this state. The county judge shall immediately issue a proclamation declaring the result and post the proclamation at the courthouse door.

[Acts 1981, 67th Leg., p. 1341, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.024. Effect of Election; Adoption of Subchapter**

(a) If a majority of the votes in an election are cast against the proposition, this subchapter is adopted and, after the 30th day following the date on which the proclamation of results is issued, a person may not permit any animal of the class mentioned in the proclamation to run at large in the county or area in which the election was held.

(b) Sections 143.023-143.034 of this code apply only in the county or area in which this subchapter has been adopted.

[Acts 1981, 67th Leg., p. 1341, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.025. Subsequent Elections to Adopt Subchapter**

(a) Except as provided by Subsection (b) of this section, if this subchapter is not adopted at an election, another election for that purpose may not be held in the county or area in which the election was held earlier than one year after the date of the election.

(b) Defeat of adoption of this subchapter at a countywide election does not prevent another election for that purpose from being held immediately thereafter for an area within the county. Defeat of adoption of this subchapter at an election held in an area within a county does not prevent a countywide election for that purpose from being held immediately thereafter.

[Acts 1981, 67th Leg., p. 1342, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.026. Repeal**

(a) The freeholders of a county or an area in which this subchapter has been adopted may petition the commissioners court to conduct an election for repeal of that adoption. The petition must be signed by a majority of the freeholders who are qualified voters in the county or area subject to this subchapter.

(b) An election under this section shall be ordered and conducted, the returns shall be made, and the results shall be declared in the same manner provided by this subchapter for an election to adopt this subchapter.

(c) An election under this section may not be held earlier than two years after the date of the last election under this subchapter in the applicable county or area.

(d) If at an election under this section a majority of the votes are cast for allowing the named animals to run at large, after the expiration of 180 days after the date of the proclamation of results a person may permit an animal of the class mentioned in the proclamation to run at large in the county or area in which the election was held. If a majority of

the votes are cast against letting the named animals run at large, the operation of this subchapter in the county or area is not affected.

[Acts 1981, 67th Leg., p. 1342, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.027. Extension of Subchapter to Adjoining Area by Order**

A commissioners court by order shall extend application of this subchapter to territory that is between two areas of the county that have adopted this subchapter or is adjacent to an area, in that county or in another county, that has adopted this subchapter if:

(1) there are fewer than 20 freeholders in the territory and a majority of the owners of the land in the territory petition the court to extend application of this subchapter to that area;

(2) there are no freeholders in the territory and the owners of the land petition the commissioners court to extend application of this subchapter to that territory; or

(3) a person who owns land that is adjacent to land to which this subchapter has been extended petitions the court to extend application of this subchapter to that person's land.

[Acts 1981, 67th Leg., p. 1342, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.028. Fences**

(a) A person is not required to fence against animals that are not permitted to run at large. Except as otherwise provided by this section, a fence is sufficient for purposes of this chapter if it is sufficient to keep out ordinary livestock permitted to run at large.

(b) In order to be sufficient, a fence must be at least four feet high and comply with the following requirements:

(1) a barbed wire fence must consist of three wires on posts no more than 30 feet apart, with one or more stays between every two posts;

(2) a picket fence must consist of pickets that are not more than six inches apart;

(3) a board fence must consist of three boards not less than five inches wide and one inch thick; and

(4) a rail fence must consist of four rails.

(c) The freeholders of the county or area may petition the commissioners court for an election to determine whether three barbed wires without a board are to constitute a sufficient fence in the county or area. The election shall be conducted in the same manner and is governed by the same provisions of this subchapter provided for elections on the adoption of this subchapter.

[Acts 1981, 67th Leg., p. 1342, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.029. Trespassing Animals; Impoundment by Individual**

(a) If an animal not permitted to run at large enters the enclosed land or, without being herded with other animals, roams about the residence, lot, or cultivated land of another person without the person's consent, that person, whether owner, lessee, or other person in lawful possession of the land, may impound the animal and detain it until all damages and fees under this subchapter have been paid by the owner of the animal. After impounding an animal under this subsection, the person shall immediately give notice to the owner of the animal and shall return possession of the animal to the owner after receiving payment of the fees and damages. If the owner of the animal is unknown, the person impounding the animal may, after five days, treat the animal as an estray under Chapter 142 of this code or may have the animal sold under Section 143.032 of this code.

(b) If a trespass has been committed by any cattle or horses on the cleared or cultivated land of any person who has complied with this subchapter in erecting a sufficient fence, the person may file a complaint with the justice of the peace of the precinct in which the trespass was committed. On receiving the complaint, the justice shall summon two impartial and disinterested freeholders and shall, with those freeholders, examine the fence and land and determine if the person's fence was sufficient and what damages, if any, the person sustained as a result of the trespass. The justice and the freeholder<sup>1</sup> shall certify their findings under oath in writing. If they determine that the fence of the complaining person was sufficient, the owner of the trespassing animals is liable to that person for damages resulting from the trespass. If the same cattle or horses trespass a second time on the cleared and cultivated land of the person, the person may impound the animals if he or she considers it necessary for the protection and preservation of the premises or the crops growing on the premises. A person who impounds animals under this section shall turn them over to the sheriff or constable and the impounded animals may be sold in order to compensate the injured person for damages and costs resulting from the trespass and impoundment. In addition, the person impounding the animals may charge the owner 25 cents per day per animal impounded.

[Acts 1981, 67th Leg., p. 1343, ch. 388, § 1, eff. Sept. 1, 1981.]

<sup>1</sup> So in enrolled bill.

**§ 143.030. Fees and Damages**

(a) Except as provided by Subsection (b) of this section, a person who impounds animals under this

subchapter is entitled to the following fees for each day in which the person detains the animals:

Horses or mules	50 cents a head
Jacks or jennets	30 cents a head
Hogs	25 cents a head
Sheep or goats	15 cents a head

(b) In Menard County, a person who impounds hogs is entitled to a fee not to exceed \$5 a head for each day the person detains the hogs.

(c) The fees due under this section and the damages owed as a result of trespass by animals shall be assessed by three disinterested freeholders of the county or area in which this subchapter has been adopted. If this subchapter is applicable to an area within a county, the justice of the peace of the precinct in which the area is located shall appoint the freeholders on application of the person who impounds the animals. If the justice fails or refuses to make the appointments or if this subchapter has been adopted for the entire county, the county judge shall make the appointments.

(d) If the owner of the animals is known, the owner shall be given at least five days' notice of the meeting of the freeholders. If the owner is unknown, written notice of the meeting shall be posted at two public places in the applicable area or county and at the courthouse door.

(e) After being sworn to discharge their duties impartially, the appointed freeholders shall examine the evidence and determine whether a trespass prohibited by this subchapter has occurred, the amount of damages incurred, if any, and the fees owed to the person who impounded the animals. The freeholders shall make their determination of fees and damages in a written assessment and file that assessment with the justice of the peace. The assessment must be signed by at least two of the freeholders and verified by an affidavit of each freeholder to the effect that the assessment is just and that each freeholder has no bias in favor of or against any interested party.

(f) The assessment of the freeholders is final. [Acts 1981, 67th Leg., p. 1344, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.031. Impounding of Animals by Sheriff or Constable**

(a) The sheriff or a constable of the county or area shall seize and impound in a place provided for that purpose any animal that the sheriff or constable knows to be running at large in violation of this subchapter. If the officer knows who the owner of the animal is, the officer shall immediately notify the owner that the animal has been impounded.

(b) Except as provided by Subsection (c) of this section, an owner of an animal impounded under this section may redeem the animal on payment of an impoundment fee of \$1 plus an additional fee in the

following amount for each day the animal was impounded:

Horses or mules	\$1 a head
Jacks or jennets	50 cents a head
Sheep, goats, or hogs	25 cents a head

(c) In Menard County, the owner of impounded hogs shall pay an impoundment fee of \$1 plus an additional fee not to exceed \$5 a head for each day the hogs were impounded.

[Acts 1981, 67th Leg., p. 1344, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.032. Sale of Impounded Animal**

(a) If the owner of an animal impounded under this subchapter is known, the animal may be sold in accordance with this section if:

(1) the animal was impounded by an individual and an assessment of fees and damages under this subchapter has been filed; or

(2) the animal was impounded by a sheriff or constable and five days have expired following notice of the impoundment to the owner.

(b) If the owner of an animal impounded under this subchapter is unknown, the animal may be sold in accordance with this section if the individual or officer who impounded the stock makes an affidavit before a justice of the peace that describes the animal and states that the owner is unknown. The justice of the peace shall file the affidavit with the county clerk and the county clerk shall maintain the affidavit open for inspection in the clerk's office.

(c) The constable of the precinct in which the animal was impounded shall sell the animal at public auction for cash. The constable shall give notice of the sale in the manner provided by the Rules of Civil Procedure for the execution sale of personal property.

(d) The proceeds of the sale shall be applied to the expenses of the sale and then to the fees and damages owed to the person impounding the animal. If the owner of the animal is known, any balance remaining shall be paid to the owner. If the owner of the animal is unknown, the constable shall report the balance under oath to the county clerk, who shall remit the funds to the county treasurer. If an individual impounded the animal, the county treasurer shall deposit and disburse the funds in the manner provided by Chapter 142 of this code for proceeds from the sale of an estray. If an officer impounded the animal, the county treasurer shall deposit the funds to the credit of the road and bridge fund of the county.

[Acts 1981, 67th Leg., p. 1345, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.033. Injury to Trespassing Animal**

If a person whose fence is insufficient under this subchapter maims, wounds, or kills a head of cattle or a horse, mule, jack, or jennet, or procures the maiming, wounding, or killing of one of those animals, by any means, including a gun or a dog, the person is liable to the owner of the animal for damages. This section does not authorize a person to maim, wound, or kill any horse, mule, jack, jennet, or head of cattle of another person.

[Acts 1981, 67th Leg., p. 1345, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.034. Penalty**

(a) A person commits an offense if the person knowingly:

(1) turns out or causes to be turned out on land that does not belong to or is not under the control of the person an animal that is prohibited from running at large under this subchapter;

(2) fails or refuses to keep up an animal that is prohibited from running at large under this subchapter;

(3) allows an animal to trespass on the land of another in an area or county in which the animal is prohibited from running at large under this subchapter; or

(4) as owner, agent, or person in control of the animal, permits an animal to run at large in an area or county in which the animal is prohibited from running at large under this subchapter.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1981, 67th Leg., p. 1345, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 143.035 to 143.050 reserved for expansion]

**SUBCHAPTER C. LOCAL OPTION LIMITED  
FREE RANGE FOR HOGS**

**§ 143.051. Petition for Election**

(a) The freeholders of a county or an area that has adopted Subchapter B of this chapter or the freeholders of an area that is between two areas of a county that have adopted Subchapter B of this chapter may petition the commissioners court to conduct an election for the purpose of determining whether hogs are to be permitted to run at large in the county or area for a period beginning on November 15 of each year and ending on February 15 of the following year.

(b) A petition for a countywide election must be signed by at least 50 freeholders. A petition for an election in an area of a county that has adopted Subchapter B of this chapter must be signed by at

least 20 freeholders. A petition for an election in an area that is between two areas that have adopted Subchapter B of this chapter and in which there are fewer than 50 freeholders must be signed by a majority of the freeholders in the area.

(c) If the election is to be less than countywide, the petition must describe the boundaries of the area in which the election is to be held in the same manner as the description provided for the election on adoption of Subchapter B of this chapter.

[Acts 1981, 67th Leg., p. 1346, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.052. Election Orders**

(a) After receiving a petition under this subchapter, the commissioners court shall order an election to be held throughout the county or in the petitioning area, as determined by the petition. The order may be entered at a regular or special meeting of the court and shall designate a date for the election that is not less than 30 days after the date of the order.

(b) Immediately after passage of a commissioners court order for an election, the county judge shall issue an order for the election that specifies:

(1) the petition and action of the commissioners court;

(2) the classes of animals that are to be allowed a limited period of free range;

(3) the period in which the animals are to have free range;

(4) the territorial limits of the area to be affected;

(5) the day of the election; and

(6) the location of the polls.

(c) The county judge shall give public notice of the election in the manner provided by Section 143.022 of this code for an election on the adoption of Subchapter B of this chapter.

[Acts 1981, 67th Leg., p. 1346, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.053. Election**

(a) Except as provided by this section, the election shall be conducted, the returns made, and the results declared in accordance with Section 143.023 of this code and the laws regulating general elections.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition, "The limited period of free range for hogs."

[Acts 1981, 67th Leg., p. 1346, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.054. Effect of Election**

If a majority of the votes cast are for the limited period of free range for hogs, after the 10th day following the date on which the proclamation is

issued a person may permit hogs to run at large in the county or area in which the election was held during the period beginning on November 15 of each year and ending on February 15 of the following year.

[Acts 1981, 67th Leg., p. 1346, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.055. Subsequent Elections to Adopt or Repeal Free Range**

(a) Except as provided by Subsection (b) of this section, if an election is held under this subchapter another election for the purpose of adopting or repealing the limited period of free range may not be held in that county or area within two years after the date of the election.

(b) If the limited period of free range is defeated at a countywide election, this section does not prohibit another election on the proposition from being held immediately thereafter for an area within the county. If the limited period of free range is defeated at an election in an area within a county, no other election covering that area may be held except an election in the same area, which must be held at least one year after the prior election.

(c) If at a subsequent election in a county or area that has adopted the limited period of free range the majority of votes are cast against the proposition, the limited period of free range is repealed and a person may not permit hogs to run at large in that county or area effective on the 11th day following the day on which the proclamation is issued. If the majority of the votes are cast for the proposition, the operation of the limited period of free range is not affected.

[Acts 1981, 67th Leg., p. 1347, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.056. Combined Elections**

An election under this subchapter may be held at the same time as an election under Subchapter B of this chapter, but the propositions must be submitted and voted on as separate issues and the returns and proclamations of results must be separate for each proposition.

[Acts 1981, 67th Leg., p. 1347, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 143.057 to 143.070 reserved for expansion]

**SUBCHAPTER D. LOCAL OPTION TO PREVENT CATTLE OR DOMESTIC TURKEYS FROM RUNNING AT LARGE**

**§ 143.071. Petition for Election**

(a) In accordance with this section, the freeholders of a county or an area within a county may petition commissioners court to conduct an election for the

purpose of determining if cattle are to be permitted to run at large in the county or area.

(b) The freeholders of any political subdivision of Bastrop, Blanco, Clay, Collin, DeWitt, Gonzales, Gillespie, Guadalupe, Parker, or Wise County may petition the commissioners court to conduct an election in the subdivision for the purpose of determining if domestic turkeys are to be permitted to run at large in the subdivision.

(c) A petition for a countywide election on the running at large of cattle must be signed by at least 35 freeholders. Except as provided by Subsection (d) of this section, a petition for an election on the running at large of cattle in an area within a county must be signed by at least 15 freeholders. A petition for an election on the running at large of domestic turkeys must be signed by at least 25 freeholders.

(d) A petition for an election in an area may be signed by a majority of the freeholders in the area if the area has fewer than 50 freeholders and is between two areas of the county that have previously adopted this subchapter.

(e) A petition must:

(1) clearly state each class of animal that the petitioners seek to prohibit from running at large; and

(2) describe the boundaries of the area in which the election is to be held, if the election is to be less than countywide.

[Acts 1981, 67th Leg., p. 1347, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.072. Exceptions; Countywide Elections**

The following counties may not conduct a countywide election on the running at large of cattle: Andrews, Coke, Culberson, Hardin, Hemphill, Hudspeth, Jasper, Jefferson, Kenedy, Kinney, LaSalle, Loving, Motley, Newton, Presidio, Roberts, Schleicher, Terry, Tyler, Upton, Wharton, or Yoakum.

[Acts 1981, 67th Leg., p. 1348, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.073. Election**

(a) Except as provided by this section, the election is governed by Sections 143.022 and 143.023 of this code.

(b) The ballot shall be printed to provide for voting for or against the proposition: "Adoption of the stock law."

(c) The county judge shall open, tabulate, and count the returns in the presence of the county clerk and at least one justice of the peace of the county or in the presence of at least two respectable freeholders of the county. Following that, an order showing the results of the election shall be recorded in the minutes of the commissioners court. The order is

prima facie evidence that the requirements of this chapter have been complied with in relation to presenting the petition, ordering the election by the commissioners court, giving notice, holding the election, counting and returning votes, and declaring the results. If the result is in favor of the proposition, after the expiration of 30 days after the date of the order, the order is prima facie evidence that the proclamation required by law has been made and published.

[Acts 1981, 67th Leg., p. 1348, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 143.074. Effect of Election; Adoption of Subchapter

(a) If a majority of the votes cast in an election are for the proposition, this subchapter is adopted and, after the 30th day following the date on which the proclamation of results is issued, a person may not permit any animal of the class mentioned in the proclamation to run at large in the county or area in which the election was held.

(b) Sections 143.077—143.082 of this code apply only in a county or area in which this subchapter has been adopted.

[Acts 1981, 67th Leg., p. 1348, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 143.075. Subsequent Elections to Adopt Subchapter

(a) Except as provided by Subsection (b) of this section, if this subchapter is not adopted at an election, no other election for that purpose may be held in the county or area in which the election was held within one year after the date of the election.

(b) If adoption of this subchapter is defeated at a countywide election, this section does not prohibit another election on the proposition from being held immediately thereafter for an area within the county. If adoption of this subchapter is defeated at an election in an area within a county, no other election covering that area may be held except an election in the same area, which must be held at least one year after the prior election.

[Acts 1981, 67th Leg., p. 1348, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 143.076. Repeal

(a) In accordance with this section, the freeholders of a county or an area in which this subchapter has been adopted may petition the commissioners court to conduct an election for repeal of that adoption.

(b) A petition for a countywide election must be signed by at least 200 freeholders of the county, including 24 freeholders from each justice precinct. A petition for an election in an area within a county must be signed by at least 50 freeholders of the area.

(c) Except as provided by this section, the election is governed by the provisions of this subchapter relating to the original election.

(d) If this subchapter has been adopted for the entire county, it may not be repealed for an area within the county unless two-thirds of the votes cast at a countywide election favor repeal for that area. [Acts 1981, 67th Leg., p. 1349, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 143.077. Fences

A fence is sufficient for purposes of this chapter if it is sufficient to keep out the classes of animals not affected by this subchapter.

[Acts 1981, 67th Leg., p. 1349, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 143.078. Trespassing Animals; Impoundment by Individual

If an animal not permitted to run at large enters the enclosed land or, without being herded with other animals, roams about the residence, lot, or cultivated land of a person without the person's consent, that person, whether owner, lessee, or other person in lawful possession of the land, may impound the animal and detain it until all fees and damages under this subchapter have been paid by the owner of the animal. After impounding an animal under this section, the person shall immediately give notice to the owner of the animal and shall return possession of the animal to the owner after receiving payment of the fees and damages.

[Acts 1981, 67th Leg., p. 1349, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 143.079. Fees and Damages

A person who impounds animals under this subchapter is entitled to a fee of 35 cents a head for cattle or 10 cents a head for domestic turkeys for each day in which the person detains the animals. The fees and damages shall be assessed in the manner provided by Section 143.030 of this code.

[Acts 1981, 67th Leg., p. 1349, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 143.080. Impoundment of Animals by Sheriff or Constable

(a) The sheriff or a constable of the county or area shall seize and impound in a place provided for that purpose an animal that the sheriff or constable knows to be running at large in violation of this subchapter. If the officer knows who the owner of the animal is, the officer shall immediately notify the owner that the animal has been impounded.

(b) The owner of an animal impounded under this section may redeem the animal on payment of an impoundment fee of \$1. If cattle are impounded, the owner shall pay an additional fee of \$1 a head for each day on which the animals were impounded. [Acts 1981, 67th Leg., p. 1349, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.081. Sale of Impounded Animal**

An animal impounded under this subchapter may be sold in accordance with Section 143.032 of this code, except that if the owner of the animal is unknown, any balance of the proceeds of the sale remaining after the payment of expenses, fees, and damages shall be deposited to the credit of the road and bridge fund of the county, regardless of who impounded the animal.

[Acts 1981, 67th Leg., p. 1349, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.082. Penalty**

(a) A person commits an offense if the person knowingly permits a head of cattle or a domestic turkey to run at large in a county or area that has adopted this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$5 nor more than \$200.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 143.083 to 143.100 reserved for expansion]

**SUBCHAPTER E. ANIMALS RUNNING AT LARGE ON HIGHWAYS**

**§ 143.101. Definition**

In this subchapter, "highway" means a U.S. highway or a state highway in this state, but does not include a numbered farm-to-market road.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.102. Running at Large on Highway Prohibited**

A person who owns or has responsibility for the control of a horse, mule, donkey, cow, bull, steer, hog, sheep, or goat may not knowingly permit the animal to traverse or roam at large, unattended, on the right-of-way of a highway.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.103. Immunity From Liability**

A person whose vehicle strikes, kills, injures, or damages an unattended animal running at large on a highway is not liable for damages to the animal except as a finding of:

(1) gross negligence in the operation of the vehicle; or

(2) wilful intent to strike, kill, injure, or damage the animal.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.104. Herding of Livestock Along Highway**

This subchapter does not prevent the movement of livestock from one location to another by herding, leading, or driving the livestock on, along, or across a highway.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.105. Impounding of Livestock**

(a) A peace officer may authorize in writing any holder of a railroad commission permit for hauling livestock to pick up any livestock found unattended on a highway if the officer, after diligent inquiry, has been unable to locate the owner or person responsible for the livestock.

(b) A person who picks up livestock under Subsection (a) of this section shall deliver the livestock to the sheriff or a constable of the county in which the livestock was found. The sheriff or constable shall dispose of the livestock, or the owner may redeem the livestock, in accordance with Subchapter D of this chapter as if the officer had impounded the livestock under that subchapter.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.106. Enforcement**

Each state highway patrolman or county or local law enforcement officer shall enforce this subchapter and may enforce it without the use of a written warrant.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.107. Conflict With Other Law**

This subchapter prevails to the extent of any conflict with another provision of this chapter.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 143.108. Penalty**

(a) A person commits an offense if the person violates Section 143.102 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$200.

(c) A person commits a separate offense for each day that an animal is permitted to roam at large in violation of Section 143.102 of this code.

[Acts 1981, 67th Leg., p. 1350, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 143.109 to 143.120 reserved for expansion]

SUBCHAPTER F. REMOVAL OF ADJOINING  
FENCES

§ 143.121. Prohibition

Except as provided by this subchapter or by mutual consent of the parties, a person may not remove a fence that is:

(1) a separating or dividing fence in which the person is a joint owner; or

(2) attached to a fence owned or controlled by another person.

[Acts 1981, 67th Leg., p. 1351, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.122. Removal of Fence by Owner

A person who owns an interest in a fence attached to a fence owned in whole or in part by another person is entitled to withdraw his or her fence from the other fence after giving six months' notice of the intended separation. The notice must be in writing and given to the owner of the attached fence or to that person's agent, attorney, or lessee.

[Acts 1981, 67th Leg., p. 1351, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.123. Requiring Removal of Fence by Another Person

A person who is the owner of a fence that is wholly on that person's land may require the owner of an attached fence to disconnect and withdraw the attached fence by giving six months' notice of the required disconnection. The notice must be in writing and given to the owner of the attached fence or that person's agent, attorney, or lessee.

[Acts 1981, 67th Leg., p. 1351, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 143.124 to 143.130 reserved  
for expansion]

SUBCHAPTER G. USE OF GRAZING LAND  
UNDER COMMON FENCE

§ 143.131. Definition

In this section, "owner or lessee" means the owner or lessee as shown by a deed, lease, or other written instrument of record in the county clerk's office in the county in which the land owned or leased is located.

[Acts 1981, 67th Leg., p. 1351, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.132. Use of Grazing Land Under Common Fence

(a) If an owner or lessee has a tract of land that is adjacent to a tract of another owner or lessee and the tracts are enclosed by one fence or a fence and a natural barrier, neither owner or lessee may:

(1) place or keep, or cause to be placed or kept, more cattle or other livestock in the enclosed tracts than the land owned or leased by that person will reasonably pasture; or

(2) place or cause to be placed cattle or other livestock on the land owned or leased by that person unless that land has a sufficient permanent supply of water for those cattle or other livestock.

(b) For purposes of this section, land will reasonably pasture the number of livestock:

(1) that a prudent and experienced livestock raiser is accustomed to grazing on similar land; and

(2) for which it can supply ample grazing under the usual condition of the community in which the land is located.

[Acts 1981, 67th Leg., p. 1351, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.133. Remedies

(a) A person who is injured as a result of a violation of Section 143.132 of this code by an adjacent owner or lessee is entitled to sue for and, if successful, be awarded damages for the injury incurred, an injunction enjoining further or threatened violations of that section, or both.

(b) A person who is injured by a violation of Section 143.132(a)(1) of this code has a lien on the cattle or other livestock of the adjacent owner or lessee until the damages and costs recovered by suit under Subsection (a) of this section are fully paid.

[Acts 1981, 67th Leg., p. 1352, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 143.134. Penalty

(a) A person commits an offense if the person wilfully violates Section 143.132 of this code.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$10 nor more than \$500;

(2) confinement in county jail for not more than six months; or

(3) both fine and confinement under this subsection.

(c) A person commits a separate offense for each day that each animal is placed or kept in an enclosure in violation of Section 143.132 of this code.

[Acts 1981, 67th Leg., p. 1352, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 144. MARKS AND BRANDS

SUBCHAPTER A. GENERAL PROVISIONS

Section	
144.001.	Owner's Marks and Brands.
144.002.	Brands of Minors.
144.003.	Age for Marking or Branding.

SUBCHAPTER B. COUNTY BRANDS

- Section
- 144.021. County Brands.
- 144.022. Use of County Brand.
- 144.023. Removal of Stock With County Brand.
- 144.024. Lists of County Brands.

SUBCHAPTER C. RECORDING OF MARKS AND BRANDS

- 144.041. Marks and Brands to be Recorded.
- 144.042. Recording.
- 144.043. Effect of Recording.
- 144.044. Rerecording.

SUBCHAPTER D. PROVISIONS APPLICABLE ONLY  
IN CERTAIN COUNTIES

- 144.071. Application.
- 144.072. Recording of Marks and Brands, and Bills of Sale.
- 144.073. Road Brand.
- 144.074. Counterbranding.

SUBCHAPTER E. REGISTRATION OF ANIMAL  
TATTOO MARKS

- 144.101. Definition.
- 144.102. Right to Register.
- 144.103. Department of Public Safety to Administer.
- 144.104. Application for Registration.
- 144.105. Certificate of Registration.
- 144.106. Protest of Registration.
- 144.107. Effect of Registration.
- 144.108. Filing with County Clerk.
- 144.109. Assignment of Registered Tattoo Mark.
- 144.110. Fees.

SUBCHAPTER F. PENALTIES

- 144.121. Use of Unrecorded Mark or Brand.
- 144.122. Altering Mark or Brand.
- 144.123. Marking or Branding Outside Pen.
- 144.124. Improperly Recording Brand.
- 144.125. Counterbranding Without Owner's Consent.
- 144.126. Driving Cattle Without Road Brand.
- 144.127. Reproduction or Destruction of Tattoo Mark.
- 144.128. Purchase, Sale, or Transportation of Tattooed Livestock Without Consent.

SUBCHAPTER A. GENERAL PROVISIONS

§ 144.001. Owner's Marks and Brands

Each person who has cattle, hogs, sheep, or goats shall have and may use one or more earmarks and one or more brands differing from the earmarks and brands of the person's neighbors.

[Acts 1981, 67th Leg., p. 1353, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 144.002. Brands of Minors

A minor who owns cattle or hogs may have one or more marks or brands, but the parent or guardian of the minor is responsible for the proper use of the mark or brand.

[Acts 1981, 67th Leg., p. 1353, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 144.003. Age for Marking or Branding

(a) Cattle shall be marked with the earmark or branded with the brand of the owner on or before the date they are one year old.

(b) Hogs, sheep, and goats shall be marked with the earmark of the owner on or before the date they are six months old.

[Acts 1981, 67th Leg., p. 1353, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 144.004 to 144.020 reserved for expansion]

SUBCHAPTER B. COUNTY BRANDS

§ 144.021. County Brands

Each county shall have a brand for horses and cattle. The following are county brands for use in the branding of horses or cattle:

COUNTY	BRAND
Anderson	A.A.
Andrews	A.N.
Angelina	A.L.
Aransas	A.R.
Archer	A.H.
Armstrong	A.M.
Atascosa	A.T.
Austin	A.U.
Bailey	B.I.
Bandera	B.A.
Bastrop	B.S.
Baylor	B.R.
Bee	B.E.
Bell	B.L.
Bexar	B.X.
Blanco	B.N.
Borden	B.D.
Bosque	B.
Bowie	B.O.
Brazoria	B.D.
Brazos	B.Z.
Briscoe	B.H.
Brown	B.W.
Burleson	B.U.
Burnet	B.T.
Caldwell	C.A.
Calhoun	C.H.
Callahan	C.L.
Cameron	C.M.
Camp	C.P.
Carson	C.R.
Cass	C.S.
Castro	C.T.
Chambers	C.B.
Cherokee	C.K.
Childress	C.D.
Clay	C.Y.
Cochran	C.C.
Coleman	C.E.
Collin	C.I.
Collingsworth	C.W.
Colorado	C.N.

COUNTY	BRAND	COUNTY	BRAND
Comal	C.O.	Hockley	H.K.
Comanche	C.J.	Hood	H.O.
Concho	C.V.	Hopkins	H.P.
Cooke	C.U.	Houston	H.4.
Coryell	C.X.	Howard	H.R.
Cottle	C.2.	Hunt	H.U.
Crockett	C.3.	Hutchinson	H.H.
Crosby	C.4.	Jack	J.
Dallam	D.L.	Jackson	J.A.
Dallas	D.A.	Jasper	J.P.
Dawson	D.N.	Jefferson	J.E.
Deaf Smith	D.S.	Johnson	J.H.
Delta	D.T.	Jones	J.O.
Denton	D.O.	Karnes	K.
DeWitt	D.E.	Kaufman	K.A.
Dickens	D.I.	Kendall	K.E.
Dimmit	D.M.	Kent	K.T.
Donley	D.N.	Kerr	K.R.
Duval	D.D.	Kimble	K.I.
Eastland	E.A.	King	K.N.
Edwards	E.D.	Kinney	K.O.
Ellis	E.L.	Knox	K.X.
El Paso	E.P.	Lamar	L.A.
Erath	E.R.	Lamb	L.M.
Falls	F.A.	Lampasas	L.P.
Fannin	F.N.	LaSalle	L.S.
Fayette	F.E.	Lavaca	L.C.
Fisher	F.I.	Lee	L.E.
Floyd	F.L.	Leon	L.4.
Fort Bend	F.B.	Liberty	L.I.
Franklin	F.K.	Limestone	L.T.
Freestone	F.R.	Lipscomb	L.B.
Frio	F.O.	Live Oak	L.O.
Gaines	G.I.	Llano	L.
Galveston	G.A.	Lubbock	L.K.
Garza	G.R.	Lynn	L.N.
Gillespie	G.L.	Madison	M.1.
Goliad	G.D.	Marion	M.2.
Gonzales	G.O.	Martin	M.4.
Gray	G.Y.	Mason	M.N.
Grayson	G.N.	Matagorda	M.R.
Gregg	G.G.	Maverick	M.K.
Grimes	G.M.	McCulloch	M.C.
Guadalupe	G.E.	McLennan	M.L.
Hale	H.	McMullen	M.
Hall	H.A.	Medina	M.A.
Hamilton	H.I.	Menard	M.D.
Hansford	H.F.	Milam	M.I.
Hardeman	H.N.	Mitchell	M.H.
Hardin	H.D.	Montague	M.E.
Harris	H.S.	Montgomery	M.M.
Harrison	H.X.	Moore	M.O.
Hartley	H.T.	Morris	M.S.
Haskell	H.6.	Motley	M.T.
Hays	H.Y.	Nacogdoches	N.S.
Hemphill	H.M.	Navarro	N.A.
Henderson	H.E.	Newton	N.
Hidalgo	H.G.	Nolan	N.O.
Hill	H.L.	Nueces	N.E.

COUNTY	BRAND
Ochiltree	O.H.
Oldham	O.O.
Orange	O.
Palo Pinto	P.P.
Panola	P.A.
Parker	P.K.
Parmer	P.R.
Pecos	P.
Polk	P.K.
Potter	P.O.
Presidio	P.R.
Rains	R.
Randall	R.A.
Red River	R.R.
Refugio	R.E.
Roberts	R.S.
Robertson	R.O.
Rockwall	R.L.
Runnels	R.N.
Rusk	R.K.
Sabine	S.B.
San Augustine	S.A.
San Jacinto	S.J.
San Patricio	S.P.
San Saba	S.S.
Scurry	S.
Shackelford	S.D.
Shelby	S.H.
Sherman	S.N.
Smith	S.T.
Somervell	S.O.
Starr	S.R.
Stephens	S.E.
Stonewall	S.L.
Swisher	S.I.
Tarrant	T.A.
Taylor	T.E.
Terry	T.
Throckmorton	T.H.
Titus	T.I.
Tom Green	T.G.
Travis	T.S.
Trinity	T.R.
Tyler	T.L.
Upshur	U.P.
Uvalde	U.
Van Zandt	V.
Victoria	V.I.
Walker	W.K.
Waller	W.
Washington	W.N.
Webb	W.E.
Wharton	W.T.
Wheeler	W.H.
Wichita	W.A.
Wilbarger	W.R.
Williamson	W.I.
Wilson	W.L.
Wise	W.S.

COUNTY	BRAND
Wood	W.O.
Yoakum	Y.
Young	Y.O.
Zapata	X.
Zavala	X.X.

[Acts 1981, 67th Leg., p. 1354, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.022. Use of County Brand**

In addition to a person's private brand, a person may place the county brand on all horses and cattle owned by that person.

[Acts 1981, 67th Leg., p. 1358, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.023. Removal of Stock With County Brand**

If horses or cattle branded with a county brand are removed to another county, the owner of the animals shall counterbrand with the original county brand and a bar under it. After that counterbranding, the animals may be branded with the county brand of the county to which the animals were removed.

[Acts 1981, 67th Leg., p. 1358, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.024. Lists of County Brands**

The secretary of state shall furnish a printed list of the county brands to the county clerk of each county. The county clerk shall securely post the list in the clerk's office.

[Acts 1981, 67th Leg., p. 1358, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 144.025 to 144.040 reserved for expansion]

**SUBCHAPTER C. RECORDING OF MARKS AND BRANDS**

**§ 144.041. Marks and Brands to be Recorded**

(a) Each person who owns cattle, hogs, sheep, or goats shall record that person's earmarks and brands with the county clerk of the county in which the animals are located.

(b) The county clerk shall keep a record of the marks and brands of each person who applies to the clerk for that purpose.

(c) A person may record that person's marks and brands in as many counties as necessary.

(d) A person may record any mark or brand that the person desires to use if no other person has recorded the mark or brand, without regard to whether that person has previously recorded a mark or brand.

[Acts 1981, 67th Leg., p. 1358, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.042. Recording**

In recording a mark or brand, the county clerk shall note the date on which the mark or brand is recorded. In addition, the person recording a brand

shall designate the part of the animal on which the brand is to be placed and the clerk shall include that in the records.

[Acts 1981, 67th Leg., p. 1359, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 144.043. Effect of Recording

(a) Any dispute about an earmark or brand shall be decided by reference to the mark and brand records of the county clerk, and the mark or brand of the oldest date prevails.

(b) A recorded mark or brand is the property of the person causing the record to be made and is subject to sale, assignment, transfer, devise, and descent the same as other personal property.

[Acts 1981, 67th Leg., p. 1359, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 144.044. Rerecording

(a) Not later than six months after August 30 of 1981 and of every 10th year thereafter, each person who owns livestock mentioned in this chapter shall have that person's marks and brands recorded with the county clerk, regardless of whether or not the marks or brands have been previously recorded.

(b) The person who, according to the records of the county, first recorded the mark or brand in the county is entitled to have the mark or brand recorded in that person's name. If the records do not show who first recorded the mark or brand in the county, the person who has been using the mark or brand the longest is entitled to have it recorded in that person's name.

(c) After the expiration of six months from each recording under this section, the marks and brands recorded prior to recording under this section have no force and effect and only the records made after each recording under this section may be examined or considered in recording marks and brands in the county.

[Acts 1981, 67th Leg., p. 1359, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 144.045 to 144.070 reserved  
for expansion]

#### SUBCHAPTER D. PROVISIONS APPLICABLE ONLY IN CERTAIN COUNTIES

##### § 144.071. Application

This subchapter applies only in those counties that are subject to Subchapter C, Chapter 146, of this code.

[Acts 1981, 67th Leg., p. 1359, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.072. Recording of Marks, Brands, and Bills of Sale

(a) Marks and brands of cattle shall be recorded in the county or counties in which the cattle usually range. Except as provided by Subsection (b) of this section, the county clerk shall refuse to record a mark or brand already on record.

(b) If the applicant has a certificate from the clerk of another county stating that the mark or brand that the applicant desires to record was recorded by the applicant in that other county on a date before it was recorded in the county in which the applicant is applying, the county clerk, shall record the mark or brand in the name of the applicant and note those facts on the record.

[Acts 1981, 67th Leg., p. 1359, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.073. Road Brand

(a) A person who drives cattle to market beyond the limits of this state shall, before removing the cattle from the county in which they are gathered, place on each animal to be driven a large and plain road brand. The brand may be composed of any device and shall be branded on the left side of the back behind the shoulder.

(b) Each person required to use a road brand shall record the brand in the county from which the cattle are to be driven in the same manner as provided by this chapter for recording other brands. The road brand must be recorded before the animals are removed from the county.

[Acts 1981, 67th Leg., p. 1360, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.074. Counterbranding

(a) If the counterbranding of cattle is considered necessary or expedient, the person counterbranding shall, in addition to the counterbrand, place below the existing brand a facsimile of that brand in similar letters, characters, or numbers.

(b) A person may not change or alter the earmarks of any animal. In counterbranding an animal, the person counterbranding shall leave the earmark unchanged.

(c) A person may not counterbrand cattle without consent of the owner.

[Acts 1981, 67th Leg., p. 1360, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 144.075 to 144.100 reserved  
for expansion]

#### SUBCHAPTER E. REGISTRATION OF ANIMAL TATTOO MARKS

##### § 144.101. Definition

In this subchapter, "director" means the director of the Department of Public Safety.

[Acts 1981, 67th Leg., p. 1360, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.102. Right to Register**

In accordance with this subchapter, a person who owns hogs, dogs, sheep, or goats in this state is entitled to register for exclusive use any tattoo mark that is not previously recorded.

[Acts 1981, 67th Leg., p. 1360, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.103. Department of Public Safety to Administer**

The Department of Public Safety shall administer this subchapter under the supervision of the director of that department.

[Acts 1981, 67th Leg., p. 1360, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.104. Application for Registration**

(a) A person shall apply to the director for registration of a tattoo mark. The application must be signed by the applicant or the applicant's agent and show:

- (1) the applicant's place of residence;
- (2) the applicant's citizenship;
- (3) the location of the livestock owned by the applicant;
- (4) the kinds of livestock owned by the applicant; and
- (5) the place or part of the animal on which the tattoo mark is to be placed.

(b) An application for registration of a tattoo mark must have attached a drawing of the tattoo mark for which registration is sought. The drawing must be signed by the applicant or the applicant's agent and must comply with the requirements of the director. The applicant shall furnish as many copies of the drawing as required by the director.

[Acts 1981, 67th Leg., p. 1360, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.105. Certificate of Registration**

The director shall examine or cause to be examined each application for registration and shall immediately issue a certificate of registration after determining that there is satisfactory evidence that the registration should be made.

[Acts 1981, 67th Leg., p. 1361, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.106. Protest of Registration**

(a) A person who would be damaged by the issuance of a certificate of registration may file a written notice of protest of that issuance with the director. The notice must be sworn to and filed not later than the 20th day after the date on which the protested application for registration is filed. In addition, the notice must state the grounds for the protest.

(b) After receiving a notice of protest, the director shall conduct hearings and take other steps necessary to determine whether the application for registration should be granted or denied. Except as provided by Subsection (c) of this section, the decision of the director is final and the director must provide reasons for the decision.

(c) If the director abuses discretion, the contestant may appeal the decision of the director to a district court of the county in which the contestant resides.

[Acts 1981, 67th Leg., p. 1361, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.107. Effect of Registration**

The registration of a tattoo mark under this subchapter creates an exclusive right to use that mark in this state. In a criminal or civil action in a court of this state, a registered tattoo mark is prima facie evidence of the ownership of the tattooed livestock.

[Acts 1981, 67th Leg., p. 1361, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.108. Filing With County Clerk**

The director shall forward a certified copy of each registration to the county clerk of the county of the applicant's residence. The county clerk shall file the certificate in records maintained for that purpose.

[Acts 1981, 67th Leg., p. 1361, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.109. Assignment of Registered Tattoo Mark**

(a) A certificate of registration and the exclusive right to use a tattoo mark may be assigned in connection with the goodwill of a ranch, farm, or other business in which the tattoo mark is used if written notice of the assignment, sworn to by the assignor, is filed with the director.

(b) A certificate of registration and the exclusive right to use a tattoo mark may not be assigned except as provided by this section.

[Acts 1981, 67th Leg., p. 1361, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 144.110. Fees**

(a) Each person who registers, assigns, or protests the registration of a tattoo mark shall pay the following appropriate fee to the director at the time the application, notice of assignment, or notice of protest is filed:

- (1) \$5 for an application for registration;
- (2) \$1 for a notice of assignment; or
- (3) \$10 for a notice of protest.

(b) A person whose registered tattoo mark is recorded with the county clerk shall pay the clerk a filing fee of 25 cents.

(c) The director shall remit all fees collected under this subchapter by the director to the comptroller of

public accounts, who shall deposit the fees in the treasury to the credit of a special fund known as the livestock tattoo fund. That fund may be used only in the administration of this subchapter, but the legislature may appropriate general revenue funds for that purpose.

[Acts 1981, 67th Leg., p. 1361, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 144.111 to 144.120 reserved for expansion]

#### SUBCHAPTER F. PENALTIES

##### § 144.121. Use of Unrecorded Mark or Brand

(a) A person commits an offense if the person marks or brands any unmarked or unbranded livestock with a mark or brand that is not recorded under this chapter.

(b) An offense under this section is a misdemeanor or punishable by a fine not to exceed \$500.

[Acts 1981, 67th Leg., p. 1362, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.122. Altering Mark or Brand

(a) A person commits an offense if the person alters or changes a mark or brand on livestock owned or controlled by that person without first having changed the recorded mark or brand.

(b) An offense under this section is a misdemeanor or punishable by a fine of not more than \$500.

[Acts 1981, 67th Leg., p. 1362, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.123. Marking or Branding Outside Pen

(a) A person commits an offense if the person marks or brands any animal outside a pen.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$10 nor more than \$50.

[Acts 1981, 67th Leg., p. 1362, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.124. Improperly Recording Brand

(a) A person commits an offense if, as county clerk, the person records a brand for which the person recording the brand fails to designate the part of the animal on which the brand is to be placed.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$10 nor more than \$50.

[Acts 1981, 67th Leg., p. 1362, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.125. Counterbranding Without Owner's Consent

(a) A person commits an offense if the person violates Section 144.074(c) of this code.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$10 nor more than \$50 for each animal counterbranded.

[Acts 1981, 67th Leg., p. 1362, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.126. Driving Cattle Without Road Brand

(a) A person commits an offense if the person drives cattle without a road brand in violation of Section 144.073 of this code.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$20 nor more than \$100 for each animal driven.

[Acts 1981, 67th Leg., p. 1362, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.127. Reproduction or Destruction of Tattoo Mark

(a) A person commits an offense if the person, without the consent of the owner, reproduces, counterfeits, copies, adds to, takes from, imitates, destroys, or removes a registered tattoo mark on livestock or aids in the commission of one of those acts.

(b) An offense under this section is a felony punishable by imprisonment in the Texas Department of Corrections for not less than 2 years nor more than 12 years.

[Acts 1981, 67th Leg., p. 1362, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 144.128. Purchase, Sale, or Transportation of Tattooed Livestock Without Consent

(a) A person commits an offense if the person:

(1) without consent of the owner, buys, sells, or barter, for that person or another person, any livestock on which a registered tattoo mark has been placed;

(2) without consent of the owner, transports over the highways of this state any livestock on which a registered tattoo mark has been placed; or

(3) aids in the commission of an act under Subdivision (1) or (2) of this subsection.

(b) An offense under this section is a felony punishable by imprisonment in the Texas Department of Corrections for not less than 2 years nor more than 12 years.

[Acts 1981, 67th Leg., p. 1363, ch. 388, § 1, eff. Sept. 1, 1981.]

#### CHAPTER 145. GRADING OF LIVESTOCK

Section	
145.001.	Definitions.
145.002.	Grading by Department.
145.003.	Inspectors.
145.004.	Grade Standards.
145.005.	Procedure.
145.006.	Fees.

§ 145.001. Definitions

In this chapter:

(1) "Livestock" means cattle, sheep, goats, and hogs.

(2) "Person" means an individual, firm, partnership, corporation, or association.

[Acts 1981, 67th Leg., p. 1363, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 145.002. Grading by Department

On request of an owner or a cooperative marketing association, the department may grade living livestock in this state.

[Acts 1981, 67th Leg., p. 1363, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 145.003. Inspectors

The department may employ inspectors for the purpose of grading livestock and may require applicants for that position and persons employed as inspectors to pass examinations and meet other requirements established by the department to demonstrate competence in the grading of livestock.

[Acts 1981, 67th Leg., p. 1363, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 145.004. Grade Standards

The standards and classifications of the United States Department of Agriculture are the grade standards for classifying livestock under this chapter.

[Acts 1981, 67th Leg., p. 1363, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 145.005. Procedure

The department may adopt rules relating to the method and procedures for the grading of livestock under this chapter.

[Acts 1981, 67th Leg., p. 1363, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 145.006. Fees

The department may collect fees for livestock grading in amounts necessary to cover the costs incurred in providing the service.

[Acts 1981, 67th Leg., p. 1363, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 146. SALE AND SHIPMENT OF LIVESTOCK

SUBCHAPTER A. GENERAL PROVISIONS

Section	
146.001.	Bill of Sale or Transfer Required.
146.002.	Recording Bill of Sale and List of Animals Before Driving.
146.003.	Register of Shipped Cattle.
146.004.	Sale of Animals at Auction.
146.005.	Permits to Transport Animals.

Section	
146.006.	Penalty for Driving Stock to Market Without Bill of Sale or Sworn Lists.
146.007.	Penalty for Selling Animal at Auction Without Statement of Ownership.
146.008.	Penalty for Transporting Animals Without Permit or With Fraudulent Permit.

SUBCHAPTER B. EXPORT-IMPORT PROCESSING FACILITIES

146.021.	Department Facilities.
146.022.	Contracts.
146.023.	Payment of Fees and Debts.
146.024.	Abandoned Animals.
146.025.	Care and Treatment of Animals in Facilities.

SUBCHAPTER C. INSPECTION, SALE, AND SHIPMENT OF HIDES AND ANIMALS IN CERTAIN COUNTIES

146.051.	Definition.
146.052.	Application of Subchapter.
146.053.	Inspector of Hides and Animals.
146.054.	Local Option Elections.
146.055.	Bond.
146.056.	Seal.
146.057.	Deputies.
146.058.	Bill of Sale; Marks and Brands.
146.059.	List of Persons Authorized to Handle Animals.
146.060.	Inspections.
146.061.	Certificate of Inspection.
146.062.	Inspection of Herds in Transit.
146.063.	Change of Destination.
146.064.	Inspection at Point of Destination.
146.065.	Inspection Before Movement Out of State.
146.066.	Inspection of Animals Exported to Mexico.
146.067.	Inspection of Hides and Animals Imported From Mexico.
146.068.	Seizure of Imported Hides or Animals Believed Stolen.
146.069.	Inspection and Seizure of Hides or Animals Without Brand or With Unhealed Brand.
146.070.	Inspection Fees.
146.071.	Penalty for Issuing Fraudulent Certificate.
146.072.	Penalty for Failure to Inspect.
146.073.	Penalty for Failure to Keep or File Records.
146.074.	Penalty for Incorrectly Stating Brands in Certificate of Inspection or Acknowledgment.
146.075.	Penalty for Improper Export or Import of Cattle or Carcasses.
146.076.	Penalty for Shipping or Selling Hides Without Inspection.
146.077.	Penalty for Driving Animals Without Consent of Owner.
146.078.	Penalty for Purchasing Animal or Hide Without Bill of Sale.
146.079.	Penalty for Agent Selling Without Power of Attorney.
146.080.	Penalty for Receiving Uninspected Animal for Shipment.

SUBCHAPTER A. General Provisions

§ 146.001. Bill of Sale or Transfer Required

(a) If a person in this state sells or transfers a horse, mule, jack, jennet, ox, or head of cattle, the actual delivery of the animal must be accompanied by a written transfer to the purchaser from the vendor. The written transfer must give the marks and brands of the animal and, if more than one animal is transferred, must give the number transferred.

(b) On the trial of the right of property in an animal sold or transferred under Subsection (a) of this section, the possession of the animal without the written transfer is presumed to be illegal.

(c) A person may dispose of livestock on the range by sale and delivery of the marks and brands, but in order to acquire title the purchaser must have the bill of sale recorded in the county clerk's office. The county clerk shall record the transfer in records maintained for that purpose and shall note the transfer on the records of marks and brands in the name of the purchaser.

[Acts 1981, 67th Leg., p. 1365, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 146.002. Recording Bill of Sale and List of Animals Before Driving

(a) A person who purchases animals of a class listed in Section 146.001 of this code for the purpose of driving to a market out of the county where purchased or out of this state shall, before moving the animals out of the county, record with the county clerk:

- (1) a bill of sale;
- (2) a list of the number, marks, brands, and kind of animals; and
- (3) the address of the purchaser.

(b) The bill of sale and list recorded under Subsection (a) of this section must be signed and acknowledged by each vendor.

(c) The clerk shall record the bill of sale, list, and address of the purchaser in records maintained for that purpose and, on payment of recording fees, shall return to the person presenting the information a certificate of record under seal.

(d) A person intending to drive stock owned and raised by that person out of the county where raised or out of the state shall, before so driving the animals, record with the county clerk a list of the animals with a description of the marks and brands. The list must be verified by affidavit of the person recording the information. The county clerk shall record and certify the list and return it to the person presenting the information.

[Acts 1981, 67th Leg., p. 1365, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 146.003. Register of Shipped Cattle

(a) The commander or agent of a vessel or the agent of a railroad on which cattle are exported from this state shall keep a register of all cattle shipped, showing:

- (1) the marks, brands, and a general description of the animals;
- (2) the name of the person shipping the animals;
- (3) the date of shipment; and

(4) the county from which the cattle were driven.

(b) On the first day of each month, the commander or agent shall deposit the register with the county clerk of the county from which the cattle were shipped. The clerk shall copy the register into records maintained for that purpose and return it to the party recording the information.

[Acts 1981, 67th Leg., p. 1366, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 146.004. Sale of Animals at Auction

(a) An auctioneer who sells a horse, mule, or ox at auction shall require the party for whom the sale is made to provide a signed, written statement of the manner in which the animal was acquired and the name and address of the person from whom the animal was acquired.

(b) Not later than the 10th day after the day on which the animal is sold at auction, the auctioneer shall file the statement required by Subsection (a) of this section with the clerk of the county court. The statement must be attested as to genuineness by the auctioneer and must be accompanied by a certificate containing a description of the animal sold and the name and address of the seller and the purchaser.

[Acts 1981, 67th Leg., p. 1366, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 146.005. Permits to Transport Animals

(a) A person who drives a vehicle, including a truck or an automobile, containing livestock, domestic fowl, slaughtered livestock or domestic fowl, or butchered portions of livestock or domestic fowl on a highway, public street, or thoroughfare or on property owned or leased by a person other than the driver shall obtain a permit authorizing the movement.

(b) A permit must be signed by the owner or caretaker of the shipment or by the owner or person in control of the land from which the driver began movement. In addition, the permit must state the following information:

- (1) the point of origin of the shipment, including the name of the ranch or other place;
- (2) the point of destination of the shipment, including the name of the ranch, market center, packinghouse, or other place;
- (3) the number of living animals, slaughtered animals, or butchered portions; and
- (4) the description of the shipment, including the kind, breed, color, and marks and brands of living or slaughtered animals.

(c) On demand of a peace officer or any other person, the driver shall exhibit the permit required by this section or shall provide a signed, written statement containing all of the information required for a permit under this section.

(d) Failure or refusal of a driver to exhibit a permit or provide a statement in accordance with this section is probable cause for a search of the vehicle to determine if it contains stolen property and for detaining the shipment a reasonable length of time to make that determination.

[Acts 1981, 67th Leg., p. 1366, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.006. Penalty for Driving Stock to Market Without Bill of Sale or Sworn List**

(a) A person commits an offense if the person drives to market animals of a class listed in Section 146.001 of this code without possessing:

(1) a bill of sale or transfer for each animal that shows the marks and brands of the animal and is certified as recorded by the county clerk of the county from which the animals were driven; or

(2) if the person raised the animals, a list of the marks and brands that is certified as recorded by the county clerk of the county from which the animals were driven.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$2,000.

[Acts 1981, 67th Leg., p. 1367, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.007. Penalty for Selling Animal at Auction Without Statement of Ownership**

(a) A person commits an offense if, as an auctioneer, the person fails to require a statement from the seller, or fails to timely file a statement with the clerk of the county court, in accordance with Section 146.004 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$100.

[Acts 1981, 67th Leg., p. 1367, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.008. Penalty for Transporting Animals Without Permit or With Fraudulent Permit**

(a) A person commits an offense if, under Section 146.005 of this code, the person:

(1) transports living animals, slaughtered animals, or butchered portions of animals without possessing a permit;

(2) fails to exhibit a permit or provide a statement on demand;

(3) transports living animals, slaughtered animals, or butchered portions of animals that are not covered by a permit;

(4) possesses a false or forged permit; or

(5) provides a false written statement.

(b) An offense under Subsection (a)(1) or (a)(2) of this section is a misdemeanor punishable by a fine of

not less than \$25 nor more than \$200 for each animal in the shipment.

(c) An offense under Subsection (a)(3) of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200 for each animal that is not covered by the permit.

(d) An offense under Subsection (a)(4) or (a)(5) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$200 nor more than \$500;

(2) confinement in county jail for not less than 60 days nor more than 6 months; or

(3) both fine and confinement under this subsection.

[Acts 1981, 67th Leg., p. 1367, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 146.009 to 146.020 reserved for expansion]

**SUBCHAPTER B. EXPORT-IMPORT PROCESSING FACILITIES**

**§ 146.021. Department Facilities**

The department may receive and hold for processing animals transported in international trade and may establish and collect reasonable fees for yardage, maintenance, feed, medical care, and other necessary expenses incurred in the course of processing those animals.

[Acts 1981, 67th Leg., p. 1367, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.022. Contracts**

The department may execute agreements with corporations or other private concerns to provide feed, medical care, or other necessary goods and services in connection with the processing of animals that are to be exported or imported.

[Acts 1981, 67th Leg., p. 1368, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.023. Payment of Fees and Debts**

The department shall collect fees or debts owed to the state or to a supplier of goods or services in connection with the processing of exported or imported animals prior to the removal of the animals from the department's facilities.

[Acts 1981, 67th Leg., p. 1368, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.024. Abandoned animals**

(a) In order to satisfy unpaid fees and debts to the state and private suppliers, the department may sell at public auction an animal that the owner leaves in the processing facilities for more than 30 days.

(b) The proceeds of a sale under this section shall be used first to satisfy the fees owed to the depart-

ment and then to satisfy the fees and debts owed to private suppliers. Any balance of the proceeds shall be paid to the owner of the animal, as determined by the manifest or shipping order accompany the animal.

[Acts 1981, 67th Leg., p. 1368, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.025. Care and Treatment of Animals in Facilities**

(a) The department shall exercise reasonable care in the handling and movement of animals in the processing facilities of the department.

(b) The department is not responsible for death or injury suffered by an animal as a result of the negligence or criminal conduct of a private supplier or a person who is not an authorized employee of the department.

[Acts 1981, 67th Leg., p. 1368, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 146.026 to 146.050 reserved for expansion]

**SUBCHAPTER C. INSPECTION, SALE, AND SHIPMENT OF HIDES AND ANIMALS IN CERTAIN COUNTIES**

**§ 146.051. Definition**

In this subchapter, "inspector" means the inspector of hides and animals.

[Acts 1981, 67th Leg., p. 1368, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.052. Application of Subchapter**

(a) This subchapter applies only in the following counties: Andrews, Baylor, Blanco, Briscoe, Castro, Coleman, Concho, Crane, Dawson, Duval, Ector, Edwards, Fisher, Gaines, Glasscock, Hardin, Haskell, Jefferson, Jim Wells, Jones, Kent, Kerr, Kimble, King, LaSalle, Lee, Liberty, McCulloch, McMullen, Martin, Menard, Mitchell, Nolan, Ochiltree, Presidio, Real, Roberts, Runnels, San Jacinto, San Saba, Sherman, Stonewall, Sutton, Taylor, Travis, Walker, Waller, Webb, Wood, and Yoakum.

(b) This subchapter does not apply to sheep, goats, or swine or to the hides of those animals.

(c) Salted hides in packinghouses or slaughterhouses are exempt from inspection under this subchapter if taken from animals previously inspected as required by this subchapter.

[Acts 1981, 67th Leg., p. 1368, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.053. Inspector of Hides and Animals**

(a) The qualified voters of each county subject to this subchapter shall elect an inspector of hides and animals.

(b) An inspector serves for a term of four years.

(c) Until a vacancy in the office of inspector is filled by appointment, the sheriff of the county shall discharge the duties of the office.

[Acts 1981, 67th Leg., p. 1369, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.054. Local Option Elections**

(a) The qualified voters of a county may petition the commissioners court to conduct an election to determine if the county shall elect an inspector of hides and animals. Except as otherwise provided by this subsection, the petition must be signed by 25 voters of each justice precinct of the county. If a precinct contains fewer than 50 qualified voters, the petition must be signed by a majority of the voters of the precinct.

(b) If presented with a petition under this section, the commissioners court, at a regular or special term, shall order an election. The commissioners court shall give 30 days' notice of the election by posting a notice in each of the justice precincts and by publishing notice in a newspaper published in the county. The county clerk shall prepare the notices and the sheriff shall post them. The sheriff shall file a return of the posting with the county clerk, showing the time and place of posting.

(c) The commissioners court shall appoint two election judges and two clerks at the time of ordering the election. The court shall designate one judge as presiding judge. The election judges shall conduct the election in the manner provided for general elections.

(d) All qualified voters are entitled to vote at an election under this section. The ballot shall be printed to provide for voting for or against the proposition: "An inspector of hides and animals."

(e) The presiding judge shall deliver, or cause to be delivered, one copy of the results of the election to the county clerk not later than the fifth day after the day of the election and shall retain one copy. Not later than the fifth day after the delivery of the returns to the clerk, the commissioners court shall count the votes, declare the results, and enter the results in the election record.

(f) The county shall pay the expenses of an election under this section.

(g) A subsequent election may not be held under this section earlier than two years following the date of the last election.

(h) If a majority of the votes at an election are cast for electing an inspector of hides and animals, a person holding that office retains office until the next general election or until a successor is elected and qualifies. If the county has no inspector, the commissioners court shall appoint a person to serve until the next general election.

[Acts 1981, 67th Leg., p. 1369, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 146.055. Bond

(a) Before exercising the duties of the office, a person elected as inspector shall execute a bond with two or more good and sufficient sureties that is:

- (1) approved by the commissioners court;
- (2) payable to the county judge;
- (3) in an amount set by the commissioners court at not less than \$1,000 nor more than \$10,000; and
- (4) conditioned that the person will well and truly perform the duties of the office.

(b) A sheriff acting as inspector during a vacancy in the office is not required to give additional bond, but the bond as sheriff extends to the faithful and proper performance of the duties as inspector.

[Acts 1981, 67th Leg., p. 1369, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 146.056. Seal

(a) The commissioners court shall furnish to the inspector a seal of office with the words, "Inspector of Hides and Animals, \_\_\_\_\_ County, Texas," with the blank filled in with the name of the county.

(b) Each inspector and deputy inspector shall certify official acts with the seal of the inspector.

(c) On retiring from office, the inspector shall deliver the seal and the books, records, and papers of the office to the successor to the office.

[Acts 1981, 67th Leg., p. 1370, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 146.057. Deputies

(a) An inspector may appoint as many deputies as necessary to perform the duties imposed by this subchapter. Each appointment shall be made in writing and impressed with the seal of the inspector.

(b) The inspector shall require a deputy to post bond conditioned on the faithful performance of duties. Each deputy shall take and subscribe to the official oath of office.

(c) The inspector is responsible to any person injured by the official act of a deputy. The inspector has the same remedies against a deputy and the deputy's sureties as any other person has against the inspector and the inspector's sureties.

[Acts 1981, 67th Leg., p. 1370, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 146.058. Bill of Sale; Marks and Brands

(a) A person who buys or drives any animal for sale or shipment out of the county or who buys or drives an animal to slaughter shall procure a written bill of sale from the owner or the owner's agent at the time of purchase or before driving. The bill of sale must be properly signed and acknowledged and must give the number, kind, age, and marks and brands of the animals.

(b) A person who buys the hides of cattle shall procure a written bill of sale from the owner or the owner's agent at the time of purchase. The bill of sale must be properly acknowledged and must state the marks and brands of each hide, the weight of each hide, and whether each hide is dry or green.

(c) An inspector may authenticate bills of sale and may give a signed and sealed certificate of acknowledgment of each bill of sale authenticated. An inspector may collect a fee of 50 cents for each acknowledgment issued.

(d) If cattle are gathered near the county line, the bills of sale must be recorded in both counties.

(e) The inspector shall keep current certified copies of the county's recorded marks and brands. If cattle or other stock are sold, that fact shall be noted on the record opposite or near the record of each animal's mark or brand, giving the name of the vendor and vendee and the date of sale.

[Acts 1981, 67th Leg., p. 1370, ch. 388, § 1, eff. Sept. 1, 1981.]

§146.059. List of Persons Authorized to Handle Animals

A person who has marks and brands recorded with the county clerk may authorize others to gather, drive, or otherwise handle the person's animals by filing with the inspector a list of the marks and brands to which a list of the persons authorized to handle the animals is attached. The lists must be certified by the county clerk.

[Acts 1981, 67th Leg., p. 1370, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 146.060. Inspections

(a) The inspector or a deputy inspector shall personally examine and inspect each hide or animal that is known or reported to be:

- (1) sold in the county;
- (2) leaving the county for sale or shipment; or
- (3) driven in the county for slaughter.

(b) The inspector or a deputy inspector shall inspect animals being driven for sale or shipment out of the county before the animals are removed from the county.

(c) The inspector or deputy inspector shall examine each hide or animal separately so as to identify:

- (1) the number, age, marks, and brands of an animal; or
- (2) the number, marks, and brands of a hide, whether the hide was dry or green, and the vendor and purchaser of the hide.

(d) The inspector shall record the information obtained under Subsection (c) of this section in a well-bound book. On the last day of each month the inspector shall file a certified copy of the entries for the previous month with the county clerk, who shall file that copy in the records of the county court.

[Acts 1981, 67th Leg., p. 1371, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.061. Certificate of Inspection**

(a) For each inspection of animals, following proof of ownership under Subsection (b) of this section and payment of inspection fees, the inspector shall issue a certificate of inspection stating that the inspector has carefully examined and inspected each animal and that the purchaser has complied with the law. If cattle were inspected, the certificate must also state:

- (1) the number of cattle for each mark or brand;
- (2) the age and sex of each head;
- (3) the name of the person for whom the cattle were inspected and that the cattle appear to be the property of that person as either the owner of the mark or brand or as the person named in the bill of sale;
- (4) that no other cattle in the herd or under control of the person for whom they are inspected should be inspected;
- (5) that the person for whom the cattle were inspected intends to drive or ship them; and
- (6) the name of the place in this state at which the cattle are to be sold or slaughtered or the place on the border through which they are to be shipped.

(b) Except as otherwise provided by this subsection, the inspector may not issue a certificate of inspection unless presented with a written bill of sale or power of attorney from the owner of the animal or an agent authorized to act for the owner by a written, signed, and acknowledged instrument. The inspector shall carefully examine the bills of sale and lists of marks and brands for cattle inspected. Before issuing a certificate of inspection for cattle, the inspector must be satisfied that no cattle are among the herd inspected other than those for which the person claiming the cattle has:

- (1) a bill of sale or chain of transfer in writing from the record owner; or
- (2) a certificate from a county clerk stating that the mark and brand are recorded with the clerk as the mark and brand of that person.

(c) The certificate of inspection and bill of sale shall be recorded in the office of the county clerk and certified under the clerk's hand and seal. Each inspector shall maintain a record of all certificates issued.

(d) The inspector shall deliver the certificate of inspection to the purchaser of the animal under the bill of sale or to the purchaser's agent.

(e) A person who possesses a certificate of inspection may not be required to pay inspection fees for inspection of the animals described in the certificate in any county other than a county from which the animals are exported.

[Acts 1981, 67th Leg., p., 1371, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.062. Inspection of Herds in Transit**

(a) On request of any person, the inspector shall stop and inspect any drove of cattle that is passing through the county. The inspector may not unnecessarily detain the drove.

(b) If any cattle found in a drove inspected under this section are not listed in the certificate of inspection of the county in which the drove was gathered, the fees for inspection under this section shall be paid from the sale of those cattle.

(c) If all cattle found in a drove inspected under this section are listed in the certificate of inspection accompanying the drove, the fees for inspection under this section shall be paid by the person who requested that the drove be inspected.

[Acts 1981, 67th Leg., p. 1372, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.063. Change of Destination**

If the owner of inspected cattle desires to sell, ship, or slaughter the animals at a place other than the destination named in the certificate of inspection, the owner may have the animals inspected at the point of destination named in the certificate and have issued a new certificate with a new destination. On arrival at the new destination point, the herd shall be inspected and compared as provided for at the original destination point.

[Acts 1981, 67th Leg., p. 1372, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.064. Inspection at Point of Destination**

(a) If the inspector of a herd at the point of destination finds cattle other than those covered by the certificate of inspection from the county from which the cattle were driven, the inspector shall seize the cattle. If the person in charge of the cattle refuses to deliver them to the inspector, the inspector may apply for a writ of sequestration from a court of competent jurisdiction, as determined by the value of the cattle, by filing with the court an affidavit stating that the inspector believes the cattle to have been unlawfully acquired. The court shall issue the writ without bond and the sheriff or a constable of the county shall immediately execute the writ.

(b) The court issuing the writ of sequestration shall issue a citation directed to the constable and addressed "To whom it may concern." The citation must state that the animals have been seized, describe the animals, and command that concerned persons appear on a day named in the citation to show cause why the animals should not be forfeited to and sold for the benefit of the county in which they were seized. The sheriff or constable shall post certified copies of the citation in three public places in the county for a period of 10 days before the date named in the citation. On receiving proof of post-

ing, the court shall proceed to condemn the animals unless satisfactory proof of ownership is made or unless other sufficient cause is shown why the property should not be condemned.

(c) If animals are condemned under this section, the court shall order the inspector to sell the animals at public auction to the highest bidder. The inspector is entitled to retain one-fourth of the proceeds of the sale after deducting expenses. The remaining proceeds shall be paid into the county treasury subject to the claim of the true owner of the cattle. The deposit in the county treasury must be accompanied by a certified statement, under the hand and seal of the inspector, of the number of cattle sold, the mark and brand of each animal, and the sale price. If a claim to those proceeds is not established earlier than one year after the date of deposit in the county treasury, the proceeds pass to the general fund of the county and all claims to the proceeds are barred.

(d) Proceedings under this section may be conducted while the court is in term or on vacation. [Acts 1981, 67th Leg., p. 1372, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.065. Inspection Before Movement Out of State**

(a) The inspector at the point of shipment or at the border county, as applicable, shall inspect any herd about to be driven or shipped out of this state that the inspector has reason to believe contains animals not covered by the certificate of inspection or by a bill of sale.

(b) If on inspection under this section the inspector finds in the herd animals that are not covered by the certificate of inspection or by a bill of sale, the fees for inspection shall be paid from the sale of those animals. The inspector is not entitled to more than three cents for each head of cattle so inspected.

(c) If on inspection under this section the inspector finds that all animals in the herd are covered by the certificate of inspection or by a bill of sale, the fees for inspection shall be paid by the person requesting the inspection, unless the inspection was made on the inspector's own motion, in which case the inspector is not entitled to fees.

[Acts 1981, 67th Leg., p. 1373, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.066. Inspection of Animals Exported to Mexico**

(a) A person may not drive or ship animals to Mexico from a point in Texas other than a point where a customhouse of the United States is located.

(b) A person driving or shipping animals from Texas to Mexico shall have the animals inspected by the inspector of the county in which the point of

shipment or place at which they are to be driven across the Rio Grande is located. The inspection must occur before the animals are shipped from this state or pass across the river.

[Acts 1981, 67th Leg., p. 1373, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.067. Inspection of Hides and Animals Imported from Mexico**

(a) The inspector of the county into which cattle hides or cattle, horses, or mules are imported from Mexico shall inspect those hides or animals.

(b) If an importer of hides fails or refuses to place the imported hides in a position where they may be inspected, or if the inspector finds that the hides are folded or bound together in a manner that prevents inspection without injury to the hides, the inspector shall take possession of the hides and have them treated in a manner that permits the hides to be unfolded without injury. The inspector is not liable for any damage to the hides resulting from treatment under this subsection. Treatment is at the risk of the importer or the person in possession of the hides after importation.

(c) In addition to the inspection fees allowed by this subchapter, the importer or the person in possession of the hides after importation shall pay all expenses of treatment of the hides under Subsection (b) of this section, including the cost of freight and handling.

(d) If a person responsible for payment fails or refuses to pay the inspection fees under this subchapter or the treatment expenses under this section, the inspector may retain possession of the hides or animals and sell a number of them sufficient to pay the fees and expenses. The inspector shall give three days' public notice of the sale and shall sell the hides or animals to the highest and best bidder. [Acts 1981, 67th Leg., p. 1373, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.068. Seizure of Imported Hides or Animals Believed Stolen**

(a) An inspector shall take possession of any hides or animals imported from Mexico that the inspector has reason to believe, on the basis of the brands or other evidence, are stolen from the lawful owner. The inspector shall notify any person that the inspector believes to be interested to institute suit for recovery of the hides or animals. If no person claims the hides or animals within 24 hours, the inspector under oath shall notify a court of competent jurisdiction, as determined by the value of the property seized, that there is reason to believe that the hides or animals are stolen. The court shall issue a citation directing the owner or person claiming the hides or animals to appear at the judge's or justice's office within a specified time, not to exceed

24 hours, to show cause why the property should not be condemned.

(b) If a person proves to be the lawful owner of hides or animals seized under this section, the court shall direct that the property be delivered to that person on payment of the inspection fees and other costs. A person may prove ownership by showing a bill of sale from the prior owner or an agent of the prior owner and a complete chain of transfer of title from the original owner.

(c) If no person proves to be the owner of hides or animals seized under this section, the court shall direct that the property be sold at public auction by the inspector. Notice of the sale shall be published for 10 days in a newspaper published in the county. If no newspaper is published in the county, notice shall be posted for 10 days at the courthouse door and at two or more other places in the county. The property shall be sold to the highest and best bidder.

(d) Proceeds of a sale under this section shall first be used to satisfy expenses of the sale. Of the balance remaining, the inspector is entitled to retain 25 percent and shall remit 75 percent to the county treasurer. The county treasurer shall deposit one-half of that sum to the credit of the county available school fund and one-half to the credit of the county jury fund.

(e) At any time before proceedings are begun under this section, the importer of the hides or animals may pay the lawful owner or the owner's agent or attorney for those hides or animals. Following that payment and payment of the inspection fees, the inspector shall release the hides or animals to the importer.

[Acts 1981, 67th Leg., p. 1374, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 146.069. Inspection and Seizure of Hides or Animals Without Brand or With Unhealed Brand

(a) An inspector may not issue a certificate of inspection for unbranded hides or animals or for hides or animals for which the brand cannot be ascertained.

(b) Unless the hide or animal is identified in accordance with Subsection (c) of this section, an inspector may seize and sequester a hide or an animal that is about to be slaughtered or driven or shipped out of the county if:

- (1) the hide or animal is unbranded;
- (2) the mark or brand for the animal cannot be ascertained; or
- (3) the animal is a calf or yearling on which a fresh mark or brand is unhealed.

(c) An inspector may not seize a hide or an animal that is identified by a bill of sale signed by the owner or the owner's agent and acknowledged be-

fore an officer authorized to authenticate instruments for record in this state. An inspector may not seize a calf or yearling that is accompanied by its mother.

(d) An inspector who seizes a hide or an animal under this section shall report the seizure to a court of competent jurisdiction as determined by the value of the property seized. The court shall issue a citation directed to the sheriff or a constable that is addressed "To whom it may concern." The citation must state that the property has been seized, describe the property, and command that concerned persons appear at a day named in the citation to show cause why the property should not be forfeited to and sold for the benefit of the county in which it was seized.

(e) The sheriff or constable shall post certified copies of the citation in three public places in the county for a period of 10 days before the date named in the citation. On receiving proof of posting, the court issuing the citation shall proceed to condemn the property unless satisfactory proof of ownership is made or unless other sufficient cause is shown why the property should not be condemned.

(f) If the property is condemned, the court shall order the inspector to sell it at public auction to the highest bidder. The inspector is entitled to retain one-fourth of the proceeds of the sale after deducting expenses and shall immediately pay the remaining proceeds into the county treasury for deposit to the credit of the general fund of the county.

[Acts 1981, 67th Leg., p. 1374, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 146.070. Inspection Fees

(a) Each inspector or deputy inspector is entitled to receive 10 cents for each animal personally inspected as part of a lot containing 50 or fewer animals. If the lot contains more than 50 animals, the inspector or deputy inspector is entitled to 10 cents for each of the first 50 animals and 3 cents for each animal thereafter.

(b) Following a hearing on the necessity of increased fees, the commissioners court of Duval, Fisher, Jim Wells, LaSalle, McMullen, Mitchell, Nolan, or Webb County by order may provide for fees in excess of those prescribed by Subsection (a) of this section. Notice of the time and place of the hearing must be published at least once a week for three consecutive weeks in a newspaper of general circulation in the county. The fees prescribed may not exceed 25 cents for each animal inspected as part of a lot containing 50 or fewer animals or, for lots of more than 50 animals, 25 cents for each of the first 50 animals and 10 cents for each animal thereafter.

[Acts 1981, 67th Leg., p. 1375, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.071. Penalty for Issuing Fraudulent Certificate**

(a) A person commits an offense if, as an inspector, the person:

(1) issues a certificate of inspection without having first made an inspection in accordance with this subchapter; or

(2) issues a fraudulent certificate of inspection.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$500.

[Acts 1981, 67th Leg., p. 1375, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.072. Penalty for Failure to Inspect**

(a) A person commits an offense if, as an inspector, the person knowingly fails or refuses to faithfully examine and inspect all hides and animals known or reported to be sold, leaving the county for sale or shipment, or driven in the county for slaughter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1981, 67th Leg., p. 1376, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.073. Penalty for Failure to Keep or File Records**

(a) A person commits an offense if, as an inspector, the person fails to record information or file that record with the county clerk as required by Section 146.060 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$300.

[Acts 1981, 67th Leg., p. 1376, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.074. Penalty for Incorrectly Stating Brands in Certificate of Inspection or Acknowledgment**

(a) A person commits an offense if, as an inspector or deputy inspector, the person fails to correctly state in a certificate of inspection or certificate of acknowledgment each mark and brand of an animal or hide inspected by that person.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$300.

[Acts 1981, 67th Leg., p. 1376, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.075. Penalty for Improper Export or Import of Cattle or Carcasses**

(a) A person commits an offense if the person drives cattle or moves the carcasses of cattle across the Rio Grande from Mexico into Texas or from Texas into Mexico:

(1) at a point other than a place of inspection by United States customhouse officers; or

(2) without having the cattle or carcasses inspected in accordance with law.

(b) An offense under this section is a felony punishable by imprisonment in the Texas Department of Corrections for not less than two years nor more than five years.

[Acts 1981, 67th Leg., p. 1376, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.076. Penalty for Shipping or Selling Hides Without Inspection**

(a) A person commits an offense if the person:

(1) ships from any port in this state cattle hides imported from Mexico that have not been inspected in accordance with this subchapter; or

(2) sells cattle hides that have not been inspected in accordance with this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 nor more than \$5 for each hide shipped or sold.

[Acts 1981, 67th Leg., p. 1376, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.077. Penalty for Driving Animals Without Consent of Owner**

(a) A person commits an offense if the person drives cattle or horses out of a county without the written authority of the owner of the animals, authenticated as required by law, and without first having the animals inspected in accordance with this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$20 nor more than \$100 for each animal driven.

[Acts 1981, 67th Leg., p. 1376, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.078. Penalty for Purchasing Animal or Hide Without Bill of Sale**

(a) A person commits an offense if the person purchases an animal or the hide of a head of cattle without obtaining a bill of sale from the owner or an agent of the owner.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$20 nor more than \$100 for each animal or hide purchased.

[Acts 1981, 67th Leg., p. 1377, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 146.079. Penalty for Agent Selling Without Power of Attorney**

(a) A person commits an offense if, as the agent of another, the person sells cattle without first having obtained an authenticated power of attorney from the other person.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$500.

[Acts 1981, 67th Leg., p. 1377, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 146.080. Penalty for Receiving Uninspected Animal for Shipment

(a) A person commits an offense if, as the agent of a railroad, steamship, sailing vessel, or shipping company, the person receives for shipment a horse or head of cattle that has not been inspected in accordance with this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$1,000 for each animal received.

[Acts 1981, 67th Leg., p. 1377, ch. 388, § 1, eff. Sept. 1, 1981.]

### CHAPTER 147. LIVESTOCK COMMISSION MERCHANTS

#### SUBCHAPTER A. GENERAL PROVISIONS

Section	
147.001.	Definitions.
147.002.	Commission of Merchants.
147.003.	Exceptions.
147.004.	Remittance of Sale Proceeds.
147.005.	Deposit of Proceeds in Dispute.

#### SUBCHAPTER B. BOND

147.021.	Bond Required.
147.022.	Terms and Conditions of Bond.
147.023.	Amount of Bond.
147.024.	More Than One Person Under Single Bond.
147.025.	Approval of Bond by County Judge.
147.026.	Recording of Bond and Statement of Sales.
147.027.	Commission Merchant's Copy of Bond.
147.028.	Suit on Bond.
147.029.	Insolvency of Surety.

#### SUBCHAPTER C. RECORDS

147.041.	Record of Sales.
147.042.	Record of Transportation.

#### SUBCHAPTER D. PENALTIES

147.061.	Failure to File or Maintain Bond.
147.062.	Failure to Post Copy of Bond.
147.063.	Failure to Remit Proceeds of Sale.
147.064.	Appropriation of Proceeds of Sale.
147.065.	Failure to Keep or Exhibit Transportation Records.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### § 147.001. Definitions

In this chapter:

(1) "Commission merchant" means a livestock commission merchant or a livestock auction commission merchant.

(2) "Livestock" includes cattle, hogs, sheep, goats, mules, horses, jacks, and jennets.

[Acts 1981, 67th Leg., p. 1378, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 147.002. Commission Merchants

(a) A person is subject to this chapter as a livestock commission merchant if the person:

(1) pursues the business of selling livestock on consignment for a commission or other charges;

(2) solicits consignment of livestock as a livestock commission merchant; or

(3) advertises or holds himself or herself out to be a livestock commission merchant.

(b) A person is subject to this chapter as a livestock auction commission merchant if the person:

(1) pursues the business of selling livestock at auction on consignment for a commission or other charges;

(2) solicits consignment of livestock as a livestock auction commission merchant; or

(3) advertises or holds himself or herself out to be a livestock auction commission merchant.

[Acts 1981, 67th Leg., p. 1378, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 147.003. Exceptions

(a) A person pursuing the business of selling mules, horses, jacks, or jennets in a county with a population of not less than 710,000 nor more than 720,000 is not subject to this chapter as a livestock auction commission merchant.

(b) Sections 147.004, 147.022(a)(3), 147.022(b), 147.023, 147.024, and 147.041(a) do not apply to a livestock auction commission or company that is subject to and regulated by the United States Department of Agriculture under the Packers and Stock Yards Act (7 U.S.C. Sec. 181 et seq.).

[Acts 1981, 67th Leg., p. 1378, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 147.004. Remittance of Sale Proceeds

(a) Within 48 hours after the sale of consigned livestock, a commission merchant shall:

(1) remit the net proceeds of the sale to each person entitled to receive those proceeds or to another person to whom the person directs that the proceeds be paid; or

(2) if requested by a person, deposit the proceeds due that person to the credit of that person in a state or national bank in the city or county of the commission merchant's principal place of business.

(b) In calculating the time allowed for remittance of proceeds under this section by a livestock commission merchant, Sundays, holidays, and the day of sale are excluded. In calculating the time allowed for remittance of proceeds under this section by a livestock auction commission merchant, Sundays, holidays, and the day of sale are included.

[Acts 1981, 67th Leg., p. 1379, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 147.005. Deposit of Proceeds in Dispute**

(a) If the proceeds of a sale of livestock by a commission merchant become involved in a dispute between contending claimants, or if the commission merchant is notified that a person other than the person who consigned the livestock asserts a right to the proceeds, the commission merchant shall deposit the net proceeds of the sale in a state or national bank in the city or county of the commission merchant's principal place of business.

(b) The commission merchant shall promptly notify all interested parties of the deposit of proceeds in a bank under Subsection (a) of this section.

(c) Following the deposit of the proceeds and the giving of notice under this section, neither the commission merchant nor the bond of the commission merchant is liable for those funds.

[Acts 1981, 67th Leg., p. 1379, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 147.006-147.020 reserved for expansion]

**SUBCHAPTER B. BOND**

**§ 147.021. Bond required**

Before engaging in business as a commission merchant, a person shall file a bond with the county judge of the county of the commission merchant's principal place of business.

[Acts 1981, 67th Leg., p. 1379, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 147.022. Terms and Conditions of Bond**

(a) Each bond filed under this chapter must be:

(1) signed by a solvent surety company authorized to do business in this state and having a paid-up capital of at least \$500,000;

(2) payable to the county judge of the county of the commission merchant's principal office or place of business as trustee for all persons who may be entitled to recover under the bond; and

(3) conditioned that the commission merchant will comply with the requirements of this chapter and will well and truly perform all agreements entered into with a consignor or owner of livestock, or with a person holding a lien on livestock, in relation to receiving, handling, and selling the livestock and remitting the net proceeds of a sale.

(b) Each bond must contain a provision requiring that, in order to terminate a bond, the terminating party must give at least 10 days' written notice to the county judge prior to the termination.

[Acts 1981, 67th Leg., p. 1379, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 147.023. Amount of Bond**

(a) Except as otherwise provided by this section, the amount of each commission merchant's bond

must be equal to the nearest multiple of \$1,000 that is more than twice the average amount of the commission merchant's sales and purchases of livestock on a business day during the preceding year or portion of a year in which the person engaged in business as a commission merchant. The average amount of sales and purchases for one day is determined by dividing the total sales and purchases for the preceding year by 308, regardless of the actual number of business days.

(b) A bond may not be in an amount less than \$2,000.

(c) If the amount equal to twice the average sales and purchases of a commission merchant on a business day exceeds \$50,000, the bond must be in an amount equal to \$50,000 plus 10 percent of the amount of sales and purchases in excess of \$50,000.

(d) If prior to filing bond a person has no previous sales and purchases on which to determine the amount of the bond, the bond must be in an amount adequate to cover the probable volume of business to be done by that person, as determined by the county judge of the county of the commission merchant's principal place of business. After that person has engaged in business as a commission merchant for one year, the amount of the bond shall be determined as otherwise provided by this section.

(e) If in the judgment of the county judge the condition of the business of a livestock commission merchant renders the bond inadequate, the county judge shall notify the livestock commission merchant and the commission merchant shall increase the bond to an amount determined adequate by the county judge.

[Acts 1981, 67th Leg., p. 1380, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 147.024. More Than One Person Under Single Bond**

(a) If two or more commission merchants are employees or agents solely for one person, they may be covered by a single bond in an amount determined under Section 147.023 of this code on the basis of combined purchases and sales.

(b) Two or more commission merchants not subject to Subsection (a) of this section may be covered under a single bond in an amount not less than the aggregate amount of individual bonds required under Section 147.023 of this code.

[Acts 1981, 67th Leg., p. 1380, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 147.025. Approval of Bond by County Judge**

(a) The county judge shall carefully examine each commission merchant's bond and shall approve a bond if satisfied that it conforms to the requirements of this subchapter.

(b) Before approving the bond of a livestock commission merchant, the county judge shall obtain certified data relating to the surety company from the commissioner of insurance.

[Acts 1981, 67th Leg., p. 1380, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 147.026. Recording of Bond and Statement of Sales

(a) The county judge shall file each commission merchant's bond with the county clerk, who shall record the bond at length in records maintained for that purpose labeled "Bonds of Livestock Commission Merchants" or "Bonds of Livestock Auction Commission Merchants," as applicable. The records must be properly indexed.

(b) If the person filing the bond is a livestock commission merchant, the person shall also file a sworn statement with the county judge setting forth the average daily sales of the person for the preceding year. The county clerk shall record the statement in the same manner as the bond.

(c) The county clerk shall retain the original bond and sworn statement of a livestock commission merchant in the archives of the clerk's office.

[Acts 1981, 67th Leg., p. 1381, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 147.027. Commission Merchant's Copy of Bond

As soon as practicable after the recording of a bond, a commission merchant shall request, and the county clerk shall provide, a certified copy of the bond. The commission merchant shall post that copy in a conspicuous place in the main office of the commission merchant's principal place of business.

[Acts 1981, 67th Leg., p. 1381, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 147.028. Suit on Bond

(a) Any person damaged by breach of a condition of a bond may bring suit and recover under the bond. The suit shall be brought in the county in which the bond is filed.

(b) A bond is not void on first recovery and may be sued on until the total amount is exhausted. If a bond is reduced by one-half, the commission merchant shall file a new bond, conditioned as provided by this subchapter for the original bond, in an amount necessary to restore the bond to the amount required by Section 147.023 of this code.

[Acts 1981, 67th Leg., p. 1381, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 147.029. Insolvency of Surety

If the county judge discovers that the surety on a bond is insolvent or determines that the surety is financially unable to make the bond sufficient, the county judge shall notify the commission merchant

and the commission merchant shall execute a new bond in accordance with the requirements for the original bond.

[Acts 1981, 67th Leg., p. 1381, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 147.030 to 147.040 reserved for expansion]

### SUBCHAPTER C. RECORDS

#### § 147.041. Record of Sales

(a) Each livestock auction commission merchant shall keep a record of all livestock sold at auction. The record must give an accurate description of the livestock, including:

- (1) the color;
- (2) the probable age;
- (3) any marks and brands; and
- (4) the location of marks and brands.

(b) Records maintained under Subsection (a) of this section are subject to inspection by any citizen of this state.

(c) Each livestock auction commission merchant shall file a quarterly report of all livestock sold with the commissioners court of the county in which the commission merchant transacts business. The report must include:

- (1) a description of the livestock;
- (2) the name and address of the consignor or the person purporting to own the livestock; and
- (3) the name and address of the purchaser.

[Acts 1981, 67th Leg., p. 1381, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 147.042. Record of Transportation

(a) Each livestock auction commission merchant shall keep a record of the motor vehicle and trailer or semitrailer on which livestock is transported to the place of sale. The record must be in a form prescribed by the Texas Animal Health Commission and must show the name of the owner of the livestock, the name of the owner of the vehicle, and the name, make, and license plate number of the vehicle. The commission merchant shall prepare the record and make it available for public inspection within 24 hours after receipt of the livestock.

(b) Each livestock auction commission merchant shall keep a record of the motor vehicle and trailer or semitrailer on which livestock is transported from the place of sale. The record must be in a form prescribed by the Texas Animal Health Commission and must show the name and address of the purchaser of the livestock and the name and address of the owner of the vehicle. The commission merchant shall prepare the record and make it available immediately after the livestock is sold and before the livestock is removed from the place of sale.

(c) The livestock auction commission merchant shall furnish a copy of the record under Subsection (b) of this section to the driver of the vehicle transporting the livestock from the place of sale. The driver shall keep that record in the driver's possession while transporting the livestock and shall exhibit the record on demand of any peace officer.

(d) Each livestock auction commission merchant shall retain records kept under this section for at least one year after the date of sale. The commission merchant shall keep the records open for public inspection at reasonable hours.

(e) This section does not apply to a private sale in which the livestock of only one person is offered for sale.

[Acts 1981, 67th Leg., p. 1382, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 147.043 to 147.060 reserved for expansion]

SUBCHAPTER D. PENALTIES

§ 147.061. Failure to File or Maintain Bond

(a) A person commits an offense if the person:

(1) advertises or solicits business, or engages in business, as a livestock commission merchant without filing a bond in accordance with this chapter; or

(2) as a livestock commission merchant, fails to maintain a bond in full force and effect in accordance with this chapter.

(b) A person commits an offense if the person:

(1) advertises or solicits business, or engages in business, as a livestock auction commission merchant without filing a bond in accordance with this chapter; or

(2) as a livestock auction commission merchant, fails to maintain a bond in full force and effect in accordance with this chapter.

(c) An offense under Subsection (a) of this section is a felony punishable by:

(1) a fine of not less than \$500 nor more than \$5,000;

(2) imprisonment in the Texas Department of Corrections for not less than one nor more than two years; or

(3) both fine and imprisonment under this subsection.

(d) An offense under Subsection (b) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$25 nor more than \$1,000;

(2) confinement in county jail for not more than 30 days; or

(3) both fine and confinement under this subsection.

[Acts 1981, 67th Leg., p. 1382, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 147.062. Failure to Post Copy of Bond

(a) A person commits an offense if the person fails to post a copy of the person's bond in accordance with Section 147.027 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$100.

(c) A person commits a separate offense each day that the copy is not posted.

[Acts 1981, 67th Leg., p. 1383, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 147.063. Failure to Remit Proceeds of Sale

(a) A person commits an offense if, as a livestock commission merchant, the person intentionally fails and refuses to remit the net proceeds of a sale of livestock in accordance with Section 147.004 of this code.

(b) A person commits an offense if, as a livestock auction commission merchant, the person intentionally fails and refuses to remit the net proceeds of a sale of livestock in accordance with Section 147.004 of this code.

(c) An offense under Subsection (a) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$100 nor more than \$1,000;

(2) confinement in county jail for not less than 1 month nor more than 12 months; or

(3) both fine and confinement under this subsection.

(d) An offense under Subsection (b) of this section is a misdemeanor punishable by:

(1) a fine of not more<sup>1</sup> than \$25 nor more than \$100;

(2) confinement in county jail for not more than 30 days; or

(3) both fine and confinement under this subsection.

[Acts 1981, 67th Leg., p. 1383, ch. 388, § 1, eff. Sept. 1, 1981.]

<sup>1</sup> So in enrolled bill; probably should read "less".

§ 147.064. Appropriation of Proceeds of Sale

(a) A person commits an offense if, as a livestock commission merchant, the person appropriates or uses any portion of the net proceeds of the sale of livestock for a purpose other than remitting the proceeds under Section 147.004 of this code.

(b) A person commits an offense if, as a livestock auction commission merchant, the person appropriates or uses any portion of the net proceeds of the sale of livestock for a purpose other than remitting the proceeds under Section 147.004 of this code.

(c) An offense under Subsection (a) of this section is a felony punishable by imprisonment in the Texas Department of Corrections for not less than two years nor more than four years.

(d) An offense under Subsection (b) of this section is a misdemeanor punishable by:

- (1) a fine of not more than \$1,000; and
- (2) confinement in county jail for not more than one year.

[Acts 1981, 67th Leg., p. 1383, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 147.065. Failure to Keep or Exhibit Transportation Records**

(a) A person commits an offense if the person violates Section 147.042 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$200. [Acts 1981, 67th Leg., p. 1384, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 148. SLAUGHTERING OF LIVESTOCK**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
148.001.	Definition.
148.002.	Slaughterer to Register.
148.003.	Slaughter of Unbranded or Unmarked Livestock; Slaughter Without Bill of Sale.

**SUBCHAPTER B. RECORDS AND REPORTS**

148.011.	Record of Purchase and Slaughter.
148.012.	Reports to County.

**SUBCHAPTER C. PAYMENT FOR LIVESTOCK PURCHASED FOR SLAUGHTER**

148.021.	Meat Processor.
148.022.	Time and Method of Payment for Purchases.
148.023.	Agreement on Time and Method of Payment.
148.024.	Delay in Collection of Payment Instruments.
148.025.	Damages.
148.026.	Lien.
148.027.	Commingling of Livestock Under Lien.
148.028.	Priority of Lien.

**SUBCHAPTER D. PROVISIONS APPLICABLE ONLY TO CERTAIN COUNTIES**

148.041.	Application of Subchapter.
148.042.	Slaughterer's Bond.
148.043.	Records.
148.044.	Inspections.
148.045.	Purchase of Slaughtered Cattle Without Hide or Ears.

**SUBCHAPTER E. PENALTIES**

148.061.	Failure to Register.
148.062.	Slaughter of Unbranded or Unmarked Livestock; Slaughter Without Bill of Sale.
148.063.	Failure to Keep or Provide Records of Purchase or Slaughter.
148.064.	Failure to Report to County.
148.065.	Failure to File Bond.
148.066.	Failure to Keep or Permit Inspection of Records.
148.067.	Failure to Have Hide and Ears Inspected.
148.068.	Inspector's or Magistrate's Failure to Keep or File Records.
148.069.	Purchase of Slaughtered Cattle Without Hide or Ears.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 148.001. Definition.**

In this chapter, "slaughterer" means a person engaged in the business of slaughtering livestock for profit.

[Acts 1981, 67th Leg., p. 1385, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.002. Slaughterer to Register**

(a) Before engaging in business as a slaughterer, a person must register with the county clerk, giving the person's name and intent to engage in business as a slaughterer.

(b) This section does not apply to a person who slaughters at least 300 head of cattle a day.

[Acts 1981, 67th Leg., p. 1385, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.003. Slaughter of Unbranded or Unmarked Livestock; Slaughter Without Bill of Sale.**

(a) A slaughterer may not purchase or slaughter for market livestock that is unmarked or unbranded.

(b) A slaughterer may not purchase and slaughter any animal without receiving a bill of sale or written transfer from the person selling the livestock.

(c) This section does not apply to the slaughter of an animal raised by the slaughterer.

[Acts 1981, 67th Leg., p. 1385, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 148.004 to 148.010 reserved for expansion]

**SUBCHAPTER B. RECORDS AND REPORTS**

**§ 148.011. Record of Purchase and Slaughter**

(a) In accordance with this section, a slaughterer shall keep a record of all cattle, horses, hogs, sheep, or goats purchased or slaughtered. Both the slaughterer and the person managing the slaughtering operations are responsible for maintaining records under this section. A person who owns or operates a locker plant and leases, rents, or furnishes space to others in that plant for profit shall keep records in accordance with this section as if that person were a slaughterer.

(b) Each slaughterer shall record in a bound volume;

(1) a description of the livestock by kind, color, sex, probable age, any marks and brands, and the location of any marks and brands;

(2) the name and address of the person from whom the livestock was purchased or acquired or for whom the livestock was slaughtered;

(3) if the livestock is delivered to the slaughterer by someone other than the slaughterer or the

slaughterer's agent, the name and address of the individual delivering the livestock and the make, model, and license plate number of the vehicle in which the livestock was delivered; and

(4) the date of delivery of the livestock to the slaughterer.

(c) The record must be prepared and made available for public inspection within 24 hours after the slaughterer receives the livestock. The slaughterer shall preserve the record for at least one year and shall keep the record open for public inspection at all reasonable hours.

(d) The Texas Animal Health Commission shall disseminate the provisions of this section and Section 148.063 of this code to interested persons. The commission shall carry out occasional spot checks of places maintained by slaughterers in order to determine if the provisions of this section are complied with.

[Acts 1981, 67th Leg., p. 1385, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.012. Reports to County**

(a) At each regular meeting of the county commissioners court, each slaughterer shall make a sworn report relating to the animals slaughtered since the last regular meeting of the court. The report must provide:

- (1) the number of animals slaughtered;
- (2) the color, age, sex, and marks and brands of each animal slaughtered;
- (3) a bill of sale or written conveyance for each animal purchased for slaughter; and
- (4) a notation of any slaughtered animals that were raised by the slaughterer.

(b) The slaughterer shall file the report required by Subsection (a) of this section with the county clerk, who may destroy the report after keeping it on file for at least five years.

(c) In addition to the report made under Subsection (a) of this section, a slaughterer of cattle shall file with the county clerk a record showing:

- (1) the marks, brands, and general description of the cattle;
- (2) the names of the persons from whom the cattle were purchased;
- (3) the date of purchase; and
- (4) the county from which the cattle were driven.

(d) The slaughterer shall file the record required by Subsection (c) of this section on the first day of each month with the county clerk of the county where the cattle were slaughtered. The clerk shall copy the report into records maintained for that purpose and return the original to the person recording the information.

[Acts 1981, 67th Leg., p. 1386, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 148.013 to 148.020 reserved for expansion]

**SUBCHAPTER C. PAYMENT FOR LIVESTOCK PURCHASED FOR SLAUGHTER**

**§ 148.021. Meat Processor**

A person is a meat processor subject to this subchapter if the person is engaged in the business of slaughtering cattle, sheep, goats, or hogs and processing or packaging them for sale as meat.

[Acts 1981, 67th Leg., p. 1387, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.022. Time and Method of Payment for Purchases**

(a) Except as otherwise provided by this section or by agreement, a meat processor, or any other person, who purchases cattle, sheep, goats, or hogs for slaughter shall make payment for the livestock by:

(1) cash or check for the purchase price actually delivered to the seller or the seller's representative at the location where the purchaser takes physical possession of the livestock and on the day of the transaction; or

(2) wire transfer of funds on the business day on which possession of the livestock is transferred.

(b) If transfer of possession of the livestock is accomplished after normal banking hours, the purchaser shall make payment no later than the close of the first business day following the transfer of possession.

(c) If the livestock is purchased on the basis of grade and yield, the purchaser shall make payment by wire transfer of funds no later than the close of the first business day following determination of the grade and yield.

[Acts 1981, 67th Leg., p. 1387, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.023. Agreement on Time and Method of Payment**

(a) The purchaser and seller of cattle, sheep, goats, or hogs, or other expressly authorized agents, may agree in writing on a method of payment other than that provided by Section 148.022 of this code.

(b) An agreement under this section must state that it may be canceled at any time by either party, after which payment must be made in accordance with Section 148.022 of this code.

(c) An agreement may not alter any other requirement of this subchapter.

[Acts 1981, 67th Leg., p. 1387, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.024. Delay in Collection of Payment Instruments**

An instrument issued in payment for livestock under this subchapter shall be drawn on banks that are so located as not to artificially delay collection of funds through mail or otherwise cause an undue lapse of time in the clearance process.

[Acts 1981, 67th Leg., p. 1387, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.025. Damages**

A purchaser who fails to pay for livestock as provided by this subchapter or who artificially delays the collection of funds for the payment is liable to the seller of the livestock for the purchase price and:

(1) damages in an amount equal to 12 percent of the purchase price;

(2) interest on the purchase price at the highest legal rate from the transfer of possession until payment is made in accordance with this subchapter; and

(3) a reasonable attorney's fee for the prosecution of collection of the payment.

[Acts 1981, 67th Leg., p. 1387, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.026. Lien**

(a) To secure all or part of the sales price, a person who sells cattle, sheep, goats, or hogs for slaughter has a lien on each animal sold and on the carcass of the animal, products from the animal, and proceeds from the sale of the animal, its carcass, or its products.

(b) A lien under this section is attached and perfected on delivery of the livestock to the purchaser without further action. The lien continues as to the animal, its carcass, its products, and the proceeds of any sale without regard to possession by the party entitled to the lien.

[Acts 1981, 67th Leg., p. 1388, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.027. Commingling of Livestock Under Lien**

(a) If an animal, its carcass, or its products is under a lien and is commingled with other livestock, carcasses, or products so that the identity is lost, the lien extends to all of the commingled animals, carcasses, or products as if the lien had been perfected originally in all of them.

(b) Each lien extended under this section is on a parity with any other lien extended under this section.

(c) A lien extended under this section is not enforceable against a person without actual knowledge of the lien who purchases one or more of the carcasses or products in the ordinary course of trade or business from the party who commingled the carcasses or products, nor against a subsequent transferee from that purchaser, but is enforceable against the proceeds of that sale.

[Acts 1981, 67th Leg., p. 1388, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.028. Priority of Lien**

A lien under this subchapter has priority over any other lien or perfected security interest in the ani-

mal, its carcass, its products, or proceeds from the sale of the animal, its carcass, or its products. [Acts 1981, 67th Leg., p. 1388, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 148.029 to 148.040 reserved for expansion]

**SUBCHAPTER D. PROVISIONS APPLICABLE ONLY TO CERTAIN COUNTIES**

**§ 148.041. Application of Subchapter**

This subchapter does not apply to the following counties: Anderson, Austin, Bandera, Bastrop, Bell, Bexar, Blanco, Bowie, Brazos, Burleson, Caldwell, Calhoun, Camp, Cass, Chambers, Cherokee, Clay, Collin, Colorado, Comal, Comanche, Dallas, Delta, Denton, DeWitt, Ellis, Falls, Fannin, Fayette, Franklin, Freestone, Galveston, Gillespie, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hardin, Harris, Harrison, Hays, Henderson, Hill, Hopkins, Houston, Hunt, Johnson, Karnes, Kaufman, Kendall, Kerr, Kimble, Lamar, Lavaca, Lee, Leon, Liberty, Limestone, Llano, Madison, Marion, Mason, McLennan, Milam, Montgomery, Morris, Nacogdoches, Navarro, Palo, Pinto, Panola, Polk, Rains, Robertson, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Sutton, Tarrant, Titus, Travis, Trinity, Upshur, Van Zandt, Walker, Waller, Washington, Williamson, and Wood.

[Acts 1981, 67th Leg., p. 1388, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.042. Slaughterer's Bond**

(a) Before engaging in business as a slaughterer of cattle, a person must file a bond with the clerk of the county court of the county in which the person is to conduct business. The bond is subject to approval by the county judge and must be:

(1) in an amount not less than \$200 nor more than \$1,000;

(2) payable to the State of Texas; and

(3) conditioned that the slaughterer will comply with the requirements of this subchapter.

(b) A district or county attorney of the county in which the bond is filed may sue on the bond of a slaughterer who violates a provision of this subchapter. Any sum recovered by suit on the bond shall be deposited in the county treasury to the credit of the available school fund.

[Acts 1981, 67th Leg., p. 1388, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.043. Records**

(a) A slaughterer of cattle shall keep a true and faithful record, in a book kept for that purpose, of all cattle purchased or slaughtered, including:

(1) a description of each animal, including marks, brands, age, color, and weight;

(2) the name of the person from whom the cattle were purchased; and

(3) the date of each purchase.

(b) A slaughterer shall keep records under this section open for public inspection at reasonable hours.

[Acts 1981, 67th Leg., p. 1389, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.044. Inspections**

(a) Not later than 20th day after the day of slaughter, a slaughterer shall have the hide and ears of any cattle slaughtered inspected by the inspector of hides and animals or by a magistrate of the county.

(b) The inspector or magistrate shall keep a record of inspections made under this section, including:

(1) the marks, brands, color, and general description of each hide;

(2) the person for whom each hide was inspected; and

(3) the date of each inspection.

(c) The inspector or magistrate shall file a copy of the records of inspection with the county clerk of the county in which the hides were inspected not later than the 30th day following the date of the inspection.

(d) An inspector or magistrate is entitled to collect a fee of 10 cents for each hide inspected under this section from the person for whom the hide was inspected.

(e) This section applies only in counties subject to Subchapter C, Chapter 146, of this code.

[Acts 1981, 67th Leg., p. 1389, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.045. Purchase of Slaughtered Cattle Without Hide or Ears**

A slaughterer may not purchase cattle that have been slaughtered by another person if:

(1) the slaughtered animal is not accompanied by the hide and ears; or

(2) the ear mark or brand on the hide accompanying a slaughtered animal has been changed, mutilated, or destroyed.

[Acts 1981, 67th Leg., p. 1389, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 148.046 to 148.060 reserved for expansion]

**SUBCHAPTER E. PENALTIES**

**§ 148.061. Failure to Register**

(a) A person required by Section 148.002 of this code to register as a slaughterer commits an offense if the person fails to register.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$5 nor more than \$25.

[Acts 1981, 67th Leg., p. 1390, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.062. Slaughter of Unbranded or Unmarked Livestock; Slaughter Without Bill of Sale**

(a) A person commits an offense if the person slaughters unbranded or unmarked livestock, or purchases or slaughters an animal without receiving a bill of sale or written transfer, in violation of Section 148.003 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$300.

[Acts 1981, 67th Leg., p. 1390, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.063. Failure to Keep or Provide Records of Purchase or Slaughter**

(a) A person required to keep records of purchase or slaughter by Section 148.011 of this code commits an offense if the person violates that section.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$200.

[Acts 1981, 67th Leg., p. 1390, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.064. Failure to Report to County**

(a) A person required by Section 148.012(a) of this code to file reports on slaughtered animals with the county commits an offense if the person fails to file a report as required by that section.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$300.

[Acts 1981, 67th Leg., p. 1390, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.065. Failure to File Bond**

(a) A person required by Section 148.042 of this code to file a bond commits an offense if the person engages in business as a slaughterer without filing bond in accordance with that section.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$5 nor more than \$200.

[Acts 1981, 67th Leg., p. 1390, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 148.066. Failure to Keep or Permit Inspection of Records**

(a) A person required by Section 148.043 of this code to keep records commits an offense if the person:

(1) fails to keep records as required by that section; or

(2) refuses to permit inspection of those records at reasonable hours.

(b) An offense under Subsection (a)(1) of this section is a misdemeanor punishable by a fine of not less than \$20 nor more than \$200.

(c) An offense under Subsection (a)(2) of this section is a misdemeanor punishable by a fine of not more than \$25.

[Acts 1981, 67th Leg., p. 1390, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 148.067. Failure to Have Hide and Ears Inspected

(a) A person required by Section 148.044 of this code to have the hide and ears of a slaughtered animal inspected commits an offense if the person fails to have the hide and ears inspected as required by that section.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$20 nor more than \$200.

[Acts 1981, 67th Leg., p. 1390, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 148.068. Inspector's or Magistrate's Failure to Keep or File Records

(a) A person commits an offense if, as an inspector or magistrate, the person:

(1) fails to keep a record required by Section 148.044(b) of this code; or

(2) fails to file a copy of a record with the county clerk in accordance with Section 148.044(c) of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 nor more than \$25.

[Acts 1981, 67th Leg., p. 1391, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 148.069. Purchase of Slaughtered Cattle Without Hide or Ears

(a) A person commits an offense if the person purchases slaughtered cattle in violation of Section 148.045 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1981, 67th Leg., p. 1391, ch. 388, § 1, eff. Sept. 1, 1981.]

### SUBTITLE C. CONTROL OF ANIMAL DISEASES AND PESTS

#### CHAPTER 161. GENERAL DISEASE AND PEST CONTROL

##### SUBCHAPTER A. GENERAL PROVISIONS

Section	
161.001.	Definitions.
161.002.	Caretaker of Animal.

Section	
161.003.	Duty of County Commissioners Court.
161.004.	Disposal of Diseased Livestock Carcass.
161.005.	Commission Written Instruments.
161.006.	Documents to Accompany Shipment.
161.007.	Exposure or Infection Considered Continuing.

##### SUBCHAPTER B. TEXAS ANIMAL HEALTH COMMISSION

161.021.	Composition.
161.022.	Term.
161.023.	Bond.
161.024.	Chairman.
161.025.	Vacancies.
161.026.	Per Diem; Expenses.
161.027.	Sunset Provision.

##### SUBCHAPTER C. GENERAL POWERS AND DUTIES OF COMMISSION

161.041.	Disease Control.
161.042.	Sale and Distribution of Veterinary Biologics.
161.043.	Regulation of Exhibitions.
161.044.	Regulation of Livestock Movement From Stockyards or Railway Shipping Pens.
161.045.	Employees; Chief Veterinarian.
161.046.	Rules.
161.047.	Entry Power.
161.048.	Inspection of Shipment of Livestock or Livestock Products.

##### SUBCHAPTER D. QUARANTINES

161.061.	Establishment.
161.062.	Publication of Notice.
161.063.	Contents of Notice.
161.064.	Effect of Quarantine.
161.065.	Movement From Quarantined Area; Movement of Quarantined Animals.
161.066.	Compensation for Owner for Destruction of Animal Quarantined for Glanders.

##### SUBCHAPTER E. REGULATION OF IMPORTATION OF ANIMALS

161.081.	Health Certificate Required for Importation.
161.082.	Exceptions.
161.083.	Contents of Certificate.
161.084.	Health Certificate for Cattle.
161.085.	Health Certificate for Hogs.
161.086.	Testing of Cattle After Entry.
161.087.	Importing Cattle From Quarantined Herds.
161.088.	Importing Animals From Area Quarantined for Screw-worm Infestation.

##### SUBCHAPTER F. VETERINARIAN REPORTS OF DISEASED ANIMALS

161.101.	Duty to Report.
161.102.	Submission of Specimen of Anthrax Victim.
161.103.	Notice of Required Method of Disposal.

##### SUBCHAPTER G. REGULATION OF LIVESTOCK MARKETS

161.111.	Definition.
161.112.	Rules.
161.113.	Testing or Treatment of Livestock.
161.114.	Inspection of Livestock.
161.115.	Entry Power.
161.116.	Sale or Delivery of Diseased Cattle.

##### SUBCHAPTER H. REMEDIES AND PENALTIES

161.131.	Injunction.
161.132.	Civil Suit Against Nonresident Violator.
161.133.	Violation by Corporation.

Section	
161.134.	Proof of Treatment or Vaccination.
161.135.	Improper Disposal of Diseased Carcass.
161.136.	Entry of Animals in Exhibition Without Certificate.
161.137.	Movement of Animals From Stockyard or Railway Shipping Pen Without Certificate.
161.138.	Refusal to Permit Search.
161.139.	Refusal to Permit Inspection of Shipment.
161.140.	Refusal to Permit Examination of Livestock or Carcass.
161.141.	Movement in Violation of Quarantine.
161.142.	Sale or Movement of Animal With Glanders.
161.143.	Importation of Animals Without Health Certificate.
161.144.	Importation of Animals Without Screwworm Certificate.
161.145.	Veterinarian Failure to Report Diseased Animal.
161.146.	Compliance With Livestock Market Regulation.

SUBCHAPTER A. GENERAL PROVISIONS

§ 161.001. Definitions

(a) In this chapter:

(1) "Commission" means the Texas Animal Health Commission.

(2) "Livestock" includes cattle, horses, mules, asses, sheep, goats, and hogs.

(b) References in Subchapter A, C, D, E, or H of this chapter to "livestock," "domestic animals," "domestic fowl," or other specifically named animals shall be construed to include all or part of the carcasses of those animals.

[Acts 1981, 67th Leg., p. 1393, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 161.002. Caretaker of Animal

(a) A person is subject to this chapter as the caretaker of an animal and is presumed to control the animal if the person:

(1) is the owner or lessee of the pen, pasture, or other place in which the animal is located and has control of that place; or

(2) exercises care or control over the animal.

(b) This section does not limit the care and control of an animal to any person.

[Acts 1981, 67th Leg., p. 1393, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 161.003. Duty of County Commissioners Court

(a) The commissioners court of each county shall cooperate with and assist the commission in protecting livestock, domestic animals, and domestic fowl from communicable diseases, regardless of whether a particular disease exists in the county.

(b) Each commissioners court may employ a veterinarian at the expense of the county. Any veterinarian employed is subject to approval by the commission.

[Acts 1981, 67th Leg., p. 1393, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 161.004. Disposal of Diseased Livestock Carcass

A person who is the owner or caretaker of livestock that die from a disease listed in Section 161.041 of this code, or who owns or controls the land on which the livestock die or on which the carcasses are found, shall, within 24 hours after the carcasses are found:

(1) bury the carcass of each animal by digging a grave five feet deep, placing the carcass in the grave, covering the carcass with lime, and filling the grave with dirt; or

(2) set fire to the carcass of each animal and burn it until it is thoroughly consumed.

[Acts 1981, 67th Leg., p. 1394, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 161.005. Commission Written Instruments

(a) A written instrument, including a quarantine or written notice, signed under the authority of the chairman of the commission has the same force and effect as if signed by the entire commission.

(b) The signatures of the commissioners or the signature of the chairman shall be written or stamped on each written instrument issued by the commission or the chairman.

(c) Any written instrument issued by the commission or the chairman is admissible as evidence in court if certified by the chairman.

[Acts 1981, 67th Leg., p. 1394, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 161.006. Documents to Accompany Shipment

(a) If this chapter requires that a certificate or permit accompany animals or commodities moved in this state, the document must be:

(1) in the possession of the conductor of a train and attached to the waybill of the shipment, if the movement is by rail; or

(2) in the possession of the person in charge of the animals or commodities, if the movement is made by any other means.

(b) This section does not apply to a certificate provided for by Section 161.088 of this code.

[Acts 1981, 67th Leg., p. 1394, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 161.007. Exposure or Infection Considered Continuing

If a veterinarian employed by the commission determines that a communicable disease exists among livestock, domestic animals, or domestic fowl or on certain premises or that livestock, domestic animals, or domestic fowl have been exposed to the agency of transmission of a communicable disease, the exposure or infection is considered to continue until the commission determines that the exposure

or infection has been eradicated through methods prescribed by rule of the commission.

[Acts 1981, 67th Leg., p. 1394, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 161.008 to 161.020 reserved for expansion]

#### SUBCHAPTER B. TEXAS ANIMAL HEALTH COMMISSION

##### § 161.021. Composition

(a) The commission is composed of nine commissioners appointed by the governor with the advice and consent of the senate, with one commissioner from each of the following categories:

- (1) a practitioner of veterinary medicine;
- (2) a dairyman;
- (3) a practical cattle raiser;
- (4) a practical hog raiser;
- (5) a sheep or goat raiser;
- (6) a poultry raiser;
- (7) an individual involved in the equine industry;
- (8) an individual involved in the feedlot industry; and
- (9) an individual involved in the livestock marketing industry.

(b) In making appointments to the commission, the governor, to the extent practicable, shall give proportionate representation to the northern, eastern, southern, and western portions of the state.  
[Acts 1981, 67th Leg., p. 1394, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.022. Term

Commissioners serve for staggered terms of six years, with the terms of three members expiring every other year.

[Acts 1981, 67th Leg., p. 1395, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.023. Bond

Each commissioner shall give bond payable to the State of Texas in the amount of \$10,000. A bond is subject to approval by the comptroller of public accounts.

[Acts 1981, 67th Leg., p. 1395, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.024. Chairman

The governor shall designate one commissioner as chairman of the commission.

[Acts 1981, 67th Leg., p. 1395, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.025. Vacancies

The governor shall fill vacancies by appointment for the unexpired term.

[Acts 1981, 67th Leg., p. 1395, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.026. Per Diem; Expenses

Each commissioner is entitled to receive \$20 per diem plus reimbursement for actual and necessary expenses incurred in the performance of official duties.

[Acts 1981, 67th Leg., p. 1395, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.027. Sunset Provision

The commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act the commission is abolished effective September 1, 1987.

[Acts 1981, 67th Leg., p. 1395, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 161.028 to 161.040 reserved for expansion]

#### SUBCHAPTER C. GENERAL POWERS AND DUTIES OF COMMISSION

##### § 161.041. Disease Control

(a) The commission shall protect all livestock, domestic animals, and domestic fowl from the following:

- (1) tuberculosis;
- (2) anthrax;
- (3) glanders;
- (4) infectious abortion;
- (5) hemorrhagic septicemia;
- (6) hog cholera;
- (7) Malta fever;
- (8) foot-and-mouth disease;
- (9) rabies among animals other than canines;
- (10) bacillary white diarrhea among fowl; and
- (11) other diseases recognized as communicable by the veterinary profession.

(b) If the commission considers it necessary or advisable, the commission may act to eradicate or control any disease that affects livestock, domestic animals, domestic fowl, or canines regardless of whether the disease is communicable.

(c) The commission may not act under this chapter to eradicate ticks, nor may it act under this chapter to control or eradicate scabies except as provided by Chapter 164 of this code.

[Acts 1981, 67th Leg., p. 1395, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.042. Sale and Distribution of Veterinary Biologics**

The commission may control the sale and distribution of all veterinary biologics except modified live virus rabies vaccine. Modified live virus rabies vaccine shall be sold, distributed, dispensed, and administered in compliance with the Texas Rabies Control Act of 1981 (Article 4477—6a, Vernon's Texas Civil Statutes) and the rules adopted thereunder by the Texas Board of Health.

[Acts 1981, 67th Leg., p. 1396, ch. 388, § 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., p. 2605, ch. 693, § 25, eff. Jan. 1, 1982.]

Subsection 25(b) of the 1981 amendatory act provides: "(b) This section takes effect on the effective date of Senate Bill 811, Acts of the 67th Legislature, Regular Session, 1981 (ch. 204, effective January 1, 1982) and Section 2 of that Act is repealed on that date."

**§ 161.043. Regulation of Exhibitions**

The commission may regulate the entry of livestock, domestic animals, and domestic fowl into exhibitions, shows, and fairs and may require treatment or certification of those animals as reasonably necessary to protect against communicable diseases.

[Acts 1981, 67th Leg., p. 1396, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.044. Regulation of Livestock Movement From Stockyards or Railway Shipping Pens**

The commission may regulate the movement of livestock out of stockyards or railway shipping pens and require treatment or certification of those animals as reasonably necessary to protect against communicable diseases.

[Acts 1981, 67th Leg., p. 1396, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.045. Employees; Chief Veterinarian**

The commission may employ personnel as necessary in the administration of this chapter or other duties of the commission, including a chief veterinarian, a first assistant veterinarian, other veterinarians, and clerical personnel.

[Acts 1981, 67th Leg., p. 1396, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.046. Rules**

The commission may adopt rules, to be proclaimed by the governor, as necessary for the administration and enforcement of this chapter.

[Acts 1981, 67th Leg., p. 1396, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.047. Entry Power**

(a) A commissioner or a veterinarian or inspector employed by the commission may enter public or private property for the exercise of an authority or performance of a duty under this chapter.

(b) If the commissioner, veterinarian, or inspector under Subsection (a) of this section desires to be accompanied by a peace officer, he or she shall apply for a search warrant to a magistrate of the county in which the property is located. The magistrate shall issue the search warrant on a showing of probable cause by oath or affirmation. The search warrant shall describe the place to be entered in a reasonable manner that will enable the owner or caretaker of the property to identify the property described, but the warrant is not required to describe the property by field notes or by metes and bounds.

(c) A search warrant issued under this section authorizes the person to whom it is issued to be accompanied by a peace officer and by as many assistants as the person considers necessary.

(d) A search warrant issued under this section permits entry and reentry for the purposes of this section for 30 days after the day on which it is issued. After that period, additional search warrants may be issued as often as necessary.

[Acts 1981, 67th Leg., p. 1396, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.048. Inspection of Shipment of Livestock or Livestock Products**

(a) An agent of the commission is entitled to stop and inspect a shipment of livestock or livestock products being transported in this state in order to:

- (1) determine if the shipment is in compliance with the laws and rules administered by the commission affecting the shipment;
- (2) determine if the shipment originated from a quarantined area or herd; or
- (3) determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or noncommunicable disease.

(b) The commission may detain a shipment of livestock or livestock products that is being transported in violation of law or a rule of the commission. The commission may require that the shipment be unloaded at the nearest available loading facility.

(c) The commission may not inspect a railroad train at any point other than a terminal.

(d) The commission may post signs on public highways and use signaling devices, including red lights, in conjunction with signs, if necessary to effectively signal and stop vehicles for inspection.

(e) In this section, "livestock product" includes hides; bones; hoofs; horns; viscera; parts of animal bodies; litter, straw, or hay used for bedding; and any other substance capable of carrying insects or a disease that may endanger the livestock industry.

[Acts 1981, 67th Leg., p. 1397, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 161.049 to 161.060 reserved for expansion]

## SUBCHAPTER D. QUARANTINES

## § 161.061. Establishment

(a) If the commission determines or is informed that a disease listed in Section 161.041 of this code exists in another state, territory, or country, the commission shall establish a quarantine against all or the portion of the state, territory, or country in which the disease exists.

(b) If the commission determines that a disease listed in Section 161.041 of this code or an agency of transmission of one of those diseases exists in a place in this state or among livestock, domestic animals, or domestic fowl, or that a place in this state or livestock, domestic animals, or domestic fowl are exposed to one of those diseases or an agency of transmission of one of those diseases, the commission shall establish a quarantine on the affected livestock, domestic animals, or domestic fowl, or on the affected place. The quarantine of an affected place may extend to any affected area, including a county, district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen.

(c) The commission may establish a quarantine to prohibit or regulate the movement of any article or animal that the commission designates to be a carrier of a disease listed in Section 161.041 of this code or a potential carrier of one of those diseases, if movement is not otherwise regulated or prohibited. [Acts 1981, 67th Leg., p. 1397, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 161.062. Publication of Notice

(a) The commission shall give notice of a quarantine against another state, territory, or country by publishing notice in a newspaper published in Texas. The quarantine takes effect on the date of publication. The commission shall pay the expense of publication out of any appropriation made for office and stationery expenses of the commission.

(b) The commission shall give notice of a quarantine established within this state by publishing notice in a newspaper published in the county in which the quarantine is established, by posting notice at the courthouse door of that county, or by delivering a written notice to the owner or caretaker of the animals or places to be quarantined. The commission may pay the expense of publication or posting out of any appropriation made for the office and stationery expenses of the commission or out of any appropriation made for the control or eradication of communicable diseases of livestock. The commissioners court of a county in which a quarantine is established may pay the expenses of publication or posting out of any available funds of the county. [Acts 1981, 67th Leg., p. 1398, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 161.063. Contents of Notice

(a) A quarantine notice must state the requirements and restrictions under which animals may be permitted to enter this state or to be moved from a quarantined area within this state. If the seriousness of the disease is sufficient to warrant prohibiting the movement of animals, the notice must state that the movement is prohibited. The quarantine notice must state the class of persons authorized by the commission to issue certificates or permits permitting movement.

(b) A quarantine notice must state the cause for which the quarantine is established, whether for infection or for exposure.

(c) A quarantine notice must describe the area or premises quarantined in a reasonable manner that enables a person to identify the area or premises, but is not required to describe the area or premises by metes and bounds.

(d) If the quarantine regulates or prohibits the movement of a carrier or potential carrier of a disease, the commission may prescribe any exceptions, terms, conditions, or provisions that the commission considers necessary or desirable to promote the objectives of this chapter or to minimize the economic impact of the quarantine without endangering those objectives or the health and safety of the public. Any exceptions, terms, conditions, or provisions prescribed under this subsection must be stated in the quarantine notice.

[Acts 1981, 67th Leg., p. 1398, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 161.064. Effect of Quarantine

A quarantine that is established for any location has the effect of quarantining all livestock, domestic animals, or domestic fowl of the kind mentioned in the quarantine notice that are on or enter that location during the existence of the quarantine, regardless of who owns or controls the livestock, domestic animals, or domestic fowl.

[Acts 1981, 67th Leg., p. 1398, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 161.065. Movement From Quarantined Area; Movement of Quarantined Animals

(a) Except as provided by Subsection (b) of this section, a person, in violation of a quarantine, may not:

(1) move livestock, domestic animals, or domestic fowl in this state from any quarantined place in or outside this state;

(2) move quarantined livestock, domestic animals, or domestic fowl from the place in which they are quarantined; or

(3) move commodities or animals designated as disease carriers or potential disease carriers in this state from a quarantined place in or outside this state.

(b) The commission may provide for a written certificate or written permit authorizing the movement of commodities or animals from quarantined places or the movement of quarantined commodities or animals. The certificate or permit must be issued by a veterinarian or other person authorized by the commission to issue a certificate or permit. Each certificate or permit must be issued in conformity with the requirements stated in the quarantine notice.

(c) If the commission finds animals that have been moved in violation of a quarantine established under this chapter or in violation of any other livestock sanitary law, the commission shall quarantine the animals until they have been properly treated, vaccinated, tested, dipped, or disposed of in accordance with the rules of the commission.

[Acts 1981, 67th Leg., p. 1398, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.066. Compensation of Owner for Destruction of Animal Quarantined for Glanders**

(a) If a horse, mule, or ass is found to be affected with glanders and is quarantined by the commission, the county judge of the county in which the animal is located shall appoint three disinterested persons to act as appraisers and determine the value of the animal.

(b) Following their determination, the appraisers shall report the appraisal in writing to the county judge. The commissioners court shall pass on the written report and pay to the owner of the animal an amount equal to the appraised value.

(c) On receipt of the appraisers' report, the county judge shall order the sheriff, a deputy sheriff, or a constable of the county to seize the affected animal, take it to a secluded place, kill it, and burn the carcass until thoroughly consumed.

(d) Each appraiser and officer is entitled to receive reasonable compensation from the commissioners court for services performed under this section.

[Acts 1981, 67th Leg., p. 1399, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 161.067 to 161.080 reserved for expansion]

**SUBCHAPTER E. REGULATION OF IMPORTATION OF ANIMALS**

**§ 161.081. Health Certificate Required for Importation**

(a) Except as otherwise provided by this subchapter, a person, including a railroad or other common carrier, may not move livestock, domestic animals, or domestic fowl into this state from another state, territory, or country unless the shipment is accompa-

nied by a health certificate that meets the requirements of this subchapter and is signed by a veterinarian recognized for that purpose by the commission.

(b) A health certificate must be in the form prescribed by the commission.

(c) The commission shall adopt rules for recognizing veterinarians of this state, other states, and departments of the federal government for the purpose of issuing health certificates.

[Acts 1981, 67th Leg., p. 1399, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.082. Exceptions**

(a) Steers or spayed heifers are not required to have a health certificate for entry into this state.

(b) Cattle, sheep, or hogs billed or shipped for immediate slaughter shall be admitted into this state without certification, treatment, vaccination, or testing if:

(1) handled in accordance with the rules of the commission; and

(2) accompanied by a written statement attached to the waybill, bill of lading, or shipping papers, or in possession of the driver of the vehicle, that they are intended for immediate slaughter and are being handled in accordance with the rules of the commission.

[Acts 1981, 67th Leg., p. 1400, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.083. Contents of Certificate**

In addition to any special requirements provided by this subchapter, a health certificate must show that:

(1) the animals were inspected by a recognized veterinarian within 10 days before the day of entry into this state;

(2) the veterinarian found the animals to be free of all communicable diseases determined by the commission to be dangerous to those animals; and

(3) the animals were subjected to tests, immunizations, and treatment required by rule of the commission.

[Acts 1981, 67th Leg., p. 1400, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.084. Health Certificate for Cattle**

(a) Except as provided by this section, a health certificate for cattle must show a negative brucellosis agglutination test within 30 days before the day of entry into this state.

(b) Subsection (a) of this section does not apply to:

(1) cattle eight months of age or younger;

(2) cattle originating from a certified brucellosis-free herd;

(3) cattle originating from a negative, nonquarantined herd in a modified certified free area;

(4) cattle consigned to:

(A) a federally recognized slaughter establishment for immediate slaughter;

(B) an approved livestock auction market;

(C) a public stockyard; or

(D) an approved feedlot; or

(5) cattle exempt from testing under rules of the commission.

(c) The commission may prescribe the manner and method of testing cattle for tuberculosis prior to entry into this state. The commission may not require tuberculosis testing prior to entry for grade cattle from beef breeds originating in nonquarantined herds in modified accredited tuberculosis free areas.

[Acts 1981, 67th Leg., p. 1400, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.085. Health Certificate for Hogs

(a) A health certificate for hogs must show that the veterinarian who issued the certificate vaccinated the hogs and dipped them in a two percent solution of cresol compound USP, as prescribed by the rules of the commission.

(b) A health certificate that shows that hogs have been vaccinated by the use of serum alone expires on the 30th day following the day of treatment.

(c) A person may not move hogs into this state if the health certificate shows that the hogs were vaccinated by the use of virus during the 30 days before the day of entry into this state or were vaccinated by the use of serum alone more than 30 days before the day of entry into this state.

[Acts 1981, 67th Leg., p. 1400, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.086. Testing of Cattle After Entry

(a) The commission may provide by rule for permits authorizing the entry of cattle into this state without tuberculosis or brucellosis testing if the cattle are to be tested after arrival in this state.

(b) The commission may require any cattle required to have a health certificate to be tested for tuberculosis or brucellosis not later than the 90th day after the day of entry into this state, regardless of whether the cattle were tested prior to entry. A veterinarian authorized in writing by the commission shall perform the tests.

(c) The commission by rule may exempt cattle from testing under Subsection (b) of this section and may establish restrictions and quarantines as necessary to accomplish testing under that subsection. [Acts 1981, 67th Leg., p. 1401, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.087. Importing Cattle From Quarantined Herds

A person may not move into this state cattle from a herd quarantined for any disease.

[Acts 1981, 67th Leg., p. 1401, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.088. Importing Animals From Area Quarantined for Screwworm Infestation

(a) A person may not move or cause to be moved into, across, or through this state from an area in another state, territory, or country that is under state or federal quarantine for screwworm infestation any livestock, jacks, jennets, or exotic or circus animals unless the animals:

(1) have been treated in a manner recognized by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture and the commission for the eradication of screwworm infestation; and

(2) are certified as having been treated under Subdivision (1) of this subsection and as being free of screwworm infestation by an authorized inspector of Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture or of the commission.

(b) A copy of the certificate required by this section must accompany the animals to their final destination in this state or so long as they are moving through this state.

[Acts 1981, 67th Leg., p. 1401, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 161.089 to 161.100 reserved for expansion]

#### SUBCHAPTER F. VETERINARIAN REPORTS OF DISEASED ANIMALS

#### § 161.101. Duty to Report

(a) A veterinarian shall report the existence of the following diseases among livestock or domestic fowl to the commission within 24 hours after diagnosis:

- (1) anthrax;
- (2) foot-and-mouth disease;
- (3) hog cholera;
- (4) ornithosis;
- (5) piroplasmosis;
- (6) pullorum;
- (7) scabies;
- (8) typhimurium;
- (9) typhoid;
- (10) vesicular exanthema; or
- (11) vesicular stomatitis.

(b) In addition to reporting the existence of a disease under this section, the veterinarian shall also report to the commission information relating to:

- (1) the species and number of animals involved;
- (2) any clinical diagnosis or postmortem findings; and
- (3) any death losses.

[Acts 1981, 67th Leg., p. 1401, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.102. Submission of Specimen of Anthrax Victim**

Immediately after pronouncing that an animal has died from anthrax, as evidenced by a clinical or postmortem examination, a veterinarian shall prepare and submit to the commission or a laboratory approved by the commission:

- (1) a suitable specimen from the animal;
- (2) the name and address of the owner or caretaker of the animal; and
- (3) the location of the premises on which the animal died.

[Acts 1981, 67th Leg., p. 1402, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.103. Notice of Required Method of Disposal**

A veterinarian who knows or suspects that livestock or domestic fowl have died from anthrax or ornithosis shall inform the owner or caretaker of the animal to dispose of each carcass by fire in accordance with Section 161.004 of this code.

[Acts 1981, 67th Leg., p. 1402, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 161.104 to 161.110 reserved for expansion]

**SUBCHAPTER G. REGULATION OF LIVESTOCK MARKETS**

**§ 161.111. Definition**

In this subchapter, "livestock market" means a stockyard, sales pavilion, or sales ring where livestock are assembled or concentrated at regular or irregular intervals for sale, trade, barter, or exchange.

[Acts 1981, 67th Leg., p. 1402, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.112. Rules**

Following notice and public hearing, the commission shall adopt rules relating to the movement of livestock from livestock markets and shall require tests, immunization, and dipping of those livestock as necessary to protect against the spread of communicable diseases.

[Acts 1981, 67th Leg., p. 1402, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.113. Testing or Treatment of Livestock**

(a) If the commission requires testing or vaccination under this subchapter, the testing or vaccination must be performed by an accredited veterinarian or qualified person authorized by the commission. The state may not pay the cost of fees charged for the testing or vaccination.

(b) If the commission requires the dipping of livestock under this subchapter, the livestock shall be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by rule of the commission.

(c) The commission may require the owner or operator of a livestock market to furnish adequate chutes or holding pens or to furnish or have access to other essential testing and dipping facilities within the immediate vicinity of the livestock market. [Acts 1981, 67th Leg., p. 1402, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.114. Inspection of Livestock**

An authorized inspector shall visually examine all livestock consigned to and delivered on the premises of a livestock market before the livestock are offered for sale. If the inspector considers it necessary, the inspector may have an animal tested or vaccinated. Any testing or vaccination must occur before the animal is removed from the livestock market.

[Acts 1981, 67th Leg., p. 1403, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.115. Entry Power**

An agent of the commission is entitled to enter any livestock market for the exercise of authority or performance of a duty under this subchapter.

[Acts 1981, 67th Leg., p. 1403, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.116. Sale or Delivery of Diseased Cattle**

(a) In this action, "diseased" means affected by actinobacillosis, actinomycosis, carcinoma, mastitis, or any other disease that renders the carcass of an animal potentially dangerous for human consumption and has been so designated by rule of the commission.

(b) Except as provided by Subsection (c) of this section, a person may not sell diseased cattle unless:

- (1) the cattle are sold through a livestock market where visual examination of livestock is made by an agent of the commission or by the United States Department of Agriculture; or
- (2) the cattle are sold by a recognized slaughtering establishment maintaining federal, state, or state-approved veterinary postmortem inspection.

(c) The original owner of diseased cattle may sell the cattle in violation of Subsection (b) of this section if the cattle are sold and delivered on the

premises of the original owner, but the purchaser shall comply with the requirements of this section.

(d) A person may not release diseased cattle from a livestock market unless the cattle are:

(1) consigned directly to a federally approved terminal market or to a slaughtering establishment maintaining federal, state, or state-approved veterinary postmortem inspection; and

(2) accompanied by a certificate or permit issued by a representative of the commission or the United States Department of Agriculture naming the terminal market or slaughtering establishment.

(e) This section does not prevent the original owner of diseased cattle, or an agent of the owner, from voiding the sale of the cattle if the owner is not satisfied with the top bid price, but the owner shall obtain a certificate or permit under Subsection (d) of this section and shall deliver the cattle to the place specified on the certificate or permit. A person is not liable for a violation of this subsection unless the agent of the commission shows the person a list of approved establishments to which the cattle may be consigned and allows the person to select an establishment from that list.

(f) A person may not deliver or divert diseased cattle consigned under a certificate or permit issued under Subsection (d) of this section to a place other than the terminal market or slaughtering establishment named in the certificate or permit. The cattle must be delivered to the terminal market or slaughtering establishment not later than the fifth day following the day on which the certificate or permit is issued.

(g) A person may not release diseased cattle from a terminal market or slaughtering establishment to which the cattle have been consigned under a certificate or permit issued under Subsection (d) of this section except on authority of the commission.

[Acts 1981, 67th Leg., p. 1403, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 161.117 to 161.130 reserved for expansion]

#### SUBCHAPTER H. REMEDIES AND PENALTIES

##### § 161.131. Injunction

(a) Any citizen of this state may sue for an injunction to enforce a provision or restrain a violation of this chapter other than Section 161.048, Subchapter F, or Subchapter G.

(b) A court may hear and dispose of a suit under this section in term or in vacation. A court shall direct that reasonable notice be given to a defendant in a suit for a mandatory injunction.

[Acts 1981, 67th Leg., p. 1404, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.132. Civil Suit Against Nonresident Violator

(a) If a person who commits an offense under Section 161.135, 161.136, 161.137, 161.138, 161.141, or 161.143 of this code is not a resident of this state, is a foreign corporation not permitted to do business in this state, or is absent from this state at the time the offense is committed, the county attorney of the county in which the violation occurs shall sue that person for collection of the fine provided for the offense. In addition, the county attorney shall seek to attach that person's property in this state and, after final judgment, have the attached property sold under execution for the purpose of paying the fine and costs of suit.

(b) A suit under this section shall be brought in the name of the State of Texas and the court may not require a cost or attachment bond.

[Acts 1981, 67th Leg., p. 1404, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.133. Violation by Corporation

If a corporation, including a railroad company or a common carrier, violates a provision of this chapter other than Section 161.048, Subchapter F, or Subchapter G, the county attorney of the county in which the offense occurs shall file and prosecute a civil suit against the corporation on behalf of the state.

[Acts 1981, 67th Leg., p. 1404, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.134. Proof of Treatment or Vaccination

In the trial of any case involving the compliance of an owner or caretaker with a provision of this chapter requiring the treatment, vaccination, dipping, or disinfecting of livestock, a person may not attempt to prove that the action was taken by a person other than an authorized representative of the commission.

[Acts 1981, 67th Leg., p. 1404, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 161.135. Improper Disposal of Diseased Carcass

(a) A person required to dispose of a diseased carcass in accordance with Section 161.004 of this code commits an offense if the person fails to dispose of the carcass in accordance with that section.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for each animal carcass.

[Acts 1981, 67th Leg., p. 1404, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.136. Entry of Animals in Exhibition Without Certificate**

(a) A person commits an offense if, without a certificate required by rule of the commission under Section 161.043 of this code, the person:

- (1) enters livestock, domestic animals, or domestic fowl into an exhibition, show, or fair; or
- (2) brings livestock, domestic animals, or domestic fowl on the grounds of an exhibition, show, or fair for the purpose of entering.

(b) A person commits an offense if, as owner or person in charge of the exhibition, show, or fair, the person permits entry under Subsection (a) of this section.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for each animal.

[Acts 1981, 67th Leg., p. 1404, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.137. Movement of Animals From Stockyard or Railway Shipping Pen Without Certificate**

(a) A person commits an offense if the person:

- (1) removes livestock from a stockyard or railway shipping pen without a certificate required by rule of the commission under Section 161.044 of this code; or
- (2) as owner or person in charge of the stockyard or pen, permits the removal of livestock under Subdivision (1) of this section.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for each head of livestock.

[Acts 1981, 67th Leg., p. 1405, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.138. Refusal to Permit Search**

(a) A person commits an offense if the person refuses to permit a person to whom a search warrant is issued under Section 161.047 of this code, that person's assistant, or a peace officer, to enter the property described in the warrant or to exercise an authority or perform a duty designated in the warrant in accordance with this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100.

(c) A person commits a separate offense for each day of refusal under Subsection (a) of this section during the first 30 days following the day on which the warrant was issued.

[Acts 1981, 67th Leg., p. 1405, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.139. Refusal to Permit Inspection of Ship-ment**

(a) A person commits an offense if the person:

- (1) refuses to permit inspection of livestock under Section 161.048 of this code; or
- (2) fails to stop a truck, trailer, wagon, or automobile suspected of carrying livestock or livestock products if requested or signaled to do so by an agent of the commission.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$25 nor more than \$100.

[Acts 1981, 67th Leg., p. 1405, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.140. Refusal to Permit Examination of Live-stock or Carcass**

(a) A person commits an offense if the person:

- (1) refuses to allow the commission or an agent of the commission to examine livestock or all or part of a livestock carcass that is owned by or possessed by the person and that the commission or agent has reason to believe is affected by a communicable disease; or
- (2) hinders or obstructs the commission or its agent in an examination under Subdivision (1) of this subsection.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$100 nor more than \$500.

[Acts 1981, 67th Leg., p. 1405, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 161.141. Movement in Violation of Quarantine**

(a) A person commits an offense if the person violates Section 161.065(a)(1) or (a)(2) of this code or, as owner or caretaker of the livestock, domestic animals, or domestic fowl, the person commits movement in violation of Section 161.065(a)(1) or (a)(2) of this code. Except as provided by Subsection (c) or (d) of this section, an offense under this subsection is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for each animal moved in violation of the quarantine.

(b) A person commits an offense if the person violates Section 161.065(a)(3) of this code or, as owner or caretaker of the commodities or animals, the person permits movement in violation of Section 161.065(a)(3) of this code. Except as provided by Subsection (c) or (d) of this section, an offense under this subsection is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for each shipment moved in violation of the quarantine.

(c) An offense under Subsection (a) or (b) of this section for violating a quarantine established in relation to foot-and-mouth disease is a misdemeanor punishable by:

(1) a fine of not less than \$500 nor more than \$5,000;

(2) confinement in county jail for not less than 6 months; or

(3) both fine and confinement under this subsection.

(d) A second or subsequent offense under Subsection (c) of this section is a felony punishable by:

(1) imprisonment in the Texas Department of Corrections for not less than two years nor more than five years; and

(2) a fine of not more than \$10,000.

(e) A person commits a separate offense for each county into which livestock, domestic animals, domestic fowl, disease carriers, or potential disease carriers are moved within six months following the original movement in violation of Section 161.065 of this code.

[Acts 1981, 67th Leg., p. 1406, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.142. Sale or Movement of Animal With Glanders

(a) A person commits an offense if the person:

(1) wilfully fails or refuses to place in secure confinement apart from all other livestock an animal of the horse or ass species that is diseased with glanders and is owned by that person or subject to that person's control;

(2) sells, trades, or offers to sell or trade an animal of the horse or ass species that the person knows or suspects to be diseased with glanders;

(3) drives, leads, or rides along or across a public highway an animal that the person knows is diseased with glanders; or

(4) permits an animal that the person knows is diseased with glanders to run at large on the open range.

(b) An offense under Subsection (a)(1) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$25 nor more than \$200; or

(2) confinement in county jail for not less than 10 nor more than 90 days.

(c) An offense under Subsection (a)(2) of this section is a misdemeanor punishable by:

(1) a fine of not less than \$5 nor more than \$100; or

(2) confinement in county jail for not less than 10 nor more than 90 days.

(d) An offense under Subsection (a)(3) or (a)(4) of this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

[Acts 1981, 67th Leg., p. 1406, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.143. Importation of Animals Without Health Certificate

(a) A person, including a railroad or other common carrier, commits an offense if the person:

(1) moves animals into this state without a health certificate required by Section 161.081 of this code;

(2) moves cattle into this state with a health certificate that does not contain the information required by Section 161.084 of this code;

(3) moves hogs into this state with a health certificate that is expired or does not contain the information required by Section 161.085 of this code; or

(4) moves hogs into this state in violation of Section 161.085(c) of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for each animal moved into this state.

[Acts 1981, 67th Leg., p. 1407, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.144. Importation of Animals Without Screwworm Certificate

(a) A person commits an offense if the person moves animals or causes animals to be moved into, across, or through this state in violation of Section 161.088 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

(c) A person commits a separate offense for each animal moved in violation of Section 161.088 of this code.

[Acts 1981, 67th Leg., p. 1407, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.145. Veterinarian Failure to Report Diseased Animals

(a) A person commits an offense if, as a veterinarian, the person wilfully fails or refuses to comply with a provision of Subchapter F of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1981, 67th Leg., p. 1407, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 161.146. Compliance With Livestock Market Regulation

(a) A person commits an offense if the person, as owner or operator of a livestock market, fails or refuses to furnish adequate facilities in accordance with Section 161.113(c) of this code or fails or refuses to permit an agent of the commission to enter the market, exercise an authority, or perform a duty under Subchapter G of this chapter. A person com-

mits a separate offense for each day of failure or refusal.

(b) A person commits an offense if the person removes livestock from a livestock market without a certificate required by rule of the commission adopted under Subchapter G of this chapter.

(c) A person commits an offense if the person violates any provision of Subchapter G of this chapter or a rule adopted under that subchapter. A person commits a separate offense for each day on which the person violates a provision of the subchapter or a rule.

(d) A person commits an offense if the person violates a provision of Section 161.116 of this code. A person commits a separate offense for each animal sold, released, diverted, or delivered in violation of that section.

(e) An offense under Subsection (a), (c), or (d) of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100. An offense under Subsection (b) of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for each animal removed from the livestock market.

[Acts 1981, 67th Leg., p. 1407, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 162. TUBERCULOSIS CONTROL**

Section	
162.001.	Definitions.
162.002.	Cooperative Program.
162.003.	Testing.
162.004.	Certificate of Test or Vaccination of Cattle or Other Animals.
162.005.	Branding and Tagging of Cattle.
162.006.	Quarantine.
162.007.	Sale or Slaughter.
162.008.	Compensation of Owner.
162.009.	Modified Accredited Tuberculosis Free Areas.
162.010.	Duty of Owner or Caretaker to Assist; Notice.
162.011.	Penalty for Veterinarian's Failure to File Certificate or to Brand or Tag Animals.
162.012.	Penalty for Movement, Sale, or Disposal of Quarantined or Diseased Cattle.
162.013.	Penalty for Owner's or Caretaker's Failure to Assist.

**§ 162.001. Definitions**

(a) In this chapter:

(1) "Caretaker" has the meaning assigned by Section 161.002 of this code.

(2) "Commission" means the Texas Animal Health Commission.

(b) References to animals in this chapter shall be construed to include all or part of the carcasses of the animals.

[Acts 1981, 67th Leg., p. 1408, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 162.002. Cooperative Program**

(a) The commission may cooperate with the United States Department of Agriculture and the county commissioners courts in a cooperative program for the eradication of tuberculosis among cattle and the establishment of modified accredited areas.

(b) The commissioners court of each county may cooperate with the commission and the United States Department of Agriculture in a cooperative program under this chapter, but shall cooperate if presented with a petition signed by at least 75 percent of the owners of cattle in the county as shown by the county tax rolls.

[Acts 1981, 67th Leg., p. 1408, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 162.003. Testing**

The commission by rule shall prescribe the manner, method, and system of testing cattle for tuberculosis under a cooperative program.

[Acts 1981, 67th Leg., p. 1409, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 162.004. Certificate of Test or Vaccination of Cattle or Other Animals**

(a) For each tuberculosis test performed on cattle, hogs, or fowl, a veterinarian shall file a certificate with the commission that identifies the animals tested and shows:

- (1) the name and post office address of the owner;
- (2) the location of the premises and the animals;
- (3) the date of the test;
- (4) the kind of test conducted;
- (5) the result of the test; and
- (6) whether the test was an interstate, accredited herd, municipal, or private test.

(b) For each vaccination of hogs, a veterinarian shall file a certificate with the commission that shows:

- (1) the name and post office address of the owner;
- (2) the location of the premises;
- (3) the number of hogs vaccinated; and
- (4) the amount and serial number of the serum and virus or other biologics used.

(c) A certificate under this section must be in a form prescribed by the commission and must be sent to the commission within 48 hours after completion of the test or vaccination.

[Acts 1981, 67th Leg., p. 1409, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 162.005. Branding and Tagging of Cattle**

(a) If cattle examined by a veterinarian show a positive reaction to the tuberculin test or show evi-

dence of tuberculosis infection by clinical or laboratory examination, the veterinarian shall:

(1) brand with a hot iron the letter "T" not less than three inches high on the left jaw of each animal that shows a positive reaction;

(2) affix a metal ear tag bearing a number for identification on the left ear of each of those animals; and

(3) report the branding and tagging to the commission, together with the location, description, and number of animals branded and tagged.

(b) A report under Subsection (a)(3) of this section must be sent to the commission within 48 hours after the branding and tagging.

[Acts 1981, 67th Leg., p. 1409, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 162.006. Quarantine

(a) The commission shall immediately quarantine cattle and the premises on which the cattle are located if the cattle show a positive reaction when tested for tuberculosis by a veterinarian recognized by the commission for that purpose.

(b) Before the establishment of a quarantine a person may not move the cattle that show a positive reaction from the enclosure in which they were located at the time of testing, and may not sell, trade, barter, grant, or loan those animals, except as provided by Section 162.007 of this code. After a quarantine is established, a person may not move any cattle from the quarantined premises without first obtaining a written permit from the commission.

(c) A person who violates this section may not be prosecuted under Chapter 161 of this code for the same act.

[Acts 1981, 67th Leg., p. 1409, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 162.007. Sale or Slaughter

(a) If cattle show a positive reaction to a tuberculin test, the cattle may not be slaughtered or otherwise disposed of except under direction of the commission. Except as provided by this section or by the commission, a person may not:

(1) kill or destroy an animal that shows a positive reaction; or

(2) remove the carcass of an animal that showed a positive reaction from the place in which the animal was quarantined or tested.

(b) The owner of cattle that show a positive reaction to a tuberculin test under a cooperative program shall, under the direction of the commission:

(1) sell the cattle for immediate slaughter at a public slaughtering establishment maintaining federal postmortem inspection; or

(2) if authorized by the commission, slaughter the cattle on the owner's property or another place.

[Acts 1981, 67th Leg., p. 1410, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 162.008. Compensation of Owner

(a) If cattle are sold and slaughtered under Section 162.007(b) of this code, the commission may pay to the owner an amount equal to not more than one-third of the appraised value of the animal after deducting any amount received for salvage.

(b) Compensation under this section may not exceed \$35 for a grade animal or \$70 for a purebred animal and may not exceed any compensation made for the same purpose by the United States Department of Agriculture.

(c) In order to be eligible for compensation under this section, an owner must comply with the rules of the commission.

(d) For purposes of this section, the appraised value of an animal shall be determined by a representative of the commission or the United States Department of Agriculture and a representative of the owner of the animal. If they cannot agree on the value, they shall appoint a third appraiser and the value of the animal shall be determined by agreement of any two of the three appraisers.

(e) The commission may compensate persons under this section only from funds appropriated for that purpose in the General Appropriations Act. [Acts 1981, 67th Leg., p. 1410, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 162.009. Modified Accredited Tuberculosis Free Areas

(a) As part of a cooperative program, the commission or its representative may examine, test, and retest any cattle in this state as necessary to maintain each county as a modified accredited tuberculosis free area under the uniform methods and rules of the United States Department of Agriculture and the rules of the commission.

(b) The commission or its representative may test or retest all or part of a herd of cattle in a modified accredited tuberculosis free area at intervals considered necessary or advisable by the commission to control and eliminate bovine tuberculosis.

[Acts 1981, 67th Leg., p. 1410, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 162.010. Duty of Owner or Caretaker to Assist; Notice

(a) On written notice by the commission or its representative, the owner, part owner, or caretaker of cattle shall assemble and submit the cattle for tuberculosis examination and testing. The notice must set the date and approximate time the cattle

are to be tested and must be delivered by registered mail not later than the 10th day before that date.

(b) The person receiving the notice shall provide reasonable assistance in confining the cattle and providing facilities for proper administration of the test. The person shall return the cattle to the same place for observation at a time designated by the commission or its representative.

[Acts 1981, 67th Leg., p. 1411, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 162.011. Penalty for Veterinarian's Failure to File Certificate or to Brand or Tag Animals**

(a) A person commits an offense if, as a veterinarian, the person:

(1) fails to file a certificate under Section 162.004 or a report under Section 162.005 of this code; or

(2) fails to brand or tag cattle in accordance with Section 162.005 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1981, 67th Leg., p. 1411, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 162.012. Penalty for Movement, Sale, or Disposal of Quarantined or Diseased Cattle**

(a) A person commits an offense if the person:

(1) moves, sells, trades, barter, grants, or loans animals in violation of Section 162.006(b) of this code; or

(2) kills or destroys an animal, or removes the carcass of an animal, in violation of Section 162.007(a) of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 for each animal or carcass, as applicable, that was moved, sold, traded, bartered, granted, loaned, killed, or destroyed.

[Acts 1981, 67th Leg., p. 1411, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 162.013. Penalty for Owner's or Caretaker's Failure to Assist**

(a) A person commits an offense if, as the owner, part owner, or caretaker of cattle, the person fails or refuses to assemble the cattle or to provide assistance in accordance with Section 162.010 of this code at the time and place provided in the notice issued by the commission.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

(c) A person commits a separate offense for each day of failure or refusal.

[Acts 1981, 67th Leg., p. 1411, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 163. BRUCELLOSIS CONTROL**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section 163.001. Definitions.
- 163.002. Cooperative Program.

**SUBCHAPTER B. BRUCELLOSIS CONTROL AREAS**

- 163.021. Petition; Boundaries.
- 163.022. Proclamation.
- 163.023. Hearing.
- 163.024. Type I Area.
- 163.025. Type II Area.

**SUBCHAPTER C. MODIFIED CERTIFIED FREE AREAS**

- 163.041. Designation of Modified Certified Free Area.

**SUBCHAPTER D. ENFORCEMENT**

- 163.061. Rules; Reports.
- 163.062. Employees.
- 163.063. Entry Power.
- 163.064. Testing and Vaccination.
- 163.065. Branding and Handling of Diseased Cattle.
- 163.066. Regulation of Movement of Cattle; Exception.
- 163.067. Appeals.
- 163.068. Compensation to Owner of Cattle.

**SUBCHAPTER E. CERTIFIED FREE AREAS**

- 163.076. Transition to Certified Free Areas.

**SUBCHAPTER F. PENALTIES.**

- 163.081. Failure to Vaccinate Female Calves.
- 163.082. Failure of Owner to Assist.
- 163.083. Refusal of Entry.
- 163.084. Movement of Cattle in Violation of Commission Rule.
- 163.085. Failure to Brand Infected Animal.
- 163.086. Sale of Infected Milk Cattle.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 163.001. Definitions**

(a) In this chapter:

(1) "Caretaker" has the meaning assigned by Section 161.002 of this code.

(2) "Commission" means the Texas Animal Health Commission.

(b) References to cattle in this chapter shall be construed to include all or part of the carcasses of cattle.

[Acts 1981, 67th Leg., p. 1413, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 163.002. Cooperative Program**

(a) In order to bring about effective control and the eventual eradication of bovine brucellosis, and to accomplish that purpose in the most effective, practical, and expeditious manner, the commission may enforce this chapter and enter into cooperative agreements with the United States Department of Agriculture.

(b) In cooperation with the United States Department of Agriculture, the commission may engage in

area or county programs for the control and eradication of bovine brucellosis to the end that each area of this state may eventually become a modified certified brucellosis free area.

[Acts 1981, 67th Leg., p. 1413, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 163.003 to 163.020 reserved for expansion]

#### SUBCHAPTER B. BRUCELLOSIS CONTROL AREAS

##### § 163.021. Petition; Boundaries

(a) The cattle owners of any county or area may petition the commission to designate the county or area as a brucellosis control area. The petition must be signed by persons who, according to the tax rolls:

(1) constitute at least 75 percent of the cattle owners in the county or area; and

(2) own at least 51 percent of the cattle in the county or area.

(b) The petition must state whether the brucellosis control area requested is to be a Type I or Type II area as provided by this subchapter. The commission may not establish a control area unless the petition states the type requested.

(c) If the commission determines that conditions within and surrounding a county from which a petition originates make it impractical to operate a brucellosis control area within the boundaries of the county, the commission may add a reasonable amount of territory to that proposed, or eliminate a reasonable amount of territory from that proposed, in order to establish the boundaries along practical and reasonable lines. Before establishing a control area with boundaries determined under this subsection, the commission must determine that designation of the area as a modified certified brucellosis free area is requested by persons in the area who, according to the tax rolls:

(1) constitute at least 75 percent of the cattle owners in the area; and

(2) own at least 51 percent of the cattle in the area.

(d) If the area follows county boundary lines, the commission shall designate it as a county brucellosis control area, with the name of the county identifying the area. If the area does not follow county boundary lines, the commission shall designate it as a special brucellosis control area.

[Acts 1981, 67th Leg., p. 1413, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 163.022. Proclamation

(a) Before establishing a brucellosis control area, the commission shall issue a proclamation that:

(1) describes the area by boundaries;

(2) states that the area is to be designated a county or special brucellosis control area;

(3) states the type of control area to be established;

(4) states the date on which brucellosis control work is to begin in the area, which must be not earlier than the 90th day after the date of the proclamation; and

(5) states the date for a hearing on the establishment of the control area, which must be not earlier than the 30th day after the date of the proclamation.

(b) The commission shall post the proclamation in at least three public places in the area and at the door of the courthouse of each county in the area. The proclamation must be posted not later than the 90th day before the date on which brucellosis control work is to begin in the area.

[Acts 1981, 67th Leg., p. 1414, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 163.023. Hearing

(a) Before establishing a brucellosis control area, the commission shall conduct a hearing at its office at which any person owning cattle in the affected area is entitled to appear and protest the establishment of the area.

(b) A person may present views at a hearing under this section by appearing in person, by representative, or by both.

(c) The commission shall issue a written statement of its decision on establishment of the brucellosis control area not later than the 10th day after the day of the hearing. The decision of the commission is final.

[Acts 1981, 67th Leg., p. 1414, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 163.024. Type I Area

(a) If an area is established as a Type I area, no testing is required of cattle in the area, but each person who owns cattle in the area shall have the person's female calves officially vaccinated in accordance with the rules of the commission. The commission by rule shall specify the ages within which the calves must be vaccinated.

(b) Vaccination of female calves in a Type I area is at the expense of the owner.

[Acts 1981, 67th Leg., p. 1414, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 163.025. Type II Area

(a) If an area is established as a Type II area, the commission may, in accordance with its rules, conduct tests, vaccinations, and identifying and other practices, establish quarantines, and provide for the disposition of infected animals.

(b) The commission may adopt and enforce rules in a Type II area as necessary to qualify the county for certification or recertification as a modified certified brucellosis free area as outlined in the uniform regulations of the United States Department of Agriculture and the rules of the commission.

(c) Notwithstanding any other provision of this chapter, the commission may designate any county or area as a Type II area if the commission finds that establishment of Type II areas has been requested by petition by persons who, according to the tax rolls:

(1) constitute at least 75 percent of the cattle owners in the state; and

(2) own at least 51 percent of the cattle in the state.

(d) If directed by the commission or its representative, the owner, part owner, or caretaker of cattle located in a Type II area shall submit the cattle and furnish sufficient labor and facilities in order that:

(1) necessary blood or milk specimens may be taken from the cattle; or

(2) the cattle may be vaccinated, tattooed, branded, ear-notched, or tagged in accordance with the rules of the commission.

[Acts 1981, 67th Leg., p. 1414, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 163.026 to 163.040 reserved for expansion]

**SUBCHAPTER C. MODIFIED CERTIFIED FREE AREAS**

**§ 163.041. Designation of Modified Certified Free Area**

The commission may designate an area as a modified certified brucellosis free area if not more than one percent of the cattle in the area and not more than five percent of the herds in the area are positive to the official brucellosis agglutination test, not including:

(1) officially vaccinated animals under 30 months of age;

(2) calves under 6 months of age; and

(3) steers and spayed heifers.

[Acts 1981, 67th Leg., p. 1415, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 163.042 to 163.060 reserved for expansion]

**SUBCHAPTER D. ENFORCEMENT**

**§ 163.061. Rules; Reports**

(a) Following notice and a hearing, the commission may adopt rules and require reports and records

as necessary to carry out Subchapters A–D of this chapter, including rules, reports, and records that relate to the testing or vaccination of cattle or to the movement of cattle into and within an area in the process of accreditation or into a modified certified brucellosis free area.

(b) Notice of hearing under Subsection (a) of this section must state that the hearing will be held on a specified date in the office of the commission. [Acts 1981, 67th Leg., p. 1415, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 163.062. Employees**

The commission may employ personnel, including veterinarians, inspectors, stenographers, and clerks, as necessary to the enforcement of Subchapters A–D of this chapter or the performance of duties under those subchapters. The commission may assign to those employees any duty under those subchapters. [Acts 1981, 67th Leg., p. 1415, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 163.063. Entry Power**

(a) A representative of the commission, including a member of the commission, is entitled to enter any public or private property for the exercise of authority or performance of a duty under Subchapters A–D of this chapter.

(b) A representative of the commission under Subsection (a) of this section who desires to be accompanied by a peace officer may apply for and be issued a search warrant in the manner provided by Section 161.047 of this code.

[Acts 1981, 67th Leg., p. 1415, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 163.064. Testing and Vaccination**

(a) Only a person certified by the commission may perform testing and vaccinating under Subchapters A–D of this chapter, regardless of whether the person is a veterinarian.

(b) In order to certify or recertify cattle to be free of brucellosis, an owner, part owner, or caretaker of cattle is entitled to have the commission test the cattle by means of a brucellosis milk ring test. The person shall submit the cattle for the test and the cattle must show a negative reaction to three successive tests each year conducted not less than three nor more than four months apart.

(c) If any one of the three annual milk ring tests shows a positive reaction and indicates that a reactor may be present in a herd, the commission shall notify the owner, part owner, or caretaker. That person may request and is entitled to receive a second milk ring test, but must request it not later than the 10th day following the day on which the person receives the notice. If the second test shows a positive reaction, the person shall submit the cattle

for a brucellosis blood test at the expense of the commission and the commission may determine the cattle to be free of brucellosis only if the cattle show a negative reaction to the blood test.

(d) If cattle show a positive reaction to a blood test under Subsection (c) of this section, the owner, part owner, or caretaker may request and is entitled to receive a second blood test at the expense of the commission. If the second blood test shows a positive reaction, the cattle shall be branded and disposed of in accordance with Section 163.065 of this code.

(e) In the milk ring testing of a problem herd, the commission shall send the culture material of a positive reactor to an approved laboratory to determine if the positive test is the result of inoculation with a brucellosis vaccine or the actual disease of brucellosis.

[Acts 1981, 67th Leg., p. 1416, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 163.065. Branding and Handling of Diseased Cattle

(a) If an animal tested by a representative of the commission, a representative of the United States Department of Agriculture, or an authorized veterinarian shows evidence of infection with brucellosis, the person performing the test shall:

- (1) furnish the owner of the animal with written data showing that the animal is infected;
- (2) fire brand the animal on the left jaw with the letter "B";
- (3) place a metal tag with a number in the ear of the animal; and
- (4) report the tag number in writing to the commission.

(b) The branding, tagging, and reporting of cattle that show a positive reaction to a blood test must be performed within 48 hours after the test.

(c) An animal branded under this section and the herd of which it is a part shall be handled in accordance with the rules of the commission, which may provide for:

- (1) quarantines;
- (2) the manner, method, and system of disposing of reactor cattle;
- (3) the testing and retesting of infected herds; or
- (4) the cleaning and disinfecting of premises following the removal of reactor cattle.

[Acts 1981, 67th Leg., p. 1416, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 163.066. Regulation of Movement of Cattle; Exception

The commission may not adopt a rule that:

(1) prohibits or interferes with the free movement of officially vaccinated calves that are under 30 months of age and from unquarantined herds; or

(2) prohibits a person from moving cattle owned by that person within an area that is declared to be in the process of accreditation or is a modified certified brucellosis free area, if the movement is confined to unquarantined contiguous lands owned or controlled by that person.

[Acts 1981, 67th Leg., p. 1417, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 163.067. Appeals

A person dissatisfied with a rule or order of the commission under Subchapters A–D of this chapter may appeal that rule or order in the manner provided by the Administrative Procedure and Texas Register Act (Article 6525–13a, Vernon's Texas Civil Statutes).

[Acts 1981, 67th Leg., p. 1417, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 163.068. Compensation to Owner of Cattle

(a) In a problem herd or in a case of extreme hardship, the commission may pay to the owner of cattle exposed to brucellosis an amount not to exceed \$40 a head.

(b) The commission may adopt rules for the implementation of this section, including rules for determining eligibility for compensation.

(c) The commission shall determine the amount of compensation to be paid in each case within the limit prescribed by this section and the amount of funds appropriated for the purpose of this section.

(d) The commission may not expend funds appropriated for the purpose of this section for any purpose other than direct payment to owners of exposed cattle.

[Acts 1981, 67th Leg., p. 1417, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 163.069 to 163.075 reserved for expansion]

#### SUBCHAPTER E. CERTIFIED FREE AREAS

#### § 163.076. Transition to Certified Free Areas

(a) If all counties of this state are certified by the commission as having reached the status of modified certified brucellosis free, the commission may begin all reasonably necessary operations to establish and maintain the counties as certified brucellosis free.

(b) The commission may designate a county as a certified brucellosis free area if:

(1) in the 18 months prior to the request for certification, no more than two-tenths percent of the cattle in the county, and no more than one percent of the herds in the county or one herd, whichever is greater, have been found infected; and

(2) at the time of the request for certification, there are no herds in the county under quarantine for brucellosis.

(c) Following a public hearing, the commission may adopt rules to carry out this section. [Acts 1981, 67th Leg., p. 1417, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 163.077 to 163.080 reserved for expansion]

SUBCHAPTER F. PENALTIES

§ 163.081. Failure to Vaccinate Female Calves

(a) A person who owns cattle in a Type I brucellosis control area commits an offense if the person fails to vaccinate a female calf owned by that person in accordance with Section 163.024 of this code and the rules of the commission.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1981, 67th Leg., p. 1418, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 163.082. Failure of Owner to Assist

(a) A person who owns cattle in a Type II brucellosis control area commits an offense if the person fails or refuses to gather cattle or to furnish necessary labor and facilities in accordance with Section 163.025 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

(c) A person commits a separate offense for each day of failure or refusal. [Acts 1981, 67th Leg., p. 1418, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 163.083. Refusal of Entry

(a) A person commits an offense if the person refuses to permit a representative of the commission to enter property or premises of which the person is the owner, tenant, or caretaker for the purposes of carrying out a provision of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

(c) A person commits a separate offense for each day of refusal. [Acts 1981, 67th Leg., p. 1418, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 163.084. Movement of Cattle in Violation of Commission Rule

(a) A person, including a railway or a common carrier, commits an offense if the person moves cattle into and within an area declared to be in the process of accreditation or a modified certified brucellosis free area without a permit or certificate required by rule of the commission.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$100 for each head of cattle moved without a permit or certificate.

[Acts 1981, 67th Leg., p. 1418, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 163.085. Failure to Brand Infected Animal

(a) A person commits an offense if the person fails or refuses to allow an authorized veterinarian or a representative of the commission to brand the letter "B" on the left jaw of a cow showing a positive reaction to the agglutination test for brucellosis.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$200. [Acts 1981, 67th Leg., p. 1418, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 163.086. Sale of Infected Milk Cattle

(a) A person commits an offense if the person sells or otherwise disposes of a cow for milk purposes that the person knows or has reason to believe is infected with brucellosis.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$100.

(c) The sale or disposal of a cow with the letter "B" branded on the left jaw is prima facie evidence that the person knew the cow was infected with brucellosis.

[Acts 1981, 67th Leg., p. 1418, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 164. SCABIES CONTROL

SUBCHAPTER A. GENERAL PROVISIONS

Section	
164.001.	Definitions.
164.002.	Scabies Infection or Exposure.
164.003.	Inspectors.
164.004.	Duties of Inspectors.
164.005.	Entry Power.
164.006.	Actions of Commission Chairman.
164.007.	Duty of Commissioners Court.

SUBCHAPTER B. DIPPING

164.021.	Dipping Required on Order of Commission.
164.022.	Hearing.
164.023.	Method of Dipping.
164.024.	Dipping Intervals.

- Section  
 164.025. Dip Solutions for Sheep.  
 164.026. Dip Solutions for Cattle.  
 164.027. Dipping of Goats.  
 164.028. Dipping at Expense of County.

#### SUBCHAPTER C. QUARANTINES

- 164.041. Establishment.  
 164.042. Notice.  
 164.043. Effect of Quarantine.  
 164.044. Movement From Quarantined Premises; Movement of Quarantined Animals.  
 164.045. Disinfection of Shearing Plant in Quarantined Area.  
 164.046. Disinfection of Quarantined Premises.

#### SUBCHAPTER D. IMPORTATION OF SHEEP

- 164.061. Permit Required.  
 164.062. Certificate Required.  
 164.063. Quarantine of Imported Sheep.  
 164.064. Designation of Infected or Free Areas; Dipping Requirements.  
 164.065. Exhibitions.

#### SUBCHAPTER E. REMEDIES AND PENALTIES

- 164.081. Carrier Forfeiture for Transporting Sheep Without Permit.  
 164.082. Civil Suits to Recover Penalty for Corporate Offense.  
 164.083. Failure to Dip for Scabies.  
 164.084. Movement of Infected, Exposed, or Quarantined Animals.  
 164.085. Refusal to Permit Entry or Gather Animals for Inspection.  
 164.086. Failure to Disinfect Shearing Plant.  
 164.087. Failure to Properly Disinfect Quarantined Premises.  
 164.088. Importation of Sheep Without Certificate or Permit.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### § 164.001. Definitions

In this chapter:

(1) "Commission" means the Texas Animal Health Commission.

(2) "Inspector" means an inspector employed by the commission, including the chief inspector, a district supervising inspector, or a local inspector.

[Acts 1981, 67th Leg., p. 1420, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 164.002. Scabies Infection or Exposure

(a) For purposes of this chapter, cattle or sheep are scabies-infected if:

- (1) actually infected with scabies; or
- (2) in a herd in which scabies infection is present.

(b) Except as provided by Subsection (c) of this section, cattle or sheep are exposed to scabies for purposes of this chapter if:

- (1) the cattle or sheep enter or have access to any place, including a corral, shed, car, road, or pasture, that scabies-infected cattle or sheep have entered or had access to during the preceding 90 days; or

(2) the sheep are shorn by a shearing plant that has shorn scabies-infected sheep within the preceding 90 days.

(c) Cattle or sheep are not exposed to scabies under Subsection (b) of this section if the place or plant has been disinfected since the infected cattle or sheep were removed. This subsection does not exempt the cattle or sheep from dipping required by this chapter.

(d) If an inspector determines that a scabies infection exists among cattle, sheep, or goats or that cattle, sheep, or goats have been exposed to scabies, the infection or exposure is considered to continue until the commission determines that the infection or exposure has been eradicated through methods prescribed by rule of the commission.

[Acts 1981, 67th Leg., p. 1420, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 164.003. Inspectors

(a) For the purpose of eradicating scabies, the commission may employ a chief inspector, district supervising inspectors, and local inspectors.

(b) The chief inspector shall supervise the inspectors engaged in scabies eradication.

(c) The state shall pay the salaries of the chief inspector and the district supervising inspectors. The counties shall pay the salaries and necessary traveling expenses of local inspectors.

[Acts 1981, 67th Leg., p. 1420, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 164.004. Duties of Inspectors

(a) All dippings, inspections, and certifications for scabies eradication and the disinfection of cars, sheds, boats, chutes, alleys, platforms, pens, or yards required by this chapter shall be performed by or under the supervision of an inspector.

(b) Local inspectors shall perform all duties necessary to the inspection, dipping, and certification of livestock under this chapter.

[Acts 1981, 67th Leg., p. 1420, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 164.005. Entry Power

(a) An inspector is entitled to enter any public or private place where cattle or sheep are kept or ranged for the purpose of:

- (1) ascertaining the presence of scabies infection;
- (2) ascertaining any exposure to scabies; or
- (3) inspecting, classifying, or dipping cattle or sheep for scabies infection or exposure.

(b) If the inspector under Subsection (a) of this section desires to be accompanied by a peace officer, the inspector may apply for and obtain a search warrant as provided by Section 161.047 of this code.

(c) The person who owns or controls the place to be entered under this section or who owns or controls the animals shall, on request of the inspector or a member of the commission, gather the animals on the range for inspection. Failure or refusal to gather the animals is prima facie evidence that the premises and the animals are infected with scabies and authorizes the commission to quarantine the premises or animals in accordance with this chapter. [Acts 1981, 67th Leg., p. 1421, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.006. Actions of Commission Chairman**

The chairman of the commission may perform any act or duty of the commission under this chapter. [Acts 1981, 67th Leg., p. 1421, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.007. Duty of Commissioners Court**

(a) The commissioners court of each county shall cooperate with the commission in the eradication and control of scabies in that county if the commission has reason to believe or determines that a scabies infection exists in the county.

(b) If, following investigation or inspection, the commission determines that a scabies infection exists in a county, the commissioners court of the county shall appropriate a sum of money sufficient to employ local inspectors.

(c) If a commissioners court does not appropriate money under Subsection (b) of this section, the commission shall place the county under quarantine and no sheep or cattle may be moved from that county unless certified by a commission inspector.

[Acts 1981, 67th Leg., p. 1421, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 164.008 to 164.020 reserved for expansion]

**SUBCHAPTER B. DIPPING**

**§ 164.021. Dipping Required on Order of Commission**

(a) The commission by written order may direct a person who owns, controls, or cares for cattle or sheep that are scabies-infected or are exposed to scabies, to dip any or all of those animals for the purpose of destroying, eradicating, curing, or removing a scabies infection or a source of exposure to scabies.

(b) An order of the commission under this section must be signed by the commission or the chairman of the commission and must contain the following:

- (1) the date of issuance;
- (2) the name of the person to whom the order is made;
- (3) the approximate location of the premises on which the animals are located;

(4) the county in which the premises are located;

(5) a statement in clear and intelligible language that the sheep or cattle that the person owns, controls, or cares for are infected with or exposed to scabies;

(6) an order directing the person to dip the animals, under the supervision of an inspector and in the manner prescribed by the commission, in a dipping solution provided by this chapter or in a designated solution approved for that purpose by rule of the commission; and

(7) a designation of the date, time, and place that the dipping is to occur.

(c) An order under this section must be delivered to the person owning or controlling the cattle or sheep not later than the 14th day before the date and time for dipping designated in the order.

[Acts 1981, 67th Leg., p. 1421, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.022. Hearing**

(a) Not later than the fifth day following the day on which a person receives an order to dip cattle or sheep, the person may file with the commission or the chairman of the commission a written affidavit that:

(1) denies that the animals are subject to being dipped under this chapter, or states that, for good and sufficient reason set out in the affidavit, the person is entitled to have the order rescinded or the dipping postponed; and

(2) requests that the commission withhold enforcement of the order and grant a hearing on the matter or investigate the matter as necessary to determine the correctness of the statement contained in the affidavit.

(b) Not later than the fifth day following the day on which the commission receives an affidavit under Subsection (a) of this section, the commission shall, if desired by the affiant, grant the affiant a hearing in the office of the chairman. The commission shall give the affiant notice of the hearing by telegram or registered mail and shall hold the hearing not earlier than the fourth day following the day of giving that notice.

(c) The commission shall consider the affidavit at the hearing and shall, in person or by agent, investigate the matter as the commission considers necessary.

(d) If the commission finds that the statement in the affidavit is correct, the commission shall rescind the order or postpone the dipping until a time that the commission considers proper. If the commission finds that the statement in the affidavit is not correct, the commission shall enforce the order on the date and at the time designated in the order.

(e) Following a hearing, the commission shall deliver its written findings to the affiant not later than the fourth day before the date and time that the order requires the animals to be dipped.

(f) A person who is dissatisfied with the findings of the commission under this section may apply to a court of proper venue and jurisdiction for an injunction or other relief.

[Acts 1981, 67th Leg., p. 1422, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.023. Method of Dipping

If the commission requires the dipping of animals under this chapter, the animals shall be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by the commission.

[Acts 1981, 67th Leg., p. 1422, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.024. Dipping Intervals

(a) For psoroptic scabies infection or exposure, cattle or sheep shall be dipped at intervals of not less than 10 days nor more than 14 days.

(b) For sarcoptic scabies infection or exposure, cattle or sheep shall be dipped at intervals of not less than 6 days, except that cattle shall be dipped only once if dipped in crude oil.

[Acts 1981, 67th Leg., p. 1423, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.025. Dip Solutions for Sheep

(a) For scabies infection or exposure, sheep must be dipped in:

(1) a solution of lime and sulphur prepared as provided by this section; or

(2) a solution approved by the commission and specified in the order under which the sheep are dipped.

(b) For each 100 gallons of water, a lime and sulphur solution must contain 8 pounds of unslaked lime, or 11 pounds of commercial hydrated lime, and 24 pounds of flowers of sulphur. Air-slaked lime may not be used in the solution. The solution must be boiled for at least two hours prior to its use and must be maintained at a strength of not less than 1½ sulfide sulphur.

(c) A dipping solution must at all times be maintained at a temperature of not less than 95 degrees nor more than 105 degrees Fahrenheit.

(d) A person may not use a dipping solution that has been mixed and in the vat for more than 10 days.

[Acts 1981, 67th Leg., p. 1423, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.026. Dip Solutions for Cattle

(a) For psoroptic scabies infection or exposure, cattle must be dipped in a solution provided by Section 164.025 of this code for sheep, except that a lime and sulphur solution must be maintained at a strength of not less than two percent sulfide sulphur.

(b) For sarcoptic scabies infection or exposure, cattle must be dipped in a solution provided by Section 164.025 of this code for sheep or in crude oil. [Acts 1981, 67th Leg., p. 1423, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.027. Dipping of Goats

A person shall dip goats ranging with scabies-infected sheep at least once in the same solution and in the same manner provided for the sheep, except that the goats may not be held in the dipping vat for a longer period than is necessary to thoroughly wet them.

[Acts 1981, 67th Leg., p. 1423, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.028. Dipping at Expense of County

If a person ordered to dip cattle or sheep under this chapter fails or refuses to dip the animals, the county commissioners court shall provide necessary vats, pens, other facilities, and materials, shall have the animals dipped in accordance with this chapter, and shall pay the expenses of the dipping by warrant drawn on the general funds of the county.

[Acts 1981, 67th Leg., p. 1423, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 164.029 to 164.040 reserved for expansion]

### SUBCHAPTER C. QUARANTINES

#### § 164.041. Establishment

(a) If the commission determines or is informed that scabies exists among cattle in another state, territory, or country, the commission shall establish a quarantine against all or the portion of the state, territory, or country in which the disease exists. The quarantine is governed by Chapter 161 of this code, except that only a scabies inspector recognized by the commission for that purpose in the quarantine notice may issue certificates or permits for the movement of cattle subject to the quarantine. A person who violates the quarantine is subject to the penalties provided by that chapter.

(b) If an inspector determines that a scabies infection or exposure exists in a county or area of this state, on any premises, including a road, pasture, lot, yard, stockyard, or enclosure, or among any cattle or sheep, the commission may quarantine the area, premises, or animals.

[Acts 1981, 67th Leg., p. 1423, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.042. Notice**

The commission shall give notice of a quarantine established under Section 164.041(b) of this code in one of the following manners:

(1) by posting written notice of the quarantine at the courthouse door of the county in which the quarantine is established and at two other conspicuous places in the area or on the premises quarantined;

(2) by publishing notice in a newspaper in the county or, if there is no newspaper in the county, by publishing notice in a newspaper in an adjoining county; or

(3) by delivering written or printed notice to the owner or caretaker of the animals or premises to be quarantined, with the delivery made in person by a commission inspector, employee, or member or with the delivery made by United States mail.

[Acts 1981, 67th Leg., p. 1424, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.043. Effect of Quarantine**

If a county or area is quarantined under Section 164.041(b) of this code, all premises within the county or area and all cattle and sheep within the county or area are quarantined even though not separately designated.

[Acts 1981, 67th Leg., p. 1424, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.044. Movement From Quarantined Premises; Movement of Quarantined Animals**

(a) A person may not move or permit to be moved cattle or sheep that are under quarantine for scabies infection or exposure or that are on premises quarantined for scabies infection or exposure unless the cattle or sheep are certified by a commission inspector.

(b) If the commission finds animals that have been moved in violation of a quarantine established under this chapter, the commission shall quarantine the animals until they have been properly tested or dipped in accordance with the rules of the commission.

[Acts 1981, 67th Leg., p. 1424, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.045. Disinfection of Shearing Plant in Quarantined Area**

(a) If scabies-infected sheep located on premise quarantined for sheep scabies infection are shorn by an itinerant shearing plant or crew, the person owning, controlling, or having charge of the plant or crew shall, in accordance with this section, disinfect the plant and the wearing apparel of the crew, including laborers who shear the sheep or pack the

wool, before the plant or crew moves from the premises where the sheep are shorn.

(b) All utensils, machinery, floors, ground coverings, and other portions of the plant that come in contact with the body of the sheep must be thoroughly cleaned with pure gasoline. The wearing apparel of the shearers or laborers must be submerged in boiling water for at least five minutes. [Acts 1981, 67th Leg., p. 1424, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.046. Disinfection of Quarantined Premises**

(a) In accordance with this section, the owner, lessee, or person in charge of premises quarantined for sheep scabies shall cleanse and disinfect all places in which infected or exposed sheep have been closely confined, including corrals, water lots, pens, and sheds.

(b) The person shall remove and burn or bury all manure and litter and then spray the surface of the places in which the sheep were confined with a solution of six ounces of 95 percent carbolic acid to each gallon of water or a solution of four ounces of cresol compound USP to each gallon of water.

(c) Disinfection under this section must be performed under the supervision of a commission inspector and before uninfected or unexposed sheep are permitted to enter the places to be disinfected. [Acts 1981, 67th Leg., p. 1425, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 164.047 to 164.060 reserved for expansion]

**SUBCHAPTER D. IMPORTATION OF SHEEP**

**§ 164.061. Permit Required**

(a) A person may not import sheep into this state without first obtaining a permit from the commission.

(b) A rail common carrier may not receive a shipment of sheep from a shipper or a connecting carrier for importation into this state unless the bill of lading covering the shipment is accompanied by a written permit from the commission permitting those sheep to enter this state.

[Acts 1981, 67th Leg., p. 1425, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.062. Certificate Required**

(a) A person may not import sheep into this state unless the shipment is accompanied by a certificate certifying that:

(1) the sheep are free from scabies infection and exposure; or

(2) the sheep have been dipped in a solution recognized by the Animal and Plant Health Inspection Service, United States Department of

Agriculture, for eradication of sheep scabies and in a manner designed to have eradicated infection or exposure within 10 days prior to the date of importation.

(b) A certificate under this section must be issued by an authorized sheep scabies inspector of the state of origin of the shipment or by a sheep scabies inspector of the Animal and Plant Health Inspection Service, United States Department of Agriculture. [Acts 1981, 67th Leg., p. 1425, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.063. Quarantine of Imported Sheep

If the certificate for a shipment of sheep shows that the sheep were dipped at the point of origin in accordance with Section 164.062(a)(2) of this code, the sheep shall be quarantined at the range on which the sheep are placed in this state for a period of 180 days.

[Acts 1981, 67th Leg., p. 1425, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.064. Designation of Infected or Free Areas; Dipping Requirements

The commission may adopt rules designating areas as infected or free from infection and shall establish dipping requirements for the importation of sheep into this state.

[Acts 1981, 67th Leg., p. 1426, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.065. Exhibitions

The commission shall provide an importer of show sheep a reasonable length of time, not to exceed 60 days after the date of importation, in which to display the sheep at county fairs or livestock exhibitions. The importer shall keep the sheep separate from all sheep other than show sheep and shall dip the sheep at least once before they are distributed to the range.

[Acts 1981, 67th Leg., p. 1426, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 164.066 to 164.80 reserved for expansion]

### SUBCHAPTER E. REMEDIES AND PENALTIES

#### § 164.081. Carrier Forfeiture for Transporting Sheep Without Permit

(a) A rail common carrier that transports sheep without a permit under Section 164.061 of this code forfeits to the state an amount equal to not less than \$1 nor more than \$5 for each head of sheep transported.

(b) The county attorney of a county through which the rail common carrier transports the shipment may sue on behalf of the state in a court of competent jurisdiction to recover the forfeiture under this section.

[Acts 1981, 67th Leg., p. 1426, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.082. Civil Suits to Recover Penalty for Corporate Offense

If the person who commits an offense under this subchapter is a corporation, the county attorney of the county in which the offense occurred shall sue that person in a court of competent jurisdiction on behalf of the state for the collection of the fine provided for the offense.

[Acts 1981, 67th Leg., p. 1426, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.083. Failure to Dip for Scabies

(a) A person commits an offense if the person:

(1) owns, controls, or cares for cattle or sheep infected with scabies or cattle or sheep that have been exposed to scabies infection within six months prior to the date of an order to dip under Section 164.021 of this code; and

(2) fails or refuses to dip the sheep or cattle at the time and in the manner provided by the order of the commission.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$5 nor more than \$200.

(c) A person commits a separate offense for each day of failure or refusal.

[Acts 1981, 67th Leg., p. 1426, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 164.084. Movement of Infected, Exposed, or Quarantined Animals

(a) A person commits an offense if the person:

(1) moves cattle or sheep in violation of Section 164.044(a) of this code; or

(2) moves or permits to be moved along or across a public highway or railroad, or on or across the land or premises of another person, cattle or sheep that are infected with scabies, exposed to scabies, or quarantined for scabies.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$10 nor more than \$200.

(c) A person commits a separate offense under Subsection (a)(2) of this section for each highway, railroad, or person's land or premises along, across, or onto which the person moves the cattle or sheep.

(d) Venue for prosecution of an offense under Subsection (a)(2) of this section is in any county into which or through which the cattle or sheep are moved.

[Acts 1981, 67th Leg., p. 1426, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.085. Refusal to Permit Entry or Gather Animals for Inspection**

(a) A person commits an offense if the person:  
 (1) refuses to permit an inspector to enter any premises of which the person is the owner, tenant, or caretaker for the purpose of inspecting, classifying, or dipping animals infected or exposed to scabies; or

(2) refuses to gather animals in accordance with Section 164.005(c) of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

(c) A person commits a separate offense for each day of refusal.

[Acts 1981, 67th Leg., p. 1427, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.086. Failure to Disinfect Shearing Plant**

(a) A person commits an offense if the person fails or refuses to disinfect all or part of a shearing plant, or the wearing apparel of each person shearing the sheep or handling or packing the wool, in accordance with Section 164.045 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 nor more than \$100.

[Acts 1981, 67th Leg., p. 1427, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.087. Failure to Properly Disinfect Quarantined Premises**

(a) A person commits an offense if the person violates a provision of Section 164.046 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$50.

[Acts 1981, 67th Leg., p. 1427, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 164.088. Importation of Sheep Without Certificate or Permit**

(a) A person commits an offense if the person imports sheep into this state in violation of Subchapter D of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100 for each head of sheep imported in violation of Subchapter D of this chapter.

(c) A person commits a separate offense for each county into which or through which the sheep are moved.

(d) Venue for prosecution of an offense under this section is in any county into which or through which the sheep are moved.

[Acts 1981, 67th Leg., p. 1427, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 165. CONTROL OF DISEASES OF SWINE**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
165.001.	Definition.
165.002.	Owner Treatment.
165.003.	Sale or Distribution of Unattenuated Hog Cholera Virus.

**SUBCHAPTER B. COOPERATIVE PROGRAM FOR DISEASE ERADICATION**

165.021.	Cooperation With U.S. Department of Agriculture.
165.022.	Method of Disease Eradication.
165.023.	Use of Biologics.
165.024.	Sale and Slaughter of Diseased Animals.
165.025.	Compensation of Owner.
165.026.	Feeding Garbage to Swine.
165.027.	Entry Power.

**SUBCHAPTER C. PENALTIES**

165.041.	General Penalty.
165.042.	Sale of Unattenuated Hog Cholera Virus.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 165.001. Definition**

In this chapter, "commission" means the Texas Animal Health Commission.

[Acts 1981, 67th Leg., p. 1428, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 165.002. Owner Treatment**

Except as otherwise provided by law, a person may vaccinate, inoculate, or treat hogs owned by that person with hog cholera virus or serum or with another remedy, and a county demonstration agent may vaccinate, inoculate, or treat any hogs in the county in which the agent is employed with hog cholera virus or serum or with another remedy.

[Acts 1981, 67th Leg., p. 1428, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 165.003. Sale or Distribution of Unattenuated Hog Cholera Virus**

(a) A person may not sell, offer for sale, barter, exchange, or give away unattenuated hog cholera virus.

(b) This section does not prohibit:

(1) acquisition, propagation, manufacture, or use of unattenuated hog cholera virus by, and on the licensed premises of, a firm operating under a United States veterinary license issued by the secretary of agriculture of the United States;

(2) manufacture of unattenuated hog cholera virus by a firm operating under a United States veterinary license for the sale or distribution in states in which use of attenuated hog cholera virus is permitted; or

(3) keeping vaccine on hand for purely experimental or research activities by a recognized col-

lege, university, school, or laboratory engaged in research activities.

(c) In this section, "unattenuated hog cholera virus" means a hog cholera virus that has not been modified or inactivated.

[Acts 1981, 67th Leg., p. 1428, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 165.004 to 165.020 reserved for expansion]

#### SUBCHAPTER B. COOPERATIVE PROGRAM FOR DISEASE ERADICATION

##### § 165.021. Cooperation With U.S. Department of Agriculture

The commission may cooperate with the United States Department of Agriculture in the eradication of vesicular exanthema, foot and mouth disease of swine, hog cholera, and other diseases of swine. [Acts 1981, 67th Leg., p. 1429, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 165.022. Method of Disease Eradication

Following notice and public hearing, the commission shall adopt rules for the enforcement of this subchapter, including rules providing for the manner, method, and system of eradicating swine diseases. The rules may not exceed the rules relating to minimum standards for cooperative programs adopted by the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

[Acts 1981, 67th Leg., p. 1429, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 165.023. Use of Biologics

The commission shall adopt rules governing the use of biologics as a protection against dissemination of communicable swine diseases.

[Acts 1981, 67th Leg., p. 1429, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 165.024. Sale and Slaughter of Diseased Animals

(a) The commission may order swine infected with or exposed to a swine disease to be:

(1) sold for immediate slaughter at a public slaughtering establishment maintaining federal postmortem inspection; or

(2) slaughtered on the owner's property or another place under the direction of the commission.

(b) A person may appeal an order of the commission under this section to the county court of the county in which the swine are located.

[Acts 1981, 67th Leg., p. 1429, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 165.025. Compensation of Owner

(a) If an animal infected with or exposed to vesicular exanthema, foot and mouth disease, or hog cholera is sold and slaughtered under Section 165.024 of this code, the commission may pay the owner an amount equal to not more than 50 percent of the appraised value of the animal, after deducting any amount received by the owner for salvage.

(b) Compensation under this section may not exceed the amount of any compensation paid to the owner of the swine by the United States Department of Agriculture.

(c) In order to be eligible for compensation under this section, an owner must have complied with Section 165.026 of this code and the rules of the commission applicable to the swine for which payment is made.

(d) For purposes of this section, the appraised value of an animal shall be determined by a representative of the commission or the United States Department of Agriculture and a representative of the owner of the animal. If they cannot agree on the value, they shall appoint a third appraiser and the value of the animal shall be determined by agreement of any two of the three appraisers. If either party is not satisfied with the value as appraised, that party may appeal to a court of competent jurisdiction in the county of the owner's residence. The appeal is by trial de novo as that term is used in appeals from the justice court to the county court.

(e) The commission may compensate persons under this section only from funds appropriated for that purpose.

[Acts 1981, 67th Leg., p. 1429, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 165.026. Feeding Garbage to Swine

(a) A person may not feed garbage to swine unless:

(1) the person first registers with and secures a permit from the commission; and

(2) the garbage has been heated to a temperature of 212 degrees Fahrenheit for a period of 30 consecutive minutes within 48 hours prior to feeding.

(b) Registration with the commission shall be made on forms prescribed by the commission, and the commission shall furnish those forms on request.

(c) This section does not apply to an individual who feeds garbage from the individual's own household, farm, or ranch to swine owned by the individual.

(d) In this section, "garbage" includes the animal or vegetable refuse matter and the putrescible animal or vegetable waste resulting from handling, preparing, cooking, or consuming food containing all

or part of an animal carcass, the waste material by-products of a restaurant, kitchen, cookery, or slaughterhouse, and refuse accumulations of animal or vegetable matter, liquid or otherwise.

[Acts 1981, 67th Leg., p. 1430, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 165.027. **Entry Power**

(a) A representative of the commission, including a member of the commission, is entitled to enter the premises of any person for the purpose of inspecting swine or the heating or cooking equipment required by this subchapter or for the purpose of performing another duty under this subchapter.

(b) A person may not refuse to permit an inspection authorized by this subchapter.

[Acts 1981, 67th Leg., p. 1430, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 165.028 to 165.040 reserved for expansion]

SUBCHAPTER C. PENALTIES

§ 165.041. **General Penalty**

(a) A person commits an offense if the person violates a provision of Subchapter B of this chapter or a rule adopted under that subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

(c) A person commits a separate offense for each day of violation.

[Acts 1981, 67th Leg., p. 1430, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 165.042. **Sale of Unattenuated Hog Cholera Virus**

(a) A person commits an offense if the person violates Section 165.003 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100.

[Acts 1981, 67th Leg., p. 1431, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 166. ANTHRAX CONTROL

Section	
166.001.	Anthrax Research.
166.002.	Supervision of Isolation of Infected Livestock.
166.003.	Reporting Anthrax.
166.004.	Quarantine.
166.005.	Destruction of Infected Carcasses.
166.006.	Petition for Election to Prevent Animals From Running at Large.
166.007.	Election Order.
166.008.	Election Expenses.
166.009.	Election.
166.010.	Effect of Election.

Section	
166.011.	Failure to Report Anthrax.
166.012.	Failure to Obey Quarantine.
166.013.	Failure to Destroy Carcass.
166.014.	Allowing Animals to Run at Large.

§ 166.001. **Anthrax Research**

(a) The Texas Board of Health shall employ a bacteriologist to analyze and perform research for the purpose of combating anthrax during a time in which the disease is prevalent.

(b) The board may require a bacteriologist employed under this section to remain in an area affected by anthrax as long as the board considers it necessary.

[Acts 1981, 67th Leg., p. 1431, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 166.002. **Supervision of Isolation of Infected Livestock**

The Texas Board of Health, acting through a member of the board or the county health officer of a county in which anthrax is reported to be prevalent, shall:

(1) inspect stock reported to have anthrax and ensure that the infected stock is isolated from other stock; and

(2) isolate for any period it considers necessary stock exposed to anthrax.

[Acts 1981, 67th Leg., p. 1431, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 166.003. **Reporting Anthrax**

(a) A person who resides in an area in which anthrax is prevalent or is alleged to be prevalent and who discovers anthrax in an animal shall report that fact in writing to the county health officer, who shall report the occurrence in writing to the chairman of the Texas Board of Health.

(b) A physician practicing in this state who discovers the presence of anthrax in a person shall report that fact to the chairman of the Texas Board of Health.

[Acts 1981, 67th Leg., p. 1431, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 166.004. **Quarantine**

(a) After making a determination that a quarantine is necessary to prevent the spread of anthrax in a county in which anthrax is prevalent or may become prevalent, a county health officer may issue a quarantine proclamation directing the owners or keepers of certain animals to isolate those animals in an enclosure.

(b) The quarantine applies to any animal of a class specified in the proclamation that is located:

(1) anywhere in the county, if the proclamation specifies that it applies to the whole county; or

(2) anywhere in a political subdivision of the county, if the proclamation specifies that it applies to that political subdivision.

(c) The proclamation must be published once in a newspaper published in the county. If no newspaper is published in the county:

(1) a proclamation applying to the entire county must be posted in three public places in the county, including at the county courthouse door; and

(2) a proclamation applying to a political subdivision of the county must be posted in three public places in the subdivision.

(d) A quarantine established under this section takes effect on the third day after the day on which the notice is published or posted under Subsection (c) of this section and expires when the county health officer determines that a quarantine is no longer necessary.

[Acts 1981, 67th Leg., p. 1431, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 166.005. Destruction of Infected Carcasses

An owner or person in charge of stock that has died from anthrax shall destroy each carcass by burning it within 24 hours after the death of the stock.

[Acts 1981, 67th Leg., p. 1432, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 166.006. Petition for Election to Prevent Animals From Running at Large

(a) In accordance with this section, the qualified voters of a county or a political subdivision of a county affected with anthrax may petition the commissioners court to determine if cattle, horses, sheep, goats, or hogs are to be prohibited from running at large in the county or subdivision.

(b) A petition for a countywide election must be signed by at least 10 percent of the qualified voters in the county. A petition for an election in a political subdivision must be signed by at least 10 percent of the qualified voters in that subdivision.

(c) The petition must:

(1) clearly state each class of animals that the petitioners seek to keep from running at large;

(2) clearly state whether the prohibition is to be in effect for the entire year or at specified times during the year; and

(3) describe the county or political subdivision in which the election is to be held.

[Acts 1981, 67th Leg., p. 1432, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 166.007. Election Order

(a) After receiving a petition for an election, the commissioners court shall order an election to be held throughout the county or in the political subdivision of the county, as determined by the petition.

(b) The order must specify, in accordance with the petition:

(1) each class of animals to be prohibited from running at large; and

(2) whether the prohibition is to be in effect for the entire year or at specified times during the year.

[Acts 1981, 67th Leg., p. 1432, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 166.008. Election Expenses

A county in which an election is held under this chapter shall compensate election officers and pay expenses of the election.

[Acts 1981, 67th Leg., p. 1433, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 166.009. Election

(a) Ballots for the election shall be printed to provide for voting for or against the proposition: "Prohibiting domestic animals from running at large."

(b) The presiding officers of the precinct or precincts in which the election is held shall return the ballots cast to the county judge. The county judge shall convene the commissioners court for the purpose of canvassing the returns.

(c) The commissioners court shall issue a proclamation declaring the result and post it at three public places in the county or political subdivision of the county in which the election was held.

[Acts 1981, 67th Leg., p. 1433, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 166.010. Effect of Election

If a majority of votes in an election are cast for the proposition, after the date on which the proclamation of the result is posted, a person may not allow a domestic animal of the class named in the election petition to run at large in the county or political subdivision of the county, as applicable, during the prohibited time named in the petition.

[Acts 1981, 67th Leg., p. 1433, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 166.011. Failure to Report Anthrax

(a) A person commits an offense if the person fails to make a report required by Section 166.003 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$25.

(c) A person commits a separate offense for each case of anthrax the person fails to report.

[Acts 1981, 67th Leg., p. 1433, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 166.012. Failure to Obey Quarantine

(a) A person commits an offense if the person violates a quarantine established under Section 166.004 of this code.

(b) Except as provided by Subsection (c) of this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$10 nor more than \$50.

(c) If a person who commits an offense under this section owns or keeps more than 10 animals subject to the quarantine:

(1) the offense is a misdemeanor punishable by a fine of not less than \$20 nor more than \$100; and

(2) the person commits a separate offense for each day the person violates the quarantine.

[Acts 1981, 67th Leg., p. 1433, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 166.013. Failure to Destroy Carcass

(a) A person commits an offense if the person fails to destroy an animal carcass as required by Section 166.005 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$100.

(c) A person commits a separate offense for each 24 hours after the first 24 hours following death that the person fails to destroy the carcass.

[Acts 1981, 67th Leg., p. 1433, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 166.014. Allowing Animals to Run at Large

(a) A person commits an offense if the person allows an animal to run at large in violation of Section 166.010 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$5 nor more than \$50.

(c) A person commits a separate offense for each day that the person allows the animal to run at large.

[Acts 1981, 67th Leg., p. 1434, ch. 388, § 1, eff. Sept. 1, 1981.]

CHAPTER 167. TICK ERADICATION

SUBCHAPTER A. GENERAL PROVISIONS

Section	
167.001.	Definitions.
167.002.	Caretaker of Animal.
167.003.	General Powers and Duties of Commission.
167.004.	Classification of Animals or Premises as Infested, Exposed, or Free From Exposure.
167.005.	Eradication, Free, and Inactive Quarantine Areas.
167.006.	Designation of Tick Eradication Area.
167.007.	Tick Eradication in Free Area.
167.008.	Inspections.

SUBCHAPTER B. QUARANTINES; REGULATION OF MOVEMENT OF ANIMALS AND COMMODITIES

Section	
167.021.	General Quarantine Power.
167.022.	Quarantine of Tick Eradication Area.
167.023.	Quarantine of Free Area.
167.024.	Movement In or From Quarantined Area.
167.025.	Movement In or From Inactive Quarantined Area.
167.026.	Movement Into This State From Quarantined Area.
167.027.	Permit or Certificate to Accompany Movement.
167.028.	Statement of Possession and Destination.
167.029.	Conditions, Manner, and Method of Moving and Handling.
167.030.	Disinfection of Conveyance.
167.031.	Use of Sand as Bedding in Conveyance.
167.032.	Movement of Commodities.
167.033.	Handling and Removal of Refuse or Dead or Injured Livestock.

SUBCHAPTER C. DIPPING

167.051.	Livestock Subject to Dipping.
167.052.	Order to Dip.
167.053.	Hearing.
167.054.	Excuse From Compliance With Order.
167.055.	Persons Responsible for Dipping and Assistance.
167.056.	Manner of Dipping.
167.057.	Dipping Materials.
167.058.	Dipping Intervals.
167.059.	Dipping Facilities.
167.060.	Dipping Required for Movement From Quarantined Area.

SUBCHAPTER D. STOCKYARD REGULATION

167.081.	Designation of Facility to Handle Certified Livestock.
167.082.	Notice and Hearing.
167.083.	Maintenance of Tick-Free Facilities.

SUBCHAPTER E. ENFORCEMENT

167.101.	Inspectors.
167.102.	Entry Power.
167.103.	Dipping of Cattle by Peace Officer on Request of Inspector.
167.104.	Seizure and Disposal of Livestock Running at Large.
167.105.	Seizure and Disposal of Livestock Moved in Violation of Quarantine.
167.106.	Injunction; Mandamus.
167.107.	Sale of Livestock Dipped or Seized by Peace Officer.
167.108.	Liens.
167.109.	Admissibility of Commission Instruments; identification in Complaint.
167.110.	Presumption of Existence or Sufficiency of Dip.
167.111.	Presumption of Ownership or Care.
167.112.	Venue of Criminal Prosecution.
167.113.	Civil Suit Against Corporate Offender.

SUBCHAPTER F. PENALTIES

167.131.	Refusal of Inspection.
167.132.	Movement of Livestock in Violation of Quarantine.
167.133.	Movement of Animals or Commodities Into Texas From Quarantined Area.
167.134.	Movement of Livestock in Violation of Permit or Certificate.
167.135.	Failure to Possess or Exhibit Permit or Certificate.
167.136.	Failure to Make Statement of Possession and Destination; Making False Statement.
167.137.	Failure to Disinfect Conveyance.
167.138.	Use of Sand as Bedding.
167.139.	Movement of Commodities From Quarantined Area.
167.140.	Improper Handling and Removal of Livestock Refuse or Dead or Injured Livestock.

Section	
167.141.	Failure to Dip Livestock.
167.142.	Destruction of Public Dipping Facilities.
167.143.	Failure to Provide Tick-Free Stockyard Facilities.
167.144.	Refusal to Permit Search.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### § 167.001. Definitions

In this chapter:

(1) "Commission" means the Texas Animal Health Commission.

(2) "Enclosure" includes a pasture, pen, or lot.

(3) "Inspector" means an inspector of the commission, including a local inspector, a county or district supervising inspector, and the chief inspector.

(4) "Livestock" means cattle, horses, mules, jacks, or jennets.

(5) "Peace officer" includes a sheriff, constable, or other peace officer authorized to perform services in the county in which services are required.

(6) "Tick" means any tick capable of carrying *Babesia*, otherwise known as "fever."

[Acts 1981, 67th Leg., p. 1436, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 167.002. Caretaker of Animal

A person is subject to this chapter as the caretaker of an animal if the person:

(1) is the owner, part owner, lessee, occupant, or caretaker of land or premises, and controls that land or those premises, on which the animal is located;

(2) is the parent of a minor child who owns an interest in the animal, unless a person other than the parent is the legal guardian of the minor child's estate; or

(3) is the administrator, executor, or guardian of an estate that owns the animal, or owns land on which the animal is located, and controls the estate by reason of the administration or guardianship.

[Acts 1981, 67th Leg., p. 1436, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 167.003. General Powers and Duties of Commission

(a) In accordance with this chapter, the commission shall eradicate all ticks capable of carrying *Babesia* in this state and shall protect all land, premises, and livestock in this state from those ticks and exposure to those ticks.

(b) In carrying out this chapter, the commission may:

(1) adopt necessary rules;

(2) employ necessary personnel, including a chief inspector, chief clerk, stenographers, and clerks, and assign the personnel to perform duties authorized by this chapter or incidental to its enforcement;

(3) assist and cooperate with county officials; and

(4) enter into cooperative agreements with other state agencies or agencies of the federal government.

(c) The commission by rule may provide for the manner and method of dipping saddle stock and stock used for gentle work and for the handling and certifying of that stock for movement, but unless the commission so provides, the stock is subject to this chapter as other livestock.

[Acts 1981, 67th Leg., p. 1436, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 167.004. Classification of Animals or Premises as Infested, Exposed, or Free From Exposure

(a) If a tick is found on a head of livestock, the following are classified as tick infested:

(1) each head of livestock that is in the same herd or is then or thereafter on the same range or in the same enclosure as the animal on which the tick is found; and

(2) the range or enclosure in or on which the animal is located.

(b) The commission by rule shall define what animals and premises are to be classified as exposed to ticks. The commission shall classify as exposed to ticks livestock that have been on land or in an enclosure that the commission determines to be tick infested or exposed to ticks or to have been tick infested or exposed to ticks before or after the removal of the livestock, unless the commission determines that the infestation or exposure occurred after the livestock were removed and that the livestock did not become infested or exposed before removal.

(c) Animals, land, and premises classified as tick infested or exposed to ticks retain that classification until the classification is changed by the commission in accordance with this chapter.

(d) Animals, land, and premises in the tick eradication area may not be considered to be free from exposure to ticks unless:

(1) the commission has officially classified the animals or premises as free from exposure and filed a copy of the order making that classification in the office of the supervising inspector of the county in which the animals or premises are located; or

(2) the supervising inspector of the county in which the animals or premises are located, under the authority of the commission, has classified the animals or premises in writing as free from exposure and filed the written classification in the supervising inspector's office.

[Acts 1981, 67th Leg., p. 1437, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.005. Eradication, Free, and Inactive Quarantine Areas**

(a) The tick eradication area is composed of counties and parts of counties designated for tick eradication under Section 167.006 of this code.

(b) The free area and the inactive quarantine area are composed of counties and parts of counties designated by the commission to be part of the applicable area.

(c) The commission may transfer a county or part of a county from the tick eradication area, the free area, or the inactive quarantine area to another type of area as the commission considers advisable or necessary.

[Acts 1981, 67th Leg., p. 1437, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.006. Designation of Tick Eradication Area**

(a) The commission may designate for tick eradication any county or part of a county that the commission determines may contain ticks.

(b) The commission shall give notice that a county or part of a county is designated for tick eradication by:

(1) publishing a brief notice of the designation in a newspaper published in that county or that part of the county, as applicable; or

(2) posting a brief notice of the designation at the courthouse door of the county.

(c) The notice must prescribe a date on which the designation is to take effect and must be published or posted before the 10th day preceding that date. The county affected by the designation shall pay the expenses of giving notice.

(d) The designation of a county or part of a county for tick eradication takes effect on:

(1) the date specified in the notice, if the notice is published or posted within the time prescribed by Subsection (c) of this section; or

(2) the 10th day following the day on which notice is published or posted, if the notice is not published or posted within the time prescribed by that subsection.

[Acts 1981, 67th Leg., p. 1437, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.007. Tick Eradication in Free Area**

(a) The commission may conduct tick eradication in the free area and may establish quarantines and require the dipping of livestock in the free area as provided by this chapter. The commission shall designate in writing the land or premises in the free area in which tick eradication is to be conducted.

(b) An owner or caretaker of livestock in the free area and the commissioners court of a county all or part of which is located in the free area shall cooperate with the commission in the manner provided by this chapter for tick eradication in the tick eradication area.

[Acts 1981, 67th Leg., p. 1438, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.008. Inspections**

The commission may order the owner, part owner, or caretaker of livestock to gather the livestock for inspection at a time and place prescribed in the order of the commission. The commission shall serve written notice of the order not later than the 12th day before the day of inspection. A person on whom an order is served is entitled to request and obtain a hearing in the manner provided by this chapter for hearings on orders to dip livestock.

[Acts 1981, 67th Leg., p. 1438, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 167.009 to 167.020 reserved for expansion]

**SUBCHAPTER B. QUARANTINES; REGULATION OF MOVEMENT OF ANIMALS AND COMMODITIES**

**§ 167.021. General Quarantine Power**

(a) The commission may establish quarantines on land, premises, and livestock as necessary for tick eradication.

(b) The commission in writing may release a quarantine established under this chapter if the commission considers it necessary or advisable to do so. [Acts 1981, 67th Leg., p. 1438, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.022. Quarantine of Tick Eradication Area**

(a) The order designating a county or part of a county for tick eradication shall contain a provision quarantining that county or part of a county.

(b) A quarantine under this section has the effect of quarantining all land, premises, and livestock in the area quarantined, regardless of whether any person's land, premises, or livestock are specifically described in the quarantine order.

[Acts 1981, 67th Leg., p. 1438, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.023. Quarantine of Free Area**

(a) The commission by written order may establish a quarantine in the free area if necessary for the purpose of regulating the handling of livestock and eradicating ticks or exposure to ticks in the free area or for the purpose of preventing the spread of tick infestation into the free area.

(b) The order of the commission establishing a quarantine in the free area shall designate the land or premises to be quarantined.

(c) The commission shall give notice of a quarantine established in the free area by:

(1) delivering notice to each owner or caretaker of livestock in the area to be quarantined or to each owner or caretaker of land or premises in the area on which livestock are located;

(2) posting written notice at the courthouse door of each county in which the area to be quarantined is located; or

(3) publishing notice in a newspaper published in each county in which the area to be quarantined is located.

[Acts 1981, 67th Leg., p. 1438, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.024. Movement In or From Quarantined Area**

(a) Unless a person first obtains a permit or a certificate from an authorized inspector, the person may not move livestock in a quarantined area:

(1) from land owned, leased, or occupied by one person into or through any other land owned, leased, or occupied by another person; or

(2) onto any open range, public street, public road, or thoroughfare.

(b) Unless the person first obtains a permit or a certificate from an authorized inspector, the owner or caretaker of livestock in a quarantined area may not move the livestock, or permit the livestock to be moved, from an enclosure owned, leased, or occupied by that person, from any open range, street, road, or thoroughfare, or from any land that the person does not own or control, into any other enclosure or other land owned, cared for, or controlled by that person, if:

(1) the livestock are subject to dipping under this chapter and the land or enclosure to which the livestock are moved:

(A) is classified in the records of the county supervising inspector as being free from ticks; or

(B) has been released from quarantine by the commission; or

(2) the livestock are subject to dipping but are not being dipped under this chapter in the conduct of regular systematic tick eradication by the commission and the land or enclosure to which the

livestock are moved is owned or controlled by that person and:

(A) tick eradication work is being conducted there; or

(B) the land or enclosure is vacated under the direction of the commission for the purpose of tick eradication.

(c) The owner or caretaker of livestock located in a quarantined area may move livestock, or permit livestock to be moved, to and from dipping vats for the purpose of dipping the livestock on a regular dipping date at the vat to which the livestock are to be moved or on another date designated by the inspector in charge of the vat. The movement of livestock under this subsection must be in accordance with the rules of the commission. Any other movement is considered to be in violation of the quarantine.

(d) In this section, "other land" means land that is separated from the land from which movement is made by a fence, dividing line, or the land of another person.

[Acts 1981, 67th Leg., p. 1439, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.025. Movement In or From Inactive Quarantined Area**

A person may not move livestock or permit livestock to be moved from or within the inactive quarantined area except in accordance with the rules of the commission.

[Acts 1981, 67th Leg., p. 1440, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.026. Movement Into This State From Quarantined Area**

(a) A person may not move livestock, or permit livestock of which the person is the owner, part owner, or caretaker to be moved, into this state from an area in another state, territory, or country that is under state or federal quarantine for tick infestation or exposure unless the livestock are accompanied by a certificate from an inspector of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

(b) A person may not move goats, hogs, sheep, exotic animals, or circus animals into this state from an area of another state, territory, or country that is under state or federal quarantine for tick infestation unless the animals:

(1) have been dipped free from infestation or exposure; and

(2) are certified as having been so treated by an inspector of the commission or of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

(c) A person may not move hay, straw, grass, packing straw, pine straw, corn shucks, weeds, plants, litter, manure, dirt, posts, sand, gravel, caliche, or animal by-products into this state for any purpose from an area of another state, territory, or country that is under state or federal quarantine for tick infestation unless the articles:

(1) have been treated in accordance with the requirements of the commission or the Animal and Plant Health Inspection Service, United States Department of Agriculture; and

(2) are certified as having been so treated by an inspector of the commission or the Animal and Plant Health Inspection Service, United States Department of Agriculture.

[Acts 1981, 67th Leg., p. 1440, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.027. Permit or Certificate to Accompany Movement**

(a) A certificate or permit required for movement of livestock within or into this state must be in the possession of the person in charge of the movement or the conveyance from the point of origin to the point of destination. If the movement is by a transportation company, including a railway or express company, the certificate must be attached to the shipping papers accompanying the movement from the point of origin to the point of destination. On demand of an inspector, the person in charge of the movement or conveyance shall exhibit the certificate or permit.

(b) A certificate required for movement of goats, hogs, sheep, exotic animals, or circus animals, or for movement of articles listed in Section 167.026(c) of this code, must accompany the movement to the final destination in this state or so long as the animals or articles are moving through this state. [Acts 1981, 67th Leg., p. 1440, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.028. Statement of Possession and Destination**

On request of an inspector, the owner, part owner, or caretaker, or a person accompanying and connected with a shipment, of livestock that are being moved in this state or have been moved in this state within 60 days preceding the request, shall make a written statement of:

(1) the name of the owner or the person controlling the land from which the shipment originated and the county in which that land is located;

(2) the county and the particular place in that county to which the shipment is or was destined;

(3) the name and address of the person from whom the livestock were obtained, if the livestock were obtained in the 30 days preceding the request, or, if the livestock were not obtained during

the 30 days preceding the request, a statement of that fact; and

(4) the territory through which the shipment passed since leaving the point of origin and through which the shipment is intended to pass before reaching the point of destination.

[Acts 1981, 67th Leg., p. 1440, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.029. Conditions, Manner, and Method of Moving and Handling**

(a) The commission by rule shall provide the conditions for and the manner and method of handling and moving livestock:

(1) into, in, and from the tick eradication area;

(2) into, in, and from quarantined land or premises in the free area;

(3) into the released part of the free area; and

(4) into, in, and from the inactive quarantined area.

(b) Livestock must be certified as being free from ticks and exposure to ticks, and must be moved to the destination without exposure, if the livestock are to be moved:

(1) into the free area;

(2) from one county to another in the tick eradication area; or

(3) within a county to land or premises that are classified by the official records of the supervising inspector of the county as being free from ticks and exposure to ticks.

(c) The commission may adopt rules relating to testing, immunizing, treating, certifying, or marking or branding livestock moving into this state from another state or country.

[Acts 1981, 67th Leg., p. 1441, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.030. Disinfection of Conveyance**

(a) A person, including a railway or transportation company, who operates a conveyance into which livestock are loaded shall clean and disinfect each car or other conveyance after removal of the livestock unless the livestock are clean and free from ticks or exposure to ticks.

(b) The commission shall adopt rules relating to the cleaning and disinfecting of conveyances.

[Acts 1981, 67th Leg., p. 1441, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.031. Use of Sand as Bedding in Conveyance**

The commission may establish quarantines and restrict the use of sand as bedding in a livestock conveyance except for sand from known tick-free sand pits.

[Acts 1981, 67th Leg., p. 1441, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.032. Movement of Commodities**

The commission may establish quarantines and restrict the movement from quarantined areas of hay, hides, carcasses, or other commodities that are capable of carrying ticks.

[Acts 1981, 67th Leg., p. 1441, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.033. Handling and Removal of Refuse or Dead or Injured Livestock**

The commission may establish quarantines and regulate the removal and handling of refuse matter from quarantined stockyards, quarantined stock pens, and other quarantined places and may establish quarantines and regulate the handling or removal of livestock that die or are injured in transit.

[Acts 1981, 67th Leg., p. 1442, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 167.034 to 167.050 reserved for expansion]

**SUBCHAPTER C. DIPPING****§ 167.051. Livestock Subject to Dipping**

(a) Livestock located in the tick eradication area are subject to dipping if the livestock:

- (1) are infested with ticks;
- (2) were exposed to ticks within the nine months preceding an order to dip; or
- (3) are on premises described in an order to dip during the time that the order is in effect and the person to whom the order is issued is the owner, part owner, or caretaker of the livestock.

(b) Livestock located in the free area are subject to dipping if:

- (1) the livestock are infested with ticks;
- (2) the livestock were exposed to ticks within the nine months preceding an order to dip;
- (3) the livestock are on premises described in an order to dip during the time the order is in effect and the person to whom the order is issued is the owner, part owner, or caretaker of the livestock; or

(4) the commission determines that dipping is necessary to ensure that the livestock are entirely free from infestation.

(c) The commission may require the dipping of livestock that are located in the free area and are tick infested or have been exposed to ticks regardless of whether the livestock or the area in which the livestock are located is under quarantine.

[Acts 1981, 67th Leg., p. 1442, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.052. Order to Dip**

(a) The commission may order the owner, part owner, or caretaker of livestock to dip the livestock in accordance with the directions of the commission. The order must be dated, in writing, and signed or stamped with the signature of the commission or the commission chairman.

(b) An order to dip must:

- (1) state the period of time covered by the order;
- (2) describe the premises on which the livestock to be dipped are located;
- (3) state that the person to whom the order is directed shall dip all livestock of which the person is the owner, part owner, or caretaker and which are located on those premises during that time;
- (4) state that the dipping must be done under the supervision of an inspector;
- (5) designate the vat at which the livestock are to be dipped;
- (6) state the dates on which the livestock are to be dipped; and
- (7) state that if the person does not dip the livestock on those dates, the dipping will be done at the person's expense by a peace officer acting in accordance with this chapter.

(c) The order is not required to describe the premises on which the livestock are located by field notes or metes and bounds, but must provide a reasonable description sufficient to inform the person to whom it is directed of the premises or land covered by the order.

(d) An order may require the dipping of the livestock on as many dates as the commission considers necessary for eradicating the infestation or exposure of the livestock or the premises on which the livestock is located.

(e) An order to dip must be delivered to the person to whom it is directed not later than the 12th day before the date specified in the order for the first dipping, not including the date of delivery or the date of the first dipping.

(f) A person to whom an order to dip is directed shall comply with the order and dip the livestock in accordance with the directions of the commission. If the order is not delivered within the time provided by Subsection (e) of this section, the person receiving the order shall begin dipping on the first dipping date that is more than 12 days after the date of receipt of the order and shall continue dipping on subsequent dates as specified in the order.

(g) If the livestock or the premises are not freed from ticks or exposure to ticks before an order to dip expires, the Commission may issue additional orders regardless of whether the livestock were exposed to ticks in the nine months preceding the date of the subsequent order.

[Acts 1981, 67th Leg., p. 1442, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.053. Hearing**

(a) A person is entitled to request and obtain a hearing for the purpose of protesting an order to dip by filing a sworn application with the supervising inspector of the county in which the livestock are located. The application must be filed not later than the 10th day after the day on which the order was received.

(b) Following a hearing, the commission shall transmit its written decision to the supervising inspector, who shall transmit it to the protesting person by delivering it in person or by mailing it by registered mail to the address shown in the hearing application. If the commission overrules the protest, the person to whom the order was directed shall comply with the order.

(c) If the commission's decision is delivered in person, a person whose protest is overruled shall begin dipping the livestock on the first dipping date in the order that is more than two days after the day on which the decision is received. If the decision is delivered by mail, the person shall begin dipping on the first dipping date in the order that is more than four days after the day on which the decision was deposited in the mail.

[Acts 1981, 67th Leg., p. 1443, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.054. Excuse From Compliance With Order**

The supervising inspector of a county for good cause may excuse a person from complying with an order to dip, but shall be held responsible for excusing compliance without good cause.

[Acts 1981, 67th Leg., p. 1443, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.055. Persons Responsible for Dipping and Assistance**

(a) A person who owns any interest in livestock subject to dipping or who is the caretaker of that livestock is responsible for the dipping of the livestock under this chapter and is subject to prosecution for failure to dip the livestock.

(b) A husband and wife are jointly and severally liable for the dipping of livestock subject to dipping that belong to their community estate. Each spouse is responsible for the dipping of livestock belonging to that person's separate estate, except that a spouse who is the caretaker of livestock owned by the other spouse is responsible for the dipping of that livestock.

(c) A person responsible for the dipping of livestock subject to dipping shall furnish all necessary labor, at the person's own expense, for gathering the livestock, driving the livestock to the dipping vat, dipping the livestock, and returning the livestock to the person's premises after dipping.

[Acts 1981, 67th Leg., p. 1443, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.056. Manner of Dipping**

If the commission requires livestock to be dipped, the livestock shall be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by the commission.

[Acts 1981, 67th Leg., p. 1444, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.057. Dipping Materials**

(a) The commission shall prescribe by rule the official materials in which livestock are to be dipped under this chapter. A person may not dip livestock for purposes of this chapter in a material other than an official material prescribed by the commission.

(b) The state, an agency of the state, or an agency of the government of the United States shall, and a county may, furnish the official materials for the dipping of livestock under this chapter.

[Acts 1981, 67th Leg., p. 1444, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.058. Dipping Intervals**

A person to whom an order to dip is directed shall dip the livestock on the dates specified in the order, but the order of the commission must provide an interval of at least 13 days, not including any part of a dipping date, between the days on which it directs the livestock to be dipped. The order of the commission may provide an interval longer than 13 days.

[Acts 1981, 67th Leg., p. 1444, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.059. Dipping Facilities**

(a) The commissioners court of each county, including a county in the free area, in all or part of which the commission conducts tick eradication shall cooperate with the commission and shall furnish facilities necessary to the dipping of livestock in that county. The commissioners court shall furnish dipping vats, pens, chutes, and other necessary facilities in the number, at the locations, and of the type specified by the commission. In addition, the county, at its expense, shall maintain the facilities and repair or remodel them as necessary, shall provide the water for filling the vats, and shall clean and refill the vats as necessary.

(b) For the purpose of constructing, purchasing, or leasing dipping facilities, and for the purpose of providing necessary land, labor, or materials, a commissioners court may appropriate money out of the general fund of the county or may incur indebtedness by the issuance of warrants. A warrant issued may not draw interest at a rate of more than six percent per year and may not have a term of more than 20 years. The commissioners court may levy taxes to pay interest on warrants and may establish a sinking fund for the payment of warrants.

(c) For the purpose of acquiring necessary land for the construction or maintenance of dipping facilities, for the purpose of acquiring dipping facilities that have already been constructed, or for the purpose of acquiring land necessary for ingress and egress to and from those facilities, a commissioners court has the power of eminent domain. The commissioners court shall exercise the power of eminent domain in the manner provided by law for acquiring land for the building and maintenance of public buildings, except that the court shall institute and prosecute condemnation proceedings on written request from the chairman of the commission. The request from the commission shall designate:

- (1) the land to be condemned and its location;
- (2) the name of the owner of the land to be condemned; and
- (3) the easement to be acquired for ingress and egress.

(d) In acquiring land or facilities by eminent domain, the commissioners court may retain the property for permanent use by making appropriate compensation or may acquire the property for temporary use by making proper compensation for the period of time determined necessary by the commissioners court.

[Acts 1981, 67th Leg., p. 1444, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 167.060. Dipping Required for Movement From Quarantined Area

(a) An inspector may not issue a certificate or permit for the movement of livestock from a quarantined enclosure unless the owner or caretaker of the livestock:

- (1) is cooperating with the commission in the regular systematic dipping of the livestock listed in Subsection (b) of this section; and
- (2) has dipped those livestock on the last two dipping dates that were prescribed for the area in which the livestock are located and that preceded the date of movement.

(b) In order to be issued the permit or certificate, the owner or caretaker must cooperate with the commission in the regular systematic dipping of livestock of which the person is the owner or caretaker and which:

- (1) are located in the enclosure from which the livestock are to be moved;
- (2) are located in quarantined enclosures that connect with the enclosure from which the livestock are to be moved, including an enclosure that:
  - (A) connects with an enclosure that connects with the enclosure from which the livestock are to be moved; or
  - (B) is on the opposite side of a lane or road from the enclosure from which the livestock are to be moved; or

(3) are located on the quarantined open range that connects with any of the enclosures under Subdivision (1) or (2) of this subsection.

(c) If ticks are found on any of the livestock submitted for movement, before the certificate or permit is issued, each head of the livestock must be dipped at intervals of not less than every 7th day nor more than every 14th day and found free from ticks at the last dipping.

(d) The commission may waive the enforcement of this section for good cause. A waiver of the commission must be in writing.

[Acts 1981, 67th Leg., p. 1445, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 167.061 to 167.080 reserved for expansion]

#### SUBCHAPTER D. STOCKYARD REGULATION

##### § 167.081. Designation of Facility to Handle Certified Livestock

(a) The commission may designate a stockyard that is in the tick eradication area or in the free area and is open to the public for yarding, marketing, and selling livestock as a facility to handle intrastate movements of livestock certified by an inspector to be free from ticks or exposure to ticks. A stockyard so designated shall provide tick-free facilities for the handling of that livestock in accordance with this subchapter.

(b) A designation under this section is effective for 24 months following the day on which notice is served, and the commission may redesignate a facility for the purpose of this section.

[Acts 1981, 67th Leg., p. 1445, ch. 388, § 1, eff. Sept. 1, 1981.]

##### § 167.082. Notice and Hearing

(a) The commission shall give written notice of a designation under this subchapter to the stockyard company or to the owner, operator, or other person in control of the stockyard.

(b) A person to whom a notice is directed may request a hearing for the purpose of protesting the designation in the manner provided by Section 167.053 of this code for requesting a hearing on an order to dip. The commission shall grant the hearing and give notice of its decision in the manner provided by that section.

(c) A person whose protest is overruled shall complete the work required to provide tick-free facilities not later than the 60th day following the day on which the person receives notice of the commission's decision.

[Acts 1981, 67th Leg., p. 1446, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.083. Maintenance of Tick-Free Facilities**

(a) A person who owns or operates and is in control of a stockyard designated under this subchapter shall maintain clean and tick-free facilities, including pens, alleys, and chutes, so that livestock certified by an inspector to be free from ticks or exposure to ticks may be received, yarded, weighed, and sold for intrastate purposes without being subject to exposure to ticks.

(b) In accordance with Subsection (a) of this section, the owner or operator shall maintain tick-free scales, entrances, exits, pens, and territory immediately surrounding the pens.

(c) The stockyard company, owner or operator, or other person in control of a stockyard may not discriminate between interstate and intrastate handling of livestock.

[Acts 1981, 67th Leg., p. 1446, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 167.084 to 167.100 reserved for expansion]

**SUBCHAPTER E. ENFORCEMENT**

**§ 167.101. Inspectors**

(a) The commissioners court of a county in which the commission conducts tick eradication may nominate the number of local inspectors found by the commission to be necessary for tick eradication in that county. The commission shall appoint those persons nominated unless, following appointment of local inspectors, the commission finds that the county is trying to retard tick eradication or is nominating persons who are incompetent or negligent in the performance of duty. In that case, the commission may ignore the nominations of the county.

(b) If a commissioners court fails or refuses to nominate persons as local inspectors, the commission shall appoint local inspectors without nomination.

(c) Local inspectors work under the direction and orders of the commission and are subject to discharge by the commission. The commission shall fix and the state shall pay the salaries of local inspectors, but a county may pay the salary and traveling expenses of a local inspector.

(d) The commission may employ county and district supervising inspectors without nomination by the commissioners courts.

(e) Only an inspector appointed for the purpose may conduct tick eradication or issue permits and certificates certifying livestock to be free from ticks or exposure to ticks. An inspector shall issue those permits and certificates in accordance with the rules of the commission.

[Acts 1981, 67th Leg., p. 1446, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.102. Entry Power**

(a) A commissioner or an inspector, and assistants, may enter public or private property, without a warrant, for the exercise of an authority or performance of a duty under this chapter.

(b) If an inspector or commissioner desires to be accompanied by a peace officer, the inspector or commissioner shall apply for a search warrant to a magistrate of the county in which the property is located. The magistrate shall issue the search warrant on a showing of probable cause by oath or affirmation.

(c) The search warrant shall describe the place to be entered in a reasonable manner that will enable the person in charge of the property to identify the property described, but the warrant is not required to describe the property by field notes or by metes and bounds. If the applicant for the warrant seeks to enter the property to determine whether livestock are on the property, the application for the warrant shall state that. If the warrant is obtained for the purpose of seizing or dipping livestock, the application and the warrant shall describe the livestock, state whether the animals are cattle, horses, mules, jacks, or jennets, and give the approximate number of animals. If any of that information is unknown to the applicant, the application and warrant shall state that the information is unknown.

(d) A search warrant issued under this section authorizes the person to whom it is issued to enter the property for the exercise of an authority or performance of a duty under this chapter and to be accompanied by a peace officer and assistants. In addition, the warrant authorizes the peace officer and the assistants to perform any duty authorized by this chapter.

(e) A search warrant issued under this section permits entry and reentry for the purposes of this section for a period of 60 days beginning on the day on which it is issued. After that period, additional search warrants may be issued as often as necessary.

[Acts 1981, 67th Leg., p. 1447, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.103. Dipping of Cattle by Peace Officer on Request of Inspector**

(a) If a person responsible for dipping livestock fails to dip the livestock at the time and place directed in the order or, prior to a dipping date in the order, states that he or she does not intend to dip the livestock, the inspector in charge of tick eradication in that county shall notify a peace officer.

(b) The peace officer shall deputize a sufficient number of assistants, to be designated by the supervising inspector of the county, shall enter the property on which the livestock are located, and shall gather and dip the livestock under the supervision of an inspector and in accordance with the directions of the commission.

(c) The peace officer shall continue to dip the livestock on each dipping date specified in the order until the person responsible for dipping begins and continues the dipping in accordance with that order. [Acts 1981, 67th Leg., p. 1447, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.104. Seizure and Disposal of Livestock Running at Large**

(a) An inspector may request a peace officer to seize livestock if:

(1) the inspector determines the livestock to be running at large or on the open range of a county or part of a county in which the commission is conducting tick eradication under this chapter; and

(2) the inspector is unable to locate the owner or caretaker of the livestock.

(b) The peace officer may deputize assistants, shall seize the livestock, and shall dip the livestock, under the supervision of an inspector. The officer shall impound the livestock at a place designated by the inspector or otherwise dispose of the livestock as necessary for the purpose of tick eradication.

[Acts 1981, 67th Leg., p. 1448, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.105. Seizure and Disposal of Livestock Moved in Violation of Quarantine**

(a) An inspector who discovers livestock that are being or have been moved in violation of a quarantine may request a peace officer to seize the livestock and:

(1) impound the livestock at the expense of the owner; or

(2) if practicable, return the livestock at the expense of the owner to the point of origin.

(b) In addition to other expenses, the owner of the seized livestock shall pay the officer a fee of \$2 and the cost of feeding, watering, and holding the livestock.

[Acts 1981, 67th Leg., p. 1448, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.106. Injunction; Mandamus**

(a) The commission or a resident of this state may sue for an injunction to compel compliance with a provision of this chapter or to restrain a threatened violation of a provision of this chapter.

(b) A resident of this state may sue for mandamus against a commissioners court to compel the compliance of that court with the duty of the commissioners court under this chapter.

(c) The commission or a resident of a county or part of a county in which tick eradication is being conducted may sue for permanent or temporary relief to compel a person who is an owner, part

owner, or caretaker of livestock to dip that livestock in accordance with this chapter if the person has failed or refused to dip the livestock or has threatened to fail or refuse to dip the livestock. If the court finds that the defendant has been served with an order of the commission to dip the livestock, that the livestock are subject to dipping, and that the material allegations of the plaintiff's petition are true, the court shall enter an order commanding the defendant to dip the livestock in accordance with the directions of the commission at the time and place designated in the order of the commission or in the order of the court. If the defendant fails to comply with the order of the court, the court may hold the defendant in contempt and punish the defendant accordingly and shall order a peace officer to deputize assistants and dip the livestock in accordance with the order of the court. The expense of dipping the livestock and employing the peace officer and assistants shall be taxed against the defendant as a cost of suit.

(d) A court may hear and determine a suit under this section in term or in vacation. Notice of the suit shall be given to the defendant as the court determines justice requires.

[Acts 1981, 67th Leg., p. 1448, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.107. Sale of Livestock Dipped or Seized by Peace Officer**

(a) A peace officer who gathers and dips or who seizes and impounds or disposes of livestock under Section 167.103, 167.104, or 167.105 of this code is entitled to retain and sell the livestock for the purpose of securing payment for the expenses of handling, including the expenses of holding, feeding, and watering the livestock.

(b) Not later than the 60th day after the day on which livestock are dipped or seized, the peace officer may sell at public sale to the highest bidder a number of the animals sufficient to cover the secured expenses. The officer shall conduct the sale at the courthouse door of the county in which the livestock are located and shall post notice of the sale at that courthouse door at least five days before the day of the sale.

(c) If any proceeds of the sale remain after deducting the amount to which the peace officer is entitled, the peace officer shall pay those proceeds to the county treasurer subject to the order of the owner of the livestock.

(d) A peace officer who dips livestock under Section 167.103 of this code is entitled to act under this section to secure the expenses of each day on which the animals are dipped.

[Acts 1981, 67th Leg., p. 1449, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 167.108. Liens

(a) A peace officer who gathers and dips or who seizes and impounds or disposes of livestock under Section 167.103, 167.104, or 167.105 of this code has a lien on the livestock for the purpose of securing payment of the officer's fees and the expenses of handling the livestock, including the expenses of holding, feeding, and watering the livestock and the expenses of paying assistants. Instead of retaining and selling the livestock under Section 167.107 of this code, the officer may perfect and foreclose a lien granted by this section.

(b) A peace officer who dips livestock in accordance with an order of a court under Section 167.106(c) of this code, and the peace officer's assistants, have a lien on the livestock to secure payment of the expenses and costs of the dipping.

(c) A peace officer may perfect a lien under Subsection (a) of this section by filing a sworn statement of indebtedness with the county clerk of the county in which the livestock are located. The statement must describe the livestock and must be filed within six months after the dipping or other action of the peace officer giving rise to the lien. The statement may cover a single action or actions over a period of time. If the statement covers actions over a period of time, the statement must be filed within six months after the last dipping or other action giving rise to the lien.

(d) A peace officer may perfect a lien under Subsection (b) of this section by filing a sworn statement covering a single dipping or a number of dippings with the clerk of the district court. The statement must show the number of livestock dipped and must describe the livestock. The statement must be filed within 12 months after each dipping.

(e) A peace officer may foreclose a lien under Subsection (a) of this section by filing suit against the owner of the livestock in a court of competent jurisdiction for collection of the account and foreclosure of the lien. The suit must be filed within 24 months after the statement is filed with the county clerk. In the suit, the court may not require a cost bond of the peace officer or any person to whom the peace officer has assigned the account. The court shall enter judgment for the debt, with interest and costs of suit, and for foreclosure of the lien on the number of animals that the court determines necessary to defray the expenses and fees secured.

(f) The court shall foreclose a lien under Subsection (b) of this section after the filing of the statement and shall do so against the number of animals necessary for the payment of the expenses and costs. The court shall order those animals sold as under execution.

(g) If a lien is foreclosed under this section, the remainder of the proceeds of the sale following deduction of expenses and costs shall be paid to the

clerk of the court in which the suit is pending and are subject to the order of the owner of the livestock.

[Acts 1981, 67th Leg., p. 1449, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 167.109. Admissibility of Commission Instruments; Identification in Complaint

(a) A copy of a written instrument issued by the commission is admissible as evidence in any court of this state if the copy is certified by the chairman of the commission.

(b) In a prosecution for a violation of this chapter, the state is not required to include in the complaint, information, or indictment a verbatim copy of a written instrument or proclamation, but may allege the issuance and identify it by date of issuance.

(c) In the trial of a civil or criminal case under this chapter, in which a certified copy of a commission written instrument or a proclamation is to be introduced in evidence, the instrument or proclamation is not required to be filed with the papers of the cause and the party introducing it is not required to give notice of it to the other party.

[Acts 1981, 67th Leg., p. 1450, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 167.110. Presumption of Existence or Sufficiency of Dip

(a) In the trial of any case under this chapter in connection with the dipping of livestock or the failure to dip livestock, it is presumed that:

(1) the dipping vat contained a sufficient amount of dipping solution and the dipping solution had been properly tested; or

(2) the dipping solution could have and would have been put into the vat and tested if the owner or caretaker had brought the livestock to the vat for the purpose of dipping.

(b) In a criminal prosecution for failure to dip livestock under this chapter, the state is not required to allege and prove that the vat contained dipping solution.

(c) If it is necessary in a court proceeding to prove the test of a dipping solution, it is only necessary to prove that:

(1) the dipping solution used was one of the official dipping materials prescribed by the commission; and

(2) the inspector tested the dipping solution in accordance with the rules of the commission.

[Acts 1981, 67th Leg., p. 1450, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 167.111. Presumption of Ownership or Care

(a) If an inspector determines that a person is the owner, part owner, or caretaker of livestock subject

to dipping and an order to dip is issued and served, it is presumed that, at the time of a failure to dip, the person was still the owner, part owner, or caretaker of livestock subject to dipping located on the premises described in the order. In that case, the state is required to prove only that the person was the owner, part owner, or caretaker of livestock subject to dipping located on the premises at the time the order was served.

(b) After the service of an order to dip, if there are no longer any livestock subject to dipping located on the premises and if no livestock subject to dipping have been illegally removed, the defendant may file a sworn statement of that fact at the beginning of the trial. If the defendant does not file that statement, it is presumed that the defendant's status as owner, part owner, or caretaker remained unchanged since the service of the order. [Acts 1981, 67th Leg., p. 1451, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 167.112. Venue of Criminal Prosecution

The owner, part owner, or caretaker of livestock is subject to prosecution under this chapter in the county in which the livestock and the premises are located, regardless of whether the defendant was in the county at the time of issuance and service of the order to dip, at the time of the failure to dip, or at the time of violation of the quarantine.

[Acts 1981, 67th Leg., p. 1451, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 167.113. Civil Suit Against Corporate Offender

If a corporation or an agent of the corporation acting within the agent's scope of authority commits an offense under this chapter, the county attorney of the county in which the violation occurs shall institute a civil suit on behalf of the state in a court of competent jurisdiction for collection of the fine. [Acts 1981, 67th Leg., p. 1451, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 167.114 to 167.130 reserved  
for expansion]

### SUBCHAPTER F. PENALTIES

#### § 167.131. Refusal of Inspection

(a) A person commits an offense if, as the owner, part owner, or caretaker of livestock, the person fails to gather the livestock for inspection at the time and place ordered by the commission under Section 167.008 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1981, 67th Leg., p. 1451, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 167.132. Movement of Livestock in Violation of Quarantine

(a) A person commits an offense if the person moves, or as owner, part owner, or caretaker permits the movement of, livestock from any land, premises, or enclosure that is under quarantine for tick infestation or exposure in violation of the quarantine without a permit issued by an inspector of the commission or of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

(b) A railroad or other transportation company commits an offense if it permits a head of livestock to enter stock pens in the tick eradication area under the company's control without a written certificate or permit from an inspector of the commission or of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 for each head of livestock moved, permitted to move, or permitted to enter the pen.

(d) Except as provided by this subsection, a person commits a separate offense under Subsection (a) of this section for each county into which livestock are moved within 30 days following the day on which the livestock leave the county in which they were quarantined. A person does not commit an offense for a county if the person complied with the requirements of this chapter prior to entry into that county. [Acts 1981, 67th Leg., p. 1451, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 167.133. Movement of Animals or Commodities Into Texas From Quarantined Area

(a) A person commits an offense if the person:

(1) moves livestock or, as owner, part owner, or caretaker, permits livestock to be moved into this state in violation of Section 167.026(a) of this code; or

(2) moves animals or commodities into this state in violation of Section 167.026(b) or (c) of this code.

(b) An offense under Subsection (a)(1) of this code is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 for each head of livestock moved or permitted to be moved.

(c) An offense under Subsection (a)(2) of this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200. A person commits a separate offense under that subsection for the movement of each animal, each animal product, or shipment of another commodity.

[Acts 1981, 67th Leg., p. 1452, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.134. Movement of Livestock in Violation of Permit or Certificate**

(a) A person commits an offense if the person moves or, as owner, part owner, or caretaker, permits the movement of, livestock under a certificate or permit from quarantined land, premises, or enclosures to a place other than that designated on the certificate or permit by the inspector.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 for each head of livestock moved. [Acts 1981, 67th Leg., p. 1452, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.135. Failure to Possess or Exhibit Permit or Certificate**

(a) A person commits an offense if the person is in charge of livestock for which a certificate or permit is required or is in charge of the conveyance transporting that livestock and the person fails to possess or exhibit the certificate or permit in the manner provided by Section 167.027 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500 for each head of livestock in the movement or conveyance. [Acts 1981, 67th Leg., p. 1452, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.136. Failure to Make Statement of Possession and Destination; Making False Statement**

(a) A person required by Section 167.028 of this code to make a written statement commits an offense if the person:

- (1) fails or refuses to make the statement in accordance with that section; or
- (2) makes a false statement under that section.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200. [Acts 1981, 67th Leg., p. 1452, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.137. Failure to Disinfect Conveyance**

(a) A person required by Section 167.030 of this code to clean and disinfect a conveyance commits an offense if the person fails or refuses to clean and disinfect the conveyance in accordance with the rules of the commission.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$100 for each car or other means of conveyance not cleaned and disinfected.

(c) A person commits a separate offense for each day of failure or refusal. [Acts 1981, 67th Leg., p. 1453, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.138. Use of Sand as Bedding**

(a) A person commits an offense if the person uses sand as bedding in a livestock conveyance in violation of a quarantine established or a commission rule adopted under Section 167.031 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200. [Acts 1981, 67th Leg., p. 1453, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.139. Movement of Commodities From Quarantined Area**

(a) A person commits an offense if the person moves a commodity capable of carrying ticks from a quarantined area in violation of a quarantine established or a commission rule adopted under Section 167.032 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200. [Acts 1981, 67th Leg., p. 1453, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.140. Improper Handling and Removal of Livestock Refuse or Dead or Injured Livestock**

(a) A person commits an offense if the person violates a quarantine established or a commission rule adopted under Section 167.033 of this code.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200. [Acts 1981, 67th Leg., p. 1453, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.141. Failure to Dip Livestock**

(a) A person who is the owner, part owner, or caretaker of livestock commits an offense if, after the 12th day following the day on which notice of an order to dip is received, the person fails or refuses to dip the livestock as prescribed in the order, on any date prescribed in the order, during the hours prescribed in the order, under the supervision of an inspector, in an official dipping material, or in the dipping vat designated in the order.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200. [Acts 1981, 67th Leg., p. 1453, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 167.142. Destruction of Public Dipping Facilities**

(a) A person commits an offense if the person, without lawful authority:

- (1) damages or destroys all or part of a dipping vat, pen, chute, or other facility provided under

Section 167.059 of this code by use of any means, including cutting, burning, or tearing down or by use of dynamite or another explosive; or

(2) attempts to damage or destroy all or part of one of those facilities.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$200 nor more than \$1,000;

(2) confinement in county jail for not less than 30 days nor more than one year; or

(3) both fine and confinement under this subsection.

[Acts 1981, 67th Leg., p. 1453, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 167.143. Failure to Provide Tick-Free Stockyard Facilities

(a) A stockyard company or an owner, operator, or person in charge of a stockyard commits an offense if the person fails or refuses to provide and complete facilities required by the commission under Subchapter D of this chapter within 60 days after the day on which notice of designation is served under that subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 nor more than \$500.

(c) A person commits a separate offense for each 30 days of failure or refusal within the 24 months following service of notice.

[Acts 1981, 67th Leg., p. 1454, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 167.144. Refusal to Permit Search

(a) A person commits an offense if the person refuses to permit a person to whom a search warrant is issued under Section 167.102 of this code, that person's assistant, or a peace officer, to enter the property described in the warrant or to perform a duty under this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 nor more than \$200.

(c) A person commits a separate offense for each day of refusal.

[Acts 1981, 67th Leg., p. 1454, ch. 388, § 1, eff. Sept. 1, 1981.]

### CHAPTER 168. PULLORUM DISEASE AND FOWL TYPHOID CONTROL

Section	
168.001.	Definitions.
168.002.	Control and Eradication Program.
168.003.	Administration of Program; Search Warrant.
168.004.	Quarantine and Disposal.
168.005.	Public Exhibition.

Section	
168.006.	Assistance by Flock Owner.
168.007.	No Fee Charged.
168.008.	Penalty.

#### § 168.001. Definitions

In this chapter:

(1) "Commission" means the Texas Animal Health Commission.

(2) "Experiment station" means the Texas Agricultural Experiment Station.

(3) "Flock" means poultry and eggs produced by poultry.

(4) "Hatchery" means an enterprise that operates equipment for the hatching of eggs.

(5) "Poultry" means domestic fowl, including chickens, turkeys, and game birds.

[Acts 1981, 67th Leg., p. 1454, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 168.002. Control and Eradication Program

The experiment station shall promulgate and administer a program to control and eradicate pullorum disease and fowl typhoid, with standards at least as stringent as those specified in the National Poultry Improvement Plan (7 U.S.C. Section 429).

[Acts 1981, 67th Leg., p. 1455, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 168.003. Administration of Program; Search Warrant

(a) In administering the program, the experiment station may:

(1) require the registration of hatcheries and hatchery supply flocks;

(2) examine, test, monitor, and collect samples from any flock, whether a hatchery supply flock or not, if the flock is suspected of being infected or a potential source of infection;

(3) examine, test, monitor, and collect samples from any hatchery supply flock;

(4) enter premises where flocks are kept or eggs are hatched as necessary to administer this chapter; and

(5) promulgate rules necessary to the control and eradication of pullorum disease and fowl typhoid.

(b) If a person conducting an inspection of premises under Subsection (a)(4) of this section desires to be accompanied by a peace officer, the person may apply to any magistrate in the county where the property is located for the issuance of a search warrant. In applying for the warrant, the person shall describe the premises or place to be entered and shall by oath or affirmation give evidence of probable cause to believe that entry is necessary for the control or eradication of pullorum disease or

fowl typhoid. The application for the warrant and the warrant itself need only describe the property or premises in terms sufficient to enable the owner or caretaker to know what property is referred to in the documents. The warrant entitles the person to whom it is issued to be accompanied by a peace officer and by assistants. The issuing magistrate may not charge court costs or other fees for the issuance of this warrant.

[Acts 1981, 67th Leg., p. 1455, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 168.004. Quarantine and Disposal

(a) If the experiment station determines that any part of a flock is infected, it shall certify that information to the commission, and the commission shall verify the infection and immediately quarantine part or all of the flock. The commission shall give notice of the quarantine in the same manner as provided by law for the quarantine of other livestock and fowl. The commission shall also order a cessation in the sale, movement, or exhibition of quarantined poultry or eggs and may seek an injunction to enforce an order concerning infected flocks.

(b) A quarantined flock shall be disposed of in a manner prescribed by the commission. If disposal involves movement to a state or federally inspected poultry processing establishment, the commission shall issue a certificate to accompany the flock. When the flock is disposed of and other measures necessary to the control and eradication of pullorum disease and fowl typhoid are taken, the commission shall remove the quarantine.

(c) The owner of a quarantined flock is entitled to a retesting of the flock before its disposal.

[Acts 1981, 67th Leg., p. 1455, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 168.005. Public Exhibition

A person may not enter poultry in public exhibition unless the stock originates from a flock or hatchery free of pullorum disease and fowl typhoid or has a negative pullorum-typhoid test after the 90th day before the day of the exhibition. Chickens or turkeys entered in public exhibition must be accompanied by a certificate of purchase from the hatchery.

[Acts 1981, 67th Leg., p. 1456, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 168.006. Assistance by Flock Owner

The owner of a flock shall assist the experiment station and the commission in handling the poultry and shall pen and present the flock on request.

[Acts 1981, 67th Leg., p. 1456, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 168.007. No Fee Charged

Neither the experiment station nor the commission may charge a fee for testing or laboratory examination provided for under this chapter.

[Acts 1981, 67th Leg., p. 1456, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 168.008. Penalty

(a) A person commits an offense if the person refuses to:

(1) comply with an order of the commission or experiment station concerning an infected flock; or

(2) admit a person with a search warrant obtained as provided in Section 168.003 of this code.

(b) An offense under this section is a Class C misdemeanor.

(c) A person commits a separate offense for each day that the person refuses to comply with an order or admit a person with a search warrant.

[Acts 1981, 67th Leg., p. 1456, ch. 388, § 1, eff. Sept. 1, 1981.]

TITLE 7. SOIL AND WATER CONSERVATION

CHAPTER 201. SOIL AND WATER CONSERVATION

SUBCHAPTER A. GENERAL PROVISIONS

- Section
- 201.001. Findings, Purpose, and Policy.
- 201.002. Definitions.
- 201.003. Eligible Voter.
- 201.004. Notice; Election Informalities

SUBCHAPTER B. STATE SOIL AND WATER CONSERVATION BOARD

- 201.011. Composition.
- 201.012. State Districts.
- 201.013. State District Conventions.
- 201.014. Election.
- 201.015. Term.
- 201.016. Vacancy.
- 201.017. Oath; Compensation.
- 201.018. Majority Vote Requirement.
- 201.019. Officers and Employees.
- 201.020. Records; Hearings; Rules.
- 201.021. Office.
- 201.022. General Powers and Duties.
- 201.023. Funds Management.
- 201.024. Contracts for Watershed Protection and Flood Control Plans.
- 201.025. Sunset Provision.

SUBCHAPTER C. CREATION, BOUNDARY CHANGES, AND DISSOLUTION OF SOIL AND WATER CONSERVATION DISTRICTS

- 201.041. Petition.
- 201.042. Hearing.
- 201.043. Election.

Section	
201.044.	State Board Determination of Administrative Practicability and Feasibility.
201.045.	Subsequent Petitions.
201.046.	Establishment of District Subdivisions; Appointment of Initial Directors.
201.047.	Application for Certificate of Organization.
201.048.	Issuance of Certificate.
201.049.	Effect of Certificate; Admissibility.
201.050.	Change in Conservation District or Subdivision Boundaries.
201.051.	Dissolution of Conservation District.

#### SUBCHAPTER D. SOIL AND WATER CONSERVATION DISTRICT ADMINISTRATION

201.071.	Composition of Board of Directors.
201.072.	Qualifications of Directors.
201.073.	Election of Directors.
201.074.	Election of Initial Directors.
201.075.	Term of Directors.
201.076.	Vacancy; Removal.
201.077.	Compensation and Mileage Allowance.
201.078.	Majority Vote Requirement.
201.079.	Officers and Employees; Surety Bonds.
201.080.	Records, Reports, Accounts, and Audits.
201.081.	Annual Meeting of Directors.

#### SUBCHAPTER E. GENERAL POWERS AND DUTIES OF SOIL AND WATER CONSERVATION DISTRICTS

201.101.	Corporate Powers.
201.102.	Preventive and Control Measures.
201.103.	Cooperation and Agreements With Other Entities.
201.104.	Acquisition, Administration, and Sale of Real or Personal Property.
201.105.	Acquisition, Administration, and Sale of Materials and Equipment.
201.106.	Construction and Maintenance of Structures.
201.107.	Conservation Plans and Information.
201.108.	Assumption of Government Projects; Acceptance of Government Grants.

#### SUBCHAPTER F. LAND-USE REGULATION

201.121.	Regulatory Powers; Petition for Adoption.
201.122.	Hearing.
201.123.	Election.
201.124.	Effect of Ordinance.
201.125.	Distribution of Copies of Ordinance.
201.126.	Amendment or Repeal of Ordinance.
201.127.	Frequency of Elections.
201.128.	Enforcement.
201.129.	Board of Adjustment.
201.130.	Procedures of Board of Adjustment.
201.131.	Petition for Variance.
201.132.	Hearing on Variance Petition.
201.133.	Granting of Variance.

#### SUBCHAPTER G. POWERS AND DUTIES OF OTHER GOVERNMENTAL SUBDIVISIONS

201.151.	Use of County Machinery and Equipment.
201.152.	Contracts for Flood Control and Drainage.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### § 201.001. Findings, Purpose, and Policy

(a) The legislature finds that the farm and grazing lands of the State of Texas are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that im-

proper land-use practices have caused and have contributed to, and are now causing and contributing to, progressively more serious erosion of the farm and grazing lands of this state by wind and water; that the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by an occupier of land to conserve the soil and control erosion upon the land causes a washing and blowing of soil and water onto other lands and makes the conservation of soil and control of erosion on those other lands difficult or impossible.

(b) The consequences of soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water that causes destruction of food and cover for wildlife; a blowing and washing of soil into streams that silt over spawning beds and destroy waterplants, diminishing the food supply of fish; a diminishing of the underground water reserve that causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall runoff, causing severe and increasing floods that bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydroelectric power, municipal water supply, irrigation developments, farming, and grazing.

(c) In order to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil waste and soil erosion may be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out. Among the procedures necessary for widespread adoption are engineering operations such as the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and the like; the utilization of strip-cropping, lister furrowing, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned,

or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops, soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops, retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

(d) It is the policy of the legislature to provide for the conservation of soil and soil resources of this state and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state, and thus to carry out the mandate expressed in Article XVI, Section 59a, of the Texas Constitution. It is further declared as a matter of legislative intent and determination of policy that the agencies created, powers conferred, and activities contemplated in this chapter for the conservation of soil and water resources and for the reduction of public damage resulting from failure to conserve those natural resources, are supplementary and complementary to the work of various river and other authorities in this state and to other state officers, agencies, and districts engaged in closely related projects, and shall not duplicate or conflict with that work.

[Acts 1981, 67th Leg., p. 1458, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.002. Definitions**

In this chapter:

- (1) "Conservation district" means a soil and water conservation district.
- (2) "Director" means a member of the governing board of a conservation district.
- (3) "Federal agency" includes the Soil Conservation Service of the United States Department of Agriculture and any other agency or instrumentality of the federal government.
- (4) "Occupier" means a person who is in possession of land lying within a conservation district, either as lessee, tenant, or otherwise.
- (5) "State agency" includes a subdivision, agency, or instrumentality of the state.
- (6) "State board" means the State Soil and Water Conservation Board.
- (7) "State district" means a district established under Section 201.012 of this code.

[Acts 1981, 67th Leg., p. 1460, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.003. Eligible Voter**

A person is eligible to vote in an election under this chapter if the person:

- (1) is an individual who holds title to farmland or ranchland lying within a conservation district, a conservation district proposed by petition, or territory proposed by petition for inclusion within a conservation district, as applicable;
- (2) is 18 years of age or older; and
- (3) is a resident of a county all or part of which is included in the conservation district, the conservation district proposed by petition, or the territory proposed for inclusion, as applicable.

[Acts 1981, 67th Leg., p. 1460, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.004. Notice; Election Informalities**

(a) If this chapter requires that notice of a hearing or an election be given, the entity responsible for giving notice shall:

- (1) publish notice at least twice, with an interval of at least seven days between the publication dates, in a newspaper or other publication of general circulation within the appropriate area; or
- (2) post notice for at least two weeks at a reasonable number of conspicuous places within the appropriate area, including, if possible, public places where it is customary to post notices concerning county or municipal affairs generally.

(b) A hearing for which notice is given under this section and which is held at the time and place designated in the notice may be adjourned from time to time without renewing notice for the adjourned dates.

(c) If notice of an election is given substantially in accordance with this section and the election is fairly conducted, an informality in the conduct of the election or in any matter relating to the election does not invalidate the election or its result.

[Acts 1981, 67th Leg., p. 1460, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 201.005 to 201.010 reserved for expansion]

**SUBCHAPTER B. STATE SOIL AND WATER CONSERVATION BOARD**

**§ 201.011. Composition**

The State Soil and Water Conservation Board is a state agency composed of five members, with one member elected from each of the state districts in accordance with this subchapter.

[Acts 1981, 67th Leg., p. 1461, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 201.012. State Districts

(a) For purposes of this chapter, the state is divided into five districts, each of which is composed as provided by this section.

(b) State District No. 1 is composed of the following 51 counties: Dallam, Dawson, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Gaines, Borden, Scurry, Fisher, and Foard.

(c) State District No. 2 is composed of the following 51 counties: Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Runnels, Coke, Sterling, Glasscock, Midland, Ector, Winkler, Loving, Reeves, Culberson, Hudspeth, El Paso, Jeff Davis, Presidio, Brewster, Pecos, Terrell, Ward, Crane, Upton, Reagan, Irion, Tom Green, Concho, McCulloch, San Saba, Mason, Llano, Blanco, Gillespie, Crockett, Schleicher, Menard, Sutton, Kimble, Val Verde, Edwards, Real, Kerr, Kendall, Bandera, Uvalde, Medina, Kinney, and Maverick.

(d) State District No. 3 is composed of the following 50 counties: Bureson, Lee, Bastrop, Travis, Hays, Comal, Guadalupe, Caldwell, Fayette, Washington, Austin, Colorado, Lavaca, Gonzales, Wilson, Bexar, DeWitt, Jackson, Wharton, Fort Bend, Brazoria, Matagorda, Calhoun, Refugio, Bee, Karnes, Live Oak, Atascosa, McMullen, LaSalle, Frio, Duval, Dimmit, Webb, Zapata, Jim Hogg, Starr, Brooks, Hidalgo, Cameron, Willacy, Kenedy, Kleberg, Nueces, San Patricio, Aransas, Jim Wells, Zavala, Goliad, and Victoria.

(e) State District No. 4 is composed of the following 51 counties: Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Marion, Camp, Upshur, Wood, Rains, Van Zandt, Smith, Gregg, Harrison, Henderson, Cherokee, Rusk, Panola, Shelby, Nacogdoches, Anderson, Freestone, Leon, Robertson, Brazos, Madison, Grimes, Waller, Houston, Walker, Trinity, Angelina, San Augustine, Sabine, Newton, Jasper, Tyler, Polk, San Jacinto, Montgomery, Harris, Liberty, Hardin, Orange, Jefferson, Chambers, and Galveston.

(f) State District No. 5 is composed of the following 51 counties: Wilbarger, Wichita, Clay, Montague, Cooke, Grayson, Fannin, Hunt, Collin, Denton, Wise, Jack, Archer, Baylor, Knox, Haskell, Stephens, Throckmorton, Young, Jones, Shackelford, Palo Pinto, Rockwall, Kaufman, Ellis, Parker, Tarrant, Dallas, Johnson, Hood, Somervell, Erath, Eastland, Callahan, Coleman, Brown, Comanche, Mills, Hamilton, Bosque, Hill, Navarro, Limestone, McLennan, Falls, Milam, Bell, Williamson, Burnet, Lampasas, and Coryell.

[Acts 1981, 67th Leg., p. 1461, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 201.013. State District Conventions

(a) For the purpose of electing a member to the state board, each state district shall conduct a convention attended by delegates elected from each conservation district in the state district.

(b) The state board shall notify the chairman and secretary of each board of directors of the location of the state district convention in the applicable state district. The state board shall give the notice at least 60 days before the date of the convention.

(c) No later than the 10th day after the date that notice of the location of the convention is received, the chairman of each board of directors shall call a meeting for the purpose of electing a delegate and an alternate to the state district convention. In order to serve as a delegate or an alternate, a person must be an eligible voter of the conservation district and actively engaged in farming or ranching.

(d) The chairman of a board of directors shall certify the name and address of the delegate and the alternate to the state board not later than the 10th day after the date of their selection.

(e) Each delegate to a state district convention, or an alternate attending in the place of a delegate, is entitled to a per diem of \$30 a day for not more than two days and 18 cents a mile for travel each way between the county seat of the delegate's residence and the convention site. The state board shall pay the per diem and travel allowance.

(f) A member of the state board is a qualified delegate to the convention of the state district from which the member was elected.

(g) A majority of the delegates to a state district convention constitutes a quorum.

[Acts 1981, 67th Leg., p. 1462, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 201.014. Election

(a) The delegates at a state district convention by majority vote shall elect a member to the state board from among the qualified delegates. No later than the fifth day after the day of the election, the chairman of the convention shall certify to the state board and to the secretary of state the name and address of the person elected.

(b) A state district convention shall conduct an election under this section on the first Tuesday in May of each year in which the term expires for the member of the state board representing that district. [Acts 1981, 67th Leg., p. 1462, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 201.015. Term

(a) Members of the state board serve for staggered terms of five years, with the term of one member expiring each year.

(b) The term of office of a member of the state board begins on the day after the day on which the member was elected.

[Acts 1981, 67th Leg., p. 1462, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 201.016. **Vacancy**

Vacancies on the state board are filled by election in the manner provided by this subchapter for an unexpired term or for a full term.

[Acts 1981, 67th Leg., p. 1462, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 201.017. **Oath; Compensation**

(a) Each member of the state board shall take the constitutional oath of office.

(b) Each member of the state board is entitled to compensation in an amount not to exceed \$100 for each day of actual service rendered. In addition, each member of the state board is entitled to reimbursement for expenses, including traveling expenses, necessarily incurred in the discharge of official duties.

[Acts 1981, 67th Leg., p. 1462, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 201.018. **Majority Vote Requirement**

The concurrence of a majority of the members of the state board is required for the determination of any matter within the board's duties.

[Acts 1981, 67th Leg., p. 1463, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 201.019. **Officers and Employees**

(a) The state board shall designate one of its members as chairman.

(b) The state board may employ an administrative officer and other agents and employees, temporary or permanent, as it may require, and shall determine their qualifications, duties, and compensation according to the terms and amounts specified in the General Appropriations Act.

(c) The state board shall provide for the execution of surety bonds for each officer or employee who is entrusted with funds or property. The bonds must be executed by a solvent company authorized to transact business as a surety in this state.

(d) The state board may delegate any power or duty under this chapter to its chairman, one or more of its members, or one or more of its agents or employees.

(e) The state board may employ a counsel and legal staff or call on the attorney general for required legal services.

[Acts 1981, 67th Leg., p. 1463, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 201.020. **Records; Hearings; Rules**

The state board shall keep a complete record of all of its official actions, may hold public hearings at times and places in this state as determined by the board, and may adopt rules as necessary for the performance of its functions under this chapter.

[Acts 1981, 67th Leg., p. 1463, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 201.021. **Office**

The board may select the location of its office.

[Acts 1981, 67th Leg., p. 1463, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 201.022. **General Powers and Duties**

(a) In addition to other powers and duties provided by this chapter, the state board shall:

(1) offer appropriate assistance to the directors of conservation districts in carrying out programs and powers under this chapter;

(2) coordinate the programs of the conservation districts to the extent possible through advice and consultation;

(3) secure the cooperation and assistance of the federal government, federal agencies, and state agencies;

(4) disseminate information throughout this state concerning the activities and programs of the conservation districts; and

(5) encourage the formation of a conservation district in each area in which the organization of a conservation district is desirable.

(b) The state board may cooperate with the governing boards of wind erosion conservation districts in putting into operation in those districts the provisions of this chapter that do not conflict with Chapter 202 of this code.

[Acts 1981, 67th Leg., p. 1463, ch. 388, § 1, eff. Sept. 1, 1981.]

§ 201.023. **Funds Management**

(a) The state board shall deposit all money and securities received by it in the state treasury to the credit of a special fund known as the state soil conservation fund. That fund shall be appropriated to the state board for use in the administration of this chapter and is subject to the same care and control while in the state treasury as other funds of the state.

(b) The state board shall obtain a biennial audit from the state auditor and shall furnish a biennial report to the governor.

(c) The state board by resolution may authorize the chairman of the board or the administrative officer to approve claims and accounts payable by the board. That approval is sufficient to authorize the comptroller of public accounts to issue a warrant

drawn on the funds appropriated to the board for payment of the claim and is sufficient to authorize the state treasurer to honor payment of the warrant. [Acts 1981, 67th Leg., p. 1463, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.024. Contracts for Watershed Protection and Flood Control Plans

The state board may contract with one or more state or federal agencies or with one or more private firms for the development of plans necessary for securing detailed information and developing work plans for the location, design, installation, and construction of structures and other improvements for the reduction and prevention of floods in state-approved watershed protection and flood prevention projects of 250,000 acres or less.

[Acts 1981, 67th Leg., p. 1464, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.025. Sunset Provision

The state board is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished and this chapter expires effective September 1, 1985.

[Acts 1981, 67th Leg., p. 1464, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 201.026 to 201.040 reserved for expansion]

### SUBCHAPTER C. CREATION, BOUNDARY CHANGES, AND DISSOLUTION OF SOIL AND WATER CONSERVATION DISTRICTS

#### § 201.041. Petition

(a) The eligible voters of any territory may petition the state board for the organization of a soil and water conservation district. The petition must be signed by at least 50 persons eligible to vote in an election to create the conservation district unless the territory contains fewer than 100 eligible voters, in which case the petition must be signed by a majority of the eligible voters in the territory.

(b) The petition must contain:

(1) a proposed name for the conservation district;

(2) a description of the territory proposed to be organized as a conservation district;

(3) a statement that there is need for a conservation district to function in the described territory in the interest of the public health, safety, and welfare; and

(4) a request that:

(A) the state board define the boundaries of the conservation district;

(B) an election be held within the defined territory on the question of creation of a conservation district in that territory; and

(C) the state board determine that the conservation district be created.

(c) The petition is not required to describe the territory by metes and bounds or by legal subdivisions, but must be generally accurate in order to be sufficient.

(d) If more than one petition is filed covering parts of the same territory, the state board may consolidate any or all of the petitions.

[Acts 1981, 67th Leg., p. 1464, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.042. Hearing

(a) Not later than the 30th day after the day on which a petition is filed with the state board, the state board shall give notice of a hearing on:

(1) the question of the desirability and necessity of the creation of a conservation district in the interest of the public health, safety, and welfare;

(2) the question of the appropriate boundaries to be assigned to the conservation district;

(3) the propriety of the petitions and other proceedings taken under this chapter; and

(4) all questions relevant to those matters.

(b) Following notice, the state board shall conduct a hearing on the petition. Any interested person, including a person who is an eligible voter in the territory described in the petition or in the territory that is considered for addition to the described territory, is entitled to attend the hearing and be heard.

(c) If it appears at the hearing that it may be desirable to include within the conservation district territory that is outside the area within which notice has been given, the state board shall adjourn the hearing and give notice of further hearings throughout the entire area considered for inclusion in the conservation district. Following that notice, the board shall reconvene the hearing.

(d) After the hearing, if the state board, on the basis of the facts presented at the hearing and other available information, determines that there is need, in the interest of the public health, safety, and welfare, for a conservation district to function in the territory considered at the hearing, the board shall record that determination, define the boundaries of the conservation district by metes and bounds or by legal subdivisions, and conduct an election in accordance with Section 201.043 of this code. The board may not include within the defined boundaries any territory that is within the boundaries of another conservation district.

(e) In making the determination of need and defining the boundaries of the conservation district, the state board shall give due weight and consideration to:

(1) the topography of the area considered and of the state;

(2) the soil composition of the area considered and of the state;

(3) the distribution of erosion, the prevailing land-use practices, and the desirability and necessity of including within the conservation district the area under consideration;

(4) the benefits the area under consideration may receive from being included within the boundaries of the conservation district;

(5) the relation of the area considered to existing watersheds and agricultural regions and to other conservation districts in existence or proposed to be created; and

(6) other relevant physical, geographical, and economic factors, having due regard to the legislative determinations made in Section 201.001 of this code.

(f) After the hearing and consideration of the relevant facts, if the state board determines that there is no need for a conservation district to function in the territory considered at the hearing, it shall record that determination and deny the petition.

(g) The state board shall pay all expenses for the issuance of notices of the public hearings. The board shall supervise the conduct of those hearings and may adopt rules governing the conduct of the hearings.

[Acts 1981, 67th Leg., p. 1465, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.043. Election**

(a) Within a reasonable time after determining the need for a conservation district and defining the boundaries of the proposed conservation district, the state board shall conduct an election within the proposed conservation district on the proposition of the creation of the conservation district.

(b) The state board shall give notice of the election and the notice must state the boundaries of the proposed conservation district.

(c) The ballot for the election shall be printed to provide for voting for or against the proposition: "The creation of a soil and water conservation district from the land below described in general terms and lying in the county (or counties) of \_\_\_\_\_."

(d) Each eligible voter in the proposed conservation district, as determined by the state board, is entitled to vote in the election. If part of a county is included within a proposed conservation district and the polling place of an eligible voter within the county is not included within the conservation district, the voter is entitled to vote at the polling place for the voter's land in the conservation district.

(e) Except as otherwise provided by this chapter, the election shall be conducted in conformity with the general laws relating to elections.

(f) The state board shall adopt rules for the conducting of elections, including rules providing for the registration of all eligible voters prior to the date of the election or prescribing another appropriate procedure for the determination of eligibility to vote.

[Acts 1981, 67th Leg., p. 1466, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.044. State Board Determination of Administrative Practicability and Feasibility**

(a) After announcing the results of an election, the state board shall consider, determine, and record its determination of whether the operation of the conservation district within the defined boundaries is administratively practicable and feasible. In making that determination, the state board shall give due regard and consideration to:

(1) the attitude of eligible voters in the defined boundaries;

(2) the number of persons eligible to vote in the election who voted;

(3) the number of votes cast in the election favoring creation of the conservation district in proportion to the total number of votes cast;

(4) the approximate wealth and income of the eligible voters of the proposed conservation district;

(5) the probable expense of carrying on erosion control operations within the proposed conservation district; and

(6) other relevant social and economic factors, having due regard for the legislative determinations made in Section 201.001 of this code.

(b) The state board may proceed with the organization of the conservation district only if:

(1) the board determines that the operation of the conservation district is administratively practicable and feasible; and

(2) at least two-thirds of the votes cast in the election were in favor of creation of the conservation district.

(c) If the state board determines that the operation of the conservation district is not administratively practicable and feasible, the state board shall deny the petition.

[Acts 1981, 67th Leg., p. 1466, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.045. Subsequent Petitions**

If the state board denies a petition under this subchapter, a subsequent petition covering the same or substantially the same territory may not be filed with the board until six months have expired following the date of denial.

[Acts 1981, 67th Leg., p. 1467, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.046. Establishment of District Subdivisions; Appointment of Initial Directors**

After determining that the operation of the conservation district is administratively practicable and feasible, the state board shall divide the conservation district into five numbered subdivisions that are as nearly equal in area as practicable. The board shall appoint one director each from the subdivisions numbered two and four. Those directors shall perform the duties required by this subchapter and shall serve on the initial governing board of the conservation district until the regular election for those subdivisions.

[Acts 1981, 67th Leg., p. 1467, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.047. Application for Certificate of Organization**

(a) The two appointed directors shall present to the secretary of state an application for a certificate of organization for the conservation district containing the information prescribed by Subsection (b) of this section and a statement from the state board containing the information prescribed by Subsection (c) of this section. The application and the statement are not required to contain any detail other than a recital of the information required by this section.

(b) The application for the certificate must contain:

(1) a statement that:

(A) a petition for the creation of the conservation district was filed with the state board in accordance with this chapter;

(B) the proceedings specified in this chapter were taken relative to that petition;

(C) the application is being filed in order to complete the organization of the conservation district as a governmental subdivision and a public body corporate and politic under this chapter; and

(D) the state board has appointed the applicants as directors;

(2) the name and official residence of each of the appointed directors;

(3) a certified copy of the appointment of the directors evidencing their right to office;

(4) the term of office of each of the appointed directors;

(5) the name that is proposed for the conservation district; and

(6) the location of the principal office of the appointed directors.

(c) The statement of the state board must set forth the boundaries of the conservation district and certify that:

(1) a petition was filed, notice issued, and a hearing held as required by this chapter;

(2) the board did determine that there is need, in the interest of the public health, safety, and welfare, for a conservation district to function in the proposed territory;

(3) the board did define the boundaries of the conservation district;

(4) notice was given and an election held on the question of the creation of the conservation district;

(5) the result of the election showed a two-thirds majority of the votes cast in the election to be in favor of the creation of the conservation district; and

(6) the board did determine that the operation of the conservation district is administratively practicable and feasible.

(d) The directors shall subscribe and swear to the application before an officer authorized by law to take and certify oaths. That officer shall certify on the application that the officer personally knows the directors, that the officer knows them to be the directors as affirmed in the application, and that each director has subscribed to the application in the officer's presence.

[Acts 1981, 67th Leg., p. 1467, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.048. Issuance of Certificate**

(a) The secretary of state shall examine the application for a certificate of organization and the statement of the state board. If the secretary of state finds that the name proposed for the conservation district is not identical to that of another conservation district or so nearly similar as to lead to confusion or uncertainty, the secretary shall receive the application and statement, file them, and record them in an appropriate book of record in the secretary's office.

(b) If the secretary of state finds that the name proposed for the conservation district is identical to that of another conservation district or so nearly similar as to lead to confusion or uncertainty, the secretary shall certify that fact to the state board and the state board shall submit to the secretary a new name for the conservation district that is free of that defect. After receipt of a name that is free of that defect, the secretary shall record the application and statement, with the modified name, in an appropriate book of record in the secretary's office.

(c) When the application and statement are filed and recorded as provided by this section, the conservation district constitutes a governmental subdivision and a public body corporate and politic.

(d) The secretary of state shall make and issue to the directors a certificate, under the seal of this

state, of the due organization of the conservation district. The secretary shall record the certificate with the application and statement.

[Acts 1981, 67th Leg., p. 1468, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.049. Effect of Certificate; Admissibility**

In a suit, action, or proceeding involving the validity or enforcement of, or relating to, a contract, proceeding, or action of a conservation district, the conservation district is considered to have been established in accordance with this chapter on proof of the issuance of a certificate of organization by the secretary of state. A copy of the certificate certified by the secretary of state is admissible in evidence in the suit, action, or proceeding and is proof of the filing of the certificate and the contents of the certificate.

[Acts 1981, 67th Leg., p. 1468, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.050. Change in Conservation District or Subdivision Boundaries**

(a) A group of eligible voters may petition the state board for the inclusion of additional territory in an existing conservation district. Except as provided by Subsection (b) of this section, the petition is governed by, and the state board shall conduct proceedings on the petition in accordance with, the provisions of this subchapter relating to petitions for the creation of a conservation district. The state board shall prescribe the form for the petition, which must be as similar as practicable to the form provided for petitions for the creation of a conservation district.

(b) If there are fewer than 100 eligible voters in the area proposed for inclusion in the conservation district, and the petition is signed by two-thirds of those persons, the area may be included in the conservation district without an election. A person is eligible to vote at an election for including territory in an existing conservation district only if the person owns land in the territory to be included.

(c) The board of directors of one or more conservation districts may submit a petition to the state board requesting a division of the conservation district, a combination of two or more conservation districts, or a transfer of land from one conservation district to another. The petition must be signed by a majority of the directors of each conservation district affected. The state board shall determine the practicability and feasibility of the proposed change. If the state board determines that the change is not administratively practicable and feasible, it shall record that determination and deny the petition. If the board determines that the change is administratively practicable and feasible, it shall record that determination and reorganize the conservation districts in the manner set out in the petition.

(d) The state board, in cooperation with the land-owners of a conservation district, may change the boundaries of the subdivisions of the conservation district as may be necessary or desirable because of additions of territory to the conservation district.

[Acts 1981, 67th Leg., p. 1469, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.051. Dissolution of Conservation District**

(a) A conservation district may be dissolved by majority vote of the eligible voters in an election conducted in the manner provided by this subchapter for its creation.

(b) Certification by the state board to the secretary of state is sufficient notice of the dissolution of a conservation district.

(c) Except as provided by Subsection (d) of this section, after dissolution of a conservation district has been authorized as provided in Subsection (a) of this section, the directors of the conservation district shall sell at public sale all machinery, equipment, and supplies of the conservation district purchased with state funds. The directors shall deposit the proceeds of that sale and any other state funds to the credit of the conservation district in the state treasury to the credit of the general revenue fund.

(d) If the dissolution of a conservation district is for the purpose of adjusting the boundaries and the conservation district is immediately reorganized, the funds and equipment of the dissolved conservation district pass to the reorganized conservation district. If more than one conservation district is created under the reorganization, the funds and equipment of the dissolved conservation district shall be divided under terms satisfactory to the directors of the reorganized conservation districts.

[Acts 1981, 67th Leg., p. 1469, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 201.052 to 201.070 reserved for expansion]

**SUBCHAPTER D. SOIL AND WATER CONSERVATION DISTRICT ADMINISTRATION**

**§ 201.071. Composition of Board of Directors**

(a) Except as provided for the initial board, the board of directors of a conservation district is composed of five persons, with one director elected from each of the five numbered subdivisions created by the state board under Section 201.046 of this code.

(b) The initial board of directors is composed of the two directors appointed by the state board and three elected directors.

[Acts 1981, 67th Leg., p. 1470, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.072. Qualifications of Directors**

In order to serve as a director, a person must be an eligible voter who owns land within the numbered subdivision from which the person is appointed or elected and must be actively engaged in the business of farming or animal husbandry.

[Acts 1981, 67th Leg., p. 1470, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.073. Election of Directors**

(a) Except as provided for the initial election of directors, the persons who are eligible voters and own land in a subdivision are entitled to elect one director. For that purpose, the eligible voters shall meet on a date and at a time and place designated by the existing board of directors. The directors shall designate for the election a date that is after September 30 and before October 16.

(b) The eligible voters meeting for the purpose of electing a director shall proceed by electing a chairman, a secretary, and tally clerks. Nominations are then in order, and when nominations have ceased, the secretary shall announce the nominees. Each eligible voter present shall cast a vote by written ballot. If after tabulation of votes by the tally clerks no nominee has received a majority of the votes cast, the two candidates receiving the largest number of votes shall be voted on in a second ballot, and the candidate receiving the largest number of votes is elected.

(c) The secretary shall record the proceedings of the meeting and shall, no later than the fifth day after the day of the election, certify to the state board the name and the proper address of the person elected.

[Acts 1981, 67th Leg., p. 1470, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.074. Election of Initial Directors**

(a) Not later than the 30th day after the date of issuance of a certificate of organization by the secretary of state, the state board shall designate a time and place for an election of directors in the subdivisions of the conservation districts numbered one, three, and five and shall give notice of that election.

(b) In each of the subdivisions designated for an election, persons who are eligible voters and own land in that subdivision are entitled to elect one director. The eligible voters shall meet and elect the director in the manner provided by Section 201.073 of this code, except that the state board shall designate the date, time, and place for the election.

(c) If there is no objection, the state board may designate places outside of a subdivision as the polling places for electing a director. If there is an objection, the board must receive the approval of a majority of the persons qualified to vote for director before it may make that designation.

(d) The Election Code does not apply to elections under this section.

[Acts 1981, 67th Leg., p. 1470, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.075. Terms of Directors**

(a) Except as provided for the initial directors, directors serve for staggered terms of five years with the term of one member expiring each year. The term of a director elected from Subdivision No. 1 expires in a year that ends in a four or a nine. The term of a director elected from Subdivision No. 2 expires in a year that ends in a five or a zero. The term of a director elected from Subdivision No. 3 expires in a year that ends in a six or a one. The term of a director elected from Subdivision No. 4 expires in a year that ends in a seven or a two. The term of a director elected from Subdivision No. 5 expires in a year that ends in an eight or a three.

(b) The term of office of a director begins on the day after the director's election.

(c) The term of each elected or appointed initial director expires in the year provided for by Subsection (a) of this section according to the subdivision for which the director was appointed or elected.

[Acts 1981, 67th Leg., p. 1471, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.076. Vacancy; Removal**

(a) If a vacancy occurs in the office of director, the remaining directors by majority vote shall appoint a director for the unexpired term. The appointee must be approved by the state board before taking office.

(b) Following notice and a hearing, the state board may remove a director, but only if the director:

- (1) neglects the duty of the office;
- (2) is guilty of malfeasance in office; or
- (3) is disqualified as a voter in the conservation district.

[Acts 1981, 67th Leg., p. 1471, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.077. Compensation and Mileage Allowance**

(a) A director may receive compensation in an amount not to exceed \$30 for each day the director attends meetings of the board of directors, plus 18 cents a mile for travel each way between the residence of the director and a designated meeting place within the boundaries of the conservation district.

(b) A director is entitled to be paid quarterly, but may not receive the compensation and mileage allowance for more than five days in any three-month period except as provided for attending an annual meeting or a state district convention.

(c) Two directors are entitled to receive \$30 a day for not more than two days, and one director is entitled to receive 18 cents a mile for travel, while attending the annual statewide meeting of directors. [Acts 1981, 67th Leg., p. 1471, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.078. Majority Vote Requirement**

The concurrence of a majority of the directors is required for the determination of any matter within their duties. [Acts 1981, 67th Leg., p. 1471, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.079. Officers and Employees; Surety Bonds**

(a) The directors shall designate from among themselves a chairman, vice-chairman, and secretary and may change those designations from time to time.

(b) The directors may employ officers, agents, and employees, temporary or permanent, as the board of directors may require and shall determine their qualifications, duties, and compensation.

(c) The directors may delegate any power or duty under this chapter to the chairman, one or more of the directors, or one or more of their agents or employees.

(d) The directors shall provide that all officers and employees who are entrusted with funds or property of the conservation district be bonded in accordance with the State Employee Bonding Act (Article 6003b, Vernon's Texas Civil Statutes). [Acts 1981, 67th Leg., p. 1472, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.080. Records, Reports, Accounts, and Audits**

(a) The directors shall provide for keeping full and accurate accounts and for keeping records of proceedings conducted and resolutions, regulations, and orders issued or adopted.

(b) The directors shall furnish to the state board on request copies of ordinances, rules, regulations, orders, contracts, forms, other documents that the directors adopt or employ, and other information concerning the directors' activities that the state board requires in the performance of its duties under this chapter.

(c) The directors shall deposit soil conservation funds appropriated to the conservation district under Chapter 332, Acts of the 53rd Legislature, Regular Session, 1953, with state or national banks or in savings and loan associations. The directors shall either deposit the funds in demand or time accounts, including interest-bearing accounts, or purchase certificates of deposit. The funds may be withdrawn only on approval of the directors and only by check or order signed by the chairman and the secretary.

(d) The directors shall provide for an audit of the conservation district's accounts as of August 31 of every second year. The audit must be performed by a registered public accountant. The directors shall furnish a copy of the audit to the governor and the Legislative Budget Board no later than January 1 of the year following the audit.

(e) The conservation district may pay the cost for keeping accounts and making audits out of any available funds of the conservation district. [Acts 1981, 67th Leg., p. 1472, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.081. Annual Meeting of Directors** / 1983

The state board shall provide for an annual meeting of conservation district directors to be held at a time and place determined by the state board. [Acts 1981, 67th Leg., p. 1472, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 201.082 to 201.100 reserved for expansion]

**SUBCHAPTER E. GENERAL POWERS AND DUTIES OF SOIL AND WATER CONSERVATION DISTRICTS**

**§ 201.101. Corporate Powers**

(a) A conservation district is a governmental subdivision of this state and a public body corporate and politic. A conservation district may:

- (1) sue and be sued in the name of the conservation district;
- (2) have a seal, which shall be judicially noticed;
- (3) make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and
- (4) adopt rules consistent with this chapter to carry into effect its purposes and powers.

(b) A conservation district may execute notes on the faith and credit of the conservation district for the purpose of making repairs, additions, or improvements to any property or equipment owned by the conservation district. The notes may be issued payable from current funds or reasonably contemplated revenues, but the conservation district may not issue notes payable from funds derived from the state. A note must mature no later than 12 months from the date of issuance and may bear interest at a rate not to exceed six percent a year.

(c) Any note issued by a conservation district may be secured by a lien on the property or equipment to which the repairs, additions, or improvements are to be made if the property or equipment was not acquired from the state or with funds derived from the state.

(d) A conservation district may not levy taxes.

(e) Debts incurred by a conservation district may not create a lien on the land of owners or occupiers of land in the district.

(f) As a condition to extending benefits to, or performing any work on, land in the conservation district not owned or controlled by the state or a state agency, a conservation district may:

(1) require contributions to the operation in services, materials, or another form; and

(2) require owners or occupiers of land to enter into and perform an agreement or covenant as to the permanent use of land that will tend to prevent or control soil erosion on that land.

[Acts 1981, 67th Leg., p. 1472, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 201.102. Preventive and Control Measures

A conservation district may carry out preventive and control measures within its boundaries, including engineering operations, methods of cultivation, growing of vegetation, changes in the use of land, and measures listed in Section 201.001(c) of this code. The conservation district may carry out the measures on any land that is owned by the state or a state agency with the cooperation of the agency administering and having jurisdiction of the land. If the land is owned by another person, the conservation district may carry out the measures on obtaining the consent of the owner or occupier or the necessary rights or interests in the land.

[Acts 1981, 67th Leg., p. 1473, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 201.103. Cooperation and Agreements With Other Entities

(a) A conservation district may cooperate or enter into an agreement with any other entity, including a state or federal agency or an owner or occupier of land within the conservation district, in the carrying on of erosion control and prevention operations in the conservation district as the directors consider necessary to advance the purposes of this chapter. Within the limits of appropriations made available to the conservation district by law, the conservation district may furnish financial or other aid in accordance with the cooperative program or agreement.

(b) The directors of two or more conservation districts may cooperate with one another in the exercise of any power conferred by this chapter.

(c) The directors of a conservation district may invite the legislative body of a municipality or county located within or near the conservation district to designate a representative to advise and consult with the directors on all questions of program and policy that may affect the property, water supply, or other interests of the municipality or county.

(d) A state agency that has jurisdiction over or administers state-owned land in a conservation dis-

trict, or a county or other subdivision of this state that has jurisdiction over or administers other publicly owned land in a conservation district, shall cooperate to the fullest extent with the directors of the conservation district in the effectuation of programs and operations undertaken by the conservation district under this chapter. The state agency, county, or subdivision shall provide the directors free access to enter and perform work on that land, and a land-use regulation adopted under Subchapter F of this chapter has the force and effect of law over that land and shall be observed by the entity administering the land.

[Acts 1981, 67th Leg., p. 1473, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 201.104. Acquisition, Administration, and Sale of Real or Personal Property

A conservation district may obtain options on or acquire in any manner, including purchase, exchange, lease, gift, grant, bequest, or devise, any real or personal property or rights or interests in real or personal property. In addition, the conservation district may:

(1) maintain, administer, or improve the property;

(2) receive income from the property and expend that income in carrying out this chapter; or

(3) sell, lease, or otherwise dispose of the property or interests in the property in furtherance of this chapter.

[Acts 1981, 67th Leg., p. 1474, ch. 388, § 1, eff. Sept. 1, 1981.]

### § 201.105. Acquisition, Administration, and Sale of Materials and Equipment

(a) Subject to Subsections (b) and (c) of this section, a conservation district may purchase machinery, equipment, seed, fertilizer, or another supply essential for the purposes of a conservation district program and make it available to owners and occupiers of land in the conservation district. The conservation district shall provide for maintaining, insuring, storing, and repairing the machinery and equipment.

(b) A conservation district may not purchase any machinery, equipment, seed, fertilizer, or another supply unless:

(1) demand for the purchase is made to the directors in writing by at least 10 owners or occupiers of land in the conservation district; and

(2) the directors have entered in their minutes a finding that:

(A) a demand exists for use within the conservation district that is sufficient to justify the purchase; and

1983

(B) the revenue derived from the purchased items can reasonably be expected to pay the cost of replacement.

(c) A conservation district shall make any purchase of machinery or equipment through the State Purchasing and General Services Commission under the terms and rules provided by law for purchases by the state or political subdivisions.

(d) A conservation district may charge persons who own or occupy small amounts of land nominal amounts for projects benefiting them if the directors determine it to be in the interest of the general welfare.

(e) A conservation district may sell on open bids any machinery or equipment considered obsolete or having served its purpose. The funds earned or acquired by a conservation district prior to receiving state funds or earned or acquired from the operation or sale of machinery or equipment acquired prior to receiving state funds shall be deposited in a trust fund account of the conservation district and used for purposes considered by the directors to be in the best interest of the conservation district.

(f) A conservation district shall use proceeds from the sale of any fertilizer or seed to reimburse the conservation district for its costs, including handling charges.

[Acts 1981, 67th Leg., p. 1474, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.106. Construction and Maintenance of Structures**

A conservation district may construct, improve, and maintain any structure necessary or convenient for the performance of an operation authorized by this chapter.

[Acts 1981, 67th Leg., p. 1475, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.107. Conservation Plans and Information**

(a) A conservation district may develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the conservation district. In as much detail as possible, the plans shall specify the acts, procedures, performances, and avoidances that are necessary or desirable for the effectuation of the plans, including the specification of engineering operations, methods of cultivation, growing of vegetation, cropping programs, tillage practices, and changes in the use of land.

(b) A conservation district may publish the comprehensive plans and bring them to the attention of owners and occupiers of land in the conservation district and may demonstrate, publish, or otherwise make available to those owners and occupiers any pertinent information relating to legumes, cover crops, seeding, tillage, land preparation, and man-

agement of grasses, seed, legumes, and cover crops, and the eradication of noxious growth under good conservation practices.

[Acts 1981, 67th Leg., p. 1475, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.108. Assumption of Government Projects; Acceptance of Government Grants**

(a) A conservation district may take over, by purchase, lease, or other method, and administer any soil conservation, erosion control, or erosion prevention project located within its boundaries and undertaken by the federal government, the state, or a state or federal agency.

(b) A conservation district may act as agent for the federal government, the state, or a state or federal agency in:

(1) managing a soil conservation, erosion control, or erosion prevention project within the boundaries of the conservation district; or

(2) acquiring, constructing, operating, or administering a soil conservation, erosion control, or erosion prevention project within the boundaries of the conservation district.

(c) A conservation district may accept a donation, gift, or contribution in money, materials, services, or other form from the federal government, the state, or a state or federal agency and use and expend the donation, gift, or contribution in carrying out its operations.

[Acts 1981, 67th Leg., p. 1475, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 201.109 to 201.120 reserved for expansion]

**SUBCHAPTER F. LAND-USE REGULATION**

**§ 201.121. Regulatory Powers; Petition for Adoption**

(a) If petitioned by 50 or more eligible voters in the conservation district, the directors of a conservation district may propose an ordinance governing the use of land within the conservation district in the interest of conserving soil and soil resources and preventing and controlling soil erosion.

(b) An ordinance adopted under this subchapter may:

(1) require the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

(2) require observance of particular methods of cultivation, including:

(A) contour cultivating, contour furrowing, lister furrowing, or strip cropping;

143

(B) planting, sowing, or seeding land with water-conserving and erosion-preventing plants, trees, or grasses; and

(C) forestations and reforestations;

(3) specify cropping programs and tillage practices to be observed;

(4) require the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on; or

(5) provide other means, measures, operations, or programs that may assist conservation of soil resources or prevent or control soil erosion in the conservation district, having due regard for the legislative determinations made in Section 201.001 of this code.

(c) Land-use regulations must be uniform throughout the conservation district, except that the directors may classify land in the conservation district according to relevant factors, including soil type, degree of slope, degree of erosion threatened or existing, or cropping or tillage practices in use. The land-use regulations may vary with the type or class of land affected, but must be uniform as to all land within the type or class.

[Acts 1981, 67th Leg., p. 1476, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.122. Hearing

The directors of a conservation district may conduct public hearings and public meetings on proposed land-use regulations as necessary to assist the directors in the adoption of an ordinance.

[Acts 1981, 67th Leg., p. 1476, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.123. Election

(a) The directors may not adopt an ordinance prescribing land-use regulations unless adoption of the ordinance is approved by at least 90 percent of the eligible voters voting in an election under this section. If the voters approve the ordinance by that percentage, the directors shall adopt the ordinance.

(b) The directors shall give notice of the election that either recites the contents of the proposed ordinance or states where copies of the proposed ordinance may be examined. The directors shall make copies of the proposed ordinance available for public inspection during the period between publication of notice and the election.

(c) The ballot for the election shall be printed to provide for voting for or against the proposition: "Approval of the proposed Ordinance No. \_\_\_\_\_, prescribing land-use regulations for conservation of soil and prevention of erosion."

(d) The directors shall adopt rules governing the conduct of the election, supervise the election, and announce the result.

[Acts 1981, 67th Leg., p. 1476, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.124. Effect of Ordinance

An ordinance adopted under this subchapter has the force and effect of law in the conservation district and is binding on all owners or occupiers of land in the conservation district.

[Acts 1981, 67th Leg., p. 1477, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.125. Distribution of Copies of Ordinance

The directors shall print copies of each ordinance prescribing land-use regulations and make those copies available to owners and occupiers of land in the conservation district.

[Acts 1981, 67th Leg., p. 1477, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.126. Amendment or Repeal of Ordinance

(a) An owner or occupier of land in a conservation district may at any time file a petition with the directors requesting the amendment, supplementation, or repeal of land-use regulations prescribed by ordinance.

(b) Land-use regulations prescribed by ordinance may be amended, supplemented, or repealed in accordance with the procedure prescribed by this subchapter for adoption of an ordinance, except that an ordinance may be suspended or repealed on majority vote of the eligible voters voting in the election.

[Acts 1981, 67th Leg., p. 1477, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.127. Frequency of Elections

An election on the adoption, amendment, supplementation, or repeal of land-use regulations may not be held more often than once every six months.

[Acts 1981, 67th Leg., p. 1477, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.128. Enforcement

(a) The directors are entitled to go upon any land in the conservation district to determine if land-use regulations adopted under this subchapter are being observed.

(b) If the directors find that provisions of land-use regulations prescribed by ordinance are not being observed on particular land and that the nonobservance tends to increase erosion on that land and is interfering with the prevention or control of erosion on other land in the conservation district, the directors may bring suit in a court of competent jurisdiction against the occupier of the land. If the occupier of the land is not the owner, the owner shall be joined as a party defendant. The petition to the court may request that the court:

(1) require the defendant to perform the work, operations, or avoidances within a reasonable time;

(2) order that if the defendant fails to perform, the directors may go upon the land and perform the work or other operations or otherwise bring the condition of the land into conformity with the land-use regulations; and

(3) order that the directors recover their costs and expenses, with interest, from the defendant.

(c) The petition to the court must be verified and must:

(1) set forth the adoption of the ordinance prescribing the land-use regulations;

(2) set forth the failure of the defendant to observe the regulations and to perform the particular work, operations, or avoidances required by the regulations; and

(3) state that the nonobservance tends to increase erosion on that land and is interfering with the prevention or control of erosion on other land in the conservation district.

(d) On presentation of the petition, the court shall cause process to be issued against the defendant and shall hear the case. If it appears to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take evidence as the court directs and to report the evidence to the court with findings of fact and conclusions of law. The findings and conclusions of a referee constitute part of the proceedings on which the court may make its determination. The court may dismiss the petition or may:

(1) require the defendant to perform the work, operations, or avoidances;

(2) order that, on the failure of the defendant to initiate performance within a time specified in the order of the court and to perform to completion with reasonable diligence, the directors may enter on the land involved and perform the work or operation or otherwise bring the condition of the land into conformity with the regulations; and

(3) order that the directors recover their costs and expenses, with interest.

(e) The court shall retain jurisdiction of the case until after the work has been completed. If the work is performed by the directors under the order of the court, the directors, after completion of the work, may file a petition with the court stating the costs and expenses sustained by them in the performance of the work and seeking judgment for those costs and expenses, with interest. The court may enter judgment for the amount of the costs and expenses, with interest, and for the costs of suit, including a reasonable attorney's fee fixed by the court, but the total charge to a defendant for work done by the directors or anyone under the directors may not exceed in any one year an amount equal to 10 percent of the assessed valuation of the land for state and county purposes.

(f) A judgment under Subsection (e) of this section shall be collected in the same manner provided by Chapter 202 of this code for the collection of assessments in wind erosion conservation districts. [Acts 1981, 67th Leg., p. 1477, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.129. Board of Adjustment**

(a) If the directors of a conservation district adopt an ordinance prescribing land-use regulations, the directors by ordinance shall provide for the establishment of a board of adjustment organized in accordance with this section.

(b) A board of adjustment is composed of three members appointed by the state board with the advice and approval of the directors of the conservation district for which they are appointed.

(c) Except as provided for the initial board, members of a board of adjustment serve for staggered terms of two years with the terms of one or two members expiring every other year. In making initial appointments to a board of adjustment, the state board shall designate one or two members to serve a term of one year with the remaining member or members serving for a term of two years.

(d) Following notice and a hearing, a member of a board of adjustment may be removed, but only for neglect of duty or malfeasance in office. The state board and the directors of the conservation district for which the board is appointed shall conduct removal hearings jointly.

(e) A vacancy on a board of adjustment is filled for the unexpired term in the manner provided for the original appointment.

(f) A member of the state board or a director of the conservation district for which a board of adjustment is appointed is ineligible for appointment to the board of adjustment for that conservation district during the member's or director's tenure in office.

(g) Members of a board of adjustment are entitled to compensation for services of \$3 a day for time spent on work of the board. The state board shall pay that compensation from appropriations made for that purpose for not more than 10 days each year.

(h) The directors of the conservation district for which the board of adjustment is appointed shall pay the necessary administrative and other expenses of operation incurred by the board on presentation of a certificate of the chairman of the board of adjustment.

[Acts 1981, 67th Leg., p. 1478, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.130. Procedures of Board of Adjustment**

(a) A board of adjustment shall adopt rules to govern its proceedings that are consistent with this chapter and the land-use regulations adopted for the conservation district.

(b) A board of adjustment shall designate a chairman from among its members and may change that designation from time to time.

(c) A board of adjustment shall meet at the call of the chairman and at other times determined by the board.

(d) The chairman of the board of adjustment, or the chairman's designee as acting chairman from among the board's members, may administer oaths and compel the attendance of witnesses.

(e) All meetings of a board of adjustment are open to the public.

(f) A board of adjustment shall keep a full and accurate record of all proceedings, of all documents filed with the board, and of all orders entered. The record is public information and shall be filed in the office of the board of adjustment.

[Acts 1981, 67th Leg., p. 1479, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.131. Petition for Variance

(a) An owner or occupier of land within a conservation district may petition the board of adjustment of that conservation district to authorize a variance from the terms of land-use regulations in the application of those regulations to land owned or occupied by the petitioner.

(b) A petition for a variance must allege that there are great practical difficulties or unnecessary hardships in the manner in which the land-use regulations require the petitioner to carry out the strict letter of those regulations.

(c) A petitioner for a variance shall serve copies of the petition on the chairman of the directors of the conservation district in which the petitioner's land is located and on the chairman of the state board.  
[Acts 1981, 67th Leg., p. 1479, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.132. Hearing on Variance Petition

(a) After receiving a petition for a variance, a board of adjustment shall schedule a hearing on the petition and give notice of that hearing.

(b) The directors of the conservation district and the members of the state board are entitled to appear and be heard at a hearing on a petition for a variance.

(c) Any owner or occupier of land within the conservation district who objects to the granting of the variance sought may intervene and become a party to the proceedings.

(d) A party to a hearing on a petition for a variance may appear in person or by agent or attorney.

[Acts 1981, 67th Leg., p. 1479, ch. 388, § 1, eff. Sept. 1, 1981.]

#### § 201.133. Granting of variance

(a) If, on the basis of the facts presented at a hearing on a petition for a variance, the board of adjustment determines that there are great practical difficulties or unnecessary hardships in the manner of applying the strict letter of any land-use regulation on the land of the petitioner, the board shall record that determination and make and record findings of fact as to the specific conditions that establish the difficulties or hardships.

(b) On the basis of the board's determinations and findings under Subsection (a) of this section, the board of adjustment by order may authorize a variance from the land-use regulations that will:

- (1) relieve the great practical difficulties or unnecessary hardships;
- (2) not be contrary to the public interest;
- (3) observe the spirit of the land-use regulations;
- (4) secure the public health, safety, and welfare; and
- (5) do substantial justice.

[Acts 1981, 67th Leg., p. 1480, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 201.134 to 201.150 reserved for expansion]

### SUBCHAPTER G. POWERS AND DUTIES OF OTHER GOVERNMENTAL SUBDIVISIONS

#### § 201.151. Use of County Machinery and Equipment

(a) A county may employ or permit to be employed in soil conservation and the prevention of soil waste through erosion, any county machinery, including road machinery or county road equipment. Before employing the machinery or equipment or permitting it to be employed, the commissioners court must determine that the machinery or equipment is not demanded for building or maintaining the roads of the county and must enter that determination in the minutes of the court. The commissioners court shall provide for compensation to be paid for employment of the machinery or equipment and for that compensation to be paid into the county road fund or the road fund of a defined conservation district or authorized subdivision in the county.

(b) In the public service of conserving the soil fertility of the land of the county, the commissioners court may cooperate with the landowners and taxpayers of the county in all judicious efforts for the preservation of the productivity of the soil from avoidable waste and loss of productivity of agricultural crops necessary to the public welfare. In doing that, the county may permit the use of available machinery and equipment for those purposes by written contract, under which the county is to receive compensation from the landowner or taxpayer.

(c) The compensation under a contract under Subsection (b) of this section must be paid on a uniform basis considered equitable and proper by the commissioners court. The compensation shall be paid into the road and bridge fund of the county. The commissioners court may provide for the payments from landowners or taxpayers to be paid in equitable amounts and intervals when county taxes are collected.

(d) The commissioners court or a representative of the commissioners court may not go on the land of any landowner to improve, terrace, protect, or ditch the land until requested to do so in writing by the owner of the land. The commissioners court may not be required to do that work unless the court determines that the work is of public benefit and elects to do the work.

(e) In any county with a population of not less than 22,000 or more than 23,000, not less than 60,000 nor more than 80,000, or not less than 290,000 nor more than 360,000, the commissioners court by order entered in its minutes may rent or let directly to a landowner in the county any machinery or equipment, including a tractor or a grader, for use on land situated in the county in the construction of terraces, dikes, and ditches for the purpose of soil conservation or soil erosion prevention or for the purpose of constructing water tanks and reservoirs. The landowner and the commissioners court shall agree on the amount to be paid by the landowner to the county for the use of the machinery or equipment and that amount shall be specified in the order renting or letting the machinery or equipment. [Acts 1981, 67th Leg., p. 1480, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 201.152. Contracts for Flood Control and Drainage**

(a) A county, city, water control and improvement district, drainage district, or other political subdivision may contract with a conservation district for the joint acquisition of rights-of-way or for joint construction or maintenance of dams, flood retention structures, canals, drains, levees, or other improvements for flood control and drainage related to flood control or for making the necessary outlets and maintaining them. The contracts and agreements may contain terms, provisions, and details that the governing bodies of the respective political subdivisions determine to be necessary under the facts and circumstances.

(b) A county, city, water control and improvement district, drainage district, or other political subdivision may contribute funds to a conservation district for the construction or maintenance of canals, dams, flood retention structures, drains, levees, and other improvements for flood control and drainage related to flood control or for making the necessary outlets and maintaining them. The political subdivision

may contribute the funds regardless of whether title to the property is vested in the State of Texas or a conservation district if the work to be accomplished is for the mutual benefit of the donor and the agency or political subdivision having title to the property on which the improvements are located.

(c) A county may contribute funds to a conservation district for the conservation district to use in matching all or part of funds received by the conservation district from the state for use in soil conservation and flood control programs.

(d) For the purposes of this section, a county may expend permanent improvement funds or flood control funds levied in accordance with Article VIII, Section 1-a, of the Texas Constitution and Chapter 464, Acts of the 51st Legislature, Regular Session, 1949 (Article 7048a, Vernon's Texas Civil Statutes). A political subdivision other than a county may expend the appropriate funds of the subdivision for the purposes of this section.

[Acts 1981, 67th Leg., p. 1480, ch. 388, § 1, eff. Sept. 1, 1981.]

**CHAPTER 202. WIND EROSION DISTRICTS**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section
- 202.001. Definitions.
- 202.002. Purpose.
- 202.003. Authorization.
- 202.004. District Boundaries; Name.

**SUBCHAPTER B. CREATION OF DISTRICT**

- 202.011. Petition and Election Orders.
- 202.012. Election.
- 202.013. Returns; Effect of Election.

**SUBCHAPTER C. ADMINISTRATION**

- 202.021. Governing Body.
- 202.022. General Powers.
- 202.023. Cooperation.

**SUBCHAPTER D. FINANCES**

- 202.031. Power to Borrow Money.
- 202.032. Acceptance of Federal Funds.
- 202.033. Acceptance of Donations.
- 202.034. Automobile Registration Fees.
- 202.035. District May Not Tax.
- 202.036. Expenditures; Audits.

**SUBCHAPTER E. ASSESSMENT**

- 202.041. Assessment.
- 202.042. Prehearing Requirements.
- 202.043. Notice of Assessment Hearing.
- 202.044. Assessment Hearing.
- 202.045. Payment of Assessment.
- 202.046. Assessment Lien.
- 202.047. Foreclosure on Lien.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 202.001. Definitions

In this chapter:

(1) "District" means a wind erosion conservation district.

(2) "Governing body" means the governing body of a wind erosion conservation district.

[Acts 1981, 67th Leg., p. 1482, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 202.002. Purpose

The purpose of a district created under this chapter is to conserve the soil by:

(1) prevention of unnecessary erosion caused by wind; and

(2) reclamation of land that has been depreciated or denuded of soil by wind.

[Acts 1981, 67th Leg., p. 1483, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 202.003. Authorization

(a) The creation and incorporation of a wind erosion conservation district is authorized under Article XVI, Section 59, of the Texas Constitution.

(b) A district created and incorporated under this chapter is a state agency and may exercise rights, privileges, and functions granted under this chapter and Article XVI, Section 59, of the Texas Constitution.

[Acts 1981, 67th Leg., p. 1483, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 202.004. District Boundaries; Name

A district must be coextensive with the boundaries of a county and must bear the name of that county.

[Acts 1981, 67th Leg., p. 1483, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 202.005 to 202.010 reserved for expansion]

## SUBCHAPTER B. CREATION OF DISTRICT

## § 202.011. Petition and Election Orders

(a) The qualified property tax paying voters of any county may petition the commissioners court of the county to conduct an election on the creation of a district. The petition must be signed by at least 50 qualified property tax paying voters.

(b) After receiving a petition under this section, the commissioners court shall order that an election be held throughout the county to determine whether or not a district should be created.

[Acts 1981, 67th Leg., p. 1483, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 202.012. Election

(a) The procedure for holding and declaring the result of an election must be in substantial compliance with requirements for elections to vote bonds for public improvements.

(b) In order to vote at an election, a person must be a qualified property tax paying voter.

(c) The ballot for the election must be printed to provide for voting for or against the proposition: "Creating and incorporating the \_\_\_\_\_ County Wind Erosion Conservation District," with the blank space printed with the name of the county in which the election is held.

[Acts 1981, 67th Leg., p. 1483, ch. 388, § 1, eff. Sept. 1, 1981.]

## § 202.013. Returns; Effect of Election

(a) The commissioners court shall:

(1) canvass the returns of the election; and

(2) declare the result by entering it in the minutes of the commissioners court.

(b) If a majority of votes are cast for the proposition, the county judge shall issue an order declaring the district to be created and incorporated. The order must be entered in the minutes of the commissioners court and a certified copy of the order must be entered into the deed records of the county.

(c) Upon completion of the requirements under this section by the commissioners court and county judge, the district is created and incorporated.

[Acts 1981, 67th Leg., p. 1483, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 202.014 to 202.020 reserved for expansion]

## SUBCHAPTER C. ADMINISTRATION

## § 202.021. Governing Body

(a) The governing body of a wind erosion conservation district is the commissioners court.

(b) The county judge shall serve as chairman of the board and may vote in case of a tie.

(c) The county treasurer shall serve as treasurer of the district and shall manage funds, obligations, and securities of the district in compliance with the orders of the governing body.

(d) The county treasurer shall execute and deliver to the county judge a bond that is:

(1) in the penal sum of not less than \$5,000 nor more than \$10,000;

(2) conditioned on the faithful discharge of the treasurer's duty to dispose of the funds and obligations of the district as required by this chapter; and

(3) signed by a solvent surety company authorized to do business in this state.

(e) The district shall pay the premium on the bond required of the county treasurer by Subsection (d) of this section.

(f) The county clerk shall serve as clerk of the district and shall:

- (1) keep an accurate record of orders, minutes, and resolutions of the governing body;
- (2) countersign vouchers and documents of the governing body; and
- (3) perform other duties directed by the governing body.

(g) Duties imposed on the governing body, the county clerk, and the county treasurer are ex officio duties.

(h) By vote, the governing body may authorize the district to pay compensation of not more than \$25 a month to the county treasurer and county clerk.

[Acts 1981, 67th Leg., p. 1484, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.022. General Powers**

A district may:

- (1) prevent or aid in the prevention of damage to land, highways, and public roads due to the unnecessary movement of sand, dust, and soil from land inside or outside the district;
- (2) make improvements and maintain facilities to stop or prevent wind erosion of soil or land in the district;
- (3) enter land in the district to prevent soil erosion and damage to other land in the district;
- (4) sue or be sued in its corporate capacity;
- (5) adopt a corporate seal; and
- (6) adopt bylaws and rules necessary to carry out its corporate functions.

[Acts 1981, 67th Leg., p. 1484, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.023. Cooperation**

(a) The governing body of a district shall consult with:

- (1) the director of the Texas Agricultural Experiment Station;
- (2) the county agent;
- (3) the department; and
- (4) the soil erosion service of the United States Department of Agriculture.

(b) The district may conform to and cooperate in a regional conservation plan in order to further the purposes of this chapter.

[Acts 1981, 67th Leg., p. 1484, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 202.024 to 202.030 reversed for expansion]

SUBCHAPTER D. FINANCES

**§ 202.031. Power to Borrow Money**

(a) Subject to the requirements of Subsection (b) of this section, a district may:

- (1) borrow money for the corporate purposes of the district;
- (2) pledge certificates, obligations, or securities held by the district as security for a loan; and
- (3) pledge and assign revenue or income to secure repayment of a loan.

(b) An obligation, bond, warrant, debenture, or other evidence of indebtedness must:

- (1) bear interest not to exceed five percent a year;
- (2) mature within 10 years;
- (3) be payable out of and secured by the revenue and income of the district; and
- (4) not be paid out of money received from ad valorem taxes.

[Acts 1981, 67th Leg., p. 1485, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.032. Acceptance of Federal Funds**

A district may:

- (1) accept grants and borrow money from the federal government or a corporation or agency created or designated by the federal government to loan or grant money; and
- (2) enter into agreements necessary to receive grants or loans accepted or borrowed under this section.

[Acts 1981, 67th Leg., p. 1485, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.033. Acceptance of Donations**

The governing body of a district may accept gifts, grants, donations, advances, and services from the United States or any government agency in order to further the purposes of this chapter.

[Acts 1981, 67th Leg., p. 1485, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.034. Automobile Registration Fees**

(a) The commissioners court of a county in which a district is located may transfer to the district an amount not to exceed 20 percent of automobile registration fees accruing to the county.

(b) The governing body of the district may spend funds received under this section on soil erosion work.

(c) On approval of the voters of the county, the commissioners court may transfer all or part of the county road and bridge fund to the district.

[Acts 1981, 67th Leg., p. 1485, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.035. District May Not Tax**

A district created under this chapter may not impose an ad valorem tax or create an obligation payable by funds raised by taxation.

[Acts 1981, 67th Leg., p. 1485, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.036. Expenditures; Audits**

(a) The governing body shall:

(1) administer and disburse money and property received under this chapter in accordance with the law and in its discretion; and

(2) expend money received under this chapter in accordance with laws applicable to commissioners courts.

(b) Accounts shall be audited annually and a copy of the audit shall be filed with the county clerk for public inspection.

[Acts 1981, 67th Leg., p. 1486, ch. 388, § 1, eff. Sept. 1, 1981.]

[Sections 202.037 to 202.040 reserved for expansion]

**SUBCHAPTER E. ASSESSMENT****§ 202.041. Assessment**

The governing body may make an assessment on land in order to help pay for soil conservation work performed on that land to achieve the purposes of this chapter.

[Acts 1981, 67th Leg., p. 1486, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.042. Prehearing Requirements**

Before holding an assessment hearing required by Section 202.044 of this code, the governing body shall:

(1) estimate the cost of the work;

(2) tentatively allocate a portion of that cost to each landowner who is to benefit from the work;

(3) enter an order on its minutes setting a date for a hearing on whether the assessment shall be made; and

(4) comply with the notice requirements under Section 202.043 of this code.

[Acts 1981, 67th Leg., p. 1486, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.043. Notice of Assessment Hearing**

(a) The governing board shall give notice of an assessment hearing to each owner of property against which a lien or assessment is proposed.

(b) Notice need not state the name of an owner, interested party, or lienholder, but must contain:

(1) a brief description, by survey and block number or other reasonable means, of the land on which an assessment is to be imposed;

(2) a statement that a party desiring to contest the proposed assessment must appear at a hearing in the county courthouse of the county in which the land is located; and

(3) a statement of the amount of the proposed assessment.

(c) Notice may be given in person to a landowner or by publication for two weeks in a newspaper of general circulation published in the county, the first publication to be not less than 10 days before the day of the hearing.

[Acts 1981, 67th Leg., p. 1486, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.044. Assessment Hearing**

(a) The governing body may not make an assessment for soil conservation work until the body holds a hearing to determine the necessity of the assessment.

(b) At the hearing the governing body shall determine:

(1) the amount of all assessments proposed for a particular project; and

(2) whether a particular piece of land proposed for an assessment will receive a benefit from the work equal to or in excess of the amount of the assessment.

(c) The governing body may not impose an assessment that is in excess of the actual benefit to the owner in protection of the property. If the governing body determines that a piece of land will receive a benefit from the work equal to or in excess of the amount of the assessment, it shall impose the assessment.

[Acts 1981, 67th Leg., p. 1486, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.045. Payment of Assessment**

(a) A property owner on whom an assessment is imposed may pay the assessment in three equal annual installments, which shall bear interest at the rate of five percent a year.

(b) The governing board shall evidence the assessment by recording a certificate in the deed records of the county. The county judge shall sign the certificate and the county clerk shall attest to the certificate by corporate seal.

(c) When executed and levied, the certificate is a valid first lien on the property on which the assessment is made and when recorded is notice of the lien to a subsequent purchaser of the property.

[Acts 1981, 67th Leg., p. 1487, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.046. Assessment Lien**

The governing body may not make an assessment on property used, claimed, or occupied as a home-

stead, but may take a lien securing the assessment in the same manner as provided by law for taking a lien to secure the cost of improvements on a home-  
stead.

[Acts 1981, 67th Leg., p. 1487, ch. 388, § 1, eff. Sept. 1, 1981.]

**§ 202.047. Foreclosure on Lien**

If a property owner fails to pay an assessment at its maturity, the governing body may sue in a court of competent jurisdiction for foreclosure of the lien securing the assessment. Upon foreclosure, the property shall be sold in the same manner as property sold under foreclosure of other liens on real estate.

[Acts 1981, 67th Leg., p. 1487, ch. 388, § 1, eff. Sept. 1, 1981.]

**TITLE 8. PROTECTION AND PRESER-  
VATION OF AGRICULTURAL  
OPERATIONS**

**CHAPTER 251. EFFECT OF NUISANCE AC-  
TIONS AND GOVERNMENTAL REQUIRE-  
MENTS ON PREEXISTING AGRICULTUR-  
AL OPERATIONS**

Section	
251.001.	Policy.
251.002.	Definitions.
251.003.	Established Date of Operation.
251.004.	Nuisance Actions.
251.005.	Effect of Governmental Requirements.

**§ 251.001. Policy**

It is the policy of this state to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. It is the purpose of this chapter to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be regulated or considered to be a nuisance.

[Added by Acts 1981, 67th Leg., p. 2595, ch. 693, § 21, eff. Aug. 31, 1981.]

**§ 251.002. Definitions**

In this chapter:

(1) "Agricultural operation" includes but is not limited to the following activities: cultivating the soil; producing crops for human food, animal feed, planting seed, or fiber; floriculture; viticulture; horticulture; raising or keeping livestock or poultry; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(2) "Governmental requirement" includes any rule, regulation, ordinance, zoning, or other requirement or restriction enacted or promulgated by a county, city, or other municipal corporation that has the power to enact or promulgate the requirement or restriction.

[Added by Acts 1981, 67th Leg., p. 2595, ch. 693, § 21, eff. Aug. 31, 1981.]

**§ 251.003. Established Date of Operation**

For purposes of this chapter, the established date of operation is the date on which an agricultural operation commenced operation. If the physical facilities of the agricultural operation are subsequently expanded, the established date of operation for each expansion is a separate and independent established date of operation established as of the date of commencement of the expanded operation, and the commencement of expanded operation does not divest the agricultural operation of a previously established date of operation.

[Added by Acts 1981, 67th Leg., p. 2595, ch. 693, § 21, eff. Aug. 31, 1981.]

**§ 251.004. Nuisance Actions**

(a) No nuisance action may be brought against an agricultural operation that has lawfully been in operation for one year or more prior to the date on which the action is brought, if the conditions or circumstances complained of as constituting the basis for the nuisance action have existed substantially unchanged since the established date of operation. This subsection does not restrict or impede the authority of this state to protect the public health, safety, and welfare or the authority of a municipality to enforce state law.

(b) A person who brings a nuisance action for damages or injunctive relief against an agricultural operation that has existed for one year or more prior to the date that the action is instituted or who violates the provisions of Subsection (a) of this section is liable to the agricultural operator for all costs and expenses incurred in defense of the action, including but not limited to attorney's fees, court costs, travel, and other related incidental expenses incurred in the defense.

(c) This section does not affect or defeat the right of any person to recover for injuries or damages sustained because of an agricultural operation or portion of an agricultural operation that is conducted in violation of a federal, state, or local statute or governmental requirement that applies to the agricultural operation or portion of an agricultural operation.

[Added by Acts 1981, 67th Leg., p. 2595, ch. 693, § 21, eff. Aug. 31, 1981.]

**§ 251.005. Effect of Governmental Requirements**

(a) For purposes of this section, the effective date of a governmental requirement is the date on which the requirement requires or attempts to require compliance as to the geographic area encompassed by the agricultural operation. The recodification of a municipal ordinance does not change the original effective date to the extent of the original requirements.

(b) A governmental requirement of a political subdivision of the state other than a city:

(1) applies to an agricultural operation with an established date of operation subsequent to the effective date of the requirement;

(2) does not apply to an agricultural operation with an established date of operation prior to the effective date of the requirement; and

(3) applies to an agricultural operation if the governmental requirement was in effect and was applicable to the operation prior to the effective date of this chapter.

(c) A governmental requirement of a city does not apply to any agricultural operation situated outside the corporate boundaries of the city on the effective date of this chapter. If an agricultural operation so situated is subsequently annexed or otherwise brought within the corporate boundaries of the city, the governmental requirements of the city do not apply to the agricultural operation unless the requirement is reasonably necessary to protect persons who reside in the immediate vicinity or persons on public property in the immediate vicinity of the agricultural operation from the danger of explosion, flooding, vermin, insects, physical injury, contagious disease, removal of lateral or subjacent support, contamination of water supplies, radiation, storage of toxic materials, discharge of firearms, or traffic hazards.

(d) This section shall be construed to maintain, to the limited degree set forth in this section, the authority of a political subdivision under prior law over nonconforming uses but may not be construed to expand that authority.

[Added by Acts 1981, 67th Leg., p. 2595, ch. 693, § 21, eff. Aug. 31, 1981.]

## CHAPTER 252. FAMILY FARM AND RANCH SECURITY PROGRAM

### SUBCHAPTER A. GENERAL PROVISIONS

Section	
252.001.	Definitions.
252.002.	Family Farm and Ranch Security Program.

### SUBCHAPTER B. ADMINISTRATION

252.011.	Commissioner to Administer.
252.012.	Reports.
252.013.	Advisory Council.

Section	
252.014.	Administrative Expenses.
252.015.	Discrimination Prohibited.

### SUBCHAPTER C. GUARANTEED LOANS

252.021.	Eligibility for Loans.
252.022.	Eligible Lenders.
252.023.	Application for Loans.
252.024.	Terms of Loan.
252.025.	Payment Adjustment.
252.026.	Seller-Sponsored Loans.
252.027.	Sale or Conveyance.
252.028.	Default.

### SUBCHAPTER D. BONDS

252.051.	Issuance of Farm and Ranch Loan Security Bonds.
252.052.	Notice of Bond Sales.
252.053.	Competitive Bidding.
252.054.	Approval by Attorney General.
252.055.	Validity of Bonds.
252.056.	Disposition of Bond Proceeds.
252.057.	Payment of Principal and Interest.
252.058.	Refunding Bonds.
252.059.	Negotiable Instruments; Taxation Exemption.
252.060.	Bonds as Authorized Investments or Deposit Security.
252.061.	Replacement of Bond.
252.062.	Mandamus.

### SUBCHAPTER E. SPECIAL FUNDS

252.081.	Farm and Ranch Loan Security Fund.
252.082.	Interest and Sinking Fund.
252.083.	Investment of Funds.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 252.001. Definitions

In this chapter:

(1) "Applicant" means an individual who applies for a family farm and ranch security loan.

(2) "Borrower" means an individual who borrows money under this chapter.

(3) "Commissioner" means the commissioner of agriculture.

(4) "Family farm and ranch security loan" means a loan guaranteed by the state under this chapter.

(5) "Farmland or ranchland" means land in Texas that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry or poultry products, milk or dairy products, or horticultural products, including fruit.

[Acts 1981, 67th Leg., p. 1069, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.001 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

#### § 252.002. Family Farm and Ranch Security Program

A family farm and ranch security program is established. Subject to the provisions of this chapter, the commissioner may guarantee to eligible lenders that, in the event of default on a family farm and ranch security loan, the state will pay the

lender 90 percent of the sum due and payable under the first real estate mortgage or deed of trust. [Acts 1981, 67th Leg., p. 1070, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.002 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3136, ch. 826, § 2**

*Section 2 of Acts 1981, 67th Leg., p. 3136, ch. 826, eff. June 17, 1981, purported to amend § 2 of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, § 2 reads:*

*“A family farm and ranch security program is established under the administration of the commissioner of agriculture. Subject to the provisions of this Act and rules adopted under this Act, the commissioner may guarantee to lenders that, in the event of default on a family farm and ranch security loan, the state will pay, solely from the amount on deposit in the farm and ranch loan security fund, to the lender 90 percent of the sum due and payable under the first real estate mortgage or deed of trust or, if the borrower makes a down payment of 10 percent or more of the purchase price, all of the sum due and payable under the first real estate mortgage or deed of trust. Such a guarantee may be enforced by any transferee, assignee, or other subsequent legal holder of the loan. However, the commissioner shall not execute or issue any guarantees under this Act prior to September 1, 1983.”*

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

[Sections 252.003 to 252.010 reserved for expansion]

**SUBCHAPTER B. ADMINISTRATION**

**§ 252.011. Commissioner to Administer**

The commissioner shall administer this chapter and adopt rules necessary for the efficient administration of the program.

[Acts 1981, 67th Leg., p. 1070, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.011 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.012. Reports**

Before January 1 of each year, the commissioner shall submit a report to the legislature concerning

his or her actions under this chapter during the preceding year and the status of loans guaranteed. [Acts 1981, 67th Leg., p. 1070, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.012 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.013. Advisory Council**

(a) The family farm and ranch advisory council is composed of nine members appointed by the governor for staggered terms of six years.

(b) The advisory council shall be composed of two officers of commercial lending institutions, one officer of a farm credit association, one general farmer, one agricultural economist, one dairy farmer, one livestock farmer, one cash grain farmer, and one cotton farmer.

(c) The members of the advisory council serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties.

(d) In making initial appointments to the advisory council, the governor shall designate the terms of three members to expire on January 31, 1981, three to expire on January 31, 1983, and three to expire on January 31, 1985.

(e) The members of the advisory council annually shall elect a presiding officer and other officers they consider necessary.

(f) The advisory council shall:

(1) review and appraise the family farm and ranch security program;

(2) give advice and counsel to the commissioner regarding the program;

(3) review all applications for family farm and ranch security loans, make recommendations to the commissioner as to their disposition, and approve applications for payment adjustments; and

(4) make recommendations to the legislature and to the commissioner regarding any state policy or legislative changes needed to foster and promote the economic health and continued existence of the family farm or ranch.

(g) The commissioner shall provide the advisory council with necessary staff, office space, and administrative services.

[Acts 1981, 67th Leg., p. 1070, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.013 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3136, ch. 826, § 3**

*Section 3 of Acts 1981, 67th Leg., p. 3136, ch. 826, eff. June 17, 1981, purported to amend § 5 of Civil Statutes, art. 55g [now, this section], by adding subsec. (h), without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so added, subsec. (h) reads:*

*"In performing its duties and functions under this Act, the advisory council may adopt bylaws governing its procedures. In the bylaws the council may delegate to committees, consisting of not less than three members, the authority to act on behalf of the council and may prescribe procedures by which votes of members of the council may be taken, processed, and counted by written or oral communication without the necessity of having meetings with respect to matters submitted to the council under this Act."*

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

#### § 252.014. Administrative Expenses

The legislature shall appropriate the funds required for the administration of this chapter.

[Acts 1981, 67th Leg., p. 1071, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.014 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

#### § 252.015. Discrimination Prohibited

In carrying out duties under this chapter, the commissioner and advisory council may not discriminate because of age, race, color, creed, religion, national origin, sex, marital status, disability, or political or ideological persuasion.

[Acts 1981, 67th Leg., p. 1071, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.015 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

[Sections 252.016 to 252.020 reserved for expansion]

### SUBCHAPTER C. GUARANTEED LOANS

#### § 252.021. Eligibility for Loans

To be eligible for a family farm and ranch security loan, an applicant must:

- (1) be a citizen of the United States;
- (2) have been a resident of the State of Texas for five years;
- (3) have education, training, or experience in the type of farming or ranching for which the applicant wishes the loan;
- (4) together with the applicant's spouse and their dependents, have a total net worth of less than \$100,000, not including the value of a residential homestead owned by the applicant, and demonstrate the need for the loan;
- (5) intend to purchase farmland or ranchland to be used by the applicant and family for agricultur-

al purposes as the applicant's primary occupation; and

(6) be worthy of credit according to standards established by the commissioner.

[Acts 1981, 67th Leg., p. 1071, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.021 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

#### Amendment by Acts 1981, 67th Leg., p. 3137, ch. 826, § 4

Section 4 of Acts 1981, 67th Leg., p. 3137, ch. 826, eff. June 17, 1981, purported to amend § 6 of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, § 6 reads:

*"To be eligible for a family farm and ranch security loan, an applicant must:*

- "(1) be a citizen of the United States;*
- "(2) be a bona fide resident of this state;*
- "(3) have education, training, or experience in the type of farming or ranching for which the applicant wishes the loan;*
- "(4) together with the applicant's spouse and their dependents, have a total net worth of less than \$100,000 and demonstrate the need for the loan; provided, however, that the value of any residential homestead owned by the applicant shall not be included in determining the applicant's net worth;*

*"(5) intend to purchase farmland and/or ranchland to be used by the applicant and family for agricultural purposes as the applicant's primary occupation; and*

*"(6) be worthy of credit according to standards established by the commissioner."*

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

#### § 252.022. Eligible Lenders

To qualify as an eligible lender under this chapter, a lender must be:

- (1) a bank, savings bank, mutual savings bank, credit union, building and loan association, or savings and loan association organized under the law of this state or the United States;
- (2) a financial institution, including a trust company, subject to the supervision of the banking commissioner; or

(3) a corporation engaged in the business of insurance that is subject to the supervision of the State Board of Insurance under the Insurance Code.

[Acts 1981, 67th Leg., p. 1071, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.022 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3136, ch. 826, § 1**

*Section 1 of Acts 1981, 67th Leg., p. 3136, ch. 826, eff. June 17, 1981, purported to amend § 1, subd. (5), of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, subd. (5) reads:*

*“Lender” means:*

*“(A) an individual, or a family partnership or corporation as defined by the rules of the commissioner, who is the seller in a seller-sponsored loan transaction;*

*“(B) any bank, savings bank, mutual savings bank, credit union, farm credit institution, or savings and loan association organized under the laws of this state or the United States;*

*“(C) trust companies and other financial institutions subject to the supervision of the banking commissioner; and*

*“(D) any corporation engaged in the business of insurance that is subject to the supervision of the State Board of Insurance under the Insurance Code, as amended.”*

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

**§ 252.023. Application for Loans**

(a) An individual desiring to acquire farmland or ranchland may apply to an eligible lender for a family farm and ranch security loan. On completion of the appropriate forms by the applicant and the lender, the lender shall forward the application to the commissioner for approval. The commissioner shall determine eligibility, shall approve the application if the requirements of Sections 252.021 and 252.024 of this code are met, and shall notify the lender and the applicant of the decision.

(b) If the application is denied, the commissioner shall return the application to the lender with a written statement of the reasons for denial. The lender shall give a copy of those reasons to the applicant. If the circumstances of the applicant

change so that he or she becomes eligible, the applicant may reapply.

(c) If the commissioner approves the loan application, the commissioner shall file a copy of the application and return the original to the lender. The applicant and the lender may then complete the loan transaction.

(d) A person related within the second degree by affinity or the third degree by consanguinity to any member of the advisory council or to the commissioner, the deputy commissioner of agriculture, or the assistant commissioner of agriculture is not eligible for a family farm and ranch security loan. [Acts 1981, 67th Leg., p. 1071, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.023 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3137, ch. 826, § 4**

*Section 4 of Acts 1981, 67th Leg., p. 3137, ch. 826, eff. June 17, 1981, purported to amend § 7 of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, § 7 reads:*

*“(a) An individual desiring to acquire farmland and/or ranchland may apply to a lender for a family farm and ranch security loan. On completion of the appropriate forms by the applicant and the lender, the lender shall forward the application to the commissioner for approval. The commissioner shall determine eligibility, shall approve the application if the requirements of this Act and rules adopted under it are met, and shall notify the lender and the applicant of the decision.*

*“(b) If the application is denied, the commissioner shall return the application to the lender with a written statement of the reasons for denial. The lender shall give a copy of those reasons to the applicant. If the circumstances of the applicant change so that he or she becomes eligible, the applicant may reapply.*

*“(c) If the commissioner approves the loan application, the commissioner shall file a copy of the application and return the original to the lender. The applicant and the lender may then complete the loan transaction, subject to compliance with rules adopted under this Act.*

*“(d) No person related within the second degree by affinity or the third degree by consanguinity to any member of the advisory council or to the commissioner of agriculture, the deputy commissioner of agriculture, an assistant commissioner of agriculture, or the administrator, or the assistant administrator of the program is eligible for a family farm and ranch security loan under this Act.*

"(e) Information contained in an application and related documents may not be made public before a final approval decision on the application in accordance with the rules of the commissioner."

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

#### § 252.024. Terms of Loan

(a) A family farm and ranch security loan shall be transacted on forms approved by the commissioner with the advice of the attorney general. Before approving an application, the commissioner shall obtain an appraisal of the property in order to determine its value. Any appraiser representing the commissioner must be reasonably qualified to give competent appraisals of land. The appraiser shall make a written report to the commissioner in affidavit form, sworn to before a notary public or other official authorized to administer oaths, showing:

- (1) the appraised value of the land;
- (2) the name and address of each person communicated with relative to the valuation of the land;
- (3) that the appraiser has examined the records of the county clerk's office relative to the land;
- (4) that the appraiser has checked past sales of adjacent lands to aid in determining valuation; and
- (5) that neither the appraiser nor a member of the appraiser's family has received a personal benefit from the transaction and does not expect to receive any future personal benefits.

(b) The applicant shall pay the cost of an appraisal made under Subsection (a) of this section before the date on which the application is reviewed by the advisory council.

(c) The commissioner shall establish by rule an appraisal procedure to determine the income potential of the property to be purchased under a family farm and ranch security loan and may not approve an application if the purchase price exceeds the appraisal value and income potential of the land. [Acts 1981, 67th Leg., p. 1072, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.024 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3137, ch. 826, § 4**

Section 4 of Acts 1981, 67th Leg., p. 3137, ch. 826, eff. June 17, 1981, purported to amend § 8, subsec. (a), of Civil Statutes, art. 55g [now, this

section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, subsec. (a) reads:

"A family farm and ranch security loan shall be transacted on forms approved by the commissioner with the advice of the attorney general. Before approving any application, the commissioner shall cause to be made an appraisal of the property in order to determine its value. Any appraiser representing the commissioner must be reasonably qualified to give competent appraisals of land. The appraiser shall make a written report to the commissioner in affidavit form, sworn to before a notary public or other official authorized to administer oaths, showing:

- "(1) the appraised value of the land;
- "(2) the names and addresses of any persons communicated with relative to the valuation of the land;
- "(3) that the appraiser has examined the records of the county clerk's office relative to the land;
- "(4) that the appraiser has checked past sales of adjacent lands to aid in determining valuation; and
- "(5) that neither the appraiser nor any member of the appraiser's family has received any personal benefits from the transaction and does not expect to receive any future personal benefits. The cost of this appraisal must be paid by the applicant prior to the date on which the application is approved by the advisory council and the commissioner. The commissioner shall establish by rule an appraisal procedure to determine the income potential and appraisal value of the property to be purchased under a family farm and ranch security loan and may not approve an application if the purchase price exceeds the appraised value of the land."

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

#### § 252.025. Payment Adjustment

(a) If a family farm and ranch security loan has a term of not more than 20 years and provides for payments at least annually so that the loan is amortized over its term with equal annual payments of principal and interest, an applicant or borrower may apply for a payment adjustment. If the application is approved by the advisory council, the commissioner may annually pay to the lender four percent of the outstanding balance due on the loan at the

beginning of the year during the first 10 years of the loan. Beginning with the 11th year of the loan, the borrower shall reimburse the commissioner for the sums paid in his or her behalf plus six percent simple interest. A borrower may petition the commissioner for one 10-year renewal of the payment adjustment, in which case the borrower shall reimburse the commissioner beginning with the 21st year after the loan was granted for all the sums paid in his or her behalf plus six percent simple interest. A borrower is entitled to make reimbursements for payment adjustments in equal annual payments over a term not to exceed 10 years.

(b) The borrower, the borrower's spouse, and their dependents shall annually submit to the commissioner a sworn statement of their net worth. If their net worth in any year exceeds \$150,000, the borrower is ineligible for a payment adjustment in that year.

(c) The obligation to repay a payment adjustment is a lien against the property.

(d) A lender receiving a payment from the commissioner on behalf of a borrower under this section shall reduce the borrower's payments for the next year in accordance with the amount received from the commissioner.

[Acts 1981, 67th Leg., p. 1072, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.025 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3137, ch. 826, § 4**

Section 4 of Acts 1981, 67th Leg., p. 3137, ch. 826, eff. June 17, 1981, purported to amend § 8, subsecs. (b) to (e), and to add § 8, subsec. (f), of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended and added, subsecs. (b) to (f) read:

"(b) If the family farm and ranch security loan has a term of not more than 20 years and provides for payments at least annually so that the loan is amortized over its term with equal annual payments of principal and interest, an applicant may apply for a payment adjustment. If the application is approved by the advisory council, the commissioner subject to the availability of funds may annually pay to the lender an amount not to exceed four percent of the outstanding balance due on the loan at the beginning of the year during the first 10 years of the loan. Beginning with the 11th year of the loan, the applicant shall reimburse the commissioner for the sums paid in his or her behalf plus six percent simple interest. An applicant may petition the commissioner for one 10-year renewal of the payment adjustment, in which case if approved by the commissioner and the

advisory council the applicant must reimburse the commissioner beginning with the 21st year after the loan was granted for all the sums paid in his or her behalf plus six percent simple interest. An applicant is entitled to make reimbursements for payment adjustments in equal annual payments over a term not to exceed 10 years.

"(c) The borrower, the borrower's spouse, and their dependents shall annually submit to the commissioner a sworn statement of their net worth. If their net worth in any year exceeds \$200,000, exclusive of the residential homestead, the applicant is ineligible for a payment adjustment in that year.

"(d) The obligation to repay a payment adjustment is a lien against the property.

"(e) A lender receiving a payment from the commissioner on behalf of a borrower under this section shall reduce the borrower's payments for the applicable year in accordance with rules adopted by the commissioner.

"(f) Payment adjustments under this section shall be made only out of income received from the investment of the farm and ranch loan security funds, and from funds, if any, appropriated for that purpose."

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

**§ 252.026. Seller-Sponsored Loans**

(a) If the seller is an individual, the commissioner may approve for guarantee a loan in which part or all of the purchase price of the farmland or ranchland is financed by a loan from the seller of the property with the remainder of the loan, if any, supplied by a lender.

(b) A seller-sponsored loan shall be secured by a purchase money first real estate mortgage or deed of trust evidenced by a negotiable note or notes. If a note is sold or exchanged, the holder of the note shall notify the commissioner of the sale or exchange in writing within 30 days after the day that the note is sold or exchanged.

[Acts 1981, 67th Leg., p. 1073, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.026 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.027. Sale or Conveyance**

A borrower who sells or conveys the property for which a family farm and ranch security loan was issued shall immediately retire the entire indebted-

ness owed to the lender and the state. A family farm and ranch security loan may not be assumed by a new owner. This section does not prohibit a borrower from granting a security interest in the property for the purposes of securing an additional loan.

[Acts 1981, 67th Leg., p. 1073, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.027 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3139, ch. 826, § 5**

*Section 5 of Acts 1981, 67th Leg., p. 3139, ch. 826, eff. June 17, 1981, purported to amend § 10 of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, § 10 reads:*

*"Except as the commissioner by rule prescribes, any borrower who sells or conveys the property for which a family farm and ranch security loan was issued shall immediately retire the entire indebtedness owed to the lender and the state. A family farm and ranch security loan may not be assumed by a new owner. This section does not prohibit a borrower from granting a security interest in the property for the purposes of securing an additional loan approved by the commissioner in accordance with rules adopted hereunder."*

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

**§ 252.028. Default**

(a) A borrower is in default if, for a period longer than one year, the borrower fails to devote and maintain land purchased under a family farm and ranch security loan to one or more of the following activities:

- (1) cultivating the soil and producing crops for human food, animal feed, planting seed, or fiber;
- (2) floriculture, viticulture, or horticulture;
- (3) raising or keeping livestock; or
- (4) planting cover crops or leaving land idle for the purpose of participation in a governmental program or normal crop or livestock rotation.

(b) Within 90 days of default on a family farm and ranch security loan, the lender shall notify the borrower that the lender must notify the commissioner if the default continues for another 90 days. The lender also shall inform the borrower of the consequences of that default. The lender and the

borrower may agree to take any reasonable steps to ensure the fulfillment of the loan obligation.

(c) If the borrower has not made arrangements to meet the obligation by the end of the 180th day following the initial default, the lender shall file a claim with the commissioner identifying the loan and the nature of the default. The commissioner shall then conduct a hearing on the alleged default as a contested case under the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Appeal of the commissioner's decision to the district court is under the substantial evidence rule. The commissioner may waive default in the event of extenuating circumstances, including the borrower's physical disability. If the commissioner finds that the borrower is in default and the commissioner does not waive default, the lender shall assign to the state all of the lender's security and interest in the loan in exchange for payment of 90 percent of all sums due and payable under the first real estate mortgage or deed of trust. If the loan is seller-sponsored, the seller may elect to pay the commissioner all sums owed the commissioner by the applicant and retain title to the property in lieu of payment by the commissioner under the terms of the loan guarantee. If the commissioner determines that the lender has met his or her obligations regarding the loan guarantee, the commissioner shall authorize payment to the lender and shall notify the defaulting party. The state shall then become holder of the mortgage or deed of trust.

(d) If the state acquires the mortgage or deed of trust on the property, the commissioner shall undertake to sell the property after all appeals are concluded. The commissioner shall publish notice of the impending sale at least one each week for four consecutive weeks in a newspaper of general circulation in the county in which the property is located and in a publication having general statewide circulation. The notice shall specify the time and place in the county at which the sale will be held and give a description of the lots or tracts to be offered and a general statement of the terms of sale. The commissioner shall sell the property to the highest bidder as determined by taking sealed bids or by public auction. In either case, the commissioner shall determine the successful bidder within 15 days of the date of the last published notice of sale. Each bidder shall submit bid security in the form of a certified check or bid bond in the amount of two percent of the bid price. The successful bidder shall remit the balance of the purchase price to the commissioner within 90 days of the date of sale. On remittance of the balance, the commissioner shall transfer all right, title, and interest of the state in the property to the purchaser. If the purchaser fails to remit any part of the balance within the 90 days, the purchaser forfeits all rights to the property and

any money paid for it, and the commissioner shall restart the sale process.

(e) Proceeds from the sale of property obtained by the state under this section shall be paid into the farm and ranch loan security fund, except that if the payment made to a lender under this chapter is less than the amount due and payable to the lender, proceeds in excess of the amount of that payment shall be paid to the lender to the extent required in order to reimburse the lender in full.

[Acts 1981, 67th Leg., p. 1073, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.028 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 22, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3139, ch. 826, § 6**

*Section 6 of Acts 1981, 67th Leg., p. 3139, ch. 826, eff. June 17, 1981, purported to add subsec. (e) to § 11, of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so added, subsec. (e) reads:*

*"The commissioner, by rule, may prescribe procedures to be followed by the commissioner and by a borrower or lender under a loan in default, together with substantive rights consistent with this Act as amended, that are alternative or additional to the procedures specified by this section, if in the commissioner's judgment the procedures would provide for a more workable, equitable, and financially sound administration of this Act. The rules may include, but are not limited to, the right to make partial payments of loans instead of or pending foreclosure of property under the procedures specified by this section or by the rules."*

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

[Sections 252.029 to 252.050 reserved for expansion]

**SUBCHAPTER D. BONDS**

**§ 252.051. Issuance of Farm and Ranch Loan Security Bonds**

(a) The commissioner by order may provide for the issuance of negotiable farm and ranch loan security bonds in one or more installments and in an aggregate amount not to exceed \$10 million. The order entered shall describe the terms and conditions of the bonds.

(b) The commissioner may not sell an installment or series of bonds for an amount less than the face value of all of the bonds comprising the installment or series with the interest accrued from their date of issuance.

(c) The commissioner shall determine the rate of interest of an installment or series of bonds and shall determine whether interest is payable annually or semiannually.

(d) The commissioner shall determine:

(1) the form of the bonds, including the form of any interest coupons to be attached;

(2) the denominations of the bonds; and

(3) the places for payment of principal and interest.

(e) The bonds of each issue mature, serially or otherwise, not more than 40 years from their date. In issuing bonds, the commissioner may determine the price, terms, and conditions for redemption of bonds before maturity.

(f) The commissioner may provide for the registration of bonds as to ownership, successive conversion and reconversion from bearer to registered bonds, and successive conversion and reconversion from registered to bearer bonds.

(g) The bonds shall be executed on behalf of the commissioner as general obligations of the state. The commissioner shall sign the bonds and impress the seal of the commissioner on them. The governor shall sign and the secretary of state shall attest the bonds, and the state seal shall be impressed on them.

(h) The commissioner may prescribe the extent to which facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals may be used in executing the bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signature of the commissioner. If an officer whose signature or facsimile signature appears on a bond or whose facsimile signature appears on a coupon ceases to be an officer before delivery of the bond, the signature is valid and sufficient for all purposes as if that officer had remained in office until the delivery had been made. [Acts 1981, 67th Leg., p. 1074, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.051 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.052. Notice of Bond Sales**

After determining to sell a series of bonds, the commissioner shall publish notice of the sale at least once not less than 10 days before the date of the sale in at least one financial publication of general circulation published in the state and in at least one financial publication of general circulation published outside the state.

[Acts 1981, 67th Leg., p. 1075, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.052 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.053. Competitive Bidding**

The commissioner may sell bonds only after competitive bidding to the highest and best bidder. The commissioner may reject any or all bids. The commissioner shall require every bidder, except administrators of state funds, to include with the bid an exchange or cashier's check for an amount the commissioner considers adequate as a deposit guaranteeing acceptance of and payment for all bonds covered by the bid.

[Acts 1981, 67th Leg., p. 1075, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.053 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.054. Approval by Attorney General**

Before delivering bonds to the purchasers, the commissioner shall submit the bonds and the records pertaining to them for approval by the attorney general. When approval is obtained, the bonds shall be registered in the office of the comptroller of public accounts.

[Acts 1981, 67th Leg., p. 1075, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.054 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.055. Validity of Bonds**

After approval by the attorney general, registration by the comptroller, and delivery to the purchaser, the bonds are incontestable and constitute general obligations of the state and shall be held to be valid and binding obligations of the state in any action, suit, or other proceeding in which their validity is questioned. In an action to enforce collection of the bonds or rights incident to the bonds, the certificate of approval by the attorney general and a certificate of registration by the comptroller, or certified copies of these certificates, are admissible evidence constituting proof of the validity of the bonds.

[Acts 1981, 67th Leg., p. 1075, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.055 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.056. Disposition of Bond Proceeds**

(a) Except as provided by Subsection (b) of this section, proceeds derived from the sale of the bonds, less the administrative costs of issuing the bonds, shall be deposited with the state treasurer to the credit of the farm and ranch loan security fund.

(b) In authorizing a series of bonds, the commissioner may appropriate to the interest and sinking fund from the proceeds of the sale of bonds an amount that, together with the accrued interest received, is sufficient to pay interest coupons becoming due during the fiscal year in which the bonds are sold and to establish appropriate reserves.

[Acts 1981, 67th Leg., p. 1076, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.056 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.057. Payment of Principal and Interest**

The state treasurer shall pay or cause to be paid the principal on bonds as they mature and the interest as it becomes payable.

[Acts 1981, 67th Leg., p. 1076, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 252.057 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.058. Refunding Bonds**

The commissioner may provide for the issuance of refunding bonds. The commissioner may sell these bonds and use the proceeds to retire the outstanding bonds issued under this subchapter, including interest accrued on outstanding bonds, or the commissioner may exchange refunding bonds for outstanding bonds, including accrued interest. The issuance of the refunding bonds, their maturity, the rights of the bondholders, and the duties of the commissioner's office regarding refunding bonds are governed by the provisions of this subchapter relating to the original bonds, to the extent they are applicable, and by refunding statutes of general application not in conflict with this subchapter.

[Acts 1981, 67th Leg., p. 1076, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.058 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3139, ch. 826, § 7**

*Section 7 of Acts 1981, 67th Leg., p. 3139, ch. 826, eff. June 17, 1981, purported to amend subsec. (m) of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, subsec. (m) reads:*

*"As required by Article III, Section 50c, of the Texas Constitution out of the first money coming into the treasury in each fiscal year not otherwise appropriated by the constitution, the state treasurer shall pay or cause to be paid the principal on bonds issued under this Act as they mature and the interest as it becomes payable, after using for that purpose any funds already on deposit in the interest and sinking fund available for that purpose."*

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

**§ 252.059. Negotiable Instruments; Taxation Exemption**

The bonds issued under this subchapter are negotiable instruments. The bonds, income from the

bonds, and profit made on their sale are exempt from taxation within this state.

[Acts 1981, 67th Leg., p. 1076, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.059 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.060. Bonds as Authorized Investments or Deposit Security**

(a) Bonds issued under this subchapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan and savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of political subdivisions and public agencies of the state, including cities, towns, villages, counties, and school districts.

(b) Bonds issued under this subchapter, when accompanied by all appurtenant unmatured coupons, are lawful and sufficient security for all deposits of funds of the state, an agency of the state, or a political subdivision, including a city, town, village, county, or school district, at the par value of the bonds.

[Acts 1981, 67th Leg., p. 1076, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.060 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.061. Replacement of Bond**

The commissioner may provide for the replacement of a mutilated, lost, or destroyed bond.

[Acts 1981, 67th Leg., p. 1077, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.061 by Acts 1981, 67th Leg., p. 2604, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.062. Mandamus**

The performance of the official duties of the comptroller and the treasurer may be enforced by mandamus or other appropriate proceeding.

[Acts 1981, 67th Leg., p. 1077, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.062 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3139, ch. 826, § 7**

*Section 7 of Acts 1981, 67th Leg., p. 3139, ch. 826, eff. June 17, 1981, purported to amend subsec. (n) of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, subsec. (n) reads:*

*"The bonds issued under the authority of Article III, Section 50c, of the Texas Constitution and this Act before the effective date of this amendment to this Act, including all covenants, terms, provisions, and commitments contained, and the rights reserved to the state, in those bonds, are in all things and respects validated, ratified, confirmed, and declared lawful, and are determined and declared to be incontestable for any cause. The performance of the official duties of the commissioner, the comptroller, and the treasurer under this Act and the constitution and the duties of the commissioner and the other state officers imposed by the order authorizing the bonds may be enforced by mandamus or other appropriate proceeding."*

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

[Sections 252.063 to 252.080 reserved for expansion]

**SUBCHAPTER E. SPECIAL FUNDS**

**§ 252.081. Farm and Ranch Loan Security Fund**

The farm and ranch loan security fund is created as provided by Article III, Section 50c, of the Texas Constitution. The commissioner may use the farm and ranch loan security fund only for payment to a lender in order to acquire interest in property purchased under a guaranteed family farm and ranch security loan or for payment adjustments.

[Acts 1981, 67th Leg., p. 1077, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.081 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**§ 252.082. Interest and Sinking Fund**

(a) The interest and sinking fund for farm and ranch loan security bonds is created to be used exclusively for:

- (1) paying the principal of farm and ranch loan security bonds as they mature;
- (2) paying interest on the bonds as it comes due; and
- (3) paying exchange and collection charges in connection with bonds.

(b) Except as otherwise provided by this subsection, the comptroller of public accounts shall credit accrued interest received in the sale of bonds and income from investments of the loan security fund and the interest and sinking fund to the interest and sinking fund. If the accrued interest and income in any year exceeds the cost of paying principal and

interest on farm and ranch loan security bonds and any exchange and collection charges, the comptroller shall transfer the amount in excess of those payments to the credit of the farm and ranch security fund for the purpose of financing payment adjustments.

(c) After all bonds have been paid, the comptroller shall transfer the balance of the interest and sinking fund to the credit of the farm and ranch loan security fund.

[Acts 1981, 67th Leg., p. 1077, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.082 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

#### § 252.083. Investment of Funds

(a) The commissioner may invest the farm and ranch loan security fund as authorized by Chapter 401, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-5a, Vernon's Texas Civil Statutes).

(b) The commissioner may invest the interest and sinking fund only in direct obligations of the United States, certificates of deposit in Texas banks, or in obligations the principal and interest of which are guaranteed by the United States.

[Acts 1981, 67th Leg., p. 1077, ch. 388, § 1, eff. Sept. 1, 1981. Renumbered from § 15.083 by Acts 1981, 67th Leg., p. 2597, ch. 693, § 22, eff. Aug. 31, 1981.]

**Amendment by Acts 1981, 67th Leg., p. 3140, ch. 826, § 8**

*Section 8 of Acts 1981, 67th Leg., p. 3140, ch. 826, eff. June 17, 1981, purported to amend*

*subsec. (g) of Civil Statutes, art. 55g [now, this section], without reference to the repeal of said article by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4(1). As so amended, subsec. (g) reads:*

*"The commissioner may invest the farm and ranch loan security fund and, in making the investments, is governed by the provisions of Chapter 401, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-5a, Vernon's Texas Civil Statutes). It is provided, however, that by following the same procedure, the commissioner may invest and direct the investment of the farm and ranch loan security fund in any general or special obligations of this state or any of its political subdivisions, authorities, agencies, or political corporations or of any other state or their subdivisions, agencies, or authorities. The commissioner may invest the interest and sinking fund only in direct obligations of the United States, certificates of deposit in Texas banks, or in obligations the principal and interest of which are guaranteed by the United States."*

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

## DISPOSITION TABLE

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

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
47	11.002	55c, § 13(c)	41.032
	11.004	§ 13(d)	41.055
	11.005	§ 13(e)	41.056
47a	11.003	§ 13(f)	41.057
48	11.006	§ 14	41.058
49	11.007		41.059
	12.013	§ 14A	41.060
50	11.007		41.104
51	12.001	§ 14B	41.082
	12.002	§ 15(a)	41.081
	to	§ 15(b)	41.081
	12.012	§ 15(c)	41.081
	12.016	§ 15(d)	41.081
53	12.014	§ 15(e)	41.060
54	12.014	§ 15(f)	41.083
55	12.015	§ 15A	41.084
55a	—	§ 15B	41.059
55c, § 1	41.001	§ 15C	41.033
§ 2	41.002	§ 16	41.085
§ 2A	41.002	§ 17	41.103
	41.028	§ 17A(a)	41.101
§ 3	41.011	§ 17A(b)	41.102
§ 4	41.012	§ 17A(c)	41.101
§ 5(a)	41.021		41.102
	41.026	§ 17B	41.034
§ 5(b)	41.021	55c-1, § 1	—
§ 6(a)	41.023	§ 2	74.001
§ 6(b)	41.023	§ 3(a)	74.002
§ 6(c)	41.026	§ 3(b)	74.003
§ 7(a)	41.025	§ 4	74.004
§ 7(b)	41.025	§ 5	74.002
	41.026	55d	12.017
§ 8(a)	41.024	55e, § 1	—
§ 8(b)	41.024	§ 2	104.001
§ 8(c)	41.027	§ 3	104.002
§ 9	41.022		104.181
	41.026	§ 4	104.003
	41.029	§ 5	104.021
§ 10	41.030		104.022
§ 11	41.031		to
§ 12	41.051		104.024
	41.052	§ 6(a)	104.042
§ 13(a)	41.053	§ 6(b) to (d)	104.041
§ 13(b)	41.054	§ 7(a)	104.042

## DISPOSITION TABLE

Civ. St. Article	Agriculture Code Section	Civ. St. Article	Agriculture Code Section
55e, § 7(b)	104.41 to 104.043	55e, § 20(c)	104.089 104.090
§ 8(a)	104.044	§ 20(d)	104.091
§ 8(b)	104.044	§ 21	104.087
§ 8(c)	104.044	§ 22(a)	104.222 104.223
	104.061	§ 22(b)	104.223
§ 9(a)	104.061	§ 23(a)	104.181
§ 9(b)	104.061 104.062 to 104.064	§ 23(b)	104.182
		§ 23(c)	104.183
§ 9(c)	104.066	§ 23(d)	104.184
§ 10	104.063	§ 23(e)	104.184
§ 11	104.064 104.065	§ 23(f)	104.185
		§ 23(g)	104.184 104.186
§ 12	104.082 104.086	§ 23(h)	104.186
		§ 23(i)	104.186
§ 13(a)	104.101 to 104.103 104.141	§ 23(j)	104.187
		§ 23(k)	104.188
§ 13(b)	104.083 104.084 104.162	§ 24	104.201
		§ 25	104.104
§ 13(c)	104.125	§ 26	104.224
§ 14(a)	104.141 to 104.143	§ 27	104.202
		§ 28	104.202
§ 14(b)	104.144 to 104.146	§ 29	—
		§ 30	—
§ 15(a)	104.121 to 104.123	55f, § 1	145.001
		§ 2	145.002
§ 15(b)	104.123	§ 3	145.003
§ 15(c)	104.124 104.125	§ 4	145.004
		§ 5	145.005 145.006
§ 15(d)	104.125	55g, § 1(1) to (4)	252.001
§ 15(e)	104.126	§ 1(5)	252.022
§ 16(a)	104.161 104.165	§ 1(6)	252.026
		§ 1(7)	252.028
§ 16(b)	104.162	§ 2	252.002 252.011
§ 16(c)	104.163	§ 3	252.011
§ 16(d)	104.164	§ 4	252.012
§ 16(e)	104.165	§ 5	252.013
§ 16(f)	104.165	§ 6	252.021
§ 16(g)	104.166 104.167	§ 7	252.023
		§ 8(a)	252.024
§ 17	104.081	§ 8(b) to (e)	252.025
§ 18	104.221	§ 9	252.026
§ 19	104.085	§ 10	252.027
§ 20(a)	104.086	§ 11	252.028
§ 20(b)	104.088 104.089	§ 12	252.015
		§ 13(a) to (f)	252.051
		§ 13(g)	252.052
		§ 13(h)	252.053
		§ 13(i)	252.054
		§ 13(j)	252.051
		§ 13(k)	252.051
		§ 13(l)	252.055

AGRICULTURE CODE

321C

Civ.St. Article	Agriculture Code Section
55g, § 13(m)	252.057
§ 13(n)	252.062
§ 13(o)	252.058
§ 13(p)	252.059
§ 13(q)	252.060
§ 13(r)	252.060
§ 13(s)	252.061
§ 14(a)	252.056
	252.081
§ 14(b)	252.081
§ 14(c)	252.082
§ 14(d)	252.056
	252.082
§ 14(e)	252.082
§ 14(f)	252.082
§ 14(g)	252.083
§ 14(h)	252.028
§ 15	252.014
55h, § 1	96.001
§ 2	96.002
§ 3	96.003
§ 4	96.004
§ 5	96.005
§ 6	96.006
§ 7	96.007
67b, § 1	—
§ 2	62.001
	62.003
§ 3	62.002
§ 4(a)	62.004
§ 4(b) to (d)	62.005
§ 5	62.006
§ 6	62.007
§ 7	62.008
§ 8	62.008
§ 9	62.009
§ 10	62.011
§ 11	62.010
§ 12	—
§ 13	62.011
68	74.051
	74.052
69	74.051
70	74.052
71	74.054
72	74.054
73	74.057
74	74.054
	to
	74.056
74a	74.061
76	—
76a	—
77	—
78	74.058

Civ.St. Article	Agriculture Code Section
79	74.054
	74.059
80	74.060
81	—
82	—
82a, § 1	74.081
§ 2	74.082
	to
	74.084
§ 3	74.085
	74.086
	to
	74.088
	74.090
§ 4	74.086
	74.089
	74.091
93b, § 1	—
§ 2(a)	61.001
	61.002
	61.006
§ 2(b)	61.002
	61.003
	61.008
§ 3	61.004
	61.005
§ 3a	61.002
	61.006
§ 4(a)	61.007
	61.009
	61.018
§ 4(b)	61.004
	61.018
§ 5(a)	61.016
§ 5(b)	61.018
§ 5(c)	61.016
§ 6(a)	61.002
	61.010
§ 6(b)	61.002
	61.009
	61.010
	61.014
§ 7(a)	61.011
§ 7(b)	61.011
§ 7(c)	61.011
§ 7(d)	61.011
	61.012
§ 7(e)	61.011
§ 7(f)	61.011
§ 7(g)	61.002
§ 7A	61.013
§ 8	61.015
§ 9	61.017
	61.018
§ 10	61.002

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
93c	61.016	108a, § 11(b)	63.141
93d—1		§ 11(c)	—
to		§ 11(d)	63.125
93d—8	—	§ 11(e)	63.035
108a, § 1	—	§ 12	63.126
§ 2(1)	63.001	§ 13	63.004
	63.003	§ 14	63.005
§ 2(2)	63.001	§ 15	63.006
§ 2(3)	63.001	109	91.021
§ 2(4)	63.002		91.022
§ 2(5) to (8)	63.001		to
§ 2(9)	63.001		91.026
	63.021		93.021
§ 2(10)	63.001	110	91.002
§ 2(11)	63.032		91.006
§ 2(12) to (18)	63.001		91.007
§ 3	63.003		91.041
§ 4(a)	63.031		to
	to		91.045
	63.033		92.022
	63.035		to
§ 4(b)	63.032		92.025
	63.052		93.022
	63.053		to
§ 4(c)	63.002		93.029
	63.032		93.032
§ 4(d)	63.031	110a	91.008
§ 4(e)	63.034	111	91.006
§ 4(f)	63.034	112	91.006
§ 5	63.051		91.061
§ 6(a)	63.003		to
	63.071		91.068
	to	113	91.081
	63.074		91.082
§ 6(b)	63.075		91.083
§ 6(c)	63.072	114	91.091
§ 6(d)	63.074		91.092
§ 6(e)	63.074		to
§ 6(f)	63.124		91.095
§ 6(g)	63.035	115	91.006
§ 7	63.022		91.111
§ 8(a)	63.091		to
	63.092		91.115
§ 8(b)	63.093	116	91.006
§ 8(c)	63.092		91.121
§ 8(d)	63.093		to
§ 8(e)	63.094		91.125
§ 8(f)	63.095	117, § 1	91.003
§ 9	63.142	§ 2	91.004
	63.143	§ 3	91.005
§ 10(a)	63.121	§ 4	91.004
§ 10(b)	63.122	118	91.001
§ 10(c)	63.123	118a, § 1	93.001
§ 11(a)	63.125	§ 2	93.004
	63.142	§ 3	93.004
	63.143		

# AGRICULTURE CODE

321E

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
118a, § 3	93.041	118b, § 4(d)	103.005
	to		to
	93.043		103.007
§ 4	93.004	§ 4(e)	103.008
§ 5	93.004	§ 4(f)	103.010
§ 6	93.061	§ 4(g)	103.009
§ 7	93.061	§ 4(h)	103.008
§ 8	93.011	§ 6	102.008
§ 9	93.003		102.012
	93.011		102.021
	93.012	§ 8	102.007
	93.021		102.012
	93.029	§ 8a	102.009
	93.061	§ 9	102.013
§ 10	93.012	§ 10	102.013
§ 11	93.030	§ 11	102.016
	93.061		102.021
§ 12	93.004	§ 12	102.008
	93.041		102.010
	93.042		102.011
	93.044		102.021
§ 14	93.061	§ 13	102.017
§ 15	93.003	§ 14(a)	102.012
§ 16	93.005		102.019
	93.030	§ 14(b)	102.019
§ 17	93.013	§ 15	102.018
	93.061		102.021
§ 18	93.002	§ 16	102.014
	93.031	§ 17	102.015
	93.061		102.021
§ 19	93.051	§ 19	—
	to	§ 20	102.020
	93.053	§ 21	102.021
§ 20	93.061		103.002
	93.062		103.013
118b, § 1(a)	102.001	§ 22	102.003
§ 1(b)	102.002	§ 23	102.006
§ 1(c)	102.001	§ 24	93.030
§ 1(d)	102.001	§ 24A	93.030
	102.003	§ 25	102.004
	102.004		102.005
§ 1(e)	102.003		102.021
§ 1(f)	102.010		103.011
§ 1(g)	102.010	118b—1, § 1	95.001
§ 1(h)	102.001		95.002
§ 1(i)	102.001	§ 2	95.003
§ 1(j)	102.004		95.011
§ 2	102.003	§ 3	95.013
§ 3	102.005		95.018
§ 4(a)	102.006		95.031
	102.007	§ 4	95.012
§ 4(b)	102.006		95.014
	102.010	§ 5	95.012
§ 4(c)	103.011	§ 6	95.016
		§ 7	95.003

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
118b-1, § 8	95.003	118c, § 12	94.051
§ 9	95.015	§ 13	94.033
	95.031	§ 14	94.051
	to	§ 15	94.051
	95.033		94.052
§ 10	95.034	§ 16	—
§ 11	95.017	118c-1 (part)	92.001
§ 12	95.035		92.003
§ 13	95.032	§ 1	92.005
	95.041	§ 2	92.002
§ 14	95.041		92.005
	95.042		92.006
118b-2, § 1	102.101		92.032
	102.103		92.041
§ 2	102.102	§ 3	92.004
	102.103	§ 4	92.005
§ 3	103.104		92.011
118b-3, § 1	73.003		to
§ 2	73.002		92.013
§ 3	73.004	§ 5	92.041
	73.005	§ 6	92.041
§ 4	73.005	§ 7	92.005
	73.009	§ 8	—
118c, § 1	94.001	§ 9	92.005
	94.002		92.021
§ 2	94.002		92.026
	94.003		92.041
	94.025	§ 10	92.005
	94.031		92.031
	to		to
	94.034		92.035
§ 3	94.021	§ 11	92.041
	to		92.042
	94.024	118c-3, § 1	91.142
§ 3a	94.003		91.143
§ 4(a)	94.011	§ 2	91.141
	94.012	§ 3	91.141
	94.036	§ 4	—
	94.051	118e, § 1	71.101
§ 4(b)	94.037		to
§ 5	94.002		71.103
	94.032	§ 2	71.104
	94.035	§ 3	71.105
	94.051	§ 4	71.106
§ 6	94.032	§ 5	71.107
§ 7	94.032	§ 6	71.108
§ 8	94.051	§ 7	71.103
§ 9	94.038		71.109
§ 10	94.003	§ 8	71.103
	94.004		71.110
§ 11	94.004		71.115
	94.005	§ 9	71.103
	94.031		71.111
§ 12	94.034		to
	94.038		71.113

# AGRICULTURE CODE

321G

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
118e, § 10	71.114	135a-1, § 2	71.002
§ 11	71.103		71.005
	71.114	§ 3	71.003
	71.115		71.005
§ 12	71.116	§ 3A	71.0081
119	71.042	§ 3B	71.0101
	71.044	§ 4	71.006
	71.045	§ 5	71.010
119a	—	§ 6	71.004
121	71.046		71.005
122	71.046	§ 7	71.011
123	71.046		71.012
	71.058	§ 8	71.008
123a	—	§ 9	71.007
124	71.046		71.013
	71.048	§ 10	71.009
	71.049	§ 11	—
	71.058	§ 12	71.009
125	71.047	135a-2, § 1(1)	—
126	71.044	§ 1(2)	72.001
	71.045		72.021
126a	—		72.024
126b	—	§ 2(1)	72.003
127	71.050	§ 2(2)	72.006
127a		§ 2(3)	72.064
to		§ 2(4)	72.005
127d	—	§ 2(5)	72.005
128	71.051	§ 2(6)	72.064
128a, § 1	121.001	§ 2(7)	72.064
§ 2	121.007	§ 2(8)	72.004
§ 3	121.003	§ 2(9)	72.002
	121.005	§ 3(1)	72.002
§ 4	121.004	§ 3(2)	72.011
to			72.014
	121.006	§ 3(3)	72.011
	121.008	§ 3(4)	72.022
§ 4a	121.009	§ 3(5)	72.011
§ 5	121.006	to	
§ 6	121.004		72.013
§ 7	121.010	§ 3(6)	72.021
129	71.055		72.023
129a	—		72.062
130	71.054	§ 3(7)	72.025
131	71.053		72.063
131a, § 1	71.052	§ 3(8)	72.025
§ 1a	71.052	§ 3(9)	72.062
§ 2	71.052		72.063
§ 3	71.058	§ 4(1)	72.041
132	71.043	§ 4(2)	72.026
133	71.056	§ 4(3)	72.042
135	71.041	§ 4(4)	72.042
	71.057		72.043
	73.001	§ 4(5)	72.043
135.1	—	§ 5(1)	72.043
135a-1, § 1	71.001	§ 5(2)	72.044
	71.005		

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
135a—2, § 5(3)	72.045	135b—4, § 17(c)	75.023
§ 5(4)	72.015	135b—5a, § 1	—
	72.064	§ 2(1)	76.001
§ 5(5)	72.044	§ 2(2)	76.201
§ 6	72.061	§ 2(3)	76.001
135a—3, § 1	71.001	§ 2(4)	76.001
	71.005	§ 2(5)	76.110
	73.008	§ 2(6)	76.108
§ 2	73.004	§ 2(7)	76.001
§ 3	73.006	§ 2(8)	76.110
§ 4	73.006	§ 2(9) to (11)	76.001
§ 5	73.006	§ 2(12)	76.105
	73.007	§ 2(13)	76.001
§ 6	73.009	§ 2(14)	76.005
135a—4	12.018	§ 2(15) to (18)	76.001
135b—4, § 1	75.001	§ 2(19)	76.021
§ 2(a)	75.003	§ 2(20) to (25)	76.001
§ 2(b)	75.003	§ 2(26)	76.109
§ 2(c)	75.002	§ 2(27)	76.001
§ 2(d)	75.002	§ 2(28)	76.002
§ 2(e)	75.021	§ 2(29)	76.001
§ 2(f)	75.004	§ 2(30)	76.077
§ 2(g) to (j)	75.002	§ 2(31)	76.001
§ 3(a)	75.004	§ 2(32)	76.112
§ 3(b)	75.004	§ 2(33) to (35)	76.001
§ 3(c)	75.005	§ 2(36)	76.003
§ 4(a)	75.006	§ 2(37)	76.003
	75.012	§ 2(38)	76.001
§ 4(b)	75.013	§ 3	76.021
§ 4(c)	75.014		to
§ 5(a)	75.006		76.023
§ 5(b)	75.006	§ 4	—
	75.008	§ 5(a)	76.041
	75.011	§ 5(b) to (d)	76.042
	to	§ 5(e)	76.043
	75.013	§ 5(f)	76.044
§ 5(c)	75.006	§ 5(g)	76.043
§ 5(d)	75.009	§ 5(h)	76.044
§ 6(a)	75.016	§ 5(i)	76.045
§ 6(b)	75.016	§ 5(j)	76.046
§ 6(c)	75.017	§ 6	76.047
§ 7(a)	75.004	§ 7	76.048
	75.016	§ 8(a)	76.004
§ 7(b)	75.010	§ 8(b)	76.003
§ 8(a)	75.018	§ 9(a)	76.071
§ 8(b)	75.019		76.073
§ 9	75.012	§ 9(b)	76.071
§ 10	75.007		to
	75.015		76.073
§ 11	75.006	§ 9(c)	76.071
§ 12	75.020	§ 9(d)	76.074
§ 13	75.021	§ 9(e)	76.073
§ 14	75.024	§ 9(f)	76.075
§ 17(a)	75.022	§ 9(g)	76.077
§ 17(b)	75.023	§ 10	76.076

# AGRICULTURE CODE

321I

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
135b-5a, § 11(a)	76.151	135b-5a, § 32	76.201
	76.152		76.202
§ 11(b)	76.153	§ 33	76.008
§ 11(c)	76.153	135b-7, § 1	77.001
	76.183	to	77.003
§ 11(d)	76.154	§ 2	77.004
§ 12	76.006	§ 3	77.005
§ 13(a)	76.201	135c, § 2	78.002
	76.203		78.011
§ 13(b)	76.201	§ 3	78.001
§ 13(c)	76.201		78.003
§ 14(a)	76.203	to	78.005
§ 14(b)	76.041		78.042
§ 15(a)	76.101	§ 4	78.013
§ 15(b) to (f)	76.102	§ 5	78.011
§ 15(g)	76.107	§ 6	78.011
§ 15(h)	76.103		78.012
§ 16	76.104		78.021
§ 17	76.105	§ 7	78.014
	76.117		78.015
§ 18	76.106	§ 8	78.016
§ 19(a)	76.108	§ 9	78.017
§ 19(b)	76.108	§ 10	78.018
§ 19(c)	76.108	§ 11	78.019
	76.110	§ 12	78.019
§ 19(d)	76.108	§ 13	78.020
	76.111	§ 13a	78.052
§ 19(e)	76.111	§ 14	78.031
§ 19(f)	76.108		78.032
§ 19(g)	76.108		78.035
§ 20(a)	76.109	§ 15	78.033
§ 20(b)	76.109	§ 16	78.041
§ 20(c)	76.109	§ 17	78.045
	76.110	§ 18	78.042
§ 20(d)	76.109	to	78.044
§ 21	76.112	§ 19	78.051
§ 22	76.110		78.053
§ 23	76.113	to	78.055
§ 24	76.114	§ 19a(a)	78.056
§ 25	76.115	§ 19a(b)	78.057
§ 26(a)	76.116	§ 19A	78.071
	76.201	§ 20	78.034
§ 26(b)	76.201		78.036
§ 27(a)	76.181		78.041
§ 27(b)	76.182	§ 21	78.061
§ 27(c)	76.182	to	78.063
§ 28	76.184	§ 22	78.064
§ 29	76.131		78.065
§ 30(a)	76.151	150	43.002
§ 30(b)	76.151		
§ 30(c)	76.154		
	76.155		
§ 30A	76.156		
§ 31	76.007		
	76.201		

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
151	43.003	165a—4, § 3(9)	201.002
	to	§ 3(10)	—
	43.005	§ 3(11)	201.003
152	43.006	§ 3(12)	—
153	43.007	§ 3(13)	201.004
154	43.008	§ 3(14)	201.002
155	43.009	§ 3a	—
156	43.009	§ 4(A)	201.011
	43.017		201.012
157	43.010	§ 4(C)(a)	201.014
158	43.011		201.015
159	43.012	§ 4(C)(b)	201.014
160	43.013		201.015
161	43.014	§ 4(C)(c)	201.015
162	43.009	§ 4(D)	201.016
	43.015		201.017
	43.016		201.019
163	43.016	§ 4(E)	201.018
163a, § 1	43.007		to
§ 2	43.007		201.020
§ 3	43.017		
164	43.031	§ 4(F)	201.019
	to		201.021
	43.033		
165	43.051	§ 4(G)	201.022
	to	§ 4(H)	201.023
	43.053	§ 4(I)	201.025
165a—2, § 1	202.003	§ 5(A)	201.041
	202.004	§ 5(B)	201.042
	202.013		201.045
§ 2	202.011	§ 5(C)	201.043
	202.012	§ 5(D)	201.004
§ 3	202.003		201.042
	202.013		201.043
§ 4	202.021	§ 5(E)	201.044
§ 5	202.002	§ 5(F)	201.042
	202.022		201.046
	202.031		to
	202.032		201.048
§ 6	202.023		201.050
§ 7	202.033		201.071
	202.036		201.101
§ 8	202.042	§ 5(G)	201.045
	to	§ 5(H)	201.050
	202.045	§ 5(I)	201.049
§ 9	202.046	§ 6(a)	201.073
§ 10	202.047		201.074
§ 11	202.034	§ 6(b)	201.074
§ 12	202.035	§ 6(c)	201.073
§ 13	—		201.075
165a—3	—	§ 6(d)	201.071
165a—4, § 1	—		201.072
§ 2	201.001	§ 6(e)	201.075
§ 3(1) to (4)	201.002		201.079
§ 3(6)	—	§ 6(f)	201.073
§ 3(7)	—	§ 6(g)	201.076
§ 3(8)	201.002	§ 6(h)	201.077

AGRICULTURE CODE

321K

Civ. St. Article	Agriculture Code Section	Civ. St. Article	Agriculture Code Section
165a-4, § 6(h)	201.078	165a-4a, § 5(b)	42.006
	201.081	§ 6	42.007
§ 6(i)	201.079	165-4b	42.003
	201.080	165-4c, § 1(1)	113.001
§ 6(j)	201.076	§ 1(2)	113.002
§ 6(k)	201.103	§ 1(3)	113.002
§ 7	201.101	§ 1(4)	113.001
	to	§ 2(a)	113.002
	201.104	§ 2(b)	113.006
	201.106	§ 3(a)	113.003
	to	§ 3(b)	113.003
	201.108	§ 3(c)	113.004
§ 8	201.121	§ 4	113.005
	to	§ 5	113.007
	201.127	§ 6	113.009
§ 9	201.128	§ 7	—
§ 10(A)	201.129	165-6, § 1(a) to (c)	16.001
§ 10(B)	201.130	§ 1(d)	16.002
§ 10(C)	201.131	§ 1(e)	16.001
	to	§ 1(f)	16.004
	201.133	§ 1(g)	16.003
§ 11	201.103	§ 1(h)	16.004
§ 12	201.103	§ 2	16.002
§ 13	—		16.010
165a-4a	201.024	§ 3	16.005
165a-5	201.151		16.010
165a-6	201.151	§ 4	16.007
165a-7	201.151	§ 5	16.006
165a-10, § 1	—		16.008
§ 2	201.080	§ 6	16.010
§ 3(a)	201.079	§ 7	16.010
§ 3(b) to (d)	201.080	§ 8	16.009
§ 4	201.105	§ 9	16.010
§ 5	201.105	165-7	133.001
§ 6	201.107	165-7a	133.001
§ 7	201.051	165-8, § 1	132.001
§ 8	201.051		132.003
§ 9	201.013	§ 2	132.001
§ 9A	201.013	§ 3(a)	132.004
§ 10	201.013	§ 3(b)	132.042
	201.014	§ 3(c)	132.042
165b-1, § 1	—	§ 4	132.001
§ 2	251.001		132.042
§ 3	251.002	§ 5	132.082
	251.003	§ 6	132.084
	251.005	§ 7	132.045
§ 4	251.004	§ 8	132.003
§ 5	251.005		132.006
165-4a, § 1	42.001		132.041
§ 2	42.002		132.083
	42.004	§ 9	132.003
§ 2b	42.002		132.044
§ 3	—		132.046
§ 4	42.003		132.047
§ 5(a)	42.005		132.084

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
165—8,	§ 10 ----- 132.045	565b,	§ 2(b) ----- 131.103
	§ 11 ----- 132.002		§ 2(c) ----- 131.104
	§ 12(a) ----- 132.003		§ 2(d) ----- 131.105
	§ 12(b) ----- 132.005		§ 2(e) ----- 131.105
	§ 12(c) ----- 132.071		§ 3 ----- 131.153
	§ 12(d) ----- 132.005	1109k	----- 201.152
	§ 12(e) ----- 132.003	1281	----- 147.001
	§ 13 ----- 132.007		147.002
	§ 14 ----- 132.021	1281a	----- 147.001
	132.023		147.002
	§ 15 ----- 132.022	1282	----- 147.021
	132.025		147.022
	132.029		147.026
	§ 16 ----- 132.024		147.028
	to	1282a	----- 147.061
	132.028	1283	----- 147.004
	§ 16-A ----- 132.043		147.022
	§ 17(a) ----- 132.003		to
	132.061		147.024
	§ 17(b) ----- 132.062	1284	----- 147.025
	§ 17a ----- 132.003	1285	----- 147.026
	§ 19 ----- 132.072		147.027
	132.081	1285a	----- 147.027
549	----- 131.001		147.062
	131.002	1286	----- 147.005
549a	----- 131.001	1286a	----- 147.063
550	----- 131.021	1286b	----- 147.064
551	----- 131.022	1287	----- 147.028
552	----- 131.025		147.029
553	----- 131.028	1287a,	§ 1 ----- 147.001
	131.029		to
554	----- 131.028		147.003
555	----- 131.023	§ 2	----- 147.021
556	----- 131.024		147.022
557	----- 131.026		147.026
558	----- 131.031		147.028
559	----- 131.003	§ 3	----- 147.004
560	----- 131.027		147.022
561	----- 131.030		to
562	----- 131.021		147.024
563	----- 131.033		147.041
564	----- 131.032	§ 3a	----- 147.003
564a	----- 131.023		147.042
	to	§ 3b	----- 147.065
	131.027	§ 4	----- 147.025
	131.151	§ 5	----- 147.026
565	----- 131.004		147.027
565a,	§ 1(a) ----- 131.051	§ 6	----- 147.005
	§ 1(b) ----- 131.051	§ 7	----- 147.028
	§ 1(c) ----- 131.052		147.029
	§ 2 ----- 131.053	§ 8	----- 147.001
	§ 3 ----- 131.054		147.002
	§ 4 ----- 131.152	§ 9	----- 147.041
565b,	§ 1 ----- 131.101		147.061
	§ 2(a) ----- 131.102		

AGRICULTURE CODE

321M

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
1287a, § 10	147.063	1287-3, § 13	101.016
§ 11	147.064	§ 14(a)	101.012
§ 12	147.027		101.018
	147.062	§ 14(b)	101.018
1287-1, § 10	—	§ 15	101.017
1287-2	—		101.020
1287-3, § 1(a)	101.001	§ 16	101.014
§ 1(b)	101.001	§ 17	101.015
	101.002		101.020
§ 1(c)	101.001	§ 18	101.019
§ 1(d)	101.001	§ 19	101.020
	101.003		103.002
	101.004		103.013
§ 1(e)	101.003	§ 20	101.004
§ 1(f)	101.010		101.005
§ 1(g)	101.010		101.006
§ 1(h)	101.001		101.020
§ 1(i)	101.001		103.011
§ 1(j)	101.004	§ 21	101.006
§ 1(k)	101.001		102.006
§ 2	101.003		103.011
§ 3	101.005	§ 21a	101.003
§ 4	101.006	§ 23	101.021
	101.007	1514	56.002
§ 5	101.006	1515	56.001
	101.010	1516	56.003
§ 6(a)	103.002		56.005
§ 6(b)	103.003	1517	56.006
§ 6(c)	103.004	1518	56.007
	103.006	1519	56.008
§ 6(d)	103.011	2372c, § 1	—
	103.002	§ 2	—
§ 6(e)	103.005	§ 3	201.151
	to	§ 4	201.151
	103.007	2485	53.002
§ 6(f)	103.008		to
§ 6(g)	103.010		53.004
§ 6(h)	103.009	2485a	53.002
§ 6(i)	103.008		to
§ 6(j)	103.008		53.004
§ 6(k)	103.012	2486	53.001
§ 7	101.008		53.015
	101.012	2486(a)	53.001
§ 8	101.012		53.015
	101.020	2487	53.010
§ 9	101.007	2488	53.011
	101.012	2489	53.011
§ 9a	101.009		53.012
§ 10	101.013		53.014
§ 11	101.013	2489a	53.011
§ 12(a)	101.008		53.012
	101.010		53.014
	101.011	2490	53.021
§ 12(b)	101.010		53.022
§ 12(c)	101.010		
	101.020		

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
2490a	53.021	2514	51.003
	53.022		51.008
2491	53.020		51.012
2492	53.015		51.019
2493	53.017		51.022
	53.019	2515	51.004
2494	53.005		51.006
	53.006		51.012
2495	53.007		51.021
	to	2516	51.002
	53.009		51.009
2495a	53.007	2517	51.009
	to		to
	53.009		51.011
2496	53.023		51.023
2496a	53.023	2518	51.007
2497	53.010		51.024
	53.017		51.025
2497a	53.010	2519	51.005
	53.017		51.014
2498	53.013		51.015
	53.016	2520	51.004
2498a	53.013	2521	51.012
	53.016		51.013
2499	53.018		51.018
2499a	53.018	2522	51.014
2499b	53.024		51.017
2500	54.001	2523	51.010
	54.003		51.016
2501	54.002	2524	51.020
2502	54.004	3881e, § 1	—
	to	§ 2	141.003
	54.007	§ 3(a)	141.002
2503	54.008	§ 3(b)	141.001
	54.009	§ 3(c)	141.001
2504	54.009	§ 3(d) (part)	141.001
	54.011		141.003
2505	54.012	§ 3(e) to (p)	141.001
	54.013	§ 3(q)	141.073
2506	54.010	§ 3(r)	141.072
2507	54.009	§ 3(s)	141.001
2507a	—	§ 4(a)	141.001
2508	55.002		141.053
2509	55.001	§ 4(b)	141.071
2510	55.004	§ 4(c)	141.002
	55.006	§ 4(d)	141.006
2511	55.003	§ 5(a)	141.002
	55.005		141.021
	55.009		141.022
2512	55.008		141.023
	to	§ 5(b)	141.021
	55.010	§ 5(c)	141.024
2513	55.007	§ 5(d)	141.025
		§ 5(e)	141.022
		§ 6(a)	141.051

AGRICULTURE CODE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
3881e, § 6(b)	141.052	3953	143.122
§ 6(c)	141.053	3954	143.123
§ 7(a)	141.071	4386c	—
	141.077	4386c-1	11.008
§ 7(b)	141.071	4447	166.001
§ 7(c)	141.071		166.002
	141.072		166.004
§ 7(d)	141.051		166.006
	to		to
	141.053		166.009
	141.073	5562	
	to	to	
	141.075	5564	—
	141.076	5566	—
§ 7(e)	141.124	5567	12.019
§ 8	141.054	5568	14.201
	141.148	5569	14.204
§ 9	141.055		to
	141.147		14.206
§ 10(a)	141.101		14.216
§ 10(b)	141.102	5570	14.207
§ 10(c)	141.103		to
§ 10(d)	141.102		14.209
§ 10(e)	141.103	5570a	14.208
§ 10(f)	141.104	5571	14.211
§ 10(g)	141.104	5572	14.210
§ 10(h)	141.105	5573	14.207
§ 11	141.004		14.212
	141.005	5574	14.213
	141.071	5577	14.214
§ 12(a)	141.121	5577a	—
§ 12(b)	141.122	5577b, § 1	—
§ 13	141.142	§ 2(a)	14.001
	to	§ 2(b)	14.001
	141.148	§ 2(c)	14.001
§ 14(a)	141.125		14.003
	141.142	§ 2(d)	14.001
	to		14.002
	141.148	§ 2(e) to (g)	14.001
§ 14(b)	141.141	§ 2(h)	14.001
§ 14(c)	141.126		14.017
§ 14(d)	141.123	§ 2(i) to (l)	14.001
§ 14(e)	141.125	§ 2(m)	14.022
§ 14(f)	141.025	§ 3(a)	14.003
	141.076	§ 3(b)	14.003
§ 15	141.005		14.026
§ 18	—	§ 3(c)	14.003
§ 19	141.127	§ 4(a)	14.004
3947	143.001		14.016
	143.002	§ 4(b)	14.006
3948	143.003	§ 4(c)	14.006
3949	143.004	§ 5(a)	14.005
3950	143.003	§ 5(b)	14.005
3951	143.005	§ 5(c)	14.007
3952	143.121	§ 6	14.005

## DISPOSITION TABLE

Civ. St. Article	Agriculture Code Section	Civ. St. Article	Agriculture Code Section
5577b,	§ 7 ----- 14.009	5599	----- 14.119
	§ 8 ----- 14.010	5600	----- 14.120
	§ 9 ----- 14.011	5601	----- 14.123
	§ 10 ----- 14.012		----- 14.215
	§ 11 ----- 14.013	5602	----- 14.124
	§ 12 ----- 14.014	5603	----- 14.125
	§ 13 ----- 14.015	5608	----- 14.121
	§ 14 ----- 14.016	5610	----- 14.126
	§ 15 ----- 14.017		to
	§ 16 ----- 14.018		14.129
	§ 17 ----- 14.021	5611	----- 14.102
	§ 18 ----- 14.023		14.202
	§ 19 ----- 14.019	5666	----- 111.001
	§ 20 ----- 14.022	5675	----- 111.003
	§ 21 ----- 14.008	5676	----- 111.004
	§ 22 ----- 14.020	5677	----- 111.004
	§ 23 ----- 14.024		111.005
	§ 24 ----- 14.025	5678	----- 111.005
	§ 25(a) ----- 14.027	5679	----- 111.006
	§ 25(b) ----- 14.028	5679a,	§ 1 ----- 112.001
	§ 25(c) ----- 14.029		§ 2 ----- 112.002
	§ 25(d) ----- 14.030		§ 3 ----- 112.003
	§ 25(e) ----- 14.031		§ 4 ----- 112.005
	§ 25(f) ----- 14.032		----- 112.006
	----- 14.033		§ 5 ----- 112.008
	§ 25(g) ----- 14.034		§ 6 ----- 112.004
	§ 25(h) ----- 14.035		§ 7 ----- 112.001
	§ 26 ----- 14.002		----- 112.005
	§ 27 ----- —		§ 8 ----- 112.007
	§ 28 ----- —		§ 9 ----- 112.009
	§ 29 ----- —		§ 10 ----- 112.009
5578	----- 14.101		§ 11 ----- —
	----- 14.108	5679a—1	----- —
5579	----- 14.109	5679b	----- 113.008
5580	----- 14.110	5679c	----- 113.008
	to	5679d	----- —
	14.112	5679e	----- —
5581	----- 14.104	5679f	----- 111.007
5582	----- 14.105	5679g	----- —
5583	----- 14.106	5679h	----- 111.002
5584	----- 14.108		111.003
5585	----- 14.117		111.007
5586	----- 14.118	5680	----- 13.251 et seq.
5587	----- 14.118	5680a	----- 13.251 et seq.
5588	----- 14.130	5680b,	§ 1 ----- 13.251
5589	----- 14.113		§ 2 ----- 13.252
5590	----- 14.114		§ 3 ----- 13.253
5591	----- 14.122		§ 4 ----- 13.254
5592	----- 14.107		§ 5 ----- 13.255
5593	----- 14.119		§ 6 ----- 13.256
5594	----- 14.116		§ 7 ----- 13.257
5595	----- 14.115		§ 8 ----- 13.258
5596	----- 14.203		§ 9 ----- 13.259
5597	----- 14.203		§ 10 ----- 13.260
5598	----- 14.103	5681	----- 13.251 et seq.

# AGRICULTURE CODE

321Q

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
5683		5726a	13.120
to		to	
5704—A	13.251 et seq.		13.122
5705	13.002	5726b	13.118
	13.003		13.122
	13.104	5726c	13.117
5706	13.004		13.122
	13.104	5726d	13.039
5707	13.005		13.041
5707a	13.103	5727	13.110
	13.122		13.111
5708	13.109	5727a	13.119
5708a	—		13.122
5709	13.104	5728	13.115
	13.106	5729	13.001
5710	13.108	5730	13.021
5711	13.006		13.022
5712	13.113	5731	13.023
5713	13.002	5732	13.024
	13.113	5733	13.025
5714	13.027	5733a, §§ 1 to 4	13.029
	13.041	§ 5	13.041
	13.114	5734	13.023
	13.122		13.026
5714a	13.105		13.028
	13.107	5736	13.021
5715	13.113	5736a	13.203
5716	13.113		13.204
5717	13.002		13.208
	13.120		13.209
5718	13.113	5736b	13.207
5719	13.113		13.212
5720	13.112	5736c(a)	13.205
5721	13.106		13.212
5722	13.106	5736c(b)	13.207
5722a	13.106		13.212
	13.122	5736d	13.206
5723	13.106		13.208
	13.108		to
5724	13.101		13.210
	13.102	5736e	13.206
5725	13.101	5736f	13.211
	13.102	5736g, § 2(a) to (c)	13.202
5726	13.039	§ 2(d)	13.204
	13.101	§ 3	13.204
	13.108	§ 4	13.202
	13.110	5736—1	—
5726a	13.001	5737	52.001
	13.021	5738	52.002
	13.030		52.003
	to		52.012
	13.041		52.121
	13.116	5739	52.031
			52.061

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
5740	52.011	5764a, § 9	102.160
5741	52.032	§ 10	102.161
5742	52.012	§ 11	102.164
	52.013	§ 12	102.163
5742—A	51.004	§ 13	102.167
5743	52.063	§ 14(1)	102.165
	52.081	§ 14(2)	102.171
5744	52.033	§ 14(3)	102.168
	to	§ 14(4)	102.169
	52.037	§ 14(5)	102.168
	52.063	§ 14(6)	102.170
	52.082	§ 14(7)	102.170
	52.101	§ 15(1)	102.159
5745	52.037	§ 15(2)	102.158
5746	52.051		102.159
	52.052	§ 16(1)	102.166
	52.086	§ 16(2)	102.166
5747	52.083	§ 16(3)	102.167
	52.084	§ 16(4)	102.167
5748	52.101	§ 17	102.155
5749	52.102		102.159
5750	52.062		102.162
	to	§ 18(1)	102.167
	52.065	§ 18(2)	102.159
	52.085		102.167
	52.087	§ 18(3)	102.167
5751	52.103	§ 19	102.172
5752	52.105	§ 20	102.167
5753	52.016	§ 21	102.153
	52.131	6890	144.001
5754	52.066		144.041
5755	52.152	6890a	144.121
5756	—	6890b	144.122
5757	52.104	6890c	144.123
5758	52.014	6891	144.021
5759	52.015	6892	144.022
5760	52.038	6893	144.023
5761	52.132	6894	144.024
5762	52.005	6895	144.002
5763	52.004	6896	144.003
	52.013	6897	144.043
	52.122	6898	144.041
5764	52.151		144.042
5764a, § 1	102.151	6898a	144.042
§ 2(a) to (f)	102.152		144.124
§ 2(g)	102.152	6899, § 1	144.041
	102.153		144.043
§ 2(h) to (j)	102.152	§ 1a	144.001
§ 3	102.154	6899a	
§ 4	102.155	to	
§ 5	102.156	6899i	—
§ 6	102.156	6899j, § 1(a) to (c)	144.044
§ 7	102.157	§ 1(d)	—
§ 8	102.157	§ 2	—
	to	§ 3	144.044
	102.159		

# AGRICULTURE CODE

321S

Civ.St. Article	Agriculture Code Section		Civ.St. Article	Agriculture Code Section
6899—1, § 1	144.102		6910b, § 4	148.026
§ 2	144.103		§ 5	148.026
§ 3	144.104		§ 6	148.027
§ 4	144.105		§ 7	148.028
§ 5	144.106		6927a, § 1	—
§ 6	144.110		§ 2	142.001
§ 7	144.110		§ 3(1)	142.006
§ 8	144.109		§ 3(2)	142.006
§ 9	144.108		§ 3(3)	142.002
	144.110		§ 3(4)	142.004
§ 10	144.107		§ 3(5)	142.006
	144.127		§ 3(6)	142.004
	144.128		§ 3(7)	142.007
6903	146.001		§ 4(a)	142.003
6904	148.012		§ 4(b)	142.003
6904a	148.064		§ 4(c)	142.004
6905	146.002		§ 5	142.005
6905a	146.006		§ 6	142.006
6906	146.002		§ 7	142.007
6907	146.003		§ 8	142.010
	148.012		§ 9	142.011
6907a	146.004		§ 10	142.008
	146.007		§ 11	142.009
6908	148.042		6928	143.023
	to		6929	143.056
	148.045		6930	143.021
6908a	148.042		6931	143.021
	148.065			143.027
6908b	148.002		6932	143.021
	148.061		6933	143.022
6908c	148.066		6934	143.022
	148.067		6935	143.023
6908d	148.043		6936	143.023
	148.066		6937	143.023
6908e, § 1(a)	—			143.024
§ 1(b)	148.001		6938	143.029
	148.011		6939	143.032
§ 2	148.011		6940	143.029
§ 3	148.063			143.032
§ 4	—		6941	143.025
§ 5	148.011		6942	143.028
6908f—1	148.003			143.029
	148.062		6942a, § 1	143.132
6908f—2	148.003			143.133
6908g	148.069		§ 1-a	143.132
6909	148.044		§ 1-b	143.131
6909a	148.044		§ 2	143.134
	148.068		§ 2-a	143.133
6910	148.041		6943	143.029
6910a	148.041			143.033
6910b, § 1	148.021		6944	143.026
§ 2	148.022		6945	143.026
	to		6946	—
	148.024		6946a	143.034
§ 3	148.025		6946b	143.082

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
6947	143.051	6980	
6948	143.052	to	
	143.053	6982	146.069
6949	143.052	6983	146.058
6950	143.053		146.060
6951	143.053	6983a	146.077
6952	143.053	6983b	146.005
	143.054		146.008
6953	143.055	6984	146.058
6954	143.071	6984a	146.078
6954a	143.071	6984b	146.079
	143.079	6985	146.061
	143.082	6985a	146.071
6955	143.072	6986	144.073
6956	143.071	6986a	144.126
6957	143.071	6987	146.066
6958		6987a	146.075
to		6988	146.062
6961	143.073	6989	146.067
6962	143.073	6990	146.067
	143.074	6990a	146.076
6963	143.076	6990b	146.076
6964	143.075	6990c	146.080
6965	143.031	6991	
	143.080	to	
6966	143.078	6994	146.068
6967	143.030	6995	144.072
	143.079	6996	144.072
6968	143.081		146.058
6969	143.032	6997	—
	143.081	6997a	—
6970	143.032	6998	144.074
	143.081	6998a	144.074
6971	143.077		144.125
6971a, § 1	143.101	6999	146.059
	143.102	7000	146.060
	143.108		146.061
§ 2	143.103	7001	146.065
§ 3	143.104	7002	146.064
§ 4	143.105	7003	146.064
§ 5	143.106	7004	146.063
	143.107	7005	146.052
6972	146.051	7005—1	146.052
	146.053	7005—2	146.052
6973	146.055	7006	146.054
6974	146.056	7007	146.054
6975	146.057	7008	146.070
6976	146.051	7008a, § 1	146.021
6977	146.058	§ 2	146.022
6978	146.060	§ 3 (part)	146.023
6978a	146.072		146.024
6978b	146.073	§ 4	146.025
6978c	146.074	7009(a)	146.021
6978d	146.073		161.023
6979	146.052		161.024

AGRICULTURE CODE

321U

Civ.St. Article	Agriculture Code Section
7009(b)	161.021
	161.022
	161.025
	161.026
7009b	161.001
7009c	161.027
7014a (part)	165.002
7014b	161.140
7014c, § 1(a)	—
§ 1(b)	—
§ 1(c)	—
§ 1(d)	161.111
§ 1(e)	—
§ 1(f)	161.113
§ 2	161.112
§ 2a	161.112
§ 3	161.113
	161.115
	161.146
§ 4	161.113
§ 5	161.114
§ 6	161.146
§ 7	161.146
7014d, § 1	161.048
§ 2	161.048
§ 3	161.139
§ 4	161.048
7014e-1, § 1	164.083
§ 1a	164.023
§ 2	164.021
	164.024
§ 3	164.025
§ 4	164.026
§ 5	164.024
	164.026
§ 6	164.002
	164.004
§ 7	164.044
	164.084
§ 8	164.007
§ 9	164.027
§ 10	164.021
§ 11	164.021
	164.022
§ 12	164.005
	164.085
§ 13	164.045
§ 14	164.045
§ 15	164.086
§ 16	164.046
§ 17	164.046
	164.087
§ 18	164.003
	164.004
	164.007
	164.028

Civ.St. Article	Agriculture Code Section
7014e-1, § 19	164.005
	164.085
§ 20	164.003
§ 21	164.084
§ 22	164.061
	to
	164.065
	164.088
§ 23	164.061
§ 24	164.081
	164.082
§ 25	164.041
	to
	164.043
§ 26	164.006
7014e-2	
to	
7014e-5	—
7014f-1, § 1	161.001
	161.041
	161.042
	161.046
	161.061
	162.004
	to
	164.006
	167.101
§ 1(a)	161.001
§ 2	161.007
	161.134
	164.002
§ 3	161.062
	to
	161.064
§ 4	161.063
	161.065
	161.141
	164.041
§ 5	161.061
	161.065
	161.141
§ 6	161.047
	161.138
	164.005
§ 7	161.002
§ 8	161.003
§ 9	161.081
	to
	161.083
	161.143
§ 10	161.082
§ 11	161.081
	161.083
	161.084

## DISPOSITION TABLE

Civ.St. Article	Agriculture Code Section	Civ.St. Article	Agriculture Code Section
7014f-1, § 11	161.086	7014f-1, § 23A(7)	163.021
	161.087		163.022
	161.143		163.024
§ 12	161.085		163.025
	161.143	§ 23A(8)	163.024
§ 13	161.084		163.081
	161.086	§ 23A(9)	163.025
§ 14	162.005		163.041
	162.006	§ 23A(10)	163.066
	162.012	§ 23A(10a)	163.064
§ 15	162.004	§ 23A(11)	163.061
	162.005	§ 23A(12)	163.066
	162.011		163.084
§ 16	161.043	§ 23A(13)	163.063
	161.044		163.083
	161.136	§ 23A(14)	163.063
	161.137	§ 23A(15)	163.062
§ 17	161.006	§ 23A(16)	163.064
§ 18	161.141	§ 23A(17)	163.025
			163.082
§ 19	161.133	§ 23A(18)	163.065
§ 20	161.066	§ 23A(19)	—
§ 21	161.004	§ 23A(20)	163.061
	161.135	§ 23A(21)	163.067
§ 22(1)	162.002	§ 23B	163.076
	162.003	§ 24	161.005
	162.007	§ 25	161.132
	162.008	§ 26	161.065
	162.012		164.044
§ 22(2)	162.009	§ 27	161.131
§ 22(3)	162.009	§ 28	161.141
§ 22(4)	162.010	7014f-1a	163.068
§ 22(5)	162.010	7014f-2	166.003
§ 22(6)	162.013		166.011
§ 22(6a)	162.008	7014f-3	166.005
§ 22a(1)	165.021		166.013
§ 22a(2)	165.022	7014f-4	166.004
§ 22a(3)	165.023		166.012
§ 22a(4)	165.024	7014f-5	166.010
§ 22a(5)	165.025		166.014
§ 22a(6)	165.025	7014f-6	
§ 22a(7)	165.026	to	
§ 22a(7a)	165.026	7014f-8	161.142
§ 22a(8)	165.026	7014f-9, § 1	165.003
§ 22a(9)	—	§ 2	165.003
§ 22a(10)	165.027	§ 3	165.042
§ 22a(11)	165.022	§ 4	165.003
§ 22a(12)	165.041	7014f-10, § 1	161.101
§ 23	165.045	§ 2	161.102
§ 23A(1) to (3)	163.002	§ 3	161.101
§ 23A(4)	163.021	§ 4	161.103
§ 23A(4A)	163.025	§ 5	161.145
§ 23A(5)	163.021	7014f-11, §§ 1 to 6	161.116
§ 23A(6)	163.022	§ 7	161.146
	163.023	§ 8	161.146

AGRICULTURE CODE

321W

Civ.St. Article	Agriculture Code Section
7014f—11, § 9	161.116
7014f—12, § 1	163.065
§ 2	163.085
§ 3	163.085
7014f—13	163.086
7014f—14, § 1	—
§ 2	—
§ 3	161.141
§ 4	—
§ 5	—
§ 6	—
7014g—1, § 1	167.003
§ 2	167.001
	167.004
	167.005
	167.056
§ 3	167.005
	167.006
	167.021
	167.025
§ 4	167.022
	167.024
§ 5	167.057
	167.059
	167.101
§ 6	167.101
§ 7	167.059
§ 8(a)	167.057
§ 8(b)	167.110
§ 9	167.142
§ 10	167.004
	167.051
	167.052
	167.057
	167.058
§ 11	167.052
	167.141
§ 12	167.053
	167.054
§ 13	167.002
	167.055
§ 14	167.111
§ 15	167.103
	167.107
	167.108
§ 16	167.107
	167.108
§ 17	167.001
§ 18	167.106
	167.108
§ 19	167.104
	167.108
§ 20	167.028
	167.105
	167.108
	167.136

Civ.St. Article	Agriculture Code Section
7014g—1, § 21	167.026
	167.027
	167.132
	to
	167.135
§ 22	167.030
	167.137
§ 23	167.081
	to
	167.083
	167.106
	167.143
§ 24	167.102
	167.144
§ 25	167.007
	167.023
	167.051
§ 26	167.060
§ 27	167.029
	167.101
§ 28	167.113
§ 29	167.106
§ 30	167.132
§ 31	—
§ 32	167.031
	167.032
	167.033
	167.138
	to
	167.140
§ 33	167.021
	167.109
§ 34	167.001
	167.112
§ 35	167.003
§ 36	167.003
§ 37	167.008
	167.131
§ 37a	167.003
7014g—2, § 1	167.026
	167.027
§ 2	161.088
§ 3	167.026
	167.027
§ 4	161.144
	167.133
7014h—1, § 1	168.001
§ 2	168.002
§ 3	168.003
§ 4	168.004
§ 5	168.005
§ 6	168.006
§ 7	168.007
§ 8	168.008

## DISPOSITION TABLE

General & Special Laws Citation	Agriculture Code Section	General & Special Laws Citation	Agriculture Code Section
39th Legis., R.S., Ch. 13	-----	48th Legis., R.S., Ch. 64	-----
42nd Legis., R.S., S.L., Ch. 121	-----	48th Legis., R.S., Ch. 243, Sec. 1	..146.052
46th Legis., R.S., G.L., Ch. 5, P. 41, Sec. 13	-----102.022	56th Legis., R.S., Ch. 192	-----
47th Legis., R.S., Ch. 308, Sec. 5(c) (part)	-----201.022	56th Legis., R.S., Ch. 280, Sec. 3A	---
		59th Legis., R.S., Ch. 176, Sec. 1	---
		Sec. 2	---

# INDEX TO AGRICULTURE CODE

References are to Sections

## DOMINION

Check, exports and imports, sales, 142.024.

## OFFICE AND ABSENTEES

Agricultural commissioner, 11.007.

## ESTABLISHMENTS

142.011.

## TESTS AND ACCOUNTING

Fruits, examination, 102.019.

Commodity producers board, 41.059.

Pink bollworm control, 74.081 et seq.

Markets and warehouses, 14.022.

Markets and nursery products, inspection fees, 71.056.

Soil and water conservation, districts, 1.080.

Assessments, contributions, inspection and weighing, 92.035.

Complaints, examination, 1.018.

Warehouse receipts, 14.022.

Erosion conservation districts, assessments, 202.036.

## ACKNOWLEDGMENT

Check, bill of sale, 146.058.

## TESTS AND PROCEEDINGS

Diseases and Pests, this index.

Disease control, 131.031 et seq.

Fruits, this index.

Commercial feed, 141.125.

Cooperative marketing associations, contracts breach, 52.131, 52.132.

Weighting, improper baling, 111.005.

Assessments, 112.003.

Markets and Dairy Products, this index.

Markets and ranch loan security bonds, variability, 252.055.

141.125.

Inspection fees, 141.124.

Assessments, grazing lands, 143.133.

Assessments, 63.125.

Inspection or collection fees, 63.124.

Assessments, 75.019

Agricultural Products, this index.

Assessments, generally, this index.

Inspection, generally, this index.

Check, this index.

Markets and Warehouses, this index.

Control of a fruit fly, 72.006, 72.042.

Inspection, preservation of agricultural operations, 251.001 et seq.

Assessments, 76.155.

Assessment, weighing, 13.266.

Assessment control, dipping, 164.022.

Markets and Plants, this index.

Markets and slaughtering houses,

Assessments (officers and fiduciaries), 18.042.

Assessment and water conservation, 201.101.

Assessment-use regulations, 201.128.

## ACTIONS AND PROCEEDINGS

—Cont'd

Subpoenas, generally, this index.

Tick eradication, corporate offenders, 167.113.

Vegetables, handling or marketing violations, 101.019.

Venue, generally, this index.

Warehouse corporations, 14.118.

Weights and Measures, this index.

Wind erosion conservation districts, 202.022.

Assessment lien foreclosure, 202.047.

## ACTIVE INGREDIENT

Defined, pesticides, 76.001.

## ADDRESS

Antifreeze, labeling, 16.005.

Nurseries and nursery products, dealers and agents, 71.057.

## ADJUSTMENT BOARD

Soil and water conservation, 201.129, 201.130.

## ADMINISTRATIVE COMMITTEES

Citrus fruits, marketing agreements or licenses, 102.158, 102.159.

## ADMINISTRATIVE LAW AND PROCEDURE

Citrus fruits, handling license or identification cards,

Cancellation, 102.012.

Refusal, 102.007.

Fertilizers, 63.126.

Vegetables, handling license or identification card, cancellation, 101.012.

Weights and measures, butterfat content, 13.204.

## ADULTERATION

Antifreeze, 16.003.

Fertilizers, 63.143.

## ADVERSE OR PECUNIARY INTEREST

Commodity producers board, 41.104.

Markets and warehouses, examiners, 14.203.

Public weighers, 13.252.

Warehouse corporations, employees, 14.113.

## ADVERTISEMENTS

Agricultural products, fraud, 13.035.

Defined, seeds, 61.001.

Eggs,

Containers, deception, 132.044.

Misleading advertising, 132.084.

Estrays, impoundment, 142.005.

Fertilizers,

False or misleading statements, 63.142.

Label restrictions, 63.053.

Name, Texas agricultural products, 12.017.

## ADVERTISEMENTS—Cont'd

Seeds and plants, fines and penalties, 61.018.

## ADVISORY BOARDS, COMMITTEES AND COUNCILS

Citrus quarantine advisory committee, 72.022.

Dairy advisory board, 13.202.

Egg marketing advisory board, 132.007.

Family farm and ranch advisory council, 252.013.

## AFFIDAVIT OF OWNERSHIP

Estrays,

Recovery, 142.006.

Sale proceeds, recovery, 142.008.

## AFFIDAVITS

Livestock, this index.

Markets and warehouses, examiners, 14.203.

Scabies control, 164.022.

Warehouse receipts, forms, 14.020.

## AFFIRMATION

Oaths and Affirmations, generally, this index.

## AFLATOXIN

Agricultural products, testing, 12.018.

## AGE

Livestock, marking or branding, 144.003.

Noxious weeds,

District directors, 78.031.

Petition signature, eligibility, 78.004.

Soil and water conservation, district election, qualifications, 201.003.

## AGENT FOR SERVICE OF PROCESS

Process, this index.

## AGENTS AND AGENCIES

Agricultural products, 12.019.

Citrus fruits, identification cards, 102.010 et seq.

Farmers cooperative societies, 51.004.

Financial pools, 53.021.

Livestock, this index.

Nurseries and nursery products, registration, 71.057.

Pools, financial pools, 53.021.

Vegetables, identification cards, 101.010 et seq.

Warehouse corporations, liquidation, 14.116.

## AGREEMENTS

Contracts, generally, this index.

## AGRICULTURAL COMMODITY

Agricultural Products, generally, this index.

## AGRICULTURAL EXPERIMENT FARMS AND STATIONS

Generally, 43.001 et seq.

## INDEX TO AGRICULTURE CODE

References are to Sections

**AGRICULTURAL EXPERIMENT****FARMS AND STATIONS—Cont'd**

Ballots, 43.005.  
 Bonds, land and building construction, 43.007.  
 Buildings, 43.010.  
   Construction, 43.007.  
 Compensation and salaries, director, 43.009.  
 Cooperation, 12.015.  
 Definitions, 43.001.  
   Pullorum and typhoid control, 168.001.  
 Demonstration work, 43.031 et seq.  
 Director, 43.009.  
 Elections, 43.003 et seq.  
 Examinations and examiners, director, 43.009.  
 Expenses and expenditures, 43.016.  
   Demonstration work, 43.033.  
 Housing, director, 43.009.  
 Inspection and inspectors, 43.014.  
 Labor and employment, 43.011.  
 Leases, 43.017.  
 Location, 43.008.  
 Machinery and equipment, 43.010.  
 Mail and mailing, reports, 43.013.  
 Orders, election, 43.003.  
 Petition, election order, 43.003.  
 Railway experiment farms, 43.051 et seq.  
 Real estate, 43.007, 43.008.  
 Records and recordation, 43.012.  
 Reports, 43.013.  
 Returns, elections, 43.006.  
 Sales, products, 43.015.  
 Supervision, 43.009.  
 Supplies, 43.010.  
 Taxation, 43.007.  
 Warrants for payment of money, land and building construction, 43.007.

**AGRICULTURAL FINANCE CORPORATIONS**

Generally, 56.001 et seq.

**AGRICULTURAL LABOR AND EMPLOYMENT**

Agricultural experiment farms and stations, 43.011.  
 Agriculture, department of, 12.013.  
 Engineers, 12.012.

**AGRICULTURAL LANDS**

Soil and Water Conservation, generally, this index.

**AGRICULTURAL MACHINERY AND EQUIPMENT**

Machinery and Equipment, generally, this index.

**AGRICULTURAL OPERATIONS**

Defined, 251.002.

**AGRICULTURAL PRODUCTS**

See, also, Horticultural Products, generally, this index.

Generally, 1.001 et seq.  
 Acceptances, nonperishable products, 56.001 et seq.  
 Actions and proceedings, research and promotion assessments, 41.101.  
 Advertisements,  
   Name, 12.017.  
   Prices, 13.035.  
 Aflatoxins, testing, 12.018.

**AGRICULTURAL PRODUCTS—Cont'd**

Agencies, 12.019.  
 Agents, financial pools, 53.021.  
 Allocations, grade, size or quality, 104.102.  
 Ants, fire ant, control, 77.001 et seq.  
 Assessments,  
   Collection, 104.124.  
   Equalization funds, surplus commodities, 104.146.  
   Rates and charges, 41.058.  
   Research and promotion, 41.081 et seq.  
   Stabilization fund, surplus commodities, 104.142.  
 Assets, finance corporations, 56.003.  
 Associations and societies,  
   Cooperative credit associations, 55.001 et seq.  
   Cooperative marketing associations, 52.001 et seq.  
   Cooperatives, 51.001 et seq.  
 Attorneys, marketing committee, employment, 104.125.  
 Bonds (officers and fiduciaries), financial pools, 53.005.  
 Brands, marks and labels, marketing order violations, warnings, 104.183.  
 By-product pool, 104.143, 104.145.  
 Certificates of authority, financial pools, 53.006, 53.009.  
 Charges. Rates and charges, generally, post.  
 Citrus Fruits, generally, this index.  
 Collection, assessments, 104.124  
 Committees, marketing committee, 104.121 et seq.  
 Commodity producers board, 41.001 et seq.  
 Compensation and salaries, marketing committee, 104.123.  
 Confidential or privileged information, producers and handlers list, 104.022.  
 Contracts,  
   Breach or threatened breach, 52.131, 52.132.  
   Cooperative marketing associations, 52.015, 52.016.  
   Research and surveys, 42.004.  
 Cooperatives, 51.001 et seq.  
 Credit associations, 55.001 et seq.  
 Marketing associations, 52.001 et seq.  
 Corporations,  
   Agricultural finance corporations, 56.001 et seq.  
   Cooperative credit associations, 55.001 et seq.  
   Financial pools, 53.001 et seq.  
   Mutual loan corporations, 54.001 et seq.  
   Shares and shareholders, generally, post.  
 Corrections, marketing order deficiencies, 104.185.  
 Cotton, generally, this index.  
 Crimes and offenses, financial pools, 53.024.  
 Deficiencies, marketing order violations, correcting, 104.185.  
 Definitions,  
   Cooperative marketing associations, 52.002.  
   Finance corporations, 56.001.  
   Financial pools, 53.001.  
   Marketing orders, 104.002.  
   Research and promotion, 41.002.

**AGRICULTURAL PRODUCTS—Cont'd**

Demand, increasing, 12.006.  
 Destruction, marketing order violations, 104.185 et seq.  
 Diseases. Plant Diseases and Insect Pests, generally, this index.  
 Disposal,  
   By-product pool, 104.143, 104.145.  
   Surplus commodities, 104.141.  
 Education, 41.001 et seq.  
 Endorsements, nonperishable goods, 56.001 et seq.  
 Exemptions, research and promotion assessments, 41.082.  
 Expenses and expenditures, marketing committee, 104.125.  
 Facilities, surplus commodities, 104.144.  
 Family farm and ranch security program, loans, 252.001 et seq.  
 Fees,  
   Aflatoxins, testing, 12.018.  
   Cooperative credit associations, 55.009.  
   Financial pools, 53.022.  
 Fertilizers, generally, this index.  
 Financial pools, 53.001 et seq.  
 Financial statements and reports, financial pools, 53.023.  
 Fines and penalties,  
   Financial pools, 53.024.  
   Research and promotion assessments, 41.101 et seq.  
 Fire ant, control, 77.001 et seq.  
 Forms, statistics, 12.011.  
 Franchise taxes,  
   Cooperative credit associations, exemption, 55.010.  
   Mutual loan corporations, exemption, 54.013.  
 Fraud,  
   Price advertisements, 13.035.  
   Quantity, 13.036.  
 Fruits, generally, this index.  
 Funds,  
   Equalization funds, surplus commodities, 104.146.  
   Stabilization fund, surplus commodities, 104.142.  
 Gifts and grants, research, 42.004.  
 Grades and grading,  
   Allocation, 104.102.  
   Limitations, 104.101.  
   Standards, 104.103, 104.104.  
 Grapes. Viticultural Products, generally, this index.  
 Guarantee, nonperishable goods, 56.001 et seq.  
 Herbicides, generally, this index.  
 Indebtedness, finance corporations, 56.006.  
 Inspection and inspectors,  
   Marketing order violations, 104.181 et seq.  
   Producers and handlers list, 104.022.  
 Interest, financial pools, 53.014.  
 Investigations and investigators, markets, demand, 12.006.  
 Investments,  
   Finance corporations, 56.005.  
   Mutual loan corporations, 54.006, 54.007.  
 Irrigation, statistics, 12.012.  
 Labor and employment, marketing committee, 104.125.  
 Licenses and permits, research and promotion assessments, revocation or suspension, 41.102.

# INDEX TO AGRICULTURE CODE

324

References are to Sections

- |  |  |  |
|--|--|--|
| <p><b>AGRICULTURAL PRODUCTS—Cont'd</b><br/>         Limitations, 104.101.<br/>         Lists, producers and handlers, 104.021 et seq.<br/>         Loans, 52.001 et seq.<br/>             Cooperative credit associations, 55.001 et seq.<br/>             Family farm and ranch security program, 252.001 et seq.<br/>             Mutual loan corporations, 54.001 et seq.<br/>             Pools, 53.001 et seq.<br/>         Lots, marketing orders, inspection, 104.181 et seq.<br/>         Machinery and equipment, 52.001 et seq.<br/>         Markets and warehouses, 52.001 et seq.<br/>             Demand, increasing, 12.006.<br/>         Mutual loan corporations, 54.001 et seq.<br/>         Name, selling and advertising, 12.017.<br/>         Nonperishable products, acceptances and guarantees, 56.001 et seq.<br/>         Nonprofit organizations, cooperative marketing associations, 52.001 et seq.<br/>         Notice, marketing order violations, 104.183, 104.184.<br/>         Noxious Weeds, generally, this index.<br/>         Nurseries and Nursery Products, generally, this index.<br/>         Pesticides, generally, this index.<br/>         Petitions, producers and handlers lists, 104.023.<br/>         Plans and specifications, surplus commodities, 104.141 et seq.<br/>         Pledges, by-product pool, 104.145.<br/>         Pools,<br/>             By-product pool, 104.143, 104.145.<br/>             Financial pools, 53.001 et seq.<br/>         Powers and duties, marketing committee, 104.124, 104.125.<br/>         Prices, advertisements, 13.035.<br/>         Privileges and immunities,<br/>             Marketing committee, 104.124.<br/>             Mutual loan corporations, 54.010.<br/>         Promotion, 41.001 et seq.<br/>         Public policy, research and promotion, 41.001.<br/>         Quality,<br/>             Allocations, 104.102.<br/>             Limitations, 104.101.<br/>         Railway experiment farms, 43.051 et seq.<br/>         Rates and charges,<br/>             Assessments, promotion and research, 41.058.<br/>             Financial pools, 53.022.<br/>             Stabilization fund, surplus commodities, 104.142.<br/>         Refunds, research and promotion assessments, 41.083.<br/>         Reports,<br/>             Cooperative credit associations, 55.009.<br/>             Markets, demand, 12.006.<br/>             Mutual loan corporations, 54.012.<br/>         Research, 41.001 et seq., 42.001 et seq.<br/>         Sales, 52.001 et seq.<br/>             Agencies, 12.019.<br/>             Stop-sale order, 13.040.<br/>         Security, financial pools, 53.015.<br/>         Shares and shareholders,<br/>             Agricultural finance corporations, 56.004, 56.007.<br/>             Cooperative credit associations, 55.004, 55.007.<br/>             Cooperative marketing associations, 52.001 et seq.</p> | <p><b>AGRICULTURAL PRODUCTS—Cont'd</b><br/>         Shares and shareholders—Cont'd<br/>             Mutual loan corporations, 54.004, 54.005.<br/>             Repurchase, 54.012.<br/>         Size,<br/>             Allocations, 104.102.<br/>             Limitations, 104.101.<br/>         Societies. Associations and societies, generally, ante.<br/>         Soil and Water Conservation, generally, this index.<br/>         Stabilization fund, surplus commodities, 104.142, 104.146.<br/>         Standards, grades and grading, 104.103, 104.104.<br/>         Statistics, 12.011.<br/>         Stock and stockholders. Shares and shareholders, generally, ante.<br/>         Stop-sale order, weight and measurement violation, 13.040.<br/>         Storage, 52.001 et seq.<br/>         Surplus commodities, 104.141 et seq.<br/>         Surveys, 42.001 et seq.<br/>         Tags, warning markings, marketing order violations, 104.183.<br/>         Tax exemptions,<br/>             Cooperative credit associations, franchise taxes, 55.010.<br/>             Mutual loan corporations, franchise tax, 54.013.<br/>         Terms of office, marketing committees, 104.123.<br/>         Tests and testing, aflatoxin, 12.018.<br/>         Transportation, 52.001 et seq.<br/>         Venue, research and promotion assessments, 41.101.<br/>         Viticultural Products, generally, this index.<br/>         Warning markings, marketing order violations, 104.183.<br/>         Water conservation. Soil and Water Conservation, generally, this index.<br/>         Wind Erosion Conservation Districts, generally, this index.<br/> <b>AGRICULTURE, DEPARTMENT OF</b><br/>         Generally, 1.001 et seq., 11.001 et seq.<br/>         Absence and absentees, commissioner, 11.007.<br/>             Weights and measures, 13.003.<br/>         Application of law, Sunset Law, 11.003.<br/>         Appointments, deputy commissioner, 11.007.<br/>         Boards and commissions. Commissioner, generally, post.<br/>         Bonds (officers and fiduciaries), Commissioner, 11.006.<br/>             Deputy commissioner, 11.007.<br/>         Commissioner, 11.001 et seq.<br/>             Absence and absentees, 11.007.<br/>             Weights and measures, 13.003.<br/>             Deputy commissioner, 11.007.<br/>             Election, 11.004.<br/>             Powers and duties, 11.001.<br/>             Qualifications, 11.005.<br/>             Deputy commissioner, 11.007.<br/>             Terms of office, 11.004.<br/>             Travel expenses, 13.004.<br/>         Correspondences, 12.010.<br/>         Deposits, funds, 11.008.<br/>         Deputy commissioner, 11.007.<br/>         Duties. Powers and duties, generally, post.</p> | <p><b>AGRICULTURE, DEPARTMENT OF</b><br/>         —Cont'd<br/>         Election, commissioner, 11.004.<br/>         Engineers, employment, 12.012.<br/>         Expenses and expenditures, reports, 12.014.<br/>         Foreign countries, correspondence, 12.010.<br/>         Foreign states, correspondence, 12.010.<br/>         Funds, deposits, 11.008.<br/>         Headquarters, 11.002.<br/>         Labor and employment, 12.013.<br/>             Engineers and experts, irrigation, 12.012.<br/>         Letters and other correspondence, 12.010.<br/>         Location, 11.002.<br/>         Oaths and affirmations, deputy commissioner, 11.007.<br/>         Officers and employees, employment, 12.013.<br/>         Powers and duties, 12.001 et seq.<br/>             Commissioner, 11.001.<br/>             Deputy commissioner, 11.007.<br/>             Markets and warehouses, 14.003.<br/>         Qualifications,<br/>             Commissioner, 11.005.<br/>             Deputy commissioner, 11.007.<br/>         Reports, 12.014.<br/>             Irrigation, 12.012.<br/>         State treasury, deposits, 11.008.<br/>         Sunset Laws, application of law, 11.003.<br/>         Terms of office, commissioner, 11.004.<br/>         Traveling expenses, deputy commissioner, 11.007.<br/> <b>AGRICULTURE WAREHOUSE CORPORATIONS</b><br/>         Generally, 14.101 et seq.<br/> <b>AID</b><br/>         Federal Aid, generally, this index.<br/> <b>AMENDMENTS</b><br/>         Markets and Warehouses, this index.<br/> <b>ANALYSIS</b><br/>         Citrus fruits, colors and coloring, 95.011, 95.013.<br/>         Fertilizers, 63.091 et seq.<br/> <b>ANHYDROUS CITRIC ACID</b><br/>         Citrus fruits, 94.024.<br/> <b>ANIMAL DISEASES AND PESTS</b><br/>         Generally, 161.001 et seq.<br/>         Actions and proceedings,<br/>             Corporations, 161.133.<br/>             Scabies control, 164.082.<br/>             Nonresident violators, 161.132.<br/>             Scabies control, dipping, 164.022.<br/>             Tick eradication, corporate offenders, 167.113.<br/>         Affidavits, dipping orders, 164.022.<br/>         Agglutination test, brucellosis, health certificate requirement, 161.084.<br/>         Animal health commission, 161.021 et seq.<br/>         Anthrax, 166.001 et seq.<br/>             Disposal, 161.103.<br/>             Specimen, 161.102.<br/>         Appeal and review, brucellosis control, 163.067.<br/>         Appraisal and appraisers, glanders, destruction, 161.066.</p> |
|--|--|--|

## INDEX TO AGRICULTURE CODE

References are to Sections

## ANIMAL DISEASES AND PESTS

—Cont'd

Appropriations,  
 Scabies control, 164.007.  
 Tick eradication, dipping facilities,  
 167.059.

Attachment, nonresident violators,  
 161.132.

Babesia, tick eradication, 167.001 et seq.

Bacteriologists, anthrax research,  
 166.001.

Bedding, tick eradication,  
 Fines, 167.138.  
 Transportation conveyances, sand,  
 167.031.

Bees, 131.021 et seq.  
 Publications, control, 131.003.

Biologics, sales and distribution, 161.042.

Boards and commissions, animal health,  
 161.021 et seq.

Bonds (officers and fiduciaries), health  
 commission, 161.023.

Boundaries, brucellosis control areas,  
 163.021.

Brands, marks and labels,  
 Brucellosis; 163.065.  
 Fines and penalties, brucellosis control,  
 163.085.  
 Tuberculosis, 162.005.  
 Fines and penalties, 162.011.

Brucellosis, 163.001 et seq.  
 Health certificates, agglutination tests,  
 161.084.  
 Testing, 161.086.

Burning,  
 Anthrax infected carcasses, 166.005.  
 Failure to destroy, 166.013.  
 Disposal, 161.004.

Caretakers,  
 Responsibility, 161.002.  
 Tick eradication, 167.002.  
 Tuberculosis control, fines and pen-  
 alties, 162.013.

Carriers,  
 Actions and proceedings, 161.133.  
 Health certificate, 161.081 et seq.  
 Inspection, 161.048.  
 Railroads, generally, post.

Certificates and certification,  
 Documents, possession, 161.006.  
 Fairs and exhibitions, 161.043.  
 Health certificates, generally, post.  
 Pullorum or typhoid control, 168.005.  
 Quarantined animals or area, move-  
 ment, 161.065.  
 Railway shipping pens, 161.044.  
 Screwworms, fines and penalties,  
 161.144.  
 Infestation, 161.088.  
 Stockyards, 161.044.  
 Tick eradication,  
 Fines and penalties, 167.134, 167.135.  
 Movement, 167.027, 167.060.  
 Tuberculosis, test or vaccination,  
 162.004.

Certified brucellosis free area, 163.041,  
 163.076.

Chairman, health commission, 161.024.

Cholera, 165.001 et seq.

Circus animals,  
 Screwworm infestation, exports and  
 imports, 161.088.  
 Tick eradication, 167.026.

## ANIMAL DISEASES AND PESTS

—Cont'd

Classification, 161.041.  
 Brucellosis control areas, 163.024 et  
 seq.  
 Tick eradication, 167.004.

Cleaning,  
 Stockyards, tick-free facilities, 167.083.  
 Transportation conveyances, tick eradi-  
 cation, 167.030.

Commodities, tick eradication, quaran-  
 tine, 167.032.

Compensation and salaries,  
 Brucellosis control, 163.068.  
 Glanders, destruction, 161.066.  
 Scabies control, inspectors, 165.003.  
 Tick eradication inspectors, 167.101.  
 Tuberculosis, sale or slaughter,  
 162.008.

Control areas, brucellosis, 163.021 et seq.

Conveyances, tick eradication, 167.137.

Cooperative agreements,  
 Brucellosis control, 163.002.  
 Tick eradication, 167.003.  
 Tuberculosis control, 162.002.

Corporations,  
 Scabies control, actions and proceed-  
 ings, 164.082.  
 Tick eradication, actions, 167.113.

Costs, nonresident violators, 161.132.

Counties, veterinarian, employment,  
 161.003.

Crimes and offenses,  
 Quarantines, 161.141.  
 Tick eradication, dipping facilities, de-  
 struction, 167.142.

Death,  
 Disposal, 161.004.  
 Tick eradication, handling and removal,  
 167.033.  
 Fines and penalties, 167.140.

Definitions,  
 Brucellosis, 163.001.  
 Control, 161.001.  
 Livestock, 161.048, 161.116.  
 Pullorum and typhoid disease, 168.001.  
 Scabies control, 164.001.  
 Ticks, 167.001.  
 Tuberculosis, 162.001.  
 Tuberculosis control, 162.001.

Delivery, 161.116.

Destruction. Disposal, generally, post.

Dipping,  
 Proof of, 161.134.  
 Scabies control, 164.021 et seq.  
 Stockyards or markets, 161.112,  
 161.113.  
 Tick eradication, 167.051 et seq.  
 Fines and penalties, 167.141, 167.142.

Disposal,  
 Anthrax or ornithosis victim, 161.103,  
 166.005.  
 Failure to destroy, 166.013.  
 Dead animals, 161.004.  
 Fines and penalties, 161.135.  
 Glanders, compensation, 161.066.  
 Pullorum and typhoid control, 168.004.  
 Tuberculosis control, fines and pen-  
 alties, 162.012.

Documents, licenses or certificates, pos-  
 session, 161.006.

Elections, running at large, anthrax con-  
 trol, 166.006 et seq.

Eminent domain, tick eradication, dip-  
 ping facilities, 167.059.

## ANIMAL DISEASES AND PESTS

—Cont'd

Employees. Officers and employees,  
 generally, post.

Entry upon property, 161.047.  
 Brucellosis control, 163.063.  
 Fines and penalties, 161.146.  
 Brucellosis control, 163.083.  
 Markets or stockyards, 161.115.  
 Pullorum or typhoid control, 168.003.  
 Scabies control, 164.005.  
 Refusal to permit, 164.085.  
 Tick eradication, 167.102.  
 Eradication areas, ticks, 167.006.

Evidence,  
 Brucellosis control, 163.086.  
 Pullorum or typhoid control, entry  
 upon property, 168.003.  
 Quarantines or notices, signatures,  
 161.005.  
 Scabies control, 164.005.  
 Tick eradication, 167.109, 167.110.  
 Ownership or care, 167.111.

Examinations and examiners, 161.086.  
 Brucellosis, 163.064.  
 Fines and penalties, 161.140.  
 Health certificate requirement, 161.083,  
 161.084.  
 Pullorum and typhoid control, 168.003.  
 Stockyards or markets, 161.112 et seq.  
 Tuberculosis control, 162.003, 162.009,  
 162.010.

Exemptions,  
 Brucellosis control, 163.066.  
 Control, 161.041.  
 Health certificates, 161.082.  
 Agglutination test, 161.084.  
 Testing, 161.086.  
 Tick eradication, dipping, 167.054.

Exhibitions. Fairs and exhibitions, gen-  
 erally, post.

Exotic animals,  
 Screwworm infestation, exports and  
 imports, 161.088.  
 Tick eradication, 167.026.

Expenses and expenditures,  
 Anthrax control, running at large elec-  
 tion, 166.008.  
 Health commission, 161.026.  
 Quarantine notice, publication, 161.062.  
 Scabies control, dipping, 164.028.  
 Tick eradication, dipping, 167.107.

Exports and imports,  
 Circus or exotic animals, screwworm  
 infestation, 161.088.  
 Fines and penalties, health certificates,  
 161.143.  
 Screwworm certificates, 161.144.  
 Health certificates, 161.081 et seq.  
 Quarantined animals, 161.087.  
 Screwworm infestation, 161.088.  
 Exposure, communicable diseases,  
 161.007.

Facilities, tick eradication,  
 Dipping, 167.059.  
 Fines and penalties, destruction,  
 167.142.

Fairs and exhibitions, 161.043.  
 Fines and penalties, 161.136.  
 Pullorum or typhoid control, 168.005.  
 Fever, tick eradication, 167.001 et seq.  
 Fines and penalties, 161.135 et seq.  
 Anthrax control, 166.011 et seq.

References are to Sections

ANIMAL DISEASES AND PESTS

—Cont'd

Fines and penalties—Cont'd  
 Brands, marks and labels,  
     Brucellosis control, 163.085.  
     Tuberculosis control, 162.011.  
 Brucellosis control, 163.081 et seq.  
 Caretaker, tuberculosis control,  
     162.013.  
 Disposal, 161.135.  
 Entry upon property, brucellosis con-  
     trol, 163.083.  
 Examination violations, 161.140.  
 Exports and imports, health certifi-  
     cates, 161.143.  
 Fairs and exhibitions, health certificate  
     violations, 161.136.  
 Glanders, sale or movement, 161.142.  
 Health certificate violations, 161.136,  
     161.137.  
     Exports and imports, 161.143.  
 Immunization, brucellosis control,  
     163.081.  
 Inspection violations, 161.139, 161.140.  
 Market regulations, 161.146.  
 Movement, brucellosis control, 163.084.  
 Owners,  
     Brucellosis control, 163.082.  
     Tuberculosis control, 162.013.  
 Pullorum or typhoid control, 168.008.  
 Quarantines, 161.141.  
     Tuberculosis control, 162.012.  
 Reports, failure to make, 161.145.  
 Sales,  
     Glanders, 161.142.  
     Infected milk cattle, 163.086.  
 Scabies control, 164.083 et seq.  
 Screwworm certificate, exports and im-  
     ports, 161.144.  
 Search warrant violations, 161.138.  
 Stockyard regulations, 161.146.  
 Tags, tuberculosis control, 162.011.  
 Tick eradication, 167.131 et seq.  
     Tuberculosis control, 162.011 et seq.  
 Fires. Burning, generally, ante.  
 Foot and mouth diseases, 165.001 et seq.  
 Foreclosure, lien, tick eradication, dip-  
     ping, 167.108.  
 Foreign countries, tick eradication, quar-  
     antine, 167.026.  
 Foreign states,  
     Health certificates, 161.081 et seq.  
     Tick eradication, quarantine, 167.026.  
 Forms, health certificate, 161.081.  
 Free areas, tick eradication, 167.005,  
     167.007.  
 Glander pest destruction,  
     Compensation, 161.066.  
     Fines and penalties, 161.142.  
 Hatcheries, registration, pullorum and ty-  
     phoid disease, 168.003.  
 Health certificates, 161.081 et seq.  
     Fines and penalties, 161.136, 161.137.  
     Exports and imports, 161.143.  
 Health commission, 161.021 et seq.  
 Hearings,  
     Brucellosis control, 163.061.  
     Brucellosis control area, 163.023.  
     Scabies control, dipping, 164.022.  
     Stockyards or markets, 161.112.  
     Tick eradication, dipping, 167.053.  
     Tick-free facilities, stockyards, 167.082.  
 Hides, tick eradication, quarantine,  
     167.032.

ANIMAL DISEASES AND PESTS

—Cont'd

Highways and roads, inspection stops,  
     161.048.  
 Hog cholera, 165.001.  
 Husband and wife, tick eradication, dip-  
     ping responsibility, 167.055.  
 Immunization,  
     Brucellosis, 163.064.  
     Fines and penalties, brucellosis control,  
         163.081.  
     Health certificate requirement, 161.083.  
     Proof of, 161.134.  
     Stockyards and markets, 161.112 et  
         seq.  
     Tuberculosis, 162.004.  
 Imports. Exports and imports, generally,  
     ante.  
 Improper disposal, fines and penalties,  
     161.135.  
 Infection, 161.007.  
 Injunctions, 161.131.  
     Pullorum or typhoid control, 168.004.  
     Scabies control, dipping, 164.022.  
     Tick eradication, 167.106.  
 Injured livestock, tick eradication, han-  
     dling and removal, 167.033.  
     Fines and penalties, 167.140.  
 Inspection and inspectors,  
     Anthrax, 166.002.  
     Brucellosis control, 163.062.  
     Fines and penalties, 161.139, 161.140.  
     Health certificate requirement, 161.083.  
     Markets or stockyards, 161.114.  
     Scabies, 164.002 et seq.  
     Refusal to permit, 164.085.  
     Shipments, 161.048.  
     Tick eradication, 167.101 et seq.  
         Fines and penalties, 167.131.  
 Investigations and investigators, tick  
     eradication, 167.008.  
 Liabilities, tick eradication, dipping,  
     167.055.  
 Licenses and permits,  
     Documents, possession, 161.006.  
     Quarantined animals or area, move-  
         ment, 161.065.  
     Tick eradication,  
         Fines and penalties, 167.134, 167.135.  
         Movement, 167.027, 167.060.  
 Liens and incumbrances, tick eradication,  
     dipping, 167.108.  
 Maintenance, tick-free facilities, 167.083.  
 Mandamus, tick eradication, 167.106.  
 Markets and warehouses, 161.111 et seq.  
     Fines and penalties, 161.146.  
 Marks. Brands, marks and labels, gener-  
     ally, ante.  
 Membership, health commission, 161.021.  
 Modified certified free area, brucellosis  
     control, 163.041.  
 Motor vehicles, inspection, 161.048.  
 Mouth and foot diseases, 165.001 et seq.  
 Movement, quarantined area, 161.065.  
 Nonresidents, actions and proceedings,  
     161.132.  
 Notice,  
     Anthrax or ornithosis victim,  
         Disposal, 161.103.  
         Quarantine, 166.004.  
     Brucellosis control, 163.061, 163.064.  
     Injunction, 161.131.  
     Pullorum or typhoid quarantine,  
         168.004.

ANIMAL DISEASES AND PESTS

—Cont'd

Notice—Cont'd  
     Quarantine, 161.062, 161.063.  
     Scabies control, quarantine, 164.042.  
     Signatures, 161.005.  
     Stockyards or markets, 161.112.  
     Tick eradication,  
         Areas, 167.006.  
         Inspections, 167.008.  
     Tick-free facilities, stockyard designa-  
         tion, 167.082.  
 Oaths and affirmation, pullorum or ty-  
     phoid control, entry upon property,  
     168.003.  
 Officers and employees,  
     Brucellosis control, 163.062.  
     Health commission, 161.045.  
     Tick eradication, 167.003.  
 Orders,  
     Anthrax control, election, 166.007.  
     Brucellosis control, appeals, 163.067.  
     Injunctions, generally, ante.  
     Scabies control, dipping, 164.021 et  
         seq.  
     Tick eradication,  
         Dipping, 167.052.  
         Inspection, 167.008.  
 Ornithosis, disposal, 161.103  
 Peace officers, tick eradication, dipping,  
     167.103, 167.106.  
 Penalties. Fines and penalties, generally,  
     ante.  
 Per diem, health commission, 161.026.  
 Perfection, lien, tick eradication, dipping,  
     167.108.  
 Permits. Licenses and permits, general-  
     ly, ante.  
 Petitions,  
     Anthrax control, running at large,  
         166.006 et seq.  
     Brucellosis control area, 163.021 et seq.  
 Posting,  
     Highway signs, inspection, 161.048.  
     Scabies control, quarantine, 164.042.  
     Tick eradication areas, 167.006.  
 Private property. Entry upon property,  
     generally, ante.  
 Proclamation,  
     Anthrax, quarantine, 166.004.  
     Brucellosis control area, 163.022.  
 Publication, quarantine notice, 161.062.  
 Pullorum disease, 168.001 et seq.  
 Quarantines, 161.061 et seq.  
     Anthrax, 166.004.  
     Failure to obey, 166.012.  
     Crimes and offenses, 161.141.  
     Eggs, pullorum and typhoid control,  
         168.004.  
     Exports and imports, 161.087, 161.088.  
     Fines and penalties, 161.141.  
     Pullorum disease, 168.004.  
     Scabies control, 164.041 et seq.  
     Screwworm infestation, 161.088.  
     Signatures, 161.005.  
     Tick eradication, 167.021 et seq.  
         Fines and penalties, 167.132 et seq.  
     Tuberculosis, 162.006.  
         Fines and penalties, 162.012.  
     Typhoid, 168.004.  
 Railroads,  
     Actions and proceedings, 161.133.  
     Fines and penalties, 161.137.  
     Health certificates, 161.081 et seq.

## INDEX TO AGRICULTURE CODE

References are to Sections

## ANIMAL DISEASES AND PESTS

—Cont'd

Railroads—Cont'd  
 Inspection, 161.048.  
 Sheep, scabies control, import permit, 164.061.  
 Shipping pens, 161.044.  
 Tick eradication,  
 Cleaning and disinfecting, 167.030.  
 Sand, bedding, 167.031.  
 Real estate,  
 Entry upon property, generally, ante.  
 Tick eradication, dipping facilities, 167.059.  
 Refuse, tick eradication, handling and removal, 167.033, 167.140.  
 Registration, hatcheries, pullorum and typhoid disease, 168.003.  
 Reports,  
 Anthrax, 166.003.  
 Fines and penalties, 166.011.  
 Brucellosis control, 163.061.  
 Failure to make, 161.145.  
 Glanders, destruction, appraisal value, 161.066.  
 Tuberculosis, branding and tagging, 162.005.  
 Veterinarians, 161.101.  
 Research anthrax, 166.001.  
 Roads and highways, inspection stops, 161.048.  
 Rules and regulations, 161.046.  
 Brucellosis control, 163.061.  
 Health certificates, 161.081.  
 Pullorum and typhoid control, 168.003.  
 Stockyards or markets, 161.112.  
 Tick eradication, 167.003.  
 Running at large,  
 Anthrax control, 166.006 et seq.  
 Fines and penalties, 166.014.  
 Tick eradication, seizure and disposal, 167.104.  
 Salaries. Compensation and salaries, generally, ante.  
 Sales, 161.116.  
 Fines and penalties, infected milk cattle, 163.086.  
 Glanders, fines and penalties, 161.142.  
 Pavilion, 161.111 et seq.  
 Stockyards or pavilions, 161.111 et seq.  
 Tick eradication, seized animals, 167.107.  
 Tuberculosis control, 162.007.  
 Fines and penalties, 162.012.  
 Veterinary biologics, 161.042.  
 Samples, pullorum and typhoid control, 168.003.  
 Sand, tick eradication,  
 Fines, 167.138.  
 Transportation conveyances, bedding, 167.031.  
 Scabies, 164.001 et seq.  
 Screwworm,  
 Exports and imports, 161.088.  
 Fines and penalties, certificate, 161.144.  
 Search warrants, 161.047.  
 Pullorum and typhoid control, 168.003.  
 Refusal to permit search, 161.138.  
 Scabies control, 164.005.  
 Tick eradication, 167.102.  
 Refusal to permit, 167.144.  
 Searches and seizures, tick eradication, 167.104, 167.105.

## ANIMAL DISEASES AND PESTS

—Cont'd

Shows. Fairs and exhibitions, generally, ante.  
 Signatures, quarantines or notices, 161.005.  
 Signs and signals, highway stops, 161.048.  
 Slaughtering and slaughtering houses, sales, 161.116.  
 Solution,  
 Scabies control, dipping, 164.025 et seq.  
 Tick eradication, dipping, 167.057.  
 Specimen, anthrax victim, 161.102.  
 Standards, pullorum and typhoid disease, 168.002.  
 Statements,  
 Lien perfection, tick eradication, dipping, 167.108.  
 Tick eradication, possession and destination, 167.028.  
 Fines and penalties, 167.136.  
 Stockyards, 161.044, 161.111 et seq.  
 Fines and penalties, 161.137, 161.146.  
 Tick-free facilities, 167.081 et seq.  
 Failure to provide, 167.143.  
 Sunset Act, health commission, 161.027.  
 Tags, tuberculosis, 162.005, 163.065.  
 Fines and penalties, 162.011.  
 Taxation, tick eradication, dipping facilities, 167.059.  
 Terms of office, health commission, 161.022.  
 Tests. Examinations and examiners, generally, ante.  
 Ticks, 167.001 et seq.  
 Time,  
 Death, disposal, 161.004.  
 Scabies control, dipping, 164.024.  
 Search warrant, validity, 161.047.  
 Tick eradication,  
 Dipping, 167.058.  
 Stockyards, 167.081.  
 Transportation,  
 Health certificates, 161.081 et seq.  
 Inspection, 161.048.  
 Tick eradication,  
 Cleaning and disinfecting, 167.030.  
 Sand, bedding, 167.031.  
 Traveling expenses,  
 Scabies control, inspectors, 164.003.  
 Tick eradication inspectors, 167.101.  
 Tuberculosis, 162.001 et seq.  
 Testing, 161.084, 161.086, 162.010.  
 Types, 161.041.  
 Typhoid, 168.001 et seq.  
 Vacancies in office, health commission, 161.025.  
 Vaccination. Immunization, generally, ante.  
 Venue,  
 Corporations, 161.133.  
 Nonresident violators, 161.132.  
 Tick eradication, 167.112.  
 Vesicular exanthema, 165.001 et seq.  
 Veterinary biologics, sales and distribution, 161.042.  
 Waiver, tick eradication, dipping, 167.060.  
 Warrants,  
 Search warrants, generally, ante.  
 Tick eradication, dipping facilities, 167.059.

## ANIMAL HEALTH COMMISSION

Generally, 161.021 et seq.

## ANIMALS

Boards and commissions, animal health commission, 161.021 et seq.  
 Commercial feed. Feed, generally, this index.  
 Definitions,  
 Feed, 141.001.  
 Pesticides, 76.001.  
 Diseases. Animal Diseases and Pests, generally, this index.  
 Estrays, generally. Livestock, this index.  
 Feed, generally, this index.  
 Health commission, 161.021 et seq.  
 Hogs, generally, this index.  
 Livestock, generally, this index.  
 Pests. Animal Diseases and Pests, generally, this index.  
 Poultry and Poultry Products, generally, this index.

## ANNEXATION OF TERRITORY

Commodity producers board, elections, 41.034.

## ANTHRAX

Animal Diseases and Pests, this index.

## ANTIDOTE

Defined, pesticides, 76.001.

## ANTIFREEZE

Generally, 16.001 et seq.

## ANTS

Fire ants, control, 77.001 et seq.

## APIARIES

Bees, generally, this index.

## APPEAL AND REVIEW

Brucellosis control, 163.067.  
 Citrus Fruits, this index.  
 Commercial feed, 141.127.  
 Feed, 141.127.  
 Fertilizers, 63.126.  
 Herbicides, county exemptions, revocation and reinstatements, 75.023.  
 Hogs, diseased animals,  
 Compensation, 165.025.  
 Sale or slaughter order, 165.024.  
 Horticultural products, quarantine or destruction orders, 71.010.  
 Livestock, this index.  
 Markets and warehouses, orders,  
 104.201.  
 Adoption, 104.044.  
 Mexican fruit fly control, 72.041.  
 Noxious weeds, districts, exclusion,  
 78.071.  
 Nurseries and nursery products, destruction or treatment orders, 71.048.  
 Pesticides, 76.181 et seq.  
 Public Weighers, this index.  
 Seeds and Plants, this index.  
 Vegetables, handling licenses or identification cards, cancellation, 101.012.

## APPEARANCES

Soil and water conservation, land-use regulations, variances, 201.132.

# INDEX TO AGRICULTURE CODE

328

References are to Sections

## APPLICANT

Defined, family farm and ranch security program, 252.001.

## APPLICATORS

Pesticides, *this index*.

## APPRAISALS AND APPRAISERS

Animal diseases and insect pests, glanders, destruction, 161.066.  
Family farm and ranch security program, loans, 252.024.  
Hogs, diseased animals, sale or slaughter, 165.025.

## APPROPRIATIONS

Farmers cooperative societies, 51.021.  
Livestock, *this index*.  
Noxious weeds, 78.057.  
Scabies control, inspectors, 164.007.  
Soil and water conservation, funds, 201.023.  
Tick eradication, dipping, 167.059.

## ARTICLES OF INCORPORATION

Cooperative marketing associations, 52.031 et seq.  
Farmers cooperative societies, 51.008 et seq.

## ARTIFICIAL COLORING

Citrus fruits, 95.001 et seq.

## ASSESSMENTS

Agricultural Products, *this index*.  
Citrus fruits, marketing agreements or licenses, 102.159.  
Cotton, pink bollworm escrow account, 74.086 et seq.  
Markets and Warehouses, *this index*.  
Noxious weeds, dissolution, 78.065.  
Surplus commodities,  
  Equalization fund, 104.146.  
  Stabilization fund, 104.142.  
Wind erosion conservation districts, 202.041 et seq.

## ASSETS

Agricultural finance corporations, 56.003.  
Farmers cooperative societies, 51.005.

## ASSIGNMENTS

Citrus fruits, license or identification cards, 102.011.  
Livestock, tattoo marks, registration, 144.109.  
Vegetables, handling license or identification cards, 101.011.

## ASSOCIATIONS AND SOCIETIES

Generally, 12.003.  
Agricultural Products, *this index*.  
Agriculture department, correspondence, 12.010.  
Building and Loan Associations, generally, *this index*.  
Cooperative credit associations, 55.001 et seq.  
Cooperative marketing associations, 52.001 et seq.  
Defined, farmers cooperative, 51.001.  
Farmers cooperative societies, 51.001 et seq.

## ATTACHMENT

Animal disease and pest, nonresident violators, 161.132.

## ATTORNEYS

Soil and water conservation board, 201.019.

## ATTORNEYS FEES

Citrus fruits, marketing agreements or licenses, 102.170.  
Nurseries and nursery products, destruction or treatment actions, 71.047.  
Slaughtering and slaughtering houses, purchases, failure to pay, 148.025.  
Soil and water conservation, land-use regulations, 201.128.

## AUCTIONS AND AUCTIONEERS

Livestock, *this index*.

## AUDITS AND AUDITORS

Commercial feed, records, 141.075.  
Commodity producers board, 41.059.  
Feed, records, 141.075.  
Fertilizers, 63.074.  
Markets and warehouses, 14.024.  
Soil and water conservation,  
  Board, 201.023.  
  Districts, 201.080.  
Tomatoes, contributions, inspection and grading, 92.035.  
Wind erosion conservation districts, 202.036.

## AUTOMOBILES

Motor Vehicles, generally, *this index*.

## AVOIRDUPOIS WEIGHTS

Standards, 13.023.

## BABCOCK TEST

Weights and measures, butterfat content, 13.201 et seq.

## BABESIA

Tick eradication, 167.001.

## BALES AND BALING

Cotton, *this index*.

## BALLOTS

Elections, *this index*.

## BANKS AND BANKING

Family farm and ranch security program, loans, 252.001 et seq.  
Investments, farm and ranch loan security bonds, 252.060.  
Loans, family farm and ranch security program, 252.001 et seq.  
Soil and water conservation, funds, deposits, 201.080.

## BARTLETT PEARS

Grades and packs, 91.111 et seq.

## BEANS

Snap beans, grading and packs, 91.091 et seq.

## BEDDING

Tick eradication, 167.138.

## BEES

Generally, 131.001 et seq.

## BEES—Cont'd

Actions and proceedings,  
  Disease control, 131.031 et seq.  
  Research and promotion assessments, 41.101.  
Assessments,  
  Rates and charges, 41.058, 41.081 et seq.  
  Research and promotion, 41.081 et seq.  
Associations and societies, cooperative marketing associations, 52.001 et seq.  
Attendants, sales, 131.026.  
Bonds (officers and fiduciaries), disease control, 131.032.  
Brands, marks and labels, equipment, 131.051 et seq.  
Carriers, disease control, 131.025.  
Certificates and certification, disease control, inspection, 131.022.  
Commodity producers board, 41.001 et seq.  
Confiscation, diseased bees, 131.029.  
Contracts,  
  Breach or threatened breach, 52.131, 52.132.  
  Cooperative marketing associations, 52.015, 52.016.  
Cooperative marketing associations, 52.001 et seq.  
Costs, treatment or destruction, diseased bees, 131.033.  
Crimes and offenses, equipment brands, 131.152.  
Culture, 12.009.  
Destruction, diseased bees, 131.033.  
Diseases, 131.021 et seq.  
  Publications, control, 131.003.  
Education, 41.001 et seq.  
Entomologists, state entomologists, 131.001 et seq.  
Entry upon property, disease control, 131.028.  
Equipment, branding, 131.051 et seq.  
Examinations and examiners, disease control, 131.028.  
Exemptions, research and promotion assessments, 41.082.  
Expenses and expenditures, entomologists, 131.001.  
Experimental apiaries, 131.004.  
Express companies, disease control, 131.025.  
Fees, equipment, brand registration, 131.052.  
Fines and penalties,  
  Disease control, 131.151.  
  Equipment brands, 131.152.  
  Research and promotion assessments, 41.101 et seq.  
Foreign countries, disease control, 131.021 et seq.  
Foreign states, disease control, 131.021 et seq.  
Gifts, experimental apiaries, 131.004.  
Honey and Honey Products, generally, *this index*.  
Injunction, disease control, 131.031.  
Inspection and inspectors, disease control, certificates, 131.022.  
Leases, experimental apiaries, 131.004.  
Licenses and permits, research and promotion assessments, revocation or suspension, 41.102.  
Loans, 52.001 et seq.

## INDEX TO AGRICULTURE CODE

References are to Sections

**BEES—Cont'd**

Machinery and equipment, 52.001 et seq.  
 Brands, 131.051 et seq.  
 Experimental stations, sales, 131.004.  
 Marketing and warehouses, 52.001 et seq.  
 Moveable frames, transfers, 131.030.  
 Nonprofit organizations, cooperative marketing associations, 52.001 et seq.  
 Oaths and affirmations, disease control, 131.031.  
 Officers and employees,  
   Entomologists, 131.001.  
   State entomologists, 131.004.  
 Penalties. Fines and Penalties, generally, this index.  
 Production of books and papers, disease control, 131.031.  
 Promotion, 41.001 et seq.  
 Protective quarantine, 131.023.  
 Publications, disease control, 131.003.  
 Quarantine, 131.023, 131.024.  
 Queen bee, sale, 131.026.  
 Railroads, disease control, 131.025.  
 Rates and charges, assessments, promotion and research, 41.058.  
 Refunds, research and promotion assessments, 41.083.  
 Registration, equipment, branding, 131.051 et seq.  
 Reports,  
   Diseased bees, 131.027.  
   Entomologists, 131.001.  
 Research, 41.001 et seq.  
 Restrictive quarantine, 131.024.  
 Rules and regulations, disease control, 131.021 et seq.  
 Sales, 52.001 et seq.  
   Equipment, branded equipment, 131.054.  
   Experimental stations, products and equipment, 131.004.  
   Queen bee and attendants, 131.026.  
 Searches and seizures, diseased bees, 131.029.  
 State entomologists, 131.001 et seq.  
 Stocks and stockholders, cooperative marketing associations, 52.001 et seq.  
 Storage, 52.001 et seq.  
 Sunset Act, state entomologist office, 131.001.  
 Transfers,  
   Equipment, brand, 131.054.  
   Moveable frames, 131.030.  
 Transportation, 52.001 et seq.  
   Diseases, control, 131.021 et seq.  
 Treatment, diseased bees, 131.033.  
 Venue,  
   Disease control, 131.031.  
   Research and promotion assessments, 41.101.  
 Witnesses, disease control, 131.031.

**BERRIES**  
 Boxes or crates, 91.026.

**BIDS AND BIDDING**  
 Family farm and ranch security program, defaults, 252.028.  
 Farm and ranch loan security bonds, 252.053.  
 Pesticides, examination and testing contracts, 76.006.

**BIDS AND BIDDING—Cont'd**

Soil and water conservation, machinery and equipment, sales, 201.105.

**BILL OF SALE**

Sales, this index.

**BIOLOGIC**

Animal diseases and pests, sales and distribution, 161.042.  
 Hogs, disease control, 165.023.

**BOARDS AND COMMISSIONS**

Adjustment board, soil and water conservation, 201.129, 201.130.  
 Advisory Boards, Committees and Councils, generally, this index.  
 Agriculture, Department of, this index.  
 Animal health commission, 161.021 et seq.  
 Commodity producers board, 41.001 et seq.  
 Defined,  
   Agriculture, 1.003.  
   Animal diseases, 161.001.  
   Brucellosis control, 163.001.  
   Commodity producers board, 41.002.  
   Dairy advisory board, 13.201.  
   Family farm and ranch security program, 252.001.  
   Fertilizers, 63.001.  
   Hogs diseases, 165.001.  
   Noxious weeds, 78.001.  
   Produce recovery fund, 103.001.  
   Pullorum and typhoid control, 168.001.  
   Scabies control, 164.001.  
   Seeds and plants, 62.001.  
   Soil and water conservation, 201.002.  
   Tick eradication, 167.001.  
   Tuberculosis control, 162.001.  
 Egg marketing advisory board, 132.007.  
 Natural fibers and food protein commission, 42.001 et seq.  
 Noxious weeds, directors, 78.031 et seq.  
 Produce recovery fund, 103.003.  
 Soil and water conservation board, 201.011 et seq.

**BOLL WEEVILS**

Cotton, control, 74.001 et seq.

**BONDS**

Agricultural experiment farms and stations, land and building construction, 43.007.  
 Family farm and ranch security program, 252.051 et seq.  
 Mexican fruit fly, 72.001 et seq.  
 Warehouse corporations, sinking fund bond, 14.111, 14.112.  
 Wind erosion conservation districts, 202.031.

**BONDS (OFFICERS AND FIDUCIARIES)**

Agricultural commissioner, 11.006.  
 Agriculture, department of, deputy commissioner, 11.007.  
 Animal health commission, 161.023.  
 Bees, disease control, 131.032.  
 Citrus Fruits, this index.  
 Commercial feed, inspection fee,  
 Commodity producers board, 41.054.  
 Cooperative marketing associations, officers and employees, 52.104.

**BONDS (OFFICERS AND FIDUCIARIES)—Cont'd**

Cotton, classer, 112.003.  
 Feed, inspection fee, tonnage report, 141.073.  
 Fertilizers, condemnation, corrections, 63.122.  
 Financial pools, 53.005, 53.009.  
 Grain samples, grading, 96.004.  
 Herbicides, custom applicator, 75.014.  
 Livestock, this index.  
 Markets and Warehouses, this index.  
 Pesticides, commercial applicators, 76.111.  
 Pools, financial pools, 53.005, 53.009.  
 Public weighers, 13.256, 13.260.  
 Slaughtering and slaughtering houses, 148.042.  
   Failure to file, 148.065.  
 Soil and water conservation,  
   Districts, officers and employees, 201.079.  
   Officers and employees, 201.019.  
 Warehouse corporations, 14.102, 14.105, 14.106.  
 Warehouse receipts, 14.020.  
   Lost or stolen, 14.019.  
 Weighers, public weighers, 13.256, 13.260.  
 Wind erosion conservation districts, treasurer, 202.021.

**BOOKS AND PAPERS**

Citrus fruits, examination, 102.019.  
 Cotton, classer, 112.006.  
 Markets and warehouses,  
   Examination, 14.003.  
   Orders, 104.222.  
 Production of Books and Papers, generally, this index.  
 Vegetables, complaints, examination, 101.018.

**BORROWER**

Defined, family farm and ranch security program, 252.001.

**BOUNDARIES**

Animal diseases and pests, brucellosis control areas, 163.021.  
 Brucellosis control areas, 163.021.  
 Noxious weeds, districts, 78.013.  
 Soil and water conservation, districts, 201.042.  
 Wind erosion conservation districts, 202.004.

**BOXES**

Containers, generally, this index.

**BRANDS, MARKS AND LABELS**

Animal Diseases and Pests, this index.  
 Antifreeze, 16.001 et seq.  
 Bees, equipment, 131.051 et seq.  
 Brucellosis control, 163.065.  
 Butterfat content, testing, 13.205.  
 Citrus Fruits, this index.  
 Commercial feed, 141.051 et seq.  
 Cornmeal, 13.029.  
 Cotton, ginner, 111.003.  
 Definitions,  
   Antifreeze, 16.001.  
   Feed, 141.001.  
   Fertilizers, 63.001.  
   Honey, 131.101.

References are to Sections

**BRANDS, MARKS AND LABELS**

—Cont'd  
 Definitions—Cont'd  
 Pesticides, 76.001.  
 Seeds, 61.001.  
 Eggs, 132.044.  
 Feed, 141.051 et seq.  
 Fertilizers, 63.051 et seq.  
 Samples, identification, 63.093.  
 Flour, 13.029.  
 Form, standards, 13.032.  
 Fruits,  
     Containers, 91.007.  
     Culls, 91.006.  
 Hogs, 144.001 et seq.  
 Honey and honey products, 131.101 et seq.  
     Equipment, 131.051 et seq.  
 Livestock, this index.  
 Pears, containers, 91.114.  
 Pesticides, 76.021 et seq.  
 Potatoes, containers, 91.125.  
 Roses, 121.001 et seq.  
 Seeds and plants, fines and penalties, 61.018.  
 Standards, form, 13.032.  
 Vegetables, this index.

**BREEDING**

Livestock, dairying and poultry animals, 12.009.

**BRIBERY AND CORRUPTION**

Weights and measures, sealers, 13.106.

**BRIGHT GRADE**

Citrus fruits, 93.023.

**BROCCOLI**

Plant diseases and insect pests, 71.105.

**BRUCELLOSIS**

Animal Diseases and Pests, this index.

**BUDGETS**

Commodity producers board, 41.059.  
 Produce recovery fund, 103.004.

**BUILDING AND LOAN ASSOCIATIONS**

Family farm and ranch security program, loans, 252.001 et seq.  
 Investments, farm and ranch loan security bonds, 252.060.  
 Loans, family farm and ranch security program, 252.001 et seq.

**BUILDINGS**

Agricultural experiment farms and stations, 43.007, 43.010.  
 Mexican fruit fly, 72.001 et seq.  
 Surplus commodities, 104.144.

**BULK**

Defined, fertilizers, 63.001.

**BULK COMMERCIAL FEED**

Labeling, 141.052.

**BURNING**

Animal Diseases and Pests, this index.

**BUSES**

Horticultural products,  
     Fines and penalties, 71.012.

**BUSES—Cont'd**

Horticultural products—Cont'd  
     Privileges and immunities, quarantine violations, 71.011.

**BUSHEL BASKETS**

Fruits and vegetables, 91.022.  
 Weights and measures, standards, 13.028.

**BUTTER**

Dairies and Dairy Products, generally, this index.

**BUYING AGENTS**

Citrus fruits, identification cards, 102.010 et seq.  
 Vegetables, identification cards, 101.010 et seq.

**BYLAWS**

Cooperative marketing associations, 52.051, 52.052.  
 Farmers cooperative societies, 51.010, 51.016.  
 Wind erosion conservation districts, 202.022.

**BY-PRODUCT POOL**

Agricultural products, 104.143, 104.145.

**CABBAGE**

Grades and grading, 91.081 et seq.  
 Plant diseases and insect pests, 71.105.

**CAMELLIAS**

Exports and imports, certificate of inspection, 71.052.

**CANALS**

Soil and water conservation, construction or maintenance, 201.152.

**CANCELLATION**

See specific index headings

**CARETAKERS**

Animal Diseases and Pests, this index.  
 Defined,  
     Brucellosis control, 163.001.  
     Tuberculosis control, 162.001.

**CARRIERS**

Animal Diseases and Pests, this index.  
 Bees, disease control, 131.025.  
 Citrus fruits, 102.101 et seq.  
 Horticultural Products, this index.  
 Livestock, this index.  
 Nurseries and nursery products, privileges and immunities, shipment violations, 71.054.  
 Privileges and immunities, horticultural products, quarantine violations, 71.011.  
 Sheep, permit violations, penalties, 164.081.

**CARS**

Motor Vehicles, generally, this index.

**CARTONS**

Containers, generally, this index.

**CAULIFLOWER**

Plant diseases and insect pests, 71.105.

**CEREAL FLOUR**

Defined, weights and measures, 13.029.

**CERTIFICATE OF AUTHORITY**

Financial pools, 53.006.  
 Public weighers, 13.261.  
 Roses, 121.004.  
 Warehouse corporations, 14.104.

**CERTIFICATE OF CLEARANCE**

Citrus fruits, 94.034.

**CERTIFICATE OF ORGANIZATION**

Soil and water conservation, 201.048.  
 Districts, application, 201.047.

**CERTIFICATE OF QUALIFICATION**

Warehouse corporations, officers and employees, 14.107.

**CERTIFICATES AND CERTIFICATION**

Animal Diseases and Pests, this index.  
 Bees, disease control, inspection, 131.022.  
 Citrus Fruits, this index.  
 Commercial, 141.072.  
 Commercial feed, refusal, 141.076.  
 Commodity producers board, 41.011, 41.012.  
     Elections, 41.031.  
     Cooperative marketing associations, 52.062.  
 Cotton, classification, 112.005.  
 Farmers cooperative societies, membership, 51.014, 51.015.  
 Feed, 141.072.  
     Refusal, 141.076.  
 Fertilizers, independent analysis, 63.094.  
 Fruits, this index.  
 Health Certificates, generally, this index.  
 Livestock, this index.  
 Markets and Warehouses, this index.  
 Mexican fruit flies,  
     Control, 72.015.  
     Infestation, 72.021.  
 Noxious weeds, assessment reports, 78.056.  
 Nurseries and nursery products, inspection, 71.045.  
 Pesticides, this index.  
 Public Weighers, this index.  
 Seeds and plants, 62.001 et seq.  
 Sheep, scabies control, imports, 164.062.  
 Soil and water conservation,  
     Board, election, 201.014.  
     State districts, convention delegates, 201.013.  
 Tick eradication, fines and penalties, 167.134, 167.135.  
 Tomatoes, inspection, 92.013.  
 Vegetables, this index.  
 Weighers, generally. Public Weighers, this index.  
 Wind erosion conservation districts, assessments, 202.045.

**CERTIFIED FREE AREAS**

Animal diseases and pests, brucellosis control, 163.041, 163.076.

**CHARGES**

Rates and Charges, generally, this index.

**CHARTERS**

Warehouse corporations, 14.101 et seq.

## INDEX TO AGRICULTURE CODE

References are to Sections

**CHEESE**

Dairies and Dairy Products, generally, this index.

**CHEMISTS AND CHEMISTRY**Fertilizers,  
Independent analysis, 63.094.  
State officers and employees, 63.003.**CHICKENS**

Poultry and Poultry Products, generally, this index.

**CHIEFS**

Citrus fruits, maturity division, 94.005.

**CHILDREN AND MINORS**

Livestock, brands, 144.002.

**CHOICE GRADES**

Tomatoes, 92.022.

**CHOLERA**

Hogs, control, 165.001 et seq.

**CIRCUS ANIMALS**Screwworm infestation, exports and imports, 161.088.  
Tick eradication, quarantine, 167.026.**CITATIONS**

Livestock, certificate of inspection violations, 146.064.

**CITIES, TOWNS AND VILLAGES**Public Weighers, generally, this index.  
Weights and measures, sealers, 13.106.**CITIZENS AND CITIZENSHIP**Cooperative credit associations, 55.002.  
Family farm and ranch security program, loans, 252.021.  
Mutual loan corporations, 55.003.  
Warehouse corporations, directors, 14.108.**CITRUS FRUITS**See, also, Fruits, generally, this index.  
Accounts and accounting, examination, 102.019.

Acid, anhydrous citric acid, 94.024.

Actions and proceedings,  
Complaints, generally, post.  
Evidence, generally, post.  
Handling or marketing complaints, 102.020.Hearings, generally, post.  
Injunctions, generally, post.  
Marketing agreements or licenses, 102.168, 102.170.  
Assessments, 102.159.  
Mexican fruit fly, 72.006.  
Control, 72.042.Venue, generally, post.  
Administrative committees, marketing agreements or license, 102.158, 102.159.Administrative law and procedure, handling license or identification card, Cancellation, 102.012.  
Refusal, 102.007.

Affirmations. Oaths and affirmations, generally, post.

Agents, identification cards, 102.010 et seq.

**CITRUS FRUITS—Cont'd**

Amendments, marketing agreements or licenses, 102.163.

Analysis, coloring, 95.011, 95.013.

Anhydrous citric acid, 94.024.

Antitrust laws,  
Handling or marketing, 102.022.  
Marketing agreements or licenses, 102.172.Appeal and review,  
Handling license or identification card, Cancellation, 102.012.  
Refusal, 102.007.  
Mexican fruit fly control, 72.041.Application, handling license, 102.005.  
Application of law, 93.002.Coloring, 95.002.  
Handling and marketing, 102.002.  
Marketing agreements and licenses, 102.153.Appointments, inspectors, 94.004.  
Approval, marketing agreements or licenses, 102.160.Artificial colors, 95.001 et seq.  
Assessments, marketing agreements or licenses, 102.159.

Assignments, license or identification card, 102.011.

Attorneys fees, marketing agreements or license fees, 102.170.

Boards and commissions, produce recovery fund, 103.003.

Bonds (*officers and fiduciaries*),  
Colors and coloring, licenses, 95.014.  
Inspectors, 94.004.Books and papers, examination, 102.019.  
Brands, marks and labels, 93.030.Coloring matter, 95.017.  
Mislabeling, 93.061, 93.062.  
Registration, 93.005.Bright grade, 93.023.  
Budget, produce recovery fund, 103.004.  
Buying agents, identification cards, 102.010 et seq.Cancellation,  
Handling license, 102.019.  
License or identification card, 102.012.

Cards, identification cards, agents, 102.010 et seq.

Carriers, 102.101 et seq.  
Privileges and immunities, shipment violations, 73.007.

Certificate of clearance, 94.034.

Certificates and certification,  
Carriers, 102.102.  
Colors and coloring,  
Inspection, 95.032.  
Safety, 95.011.Foreign states, shipment, 73.006.  
Inspection, 93.012, 94.031 et seq.  
Maturity, 94.003.  
Mexican fruit fly, infestation, 72.021.  
Movement, Mexican fruit fly quarantine, 72.015.Weights and measures, 93.052.  
Chief, maturity division, 94.005.  
Citrus quarantine advisory committee, 72.022.

Claims, produce recovery fund, 103.001 et seq.

Classifications, handling license, 102.004.

Collection, marketing agreements or licenses, assessments, 102.159.  
Colors and coloring, 95.001 et seq.**CITRUS FRUITS—Cont'd**

Commission, contracts, 102.014.

Commissioned merchant, handling license, 102.004.

Committees,  
Administrative committees, marketing agreements or licenses, 102.158, 102.159.  
Citrus quarantine advisory committee, 72.022.

Compensation and salaries, Mexican fruit fly control, 72.042.

Complaints,  
Handling or marketing, 102.019.  
License or identification cards, cancellation, 102.012.Produce recovery fund, 103.005.  
Compromise and settlement, grades and quality, 102.015.Condemnation,  
Inspection violations, 94.038.  
Unfit fruit, coloring matter, 95.035.Conflicts of law,  
Handling or marketing, 102.022.  
Marketing agreements or licenses, 102.172.Containers, 93.026 et seq.  
Coloring matter, marks, 95.017.  
Maturity stamps, 94.032.  
Standards, 93.021 et seq.Contracts,  
Cooperative agreements, inspection and grading services, 93.041 et seq.  
Handling or marketing, 102.013 et seq.  
Marketing agreements, 102.151 et seq.

Contributions, inspection and grading services, 93.044.

Cooperative agreements, inspection and grading services, 93.041 et seq.  
Cooperative marketing association, 52.001 et seq.

Cost, inspection and grading services, 93.044.

Counties,  
Citrus zones, 73.003.  
Mexican fruit fly quarantine, 72.014.  
Crimes and offenses, 73.009, 93.061, 93.062.Coloring matter, 95.041, 95.042.  
Inspection violations, 94.051, 94.052.  
Marketing agreements or license violations, 102.171.

Transportation violations, 102.104.

Cultivation, 52.001 et seq.

Damaged fruit, 94.025.

Dealers, licenses and permits, 102.001 et seq.

Definitions,  
Coloring, 95.001.  
Cooperative marketing associations, 52.002.Handling and marketing, 102.001.  
Marketing agreement and licenses, 102.152.Maturity standards, 94.001.  
Mexican fruit fly, 72.001.  
Produce recovery fund, 103.001.

Demand, purchase price, payment, 102.013.

Denial, certificate of inspection, 94.036.

Deposits, produce recovery fund, 103.002.

Destruction,  
Condemned fruit, 94.038.

Unfit fruit, coloring matter, 95.035.

# INDEX TO AGRICULTURE CODE

332

References are to Sections

## CITRUS FRUITS—Cont'd

Disclosure, marketing agreements or licenses, records, 102.166.  
 Diseases, 73.001 et seq.  
 Domicile and residence, produce recovery fund board, members, 103.003.  
 Dye, 95.001 et seq.  
 Emergencies, special inspector, 94.004.  
 Entry upon property, Mexican fruit fly control, 72.004.  
 Eradication, Mexican fruit fly, 72.001 et seq.  
 Evidence,  
     Demand, purchase price, 102.013.  
     Marketing agreements or licenses, hearings, 102.155.  
     Maturity stamp, inspection fee payment, 94.032.  
 Examination and examiners, handling or marketing complaints, 102.019.  
 Exemptions,  
     Coloring requirements, 95.002.  
     Handling license, 102.003.  
     Inspection and classification, 93.003.  
     Marketing agreements and licenses, 102.153.  
     Maturity standards, 94.002.  
     Transportation and regulations, 102.103.  
 Expenses and expenditures,  
     Foreign state shipments, 73.008.  
     Inspection, 94.005.  
     Inspectors, 94.004.  
     Marketing agreements or licenses, assessments, 102.159.  
     Mexican fruit fly control, 72.026.  
     Produce recovery fund, 103.002.  
 Exports and imports, 93.031.  
     Certificate of inspection, 73.006.  
     Maturity standards, inspection, 94.037.  
 Fancy bright grade, 93.022.  
 Fancy russet grade, 93.024.  
 Fees,  
     Agents, identification card, 102.010.  
     Attorneys fees, marketing agreements or licenses, 102.170.  
     Coloring matter, inspection, 95.034.  
     Handling license, 102.006.  
     Refund, 102.007.  
     Inspection, 94.035.  
     Marketing agreements or licenses, 102.162.  
     Produce recovery fund, 103.011.  
     Complaint, 103.005.  
     Weight certificate, 93.053.  
 Financial statements and reports, marketing agreements or licenses, assessments, 102.159.  
 Fines and penalties, 73.009, 93.061, 93.062.  
     Coloring matter, 95.041, 95.042.  
     Handling or marketing complaints, 102.021.  
     Inspection violations, 94.051, 94.052.  
     Marketing agreements or license violations, 102.171.  
     Mexican fruit fly control, 72.061 et seq.  
     Produce recovery fund, 103.013.  
     Transportation violations, 102.104.  
 Flies, Mexican fruit fly, 72.001 et seq.  
 Fraud, 93.061, 93.062.  
     Inspection violations, 94.051, 94.052.  
 Frost, unfit fruit, 94.025.  
 Frozen fruit, unfit, 94.025.

## CITRUS FRUITS—Cont'd

Grades and grading, 93.022 et seq.  
     Compromise and settlement, 102.015.  
 Groves, inspection, 94.034.  
 Handling, licenses and permits, 102.001 et seq.  
 Health and sanitation, Mexican fruit fly, unhusbandlike and unsanitary conditions, 72.025.  
 Hearings,  
     Handling license or identification card, Cancellation, 102.012.  
     Refusal, 102.007.  
     Handling or marketing complaints, 102.019.  
     Marketing agreements or licenses, 102.155.  
     Amendments, 102.163.  
     Produce recovery fund, claims, 103.004, 103.006.  
 Herbicides, generally, this index.  
 Host-free period, Mexican fruit fly, 72.024.  
 Identification cards, agents, 102.010 et seq.  
 Identification signs, transportation, 102.101.  
 Immature fruit, 94.025.  
 Imports. Exports and imports, generally, ante.  
 Infestation, Mexican fruit fly, 72.021 et seq.  
 Injunctions,  
     Handling or marketing complaints, 102.019.  
     Marketing agreements or licenses, 102.169.  
     Mexican fruit fly control, 72.044.  
 Inspection and inspectors, 93.001 et seq., 94.031 et seq.  
     Appointments, 94.004.  
     Coloring matter, 95.031 et seq.  
     Foreign states, shipments, 73.006.  
     Maturity, 94.003.  
     Mexican fruit fly control, 72.004.  
     Purchase records, 102.017.  
     Standards, 93.043.  
 Investigations and investigators,  
     Handling or marketing, 102.019.  
     Marketing agreements or licenses, 102.158.  
     Produce recovery fund, 103.006.  
     Purchases, 102.017.  
 Labeling. Brands, Marks and Labels, generally, ante.  
 Licenses and permits,  
     Coloring, 95.011, 95.012.  
     Variations, 95.018.  
     Cooperative agreements, 93.042.  
     Foreign states, shipments, 73.006.  
     Handling license, Assignment, 102.011.  
     Cancellation or suspension, 102.012, 102.019.  
     Marketing, 102.151 et seq.  
 Liens and incumbrances Mexican fruit fly control, 72.043.  
 Limitations, produce recovery fund, claims, 103.008.  
 List, handling licensees, 102.009.  
 Machinery and equipment, 52.001 et seq.  
 Mandamus, Mexican fruit fly control, 72.044.  
 Manufacturers and manufacturing, col-  
     ors, 95.001 et seq.  
 Marketing, 52.001 et seq.

## CITRUS FRUITS—Cont'd

Markets and warehouses,  
     Contracts, 102.151 et seq.  
     Licenses and permits, 102.001 et seq., 102.151 et seq.  
 Marks. Brands, marks and labels, generally, ante.  
 Maturity,  
     Inspection and certification, 94.003.  
     Stamps, 94.032.  
     Standards, 94.021 et seq.  
 Mexican fruit fly, 72.001 et seq.  
 Mislabeling, 93.061, 93.062.  
 Monopolies and unfair trade practices,  
     Handling or marketing, 102.022.  
     Marketing agreements or licenses, 102.172.  
 Movements, Mexican fruit fly quarantine, 72.015.  
     Fines and penalties, 72.064.  
     Noncomplying fruit, coloring, 95.033.  
 Nonconforming, right to reject and return, 93.013.  
 Nonprofit organizations, cooperative marketing associations, 52.001 et seq.  
 Notice,  
     Coloring matter, use, 95.015.  
     Inspection, 93.011.  
     Marketing agreements or licenses, amendments, 102.163.  
     Mexican fruit fly, 72.005.  
     Control, hearing, 72.044.  
     Orders, 102.019.  
     Packing houses, operation, 94.012.  
 Nuisances,  
     Diseases and pests, 73.004.  
     Mexican fruit fly control, 72.042, 72.063.  
     Unhusbandlike and unsanitary conditions, 72.025.  
     Unfit fruit, 94.038.  
     Coloring matter, 95.035.  
 Nurseries and nursery products,  
     Foreign states, certificate of inspection, 73.006.  
     Infestation, movement, 73.005.  
 Oaths and affirmations,  
     Handling license, application, 102.005.  
     Inspectors, 94.004.  
     Marketing agreements or license hearings, 102.167.  
 Offenses. Crimes and offenses, generally, ante.  
 Officers and employees, inspection, 94.005.  
 Orders,  
     Health and sanitation, 72.025.  
     Marketing agreements or licenses, 102.167.  
     Notice, 102.019.  
 Overripe, unfit fruit, 94.025.  
 Ownerless fruit, Mexican fruit fly control, seizure, 72.045.  
 Packing,  
     Standards, 93.021.  
     Used containers, 93.030.  
 Packing houses,  
     Operation, notice, 94.012.  
     Registration, 94.011.  
 Packs. Containers, generally, ante.  
 Payments,  
     Produce recovery fund, claim, 103.007.  
     Purchase price, demand, 102.013.

## INDEX TO AGRICULTURE CODE

References are to Sections

**CITRUS FRUITS—Cont'd**

Peace officers, Mexican fruit fly control, 72.003.  
 Penalties. Fines and penalties, generally, ante.  
 Per diem produce recovery fund board, 103.003.  
 Perjury, marketing agreements or license hearings, 102.167.  
 Permits. Licenses and permits, generally, ante.  
 Pesticides, generally, this index.  
 Pests, 73.001 et seq.  
 Pleadings. Complaints, generally, ante.  
 Privileges and immunities,  
   Carriers, shipments, 73.007.  
   Marketing agreements or license hearings, 102.167.  
 Proceedings. Actions and proceedings, generally, ante.  
 Production, 52.001 et seq.  
 Production of books and papers,  
   Handling or marketing complaints, 102.019.  
   Marketing agreements or license hearings, 102.167.  
 Proof. Evidence, generally, ante.  
 Public policy,  
   Diseases and pests, 73.002.  
   Inspection and classification, 93.001.  
   Marketing agreements and licenses, 102.151 et seq.  
 Purchase price, demand, payments, 102.013.  
 Quality, compromise and settlement, 102.015.  
 Quarantines, 73.004, 73.005.  
   Mexican fruit fly, 72.011 et seq.  
 Rates and charges, contracts, 102.014.  
 Records and recordation,  
   Examination, 102.019.  
   Marketing agreements or licenses, 102.166.  
   Mexican fruit fly, 72.005.  
   Purchases, 102.017, 102.018.  
 Refunds,  
   Handling license, refusal, 102.007.  
   Produce recovery fund, 103.007.  
 Refusal, handling license, 102.007.  
 Registration,  
   Brands and trademarks, 93.005.  
   Packing houses, 94.011.  
 Reimbursements, produce recovery fund, 103.009.  
 Rejection, nonconforming goods, 93.013.  
 Renewal, handling license, 102.008.  
 Reports,  
   Marketing agreements or licenses, 102.158, 102.167.  
   Mexican fruit fly, 72.005.  
 Return, nonconforming goods, 93.013.  
 Review. Appeal and review, generally, ante.  
 Revocation or suspension,  
   Handling license, 102.019.  
   Marketing agreements or licenses, 102.164, 102.165.  
 Rules and regulations, 93.004.  
   Coloring, 95.003.  
   Marketing agreements or licenses, 102.158, 102.167.  
   Produce recovery fund, 103.004, 103.012.  
 Russet grade, 93.025.  
 Safety, coloring, certification, 95.011.

**CITRUS FRUITS—Cont'd**

Sales, 52.001 et seq.  
   Colors and coloring, 95.001 et seq.  
   Records, 102.018.  
   Unfit fruit, 94.025.  
 Samples, colors, 95.013.  
 Satsuma, packs, 93.027.  
 Searches and seizures,  
   Mexican fruit fly control, 72.045.  
   Unfit fruit, coloring matter, 95.035.  
 Service charge, contracts, 102.014.  
 Settlement, grades and quality, 102.015.  
 Signs and signals, transportation, identification, 102.101.  
 Sites, inspection, 94.033.  
 Soluble solids, percentage, 94.023.  
 Special inspector, emergencies, 94.004.  
 Stamps, maturity, 94.032.  
 Standards, 93.001 et seq.  
   Coloring matter, 95.016.  
   Inspection, 93.043.  
   Maturity, 94.021 et seq.  
   Mexican fruit fly, 72.005.  
 Subpoenas, marketing agreements or license hearings, 102.167.  
 Subrogation of rights, produce recovery fund, claims, 103.010.  
 Substitutions, inspection, 94.038.  
 Suits. Actions and proceedings, generally, ante.  
 Suspension. Revocation or suspension, generally, ante.  
 Termination, marketing agreements or licenses, 102.164.  
 Terms,  
   Handling license, 102.008.  
   Marketing agreements or licenses, 102.157.  
   Mexican fruit fly, quarantine, 72.013.  
 Terms of office,  
   Inspectors, 94.004.  
   Produce recovery fund board, 103.003.  
 Time,  
   Handling license or identification card, cancellation, 102.012.  
   Inspection fees, payments, 94.035.  
 Trademarks, registration, 93.005.  
 Transportation, 52.001 et seq., 102.101 et seq.  
   Certificate of inspection, 73.006.  
   Mexican fruit fly quarantine, 72.015.  
   Unfit fruit, 94.025.  
 Transporting agents, identification cards, 102.010 et seq.  
 Unfit fruit, 94.025.  
   Coloring matter, condemnation, 95.035.  
   Inspection, 94.038.  
 Unhusbandlike and unsanitary conditions, Mexican fruit fly, 72.025.  
 Uniform licenses, 102.161.  
 Unripe fruit, 94.025.  
 Used containers, packing, 93.030.  
 Variations,  
   Coloring matter, 95.018.  
   Standards, 93.032.  
 Venue,  
   Handling or marketing complaints, 102.020.  
   Marketing agreements or licenses, 102.170.  
   Mexican fruit fly control, 72.006.  
 Waste, marketing agreements and licenses, 102.151 et seq.

**CITRUS FRUITS—Cont'd**

Weights and measures,  
   Examination, 102.019.  
   Purchases by, 93.051 et seq., 102.016.  
 Witnesses, marketing agreements or license hearings, 102.167.  
 Zones, designated county, 73.003.

**CITRUS QUARANTINE ADVISORY COMMITTEE**

Generally, 72.022.

**CITY OFFICERS AND EMPLOYEES**

Weights and measures, sealers, 13.106.

**CLAIMS**

Produce recovery fund, 103.001 et seq.

**CLASSIFICATION**

Animal Diseases and Pests, this index.  
 Brucellosis control areas, 163.024 et seq.  
 Citrus fruits, exemptions, 93.003.  
 Cotton,  
   Certificate, 112.005.  
   Owners right, 112.007.  
 Eggs, 132.042.  
 Roses, 121.003 et seq.  
 Seeds and plants, 61.003.  
   Certified seeds, 62.003.  
 Sweet potatoes, 91.141 et seq.  
 Tick eradication, 167.004.

**CLEANING**

Noxious weeds, equipment, 78.045.  
 Stockyards, tick-free facilities, 167.083.  
 Tick eradication,  
   Stockyards, 167.083.  
   Transportation conveyances, 167.030.

**COLLARDS**

Plant diseases and insect pests, 71.105.

**COLLEGES AND UNIVERSITIES**

Natural fibers and food protein commission, membership, 42.002.  
 Seed and plant board, membership, 62.002.  
 Texas A & M university, demonstration work, 43.031 et seq.  
 Texas womans university, president, natural fibers and food protein commission, 42.002.  
 University of Texas, president, natural fibers and food protein commission, 42.002.

**COLORING MATTER**

Defined, citrus fruit, 95.001.

**COLORS AND COLORING**

Citrus fruits, 95.001 et seq.

**COMMERCIAL FEED**

Feed, generally, this index.

**COMMERCIAL FERTILIZER**

Fertilizers, generally, this index.

**COMMERCIAL PAPER**

Farm and ranch loan security bonds, 252.059.  
 Soil and water conservation, property or equipment, 201.101.

**COMMERCIAL QUANTITY**

Defined, tomatoes, 92.002.

# INDEX TO AGRICULTURE CODE

334

References are to Sections

## COMMINGLING

Slaughtering and slaughtering houses, liens and incumbrances, 148.027.

## COMMISSION MERCHANT

Citrus fruits, handling license, 102.004.  
Defined, livestock, 147.001.  
Funds, produce recovery fund, 103.001 et seq.  
Livestock, this index.  
Produce recovery fund, 103.001 et seq.  
Public weighers, 13.268.  
Vegetables, licenses, 101.004.

## COMMISSIONS

Boards and Commissions, generally, this index.

## COMMITTEES

Advisory Boards, Committees and Councils, generally, this index.  
Citrus fruits, administrative committees, marketing agreements or licenses, 102.158, 102.159.  
Citrus quarantine advisory committee, 72.022.  
Executive committee, natural fibers and food protein, 42.007.  
Food protein committee, 42.006.  
Marketing committee, 104.121 et seq.  
Natural fibers committee, 42.005.

## COMMODITIES

Agricultural Products, generally, this index.

## COMMODITY PRODUCERS BOARD

Generally, 41.001 et seq.

## COMMON CARRIERS

Carriers, generally, this index.

## COMMON FENCE

Grazing land, 143.131 et seq.

## COMPENSATION AND SALARIES

Agricultural experiment farms and stations, director, 43.009.  
Animal Diseases and Pests, this index.  
Attorneys Fees, generally, this index.  
Brucellosis control, owners, 163.068.  
Eggs, inspection samples, 132.005.  
Hogs, diseased animals, sale or slaughter, 165.025.  
Livestock, this index.  
Mexican fruit fly control, 72.042.  
Noxious weeds,  
Control districts, directors, 78.034.  
Inspectors, 78.036.  
Per Diem, generally, this index.  
Scabies control, inspectors, 164.002.  
Soil and Water Conservation, this index.  
Tick eradication inspectors, 167.101.  
Wind erosion conservation districts, employees, 202.021.

## COMPLAINTS

Citrus Fruits, this index.  
Markets and warehouses, 14.003.  
Produce recovery fund, 103.005.  
Vegetables, 101.018.  
Handling license identification card, cancellation, 101.012.

## COMPROMISE AND SETTLEMENT

Citrus fruit, grades and quality, 102.015.  
Markets and warehouses, insurance losses, 14.011.  
Vegetables, grade and quality, 101.015.

## CONDEMNATION

See, also, Eminent Domain, generally, this index.  
Bees, diseased bees, 131.029.  
Citrus fruits,  
Inspection violations, 94.038.  
Unfit fruit, coloring matter, 95.035.  
Commercial feed, 141.122.  
Feed, 141.122.  
Fertilizers, 63.122.  
Livestock, proof of ownership, 146.064.  
Seeds and plants, foreign states, 62.009.

## CONFIDENTIAL OR PRIVILEGED INFORMATION

Agricultural products, producers and handlers lists, 104.022.

## CONFISCATION

Condemnation, generally, this index.

## CONFLICT OF LAWS

Citrus fruits,  
Handling, 102.022.  
Marketing agreements or licenses, 102.172.  
Livestock, running at large, highways, 143.107.  
Vegetables, handling or marketing, 101.021.

## CONFLICTS OF INTEREST

Adverse or Pecuniary Interest, generally, this index.

## CONSERVATION

Noxious Weeds, generally, this index.  
Soil and Water Conservation, generally, this index.  
Wind Erosion Conservation Districts, generally, this index.

## CONSERVATION DISTRICT

Defined, soil and water, 201.002.

## CONSIGNMENT

Livestock, this index.

## CONSTRUCTION

Agricultural experiment farms and stations, 43.007.  
Warehouse corporations, warehouses, 14.109.

## CONSTRUCTION OF CODE

Generally, 1.002.

## CONSULTANTS

Soil and water conservation, 201.022.

## CONTAINERS

Antifreeze, 16.001 et seq.  
Citrus Fruits, this index.  
Commercial feed,  
Detention notice, 141.121.  
Samples, identification, 141.103.  
Defined,  
Feed, 141.001.  
Fertilizers, 63.001.  
Flour or corn, 13.029.

## CONTAINERS—Cont'd

Eggs,  
Labeling requirements, 132.044.  
Uncartoned eggs, sales, 132.047.  
Feed,  
Detention notice, 141.121.  
Samples, identification, 141.103.  
Fertilizers, this index.  
Flour or corn meal, weights and measures, 13.029.  
Forms, standards, 13.032.  
Fruits, this index.  
Peaches, 91.042 et seq.  
Pears, 91.114, 91.115.  
Potatoes, markings, 91.125.  
Snap beans, 91.095.  
Standards, form, 13.032.  
Sweet potatoes, plants, 71.115.  
Testing, 13.039.  
Tomatoes, 92.021 et seq.  
Vegetables, this index.  
Weights and measures, testing, 13.039.

## CONTRACTS

Agricultural Products, this index.  
Bids and Bidding, generally, this index.  
Citrus Fruits, this index.  
Cooperative Agreements, generally, this index.  
Cooperative marketing associations, 52.015, 52.016.  
Breach or threatened breach, 52.131, 52.132.  
Livestock, this index.  
Pesticides,  
Cooperative agreements, 76.007.  
Examination and testing, 76.006.  
Slaughtering and slaughtering houses, purchases, payments, 148.022, 148.023.  
Soil and Water Conservation, this index.  
Vegetables, purchase price, payment, 101.013 et seq.  
Weights and measures, standards, 13.021.

## CONTRIBUTIONS

Farmers cooperative societies, 51.019.  
Tomatoes, inspection and grading, 92.033 et seq.

## CONTROL FUNDS

Feed, deposits, 141.077.  
Fertilizers, inspection fee deposits, 63.075.

## CONTROL ZONES

Horticultural products, disease or pest, 71.008.

## CONVENTIONS

Soil and water conservation, state districts, 201.013.

## CONVERSIONS

Markets and warehouses, cotton under lien, 14.211.

## COOPERATIVE AGREEMENTS

Citrus fruits, inspection and grading services, 93.041 et seq.  
Defined, tomatoes, 92.002.  
Fruits, 91.005.  
Pesticides, 76.007.  
Tick eradication, 167.003.

References are to Sections

**COOPERATIVE AGREEMENTS**

—Cont'd

Tomatoes, 92.031, 92.032.  
Vegetables, 91.005.

**COOPERATIVE FINANCING PLAN**

Defined, tomatoes, 92.002.

**COOPERATIVES**

Agricultural Products, this index.  
Credit associations, 55.001 et seq.  
Farmers cooperative societies, 51.001 et seq.  
Marketing associations, 52.001 et seq.

**CORNMEAL**

Packages, weights and measures, 13.029.  
Weights and measures, 13.029.

**CORPORATIONS**

Agricultural finance corporations, 56.001 et seq.  
Agricultural Products, this index.  
Agriculture warehouse corporations, 14.101 et seq.  
Animal disease and pests, actions, 161.133.  
Banks and Banking, generally, this index.  
Building and Loan Associations, generally, this index.  
Cooperatives, generally, this index.  
Financial pools, 53.001 et seq.  
Livestock, this index.  
Mutual loan corporations, 54.001 et seq.  
Pools, financial pools, 53.001 et seq.  
Shares and Shareholders, generally, this index.  
Tick eradication, actions, 167.113.

**COSTS**

Animal disease and pest, nonresident violators, 161.132.  
Bees, diseased bees, treatment or destruction, 131.033.  
Citrus fruits, inspection and grading services, 93.044.  
Commercial feed, generally. Feed, this index.  
Family farm and ranch security program, appraisal, 252.024.  
Feed, this index.  
Fences, grazing lands, common fence violations, 143.133.  
Fertilizers, this index.  
Fire ants, control, 77.003.  
Markets and warehouses, orders, assessment collections, 104.164.  
Nurseries and nursery products, destruction or treatment, 71.047.  
Soil and water conservation, Districts, audits, 201.080.  
Land-use regulations, 201.128.  
Weights and measures, reweighing, 13.266.

**COTTON**

Accounts and accounting, pink bollworm control, 74.081 et seq.  
Actions and proceedings, Baling, improper baling, 111.005.  
Classers, 112.003.  
Application, buyer registration, 113.003.  
Assessments, pink bollworm escrow account, 74.086 et seq.

**COTTON—Cont'd**

Bales and baling, Buyers, deductions, 113.008.  
Identification, 111.003.  
Improper baling, 111.005.  
Wrapping, 111.004.  
Boll weevil, control, 74.001 et seq.  
Bonds (officers and fiduciaries), classer, 112.003.  
Books and papers, classers, 112.006.  
Brands, marks and labels, ginner, 111.003.  
Buying, 113.001 et seq.  
Certificates and certification, Classification and grade, 112.005.  
Seeds and plants, 62.007.  
Classification, Certificate, 112.005.  
Owners right, 112.007.  
Classing, 112.001 et seq.  
Compressing cotton, 111.001 et seq.  
Crimes and offenses, pink bollworm control, 74.061.  
Deductions, buyers, bale weight, 113.008.  
Definitions, Buying, 113.001.  
Pink bollworm, 74.051.  
Depositories, pink bollworm escrow accounts, 74.089.  
Deposits, pink bollworm escrow account, 74.086.  
Destruction, pink bollworm control, 74.057.  
Diseases, 12.007, 74.001 et seq.  
Districts, pink bollworm control, 74.082 et seq.  
Elections, pink bollworm control, districts, 74.083 et seq.  
Entry upon property, Boll weevil control, 74.003.  
Pink bollworm control, 74.058.  
Escrow and escrow accounts, pink bollworm control, 74.081 et seq.  
Evidence, Certificate of classification, 112.005.  
Compressing violations, 111.006.  
Expenses and expenditures, compressing violations, statements, 111.006.  
Fees, Buyer registration, 113.004.  
Classer registration, 112.004.  
Pink bollworm escrow account, 74.086 et seq.  
Fines and penalties, Baling, improper baling, 111.005.  
Boll weevil control, 74.004.  
Buyers, 113.008, 113.009.  
Classing, 112.009.  
Compressing violations, 111.007.  
Pink bollworm control, 74.061.  
Forfeiture, baling, improper baling, 111.005.  
Forms, statistics, 12.011.  
Fumigation plants, pink bollworm control, 74.056.  
Ginners, 111.001 et seq. Pink bollworm control, 74.055.  
Grades and grading, Certificates, 112.005.  
Identification, bales, 111.003.  
Improper baling, 111.005.  
Injuries, baling, improper baling, 111.005.  
Inspection and inspectors, Bales, 111.005.

**COTTON—Cont'd**

Inspection and inspectors—Cont'd  
Classers, records and books, 112.006.  
Pink bollworm control, 74.054, 74.058, 74.059.  
Investigations, diseases, 12.007.  
Licenses and permits, classer, 112.002.  
Lists, buyers, 113.007.  
Markets and warehouses, demand, increasing, 12.006.  
Names, seed, 62.007.  
Notice, pink bollworm control, district election, 74.083.  
Nuisance, Boll weevil, 74.001.  
Pink bollworm, 74.052.  
Penalties. Fines and penalties, generally, ante.  
Personal injuries, baling, improper baling, 111.005.  
Pests, 74.001 et seq.  
Petitions, pink bollworm control, districts, 74.083.  
Pink bollworm, control, 74.051 et seq.  
Public policy, pink bollworm control, 74.052.  
Publication, buyers list, 113.007.  
Qualifications, classer, 112.002.  
Quarantine, pink bollworm, 74.051 et seq.  
Rates and charges, classers, 112.001.  
Records and recordation, Classing, 112.006.  
Ginner, 111.002.  
Refunds, pink bollworm escrow funds, 74.087.  
Registration, Buyers, 113.001 et seq.  
Classer, 112.001 et seq.  
Seeds, 62.007.  
Research, 42.001 et seq. Pink bollworm control, escrow funds, 74.088.  
Rules and regulations, Classing, 112.008.  
Pink bollworm control, 74.054.  
Pink bollworm escrow accounts, 74.091.  
Sales, 12.006.  
Seeds and plants, certification, 62.007.  
Standards, classer requirements, 112.006.  
Statements, compressing violations, expenses, 111.006.  
Statistics, 12.006, 12.011.  
Sterilization plants, pink bollworm control, 74.056.  
Surveys, 42.001 et seq.  
Term, buyer registration, 113.006.  
Time, buyer registration, 113.005.  
Trade, 12.006.  
Transportation, pink bollworm control, fines and penalties, 74.061.  
United States, pink bollworm control, cooperation, 74.060.  
Venue, classers, 112.003.  
Warehouse receipts, 14.208.  
Exchanges, 14.210.  
Grown on rented or leased premises, 14.127.  
Weights and measures, bales, buyer deductions, 113.008.  
Wrapping, bales and baling, 111.004.

# INDEX TO AGRICULTURE CODE

336

References are to Sections

## COUNCILS

Advisory Boards, Committees and Councils, generally, this index.  
Family farm and ranch advisory council, 252.013.

## COUNTERBRANDING

Livestock, 144.074.

## COUNTERFEITING

Markets and warehouses, 14.029.

## COUNTIES

Agricultural Experiment Farms and Stations, generally, this index.  
Animal diseases and pests, veterinarian, employment, 161.003.  
Citrus fruit, zones, 73.003.  
Experimental farms. Agricultural Experiment Farms and Stations, generally, this index.  
Fire ants, control, cost, 77.003.  
Herbicides, this index.  
Hogs, brands, 144.021 et seq.  
Livestock, this index.  
Mexican fruit flies, quarantine, 72.014.  
Public Weighers, generally, this index.  
Slaughtering and slaughtering houses, Designated counties, application of law, 148.041.  
Reports, 148.012.  
Soil and water conservation, machinery and equipment, 201.151.  
Veterinarians, animal diseases and pests, 161.003.  
Weight and measures, sealers, 13.105.

## COUNTY OFFICERS AND EMPLOYEES

Weights and measures, sealers, 13.105.

## CRATES

Containers, generally, this index.

## CREDIT UNIONS

Family farm and ranch security program, loans, 252.001 et seq.

## CRIMES AND OFFENSES

Agricultural products, research and promotion assessments, 41.101 et seq.  
Animal diseases and pests, quarantine, 161.141.  
Bees, equipment brands, 131.152.  
Citrus Fruits, this index.  
Cornmeal, packages, 13.029.  
Cotton, pink bollworm control, 74.061.  
Fences, grazing lands, common fence violations, 143.134.  
Financial pools, 53.024.  
Flour, packages, 13.029.  
Fraud, generally, this index.  
Grain samplers for grading, misrepresentation, 96.007.  
Herbicides, 75.024.  
Honey and honey products, equipment brands, 131.152.  
Livestock, this index.  
Markets and warehouses, 14.027 et seq.  
Name, Texas agricultural product, selling or advertising, 12.017.  
Pools, financial pools, 53.024.  
Produce recovery fund, 103.013.  
Seeds and plants, 62.011.  
Tick eradication, dipping facilities, destruction, 167.142.  
Weights and Measures, this index.

## CROPS

Agricultural Products, generally, this index.

## CROSBY COUNTY

Noxious weeds, district exclusion, 78.071.

## CULLS

Fruits and vegetables, 91.006.

## CURATIVE AND VALIDATION ACTS

Farm and ranch loan security bonds, 252.055.

## CUSTOM APPLIER

Defined, herbicides, 75.002.

## CUSTOMER-FORMULA

Defined, regulations, 141.001.

## CUSTOMER-FORMULA FEED

Fines and penalties, 141.142.  
Labeling, 141.053.

## DAIRIES AND DAIRY PRODUCTS

Actions and proceedings,  
Research and promotion assessments, 41.101.  
Weight and measure violations, 13.211.  
Stop-sale orders, 13.210.  
Advisory board, 13.202.  
Agents, financial pools, 53.021.  
Appeal and review, brucellosis control, 163.067.  
Assessments,  
Rates and charges, 41.058.  
Research and promotion, 41.058, 41.081 et seq.  
Associations and societies, cooperative marketing associations, 52.001 et seq.  
Babcock test, butterfat content, 13.201 et seq.  
Bonds (officers and fiduciaries), financial pools, 53.005.  
Boundaries, brucellosis control areas, 163.021.  
Brands, marks and labels,  
Brucellosis, 163.065.  
Butterfat content, testing, 13.205.  
Breeding, 12.009.  
Brucellosis, 163.001 et seq.  
Butterfat content, weights and measures, 13.201 et seq.  
Certificate of authority, financial pools, 53.006, 53.009.  
Certified brucellosis free area, 163.041, 163.076.  
Classification, brucellosis control areas, 163.024 et seq.  
Commodity producers board, 41.001 et seq.  
Compensation and salaries, brucellosis control, 163.068.  
Containers, weights and measures, 13.033.  
Contracts,  
Breach or threatened breach, 52.131, 52.132.  
Cooperative marketing associations, 52.015, 52.016.  
Control areas, brucellosis, 163.021 et seq.  
Cooperative programs, brucellosis control, 163.002.

## DAIRIES AND DAIRY PRODUCTS

—Cont'd

Cooperatives, 51.001 et seq.  
Marketing associations, 52.001 et seq.  
Corporations, financial pools, 53.001 et seq.  
Cream,  
Butterfat content, test, 13.201 et seq.  
Weights and measures, nonstandard container, 13.033.  
Crimes and offenses, financial pools, 53.024.  
Definitions,  
Brucellosis, 163.001.  
Financial pools, 53.001.  
Education, 41.001 et seq.  
Entry upon property,  
Brucellosis control, 163.063.  
Butterfat content testing, 13.208.  
Exemptions,  
Brucellosis control, 163.066.  
Research and promotion assessments, 41.082.  
Family farm and ranch security program, loans, 252.001 et seq.  
Fees, financial pools, 53.022.  
Financial pools, 53.001 et seq.  
Financial statements and reports, financial pools, 53.023.  
Fines and penalties,  
Brucellosis control, 163.081 et seq.  
Butterfat content testing, 13.212.  
Financial pools, 53.024.  
Research and promotion assessments, 41.101 et seq.  
Fraud, butterfat content testing, 13.212.  
Hearings, brucellosis control, 163.023, 163.061.  
Immunization, brucellosis, 163.064.  
Injunctions, weight and measure violations, 13.211.  
Inspection and inspectors, brucellosis control, 163.062.  
Interest, financial pools, 53.014.  
Investigations and investigators, butterfat content testing, licensing, 13.207.  
Licenses and permits,  
Butterfat content testing, 13.207.  
Research and promotion assessments, revocation or suspension, 41.102.  
Liquidation, financial pool, 53.017.  
Loans, 52.001 et seq.  
Family farm and ranch security program, 252.001 et seq.  
Pools, 53.001 et seq.  
Machinery and equipment, 52.001 et seq.  
Marketing and warehouses, 52.001 et seq.  
Measures. Weights and measures, generally, post.  
Milk ring tests, brucellosis control, 163.064.  
Modified certified free area, brucellosis control, 163.041.  
Nonprofit organizations, cooperative marketing associations, 52.001 et seq.  
Nonstandard containers, weights and measures, 13.033.  
Nonstandard weight, cheese, 13.034.  
Notice,  
Brucellosis control, 163.061.  
Testing and vaccination, 163.064.  
Butterfat content testing, 13.208.

## INDEX TO AGRICULTURE CODE

References are to Sections

**DAIRIES AND DAIRY PRODUCTS**

—Cont'd

Officers and employees, brucellosis control, 163.062.  
 Orders, brucellosis control, appeals, 163.067.  
 Penalties. Fines and penalties, generally, ante.  
 Petitions, brucellosis control area, 163.021 et seq.  
 Pools, financial pools, 53.001 et seq.  
 Proclamation, brucellosis control area, 163.022.  
 Promotion, 41.001 et seq.  
 Raising, 12.009.  
 Rates and charges,  
   Assessments, promotion and research, 41.058.  
   Financial pool, 53.022.  
 Refunds, research and promotion assessments, 41.083.  
 Reports, brucellosis control, 163.061.  
 Research, 41.001 et seq.  
 Rules and regulations,  
   Brucellosis control, 163.061.  
   Butterfat content testing, 13.209.  
 Sales, 52.001 et seq.  
   Cheese, weights and measures, 13.034.  
   Nonstandard container, 13.033.  
 Samples, butterfat content, 13.208.  
 Security, financial pools, 53.015.  
 Standards, butterfat content, 13.206.  
 Stocks and stockholders, cooperative marketing associations, 52.001 et seq.  
 Stop-sale order, weight and measure violations, 13.210.  
 Storage, 52.001 et seq.  
 Suits. Actions and proceedings, generally, ante.  
 Tags, brucellosis, 163.065.  
 Tests and testing, brucellosis, 163.064.  
 Transportation, 52.001 et seq.  
 Venue,  
   Research and promotion assessments, 41.101.  
   Weight and measure violations, stop-sale orders, 13.210.  
 Weights and measures,  
   Butterfat content, 13.201 et seq.  
   Cheese, nonstandard weight, 13.034.  
   Nonstandard containers, 13.033.

**DAIRY ADVISORY BOARD**

Generally, 13.202.

**DAMAGES**

Cooperative marketing associations, contract breach, 52.132.  
 Herbicides, insurance, 75.014.  
 Horticultural products, privileges and immunities, quarantine violations, 71.011.  
 Livestock, this index.  
 Pesticides, claims, 76.184.

**DAMS AND RESERVOIRS**

Soil and water conservation, contracts, 201.152.

**DEALERS**

Defined, tomatoes, 92.002.  
 Nurseries and nursery products, registration, 71.057.

**DEALERS—Cont'd**

Pesticides, licenses and permits, 76.071 et seq.  
 Vegetables, licenses, 101.004.

**DEATH**

Animal Diseases and Pests, this index.  
 Estrays, 142.011.  
 Livestock, this index.

**DEBTS**

Indebtedness, generally, this index.

**DECAL**

Pesticides, equipment, licenses, 76.115.

**DECEIT**

Fraud, generally, this index.

**DECEPTION**

Fraud, generally, this index.

**DEED OF TRUST**

Family farm and ranch security program, 252.001 et seq.

**DEEDS AND CONVEYANCES**

Family farm and ranch security program, loans, 252.027.

**DEFAULTS**

Family farm and ranch security program, 252.001 et seq.

**DEFENSES**

Pesticides, prosecution, 76.203.

**DEFINITIONS**

Words and Phrases, generally, this index.

**DEFOLIANT**

Defined, pesticides, 76.001.

**DEPARTMENTS**

Agriculture, Department of, generally, this index.  
 Defined, agriculture, 1.003.

**DEPOSITOR**

Defined, markets and warehouses, 14.001.

**DEPOSITORIES**

Commodity producers board, 41.060.  
 Cotton, pink bollworm escrow accounts, 74.089.

**DEPOSITS**

Agriculture, department of, funds, 11.008.  
 Cotton, pink bollworm escrow account, 74.086.  
 Feed, control fund, 141.077.  
 Fertilizers, inspection fees, 63.075.

**DEPUTY PUBLIC WEIGHERS**

Generally, 13.254.

**DESICCANT**

Defined, pesticides, 76.001.

**DESTRUCTION**

Pests, 12.007.  
 Seeds and Plants, this index.

**DETENTION**

Fertilizers, 63.121 et seq.

**DEVICE**

Defined, pesticides, 76.001.

**DIKES**

Soil and water conservation, county machinery or equipment, 201.151.

**DIPPING**

Animal Diseases and Pests, this index.  
 Livestock, this index.  
 Scabies control, 164.021 et seq.  
 Tick eradication, 167.051 et seq.  
   Fines and penalties, 167.141.

**DIRECTORS**

Agricultural experiment farms and stations, 43.009.  
 Cooperative marketing associations, 52.101 et seq.  
 Defined,  
   Agricultural experiment farms and stations, 43.001.  
   Conservation district, 201.002.  
   Feed, 141.001.  
   Fertilizers, 63.001.  
   Financial pools, 53.007, 53.008.  
   Noxious weeds, districts, 78.031 et seq.  
   Pools, financial pools, 53.007, 53.008.  
   Soil and water conservation, districts, 201.046, 201.071 et seq.  
 Warehouse corporations, 14.108.

**DISCHARGE**

Weights and measures, stop-sale order, 13.040.

**DISCLOSURES**

Citrus fruits, marketing agreements or licenses, records, 102.166.  
 Markets and warehouses, orders, elections, 104.065.

**DISCRIMINATION**

Family farm and ranch security program, loans, 252.015.

**DISEASES**

Animal Diseases and Pests, generally, this index.  
 Plant Diseases and Insect Pests, generally, this index.

**DISMISSAL**

Public weighers, 13.267.

**DISPOSAL**

Animal Diseases and Pests, this index.

**DISSOLUTION**

Noxious weeds, districts, 78.061 et seq.  
 Soil and water conservation, districts, 201.051.

**DISTRIBUTE**

Defined,  
 Feed, 141.001.  
 Fertilizers, 63.001.  
 Pesticides, 76.001.

**DISTRIBUTING HOUSE**

Defined, citrus fruit, 94.001.

**DISTRICTS**

Commodity producers board, 41.033.  
 Cotton, pink bollworm control, 74.082 et seq.

References are to Sections

**DISTRICTS—Cont'd**

Defined,  
 Agricultural products, 41.002.  
 Noxious weed control, 78.001.  
 Wind erosion conservation, 202.001.  
 Noxious weed control districts, 78.011 et seq.  
 Soil and Water Conservation, this index.  
 Wind Erosion Conservation Districts, generally, this index.

**DITCHES**

Soil and water conservation, county machinery or equipment, 201.151.

**DIVISIONS**

Citrus fruits, maturity division, chief, 94.005.

**DOMICILE AND RESIDENCE**

Egg marketing advisory board, 132.007.  
 Family farm and ranch security program, loans, 252.021.  
 Noxious weeds,  
 District director, 78.031.  
 Petition signatures, eligibility, 78.004.  
 Produce recovery fund board, 103.003.  
 Soil and water conservation, districts election, 201.003.

**DONATIONS**

Gifts, generally, this index.

**DRAINS AND DRAINAGE**

Investigations, 12.005.  
 Soil and water conservation, contracts, 201.152.

**DRUGS AND MEDICINE**

Feed, labeling, 141.055.

**DRY HERBICIDES**

Licenses and permits, 75.009.

**DUCKS**

Poultry and Poultry Products, generally, this index.

**DUST**

Wind Erosion Conservation Districts, generally, this index.

**DYE**

Citrus fruits, 95.001 et seq.

**EARS**

Slaughtering and Slaughtering Houses, this index.

**EDUCATION**

Agricultural products, 41.001 et seq.

**EGG MARKETING ADVISORY BOARD**

Generally, 132.007.

**EGGPLANTS**

Diseases, 71.108.

**EGGS**

Generally, 132.001 et seq.  
 Advertisements,  
 Containers, deception, 132.044.  
 Misleading advertisements, 132.084.  
 Advisory board, marketing, 132.007.  
 Agent for service of process, license requirement, 132.023.  
 Application of law, 132.002.

**EGGS—Cont'd**

Boards and commissions,  
 Marketing advisory board, 132.007.  
 Poultry improvement board, 133.001.  
 Brands, marks and labels, 132.044.  
 Cancellation, licenses, foreign state inspections, 132.006.  
 Categories, licenses, 132.022.  
 Certificates and certification, pullorum or typhoid control, 168.005.  
 Classification, 132.042.  
 Compensation and salaries, inspection samples, 132.005.  
 Containers,  
 Labeling requirements, 132.044.  
 Uncartoned eggs, sales, 132.047.  
 Deceptive labeling, containers, 132.044.  
 Definitions,  
 Licensing and inspection, 132.001.  
 Pullorum and typhoid disease, 168.001.  
 Disposal, pullorum and typhoid control, 168.004.  
 Domicile and residence, marketing advisory board, 132.007.  
 Entry upon property,  
 Inspection, 132.005.  
 Pullorum or typhoid control, 168.003.  
 Evidence,  
 Pullorum or typhoid control, entry upon property, 168.003.  
 Samples, 132.005.  
 Examinations and examiners, pullorum and typhoid control, 168.003.  
 Exemptions,  
 Inspection, 132.002.  
 Licenses, 132.002, 132.021.  
 Exhibitions, pullorum and typhoid control, 168.005.  
 Expenses and expenditures,  
 Foreign states, inspections, 132.006.  
 Marketing advisory board, 132.007.  
 Fairs and exhibitions, pullorum or typhoid control, 168.005.  
 Fees,  
 Inspection, 132.043.  
 Licenses, 132.025 et seq.  
 Fines and penalties, 132.081 et seq.  
 Pullorum or typhoid control, 168.008.  
 Foreign states,  
 Agent for service of process, 132.023.  
 Inspections, 132.003, 132.006.  
 Shipping requirements, 132.046.  
 Forms, inspections, 132.003.  
 Grades and grading,  
 Inspections, 132.041 et seq.  
 Standards, 132.004.  
 Hatcheries, registration, pullorum and typhoid disease, 168.003.  
 Health and sanitation, 132.045.  
 Improvement board, 133.001.  
 Inedible eggs, sales, 132.082.  
 Injunction, pullorum or typhoid control, 168.004.  
 Inspection and inspectors, 132.041 et seq.  
 Foreign states, 132.006.  
 Records, 132.061.  
 Rules, 132.003.  
 Invoices, 132.062.  
 Licenses and permits, 132.021 et seq.  
 Cancellation, foreign state inspections, 132.006.  
 Revocation or suspension, 132.072.  
 Marketing advisory board, 132.007.  
 Misleading advertisements, 132.084.

**EGGS—Cont'd**

Notice, pullorum or typhoid quarantine, 168.004.  
 Oaths and affirmations, pullorum or typhoid control, entry upon property, 168.003.  
 Orders, stop-sale orders, inspection and licensing violations, 132.071.  
 Payments, license fee, 132.025.  
 Per diem, foreign states, inspections, 132.006.  
 Permits. Licenses and permits, generally, ante.  
 Poultry improvement board, 133.001.  
 Prefix, U.S., fines and penalties, 132.083.  
 Process, agent for service of process, 132.023.  
 Pullorum disease, 168.001 et seq.  
 Quality standards, 132.004.  
 Quarantine,  
 Pullorum disease, 168.004.  
 Typhoid, 168.004.  
 Reciprocity, inspections, 132.003.  
 Records and recordation, 132.061.  
 Foreign states, inspection, 132.006.  
 Inspection, 132.003.  
 Registration, hatcheries, pullorum and typhoid disease, 168.003.  
 Reports, inspections, 132.003.  
 Revocation or suspension, licenses, 132.072.  
 Rules and regulations,  
 Inspection, 132.003.  
 Pullorum and typhoid control, 168.003.  
 Sales,  
 Inedible eggs, 132.082.  
 Reports, 132.003.  
 Uncartoned eggs, 132.047.  
 Samples, 132.005.  
 Pullorum and typhoid disease, 168.003.  
 Sanitation, 132.045.  
 Search warrants, pullorum and typhoid control, 168.003.  
 Size,  
 Inspection, 132.041 et seq.  
 Standards, 132.004.  
 Standards, 132.004.  
 Pullorum and typhoid disease, 168.002.  
 Stop-sale orders, inspection and licensing violations, 132.071.  
 Terms of office, marketing advisory board, 132.007.  
 Test and testing, pullorum and typhoid disease, 168.003.  
 Time,  
 License, 132.024.  
 Fee, payment, 132.025.  
 Transportation, foreign states, shipping requirements, 132.046.  
 Typhoid, 168.001 et seq.  
 U.S. prefix, fines and penalties, 132.083.  
 Uncartoned eggs, sales, 132.047.  
**ELECTIONS**  
 Agricultural commissioner, 11.004.  
 Agricultural experiment farms and stations, 43.003 et seq.  
 Agricultural products, research and promotion assessments, discontinuance, 41.085.  
 Annexation of territory, commodity producers board, 41.034.  
 Ballots,  
 Agricultural experiment farms and stations, 43.005.

## INDEX TO AGRICULTURE CODE

References are to Sections

**ELECTIONS—Cont'd****Ballots—Cont'd**

Commodity producers board, 41.025, 41.026.

Void ballots, 41.029.

Marketing orders, 104.063.

Noxious weeds, assessments, 78.052.

Soil and water conservation, districts, 201.043.

Wind erosion conservation districts, 202.012.

**Certificates and certification,**

Commodity producers board, 41.031.

Marketing orders, results, 104.064.

Commodity producers board, 41.021 et seq.

Contests, commodity producers board, 41.029.

Cooperative marketing associations, 52.085.

Cotton, pink bollworm control, districts, 74.083 et seq.

Counties, public weighers, 13.253.

Districts, commodity producers board, 41.033.

Exemptions, commodity producers board, 41.028.

Expenses and expenditures, commodity producers board, 41.027.

Family farm and ranch advisory council, 252.013.

Hogs, running at large, free range, 143.051 et seq.

Initiative and Referendum, generally, this index.

Livestock, this index.

Markets and Warehouses, this index.

**Notice,**

Agricultural products, research and promotion assessments, discontinuance, 41.085.

Commodity producers board, 41.023, 41.032.

Marketing orders, 104.063.

Noxious Weeds, this index.

Numbers and numbering, marketing orders, votes, 104.062.

**Petitions,**

Agricultural experiment farms and stations, 43.003.

Commodity producers board, annexation of territory, 41.034.

Public weighers, 13.255, 13.256.

County public weighers, 13.253.

Referendum. Initiative and Referendum, generally, this index.

**Returns,**

Agricultural experiment farms and stations, 43.006.

Noxious weeds, districts, 78.020.

Seed and plant board, 62.002.

Soil and Water Conservation, this index.

Turkeys, running at large, 143.071 et seq.

Warehouse corporations, directors, 14.108.

Wind erosion conservation districts, 202.011 et seq.

**ELECTRICITY**

Inspection and inspectors, meters, 13.103.

Meters, inspection, 13.103.

**EMBLEMENTS**

Agricultural Products, generally, this index.

**EMERGENCIES**

Citrus fruits, special inspector, 94.004.

Horticultural products, quarantines, 71.004.

**EMINENT DOMAIN**

See, also, Condemnation, generally, this index.

Tick eradication, dipping facilities, 167.059.

**EMPLOYEES**

See specific index headings.

**EMPLOYMENT**

Agricultural Labor and Employment, generally, this index.

Labor and Employment, generally, this index.

**ENCLOSURES**

Defined, tick eradication, 167.001.

Fences, generally, this index.

**ENCUMBRANCES**

Liens and Incumbrances, generally, this index.

**ENGINEERS**

Agriculture, department of, employment, 12.012.

**ENGLISH LANGUAGE**

Seeds and plants, labeling, 61.004.

**ENTRY UPON PROPERTY**

Animal Diseases and Pests, this index.

Bees, disease control, 131.028.

Brucellosis control, 163.063.

Commercial feed, inspection and sampling, 141.101.

Cotton,

Boll weevil control, 74.003.

Pink bollworm control, 74.058.

Eggs,

Inspection, 132.005.

Pullorum and typhoid control, 168.003.

Feed, inspection and sampling, 141.101.

Fertilizers, inspection and sampling, 63.091.

Hogs, heating or cooking equipment, inspection, 165.027.

Livestock, this index.

Mexican fruit fly control, 72.004.

Noxious weeds, 78.044.

Nurseries and nursery products, diseased or infested plants, destruction or treatment, 71.046.

Pesticides,

Damage claims, 76.184.

Inspection or examination, 76.151.

Poultry and poultry products, pullorum and typhoid control, 168.003.

Roses, 121.008.

Scabies control, 164.005.

Seeds and plants, 61.010.

Soil and water conservation, 201.103.

Land-use regulations, 201.128.

Tick eradication, 167.102.

Weights and measures, 13.108.

Butterfat content testing, 13.208.

**ENVIRONMENT**

Defined, pesticides, 76.001.

**EQUIPMENT**

Machinery and Equipment, generally, this index.

**ERADICATION ZONES**

Horticultural products, disease or pest, 71.008.

**EROSION**

Soil and Water Conservation, generally, this index.

Wind Erosion Conservation Districts, generally, this index.

**ESCAPES**

Estrays, 142.011.

**ESCHEAT**

Estrays, sale proceeds, 142.009.

**ESCROW AND ESCROW ACCOUNTS**

Cotton, pink bollworm control, 74.081 et seq.

**ESTRAYS**

Livestock, this index.

**EVIDENCE**

Animal Diseases and Pests, this index.

Citrus Fruits, this index.

Cooperative marketing associations, articles of incorporation, filing, 52.036.

Cotton, certificate of classification, 112.005.

Eggs, samples, 132.005.

Livestock, this index.

Markets and warehouses, orders, adoption hearing, 104.044.

Public weighers, dismissal or suspension hearings, 13.267.

Soil and water conservation, district, certificate of organization, 201.049.

Tick eradication, 167.109 et seq.

**EXAMINATIONS AND EXAMINERS**

Agricultural experiment farms and stations, director, 43.009.

Agricultural finance corporations, 56.008.

Animal Diseases and Pests, this index.

Audits and Auditors, generally, this index.

Bees, disease control, 131.028.

Citrus fruits, handling or marketing complaints, 102.019.

Eggs, pullorum and typhoid control, 168.003.

Feed, records, 141.075.

Fertilizers,

Records, 63.074.

Samples, 63.093.

Markets and Warehouses, this index.

Pesticides, this index.

Poultry and poultry products, pullorum and typhoid control, 168.003.

Seeds and plants, breeders, 62.006.

Vegetables, books and papers, 101.018.

Warehouse corporations, 14.118.

Failure to submit, 14.122.

**EXEMPTIONS**

Agricultural products, assessments, 41.082.

Animal diseases and pests, 161.084.

Antifreeze, 16.009.

Brucellosis control, 163.066.

References are to Sections

**EXEMPTIONS—Cont'd**

Citrus Fruits, this index.  
 Commercial feed, generally. Feed, this index.  
 Commodity producers board, elections, 41.028.  
 Eggs, this index.  
 Feed, this index.  
 Fertilizers, this index.  
 Flour or cornmeal, packages, 13.029.  
 Herbicides, this index.  
 Livestock, this index.  
 Markets and warehouses, 14.002, 14.214.  
 Pesticides, this index.  
 Public weighers, 13.251.  
 Seeds and plants, 61.016.  
 Slaughtering and slaughtering houses, Bill of sale, 148.003.  
 Registration, 148.002.  
 Tax Exemptions, generally, this index.  
 Tick eradication, dipping, 167.054.  
 Tomatoes, inspection, 92.004.  
 Vegetables, handling license, 101.002, 101.003.  
 Weights and Measures, this index.

**EXHIBITIONS**

Fairs and Exhibitions, generally, this index.

**EXOTIC ANIMALS**

Screwworm infestation, exports and imports, 161.088.  
 Tick eradication, quarantine, 167.026.

**EXPENSES AND EXPENDITURES**

Agricultural experiment farms and stations, 43.016.  
 Demonstration work, 43.033.  
 Agriculture, department of, reports, 12.014.  
 Animal Diseases and Pests, this index.  
 Animal health commission, 161.026.  
 Bees, entomologists, 131.001.  
 Citrus Fruits, this index.  
 Commodity producers board, Election, 41.027.  
 Reports, 41.059.  
 Cotton, compressing violations, statements, 111.006.  
 Eggs, Foreign states, inspection, 132.006.  
 Marketing advisory board, 132.007.  
 Estrays, payment, 142.006, 142.007.  
 Family farm and ranch advisory council, 252.014.  
 Livestock, this index.  
 Markets and Warehouses, this index.  
 Mexican fruit fly control, health and sanitation, 72.026.  
 Noxious weeds, Assessments, 78.051 et seq.  
 Districts, 78.021.  
 Per Diem, generally, this index.  
 Scabies control, dipping, 164.028.  
 Tick eradication, dipping, 167.107.  
 Traveling Expenses, generally, this index.  
 Wind erosion conservation districts, 202.036.

**EXPERIMENTAL FARMS**

Agricultural Experiment Farms and Stations, generally, this index.

**EXPERIMENTS**

Bees, apiaries, 131.004.

**EXPORTS AND IMPORTS**

Animal Diseases and Pests, this index.  
 Citrus Fruits, this index.  
 Fertilizers, sales, 63.006.  
 Livestock, this index.  
 Nurseries and nursery products, Camellias, certificate of inspection, 71.052.  
 Certificates of inspection, 71.051.  
 Sheep, Scabies control, Fines and penalties, 164.088.  
 Permits, 164.061 et seq.  
 Vegetables, certificates, 71.111.

**EXPOSITIONS**

Fairs and Exhibitions, generally, this index.

**EXPRESS COMPANIES**

Bees, disease control, 131.025.

**FACILITIES**

Soil and water conservation, construction and maintenance, 201.106.  
 Tick eradication, 167.059.  
 Wind erosion conservation districts, 202.022.

**FACTOR MERCHANTS**

Public weighers, 13.268.

**FAIRS AND EXHIBITIONS**

Animal Diseases and Pests, this index.  
 Eggs, pullorum or typhoid control, 168.005.  
 Poultry and poultry products, pullorum or typhoid control, 168.005.  
 Sheep, scabies control, 164.065.

**FALSE REPRESENTATION**

Fraud, generally, this index.

**FALSE WEIGHT OR MEASURE**

Defined, sale or possession, 13.120.

**FAMILY FARM AND RANCH ADVISORY COUNCIL**

Generally, 252.013.

**FAMILY FARM AND RANCH SECURITY PROGRAM**

Generally, 252.001 et seq.

**FANCY BRIGHT GRADE**

Citrus fruits, 93.022.

**FANCY GRADES**

Bartlett pears, 91.111, 91.112.  
 Peaches, 91.042.  
 Tomatoes, 92.022.

**FANCY RUSSET GRADE**

Citrus fruits, 93.024.

**FARM PRODUCE**

Agricultural Products, generally, this index.

**FARMERS COOPERATIVE SOCIETIES**

Generally, 51.001 et seq.

**FARMLAND OR RANCLAND**

Defined, loans, 252.001.

**FEDERAL AGENCY**

Defined, soil and water conservation, 201.002.

**FEDERAL AID**

Fire ant, control, 77.005.  
 Pesticides, 76.007.  
 Licensing, 76.103.  
 Wind erosion conservation districts, 202.032.

**FEDERAL GOVERNMENT**

United States, generally, this index.

**FEED**

Generally, 141.001 et seq.  
 Actions and proceedings, 141.125.  
 Inspection fees, 141.124.  
 Adulterated feed, fines and penalties, 141.148.  
 Appeal and review, orders or rulings, 141.127.  
 Application, registration, 141.022.  
 Audits and auditors, records, 141.075.  
 Bonds (officers and fiduciaries), inspection fees, tonnage reports, 141.073.  
 Bulk commercial feed, labeling, 141.052.  
 Cancellation, registration, 141.025, 141.076.  
 Certificates and certification, 141.072.  
 Refusal, 141.076.  
 Changes, guarantees, 141.024.  
 Condemnation, 141.122.  
 Containers, Detention notice, 141.121.  
 Samples, identification, 141.103.  
 Control fund, deposits, 141.077.  
 Costs, Condemnation, 141.122.  
 Foreign states, records, auditors, 141.075.  
 Tags or certificates, 141.072.  
 Custom processing, exemptions, 141.006.  
 Customer-formula feed, Fines and penalties, 141.142.  
 Labeling, 141.053.  
 Deception, registration, cancellation or appraisal, 141.025.  
 Definitions, 141.001.  
 Deposits, fees, 141.077.  
 Detention, 141.121.  
 Disposal, 141.146.  
 Disposal, detained feed, 141.146.  
 Distribution, misbranded feed, 141.147.  
 Drugs and medicine, labeling, 141.055.  
 Entry upon property, inspection and sampling, 141.101.  
 Examinations and examiners, records, 141.075.  
 Exemptions, 141.002.  
 Custom process, 141.006.  
 Inspection fee, 141.071.  
 Fees, inspections, 141.071.  
 Fillers, labeling, 141.054.  
 Fines and penalties, 141.143.  
 Inspection violations, 141.141 et seq.  
 Tonnage report, inspection fees, 141.074.  
 Foreign states, records, audits, 141.075.  
 Forms, Publications, 141.005.

## INDEX TO AGRICULTURE CODE

References are to Sections

**FEED—Cont'd****Forms—Cont'd**

Registration applications, 141.022.  
 Tags and certificates, 141.072.  
 Tonnage reports, inspection fees, 141.073.

Fraud, registration, refusal or cancellation, 141.025.

Funds, control fund, deposits, 141.077.  
 Guarantees, changes, 141.024.

Hearings,  
 Registration, refusal or cancellation, 141.025.  
 Rules and regulations, 141.004.

Identification, samples, 141.103.

Independent analysis, samples, 141.105.

Inspection and inspectors, 141.101 et seq.  
 Fees, 141.071.  
 Fines and penalties, 141.141 et seq.

Licenses and permits, revocation or suspension, 141.076.

Low-grade feeding, labeling, 141.054.

Medicine, labeling, 141.055.

Misbranded feed, distribution, 141.147.

Notice,  
 Detention, 141.121.  
 Inspection violations, 141.105.  
 Registration, cancellation or refusal, 141.025.  
 Rules, hearings, 141.004.  
 Tags or certificates, cost, 141.072.

Oaths and affirmations, inspection violations, samples, 141.105.

Packaged commercial feed, labeling, 141.051.

Payments, inspection fees, late payment, 141.074.

Penalties. Fines and penalties, generally, ante.

Powers and duties, 141.002.

Publications, 141.005.

Records and recordation,  
 Fines and penalties, 141.145.  
 Tonnage, 141.075.

Refusal, registration, 141.025.

Registration, 141.021 et seq.  
 Cancellation, 141.076.

Reports,  
 Fines and penalties, 141.145.  
 Tonnage, 141.073, 141.075.

Revocation or suspension, licenses, 141.076.

Rules and regulations, 141.004.

Samples, 141.101 et seq.  
 Fines and penalties, 141.144.

Seals, samples, 141.103.

Standards, 141.004.

Tags, 141.072.  
 Refusal, 141.076.

Term, registration, 141.023.

Tonnage, reports, 141.073.

Venue, 141.126.  
 Inspection fees, recovery, 141.124.

Warnings, inspection violations, 141.121, 141.123.

**FEES**  
 Agricultural finance corporations, examinations, 56.008.  
 Agricultural Products, this index.  
 Antifreeze, registration, 16.002.  
 Bees, equipment, brand registration, 131.052.  
 Citrus Fruits, this index.

**FEES—Cont'd**

Cooperative credit associations, 55.009.  
 Cooperative marketing associations, 52.038, 52.122, 52.151.  
 Cotton, this index.

Eggs,  
 Inspection, 132.043.  
 Licenses, 132.025 et seq.

Farmers cooperative societies, 51.023.  
 Feed, inspections, 141.071.

Fertilizers, inspection, 63.071 et seq.

Financial pools, 53.022.

Grain samplers for grading, licenses, 96.003.

Herbicides, this index.

Livestock, this index.

Markets and Warehouses, this index.

Noxious weeds, district petition, filing, 78.012.

Pesticides, this index.

Pools, financial pools, 53.022.

Produce recovery fund, 103.005, 103.011.

Public weighers, certificate of authority, 13.255, 13.261.

Roses, certificate of authority, 121.004.

Seeds and Plants, this index.

Sweet potatoes, inspection, 91.143.

Vegetables, this index.

Weighers, public weighers, certificate of authority, 13.255.

Weights and Measures, this index.

**FELONIES**  
 Crimes and Offenses, generally, this index.

**FENCES**  
 Actions and proceedings, grazing land, common fence violations, 143.133.  
 Attached fence, removal, 143.121 et seq.  
 Common fence, grazing lands, 143.131 et seq.  
 Consent, removal, 143.121.  
 Cost, grazing lands, common fence violations, 143.133.  
 Crimes and offenses, grazing lands, common fence violations, 143.134.  
 Damages, trespassing animals, 143.079.  
 Death, trespassing animals, 143.033.  
 Definitions, owner or lessee, 143.131.  
 Fees, trespassing animals, impoundment, 143.079.  
 Fines and penalties,  
 Grazing lands, common fence violations, 143.134.  
 Trespassing animals, running at large, 143.082.  
 Grazing land, common fence, 143.131 et seq.  
 Impoundment, trespassing animals, 143.078.  
 Injunctions, grazing land, common fence violations, 143.133.  
 Injuries, trespassing animals, 143.033.  
 Liens and encumbrances, grazing lands, common fence violations, 143.133.  
 Maiming, trespassing animals, 143.033.  
 Notice, removal, 143.122, 143.123.  
 Removal, 143.121 et seq.  
 Running at large, animal classes, 143.077.  
 Sales, impounded animals, 143.081.  
 Searches and seizures, trespassing animals, impoundment, 143.080.  
 Separation, 143.121 et seq.

**FENCES—Cont'd**

Trespassing animals,  
 Impoundment, 143.078 et seq.  
 Injuries, 143.033.  
 Wounding, trespassing animals, 143.033.

**FERTILIZER MATERIAL**  
 Defined, sale, 63.001.

**FERTILIZERS**  
 Generally, 63.001 et seq.  
 Actions and proceedings, 63.125.  
 Inspection or collection fees, 63.124.  
 Administrative law and procedure, 63.126.  
 Adulteration, 63.143.  
 Advertisements,  
 False or misleading statements, 63.142.  
 Label restrictions, 63.053.  
 Analysis, 63.091 et seq.  
 Appeal and review, 63.126.  
 Application, registration, 63.032.  
 Application of law, 63.002.  
 Audits and auditors, 63.074.  
 Bonds (officers and fiduciaries), condemnation, corrections, 63.122.  
 Brands, marks and labels, 63.051 et seq.  
 Samples, identification, 63.093.  
 Cancellation, registration, 63.035.  
 Inspection fee, late payments, 63.073.  
 Certificates and certification, independent analysis, 63.094.  
 Chemists and chemistry,  
 Independent analysis, 63.094.  
 State employee, 63.003.  
 Condemnation, 63.122.  
 Confiscation, 63.122.  
 Containers,  
 Detention notice, 63.121.  
 Labeling, 63.051 et seq.  
 Samples, identification, 63.093.  
 Control fund, 63.075.  
 Costs,  
 Audits, 63.074.  
 Condemnation, 63.122.  
 Independent analysis, 63.094.  
 Definitions, sales, 63.001.  
 Deposits, inspection fees, 63.075.  
 Detention, 63.121 et seq.  
 Disposal, detained fertilizers, 63.122.  
 Entry upon property, inspection and sampling, 63.091.  
 Examination and examiners, records, 63.074.  
 Samples, 63.093.  
 Exemptions, 63.002.  
 Manufacturers sales, 63.006.  
 Registration, 63.034.  
 Exports and imports, sales, 63.006.  
 False statements, fines and penalties, 63.142.  
 Fees, inspection, 63.071 et seq.  
 Actions and proceedings, 63.124.  
 Fines and penalties, 63.141 et seq.  
 Inspection, late payment, 63.073.  
 Foreign states, audits, 63.074.  
 Forms,  
 Registration, 63.032.  
 Tonnage reports, 63.072.  
 Funds, fertilizer control fund, 63.075.  
 Grades and grading, 63.021, 63.022.  
 Hearings, registration, cancellation or refusal, 63.035.  
 Identification, samples, 63.093.  
 Independent analysis, 63.094.

References are to Sections

**FERTILIZERS—Cont'd**

Inspection and inspectors, 63.091 et seq.  
 Actions and proceedings, fees, recovery, 63.124.  
 Fees, 63.071 et seq.  
 Jurisdiction, condemnation, 63.122.  
 Labels, 63.051 et seq.  
 Lists, grades, 63.022.  
 Misbranding, fines and penalties, 63.142.  
 Misleading labels, 63.052.  
 Notice,  
     Analysis violations, 63.094.  
     Detention, 63.121.  
 Oaths and affirmations, independent analysis, 63.094.  
 Order, condemnation, 63.122.  
 Payments, inspection fees, 63.071 et seq.  
 Publications, 63.005.  
 Records and recordation, 63.074.  
     Samples, examination, 63.093.  
 Refusal, registration, 63.035.  
 Registration, 63.031 et seq.  
     Cancellation, inspection fee, late payment, 63.073.  
 Reports, tonnage, 63.072, 63.074.  
 Research, inspection fees, 63.075.  
 Rules and regulations, 63.004.  
     Sampling and analysis, 63.092.  
 Sales,  
     Importers, manufacturers of manipulators, 63.006.  
     Information publication, 63.005.  
 Samples, 63.091 et seq.  
 Soil and water conservation, 201.105.  
 State officers and employees, chemist, 63.003.  
 Statements,  
     Detention, 63.121.  
     Foreign states, audits, 63.074.  
     Grades, 63.021.  
 Term, registration, 63.033.  
 Tests and testing, samples, 63.095.  
 Time,  
     Detention notice, 63.121.  
     Inspection fee, payment, 63.073.  
 Tonnage, reports, 63.072, 63.074.  
 Trial de novo, 63.126.  
 Venue, fee recovery, 63.124.  
 Warnings, 63.121, 63.123.

**FIBERS**

Research, 42.001 et seq.

**FIDELITY BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**FIELD INSPECTIONS**

Vegetables, 71.102.

**FILLERS**

Feed, labeling, 141.054.

**FINANCIAL INSTITUTIONS**

Banks and Banking, generally, this index.  
 Building and Loan Associations, generally, this index.  
 Family farm and ranch security program, loans, 252.001 et seq.

**FINANCIAL POOLS**

Agricultural products and livestock, 53.001 et seq.

**FINANCIAL STATEMENTS AND REPORTS**

Citrus fruits, marketing agreements or licenses, 102.159.  
 Pools, 53.023.

**FINES AND PENALTIES**

Agricultural products, research and promotion assessments, 41.101 et seq.  
 Animal Diseases and Pests, this index.  
 Antifreeze, 16.010.  
 Bees, this index.  
 Brucellosis control, 163.081 et seq.  
 Citrus Fruits, this index.  
 Commodity producers board, 41.103.  
 Cornmeal, packages, 13.029.  
 Cotton, this index.  
 Dairies and Dairy Products, this index.  
 Feed, this index.  
 Fences, grazing lands, common fence violations, 143.134.  
 Fertilizers, 63.141 et seq.  
     Inspection fee, late payment, 63.073.  
 Financial pools, 53.024.  
 Flour, packages, 13.029.  
 Fruit Trees, this index.  
 Fruits, this index.  
 Grain samples for grading, misrepresentation, 96.007.  
 Herbicides, 75.024.  
 Hogs, disease control, 165.041, 165.042.  
 Honey and honey products,  
     Equipment brands, 131.152.  
     Labeling or sales, 131.153.  
 Horticultural products, quarantine violations, 71.013.  
 Livestock, this index.  
 Markets and warehouses, 14.027 et seq.  
 Mexican fruit fly control, 72.061 et seq.  
 Name, Texas agricultural product, selling or advertising, 12.017.  
 Noxious weeds, equipment cleaning, 78.045.  
 Nurseries and nursery products, 71.058.  
 Pesticides, 76.201 et seq.  
     Actions, 76.156.  
 Pools, financial pools, 53.024.  
 Poultry and Poultry Products, this index.  
 Produce recovery fund, 103.013.  
 Public Weighers, this index.  
 Roses, 121.010 et seq.  
 Seeds and Plants, this index.  
 Slaughtering and Slaughtering Houses, this index.  
 Tick eradication, 167.131 et seq.  
 Tomatoes, 92.041, 92.042.  
 Turkeys, running at large, 143.082.  
 Vegetables, this index.

**FIRE ANTS**

Eradication and control, 77.001 et seq.

**FIRE INSURANCE**

Warehouse corporations, 14.120.

**FIRES AND FIRE PROTECTION**

Animal diseases and pests, disposal, 161.004.  
 Markets and warehouses, insurance, 14.011.

**FISH AND GAME**

Raising, 12.009.

**FLIES**

Mexican fruit fly, 72.001 et seq.

**FLOCK**

Defined, pullorum and typhoid control, 168.001.

**FLOODS AND FLOOD CONTROL**

Soil and Water Conservation, generally, this index.

**FLORISTS**

Nurseries and Nursery Products, generally, this index.

**FLOUR**

Containers, weights and measures, 13.029.  
 Weights and measures, 13.029.

**FLOWERS**

Nurseries and Nursery Products, generally, this index.

**FOLDING CRATES**

Onions, 91.025.

**FOOD PROTEIN COMMITTEE**

Generally, 42.006.

**FORECLOSURE**

Tick eradication, liens, 167.108.  
 Wind erosion conservation districts, assessment lien, 202.047.

**FOREIGN COUNTRIES**

Agricultural or horticultural products, markets, 12.006.  
 Agriculture department, correspondence, 12.010.  
 Bees, disease control, 131.021 et seq.  
 Livestock, processing facilities, 146.021 et seq.  
 Tick eradication, livestock, 167.026.

**FOREIGN STATES**

Agricultural or horticultural products, markets, 12.006.  
 Agriculture department, correspondence, 12.010.  
 Animal diseases and pests, health certificates, 161.081 et seq.  
 Bees, disease control, 131.021 et seq.  
 Cooperative marketing associations, 52.121, 52.122.  
 Eggs, this index.  
 Fertilizers, audits, 63.074.  
 Horticultural products, diseases and pests, quarantines, 71.001.  
 Livestock, this index.  
 Nurseries and nursery products, certificate of inspection, 71.051.  
 Pesticides, certified applicator examination, 76.110.  
 Seeds and plants, 62.009.

**FORESTS AND FORESTRY**

Associations and societies, cooperative marketing associations, 52.001 et seq.  
 Contracts,  
     Breach or threatened breach, 52.131, 52.132.  
     Cooperative marketing associations, 52.015, 52.016.

References are to Sections

**FORESTS AND FORESTRY—Cont'd**

Cooperative marketing associations, 52.001 et seq.  
 Loans, 52.001 et seq.  
 Machinery and equipment, 52.001 et seq.  
 Marketing and warehouses, 52.001 et seq.  
 Nonprofit organizations, cooperative marketing associations, 52.001 et seq.  
 Preservation, 12.008.  
 Publication, preservation and replenishment, 12.008.  
 Sales, 52.001 et seq.  
 Stocks and stockholders, cooperative marketing associations, 52.001 et seq.  
 Storage, 52.001 et seq.  
 Transportation, 52.001 et seq.

**FORGERY**

Warehouse receipts, 14.029.

**FORMS**

Agricultural resources, statistics, 12.011.  
 Animal diseases and pests, health certificates, 161.081.  
 Commercial feed, generally. Feed, this index.  
 Eggs, inspection, 132.003.  
 Farmers cooperative societies, 51.020.  
 Feed, this index.  
 Fertilizers,  
   Registration, 63.032.  
   Tonnage reports, 63.072.  
 Markets and warehouses, 14.020.  
 Pesticides,  
   Damage claims, 76.184.  
   Dealers license, 76.071.  
 Soil and water conservation, districts, boundary changes, 201.050.  
 Vegetables, handling license, application, 101.005.  
 Warehouse receipts, 14.003, 14.020.

**FOUR-BASKET CRATES**

Fruits and vegetables, 91.023.

**FOWL**

Poultry and Poultry Products, generally, this index.

**FRANCHISE TAXES**

Cooperative credit associations, exemption, 55.010.  
 Farmers cooperative societies, exemption, 51.025.  
 Marketing association, exemption, 51.025.  
 Mutual loan corporations, exemption, 54.013.

**FRAUD**

Agricultural products,  
   Price advertisement, 13.035.  
   Quantity, 13.036.  
 Antifreeze, 16.004.  
 Citrus fruits, 93.061, 93.062.  
   Inspection violations, 94.051, 94.052.  
 Commercial feed, registration, cancellation or refusal, 141.025.  
 Cooperative marketing associations, contract breach, 52.132.  
 Feed, registration, cancellation or refusal, 141.025.

**FRAUD—Cont'd**

Livestock, transporting animals, permits, 146.008.  
 Markets and warehouses, 14.029.  
   Scale weight tickets, 14.031.  
 Nurseries and nursery products, certificate revocation, 71.055.  
 Poultry and poultry products, transporting animals, permits, 146.008.  
 Public weighers, 13.266.  
 Seeds and plants, 61.018, 62.011.  
 Tomatoes, containers, 92.026.  
 Vegetables, certificate revocation, 71.113.  
 Warehouse receipts, 14.029, 14.031.  
 Weights and Measures, this index.

**FROST**

Citrus fruits, unfit fruit, 94.025.

**FRUIT TREES**

Actions and proceedings, Mexican fruit fly control, 72.006, 72.042.  
 Agents and agencies, 12.019.  
   Financial pools, 53.017.  
 Appeal and review,  
   Mexican fruit fly control, 72.041.  
   Quarantine or destruction orders, 71.010.  
 Bond (officers and fiduciaries), financial pools, 53.005.  
 Carriers, privileges and immunities, quarantine violations, 71.011.  
 Certificates and certification,  
   Mexican fruit fly, infestation, 72.021.  
   Movement, Mexican fruit fly quarantine, 72.015.  
 Certificates of authority, financial pools, 53.006, 53.009.  
 Citrus quarantine advisory committee, 72.022.  
 Committees, citrus quarantine advisory committee, 72.022.  
 Compensation and salaries, Mexican fruit fly control, 72.042.  
 Control zones, disease or pest, 71.008.  
 Corporations, financial pools, 53.001 et seq.  
 Counties, Mexican fruit fly quarantine, 72.014.  
 Crimes and offenses, financial pools, 53.024.  
 Definitions,  
   Financial pools, 53.024.  
   Mexican fruit fly, 72.001.  
 Destruction, disease or pest infested, 71.009.  
 Diseases, 71.001 et seq.  
 Emergencies, quarantines, 71.004.  
 Entry upon property, Mexican fruit fly control, 72.004.  
 Eradication, Mexican fruit fly, 72.001 et seq.  
 Eradication zones, disease or pest, 71.008.  
 Expenses and expenditures, Mexican fruit fly control, 72.026.  
 Fees, financial pools, 53.022.  
 Financial pools, 53.001 et seq.  
 Financial statements and reports, financial pools, 53.023.  
 Fines and penalties,  
   Financial pools, 53.024.  
   Mexican fruit fly control, 72.061 et seq.  
   Quarantine violations, 71.012, 71.013.

**FRUIT TREES—Cont'd**

Flies, Mexican fruit fly, 72.001 et seq.  
 Foreign states, quarantines, 71.001.  
 Health and sanitation, Mexican fruit fly, unhusbandlike and unsanitary conditions, 72.025.  
 Hearings, quarantines, 71.006.  
 Herbicides, generally, this index.  
 Host-free period, Mexican fruit fly, 72.024.  
 Infestation, Mexican fruit fly, 72.021 et seq.  
 Injunctions, Mexican fruit fly control, 72.044.  
 Inspections and inspectors,  
   Diseases and pests, 71.001 et seq.  
   Mexican fruit fly control, 72.004.  
 Interest, financial pools, 53.014.  
 Liens and incumbrances, Mexican fruit fly control, 72.043.  
 Liquidation, financial pools, 53.017.  
 Loans, pools, 53.001 et seq.  
 Mandamus, Mexican fruit fly control, 72.044.  
 Mexican fruit fly, 72.001 et seq.  
 Movements,  
   Mexican fruit fly quarantine, 72.015.  
   Fines and penalties, 72.064.  
   Quarantined areas, 71.005.  
 Notice,  
   Mexican fruit fly, 72.005.  
   Mexican fruit fly control, hearing, 72.044.  
 Nuisance, Mexican fruit fly control, 72.042, 72.063.  
   Unhusbandlike and unsanitary conditions, 72.025.  
 Orders, health and sanitation, 72.025.  
 Ownerless fruit, Mexican fruit fly control, seizure, 72.045.  
 Peace officers, Mexican fruit fly control, 72.003.  
 Penalties. Fines and penalties, generally, ante.  
 Pesticides, generally, this index.  
 Pests, 71.001 et seq.  
 Pools, financial pools, 53.001 et seq.  
 Privileges and immunities, carriers, quarantine violations, 71.011.  
 Protection, 12.007.  
 Quarantines,  
   Diseases or pests, 71.001 et seq.  
   Mexican fruit fly, 72.011 et seq.  
 Rates and charges, financial pools, 53.022.  
 Records and recordation, Mexican fruit fly, 72.005.  
 Reports, Mexican fruit fly, 72.005.  
 Searches and seizures,  
   Disease or pest infested, 71.009.  
   Mexican fruit fly control, 72.045.  
 Security, financial pools, 53.015.  
 Statements, Mexican fruit fly, 72.005.  
 Term, Mexican fruit fly, quarantine, 72.013.  
 Transportation, Mexican fruit fly quarantine, 72.015.  
 Unhusbandlike and unsanitary conditions, Mexican fruit fly, 72.025.  
 Venue, Mexican fruit fly control, 72.006.

**FRUITS**  
 See, also, Citrus Fruits, generally, this index.

References are to Sections

**FRUITS—Cont'd**

Actions and proceedings, Mexican fruit fly control, 72.006, 72.042.  
 Ants, fire ant, control, 77.001 et seq.  
 Appeal and review,  
     Mexican fruit fly control, 72.041.  
     Quarantine or destruction orders, 71.010.  
 Bartlett pears, grades and packs, 91.111 et seq.  
 Baskets, 91.022 et seq.  
 Berries, boxes or crates, 91.026.  
 Boxes. Containers, generally, post.  
 Brands, marks and labels,  
     Containers, 91.007.  
     Culls, 91.006.  
 Bushel baskets, 91.022.  
 Carriers, privileges and immunities, quarantine violations, 71.011.  
 Certificates and certification,  
     Inspection, 91.004.  
     Mexican fruit fly, infestation, 72.021.  
     Movement, Mexican fruit fly quarantine, 72.015.  
 Choice grades, Bartlett pears, 91.113.  
 Choice or No. 1 grade, peaches, 91.043.  
 Citrus quarantine advisory committee, 72.022.  
 Committees, citrus quarantine advisory committee, 72.022.  
 Compensation and salaries, Mexican fruit fly control, 72.042.  
 Containers, 91.001 et seq., 91.023 et seq.  
     Berries, 91.026.  
     Markings, 91.007.  
     Standards, 91.002, 91.021 et seq.  
 Control zones, disease or pest, 71.008.  
 Counties, Mexican fruit fly quarantine, 72.014.  
 Crates. Containers, generally, ante.  
 Culls, 91.006.  
 Definitions, Mexican fruit fly, 72.001.  
 Destruction, disease or pest infested, 71.009.  
 Diseases, 12.007, 71.001 et seq.  
 Emergencies, quarantines, 71.004.  
 Entry upon property, Mexican fruit fly control, 72.004.  
 Eradication, Mexican fruit fly, 72.001 et seq.  
 Eradication zones, disease or pest, 71.008.  
 Expenses and expenditures, Mexican fruit fly control, 72.026.  
 Family farm and ranch security program, loans, 252.001 et seq.  
 Fines and penalties,  
     Grading or inspection, 91.008.  
     Mexican fruit fly control, 72.061 et seq.  
     Quarantine violations, 71.012, 71.013.  
 Fire ant, control, 77.001 et seq.  
 Flies, Mexican fruit fly, 72.001 et seq.  
 Foreign states, quarantines, 71.001.  
 Four-basket crate, 91.023.  
 Grades and grading, 91.001 et seq.  
 Health and sanitation, Mexican fruit fly, unhusbandlike and unsanitary conditions, 72.025.  
 Hearings, quarantines, 71.006.  
 Herbicides, generally, this index.  
 Host-free period, Mexican fruit fly, 72.024.  
 Infestation, Mexican fruit fly, 72.021 et seq.

**FRUITS—Cont'd**

Injunctions, Mexican fruit fly control, 72.044.  
 Inspection and inspectors, 91.001 et seq.  
     Diseases and pests, 71.001 et seq.  
     Mexican fruit fly control, 72.004.  
 Investigations, diseases, 12.007.  
 Liens and incumbrances, Mexican fruit fly control, 72.043.  
 Loans, family farm and ranch security program, 252.001 et seq.  
 Mandamus, Mexican fruit fly control, 72.044.  
 Mexican fruit fly, 72.001 et seq.  
 Movements,  
     Mexican fruit fly quarantine, 72.015.  
     Fines and penalties, 72.064.  
     Quarantined areas, 71.005.  
 Notice,  
     Mexican fruit fly, 72.005.  
     Mexican fruit fly control, hearing, 72.044.  
 Nuisance, Mexican fruit fly control, 72.042, 72.063.  
     Unhusbandlike and unsanitary conditions, 72.025.  
 Orders, health and sanitation, 72.025.  
 Ownerless fruit, Mexican fruit fly control, seizure, 72.045.  
 Packages. Containers, generally, ante.  
 Peace officers, Mexican fruit fly control, 72.003.  
 Peaches, generally, this index.  
 Pears, generally, this index.  
 Penalties. Fines and penalties, generally, ante.  
 Pesticides, generally, this index.  
 Pests, 71.001 et seq.  
 Privileges and immunities, carriers, quarantine violations, 71.011.  
 Quarantines,  
     Diseases or pests, 71.001 et seq.  
     Mexican fruit fly, 72.011 et seq.  
 Records and recordation, Mexican fruit fly, 72.005.  
 Reports, Mexican fruit fly, 72.005.  
 Searches and seizures,  
     Disease or pest infested, 71.009.  
     Mexican fruit fly control, 72.045.  
 Six-basket crates, 91.024.  
 Standards, containers, 91.002.  
 Statements, Mexican fruit fly, 72.005.  
 Term, Mexican fruit fly, quarantine, 72.013.  
 Transportation,  
     Containers, marking, 91.007.  
     Culls, 91.006.  
     Mexican fruit fly quarantine, 72.015.  
 Trees. Fruit Trees, generally, this index.  
 Unhusbandlike and unsanitary conditions, Mexican fruit fly, 72.025.  
 Venue, Mexican fruit fly control, 72.006.

**FUMIGATION PLANTS**

Cotton, pink bollworm control, 74.056.

**FUNDS**

Agriculture, department of, deposits, 11.008.  
 Equalization funds, surplus commodities, 104.146.  
 Farm and ranch loan security fund, 252.081 et seq.  
 Fertilizers, control fund, 63.075.

**FUNDS—Cont'd**

Produce recovery funds, commission merchants, 103.001 et seq.  
 Soil conservation fund, 201.023.  
 Stabilization fund, surplus commodities, 104.142.  
 Warehouse corporations, sinking fund bond, 14.111, 14.112.  
 Wind erosion conservation districts, 202.034.

**FUNGUS**

Defined, pesticides, 76.001.

**GARBAGE AND REFUSE**

Hogs, feeding, 165.026.  
 Tick eradication, handling and removal, 167.033.

**GEESE**

Poultry and Poultry Products, generally, this index.

**GIFTS**

Agricultural products, research, 42.004.  
 Bees, experimental apiaries, 131.004.  
 Soil and water conservation, 201.104, 201.108.  
 Wind erosion conservation districts, 202.033.

**GINNY**

Cotton, pink bollworm control, 74.055.

**GLANDERS**

Animal diseases and insect pest,  
 Destruction, 161.066.  
 Fines and penalties, 161.142.

**GOVERNING BODY**

Defined, wind erosion conservation, 202.001.

**GOVERNING LAW**

Conflict of Laws, generally, this index.

**GOVERNMENTAL REQUIREMENT**

Defined, 251.002.

**GOVERNOR**

Appointments, dairy advisory board, 13.202.

**GRADES AND GRADING**

Agricultural Products, this index.  
 Bermuda onions, 91.061 et seq.  
 Citrus Fruits, this index.  
 Cotton, certificate, 112.005.  
 Defined, fertilizers, 63.001.  
 Eggs,  
     Inspections, 132.041 et seq.  
     Standards, 132.004.  
 Fancy Grades, generally, this index.  
 Fertilizers, 63.021, 63.022.  
 Fruits, 91.001 et seq.  
 Grain, samples, 96.001 et seq.  
 Irish potatoes, 91.121 et seq.  
 Livestock, 145.001 et seq.  
 Peaches, 91.041 et seq.  
 Roses, 121.001 et seq.  
 Samples, grains, 96.001 et seq.  
 Snap beans, 91.091 et seq.  
 Sweet potatoes, 91.142.  
 Tomatoes, 92.001 et seq.  
 Vegetables, this index.

## INDEX TO AGRICULTURE CODE

References are to Sections

**GRAIN**

Defined,  
 Markets and warehouses, 14.001.  
 Sampling for grading, 96.001.  
 Diseases, 12.007.  
 Forms, statistics, 12.011.  
 Grading, samples, 96.001 et seq.  
 Investigation, diseases, 12.007.  
 Markets and Warehouses, generally, this index.  
 Samples, grading, 96.001 et seq.  
 Statistics, 12.011.

**GRANTS**

Agricultural products, research, 42.004.  
 Pesticides, federal agencies, 76.007.  
 Soil and water conservation, 201.104, 201.108.  
 Wind erosion conservation districts, 202.032, 202.033.

**GRAPEFRUITS**

Citrus Fruits, generally, this index.

**GRAPES**

Viticultural Products, generally, this index.

**GRASSES**

Investigations and reports, 12.008.

**GRAZING LAND**

Fences, common fence, 143.131 et seq.  
 Soil and Water Conservation, generally, this index.

**GREENHOUSES**

Nurseries and Nursery Products, generally, this index.

**GROVE**

Defined, citrus fruit, 94.001.

**HANDLE**

Defined,  
 Citrus fruits, 102.001.  
 Vegetables, 101.001.

**HANDLER**

Defined,  
 Citrus fruits, marketing agreements and licenses, 102.152.  
 Marketing orders, 104.002.

**HANDLING**

Citrus fruits, licenses and permits, 102.001 et seq.  
 Vegetables, licenses, 101.001 et seq.

**HATCHERIES**

Defined, pullorum and typhoid control, 168.001.  
 Poultry and poultry products, registration, 168.003.

**HEADQUARTERS**

Agriculture, department of, 11.002.

**HEALTH AND SANITATION**

Eggs, 132.045.  
 Mexican fruit fly control, 72.025, 72.026.  
 Quarantine, generally, this index.

**HEALTH CERTIFICATES**

Animal Diseases and Pests, this index.

**HEARINGS**

See specific index headings.

**HERBICIDES**

Generally, 75.001 et seq.  
 Actions and proceedings, 75.019.  
 Amendments, licenses, 75.011.  
 Appeal and review, county exemptions, revocation and reinstatements, 75.023.  
 Application, licenses and permits, 75.006.  
 Application of law, 75.003.  
 Applicator, 75.012 et seq.  
 Blanket permits, 75.008.  
 Bonds (officers and fiduciaries), custom applicators, 75.014.  
 Counties,  
 Exemptions, 75.022.  
 Revocation and reinstatement, 75.023.  
 Herbicide inspectors, 75.021.  
 Crimes and offenses, 75.024.  
 Custom applicator, 75.012.  
 Bonds (officers and fiduciaries), 75.014.  
 Damages, insurance, 75.014.  
 Dealers, licenses, 75.004.  
 Definitions, 75.002.  
 Destruction, plants, notice, 75.015.  
 Dry herbicides, licenses and permits, 75.009.  
 Enforcement, 75.019.  
 Equipment, 75.016, 75.017.  
 Exemptions,  
 Counties, 75.022.  
 Revocation and reinstatement, 75.023.  
 Dealers licenses, 75.004.  
 Licenses and permits, 75.006.  
 Rules and regulations, 75.018.  
 Fees. Licenses and permits, post.  
 Fines and penalties, 75.024.  
 Hearings,  
 Application of law, 75.003.  
 County exemptions, revocation and reinstatement, 75.023.  
 Rules and regulations, revision or examination, 75.018.  
 Individual permits, 75.008.  
 Inspection and inspectors, 75.007, 75.015, 75.020.  
 County herbicide inspectors, 75.021.  
 Machinery and equipment, 75.016.  
 Insurance, crop damage, 75.014.  
 Licenses and permits,  
 Application, 75.006.  
 Dealers, 75.004.  
 Dry herbicides, 75.009.  
 Equipment, 75.016.  
 Fees, 75.006.  
 Dealers, 75.004.  
 Equipment, 75.016.  
 Refunds, 75.010.  
 Powder herbicides, 75.009.  
 Revocation or suspension, 75.011.  
 Sales records, 75.005.  
 Term, 75.010.  
 Types, 75.008.  
 Machinery and equipment, 75.016, 75.017.  
 Notice,  
 County exemptions, revocation and reinstatement, 75.023.  
 Crop destruction, 75.015.  
 Rules and regulations, hearings, 75.018.  
 Spraying, 75.012.

**HERBICIDES—Cont'd**

Officers and employees,  
 County herbicide inspectors, 75.021.  
 Inspectors, 75.020.  
 Orders, county exemptions, revocation and reinstatements, 75.023.  
 Permits. Licenses and permits, generally, ante.  
 Powder herbicides, licenses, 75.009.  
 Publication, rules and regulation, 75.018.  
 Records and recordation,  
 Applicator, 75.013.  
 Sales, 75.005.  
 Spraying, 75.012.  
 Refunds, license fees, 75.010.  
 Reinstatement, county exemption, 75.023.  
 Reports, affected crops, 75.015.  
 Revocation or suspension,  
 County exemptions, 75.023.  
 Dealers license, sales records, 75.005.  
 Licenses and permits, 75.011.  
 Rules and regulations,  
 Applicators record, 75.013.  
 Equipment, 75.017.  
 Exemptions or revisions, 75.018.  
 Records, sales, 75.005.  
 Spraying, 75.012.  
 Term, licenses and permits, 75.010.  
 Time,  
 Applicators records, 75.013.  
 County exemptions, revocation and reinstatements, 75.023.  
 Dealer license, expiration, 75.004.  
 Equipment license, expiration, 75.016.

**HIDES**

Livestock, this index.  
 Slaughtering and Slaughtering Houses, this index.

**HIDES AND ANIMAL INSPECTOR**

Generally, 146.053 et seq.

**HIGHWAYS AND ROADS**

Roads and Highways, generally, this index.

**HOGS**

Appeal and review, diseased animals, Compensation, 165.025.  
 Sale or slaughter order, 165.024.  
 Appraisal and appraisers, diseased animal, sale or slaughter, 165.025.  
 Biologics disease control, 165.023.  
 Brands, marks and labels, 144.001 et seq.  
 Tuberculosis, 162.005.  
 Certificates and certification,  
 Health certificates, 161.085.  
 Tuberculosis, test or vaccination, 162.004.  
 Cholera, control, 165.001 et seq.  
 Compensation and salaries,  
 Diseased animals, sale or slaughter, 165.025.  
 Tuberculosis, sale or slaughter, 162.008.  
 Cooking equipment, inspection, 165.027.  
 Cooperative programs, tuberculosis control, 162.002.  
 Counties, brands, 144.021 et seq.  
 Definitions,  
 Disease control, 165.001.  
 Tuberculosis control, 162.001.  
 Diseases. Animal Diseases and Pests, generally, this index.

References are to Sections

**HOGS—Cont'd**

Elections, running at large, free range, 143.051 et seq.  
 Entry upon property, heating or cooking equipment, inspection, 165.027.  
 Equipment, heating or cooking, inspection, 165.027.  
 Examination and examiners, tuberculosis control, 162.009, 162.010.  
 Feeding, garbage, 165.026.  
 Fines and penalties,  
     Disease control, 165.041, 165.042.  
     Tuberculosis control, 162.011 et seq.  
 Foot and mouth diseases, 165.001 et seq.  
 Garbage, feeding, 165.026.  
 Health certificates, 161.085.  
 Hearings, disease eradication, 165.022.  
 Heating equipment, inspection, 165.027.  
 Highways and roads, running at large, 143.101 et seq.  
 Immunization, 165.002.  
     Tuberculosis, 162.004.  
 Inspection and inspectors, heating or cooking equipment, 165.027.  
 Machinery and equipment, heating or cooking, inspection, 165.027.  
 Mouth and foot disease, 165.001 et seq.  
 Notice, tuberculosis examination and testing, 162.010.  
 Orders, diseased animals, sale or slaughter, 165.024.  
 Pest. Animal Diseases and Pests, generally, this index.  
 Quarantine, tuberculosis, 162.006.  
 Records and recordation, marks and brands, 144.041 et seq.  
 Registration, tattoo marks, 144.101 et seq.  
 Reports, tuberculosis, branding and tagging, 162.005.  
 Rules and regulations, disease eradication, 165.022.  
 Running at large,  
     Free range, 143.051 et seq.  
     Highways, 143.101 et seq.  
 Sales,  
     Diseased animals, 165.024.  
     Tuberculosis control, 162.007.  
     Unattenuated hog cholera virus, 165.003.  
         Fines and penalties, 165.042.  
 Slaughtering and slaughtering houses, diseased animals, 165.024.  
 Tags, tuberculosis, 162.005.  
 Tattoo marks, registration, 144.101 et seq.  
 Tests and testing, tuberculosis control, 162.003, 162.009, 162.010.  
 Tuberculosis, 162.001 et seq.  
 Unattenuated hog cholera virus,  
     Fines and penalties, 165.042.  
     Sales, 165.003.  
 Vaccination, 165.002.  
 Vegetable waste, feeding, 165.026.  
 Vesicular exanthema, 165.001 et seq.  
 Waste, feeding, 165.026.

**HOME ECONOMICS**

Demonstration work, 43.031 et seq.

**HONEY AND HONEY PRODUCTS**

Brands, marks and labels, 131.101 et seq.  
 Equipment, 131.051 et seq.  
 Crimes and offenses, equipment brands, 131.152.

**HONEY AND HONEY PRODUCTS**

—Cont'd

Definitions, labeling and sales, 131.101.  
 Experimental apiaries, 131.004.  
 Fines and penalties,  
     Equipment brands, 131.152.  
     Labeling or sales, 131.153.  
 Imitation honey, sales, 131.101 et seq.  
 Machinery and equipment, branding, 131.051 et seq.  
 Sales, 131.101 et seq.  
     Experimental stations, 131.004.  
**HORTICULTURAL PRODUCTS**  
 See, also, Agricultural Products, generally, this index.  
 Actions and proceedings,  
     Pest-free areas, 71.003.  
     Quarantine violations, 71.012.  
     Research and promotion assessments, 41.101.  
 Ants, fire ant, control, 77.001 et seq.  
 Appeal and review, quarantine or destruction orders, 71.010.  
 Assessments,  
     Rates and charges, 41.058.  
     Research and promotion, 41.081 et seq.  
 Associations and societies, cooperative marketing associations, 52.001 et seq.  
 Boards and commissions, produce recovery fund, 103.003.  
 Budget, produce recovery fund, 103.004.  
 Buses,  
     Fines and penalties, 71.012.  
     Privileges and immunities, quarantine violations, 71.011.  
 Carriers,  
     Fines and penalties, 71.012.  
     Inspections and inspectors, diseases and pests, 71.0081.  
     Privileges and immunities, quarantine violations, 71.011.  
 Claims, produce recovery fund, 103.001 et seq.  
 Commodity producers board, 41.001 et seq.  
 Complaints, produce recovery fund, 103.005.  
 Contracts,  
     Breach or threatened breach, 52.131, 52.132.  
     Cooperative marketing associations, 52.015, 52.016.  
 Control zones, disease or pest, 71.008.  
 Cooperative marketing associations, 52.001 et seq.  
 Damages, quarantine violations, privileges and immunities, 71.011.  
 Definitions, produce recovery fund, 103.001.  
 Deposits, produce recovery fund, 103.002.  
 Destruction, diseases or pests, 71.009.  
 Diseases, 71.001 et seq.  
 Domicile and residence, produce recovery fund board, members, 103.003.  
 Education, 41.001 et seq.  
 Emergencies, quarantines, 71.004.  
 Eradication zones, disease or pest, 71.008.  
 Exemptions, research and promotion assessments, 41.082.  
 Expenses and expenditures, produce recovery fund, 103.002.

**HORTICULTURAL PRODUCTS**

—Cont'd

Family farm and ranch security program, loans, 252.001 et seq.  
 Fees, produce recovery fund, 103.011.  
     Complaint, 103.005.  
 Fines and penalties,  
     Quarantine violations, 71.013.  
     Research and promotion assessments, 41.101 et seq.  
 Fire ant, control, 71.001 et seq.  
 Foreign states, diseases and pests, quarantines, 71.001.  
 Hearings,  
     Disease or pest, 71.008.  
     Produce recovery fund, claims, 103.004, 103.006.  
     Quarantines, 71.006.  
 Herbicides, generally, this index.  
 Inspections and inspectors, diseases and pests, 71.001 et seq.  
 Investigations and investigators, Diseases or pests, 71.008.  
     Produce recovery fund, 103.006.  
 Licenses and permits, research and promotion assessments, revocation or suspension, 41.102.  
 Limitations, produce recovery fund, claims, 103.008.  
 Loans, 52.001 et seq.  
     Family farm and ranch security program, 252.001 et seq.  
 Machinery and equipment, 52.001 et seq.  
 Marketing and warehouses, 52.001 et seq.  
     Demand, increasing, 12.006.  
 Movements, quarantines, 71.005.  
 Nonprofit organizations, cooperative marketing associations, 52.001 et seq.  
 Notice,  
     Destruction, disease or pest infested, 71.009.  
     Quarantine or destruction notice, appeal, 71.010.  
 Nuisance, disease or pest infested, 71.009.  
 Oaths and affirmations, quarantine hearings, 71.006.  
 Orders, control or eradication zones, disease or pest, 71.008.  
 Payments, produce recovery fund, claim, 103.007.  
 Per diem, produce recovery fund board, 103.003.  
 Pest-free areas, 71.003.  
 Pesticides, generally, this index.  
 Pests, 71.001 et seq.  
 Plant diseases and insect pests, 71.001 et seq.  
 Plants. Seeds and Plants, generally, this index.  
 Privileges and immunities, carriers, quarantine violations, 71.011.  
 Proceedings. Actions and proceedings, generally, ante.  
 Promotion, 41.001 et seq.  
 Quarantines, 71.001 et seq.  
 Railroads,  
     Fines and penalties, 71.012.  
     Privileges and immunities, quarantine violations, 71.011.  
 Railway experiment farms, 43.051 et seq.  
 Rates and charges, assessments, promotion and research, 41.058.

## INDEX TO AGRICULTURE CODE

References are to Sections

**HORTICULTURAL PRODUCTS**

—Cont'd

Records and recordation, quarantine hearings, 71.006.

Refunds,  
Produce recovery fund, 103.007.  
Research and promotion assessments, 41.083.

Reimbursements, produce recovery fund, 103.009.

Reports,  
Disease or pest hearings, 71.008.  
Quarantine hearings, 71.006.  
Research, 41.001 et seq.

Rules and regulations,  
Produce recovery fund, 103.004, 103.012.  
Quarantines, 71.006, 71.007.

Sales, 52.001 et seq.

Searches and seizures, disease or pest, 71.009.

Seeds and Plants, generally, this index.

Ships and shipping,  
Fines and penalties, 71.012.  
Privileges and immunities, quarantine violations, 71.011.

Stocks and stockholders, cooperative marketing associations, 52.001 et seq.

Storage, 52.001 et seq.

Subrogation of rights, produce recovery fund, claims, 103.010.

Suits. Actions and proceedings, generally, ante.

Terms of office, produce recovery fund board, 103.003.

Time,  
Disease or pest hearings, 71.008.  
Quarantines, emergencies, 71.004.  
Transportation, 52.001 et seq.  
Treatment, diseased plants, 71.009.

Trucks,  
Fines and penalties, 71.012.  
Privileges and immunities, quarantine violations, 71.011.

Venue, research and promotion assessments, 41.101.

Zones, control or eradication, disease or pest, 71.008.

**HOUSING**

Agricultural experiment farms and stations, director, 43.009.

**IDENTIFICATION CARDS**

Citrus fruits, agents, 102.010 et seq.  
Vegetables, agents, 101.010 et seq.

**IDENTIFICATION SIGNS**

Citrus fruits, transportation, 102.101.

**IMITATION HONEY**

Sales, 131.101 et seq.

**IMMUNITIES**

Privileges and Immunities, generally, this index.

**IMMUNIZATION**

Animal Diseases and Pests, this index.  
Brucellosis control, 163.064.  
Hogs, 165.002.  
Tuberculosis control, 162.004.  
Livestock, tuberculosis control, 162.004.  
Poultry and poultry products, tuberculosis control, 162.004.

**IMPORTS**

Exports and Imports, generally, this index.

**IMPOUNDMENT**

Livestock, this index.

**INCLOSURES**

Fences, generally, this index.

**INCORPORATION**

Wind erosion conservation districts, 202.003.

**INCUMBRANCES**

Liens and Incumbrances, generally, this index.

**INDEBTEDNESS**

Agricultural finance corporations, 56.006.  
Livestock, exports and imports, processing facilities, 146.023.  
Markets and warehouses, orders, assessments, 104.164.  
Warehouse corporations, 14.110.  
Wind erosion conservation districts, 202.031.

**INDEMNITY**

Warehouse corporations, 14.106.

**INERT INGREDIENT**

Defined, pesticides, 76.001.

**INGREDIENT**

Defined, feed, 141.001.

**INITIATIVE AND REFERENDUM**

Agricultural products, research and promotion assessments, discontinuance, 41.085.  
Commodity producers board, 41.021 et seq.  
Cooperative marketing associations, 52.105.

**INJUNCTIONS**

Animal Diseases and Pests, this index.  
Bees, disease control, 131.031.  
Citrus Fruits, this index.  
Eggs, pullorum or typhoid control, 168.004.  
Fences, grazing land, 143.133.  
Markets and warehouses, 14.025.  
Orders, 104.202.  
Mexican fruit fly control, 72.044.  
Name, Texas agricultural product, 12.017.  
Pesticides, 76.154.  
Poultry and poultry products, pullorum or typhoid control, 168.004.  
Scabies control, dipping, 164.022.  
Tick eradication, 167.106.  
Vegetables, order violations, 101.018.

**INJURIES**

Cotton, baling, improper baling, 111.005.  
Estrays, 142.011.  
Livestock, this index.

**INSECT PEST**

Animal Diseases and Pests, generally, this index.  
Plant Diseases and Insect Pests, generally, this index.

**INSOLVENCY**

Markets and warehouses, 14.024.  
Warehouse corporations, 14.115, 14.116.

**INSPECTION AND INSPECTORS**

Agricultural experiment farms and stations, 43.014.  
Agricultural products, producers and handlers lists, 104.022.  
Animal Diseases and Pests, this index.  
Antifreeze, 16.007.  
Bees, disease control, certificates, 131.022.  
Brucellosis control, 163.062.  
Citrus Fruits, this index.  
Cotton, this index.  
Defined,  
Livestock, 146.051.  
Scabies control, 164.001.  
Tick eradication, 167.001.  
Tomatoes, 92.002.  
Diseases, horticultural products, 71.001 et seq.  
Eggs, this index.  
Electric meters, 13.103.  
Feed, this index.  
Fertilizers, this index.  
Florists, 71.041 et seq.  
Flowers, 71.041 et seq.  
Fruits, this index.  
Gas meters, 13.103.  
Herbicides, this index.  
Hogs, heating or cooking equipment, 165.027.  
Horticultural products, diseases and pests, 71.001 et seq.  
Livestock, this index.  
Markets and Warehouses, this index.  
Mexican fruit fly control, 72.004.  
Motor carriers, horticultural products, diseases and pests, 71.0081.  
Motor vehicles, horticultural products, diseases and pests, 71.0081.  
Noxious weeds, 78.044.  
Nurseries and nursery products, 71.041 et seq.  
Pesticides, this index.  
Pests, horticultural products, 71.001 et seq.  
Plants and seeds, 71.001 et seq.  
Public weighers, records, 13.264.  
Quarantines, horticultural products, 71.001 et seq.  
Roses, 121.001 et seq.  
Scabies control, 164.002 et seq.  
Seeds and Plants, this index.  
Slaughtering and Slaughtering Houses, this index.  
Sweet potatoes, 71.103, 91.141 et seq.  
Tick eradication, 167.008, 167.101 et seq.  
Fines and penalties, 167.131.  
Vegetables, this index.  
Warehouse receipts, 14.207.  
Warehouses, generally, Markets and Warehouses, this index.  
Water meters, 13.103.  
Weights and Measures, this index.  
Wind erosion conservation districts, audits, 202.036.

**INSPECTION CERTIFICATE**  
Defined, tomatoes, 92.002.

References are to Sections

**INSTITUTES**

Agricultural methods and practices, 12.004.

**INSURANCE**

Family farm and ranch security program, loans, 252.001 et seq.  
Herbicides, crop damage, 75.014.  
Investments, farm and ranch loan security bonds, 252.060.  
Loans, family farm and ranch security program, 252.001 et seq.  
Markets and warehouses, 14.011 et seq.  
Corporations, fire insurance, 14.120.  
Pesticides, commercial applicators, 76.111.  
Warehouse corporations, 14.120.

**INTEREST**

Family and ranch loan security bonds, 252.051.  
Financial pools, 53.014.  
Warehouse corporations, investments, 14.112.  
Wind erosion conservation districts, assessments, 202.045.

**INTRASTATE COMMERCE**

Defined, citrus fruits, 102.152.

**INVESTIGATIONS AND INVESTIGATORS**

Agricultural products, markets, demand, 12.006.  
Antifreeze, 16.007.  
Butterfat content licensing, 13.207.  
Citrus Fruits, this index.  
Drainage and irrigation, 12.005.  
Grasses, 12.008.  
Horticultural products, diseases or pests, 71.008.  
Markets and Warehouses, this index.  
Plant diseases and pests, 12.007.  
Produce recovery fund, claims, 103.006.  
Vegetables, 101.018.  
Weights and measures, 13.005.

**INVESTMENTS**

Agricultural finance corporations, 56.005.  
Farm and ranch loan security fund, 252.083.  
Mutual loan corporations, 54.006, 54.007.  
Warehouse corporations, 14.109.  
Securities, 14.112.

**INVOICES**

Eggs, 132.062.

**IRISH POTATOES**

Grades, 91.121 et seq.

**IRRIGATION**

Investigations, 12.005.  
Reports, 12.012.  
Statistics, 12.012.

**JUDGMENTS AND DECREES**

Seeds and plants, publication, 61.017.  
Soil and water conservation, land-use regulation, 201.128.

**JURISDICTION**

Fertilizers, condemnation, 63.122.  
Markets and warehouses, orders, assessment collections, 104.164.

**JURISDICTION—Cont'd**

Names, Texas agricultural product, selling or advertising, 12.017.  
Weights and measures, sealers, 13.104 et seq.

**LABELS**

Brands, Marks and Labels, generally, this index.

**LABOR AND EMPLOYMENT**

Agricultural Labor and Employment, generally, this index.  
Animal health commission, veterinarian, 161.045.  
Commodity producers board, officers and employees, 41.058.  
Counties, veterinarians, 161.003.  
Noxious weeds, inspectors, 78.036.

**LAND**

Defined, pesticides, 76.001.  
Real Estate, generally, this index.

**LANGUAGE**

Seeds and plants, labeling, 61.004.

**LAW SUITS**

Actions and Proceedings, generally, this index.

**LEASES**

Agricultural experiment farms and stations, 43.017.  
Bees, experimental apiaries, 131.004.  
Railway experiment farms, 43.052.  
Slaughtering and slaughtering houses, records, 148.011.  
Soil and water conservation, Government projects, takeover, 201.108.  
Real or personal property, 201.104.  
Warehouse corporations, 14.109.

**LEMONS**

Citrus Fruits, generally, this index.

**LETTERS AND OTHER CORRESPONDENCE**

Agriculture, department of, 12.010.

**LICENSES AND PERMITS**

Agricultural products, research and promotion assessments, revocation or suspension, 41.102.  
Animal Diseases and Pests, this index.  
Citrus Fruits, this index.  
Cooperative marketing associations, foreign cooperatives, 52.122.  
Defined,  
Pesticides, 76.001.  
Warehouses, 14.001.  
Eggs, this index.  
Grain samplers for grading, 96.002 et seq.  
Herbicides, this index.  
Livestock, this index.  
Markets and warehouses, 14.004 et seq.  
Fines and penalties, 14.028.  
Nurseries and nursery products, importation certificate, 71.051.  
Pesticides, this index.  
Poultry and Poultry Products, this index.  
Seeds and Plants, this index.  
Sheep, exports and imports, scabies control, 164.061 et seq.

**LICENSES AND PERMITS—Cont'd**

Tick eradication, 167.027.  
Fines and penalties, 167.134.  
Tomatoes, cooperative agreements, 92.032.  
Vegetables, this index.

**LIENS AND INCUMBRANCES**

Fences, grazing land, common fence violations, 143.133.  
Mexican fruit fly control, expenses, 72.043.  
Slaughtering and slaughtering houses, 148.026 et seq.  
Soil and water conservation, property or equipment, notes, 201.101.  
Tick eradication, dipping expenses, 167.108.  
Warehouse corporations, 14.125.  
Wind erosion conservation districts, assessments, 202.045 et seq.

**LIMES**

Citrus Fruits, generally, this index.

**LIMITATION OF ACTIONS**

Livestock, condemned animals, sales, 146.064.

**LIQUIDATION**

Agricultural finance corporations, 56.008.  
Financial pools, 53.017.  
Markets and warehouses, 14.024.  
Pools, financial pools, 53.017.  
Warehouse corporations, 14.115, 14.116.

**LISTS**

Agricultural products, producers and handlers, 104.021 et seq.  
Citrus fruits, handling license fees, 102.009.  
Cotton buyers, 113.007.  
Fertilizers, grades, 63.022.  
Livestock,  
Brands, county brands, 144.024.  
Driving requirement, 146.002.  
Pesticides, state-limited-use pesticides, 76.003.  
Vegetables, handling license fees, 101.009.

**LIVESTOCK**

Abandoned animals, exports and imports, sale, 146.024.  
Abuse, estrays, 142.011.  
Acknowledgment, bill of sale, 146.058.  
Actions and proceedings,  
Commission merchants, bonds (officers and fiduciaries), 147.028.  
Corporations, scabie control, 164.082.  
Research and promotion assessments, 41.101.  
Scabie control, dipping, 164.022.  
Tick eradication, corporate offenders, 167.113.  
Advertisements, estrays, impoundment, 142.005.  
Affidavit of ownership, estrays, Recovery, 142.006.  
Sale proceed recovery, 142.008.  
Affidavits, dipping orders, 164.022.  
Affirmations. Oaths and affirmations, generally, post.  
Age, marking or branding, 144.003.

References are to Sections

**LIVESTOCK—Cont'd**

Agents and agencies,  
 Financial pools, 53.021.  
 Inspection violations, 146.080.  
 Power of attorney, fines and penalties, 146.079.

Alteration, marks or brand, fines and penalties, 144.122.

Anthrax, control, 166.001 et seq.

Appeal and review,  
 Brucellosis control, 163.067.  
 Hogs, running at large, 143.055.  
 Running at large elections, 143.076.  
 Tattoo marks, registration protest, 144.106.

Application, tattoo marks, registration, 144.104.

Appropriations,  
 Commission merchants, sales proceeds, 147.064.  
 Scabies control, 164.007.  
 Tick eradication, dipping, facilities, 167.059.

Assessments,  
 Rates and charges, 41.058.  
 Research and promotion, 41.058, 41.081 et seq.

Assignments, tattoo marks, registration, 144.109.

Associations and societies, cooperative marketing associations, 52.001 et seq.

Auctions and auctioneers,  
 Estrays, 142.007.  
 Exports and imports, abandoned animals, 146.024.  
 Mexico, stolen animals, 146.068.  
 Proof of ownership, 146.064.  
 Statements, 146.004, 146.006.

Babesia, tick eradication, 167.001.

Bacteriologists, anthrax research, 166.001.

Ballots, running at large election, hogs, 143.053.

Bedding, tick eradication, fines, 167.138.

Bill of sale, 146.001 et seq., 146.058.  
 Driving without, penalty, 146.006.  
 Fines and penalties, 146.078.

Boards and commissions, animal health commission, 161.021 et seq.

Bonds (officers and fiduciaries),  
 Commission merchants, 147.021 et seq.  
 Financial pools, 53.005.  
 Hides and animal inspector, 146.055.  
 Deputies, 146.057.

Boundaries, brucellosis control areas, 163.021.

Brands, marks and labels, 144.001 et seq.  
 Bill of sale, 146.058.  
 Brucellosis, 163.065.  
 Counterbranding, 144.074.  
 Fines and penalties, 144.125.

Counties, 144.021 et seq.  
 Designated counties, 144.071 et seq.  
 Fines and penalties, 144.121 et seq., 146.074.

Foreign states, removal to, road brand, 144.073.  
 Fines and penalties, 144.126.

Handlers, list, 146.059.

Records and recordation, 144.041 et seq.  
 Designated counties, 144.072.  
 Searches and seizures, 146.069.

**LIVESTOCK—Cont'd**

Brands, marks and labels—Cont'd  
 Tattoo marks,  
 Crimes and offenses, 144.128.  
 Registration, 144.101 et seq.  
 Reproduction or destruction, 144.127.  
 Tuberculosis, 162.005.  
 Unhealed brands, seizure, 146.069.

Breeding, 12.009.

Brucellosis, 163.001 et seq.

Burning, anthrax infected carcasses, 166.005.  
 Failure to destroy, 166.013.

Caretaker, tick eradication, 167.002.

Carriers, licenses and permits, transporting animals, 146.005.

Certificates and certification,  
 Handlers, list, 146.059.  
 Inspection and inspectors, post.  
 Tattoo marks, registration, 144.105.  
 Tick eradication,  
 Fines and penalties, 167.134, 167.135.  
 Movement, 167.027, 167.060.  
 Tuberculosis, test or vaccination, 162.004.

Certificates of authority, financial pools, 53.006, 53.009.

Certified free areas, brucellosis control, 163.076.

Changes, inspection and inspectors, destination, 146.063.

Children and minors, brands, 144.002.

Circus animals, tick eradication, 167.026.

Citation,  
 Certificate of inspection violations, 146.064.  
 Mexico, stolen animals, seizure, 146.068.

Classification,  
 Brucellosis control areas, 163.024 et seq.  
 Tick eradication, 167.004.

Cleaning,  
 Stockyards, tick-free facilities, 167.083.  
 Transportation conveyances, tick eradication, 167.030.

Collections, hides and animal inspector, 146.054.

Commercial feed. Feed, generally, this index.

Commission merchants, 147.001 et seq.  
 Actions and proceedings, bonds (officers and fiduciaries), 147.028.  
 Application of law, 147.002.  
 Appropriation, sales proceeds, 147.064.  
 Bonds (officers and fiduciaries), 147.021 et seq.  
 Fines and penalties, 147.061, 147.062.  
 Crimes and offenses, 147.061 et seq.  
 Definitions, 147.001.  
 Deposits, sales proceeds, 147.004, 147.005.  
 Disputes, 147.005.  
 Exemptions, 147.003.  
 Fines and penalties, 147.061 et seq.  
 Insolvency, bonds (officers and fiduciaries), 147.029.  
 Inspection and inspectors, transportation record, 147.042.  
 Notice, sales proceeds, deposits, 147.005.  
 Oaths and affirmations, sales statement, 147.026.  
 Privileges and immunities, sales proceeds, 147.005.

**LIVESTOCK—Cont'd**

Commission merchants—Cont'd  
 Records and recordation, 147.041, 147.042.  
 Bond and sales statement, 147.026.  
 Transportation records, fines and penalties, 147.065.  
 Sales proceeds, remittance, 147.004.  
 Statements, sales, 147.026.  
 Time, sales proceeds, remittance, 147.004.  
 Transportation records, 147.042.  
 Delighted to keep, 147.065.

Commodities, tick eradication, quarantine, 167.032.

Commodity producers board, 41.001 et seq.

Compensation and salaries,  
 Brucellosis control, 163.068.  
 Scabies control, inspectors, 165.003.  
 Tick eradication inspectors, 167.101.  
 Tuberculosis, sale or slaughter, 162.008.

Condemnation, proof of ownership, 146.064.

Conflict of laws, running at large, highways, 143.107.

Consignment. Commission merchants, generally, ante.

Contracts,  
 Breach or threatened breach, 52.131, 52.132.  
 Cooperative marketing associations, 52.015, 52.016.  
 Exports and imports, processing facilities, 146.022.

Control areas, brucellosis, 163.021 et seq.

Conveyances, tick eradication, 167.137.

Cooperative credit associations, 55.001 et seq.

Cooperative marketing associations, 52.001 et seq.

Cooperative programs,  
 Brucellosis control, 163.002.  
 Tick eradication, 167.003.  
 Tuberculosis control, 162.002.

Corporations,  
 Cooperative credit associations, 55.001 et seq.  
 Financial pools, 53.001 et seq.  
 Mutual loan corporations, 54.001 et seq.  
 Scabies control, actions and proceedings, 164.082.  
 Tick eradication, actions, 167.113.

Counterbranding, 144.074.  
 Fines and penalties, 144.125.

Counties,  
 Brands, 144.021 et seq.  
 Designated counties, 144.071 et seq.  
 Inspection, designated counties, 146.052.

Crimes and offenses,  
 Commission merchants, 147.061 et seq.  
 Financial pools, 53.024.  
 Tattoo marks, 144.128.  
 Reproduction or destruction, 144.127.  
 Tick eradication, dipping facilities, destruction, 167.142.

Damages,  
 Mexico, imports, 146.067.  
 Running at large, privileges and immunities, 143.103.  
 Trespassing animals, 143.079.

References are to Sections

LIVESTOCK—Cont'd

Death,  
 Estrays, 142.011.  
 Exports and imports, processing facilities, 146.025.  
 Running at large, privileges and immunities, 143.103.  
 Tick eradication, handling and removal, 167.033.  
     Fines and penalties, 167.140.  
 Trespassing animals, 143.033.  
 Debts, exports and imports, processing facilities, 146.023.  
 Definitions,  
     Brucellosis, 163.001.  
     Commission merchants, 147.001.  
     Disease control, 161.001.  
     Estray, 142.002.  
     Financial pools, 53.001.  
     Grading, 145.001.  
     Scabies control, 164.001.  
     Ticks, 167.001.  
     Tuberculosis control, 162.001.  
 Deposits, commission merchants, sales proceeds, 147.004, 147.005.  
 Deputies, hides and animal inspector, 146.057.  
 Destruction,  
     Anthrax control, 166.005, 166.013.  
     Tattoo mark, 144.127.  
 Dipping,  
     Scabies control, 164.021 et seq.  
     Tick eradication, 167.051 et seq.  
     Fines and penalties, 167.141, 167.142.  
 Diseases. Animal Diseases and Pests, generally, this index.  
 Disposal, estrays, 142.001 et seq.  
 Disputes, commission merchants, 147.005.  
 Doves, inspection, 146.062.  
 Education, 41.001 et seq.  
 Elections, running at large,  
     Anthrax control, 166.006 et seq.  
     Hogs, free range, 143.051 et seq.  
 Eminent domain, tick eradication, dipping facilities, 167.059.  
 Entry upon property,  
     Brucellosis control, 163.063.  
     Scabies control, 164.005.  
     Refusal to permit, 164.085.  
     Tick eradication, 167.102.  
 Eradication, areas, ticks, 167.006.  
 Escapes, estrays, 142.011.  
 Escheat, estrays, sale proceeds, 142.009.  
 Estrays, 142.001 et seq.  
     Abuse, 142.011.  
     Advertisements, impoundment, 142.005.  
     Affidavit of ownership, recovery, 142.006.  
     Sales proceeds, recovery, 142.008.  
     Death, 142.011.  
     Definitions, disposal, 142.002.  
     Escapes, 142.011.  
     Escheat, sale proceeds, 142.009.  
     Expenses and expenditures, payments, 142.006, 142.007.  
     Impoundment, 142.003 et seq.  
     Injuries, 142.011.  
     Negligence, 142.011.  
     Notice, 142.004.  
     Impoundment, 142.005.  
     Oaths and affirmations, death or escape reports, 142.011.  
     Payment, expenses, 142.006.  
     Records and recordation, 142.004.

LIVESTOCK—Cont'd

Estrays—Cont'd  
 Records and recordation—Cont'd  
     Affidavits, 142.008.  
     Death or escape reports, 142.011.  
     Recovery, 142.006.  
     Sales proceeds, 142.008.  
     Reports, 142.003.  
     Death or escape, 142.011.  
     Sales, 142.007 et seq.  
     Searches and seizures, owners, 142.005.  
     Time, sales, 142.007 et seq.  
     Title to property, 142.007.  
     Use, 142.010.  
 Evidence,  
     Bill of sale or transfer document, 146.001.  
     Scabies control, 164.005.  
     Tattoo marks, registration, 144.107.  
     Tick eradication, 167.109 et seq.  
 Examination and examiners,  
     Commission merchants, (officers and fiduciaries), 147.025.  
     Tuberculosis control, 162.009, 162.010.  
 Exemptions,  
     Brucellosis control, 163.066.  
     Commission merchants, 147.003.  
     Inspection and inspectors, 146.052.  
     Research and promotion assessments, 41.082.  
     Running at large elections, 143.072.  
     Tick eradication, dipping, 167.054.  
 Exotic animals, tick eradication, 167.026.  
 Expenses and expenditures,  
     Anthrax control, running at large election, 166.008.  
     Estrays, 142.006, 142.007.  
     Hides and animal inspector, elections, 146.054.  
     Scabies control, dipping, 164.028.  
     Tick eradication, dipping, 167.107.  
 Exports and imports,  
     Fines and penalties, 146.075.  
     Mexico, inspection, 146.066 et seq.  
     Processing facilities, 146.021 et seq.  
     Register, 146.003.  
 Facilities, tick eradication, fines and penalties, destruction, 167.142.  
 Family farm and ranch security program, loans, 252.001 et seq.  
 Feed, generally, this index.  
 Fees,  
     Cooperative credit associations, 55.009.  
     Exports and imports, processing facilities, 146.023.  
     Financial pools, 53.022.  
     Grading, 145.006.  
     Inspection and inspectors, post.  
     Tattoo marks, registration, 144.110.  
     Trespassing animals, impoundment, 143.079.  
 Fever, tick eradication, 167.001 et seq.  
 Financial pools, 53.001 et seq.  
 Financial statements and reports, financial pools, 53.023.  
 Fines and penalties,  
     Agents, power of attorney, 146.079.  
     Anthrax control, 166.011 et seq.  
     Auctions, statement of ownership, 146.007.  
     Bill of sale, 146.078.  
     Driving without, 146.006.  
     Brands, marks and labels, 144.121 et seq., 146.074.

LIVESTOCK—Cont'd

Fines and penalties—Cont'd  
     Brucellosis control, 163.081 et seq.  
     Commission merchants, 147.061 et seq.  
     Driving animals without consent, 146.077.  
     Financial pools, 53.024.  
     Inspection and inspectors, post.  
     Research and promotion assessments, 41.101 et seq.  
     Running at large, 143.034, 143.082, 143.108.  
     Scabies control, 164.083 et seq.  
     Tick eradication, 167.131 et seq.  
     Transporting animals, permits, 146.008.  
     Trespassing animals, running at large, 143.082.  
     Tuberculosis control, 162.011 et seq.  
 Foreclosure, lien, tick eradication, dipping, 167.108.  
 Foreign countries,  
     Processing facilities, 146.021 et seq.  
     Tick eradication, quarantine, 167.026.  
 Foreign states,  
     Inspections, 146.065.  
     Removal to, road brand,  
         Fines and penalties, 144.126.  
         Requirement, 144.073.  
     Tick eradication, quarantine, 167.026.  
 Form, commission merchants, transportation record, 147.042.  
 Franchise tax, mutual loan corporations, exemption, 54.013.  
 Fraud, transporting animals, permits, 146.008.  
 Free areas, ticks, 167.005, 167.007.  
 Free range, hogs, 143.051 et seq.  
 Grades and grading, 145.001 et seq.  
 Handlers, list, 146.059.  
 Health commission, 161.021 et seq.  
 Hearings,  
     Brucellosis control area, 163.023, 163.061.  
     Inspection fees, 146.070.  
     Scabie control, dipping, 164.022.  
     Tick eradication, dipping, 167.053.  
     Tick-free facilities, stockyards, 167.082.  
 Herding, highways, 143.104.  
 Hides,  
     Bill of sale, 146.058.  
     Fines and penalties, 146.078.  
     Brand violations, seizure, 146.069.  
     Fines and penalties, 146.076.  
     Inspection and inspectors, generally, post.  
     Tick eradication, quarantine, 167.032.  
 Highways and roads, running at large, 143.101 et seq.  
 Husband and wife, tick eradication, dipping, responsibility, 167.055.  
 Immunities. Privileges and immunities, generally, post.  
 Immunization,  
     Brucellosis, 163.064.  
     Tuberculosis, 162.004.  
 Imports. Exports and imports, generally, ante.  
 Impoundment,  
     Estrays, 142.003 et seq.  
     Highways, unattended animals, 143.105.  
     Trespassing animals, 143.078.  
 Indebtedness, exports and imports, processing facilities, 146.023.

## INDEX TO AGRICULTURE CODE

References are to Sections

## LIVESTOCK—Cont'd

Injunction, scabie control, dipping, 164.022.

Injuries,  
Estrays, 142.011.  
Exports and imports, processing facilities, 146.025.  
Running at large, privileges and immunities, 143.103.  
Tick eradication, handling and removal, fines and penalties, 167.140.  
Trespassing animals, 143.033.

Insolvency, commission merchants, bonds (officers and fiduciaries), 147.029.

Inspection and inspectors, 146.051 et seq.  
Agents, fines and penalties, 146.080.  
Anthrax, 166.002.  
Application of law, 146.052.  
Bill of sale, fines and penalties, 146.078.  
Bonds (officers and fiduciaries), hides and animal inspector, 146.055.  
Deputies, 146.057.  
Brucellosis control, 163.062.  
Certificates and certification, 146.060, 146.061.  
Citations, 146.064.  
Fraudulent certificate, 146.071.  
Changes, destination, 146.063.  
Citation, Mexico, stolen animals, seizure, 146.068.  
Commission merchants, transportation record, 147.042.  
Counties, designated counties, 146.052.  
Damages, Mexico, imports, 146.067.  
Defined, 146.051.  
Deputies, hides and animal inspector, 146.057.  
Driving animals without consent, 146.077.  
Droves, in transit, 146.062.  
Elections, hides and animal inspector, 146.054.  
Exemptions, 146.052.  
Fees, 146.070.  
Mexican imports, 146.067.  
Movement out-of-state, 146.065.  
Fines and penalties, 146.071 et seq.  
Agents, 146.080.  
Bill of sale, 146.078.  
Brand violations, 146.074.  
Driving animals without consent, 146.077.  
Failure to inspect, 146.072.  
Fraudulent certificate, 146.071.  
Hides, 146.076.  
Mexico, exports and imports, 146.075.  
Foreign states, movement to, 146.065.  
Fraudulent certificate, penalty, 146.071.  
Grading, 145.003.  
Handlers, list, 146.059.  
Herds in transit, 146.062.  
Hides and animals inspector, 146.053 et seq.  
In transit herds, 146.062.  
Mexico, exports and imports, 146.066 et seq.  
Movement out-of-state, 146.065.  
Petition, hides and animal inspector, 146.054.  
Records and recordation, 146.060.  
Failure to keep or file, 146.073.  
Scabies, 164.002 et seq.  
Refusal to permit, 164.085.

## LIVESTOCK—Cont'd

Inspection and inspectors—Cont'd  
Seal, hides and animal inspector, 146.056.  
Searches and seizures,  
Brand violations, 146.069.  
Certificate of inspection violations, 146.064.  
Mexico, stolen animals, 146.068.  
Stolen animals, Mexico, seizure, 146.068.  
Term of office, hides and animal inspector, 146.053.  
Tick eradication, 167.101 et seq.  
Fines and penalties, 167.131.  
Vacancies in office, hides and animal inspector, 146.053.  
Writ of sequestration, certificate of inspection violations, 146.064.

Interest, financial pools, 53.014.

Investigations and investigators, tick eradication, 167.008.

Investments, mutual loan corporations, 54.006, 54.007.

Labels. Brands, marks and labels, generally, ante.

Liabilities, tick eradication, dipping, 167.055.

Licenses and permits,  
Research and promotion assessments, revocation or suspension, 41.102.  
Tick eradication, 167.027, 167.134.  
Transporting animals, 146.005.  
Fines and penalties, 146.008.

Liens and incumbrances, tick eradication, dipping, 167.108.

Limitation of actions, condemned animals, sale, 146.064.

Liquidation, financial pools, 53.017.

Lists,  
Brands, county brands, 144.024.  
Driving requirement, 146.002.  
Transporting animals, driving without, 146.006.

Loans, 52.001 et seq.  
Cooperative credit associations, 55.001 et seq.  
Family farm and ranch security program, 252.001 et seq.  
Mutual loan corporations, 54.001 et seq.  
Pools, 53.001 et seq.

Machinery and equipment, 52.001 et seq.

Maiming, trespassing animals, 143.033.

Maintenance, tick-free facilities, 167.083.

Mandamus, tick eradication, 167.106.

Marketing and warehouses, 52.001 et seq.

Marks. Brands, marks and labels, generally, ante.  
Mexico, exports and imports, inspection, 146.066 et seq.

Modified certified free area, brucellosis control, 163.041.

Mutual loan corporations, 54.001 et seq.

Negligence,  
Estrays, 142.011.  
Exports and imports, processing facilities, 146.025.  
Running at large, killing or injuring, 143.103.

Nonprofit organizations, cooperative marketing associations, 52.001 et seq.

## LIVESTOCK—Cont'd

Notice,  
Anthrax, quarantine, 166.004.  
Brucellosis control, 163.061.  
Testing and vaccination, 163.064.  
Commission merchants, sales proceeds, deposits, 147.005.  
Estrays, 142.004.  
Impoundment, 142.005.  
Hides and animal inspector, election, 146.054.  
Inspection fees, hearing, 146.070.  
Mexico, stolen animals, seizure, 146.068.  
Running at large, elections, hogs, 143.052.  
Scabies control, quarantine, 164.042.  
Tattoo marks, registration protest, 144.106.  
Tick eradication, 167.006, 167.008.  
Tick-free facilities, stockyard designation, 167.082.  
Tuberculosis examination and testing, 162.010.

Oaths and affirmations,  
Commission merchants, sales statement, 147.026.  
Estrays, death or escape reports, 142.011.  
Mexico, stolen animals, seizure, 146.068.

Offenses. Crimes and offenses, generally, ante.

Officers and employees,  
Brucellosis control, 163.062.  
Tick eradication, 167.003.

Orders,  
Anthrax control, election, 166.007.  
Brucellosis control, appeals, 163.067.  
Running at large, hogs, 143.052.  
Scabies control, dipping, 164.021 et seq.  
Tick eradication, inspection, 167.008.

Payment, estrays, expenses, 142.006.

Peace officers, tick eradication, dipping, 167.103, 167.106.

Penalties. Fines and penalties, generally, ante.

Perfection, lien, tick eradication, dipping, 167.108.

Permits. Licenses and permits, generally, ante.

Pests. Animal Diseases and Pests, generally, this index.

Petitions,  
Anthrax control, running at large, 166.006 et seq.  
Brucellosis control area, 163.021 et seq.  
Hides and animal inspectors, election, 146.054.  
Running at large, elections, 143.071 et seq.  
Hogs, free range, 143.051 et seq.

Pools, financial pools, 53.001 et seq.

Posting,  
Scabies control, quarantine, 164.042.  
Tick eradication areas, 167.006.

Power of attorney, agents, fines and penalties, 146.079.

Privileges and immunities,  
Commission merchants, sales proceeds, 147.005.  
Exports and imports, processing facilities, 146.025.

References are to Sections

LIVESTOCK—Cont'd

Privileges and immunities—Cont'd  
 Mutual loan corporations, 54.010.  
 Running at large, killing or injuring, 143.103.  
 Proceedings. Actions and proceedings, generally, ante  
 Processing facilities, exports and imports, 146.021 et seq.  
 Proclamations,  
 Anthrax, quarantine, 166.004.  
 Brucellosis control area, 163.022.  
 Promotion, 41.001 et seq.  
 Protests, tattoo marks, registration, 144.106.  
 Quarantine,  
 Anthrax, 166.004.  
 Failure to obey, 166.012.  
 Scabies control, 164.041 et seq.  
 Tick eradication, 167.021 et seq.  
 Fines and penalties, 167.132 et seq.  
 Tuberculosis, 162.006.  
 Railroads,  
 Inspection violations, fines and penalties, 146.080.  
 Register, shipped cattle, 146.003.  
 Tick eradication, cleaning and disinfecting, 167.030.  
 Sand, bedding, 167.031.  
 Raising, 12.009.  
 Rates and charges,  
 Assessments, promotion and research, 41.058.  
 Financial pool, 53.022.  
 Real estate, tick eradication, dipping facilities, 167.059.  
 Records and recordation,  
 Bill of sale, 146.001, 146.002.  
 Commission merchants, ante.  
 Estrays, ante.  
 Inspection and inspectors, 146.060.  
 Failure to keep, 146.073.  
 Marks and brands, 144.041 et seq.  
 Designated counties, 144.072.  
 Shipped cattle, register, 146.003.  
 Recovery, estrays, 142.006.  
 Sale proceeds, 142.008.  
 Refunds, research and promotion assessments, 41.083.  
 Refuse, tick eradication, handling and removal, fines and penalties, 167.140.  
 Register, shipped cattle, 146.003.  
 Registration, tattoo marks, 144.101 et seq.  
 Removal, brands, county brands, 144.023.  
 Reports,  
 Anthrax, 166.003.  
 Fines and penalties, 166.011.  
 Brucellosis control, 163.061.  
 Cooperative credit associations, 55.008.  
 Estrays, 142.003.  
 Death or escape, 142.011.  
 Mutual loan corporations, 54.012.  
 Tuberculosis, branding and tagging, 162.005.  
 Reproduction, tattoo mark, 144.127.  
 Research, 41.001 et seq.  
 Anthrax, 166.001.  
 Review. Appeal and Review, generally, ante.  
 Right of way, running at large, 143.101 et seq.  
 Road brand,  
 Fines and penalties, 144.126.  
 Foreign state, removal to, 144.073.

LIVESTOCK—Cont'd

Roads and highways, running at large, 143.101 et seq.  
 Rules and regulations,  
 Brucellosis control, 163.061.  
 Grading, 145.005.  
 Tick eradication, 167.003.  
 Running at large,  
 Anthrax control, 166.006 et seq.  
 Fines and penalties, 166.014.  
 Elections, 143.071 et seq.  
 Highways, 143.101 et seq.  
 Hogs, free range, 143.051 et seq.  
 Tick eradication, seizure and disposal, 167.104.  
 Turkeys, 143.071 et seq.  
 Salaries. Compensation and salaries, generally, ante.  
 Sales, 52.001 et seq., 146.001 et seq.  
 Bill of sale, generally, ante.  
 Commission merchants, statements, 147.026.  
 Condemned animals, proof of ownership, 146.064.  
 Estrays, 142.007 et seq.  
 Exports and imports, abandoned animals, 146.024.  
 Impounded animals, 143.081.  
 Inspection and inspectors, generally, ante.  
 Lists, 146.002.  
 Register, 146.003.  
 Tick eradication, seized animals, 167.107.  
 Transfer of documents, 146.001.  
 Tuberculosis control, 162.007.  
 Sand, tick eradication,  
 Fines, 167.138.  
 Transportation conveyances, bedding, 167.031.  
 Scabies, 164.001 et seq.  
 Seal, hides and animal inspector, 146.056.  
 Searches and seizures,  
 Brand violations, 146.069.  
 Certificate of inspection violations, 146.064.  
 Estrays, owners, 142.005.  
 Inspection and inspectors, ante.  
 Mexico, stolen animals, 146.068.  
 Scabies control, 164.005.  
 Tick eradication, 167.102, 167.104.  
 Refusal to permit, 167.144.  
 Transporting animals, permits, 146.005.  
 Trespassing animals, impoundment, 143.080.  
 Security, financial pools, 53.015.  
 Shares and shareholders,  
 Cooperative credit associations, 55.004, 55.007.  
 Mutual loan corporations, 54.004, 54.005.  
 Repurchase, 54.011.  
 Sheep, generally, this index.  
 Signatures,  
 Bill of sale, 146.058.  
 Transporting animals, permits, 146.005.  
 Slaughtering and Slaughtering Houses, generally, this index.  
 Solution,  
 Scabies control, dipping, 164.025 et seq.  
 Tick eradication, dipping, 167.057.  
 Standards, grades, 145.004.

LIVESTOCK—Cont'd

Statements,  
 Auction sale, 146.004.  
 Commission merchants, sales, 147.026.  
 Lien perfection, tick eradication, dipping, 167.108.  
 Tick eradication, possession and destination, 167.028.  
 Fines and penalties, 167.136.  
 Stockyards, tick-free facilities, 167.081 et seq.  
 Failure to provide, 167.143.  
 Stolen property, Mexico, imports, 146.068.  
 Storage, 52.001 et seq.  
 Suits. Actions and proceedings, generally, ante.  
 Tags,  
 Brucellosis, 163.065.  
 Tuberculosis, 162.005.  
 Tattoo marks. Brands, marks and labels, ante.  
 Tax exemptions,  
 Cooperative credit associations, franchise taxes, 55.010.  
 Mutual loan corporations, franchise tax, 54.013.  
 Terms, commission merchants, bond (officers and fiduciaries), 147.002.  
 Terms of office, hides and animal inspector, 146.053.  
 Tests and testing,  
 Brucellosis, 163.064.  
 Tuberculosis control, 162.003, 162.009, 162.010.  
 Ticks, 167.001 et seq.  
 Time,  
 Commission merchants, sales proceeds, remittance, 147.004.  
 Estrays, sale, 142.007 et seq.  
 Running at large, hogs, 143.051, 143.054.  
 Scabies control, dipping, 164.024.  
 Tick eradication,  
 Dipping, 167.058.  
 Stockyards, 167.081.  
 Title to property, estrays, 142.007.  
 Transfer documents, sales, 146.001.  
 Transportation, 52.001 et seq.  
 Bill of sale, 146.058.  
 Commission merchants, record, 147.042.  
 Foreign countries, processing facilities, 146.021 et seq.  
 Inspection violations, fines and penalties, 146.080.  
 Licenses and permits, 146.005.  
 Lists, 146.002.  
 Register, 146.003.  
 Tick eradication, sand, bedding, 167.031.  
 Traveling expenses,  
 Scabies control, inspectors, 164.003.  
 Tick eradication inspectors, 167.101.  
 Treatment, exports and imports, processing facilities, 146.025.  
 Trespassing animals,  
 Impoundment, 143.078 et seq.  
 Injuries, 143.033.  
 Tuberculosis, 162.001 et seq.  
 Turkeys, running at large, 143.071 et seq.  
 Unhealed brands, seizure, 146.069.  
 Vacancies in office, hides and animal inspector, 146.053.

## INDEX TO AGRICULTURE CODE

References are to Sections

**LIVESTOCK—Cont'd**

Venue,  
 Research and promotion assessments, 41.101.  
 Tick eradication, 167.112.  
 Waiver, tick eradication, dipping, 167.060.  
 Wounding, trespassing animals, 143.033.  
 Writ of sequestration, certificate of inspection violations, 146.064.

**LIVESTOCK MARKET**

Defined, disease control, 161.111.

**LIVESTOCK PRODUCT**

Defined, disease control, 161.048.

**LOANS**

Agricultural Products, this index.  
 Citrus fruits, 52.001 et seq.  
 Cooperative credit associations, 55.001 et seq.  
 Dairies and Dairy Products, this index.  
 Family farm and ranch security program, 252.001 et seq.  
 Farmers cooperative societies, 51.004.  
 Financial pools, 53.001 et seq.  
 Livestock, this index.  
 Markets and Warehouses, this index.  
 Mutual loan corporations, 54.001 et seq.  
 Ranch security program, 252.001 et seq.  
 Warehouse corporations, 14.109.  
 Wind erosion conservation districts, 202.031.

**LOCKER PLANTS**

Slaughtering and Slaughtering Houses, generally, this index.

**LOST OR DESTROYED INSTRUMENTS**

Farm and ranch loan security bonds, 252.061.  
 Warehouse Receipts, this index.

**LOW-GRADE FEED**

Labeling, 141.054.

**LUMBER**

Forests and Forestry, generally, this index.

**MACHINERY AND EQUIPMENT**

Agricultural experiment farms and stations, 43.010.  
 Agricultural products, 52.001 et seq.  
 Antifreeze, 16.001 et seq.  
 Bees, this index.  
 Citrus fruits, 52.001 et seq.  
 Cooperative marketing associations, 52.001 et seq.  
 Defined,  
 Herbicides, 75.002.  
 Pesticides, 76.001.  
 Farmers cooperative societies, purchasing, 51.004.  
 Herbicides, 75.016, 75.017.  
 Hogs, heating or cooking, inspection, 165.027.  
 Honey and honey products,  
 Branding, 131.051 et seq.  
 Experimental stations, sales, 131.004.  
 Noxious weeds, cleaning, 78.045.  
 Pesticides, registration and inspection, 76.115.  
 Soil and Water Conservation, this index.

**MAIL AND MAILING**

Agricultural experiment farms and stations, reports, 43.013.  
 Markets and warehouses, bond or insurance cancellation, 14.013.  
 Vegetables, demand, payment, 101.013.

**MANDAMUS**

Farm and ranch loan security bonds, 252.062.  
 Mexican fruit fly control, 72.044.  
 Tick eradication, 167.106.

**MANIPULATED MANURE**

Defined, sales, 63.001.

**MANUFACTURERS AND MANUFACTURING**

Antifreeze, 16.001 et seq.  
 Citrus fruits, colors, 95.001 et seq.  
 Defined, flour or corn, 13.029.  
 Fertilizers, generally, this index.  
 Forms, statistics, 12.011.  
 Statistics, 12.011.

**MARKETING ASSOCIATIONS**

Franchise taxes, exemption, 51.025.

**MARKETING COMMITTEE**

Defined, orders, 104.002.

**MARKETING PROGRAM**

Defined, orders, 104.002.

**MARKETS AND WAREHOUSES**

Generally, 14.001 et seq.  
 Accounts and accounting, 14.022.  
 Actions and proceedings,  
 Bonds (officers and fiduciaries), 14.010.  
 Certificate revocation, 14.216.  
 Corporations, 14.118.  
 Order violations, 104.186 et seq.  
 Adoption, orders, 104.066.  
 Adverse or pecuniary interest,  
 Corporate officers and employees, 14.113.  
 Examiners, 14.203.  
 Advisory board, egg marketing advisory board, 132.007.  
 Affidavits,  
 Examiners, 14.203.  
 Forms, 14.020.  
 Affirmations. Oaths and affirmations, generally, post.  
 Agents, corporate liquidation, 14.116.  
 Agricultural finance corporations, 56.001 et seq.  
 Agriculture warehouse corporations, 14.101 et seq.  
 Allocation, orders, 104.102.  
 Alteration,  
 Licenses or tickets, 14.029.  
 Order, 104.024.  
 Amendments,  
 Corporate charter, 14.102.  
 Licenses, 14.005.  
 Orders, 104.085.  
 Animal diseases and pests, 161.111 et seq.  
 Fines and penalties, 161.146.  
 Antifreeze, 16.001 et seq.  
 Appeal and review, orders, 104.201.  
 Adoption, 104.044.  
 Application, corporate charter, 14.101, 14.102.

**MARKETS AND WAREHOUSES**

—Cont'd

Application of law, 14.002.  
 Corporations, 14.130.  
 Orders, 104.003.  
 Assessments,  
 Collection, 104.124.  
 Equalization funds, 104.146.  
 Orders, post.  
 Stabilization funds, 104.142.  
 Surplus commodities, 104.142.  
 Attorneys, marketing committee, employment, 104.125.  
 Audits and auditors, 14.024.  
 Ballots, orders, 104.063.  
 Bonds, sinking fund bonds, corporations, 14.111, 14.112.  
 Bonds (officers and fiduciaries), 14.009 et seq., 14.206.  
 Corporations, 14.102, 14.105, 14.106.  
 Examiners, 14.203.  
 Lost or stolen instruments, 14.019.  
 Books and papers,  
 Examination, 14.003.  
 Orders, 104.222.  
 Brands, marks and labels, order violations, warning markings, 104.183.  
 Budgets, orders, 104.163.  
 By-product pool, orders, 104.143, 104.145.  
 Cancellation, bond or insurance, 14.013.  
 Capacity, increasing, 14.007.  
 Casualty insurance, 14.011 et seq.  
 Certificate of authority, corporations, 14.104.  
 Certificate of qualification, corporate officers or employees, 14.107.  
 Certificates and certification, 14.204 et seq.  
 Bonds (officers and fiduciaries), 14.009.  
 Insurance, 14.011.  
 Orders, elections, 104.064.  
 Revocation, 14.216.  
 Changing, scale weight tickets, 14.032.  
 Charges. Rates and charges, generally, post.  
 Charter, corporation, 14.101 et seq.  
 Citizens and citizenship, corporate directors, 14.108.  
 Citrus Fruits, this index.  
 Claims, 14.010.  
 Classification, standards, 14.124.  
 Collection,  
 Assessments, 104.124.  
 Orders, assessments, 104.164, 104.165.  
 Committee, marketing committee, 104.121 et seq.  
 Compensation and salaries, marketing committee, 104.123.  
 Complaints, 14.003.  
 Orders, assessment collection, 104.164.  
 Compromise and settlement, insurance losses, 14.011.  
 Confidential or privileged information, producers and handlers list, 104.022.  
 Construction, corporations, 14.109.  
 Conversion, cotton under lien, 14.211.  
 Cooperative marketing associations, 52.001 et seq.  
 Corporations,  
 Agriculture warehouse corporations, 14.101 et seq.  
 Notice, post.  
 Corrections, order deficiencies, 104.185.

# INDEX TO AGRICULTURE CODE

354

References are to Sections

## MARKETS AND WAREHOUSES

—Cont'd

Cost, orders,  
     Assessment collection, enforcement,  
     104.164.  
     Injunctions, 104.202.  
 Counterfeiting, 14.029.  
 Court orders, order violations, 104.186 et  
     seq.  
 Crimes and offenses, 14.027 et seq.  
 Debts,  
     Corporations, 14.110.  
     Orders, assessments, 104.164.  
 Deficiencies, order violations, correcting,  
     104.185.  
 Definitions, 14.001.  
     Citrus fruits, 102.001.  
     Orders, 104.002.  
     Public warehousemen, 14.201.  
     Vegetables, 101.001.  
 Delivery, 14.021, 14.213.  
 Fines and penalties, 14.030.  
 Denial,  
     Corporate charter, 14.103.  
     License, 14.015.  
 Deposits,  
     Orders, expenses, 104.081.  
     Title problems, penalties, 14.033.  
 Destruction, order violations, 104.185 et  
     seq.  
 Directors, corporations, 14.108.  
 Disclosure, orders, election, 104.065.  
 Disposal, by-product pools, 104.143,  
     104.145.  
 Division, corporate profits, 14.114.  
 Duplicating, scale weight tickets, 14.017.  
 Egg marketing advisory board, 132.007.  
 Elections,  
     Corporate directors, 14.108.  
     Orders, 104.061 et seq.  
     Voluntary termination, 104.088 et  
     seq.  
 Evidence, orders, adoption hearings,  
     104.044.  
 Examinations and examiners, 14.203.  
     Books and records, 14.003.  
     Corporations, 14.118.  
     Failure to submit, 14.122.  
     Inspections and inspectors, generally,  
     post.  
 Exemptions, 14.002, 14.214.  
     Orders, 104.003.  
 Expenses and expenditures,  
     Examiners, 14.203.  
     Marketing committee, 104.125.  
     Orders, deposits, 104.081.  
 False reports, orders, 104.224.  
 Fees,  
     Corporate charter, 14.104.  
     Amendment, 14.102.  
     Corporations, examinations, 14.118.  
     Inspection, 14.014.  
     License, 14.005.  
     Financial pools, 53.001 et seq.  
 Fines and penalties, 14.027 et seq.  
 Fire insurance, corporations, 14.011,  
     14.120.  
 Flies, Mexican fruit fly, 72.001 et seq.  
 Forced liquidation, corporations, 14.116.  
 Forgery, 14.029.  
 Forms, 14.003, 14.020.  
     Corporations, 14.121.  
 Fraud, 14.029.  
     Scale weight tickets, 14.031.

## MARKETS AND WAREHOUSES

—Cont'd

Funds,  
     Sinking fund bonds, corporations,  
     14.111, 14.112.  
     Stabilization fund, surplus commodi-  
     ties, 104.142.  
 Grades and grading, orders, standards,  
     104.103, 104.104.  
 Hearings, 14.003.  
     Inspection refusal or shortages, 14.024.  
     Orders, post.  
 Increasing capacity, 14.007.  
 Indebtedness,  
     Corporations, 14.110.  
     Orders, assessments, 104.164.  
 Indemnity, corporate bonds, 14.106.  
 Injunctions, 14.025.  
     Orders, 104.202.  
 Insolvency, 14.024.  
     Corporations, 14.115, 14.116.  
 Inspection and inspectors, 14.014.  
     Orders, generally, post.  
     Producers and handlers lists, 104.022.  
     Records, 14.022.  
     Refusal, 14.024.  
     Standards, classification, 14.124.  
 Insurance, 14.011 et seq.  
     Corporations, fire insurance, 14.120.  
     Interest, corporate investments, 14.112.  
 Investigations and investigators, 14.003.  
     Corporate liquidation, 14.116.  
     Shortages, 14.024.  
 Investments, corporations, 14.109.  
     Securities, 14.112.  
 Jurisdiction, orders, assessment collec-  
     tion, 104.164.  
 Labor and employment, marketing com-  
     mittee, 104.125.  
 Leases, corporations, 14.109.  
 Liability, corporations, 14.125.  
 Licenses and permits, 14.004 et seq.  
     Fines and penalties, 14.028.  
 Liens and incumbrances,  
     Corporations, 14.125.  
     Cotton, 14.211.  
 Limitations, orders, 104.101.  
 Liquidation, 14.024.  
     Corporations, 14.115, 14.116.  
 Lists, producers and handlers, 104.021 et  
     seq.  
 Loans,  
     Corporations, 14.109.  
     Financial pools, 53.001 et seq.  
     Mutual loan corporations, 54.001 et  
     seq.  
 Location, orders, adoption hearing,  
     104.043.  
 Mail and mailing,  
     Bond or insurance cancellation, 14.013.  
     Order violations, notice, 104.184.  
     Meetings, corporations, 14.108.  
     Mexican fruit fly, 72.001 et seq.  
     Mortgages, corporations, 14.109.  
     Multiple warehouses, licenses, 14.006.  
     Mutual loan corporations, 54.001 et seq.  
 Name,  
     Licenses, 14.004.  
     Texas agricultural products, 12.017.  
 Notice,  
     Bond or insurance cancellation, 14.013.  
     Corporations,  
         Capital stock impairment, 14.119.  
         Liquidation, 14.115.  
         Meetings, 14.108.

## MARKETS AND WAREHOUSES

—Cont'd

Notice—Cont'd  
     Inspection refusal, 14.024.  
     Orders, post.  
 Number, orders, votes, 104.062.  
 Oaths and affirmation,  
     Corporate statements, 14.117.  
     Licensees, 14.003.  
     Orders, adoption hearing, 104.044.  
 Officers and employees, corporations,  
     certificate of qualification, 14.107.  
 Orders, 104.001 et seq.  
     Actions and proceedings, 104.186 et  
     seq.  
     Adoption, 104.041 et seq.  
     Allocations, 104.102.  
     Alteration, 104.024.  
     Amendments, 104.085.  
     Appeal and review, 104.201.  
         Adoption hearings, 104.044.  
     Application of law, 104.003.  
     Assessments, 104.161 et seq.  
         Equalization funds, 104.146.  
         Stabilization fund, surplus commodi-  
         ties, 104.142.  
     Ballots, 104.063.  
     Books and papers, 104.222.  
     Brands, marks and labels, warning  
         tags, 104.183.  
     Budgets, 104.163.  
     By-product pool, 104.143, 104.145.  
     Certificates and certification, election,  
         104.064.  
     Collection, assessments, 104.164,  
         104.165.  
     Committee, marketing committee,  
         104.121 et seq.  
     Complaints, 104.124.  
         Assessment collections, 104.164.  
     Confidential or privileged information,  
         producers and handlers lists,  
         104.022.  
     Corrections deficiencies, 104.185.  
     Costs,  
         Assessment collection, enforcement,  
         104.164.  
         Injunctions, 104.202.  
     Court orders, 104.186 et seq.  
     Debts, assessments, 104.164.  
     Deficiencies, correction, 104.185.  
     Definitions, 104.002.  
     Deposits, expenses, 104.081.  
     Designated areas, 104.084.  
     Disclosure, elections, 104.065.  
     Disposal, surplus commodities, 104.141.  
     Election, 104.061 et seq.  
         Voluntary termination, 104.088 et  
         seq.  
     Equalization fund, assessments,  
         104.146.  
     Evidence, adoption hearing, 104.044.  
     Exemptions, 104.003.  
     Expenses and expenditures, 104.125.  
         Deposits, 104.081.  
     False reports, 104.224.  
     Funds,  
         Equalization fund, 104.146.  
         Stabilization fund, surplus commodi-  
         ties, 104.142.  
     Grades and grading, standards,  
         104.103, 104.104.  
     Hearings,  
         Adoption, 104.041 et seq.

References are to Sections

## MARKETS AND WAREHOUSES

—Cont'd  
 Orders—Cont'd  
   Hearings—Cont'd  
     Reapproval, 104.087.  
     Voluntary termination, 104.088 et seq.  
 Indebtedness, assessments, 104.164.  
 Injunctions, 104.202.  
 Inspections and inspectors, 104.181 et seq.  
   Election results, 104.064.  
   Producers and handlers lists, 104.022.  
   Records, 104.223.  
 Jurisdiction, assessment collection, 104.164.  
 Limitations, 104.101.  
 Lists, producers and handlers, 104.021 et seq.  
 Location, adoption hearing, 104.043.  
 Mail and mailing, noncompliance notice, 104.184.  
 Notice,  
   Election, 104.063, 104.064.  
   Hearings, 104.042.  
   Noncompliance, 104.183, 104.184.  
   Reapproval, 104.087.  
   Violations, 104.183, 104.184.  
   Voluntary termination, 104.089, 104.091.  
 Numbers, votes, 104.062.  
 Oaths and affirmation, adoption hearings, 104.044.  
 Petitions,  
   Actions, 104.186 et seq.  
   Adoption, 104.041 et seq.  
   Voluntary termination, 104.088 et seq.  
 Plans and specifications, surplus commodities, 104.141 et seq.  
 Pool, by-product pool, 104.143, 104.145.  
 Powers and duties, 104.124, 104.125.  
 Production of books and papers, 104.223.  
 Public policy, 104.001.  
 Reapproval, 104.087.  
 Records and recordation, 104.222, 104.223.  
 Refunds, assessments, 104.166, 104.167.  
 Reports, false reports, 104.224.  
 Results, elections, voluntary termination, 104.091.  
 Rules and regulations, 104.221.  
 Signatures, adoption, petition, 104.041.  
 Stabilization fund, surplus commodities, 104.142.  
 Standards, grading, 104.103, 104.104.  
 Surplus commodities, 104.141 et seq.  
 Tags, warning markings, 104.183.  
 Term, 104.086.  
 Termination, voluntary, 104.088 et seq.  
 Territory affected, 104.084.  
 Time, 104.082.  
   Adoption hearing, 104.043.  
   Corrections, 104.185.  
   Uniform application, 104.083.  
 Venue, 104.202.  
 Void, 104.024.  
 Voluntary termination, 104.088 et seq.  
 Warning markings, 104.183.  
 Owners and ownership, grain receipts, 14.018.  
 Per diem, examiners, 14.203.

## MARKETS AND WAREHOUSES

—Cont'd  
 Petitions,  
   Inspection refusal or shortages, hearings, 14.024.  
   Order violations, actions, 104.186 et seq.  
 Orders,  
   Adoption, 104.041 et seq.  
   Voluntary termination, 104.088 et seq.  
 Producers and handlers lists, 104.023.  
 Plans and specifications, surplus commodities, 104.141 et seq.  
 Pools,  
   By-product pool, orders, 104.143, 104.145.  
   Financial pools, 53.001 et seq.  
 Posting, license, 14.008.  
 Powers and duties,  
   Corporations, 14.109, 14.113.  
   Marketing committee, 104.124, 104.125.  
 Privileges and immunities, marketing committee, 104.126.  
 Proceedings. Actions and proceedings, generally, ante.  
 Production of books and papers,  
   Hearings, 14.026.  
   Orders, 104.223.  
 Profits, corporations, division, 14.114.  
 Public policy, orders, 104.001.  
 Qualifications, examiners, 14.203.  
 Rates and charges, 14.123, 14.215.  
 Orders, assessments, 104.162, 104.163.  
   Stabilization fund, surplus commodities, 104.142.  
   Storage, 14.123.  
 Receipts. Warehouse Receipts, generally, this index.  
 Receivers and receivership, 14.024.  
   Corporations, 14.116.  
 Records and recordation, 14.022.  
   Examination, 14.003.  
   Inspection, 14.014, 14.022.  
   Orders, 104.222.  
   Inspection, 104.223.  
 Recovery, bonds, 14.010.  
 Refunds, orders, assessments, 104.166, 104.167.  
 Refusal, inspection, 14.024.  
 Removal, corporate officers and employees, 14.108.  
 Renewal, license, 14.005.  
 Reports, 14.003, 14.013, 14.014.  
   Corporate affairs, 14.118.  
   False reports, orders, 104.224.  
 Revocation or suspension,  
   Bond or insurance cancellation, 14.013.  
   Certificate, 14.216.  
   Corporate charter, 14.103.  
   Licenses, 14.015, 14.016.  
 Rules and regulations, 14.003.  
   Orders, 104.221.  
 Sales, corporate bonds, 14.111.  
 Scale weight tickets, 14.017.  
   Changing, 14.032.  
   Fraud, 14.031.  
 Securities, corporations, investments, 14.112.  
 Shortages, 14.024.  
 Signatures, orders petitions, 104.041.  
 Sinking fund bonds, corporations, 14.111, 14.112.  
 Stabilization fund, surplus commodities, 104.142.

## MARKETS AND WAREHOUSES

—Cont'd  
 Standards,  
   Classification, 14.124.  
   Orders, 104.103, 104.104.  
 Statement of affairs, corporations, 14.117.  
 Stolen grain, fines and penalties, 14.034.  
 Subpoenas, 14.003, 14.026.  
 Suits. Actions and proceedings, generally, ante.  
 Surplus commodities, plans, 104.141.  
 Suspensions. Revocation or suspension, generally, ante.  
 Tags, order violations, warning markings, 104.183.  
 Term, orders, 104.086.  
 Termination,  
   Order, 104.088 et seq.  
   Storage, 14.023.  
 Terms of office, marketing committees, 104.123.  
 Territory, orders, 104.084.  
 Tests. Examinations and examiners, generally, ante.  
 Time,  
   Bond or insurance cancellation, 14.013.  
   Corporations, statements, 14.117.  
   Inspection refusal, 14.024.  
   License revocation or suspension, 14.015.  
   Orders, ante.  
   Records, 14.022.  
 Title to property, fines and penalties, 14.033.  
 Traveling expenses, examiners, 14.203.  
 Unsafe corporations, 14.119.  
 Vegetables, licenses, 101.001 et seq.  
 Venue, 14.035.  
   Inspection refusal or shortages, 14.024.  
   Order violations, 104.202.  
 Void, order, 104.024.  
 Voluntary liquidation, corporations, 14.115.  
 Voluntary termination, order, 104.088 et seq.  
 Warning markings, order violations, 104.183.  
 Witnesses, hearings, 14.003, 14.026.  
**MARKS**  
 Brands, Marks and Labels, generally, this index.  
**MEASURES**  
 Weights and Measures, generally, this index.  
**MEAT AND MEAT PRODUCTS**  
 Definitions, sales, 13.034.  
 Slaughtering and Slaughtering Houses, generally, this index.  
**MEETINGS**  
 See specific index headings.  
**MERCHANTS**  
 Commission Merchant, generally, this index.  
**MEXICAN FRUIT FLY**  
 Generally, 72.001 et seq.  
**MEXICO**  
 Livestock, exports and imports, inspection, 146.066 et seq.

References are to Sections

**MILEAGE**

Traveling Expenses, generally, this index.

**MILK AND MILK PRODUCTS**

Dairies and Dairy Products, generally, this index.

**MISREPRESENTATION**

Fraud, generally, this index.

**MIXED FERTILIZER**

Defined, sales, 63.001.

**MODIFIED LIVE VIRUS RABIES VACCINE**

Generally, 161.042.

**MOHAIR**

Research, 42.001 et seq.

**MONOPOLIES AND UNFAIR TRADE PRACTICES**

Citrus fruits, handling or marketing, 102.022.

Marketing agreements of licenses, 102.172.

Cooperative marketing associations, 52.005.

Vegetables, handling or marketing, 101.021.

**MORTGAGES**

Family farm and ranch security program, 252.001 et seq.

Warehouse corporations, 14.109.

**MOTOR CARRIERS**

Carriers, generally, this index.

**MOTOR VEHICLES**

Animal diseases and pests, inspection, 161.048.

Antifreeze, 16.001 et seq.

Horticultural products, inspection, diseases and pests, 71.0081.

Inspections and inspectors, horticultural products, diseases and pests, 71.0081.

Weights and measures, stopping, 13.108.

**MUTUAL LOAN CORPORATIONS**

Generally, 54.001 et seq.

**MUTUAL SAVINGS BANKS**

Family farm and ranch security program, loans, 252.001 et seq.

**NAME**

Agricultural products, selling or advertising, 12.017.

Antifreeze,

Change of name, 16.002.

Labeling, 16.005.

Cornmeal, packages, 13.029.

Cotton seeds, 62.007.

Farmers cooperative societies, 51.022.

Flour, packages, 13.029.

Markets and warehouses, license, 14.004.

Noxious weeds, districts, 78.013.

Soil and water conservation, districts, 201.047, 201.048.

Texas agricultural products, selling or advertising, 12.017.

Wind erosion conservation districts, 202.004.

**NATURAL FIBERS AND FOOD PROTEIN COMMISSION**

Generally, 42.001 et seq.

**NATURAL FIBERS COMMITTEE**

Generally, 42.005.

**NATURAL RESOURCES**

Noxious Weeds, generally, this index.

**NEGLIGENCE**

Livestock, this index.

**NEMATODE**

Defined, pesticides, 76.001.

**NONPROFIT ORGANIZATIONS**

Cooperative marketing associations, 52.001 et seq.

Farmers cooperative societies, 51.001 et seq.

**NONRESIDENTS**

Animal diseases and pests, actions, 161.132.

**NOTICE**

Animal Diseases and Pests, this index.

Citrus Fruits, this index.

Commercial feed, generally. Feed, this index.

Commodity producers board, Elections, 41.032.

Referendum and election, 41.023.

Cooperative marketing associations, Articles of incorporation, 52.034.

Meetings, 52.084.

Cotton, pink bollworm control, district election, 74.083.

Dairies and Dairy Products, this index.

Eggs, pullorum or typhoid control, quarantine, 168.004.

Elections, this index.

Estrays, impoundment, 142.005.

Farm and ranch loan security bonds, sales, 252.052.

Feed, this index.

Fertilizers,

Analysis violations, 63.094.

Detention, 63.121.

Herbicides, this index.

Horticultural products, quarantine or destruction orders, appeals, 71.010.

Livestock, this index.

Markets and Warehouses, this index.

Mexican fruit fly control, 72.005.

Noxious Weeds, this index.

Nurseries and nursery products, destroying or treating plants, 71.046.

Pesticides, this index.

Posting, generally, this index.

Poultry and poultry products, pullorum or typhoid control, quarantine, 168.004.

Public weighers, dismissal or suspension hearings, 13.267.

Scabies control, quarantine, 164.042.

Seeds and plants, registration, license or certification revocation, 62.010.

Soil and Water Conservation, this index.

Stockyards, tick-free facilities, 167.082.

Tick eradication, designated areas, 167.006.

Vegetables, orders, 101.018.

Warehouses. Markets and Warehouses, this index.

**NOTICE—Cont'd**

Wind erosion conservation districts, assessment hearing, 202.043.

**NOXIOUS WEEDS**

Generally, 78.001 et seq.

Age,

Directors, districts, 78.031.

Petition signature, eligibility, 78.004.

Appeal and review, districts, exclusion, 78.071.

Appropriations, 78.057.

Assessments, 78.051 et seq.

Dissolution, 78.065.

Ballots, assessment election, 78.052.

Boards and commissions, districts, directors, 78.031 et seq.

Boundaries, districts, 78.013.

Certificates and certification, assessment report, 78.056.

Cleaning, equipment, 78.045.

Collection, assessments, 78.054, 78.056.

Compensation and salaries,

District directors, 78.034.

Inspectors, 78.036.

Crosby county, district exclusion, 78.071.

Definitions, control, 78.001, 78.003.

Deposit, assessments, 78.054.

Directors, districts, 78.031 et seq.

Dissolution, districts, 78.061 et seq.

Districts, 78.011 et seq.

Domicile and residence,

Directors, districts, 78.031.

Petition signature, eligibility, 78.004.

Elections, 78.005.

Assessments, 78.052.

Districts, 78.018 et seq.

Dissolution, 78.062 et seq.

Employees, board, 78.035, 78.036.

Entry upon property, 78.044.

Equipment, cleaning, 78.045.

Exclusion, districts, 78.071.

Expenses and expenditures,

Assessments, 78.051 et seq.

Districts, 78.021.

Fees, district petition, filing, 78.012.

Filing, district petition, 78.012.

Fines and penalties, equipment cleaning, 78.045.

Hearings,

District creation, 78.014 et seq.

District exclusion, 78.071.

Highways and roads, 78.042.

Inspection and inspectors, 78.044.

Employment, 78.036.

Labor and employment, inspectors, 78.036.

Machinery and equipment, cleaning, 78.045.

Meetings, district board, 78.033.

Name, district, 78.013.

Notice,

Control measures, 78.043.

District creation, 78.015, 78.018.

District exclusion, 78.071.

Equipment cleaning, 78.045.

Officers and employees, board, 78.035, 78.036.

Orders, district dissolution, election, 78.062.

Per diem, district directors, 78.034.

Petitions,

Districts, 78.011 et seq.

Exclusion, 78.071.

Signatures, qualifications, 78.004.

## INDEX TO AGRICULTURE CODE

References are to Sections

**NOXIOUS WEEDS—Cont'd**

Posting, equipment cleaning, notice, 78.045.  
 Proxies, district board meetings, 78.033.  
 Public lands, 78.042.  
 Public policy, 78.002.  
 Rates and charges, assessments, 78.052.  
 Reports, assessments, 78.055, 78.056.  
 Returns,  
   District dissolution, election, 78.064.  
   District elections, 78.020.  
 Rights of way, control measures, 78.042.  
 Rules and regulations, equipment cleaning, 78.045.  
 Seeds and plants, content, 61.008.  
 Signatures, petitions, qualifications, 78.004.  
 Terms of office, district directors, 78.032.  
 Title to property,  
   Directors, districts, 78.031.  
   Petition signature, eligibility, 78.004.  
 Traveling expenses, district directors, 78.034.  
 Warrants for payment of money, 78.057.

**NUISANCE**

Animal Diseases and Pests, generally, this index.  
 Boll weevil, 74.001.  
 Citrus Fruits, this index.  
 Cotton, pink bollworm, 74.052.  
 Horticultural products, disease or pest infested, 71.009.  
 Mexican fruit fly control, 72.042.  
   Fines and penalties, 72.063.  
 Nurseries and nursery products, diseased or infested plants, 71.046.  
 Pink bollworm, 74.052.  
 Preservation of agricultural operations, 251.001 et seq.

**NUMBERS AND NUMBERING**

Markets and warehouses, orders, votes, 104.062.  
 Railway experiment farms, 43.053.  
 Warehouse receipts, 14.207.

**NURSERIES AND NURSERY PRODUCTS**

Abatement, diseased or infested plants, 71.046.  
 Accounts and accounting, inspection fees, 71.056.  
 Address, dealers and agents, 71.057.  
 Agents, registration, 71.057.  
 Appeal and review, destruction or treatment orders, 71.048.  
 Attorneys fees, destruction or treatment actions, 71.047.  
 Brands, marks and labels, roses, 121.001 et seq.  
 Camellias, certificate of inspection, 71.052.  
 Carriers, privileges and immunities, shipment violations, 71.054.  
 Certificate of authority, roses, 121.004.  
 Certificates and certification, inspection, 71.045.  
 Citrus fruits,  
   Foreign states, certificate of inspection, 73.006.  
   Infected nursery products, movements, 73.005.  
 Classifications, roses, 121.003 et seq.

**NURSERIES AND NURSERY PRODUCTS—Cont'd**

Costs, treatment or destruction, 71.047.  
 Dealers, registration, 71.057.  
 Definitions,  
   Diseases and pests, 73.001.  
   Inspection, 71.041.  
   Rose plant, inspection, 121.001.  
 Destruction,  
   Camellias, certificate of inspection violation, 71.052.  
   Diseased or infested plants, 71.046.  
 Diseases, immunity and protection, 71.041 et seq.  
 Enforcement, destruction or treatment orders, 71.049.  
 Entry upon property,  
   Diseased or infested plants, destruction or treatment, 71.046.  
   Roses, 121.008.  
 Expenses, treatment or destruction, 71.047.  
 Exports and imports,  
   Camellias, certificate of inspection, 71.052.  
   Certificate of inspection, 71.051.  
 Fees,  
   Inspection, 71.056.  
   Roses, certificate of authority, 121.004.  
 Fines and penalties, 71.058.  
   Roses, 121.010.  
 Foreign states, certificate of inspection, 71.051.  
 Fraud, certificate revocation, 71.055.  
 Grades and grading, roses, 121.001 et seq.  
 Herbicides, generally, this index.  
 Inspection and inspectors, 71.041 et seq.  
   Roses, 121.001 et seq.  
 Licenses and permits, importation certificate, 71.051.  
 Notice, destroying or treating plants, 71.046.  
 Nuisance, diseased or infested plants, 71.046.  
 Pesticides, generally, this index.  
 Pests, immunity and protection, 71.041 et seq.  
 Plant diseases and insect pests, 71.041 et seq.  
 Privileges and immunities,  
   Carriers, shipment violations, 71.054.  
   Diseases and pests, 71.042.  
   Destruction or treatment, 71.046.  
 Publication, roses, rules, 121.007.  
 Registration, dealers and agents, 71.057.  
 Revocation, certificate of inspection, 71.055.  
 Roses, 121.001 et seq.  
 Rules and regulations, roses, 121.007.  
 Sales,  
   Inspection certificate, 71.045.  
   Roses, stop-sale order, 121.009.  
   Shipment violations, 71.053.  
 Shipment, certificate of inspection, 71.050.  
 Stop-sale order, roses, 121.009.  
 Tags, inspection, 71.053.  
 Time,  
   Destruction or treatment orders, appeal, 71.048.  
   Inspection, 71.044.  
 Transportation,  
   Certificate of inspection, 71.050.

**NURSERIES AND NURSERY PRODUCTS—Cont'd**

Transportation—Cont'd  
 Privileges and immunities, shipment violations, 71.054.  
 Treatment, diseased or infested plants, 71.046, 71.047.

**NURSERY GROWER**

Defined, inspection, 71.041.

**NUT TREES**

Planting and culture, 12.008.

**OATHS AND AFFIRMATIONS**

Agriculture, department of, deputy commissioner, 11.007.  
 Bees, disease control, 131.031.  
 Citrus Fruits, this index.  
 Commercial feed, inspection violations, samples, 141.105.  
 Estrays, death or escape reports, 142.011.  
 Feed, inspection violations, samples, 141.105.  
 Fertilizers, independent analysis, 63.094.  
 Horticultural products, quarantine hearings, 71.006.  
 Livestock, this index.  
 Markets and Warehouses, this index.  
 Public weighers, 13.259.  
 Soil and water conservation, districts, certificate of organization, 201.047.  
 Soil and water conservation board, 201.017.  
 Vegetables, handling license, application, 101.005.

**OCCUPIER**

Defined, soil and water conservation, 201.002.

**OFFENSES**

Crimes and Offenses, generally, this index.

**OFFICERS AND EMPLOYEES**

See specific index headings.

**OFFICIAL BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**OFFICIAL SAMPLE**

Defined,  
 Feed, 141.001.  
 Fertilizers, 63.001.

**OIL AND GAS**

Inspection and inspectors, meters, 13.103.

**OILSEED PRODUCTS**

Research, 42.001 et seq.

**OKRA**

Defined, pink bollworm control, 74.051.

**ONIONS**

Bermuda onions, grades, 91.061 et seq.  
 Boiler grade, 91.064.  
 Containers, folding crates, 91.025.  
 Diseases and insects, 71.107.  
 Folding crates, 91.025.  
 Plant diseases and insect pests, 71.107.  
 Variations, grades, 91.068.

References are to Sections

**OPEN STORAGE GRAIN**

Defined, markets and warehouses, 14.001.

**OPTIONS**

Soil and water conservation, real or personal property, 201.104.

**ORANGES**

Citrus Fruits, generally, this index.

**ORCHARDS**

Fruit Trees, generally, this index.

**ORDERS**

Agricultural experiment farms and stations, elections, 43.003.  
 Animal Diseases and Pests, this index.  
 Brucellosis control, appeal, 163.067.  
 Citrus Fruits, this index.  
 Dipping, 164.021 et seq.  
 Fertilizers, condemnation, 63.122.  
 Herbicides, county exemptions, revocation and reinstatements, 75.023.  
 Hogs, diseased animals, sale or slaughter, 165.024.  
 Horticultural products, control or eradication zones, disease or pest, 71.008.  
 Livestock, this index.  
 Mandamus, generally, this index.  
 Markets and Warehouses, this index.  
 Noxious weeds, district dissolution, election, 78.062.  
 Seeds and plants, foreign states, confiscation, 62.009.  
 Soil and water conservation, land-use regulation, 201.121 et seq.  
 Stop-Sale Orders, generally, this index.  
 Tick eradication, 167.008.  
     Dipping, 167.052 et seq.  
 Vegetables, notice, 101.018.  
 Warehouses. Markets and Warehouses, this index.  
 Weights and measures, stop-sale, 13.040.  
 Wind erosion conservation districts, elections, 202.011.

**ORNITHOSIS**

Diseases and pests, disposal, 161.103.

**OTHER LAND**

Defined, tick eradication, 167.024.

**PACKAGES**

Containers, generally, this index.

**PACKER**

Defined,  
 Citrus fruits, 102.001.  
 Vegetables, 101.001.

**PACKING HOUSES**

Citrus fruits,  
 Operation, notice, 94.012.  
 Registration, 94.011.

**PACKS**

Containers, generally, this index.

**PAPERS**

Books and Papers, generally, this index.  
 Production of Books and Papers, generally, this index.

**PAYMENTS**

See specific index headings.

**PEACE OFFICERS**

Defined, tick eradication, 167.001.  
 Mexican fruit fly control, 72.003.  
 Tick eradication, dipping, 167.103, 167.106.

**PEACHES**

Choice or No. 1 grade, 91.043.  
 Containers, 91.041 et seq.  
 Fancy grades, 91.042.  
 Grades and grading, 91.041 et seq.  
 No. 2 grade, 91.044.  
 Packs, 91.045.  
 Standards, grades and containers, 91.041 et seq.

**PEARS**

Bartlett pears, grades and packs, 91.111 et seq.  
 Brands, marks and labels, containers, 91.114.  
 Containers, 91.114, 91.115.  
 Fancy grades, Bartlett pears, 91.111, 91.112.  
 Grades and grading, Bartlett pears, 91.111 et seq.  
 Packs, 91.115.

**PECUNIARY INTEREST**

Adverse or Pecuniary Interest, generally, this index.

**PENALTIES**

Fines and Penalties, generally, this index.

**PEPPERS**

Plant diseases and insect pests, 71.106.

**PER DIEM**

Animal health commission, 161.026.  
 Commodity producers board, 41.057.  
 Eggs, foreign states, inspection, 132.006.  
 Family farm and ranch advisory council, 252.013.  
 Markets and warehouses, examiners, 14.203.  
 Noxious weeds, district directors, 78.034.  
 Produce recovery fund board, 103.003.  
 Soil and water conservation,  
     Districts, directors, 201.077.  
     State district conventions, delegates, 201.013.

**PERFECTION**

Slaughtering and slaughtering houses, lien, 148.026.

**PERJURY**

Citrus fruits, marketing agreements or license hearings, 102.167.

**PERMITS**

Licenses and Permits, generally, this index.

**PERSON**

Defined,  
 Agricultural products, 41.002.  
 Antifreeze, 16.001.  
 Citrus fruits, 102.001.  
     Marketing agreements and licenses, 102.152.

**PERSON—Cont'd**

Defined—Cont'd  
 Cotton, 113.001.  
 Eggs, 132.001.  
 Honey, 131.101.  
 Livestock grading, 145.001.  
 Marketing orders, 104.002.  
 Tomatoes, 92.002.  
 Vegetables, 101.001.

**PERSONAL PROPERTY**

Soil and water conservation, 201.104.

**PESTICIDES**

Generally, 76.001 et seq.  
 Actions and proceedings, 76.155.  
 Fines and penalties, 76.156.  
 Agent for service of process,  
     Dealers license, 76.071.  
     Registration requirement, 76.042.  
 Alterations, equipment, 76.115.  
 Appeal and review, 76.181 et seq.  
 Application of law, 76.002.  
 Applicators,  
     Certificates and certification, 76.102 et seq.  
     Commercial applicators, generally, post.  
     Examination, 76.110.  
     Licenses and permits, 76.105 et seq.  
     Noncommercial applicators, licenses, 76.109.  
     Private applicators, 76.112.  
 Bids and bidding, examination and testing contracts, 76.006.  
 Bonds (officers and fiduciaries), commercial applicators, 76.111.  
 Brands, marks and labels, 76.021 et seq.  
 Cancellation,  
     Commercial applicators, insurance or bonds, 76.111.  
     Registration, 76.047.  
     Appeal, 76.181.  
 Certificates and certification,  
     Applicators, 76.102 et seq.  
     Plans, 76.101.  
     Private applicators, 76.112.  
 Claims, damages, 76.184.  
 Classification, commercial and noncommercial licenses, 76.106.  
 Commercial applicators,  
     Licenses and permits, 76.108.  
     Proof of financial responsibility, 76.111.  
 Commercial license, classification, 76.106.  
 Complication, registration, 76.042.  
 Contracts,  
     Cooperative agreements, 76.007.  
     Examination and testing, 76.006.  
 Cooperative agreements, 76.007.  
 Coordination, 76.101.  
 Cost, licensing, 76.103.  
 Damages, claims, 76.184.  
 Dealers, licenses and permits, 76.071 et seq.  
 Decal, equipment license, 76.115.  
 Defenses, prosecution, 76.203.  
 Definitions, 76.001.  
 Denial,  
     Licenses and permits, post.  
     Registration, 76.047.  
     Appeal, 76.181.  
 Display, dealers license, 76.074.  
 Disposal, 76.131.

## INDEX TO AGRICULTURE CODE

References are to Sections

**PESTICIDES—Cont'd**

Entry upon property,  
 Damage claims, 76.184.  
 Inspection and examination, 76.151.  
 Equipment, registration and inspection,  
 76.115.  
 Examinations and examiners, 76.151.  
 Certified applicators, 76.110.  
 Contracts, 76.006.  
 Exemptions, 76.008, 76.077.  
 Property owners, 76.117.  
 Registration, 76.041.  
 Experimental use permits, 76.048.  
 Expiration,  
 Dealers license, 76.072.  
 Licenses, 76.113.  
 Registration, 76.043.  
 Federal aid, 76.007.  
 Licensing, 76.103.  
 Fees,  
 Commercial applicators, license,  
 76.108.  
 Dealers license, 76.073.  
 Licenses and permits, 76.107.  
 Noncommercial applicator license,  
 76.109.  
 Registration, 76.044.  
 Financial responsibilities, commercial ap-  
 plicators, 76.111.  
 Fines and penalties, 76.201 et seq.  
 Actions, 76.156.  
 Foreign states, certified applicator exami-  
 nation, 76.110.  
 Forms,  
 Damage claims, 76.184.  
 Dealer license, 76.071.  
 Grants, federal agencies, 76.007.  
 Hearings,  
 Dealers licenses, revocation or suspen-  
 sion, 76.076.  
 License revocation or modification,  
 temporary, 76.116.  
 Registration cancellation or denial,  
 76.047.  
 Rules and regulations, 76.004, 76.005.  
 State-limited-use pesticides, 76.003.  
 Injunctions, 76.154.  
 Inspection and inspectors,  
 Damage claims, 76.184.  
 Entry upon property, 76.151.  
 Equipment, 76.115.  
 Insurance, commercial applicators,  
 76.111.  
 Lettering, labels, 76.022.  
 Licenses and permits, 76.105 et seq.  
 Appeal and review, revocation or sus-  
 pension, 76.182.  
 Dealers, 76.071 et seq.  
 Denial,  
 Appeal, 76.182.  
 Dealers license, 76.076.  
 Experimental use permits, 76.048.  
 Federal aid, 76.103.  
 Revocation or suspension, 76.116.  
 Appeal, 76.182.  
 Commercial applicators license,  
 76.111.  
 Dealers license, 76.076.  
 Display, 76.074.  
 Experimental use permits, 76.048.  
 List, state-limited-use pesticides, 76.003.  
 Local needs, registration, 76.046.  
 Machinery and equipment, registration  
 and inspection, 76.115.  
 Misbranded pesticide or device, 76.023.

**PESTICIDES—Cont'd**

Modification, license, 76.116.  
 Appeal, 76.182.  
 Noncommercial applicator, licenses and  
 permits, 76.109.  
 Noncommercial licenses, 76.106.  
 Notice,  
 Commercial applicators, insurance or  
 bond cancellation, 76.111.  
 Damage claims, 76.184.  
 Dealers license, revocation or denial,  
 76.076.  
 Registration cancellation or denial,  
 76.047.  
 Rules and regulations, 76.004, 76.005.  
 State-limited-use pesticides, 76.003.  
 Orders, stop-sale orders, 76.153.  
 Appeal, 76.183.  
 Permits. Licenses and permits, general-  
 ly, ante.  
 Plans and specifications, applicators cer-  
 tification, 76.101.  
 Private applicators, 76.112.  
 Process, service of process,  
 Dealers license, 76.071.  
 Registration requirement, 76.042.  
 Property owners, exemptions, 76.117.  
 Reciprocity, certified applicators, exami-  
 nation, 76.110.  
 Records and recordation, 76.075, 76.114.  
 State-limited-use pesticides, 76.003.  
 Registration, 76.041 et seq.  
 Cancellation or denial, appeal, 76.181.  
 Equipment, 76.115.  
 Renewal,  
 License, 76.113.  
 Registration, 76.043.  
 Repairs, equipment, 76.115.  
 Reports, damage claims, 76.184.  
 Revocation or suspension,  
 Licenses and permits, ante.  
 Records, failure to keep, 76.075.  
 Rules and regulations,  
 State agencies, 76.104.  
 Storage and disposal, 76.131.  
 Samples, 76.151, 76.152.  
 Service of process,  
 Agent, registration requirement, 76.042.  
 Dealers, license, 76.071.  
 Special local need, registration, 76.046.  
 Standards, equipment, 76.115.  
 State agencies, rules and regulations,  
 76.104.  
 State-limited-use pesticides, 76.003.  
 Stop-sale orders, 76.153.  
 Appeal, 76.183.  
 Storage, 76.131.  
 Suspension. Revocation or suspension,  
 generally, ante.  
 Temporary suspension, license, 76.116.  
 Test and testing, contracts, 76.006.  
 Time,  
 Dealers, license,  
 Expiration, 76.072.  
 Revocation or denial, 76.076.  
 Licenses and permits, expiration or re-  
 newal, 76.113.  
 Records and recordation, attention,  
 76.114.  
 Registration,  
 Cancellation or denial, 76.047.  
 Expiration and renewal, 76.043.  
 Rules and regulations, hearings, 76.005.  
 Venue, 76.154.

**PESTICIDES—Cont'd**

Waiver, certified applicator examination,  
 76.110.

**PESTS**

Animal Diseases and Pests, generally,  
 this index.  
 Plant Diseases and Insect Pests, general-  
 ly, this index.

**PETITIONS**

Agricultural products, producers and  
 handlers list, 104.023.  
 Animal diseases and pests, brucellosis  
 control areas, 163.021 et seq.  
 Brucellosis control areas, 163.021 et seq.  
 Commodity producers board,  
 Annexation of territory, 41.034.  
 Certification, 41.011, 41.012.  
 Cotton, pink bollworm control, districts,  
 74.083.  
 Livestock, this index.  
 Markets and Warehouses, this index.  
 Noxious Weeds, this index.  
 Soil and Water Conservation, this index.  
 Wind erosion conservation districts, elec-  
 tions, 202.011 et seq.

**PHRASES**

Words and Phrases, generally, this index.

**PINK BOLLWORM**

Cotton, control, 74.051 et seq.

**PLANS AND SPECIFICATIONS**

Commodity producers board, districts,  
 41.033.  
 Pesticides, applicators certification,  
 76.101.  
 Soil and water conservation, 201.107.  
 Flood control, contracts, 201.024.  
 Surplus commodities, 104.141 et seq.  
 Weights and Measures, this index.  
 Wind erosion conservation districts, re-  
 gional conservation plan, 202.023.

**PLANT DISEASES AND INSECT  
PESTS**

Generally, 71.001 et seq.  
 Boll weevil, 74.001 et seq.  
 Broccoli, 71.105.  
 Cabbage, 71.105.  
 Cauliflower, 71.105.  
 Citrus fruits, 73.001 et seq.  
 Collards, 71.105.  
 Control, 41.001 et seq.  
 Cotton, 74.001 et seq.  
 Cruciferous plants, 71.105.  
 Defined, pesticides, 76.001.  
 Eggplant, 71.108.  
 Flies, Mexican fruit fly, 72.001 et seq.  
 Herbicides, generally, this index.  
 Horticultural products, 71.001 et seq.  
 Investigations and investigators, 12.007.  
 Mexican fruit fly, 72.001 et seq.  
 Nurseries and nursery products, 71.041  
 et seq.  
 Onions, 71.107.  
 Peppers, 71.106.  
 Pesticides, generally, this index.  
 Pink bollworm control, 74.051 et seq.  
 Sweet potatoes, 71.109.  
 Tomatoes, 71.104.  
 Vegetables, 71.104 et seq.

References are to Sections

**PLANT REGULATOR**

Defined, pesticides, 76.001.

**PLANTS**

Nurseries and Nursery Products, generally, this index.

Seeds and Plants, generally, this index.

Shrubs and Shrubbery, generally, this index.

**PLEDGES**

Agricultural products, by-products pools, 104.145.

**POLICE**

Peace Officers, generally, this index.

**POLITICAL SUBDIVISIONS**

Soil and water conservation, contributions, 201.152.

**POOLS**

Agricultural products and livestock, 53.001 et seq.

**POST PLANT**

Defined, pink bollworm control, 74.051.

**POSTING**

Animal Diseases and Pests, this index.

Markets and warehouses, 14.008.

Noxious weeds, equipment cleaning, 78.045.

Scabies control, quarantine, 164.042.

Soil and water conservation, district election, notice, 201.004.

Tick eradication, designated areas, 167.006.

**POTATOES**

Brands, marks and labels, containers, 91.125.

Containers, markings, 91.125.

Irish potatoes, grades, 91.121 et seq.

Sweet Potatoes, generally, this index.

Variations, 91.124.

**POULTRY AND POULTRY PRODUCTS**

Actions and proceedings, research and promotion assessments, 41.101.

Assessments,

Rates and charges, 41.058.

Research and promotion, 41.058, 41.081 et seq.

Associations and societies, cooperative marketing associations, 52.001 et seq.

Boards and commissions,

Animal health commission, 161.021 et seq.

Improvement board, 133.001.

Brands, marks and labels, tuberculosis, 162.005.

Breeding, 12.009.

Certificates and certification,

Pullorum or typhoid control, 168.005.

Tuberculosis, test or vaccination, 162.004.

Commodity producers board, 41.001 et seq.

Compensation and salaries, tuberculosis, sale or slaughter, 162.008.

Contracts,

Breach or threatened breach, 52.131, 52.132.

**POULTRY AND POULTRY PRODUCTS—Cont'd**

Contracts—Cont'd

Cooperative marketing associations, 52.015, 52.016.

Cooperative programs, tuberculosis control, 162.002.

Cooperatives, 51.001 et seq.

Marketing associations, 52.001 et seq.

Definitions,

Pullorum and typhoid disease, 168.001.

Sales, 13.034.

Tuberculosis control, 162.001.

Diseases. Animal Diseases and Pests, generally, this index.

Disposal, pullorum and typhoid control, 168.004.

Education, 41.001 et seq.

Eggs, generally, this index.

Elections, turkeys, running at large, 143.071 et seq.

Entry upon premises, pullorum or typhoid control, 168.003.

Evidence, pullorum or typhoid control, entry upon property, 168.003.

Examinations and examiners,

Pullorum and typhoid control, 168.003.

Tuberculosis control, 162.009, 162.010.

Exemptions, research and promotion assessments, 41.082.

Exhibitions, pullorum and typhoid control, 168.005.

Fairs and exhibitions, pullorum or typhoid control, 168.005.

Family farm and ranch security program, loans, 252.001 et seq.

Fines and penalties,

Eggs, 132.081 et seq.

Pullorum or typhoid control, 168.008.

Research and promotion assessments, 41.101 et seq.

Transporting animals, permits, 146.008.

Turkeys, running at large, 143.082.

Fraud, transporting animals,

Fines and penalties, 146.008.

Permits, 146.008.

Hatcheries, registration, pullorum and typhoid disease, 168.003.

Health commission, 161.021 et seq.

Immunization, tuberculosis, 162.004.

Improvement board, 133.001.

Injunction, pullorum or typhoid control, 168.004.

Licenses and permits,

Research and promotion assessments, revocation or suspension, 41.102.

Transportation, 146.005.

Transporting animals, penalties, 146.008.

Loans, 52.001 et seq.

Machinery and equipment, 52.001 et seq.

Marketing and warehouses, 52.001 et seq.

Nonprofit organizations, cooperative marketing associations, 52.001 et seq.

Notice, pullorum or typhoid quarantine, 168.004.

Oaths and affirmations, pullorum or typhoid control, entry upon property, 168.003.

Pest. Animal Diseases and Pests, generally, this index.

Promotion, 41.001 et seq.

Pullorum and typhoid control, 168.004.

**POULTRY AND POULTRY PRODUCTS—Cont'd**

Quarantine,

Pullorum disease, 168.004.

Tuberculosis, 162.006.

Typhoid, 168.004.

Raising, 12.009.

Rates and charges, assessments, promotion and research, 41.058.

Refunds, research and promotion assessments, 41.083.

Registration, hatcheries, pullorum and typhoid disease, 168.003.

Reports, tuberculosis, branding and tagging, 162.005.

Research, 41.001 et seq.

Rules and regulations, pullorum and typhoid control, 168.003.

Running at large, turkeys, elections, 143.071 et seq.

Sales, 52.001 et seq.

Live weight, 13.034.

Tuberculosis control, 162.007.

Samples, pullorum and typhoid disease, 168.003.

Search warrants, pullorum and typhoid control, 168.003.

Searches and seizures, transporting animals, permits, 146.005.

Signatures, transporting animals, permits, 146.005.

Slaughtering and Slaughtering Houses, generally, this index.

Standards, pullorum and typhoid disease, 168.002.

Stocks and stockholders, cooperative marketing associations, 52.001 et seq.

Storage, 52.001 et seq.

Tags, tuberculosis, 162.005.

Test and testing,

Pullorum and typhoid disease, 168.003.

Tuberculosis control, 162.003, 162.009, 162.010.

Transportation, 52.001 et seq.

Licenses and permits, 146.005.

Tuberculosis, 162.001 et seq.

Control, 162.011 et seq.

Examination and testing, 162.010.

Turkeys, running at large, elections, 143.071 et seq.

Typhoid, 168.001 et seq.

Venue, research and promotion assessments, 41.101.

Weights and measures, live weight, 13.034.

**POULTRY IMPROVEMENT BOARD**

Generally, 133.001.

**POWDER HERBICIDES**

Licenses and permits, 75.009.

**POWER OF ATTORNEY**

Livestock, agents, fines and penalties, 146.079.

**PRESERVATION**

Agricultural operations, nuisance, 251.001 et seq.

**PRICES**

Agricultural products, fraud, 13.035.

## INDEX TO AGRICULTURE CODE

References are to Sections

**PRIORITIES AND PREFERENCES**

Slaughtering and slaughtering houses, liens, 148.028.

**PRIVILEGES AND IMMUNITIES**

Citrus fruits,  
 Carriers, shipment violations, 73.007.  
 Marketing agreements or license hearings, 102.167.  
 Cooperative marketing associations, 52.087.  
 Farmers cooperative societies, members, 51.016.  
 Horticultural products, carriers, quarantine violations, 71.011.  
 Livestock, this index.  
 Nurseries and Nursery Products, this index.  
 Vegetables, diseases or pests, 71.112.

**PROCEEDINGS**

Actions and Proceedings, generally, this index.

**PROCESS**

Agent for Service of process. Service of process, generally, post.  
 Eggs, agent for service of process, 132.023.  
 Public weighers, dismissal or suspension hearings, 13.267.  
 Service of process,  
 Eggs, license requirement, 132.023.  
 Pesticides,  
 Dealers license, 76.071.  
 Registration requirement, 76.042.

**PROCESSOR**

Defined, agricultural products, 41.002.

**PROCLAMATION**

Brucellosis control areas, 163.022.

**PRODUCE RECOVERY FUND**

Commission merchants, 103.001 et seq.

**PRODUCER**

Defined,  
 Agricultural products, 41.002.  
 Citrus fruits, marketing agreements and licenses, 102.152.  
 Marketing orders, 104.002.  
 Vegetables, 101.001.

**PRODUCTION OF BOOKS AND PAPERS**

Bees, disease control, 131.031.  
 Citrus fruits,  
 Handling or marketing complaints, 102.019.  
 Marketing agreements or license hearings, 102.167.  
 Markets and warehouses,  
 Hearings, 14.003, 14.026.  
 Orders, 104.223.  
 Public weighers, dismissal or suspension hearings, 13.267.  
 Vegetables, complaints, 101.018.

**PROFITS**

Farmers cooperative societies, 51.007.  
 Warehouse corporations, division, 14.114.

**PROMOTION**

Agricultural products, 41.001 et seq.

**PROPERTY**

Real Estate, generally, this index.

**PROTESTS**

Brucellosis control areas, 163.023.  
 Livestock, tattoo marks, registration, 144.106.

**PROXIES**

Noxious weeds, district board meetings, 78.033.

**PUBLIC BUILDINGS**

Buildings, generally, this index.

**PUBLIC GRAIN HOUSES**

Markets and Warehouses, generally, this index.

**PUBLIC LANDS**

Noxious weeds, 78.042.

**PUBLIC POLICY**

Agricultural products, research and promotion, 41.001.  
 Citrus Fruits, this index.  
 Cooperative marketing associations, 52.001.  
 Cotton, research, 42.001.  
 Financial pools, 53.002.  
 Marketing orders, 104.001.  
 Noxious weeds, control, 78.002.  
 Pink bollworm control, 74.052.  
 Soil and water conservation, 201.001.  
 Tomatoes, standardization and inspection, 92.001.  
 Wool, research, 42.001.

**PUBLIC RECORDS**

Records and Recordation, generally, this index.

**PUBLIC SAFETY, DEPARTMENT OF**

Cooperation, horticultural products, inspections, 71.0101.

**PUBLIC UTILITIES**

Meters, inspection, 13.103.

**PUBLIC WEIGHERS**

Generally, 13.251 et seq.  
 Actions and proceedings, reweighing, 13.266.  
 Appeal and review, 13.266.  
 Dismissal or suspension, 13.267.  
 Appointments, 13.252.  
 Bonds (officers and fiduciaries), 13.256.  
 Certificate of authority, 13.261.  
 Certificates and certification, 13.255, 13.262.  
 Weights and measures,  
 False certificate, fine, 13.259.  
 Without authority, fine, 13.260.  
 Commission merchants, 13.268.  
 Cost, reweighing, 13.266.  
 Defined, 13.251.  
 Deputy, public weighers, 13.254.  
 Dismissal, 13.267.  
 Elections, county public weighers, 13.253.  
 Evidence, dismissal or suspension hearings, 13.267.  
 Factor merchants, 13.268.  
 Fees, certificate of authority, 13.255, 13.261.

**PUBLIC WEIGHERS—Cont'd**

Fines and penalties, 13.269.  
 Certificate without authority, 13.260.  
 Factor or commission merchants, 13.268.  
 False certificates, 13.259.  
 Fraud, 13.266.  
 Hearings,  
 Dismissal of suspension, 13.267.  
 Revocation of certificate of authority, 13.255.  
 Identification, lots, 13.265.  
 Incompetency, dismissal or suspension, 13.267.  
 Inspection and inspectors, records, 13.264.  
 Lots, identification, 13.265.  
 Malfeasance, dismissal or suspension, 13.267.  
 Notice, dismissal or suspension hearings, 13.267.  
 Process, dismissal or suspension hearings, 13.267.  
 Production of books and papers, dismissal or suspension hearings, 13.267.  
 Records and recordation, 13.257, 13.264.  
 Revocation or suspension, 13.267.  
 Reweighing, 13.266.  
 Seal, 13.263.  
 Signature, seal, 13.263.  
 Supervision, 13.258, 13.261.  
 Term of office, 13.253.  
 Testing, 13.261.  
 Time, dismissal or suspension hearings, 13.267.  
 Venue, dismissal or suspension, 13.267.  
 Witnesses, dismissal or suspension hearings, 13.267.

**PUBLICATION**

Agricultural methods and practices, institutes, 12.004.  
 Agricultural resources, 12.011.  
 Agriculture, department of, reports, 12.014.  
 Animal diseases and pests, quarantine notice, 161.062.  
 Bees, disease control, 131.003.  
 Cotton, buyers list, 113.007.  
 Fertilizers, 63.005.  
 Forest and forestry, 12.008.  
 Roses, rules, 121.007.  
 Seeds, and plants, judgments, 61.017.  
 Soil and water conservation, plans, 201.107.  
 Wind erosion conservation districts, assessment hearing, 202.043.

**PULLORUM DISEASE**

Poultry and poultry products, 168.001 et seq.

**PURCHASER**

Defined, feed, 141.001.

**PURCHASES**

Weights and measures, 13.002.

**PURE HONEY**

Defined, labeling and sale, 131.101.

**QUARANTINE**

Animal Diseases and Pests, this index.  
 Bees, 131.023, 131.024.  
 Citrus fruits, 73.004, 73.005.

References are to Sections

**QUARANTINE—Cont'd**

Cotton, pink bollworm control, 74.051 et seq.  
 Horticultural products, diseases and pests, 71.001 et seq.  
 Livestock, this index.  
 Mexican fruit flies, 72.011 et seq.  
 Pink bollworm, 74.051 et seq.  
 Poultry and Poultry Products, this index.  
 Sheep, this index.

**QUEEN BEE**

Sales, 131.026.

**RABIES**

Modified live virus rabies vaccine, 161.042.

**RAILROADS**

Animal Diseases and Pests, this index.  
 Bees, disease control, 131.025.  
 Boxcars, Mexican fruit fly, 72.001 et seq.  
 Horticultural products,  
     Fines and penalties, 71.012.  
     Privileges and immunities, quarantine violations, 71.011.  
 Livestock, this index.  
 Mexican fruit fly, boxcars, 72.001 et seq.  
 Privileges and immunities, horticultural products, quarantine violations, 71.011.

**RAILWAY EXPERIMENT FARMS**

Generally, 43.051 et seq.

**RANCHES**

Associations and societies, cooperative marketing associations, 52.001 et seq.  
 Contracts,  
     Breach or threatened breach, 52.131, 52.132.  
     Cooperative marketing associations, 52.015, 52.016.  
 Cooperative marketing associations, 52.001 et seq.  
 Cooperative societies, 51.001 et seq.  
 Loans, 52.001 et seq.  
     Security programs, 252.001 et seq.  
 Marketing and warehouses, 52.001 et seq.  
 Sales, 52.001 et seq.  
 Security programs, 252.001 et seq.  
 Stocks and stockholders, cooperative marketing associations, 52.001 et seq.

**RATES AND CHARGES**

Agricultural Products, this index.  
 Citrus fruits, contracts, 102.014.  
 Cotton, classer, 112.001.  
 Financial pools, 53.022.  
 Markets and Warehouses, this index.  
 Noxious weeds, assessments, 78.052.  
 Pools, financial pools, 53.022.  
 Surplus commodities, stabilization funds, 104.142.  
 Wind erosion conservation districts, assessments, 202.045.

**REAL ESTATE**

Agricultural experiment farms and stations, 43.007, 43.008.  
 Leases, generally, this index.  
 Railway experiment farms, 43.052.

**REAL ESTATE—Cont'd**

Soil and water conservation, 201.104.  
 Tick eradication, dipping facilities, 167.059.

**RECEIPTED GRAIN**

Defined, warehouses, 14.001.

**RECEIPTS**

Defined, warehouses, 14.001.  
 Warehouse Receipts, generally, this index.

**RECEIVERS AND RECEIVERSHIP**

Markets and warehouses, 14.024.  
 Warehouse corporations, 14.116.

**RECIPROCITY**

Eggs, inspection, 132.003.  
 Pesticides, certified applicator examination, 76.110.

**RECLAMATION**

Wind Erosion Conservation Districts, generally, this index.

**RECORDS AND RECORDATION**

Agricultural experiment farms and stations, 43.012.  
 Citrus Fruits, this index.  
 Cotton, ginners, 111.002.  
 Eggs, this index.  
 Estrays,  
     Affidavits, 142.008.  
     Death or escape reports, 142.011.  
 Fertilizers, 63.074.  
     Samples, examination, 63.093.  
 Herbicides, this index.  
 Hogs, marks and brands, 144.041 et seq.  
 Horticultural products, quarantine hearings, 71.006.  
 Livestock, this index.  
 Markets and Warehouses, this index.  
 Mexican fruit fly control, 72.005.  
 Pesticides, 76.075, 76.114.  
     State-limited-use pesticides, 76.003.  
 Public weighers, 13.264.  
     Weights and measures, 13.257.  
 Seeds and plants, inspections, 61.011.  
 Slaughtering and Slaughtering Houses, this index.  
 Soil and Water Conservation, this index.  
 Soil and water conservation board, 201.020.  
 Tomatoes, contributions, inspection and audits, 92.035.  
 Vegetables, purchases, 101.016, 101.017.  
 Warehouse receipts, 14.022.  
 Weighers, public weighers, weights and measures, 13.257.  
 Weights and Measures, this index.  
 Wind erosion conservation districts, assessments, 202.045.

**REFERENDUM**

Initiative and Referendum, generally, this index.

**REFUNDS**

Agricultural products, research and promotion assessments, 41.083.  
 Citrus fruits, handling license, refusal, 102.007.  
 Cotton, pink bollworm escrow funds, 74.087.

**REFUNDS—Cont'd**

Herbicides, licenses and permits, fees, 75.010.  
 Markets and warehouses, orders, assessments, 104.166, 104.167.  
 Produce recovery fund, 103.006.  
 Vegetables, this index.

**REGIONAL CONSERVATION PLAN**

Wind erosion conservation districts, 202.023.

**REGISTER**

Livestock, shipped cattle, 146.003.

**REGISTRANT**

Defined, fertilizers, 63.001.

**REGISTRATION**

Antifreeze, 16.002.  
 Bees, equipment, branding, 131.051 et seq.  
 Citrus fruits, brands and trademarks, 93.005.  
 Commercial feed, generally. Feed, this index.  
 Cotton, this index.  
 Farm and ranch loan security bonds, 252.054.  
 Feed, this index.  
 Fertilizers, 63.031 et seq.  
 Hogs, tattoo marks, 144.101 et seq.  
 Livestock, tattoo marks, 144.101 et seq.  
 Nurseries and nursery products, dealers and agents, 71.057.  
 Pesticides, this index.  
 Poultry and poultry products, hatcheries, 168.003.  
 Seeds and Plants, this index.  
 Slaughtering and slaughtering houses, failure to register, 148.061.

**REGULATION**

Rules and Regulations, generally, this index.

**REGULATORY AGENCY**

Defined, pesticides, 76.001.

**REMOVAL FROM OFFICE**

Cooperative marketing associations, 52.103.

**RENTAL**

Soil and water conservation, county machinery or equipment, 201.151.

**REORGANIZATION**

Soil and water conservation, districts, 201.051.

**REPAIRS**

Pesticides, equipment, 76.115.  
 Soil and water conservation, equipment, 201.105.

**REPORTS**

Agricultural experiment farms and stations, 43.013.  
 Agricultural finance corporations, 56.008.  
 Agricultural Products, this index.  
 Agriculture, department of, 12.014.  
 Animal Diseases and Pests, this index.  
 Bees,  
     Diseased bees, 131.027.  
     Entomologists, 131.002.

## INDEX TO AGRICULTURE CODE

References are to Sections

**REPORTS—Cont'd**

Brucellosis control, 163.061.  
 Citrus fruits, marketing agreements or licenses, 102.158, 102.167.  
 Commercial feed, generally. Feed, this index.  
 Commodity producers board, 41.059.  
 Cooperative credit associations, 55.008.  
 Cooperative marketing associations, 52.152.  
 Eggs, inspection, 132.003.  
 Estrays, 142.003.  
   Death or escape, 142.011.  
 Family farm and ranch security program, loans, 252.012.  
 Farmers cooperative societies, 51.024.  
 Feed, this index.  
 Fertilizers, tonnage, 63.072, 63.074.  
 Grasses, 12.008.  
 Herbicides, affected crops, 75.015.  
 Horticultural products,  
   Disease or pest hearings, 71.008.  
   Quarantine hearings, 71.006.  
 Irrigation, 12.012.  
 Livestock, this index.  
 Markets and Warehouses, this index.  
 Mexican fruit fly control, 72.005.  
 Mutual loan corporations, 54.012.  
 Noxious weeds, assessments, 78.055, 78.056.  
 Pesticides, damage claims, 76.184.  
 Seeds and Plants, this index.  
 Slaughtering and slaughtering houses, 148.012.  
 Soil and water conservation, 201.023.  
 Tomatoes, contribution audits, inspection and grading, 92.035.  
 Weights and measures, 13.005.

**RESEARCH**

Agricultural products, 41.001 et seq.  
 Cotton, 42.001 et seq.  
   Pink bollworm control, escrow funds, 74.088.  
 Fertilizers, inspection fee, 63.075.  
 Fibers, 42.001 et seq.  
 Wool, 42.001 et seq.

**RESIDENCE**

Domicile and Residence, generally, this index.

**RESOLUTIONS**

Soil and water conservation, claims, payments, 201.023.

**RESOURCES**

Statistics, 12.011.

**RESTRAINING ORDERS**

Injunctions, generally, this index.

**RESTRAINT OF TRADE**

Monopolies and Unfair Trade Practices, generally, this index.

**RESTRICTED-USE PESTICIDE**

Defined, regulation, 76.001.

**RETAIL SALES**

Sales, generally, this index.

**REVENUE BONDS**

Bonds, generally, this index.

**REVIEW**

Appeal and Review, generally, this index.

**REVOCATION OR SUSPENSION**

See specific index headings.

**RICE**

Irrigation, statistics, 12.012.

**RIGHTS-OF-WAY**

Livestock, running at large, 143.101 et seq.

Noxious weeds, 78.042.

Soil and water conservation, contracts, 201.152.

**ROAD BRAND**

Livestock, foreign states, removal to, 144.073.

**ROADS AND HIGHWAYS**

Animal diseases and pests, inspection stops, 161.048.

Defined, livestock running at large, 143.101.

Livestock, running at large, 143.101 et seq.

Noxious weeds, 78.042.

**RODENTS**

Plant Diseases and Insect Pests, generally, this index.

**ROSE PLANT**

Defined, inspection, 121.002.

**ROSES**

Generally, 121.001 et seq.

**RULES AND REGULATIONS**

Agricultural finance corporations, 56.008.  
 Agriculture, department of, 12.016 et seq.  
 Animal Diseases and Pests, this index.  
 Antifreeze, 16.008.  
 Bees, disease control, 131.021 et seq.  
 Brucellosis control, 163.061  
 Citrus Fruits, this index.  
 Commercial feed, 141.004.  
 Commodity producers board, 41.058.  
 Cotton, this index.  
 Eggs,  
   Inspection, 132.003.  
   Pullorum and typhoid control, 168.003.  
 Family farm and ranch security program, loans, 252.011.  
 Feed, 141.004.  
 Fertilizers, 63.004.  
   Sampling and analysis, 63.092.  
 Herbicides, this index.  
 Horticultural products, quarantines, 71.006, 71.007.  
 Livestock, grading, 145.005.  
 Mexican fruit fly control, 72.002.  
 Pesticides, state agencies, 76.104.  
 Poultry and poultry products, pullorum and typhoid control, 168.003.  
 Produce recovery fund, 103.012.  
 Roses, 121.007.  
 Seeds and plants, foreign states, 62.009.  
 Soil and water conservation, 201.020, 201.101.  
 Sweet potatoes, 91.142.  
 Tick eradication, 167.003.  
 Wind erosion conservation districts, 202.022.

**RUNNING AT LARGE**

Animal Diseases and Pests, this index.  
 Livestock, this index.

**RUSSET GRADE**

Citrus fruits, 93.025.

**SAFETY**

Citrus fruits, coloring, certification, 95.011.

**SALARIES**

Compensation and Salaries, generally, this index.

**SALES**

Agricultural experiment farms and stations, products, 43.015.  
 Agricultural Products, this index.  
 Animal Diseases and Pests, this index.  
 Antifreeze, 16.001 et seq.  
 Bees, this index.  
 Bill of sale,  
   Livestock, this index.  
   Slaughtering and slaughtering houses, 148.003.  
 Citrus Fruits, this index.  
 Cooperative marketing associations, 52.001 et seq.  
 Cornmeal, packages, 13.029.  
 Cotton, 12.006.  
 Dairies and Dairy Products, this index.  
 Eggs, this index.  
 Estrays, 142.007 et seq.  
 Farm and ranch loan security,  
   Bonds, 252.052.  
   Loans, 252.027, 252.028.  
 Fertilizers,  
   Importers, manufacturers or manipulators, 63.006.  
   Information publication, 63.005.  
 Flour, packages, 13.029.  
 Herbicides, generally, this index.  
 Hogs, this index.  
 Honey and honey products, 131.101 et seq.  
   Experimental stations, 131.004.  
 Livestock, this index.  
 Monopolies and Unfair Trade Practices, generally, this index.  
 Name, Texas agricultural products, 12.017.  
 Nurseries and Nursery Products, this index.  
 Poultry and Poultry Products, this index.  
 Seeds and plants, fines and penalties, 61.018.  
 Slaughtering and Slaughtering Houses, this index.  
 Soil and water conservation,  
   District dissolution, machinery and equipment, 201.051.  
   Real or personal property, 201.104.  
 Tick eradication, seized animals, 167.107.  
 Vegetables, licenses, 101.001 et seq.  
 Warehouse corporations, bonds, 14.111.  
 Weights and Measures, this index.  
 Wind erosion conservation districts, assessment lien foreclosure, 202.047.

**SAMPLES**  
 Antifreeze, 16.007.  
 Butterfat content, 13.208.  
 Citrus fruits, colors, 95.013.

References are to Sections

**SAMPLES—Cont'd**

Eggs, 132.005.  
 Pullorum and typhoid control, 168.003.  
 Feed, this index.  
 Fertilizer, 63.091 et seq.  
 Grain, grading, 96.001 et seq.  
 Hearings, grain samplers for grading,  
 license revocation, 96.005.  
 Pesticides, 76.151, 76.152.  
 Poultry and poultry products, pullorum  
 and typhoid control, 168.003.

**SAND**

Tick eradication, 167.138.  
 Bedding, 167.031.

**SAVINGS AND LOAN ASSOCIATIONS**

Soil and water conservation, funds,  
 201.080.

**SAVINGS BANK**

Family farm and ranch security program,  
 loans, 252.001 et seq.  
 Investments, farm and ranch loan securi-  
 ty bonds, 252.060.

**SCABIES**

Generally, 164.001 et seq.

**SCALE WEIGHT TICKET**

Markets and Warehouses, this index.

**SCREWWORMS**

Animal diseases and pests,  
 Exports and imports, 161.088.  
 Fines and penalties, certificates,  
 161.144.

**SEALERS**

Weights and Measures, this index.

**SEALS**

Feed, samples, 141.103.  
 Hides and animal inspector, 146.056.  
 Public weighers, 13.263.  
 Soil and water conservation, district,  
 201.101.  
 Wind erosion conservation districts,  
 202.022.

**SEARCH WARRANTS**

Animal Diseases and Pests, this index.  
 Eggs, pullorum and typhoid control,  
 168.003.  
 Poultry and poultry products, pullorum  
 and typhoid control, 168.003.  
 Scabies control, 164.005.  
 Tick eradication, 167.102.  
 Refusal to permit, 167.144.

**SEARCHES AND SEIZURES**

Antifreeze, 16.007.  
 Bees, diseased bees, 131.029.  
 Citrus fruits, unfit fruit, 94.038.  
 Coloring matter, 95.035.  
 Estrays, owners, 142.005.  
 Horticultural products, diseases or pests,  
 71.009.  
 Livestock, this index.  
 Mexican fruit fly control, ownerless,  
 72.045.  
 Seeds and plants, 61.015.  
 Tick eradication, 167.104, 167.105.  
 Weights and measures, butterfat content  
 testing, 13.206.

**SECRETARY-TREASURER**

Defined, agricultural products, 41.002.

**SECURITIES**

Warehouse corporations, investments,  
 14.112.

**SECURITY**

Financial pools, 53.015.

**SEED AND PLANT BOARD**

Generally, 62.001, 62.002.

**SEEDS AND PLANTS**

Generally, 61.001 et seq.  
 Actions and proceedings,  
 Labeling and licensing violations,  
 61.017.  
 Research and promotion assessments,  
 41.101.  
 Seizure, 61.015.  
 Stop-sale orders, 61.014.  
 Advertisements, fines and penalties,  
 61.018.  
 Alteration, labels, 61.018.  
 Ants, fire ant, control, 77.001 et seq.  
 Appeal and review,  
 Foreign states, confiscation, 62.009.  
 Quarantine or destruction orders,  
 71.010.  
 Registration, license or certification  
 revocation, 62.010.  
 Assessments,  
 Rates and charges, 41.058.  
 Research and promotion, 41.058, 41.081  
 et seq.  
 Boards and commissions, 62.001, 62.002.  
 Brands, marks and labels, 61.004 et seq.  
 Fines and penalties, 61.018.  
 Breeder seeds, 62.003.  
 Breeders, registration, 62.006.  
 Camellias, certificate of inspection,  
 71.052.  
 Cancellation, license, 61.012.  
 Carriers, privileges and immunities, quar-  
 antine violations, 71.011.  
 Certificates and certifications, 61.007,  
 62.001 et seq.  
 Classification, 61.003.  
 Commodity producers board, 41.001 et  
 seq.  
 Confiscation, foreign states, 62.009.  
 Control zones, disease or pest, 71.008.  
 Cotton seeds, certification, 62.007.  
 Crimes and offenses, 62.011.  
 Definitions,  
 Certificates, 62.001.  
 Labeling, 61.001.  
 Destruction,  
 Disease or pest infested, 71.009.  
 Foreign states, 62.009.  
 Labels, 61.018.  
 Diseases, 71.001 et seq.  
 Education, 41.001 et seq.  
 Elections, board, 62.002.  
 Emergencies, quarantines, 71.004.  
 English language, labeling, 61.004.  
 Entry upon property, 61.010.  
 Eradication zones, disease or pest,  
 71.008.  
 Evidence, labeling and licensing viola-  
 tions, 61.017.  
 Examination and examiners, breeders,  
 62.006.

**SEEDS AND PLANTS—Cont'd**

Exemptions, 61.016.  
 Research and promotion assessments,  
 41.082.  
 Fees,  
 Breeders, registration, 62.006.  
 Certification labels, 62.008.  
 Germination and purity testing, 61.009.  
 Inspection, 61.011.  
 Fertilizers, generally, this index.  
 Fines and penalties, 61.018, 62.011.  
 Quarantine violations, 71.012, 71.013.  
 Research and promotion assessments,  
 41.101 et seq.  
 Fire ant, control, 77.001 et seq.  
 Foreign states, 62.009.  
 Quarantines, 71.001.  
 Forms, labels, 61.011.  
 Foundation seeds, 62.003.  
 Fraud, 61.018, 62.011.  
 Germination, testing, 61.009.  
 Hearings, 61.002.  
 Labeling and licensing violations,  
 61.017.  
 Quarantines, 71.006.  
 Registration, license or certification  
 revocation, 62.010.  
 Herbicides, generally, this index.  
 Inspection and inspectors, 61.010, 61.011,  
 62.008.  
 Diseases and pests, 71.001 et seq.  
 Foreign states, 62.009.  
 Judgments and decrees, publication,  
 61.017.  
 Labeling, 61.004 et seq.  
 Licenses and permits, 61.011 et seq.  
 Certified seeds, 62.005.  
 Research and promotion assessments,  
 revocation or suspension, 41.102.  
 Movements, quarantined areas, 71.005.  
 Names, cotton seeds, 62.007.  
 Notice, registration, license or certifica-  
 tion revocation, 62.010.  
 Noxious weeds, content, 61.008.  
 Nurseries and Nursery Products, general-  
 ly, this index.  
 Orders,  
 Confiscation, 62.009.  
 Stop-sale order, 61.014.  
 Penalties. Fines and penalties, generally,  
 ante.  
 Permits. Licenses and permits, general-  
 ly, ante.  
 Pesticides, generally, this index.  
 Pests. Plant Diseases and Insect Pests,  
 generally, this index.  
 Privileges and immunities, carriers, quar-  
 antine violations, 71.011.  
 Proceedings. Actions and proceedings,  
 generally, ante.  
 Promotion, 41.001 et seq.  
 Protection, 12.007.  
 Publication, judgment, 61.017.  
 Purity, testing, 61.009.  
 Quarantines, diseases or pests, 71.001 et  
 seq.  
 Rates and charges, assessments, promo-  
 tion and research, 41.058.  
 Records and recordation, inspection,  
 61.011.  
 Refunds, research and promotion assess-  
 ments, 41.083.  
 Registration,  
 Cotton seeds, 62.007.

## INDEX TO AGRICULTURE CODE

References are to Sections

**SEEDS AND PLANTS—Cont'd**

- Registration—Cont'd
  - Plant breeders, 62.006.
  - Seeds, 62.003.
- Reports,
  - Certification, 62.004.
  - Inspection, 61.011.
- Research, 41.001 et seq.
- Revocation or suspension,
  - License, 61.012.
  - Registration, license or certification, 62.010.
- Roses, 121.001 et seq.
- Rules and regulations, 61.002.
  - Foreign states, 62.009.
- Sales,
  - Fines and penalties, 61.018.
  - Stop-sale order, 61.014.
- Samples, 61.010.
- Searches and seizures, 61.015.
  - Disease or pest infested, 71.009.
- Soil and water conservation, 201.105.
- Standards,
  - Certification, 62.004.
  - Foreign states, 62.009.
- Stop-sale orders, 61.014.
- Suits. Actions and proceedings, generally, ante.
- Sunset Act, seed and plant board, 62.002.
- Test and testing,
  - Foreign states, 62.009.
  - Germination and purity, 61.009.
- Treated seeds, labeling, 61.006.
- Vegetable seeds,
  - Defined, 61.001.
  - Labeling, 61.005.
  - License, 61.013.
- Venue,
  - Labeling and license violations, 61.017.
  - Research and promotion assessments, 41.101.
- Weeds, noxious weed content, 61.008.

**SEIZURES**

- Searches and Seizures, generally, this index.

**SELL**

- Defined, weights and measures, 13.001.

**SERVICE OF PROCESS**

- Process, this index.

**SETTLEMENT**

- Compromise and Settlement, generally, this index.

**SHARES AND SHAREHOLDERS**

- Agricultural finance corporations, 56.004, 56.007.
- Agricultural Products, this index.
- Cooperative credit associations, 55.004, 55.007.
- Cooperative marketing associations, 52.061 et seq.
- Livestock, this index.
- Mutual loan corporations, 54.004, 54.005.
- Repurchases, 54.011.

**SHEEP**

- See, also, Livestock, generally, this index.
- Actions and proceedings,
  - Corporations, scabies control, 164.082.
  - Scabies control, dipping, 164.022.

**SHEEP—Cont'd**

- Affidavits, dipping orders, 164.022.
- Appropriations, scabies control, 164.007.
- Carriers, permit violations, penalties, 164.081.
- Certificates and certification, scabies control, imports, 164.062.
- Cleaning, quarantined premises or areas, 164.045, 164.046.
- Compensation and salaries, scabies control, inspectors, 165.003.
- Corporations, scabies control, actions and proceedings, 164.082.
- Definitions, scabies control, 165.001.
- Dipping, scabies control, 164.021 et seq.
- Diseases. Animal Diseases and Pests, generally, this index.
- Disinfection, quarantined premises or areas, 164.045, 164.046.
- Entry upon property, scabies control, 164.005.
  - Refusal to permit, 164.085.
- Evidence, scabies control, 164.005.
- Exhibitions, scabies control, 164.065.
- Expenses and expenditures, scabies control, dipping, 164.028.
- Exports and imports, scabies control,
  - Fines and penalties, 164.088.
  - Licenses and permits, 164.061 et seq.
- Fairs and exhibitions, scabies control, 164.065.
- Fines and penalties, scabies control, 164.083 et seq.
- Hearings, scabies control, dipping, 164.022.
- Imports, scabies control,
  - Fines and penalties, 164.088.
  - Permits, 164.061 et seq.
- Injunction, scabies control, dipping, 164.022.
- Inspection and inspectors, scabies, 164.002 et seq.
  - Refusal to permit, 164.085.
- Licenses and permits, scabies control,
  - Exports and imports, 164.061 et seq.
  - Fines and penalties, 164.081.
- Notice, scabies control, quarantine, 164.042.
- Orders, scabies control, dipping, 164.021 et seq.
- Plants, shearing plants,
  - Failure to disinfect, 164.086.
  - Scabies control, 164.045.
- Posting, scabies control, quarantine, 164.042.
- Quarantines, scabies control, 164.041 et seq.
  - Fines and penalties, 164.087.
  - Imports, 164.063.
- Railroads, exports and imports, scabies control, permit, 164.061 et seq.
- Rules and regulations, imports, scabies control, 164.064.
- Scabies, 164.001 et seq.
- Search warrants, scabies control, 164.005.
- Shearing plants,
  - Failure to disinfect, 164.086.
  - Scabies control, disinfection, 164.045.
- Solution, scabies control, dipping, 164.024 et seq.
- Time, scabies control,
  - Dipping, 164.024.
  - Quarantine, 164.063.

**SHEEP—Cont'd**

- Traveling expenses, scabies control, inspectors, 164.003.
- Warrants, search warrants, scabies control, 164.005.

**SHIPPED EGGS**

- Defined, inspection, 132.001.

**SHIPS AND SHIPPING**

- Defined, citrus fruits, 102.152.
- Horticultural products,
  - Fines and penalties, 71.012.
  - Privileges and immunities, quarantine violations, 71.011.
- Privileges and immunities, horticultural products, quarantine violations, 71.011.

**SHRUBS AND SHRUBBERY**

- Protection, 12.007.

**SIGNATURES**

- Animal diseases and pests, quarantines or notices, 161.005.
- Cooperative marketing associations, articles of incorporation, 52.033.
- Markets and warehouses, orders, adoption, 104.041.
- Noxious weeds, petitions, qualifications, 78.004.
- Public weighers, seal, 13.263.
- Soil and water conservation,
  - District election, petition, 201.041.
  - Districts, boundary changes, 201.050.
- Wind erosion conservation districts, election petitions, 202.011.

**SIGNS AND SIGNALS**

- Animal diseases and pests, highway stops, 161.048.
- Citrus fruits, transportation identification, 102.101.

**SINKING FUNDS**

- Farm and ranch loan security, 252.081 et seq.

**SIX-BASKET CRATES**

- Fruits and vegetables, 91.024.

**SLAUGHTERING AND SLAUGHTERING HOUSES**

- Generally, 148.001 et seq.
- Actions and proceedings, bonds (officers and fiduciaries), 148.042.
- Animal diseases and pests, 161.116.
- Attorneys fees, purchases, failure to pay, 148.025.
- Bill of sale, 148.003.
  - Fines and penalties, 148.062.
- Bonds (officers and fiduciaries), 148.042.
  - Failure to file, 148.065.
- Brands, marks and labels, bill of sale requirement, 148.003.
- Collection, purchases, payments, delay, 148.024.
- Commingling livestock, liens and incumbrances, 148.027.
- Contracts, purchases, payment, 148.022, 148.023.
- Counties,
  - Designated counties, application of law, 148.041.
  - Reports, 148.012.

References are to Sections

**SLAUGHTERING AND SLAUGHTERING HOUSES—Cont'd**

Damages, purchases, failure to pay, 148.025.  
 Definitions, 148.001.  
 Delay, purchases, payments, 148.024.  
 Diseased animals, 161.116.  
 Ears, 148.045.  
     Fines and penalties, purchases without, 148.069.  
     Inspection, 148.044.  
         Fines and penalties, 148.067.  
 Exemptions,  
     Bill of sale, 148.003.  
     Registration, 148.002.  
 Fines and penalties, 148.061 et seq.  
     Bill of sale, 148.062.  
     Bonds (officers and fiduciaries), failure to file, 148.065.  
     Hides and ears,  
         Inspections, 148.067.  
         Purchases without, 148.069.  
     Inspection and inspectors, 148.066.  
     Records and recordation, 148.068.  
         Violations, 148.063.  
     Registration, 148.061.  
     Reports, failure to make, 148.064.  
 Hides, 148.045.  
     Fines and penalties, purchases without, 148.069.  
     Inspection, 148.044.  
         Fines and penalties, 148.067.  
 Hogs, diseased animals, 165.024.  
 Inspection and inspectors, 146.051 et seq.  
     Fines and penalties, 148.066.  
     Hides, 148.044.  
     Records, 148.011, 148.043.  
 Leases, records, 148.011.  
 Licenses and permits, transporting animals, 146.005.  
 Liens and incumbrances, 148.026 et seq.  
 Meat processors, application of law, 148.021.  
 Payments, purchasers, 148.022 et seq.  
 Penalties. Fines and penalties, generally, ante.  
 Perfection, lien, 148.026.  
 Priorities, lien, 148.028.  
 Processors, application of law, 148.021.  
 Purchasers, payments, 148.022 et seq.  
 Records and recordation, 148.011, 148.012, 148.043.  
     Fines and penalties, 148.063, 148.068.  
 Registration, 148.002.  
     Failure to, 148.061.  
 Reports, 148.012.  
     Failure to make, 148.064.  
 Sales,  
     Bill of sale,  
         Fines and penalties, 148.062.  
         Requirement, 148.003.  
     Diseased cattle, 161.116.  
     Weights and measures, 13.034.  
 Time, purchases, payments, 148.022, 148.023.  
 Transporting animals, permits, 146.005.  
 Tuberculosis, 162.007, 162.008.  
 Weights and measures, nonstandard weight, 13.034.

**SNAP BEANS**

Grades and grading, 91.091 et seq.

**SOCIETIES**

Associations and Societies, generally, this index.

**SOIL**

Investigations, subsoiling, 12.005.  
 Noxious Weeds, generally, this index.

**SOIL AND WATER CONSERVATION**

Generally, 201.001 et seq.  
 Accounts and accounting, districts, 201.080.  
 Actions and proceedings, 201.101.  
     Land-use regulations, 201.128.  
 Adjustment board, 201.129, 201.130.  
 Age, district election, qualifications, 201.003.  
 Agreements. Contracts, generally, post.  
 Amendments, land-use regulations, ordinances, 201.126.  
 Appearances, land-use regulations, variances, 201.132.  
 Application, district, certificate of organization, 201.047.  
 Appropriations, soil conservation fund, 201.023.  
 Attorneys, board, 201.019.  
 Attorneys fees, land-use regulations, 201.128.  
 Audits and auditors,  
     Boards, 201.023.  
     Districts, 201.080.  
 Ballots, district elections, 201.043.  
 Banks and banking, districts, deposits, 201.080.  
 Bids and bidding, machinery and equipment, sales, 201.105.  
 Boards and commissions, 201.011 et seq.  
     Adjustment board, 201.129, 201.130.  
 Bonds (officers and fiduciaries),  
     Board, officers and employees, 201.019.  
     Districts, officers and employees, 201.079.  
 Boundaries, districts, 201.042.  
     Changes, 201.050.  
 Canals, construction or maintenance, 201.152.  
 Certificates and certification,  
     Boards, elections, 201.014.  
     State districts, conventions, delegates, 201.013.  
 Certificates of organization, district, 201.048.  
     Application, 201.047.  
 Changes,  
     Districts, boundaries, 201.050.  
     Land use, 201.102.  
 Claims, 201.023.  
 Commercial paper, property or equipment, 201.101.  
 Compensation and salaries,  
     Adjustment board, 201.129.  
     Board, 201.017.  
     County machinery and equipment, use, 201.151.  
     Districts, directors, 201.077.  
 Conservation districts. Districts, generally, post.  
 Consolidation, district election, petitions, 201.041.  
 Construction, 201.024.  
     Contracts, 201.152.  
     Structures, 201.106.  
 Consultants, 201.022.

**SOIL AND WATER CONSERVATION —Cont'd**

Contracts, 201.101.  
     Construction or improvements, 201.152.  
     Federal or state agencies, 201.103.  
     Watershed protection and flood control plans, 201.024.  
 Contributions, 201.101.  
 Control measures, 201.102.  
 Coordination, 201.022.  
 Copies, land-use regulations, Ordinances, 201.125.  
     Variances, 201.131.  
 Costs,  
     Districts, audits, 201.080.  
     Land-use regulations, 201.128.  
 Counties, machinery and equipment, 201.151.  
 Dams, construction and maintenance, 201.152.  
 Definitions, 201.002.  
 Deposits, soil conservation funds, 201.080.  
 Dikes, county machinery or equipment, 201.151.  
 Directors, districts, 201.046, 201.071 et seq.  
 Dissolution, district, 201.051.  
 Districts,  
     Accounts and accounting, 201.080.  
     Actions and proceedings, 201.101.  
     Adjustment, board, 201.129, 201.130.  
     Age, elections, 201.003.  
     Application, certificate of organization, 201.047.  
     Attorneys, board, employment, 201.019.  
     Audits and auditors, 201.080.  
     Board, 201.023.  
     Ballots, 201.043.  
     Banks, deposits, 201.080.  
     Boards and commissions, adjustment, 201.129, 201.130.  
     Bonds (officers and fiduciaries),  
         Board, officers and employees, 201.019.  
         Officers and employees, 201.079.  
     Boundaries, 201.042.  
     Changes, 201.050.  
     Certificates and certification,  
         Board, election, 201.014.  
         State district conventions, 201.013.  
     Certificates of organization, 201.048.  
         Application, 201.047.  
     Changes, boundaries, 201.050.  
     Collections, board, 201.014.  
     Commercial paper, property or equipment, 201.101.  
     Compensation and salaries,  
         Board, 201.017.  
         Directors, 201.077.  
     Consolidation, election petitions, 201.041.  
     Contracts, 201.101.  
     Conventions, state districts, 201.013.  
     Cost, audits, 201.080.  
     Defined, 201.002.  
     Deposits, funds, 201.080.  
     Directors, 201.046, 201.071 et seq.  
     Dissolution, 201.051.  
     Divisions, state districts, 201.012.  
     Domicile and residence, elections, 201.003.

## INDEX TO AGRICULTURE CODE

References are to Sections

SOIL AND WATER CONSERVATION  
—Cont'd

Districts—Cont'd  
Elections, 201.041 et seq.  
Directors, 201.073.  
Eligibility, 201.003.  
Hearings, notice, 201.004.  
Evidence, certificate of organization, 201.049.  
Expenses and expenditures, hearings, 201.042.  
Feasibility, 201.044.  
Forms, boundary changes, 201.050.  
Hearings, 201.004, 201.042.  
Directors, removal, 201.076.  
Machinery and equipment, dissolution, sales, 201.051.  
Malfeasance, directors, removal, 201.076.  
Meetings, directors, 201.081.  
Name, 201.047, 201.048.  
Notice,  
Directors, removal, 201.076.  
Dissolution, 201.051.  
Elections, 201.004.  
Hearings, 201.042.  
State districts, conventions, 201.013.  
Oaths and affirmations,  
Board, 201.017.  
Certificate of organization, 201.047.  
Office, board, location, 201.021.  
Officers and employees, 201.079.  
Board, 201.019.  
Per diem,  
Directors, 201.077.  
State district conventions, delegates, 201.013.  
Petitions,  
Boundary changes, 201.050.  
Elections, 201.041 et seq.  
Posting, elections, notice, 201.004.  
Powers and duties, 201.101.  
Board, 201.022.  
Directors, 201.079.  
Qualifications, directors, 201.072.  
Records and recordation, 201.080.  
Board, 201.020.  
Certificate of organization, 201.048.  
Removal, directors, 201.076.  
Reorganization, 201.051.  
Sales, dissolution, machinery and equipment, 201.051.  
Savings and loan associations, deposits, 201.080.  
Seal, 201.101.  
Signatures,  
Boundary changes, 201.050.  
Election petition, 201.041.  
State districts, 201.012.  
Conventions, 201.013.  
Subdivisions, 201.046.  
Sunset Act, board, application of law, 201.025.  
Terms of office,  
Adjustment board, 201.129.  
Board, 201.015.  
Directors, 201.075.  
Time,  
Board election, 201.014.  
Directors, election, 201.074.  
Petitions, subsequent petitions, 201.045.  
Traveling expenses,  
Board, 201.017.

SOIL AND WATER CONSERVATION  
—Cont'd

Districts—Cont'd  
Traveling expenses—Cont'd  
Directors, 201.077.  
State district conventions, delegates, 201.013.  
Vacancy in office,  
Board, 201.016.  
Directors, 201.076.  
Validity, 201.049.  
Wind Erosion Conservation Districts, generally, this index.  
Ditches, county machinery or equipment, 201.151.  
Division, state districts, 201.012.  
Domicile and residence, district election, 201.003.  
Drains and drainage, contracts, 201.152.  
Elections,  
Board, 201.014.  
Districts, ante.  
Land-use regulations, ordinances, 201.123, 201.127.  
Entry upon property, 201.103.  
Land-use regulations, 201.128.  
Equipment. Machinery and equipment, generally, post.  
Evidence, district, certificate of organization, 201.049.  
Expenses and expenditures,  
Adjustment board, 201.129.  
Districts, hearings, 201.042.  
Facilities, construction and maintenance, 201.106.  
Feasibility, districts, 201.044.  
Federal agencies, contracts, 201.103.  
Fertilizers, 201.105.  
Forms, districts, boundary changes, 201.050.  
Funds, soil conservation fund, 201.023.  
Gifts, 201.104, 201.108.  
Government projects, takeover, 201.108.  
Grants, 201.104, 201.108.  
Hearings, 201.020.  
Adjustment board, member, removal, 201.129.  
Districts,  
Directors, removal, 201.076.  
Election, 201.004, 201.042.  
Land-use regulations, 201.122.  
Variances, 201.132.  
Improvements, contracts, 201.152.  
Information, dissemination, 201.022.  
Judgments and decrees, land-use regulations, 201.128.  
Jurisdiction, land-use regulation violations, 201.128.  
Land-use regulation, ordinances, 201.121 et seq.  
Leases,  
Governmental projects, takeover, 201.108.  
Real or personal property, 201.104.  
Liens and incumbrances, property or equipment, notes, 201.101.  
Location, board, office, 201.021.  
Machinery and equipment, 201.105.  
Commercial paper, 201.101.  
Counties, 201.151.  
District dissolution, sales, 201.051.  
Maintenance, structures, 201.106.  
Malfeasance,  
Adjustment board member, 201.129.  
Removal, 201.076.

SOIL AND WATER CONSERVATION  
—Cont'd

Meetings,  
Adjustment board, 201.130.  
District directors, 201.081.  
Name, district, 201.047, 201.048.  
Notice,  
Adjustment board, member, removal, 201.129.  
Districts, ante.  
Land-use regulations,  
Ordinances, 201.123.  
Variances, 201.132.  
State districts, conventions, 201.013.  
Oaths and affirmations,  
Board, 201.017.  
District, certificate of organization, 201.047.  
Officers and employees,  
Board, 201.019.  
Districts, 201.079.  
Offices, board, location, 201.021.  
Options, real or personal property, 201.104.  
Ordinance, land-use regulation, 201.121 et seq.  
Per diem,  
Districts, directors, 201.077.  
State district convention, delegates, 201.013.  
Personal property, 201.104.  
Petitions,  
Districts,  
Boundary change, 201.050.  
Election, 201.041 et seq.  
Land-use regulation,  
Ordinances, 201.121.  
Variances, 201.131 et seq.  
Plans and specifications, 201.107.  
Flood control, contracts, 201.024.  
Political subdivisions, contributions, 201.152.  
Posting, district election, notice, 201.004.  
Powers and duties,  
Board, 201.022.  
Districts, ante.  
Preventive measures, 201.102.  
Public policy, 201.001.  
Publication, plans, 201.107.  
Qualifications, district directors, 201.072.  
Real estate, 201.104.  
Records and recordation,  
Board, 201.020.  
Districts, ante.  
Land-use regulations, variances, 201.133.  
Removal,  
Adjustment board member, 201.129.  
Districts, directors, 201.076.  
Rental, county machinery or equipment, 201.151.  
Reorganization, district, 201.051.  
Repairs, machinery and equipment, 201.105.  
Repeal, land-use regulations, ordinances, 201.126.  
Reports, 201.023.  
Resolution, claims, payment, 201.023.  
Rights-of-way, contracts, 201.152.  
Rules and regulations, 201.020, 201.101.  
Salaries. Compensation and salaries, generally, ante.  
Sales,  
District dissolution, machinery and equipment, 201.051.  
Real or personal property, 201.104.

References are to Sections

**SOIL AND WATER CONSERVATION**  
—Cont'd

Savings and loan associations, districts, deposits, 201.080.  
Seal, district, 201.101.  
Seeds and plants, 201.105.  
Signatures,  
  District election, petition, 201.041.  
  Districts, boundary changes, 201.050.  
Soil conservation fund, 201.023.  
State agencies,  
  Contracts, 201.103.  
  Projects, takeover, 201.108.  
State districts, 201.012.  
  Conventions, 201.013.  
Structures, construction and maintenance, 201.106.  
Subdivisions, districts, 201.046.  
Sunset Act, board, application of law, 201.025.  
Terms of office. Districts, ante.  
Terraces, county machinery or equipment, 201.151.  
Time,  
  Board, elections, 201.014.  
  Districts, ante.  
  Land-use regulations, ordinances, elections, 201.127.  
Traveling expenses,  
  Board, 201.017.  
  Districts, ante.  
Uniformity, land-use regulations, 201.121.  
United States,  
  Contracts, 201.103.  
  Projects, takeover, 201.108.  
Vacancies in office,  
  Adjustment board, 201.129.  
  Board, 201.016.  
  Districts, directors, 201.076.  
Validity, district, 201.049.  
Variances, land-use regulations, 201.131 et seq.  
Vegetation, growing, 201.102.  
Wages. Compensation and salaries, generally, ante.  
Warrants for payment of money, claims, 201.023.  
Watershed protection, contracts, 201.024.  
Wind Erosion Conservation Districts, generally, this index.

**SOIL CONSERVATION FUND**  
Generally, 201.023.

**SOLUBLE SOLIDS**  
Citrus fruits, percentage, 94.023.

**SOLUTIONS**  
Scabies control, dipping, 164.025 et seq.  
Tick eradication, dipping, 167.057.

**SPECIALTY FERTILIZER**  
Defined, sales, 63.001.

**SPECIFICATIONS**  
Plans and Specifications, generally, this index.

**SPECIMEN**  
Samples, generally, this index.

**STABILIZATION FUND**  
Surplus commodities, 104.142.

**STAMPS**

Citrus fruits, maturity, 94.032.  
Vegetables, this index.

**STANDARDS**

See, also,  
  Grades and Grading, generally, this index.  
  Weights and Measures, generally, this index.  
Antifreeze, 16.006.  
Citrus Fruits, this index.  
Commercial feed, 141.004.  
Eggs, 132.004.  
Feed, 141.004.  
Fruits, containers, 91.002, 91.021 et seq.  
Livestock, grading, 145.004.  
Peaches, grades and containers, 91.041 et seq.  
Pesticides, equipment, 76.115.  
Seeds and plants,  
  Certification, 62.004.  
  Foreign states, 62.009.  
Vegetables, containers, 91.002, 91.021 et seq.

**STATE**

Pesticides, limited-use, 76.003.  
State Officers and Employees, generally, this index.

**STATE AGENCIES**

Commodity producers board, 41.052.  
Defined, soil and water conservation, 201.002.  
Pesticides, rules and regulations, 76.104.  
Poultry improvement board, 133.001.  
Seed and plant board, 62.002.  
Soil and water conservation,  
  Contracts, 201.103.  
  Projects, takeover, 201.108.

**STATE DEPARTMENTS**

Agriculture, Department of, generally, this index.

**STATE DISTRICT**

Defined, soil and water conservation, 201.002.

**STATE INSTITUTIONS**

Weights and measures, 13.112.

**STATE OFFICERS AND EMPLOYEES**

Chemists, fertilizer analysis, 63.003.  
Entomologists, 131.001 et seq.  
Weights and measures, sealers, 13.104.

**STATE TREASURY**

Agriculture, department of, deposits, 11.008.  
Farm and ranch loan security bonds, 252.056, 252.057.  
General revenue fund, agriculture, department of, deposits, 11.008.  
Warehouse corporations, securities, 14.112.

**STATEMENT OF OWNERSHIP**

Livestock, auction sales, penalties, 146.007.

**STATEMENTS**

Animal Diseases and Pests, this index.

**STATEMENTS—Cont'd**

Cotton, compressing violations, expenses, 111.006.  
Fertilizers, this index.  
Livestock,  
  Auction sale, 146.004.  
  Commission merchants, sales, 147.026.  
Mexican fruit fly control, 72.005.  
Tick eradication,  
  Lien perfection, 167.108.  
  Possession and destination, 167.028, 167.136.  
Vegetables, purchase records, 101.016.  
Warehouse corporations, 14.117.

**STATISTICS**

Cotton, 12.006.  
Irrigation, 12.012.  
Resources, 12.011.

**STATUTES**

Construction, 1.002.

**STERILIZATION PLANTS**

Cotton, pink bollworm control, 74.056.

**STOCKS AND STOCKHOLDERS**

Shares and Shareholders, generally, this index.

**STOCKYARDS**

Animal Diseases and Pests, this index.  
Tick eradication, tick-free facilities, 167.081 et seq.

**STOLEN PROPERTY**

Livestock, Mexico, seizure, 146.068.

**STOP-SALE ORDERS**

Eggs, inspection and licensing violations, 132.071.  
Pesticides, appeal, 76.183.  
Roses, 121.009.  
Seeds and plants, 61.014.  
Weights and measures, 13.040.  
Dairies and dairy products, 13.210.

**STORAGE**

Agricultural products, 52.001 et seq.  
Citrus fruits, 52.001 et seq.  
Cooperative marketing associations, 52.001 et seq.  
Markets and Warehouses, generally, this index.  
Pesticides, 76.131.

**STORAGE GRAIN**

Defined, warehouses, 14.001.

**STORMS**

Soil and Water Conservation, generally, this index.

**SUBDIVISIONS**

Soil and water conservation, districts, 201.046.

**SUBPOENAS**

Citrus fruits, marketing agreements or license hearings, 102.167.  
Markets and warehouses, 14.026.  
Hearings, 14.003.

**SUBROGATION OF RIGHTS**

Produce recovery fund, 103.010.

## INDEX TO AGRICULTURE CODE

References are to Sections

**SUBSOILING**

Investigations, 12.005.

**SUITS**

Actions and Proceedings, generally, this index.

**SUNSET LAWS**

Agriculture, department of, application of law, 11.003.

Animal health commission, 161.027.

Bees, state entomologist office, 131.001.

Natural fibers and food protein commission, application of law, 42.002.

Seed and plant board, application of law, 62.002.

Soil and water conservation, board, application of law, 201.025.

**SUPPLIES**

Agricultural experiment farms and stations, 43.010.

**SURPLUS COMMODITIES**

Generally, 104.141 et seq.

**SWEET POTATOES**

Classification, 91.141 et seq.

Containers, number, plants, 71.115.

Fees, inspection, 71.114, 91.143.

Inspection and inspectors, 71.103, 91.141 et seq.

Fees, 71.114.

Numbers and numbering, plants, containers, 71.115.

Plant diseases and insect pests, 71.109.

**SWINE**

Hogs, generally, this index.

**TAGS**

Animal diseases and pests, tuberculosis control, 162.005.

Fines and penalties, 162.011.

Brucellosis control, 163.065.

Feed, 141.072.

Refusal, 141.076.

Nurseries and nursery products, inspection, 71.053.

Vegetables, this index.

**TANGERINES**

Citrus Fruits, generally, this index.

**TATTOO MARKS**

Livestock, this index.

**TAX EXEMPTIONS**

Commodity producers board, 41.052.

Cooperative credit associations, franchise taxes, 55.010.

Farm and ranch loan security bonds, 252.059.

Farmers cooperative societies, franchise tax, 51.025.

Marketing association, franchise taxes, 51.025.

Mutual loan corporations, franchise taxes, 54.013.

**TAXATION**

Agricultural experiment farms and stations, 43.007.

Tick eradication, dipping facilities, 167.059.

**TAXATION—Cont'd**

Wind erosion conservation districts, 202.035.

**TERMS OF OFFICE**

Agricultural commissioner, 11.004.

Animal health commission, 161.022.

Citrus fruits, inspectors, 94.004.

Commodity producers board, 41.053.

Dairy advisory board, 13.202.

Egg marketing advisory board, 132.007.

Family farm and ranch advisory council, 252.013.

Food protein committee, 42.006.

Hides and animal inspector, 146.053.

Natural fibers and food protein commission, 42.003.

Natural fibers committee, 42.005.

Noxious weeds, district directors, 78.032.

Produce recovery fund board, 103.003.

Public weighers, 13.253.

Soil and water conservation,

Adjustment board, 201.129.

Districts, directors, 201.075.

Weighers, public weighers, 13.253.

**TERRACES**

Soil and water conservation, county machinery or equipment, 201.151.

**TESTS AND TESTING**

Agricultural products, aflatoxin, 12.018.

Animal diseases and pests, health certificate requirements, 161.084.

Brucellosis control, 163.064.

Eggs, pullorum and typhoid control, 168.003.

Fertilizers, samples, 63.095.

Hogs, tuberculosis control, 162.003, 162.004.

Livestock, this index.

Pesticides, contracts, 76.006.

Poultry and poultry products,

Pullorum and typhoid control, 168.003.

Tuberculosis control, 162.003, 162.004.

Public weighers, 13.261.

Seeds and plants,

Foreign states, 62.009.

Germination and purity, 61.009.

**TEXAS A & M UNIVERSITY**

Chancellor, natural fibers and food protein commission, 42.002.

Cooperation, 12.015.

**TEXAS EGG**

Defined, inspection and licensing, 132.001.

**THALLOPHYTE**

Defined, pesticides, 76.001.

**TICKS**

Animal diseases and pests, 167.001 et seq.

**TIMBER**

Forests and Forestry, generally, this index.

**TIME**

Animal Diseases and Pests, this index.

Citrus fruits, inspection fees, payment, 94.035.

Cotton, buyer registration, 113.005.

**TIME—Cont'd**

Eggs, licenses, 132.024, 132.025.

Estrays, sale, 142.007.

Fertilizers, this index.

Herbicides, this index.

Horticultural products,

Disease or pest hearings, 71.008.

Quarantines, emergencies, 71.004.

Livestock, this index.

Markets and Warehouses, this index.

Nurseries and nursery products,

Destruction or treatment orders, appeal, 71.048.

Inspection, 71.044.

Pesticides, this index.

Public weighers, dismissal or suspension hearing, 13.267.

Scabies control, dipping, 164.024.

Slaughtering and slaughtering houses, purchases, payment, 148.022, 148.023.

Soil and Water Conservation, this index.

Tick eradication, dipping, 167.058.

Tomatoes, inspection, 92.003.

Vegetables, handling license, 101.008.

Warehouse receipts, records, 14.022.

Weights and measures, inspection, 13.101.

**TITLE TO PROPERTY**

Estrays, 142.007.

Markets and warehouses, fines and penalties, 14.033.

Noxious weeds,

District directors, 78.031.

Petition signature, eligibility, 78.004.

**TOMATOES**

Accounts and accounting, contributions, inspection and grading, 92.035.

Audits and auditors, contributions, inspection and grading, 92.035.

Certificates and certification, inspection, 92.013.

Choice grades or packs, 92.022 et seq.

Containers, 92.021 et seq.

Contributions, inspection and grading services, 92.033 et seq.

Cooperative agreements, 92.031, 92.032.

Deceptive containers, 92.026.

Definitions, inspection, 92.002.

Diseases, 71.104.

Exemptions, inspection, 92.004.

Fancy grades or packs, 92.022, 92.023.

Fines and penalties, 92.041, 92.042.

Grades and grading, 92.001 et seq.

Inspections and inspectors, 92.001 et seq.

Licenses and permits, cooperative agreements, 92.032.

Misleading containers, 92.026.

Notice, packing, 92.012.

Packs,

Choice packs, 92.024.

Fancy packs, 92.023.

Payments, contributions, inspection and grading, 92.034.

Pests, 71.104.

Public policy, 92.001.

Records and recordation, contributions, inspection and grading, 92.035.

Reports, contribution audits, inspection and grading, 92.035.

Season, inspection, 92.003.

Standards, 92.001 et seq.

References are to Sections

**TOMATOES**—Cont'd  
Time, inspection, 92.003.  
Uniformity, 92.025.

**TON**  
Defined, feed, 141.001.

**TRADEMARKS**  
Citrus fruits, registration, 93.005.

**TRAINING**  
Agricultural methods and practices, 12.004.

**TRANSPORTATION**  
Agricultural products, 52.001 et seq.  
Animal Diseases and Pests, this index.  
Antifreeze, 16.001 et seq.  
Bees, disease control, 131.021 et seq.  
Citrus Fruits, this index.  
Cooperative marketing associations, 52.001 et seq.  
Eggs, foreign states, shipping requirements, 132.046.  
Fruits, this index.  
Herbicides, generally, this index.  
Livestock, this index.  
Nurseries and nursery products, Certificate of inspection, 71.050, 71.051.  
Privileges and immunities, shipment violations, 71.054.  
Ships and Shipping, generally, this index.  
Tick eradication, cleaning and disinfection, 167.030, 167.031.  
Vegetables, this index.

**TRANSPORTING AGENTS**  
Citrus fruits, identification cards, 102.010 et seq.  
Vegetables, identification cards, 101.010 et seq.

**TRAVELING EXPENSES**  
Agricultural commissioner, 13.004.  
Agriculture, department of, deputy commissioner, 11.007.  
Commodity producers board, 41.057.  
Family farm and ranch advisory council, 252.013.  
Markets and warehouses, examiners, 14.203.  
Noxious weeds, district directors, 78.034.  
Scabies control, inspectors, 164.004.  
Soil and water conservation, Districts, directors, 201.077.  
State district conventions, delegates, 201.013.  
Soil and water conservation board, 201.017.  
Tick eradication inspectors, 167.101.  
Weights and measures, sealers, 13.104.

**TREASURER**  
Wind erosion conservation districts, bonds (officers and fiduciaries), 202.021.

**TREES**  
Forests and Forestry, generally, this index.  
Fruit Trees, generally, this index.  
Nut trees, planting and culture, 12.008.  
Shrubs and Shrubbery, generally, this index.

**TRIAL DE NOVO**  
Fertilizers, 63.126.

**TROY WEIGHTS**  
Standards, 13.023.

**TRUST COMPANIES**  
Family farm and ranch security program, loans, 252.001 et seq.  
Investments, farm and loan security bonds, 252.060.

**TUBERCULOSIS**  
Generally, 162.001 et seq.  
Poultry and Poultry Products, this index.

**TURKEYS**  
Running at large, elections, 143.071 et seq.

**TYPHOID**  
Poultry and poultry products, 168.001 et seq.

**UNATTENUATED HOG CHOLERA VIRUS**  
Defined, control, 165.003.

**UNFAIR TRADE PRACTICES**  
Monopolies and Unfair Trade Practices, generally, this index.

**UNIFORM**  
Tomatoes, 92.025.

**UNITED STATES**  
Agriculture department, correspondence, 12.010.  
Aid. Federal Aid, generally, this index.  
Cotton, pink bollworm control, cooperation, 74.060.  
Soil and water conservation, Contracts, 201.103.  
Projects, takeover, 201.108.  
Weights and measures, standards, 13.021 et seq.  
Wind erosion conservation districts, federal aid, 202.032.

**UNIVERSITIES**  
Colleges and Universities, generally, this index.

**VACANCIES IN OFFICE**  
Commodity producers board, 41.055.

**VACCINATION**  
Immunization, generally, this index.

**VARIATIONS**  
Vegetables, this index.

**VARIETY**  
Defined, citrus fruits, 102.152.

**VEGETABLE SEED**  
Defined, labeling, 61.001.  
Seeds and Plants, this index.

**VEGETABLES**  
Accounts and accounting, complaints, examination, 101.018.  
Actions and proceedings, Handling or marketing violations, 101.019.  
Research and promotion assessments, 41.101.

**VEGETABLES**—Cont'd  
Administrative office procedure, handling license or identification card, cancellation, 101.012.  
Agents, identification cards, 101.010 et seq.  
Antitrust laws, handling or marketing, 101.021.  
Appeal and review, handling license or identification card, cancellation, 101.012.  
Application, handling license, 101.005.  
Assessments, research and promotion, 41.058, 41.081 et seq.  
Assignments, handling license or identification card, 101.011.  
Baskets, 91.022 et seq.  
Beans, snap beans, grades and packs, 91.091 et seq.  
Boards and commissions, produce recovery fund, 103.003.  
Boiler grades, onions, 91.064.  
Books and papers, complaints, examination, 101.018.  
Brands, marks and labels, Certified plants, 71.115.  
Containers, 91.007.  
Culls, 91.006.  
Broccoli, diseases and insects, 71.105.  
Budget, produce recovery fund, 103.004.  
Bushel baskets, 91.022.  
Buying, licenses, 101.001 et seq.  
Buying agent, identification cards, 101.010 et seq.  
Cabbage, Diseases and insects, 71.105.  
Grades, 91.081 et seq.  
Cancellation, handling license or identification cards, 101.012, 101.018.  
Cards, identification cards, agents, 101.010 et seq.  
Carriers, privileges and immunities, diseases or pests, 71.112.  
Cash vegetable dealer, licenses, 101.004.  
Cauliflower, diseases and insects, 71.105.  
Certificates and certification, Imported plants, 71.111.  
Inspection, 91.004.  
Tags or stamps, 71.103.  
Claims, produce recovery fund, 103.001 et seq.  
Classifications, Handling license, 101.004.  
Sweet potatoes, 91.141 et seq.  
Collards, diseases and insects, 71.105.  
Commission, contracts, 101.014.  
Commission merchants, license, 101.004.  
Commodity producers board, 41.001 et seq.  
Complaints, 101.018.  
Handling license or identification cards, cancellation, 101.012.  
Produce recovery fund, 103.005.  
Compromise and settlement, grade and quality, 101.015.  
Conflict of laws, handling or marketing, 101.021.  
Containers, 91.001 et seq.  
Labeling, 71.115.  
Markings, 91.007.  
Onion crates, folding, 91.025.  
Standards, 91.002, 91.021 et seq.  
Contracts, purchase price, payment, 101.013 et seq.

References are to Sections

## VEGETABLES—Cont'd

Cooperative agreements, 91.005.  
 Crates, 91.023 et seq.  
 Cruciferous plants, diseases and insects, 71.105.  
 Culls, 91.006.  
 Dealers, licenses and permits, 101.001 et seq.  
 Definitions,  
   Handling, 101.001.  
   Produce recovery fund, 103.001.  
 Demand, payments, 101.013.  
 Deposits, produce recovery fund, 103.002.  
 Destruction, diseases or pests, 71.110.  
 Domicile and residence, produce recovery fund board, members, 103.003.  
 Education, 41.001 et seq.  
 Eggplants, diseases, 71.108.  
 Examination and examiners, books and papers, 101.018.  
 Exemptions,  
   Handling license, 101.002, 101.003.  
   Research and promotion assessments, 41.082.  
 Expenses and expenditures, produce recovery fund, 103.002.  
 Exports and imports, certificates, 71.111.  
 Fees,  
   Agents, identification cards, 101.010.  
   Certificate tag or stamp, 71.114.  
   Handling license, 101.006.  
   Refusal, 101.007.  
   Produce recovery fund, 103.011.  
   Complaint, 103.005.  
 Field inspections, 71.102, 71.103.  
 Fines and penalties, 71.116.  
   Grading or inspection, 91.008.  
   Handling or marketing violations, 101.020, 101.021.  
   Produce recovery fund, 103.013.  
   Research and promotion assessments, 41.101 et seq.  
 Folding crates, onions, 91.025.  
 Forms, handling license, 101.005.  
 Four-basket crates, 91.023.  
 Fraud, certificate revocation, 71.113.  
 Grades and grading, 91.001 et seq.  
   Bermuda onions, 91.061 et seq.  
   Cabbage, 91.081 et seq.  
   Compromise and settlement, 101.015.  
   Irish potatoes, 91.121 et seq.  
   Snap beans, 91.091 et seq.  
 Handling, licenses, 101.001 et seq.  
 Hearings,  
   Complaints, 101.018.  
   Handling license or identification card, cancellation, 101.012.  
   Produce recovery fund, claims, 103.004, 103.006.  
 Herbicides, generally, this index.  
 Identification cards, agents, 101.010 et seq.  
 Injunction, order violations, 101.018.  
 Inspection and inspectors, 71.101 et seq., 91.001 et seq.  
   Sweet potatoes, 91.141 et seq.  
 Investigations and investigators, 101.018.  
   Produce recovery fund, 103.006.  
 Irish potatoes, grades, 91.121 et seq.  
 Labels. Brands, marks and labels, generally, ante.  
 Licenses and permits,  
   Assignments, 101.011.  
   Handling, 101.001 et seq., 102.001 et seq.

## VEGETABLES—Cont'd

Licenses and permits—Cont'd  
 Research and promotion assessments, revocation or suspension, 41.102.  
 Limitations, produce recovery fund, claims, 103.008.  
 Lists, handling license fees, 101.009.  
 Mail and mailing, demand, payment, 101.013.  
 Markets and warehouses, licenses, 101.001 et seq.  
 Marks. Brands, marks and labels, generally, ante.  
 Monopolies and unfair trade practices, handling or marketing, 101.021.  
 Notice, orders, 101.018.  
 Oaths and affirmation, handling license, application, 101.005.  
 Onions, generally, this index.  
 Orders, notice, 101.018.  
 Packages. Containers, generally, ante.  
 Payments,  
   Demand, 101.013.  
   Produce recovery fund, claim, 103.007.  
 Penalties. Fines and penalties, generally, ante.  
 Peppers, diseases, 71.106.  
 Per diem, produce recovery fund board, 103.003.  
 Permits. Licenses and permits, generally, ante.  
 Pesticides, generally, this index.  
 Pests, 71.104 et seq.  
 Plant diseases and insect pests, 71.104 et seq.  
 Potatoes, generally, this index.  
 Privileges and immunities, carriers, diseases or pests, 71.112.  
 Production of books and papers, 101.018.  
 Promotion, 41.001 et seq.  
 Purchase price, demand, payment, 101.013.  
 Rates and charges,  
   Assessments, promotion and research, 41.058.  
   Contracts, 101.014.  
 Records and recordation, purchases, 101.016, 101.017.  
 Refunds,  
   Handling license fee, 101.007.  
   Produce recovery fund, 103.007.  
   Research and promotion assessments, 41.083.  
 Refusal, handling license, 101.007.  
 Reimbursements, produce recovery fund, 103.009.  
 Renewal, handling license, 101.008.  
 Research, 41.001 et seq.  
 Revocation or suspension,  
   Certificate, 71.113.  
   Handling license, 101.018.  
 Rules and regulations, produce recovery fund, 103.004, 103.012.  
 Sales,  
   Licenses, 101.001 et seq.  
   Records and recordation, 101.017.  
   Scales, examination, 101.018.  
   Service charge, contract, 101.014.  
   Settlement, grade and quality, 101.015.  
 Six-basket crates, 91.024.  
 Snap beans, grades and packs, 91.091 et seq.  
 Stamps, 71.103.  
   Fees, 71.114.  
   Imported plants, 71.111.

## VEGETABLES—Cont'd

Standards, containers, 91.002, 91.021 et seq.  
 Statements, purchase record, 101.016.  
 Subrogation of rights, produce recovery fund, claims, 103.010.  
 Sweet Potatoes, generally, this index.  
 Tags, 71.103.  
   Fees, 71.114.  
   Imported plants, 71.111.  
 Term, handling license, 101.008.  
 Terms of office, produce recovery fund board, 103.003.  
 Time, handling license, 101.008.  
 Tomatoes, generally, this index.  
 Transportation,  
   Containers, markings, 91.007.  
   Culls, 91.006.  
   Licenses, 101.001 et seq.  
   Privileges and immunities, diseases or pests, 71.112.  
 Transporting agents, identification cards, 101.010 et seq.  
 Treatment, diseases or pests, 71.110.  
 Variations,  
   Cabbage, grades, 91.083.  
   Irish potatoes, 91.124.  
   Onions, grades, 91.068.  
   Snap beans, 91.094.  
 Venue,  
   Handling or marketing violations, 101.019.  
   Research and promotion assessments, 41.101.  
 Weights and measures, complaints, examination, 101.018.

## VEHICLES

Motor Vehicles, generally, this index.

## VENUE

Animal Diseases and Pests, this index.  
 Citrus Fruits, this index.  
 Commercial feed, 141.126.  
   Inspection fees, recovery, 141.124.  
 Cotton, classers, 112.003.  
 Dairies and dairy products, weight and measure violations, 13.210.  
 Feed, 141.126.  
   Inspection fees, recovery, 141.124.  
 Fertilizers, fee recovery, 63.124.  
 Markets and Warehouses, this index.  
 Mexican fruit fly control, 72.006.  
 Pesticides, 76.154.  
 Public weighers, dismissal or suspension, 13.267.  
 Seeds and plants, labeling and licensing violations, 61.017.  
 Tick eradication, 167.112.  
 Vegetables, handling or marketing violations, 101.019.

## VESICULAR EXANTHEMA

Hogs, control, 165.001 et seq.

## VETERINARIANS

Animal Diseases and Pests, generally, this index.

## VETERINARY BIOLOGICS

Animal diseases and pests, sales and distribution, 161.042.

## VITICULTURAL PRODUCTS

Actions and proceedings, research and promotion assessments, 41.101.

# INDEX TO AGRICULTURE CODE

372

References are to Sections

## VITICULTURAL PRODUCTS—Cont'd

Assessments,  
 Rates and charges, 41.058.  
 Research and promotion, 41.081 et seq.  
 Commodity producers board, 41.001 et seq.  
 Education, 41.001 et seq.  
 Exemptions, research and promotion assessments, 41.082.  
 Fines and penalties, research and promotion assessments, 41.101 et seq.  
 Licenses and permits, research and promotion assessments, revocation or suspension, 41.102.  
 Promotion, 41.001 et seq.  
 Rates and charges, assessments, promotion and research, 41.058.  
 Refunds, research and promotion assessments, 41.083.  
 Research, 41.001 et seq.  
 Venue, research and promotion assessments, 41.101.

## WAGES

Compensation and Salaries, generally, this index.

## WAIVER

Pesticides, certified applicator examinations, 76.110.

## WAREHOUSE CORPORATIONS

Investigation, 14.116.

## WAREHOUSE RECEIPTS

Generally, 14.017 et seq.  
 Accounts and accounting, 14.022.  
 Alteration, 14.029.  
 Bonds (officers and fiduciaries), 14.020.  
 Lost or stolen receipts, 14.019.  
 Cancellation, 14.022.  
 Cotton receipts, exchanges, 14.210.  
 Changing, 14.032.  
 Corporations, 14.126.  
 Forms, 14.121.  
 Cotton, this index.  
 Counterfeits, 14.029.  
 Delivery requirement, 14.129, 14.212.  
 Destruction, 14.019.  
 Disposal, financial pools, 53.018.  
 Duplicate receipts, 14.017, 14.019, 14.209.  
 Corporations, 14.126.  
 Exchanges, 14.128.  
 Cotton receipts, 14.210.  
 Financial pools, disposal, 53.018.  
 Forgery, 14.029.  
 Forms, 14.003, 14.020.  
 Corporations, 14.121.  
 Fraud, 14.029, 14.031.  
 Inspection and inspectors, 14.207.  
 Lost or destroyed instruments, 14.019.  
 Corporations, 14.126.  
 Duplicate receipts, 14.209.  
 Numbers and numbering, 14.207.  
 Owners and ownership, grain receipts, 14.018.  
 Pools, financial pools, disposal, 53.018.  
 Public warehousemen, 14.207.  
 Records and recordation, 14.022.  
 Corporations, 14.126.  
 Scale weight tickets, 14.017.  
 Stolen, 14.019.  
 Time, records, 14.022.

## WAREHOUSES AND WAREHOUSEMEN

Markets and Warehouses, generally, this index.

## WARNINGS

Feed, inspection violations, 141.121.  
 Fertilizers, 63.121, 63.123.

## WARRANTS

Search Warrants, generally, this index.

## WARRANTS FOR PAYMENT OF MONEY

Agricultural experiment farms and stations, land and building construction, 43.007.  
 Noxious weeds, 78.057.  
 Soil and water conservation, claims, 201.023.  
 Tick eradication, dipping facilities, 167.059.  
 Wind erosion conservation districts, 202.031.

## WASTE

Citrus fruits, marketing agreements and licenses, 102.151 et seq.  
 Hogs, feeding, 165.026.  
 Wind Erosion Conservation Districts, generally, this index.

## WATER SUPPLY

Conservation. Soil and Water Conservation, generally, this index.  
 Inspection, meters, 13.103.

## WATERS AND WATERCOURSES

Conservation. Soil and Water Conservation, generally, this index.  
 Irrigation, generally, this index.

## WATERSHED PROTECTION

Soil and water conservation, contracts, 201.024.

## WEEDS

Defined, pesticides, 76.001.  
 Herbicides, generally, this index.  
 Noxious Weeds, generally, this index.  
 Pesticides, generally, this index.

## WEIGHTS AND MEASURES

See, also, Grades and Grading, generally, this index.  
 Generally, 13.001 et seq.  
 Actions and proceedings,  
 Dairies and dairy products, 13.211.  
 Stop-sale orders, 13.210.  
 Reweighing, 13.266.  
 Stop-sale order, 13.040.  
 Administrative law and procedure, butterfat content hearings, 13.204.  
 Appeal and review, 13.266.  
 Appointments, chief deputy, 13.003.  
 Avoirdupois weights, standards, 13.023.  
 Babcock test, butterfat content, 13.201 et seq.  
 Brands, marks and labels,  
 Butterfat content, testing, 13.205.  
 Lots, identification, 13.265.  
 Bribery and corruption, sealers, 13.106.  
 Bushel, standards, 13.028.  
 Butterfat content, dairy products, 13.201 et seq.

## WEIGHTS AND MEASURES—Cont'd

Certificates and certification, 13.262.  
 Standards, 13.113.  
 Cheese, nonstandard weight, 13.034.  
 Chief deputy, 13.003.  
 Cities and towns, 13.106.  
 Citrus Fruits, this index.  
 Compensation and salaries, county sealers, 13.105.  
 Condemned weight, disposal, 13.121.  
 Container form, standards, 13.032.  
 Contracts,  
 Net weight, 13.030.  
 Standards, 13.021.  
 Copies, standards, 13.108, 13.113.  
 Cord, 13.026.  
 Cornmeal, 13.029.  
 Cost, reweighing, 13.266.  
 Cotton, bale weight, buyer deductions, 113.008.  
 County sealers, 13.105.  
 Cream, nonstandard container, 13.033.  
 Crimes and offenses, 13.038, 13.041.  
 Butterfat content testing, license revocation or suspension, 13.207.  
 Flour or cornmeal, packages, 13.029.  
 Net weight or count, 13.027, 13.030.  
 Public utility meters, inspection, 13.103.  
 Standards, 13.021.  
 Stop-sale order, 13.040.  
 Dairies and Dairy Products, this index.  
 Defenses, 13.041.  
 Definitions, 13.001.  
 Deputy,  
 Chief deputy, 13.003, 13.004.  
 County sealers, 13.105.  
 Destruction,  
 Butterfat content testing, 13.206.  
 Incorrect weights or measures, 13.111.  
 Discharge, stop-sale order, 13.040.  
 Discrepancies, reweighing, 13.266.  
 Disposal, condemned weight, 13.121.  
 Electric meters, inspection, 13.103.  
 Entry upon property, 13.108.  
 Butterfat content testing, 13.208.  
 Evidence, sealers, malfeasance or competency, 13.106.  
 Exemptions,  
 Liquid capacity, 13.031.  
 Net weight, 13.030.  
 Package form, standards, 13.032.  
 Expenses and expenditures, standards, copies, 13.113.  
 False weights or measures, 13.037, 13.120.  
 Fees,  
 Butterfat content testing, licensing, 13.207.  
 Inspection, 13.115.  
 Fines and penalties, 13.041, 13.122.  
 Butterfat content testing, 13.212.  
 Flour, 13.029.  
 Fraud, 13.036.  
 Butterfat content testing, 13.212.  
 Price advertisements, 13.035.  
 Gas meter, inspection, 13.103.  
 Gifts, sealers, 13.106.  
 Hearings,  
 Butterfat content, testing apparatus, 13.204.  
 Public weighers, revocation of certificate of authority, 13.255.  
 Sealers, incompetency of malfeasance, 13.106.

## INDEX TO AGRICULTURE CODE

References are to Sections

## WEIGHTS AND MEASURES—Cont'd

Hindering, sealer, 13.118.  
 Identification, lots, 13.265.  
 Illegal standards, 13.021.  
 Incompetency, sealers, 13.106.  
 Incorrect weights or measures, 13.111.  
 Injunctions, dairies and dairy product violations, 13.211.  
 Inspection and inspectors, 13.101 et seq.  
   Butterfat content, 13.208.  
   Fees, 13.115.  
   Records, 13.006.  
   Refusal, 13.117.  
 Investigations and investigators, 13.005.  
   Butterfat content licensing, 13.207.  
 Jurisdiction, sealers, 13.104 et seq.  
 Length, standards, 13.022.  
 Licenses and permits, butterfat content testing, 13.207.  
 Liquid capacity, standards, 13.024, 13.031.  
 Live weight, poultry, 13.034.  
 Local sealers, 13.106.  
 Lots, identification, 13.265.  
 Malfeasance, sealers, 13.106.  
 Meat and meat products, nonstandard weight, 13.034.  
 Meters, public utilities, inspection, 13.103.  
 Milk, nonstandard containers, 13.033.  
 Motor vehicles, stopping, 13.108.  
 Net weight or net count, 13.027, 13.030.  
 Notice,  
   Butterfat content testing, 13.208.  
   Repair, 13.111.  
 Obliteration, tags, 13.119.  
 Obstruction, sealers, 13.118.  
 Offenses. Crimes and offenses, generally, ante.  
 Order, stop-sale, 13.040.  
 Orders, stop-sale orders,  
   Dairies and dairy products, 13.210.  
 Out-of-order tag, 13.111.  
 Packaged form, standards, 13.032.  
 Plans and specifications, 13.114.  
   Butterfat content, testing apparatus, 13.204.  
 Political subdivisions, two or more, 13.107.  
 Possession,  
   False weights or measures, 13.120.  
   Unsealed weights or measures, 13.116.  
 Poultry and poultry products, live weight, 13.034.  
 Powers and duties, sealers, 13.108.  
 Price, fraud, 13.035.  
 Public utilities, meter inspection, 13.103.  
 Public Weighers, generally, this index.  
 Purchases, 13.002.  
 Records and recordation, 13.006.  
   Inspections, 13.108.  
   Public weighers, 13.257.  
   Standards, inspection, 13.113.  
 Refusal, inspection, 13.117.  
 Removal, tags, 13.119.  
 Removal from office, sealers, 13.106.  
 Repairs, incorrect weights or measures, 13.111.  
 Reports, 13.005.  
   Butterfat content testing, 13.206.  
 Revocation or suspension, butterfat content testing, licensing, 13.207.  
 Reweighing, 13.266.

## WEIGHTS AND MEASURES—Cont'd

Rules and regulations,  
   Butterfat content testing, 13.209.  
   Sealers, 13.109.  
 Sales, 13.002.  
   False weights or measures, 13.120.  
   Seal requirement, 13.102.  
   Unsealed weights or measures, 13.116.  
 Samples, butterfat content, 13.208.  
 Seal, 13.110.  
   Inspection, 13.102.  
 Sealers,  
   Bribery and corruption, 13.106.  
   Cities and towns, 13.106.  
   Compensation and salaries, county sealers, 13.105.  
   County sealers, 13.105.  
   Deputy county sealers, 13.105.  
   Entry upon property, 13.108.  
   Evidence, malfeasance or competency, 13.106.  
   Gifts, 13.106.  
   Hearings, malfeasance or incompetency, 13.106.  
   Hindering, 13.118.  
   Incompetency, 13.106.  
   Inspection and inspectors, 13.101 et seq.  
   Jurisdiction, 13.104 et seq.  
   Local sealers, 13.106.  
   Malfeasance, 13.106.  
   Obstruction, 13.118.  
   Records and recordation, 13.108.  
   Reports, 13.006.  
   Removal from office, 13.106.  
   Reports, records, 13.006.  
   Rules and regulations, 13.108, 13.109.  
   State sealer, 13.104.  
   Suspension, 13.106.  
   Testing, 13.039.  
   Traveling expenses, 13.104.  
   Two or more political subdivisions, 13.107.  
 Searches and seizures, butterfat content testing, 13.206.  
 Solid capacity, standards, 13.025.  
 Specifications, 13.114.  
   Butterfat content, testing apparatus, 13.204.  
 Standards, 13.021 et seq.  
   Avoirdupois weights, 13.023.  
   Bushels, 13.028.  
   Certificates and certification, 13.113.  
   Cheese, 13.034.  
   Container form, 13.032.  
   Contracts, 13.021.  
   Copies, 13.108, 13.113.  
   Cord, 13.026.  
   Cornmeal, 13.029.  
   Dairies and dairy products, 13.206.  
   Expenses and expenditures, copies, 13.113.  
   Flour, 13.029.  
   Illegal standards, 13.021.  
   Inspection, 13.113.  
   Length, 13.022.  
   Liquid capacity, 13.024, 13.031.  
   Meat and meat product, 13.034.  
   Net weight or count, 13.027, 13.030.  
   Packaged form, 13.032.  
   Poultry, live weight, 13.034.  
   Records and recordation, inspection, 13.113.  
   Solid capacity, 13.025.

## WEIGHTS AND MEASURES—Cont'd

Standards—Cont'd  
   State institutions, 13.112.  
   Surface, 13.022.  
   Troy weights, 13.023.  
 State sealer, 13.104.  
 Stop-sale order, 13.040.  
   Dairies and dairy products, 13.210.  
 Substitute tester, butterfat content licensing, 13.207.  
 Surface, standards, 13.022.  
 Suspension, sealers, 13.106.  
 Tags,  
   Lots, identification, 13.265.  
   Removal or obliteration, 13.119.  
 Testing, 13.039, 13.110.  
   Butterfat content, 13.201 et seq.  
 Time, inspection, 13.101.  
 Tolerances, 13.114.  
 Traveling expenses,  
   Chief deputy, 13.003.  
   Sealers, 13.104.  
 Troy weights, standards, 13.023.  
 Two or more political subdivisions, 13.107.  
 United States, standards, 13.021 et seq.  
 Unsealed weights or measures, 13.116.  
 Utilities, meter inspection, 13.103.  
 Vegetables, complaints, examination, 101.018.  
 Venue, dairies and dairy products, stop-sale orders, 13.210.  
 Water meters, inspection, 13.103.  
**WIND EROSION CONSERVATION DISTRICTS**  
   Generally, 202.001 et seq.  
 Accounts and accounting, 202.036.  
 Actions and proceedings, 202.022.  
   Assessment lien foreclosure, 202.047.  
 Assessments, 202.041 et seq.  
 Audits and auditors, 202.036.  
 Ballots, 202.012.  
 Bonds, 202.031.  
 Bonds (officers and fiduciaries), treasurer, 202.021.  
 Boundaries, 202.004.  
 Bylaws, 202.022.  
 Certificates and certification, assessments, 202.045.  
 Compensation and salaries, employees, 202.021.  
 Cooperation, 202.023.  
 Debts, 202.031.  
 Definitions, 202.001.  
 Election, 202.011 et seq.  
 Expenses and expenditures, 202.036.  
 Facilities, 202.022.  
 Federal aid, 202.032.  
 Foreclosure, assessment lien, 202.047.  
 Funds, 202.034.  
 Gifts, 202.033.  
 Grants, 202.033.  
   Federal monies, 202.032.  
 Hearings, assessments, 202.042 et seq.  
 Incorporation, 202.003.  
 Indebtedness, 202.031.  
 Inspection and inspectors, audits, 202.036.  
 Interest, assessments, 202.045.  
 Liens and incumbrances, assessments, 202.045 et seq.  
 Loans, 202.031.  
 Name, 202.004.

References are to Sections

**WIND EROSION CONSERVATION DISTRICTS—Cont'd**

Notice, assessment hearing, 202.043.  
 Officers and employees, 202.021.  
 Orders, elections, 202.011.  
 Payments, assessments, 202.045.  
 Petitions, elections, 202.011 et seq.  
 Plans and specifications, regional conservation plan, 202.023.  
 Powers and duties, 202.022.  
 Publication, assessment hearing, notice, 202.043.  
 Rates and charges, assessments, 202.045.  
 Records and recordation, assessments, 202.045.  
 Regional conservation plan, 202.023.  
 Rules and regulations, 202.022.  
 Sales, assessment lien foreclosure, 202.047.  
 Seal, 202.022.  
 Signatures, election petitions, 202.011.  
 Taxation, 202.035.  
 Treasurer, bonds (officers and fiduciaries), 202.021.  
 Warrants for payment of money, 202.031.

**WITNESSES**

Bees, disease control, 131.031.  
 Citrus fruits, marketing agreements or license hearings, 102.167.  
 Markets and warehouses, hearings, 14.003, 14.026.  
 Public weighers, dismissal or suspension hearings, 13.267.

**WOOL**

Research, 42.001 et seq.

**WORDS AND PHRASES**

Active ingredient, pesticides, 76.001.  
 Advertisements, seeds, 61.001.  
 Agricultural commodity,  
     Marketing orders, 104.002.  
     Research and promotion, 41.002.  
 Agricultural finance corporations, products, 56.001.  
 Agricultural operations, 251.002.  
 Agricultural products,  
     Cooperative marketing associations, 52.002.  
     Financial pools, 53.001.  
 Agricultural seeds, labeling, 61.001.  
 Animal,  
     Feed, 141.001.  
     Pesticides, 76.001.  
 Antidote, pesticides, 76.001.  
 Antifreeze, registration, 16.001.  
 Applicant, family farm and ranch security program, 252.001.  
 Application of a herbicide, regulations, 75.002.  
 Board,  
     Commodity producers board, 41.002.  
     Dairy advisory board, 13.201.  
     Fertilizers, 63.001.  
     Noxious weeds, 78.001.  
     Produce recovery fund, 103.001.  
     Seeds and plants, 62.001.  
 Borrower, family farm and ranch security program, 252.001.  
 Brand,  
     Feed, 141.001.  
     Fertilizers, 63.001.  
 Bulk, fertilizers, 63.001.

**WORDS AND PHRASES—Cont'd**

Caretaker,  
     Brucellosis control, 163.001.  
     Tuberculosis control, 162.001.  
 Cereal flour, weights and measures, 13.029.  
 Citrus fruit, marketing agreements and licenses, 102.152.  
 Coloring matter, citrus fruit, 95.001.  
 Commercial quantity, tomatoes, 92.002.  
 Commission,  
     Animal disease, 161.001.  
     Brucellosis control, 163.001.  
     Hog diseases, 165.001.  
     Pullorum and typhoid control, 168.001.  
     Scabies control, 164.001.  
     Tick eradication, 167.001.  
     Tuberculosis control, 162.001.  
 Commission merchant, livestock, 147.001.  
 Commissioner,  
     Agricultural products, 41.002.  
     Agriculture, 1.003.  
     Family farm and ranch security program, 252.001.  
 Conservation district, soil and water, 201.002.  
 Container,  
     Feed, 141.001.  
     Fertilizers, 63.001.  
 Cooperative agreement, tomatoes, 92.002.  
 Cooperative financing plan, tomatoes, 92.002.  
 Cotton, pink bollworm control, 74.051.  
 Custom applicator, herbicides, 75.002.  
 Customer-formula feed, regulations; 141.001.  
 Dealer, tomatoes, 92.002.  
 Defoliant, pesticides, 76.001.  
 Department, agriculture, 1.003.  
 Depositor, markets and warehouses, 14.001.  
 Desiccant, pesticides, 76.001.  
 Device, pesticides, 76.001.  
 Director,  
     Agricultural experiment farms and stations, 43.001.  
     Conservation district, 201.002.  
     Feed, 141.001.  
     Fertilizers, 63.001.  
     Livestock tattoo marks, 144.101.  
 Disease, livestock, 161.116.  
 Distribute,  
     Feed, 141.001.  
     Fertilizers, 63.001.  
     Pesticides, 76.001.  
 Distributing house, citrus fruit, 94.001.  
 District,  
     Agricultural products, 41.002.  
     Noxious weed control, 78.001.  
     Wind erosion conservation, 202.001.  
 Egg, inspection and labeling, 132.001.  
 Enclosure, tick eradication, 167.001.  
 Environment, pesticides, 76.001.  
 Equipment,  
     Herbicides, 75.002.  
     Pesticides, 76.001.  
 Estray, disposal, 142.002.  
 Experiment station,  
     Agricultural experiments, 43.001.  
     Pullorum and typhoid control, 168.001.  
 False weight or measure, sale or possession, 13.120.  
 Family farm and ranch security loan, financial institutions, 252.001.

**WORDS AND PHRASES—Cont'd**

Farmland or ranchland, loans, 252.001.  
 Federal agency, soil and water conservation, 201.002.  
 Fertilizer material, sales, 63.001.  
 Financial pool, agricultural products and livestock, 53.001.  
 Flock, pullorum and typhoid control, 168.001.  
 Florists, inspection, 71.041.  
 Fungus, pesticides, 76.001.  
 Garbage, hogs, 165.026.  
 Governing body, wind erosion conservation, 202.001.  
 Governmental requirement, 251.002.  
 Grade, fertilizers, 63.001.  
 Grain,  
     Markets and warehouses, 14.001.  
     Sampling for grading, 96.001.  
 Grove, citrus fruit, 94.001.  
 Handle, citrus fruits, 102.001.  
 Handler,  
     Citrus fruits, 102.152.  
     Marketing orders, 104.002.  
 Hatchery, pullorum and typhoid control, 168.001.  
 Highway, livestock, running at large, 143.101.  
 Host fruit, Mexican fruit fly, 72.001.  
 Inert ingredient, pesticides, 76.001.  
 Ingredient, feed, 141.001.  
 Inspection certificates, tomatoes, 92.002.  
 Inspector,  
     Livestock, 146.051.  
     Scabies control, 164.001.  
     Tick eradication, 167.001.  
     Tomatoes, 92.002.  
 Intrastate commerce, citrus fruits, 102.152.  
 Label,  
     Antifreeze, 16.001.  
     Feed, 141.001.  
     Honey, 131.101.  
     Pesticides, 76.001.  
 Labeling,  
     Pesticides, 76.001.  
     Seeds, 61.001.  
 Land, pesticides, 76.001.  
 License, warehouses, 14.001.  
 License use category, pesticides, 76.001.  
 Livestock,  
     Commission merchants, 147.001.  
     Disease control, 161.001.  
     Financial pools, 53.001.  
     Grading, 145.001.  
 Livestock markets, disease control, 161.111.  
 Livestock product, disease control, 161.048.  
 Manipulated manure, sales, 63.001.  
 Manufacturer, flour or cornmeal, 13.029.  
 Marketing association, cooperatives, 52.002.  
 Marketing committee, orders, 104.002.  
 Marketing order, agricultural commodity, 104.002.  
 Marketing program, orders, 104.002.  
 Meat or meat food product, sales, 13.034.  
 Member, cooperative marketing associations, 52.002.  
 Mexican fruit fly, control, 72.001.  
 Mixed fertilizer, sales, 63.001.  
 Nematode, pesticides, 76.001.  
 Nursery grower, inspection, 71.041.

## INDEX TO AGRICULTURE CODE

References are to Sections

## WORDS AND PHRASES—Cont'd

Nursery product,  
 Diseases and pests, 73.001.  
 Inspection, 71.041.  
 Occupier, soil and water conservation,  
 201.002.  
 Official sample,  
 Feed, 141.001.  
 Fertilizers, 63.001.  
 Okra, pink bollworm control, 74.051.  
 Open storage grain, markets and ware-  
 houses, 14.001.  
 Other land, tick eradication, 167.024.  
 Package, flour or corn, 13.029.  
 Packer,  
 Citrus fruits, 102.001.  
 Vegetables, 101.001.  
 Packing house, citrus fruit, 94.001.  
 Peace officer, tick eradication, 167.001.  
 Person,  
 Agricultural products, 41.002.  
 Antifreeze, 16.001.  
 Citrus fruits, 102.001.  
 Marketing agreements and licenses,  
 102.152.  
 Cotton, 113.001.  
 Eggs, 132.001.  
 Honey, 131.101.  
 Livestock grading, 145.001.  
 Marketing orders, 104.002.  
 Tomatoes, 92.002.  
 Vegetables, 101.001.  
 Pesticides, definitions, 76.001.  
 Pink bollworm, control, 74.051.  
 Plant, certification, 62.001.  
 Plant, regulator, pesticides, 76.001.  
 Post plant, pink bollworm control,  
 74.051.

## WORDS AND PHRASES—Cont'd

Poultry,  
 Pullorum and typhoid control, 168.001.  
 Sales, 13.034.  
 Premises, Mexican fruit fly, 72.001.  
 Processor, agricultural products, 41.002.  
 Producer,  
 Agricultural products, 41.002.  
 Citrus fruits, marketing agreements  
 and licenses, 102.152.  
 Marketing orders, 104.002.  
 Vegetables, 101.001.  
 Public grain house, licensing, 14.001.  
 Public warehousemen, certificates,  
 14.201.  
 Public weigher, 13.251.  
 Purchaser, feed, 141.001.  
 Pure honey, labeling and sale, 131.101.  
 Quarantined area, Mexican fruit fly,  
 72.001.  
 Ready marketable, staple, nonperishable  
 agricultural products, finance corpo-  
 rations, 56.001.  
 Receipt, warehouses, 14.001.  
 Receipted grain, warehouses, 14.001.  
 Registrant, fertilizers, 63.001.  
 Regulatory agency, pesticides, 76.001.  
 Restricted-use pesticide, regulation,  
 76.001.  
 Rose plant, inspection, 121.002.  
 Scale weight ticket, warehouses, 14.001.  
 Secretary-treasurer, agricultural prod-  
 ucts, 41.002.  
 Sell,  
 Mexican fruit fly, 72.001.  
 Weights and measures, 13.001.  
 Ship, citrus fruits, 102.152.  
 Shipped egg, inspection, 132.001.

## WORDS AND PHRASES—Cont'd

Slaughterer, livestock, 148.001.  
 Society, farmers cooperative, 51.001.  
 Specialty fertilizer, sales, 63.001.  
 State agency, soil and water conserva-  
 tion, 201.002.  
 State board, soil and water conservation,  
 201.002.  
 State district, soil and water conserva-  
 tion, 201.002.  
 Storage grain, warehouses, 14.001.  
 Texas egg, inspection and licensing,  
 132.001.  
 Thallophyte, pesticides, 76.001.  
 Ton, feed, 141.001.  
 Unattenuated hog cholera virus, control,  
 165.003.  
 Variety, citrus fruits, 102.152.  
 Vegetable seed, labeling, 61.001.  
 Vegetables, handling, 101.001.  
 Warehouse, public warehouse, 14.201.  
 Warehousemen,  
 Citrus fruit, 102.001.  
 Licenses and permits, 14.001.  
 Vegetables, 101.001.  
 Weed, pesticides, 76.001.  
 Weight or measure, standards, 13.001.

## WRIT OF SEQUESTRATION

Livestock, certificate of inspection viola-  
 tions, 146.064.

## YAMS

Sweet Potatoes, generally, this index.

## ZONES

Citrus fruits, designated counties, 73.003.



# ALCOHOLIC BEVERAGE CODE

## TITLE 1. GENERAL PROVISIONS

Chapter	Section
1. General Provisions .....	1.01

## TITLE 2. ADMINISTRATION OF CODE

5. Alcoholic Beverage Commission .....	5.01
--	------

## TITLE 3. LICENSES AND PERMITS

### SUBTITLE A. PERMITS

11. Provisions Generally Applicable to Permits .....	11.01
12. Brewer's Permit .....	12.01
13. Nonresident Brewer's Permit .....	13.01
14. Distiller's Permit .....	14.01
15. Rectifier's Permit .....	15.01
16. Winery Permit .....	16.01
17. Class B Winery Permit .....	17.01
18. Wine Bottler's Permit .....	18.01
19. Wholesaler's Permit .....	19.01
20. General Class B Wholesaler's Permit .....	20.01
21. Local Class B Wholesaler's Permit .....	21.01
22. Package Store Permit .....	22.01
23. Local Distributor's Permit .....	23.01
24. Wine Only Package Store Permit .....	24.01
25. Wine and Beer Retailer's Permit .....	25.01
26. Wine and Beer Retailer's Off-Premise Permit .....	26.01
27. Temporary Wine and Beer Retailer's Permit .....	27.01
28. Mixed Beverage Permit .....	28.01
29. Mixed Beverage Late Hours Permit .....	29.01
30. Daily Temporary Mixed Beverage Permit .....	30.01
31. Caterer's Permit .....	31.01
32. Private Club Registration Permit .....	32.01
33. Private Club Late Hours Permit .....	33.01
34. Airline Beverage Permit .....	34.01
35. Agent's Permit .....	35.01
36. Manufacturer's Agent's Permit .....	36.01
37. Nonresident Seller's Permit .....	37.01

Chapter	Section
38. Industrial Permit .....	38.01
39. Medicinal Permit .....	39.01
40. Physician's Permit .....	40.01
41. Carrier Permit .....	41.01
42. Private Carrier Permit .....	42.01
43. Local Cartage Permit .....	43.01
44. Beverage Cartage Permit .....	44.01
45. Storage Permit .....	45.01
46. Bonded Warehouse Permit .....	46.01
47. Local Industrial Alcohol Manufacturer's Permit .....	47.01

### SUBTITLE B. LICENSES

61. Provisions Generally Applicable to Licenses .....	61.01
62. Manufacturer's License .....	62.01
63. Nonresident Manufacturer's License .....	63.01
64. General Distributor's License .....	64.01
65. Local Distributor's License .....	65.01
66. Branch Distributor's License .....	66.01
67. Importer's License .....	67.01
68. Importer's Carrier's License .....	68.01
69. Retail Dealer's On-Premise License .....	69.01
70. Retail Dealer's On-Premise Late Hours License .....	70.01
71. Retail Dealer's Off-Premise License .....	71.01
72. Temporary Licenses .....	72.01
73. Agent's Beer License .....	73.01

## TITLE 4. REGULATORY AND PENAL PROVISIONS

101. General Criminal Provisions .....	101.01
102. Intra-Industry Relationships .....	102.01
103. Illicit Beverages .....	103.01
104. Regulation of Retailers .....	104.01
105. Hours of Sale and Consumption .....	105.01
106. Provisions Relating to Age .....	106.01
107. Transportation and Importation .....	107.01
108. Advertising .....	108.01
109. Miscellaneous Regulatory Provisions .....	109.01

**TITLE 5. TAXATION**

Chapter	Section
201. Liquor Taxes .....	201.01
202. Mixed Beverage Tax .....	202.01
203. Beer Tax .....	203.01
204. Bonds .....	204.01
205. Revenue Allocation .....	205.01
206. Provisions Generally Applicable to Taxation .....	206.01

**TITLE 6. LOCAL OPTION ELECTIONS**

251. Local Option Elections .....	251.01
-----------------------------------	--------

**TITLE 1. GENERAL PROVISIONS**

**CHAPTER 1. GENERAL PROVISIONS**

Section	
1.01.	Purpose of Code.
1.02.	Construction of Code.
1.03.	Public Policy.
1.04.	Definitions.
1.05.	General Penalty.
1.06.	Code Exclusively Governs.
1.07.	Resident Aliens.

**§ 1.01. Purpose of Code**

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

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent alcoholic beverage law more accessible and understandable, by:

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

[Acts 1977, 65th Leg., p. 393, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 1.02. Construction of Code**

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

[Acts 1977, 65th Leg., p. 393, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 1.03. Public Policy**

This code is an exercise of the police power of the state for the protection of the welfare, health, peace, temperance, and safety of the people of the state. It shall be liberally construed to accomplish this purpose.

[Acts 1977, 65th Leg., p. 393, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 1.04. Definitions**

In this code:

(1) "Alcoholic beverage" means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

(2) "Consignment sale" means:

(A) the delivery of alcoholic beverages under an agreement, arrangement, condition, or system by which the person receiving the beverages has the right at any time to relinquish possession to them or to return them to the shipper and in which title to the beverages remains in the shipper;

(B) the delivery of alcoholic beverages under an agreement, arrangement, condition, or system by which the person designated as the receiver merely acts as an intermediary for the shipper or seller and the actual receiver;

(C) the delivery of alcoholic beverages to a factor or broker;

(D) any method employed by a shipper or seller by which a person designated as the purchaser of alcoholic beverages does not in fact purchase the beverages;

(E) any method employed by a shipper or seller by which a person is placed in actual or constructive possession of an alcoholic beverage without acquiring title to the beverage; or

(F) any other type of transaction which may legally be construed as a consignment sale.

(3) "Distilled spirits" means alcohol, spirits of wine, whiskey, rum, brandy, gin, or any liquor produced in whole or in part by the process of distillation, including all dilutions or mixtures of them.

(4) "Illicit beverage" means an alcoholic beverage:

(A) manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified,

mixed, processed, warehoused, stored, possessed, imported, or transported in violation of this code;

(B) on which a tax imposed by the laws of this state has not been paid and to which the tax stamp, if required, has not been affixed; or

(C) possessed, kept, stored, owned, or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse, store, or transport in violation of this code.

(5) "Liquor" means any alcoholic beverage containing alcohol in excess of four percent by weight, unless otherwise indicated. Proof that an alcoholic beverage is alcohol, spirits of wine, whiskey, liquor, wine, brandy, gin, rum, ale, malt liquor, tequila, mescal, habanero, or barreteago, is prima facie evidence that it is liquor.

(6) "Person" means a natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them.

(7) "Wine and vinous liquor" means the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, or berries.

(8) "Hotel" means the premises of an establishment:

(A) where, in consideration of payment, travelers are furnished food and lodging;

(B) in which are located at least 10 adequately furnished completely separate rooms with adequate facilities so comfortably disposed that persons usually apply for and receive overnight accommodations in the establishment, either in the course of usual and regular travel or as a residence; and

(C) which operates a regular dining room constantly frequented by customers each day.

(9) "Applicant" means a person who submits or files an original or renewal application with the county judge, commission, or administrator for a license or permit.

(10) "Commission" means the Texas Alcoholic Beverage Commission.

(11) "Permittee" means a person who is the holder of a permit provided for in this code, or an agent, servant, or employee of that person.

(12) "Ale" or "malt liquor" means a malt beverage containing more than four percent of alcohol by weight.

(13) "Mixed beverage" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit, the holder of a daily tem-

porary mixed beverage permit, the holder of a caterer's permit, the holder of a mixed beverage late hours permit, the holder of a private club registration permit, or the holder of a private club late hours permit.

(14) "Barrel" means, as a standard of measure, a quantity of beer equal to 31 standard gallons.

(15) "Beer" means a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight, and does not include a beverage designated by label or otherwise by a name other than beer.

(16) "Licensee" means a person who is the holder of a license provided in this code, or any agent, servant, or employee of that person.

(17) "Manufacturer" means a person engaged in the manufacture or brewing of beer, whether located inside or outside the state.

(18) "Original package," as applied to beer, means a container holding one barrel, one-half barrel, one-quarter barrel, or one-eighth barrel of beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers.

(19) "Premises" has the meaning given it in Section 11.49 of this code.

(20) "Citizen of Texas" and "citizen of this state" mean a person who is a citizen of both the United States and Texas.

[Acts 1977, 65th Leg., p. 393, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 1.05. General Penalty

(a) A person who violates a provision of this code for which a specific penalty is not provided is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both.

(b) The term "specific penalty," as used in this section, means a penalty which might be imposed as a result of a criminal prosecution.

[Acts 1977, 65th Leg., p. 395, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 1.06. Code Exclusively Governs

Unless otherwise specifically provided by the terms of this code, the manufacture, sale, distribution, transportation, and possession of alcoholic beverages shall be governed exclusively by the provisions of this code.

[Acts 1977, 65th Leg., p. 395, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 1.07. Resident Aliens

(a) For purposes of any provision of this code that requires an applicant for a license or permit to be a United States citizen or Texas citizen, regardless of whether it applies to an individual, a percentage of

stockholders of a corporation, or members of a partnership, firm, or association, an individual who is not a United States citizen but who legally resides in the state is treated as a United States citizen and a citizen of Texas.

(b) If it is required that an individual have resided in the state for a specified period of time, an alien legally residing in the state satisfies the requirement if he has legally resided in the state for the prescribed period of time. If an alien becomes a United States citizen while residing in Texas, any continuous period of time he legally resided in the state immediately before becoming a citizen is included in computing his period of continuous residence in the state.

[Added by Acts 1979, 66th Leg., p. 1971, ch. 777, § 18, eff. Aug. 27, 1979.]

**TITLE 2. ADMINISTRATION OF CODE**

**CHAPTER 5. ALCOHOLIC BEVERAGE COMMISSION**

**SUBCHAPTER A. ADMINISTRATIVE PROVISIONS**

**Section**

- 5.01. Texas Alcoholic Beverage Commission.
- 5.02. Members of Commission; Appointment.
- 5.03. Terms of Office.
- 5.04. Chairman.
- 5.05. Relationship With Alcoholic Beverage Business Prohibited.
- 5.06. Commission Office.
- 5.07. Commission Meetings.
- 5.08. Per Diem, Expenses.
- 5.09. Annual Report.
- 5.10. Employees; Compensation; Bonds.
- 5.11. Administrator.
- 5.12. Concurrent Duties of Administrator.
- 5.13. Assistant Administrator.
- 5.14. Inspectors and Representatives.
- 5.15. Assistant Attorneys General.
- 5.16. Representation in Appeal to Commission.
- 5.17. Suits Against the Commission: Venue.

**SUBCHAPTER B. POWERS AND DUTIES**

- 5.31. General Powers and Duties.
- 5.32. May Require Reports.
- 5.33. Regulate Licensees and Permittees.
- 5.34. Delegation of Authority.
- 5.35. Issuance of Permits and Licenses.
- 5.36. Investigation of Violations.
- 5.37. Collection of Taxes at Source.
- 5.38. Quality and Purity of Beverages.
- 5.39. Regulation of Liquor Containers.
- 5.40. Regulation of Beer Container Deposits.
- 5.41. Alcohol Used for Scientific Purposes, Etc.
- 5.42. Penalty for Violation of Rule.
- 5.43. Who May Hold Hearing; Rules of Evidence.
- 5.44. Subpoena of Witnesses; Witness Fees; Contempt.
- 5.441. Fees and Expenses Paid Members or Employees of Commission.
- 5.45. Proof of Document.
- 5.46. Security for Costs.
- 5.47. Records of Violations.
- 5.48. Private Records.
- 5.49. Printed Copies of Code.

**SUBCHAPTER A. ADMINISTRATIVE PROVISIONS**

**§ 5.01. Texas Alcoholic Beverage Commission**

(a) The Texas Alcoholic Beverage Commission is an agency of the state.

(b) The commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless it is continued in existence as provided by that Act, the commission is abolished and this code expires on September 1, 1987.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1965, ch. 777, § 2, eff. Aug. 27, 1979.]

**§ 5.02. Members of Commission; Appointment**

(a) The commission is composed of three members, who are appointed by the governor with the advice and consent of the senate.

(b) Each member must be a Texas resident, must have resided in the state for at least five years next preceding his appointment and qualification, and must be a qualified voter in the state at the time of his appointment and qualification.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.03. Terms of Office**

The members of the commission hold office for staggered terms of six years, with the term of one member expiring every two years. Each member holds office until his successor is appointed and has qualified. A member may be appointed to succeed himself.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.04. Chairman**

The governor shall designate one member of the commission as chairman.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.05. Relationship With Alcoholic Beverage Business Prohibited**

(a) No person may be appointed to or serve on the commission, or hold an office under the commission, or be employed by the commission, who:

- (1) has any financial connection with a person engaged in an alcoholic beverage business;
- (2) holds stocks or bonds in an alcoholic beverage business; or
- (3) has a pecuniary interest in an alcoholic beverage business.

(b) No member of the commission, or anyone holding an office under the commission, or any employee of the commission, may receive a commission or profit from or have an interest in the sale or purchase of alcoholic beverages.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.06. Commission Office**

The office of the commission shall be in the city of Austin.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.07. Commission Meetings**

(a) The commission may meet in the city of Austin at times it determines.

(b) A majority of the members constitutes a quorum for the transaction of business or for the exercise of any of the powers or duties of the commission.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.08. Per Diem, Expenses**

Members of the commission receive per diem of \$10 a day, for not more than 60 days a year, plus actual expenses, while attending commission meetings or otherwise engaged in the performance of their duties.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.09. Annual Report**

In January each year, the commission shall report to the governor concerning its administration of this code.

[Acts 1977, 65th Leg., p. 397, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.10. Employees; Compensation; Bonds**

(a) The commission or administrator may employ clerks, stenographers, inspectors, chemists, and other employees necessary to properly enforce this code.

(b) The commission or administrator shall determine the duties of all employees. The employees shall be compensated as provided by legislative appropriation.

(c) The commission may require an employee to give bond for the faithful performance of his duties in an amount it considers adequate and under conditions it considers proper.

[Acts 1977, 65th Leg., p. 398, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.11. Administrator**

The commission shall appoint an administrator to serve at its will and, subject to its supervision, administer this code. Unless the commission orders otherwise, the administrator shall be manager, secretary, and custodian of all records. The administrator shall devote his entire time to the office and shall receive a salary as appropriated by the legislature. The administrator shall execute a bond in the sum of \$10,000, payable to the state, and conditioned as the commission requires.

[Acts 1977, 65th Leg., p. 398, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.12. Concurrent Duties of Administrator**

The commission shall specify the duties and powers of the administrator by printed rules and regulations entered in its minutes. When this code imposes concurrent powers or duties on the commission and the administrator, the commission shall designate those powers and duties which it delegates to the administrator. An order, decision, or judgment rendered and entered by the administrator in a matter in which he has been authorized to act is not subject to change, review, or revision by the commission. A concurrent power or duty which has not been specifically delegated to the administrator by the commission's order is retained by the commission, and an order, decision, or judgment rendered and entered by the commission in a matter in which the commission has retained authority is not subject to change, review, or revision by the administrator.

[Acts 1977, 65th Leg., p. 398, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.13. Assistant Administrator**

The administrator shall appoint an assistant administrator. The assistant administrator must meet the same qualifications as the administrator. The assistant administrator shall take the constitutional oath of office and make a bond in the same amount and on the same conditions as the administrator's bond. In the absence of the administrator, or in case of his inability to act, the assistant administrator shall perform the duties conferred on the administrator by law or delegated to the administrator by the commission. If there is a vacancy in the office of administrator, the assistant administrator shall perform the duties of the administrator until an administrator has been appointed by the commission. At other times he shall perform those duties and have those functions, powers, and authority as may be delegated to him by the administrator.

[Acts 1977, 65th Leg., p. 398, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.14. Inspectors and Representatives**

The commission or administrator may commission as many inspectors and representatives as are necessary to enforce this code. Each inspector and representative shall take the constitutional oath of office, which shall be filed in the office of the commission. Each commissioned inspector and representative has all the powers of a peace officer coextensive with the boundaries of the state. Each commissioned inspector and representative shall make and execute a bond as required by the commission.

[Acts 1977, 65th Leg., p. 398, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.15. Assistant Attorneys General**

The attorney general shall appoint as many as six assistant attorneys general, as the commission determines necessary, to enable the commission to more efficiently enforce this code. The attorney general

and the assistant attorneys general shall prosecute all suits requested by the commission and defend all suits against the commission. The commission shall provide the assistant attorneys general with necessary stenographers and office space. The assistant attorneys general shall be paid by the commission out of funds appropriated to it for the administration of this code. Their compensation shall be on the same basis as assistant attorneys general devoting their time to general state business.

[Acts 1977, 65th Leg., p. 399, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.16. Representation in Appeal to Commission**

No member of the legislature or other person may appear for compensation in a representational capacity in an appeal to the commission unless he first files an affidavit supplied by the commission and makes a full disclosure of whom he represents and of the fact that he is being compensated for doing so. The commission shall provide appropriate forms, and these records are a public record of the commission.

[Acts 1977, 65th Leg., p. 399, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.17. Suits Against the Commission: Venue**

In all suits against the commission, except appeals governed by Section 11.67 or 32.18 of this code, venue is in Travis County.

[Acts 1977, 65th Leg., p. 399, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 5.18 to 5.30 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

**§ 5.31. General Powers and Duties**

The commission may exercise all powers, duties, and functions conferred by this code, and all powers incidental, necessary, or convenient to the administration of this code. It shall inspect, supervise, and regulate every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise. It may prescribe and publish rules necessary to carry out the provisions of this code.

[Acts 1977, 65th Leg., p. 399, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.32. May Require Reports**

The commission may require the filing of reports and other data by persons engaged in the alcoholic beverage business which the commission finds necessary to accomplish the purposes of this code.

[Acts 1977, 65th Leg., p. 399, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.33. Regulate Licensees and Permittees**

The commission shall supervise and regulate licensees and permittees and their places of business in matters affecting the public. This authority is not

limited to matters specifically mentioned in this code.

[Acts 1977, 65th Leg., p. 399, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.34. Delegation of Authority**

The commission may authorize its agents, servants, and employees to carry out, under its direction, the provisions of this code.

[Acts 1977, 65th Leg., p. 400, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.35. Issuance of Permits and Licenses**

The commission may grant, refuse, suspend, or cancel alcoholic beverage permits and licenses as provided in this code.

[Acts 1977, 65th Leg., p. 400, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.36. Investigation of Violations**

(a) The commission shall investigate violations of this code and of other laws relating to alcoholic beverages, and shall cooperate in the prosecution of offenders before any court of competent jurisdiction. The commission may seize alcoholic beverages manufactured, sold, kept, imported, or transported in violation of this code and apply for the confiscation of the beverages if required to do so by this code.

(b) A law enforcement agency of this state or of any of its political subdivisions shall furnish to the commission without charge any criminal history information in its files or available to it from any source. Information obtained by the commission under this subsection may be used only for the enforcement and administration of this code.

[Acts 1977, 65th Leg., p. 400, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, § 14, eff. Aug. 27, 1979.]

**§ 5.37. Collection of Taxes at Source**

(a) If the federal government provides a method of collecting liquor taxes at the source, the commission may enter contracts and comply with regulations, even to the extent of abrogating provisions of this code which are inconsistent with federal law or regulations, in order to receive the portion of the taxes allocated to the state. The taxes received shall be distributed as provided in this code.

(b) The commission may acquire by gift, grant, or purchase, port of entry or other facilities for the administration of the Alcoholic Beverage Code, including the collection of taxes and confiscation of unlawful containers and illicit beverages. The commission may enter into agreements with agencies of the United States or other persons, if in the judgment of the commission, it will benefit the state to place facilities under its control through lease or sale from the United States or other persons. The commission may expend funds for the purpose of rehabilitating, renewing, restoring, extending, enlarging, improving, or performing routine maintenance on facilities under its control.

(c) For the purpose of complying with Chapter 455, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 678f, Vernon's Texas Civil Statutes),<sup>1</sup> the commission is considered to be a public authority and unless the commission requests facilities to be obtained in accordance with Chapter 258, Acts of the 48th Legislature, Regular Session, 1943, as amended (Article 666b, Vernon's Texas Civil Statutes),<sup>2</sup> the provisions of that Act do not apply to the acquisition of facilities under this Act.

[Acts 1977, 65th Leg., p. 400, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 612, ch. 287, § 1, eff. May 24, 1979.]

<sup>1</sup> Repealed; see, now, Civil Statutes, art. 601b, § 5.01 et seq.

<sup>2</sup> Repealed; see, now, Civil Statutes, art. 601b, § 6.01 et seq.

### § 5.38. Quality and Purity of Beverages

The commission shall require by rule that any alcoholic beverage sold in this state conform in all respects to its advertised quality. The commission shall promulgate and enforce rules governing the labeling and advertising of all alcoholic beverages sold in the state, and shall adopt and enforce a standard of quality, purity, and identity of all alcoholic beverages. The commission shall promulgate and enforce necessary rules to safeguard the public health and to insure sanitary conditions in the manufacturing, refining, blending, mixing, purifying, bottling, rebottling, and sale of alcoholic beverages.

[Acts 1977, 65th Leg., p. 400, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 5.39. Regulation of Liquor Containers

The commission shall adopt rules to standardize the size of containers in which liquor may be sold in the state and relating to representations required or allowed to be displayed on or in the containers. To accommodate the alcoholic beverage industry's conversion to the metric system, the commission shall adopt rules permitting the importation and sale of liquor in metric-sized containers as well as in containers sized according to the United States standard gallon system.

[Acts 1977, 65th Leg., p. 400, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 5.40. Regulation of Beer Container Deposits

If the commission finds it necessary to effectuate the purposes of this code, it may adopt rules to provide a schedule of deposits required to be obtained on beer containers delivered by a licensee.

[Acts 1977, 65th Leg., p. 400, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 5.41. Alcohol Used for Scientific Purposes, Etc.

The commission shall license and regulate the use of alcohol and liquor for scientific, pharmaceutical, and industrial purposes. The commission shall provide by rule for the withdrawal of alcohol or liquor for those purposes from warehouses or denaturing plants, and shall prescribe the manner in which the alcohol or liquor may be used, tax free, for scientific

research, in hospitals or sanitoriums, in industrial plants, or for other manufacturing purposes.

[Acts 1977, 65th Leg., p. 400, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 5.42. Penalty for Violation of Rule

A person who violates a valid rule of the commission is guilty of a misdemeanor and on conviction is punishable by the penalty prescribed in Section 1.05 of this code.

[Acts 1977, 65th Leg., p. 401, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 5.43. Who May Hold Hearing; Rules of Evidence

The commission or administrator may designate a member of the commission or other representative to conduct and make a record of any hearing authorized by this code. The commission or administrator may render a decision on the basis of the record or the proposal for decision if one is required under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) as if the administrator or entire commission had conducted the hearing. The commission may prescribe its rules of procedure.

[Acts 1977, 65th Leg., p. 401, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 5.44. Subpoena of Witnesses; Witness Fees; Contempt

(a) The commission or administrator, or an inspector or representative of the commission under the direction of the commission, for the purposes of this code, may:

- (1) issue subpoenas;
- (2) compel the attendance of witnesses;
- (3) administer oaths;
- (4) certify to official acts;
- (5) take depositions inside or outside the state, as provided by law;
- (6) compel the production of pertinent books, accounts, records, documents, and testimony; and
- (7) certify to copies of documents as being true copies on file in the official records of the commission.

(b) If a witness in attendance before the commission or before an authorized representative refuses without reasonable cause to be examined or answer a legal or pertinent question, or to produce a book, record, or paper when ordered by the commission to do so, the commission may apply to the district court for a rule or order returnable in not less than two nor more than five days, directing the witness to show cause before the judge why he should not be punished for contempt. The commission may apply to the district court of any county where the witness is in attendance, on proof by affidavit of the fact, unless the order of contempt is sought under the Administrative Procedure and Texas Register Act

(Article 6252-13a, Vernon's Texas Civil Statutes), in which case the commission shall apply to a district court of Travis County in conformity with that Act. On return of the order, the judge hearing the matter shall examine the witness under oath, and the witness shall be given an opportunity to be heard. If the judge determines that the witness has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record, or paper which he was ordered to bring or produce, he may forthwith punish the offender as for contempt of court.

(c) Subpoenas are served and witness fees and mileage paid as in civil cases in the district court in the county to which the witness is called, unless the proceeding for which the service or payment is made is pursuant to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), in which case the service or payment shall be made as provided in that Act. Witnesses subpoenaed at the instance of the commission shall be paid their fees and mileage by the commission out of funds appropriated for that purpose. [Acts 1977, 65th Leg., p. 401, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, § 15, eff. Aug. 27, 1979.]

**§ 5.441. Fees and Expenses Paid Members or Employees of Commission**

(a) If a member of the commission, the administrator, or an employee of the commission is called to attend a federal or state judicial proceeding inside or outside the state and the attendance relates to the individual's duties with the commission, the individual shall pay to the state treasurer any witness fees he receives. The treasurer shall deposit the fees in the state treasury to the credit of an appropriation made to the commission for payment of fees and mileage of witnesses called by the commission.

(b) An employee of the commission who travels inside or outside the state on official business as the designated representative of the administrator is entitled to reimbursement for meals, lodging, and travel at the same rate as is applicable to members of the commission.

[Added by Acts 1979, 66th Leg., p. 1971, ch. 777, § 16, eff. Aug. 27, 1979.]

**§ 5.45. Proof of Document**

(a) In a suit by the state or the commission or in which either is a party, a transcript from the papers, books, records, or proceedings of the commission purporting to contain a true statement of accounts between the commission or the state and any person, or a copy of a rule, order, audit, bond, contract, or other instrument relating to a transaction between the commission and a person, when certified by the administrator or chairman of the commission to be a true copy of the original on file with the commission

and authenticated under the seal of the commission, is admissible as prima facie evidence of the existence and validity of the original document and entitled to the same credibility as the original document. If a suit is brought on a bond or other written instrument, and the person alleged to have executed the instrument denies by a sworn pleading to have executed the instrument, the court shall require the production and proof of the instrument.

(b) A member of the commission or the administrator may execute a certificate under the seal of the commission setting forth the terms of an order, rule, bond, or other instrument referred to in this section. In the case of an order or rule, the certificate may state that the order or rule was adopted, promulgated, and published and filed with the commission and was in force at any date or during any period of time. In the case of a bond or other instrument, the certificate may state that it was executed and filed with the commission and was in force at any date or during any period of time. The certificate is prima facie evidence of the facts stated in it and is admissible as evidence in any action, civil or criminal, involving the facts contained in the certificate without further proof of those facts. [Acts 1977, 65th Leg., p. 402, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.46. Security for Costs**

No security for costs may be required of a representative of the commission in a matter in which the representative protests the issuance of a license or permit in a hearing conducted by the county judge. [Acts 1977, 65th Leg., p. 402, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.47. Records of Violations**

Records of all violations of this code by permittees and licensees, records introduced and made public at hearings, and decisions resulting from the hearings relating to the violations shall be kept on file at the office of the commission in the city of Austin. The records are open to the public.

[Acts 1977, 65th Leg., p. 402, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 5.48. Private Records**

(a) "Private records," as used in this section, means all records of a permittee, licensee, or other person other than the name, proposed location, and type of permit or license sought in an application for an original or renewal permit or license, or in a periodic report relating to the importation, distribution, or sale of alcoholic beverages required by the commission to be regularly filed by a permittee or licensee.

(b) The private records of a permittee, licensee, or other person that are required or obtained by the commission or its agents, in connection with an investigation or otherwise, are privileged unless introduced in evidence in a hearing before the commis-

sion or before a court in this state or the United States.

[Acts 1977, 65th Leg., p. 402, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 5.49. Printed Copies of Code

The commission from time to time may have as many copies of this code printed in pamphlet form for distribution as it finds necessary.

[Acts 1977, 65th Leg., p. 402, ch. 194, § 1, eff. Sept. 1, 1977.]

## TITLE 3. LICENSES AND PERMITS

### SUBTITLE A. PERMITS

#### CHAPTER 11. PROVISIONS GENERALLY APPLICABLE TO PERMITS

##### SUBCHAPTER A. GENERAL PROVISIONS

###### Section

- 11.01. Permit Required.
- 11.02. Separate Permit Required.
- 11.03. Nature of Permit.
- 11.04. Must Display Permit.
- 11.05. Unauthorized Use of Permit.
- 11.06. Privileges Limited to Licensed Premises.
- 11.07. Duplicate or Corrected Permit.
- 11.08. Change of Location.
- 11.09. Expiration of Permit.
- 11.10. Succession on Death, Bankruptcy, Etc.

##### SUBCHAPTER B. APPLICATION FOR AND ISSUANCE OF PERMITS

- 11.31. Application for Permit.
- 11.32. Renewal Application.
- 11.33. Application Forms.
- 11.34. Consolidated Application.
- 11.35. Payment of Fee.
- 11.36. Refund of Fee.
- 11.37. Certification of Wet or Dry Status.
- 11.38. Local Fee Authorized.
- 11.39. Applicant to Publish Notice.
- 11.40. Notice to County Judge.
- 11.41. Recommendation of Local Officials.
- 11.42. Statement of Stock Ownership.
- 11.43. Discretion to Grant or Refuse Permit.
- 11.44. Premises Ineligible for Permit or License.
- 11.45. "Applicant" Defined.
- 11.46. General Grounds for Refusal.
- 11.47. Refusal of Permit; Interest in Beer Establishment.
- 11.48. Refusal of Package Store or Mixed Beverage Permit.
- 11.49. Premises Defined; Designation of Licensed Premises.
- 11.491. Expired.
- 11.50. Licensing a Portion of a Building as Premises.

##### SUBCHAPTER C. CANCELLATION AND SUSPENSION OF PERMITS

- 11.61. Cancellation or Suspension of Permit.
- 11.611. Conviction of Offense Relating to Discrimination.
- 11.62. Hearing for Cancellation or Suspension of Permit.
- 11.63. Notice of Hearing.
- 11.64. Alternatives to Suspension, Cancellation.
- 11.65. Notice of Cancellation or Suspension.
- 11.66. Suspension or Cancellation Against Retailer.
- 11.67. Appeal From Cancellation, Suspension, or Refusal of License or Permit.
- 11.68. Activities Prohibited During Suspension.

###### Section

- 11.69. Disposal of Beverages in Bulk.
- 11.70. Liability of Surety.
- 11.71. Surety May Terminate Liability.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 11.01. Permit Required

(a) No person who has not first obtained a permit of the type required for the privilege exercised may, in a wet area, do any of the following:

(1) manufacture, distill, brew, sell, possess for the purpose of sale, import into this state, export from this state, transport, distribute, warehouse, or store liquor;

(2) solicit or take orders for liquor; or

(3) for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process liquor.

(b) A person may manufacture, distill, brew, sell, import, export, transport, distribute, warehouse, store, possess, possess for the purpose of sale, bottle, rectify, blend, treat, fortify, mix, or process liquor, or possess equipment or material designed for or capable of use for manufacturing liquor, if the right or privilege of doing so is granted by this code.

(c) A right or privilege granted by this section as an exception to prohibitions contained elsewhere in this code may be exercised only in the manner provided. An act done by a person which is not permitted by this code is unlawful.

[Acts 1977, 65th Leg., p. 404, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 11.02. Separate Permit Required

A separate permit shall be obtained and a separate fee paid for each outlet of liquor in the state.

[Acts 1977, 65th Leg., p. 404, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 11.03. Nature of Permit

A permit issued under this code is a purely personal privilege and is subject to revocation as provided in this code. It is not property, is not subject to execution, does not pass by descent or distribution, and except as otherwise provided in this code, ceases on the death of the holder.

[Acts 1977, 65th Leg., p. 404, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 11.04. Must Display Permit

All permits shall be displayed in a conspicuous place at all times on the licensed premises.

[Acts 1977, 65th Leg., p. 404, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 11.05. Unauthorized Use of Permit

No permittee may consent to or allow the use or display of his permit by a person other than the person to whom the permit was issued.

[Acts 1977, 65th Leg., p. 404, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.06. Privileges Limited to Licensed Premises**

No person may use a permit or exercise any privileges granted by the permit except at the place, address, premises, or location for which the permit is issued, except as otherwise provided by this code. [Acts 1977, 65th Leg., p. 405, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.07. Duplicate or Corrected Permit**

If a permit is lost, destroyed, or needs to be changed, the commission may issue a duplicate or corrected permit. [Acts 1977, 65th Leg., p. 405, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.08. Change of Location**

If a permittee desires to change the location of his place of business, he may file an application for a change of location with the commission. The application shall be on a form prescribed by the commission. The commission or administrator may deny the application on any ground for which an original application may be denied. The application is subject to protest and hearing in the same manner as an original application for a permit. [Acts 1977, 65th Leg., p. 405, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.09. Expiration of Permit**

A permit issued under this code expires one year after the date it is issued except as otherwise provided by this code. [Acts 1977, 65th Leg., p. 405, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.10. Succession on Death, Bankruptcy, Etc.**

On the death of the permittee or of a person having an interest in the permit, or on bankruptcy, receivership, or partnership dissolution, the receiver or successor in interest may apply to the county judge of the county where the licensed premises are located for certification that he is the receiver or successor in interest. On certification, unless good cause for refusal is shown, the commission or administrator shall grant permission, by letter or otherwise, for the receiver or successor in interest to operate the business during the unexpired portion of the permit. The permit may not be renewed, but the receiver or successor in interest may apply for an original permit or license. A receiver or successor in interest operating for the unexpired portion of the permit is subject to the provisions of this code relating to suspension or cancellation of a permit. [Acts 1977, 65th Leg., p. 405, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 11.11 to 11.30 reserved for expansion]

SUBCHAPTER B. APPLICATION FOR AND ISSUANCE OF PERMITS

**§ 11.31. Application for Permit**

All permits shall be applied for and obtained from the commission. This section does not apply to wine and beer retailer's permits, except those for railway cars or excursion boats, or to wine and beer retailer's off-premise permits. [Acts 1977, 65th Leg., p. 405, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.32. Renewal Application**

Renewal applications shall be made under oath and shall contain all information required by the commission or administrator showing that the applicant is qualified to hold the permit. The application shall be accompanied by the required bond and state fee. The commission or administrator may issue a renewal permit if it is found that the applicant is qualified. [Acts 1977, 65th Leg., p. 405, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.33. Application Forms**

All permit application forms shall be provided by the commission. [Acts 1977, 65th Leg., p. 406, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.34. Consolidated Application**

(a) An applicant for a wholesaler's, class B wholesaler's, rectifier's, brewer's, distiller's, or winery permit may consolidate in a single application his application for that permit and his application for:

- (1) private storage;
- (2) storage in a public bonded warehouse;
- (3) a private carrier's permit; and
- (4) any other permit he is qualified to receive.

(b) An applicant who files a consolidated application must pay the fee prescribed in this code for each permit included in the application.

[Acts 1977, 65th Leg., p. 406, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, § 2, eff. June 13, 1979.]

**§ 11.35. Payment of Fee**

Each permit application must be accompanied by a cashier's check or money order for the amount of the state fee, payable to the order of the state treasurer. [Acts 1977, 65th Leg., p. 406, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.36. Refund of Fee**

The commission may not refund a permit fee except when the permittee is prevented from continuing in business because of a local option election or when an application for a permit is rejected by the commission or administrator. As much of the proceeds from permit fees as is necessary may be appropriated for that purpose. [Acts 1977, 65th Leg., p. 406, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 11.37. Certification of Wet or Dry Status

(a) The county clerk of the county in which an application for a permit is made shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by any valid order of the commissioners court.

(b) The city secretary or clerk of the city in which an application for a permit is made shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the permit is sought is prohibited by charter or ordinance.

[Acts 1977, 65th Leg., p. 406, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 11.38. Local Fee Authorized

(a) The governing body of a city or town may levy and collect a fee not to exceed one-half the state fee for each permit issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee equal to one-half of the state fee for each permit issued for premises located within the county. Those authorities may not levy or collect any other fee or tax from the permittee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j-4.1, Vernon's Texas Civil Statutes), and the local sales and use tax levied under the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes).

(b) The commission or administrator may cancel a permit if it finds that the permittee has not paid a fee levied under this section. A permittee who sells an alcoholic beverage without first having paid a fee levied under this section commits a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

(c) Nothing in this code shall be construed as a grant to any political subdivision of the authority to regulate permittees except by collecting the fees authorized in this section and exercising those powers granted to political subdivisions by other provisions of this code.

(d) The following are exempt from the fee authorized in this section:

- (1) agent's, airline beverage, industrial, carrier's, private carrier's, private club registration, local cartage, storage, and temporary wine and beer retailer's permits;
  - (2) a wine and beer retailer's permit issued for a dining, buffet, or club car; and
  - (3) a mixed beverage permit during the three-year period following the issuance of the permit.
- [Acts 1977, 65th Leg., p. 406, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, § 3, eff. June 13, 1979.]

### § 11.39. Applicant to Publish Notice

(a) Every applicant for a pharmacist's medicinal, brewer's, distiller's, mixed beverage, private club registration, winery, wholesaler's, class B wholesaler's, wine bottler's, or package store permit shall give notice of the application by publication at his own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which his place of business is located. If no newspaper is published in the city or town, the notice shall be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in the county, the notice shall be published in a qualified newspaper published in the closest neighboring county and circulated in the county of the applicant's residence.

(b) The notice shall be printed in 10-point boldface type and shall include:

- (1) the type of permit to be applied for;
- (2) the exact location of the place of business for which the permit is sought;
- (3) the names of each owner of the business and, if the business is operated under an assumed name, the trade name together with the names of all owners; and
- (4) if the applicant is a corporation, the names and titles of all officers.

(c) An applicant for a renewal permit is not required to publish notice.

(d) This section does not apply to an applicant for a daily temporary mixed beverage permit or a caterer's permit.

[Acts 1977, 65th Leg., p. 407, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, § 4, eff. June 13, 1979; Acts 1981, 67th Leg., p. 1849, ch. 432, § 1, eff. June 11, 1981.]

Section 2 of the 1981 amendatory act provides:

"This Act does not apply to a permit application pending on the effective date of this Act."

### § 11.40. Notice to County Judge

The commission shall give notice of all permit applications to the county judge of the county in which the applicant's place of business is located, unless the county judge waives the required notice in writing. Notice is not required in the case of an application for a wine and beer retailer's, wine and beer retailer's off-premise, temporary wine and beer retailer's, carrier's, private carrier's, airline beverage, industrial, agent's, manufacturer's, agent's, bonded warehouse, or storage permit.

[Acts 1977, 65th Leg., p. 407, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 11.41. Recommendation of Local Officials

(a) When a person applies for a permit, the commission or administrator shall give due consideration to the recommendations of the mayor, chief of po-

lice, city marshal, or city attorney of the city or town in which the premises sought to be licensed are located and of the county judge, sheriff, or county or district attorney of the county in which the premises sought to be licensed are located. If a protest against the issuance of a permit is made to the commission by any of these officers and it is found on a hearing or finding of facts that the issuance of the permit would be in conflict with the provisions of this code, the commission or administrator shall enter an order setting forth the reasons for refusal. A copy of the order shall be immediately mailed or delivered to the applicant.

(b) In the granting or withholding of a permit to sell alcoholic beverages at retail, the commission or administrator may give consideration to a recommendation made in writing by the commissioners court of the county in which the applicant proposes to conduct his business or by a representative of the commission.

[Acts 1977, 65th Leg., p. 408, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.42. Statement of Stock Ownership**

The commission at any time may require an officer of a corporation holding a permit to file a sworn statement showing the actual owners of the stock of the corporation, the amount of stock owned by each, the officers of the corporation, and any information concerning the qualifications of the officers or stockholders.

[Acts 1977, 65th Leg., p. 408, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.43. Discretion to Grant or Refuse Permit**

The commission and administrator have discretionary authority to grant or refuse to issue an original or renewal permit under the provisions of this subchapter or any other applicable provision of this code.

[Acts 1977, 65th Leg., p. 408, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.44. Premises Ineligible for Permit or License**

If an order of suspension against a permit or license is pending or unexpired, or if the commission has initiated action to cancel or suspend a permit or license, no permit or license may be issued for or transferred to the same licensed premises.

[Acts 1977, 65th Leg., p. 408, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.45. "Applicant" Defined**

The word "applicant," as used in Sections 11.46 through 11.48 of this code, also includes, as of the date of the application, each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock. This section shall not be construed as prohibiting anything permitted by Section 22.06, 24.05, or 102.05 of this code.

[Acts 1977, 65th Leg., p. 408, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.46. General Grounds for Refusal**

(a) The commission or administrator may refuse to issue an original or renewal permit with or without a hearing if it has reasonable grounds to believe and finds that any of the following circumstances exists:

(1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code during the two years immediately preceding the filing of his application;

(2) three years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

(3) within the six-month period immediately preceding his application the applicant violated or caused to be violated a provision of this code or a rule or regulation of the commission which involves moral turpitude, as distinguished from a technical violation of this code or of the rule;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;

(5) the applicant is indebted to the state for any taxes, fees, or payment of penalty imposed by this code or by rule of the commission;

(6) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad;

(7) the applicant is less than 19 years of age;

(8) the place or manner in which the applicant may conduct his business warrants the refusal of a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(9) the applicant is in the habit of using alcoholic beverages to excess or is physically or mentally incapacitated;

(10) the applicant will sell liquor unlawfully in a dry area or in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so;

(11) the applicant is not a United States citizen or has not been a citizen of Texas for a period of three years immediately preceding the filing of his application, unless he was issued a permit or renewal permit on or before September 1, 1948, and has at some time been a United States citizen;

(12) the applicant does not have an adequate building available at the address for which the permit is sought;

(13) the applicant is residentially domiciled with a person whose permit or license has been cancelled for cause within the 12 months immediately preceding the date of his present application;

(14) the applicant has failed or refused to furnish a true copy of his application to the commission's district office in the district in which the premises for which the permit is sought are located; or

(15) during the six months immediately preceding the filing of the application the premises for which the permit is sought have been operated, used, or frequented for a purpose or in a manner that is lewd, immoral, or offensive to public decency.

(b) The commission or administrator shall refuse to issue an original permit authorizing the retail sale of alcoholic beverages unless the applicant for the permit files with the application a certificate issued by the comptroller of public accounts stating that the applicant holds, or has applied for and satisfies all legal requirements for the issuance of, a sales tax permit, if required, for the place of business for which the alcoholic beverage permit is sought.

[Acts 1977, 65th Leg., p. 408, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1965, ch. 777, § 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 252, ch. 107, § 1, eff. Sept. 1, 1981.]

Section 17 of the 1981 amendatory act provides:

"This Act does not affect the eligibility of a person who holds a license or permit on the effective date of this Act to continue to hold the license or permit and to continue to engage in the activities authorized by the license or permit until the expiration of the license or permit."

#### § 11.47. Refusal of Permit: Interest in Beer Establishment

The commission or administrator may refuse to issue an original or renewal permit with or without a hearing if it has reasonable grounds to believe and finds that the applicant or a person with whom he is residentially domiciled has a financial interest in a permit or license authorizing the sale of beer at retail, except as is authorized by Section 22.06, 24.05, or 102.05 of this code. This section does not apply to an applicant for a permit which authorizes the sale of mixed beverages.

[Acts 1977, 65th Leg., p. 409, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 11.48. Refusal of Package Store or Mixed Beverage Permit

(a) The commission or administrator may refuse to issue an original or renewal mixed beverage permit with or without a hearing if it has reasonable grounds to believe and finds that the applicant, directly or indirectly, or through a subsidiary, affiliate, agent, or employee, or through an officer, director, or firm member, owns an interest of any kind in the premises, business, or permit of a package store.

(b) The commission or administrator may refuse to issue an original or renewal package store permit with or without a hearing if it has reasonable grounds to believe and finds that the applicant, directly or indirectly, through a subsidiary, affiliate,

agent, or employee, or through an officer, director, or firm member, owns an interest of any kind in the premises, business, or permit of a mixed beverage establishment.

(c) This section does not apply to anything permitted by Section 102.05 of this code.

[Acts 1977, 65th Leg., p. 409, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 11.49. Premises Defined; Designation of Licensed Premises

(a) In this code, "premises" means the grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

(b) (1) Subject to the approval of the commission or the administrator, and except as provided in Subsection (c) of this section, an applicant for a permit or license may designate a portion of the grounds, buildings, vehicles, and appurtenances to be excluded from the licensed premises. (2) If such a designation has been made and approved as to the holder of a license or permit authorizing the sale of alcoholic beverages at retail or as to a private club registration permit, the sharing of space, employees, business facilities, and services with another business entity (including the permittee's lessor, which, if a corporation, may be a domestic or foreign corporation, but excluding a business entity holding any type of winery permit, a manufacturer's license, or a general, local, or branch distributor's license), does not constitute a subterfuge or surrender of exclusive control in violation of Section 109.53 of this code or the use or display of the license for the benefit of another in violation of Subdivision (15) of Subsection (a) of Section 61.71 of this code. This subsection shall not apply to original or renewal package store permits, wine only package store permits, local distributor's permits, or any type of wholesaler's permits.

(c) An applicant for an original or renewal package store permit, wine only package store permit, local distributor's permit, or any type of wholesaler's permit may not take advantage of the right conferred by Subsection (b) of this section except as permitted in Section 11.50 or 109.53 of this code.

(d) Any package store, wine only package store, wholesaler's, or local distributor's permittee who is injured in his business or property by another person (other than a person in his capacity as the holder of a wine and beer retailer's permit, wine and beer retailer's off-premise permit, private club registration permit, or mixed beverage permit or any person in the capacity of lessor of the holder of such a permit) by reason of anything prohibited in this section or Section 109.53 of this code is entitled to the same remedies available to a package store permittee under Section 109.53 of this code. Except for

actions brought against a person in his capacity as the holder of or as the lessor of the holder of a wine and beer retailer's permit, wine and beer retailer's off-premise permit, mixed beverage permit, or private club registration permit, the statute of limitations for any action brought under this section or Section 109.53 of this code for any cause of action arising after the effective date of this Act is four years unless a false affidavit has been filed with the commission in which event the statute of limitations is 10 years for all purposes.

(e) When a designation under Subsection (b) of this section is made by a wine and beer retailer or a beer retailer, selling primarily for off-premise consumption, or by a wine and beer retailer's off-premise permittee, no more than 20 percent of the retail floor and display space of the entire premises may be included in the licensed premises, and all the retail floor and display space in the licensed premises must be compact and contiguous and may not be gerrymandered. However, the retail floor and display space included in the licensed premises may be in two separate locations within the retail premises if the total retail floor and display space included in the licensed premises does not exceed 20 percent of the floor and display space of the entire premises and each of the two portions of floor and display space included in the licensed premises is itself compact and contiguous and not gerrymandered. In addition to the one or two separate locations of retail floor and display space on the premises, the licensed premises may include the cash register and check-out portions of the premises provided that (1) no alcoholic beverages are displayed in the check-out or cash register portion of the premises, and (2) the area of the check-out and cash register portions of the premises are counted towards the total of 20 percent of the retail floor and display space that may be dedicated to the sale and display of wine and beer. A storage area that is not accessible or visible to the public may be included in the licensed premises but shall not be considered retail floor and display space for purposes of this section. The commission or administrator shall adopt rules to implement this subsection and to prevent gerrymandering.

[Acts 1977, 65th Leg., p. 410, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1443, ch. 634, § 1, eff. Aug. 27, 1979.]

Section 5 of the 1979 amendatory act provided:

"This Act takes effect immediately, except that Section 11.49(d), Alcoholic Beverage Code, as it applies to injury caused by a wine only package store permittee takes effect September 1, 1980."

**§ 11.491. Expired**

Former § 11.491, added by Acts 1979, 66th Leg., p. 1444, ch. 634, § 2, and relating to a change of license or permit, expired of its own terms on September 1, 1980, except that it continues in effect for consideration and disposition of applications for changes of licenses or permits filed before that date.

**§ 11.50. Licensing a Portion of a Building as Premises**

(a) This section applies to a package store permit which was issued on or before April 1, 1971, and which was in good standing, not under suspension, and in actual operation and doing business on that date, unless temporarily prevented from operation by a natural disaster. This section does not apply to a permit if a change in the size or location of the licensed premises has occurred subsequent to April 1, 1971, or if after that date a change in ownership has occurred, by majority stock transfer or otherwise, except by devise or descent where the holder of the permit died on or after April 1, 1971.

(b) Notwithstanding any other provision of this code, the holder of a package store permit to which this section applies may continue to operate a package store on premises comprising a portion of a building if not later than November 28, 1971, he clearly defined the licensed premises by isolating it from the remainder of the building by the erection of a wall or screen so that the licensed premise is accessible from the remainder of the building only through a door or archway, eight feet or less in width, in the wall or screen. The door or archway must be kept closed during the hours in which it is not legal to sell liquor.

(c) If the right to continue operation under this exception terminates for any reason, the right shall not revive.

[Acts 1977, 65th Leg., p. 410, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 11.51 to 11.60 reserved for expansion]

**SUBCHAPTER C. CANCELLATION AND SUSPENSION OF PERMITS**

**§ 11.61. Cancellation or Suspension of Permit**

(a) As used in Subsection (b) of this section, the word "permittee" also includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock. This section shall not be construed as prohibiting anything permitted under Section 22.06, 24.05, or 102.05 of this code.

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

- (1) the permittee has been finally convicted of a violation of this code;
- (2) the permittee violated a provision of this code or a rule of the commission;
- (3) the permittee was finally convicted of a felony while holding an original or renewal permit;

(4) the permittee made a false or misleading statement in connection with his original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission, its officers, or employees;

(5) the permittee is indebted to the state for taxes, fees, or payment of penalties imposed by this code or by a rule of the commission;

(6) the permittee is not of good moral character or his reputation for being a peaceable and law-abiding citizen in the community where he resides is bad;

(7) the place or manner in which the permittee conducts his business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(8) the permittee is not maintaining an acceptable bond;

(9) the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;

(10) the permittee is insolvent or mentally or physically unable to carry on the management of his establishment;

(11) the permittee is in the habit of using alcoholic beverages to excess;

(12) the permittee knowingly misrepresented to a customer or the public any liquor sold by him;

(13) the permittee was intoxicated on the licensed premises;

(14) the permittee sold or delivered an alcoholic beverage to an intoxicated person or allowed an intoxicated person to remain on the premises;

(15) the permittee possessed on the licensed premises an alcoholic beverage that he was not authorized by his permit to purchase and sell;

(16) a package store or wine only package store permittee transported or shipped liquor, or caused it to be transported or shipped, into a dry state or a dry area within this state;

(17) the permittee is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling beer at retail, other than a mixed beverage establishment, except as authorized by Section 22.06, 24.05, or 102.05 of this code;

(18) the permittee is residentially domiciled with a person whose permit or license was cancelled for cause within the 12-month period preceding his own application;

(19) the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of three years immediately preceding the filing of his application, unless he was issued an

original or renewal permit on or before September 1, 1948, and has been a United States citizen at some time; or

(20) the permittee permitted a person to open a container of alcoholic beverage or possess an open container of alcoholic beverage on the licensed premises unless a mixed beverage permit has been issued for the premises.

(c) The commission or administrator may refuse to renew or, after notice and hearing, suspend for not more than 60 days or cancel a permit if the commission or administrator finds that the permittee:

(1) no longer holds a sales tax permit, if required, for the place of business covered by the alcoholic beverage permit; or

(2) is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Tax Code), or is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes).

[Acts 1977, 65th Leg., p. 410, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1967, ch. 777, §§ 4, 5, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 1779, ch. 389, § 32, eff. Jan. 1, 1982.]

#### § 11.611. Conviction of Offense Relating to Discrimination

The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing that:

(1) the permittee has been finally convicted of any offense under state or federal law or a municipal ordinance prohibiting the violation of an individual's civil rights or the discrimination against an individual on the basis of the individual's race, color, creed, or national origin; and

(2) the offense was committed on the licensed premises or in connection with the operation of the permittee's business.

[Added by Acts 1979, 66th Leg., p. 1440, ch. 632, § 1, eff. Aug. 27, 1979.]

#### § 11.62. Hearing for Cancellation or Suspension of Permit

The commission or administrator may, on the motion of either, set a date for a hearing to determine if a permit should be cancelled or suspended. The commission or administrator shall set a hearing on the petition of the mayor, chief of police, city marshal, or city attorney of the city or town in which the licensed premises are located or of the county judge, sheriff, or county or district attorney of the

county in which the licensed premises are located. The petition must be supported by the sworn statement of at least one credible person. The commission or administrator shall give the permittee notice of the hearing and of his right to appear and show cause why the permit should not be cancelled. [Acts 1977, 65th Leg., p. 412, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.63. Notice of Hearing**

At least 10 days' notice shall be given when a hearing is provided by this code. A notice of hearing for the refusal, cancellation, or suspension of a license or permit may be served personally by a representative of the commission or sent by registered or certified mail addressed to the licensee or permittee.

[Acts 1977, 65th Leg., p. 412, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.64. Alternatives to Suspension, Cancellation**

(a) When the commission or administrator is authorized to suspend a permit or license under this code, the commission or administrator shall give the permittee or licensee the opportunity to pay a civil penalty rather than have the permit or license suspended. The commission or administrator shall determine the amount of the penalty and in doing so shall consider the economic impact a suspension would have on the permittee or licensee. The amount of the civil penalty may not be less than \$150 for each day the permit or license was to have been suspended. If the licensee or permittee does not pay the penalty before the sixth day after the commission or administrator notifies him of the amount, he loses the opportunity to pay it and the commission or administrator shall impose the suspension.

(b) In the case of a violation of this code by a permittee or a retail dealer's off-premise licensee, the commission or administrator may relax any provision of the code relating to the suspension or cancellation of the permit or license and assess a sanction the commission or administrator finds just under the circumstances, and the commission or administrator may reinstate the license or permit at any time during the period of suspension on payment by the permittee or licensee of a fee of not less than \$75 nor more than \$500, if the commission or administrator finds that any of the circumstances described in Subsection (c) of this section exists.

(c) The following circumstances justify the application of Subsection (b) of this section:

(1) that the violation could not reasonably have been prevented by the permittee or licensee by the exercise of due diligence;

(2) that the permittee or licensee was entrapped;

(3) that an agent, servant, or employee of the permittee or licensee violated this code without the knowledge of the permittee or licensee;

(4) that the permittee or licensee did not knowingly violate this code; or

(5) that the violation was a technical one.

(d) Fees and civil penalties received by the commission under this section shall be deposited in the confiscated liquor fund.

[Acts 1977, 65th Leg., p. 413, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1180, ch. 453, § 1, eff. Sept. 1, 1977.]

**§ 11.65. Notice of Cancellation or Suspension**

A notice of cancellation or suspension of a license or permit shall be given to the licensee or permittee personally or by registered or certified mail. Cancellation or suspension takes effect when the notice is given or delivered.

[Acts 1977, 65th Leg., p. 412, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.66. Suspension or Cancellation Against Retailer**

Except for a violation of the credit or cash law, a penalty of suspension or cancellation of the license or permit of a retailer shall be assessed against the permit or license for the premises where the offense was committed.

[Acts 1977, 65th Leg., p. 413, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.67. Appeal From Cancellation, Suspension, or Refusal of License or Permit**

(a) An appeal from an order of the commission or administrator refusing, cancelling, or suspending a permit or license may be taken to the district court of the county in which the applicant, licensee, or permittee resides or in which the owner of involved real or personal property resides.

(b) The appeal shall be under the substantial evidence rule and against the commission alone as defendant. The rules applicable to ordinary civil suits apply, with the following exceptions, which shall be construed literally:

(1) the appeal shall be perfected and filed within 30 days after the date the order, decision, or ruling of the commission or administrator becomes final and appealable;

(2) the case shall be tried before a judge within 10 days from the date it is filed;

(3) neither party is entitled to a jury; and

(4) the order, decision, or ruling of the commission or administrator may be suspended or modified by the court pending a trial on the merits, but the final judgment of the district court may not be modified or suspended pending appeal.

[Acts 1977, 65th Leg., p. 413, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2636, ch. 707, § 18, eff. Aug. 31, 1981.]

**§ 11.68. Activities Prohibited During Suspension**

No permittee may sell, offer for sale, distribute, or deliver any alcoholic beverage while his permit is suspended.

[Acts 1977, 65th Leg., p. 413, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.69. Disposal of Beverages in Bulk**

The commission may provide by rule the manner and time in which a person whose license or permit is suspended or cancelled or a receiver or successor in interest of a deceased, insolvent, or bankrupt permittee or licensee may dispose of in bulk the alcoholic beverages on hand at the termination of the use of the permit or license.

[Acts 1977, 65th Leg., p. 413, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.70. Liability of Surety**

(a) If a permittee or a person having an interest in a permit is finally convicted of the violation of a provision of this code or of a rule or regulation of the commission, or if a permit is cancelled by the commission and no appeal is pending, the commission may institute action in its own name, for the benefit of the state, on the bond supporting the permit. If the cancellation or conviction is proved, the court shall render judgment in favor of the commission for all fines, costs, and 15 percent of the face value of the bond.

(b) If a permittee fails to seasonably remit any money due the state, the surety on his bond is liable for the amount of money due the state plus a penalty of 15 percent of the face value of the bond.

(c) A suit for the collection of any of the amounts specified in this section shall be brought in a court of competent jurisdiction in Travis County.

(d) Nothing in this code shall be construed as imposing on a surety a greater liability than the total amount of the bond less any portion of the bond which has been extinguished by a prior recovery.

[Acts 1977, 65th Leg., p. 413, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 11.71. Surety May Terminate Liability**

A surety under the bond of a permittee may terminate its liability by giving 30 days' written notice of termination, served personally or by registered mail on the principal and the commission. The surety is discharged from all liability under the bond for any act or omission of the principal occurring after the expiration of 30 days from the date the notice is served. If the principal fails to duly file a new bond in the same amount and with the same conditions as the original bond before the expiration of the 30-day period, his permit shall terminate when the 30-day period expires.

[Acts 1977, 65th Leg., p. 414, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 12. BREWER'S PERMIT**

## Section

12.01. Authorized Activities.

12.02. Fee.

12.03. Ale or Malt Liquor for Export.

12.04. Continuance of Operation After Local Option Election.

**§ 12.01. Authorized Activities**

The holder of a brewer's permit may:

(1) manufacture, bottle, package, and label malt liquor;

(2) import ale and malt liquor acquired from a holder of a nonresident brewer's permit; and

(3) sell the ale and malt liquor only to wholesale permit holders in this state or to qualified persons outside the state.

[Acts 1977, 65th Leg., p. 414, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 12.02. Fee**

The annual state fee for a brewer's permit is \$1,000.

[Acts 1977, 65th Leg., p. 414, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 12.03. Ale or Malt Liquor for Export**

Regardless of any other provision of this code, a holder of a brewer's permit may manufacture and package malt beverages, or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The permittee may export the beverages out of the state or deliver them at his premises for shipment out of the state without being liable for any state tax on beer, ale, or malt liquor sold for resale in the state.

[Acts 1977, 65th Leg., p. 414, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 12.04. Continuance of Operation After Local Option Election**

The right of a brewer's permittee to continue operation after a prohibitory local option election is covered by Section 251.75 of this code.

[Acts 1977, 65th Leg., p. 414, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 13. NONRESIDENT BREWER'S PERMIT**

## Section

13.01. Permit Required.

13.02. Fee.

13.03. Nonresident Seller's Permit Required.

**§ 13.01. Permit Required**

A nonresident brewer's permit is required for any brewer located outside the state before his ale or malt liquor may be imported into Texas or offered for sale in Texas.

[Acts 1977, 65th Leg., p. 415, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 13.02. Fee

The annual state fee for a nonresident brewer's permit is \$1,000.

[Acts 1977, 65th Leg., p. 415, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 13.03. Nonresident Seller's Permit Required

The holder of a nonresident brewer's permit is also required to hold a nonresident seller's permit.

[Acts 1977, 65th Leg., p. 415, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 14. DISTILLER'S PERMIT

Section

14.01. Authorized Activities.

14.02. Fee.

14.03. Continuance of Operation After Local Option Election.

§ 14.01. Authorized Activities

(a) The holder of a distiller's permit may:

(1) manufacture and rectify distilled spirits, except alcohol, and bottle, package, and label them;

(2) sell the distilled spirits in this state to holders of wholesaler's permits and to qualified persons outside the state; and

(3) import distilled spirits, to be used only for manufacturing purposes, from holders of nonresident seller's permits.

(b) The privileges granted to a distiller are confined strictly to distilled spirits manufactured and rectified under his permit.

[Acts 1977, 65th Leg., p. 415, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 14.02. Fee

The annual state fee for a distiller's permit is \$1,000.

[Acts 1977, 65th Leg., p. 415, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 14.03. Continuance of Operation After Local Option Election

The right of a distiller's permittee to continue in operation after a prohibitory local option election is covered by Section 251.76 of this code.

[Acts 1977, 65th Leg., p. 415, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 15. RECTIFIER'S PERMIT

Section

15.01. Authorized Activities.

15.02. Fee.

§ 15.01. Authorized Activities

The holder of a rectifier's permit may:

(1) rectify, purify, and refine distilled spirits and wines other than vermouth by any process other than distillation;

(2) mix wines, distilled spirits, or other liquors;

(3) bottle, label, and package his finished products;

(4) sell his finished products to wholesale permit holders in this state or to qualified persons outside the state; and

(5) import distilled spirits only from holders of nonresident seller's permits for rectification purposes but not for resale.

[Acts 1977, 65th Leg., p. 415, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 15.02. Fee

The annual state fee for a rectifier's permit is \$1,000.

[Acts 1977, 65th Leg., p. 416, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 16. WINERY PERMIT

Section

16.01. Authorized Activities.

16.02. Fee.

16.03. Importation for Blending.

16.04. Federal Permit Required.

16.05. Location of Premises.

§ 16.01. Authorized Activities

The holder of a winery permit may:

(1) manufacture, bottle, label, and package wine containing not more than 24 percent alcohol by volume;

(2) manufacture and import grape brandy for fortifying purposes only and to be used only on his licensed premises;

(3) sell wine in this state to holders of wholesaler's permits, winery permits, and wine bottler's permits;

(4) sell wine to ultimate consumers in unbroken packages for off-premises consumption in an amount not to exceed 25,000 gallons annually;

(5) sell the wine outside this state to qualified persons;

(6) blend wines; and

(7) dispense free wine for consumption on the winery premises.

[Acts 1977, 65th Leg., p. 416, ch. 194, § 1, eff. Sept. 1, 1977.

Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, § 1, eff.

June 13, 1979; Acts 1981, 67th Leg., p. 2212, ch. 515, § 1, eff. Aug. 31, 1981.]

Subsections 13(b) and (c) of the 1979 amendatory act provided:

"(b) Each class A winery permit, class B winery permit, and farm winery permit in existence on the effective date of this Act is converted to a winery permit subject to the provisions of Chapter 16, Alcoholic Beverage Code, as if the permit had originally been issued under that chapter as amended by this Act. Each of those permits expires on the date it would have expired had this Act not been in effect.

"(c) The Texas Alcoholic Beverage Commission shall treat an application for an original or renewal class A winery permit, class B winery permit, or farm winery permit that is pending on the effective date of this Act as an original or renewal application, respectively, for a winery permit. Such an application is sufficient if it was sufficient according to the law that governed it at the time the application was made or if it is sufficient under the Alcoholic Beverage Code as it exists after this Act takes effect, except that the commission shall require the applicant to submit any additional state fee that may be due before issuance of the original or renewal permit."

**§ 16.02. Fee**

The annual state fee for a winery permit is \$50. [Acts 1977, 65th Leg., p. 416, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, § 1, eff. June 13, 1979.]

**§ 16.03. Importation for Blending**

The holder of a winery permit may, for blending purposes only, import wines or grape brandy. The wine or grape brandy may be purchased only from the holders of nonresident seller's permits. The state tax on wines imported for blending purposes does not accrue until the wine has been used for blending purposes and the resultant product placed in containers for sale.

[Acts 1977, 65th Leg., p. 416, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, § 1, eff. June 13, 1979.]

**§ 16.04. Federal Permit Required**

A winery permit may be granted only on presentation of a winemaker's and blender's basic permit of the federal alcohol tax unit.

[Acts 1977, 65th Leg., p. 416, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2116, ch. 819, § 1, eff. June 13, 1979.]

**§ 16.05. Location of Premises**

A winery permit may be issued for licensed premises in a dry area, but the permittee may not sell wine in a dry area. If the premises are in a dry area, the permittee may sell wine in this state to permit holders authorized to sell wine to the ultimate consumer in unbroken packages for off-premises consumption in an amount not to exceed 25,000 gallons annually and to holders of wholesaler's permits, winery permits, and wine bottler's permits. [Added by Acts 1979, 66th Leg., p. 2116, ch. 819, § 1 eff. June 13, 1979.]

**CHAPTER 17. CLASS B WINERY PERMIT [REPEALED]**

§§ 17.01 to 17.03. Repealed by Acts 1979, 66th Leg., p. 2119, ch. 819, § 13, eff. June 13, 1979

The repealed sections, relating to a class B winery permit, were derived from Acts 1977, 65th Leg., p. 416, ch. 194, § 1.

**CHAPTER 18. WINE BOTTLER'S PERMIT**

Section	
18.01.	Authorized Activities.
18.02.	Fee.
18.03.	Permanent Record.

**§ 18.01. Authorized Activities**

The holder of a wine bottler's permit may:

- (1) purchase and import wine only from the holders of nonresident seller's permits or their agents who are holders of manufacturer's agent's permits;
- (2) purchase wine in this state from holders of wholesaler's; winery, or wine bottler's permits;
- (3) bottle, rebottle, label, package, and sell wine to permit holders in this state authorized to purchase and sell wine; and
- (4) sell wine to qualified persons outside the state.

[Acts 1977, 65th Leg., p. 417, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, § 5, eff. June 13, 1979.]

**§ 18.02. Fee**

The annual state fee for a wine bottler's permit is \$150.

[Acts 1977, 65th Leg., p. 417, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 18.03. Permanent Record**

A holder of a wine bottler's permit shall keep a permanent record of each purchase and sale of wine. The record shall include the name of the person from whom the wine is purchased or to whom it is sold, the number of gallons purchased or sold, and the percentage of alcohol of the wine by volume.

[Acts 1977, 65th Leg., p. 417, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 19. WHOLESALER'S PERMIT**

Section	
19.01.	Authorized Activities.
19.02.	Fee.
19.03.	Promotional Activities.
19.04.	Miniature Containers.

**§ 19.01. Authorized Activities**

The holder of a wholesaler's permit may:

- (1) purchase and import liquor from distillers, brewers, wineries, wine bottlers, rectifiers, and manufacturers who are holders of nonresident seller's permits or from their agents who hold manufacturer's agents permits;
- (2) purchase liquor from other wholesalers in the state;
- (3) sell liquor in the original containers in which it is received to retailers and wholesalers in this state authorized to sell the liquor; and
- (4) sell liquor to qualified persons outside the state.

[Acts 1977, 65th Leg., p. 417, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 19.02. Fee**

The annual state fee for a wholesaler's permit is \$1,250.

[Acts 1977, 65th Leg., p. 418, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 19.03. Promotional Activities**

The holder of a wholesaler's permit or his agent may enter the licensed premises of a mixed beverage permittee or private club registration permittee to determine the brands offered for sale and suggest or promote the sale of other brands, to the extent authorized by Section 102.07 of this code. The holder or his agent may not accept a direct order from a mixed beverage permittee except for wine or malt liquor.

[Acts 1977, 65th Leg., p. 418, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 19.04. Miniature Containers**

In addition to other authorized containers, a wholesaler's permittee may import, sell, offer for sale, and possess for the purpose of resale distilled spirits, wine, and vinous liquors in containers of not less than one ounce nor more than two ounces. Liquor in containers of that size may be sold to:

- (1) package store permittees for resale to airline beverage permittees, as provided in Section 34.05 of this code; and
- (2) local distributor's permittees.

[Acts 1977, 65th Leg., p. 418, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 20. GENERAL CLASS B WHOLESALER'S PERMIT**

Section	
20.01.	Authorized Activities.
20.02.	Fee.

**§ 20.01. Authorized Activities**

The holder of a general class B wholesaler's permit may:

(1) purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and wine bottlers who are the holders of nonresident seller's permits or their agents who are holders of manufacturer's agent permits;

(2) purchase malt and vinous liquors from holders of brewer's permits or other wholesalers in the state;

(3) sell the malt and vinous liquors in the original containers in which they are received to retailers and wholesalers authorized to sell them in this state, including holders of local distributor's permits, mixed beverage permits, and daily temporary mixed beverage permits; and

(4) sell the malt and vinous liquors to qualified persons outside the state.

[Acts 1977, 65th Leg., p. 418, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 20.02. Fee**

The annual state fee for a general class B wholesaler's permit is \$200.

[Acts 1977, 65th Leg., p. 418, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 21. LOCAL CLASS B WHOLESALER'S PERMIT**

Section	
21.01.	Authorized Activities.
21.02.	Fee.

**§ 21.01. Authorized Activities**

The holder of a local class B wholesaler's permit may:

(1) purchase and import malt and vinous liquors from brewers, wineries, rectifiers, and wine manufacturers and bottlers who are holders of nonresident seller's permits and from their agents who are holders of manufacturer's agent permits;

(2) purchase malt and vinous liquors from holders of brewer's permits and from other wholesalers in the state; and

(3) sell the malt and vinous liquors, in the original containers in which he receives them, to general and local class B wholesaler's permittees and, in his county of residence, to local distributor's permittees and retailers, including mixed beverage permittees and daily temporary mixed beverage permittees.

[Acts 1977, 65th Leg., p. 419, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 21.02. Fee**

The annual state fee for a local class B wholesaler's permit is \$50.

[Acts 1977, 65th Leg., p. 419, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 22. PACKAGE STORE PERMIT**

Section	
22.01.	Authorized Activities.
22.02.	Fee.
22.03.	Deliveries to Customers.
22.04.	Limitation on Package Store Interests.
22.05.	Consolidation of Permits.
22.06.	Prohibited Interests.
22.07.	Violation When License Also Held.
22.08.	Transfer of Beverages.
22.09.	Limit on Single Transaction.
22.10.	Opening Containers Prohibited.
22.11.	Consumption on Premises Prohibited.
22.12.	Breach of Peace.

**§ 22.01. Authorized Activities**

The holder of a package store permit may:

(1) purchase liquor in this state from the holder of a winery, wholesaler's, class B wholesaler's, or wine bottler's permit;

(2) sell liquor in unbroken original containers on or from his licensed premises at retail to consumers for off-premises consumption only and not for the purpose of resale, except that if the permittee is a hotel, the permittee may deliver unbroken packages of liquor to bona fide guests of the hotel in their rooms for consumption in their rooms;

(3) sell malt and vinous liquors in original containers of not less than six ounces; and

(4) sell liquor to holders of airline beverage permits as provided in Section 34.05 of this code.

[Acts 1977, 65th Leg., p. 419, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2117, ch. 819, § 6, eff. June 13, 1979.]

#### § 22.02. Fee

(a) The annual state fee for a package store permit in a city or town is based on the population of the city or town according to the last preceding federal census as follows:

Population	Fee
25,000 or less	\$125
25,001 to 75,000	175
75,001 or more	250

(b) The annual fee for a package store permit outside a city or town is \$125, except as provided in Subsection (c) of this section.

(c) The annual fee for a package store permit within two miles of the corporate limits of a city or town is the same as the fee required in the city or town.

[Acts 1977, 65th Leg., p. 420, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 22.03. Deliveries to Customers

(a) The holder of a package store permit or wine only package store permit issued for a location within a city or town or within two miles of the corporate limits of a city or town, who also holds a local cartage permit, may make deliveries of and collections for alcoholic beverages off the premises in areas where the sale of the beverages is legal. The permittee must travel by the most direct route and may make deliveries and collections only within the city or town or within two miles of its corporate limits, and only in response to bona fide orders placed by the customer, either in person at the premises, in writing, by mail, or by telegraph or telephone. This section shall not be construed as preventing a holder of a package store permit or wine only package store permit from delivering alcoholic beverages to the holder of a carrier's permit for transportation to persons authorized to purchase the beverages.

(b) The holder of a package store permit who also holds a local cartage permit may transport alcoholic beverages to a commercial airport in a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the package store is located.

[Acts 1977, 65th Leg., p. 420, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 22.04. Limitation on Package Store Interests

(a) No person may hold or have an interest, directly or indirectly, in more than five package stores or in their business or permit.

(b) For the purpose of this section:

(1) a person has an interest in any permit in which his spouse has an interest; and

(2) as to a corporate permittee, the stockholders, managers, officers, agents, servants, and employees of the corporation have an interest in the permit, business, and package stores of the corporation.

(c) The limitations prescribed in this section do not apply to an original or renewal package store permit issued before May 1, 1949, and in effect on that date. The commission or administrator shall renew each permit of that type on proper application if the applicant is otherwise qualified. If a person who holds or has an interest in more than five package store permits under the authority of this subsection has one of the permits cancelled, voluntarily or for cause, he may not obtain an additional permit in lieu of the cancelled permit. No person who has more than five package store permits may place any of the permits in suspense with the commission.

(d) This section does not apply to the stockholders, managers, officers, agents, servants, or employees of a corporation operating hotels, with respect to package stores operated by the corporation in hotels. [Acts 1977, 65th Leg., p. 420, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 22.05. Consolidation of Permits

If one person or two or more persons related within the first degree of consanguinity have a majority of the ownership in two or more legal entities holding package store permits, they may consolidate the package store businesses into a single legal entity. That single legal entity may then be issued permits for all the package stores, notwithstanding any other provision of this code. After the consolidation, none of the permits may be transferred to another county.

[Acts 1977, 65th Leg., p. 421, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 22.06. Prohibited Interests

(a) Except as otherwise provided in Section 102.05 of this code and in Subsection (b) of this section, no person who holds a package store permit or owns an interest in a package store may have a direct or indirect interest in any of the following:

(1) a manufacturer's, retail dealer's on-premise, or general, branch, or local distributor's license;

(2) a wine and beer retailer's, wine and beer retailer's off-premise, or mixed beverage permit; or

(3) the business of any of the permits or licenses listed in Subdivisions (1) and (2) of this subsection.

(b) A package store permit and a retail dealer's off-premise license may be issued to the same person.

[Acts 1977, 65th Leg., p. 421, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 347, ch. 158, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1445, ch. 634, § 3, eff. Aug. 27, 1979.]

**§ 22.07. Violation When License Also Held**

If a person holding a package store permit who also holds a retail dealer's off-premise license for the same location violates a provision of this code or a rule or regulation of the commission, the violation is a ground for the suspension or cancellation of both the package store permit and the retail dealer's off-premise license for the premises where the violation was committed.

[Acts 1977, 65th Leg., p. 421, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 22.08. Transfer of Beverages**

The owner of more than one package store who is also the holder of a local cartage permit may transfer alcoholic beverages between any of his licensed premises in the same county between the hours of 7 a. m. and 9 p. m. on any day when the sale of those beverages is legal, subject to rules prescribed by the commission.

[Acts 1977, 65th Leg., p. 421, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 22.09. Limit on Single Transaction**

A package store permittee may not sell more than five gallons of vinous liquor in a single transaction.

[Acts 1977, 65th Leg., p. 421, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 22.10. Opening Containers Prohibited**

No person may break or open a container containing liquor or beer or possess an opened container of liquor or beer on the premises of a package store.

[Acts 1977, 65th Leg., p. 421, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 22.11. Consumption on Premises Prohibited**

No person may sell, barter, exchange, deliver, or give away any drink or drinks of alcoholic beverages from a container that has been opened or broken on the premises of a package store.

[Acts 1977, 65th Leg., p. 422, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 22.12. Breach of Peace**

The commission or administrator may suspend or cancel a package store permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

[Acts 1977, 65th Leg., p. 422, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 23. LOCAL DISTRIBUTOR'S PERMIT**

Section	
23.01.	Authorized Activities.
23.02.	Fee.
23.03.	Eligibility for Permit.
23.04.	May Transfer Beverages.
23.05.	Size of Containers.
23.06.	Size of Delivery.

**§ 23.01. Authorized Activities**

(a) The holder of a local distributor's permit may:

(1) purchase alcoholic beverages from wholesalers authorized to sell them for resale, but may purchase only those brands available for general distribution to all local distributor's permittees;

(2) sell and distribute the alcoholic beverages to mixed beverage and private club registration permittees; and

(3) rent or sell to mixed beverage and private club registration permittees any equipment, fixtures, or supplies used in the selling or dispensing of distilled spirits.

(b) A local distributor's permittee may purchase liquor only from a wholesaler's, general class B wholesaler's, or local class B wholesaler's permittee and may purchase only the types of liquor the particular wholesaler is authorized by his permit to sell.

[Acts 1977, 65th Leg., p. 422, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1181, ch. 453, § 2, eff. Sept. 1, 1977.]

**§ 23.02. Fee**

The annual state fee for a local distributor's permit is \$50. The fee is in addition to and subject to the same conditions as the fee paid for the holder's package store permit.

[Acts 1977, 65th Leg., p. 422, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 23.03. Eligibility for Permit**

The commission or the administrator may issue a local distributor's permit only to a holder of a package store permit.

[Acts 1977, 65th Leg., p. 422, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 23.04. May Transfer Beverages**

If the holder of a local distributor's permit also holds a local cartage permit, he may transfer alcoholic beverages:

(1) to any place where the sale of alcoholic beverages is legal in the city or county where his premises are located; and

(2) to a regional airport located all or partly in an adjoining county if the airport is governed by a board, commission, or authority, some of whose members reside in the county where the local distributor's premises are located.

[Acts 1977, 65th Leg., p. 422, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1181, ch. 453, § 3, eff. Sept. 1, 1977.]

### § 23.05. Size of Containers

(a) A holder of a local distributor's permit may not sell distilled spirits to the holder of a mixed beverage or private club permit in individual containers containing less than one fluid ounce.

(b) A holder of a local distributor's permit may sell to holders of mixed beverage permits distilled spirits, wine, and vinous liquor in containers containing not less than one ounce nor more than two ounces or in any other container authorized by this code.

[Acts 1977, 65th Leg., p. 423, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 23.06. Size of Delivery

A holder of a local distributor's permit may not deliver less than two and four-tenths gallons of distilled spirits in a single delivery.

[Acts 1977, 65th Leg., p. 423, ch. 194, § 1, eff. Sept. 1, 1977.]

## CHAPTER 24. WINE ONLY PACKAGE STORE PERMIT

Section	
24.01.	Authorized Activities.
24.02.	Fee.
24.03.	Deliveries and Collections.
24.04.	Designation of Place of Storage.
24.05.	Prohibited Interests.
24.06.	Violation When License Also Held.
24.07.	When License Also Held: Hours of Sale, Etc.
24.08.	Limit on Single Transaction.
24.09.	Opening Containers Prohibited.
24.10.	Beverage From Opened Container.
24.11.	Breach of Peace.

### § 24.01. Authorized Activities

The holder of a wine only package store permit may:

- (1) purchase ale, wine, and vinous liquors in this state from the holder of a winery, wine bottler's, wholesaler's or class B wholesaler's permit; and
- (2) sell those beverages to consumers at retail on or from the licensed premises in unbroken original containers of not less than six ounces for off-premises consumption only and not for the purpose of resale.

[Acts 1977, 65th Leg., p. 423, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, § 7, eff. June 13, 1979.]

### § 24.02. Fee

(a) The annual state fee for a wine only package store permit in a city or town is based on the population of the city or town according to the last preceding federal census as follows:

Population	Fee
2,000 or less	\$ 5.00
2,001 to 5,000	7.50
5,001 to 10,000	10.00
10,001 or more	12.50

(b) The annual state fee for a wine only package store permit outside a city or town is \$5, except as provided in Subsection (c) of this section.

(c) The annual state fee for a wine only package store permit within two miles of the corporate limits of an incorporated city or town is the same as the fee required in the incorporated city or town.

[Acts 1977, 65th Leg., p. 423, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 24.03. Deliveries and Collections

The holder of a wine only package store permit may make deliveries to and collections from customers as provided in Section 22.03 of this code.

[Acts 1977, 65th Leg., p. 424, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 24.04. Designation of Place of Storage

The owner of more than one wine only package store who is also the holder of a local cartage permit may designate one of his places of business as a place of storage. He may transfer alcoholic beverages to and from his place of storage and his other stores in the same county, subject to rules prescribed by the commission.

[Acts 1977, 65th Leg., p. 424, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 24.05. Prohibited Interests

(a) No person who holds a wine only package store permit or owns an interest in a wine only package store may have a direct or indirect interest in any of the following:

- (1) a manufacturer's, retail dealer's on-premise, or general, branch, or local distributor's license;
- (2) a wine and beer retailer's or wine and beer retailer's off-premise permit; or

- (3) the business of any of the permits or licenses listed in Subdivisions (1) and (2) of this section.

(b) A person may hold both a wine only package store permit and a retail dealer's off-premise license. [Acts 1977, 65th Leg., p. 424, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1445, ch. 634, § 4, eff. Aug. 27, 1979.]

### § 24.06. Violation When License Also Held

If a person holding a wine only package store permit who also holds a retail dealer's off-premise license for the same location violates a provision of this code or a rule or regulation of the commission, the violation is a ground for the suspension or cancellation of both the wine only package store permit and the retail dealer's off-premise license for the premises where the violation was committed.

[Acts 1977, 65th Leg., p. 424, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 24.07. When License Also Held: Hours of Sale, Etc.

A holder of a wine only package store permit who also holds a retail dealer's off-premise license for the

same location may remain open and sell ale, wine, vinous liquors, and beer, for off-premises consumption only, on any day and during the same hours that the holder of a wine and beer retailer's permit may sell ale, beer, and wine, except that he may not sell wine or vinous liquor containing more than 14 percent alcohol by volume on a Sunday or after 10 p. m. on any day.

[Acts 1977, 65th Leg., p. 424, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 24.08. Limit on Single Transaction**

A wine only package store permittee may not sell more than five gallons of ale, wine, and vinous liquors in a single transaction.

[Acts 1977, 65th Leg., p. 424, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 24.09. Opening Containers Prohibited**

No person may break or open a container of liquor or beer or possess an opened container of liquor or beer on the premises of a wine only package store.

[Acts 1977, 65th Leg., p. 424, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 24.10. Beverage From Opened Container**

No person may sell, barter, exchange, deliver, or give away a drink of alcoholic beverage from a container that has for any reason been opened or broken on the premises of a wine only package store.

[Acts 1977, 65th Leg., p. 425, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 24.11. Breach of Peace**

The commission or administrator may suspend or cancel a wine only package store permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

[Acts 1977, 65th Leg., p. 425, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 25. WINE AND BEER  
RETAILER'S PERMIT**

Section	
25.01.	Authorized Activities.
25.02.	Fee.
25.03.	Railway Cars and Excursion Boats: Permits, Fees.
25.04.	Issuance, Cancellation, and Suspension of Permit.
25.05.	Hearings on Permit Application: Notice and Attendance.
25.06.	Denial of Original Application.
25.07.	Fingerprints.
25.08.	Permit: Contents; Photograph.
25.09.	Possession of Certain Beverages Prohibited.
25.10.	Application of Other Code Provisions.

**§ 25.01. Authorized Activities**

The holder of a wine and beer retailer's permit may sell for consumption on or off the premises where sold, but not for resale, wine, beer, and malt liquors containing alcohol in excess of one-half of one percent by volume and not more than 14 percent by volume.

[Acts 1977, 65th Leg., p. 425, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 25.02. Fee**

Except as provided in Section 25.03 of this code, the annual state fee for a wine and beer retailer's permit is \$30.

[Acts 1977, 65th Leg., p. 425, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 25.03. Railway Cars and Excursion Boats: Permits, Fees**

(a) A wine and beer retailer's permit may be issued for railway dining, buffet, or club cars on the payment of an annual state fee of \$5 for each car.

(b) A wine and beer retailer's permit may be issued for a regularly scheduled excursion boat which is licensed by the United States Coast Guard to carry passengers on the navigable waters of the state and which has a tonnage of not less than 35 tons, a length of not less than 55 feet, and a passenger capacity of not less than 45 passengers. The annual state fee for the permit is \$35.

(c) Application for a permit for a railway car or an excursion boat and payment of the required fee shall be made directly to the commission.

(d) A permit for a railway car or an excursion boat is inoperative in a dry area.

[Acts 1977, 65th Leg., p. 425, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 25.04. Issuance, Cancellation, and Suspension of Permit**

(a) A wine and beer retailer's permit is issued by the commission or administrator. The qualification of applicants and the application for and issuance of the permit are governed by the same provisions which apply to the application for and issuance of a retail dealer's on-premise license.

(b) The provisions of this code applicable to the cancellation and suspension of a retail dealer's on-premise license also apply to the cancellation and suspension of a wine and beer retailer's permit.

[Acts 1977, 65th Leg., p. 426, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 25.05. Hearings on Permit Application: Notice and Attendance**

(a) On receipt of an original application for a wine and beer retailer's permit, the county judge shall give notice of all hearings before him concerning the application to the commission, the sheriff, and the chief of police of the incorporated city in which, or nearest which, the premises for which the permit is sought are located.

(b) The individual natural person applying for the permit or, if the applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who will be primarily responsible for the management of the premises shall attend any hearing involving the application.

[Acts 1977, 65th Leg., p. 426, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 25.06. Denial of Original Application

(a) The county judge shall deny an original application for a wine and beer retailer's permit if he finds that the applicant, or the applicant's spouse, during the three years immediately preceding the application, was finally convicted of a felony or one of the following offenses:

- (1) prostitution;
- (2) a vagrancy offense involving moral turpitude;
- (3) bookmaking;
- (4) gambling or gaming;
- (5) an offense involving controlled substances as defined in the Texas Controlled Substances Act or other dangerous drugs;
- (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500;
- (7) more than three violations of this code relating to minors;
- (8) bootlegging; or
- (9) an offense involving firearms or a deadly weapon.

(b) The county judge shall also deny an original application for a permit if he finds that three years have not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony conviction or conviction of any of the offenses described in Subsection (a) of this section.

(c) The commission shall refuse to issue a renewal of a wine or beer retailer's permit if it finds:

(1) that the applicant, or the applicant's spouse, has been convicted of a felony or one of the offenses listed in Subsection (a) of this section at any time during the three years immediately preceding the filing of the application for renewal; or

(2) that three years have not elapsed since the termination of a sentence, parole, or probation served by the applicant, or the applicant's spouse, of a felony conviction or conviction of any of the offenses described in Subsection (a) of this section.

(d) In this section the word "applicant" includes the individual natural person holding or applying for the permit or, if the holder or applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who is primarily responsible for the management of the premises.

[Acts 1977, 65th Leg., p. 426, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 25.07. Fingerprints

(a) An applicant for an original wine and beer retailer's permit shall submit to the county judge of the county in which the applicant desires to engage in business a complete set of fingerprints of the individual natural person applying for the permit or, if the applicant is not an individual natural person, a complete set of fingerprints of the individual partner, officer, trustee, or receiver who is to be primarily responsible for the management of the premises.

(b) The county judge shall, no later than the next calendar day after receiving the prints, forward them by mail to the Texas Department of Public Safety. The department shall classify the prints and check them against their fingerprint files and shall certify their findings concerning the criminal record of the applicant, or the lack of record, to the county judge. No permit may be issued until the certification is made to the county judge.

(c) The sheriff of any county, or any district office of the commission, shall take the fingerprints of an applicant for a permit without charge on forms approved by and furnished by the Texas Department of Public Safety and shall immediately deliver them to the county judge of the county where the applicant desires to engage in business.

[Acts 1977, 65th Leg., p. 427, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 25.08. Permit: Contents; Photograph

Each wine and beer retailer's permit shall contain the name and photograph of the individual natural person holding the permit or, if the holder is not an individual natural person, the name and photograph of the individual partner, officer, trustee, or receiver who is primarily responsible for the management of the premises. The photograph may not be more than two years old and shall be furnished by the permittee. The commission may prescribe the size and nature of the photograph, the manner of furnishing it, and the method of affixing it to the permit.

[Acts 1977, 65th Leg., p. 427, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 25.09. Possession of Certain Beverages Prohibited

No wine and beer retailer's permittee, nor officer of the permittee, may possess distilled spirits or liquor containing alcohol in excess of 14 percent by volume on the licensed premises.

[Acts 1977, 65th Leg., p. 427, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 25.10. Application of Other Code Provisions

Sections 61.78, 61.81, 61.82, and 61.84 of this code also apply to a wine and beer retailer's permit. The restrictions in this code relating to beer as to the application of local restrictions, sales to minors and intoxicated persons, age of employees, and the use of blinds or barriers apply to the sale of alcoholic beverages by a wine and beer retailer's permittee.

[Acts 1977, 65th Leg., p. 427, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 26. WINE AND BEER RETAILER'S OFF-PREMISE PERMIT**

Section  
 26.01. Authorized Activities.  
 26.02. Fee.  
 26.03. Issuance, Cancellation, and Suspension of Permit.  
 26.04. Application of Other Code Provisions.

**§ 26.01. Authorized Activities**

The holder of a wine and beer retailer's off-premise permit may sell for off-premises consumption only, but not for resale, wine, beer, and malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 14 percent by volume.

[Acts 1977, 65th Leg., p. 428, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 26.02. Fee**

The annual state fee for a wine and beer retailer's off-premise permit is \$15.

[Acts 1977, 65th Leg., p. 428, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 26.03. Issuance, Cancellation, and Suspension of Permit**

(a) A wine and beer retailer's off-premise permit is issued by the commission or administrator. The qualifications of applicants and the application for and issuance of the permit are governed by the same provisions which apply to the application for and issuance of a retail dealer's off-premise license.

(b) The provisions of this code applicable to the cancellation and suspension of a retail dealer's off-premise license also apply to the cancellation and suspension of a wine and beer retailer's off-premise permit.

[Acts 1977, 65th Leg., p. 428, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 26.04. Application of Other Code Provisions**

Sections 61.78, 61.81, 61.82, and 61.84 of this code also apply to a wine and beer retailer's off-premise permit. The restrictions in this code relating to beer as to the application of local restrictions, sales to minors and intoxicated persons, and age of employees apply to the sale of alcoholic beverages by a wine and beer retailer's off-premise permittee.

[Acts 1977, 65th Leg., p. 428, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 27. TEMPORARY WINE AND BEER RETAILER'S PERMIT**

Section  
 27.01. Authorized Activities.  
 27.02. Fee.  
 27.03. Duration of Permit.  
 27.04. Required Basic Permit.  
 27.05. Issuance and Use of Permit; Rules and Regulations.  
 27.06. Cancellation or Suspension of Basic Permit.

**§ 27.01. Authorized Activities**

The holder of a temporary wine and beer retailer's permit may sell for consumption on or off the premises where sold, but not for resale, wine, beer, and malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 14 percent by volume. The permit does not authorize the sale of those beverages outside the county for which it is issued.

[Acts 1977, 65th Leg., p. 428, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 27.02. Fee**

The state fee for a temporary wine and beer retailer's permit is \$5. No refund shall be allowed for the surrender or nonuse of the permit.

[Acts 1977, 65th Leg., p. 429, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 27.03. Duration of Permit**

A temporary wine and beer retailer's permit may be issued for a period of not more than four days.

[Acts 1977, 65th Leg., p. 429, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 27.04. Required Basic Permit**

A temporary wine and beer retailer's permit may be issued only to a holder of a wine and beer retailer's permit or mixed beverage permit.

[Acts 1977, 65th Leg., p. 429, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 27.05. Issuance and Use of Permit; Rules and Regulations**

(a) Temporary wine and beer retailer's permits are issued by the administrator, the commission, or an authorized representative of the commission. The commission shall adopt rules and regulations governing the issuance and use of temporary wine and beer retailer's permits.

(b) The permits shall be issued only for the sale of authorized alcoholic beverages at picnics, celebrations, or similar events.

(c) The administrator or commission may refuse to issue a permit if there is reason to believe the issuance of the permit would be detrimental to the public.

[Acts 1977, 65th Leg., p. 429, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 27.06. Cancellation or Suspension of Basic Permit**

The basic permit under which a temporary wine and beer retailer's permit was issued may be cancelled or suspended for a violation on the premises covered by the temporary permit that would result in the cancellation or suspension of the basic permit if committed on the premises covered by the basic permit.

[Acts 1977, 65th Leg., p. 429, ch. 194, § 1, eff. Sept. 1, 1977.]

## CHAPTER 28. MIXED BEVERAGE PERMIT

Section	
28.01.	Authorized Activities.
28.02.	Fee.
28.03.	Information Required of Applicants.
28.04.	Change in Corporate Control.
28.05.	Renewal of Permit by Descendant or Surviving Spouse.
28.06.	Possession of Alcoholic Beverage Not Covered by Invoice.
28.07.	Purchase and Transportation of Alcoholic Beverages.
28.08.	Refilling Containers Prohibited.
28.09.	Invalidation of Stamp.
28.10.	Consumption Restricted to Premises.
28.11.	Breach of Peace.
28.12.	Sale of Malt Beverages to Permittee.

## § 28.01. Authorized Activities

(a) The holder of a mixed beverage permit may sell, offer for sale, and possess mixed beverages, including distilled spirits, for consumption on the licensed premises:

(1) from sealed containers containing not less than one fluid ounce nor more than two fluid ounces or of any legal size; and

(2) from unsealed containers.

(b) The holder of a mixed beverage permit for an establishment in a hotel may deliver mixed beverages, including wine and beer, to individual rooms of the hotel or to any other location in the hotel building or grounds, except a parking area or the licensed premises of another alcoholic beverage establishment, without regard to whether the place of delivery is part of the licensed premises. A permittee in a hotel may allow a patron or visitor to enter or leave the licensed premises, even though the patron or visitor possesses an alcoholic beverage, if the beverage is in an open container and appears to be possessed for present consumption.

(c) The holder of a mixed beverage permit may also:

(1) purchase wine, beer, ale, and malt liquor containing alcohol of not more than 21 percent by volume in containers of any legal size from any permittee or licensee authorized to sell those beverages for resale; and

(2) sell the wine, beer, ale, and malt liquor for consumption on the licensed premises.

[Acts 1977, 65th Leg., p. 429, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, § 4, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 111, ch. 70, § 1, eff. Aug. 27, 1979.]

## § 28.02. Fee

The annual state fee for a mixed beverage permit is \$2,000 for an original permit, \$1,500 for the first annual renewal, \$1,000 for the second annual renewal, and \$500 for each subsequent annual renewal. [Acts 1977, 65th Leg., p. 430, ch. 194, § 1, eff. Sept. 1, 1977.]

## § 28.03. Information Required of Applicants

In addition to the information required of applicants for permits under this code, the applicant for a mixed beverage permit must file with his original and renewal application a sworn statement in a form prescribed by the commission or administrator containing the following information:

(1) the name and residential address of the lessor of the premises;

(2) the name and address of the lessee of the premises;

(3) the amount of monthly rental on the premises and the date of expiration of the lease;

(4) whether the lease or rental agreement includes furniture and fixtures;

(5) whether the business is to be operated under a franchise and, if so, the name and address of the franchisor;

(6) the name and address of the accountant of the business;

(7) a list of all bank accounts, including account numbers, used in connection with the business; and

(8) any information required by the commission or administrator relevant to the determination of all persons having a financial interest of any kind in the granting of the mixed beverage permit. [Acts 1977, 65th Leg., p. 430, ch. 194, § 1, eff. Sept. 1, 1977.]

## Amendment by Acts 1977, 65th Leg., p. 1713, ch. 681, § 1.

Acts 1977, 65th Leg., p. 1713, ch. 681, § 1, purports to add art. 666-11b to Penal Code (1925), without reference to repeal of the Liquor Control Act by Acts 1977, 65th Leg., p. 557, ch. 194, § 2. As so added, art. 666-11b reads:

"(a) The Commission or Administrator shall refuse to issue an original or renewal permit authorizing the retail sale of alcoholic beverages unless the applicant for the permit files with his application a certificate issued by the Comptroller of Public Accounts stating that the applicant holds, or has applied for and satisfies all legal requirements for the issuance of, a sales tax permit, if required, for the place of business for which the alcoholic beverage permit is sought.

"(b) The Commission or Administrator may suspend for not more than sixty (60) days or cancel a permit under this Act if the Commission or Administrator finds, after notice and hearing, that the permittee:

"(1) no longer holds a sales tax permit, if required, for the place of business covered by the alcoholic beverage permit; or

"(2) is shown on the records of the Comptroller or Public Accounts as being subject to a final

determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 20, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended), or is shown on the records of the Comptroller of Public Accounts as being subject to a final determination of taxes due and payable under the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes)."

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

**§ 28.04. Change in Corporate Control**

(a) A mixed beverage permit held by a corporation may not be renewed if the commission or administrator finds that legal or beneficial ownership of over 50 percent of the stock of the corporation has changed since the time the original permit was issued.

(b) The commission or administrator may adopt reasonable rules and regulations in accordance with the provisions of this section.

(c) A corporation which is barred from renewing a permit because of this section may file an application for an original permit and may be issued an original permit if otherwise qualified.

(d) This section does not apply to a change in corporate control:

(1) brought about by the death of a shareholder if his surviving spouse or descendants are his successors in interest; or

(2) brought about when legal or beneficial ownership of over 50 percent of the stock of the corporation has been transferred to a person who possesses the qualifications required of other applicants for permits and is an officer of the corporation or has been an officer of the corporation since the original permit was issued.

[Acts 1977, 65th Leg., p. 430, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 28.05. Renewal of Permit by Descendant or Surviving Spouse**

If the surviving spouse or surviving descendant of a holder of a mixed beverage permit qualifies as the successor in interest to the permit as provided in Section 11.10 of this code, the descendant or surviving spouse may continue to renew the permit by paying a renewal fee equal to the fee the permittee would be required to pay had he lived.

[Acts 1977, 65th Leg., p. 431, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 28.06. Possession of Alcoholic Beverage Not Covered by Invoice**

(a) No holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, may possess or permit to be possessed on the premises for which the permit is issued any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased.

(b) A person who violates Subsection (a) of this section commits a misdemeanor punishable by a fine of not more than \$1,000 or by confinement in the county jail for no more than 30 days or by both.

(c) No holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, may knowingly possess or permit to be possessed on the licensed premises any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased.

(d) A person who violates Subsection (c) of this section commits a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 and by confinement in the county jail for not less than 30 days nor more than two years. The commission or administrator shall cancel the permit of any permittee found by the commission or administrator, after notice and hearing, to have violated or to have been convicted of violating Subsection (c) of this section. [Acts 1977, 65th Leg., p. 431, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 28.07. Purchase and Transportation of Alcoholic Beverages**

(a) All distilled spirits sold by a holder of a mixed beverage permit must be purchased in this state from a holder of a local distributor's permit.

(b) If a holder of a mixed beverage permit is in an area where there are no local distributors, he may purchase alcoholic beverages in any area where local distributors are located and may transport them to his premises provided that he is also a holder of a beverage cartage permit. The transporter may acquire the alcoholic beverages only on the written order of the holder of the mixed beverage permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima facie evidence of the lawful right to transport the alcoholic beverages.

(c) If a mixed beverage permittee holds a beverage cartage permit and his premises are located in a regional airport governed by a board, commission, or

authority composed of members from two or more counties, and there is no local distributor at the airport, the mixed beverage permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport them to his licensed premises. The transportation of the beverages must be in accordance with Subsection (b) of this section.

[Acts 1977, 65th Leg., p. 431, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, § 5, eff. Sept. 1, 1977.]

#### § 28.08. Refilling Containers Prohibited

No holder of a mixed beverage permit may refill with any substance a container which contained distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid.

[Acts 1977, 65th Leg., p. 432, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 28.09. Invalidation of Stamp

(a) A holder of a mixed beverage permit or any person employed by the holder who empties a bottle containing distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid, shall immediately after emptying the bottle invalidate the identification stamp on the bottle in the manner prescribed by rule or regulation of the commission or administrator.

(b) Each holder of a mixed beverage permit shall provide at all service counters where distilled spirits are poured from bottles the necessary facilities for the invalidation of identification stamps on bottles so that persons emptying distilled spirits bottles may immediately invalidate the identification stamps on them.

(c) If an empty distilled spirits bottle has locked on it an automatic measuring and dispensing device of a type approved by the commission or administrator, which prevents the refilling of the bottle without unlocking the device and removing it from the bottle, the identification stamp is not required to be invalidated until immediately after the device has been unlocked and removed from the bottle.

(d) A holder of a mixed beverage permit or any of his officers, agents, or employees who is found in possession of an empty distilled spirits bottle which contained distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid and on which the identification stamp has not been invalidated in accordance with this section commits a separate offense for each bottle so possessed.

[Acts 1977, 65th Leg., p. 432, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 28.10. Consumption Restricted to Premises

(a) Except as permitted by Subsection (b) of this section and by Subsection (b) of Section 28.01, a mixed beverage permittee may not sell an alcoholic beverage to another mixed beverage permittee or to

any other person except for consumption on the seller's licensed premises.

(b) A mixed beverage permittee may not permit any person to take any alcoholic beverage purchased on the licensed premises from the premises where sold, except that a person who orders wine with food and has a portion of the open container remaining may remove the open container of wine from the premises.

[Acts 1977, 65th Leg., p. 432, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 28.11. Breach of Peace

The commission or administrator may suspend or cancel a mixed beverage permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

[Acts 1977, 65th Leg., p. 432, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 28.12. Sale of Malt Beverages to Permittee

The sale of malt beverages to a mixed beverage permittee by a local distributor's permittee or by a licensee authorized to sell them for resale is subject to the provisions of Section 61.73 of this code.

[Acts 1977, 65th Leg., p. 433, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 29. MIXED BEVERAGE LATE HOURS PERMIT

Section	
29.01.	Authorized Activities.
29.02.	Fee.
29.03.	Application of Provisions Regulating Mixed Beverage Permits.

#### § 29.01. Authorized Activities

The holder of a mixed beverage late hours permit may sell mixed beverages on Sunday between the hours of 1:00 a. m. and 2 a. m. and on any other day between the hours of 12 midnight and 2 a. m. if the premises covered by the permit are in an area where the sale of mixed beverages during those hours is authorized by this code.

[Acts 1977, 65th Leg., p. 433, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 29.02. Fee

The annual state fee for a mixed beverage late hours permit is \$100.

[Acts 1977, 65th Leg., p. 433, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 29.03. Application of Provisions Regulating Mixed Beverage Permits**

All provisions of this code which apply to a mixed beverage permit also apply to a mixed beverage late hours permit.

[Acts 1977, 65th Leg., p. 433, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 30. DAILY TEMPORARY MIXED BEVERAGE PERMIT**

**Section**

- 30.01. Authorized Activities.
- 30.02. Fee.
- 30.03. Issuance of Permit.
- 30.04. Purchase of Distilled Spirits.
- 30.05. Application of Provisions Regulating Mixed Beverage Permits.
- 30.06. Adoption of Rules.

**§ 30.01. Authorized Activities**

The holder of a daily temporary mixed beverage permit may sell mixed beverages for consumption on the premises for which the permit is issued.

[Acts 1977, 65th Leg., p. 433, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 30.02. Fee**

The state fee for a daily temporary mixed beverage permit is \$25 per day.

[Acts 1977, 65th Leg., p. 433, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 30.03. Issuance of Permit**

(a) The commission may, in its discretion, issue on a temporary basis a daily temporary mixed beverage permit. A daily temporary mixed beverage permit may be issued only to a holder of a mixed beverage permit. A daily temporary mixed beverage permit may be issued only for the temporary sale of authorized alcoholic beverages at picnics, celebrations, or similar events.

(b) The provisions of this code which apply to the application for and issuance of other permits do not apply to the application and issuance of a daily temporary mixed beverage permit.

[Acts 1977, 65th Leg., p. 433, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1971, ch. 777, § 17, eff. Aug. 27, 1979.]

**§ 30.04. Purchase of Distilled Spirits**

Distilled spirits sold under a daily temporary mixed beverage permit must be purchased from the holder of a local distributor's permit.

[Acts 1977, 65th Leg., p. 434, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 30.05. Application of Provisions Regulating Mixed Beverage Permits**

All provisions of this code applicable to a mixed beverage permit also apply to a daily temporary mixed beverage permit unless there is a special provision to the contrary.

[Acts 1977, 65th Leg., p. 434, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 30.06. Adoption of Rules**

The commission may adopt rules which it determines to be necessary to implement and administer the provisions of this chapter, including limitations on the number of times during any calendar year a qualified organization may be issued a permit.

[Acts 1977, 65th Leg., p. 434, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 31. CATERER'S PERMIT**

**Section**

- 31.01. Authorized Activities.
- 31.02. Fee.
- 31.03. Issuance of Permit.
- 31.04. Application of Provisions Regulating Mixed Beverage Permits.

**§ 31.01. Authorized Activities**

The holder of a caterer's permit may sell mixed beverages on a temporary basis at a place other than the premises for which the holder's mixed beverage permit is issued, but only in an area where the sale of mixed beverages has been authorized by a local option election.

[Acts 1977, 65th Leg., p. 434, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 31.02. Fee**

The annual state fee for a caterer's permit is \$250.

[Acts 1977, 65th Leg., p. 434, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 31.03. Issuance of Permit**

(a) A caterer's permit may be issued only to the holder of a mixed beverage permit.

(b) The commission shall adopt rules and regulations governing the application for and the issuance and use of caterer's permits.

(c) The provisions of this code which apply to the application for and issuance of other permits do not apply to the application for and issuance of a caterer's permit.

[Acts 1977, 65th Leg., p. 434, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 31.04. Application of Provisions Regulating Mixed Beverage Permits**

(a) A caterer's permit is auxiliary to the primary mixed beverage permit held by the permittee.

(b) The restrictions and regulations which apply to the sale of mixed beverages on the licensed premises also apply to the sale under the authority of a caterer's permit, and any act that is prohibited on the licensed premises is also prohibited when the permittee is operating other than on the licensed premises under a caterer's permit.

(c) Any act which if done on the licensed premises would be a ground for cancellation or suspension of the mixed beverage permit is a ground for cancellation of both the mixed beverage permit and the caterer's permit if done when the permittee is oper-

ating away from the licensed premises under the authority of the caterer's permit.

(d) All receipts from the sale of mixed beverages under the authority of the caterer's permit shall be treated for tax purposes as if they were made under the authority of the primary permit.

(e) If the primary permit ceases to be valid for any reason, the caterer's permit ceases to be valid.

(f) All provisions of this code applicable to the primary permit and not inconsistent with this chapter apply to a caterer's permit.

[Acts 1977, 65th Leg., p. 434, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 32. PRIVATE CLUB REGISTRATION PERMIT**

Section

32.01. Authorized Activities.

32.02. Fee.

32.03. Qualifications for Permit.

32.04. Applications for Permits; Renewals.

32.05. Locker System.

32.06. Pool System.

32.07. Display of Permit.

32.08. Purchase and Transportation of Alcoholic Beverages.

32.09. Temporary Members.

32.10. Guests.

32.11. Fraternal and Veterans Organizations.

32.12. Inspection of Premises.

32.13. Inspection of Books and Records.

32.14. Unregistered Clubs; Prohibited Activities.

32.15. Removal of Beverages From Premises.

32.16. Unauthorized Membership.

32.17. Cancellation or Suspension of Permit; Grounds.

32.18. Appeals From Orders of Commission or Administrator.

32.19. Aiding or Abetting Violation.

**§ 32.01. Authorized Activities**

A private club registration permit authorizes alcoholic beverages belonging to members of the club to be:

- (1) stored, possessed, and mixed on the club premises; and
- (2) served for on-premises consumption only to members of the club and their families and guests, by the drink or in sealed, unsealed, or broken containers of any legal size.

[Acts 1977, 65th Leg., p. 435, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.02. Fee**

(a) Each private club registration permittee shall pay an annual state fee for each separate place of business.

(b) The permit fee shall be based on the highest number of members in good standing during the year for which the permit fee is to be paid according to the following rates:

0 to 250—\$ 500	651 to 750—\$1,500
251 to 350—\$ 700	751 to 850—\$1,700
351 to 450—\$ 900	851 to 950—\$1,900
451 to 550—\$1,100	951 to 1,000—\$2,000
551 to 650—\$1,300	Over 1,000 —\$2 per member

(c) All fees collected pursuant to this section shall be deposited in the general revenue fund.

(d) No later than 90 days before the expiration of the year for which the permit fee is paid, the permit holder may submit an amended application with as much additional fee as is required under the amended return.

[Acts 1977, 65th Leg., p. 435, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.03. Qualifications for Permit**

(a) A private club registration permit may only be issued to a club which meets the requirements of this section.

(b) The club must be an association of persons, whether unincorporated or incorporated under the laws of this state, for the promotion of some common object.

(c) Members of the club must be passed on and elected by a committee or board made up of members of the club, and no employee of the club shall be eligible to serve on the membership committee or board.

(d) No application for membership may be approved until the application has been filed with the chairman of the membership committee or board and approved by the chairman. The committee or board may authorize the chairman or a designated agent to issue preliminary memberships without the approval of the committee or board for a period not exceeding three days on the request of an applicant for membership. A preliminary member has all of the privileges of membership in the club. If the committee or board does not approve the application before the expiration of the preliminary membership, the club shall pay to the state the fee required of temporary members under Section 32.09 of this code. The club shall remit the fees and record and report preliminary memberships as the commission or the administrator prescribes.

(e) At least 50 members of the club must reside in the county in which the premises of the club are located, or at least 100 members must reside in an area comprised of the county in which the premises of the club is located and an adjacent county or counties.

(f) The club must own, lease, or rent a building, or space in a building of such extent and character as in the judgment of the commission is suitable and adequate for the club's members and their guests.

(g) The club must provide regular food service adequate for its members and their guests.

(h) The club's total annual membership fees, dues, or other income, excluding proceeds from the disposition of alcoholic beverages but including service

charges, must be sufficient to defray the annual rental of its leased or rented premises or, if the premises are owned by the club, sufficient to meet the taxes, insurance, and repairs and the interest on any mortgage on the premises.

(i) The club's affairs and management must be conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting.

(j) No member or any officer, agent, or employee of the club may be paid or receive any money as salary or other compensation, directly or indirectly, from the disposition of alcoholic beverages to members of the club and their guests, other than charges for the service of the beverages.

[Acts 1977, 65th Leg., p. 436, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1971, ch. 777, § 19, eff. Aug. 27, 1979.]

**§ 32.04. Applications for Permits; Renewals**

(a) A private club which meets the requirements set forth in Section 32.03 of this code may apply for a private club registration permit on forms furnished by the commission and containing all information necessary to insure compliance with the provisions of this code.

(b) Each applicant shall furnish a true copy of his application to the commission's district office in the district in which the premises sought to be covered by the permit are located prior to the filing of the original application with the commission at Austin.

(c) Applications for a renewal permit shall be filed with the commission within 30 days prior to the expiration of the current permit.

[Acts 1977, 65th Leg., p. 437, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.05. Locker System**

The locker system of storage is a system whereby the club rents a locker to a member in which he may store alcoholic beverages for consumption by himself and his guests. All alcoholic beverages stored at a club under the locker system must be purchased and owned by the member individually.

[Acts 1977, 65th Leg., p. 437, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.06. Pool System**

(a) The pool system of storage may be used in any area. Under this system all members of a pool participate equally in the original purchase of all alcoholic beverages. The replacement of all alcoholic beverages shall be paid for either by money assessed equally from each member and collected in advance or by the establishment of an alcoholic beverages replacement account in which a designated percentage of each charge for the service of alcoholic beverages, as determined by the club's governing body, is deposited.

(b) If an alcoholic beverages replacement account is used:

(1) each service check shall have printed on it the percentage of the service charge that is to be deposited in the alcoholic beverages replacement account;

(2) no money other than the designated percentage of service charges may be deposited in the replacement account;

(3) the replacement of alcoholic beverages may be paid for only from money in the replacement account;

(4) the club's governing body may transfer from the replacement account to the club's general operating account any portion of the replacement account that the governing body determines is in excess of the amount that will be needed to purchase replacement alcoholic beverages, but it may make only one transfer in a calendar month; and

(5) the club shall maintain a monthly record of the total amount of alcoholic beverage service charges collected, the amount deposited in the replacement account, the amount used to purchase alcoholic beverages, and the amount transferred to the club's general operating account.

[Acts 1977, 65th Leg., p. 437, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1968, ch. 777, § 8, eff. Aug. 27, 1979.]

**§ 32.07. Display of Permit**

A private club registration permit shall be displayed in a conspicuous place at all times on the licensed premises.

[Acts 1977, 65th Leg., p. 437, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.08. Purchase and Transportation of Alcoholic Beverages**

(a) All distilled spirits sold by a club holding a private club registration permit must be purchased in this state from a holder of a local distributor's permit.

(b) If the club holding the permit is in an area where there are no local distributors, alcoholic beverages may be purchased in any area where local distributors are located and may be transported to the club premises if the club also holds a beverage cartage permit. The transporter may acquire the alcoholic beverages only on the written order of an officer or manager of the club holding the permit. The alcoholic beverages must be accompanied by a written statement furnished and signed by the local distributor showing the name and address of the consignee and consignor, the origin and destination of the shipment, and any other information required by the commission or administrator. The person in charge of the alcoholic beverages while they are being transported shall exhibit the written statement to any representative of the commission or any peace officer on demand, and the statement shall be accepted by the representative or officer as prima

facie evidence of the lawful right to transport the alcoholic beverages.

(c) If a private club registration permittee holds a beverage cartage permit and his premises are located in a regional airport governed by a board, commission, or authority composed of members from two or more counties, and there is no local distributor at the airport, the private club registration permittee may purchase alcoholic beverages from any local distributor in a trade area served by the airport and transport them to his licensed premises. The transportation of the beverages must be in accordance with Subsection (b) of this section.

[Acts 1977, 65th Leg., p. 437, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, § 6, eff. Sept. 1, 1977.]

### § 32.09. Temporary Members

(a) The manager or other person in charge of the club premises may allow a person to enter the club if he possesses a valid temporary membership card which has no erasures or changes and which has the temporary dates in a prominent position on the card. A temporary member may enjoy the club's services and privileges for a period of not more than three days per invitation. A temporary member may bring not more than three guests to the club and must remain in their presence while they are at the club.

(b) At the time of his admission the temporary member shall pay the club a fee of \$2, which shall represent the fee payable by the permittee to the state. All fees and payments from temporary members shall be collected in cash or through credit cards approved by the commission or administrator.

(c) Temporary memberships shall be governed by rules promulgated by the commission consistent with the provisions of this section.

[Acts 1977, 65th Leg., p. 438, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 68, ch. 42, § 1, eff. Aug. 27, 1979.]

### § 32.10. Guests

(a) Guests shall be limited to those who accompany a member or temporary member onto the premises or for whom a member, other than a temporary member, has made prior arrangements with the management of the club.

(b) Except as provided in Subsection (c) of this section no guest shall be permitted to pay, by cash or otherwise, for any service of alcoholic beverages. Any charge for a service rendered to a guest by the club must be billed by the club to the member or temporary member sponsoring the guest. A club shall bill a member other than a temporary member for the service of guests in the club's regular billing cycle.

(c) The manager of a hotel who is a member of a private club located within the hotel building may issue a guest card to a patron of the hotel who is staying in the hotel overnight or longer. The guest may not be allowed to pay, by cash or otherwise, at the time of service in the private club. The charge for service shall be billed to the hotel manager's account in the hotel and shall be collected by the hotel manager along with other hotel charges, including the charge for using the hotel room, when the patron leaves the hotel. The hotel records shall be available for inspection at the request of the commission. If the club operates under the locker system a guest shall be served from the locker rented to the manager of the hotel.

(d) The commission shall promulgate rules necessary to implement the provisions of this section. [Acts 1977, 65th Leg., p. 438, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 68, ch. 42, § 2, eff. Aug. 27, 1979.]

### § 32.11. Fraternal and Veterans Organizations

(a) In this section:

(1) "Fraternal organization" means:

(A) any chapter, aerie, parlor, lodge, or other local unit of an American national fraternal organization or Texas state fraternal organization that, as the owner, lessee, or occupant, has operated an establishment for fraternal purposes for at least one year. If an American national fraternal organization, it must actively operate in not fewer than 31 states and have at least 300 local units in those 31 states, and must have been in active, continuous existence for at least 20 years. If a Texas state fraternal organization, it must actively operate in at least two counties of the state and have at least 10 local units in those two counties, and must have been in active, continuous existence for at least five years; or

(B) a hall association or building association of a local unit described in Paragraph (A), all the capital stock of which is owned by the local unit or the members of the local unit, and which operates the clubroom facilities of the local unit.

(2) "Veterans organization" means an organization composed of members or former members of the armed forces of the United States which is organized for patriotic and public service purposes, including the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Jewish War Veterans, American GI Forum, Catholic War Veterans, or any veterans organization chartered by the United States Congress.

(b) The permit fee imposed by Section 32.02 of this code and the provisions of Sections 32.03 and 32.10 of this code requiring regular food service and prohibiting guests from paying in cash do not apply

to a fraternal or veterans organization. Those organizations are also exempt from Sections 32.05 and 32.06 of this code, and the members of the organization may use any club funds owned by them jointly, including revenue from the service of alcoholic beverages, to replenish their joint stock of alcoholic beverages.

(c) The requirement that the fraternal or veterans organization hold a private club registration permit is satisfied by the issuance of a certificate by the commission that states that the organization meets the requirements of this section.

(d) All other provisions of this code apply to fraternal and veterans organizations.  
[Acts 1977, 65th Leg., p. 439, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.12. Inspection of Premises**

The acceptance of a private club registration permit constitutes an express agreement and consent on the part of the private club that any authorized representative of the commission or any peace officer has the right and privilege to freely enter the club premises at any time to conduct an investigation or to inspect the premises for the purpose of performing a duty imposed by this code.

[Acts 1977, 65th Leg., p. 439, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.13. Inspection of Books and Records**

All books and records pertaining to the operation of any permittee club, including a current listing, correct to the last day of the preceding month, of all members of the club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the commission or its authorized representatives on request.

[Acts 1977, 65th Leg., p. 439, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.14. Unregistered Clubs; Prohibited Activities**

(a) No permittee, licensee, or any other person shall deliver, transport, or carry an alcoholic beverage to, into, or on the premises of any establishment, location, room, or place purporting to be a club, or holding itself out to the public or any person as a club or private club, unless the club holds a private club registration permit.

(b) No person may store, possess, mix, or serve by the drink or in broken or unsealed containers an alcoholic beverage on the premises of any establishment, location, room, or place purporting to be a club or private club unless the club holds a private club registration permit.

(c) An alcoholic beverage stored or possessed on the premises of any establishment, location, room, or place purporting to be a club, or holding itself out to the public or any person as a club or private club, is declared to be an illicit beverage and subject to seizure without a warrant unless a private club

registration permit has been issued for the premises, location, room, or place.

[Acts 1977, 65th Leg., p. 440, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.15. Removal of Beverages From Premises**

A private club, irrespective of location or system of storage of alcoholic beverages, may not permit any person to remove any alcoholic beverages from the club premises.

[Acts 1977, 65th Leg., p. 440, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.16. Unauthorized Membership**

No private club registration permittee may allow its average membership to exceed that authorized by its permit.

[Acts 1977, 65th Leg., p. 440, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 32.17. Cancellation or Suspension of Permit; Grounds**

(a) The commission or administrator may cancel or suspend for a period of time not exceeding 60 days, after notice and hearing, an original or renewal private club registration permit on finding that the permittee club has:

(1) sold, offered for sale, purchased, or held title to any liquor so as to constitute an open saloon;

(2) refused to allow an authorized agent or representative of the commission or a peace officer to come on the club premises for the purposes of inspecting alcoholic beverages stored on the premises or investigating compliance with the provisions of this code;

(3) refused to furnish the commission or its agent or representative when requested any information pertaining to the storage, possession, serving, or consumption of alcoholic beverages on club premises;

(4) permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises;

(5) failed to maintain an adequate building at the address for which the private club registration permit was issued;

(6) caused, permitted, or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system;

(7) caused, permitted, or allowed any person to consume or be served any alcoholic beverage on the club premises:

(A) at any time on Sunday between the hours of 1:15 a. m. and 12 noon or on any other day at any time between the hours of 12:15 a. m. and 7 a. m., if the club does not have a private club late hours permit; or

(B) at any time on Sunday between the hours of 2 a. m. and 12 noon or on any other day at any time between the hours of 2 a. m. and 7

a.m., if the club has a private club late hours permit; or

(8) violated or assisted, aided or abetted the violation of any provision of this code.

(b) As used in Subsection (a)(1) of this section, the term "open saloon" means any place where an alcoholic beverage manufactured in whole or in part by distillation, or liquor composed or compounded in part of distilled spirits, is sold or offered for sale for beverage purposes by the drink or in broken or unsealed containers, or a place where any of the liquors are sold or offered for sale for on-premises consumption.

[Acts 1977, 65th Leg., p. 440, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 32.18. Appeals From Orders of Commission or Administrator

An appeal from an order of the commission or administrator refusing, cancelling, or suspending a private club registration permit shall be taken to the district court of the county in which the private club is located. The proceeding on appeal shall be under the substantial evidence rule. The rules applicable to ordinary civil suits apply, with the following exceptions, which shall be construed literally:

(1) all appeals shall be perfected and filed within 30 days after the order, decision, or ruling of the commission or administrator becomes final and appealable;

(2) all causes shall be tried before the judge within 10 days from the filing, and neither party shall be entitled to a jury; and

(3) the order, decision, or ruling of the commission or administrator may be suspended or modified by the district court pending a trial on the merits, but the final judgment of the district court shall not be modified or suspended pending appeal.

[Acts 1977, 65th Leg., p. 441, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2636, ch. 707, § 19, eff. Aug. 31, 1981.]

### § 32.19. Aiding or Abetting Violation

A person who commits, assists, aids, or abets a violation of this chapter commits an offense.

[Acts 1977, 65th Leg., p. 441, ch. 194, § 1, eff. Sept. 1, 1977.]

## CHAPTER 33. PRIVATE CLUB LATE HOURS PERMIT

Section	
33.01.	Authorized Activities.
33.02.	Fee.
33.03.	Application of Code Provisions.

### § 33.01. Authorized Activities

The holder of a private club late hours permit may allow persons to consume or be served alcoholic beverages on club premises on Sunday between the

hours of 1:00 a. m. and 2 a. m. and on any other day between the hours of 12 midnight and 2 a. m. if the licensed premises are in an area where consumption or service of alcoholic beverages in a public place during those hours is authorized by this code.

[Acts 1977, 65th Leg., p. 441, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 33.02. Fee

The annual state fee for a private club late hours permit is \$500.

[Acts 1977, 65th Leg., p. 441, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 33.03. Application of Code Provisions

All provisions of this code which apply to a private club registration permit also apply to a private club late hours permit.

[Acts 1977, 65th Leg., p. 442, ch. 194, § 1, eff. Sept. 1, 1977.]

## CHAPTER 34. AIRLINE BEVERAGE PERMIT

Section	
34.01.	Authorized Activities.
34.02.	Fee.
34.03.	Eligibility for Permit.
34.04.	Taxes.
34.05.	Sale of Liquor to Permittee.
34.06.	Inapplicable Provision.

### § 34.01. Authorized Activities

The holder of an airline beverage permit may:

(1) sell or serve alcoholic beverages in or from any size container on a commercial passenger airplane operated in compliance with a valid license, permit, or certificate issued under the authority of the United States or of this state, even though the plane, in the course of its flight, may cross an area in which the sale of alcoholic beverages is prohibited; and

(2) store alcoholic beverages in sealed containers of any size at any airport regularly served by the permittee, in accordance with rules and regulations promulgated by the commission.

[Acts 1977, 65th Leg., p. 442, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 34.02. Fee

The annual fee for an airline beverage permit is \$1,000.

[Acts 1977, 65th Leg., p. 442, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 34.03. Eligibility for Permit

The commission or administrator may issue an airline beverage permit to any corporation operating a commercial airline in or through the state. Application and payment of the fee shall be made directly to the commission.

[Acts 1977, 65th Leg., p. 442, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 34.04. Taxes

(a) The taxes imposed by this code shall be paid on all alcoholic beverages on a commercial passenger aircraft departing from an airport in this state, in accordance with rules and regulations prescribed by the commission.

(b) The preparation and service of alcoholic beverages by the holder of an airline beverage permit is exempt from the tax imposed by the Limited Sales, Excise and Use Tax Act. An airline beverage service fee of five cents is imposed on each individual serving of an alcoholic beverage served by the permittee inside the state. The fee accrues at the time the container containing an alcoholic beverage is delivered to the passenger. The permittee may absorb the cost of the fee or may collect it from the passenger. The permittee shall remit the fees to the commission each month under a reporting system prescribed by the commission.

[Acts 1977, 65th Leg., p. 442, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 34.05. Sale of Liquor to Permittee

(a) Only the holder of a package store permit may sell liquor to the holder of an airline beverage permit. For the purposes of this code, a sale of liquor to a holder of an airline beverage permit shall be considered as a sale at retail to a consumer.

(b) The holder of a package store permit may sell liquor in any size container authorized by Section 101.46 of this code to holders of an airline beverage permit, and may purchase liquor in any size container for resale from the holders of a wholesaler's permit. A holder of a wholesaler's permit may import, sell, offer for sale, or possess for resale to package store permittees to resell to holders of airline beverage permittees liquor in any authorized size containers.

[Acts 1977, 65th Leg., p. 442, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 34.06. Inapplicable Provision

Section 109.53 of this code does not apply to an airline beverage permit.

[Acts 1977, 65th Leg., p. 443, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 35. AGENT'S PERMIT

Section	
35.01.	Authorized Activities.
35.02.	Fee.
35.03.	Evidence of Agency or Employment Required.
35.04.	Certain Employees Exempt.
35.05.	Samples.
35.06.	Ineligibility for Manufacturer's Agent's Permit.
35.07.	Unauthorized Representation.

§ 35.01. Authorized Activities

The holder of an agent's permit may:

- (1) represent permittees other than retailers within this state who are authorized to sell liquor to retail dealers in the state; and

- (2) solicit and take orders for the sale of liquor from authorized permittees.

[Acts 1977, 65th Leg., p. 443, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 35.02. Fee

The annual state fee for an agent's permit is \$5.

[Acts 1977, 65th Leg., p. 443, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 35.03. Evidence of Agency or Employment Required

An agent's permit may not be issued to a person until he shows to the satisfaction of the commission that he has been employed by or authorized to act as the agent of the holder of a permit as described by Section 35.01 of this code.

[Acts 1977, 65th Leg., p. 443, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 35.04. Certain Employees Exempt

An agent's permit is not required for an employee of a permit holder who sells liquor but remains on the licensed premises when making the sale.

[Acts 1977, 65th Leg., p. 443, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 35.05. Samples

The holder of an agent's permit may not transport or carry liquor as samples, but may carry or display empty sample containers.

[Acts 1977, 65th Leg., p. 443, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 35.06. Ineligibility for Manufacturer's Agent's Permit

A person holding an agent's permit may not be issued a manufacturer's agent's permit.

[Acts 1977, 65th Leg., p. 443, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 35.07. Unauthorized Representation

A holder of an agent's permit in soliciting or taking orders for the sale of liquor may not represent himself to be an agent of any person other than the person designated in his permit application.

[Acts 1977, 65th Leg., p. 444, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 36. MANUFACTURER'S AGENT'S PERMIT

Section	
36.01.	Authorized Activities.
36.02.	Fee.
36.03.	Authorization by Principal Required.
36.04.	Ineligibility for Agent's Permit.
36.05.	Samples.
36.06.	Solicitation From Holder of Mixed Beverage or Private Club Permit.
36.07.	Unauthorized Representation.
36.08.	Restriction as to Source of Supply.

§ 36.01. Authorized Activities

The holder of a manufacturer's agent's permit may:

(1) represent only the holders of nonresident seller's permits; and

(2) solicit and take orders for the sale of liquor from permittees authorized to import liquor for the purpose of resale.

[Acts 1977, 65th Leg., p. 444, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 36.02. Fee

The annual state fee for a manufacturer's agent's permit is \$5.

[Acts 1977, 65th Leg., p. 444, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 36.03. Authorization by Principal Required

A manufacturer's agent's permit may not be issued to a person until he shows to the satisfaction of the commission that he has been authorized to act as agent of the principal he proposes to represent.

[Acts 1977, 65th Leg., p. 444, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 36.04. Ineligibility for Agent's Permit

A holder of a manufacturer's agent's permit may not be issued an agent's permit.

[Acts 1977, 65th Leg., p. 444, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 36.05. Samples

The holder of a manufacturer's agent's permit may not transport or carry liquor as samples, but may carry or display empty sample containers.

[Acts 1977, 65th Leg., p. 444, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 36.06. Solicitation From Holder of Mixed Beverage or Private Club Permit

A holder of a manufacturer's agent's permit may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless he is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.

[Acts 1977, 65th Leg., p. 444, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 36.07. Unauthorized Representation

A holder of a manufacturer's agent's permit in soliciting or taking orders for the sale of liquor may not represent himself as an agent of a person other than the person designated in his permit application.

[Acts 1977, 65th Leg., p. 444, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 36.08. Restriction as to Source of Supply

A manufacturer's agent's permittee may not represent a person with respect to an alcoholic beverage unless the person represented is the primary American source of supply of the beverage as defined in Section 37.10 of this code.

[Acts 1977, 65th Leg., p. 445, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 37. NONRESIDENT SELLER'S PERMIT

Section	
37.01.	Authorized Activities.
37.02.	Fee.
37.03.	Permit Required.
37.04.	Interest in Brewer's Permit.
37.05.	Appointment of Agent for Service of Notice.
37.06.	Designation of Agents.
37.07.	Prohibited Activities.
37.08.	Cancellation or Suspension: Notice to Importers.
37.09.	Restriction on Importation.
37.10.	Restriction as to Source of Supply.
37.11.	Submission of Samples and Labels.
37.12.	Inspection of Records, Documents, Etc.
37.13.	Solicitation From Holder of Mixed Beverage or Private Club Permit.
37.14.	Monthly Reports.

#### § 37.01. Authorized Activities

The holder of a nonresident seller's permit may:

(1) solicit and take orders for liquor from permittees authorized to import liquor into this state;

(2) ship liquor into this state, or cause it to be shipped into this state, in consummation of sales made to permittees authorized to import liquor into the state.

[Acts 1977, 65th Leg., p. 445, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 37.02. Fee

The annual state fee for a nonresident seller's permit is \$100.

[Acts 1977, 65th Leg., p. 445, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 37.03. Permit Required

A nonresident seller's permit is required of any distillery, winery, importer, broker, or person who sells liquor to permittees authorized to import liquor into this state, regardless of whether the sale is consummated inside or outside the state.

[Acts 1977, 65th Leg., p. 445, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 37.04. Interest in Brewer's Permit

A person who holds a nonresident seller's permit may have an interest in the business, assets, corporate stock, or permit of a person who holds a brewer's permit.

[Acts 1977, 65th Leg., p. 445, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 37.05. Appointment of Agent for Service of Notice

(a) No person may be issued a nonresident seller's permit until he shows that he has filed a certificate with the secretary of state certifying that he has appointed a resident of this state as his agent for the purposes of this section. The certificate shall contain the name, street address, and business of the agent.

(b) A notice of a hearing for the refusal, cancellation, or suspension of a permit may be served on any of the following:

(1) the agent designated in the certificate on file with the secretary of state;

(2) any person authorized to sell liquor in this state as agent of the permittee; or

(3) the permittee or, if the permittee is a corporation, any officer of the corporation.

(c) If a permittee fails to maintain a designated agent, notice of a hearing may be served on the secretary of state. In that case, the secretary of state shall forward the notice to the permittee by registered mail, return receipt requested, and the receipt shall be prima facie evidence of service on the permittee.

(d) Provisions of this code generally applicable to hearings for the refusal, cancellation, or suspension of a permit also to apply to proceedings relating to the refusal, cancellation, or suspension of a nonresident seller's permit.

[Acts 1977, 65th Leg., p. 445, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 37.06. Designation of Agents**

Every holder of a nonresident seller's permit shall designate, in the manner required by the commission and on forms prescribed by it, those persons authorized as agents to represent the permittee in this state. The failure to do so is a violation of this code.

[Acts 1977, 65th Leg., p. 446, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 37.07. Prohibited Activities**

No holder of a nonresident seller's permit, nor any officer, director, agent, or employee of the holder, nor any affiliate of the holder, regardless of whether the affiliation is corporate or by management, direction, or control, may do any of the following:

(1) hold or have an interest in the permit, business, assets, or corporate stock of a person authorized to import liquor into this state for the purpose of resale unless the interest was acquired on or before January 1, 1941, or unless the permittee is a Texas corporation holding a manufacturer's license and a brewer's permit issued before April 1, 1971;

(2) fail to make or file a report with the commission as required by a rule of the commission;

(3) sell liquor for resale inside this state that fails to meet the standards of quality, purity, and identity prescribed by the commission;

(4) advertise any liquor contrary to the laws of this state or to the rules of the commission, or sell liquor for resale in this state in violation of advertising or labeling rules of the commission;

(5) sell liquor for resale inside this state or cause it to be brought into the state in a size of container prohibited by this code or by rule of the commission;

(6) solicit or take orders for liquor from a person not authorized to import liquor into this state for the purpose of resale;

(7) induce, persuade, or influence, or attempt to induce, persuade, or influence, a person to violate this code or a rule of the commission, or conspire with a person to violate this code or a rule of the commission; or

(8) exercise a privilege granted by a nonresident seller's permit while an order or suspension against the permit is in effect.

[Acts 1977, 65th Leg., p. 446, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 37.08. Cancellation or Suspension: Notice to Importers**

When a nonresident seller's permit is cancelled or suspended, the commission shall immediately notify in writing all permittees authorized to import liquor into the state.

[Acts 1977, 65th Leg., p. 447, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 37.09. Restriction on Importation**

No person who holds a permit authorizing the importation of liquor, nor his agent or employee, may purchase or order liquor for importation from any person other than a nonresident seller's permittee. An importer may not purchase or order liquor from a nonresident seller's permittee whose permit is under suspension after the importer has received notice of the suspension.

[Acts 1977, 65th Leg., p. 447, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 37.10. Restriction as to Source of Supply**

(a) No holder of a nonresident seller's permit may solicit, accept, or fill an order for distilled spirits or wine from a holder of any type of wholesaler's permit unless the nonresident seller is the primary American source of supply for the brand of distilled spirits or wine that is ordered.

(b) In this section, "primary American source of supply" means the distiller, the producer, the owner of the commodity at the time it becomes a marketable product, the bottler, or the exclusive agent of any of those. To be the "primary American source of supply" the nonresident seller must be the first source, that is, the manufacturer or the source closest to the manufacturer, in the channel of commerce from whom the product can be secured by American wholesalers.

[Acts 1977, 65th Leg., p. 447, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 37.11. Submission of Samples and Labels**

(a) Before a nonresident seller's permittee may ship distilled spirits into this state, he shall furnish the commission samples of each brand, properly labeled and in the containers in which they are to be sold. He shall submit with the samples applications for label approval for each brand.

(b) The commission or its authorized agents shall test the contents and examine the label and container of the samples and determine whether they meet

all requirements of state law and of the rules of the commission. If the label, container, and contents are found to be in compliance, the commission shall issue the permittee a certificate to that effect.

(c) As to distilled spirits imported directly from the distiller, bottler, or the exclusive agent of either, or distilled spirits distilled or bottled by the nonresident seller or by a distiller or bottler for whom the nonresident seller is the exclusive agent, if the samples are approved under Subsection (b) of this section, the permittee is not required to submit additional samples unless there is a change in the label, contents, or style or size of the container, or unless he is directed to do so by the commission.

(d) As to all other distilled spirits, samples must be furnished to the commission for each brand and size in each proposed shipment into the state, together with a sworn statement of the quantity and sizes to be shipped, the permittee to whom the spirits are to be shipped, and the person or firm from whom they are to be shipped. The permittee may not ship the distilled spirits until he has in his possession a certificate of approval from the commission.

(e) Until January 1, 1980, the submission of samples and applications for label and container approval shall not be required for any distilled spirit imported direct from the distiller, bottler, or the exclusive agent of the distiller or bottler, or for any distilled spirit distilled or bottled by the holder of a nonresident seller's permit or by a distiller or bottler for whom he is the exclusive agent if a certificate of approval has previously been granted and the only change in container size is to the metric system container most nearly equivalent to a previously approved United States standard gallon system container, and the only change in label is the substitution of the metric measure for the formerly used statement of quantity content. This subsection expires January 1, 1980.

[Acts 1977, 65th Leg., p. 447, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1182, ch. 453, § 7, eff. Sept. 1, 1977.]

Section 15 of the 1977 amendatory act provided:

"(a) Except as provided in Subsection (b) of this section, this Act takes effect on September 1, 1977.

"(b) Senate Bill No. 731, Acts of the 65th Legislature, Regular Session, 1977, takes effect immediately."

#### § 37.12. Inspection of Records, Documents, Etc.

(a) In this section, "officer" means a representative of the commission, the attorney general, or an assistant or representative of the attorney general.

(b) If an officer wishes to examine the books, accounts, records, minutes, letters, memoranda, documents, checks, telegrams, constitution and bylaws, or other records of a nonresident seller's permittee, he shall make a written request to the permittee or his duly authorized manager or representative or, if the permittee is a corporation, to any officer of the corporation. An officer may examine the records as often as he considers necessary.

(c) When a request for an examination is made, the person to whom it is directed shall immediately allow the officer to conduct the examination, and the person shall answer under oath any question asked by the officer relating to the records.

(d) The officer may investigate the organization, conduct, and management of any nonresident seller's permittee and may make copies of any records which in the officer's judgment may show or tend to show that the permittee has violated state law or the terms of his permit.

(e) An officer may not make public any information obtained under this section except to a law enforcement officer of this state or in connection with an administrative or judicial proceeding in which the state or commission is a party concerning the cancellation or suspension of a nonresident seller's permit, the collection of taxes due under state law, or the violation of state law.

(f) The commission shall cancel or suspend a nonresident seller's permit in accordance with this code if a permittee or his authorized representative fails or refuses to permit an examination authorized by this section or to permit the making of copies of any document as provided by this section, without regard to whether the document is inside or outside the state, or if the permittee or his authorized representative fails or refuses to answer a question of an officer incident to an examination or investigation in progress.

[Acts 1977, 65th Leg., p. 448, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 37.13. Solicitation From Holder of Mixed Beverage or Private Club Permit

A holder of a nonresident seller's permit may not solicit business directly or indirectly from a holder of a mixed beverage permit or a private club registration permit unless he is accompanied by the holder of a wholesaler's permit or the wholesaler's agent.

[Acts 1977, 65th Leg., p. 448, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 37.14. Monthly Reports

The commission shall promulgate rules requiring holders of nonresident seller's permits to file monthly reports of liquor sold to persons within this state. The reports shall be supported by copies of invoices. The commission shall prescribe and furnish forms for this purpose.

[Acts 1977, 65th Leg., p. 448, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 38. INDUSTRIAL PERMIT

Section 38.01.	Authorized Activities.
38.02.	Exemptions.
38.03.	Prohibited Acts.
38.04.	Fee.
38.05.	Other Code Provisions Inapplicable.
38.06.	Activities Tax Free.

**§ 38.01. Authorized Activities**

The holder of an industrial permit may import, transport, and use alcohol or denatured alcohol for the manufacture and sale of any of the following products:

- (1) denatured alcohol;
- (2) patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
- (3) flavoring extracts, syrups, condiments, and food products; and
- (4) scientific, chemical, mechanical, and industrial products, or products used for scientific, chemical, mechanical, industrial, or medicinal purposes.

[Acts 1977, 65th Leg., p. 449, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 38.02. Exemptions**

The following persons or entities are exempt from the requirement of obtaining an industrial permit:

- (1) a pharmacist for the filling of prescriptions issued by a physician in the legitimate practice of medicine;
- (2) a state institution;
- (3) a bona fide or chartered school, college, or university when using alcohol for a scientific or laboratory use; and
- (4) a hospital, sanatorium, or other bona fide institution for the treatment of the sick.

[Acts 1977, 65th Leg., p. 449, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 38.03. Prohibited Acts**

(a) No person may purchase, transport, or use alcohol for any purpose enumerated in this chapter without an industrial permit, unless the person is exempt under Section 38.02 of this code from the requirement of obtaining a permit.

(b) No person may sell, possess, or divert any of the products enumerated in Subdivisions (1) through (4) of Section 38.01 of this code for beverage purposes or under circumstances from which he might reasonably deduce that the intention of the purchaser is to use those products for beverage purposes.

[Acts 1977, 65th Leg., p. 449, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 38.04. Fee**

The annual state fee for an industrial permit is \$10.

[Acts 1977, 65th Leg., p. 449, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 38.05. Other Code Provisions Inapplicable**

No provisions of this code other than this chapter apply to alcohol intended for industrial, medicinal, mechanical, or scientific purposes.

[Acts 1977, 65th Leg., p. 449, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 38.06. Activities Tax Free**

The taxes imposed by this code do not apply to activities authorized in Section 38.01 of this code. [Acts 1977, 65th Leg., p. 449, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 39. MEDICINAL PERMIT**

**SUBCHAPTER A. GENERAL PROVISIONS**

- |         |                                       |
|---------|---------------------------------------|
| Section |                                       |
| 39.01.  | Authorized Activities.                |
| 39.02.  | Qualifications for Permit.            |
| 39.03.  | Rules.                                |
| 39.04.  | Fee.                                  |
| 39.05.  | Certificate to Accompany Application. |

**SUBCHAPTER B. PROHIBITED ACTIVITIES**

- |        |  |
|--------|--|
| 39.21. | Prescriptions.                         |
| 39.22. | Records, Reports, and Information.     |
| 39.23. | Standards.                             |
| 39.24. | Sale for Medicinal Purposes Only.      |
| 39.25. | Consumption on Premises Prohibited.    |
| 39.26. | Amount Sold to One Person.             |
| 39.27. | Number of Prescriptions Limited.       |
| 39.28. | Limitation on Amount Possessed.        |
| 39.29. | From Whom Purchased.                   |
| 39.30. | Compensation of Physicians Prohibited. |
| 39.31. | Sales to Minors.                       |
| 39.32. | Sale to Intoxicated Person.            |

**SUBCHAPTER C. SUSPENSION OR CANCELLATION OF PERMIT**

- |        |                     |
|--------|---------------------|
| 39.41. | Change of Location. |
| 39.42. | Breach of Peace.    |

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 39.01. Authorized Activities**

The holder of a medicinal permit may buy or dispense liquor at his pharmacy for medicinal purposes only.

[Acts 1977, 65th Leg., p. 450, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.02. Qualifications for Permit**

To be qualified to receive a medicinal permit:

- (1) a person must be the owner of a pharmacy properly qualified as a pharmacy under state law;
- (2) the applicant's pharmacy must be a bona fide pharmacy continuously operated for not less than two years;
- (3) the applicant's pharmacy must have been continuously located for not less than two years in the particular justice precinct or incorporated city or town in which it is located at the time the permit is sought;
- (4) the applicant's pharmacy must have been registered with the state board of pharmacy for two years immediately preceding the date of application for the permit;
- (5) the applicant's pharmacy must have employed at all times a registered pharmacist during the two years immediately preceding the date of application for the permit; and

(6) the applicant's pharmacy must not have operated under a permit which was cancelled during the past two years.

[Acts 1977, 65th Leg., p. 450, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 39.03. Rules

The board, by rule, may require the keeping of whatever records it considers necessary to properly enforce the provisions of this code.

[Acts 1977, 65th Leg., p. 451, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 39.04. Fee

The annual state fee for a medicinal permit is \$10 if the permittee's pharmacy is located in a dry area and is the same as the annual state fee for a package store permit if the permittee's pharmacy is located in a wet area.

[Acts 1977, 65th Leg., p. 451, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 39.05. Certificate to Accompany Application

Each applicant for a medicinal permit shall present with his application a certificate issued by the state board of pharmacy showing the registration record of his pharmacy with that board during the preceding two years.

[Acts 1977, 65th Leg., p. 451, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 39.06 to 39.20 reserved for expansion]

### SUBCHAPTER B. PROHIBITED ACTIVITIES

#### § 39.21. Prescriptions

(a) No holder of a medicinal permit or any of his agents or employees may sell or dispense liquor except upon a prescription properly issued by the holder of a physician's permit.

(b) No holder of a medicinal permit or any of his agents or employees may sell or dispense liquor on a prescription which does not meet the specifications required by this code.

(c) No holder of a medicinal permit or any of his agents or employees may sell or dispense liquor more than once on any prescription.

(d) No holder of a medicinal permit or any of his agents or employees may sell or dispense liquor on a prescription dated more than three days prior to the date when the prescription is presented for filling.

(e) No holder of a medicinal permit or any of his agents or employees may sell or dispense liquor on a prescription knowing that the prescription was written without a physical examination of the patient by the doctor prescribing the liquor.

(f) No holder of a medicinal permit or any of his agents or employees may sell or dispense liquor to any person knowing that the prescription was issued to a patient under a name other than his true name.

(g) No holder of a medicinal permit or any of his agents or employees may sell or dispense liquor on a prescription bearing any false statement or information.

(h) No holder of a medicinal permit or any of his agents or employees may sell or dispense any liquor without having first obtained physical possession of and carefully examining the prescription on which the sale is made.

(i) No holder of a medicinal permit or any of his agents or employees may prepare a prescription for liquor.

(j) No holder of a medicinal permit or any of his agents or employees may fail to attach to each container of liquor sold a label in the English language bearing the full name and address of the pharmacy making the sale, the name and address of the prescribing physician, the full name and address of the patient to whom the sale is made, the directions for use, the signature of the pharmacist filling the prescription, and the number of the prescription.

[Acts 1977, 65th Leg., p. 451, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 39.22. Records, Reports, and Information

(a) No holder of a medicinal permit or any of his agents or employees may fail to preserve and keep for two years any prescription on which liquor has been sold. The permittee shall make these prescriptions available at all times for inspection by a representative of the commission, peace officer, or county or district attorney.

(b) No holder of a medicinal permit or any of his agents or employees may fail to make and keep for two years any other record required by the commission, or may fail to produce that record on demand of a representative of the commission, peace officer, or county or district attorney.

(c) No holder of a medicinal permit or any of his agents or employees may fail to make a report required by the commission within the time required, or make or cause to be made a report so required which is false in any particular.

(d) No holder of a medicinal permit or any of his agents or employees may fail or refuse to divulge any information concerning the purchase, storage, or disposal of liquor to a representative of the commission, peace officer, or county or district attorney.

(e) No holder of a medicinal permit or any of his agents or employees may fail to produce on demand a prescription for each container of liquor disposed of or unaccounted for.

[Acts 1977, 65th Leg., p. 452, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 39.23. Standards

No holder of a medicinal permit or any of his agents or employees may sell or dispense any liquor

not meeting the standards established by the United States Pharmacopoeia or the National Formulary. [Acts 1977, 65th Leg., p. 452, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.24. Sale for Medicinal Purposes Only**

No holder of a medicinal permit or any of his agents or employees may sell or dispense any liquor for other than medicinal purposes. [Acts 1977, 65th Leg., p. 452, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.25. Consumption on Premises Prohibited**

No holder of a medicinal permit or any of his agents or employees may permit any liquor to be consumed on the pharmacy premises. [Acts 1977, 65th Leg., p. 452, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.26. Amount Sold to One Person**

No holder of a medicinal permit or any of his agents or employees may sell or dispense more than one pint of liquor to a person in one day. [Acts 1977, 65th Leg., p. 452, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.27. Number of Prescriptions Limited**

No holder of a medicinal permit or any of his agents or employees may in any one week sell or dispense liquor on prescriptions exceeding the number of prescriptions filled during that week for other medicines, excluding narcotics. For the purposes of this section a week begins Sunday at midnight. [Acts 1977, 65th Leg., p. 452, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.28. Limitation on Amount Possessed**

No holder of a medicinal permit or any of his agents or employees may have in his physical possession more than 10 gallons of liquor at one time. [Acts 1977, 65th Leg., p. 453, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.29. From Whom Purchased**

No holder of a medicinal permit or any of his agents or employees may purchase or acquire stocks of liquor from any person who is not the holder of a wholesaler's permit in this state. [Acts 1977, 65th Leg., p. 453, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.30. Compensation of Physicians Prohibited**

No holder of a medicinal permit or any of his agents or employees may compensate or guarantee any income to a physician in this state for writing a prescription for liquor. [Acts 1977, 65th Leg., p. 453, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.31. Sales to Minors**

No holder of a medicinal permit or any of his agents or employees may sell or dispense any liquor to a person under 19 years of age unless that minor presents with his prescription the written consent of his parent or guardian. The person making the sale shall file the written consent with the prescription. [Acts 1977, 65th Leg., p. 453, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 253, ch. 107, § 2, eff. Sept. 1, 1981.]

**§ 39.32. Sale to Intoxicated Person**

No holder of a medicinal permit or any of his agents or employees may sell or dispense any liquor to a person showing evidence of intoxication. [Acts 1977, 65th Leg., p. 453, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 39.33 to 39.40 reserved for expansion]

SUBCHAPTER C. SUSPENSION OR CANCELLATION OF PERMIT

**§ 39.41. Change of Location**

The commission or administrator shall cancel the medicinal permit of a pharmacy owner if the pharmacy for which the permit was issued moves from the place where it was located when the permit was issued into an incorporated city or town, into a different incorporated city or town, or into a different justice precinct. [Acts 1977, 65th Leg., p. 453, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 39.42. Breach of Peace**

The commission or administrator may suspend or cancel a medicinal permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the pharmacy premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the pharmacy premises or on premises under his control. [Acts 1977, 65th Leg., p. 453, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 40. PHYSICIAN'S PERMIT

Section	
40.01.	Authorized Activities.
40.02.	Fee.
40.03.	Eligibility for Permit.
40.04.	Prescription Forms.
40.05.	Prohibited Activities.

**§ 40.01. Authorized Activities**

The holder of a physician's permit may write prescriptions for liquor for medical purposes in accordance with the restrictions set forth in this chapter.

[Acts 1977, 65th Leg., p. 453, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 40.02. Fee**

The annual state fee for a physician's permit is \$1. [Acts 1977, 65th Leg., p. 454, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 40.03. Eligibility for Permit**

(a) A physician licensed by the State Board of Medical Examiners to administer internal medicine

to human beings may obtain a physician's permit. Each applicant for a permit must present with the application a certificate issued by the State Board of Medical Examiners showing his qualification to hold a permit.

(b) No person who has been convicted of a violation of this code or who has had a permit authorized by this code cancelled within two years preceding the date of filing an application for a permit may be issued a physician's permit.

[Acts 1977, 65th Leg., p. 454, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 40.04. Prescription Forms

(a) The commission shall adopt rules determining the form of and manner of furnishing prescription forms. No person may prescribe liquor on any form not obtained from the commission or in a manner not meeting the requirements specified in this chapter.

(b) A prescription, when issued, must contain the following information:

- (1) the date of issuance;
- (2) the name and address of the issuing physician;
- (3) the name, address, sex, and age of the patient and the diagnosis of the disease or ailment of the patient;
- (4) the amount and type of liquor prescribed;
- (5) the directions for use by the patient; and
- (6) the signature of the issuing physician.

(c) The commission may adopt regulations regarding the printing and issuance of prescription blanks, the keeping of records of prescriptions issued, the making of reports, and the disposal of unused, mutilated, or defaced blanks which it deems necessary to require physicians to strictly conform to the provisions of this chapter.

[Acts 1977, 65th Leg., p. 454, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 40.05. Prohibited Activities

No physician may:

- (1) prescribe liquor for any purpose unless he holds a physician's permit;
- (2) prescribe liquor for other than medicinal purposes;
- (3) issue prescriptions for liquor to any person without first making a physical examination of the patient to determine the disease or ailment afflicting him;
- (4) issue a prescription which does not contain all the information required by this chapter written in the English language;
- (5) accept any sort of compensation or guarantee as to income or material benefit from a holder of a medicinal permit for writing a prescription;
- (6) prescribe more than one pint of liquor for a person in any one day;

(7) prescribe liquor for any person showing evidence of intoxication;

(8) prescribe liquor for any person under any name other than the true name of the person for whom the liquor is intended;

(9) prescribe liquor for any person under the age of 19 years unless he has the written consent of the person's parent or guardian;

(10) issue more than 100 prescriptions for liquor in any period of 90 days, beginning from the date designated by the physician in any order for prescription forms placed with the commission;

(11) fail or refuse to make and keep for a period of two years any record of prescriptions issued for liquor as required by the commission;

(12) fail to make reports required by the commission; or

(13) fail to divulge information or produce records of the issuance of prescriptions when requested to do so by a representative of the commission or by any peace officer or any county or district attorney.

[Acts 1977, 65th Leg., p. 454, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 253, ch. 107, § 3, eff. Sept. 1, 1981.]

### CHAPTER 41. CARRIER PERMIT

Section	
41.01.	Authorized Activities.
41.02.	Fee.
41.03.	Eligibility for Permit.
41.04.	Required Information.

#### § 41.01. Authorized Activities

(a) The holder of a carrier permit may transport liquor into and out of this state and between points within the state.

(b) The holder may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient. [Acts 1977, 65th Leg., p. 455, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 41.02. Fee

The annual state fee for a carrier permit is \$5. [Acts 1977, 65th Leg., p. 455, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 41.03. Eligibility for Permit

A carrier permit may be issued to:

- (1) a water carrier;
- (2) an airline;
- (3) a railway; or
- (4) a common carrier operating under a certificate of convenience and necessity issued by the Railroad Commission of Texas or under a certificate issued by the Interstate Commerce Commission.

[Acts 1977, 65th Leg., p. 455, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 41.04. Required Information

The holder of a carrier permit shall furnish information required by the commission concerning the transportation of liquor.

[Acts 1977, 65th Leg., p. 455, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 42. PRIVATE CARRIER PERMIT

Section

- 42.01. Authorized Activities.
- 42.02. Fee.
- 42.03. Application of Motor Carrier Laws.
- 42.04. Vehicles Used for Transporting Liquor.
- 42.05. Transportation of Ale and Malt Liquor: Rules.

§ 42.01. Authorized Activities

(a) The holder of a private carrier permit who is also a holder of a brewer's, distiller's, winery, rectifier's, wholesaler's, class B wholesaler's, or wine bottler's permit may transport liquor from the place of purchase to his place of business and from the place of sale or distribution to the purchaser in vehicles owned or leased in good faith by the holder if the transportation is for a lawful purpose.

(b) The holder of a private carrier permit may transport liquor from one wet area to another wet area across a dry area if that course of transportation is necessary or convenient.

[Acts 1977, 65th Leg., p. 456, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, § 8, eff. June 13, 1979.]

§ 42.02. Fee

The annual state fee for a private carrier permit is \$5.

[Acts 1977, 65th Leg., p. 456, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 42.03. Application of Motor Carrier Laws

A person desiring to transport liquor for hire must first secure a certificate or permit from the Railroad Commission in accordance with the applicable motor carrier laws, and he shall comply with the provisions of the motor carrier laws when engaging in the business of transporting liquor for hire.

[Acts 1977, 65th Leg., p. 456, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 42.04. Vehicles Used for Transporting Liquor

(a) Each application for a private carrier permit must contain a full description of the motor vehicles used by the applicant for transporting liquor as well as all other information required by the commission.

(b) Each vehicle used for the transportation of liquor within the state shall have printed or painted on it the designation required by the commission.

(c) A permittee may not transport liquor in any vehicle which is not fully described in his application for a permit.

[Acts 1977, 65th Leg., p. 456, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 42.05. Transportation of Ale and Malt Liquor: Rules

The commission may issue rules prescribing the manner in which ale and malt liquor may be transported in the state by private carrier's permittees who also hold class B wholesaler's permits.

[Acts 1977, 65th Leg., p. 456, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 43. LOCAL CARTAGE PERMIT

Section

- 43.01. Authorized Activities.
- 43.02. Fee.
- 43.03. Permit Required.
- 43.04. Eligibility for Permit.
- 43.05. Vehicles Used by Permittee.
- 43.06. Certain Transportation Prohibited.
- 43.07. Violation of Code, Rule.

§ 43.01. Authorized Activities

(a) A warehouse or transfer company that holds a local cartage permit may transport liquor for hire inside the corporate limits of any city or town in the state.

(b) A package store, wine only package store, or local distributor's permittee who also holds a local cartage permit may transfer alcoholic beverages in accordance with Sections 22.08, 23.04, and 24.04 of this code.

[Acts 1977, 65th Leg., p. 457, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 43.02. Fee

The annual state fee for a local cartage permit is \$5.

[Acts 1977, 65th Leg., p. 457, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 43.03. Permit Required

No person may transport liquor for hire inside a city or town unless he holds a local cartage permit. No person may transport liquor in violation of the motor carrier laws of this state.

[Acts 1977, 65th Leg., p. 457, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 43.04. Eligibility for Permit

The commission may issue a local cartage permit to a warehouse or transfer company or to a holder of a package store, wine only package store, or local distributor's permit.

[Acts 1977, 65th Leg., p. 457, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 43.05. Vehicles Used by Permittee

(a) No local cartage permittee may transport liquor unless:

(1) a description of each vehicle used in the transportation, as required by the commission, has been submitted to the commission; and

(2) each vehicle has been plainly marked or lettered to indicate that it is being used for the

transportation of liquor by a local cartage permittee.

(b) The transportation of liquor by a permittee in a vehicle not described and marked in accordance with this section is a violation of this code and is a ground for the cancellation of the permit.

[Acts 1977, 65th Leg., p. 457, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 43.06. Certain Transportation Prohibited

No holder of a local cartage permit may for hire transport liquor between incorporated cities or towns in this state.

[Acts 1977, 65th Leg., p. 457, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 43.07. Violation of Code, Rule

If a holder of a local cartage permit who also holds a package store permit or wine only package store permit violates any provision of this code or any rule or regulation of the commission, the violation is a ground for the suspension or cancellation of any or all permits or licenses held by that person for the premises where the offense was committed.

[Acts 1977, 65th Leg., p. 457, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 44. BEVERAGE CARTAGE PERMIT

Section	
44.01.	Authorized Activities.
44.02.	Fee.
44.03.	Eligibility for Permit.

#### § 44.01. Authorized Activities

A beverage cartage permit authorizes the holder of a mixed beverage or private club registration permit to transfer alcoholic beverages from the place of purchase to the licensed premises as provided in this code.

[Acts 1977, 65th Leg., p. 458, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 44.02. Fee

The annual state fee for a beverage cartage permit is \$10.

[Acts 1977, 65th Leg., p. 458, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 44.03. Eligibility for Permit

The commission may issue a beverage cartage permit to the holder of a mixed beverage or private club registration permit.

[Acts 1977, 65th Leg., p. 458, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 45. STORAGE PERMIT

Section	
45.01.	Authorized Activities.
45.02.	Fee.
45.03.	Eligibility for Permit; Restrictions; Exceptions.

#### § 45.01. Authorized Activities

The holder of a storage permit may store liquor in a public bonded warehouse for which a permit has been issued or in a private warehouse owned and operated by the holder.

[Acts 1977, 65th Leg., p. 458, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 45.02. Fee

There is no fee for a storage permit.

[Acts 1977, 65th Leg., p. 458, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 45.03. Eligibility for Permit; Restrictions; Exceptions

(a) A storage permit may be issued to a holder of a brewer's, distiller's, winery, rectifier's, wholesaler's, class B wholesaler's, or wine bottler's permit.

(b) A permit must be obtained for each place of storage.

(c) A storage permit may not be issued for a location outside the county in which the permittee's business is located.

(d) No storage permit may be issued for a location in a dry area.

(e) A permit is not required for the storage of stock in trade on the licensed premises.

[Acts 1977, 65th Leg., p. 458, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 46. BONDED WAREHOUSE PERMIT

Section	
46.01.	Authorized Activities.
46.02.	Fee.
46.03.	Qualifications for Permit.
46.04.	Storage Information.

#### § 46.01. Authorized Activities

The holder of a bonded warehouse permit may store liquor for any permittee who holds a permit authorizing its storage in a public bonded warehouse.

[Acts 1977, 65th Leg., p. 459, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 46.02. Fee.

The annual state fee for a bonded warehouse permit is \$100.

[Acts 1977, 65th Leg., p. 459, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 46.03. Qualifications for Permit

A bonded warehouse permit may be issued to any public bonded warehouse not located in a dry area which derives at least 50 percent of its gross revenue in a bona fide manner during each three-month period from the storage of goods or merchandise other than liquor.

[Acts 1977, 65th Leg., p. 459, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 46.04. Storage Information

The holder of a bonded warehouse permit shall furnish such information concerning the liquor stored and withdrawn as may be required by the commission.

[Acts 1977, 65th Leg., p. 459, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 47. LOCAL INDUSTRIAL ALCOHOL MANUFACTURER'S PERMIT

Section	
47.01.	Authorized Activities.
47.02.	Fee.
47.03.	Transportation.
47.04.	Storage Facility.
47.05.	Plant Plan Requirements.
47.06.	Exemption for State Institutions.
47.07.	Local Option Status of Area.

§ 47.01. Authorized Activities

The holder of a local industrial alcohol manufacturer's permit may:

- (1) manufacture, rectify, and refine industrial alcohol, which term as used in this chapter means an alcohol which is produced for industrial purposes only and is not fit for human consumption;
- (2) denature alcohol produced under the permit;
- (3) sell denatured or industrial alcohol produced under the permit to holders of local industrial alcohol manufacturer's permits or industrial permits and to qualified persons outside the state; and

- (4) blend industrial alcohol produced under the permit with petroleum distillates and sell or use the resulting product as a motor fuel.

[Added by Acts 1979, 66th Leg., p. 1074, ch. 504, § 1, eff. June 7, 1979.]

§ 47.02. Fee

The annual state fee for a local industrial alcohol manufacturer's permit is \$100.

[Added by Acts 1979, 66th Leg., p. 1074, ch. 504, § 1, eff. June 7, 1979.]

§ 47.03. Transportation

(a) A local industrial alcohol manufacturer's permittee may transport the alcohol produced under the local industrial alcohol manufacturer's permit by railway tank car, barge, or motor truck if the tank car, barge, or motor truck is owned by him or leased in good faith.

(b) The permittee must comply with all applicable state and federal laws regulating transportation.

(c) The permittee may not transport alcohol under the authority of this section unless, at the time the transportation occurs, the tank car, barge, or motor truck is fully described in a sworn statement on file with the commission.

(d) The permittee may transport the alcohol to a wet area by crossing a dry area if that route is necessary or convenient.

[Added by Acts 1979, 66th Leg., p. 1074, ch. 504, § 1, eff. June 7, 1979.]

§ 47.04. Storage Facility

(a) A local industrial alcohol manufacturer's permit applicant or permittee may request in the permit application or in writing after the permit is issued that the commission or administrator authorize the permittee to store alcohol at a storage facility under the permittee's control that is located off the licensed premises. The permittee shall supply any information regarding the storage that the commission or administrator requires.

(b) A request under this section may include a request that the permittee be permitted to transport the alcohol to the storage facility by pipeline or other means.

(c) If the request is granted, the commission or administrator may attach any conditions regarding the use of the facility or transportation of alcohol to the facility that the commission or administrator considers proper.

(d) A storage facility authorized under this section is treated as a part of the licensed premises for the purpose of the permittee's consent to inspection under Section 101.04 of this code.

[Added by Acts 1979, 66th Leg., p. 1074, ch. 504, § 1, eff. June 7, 1979.]

§ 47.05. Plant Plan Requirements

If the plant plans submitted by the applicant establish to the satisfaction of the commission that the plant is not capable of producing alcohol for beverage purposes and if no change in the plant is made without commission approval, the permit for which application is made shall be considered to be an industrial permit as that term is used in Section 109.53 of this code.

[Added by Acts 1979, 66th Leg., p. 1074, ch. 504, § 1, eff. June 7, 1979.]

§ 47.06. Exemption for State Institutions

A state institution is exempt from these provisions of the code when manufacturing industrial alcohol for scientific or laboratory use.

[Added by Acts 1979, 66th Leg., p. 1074, ch. 504, § 1, eff. June 7, 1979.]

§ 47.07. Local Option Status of Area

Whether an area is wet or dry under the local option laws does not affect the eligibility of an applicant to hold a permit under this chapter.

[Added by Acts 1979, 66th Leg., p. 1074, ch. 504, § 1, eff. June 7, 1979.]

## SUBTITLE B. LICENSES

## CHAPTER 61. PROVISIONS GENERALLY APPLICABLE TO LICENSES

## SUBCHAPTER A. GENERAL PROVISIONS

Section	
61.01.	License Required.
61.02.	Nature of License; Succession on Death, Bankruptcy, Etc.
61.03.	Duration and Expiration of License.
61.04.	License Not Assignable.
61.05.	Name of Business.
61.06.	Privileges Limited to Licensed Premises; Deliveries.
61.07.	Agent for Service.
61.08.	Statement of Stock Ownership.
61.09.	Change of Location.
61.10.	Replacement of License.
61.11.	Warning Sign Required.
61.12.	Restriction on Consumption.

## SUBCHAPTER B. APPLICATION AND ISSUANCE OF LICENSES

61.31.	Application for License.
61.32.	Hearing by County Judge.
61.33.	Action by Commission or Administrator.
61.34.	Appeal from Denial.
61.35.	License Fees.
61.36.	Local Fee Authorized.
61.37.	Certification of Wet or Dry Status.
61.38.	Notice of Application.
61.39.	May Contest Application.
61.40.	Premises Ineligible for License.
61.41.	Second License at Same Location; Effect on Existing License.
61.42.	Mandatory Grounds for Refusal: Distributor or Retailer.
61.43.	Discretionary Grounds for Refusal: Distributor or Retailer.
61.44.	Refusal of Distributor's or Retailer's License: Prohibited Interests.
61.45.	Refusal of Retailer's or Distributor's License: Prohibited Interest in Premises.
61.46.	Manufacturer's License: Grounds for Refusal.
61.47.	Retail License: Refusal by Commission or Administrator.
61.48.	Renewal Application.
61.49.	Renewal Application Transmitted to Commission.
61.50.	Renewal of Retail Dealer's License: Grounds for Refusal.
61.51.	Premises Defined; Designation of Licensed Premises.

## SUBCHAPTER C. CANCELLATION AND SUSPENSION OF LICENSES

61.71.	Grounds for Cancellation or Suspension: Retail Dealer.
61.711.	Retail Dealer: Conviction of Offense Relating to Discrimination.
61.712.	Grounds for Cancellation or Suspension.
61.72.	Suspension or Cancellation: Retailer: Premises.
61.73.	Retail Dealer: Credit Purchase or Dishonored Check.
61.74.	Grounds for Cancellation or Suspension: Distributor.
61.75.	Suspension of Manufacturer's License.
61.76.	Suspension Instead of Cancellation.
61.761.	Alternatives to Suspension, Cancellation.
61.77.	Certain Acts Also Violations of Code.
61.78.	Violator Not Excused by Cancellation or Suspension.
61.79.	Notice of Hearing: Refusal, Cancellation, or Suspension of License.
61.80.	Hearing for Cancellation or Suspension of License.
61.81.	Appeal from Cancellation, Suspension, or Refusal of License.
61.82.	May Not Restrain Suspension Order.
61.83.	Cancellation or Suspension: When Effective.
61.84.	Activities Prohibited During Cancellation or Suspension.
61.85.	Disposal of Stock on Termination of License.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 61.01. License Required.

No person may manufacture or brew beer for the purpose of sale, import it into this state, distribute or sell it, or possess it for the purpose of sale without having first obtained an appropriate license or permit as provided in this code. Each licensee shall display his license at all times in a conspicuous place at the licensed place of business.

[Acts 1977, 65th Leg., p. 460, ch. 194, § 1, eff. Sept. 1, 1977.]

## § 61.02. Nature of License; Succession on Death, Bankruptcy, Etc.

(a) A license issued under this code is a purely personal privilege and is subject to revocation as provided in this code. It is not property, is not subject to execution, does not pass by descent or distribution, and ceases on the death of the holder.

(b) On the death of the licensee or of a person having an interest in the license, or on bankruptcy, receivership, or partnership dissolution, the receiver or successor in interest may apply to the county judge of the county where the licensed premises are located for certification that he is the receiver or successor in interest. On certification, unless good cause for refusal is shown, the commission or administrator shall grant permission, by letter or otherwise, for the receiver or successor in interest to operate the business during the unexpired portion of the license. The license may not be renewed, but the receiver or successor in interest may apply for an original license. A receiver or successor in interest operating for the unexpired portion of the license is subject to the provisions of this code relating to the suspension or cancellation of a license.

[Acts 1977, 65th Leg., p. 460, ch. 194, § 1, eff. Sept. 1, 1977.]

## § 61.03. Duration and Expiration of License

No license may be issued for a term longer than one year. Any license except a branch, importer's, importer's carrier's, or temporary license expires one year after the date on which it is issued.

[Acts 1977, 65th Leg., p. 461, ch. 194, § 1, eff. Sept. 1, 1977.]

## § 61.04. License Not Assignable

No holder of a license may assign his license to another person.

[Acts 1977, 65th Leg., p. 461, ch. 194, § 1, eff. Sept. 1, 1977.]

## § 61.05. Name of Business

No person may conduct a business engaged in the manufacture, distribution, importation, or sale of beer as owner or part owner except under the name to which the license covering his place of business is issued.

[Acts 1977, 65th Leg., p. 461, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.06. Privileges Limited to Licensed Premises; Deliveries**

No person licensed to sell beer, except a manufacturer or distributor, may use or display a license or exercise a privilege granted by the license except at the licensed premises. Deliveries of beer and collections may be made off the licensed premises in areas where the sale of beer is legal inside the county where the license is issued, but only in response to orders placed by the customer in person at the licensed premises or by mail or telephone to the licensed premises.

[Acts 1977, 65th Leg., p. 461, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.07. Agent for Service**

Each manufacturer, distributor, or person shipping or delivering beer into this state shall file a certificate with the secretary of state designating the name, street address, and business of his agent on whom process may be served. If a certificate is not filed, service may be had on the secretary of state in any cause of action arising out of a violation of this code, and the secretary of state shall send any citation served on him by registered mail, return receipt requested, to the person for whom the citation is intended. The receipt is prima facie evidence of service on the person.

[Acts 1977, 65th Leg., p. 461, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.08. Statement of Stock Ownership**

The commission at any time may require an officer of a corporation holding a license to file a sworn statement showing the actual owners of the stock of the corporation, the amount of stock owned by each, the officers of the corporation, and any information concerning the qualifications of the officers or stockholders.

[Acts 1977, 65th Leg., p. 461, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.09. Change of Location**

If a licensee desires to change his place of business, he may do so by applying to the county judge on a form prescribed by the commission and obtaining his consent. The application may be subject to protest and hearing in the same way as an application for an original license. The county judge may deny the application for any cause for which an original license application may be denied. No additional license fee for the unexpired term of the license shall be required in the case of an application for a change of location.

[Acts 1977, 65th Leg., p. 462, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.10. Replacement of License**

If a license is mutilated or destroyed, the commission or administrator may issue another license as a replacement in a manner acceptable to the commission or administrator.

[Acts 1977, 65th Leg., p. 462, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.11. Warning Sign Required**

(a) Each holder of a license shall display in a prominent place on his premises a sign, at least 6 inches high and 14 inches wide, stating: FELONY. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF TEN YEARS' IMPRISONMENT AND A FINE NOT TO EXCEED \$5,000 FOR CARRYING WEAPONS WHERE ALCOHOLIC BEVERAGES ARE SOLD, SERVED, OR CONSUMED.

(b) A licensee who violates this section commits a misdemeanor punishable by a fine of not more than \$25.

[Acts 1977, 65th Leg., p. 462, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.12. Restriction on Consumption**

No licensee except a holder of a license authorizing on-premises consumption of beer may permit beer to be consumed on the premises where it is sold.

[Acts 1977, 65th Leg., p. 462, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 61.13 to 61.30 reserved for expansion]

**SUBCHAPTER B. APPLICATION AND ISSUANCE OF LICENSES**

**§ 61.31. Application for License**

(a) A person may file an application for a license to manufacture, distribute, or sell beer in termtime or vacation with the county judge of the county in which he desires to conduct business. He shall file the application in duplicate.

(b) The county judge shall set the application for a hearing to be held not less than 5 nor more than 10 days after the application is filed.

(c) Each applicant for an original license, other than a branch or temporary license, shall pay a hearing fee of \$5 to the county clerk at the time of the hearing. The county clerk shall deposit the fee in the county treasury. The applicant is liable for no other fee except the annual license fee prescribed by this code.

(d) No person may sell beer during the pendency of his original license application. No official may advise a person to the contrary.

[Acts 1977, 65th Leg., p. 462, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.32. Hearing by County Judge**

(a) On hearing an application, if the county judge finds that all facts stated in the application are true and no legal ground to refuse a license exists, he shall enter an order certifying those findings and give the applicant a copy of the order. If the county judge finds otherwise, he shall enter an order accordingly.

(b) If the county judge enters an order favorable to the applicant, the applicant shall present a copy of the order to the assessor and collector of taxes of the

county and pay that officer the appropriate license fee. The assessor and collector of taxes then shall report to the commission on a form prescribed by the commission, certifying that the application was approved and that all required fees have been paid and furnishing any other information the commission requires. The assessor and collector of taxes shall attach a copy of the original application to the report.

(c) In the case of an application to sell beer at retail, the county judge shall give due consideration to any recommendations made by representatives of the commission, the sheriff or county or district attorney of the county where the license is sought, or the mayor or chief of police of the incorporated city where the applicant seeks to conduct business. [Acts 1977, 65th Leg., p. 462, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 61.33. Action by Commission or Administrator

(a) On receiving a report from the assessor and collector of taxes under Section 61.32(b) of this code, the commission or administrator shall issue the appropriate license if the commission or administrator finds that the applicant is entitled to a license. The license shall show the class of business the applicant is authorized to conduct, the amount of fees paid, the address of the place of business, the date the license is issued and the date it expires, and any other information the commission considers proper.

(b) The commission or administrator may refuse to issue a license after receiving the report of the assessor and collector of taxes if the commission or administrator possesses information from which it is determined that any statement in the license application is false or misleading or that there is other legal reason why a license should not be issued. If the commission or administrator refuses to issue a license, it or he shall enter an order accordingly and the applicant is entitled to a refund of any license fee he paid the assessor and collector of taxes in connection with the application. [Acts 1977, 65th Leg., p. 463, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 61.34. Appeal From Denial

(a) If the county judge, commission, or administrator denies an application, the applicant may appeal within 30 days from the date the order becomes final and appealable to the district court of the county where the application was made. The appeal is governed by Section 11.67 of this code, and the court may hear the appeal in termtime or vacation.

(b) If the judgment of the district court is in favor of the applicant, regardless of whether an appeal is taken, a copy of the judgment shall be presented to the assessor and collector of taxes of the county where the application was made. The assessor and collector of taxes shall accept the fees required by this code and proceed as provided under

Section 61.32 of this code as if the county judge had approved the application.

(c) If a license is issued on the basis of a district court judgment and that judgment is reversed on appeal, the mandate of the appellate court automatically invalidates the license and the applicant is entitled to a proportionate refund of fees for the unexpired portion of the license. As much of the proceeds from license fees collected under this subtitle as is necessary may be appropriated for the payment of those refunds.

(d) A person appealing from an order under this section shall give bond for all costs incident to the appeal and shall be required to pay those costs if the judgment on appeal is unfavorable to the applicant, but not otherwise. No bond is required on appeals filed on behalf of the state. [Acts 1977, 65th Leg., p. 463, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 61.35. License Fees

(a) A separate license fee is required for each place of business that manufactures, imports, or sells beer.

(b) All license fees, except those for temporary licenses, shall be deposited as provided in Section 205.02 of this code. The assessor and collector of taxes shall make statements of the amounts collected by him under this code to the commission at the times and in the manner required by the commission or administrator.

(c) No licensee may obtain a refund on the surrender or nonuse of a license except as provided by this code.

(d) If a licensee engaged in selling beer is prevented from continuing in business by a local option election, he is entitled to a refund of a proportionate amount of the license fees he has paid covering the unexpired term of his license. As much of the proceeds derived under the provisions of this subtitle as is necessary may be appropriated for that purpose. [Acts 1977, 65th Leg., p. 464, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 61.36. Local Fee Authorized

(a) The governing body of an incorporated city or town may levy and collect a fee not to exceed one-half of the state fee for each license, except a temporary or agent's beer license, issued for premises located within the city or town. The commissioners court of a county may levy and collect a fee equal to one-half the state fee for each license, except a temporary or agent's beer license, issued for premises located within the county. Those authorities may not levy or collect any other fee or tax from the licensee except general ad valorem taxes, the hotel occupancy tax levied under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j-4.1, Vernon's Texas Civil

Statutes), and the local sales and use tax levied under the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes).

(b) The commission or administrator may cancel a license if it finds the permittee has not paid a fee levied by a city under this section. A licensee who sells an alcoholic beverage without first having paid a fee levied under this section commits a misdemeanor punishable by a fine of not less than \$10 nor more than \$200.

(c) Nothing in this code shall be construed as a grant to any political subdivision of the authority to regulate licensees except by collecting the fees authorized in this section and exercising those powers granted to political subdivisions by other provisions of this code.

[Acts 1977, 65th Leg., p. 464, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.37. Certification of Wet or Dry Status**

(a) The county clerk of the county in which an application for a license is made shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by any valid order of the commissioners court.

(b) The city secretary or clerk of the city in which an application for a license is made shall certify whether the location or address given in the application is in a wet area and whether the sale of alcoholic beverages for which the license is sought is prohibited by charter or ordinance.

[Acts 1977, 65th Leg., p. 464, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.38. Notice of Application**

(a) When an application for a license to manufacture or distribute beer is filed, the county clerk shall post at the courthouse door a written notice containing the substance of the application and the date set for hearing.

(b) When an original application to sell beer at retail at a location previously licensed is filed, the county clerk shall post at the courthouse door a written notice containing the substance of the application and the date set for hearing.

(c) When an original application to sell beer at retail at a location not previously licensed is filed, the county clerk shall publish notice for two consecutive issues in a newspaper of general circulation published in the city or town in which the applicant's place of business is to be located. If no newspaper of general circulation is published in that city or town, the notice shall be published in a newspaper of general circulation in the county where the applicant's business is to be located. If no newspaper of general circulation is published in that county, the notice shall be published in a newspaper which is published in the closest neighboring county and is circulated in the county where the license is sought.

The notice shall be in 10-point boldface type and shall set forth the type of license applied for; the exact location of the business; the name of the owner or owners; the trade name, if operating under an assumed name; and in the case of a corporate applicant, the names and titles of all officers of the corporation. At the time the application is filed, the applicant shall deposit with the clerk the cost of publishing notice, which the clerk shall use to pay for the publication.

[Acts 1977, 65th Leg., p. 465, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.39. May Contest Application**

Any person may contest the facts stated in an application for a license to distribute, manufacture, or sell beer at retail, or the applicant's right to secure a license, if he gives security for all costs which may be incurred in the contest if the case should be decided in favor of the applicant. No security for costs may be required of an officer of a county or incorporated city or town.

[Acts 1977, 65th Leg., p. 465, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.40. Premises Ineligible for License**

Section 11.44 of this code, which describes certain premises that are ineligible for a license, applies to licenses issued under this subtitle.

[Acts 1977, 65th Leg., p. 465, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.41. Second License at Same Location; Effect on Existing License**

No license may be issued for a premises, location, or place of business for which a license is in effect unless the holder of the existing license has shown to the satisfaction of the commission that he will no longer exercise any privilege granted by the existing license at that location. If the holder of the existing license desires to transfer the license to another location, he may apply for a transfer of location in accordance with this code. If the holder of the existing license has made a declaration required by the commission that he will no longer use the license, he may not manufacture or sell beer or possess it for the purpose of sale until the license has been reinstated. The holder may apply to the county judge for the reinstatement of his license in the same manner and according to the same procedure as in the case of an original license application. The county judge or the commission or administrator may deny reinstatement of the license for any cause for which an original license application may be denied.

[Acts 1977, 65th Leg., p. 465, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.42. Mandatory Grounds for Refusal: Distributor or Retailer**

(a) The county judge shall refuse to approve an application for a license as a distributor or retailer if he has reasonable grounds to believe and finds that:

(1) the applicant is under 19 years of age;  
 (2) the applicant is indebted to the state for any taxes, fees, or penalties imposed by this code or by rule of the commission;

(3) the place or manner in which the applicant for a retail dealer's license may conduct his business warrants a refusal of a license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(4) the applicant is in the habit of using alcoholic beverages to excess or is mentally or physically incompetent;

(5) the applicant is not a United States citizen or has not been a citizen of Texas for a period of three years immediately preceding the filing of his application, unless he was issued an original or renewal license on or before September 1, 1948;

(6) the applicant was finally convicted of a felony during the two years immediately preceding the filing of his application;

(7) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad; or

(8) as to a corporation, it is not incorporated under the laws of this state, or at least 51 percent of the corporate stock is not owned at all times by persons who individually are qualified to obtain a license, except that this subdivision does not apply to a holder of any renewal of a distributor's license which was in effect on January 1, 1953, or to an applicant for a beer retailer's on-premise license for a railway car.

(b) The county judge, commission, or administrator shall refuse to approve or issue an original retail dealer's or retail dealer's on-premise license unless the applicant for the license files with the application a certificate issued by the comptroller of public accounts stating that the applicant holds, or has applied for and satisfies all legal requirements for the issuance of, a sales tax permit for the place of business for which the license is sought.

[Acts 1977, 65th Leg., p. 466, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1967, ch. 777, § 6, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 254, ch. 107, § 4, eff. Sept. 1, 1981.]

Section 17 of the 1981 amendatory act provides:

"This Act does not affect the eligibility of a person who holds a license or permit on the effective date of this Act to continue to hold the license or permit and to continue to engage in the activities authorized by the license or permit until the expiration of the license or permit."

### § 61.43. Discretionary Grounds for Refusal: Distributor or Retailer

The county judge may refuse to approve an application for a license as a distributor or retailer if he has reasonable grounds to believe and finds that:

(1) the applicant has been finally convicted in a court of competent jurisdiction for the violation of

a provision of this code during the two years immediately preceding the filing of his application;

(2) two years has not elapsed since the termination, by pardon or otherwise, of a sentence imposed for conviction of a felony;

(3) the applicant has violated or caused to be violated a provision of this code or a rule or regulation of the commission, for which a suspension was not imposed, during the 12-month period immediately preceding the filing of his application;

(4) the applicant failed to answer or falsely or incorrectly answered a question in his original or renewal application;

(5) the applicant for a retail dealer's license does not have an adequate building available at the address for which the license is sought;

(6) the applicant or a person with whom he is residentially domiciled had an interest in a license or permit which was cancelled or revoked within the 12-month period immediately preceding the filing of his application;

(7) the applicant failed or refused to furnish a true copy of his application to the commission's district office in the district in which the premises sought to be licensed are located;

(8) the premises on which beer is to be sold for on-premises consumption does not have running water, if it is available, or does not have separate free toilets for males and females, properly identified, on the premises for which the license is sought;

(9) the applicant for a retail dealer's license will conduct his business in a manner contrary to law or in a place or manner conducive to a violation of the law; or

(10) the place, building, or premises for which the license is sought was used for selling alcoholic beverages in violation of the law at any time during the six months immediately preceding the filing of the application or was used, operated, or frequented during that time for a purpose or in a manner which was lewd, immoral, offensive to public decency, or contrary to this code.

[Acts 1977, 65th Leg., p. 466, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 61.44. Refusal of Distributor's or Retailer's License: Prohibited Interests

(a) The county judge may refuse to approve an application for a license as a distributor or retailer if he has reasonable grounds to believe and finds that:

(1) the applicant has a financial interest in an establishment authorized to sell distilled spirits, except as authorized in Section 22.06, 24.05, or 102.05 of this code;

(2) a person engaged in the business of selling distilled spirits has a financial interest in the business to be conducted under the license sought by the applicant, except as authorized in Section 22.06, 24.05, or 102.05 of this code; or

(3) the applicant is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling distilled spirits, except as authorized in Section 22.06, 24.05, or 102.05 of this code.

(b) The county judge may refuse to approve an application for a retail dealer's license if he has reasonable grounds to believe and finds that:

(1) the applicant has a real interest in the business or premises of the holder of a manufacturer's or distributor's license; or

(2) the premises sought to be licensed are owned in whole or part by the holder of a manufacturer's or distributor's license.

[Acts 1977, 65th Leg., p. 467, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.45. Refusal of Retailer's or Distributor's License: Prohibited Interest in Premises**

(a) The county judge may refuse to approve an application for a retail dealer's license if he has reasonable grounds to believe and finds that:

(1) the applicant owns or has an interest in the premises covered by a manufacturer's or distributor's license; or

(2) the holder of a manufacturer's or distributor's license owns or has an interest in the premises sought to be licensed.

(b) The county judge may refuse to approve an application for a distributor's license if he has reasonable grounds to believe and finds that:

(1) the applicant owns or has an interest in the premises covered by a retail dealer's license; or

(2) a holder of a retail dealer's license owns or has an interest in the premises sought to be licensed.

[Acts 1977, 65th Leg., p. 467, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.46. Manufacturer's License: Grounds for Refusal**

(a) This section applies to any applicant for a manufacturer's license, including a domestic corporation or foreign corporation qualified to do business in Texas, administrator or executor, or other person. This section does not apply to a holder of a subsequent renewal of a manufacturer's license which was in effect on January 1, 1953.

(b) The county judge shall refuse to approve an application for a manufacturer's license if he has reasonable grounds to believe and finds that the applicant has failed to state under oath that it will engage in the business of brewing and packaging

beer in this state within three years after the issuance of its original license in sufficient quantities as to make its operation that of a bona fide brewing manufacturer.

(c) In the case of a corporate applicant, the statement shall be sworn to and subscribed by one of the corporation's principal officers.

[Acts 1977, 65th Leg., p. 468, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.47. Retail License: Refusal by Commission or Administrator**

If the county judge approves an application for a license as a retail dealer, the commission or administrator may refuse to issue a license for any reason which would have been a ground for the county judge to have refused to approve the application.

[Acts 1977, 65th Leg., p. 468, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.48. Renewal Application**

An application to renew a license shall be filed in writing with the assessor and collector of taxes of the county in which the licensed premises are located no earlier than 30 days before the license expires but not after it expires. The application shall be signed by the applicant and shall contain complete information required by the commission showing that the applicant is not disqualified from holding a license. The application shall be accompanied by the appropriate license fee plus a filing fee of \$2. The assessor and collector of taxes shall deposit the \$2 filing fee in the county treasury and shall account for it as a fee of office. No applicant for a renewal may be required to pay any fee other than license fees and the filing fee unless he is required by the commission or administrator to submit to a renewal hearing before the county judge.

[Acts 1977, 65th Leg., p. 468, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.49. Renewal Application Transmitted to Commission**

When the renewal application has been filed in accordance with Section 61.48 of this code, the assessor and collector of taxes shall transmit to the commission the original copy of the application plus a certification that all required fees have been paid for the ensuing license period. On receiving the application and certification, the commission or administrator may in its discretion issue a renewal license or reject the application and require the applicant to file an application with the county judge and submit to a hearing as is required in the case of an original application. When an application for renewal is rejected, the applicant is entitled to a refund of any license fee that was paid to the assessor and collector of taxes at the time the renewal application was filed.

[Acts 1977, 65th Leg., p. 468, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.50. Renewal of Retail Dealer's License: Grounds for Refusal**

The commission or administrator, without a hearing, may refuse to issue a renewal of a retail dealer's license and require the applicant to make an original application if it is found that circumstances exist which would warrant the refusal of an original application under any pertinent provision of this code.

[Acts 1977, 65th Leg., p. 468, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.51. Premises Defined; Designation of Licensed Premises**

"Premises" is defined in Section 11.49 of this code. The designating of licensed premises by license applicants is also covered by that section.

[Acts 1977, 65th Leg., p. 469, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 61.52 to 61.70 reserved for expansion]

**SUBCHAPTER C. CANCELLATION AND SUSPENSION OF LICENSES**

**§ 61.71. Grounds for Cancellation or Suspension: Retail Dealer**

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) made a false statement or a misrepresentation in his original application or a renewal application;

(5) knowingly sold, served, or delivered beer to a person under 19 years of age;

(6) sold, served, or delivered beer to a person showing evidence of intoxication;

(7) sold, served, or delivered beer at a time when its sale is prohibited;

(8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;

(9) possessed on the licensed premises, or on adjacent premises directly or indirectly under his control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(10) does not have at his licensed premises running water, if it is available, and separate toilets for both sexes which are properly identified;

(11) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;

(12) employed a person under 18 years of age to sell, handle, or dispense beer, or to assist in doing so, in an establishment where beer is sold for on-premises consumption;

(13) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule promulgated under Section 5.40 of this code, or accepted a benefit from an act prohibited by any of those sections or rules;

(14) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(15) permitted the use or display of his license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(16) maintained blinds or barriers at his place of business in violation of this code;

(17) conducted his business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(18) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;

(19) purchased beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license;

(20) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(21) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(22) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while his license was under suspension;

(23) purchased, possessed, stored, sold, or offered for sale beer in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(24) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(25) imported beer into this state except as authorized by Section 107.07 of this code;

(26) occupied premises in which the holder of a manufacturer's or distributor's license had an interest of any kind;

(27) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(28) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by his license, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(29) is residually domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05 of this code, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) is residually domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code.

(b) Subdivisions (9), (28), (29), and (30) of Subsection (a) of this section do not apply to a licensee whose business is located in a hotel in which an establishment authorized to sell distilled spirits in unbroken packages is also located if the licensed premises of the businesses do not coincide or overlap.

(c) The grounds listed in Subsection (a) of this section, except the ground contained in Subdivision (2), also apply to each member of a partnership or association and, as to a corporation, to the president, manager, and owner of the majority of the corporate stock. This subsection shall not be construed as prohibiting anything permitted by Section 22.06, 24.05, or 102.05 of this code.

(d) The grounds set forth in Subdivisions (1), (4)-(14), (16), (18), (19), (21), (23), and (26), of Subsection (a) of this section, also apply to an agent, servant, or employee of the licensee.

[Acts 1977, 65th Leg., p. 469, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 254, ch. 107, § 5, eff. Sept. 1, 1981.]

**§ 61.711. Retail Dealer: Conviction of Offense Relating to Discrimination**

The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found after notice and hearing that:

(1) the licensee has been finally convicted of any offense under a state or federal law or a municipal ordinance prohibiting the violation of an individual's civil rights or the discrimination against an individual on the basis of the individual's race, color, creed, or national origin; and

(2) the offense was committed on the licensed premises or in connection with the operation of the licensee's business.

[Added by Acts 1979, 66th Leg., p. 1441, ch. 632, § 2, eff. Aug. 27, 1979.]

**§ 61.712. Grounds for Cancellation or Suspension: Sales Tax**

The commission or administrator may refuse to renew or, after notice and hearing, suspend for not more than 60 days or cancel a license if the commission or administrator finds that the licensee:

(1) no longer holds a sales tax permit, if required, for the place of business covered by the license; or

(2) is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Tax Code), or is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes).

[Added by Acts 1979, 66th Leg., p. 1968, ch. 777, § 7(a), eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 1779, ch. 389, § 32, eff. Jan. 1, 1982.]

Subsection 7(b) of the 1979 Act provided:  
 "If Senate Bill No. 865 [should read "No. 685" (ch. 632)] or House Bill No. 1444, 66th Legislature, Regular Session, is enacted and adds a Section 61.711 to the Alcoholic Beverage Code, the section of the code added by Subsection (a) of this section is redesignated as Section 61.712."

**§ 61.72. Suspension or Cancellation: Retailer: Premises**

Except for a violation of the credit or cash law, a penalty of suspension or cancellation of the license of a retail dealer shall be assessed against the license for the premises where the offense was committed.

[Acts 1977, 65th Leg., p. 471, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.73. Retail Dealer: Credit Purchase or Dishonored Check**

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee purchased beer or the containers or original packages in which it is contained or packaged except by cash payment to the seller on or before delivery. No holder of either type of license may use a maneuver, device, subterfuge, or shift by which credit is accepted, including payment or attempted payment by a postdated check or draft. Credit for the return of

unbroken or undamaged containers or original packages previously paid for by the purchaser may be accepted as cash by the seller in an amount not more than the amount originally paid for them by the purchaser.

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee gave a check, as maker or endorser, or a draft, as drawer or endorser, as full or partial payment for beer or the containers or packages in which it is contained or packaged, which is dishonored when presented for payment.

[Acts 1977, 65th Leg., p. 471, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 61.74. Grounds for Cancellation or Suspension: Distributor

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general, local, or branch distributor's license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule or regulation promulgated under Section 5.40 of this code;

(5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;

(6) failed to pay any tax due the state on any beer he sold, stored, or transported;

(7) refused to permit or interfered with an inspection of his licensed premises, vehicles, books, or records by an authorized representative of the commission;

(8) consummated a sale of beer outside the county or counties in which he was authorized to sell beer by his license;

(9) purchased, sold, offered for sale, distributed, or delivered beer while his license was under suspension;

(10) permitted the use of his license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;

(11) made a false or misleading representation or statement in his original application or a renewal application;

(12) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(13) misrepresented any beer sold by him to a retailer or to the public;

(14) knowingly sold or delivered beer to a person under 19 years of age; or

(15) purchased, possessed, stored, sold, or offered for sale beer in an original package bearing a brand or trade name of a manufacturer other than the brand or trade name of the manufacturer shown on the container.

(b) Each ground specified in Subsection (a) of this section also applies to each member of a partnership or association and, as to a corporation, to the president, manager, and owner of the majority of the corporate stock. The grounds specified in Subdivisions (7)-(9) and (13)-(15) also apply to an agent, servant, or employee of the licensee.

[Acts 1977, 65th Leg., p. 471, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 777, § 20, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 256, ch. 107, § 6, eff. Sept. 1, 1981.]

#### § 61.75. Suspension of Manufacturer's License

If a manufacturer violates a provision of this code or a rule of the commission, the commission or administrator may order the manufacturer to cease and desist from the violation and may suspend its license, after notice and hearing, until the licensee obeys the order.

[Acts 1977, 65th Leg., p. 472, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 61.76. Suspension Instead of Cancellation

When a cause for the cancellation of a license is prescribed by this code, the commission or administrator has the discretionary authority to suspend the license for not more than 60 days rather than to cancel the license.

[Acts 1977, 65th Leg., p. 472, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 61.761. Alternatives to Suspension, Cancellation

Section 11.64 of this code relates to alternatives to the suspension or cancellation of a license.

[Added by Acts 1977, 65th Leg., p. 1183, ch. 453, § 8, eff. Sept. 1, 1977.]

#### § 61.77. Certain Acts Also Violations of Code

Any act of omission or commission which is a ground for cancellation or suspension of a license under Section 61.71, 61.74, or 61.75 of this code is also a violation of this code, punishable as provided in Section 1.05 of this code, except that the penalty for making a false statement in an application for a license or in a statement, report, or other instrument to be filed with the commission, which is required to be sworn, is provided in Section 101.69 of this code.

[Acts 1977, 65th Leg., p. 472, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.78. Violator Not Excused by Cancellation or Suspension**

The cancellation or suspension of a license does not excuse the violator from the penalties provided in this code.

[Acts 1977, 65th Leg., p. 472, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.79. Notice of Hearing: Refusal, Cancellation, or Suspension of License**

Section 11.63 of this code relates to notice of a hearing for the refusal, cancellation, or suspension of a license.

[Acts 1977, 65th Leg., p. 473, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.80. Hearing for Cancellation or Suspension of License**

The commission or administrator, on the motion of either, may set a date for a hearing to determine if a license should be cancelled or suspended. The commission or administrator shall set a hearing on the petition of the mayor or chief of police of the city or town in which the licensed premises are located or of the county judge, sheriff, or county attorney of the county in which the licensed premises are located. The commission or administrator shall notify the licensee of the hearing and of his right to appear and show cause why his license should not be cancelled or suspended.

[Acts 1977, 65th Leg., p. 473, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.81. Appeal From Cancellation, Suspension, or Refusal of License**

Section 11.67 of this code applies to an appeal from a decision or order of the commission or administrator refusing, cancelling, or suspending a license.

[Acts 1977, 65th Leg., p. 473, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.82. May Not Restrain Suspension Order**

No suit of any nature may be maintained in a court of this state to restrain the commission or administrator or any other officer from enforcing an order of suspension issued by the commission or administrator.

[Acts 1977, 65th Leg., p. 473, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.83. Cancellation or Suspension: When Effective**

The manner in which the suspension or cancellation of a license takes effect is governed by Section 11.65 of this code.

[Acts 1977, 65th Leg., p. 473, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.84. Activities Prohibited During Cancellation or Suspension**

(a) No person whose license is cancelled may sell or offer for sale beer for a period of one year immediately following the cancellation, unless the order of cancellation is superseded pending trial or

unless he prevails in a final judgment rendered on an appeal prosecuted in accordance with this code.

(b) No person may sell or offer for sale an alcoholic beverage which he was authorized to sell under a license after the license has been suspended. If it is established to the satisfaction of the commission or administrator at a hearing that an alcoholic beverage was sold on or from a licensed premise during a period of suspension, the commission or administrator may cancel the license.

[Acts 1977, 65th Leg., p. 473, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 61.85. Disposal of Stock on Termination of License**

(a) A person whose license is cancelled or forfeited may, within 30 days of the cancellation or forfeiture, make a bulk sale or disposal of any stock of beer on hand at the time of the cancellation or forfeiture.

(b) The authority of the commission to promulgate rules relating to the disposal of beverages in bulk on the suspension or cancellation of a license or on the death, insolvency, or bankruptcy of a licensee is covered by Section 11.69 of this code.

[Acts 1977, 65th Leg., p. 473, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 62. MANUFACTURER'S LICENSE**

Section	
62.01.	Authorized Activities.
62.02.	Fee.
62.03.	Statement of Intention.
62.04.	Renewal of License During Preliminary Stages of Operation.
62.05.	Records.
62.06.	Issuance of Brewer's Permit.
62.07.	Importation of Beer: Containers, Use of Tank Cars.
62.08.	Warehouses; Delivery Trucks.
62.09.	Beer for Export.
62.10.	Repealed.
62.11.	Continuance of Operation After Local Option Election.
62.12.	Sales by Certain Manufacturers.

**§ 62.01. Authorized Activities**

The holder of a manufacturer's license may:

(1) manufacture or brew beer and distribute and sell it in this state to the holders of general, local, and branch distributor's licenses and to qualified persons outside the state;

(2) dispense beer for consumption on the premises; and

(3) bottle and can beer and pack it into containers for resale in this state, regardless of whether the beer is manufactured or brewed in this state or in another state and imported into Texas.

[Acts 1977, 65th Leg., p. 474, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 53, ch. 33, § 1, eff. Aug. 27, 1979.]

**§ 62.02. Fee**

(a) Each person who establishes, operates, or maintains one or more licensed manufacturing establishments in this state under the same general management or ownership shall pay an annual state fee as follows:

- (1) the fee for the first establishment is \$500;
- (2) the fee for the second establishment is \$1,000;
- (3) the fee for the third, fourth, and fifth establishments is \$2,850 for each establishment; and
- (4) the fee for each establishment in excess of five is \$5,600.

(b) For the purposes of this section, two or more establishments are under the same general management or ownership if:

- (1) they bottle the same brand of beer or beer brewed by the same manufacturer; or
- (2) the persons (regardless of domicile) who establish, operate, or maintain the establishments are controlled or directed by one management or by an association of ultimate management.

[Acts 1977, 65th Leg., p. 474, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 62.03. Statement of Intention**

(a) Each applicant for a manufacturer's license shall file with his application a sworn statement that he will be engaged in the business of brewing and packaging beer in Texas in quantities sufficient to make of his operation that of a bona fide brewing manufacturer within three years of the issuance of his original license. If the applicant is a corporation, the statement must be signed by one of its principal officers. The county judge shall not approve an application unless it is accompanied by the required sworn statement.

(b) This section does not apply to the holder of a manufacturer's license which was in effect on January 1, 1953.

[Acts 1977, 65th Leg., p. 474, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 62.04. Renewal of License During Preliminary Stages of Operation**

(a) A renewal of a manufacturer's license may not be denied during the two-year period following the issuance of the original license on the ground that the licensee has not brewed and packaged beer in this state if the licensee is engaged in good faith in constructing a brewing plant on the licensed premises or is engaged in one of the following preparatory stages of construction:

- (1) preliminary engineering;
- (2) preparing drawings and specifications;
- (3) conducting engineering, architectural, or equipment studies; or
- (4) preparing for the taking of bids from contractors.

(b) During the three-year period following the issuance of a manufacturer's license, as long as the licensee is engaged in construction or in a preliminary stage of construction enumerated in Subsection (a) of this section, the commission shall issue each renewal license to take effect immediately on the expiration of the expiring license and shall not require the licensee to make an original application.

(c) After two years and 11 months has expired following the issuance of an original manufacturer's license, the commission shall not issue a renewal license if it finds that the licensee has not complied with his sworn statement filed with his original application or that he has not begun construction of a plant or initiated any of the preliminary stages of construction enumerated in Subsection (a) unless the commission also finds that the applicant has been prevented from doing so by causes beyond his reasonable control. If the commission finds that the licensee has been prevented from complying by causes beyond his reasonable control, it may grant one additional renewal for the licensee to comply with the terms of his sworn statement. Otherwise, the commission shall deny the renewal application and may not grant a subsequent original application by the licensee for a period of two years following the date of the denial.

(d) This section does not apply to the holder of a license that was in effect on January 1, 1953.

[Acts 1977, 65th Leg., p. 475, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 62.05. Records**

(a) The holder of a manufacturer's license shall make and keep a record of each day's production or receipt of beer and of every sale of beer, including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

(b) All required records shall be kept available for inspection by the commission or its authorized representative during reasonable office hours for at least two years.

(c) The failure to make or keep a record as required by this section, the making of a false entry in the record, or the failure to make an entry as required by this section is a violation of this code.

[Acts 1977, 65th Leg., p. 475, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 62.06. Issuance of Brewer's Permit**

A holder of a manufacturer's license is entitled to be issued an original or renewal brewer's permit for the same location on application to the commission and payment of the required fee.

[Acts 1977, 65th Leg., p. 475, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 62.07. Importation of Beer: Containers, Use of Tank Cars**

The holder of a manufacturer's license may import beer into this state in barrels or other containers in accordance with the provisions of this code. No person may ship beer into the state in tank cars. [Acts 1977, 65th Leg., p. 476, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 62.08. Warehouses; Delivery Trucks**

(a) The holder of a manufacturer's or distributor's license may maintain or engage necessary warehouses for storage purposes in areas where the sale of beer is lawful and may make deliveries from the warehouses without obtaining licenses for them. The licensee may not import beer from outside the state directly or indirectly to an unlicensed warehouse.

(b) A warehouse or railway car in which orders for the sale of beer are taken or money from the sale of beer is collected is a separate place of business for which a license is required.

(c) A truck operated by a licensed distributor for the sale and delivery of beer to a licensed retail dealer at the dealer's place of business is not a separate place of business for which a license is required.

(d) The commission shall promulgate rules governing the transportation of beer, the sale of which is to be consummated at a licensed retailer's place of business.

[Acts 1977, 65th Leg., p. 476, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 53, ch. 33, § 2, eff. Aug. 27, 1979.]

**§ 62.09. Beer for Export**

Regardless of any other provision of this code, a holder of a manufacturer's license may brew and package malt beverages or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The licensee may export the beverages out of state or deliver them at his premises for shipment out of the state without being liable for any state tax on beer, ale, or malt liquor sold for resale in the state.

[Acts 1977, 65th Leg., p. 476, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 62.10. Repealed by Acts 1979, 66th Leg., p. 56, ch. 33, § 12, eff. Aug. 27, 1979**

The repealed section, relating to sale of beer to private clubs, was derived from Acts 1977, 65th Leg., p. 476, ch. 194, § 1.

**§ 62.11. Continuance of Operation After Local Option Election**

The right of a manufacturer's licensee to continue operation after a prohibitory local option election is covered by Section 251.75 of this code.

[Acts 1977, 65th Leg., p. 476, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 62.12. Sales by Certain Manufacturers**

(a) A manufacturer's licensee whose annual production of beer in this state does not exceed 75,000 barrels may sell beer produced under the license to those permittees, licensees, and persons to whom a general distributor's licensee may sell beer under Section 64.01(2) of this code. With regard to such a sale, the manufacturer has the same authority and is subject to the same requirements as apply to a sale made by a general distributor's licensee.

(b) The authority granted by this section is additional to that granted by Section 62.01 of this code. [Added by Acts 1979, 66th Leg., p. 55, ch. 33, § 11, eff. Aug. 27, 1979.]

**CHAPTER 63. NONRESIDENT MANUFACTURER'S LICENSE**

Section	
63.01.	Authorized Activities.
63.02.	Fee.
63.03.	Liability for Taxes; Bond.
63.04.	Application of Code Provisions and Rules.

**§ 63.01. Authorized Activities**

The holder of a nonresident manufacturer's license may transport beer into Texas only to holders of importer's licenses. The nonresident manufacturer's licensee may transport the beer in carriers or vehicles operated by holders of carrier's permits or in motor vehicles owned or leased by the nonresident manufacturer. The beer must be shipped in barrels or other containers in accordance with the provisions of this code and may not be shipped into the state in tank cars.

[Acts 1977, 65th Leg., p. 476, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1969, ch. 777, § 11, eff. Aug. 27, 1979.]

**§ 63.02. Fee**

The annual state fee for a nonresident manufacturer's license is \$500. No county or city is entitled to a fee for the issuance of the license.

[Acts 1977, 65th Leg., p. 477, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 63.03. Liability for Taxes; Bond**

The holder of a nonresident manufacturer's license that transports beer into Texas in a motor vehicle owned or leased by him is not primarily responsible for the payment of the taxes on the beer, which remains the responsibility of the holder of the importer's license. However, the nonresident manufacturer shall furnish the commission with a bond in an amount which, in the commission's judgment, will protect the revenue of the state from the tax due on the beer over any six-week period.

[Acts 1977, 65th Leg., p. 477, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 63.04. Application of Code Provisions and Rules**

A holder of a nonresident manufacturer's license is subject to all applicable provisions of this code and all applicable rules of the commission which apply to holders of manufacturer's licenses, including rules relating to the quality, purity, and identity of beer and to protecting the public health. The commission may suspend or cancel a nonresident manufacturer's license and apply penalties in the same manner as it does with respect to a manufacturer's license.

[Acts 1977, 65th Leg., p. 477, ch. 194, § 1, eff. Sept. 1, 1977.]

## CHAPTER 64. GENERAL DISTRIBUTOR'S LICENSE

## Section

64.01.	Authorized Activities.
64.02.	Fee.
64.03.	Sale of Beer to Private Clubs.
64.04.	Records.
64.05.	Persons Ineligible for License.
64.06.	Warehouses; Delivery Trucks.
64.07.	May Share Premises.

**§ 64.01. Authorized Activities**

(a) The holder of a general distributor's license may:

(1) receive beer in unbroken original packages from manufacturers and from general, local, or branch distributors;

(2) distribute or sell beer in the unbroken original packages in which it is received to general, branch, or local distributors, to local distributor permittees, to permittees or licensees authorized to sell to ultimate consumers, to private club registration permittees, to authorized outlets located on any installation of the national military establishment, or to qualified persons for shipment and consumption outside the state; and

(3) serve free beer for consumption on the licensed premises.

(b) All sales made under the authority of this section except sales to general, local, or branch distributor's licensees must be made in accordance with Sections 61.73 and 102.31 of this code.

[Acts 1977, 65th Leg., p. 477, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 53, ch. 33, § 3, eff. Aug. 27, 1979.]

**§ 64.02. Fee**

The annual state fee for a general distributor's license is \$200.

[Acts 1977, 65th Leg., p. 477, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 64.03. Sale of Beer to Private Clubs**

The holder of a general distributor's license may sell and deliver beer to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must

be made in accordance with Sections 61.73 and 102.31 of this code.

[Acts 1977, 65th Leg., p. 477, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 64.04. Records**

(a) Each holder of a general, local, or branch distributor's license shall make and keep a daily record of every receipt of beer and of every sale of beer, including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

(b) All required records shall be kept available for inspection by the commission or its authorized representative during reasonable office hours for at least two years.

(c) The failure to make or keep a record as required by this section, the making of a false entry in the record, or the failure to make an entry as required by this section is a violation of this code.

[Acts 1977, 65th Leg., p. 478, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 64.05. Persons Ineligible for License**

A general distributor's license may not be issued to a person who is the holder of a package store permit or a wine only package store permit.

[Acts 1977, 65th Leg., p. 478, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 64.06. Warehouses; Delivery Trucks**

Section 62.08 of this code applies to the use of warehouses and delivery trucks by general distributor's licensees.

[Acts 1977, 65th Leg., p. 478, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 64.07. May Share Premises**

Any number of general, local, and branch distributors may use the same premises, location, or place of business as licensed premises if the beer owned and stored by each of the distributors is segregated.

[Acts 1977, 65th Leg., p. 478, ch. 194, § 1, eff. Sept. 1, 1977.]

## CHAPTER 65. LOCAL DISTRIBUTOR'S LICENSE

## Section

65.01.	Authorized Activities.
65.02.	Fee.
65.03.	Sale of Beer to Private Clubs.
65.04.	Records.
65.05.	Persons Ineligible for License.
65.06.	Warehouses; Delivery Trucks.
65.07.	May Share Premises.

**§ 65.01. Authorized Activities**

(a) The holder of a local distributor's license may:

(1) receive beer in unbroken original packages from manufacturers and from general, branch, or local distributors;

(2) sell and distribute beer in the unbroken original packages in which it is received:

(A) to the following, if located in the county of the licensee's residence: local distributor permittees, permittees or licensees authorized to sell to ultimate consumers, private club registration permittees, authorized outlets located on any installation of the national military establishment, or qualified persons for shipment and consumption outside the state; or

(B) to other licensed distributors in the state; and

(3) serve free beer for consumption on the licensed premises.

(b) All sales made under the authority of this section except sales to general, local, or branch distributor's licensees must be made in accordance with Sections 61.73 and 102.31 of this code.

[Acts 1977, 65th Leg., p. 478, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 53, ch. 33, § 4, eff. Aug. 27, 1979.]

**§ 65.02. Fee**

The annual state fee for a local distributor's license is \$50.

[Acts 1977, 65th Leg., p. 478, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 65.03. Sale of Beer to Private Clubs**

The holder of a local distributor's license may sell and deliver beer to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must be made in accordance with Sections 61.73 and 102.31 of this code.

[Acts 1977, 65th Leg., p. 479, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 65.04. Records**

Section 64.04 of this code applies to recordkeeping by local distributor's licensees.

[Acts 1977, 65th Leg., p. 479, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 65.05. Persons Ineligible for License**

A local distributor's license may not be issued to any person who is the holder of a package store permit or a wine only package store permit.

[Acts 1977, 65th Leg., p. 479, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 65.06. Warehouses; Delivery Trucks**

Section 62.08 of this code applies to the use of warehouses and delivery trucks by local distributor's licensees.

[Acts 1977, 65th Leg., p. 479, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 65.07. May Share Premises**

The sharing of premises by distributors is covered by Section 64.07 of this code.

[Acts 1977, 65th Leg., p. 479, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 66. BRANCH DISTRIBUTOR'S LICENSE**

Section	
66.01.	Authorized Activities.
66.02.	Fee.
66.03.	Issuance of License.
66.04.	Persons Ineligible for License.
66.05.	Expiration of License.
66.06.	Renewal of License.
66.07.	Sale of Beer to Private Clubs.
66.08.	Records.
66.09.	Warehouses; Delivery Trucks.
66.10.	May Share Premises.

**§ 66.01. Authorized Activities**

The holder of a branch distributor's license may engage in the same activities as a holder of a general distributor's license.

[Acts 1977, 65th Leg., p. 479, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 66.02. Fee**

The annual fee for a branch distributor's license is \$50 per year or fraction of a year.

[Acts 1977, 65th Leg., p. 479, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1973, ch. 777, § 22, eff. Aug. 27, 1979.]

**§ 66.03. Issuance of License**

(a) Except as provided in Subsection (b) of this section, a branch distributor's license may be issued only to the holder of a general distributor's license who first has obtained the primary license in the county of his residence or domicile. The branch distributor's license may be issued for premises in any county where the sale of beer is legal.

(b) A general distributor's licensee whose primary license was voided by a local option election under prior law, who took advantage of the right then existing to obtain a primary license in another county where he held a branch distributor's license without qualifying as a resident or domiciliary of that county, is not prevented from continuing to renew the primary license or from holding one or more branch licenses by the fact that the primary license is not in the county of his residence or domicile.

[Acts 1977, 65th Leg., p. 479, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 54, ch. 33, § 5, eff. Aug. 27, 1979.]

**§ 66.04. Persons Ineligible for License**

A branch distributor's license may not be issued to a person who holds a package store permit or a wine only package store permit.

[Acts 1977, 65th Leg., p. 480, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 66.05. Expiration of License**

A branch distributor's license expires at the same time as the holder's primary license.

[Acts 1977, 65th Leg., p. 480, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 66.06. Renewal of License**

Application for renewal of a branch distributor's license may be made concurrently with the filing of the application for the renewal of the holder's primary license.

[Acts 1977, 65th Leg., p. 480, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 66.07. Sale of Beer to Private Clubs**

The holder of a branch distributor's license may sell and deliver beer to private clubs located in wet areas without having to secure a prior order. All sales made under the authority of this section must be made in accordance with Sections 61.73 and 102.31 of this code.

[Acts 1977, 65th Leg., p. 480, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 66.08. Records**

Section 64.04 of this code applies to recordkeeping by branch distributor's licensees.

[Acts 1977, 65th Leg., p. 480, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 66.09. Warehouses; Delivery Trucks**

Section 62.08 of this code applies to the use of warehouses and delivery trucks by branch distributor's licensees.

[Acts 1977, 65th Leg., p. 480, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 66.10. May Share Premises**

The sharing of premises by distributors is covered by Section 64.07 of this code.

[Acts 1977, 65th Leg., p. 480, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 67. IMPORTER'S LICENSE****Section**

67.01.	Authorized Activities.
67.02.	Fee.
67.03.	Definition.
67.04.	Eligibility for License.
67.05.	Expiration of License.
67.06.	Application for License.

**§ 67.01. Authorized Activities**

A holder of an importer's license may import beer into this state only from the holder of a nonresident manufacturer's license. The beer may be transported by a railway carrier, or by a common motor carrier operated under a certificate of convenience and necessity issued by the Railroad Commission of Texas or by the Interstate Commerce Commission. Each carrier must hold a carrier's permit issued under Chapter 41 of this code. All provisions of Chapter 41 relating to the transportation of liquor also apply to the transportation of beer. A carrier may not transport beer into the state unless it is consigned to an importer.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, § 12, eff. Aug. 27, 1979.]

**§ 67.02. Fee**

The fee for an importer's license is \$5 per year or fraction of a year.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 67.03. Definition**

As used in this subtitle, "importer" means a person who imports beer into the state in quantities in excess of 288 fluid ounces in any one day.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 67.04. Eligibility for License**

An importer's license may be issued only to a holder of a manufacturer's or distributor's license.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 67.05. Expiration of License**

An importer's license expires at the same time as the primary manufacturer's or distributor's license under which it is issued.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 67.06. Application for License**

An application for an importer's license must contain all information required by the commission.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 68. IMPORTER'S CARRIER'S LICENSE****Section**

68.01.	Authorized Activities.
68.02.	Fee.
68.03.	Eligibility for License.
68.04.	Application for License; Description of Vehicles.
68.05.	Expiration of License.
68.06.	Designation of Vehicles.

**§ 68.01. Authorized Activities**

An importer who holds an importer's carrier's license may import beer into this state in vehicles owned or leased in good faith by him.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 68.02. Fee**

The fee for an importer's carrier's license is \$5 per year or fraction of a year.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 68.03. Eligibility for License**

An importer's carrier's license may be issued only to a holder of an importer's license.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 68.04. Application for License; Description of Vehicles**

(a) An application for an importer's carrier's license must contain a description of the vehicles to

be used and other information required by the commission.

(b) An importer may not import beer into the state in any vehicle not fully described in his application, except as permitted in Section 67.01 of this code.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 68.05. Expiration of License**

An importer's carrier's license expires at the same time as the holder's primary importer's license.

[Acts 1977, 65th Leg., p. 481, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 68.06. Designation of Vehicles**

All vehicles used under an importer's carrier's license must have painted or printed on them the designation required by the commission.

[Acts 1977, 65th Leg., p. 482, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 69. RETAIL DEALER'S ON-PREMISE LICENSE**

Section	
69.01.	Authorized Activities.
69.02.	Fee.
69.03.	Issuance of License for Railway Cars.
69.04.	Hotels Not Disqualified.
69.05.	Hearings on License Application: Notice and Attendance.
69.06.	Denial of Original Application.
69.07.	Fingerprints.
69.08.	License: Contents; Photograph.
69.09.	Acquisition of Beverages for Resale From Other Licensees Prohibited.
69.10.	Storing or Possessing Beer Off Premises Prohibited.
69.11.	Exchange or Transportation of Beer Between Licensed Premises Under Same Ownership.
69.12.	Possession of Certain Beverages Prohibited.
69.13.	Breach of Peace: Retail Establishment.

**§ 69.01. Authorized Activities**

The holder of a retail dealer's on-premise license may sell beer in or from any lawful container to the ultimate consumer for consumption on or off the premises where sold. The licensee may not sell beer for resale.

[Acts 1977, 65th Leg., p. 482, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.02. Fee**

Except as provided in Section 69.03 of this code, the annual state fee for a retail dealer's on-premise license is \$25.

[Acts 1977, 65th Leg., p. 482, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.03. Issuance of License for Railway Cars**

A retail dealer's on-premise license may be issued for a railway dining, buffet, or club car. Application for a license of this type shall be made directly to the commission, and the annual state fee is \$5 for each car.

[Acts 1977, 65th Leg., p. 482, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.04. Hotels Not Disqualified**

The fact that a hotel holds a permit to sell distilled spirits in unbroken packages does not disqualify the hotel from also obtaining a license to sell beer for on-premises consumption.

[Acts 1977, 65th Leg., p. 482, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.05. Hearings on License Application: Notice and Attendance**

(a) On receipt of an original application for a retail dealer's on-premise license, the county judge shall give notice of all hearings before him concerning the application to the commission, the sheriff, and the chief of police of the incorporated city in which, or nearest which, the premises for which the license is sought are located.

(b) The individual natural person applying for the license or, if the applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who will be primarily responsible for the management of the premises shall attend any hearing involving the application.

[Acts 1977, 65th Leg., p. 482, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.06. Denial of Original Application**

(a) The county judge shall deny an original application for a retail dealer's on-premise license if he finds that the applicant or the applicant's spouse, during the three years immediately preceding the application, was finally convicted of a felony or one of the following offenses:

- (1) prostitution;
- (2) a vagrancy offense involving moral turpitude;
- (3) bookmaking;
- (4) gambling or gaming;
- (5) an offense involving controlled substances as defined in the Texas Controlled Substances Act<sup>1</sup> or other dangerous drugs;
- (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500;
- (7) more than three violations of this code relating to minors;
- (8) bootlegging; or
- (9) an offense involving firearms or a deadly weapon.

(b) The county judge shall also deny an original application for a license if he finds that three years has not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony conviction or conviction of any of the offenses described in Subsection (a) of this section.

(c) The commission shall refuse to issue a renewal of a retail dealer's on-premise license if it finds:

(1) that the applicant or the applicant's spouse has been finally convicted of a felony or one of the offenses listed in Subsection (a) of this section at any time during the three years immediately preceding the filing of the application for renewal; or

(2) that three years has not elapsed since the termination of a sentence, parole, or probation served by the applicant or the applicant's spouse because of a felony prosecution or prosecution for any of the offenses described in Subsection (a) of this section.

(d) In this section the word "applicant" includes the individual natural person holding or applying for the license or, if the holder or applicant is not an individual natural person, the individual partner, officer, trustee, or receiver who is primarily responsible for the management of the premises.

[Acts 1977, 65th Leg., p. 483, ch. 194, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> Civil Statutes, art. 4476-15

**Amendment by Acts 1977, 65th Leg., p. 1714, ch. 681, § 3.**

Acts 1977, 65th Leg., p. 1714, ch. 681, § 3, purports to add art. 667-5G to Penal Code (1925), without reference to repeal of the Liquor Control Act by Acts 1977, 65th Leg., p. 557, ch. 194, § 2. As so added, art. 666-11b reads:

"(a) The County Judge, Commission, or Administrator shall refuse to approve or issue an original or renewal Retail Dealer's or Retail Dealer's On-Premise License unless the applicant for the license files with his application a certificate issued by the Comptroller of Public Accounts stating that the applicant holds, or has applied for and satisfies all legal requirements for the issuance of, a sales tax permit for the place of business for which the license is sought.

"(b) The Commission or Administrator may suspend for not more than sixty (60) days or cancel a license if the Commission or Administrator finds, after notice and hearing, that the licensee:

"(1) no longer holds a sales tax permit for the place of business covered by the license; or

"(2) is shown on the records of the Comptroller of Public Accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 20, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended), or is shown on the records of the Comptroller of Public Accounts as being subject to a final determination of taxes due and payable under the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes)."

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part,

that the repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

**§ 69.07. Fingerprints**

(a) An applicant for an original retail dealer's on-premise license shall submit to the county judge of the county in which the applicant desires to engage in business a complete set of fingerprints of the individual natural person applying for the license or, if the applicant is not an individual natural person, a complete set of fingerprints of the individual partner, officer, trustee, or receiver who is to be primarily responsible for the management of the premises.

(b) The county judge shall, no later than the next calendar day after receiving the prints, forward them by mail to the Texas Department of Public Safety. The department shall classify the prints and check them against their fingerprint files and shall certify their findings concerning the criminal record of the applicant, or the lack of record, to the county judge. No license may be issued until the certification is made to the county judge.

(c) The sheriff of any county, or any district office of the commission, shall take the fingerprints of an applicant for a license without charge on forms approved by and furnished by the Texas Department of Public Safety and shall immediately deliver them to the county judge of the county where the applicant desires to engage in business.

[Acts 1977, 65th Leg., p. 483, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.08. License: Contents; Photograph**

Each retail dealer's on-premise license shall contain the name and photograph of the individual natural person holding the license or, if the holder is not an individual natural person, the name and photograph of the individual partner, officer, trustee, or receiver who is primarily responsible for the management of the premises. The photograph may not be more than two years old and shall be furnished by the licensee. The commission may prescribe the size and nature of the photograph, the manner of furnishing it, and the method of affixing it to the license.

[Acts 1977, 65th Leg., p. 484, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.09. Acquisition of Beverages for Resale From Other Licensees Prohibited**

No holder of a retail dealer's on-premise license may borrow or acquire from, exchange with, or loan to any other holder of a retail dealer's on-premise license or holder of a retail dealer's off-premise license any alcoholic beverage for the purpose of resale.

[Acts 1977, 65th Leg., p. 484, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.10. Storing or Possessing Beer Off Premises Prohibited**

No holder of a retail dealer's on-premise license may own, possess, or store beer for the purpose of resale except on the licensed premises.  
[Acts 1977, 65th Leg., p. 484, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.11. Exchange or Transportation of Beer Between Licensed Premises Under Same Ownership**

The owner of two or more licensed retail premises may not exchange or transport beer between them unless all of the conditions set out in Section 24.04 of this code are met, except that beer may be transferred between two licensed retail premises that are both covered by package store permits as provided in Section 22.08 of this code.  
[Acts 1977, 65th Leg., p. 484, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.12. Possession of Certain Beverages Prohibited**

No retail dealer's on-premise licensee, nor the licensee's officer, agent, servant, or employee, may possess on the licensed premises an alcoholic beverage which is not authorized to be sold on the premises.  
[Acts 1977, 65th Leg., p. 484, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 69.13. Breach of Peace: Retail Establishment**

The commission or administrator may suspend or cancel the license of a retail beer dealer after giving the licensee notice and the opportunity to show compliance with all requirements of law for retention of the license if it finds that a breach of the peace has occurred on the licensed premises or on premises under the licensee's control and that the breach of the peace was not beyond the control of the licensee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.  
[Acts 1977, 65th Leg., p. 484, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 70. RETAIL DEALER'S ON-PREMISE LATE HOURS LICENSE**

Section	
70.01.	Authorized Activities.
70.02.	Fee.
70.03.	Application of Certain Code Provisions.

**§ 70.01. Authorized Activities**

The holder of a retail dealer's on-premise late hours license may sell beer for consumption on the premises on Sunday between the hours of 1:00 a. m. and 2 a. m. and on any other day between the hours of 12 p. m. and 2 a. m. if the premises covered by the license are in an area where the sale of beer during the hours is authorized by this code.  
[Acts 1977, 65th Leg., p. 485, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 70.02. Fee**

The annual state fee for a retail dealer's on-premise late hours license is \$100.  
[Acts 1977, 65th Leg., p. 485, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 70.03. Application of Certain Code Provisions**

All provisions of this code which apply to a retail dealer's on-premise license also apply to a retail dealer's on-premise late hours license.  
[Acts 1977, 65th Leg., p. 485, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 71. RETAIL DEALER'S OFF-PREMISE LICENSE**

Section	
71.01.	Authorized Activities.
71.02.	Fee.
71.03.	Authority of Licensee Holding Package Store Permit or Wine Only Package Store Permit.
71.04.	Possession of Certain Beverages Prohibited.
71.05.	Acquisition of Beverages for Resale From Other Licensees Prohibited.
71.06.	Storing or Possessing Beer Off Premises Prohibited.
71.07.	Exchange or Transportation of Beer Between Licensed Premises Under Same Ownership.
71.08.	Mitigating Circumstances: Retail Dealer's Off-Premise License.
71.09.	Breach of Peace: Retail Establishment.

**§ 71.01. Authorized Activities**

The holder of a retail dealer's off-premise license may sell beer in lawful containers to consumers, but not for resale and not to be opened or consumed on or near the premises where sold.  
[Acts 1977, 65th Leg., p. 485, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 71.02. Fee**

The annual state fee for a retail dealer's off-premise license is \$10.  
[Acts 1977, 65th Leg., p. 485, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 71.03. Authority of Licensee Holding Package Store Permit or Wine Only Package Store Permit**

(a) The holder of a retail dealer's off-premise license who also holds a package store permit may sell beer directly to consumers by the container, but not for resale and not to be opened or consumed on or near the premises where sold. Beer in containers holding 32 ounces or less may be sold only as follows:

- (1) 12, 24, and 32 ounce containers may be sold only in the following lots or full multiples thereof:
  - (A) 6 containers holding 12 ounces each;
  - (B) 3 containers holding 24 ounces each; or
  - (C) 3 containers holding 32 ounces each; and
- (2) 7, 8, and 16 ounce containers may be sold only in lots or full multiples of the number of containers in a retail package for that size container; for purposes of this section "retail pack-

age" shall mean original packages as defined in Section 1.04(18) of this code including 6-packs, 8-packs, or other packages containing at least 3 containers which are packaged for purposes of retail sales.

(b) The holder of a retail dealer's off-premise license who also holds a wine only package store permit may sell beer to consumers by the container, but not for resale and not to be opened or consumed on or near the premises where sold.

(c) The sale of beer by a holder of a retail dealer's off-premise license who also holds a package store permit is subject to the same restrictions and penalties governing the sale of liquor by package stores with regard to:

- (1) the hours of sale and delivery;
- (2) blinds and barriers;
- (3) employment of persons under the age of 18 or sales and deliveries to minors;
- (4) sales and deliveries on Sunday; and
- (5) advertising.

(d) The sale of beer by a holder of a retail dealer's off-premise license who also holds a wine only package store permit is subject to the same restrictions and penalties governing the sale of liquor by package stores with regard to:

- (1) blinds and barriers;
- (2) employment of persons under the age of 18 or sales and deliveries to minors;
- (3) delivery to the licensee or permittee on Sunday; and
- (4) advertising.

[Acts 1977, 65th Leg., p. 485, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 54, ch. 33, § 6, eff. Jan. 1, 1980; Acts 1981, 67th Leg., p. 257, ch. 107, § 7, eff. Sept. 1, 1981.]

#### § 71.04. Possession of Certain Beverages Prohibited

No retail dealer's off-premise licensee, nor his officer, may possess liquor containing alcohol in excess of 14 percent by volume on the licensed premises.

[Acts 1977, 65th Leg., p. 486, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 71.05. Acquisition of Beverages for Resale From Other Licensees Prohibited

No holder of a retail dealer's off-premise license may borrow or acquire from, exchange with, or loan to any other holder of a retail dealer's off-premise license or holder of a retail dealer's on-premise license any alcoholic beverage for the purpose of resale.

[Acts 1977, 65th Leg., p. 486, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 71.06. Storing or Possessing Beer Off Premises Prohibited

No holder of a retail dealer's off-premise license may own, possess, or store beer for the purpose of resale except on the licensed premises.

[Acts 1977, 65th Leg., p. 486, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 71.07. Exchange or Transportation of Beer Between Licensed Premises Under Same Ownership

Section 69.11 of this code relates to the exchange or transportation of beer between licensed premises by retail dealers.

[Acts 1977, 65th Leg., p. 486, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 71.08. Mitigating Circumstances: Retail Dealer's Off-Premise License

Section 11.64 of this code relates to mitigating circumstances with respect to cancellation or suspension of a retail dealer's off-premise license.

[Acts 1977, 65th Leg., p. 486, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 71.09. Breach of Peace: Retail Establishment

The application of sanctions for the occurrence of a breach of the peace at a retail beer establishment is covered by Section 69.13 of this code.

[Acts 1977, 65th Leg., p. 487, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 72. TEMPORARY LICENSES

Section	
72.01.	Authorized Activities.
72.02.	Fee.
72.03.	Duration of License.
72.04.	Required Basic License or Permit.
72.05.	Issuance and Use of License; Rules.
72.06.	Cancellation or Suspension of Primary License or Permit.

#### § 72.01. Authorized Activities

The holder of a temporary license may sell beer in the county where the license is issued to ultimate consumers in or from any lawful container for consumption on or off the premises where sold.

[Acts 1977, 65th Leg., p. 487, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 72.02. Fee

The state fee for a temporary license is \$5. No refund shall be allowed for the surrender or nonuse of a temporary license.

[Acts 1977, 65th Leg., p. 487, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 72.03. Duration of License

A temporary license may be issued for a period of not more than four days.

[Acts 1977, 65th Leg., p. 487, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 72.04. Required Basic License or Permit**

A temporary license may be issued only to a holder of a retail dealer's on-premise license or a wine and beer retailer's permit.

[Acts 1977, 65th Leg., p. 487, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 72.05. Issuance and Use of License; Rules**

(a) Temporary licenses shall be issued by the administrator or the commission or the commission's authorized representative. The commission shall adopt rules governing the issuance and use of temporary licenses.

(b) Licenses shall be issued only for the sale of beer at picnics, celebrations, or similar events.

(c) The administrator or commission may refuse to issue a license if there is reason to believe the issuance of the license would be detrimental to the public.

[Acts 1977, 65th Leg., p. 487, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 72.06. Cancellation or Suspension of Primary License or Permit**

The primary license or permit under which a temporary license was issued may be cancelled or suspended for a violation of this code on the premises covered by the temporary license that would justify the cancellation or suspension of a license under Section 61.71 of this code.

[Acts 1977, 65th Leg., p. 487, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 73. AGENT'S BEER LICENSE**

Section	
73.01.	Authorized Activities.
73.02.	Fee.
73.03.	License Required.
73.04.	Qualification for License.
73.05.	Grace Period.
73.06.	Employment of Unlicensed Agent Prohibited.
73.07.	Employment of Agent Whose License Has Been Suspended or Cancelled.
73.08.	Rules.
73.09.	Application for License.
73.10.	Renewal of License.
73.11.	Suspension or Cancellation of License.

**§ 73.01. Authorized Activities**

The holder of an agent's beer license, acting as an employee or representative of a licensed manufacturer of beer located inside or outside the state or as an employee or representative of a licensed distributor, may:

- (1) promote the sale of beer through methods such as solicitation, display, advertising, and personal contact with licensed retailers of beer and their agents, servants, and employees, and with consumers of beer; and
- (2) sell beer and offer it for sale.

[Acts 1977, 65th Leg., p. 488, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.02. Fee**

(a) The annual state fee for an agent's beer license is \$3.

(b) The commission may not refund any part of the fee for any reason.

(c) No manufacturer or distributor may pay the license fee for any person or reimburse any person for the payment of the fee.

[Acts 1977, 65th Leg., p. 488, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.03. License Required**

A person whose compensation is based mainly on the activities specified in Section 73.01 may not engage in those activities unless he holds an agent's beer license.

[Acts 1977, 65th Leg., p. 488, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.04. Qualification for License**

The commission shall not issue an agent's beer license to a person unless it is shown to the satisfaction of the commission that the applicant is employed or has good prospects for employment as agent or representative of a manufacturer or distributor.

[Acts 1977, 65th Leg., p. 488, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.05. Grace Period**

A person may engage in the activities specified in Section 73.01 for an initial grace period of five days during which he shall procure an agent's beer license from the commission.

[Acts 1977, 65th Leg., p. 488, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.06. Employment of Unlicensed Agent Prohibited**

No manufacturer or distributor may use or be the beneficiary of the services of any person to carry on the activities specified in Section 73.01 if he does not hold an agent's beer license and is not covered by the grace period provided by Section 73.05 of this code.

[Acts 1977, 65th Leg., p. 488, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.07. Employment of Agent Whose License Has Been Suspended or Cancelled**

(a) No manufacturer or distributor may employ or continue to employ in any capacity a person whose agent's beer license has been suspended by the commission during the period of suspension.

(b) No manufacturer or distributor may employ or continue to employ in any capacity a person whose agent's beer license has been cancelled for cause by the commission within one year after the date of the cancellation.

[Acts 1977, 65th Leg., p. 489, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.08. Rules**

The commission may promulgate reasonable rules defining the qualifications and regulating the conduct of holders of agent's beer licenses.

[Acts 1977, 65th Leg., p. 489, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.09. Application for License**

(a) An application for an agent's beer license is filed with the commission or any designated employee of the commission. The application must be on a form prescribed by the commission and include all information required by the commission.

(b) The commission, administrator, or a designated employee of the commission shall act on applications, and the county judge has no authority over the issuance or approval of agent's beer licenses.

[Acts 1977, 65th Leg., p. 489, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.10. Renewal of License**

An application for the renewal of an agent's beer license shall be made to the commission not more than 30 days before the license expires. The commission shall prescribe forms for that purpose and shall prescribe what information is required in the application.

[Acts 1977, 65th Leg., p. 489, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 73.11. Suspension or Cancellation of License**

An agent's beer license may be suspended or cancelled by the commission for a violation of any rule or regulation of the commission or for any of the reasons a manufacturer's or distributor's license may be suspended or cancelled. The same procedure applicable to the suspension or cancellation of a manufacturer's or distributor's license shall be followed in the suspension or cancellation of an agent's beer license.

[Acts 1977, 65th Leg., p. 489, ch. 194, § 1, eff. Sept. 1, 1977.]

## TITLE 4. REGULATORY AND PENAL PROVISIONS

### CHAPTER 101. GENERAL CRIMINAL PROVISIONS

#### SUBCHAPTER A. PROCEDURAL PROVISIONS

Section	
101.01.	Restraining Orders and Injunctions.
101.02.	Arrest Without Warrant.
101.03.	Search and Seizure.
101.04.	Consent to Inspection.
101.05.	Negation of Exception: Information, Complaint, or Indictment.
101.06.	Testimony of Accomplice.
101.07.	Duty of Peace Officers.
101.08.	Duty of County Court.
101.09.	Reports of Convictions.
101.10.	Wholesale or Retail Sale: Prima Facie Evidence.

#### SUBCHAPTER B. OFFENSES RELATING TO DRY AREAS

Section	
101.31.	Alcoholic Beverages in Dry Areas.
101.32.	Prima Facie Evidence of Intent to Sell.
101.33.	Delivery of Liquor in Dry Area.

#### SUBCHAPTER C. CONTAINERS

101.41.	Containers, Packaging, and Dispensing Equipment of Beer: Labels.
101.42.	Returnable Container: Acceptance by Another Manufacturer.
101.43.	Misbranding of Brewery Product.
101.44.	Containers of Beer: Capacities.
101.45.	Containers of Wine: Maximum Capacity.
101.46.	Containers of Liquor: Minimum Capacities.
101.47.	Carrier May Transport Liquor in Small Containers.
101.48.	Commission's Regulatory Authority.

#### SUBCHAPTER D. MISCELLANEOUS OFFENSES

101.61.	Violation of Code or Rule.
101.62.	Offensive Noise on Premises.
101.63.	Sale to Certain Persons.
101.64.	Indecent Graphic Material.
101.65.	Beverages Made From Certain Materials Prohibited.
101.66.	Beverages of Certain Alcohol Content Prohibited.
101.67.	Prior Approval of Malt Beverages.
101.68.	Consignment Sale Prohibited.
101.69.	False Statement.
101.70.	Common Nuisance.
101.71.	Inspection of Vehicle.

#### SUBCHAPTER A. PROCEDURAL PROVISIONS

**§ 101.01. Restraining Orders and Injunctions**

(a) If a credible person by affidavit informs the attorney general or a county or district attorney that a person is violating or is about to violate a provision of this code, or that a permit or license was wrongfully issued, the attorney general or county or district attorney shall begin proceedings in district court to restrain the person from violating the code or operating under the permit or license.

(b) The court may issue a restraining order without a hearing, and on notice and hearing may grant an injunction, to prevent the threatened or further violation or operation. The court may require the complaining party to file a bond in an amount and with the conditions the court finds necessary.

(c) If the court finds that a person has violated a restraining order or injunction issued under this section, it shall enter a judgment to that effect. The judgment operates to cancel without further proceedings any license or permit held by the person. The district clerk shall notify the county judge of the county where the premises covered by the permit or license are located and shall notify the commission when a judgment is entered that operates to cancel a license or permit.

(d) No license or permit may be issued to a person whose license or permit is cancelled under Subsection (c) of this section for one year after the cancellation.

[Acts 1977, 65th Leg., p. 491, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.02. Arrest Without Warrant**

A peace officer may arrest without a warrant any person he observes violating any provision of this code or any rule or regulation of the commission. The officer shall take possession of all illicit beverages the person has in his possession or on his premises as provided in Chapter 103 of this code.

[Acts 1977, 65th Leg., p. 491, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.03. Search and Seizure**

(a) A search warrant may issue under Chapter 18, Code of Criminal Procedure, 1965, as amended, to search for, seize, and destroy or otherwise dispose of in accordance with this code:

(1) an illicit beverage;

(2) any equipment or instrumentality used, or capable or designed to be used, to manufacture an illicit beverage;

(3) a vehicle or instrumentality used or to be used for the illegal transportation of an illicit beverage;

(4) unlawful equipment or materials used or to be used in the illegal manufacturing of an illicit beverage;

(5) a forged or counterfeit stamp, die, plate, official signature, certificate, evidence of tax payment, license, permit, or other instrument pertaining to this code; or

(6) any instrumentality or equipment, or parts of either of them, used or to be used, or designed or capable of use, to manufacture, print, etch, indite, or otherwise make a forged or counterfeit instrument covered by Subdivision (5) of this subsection.

(b) Any magistrate may issue a search warrant on the affidavit of a credible person, setting forth the name or description of the owner or person in charge of the premises (or stating that the name and description are unknown), the address or description of the premises, and showing that the described premises is a place where this code has been or is being violated. If the place to be searched is a private dwelling occupied as such and no part of it is used as a store, shop, hotel, boarding house, or for any other purpose except as a private residence, the affidavit must be made by two credible persons.

(c) All provisions of Chapter 18, Code of Criminal Procedure, 1965, as amended, apply to the application, issuance, and execution of the warrant except those that conflict with this section.

(d) The officer executing the warrant shall seize all items described in Subsection (a) of this section, and those items may not be taken from his custody by a writ of replevin or any other process. The officer shall retain the items pending final judgment in the proceedings.

(e) This section does not require a peace officer to obtain a search warrant to search premises covered by a license or permit.

[Acts 1977, 65th Leg., p. 491, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.04. Consent to Inspection**

By accepting a license or permit, the holder consents that the commission, an authorized representative of the commission, or a peace officer may enter the licensed premises at any time to conduct an investigation or inspect the premises for the purpose of performing any duty imposed by this code.

[Acts 1977, 65th Leg., p. 492, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.05. Negation of Exception: Information, Complaint, or Indictment**

An information, complaint, or indictment charging a violation of this code need not negate an exception to an act prohibited by this code, but the exception may be urged by the defendant as a defense to the offense charged.

[Acts 1977, 65th Leg., p. 492, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.06. Testimony of Accomplice**

A conviction for a violation of this code cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the defendant with the offense committed; and the corroboration is not sufficient if it merely shows the commission of the offense.

[Acts 1977, 65th Leg., p. 492, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 108, ch. 67, § 1, eff. Aug. 27, 1979.]

**§ 101.07. Duty of Peace Officers**

All peace officers in the state, including those of cities, counties, and state, shall enforce the provisions of this code and cooperate with and assist the commission in detecting violations and apprehending offenders.

[Acts 1977, 65th Leg., p. 492, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.08. Duty of County Court**

When a violation of this code occurs, the county court shall make a recommendation to the commission as to cancellation or suspension of any permit or license connected with the violation.

[Acts 1977, 65th Leg., p. 492, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.09. Reports of Convictions**

Every county and district clerk in the state shall furnish the commission or its representative, on request, a certified copy of the judgment of conviction and of the information against a person convicted of a violation of this code. The clerk may not charge a fee for furnishing the copy.

[Acts 1977, 65th Leg., p. 492, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.10. Wholesale or Retail Sale: Prima Facie Evidence**

(a) Proof that a retail permittee sold or delivered more than three gallons of distilled spirits to a person in a single or continuous transaction is prima facie evidence that the sale was at wholesale.

(b) Proof that a permittee authorized to sell distilled spirits at wholesale sold or delivered less than three gallons of distilled spirits in a single transaction is prima facie evidence that the sale was a retail sale.

(c) The presumption created by Subsection (b) of this section does not apply to the lawful delivery of 2.4 gallons or more of distilled spirits under the authority of a local distributor's permit.

[Acts 1977, 65th Leg., p. 492, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 101.11 to 101.30 reserved for expansion]

**SUBCHAPTER B. OFFENSES RELATING TO DRY AREAS**

**§ 101.31. Alcoholic Beverages in Dry Areas**

Except as otherwise provided in this code, no person in a dry area may manufacture, distill, brew, sell, import into the state, export from the state, transport, distribute, warehouse, store, solicit or take orders for, or possess with intent to sell an alcoholic beverage.

[Acts 1977, 65th Leg., p. 493, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.32. Prima Facie Evidence of Intent to Sell**

(a) Possession of more than one quart of liquor in a dry area is prima facie evidence that it is possessed with intent to sell.

(b) Possession in a dry area of more than 24 twelve-ounce bottles of beer, or an equivalent amount, is prima facie evidence of possession with intent to sell.

[Acts 1977, 65th Leg., p. 493, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.33. Delivery of Liquor in Dry Area**

Section 107.03 of this code relates to the delivery of liquor in a dry area.

[Acts 1977, 65th Leg., p. 493, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 101.34 to 101.40 reserved for expansion]

**SUBCHAPTER C. CONTAINERS**

**§ 101.41. Containers, Packaging, and Dispensing Equipment of Beer: Labels**

(a) No manufacturer or distributor, directly or indirectly or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may manufacture, sell, or otherwise introduce into commerce any container, packaging, or dispensing equipment of beer that does not meet the requirements of this section.

(b) Every container of beer must have a label or imprint in legible type showing the full name and address of the manufacturer and, if it contains a special brand brewed for a distributor, of the distributor. Any box, crate, carton, or similar device in which containers of beer are sold or transported must have a label meeting the same requirements.

(c) The label of a container of beer must state the net contents in terms of United States liquor measure.

(d) No container, packaging material, or dispensing equipment may bear a label or imprint that:

(1) by wording, lettering, numbering, or illustration, or in any other manner refers or alludes to or suggests the alcoholic strength of the product, a manufacturing process, aging, analysis, or a scientific fact;

(2) refers or alludes to the "proof," "balling," or "extract" of the product;

(3) is untrue in any respect; or

(4) by ambiguity, omission, or inference tends to create a misleading impression, or causes or is calculated to cause deception of the consumer with respect to the product.

[Acts 1977, 65th Leg., p. 493, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.42. Returnable Container: Acceptance by Another Manufacturer**

No manufacturer of beer may purchase, accept as a return, or use a barrel, half-barrel, keg, case, or bottle permanently branded or imprinted with the name of another manufacturer.

[Acts 1977, 65th Leg., p. 494, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.43. Misbranding of Brewery Product**

(a) No manufacturer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may sell or otherwise introduce into commerce a brewery product that is misbranded.

(b) A product is misbranded if:

(1) it is misbranded within the meaning of the federal Food and Drug Act;

(2) the container is so made or filled as to mislead the purchaser, or if its contents fall below the recognized standards of fill;

(3) it misrepresents the standard of quality of products in the branded container; or

(4) it is so labeled as to purport to be a product different from that in the container.

[Acts 1977, 65th Leg., p. 494, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.44. Containers of Beer: Capacities**

No person may possess, sell, or transport any beer except in containers having a capacity of one barrel, one-half barrel, one-quarter barrel, or one-eighth

barrel, or in bottles or cans having a capacity of 32, 24, 16, 12, 8, or 7 fluid ounces.

[Acts 1977, 65th Leg., p. 494, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 54, ch. 33, § 7, eff. Jan. 1, 1980.]

**§ 101.45. Containers of Wine: Maximum Capacity**

No person may sell wine to a retail dealer in containers with a capacity greater than 4.9 gallons.

[Acts 1977, 65th Leg., p. 494, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.46. Containers of Liquor: Minimum Capacities**

(a) Except as provided by Subsections (b) and (c) of this section, no person may import, sell, or possess with intent to sell any liquor in a container with a capacity of less than six fluid ounces.

(b) Subsection (a) of this section does not apply to permittees or licensees while engaged in supplying airline beverage or mixed beverage permittees, nor to the possession or sale of liquor by an airline beverage or mixed beverage permittee, but none of the permittees or licensees covered by this subsection may possess liquor in a container with a capacity of less than one fluid ounce.

(c) Subsection (a) of this section does not apply to liquor imported under Section 107.07 of this code. [Acts 1977, 65th Leg., p. 494, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1146, ch. 552, § 1, eff. Aug. 27, 1979.]

Amendment of this section by Acts 1979, 66th Leg., p. 1969, ch. 777, § 9(b), failed to take effect under the provisions of § 9(a) of that act which read: "This section does not take effect if House Bill No. 869, Acts of the 66th Legislature, Regular Session, 1979 [ch. 552], takes effect and amends Section 101.46, Alcoholic Beverage Code."

**§ 101.47. Carrier May Transport Liquor in Small Containers**

The commission may authorize a common carrier of persons engaged in interstate commerce to transport liquor in containers of less than six fluid ounces if the liquor is not for sale, use, or consumption in the state.

[Acts 1977, 65th Leg., p. 494, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1969, ch. 777, § 10, eff. Aug. 27, 1979.]

**§ 101.48. Commission's Regulatory Authority**

Sections 5.39 and 5.40 of this code relate to the commission's authority to regulate liquor containers and beer container deposits.

[Acts 1977, 65th Leg., p. 495, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 101.49 to 101.60 reserved for expansion]

**SUBCHAPTER D. MISCELLANEOUS OFFENSES**

**§ 101.61. Violation of Code or Rule**

A person who fails or refuses to comply with a requirement of this code or a valid rule of the commission violates this code.

[Acts 1977, 65th Leg., p. 495, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.62. Offensive Noise on Premises**

No licensee or permittee, on premises under his control, may maintain or permit a radio, television, amplifier, piano, phonograph, music machine, orchestra, band, singer, speaker, entertainer, or other device or person that produces, amplifies, or projects music or other sound that is loud, vociferous, vulgar, indecent, lewd, or otherwise offensive to persons on or near the licensed premises.

[Acts 1977, 65th Leg., p. 495, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.63. Sale to Certain Persons**

(a) A person commits an offense if he knowingly sells an alcoholic beverage to an habitual drunkard or an intoxicated or insane person.

(b) Except as provided in Subsection (c) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500, by confinement in jail for not more than one year, or by both.

(c) If a person has been previously convicted of a violation of this section or of Section 106.03 of this code, a violation is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000, by confinement in jail for not more than one year, or by both.

[Acts 1977, 65th Leg., p. 495, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.64. Indecent Graphic Material**

No holder of a license or permit may possess or display on the licensed premises a card, calendar, placard, picture, or handbill that is immoral, indecent, lewd, or profane.

[Acts 1977, 65th Leg., p. 495, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.65. Beverages Made From Certain Materials Prohibited**

No person may manufacture, import, sell, or possess for the purpose of sale an alcoholic beverage made from:

- (1) dried grapes, dried fruits, or dried berries;
- (2) any compound made from synthetic materials;
- (3) substandard wines;
- (4) imitation wines; or
- (5) must concentrated at any time to more than 80 degrees Balling.

[Acts 1977, 65th Leg., p. 495, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.66. Beverages of Certain Alcohol Content Prohibited**

No person may manufacture, sell, barter, or exchange a beverage that contains alcohol in excess of one-half of one percent by volume and not more than four percent of alcohol by weight, except beer.

[Acts 1977, 65th Leg., p. 495, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.67. Prior Approval of Malt Beverages**

(a) No person may ship or cause to be shipped into the state, import into the state, manufacture and offer for sale in the state, or distribute, sell, or store in the state any beer, ale, or malt liquor unless:

(1) a sample of the beverage or a sample of the same type and quality of beverage has been first submitted to the commission for analysis and been found by the commission or its representative to comply with all rules and regulations of the commission relating to quality, purity, and standards of measure; and

(2) the label of the beverage has been first submitted to the commission or its representative and found to comply with all provisions of this code relating to the labeling of the particular type of beverage.

(b) Only a brewer's or nonresident brewer's permittee or a manufacturer's or nonresident manufacturer's licensee may apply for and receive label approval on beer, ale, or malt liquor.

(c) This section does not apply to the importation of beer for personal consumption and not for sale. [Acts 1977, 65th Leg., p. 496, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.68. Consignment Sale Prohibited**

A person commits an offense if he is a party to, or directly or indirectly interested in or connected with, a consignment sale of an alcoholic beverage.

[Acts 1977, 65th Leg., p. 496, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.69. False Statement**

Except as provided in Section 103.05(d) of this code, a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the commission and required to be sworn commits an offense punishable by imprisonment in the penitentiary for not less than 2 nor more than 10 years.

[Acts 1977, 65th Leg., p. 496, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.70. Common Nuisance**

(a) A room, building, boat, structure, or other place where alcoholic beverages are sold, bartered, manufactured, stored, possessed, or consumed in violation of this code or under circumstances contrary to the purposes of this code, the beverages themselves, and all property kept or used in the place, are a common nuisance. A person who maintains or assists in maintaining the nuisance commits an offense.

(b) The county or district attorney in the county where the nuisance exists or the attorney general may sue in the name of the state for an injunction to abate and temporarily and permanently enjoin it. Except as otherwise provided in this section, the proceeding is conducted as other similar proceedings.

1 West's Tex. Stats. & Codes '81 Supp.—11

(c) The plaintiff is not required to give a bond. The final judgment is a judgment in rem against the property and a judgment against the defendant. If the court finds against the defendant, on final judgment it shall order that the place where the nuisance exists be closed for one year or less and until the owner, lessee, tenant, or occupant gives bond with sufficient surety as approved by the court in the penal sum of at least \$1,000. The bond must be payable to the state and conditioned:

(1) that this code will not be violated;

(2) that no person will be permitted to resort to the place to drink alcoholic beverages in violation of this code; and

(3) that the defendant will pay all fines, costs, and damages assessed against him for any violation of this code.

(d) On appeal, the judgment may not be superseded except on filing an appeal bond in the penal sum of not more than \$500, in addition to the bond for costs of the appeal. That bond must be approved by the trial court and must be posted before the judgment of the court may be superseded on appeal. The bond must be conditioned that if the judgment of the trial court is finally affirmed it may be forfeited in the same manner and for any cause for which a bond required on final judgment may be forfeited for an act committed during the pendency of an appeal.

[Acts 1977, 65th Leg., p. 496, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 101.71. Inspection of Vehicle**

No holder of a permit issued under Title 3, Subtitle A, of this code, may refuse to allow the commission or its authorized representative or a peace officer, on request, to make a full inspection, investigation, or search of any vehicle.

[Acts 1977, 65th Leg., p. 497, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 102. INTRA-INDUSTRY RELATIONSHIPS****SUBCHAPTER A. GENERAL PROVISIONS**

Section	
102.01.	Tied House Prohibited.
102.02.	Athletic Facility Owned by Manufacturer.
102.03.	Persons Barred From Interest in Premises of Retail Liquor Outlet.
102.04.	Persons Barred From Interest in Mixed Beverage Business.
102.05.	Hotel: Multiple Interests Authorized.
102.06.	Relationship Between Agent or Manufacturer's Agent and Package Store.
102.07.	Prohibited Dealings With Retailer or Consumer.
102.08.	Wholesaler: Liquor Manufactured by Affiliate.
102.09.	Wholesaler: Interest in Distiller or Rectifier.
102.10.	Distiller or Rectifier: Interest in Wholesaler.
102.11.	Manufacturer or Distributor: Prohibited Interests.
102.12.	Commercial Bribery by Manufacturer or Distributor.
102.13.	Exclusive Outlet Agreement as to Brewery Products.
102.14.	Manufacturer or Distributor: Furnishing Equipment or Fixtures.

- Section  
 102.15. Manufacturer or Distributor: Prohibited Dealings With Retailer.  
 102.16. Unlawful Agreements.  
 102.17. Contract for Sale of Liquor.  
 102.18. Manufacturer: Prohibited Interests.

SUBCHAPTER B. REGULATION OF CREDIT TRANSACTIONS

- 102.31. Cash Payment Required.  
 102.32. Sale of Liquor: Credit Restrictions.

SUBCHAPTER C. TERRITORIAL LIMITS ON SALE OF BEER

- 102.51. Setting of Territorial Limits.  
 102.52. Rights of Distributors.  
 102.53. Rights of Retailers.

SUBCHAPTER D. BEER INDUSTRY FAIR DEALING LAW

- 102.71. Definitions.  
 102.72. Purposes.  
 102.73. Termination and Notice of Cancellation.  
 102.74. Cancellation.  
 102.75. Prohibited Conduct.  
 102.76. Transfer of Business Assets or Stock.  
 102.77. Reasonable Compensation.  
 102.78. Right of Free Association.  
 102.79. Judicial Remedies.  
 102.80. Coverage and Effective Date.

SUBCHAPTER A. GENERAL PROVISIONS

§ 102.01. Tied House Prohibited

(a) In this section, "tied house" means any overlapping ownership or other prohibited relationship between those engaged in the alcoholic beverage industry at different levels, that is, between a manufacturer and a wholesaler or retailer, or between a wholesaler and a retailer, as the words "wholesaler," "retailer," and "manufacturer" are ordinarily used and understood, regardless of the specific names given permits under Subtitle A, Title 3, of this code.

(b) In considering an original or renewal application for a permit issued under Subtitle A, Title 3, of this code, the commission or administrator may make any investigation or request any additional information necessary to enforce this section and to provide strict adherence to a general policy of prohibiting the tied house and related practices. The activities prohibited by this section are unfair competition and unlawful trade practices.

(c) No person having an interest in a permit issued under Subtitle A, Title 3, of this code may secure or hold, directly or indirectly, an ownership interest in the business or corporate stocks, including a stock option, convertible debenture, or similar interest, in a permit or business of a permittee of a different level who maintains licensed premises in Texas.

(d) No person may act or serve as officer, director, or employee of the businesses of permittees at different levels.

(e) No permittee may own the premises, fixtures, or equipment of a permittee of a different level.

(f) No permittee may secure or in any manner obtain the use of any premises, fixtures, or equipment on the credit of a permittee of a different level.

(g) No permittee may loan to, or by means of his credit secure a loan for, a permittee of a different level. If a permittee secures a loan from a source outside the state, there is a presumption of a tied house relationship or subterfuge, and the permittee securing the loan has the burden of showing that he has not violated this section.

(h) No permittee may enter with a permittee of a different level or with another person or legal entity into a conspiracy or agreement to control or manage, financially or administratively, directly or indirectly, in any form or degree, the business or interests of a permittee of a different level.

(i) No permittee may enter with another permittee into any type of profit-sharing agreement or any agreement relating to the repurchase of any assets or any agreement attempting to effectuate the shipment or delivery of an alcoholic beverage on consignment.

(j) On finding that a person has violated any provision of Subsections (c) through (i) of this section, the commission or administrator shall suspend for not less than six months or cancel the permit of any permittee involved. A person who held or had an interest in a permit cancelled under this subsection is ineligible to hold or have an interest in a permit for one year after the cancellation.

(k) This section does not apply to the application for renewal of a permit held by an applicant who was engaged in the legal alcoholic beverage business in this state under a charter or permit before August 24, 1935, or to an application for a nonresident seller's or wholesaler's permit held by an applicant who continuously has been the holder of a permit of that type since January 1, 1941.

[Acts 1977, 65th Leg., p. 498, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 102.02. Athletic Facility Owned by Manufacturer

The total or partial ownership by a manufacturer of premises primarily designed and used for athletic contests is not a ground for the denial, suspension, or cancellation of a retail license located on those premises.

[Acts 1977, 65th Leg., p. 499, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 102.03. Persons Barred From Interest in Premises of Retail Liquor Outlet

(a) This section applies to the holder of a brewer's, distiller's, winery, rectifier's, wholesaler's, class B wholesaler's, or wine bottler's permit.

(b) No holder of a permit named in Subsection (a) of this section may directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, own an interest of any kind in the premises where a package store permittee, wine only package store permittee, or mixed beverage permittee conducts his business.

[Acts 1977, 65th Leg., p. 499, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, § 9, eff. June 13, 1979.]

#### § 102.04. Persons Barred From Interest in Mixed Beverage Business

(a) This section applies to any person who has an interest in the business of a distiller, brewer, rectifier, wholesaler, class B wholesaler, winery, wine bottler, or local distributor's permittee. This section also applies to the agent, servant, or employee of a person who has an interest in one of those businesses.

(b) Except as permitted in Section 23.01 of this code, no person to whom this section applies may:

(1) have a direct or indirect interest in the business, premises, equipment, or fixtures of a mixed beverage establishment;

(2) furnish or lend any money, service, or other thing of value to a mixed beverage permittee or guarantee the fulfillment of a financial obligation of a mixed beverage permittee;

(3) enter or offer to enter into an agreement, condition, or system which in effect amounts to the shipment and delivery of alcoholic beverages on consignment;

(4) furnish, rent, lend, or sell to a mixed beverage permittee any equipment, fixtures, or supplies used in the selling or dispensing of alcoholic beverages;

(5) pay or make an allowance to a mixed beverage permittee for a special advertising or distributing service, or allow the permittee an excessive discount;

(6) offer to a mixed beverage permittee a prize, premium, or other inducement, except as permitted by Section 102.07(b) of this code; or

(7) advertise in the convention program or sponsor a function at a meeting or convention or a trade association of holders of mixed beverage permits, unless the trade association was incorporated before 1950.

[Acts 1977, 65th Leg., p. 499, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1183, ch. 453, § 9, eff. Sept. 1, 1977, Acts 1979, 66th Leg., p. 2118, ch. 819, § 10, eff. June 13, 1979.]

#### § 102.05. Hotel: Multiple Interests Authorized

A hotel may hold a package store permit, mixed beverage permit, wine and beer retailer's permit, and retail dealer's license if the businesses are completely segregated from each other.

[Acts 1977, 65th Leg., p. 499, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 102.06. Relationship Between Agent or Manufacturer's Agent and Package Store

No holder of an agent's or manufacturer's agent's permit may directly or indirectly have an interest in a package store permit or wine only package store permit or be residentially domiciled with a person who has a financial interest in a package store permit or wine only package store permit.

[Acts 1977, 65th Leg., p. 499, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 102.07. Prohibited Dealings With Retailer or Consumer

(a) Except as provided in Subsection (b) of this section, no person who owns or has an interest in the business of a distiller, brewer, rectifier, wholesaler, class B wholesaler, winery, or wine bottler, nor the agent, servant, or employee of such a person, may:

(1) own or have a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer;

(2) furnish, give, or lend any money, service, or thing of value to a retailer;

(3) guarantee a financial obligation of a retailer;

(4) make or offer to enter an agreement, condition, or system which will in effect amount to the shipment and delivery of alcoholic beverages on consignment;

(5) furnish, give, rent, lend, or sell to a retail dealer any equipment, fixtures, or supplies to be used in selling or dispensing alcoholic beverages;

(6) pay or make an allowance to a retailer for a special advertising or distribution service;

(7) allow an excessive discount to a retailer;

(8) offer a prize, premium, gift, or similar inducement to a retailer or consumer or to the agent, servant, or employee of either.

(b) A permittee covered by Subsection (a) may furnish to a retailer without cost recipes, recipe books, book matches, cocktail napkins, or other advertising items showing the name of the permittee furnishing the items or the brand name of the product advertised if the individual cost of the items does not exceed 25 cents.

(c) No person who owns or has an interest in the business of a package store or wine only package store, nor the agent, servant, or employee of the person, may allow an excessive discount on liquor.

[Acts 1977, 65th Leg., p. 500, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2118, ch. 819, § 11, eff. June 13, 1979.]

#### § 102.08. Wholesaler: Liquor Manufactured by Affiliate

(a) No holder of a wholesaler's permit may own, possess, or sell any liquor manufactured, distilled, or rectified by a person, firm, or corporation that is

directly or indirectly affiliated with the wholesale permittee, regardless of whether the affiliation is corporate, by management, direction, or control, or through an officer, director, agent, or employee.

(b) This section does not apply to a holder of a wholesaler's permit who held the permit on January 1, 1941, and has held it continuously since that date, who was on that date selling liquor manufactured, distilled, or rectified by such an affiliate.

[Acts 1977, 65th Leg., p. 500, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 102.09. Wholesaler: Interest in Distiller or Rectifier**

No holder of a wholesaler's permit may be affiliated with the holder of a distiller's or rectifier's permit, or with a person, firm, or corporation engaged in distilling or rectifying liquor inside or outside this state, regardless of whether the affiliation is direct or indirect, through an officer, director, agent, or employee, or by management, direction, or control.

[Acts 1977, 65th Leg., p. 500, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 102.10. Distiller or Rectifier: Interest in Wholesaler**

(a) This section applies to the following:

- (1) a holder of a distiller's or rectifier's permit;
- (2) a person, firm, or corporation engaged in distilling or rectifying liquor, either inside or outside this state;
- (3) an officer, director, agent, or employee of an entity named in Subdivision (1) or (2) of this subsection; or
- (4) an affiliate of an entity named in Subdivision (1) or (2) of this subsection, regardless of whether the affiliation is corporate or by management, direction, or control.

(b) No entity named in Subsection (a) of this section may have any interest in the permit, business, assets, or corporate stock of a holder of a wholesaler's permit.

[Acts 1977, 65th Leg., p. 500, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 102.11. Manufacturer or Distributor: Prohibited Interests**

No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may:

- (1) own any interest in the business or premises of a retail dealer of beer;
- (2) hold or have an interest in a license to sell brewery products for on-premises consumption, except to the extent that a manufacturer's license permits on-premises consumption.

[Acts 1977, 65th Leg., p. 501, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 102.12. Commercial Bribery by Manufacturer or Distributor**

No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may give or permit to be given money or any thing of value in an effort to induce agents, employees, or representatives of customers or prospective customers to influence their employers or principals to purchase or contract to purchase brewery products from the manufacturer or distributor or to refrain from buying those products from other persons.

[Acts 1977, 65th Leg., p. 501, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 102.13. Exclusive Outlet Agreement as to Brewery Products**

No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may require, by agreement or otherwise, that a retailer engaged in the sale of brewery products purchase any of those products from him to the total or partial exclusion of the products sold or offered for sale by a competitor or require the retailer to take or dispose of a certain quota of the product.

[Acts 1977, 65th Leg., p. 501, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 102.14. Manufacturer or Distributor: Furnishing Equipment or Fixtures**

(a) No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may furnish, give, rent, lend, or sell any equipment, fixtures, or supplies to a person engaged in selling brewery products for on-premises consumption.

(b) This section does not apply to equipment, fixtures, or supplies furnished, given, loaned, rented, or sold before November 16, 1935, except that transactions made before that date may not be used as consideration for an agreement made after that date with respect to the purchase of brewery products. If a manufacturer or distributor of brewery products or an agent or employee of one of them removes the equipment, fixtures, or supplies from the premises of the person to whom they were furnished, given, loaned, rented, or sold, the exemption granted by this subsection no longer applies to the equipment, fixtures, or supplies.

(c) Notwithstanding any other provision of this code, a manufacturer or distributor may, with written approval of the administrator, sell for cash devices designed to extract brewery products from legal containers subject to the following conditions:

- (1) the legal containers must not exceed a one-eighth barrel capacity and must not be reused or refilled;
- (2) the selling price of such devices may be no less than the cost of acquisition to the manufacturer or distributor; and

(3) such devices which extract brewery products from legal containers covered by this section may not be furnished, given, rented, or sold by the manufacturer or distributor to a licensee or permittee authorized to sell or serve brewery products for on-premise consumption, or to the ultimate consumer.

[Acts 1977, 65th Leg., p. 501, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2664, ch. 719, § 1, eff. June 16, 1981.]

#### § 102.15. Manufacturer or Distributor: Prohibited Dealings With Retailer

No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may:

(1) furnish, give, or lend any money or other thing of value to a person engaged or about to be engaged in selling brewery products for on-premises or off-premises consumption, or give the person any money or thing of value for his use, benefit, or relief; or

(2) guarantee the repayment of a loan or the fulfillment of a financial obligation of a person engaged in or about to be engaged in selling beer at retail.

[Acts 1977, 65th Leg., p. 502, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 102.16. Unlawful Agreements

(a) A brewer, distiller, winery permittee, or alcoholic beverage manufacturer, or the agent, servant, or employee of any of them, commits an offense if he orally or in writing enters or offers to enter into an agreement or other arrangement with a wholesaler or other person in the state:

(1) by which a person is required or influenced, or that is intended to require or influence a person, to purchase, otherwise obtain, produce, or require a certain volume or quota of business, more or less, of one or more types or brands of alcoholic beverages, either in a certain area, in a certain period of time, or on fulfillment of any condition; or

(2) to require or influence a person, or attempt to require or influence a person, to sell an alcoholic beverage in a manner contrary to law or in a manner calculated to induce a violation of the law.

(b) The commission or administrator shall investigate suspected violations of this section, and if either of them finds or has good reason to believe that this section has been or is being violated, the commission or administrator shall give the affected parties notice of hearing as provided in this code. On finding that a person has violated or is violating a provision of this section, the commission or administrator shall enter an order prohibiting the violator or his agents to directly or indirectly ship any of his goods into the state for a period not to exceed one year. No person may violate that order.

(c) The commission shall adopt necessary rules to effectuate this section.

[Acts 1977, 65th Leg., p. 502, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 102.17. Contract for Sale of Liquor

A brewer, distiller, winery permittee, manufacturer, or nonresident seller of liquor and the holder of a wholesaler's permit may enter into a contract for the sale and purchase of a specified quantity of liquor to be delivered over an agreed period of time, but only if the contract is first submitted to the commission or administrator and found by the commission or administrator not to be calculated to induce a violation of this code.

[Acts 1977, 65th Leg., p. 502, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 102.18. Manufacturer: Prohibited Interests

(a) This section applies to the following:

(1) a holder of a manufacturer's or nonresident manufacturer's license;

(2) an officer, director, agent, or employee of an entity named in Subdivision (1) of this subsection; or

(3) an affiliate of an entity named in Subdivision (1) of this subsection, regardless of whether the affiliation is corporate or by management, direction, or control.

(b) No entity named in Subsection (a) of this section may have any interest in the license, business, assets, or corporate stock of a holder of a general, local, or branch distributor's license.

[Added by Acts 1979, 66th Leg., p. 1973, ch. 777, § 24, eff. Aug. 27, 1979.]

[Sections 102.19 to 102.30 reserved for expansion]

### SUBCHAPTER B. REGULATION OF CREDIT TRANSACTIONS

#### § 102.31. Cash Payment Required

(a) This section applies to:

(1) the sale of beer or its containers or the original packages in which it is received, packaged, or contained by a distributor's licensee to a retail dealer's on-premise or off-premise licensee, a wine and beer retailer's permittee, or a wine and beer retailer's off-premise permittee; and

(2) the sale of malt beverages by a local distributor's permittee, or by any licensee authorized to sell those beverages for resale, to a mixed beverage or daily temporary mixed beverage permittee.

(b) No person directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may make a sale covered by this section except for cash on or before delivery to the purchaser.

(c) A person who engages in a subterfuge by which credit is extended to the purchaser violates this code. Acceptance of a postdated check is not a cash sale, but a valid check or draft payable on demand may be accepted as cash. If a check or draft is accepted in payment, it must be deposited in the bank for payment or presented for payment within two days after it is received. If the check or draft is dishonored by the drawee, the licensee or permittee who accepted it shall report that fact to the commission within two days after receiving notice of dishonor. The report shall be on a form prescribed by the commission and shall contain any information the commission requires.

(d) Sundays and legal holidays are not counted in determining time periods under this section.

(e) The commission may promulgate rules to give effect to this section.

[Acts 1977, 65th Leg., p. 502, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 55, ch. 33, § 8, eff. Aug. 27, 1979.]

**§ 102.32. Sale of Liquor: Credit Restrictions**

(a) In this section:

(1) "Wholesale dealer" means a wholesaler, class B wholesaler, winery, wine bottler, or local distributor's permittee.

(2) "Retailer" means a package store, wine only package store, wine and beer retailer's, wine and beer retailer's off-premise, or mixed beverage permittee, any other retailer, or a private club registration permittee.

(3) "Month" means a calendar month.

(b) No wholesale dealer may sell and no retailer may purchase liquor except for cash or on terms requiring payment by the retailer in accordance with Subsection (c) of this section.

(c) On purchases made from the 1st through 15th day of a month, payment must be made on or before the 25th day of that month. On purchases made on the 16th through the last day of a month, payment must be made on or before the 10th day of the following month.

(d) Each delivery of liquor shall be accompanied by an invoice giving the date of purchase. If a retailer becomes delinquent in the payment of an account for liquor, the wholesale dealer immediately shall report that fact in writing to the commission or administrator. No wholesale dealer may sell any liquor to a retailer who is delinquent until the delinquent account is paid in full and cleared from the records of the commission. An account becomes delinquent if it is not paid when it is required to be paid under Subsection (c) of this section.

(e) A wholesale dealer who accepts a postdated check, a note or memorandum, or participates in a scheme to assist a retailer in the violation of this section commits an offense.

(f) The commission shall adopt rules and regulations to give effect to this section.

[Acts 1977, 65th Leg., p. 503, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2119, ch. 819, § 12, eff. June 13, 1979.]

[Sections 102.33 to 102.50 reserved for expansion]

**SUBCHAPTER C. TERRITORIAL LIMITS ON SALE OF BEER**

**§ 102.51. Setting of Territorial Limits**

(a) Each holder of a manufacturer's or nonresident manufacturer's license shall designate territorial limits in this state within which the brands of beer the licensee manufactures may be sold by general, local, or branch distributor's licensees.

(b) Each holder of a general, local, or branch distributor's license shall enter into a written agreement with each manufacturer from which the distributor purchases beer for distribution and sale in this state setting forth the nonexclusive territorial limits within which each brand of beer purchased may be distributed and sold. A copy of the agreement and any amendments to it shall be filed with the administrator.

[Acts 1977, 65th Leg., p. 504, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 102.52. Rights of Distributors**

(a) Nothing in Section 102.51 of this code limits or alters the right of a holder of a general, local, or branch distributor's license to sell beer to any other holder of a general, local, or branch distributor's license, except that a distributor who has purchased beer from another distributor may distribute and sell the beer only within a territory for which the manufacturer of the brand has designated that it may be sold by a distributor.

(b) A holder of general, local, or branch distributor's license may not purchase, possess, transport, or sell any brand of beer outside of the county in which the distributor's licensed premises are located unless the distributor has a written assigned territory from the holder of a manufacturer's or nonresident manufacturer's license covering that brand of beer.

[Acts 1977, 65th Leg., p. 504, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 55, ch. 33, § 9, eff. Aug. 27, 1979.]

**§ 102.53. Rights of Retailers**

Nothing in Section 102.51 or 102.52 of this code limits or alters the right of a holder of a retail license or permit to purchase beer at the licensed premises of any general, local, or branch distributor's licensee in the state and transport that beer to his licensed premises, except that the retailer may sell the beer only within a territory for which the manufacturer of the brand has designated that it may be sold by a distributor.

[Acts 1977, 65th Leg., p. 504, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 55, ch. 33, § 10, eff. Aug. 27, 1979.]

SUBCHAPTER D. BEER INDUSTRY  
FAIR DEALING LAW

§ 102.71. Definitions

In this subchapter:

(1) "This Act" means this subchapter which shall have the short title and may be cited as the "Beer Industry Fair Dealing Law."

(2) "Agreement" means any contract, agreement, or arrangement, whether expressed or implied, whether oral or written, for a definite or indefinite period between a manufacturer and a distributor pursuant to which a distributor has the right to purchase, resell, and distribute any brand or brands of beer offered by a manufacturer.

(3) "Distributor" means those persons licensed under Section 64.01 or 65.01 of this code.

(4) "Manufacturer" means those persons licensed under Section 62.01 or 63.01 of this code.

(5) "Territory" or "sales territory" means the geographic area of distribution and sale responsibility designated by an agreement between a distributor and manufacturer, as provided in Section 102.51 of this code, for any brands of the manufacturer.

(6) "Good cause" means the failure by any party to an agreement, without reasonable excuse or justification, to comply substantially with an essential, reasonable, and commercially acceptable requirement imposed by the other party under the terms of an agreement.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

Sections 2 and 3 of the 1981 Act provide:

"Sec. 2. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 3. Nothing in this Act shall interfere with litigation in progress on the effective date of this Act."

§ 102.72. Purposes

(a) This Act is promulgated pursuant to authority of the state under the provisions of the 21st amendment to the United States Constitution to promote the public's interest in the fair, efficient, and competitive distribution of beer within this state by requiring manufacturers and distributors to conduct their business relations so as to assure:

(1) that the beer distributor is free to manage its business enterprise, including the right to independently establish its selling prices; and

(2) that the public, retailers, and manufacturers are served by distributors who will devote their reasonable efforts and resources to the sales and distribution of all the manufacturer's products which the distributor has the right to sell and distribute and maintain satisfactory sales levels in the sales territory assigned the distributor.

(b) This Act shall govern all relations between manufacturers and their distributors, including any renewals or amendments to agreements between them, to the full extent consistent with the constitutions and laws of this state and the United States.

(c) The effect of this Act may not be varied by agreement. Any agreement purporting to do so is void and unenforceable to the extent of such variance only.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

§ 102.73. Termination and Notice of Cancellation

(a) Except as provided in Subsection (c) of this section, and except as may be specifically agreed upon at the time by the parties, no manufacturer or beer distributor may cancel, fail to renew, or otherwise terminate an agreement unless the manufacturer or distributor furnishes prior notification in accordance with Subsection (b) of this section to the affected party.

(b) The notification required under Subsection (a) of this section shall be in writing and must be received by the affected party not less than 90 days before the date on which the agreement will be cancelled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, failure to renew, or otherwise terminate an agreement, a statement of reasons therefor, and the date on which such action shall take effect.

(c) A manufacturer or distributor may cancel, fail to renew, or otherwise terminate an agreement without furnishing any prior notification for any of the following reasons:

(1) in the event of insolvency or bankruptcy or dissolution or liquidation of the other party;

(2) in the event the other party shall make an assignment for the benefit of creditors or similar disposition of substantially all of the assets of such party's business;

(3) in the event of a conviction or plea of guilty or no contest to a charge of violating a law or regulation or the revocation or suspension of a license or permit for a period of 30 days or more relating to the business and which materially and adversely affects the party's ability to continue in business; or

(4) in the event of the failure to pay amounts owing the other when due, upon demand therefor, in accordance with agreed payment terms.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

§ 102.74. Cancellation

No manufacturer or beer distributor may cancel, fail to renew, or otherwise terminate an agreement unless the party intending such action has good cause for such cancellation, failure to renew, or

termination and, in any case in which prior notification is required under Section 102.73 of this code, the party intending to act has furnished said prior notification and the affected party has not eliminated the reasons specified in such notification as the reasons for cancellation, failure to renew, or termination within 90 days after the receipt of such notification.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

**§ 102.75. Prohibited Conduct**

No manufacturer shall:

- (1) induce or coerce, or attempt to induce or coerce, any distributor to engage in any illegal act or course of conduct;
- (2) require a distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement prohibiting a distributor from selling the product of any other manufacturer or manufacturers;
- (3) fix or maintain the price at which a distributor may resell beer;
- (4) fail to provide to each distributor of its brands a written contract which embodies the manufacturer's agreement with its distributor;
- (5) require any distributor to accept delivery of any beer or any other item or commodity which shall not have been ordered by the distributor.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

**§ 102.76. Transfer of Business Assets or Stock**

(a) No manufacturer shall unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock of a distributor or all or any portion of a distributor's assets, distributor's voting stock, the voting stock of any parent corporation, or the beneficial ownership or control of any other entity owning or controlling the distributor, including the distributor's rights and obligations under the terms of an agreement whenever the person or persons to be substituted meet reasonable standards imposed not only upon the distributor but upon all other distributors of that manufacturer of the same general class, taking into account the size and location of the sales territory and market to be served. Upon the death of one of the partners of a partnership operating the business of a distributor, no manufacturer shall deny the surviving partner or partners of such partnership the right to become a successor-in-interest to the agreement between the manufacturer and such partnership. Provided that the survivor has been active in the management of the partnership and/or is otherwise capable of carrying on the business of the partnership.

(b) Notwithstanding the provisions of Subsection (a) of this section, upon the death of a distributor no

manufacturer shall deny approval for any transfer of ownership to a surviving spouse or adult child of an owner of a distributor; provided, however, that such subsequent transfers of such ownership by such surviving spouse or adult child shall thereafter be subject to the provisions of Subsection (a) of this section.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

**§ 102.77. Reasonable Compensation**

(a) Any manufacturer who, without good cause, cancels, terminates, or fails to renew any agreement, or unlawfully denies approval of, or unreasonably withholds consent, to any assignment, transfer, or sale of a distributor's business assets or voting stock or other equity securities, shall pay such distributor with whom it has an agreement pursuant to Section 102.51 of this code the fair market value of the distributor's business with relation to the affected brand or brands. In determining fair market value, consideration shall be given to all elements of value, including but not limited to goodwill and going concern value.

(b) In the event that the manufacturer and the distributor are unable to mutually agree on whether or not good cause exists for cancellation under Section 102.74 of this code or on the reasonable compensation to be paid for the value of the distributor's business, as defined herein, the matter may, at the option of either the distributor or manufacturer, be submitted to three arbitrators, one of whom shall be named in writing by each party and the third of whom shall be chosen by the two arbiters so selected. Should the arbiters selected fail to choose a third arbiter within 10 days, a judge of a district court in the county in which the distributor's principal place of business is located shall select the third arbiter. Arbitration shall be conducted in accordance with the Texas General Arbitration Act, as amended (Article 224, Revised Civil Statutes of Texas, 1925). Arbitration costs shall be paid one-half by the distributor and one-half by the manufacturer. The award of the arbitrators shall be binding on the parties unless appealed within 10 days from the date of the award. All proceedings on appeal shall be in accordance with and governed by the Texas General Arbitration Act, as amended (Article 224, Revised Civil Statutes of Texas, 1925).

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

**§ 102.78. Right of Free Association**

No manufacturer or distributor shall restrict or inhibit, directly or indirectly, the right of free association among manufacturers or distributors for any lawful purpose.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

**§ 102.79. Judicial Remedies**

(a) If a manufacturer or distributor who is a party to an agreement pursuant to Section 102.51 of this code fails to comply with this Act or otherwise engages in conduct prohibited under this Act, or if a manufacturer and distributor are not able to mutually agree on reasonable compensation under Section 102.77 of this code and the matter is not to be submitted to arbitration, the aggrieved manufacturer or distributor may maintain a civil action in a court of competent jurisdiction in the county in which the distributor's principal place of business is located.

(b) In any action under Subsection (a) of this section, the court may grant such relief as the court determines is necessary or appropriate considering the purposes of this Act.

(c) The prevailing party in any action under Subsection (a) of this section shall be entitled to actual damages, including the value of the distributor's business, as specified in Section 102.77 of this code, reasonable attorney's fees, and court costs.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

**§ 102.80. Coverage and Effective Date**

This Act shall cover agreements in existence on the date of enactment of this Act and also shall apply to agreements entered into and any cancellation, termination, failure to renew, amendment, or material modification of any agreement occurring after the date of enactment of this Act.

[Added by Acts 1981, 67th Leg., p. 60, ch. 26, § 1, eff. April 8, 1981.]

**CHAPTER 103. ILLICIT BEVERAGES**

Section	
103.01.	Illicit Beverages Prohibited.
103.02.	Equipment or Material for Manufacture of Illicit Beverages.
103.03.	Seizure of Illicit Beverages, Etc.
103.04.	Arrest of Person in Possession.
103.05.	Report of Seizure.
103.06.	Beverage Delivered to Commission.
103.07.	Beverage of Illicit Manufacture or Unfit for Consumption.
103.08.	Sale of Beer.
103.09.	Sale of Liquor.
103.10.	Exercise of Discretion in Case of Mistake.
103.11.	Proceeds From Sale.
103.12.	Ceiling Prices During Emergency.
103.13.	Bonding of Seized Vehicles Pending Suit.
103.14.	Institution of Suit for Forfeiture.
103.15.	Notice of Forfeiture Suit.
103.16.	Forfeiture of a Seized Vehicle.
103.17.	Forfeiture of Other Seized Property.
103.18.	Intervention by Secured Creditors.
103.19.	Transfer of Security Interests.
103.20.	Disposition of Forfeited Property.
103.21.	Bill of Sale to Purchaser.
103.22.	Costs of Forfeiture Suits.
103.23.	Allocation of Proceeds of Sale.

**§ 103.01. Illicit Beverages Prohibited**

No person may possess, manufacture, transport, or sell an illicit beverage.

[Acts 1977, 65th Leg., p. 505, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.02. Equipment or Material for Manufacture of Illicit Beverages**

No person may possess equipment or material designed for, capable of use for, or used in manufacturing an illicit beverage.

[Acts 1977, 65th Leg., p. 505, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.03. Seizure of Illicit Beverages, Etc.**

A peace officer may seize without a warrant:

- (1) any illicit beverage, its container, and its packaging;
- (2) any vehicle, including an aircraft or watercraft, used to transport an illicit beverage;
- (3) any equipment designed for use in or used in manufacturing an illicit beverage; or
- (4) any material to be used in manufacturing an illicit beverage.

[Acts 1977, 65th Leg., p. 505, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.04. Arrest of Person in Possession**

A peace officer may arrest without a warrant any person found in possession of:

- (1) an illicit beverage;
- (2) any equipment designed for use in or used in manufacturing an illicit beverage; or
- (3) any material to be used in manufacturing an illicit beverage.

[Acts 1977, 65th Leg., p. 505, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.05. Report of Seizure**

(a) A peace officer who makes a seizure under Section 103.03 of this code shall make a report in quadruplicate which lists each item seized and the place and name of the owner, operator, or other person from whom it is seized. Two copies of the report shall be verified by oath.

(b) One verified copy shall be retained in the permanent files of the commission or other agency making the seizure. The other verified copy shall be filed in a permanent file with the comptroller of public accounts. Either copy is subject to inspection by any member of the legislature or by any authorized law enforcement agency of the state.

(c) One copy of the report shall be delivered to the person from whom the seizure is made.

(d) A peace officer who makes a false report of the property seized commits a felony punishable by confinement in the penitentiary for not less than two years and not more than five years.

(e) A peace officer who fails to file the reports of a seizure as required by this section commits a

misdemeanor punishable by a fine of not less than \$50 nor more than \$100 or by confinement in jail for not less than 10 nor more than 90 days or by both. The commission shall insure that the reports are made by peace officers.

[Acts 1977, 65th Leg., p. 505, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.06. Beverage Delivered to Commission**

Any alcoholic beverage, its container, and its packaging which has been seized by a peace officer, as provided in Section 103.03 of this code, may not be replevied and shall be delivered to the commission for immediate public or private sale in the manner the commission considers best.

[Acts 1977, 65th Leg., p. 506, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.07. Beverage of Illicit Manufacture or Unfit for Consumption**

The commission may not sell but may destroy alcoholic beverages unfit for public consumption or of illicit manufacture.

[Acts 1977, 65th Leg., p. 506, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.08. Sale of Beer**

(a) Any beer, its container, or its packaging which is seized under the terms of this chapter shall be disposed of in accordance with this section.

(b) On notification that beer has been seized, the commission shall promptly notify a holder of a general, local, or branch distributor's license who handles the brand of beer seized and who operates in the county in which it was seized. If the beer was seized in a dry area, the commission shall notify either the general, local, or branch distributor who handles the brand operating nearest the area or the manufacturer brewing the beer. The commission and the distributor or manufacturer shall jointly determine whether the beer is in a salable condition.

(c) If the beer is determined not to be in a salable condition, the commission shall immediately destroy it. If it is determined to be in a salable condition, it shall be offered for sale to the distributor or manufacturer. If offered to a distributor, the beer shall be sold at the distributor's cost price less any state taxes which have been paid on the beer, F.O.B. the distributor's place of business. If the beer is offered to a manufacturer, it shall be sold at the manufacturer's cost price to its nearest distributor, less any state taxes which have been paid on the beer, F.O.B., the nearest distributor's place of business. In either case, the storage or warehousing charges necessarily incurred as a result of the seizure shall be added to the cost price.

(d) If the distributor or manufacturer does not exercise the right to purchase salable beer or to purchase returnable bottles, containers, or packages at their deposit price within 10 days, the commission shall sell the beer, bottles, containers, or packages at public or private sale as provided in this chapter.

[Acts 1977, 65th Leg., p. 506, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.09. Sale of Liquor**

(a) Any liquor, its container, or its packaging which is seized under the terms of this chapter shall be disposed of in accordance with this section.

(b) On notification that liquor has been seized, the commission shall promptly notify a holder of a wholesaler's permit, a general class B wholesaler's permit, or a local class B wholesaler's permit who handles the brand of liquor seized and who operates in the county in which it was seized. If the liquor was seized in a dry area, the commission shall notify the wholesaler who handles the brand seized who operates nearest the area. The commission and the wholesaler shall jointly determine whether the liquor is in a salable condition.

(c) If the liquor is determined not to be in a salable condition, the commission shall immediately destroy it. If it is determined to be in a salable condition, it shall first be offered for sale to the wholesaler notified at the wholesaler's cost price F.O.B. its place of business, plus any storage or warehousing charges necessarily incurred as a result of the seizure.

(d) If the wholesaler does not exercise the right to purchase salable liquor, containers, or packages at the price specified in this section within 10 days, the commission shall sell the liquor, container, or packages at public or private sale, as provided in this chapter.

[Acts 1977, 65th Leg., p. 506, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.10. Exercise of Discretion in Case of Mistake**

The preceding sections of this subchapter shall not be construed as preventing the commission from exercising its discretion if illicit alcoholic beverages are seized as the result of an accidental shipment or other reasonable mistake. Under those circumstances, the commission may issue orders and make disposition of the alcoholic beverages as it finds just and reasonable.

[Acts 1977, 65th Leg., p. 507, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.11. Proceeds From Sale**

(a) The proceeds from the sale of seized alcoholic beverages, their containers, and their packaging shall be placed in escrow in a suspense account established by the commission for that purpose, pending the outcome of the forfeiture suit provided for in this chapter.

(b) Proceeds in escrow which are not forfeited to the state as a result of the suit shall be refunded to the alleged violator. Should the state illegally seize and sell any alcoholic beverages, the person legally entitled to possession of the beverages at the time of the seizure may recover from the state the fair market value of the beverages seized and sold, with the reimbursement paid out of the proceeds held in

escrow from the sale and, if the funds in escrow are not sufficient, from the confiscated liquor fund. [Acts 1977, 65th Leg., p. 507, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 103.12. Ceiling Prices During Emergency

If the federal government provides a method by which illicit alcoholic beverages or other property belonging to or forfeited to the state is sold at ceiling prices during a national emergency, the commission may comply with federal law or regulations in the sale or disposal of the beverages or property, even to the extent of partially or wholly abrogating provisions of this code that are inconsistent with the federal law or regulations.

[Acts 1977, 65th Leg., p. 507, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 103.13. Bonding of Seized Vehicles Pending Suit

Any person with an ownership or a security interest in a vehicle that has been seized under Section 103.03 may recover possession of the vehicle pending suit for forfeiture by executing a bond with surety equal to double the appraised value of the vehicle. The bond shall be approved by the officer who made the seizure and shall secure the return of the vehicle to the custody of the seizing officer on the day of trial of the forfeiture suit.

[Acts 1977, 65th Leg., p. 507, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 103.14. Institution of Suit for Forfeiture

(a) The attorney general or the county or district attorney in the county in which a seizure is made shall institute a suit for forfeiture of the property or the proceeds in escrow from any sale of illicit beverages, or both, when notified by the commission or by the seizing officer that a seizure has been made under Section 103.03 of this code.

(b) The forfeiture suit shall be brought in the name of the State of Texas against the property or the proceeds in escrow, or both, and shall be brought in a court of competent jurisdiction in the county in which the seizure was made.

[Acts 1977, 65th Leg., p. 508, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 103.15. Notice of Forfeiture Suit

(a) Notice of the pendency of a suit for forfeiture under this chapter shall be served in the manner prescribed by law on any person in possession of the property at the time of seizure.

(b) If no person was in possession at the time of seizure or if the location of anyone who was in possession is unknown, notice of the suit shall be posted for 20 consecutive days immediately preceding the date of the suit at the courthouse door in the county in which the seizure was made.

[Acts 1977, 65th Leg., p. 508, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 103.16. Forfeiture of a Seized Vehicle

(a) In a suit for forfeiture of a vehicle seized under Section 103.03 of this code, the state shall have the burden of proving that the vehicle was used to transport an illicit beverage and that all intervenors under Subsection (b) of this section, if any, knowingly violated some provision of this code.

(b) Any person with an ownership or security interest in the vehicle may intervene in the suit for forfeiture to establish his rights. An intervenor under the provisions of this section has the burden of proving that he has a valid ownership or security interest in the vehicle.

(c) If the state fails to prove that the vehicle was used to transport an illicit beverage, the court shall render judgment returning the vehicle to the owner.

(d) If the state proves that the vehicle was used to transport an illicit beverage and that all intervenors, if any, knowingly violated some provision of this code, the court shall render judgment forfeiting the vehicle to the state.

(e) If the state proves that the vehicle was used to transport an illicit beverage but fails to prove that any intervenor knowingly violated some provision of this code, the court shall render judgment delivering possession of the vehicle to the innocent intervenor with the highest priority to possession of the vehicle. [Acts 1977, 65th Leg., p. 508, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 103.17. Forfeiture of Other Seized Property

(a) In any suit for forfeiture of proceeds in escrow from a sale of illicit beverages or of property other than vehicles, or both, seized under Section 103.03 of this code, the state shall have the burden of proving that:

- (1) the alcoholic beverages were illicit;
- (2) the equipment is designed to be used on or is used in manufacturing an illicit beverage; or
- (3) the material is to be used in manufacturing an illicit beverage.

(b) If the state fails to prove the facts necessary for forfeiture, the court shall render judgment returning possession of the property or of the proceeds in escrow to the owner or the person in possession at the time of seizure.

(c) If the state proves the facts necessary for forfeiture, the court shall render judgment forfeiting the property or the proceeds in escrow, or both, to the state and ordering disposal in accordance with the provisions of Section 103.20 or Section 103.18(c) of this code.

[Acts 1977, 65th Leg., p. 508, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 103.18. Intervention by Secured Creditors

(a) In any suit for forfeiture of proceeds in escrow from any sale of illicit beverages or of property other than vehicles, or both, seized under Section

103.03 of this code, any person who has a security interest in any of the seized property may intervene to establish his rights.

(b) An intervenor under the provisions of this section shall have the burden of proving that he has a valid security interest in the property and that he had no knowledge that the property in which he has a security interest had been used or was to be used in violation of this code at the time the security interest was created.

(c) If an intervenor under this section establishes a security interest and a lack of knowledge of unlawful use of the property, the court, in the judgment forfeiting the property, shall issue an order of sale directed to the sheriff or any constable of the county in which the property was seized. The order shall command the sheriff or constable to conduct a sale at the courthouse door of all or part of the property, whichever the court considers proper, in the same manner as personal property is sold under execution.

(d) The proceeds of a sale under Subsection (c) of this section shall be applied first to the payment of the costs of suit and the expenses incident to the sale. After the costs of suit and expenses of sale have been approved by the court that tried the suit, any remaining proceeds shall be applied toward payment of creditors secured by the property, according to their priorities. After all secured creditors are satisfied, any remaining proceeds shall be paid to the commission to be allocated in accordance with the provisions of Section 103.23 of this code.

(e) If all intervenors under this section fail to establish a valid security interest or lack of knowledge of unlawful use of the property, the court, in the judgment forfeiting the property, shall order disposal of the property in accordance with the provisions of Section 103.20 of this code.

[Acts 1977, 65th Leg., p. 509, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.19. Transfer of Security Interests**

All security interests in property sold under this chapter shall be transferred to the proceeds of the sale.

[Acts 1977, 65th Leg., p. 509, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.20. Disposition of Forfeited Property**

(a) The commission may sell property, other than proceeds in escrow, forfeited to the state at a public or private sale in the manner the commission considers best.

(b) If in the opinion of the commission or the administrator the property is needed for the use of the commission, the commission may retain and use the property until it is no longer needed, at which time it shall be sold in accordance with Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 509, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.21. Bill of Sale to Purchaser**

When executing a sale under this chapter, the commission or the sheriff or constable shall issue a bill of sale to each purchaser of property. The bill of sale shall convey a valid and unimpaired title in the property to the purchaser.

[Acts 1977, 65th Leg., p. 509, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.22. Costs of Forfeiture Suits**

The commission shall pay all costs of forfeiture suits out of the confiscated liquor fund or any other fund available to the commission for that purpose.

[Acts 1977, 65th Leg., p. 510, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 103.23. Allocation of Proceeds of Sale**

Proceeds from a forfeiture sale and proceeds in escrow which are forfeited to the state in a forfeiture suit shall be disposed of by depositing 35 percent of the proceeds in a separate fund in the state treasury designated as the confiscated liquor fund and depositing 65 percent of the proceeds in the general revenue fund. The confiscated liquor fund may be appropriated to the commission to defray the expenses of accumulating evidence pertaining to violations of this code; assembling, storing, transporting, selling, and accounting for confiscated alcoholic beverages, containers, devices, and property; and any other purposes deemed necessary by the commission in administering and enforcing this code. Any unexpended balance in the confiscated liquor fund at the end of a biennium shall remain in the fund subject to further appropriation for the same purposes.

[Acts 1977, 65th Leg., p. 510, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 104. REGULATION OF RETAILERS**

Section	
104.01.	Lewd, Immoral, Indecent Conduct.
104.02.	Blinds and Barriers.
104.03.	Conspiracy; Accepting Unlawful Benefit.
104.04.	Draft Beer Dispenser: Sign Required.

**§ 104.01. Lewd, Immoral, Indecent Conduct**

No person authorized to sell beer at retail, nor his agent, servant, or employee, may engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including, but not limited to, any of the following acts:

- (1) the use of loud and vociferous or obscene, vulgar, or indecent language, or permitting its use;
- (2) the exposure of person or permitting a person to expose his person;
- (3) rudely displaying or permitting a person to rudely display a pistol or other deadly weapon in a manner calculated to disturb persons in the retail establishment;

(4) solicitation of any person to buy drinks for consumption by the retailer or any of his employees;

(5) becoming intoxicated on the licensed premises or permitting an intoxicated person to remain on the licensed premises;

(6) permitting lewd or vulgar entertainment or acts;

(7) permitting solicitations of persons for immoral or sexual purposes;

(8) failing or refusing to comply with state or municipal health or sanitary laws or ordinances; or

(9) possession of a narcotic or any equipment used or designed for the administering of a narcotic or permitting a person on the licensed premises to do so.

[Acts 1977, 65th Leg., p. 510, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 204, ch. 114, § 1, eff. Aug. 27, 1979.]

#### § 104.02. Blinds and Barriers

(a) No person may install or maintain a blind or barrier in the opening or door of a retail alcoholic beverage establishment or paint the windows, at or above a point 54 inches above the ground or sidewalk beneath the window, in a manner that will obstruct the view of the general public.

(b) No person may install or maintain a curtain, hanging, sign, or other obstruction that prevents a clear view of the interior of a package store or wine only package store, except a drug store that holds one of those permits may display drug merchandise notwithstanding this subsection.

[Acts 1977, 65th Leg., p. 511, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 104.03. Conspiracy; Accepting Unlawful Benefit

A retail dealer or his agent, servant, or employee commits an offense if he conspires with another person to violate or accepts the benefits of a violation of this code or a valid rule of the commission.

[Acts 1977, 65th Leg., p. 511, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 104.04. Draft Beer Dispenser: Sign Required

No retail dealer may dispense draft beer unless each faucet or other dispensing apparatus is equipped with a sign clearly indicating the name or brand of the product being dispensed through the faucet or apparatus. The sign must be in full sight of the purchaser, and the letters on it must be legible.

[Acts 1977, 65th Leg., p. 511, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 105. HOURS OF SALE AND CONSUMPTION

Section	
105.01.	Hours of Sale: Liquor.
105.02.	Hours of Sale: Wholesalers and Local Distributors to Retailers.
105.03.	Hours of Sale: Mixed Beverages.
105.04.	Hours of Sale: Wine and Beer Retailer.
105.05.	Hours of Sale: Beer.
105.06.	Hours of Consumption.

#### § 105.01. Hours of Sale: Liquor

(a) Except as provided in Sections 105.02, 105.03, and 105.04 of this code, no person may sell, offer for sale, or deliver any liquor:

(1) on New Year's Day, Thanksgiving Day, or Christmas Day;

(2) on Sunday; or

(3) before 10 a. m. or after 9 p. m. on any other day.

(b) When Christmas Day or New Year's Day falls on a Sunday, Subsection (a) of this section applies to the following Monday.

[Acts 1977, 65th Leg., p. 511, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1973, ch. 777, § 23, eff. Aug. 27, 1979.]

#### § 105.02. Hours of Sale: Wholesalers and Local Distributors to Retailers

(a) Except as provided by Subsection (b) of this section, a wholesaler or a local distributor's permittee may sell, offer for sale, or deliver liquor to a retailer between 7 a. m. and 9 p. m. on any day except Sunday and Christmas Day.

(b) A local distributor's permittee may not sell, offer for sale, or deliver any liquor on a day on which a package store permittee is prohibited from selling liquor.

[Acts 1977, 65th Leg., p. 511, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1183, ch. 453, § 10, eff. Sept. 10, 1977; Acts 1979, 66th Leg., p. 1973, ch. 777, § 23, eff. Aug. 27, 1979.]

#### § 105.03. Hours of Sale: Mixed Beverages

(a) No person may sell or offer for sale mixed beverages at any time not permitted by this section.

(b) A mixed beverage permittee may sell and offer for sale mixed beverages between 7 a. m. and midnight on any day except Sunday. On Sunday he may sell mixed beverages between midnight and 1:00 a. m. and between noon and midnight.

(c) In a county having a population of 300,000 or more, according to the last preceding federal census, a holder of a mixed beverage late hours permit may also sell and offer for sale mixed beverages between midnight and 2 a. m. on any day.

(d) In a county having a population of less than 300,000, according to the last preceding federal cen-

sus, the extended hours prescribed in Subsection (c) of this section are effective for the sale of mixed beverages and the offer to sell them by a holder of a mixed beverages late hours permit:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioners court adopted pursuant to Subsection (d) of this section is a violation of this code. [Acts 1977, 65th Leg., p. 511, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 105.04. Hours of Sale: Wine and Beer Retailer**

The hours of sale and delivery for alcoholic beverages sold under a wine and beer retailer's permit or a wine and beer retailer's off-premise permit are the same as those prescribed for the sale of beer under Section 105.05 of this code.

[Acts 1977, 65th Leg., p. 512, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 105.05. Hours of Sale: Beer**

(a) No person may sell, offer for sale, or deliver beer at any time not permitted by this section.

(b) A person may sell, offer for sale, or deliver beer between 7 a. m. and midnight on any day except Sunday. On Sunday he may sell beer between midnight and 1:00 a. m. and between noon and midnight.

(c) In a county having a population of 300,000 or more, according to the last preceding federal census, a holder of a retail dealer's on-premise late hours license may also sell, offer for sale, and deliver beer between midnight and 2 a. m. on any day.

(d) In a county having a population of less than 300,000, according to the last preceding federal census, the extended hours prescribed in Subsection (c) of this section are effective for the sale, offer to sell, and delivery of beer by a holder of a retail dealer's on-premise late hours license:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

(e) A violation of a city ordinance or order of a commissioners court adopted pursuant to Subsection (d) of this section is a violation of this code. [Acts 1977, 65th Leg., p. 512, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1970, ch. 777, § 13, eff. Aug. 27, 1979.]

**§ 105.06. Hours of Consumption**

(a) In this section:

(1) "Extended hours area" means an area:

(A) located in a county having a population of more than 300,000, according to the last preceding federal census; or

(B) located in a county having a population of not more than 300,000, according to the last preceding federal census, if the area has been made subject to the extended hours of sale provided in Section 105.03 or 105.05 of this code.

(2) "Standard hours area" means an area which is not an extended hours area.

(b) In a standard hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 1:15 a. m. and 12 noon or on any other day between 12:15 a. m. and 7 a. m.

(c) In an extended hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 2:15 a. m. and 12 noon and on any other day between 2:15 a. m. and 7 a. m.

(d) Proof that an alcoholic beverage was possessed with intent to consume in violation of this section requires evidence that the person consumed an alcoholic beverage on that day in violation of this section.

(e) An offense under this section is a misdemeanor punishable by a fine of not more than \$50.

[Acts 1977, 65th Leg., p. 512, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 106. PROVISIONS RELATING TO AGE**

Section	Definition.
106.01.	Definition.
106.02.	Purchase of Alcohol by a Minor.
106.03.	Sale to Minors.
106.04.	Consumption of Alcohol by a Minor.
106.05.	Possession of Alcohol by a Minor.
106.06.	Purchase of Alcohol for a Minor; Furnishing Alcohol to a Minor.
106.07.	Misrepresentation of Age by a Minor.
106.08.	Importation by a Minor.
106.09.	Employment of Minors.
106.10.	Plea of Guilty by Minor.
106.11.	Parent or Guardian at Trial.
106.12.	Expungement of Conviction of a Minor.
106.13.	Sanctions Against Retailer.

**§ 106.01. Definition**

In this code, "minor" means a person under 19 years of age.

[Acts 1977, 65th Leg., p. 513, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 257, ch. 107, § 8, eff. Sept. 1, 1981.]

**§ 106.02. Purchase of Alcohol by a Minor**

(a) A minor commits an offense if he purchases an alcoholic beverage.

(b) Except as provided in Subsection (c) of this section, a violation of this section is a misdemeanor

punishable by a fine of not less than \$25 nor more than \$200.

(c) If a person has been previously convicted of a violation of this section, a violation is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500.

[Acts 1977, 65th Leg., p. 513, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 106.03. Sale to Minors

(a) A person commits an offense if he knowingly sells an alcoholic beverage to a minor.

(b) A person who sells a minor an alcoholic beverage does not commit an offense if the minor falsely represents himself to be 19 years old or older by displaying an apparently valid Texas driver's license containing a physical description consistent with his appearance for the purpose of inducing the person to sell him an alcoholic beverage.

(c) Except as provided in Subsection (d) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500, by confinement in jail for not more than one year, or by both.

(d) If a person has been previously convicted of a violation of this section or Section 101.63 of this code, a violation is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000, by confinement in jail for not more than one year, or by both.

[Acts 1977, 65th Leg., p. 513, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 257, ch. 107, § 9, eff. Sept. 1, 1981.]

#### § 106.04. Consumption of Alcohol by a Minor

(a) Except as provided in Subsection (b) of this section, a minor commits an offense if he consumes an alcoholic beverage.

(b) A minor may consume an alcoholic beverage if he is in the visible presence of an adult parent, guardian, or spouse.

(c) Except as provided in Subsection (d) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

(d) If a person has been previously convicted of a violation of this section or Section 106.05 of this code, a violation is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500.

[Acts 1977, 65th Leg., p. 514, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 106.05. Possession of Alcohol by a Minor

(a) Except as provided in Subsection (b) of this section, a minor commits an offense if he possesses an alcoholic beverage.

(b) A minor may possess an alcoholic beverage:

(1) while in the course and scope of his employment if he is an employee of a licensee or permit-

tee and the employment is not prohibited by this code; or

(2) if he is in the presence of an adult parent, guardian, or spouse, or other adult to whom he has been committed by a court.

(c) Except as provided in Subsection (d) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

(d) If a person has been previously convicted of a violation of this section or Section 106.04 of this code, a violation is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500.

[Acts 1977, 65th Leg., p. 514, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1973, ch. 777, § 21, eff. Aug. 27, 1979.]

#### § 106.06. Purchase of Alcohol for a Minor; Furnishing Alcohol to a Minor

(a) Except as provided in Subsection (b) of this section, a person commits an offense if he purchases an alcoholic beverage for or gives or knowingly makes available an alcoholic beverage to a minor.

(b) A person may purchase an alcoholic beverage for or give an alcoholic beverage to a minor if he is the minor's adult parent, guardian, or spouse, or an adult in whose custody the minor has been committed by a court, and he is visibly present when the minor possesses or consumes the alcoholic beverage.

(c) A violation of this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500.

[Acts 1977, 65th Leg., p. 514, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 106.07. Misrepresentation of Age by a Minor

(a) A minor commits an offense if he falsely states that he is 19 years of age or older or presents any document that indicates he is 19 years of age or older to a person engaged in selling or serving alcoholic beverages.

(b) Except as provided in Subsection (c) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

(c) If a person has been previously convicted of a violation of this section, a violation is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500.

[Acts 1977, 65th Leg., p. 514, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 257, ch. 107, § 10, eff. Sept. 1, 1981.]

#### § 106.08. Importation by a Minor

No minor may import into this state or possess with intent to import into this state any alcoholic beverage.

[Acts 1977, 65th Leg., p. 515, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 106.09. Employment of Minors**

(a) Except as provided in Subsections (b) and (c) of this section, no person may employ a person under 18 years of age to sell, prepare, serve, or otherwise handle liquor, or to assist in doing so.

(b) A holder of a wine only package store permit may employ a person 16 years old or older to work in any capacity.

(c) A holder of a mixed beverage permit may employ a person under 18 years of age to work in any capacity other than the actual selling, preparing, or serving of mixed beverages.

[Acts 1977, 65th Leg., p. 515, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 258, ch. 107, §§ 11, 12, eff. Sept. 1, 1981.]

**§ 106.10. Plea of Guilty by Minor**

No minor may plead guilty to an offense under this chapter except in open court before a judge.

[Acts 1977, 65th Leg., p. 515, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 106.11. Parent or Guardian at Trial**

(a) Except as provided in Subsection (d) of this section, no minor may be convicted of an offense under this chapter unless his parent or legal guardian is present in court.

(b) If the parent or legal guardian of a minor accused of a violation of this chapter resides within the jurisdiction of the court before whom the case is to be heard, the court shall summon the parent or legal guardian to appear in court and shall require him to be present at all proceedings in the case.

(c) If the parent or legal guardian of a minor accused of a violation of this chapter resides outside the jurisdiction of the court before whom the case is to be heard, the court shall give written notice of the charge against the minor to the parent or legal guardian.

(d) If the court is unable to locate or to compel the presence of a minor's parent or legal guardian after diligent effort, the court may waive the requirement of presence of a parent or legal guardian.

[Acts 1977, 65th Leg., p. 515, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 106.12. Expungement of Conviction of a Minor**

(a) Any person convicted of not more than one violation of this code while a minor, on attaining the age of 19 years, may apply to the court in which he was convicted to have the conviction expunged.

(b) The application shall contain the applicant's sworn statement that he was not convicted of any violation of this code while a minor other than the one he seeks to have expunged.

(c) If the court finds that the applicant was not convicted of any other violation of this code while he was a minor, the court shall order the conviction, together with all complaints, verdicts, sentences, and

other documents relating to the offense, to be expunged from the applicant's record. After entry of the order, the applicant shall be released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose.

[Acts 1977, 65th Leg., p. 515, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 258, ch. 107, § 13, eff. Sept. 1, 1981.]

**§ 106.13. Sanctions Against Retailer**

(a) Except as provided in Subsections (b) and (c) of this section, the commission or administrator may cancel or suspend for not more than 60 days a retail license or permit or a private club registration permit if it is found, on notice and hearing, that the licensee or permittee knowingly sold, served, dispensed, or delivered an alcoholic beverage to a minor in violation of this code or knowingly permitted a minor to violate Section 106.04 or 106.05 of this code on the licensed premises.

(b) For a second offense the commission or administrator may cancel the license or permit or suspend it for not more than three months. For a third offense within a period of 36 consecutive months the commission or administrator may cancel the permit or suspend it for not more than 12 months.

(c) The commission or administrator may relax the provisions of this section concerning suspension and cancellation and assess a sanction the commission or administrator finds just under the circumstances if, at a hearing, the licensee or permittee establishes to the satisfaction of the commission or administrator:

(1) that the violation could not reasonably have been prevented by the permittee or licensee by the exercise of due diligence;

(2) that the permittee or licensee was entrapped; or

(3) that an agent, servant, or employee of the permittee or licensee violated this code without the knowledge of the permittee or licensee.

[Acts 1977, 65th Leg., p. 516, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 107. TRANSPORTATION AND IMPORTATION**

Section	
107.01.	Transportation of Liquor: Statement Required.
107.02.	Transportation of Beer: Statement Required.
107.03.	Delivery of Liquor in Dry Area.
107.04.	Delivery of Beer in Dry Area.
107.05.	Importation of Liquor.
107.06.	Importation of Beer.
107.07.	Importation for Personal Use; Importation by Railroad Companies.
107.08.	Transportation of Beverages for Personal Consumption.

**§ 107.01. Transportation of Liquor: Statement Required**

(a) No person may transport liquor into this state or on a public highway, street, or alley in this state unless the person accompanying or in charge of the shipment has with him, available for exhibition and inspection, a written statement furnished and signed by the shipper showing the name and address of the consignor and the consignee, the origin and destination of the shipment, and any other information required by rule or regulation of the commission.

(b) The person in charge of the shipment while it is being transported shall exhibit the statement to the commission, an authorized representative of the commission, or a peace officer on demand, and it is a violation of this code to fail or refuse to do so. The representative or officer shall accept the written statement as prima facie evidence of the legal right to transport the liquor.

[Acts 1977, 65th Leg., p. 516, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 107.02. Transportation of Beer: Statement Required**

(a) It is lawful for a person to transport beer from any place where its sale, manufacture, or distribution is authorized to another place in the state where its sale, manufacture, or distribution is authorized, or from the state boundary to a place where its sale, manufacture, or distribution is authorized, even though the route of transportation may cross a dry area.

(b) A shipment of beer must be accompanied by a written statement furnished and signed by the shipper showing:

- (1) the name and address of the consignor and consignee;
- (2) the origin and destination of the shipment; and
- (3) any other information required by the commission or administrator.

(c) The person in charge of the shipment while it is being transported shall exhibit the written statement to any representative of the commission or peace officer who demands to see it. The statement shall be accepted by the representative or peace officer as prima facie evidence of the legal right to transport the beer.

(d) A person who transports beer not accompanied by the required statement, or who fails to exhibit the statement after a lawful demand, violates this code.

[Acts 1977, 65th Leg., p. 517, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 107.03. Delivery of Liquor in Dry Area**

No carrier may transport and deliver liquor to a person in a dry area in this state except for a purpose authorized by this code.

[Acts 1977, 65th Leg., p. 517, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 107.04. Delivery of Beer in Dry Area**

A common carrier may not deliver beer in a dry area unless it is consigned to a local or general distributor's licensee who has previously stated that he intends to transport it to a licensed place of business in a wet area. A common carrier who transports beer to a distributor in a dry area shall comply strictly with this section and Section 107.02 of this code.

[Acts 1977, 65th Leg., p. 517, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 107.05. Importation of Liquor**

(a) No person may import liquor into the state and deliver it to a person not authorized to import it.

(b) This section does not apply to the transportation of liquor into the state as authorized by Section 107.07 of this code.

[Acts 1977, 65th Leg., p. 517, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 107.06. Importation of Beer**

(a) No person may import beer into the state except the holder of a manufacturer's or general, local, or branch distributor's license.

(b) No person may transport beer into this state unless it is consigned and delivered to one of the licensees named in Subsection (a) of this section.

(c) This section does not apply to the importation or transportation of military beer consigned to a military installation or to the importation of beer as authorized under Section 107.07 of this code.

[Acts 1977, 65th Leg., p. 517, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 107.07. Importation for Personal Use; Importation by Railroad Companies**

(a) A Texas resident may import not more than one quart of liquor for his own personal use without being required to hold a permit. A Texas resident may import for his own personal use not more than three gallons of wine without being required to hold a permit. A nonresident of Texas may import not more than a gallon of liquor for his own personal use without being required to hold a permit. A person importing liquor into the state under this subsection must pay the state tax on liquor and affix the required tax stamps. No person under the age of 19 years and no intoxicated person may import any liquor into the state. A person importing wine or liquor under this subsection must personally accompany the wine or liquor as it enters the state. A person may not avail himself of the exemptions set forth in this subsection more than once every thirty days.

(b) A person may import beer into this state for his own personal use without being required to hold a license, but may not import more than 24 twelve-ounce bottles or an equivalent quantity in one day. He must pay the state tax on beer.

(c) A member of the armed forces stationed in Texas is treated as a Texas resident for the purposes of Subsections (a) and (b) of this section.

(d) A railroad company operating in this state may import beer owned by the company in quantities necessary to meet the needs of its passengers, but it may not sell or serve beer in a dry area. [Acts 1977, 65th Leg., p. 518, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 258, ch. 107, § 14, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2212, ch. 515, § 2, eff. Aug. 31, 1981.]

**§ 107.08. Transportation of Beverages for Personal Consumption**

A person who purchases an alcoholic beverage for his own consumption may transport it from a place where its sale is legal to a place where its possession is legal without holding a license or permit. [Acts 1977, 65th Leg., p. 518, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 108. ADVERTISING**

**SUBCHAPTER A. GENERAL PROVISIONS RELATING TO ADVERTISING**

Section	
108.01.	Deceptive, Disparaging, or Otherwise Unlawful Advertising.
108.02.	Prohibited Forms of Advertising.
108.03.	Regulation of Promotional Activities.
108.04.	Acts of Promotional or Courtesy Nature: Administrative Discretion.
108.05.	Allowance for Advertisement or Distribution.
108.06.	Prizes and Premiums.
108.07.	Advertising of Mixed Beverage Establishments.

**SUBCHAPTER B. OUTDOOR ADVERTISING**

108.51.	Definitions.
108.52.	Permissible Outdoor Advertising.
108.53.	Billboards and Electric Signs: When Permit is Required.
108.54.	Nonconforming Outdoor Advertising: Seizure, Removal.
108.55.	Local Regulation of Billboards, Electric Signs.
108.56.	Dry Areas.

**SUBCHAPTER A. GENERAL PROVISIONS RELATING TO ADVERTISING**

**§ 108.01. Deceptive, Disparaging, or Otherwise Unlawful Advertising**

(a) No manufacturer or distributor directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may publish, disseminate, or cause to be published or disseminated by any medium enumerated in Subsection (b) of this section an advertisement of a brewery product that:

- (1) causes or is reasonably calculated to cause deception of the consumer with respect to the product advertised;
- (2) directly or by ambiguity, omission, or inference tends to create a misleading impression;
- (3) is untrue in any particular;

- (4) refers to the alcohol content of the product;
- (5) disparages a competitor's product; or
- (6) is obscene or indecent.

(b) The media covered by this section include:

- (1) radio broadcasting;
- (2) newspapers, periodicals, and other publications;
- (3) signs and outdoor advertising; and
- (4) any printed or graphic matter.

[Acts 1977, 65th Leg., p. 519, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 108.02. Prohibited Forms of Advertising**

No person may advertise an alcoholic beverage or the sale of an alcoholic beverage by the employment or use of a sound vehicle or handbill on a public street, alley, or highway.

[Acts 1977, 65th Leg., p. 519, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 108.03. Regulation of Promotional Activities**

The commission shall adopt rules permitting and regulating the use of business cards, menu cards, stationery, service vehicles and equipment, and delivery vehicles and equipment that bear alcoholic beverage advertising. The commission shall also adopt rules permitting and regulating the use of insignia advertising beer by brand name on caps, regalia, or uniforms worn by employees of manufacturers or distributors or by participants in a game, sport, athletic contest, or revue if the participants are sponsored by a manufacturer or distributor. [Acts 1977, 65th Leg., p. 519, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 108.04. Acts of Promotional or Courtesy Nature: Administrative Discretion**

The commission may promulgate rules which shall set definite limitations consistent with the general provisions of this code, relaxing the restrictions of Sections 102.14, 102.15, and 108.06 of this code, with respect to:

- (1) the sale or gift of novelties advertising the product of a manufacturer or distributor;
- (2) the making of gifts to civic, religious, or charitable organizations;
- (3) the cleaning and maintenance of coil connections for dispensing draught beer;
- (4) the lending of equipment for special occasions; and
- (5) acts of a purely courtesy nature.

[Acts 1977, 65th Leg., p. 519, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 108.05. Allowance for Advertisement or Distribution**

No manufacturer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may pay or make an allowance to a retail dealer for an advertising or distribution service.

[Acts 1977, 65th Leg., p. 520, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 108.06. Prizes and Premiums

No manufacturer or distributor, directly or indirectly, or through a subsidiary, affiliate, agent, employee, officer, director, or firm member, may offer a prize, premium, gift, or other inducement to a dealer in or consumer of brewery products.

[Acts 1977, 65th Leg., p. 520, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 108.07. Advertising of Mixed Beverage Establishments

The provisions of this code applicable to outdoor advertising and to advertising in or on the premises do not apply to establishments for which a mixed beverage permit has been issued. The commission or administrator shall promulgate reasonable rules relating to that type of advertising, and violation of any of those rules is a violation of this code.

[Acts 1977, 65th Leg., p. 520, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 108.08 to 108.50 reserved for expansion]

## SUBCHAPTER B. OUTDOOR ADVERTISING

### § 108.51. Definitions

In this subchapter:

(1) "Outdoor advertising" means any sign bearing a word, mark, description, or other device that is used to advertise an alcoholic beverage or the business of a person who manufactures, sells, or distributes an alcoholic beverage if the sign is displayed outside the walls or enclosure of a building or structure where a license or permit is issued or if it is displayed inside a building but within five feet of an exterior wall facing a street or highway so that it is visible by a person of ordinary vision from outside the building. "Outdoor advertising" does not include advertising appearing on radio or television, in a public vehicular conveyance for hire, or in a newspaper, magazine, or other literary publication published periodically. For the purpose of this definition the word "sign," with respect to a retailer, does not include an identifying label affixed to a container as authorized by law or to a card or certificate of membership in an association or organization if the card or certificate is not larger than 80 square inches.

(2) "Billboard" means a structure directly attached to the land, a house, or a building having one or more spaces used to display a sign or advertisement of an alcoholic beverage or a person engaged in the manufacture, sale, or distribution of alcoholic beverages, whether or not the structure is artificially lighted. "Billboard" does not include a bench or a wall or other part of a structure used as a building, fence, screen, front, or barrier.

(3) "Electric sign" means a structure or device other than an illuminated billboard by which arti-

ficial light produced by electricity is used to advertise the alcoholic beverage business by a person who manufactures, sells, or distributes alcoholic beverages or to advertise an alcoholic beverage.

[Acts 1977, 65th Leg., p. 520, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 500, ch. 231, § 1, eff. Aug. 27, 1979.]

### § 108.52. Permissible Outdoor Advertising

(a) No outdoor advertising is permitted in this state except that which is authorized by this section or under rules of the commission or administrator promulgated pursuant to Section 108.03 of this code.

(b) Billboards and electric signs are permitted if they are not located in a manner contrary to this code.

(c) Retail licensees and permittees may erect or maintain one sign at each place of business which may read as follows:

(1) if a beer retailer, the sign may read "Beer";

(2) if an off-premises beer retailer, the sign may read "Beer" or "Beer to Go";

(3) if a wine and beer retailer, the sign may read "Beer," "Beer and Wine," or "Beer, Wine and Ale";

(4) if a wine and beer off-premises retailer, the sign may read "Beer," "Beer to Go," "Beer and Wine," "Beer and Wine to Go," "Beer, Wine and Ale," or "Beer, Wine and Ale to Go";

(5) if a package store permittee, the sign may read "Package Store," "Liquors," or "Wines and Liquors," and if a retail dealer's off-premise license is also held, the sign may read "Package Store," "Wines, Liquors and Beer," or "Wine, Liquors and Beer to Go"; or

(6) if a wine only package store permittee, the sign may read "Wine" or "Wines," and if a retail dealer's off-premise license is also held, the sign may read "Wines and Beer," "Wine and Beer," or "Wine and Beer to Go."

(d) A sign erected under Subsection (c) of this section may be placed inside or outside the place of business so as to be visible to the general public. None of the letters on a sign may be more than 12 inches in height, and no sign may contain any wording, insignia, or device representative of the brand or name of an alcoholic beverage. The commission or administrator may permit a licensee or permittee to erect or maintain one sign at each entrance or side of a building occupied by him if it faces more than one street or highway.

(e) Billboards, electric signs, or other signs to designate the firm name or business of a permittee or licensee authorized to manufacture, rectify, bottle, or wholesale alcoholic beverages may be displayed at the licensee's or permittee's place of business.

(f) A display composed of alcoholic beverages or printed or lithographed material advertising alcoholic beverages located inside the licensed premises is permitted if the alcoholic beverages or advertising material is not placed within six inches of a window or opening facing a street, alley, or highway. A card or certificate of membership in an association or organization is not "advertising material" for the purpose of this subsection if it is not larger than 80 square inches.

(g) Outdoor advertising of an alcoholic beverage or of the business of any person engaged in the manufacture, sale, or distribution of an alcoholic beverage is permitted to be placed on or affixed to a bench unless:

(1) the advertising is prohibited by an ordinance of an incorporated city or town; or

(2) the advertising is in an area or zone where the sale of alcoholic beverages is prohibited by law.

[Acts 1977, 65th Leg., p. 521, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 501, ch. 231, § 2, eff. Aug. 27, 1979.]

**§ 108.53. Billboards and Electric Signs: When Permit is Required**

(a) No person may erect a billboard or electric sign advertising an alcoholic beverage within 200 feet of a retail establishment authorized to sell that beverage unless he has first obtained a permit for that purpose from the commission. No permit is required for a billboard or electric sign that is not located within 200 feet of a retail establishment authorized to sell the advertised alcoholic beverage.

(b) The commission or administrator shall provide permit application forms, which may contain any information the commission or administrator deems necessary. The application shall contain a statement that the erection or maintenance of the billboard or electric sign will not have the effect of advertising or directing patronage to a particular retail establishment authorized to sell alcoholic beverages. Application shall be made under oath, addressed to the commission or administrator.

(c) The commission or administrator shall issue a permit if either of them finds that all statements in the application are true and the erection or maintenance of the billboard or electric sign will not be contrary to this code or to a rule of the commission. Otherwise, the commission or administrator shall refuse to issue a permit.

[Acts 1977, 65th Leg., p. 521, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 108.54. Nonconforming Outdoor Advertising: Seizure, Removal**

(a) No person may erect, maintain, or display any outdoor advertising, billboard, or electric sign which does not conform in all respects to the provisions of

this code. A billboard or electric sign that does not conform is illegal equipment which is subject to seizure and forfeiture as provided in this code.

(b) The owner of any outdoor advertising that does not conform to the provisions of this code is responsible for removing it from public view immediately, and the failure to do so is a violation of this code.

[Acts 1977, 65th Leg., p. 522, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 108.55. Local Regulation of Billboards, Electric Signs**

No person may erect or maintain a billboard or electric sign in violation of an ordinance of an incorporated city or town.

[Acts 1977, 65th Leg., p. 522, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 108.56. Dry Areas**

No person may erect or maintain a billboard or electric sign in an area or zone where the sale of alcoholic beverages is prohibited by law.

[Acts 1977, 65th Leg., p. 522, ch. 194, § 1, eff. Sept. 1, 1977.]

**CHAPTER 109. MISCELLANEOUS REGULATORY PROVISIONS**

**SUBCHAPTER A. SALVAGED AND INSURED LOSSES**

- Section
- 109.01. Sale of Salvaged or Insured Loss.
- 109.02. Registration of Beverages With Commission.
- 109.03. Prerequisite to Salability.
- 109.04. Sale of Beer: Procedure.
- 109.05. Sale of Liquor: Procedure.
- 109.06. Purchaser's Right to Use Beverages.
- 109.07. Salvor May Reject Bid.

**SUBCHAPTER B. HOME PRODUCTION OF WINE**

- 109.21. Home Production of Wine.
- 109.22. Repealed.

**SUBCHAPTER C. LOCAL REGULATION OF ALCOHOLIC BEVERAGES**

- 109.31. Municipal Regulation of Liquor.
- 109.32. Municipal and County Regulation of Beer.
- 109.33. Sales Near School, Church, or Hospital.

**SUBCHAPTER D. OTHER MISCELLANEOUS PROVISIONS**

- 109.51. Sacramental Wine.
- 109.52. Warehouse Receipts.
- 109.53. Citizenship of Permittee; Control of Premises; Subterfuge Ownership; Etc.
- 109.54. Festivals and Civic Celebrations.

**SUBCHAPTER A. SALVAGED AND INSURED LOSSES**

**§ 109.01. Sale of Salvaged or Insured Loss**

If a person who does not hold a permit or license to sell alcoholic beverages acquires possession of alcoholic beverages as an insurer or insurance salvor in the salvage or liquidation of an insured damage or

loss sustained in this state by a qualified licensee or permittee, he may sell the beverages in one lot or parcel as provided in this subchapter without being required to obtain a license or permit.

[Acts 1977, 65th Leg., p. 523, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 109.02. Registration of Beverages With Commission

Immediately after taking possession of the alcoholic beverages, the insurer or insurance salvor shall register them with the commission, furnishing the commission a detailed inventory and the exact location of the beverages. At the time of registration, the registrant shall post with the commission a surety bond in an amount that the administrator finds adequate to protect the state against the taxes due on the beverages, if any are due. The registrant shall remit with the registration a fee of \$10. The fee only permits the sale of the beverages listed in the registration.

[Acts 1977, 65th Leg., p. 523, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 109.03. Prerequisite to Salability

An alcoholic beverage is salable under this subchapter only if it has not been adulterated, it is fit for human consumption, all tax stamps required by law have been affixed, and the labels are legible as to contents, brand, and manufacturer.

[Acts 1977, 65th Leg., p. 523, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 109.04. Sale of Beer: Procedure

(a) When the commission is notified under this subchapter of the acquisition of beer or its containers or original packages, it shall immediately notify a holder of a general, local, or branch distributor's license who handles the brand of beer and who operates in the county where it is located or, if it is located in a dry area or if no distributor operates in the county, the nearest distributor handling the brand or the manufacturer who brewed it.

(b) The insurer or insurance salvor, the commission, and the distributor or manufacturer shall jointly agree whether the beer is salable. If it is determined to be unsalable, the commission shall destroy it. If it is determined to be salable, the manufacturer or distributor shall be given the opportunity to purchase it. A distributor may purchase beer at the cost price less any state taxes that have been paid, F.O.B. its place of business. A manufacturer may purchase beer at the cost price to the nearest distributor of the brand, less any state taxes that have been paid, F.O.B. that distributor's place of business. A manufacturer or distributor may purchase returnable bottles, containers, or packages at their deposit price.

(c) If the distributor or manufacturer does not exercise the right to purchase the merchandise within 10 days after being given the opportunity to

purchase it, the insurer or insurance salvor may sell it to any qualified licensee or permittee as provided in Section 109.01 of this code.

[Acts 1977, 65th Leg., p. 523, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 109.05. Sale of Liquor: Procedure

(a) When the commission is notified under this subchapter of the acquisition of liquor or its containers or original packages, it shall immediately notify the holder or holders of wholesaler's, class B wholesaler's, or local class B wholesaler's permits who handle and regularly sell the brand or brands of liquor involved and who operate in the area where the liquor is located, or who operate in the nearest wet area if the liquor is in a dry area. The commission shall also notify the nonresident seller's permittees who handle the brand or brands of liquor involved, or the manufacturer's agent's permittees who represent those nonresident seller's permittees.

(b) The commission, the permittees who are notified, and the insurer or insurance salvor shall jointly determine whether the liquor is salable. If the liquor is determined to be unsalable, the commission shall destroy it. If it is determined to be salable, it shall first be offered for sale to the wholesaler and nonresident seller of the brand or brands at their cost price, less any state taxes that have been paid on the liquor.

(c) If the wholesaler does not exercise the right to purchase the liquor, container, or packages within 10 days after it is offered, the commission shall sell it at a public or private sale.

[Acts 1977, 65th Leg., p. 524, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 109.06. Purchaser's Right to Use Beverages

A permittee or licensee who purchases alcoholic beverages under this subchapter may treat them as other alcoholic beverages acquired by him as provided in this code.

[Acts 1977, 65th Leg., p. 524, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 109.07. Salvor May Reject Bid

A salvor may reject a bid made on only a part of a whole salvage.

[Acts 1977, 65th Leg., p. 524, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 109.08 to 109.20 reserved for expansion]

### SUBCHAPTER B. HOME PRODUCTION OF WINE

#### § 109.21. Home Production of Wine

(a) The head of a family or an unmarried adult may produce for the use of his family or himself not more than 200 gallons of wine per year. No license or permit is required.

(b) The commission may prohibit the use of any ingredient it finds detrimental to health or susceptible of use to evade this code. Only wine made from

the normal alcoholic fermentation of the juices of dandelions or grapes, raisins, or other fruits may be produced under this section. The possession of wine produced under this section is not an offense if the person making it complies with all provisions of this section and the wine is not distilled, fortified, or otherwise altered to increase its alcohol content. [Acts 1977, 65th Leg., p. 524, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 863, ch. 387, § 1, eff. Aug. 27, 1979.]

**§ 109.22. Repealed by Acts 1979, 66th Leg., p. 863, ch. 387, § 2, eff. Aug. 27, 1979**

The repealed section, relating to sale of materials for home production of wine, was derived from Acts 1977, 65th Leg., p. 525, ch. 194, § 1.

[Sections 109.23 to 109.30 reserved for expansion]

**SUBCHAPTER C. LOCAL REGULATION OF ALCOHOLIC BEVERAGES**

**§ 109.31. Municipal Regulation of Liquor**

A city by charter may prohibit the sale of liquor in all or part of the residential sections of the city. [Acts 1977, 65th Leg., p. 525, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 109.32. Municipal and County Regulation of Beer**

(a) An incorporated city or town by charter or ordinance may:

- (1) prohibit the sale of beer in a residential area; and
- (2) regulate the sale of beer and prescribe the hours when it may be sold, except the city or town may not permit the sale of beer when its sale is prohibited by this code.

(b) In a county that has only one incorporated city or town that has a majority of the population of the county, according to the most recent federal census, and where the city or town has shortened the hours of sale for beer on Sundays by a valid charter amendment or ordinance before January 1, 1957, the commissioners court may enter an order prohibiting the sale of beer on Sundays during the hours it is prohibited in the city or town. The order may apply to all or part of the area of the county located outside the city or town. The commissioners court may not adopt the order unless it first publishes notice for four consecutive weeks in a newspaper of general circulation in the county published in the county or a nearby county.

(c) In exercising the authority granted by this section, the city, town, or county may distinguish between retailers selling beer for on-premises consumption and retailers, manufacturers, or distributors who do not sell beer for on-premises consumption.

[Acts 1977, 65th Leg., p. 525, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 109.33. Sales Near School, Church, or Hospital**

The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a church, public school, or public hospital. The measurement of the distance shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

[Acts 1977, 65th Leg., p. 526, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 109.34 to 109.50 reserved for expansion]

**SUBCHAPTER D. OTHER MISCELLANEOUS PROVISIONS**

**§ 109.51. Sacramental Wine**

Nothing in this code limits the right of a minister, priest, rabbi, or religious organization from obtaining sacramental wine for sacramental purposes only, directly from any lawful source inside or outside the state. No fee or tax may be directly or indirectly charged for the exercise of this right. The commission by rule and regulation may regulate the importation of sacramental wine and prevent unlawful use of the right granted by this section.

[Acts 1977, 65th Leg., p. 526, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 109.52. Warehouse Receipts**

A bank, trust company, or other financial institution that owns or possesses warehouse receipts for alcoholic beverages as security for a loan, after receiving permission from the commission or administrator, may sell the beverages to a licensee or permittee authorized to purchase them.

[Acts 1977, 65th Leg., p. 526, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 109.53. Citizenship of Permittee; Control of Premises; Subterfuge Ownership; Etc.**

No person who has not been a citizen of Texas for a period of three years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this code. No permit except a brewer's permit, and such other licenses and permits as are necessary to the operation of a brewer's permit, shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least 51 percent of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of three years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corpora-

tions that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this code which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the attorney general, when any such violation is called to his attention, to file a suit for such cancellation in a district court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, medicinal and carrier's permits. No person shall sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. No applicant for a package store permit or a renewal thereof shall have authority to designate as "premise" and the commission or administrator shall not approve a lesser area than that specifically defined as "premise" in Section 11.49(a) of this code. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No person under the age of 19 years, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit. The prohibition against the presence of a person under the age of 19 years on the premises of the holder of a package store permit does not apply to the presence on the premises of the holder or a person lawfully employed by the holder. Any package store permittee who shall be injured in his business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the

county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages by him sustained; plus costs of suit including a reasonable attorney's fee. The provision prohibiting the licensing of only a portion of a building as premise for a package store permit shall not apply to hotels as already defined in this code.

[Acts 1977, 65th Leg., p. 526, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 258, ch. 107, § 15, eff. Sept. 1, 1981.]

Section 17 of the 1981 amendatory act provides:

"This Act does not affect the eligibility of a person who holds a license or permit on the effective date of this Act to continue to hold the license or permit and to continue to engage in the activities authorized by the license or permit until the expiration of the license or permit."

### § 109.54. Festivals and Civic Celebrations

(a) Any licensee who has purchased beer for sale at the site of a festival or civic celebration which has been held annually for at least 15 years during a specified period not exceeding 10 days shall be authorized for 24 hours following the official close of the celebration to sell any beer remaining at the site to any licensee or permittee authorized to purchase beer for resale.

(b) Records of any such transactions shall be kept as may be required by the administrator.

[Added by Acts 1979, 66th Leg., p. 864, ch. 388, § 1, eff. June 6, 1979.]

## TITLE 5. TAXATION

### CHAPTER 201. LIQUOR TAXES

#### SUBCHAPTER A. TAX ON LIQUOR OTHER THAN ALE AND MALT LIQUOR

Section	
201.01.	Liquor.
201.02.	"First Sale" Defined.
201.03.	Tax on Distilled Spirits.
201.04.	Tax on Vinous Liquor.
201.05.	Reporting System.
201.06.	Payment of Tax; Discounts.
201.07.	Due Date.
201.08.	Exemption From Tax.
201.09.	Refund Due on Disposition Outside of State.
201.10.	Excess Tax.
201.11.	Tax Credits and Refunds.
201.12.	Appropriations for Refunds.
201.13.	Sale of Untaxed Liquor Prohibited.
201.14.	Invoices of Transported Liquor.
201.15.	Evidence in Suit.
201.16.	Penalty.
201.17.	Liquor in Metric Containers.

#### SUBCHAPTER B. TAX ON ALE AND MALT LIQUOR

201.41.	First Sale.
201.42.	Tax on Ale and Malt Liquor.
201.43.	Duty to Pay Tax; Due Date.
201.44.	Tax Exemptions.
201.45.	Prohibition of Sale of Untaxed Ale or Malt Liquor.
201.46.	Tax Liability.
201.47.	Tax Refunds and Credits.

- Section
- 201.48. Payment.
- 201.49. May Require Information.
- 201.50. Invoices of Transported Liquor.
- 201.51. Evidence in Suit.
- 201.52. Ale and Malt Liquor in Metric Containers.

SUBCHAPTER C. STAMPS

- 201.71. Stamps.
- 201.72. Duty to Print.
- 201.73. Design.
- 201.74. State Treasurer.
- 201.75. Delivery of Stamps.
- 201.76. Refunds.
- 201.77. Who May Purchase Stamps.
- 201.78. Stamps for Wine.
- 201.79. Alternative Method of Collecting Tax on Wine.
- 201.80. Exemption.
- 201.81. Stamps for Distilled Spirits.
- 201.82. Imported Distilled Spirits; Federal Stamp.

SUBCHAPTER D. TAX ON LIQUOR PRESCRIPTIONS

- 201.91. Tax on Liquor Prescriptions.
- 201.92. Tax Stamp.
- 201.93. Prohibitions.
- 201.94. Liability for Tax.
- 201.95. Revocation of Permit.
- 201.96. Suit.
- 201.97. Printing, Distribution, and Use of Stamps.

SUBCHAPTER A. TAX ON LIQUOR OTHER THAN ALE AND MALT LIQUOR

§ 201.01. Liquor

In this subchapter, "liquor" does not include ale or malt liquor.

[Acts 1977, 65th Leg., p. 529, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.02. "First Sale" Defined

In this subchapter, "first sale":

(1) as applied to liquor imported into this state by the holder of a wholesaler's permit authorizing importation, means the first actual sale by the permittee to the holder of any other permit authorizing the retail sale of the beverage or to the holder of a local distributor's permit; and

(2) as applied to all other liquor, means the first sale, possession, distribution, or use in this state.

[Acts 1977, 65th Leg., p. 529, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.03. Tax on Distilled Spirits

(a) A tax is imposed on the first sale of distilled spirits at the rate of \$2 per gallon.

(b) The minimum tax imposed on packages of distilled spirits containing two ounces or less is five cents per package.

(c) Should packages containing less than one-half pint but more than two ounces ever be legalized in this state, the minimum tax imposed on each of these packages is \$0.122.

[Acts 1977, 65th Leg., p. 529, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.04. Tax on Vinous Liquor

(a) A tax is imposed on the first sale of vinous liquor that does not contain over 14 percent of alcohol by volume at the rate of 17 cents per gallon.

(b) A tax is imposed on vinous liquor that contains more than 14 percent of alcohol by volume at the rate of 34 cents per gallon.

(c) A tax is imposed on artificially carbonated and natural sparkling vinous liquor at the rate of 43 cents per gallon.

[Acts 1977, 65th Leg., p. 529, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.05. Reporting System

A person who holds a permit authorizing the importation of liquor into this state shall pay the liquor tax by the reporting system under bond.

[Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.06. Payment of Tax; Discounts

(a) The tax on liquor, levied and computed under this subchapter, shall be paid by a remittance payable to the state treasurer and forwarded together with any required sworn statement of taxes due to the commission in Austin on or before the date it is due.

(b) A discount of two percent of the amount due shall be withheld by the permittee for keeping records, furnishing bonds, and properly accounting for the remittance of the tax due. No discount is permitted if the tax is delinquent at the time of payment.

[Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.07. Due Date

The tax on liquor is due and payable on the 15th of the month following the first sale.

[Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.08. Exemption From Tax

(a) No tax may be collected on liquor:

(1) shipped out of state for consumption outside the state; or

(2) sold aboard a ship for ship's supplies.

(b) The commission shall provide forms for claiming the exemption prescribed by this section.

(c) A tax credit shall be allowed for payment of any unintended or excess tax.

[Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.09. Refund Due on Disposition Outside of State

The holder of any permit authorizing the transportation of liquor out of this state may apply to the commission for a refund of the excise tax on liquor on which the state tax has been paid on proper proof that the liquor was sold or disposed of outside of this state.

[Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.10. Excess Tax**

A permittee is entitled to a refund or tax credit on future tax payment for any excess tax on liquor paid through oversight, mistake, error, or miscalculation. [Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.11. Tax Credits and Refunds**

The commission shall provide by rule for the equitable and final disposition of tax refunds or credits when liquor tax is overpaid or paid by mistake. It shall prescribe the time and manner for filing claims for credits and refunds and provide appropriate forms.

[Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.12. Appropriations for Refunds**

Necessary funds from the collection of the tax on imported liquor before the revenue from that tax has been allocated may be appropriated for the payment of refunds of tax on imported liquor.

[Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.13. Sale of Untaxed Liquor Prohibited**

No person may sell, offer for sale, or store for the purpose of sale in this state any liquor on which the state or federal tax, if due, has not been paid.

[Acts 1977, 65th Leg., p. 530, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.14. Invoices of Transported Liquor**

A holder of a permit authorizing the wholesaling of liquor and the transporting of liquor outside of this state shall furnish to the commission duplicate copies of all invoices for the sale of liquor transported outside of this state within 24 hours after the liquor has been removed from the permittee's place of business.

[Acts 1977, 65th Leg., p. 531, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.15. Evidence in Suit**

In any suit brought to enforce the collection of tax owed by the holder of a permit authorizing the importation of liquor into this state, a certificate by the commission or administrator showing the delinquency is prima facie evidence of:

(1) the levy of the tax or the delinquency of the stated amount of tax and penalty; and

(2) compliance by the commission with the provisions of this code relating to the computation and levy of the tax.

[Acts 1977, 65th Leg., p. 531, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.16. Penalty**

A person who violates any section of this subchapter except Section 201.09 or 201.13 of this code commits a misdemeanor which on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for not

less than 30 days nor more than one year. Violations of Sections 201.09 and 201.13 are punishable in accordance with Section 1.05 of this code.

[Acts 1977, 65th Leg., p. 531, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.17. Liquor in Metric Containers**

For the purpose of the taxes imposed on liquor by this subchapter and on ale and malt liquor by Subchapter B of this chapter, if the liquor is in metric containers the amount of tax due is determined by converting the metric amount into the equivalent amount in gallons and applying the appropriate tax rate. The commission shall prepare tables showing the amount of tax due on various types of liquor, including ale and malt liquor, in metric containers.

[Acts 1977, 65th Leg., p. 531, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 201.18 to 201.40 reserved for expansion]

SUBCHAPTER B. TAX ON ALE AND  
MALT LIQUOR

**§ 201.41. First Sale**

"First sale" of ale or malt liquor means its first sale in Texas or its importation into this state, whichever occurs first, but not both.

[Acts 1977, 65th Leg., p. 531, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.42. Tax on Ale and Malt Liquor**

A tax is imposed on the first sale of ale and malt liquor at the rate of \$0.165 per gallon.

[Acts 1977, 65th Leg., p. 531, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.43. Duty to Pay Tax; Due Date**

(a) The importer has the primary duty to pay the tax on ale and malt liquor imported into this state.

(b) The brewer has the primary duty to pay the tax on ale and malt liquor brewed in this state.

(c) The tax is due and payable on the 15th day of the month following the month in which the taxable first sale occurs.

[Acts 1977, 65th Leg., p. 531, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.44. Tax Exemptions**

No tax may be collected on ale or malt liquor:

(1) shipped out of the state for consumption outside the state; or

(2) sold aboard a ship for ship's supplies.

[Acts 1977, 65th Leg., p. 391, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.45. Prohibition of Sale of Untaxed Ale or Malt Liquor**

No person may sell, offer for sale, or store for the purpose of sale in this state any ale or malt liquor on which the state or federal tax, if due, has not been paid.

[Acts 1977, 65th Leg., p. 532, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.46. Tax Liability**

A person possessing ale or malt liquor on which the tax is delinquent is liable for the delinquent tax in addition to the criminal penalties.

[Acts 1977, 65th Leg., p. 532, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.47. Tax Refunds and Credits**

(a) The holder of a permit authorizing the transportation of ale or malt liquor out of the state may apply to the commission for a refund of the excise tax on ale or malt liquor that has been paid on proper proof that the ale or malt liquor was sold or disposed of outside the state.

(b) Tax credits shall be allowed for overpayment or mistaken payment of the tax on ale or malt liquor, and the commission shall provide by rule for the equitable and final disposition of the tax credits.

[Acts 1977, 65th Leg., p. 532, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.48. Payment**

The tax on ale and malt liquor shall be paid by a remittance payable to the state treasurer and forwarded, together with any required sworn statements of taxes due, to the commission in Austin on or before the date it is due. A discount of two percent of the amount due shall be withheld by the permittee or licensee for keeping records, furnishing bonds, and properly accounting for the remittance of the tax due. No discount is permitted if the tax is delinquent at the time of payment.

[Acts 1977, 65th Leg., p. 391, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.49. May Require Information**

(a) The commission may require all brewers, non-resident brewers, importers, wholesalers, and class B wholesalers of ale and malt liquor to provide information as to purchases, sales, and shipments to enable the commission to collect the full amount of the tax due. No brewer, nonresident brewer, importer, wholesaler, or class B wholesaler may fail or refuse to furnish the required information.

(b) The commission may seize or withhold from sale the brewer's, nonresident brewer's, importer's, wholesaler's, or class B wholesaler's ale or malt liquor for failure or refusal to supply the information required under Subsection (a) of this section or to permit the commission to make an investigation of pertinent records, whether the records are inside or outside of this state.

[Acts 1977, 65th Leg., p. 532, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.50. Invoices of Transported Liquor**

The holder of a permit authorizing the wholesaling of liquor and the transportation of it out of the state shall furnish to the commission duplicate copies of all invoices for the sale of liquor transported out of the state within 24 hours after the liquor has been removed from the permittee's place of business. Vi-

olation of this section is punishable by the penalty prescribed in Section 201.16 of this code.

[Acts 1977, 65th Leg., p. 532, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.51. Evidence in Suit**

In any suit brought to enforce the collection of tax due on ale or malt liquor brewed in or imported into this state, a certificate by the commission or administrator showing the delinquency is prima facie evidence of:

(1) the levy of the tax or the delinquency of the stated amount of tax and penalty; and

(2) compliance by the commission with the provisions of this code relating to the computation and levy of the tax.

[Acts 1977, 65th Leg., p. 533, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.52. Ale and Malt Liquor in Metric Containers**

Section 201.17 of this code applies to the taxation of ale and malt liquor in metric containers.

[Acts 1977, 65th Leg., p. 533, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 201.53 to 201.70 reserved for expansion]

SUBCHAPTER C. STAMPS

**§ 201.71. Stamps**

Unless the liquor is exempt from tax or payment has been or is to be made by a permittee in accordance with the provisions of Subchapter A, B, or D of this chapter, the tax levied under Subchapter A or B shall be paid by affixing a stamp or stamps on each bottle or container of liquor. The stamp shall be affixed in strict accordance with the commission's rules and regulations.

[Acts 1977, 65th Leg., p. 533, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.72. Duty to Print**

The commission and the board of control shall have engraved or printed the liquor and beer tax stamps required by this code. The board of control shall let the contracts for the stamps required by this code as provided by law. The commission shall expend funds necessary to keep an ample supply of stamps on hand.

[Acts 1977, 65th Leg., p. 533, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.73. Design**

The commission shall prescribe the design and denomination of the tax stamps. Each stamp must show the amount of tax for which it evidences payment and shall contain the words "Texas State Tax Paid."

[Acts 1977, 65th Leg., p. 533, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.74. State Treasurer**

(a) The state treasurer is responsible for the custody and sale of tax stamps and for the proceeds of the sales under his official bond.

(b) The treasurer shall sell tax stamps only to qualified persons designated by the commission and to no other person.

(c) The treasurer may designate any state or national bank in this state as his agent to deliver and collect for any tax stamps and to remit the sale proceeds to him.

(d) Invoices for tax stamps shall be issued by the treasurer in triplicate and numbered consecutively. The original of the invoice shall be forwarded to the purchaser or to the person in whose care it may be sent for the benefit of a qualified purchaser. The second copy shall be transmitted to the commission daily and accompanied by those statements required by the commission. The third copy shall be retained by the treasurer.

(e) The treasurer shall make and keep a permanent record of all tax stamps received by him as well as all tax stamps sold. This record shall provide a perpetual inventory of all tax stamps and their disposition. The record must be available at all times to the commission or its authorized representatives.

[Acts 1977, 65th Leg., p. 533, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.75. Delivery of Stamps**

The commission shall prescribe the manner in which tax stamps are delivered by the state treasurer to the commission for use and sale by its inspectors in charge of ports of entry.

[Acts 1977, 65th Leg., p. 534, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.76. Refunds**

(a) The commission may make refunds for tax stamps in all cases where:

(1) stamped liquor is returned to the distillery or manufacturer, on certification by a duly authorized representative of the commission who inspected the shipment;

(2) stamped liquor has been destroyed, on certification by a duly authorized representative of the commission that the liquor has been destroyed;

(3) a person who has been authorized to purchase tax stamps and is in possession of unused tax stamps on discontinuation of business; and

(4) tax stamps of improper value have been erroneously affixed to a bottle or container of liquor and those tax stamps have been destroyed in a manner prescribed by the commission.

(b) To obtain a refund under this section, it must be shown that the tax stamps for which a refund is asked were purchased from the state treasurer and that the refund is made to a person authorized to

purchase tax stamps from the treasurer. No other refunds for tax stamps are allowed.

(c) Sufficient funds to pay refunds for tax stamps may be appropriated from the revenue derived from the sale of the tax stamps before that revenue has been allocated.

[Acts 1977, 65th Leg., p. 534, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.77. Who May Purchase Stamps**

The commission shall designate those permittees or other persons entitled to purchase state tax stamps.

[Acts 1977, 65th Leg., p. 534, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.78. Stamps for Wine**

Tax stamps for wine shall be issued in multiples of the rate assessed for each pint and for each one-tenth of a gallon.

[Acts 1977, 65th Leg., p. 534, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.79. Alternative Method of Collecting Tax on Wine**

The commission may provide by rule an alternative method of collecting the tax on wine. That method may dispense with the use of tax stamps.

[Acts 1977, 65th Leg., p. 534, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.80. Exemption**

The commission may prescribe by order special rules for the payment of the tax imposed by Subchapter A or B of this chapter in any circumstance that in the judgment of the commission creates an emergency or makes it impractical to require the affixing of tax stamps.

[Acts 1977, 65th Leg., p. 534, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.81. Stamps for Distilled Spirits**

Tax stamps for distilled spirits may be issued only in multiples of the rate assessed each half-pint, except that when distilled spirits are contained in containers of one-tenth of a gallon, tax stamps shall be issued at the assessed rate for each type of distilled spirit.

[Acts 1977, 65th Leg., p. 534, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 201.82. Imported Distilled Spirits; Federal Stamp**

A container of distilled spirits that has a federal liquor strip stamp attached or that has been imported from a foreign country is subject to taxation and must have the appropriate state tax stamp for distilled spirits affixed to it, unless it is taxed under the reporting system.

[Acts 1977, 65th Leg., p. 535, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 201.83 to 201.90 reserved for expansion]

SUBCHAPTER D. TAX ON LIQUOR PRESCRIPTIONS

§ 201.91. Tax on Liquor Prescriptions

A tax is imposed on each liquor prescription filled by a pharmacist at the rate of 22 cents per prescription.

[Acts 1977, 65th Leg., p. 535, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.92. Tax Stamp

The tax on liquor prescriptions levied by Section 201.91 of this code shall be paid by affixing a tax stamp to each prescription before the prescribed liquor is sold or dispensed by the pharmacist.

[Acts 1977, 65th Leg., p. 535, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.93. Prohibitions

No person may sell any liquor by prescription without first affixing the required tax stamp to the prescription and to the container of prescribed liquor.

[Acts 1977, 65th Leg., p. 535, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.94. Liability for Tax

The liquor prescription tax is a liability on the owner of the pharmacy or drug store selling the prescribed liquor.

[Acts 1977, 65th Leg., p. 535, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.95. Revocation of Permit

Failure to pay the tax due on liquor prescriptions is a ground for revocation of any permit authorizing the sale of liquor by prescription.

[Acts 1977, 65th Leg., p. 535, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.96. Suit

If the owner of a pharmacy fails to pay the tax on liquor prescriptions, the commission may sue him to collect the amount due.

[Acts 1977, 65th Leg., p. 535, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 201.97. Printing, Distribution, and Use of Stamps

(a) The commission shall design the tax stamp required by this subchapter. Each tax stamp shall have a serial number or other identifying mark printed on it. Each tax stamp shall be in duplicate so that one of each of the counterparts may be affixed to the container of liquor and the other to the prescription under which the liquor is sold.

(b) On requisition of the commission, the tax stamps shall be printed under the direction of the board of control and furnished to the state treasurer, who shall furnish the tax stamps only to holders of medicinal permits in this state.

(c) The commission may regulate the manner in which the tax stamps are affixed, cancelled, or accounted for.

[Acts 1977, 65th Leg., p. 535, ch. 194, § 1, eff. Sept. 1, 1977.]

CHAPTER 202. MIXED BEVERAGE TAX

Section

202.01.	Definitions.
202.02.	Tax on Gross Receipts.
202.03.	Tax Return; Due Date.
202.04.	Payment.
202.05.	Civil Penalty for Failure to File or Pay.
202.06.	Records of Tax Receipts.
202.07.	Violations: Penalty.
202.08.	Aggravated Violations: Penalty.
202.09.	Tax Account Examination; Additional Tax; Penalty.
202.10.	Record of Tax Receipts.
202.11.	Stamps.
202.12.	Violators Ineligible for Permit.
202.13.	May Keep Records at Single Location.
202.14.	Summary Suspension.

§ 202.01. Definitions

In this chapter:

(1) "Permittee" means a mixed beverage permittee, mixed beverage late hours permittee, daily temporary mixed beverage permittee, private club registration permittee, or private club late hours permittee.

(2) "Business day" means the period of time between 3 a. m. one day and 3 a. m. the next day.

[Acts 1977, 65th Leg., p. 536, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 202.02. Tax on Gross Receipts

A tax at the rate of 10 percent is imposed on the gross receipts of a permittee from the sale, preparation, or service of mixed beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with alcoholic beverages and consumed on the premises of the permittee.

[Acts 1977, 65th Leg., p. 536, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 202.03. Tax Return; Due Date

(a) Each permittee shall file a sworn tax return with the commission on or before the 15th day of every month.

(b) The return shall be in a form prescribed by the commission or administrator and shall include a statement of the total gross taxable receipts during the preceding month and any other information required by the commission or administrator.

(c) Tax due for a business day which falls in two different months is allocated to the month during which the business day begins.

[Acts 1977, 65th Leg., p. 536, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 202.04. Payment

The tax due for the preceding month shall accompany the return and be in the form of a cashier's check, certified check, or postal money order payable to the State of Texas. The commission shall deposit the revenue in the mixed beverage tax clearance fund.

[Acts 1977, 65th Leg., p. 536, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.05. Civil Penalty for Failure to File or Pay**

If any permittee fails to file a return or to pay to the commission the tax as required by this subchapter when the return or payment is due, the permittee shall forfeit an amount equal to five percent of the amount due as a penalty, and after 30 days the penalty is increased to 10 percent of the amount due. [Acts 1977, 65th Leg., p. 536, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.06. Records of Tax Receipts**

(a) Each permittee shall make and keep a record, in a form prescribed by the commission or administrator, of all tax receipts, including the total for each business day.

(b) Permittees, except daily temporary mixed beverage permittees, shall keep a copy of this record, as well as all other records of receipts and disbursements by the permittee, on file on the premises for a period of two years. The record is open to inspection by any agent of the commission or by any peace officer at any time.

(c) Daily temporary mixed beverage permittees shall file a copy of the records for each month with the tax return for that month as prescribed by the commission.

[Acts 1977, 65th Leg., p. 537, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.07. Violations: Penalty**

(a) No person may fail to keep a record in the manner required by this chapter, fail to file any return in the manner required by this chapter, keep a false record, or file a false return.

(b) A person who violates this section is punishable by a fine of not more than \$1,000, or by confinement in the county jail for not more than 30 days, or by both.

[Acts 1977, 65th Leg., p. 537, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.08. Aggravated Violations: Penalty**

(a) No person may knowingly fail to keep any record in the manner required by this chapter, fail to file any return in the manner required by this chapter, keep a false record, or file a false return.

(b) A person who violates this section is punishable by a fine of not less than \$500 nor more than \$1,000 and by confinement in the county jail for not less than 30 days nor more than two years.

(c) The commission or administrator shall cancel the permit of any permittee found by the commission or administrator, after notice and hearing, to have violated or have been convicted of violating this section.

[Acts 1977, 65th Leg., p. 537, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.09. Tax Account Examination; Additional Tax; Penalty**

(a) The commission shall examine the tax account of each permittee and collect any additional taxes due as established through any information or records in the possession of, or available to, the commission or that may come into the commission's possession.

(b) For the convenience of the commission in examining tax accounts of mixed beverage permittees and private club registration permittees, each of these permittees is required to purchase separately and individually for each licensed premises any and all alcoholic beverages to be sold or served on the licensed premises.

(c) When additional taxes are established as due based on an examination by the commission, a penalty equal to 10 percent of the additional taxes due shall be collected with the additional taxes due. [Acts 1977, 65th Leg., p. 537, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.10. Record of Tax Receipts**

The commission shall keep a record indicating the name of the permittee from whom each return is received, the incorporated city or town, if any, and county in which the permittee's premises are located, and the amount of the tax received.

[Acts 1977, 65th Leg., p. 537, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.11. Stamps**

(a) No mixed beverage permittee, daily temporary mixed beverage permittee, or private club registration permittee may possess or permit any person to possess on the premises any distilled spirits in any container not bearing a serially numbered identification stamp issued by the commission or other identification approved by the commission.

(b) No local distributor's permittee may knowingly sell, ship, or deliver any distilled spirits in any container not bearing a serially numbered identification stamp issued by the commission or other identification approved by the commission.

(c) Identification stamps shall be issued only to holders of local distributor's permits, who shall affix the stamps in a manner prescribed by the commission or administrator.

[Acts 1977, 65th Leg., p. 538, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.12. Violators Ineligible for Permit**

(a) No mixed beverage, daily temporary mixed beverage, or private club registration permit may ever be issued to any of the following:

(1) a person whose permit was cancelled for a violation of Section 28.06(c) or 202.08 of this code;

(2) a person who held an interest of any kind in a permit that was cancelled for a violation of Section 28.06(c) or 202.08 of this code;

(3) a person who held 50 percent or more of the stock, either in his own name or by any other means, of a corporation whose permit was cancelled because of a violation of Section 28.06(c) or 202.08 of this code;

(4) a corporation if any person holding more than 50 percent or more of the stock, either in his own name or by any other means, is disqualified from obtaining a permit in his individual capacity because of a violation of Section 28.06(c) or 202.08 of this code; or

(5) a person residentially domiciled with a person who is barred from obtaining a permit because of a violation of Section 28.06(c) or 202.08 of this code.

(b) For the purposes of this section, a person is treated as holding 50 percent or more of the stock in a corporation if that person and his parents, children, and siblings, and all persons with whom he is residentially domiciled, together own 50 percent or more of the stock in the corporation.

[Acts 1977, 65th Leg., p. 538, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.13. May Keep Records at Single Location**

(a) If two or more establishments operated under a permit or permits named in Section 202.01(1) of this code are located in the same county and are under the same or substantially the same ownership, the holder or holders of the permits may apply to the administrator, on a form furnished by the administrator for that purpose, for permission to keep all required records for those establishments at a single location in the county. The single location need not be the licensed premises of one of the establishments.

(b) If the administrator decides to approve the application, he must do so in writing and may impose any conditions regarding the keeping of the records that he finds appropriate.

(c) If records are kept at a single location under this section, the records for each establishment must still be kept separately.

[Acts 1977, 65th Leg., p. 538, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 202.14. Summary Suspension**

(a) If a permittee fails to file a return or make a tax payment as required by this chapter, including deficiencies under Section 202.09, the commission may summarily suspend the permit without a hearing. The Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), does not apply to the commission in their enforcement and administration of this section.

(b) A suspension under this section takes effect on the third day after the date on which the notice of suspension is given. The notice shall be given to the permittee, his agent, servant, or employee by registered or certified mail if not given in person.

(c) The commission shall terminate a suspension made under this section when the permittee files all required returns and makes all required tax payments, including payment of any penalties that are due.

[Added by Acts 1979, 66th Leg., p. 733, ch. 325, § 2, eff. June 6, 1979.]

**CHAPTER 203. BEER TAX**

Section

203.01.	Tax on Beer.
203.02.	Tax on First Sale or Importation.
203.03.	Duty to Pay Tax; Due Date.
203.04.	Tax on Unsalable Beer.
203.05.	Exemption From Tax.
203.06.	Excess Tax.
203.07.	Claims for Refunds.
203.08.	Tax Exemption for Certain Manufacturers.
203.09.	Statements.
203.10.	Payment of Taxes; Discount.
203.11.	Evidence in Suit.
203.12.	Tax Liability.

**§ 203.01. Tax on Beer**

A tax is imposed on the first sale of beer manufactured in this state or on the importation of beer into this state at the rate of five dollars per barrel.

[Acts 1977, 65th Leg., p. 539, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 203.02. Tax on First Sale or Importation**

The tax levied by Section 203.01 of this code applies to the first sale in this state or to the importation into this state, whichever occurs first, but not to both.

[Acts 1977, 65th Leg., p. 539, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 203.03. Duty to Pay Tax; Due Date**

(a) The importer shall pay the tax on beer imported into this state.

(b) The manufacturer shall pay the tax on beer manufactured in this state.

(c) The tax is due and payable on the 15th day of the month following the month in which the taxable first sale or importation occurred.

[Acts 1977, 65th Leg., p. 539, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 203.04. Tax on Unsalable Beer**

No tax imposed under Section 203.01 of this code may be imposed or collected on beer that for any reason has been found and declared to be unsalable by the commission or administrator. A manufacturer or distributor is entitled to a refund of any tax he has paid on unsalable beer.

[Acts 1977, 65th Leg., p. 539, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 203.05. Exemption From Tax**

(a) No tax may be collected on beer:

(1) shipped out of this state for consumption outside of this state;

(2) sold aboard ships for ship's supplies; or  
 (3) shipped to any installation of the national military establishment under federal jurisdiction for consumption by military personnel on that installation.

(b) The commission shall provide forms on which distributors and manufacturers may claim these exemptions from the tax on beer.

(c) If after paying the tax on beer a manufacturer or distributor becomes eligible for one of the above exemptions, the manufacturer or distributor is entitled to a refund.

[Acts 1977, 65th Leg., p. 539, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 203.06. Excess Tax

A manufacturer or distributor is entitled to a refund or credit on future tax payment for any excess tax on beer paid through oversight, mistake, error, or miscalculation.

[Acts 1977, 65th Leg., p. 540, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 203.07. Claims for Refunds

(a) The commission or administrator shall prescribe by rule for the claiming of tax refunds and credits authorized under this chapter, including provisions as to the time and manner for claiming the refunds and credits.

(b) Necessary funds from the collection of beer tax before it is allocated may be appropriated for the payment of beer tax refunds.

[Acts 1977, 65th Leg., p. 540, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 203.08. Tax Exemption for Certain Manufacturers

A manufacturer whose annual production of beer in this state does not exceed 75,000 barrels is exempt from the payment of 25 percent of the tax imposed under Section 203.01 of this code on each barrel of beer manufactured in this state.

[Acts 1977, 65th Leg., p. 540, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 203.09. Statements

(a) The commission may require manufacturers of beer manufactured in this state or imported into this state, importers, and distributors to provide information as to purchases, sales, and shipments to enable the commission to collect the full amount of beer tax due. No manufacturer, importer, or distributor may fail or refuse to furnish the information.

(b) The commission may seize or withhold from sale the manufacturer's, importer's, or distributor's beer for failure or refusal to supply the information required under Subsection (a) of this section or to permit the commission to make an investigation of pertinent records whether inside or outside this state.

[Acts 1977, 65th Leg., p. 540, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 203.10. Payment of Taxes; Discount

The tax on beer shall be paid by a remittance payable to the state treasurer and forwarded with any required sworn statements of taxes due to the commission in Austin on or before the due date. A discount of two percent of the amount due shall be withheld by the permittee or licensee for keeping records, furnishing bonds, and properly accounting for the remittance of the tax due. No discount is permitted if the tax is delinquent at the time of payment.

[Acts 1977, 65th Leg., p. 540, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 203.11. Evidence in Suit

In a suit brought to enforce the collection of tax due on beer manufactured in or imported into this state, a certificate by the commission or administrator showing the delinquency is prima facie evidence of:

(1) the levy of the tax or the delinquency of the stated amount of tax and penalty; and

(2) compliance by the commission with the provisions of this code in relation to the computation and levy of the tax.

[Acts 1977, 65th Leg., p. 540, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 203.12. Tax Liability

A person possessing beer on which the tax is delinquent is liable for the delinquent taxes in addition to the criminal penalties.

[Acts 1977, 65th Leg., p. 540, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 204. BONDS

Section	
204.01.	Bond Required.
204.02.	Form and Conditions.
204.03.	Amount of Bond.
204.04.	Multiple Permits, One Bond.
204.05.	Cancellation of Bond.

#### § 204.01. Bond Required

(a) Except as otherwise provided in this section, the following licensees and permittees shall furnish a bond:

(1) those authorized to import alcoholic beverages into the state;

(2) manufacturers of beer and brewers of ale or malt liquor in the state;

(3) permittees subject to the gross receipts tax on mixed beverages imposed by Section 202.02 of this code; and

(4) all other permittees.

(b) No bond is required of a holder of a carriers, local cartage, wine and beer retailers, nonresident seller's, manufacturer's agent's, or agent's permit.

(c) No bond is required of a retail licensee or permittee who is not responsible for the primary payment of an alcoholic beverage excise tax to this state. This subsection does not exempt permittees subject to the gross receipts tax on mixed beverages imposed by Section 202.02 of this code.

(d) A permittee required to furnish a bond to secure the payment of the gross receipts tax on mixed beverages may furnish, in lieu of all or part of the amount of the bond required:

(1) one or more certificates of deposit or savings assigned to the state, issued by one or more banks or savings institutions authorized to do business in this state; or

(2) one or more letters of credit issued by one or more banks or savings institutions authorized to do business in this state.

(e) If certificates of deposit or savings or letters of credit are furnished under Subsection (d) of this section, the administrator shall keep them in his possession. Interest earned on a certificate of deposit or savings is not subject to the assignment and remains the property of the owner of the certificate.

(f) A permittee subject to the gross receipts tax on mixed beverages imposed by Section 202.02 of this code is not required to furnish a bond if for the preceding 36 months the permittee has paid all taxes and fees required by this code on or before the due date. A finding of deficiency under Section 202.09 of this code does not constitute a failure to pay a tax when due for purposes of this subsection or Subsection (g) or (h) of this section if the deficiency and any applicable penalty are paid within 10 days of the date of demand for payment by the commission.

(g) An exemption under Subsection (f) of this section terminates and the permittee must furnish a bond if the permittee fails to pay a tax or fee imposed by this code on or before the due date.

(h) A permittee required to furnish a bond under Subsection (g) of this section is again entitled to exemption from the surety requirement if the permittee:

(1) pays all delinquent taxes and fees and any applicable penalties; and

(2) pays all taxes and fees required by this code on or before the due date for 36 consecutive months after the month in which the delinquent taxes and fees and the penalties are paid.

[Acts 1977, 65th Leg., p. 541, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1183, ch. 453, § 11, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 732, ch. 325, § 1, eff. June 6, 1979.]

Acts 1979, 66th Leg., p. 733, ch. 325, § 3, provided:

"For purposes of Subsections (f) through (h) of section 204.01, Alcoholic Beverage Code, as added, the 36 month period immediately preceding the effective date of this Act is counted in determining whether a permittee is entitled to an exemption from the requirement of furnishing a surety bond."

§ 204.02. Form and Conditions

(a) A bond required under this chapter must be executed with the permittee or licensee as principal, a qualified surety company doing business in this state as surety, and the state as payee. All bonds of permittees must be payable in Travis County.

(b) The bond must be conditioned as required by the commission. Bonds required of permittees must be conditioned that as long as the applicant holds the permit he will not violate any law of this state relating to the traffic in or transportation, sale, or delivery of liquor or any valid rule of the commission. The bonds of permittees who are required to account for taxes and fees must also be conditioned that the permittee will account for and pay all permit fees and taxes levied by this code.

(c) The form of all bonds must be approved by the attorney general.

(d) A certificate of deposit or savings furnished by a permittee to secure the payment of the gross receipts tax on mixed beverages must be assigned to the state in a manner approved by the administrator to secure the payment of the tax.

(e) A letter of credit furnished by a permittee to secure the payment of the gross receipts tax on mixed beverages must be in a form and contain any conditions required by the administrator to secure the payment of the tax.

[Acts 1977, 65th Leg., p. 541, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1184, ch. 453, § 12, eff. Sept. 1, 1977.]

§ 204.03. Amount of Bond

(a) The commission or administrator shall set the amount of all bonds required under this chapter.

(b) A permittee who furnishes certificates of deposit or savings or letters of credit in lieu of all or part of the amount of bonds required by the commission or administrator to secure the payment of the gross receipts tax on mixed beverages may furnish any combination of these methods of securing the tax which satisfies that amount. The total of the bonds, certificates, and letters of credit of a permittee subject to the gross receipts tax on mixed beverages must be in an amount that, in the opinion of the commission or administrator, will protect the state, but in no case may the commission or administrator set the amount at less than \$1,000 or more than \$25,000.

(c) Bonds of other permittees, except those permittees covered by Subsection (d) of this section, may not be set at an amount less than \$1,000 or more than \$25,000.

(d) Bonds to insure the payment of the tax on distilled spirits imposed by Section 201.03 of this code, the tax on vinous liquor imposed by Section 201.04 of this code, the tax on ale and malt liquor imposed by Section 201.42 of this code, or the tax on

beer imposed by Section 203.01 of this code, shall be set at an amount that will protect the state against the anticipated tax liability of the principal for any six-week period.

[Acts 1977, 65th Leg., p. 541, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 1184, ch. 453, § 13, eff. Sept. 1, 1977.]

#### § 204.04. Multiple Permits, One Bond

If another permit is required, incidental to the operation of a business for which a basic permit is procured, the commission may accept one bond to support all of the permits. The commission shall determine the amount of the bond.

[Acts 1977, 65th Leg., p. 542, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 204.05. Cancellation of Bond

The commission may not cancel a surety bond until the surety company has paid and discharged in full all of its liabilities on the bond to the state as of the date of cancellation.

[Acts 1977, 65th Leg., p. 542, ch. 194, § 1, eff. Sept. 1, 1977.]

### CHAPTER 205. REVENUE ALLOCATION

#### Section

- 205.01. Repealed.
- 205.02. Disposition of Receipts.
- 205.03. Mixed Beverage Tax Clearance Fund.
- 205.04. Allocation for Tax Collection Expense.

#### § 205.01. Repealed by Acts 1981, 67th Leg., p. 2256, ch. 540, § 15(4), eff. Sept. 1, 1981

The repealed section, relating to a clearance fund, was derived from Acts 1977, 65th Leg., p. 542, ch. 194, § 1.

#### § 205.02. Disposition of Receipts

(a) After allocation of funds to defray administrative expenses as provided in the current departmental appropriations act, receipts from the sale of tax stamps and funds derived from taxes on distilled spirits, wine, beer, and ale and malt liquor shall be deposited in the general revenue fund. An amount equal to one-fourth of the net revenue shall be transferred to the available school fund, and an amount equal to three-fourths of the net revenue shall be credited to the general revenue fund.

(b) All revenues derived from the collection of permit or license fees provided for in this code, except fees for temporary licenses, shall be deposited to the credit of the general revenue fund.

(c) Receipts derived from the gross receipts tax on mixed beverages imposed by Section 202.02 of this code shall be deposited to the credit of a special clearance fund known as the mixed beverage tax clearance fund.

[Acts 1977, 65th Leg., p. 542, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2254, ch. 540, § 13, eff. Sept. 1, 1981.]

#### § 205.03. Mixed Beverage Tax Clearance Fund

(a) In this section, "permittee" means a mixed beverage permittee, mixed beverage late hours permittee, daily temporary mixed beverage permittee, private club registration permittee, or a private club late hours permittee.

(b) Before the end of the month following each calendar quarter, the commission shall submit to the comptroller of public accounts a report showing the total amount of taxes received during the quarter from permittees outside an incorporated city or town within each county and the total amount received from permittees within each incorporated city or town in each county.

(c) As soon as possible after receipt of each quarterly report of the commission, the comptroller shall issue to each county a warrant drawn on the mixed beverage tax clearance fund in the amount of 15 percent of receipts from permittees within the county during the quarter and shall issue to each incorporated city or town a warrant drawn on that fund in the amount of 15 percent of receipts from permittees within the incorporated city or town during the quarter, as shown by the commission's report. The remainder of the receipts for the quarter shall be transferred to the general revenue fund.

[Acts 1977, 65th Leg., p. 543, ch. 194, § 1, eff. Sept. 1, 1977.]

#### § 205.04. Allocation for Tax Collection Expense

*Text of section added effective until September 1, 1988*

When the commission deems it necessary in order to comply with the purposes of Section 5.37(b) of this code, it may collect a surcharge equal to 10 percent of the state license and permit fees authorized under this code from designated classes of licensees or permittees at the time their fees are due, but in no event shall the surcharge exceed \$50 on any license or permit. All revenues derived from this tax collection expense surcharge shall be deposited in a separate fund in the state treasury designated as the confiscated liquor fund. This section expires September 1, 1988.

[Added by Acts 1979, 66th Leg., p. 612, ch. 287, § 2, eff. May 24, 1979.]

### CHAPTER 206. PROVISIONS GENERALLY APPLICABLE TO TAXATION

#### Section

- 206.01. Records.
- 206.02. Proof of Taxes Due.
- 206.03. Importation Without Tax Stamp.
- 206.04. Jurisdiction Ceded to Federal Government.
- 206.05. Unmutilated Stamps.
- 206.06. Forgery or Counterfeiting.
- 206.07. Payment of Tax by Mail.

§ 206.01. **Records**

(a) A permittee who distills, rectifies, manufactures, or receives any liquor shall make and keep a record of each day's production or receipt of liquor and the amount of tax stamps purchased by the permittee. A permittee other than a retailer shall make and keep a record of each sale of liquor and to whom the sale is made. Each transaction shall be entered on the day it occurs. Permittees shall make and keep any other records required by the commission. All required records shall be kept available for inspection by the commission or its authorized representatives for at least two years.

(b) No person may fail or refuse to make and retain for at least two years any record required by this section.

(c) No person may fail or refuse to keep any record required by this section open for inspection by the commission or its duly authorized representatives during reasonable office hours.

(d) No person may knowingly, with intent to defraud, make or cause to be made any false entry in any record required by this section or with like intent, alter or cause to be altered any item in one of those records.

[Acts 1977, 65th Leg., p. 543, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 206.02. **Proof of Taxes Due**

In a suit or claim by the attorney general for taxes due, he may attach or file as an exhibit a report or audit of a permittee or licensee with an affidavit made by the administrator or his representative stating that the taxes shown to be due by the report or audit are past due and unpaid and that all payments and credits have been allowed. Unless the opposing party files an answer in the same form and manner as required by Rule 185, Texas Rules of Civil Procedure, the audit or report constitutes prima facie evidence of the taxes due. The provisions of Rule 185 are applicable to a suit to collect taxes under this section.

[Acts 1977, 65th Leg., p. 544, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 206.03. **Importation Without Tax Stamp**

A person commits an offense if he imports or transports liquor into this state without the proper state tax stamps affixed to the containers if the liquor is consigned to, intended for delivery to, or being transported to a person or place inside this state unless the liquor is consigned to a holder of a permit authorizing the importation of liquor.

[Acts 1977, 65th Leg., p. 544, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 206.04. **Jurisdiction Ceded to Federal Government**

(a) No person may transport or ship or cause to be transported or shipped any alcoholic beverage into any area in this state in which the state has ceded

police jurisdiction to the federal government or any of its agencies unless the containers or packages holding those alcoholic beverages have a Texas tax stamp affixed if required by this code.

(b) Common carriers are not required to see that tax stamps are affixed.

[Acts 1977, 65th Leg., p. 544, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 206.05. **Unmutilated Stamps**

No person may possess, buy, sell, or offer to buy or sell any empty carton, case, package, keg, barrel, bottle, or any other kind of alcoholic beverage container on which the state tax stamps have not been mutilated or defaced.

[Acts 1977, 65th Leg., p. 544, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 206.06. **Forgery or Counterfeiting**

(a) In this section, "counterfeit" or "forged" means printed, manufactured or made by, or under the direction of, or issued, sold, or circulated by a person not authorized to do so under the provisions of this code.

(b) No person may forge or counterfeit a stamp provided for in this code or print, engrave, make, issue, sell, circulate, or possess with intent to use, sell, circulate, or pass a forged or counterfeit stamp or place or cause to be placed any forged or counterfeit stamp on any container of alcoholic beverage.

(c) No person may print, engrave, make, issue, sell, or circulate with intent to defraud or knowingly possess a forged or counterfeit permit, license, official signature, certificate, evidence of tax payment, or other instrument.

(d) No person may possess a stamp or a part of a stamp, die, plate, device, machine, or other instrument used or designed for use for forging or counterfeiting any instrument named in Subsection (b) or (c) of this section.

(e) Conviction for an offense defined in this section may be had on the uncorroborated evidence of an accomplice. A court, officer, or tribunal having jurisdiction of an offense defined in this section or any district or county attorney may subpoena any person and compel his attendance as a witness to testify as to the violation of any provision of this section. Any person so summoned and examined is immune from prosecution for the violation of any provision of this section about which he may testify.

(f) A person who violates any provision of this section commits a felony punishable by imprisonment in the penitentiary for not less than 2 nor more than 20 years.

[Acts 1977, 65th Leg., p. 544, ch. 194, § 1, eff. Sept. 1, 1977.]

§ 206.07. **Payment of Tax by Mail**

(a) The payment of any tax imposed by this code is timely made if not later than the date on which

payment is due the tax is mailed to the commission in an envelope with the proper address and postage and is received by the commission not later than the 10th day after the date on which it was due.

(b) A legible postmark made by the United States Postal Service is prima facie evidence of the date of mailing.

[Added by Acts 1979, 66th Leg., p. 1965, ch. 777, § 1, eff. Aug. 27, 1979.]

## TITLE 6. LOCAL OPTION ELECTIONS

### CHAPTER 251. LOCAL OPTION ELECTIONS

#### SUBCHAPTER A. MANNER OF CALLING ELECTION

Section	
251.01.	Election to be Held.
251.02.	Qualifications for Political Subdivision to Hold Election.
251.03.	Application for Petition.
251.04.	Heading, Statement, and Issue on Application for Petition to Prohibit.
251.05.	Heading, Statement, and Issue on Application for Petition to Legalize.
251.06.	Petition Requirements.
251.07.	Heading and Statement on Petition to Prohibit.
251.08.	Heading and Statement on Petition to Legalize.
251.09.	Copies of Petition.
251.10.	Verification of Petition.
251.11.	Requirements to Order Election.
251.12.	Record in Minutes.
251.13.	Issues to Appear in Order for Election.
251.14.	Issues.
251.15.	Issue on Mixed Beverages.
251.16.	Evidence of Validity.
251.17.	Frequency of Elections.

#### SUBCHAPTER B. ELECTION

251.31.	Conform to General Election Laws.
251.32.	Notice of Election.
251.33.	Time of Election.
251.34.	Voting Places.
251.35.	Appointment of Election Judges, Clerks, and Watchers.
251.36.	Public School of Instruction.
251.37.	Number of Ballots Furnished.
251.38.	Issue on Ballot.
251.381.	Methods of Voting.
251.39.	Repealed.
251.40.	County to Pay Election Expense.
251.41.	Financing Election.

#### SUBCHAPTER C. PROCEDURE FOLLOWING ELECTION

251.51.	Canvass of Votes; Declaration of Result.
251.511.	Recount: Paper Ballots.
251.512.	Recount: Voting Systems.
251.52.	Order Prima Facie Evidence.
251.53.	Certification of Result.
251.54.	Posting Order Prohibiting Sale.
251.55.	Election Contest.

#### SUBCHAPTER D. MISCELLANEOUS LOCAL OPTION PROVISIONS

251.71.	Wet and Dry Areas.
251.72.	Change of Status.
251.73.	Prevailing Status: Resolution of Conflicts.
251.74.	Airport and Stadium as Wet Areas.
251.741.	Certain Airports as Wet Areas.

Section	
251.75.	Continuance of Operation as Manufacturer or Brewer.
251.76.	Continuance of Operation as Distiller.
251.77.	Continuance of Operation as Distributor.
251.78.	Continuance of Operation as Wholesaler.
251.79.	Areas in Which Certain Permits and Licenses May be Issued.

#### SUBCHAPTER A. MANNER OF CALLING ELECTION

##### § 251.01. Election to be Held

On proper petition by the required number of voters of a county, or of a justice precinct or incorporated city or town in the county, the commissioners court shall order a local option election in the political subdivision to determine whether or not the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized in the county, justice precinct, or incorporated city or town.

[Acts 1977, 65th Leg., p. 546, ch. 194, § 1, eff. Sept. 1, 1977.]

##### § 251.02. Qualifications for Political Subdivision to Hold Election

(a) A political subdivision must have been in existence for at least 18 months before holding a local option election to legalize or prohibit the sale of liquor. The political subdivision must include substantially all the area encompassed by the subdivision at the time of its creation and may include any other area subsequently legally annexed by or added to the political subdivision.

(b) Subsection (a) of this section does not apply to a city or town incorporated before December 1, 1971.

[Acts 1977, 65th Leg., p. 546, ch. 194, § 1, eff. Sept. 1, 1977.]

##### § 251.03. Application for Petition

If 10 or more qualified voters of any county, justice precinct, or incorporated city or town file a written application, the county clerk of the county shall issue to the applicants a petition to be circulated among the qualified voters of that political subdivision for the signatures of those qualified voters in the area who desire that a local option election be called in that area for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized in the political subdivision.

[Acts 1977, 65th Leg., p. 546, ch. 194, § 1, eff. Sept. 1, 1977.]

##### § 251.04. Heading, Statement, and Issue on Application for Petition to Prohibit

An application for a petition seeking an election to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed: "Application for Local Option Election Petition to Prohibit." The application shall contain a statement just ahead of the signatures of

the applicants, as follows: "It is the hope, purpose and intent of the applicants whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above." The petition shall clearly state the issue to be voted on, and that issue must be one of those issues set out in Section 251.14 of this code.

[Acts 1977, 65th Leg., p. 547, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.05. Heading, Statement, and Issue on Application for Petition to Legalize**

An application for a petition seeking an election to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed: "Application for Local Option Election Petition to Legalize." The application shall contain a statement just ahead of the signatures of the applicants, as follows: "It is the hope, purpose and intent of the applicants whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above." The petition shall clearly state the issue to be voted on, and that issue must be one of those issues set out in Section 251.14 of this code.

[Acts 1977, 65th Leg., p. 547, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.06. Petition Requirements**

Each petition shall show the date it is issued by the county clerk and be serially numbered. Each page of a petition shall bear the same date and serial number and the actual seal of the county clerk rather than a facsimile of that seal.

[Acts 1977, 65th Leg., p. 547, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.07. Heading and Statement on Petition to Prohibit**

The petition for a local option election seeking to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Petition for Local Option Election to Prohibit." The petition shall contain a statement just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above." The petition must clearly state the issue to be voted on, and that issue must be one of those issues set out in Section 251.14 of this code.

[Acts 1977, 65th Leg., p. 547, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.08. Heading and Statement on Petition to Legalize**

The petition for a local option election seeking to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be headed "Petition for Local Option Election to Legalize." The petition shall contain a statement

just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above." The petition must clearly state the issue to be voted on, and that issue must be one of those issues set out in Section 251.14 of this code.

[Acts 1977, 65th Leg., p. 547, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.09. Copies of Petition**

(a) The county clerk shall supply as many copies of the petition as may be required by the applicants but not to exceed more than one page of the petition for every 10 registered voters in the county, justice precinct, or incorporated city or town. Each copy shall bear the date, number, and seal on each page as required on the original petition.

(b) The county clerk shall keep a copy of each petition and a record of the applicants for that petition.

[Acts 1977, 65th Leg., p. 548, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.10. Verification of Petition**

(a) The county clerk shall check the names of the signers of petitions and the voting precincts in which they reside to determine whether the signers of the petition were qualified voters of the county, justice precinct, or incorporated city or town at the time the petition was issued. The county clerk shall certify to the commissioners court the number of qualified voters signing the petition.

(b) No signature may be counted, either by the county clerk or commissioners court, where there is reason to believe that:

- (1) it is not the actual signature of the purported signer;
- (2) the voter registration certificate number is not correct;
- (3) the voter registration certificate number is not in the actual handwriting of the signer;
- (4) it is a duplication either of a name or of handwriting used in any other signature on the petition;
- (5) the residence address of the signer is not correct or is not in the actual handwriting of the signer; or
- (6) the name of the voter is not signed exactly as it appears on the official copy of the current list of registered voters for the voting year in which the petition is issued.

[Acts 1977, 65th Leg., p. 548, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.11. Requirements to Order Election**

The commissioners court, at its next regular session after the petition is filed, shall order a local option election to be held on the issue set out in the

petition if the petition is filed with the county clerk not later than 30 days after it is issued and bears in the actual handwriting of the signers the following:

(1) the actual signatures of a number of qualified voters of the political subdivision equal to 35 percent of the votes cast in the subdivision for governor in the last preceding general election for that office;

(2) a notation showing the residence address of each of the signers; and

(3) each signer's voter registration certificate number.

[Acts 1977, 65th Leg., p. 548, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 251.12. Record in Minutes

The date a petition is presented, the names of the signers, and the action taken with respect to the petition shall be entered in the minutes of the commissioners court.

[Acts 1977, 65th Leg., p. 548, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 251.13. Issues to Appear in Order for Election

(a) The order for the election shall state in its heading and text whether the local option election to be held is for the purpose of prohibiting or legalizing the sale of the alcoholic beverages set out in the issue recited in the application and petition.

(b) The order shall state the issue to be voted on in the election.

[Acts 1977, 65th Leg., p. 548, ch. 194, § 1, eff. Sept. 1, 1977.]

### § 251.14. Issues

(a) In the ballot issues prescribed in this section, "wine" is limited to vinous beverages that do not contain more than 14 percent alcohol by volume and includes malt beverages that do not exceed that alcohol content. For local option purposes, those beverages, sold and dispensed to the public in unbroken, sealed, individual containers, are a separate and distinct type of alcoholic beverage.

(b) In areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more of the prohibited types or classifications, the ballot shall be prepared to permit voting for or against one of the following issues:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(7) "The legal sale of all alcoholic beverages including mixed beverages."

(8) "The legal sale of mixed beverages."

(c) In areas where the sale of all alcoholic beverages including mixed beverages has been legalized, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory election:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(7) "The legal sale of all alcoholic beverages including mixed beverages."

(8) "The legal sale of mixed beverages."

(d) In areas where the sale of all alcoholic beverages except mixed beverages has been legalized, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory elections:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(e) In areas where the sale of beverages containing alcohol not in excess of 14 percent by volume has been legalized, and those of higher alcoholic content are prohibited, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory election:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(f) In areas where the sale of beer containing alcohol not exceeding four percent by weight has been legalized, and all other alcoholic beverages are prohibited, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory election:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(g) In an area where the sale of a particular type of alcoholic beverage has been legalized only for off-premises consumption, no alcoholic beverage may be consumed on the licensed premises and no type of alcoholic beverage other than the type legalized may be sold.

[Acts 1977, 65th Leg., p. 549, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1156, ch. 560, § 1, eff. Sept. 1, 1979.]

Section 8(a) of the 1979 amendatory act provided:

"(a) If the commissioners court of a county before the effective date of this Act entered an order for an election under Chapter 251, Alcoholic Beverage Code, and the date set for the election falls on or after the effective date of this Act, the officials conducting the election may prepare the ballot and conduct the election under the law as it existed on the date that the order was entered or under the law as it exists on or after the effective date of this Act."

**§ 251.15. Issue on Mixed Beverages**

(a) No local option election affects the sale of mixed beverages unless the proposition specifically mentions mixed beverages.

(b) In any legalization or prohibitory local option election where any shade or aspect of the issue submitted involves the sale of mixed beverages, any other type or classification of alcoholic beverage that was legalized prior to the election remains legalized without regard to the outcome of that election on the question of mixed beverages.

[Acts 1977, 65th Leg., p. 550, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.16. Evidence of Validity**

The commissioners court order for election is prima facie evidence of compliance with all provisions necessary to give the order validity or to give the commissioners court jurisdiction to make it valid.

[Acts 1977, 65th Leg., p. 551, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.17. Frequency of Elections**

No local option election on a particular issue may be held in a political subdivision until one year has elapsed since the last local option election in that subdivision on that issue.

[Acts 1977, 65th Leg., p. 551, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 251.18 to 251.30 reserved for expansion]

**SUBCHAPTER B. ELECTION**

**§ 251.31. Conform to General Election Laws**

(a) The officers holding the local option election shall conform to the general laws regulating elections unless otherwise provided in this chapter.

(b) The votes shall be counted after the polls are closed and the report of the election submitted to the commissioners court within 24 hours after the closing of the polls.

[Acts 1977, 65th Leg., p. 551, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.32. Notice of Election**

The county clerk shall post or cause to be posted at least one copy of the election order in each precinct of the county, justice precinct, or incorporated city or town affected. The notice shall be posted at least six days prior to election day.

[Acts 1977, 65th Leg., p. 551, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.33. Time of Election**

The election must be held on a day not less than 20 nor more than 30 days after the date of the commissioners court order for an election.

[Acts 1977, 65th Leg., p. 551, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.34. Voting Places**

(a) The election shall be held at a voting place in each regular county election precinct as established by the commissioners court inside the affected territory if the election is for the entire county or for a justice precinct.

(b) The election shall be held at a voting place in each election precinct established by the governing body of the city or town for its municipal elections if the election is for an incorporated city or town. If the governing body of a city or town has not established precincts for its municipal elections, the commissioners court shall prescribe the election precincts for the local option election under the rules governing establishment of precincts for municipal elections.

(c) The election shall be held at the customary polling place in each election precinct. If the customary polling place is not available, the commissioners court shall designate another polling place.

(d) The order for the election shall state the polling place for each election precinct and the precinct numbers of county precincts included in each municipal election precinct if the election is for an incorporated city or town.

[Acts 1977, 65th Leg., p. 551, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.35. Appointment of Election Judges, Clerks, and Watchers**

(a) Election judges, clerks, and watchers shall be qualified voters of the election precinct in which they are named to serve.

(b) Appointment of election judges and clerks shall be in accordance with the general election laws.

(c) Election watchers may be appointed in accordance with general law, but they must be qualified voters of the election precinct where they serve.

[Acts 1977, 65th Leg., p. 551, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.36. Public School of Instruction**

(a) The county judge shall cause to be held a public school of instruction for those who actually conduct the election at the polling places not less than three days before the local option election.

(b) The county clerk shall post in his office a notice of the time and place of the school at least 48 hours before it is held.

(c) The county clerk shall notify each presiding judge of the time and place where the school is to be held.

(d) Each presiding judge shall notify each appointed clerk and watcher of the election in his precinct of the time and place of the school.

(e) This school will be open to any interested person.

[Acts 1977, 65th Leg., p. 552, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.37. Number of Ballots Furnished**

The county clerk shall furnish the presiding judge of each election precinct with at least the number of ballots equal to the number of qualified voters in the precinct plus 10 percent of that number of voters. [Acts 1977, 65th Leg., p. 552, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1158, ch. 560, § 2, eff. Sept. 1, 1979.]

**§ 251.38. Issue on Ballot**

(a) The issue ordered to appear on the ballot for an election ordered by the commissioners court shall be the same as that applied for and set out in the petition.

(b) The issue appropriate to the election shall be printed on the ballot in the exact language stated in Section 251.14 of this code.

[Acts 1977, 65th Leg., p. 552, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1158, ch. 560, § 2, eff. Sept. 1, 1979.]

**§ 251.381. Methods of Voting**

Voting may be conducted by:

(1) paper ballot;

(2) voting machine, electronic voting system, or any other voting system approved for use in accordance with the Texas Election Code; or

(3) any combination of the methods of voting authorized by Subdivision (1) or (2) of this section that conforms to applicable requirements of the Texas Election Code.

[Added by Acts 1979, 66th Leg., p. 1158, ch. 560, § 3, eff. Sept. 1, 1979.]

**§ 251.39. Repealed by Acts 1979, 66th Leg., p. 1160, ch. 560, § 7, eff. Sept. 1, 1979**

*The repealed section, relating to marking ballots, was derived from Acts 1977, 65th Leg., p. 552, ch. 194, § 1.*

**§ 251.40. County to Pay Election Expense**

(a) The county shall pay the expense of holding a local option election authorized by this code in the county, justice precinct, or incorporated city or town in that county, subject to the limitations in this section.

(b) County expense is limited to the holding of one election in each of the political subdivisions in Subsection (a) of this section in a one-year period where the intent of the election is to legalize the sale of alcoholic beverages. County expense is limited to the holding of one election in each of the political subdivisions in Subsection (a) of this section in a one-year period where the intent of the election is to prohibit the sale of alcoholic beverages.

(c) All other local option elections shall be paid by the county from funds derived by the county as prescribed in Section 251.41 of this code.

[Acts 1977, 65th Leg., p. 553, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.41. Financing Election**

(a) If under Section 251.40 of this code the county is not required to pay the cost of the election, the county clerk shall require a deposit before the issuance of a petition for a local option election.

(b) The deposit must be in the form of a cashier's check in the total amount of 25 cents per voter listed on the current list of registered voters residing in the county, justice precinct, or incorporated city or town where the election is to be held.

(c) The money received shall be deposited in the county's general fund. No refund may be made to the applicants regardless of whether the petition is returned to the county clerk or the election is ordered.

(d) The county clerk may not issue a petition to the applicants unless the deposit is made, if a deposit is required by this code.

(e) A violation of Subsection (d) of this section is a misdemeanor punishable by a fine of not less than \$200 nor more than \$500, or confinement in the county jail for not more than 30 days, or both. [Acts 1977, 65th Leg., p. 553, ch. 194, § 1, eff. Sept. 1, 1977.]

[Sections 251.42 to 251.50 reserved for expansion]

**SUBCHAPTER C. PROCEDURE FOLLOWING ELECTION****§ 251.51. Canvass of Votes; Declaration of Result**

(a) On the fifth day after the election, or as soon after the fifth day as practicable, the commissioners court shall meet in special session to canvass the returns. On completing the canvass, the commissioners court shall make an order declaring the result and cause the clerk of the commissioners court to record the order as provided by law.

(b) If, in a prohibitory election, a majority of the votes cast favor the issue "Against the legal sale . . .," the court's order must state that the sale of the type or types of beverages stated in the issue at the election is prohibited effective 30 days after the order is entered. The prohibition remains in effect until changed by a subsequent local option election held under this code.

(c) If, in a legalization election, a majority of the votes cast favor the issue "For the legal sale . . .," the legal sale of the type or types of beverages stated in the issue at the election is legal on the entering of the court's order. The legalization remains in effect until changed by a subsequent local option held under this code.

(d) The local option status of a subdivision is not changed if:

(1) in a prohibitory election, a majority of the votes cast favor the issue "For the legal sale . . ."; or

(2) in a legalization election, a majority of the votes cast favor the issue "Against the legal sale . . ."

[Acts 1977, 65th Leg., p. 553, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.511. Recount: Paper Ballots**

(a) A recount of the paper ballots may be obtained on the following grounds:

(1) the difference between the number of votes cast on the winning and losing sides of the measure is less than five percent of the number of votes cast on the winning side; or

(2) affidavit by an election judge and certification by the secretary of state that votes were miscounted, as provided by the Texas Election Code for a recount of paper ballots in a general election.

(b) The recount must be requested in writing by at least 25 registered voters of the territory covered by the election. To be valid, a request must contain the signature, residence address, and voter registration number of the requestor and be filed in accordance with the procedure for requesting a recount in a general election. A single document may contain the requests of more than one requestor.

(c) Except as otherwise provided by this section, the provisions of the Texas Election Code regulating the recount of paper ballots apply to a recount under this section with appropriate changes to account for the fact that the election is on a measure instead of for a public office.

[Added by Acts 1979, 66th Leg., p. 1158, ch. 560, § 4, eff. Sept. 1, 1979.]

Section 8(b) of the 1979 amendatory act provided: "The provisions of this Act relating to election recounts apply to any local option election held on or after the effective date of this Act. Those provisions do not apply to an election held before the effective date of this Act."

**§ 251.512. Recount: Voting Systems**

A recheck of the results registered on a voting machine, recount of the results of voting by an electronic voting system or an examination of the electronic system program, or a recount of the results of voting by any other method of voting other than paper ballot shall be conducted in the same manner as in a general election.

[Added by Acts 1979, 66th Leg., p. 1158, ch. 560, § 4, eff. Sept. 1, 1979.]

Nonapplication of provisions of this section to elections held before September 1, 1979, see note under § 251.511.

**§ 251.52. Order Prima Facie Evidence**

The order of the commissioners court declaring the result of the election is prima facie evidence that all provisions of law have been complied with in giving notice of and holding the election, counting and returning the votes, and declaring the result of the election.

[Acts 1977, 65th Leg., p. 554, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.53. Certification of Result**

Within three days after the result of a local option election has been declared, the county clerk shall certify the result to the secretary of state and the commission. The clerk may not charge a fee for this service.

[Acts 1977, 65th Leg., p. 554, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.54. Posting Order Prohibiting Sale**

A commissioners court order declaring the result of a local option election and prohibiting the sale of any or all types of alcoholic beverages must be published by posting the order at three public places in the county or other political subdivision in which the election was held. The posting of the order shall be recorded in the minutes of the commissioners court by the county judge. The entry in the minutes or a copy certified under the hand and seal of the county clerk is prima facie evidence of posting.

[Acts 1977, 65th Leg., p. 554, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.55. Election Contest**

(a) A qualified voter of the county, justice precinct, or incorporated city or town where a local option election is held may contest the election any time within 30 days after the result of that election is declared.

(b) The enforcement of local option laws in the political subdivision in which the election is being contested is not suspended during the election contest.

(c) The district court of the county in which the election is held has original and exclusive jurisdiction of all suits to contest the election. The district court has jurisdiction to try and determine all matters connected with the election. If it appears from the

evidence that such irregularities existed in bringing about or holding the election that the true result of the election is impossible to determine or the result is very doubtful, the court shall hold the election to be void and order the proper officer to order another election to be held by having a certified copy of the judgment and order of the court to be delivered to that officer.

(d) The election contest is conducted in the same manner as an election contest of a general election.

(e) Election contests have precedence in the appellate courts.

(f) The result of an election contest finally settles all questions relating to the validity of that election. No person may call the legality of that election in question again in any other suit or proceeding.

(g) If no election contest is instituted within the 30-day time limit, it is conclusively presumed that that election is valid and binding in all respects upon all courts.

[Acts 1977, 65th Leg., p. 554, ch. 194, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2637, ch. 707, § 20, eff. Aug. 31, 1981.]

[Sections 251.56 to 251.70 reserved for expansion]

#### SUBCHAPTER D. MISCELLANEOUS LOCAL OPTION PROVISIONS

##### § 251.71. Wet and Dry Areas

(a) An area is a "dry area" as to an alcoholic beverage of a particular type and alcohol content if the sale of that beverage is unlawful in the area. An area is a "wet area" as to an alcoholic beverage of a particular type and alcoholic content if the sale of that beverage is lawful in the area.

(b) Those areas that are wet or dry when this code takes effect retain that status until the status of the area is changed as provided in this code.

(c) All trial courts of this state shall take judicial notice of the wet or dry status of an area in a criminal prosecution.

(d) In an information, complaint, or indictment, an allegation that an area is a dry area as to a particular type of alcoholic beverage is sufficient, but a different status of the area may be urged and proved as a defense.

[Acts 1977, 65th Leg., p. 555, ch. 194, § 1, eff. Sept. 1, 1977.]

##### § 251.72. Change of Status

Except as provided in Section 251.73 of this code, an authorized voting unit that has exercised or may exercise the right of local option retains the status adopted, whether absolute prohibition or legalization of the sale of alcoholic beverages of one or more of the various types and alcoholic contents on which an issue may be submitted under the terms of Section 251.14 of this code, until that status is changed by a

subsequent local option election in the same authorized voting unit.

[Acts 1977, 65th Leg., p. 555, ch. 194, § 1, eff. Sept. 1, 1977.]

##### § 251.73. Prevailing Status: Resolution of Conflicts

To insure that each voter has the maximum possible control over the status of the sale of alcoholic beverages in the area where he resides:

(1) the status that resulted from or is the result of a duly called election for an incorporated city or town prevails against the status that resulted from or is the result of a duly called election in a justice precinct or county in which the incorporated city or town, or any part of it is contained; and

(2) the status that resulted or is the result of a duly called election for a justice precinct prevails against the status that resulted from or is the result of a duly called election in an incorporated city or town in which the justice precinct is wholly contained or in a county in which the justice precinct is located.

[Acts 1977, 65th Leg., p. 555, ch. 194, § 1, eff. Sept. 1, 1977.]

##### § 251.74. Airport and Stadium as Wet Areas

(a) This section applies to any county:

(1) that has a population of more than 500,000, according to the most recent federal census;

(2) in which the sale of all alcoholic beverages has been legalized in all or any part of the county; and

(3) where, at the general election on November 3, 1970, the voters approved the constitutional amendment authorizing the sale of mixed beverages on a local option basis.

(b) In a county covered by this section, the commissioners court may designate as an area wet for the sale of mixed beverages only:

(1) the area encompassed by the building structure of a professional sports stadium, used wholly or partly for professional sporting events and having a seating capacity of at least 40,000, and not more than 125 acres of adjacent land used for the benefit of the stadium, regardless of ownership of the land, if no registered voters reside there; and

(2) the area encompassed by a regional airport.

(c) The order of the commissioners court authorizes the issuance of a mixed beverage permit.

[Acts 1977, 65th Leg., p. 555, ch. 194, § 1, eff. Sept. 1, 1977.]

##### § 251.741. Certain Airports as Wet Areas

In addition to those areas declared wet by order of the commissioners court under the authority of Sec-

tion 251.74 of this code, in a county with a population of more than 175,000 according to the most recent federal census where the sale of mixed beverages only is legalized in the most populous city in the county by a local option election held after May 18, 1971, the area actually encompassed by any municipal airport under the jurisdiction of that city is wet for the sale of mixed beverages only. Subsequent local option elections held by that city do not affect the local option status of the airport unless the result of the election prohibits the sale of mixed beverages, in which case the provisions of this section do not apply.

[Added by Acts 1977, 65th Leg., p. 1184, ch. 453, § 14, eff. Sept. 1, 1977.]

**§ 251.75. Continuance of Operation as Manufacturer or Brewer**

Notwithstanding any other provision of this code, if the sale of beer or ale is prohibited in an area by a local option election, a holder of a manufacturer's license or brewer's permit that was issued prior to the election may not be denied an original or renewal manufacturer's license or brewer's permit for the same location on the ground that the local option status of the area prohibits the sale of beer or ale. Except for the right to sell beer or ale contrary to the local option status of the area, the licensee or permittee may engage in all activities authorized by the license or permit, including the manufacturing, brewing, possessing, storing, and packaging of beer or ale, and transporting it to an area where its sale is legal. The licensee or permittee may deliver beer or ale at his licensed premises to a purchaser from outside the state, an authorized carrier, distributor, or class B wholesaler. The purchaser, carrier, distributor, or class B wholesaler may not receive the beer or ale for transportation unless there has first been an order, acceptance, and payment or legal satisfaction of payment in an area where the sale of beer or ale is legal.

[Acts 1977, 65th Leg., p. 556, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.76. Continuance of Operation as Distiller**

Notwithstanding any other provision of this code, a person who has been issued a distiller's permit may not subsequently be denied an original or renewal distiller's permit for the same location on the ground that the sale of distilled spirits has been prohibited in the area by a local option election. A person holding a permit at the time of the election or issued a permit under this section may exercise all privileges granted by this code to the holder of a distiller's permit, including the manufacturing, possessing, storing, packaging, and bottling of distilled spirits

and the transportation of them to areas in which their sale is legal.

[Acts 1977, 65th Leg., p. 556, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.77. Continuance of Operation as Distributor**

(a) Notwithstanding any other provision of this code, if the sale of beer is prohibited by local option election, a licensed distributor of beer whose warehouse or other facilities used in connection with the distributorship are located in the area affected, has the right to continue to operate as a distributor in that area and maintain the necessary premises and facilities for distribution. The distributor continues to enjoy all the rights and privileges incident to distributorship, including the right to possess, store, warehouse, and sell beer in that area, and deliver beer into and out of that area.

(b) A distributor in the area affected may sell or deliver beer only to licensed outlets located where the sale of beer is legal.

[Acts 1977, 65th Leg., p. 556, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.78. Continuance of Operation as Wholesaler**

(a) Notwithstanding any other provision of this code, if the sale of the type or types of liquor authorized to be sold by the holder of a wholesaler's permit whose warehouse or other facility used in connection with the wholesale operation is prohibited in an area by local option election, the holder of the wholesaler's permit shall have the right to continue to operate as a wholesaler in that area and maintain the necessary premises and facilities for the wholesale operation. The wholesaler shall enjoy all the rights and privileges incident to the permit, including the right to possess, store, warehouse, sell, deliver, and receive liquor.

(b) A wholesaler in the area affected may only sell or deliver liquor to permittees located where the sale of liquor is legal.

[Acts 1977, 65th Leg., p. 556, ch. 194, § 1, eff. Sept. 1, 1977.]

**§ 251.79. Areas in Which Certain Permits and Licenses May be Issued**

Notwithstanding any other provision of this code, a wholesaler's permit, general class B wholesaler's permit, local class B wholesaler's permit, or general, local or branch distributor's license may be issued and licensed premises maintained in any area where the sale of any alcoholic beverage is legal. A person issued a permit or license under this section may exercise all rights and privileges of other permittees and licensees of the same class.

[Acts 1977, 65th Leg., p. 557, ch. 194, § 1, eff. Sept. 1, 1977.]

## DISPOSITION TABLE

Showing where provisions of former articles of the Penal Code of 1925  
are covered in the Alcoholic Beverage Code.

P.C. Article	Alcoholic Beverage Code Section		P.C. Article	Alcoholic Beverage Code Section
666-1 -----			666-9 -----	101.05
666-2 -----	1.03		666-10 -----	11.39
666-3 -----	25.09		666-11 -----	11.41
	69.12			11.43
666-3 -----	71.04			11.45
666-3a -----	1.04			11.46
	11.49			11.47
	11.50			11.48
666-4 -----	11.01		666-11a -----	28.03
<b>Subsec.</b>			666-12 -----	11.61
(a-1) -----	109.21			11.68
	109.22		666-12a	
(b) -----	101.31		<b>Subsec.</b>	
(b-1) -----	251.79		(1) -----	11.62
(c) -----	105.06		(2) -----	11.41
(d) -----	105.06		(3) -----	5.43
666-5 -----	5.01		(4) -----	11.63
	5.02			11.65
	5.03		(5) -----	5.45
	5.04			5.47
	5.05			5.48
	5.06			206.02
	5.07(a)		(6) -----	5.12
	5.07(b)		666-12b -----	106.13
	5.08		666-13	
	5.09		<b>Subsec.</b>	
	5.10		(a) -----	11.09
	5.11		(b) -----	11.03
666-5a -----	5.13			11.10
666-5b -----			(c) -----	11.69
666-6			(d) -----	101.04
<b>Subd.</b>			(e) -----	109.52
(a) -----	5.31		(f) -----	28.05
	5.32		666-14 -----	11.67
	5.33			5.17
	5.34		666-15	
(b) -----	5.35		<b>Subd.</b>	
(c) -----	5.36		(1) -----	12.01
(d) -----	5.31			12.02
(e) -----	5.37			37.04
(f) -----	5.38		(1a) -----	13.01
	5.39			13.02
	101.45			13.03
(g) -----	5.41		(2) -----	14.01
666-7 -----	5.44			14.02
666-7a -----	5.42		(3) -----	16.01
666-7b -----	5.14			16.02
666-7c -----	5.15			16.03
666-7d -----	5.16			16.04
666-8 -----	107.07		(4) -----	17.01

ALCOHOLIC BEVERAGE CODE

P.C. Article 666—15 Subd.	Alcoholic Beverage Code Section	P.C. Article 666—15 Subd.	Alcoholic Beverage Code Section
(4)	17.02	(17)	25.10
	17.03		105.04
(5)	15.01	(17)-A	26.01
	15.02		26.02
(6)	11.34		26.03
	19.01		26.04
	19.02		105.04
(7)	20.01	(17a)	11.38
	20.02		27.01
(7a)	21.01		27.02
	21.02		27.03
(7b)	—		27.04
(8)	22.01		27.05
	22.02		27.06
	22.08	(18)	18.01
	22.09		18.02
(9)	24.01		18.03
	24.02	(19)	39.01
	24.04		39.02
	24.08		39.03
(10)	35.01		39.04
	35.02		39.05
	35.03		39.21
	35.04		39.22
	35.05		39.23
	35.06		39.24
(11)	38.01		39.25
	38.02		39.26
	38.03		39.27
	38.04		39.28
	38.05		39.29
	38.06		39.30
(12)	41.01		39.31
	41.02		39.32
	41.03		39.41
	41.04	(20)	40.01
(13)	42.01		40.02
	42.02		40.03
	42.03		40.04
	42.04		40.05
(14)	22.08	(21)(a)	34.01
	24.04	(21)(b)	11.38
	43.01		34.06
	43.02		34.02
	43.03		34.03
	43.04		34.06
	43.05	(21)(c)	34.01
	43.06	(21)(d)	34.04
(15)	46.01	(21)(e)	34.04
	46.02	(21)(f)	34.05
	46.03	(22)(a)	28.01
	46.04	(22)(b)	28.01
(16)	45.01	(22)(c)	28.02
	45.02	(23)(a)	30.02
	45.03		30.03
(17)	11.31	(23)(b)	30.01
	25.01		30.03
	25.02	(23)(c)	30.04
	25.03	(23)(d)	30.05
	25.04	(23)(e)	30.03

## DISPOSITION TABLE

P.C. Article	Alcoholic Beverage Code Section	P.C. Article	Alcoholic Beverage Code Section
666—15		666—15½, subsec. A	
Subd.		Subd.	
(23)(c) -----	30.06	(1) -----	37.01
(24) -----	29.01		37.03
	29.02	(2) -----	37.05
	29.03	(3) -----	37.14
(25)(a) -----	31.01	(4) -----	37.07
	31.03	(5) -----	—
(25)(b) -----	31.03	(6) -----	37.08
	31.04	(7) -----	37.12
(25)(c) -----	31.04	(8) -----	37.06
(25)(d) -----	31.03	(9) -----	37.02
(25)(e) -----	31.02		37.10
666—15a -----	109.51	666—15½, subsec. B -----	36.01
666—15a1 -----	11.04		36.02
	11.38		36.03
	61.36		36.04
666—15b -----	11.02		36.05
	11.36	666—16 -----	204.01
666—15c			204.02
Subsec.			204.03
(1) -----	11.31		204.04
	11.35		204.05
	11.40	666—17	
(2) -----	11.32	Subsec.	
	11.33	(1) -----	22.06
	11.39		22.07
(3) -----	11.08		24.05
	11.07		24.06
666—15d -----	11.42		24.07
666—15e			71.03
Subsec.		(2) -----	22.04
1 -----	32.03		22.05
	32.05	(3) -----	102.07
	32.06	(4) -----	101.71
	32.09	(5) -----	106.09
	32.10	(7) -----	206.05
2 -----	32.14	(8) -----	22.10
3 -----	32.14		24.09
4 -----	32.14	(9) -----	11.68
5 -----	32.01	(10) -----	22.11
	32.03		24.10
	32.07	(11) -----	101.61
	32.12	(12) -----	101.68
5a -----	32.03	(13) -----	103.01
6 -----	11.38	(14)(a) -----	106.02
	32.02		106.04
	32.04		106.05
	32.13	(14)(b) -----	106.06
	32.16	(14)(c) -----	106.06
6a -----	32.15	(14)(d) -----	106.07
7 -----	32.17	(14)(e) -----	106.10
7a -----	32.18		106.11
8 -----	32.02	(14)(f) -----	106.12
9 -----	32.19	(15) -----	101.46
10 -----	32.17		101.47
11 -----	—	(16) -----	104.02
(12) -----	32.11	(17) -----	11.68
13 -----	11.38		61.84
666—15f -----	33.01	(18) -----	107.03
	33.02		107.05
	33.03	(19) -----	101.65

ALCOHOLIC BEVERAGE CODE

P.C. Article	Alcoholic Beverage Code Section	P.C. Article	Alcoholic Beverage Code Section
666—17		666—20d	
Subsec.		Subsec.	
(20) -----	206.03	(b) -----	202.02
(21) -----	106.08	(c) -----	202.01
(22) -----	11.06		202.06
	22.03	(d) -----	202.03
	24.03		202.05
	43.07	(c)(1) -----	202.04
(23) -----	11.05		205.02
(24) -----	35.07	(c)(2) -----	202.10
	36.07		205.03
(25) -----	—	(e)(3) -----	205.03
(26) -----	104.03	(f) -----	204.01
(27) -----	37.09		204.02
(28) -----	102.09		204.03
	102.10	(g) -----	202.11
(29) -----	102.08	(h) -----	202.09
(30) -----	11.61	(i) -----	202.07
(31) -----	11.68	(j) -----	202.08
(32) -----	201.82	(k) -----	202.12
(33) -----	107.05	(l) -----	202.12
	206.04	(m) -----	202.13
(34) -----	102.06	666—20e -----	19.03
(35) -----	102.03		19.04
	102.04		23.01
(36) -----	101.64		23.02
(37) -----	28.12		23.03
	102.31		23.05
	102.32		23.06
			28.01
666—17a			28.07
Subsec.			32.01
(1) -----	103.02		32.08
	101.69		36.06
666—17b -----	102.01		37.13
666—18 -----	109.53		44.01
666—19 -----	11.61		44.02
	11.70		44.03
	11.71	666—20e—1 -----	20.01
666—20 -----	101.03		21.01
666—20a			23.01
Subsec.			62.10
(a) -----	201.91		64.03
(b) -----	201.92		65.03
(c) -----	—		66.07
(d) -----	201.94	666—21	
	201.95	Subsec.	
	201.96	(1) -----	201.03
(e) -----	201.97		201.04
(f) -----	201.93		201.42
666—20b		(2) -----	201.02
Subsec.			201.41
(a) -----	28.08	(3) -----	201.05
(b) -----	28.09		201.06
(c) -----	28.09		201.07
(d) -----	28.09		201.10
(e) -----	28.09		201.11
(f) -----	28.10		201.12
(g) -----	28.10		201.15
666—20c -----	28.06		204.01
666—20d			204.02
Subsec.			204.03
(a) -----	202.01		

## DISPOSITION TABLE

P.C. Article	Alcoholic Beverage Code Section	P.C. Article	Alcoholic Beverage Code Section
666—21		666—27	
<b>Subsec.</b>		<b>Subsec.</b>	
(3) -----	205.02	(a) -----	107.01
(4) -----	201.08	(b) -----	102.16
	201.11	666—27½ -----	102.17
(5) -----	201.71	666—28 -----	206.06
	201.80	666—29 -----	101.70
(6) -----	201.14	666—30	
	201.50	<b>Subsec.</b>	
(7) -----	201.16	(a) -----	103.06
666—21a -----	201.71		103.07
	201.78		103.08(a)
	201.81		103.08(b)
666—21b -----	201.77		103.08(c)
666—21c -----	206.01		103.08(d)
666—21d -----	—		103.09(a)
666—21e -----	5.39		103.09(b)
	201.17		103.09(c)
			103.09(d)
666—21⅘			103.10
<b>Subsec.</b>			103.12
c -----	201.48		103.20(a)
	203.10		103.21
666—21¼ -----	—	(b) -----	103.05(a)
666—21⅓ -----	201.79		103.05(b)
666—21½ -----	—		103.05(c)
666—23 -----	251.71		103.05(d)
	251.74		103.05(e)
			103.11(a)
666—23a			103.11(b)
<b>Subsec.</b>			103.23
(1) -----	107.08	666—31 -----	101.02
(2) -----	101.32		101.07
(3) -----	41.01		101.08
	42.01	666—32 -----	251.01
(4) -----	107.07		251.03
(5) -----	22.01		251.04
	102.05		251.05
(6) -----	101.10		251.06
(7) -----	101.10		251.07
(8) -----	101.06		251.08
666—24 -----	109.31		251.09
666—25			251.10
<b>Subsec.</b>			251.11
(a) -----	22.08		251.12
	105.01		251.13
	105.02		251.17
(b) -----	105.03		251.38
(c) -----	105.03		251.72
(d) -----	105.03		251.73
(e) -----	105.03	666—32½	
(f) -----	201.09	<b>Subsec.</b>	
	201.13	(a) -----	251.40
	201.45	(b) -----	251.41
	201.47	666—33 -----	251.13
666—25a -----	109.33		251.16
666—26			251.33
<b>Subsec.</b>			251.34
(a) -----	106.09		251.35
(b) -----	106.03		251.36
	101.63	666—34 -----	251.32

ALCOHOLIC BEVERAGE CODE

P.C. Article	Alcoholic Beverage Code Section	P.C. Article	Alcoholic Beverage Code Section
666—35		666—46	205.01
Subsec.			205.02
(a)	251.37	666—47	—
(b)	251.37	666—48	5.49
	251.39	666—49	—
666—36	251.31	666—49a	22.12
666—37			24.11
Subsec.			28.11
(a)	251.51		39.42
	251.52	666—50	108.02
(b)	251.77	666—51	—
(c)	251.78	666—51a	101.62
(d)	251.78	666—52	22.08
666—38	251.54		24.04
666—39	251.51		42.05
	251.52	666—53	101.68
	251.53	666—54	11.37
666—40			61.37
Subsec.		666—56	37.11
(a)	251.01	666—57	12.03
(b)	251.14		62.06
(c)	251.14		62.09
(d)	251.14		251.75
(e)	251.14	666—58, as added by	
(f)	251.14	Acts 62nd, Ch. 65	28.04
(g)	251.14	666—58, as added by	
(h)	251.14	Acts 62nd, Ch. 531	36.08
(i)	251.15	Acts 62nd, Ch. 531	109.01
666—40a	251.55		109.02
666—40b	251.02		109.03
666—41	1.05		109.04
666—41a	101.09		109.05
	251.53		109.06
	251.71		109.07
666—41b	11.64	666—60	
	11.66	Subsec.	
	61.72	(a)	251.79
666—42		(b)	22.03
Subsec.			23.04
(a)	103.03		43.04
	103.04	(c)	28.07
	103.06		32.08
	103.13	(d)	23.01
	103.16	667—1	1.04
(b)	103.14		101.44
	103.15	667—2	1.06
	103.16		101.66
	103.17	667—2a	251.75
	103.20(b)		251.76
	103.22	667—2b	
(c)	103.18	Subsec.	
	103.19	(a)	102.51
	103.21	(b)	102.51
666—43A	11.44	(c)	102.52
666—43B	1.04	(d)	102.53
666—45		667—3	61.01
Subsec.		Subsec.	
(a)	201.72	(a)	62.01
	201.73		62.02
(b)	201.74		62.07
(c)	201.75		
(d)	201.76		

DISPOSITION TABLE

P.C. Article	Alcoholic Beverage Code Section	P.C. Article	Alcoholic Beverage Code Section
667-3		667-5C	25.08
Subsec.			69.08
(a-1)	63.01	667-5D	25.07
	63.02		69.07
	63.03	667-5E	25.05
	63.04		69.05
(b)	64.01	667-5F	25.06
	64.02		69.06
(c)	65.01	667-6	
	65.02	Subsec.	
(d)	66.01	(a)	61.31
	66.02	(b)(1)	61.38
	66.03	(b)(2)	61.38
	66.05	(b)(3)	61.39
	66.06	(c)	61.32
(e)	69.01		61.33
	69.02	(d)	61.32
(e-1)	70.01		61.43
	70.02	(e)	61.32
	70.03		61.31
(e-2)	70.01	(f)	61.34
(f)	71.01	(g)	61.31
	71.02	667-7	
(g)	64.05	Subsec.	
	65.05	(a)	61.03
	66.04		61.48
(h)	61.36		61.49
(i)	62.08	(b)	61.48
(j)	72.01	(c)	61.35
	72.02	(d)	61.04
	72.03		61.09
	72.04	(e)	61.35
	72.05	(f)	61.05
	72.06	(g)	—
(k)(1)	73.01	(h)	61.10
(k)(2)	73.03	(i)	61.41
	73.04	667-7a	65.07
	73.05	667-8	101.41
(k)(3)	73.06		101.44
(k)(4)	73.07	667-9	62.05
(k)(5)	73.08		64.04
(k)(6)	73.09	667-10	105.05
(k)(7)	73.10	667-10 <sup>1</sup> / <sub>2</sub>	109.32
(k)(8)	73.11	667-11	61.35
(k)(9)	61.36	667-12	61.07
	73.02	667-15	
667-3a	107.06	Subsec.	
667-3b	107.07	(a)	61.12
667-4	61.35		69.12
	205.02	(b)	69.04
667-5	61.31	667-16	61.85
	61.42	667-17	104.02
	61.43	667-18	61.35
	61.44	667-19	61.71
	61.45		61.74
	61.46		61.75
	61.47		61.77
	61.50	667-19A	61.76
	62.03	667-19B	104.01
	69.03	667-19C	61.73
667-5A	62.04	667-19D	69.09
667-5B	62.04		69.10

ALCOHOLIC BEVERAGE CODE

P.C. Article	Alcoholic Beverage Code Section
667—19D	69.11
	71.05
	71.06
667—19E	61.11
667—20	61.80
667—21	69.13
667—22	61.78
	61.81
	61.82
	61.84
667—23	203.01
667—23 $\frac{1}{2}$	
Subsec.	
(a)	203.04
	203.07
(b)	203.06
	203.07
(c)	203.07
667—23 $\frac{1}{4}$	203.08
667—23 $\frac{1}{4}$	
Subsec.	
(a)	203.02
(b)	203.03
(c)	203.03
(d)	203.05
	203.07
(e)	67.01
(f)	67.01
	67.02
	67.03
	67.04
	67.05
	67.06
(g)	68.01
	68.02
	68.03
	68.04
	68.05
	68.06
(h)	203.09
(i)	203.12
(j)	204.01
	204.02
	204.03
(k)	203.10
	205.02
(l)	203.11
(m)	203.11
667—23 $\frac{1}{2}$	205.02
667—23a	—
667—24	
Subsec.	
(1)	101.41
	101.42
	101.43

P.C. Article	Alcoholic Beverage Code Section
667—24	
Subsec.	
(1)	101.68
	102.11
	102.12
	102.13
	102.14
	102.15
	108.01
	108.04
	108.05
	108.06
(2)	104.04
(3)	5.40
(4)	—
667—24 $\frac{1}{4}$	102.31
667—24a	
Subsec.	
1	108.51
2	108.03
	108.52
3	108.55
	108.56
4	108.53
	108.54
667—24b	108.07
667—25	
Subsec.	
(a)	107.02
(b)	101.32
(c)	107.04
667—26	—
667—27	101.01
667—28	101.67
667—29	107.06
667—30	5.46
667—31	61.06
667—32	102.02
667—33	
Subsec.	
(a)	201.41
(b)	201.43
(c)	201.43
(d)	201.44
	201.47
(e)	201.49
(f)	201.46
(g)	204.01
	204.02
	204.03
(h)	201.48
	205.02
(i)	201.51
(j)	201.51
(k)	201.51

# INDEX TO ALCOHOLIC BEVERAGE CODE

References are to Sections

## ACCOMPLICES AND ACCESSORIES

Private club registration permit violations, 32.19.  
Testimony, 101.06.

## ACCOUNTS AND ACCOUNTING

Mixed beverage tax, tax account examination, 202.09.

## ACTIONS AND PROCEEDINGS

Alcoholic beverage commission, actions against, venue, 5.17.  
Appeal and Review, generally, this index.  
Beer Industry Fair Dealing Law, 102.79.  
Bonds of permittees, actions on, 11.70.  
Evidence, generally, this index.  
Illicit Beverages, this index.  
Licenses and permits, business or property injury, 11.49.  
Property injury, actions, 11.49.  
Statute of limitations, licenses and permits, business or property injury, 11.49.  
Suspension order, actions restraining, 61.82.  
Tax Collections, this index.

## ADMINISTRATOR

Alcoholic Beverage Commission, this index.

## ADVERSE OR PECUNIARY INTEREST

Alcoholic beverage commission, 5.05.  
Distributors, license refusal, 61.44.  
Prohibited interest in premises, 61.45.  
Manufacturers and manufacturing, 102.18.  
Package store permit, 22.06.  
Retailers, license refusal, 61.44.  
Prohibited interests in premises, 61.45.  
Wine only package store permit, 24.05.

## ADVERTISING

Generally, 108.01 et seq.  
Acts of promotional or courtesy nature, 108.04.  
Alcoholic beverage commission, inspection, supervision and regulation, 5.31.  
Allowance for advertisement or distribution, 108.05.  
Benches, 108.52.  
Deceptive or disparaging advertising, 108.01.  
Distribution allowance, 108.05.  
Forms of advertising prohibited, 108.02.  
Mixed beverage establishment, 108.07.

## ADVERTISING—Cont'd

Outdoor Advertising, generally, this index.  
Premiums, 108.06.  
Prizes, 108.06.  
Promotional activities, regulation, 108.03.  
Rules, promulgation and enforcement, 5.38.

## AFFILIATES

Wholesaler affiliate, liquor manufactured by affiliate, regulation, 102.08.

## AGE

Children and minors, 106.01 et seq.  
Misrepresentation of age, 106.07.

## AGENCIES OF THE STATE

Alcoholic beverage commission, 5.01.

## AGENTS

Licenses and permits, beer licenses, 73.01 et seq.  
Manufacturers agents permits, 36.01 et seq.  
Package stores, relationship with agent or manufacturers agent, 102.06.  
Permits, 35.01 et seq.

## AGENTS FOR SERVICE OF PROCESS

Licenses and permits, agent designation, 61.07.  
Nonresident sellers permits, 37.05.

## AGREEMENTS

Contracts, generally, this index.

## AIDERS AND ABETTORS

Private club registration permit violations, 32.19.  
Testimony, 101.06.

## AIRLINE BEVERAGE PERMITS

Generally, 34.01 et seq.

## AIRLINES

Carrier permits, 41.01 et seq.

## AIRPORTS

Wet area status, 251.74, 251.741.

## ALCOHOL CONTENT

Crimes and offenses, beverages of certain alcohol content, 101.66.

## ALCOHOLIC BEVERAGE COMMISSION

Generally, 5.01 et seq.  
Actions and proceedings, venue, 5.17.  
Administrator, 5.11.  
Assistant administrator, 5.13.  
Duties, 5.12.  
Adverse or pecuniary interest, 5.05.  
Alcoholic beverage code, pamphlet form, distribution, 5.49.  
Appeals to commission, representation, 5.16.  
Appointment, 5.02.  
Administrator, 5.11.  
Assistant administrator, 5.13.  
Assistant attorneys general, commission representation, 5.15.  
Bonds (officers and fiduciaries), 5.10.  
Administrator, 5.11.  
Assistant administrator, 5.13.  
Chairman, 5.04.  
Compensation and salaries, Administrator, 5.11.  
Personnel, 5.10.  
Concurrent duties, administrator, 5.12.  
Conflicts of interest, 5.05.  
Contracts, federal collection of taxes at source, 5.37.  
Costs, security for costs, duty to pay, 5.46.  
Delegation of authority, 5.34.  
Duties of administrator, 5.12 et seq.  
Employees, 5.10.  
Expenses and expenditures, 5.08.  
Members or employees, 5.441.  
Facilities, 5.37.  
Federal collection of taxes at source, 5.37.  
Fees, members or employees, 5.441.  
Gifts, grants, etc., 5.37.  
Hearings, generally, this index.  
Inspectors, 5.14.  
Investigations, 5.36.  
Licenses and Permits, generally, this index.  
Meetings, 5.07.  
Office, location, 5.06.  
Officers and employees, fees and expenses, 5.441.  
Per diem, 5.08.  
Personnel, 5.10.  
Powers and duties, 5.31 et seq.  
Public authority, 5.37.  
Quorum, 5.07.  
Records, code violations, 5.47.  
Reports, 5.09.  
Commission requirements, 5.32.

References are to Sections

**ALCOHOLIC BEVERAGE COMMISSION—Cont'd**  
 Representatives, 5.14.  
 Rules and Regulations, generally, this index.  
 Seizure of beverages, 5.36.  
 Sunset Act, application, 5.01.  
 Terms of office, 5.03.  
 Venue, suits against commission, 5.17.

**ALCOHOLICS**  
 Crimes and offenses, sales to certain persons, 101.63.

**ALE**  
 Defined, 1.04.

**ALE AND MALT LIQUOR TAX**  
 Generally, 201.41 et seq.  
 Taxation, this index.

**ALIENS**  
 Licenses and permits, residency requirement, 1.07.

**ALLOWANCES**  
 Advertisement or distribution allowance, 108.05.

**APPEAL AND REVIEW**  
 Alcoholic beverage commission, appeals to, representation, 5.16.  
 Licenses and Permits, this index.

**APPLICANT**  
 Defined, 1.04, 11.45.

**APPLICATION OF LAW**  
 Generally, 1.06.  
 Industrial permits, 38.05.  
 Wine and beer retailers permit, 25.10, 26.04.

**APPOINTMENTS**  
 Alcoholic beverage commission,  
 Administrator, 5.11.  
 Members, 5.02.

**APPROPRIATIONS**  
 Tax refunds, payment, 201.12.

**ARBITRATION**  
 Beer Industry Fair Dealing Law, 102.77.

**ARREST**  
 Illicit beverages, persons in possession, 103.04.  
 Warrants, arrest without warrant, 101.02.

**ASSETS**  
 Transfer of business assets, Beer Industry Fair Dealing Law, 102.76.

**ASSIGNMENTS**  
 Licenses and permits, 61.04.

**ASSISTANT ADMINISTRATOR**  
 Alcoholic beverage commission, 5.13.

**ASSISTANT ATTORNEYS GENERAL**  
 Alcoholic beverage commission, 5.15.

**ATHLETIC FACILITIES**  
 Manufacturer ownership, 102.02.

**ATTORNEY FEES**  
 Beer Industry Fair Dealing Law actions, 102.79.

**ATTORNEY GENERAL**  
 Alcoholic beverage commission, representation, 5.15.

**AUTHORITY**  
 Alcoholic beverage commission, public authority, 5.37.

**AUTOMOBILES**  
 Motor Vehicles, generally, this index.

**BALLOTS**  
 Local Option Elections, this index.

**BANKRUPTCY**  
 Licenses and permits,  
 Beverages in bulk, disposal, 11.69.  
 Licensee bankruptcy, succession, license use, 61.02.  
 Permittee bankruptcy, succession, permit use, 11.10.

**BANKS**  
 Warehouse receipts, 109.52.

**BARRELS**  
 Containers, generally, this index.  
 Defined, 1.04.

**BARRIERS**  
 Retail establishments, maintaining barriers, 104.02.

**BEER**  
 Defined, 1.04.  
 Industry Fair Dealing Law, 102.71 et seq.

**BEER CONTAINERS**  
 Containers, this index.

**BEER INDUSTRY FAIR DEALING LAW**  
 Generally, 102.71 et seq.

**BEER LICENSES**  
 Hours of sale, 105.05.

**BEER RETAILERS**  
 Wine and Beer Retailer Permits, generally, this index.

**BEER SALES**  
 Festivals and civic celebrations, resale, 109.54.  
 Manufacturers and manufacturing, 62.12.

**BEER TAX**  
 Generally, 203.01 et seq.  
 Taxation, this index.

**BENCHES**  
 Advertising, 108.52.

**BEVERAGES**  
 Secured creditors, intervention, 103.18.

**BILLBOARDS**  
 Defined, 108.51.  
 Outdoor Advertising, generally, this index.

**BILLS OF SALE**  
 Illicit beverages, bill of sale to purchaser, 103.21.

**BLINDS**  
 Retail establishments, maintaining blinds, 104.02.

**BOARDS AND COMMISSIONS**  
 Alcoholic Beverage Commission, generally, this index.

**BONDED WAREHOUSE PERMITS**  
 Generally, 46.01 et seq.

**BONDS (OFFICERS AND FIDUCIARIES)**  
 Generally, 204.01 et seq.  
 Alcoholic Beverage Commission, this index.  
 Amount of bond, 204.03.  
 Cancellation of bond, 204.05.  
 Conditions of bond, 204.02.  
 Forms, 204.02.  
 Illicit beverages, seized vehicles, bonding pending litigation, 103.13.  
 Licenses and permits, 11.70, 11.71.  
 Multiple permits, one bond, 204.04.  
 Nonresident manufacturers license holder, 63.03.  
 Persons required to be bonded, 204.01.

**BOTTLERS PERMITS**  
 Wine, 18.01 et seq.  
 Interest in mixed beverage business, 102.04.  
 Interest in retail liquor outlet premises, 102.03.

**BOTTLES**  
 Containers, generally, this index.

**BOXES**  
 Containers, generally, this index.

**BRANCH DISTRIBUTORS LICENSES**  
 Generally, 66.01 et seq.

**BREACH OF THE PEACE**  
 Medicinal permit, cancellation or suspension, 39.42.  
 Mixed beverage permit, cancellation or suspension, 28.11.  
 Package stores, permit cancellation or suspension, 22.12.  
 Retail beer dealers,  
 Sanctions, 71.09.  
 Suspension or cancellation of license, 69.13.  
 Wine only packaged stores, permit cancellation or suspension, 24.11.

**BREWERS PERMITS**  
 Generally, 12.01 et seq.  
 Ale or malt liquor for export, 12.03.  
 Authorized activities, 12.01.  
 Continuance of operation after local option election, 12.04.  
 Contracts,  
 Sale of liquor, 102.17.  
 Unlawful contracts, 102.16.  
 Fees, 12.02.  
 Nonresidence brewers permits, 13.02.  
 Interest in mixed beverage business, 102.04.

## INDEX TO ALCOHOLIC BEVERAGE CODE

References are to Sections

**BREWERS PERMITS—Cont'd**

Interest in retail liquor outlet premises, 102.03.  
 Manufacturers licenses, 62.06.  
 Nonresident brewers permits, 13.01 et seq.  
 Nonresident sellers permit holder, interest in business, 37.04.  
 Requirements, 11.01.

**BRIBERY**

Commercial bribery, manufacturers or distributors, 102.12.

**BROKERS**

Nonresident sellers permit, 37.03.

**BUILDINGS**

Premises, generally, this index.

**BUSINESS INJURY**

Licenses and permits, actions, 11.49.

**BUSINESS NAMES**

Licenses and permits, 61.05.

**CANCELLATION**

Beer Industry Fair Dealing Law, 102.73, 102.74.  
 Bonds (officers and fiduciaries), 204.05.  
 Licenses and Permits, this index.

**CANVASS OF VOTES**

Local option elections, 251.51.

**CAPACITY**

Containers, this index.

**CARRIERS**

Airline beverage permits, 34.01 et seq.  
 Motor Carriers, generally, this index.  
 Transportation, generally, this index.

**CARTONS**

Containers, generally, this index.

**CASES**

Containers, generally, this index.

**CATERERS PERMITS**

Generally, 31.01 et seq.

**CERTIFICATES AND CERTIFICATION**

Alcoholic beverage commission,  
 Official acts, powers, 5.44.  
 Records, 5.44.  
 Documents, proof of, 5.45.  
 Licenses and Permits, this index.  
 Retailers, license refusal, sales tax permit, 61.42.

**CHAIRMAN**

Alcoholic beverage commission, 5.04.

**CHANGE OF LICENSE OR PERMIT**

Generally, 11.491.

**CHILDREN AND MINORS**

Consumption of alcohol, 106.04.  
 Convictions, expungement, 106.12.  
 Definitions, 106.01.  
 Employment of minors, 106.09.  
 Expungement of conviction, 106.12.  
 Furnishing alcohol to minors, 106.06.  
 Guilty plea, 106.10.

**CHILDREN AND MINORS—Cont'd**

Importation of alcoholic beverages by minors, 106.08.  
 Labor and employment, possession, 106.05.  
 Misrepresentation of age, 106.07.  
 Package stores, presence on premises, 109.53.  
 Possession of alcohol, 106.05.  
 Purchase of alcohol, 106.02, 106.06.  
 Retailers, regulations violation, sanctions, 106.13.  
 Sales to minors, 106.03.  
 Medicinal permits, 39.31.  
 Off-premises retail dealers, 71.03.  
 Trial, presence of parent or guardian, 106.11.

**CHRISTMAS DAY**

Hours of sale, 105.01.

**CHURCHES**

Sacramental wine, 109.51.  
 Sales near churches, regulation, 109.33.

**CITIES**

Local fees authorized, permits, 11.38.  
 Local Option Elections, generally, this index.  
 Regulation of beer and liquor, 109.31 et seq.

**CITIZEN OF TEXAS**

Defined, 1.04.

**CITIZENSHIP**

Permittees, 109.53.

**CIVIC CELEBRATIONS**

Beer sales, resale, 109.54.

**CIVIL RIGHTS**

Licenses and permits, discrimination, license or permit suspension, 11.611, 61.711.

**CLEARANCE FUND**

Mixed beverage tax clearance fund, 205.03.

**CLUBS**

Private Clubs, generally, this index.

**COLLECTION OF TAXES**

Federal collection at source, 5.37.

**COMMERCIAL BRIBERY**

Manufacturers or distributors, 102.12.

**COMMERCIAL PAPER**

Retail dealers, dishonored checks, license cancellation and suspension, 61.73.  
 Warehouse receipts, 109.52.

**COMMISSIONS**

Boards and Commissions, generally, this index.  
 Defined, 1.04.

**COMMON CARRIERS**

Airline beverage permits, 34.01 et seq.  
 Motor Carriers, generally, this index.  
 Transportation, generally, this index.

**COMMON NUISANCE**

Generally, 101.70.

**COMPENSATION AND SALARIES**

Alcoholic beverage commission,  
 Administrator, 5.11.  
 Personnel, 5.10.  
 Assistant attorneys general, alcoholic beverage commission representation, 5.15.

**COMPETITION**

Beer Industry Fair Dealing Law, 102.71 et seq.

**COMPLAINTS**

Negation of exceptions, 101.05.

**CONFIDENTIAL AND PRIVILEGED INFORMATION**

Private records, 5.48.

**CONFISCATED LIQUOR FUND**

Tax collection expenses, surcharge, 205.04.

**CONFISCATION**

Alcoholic beverage commission, powers, 5.36.

**CONFLICT OF LAW**

Generally, 1.06.

**CONFLICTS OF INTEREST**

Adverse or Pecuniary Interest, generally, this index.

**CONSENT**

Inspection, consent to, 101.04.  
 Permits, unauthorized use, 11.05.

**CONSIGNMENT SALES**

Generally, 101.68.  
 Defined, 1.04.

**CONSPIRACY**

Retailers, 104.03.

**CONSTRUCTION OF CODE**

Generally, 1.02.

**CONSUMERS**

Dealings, prohibited dealings, 102.07.

**CONSUMPTION**

Children and minors, sanctions against retailer permitting, 106.13.  
 Licenses and permits, beverage consumption restrictions, 61.12.  
 Medicinal permits, consumption on premises, 39.25.  
 Minors, children and minors, alcohol consumption, 106.04.  
 Mixed beverage premises, consumption restricted to, 28.10.  
 Package store premises, 22.11.

**CONTAINERS**

Generally, 101.41 et seq.  
 Acceptance, returnable containers of another manufacturer, 101.42.  
 Beer containers,  
 Capacity, 101.44.  
 Deposits, regulation, 5.40.  
 Retail dealers off-premise license, 71.03.  
 Beverage from opened container, wine only package store premises, 24.10.  
 Brewery products, misbranding, 101.43.

# INDEX TO ALCOHOLIC BEVERAGE CODE

500

References are to Sections

## CONTAINERS—Cont'd

- Capacity,
  - Beer containers, 101.44.
  - Liquor containers, minimum capacities, 101.46.
  - Wine containers, maximum capacity, 101.45.
- Carriers,
  - Liquor transportation, small containers, use, 101.47.
  - Use of small containers, 101.47.
- Importation of beer, holder of manufacturer's license, 62.07.
- Labels and labeling, 101.41.
  - Brewery products, misbranding, 101.43.
- Liquor containers,
  - Minimum capacities, 101.46.
  - Regulation, 5.39.
- Miniature containers, wholesalers permit, 19.04.
- Opening,
  - Package store premises, 22.10.
  - Wine only package store premises, 24.09.
- Refilling, mixed beverage permit holder, 28.08.
- Returnable containers, acceptance by another manufacturer, 101.42.
- Size, local distributors permit, 23.05.
- Taxation, metric containers, 201.17.
  - Ale and malt liquor tax, 201.52.
- Wine containers, maximum capacity, 101.45.

## CONTEMPT

- Alcoholic beverage commission, hearings, 5.44.

## CONTEST OF ELECTION

- Local option elections, 251.55.

## CONTESTS

- Licenses and permits, contested license applications, 61.39.

## CONTRACTS

- Beer Industry Fair Dealing Law, 102.71 et seq.
- Exclusive outlet agreements, brewery products, manufacturers or distributors, 102.13.
- Federal collection of taxes at source, 5.37.
- Sale of liquor, 102.17.
- Unlawful contracts, 102.16.

## CONVICTION OF CRIME

- Children and minors, expungement of conviction, 106.12.
- Reports, 101.09.

## COPIES

- Alcoholic beverage code, pamphlet form, distribution, 5.49.

## CORRECTIONS

- Licenses and permits, corrected permits, 11.07.

## COSTS

- Beer Industry Fair Dealing Law arbitration proceedings, 102.77.
- Illicit beverages, forfeiture actions, 103.22.
- Security for cost, alcoholic beverage commission duty, 5.46.

## COUNTERFEITING

- Generally, 206.06.

## COUNTIES

- Local Option Elections, generally, this index.
- Regulation of alcoholic beverages, 109.32, 109.33.

## COUNTY COURT

- Duties of court, 101.08.

## COUNTY JUDGES

- Licenses and permits,
  - Application for licenses, hearings, 61.32.
  - Permit applications, notice, 11.40.

## COURTS

- County courts, duties, 101.08.

## CRATES

- Containers, generally, this index.

## CREDIT TRANSACTIONS

- Generally, 102.31, 102.32.
- Retail dealers, credit purchases, license cancellation and suspension, 61.73.

## CREDITS

- Tax credits, 201.11.
  - Ale and malt liquor tax, 201.47.

## CRIMES AND OFFENSES

- Generally, 1.05, 101.01 et seq.
- Alcoholic beverage commission, rules, violations, 5.42.

### Arrest,

- Illicit beverages, person in possession of, 103.04.
- Without warrants, 101.02.

### Beverages,

- Certain alcohol content, 101.66.
- Made from certain materials, 101.65.
- Breach of the Peace, generally, this index.

- Civil rights, discrimination, license or permit suspension, 11.611, 61.711.

### Code violations, 101.61.

- Commercial bribery, manufacturers or distributors, 102.12.

### Common nuisance, 101.70.

- Complaints, negation of exceptions, 101.05.

### Consignment sales, 101.68.

### Conspiracy, retailers, 104.03.

### Conviction of crime,

- Children and minors, expungement of conviction, 106.12.
- Reports, 101.09.

### Counterfeiting, 206.06.

- Discrimination, civil rights, license or permit suspension, 11.611, 61.711.

### False representations, 101.69.

### Forgery, 206.06.

### Fraud, 101.69.

- History information, administration of code, 5.36.

### Illicit beverages, 103.01 et seq.

- Indecent graphic materials, display, 101.64.

- Indictments and informations, negation of exceptions, 101.05.

- Information, criminal history information, administration of code, 5.36.

## CRIMES AND OFFENSES—Cont'd

- Inspection of vehicles, refusal, 101.71.
- Misrepresentation, 101.69.
- Nuisance, common nuisance, 101.70.
- Offensive noise on premises, 101.62.
- Private club registration permit violations, 32.19.
- Reports, convictions, 101.09.
- Rule violations, 5.42, 101.61.
- Sales to certain persons, 101.63.
- Searches and Seizures, generally, this index.
- Tax violations, 201.16.
- Tied houses, 102.01.
- Wet and Dry Areas, this index.

## CRIMINAL HISTORY INFORMATION

- Administration of code, 5.36.

## DAMAGES

- Beer Industry Fair Dealing Law actions, 102.79.

## DEALERS

- Retailers, generally, this index.

## DEATH

- Licenses and Permits, this index.

## DEBTORS AND CREDITORS

- Illicit beverages, secured creditor, intervention, forfeiture proceedings, 103.18.

## DECEIT

- Generally, 101.69.

## DECEPTIVE ADVERTISING

- Generally, 108.01.

## DEFINITIONS

- Generally, 1.04.
- Words and Phrases, generally, this index.

## DELEGATION OF AUTHORITY

- Alcoholic beverage commission, 5.34.

## DELIVERIES

- Beer, holder of manufacturers or distributors, license, 62.08.
- Branch of distributors licenses, 66.09.
- Dry areas,
  - Beer deliveries, 107.04.
  - Liquor delivery, 101.33, 107.03.
- General distributors licensees, 64.06.
- Illicit beverages, delivery to alcoholic beverage commission, 103.06.
- Local distributors licenses, 65.06.
- Off-premises retail dealers, duties, 71.03.
- Package store permits, 22.03.
- Size, local distributors permit, 23.06.
- Tax stamps, 201.75.
- Wine only package store permit, 24.03.

## DENIAL OF LICENSES

- Appeal, 61.34.
- Retail dealers on-premise license, 69.06.

## DENOMINATION

- Tax stamps, 201.73.

## DEPOSITIONS

- Alcoholic beverage commission, power to take, 5.44.

References are to Sections

**DEPOSITS**

Beer container deposits, regulation, 5.40.

**DESIGNATION**

Agents, nonresident seller permit holder, 37.06.

Importers carriers license, vehicles, 68.06.

Licensed premises, 11.49, 61.51.

**DESIGNS**

Tax stamps, 201.73.

**DISCOUNTS**

Beer tax, 203.10.

Taxation, 201.06.

**DISCRETION**

Illicit beverages, seizure, mistake, 103.10.

**DISCRIMINATION**

Licenses and permits, civil rights, license or permit suspension, 11.611, 61.711.

**DISHONORED CHECKS**

Retail dealers, license cancellation and suspension, 61.73.

**DISPARAGING ADVERTISING**

Generally, 108.01.

**DISPENSERS**

Retail establishments, draft beer dispensers, steins, 104.04.

**DISPENSING EQUIPMENT**

Beer dispensing equipment, regulation, 101.41.

**DISPLAY**

License display, 61.01.

Permit display, 11.04.

Retailers, space, 11.49.

Warning signs, requirements, 61.11.

**DISPOSAL**

Licenses and permits, Cancellation or suspension, beverages in bulk, 11.69.

Termination of license, stock disposal, 61.85.

**DISTILLED SPIRITS**

Daily temporary mixed beverage permit, purchase of distilled spirits, 20.01.

Defined, 1.04.

Tax stamps, 201.81.

Imported distilled spirits, 201.82.

Taxation, 201.03.

**DISTILLERS**

Continuance of operation, area status change, 251.76.

Nonresident sellers permit, 37.03.

**DISTILLERS PERMITS**

Generally, 14.01 et seq.

Authorized activities, 14.01.

Continuance of operation after local option election, 14.03.

Contracts,

Sale of liquor, 102.17.

Unlawful contracts, 102.16.

Fees, 14.02.

Interest,

Mixed beverage business, 102.04.

Retail liquor outlet premises, 102.03.

**DISTILLERS PERMITS—Cont'd**

Requirement, 11.01.

Wholesalers, interest in distillers, 102.09, 102.10.

**DISTRIBUTORS**

Advertising, generally, this index.

Alcoholic beverage commission, inspection, supervision and regulation of distribution, 5.31.

Authorized activities,

General distributors, 64.01.

Local distributors, 65.01.

Beer Industry Fair Dealing Law, 102.71 et seq.

Beer sales, territorial limits, 102.51 et seq.

Bribery, commercial bribery, 102.12.

Competition, Beer Industry Fair Dealing Law, 102.71 et seq.

Continuance of operation, area status change, 251.77.

Credit transactions, regulation, 102.31, 102.32.

Dealings with retailers, prohibited dealings, 102.15.

Devices to extract brewery products from containers, sales, 102.14.

Equipment or fixtures, furnishing, 102.14.

Exclusive outlet agreements, brewery products, 102.13.

Fair Dealing Law, Beer Industry Fair Dealing Law, 102.71 et seq.

General distributors, 64.01 et seq.

Interests, prohibited interests, 102.11.

Licenses and permits,

Branch distributors licenses, 66.01 et seq.

Cancellation and suspension of license, 61.74.

Discretionary grounds for license refusal, 61.43.

General distributors licenses, 64.01 et seq.

Local distributors licenses, 65.01 et seq.

Mandatory grounds for license refusal, 61.42.

Required permit, 11.01.

Local distributors, 65.01 et seq.

Local distributors permits, interest in mixed beverage business, 102.04.

Retailer dealings, prohibited dealings, 102.15.

Sales, devices to extract brewery products from containers, 102.14.

Territorial limits on sale of beer, 102.51 et seq.

**DOCTORS**

Permits, 40.01 et seq.

Prescriptions, generally, this index.

**DOCUMENTS**

Evidence, 5.45.

**DOMICILE AND RESIDENCE**

Aliens, licenses and permits, 1.07.

**DRIED FRUITS**

Beverages made from, 101.65.

**DRUGGISTS**

Medicinal Permits, generally, this index.

Prescriptions, generally, this index.

**DRUGS AND MEDICINE**

Medicinal Permits, generally, this index.

Pharmaceutical purposes, 5.41.

Prescriptions, generally, this index.

Retailers, possession, 104.01.

**DRY AREAS**

Wet and Dry Areas, generally, this index.

**DUPLICATES**

Licenses and permits, duplicate permits, 11.07.

**ELECTION CONTEST**

Local option elections, 251.55.

**ELECTIONS**

Local Option Elections, generally, this index.

**ELECTRIC SIGN**

Defined, 108.51.

**ELECTRONIC VOTING SYSTEMS**

Local option elections, 251.381.

Recounts, 251.512.

**ELIGIBILITY**

Branch distributors licenses, 66.04.

General distributors licenses, 64.05.

Importers carriers licenses, 68.03.

Importers license, 67.04.

Licenses and Permits, this index.

Local distributors licenses, 65.05.

**EMERGENCIES**

Illicit beverages, federal ceiling prices, 103.12.

**EMPLOYEES**

Alcoholic beverage commission, 5.10.

**EQUIPMENT**

Illicit beverage manufacture, 103.02.

Manufacturers or distributors furnishing, 102.14.

**EVIDENCE**

Accomplice testimony, 101.06.

Alcoholic beverage commission hearings, rules of evidence, 5.43.

Documents, proof of documents, 5.45.

Intent to sell liquor in dry area, 101.32.

Local option election orders,

Declaring election results, 251.52.

Validity, 251.16.

Retail sales, 101.10.

Taxation, this index.

Wholesale sales, 101.10.

**EXAMINATIONS**

Mixed beverage tax, tax account examinations, 202.09.

**EXCEPTIONS**

Negation of exceptions, complaints, indictment and informations, 101.05.

Permit required, 11.01.

Storage permits, 45.03.

**EXCHANGE**

Beer, retail dealers on-premise license fee, license premises under same ownership, licensee, 69.11.

Beer between license premises under same ownership, retail dealers off-premise license, 71.07.

References are to Sections

**EXCLUSIVE OUTLET AGREEMENTS**

Manufacturers or distributors, brewery products, 102.13.

**EXCURSION BOATS**

Wine and beer retailers permit, 25.03.

**EXEMPTIONS**

Industrial permits, 38.02.  
Local fees, permits, 11.38.  
State institutions, manufacturing permit, 47.06.  
Tax Exemptions, generally, this index.  
Tax stamps, 201.80.

**EXPENSES AND EXPENDITURES**

Alcoholic beverage commission, 5.08.  
Officers and employees, 5.441.  
Local option elections, election expenses, county payment, 251.40.  
Tax collection, surcharge, 205.04.

**EXPIRATION**

Licenses and Permits, this index.

**EXPORTS AND IMPORTS**

Alcoholic beverage commission, inspection, supervision and regulation, 5.31.  
Ale or malt liquor, brewers permit, 12.03.  
Beer importation, 107.06.  
Brewers permit, authorized activities, 12.01.  
Children and minors, importation of alcoholic beverages, 106.08.  
Described vehicles, beer importer, 68.03.  
Licenses and Permits, this index.  
Limitations, personal use, 107.07.  
Liquor importation, 107.05.  
Residents, personal use, limitations, 107.07.  
Malt beverages,  
Holder of manufacturers license, 62.09.  
Prior approval, 101.67.  
Manufacturers license, importation of beer, 62.07.  
Nonresident seller permit, importers, 37.03.  
Personal use, importation for, 107.07.  
Railroads, importation by, 107.07.  
Restriction on implementation, nonresident sellers permit, 37.09.  
Tax stamps,  
Importation without stamp, 206.03.  
Imported distilled spirits, 201.82.  
Wine, residents, personal use, limitation, 107.07.  
Winery permits, blending, 16.03.

**EXPOSURE**

Retailers, indecent conduct, 104.01.

**EXPUNGEMENT OF CONVICTION**

Children and minors, 106.12.

**EXTENDED HOURS AREA**

Defined, hours of consumption, 105.06.

**FACILITIES**

Alcoholic beverage commission, 5.37.  
Athletic facilities, manufacturer ownership, 102.02.

**FACTORIES**

Manufacturers and Manufacturing, generally, this index.

**FAIR DEALING**

Beer Industry Fair Dealing Law, 102.71 et seq.

**FALSE REPRESENTATION**

Generally, 101.69.

**FEDERAL GOVERNMENT**

Jurisdiction ceded by state, 206.04.

**FEDERAL LIQUOR TAXES**

State apportionments, 5.37.

**FEDERAL PERMIT**

Winery permits, 16.04.

**FEDERAL TAX STAMPS**

Imported distilled spirits, 201.82.

**FEES**

Alcoholic beverage commission, officers and employees, 5.441.  
Licenses and Permits, this index.

**FELONIES**

Crimes and Offenses, generally, this index.

**FESTIVALS**

Beer sales, resale, 109.54.

**FIDELITY BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**FINANCIAL INSTITUTIONS**

Warehouse receipts, 109.52.

**FINES AND PENALTIES**

Generally, 1.05.  
Alcoholic beverage commission, rules violations, 5.42.  
Common nuisance, 101.70.  
Counterfeiting, 206.06.  
False representation, 101.69.  
Forgery, 206.06.  
Fraud, 101.69.  
Licenses and permits, alternatives to suspension or cancellation, 11.64.  
Mixed beverage license holder, possession of beverage not covered by invoice, 28.06.  
Nuisance, common nuisance, 101.70.  
Sales to certain persons, 101.63.  
Taxation, this index.

**FINGERPRINTS**

Retail dealers on-premise license, 69.07.  
Wine and beer retailers permit applicant, 25.07.

**FIXTURES**

Manufacturers or distributors furnishing, 102.14.

**FLOOR SPACE**

Retailers, 11.49.

**FORFEITURES**

Illicit Beverages, this index.

**FORGERY**

Generally, 206.06.

**FORMS**

Bonds (officers and fiduciaries), 204.02.

**FORMS—Cont'd**

Licenses and permits,  
Changes, 11.491.  
Permit application forms, 11.33.  
Prescription forms, physician permits, 40.04.

**FRATERNAL ORGANIZATIONS**

Private clubs,  
Late hours permits, 33.01 et seq.  
Registration permits, 32.01 et seq.

**FRAUD**

Generally, 101.69.  
Advertising, 108.01.  
Children and minors, age misrepresentation, 106.07.

**FREEDOM OF ASSOCIATION**

Beer Industry Fair Dealing Law, 102.78.

**FUNDS**

Clearance fund,  
Mixed beverage tax clearance fund, 205.03.  
Confiscated liquor fund, tax collections, surcharge, 205.04.  
Distilled spirits, wine, beer, ale and malt liquor taxes, disposition of proceeds, 205.02.  
Private club registration permits, replacement account, 32.06.  
Tax stamp sales proceeds, disposition, 205.02.

**GENERAL CLASS B WHOLESALE-ER'S PERMITS**

Generally, 20.01, 20.02.

**GENERAL DISTRIBUTORS LICENSES**

Generally, 64.01 et seq.

**GIFTS**

Alcoholic beverage commission, 5.37.

**GOVERNING LAW**

Generally, 1.06.

**GRACE PERIOD**

Agents beer license, 73.05.

**GRANTS**

Alcoholic beverage commission, 5.37.

**GRAPHIC MATERIALS**

Indecent graphic materials, display, 101.64.

**GROSS RECEIPTS**

Mixed beverage tax, 202.02.  
Taxes, bonds (officers and fiduciaries), failure to pay tax, 204.01.

**GUARDIANS**

Children and minors, trial, presence, 106.11.

**GUESTS**

Private club registration, 32.10.  
Temporary member, number, 32.09.

**GUILTY PLEAS**

Children and minors, 106.10.

## INDEX TO ALCOHOLIC BEVERAGE CODE

References are to Sections

**HABITUAL DRUNKARDS**

Crimes and offenses, sales to certain persons, 101.63.

**HALF BARRELS**

Containers, generally, this index.

**HEADINGS**

Local Option Elections, this index.

**HEALTH AND SANITATION**

Retailers, 104.01.

**HEARINGS**

Generally, 5.43.  
 Licenses and Permits, this index.  
 Rules of evidence, 5.43.  
 Witness fees, 5.44.

**HOME PRODUCTION OF WINE**

Generally, 109.21.

**HOSPITALS**

Sales near hospitals, regulation, 109.33.

**HOTELS**

Defined, 1.04.  
 Mixed beverage permits, 28.01.  
 Multiple interests, 102.05.  
 Retail dealers on-premise licenses, 69.04.

**HOURS OF SALE AND CONSUMPTION**

Generally, 105.01 et seq.  
 Wine only package store permit, 24.07.

**ILLCIT BEVERAGES**

Generally, 103.01 et seq.  
 Actions and proceedings,  
   Costs forfeiture suits, 103.22.  
   Forfeiture, 103.14.  
   Notice of forfeiture action, 103.15.  
   Seized vehicles, bonding pending litigation, 103.13.  
 Allocation of sale proceeds, 103.23.  
 Beer, seizure, sales, 103.08.  
 Beverage of illicit manufacture, 103.07.  
 Bill of sale to purchaser, 103.21.  
 Bonds (officers and fiduciaries), seized vehicles, bonding pending litigation, 103.13.  
 Consumption, unfit for consumption, 103.07.  
 Costs, forfeiture suits, 103.22.  
 Defined, 1.04.  
 Delivery to alcoholic beverage commission, 103.06.  
 Disposition of forfeited property, 103.20.  
 Equipment for manufacture of beverage, 103.02.  
 Exercise of discretion in case of mistake, 103.10.  
 Federal ceiling prices, emergencies, 103.12.  
 Forfeitures,  
   Disposition of forfeited property, 103.20.  
   Institution of action for forfeiture, 103.14.  
   Intervention, secured creditors, 103.18.  
   Notice of forfeiture action, 103.15.  
   Seized property, 103.17.  
   Seized vehicles, 103.16.  
 Intervention, secured creditors, 103.18.  
 Liquor, sale of seized liquor, 103.09.

**ILLCIT BEVERAGES—Cont'd**

Material for manufacture of beverage, 103.02.  
 Mistake, exercise of discretion, 103.10.  
 Sales, 103.01.  
   Allocation of sale proceeds, 103.23.  
   Bill of sale to purchaser, 103.21.  
   Proceeds, disposition, 103.11.  
   Seized beer, 103.08.  
   Seized liquor, 103.09.  
 Searches and seizures, 103.03.  
 Forfeitures, seized property, 103.17.  
 Report of seizure, 103.05.  
 Sales, 103.08, 103.09.  
 Vehicles,  
   Bonding pending action, 103.13.  
   Forfeiture, 103.16.  
 Security interest, transfer, 103.19.

**IMITATION WINES**

Beverages made from, 101.65.

**IMMORALITY**

Retailers, conduct regulation, 104.01.

**IMPORTER**

Definition, importers licenses, 67.03.

**IMPORTERS CARRIERS LICENSES**

Generally, 68.01 et seq.

**IMPORTERS LICENSES**

Generally, 67.01 et seq.

**IMPORTS**

Exports and Imports, generally, this index.

**INDECENCY**

Graphic material, display on premises, 101.64.  
 Retailers, conduct regulation, 104.01.

**INDICTMENTS**

Negation of exceptions, 101.05.

**INDUSTRIAL ALCOHOL MANUFACTURERS**

Licenses and permits, 47.01 et seq.

**INDUSTRIAL PERMITS**

Generally, 38.01 et seq.

**INDUSTRIAL USE**

Licensing and regulating, 5.41.

**INDUSTRY**

Manufacturers and Manufacturing, generally, this index.

**INEBRIATES**

Crimes and offenses, sales to certain persons, 101.63.

**INFANTS**

Children and Minors, generally, this index.

**INFORMATION**

Ale and malt liquor tax, information requirements, 201.49.

**INFORMATIONS**

Negation of exceptions, 101.05.

**INJUNCTIONS**

Generally, 101.01.  
 Licenses and permits, restraining suspension order, 61.82.

**INSANE PERSONS**

Crimes and offenses, sales to certain persons, 101.63.

**INSOLVENCY**

Bankruptcy, generally, this index.

**INSPECTIONS AND INSPECTORS**

Alcoholic beverage commission, 5.14, 5.31.  
 Consent to inspection, 101.04.  
 Nonresident sellers permit, records and documents, 37.12.  
 Private club registration permits,  
   Books and records, 32.13.  
   Premises, 32.12.  
 Vehicle inspections, refusal, crimes and offenses, 101.71.

**INSURED LOSSES**

Generally, 109.01 et seq.

**INTOXICATED PERSONS**

Crimes and offenses, sales to certain persons, 101.63.  
 Sales to, medicinal permit, 39.32.

**INVESTIGATIONS**

Alcoholic beverage commission, 5.36.

**INVOICES**

Taxation, transported liquor, 201.14.  
 Ale and malt liquor tax, 201.50.

**ISSUES**

Local Option Elections, this index.

**KEGS**

Containers, generally, this index.

**LABELS AND LABELING**

Alcoholic beverage commission, inspection, supervision and regulation, 5.31.  
 Brewery products, misbranding, 101.43.  
 Containers, 101.41.  
 Nonresident sellers permittee, 37.11.  
 Rules, promulgation and enforcement, 5.38.

**LABOR AND EMPLOYMENT**

Children and minors,  
   Employment of minors, 106.09.  
   Possession, 106.05.

**LANGUAGE**

Retailers, obscene, vulgar, etc., 104.01.

**LATE HOURS MIXED BEVERAGE PERMITS**

Generally, 29.01 et seq.

**LAW ENFORCEMENT OFFICERS**

Duties, 101.07.

**LEWD MATERIALS**

Display, indecent graphic materials, 101.64.

**LEWDNESS**

Retailers, conduct, regulation, 104.01.

References are to Sections

**LIBERAL CONSTRUCTION OF LAW**  
Generally, 1.03.

**LICENSEE**  
Defined, 1.04.

**LICENSES AND PERMITS**

Generally, 11.01 et seq., 61.01 et seq.  
Actions and proceedings,  
    Business or property injury, 11.49.  
    Restraining suspension order, 61.82.  
Activities requiring permits, 11.01.  
Agent for service of process, designation, 61.07.  
Agents beer licenses, 73.01 et seq.  
Agents permits, 35.01 et seq.  
    Manufacturers agents permits, 36.01 et seq.  
    Ineligibility of agent permit holder, 35.06.  
Airline beverage permits, 34.01 et seq.  
Alien residents, 1.07.  
Alternatives, suspension or cancellation of licenses, 61.761.  
Appeal and review,  
    Cancellation, suspension or refusal of licenses, 61.81.  
    Cancellation, suspension or refusal of permits, 11.67.  
    License application denial, 61.34.  
    Private club registration permits, cancellation, refusal or suspension, 32.18.  
Applications for and issuance of licenses, 61.31 et seq.  
    Agents beer license, 73.09.  
    Appeal from denial, 61.34.  
    Authority of commission, 5.35.  
    Branch distributors licenses, 66.03.  
    Certification of wet or dry status, 61.37.  
    Changes, 11.491.  
    Contents of license, 61.33.  
    Contested applications, 61.39.  
    Denial, retail dealers on-premise license, 69.06.  
    Designation of licensed premises, 11.49.  
    Discretionary grounds for license refusal, distributors or retailers, 61.43.  
    Distributors,  
        Discretionary grounds for license refusal, 61.43.  
        Mandatory grounds for license refusal, 61.42.  
    Fees, 61.35.  
        Local fee authorized, 61.36.  
    Fingerprints, retail dealers on-premise license, 69.07.  
    Hearings, 61.32.  
    Importers carriers license, 68.04.  
    Importers licenses, 67.06.  
    Notices, 61.38.  
    Premises ineligible for licenses, 61.40.  
    Refusal of licenses, generally, post.  
    Renewal applications, 61.48.  
        Retail dealer licenses, grounds for refusal, 61.50.  
        Transmission to commission, 61.49.  
    Retail dealers on-premise license,  
        Hearings, 69.05.  
        Railway cars, 69.03.  
    Retailers,  
        Discretionary grounds for license refusal, 61.43.

**LICENSES AND PERMITS—Cont'd**  
Applications for and issuance of licenses —Cont'd

Retailers—Cont'd  
    Mandatory grounds for license refusal, 61.42.  
    Second license at same location, 61.41.  
    Temporary licenses, 72.05.  
    Wet or dry status certification, 61.37.  
Applications for and issuance of permits, 11.31 et seq.  
Applicants, defined, 11.45.  
Caterers permit, 31.03.  
Certificate to accompany application, 39.05.  
Certification of wet or dry status, 11.37.  
Changes, 11.491.  
Consolidated applications, 11.34.  
Daily temporary mixed beverage permit, 30.03.  
Denial of original application, wine and beer retail permit, 25.06.  
Designation of licensed premises, 11.49.  
Discretion, granting or refusing permits, 11.43.  
Fees,  
    Consolidated application, 11.34.  
    Local fee authorized, 11.38.  
    Payments, 11.35.  
    Refunds, 11.36.  
Fingerprints, wine and beer retailers permit, 25.07.  
Forms, 11.33.  
Mixed beverage permit, 28.03.  
Notices,  
    Applicants publication, 11.39.  
    County judge, notice to, 11.40.  
Package store permits,  
    Licensing portion of building, as premises, 11.50.  
    Refusal, 11.48.  
Premises,  
    Defined, 11.49.  
    Ineligibility, 11.44.  
Private club registration permit, 32.04.  
Recommendations of local officials, 11.41.  
Refusal of permits, generally, post.  
Renewal applications, 11.32.  
Statements, stock ownership, 11.42.  
Temporary wine and beer retailer permit, 27.05.  
Wine and beer retailers permit, 25.04, 26.03.  
Areas in which certain licenses and permits may be issued, 251.79.  
Assignment of licenses, 61.04.  
Authorized activities,  
    General distributors, 64.01.  
    Local distributors, 65.01.  
Bankruptcy, this index.  
Beer retailers. Wine and Beer Retailer Permits, generally, this index.  
Beverage cartage permits, 44.01 et seq.  
Bonded warehouse permits, 46.01 et seq.  
Bonding requirements. Bonds (Officers and Fiduciaries), generally, this index.  
Bottlers Permits, generally, this index.  
Branch distributor licenses, 66.01 et seq.  
Brewers Permits, generally, this index.  
Business injury, actions, 11.49.

**LICENSES AND PERMITS—Cont'd**

Business name, 61.05.  
Business relationships, 11.49.  
Cancellation and suspension of licenses, 61.71 et seq.  
    Activities constituting code violations, 61.77.  
    Activities prohibited during cancellation or suspension, 61.84.  
    Agents beer license, 73.11.  
        Employment of agent after license suspended or cancelled, 73.07.  
    Alternatives, 61.761.  
    Appeal and review, 61.81.  
    Authority of board, 5.35.  
    Breach of the peace, retail beer dealer licenses, 69.13.  
    Civil rights, discrimination, 61.711.  
    Credit purchases or dishonored checks, 61.73.  
    Disposal of stock, license termination, 61.85.  
    Effective date, 61.83.  
    Excusing violators, 61.78.  
    Grounds, 61.71.  
    Distributors, 61.74.  
    Hearings, 61.80.  
    Notice, 61.79.  
    Local fees not paid, 61.36.  
    Manufacturers license, 61.75.  
    Mitigating circumstances, retail dealers off-premise license, 71.07.  
    Nonresident manufacturers licenses, 63.04.  
    Primary license or permit, code violation on premises, temporary license, 72.06.  
    Restraining suspension order, 61.81.  
    Sales taxes, permit or payment, 61.712.  
    Suspension instead of cancellation, 61.76.  
Cancellation and suspension of permits, 11.61 et seq.  
    Activities prohibited during suspension, 11.68.  
    Alternatives, 11.64.  
    Appeals, 11.67.  
    Beer tax, failure to pay or file return, 202.14.  
    Civil rights discrimination, 11.611.  
    Disposal of beverages in bulk, 11.69.  
    Hearings, 11.62.  
    Notice, 11.63.  
    Local cartage permits, 43.07.  
    Medicinal permits, 39.41, 39.42.  
    Mitigating circumstances, 11.64.  
    Mixed beverage permits, 28.11.  
    Nonresident sellers permits, 37.08.  
    Notices, 11.65.  
        Hearing, 11.63.  
    Private club registration permits, 32.17.  
    Retailers, cancellation or suspension against, 11.66.  
    Sales taxes, payments, 11.61.  
    Temporary wine and beer retailer permit, 27.06.  
    Wine and beer retailers off-premise permit, 26.03.  
Carrier permits, 41.01 et seq.  
Cartage permits,  
    Beverage cartage permits, 44.01 et seq.  
    Local cartage permits, 43.01 et seq.  
Caterers permits, 31.01 et seq.

References are to Sections

## LICENSES AND PERMITS—Cont'd

Certificates and certification,  
 Medicinal permits, accompanying application, 39.05.  
 Sales tax permit, 11.46.  
 Wet or dry status certification, 11.37.  
 License applications, 61.37.  
 Change of location,  
 Medicinal purposes, change of location, medicinal permits, 39.41.  
 Permit fees, 11.08.  
 Place of business, 61.09.  
 Changes, 11.491.  
 Citizenship, 109.53.  
 Civil rights, discrimination, license or permit suspension, 11.611, 61.711.  
 Consolidated permit applications, 11.34.  
 Consolidation of permits, package store permits, 22.05.  
 Consumption of beverages on premises, restriction, 61.12.  
 Contested license applications, 61.39.  
 Corrected permits, 11.07.  
 Counterfeiting, 206.06.  
 Credit purchases, retail dealers, license cancellation and suspension, 61.73.  
 Death,  
 Beverages in bulk, disposal, 11.69.  
 Licensee, succession, license use, 61.02.  
 Permittee death, succession, permit use, 11.10.  
 Denial of license,  
 Appeal, 61.34.  
 Retail dealers on-premise licenses, 69.06.  
 Description of vehicles, application for importers carriers license, 68.04.  
 Designation of licensed premises, 61.51.  
 Designation of vehicles, importers carriers licenses, 68.06.  
 Different permits, 11.491.  
 Discretionary grounds for license refusal, distributors or retailers, 61.43.  
 Discrimination, civil rights, license or permit suspension, 11.611, 61.711.  
 Dishonored checks, retail dealers, cancellation and suspension of licenses, 61.73.  
 Display,  
 Licenses, 61.01.  
 Permits, 11.04.  
 Private club registration permit, 32.07.  
 Warning signs, requirements, 61.11.  
 Disposal,  
 Beverages in bulk, permit cancellation, and suspension, 11.69.  
 Stock, license termination, 61.85.  
 Distillers Permits, generally, this index.  
 Distributors, this index.  
 Domicile and residence, aliens, 1.07.  
 Duplicate permits, 11.07.  
 Duration of license, 61.03.  
 Temporary licenses, 72.03.  
 Duration of permit, temporary wine and beer retailers permit, 27.03.  
 Eligibility,  
 Branch distributors licenses, 64.04.  
 General distributors licenses, 64.05.  
 Importers carriers licenses, 68.03.  
 Importers licenses, 67.04.  
 Local distributors licenses, 65.05.  
 Exemptions, industrial permits, 38.02.  
 Expenses, tax collection, surcharge, 205.04.

## LICENSES AND PERMITS—Cont'd

Expiration,  
 Branch distributors license, 66.05.  
 Importers carriers license, 68.05.  
 Importers licenses, 67.05.  
 Licenses, 61.03.  
 Permits, 11.09.  
 Exports and imports,  
 Importers carriers licenses, 68.01 et seq.  
 Importers licenses, 67.01 et seq.  
 Required permit, 11.01.  
 Fees, 61.35.  
 Agents beer licenses, 73.02.  
 Agents permits, 35.02.  
 Manufacturers agents permits, 36.02.  
 Airline beverage permits, 34.02.  
 Applications for and issuance of permits, ante.  
 Beverage cartage permit, 44.02.  
 Bonded warehouse permits, 46.02.  
 Branch distributors licenses, 66.02.  
 Brewers permits, 12.02.  
 Nonresident, 13.02.  
 Carrier permits, 41.02.  
 Caterers permits, 31.02.  
 Changes, 11.491.  
 Consolidated application for permits, 11.34.  
 Daily temporary mixed beverage permits, 30.02.  
 Distillers permits, 14.02.  
 General class B wholesalers permits, 20.02.  
 General distributors licenses, 64.02.  
 Importers carriers licenses, 68.02.  
 Importers licenses, 67.02.  
 Industrial permits, 38.04.  
 Local cartage permits, 43.02.  
 Local class B wholesalers permits, 21.02.  
 Local distributors licenses, 65.02.  
 Local distributors permits, 23.02.  
 Local fees authorized, 11.38.  
 Local industrial alcohol manufacturer, 47.02.  
 Local licensee authorized, 61.36.  
 Manufacturers agents permits, 36.02.  
 Manufacturers licenses, 62.02.  
 Medicinal permits, 39.04.  
 Mixed beverage permits, 28.02.  
 Daily temporary permit, 30.02.  
 Late hour permit, 29.02.  
 Nonresident brewers permits, 13.02.  
 Nonresident manufacturers licenses, 63.02.  
 Nonresident sellers permits, 37.02.  
 Off-premise wine and beer retailer permits, 26.02.  
 Package store permits, 22.02.  
 Permit applications,  
 Payment, 11.35.  
 Refunds, 11.36.  
 Physicians permits, 40.02.  
 Private carrier permits, 42.02.  
 Private clubs,  
 Late hours permits, 33.02.  
 Registration permits, 32.02.  
 Rectifiers permits, 15.02.  
 Refunds, permit fee, 11.36.  
 Storage permits, 45.02.  
 Surcharge, tax collection expense, 205.04.  
 Tax collection expenses, surcharge, 205.04.

## LICENSES AND PERMITS—Cont'd

Fees—Cont'd  
 Temporary licenses, 72.02.  
 Temporary wine and beer retailer permits, 27.02.  
 Wholesalers permit, 19.02.  
 General class B wholesalers permit, 20.02.  
 Local class B permit, 21.02.  
 Wine and beer retailers permit, 25.02, 26.02.  
 Wine bottlers permits, 18.02.  
 Wine only package store permit, 24.02.  
 Winery permits, 16.02.  
 Fines and penalties, alternative to suspension or cancellation, 11.64.  
 Fingerprints,  
 Retail dealers on-premise license, 69.07.  
 Wine and beer retailers permit applicant, 25.07.  
 Forgery, 206.06.  
 Forms,  
 Changes, 11.491.  
 Permit application forms, 11.33.  
 General class B wholesalers permits, 20.01, 20.02.  
 General distributors licenses, 64.01 et seq.  
 Grace period, agents beer license, 73.05.  
 Grounds for permit refusal, 11.46 et seq.  
 Hearings,  
 Applications for licenses, 61.32.  
 Cancellation and suspension of licenses, 61.80.  
 Notice, 61.79.  
 Cancellation and suspension of permits, 11.62.  
 Notice, 11.63.  
 Retail dealers on-premise license application, 69.05.  
 Wine and beer retailers permit application, 25.05.  
 Hotels, retail dealers on-premise license, 69.04.  
 Importers carriers licenses, 68.01 et seq.  
 Importers licenses, 67.01 et seq.  
 Industrial alcohol manufacturers, 47.01 et seq.  
 Industrial permits, 38.01 et seq.  
 Insolvency,  
 Licensee, succession, license use, 61.02.  
 Permittee, succession, permit use, 11.10.  
 Issuance of licenses. Applications for and issuance of licenses, generally, ante.  
 Issuance of permits. Applications for and issuance of permits, generally, ante.  
 Limitation of actions, business or property damage, 11.49.  
 Local alcohol manufacturers, 47.01 et seq.  
 Local cartage permits, 43.01 et seq.  
 Local class B wholesalers permits, 21.01, 21.02.  
 Local distributors licenses, 65.01 et seq.  
 Local distributors permits, 23.01 et seq.  
 Mandatory grounds for distributor or retailer license refusal, 61.42.  
 Manufacturers and Manufacturing, this index.  
 Medicinal Permits, generally, this index.

References are to Sections

**LICENSES AND PERMITS—Cont'd**

Mitigating circumstances, cancellation and suspension of permits, 11.64.  
 Mixed Beverage Permits, generally, this index.  
 Mixed beverage tax violators, permit eligibility, 202.12.  
 Name of business, 61.05.  
 Nature of license, 61.02.  
 Nature of permits, 11.03.  
 Nonresident brewers permits, 13.01 et seq.  
 Nonresident sellers permits, 37.01 et seq.  
 Notices,  
     Cancellation and suspension of licenses, hearings, 61.79.  
     Cancellation and suspension of permits, 11.65.  
     Hearings, 11.63.  
     Hearings, retail dealers on-premise license application, 69.05.  
     License applications, 61.38.  
     Permit applications,  
         County judges, 11.40.  
         Publication, 11.39.  
 On-premise licenses, retail dealers, 69.01 et seq.  
 Package Stores, this index.  
 Partnership dissolution,  
     Licensee, succession, license use, 61.02.  
     Successor, permit use, 11.10.  
 Permit privileges, 11.06.  
 Photographs,  
     Retail dealers on-premise license, 69.08.  
     Wine and beer retailers permit, 25.08.  
 Physicians permits, 40.01 et seq.  
 Place of business, location change, 61.09.  
 Premises,  
     Defined, 61.51.  
     Ineligibility, license or permit issuance or transfer, 11.44, 61.40.  
     Privileges limited to, 11.06.  
 Prescriptions,  
     Medicinal permits, 39.01 et seq.  
     Physicians permits, 40.01 et seq.  
 Private carrier permits, 42.01 et seq.  
 Private clubs,  
     Late hours permits, 33.01 et seq.  
     Registration permits, 32.01 et seq.  
 Privileges,  
     Permits, 11.06.  
     Restriction to licensed premises, 61.06.  
 Prohibited activities, permit suspension, activities prohibited during suspension, 11.68.  
 Qualification, agents beer license, 73.04.  
 Railway cars, retail dealers on-premise license, 69.03.  
 Receivers and Receivership, this index.  
 Recommendations of local officials, permit applications, 11.41.  
 Records,  
     Branch distributors license, 66.08.  
     General distributors licenses, 64.04.  
     Local distributors licenses, 65.04.  
     Manufacturers licenses, 62.05.  
 Rectifiers Permits, generally, this index.  
 Refusal of licenses, 61.33.  
     Authority of board, 5.35.  
     Discretionary grounds for refusal, distributors or retailers, 61.43.  
     Distributor licenses, prohibited interests, 61.44.

**LICENSES AND PERMITS—Cont'd**

Refusal of licenses—Cont'd  
     Mandatory grounds, distributor or retailer licenses, 61.42.  
     Manufacturers licenses, ground, 61.46.  
     Renewal of retail dealer license, refusal grounds, 61.50.  
     Retail license,  
         Commission or administrator refusal, 61.47.  
         Prohibited interests, 61.44.  
 Refusal of permits,  
     Appeals, 11.67.  
     Authority of board, 5.35.  
     Discretion, 11.43.  
     Financial interest in beer establishment, 11.47.  
     Grounds, 11.46.  
     Package store or mixed beverage permits, 11.48.  
     Regulation, 5.33 et seq.  
 Renewal applications,  
     Agents beer license, 73.10.  
     Applications for and issuance of licenses, ante.  
     Branch distributors license, 66.06.  
     Manufacturers license, 62.04.  
     Mixed beverage permit, 28.05.  
     Permit applications, 11.32.  
 Replacement of license, 61.10.  
 Required basic license or permits, temporary licenses, 72.04.  
 Resale, acquisition of beverages from other licensees, retail dealers on-premise license holder, 69.09.  
 Resident aliens, 1.07.  
 Restraining suspension order, 61.82.  
 Restrictions, beverage consumption on premises, 61.12.  
 Retailers, this index.  
 Sales Taxes, this index.  
 Second license at same location, 61.41.  
 Separate permits, requirements, 11.02.  
 Sharing, business relationships, 11.49.  
 Statement of intention, manufacturers license, 62.03.  
 Statements,  
     Licensee stock ownership, 61.08.  
     Permit applicants, stock ownership, 11.42.  
 Statute of limitations, business or property damage, 11.49.  
 Stock ownership,  
     Licensee statements, 61.08.  
     Permit applicants, statements, 11.42.  
 Storage permits, 45.01 et seq.  
 Surcharge, tax collection expense, 205.04.  
 Surety on permittee bond,  
     Liability, 11.70.  
     Terminating liability, 11.71.  
 Suspension,  
     Cancellation and suspension of licenses, generally, ante.  
     Cancellation and suspension of permits, generally, ante.  
 Tax collection expenses, surcharge, 205.04.  
 Temporary licenses, 72.01 et seq.  
     Fees, 61.35.  
 Time,  
     Duration and expiration of license, 61.03.  
     Duration and expiration of permits, temporary wine and beer retailers permit, 27.03.

**LICENSES AND PERMITS—Cont'd**

Time—Cont'd  
     Effective date of cancellation or suspension of license, 61.83.  
     Expiration of permit, 11.09.  
 Unlicensed agents, employment prohibited, agents beer license, 73.06.  
 Use, unauthorized use of permits, 11.05.  
 Warning sign requirements, 61.11.  
 Wet or dry status certification,  
     License applications, 61.37.  
     Permit applications, 11.37.  
 Wholesalers, this index.  
 Wine and Beer Retailer Permits, generally, this index.  
 Wine bottlers permits, 18.01 et seq.  
 Winery Permits, generally, this index.  
**LIMITATION OF ACTIONS**  
 Licenses and permits, business or property injury, 11.49.  
**LOBBYISTS**  
 Appeal to alcoholic beverage commission, appearance, 5.16.  
**LOCAL CARTAGE PERMITS**  
 Generally, 43.01 et seq.  
**LOCAL CLASS B WHOLESALERS PERMIT**  
 Generally, 21.01, 21.02.  
**LOCAL DISTRIBUTORS LICENSES**  
 Generally, 65.01 et seq.  
**LOCAL DISTRIBUTORS PERMITS**  
 Generally, 23.01 et seq.  
**LOCAL INDUSTRIAL ALCOHOL MANUFACTURER**  
 Licenses and permits, 47.01 et seq.  
**LOCAL OPTION ELECTIONS**  
 Generally, 251.01 et seq.  
 Application of general election laws, 251.31.  
 Applications. Petitions, post.  
 Ballots, 251.14.  
     Issues on ballot, 251.38.  
     Number, 251.37.  
     Paper ballots, 251.381.  
     Recount, 251.511.  
 Canvass of votes, 251.51.  
 Certification of results, 251.53.  
 Clerks of election, appointment, 251.35.  
 Conformance to general election laws, 251.31.  
 Contest of elections, 251.55.  
 Continuance of operation after elections,  
     Brewer permittees, 12.04.  
     Distiller permittees, 14.03.  
     Manufacturers licenses, 62.11.  
 Continuing in business preventive, refund of license fees, 61.35.  
 Copies, petitions, 251.09.  
 Declaration of results, 251.51.  
 Election contests, 251.55.  
 Election officers and clerks, appointment, 251.35.  
 Electronic voting systems, 251.381.  
     Recount, 251.512.  
 Evidence,  
     Order declaring election results, 251.52.  
     Validity, 251.16.

## INDEX TO ALCOHOLIC BEVERAGE CODE

References are to Sections

**LOCAL OPTION ELECTIONS—Cont'd**

Expenses of elections, county payments, 251.40.  
 Financing elections, 251.41.  
 Frequency of elections, 251.17.  
 Headings;  
   Applications for petition to legalize sales, 251.05.  
   Applications for petition to prohibit sales, 251.04.  
   Petitions to legalize sales, 251.08.  
   Petitions to prohibit sales, 251.07.  
 Industrial alcohol manufacturers permit, application of law, 47.07.  
 Instruction of persons conducting elections, 251.36.  
 Issues, 251.14.  
   Appearance in order for election, 251.13.  
   Applications,  
     Petitions to legalize sales, 251.05.  
     Petitions to prohibit sales, 251.04.  
   Ballots, issues on, 251.38.  
   Mixed beverages, 251.15.  
 Judges of elections, appointment, 251.35.  
 Minutes, records, 251.12.  
 Mixed beverages, issues, 251.15.  
 Notice of elections, 251.32.  
 Number, ballots, 251.37.  
 Ordering elections,  
   Evidence of validity, 251.16.  
   Issues, appearance in order for election, 251.13.  
   Requirements, 251.11.  
 Orders,  
   Declaring election results, evidence, 251.52.  
   Prohibiting sales, posting, 251.54.  
 Paper ballots, 251.381.  
 Recount, 251.511.  
 Payment of election expenses, counties, 251.40.  
 Petitions,  
   Applications, 251.03.  
     Petitions to legalize sales heading, statement and issue, 251.05.  
     Petitions to prohibit sales, heading, statement and issue, 251.04.  
   Copies, 251.09.  
   Legalizing sales, heading and statement, 251.08.  
   Prohibiting sales, heading and statement, 251.07.  
   Requirements, 251.06.  
   Verification, 251.10.  
 Places for voting, 251.34.  
 Posting order prohibiting sales, 251.54.  
 Public school of instruction, persons conducting election, 251.36.  
 Qualifications for political subdivisions to hold elections, 251.02.  
 Records, minutes, 251.12.  
 Recounts,  
   Electronic voting systems or machines, 251.512.  
   Paper ballots, 251.511.  
 Refunds, continuing business prevented, 61.35.  
 Requirements to order elections, 251.11.  
 Results,  
   Certification, 251.53.  
   Declaration, 251.51.

**LOCAL OPTION ELECTIONS—Cont'd**

Statements,  
 Applications,  
   Petition to legalize sales, 251.05.  
   Petition to prohibit sales, 251.05.  
 Petitions,  
   Legalizing sales, 251.08.  
   Prohibiting sales, 251.07.  
 Time, holding election, 251.33.  
 Validity, evidence, 251.16.  
 Verification, petitions, 251.10.  
 Voting machines, 251.381.  
   Recounts, 251.512.  
   Voting places, 251.34.  
   Voting systems, 251.381.  
 Watchers of election, appointment, 251.35.

**LOCATION**

Licenses and permits, place of business location changed, 61.09.  
 Permit fees, 11.08.

**LOCKER SYSTEM**

Private club registration permit, 32.05.

**LOSSES**

Salvaged and insured losses, 109.01 et seq.

**MACHINERY AND EQUIPMENT**

Illicit beverage manufacture, 103.02.  
 Manufacturers or distributors, furnishing, 102.14.

**MAIL AND MAILING**

Taxation, payments, 206.07.

**MALT BEVERAGES**

Sale to mixed beverage permittee, 28.12.

**MALT LIQUOR**

Brewers permit, 12.01 et seq.  
 Defined, 1.04.

**MANUFACTURERS AND MANUFACTURING**

Adverse or pecuniary interest, 102.18.  
 Advertising, generally, this index.  
 Agents,  
   Permits, 36.01 et seq.  
   Ineligibility of person holding agents permit, 38.06.  
   Relationship with package stores, 102.06.  
 Alcohol use for industrial purposes, regulation, 5.41.  
 Alcoholic beverage commission, inspection, supervision and regulation, 5.31.  
 Athletic facilities, ownership, 102.02.  
 Beer Industry Fair Dealing Law, 102.71 et seq.  
 Beer sales, 62.12.  
 Beer tax, exemption, certain manufacturers, 203.08.  
 Bribery, commercial bribery, 102.12.  
 Competition, Beer Industry Fair Dealing Law, 102.71 et seq.  
 Conflict of interest, 102.18.  
 Continuance of operation, area status change, 251.75.  
 Contracts,  
   Sale of liquor, 102.17.  
   Unlawful contracts, 102.16.

**MANUFACTURERS AND MANUFACTURING—Cont'd**

Crimes and offenses,  
 Beverages made from certain materials, 101.65.  
 Beverages of certain alcohol content, 101.66.  
 Dealings with retailers, prohibited dealings, 102.15.  
 Defined, 1.04.  
 Devices to extract brewery products from containers, sale, 102.14.  
 Equipment or fixtures, furnishing, 102.14.  
 Exclusive outlet agreements, brewery products, 102.13.  
 Fair dealing, Beer Industry Fair Dealing Law, 102.71 et seq.  
 Fees, local industrial alcohol manufacturer, permit, 47.02.  
 Illicit beverages, 103.01.  
 Industrial alcohol, permits, 47.01 et seq.  
 Industrial permits, 38.01 et seq.  
 Interests, prohibited interests, 102.11.  
 Licenses and permits, 62.01 et seq.  
   Brewers permit, 12.01 et seq.  
   Cancellation and suspension, 61.75.  
   Grounds for refusal, 61.46.  
   Industrial alcohol manufacturers, 47.01 et seq.  
   Industrial permits, 38.01 et seq.  
   Manufacturers agents permits, 36.01 et seq.  
   Manufacturers license, refusal, grounds, 61.46.  
   Nonresident manufacturers licenses, 63.01 et seq.  
   Requirements, 11.01.  
   Suspension, 61.75.  
 Local industrial alcohol, permits, 47.01 et seq.  
 Malt beverages,  
   Brewers permits, 12.01.  
   Prior approval, 101.67.  
 Nonresident manufacturers licenses, 63.01 et seq.  
 Permits. Licenses and permits, generally, ante.  
 Plans, local industrial alcohol manufacturers, plants, 47.05.  
 Retailer dealings, prohibited dealings, 102.15.  
 Returnable containers of another manufacturer, acceptance, 101.42.  
 Sale of beer, 62.12.  
   Territorial limits, 102.51 et seq.  
 Sales, devices to extract brewery products from containers, 102.14.  
 State institutions, permit exemption, 47.06.  
 Storage facilities, local industrial alcohol manufacturers, 47.04.  
 Territorial limits on sale of beer, 102.51 et seq.  
 Tied houses, 102.01.  
 Transportation, local industrial alcohol manufacturers, 47.03.  
 Wholesalers, liquor manufactured by wholesaler affiliates, 102.08.

**MARKS, BRANDS AND LABELS**  
 Brewery products, misbranding, 101.43.  
 Containers, 101.41.

References are to Sections

**MEDICINAL PERMITS**

Generally, 39.01 et seq.  
Fees, 39.04.  
Liquor prescriptions tax, failure to pay, permit revocation, 201.95.  
Prohibited activities, 39.21 et seq.  
Suspension or cancellation, 39.41, 39.42.

**MEDICINE**

Drugs and Medicine, generally, this index.

**MEETINGS**

Alcoholic beverage commission, 5.07.

**MENTALLY DEFICIENT AND MENTALLY ILL PERSONS**

Crimes and offenses, sales to certain persons, 101.63.

**METRIC CONTAINERS**

Ale and malt liquor tax, 201.52.  
Taxation, 201.17.

**MINIATURE CONTAINERS**

Wholesalers permit, 19.04.

**MINISTERS**

Sacramental wine, 109.51.

**MINORS**

Children and Minors, generally, this index.

**MISBRANDING**

Brewery products, 101.43.

**MISDEMEANORS**

Crimes and Offenses, generally, this index.

**MISREPRESENTATION**

Fraud, generally, this index.

**MISTAKE**

Illicit beverages, exercise of discretion, 103.10.

**MIXED BEVERAGE**

Defined, 1.04.

**MIXED BEVERAGE PERMITS**

Generally, 28.01 et seq.  
Advertising, application of law, 108.07.  
Beverage cartage permits, 44.01 et seq.  
Eligibility, 44.03.  
Caterers permits, 31.01 et seq.  
Daily temporary permits, 30.01 et seq.  
Fees, 28.02.  
Daily temporary permits, 30.02.  
Late hours permits, 29.02.  
Hotels, 28.01.  
Multiple interests, 102.05.  
Hours of sale, 105.03.  
Late hours permits, 29.01 et seq.  
Local option elections, issue on, 251.15.  
Persons barred from interest in mixed beverage businesses, 102.04.  
Refusal, 11.48.  
Solicitation of business,  
Manufacturers agent permit holder, 36.06.  
Nonresident sellers permit holder, 37.13.

**MIXED BEVERAGE TAX**

Generally, 202.01 et seq.  
Taxation, this index.

**MOTOR CARRIERS**

Beverage cartage permits, 44.01 et seq.  
Carrier permits, 41.01 et seq.  
Containers, liquor transportation, small containers, use, 101.47.  
Local cartage permits, 43.01 et seq.  
Private carrier permits, 42.01 et seq.  
Transportation, generally, this index.

**MOTOR VEHICLES**

Illicit beverages,  
Forfeiture of seized vehicles, 103.16.  
Seized vehicles, bonding pending litigation, 103.13.  
Inspection of vehicles, refusal, crimes and offenses, 101.71.

**MUNICIPALITIES**

Local fee authorized, permits, 11.38.  
Local Option Elections, generally, this index.  
Regulation of beer and liquor, 109.31 et seq.

**NAMES**

Licenses and permits, business names, 61.05.

**NEW YEAR'S DAY**

Hours of sale, 105.01.

**NOISE**

Offensive noise on premises, crimes and offenses, 101.62.

**NONRESIDENT BREWERS PERMITS**

Generally, 13.01 et seq.

**NONRESIDENT MANUFACTURERS LICENSES**

Generally, 63.01 et seq.

**NONRESIDENT SELLERS PERMITS**

Generally, 37.01 et seq.  
Brewers permits, requirement, 13.03.  
Contract for sale of liquor, 102.17.

**NOTICES**

Beer tax, permit suspension, 202.14.  
Illicit beverages, notice of forfeiture action, 103.15.  
Licenses and Permits, this index.  
Local option elections, 251.32.  
Nonresident sellers permit to cancel or suspend it, notice to importers, 37.08.  
Private clubs, registration permit applications, 11.39.  
Surety on permittee bonds, liability termination, 11.71.

**NUISANCE**

Generally, 101.70.

**NUMBERS AND NUMBERING**

Local option elections, ballots, 251.37.  
Private club, temporary member, guest, 32.09.

**OATHS AND AFFIRMATIONS**

Alcoholic beverage commission, powers, 5.44.

**OBSCENE MATERIAL**

Indecent graphic materials, display, 101.64.

**OFFENSES**

Crimes and Offenses, generally, this index.

**OFFENSIVE NOISE**

Premises, licensee or permittee permitting offensive noise, 101.62.

**OFFICERS AND EMPLOYEES**

Alcoholic beverage commission, 5.10.

**OFFICES**

Alcoholic beverage commission offices, location, 5.06.

**OFFICIAL BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**OFF-PREMISE LICENSES**

Retail dealers, 71.01 et seq.

**OFF-PREMISE WINE AND BEER RETAILERS PERMITS**

Generally, 26.01 et seq.

**ON-PREMISES LICENSES**

Retail dealers, 69.01 et seq.  
Late hours licenses, 70.01 et seq.

**OPTIONS**

Local Option Elections, generally, this index.

**ORDERING ELECTIONS**

Local Option Elections, this index.

**ORDERS**

Sales, orders prohibiting, posting, 251.54.

**ORIGINAL PACKAGE**

Defined, 1.04.

**OUTDOOR ADVERTISING**

Generally, 108.51 et seq.  
Benches, 108.52.  
Definitions, 108.51.  
Dry areas, 108.56.  
Electric signs, 108.53.  
Local regulations of billboards, electric signs, etc., 108.55.  
Nonconforming advertising, 108.54.  
Permissible advertising, 108.52.  
Seizure, nonconforming advertising, 108.54.

**OWNERSHIP**

Distributorships, ownership transfer, Beer Industry Fair Dealing Law, 102.76.  
Subterfuge ownership, 109.53.

**PACKAGE STORES**

Agents or manufacturers agent, relationship, 102.06.  
Airline beverage permit holder, sales to, 34.05.  
Hotels, business interest, 102.05.  
Licenses and permits, 22.01 et seq.  
Licensing portion of building as premises, 11.50.  
Refusal, 11.48.

## INDEX TO ALCOHOLIC BEVERAGE CODE

References are to Sections

**PACKAGE STORES—Cont'd**

## Licenses and permits—Cont'd

- Retail dealers off-premise license, 71.03.
- Wine only permits, 24.01 et seq.
- Persons barred from interest in premises, 102.03.
- Persons under designated age, presence on premises, 109.53.

**PACKAGES**

Containers, generally, this index.

**PAMPHLETS**

Alcoholic beverage code, distribution, 5.49.

**PARENTS**

Children and Minors, generally, this index.

**PARTNERSHIPS**

- Dissolution, succession,
- License use, 61.02.
- Permit use, 11.10.

**PAY**

Compensation and Salaries, generally, this index.

**PAYMENTS**

- Licenses and permits, permit application fees, 11.35.
- Taxation, this index.

**PEACE OFFICERS**

Duties, 101.07.

**PECUNIARY INTEREST**

Adverse or Pecuniary Interest, generally, this index.

**PENALTIES**

Fines and Penalties, generally, this index.

**PER DIEM**

- Alcoholic beverage commission, 5.08.
- Members or employees, 5.441.

**PERFORMANCE BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**PERMITTEE**

Defined, 1.04.

**PERSON**

Defined, 1.04.

**PERSONAL USE**

- Alcoholic beverage importation, 107.07.
- Beverages, transportation, 107.08.

**PETITIONS**

Local Option Elections, this index.

**PHARMACEUTICAL USE**

Licensing and regulating, 5.41.

**PHARMACIES**

- Medicinal Permits, generally, this index.
- Prescriptions, generally, this index.

**PHOTOGRAPHS**

- Retail dealers on-premise license, 69.08.
- Wine and beer retailer permit, 25.08.

**PHRASES**

Words and Phrases, generally, this index.

**PHYSICIANS AND SURGEONS**

- Permits, 40.01 et seq.
- Prescriptions, generally, this index.

**PLANS AND SPECIFICATIONS**

Local industrial alcohol manufacturers, plants, 47.05.

**PLANTS**

Local industrial alcohol manufacturers, plans, 47.05.

**POLICE**

Duties, 101.07.

**POLITICAL SUBDIVISIONS**

Local Option Elections, generally, this index.

**POOL SYSTEM**

Private club registration permits, 32.06.

**POSSESSION**

- Beverage not covered by invoice, mixed beverage permittee, 28.06.
- Children and minors,
- Alcohol possession, 106.05.
- Sanctions against retailer permitting, 106.13.
- Illicit beverages, 103.01.
- Medical permits, limitation on amount, 39.28.

**POSTING**

Orders prohibiting sales, 251.54.

**PRELIMINARY MEMBERSHIPS**

Private club registration permits, 32.03.

**PREMISES**

- Branch distributors licensees, sharing premises, 66.10.
- Control of premises, 109.53.
- Defined, 1.04, 11.49.
- Licenses, 61.51.
- General distributors licensees, sharing premises, 64.07.
- Indecent graphic materials, display, 101.64.
- Licensed premises, privileges limited to, 11.06.
- Local distributors licensees, sharing premises, 65.07.
- Offensive noise on premises, licensee or permittee allowing, 101.62.
- Storing beer off-premises, retail dealers on-premise license, 69.10.

**PREMIUMS**

Manufacturer or distributor inducements, 108.06.

**PRESCRIPTIONS**

- Medicinal permits, 39.01 et seq.
- Physicians permits, 40.01 et seq.
- Taxation, 201.91 et seq.
- Actions and proceedings, tax collection, 201.96.
- Liability for tax, 201.94.
- Permit revocation, failure to pay tax, 201.95.
- Prohibited activities, 201.93.

**PRICES**

- Beer Industry Fair Dealing Law, 102.71 et seq.
- Illicit beverages, federal ceiling prices, emergencies, 103.12.

**PRIESTS**

Sacramental wine, 109.51.

**PRIMA FACIE EVIDENCE**

Evidence, generally, this index.

**PRINTING**

- Code, pamphlet form, 5.49.
- Tax stamps, 201.72.

**PRIVATE CARRIER PERMITS**

Generally, 42.01 et seq.

**PRIVATE CLUBS**

- Beverage cartage permits, 44.01 et seq.
- Late hours permits, 33.01 et seq.
- Registration permits, 32.01 et seq.
- Beverage cartage permits, 44.01 et seq.
- Solicitation of business,
- Manufacturers agents permit holder, 36.06.
- Nonresident sellers permit holder, 37.13.
- Sale of beer to,
- Branch distributors licenses, 66.07.
- General distributors license holder, 64.03.
- Local distributors licensees, 65.03.

**PRIVATE RECORDS**

Generally, 5.48.

**PRIVILEGED INFORMATION**

Private records, 5.48.

**PRIVILEGES AND IMMUNITIES**

- Licenses and permits, restriction of privileges to licensed premises, 61.06.
- Permits, personal privilege, 11.03.

**PRIZES**

Manufacturer of distributor inducements, 108.06.

**PROCEDURE RULES**

Alcoholic beverage commission, hearings, 5.43.

**PROCEEDINGS**

Actions and Proceedings, generally, this index.

**PROCESS**

- Agents for service of process, licenses and permits, agent designation, 61.07.

**PRODUCTION**

Home production of wine, 109.21.

**PRODUCTION OF BOOKS AND PAPERS**

Alcoholic beverage commission, powers, 5.44.

**PROMOTIONAL ACTIVITIES**

- Regulation, 108.03.
- Wholesalers permit, 19.03.

# INDEX TO ALCOHOLIC BEVERAGE CODE

510

References are to Sections

## PROOF

Evidence, generally, this index.

## PROPERTY INJURY

Licenses and permits, actions, 11.49.

## PUBLIC AUTHORITY

Alcoholic beverage commission, 5.37.

## PUBLIC FUNDS

Funds, generally, this index.

## PUBLIC POLICY

Generally, 1.03.

## PUBLIC RECORDS

Records, generally, this index.

## PUBLICATION

Licenses and permits, permit applicant, notice publication, 11.39.

## PURITY

Beverage purity, regulation, 5.38.

## PURPOSE OF CODE

Generally, 1.01.

## QUALITY

Beverage quality, regulation, 5.38.

## QUORUM

Alcoholic beverage commission, 5.07.

## RABBIS

Sacramental wine, 109.51.

## RAILROADS

Carrier permits, 41.01 et seq.  
Importation of alcoholic beverages, 107.07.

Wine and beer retailer permit, 25.03.

## RAILWAY CARS

Retail dealers on-premise licenses, 69.03.

## RATES AND CHARGES

Private club registration permits, replacement account, 32.06.

## RECEIVERS AND RECEIVERSHIP

Licenses and permits,  
Beverages in bulk, disposal, 11.69.  
Licensee receivership, succession, license use, 61.02.  
Permittee receivership, succession, permit use, 11.10.

## RECOMMENDATIONS

Licenses and permits, permit applications, recommendations of local officials, 11.41.

## RECORDS

Alcoholic beverage commission, certification, 5.44.  
Beer sales, festivals and civil celebrations, resale, 109.54.  
Branch distributors license, 66.08.  
Code violations, 5.47.  
General distributors of licenses, 64.03.  
Licenses and Permits, this index.  
Local distributors license, 65.04.  
Local option elections, record in minutes, 251.12.  
Manufacturers license, 62.05.

## RECORDS—Cont'd

Medicinal permits, 39.22.  
Nonresident sellers permittee, inspection, 37.12.  
Private club registration permits, inspection, 32.13.  
Replacement account, service charges, 32.06.  
Private records, 5.48.  
Taxation, this index.  
Wine bottlers permits, 18.03.

## RECOUNTS

Local option elections,  
Electronic voting systems or machines, 251.512.  
Paper ballots, 251.511.

## RECTIFIERS PERMITS

Generally, 15.01, 15.02.  
Interest in mixed beverage business, 102.04.  
Interest in retail liquor outlet premises, 102.03.  
Interest in wholesalers, 102.10.  
Wholesalers, interest in rectifiers, 102.09.

## REFUNDS

Licenses and permits,  
Permit application fees, 11.36.  
Surrender or nonuse of license, 61.35.  
Tax Refunds, generally, this index.

## RELIGIOUS ORGANIZATIONS AND SOCIETIES

Sacramental wine, 109.51.

## RENEWAL

Branch distributors license, 66.06.  
Manufacturers license, 62.04.

## REPLACEMENT ACCOUNT

Private club registration permits, 32.06.

## REPORTS

Alcoholic beverage commission, 5.09.  
Requirements, 5.32.  
Criminal convictions, 101.09.  
Illicit beverages, seizure, 103.05.  
Medicinal permits, 39.22.  
Nonresident sellers permit holders, 37.14.  
Taxation, reporting system, 201.05.

## REPRESENTATIVES

Alcoholic beverage commission, 5.14.

## RESALE

Acquisition of beverages from other licensees,  
Retail dealers off-premise license, 71.05.  
Retail dealers on-premise license holder, 69.09.  
Beer Industry Fair Dealing Law, 102.71 et seq.

## RESTRAINING ORDERS

Generally, 101.01.

## RETAIL PACKAGE

Defined, beer containers, 71.03.

## RETAILERS

Generally, 104.01 et seq.  
Accepting unlawful benefits, 104.03.

## RETAILERS—Cont'd

Barriers, maintaining and establishment, 104.02.  
Blinds, maintaining and establishment, 104.02.  
Cancellation and suspension of licenses. Licenses and permits, post.  
Certificates and certification, sales tax permit, license refusal, 61.42.  
Children and minors, violation, sanctions, 106.13.  
Conspiracy, 104.03.  
Credit transactions, regulation, 102.31, 102.32.  
Dealings, prohibited dealings, 102.07.  
Display space, 11.49.  
Draft beer dispensers, size, 104.04.  
Fees. Licenses and permits, post.  
Floor space, 11.49.  
Hotels, multiple interests, 102.05.  
Hours of sale from wholesalers, 105.02.  
Immoral conduct, 104.01.  
Licenses and permits,  
Cancellation and suspension of licenses, 11.66.  
Credit purchases or dishonored checks, 61.73.  
Grounds, 61.71.  
Premises, 61.72.  
Cancellation and suspension of permits, 11.66.  
Discretionary grounds for license refusal, 61.43.  
Fees,  
Retail dealers off-premise licenses, 71.02.  
Retail dealers on-premise late hours licenses, 70.01 et seq.  
Retail dealers on-premise licenses, 69.02.  
Mandatory grounds for license refusal, 61.42.  
Off-premise licenses, 71.01 et seq.  
On-premise late hours licenses, 70.01 et seq.  
On-premise licenses, 69.01 et seq.  
Refusal of license,  
Commission or administrator refusal, 61.47.  
Mandatory ground, 61.42.  
Prohibited interests, 61.44.  
Promises, prohibited interest in, 61.45.  
Renewal of license, refusal, grounds, 61.50.  
Persons barred from interest in retail liquor outlet premises, 102.03.  
Refusal of license. Licenses and permits, ante.  
Sale of beer, territorial limit, 102.51 et seq.  
Sales tax permit, certificate, license refusal, 61.42.  
Size, draft beer dispensers, 104.04.  
Storage area, 11.49.  
Territorial limit on sale of beer, 102.51 et seq.  
Tied houses, 102.01.  
Wholesale sales, prima facie evidence, 101.10.

## RETURNABLE CONTAINERS

Acceptance, containers of another manufacturer, 101.42.

References are to Sections

**RETURNS**

Tax returns, mixed beverage tax, 202.03.  
False returns, 202.07, 202.08.

**REVENUE**

Taxation, generally, this index.

**REVIEW**

Appeal and Review, generally, this index.

**RULES AND REGULATIONS**

Generally, 5.31.  
Agents beer licenses, 73.08.  
Beer containers, deposits, 5.40.  
Container regulations, 101.48.  
Daily temporary mixed beverage permits, 30.06.  
Deposits, containers, 101.48.  
Licensees and permittees, 5.33.  
Liquor containers, 5.39.  
Local cartage permits, violations, 43.07.  
Medicinal permits, 39.03.  
Municipal regulations, 109.31 et seq.  
Nonresident sellers permit holders, reports, 37.14.  
Prescription forms, physicians permits, 40.04.  
Temporary wine and beer retailers permits, 27.05.  
Transportation,  
Ale and malt liquor, private carriers permits, 42.05.  
Beer, 62.08.

**RULES OF EVIDENCE**

Alcoholic beverage commission hearings, 5.43.

**RULES OF PROCEDURE**

Alcoholic beverage commission hearings, 5.43.

**SACRAMENTAL WINE**

Generally, 109.51.

**SALARIES**

Compensation and Salaries, generally, this index.

**SALES**

Generally, 5.31.  
Beer Industry Fair Dealing Law, 102.71 et seq.  
Beer sales,  
Festivals and civic celebrations, resale, 109.54.  
Manufacturers, 62.12.  
Children and minors, 106.02, 106.03, 106.06.  
Medicinal purposes, 39.31.  
Churches, sales near, 109.33.  
Contracts for sale of liquor, 102.17.  
Credit transactions, 102.31, 102.32.  
Crimes and offenses,  
Consignment sales, 101.68.  
Sale to certain persons, 101.63.  
Devices to extract brewery products from containers, manufacturers or distributors, 102.14.  
Fair dealing, Beer Industry Fair Dealing Law, 102.71 et seq.  
Hospitals, sales near, 109.33.  
Hours of sale, 105.01 et seq.  
Illicit Beverages, this index.  
Insured losses, 109.01 et seq.

**SALES—Cont'd**

Intoxicated persons, sales to, medicinal permit, 39.32.  
Malt beverages, prior approval, 101.67.  
Manufacturers and manufacturing, beer, 62.12.  
Medicinal permits, 39.01 et seq., 39.24.  
Amount sold to one person, 39.26.  
Children and minors, sales to, 39.31.  
Nonresident sellers permits, 37.01 et seq.  
Order prohibiting sales, posting, 251.54.  
Permit required, 11.01.  
Retailers, generally, this index.  
Salvaged losses, 109.01 et seq.  
Schools, sales near, 109.33.  
Territorial limits on sale of beer, 102.51 et seq.  
Untaxed ale or malt liquor, 201.45.  
Untaxed liquor, 201.13.  
Wine, 16.05.

**SALES TAXES**

Licenses and permits,  
Certificates, 11.46.  
Retailers, certificate, refusal, 61.42.  
Suspension, 11.61, 61.712.  
Untaxed ale or malt liquor, 201.45.  
Untaxed liquor, 201.13.

**SALVAGED LOSSES**

Generally, 109.01 et seq.

**SAMPLES**

Agents permit holder, 38.05.  
Manufacturers agents permit holder, 36.05.  
Nonresident sellers permittee, 37.11.

**SANCTIONS**

Breach of the peace, retail beer establishment, 71.09.  
Retailer, sales to minors or permitting consumption or possession, 106.13.

**SCHOOLS**

Sales near schools, regulation, 109.33.

**SCIENCE**

Alcohol use for scientific purposes, regulation, 5.41.

**SEARCHES AND SEIZURES**

Generally, 101.03.  
Alcoholic beverage commission, powers, 5.36.  
Illicit Beverages, this index.  
Inspection of vehicles, refusal, 101.71.  
Nonconforming outdoor advertising, 108.54.

**SECURED CREDITORS**

Illicit beverages, intervention, forfeiture proceedings, 103.18.

**SECURITY FOR COST**

Requirement, 5.46.

**SECURITY INTERESTS**

Illicit beverages, transfers, 103.19.

**SEIZURES**

Searches and Seizures, generally, this index.

**SEPARATE PERMITS**

Requirements, 11.02.

**SERVICE OF PROCESS**

Agent for service of process, licenses and permits, agent designation, 61.07.

**SHARES AND SHAREHOLDERS**

Stock and Stockholders, generally, this index.

**SIGNS**

Outdoor Advertising, generally, this index.  
Retail establishments, draft beer dispensers, 104.04.

**SOLICITATION**

Retailers, drinks, 104.01.

**SPECIFIC PENALTY**

Defined, 1.05.

**STADIUMS**

Wet area status, 251.74.

**STAMPS**

Tax Stamps, generally, this index.

**STANDARDS HOUR AREA**

Defined, hours of consumption, 105.06.

**STATE AGENCIES**

Alcoholic beverage commission, 5.01 et seq.

**STATE INSTITUTIONS**

Industrial alcohol manufacturer, permit exemption, 47.06.

**STATE TREASURER**

Tax stamps, duties, 201.74.

**STATEMENTS**

Beer tax, 203.09.  
Licenses and permits,  
Licensee stock ownership statements, 61.08.  
Permit applicants, stock ownership statements, 11.42.  
Local Option Elections, this index.  
Transportation,  
Beer, 107.02.  
Liquor, 107.01.

**STATUTE OF LIMITATIONS**

Licenses and permits, business or property injury, 11.49.

**STOCK AND STOCKHOLDERS**

Licenses and permits,  
Licensee stock ownership statement, 61.08.  
Permit applicants, statement of stock ownership, 11.42.  
Transfer of stock, Beer Industry Fair Dealing Law, 102.76.

**STORAGE**

Alcoholic beverage commission, inspection, supervision and regulation, 5.31.  
Beer off-premises, retail dealers off-premise license, 71.06.  
Bonded warehouse permit, storage information, 46.04.  
Local industrial alcohol manufacturers, 47.04.

# INDEX TO ALCOHOLIC BEVERAGE CODE

512

References are to Sections

**STORAGE—Cont'd**

Malt beverages, prior approval, 101.67.  
Permit required, 11.01.  
Retail dealers on-premise license, storing beer on premises, 69.10.  
Wine only package store permit, designation of place of storage, 24.04.

**STORAGE PERMITS**

Generally, 45.01 et seq.

**STORES**

Package Stores, generally, this index.  
Retailers, generally, this index.

**SUBPOENA DUCES TECUM**

Alcoholic beverage commission, powers, 5.44.

**SUBPOENAS**

Alcoholic beverage commission, powers, 5.44.

**SUBSTANDARD WINES**

Beverages made from, 101.65.

**SUBTERFUGE OWNERSHIP**

Generally, 109.53.

**SUITS**

Actions and Proceedings, generally, this index.

**SUNDAYS AND HOLIDAYS**

Hours of sale, 105.01.

**SUNSET ACT**

Alcoholic beverage commission, application, 5.01.

**SURCHARGE**

Tax collection expenses, 205.04.

**SURETY**

Bond of permittee,  
Liability, 11.70.  
Terminating liability, 11.71.

**SUSPENSION**

Licenses and Permits, this index.

**SYNTHETIC MATERIALS**

Beverages made from, 101.65.

**TANK CARS**

Importation of beer, prohibited, 62.07.

**TAX COLLECTIONS**

Actions and proceedings, 201.15.  
Ale and malt liquor tax, evidence, 201.51.  
Beer tax collection, evidence, 203.11.  
Liquor prescriptions tax collection, 201.96.  
Alternative method, collecting tax on wine, tax stamps, 201.79.  
Expenses, surcharge, 205.04.  
Federal collection, 5.37.

**TAX CREDITS**

Generally, 201.11.  
Ale and malt liquor tax, 201.47.

**TAX EXEMPTIONS**

Generally, 201.08.  
Ale and malt liquor tax, 201.44.

**TAX EXEMPTIONS—Cont'd**

Beer tax, 203.05.  
Manufacturers, 203.08.

**TAX REFUNDS**

Generally, 201.11.  
Ale and malt liquor tax, 201.47.  
Appropriations for refunds, 201.12.  
Beer tax, claims, 203.07.  
Disposition outside of state, 201.09.  
Excess tax payment, 201.10.  
Tax stamps, 201.76.

**TAX RETURNS**

Beer tax, failure to file, permit suspension, 202.14.  
Mixed beverage tax, 202.03.  
False returns, 202.07, 202.08.

**TAX STAMPS**

Generally, 201.71 et seq.  
Alternative method of collecting tax on the wine, 201.79.  
Counterfeiting, 206.06.  
Delivery, 201.75.  
Denomination, 201.73.  
Design, 201.73.  
Distilled spirits, 201.81.  
Imported distilled spirits, 201.82.  
Distribution, liquor prescriptions tax, 201.97.  
Distribution of proceeds, 205.02.  
Exemptions, 201.80.  
Federal stamp, imported distilled spirits, 201.82.  
Forgery, 206.06.  
Importation without stamp, 206.03.  
Liquor prescriptions, 201.92.  
Mixed beverage permit holder, invalidating on empty bottle, 28.09.  
Mixed beverage tax, 202.11.  
Printing,  
Duty, 201.72.  
Liquor prescriptions tax, 201.97.  
Proceeds, distribution, 205.02.  
Purchase of stamps, 201.77.  
Refunds, 201.76.  
State treasurer, duties, 201.74.  
Unmutilated stamps, 206.05.  
Use, liquor prescription tax, 201.97.  
Wine, stamp for, 201.78.

**TAXATION**

Generally, 201.01 et seq.  
Airline beverage permits, 34.04.  
Ale and malt liquor tax, 201.41 et seq.  
Credits, 201.47.  
Definitions, 201.41.  
Disposition of proceeds, 205.02.  
Due date, 201.43.  
Duty to pay tax, 201.43.  
Evidence, tax collection actions, 201.51.  
Exemptions, 201.44.  
Information requirement, 201.49.  
Invoices, transported liquor, 201.50.  
Metric containers, 201.52.  
Payment, 201.48.  
Refunds, 201.47.  
Sale of untaxed beverage, 201.45.  
Tax liability, 201.46.  
Untaxed beverage, sale, 201.45.  
Appropriations for refunds, 201.12.  
Beer tax, 203.01 et seq.  
Actions and proceedings, tax collection, evidence, 203.11.

**TAXATION—Cont'd**

Beer tax—Cont'd  
Claims for refunds, 203.07.  
Discount, 203.10.  
Distribution of proceeds, 205.02.  
Due date, 203.03.  
Evidence, tax collection actions, 203.11.  
Excess tax, 203.06.  
Exemptions, 203.05.  
Manufacturers, 203.08.  
First sale, 203.02.  
Importation, 203.02.  
Notice, permit suspension, 202.14.  
Payments, 203.10.  
Duty, 203.03.  
Failure to pay, permit suspension, 202.14.  
Permit suspension, failure to pay or file return, 202.14.  
Refund claims, 203.07.  
Statements, 203.09.  
Tax liability, 203.12.  
Time, permit suspension, 202.14.  
Unsalable beer, tax on, 203.04.  
Credits, 201.11.  
Ale and malt liquor tax, 201.47.  
Crimes and offenses, 201.16.  
Definitions, 201.01, 201.02.  
Discounts, 201.06.  
Beer tax, 203.10.  
Disposition of tax receipts, 205.02.  
Disposition outside of state, refunds, 201.09.  
Distilled spirits, 201.03.  
Due date, 201.07.  
Ale and malt liquor tax, 201.43.  
Beer tax, 203.03.  
Permit suspension, 202.14.  
Mixed beverage tax, 202.03.  
Payment, mailing, 206.07.  
Evidence,  
Actions to collect tax, 201.15.  
Ale and malt liquor tax, 201.51.  
Beer tax collection actions, 203.11.  
Payment, mailing, 206.07.  
Taxes due, proof, 206.02.  
Excess tax, 201.10.  
Exemptions. Tax Exemptions, generally, this index.  
Federal liquor taxes, state apportionment, 5.37.  
Fines and penalties, 201.16.  
Mixed beverage tax, post.  
Gross receipts taxes, bonds (officers and fiduciaries), failure to pay tax, 204.01.  
Industrial permits, application of law, 38.06.  
Invoices, transported liquor, 201.14.  
Ale and malt liquor tax, 201.50.  
Mail and mailing, payments, 206.07.  
Malt liquor. Ale and malt liquor tax, generally, ante.  
Metric containers,  
Ale and malt liquor tax, 201.52.  
Liquor in, 201.17.  
Mixed beverage tax, 202.01 et seq.  
Accounts, tax accounts, examination, 202.09.  
Additional tax, tax account examination, 202.09.  
Definitions, 202.01.  
Due date, 202.03.  
Failure to file return, civil penalty, 202.05.  
Failure to pay tax, civil penalty, 202.05.

References are to Sections

**TAXATION—Cont'd**

Mixed beverage tax—Cont'd  
 Fines and penalties,  
   Aggravated violations, 202.08.  
   Failure to file or pay tax, 202.05.  
   Failure to keep records or file returns, 202.07.  
   False records or returns, 202.07.  
   Tax account examination, additional tax, 202.09.  
 Gross receipts, 202.02.  
 Payment, 202.04.  
 Records,  
   False records, 202.07, 202.08.  
   Keeping at single location, 202.13.  
   Tax receipts, 202.06, 202.10.  
 Returns, 202.03.  
   False returns, 202.07, 202.08.  
 Tax violators, permit eligibility, 202.12.  
 Nonresident manufacturer licensees, tax liability, 63.03.  
 Notice, beer tax, permit suspension, 202.14.  
 Payments, 201.06.  
   Ale and malt liquor tax, 201.48.  
   Beer tax, 203.10.  
   Failure to pay, permit suspension, 202.14.  
   Mail and mailing, 206.07.  
   Mixed beverage tax, 202.04.  
 Penalties. Fines and penalties, generally, ante.  
 Prescriptions, this index.  
 Records, 206.01.  
   Mixed beverage tax, ante.  
 Refunds. Tax Refunds, generally, this index.  
 Reporting system, 201.05.  
 Returns. Tax Returns, generally, this index.  
 Sales Taxes, generally, this index.  
 Stamps. Tax Stamps, generally, this index.  
 System for reporting, 201.05.  
 Tax Exemptions, generally, this index.  
 Tax Refunds, generally, this index.  
 Tax Stamps, generally, this index.  
 Time. Due date, generally, ante.  
 Untaxed ale or malt liquor, sale, 201.45.  
 Untaxed liquor, sale, 201.13.  
 Vinous liquor, 201.04.

**TEMPORARY LICENSES**  
 Generally, 72.01 et seq.  
 Fees, 61.35.

**TEMPORARY MEMBERS**  
 Private club registration permits, 32.09.

**TEMPORARY WINE AND BEER RETAILERS PERMITS**  
 Generally, 27.01 et seq.

**TERMS OF OFFICE**  
 Alcoholic beverage commission members, 5.03.

**TERRITORIAL LIMITS**  
 Beer sales, 102.51 et seq.

**TESTIMONY**  
 Evidence, generally, this index.

**TIED HOUSES**  
 Generally, 102.01.

**TIME**

Hours of consumption, 105.06.  
 Hours of sale, 105.01 et seq.  
 Licenses and Permits, this index.  
 Local option elections, holding, 251.33.  
 Taxation, this index.

**TOWNS**

Local fees authorized, permits, 11.38.  
 Local Option Elections, generally, this index.

**TRANSFER COMPANIES**

Local cartage permits, 43.01 et seq.

**TRANSPORTATION**

Generally, 107.01 et seq.  
 Airline beverage permits, 34.01 et seq.  
 Alcoholic beverage commission, inspection, supervision and regulation, 5.31.  
 Beer between licensed premises under same ownership,  
   Retail dealers off-premise license, 71.07.  
   Retail dealers on-premise license, 69.11.  
 Beer transportation, statements, 107.02.  
 Beverage cartage permits, 44.01 et seq.  
 Carrier permits, 41.01 et seq.  
 Deliveries,  
   Beer deliveries in dry area, 107.04.  
   Liquor delivery in dry areas, 107.03.  
 Illicit beverages, 103.01.  
 Liquor transportation,  
   Small containers, use, 101.47.  
   Statements, 107.01.  
 Local cartage permits, 43.01 et seq.  
 Local industrial alcohol manufacturer, 47.03.  
 Malt beverages, prior approval, 101.67.  
 Mixed beverage permit holder, 28.07.  
 Permit required, 11.01.  
 Personal consumption, transportation of beverages for, 107.08.  
 Private carrier permits, 42.01 et seq.  
 Private club registration permit, 32.08.  
 Taxation, invoices, transported liquor, 201.14.  
   Ale and malt liquor tax, 201.50.

**TRAVELING EXPENSES**

Alcoholic beverage commission, members or employees, 5.441.

**TRIALS**

Children and minors, presence of parent or guardian, 106.11.

**TRUCKS**

Motor Carriers, generally, this index.

**TRUST COMPANIES**

Warehouse receipts, 109.52.

**UNITED STATES**

Jurisdiction ceded by state, 206.04.

**UNMUTILATED TAX STAMPS**

In container, possessing, buying or selling, 206.05.

**UNREGISTERED CLUB**

Private club registration permit, 32.14.

**VEHICLES**

Motor Vehicles, generally, this index.

**VENUE**

Alcoholic beverage commission, actions against, 5.17.  
 Beer Industry Fair Dealing Law, actions, 102.79.

**VETERANS ORGANIZATIONS**

Private clubs,  
 Late hours permits, 33.01 et seq.  
 Registration permits, 32.01 et seq.

**VINOUS LIQUOR**

Taxation, 201.04.

**VISITORS**

Hotels, possession, 28.01.

**VOTERS AND VOTING**

Local Option Elections, generally, this index.

**VOTING MACHINES**

Local option elections, 251.381.  
 Recount, 251.512.

**VOTING PLACES**

Local option elections, 251.34.

**WAGES**

Compensation and Salaries, generally, this index.

**WAREHOUSE RECEIPTS**

Generally, 109.52.

**WAREHOUSES**

Bonded warehouse permits, 46.01 et seq.  
 Branch distributors licenses, 66.09.  
 Distributors licenses, 62.08.  
 General distributors licensees, 64.06.  
 Local cartage permits, 43.01 et seq.  
 Local distributors licenses, 65.06.  
 Manufacturers licenses, 62.08.  
 Permit required, 11.01.  
 Storage permits, 45.01 et seq.

**WARNING SIGNS**

Display; license holders, 61.11.

**WARRANTS**

Arrest without warrants, 101.02.

**WEAPONS**

Retailers, rude displays or permitting, 104.01.

**WET AND DRY AREAS**

Generally, 251.71.  
 Airports, 251.74.  
   Wet area status, 251.74, 251.741.  
 Beer deliveries, 107.04.  
 Brewers, continuance of operation, area status change, 251.75.  
 Certain permits and licenses, issuance, 251.79.  
 Change of status, 251.72.  
 Continuance of operation,  
   Brewers, area status change, 251.75.  
   Distillers, area status change, 251.76.  
   Distributors, area status change, 251.77.  
   Manufacturers, area status change, 251.75.

References are to Sections

**WET AND DRY AREAS—Cont'd**

Continuance of operation—Cont'd  
 Wholesalers, area status change, 251.78.  
 Crimes and offenses,  
     Alcoholic beverages in dry areas, 101.31.  
     Delivery of liquor, area, 101.33.  
     Intent to sell, prima facie evidence, 101.32.  
 Distillers, continuance of operation, area status change, 251.76.  
 Distributors, continuance of operation, area status change, 251.77.  
 Liquor delivery, 107.03.  
 Local Option Elections, generally, this index.  
 Manufacturers, continuance of operation, area status change, 251.75.  
 Offenses. Crimes and offenses, generally, ante.  
 Outdoor advertising, 108.56.  
 Prevailing status, 251.73.  
 Resolution of conflicts, 251.73.  
 Stadiums, 251.74.  
 Wholesalers, continuance of operation, area status change, 251.78.  
 Wine sales, 16.05.

**WHOLESALERS**

Continuance of operation, area status change, 251.78.  
 Contracts, unlawful contracts, 102.16.  
 Credit transactions, regulation, 102.31, 102.32.  
 Distillers, interest in wholesalers, 102.10.  
 Hours of sale to retailer, 105.02.  
 Interest in distillers or rectifiers, 102.09.  
 Licenses and permits, 19.01 et seq.  
     Class B permits,  
         Interest in mixed beverage business, 102.04.  
         Interest in retail liquor outlet premises, 102.03.  
         Private carriers permittees, transportation rules, 42.05.  
 Fees, 19.02.  
 General class B permits, 20.01, 20.02.  
 Local class B permits, 21.01, 21.02.

**WHOLESALERS—Cont'd**

Liquor manufactured by affiliate, 102.08.  
 Rectifiers, interest in wholesalers, 102.10.  
 Retail permittee sales, wholesale sales, prima facie evidence, 101.10.  
 Tied houses, 102.01.

**WINE**

Bottlers Permits, this index.  
 Free wine, wineries dispensing for on premises consumption, 16.01.  
 Home production of wine, 109.21.  
 Tax stamps, 201.78.

**WINE AND BEER RETAILER PERMITS**

Generally, 25.01 et seq.  
 Fees, 25.02.  
     Off-premise permits, 26.02.  
     Temporary permits, 27.02.  
 Hotels, mixed multiple interests, 102.05.  
 Hours of sale, 105.04.  
 Off-premise permits, 26.01 et seq.  
 Temporary permit, 27.01 et seq.

**WINE AND VINOUS LIQUOR**

Defined, 1.04.

**WINE ONLY PACKAGE STORE PERMITS**

Generally, 24.01 et seq.

**WINERIES**

Free wine, dispensing for on premises consumption, 16.01.  
 Nonresident seller permit, 37.03.

**WINERY PERMITS**

Generally, 16.01 et seq.  
 Contracts,  
     Sale of liquors, 102.17.  
     Unlawful contracts, 102.16.  
 Mixed beverage business, interest, 102.04.  
 Retail outlet premises, interest, 102.03.

**WITNESSES**

Accomplices, testimony, 101.06.  
 Compelling attendance of witnesses, alcoholic beverage commission powers, 5.44.

**WITNESSES—Cont'd**

Fees, alcoholic beverage commission hearings, 5.44.

**WORDS AND PHRASES**

Generally, 1.04.  
 Agreement, Beer Industry Fair Dealing Law, 102.71.  
 Applicant, licenses and permits, 11.45.  
 Billboard, outdoor advertising, 108.51.  
 Business day, mixed beverage tax, 202.01.  
 Distributor, Beer Industry Fair Dealing Law, 102.71.  
 Dry area, 251.71.  
 Electric sign, outdoor advertising, 108.51.  
 Extended hours area, 105.06.  
 First sale,  
     Taxation, 201.02.  
     Taxation on ale and malt liquor, 201.41.  
 Fraternal organization, private club registration permit, 32.11.  
 Good cause, Beer Industry Fair Dealing Law, 102.71.  
 Importer, 67.03.  
 Liquor, taxation, 201.01.  
 Manufacturer, Beer Industry Fair Dealing Law, 102.71.  
 Minor, 106.01.  
 Outdoor advertising, 108.51.  
 Permittee, mixed beverage tax, 202.01.  
 Premises, licenses and permits, 11.49, 61.51.  
 Private records, 5.48.  
 Retail package, beer containers, 71.03.  
 Sales territory, Beer Industry Fair Dealing Law, 102.71.  
 Specific penalty, 1.05.  
 Standard hours area, hours of consumption, 105.06.  
 Territory, Beer Industry Fair Dealing Law, 102.71.  
 This act, Beer Industry Fair Dealing Law, 102.71.  
 Tied house, 102.01.  
 Veterans organization, private club registration permit, 32.11.  
 Wet area, 251.71.

# BUSINESS AND COMMERCE CODE

## TITLE 1. UNIFORM COMMERCIAL CODE.

### CHAPTER 2. SALES

#### SUBCHAPTER C. GENERAL OBLIGATION AND CONSTRUCTION OF CONTRACT

##### § 2.316. Exclusion or Modification of Warranties

[See Compact Edition, Volume 1 for text of (a) to (e)]

(f) The implied warranties of merchantability and fitness do not apply to the sale or barter of livestock or its unborn young.

[Amended by Acts 1979, 66th Leg., p. 190, ch. 99, § 1, eff. May 2, 1979.]

##### § 2.326. Sale on Approval and Sale or Return; Consignment Sales and Rights of Creditors

[See Compact Edition, Volume 1 for text of (a) to (c)(2)]

(3) complies with the filing provisions of the chapter on Secured Transactions (Chapter 9), or

(4) is delivering a work of art subject to the Artists' Consignment Act.

[See Compact Edition, Volume 1 for text of (d)]

[Amended by Acts 1977, 65th Leg., p. 1530, ch. 623, § 4, eff. Aug. 29, 1977.]

### CHAPTER 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL PAPER

#### SUBCHAPTER A. SHORT TITLE, APPLICABILITY AND DEFINITIONS

##### § 9.110. Sufficiency of Description

Except as provided in Subsections (c) and (f) of Section 9.402, any description of personal property or real estate is sufficient for the purposes of this chapter whether or not it is specific if it reasonably identifies what is described.

[Amended by Acts 1975, 64th Leg., p. 940, ch. 353, § 1, eff. June 19, 1975.]

#### SUBCHAPTER C. RIGHTS OF THIRD PARTIES; PERFECTED AND UNPERFECTED SECURITY INTERESTS; RULES OF PRIORITY

##### § 9.301. Persons Who Take Priority Over Unperfected Security Interests; Right of "Lien Creditor"

[See Compact Edition, Volume 1 for text of (a)]

(b) If the secured party files with respect to a purchase money security interest before or within 20 days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

[See Compact Edition, Volume 1 for text of (c) and (d)]

[Amended by Acts 1979, 66th Leg., p. 723, ch. 318, § 1, eff. June 6, 1979.]

##### § 9.312. Priorities Among Conflicting Security Interests in the Same Collateral

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within 20 days thereafter.

[See Compact Edition, Volume 1 for text of (e) to (g)]

[Amended by Acts 1979, 66th Leg., p. 723, ch. 318, § 2, eff. June 6, 1979.]

#### SUBCHAPTER D. FILING

##### § 9.402. Formal Requisites of Financing Statement; Amendments; Mortgage as Financing Statement

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) A form substantially as follows is sufficient to comply with Subsection (a):

Name of debtor (or assignor) \_\_\_\_\_

Address \_\_\_\_\_

Name of secured party (or assignee) \_\_\_\_\_

Address \_\_\_\_\_

1. This financing statement covers the following types (or items) of property:

(Describe) \_\_\_\_\_

2. (If collateral is crops) The above described crops are growing or are to be grown on:  
(Describe Real Estate) \_\_\_\_\_

3. (If applicable) The above goods are or are to become fixtures on (or where appropriate substitute either "The above timber is standing on \_\_\_\_\_" or "The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on \_\_\_\_\_")

(Describe Real Estate) \_\_\_\_\_ and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner of the real estate concerned is \_\_\_\_\_

4. (If products of collateral are claimed) Products of the Collateral are also covered.

(use \_\_\_\_\_  
whichever \_\_\_\_\_

Signature of Debtor (or Assignor  
is \_\_\_\_\_

applicable)

Signature of Secured Party (or Assignee)

(d) A financing statement may be amended by filing a writing signed by both the debtor and the secured party, provided, however, that an amendment to a financing statement which changes only the name of the secured party or the required address of either the secured party or the debtor is sufficient when it is signed by the secured party instead of the debtor. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this chapter, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(e) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to Subsection (e) of Section 9.103, or a financing statement filed as a fixture filing (Section 9.313), must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(f) A mortgage is effective as a financing statement filed as a fixture filing or as a financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or

accounts subject to Subsection (e) of Section 9.103, from the date of its filing for record if (1) the goods or other collateral are described in the mortgage by item or type, (2) in the case of a fixture filing, the goods are or are to become fixtures related to the real estate described in the mortgage, (3) in the case of timber to be cut, the timber is standing on the real estate described in the mortgage, (4) in the case of minerals or the like (including oil and gas) or accounts subject to Subsection (e) of Section 9.103, the minerals or the like (including oil and gas) or the accounts are to be financed at the wellhead or minehead of the well or mine located on the real estate described in the mortgage, (5) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (6) the mortgage is duly filed for record. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

[See Compact Edition, Volume 1 for text of (g) and (h)]

[Amended by Acts 1975, 64th Leg., p. 940, ch. 353, §§ 2, 3, eff. June 19, 1975; Acts 1977, 65th Leg., p. 333, ch. 163, § 1, eff. Aug. 29, 1977.]

**§ 9.403. What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer**

(a) Presentation for filing of a financing statement or other statement and tender of the filing fee or acceptance of the financing statement or other statement by the filing officer constitutes filing under this chapter.

[See Compact Edition, Volume 1 for text of (b) and (c)]

(d) Except as provided in Subsection (g) a filing officer shall mark each financing statement with a file number and with the date and hour of filing and shall hold the financing statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the financing statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the financing statement. The filing officer shall mark each continuation statement with the date and hour of filing and shall note it in the index of the original financing statement.

(e) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be \$3.00 if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be \$6.00, plus in each case, if the financing statement is subject to Subsection (e) of Section

9.402, an amount equal to the fee prescribed by law for recording and indexing in the real property records of the county clerk.

(f) A mortgage which is effective as a filing under Subsection (f) of Section 9.402 remains effective as such a filing as to the types of collateral enumerated in Subsection (f) of Section 9.402 until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(g) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to Subsection (e) of Section 9.103, or is filed as a fixture filing, it shall be filed for record and recorded, and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

[See Compact Edition, Volume 1 for text of (h)]

[Amended by Acts 1975, 64th Leg., p. 941, ch. 353, § 4, eff. June 19, 1975; Acts 1977, 65th Leg., p. 333, ch. 163, §§ 2, 3, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 908, ch. 325, § 1, eff. Aug. 31, 1981.]

#### § 9.404. Termination Statement

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) If the termination statement is in the standard form prescribed by the Secretary of State, the uniform fee for filing and indexing the termination statement shall be \$3.00, and otherwise shall be \$6.00, plus, in each case where the original financing statement was filed pursuant to Subsection (e) of Section 9.402, an amount equal to the fee prescribed by law for recording and indexing in the real property records of the county clerk.

[Amended by Acts 1975, 64th Leg., p. 942, ch. 353, § 5, eff. June 19, 1975; Acts 1981, 67th Leg., p. 908, ch. 325, § 2, eff. Aug. 31, 1981.]

#### § 9.405. Assignment of Security Interest; Duties of Filing Officer; Fees

(a) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the financing statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in Section 9.403.

[See Compact Edition, Volume 1 for text of (b) and (c)]

(d) The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment shall be \$3.00 if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be \$6.00, plus, in each case where the original financing statement was filed pursuant to Subsection (e) of Section 9.402, an amount equal to the fee prescribed by law for recording and indexing in the real property records of the county clerk.

[Amended by Acts 1975, 64th Leg., p. 942, ch. 353, § 6, eff. June 19, 1975; Acts 1981, 67th Leg., p. 909, ch. 325, § 3, eff. Aug. 31, 1981.]

#### § 9.406. Release of Collateral; Duties of Filing Officer; Fees

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with Subsection (b) of Section 9.405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$3.00 if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be \$6.00, plus, in each case where the original financing statement was filed pursuant to Subsection (e) of Section 9.402, an amount equal to the fee prescribed by law for recording and indexing in the real property records of the county clerk.

[Amended by Acts 1975, 64th Leg., p. 942, ch. 353, § 7, eff. June 19, 1975; Acts 1981, 67th Leg., p. 909, ch. 325, § 4, eff. Aug. 31, 1981.]

### SUBCHAPTER E. DEFAULT

#### § 9.504. Secured Party's Right to Dispose of Collateral After Default; Effect of Disposition

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value

or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor, if he has not signed after default a statement renouncing or modifying his right to notification of sale. In the case of consumer goods no other notification need be sent. In other cases notification shall be sent to any other secured party who has a security interest in the same collateral and who has duly filed in the office of the Secretary of State or of the county clerk in the proper county in this state a financing statement indexed in the name of the debtor or from whom the secured party has received (before sending his notification to the debtor or before the debtor's renunciation of his rights) written notice of a claim of an interest in the collateral. The secured party may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

[See Compact Edition, Volume 1 for text of (d) and (e)]

[Amended by Acts 1975, 64th Leg., p. 942, ch. 353, § 8, eff. June 19, 1975; Acts 1977, 65th Leg., p. 333, ch. 163, § 4, eff. Aug. 29, 1977.]

**§ 9.505. Compulsory Disposition of Collateral; Acceptance of the Collateral as Discharge of Obligation**

[See Compact Edition, Volume 1 for text of (a)]

(b) In any other case involving consumer goods or any other collateral a secured party in possession may, after default, propose to retain the collateral in satisfaction of the obligation. Written notice of such proposal shall be sent to the debtor if he has not signed after default a statement renouncing or modifying his rights under this subsection. In the case of consumer goods no other notice need be given. In other cases notice shall be given to any other secured party who has a security interest in the same collateral and who has duly filed in the office of the Secretary of State or the County Clerk in the proper county in this state a financing statement indexed in the name of the debtor or from whom the secured party has received (before sending his notice to the debtor or before the debtor's renunciation of his rights) written notice of a claim of an interest in the collateral. If the secured party receives objection in writing from a person entitled to receive notification within twenty-one days after the notice was sent, the secured party must dispose of the collateral under Section 9.504. In the absence of such written objection the secured party may retain the collateral in satisfaction of the debtor's obligation.

[Amended by Acts 1975, 64th Leg., p. 943, ch. 353, § 9, eff. June 19, 1975; Acts 1977, 65th Leg., p. 334, ch. 163, § 6, eff. Aug. 29, 1977.]

**CHAPTER 11. EFFECTIVE DATE AND TRANSITION PROVISIONS—1973 AMENDMENTS**

**§ 11.105. Transition Provision on Change of Place of Filing**

[See Compact Edition, Volume 1 for text of (a)]

(b) With respect to any collateral, other than fixtures or minerals or the like (including oil and gas) or accounts subject to Subsection (e) of Section 9.103, which are covered by a financing statement or security agreement filed as a financing statement or continuation statement filed prior to January 1, 1974, and which shall not have lapsed prior to January 1, 1974, acquired by the debtor on or after January 1, 1974, any effective financing statement or security agreement filed as a financing statement or continuation statement described in this section and purporting to cover such after-acquired collateral shall apply only if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under the code with its 1973 amendments.

[See Compact Edition, Volume 1 for text of (c)]

(d) If the filing for record of a mortgage would have been effective as to the types of collateral enumerated in Subsection (f) of Section 9.402 if the 1973 amendments had been in effect on the date of the filing for record of the mortgage, the mortgage shall be deemed effective as such a filing as to the types of collateral enumerated in Subsection (f) of Section 9.402 of this code, as amended, on January 1, 1974.

[Amended by Acts 1975, 64th Leg., p. 944, ch. 353, §§ 10, 11, eff. June 19, 1975.]

**§ 11.108. Presumption That Rule of Law Continues Unchanged**

Unless a change in law has clearly been made, the provisions of this title with 1973, 1975, and 1977 amendments shall be deemed declaratory of the meaning of the title.

[Amended by Acts 1975, 64th Leg., p. 944, ch. 353, § 12, eff. June 19, 1975; Acts 1977, 65th Leg., p. 334, ch. 163, § 5, eff. Aug. 29, 1977.]

**TITLE 2. COMPETITION AND TRADE PRACTICES**

**CHAPTER 15. MONOPOLIES, TRUSTS, AND CONSPIRACIES IN RESTRAINT OF TRADE**

**SUBCHAPTER B. PROCEDURE AND EVIDENCE**

**§ 15.21. Cumulative Effect of Subchapter**

The provisions of Sections 15.14 and 15.16–15.20 of this code

(1) are cumulative of and do not repeal other law relating to securing evidence; and

(2) provide additional means of securing evidence to enforce the prohibition contained in Section 15.04 of this code and the laws regulating corporations.

[Amended by Acts 1981, 67th Leg., p. 2637, ch. 707, § 21, eff. Aug. 31, 1981.]

## CHAPTER 16. TRADEMARKS

### SUBCHAPTER B. REGISTRATION OF MARK

#### § 16.10. Application for Registration

[See *Compact Edition, Volume 1 for text of (a) and (b)*]

(c) The applicant shall

(1) prepare and file the application and a copy of the application with the secretary of state; and

(2) submit as part of the application to the secretary of state

(A) two identical specimens or facsimiles of the mark as actually used, one specimen or facsimile with the original application and one specimen or facsimile with the copy and,

(B) a filing fee of \$10 payable to the secretary of state.

[See *Compact Edition, Volume 1 for text of (d)*]

[Amended by Acts 1979, 66th Leg., p. 233, ch. 120, § 47, eff. May 9, 1979.]

#### § 16.11. Registration by Secretary of State

If the application satisfies the requirements of this chapter, and the filing fee is paid, the secretary of state shall

(1) endorse on the original and the copy of the application

(A) the word "filed"; and

(B) the date on which the application was filed;

(2) file the original in his office;

(3) issue a certificate of registration evidencing registration on the date on which the application was filed;

(4) attach the copy to the certificate of registration; and

(5) deliver the certificate of registration with the attached copy of the application to the applicant.

[Amended by Acts 1979, 66th Leg., p. 233, ch. 120, § 48, eff. May 9, 1979.]

## CHAPTER 17. DECEPTIVE TRADE PRACTICES

### SUBCHAPTER E. DECEPTIVE TRADE PRACTICES AND CONSUMER PROTECTION

#### Section

17.50A. Notice: Offer of Settlement.

17.50B. Damages and Defenses.

17.51 to 17.56. Repealed.

17.55A. Indemnity.

17.56A. Limitation.

#### § 17.42. Waivers: Public Policy

Any waiver by a consumer of the provisions of this subchapter is contrary to public policy and is unenforceable and void; provided, however, that a consumer, other than the State of Texas or any political subdivision thereof, with assets of at least \$25,000,000 or more at the time of such transactions, acts, or practices, may by written contract waive the provisions of this subchapter, other than Section 17.55A.

[Amended by Acts 1981, 67th Leg., p. 863, ch. 307, § 1, eff. Aug. 31, 1981.]

Section 2 of the 1981 amendatory act provides:

"Nothing in this Act shall affect procedurally or substantively a cause of action arising in whole or in part prior to the effective date of this Act."

#### § 17.43. Cumulative Remedies

The provisions of this subchapter are not exclusive. The remedies provided in this subchapter are in addition to any other procedures or remedies provided for in any other law; provided, however, that no recovery shall be permitted under both this subchapter and another law of both actual damages and penalties for the same act or practice. A violation of a provision of law other than this subchapter is not in and of itself a violation of this subchapter. An act or practice that is a violation of a provision of law other than this subchapter may be made the basis of an action under this subchapter if the act or practice is proscribed by a provision of this subchapter or is declared by such other law to be actionable under this subchapter. The provisions of this subchapter do not in any way preclude other political subdivisions of this state from dealing with deceptive trade practices.

[Amended by Acts 1979, 66th Leg., p. 1327, ch. 603, § 1, eff. Aug. 27, 1979.]

#### § 17.45. Definitions

As used in this subchapter:

(1) "Goods" means tangible chattels or real property purchased or leased for use.

(2) "Services" means work, labor, or service purchased or leased for use, including services furnished in connection with the sale or repair of goods.

[See *Compact Edition, Volume 1 for text of (3)*]

(4) "Consumer" means an individual, partnership, corporation, or governmental entity who seeks or acquires by purchase or lease, any goods or services.

(5) "Unconscionable action or course of action" means an act or practice which, to a person's detriment:

(A) takes advantage of the lack of knowledge, ability, experience, or capacity of a person to a grossly unfair degree; or

(B) results in a gross disparity between the value received and consideration paid, in a transaction involving transfer of consideration.

[See Compact Edition, Volume 1 for text of (6) to (8)]

(9) "Knowingly" means actual awareness of the falsity, deception, or unfairness of the act or practice giving rise to the consumer's claim or, in an action brought under Subdivision (2) of Subsection (a) of Section 17.50, actual awareness of the act or practice constituting the breach of warranty, but actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness.

[Amended by Acts 1975, 64th Leg., p. 149, ch. 62, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 600, ch. 216, § 1, eff. May 23, 1977; Acts 1979, 66th Leg., p. 1327, ch. 603, § 2, eff. Aug. 27, 1979.]

**§ 17.46. Deceptive Trade Practices Unlawful**

(a) False, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful and are subject to action by the consumer protection division under Sections 17.47, 17.58, 17.60, and 17.61 of this code.

(b) Except as provided in Subsection (d) of this section, the term "false, misleading, or deceptive acts or practices" includes, but is not limited to, the following acts:

- (1) passing off goods or services as those of another;
- (2) causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- (3) causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another;
- (4) using deceptive representations or designations of geographic origin in connection with goods or services;
- (5) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not;

(6) representing that goods are original or new if they are deteriorated, reconditioned, reclaimed, used, or secondhand;

(7) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(8) disparaging the goods, services, or business of another by false or misleading representation of facts;

(9) advertising goods or services with intent not to sell them as advertised;

(10) advertising goods or services with intent not to supply a reasonable expectable public demand, unless the advertisements disclosed a limitation of quantity;

(11) making false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions;

(12) representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law;

(13) knowingly making false or misleading statements of fact concerning the need for parts, replacement, or repair service;

(14) misrepresenting the authority of a salesman, representative or agent to negotiate the final terms of a consumer transaction;

(15) basing a charge for the repair of any item in whole or in part on a guaranty or warranty instead of on the value of the actual repairs made or work to be performed on the item without stating separately the charges for the work and the charge for the warranty or guaranty, if any;

(16) disconnecting, turning back, or resetting the odometer of any motor vehicle so as to reduce the number of miles indicated on the odometer gauge;

(17) advertising of any sale by fraudulently representing that a person is going out of business;

(18) using or employing a chain referral sales plan in connection with the sale or offer to sell of goods, merchandise, or anything of value, which uses the sales technique, plan, arrangement, or agreement in which the buyer or prospective buyer is offered the opportunity to purchase merchandise or goods and in connection with the purchase receives the seller's promise or representation that the buyer shall have the right to receive compensation or consideration in any form for furnishing to the seller the names of other prospective buyers if receipt of the compensation or consideration is contingent upon the occurrence of an event subsequent to the time the buyer purchases the merchandise or goods;

(19) representing that a guarantee or warranty confers or involves rights or remedies which it does not have or involve, provided, however, that nothing in this subchapter shall be construed to expand the implied warranty of merchantability as defined in Sections 2.314 through 2.318 of the Business & Commerce Code to involve obligations in excess of those which are appropriate to the goods;

(20) selling or offering to sell, either directly or associated with the sale of goods or services, a right of participation in a multi-level distributorship. As used herein, "multi-level distributorship" means a sales plan for the distribution of goods or services in which promises of rebate or payment are made to individuals, conditioned upon those individuals recommending or securing additional individuals to assume positions in the sales operation, and where the rebate or payment is not exclusively conditioned on or in relation to proceeds from the retail sales of goods;

(21) representing that work or services have been performed on, or parts replaced in, goods when the work or services were not performed or the parts replaced;

(22) filing suit founded upon a written contractual obligation of and signed by the defendant to pay money arising out of or based on a consumer transaction for goods, services, loans, or extensions of credit intended primarily for personal, family, household, or agricultural use in any county other than in the county in which the defendant resides at the time of the commencement of the action or in the county in which the defendant in fact signed the contract; provided, however, that a violation of this subsection shall not occur where it is shown by the person filing such suit he neither knew or had reason to know that the county in which such suit was filed was neither the county in which the defendant resides at the commencement of the suit nor the county in which the defendant in fact signed the contract; or

(23) the failure to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

(c)(1) It is the intent of the legislature that in construing Subsection (a) of this section in suits brought under Section 17.47 of this subchapter the courts to the extent possible will be guided by Subsection (b) of this section and the interpretations given by the Federal Trade Commission and federal courts to Section 5(a)(1) of the Federal Trade Commission Act [15 U.S.C.A. 45(a)(1)].

(2) In construing this subchapter the court shall not be prohibited from considering relevant and pertinent decisions of courts in other jurisdictions.

(d) For the purposes of the relief authorized in Subdivision (1) of Subsection (a) of Section 17.50 of this subchapter, the term "false, misleading, or deceptive acts or practices" is limited to the acts enumerated in specific subdivisions of Subsection (b) of this section.

[Amended by Acts 1977, 65th Leg., p. 601, ch. 216, §§ 2, 3, eff. May 23, 1977; Acts 1977, 65th Leg., p. 892, ch. 336, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1327, ch. 603, § 3, eff. Aug. 27, 1979.]

Section 9 of the 1979 amendatory act provided:

"This Act shall be applied prospectively only. Nothing in this Act affects either procedurally or substantively a cause of action that arose either in whole or in part prior to the effective date of this Act."

### § 17.47. Restraining Orders

(a) Whenever the consumer protection division has reason to believe that any person is engaging in, has engaged in, or is about to engage in any act or practice declared to be unlawful by this subchapter, and that proceedings would be in the public interest, the division may bring an action in the name of the state against the person to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such method, act, or practice. The consumer protection division may bring any action under this section against a licensed insurer or insurance agent for a violation of this subchapter, Article 21.21, Texas Insurance Code, as amended, or the rules and regulations of the State Board of Insurance issued under Article 21.21, Texas Insurance Code, as amended, only on the written request of the State Board of Insurance or the commissioner of insurance.

Nothing herein shall require the consumer protection division to notify such person that court action is or may be under consideration. Provided, however, the consumer protection division shall, at least seven days prior to instituting such court action, contact such person to inform him in general of the alleged unlawful conduct. Cessation of unlawful conduct after such prior contact shall not render such court action moot under any circumstances, and such injunctive relief shall lie even if such person has ceased such unlawful conduct after such prior contact. Such prior contact shall not be required if, in the opinion of the consumer protection division, there is good cause to believe that such person would evade service of process if prior contact were made or that such person would destroy relevant records if prior contact were made.

(b) An action brought under Subsection (a) of this section which alleges a claim to relief under this section may be commenced in the district court of the county in which the person against whom it is brought resides, has his principal place of business, has done business, or in the district court of the

county where the transaction occurred, or, on the consent of the parties, in a district court of Travis County. The court may issue temporary restraining orders, temporary or permanent injunctions to restrain and prevent violations of this subchapter and such injunctive relief shall be issued without bond.

(c) In addition to the request for a temporary restraining order, or permanent injunction in a proceeding brought under Subsection (a) of this section, the consumer protection division may request a civil penalty of not more than \$2,000 per violation, not to exceed a total of \$10,000, to be paid to the state.

(d) The court may make such additional orders or judgments as are necessary to compensate identifiable persons for actual damages or to restore money or property, real or personal, which may have been acquired by means of any unlawful act or practice. Damages may not include any damages incurred beyond a point two years prior to the institution of the action by the consumer protection division. Orders of the court may also include the appointment of a receiver or a sequestration of assets if a person who has been ordered by a court to make restitution under this section has failed to do so within three months after the order to make restitution has become final and nonappealable.

*[See Compact Edition, Volume 1 for text of (e) and (f)]*

[Amended by Acts 1977, 65th Leg., p. 602, ch. 216, § 4, eff. May 23, 1977.]

**§ 17.50. Relief for Consumers**

(a) A consumer may maintain an action where any of the following constitute a producing cause of actual damages:

- (1) the use or employment by any person of a false, misleading, or deceptive act or practice that is specifically enumerated in a subdivision of Subsection (b) of Section 17.46 of this subchapter;
- (2) breach of an express or implied warranty;
- (3) any unconscionable action or course of action by any person; or
- (4) the use or employment by any person of an act or practice in violation of Article 21.21, Texas Insurance Code, as amended, or rules or regulations issued by the State Board of Insurance under Article 21.21, Texas Insurance Code, as amended.

(b) In a suit filed under this section, each consumer who prevails may obtain:

- (1) the amount of actual damages found by the trier of fact. In addition the court shall award two times that portion of the actual damages that does not exceed \$1,000. If the trier of fact finds that the conduct of the defendant was committed knowingly, the trier of fact may award not more than three times the amount of actual damages in excess of \$1,000;

(2) an order enjoining such acts or failure to act;

(3) orders necessary to restore to any party to the suit any money or property, real or personal, which may have been acquired in violation of this subchapter; and

(4) any other relief which the court deems proper, including the appointment of a receiver or the revocation of a license or certificate authorizing a person to engage in business in this state if the judgment has not been satisfied within three months of the date of the final judgment. The court may not revoke or suspend a license to do business in this state or appoint a receiver to take over the affairs of a person who has failed to satisfy a judgment if the person is a licensee of or regulated by a state agency which has statutory authority to revoke or suspend a license or to appoint a receiver or trustee. Costs and fees of such receivership or other relief shall be assessed against the defendant.

(c) On a finding by the court that an action under this section was groundless and brought in bad faith, or brought for the purpose of harassment, the court shall award to the defendant reasonable and necessary attorneys' fees and court costs.

(d) Each consumer who prevails shall be awarded court costs and reasonable and necessary attorneys' fees.

[Amended by Acts 1977, 65th Leg., p. 603, ch. 216, § 5, eff. May 23, 1977; Acts 1979, 66th Leg., p. 1329, ch. 603, § 4, eff. Aug. 27, 1979.]

**§ 17.50A. Notice: Offer of Settlement**

(a) As a prerequisite to filing a suit seeking damages under Subdivision (1) of Subsection (b) of Section 17.50 of this subchapter against any person, a consumer shall give written notice to the person at least 30 days before filing the suit advising the person of the consumer's specific complaint and the amount of actual damages and expenses, including attorneys' fees, if any, reasonably incurred by the consumer in asserting the claim against the defendant.

(b) If the giving of 30 days' written notice is rendered impracticable by reason of the necessity of filing suit in order to prevent the expiration of the statute of limitations or if the consumer's claim is asserted by way of counterclaim, the notice provided for in Subsection (a) of this section is not required, but the tender provided for by Subsection (c) of this section and by Subsection (d), Section 17.50B of this subchapter may be made within 30 days after the filing of the suit or counterclaim.

(c) Any person who receives the written notice provided by Subsection (a) of this section may, within 30 days after the receipt of the notice, tender to the consumer a written offer of settlement, includ-

ing an agreement to reimburse the consumer for the attorneys' fees, if any, reasonably incurred by the consumer in asserting his claim up to the date of the written notice. A person who does not receive such a written notice due to the consumer's suit or counterclaim being filed as provided for by Subsection (b) of this section may, within 30 days after the filing of such suit or counterclaim, tender to the consumer a written offer of settlement, including an agreement to reimburse the consumer for the attorneys' fees, if any, reasonably incurred by the consumer in asserting his claim up to the date the suit or counterclaim was filed. Any offer of settlement not accepted within 30 days of receipt by the consumer shall be deemed to have been rejected by the consumer.

(d) A settlement offer made in compliance with Subsection (c) of this section, if rejected by the consumer, may be filed with the court together with an affidavit certifying its rejection. If the court finds that the amount tendered in the settlement offer is the same or substantially the same as the actual damages found by the trier of fact, the consumer may not recover an amount in excess of the amount tendered in the settlement offer or the amount of actual damages found by the trier of fact, whichever is less.

(e) The tender of an offer of settlement is not an admission of engaging in an unlawful act or practice or of liability under this Act. Evidence of a settlement offer may be introduced only to determine the reasonableness of the settlement offer as provided for by Subsection (d) of this section.

[Added by Acts 1977, 65th Leg., p. 604, ch. 216, § 6, eff. May 23, 1977; Acts 1979, 66th Leg., p. 1330, ch. 603, § 5, eff. Aug. 27, 1979.]

#### § 17.50B. Damages: Defenses

(a) In an action brought under Section 17.50 of this subchapter, it is a defense to the award of any damages or attorneys' fees if the defendant proves that before consummation of the transaction he gave reasonable and timely written notice to the plaintiff of the defendant's reliance on:

(1) written information relating to the particular goods or service in question obtained from official government records if the written information was false or inaccurate and the defendant did not know and could not reasonably have known of the falsity or inaccuracy of the information;

(2) written information relating to the particular goods or service in question obtained from another source if the information was false or inaccurate and the defendant did not know and could not reasonably have known of the falsity or inaccuracy of the information; or

(3) written information concerning a test required or prescribed by a government agency if

the information from the test was false or inaccurate and the defendant did not know and could not reasonably have known of the falsity or inaccuracy of the information.

(b) In asserting a defense under Subdivision (1), (2), or (3) of Subsection (a) of Section 17.50B above, the defendant shall prove the written information was a producing cause of the alleged damage. A finding of one producing cause does not bar recovery if other conduct of the defendant not the subject of a defensive finding under Subdivision (1), (2), or (3) of Subsection (a) of Section 17.50B above was a producing cause of damages of the plaintiff.

(c) In a suit where a defense is asserted under Subdivision (2) of Subsection (a) of Section 17.50B above, suit may be asserted against the third party supplying the written information without regard to privity where the third party knew or should have reasonably foreseen that the information would be provided to a consumer; provided no double recovery may result.

(d) In an action brought under Section 17.50 of this subchapter, it is a defense to a cause of action if the defendant proves that he received notice from the consumer advising the defendant of the nature of the consumer's specific complaint and of the amount of actual damages and expenses, including attorneys' fees, if any, reasonably incurred by the consumer in asserting the claim against the defendant, and that within 30 days after the day on which the defendant received the notice the defendant tendered to the consumer:

(1) the amount of actual damages claimed; and

(2) the expenses, including attorneys' fees, if any, reasonably incurred by the consumer in asserting the claim against the defendant.

[Added by Acts 1979, 66th Leg., p. 1331, ch. 603, § 6, eff. Aug. 27, 1979.]

#### § 17.51 to 17.54. Repealed by Acts 1977, 65th Leg., p. 605, ch. 216, §§ 10 to 13, eff. May 23, 1977

Prior to repeal, § 17.54 was amended by Acts 1975, 64th Leg., p. 149, ch. 62, § 2.

See, now, § 17.50B.

#### § 17.55A. Indemnity

A person against whom an action has been brought under this subchapter may seek contribution or indemnity from one who, under the statute law or at common law, may have liability for the damaging event of which the consumer complains. A person seeking indemnity as provided by this section may recover all sums that he is required to pay as a result of the action, his attorney's fees reasonable in relation to the amount of work performed in maintaining his action for indemnity, and his costs.

[Added by Acts 1977, 65th Leg., p. 604, ch. 216, § 7, eff. May 23, 1977.]

§ 17.56. Venue

An action brought which alleges a claim to relief under Section 17.50 of this subchapter may be commenced in the county in which the person against whom the suit is brought resides, has his principal place of business, or has a fixed and established place of business at the time the suit is brought or in the county in which the alleged act or practice occurred or in a county in which the defendant or an authorized agent of the defendant solicited the transaction made the subject of the action at bar. [Amended by Acts 1977, 65th Leg., p. 604, ch. 216, § 8, eff. May 23, 1977; Acts 1979, 66th Leg., p. 1332, ch. 603, § 7, eff. Aug. 27, 1979.]

§ 17.56A. Limitation

All actions brought under this subchapter must be commenced within two years after the date on which the false, misleading, or deceptive act or practice occurred or within two years after the consumer discovered or in the exercise of reasonable diligence should have discovered the occurrence of the false, misleading, or deceptive act or practice. The period of limitation provided in this section may be extended for a period of 180 days if the plaintiff proves that failure timely to commence the action was caused by the defendant's knowingly engaging in conduct solely calculated to induce the plaintiff to refrain from or postpone the commencement of the action.

[Added by Acts 1979, 66th Leg., p. 1332, ch. 603, § 8, eff. Aug. 27, 1979.]

§ 17.59. Post Judgment Relief

(a) If a money judgment entered under this subchapter is unsatisfied 30 days after it becomes final and if the prevailing party has made a good faith attempt to obtain satisfaction of the judgment, the following presumptions exist with respect to the party against whom the judgment was entered:

- (1) that the defendant is insolvent or in danger of becoming insolvent; and
- (2) that the defendant's property is in danger of being lost, removed, or otherwise exempted from collection on the judgment; and
- (3) that the prevailing party will be materially injured unless a receiver is appointed over the defendant's business; and
- (4) that there is no adequate remedy other than receivership available to the prevailing party.

(b) Subject to the provisions of Subsection (a) of this section, a prevailing party may move that the defendant show cause why a receiver should not be appointed. Upon adequate notice and hearing, the court shall appoint a receiver over the defendant's business unless the defendant proves that all of the presumptions set forth in Subsection (a) of this section are not applicable.

(c) The order appointing a receiver must clearly state whether the receiver will have general power to manage and operate the defendant's business or have power to manage only a defendant's finances. The order shall limit the duration of the receivership to such time as the judgment or judgments awarded under this subchapter are paid in full. Where there are judgments against a defendant which have been awarded to more than one plaintiff, the court shall have discretion to take any action necessary to efficiently operate a receivership in order to accomplish the purpose of collecting the judgments.

[Amended by Acts 1977, 65th Leg., p. 604, ch. 216, § 9, eff. May 23, 1977.]

**TITLE 3. INSOLVENCY, FRAUDULENT TRANSFERS, AND FRAUD**

**CHAPTER 26. STATUTE OF FRAUDS**

**§ 26.01. Promise or Agreement Must be In Writing**

[See Compact Edition, Volume 1 for text of (a)]

(b) Subsection (a) of this section applies to:

[See Compact Edition, Volume 1 for text of (b)(1) to (6)]

(7) a promise or agreement to pay a commission for the sale or purchase of:

- (A) an oil or gas mining lease;
- (B) an oil or gas royalty;
- (C) minerals; or
- (D) a mineral interest; and

(8) an agreement, promise, contract, or warranty of cure relating to medical care or results thereof made by a physician or health care provider as defined in Section 1.03, Medical Liability and Insurance Improvement Act of Texas. This section shall not apply to pharmacists.

[Amended by Acts 1977, 65th Leg., p. 2053, ch. 817, § 21.01, eff. Aug. 29, 1977.]

**TITLE 4. MISCELLANEOUS COMMERCIAL PROVISIONS**

Chapter	Section
36. Assumed Business or Professional Name	..36.01

**CHAPTER 35. MISCELLANEOUS**

**SUBCHAPTER A. FILING OF UTILITY SECURITY INSTRUMENTS**

35.01A. Election to be Treated as a Utility.
--

SUBCHAPTER A. FILING OF UTILITY  
SECURITY INSTRUMENTS

§ 35.01A. Election to be Treated as a Utility

In this chapter:

(1) Any person who is a utility under the definition contained in Subdivision (2) of Subsection (a) of Section 35.01 above shall nevertheless not be considered to be a utility and subject to the requirements and benefits of Subchapter A of this chapter, unless and until such person files a security instrument with the secretary of state which states conspicuously on its title page: "This Instrument Grants A Security Interest By A Utility."

(2) An election by a utility to be covered by this subchapter shall only be effective for the collateral covered by the security instrument upon which the election is made and shall not be effective for other collateral unless a similar election is made for such collateral.

(3) Any person who executes a security instrument with respect to which no election is made to be treated as a utility as provided in Subsection (a) of this section shall be subject to other applicable requirements of law pertaining to the perfection of a lien or security interest in the collateral covered by such security instrument.

[Added by Acts 1981, 67th Leg., p. 2935, ch. 778, § 1, eff. Aug. 31, 1981.]

Section 2 of the 1981 Act provides:  
"This Act applies only to security instruments filed after the effective date of this Act."

CHAPTER 36. ASSUMED BUSINESS OR  
PROFESSIONAL NAME

SUBCHAPTER A. GENERAL PROVISIONS

Section	
36.01.	Short Title.
36.02.	Definitions.
36.03.	Exclusion of Insurance Companies.

SUBCHAPTER B. ASSUMED BUSINESS OR  
PROFESSIONAL NAME CERTIFICATE

36.10.	For Unincorporated Business or Profession.
36.11.	For Incorporated Business or Profession.
36.12.	Material Change in Information; New Certificate.
36.13.	Duration of Certificate; Renewal; Termination of Existing Certificates.
36.14.	Abandonment of Use of Assumed Business or Professional Name.
36.15.	Index of Certificates; Filing Fees.
36.16.	Prescribed Forms.
36.17.	Effect of Filing.

SUBCHAPTER C. CIVIL AND CRIMINAL PENALTIES

36.25.	Civil Penalties.
36.26.	Criminal Penalty.

SUBCHAPTER A. GENERAL PROVISIONS

§ 36.01. Short Title

This chapter may be cited as the Assumed Business or Professional Name Act.

[Added by Acts 1977, 65th Leg., p. 1095, ch. 403, § 1, eff. Aug. 29, 1977.]

Section 2 of the 1977 Act repealed Civil Statutes, Arts. 5924 to 5927b; § 3 amended Insurance Code, art. 21.43(b); and § 4 thereof provided:

"If a court of competent jurisdiction shall adjudge any clause, sentence, subsection, or section of this Act to be invalid or unconstitutional, such judgment or decree shall not affect, impair, invalidate, or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, subsection, or section of this Act so adjudged to be invalid or unconstitutional."

§ 36.02. Definitions

In this chapter, unless the context otherwise requires:

(1) "Partnership" means a joint venture, general partnership, or limited partnership.

(2) "Company" means a real estate investment trust, joint-stock company, or any other business, professional, or other association or legal entity that is not incorporated other than a partnership.

(3) "Corporation" means a domestic or foreign corporation, professional corporation, professional association, other corporation, or any other business, professional, or other association or legal entity that is incorporated.

(4) "Person" includes an individual, partnership, company, or corporation.

(5) "Representative" means a trustee, administrator, executor, independent executor, guardian, conservator, trustee in bankruptcy, receiver, or any other person appointed by a court or by trust or will to have custody of, take possession of, have title to, or otherwise be empowered to control the person or property of any person.

(6) "Estate" means the property of any person which is administered by a representative.

(7) "Assumed name" means:

(A) in the case of an individual, a name that does not include the surname of the individual;

(B) in the case of a joint venture or general partnership, a name that does not include the surname or other legal name of each joint venturer or general partner;

(C) in the case of an individual, joint venture, or a general partnership, a name, including a surname, that suggests the existence of additional owners by including words such as "Company," "& Company," "& Son," "& Sons," "& Associates," "Brothers," and the like, but not words that merely describe the business or professional service being conducted or rendered;

(D) in the case of a limited partnership, any name other than the name stated in its certificate of limited partnership;

(E) in the case of a company, any name used by the company; and

(F) in the case of a corporation, any name other than the name stated in its articles of incorporation or association or comparable document.

(8) "Registrant" means any person that has filed, or on whose behalf there has been filed, an assumed name certificate under the provisions of this chapter or other law.

(9) "Office" means, in the case of any person that is not an individual or that is a corporation which is not required to or does not maintain a registered office in this state, the principal office of such person and also its principal place of business if not the same as its principal office. In the case of a corporation which is required to maintain a registered office in this state, "office" means the registered office and also its principal office if not the same as its registered office.

(10) "Address" means a post office address and also the street address if not the same as the post office address.

[Added by Acts 1977, 65th Leg., p. 1095, ch. 403, § 1, eff. Aug. 29, 1977.]

**§ 36.03. Exclusion of Insurance Companies**

The provisions of this chapter shall not apply to any insurance company as defined in Article 1.29 of the Insurance Code which is authorized to do business in this state except as such code shall specifically provide.

[Sections 36.04 to 36.09 reserved for expansion]

[Added by Acts 1977, 65th Leg., p. 1096, ch. 403, § 1, eff. Aug. 29, 1977.]

**SUBCHAPTER B. ASSUMED BUSINESS OR PROFESSIONAL NAME CERTIFICATE**

**§ 36.10. For Unincorporated Business or Profession**

(a) Any person who regularly conducts business or renders professional services other than as a corporation in this state under an assumed name shall file in the office of the county clerk in each county in which such person has or will maintain business or professional premises or, if no business or professional premises are or will be maintained in any county, in each county where such person conducts business or renders a professional service, a certificate setting forth:

- (1) the assumed name under which such business or professional service is or is to be conducted or rendered;
- (2) if the registrant is:
  - (A) an individual, his full name and residence address;
  - (B) a partnership, (i) the venture or partnership name, (ii) the venture or partnership office

address, and (iii) the full name of each joint venturer or general partner and his residence address if he is an individual or its office address if not an individual;

(C) an estate, (i) the name of the estate, (ii) the estate's office address, if any, and (iii) the full name of each representative of the estate and his residence address if he is an individual or its office address if not an individual;

(D) a real estate investment trust, (i) the name of the trust, (ii) the address of the trust, (iii) the full name of each trustee manager and his residence address if he is an individual and its office address if not an individual; or

(E) a company other than a real estate investment trust, or a corporation, (i) the name of the company or corporation, (ii) the state, country, or other jurisdiction under the laws of which it was organized, incorporated, or associated, and (iii) its office address;

(3) the period, not to exceed 10 years, during which the assumed name will be used; and

(4) a statement specifying that the business or professional service that is or is to be conducted or rendered in the county under such assumed name is being or will be conducted or rendered as a proprietorship, sole practitioner, joint venture, general partnership, limited partnership, real estate investment trust, joint-stock company, or some other form of unincorporated business or professional association or entity, as the case may be.

(b) A certificate filed under Subsection (a) of this section shall be executed and acknowledged by each individual whose name is required to be stated therein or by his representative or attorney in fact, and in the case of any person not an individual the name of which is required to be stated therein, the certificate shall be executed and acknowledged under oath on behalf of such person by its representative or attorney in fact or by a joint venturer, general partner, trustee manager, officer, or anyone having comparable authority, as the case may be, of such person. Any certificate executed and acknowledged by an attorney in fact shall include a statement that such attorney in fact has been duly authorized in writing by his principal to execute and acknowledge the same.

[Added by Acts 1977, 65th Leg., p. 1096, ch. 403, § 1, eff. Aug. 29, 1977.]

**§ 36.11. For Incorporated Business or Profession**

(a) Any corporation which regularly conducts business or renders professional services in this state under an assumed name, or which may be required by law to use an assumed name in this state to conduct such business or render such services, shall file in the office of the Secretary of State and, (1) if

such corporation is required to maintain a registered office in this state, in the office of the county clerk of the county in which such registered office is located and of the county in which its principal office is located if within this state and not the same county where the registered office is located; or (2) if such corporation is not required to or does not maintain a registered office in this state, in the office of the county clerk of the county in which its office within this state is located or if the corporation is not incorporated, organized, or associated under the laws of this state, in the office of the county clerk of the county in which its principal place of business in this state is located if not the same as its office, a certificate setting forth:

(1) the assumed name under which such business or professional service is or is to be conducted or rendered;

(2) the name of the corporation as stated in its articles of incorporation or association or comparable document;

(3) the state, country, or other jurisdiction under the laws of which it was incorporated or associated and address of its registered or similar office in that state, country, or jurisdiction;

(4) the period, not to exceed 10 years, during which the assumed name will be used;

(5) a statement specifying that the corporation is a business corporation, nonprofit corporation, professional corporation, professional association, other type of corporation, or some other type of incorporated business, professional or other association, or legal entity;

(6) if the corporation is required to maintain a registered office in this state, (A) the address of such registered office and the name of its registered agent at such address, and (B) the address of its principal office if not the same as that of its registered office in this state;

(7) if the corporation is not required to or does not maintain a registered office in this state, its office address in this state and if the corporation is not incorporated, organized, or associated under the laws of this state, the address of its place of business in this state and its office address elsewhere, if any; and

(8) the county or counties within the state where business or professional services are being or are to be conducted or rendered under such assumed name.

(b) A certificate filed under Subsection (a) of this section shall be executed and duly acknowledged by an officer, representative, or attorney in fact for the corporation. A certificate executed and acknowledged by an attorney in fact shall include a statement that the attorney in fact has been duly authorized in writing by his principal to execute and acknowledge the same.

(c) Nothing in this chapter shall require a corporation or its shareholders, associates, or members to file an assumed business or professional name certificate in order to conduct business or render a professional service within this state under the name of the corporation as stated in its articles of incorporation, association, or comparable document.

[Added by Acts 1977, 65th Leg., p. 1097, ch. 403, § 1, eff. Aug. 29, 1977.]

### § 36.12. Material Change in Information; New Certificate

(a) Whenever an event occurs that causes the information in a certificate filed pursuant to this chapter by a person conducting business or rendering a professional service under an assumed name in this state to become materially misleading, a new certificate complying with Section 36.10 or Section 36.11 of this chapter, as the case may be, shall be filed in the office of the county clerk and of the Secretary of State, if applicable, in which an original or renewal certificate was filed. The new certificate shall be filed within 60 days after the occurrence of the events which necessitates its filing.

(b) An event that causes the information contained in a certificate filed under this chapter to become materially misleading includes such matters as:

(1) a change in the name, identity, entity, form of business or professional organization, or location of a registrant;

(2) in the case of a proprietorship or sole practitioner, a change in ownership;

(3) in the case of a partnership, the admission of a new partner or joint venturer or whenever any general partner or joint venturer ceases to be associated with the partnership; or

(4) in the case of a registrant that is required by law to maintain a registered or similar office and a registered or similar agent at such office, a change in the address of such office or identity of such agent.

(c) A new certificate filed under this section shall be effective for a term not to exceed 10 years from the date it is filed.

[Added by Acts 1977, 65th Leg., p. 1098, ch. 403, § 1, eff. Aug. 29, 1977.]

### § 36.13. Duration of Certificate; Renewal; Termination of Existing Certificates

(a) A certificate filed pursuant to this chapter in the office of the county clerk and of the Secretary of State, if applicable, by any person conducting business or rendering a professional service under an assumed name in this state shall be effective for a term not to exceed 10 years from the date the certificate is filed.

(b) At the end of the stated term, not to exceed 10 years, the certificate shall become null and void and of no effect, unless within six months prior to its expiration a renewal certificate complying with the provisions of this chapter for an original certificate shall be filed in the office of the county clerk and of the Secretary of State, if applicable.

(c) A registrant may renew a certificate under this section for any number of successive terms, but each such term shall not exceed 10 years in duration.

(d) Any assumed name certificate that has been filed pursuant to Articles 5924 and 5924.1, Revised Civil Statutes of Texas, 1925, prior to the effective date of this chapter, shall become null and void after December 31, 1978, unless before that date a new certificate complying with the requirements of this chapter has been filed. A new certificate thus filed shall be effective for a term not to exceed 10 years from the date it is filed.

(e) The county clerk of each county shall notify in writing each person that has conducted a business under an assumed name and for which an assumed name certificate has been filed in the office of that clerk pursuant to Articles 5924 and 5924.1, Revised Civil Statutes of Texas, 1925, prior to the effective date of this chapter, that under the provisions of Subsection (d) of this section the certificate shall become null and void after December 31, 1978, unless a new certificate is filed that complies with the provisions of this chapter. The written notice shall be effective by being deposited with the United States Postal Service, addressed to the name of the business at the office address given in the certificate as last filed.

[Added by Acts 1977, 65th Leg., p. 1099, ch. 403, § 1, eff. Aug. 29, 1977.]

**§ 36.14. Abandonment of Use of Assumed Business or Professional Name**

(a) A registrant that has filed an assumed business or professional name certificate under this chapter which ceases to transact business or render professional services under the assumed name stated in such certificate in this state may file in the office of the county clerk and of the Secretary of State, if applicable, where such certificate has been filed, a statement of abandonment of use of a business or professional name setting forth:

- (1) the assumed business or professional name being abandoned;
- (2) the date on which the certificate was filed in the office in which such statement is being filed and any other filing office or offices, if any, where the certificate has been filed; and
- (3) the registrant's name and residence or office address as would be required to be stated if the certificate were being presently filed.

(b) A statement filed under Subsection (a) of this section shall be executed and acknowledged in the same manner as would be required if the registrant were filing an assumed business or professional name certificate under this chapter.

[Added by Acts 1977, 65th Leg., p. 1100, ch. 403, § 1, eff. Aug. 29, 1977.]

**§ 36.15. Index of Certificates; Filing Fees**

Each county clerk and the Secretary of State shall keep an alphabetical index of all assumed names which have been filed in his office pursuant to the provisions of this chapter and of the persons filing the same. The county clerk shall receive a fee of \$2 for filing each certificate or statement required or permitted to be filed pursuant to this chapter, plus a fee of 50 cents for each name to be indexed. The Secretary of State shall collect for the use of the state a fee of \$10 for indexing and filing each certificate or statement required or permitted to be filed pursuant to this chapter. A copy of such certificate or statement duly certified to by the county clerk in whose office the same was filed or by the Secretary of State shall be presumptive evidence in all courts in this state of the facts therein contained.

[Added by Acts 1977, 65th Leg., p. 1100, ch. 403, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 752, ch. 284, § 1, eff. Aug. 31, 1981.]

**§ 36.16. Prescribed Forms**

The Secretary of State may prescribe the forms to be used for filing any assumed business or professional name certificate or statement that complies with this chapter in his office or in the office of any county clerk in this state. The use of such forms, however, shall not be mandatory unless otherwise specifically provided by law.

[Added by Acts 1977, 65th Leg., p. 1100, ch. 403, § 1, eff. Aug. 29, 1977.]

**§ 36.17. Effect of Filing**

Nothing in this chapter shall be construed to give a registrant of an assumed business or professional name any right to use the name when contrary to the common law or statutory law of unfair competition, unfair trade practices, common law copyright, or similar law. The mere filing of an assumed business or professional name certificate pursuant to this chapter shall not constitute actual use of the assumed name set out therein for purposes of determining priority of rights.

[Added by Acts 1977, 65th Leg., p. 1100, ch. 403, § 1, eff. Aug. 29, 1977.]

[Sections 36.18 to 36.24 reserved for expansion]

SUBCHAPTER C. CIVIL AND CRIMINAL  
PENALTIES

## § 36.25. Civil Penalties

Failure to comply with the provisions of this chapter by any person shall not impair the validity of any contract or act by such person nor prevent such person from defending any action or proceeding in any court of this state, but such person shall not maintain an action or proceeding in any court of this state arising out of a contract or act in which an assumed name was used until an original, new, or renewed assumed business or professional name certificate has been filed as required by this chapter. In an action or proceeding brought against a person that has not complied with this chapter, the plaintiff

or other party bringing the suit or proceeding may recover, if the court shall so determine, expenses incurred, including attorney's fees, in locating and effecting service of process on such person.

[Added by Acts 1977, 65th Leg., p. 1100, ch. 403, § 1, eff. Aug. 29, 1977.]

## § 36.26. Criminal Penalty

A person conducting business or rendering a professional service in this state under an assumed name who intentionally violates a provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$2,000.

[Added by Acts 1977, 65th Leg., p. 1101, ch. 403, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 867, ch. 391, § 1, eff. Aug. 27, 1979.]

INDEX TO  
**BUSINESS AND COMMERCE CODE**

---

References are to Sections

---

**ABANDONMENT**

Assumed name, statement, 36.14.

**ACKNOWLEDGMENTS**

Assumed name,  
Abandonment statement, 36.14.  
Certificate, 36.10, 36.11.

**ACTIONS AND PROCEEDINGS**

Assumed Business or Professional Name  
Act, failure to comply, 36.25.  
Deceptive Trade Practices and Consumer  
Protection, this index.

**ADDRESS**

Defined, assumed name, 36.02.

**ANIMALS**

Warranties, merchantability and fitness,  
2.316.

**ART AND ARTISANS**

Sales, Consignment Act, 2.326.

**ASSOCIATIONS**

Professional associations, assumed name,  
36.01 et seq.

**ASSUMED NAME**

Generally, 36.01 et seq.

**ATTORNEYS**

Fees,  
Assumed Business or Professional  
Name Act, actions for failure to  
comply, 36.25.  
Deceptive trade practices and consum-  
er protection, 17.50, 17.50A,  
17.50B.  
Indemnity, 17.55A.  
Signature, assumed name certificate,  
36.10, 36.11.

**AWARDS**

Deceptive trade practices and consumer  
protection, damages, 17.50.

**BARTER**

Animals, implied warranties, merchan-  
tability of fitness, 2.316.

**CERTIFICATES AND CERTIFICA-  
TION**

Assumed name, 36.10 et seq.

**CHANGE OF NAME**

Assumed name, new certificate, 36.12.

**CHANGE OF OWNERSHIP OR AD-  
DRESS**

Assumed name, new certificate, 36.12.

**COMPANY**

Defined, assumed name, 36.02.

**COMPROMISE AND SETTLEMENT**

Deceptive trade practices and consumer  
protection, 17.50A.

**CORPORATIONS**

Assumed name, 36.01 et seq.  
Defined, assumed name, 36.02.  
Names, assumed name, 36.01 et seq.

**COSTS**

Assumed Business or Professional Name  
Act, failure to comply, 36.25.  
Deceptive trade practices and consumer  
protection, 17.50, 17.50B, 17.55A.

**DAMAGES**

Assumed Business or Professional Name  
Act, failure to comply, 36.25.  
Deceptive trade practices and consumer  
protection,  
Defenses, 17.50B.  
Injunctions, 17.47.  
Names, Assumed Business or Profession-  
al Name Act, failure to comply,  
36.25.

**DECEPTIVE TRADE PRACTICES  
AND CONSUMER PROTECTION**

Generally, 17.41 et seq.  
Actions and proceedings,  
Grounds, 17.50.  
Injunctions, 17.47.  
Limitation of actions, 17.56A.  
Attorneys fees, 17.50, 17.50A, 17.50B.  
Indemnity, 17.55A.  
Awards, damages, 17.50.  
Breach of warranty, 17.50.  
Compromise and settlement, 17.50A.  
Costs, 17.50, 17.50B, 17.55A.  
Damages,  
Defenses, 17.50B.  
Injunctions, 17.47.  
Defenses, damages, 17.50B.  
Disclosure, 17.46.  
Evidence, settlement offer, 17.50A.  
Fines and penalties, injunctions, 17.47.  
Indemnity, 17.55A.  
Injunctions, 17.47.  
Judgments, post judgment, relief, 17.59.  
Limitations of actions, 17.56A.

**DECEPTIVE TRADE PRACTICES  
AND CONSUMER PROTECTION**

—Cont'd  
Notice, settlement offer, 17.50A.  
Post judgment relief, 17.59.  
Receivers, 17.59.  
Settlement offer, 17.50A.  
Statute of limitations, 17.56A.  
Temporary restraining orders, 17.47.  
Venue, unlawful practices, 17.46.

**DEFENSES**

Deceptive trade practices and consumer  
protection, damages, 17.50B.

**DISCLOSURE**

Deceptive trade practice and consumer  
protection, 17.46.

**DISCOVERY**

Trusts and monopolies, 15.21.

**ESTATES**

Defined, assumed name, 36.02.

**EVIDENCE**

Deceptive trade practices and consumer  
protection, settlement offer, 17.50A.

**EXEMPTIONS**

Art, consignment sales, sale or return,  
2.326.

**FALSE NAMES**

Assumed name, 36.01 et seq.

**FEES**

Assumed name, certificate or statements,  
36.15.

**FICTITIOUS NAMES**

Generally, 36.01 et seq.

**FINES AND PENALTIES**

Assumed Business or Professional Name  
Act, failure to comply, 36.26.  
Deceptive trade practices and consumer  
protection, injunctions, 17.47.  
Names, Assumed Business or Profession-  
al Name Act, failure to comply,  
36.26.

**FITNESS**

Implied warranties, animals, 2.316.

**FOREIGN CORPORATIONS**

Assumed name, 36.01 et seq.

## INDEX TO BUSINESS AND COMMERCE CODE

References are to Sections

**FORMS**

Assumed name, 36.16.

**FRAUD**

Deceptive Trade Practices and Consumer Protection, generally, this index.

**INDEMNITY**

Deceptive trade practices and consumer protection, 17.55A.

**INDEX**

Assumed name, certificates, 36.15.

**INJUNCTIONS**

Deceptive trade practices and consumer protection, 17.47.

**INSURANCE**

Assumed business or professional name, application of law, 36.03.

**JOINT VENTURES**

Assumed name, 36.01 et seq.

**JOINT-STOCK COMPANIES**

Assumed name, 36.01 et seq.

**JUDGMENTS AND DECREES**

Deceptive trade practices and consumer protection, post judgment relief, 17.59.

**LEASES**

Deceptive trade practices, 17.41 et seq.

**LIMITATION OF ACTIONS**

Deceptive trade practices and consumer protection, 17.56A.

**LIVESTOCK**

Warranties, merchantability and fitness, 2.316.

**MAIL AND MAILING**

Assumed name, certificate termination, notice, 36.13.

**MATERIALLY MISLEADING**

Assumed name, new certificate, 36.12.

**MEDICAL CARE AND TREATMENT**

Frauds, statute of, 26.01.

**MERCHANTABILITY**

Sales, implied warranties, animals, 2.316.

**MISDEMEANORS**

Assumed Business or Professional Name Act, failure to comply, 36.26.

**NAMES**

Assumed name, 36.01 et seq.

**NOTICE**

Assumed name, certificate termination, 36.13.

**NOTICE—Cont'd**

Deceptive trade practices and consumer protection, settlement offer, 17.50A.

**OFFICE**

Defined, assumed name, 36.02.

**PARTNERSHIPS**Assumed name, 36.01 et seq.  
Defined, assumed name, 36.02.**PERSON**

Defined, assumed business or professional name, 36.02.

**PHYSICIANS AND SURGEONS**

Frauds, statute of, 26.01.

**POPULAR NAME LAWS**

Assumed Business or Professional Name Act, 36.01 et seq.

**PRESUMPTIONS**

Assumed name, certified certificate or statement, 36.15.

**PROCESS**

Service of process, Assumed Business or Professional Name Act, failure to comply, 36.25.

**PROFESSIONAL NAMES**

Assumed name, 36.01 et seq.

**REAL ESTATE**Deceptive trade practices, 17.41 et seq.  
Investment trust companies, assumed name, 36.01 et seq.**RECEIVERS**

Deceptive trade practices and consumer protection, 17.59.

**REGISTRANT**

Defined, assumed name, 36.02.

**REMEDIES**

Deceptive trade practices and consumer protection, post judgment relief, 17.59.

**RENEWAL**

Assumed name, certificate, 36.13.

**REPRESENTATIVE**

Defined, assumed name, 36.02.

**SALES**Animals, implied warranties of merchantability and fitness, 2.316.  
Artists Consignment Act, 2.326.  
Warranties,  
Animals, merchantability and fitness, 2.316.  
Merchantability, animals, 2.316.**SECURED TRANSACTIONS**Assignment,  
Fees, filing, 9.405.**SERVICE OF PROCESS**

Assumed Business or Professional Name Act, failure to comply, 36.25.

**SIGNATURES**Assumed name,  
Abandonment statement, 36.14.  
Certificate, 36.10, 36.11.**STATEMENTS**Assumed name,  
Abandonment, 36.14.  
Certificate, attorney signature, 36.10, 36.11.**STATUTE OF LIMITATIONS**

Deceptive trade practices and consumer protection, 17.56A.

**TEMPORARY RESTRAINING ORDERS**

Deceptive trade practices and consumer protection, 17.47.

**TERMINATION**

Assumed name, certificates, 36.13.

**TIME**

Assumed name, certificates, 36.12, 36.13.

**TRUSTS AND MONOPOLIES**

Discovery, 15.21.

**TRUSTS AND TRUSTEES**

Real estate investment companies, assumed name, 36.01 et seq.

**UNCONSCIONABLE ACTION OR COURSE OF ACTION**

Defined, deceptive trade practices, 17.45.

**UNINCORPORATED ASSOCIATIONS**

Assumed name, 36.01 et seq.

**VENUE**

Deceptive trade practices and consumer protection, unlawful practices, 17.46.

**WORDS AND PHRASES**Address, assumed name, 36.02.  
Assumed name, 36.02.  
Company, assumed name, 36.02.  
Corporation, assumed name, 36.02.  
Estate, assumed name, 36.02.  
Office, assumed name, 36.02.  
Partnership, assumed name, 36.02.  
Person, assumed name, 36.02.  
Registrant, assumed name, 36.02.  
Representative, assumed name, 36.02.  
Unconscionable actions or course of action, deceptive trade practices, 17.45.



# TEXAS EDUCATION CODE

## TITLE 2. PUBLIC SCHOOLS

Chapter	Section
33. Apprenticeship System of Adult Vocational Education .....	33.01

## TITLE 3. HIGHER EDUCATION

### SUBTITLE A. HIGHER EDUCATION IN GENERAL

56. Student Financial Assistance Grants .....	55.001
57. Guaranteed Student Loans .....	57.01
58. Compensation of Resident Physicians .....	58.001

### SUBTITLE C. THE UNIVERSITY OF TEXAS SYSTEM

76. The University of Texas at Tyler .....	76.01
--	-------

### SUBTITLE G. NON-BACCALAUREATE SYSTEM

131. Southwest Collegiate Institute for the Deaf .....	131.001
--	---------

## TITLE 1. GENERAL PROVISIONS

### CHAPTER 1. TITLE, ORGANIZATION, AND PURPOSE

#### § 1.04. Applicability

*[See Compact Edition, Volume 1 for text of (a)]*

(b) This code shall not apply to those facilities and institutions under the control and direction of the Texas Department of Mental Health and Mental Retardation or to the institutions for delinquent, dependent and neglected children under the control and direction of the Texas Youth Council except as specifically provided in Subchapter E of Chapter 30 of this code<sup>1</sup> and in Section 16.104 of this code.

(c) Any educational institution supported either wholly or in part by state tax funds shall, if undertaking to provide educational services to any individual within the jurisdiction or geographical boundaries of the educational institution, provide equal educational opportunities to all individuals within its jurisdiction or geographical boundaries pursuant to the provisions of this code and pursuant to the provisions of regulations promulgated by the Central Education Agency to give effect to the intent of the legislature in its enactment of this code. No individual otherwise eligible for educational services through an educational institution supported either wholly or in part by state tax funds may deny services to any handicapped student as defined in Section 16.104 of this code, but the educational insti-

tion shall instead be obligated to provide handicapped individuals such special educational services as might from time to time be authorized by law or, where expressly authorized, to assist in and contribute toward the provision of appropriate special educational services in cooperation with other educational institutions and other appropriate agencies, institutions, or departments.

(d) Notwithstanding the other provisions of this section, employees of the Texas Youth Council in academic or vocational programs shall be members of the Teacher Retirement System of Texas under Chapter 3 of this code.

[Amended by Acts 1975, 64th Leg., p. 2377, ch. 734, § 1, eff. June 21, 1975; Acts 1977, 65th Leg., p. 369, ch. 181, § 1, eff. May 20, 1977; Acts 1977, 65th Leg., p. 1962, ch. 782, § 1, eff. June 16, 1977; Acts 1979, 66th Leg., p. 1323, ch. 602, § 25, eff. Aug. 27, 1979.]

<sup>1</sup> Section 30.81 et seq.

## CHAPTER 2. GENERAL PROVISIONS

Section  
2.09a. Immunization Records; Reporting.

### § 2.09. Immunization; Requirements; Exceptions

(a) No person may be admitted to any elementary or secondary school or institution of higher education unless he has been immunized against diphtheria, rubeola, rubella, tetanus, and poliomyelitis, except as provided in Subsection (c).

(b) Subject to the provisions of Subsection (c), the Texas Board of Health may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school or institution of higher education.

(c) No form of immunization is required for a person's admission to any elementary or secondary school or institution of higher education when the person applying for admission:

(1) submits to the admitting official either of the following:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine within the United States, in which it is stated that, in the physician's opinion, the immunization required would be injurious to the health and well-being of the applicant or any member of his family or household; or

(B) an affidavit signed by the applicant or, if a minor, by his parent or guardian stating that the immunization conflicts with the tenets and practice of a recognized church or religious de-

nomination of which the applicant is an adherent or member; provided, however, that this exemption does not apply in times of emergency or epidemic declared by the Commissioner of Health: or

(2) is a member of the armed forces of the United States and is on active duty.

(d) The Texas Department of Health shall provide the required immunizations to children in areas where no local provision exists to provide these services.

(e) A person may be provisionally admitted to an elementary or secondary school or institution of higher education if he has begun the required immunizations and if he continues to receive the necessary immunizations as rapidly as is medically feasible. The Texas Department of Health shall promulgate rules and regulations relating to the provisional admission of persons to an elementary or secondary school or institution of higher education.

[Amended by Acts 1979, 66th Leg., p. 771, ch. 337, § 1, eff. June 6, 1979; Acts 1981, 67th Leg., p. 926, ch. 341, § 1, eff. Aug. 31, 1981.]

**§ 2.09a. Immunization Records; Reporting**

(a) Each school or institution of higher education covered by this Act shall keep an individual immunization record during the period of attendance for each student admitted, and the records shall be open for inspection at all reasonable times by the Central Education Agency or by representatives of local health departments or the Texas Department of Health.

(b) Each school or institution of higher education covered by this Act shall cooperate in transferring students' immunization records between other schools and institutions of higher education. Specific approval from students, parents, or guardians is not required prior to making such record transfers.

(c) The Central Education Agency and the Texas Department of Health shall develop the form for a required annual report of the immunization status of students, and such annual report shall be submitted by all Texas schools at such time and in such manner as is indicated in the instructions printed on such form.

[Added by Acts 1979, 66th Leg., p. 772, ch. 337, § 2, eff. June 6, 1979.]

**CHAPTER 3. TEACHER RETIREMENT SYSTEM [REPEALED]**

**SUBCHAPTER B. CREDITABLE SERVICE**

Section  
3.27 to 3.29. Repealed.

**SUBCHAPTER C. BENEFITS**

3.40. Repealed.

**SUBCHAPTER D. ADMINISTRATION AND ORGANIZATION**

3.63. Repealed.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§§ 3.01 to 3.07. Repealed by Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(1), eff. Sept. 1, 1981**

Acts 1981, 67th Leg., ch. 453, repealing these sections, enacted Title 110B of the Revised Civil Statutes, Public Retirement Systems.

For disposition of the subject matter of the repealed sections, see Disposition Table following Title 110B.

Prior to repeal, § 3.01 was amended by Acts 1981, 67th Leg., p. 2353, ch. 580, § 1, which was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(12).

Prior to repeal, § 3.02 was amended by:

Acts 1975, 64th Leg., p. 122, ch. 57, § 1.

Acts 1975, 64th Leg., p. 2373, ch. 732, § 1.

Acts 1977, 65th Leg., p. 1013, ch. 377, § 1.

Acts 1979, 66th Leg., p. 1174, ch. 570, §§ 1, 2.

Acts 1981, 67th Leg., p. 826, ch. 296, §§ 1 to 3.

Acts 1981, 67th Leg., p. 826, ch. 296, § 1, effective Sept. 1, 1981, was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(8), effective Sept. 1, 1981. Acts 1981, 67th Leg., p. 826, ch. 296, §§ 2, 3, effective Sept. 1, 1982, were repealed by Acts 1981, 67th Leg., 1st C.S., p. 236, ch. 18, § 110(c)(1), effective Sept. 1, 1982.

Acts 1981, 67th Leg., p. 830, ch. 296, § 9, which is repealed by Acts 1981, 67th Leg., 1st C.S., p. 236, ch. 18, § 110(c)(1), effective Sept. 1, 1982, provides:

"Sections 2 through 6 of this Act [amending §§ 3.02(a)(17), (18), 3.02(c), 3.25(b), (c), 3.26(b), (d)] shall become effective September 1, 1982. The remainder of this Act [amending § 3.02(a)(12), 3.31(f), 3.32] shall become effective September 1, 1981. However, persons who have retired on or after May 31, 1981, but before September 1, 1982, may elect to receive, beginning September 1, 1981, or after their retirement, whichever is later, a benefit based upon a best-three-years-average compensation, provided that the highest year's compensation included in the average compensation factor must be adjusted to conform to the definition of 'annual compensation' adopted in this Act for school years beginning with 1981-82. Persons retiring in the 1981-82 school year with a benefit based upon their best-five-years-average compensation may make deposits and receive credit for actual compensation received in that year for service resulting in a year of membership credit."

Prior to repeal, §§ 3.03 and 3.05 were amended by Acts 1977, 65th Leg., p. 1015, ch. 377, §§ 2 and 3, respectively.

**SUBCHAPTER B. CREDITABLE SERVICE**

**§§ 3.21 to 3.27. Repealed by Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(1), eff. Sept. 1, 1981**

For disposition of the subject matter of the repealed sections, see Disposition Table following Title 110B.

Acts 1981, 67th Leg., ch. 453, repealing these sections, enacted Title 110B of the Revised Civil Statutes, Public Retirement Systems.

Prior to repeal, § 3.21(b) was amended by Acts 1977, 65th Leg., p. 1016, ch. 377, § 4.

Prior to repeal, § 3.22(a), (e) was amended by Acts 1977, 65th Leg., p. 1016, ch. 377, § 5.

Prior to repeal, § 3.23 was amended by:

Acts 1975, 64th Leg., p. 122, ch. 57, § 2.

Acts 1977, 65th Leg., p. 1016, ch. 377, § 6.

Acts 1981, 67th Leg., p. 827, ch. 296, § 4.

Acts 1981, 67th Leg., p. 827, ch. 296, § 4, was repealed by Acts 1981, 67th Leg., 1st C.S., p. 236, ch. 18, § 110(c)(1).

Prior to repeal, § 3.25 was amended by:

Acts 1975, 64th Leg., p. 36, ch. 19, § 1.

Acts 1977, 65th Leg., p. 1017, ch. 377, § 7.

Acts 1981, 67th Leg., p. 827, ch. 296, § 5.

Acts 1981, 67th Leg., p. 827, ch. 296, § 5, was repealed by Acts 1981, 67th Leg., 1st C.S., p. 236, ch. 18, § 110(c)(1).

Prior to repeal, § 3.26 was amended by:

Acts 1975, 64th Leg., p. 37, ch. 19, § 2.

Acts 1977, 65th Leg., p. 1018, ch. 377, § 8.

Acts 1981, 67th Leg., p. 828, ch. 296, § 6.

Acts 1981, 67th Leg., p. 828, ch. 296, § 6, was repealed by Acts 1981, 67th Leg., 1st C.S., p. 236, ch. 18, § 110(c)(1).

Acts 1981, 67th Leg., p. 830, ch. 296, § 9, which is repealed by Acts 1981, 67th Leg., 1st C.S., p. 236, ch. 18, § 110(c)(1), effective Sept. 1, 1982, provides:

"Sections 2 through 6 of this Act [amending §§ 3.02(a)(17), (18), 3.02(c), 3.25(b), (c), 3.26(b), (d)] shall become effective September 1, 1982. The remainder of this Act [amending §§ 3.02(a)(12), 3.31(f), 3.32] shall become effective September 1, 1981. However, persons who have retired on or after May 31, 1981, but before September 1, 1982, may elect to receive, beginning September 1, 1981, or after their retirement, whichever is later, a benefit based upon a best-three-years-average compensation, provided that the highest year's compensation included in the average compensation factor must be adjusted to conform to the definition of 'annual compensation' adopted in this Act for school

years beginning with 1981-82. Persons retiring in the 1981-82 school year with a benefit based upon their best-five-years-average compensation may make deposits and receive credit for actual compensation received in that year for service resulting in a year of membership credit."

Former § 3.27, relating to purchase of credit for developmental leave, was added by Acts 1977, 65th Leg., p. 1019, ch. 377, § 9.

### § 3.28. Repealed by Acts 1979, 66th Leg., p. 1175, ch. 570, § 3, eff. Aug. 27, 1979

The repealed section, added by Acts 1977, 65th Leg., p. 1029, ch. 377, § 24, related to the purchase of service credit by distributive education teachers.

### § 3.29. Repealed by Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 453, repealing this section, enacted Title 110B of the Revised Civil Statutes, Public Retirement Systems.

For disposition of the subject matter of the repealed section, see Disposition Table following Title 110B.

The repealed section, relating to purchase of credit for service with certain university components, was added by Acts 1979, 66th Leg., p. 440, ch. 200, § 1.

## SUBCHAPTER C. BENEFITS

### §§ 3.31 to 3.40. Repealed by Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 453, repealing these sections, enacted Title 110B of the Revised Civil Statutes, Public Retirement Systems.

For disposition of the subject matter of the repealed section, see Disposition Table following Title 110B.

Prior to repeal, § 3.31 was amended by:

Acts 1975, 64th Leg., p. 7, ch. 6, § 1.

Acts 1977, 65th Leg., p. 1019, ch. 377, § 10.

Acts 1981, 67th Leg., p. 828, ch. 296, § 7.

Acts 1981, 67th Leg., p. 828, ch. 296, § 7, was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(8).

Prior to repeal, § 3.32 was amended by Acts 1977, 65th Leg., p. 1021, ch. 377, § 11, and Acts 1981, 67th Leg., p. 828, ch. 296, § 8. Section 8 of the 1981 Act was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(8).

Acts 1981, 65th Leg., p. 830, ch. 296, § 9, which is repealed by Acts 1981, 67th Leg., 1st C.S., p. 236, ch. 18, § 110(c)(1), effective Sept. 1, 1982, provides:

"Sections 2 through 6 of this Act amending §§ 3.02(a)(17), (18), 3.02(c), 3.25(b), (c), 3.26(b), (d) shall become effective September 1, 1982. The remainder of this Act [amending § 3.02(a)(12), 3.31(f), 3.32] shall become effective September 1, 1981. However, persons who have retired on or after May 31, 1981, but before September 1, 1982, may elect to receive, beginning September 1, 1981, or after their retirement, whichever is later, a benefit based upon a best-three-years-average compensation, provided that the highest year's compensation included in the average compensation factor must be adjusted to conform to the definition of 'annual compensation' adopted in this Act for school years beginning with 1981-82. Persons retiring in the 1981-82 school year with a benefit based upon their best-five-years-average compensation may make deposits and receive credit for actual compensation received in that year for service resulting in a year of membership credit."

Prior to repeal, § 3.33 was amended by:

Acts 1975, 64th Leg., p. 38, ch. 19, § 3.

Acts 1977, 65th Leg., p. 1022, ch. 377, § 12.

Acts 1979, 66th Leg., p. 1175, ch. 570, § 4.

Prior to repeal, § 3.34 was amended by Acts 1975, 64th Leg., p. 38, ch. 19, § 4; Acts 1977, 65th Leg., p. 1024, ch. 377, § 13.

Prior to repeal, § 3.35 was amended by Acts 1977, 65th Leg., p. 1025, ch. 377, § 14; Acts 1979, 66th Leg., p. 1175, ch. 570, § 5.

Prior to repeal, § 3.36 was amended by:

Acts 1975, 64th Leg., p. 39, ch. 19, § 5.

Acts 1977, 65th Leg., p. 1025, ch. 377, § 15.

Acts 1979, 66th Leg., p. 1176, ch. 570, § 6.

Prior to repeal, § 3.37 was amended by:

Acts 1975, 64th Leg., p. 39, ch. 19, § 6.

Acts 1977, 65th Leg., p. 1894, ch. 755, § 1.

Acts 1979, 66th Leg., p. 1177, ch. 570, § 7.

Prior to repeal, § 3.38 was amended by:

Acts 1975, 64th Leg., p. 7, ch. 6, § 3.

Acts 1977, 65th Leg., p. 1026, ch. 377, § 16.

Acts 1979, 66th Leg., p. 1180, ch. 571, § 1.

Acts 1981, 67th Leg., p. 265, ch. 109, § 1.

Acts 1981, 67th Leg., p. 265, ch. 109, § 1, without reference to the repeal of § 3.38 by Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(1), added a subsec. (j) to § 3.38. As so added, subsec. (j) reads:

"(j) Effective September 1, 1981, the monthly benefits paid to annuitants of the Teacher Retirement System of Texas, except for minimum disability benefits being paid to persons with less than 10 years credit and monthly survivor benefits, shall be increased by 21 percent if the date of retirement, or date of death for death benefits, occurred before September 1, 1963, by 16 percent if the date of retirement, or date of death for death benefits occurred on or after September 1, 1963, but before May 31, 1971, by 14 percent if the date of

retirement, or date of death for death benefits, occurred on or after May 31, 1971, but before May 31, 1977, by 2 percent if the date of retirement, or date of death for death benefits, occurred on or after May 31, 1977, but before August 31, 1979, or by 7 percent if the date of retirement, or date of death for death benefits, occurred on August 31, 1979, and if the amount of the benefit was not affected by the amendment of Subdivision (18) of Subsection (a) of Section 3.02 of the Texas Education Code by Chapter 570, Acts of the 66th Legislature, Regular Session, 1979. In lieu of all other increases provided by this subsection and previous laws, an annuitant under rules adopted by the retirement system may elect to receive, effective September 1, 1981, a monthly benefit calculated, without subsequent increases, as if the retirement law being administered on August 31, 1979, had been in effect on the date of retirement, or on the date of death for death benefits. The increases provided in this subsection shall be funded by and are conditioned upon the restoration to the retired reserve account of the assets released from that account by the increase in the assumed rate of earnings adopted by the State Board of Trustees on September 12, 1980, and the appropriation of additional amounts actuarially determined to be necessary to fund the increases completely."

Section 2 of Acts 1981, 67th Leg., p. 266, ch. 109, provides:

"There is appropriated from the General Revenue Fund to the Teacher Retirement System of Texas the sum of \$95,000,000 to fund the benefit increases provided by this Act. On the effective date of this Act, the state comptroller of public accounts shall transfer the appropriated sum for deposit in the benefit increase reserve account of the Teacher Retirement System of Texas. Should the amount that is appropriated be less than the amount required to fund the increases provided by this Act, the State Board of Trustees shall adjust the rates of increases accordingly to rates which the actual amount appropriated will fund with the increases being allocated among the retirees in the same ratio as set forth in Subsection (j) of Section 1 of this Act."

Acts 1981, 67th Leg., p. 6, ch. 4, § 1, 2, eff. Feb. 13, 1981, provide:

"Sec. 1. (a) Monthly benefits payable to an annuitant of the Teacher Retirement System of Texas, except for minimum disability benefits payable to a person with less than 10 years of service credit and except for survivor benefits, are increased by 5.1 percent if the date of retirement on which the benefits are based or the date of death for death benefits occurred before August 31, 1979.

"(b) The initial payment of the increase in benefits provided by this Act is for the calendar month in which this Act takes effect.

"Sec. 2. There is appropriated from the General Revenue Fund to the Teacher Retirement System of Texas the sum of \$93,750,000 which sum has been actuarially determined to be the amount necessary to fund the benefit increases provided by this Act. On the effective date of this Act, the state comptroller of public accounts shall transfer the appropriated sum for deposit in the benefit increase reserve account of the Teacher Retirement System of Texas."

Former § 3.40, relating to waiver of benefits, was added by Acts 1979, 66th Leg., p. 1177, ch. 570, § 8.

## SUBCHAPTER D. ADMINISTRATION AND ORGANIZATION

### §§ 3.51 to 3.63. Repealed by Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(1), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 453, repealing these sections, enacted Title 110B of the Revised Civil Statutes, Public Retirement Systems.

For disposition of the subject matter of the repealed sections, see Disposition Table following Title 110B.

Prior to repeal, § 3.51 was amended by Acts 1977, 65th Leg., p. 1026, ch. 377, § 17.

Prior to repeal, § 3.52 was amended by Acts 1975, 64th Leg., p. 40, ch. 19, § 7; Acts 1979, 66th Leg., p. 1178, ch. 570, § 9.

Prior to repeal, § 3.53 was amended by Acts 1977, 65th Leg., p. 1026, ch. 377, § 18.

Prior to repeal, § 3.54 was amended by Acts 1977, 65th Leg., p. 1027, ch. 377, § 19.

Prior to repeal, § 3.55 was amended by:

Acts 1975, 64th Leg., p. 40, ch. 19, § 8.

Acts 1977, 65th Leg., p. 1027, ch. 377, § 20.

Acts 1979, 66th Leg., p. 1178, ch. 570, § 10.

Prior to repeal, § 3.57 was amended by:

Acts 1975, 64th Leg., p. 40, ch. 19, § 9.

Acts 1977, 65th Leg., p. 1028, ch. 377, § 21.

Acts 1979, 66th Leg., p. 1178, ch. 570, § 11.

Prior to repeal, § 3.58 was amended by:

Acts 1977, 65th Leg., p. 1029, ch. 377, § 22.

Acts 1979, 66th Leg., p. 1178, ch. 570, § 12.

Acts 1981, 67th Leg., p. 2253, ch. 540, § 10.

Acts 1981, 67th Leg., p. 2253, ch. 540, § 10, was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(1).

Prior to repeal, § 3.59 was amended by:

Acts 1977, 65th Leg., p. 1029, ch. 377, § 25.

Acts 1977, 65th Leg., p. 1856, ch. 735, § 2.174.

Acts 1979, 66th Leg., p. 1024, ch. 457, § 1.

Acts 1979, 66th Leg., p. 1179, ch. 570, § 13.

Prior to repeal, § 3.60 was amended by Acts 1977, 65th Leg., p. 1032, ch. 377, § 26; Acts 1981, 67th Leg., p. 2353, ch. 580, § 2, 3.

Acts 1981, 67th Leg., p. 2353, ch. 580, §§ 2 and 3 were repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(12).

Former § 3.63, relating to collection of federal or private funds for retirement contributions was added by Acts 1979, 66th Leg., p. 1179, ch. 570, § 14.

CHAPTER 4. PENAL PROVISIONS

§§ 4.15, 4.16. Repealed by Acts 1981, 67th Leg., p. 728, ch. 274, § 2, eff. Aug. 31, 1981

§ 4.22. Possession of Intoxicants on Public School Grounds

(a) The possession of any intoxicating beverage for consumption, sale, or distribution while on the grounds or in a building of a public elementary, junior high, or senior high school or while entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public elementary, junior high, or senior high school of this state is being held is unlawful.

(b) If any officer of this state sees any person violating this section, he shall immediately seize the intoxicating beverage and within a reasonable time deliver it to the county or district attorney to be held as evidence until the trial of the accused possessor and then dispose of same.

(c) Any person violating the provisions of this section shall be guilty of a Class C misdemeanor. [Amended by Acts 1979, 66th Leg., p. 493, ch. 224, § 1, eff. Aug. 27, 1979.]

§ 4.25. Thwarting Compulsory Attendance Law

(a) If any parent or person standing in parental relation to a child, within the compulsory school attendance ages and not lawfully exempt or properly excused from school attendance, fails to require such child to attend school for such periods as required by law, it shall be the duty of the proper attendance officer to warn, in writing, the parent or person standing in parental relation that attendance must be immediately required. If after this warning the parent or person standing in parental relation intentionally, knowingly, recklessly, or with criminal negligence fails to require the child to attend school as required by law, the parent or person standing in parental relation commits an offense. The attendance officer shall file a complaint against him in the county court, in the justice court of his resident precinct, or in the municipal court of the municipality in which he resides. An offense under this section is punishable by a fine of not less than \$5 nor more than \$25 for the first offense, not less than \$10 nor more than \$50 for the second offense, and not less than \$25 nor more than \$100 for a subsequent offense. Each day the child remains out of school after the warning has been given or the child ordered to school by the juvenile court may constitute a separate offense.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1975, 64th Leg., p. 1356, ch. 513, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 3081, ch. 813, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 amendatory act provides:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

"(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

TITLE 2. PUBLIC SCHOOLS

CHAPTER 11. CENTRAL EDUCATION AGENCY

SUBCHAPTER A. GENERAL PROVISIONS

- |         |  |
|---------|--|
| Section |  |
| 11.011. | Application of Sunset Act.   |
| 11.031. | Repealed.  |
| 11.041. | Repealed.  |
| 11.052. | Education for the Visually Handicapped.                              |
| 11.061. | Management and Supervision of the Texas School for the Blind.        |
| 11.062. | Repealed.  |
| 11.063. | Staffing and Funding of School for the Blind.                        |
| 11.071. | Travel and Clothing Expenses for Certain Blind Students.             |
| 11.091. | Diagnostic and Evaluation Center.                                    |
| 11.092. | Early Childhood Intervention Programs.                               |
| 11.102. | Supplemental Allowances for Exceptional Expenses of Blind Education. |
| 11.103. | Coordination of Services to Handicapped Children.                    |
| 11.104. | Repealed.  |
| 11.161. | Repealed.  |
| 11.19.  | Educational Programs for Gifted and Talented Students.               |
| 11.201. | Community Education Services.  |
| 11.202. | School Volunteer Program.  |

SUBCHAPTER B. STATE BOARD OF EDUCATION

- |         |                            |
|---------|----------------------------|
| 11.211. | Application of Sunset Act. |
| 11.36.  | Library Standards.         |

SUBCHAPTER F. STATE PROPERTY TAX BOARD

- |                |  |
|----------------|--|
| 11.71.         | Purpose.                                       |
| 11.72.         | Board Defined.                                 |
| 11.73 to 1185. | Repealed.                                      |
| 11.86.         | Determination of School District Index Values. |
| 11.87.         | Confidentiality.                               |
| 11.88.         | Repealed.                                      |

SUBCHAPTER A. GENERAL PROVISIONS

§ 11.01. Composition and Purpose

The State Board of Education, the State Board for Vocational Education, the state commissioner of education, and the State Department of Education shall comprise the Central Education Agency. It shall carry out such educational functions as may be assigned to it by the legislature, but all educational functions not specifically delegated to the Central Education Agency shall be performed by county boards of education or district boards of trustees. [Amended by Acts 1977, 65th Leg., 1st C.S., p. 35, ch. 1, § 18, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1320, ch. 602, § 15, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(k), eff. Jan. 1, 1982.]

§ 11.011. Application of Sunset Act

The Central Education Agency is subject to the Texas Sunset Act<sup>1</sup>; and unless continued in existence as provided by that Act the agency is abolished effective September 1, 1989.

[Added by Acts 1977, 65th Leg., p. 1853, ch. 735, § 2.149, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

**11.03. Supervision of the Texas School for the Deaf**

(a) The Texas School for the Deaf is governed by a nine-member board appointed by the governor in accordance with this section and confirmed by the senate. Three of the members must be deaf persons, three must each be a parent of a deaf person, and three must be experienced in working with deaf persons. A person may not serve simultaneously on the board and the Texas Commission for the Deaf.

(b) Members of the board serve for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year.

(c) Members of the board serve without salary but are entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties.

(d) The board shall organize and conduct itself in the same manner as an independent school district board of trustees.

(e) The board shall prepare and present the annual budget for the school to the legislature.

(f) Actions of the board may be appealed to the State Board of Education in the manner provided for appeal of independent school district actions.

(g) The board has exclusive jurisdiction over the physical assets of the school and shall administer and expend appropriations made for the benefit of the school.

(h) The superintendent of the school is appointed by and serves at the pleasure of the governing board of the school.

(i) The Texas School for the Deaf shall:

(1) provide educational services on a day or residential basis to deaf students for whom adequate educational opportunities are unavailable in their local or regional programs;

(2) provide short-term services to deaf students so that they may be better able to benefit from educational services available in their local communities;

(3) provide services for multiply handicapped deaf students who cannot be effectively assisted through community programs but whose developmental capacities are such that they should not be admitted to residential institutions operated by the Texas Department of Mental Health and Mental Retardation;

(4) be a primary resource to school districts for promoting excellence in educational services for hearing-impaired students;

(5) be a training and staff development resource for those at the community level who are involved in providing educational and related services to hearing-impaired students; and

(6) be a research and demonstration facility to improve methods of providing educational services to meet the current and future needs of hearing-impaired students.

(j) The state auditor shall audit the Texas School for the Deaf at least biennially and shall audit the school annually if requested by resolution of the board.

(k) The board shall prepare and disseminate to interested persons an annual report describing the programmatic and fiscal aspects of the school.

(l) The executive director of the Texas Commission for the Deaf or his representative serves as a voting member of any policy and planning committee or task force of the Texas School for the Deaf. [Amended by Acts 1979, 66th Leg., p. 1652, ch. 691, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 2162, ch. 827, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2308, ch. 567, § 1, eff. Sept. 1, 1981.]

Section 4 of Acts 1979, 66th Leg., p. 2165, ch. 827, provided:

"The State Board of Education shall nominate and the governor shall appoint members to the governing board for the Texas School for the Deaf and for the Texas School for the Blind immediately after the effective date of this Act."

**§ 11.031. Repealed by Acts 1981, 67th Leg., p. 2310, ch. 567, § 4, eff. Sept. 1, 1981**

The repealed section, relating to central services for the Texas School for the Deaf and the Texas School for the Blind, was added by Acts 1979, 66th Leg., p. 2164, ch. 827, § 3.

**§ 11.04. Superintendent of the Texas School for the Deaf**

[See *Compact Edition, Volume 1* for text of (a)]

(b) The superintendent may reside at the school and shall devote his time exclusively to the duties of his office.

(c) Repealed by Acts 1979, 66th Leg., p. 2165, ch. 827, § 5, eff. Aug. 27, 1979.

[Amended by Acts 1979, 66th Leg., p. 1653, ch. 691, § 2, eff. Aug. 29, 1979; Acts 1979, 66th Leg., p. 2165, ch. 827, § 5, eff. Aug. 29, 1979.]

**§ 11.041. Repealed by Acts 1981, 67th Leg., p. 2310, ch. 567, § 4, eff. Sept. 1, 1981**

The repealed section, relating to use of facilities of the Texas School for the Deaf, was added by Acts 1979, 66th Leg., p. 1653, ch. 691, § 3.

**§ 11.052. Education for the Visually Handicapped**

(a) The Central Education Agency shall develop and administer a comprehensive statewide plan for the education of visually handicapped children under 21 years of age which will ensure that the children have an opportunity for achievement equal to the opportunities afforded their peers with normal vision.

(b) The Central Education Agency shall be responsible for:

(1) the development of standards and guidelines for all special education services for the visually handicapped which it is authorized to provide or support pursuant to the provisions of this code, including matters related to standards and accreditation;

(2) the supervision of such field offices as might from time to time be established to assist local school districts in serving visually handicapped children more effectively;

(3) the development and administration of special programs for children handicapped by both serious visual loss and serious hearing loss;

(4) the evaluation of special education services provided for visually handicapped children by local school districts and the approval or disapproval of state funding of such services; and

(5) the maintenance of effective liaison between special education programs provided for the visually handicapped by local school districts and related initiatives exerted by the State Commission for the Blind, the Department of Mental Health and Mental Retardation, the School for the Blind, and other related programs, agencies, or facilities as appropriate.

(c) The minimum components of the comprehensive statewide plan for the education of the visually handicapped shall include but not be limited to the following:

(1) adequate provision for comprehensive diagnosis and evaluation of each school-age child having a serious visual impairment;

(2) procedures, format, and content of the individualized written service plan for each such visually handicapped child;

(3) emphasis on providing educational services to visually handicapped children in their home communities whenever possible;

(4) Methods to assure that visually handicapped children receiving special education services in local school systems receive, prior to being placed in a classroom setting or within a reasonable time thereafter, the compensatory skills training, communicative skills, orientation and mobility training, social adjustment skills, and vocational or career counseling required in order for such students to succeed in classroom settings and to derive lasting benefits of a practical nature from the education obtained in local school systems;

(5) flexibility on the part of the local school systems to meet the special needs of visually handicapped children through:

(A) specialty staff and resources provided by the local school district;

(B) contractual arrangements with other qualified agencies, either public or private;

(C) supportive assistance from regional service centers, field offices of the Central Education Agency, or adjacent school districts;

(D) short-term or long-term services through the Texas School for the Blind or related types of facilities or programs;

(E) other instructional and service arrangements approved by the agency; or

(F) any combination of the foregoing;

(6) a statewide admission, review, and dismissal process;

(7) provision for effective interreaction between the visually handicapped child's classroom setting and his home environment, including provision for parental training and counseling either by local school personnel or by representatives of other organizations directly involved in the development and implementation of the individualized written service plan for the child;

(8) a requirement for the continuing education and professional development of local school district staff providing special education services to the visually handicapped;

(9) adequate monitoring and precise evaluation of special education services provided to visually handicapped children through local school districts; and

(10) a requirement that local school districts providing special education services to visually handicapped children develop procedures for assuring that staff assigned to work with the visually handicapped children have prompt and effective access directly to resources available through cooperating agencies in the area, through the Texas School for the Blind, through the Central Media Depository, the Comprehensive Diagnostic and Evaluation Center, sheltered workshops participating in the state program of purchases of blind-made goods and services, and related types of resources.

(d) In developing, administering, and coordinating the statewide plan for the education of the visually handicapped, the agency shall encourage the use of all pertinent resources, whether such resources exist in special education programs or in closely related programs operated by other public or private agencies, through encouraging the development of cooperative working relationships and by assisting in the development of contractual arrangements between local school districts and other organizations, and it shall be the duty of the agency to discourage interagency competition, overlap, and duplication in the development of specialized resources and the delivery of services.

(e) Every eligible blind or visually handicapped student shall receive the educational programs according to an individualized written service plan which:

(1) shall be developed following adequate diagnosis and evaluation of all pertinent medical, psychological, social, cultural, environmental, and related factors which bear on the individual's ability to benefit from educational programs;

(2) shall be jointly developed by a representative of an educational program who is qualified and experienced in working with individuals handicapped by serious visual loss, by the blind or handicapped individual and his parent or guardian, and by representatives of other public or private organizations providing or capable of providing specialized services which tend to assure greater

effectiveness of the educational effort exerted in behalf of the blind or visually handicapped individual;

(3) specifies in measurable terms the goals and objectives to be accomplished as a result of the educational and specialized services to be provided by the various organizations working with the blind or visually handicapped individual;

(4) specifies the time by which each service is to be initiated, the anticipated duration of each service, and the time within which the objectives and goals of the services might be achieved;

(5) contains a procedure and schedule for periodic review and evaluation of progress toward established objectives and goals based on objective criteria and contains a record of the reviews and evaluations;

(6) summarizes the views of the blind or visually handicapped individual, or as appropriate, his parent or guardian or other representative concerning his goals and objectives and the special services being provided;

(7) outlines the obligations undertaken by the individual's family in connection with the individualized written service plan, including family commitments regarding physical restoration services, procurement of optical aids, and related services;

(8) reflects that the individual has been provided a detailed explanation of the various service resources available to him within the community and throughout the state;

(9) reflects that the individualized written service plan has been reviewed as frequently as necessary, but in no event less than once annually, by competent educational authorities, representatives of cooperating organizations, the individual, and his parent or guardian and that the plan has been modified, refined, or redeveloped in a manner consistent with determinations made through such review;

(10) describes in detail the arrangements made to provide the blind or visually handicapped individual with orientation and mobility training, instruction in braille or use of large print, other training to compensate for serious visual loss, access to special media, and special tools, appliances, aids, or devices commonly utilized by individuals with serious visual losses; and

(11) sets forth the plans and arrangements made for contacts with and continuing services to the blind or visually handicapped individual during periods in which he might not be involved in school programs.

[Added by Acts 1975, 64th Leg., p. 2397, ch. 734, § 23, eff. June 21, 1975. Amended by Acts 1977, 65th Leg., 1st C.S., p. 36, ch. 1, § 20, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 677, ch. 301, §§ 5, 6, eff. May 31, 1979; Acts 1981, 67th Leg., p. 2334, ch. 572, art. II, § 2, eff. Sept. 1, 1981.]

### § 11.06. Functions and Purposes of Texas School for the Blind

The Texas School for the Blind is constituted, funded, and operated for the following functions and purposes:

(1) to provide educational services on a residential basis to blind children and youth who, for whatever reasons, are unable to obtain adequate educational opportunities in their local communities;

(2) to provide short-term services to blind children and youth for the purpose of equipping such blind children and youth to be able to benefit from educational services available in their local communities;

(3) to serve multiply handicapped blind children and youth who cannot be effectively assisted through community programs, but whose developmental capacities are such that it may not be convincingly demonstrated that the children and youth should appropriately be admitted to residential institutions operated by the State Department of Mental Health and Mental Retardation;

(4) to serve as the primary catalyst within the State of Texas for promoting greater excellence and relevance in educational services for blind individuals;

(5) to serve as a resource to local school programs throughout the state in connection with the efforts of local school programs to serve blind and visually handicapped individuals effectively;

(6) to serve as a mechanism for training and ongoing staff development for those who are involved in providing educational and closely related services to blind or visually handicapped children and youth in local communities throughout the state;

(7) to serve as a research and demonstration facility through which new and improved methods of providing educational services are developed to meet the current and future educational needs of blind and visually handicapped children and youth and through which are developed new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve the educational problems of blind and visually handicapped children or youth; and

(8) to cooperate with any and all other public or private organizations, as appropriate, in more effectively carrying out, through effective interagency coordination and vigorous interagency communication, those provisions of this code which relate to the education of the blind and visually handicapped, as well as those provisions of closely related state statutes.

[Amended by Acts 1975, 64th Leg., p. 2393, ch. 734, § 19, eff. June 19, 1975.]

**§ 11.061. Management and Supervision of the Texas School for the Blind**

(a) The Texas School for the Blind is governed by a nine-member board appointed by the governor in accordance with this section and confirmed by the senate. Three of the members must be blind persons, three must each be a parent of a blind person, and three must be experienced in working with blind persons. A person may not serve simultaneously on the board and the State Commission for the Blind.

(b) Members of the board serve for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year.

(c) Members of the board serve without salary but are entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties.

(d) The board shall organize and conduct itself in the same manner as an independent school district board of trustees.

(e) The board shall prepare and present the annual budget for the school to the legislature.

(f) Actions of the board may be appealed to the State Board of Education in the manner provided for appeal of independent school district actions.

(g) The chief administrative officer of the Texas School for the Blind shall be its superintendent, who is empowered to take all necessary and appropriate action to carry out the functions and purposes of the Texas School for the Blind, pursuant to such general policies as the Board of the Texas School for the Blind might from time to time prescribe, and subject only to a requirement of reporting not less than quarterly to the Board of the Texas School for the Blind as to his activities, progress in the implementation of general policies prescribed by the board, matters of programmatic exceptionality, general statistical summaries of services provided by the Texas School for the Blind during the period covered by the report, budget matters of major consequence or concern, and such additional matters as the Board of the Texas School for the Blind might from time to time request to be specifically covered in the superintendent's reports.

(h) The Board of the Texas School for the Blind shall establish and not less than semi-annually meet with two advisory committees, the nature and composition of which shall be as hereinafter indicated, and both of which shall be available to the superintendent for consultation and assistance on request at any time.

(i) There shall be an educational advisory committee consisting of two teachers employed in classroom settings at the Texas School for the Blind, two teachers working primarily with blind and visually handicapped students in public school settings, and two staff of the Texas School for the Blind not employed in classroom settings.

(j) There shall be a consumers advisory committee, consisting of the parents of two students attend-

ing the Texas School for the Blind, the parents of two blind children enrolled in public school programs, one former graduate of the Texas School for the Blind employed in a profession other than education, and one former student of the Texas School for the Blind successfully engaged in a vocation not normally requiring college training.

(k) Members of the two advisory committees shall serve two-year terms, and shall be appointed by the Board of the Texas School for the Blind following consideration of such recommendations as might be made by the Superintendent of the Texas School for the Blind.

(l) Members of the advisory committees to the superintendent and Board of the Texas School for the Blind shall receive no salary for their services but shall be entitled to reimbursement for the actual and necessary expenses of their travel in providing services for the Texas School for the Blind.

(m) The board has exclusive jurisdiction over the physical assets of the school and shall administer and expend appropriations made for the benefit of the school.

[Added by Acts 1975, 64th Leg., p. 2394, ch. 734, § 20, eff. June 21, 1975. Amended by Acts 1979, 66th Leg., p. 2163, ch. 827, § 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2309, ch. 567, § 2, eff. Sept. 1, 1981.]

Section 4 of the 1979 amendatory act provided:  
 "The State Board of Education shall nominate and the governor shall appoint members to the governing board for the Texas School for the Deaf and for the Texas School for the Blind immediately after the effective date of this Act."

**§ 11.062. Repealed by Acts 1977, 65th Leg., 1st C.S., p. 48, ch. 1, § 35, eff. Sept. 1, 1977**

The repealed section, establishing a business office on the campus of the Texas School for the Blind, was added by Acts 1975, 64th Leg., p. 2394, ch. 734, § 20.

**§ 11.063. Staffing and Funding of School for the Blind**

(a) With the concurrence of the Board of the Texas School for the Blind, the superintendent is authorized to adopt a salary structure for the Texas School for the Blind with maximum levels not to exceed an amount equivalent to the maximum salary levels of the five local independent school districts offering the highest salaries, and not less than those of the Austin Independent School District, including consideration of employee benefits, being paid to staff employed for the special education of children with severely disabling handicaps.

(b) The funding of the Texas School for the Blind shall consist of:

(1) such amounts as might be specifically appropriated to the Texas School for the Blind by the legislature;

(2) such sums as which the Central Education Agency might make available to the Texas School for the Blind pursuant to other provisions of this code;

(3) budgets developed through contracts and agreements;

(4) amounts received through gifts and bequests; and

(5) payments from local school districts in an amount equivalent to the amount of ad valorem tax collections which would have been expended on each child sent to the Texas School for the Blind from within its geographical boundaries had the child been enrolled in a program of special education offered by the local independent school district.

(c) All amounts whatsoever and howsoever received by the Texas School for the Blind are hereby appropriated for expenditure in relation to the functions and purposes of the Texas School for the Blind as set forth in Section 11.06 of this code.

[Added by Acts 1975, 64th Leg., p. 2394, ch. 734, § 20, eff. June 21, 1975.]

#### § 11.07. Superintendent of the Texas School for the Blind

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) The superintendent is appointed by and serves at the pleasure of the governing board of the school.

[Amended by Acts 1979, 66th Leg., p. 2165, ch. 827, § 5, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2310, ch. 567, § 3, eff. Sept. 1, 1981.]

#### § 11.071. Travel and Clothing Expenses for Certain Blind Students

Economically deprived children attending the Texas School for the Blind shall be entitled to the same clothing and travel benefits as are allowed under Section 11.051 of this code for economically deprived children attending the Texas School for the Deaf.

[Added by Acts 1975, 64th Leg., p. 2397, ch. 734, § 22, eff. June 21, 1975.]

#### § 11.08. Medical Services for the Texas School for the Blind

Appropriate ophthalmological or optometric services shall be provided to examine and treat all students at the Texas School for the Blind in relation to their ophthalmic needs. Other specialty medical and psychological services shall be provided as needed.

[Amended by Acts 1975, 64th Leg., p. 2397, ch. 734, § 21, eff. June 21, 1975.]

#### § 11.09. Repealed by Acts 1979, 66th Leg., p. 679, ch. 301, § 8(a), eff. May 31, 1979; Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979

See, now, § 16.104.

#### § 11.091. Diagnostic and Evaluation Center

(a) The Texas School for the Blind shall establish a comprehensive diagnostic and evaluation center and program in Austin for multiply handicapped blind children and youth. The center shall be operated on a cooperative, interagency basis under the general coordination of the Texas School for the Blind.

(b) To the maximum extent feasible and practicable, the diagnostic and evaluation center shall utilize resources available in the Austin area through the State Commission for the Blind, the Texas School for the Blind, the Criss Cole Rehabilitation Center, the State Department of Mental Health and Mental Retardation, the University of Texas, and other public or private organizations in the area.

(c) The purposes and functions of the diagnostic and evaluation center are:

(1) to provide thorough diagnostic studies of multiply handicapped blind children and youth, to determine the nature and scope of special education and related services needed by the individuals, which studies shall at the minimum consist of a comprehensive evaluation of pertinent medical, psychological, social, cultural, environmental, and related factors which bear on the individual's ability to benefit from educational programs and which bear on the types of special services the individual needs in order to obtain maximum benefits from educational services;

(2) to develop scientifically valid instruments, methodologies, and procedures for measuring in a useful and meaningful manner the total developmental assets and deficiencies that relate to the capacity of a multiply handicapped blind child or youth to benefit from educational programs and to prepare for a full and useful life as an independent, contributing member of society;

(3) to test, develop, demonstrate, and help implement concepts, formats, and processes for establishing, executing, periodically reviewing, and from time to time modifying individualized written service plans for all blind or visually handicapped children or youth participating in educational programs within the State of Texas;

(4) to stimulate and assist in the development of more adequate diagnostic and evaluative resources in other communities for blind and visually handicapped children and youth throughout the state, experimenting with a variety of new and innovative methods for providing such diagnostic and evaluative services at the community level with a view toward ultimately assuring timely and convenient access to the diagnostic and evaluative resources required for developing and carrying out individualized service plans with optimum effectiveness; and

(5) to develop new and innovative methods for applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve the educational problems of blind and visually handicapped children or youth.

(d) The costs of the comprehensive diagnostic and evaluation center and program, including initial costs of establishment and recurrent costs of operation, shall be defrayed through such sums as the legislature might appropriate for these purposes,

through such grants, gifts, bequests, and donations as the cooperating agencies might receive for the establishment and support of the center and program, through reasonable fees charged to organizations requesting diagnostic and evaluative services for multiply handicapped blind children and youth, and through such budgets as might be developed by the cooperating agencies with interagency contracts.

(e), (f) Repealed by Acts 1979, 66th Leg., p. 679, ch. 301, § 8(a), eff. May 31, 1979.

[Added by Acts 1975, 64th Leg., p. 2383, ch. 734, § 13, eff. June 21, 1975. Amended by Acts 1979, 66th Leg., p. 679, ch. 301, §§ 7, 8(a), eff. May 31, 1979.]

**§ 11.092. Early Childhood Intervention Programs**

(a) A public or private entity may apply for funds to provide an intervention program for eligible developmentally delayed children by submitting a grant request to the Central Education Agency.

(b) "Developmentally delayed child" means a child who exhibits:

(1) a significant delay, beyond acceptable variations in normal development, in one or more of the following areas:

- (A) cognitive;
- (B) gross or fine motor;
- (C) language or speech;
- (D) social or emotional;
- (E) self-help skills; or

(2) an organic defect or condition that is very likely to result in such a delay.

(c) A developmentally delayed child is eligible for services under this section if the child is under three years of age or until reaching the age of eligibility for entry into the comprehensive special education program for handicapped children under Section 16.104 of the Texas Education Code.

(d) The agency shall allocate appropriated funds to local intervention programs on a competitive basis giving consideration to the following:

- (1) the extent to which the program would meet identified needs;
- (2) the cost of initiating a program, if applicable;
- (3) the need for funds from the agency if other funding sources are available;
- (4) the proposed cost to the parents for the services; and
- (5) the assurance of quality services.

(e) After approval of a grant request, the agency shall execute a contract with the service provider that requires the provider to agree to meet the following program standards:

- (1) the program must be maintained within the guidelines established by the agency;
- (2) the provider must ensure that for each child served an individualized developmental plan is developed and is based on a comprehensive develop-

mental evaluation performed by an interdisciplinary team with parent participation and periodic review and reevaluation;

(3) the provider must provide services to meet the unique needs of each child as indicated by the child's individualized developmental plan;

(4) the provider must demonstrate a capability to obtain or provide an array of services that must include:

(A) training, counseling, case management services, and home visits for the parents of each child served;

(B) individualized instruction or treatment in these areas of development: cognitive, gross or fine motor, language or speech, social or emotional, and self-help skills; and

(C) related services, including occupational therapy, physical therapy, speech and language therapy, adaptive equipment, and transportation;

(5) the provider must maintain a plan for in-service personnel training;

(6) the provider must cooperate with the Texas Department of Health's monitoring and case management efforts; and

(7) the provider must cooperate with the periodic evaluation efforts of the agency.

(f) The contract must specify the minimum and maximum number of eligible developmentally delayed children to be served. The program must serve at least the minimum number and may not be required to serve more than the maximum number specified. If the number of eligible children applying for admission to an approved program exceeds the maximum number specified, the service provider may apply for supplemental funding.

(g) The service provider may charge a fee for intervention services, based on the parent's ability to pay, to be used to offset the cost of providing or securing the service. A determination of the parent's ability to pay must include a consideration of the availability of financial assistance or other benefits for which the child may be eligible. If a fee is charged, a separate charge shall be made for each type of service.

(h) The agency shall develop specific program guidelines in the following areas:

- (1) instructional or treatment options;
- (2) frequency and duration of service;
- (3) staff-child ratios;
- (4) staff composition and qualifications; and
- (5) other program aspects designed to ensure the provision of quality services.

The agency may modify the standards established by Subsection (e) of this section if the agency considers the modifications necessary for a particular program.

(i) The agency shall periodically evaluate an approved program to determine whether the service provider is meeting the conditions of the contract. If the agency determines that a program is not meeting a requirement that was agreed on as a condition for funding, the agency shall withhold further funding for the program.

(j) The agency shall develop a method of response to individual complaints regarding services provided by a program funded under this section.

(k) Eligible children as authorized under this section also shall include those children authorized under Section 11.052(a) and Section 11.10(o), Texas Education Code.

(l) If a fee for intervention services provided pursuant to this section is charged to parents of an eligible developmentally delayed child who was receiving free services under Section 16.161 of this code before the effective date of this section, the agency shall reimburse the parents of that child for the amount of the fee if the parents are not eligible for reimbursement from another source.

[Added by Acts 1981, 67th Leg., p. 2332, ch. 572, art. II, § 1, eff. Sept. 1, 1981.]

#### § 11.10. Regional Day Schools for the Deaf

(a) to (m) Repealed by Acts 1979, 66th Leg., p. 1326; ch. 602, § 35(a), eff. Aug. 27, 1979.

[See Compact Edition, Volume 1 for text of (n)]

(o) To carry out legislative intent and the objectives of Subsection (n) and the following subsections of this Section 11.10, the Central Education Agency shall employ a director and assistant director of services to the deaf. The director of services to the deaf shall develop and administer a comprehensive statewide plan for deaf education services including continuing diagnosis and evaluation, counseling and teaching, and designed to accomplish the following objectives:

(1) Assisting and counseling parents of children of any age whose hearing is determined by professionally acceptable evaluation to be nonfunctional for education purposes, such assistance and counseling to be provided in each of the regional day school programs for the deaf hereinbelow authorized, and admitting all children under 21 years of age whose hearing is determined by professionally acceptable evaluation to be nonfunctional for educational purposes to the regional day school programs for the deaf; and

(2) Enabling a majority or as many as may be practicable of deaf children to reside with their parents or guardians and be afforded compensatory education in their home school districts or in facilities of regional day school programs for the deaf; and

(3) Enabling deaf children who are unable to attend schools at their place of residence and whose parents or guardians live too far from facilities of regional day school programs for the

deaf for daily commuting or to be accommodated five nights a week in foster homes or other residential school facilities provided for by the Central Education Agency in order that such children may attend a regional day school program for the deaf; and

(4) Enrolling in the Texas School for the Deaf at Austin or any other educational facility for the deaf as determined by the parents of deaf children only those children whose needs can best be met in that institution, designating the Texas School for the Deaf as the statewide educational resource for students to whom adequate educational opportunities are unavailable in local or regional programs; and

(5) Encouraging children enrolled in regional day school programs for the deaf who have demonstrated ability to do so to return to regular school classes on a part-time, full-time or trial basis. Supplemental aid from the regional day school program for the deaf shall be made available to such children; and

(6) Recognizing the need for development of oral communications abilities in deaf children and the ability of many to achieve high educational excellence through that method, but also recognizing the inability of some to gain their education successfully by this means, the comprehensive plan developed by the director of services to the deaf will call for the use of methods of communication which will best meet the needs of each individual deaf child in this state, with each child to be examined thoroughly so as to ascertain his potential for communications through oral means. The director of services to the deaf may establish separate programs to accommodate diverse communication methodologies.

[See Compact Edition, Volume 1 for text of (p)]

(q) It is the intent of the legislature that local resources be utilized to the fullest practicable extent in the establishment and operation of the regional day school programs for the deaf. The Central Education Agency is authorized and expected to contract with any qualified public or private organization or qualified individuals for diagnostic, evaluation and instructional services or any other services incidental to the education of deaf children, including transportation and/or maintenance.

The Central Education Agency shall employ educational and other personnel, may purchase or lease real or personal property, may accept gifts or grants of real or personal property or services from any source, public or private, including independent school districts and any institution of higher learning in this state, for the purpose of establishing and operating regional day school programs for the deaf.

The Central Education Agency may provide by rule or regulation that upon establishment of each regional school the countywide school(s) in that region shall become a part of the regional school

operation and that all equipment, classroom supplies, and other personal property owned by the county-wide schools shall become the property of the regional day school. When any such programs are combined, the directors and employees of the former countywide schools shall be employed in appropriate, substantially similar capacities within the regional day school program for that region.

(r) Except for certain transportation costs, costs of operation of the regional day school programs for the deaf shall be borne by the state and paid from the Foundation School Program Fund. Such costs shall be considered and included by the Foundation School Fund Budget Committee in estimating the needs for purposes of the Foundation School Program and the regional day school programs for the deaf. However, funds allocated to countywide schools shall remain so allocated except in those regions in which the countywide program has been made a part of the appropriate region, as aforesaid. Funds specially appropriated to the regional day school program by the General Appropriations Act of the 63rd Legislature, or any substitute therefor, shall be used so as to implement as completely as may be possible the provisions of this Act during the next biennium and in accordance with a budget of expenditures approved by the State Board of Education with the first funds, however, hereby required to be expended for staffing and planning of the regional day school program. Such funds may be used in conjunction with funds from the Foundation School Program Fund in accordance with rules and regulations adopted by the Central Education Agency, the allocation and reallocation of which is hereby authorized. While the principal cost of educating deaf children shall be borne by the state, independent school districts and all institutions of higher learning in the state are hereby authorized and encouraged to make available real or personal property or services in cooperation with the regional day school programs for the deaf for any activities related to education and betterment of education of deaf children including but not limited to research and personnel training and development. The school district in which a regional day school is located shall bear the costs of transporting students in the program who live within the district and is entitled to have those students counted in its allotment of transportation funds from the state. The regional day school program shall bear the costs of transporting children who live outside the district to the regional day school. It is the intent of the legislature in enacting this subsection that the use of all of the educational resources of this state be maximized to carry out the intent and objectives of this Act.

(s) Operating costs for the program in each regional day school program for the deaf shall be determined and paid on the following basis:

(1) An estimated allocation of \$2,700 for each student enrolled in the program of the regional day school program for the deaf in any current year.

(2) Teachers, principals, supervisors, counselors, para-professional and supporting personnel shall be employed in such numbers as the Central Education Agency finds to be necessary to establish and operate the regional day school programs for the deaf, and such numbers shall not be less than student-professional ratios known to be requisite for success in education of deaf children. Salaries of all personnel employed in the regional day school programs for the deaf shall be determined in accordance with policies established by the State Board of Education.

(3) Local districts may receive allocations for transportation of students participating in the regional day school programs on the same basis as that provided for in Section 16.206 of this code.

(t) To assure effective implementation of this Act the Central Education Agency shall upon the passage of this Act institute planning and research designed to accomplish the intent and objectives set forth herein including employment of personnel considered essential to meet the operational date specified for this Act.

*[See Compact Edition, Volume 1 for text of (u)]*

[Amended by Acts 1975, 64th Leg., p. 1401, ch. 542, § 1, eff. June 19, 1975; Acts 1977, 65th Leg., 1st C.S., p. 38, ch. 1, § 21, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1323, ch. 602, §§ 24, 35(a), eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1653, ch. 691, §§ 4, 5, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2334, ch. 572, art. II, § 3, eff. Sept. 1, 1981.]

For subject matter of former subsecs. (a) to (m), see, now, § 16.104.

**§ 11.101. Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979**

See, now, § 16.104.

**§ 11.102. Supplemental Allowances for Exceptional Expenses of Blind Education**

From the Foundation School Fund there shall be made available a special supplemental allowance for each blind student or for each student with a serious visual handicap and another medically diagnosed handicap of a significantly limiting nature, who is receiving special education services through any approved program whatsoever. The amount of the special supplemental allowance for each blind student or for each such multiply handicapped student shall be equivalent to the special allocation for deaf students enrolled in regional day school programs, as authorized by Paragraph (1), Subsection (s), Section 11.10 of this code. The supplemental allowances may be expended only for special services uniquely required by the nature of the student's handicap and may not be used in lieu of educational funds otherwise available under this code and through state or local appropriations.

[Added by Acts 1975, 64th Leg., p. 2382, ch. 734, § 10, eff. June 21, 1975.]

### § 11.103. Coordination of Services to Handicapped Children

(a) In this section "handicapped children" has the meaning defined in Section 16.104(b) of this code.

(b) The commissioner of education, with the approval of the State Board of Education, shall develop and implement a plan for the coordination of services to handicapped children within each geographical area served by a regional education service center. The plan shall include, but may not be limited to, procedures for:

- (1) identifying existing public or private educational and related services for handicapped children in each region;
- (2) identifying and referring handicapped children who cannot be appropriately served by the school district in which they reside to other appropriate programs;
- (3) assisting school districts individually and cooperatively to develop programs to identify and provide appropriate services for handicapped children;
- (4) expanding and coordinating services provided by regional education service centers which are related to programs for handicapped children; and
- (5) providing for special services such as special seats, books, instructional media, and other supplemental supplies and services required for quality instruction.

(c) The commissioner may allocate appropriated funds to regional education service centers and may otherwise expend those funds, as necessary, to implement the provisions of this section.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 36, ch. 1, § 19, eff. Sept. 1, 1977.]

### § 11.104. Repealed by Acts 1981, 67th Leg., p. 288, ch. 113, § 2, eff. May 13, 1981

Subsection (c) of this section was also repealed by Acts 1981, 67th Leg., p. 917, ch. 333, § 1(1), eff. Aug. 31, 1981.

The repealed section, relating to private outdoor training programs for deaf students, was added by Acts 1979, 66th Leg., p. 1182, ch. 578, § 1. See, now, Human Resources Code, § 81.013.

### § 11.11. Repealed by Acts 1981, 67th Leg., p. 917, ch. 333, § 1(2), eff. Aug. 31, 1981

### § 11.15. Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979

See, now, § 16.104.

### § 11.16. Educational Program for Deaf Adults

(a) to (d) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.

(e) The legislature may appropriate money from the general revenue fund for the support of the program. The Central Education Agency shall allocate to each qualifying school district the sum of \$500 per year for each student enrolled in the district's educational program for deaf adults.

[Amended by Acts 1979, 66th Leg., p. 1655, ch. 691, § 6, eff. Aug. 27, 1979.]

### Repeal

*This section was repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979, without reference to the amendment of subsection (e) by Acts 1979, 66th Leg., p. 1655, ch. 691, § 6, eff. Aug. 27, 1979.*

### § 11.161. Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979

The repealed Section, relating to educational programs for blind adults was added by Acts 1975, 64th Leg., p. 2399, ch. 734, § 24.

### § 11.18. Adult Education

(a) As used in this section, the following words and phrases shall have the indicated meanings:

(1) "Adult education" means services and instruction provided by public local education agencies below the college credit level for adults.

(2) "Adult" means any individual who is over the age of compulsory school attendance as set forth in Section 21.032 of this code.

(3) "Community education" means the concept which involves the people of the community in a program designed to fulfill their educational needs, while promoting more effective use of public education facilities and other public facilities for the purpose of providing recreational, cultural, and other related community services.

(b) The Central Education Agency shall:

(1) manage this program with adequate staffing to develop, administer, and support a comprehensive statewide adult education program and coordinate related federal and state programs for education and training of adults;

(2) develop, implement, and regulate a comprehensive statewide program for community level education services to meet the special needs of adults;

(3) develop the mechanism and guidelines for coordination of comprehensive adult education and related skill training services for adults with other agencies, both public and private, in planning, developing, and implementing related programs, including community education programs;

(4) administer all state and federal funds for adult education and related skill training in Texas;

(5) prescribe and administer standards and accrediting policies for adult education;

(6) prescribe and administer rules and regulations for teacher certification for adult education; and

(7) accept and administer grants, gifts, services, and funds from available sources for use in adult education.

[See Compact Edition, Volume 1 for text of (c) and (d)]

(e) Funds shall be appropriated to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school cred-

it programs to eliminate illiteracy in Texas and to implement and support a statewide program to meet the total range of adult needs for adult education, related skill training, and pilot programs to demonstrate the effectiveness of the community education concept. An additional sum of money may be appropriated for the purpose of skill training in direct support of industrial expansion and start-up, in those locations, industries, and occupations designated by the Texas Industrial Commission, when such training is also in support of the basic purposes of this section.

[Amended by Acts 1975, 64th Leg., p. 466, ch. 200, § 1, eff. May 15, 1975; Acts 1979, 66th Leg., p. 1324, ch. 602, § 28, eff. Aug. 27, 1979.]

**§ 11.19. Repealed by Acts 1979, 66th Leg., p. 1162, ch. 562, § 2, eff. Aug. 27, 1979**

The repealed section, added by Acts 1975, 64th Leg., p. 2298, ch. 716, § 1, related to educational programs for gifted and talented students. See, now, §§ 16.501 and 16.502.

**§ 11.201. Community Education Services**

(a) Any school district of this state classified common, independent school district or rural high school district whose governing board elects to provide community education for all age groups may upon application and pursuant to regulations prescribed by the Central Education Agency be reimbursed for such costs from state funds to the extent herein authorized. Only those districts will be eligible which have in the previous or current year achieved a level of community education services prescribed by the Central Education Agency. The regulations shall contain specific provisions for eligibility and program operation.

(b) The cost to the state shall be paid from the Foundation School Fund, and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes.

(c) For purposes of this section, community education services are defined in accordance with the definition contained in Subdivision (3) of Subsection (a) of Section 11.18 of this code.

(d) Expenditures under this section shall not exceed \$1,505,000 annually.

[Added by Acts 1979, 66th Leg., p. 1324, ch. 602, § 27, eff. Aug. 27, 1979.]

**§ 11.202. School Volunteer Program**

(a) It is the public policy of the State of Texas that citizen participation in the public schools as volunteers is desirable and a means of more effectively meeting the goals of public education.

(b) The commissioner of education, with the approval of the State Board of Education, shall develop and implement a program to supply volunteer assistance to the public schools of this state. The supply of volunteers shall be coordinated through the Regional Education Service Centers. School districts

served by the service centers may either utilize or refuse the services provided under the program.

(c) Each Regional Education Service Center shall employ a person in the position of regional coordinator of school volunteers, and the Central Education Agency shall employ a person in the position of statewide coordinator of school volunteers. The commissioner of education shall establish the minimum qualifications for both positions and shall add the positions to the Texas Public Education Compensation Plan at pay grade 8 for 11 months of service. The regional coordinator of school volunteers shall develop materials, design recruitment procedures, and provide demonstration models and general assistance to school districts choosing to operate school volunteer programs. The statewide coordinator shall develop materials, provide demonstration models, and design recruitment procedures to assist the regional coordinators in recruiting volunteers.

(d) Volunteers may not be used to usurp, diminish, or replace the position or functions of salaried professionals or paraprofessionals.

(e) The costs of the program shall be paid from the foundation school fund.

[Added by Acts 1981, 67th Leg., p. 2387, ch. 598, § 1, eff. Aug. 31, 1981.]

**SUBCHAPTER B. STATE BOARD OF EDUCATION**

**§ 11.211. Application of Sunset Act**

The State Board of Education is subject to the Texas Sunset Act,<sup>1</sup> but it is not abolished under that Act. The board shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished effective September 1 of 1989 and every 12th year after 1989 are reviewed.

[Added by Acts 1977, 65th Leg., p. 1852, ch. 735, § 2.148, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

**§ 11.22. Membership**

[See *Compact Edition, Volume 1* for text of (a) to (c)]

(d) Repealed by Acts 1981, 67th Leg., p. 2268, ch. 549, § 1, eff. June 12, 1981.

[See *Compact Edition, Volume 1* for text of (e) to (m)]

[Amended by Acts 1981, 67th Leg., p. 2268, ch. 549, § 1, eff. June 12, 1981.]

**§ 11.24. General Powers and Duties**

(a) The State Board of Education is the policy-forming and planning body for the public school system of the state. It shall also be the State Board for Vocational Education and as such, the board shall have all the powers and duties conferred on it by the various statutes relating to the State Board for Vocational Education. The State Board of Education (State Board for Vocational Education) may contract with the Coordinating Board, Texas College

and University System, so that the coordinating board may assume the leadership role and administrative responsibility of the State Board for Vocational Education for state level administration of technical-vocational education programs in Texas public community colleges, public technical institutes, and other eligible public postsecondary institutions.

[See Compact Edition, Volume 1 for text of (b)]  
[Amended by Acts 1975, 64th Leg., p. 2057, ch. 676, § 4, eff. June 20, 1975.]

**§ 11.27. Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979**

Subsection 35(c) of the 1979 repealing act provided:  
"The repeal of Section 11.27, Texas Education Code, as amended, does not affect a contract entered into before the effective date of this Act if funds are available to the Central Education Agency for payment under the contract after the effective date of this Act."

Prior to repeal, this section was amended by Acts 1975, 64th Leg., p. 1032, ch. 398, § 1.

See, now, § 16.104.

**§ 11.29. Adoption of Budget for the Central Education Agency**

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.

[See Compact Edition, Volume 1 for text of (e) and (f)]

[Amended by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.]

**§ 11.311. Local Cooperative Teacher Education Centers**

(a) To provide college students facilities, additional instructional materials required for student teachers, and supervision for student teaching required by law as prerequisites to the issuance of a valid Texas certificate for the appropriate position, it is necessary that joint responsibility among the colleges and universities approved for teacher education by the Commission on Standards for the Teaching Profession of this state, the Texas public school districts, and the State of Texas be hereby established.

(b) The Commission on Standards for the Teaching Profession, with the assistance of colleges, universities, and public school personnel, subject to the approval of the State Board of Education, shall establish standards for the approval of local cooperative teacher education centers, and define the cooperative relationship between the college or university and the public school which serves the teacher education program.

(c) The approved public school district and the college or university using its facilities for student teaching shall jointly approve or select the supervisors of student teachers, who are employees of the district, to serve in the program and adopt an agreed continuing in-service improvement program for supervisors of student teachers or those preparing to become supervisors of student teachers.

(d) There shall be paid to the public school district which is a member of the local cooperative teacher education center and serves as a site for student teaching the sum of \$200 for each supervisor of student teachers, to be an additional increment for such additional services to the annual salary of each such serving supervisor of student teachers. In addition there shall be paid to the district the sum of \$100 per each supervisor of student teachers of which \$50 shall be retained by the district usable to assist in meeting the costs incurred by the district in the cooperative teacher education center program, and of which \$50 shall be allocated to local cooperative teacher education centers and paid to their respective fiscal agents on the basis of the number of supervisors of student teachers in the district jointly approved or selected by the public school district and participating colleges and universities. This total, \$300 per supervisor of student teachers, shall be paid from the Foundation School Fund; this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes. The total number of supervisors of student teachers to receive the additional increment herein provided shall never exceed 70 percent of the total number of student teachers enrolled in student teaching.

(e) Local cooperative teacher education centers shall use funds allocated in Subsection (d) of this section for meeting the costs incurred by such centers in providing joint responsibility in Subsection (a), the cooperative relationship in Subsection (b), the joint approval or selection of supervisors of student teachers and in-service improvement programs in Subsection (c).

[Amended by Acts 1981, 67th Leg., p. 692, ch. 266, § 1, eff. May 29, 1981.]

**§ 11.32. Regional Education Service Centers**

(a) The State Board of Education shall provide, by rules and regulations, for the establishment and operation of Regional Education Service Centers to provide educational services to the school districts and to coordinate educational planning in the region.

(b) Regional centers shall be located throughout the state so that each school district has the opportunity to be served and to participate in an approved center, on a voluntary basis. No center shall be approved unless it serves an area having 50,000 or more eligible scholastics in average daily attendance for the next preceding school year, except that the State Board of Education may make an exception for sparsely populated areas.

(c) Each center shall be governed by a seven-member board. The State Board of Education shall adopt uniform rules and regulations to provide for the local selection, appointment, and continuity of membership for regional boards of directors. Vacancies shall be filled by appointment by the remaining members of the regional board for the unexpired term. All members shall serve without compensation.

(d) The Regional Board of Directors is authorized to employ an executive director for its respective center and such other personnel, professional and clerical, as it deems necessary to carry out the functions of the center, and to do and perform all things which it deems proper for the successful operation thereof, and to pay for all operating expenses by warrants drawn on proper funds available for such purpose.

(e) The Regional Board of Directors of each Regional Education Service Center, under rules of the State Board of Education, may enter into contracts for grants from both public and private organizations and to expend such funds for the specific purposes in accordance with the terms of the contract with the contracting agency.

(f) Basic costs for the provision of regional education services to school districts and coordination of educational planning in the region and for administrative costs necessary to support these services shall be paid from the Foundation School Fund. Each Regional Education Service Center shall receive an annual allotment of \$200,000, with the remainder of the funds available under the provisions of this subsection to be allocated to the Regional Education Service Centers on the basis of the average daily attendance within the area of operation for each Regional Education Service Center as determined for the next preceding school year. The allotment amounts here authorized to be granted by the State Board of Education shall not exceed in any year a sum equal to .45 percent multiplied by the following specified elements of cost contained in the Foundation School Program for the current school year: salaries, maintenance and operation, vocational operating costs, transportation-regular, transportation-special education, transportation-vocational education, agency administration, other special education programs, vocational contract services, bilingual education, preschool non-English speaking, preschool deaf, compensatory education, driver education, and minimum aid.

(g) Each Regional Education Service Center, within each five-year period shall:

- (1) perform a self-study of the effectiveness of its services to school districts;
- (2) invite a panel of distinguished personnel from other service centers, public school administrators, and other persons deemed appropriate by the service center board to evaluate the practices and services provided by the service center; and
- (3) be subject to a management and service audit conducted by the Central Education Agency.

[Amended by Acts 1975, 64th Leg., p. 897, ch. 334, § 7, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 40, ch. 1, § 22, eff. Sept. 1, 1977.]

**§ 11.33. General Powers and Duties of Regional Education Service Centers**

(a)(1) Regional Education Media Centers shall be established and operated by Regional Education Service Centers under rules of the State Board of Education in order to furnish participating school districts with education media materials, equipment and maintenance, and educational services.

(2) Centers approved by the State Board of Education as meeting their requirements shall develop, provide, and make available to participating school districts education media services.

(3) A Regional Education Media Center is an area center, composed of one or more Texas school districts, that is approved to house, circulate, and service educational media for the public schools of the participating districts.

(4) Any school district which is a participant member of a Regional Education Media Center may elect to withdraw its membership in the center for a succeeding scholastic year, electing not to support nor to receive its services for any succeeding year. Title to and all educational media and property purchased by the center shall remain with and in the center.

(5) The cost incident to setting up the centers, their operation, and the purchase of education media supplies and equipment shall be borne by the state and each participating district to the extent and in the manner provided in this subsection.

(6) The state shall allot and pay to each approved center annually an amount determined on the basis of not to exceed \$1, or a greater amount provided by the General Appropriations Act, for each scholastic in average daily attendance for the next preceding school year in the district or districts that are participants in an approved center. The funds or amount provided by the state shall be used only to purchase, maintain, and service educational media or equipment for the center which have prior approval of its Regional Board of Directors and the State Board of Education through its budgetary system.

(7) School districts as participant members in the center shall provide and pay to the proper center a proportionate amount determined on the basis of the average daily student attendance for the next preceding school year matching the amount provided by the state. The matching funds provided by the participant districts, including any donated or other local funds, may be used to pay for costs of administration of or servicing by the center and to purchase supplemental educational media. A center shall not enter into obligations which shall exceed funds available or reasonably anticipated as receivable for the current school year.

(8) Annually, pursuant to such rules and procedure as may be prescribed by the State Board of Education, the governing board of each center shall determine the rate per pupil based on average daily student attendance the next preceding school year,

not to exceed the limit prescribed in this subsection, which shall constitute the basis for determination of total amount to be transmitted by participant districts to the center and as matching funds from the state's contribution to this program.

(9) The state's share of the cost in the regional media centers program shall be paid from the Foundation School Fund, and this cost will be considered by the Foundation Program Committee in estimating the funds needed for foundation program purposes. Nothing in this subsection shall be construed to prohibit a center from receiving and utilizing matching funds in any amount for which it may be eligible from federal sources.

(b)(1) A program of financial assistance for computer services to school districts of the state through Regional Education Service Centers shall be developed by the State Board of Education to encourage a planned statewide network or system of computer services designed to meet public school educational and informational needs. Toward achievement of maximum efficiency and to insure a practicable uniformity in services, the State Board of Education, by rules and regulations, shall adopt eligibility requirements for data processing computer services to receive the state financial assistance authorized herein.

(2) Only computer services that are provided by or through a Regional Education Service Center to make available computer services required to meet the needs of the school districts of one or more Education Service Center regions shall be eligible for financial assistance hereunder.

(3) The State Board of Education annually shall approve a state assistance allotment for computer services to be paid to eligible Regional Education Service Centers that qualify, and in an amount to be determined under rules and regulations adopted by the State Board of Education for that purpose; provided that the allotment amounts here authorized to be granted by the State Board of Education shall not exceed in any year a sum equal to \$1, or a greater amount provided by the General Appropriations Act, multiplied by the average daily attendance in the public schools of Texas as determined for the next preceding school year.

(4) The state's share of the cost of this program authorized by this subsection shall be paid from the Foundation School Fund, and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes.

(c)(1) The State Board of Education shall promulgate rules, in compliance with the approved statewide design for special education, to provide for a plan for the coordination of services to handicapped children within each geographical area served by a Regional Education Service Center. Regional Education Service Centers, under the procedures set forth in this plan, may provide supplementary or technical assistance to school districts for:

(A) identification of existing public or private educational and related services for handicapped children in each region;

(B) identification and referral of handicapped children who cannot be appropriately served by the school district in which they reside to other appropriate programs;

(C) assistance to school districts individually and cooperatively to develop programs to identify and provide appropriate services for handicapped children;

(D) expansion and coordination of services provided by Regional Education Service Centers which are related to programs for handicapped children; and

(E) provision for special services such as special seats, books, instructional media, and other supplemental supplies and services required for quality instruction.

(2) The responsibility for carrying out the provisions of this subsection rests with the commissioner of education, who may allocate funds to regional service centers for the provision of support services for the functions described in this subsection.

(d) Regional Education Service Centers may provide other services to school districts under rules and regulations adopted by the State Board of Education.

[Amended by Acts 1975, 64th Leg., p. 897, ch. 334, § 8, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 41, ch. 1, § 23, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 2540, ch. 675, §§ 7, 8, eff. Sept. 1, 1981.]

### § 11.36. Library Standards

(a) The State Board of Education shall establish regulations for accreditation of schools which establish standards for library services and personnel. The standards shall include:

(1) minimum standards for employment of librarians and other library personnel;

(2) acquisition and maintenance of library materials; and

(3) the operation and development of learning resources programs for each school district in this state.

(b) The standards shall include rules for the expenditure of state funds. The local districts shall not be required to expend local funds for the implementation of this section.

[Added by Acts 1979, 66th Leg., p. 1154, ch. 557, § 1, eff. Aug. 27, 1979.]

### SUBCHAPTER F. STATE PROPERTY TAX BOARD

*Section 1 of Acts 1979, 66th Leg., p. 2217, ch. 841, enacted Title 1 of the Tax Code, the Property Tax Code. Section 8 of said Act provided:*

*"(a) The name of the School Tax Assessment Practices Board is changed to the State Property Tax Board, and its members serve as mem-*

bers of the State Property Tax Board for the terms to which each was appointed to serve on the School Tax Assessment Practices Board. A reference to the School Tax Assessment Practices Board by a statute means the State Property Tax Board. All books, records, property, and personnel of the School Tax Assessment Practices Board are transferred to the State Property Tax Board.

“(b) The repeal by this Act of the laws establishing the School Tax Assessment Practices Board and its powers and duties does not affect:

“(1) the prior operation of those laws or any prior action taken under them;

“(2) any right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under them;

“(3) any violation of those laws or any penalty, forfeiture, or punishment imposed under them prior to the repeal; or

“(4) any investigation, proceeding, or remedy relating to any right, privilege, obligation, liability, penalty, forfeiture, or punishment under the prior laws, and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the laws had not been repealed, except that if a penalty, forfeiture, or punishment is reduced or is not replaced in this Act, it shall be imposed according to the terms of this Act.

“(c) For the purposes of Subsection (b) of this section, the State Property Tax Board assumes the powers, duties, rights, privileges, and obligations of the School Tax Assessment Practices Board.”

§ 11.71. Purpose

It is the policy of this state to ensure equity among taxpayers in the burden of school district taxes and among school districts in the payment of state financial aid to schools. The purpose of this subchapter is to promote that equity by providing for uniformity in the tax appraisal and assessment practices and procedures of school district tax offices, for improvement in the administration and operation of school district tax offices, and for greater competence among persons appraising and assessing school districts' taxes.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16, eff. July 22, 1977.]

§ 11.72. Board Defined

In this subchapter, “board” means the State Property Tax Board.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16, eff. July 22, 1977; Acts 1979, 66th Leg., p. 2329, ch. 841, § 5, eff. Jan. 1, 1980.]

§ 11.73. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(e), eff. Jan. 1, 1980

Acts 1979, 66th Leg., ch. 841, repealing this section, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed section, relating to board personnel, was added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16.

§§ 11.74 to 11.82. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed sections, relating to powers and duties of the State Property Tax Board, school district withdrawal from noncomplying tax office and contract with complying office, and reports of school district values, were added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16. In addition, prior to repeal § 11.82 was amended by Acts 1979, 66th Leg., p. 1320, ch. 602, § 16.

§ 11.83. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(e), eff. Jan. 1, 1980

Acts 1979, 66th Leg., ch. 841, repealing this section, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed section, relating to explanation of taxpayer remedies, was added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16.

§§ 11.84, 11.85. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed sections, relating to property tax forms and record systems, and professional and technical assistance, respectively, were added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16.

§ 11.86. Determination of School District Index Values

(a) The board shall conduct a biennial study using comparable sales and other generally accepted techniques to determine the total taxable market value and index value of all taxable property in each school district. The study shall determine the taxable market value of all property and of each class of property within the district and the productivity value of all open-space, agricultural, or timber land that qualifies for appraisal pursuant to Article VIII, Section 1-d, of the Texas Constitution or pursuant to any statute enacted pursuant to Article VIII, Section 1-d-1, of the Texas Constitution. In conducting the studies, the board shall use appropriate standard valuation, statistical compilation, and analysis techniques to compute the total market value and productivity value. For the purposes of this section:

(1) “taxable market value” means market value less:

(A) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study, or

(B) the total dollar amount of any exemptions granted within a reinvestment zone under agreements authorized by the Property Redevelopment and Tax Abatement Act, enacted by S.B. No. 17, 67th Legislature, 1st Called Session, 1981,<sup>1</sup> or

(C) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone and that is eligible for tax increment financing under the Texas Tax Increment Financing Act of 1981; enacted by S.B.

No. 16, 67th Legislature, 1st Called Session, 1981;<sup>2</sup> and

(2) "index value" means taxable market value less the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productivity. In no event shall the productivity value exceed the fair market value of the land.

(b) The study shall determine the values as of January 1 of each odd-numbered year.

(c) The board shall publish preliminary findings, listing values by district, before September 1 of each even-numbered year and on that date it shall certify its findings to the commissioner of education.

(d) A school district may protest the board's findings within 30 days after the date on which the findings are certified to the commissioner by filing a petition with the board specifying the grounds for its objection. After receipt of a petition, the board shall hold a hearing. If after a hearing the board concludes that its findings should be changed, the board shall order the changes it finds appropriate and shall certify the changes to the commissioner of education. The board shall complete all protest hearings and certify all changes before January 1 of each odd-numbered year.

(e) A school district may appeal a determination of a protest by the board to the state district court within whose jurisdiction a majority of the area making up the school district is located.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16, eff. July 22, 1977. Amended by Acts 1979, 66th Leg., p. 1320, ch. 602, § 17, eff. Aug. 27, 1979; Acts 1981, 67th Leg., 1st C.S., p. 56, ch. 5, § 8.]

<sup>1</sup> Civil Statutes, art. 1066f.

<sup>2</sup> Civil Statutes, art. 1066e.

Section 2 of art. 3 of Acts 1979, 66th Leg., p. 687, ch. 302, conditionally added a subsec. (f) to this section which read:

"(f) Notwithstanding the other provisions in this section and Section 16.252 of this code, the determinations of market and index values of property in each school district for the tax years 1977 and 1979 under this section and Section 16.252 of this code shall exclude the estimated values of any property exempted or authorized to be exempted by Articles 7150.6, 7150.2, 7150.3, and 7150.5, Revised Civil Statutes of Texas, 1925, as amended. If Section 16.252 of this code is modified by S.B. No. 350 [ch. 602], Acts of the 66th Legislature, Regular Session, 1979, this subsection shall not be in effect."

Chapter 602 did amend § 16.252.

Section 18 of Acts 1979, 66th Leg., p. 1321, ch. 602, provided:

"If any statutes enacted pursuant to Article VIII, Section 1-d-1, of the Texas Constitution do not apply to the 1979 tax year, the School Tax Assessment Practices Board, in making its study pursuant to Section 11.86, Texas Education Code, for the 1979 tax year, shall determine productivity values as provided by that section on the basis of estimates of the amount of land that will qualify under any statutes that are enacted under that constitutional provision. If those statutes apply to the 1980 tax year, the board shall adjust the productivity values when the information becomes available in 1980 to show the actual amount of land that qualifies."

Section 9 of the 1981 amendatory act provides:

"This Act takes effect on the adoption of the constitutional amendment proposed by S.J.R. No. 8, 67th Legislature, 1st Called Session, 1981."

Acts 1981, 67th Leg., 1st C.S., S.J.R. No. 8, was adopted at an election held November 3, 1981.

### § 11.87. Confidentiality

(a) All information the board obtains from a person, other than a government or governmental subdivision or agency, under an assurance that the information will be kept confidential, in the course of conducting a study of school district values is confidential and may not be disclosed except as provided in Subsection (b) of this section.

(b) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who gave the information to the board; or

(3) for statistical purposes if in a form that does not identify specific property or a specific property owner.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16, eff. July 22, 1977.]

### § 11.88. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(e), eff. Jan. 1, 1980

Acts 1979, 66th Leg., ch. 841, repealing this section, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed section, relating to funding, was added by Acts 1977, 65th Leg., 1st C.S., p. 29, ch. 1, § 16.

## CHAPTER 12. TEXTBOOKS

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 12.01. Free Textbooks

[See *Compact Edition, Volume 1 for text of (a) and (b)*]

(c) Except as otherwise specifically defined in this chapter, "textbooks" or "books" as used herein shall mean books, systems of instructional materials, or combinations of books and supplementary instructional materials which convey information to the pupil or otherwise contribute to the learning process.

(d) No provision of this chapter is intended to limit the selection of instructional materials purchased by a local board of education with local funds, provided such selection procedures are not in conflict with State Board of Education policies. [Amended by Acts 1977, 65th Leg., 1st C.S., p. 43, ch. 1, § 25, eff. Sept. 1, 1977.]

Section 30 of the 1977 amendatory act provided:

"The provisions of Sections 25, 26, 27, and 28 of this Act [amending this section and §§ 12.14, 12.15, and 12.18(e)] may not affect the selection of textbooks for the 1977-78 school year. For the 1978-79 school year, they may affect the selection of textbooks and other instructional materials only in the subject of reading. The provisions of these sections may be fully implemented beginning with materials selected for the 1979-80 school year."

### SUBCHAPTER B. STATE ADOPTION PURCHASE ACQUISITION, AND CUSTODY

#### § 12.11. State Textbook Committee

(a) The commissioner of education, annually at a meeting of the State Board of Education held on or before the second Saturday in May, shall recommend the names of 15 persons, no two of whom shall live in the same congressional district, for appointment to the textbook committee for a one-year term.

(b) Each of the persons so named shall be an experienced and active educator engaged in teaching in the public schools of Texas. At least a majority of the members of the committee shall be classroom teachers, and all members shall be appointed because of unusual backgrounds of training and recognized

ability as teachers in the subject fields for which adoptions are to be made during the year of appointment. At least one member shall be knowledgeable in the field of special education.

[See *Compact Edition, Volume 1 for text of (c) to (f)*]

(g) The State Textbook Committee is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the committee is abolished effective September 1, 1989.

[Amended by Acts 1977, 65th Leg., p. 1271, ch. 493, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1853, ch. 735, § 2.153, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 769, ch. 335, § 1, eff. June 6, 1979; Acts 1979, 66th Leg., p. 1322, ch. 602, § 22, eff. Aug. 27, 1979.]

<sup>1</sup> Civil Statutes, art. 5429k.

§ 12.14. Multiple List for Elementary Grades

(a) As used in this section:

(1) "Textbooks" shall be consistent with the definition in legal use prior to the adoption of this section.

(2) "Learning systems" means a coordinated system of instructional materials, in one or more media, that conveys to the pupil information on a subject comparable to that contained in the approved textbooks.

(3) "Supplementary materials" means instructional materials, in any medium, that are used as an adjunct to a specific adopted textbook.

(4) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.

(b) The State Board of Education shall select and adopt a multiple list of textbooks for use in the elementary grades of the public schools of Texas.

(c) The multiple list shall consist of not less than three nor more than five textbooks on the following subjects: spelling, reading (basal and supplementary), English language and grammar, geography, arithmetic, physiology-hygiene, civil government, driver education and safety, vocal music, elementary science, history of the United States (in which the Confederacy shall be fairly represented), history of Texas, agriculture, a system of writing books, and a system of drawing books.

(d) The board may also select and adopt textbooks for any additional subjects approved by the State Department of Education for teaching in the elementary schools, including but not limited to the foreign languages of German, Bohemian, Spanish, French, Latin, or Greek.

(e) The board may, if deemed necessary, adopt as textbooks a geography of Texas and a civil government of Texas.

(f) The board may select and adopt supplementary materials to be used in conjunction with approved textbooks.

(g) The board may select and adopt a multiple list of not less than two nor more than three learning systems in those subject areas it deems appropriate.

(h) No book adopted shall contain anything of a partisan or sectarian character.

[Amended by Acts 1977, 65th Leg., 1st C.S., p. 43, ch. 1, § 26, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1325, ch. 602, §§ 30, 35(a), eff. Aug. 27, 1979.]

§ 12.15. Multiple List for High Schools

(a) As used in this section:

(1) "Textbooks" shall be consistent with the definition in legal use prior to the adoption of this section.

(2) "Learning systems" means a coordinated system of instructional materials, in one or more media, that conveys to the pupil information on a subject comparable to that contained in the approved textbooks.

(3) "Supplementary materials" means instructional materials, in any medium, that are used as an adjunct to a specific adopted textbook.

(4) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.

(b) The State Board of Education shall adopt a multiple list of books for use in the high schools of Texas.

(c) The multiple list shall include not fewer than three nor more than five textbooks on the following subjects: algebra, plane geometry, solid geometry, general science, biology, physics, chemistry, a one-year world history, American history, homemaking, physical geography, driver education and safety, vocal music, English composition, literature (including American literature and English literature), shop courses, physiology, agriculture, civil government, commercial arithmetic, bookkeeping, typewriting, shorthand, journalism, and the Latin, Spanish, German, Czech, and French languages.

(d) Free textbooks may also be adopted and provided for any additional courses or subjects approved by the Central Education Agency and accredited by the state accrediting committee.

(e) The board may select and adopt supplementary materials to be used in conjunction with approved textbooks.

(f) The board may select and adopt a multiple list of not less than two nor more than three learning systems in those subject areas it deems appropriate.

[Amended by Acts 1977, 65th Leg., 1st C.S., p. 44, ch. 1, § 27, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1325, ch. 602, §§ 31, 35(a), eff. Aug. 27, 1979.]

§ 12.18. Filing of Bids and Sample Copies

[See *Compact Edition, Volume 1 for text of (a) to (d)*]

(e) Information which shall also be printed, stamped, or pasted in each copy of each book filed with the commissioner of education shall be:

[See *Compact Edition, Volume 1 for text of (e)(1)*]

(2) a statement of the publisher's catalogue price of the book or special editions, together with

trade discounts and the conditions under which, and the purchasers to whom, such discounts are allowed, and the place of delivery;

(3) a statement of the minimum wholesale price at which the book or special editions are sold f. o. b. the shipping point of the publisher and the name of the shipping point;

(4) to (6) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.

[Amended by Acts 1977, 65th Leg., 1st C.S., p. 45, ch. 1, § 28, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.]

### § 12.34. Continuing or Discontinuing Textbook

(a) It shall be the duty of the State Board of Education to meet annually at a date to be specified in the public notice required by Section 12.17, Texas Education Code, and at such other times as it may deem necessary for the purpose of considering the advisability of continuing or discontinuing, at the expiration of each current contract, any or all of the state-adopted textbooks in the public schools of Texas and for making such adoptions as are provided for in this chapter.

[See Compact Edition, Volume 1 for text of (b) to (d)]

(e) Repealed by Acts 1981, 67th Leg., p. 917, ch. 333, § 1(3), eff. Aug. 31, 1981

[See Compact Edition, Volume 1 for text of (f) to (j)]

(k) To insure that current material is always available to the schoolchildren of Texas and to enable the development of material in an orderly and efficient manner, the State Board of Education shall develop and implement a balanced adoption cycle for proclamation of needs for textbooks and other instructional materials. At a minimum, the adoption cycle shall:

(1) extend over a period of years determined by the State Board of Education to be the most beneficial and desirable time span to meet the textbook needs of Texas public schools;

(2) be planned on the basis of a cost to the state of not less than \$15 per scholastic population for the first year of the cycle and adjusted thereafter to account for increasing costs due to inflation of the economy;

(3) be so arranged that the total cost of new adoptions shall be approximately equal for each year of the proposed cycle, except as adjusted for increasing costs and a growing scholastic population;

(4) be all-inclusive of all subjects required by statute or approved by the State Board of Education to be used in the public school system of Texas during the period of time encompassed by the cycle;

(5) be developed in such a manner that it will operate on a continuing basis so that providers of

textbooks and other instructional materials shall be kept advised in advance of the subjects to be called for adoption each year; and

(6) provide that except under emergency conditions deemed necessary by the State Board of Education, all changes or amendments in the cycle shall be made in such manner and at such time as to give notice of the change to the providers of textbooks and other instructional materials as far in advance as possible.

[Amended by Acts 1977, 65th Leg., p. 1271, ch. 493, § 2, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1322, ch. 602, § 23, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 917, ch. 333, § 1(3), eff. Aug. 31, 1981.]

## SUBCHAPTER C. LOCAL OPERATIONS

### § 12.63. Title, Custody, and Disposition

[See Compact Edition, Volume 1 for text of (a) to (e)]

(f) Pursuant to rules and regulations promulgated by the State Board of Education, the commissioner of education shall make available on request copies of discontinued textbooks for use in libraries maintained in city and county jails, institutions within the Department of Corrections, and other state agency institutions.

[Amended by Acts 1975, 64th Leg., p. 46, ch. 25, § 1, eff. Sept. 1, 1975.]

## CHAPTER 13. TEACHERS

### SUBCHAPTER D. TEACHERS' PROFESSIONAL PRACTICES

Section  
13.2031. Application of Sunset Act.

### SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

13.906. Student Teachers.

### § 13.031. Commission on Standards for the Teaching Profession

Teaching is hereby declared to be and is recognized as a profession. The members of such profession shall accept responsibilities incumbent upon them to serve and improve the teaching profession in the state.

(a) The State Board of Education shall appoint the Commission on Standards for the Teaching Profession from a list of qualified individuals recommended by the commissioner of education. Professional organizations in the teaching profession shall be invited to nominate persons for appointment. The commissioner shall seek advice of the commission in making his recommendation for its membership. The commission shall be representative of the education profession and shall consist of teachers, school administrators, and representatives of higher education.

(b) It shall be the additive and cumulative duty of every person who is a state employee, teacher, pro-

fessor, or officer of any of the state institutions of higher learning, and drawing a state warrant for salary as such, to serve as an ex officio member of the Commission on Standards for the Teaching Profession when called upon by the state commissioner of education for the performance of such ex officio duties.

(c) The State Board of Education shall promulgate rules under which the Commission on Standards for the Teaching Profession shall recommend standards for teacher education and certification for certified personnel in public school districts operating elementary and/or secondary schools.

(d) The Commission on Standards for the Teaching Profession is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the Commission is abolished effective September 1, 1989.

[Amended by Acts 1977, 65th Leg., p. 1853, ch. 735, § 2.152, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1540, ch. 663, § 1, eff. Aug. 27, 1979.]

<sup>1</sup>Civil Statutes, art. 5429k.

Section 4 of the 1979 amendatory act provided:

"The Commission on Standards for the Teaching Profession shall conduct a study or studies on classes of certification, duration of certificate, and teacher minimum competence testing after graduation but prior to full certification of the teacher. Results of such studies, together with recommendations, shall be reported by the State Board of Education to the legislature no later than 60 days prior to the convening of the 67th Legislature."

SUBCHAPTER B. CERTIFICATION OF TEACHERS

§ 13.032. Rules and Regulations

(a) The State Board of Education, with the advice and assistance of the state commissioner of education, is authorized to establish such rules and regulations as are not inconsistent with the provisions of this chapter and which may be necessary to administer the responsibilities vested under the terms of this chapter concerning the issuance of certificates and the standards and procedures for the approval or disapproval of colleges and universities offering programs of teacher education.

(b) In order to secure professional advice, the State Board of Education shall consider recommendations of the Commission on Standards for the Teaching Profession, after a review by, and with the comments of, the state commissioner of education, in all matters covered by this subchapter. The State Board of Education shall either accept or reject without amendment all recommendations from the commission presented to it through the commissioner.

(c) In developing standards for programs in teacher education, the board shall provide each approved institution with a statement of the general qualifications required for each area of specialization for which a teaching certificate is authorized. The board may not require an institution to teach a particular doctrine or to conduct instruction on the basis of, or in accordance with, any particular pedagogical method.

*Text of subsec. (d) as added by Acts 1981, 67th Leg., p. 9, ch. 8, § 1*

(d) The State Board of Education by rule may fix and require payment of a fee as a condition to the issuance of a teaching certificate. The fee must be reasonable and designed to cover the administrative costs of issuing the certificate. The board may adopt a different fee for each class of certificate issued. The commissioner of education shall periodically review and recommend adjustments in the level of fees required under this subsection.

*Text of subsec. (d) as added by Acts 1981, 67th Leg., p. 250, ch. 106, § 1*

(d) The State Board of Education by rule shall prescribe:

(1) the classes of teaching certificates to be issued, based on education, experience, competency, duties, or other relevant considerations;

(2) the time period for which each class of certificate is valid; and

(3) the requirements for issuance of an initial certificate or renewal of an existing certificate.

(e) The State Board of Education by rule shall require satisfactory performance on a competency examination of basic skills prescribed by the board as a condition to admission into an approved teacher education program. In addition, the board by rule shall require satisfactory performance after graduation on a comprehensive examination prescribed by the board as a condition to full certification as a teacher and shall require satisfactory performance on a separate examination prescribed by the board as a condition to certification as a superintendent or other administrator. The board shall prescribe the method of determining the satisfactory level of performance on a test under this subsection.

(f) The State Board of Education may fix and require payment of a fee as a condition to taking an examination required by this section. The fee must be reasonable and designed to cover the costs of the agency relating to administration of the examination.

(g) A person enrolled in a general academic teaching institution, as defined by Section 61.003(3) of this code, before the effective date of rules adopted under Subsection (e) of this section is entitled to enter an approved teacher education program of that institution or to remain in the program and complete it in accordance with the law and the rules of the board in effect before the adoption of rules under Subsection (e) of this section. A person who before the effective date of rules adopted under Subsection (d) or (e) of this section was issued a teaching certificate in accordance with prior law is entitled to retain that certificate, and the rights of that person relating to certification shall be determined in accordance with the law and rules in effect before the adoption of rules under those subsections.

[Amended by Acts 1975, 64th Leg., p. 1815, ch. 551, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1541, ch. 663, § 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 9, ch. 8, § 1, eff. March 4, 1981; Acts 1981, 67th Leg., p. 250, ch. 106, § 1, eff. May 7, 1981.]

**§§ 13.033 to 13.043. Repealed by Acts 1979, 66th Leg., p. 1542, ch. 663, § 5, eff. Aug. 27, 1979**

Prior to repeal, § 13.039 was amended by Acts 1977, 65th Leg., p. 5, ch. 4, § 1.

**§ 13.045. Presentation and Recording of Certificates**

(a) Any person who desires to teach in a public school shall present his certificate for filing with the employing district before his contract with the board of trustees of the district shall be binding.

(b) A teacher or superintendent who does not hold a valid certificate or emergency permit shall not be paid for teaching or work done before the effective date of issuance of a valid certificate or permit. [Amended by Acts 1979, 66th Leg., p. 1541, ch. 663, § 3, eff. Aug. 27, 1979.]

**§ 13.046. Suspension and Cancellation of Certificates**

(a) Any teacher's certificate issued under the provisions of this code or under any previous statute relating to the certification of teachers may be suspended or cancelled by the state commissioner of education under any one or more of the following circumstances:

(1) on satisfactory evidence that the holder is conducting his school or his teaching activities in violation of the laws of this state;

(2) on satisfactory evidence that the holder is a person unworthy to instruct the youth of this state; or

(3) on complaint made by the board of trustees that the holder of a certificate after entering into a written contract with the board of trustees of the district has without good cause and without the consent of the trustees abandoned the contract.

(b) Before any certificate shall be suspended or cancelled the holder shall be notified and shall have an opportunity to be heard. Any person whose certificate is suspended or cancelled by the state commissioner of education shall have the right of appeal to the State Board of Education.

(c) The state commissioner of education shall have the authority, upon the presentation of satisfactory evidence, to reinstate any teacher's certificate suspended or cancelled under the provisions of this section. On a refusal of the commissioner so to reinstate a certificate, the applicant shall have the right of appeal to the State Board of Education.

(d) The state commissioner of education may suspend a teacher's certificate under the terms of this section for a period not to exceed one year.

(e) The state commissioner of education shall have the right to reprimand a teacher, rather than to suspend or cancel that teacher's certificate, in those cases the commissioner deems appropriate. A reprimand shall not be appealable.

[Amended by Acts 1979, 66th Leg., p. 666, ch. 294, § 1, eff. Aug. 27, 1979.]

**SUBCHAPTER D. TEACHERS' PROFESSIONAL PRACTICES**

**§ 13.2031. Application of Sunset Act**

The Teachers' Professional Practices Commission is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the commission is abolished effective September 1, 1989. [Added by Acts 1977, 65th Leg., p. 1854, ch. 735, § 2.156, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

**SUBCHAPTER Z. MISCELLANEOUS PROVISIONS**

**§ 13.904. Minimum Sick Leave Program**

[See Compact Edition, Volume 1 for text of (a)]

(b) Each district shall file, immediately after the regular term of the school year has been completed, a report with the Central Education Agency setting out the total number of days of sick leave utilized by teachers and other professional personnel, excepting excess units, approved and listed for foundation school program benefits. The Central Education Agency, each current scholastic year, shall calculate the cost of providing approved sick leave for each person listed at the rate of \$20 per day and shall reimburse the participating local district on the basis of the percentage relationship between the state and the district in financing the cost of the foundation school program multiplied by the total approved sick leave expenditure for the year. Said reimbursement shall be paid from the Foundation Program Fund and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for foundation program purposes.

[See Compact Edition, Volume 1 for text of (c) and (d)]

(e) On leaving employment with a district and retiring under the Teacher Retirement System, an employee covered under this program is entitled to be paid for accrued state sick leave in accordance with this section. For each day of the first 30 days of accrued state sick leave, the employee shall be paid an amount equal to the amount per day for which the district is reimbursed under Subsection (b) of this section. For each day of accrued state sick leave beyond 30 days, the employee shall be paid an amount equal to one-half of the amount per day for which the district is reimbursed under Subsection (b) of this section. An employee may not be paid for accrued state sick leave in a total amount greater than the equivalent of 60 days' pay to a substitute

teacher. For each day, or the equivalent, of accrued state sick leave under this subsection, the Central Education Agency shall reimburse the school district for the total cost of providing approved sick leave at the daily rate indicated in Subsection (b) of this section. Said reimbursement shall be paid from the Foundation Program Fund and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for foundation program purposes.

[Amended by Acts 1979, 66th Leg., p. 1095, ch. 512, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 3050, ch. 798, § 1, eff. Sept. 1, 1981.]

Section 3 of the 1981 amendatory act provided that it took effect with the beginning of the 1981-1982 school year which, under the provisions of § 21.001, was September 1, 1981.

**§ 13.906. Student Teachers**

(a) A person assigned to perform student teaching in a student teacher center is entitled to the same protection of law accorded to the supervising teacher and the principal of the school in which the student teacher serves or acts in the course of employment. This protection includes the limitation of liability accorded to all professional employees as specified in Section 21.912 of this code. While serving as a student teacher, a person shall comply with the rules of the school and of the board of trustees of the district serving as the student teacher center.

(b) The institution of higher education in which the student teacher is enrolled, the supervising teacher, and the principal of the school in which the student teacher serves shall cooperatively assign to the student teacher responsibilities and duties that will provide adequate preparation for teaching. Those duties and responsibilities may include any duty or responsibility granted by the district to certified teachers generally or any school program duty or responsibility granted to the supervising teacher, but may not include administering corporal punishment. While performing those duties and responsibilities under the supervision of the supervising teacher and the principal, the student teacher is entitled to exercise any authority relating to student management that is granted to certified teachers generally, including the handling of confidential records. Supervision of a student teacher for purposes of this subsection does not require that the student teacher perform entirely in the presence of the supervising teacher or principal.

(c) The institution of higher education, the supervising teacher, and the principal shall exercise due care to avoid placing the student teacher in a situation that any of them knows the student teacher is not capable of handling successfully.

(d) Except as otherwise provided by this section, a student teacher may not be required to serve as a substitute teacher. A student teacher is not considered to be serving as a substitute if the student teacher assumes responsibility for the class while the supervising teacher is out of the classroom for part of the day but is in the building or is engaged in an

approved activity relating to student teaching, including conferring with a university supervisor or attending a professional development seminar to improve supervisory skills related to student teaching. A student teacher is considered to be serving as a substitute if:

(1) the supervising teacher is absent from school, no other teacher is provided as a substitute, and the student teacher is fully responsible for one or more classes; or

(2) the student teacher is taken from the class of the assigned supervising teacher and placed in another classroom in place of the regular teacher under conditions in which the regular teacher is either absent from school or performing duties requiring absence from the regularly assigned teaching station.

(e) If a supervising teacher cannot perform regularly assigned duties as a result of illness of the teacher or a member of the teacher's family, a death in the teacher's family, or other cause for which the district excuses teachers from duties, the student teacher may serve as a substitute for the supervising teacher, or at the discretion of the department chairman or lead teacher, for not more than one day if:

(1) a substitute teacher is not immediately available;

(2) the student teacher has been in that student teaching assignment for a minimum of 15 school days;

(3) the supervising teacher, the principal of the school, and the university supervisor agree that the student teacher is capable of handling successfully the teaching responsibilities;

(4) a certified classroom teacher in an adjacent room or a member of the same teaching team as the student teacher is aware of the absence of the supervising teacher and agrees to assist the student teacher if needed; and

(5) the principal of the school or the principal's representative is readily available in the building.

(f) A student teacher may not be paid for any service rendered while serving as a substitute teacher.

[Added by Acts 1981, 67th Leg., p. 2221, ch. 522, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 Act provided that it was effective beginning with the 1981-1982 school year which, under the provisions of § 21.001, began on September 1, 1981.

**CHAPTER 14. SCHOLASTIC CENSUS  
[REPEALED]**

*Chapter 14, Scholastic Census, was repealed by Acts 1975, 64th Leg., p. 6, ch. 4, § 1.*

§§ 14.01, 14.02. Repealed by Acts 1975, 64th Leg., p. 6, ch. 4, § 1, eff. Feb. 13, 1975

§§ 14.07 to 14.09. Repealed by Acts 1975, 64th Leg., p. 6, ch. 4, § 1, eff. Feb. 13, 1975

**CHAPTER 15. STATE FUNDS FOR THE  
SUPPORT OF PUBLIC SCHOOLS**

Section

- 15.13. Use of Commercial Banks as Agents for Collection of Income from Permanent School Fund Investments.  
15.14. Participation in Fully Secured Securities Loan Programs.

**§ 15.01. Composition of the Public School Funds**

*[See Compact Edition, Volume 1 for text of (a)]*

(b) The available school fund, which shall be apportioned annually to the several counties of Texas according to the scholastic population of each, shall consist of:

(1) the interest and dividends arising from any securities or funds belonging to the permanent school fund;

(2) all interest derivable from the proceeds of the sale of land set apart for the permanent school fund;

(3) all money derived from the lease of land belonging to the permanent school fund;

(4) all revenue collected by the state from an annual state ad valorem tax of an amount not to exceed 35 cents on the \$100 valuation, exclusive of delinquencies and cost of collection;

(5) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;

(6) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and

(7) all other appropriations to the available school fund as made or may be made by the legislature for public free school purposes.

*[See Compact Edition, Volume 1 for text of (c)]*

[Amended by Acts 1981, 67th Leg., p. 3144, ch. 827, § 9, eff. Aug. 31, 1981.]

**§ 15.02. Investment of Permanent School Fund**

In compliance with provisions of this section, the State Board of Education is authorized and empowered to invest the permanent school fund in the types of securities, which must be carefully examined by the State Board of Education and be found to be safe and proper investments for the fund as specified below:

(1) securities, bonds, or other obligations issued, insured, or guaranteed in any manner by the United States Government or any of its agencies; and in bonds issued by the State of Texas;

(2) obligations and pledges of The University of Texas;

(3) corporate bonds, debentures, or obligations, of United States corporations of at least "A" rating;

(4) obligations of United States corporations that mature in less than one year and are of the highest rating available at the time of investment;

(5) bonds issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank of Reconstruction and Development (the World Bank), and the Asian Development Bank;

(6) bonds of counties, school districts, incorporated cities or towns, road precincts, drainage, irrigation, navigation, and levee districts in Texas, under the following rules and regulations:

(A) such securities, prior to their purchase, must have been diligently investigated by the attorney general of Texas both as to their form and as to their legal compliance with applicable laws;

(B) the attorney general's certificate of validity procured by the party offering such bonds, obligations, or pledges must accompany these securities when they are submitted for registration to the state comptroller, who must preserve the certificates;

(C) these public securities, if purchased, and when certified and registered as specified above, shall be incontestable unless issued fraudulently or in violation of a constitutional limitation, and the certificates of the attorney general shall be prima facie evidence of the validity of the bonds and coupons thereto; and

(D) after the issuing political subdivision of Texas has received the proceeds from the sales of such public securities, the issuing agency shall be estopped to deny their validity, and the same shall be held to be valid and binding obligations;

(7) preferred stocks and common stocks as to the State Board of Education may deem to be proper investments for the permanent school fund, under the following rules and regulations:

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

(B) stocks eligible for purchase are restricted to stocks of companies incorporated within the United States which have paid dividends for five consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors;

(C) not more than one percent of the permanent school fund may be invested in stock issued by one corporation nor shall more than five percent of the voting stock of any one corporation be owned;

(D) at the discretion of the State Board of Education, corporate securities of the permanent school fund may be sold and the proceeds reinvested for the fund under the terms of this code; and

(8) notwithstanding any other law or provisions in this code, first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States,<sup>1</sup> as amended from time to time, or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States Government or any agency thereof.

[Amended by Acts 1977, 65th Leg., p. 1957, ch. 779, § 1, eff. June 16, 1977; Acts 1979, 66th Leg., p. 1535, ch. 661, §§ 1, 2, eff. June 13, 1979; Acts 1981, 67th Leg., p. 166, ch. 75, § 1, eff. April 30, 1981.]

<sup>1</sup> 12 U.S.C.A. § 1701 et seq.

**§ 15.03. Purchase and Sale or Exchange of Securities**

(a) The State Board of Education may authorize the purchase of all of the types of securities in which it is authorized by law to invest the permanent school fund in either registered or negotiable form; and it may authorize the reissue of such securities held at any time for the account of the permanent school fund in either registered or negotiable form. The State Board of Education may authorize the sale of any of the securities held for the account of the permanent school fund and reinvest the proceeds of sale for the fund; and it may authorize the exchange of any of the securities held for the account of the permanent school fund.

(b) In making each and all of such purchases, sales, exchanges and reissues the State Board of Education shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

(c) When any securities are sold, reissued, or exchanged as provided in Subsection (a) of this section, the custodian of such securities shall make delivery of the securities sold, reissued, or exchanged in accordance with the directions of the State Board of Education.

[Amended by Acts 1977, 65th Leg., p. 1958, ch. 779, § 2, eff. June 16, 1977; Acts 1979, 66th Leg., p. 1537, ch. 661, § 3, eff. June 13, 1979.]

**§ 15.11. Duties of the State Treasurer**

[See Compact Edition, Volume 1 for text of (a) to (e)]

(f) The state treasurer shall be the custodian of all securities enumerated in Subdivision (5) of Subsection (a) of Section 15.02 of this code and of such other securities as may be designated from time to

time by the State Board of Education in which the school funds of the state have been or may hereafter be invested, and shall keep these securities in his custody until paid off, discharged, delivered as required by the State Board of Education, or otherwise disposed of by the proper authorities of the state, and on the proper installment of any interest or dividend, shall see that the proper credit is given, and the coupons on bonds, when paid, shall be properly separated therefrom and cancelled by the treasurer.

[Amended by Acts 1979, 66th Leg., p. 1537, ch. 661, § 4, eff. June 13, 1979.]

**§ 15.12. Use of Available School Fund**

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.

[Amended by Acts 1975, 64th Leg., p. 2378, ch. 734, § 3, eff. June 21, 1975; Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.]

**§ 15.13. Use of Commercial Banks as Agents for Collection of Income from Permanent School Fund Investments**

(a) The State Board of Education is authorized and empowered to contract with a commercial bank or banks to receive payments of dividends and interest on securities in which the state permanent school funds are invested and to transmit such money with identification of their source to the state treasurer for the account of the available school fund by the fastest available means.

(b) In choosing each commercial bank or banks with which to contract as authorized in Subsection (a) of this section, the State Board of Education shall assure itself of:

(1) the financial stability of such commercial bank;

(2) the location of such commercial bank with respect to its proximity to the banks upon which checks are drawn in payment of dividends and interest on securities of the permanent school fund;

(3) the experience and reliability of such commercial bank in acting as agent for others in the similar collection and expeditious remittance of money; and

(4) the reasonableness of such commercial bank's charges for such services, both in amount of such charges and in relation to the increased investment earnings of the available school fund which will result from speedier receipt by the state treasurer of such money.

[Added by Acts 1979, 66th Leg., p. 1538, ch. 661, § 5, eff. June 13, 1979.]

### § 15.14. Participation in Fully Secured Securities Loan Programs

(a) The State Board of Education is authorized and empowered to contract with a commercial bank or banks to serve both as a custodian of securities in which the state permanent school funds are invested and to lend these securities, under the conditions set out in Subsection (b) of this section, to securities brokers and dealers on short-term loan.

(b) The State Board of Education may contract with a commercial bank or banks pursuant to this section only in accordance with the following requirements:

(1) the bank shall be located in a city having a major stock exchange;

(2) the bank shall be experienced in the operation of a fully secured securities loan program;

(3) the bank shall have adequate capital in the prudent judgment of the State Board of Education to assure the safety of the securities entrusted to it as a custodian;

(4) the bank shall require of any securities broker or dealer to which it lends securities owned by the state permanent school fund that such broker or dealer deliver to it cash collateral for such loan of securities, which cash collateral shall at all times be not less than 100 percent of the market value, from time to time, of such securities lent;

(5) the bank shall execute an indemnification agreement, satisfactory in form and content to the State Board of Education, fully indemnifying the permanent and available school funds against loss resulting from the bank's service as custodian of securities of the permanent school fund and its operation of a securities loan program using securities of the permanent school fund;

(6) the bank shall speedily collect and remit on the day of collection by the fastest available means to the state treasurer any dividends and interest collectible by it on securities held by it as custodian together with identification as to source; and

(7) the bank or banks chosen shall be the bank or banks agreeing to pay to the available school fund the largest sum or highest percentage of the income derived by it from use of the securities of the permanent school fund in the operation of a securities loan program.

[Added by Acts 1979, 66th Leg., p. 1538, ch. 661, § 6, eff. June 13, 1979.]

## CHAPTER 16. FOUNDATION SCHOOL PROGRAM

### SUBCHAPTER A. GENERAL PROVISIONS

Section	
16.001.	State Policy.
16.002.	Purpose of Foundation School Program.
16.003.	Student Eligibility.
16.004.	Scope of Program.
16.005.	Administration of the Program.

### SUBCHAPTER B. REQUIREMENTS FOR DISTRICT PARTICIPATION IN THE FOUNDATION SCHOOL PROGRAM FUND

Section	
16.051.	Required Compliance.
16.052.	Operation of Schools.
16.053.	Accreditation.
16.054.	Student/Teacher Ratios.
16.055.	Compensation of Professional and Paraprofessional Personnel.
16.056.	Texas Public Education Compensation Plan.

### SUBCHAPTER C. PERSONNEL SUPPORT COMPONENT

16.101.	Personnel Support: General Rules.
16.102.	Education Program Personnel.
16.103.	Vocational Personnel Units.
16.104.	Comprehensive Special Education Program for Handicapped Children.
16.105.	[Blank].
16.106.	Support for Fast-Growing School Districts.
16.161.	Responsiveness to Special Needs of Blind and Deaf Children.

### SUBCHAPTER D. CURRENT OPERATING COST COMPONENT

16.151.	Operating Cost Allotment.
16.152.	Use of Operating Allotment.

### SUBCHAPTER E. CATEGORICAL PROGRAM AID COMPONENT

16.176.	Support for Educationally Disadvantaged Pupils.
16.177.	Driver Education.
16.178.	Repealed.

### SUBCHAPTER F. TRANSPORTATION COMPONENT

16.201.	Transportation Services.
16.202.	Public School Transportation System.
16.203.	County and District Transportation Funds.
16.204.	Use of Buses for Extracurricular Activities, etc.
16.205.	Approved School Bus Routes.
16.206.	Calculation of Allotment.
16.207.	Routes and Systems: Evaluation and Approval.
16.208.	Use of Transportation Funds for Other Purposes.
16.209.	Rules of Commissioner.
16.210.	Appeals.
16.211.	Purchase of Vehicles.
16.212.	Contract with Public Transportation Company.

### SUBCHAPTER G. FINANCING THE PROGRAM

16.251.	Financing; General Rule.
16.252.	Local Share of Program Cost.
16.253.	Excess of Local Funds Over Amount Assigned.
16.254.	Distribution of Foundation School Fund.
16.255.	Falsification of Records; Report.
16.256.	Repealed.
16.257.	Foundation School Fund Budget Committee.

### SUBCHAPTER H. EQUALIZATION AID FOR PROGRAM ENRICHMENT

16.301.	Determination of Equalization Aid Entitlement.
16.302.	Districts in Major Disaster Areas.
16.303.	Payment of State Aid.

### SUBCHAPTER I. SCHOOL-COMMUNITY GUIDANCE CENTERS

16.401.	Establishment.
16.402.	Cooperative Programs.
16.403.	Guidance Center Personnel Allotments.
16.404.	Operating Costs.

Section	
16.405.	Cooperation of Governmental Agencies.
16.406.	Deleted.
SUBCHAPTER J. EDUCATIONAL PROGRAMS FOR THE GIFTED AND TALENTED STUDENTS	
16.501.	Exemplary Programs.
16.502.	Funding.
SUBCHAPTER K. SCHOOL FINANCE STUDIES	
16.503.	Contents; Recommendations to Legislative Budget Board.

SUBCHAPTER K. SUMMER SCHOOL PILOT PROGRAM	
Section	
16.521.	Pilot Programs.
16.522.	Operating Costs.
16.523.	Cost Limitation.
16.524.	Termination.

*Chapter 16, formerly consisting of Sections 16.01 to 16.98, was amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, to consist of Sections 16.001 to 16.304.*

**DISPOSITION TABLE**

Showing where provisions of former Chapter 16 (Sections 16.01 to 16.98) are now covered in Sections 16.001 to 16.304 and elsewhere in the Education Code.

Former Sections	New Sections	Former Sections	New Sections
16.01	16.002	16.52	16.202
16.02	—	16.53	16.203
16.03	—	16.54	16.204
16.04	16.003	16.55	16.205
	16.102	16.56	16.206
16.07	—	16.57	16.207
16.08	21.913	16.58	16.208
16.11	16.101	16.59	16.209
	16.102	16.60	16.210
16.12	—	16.61	16.211
16.13	16.102(c)	16.62	—
16.14	16.103	16.63	16.212
16.15	—	16.71	16.251
16.16	16.104	16.711	—
16.17	—	16.72	—
to	—	to	—
16.19	—	16.76	—
16.21	—	16.77	16.256 Rep.
16.22	—	16.78	16.253
16.301(a)	16.055(a)	16.79(a)	16.005
16.301(b)	—	16.79(b)	—
to	—	to	—
16.301(d)	—	16.79(d)	16.254
16.302	—	16.80	19.246
to	—	16.81	19.247
16.309	—	16.82	—
16.310	16.055(b)	16.85	16.255
16.311	—	16.861	21.008(b)
16.312	16.056(a)	16.862	21.008(a)
	16.056(b)	16.863	21.008(c)
16.313	16.056(c)	16.864	21.008(d)
16.314	—		to
16.315	—		21.008(g)
16.316	16.056(d)	16.971	—
16.45	16.151	to	—
	16.152	16.975	—
16.51	16.201	16.98	—

SUBCHAPTER A. GENERAL PROVISIONS

§ 16.001. State Policy

It is the policy of the State of Texas that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue

sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to his or her educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 384, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 11, ch. 1, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1300, ch. 602, § 1, eff. Aug. 27, 1979.]

The 1975 Act, which by §§ 1 to 9 revised this Chapter 16 and made other conforming amendments, provided in §§ 12 to 15:

"Sec. 12. (a) The Legislative Budget Board shall conduct a performance audit and evaluation to determine that the methods by which state funds are allocated to vocational and special education programs are consistent with the objectives of the programs.

"(b) The State Board of Education in cooperation with the Legislative Budget Board shall develop appropriate criteria, including cost-effective or performance-based criteria, or both, for funding and evaluation of vocational and special education programs.

"(c) The Legislative Budget Board shall recommend funding levels for the programs at the beginning of each regular session of the legislature which will insure adequate delivery of services.

"Sec. 13. (a) Not later than July 15, 1975, the governor shall transmit to the commissioner of education the Official Compilation of 1974 School District Market Value Data prepared by his office with all necessary adjustments and corrections which the facts warrant.

"(b) The commissioner of education shall appoint a review panel consisting of five persons representing different areas of the state who are knowledgeable in the field of property taxation to review all questions relating to the property values reported for school districts in the official compilation and to recommend necessary adjustments based on factual evidence to the commissioner.

"(c) Members of the review panel are entitled to compensation of \$75 per day and reimbursement for actual and necessary expenses incurred in carrying out their duties.

"(d) There is hereby appropriated to the commissioner of education from the General Revenue Fund for the biennium ending August 31, 1977, the sum of \$200,000 to carry out the provisions of this section.

"Sec. 14. This Act takes effect on September 1, 1975, except that the section amending the Texas Unemployment Compensation Act and the section providing for the adjustments and corrections of the Official Compilation of 1974 School District Market Value Data take effect immediately.

"Sec. 15. If any provision of this Act or the application thereof to any person or circumstance is declared invalid, such invalidity shall not affect any other provision or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable."

The 1977 Act, which by §§ 1 to 31 amended various sections of this Chapter and made other conforming amendments, provided in §§ 33 and 34:

"Sec. 33. (a) Subsections (a) and (b) of Section 20.03, Texas Education Code, as amended by Section 15 of this Act, and Section 16 of this Act, and Subsection (d), Section 16.252, Texas Education Code, as amended by Section 11 of this Act, take effect on the passage of this Act. Subsections (c), (d), (e), and (f) of Section 20.03, Texas Education Code, as amended by Section 15 of this Act, take effect on January 1, 1978. All other sections of this Act take effect on September 1, 1977.

"(b) Records and materials compiled by, transferred to, or in the possession of the governor pursuant to Section 10, Chapter 334, Acts of the 64th Legislature, 1975, are transferred to the School Tax Assessment Practices Board to assist it in performing its duties under this Act.

"(c) There are hereby appropriated out of the Foundation School Fund, or out of the General Revenue Fund as may be necessary from time to time, additional funds which, together with the appropriations made specifically in House Bill No. 510, Acts of the 65th Legislature, Regular Session, 1977, will be sufficient to carry out the purposes of this Act. The appropriations shall include additional funds for the vocational education, comprehensive special education, statewide visually handicapped, regional school for the deaf, bilingual education, and preschool non-English programs which, together with the sums certain appropriated in House Bill No. 510 for those purposes, will be sufficient to provide the salary increases authorized by this Act for personnel employed in vocational education, comprehensive special education, statewide visually handicapped, regional schools for the deaf, bilingual education, and preschool non-English programs.

"In addition, there is hereby appropriated to the Central Education Agency out of the General Revenue Fund an amount, not to exceed \$3,000,000 in the biennium ending August 31, 1979, sufficient to carry out the purposes of Senate Concurrent Resolution No. 29 and Senate Concurrent Resolution No. 30, Acts of the 65th Legislature, Regular Session, 1977.

"There is hereby appropriated to the Central Education Agency out of the Foundation School Fund or the General Revenue Fund an amount not to exceed \$500,000 in the biennium ending August 31, 1979, sufficient funds as may be necessary to finance the purposes of Senate Bill No. 91, Acts of the 65th Legislature, Regular Session, 1977 [Chapter 736, adding §§ 16.401 to 16.406 to this Code].

"(d) There is hereby appropriated out of the General Revenue Fund to the Joint Advisory Committee on Educational Services to the Deaf the sum of \$35,904 for the fiscal year ending August 31, 1978, and the sum of \$28,112 for the fiscal year ending August 31, 1979.

"Sec. 34. If any article, section, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have passed the valid portions of this Act irrespective of the fact that any one or more portions be declared unconstitutional."

Section 34 of the 1979 amendatory act provided:

"It is the intent of the legislature that the school districts of this state be entitled to additional funds to replace the revenues lost as a result of the passage of House Joint Resolution 1 of the 2nd Called Session of the 65th Legislature. In this Act, it is the express intent of the legislature that a portion of the increased state funding for current operating expenses and the amount of additional state aid created by reduction of local fund assignments be utilized by the school districts to substantially replace local revenues lost as a result of the implementation of the Tax Relief Amendment."

## § 16.002. Purpose of Foundation School Program

The purpose of the Foundation School Program set forth in this chapter is to guarantee that each school district in the state has adequate resources to provide each eligible student a basic instructional program suitable to his educational needs.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

## § 16.003. Student Eligibility

A student is entitled to the benefits of the Foundation School Program if he is 5 years of age or older and under 21 years of age at the beginning of the scholastic year and has not graduated from high school. A child is not eligible for enrollment in the first grade unless he is at least six years of age at the beginning of the scholastic year or has been enrolled in the first grade in the public schools in another state prior to transferring to a Texas public school.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1435, ch. 580, § 1, eff. Aug. 29, 1977.]

## § 16.004. Scope of Program

Under the Foundation School Program, a school district may receive state financial aid for minimum personnel salaries, current operating expenses, categorical program aid, and transportation services. The amount of state aid to each school district shall be based on the district's ability to support its public schools.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

## § 16.005. Administration of the Program

The commissioner of education, with the approval of the State Board of Education, shall take such action, require such reports, and make such rules and regulations consistent with the terms of this chapter as may be necessary to implement and administer the Foundation School Program.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

[Sections 16.006 to 16.050 reserved for expansion]

## SUBCHAPTER B. REQUIREMENTS FOR DISTRICT PARTICIPATION IN THE FOUNDATION SCHOOL PROGRAM FUND

### § 16.051. Required Compliance

In order to receive financial support from the Foundation School Fund, a school district must comply with the standards set forth in this subchapter.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

### § 16.052. Operation of Schools

(a) Each school district must provide for not less than 175 days of instruction for students and not less

than 10 days of inservice training and preparation for teachers for the 1977-1978 school year and not less than 175 days of instruction for students and not less than eight days of inservice training and preparation for teachers for each school year thereafter, except as provided in Subsection (b) of this section.

(b) The commissioner of education may approve the operation of schools for less than the number of days of instruction and inservice training and preparation otherwise required when disasters, floods, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of the school. [Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 100, ch. 46, § 1, eff. April 5, 1977; Acts 1977, 65th Leg., 1st C.S., p. 12, ch. 1, § 2, eff. Sept. 1, 1977.]

**§ 16.053. Accreditation**

Beginning with the 1977-1978 school year each school district must be accredited by the Central Education Agency.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

**§ 16.054. Student/Teacher Ratios**

Each school district must employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 25 students in average daily attendance.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

**§ 16.055. Compensation of Professional and Paraprofessional Personnel**

(a) A school district must pay each employee who is qualified for and employed in a position classified under the Texas Public Education Compensation Plan set forth in Section 16.056 of this chapter not less than the minimum monthly base salary, plus increments for teaching experience, specified for the position.

(b) Contracts for personnel shall be made on the basis of a minimum of 10 months' service, which must include the number of days of instruction for students and days of inservice training and preparation for personnel required by Section 16.052 of this code. The days of inservice training and preparation required herein shall be conducted by local boards of education under rules and regulations established by the State Board of Education that are consistent with the state accreditation standards for program planning, preparation, and improvement. Personnel employed for more than 10 months shall be paid not less than the minimum monthly base pay plus increments for experience for each month of actual employment. Personnel employed for 11 months at pay grades 1-11 must render 202 days of service, and personnel employed for 12 months at pay grades 1-11 must render 220 days of service. Personnel employed for 11 months at pay grades 12-18 must render 207 days of service, and personnel

employed for 12 months at pay grades 12-18 must render 226 days of service. However, the number of days of service required by this subsection may be reduced by the commissioner under Section 16.052(b) of this code, and the reduction shall not reduce the total salaries of personnel.

(c) Notwithstanding Subsection (b) of this section, a vocational agriculture teacher employed for 12 months shall render 226 days of service regardless of pay grade.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 100, ch. 46, § 2, eff. April 5, 1977; Acts 1977, 65th Leg., 1st C.S., p. 12, ch. 1, § 3, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1301, ch. 602, § 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 365, ch. 148, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 amendatory act provided: "This Act takes effect beginning with the 1981-1982 school year." Under the provisions of § 21.001, the school year commences on September 1st of each year.

**§ 16.056. Texas Public Education Compensation Plan**

(a) School district personnel who are qualified for and employed in positions authorized in Subsection (d) of this section shall be paid not less than the monthly base salary, plus increments for teaching experience, for the applicable pay grade computed on the basis of the salary index set forth in Subsection (c) of this section except as otherwise provided by this subsection. The value of each cell in the salary index shall be determined by multiplying the index factor for the cell by \$997 for the 1979-1980 school year and by \$1,048 for each school year thereafter, or by such greater sum as may be provided by the General Appropriations Act. The minimum salary for school district personnel who do not advance one step over the prior year shall be 102 percent of the minimum salary specified for the step in which the individual is placed.

*Text of subsection effective until September 1, 1982*

(b) An individual shall advance one step for each year of experience until step 10 is reached. Thereafter, a person must serve at step 10 for two years before advancing to step 11, at step 11 for two years before advancing to step 12, at step 12 for two years before advancing to step 13, and at step 13 for two years before advancing to step 14.

*Text of subsection effective September 1, 1982*

(b) An individual shall advance one step for each year of experience until step 10 is reached. Thereafter, a person must serve at step 10 for two years before advancing to step 11, at step 11 for two years before advancing to step 12, at step 12 for two years before advancing to step 13, and at step 13 for two years before advancing to step 14. For each year, up to a maximum of two years, of work experience required for certification in a vocational field, a vocational teacher who is certified in that field is entitled to salary step credit as if the work experience were teaching experience.

(c) Salary index by steps

Pay Grade	Personnel Unit Value	Personnel Unit Value															
		0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
1	.55	.460	.480	.500	.520	.540	.560	.580	.610	.630	.650	.670	.690	.710	.730	.750	
2	.60	.530	.550	.570	.590	.610	.630	.660	.690	.720	.750	.780	.810	.820	.830	.840	
3	.75	.630	.650	.670	.700	.730	.760	.790	.820	.830	.840	.850	.860	.870	.880	.890	
4	.80	.680	.710	.740	.770	.800	.830	.860	.900	.940	.980	1.020	1.060	1.100	1.140	1.180	
5	.90	.720	.750	.780	.820	.860	.900	.940	.980	1.030	1.080	1.130	1.180	1.230	1.280	1.350	
6	.95	.780	.810	.840	.880	.920	.960	1.000	1.050	1.100	1.150	1.200	1.250	1.300	1.350	1.500	
7	1.00	.900	.930	.963	1.000	1.040	1.083	1.130	1.180	1.234	1.290	1.350	1.410	1.470	1.530	1.590	
8	1.00	.963	1.000	1.040	1.083	1.130	1.180	1.234	1.290	1.350	1.410	1.470	1.530	1.590	1.650	1.710	
9	1.15	.980	1.020	1.060	1.100	1.150	1.210	1.270	1.330	1.390	1.450	1.520	1.590	1.660	1.730	1.800	
10	1.20	.990	1.040	1.090	1.140	1.190	1.250	1.310	1.370	1.430	1.490	1.560	1.630	1.700	1.770	1.840	
11	1.25	1.050	1.090	1.140	1.190	1.250	1.310	1.370	1.430	1.490	1.550	1.610	1.670	1.730	1.790	1.850	
12	1.30	1.074	1.127	1.179	1.231	1.283	1.335	1.387	1.450	1.523	1.596	1.669	1.753	1.836	1.919	2.002	
13	1.40	1.158	1.210	1.262	1.314	1.367	1.419	1.481	1.544	1.617	1.690	1.773	1.857	1.930	2.013	2.096	
14	1.50	1.236	1.288	1.341	1.393	1.456	1.519	1.582	1.644	1.718	1.791	1.875	1.959	2.053	2.147	2.241	
15	1.75	1.330	1.393	1.456	1.519	1.582	1.644	1.728	1.812	1.896	1.990	2.095	2.200	2.304	2.409	2.513	
16	2.00	1.487	1.561	1.634	1.707	1.781	1.864	1.948	2.042	2.137	2.241	2.357	2.472	2.587	2.702	2.817	
17	2.25	1.728	1.781	1.843	1.906	1.990	2.074	2.168	2.273	2.378	2.493	2.618	2.744	2.870	2.996	3.122	
18	2.50	1.781	1.875	1.969	2.074	2.189	2.304	2.419	2.535	2.650	2.765	2.880	2.996	3.111	3.226	3.341	

(d) The positions, pay grades, titles, and except as otherwise authorized by law, the number of annual contract months for each position under the Texas Public Education Compensation Plan are as follows:

Pay Grade	No. Months Paid	Class Title	Pay Grade	No. Months Paid	Class Title
			9	10	Teacher, Bachelor of Laws or Doctor of Jurisprudence Degree
			9	10	Teacher, Doctor's Degree
			9	10	Special Duty Teacher, Master's Degree
1	10	Educational Aide I	10	10	Occupational Therapist
1	10	Educational Secretary I	10	10	Physical Therapist
2	10	Educational Aide II	10	10	Educational Diagnostician
2	10	Educational Secretary II	10	10	Visiting Teacher II, Master's Degree
3	10	Educational Aide III			
3	10	Educational Secretary III	10	10	Counselor I, Psychologist
4	10	Teacher Trainee I	10	10	Supervisor I
5	10	Teacher Trainee II	10	10	Part-time Principal—11 or fewer teachers on campus
5	10	Certified Nondegree Teacher			
7	10	Nurse, R.N. and/or Bachelor's Degree	10	10	Instructional/Administrative Officer I
7	10	Special Education Related Service Personnel (other than Occupational or Physical Therapist), Bachelor's Degree	11	10	Assistant Principal—20 or more teachers on campus
7	10	Teacher, Bachelor's Degree	11	10	Instructional/Administrative Officer II
7	10	Vocational Teacher, Bachelor's Degree and/or Certified in Field	12	11	Principal—19 or fewer teachers on campus
7	11	Bachelor's Degree and/or Certified in Field	12	10	Instructional/Administrative Officer III
7	12	Certified in Field	13	11	Principal—20–49 teachers on campus
7	10	Librarian I, Bachelor's Degree			
7	10	Visiting Teacher I, Psychological Associate, Bachelor's Degree	13	11	Instructional/Administrative Officer IV
8	10	Special Education Related Service Personnel (other than Occupational or Physical Therapist), Master's Degree	14	11	Principal—50–99 teachers on campus
8	10	Teacher, Master's Degree	14	12	Principal—100 or more teachers on campus
8	10	Vocational Teacher, Master's Degree	14	12	Instructional/Administrative Officer V
8	11	Master's Degree	14	12	Superintendent—District with 400 or less ADA
8	12				
8	10	Librarian II, Master's Degree	15	12	Instructional/Administrative Officer VI
8	10	Physician, M.D.			

Pay Grade	No. Months Paid	Class Title
15	12	Superintendent—District with 401–3,000 ADA
16	12	Instructional/Administrative Officer VII
16	12	Superintendent—District with 3,001–12,500 ADA
17	12	Instructional/Administrative Officer VIII
17	12	Superintendent—District with 12,501–50,000 ADA
18	12	Superintendent—District with 50,000 or more ADA

(e) With the approval of the State Board of Education, the commissioner of education may add additional positions and months of service to the Texas Public Education Compensation Plan to reflect curriculum and program changes authorized by law. The pay grade assigned to each new position shall be comparable to the pay grade for authorized personnel with similar academic training, experience, and duties. With the approval of the board, the commissioner shall also develop policies for the implementation and administration of the compensation plan. The policies shall provide for the adjustment of salaries for promotions and demotions within grades and the placement of personnel with prior educational experience into the compensation plan.

(f) Repealed by Acts 1981, 67th Leg., p. 917, ch. 333, § 1(4), eff. Aug. 31, 1981.

(g) Each person employed in the public schools of this state who is assigned to a position classified under the Texas Public Education Compensation Plan must be certified according to the certification requirements or standards for each position as established by rule adopted by the State Board of Education.

(h) The State Board of Education shall prescribe the general duties and required preparation and education for the positions listed in Subsection (d) of this section.

(i) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1029, ch. 377, § 23, eff. June 10, 1977; Acts 1977, 65th Leg., 1st C.S., p. 12, ch. 1, § 4, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1301, ch. 602, §§ 4, 35(a), eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 156, ch. 70, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 917, ch. 333, § 1(4), eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2381, ch. 592, § 1, eff. Sept. 1, 1982.]

Section 2 of the 1981 amendatory act provided:  
 "This act is effective beginning with the 1981–1982 school year."  
 Under the provisions of § 21.001 of this code, the school year commences on September 1 of each year.

[Sections 16.057 to 16.100 reserved for expansion]

SUBCHAPTER C. PERSONNEL SUPPORT COMPONENT

§ 16.101. Personnel Support: General Rules

A school district's entitlement for personnel support is equal to the aggregate minimum salaries

required by law for personnel units allotted to the district in accordance with the provisions of this subchapter.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1301, ch. 602, § 3, eff. Aug. 27, 1979.]

§ 16.102. Education Program Personnel

(a) Education program personnel units shall be allotted to each school district on the basis of the district's current average daily attendance for the best five six-week reporting periods of the school term unless exceptions are authorized by other sections of this code.

(b) The attendance of kindergarten students may not be counted for personnel unit allotment purposes for more than one-half of a school day during the full school year or for the full school day for more than one-half of the school year unless the student is educationally handicapped. An educationally handicapped student is a student who cannot speak and comprehend the English language or who is from a family whose income, according to standards promulgated by the State Board of Education, is at or below a subsistence level.

(c) Each school district shall be allotted personnel units on the basis of the district's average daily attendance in education programs as follows:

(1) one personnel unit for each 18.5 students in average daily attendance in kindergarten and grades 1 through 3;

(2) one personnel unit for each 21 students in average daily attendance in grades 4 through 6;

(3) one personnel unit for each 20 students in average daily attendance in grades 7 through 9; and

(4) one personnel unit for each 18 students in average daily attendance in grades 10 through 12.

(d) The personnel unit allotment for a school district which contains at least 300 square miles and which has not more than 1,000 students in average daily attendance in its education program shall be adjusted according to the following formula:

$$[1 + (1000 - ADA) (.000455)] \times PU = APU$$

where PU is the district's personnel units determined in accordance with Subsection (c) of this section; and APU is the district's adjusted personnel units.

(e) The personnel unit allotment for a school district which contains less than 300 square miles and has not more than 1,000 students in average daily attendance in its education program shall be adjusted according to the following formula:

$$[1 + (1000 - ADA) (.0003)] \times PU = APU$$

where PU is the district's personnel units determined in accordance with Subsection (c) of this section; and APU is the district's adjusted personnel units.

(f) Fractional personnel units in excess of one-half shall be counted as whole units.

(g) A district's total personnel units, as adjusted, shall be reduced by an amount equal to one-half of the sum of the personnel unit values for vocational personnel allocated to the district under the provisions of Section 16.103 of this chapter, by an amount equal to one-half of the sum of the personnel unit values for school-community guidance center personnel allocated to the district under the provisions of Section 16.403 of this chapter, and by an amount equal to .275 of the sum of the personnel unit values for special education personnel allocated to the district under the provisions of Section 16.104 of this code.

(h) Under rules of the State Board of Education, the commissioner shall adjust a district's personnel units to take into account cooperative programs and contract services.

(i) A school district may use its personnel units for any combination of personnel classified under the Texas Public Education Compensation Plan which the district feels will best meet the needs of the students in the district, provided that the total of the number of personnel units for each position chosen multiplied by the personnel unit value for that position specified on the salary schedule, does not exceed the total number of personnel units to which the district is entitled under the provisions of this section. The commissioner, with the approval of the State Board of Education, shall establish minimum standards for staffing patterns for all personnel.

(j) A district need not employ personnel for the full number of personnel units to which it is entitled.

(k) Notwithstanding the provisions of Subsection (i) of this section, 95 percent of the personnel units, excluding fractional units, earned by a school district as a result of student attendance in kindergarten and grade one pursuant to Subsection (c) of this section shall be used to employ personnel assigned instructional duties in kindergarten or grade one. Eighty percent of the personnel units, excluding fractional units, earned by a school district as a result of student attendance in grades two and three shall be used to employ personnel assigned instructional duties in grade two or three. This section does not prohibit a teacher or aide from performing instructional duties in more than one grade, and, for purposes of determining compliance with the provisions of this subsection, the State Board of Education shall promulgate rules governing the calculation of fractional personnel unit values based on class time to be assigned to personnel who teach at more than one grade level. Regular teachers assigned to classroom teaching duties, special area teachers, educational aides, and librarians assigned to these grades shall be included in these calculations. The commissioner of education may make a limited waiver of the provisions of this subsection for a period not to exceed two years for school districts that demonstrate an inability to assign personnel as required by this subsection because of a lack of classroom space.

(l) A qualified teacher, educational aide, or counselor may perform services in a combination of regular, special, or vocational education programs, and the State Board of Education shall promulgate rules governing the distribution of the personnel units utilized and the salary allocated among the programs involved in proportion to the services performed in each program.

(m) Where a school district is consolidated or contracted with another district, or annexed in whole or part to another district or districts, or where the number of grades taught has been reduced, or where the scholastics are transferred to another district, or where there is an annual fluctuation in the attendance in the district, or where for any reason there is a marked increase or decrease in the attendance of any school district, adjustments in personnel allotments shall be made by the state commissioner of education.

(n) Notwithstanding Subsections (d) and (e) of this section, a school district that has 1,000 or fewer students in average daily attendance shall be allotted not less than 12 personnel units if it offers a kindergarten through grade 12 program and has a prior year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose prior year's average daily attendance was at least 50 students or is 30 miles or more by bus route from the nearest high school district shall be allotted not less than 7.2 personnel units. Not less than 4.2 personnel units shall be allotted if a district offers a kindergarten through grade 6 program and has a prior year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district. In addition, each school district that has 1,000 or fewer students in average daily attendance shall be allotted .6 personnel unit to be used cooperatively with other districts to provide support services necessary to meet accreditation standards. [Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 17, ch. 1, § 5, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, § 5, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2225, ch. 524, § 2, eff. Sept. 1, 1981.]

#### § 16.103. Vocational Personnel Units

(a) Vocational personnel units for each school district shall be determined and allotted as prescribed by this section.

(b) Each school district having a four-year accredited high school shall be eligible, under rules and regulations of the State Board of Education, for two vocational teacher units to teach one or more vocational programs provided there is a need thereof, and provided the programs have been approved by the commissioner of education.

(c) Additional vocational teacher units for districts with four-year accredited high schools may be allotted according to needs determined by a survey

of the community and approved by the commissioner of education.

(d) A district having an accredited high school which qualifies, according to the rules and regulations of the State Board of Education, for less than one vocational teacher unit, may be allotted by the commissioner of education a fractional part of a vocational teacher professional unit. A fractional part of a vocational teacher professional unit shall entitle a district to employ a part-time vocational teacher or assign a classroom teacher to serve as part-time vocational teacher.

(e) Each school district having a four-year accredited high school shall be eligible, under rules and regulations approved by the State Board of Education, for such specialized vocational supervisor units and vocational counselor units as there is a need, and in the number determined by application of formulas adopted by the State Board of Education and subject to approval by the commissioner of education.

(f) Vocational professional unit allotments, except classroom teachers who also served as part-time vocational teachers, shall be made in addition to other professional unit allotments. Any school district may, with the commissioner's approval, utilize its vocational professional unit allotments to employ vocational teachers, vocational supervisors, vocational counselors, and job placement coordinators on a 10-, 11-, or 12-month basis, in accordance with rules adopted by the State Board of Education. Vocational administrative units shall be approved on a 12-month contract, based on need. In addition to the regular operating allowance, there shall be an additional allocation of \$400 for each vocational teacher unit which shall be used for instructional materials related to vocational education programs operated by the district.

(g) School districts which, because of limited enrollments, tax resources, or facilities are unable to offer appropriate vocational education in all occupational areas needed may enter into contracts with post-secondary public institutions, as defined by the State Board of Education, to provide for such appropriate vocational education instruction provided the instructors and instructional materials and equipment utilized meet secondary school program requirements.

(h) The contract shall be executed pursuant to rules and regulations of the State Board of Education and the cost to the state shall not exceed the cost that would result if the programs were operated by the respective school districts entering into the contracts.

(i) The legislature shall set a limit on the amount of funds that may be expended under the provisions of this section each year in the General Appropriations Act. Should the amount of funds required to fully fund the provisions of this section pursuant to the rules and regulations of the State Board of Education exceed the amount set by the legislature,

the commissioner, with the approval of the board, shall make such adjustments as are necessary to reduce the total cost of the vocational education program to the limit set by the legislature.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 19, ch. 1, § 6, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, § 6, eff. Aug. 27, 1979.]

**§ 16.104. Comprehensive Special Education Program for Handicapped Children**

(a) The commissioner of education, with the approval of the State Board of Education, shall develop, and modify as necessary, a statewide design for the delivery of services to handicapped children in Texas which includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all handicapped children between the ages of three and 21 by no later than September 1, 1980. The statewide design shall include, but may not be limited to, the provision of services primarily through local school districts and special education cooperatives, supplemented by a regional delivery structure. The commissioner shall further develop and implement a statewide plan with programmatic content which includes procedures designed to:

(1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to handicapped students as defined in this section;

(2) facilitate interagency coordination when state agencies other than the Central Education Agency are involved in the delivery of instructional or related services to handicapped students;

(3) assess statewide personnel needs in all areas of specialization related to special education on a periodic basis and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;

(4) ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service delivery and a component designed to facilitate the placement of handicapped students who cannot be appropriately served within their resident districts;

(5) allow the Central Education Agency to effectively monitor and periodically conduct site visits of all local districts to ensure that agency rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts are accurate and complete;

(6) ensure the availability of sequentially related, field-based, inservice special education training programs for regular and special educators serv-

ing handicapped students and further ensure that all local districts dedicate at least the equivalent of one full day of their required inservice program per school year to that special education inservice training for those personnel;

(7) ensure that appropriately trained personnel are involved in the diagnostic and evaluation procedures operating in all local districts and that those personnel routinely serve on local district admissions, review, and dismissal teams;

(8) ensure that an individualized education plan for each handicapped student is properly developed, implemented, and maintained in the least restrictive environment which is appropriate to meet the student's educational needs;

(9) ensure that, when appropriate, each handicapped student is provided an opportunity to participate in vocational and physical education classes, in addition to participation in regular or special classes; and

(10) ensure that each handicapped student is provided necessary related services.

(b) As used in this section:

(1) "Special services" means:

(A) "special teaching," which may be provided by professional and paraprofessional personnel in the following instructional settings:

(i) resource room;

(ii) self-contained classroom, regular or special campus;

(iii) hospital or community class;

(iv) homebound or bedside;

(v) speech or hearing therapy class; or

(B) "related services," which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the proper development and implementation of a handicapped student's individualized educational plan, including but not limited to special transportation, school health services, counseling with students or families, psychological services, audiological services, visual training, medical or psychiatric diagnostic services, occupational therapy, physical therapy, recreational therapy, social work services, parent counseling and training, adaptive equipment, special seating, orientation and mobility training, speech therapy, music therapy, and corrective therapy.

(2) "Resident district" means the local school district in which the parent or other person who has the primary legal obligation for care, control, and custody of a handicapped student resides, except that if the state is managing conservator of the student, the resident district is the district within which the student is placed by the state.

(c) The commissioner, with the approval of the State Board of Education, shall develop specific eligibility criteria based on the general classifications

established by this section with reference to contemporary diagnostic or evaluative terminologies and techniques. Eligible handicapped students shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through contracts approved under this section. Instruction shall be supplemented by the provision of related services when appropriate. The following classifications of handicapped students shall serve as the general eligibility criteria for participation in a district's special education program:

(1) "Handicapped students" means students between the ages of 3 and 21, inclusive;

(A) with educational handicaps (physically handicapped, auditorially handicapped, visually handicapped, mentally retarded, emotionally disturbed, learning disabled, speech handicapped, autistic, or multiply handicapped); and children leaving and not attending public school for a time because of pregnancy; and

(B) whose disabilities are so limiting as to require the provision of special services in place of or in addition to instruction in the regular classroom.

(2) "Physically handicapped students" means students whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

(3) "Auditorially handicapped students" means students whose hearing is so impaired that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(4) "Visually handicapped students" means students whose sight is so impaired that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

(5) "Mentally retarded students" means students with significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior and manifested during the developmental period such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(6) "Emotionally disturbed students" means students whose emotional condition is psychologically or psychiatrically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

(7) "Learning disabled students" means students:

(A) who demonstrate a significant discrepancy between academic achievement and intellec-

tual abilities in one or more of the areas of oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, mathematics reasoning, or spelling;

(B) for whom it is determined that the discrepancy is not primarily the result of visual handicap, hearing impairment, mental retardation, emotional disturbance, or environmental, cultural, or economic disadvantage; and

(C) for whom the inherent disability exists to a degree such that they cannot be adequately served in the regular classes of the public schools without the provision of special services.

(8) "Speech handicapped students" means students whose speech is so impaired that they cannot be adequately educated in regular classes of the public schools without the provision of special services.

(9) "Autistic students" means students whose disturbances of speech and language, relatedness, perception, developmental rate, and motility are such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(10) "Multiply handicapped students" means students handicapped by any two or more of the handicapping conditions described in Subdivisions (2) through (9) of this subsection that may result in multisensory or motor deficiencies and developmental lags in the cognitive, affective, or psychomotor areas such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(d)(1) Except as provided in Subdivision (2) of this subsection a school district is allocated 30 special education personnel units for the first 3,000 students in refined average daily attendance, one special education personnel unit for each additional 100 students in refined average daily attendance up to a total of 6,000 students in refined average daily attendance, and .85 special education personnel unit for each additional 100 students in refined average daily attendance thereafter. The units may be used only for personnel listed in Subsections (e) and (f) of this section.

(2) If less than 12 percent of the district's students are identified as eligible handicapped students and provided with special services by the district's special education personnel, the number of special education personnel units to which the district is entitled under Subdivision (1) of this subsection shall be reduced to a percent of full allocation based on the percent of students served according to the following schedule:

Percent served	Percent of full allocation
12%	100%
11%	94%
10%	88%
9%	82%
8%	76%
7%	70%
6%	63%
0-5% set by commissioner, not to exceed 56%	

IM-407

(3) The percent of students served is determined by dividing the number of identified and eligible handicapped students served by the district's special education personnel by the district's refined average daily attendance and rounding the dividend to the nearest 10th. A district that serves less than 12 percent of the students in refined average daily attendance is entitled to an increase in the percent of allocation for a percent of students served specified in the schedule above equal to one percent of full allocation for each additional one-tenth of one percent of the students served but not exceeding the allocation specified on the schedule for the next highest percent of students served.

(4) Local districts may receive an additional allocation of \$100 per personnel unit as a start-up allocation during the first year of a new unit's activation.

(5) In addition to all other allocations authorized in this section, any local district may receive supplemental special education personnel unit allocations through application by the district to the commissioner of education. The application shall include a thorough demonstration of the particular needs which justify the requested supplemental allocation. Under rules adopted by the State Board of Education, the commissioner may approve the allocations on a discretionary basis, having primary regard for those requests which demonstrate such circumstances as:

(A) an unusually high concentration of handicapped students or an unusually high concentration of severely handicapped students eligible to receive services required by law to be provided by the applicant district's personnel and to whom the actual demonstrated cost of providing an appropriate education to those students either individually or collectively overcomes the district's ability to meet those needs after a proper utilization of that district's allocations under this section;

(B) an unusual cost burden imposed on a rural school district due to the difficulty involved in serving handicapped students in sparsely populated areas; or

(C) an unusual difficulty involved in the administration of a special education cooperative which indicates a need for additional support personnel.

(6) Each local district is entitled to a basic support allocation of \$400 for each personnel unit activated under this section. Local districts may expend these funds to provide special instructional materials and related services or for consultant services, pupil evaluation services, or personnel travel in multicounty or

multicity school districts in accordance with rules adopted by the State Board of Education.

(7) Any personnel units allocated under this subsection but not utilized by the local district may be reallocated by the commissioner in the manner described in Subdivision (5) of this subsection.

(e) Professional personnel for the operation and maintenance of a program of special education shall be:

(1) handicapped students' teachers, including itinerant teachers whose duties may or may not be performed in whole or in part on the campus of a school;

(2) special education related service personnel, including occupational therapists, physical therapists, nurses, orientation and mobility instructors, and other noneducational personnel who are otherwise professionally licensed by state or national certification recognized by the commissioner of education; and

(3) special education support personnel, including special education directors, special education supervisors, special education counselors, special education visiting teachers, psychologists, educational diagnosticians, and other pupil evaluation specialists.

(f) Paraprofessional personnel for the operation and maintenance of a program of special education shall consist of persons engaged as teacher aides, who may or may not hold a teacher certificate.

(g) Certification standards for professional and paraprofessional personnel authorized in Subsections (e) and (f) of this section shall be developed by the commissioner, approved by the State Board of Education, and reviewed periodically. The standards shall be independent of certification or endorsement in other fields and shall include requirements for additional training and recertification as necessary.

(h) Except as provided by Subsection (i) of this section, the minimum salary levels, months of service, and personnel unit values for all authorized personnel shall be determined by the provisions of Section 16.056 of this code. If positions authorized in this section are not specifically provided for in Section 16.056, the commissioner shall add those positions to the Texas Public Education Compensation Plan in accordance with Subsection (e) of Section 16.056 of this code.

(i) Special education unit personnel may be employed on a full-time, part-time, or consultative basis. Any school district may, with the commissioner's approval, utilize its personnel unit allocations to employ authorized personnel on a 10-, 11-, or 12-month basis in accordance with rules adopted by the State Board of Education. Handicapped students' teachers, paraprofessional personnel, or related service personnel employed on an extended basis under this subsection shall, during the extended period of their contract, only be engaged in pupil evaluations or in direct service delivery to handicapped students

for which the disruption of continuous services may result in severe regression.

(j) In accordance with rules adopted by the State Board of Education, local districts may jointly operate their special education programs. Personnel units and other funds to which the cooperating districts are entitled under this section may be allocated to the districts jointly as cooperative units or cooperative funds in accordance with the cooperative districts' agreement.

(k) Any local district, special education cooperative, or regional education service center may contract with any public or private facility, institution, or agency within or outside of this state for the provision of services to handicapped students under rules adopted by the State Board of Education. Contracts for residential placements, including placements with the Texas Department of Mental Health and Mental Retardation and its community facilities, Texas School for the Blind, Texas School for the Deaf, and other public or private agencies, institutions, or facilities, shall be approved by the commissioner. The rules shall provide for approval of residential placement contracts only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. Either the whole or a part of a facility or program may be approved. Rules relating to the residential contract approval process shall include provisions designed to ensure that no contract is approved which:

(1) involves the delivery of unapproved services;

(2) involves the delivery of services which the district is capable of providing or is developing the capability to provide; or

(3) is not cost-effective when compared with other alternatives.

(l) Except as provided by Subsection (m) of this section, contracts for residential placements when approved may be paid for from a combination of federal, state, and local funds. The local share of the total contract cost per pupil is that portion of the local tax effort (total dollars generated by debt service and maintenance taxes) which exceeds the district's local fund assignment, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that which remains after subtracting the local share. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the state share is that which remains after subtracting the local share from that portion of the contract which involves the costs of instructional and related services. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program.

(m) If the state is managing conservator of a student placed in a private residential facility, the

total cost of the residential placement shall be paid from state and federal funds. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the total of that portion of the contract which involves the costs of instructional and related services shall be paid from state and federal funds. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program. The State Board of Education shall adopt rules governing the use of federal funds as supplemental or partial payment of the local or state share under Subsections (l) and (m) of this section.

(n) The resident district has the ultimate responsibility for providing or causing the provision of appropriate services to each handicapped student. If the district contracts for the provision of services rather than providing the services of its own accord, then that district retains the responsibility of overseeing the implementation of the student's individualized education plan as well as the responsibility of an annual reevaluation of the appropriateness of the arrangement. An approved facility, institution, or agency with whom the district contracts shall assume as a part of the contract the responsibility of providing the district with periodic reports of services the student has received or will receive in accordance with the terms of the contract as well as diagnostic or other evaluative information which the district requires in order to fulfill its obligations under this section. The State Board of Education shall adopt rules designed to effectuate this subsection.

(o) The salary costs of special education teacher units, other professional and paraprofessional units authorized in this section, operating costs as provided in Subsection (d)(6) of this section and state-portion contract costs as provided in Subsections (l) and (m) of this section, computed as other costs of the Foundation School Program for local fund assignment purposes, shall be paid from the Foundation School Program Fund. Provided further, that any school district may supplement any part of the comprehensive special education program it operates or participates in with funds or resources available to it from local sources, public or private. Local enrichment may take the form of but is not limited to employing personnel in excess of the state allocation or supplementing minimum salaries of any personnel employed by the district, and any district may at local expense pay for all or part of further or continuing training or education of its special education personnel.

(p) The legislature shall set a limit on the amount of funds that may be expended under the provisions of this section each year in the General Appropriations Act. Should the amount of funds required to fully fund the provisions of this section pursuant to the rules and regulations of the State Board of Education exceed the amount set by the legislature,

the commissioner, with the approval of the board, shall make such adjustments as are necessary to reduce the total cost of the special education program to the limit set by the legislature. The commissioner may make allocations under Subsection (d)(5) of this section not to exceed \$3 million a year from the sum appropriated to fund the provisions of this section. The restriction on the dollar amount available under Subsection (d)(5) of this section does not apply to any funds remaining from the sum appropriated after all other allocations are made or to the remaining balance of unexpended funds carried over from the previous fiscal year.

(q) Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(b), eff. Sept. 1, 1981.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1; Acts 1977, 65th Leg., 1st C.S., p. 19, ch. 1, § 7, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, §§ 7, 35(b), eff. Aug. 27, 1979.]

Section 33 of the 1979 amendatory act provided:  
 "All residential placements of handicapped persons made prior to the effective date of this Act are subject to Subsections (k), (l), and (m), Section 16.104, Texas Education Code, as amended by this Act."

§ 16.105. [Blank]

§ 16.106. Support for Fast-Growing School Districts

(a) It is the purpose of this section to provide state aid to local school districts which experience unusually rapid growth in student enrollment from one year to the next so as to assist those districts in sustaining an adequate educational program for all students.

(b) A district is eligible to receive aid under this section if:

(1) the district's effective tax rate as determined under Subsection (c) of this section is greater than the statewide average effective tax rate as determined under that subsection;

(2) the district's current year's total number of students in average daily attendance as determined under Section 16.102 of this code is equal to or greater than 106 percent of its prior year's total number of students in average daily attendance; and

(3) the district raises its local fund assignment.

(c) For purposes of this section, a district's effective tax rate shall be determined by dividing the total amount of ad valorem tax revenue collected in the immediately preceding school year in the district by the total value of property which is used to calculate the district's local fund assignment. The statewide average effective tax rate shall be determined by dividing the total amount of ad valorem tax revenue collected by all the school districts in the state in the immediately preceding school year by the total index value of property in the state as determined pursuant to Section 11.86 of this code. For the 1979-1980 and 1980-1981 school years, the index values used herein shall be determined in accordance with Section 16.252(b) of this chapter.

(d) For the 1979–1980 school year and for each school year thereafter, the amount of state aid for each eligible school district under this section shall be determined by the formula:

$$\text{FGA} = \left( \frac{\text{PDG}}{.06} - 1 \right) \times \text{CADA} \times \$30$$

“FGA” is the district’s fast growth allotment; “PDG” is the percentage of the district’s student growth, as determined by dividing the difference between the district’s current and previous year’s number of students in average daily attendance by the district’s previous year’s number of students in average daily attendance; and

“CADA” is the district’s current year’s number of students in average daily attendance as determined under Section 16.102 of this code.

(e) If the district’s index value per student in average daily attendance as determined under Section 16.252(b) of this code is more than \$150,000 for each student in average daily attendance, the state aid provided in this section shall be determined by multiplying the following fraction to the otherwise computed amount:

$$\frac{1 - (\text{District's index value per ADA} - \$150,000)}{\$100,000}$$

(f) Repealed by Acts 1981, 67th Leg., p. 2541, ch. 675, § 11, eff. Sept. 1, 1981.

[Added by Acts 1979, 66th Leg., p. 1313, ch. 602, § 10, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 2541, ch. 675, § 11, eff. Sept. 1, 1981.]

[Sections 16.107 to 16.150 reserved for expansion]

#### SUBCHAPTER D. CURRENT OPERATING COST COMPONENT

##### § 16.151. Operating Cost Allotment

Each school district shall be allotted an operating cost allotment of \$139, or a greater amount provided by the General Appropriations Act, for each student in average daily attendance.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 23, ch. 1, § 8, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1311, ch. 602, § 8, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2538, ch. 675, § 1, eff. Sept. 1, 1981.]

Section 12 of the 1981 amendatory act provided that it took effect beginning with the 1981–1982 school year which, under the provisions of § 21.001, began on September 1, 1981.

##### § 16.152. Use of Operating Allotment

A school district may use its operating cost allotment for current operating expenses other than professional salaries.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

16.161. Repealed by Acts 1981, 67th Leg., p. 2338, ch. 572, art. V, § 1, eff. Sept. 1, 1981

The repealed section, added by Acts 1975, 64th Leg., p. 2399, ch. 734, § 25, expanded the definitions of “exceptional children” and “special services” to be responsive to the special needs of blind and deaf children.

Early childhood intervention programs, reimbursement of parents previously receiving free services under this section, see § 11.092(f).

[Sections 16.153 to 16.175 reserved for expansion]

#### SUBCHAPTER E. CATEGORICAL PROGRAM AID COMPONENT

##### § 16.176. Support for Educationally Disadvantaged Pupils

(a) In this section “educationally disadvantaged pupils” are pupils who are eligible for the free and reduced lunch program under the provisions of the national school lunch program. The commissioner of education with the approval of the State Board of Education shall review the standards established for educationally disadvantaged pupils and adjust the standards if they perpetuate inequities or become obsolete.

(b) Each school district which is eligible and which also receives aid under the national school lunch program is eligible to receive an allotment of \$44, or a greater amount provided by the General Appropriations Act, for each educationally disadvantaged pupil enrolled in its public schools. For purposes of the allocation made pursuant to this section, the number of educationally disadvantaged pupils in each district shall be determined by averaging the best six months’ enrollment in the free and reduced lunch program for the school year preceding the biennium in which the allocation is made.

(c) Beginning with the 1979–1980 school year, and each year thereafter the Central Education Agency shall adopt and administer appropriate criterion referenced assessment instruments designed to assess minimum basic skills competencies in reading, writing, and mathematics for all pupils at the fifth grade level and shall also adopt and administer to all ninth grade pupils secondary exit level assessment instruments designed to assess minimum mathematics and English language arts competencies which it deems appropriate for a high school graduate. All ninth grade students who fail to demonstrate mastery of minimum exit level competencies shall be given the opportunity to retake the assessment instrument each year the assessment instrument is administered. Beginning with the 1980–1981 school year and each year thereafter, the Central Education Agency shall adopt and administer appropriate criterion referenced assessment instruments designed to assess basic skills competencies among all students at the third grade level. In addition to the assessment instruments adopted and administered by the Central Education Agency, a local school district may adopt and administer criterion and/or norm referenced assessment instruments at any grade level. Any student who has a physical or mental impairment or a learning disability that prevents the student from mastering the competencies which the assessment instruments are designed to measure

may be exempted from the requirements of this section.

(d) In adopting assessment instruments pursuant to this section, the Central Education Agency and/or a local school district shall insure the security of the instruments in their preparation, administration, and grading. Meetings or portions of meetings held by the Central Education Agency and/or a local school district at which individual assessment instruments or assessment instrument items are discussed or adopted are not open to the public under Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the assessment instruments and items are confidential.

(e) The results of individual student performance on assessment instruments administered pursuant to this section are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by campus and district and made available to the public, with appropriate interpretations, at regularly scheduled meetings of the governing board of each school district. The information may not contain the names of individual students or teachers. The commissioner of education shall compile all of the data and report it to the legislature, lieutenant governor, and governor no later than January 1 of each odd-numbered year.

(f) Each school district shall utilize the student performance data resulting from the assessment instruments administered pursuant to this section to design and implement appropriate compensatory instructional services for students in the district's schools and shall submit an annual report to the commissioner of education which describes how state compensatory funds received pursuant to this section have been used to provide for those services.

(g) The legislature in each General Appropriations Act shall set a limit on the amount of funds that may be expended under this section each year. If the total amount of compensatory education aid required by this section exceeds the limit set by the legislature, each district's allotment shall be reduced proportionately until the amount of aid allocated equals that limit.

(h) If the cost of preparing, administering, or grading the assessment instruments is paid from the compensatory aid provided by this section, each district shall bear the cost on the basis of the number of students in the district to whom the instruments are administered. If a district does not receive an allocation of compensatory aid, the commissioner of education shall subtract the cost from the district's foundation school fund allocation.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1655, ch. 651, § 1, eff.

June 15, 1977; Acts 1979, 66th Leg., p. 1311, ch. 602, § 9, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2538, ch. 675, § 2, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2608, ch. 696, § 1, eff. Sept. 1, 1981.]

Section 12 of Acts 1981, 67th Leg., p. 2541, ch. 675, and § 2 of Acts 1981, 67th Leg., p. 2608, ch. 696, each provided that its respective Act was effective beginning with the 1981-1982 school year which, under the provisions of § 21.001, began on September 1, 1981.

**§ 16.177. Driver Education**

(a) The Central Education Agency shall develop a program of organized instruction in driver education and traffic safety for public school students who are 15 years of age or older.

(b) With the approval of the State Board of Education, the commissioner of education shall establish standards for the certification of professional and paraprofessional personnel who conduct the programs in the public schools.

(c) Beginning with the 1975-1976 school year, a school district is eligible to receive annually funds to finance a driver education program in an amount not to exceed \$25 multiplied by 20 percent of its high school enrollment in grades 10-12, but in no instance shall the allotment made to the district exceed \$25 multiplied by the number of students actually enrolled in driver education during the school year for which the funds were provided.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

**§ 16.178. Repealed by Acts 1981, 67th Leg., p. 73, ch. 33, § 2, eff. April 15, 1981**

The repealed section, added by Acts 1979, 66th Leg., p. 1314, ch. 602, § 11, related to support for demonstration programs for the gifted and talented.

[Sections 16.179 to 16.200 reserved for expansion]

**SUBCHAPTER F. TRANSPORTATION COMPONENT**

**§ 16.201. Transportation Services**

Transportation services shall be provided and allotments therefor shall be determined according to the provisions of this subchapter.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

**§ 16.202. Public School Transportation System**

(a) The county school boards, where funded under law, or local district school boards, subject to approval by the state commissioner of education, are authorized to establish and operate an economical public school transportation system within their respective counties or school districts.

(b) In establishing and operating such transportation systems, the county or local district school boards shall:

- (1) requisition buses and supplies from the state board of control as provided for in this subchapter;
- (2) prior to June 1 of each year, with the commissioner's approval, establish school bus routes in

their respective counties or districts for the succeeding school year;

(3) employ school bus drivers certified in accordance with standards and qualifications promulgated jointly by the Central Education Agency and the Texas Department of Public Safety as required by law; and

(4) be responsible for the maintenance and operation of school buses.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1314, ch. 602, § 12, eff. Aug. 27, 1979.]

### § 16.203. County and District Transportation Funds

State warrants for transportation, payable to the county or district school transportation fund, shall be for the total amount of transportation funds for which the county or district is eligible under the provisions of this subchapter.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1314, ch. 602, § 12, eff. Aug. 27, 1979.]

### § 16.204. Use of Buses for Extracurricular Activities, etc.

(a) The county or district school boards and the state commissioner of education shall promulgate regulations in regard to the use of school buses, for other than transporting eligible children to and from school. Under rules and regulations of the State Board of Education, the appropriate allocation in the county transportation fund, when approved by the county school board, or the district transportation fund, when approved by the board of trustees of the independent school district operating its own transportation system, may be used for school bus transportation of its pupils and necessary personnel on extracurricular activities and field trips sponsored by the respective district.

(b) Subject to the rules of the commissioner of education, a school district or county school board governing a countywide transportation system may contract with nonschool organizations for the use of school buses. The district may provide services relating to the maintenance and operation of the buses in accordance with the terms of the contract.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1884, ch. 750, § 1, eff. June 16, 1977; Acts 1977, 65th Leg., p. 2191, ch. 864, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 773, ch. 339, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1314, ch. 602, § 12, eff. Aug. 27, 1979.]

### § 16.205. Approved School Bus Routes

School buses shall be operated to and from school on approved school bus routes and no variations shall be made therefrom. The penalty for varying from authorized routes and for unauthorized use of buses shall be the withholding of transportation funds from the offending county or school district. In the

event the violation is committed by a district which receives no Foundation School Program funds, the penalty provisions of Section 4.02 of this code shall be applied.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

### § 16.206. Calculation of Allotment

(a) The total annual regular transportation cost allotment for each district or county shall be based on the rules and formulas of this section.

(b) As used in this section:

(1) "Regular eligible pupil" means a pupil who resides two or more miles from his or her campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as an eligible handicapped pupil.

(2) "Eligible handicapped pupil" means a pupil who is handicapped as defined in Section 16.104 of this code and who would be unable to attend classes without special transportation services.

(3) "Linear density" means the average number of regular eligible pupils transported daily, divided by the approved daily route miles traveled by the respective transportation system.

(c) For the 1979-1980 and 1980-1981 school years, allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus route shall be:

Linear Density Grouping	Allocation per mile of approved route
2.40 and above	\$ .94
1.65 to 2.40	.75
1.15 to 1.65	.68
.90 to 1.15	.59
.65 to .90	.52
.40 to .65	.48
up to .40	.44

Density grouping shall be based on the 1977-78 data compiled by the commissioner of education pursuant to Section 10, Chapter 1, Acts of the 65th Legislature, 1st Called Session, 1977.

(d) For the 1981-82 school year and thereafter, the commissioner of education shall determine the daily cost per regular eligible pupil of operating and maintaining the regular transportation system based on the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district. The average actual cost is to be computed by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act.

(e) A district may apply for and on approval of the commissioner of education receive an additional amount of up to 10 percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they

attend who would be subject to hazardous traffic conditions if they walked to school. Each board of trustees shall provide to the commissioner the definition of hazardous conditions applicable to that district and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

(f) The state commissioner of education may grant an amount not exceeding \$600 per pupil per year in 1979-1980 and 1980-1981 for private or commercial transportation for eligible pupils from isolated areas. The per pupil per year allowable for the 1981-1982 school year and thereafter shall be determined by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. The grants shall be made only in extreme hardship cases, and no grants shall be made if the pupils live within two miles of an approved school bus route.

(g) The cost of transporting vocational education students from one campus to another inside a district or from a sending district to another secondary public school for a vocational program or an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the Central Education Agency.

(h) A school district that provides special transportation services for eligible handicapped pupils is entitled to a state allocation. Allocations for handicapped transportation in district- or county-operated school buses shall be paid on a previous year's cost-per-mile basis. For the 1979-1980 and 1980-1981 school years, the maximum allowable per mile cost will be 80 cents. For the 1981-1982 and 1982-1983 school years and thereafter, the maximum rate per mile allowable shall be recalculated based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary. The commissioner of education may grant an amount not to exceed 18 cents per mile or a maximum of \$600 per pupil per year for private transportation to reimburse parents or their agents for transporting eligible handicapped pupils. For the 1981-1982 and 1982-1983 school years and thereafter, the rate per mile and the maximum allowable per pupil will be determined by the commissioner of education for consideration by the Foundation School Program Committee and the legislature in the General Appro-

priations Act. The mileage allowed shall be computed along the shortest public road from the pupil's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

(i) The allocation for eligible regular students transported by the regular transportation system shall be increased by five percent for any district or county school board which has complied with the provisions of Section 21.173 of this code in accordance with rules adopted by the State Board of Education.

(j) The total allocation for a district or county transportation unit for the 1979-1980 or 1980-1981 school year shall not be less than the total allocation received for the 1978-1979 school year based on an equal number of state-approved bus routes. If the district or county has deleted routes, the minimum allocation shall be proportionately reduced.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 23, ch. 1, § 9, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1314, ch. 602, § 12, eff. Aug. 27, 1979.]

**§ 16.207. Routes and Systems: Evaluation and Approval**

(a) All bus routes and transportation systems shall be reviewed by the state commissioner of education and he shall be responsible for establishing criteria for evaluating the several transportation systems of this state, but all the criteria shall be subject to approval by the State Board of Education.

(b) The commissioner shall evaluate all transportation systems as rapidly as possible.

(c) No new bus routes or extensions shall be approved prior to the survey of the transportation system of the district or county requesting them.

(d) In approving a transportation system for a district or county, consideration shall be given to providing transportation for only those pupils who reside in hazardous areas or live two or more miles from the school they attend except handicapped pupils. No consideration shall be given to providing transportation for pupils transferred from one district to another when their grades are taught in their home district unless transferred as provided by law and transportation has been approved as provided by law.

(e) There shall be no duplication of bus routes and services within sending districts by buses operated by two school districts and/or counties except on approval by the state commissioner of education.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 48, ch. 1, § 35, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1314, ch. 602, § 12, eff. Aug. 27, 1979.]

### § 16.208. Use of Transportation Funds for Other Purposes

No funds paid to the several transportation units for the operation of transportation systems in this state shall be expended for any other purpose. [Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

### § 16.209. Rules of Commissioner

The commissioner of education shall formulate rules and regulations, subject to approval by the State Board of Education for enforcing the provisions of this subchapter.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

### § 16.210. Appeals

Appeals to the commissioner of education and to the State Board of Education may be had from policy decisions of the school boards affecting transportation.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1314, ch. 602, § 12, eff. Aug. 27, 1979.]

### § 16.211. Purchase of Vehicles

(a) Motor vehicles used for the purpose of transporting school children, including school buses, their chassis and/or bodies purchased through the state board of control, shall be paid for by the state board of control as set out in applicable laws. The legislature may appropriate out of any money in the state treasury not otherwise appropriated a sum not exceeding \$250,000, or as much thereof as necessary, for the state board of control to be used for such purposes.

(b) Any sum appropriated shall be known as the school bus revolving fund. When motor vehicles and school buses are delivered to the various schools coming within the provisions of this chapter, the governing bodies of those schools shall reimburse the state board of control for the money expended for such school buses including their chassis and/or bodies and the money shall be deposited by the state board of control in the school bus revolving fund. [Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

### § 16.212. Contract With Public Transportation Company

(a) As an alternative to maintaining and operating a complete public school transportation system under this subchapter, a county or district school board may contract with public transportation companies for all or any part of its public school transportation if the board is able to obtain an economically advantageous contract.

(b) A contract is economically advantageous if the cost of the service contracted for is equal to or less than the total cost to the school district for providing its own complete bus service. The total cost to

the school district is the state transportation cost allotment plus the supplementary funds necessarily provided by the local school district to provide complete transportation services.

(c) This section in no way prohibits the local school board from supplementing the state transportation cost allotment with local funds necessary to provide complete transportation services.

(d) The state commissioner of education, subject to the approval of the State Board of Education, shall make rules for the administration of this section.

(e) Contracts for alternative public school transportation may include provisions for transporting students to and from approved school activities.

(f) Upon approval of the contract by the State Board of Education, the portion of the annual transportation allotment which is to be used to finance the contract for alternative transportation services shall be included in the annual transportation cost allotment for the respective county or district.

[Added by Acts 1979, 66th Leg., p. 1314, ch. 602, § 12, eff. Aug. 27, 1979.]

Section 16.63, derived from Acts 1969, 61st Leg., p. 2823, ch. 889, § 1, as amended by Acts 1975, 64th Leg., p. 1862, ch. 583, § 1, contained provisions identical to this section with the exception that in subsec. (a) no reference was made to a district school board.

Former § 16.212, derived from Acts 1975, 64th Leg., p. 877, ch. 334, § 1, and repealed by Acts 1977, 65th Leg., 1st C.S., p. 48, ch. 1, § 35, contained similar provisions.

[Sections 16.213 to 16.250 reserved for expansion]

## SUBCHAPTER G. FINANCING THE PROGRAM

### § 16.251. Financing; General Rule

(a) The sum of the approved minimum salaries for personnel, current operating expenses, categorical program aid, and transportation services for each district, computed in accordance with the provisions of this chapter, constitute the total cost of the Foundation School Program.

(b) The program shall be financed by:

(1) ad valorem tax revenue generated by an equalized local school district effort;

(2) state available school funds distributed in accordance with law; and

(3) state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Foundation School Program not covered by other funds specified in this subsection.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 26, ch. 1, § 12, eff. Sept. 1, 1977.]

### § 16.252. Local Share of Program Cost

(a) Each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount equal to the product of an index rate of .0016, or a different rate provided by the General Appropriations Act, multiplied by the index

value of property determined pursuant to Section 11.86 of this code. The commissioner of education shall utilize the official biennial report of the State Property Tax Board estimates of index value in each school district for determining the local fund assignment.

(b) No district's local fund assignment as determined pursuant to this section shall exceed 120 percent of its prior year's local fund assignment.

(c) The commissioner of education shall adjust the values reported in the official report of the State Property Tax Board to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. The decision of the commissioner of education shall be final. Appeals of district values shall be held pursuant to Subsection (d) of Section 11.86 of this code.

(d) A district need not raise its total local share of its program cost.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 25, ch. 1, § 11, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1318, ch. 602, § 13, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2539, ch. 675, § 3, eff. Sept. 1, 1981.]

Section 33(a) of the 1977 amendatory act provides, in part, that subsec. (d) of this section shall take effect on the passage of the Act (July 22, 1977) and that all other sections of the Act take effect on September 1, 1977.

**§ 16.253. Excess of Local Funds Over Amount Assigned**

Local maintenance funds in excess of the amount assigned to a district may be expended for any lawful school purpose or carried over to the next school year.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

**§ 16.254. Distribution of Foundation School Fund**

(a) The commissioner of education shall determine annually:

- (1) the amount of money necessary to operate a Foundation School Program in each school district;
- (2) the amount of local funds assigned to each school district for the support of the program; and
- (3) the amount of state available school funds distributed to each school district.

(b) The commissioner of education shall then grant to each school district from the Foundation School Program appropriation the amount of funds necessary to provide the difference between Subdivision (1) and the sum of Subdivisions (2) and (3) of Subsection (a) of this section.

(c) The commissioner shall approve warrants to each school district equaling the amount of its grant. Warrants for all money expended according to the provisions of this chapter shall be approved and transmitted to treasurers or depositories of school districts in the same manner as warrants for state apportionment are transmitted.

(d) Notwithstanding Subsection (b) of this section, no school district shall receive less state aid, plus pay raises exclusive of service increments for foundation personnel provided by Section 16.055(b) of this code, per student in average daily attendance that it received per student in average daily attendance under the total of the Foundation School Program for the 1980-1981 school year added to the amount received for that year under Subchapter D, Chapter 20 of this code.<sup>1</sup>

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., 1st C.S., p. 26, ch. 1, § 13, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1325, ch. 602, § 32, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2539, ch. 675, § 4, eff. Sept. 1, 1981.]

<sup>1</sup> Section 20.81 et seq.

**§ 16.255. Falsification of Records; Report**

(a) When, in the opinion of the director of school audits of the Central Education Agency, audits or reviews of accounting, enrollment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of this chapter, whereby the district's share of state funds allocated under the authority of this chapter would be, or has been, illegally increased, the director shall promptly and fully report the fact to the State Board of Education and the state auditor.

(b) In the event of overallocation of state funds, as determined by the State Board of Education or the state auditor by reference to the director's report, the Central Education Agency shall, by withholding from subsequent allocations of state funds, recover from the district an amount, or amounts, equal to the overallocation.

[Amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, eff. Sept. 1, 1975.]

**§ 16.256. Repealed by Acts 1977, 65th Leg., 1st C.S., p. 48, ch. 1, § 35, eff. Sept. 1, 1977**

The repealed section, relating to duties of tax assessors, was derived from former § 16.77, as amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1, as § 16.256.

**§ 16.257. Foundation School Fund Budget Committee**

(a) The foundation school fund budget committee is composed of the governor, the lieutenant governor, and the comptroller of public accounts.

(b) On or before November 1 before each regular session of the legislature, the budget committee shall determine and certify to the comptroller of public accounts an amount of money to be placed in the foundation school fund for the succeeding biennium for the purpose of financing the Foundation School Program as described in this code.

(c) The budget committee may, during the biennium, change the estimate of money necessary to finance the Foundation School Program.

[Added by Acts 1981, 67th Leg., p. 2253, ch. 540, § 11, eff. Sept. 1, 1981.]

[Sections 16.258 to 16.300 reserved for expansion]

**SUBCHAPTER H. EQUALIZATION AID FOR PROGRAM ENRICHMENT**

*Subchapter H, formerly consisting of §§ 16.301 to 16.304, was revised by Acts 1979, 66th Leg., p. 1319, ch. 602, § 14, to consist of §§ 16.301 to 16.303.*

**Disposition Table**

*Showing where provisions of former Subchapter H (§§ 16.301 to 16.304) are now covered in §§ 16.301 to 16.303.*

Former Section	New Section
16.301 -----	-----
16.302 -----	16.301
16.303 -----	-----
16.304 -----	16.303

**§ 16.301. Determination of Equalization Aid Entitlement**

The amount of state equalization aid to which a district is entitled is determined by the formula:

$$\frac{DPV}{ADA}$$

$$SEA = 1 - (SPV/ADA \times 1.10) \times ADA \times MAXENT$$

where

“SEA” is the state equalization aid guaranteed to the district;

“DPV/ADA” is the average of the district’s market value and index value of property as determined pursuant to Section 11.86 of this code divided by the number of students in average daily attendance in the district, which for districts not offering a kindergarten through grade 12 program includes the average daily attendance of eligible students transferred to other school districts in grades not taught by the resident district;

“SPV/ADA” is the average of the total statewide market value and index value of property as determined pursuant to Section 11.86 of this code divided by the total number of students in average daily attendance in the state;

“MAXENT” is the maximum entitlement per ADA, which is \$290 or a greater amount provided by the General Appropriations Act;

“ADA” is the number of students in average daily attendance in the district.

[Amended by Acts 1979, 66th Leg., p. 1319, ch. 602, § 14, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2539, ch. 675, § 5, eff. Sept. 1, 1981.]

**§ 16.302. Districts in Major Disaster Areas**

If a school district is within an area that has been declared a major disaster area by the governor and has suffered a property value loss equivalent to 12½ percent or more of its prior year valuations for tax purposes, the school district shall be eligible under rules and regulations of the commissioner of education for the maximum entitlement provided by this section for the two subsequent school years.

[Amended by Acts 1979, 66th Leg., p. 1319, ch. 602, § 14, eff. Aug. 27, 1979.]

**§ 16.303. Payment of State Aid**

(a) The state’s equalization aid for program enrichment shall be paid from the Foundation School Fund pursuant to regulations of the State Board of Education.

(b) The legislature in each General Appropriations Act shall set a limit on the amount of funds that may be expended under this subchapter each year. If the amount of state aid required by this subchapter exceeds the limit set by the legislature, the amount of state equalization aid guaranteed to each district shall be reduced proportionately until the total amount of funds required equals that limit. [Amended by Acts 1979, 66th Leg., p. 1319, ch. 602, § 14, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2540, ch. 675, § 6, eff. Sept. 1, 1981.]

**SUBCHAPTER I. SCHOOL-COMMUNITY GUIDANCE CENTERS**

**§ 16.401. Establishment**

(a) Each school district with an average daily attendance of at least 6,000 students may establish a school-community guidance center designed to locate and assist children with problems which interfere with their education, including but not limited to juvenile offenders and children with severe behavioral problems or character disorders. The centers shall coordinate the efforts of school district personnel, local police departments, truant officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors which adversely affect the education of the children.

(b) With the approval of the commissioner of education, school districts with an average daily attendance of less than 6,000 students may cooperate with other districts for the purpose of establishing a common center.

[Added by Acts 1977, 65th Leg., p. 1858, ch. 736, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2224, ch. 524, § 1, eff. Sept. 1, 1981.]

**§ 16.402. Cooperative Programs**

The board of trustees of a school district may develop cooperative programs with state youth agencies for children found guilty of delinquent conduct.

[Added by Acts 1977, 65th Leg., p. 1858, ch. 736, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2224, ch. 524, § 1, eff. Sept. 1, 1981.]

**§ 16.403. Guidance Center Personnel Allotments**

(a) Each school-community guidance center is eligible for two guidance center teachers, one attendance consultant, and one teacher aide. Each center is also eligible for one additional guidance center teacher for each 6,000 students in average daily attendance above 6,000 students in the district or cooperating districts. One additional attendance consultant and one additional teacher aide shall be provided for every two additional guidance center teachers.

(b) The commissioner shall determine the qualifications and applicable pay grade under the Texas State Public Education Compensation Plan<sup>1</sup> for the guidance center teachers, attendance consultants, and teacher aides employed at a center.

(c) The local boards of trustees may enter into contracts with other agencies for funding of personnel involved in cooperative programs.

[Added by Acts 1977, 65th Leg., p. 1858, ch. 736, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2224, ch. 524, § 1, eff. Sept. 1, 1981.]

<sup>1</sup> See § 16.056.

**§ 16.404. Operating Costs**

(a) The cost of operating an approved school-community guidance center shall be borne by the state and each participating district on the same percentage basis that applies to financing the Foundation School Program within the district. The state's share of the cost shall be paid from funds appropriated for that purpose. While in attendance at a school-community guidance center, a student may not be counted in the average daily attendance of the school district for other Foundation School Program purposes.

(b) Should the appropriation in any biennium be insufficient to fully fund the Act, the State Board of Education shall establish criteria in addition to those provided herein for selecting districts to be funded on a need basis. The commissioner shall use these criteria to determine annually the districts to be authorized to receive funds for operating school-community guidance centers.

[Added by Acts 1977, 65th Leg., p. 1859, ch. 736, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2224, ch. 524, § 1, eff. Sept. 1, 1981.]

**§ 16.405. Cooperation of Governmental Agencies**

Each governmental agency concerned with children in the school district shall cooperate with the school-community guidance centers on the request of the superintendent of schools and shall designate liaison persons to work with the centers in identifying and correcting problems affecting school-age children in the district.

[Added by Acts 1977, 65th Leg., p. 1859, ch. 736, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2224, ch. 524, § 1, eff. Sept. 1, 1981.]

**§ 16.406. Deleted by Acts 1981, 67th Leg., p. 2224, ch. 524, § 1, eff. Aug. 31, 1981**

The deleted section, relating to a termination date, was added by Acts 1977, 65th Leg., p. 1858, ch. 736, § 1.

Section 3 of the 1981 Act provided that it was to take effect with the 1981-1982 school year (which, under § 21.001, was September 1, 1981) except that to the extent it affected this section it was to take effect immediately. Due to failure to take record vote of yeas and nays, however, as required by Const. Art. 3, § 39, the Act's effect on this section did not take effect until the general 90-day effective date, August 31, 1981.

**SUBCHAPTER J. EDUCATIONAL PROGRAMS FOR GIFTED AND TALENTED STUDENTS**

**§ 16.501. Exemplary Programs**

(a) As used in this section, "gifted and talented student" means a student who, by virtue of outstanding mental abilities, is capable of high performance. The student may demonstrate, singly or in combination, above-average achievement or potential in such areas as general intellectual ability, specific subject matter aptitude, ability in creative and productive thinking, and leadership ability. The phrase does not include students who demonstrate above-average achievement or potential in areas relating to physical abilities.

(b) The Central Education Agency shall establish exemplary programs for gifted and talented students in various regions of the state. The exemplary programs shall reflect different approaches and alternatives suitable to the needs of the gifted and talented and commensurate with their learning abilities and special talents. The exemplary programs shall be representative of different types of districts in various parts of the state in terms of size, composition, geographical influences, and shall be proportionate to the number of gifted and talented students and districts to benefit by their establishment.

(c) Students shall be identified as gifted and talented for the exemplary programs through the use of criteria established by the commissioner of education.

(d) A school district or a combination of school districts electing to establish an exemplary program for gifted and talented students shall submit an application to the Central Education Agency based on guidelines established by the commissioner of education. To be eligible for funding consideration, an educational program for gifted and talented students shall be planned and conducted for no less than a full school year.

(e) The Central Education Agency shall develop and periodically update a state plan for the education of the gifted and talented to guide local education agencies in establishing and improving programs for students identified as gifted and talented. The Central Education Agency shall assist local education agencies in the development of planned programs which are appropriately designed to meet the special needs of gifted and talented students.

[Added by Acts 1979, 66th Leg., p. 1161, ch. 562, § 1, eff. Aug. 27, 1979.]

**§ 16.502. Funding**

(a) The funds for the exemplary programs for gifted and talented students shall be administered by the Central Education Agency. If the total amount of aid requested by applying eligible districts for exemplary programs for gifted and talented students exceeds the amount appropriated for the programs, the Central Education Agency shall select programs to be funded based on the criteria in

Subsection (b) of Section 16.501 and the guidelines established by the commissioner of education pursuant to Subsection (d) of Section 16.501. The state's share of the cost shall be paid from the foundation school fund and shall be considered by the foundation school fund budget committee in estimating the funds needed for foundation school program purposes.

(b) Applying eligible districts shall receive an allotment of \$150 per pupil identified and served by the district in an exemplary program. A district or combination of districts must identify a minimum of 20 students to be eligible for an allotment. For the purposes of receiving funds under this section, no district may count as pupils served more than five percent of its total average daily attendance and no district shall receive in excess of \$100,000.

(c) Up to 10 percent of the funds allocated for the establishment of the exemplary programs may be reserved by the commissioner of education for program administration in coordination with the regional education service centers for program planning, technical assistance, and statewide staff development.

[Added by Acts 1979, 66th Leg., p. 1161, ch. 562, § 1, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 73, ch. 33, § 1, eff. April 15, 1981.]

#### SUBCHAPTER K. SCHOOL FINANCE STUDIES

*For another Subchapter K, Summer School Pilot Program, see Subchapter K, post*

##### § 16.503. Contents; Recommendations to Legislative Budget Board

By July 1, 1982, the Central Education Agency shall have conducted a study of school finance and shall reflect the results of the study in the agency's recommendations to the Legislative Budget Board regarding state appropriations for the 1983-1984 and 1984-1985 school years. The study shall include but not be limited to local property tax burden variance in purchasing power of the dollar in different types of school districts as compared to state average. The study shall also consider the development of alternative finance formulas and/or formula adjustments for use by the Legislative Budget Board and the legislature.

[Added by Acts 1981, 67th Leg., p. 2541, ch. 675, § 10, eff. Sept. 1, 1981.]

#### SUBCHAPTER K. SUMMER SCHOOL PILOT PROGRAM

*For another Subchapter K, School Finance Studies, see Subchapter K, ante*

*Text of Subchapter K effective until September 1, 1985*

##### § 16.521. Pilot Programs

(a) With the approval of the commissioner of education, a school district may establish a summer school pilot program to provide instruction beyond the number of days required by this chapter for:

(1) elementary and secondary students who do not accomplish designated minimum grade level objectives;

(2) secondary students who do not accomplish designated minimum objectives in a required course during the regular school term; and

(3) elementary and secondary students who are identified as having limited English proficiency.

(b) The Central Education Agency shall develop a state plan for the establishment and operation of the summer school pilot programs. In order to be approved for state funding, a school district's program must be consistent with the state plan as determined by the commissioner of education. The agency shall assist districts in the development of programs.

(c) Two or more school districts may apply for approval of a cooperative pilot program.

(d) No district may establish such a summer school pilot program in a manner which would supplant the offering of similar remedial programs during the regular school term, nor may any district offering such a summer school pilot program require a student to participate in the program.

[Added by Acts 1981, 67th Leg., p. 2383, ch. 594, § 1, eff. June 15, 1981.]

##### § 16.522. Operating Costs

The cost of operating an approved pilot program shall be borne by the state and each participating district. The state's share of the cost shall be paid from the foundation school fund and shall be allocated by the commissioner of education, taking into consideration each district's available funds and program. The commissioner is not required to make equal or proportional allocations to each district. To the extent available, each district shall allocate applicable federal or state compensatory funds to the support of the program.

[Added by Acts 1981, 67th Leg., p. 2383, ch. 594, § 1, eff. June 15, 1981.]

##### § 16.523. Cost Limitation

For each school year, the total cost to the state under this subchapter may not exceed \$5 million.

[Added by Acts 1981, 67th Leg., p. 2383, ch. 594, § 1, eff. June 15, 1981.]

##### § 16.524. Termination

(a) The commissioner of education shall cause the pilot programs to be evaluated and shall report the evaluations to the State Board of Education. The state board shall report its findings and recommendations to the governor and the 69th Legislature. The state board shall make recommendations as to

whether the programs should be implemented on a statewide basis.

(b) The pilot program is abolished and this subchapter expires effective September 1, 1985.

[Added by Acts 1981, 67th Leg., p. 2384, ch. 594, § 1, eff. June 15, 1981.]

**CHAPTER 17. COUNTY ADMINISTRATION**

**SUBCHAPTER G. TERMINATING STATE FISCAL SUPPORT FOR COUNTY SCHOOL ADMINISTRATION**

Section

- 17.94. Termination of State Fiscal Support.
- 17.95. Abolition of Certain County School Administrative Offices.
- 17.96. Transfer of Certain Powers and Duties.
- 17.97. Transfer of Records and Funds.
- 17.98. Composition, Powers, and Duties of County Administrations Established by Contract Among School Districts.
- 17.99. Reclassification of Certain School Districts.

**SUBCHAPTER B. POWERS AND DUTIES**

§§ 17.24 to 17.30. Repealed by Acts 1979, 66th Leg., p. 1796, ch. 729, § 9, eff. June 13, 1979

**SUBCHAPTER C. COUNTY SUPERINTENDENT**

§ 17.41. Repealed by Acts 1979, 66th Leg., p. 1796, ch. 729, § 9, eff. June 13, 1979

§ 17.43. Repealed by Acts 1979, 66th Leg., p. 1796, ch. 729, § 9, eff. June 13, 1979

§§ 17.51 to 17.54. Repealed by Acts 1979, 66th Leg., p. 1796, ch. 729, § 9, eff. June 13, 1979

§§ 17.56 to 17.60. Repealed by Acts 1979, 66th Leg., p. 1796, ch. 729, § 9, eff. June 13, 1979

§ 17.63. Repealed by Acts 1979, 66th Leg., p. 1796, ch. 729, § 9, eff. June 13, 1979

**§ 17.64. Abolition of Office**

(a) Upon a petition of 10 percent of the qualified voters who cast a vote in the governor's race at the preceding general election in counties of less than 100,000 population according to the last federal census; or upon a petition of 20 percent of the qualified voters who cast a vote in the governor's race at the preceding general election in counties of 100,000 or more population according to the last federal census, the county judge shall within 90 days of the receipt of such petition call an election to determine by majority vote whether the office of county superintendent (or ex officio county superintendent and the county school board in counties having an ex officio county superintendent) shall be abolished. At such an election all ballots shall have printed to provide for voting for or against the proposition:

"The abolishment of the office of county superintendent" or

"the abolishment of the office of an ex officio county superintendent and the county school board" (as the case may be).

[See Compact Edition, Volume 1 for text of (b) to (e)]

(f) If the county school superintendent of a county which contains one or more common school districts fails to qualify for office after having been duly elected or, having qualified, resigns or dies during his term of office, the county board of school trustees and the commissioners court by joint resolution may either fill the vacancy created or may declare the office to be abolished. If the office is abolished pursuant to this subsection, the county judge shall serve as ex officio county superintendent and shall receive a salary not exceeding \$2,600 per year. The county board of school trustees may employ an assistant county superintendent and other staff to assist the county judge, but the total cost for salaries for the assistant and staff may not exceed \$15,000 per year from state funds. The board may provide for office expenses not exceeding \$1,080 per year. The commissioners court may supplement the salaries authorized in this subsection with county funds.

[Amended by Acts 1975, 64th Leg., p. 1342, ch. 501, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1354, ch. 511, § 1, eff. June 19, 1975.]

**SUBCHAPTER E. COUNTY SCHOOL LANDS**

§ 17.84. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**SUBCHAPTER F. SOCIAL SECURITY FOR EMPLOYEES**

**§ 17.91. Authority of Governing Board**

The county school trustees or county board of education, as the case may be, of each county in this state may enter into all necessary agreements with the Employees Retirement System of Texas to provide for coverage under the Old Age and Survivors Insurance provisions of the Federal Social Security Act<sup>1</sup> of all persons who qualify under applicable federal regulations and whose salaries, wages or other compensation are paid from the county administration fund, the county transportation fund, or any other fund or funds administered by such governing board. With reference to these agreements, the county governing board shall have the same authority as that of counties, municipalities, and other political subdivisions with respect to participation of employees in the Federal Old Age and Survivors Insurance program.

[Amended by Acts 1975, 64th Leg., p. 966, ch. 366, § 1(c), eff. Sept. 1, 1975.]

<sup>1</sup> 42 U.S.C.A. § 401 et seq.

SUBCHAPTER G. TERMINATING STATE FISCAL  
SUPPORT FOR COUNTY SCHOOL  
ADMINISTRATION

**§ 17.94. Termination of State Fiscal Support**

After December 31, 1978, no state funds shall be used to support the offices of county school superintendent or ex officio county school superintendent or a board of county school trustees or a county school board in counties with no common school districts or rural high school districts but the offices and boards may be supported by ad valorem tax revenue generated in accordance with the provisions of Chapter 18 of this code,<sup>1</sup> or by funds provided by the school districts in accordance with the provisions of a voluntary contract as provided in Section 17.98 of this Chapter.

[Added by Acts 1975, 64th Leg., p. 1275, ch. 478, § 1, eff. June 19, 1975. Amended by Acts 1978, 65th Leg., 2nd C.S., p. 13, ch. 7, § 1, eff. Aug. 14, 1978.]

<sup>1</sup> Section 18.01 et seq.

**§ 17.95. Abolition of Certain County School Administrative Offices**

(a) On December 31, 1978, all offices of county school superintendent and ex officio county school superintendent and all county boards of school trustees and county school boards in counties with no common school districts or rural high school districts which are not supported by ad valorem tax revenue generated under the provisions of Chapter 18 of this code<sup>1</sup> or by voluntary local contract in accordance with Section 17.98 are abolished.

(b) After December 31, 1978, if at any time all school districts within a county become independent, the office of county school superintendent or ex officio county school superintendent, and the county board of school trustees or the county school board, shall be automatically abolished as of the date the last common or rural high school district becomes independent.

[Added by Acts 1975, 64th Leg., p. 1275, ch. 478, § 1, eff. June 19, 1975. Amended by Acts 1978, 65th Leg., 2nd C.S., p. 13, ch. 7, § 2, eff. Aug. 14, 1978; Acts 1979, 66th Leg., p. 1795, ch. 729, § 1, eff. June 13, 1979.]

<sup>1</sup> Section 18.01 et seq.

**§ 17.96. Transfer of Certain Powers and Duties**

(a) The powers and duties of abolished offices of county school superintendent and ex officio county superintendents and of abolished county boards of school trustees and county school boards vest in the officials designated in the following subsections of this section, and the officials are not entitled to additional compensation for performing the duties.

(b) The powers and duties of an abolished office of county school superintendent or ex officio county school superintendent relating to the approval of or recommendations concerning the operation of a school district in the county vest in the governing board of the district.

(c) The powers and duties of an abolished office of county school superintendent or ex officio county school superintendent relating to cooperative agreements between districts for the employment of special service teachers, counselors, supervisors, or other personnel vest in the governing board of the regional education service center embracing the county.

(d) The authority to annually prorate the available county school fund, if any, among the several districts in the county vests in the county judge, and he shall certify to the Central Education Agency the amount prorated to each district.

(e) The powers and duties of abolished offices of county school trustees or county school boards concerning annexation of school districts, detachment of territory from school districts, or alteration of school district boundaries vest in the commissioners court of the county.

(f) The powers and duties of abolished offices of county school trustees or county school boards relating to the administration or operation of schools in the county vest in the governing boards of the districts concerned.

(g) All powers and duties of the abolished offices and boards not otherwise vested by this section vest in the county judge.

(h) In a county in which the county board of school trustees and the office of county school superintendent have been abolished, the appeal of a decision of a local school board required by law to be heard by the county school superintendent or the county board of school trustees shall be heard by the commissioner of education in the manner provided by Section 11.13 of this code.

[Added by Acts 1975, 64th Leg., p. 1275, ch. 478, § 1, eff. June 19, 1975. Amended by Acts 1979, 66th Leg., p. 1796, ch. 729, § 2, eff. June 13, 1979.]

**§ 17.97. Transfer of Records and Funds**

(a) In all counties in which the county school administrative offices are abolished pursuant to Section 17.95 of this subchapter, all unused county administration budget funds remaining at the time the offices are abolished shall revert back to their source.

(b) All records of school districts maintained by county administrative offices that are abolished pursuant to Section 17.95 of this subchapter shall be transferred to the respective school districts concerned except for original financial records, which shall be retained by the county treasurer and made available for examination or for reproduction at district expense where needed.

[Added by Acts 1975, 64th Leg., p. 1275, ch. 478, § 1, eff. June 19, 1975.]

**§ 17.98. Composition, Powers, and Duties of County Administrations Established by Contract Among School Districts**

Funding for the offices of county school superintendent or ex officio county school superintendent or a board of county school trustees or a county school board may be provided by a voluntary contract among the independent school districts of a county, with such powers and duties as such contract shall provide.

[Added by Acts 1975, 64th Leg., p. 1275, ch. 478, § 1, eff. June 19, 1975.]

**§ 17.99. Reclassification of Certain School Districts**

On September 1, 1978, all common school districts and rural high school districts located in counties that do not support county school administration from ad valorem tax revenue generated pursuant to the provisions of Chapter 18 of this code shall be reclassified as independent school districts by the Central Education Agency, unless requested not to do so by resolution duly adopted by the board of trustees of such district, and thereafter the districts shall be governed by the provisions of law applicable to independent school districts. Members of the governing boards of a common school district reclassified as an independent school district shall continue to serve as trustees of the district until their respective terms of office expire. Each district shall continue to be governed by the same number of trustees elected for the same terms of office in effect immediately preceding the district's reclassification.

[Added by Acts 1975, 64th Leg., p. 1275, ch. 478, § 1, eff. June 19, 1975. Amended by Acts 1978, 65th Leg., 2nd C.S., p. 14, ch. 7, § 3, eff. Aug. 14, 1978; Acts 1979, 66th Leg., p. 5, ch. 5, § 1, eff. Feb. 22, 1979.]

**CHAPTER 18. COUNTYWIDE EQUALIZATION FUND OR COUNTY UNIT SYSTEM OF EQUALIZATION TAXATION**

**§ 18.13. Assessment and Collection of Tax**

(a) The county equalization tax shall be imposed on all taxable property in the county.

(b) The county tax assessor and collector shall assess and collect the county equalization tax.

(c) The tax collector shall, upon the authorization of the county governing board as provided in Section 18.14 of this code, place to the credit of the common school districts in the county such money as is apportioned to them, the funds to be protected as provided by existing depository laws.

(d) The tax collector shall honor all warrants issued by the county governing board in allocating money from the county equalization fund to independent school districts within the county, and the funds so received by the independent school districts shall be protected in accordance with existing depository laws.

[Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(k), eff. Jan. 1, 1982.]

**§ 18.25. Meeting to Determine Tax Required**

If the vote be in favor of such tax, the County School Trustees of such county shall as soon thereafter as practicable hold a meeting for the purpose of determining the amount of money required for equalization purposes, and for the payment of administration expense in such counties, and they shall thereupon make their order setting forth the estimated amount of money required for such purposes, and the rate of tax to be levied to raise such sums, and shall certify the same to the Commissioners' Court; and the Commissioners' Court shall levy the rate so certified to them by the said County School Trustees, not to exceed the rate fixed by this chapter, and cause such tax to be assessed and collected.

[Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(k), eff. Jan. 1, 1982.]

**§ 18.27. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**CHAPTER 19. CREATION, CONSOLIDATION, AND ABOLITION OF SCHOOL DISTRICTS**

**SUBCHAPTER H. CONSOLIDATION OF SCHOOL DISTRICTS**

Section

19.246. Dormant School Districts.

19.247. Territory Not in School District.

**SUBCHAPTER B. CREATION OF COUNTY-WIDE COMMON SCHOOL DISTRICTS**

**§ 19.068. Trustees; Powers, Etc.**

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) The boards of trustees shall have all rights and powers of taxation as provided for independent school districts, including assessing property for taxation, fixing tax rates, and issuing bonds.

[Amended by Acts 1979, 66th Leg., p. 2320, ch. 841, § 4(l), eff. Jan. 1, 1982.]

**SUBCHAPTER F. MUNICIPAL SCHOOL DISTRICTS—CREATION, BOUNDARY CHANGES, CONVERSION, ETC.**

**§ 19.161. City May Acquire Control of Schools**

(a) Any city or town in this state may acquire the exclusive control of the public free schools within its limits by a majority vote of the property taxpaying voters of the city or town voting at an election held for that purpose as herein provided. However, if the territory to be detached from any existing district by creation of a municipal school district exceeds 10 percent of the total area of the existing district, the proposed detachment must be approved by a majority vote of the residents of each district affected.

[See Compact Edition, Volume 1 for text of (b) to (d)]

[Amended by Acts 1977, 65th Leg., p. 1161, ch. 441, § 1, eff. June 15, 1977.]

SUBCHAPTER G. CONVERSION OF COMMON  
SCHOOL DISTRICT TO INDEPENDENT  
SCHOOL DISTRICT

§ 19.201. Qualifications

Any common school district may, by the method herein provided, form an incorporation for free school purposes only and become an independent school district.

[Amended by Acts 1975, 64th Leg., p. 1311, ch. 493, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1796, ch. 729, § 3, eff. June 13, 1979.]

SUBCHAPTER H. CONSOLIDATION OF  
SCHOOL DISTRICTS

§ 19.233. Election Order; Notice

Upon the receipt of a petition fulfilling the qualifications of Section 19.232 of this code, each county judge shall:

(1) issue an order for an election to be held on the same day in each district included in the proposed consolidated district; and

(2) give notice of the date and purpose of the election by publication of the order in some newspaper published in the county two times at least 20 days prior to the date on which the elections are to be held and by posting a notice of the election in each of the districts.

[Amended by Acts 1977, 65th Leg., p. 1492, ch. 606, § 1, eff. Aug. 29, 1977.]

§ 19.246. Dormant School Districts

(a) The county school boards of all counties of the state shall consolidate by order of the board each dormant school district within the county with an adjoining district or districts.

(b) The term "dormant school district" means any school district that fails to operate a school in the district each school year.

(c) The governing board of the district with which a dormant school district is consolidated shall continue to be the governing board for the new district.

(d) In each case, the consolidation order of the county school board shall define by legal boundary description the territory of the new district as so enlarged and shall be recorded in the minutes of the county school board as provided by law.

(e) Elections shall be held when required by law in such consolidated districts for the assumption of outstanding bonds, if any, for the levying of taxes therefor, and for the levying of a local maintenance tax.

(f) If a county-line district is or becomes dormant, the consolidation provisions of this section shall apply to all counties affected to the extent of territory in each.

[Added by Acts 1975, 64th Leg., p. 895, ch. 334, § 3, eff. Sept. 1, 1975.]

§ 19.247. Territory Not in School District

(a) All property subject to school district taxation in the state must be included within the limits of a school district and a proper and proportionate tax paid thereon for school purposes. Therefore, at any time it may be determined there is territory located in a county but not within the described limits of a school district, the county school board shall add the territory to an adjoining district or districts.

(b) In each case, the order of consolidation shall define by legal boundary description the territory of the new district and shall be recorded in the minutes of the county school board as provided by law. [Added by Acts 1975, 64th Leg., p. 895, ch. 334, § 3, eff. Sept. 1, 1975.]

[Sections 19.248 to 19.260 reserved for expansion]

CHAPTER 20. SCHOOL DISTRICT FUNDS

SUBCHAPTER C. MISCELLANEOUS PROVISIONS

Section	
20.52.	Authorized but Unissued Bonds.
20.53.	Authority to Charge Fees.

SUBCHAPTER D. STATE PAYMENTS TO REPLACE  
SCHOOL TAXES LOST BECAUSE OF STATE-MANDATED  
REDUCTION OF THE AD VALOREM TAX BASE

20.81.	Expired.
20.82.	Taxable Value Lost on Residence Homesteads.
20.83.	Taxable Value Lost on Agricultural and Timber Land.
20.84.	Application for Payment.
20.85.	Expired.
20.86.	Agency Audits.
20.87.	Challenge of Board or Agency Determinations.
20.88.	Effect of Land Use Change.

SUBCHAPTER A. SCHOOL DISTRICT TAX BONDS  
AND MAINTENANCE TAXES

§ 20.03. Repealed by Acts 1979, 66th Leg., p. 2329,  
ch. 841, § 6(a)(2), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed section was amended by:

- Acts 1975, 64th Leg., p. 1368, ch. 491, § 1.
- Acts 1977, 65th Leg., 1st C.S., p. 27, ch. 1, § 15.
- Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a).
- Acts 1979, 66th Leg., p. 2329, ch. 841, § 5(b).

§ 20.04. Bond and Tax Elections

[See Compact Edition, Volume 1 for text of  
(a) and (b)]

(c) If bonds are ever voted in a district pursuant to Subsection (b)(1) of this section, then all bonds thereafter proposed shall be submitted pursuant to that subsection, and Subsection (b)(2) of this section shall not be applicable to such district. Except as otherwise provided by this section, no bonds shall be issued pursuant to Subsection (b)(1) of this section if the aggregate principal amount of tax bond indebtedness of the district after such issuance would be in excess of 10 percent of the assessed valuation of taxable property in the district according to the then

last completed and approved ad valorem tax rolls of the district. A district may issue bonds resulting in an aggregate principal amount of tax bond indebtedness in excess of 10 percent of the district's assessed valuation if:

(1) the bonds are issued for the purpose of constructing and equipping a replacement for a building lost to fire or natural disaster;

(2) the bonds are issued in an amount necessary for that purpose, less the amount paid by insurance covering the loss; and

(3) the resulting aggregate principal amount of tax bond indebtedness does not exceed 16 percent of the district's assessed valuation.

[See Compact Edition, Volume 1 for text of (d) and (e)]

[Amended by Acts 1981, 67th Leg., p. 547, ch. 228, § 1, eff. May 28, 1981.]

Acts 1979, 66th Leg., p. 680, ch. 302, relating to school taxes, appraisal of agricultural and timber land, residence homestead exemptions, state payments to replace school district revenue lost due to reduction of the ad valorem tax base, and to a limit on the rate of growth of appropriations, provided in § 1 of art. 10:

"A school district may issue tax bond indebtedness voted prior to August 31, 1979, notwithstanding the 10 percent tax bond indebtedness limitation imposed by Section 20.04(c), Texas Education Code."

Section 2 of the 1981 amendatory act provides:

"The governing board of a school district may order an election for the approval of bonds in anticipation of this Act and bonds authorized by the voters at that election are valid if otherwise authorized and issued in accordance with law."

SUBCHAPTER C. MISCELLANEOUS PROVISIONS

§ 20.42. Investment of Bond Proceeds in Obligations of United States; Interest Bearing Secured Time Bank Deposits

From and after the effective date of this code, any school district within the state which has or may have on hand any sums of money which are proceeds received from the issue and sale of bonds or certificates of indebtedness of any such school district, either before or after the effective date of this code, which proceeds are not immediately needed for the purposes for which such bonds or certificates of indebtedness were issued and sold, may, upon order of the board of trustees of such school district, place the proceeds of such bonds or certificates of indebtedness on interest bearing time deposit, secured in the manner provided in Section 23.79 of this code, with a state or national banking corporation within this state the deposits of which are insured by the Federal Deposit Insurance Corporation, or invest the proceeds of such bonds or certificates of indebtedness in bonds of the United States of America or in other obligations of the United States of America, as may be determined by the board of trustees of the school district; but such interest bearing secured time deposits or bonds or other obligations of the United States of America shall be of a type which cannot be cashed, sold or redeemed for an amount less than the sum deposited or invested therein by such school district; and when such sums so placed or so invested by a school district are needed for the purposes for which the bonds or certificates of in-

debtedness of the school district were originally authorized, issued and sold, such time deposits or bonds or other obligations of the United States of America in which such sums have been placed or invested shall be cashed, sold or redeemed and the proceeds thereof shall be used for the purposes for which the bonds or certificates of indebtedness of the school district were originally authorized, issued and sold. [Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 1, eff. Aug. 27, 1979.]

§ 20.43. Interest Bearing Time Warrants

(a) Any school district in the State of Texas in need of funds to repair or renovate school buildings; purchase school buildings and school equipment; to equip school properties with necessary heating, water, sanitation, lunchroom and electric facilities; or is in need of funds with which to employ an individual firm or corporation deemed to have special skill and experience to compile taxation data for use by its board of equalization; and said school district is financially unable out of available funds to make such repairs, renovations of school buildings, purchase school buildings, purchase school equipment, to equip school properties with necessary heating, water, sanitation, lunchroom or electric facilities or is unable to pay such individual or corporation for the performance of the professional duties hereinabove mentioned, may, subject to the provisions hereof, issue interest-bearing time warrants, in amounts sufficient to make such purchase and improvements, to pay all or part of the compensation of such individual, firm or corporation to compile such data, any law to the contrary notwithstanding. Such warrants shall mature in serial installments of not more than five years from their date of issue, and to bear interest at a rate not to exceed six percent per annum. Such warrants shall upon maturity be payable out of any available funds of such school district in the order of their maturity dates. Any such interest-bearing time warrants so issued may be issued and sold by such district for not less than their face value, and the proceeds thereof used to provide funds required for the purpose for which they are issued. Such warrants shall be entitled to first and prior payment out of any available funds of such district as they become due. Included in such purposes is the payment of any amounts owed by said school districts, which indebtedness was incurred in carrying out any of such purposes.

(b) No such interest-bearing time warrants shall be issued or sold by a common school district or rural high school district until the same shall have been approved by the county board of school trustees; and said board shall, upon application of such school district, inquire into the financial conditions and needs of such district, and shall not approve the issuance of such interest-bearing time warrants unless in its opinion said district is in need of such repair and renovation of school building, and school equipment and to equip school properties with neces-

sary heating, water, sanitation, lunchroom and electric facilities, and will be able with the resources in prospect to liquidate said warrants at their maturity.

(c) No school district in the State of Texas shall issue such interest-bearing time warrants in excess of five percent of the assessed valuation of the district, for the year in which such interest-bearing time warrants are issued; nor shall the payment of such interest-bearing time warrants in any one year exceed the anticipated surplus income of the district for the year in which the warrants are issued. Based on the budget of the district for said year, such anticipated income to be computed by taking the entire expected income of such school district from every source for the year in which such interest-bearing time warrants are issued, less teachers' salaries, bus aid included in the foundation fund, and that part of the local maintenance tax earmarked for salaries and known in the Gilmer-Aiken Law as the economic index or fund assignment. The anticipated income computation as herein defined shall be exclusive of all bond taxes. No school district shall have outstanding at any one time warrants totaling in excess of \$120,000 under the provisions of this section.

(d) In every instance wherein interest-bearing time warrants or other evidence of indebtedness have been issued by school districts within the State of Texas for any of the purposes herein provided for, the act of the board of trustees, and/or governing board of such district in issuing such interest-bearing time warrants are each and all hereby expressly validated. The indebtedness thus attempted to be created by such action is hereby declared to be the indebtedness of such district and shall be paid out of available funds as herein provided.

(e) Whenever any such interest-bearing time warrants have been issued under this section, and so long as any of them may be outstanding the officer in charge of the collection of delinquent taxes shall pay the same to legal depository of the district, to be deposited and held in a special fund for the payment of such interest-bearing time warrants, and except as herein otherwise provided, no part thereof shall be applied or used for any other purpose.

(f) Interest and penalties on delinquent taxes shall be deemed a part of such taxes for the purpose of this section. Should any delinquent taxes, including interest and penalties, be cancelled, waived, released or reduced either by such school district or in any other way, with or without its consent, the amount of the loss so sustained shall be paid by the district to the special fund provided for herein out of funds not otherwise pledged to such special fund.

(g) All school districts issuing interest-bearing time warrants shall have the power to fix lien on and encumber and mortgage any and all property purchased with the proceeds of such warrants, and to fix a lien on and encumber any property, including teacherages owned by the district to secure the payment of legally incurred obligations. Provided,

however, there shall never be a valid lien authorized or fixed on any school building wherein actual classroom instruction of pupils attending such school is being carried on or conducted.

(h) The word "interest-bearing time warrant" as used in this section means promissory note, interest-bearing time warrant, obligation or other evidence of indebtedness issued under this section.

(i) Taxes levied in any year to pay principal and interest of bonds and which taxes subsequently become delinquent for the purpose of this section, shall not be included in the term taxes or revenues or delinquent taxes as herein used.

[Amended by Acts 1978, 65th Leg., 2nd C.S., p. 14, ch. 7, § 4, eff. Aug. 14, 1978; Acts 1981, 67th Leg., p. 1848, ch. 431, § 1, eff. June 11, 1981.]

**§ 20.44. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 20.48. Authorized Expenditures**

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) All independent school districts having within their limits a city with a population of 150,000 or more according to the last preceding federal census, or embracing at least 170 square miles of territory, having \$850 million or more assessed value of taxable property on the latest approved tax roll, and having a growth in student average daily attendance of 11 percent or more for each of the preceding five years as determined by the Central Education Agency, shall, in addition to the powers now possessed by them for the use and expenditure of local school funds and for the issuance of school bonds, be expressly authorized and empowered, at the option of the governing body of any such school district, in the buying of school sites and/or additions to school sites and in the building of school houses, to issue and deliver notes of the school district, negotiable or non-negotiable in form, representing all or a part of the purchase price or cost to the school district of the land and/or building so purchased or built, and to secure such notes by a vendor's lien and/or deed of trust lien against such land and/or building, and, by resolution or order of the governing body of the school district made at or before the delivery of such notes, to set aside and appropriate as a trust fund, and the sole and only fund, for the payment of the principal of and interest on such notes such part and portion of the local school funds, levied and collected by the school district in that year and/or subsequent years, as the governing body of the school district may determine, provided that in no event shall the aggregate amount of local school funds set aside in or for any subsequent year for the retirement of such notes exceed, in any one such subsequent year, 10 percent of the local school funds collected during such year. The district may issue the notes only if

approved by majority vote of the resident, qualified electors voting in an election conducted in the manner provided by Section 20.04 of this code for approval of bonds.

[Amended by Acts 1979, 66th Leg., p. 1889, ch. 764, § 1, eff. June 13, 1979.]

**§ 20.52. Authorized but Unissued Bonds**

This section shall apply to any independent school district which has previously voted or authorized school bonds for a specific purpose or purposes and the purpose or purposes have been accomplished by other means or have been abandoned and all or a portion of the bonds authorized remain unissued. In those cases, the board of trustees of the independent school district may, on its own motion, order an election for the purpose of submitting to the qualified voters of the district the proposition of whether or not the authorized but unissued bonds may be issued, sold, and delivered for other and different purposes specified in the election order and the election notice. The election shall be ordered, held, and conducted in the same form and manner as that at which the bonds were originally authorized. If a majority of those voting at the election vote in favor of the sale and delivery of the unissued bonds and the use of the proceeds of the bonds for the purpose or purposes specified in the election order and the election notice, the board of trustees of the independent school district shall be authorized to issue, sell, and deliver the bonds and use the proceeds of the bonds for the purpose or purposes authorized at the election.

[Added by Acts 1979, 66th Leg., p. 2201, ch. 836, § 1, eff. June 14, 1979.]

**§ 20.53. Authority to Charge Fees**

(a) A school board is authorized to require payment of fees in the following areas:

- (1) in any program where the resultant product in excess of minimum requirements and at the pupil's option becomes the personal property of the pupil, not to exceed cost of materials;
- (2) membership dues in student organizations or clubs and admission fees or charges for attending extracurricular activities when membership or attendance is voluntary;
- (3) a security deposit for the return of materials, supplies, or equipment;
- (4) personal physical education and athletic equipment and apparel, although any pupil may provide his or her own if it meets reasonable requirements and standards relating to health and safety established by the school board;
- (5) items of personal use or products which a student may purchase at his or her own option such as student publications, class rings, annuals, and graduation announcements;
- (6) fees specifically permitted by any other statute;

(7) any authorized voluntary student health and accident benefit plan;

(8) a reasonable fee not to exceed the actual annual maintenance cost for the use of musical instruments and uniforms owned or rented by the district;

(9) items of personal apparel which become the property of the student and which are used in extracurricular activities;

(10) parking fees and fees for identification cards;

(11) driver training courses, provided that such fees shall not exceed the difference between the average statewide cost per student in the programs for the prior school year or the actual district cost per student in such programs for the current school year, whichever is less, and the payment per student from state funds for such programs; or

(12) courses offered for credit where the activity necessitates the use of facilities not available on the school premises, and participation in the course is optional on the part of the student.

(b) A school board is not authorized to charge fees in the following areas:

- (1) textbooks, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course except as authorized under this code;
- (2) field trips which are required as a part of a basic education program or course;
- (3) any specific form of dress necessary for any required educational program or diplomas;
- (4) instructional costs for necessary school personnel employed in any course or educational program required for graduation;
- (5) library books required to be utilized for any educational course or program, except that fines may be assessed for lost, damaged, or overdue books;
- (6) admission fees, dues, or fees for any activity the pupil is required to attend as a prerequisite to graduation;
- (7) any admission or examination cost for any required educational course or program; or
- (8) lockers.

(c) The State Board of Education pursuant to administrative procedures and consistent with the general policy of this state shall have the power to specify further authorized and prohibited fees and to adopt rules and regulations for the purposes of such policies.

(d) Students may be required to furnish personal or consumable items including pencils, paper, pens, erasers, and notebooks.

(e) This section does not preclude the operation of a school store wherein pupils may purchase school supplies and materials.

(f) A school district shall adopt reasonable procedures for waiving a deposit or fee if a pupil and his or her parent or guardian is unable to pay it. This policy shall be posted in a central location in each school facility, in the school policy manual, and in the student handbook.

(g) This section shall not be construed to prohibit a school board from charging reasonable fees for goods and services provided in connection with any postsecondary instructional program, including but not limited to vocational-technical, adult, veterans, continuing education, community services, evening school, and general educational development programs.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 34, ch. 1, § 17, eff. Sept. 1, 1977.]

#### SUBCHAPTER D. STATE PAYMENTS TO REPLACE SCHOOL TAXES LOST BECAUSE OF STATE-MANDATED REDUCTION OF THE AD VALOREM TAX BASE

*This subchapter was added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1. Section 2 of art. 8 of said Act provided:*

*"Pursuant to the provisions of The Tax Relief Amendment to the Texas Constitution [Acts 1978, 65th Leg., 2nd C.S., p. 54, H.J.R. No. 1], it is the intent of the legislature that this article fulfill the constitutional mandate to replace school district revenues lost as a result of implementation of The Tax Relief Amendment. It is further the intent of the legislature that the revenues distributed under the provisions of this article be utilized by school districts in such a manner as to provide the tax relief adopted by the voters of this state under the provisions of The Tax Relief Amendment."*

#### § 20.81. Expired

Former § 20.81, relating to replacement of lost school district revenue, added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1, expired August 31, 1981, under the terms of former § 20.85(i) which was added by the same Act.

#### § 20.82. Taxable Value Lost on Residence Homesteads

The amount of taxable value actually lost by application of Article 7150.5, Revised Civil Statutes of Texas, 1925, is the sum of the amounts of residence homestead exemptions granted under Article 7150.5 to each residence homestead, except that the amount of the exemptions applicable to a residence homestead for the purpose of this subsection may not exceed its market value according to the school district's tax roll.

[Added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1, eff. May 31, 1979.]

#### § 20.83. Taxable Value Lost on Agricultural and Timber Land

The amount of taxable value lost by application of Articles 7174A and 7174B, Revised Civil Statutes of Texas, 1925, is the difference between the total of the market values or, if some parcels qualified for assessment under Article VIII, Section 1-d, of the Texas Constitution, the productive values, as determined by the school district in the 1978 tax year, of all parcels that are appraised as provided by Article 7174A or 7174B and the total of the productive values of those parcels as provided by Article 7174A or 7174B, as determined by the school district for the current year. In the case of property which is in a different district in the current year than in the 1978 tax year, the taxable value lost under the provisions of this section shall be calculated under rules adopted by the School Tax Assessment Practices Board consistent with the treatment of other land under this section.

[Added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1, eff. May 31, 1979.]

#### § 20.84. Application for Payment

(a) To receive the payment prescribed by this subchapter, a school district must file a completed application for the payment with the School Tax Assessment Practices Board, on a form prescribed by that board in conjunction with the commissioner of education, before November 1. However, for good cause the board may extend the filing deadline by not more than 60 days.

(b) In prescribing the form, the board shall ensure that it requires a school district to provide all the information necessary to administer this subchapter. [Added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1, eff. May 31, 1979.]

#### § 20.85. Expired

Former § 20.85, relating to procedure for payments, added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1, expired by its own terms on August 31, 1981.

#### § 20.86. Agency Audits

(a) At least once in each two-year period, the Central Education Agency with the assistance of the School Tax Assessment Practices Board shall conduct an audit of each school district tax office to determine if the district's applications under this subchapter are accurate, if the tax office administration of Articles 7150.5, 7174A, and 7174B, Revised Civil Statutes of Texas, 1925, conforms to the requirements of law, and if the market values the district's tax office assigns to property affected by those articles are consistent with and not higher than the market values assigned to other, similar property not affected by those articles.

(b) If the agency determines by audit or otherwise that a district has received a greater payment under this subchapter than it was entitled to receive because it improperly granted residence homestead exemptions, improperly granted eligibility pursuant

to Article 7174A or 7174B, assigned excessive value to property affected by Article 7150.5, 7174A, or 7174B, or otherwise overstated the amount it was entitled to receive, the agency shall notify the district of its determination and the reasons for it and shall reduce the amount of the next and, if necessary, subsequent certifications under Section 20.85 of this code or payments of state aid under Sections 16.254(b) and 16.254(c) of this code until the amount of the overpayment is recovered.

[Added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1, eff. May 31, 1979.]

**§ 20.87. Challenge of Board or Agency Determinations**

(a) A school district may challenge a determination by the School Tax Assessment Practices Board or the Central Education Agency under Section 20.85 or 20.86 of this code by filing a petition with the appropriate agency specifying the grounds for the challenge within 30 days after the date on which the district receives notice of the agency's determination.

(b) The appropriate agency shall hold a hearing on the challenge within 60 days after the date on which it receives the petition. After the hearing, the agency shall issue an order based on evidence presented at the hearing reversing, modifying, or affirming its determination.

[Added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1, eff. May 31, 1979.]

**§ 20.88. Effect of Land Use Change**

Prior to April 1, each school district shall notify the Central Education Agency of the amount of payments received during the prior 12 months under the provisions of Section 5 of Article 7174A, Revised Civil Statutes of Texas, 1925, Section 6 of Article 7174B, and Section 1-d(f) of Article VIII of the Texas Constitution. Fifty percent of this amount shall be deducted from either current or subsequent payments under this subchapter or payments of state aid under Sections 16.254(b) and (c).

[Added by Acts 1979, 66th Leg., p. 692, ch. 302, art. 8, § 1, eff. May 31, 1979.]

**CHAPTER 21. PROVISIONS GENERALLY APPLICABLE TO SCHOOL DISTRICTS**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section  
21.008. Semester System.

**SUBCHAPTER B. ADMISSION AND ATTENDANCE**

21.0311. Tuition for Certain Children From Other States.  
21.0312. Tuition for Certain Military Dependents.

**SUBCHAPTER C. TRANSFERS AND SCHOOL ASSIGNMENTS**

21.081. Transfer of Children of Employees of Texas Youth Council Facilities.

**SUBCHAPTER D. COURSES OF STUDY**

Section  
21.120, 21.121. Repealed.

**SUBCHAPTER F. SCHOOL BUSES**

21.173. Standees.

**SUBCHAPTER L. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS**

21.461. Compliance.  
21.462. Language Proficiency Assessment Committees.  
21.463. Appeals.

**SUBCHAPTER Z. MISCELLANEOUS PROVISIONS**

21.913. Duties of Public School Principals.  
21.914. Administering of Medication by School District Employees, Immunity From Liability.  
21.914. Breakfast Programs.  
21.915. Financial Support for Instructional Television Services.  
21.916. Use of Private Employment Agencies.  
21.917. Access to Police Records of Employment Applicants.  
21.918. [Blank].  
21.919. Payment for Accrued Sick Leave.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 21.008. Semester System**

(a) Each school district shall operate for either two or three semesters during each school year, at the option of the district. The semesters must provide the required number of days of instruction for students and inservice education and preparation for teachers, except as provided under Section 16.052(b) of this code.

(b) The Central Education Agency shall prepare a curriculum based on the operation of the schools on a two- or three-semester basis. The curriculum shall be so structured that material formerly covered in three three-month quarters is covered in two or three semesters. The curriculum for operation of the schools for three semesters shall be based on at least 70-minute class periods.

(c) For the 1979-1980 school year, a school district may operate schools on either a semester basis or on a quarter system in accordance with prior law. For the 1980-1981 school year, and each year thereafter, each district shall operate schools on a semester basis in accordance with this section.

[Added by Acts 1975, 64th Leg., p. 894, ch. 334, § 2, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 101, ch. 46, § 3, eff. April 5, 1977; Acts 1977, 65th Leg., 1st C.S., p. 43, ch. 1, § 24, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 603, ch. 280, § 1, eff. May 24, 1979.]

[Sections 21.009 to 21.030 reserved for expansion]

**SUBCHAPTER B. ADMISSION AND ATTENDANCE**

**§ 21.031. Admission**

(a) All children who are citizens of the United States or legally admitted aliens and who are over the age of five years and under the age of 21 years on the first day of September of any scholastic year shall be entitled to the benefits of the Available School Fund for that year.

(b) Every child in this state who is a citizen of the United States or a legally admitted alien and who is over the age of five years and not over the age of 21 years on the first day of September of the year in which admission is sought shall be permitted to attend the public free schools of the district in which he resides or in which his parent, guardian, or the person having lawful control of him resides at the time he applies for admission.

(c) The board of trustees of any public free school district of this state shall admit into the public free schools of the district free of tuition all persons who are either citizens of the United States or legally admitted aliens and who are over five and not over 21 years of age at the beginning of the scholastic year if such person or his parent, guardian or person having lawful control resides within the school district.

(d) In order for a person under the age of 18 years to establish a residence for the purpose of attending the public free schools separate and apart from his parent, guardian, or other person having lawful control of him under an order of a court, it must be established that his presence in the school district is not for the primary purpose of attending the public free schools. The board of trustees shall be responsible for determining whether an applicant for admission is a resident of the school district for purposes of attending the public schools.

(e) A child placed in foster care by an agency of the state or a political subdivision shall be permitted to attend the public free schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. No durational residence requirement may be used to prohibit such a child from fully participating in any activity sponsored by the school district.

(f) A student enrolled in high school in grade 9, 10, 11, or 12 who is placed in temporary foster care by the Department of Human Resources at a residence outside the residence district for the school or outside the school district is entitled to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition.

[Amended by Acts 1975, 64th Leg., p. 896, ch. 334, § 4, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1012, ch. 376, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1125, ch. 537, § 1, eff. June 11, 1979; Acts 1981, 67th Leg., p. 1010, ch. 386, § 1, eff. Aug. 31, 1981.]

#### § 21.0311. Tuition for Certain Children From Other States

(a) Notwithstanding any other provision of this code, a child who resides at a child-caring institution and whose maintenance expenses are paid in whole or in part by another state may not be admitted to a public school unless the child-caring institution pays tuition for the child equal to the actual cost of educating a child enrolled in a similar educational program in the district.

(b) The State Board of Education shall establish formulas governing the calculation of tuition rates. All tuition charges shall be submitted to the commissioner of education for approval.

(c) The attendance of the child shall not be counted for purposes of allocating state funds to the district.

[Added by Acts 1975, 64th Leg., p. 1345, ch. 504, § 1, eff. Sept. 1, 1975.]

#### § 21.0312. Tuition for Certain Military Dependents

A school district may charge tuition for the attendance of a student who is not domiciled in Texas and resides in military housing that is exempt from taxation by the district. The tuition rate may not exceed an amount equal to the district's average expenditure per student from local funds.

[Added by Acts 1981, 67th Leg., p. 2540, ch. 675, § 9, eff. Sept. 1, 1981.]

#### § 21.032. Compulsory Attendance

Unless specifically exempted by Section 21.033 of this code or under other laws, every child in the state who is as much as seven years of age, or who is less than seven years of age and has previously been enrolled in first grade, and not more than 17 years of age shall be required to attend the public schools in the district of his residence or in some other district to which he may be transferred as provided or authorized by law a minimum of 165 days of the regular school term of the district in which the child resides or to which he has been transferred.

[Amended by Acts 1981, 67th Leg., p. 2226, ch. 525, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 amendatory act provided that it took effect beginning with the 1981-1982 school year which, under the provisions of § 21.001, began on September 1, 1981.

#### § 21.033. Exemptions

(a) The following classes of children are exempt from the requirements of compulsory attendance:

(1) any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship;

(2) any child who is handicapped as defined in Section 16.104 of this code and who cannot be appropriately served by the resident district in accordance with the requirements of Section 21.032 of this code;

(3) any child who has a physical or mental condition of a temporary and remediable nature which renders such child's attendance infeasible and who holds a certificate from a qualified physician specifying the temporary condition, indicating the treatment prescribed to remedy the temporary condition, and covering the anticipated period of the child's absence from school for the purpose of receiving and recuperating from such remedial treatment;

(4) any child more than 17 years of age who has satisfactorily completed the work of the ninth grade and who presents to the chief administrator of the school which such child would otherwise attend satisfactory evidence showing that his services are needed in support of a parent or other person standing in a parental relation to the child; and

(5) any child expelled in accordance with the requirements of law.

(b) This section does not relieve a resident district as defined by Section 16.104 of this code of its fiscal and administrative responsibilities under that section or of its responsibility to provide a handicapped child with a free appropriate public education.

[Amended by Acts 1975, 64th Leg., p. 2378, ch. 734, § 2, eff. June 21, 1975; Acts 1979, 66th Leg., p. 1321, ch. 602, § 21, eff. Aug. 27, 1979.]

**§ 21.0331. Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979**

See, now, § 16.104.

**§ 21.035. Violations of Attendance Requirements**

[See Compact Edition, Volume 1 for text of (a) to (e)]

(f) A person who is a member of the Jewish faith shall be excused from attending school on the days that Rosh Hashanah and Yom Kippur are observed, but shall be counted as if he attended school for purposes of calculating the average daily attendance of students in the school district.

[Amended by Acts 1975, 64th Leg., p. 1902, ch. 610, § 1, eff. Sept. 1, 1975.]

**SUBCHAPTER C. TRANSFERS AND SCHOOL ASSIGNMENTS**

**§ 21.066. Repealed by Acts 1979, 66th Leg., p. 1796, ch. 729, § 9, eff. June 13, 1979**

**§ 21.081. Transfer of Children of Employees of Texas Youth Council Facilities**

A school age child of an employee of a facility of the Texas Youth Council is entitled to attend school in a school district adjacent to the district in which he resides free of any charge to his parents or guardian. Any tuition charge required by the admitting school district shall be paid by the school district from which the student transfers out of any funds appropriated to the facility by the legislature.

[Added by Acts 1977, 65th Leg., p. 1454, ch. 592, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1053, ch. 483, § 1, eff. June 7, 1979.]

**SUBCHAPTER D. COURSES OF STUDY**

**§ 21.101. Required Curriculum**

(a) Each school district that offers kindergarten through grade 12 shall offer a well-balanced curriculum that includes:

- (1) English language arts;
- (2) other languages, to the extent possible;
- (3) mathematics;
- (4) science;
- (5) health;
- (6) physical education;
- (7) fine arts;
- (8) social studies;
- (9) economics, with emphasis on the free enterprise system and its benefits;
- (10) business education;
- (11) vocational education; and
- (12) Texas and United States history as individual subjects and in reading courses.

(b) The State Board of Education by rule shall designate subjects comprising a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.

(c) The State Board of Education by rule shall designate the essential elements of each subject listed in Subsection (a) of this section and shall require each district to provide instruction in those elements at appropriate grade levels. In order to be accredited, a district must provide instruction in those essential elements as specified by the state board.

(d) Local instructional plans may draw upon state curriculum frameworks and program standards as appropriate. The responsibility for enabling all children to participate actively in a balanced curriculum which is designed to meet individual needs rests with the local school district. Districts are encouraged to exceed minimum requirements of the law. A primary purpose of the public school curriculum in Texas shall be to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

(e) The State Board of Education shall provide for optional subjects in addition to those provided by Subsection (a) of this section as appropriate for districts that require choices in order to address unique local needs. In addition, the commissioner of education may permit a school district to vary from the required curriculum as necessary to avoid hardship to the district.

(f) Not later than the 30th day preceding the day on which each regular session of the legislature convenes, the State Board of Education shall transmit to the governor, the lieutenant governor, and the legislature a report on the status of curriculum in the public schools. The report shall include rec-

ommendations for legislative changes necessary to improve, modify, or add to the curriculum.

(g) The State Board of Education and local school districts shall foster the continuation of the tradition of teaching American and Texas history and the free enterprise system in regular subject matter and in reading courses in the public free schools of Texas and in the adoption of textbooks.

[Amended by Acts 1981, 67th Leg., p. 727, ch. 274, § 1, eff. Aug. 31, 1981.]

Section 3 of the 1981 amendatory act provides:

"The State Board of Education shall implement the requirements of Section 21.101, Texas Education Code, as amended by this Act, in a timely and appropriate manner. To the extent possible, the board shall begin implementation for the 1981-1982 school year. The board may require compliance with the requirements of laws repealed by this Act [§§ 21.102 to 21.108 and 21.112 to 21.121], not including Sections 4.15 and 4.16, Texas Education Code, until the board fully implements Section 21.101."

§§ 21.102 to 21.108. Repealed by Acts 1981, 67th Leg., p. 728, ch. 274, § 2, eff. Aug. 31, 1981

§§ 21.112 to 21.121. Repealed by Acts 1981, 67th Leg., p. 728, ch. 274, § 2, eff. Aug. 31, 1981

Former § 21.120, relating to economic education, was added by Acts 1977, 65th Leg., p. 1004, ch. 371, § 1.

Former § 21.121, relating to American Sign Language, was added by Acts 1979, 66th Leg., p. 735, § 327, § 1.

See, now, § 21.101.

#### § 21.121. American Sign Language

American Sign Language is recognized as a language and may be taught in public schools in educational programs for both hearing and deaf students. [Added by Acts 1979, 66th Leg., p. 735, ch. 327, § 1, eff. Aug. 27, 1979.]

### SUBCHAPTER F. SCHOOL BUSES

§ 21.163. Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979

§ 21.165. Purchase Through Board of Control  
[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) If the requisition is for the purchase of a motor vehicle, bus, bus body, or bus chassis, it must be approved by either the county school board when funded under law or the board of trustees of a school district and by the commissioner of education.

(e) If the requisition is for the purchase of tires and tubes, it must be approved by the county superintendent or the chief administrative officer of a school district.

[See Compact Edition, Volume 1 for text of (f) and (g)]

[Amended by Acts 1979, 66th Leg., p. 1321, ch. 602, § 19, eff. Aug. 27, 1979.]

§ 21.167. Sale of Buses

When any school buses owned by any county or school district are to be sold, traded in, or otherwise disposed of, they must be disposed of by the Board

of Control or by the county school trustees or the trustees of the school district under such rules and regulations as the Board of Control may provide. [Amended by Acts 1979, 66th Leg., p. 1321, ch. 602, § 20, eff. Aug. 27, 1979.]

§ 21.170. Repealed by Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979

Prior to repeal, this section was amended by Acts 1979, 66th Leg., p. 603, ch. 279, §§ 1, 2, eff. May 24, 1979, by repealing subsec. (c) and deleting the last portion of the last sentence of subsec. (d).

#### § 21.173. Standees

(a) Except as otherwise provided by this section, a school district that receives funding under Subsection (i) of Section 16.206 of this code may not require or allow a child to stand on a school bus that is in motion.

(b) A school district may apply to the commissioner of education for permission to operate a school bus with standees. If the commissioner finds good cause, the commissioner may order that the district be permitted to operate the school bus with standees.

(c) If a district's application under Subsection (b) of this section is not acted on within a reasonable amount of time as determined by rule of the State Board of Education permission to operate buses with standees is considered to have been granted without regard to subsequent action by the commissioner.

(d) A school district that operates a bus with standees under Subsection (b) or (c) of this section may not operate one or more buses with standees for more than a total of 10 days during any school year, and the district may not permit more than one child per seat to stand while a bus is in motion.

(e) The State Board of Education shall adopt rules necessary to carry out this section. The rules shall include guidelines describing situations that justify operation of a bus with standees and shall provide a mechanism that ensures that applications under Subsection (b) of this section are acted on without delay. [Added by Acts 1979, 66th Leg., p. 1325, ch. 602, § 29, eff. Aug. 27, 1979.]

### SUBCHAPTER G. TEACHERS' EMPLOYMENT CONTRACTS

#### § 21.201. Definitions

As used in this subchapter, the following terms shall have the meaning ascribed to them in this section.

(1) "Teacher" means a superintendent, principal, supervisor, classroom teacher, counselor, or other full-time professional employee, except paraprofessional personnel, who is required to hold a valid certificate or teaching permit.

(2) "Board" and "board of trustees" means the governing board of a public school district.

(3) "School district" means any public school district in this state.

(4) "Term contract" means any contract of employment for a fixed term between the school district and a teacher.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

Section 1 of the 1981 Act provides:  
"This Act shall be known as 'The Term Contract Nonrenewal Act.'"

**§ 21.202. Teacher Evaluations**

The board of trustees of each school district shall provide by written policy for the periodic written evaluation of each teacher in its employ at annual or more frequent intervals. Such evaluation shall be considered by the board of trustees prior to any decision by the board not to renew the term contract of any teacher.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.203. Nonrenewal of Term Contracts**

(a) The board of trustees of each school district may choose not to renew the employment of any teacher employed under a term contract effective at the end of the contract period.

(b) The board of trustees of each school district shall establish policies consistent with this subchapter which shall establish reasons for nonrenewal.

(c) The board of trustees of each school district shall establish policies and procedures for receiving recommendations from its school administration for the nonrenewal of teacher term contracts, excepting only the general superintendent of schools.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.204. Notice**

(a) In the event the board of trustees receives a recommendation for nonrenewal, the board, after consideration of the written evaluations required by Section 21.202 of this subchapter and the reasons for the recommendation, shall, in its sole discretion, either reject the recommendation or shall give the teacher written notice of the proposed nonrenewal on or before April 1 preceding the end of the employment term fixed in the contract.

(b) In the event of failure to give such notice of proposed nonrenewal within the time herein specified, the board of trustees shall thereby elect to employ such employee in the same professional capacity for the succeeding school year.

(c) The notice of proposed nonrenewal required in this section shall contain a statement of all the reasons for such proposed action.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.205. Hearing**

(a) If the teacher desires a hearing after receiving notice of the proposed nonrenewal, the teacher shall notify the board of trustees in writing within 10 days after receiving the notice of nonrenewal. The

board shall provide for a hearing to be held within 15 days after receiving written notice from the teacher requesting a hearing. Such hearing shall be closed unless an open hearing is requested by the employee.

(b) The hearing shall be conducted in accordance with rules promulgated by the district.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.206. Decision of Board**

(a) If the teacher fails to request a hearing, the board shall take such action as it deems lawful and appropriate and shall notify the employee in writing of that action within 15 days of the expiration of the 10-day period for requesting a hearing.

(b) If the teacher requests a hearing, the board shall take such action as it deems lawful and appropriate and shall notify the teacher in writing of that action within 15 days following the conclusion of the hearing.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.207. Appeal**

(a) If the teacher is aggrieved by the decision of the board of trustees, he may appeal to the State Commissioner of Education pursuant to Section 11-13 of this code. The commissioner may not substitute his judgment for that of the board of trustees, unless the decision below was arbitrary, capricious, unlawful, or not supported by substantial evidence.

(b) The State Board of Education shall have jurisdiction to hear appeals from such decisions of the State Commissioner of Education.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.208. Superintendents**

If a majority of the board of trustees of any school district shall determine that the term contract of the general superintendent of schools should be considered for nonrenewal, the provisions of this subchapter shall apply, except that there need not be a recommendation from the designated school administration.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.209. Probation**

The board of trustees of any school district may provide by written policy for a probationary period not to exceed the first two years of continuous employment in the district, in which case the provisions of this subchapter shall not apply during such probationary period.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.210. Discharge for Cause**

Nothing in this subchapter shall prohibit a board of trustees from discharging a teacher for cause during the term of the contract.

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

**§ 21.211. Exemptions**

This subchapter does not apply to teachers who are employed under the provisions of the probationary or continuing contract law as set out in Subchapter C of Chapter 13 of this code.<sup>1</sup>

[Added by Acts 1981, 67th Leg., p. 2847, ch. 765, § 2, eff. Aug. 31, 1981.]

<sup>1</sup> Section 13.101 et seq.

**SUBCHAPTER H. RECORDS AND REPORTS****§ 21.256. Annual Audit; Report**

[See *Compact Edition, Volume 1 for text of (a) to (c)*]

(d) A copy of the annual audit report, approved by the board of school trustees, shall be filed by the district with the Central Education Agency within 120 days of the close of the fiscal year for which audit was made. Where the board of trustees declines or refuses to approve its auditor's report, it shall nevertheless file with the Central Education Agency a copy of the audit report with its statement detailing reasons for failure to approve same.

[See *Compact Edition, Volume 1 for text of (e) and (f)*]

[Amended by Acts 1977, 65th Leg., p. 1378, ch. 549, § 1, eff. June 15, 1977.]

**SUBCHAPTER I. DISCIPLINE, LAW AND ORDER****§ 21.301. Suspension of Incurable Pupil**

(a) The board of trustees of any school district may suspend from the privileges of the schools any pupil found guilty of incurable conduct, but such suspension shall not extend beyond the current term of the school.

(b) A teacher may remove a pupil from class in order to maintain effective discipline in the classroom. The principal shall respond by employing disciplinary alternatives consistent with local policy.

(c) A teacher may recommend for suspension, and remove from class immediately, any pupil who assaults that teacher on school property as defined in Section 4.23(b) of this code, or has been documented in that teacher's opinion to repeatedly interfere with that teacher's ability to communicate effectively with the majority of students in the class.

(d) Upon a recommendation for suspension under Subsection (c) of this section, the principal shall schedule a hearing within three class days following the pupil's removal between the principal, or a designated representative, a parent or guardian of the pupil, the teacher, and the pupil. Following the

hearing, and whether or not all requested parties are in attendance after valid attempts to require their attendance, the principal shall:

(1) suspend the pupil from the privileges of the schools for any period of time consistent with local policy, but not beyond the current term of school; or

(2) suspend the pupil from the class for any period of time not to extend beyond the current term of school; or

(3) place the pupil back in that class. If the pupil commits a second offense under this section, the pupil may be removed from that class immediately by the teacher, and following the teacher's recommendation for suspension may not return to that class during the current term of school without the teacher's approval. The recommendation of the teacher may only be reversed by action of the superintendent at the request of the principal. Upon any third or subsequent offense under this section by the same pupil, only the board of trustees may return that pupil to that class during the current term of school after the teacher's recommendation has been reversed by the principal and superintendent.

(e) Regardless of the decision at any hearing, any party may appeal the decision to the superintendent of schools and thereafter, if desired, to the board of trustees.

[Amended by Acts 1979, 66th Leg., p. 1130, ch. 541, § 1, eff. Aug. 27, 1979.]

**SUBCHAPTER L. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS****§ 21.451. State Policy**

English is the basic language of the State of Texas. Public schools are responsible for providing full opportunity for all students to become competent in speaking, reading, writing, and comprehending the English language. The legislature finds that there are large numbers of students in the state who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of these students. The legislature recognizes that the mastery of basic English language skills is a prerequisite for effective participation in the state's educational program. The legislature believes that bilingual education and special language programs can meet the needs of these students and facilitate their integration into the regular school curriculum. Therefore, pursuant to the policy of the state to insure equal educational opportunity to every student, and in recognition of the educational needs of students of limited English proficiency, it is the purpose of this subchapter to provide for the establishment of bilingual education and special language programs in the public schools and to provide supplemental financial assistance to help local school districts meet the extra costs of the programs. [Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 amendatory act provides:  
 "Bilingual education or special language programs as defined by this Act shall be taught in the public schools only for the purpose of assisting the learning ability of limited English proficiency students and to enhance the English language."

Section 3 of the 1981 amendatory act provided that it took effect beginning with the 1981-1982 school year which, under provisions of § 21.001, began on September 1, 1981.

**§ 21.452. Definitions**

In this subchapter the following words have the indicated meanings:

- (1) "Agency" means the Central Education Agency.
- (2) "Board" means the governing board of a school district.
- (3) "Students of limited English proficiency" means students whose primary language is other than English and whose English language skills are such that the students have difficulty performing ordinary classwork in English.
- (4) "Parent" means the parent(s) or legal guardian(s) of the student.

[Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

**§ 21.453. Establishment of Bilingual Education and Special Language Programs**

(a) The State Board of Education shall adopt rules establishing a procedure for identifying school districts that are required to offer bilingual education and special language programs in accordance with this subchapter.

(b) Within the first four weeks following the first day of school, the language proficiency assessment committee established under Section 21.462 shall determine and report to the governing board of the school district the number of students of limited English proficiency on each campus and shall classify them according to the language in which they possess primary proficiency. The governing board shall report that information to the agency before the first day of November each year.

(c) Each school district which has an enrollment of 20 or more students of limited English proficiency in any language classification in the same grade level shall offer a bilingual education or special language program.

(d) Each district that is required to offer bilingual education and special language programs under this section shall offer the following for students of limited English proficiency:

- (1) bilingual education in kindergarten through the elementary grades;
- (2) bilingual education, instruction in English as a second language, or other transitional language instruction approved by the agency in post-elementary grades through grade 8; and
- (3) instruction in English as a second language in grades 9-12.

(e) If a program other than bilingual education must be used in kindergarten through the elementa-

ry grades, documentation for the exception must be filed with and approved by the commissioner of education, pursuant to the rules of the State Board of Education.

(f) An application for an exception may be filed with the commissioner of education when an individual district is unable to hire a sufficient number of endorsed bilingual teachers to staff the required program. The exception must be accompanied by:

- (1) documentation showing that the district has taken all reasonable affirmative steps to secure endorsed bilingual teachers and has failed;
- (2) documentation showing that the district has affirmative hiring policies and procedures consistent with the need to serve limited English proficiency students;
- (3) documentation showing that, on the basis of district records, no teacher with a bilingual endorsement or emergency credentials has been unjustifiably denied employment by the district within the past 12 months; and
- (4) a plan detailing specific measures to be used by the district to eliminate the conditions that created the need for an exception.

(g) An exception shall be granted under Subsection (f) of this section on an individual district basis and is valid for only one year. Application for an exception a second or succeeding year must be accompanied by the documentation set forth in Subdivisions (1), (2), (3), and (4) of Subsection (f) of this section.

(h) During the period of time for which the school district is granted an exception under Subsection (f) of this section, it must use alternative methods approved by the commissioner of education, pursuant to the rules of the State Board of Education, to meet the needs of its students of limited English proficiency such as, but not limited to, the hiring of teaching personnel on a bilingual emergency permit. [Amended by Acts 1975, 64th Leg., p. 897, ch. 334, § 6, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

**§ 21.454. Program Content; Method of Instruction**

(a) The bilingual education program established by a school district shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students of limited English proficiency who are enrolled in the program, and that provides for carefully structured and sequenced mastery of English language skills. The program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

(b) The program of instruction in English as a second language established by a school district shall be a program of intensive instruction in English from teachers trained in recognizing and dealing

with language differences. The program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

(c) In subjects such as art, music, and physical education students of limited English proficiency shall participate fully with English-speaking students in regular classes provided in the subjects.

(d) Elective courses included in the curriculum may be taught in a language other than English.

(e) Each school district shall insure to students enrolled in the program a meaningful opportunity to participate fully with other students in all extracurricular activities.

(f) The State Board of Education shall establish a limited number of pilot programs for the purpose of examining alternative methods of instruction in bilingual education and special language programs.

(g) Districts approved to establish pilot programs as required by Subsection (f) of this section shall be allocated an amount per student which is equal to the amount per student allocated to districts with approved bilingual education programs as outlined in this subchapter.

[Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

#### § 21.455. Enrollment of Students in Program

(a) The State Board of Education by rule shall adopt standardized criteria for the identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. The parent must be notified of a student's entry into the program, exit from the program, or placement within the program. A student's entry into the program or placement within the program must be approved by the student's parents. The local school district may appeal the decision under Section 21.463 of this code. The parent may appeal the decision under Section 21.463 of this code. The criteria may include, but are not limited to, the following:

(1) results of a home language survey conducted within four weeks of each student's enrollment in order to determine the language normally used in the home and the language normally used by the student, conducted in English and the home language, signed by the student's parents if in kindergarten through grade 8 or by the student if in grades 9 through 12, and kept in the student's permanent folder by the language proficiency assessment committee;

(2) the results of an agency-approved English language proficiency test administered to all students identified through the home survey as normally speaking a language other than English to determine the level of English language proficiency, with students in kindergarten or grade 1 being administered an oral English proficiency test and students in grades 2 through 12 being adminis-

tered an oral and written English proficiency test; and

(3) the results of an agency-approved proficiency test in the primary language administered to all students identified under Subdivision (2) of this subsection as being of limited English proficiency to determine the level of primary language proficiency, with students in kindergarten or grade 1 being administered an oral primary language proficiency test and students in grades 2 through 12 being administered an oral and written primary language proficiency test.

(b) Tests under Subsection (a) of this section should be administered by professionals or paraprofessionals with the appropriate English and primary language skills and the training required by the test publisher.

(c) The language proficiency assessment committee may classify a student as limited English proficiency if one or more of the following criteria are met:

(1) the student's ability in English is so limited or the student is so handicapped that assessment procedures cannot be administered;

(2) the student's score or relative degree of achievement on the agency-approved English proficiency test is below the levels established by the agency as indicative of reasonable proficiency;

(3) the student's primary language proficiency score as measured by an agency-approved test is greater than his proficiency in English; or

(4) the language proficiency assessment committee determines, based on other information such as (but not limited to) teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than his proficiency in English or that the student is not reasonably proficient in English.

(d) Within 10 days after the student's classification as limited English proficiency, the language proficiency assessment committee shall give written notice of the classification to the student's parent. The notice must be in English and the primary language. The parents of students eligible to participate in the required bilingual education program shall be informed of the benefits of the bilingual education or special language program and that it is an integral part of the school program.

(e) All records obtained under this section may be retained by the language proficiency assessment committee for documentation purposes.

(f) The school district may not refuse instruction in a language other than English to a student solely because the student has a handicapping condition.

(g) With the approval of the school district and a student's parents, a student who does not have limited English proficiency may also participate in a bilingual education program. The number of participating students who do not have limited English

proficiency may not exceed 40 percent of the students enrolled in the program.

(h) A school district may transfer a student of limited English proficiency out of a bilingual education or special language program if the student is able to participate equally in a regular all-English instructional program as determined by:

(1) tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in both the student's primary language and English;

(2) an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the agency; and

(3) other indications of a student's overall progress as determined by, but not limited to, criterion-referenced test scores, subjective teacher evaluation, and parental evaluation.

(i) If later evidence suggests that a student who has been transferred out of a bilingual education or special language program has inadequate English proficiency and achievement, the language proficiency assessment committee may reenroll the student in the program. Classification of students for reenrollment must be based on the criteria required by this section.

[Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

**§ 21.456. Facilities; Classes**

(a) Bilingual education and special language programs shall be located in the regular public schools of the district rather than in separate facilities.

(b) Students enrolled in bilingual education or a special language program shall be placed in classes with other students of approximately the same age and level of educational attainment. The school district shall insure that the instruction given each student is appropriate to his or her level of educational attainment, and the district shall keep adequate records of the educational level and progress of each student enrolled in the program.

(c) The maximum student-teacher ratio shall be set by the agency and shall reflect the special educational needs of students enrolled in the programs. [Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

**§ 21.457. Cooperation Among Districts**

(a) A school district may join with any other district or districts to provide the bilingual education and special language programs required by this subchapter. The availability of the programs shall be publicized throughout the affected districts.

(b) A school district may allow a nonresident student of limited English proficiency to enroll in or attend its bilingual education or special language programs if the student's district of residence pro-

vides no appropriate program. The tuition for the student shall be paid by the district in which the student resides.

[Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

**§ 21.458. Preschool, Summer School, and Extended Time Programs**

A school district may establish on a full- or part-time basis preschool, summer school, extended day, or extended week bilingual education or special language programs for students of limited English proficiency and may join with other districts in establishing the programs. The preschool or summer programs shall not be a substitute for programs required to be provided during the regular school year.

[Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

**§ 21.459. Bilingual Education and Special Language Program Teachers**

(a) The State Board of Education shall promulgate rules and regulations governing the issuance of teaching certificates with bilingual education endorsements to teachers who possess a speaking, reading, and writing ability in a language other than English in which bilingual education programs are offered and who meet the general requirements set out in Chapter 13 of this code. The State Board of Education shall also promulgate rules and regulations governing the issuance of teaching certificates with an endorsement for teaching English as a second language. The agency may issue emergency endorsements in bilingual education and in teaching English as a second language.

(b) A teacher assigned to a bilingual education program must be appropriately certified by the agency for bilingual education.

(c) A teacher assigned to an English as a second language or other special language program must be appropriately certified by the agency for English as a second language.

(d) The minimum monthly base pay and increments for teaching experience for a bilingual education teacher or a special language program teacher are the same as for a classroom teacher with an equivalent degree under the Texas State Public Education Compensation Plan. The minimum annual salary for a bilingual education teacher or a special language program teacher is the monthly base salary, plus increments, multiplied by 10, 11, or 12, as applicable.

(e) The district may compensate out of funds appropriated in Subsection (a) of Section 21.460 of this subchapter a bilingual education or special language teacher for participating in a continuing education program which is in addition to the teacher's regular contract. The continuing education program must be designed to gain advanced bilingual education or special language program endorsement or skills.

(f) The agency shall be authorized to conduct or contract for teacher training for persons in the acquisition of endorsements in English as a second language. The agency shall determine the amount required for the implementation of this subsection.

(g) The State Board of Education, through the Commission on Standards for the Teaching Profession, and the Coordinating Board, Texas College and University System, shall develop a comprehensive plan for meeting the teacher supply needs created by the programs outlined in this subchapter. The board shall submit a plan, which includes legislative recommendations, to the 68th Legislature in January, 1983.

[Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

#### § 21.460. Allotments for Operational Expenses and Transportation

(a) Under the rules of the State Board of Education, each school district operating an approved bilingual education or special language program shall be allotted a special allowance equal to: (1) the number of limited English proficiency students enrolled in the bilingual education program multiplied by \$50, or a greater amount as provided by the General Appropriations Act, and (2) the number of limited English proficiency students enrolled in the ESL or special language program multiplied by 25 percent of the bilingual education per pupil allocation. A district's bilingual education or special language allocation may be used for program and pupil evaluation and equipment, instructional materials and equipment, staff development, supplemental staff expenses, and other supplies required for quality instruction.

(b) The cost of transporting bilingual education and special language program students from one campus to another within a district or from a sending district to an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the agency.

(c) The Foundation School Fund Budget Committee shall consider all amounts required for the operation of bilingual education and special language programs in estimating the funds needed for purposes of the Foundation School Program.

[Amended by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

#### § 21.461. Compliance

(a) The legislature recognizes that compliance with this subchapter is an imperative public necessity. Therefore, pursuant to the policy of the state, the agency shall monitor school district compliance with the state rules by inspecting each school district on site at least every three years.

(b) The areas to be monitored include:

- (1) program content and design;
- (2) program coverage;

(3) identification procedures;

(4) classification procedures;

(5) staffing;

(6) learning materials;

(7) testing materials;

(8) reclassification of students for either entry into regular classes conducted exclusively in English or for reentry into a bilingual education or special language program; and

(9) activities of the language proficiency assessment committee.

(c) Not later than the 30th day after the date of an on-site monitoring inspection, the agency shall report its findings to the school district and to the division of accreditation.

(d) The agency shall notify a school district found to be in noncompliance in writing not later than the 30th day after the date of the on-site monitoring. The district shall take immediate corrective action.

(e) If a school district fails to or refuses to comply after proper notification, the agency shall apply sanctions, which may include removal of accreditation, loss of foundation school funds, or both.

[Added by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

#### § 21.462. Language Proficiency Assessment Committees

(a) The State Board of Education by rule shall require districts that are required to offer bilingual education and special language programs to establish a language proficiency assessment committee.

(b) Each committee shall be composed of members including but not limited to a professional bilingual educator, professional transitional language educator, a parent of a limited English proficiency student, and a campus administrator.

(c) The language proficiency assessment committee shall:

(1) review all pertinent information on limited English proficiency students, including the home language survey, the language proficiency tests in English and the primary language, each student's achievement in content areas, and each student's emotional and social attainment;

(2) make recommendations concerning the most appropriate placement for the educational advancement of the limited English proficiency student after the elementary grades;

(3) review each limited English proficiency student's progress at the end of the school year in order to determine future appropriate placement;

(4) monitor the progress of students formerly classified as limited English proficiency who have exited from the bilingual education or special language program and, based on the information, designate the most appropriate placement for the student; and

(5) determine the appropriateness of an extended program (beyond the regular school) depending on the needs of each limited English proficiency student.

(d) The State Board of Education by rule may prescribe additional duties for language proficiency assessment committees.

[Added by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

**§ 21.463. Appeals**

A parent of a student enrolled in a district offering bilingual education or special language programs may appeal to the commissioner of education under Section 11.13 of this code if the district fails to comply with the requirements of law or the rules of the State Board of Education. If the parent disagrees with the placement of the student in the program, he or she may appeal that decision to the local board of trustees. Appeals shall be in accordance with procedures adopted by the State Board of Education consistent with the appeal of contested cases under the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

[Added by Acts 1981, 67th Leg., p. 2138, ch. 498, § 1, eff. Sept. 1, 1981.]

**SUBCHAPTER M. PROTECTION OF BUILDINGS AND GROUNDS**

**Application of Act**

*Acts 1973, 63rd Leg., p. 1639, ch. 596, § 2 (see italicized note in Compact Edition, Volume 1), was repealed by Acts 1981, 67th Leg., p. 2287, ch. 559, § 1, eff. Aug. 31, 1981.*

**SUBCHAPTER Z. MISCELLANEOUS PROVISIONS**

**§ 21.901. Contracts—Competitive Bidding**

(a) Except as provided in Subsection (e) of this section, all contracts proposed to be made by any Texas public school board for the purchase of any personal property shall be submitted to competitive bidding.

(b) Except as provided in Subsection (e) of this section, all contracts proposed to be made by any Texas public school board for the construction, maintenance, repair or renovation of any building or for materials used in said construction, maintenance, repair or renovation, shall be submitted to competitive bidding when said contracts are valued at \$5,000 or more.

[See Compact Edition, Volume 1 for text of (c)]

(d) Notice of the time when and place where such contracts will be let and bids opened shall be published in the county where the purchasing school is located, once a week for at least two weeks prior to the time set for letting said contract and in two

other newspapers that the school board may designate. Provided, however, that on contracts involving less than \$25,000, such advertising may be limited to two successive issues of any newspaper published in the county in which the school is located, and if there is no newspaper in the county in which the school is located, then said advertising shall be for publication in some newspaper in some county nearest the county seat of the county in which the school is located.

(e) If a school building or school equipment is destroyed or severely damaged, and the school board determines that the time delay posed by the competitive bidding process would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of such building or equipment may be made without resort to competitive bidding as otherwise required by this section.

[Amended by Acts 1977, 65th Leg., p. 1224, ch. 472, §§ 1, 2, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 668, ch. 259, § 1, eff. May 29, 1981.]

**§ 21.911. Financial Support for Instructional Television Services**

*Renumbered as § 21.915*

**§ 21.913. Duties of Public School Principals**

(a) Public school principals, who shall hold valid administrative certificates, shall be responsible for:

(1) assuming administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline, and the planning, operation, supervision, and evaluation of the educational program of the membership area in which he is assigned;

(2) submitting recommendations to the superintendent concerning assignment, evaluation, promotion, and dismissal of all personnel assigned to the membership center; and

(3) performing any other duties assigned by the superintendent pursuant to school board policy.

(b) Nothing herein shall be construed as a limitation on the powers, responsibilities, and obligations of the school board as now prescribed by law.

[Added by Acts 1975, 64th Leg., p. 896, ch. 334, § 5, eff. Sept. 1, 1975.]

**§ 21.914. Administering of Medication by School District Employees; Immunity From Liability**

*Text as added by Acts 1977, 65th Leg., p. 1268, ch. 491, § 1*

(a) As used in this section, "employees" means superintendents, principals, classroom teachers, supervisors, counselors, registered nurses, teachers aides, secretaries, or any other classified person employed by a school district.

(b) The board of trustees of each school district shall adopt policies concerning the administering of medication to students by employees of the district.

(c) On the adoption of policies as provided in Subsection (b) of this section, the school district, its board of trustees, and its employees shall have immunity from civil liability from damages or injuries resulting from the administering of medication to a student, if:

(1) the school district has received a written request to administer the medication from the parent, legal guardian, or other person having legal control of the student; and

(2) when administering prescription medication, the medication appears to be in the original container and to be properly labeled.

(d) Nothing herein shall be construed to grant immunity from civil liability for injuries resulting from gross negligence.

[Added by Acts 1977, 65th Leg., p. 1268, ch. 491, § 1, eff. June 15, 1977. Amended by Acts 1979, 66th Leg., p. 1072, ch. 502, § 1, eff. June 7, 1979.]

*For text as added by Acts 1977, 65th Leg., p. 2019, ch. 807, § 1, see § 21.914, post*

#### § 21.914. Breakfast Programs

*Text as added by Acts 1977, 65th Leg., p. 2019, ch. 807, § 1*

If at least 10 percent of the students enrolled in one or more schools in a school district are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. Subsection 1773), the governing board of the district shall participate in the program and make the benefits of the program available to all eligible students in said schools.

[Added by Acts 1977, 65th Leg., p. 2019, ch. 807, § 1, eff. Aug. 29, 1977.]

*For text as added by Acts 1977, 65th Leg., p. 1268, ch. 491, § 1, see § 21.914, ante*

Section 2 of the 1977 Act provided:

"This Act is effective for the 1978-1979 school year and thereafter for school districts with food service facilities. The effective date of this Act for other school districts shall be the 1981-1982 school year and thereafter."

#### § 21.915. Financial Support for Instructional Television Services

(a) Any school district of this state classified common, independent school district or rural high school district whose governing board elects to contract for and utilize instructional television programs and services as an integral part of its classroom instruction with noncommercial FCC licensed stations and other nonprofit originating video communication systems to provide programs and instructional television utilization services shall, upon application and pursuant to regulations prescribed by the Central Education Agency, be reimbursed for such costs from state funds to the extent herein authorized. The regulations shall contain provisions whereby the local board of trustees may, at their option, become the prime fiscal agent and contract with noncommercial FCC licensed stations and other nonprofit

originating video communication systems in order to permit development of instructional television programs specifically designed to enhance the local district's instructional program.

(b) The annual cost of such television service programs of the district shall be borne by the state but shall not exceed \$1.50 per pupil determined on the Average Daily Attendance (ADA) of the district for the preceding school year.

(c) The state's cost shall be paid from the foundation school fund, and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for foundation school program purposes.

(d) The commissioner of education shall appoint an advisory committee to make recommendations regarding governance, planned needs, criteria for establishing eligibility, and a process for program and fiscal accountability under this section. This advisory committee shall include representation from each instructional FCC licensed television broadcasting service and representation of educational consumers.

(e) Combined expenditures under this section for each year may not exceed \$1,625,000.

[Renumbered from § 21.911 and amended by Acts 1977, 65th Leg., 1st C.S., p. 45, ch. 1, § 29, eff. Sept. 1, 1977.]

#### § 21.916. Use of Private Employment Agencies

(a) A school district may not list employment opportunities with a private employment agency and may not pay a fee to a private employment agency for the referral of potential employees.

(b) A school district may not employ in any position an applicant who is referred to the district for employment by a private employment agency. Any contract between the district and an applicant who is referred to the district by a private employment agency is void.

(c) In this section, "private employment agency" means a private employment agency subject to Chapter 245, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 5221a-6, Vernon's Texas Civil Statutes).<sup>1</sup>

[Added by Acts 1979, 66th Leg., p. 1047, ch. 477, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> Repealed; see, now, Civil Statutes, art. 5221a-7.

#### § 21.917. Access to Police Records of Employment Applicants

(a) A school district is entitled to obtain criminal history record information that relates to an applicant for employment with the district if, at the time of the request for the information, the district submits to the custodian of the information a signed statement from the employment applicant authorizing the district to obtain the information.

(b) A school district may obtain information under this section from any law enforcement agency, including a police department or the Department of

Public Safety, or from the Texas Department of Corrections.

(c) A school district may use information obtained under this section only for the purpose of evaluating applicants for employment.

[Added by Acts 1981, 67th Leg., p. 1867, ch. 444, § 1, eff. Aug. 31, 1981.]

§ 21.918. [Blank]

§ 21.919. Payments for Accrued Sick Leave

If a school district provides sick leave for an employee not covered under Section 13.904 of this code, the school district may pay the employee for accrued sick leave when the employee leaves the employment of the district.

[Added by Acts 1981, 67th Leg., p. 3051, ch. 798, § 2, eff. Sept. 1, 1981.]

Section 3 of the 1981 Act provided that it took effect with the beginning of the 1981-1982 school year which, under the provisions of § 21.001, was September 1, 1981.

CHAPTER 22. COMMON SCHOOL DISTRICTS

§ 22.08. Powers and Duties of Common and Common Consolidated School District Trustees

[See Compact Edition, Volume 1 for text of (a) to (e)]

(f) The trustees of a common or common consolidated school district may dismiss teachers or other employees, but a teacher or other official dismissed shall have the right of appeal to the commissioner of education.

[See Compact Edition, Volume 1 for text of (g)]

(h) The amount contracted by trustees to be paid a teacher or other employee shall be paid on a check drawn on the county depository for the district, signed or drawn upon order authorized by a majority of the trustees of the district.

(i) The trustees of a common or common consolidated school district shall supply all information required of them by the Central Education Agency for the proper operation of the foundation school program within the district or for carrying out the objectives of the Central Education Agency.

[Amended by Acts 1979, 66th Leg., p. 1796, ch. 729, §§ 4 to 6, eff. June 13, 1979.]

§ 22.09. Repealed by Acts 1979, 66th Leg., p. 1796, ch. 729, § 9, eff. June 13, 1979

§ 22.10 Acquisition and Sale of School Property

(a) The trustees of a common school district may contract for the erection of school buildings, provided that;

[See Compact Edition, Volume 1 for text (a)(1) and (a)(2)]

(3) payment shall be made by the district trustees; and

[See Compact Edition, Volume 1 for text of (a)(4)]

(b) The trustees of a common or common consolidated school district may sell any property belonging to the school district, provided that the proceeds of the sale must be used to purchase necessary grounds or to build or repair school buildings or be placed to the credit of the local maintenance school fund of the district.

[Amended by Acts 1979, 66th Leg., p. 1796, ch. 729, §§ 7, 8, eff. June 13, 1979.]

§ 22.11. Taxation

[See Compact Edition, Volume 1 for text of (a)]

(b) Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.

[See Compact Edition, Volume 1 for text of (c)]

(d) Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.

[See Compact Edition, Volume 1 for text of (e)]

(f) Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.

(g) The county tax collector shall collect taxes levied upon the property of a common or common consolidated school district and shall pay all such taxes to the county treasurer.

[See Compact Edition, Volume 1 for text of (h)]

[Amended by Acts 1975, 64th Leg., p. 1308, ch. 491, § 2, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 2320, ch. 841, §§ 4(m), 6(a)(2), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 22.12. Common or Common Consolidated County-Line School Districts

[See Compact Edition, Volume 1 for text of (a) to (f)]

(g) Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.

[See Compact Edition, Volume 1 for text of (h)]

[Amended by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.]

CHAPTER 23. INDEPENDENT SCHOOL DISTRICTS

SUBCHAPTER A. BOARD OF TRUSTEES

Section

23.022.

Districts With Fewer Than 150 Students.

23.023.

Districts With 66,000 or More Scholastics.

SUBCHAPTER A. BOARD OF TRUSTEES

§ 23.01. Number of Trustees

The public schools of an independent school district shall be under the control and management of a board of seven trustees.

[Amended by Acts 1978, 65th Leg., 2nd C.S., p. 16, ch. 7, § 5, eff. Aug. 14, 1978.]

§ 23.02. Repealed by Acts 1978, 65th Leg., 2nd C.S., p. 17, ch. 7, § 14, eff. Aug. 14, 1978

See, now, § 23.022.

### § 23.022. Districts With Fewer Than 150 Students

(a) In accordance with this section, an independent school district with fewer than 150 students in gross average daily attendance may be governed by a board of three or five trustees.

(b) If at least 10 percent of the registered voters of the district sign and present to the board a petition requesting submission to the voters of the proposition that the district be governed by a board of three trustees or by a board of five trustees, the board shall order the proposition placed on the ballot at the next regular school board election. The petition must be presented before the 25th day preceding the election at which the proposition is to be submitted and must specify the number of trustees sought to govern the district.

(c) The board of trustees on its own motion may order by resolution that the proposition that the district shall be governed by a board of three trustees or by a board of five trustees be placed on the ballot at the next regular school board election. The order must be entered before the 25th day preceding the election at which the first three-member or five-member board is to be elected.

(d) Approval of the proposition is by majority vote. If the proposition is approved, the district shall be governed by a board of three or five trustees, as applicable, beginning with the next following regular school board election.

(e) At the first election following approval of a proposition, that the district shall be governed by a board of three or five trustees, all positions on the board shall be filled. If the board is to be composed of three trustees, the trustees then elected shall draw lots so that one member shall serve for a term of one year, one shall serve for a term of two years, and one shall serve for a term of three years. If the board is to be composed of five trustees, the trustees then elected shall draw lots so that one member will serve for a term of one year, two shall serve for terms of two years, and two shall serve for terms of three years. Thereafter, one or two members, as applicable, shall be elected annually to a term of three years.

(f) In an independent school district with a board of three trustees or a board of five trustees, the ballot shall be prepared and the election shall be conducted in the same manner as provided by this chapter for other independent school districts.

(g) An independent school district that adopts a three-member or a five-member board of trustees as provided by this section shall remain governed by a board of that size even if the gross average daily attendance increases to 150 or more students. If the attendance so increases, the membership of the board may be increased to seven members in the manner provided for special law districts under Section 23.021 of this code.

[Added by Acts 1979, 66th Leg., p. 1786, ch. 725, § 1, eff. Aug. 27, 1979.]

### § 23.023. Districts With 66,000 or More Scholastics

(a) Any independent school district, whether created by special or general law, with 66,000 or more students in average daily attendance for the 1975-1976 school year or thereafter shall be under the management and control of a board of nine trustees elected in accordance with the provisions of this section.

(b) At all elections held after December 31, 1977, seven members of the board of trustees shall be elected by the qualified voters of single-member districts and two members, who shall be the president and vice-president of the board, shall be elected at large.

(c) At least 120 days before the school board election to be held in April, 1978, the board shall divide the school district into seven trustee districts which are compact, contiguous, and contain as nearly as practicable an equal population according to the last preceding federal decennial census.

(d) Except as provided for the initial election under single-member districts, a candidate seeking to represent a trustee district must reside in the district he seeks to represent, and vacates his office if he ceases to reside in that district. A candidate for president or vice-president may seek election to only one position and shall be designated on the official ballot according to the position for which he seeks election. A candidate for president or vice-president must reside in the school district, and vacates his office if he ceases to reside in the district.

(e) The candidate receiving a majority of the votes cast in each position is elected. If no candidate receives a majority of the votes cast for that position, the board shall order a runoff to be held on the third Saturday in April immediately following the first election, and only the names of the two candidates receiving the highest number of votes in the first election shall be listed on the ballot. The candidate receiving the majority of the votes cast in the runoff election is elected.

(f) A member of the board may resign his position to seek election to the office of president or vice-president.

(g) At least 120 days before an election to be held in the second year following the calendar year in which the federal decennial census is taken, the board shall redivide the district into seven trustee districts if the census data indicate that the population of the most populous district exceeds the population of the least populous district by more than 10 percent.

(h) In districts with seven board members on January 1, 1978, members of the board serving on that date shall serve for the remainder of their terms, except those choosing to resign. At the election held in April, 1978, four members shall be elected—the president, vice-president, and two regular members. The president and vice-president then elected shall

serve for a term of two years. The other two members then elected shall draw lots so that one will serve for a term of two years, and one will serve for a term of four years. The five members of the board holding the offices for which there was no election shall draw lots to determine which trustee district they will represent during the remainder of their terms. Thereafter, all members shall be elected to staggered terms of four years.

(i) A school district having 66,000 or more students in average daily attendance for the 1975-1976 school year or thereafter which has previously adopted single-member district representation may continue to operate under that plan.

(j) This section does not apply to a district with 66,000 or more students in average daily attendance for the 1975-1976 school year or thereafter all or part of which is located in a city with a population of between 600,000 and 700,000 according to the 1970 federal census.

(k) A school district with less than 66,000 students in average daily attendance for the 1975-1976 school year that later becomes subject to this section shall begin electing trustees from single-member districts in accordance with this section no later than the first regular election following the next calendar year in which the federal census is taken. A school district subject to this section whose average daily attendance drops below 66,000 students shall continue to be governed by this section.

[Added by Acts 1977, 65th Leg., p. 2134, ch. 852, § 1, eff. Aug. 29, 1977.]

Section 2 of the 1977 Act provides:  
 "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Section 3 of the 1977 Act, the emergency clause, provides in part:  
 "The legislature finds:

"(1) that in the school districts with the largest number of students, the at-large election of all members of the board of trustees increases the number of constituents represented by each trustee and hinders communication between the trustee and the constituents, and therefore makes the representation of those constituents less effective;

"(2) that in the school districts with the largest number of students, the at-large election of all members of the board of trustees may work to dilute the voting power of identifiable ethnic groups;

"(3) that in structuring solutions to the dilution of ethnic group voting power, the federal courts have decided that preference should be given to some form of single-member district representation; and

"(4) that the need for increasing the effectiveness of political representation, preserving the voting power of all ethnic groups, complying with the preference for single-member district representation, and assuring the participation of all people in the political process creates an emergency " " " "

**§ 23.03. Application to Get on Ballot**

(a) Applications of candidates for a place on the ballot shall be filed not less than 30 days prior to the day of the election, and no candidate shall have his name printed on said ballot unless there has been compliance with the provisions of this section.

(b) Candidates for office of trustee of an independent school district must file their applications with the secretary of the school board of trustees.

(c) In those districts in which the positions on the board of trustees are authorized to be designated by number, as provided in Section 23.11 of this code, each applicant shall also state the number of the

position for which he is filing as candidate. No candidate shall be eligible to have his name placed on the official ballot under more than one position to be filled at such election.

(d) In those districts in which the positions on the board of trustees are not authorized to be designated by number, it shall not be necessary for an applicant to state which other candidate, if any, he is opposing. [Amended by Acts 1978, 65th Leg., 2nd C.S., p. 16, ch. 7, § 6, eff. Aug. 14, 1978.]

**§ 23.05. Repealed by Acts 1978, 65th Leg., 2nd C.S., p. 17, ch. 7, § 14, eff. Aug. 14, 1978**

**§ 23.06. Ballots**

(a) Ballots for the election of school trustees for independent school districts shall be prepared as ordered by the trustees of the district and must fulfill the requirements of this section.

(b) The ballots must be of uniform style and dimension and must be of the stub type provided for in the general election laws.

(c) The ballots must be printed with black ink on clear white paper of sufficient thickness to prevent the marks thereon from being seen through the paper.

(d) The ballots shall have printed at the top, "Official Ballot, \_\_\_\_\_ Independent School District," specifying the name of the school district.

(e) The names of all eligible persons who have properly qualified as candidates for school trustee of the district shall be included, and if the positions on the board are designated by number as provided in Section 23.11 of this code, the position for which each person is a candidate shall be clearly shown. [Amended by Acts 1978, 65th Leg., 2nd C.S., p. 16, ch. 7, § 7, eff. Aug. 14, 1978.]

**§ 23.10. Returns; Canvass**

The election returns certified to by the election officers shall be made to the board of school trustees which shall canvass the returns, declare the results of the election, and issue certificates of election to the persons shown to be elected.

[Amended by Acts 1978, 65th Leg., 2nd C.S., p. 16, ch. 7, § 8, eff. Aug. 14, 1978.]

**§ 23.11. Election by Position**

[See Compact Edition, Volume 1 for Text of (a) and (b)]

(c) The positions on the board of trustees shall be designated by number in any independent school district in which the board of trustees, by appropriate action as specified below, orders that all candidates for trustee be voted upon and elected separately for positions on the board of trustees and that all candidates be designated on the official ballot according to the number of the positions for which they seek election.

[See Compact Edition, Volume 1 for text of (d) to (h)]

[Amended by Acts 1978, 65th Leg., 2nd C.S., p. 17, ch. 7, § 9, eff. Aug. 14, 1978.]

### § 23.12. Districts Converted from Common School Districts

(a) This section shall apply to any independent school district incorporated under the provisions of Subchapter G, Chapter 19 of this code<sup>1</sup> or reclassified under Section 17.99 of this code, having a board of seven trustees whereunder in alternate years four trustees are elected for two-year terms and three trustees are elected for two-year terms.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1978, 65th Leg., 2nd C.S., p. 17, ch. 7, § 10, eff. Aug. 14, 1978.]

<sup>1</sup> Section 19.201 et seq.

### § 23.13. Term of Office—General Rule—Three Years.

[See Compact Edition, Volume 1 for text of (a) to (f)]

(g) The governing board of an independent school district whose trustees serve for terms of four years may order by resolution that the terms of office be reduced to three years. The order of the board must be entered at least 75 days before the first election at which trustees are to be elected to reduced terms. Trustees in office on the date of the order shall serve for the remainder of their terms. At the first election following the order, the trustees elected shall serve for a term of two years. At the next regular trustee election, all positions on the board shall be filled. The trustees then elected shall draw lots so that two will serve for terms of one year, two will serve for terms of two years, and three will serve for terms of three years. Thereafter, two or three members shall be elected annually for terms of three years.

(h) The governing board of an independent school district whose trustees serve for terms of six years may order by resolution that the terms of office be reduced to three years. If the board orders that the terms are to be reduced, the trustees shall be elected to three-year terms beginning with the first regular trustee election held more than 75 days after the order of the board. Trustees in office on the date of the order shall serve for the remainder of their terms. Thereafter, two or three trustees shall be elected annually for terms of three years.

[Amended Acts 1981, 67th Leg., p. 2218, ch. 520, § 1, eff. June 12, 1981]

### § 23.15. Four-Year Terms

(a) The trustees of any independent school district which has previously, under either general or special law of this state, adopted or instituted a term of four years may continue to be elected for a term of four years. Elections shall be held biennially. Either three or four trustees shall be elected at each election, the number depending upon that required to compose a board of seven trustees. The trustees shall be elected by position number as provided in Section 23.11 of this code.

(b) The governing board of an independent school district whose trustees serve for terms of six years may order by resolution that the terms of office be reduced to four years. If the board orders that terms are to be reduced, the transition to four-year terms shall begin with the first regular election held more than 75 days after the date of the order of the board. Trustees in office on the date of the order shall serve for the remainder of their terms.

(c) The length of the terms for trustees elected at the first regular election in the transition to four-year terms is determined in accordance with the following:

(1) if the order in which the six-year terms expire results in two trustees being elected at the first election, and would result in two trustees being elected at the next regular election, the trustees elected at the first election shall draw lots so that one serves for a term of two years and one serves for a term of four years;

(2) if the order in which the six-year terms expire results in three trustees being elected at the first election, and would result in two trustees being elected at the next regular election, the trustees elected at the first election shall draw lots so that one serves for a term of two years and two serve for a term of four years; or

(3) if the order in which the six-year terms expire results in two trustees being elected at the first election, and would result in three trustees being elected at the next regular election, the trustees elected at the first election serve for terms of four years.

(d) After the first election in the transition to four-year terms, three or four members shall be elected biennially for terms of four years.

[Amended by Acts 1981, 67th Leg., p. 2218, ch. 520, § 2, eff. June 12, 1981.]

### § 23.18. Vacancies

(a) If a vacancy occurs in the board of trustees, and less than nine months remain in the term, the remaining members of the board of trustees shall fill the vacancy by appointment for the remainder of the unexpired term. If more than nine months remain in the term, the board of trustees shall call a special election on a date authorized by law to elect a replacement to serve out the remainder of the unexpired term.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1981, 67th Leg., p. 2727, ch. 743, § 1, eff. Aug. 31, 1981.]

Section 2 of the 1981 amendatory act provides:  
"This Act applies to vacancies occurring on or after the effective date of this Act."

### SUBCHAPTER D. TREASURER OR DEPOSITORY

§§ 23.61 to 23.64. Repealed by Acts 1979, 66th Leg., p. 2173, ch. 829, § 3, eff. Aug. 27, 1979

Prior to repeal, § 23.61 was amended by Acts 1978, 65th Leg., 2nd C.S., p. 17, ch. 7, § 11.

SUBCHAPTER E. SCHOOL DEPOSITORY ACT

§ 23.71. Short Title

This subchapter may be cited as the School Depository Act.

[Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

§ 23.72. Selection of Depository

The school depository or depositories of every independent school district shall be selected only as provided by this subchapter.

[Amended by Acts 1978, 65th Leg., 2nd C.S., p. 17, ch. 7, § 12, eff. Aug. 14, 1978; Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

§ 23.73. Definitions

As used in this Act, unless otherwise clearly indicated by the context:

(1) "School district" means any public independent school district.

(2) "Bank" means a state bank authorized and regulated under the laws of the state pertaining to banking and in particular authorized and regulated by the Banking Department Self-Support and Administration Act,<sup>1</sup> or a national bank authorized and regulated by federal law, but does not include any bank the deposits of which are not insured by the Federal Deposit Insurance Corporation.

(3) "Time Deposit," including "time certificate," "certificate of deposit," and "time deposit-open account," have the same definitions as adopted for said terms by the Board of Governors of the Federal Reserve System.

(4) "Approved securities" means:

(A) bonds of the State of Texas, bonds of the counties of the State of Texas, bonds of school districts of the State of Texas, bonds of any town or city of the State of Texas, and bonds of any agency, district or political subdivision of the State of Texas; or

(B) all evidences of indebtedness legally issued by the board of trustees of the depositing school district, all debt securities which are a direct obligation of the treasury of the United States, all debt securities except reducing principal balance securities the principal of which is unconditionally guaranteed in the event of default by the full faith and credit of the United States, and those securities provided for by Article 842, Revised Civil Statutes of Texas, 1925, as amended, and Section 1, Chapter 160, General Laws, Acts of the 43rd Legislature, 1933, as amended (Article 842a, Vernon's Texas Civil Statutes).

[Amended by Acts 1978, 65th Leg., 2nd C.S., p. 17, ch. 7, § 13, eff. Aug. 14, 1978; Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

<sup>1</sup> See Civil Statutes, art. 342-101A et seq.

§ 23.74. Depository Must be a Bank

A school depository under the terms and provisions of this subchapter shall be a bank located in the State of Texas.

[Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

§ 23.75. Trustee as Stockholder, Etc., of Bank

In the event a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank, said bank shall not be disqualified from bidding and becoming the school depository of said school district provided said bank is selected by a majority vote of the board of trustees of said school district or a majority vote of a quorum when only a quorum eligible to vote is present. Common law rules in conflict with the terms and provisions of this Act are hereby modified as herein provided. If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank that has bid to become a depository for said school district, said member of said board of trustees shall not vote on the awarding of a depository contract to said bank and said school depository contract shall be awarded by a majority vote of said trustees as above provided who are not either a stockholder, officer, director, or employee of a bank receiving a school district depository contract.

[Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

§ 23.76. Term; Bond or Pledge of Securities

The depository bank when selected shall serve for a term of two years and until its successor shall have been duly selected and qualified, and shall give bond or pledge approved securities as hereinafter provided. Said term shall commence and terminate on the fiscal year of odd-numbered years. No premium on any depository bond shall be paid out of funds of the school district.

[Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

Section 4 of the 1979 amendatory act provided:

"A school district that on the effective date of this Act has a contract with a depository bank that terminates in an even-numbered year may select a depository bank to serve a term ending at the end of the fiscal year of the next odd-numbered year even though the term of the service as a depository is for less than two years. Thereafter, the term of service as a depository bank shall be in accordance with Section 23.76, Texas Education Code, as amended."

§ 23.77. Bid Notices; Bid Form

(a) The board of trustees of each school district shall, at least 30 days prior to the termination of the then current depository contract, mail to each bank located in said district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a school depository or depositories. Attached to said notice shall be a uniform bid blank which shall be substantially in the following form:

Board of Trustees, \_\_\_\_\_ Independent School District

Members of the Board:

The undersigned, a state or national banking corporation the deposits of which are insured by the Federal Deposit Insurance Corporation, hereinafter called bidder, for the privilege of acting as Depository of the \_\_\_\_\_ Independent School District of \_\_\_\_\_ County, Texas, hereinafter called District, for a term of two years, beginning \_\_\_\_\_, 19\_\_\_\_, and ending \_\_\_\_\_, 19\_\_\_\_, and for the further privilege of receiving all funds or only certain funds to be designated by the District if more than one depository is selected, at the District's option to place on demand deposit or interest bearing time deposits as provided in the School Depository Act, and with the full understanding that the District reserves the right to invest its funds from time to time as permitted by law, bidder will pay and charge District as follows:

1. (A) \_\_\_\_\_% interest per annum compounded \_\_\_\_\_ on time deposits not exceeding \$\_\_\_\_\_ and having a maturity date \_\_\_\_\_ days after the date of deposit or payable upon written notice of a like number of days;

(B) \_\_\_\_\_% interest per annum compounded \_\_\_\_\_ on time deposits exceeding \$\_\_\_\_\_ and having a maturity date \_\_\_\_\_ days after the date of deposit or payable upon written notice of a like number of days;

(C) \_\_\_\_\_% interest per annum compounded \_\_\_\_\_ on time deposits not exceeding \$\_\_\_\_\_ and having a maturity date \_\_\_\_\_ months after the date of deposit or payable upon written notice of a like number of months;

(D) \_\_\_\_\_% interest per annum compounded \_\_\_\_\_ on time deposits exceeding \$\_\_\_\_\_ and having a maturity date \_\_\_\_\_ months after the date of deposit or payable upon written notice of a like number of months.

2. \_\_\_\_\_% interest per annum compounded \_\_\_\_\_ on time deposits having a maturity date less than 90 days after the date of deposit or payable upon written notice of less than 90 days.

3. \_\_\_\_\_% interest per annum to be paid by District to Bidder on overdrafts or their equivalent. (Overdraft as used in this paragraph shall mean that District does not have a compensating balance in other District funds or accounts in Bidder's bank equaling or exceeding overdrafts in a District fund or account. The amount of an overdraft shall be determined by adding all of the District's noninterest bearing funds or noninterest bearing accounts in the Bidder's bank at the close of business each day.)

4. Bidder will charge District \$\_\_\_\_\_ for keeping District's deposit records and accounts for the period covered by this bid. Included in and required as a part of this duty are the following:

(A) Preparation of monthly statements showing debits, credits and balance of each separate fund.

(B) Keeping a full and separate itemized account of each different class of school funds coming into its hands and making its records available for audit by the District, its independent auditors, and the Central Education Agency.

(C) Preparation of such other reports, accounts and records which may, from time to time, be required by District in order that it may properly fulfill its fiscal duties.

(D) Furnishing of the quantity, quality and type of checks necessary for District's use during the period for which this bid is submitted.

5. District reserves the right to invest any and all of its funds as permitted by Sections 20.42 and 23.80 of this code. Bidder will and shall aid and assist District in any permitted investment without charge.

6. Bidder shall furnish to District a bond in the amount and conditioned as provided in The School Depository Act; or in lieu thereof shall pledge approved securities in an amount sufficient as provided in this subchapter, delivering to the District either the securities pledged or safekeeping receipts for them, properly marked to show the pledge, and shall deliver to the Central Education Agency photocopies of the safekeeping receipts. District reserves the right to approve or reject the securities so pledged. Bidder shall have the right and privilege of substituting approved securities upon obtaining the approval of District, provided the total amount of approved securities deposited is adequate as herein provided.

7. This bid was requested by District and is made by Bidder with the expressed agreement and understanding that District reserves the right to reject any and all bids and the further right that if any portion or provision of this bid and/or any contract between Bidder and District entered into by virtue thereof is invalid, the remainder of this bid and/or resulting contract at the option of the District shall remain in full force and effect, and not be affected by said invalid portion or provision.

8. Attached hereto is a Cashier's Check in the sum of \$\_\_\_\_\_ payable to the \_\_\_\_\_ Independent School District. If this bid to be Depository of all District funds or to be Depository of only a designated amount of said funds is accepted, said check is to secure the performance of said bid, and if Bidder fails to enter into a contract with District as provided in this bid, then said check shall be cashed by District as liquidated damages for said failure. If the Bidder enters into a contract with the District, the District shall return the check to the Bidder. In the event this bid is not accepted, the check is to be returned to the Bidder immediately after the contract award is made.

DATED this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 BIDDER \_\_\_\_\_

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

(b) The school district may add other terms and conditions to the uniform bid blank, provided that the other terms and conditions do not unfairly restrict competition between banks in or near the territory of the school district.

(c) Interest rates may be stated in the bid either as a fixed rate, as a percentage of a stated base rate, in relation to a stated prevailing rate varying from time to time, or in any other manner, but in every case a uniform manner, which will permit comparison with other bids received.

[Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

**§ 23.78. Award of Contract**

(a) If tie bids are received for said school depository contract and each of said tie bidders has bid to pay the school district the maximum interest rates allowed by law by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation, and said tie bids are otherwise equal in the judgment and discretion of the board of trustees of said school district and two or more of said tie bidders in the judgment and discretion of said school district have the facilities and ability to render the necessary services of school depository for said school district, said board of trustees may award said depository contract in accordance with any one of the following methods:

- (1) Award said contract, at the discretion of the board of trustees, to any one of said tie bidders;
- (2) Determine by lot which of said tie bidders shall receive said depository contract; or
- (3) Award a depository contract to each of said tie bidders or to as many of said tie bidders as the board of trustees may select.

(b) Said board of trustees shall have the discretion from time to time during the period of said contract to determine the amount of funds to be deposited in each of said depository banks and to determine the account services offered in the bid form which are to be rendered by each of said banks in its capacity as school depository. Provided, however, that all funds received by the district from or through the Central Education Agency shall be deposited and retained in one depository bank to be designated by the district as its depository for said funds.

(c) The board of trustees of the school district shall at a regular meeting or special meeting consider all bids received in accordance with the terms and provisions of the above-mentioned procedure; and in determining the highest and best bid, or in case of tie bids as above provided the highest and best tie bids, said board of trustees shall consider the interest rate bid on time deposits, charge for keeping district accounts, records, and reports and furnishing checks, and the ability of the bidder to render the

necessary services and perform the duties as school depository, together with all other matters which in the judgment of said board of trustees would be to the best interest of said school district. The board of trustees of said school district shall have the right to reject any and all bids.

[Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

**§ 23.79. Depository Contract; Bond**

(a) The bank or banks selected as school depository or depositories in accordance with the terms and provisions of this Act, and the school district shall make and enter into a depository contract or contracts, bond or bonds, or such other necessary instruments setting forth the duties, responsibilities, and agreements pertaining to said depository, in a form and with the content prescribed by the Central Education Agency, attaching to the contract and incorporating in the contract by reference the bid of the depository, and said depository bank shall attach to said contract and file with the school district a bond in an initial amount equal to the estimated highest daily balance to be determined by the board of trustees of the district of all deposits which the school district will have in said depository during the term of the depository contract, less any applicable Federal Deposit Insurance Corporation insurance. Said bond shall be payable to the school district and shall be signed by said depository bank and by some surety company authorized to do business in the state. The depository bank shall increase the amount of the bond if the board of trustees determines it to be necessary to adequately protect the funds of the school district deposited with the depository bank.

(b) Said bond shall be conditioned for the faithful performance of all duties and obligations devolving by law upon said depository, and for the payment upon presentation of all checks or drafts upon order of the board of trustees of said school district, in accordance with its orders duly entered by said board of trustees according to the laws of the State of Texas; for the payment upon demand of any demand deposit in said depository; for the payment after the expiration of the period of notice required, of any time deposit in said depository; and that said school funds shall be faithfully kept by said depository and accounted for according to law and shall faithfully pay over to the successor depository all balances remaining in said accounts. Said bond and the surety thereon shall be approved by the board of trustees of said school district and a copy of said depository contract and bond shall be filed with the State Department of Education.

(c) In lieu of the above-mentioned bond, the depository bank shall have the option of depositing or pledging with the school district, or with a trustee designated by the school district, approved securities in an amount sufficient to adequately protect the funds of school district deposited with depository

bank. The school district shall designate from time to time the amount of approved securities to adequately protect district. The district may not designate an amount less than the balance of school district funds on deposit with the depository bank from day to day, less any applicable Federal Deposit Insurance Corporation insurance. The depository bank shall have the right and privilege of substituting approved securities upon obtaining the approval of the school district. For the purposes of this subsection, the approved securities shall be valued at their market value.

[Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

### § 23.80. Investment of District Funds

The school district shall have the right to provide in its bid blank for the right to place on time deposits with savings and loan institutions located within the State of Texas only funds that are fully insured by the Federal Savings and Loan Insurance Corporation, but no district may place on deposit with any savings and loan institution any bond or certificate of indebtedness proceeds as provided by Section 20.42 of this code. The school district is entitled to invest any and all of its funds in direct debt securities of the United States of America or other types of bonds, securities, warrants, etc., which the district is authorized by law to invest in. No depository bank selected under this subchapter may be compelled without its consent to accept on time deposit any bond proceeds under Section 20.42 of this code, but a depository shall be permitted to offer a bid of interest equaling the highest bid of interest for the time deposit of the bond proceeds tendered by another bank. If the depository bank equals the bid, it is entitled to receive the bond proceeds on time deposit.

[Amended by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979.]

§§ 23.81, 23.82. Deleted by Acts 1979, 66th Leg., p. 2167, ch. 829, § 2, eff. Aug. 27, 1979

## SUBCHAPTER F. ASSESSMENT AND COLLECTION OF TAXES

§ 23.91. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 23.93. Assessor-Collector Appointed by Board  
[See Compact Edition, Volume 1 for text of (a)]

(b) to (d) Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.

[Amended by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 23.94. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

### § 23.95. Appointment of Assessor Only

[See Compact Edition, Volume 1 for text of (a)]

(b) The assessor of taxes shall assess the taxable property within the limits of the independent school district and shall prepare the tax rolls of the district and sign and certify them to the county or city officer designated to collect the taxes.

[See Compact Edition, Volume 1 for text of (c) and (d)]

(e) Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2).

[See Compact Edition, Volume 1 for text of (f)]

[Amended by Acts 1979, 66th Leg., p. 2320, ch. 841, §§ 4(n), 6(a)(2), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

### § 23.96. Assessment and Collection by City

(a) Any independent school district located entirely or partly within the boundaries of an incorporated city or town may authorize, by ordinance or resolution, the tax assessor and tax collector of the municipality in which it is located, entirely or partly, to act as tax assessor and tax collector, respectively, for the district.

(b) When the ordinance or resolution is passed making available their services, said assessor shall assess the taxes for and perform the duties of tax assessor for the independent school district; and the collector shall collect the taxes and assessments for and shall perform the duties of tax collector of the independent school district.

(c) In all matters pertaining to such assessments and collections the tax assessor and tax collector shall be authorized to act as and shall perform respectively the duties of tax assessor and tax collector of the independent school district.

(d) When the tax assessor and tax collector of any municipality have been authorized by ordinance or resolution to act as and perform the duties, respectively, of tax assessor and tax collector of an independent school district located entirely or partly within its boundaries, such included district shall pay the municipality for said services and for such other incidental expenses as are necessarily incurred in connection with the rendering of such services, such an amount as may be agreed upon by the governing bodies of the municipality and the independent school district.

[Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(h), eff. Jan. 1, 1982.]

### § 23.97. Cooperation Between Districts

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.

[See Compact Edition, Volume 1 for text of (d) and (e)]

[Amended by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 23.98. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**SUBCHAPTER G. INCENTIVE AID PAYMENTS**

**§ 23.994. Use Restricted**

The incentive aid payments shall be used exclusively to retire the existing bonded indebtedness of the school districts which have been consolidated, shall be applied to the cost of constructing new buildings required by the reorganized district, or shall be used for renovation or improvement of existing buildings in the reorganized district.

[Amended by Acts 1977, 65th Leg., 1st C.S., p. 46, ch. 1, § 31, eff. Sept. 1, 1977.]

**CHAPTER 24. MUNICIPAL SCHOOL DISTRICTS**

**§ 24.07. Levy and Collection of Taxes**

(a) Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(2), eff. Jan. 1, 1982.

[See Compact Edition, Volume 1 for text of (b) and (c)]

(d) The board of trustees of a municipal school district may contract with the county assessor-collector of taxes to assess and collect the taxes for the municipal school district on property located in the county.

[Amended by Acts 1979, 66th Leg., p. 2320, ch. 841, §§ 4(o), 6(a)(2), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**CHAPTER 25. RURAL HIGH SCHOOL DISTRICTS**

**§ 25.07. Assessment and Collection of Taxes**

(a) Except as provided in this chapter, the taxes for a rural high school district shall be assessed and collected by the county tax assessor-collector, but no tax shall be levied and no bonds assumed or issued by the board of trustees of the rural high school district until after election in accordance with the law governing such elections in independent school districts.

(b) The board of trustees of a rural high school district may appoint an assessor of taxes who shall assess the taxable property within the limits of the district in which event:

(1) The tax assessor so appointed shall receive compensation for his services as the trustees of the district may allow; and

(2) The county tax assessor-collector shall collect the taxes.

(c) If a rural high school district has an assessed valuation in excess of \$4,000,000 or an average daily attendance of more than 550 students during the preceding year, the board of trustees of the rural high school district may, by majority vote, appoint a collector of taxes for the district. He shall receive compensation for his services as the trustees of the district may allow.

(d) If a rural high school district is situated in more than one county, the board of trustees of the rural high school district may, by majority vote, choose to have the taxes for the district assessed and collected by an assessor-collector appointed by the board. In the event the board so chooses, the following regulations shall apply:

(1) The assessor-collector appointed by the board shall assess the taxable property within the limits of the district in the time and manner provided by the general law applicable to taxation and collect the taxes;

(2) The assessor-collector shall receive such compensation for his services as the board of trustees may allow; and

(3) The board of trustees may also appoint one or more deputy tax assessor-collectors for the district who shall receive for their services such compensation as the board may allow.

(e) Local taxes previously authorized by a district or districts included in a rural high school district shall be continued in force until such time as a tax election in the rural high school district may authorize a uniform tax for the benefit of the rural high school district.

[Amended by Acts 1975, 64th Leg., p. 946, ch. 354, § 1, eff. June 19, 1975; Acts 1975, 64th Leg., p. 1309, ch. 492, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(o), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 596, ch. 237, §§ 134, 135, eff. Sept. 1, 1981.]

**CHAPTER 26. REHABILITATION DISTRICTS FOR HANDICAPPED PERSONS**

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 26.01. Definitions**

As used in this chapter:

(1) "Handicapped person" or "handicapped scholastic" means an individual who has been defined as such by presently existing federal or state legislation. The definition of a handicapped person or handicapped scholastic is inclusive of all generic handicapping conditions such as orthopedically handicapped, health impaired, blind or visually impaired, deaf or auditorially impaired, socially maladjusted or emotionally disturbed, mentally

retarded, and language or learning disabled. The specific operational definition, if not defined by state or federal legislation, shall be applicable to any current operational definition as set forth by the federal government or state agencies.

(2) "Special services" required for the instruction of or program for exceptional children means special teaching in the public school curriculum within or without the regular classroom; corrective teaching such as lipreading, speech correction, sight conservation; corrective health habits; transportation; special seats, books, instructional media, and supplies; professional counseling with students and parents; supervision of professional services and pupil evaluation services; and established teaching techniques for children with language or learning disabilities.

(3) "Nonhandicapped scholastic" means a scholastic who is eligible for public school education under state law and who is not officially labeled as being handicapped.

[See *Compact Edition, Volume 1 for text of (4) to (7)*]

(8) The term "alternative school" refers to a school setting for scholastics who cannot adequately be trained or educated in existing public school programs and who generally would not continue their education in the traditional academic school situation. The curriculum and the alternative school setting stress training for the world of work and coping behavior in order to successfully survive in our complex society.

[Amended by Acts 1975, 64th Leg., p. 1351, ch. 509, §§ 1, 2, eff. Sept. 1, 1975.]

#### SUBCHAPTER B. CREATION OF DISTRICT

##### § 26.11. Purpose

Rehabilitation districts may be created to provide education, training, special services, and guidance to handicapped persons or handicapped scholastics peculiar to their condition and needs, to develop their full capacity for usefulness to themselves and society, and to prevent them from becoming or remaining, in whole or in part, dependent on public or private welfare or charity.

[Amended by Acts 1975, 64th Leg., p. 1351, ch. 509, § 3, eff. Sept. 1, 1975.]

#### SUBCHAPTER D. POWERS AND DUTIES

##### § 26.65. Administrative and Instructional Personnel

(a) To provide for the continuance of additional programs of instruction and training for handicapped persons between the ages of 6 and 21, inclusive, the District shall be eligible for and allotted administrative units, special service personnel, exceptional child teacher units, vocational education units, and other special education personnel, to the

extent herein provided for independent school districts, directly through the Foundation Program of the Central Education Agency. The district shall be eligible to receive state funds for the purpose of educating any handicapped or nonhandicapped scholastic between the ages of 14 and 21, inclusive, who is in need of an alternative school setting. The district is eligible for state funding of educational programs for the handicapped and nonhandicapped scholastics in the form of personnel or resources as provided by current state legislation concerning the distribution of state funds to public schools.

(b) The basis for establishing, operating, and the formula to be used for determining allocation of said administrative units, instructional units, exceptional child teacher units, vocational education units, and other special education personnel, shall be as required by the Central Education Agency of independent school districts. The district's allocation of principal units, special service units, and supervisor and counselor units shall be computed on eligible exceptional children teacher units in the same manner as other independent school districts' allocation of these units are computed on eligible classroom teacher units, except that the district's allocation shall be limited, computed upon, and restricted to include only children between the ages of 14 and 21, both inclusive. However, no local fund assignment shall be charged to a rehabilitation district.

(c) The cost of approved professional units authorized including the per unit operational cost provided by law shall be considered by the Foundation Program Committee in estimating the funds needed for Foundation Program purposes.

(d) Nothing in this Act is intended to permit double funding of any rehabilitation district by the Central Education Agency, and if and to the extent that any section is so construed, to that extent said section shall be inoperative.

[Amended by Acts 1975, 64th Leg., p. 1351, ch. 509, § 3, eff. Sept. 1, 1975.]

##### § 26.69. Taxes

[See *Compact Edition, Volume 1 for text of (a)*]

(b) The tax assessors and collectors of each county in a rehabilitation district must assess and collect taxes on taxable property in the county on levies made and rates fixed by the board of directors of that district, not exceeding the rate of five cents on each \$100 of valuation.

[Amended by Acts 1979, 66th Leg., p. 2320, ch. 841, § 4(p), eff. Jan. 1, 1982.]

##### § 26.71. Employment of Trainees

Rehabilitation districts shall cooperate with the Texas Rehabilitation Commission and the Texas Employment Commission and all other state agencies in training, education, and finding employment for their employable trainees.

[Amended by Acts 1975, 64th Leg., p. 1351, ch. 509, § 3, eff. Sept. 1, 1975.]

**CHAPTER 28. COUNTYWIDE VOCATIONAL SCHOOL DISTRICT AND TAX**

**§ 28.05. Annual Levy and Collection of Tax; Deposit of Funds**

(a) It shall be the duty of the commissioners court, after such tax shall have been voted, at the time other taxes are levied in the county, annually to levy a tax under this law of not to exceed 20 cents on the \$100 valuation. Such taxes shall be assessed and collected by the county tax assessor and collector.

*[See Compact Edition, Volume 1 for text of (b)]*

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(q), eff. Jan. 1, 1982.]

**§ 28.06. Duties of Commissioners Court**

As soon as the commissioners court of said county receives notice of the total of assessed value of taxable property, it shall

(1) determine the estimated total receipts from the levying and collecting of said tax of not exceeding 20 cents on the property in such county-wide district according to such valuation;

(2) determine the estimated amount of money apportionable for the ensuing school year to school district or districts under the jurisdiction of the county, which operate designated area vocational school(s), on the formula basis hereinafter prescribed; and

(3) transmit a copy of the order fixing the estimated proportioned amount available, to the president of the board of trustees of each such designated school district or districts eligible therefor.

[Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**CHAPTER 30. REHABILITATION OF HANDICAPPED AND DISABLED**

**SUBCHAPTER B. TEXAS REHABILITATION COMMISSION—CREATION; ADMINISTRATIVE PROVISIONS**

Section  
30.111. Repealed.

**SUBCHAPTER E. RESIDENTIAL CARE FACILITIES**

30.81. Purpose.  
30.82. Definitions.  
30.83. Allocation.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§§ 30.01, 30.02. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(2), eff. Sept. 1, 1979**

Acts 1979, 66th Leg., ch. 842, repealing these sections, enacts the Human Resources Code.  
For disposition of the subject matter of the repealed sections, see Disposition Table following the Human Resources Code.

**SUBCHAPTER B. TEXAS REHABILITATION COMMISSION—CREATION; ADMINISTRATIVE PROVISIONS**

**§§ 30.11 to 30.23. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(2), eff. Sept. 1, 1979**

Acts 1979, 66th Leg., ch. 842, repealing these sections, enacts the Human Resources Code.  
For disposition of the subject matter of the repealed sections, see Disposition Table following the Human Resources Code.  
Former § 30.111, relating to application of the Sunset Act, was derived from Acts 1977, 65th Leg., p. 1848, ch. 735, § 2.116.

**SUBCHAPTER C. POWERS AND DUTIES**

**§§ 30.41 to 30.49. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(2), eff. Sept. 1, 1979**

Acts 1979, 66th Leg., ch. 842, repealing these sections, enacts the Human Resources Code.  
For disposition of the subject matter of the repealed sections, see Disposition Table following the Human Resources Code.  
Prior to repeal, § 30.42 was amended by Acts 1979, 66th Leg., p. 1669, ch. 697, § 1.

**SUBCHAPTER D. EXTENDED REHABILITATED SERVICES**

**§§ 30.71 to 30.77. Repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(2), eff. Sept. 1, 1979**

Acts 1979, 66th Leg., ch. 842, repealing these sections, enacts the Human Resources Code.  
For disposition of the subject matter of the repealed sections, see Disposition Table following the Human Resources Code.

**SUBCHAPTER E. RESIDENTIAL CARE FACILITIES**

**§ 30.81. Purpose**

The purpose of this subchapter is to provide the necessary means to extend the per capita allocation from the state available fund to wards of the Texas Youth Council residing in state residential facilities for delinquent or dependent and neglected children and to those handicapped persons residing in state residential facilities under the control and direction of the Texas Department of Mental Health and Mental Retardation, and for the purpose of providing such state available funds for educational purposes, the educational programs in state residential care facilities for delinquent, dependent or neglected children, and the handicapped shall be deemed to be educational services provided by public free schools. [Added by Acts 1977, 65th Leg., p. 1962, ch. 782, § 2, eff. June 16, 1977. Amended by Acts 1979, 66th Leg., p. 1324, ch. 602, § 26, eff. Aug. 27, 1979.]

**§ 30.82. Definitions**

In this subchapter "mentally retarded" means that condition in which a person is described as having significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior. [Added by Acts 1977, 65th Leg., p. 1962, ch. 782, § 2, eff. June 16, 1977.]

### § 30.83. Allocation

(a) Each residential care facility for delinquent or dependent and neglected children under the control and direction of the Texas Youth Council or residential care facility for the mentally retarded under the control and direction of the Texas Department of Mental Health and Mental Retardation shall be entitled to receive the state available per capita allocation based on the facility's average daily attendance in educational programs, of students ages three through 21.

(b) Personnel authorized under the Foundation School Program employed in the state facilities pursuant to this section shall receive as a minimum salary the monthly salary rate specified in Chapter 16 of the Texas Education Code, as amended; provided, however, such personnel may be paid, from funds appropriated to the respective state facilities for delinquent or dependent and neglected children or the mentally retarded, salary rates in excess of the minimum amounts specified in Chapter 16 of the Texas Education Code, as amended, but such salary rates shall never exceed the rates of pay for like positions in the public schools of the adjacent school district or districts.

[Added by Acts 1977, 65th Leg., p. 1963, ch. 782, § 2, eff. June 16, 1977.]

## CHAPTER 31. TECHNICAL-VOCATIONAL EDUCATION ACT OF 1969

### SUBCHAPTER B. ADVISORY COUNCIL—CREATION; ADMINISTRATIVE PROVISIONS

Section

31.20. Application of Sunset Act.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 31.02. Purpose

The purpose of this chapter is to provide the necessary legal basis to establish a state educational system which will develop trained personnel in the area of technical and vocational skills, and to accommodate the social and economic needs of the people of the State of Texas. Further, it is the purpose of this chapter to comply in all respects with the Vocational Education Act of 1963, as amended,<sup>1</sup> and related state and federal acts, including those advisory functions therein specified. It is further the purpose of this chapter to establish as a part of the total educational system of the State of Texas, one council responsible for the development of a program to train manpower, through education, to further industrial and economic development in the State of Texas.

[Amended by Acts 1975, 64th Leg., p. 2160, ch. 694, § 1, eff. Sept. 1, 1975.]

<sup>1</sup> See 20 U.S.C.A. § 1241 et seq.

#### § 31.03. Definitions

In this chapter:

[See *Compact Edition, Volume 1 for text of (1) to (7)*]

(8) "Planning" as pertaining to the role of the advisory council means putting forth alternative actions for policy makers and administrators.

(9) "Manpower training" means training for all existing and future jobs.

[Amended by Acts 1975, 64th Leg., p. 2160, ch. 694, § 2, eff. Sept. 1, 1975.]

### SUBCHAPTER B. ADVISORY COUNCIL—CREATION; ADMINISTRATIVE PROVISIONS

#### § 31.12. Membership

(a) The council consists of 25 members appointed by the State Board of Education after recommendation by the governor and subject to confirmation by the Senate.

(b) The membership will be constituted as follows:

(1) one member familiar with vocational needs and the problems of management in the state;

(2) one member familiar with vocational needs and the problems of labor in the state;

(3) one member representing state industrial and economic development agencies;

(4) one member representing community or junior colleges;

(5) one member actively engaged in technical training institutes;

(6) one member representing and familiar with public programs of vocational education in comprehensive secondary schools;

(7) one member having special knowledge, experience, or qualifications with respect to vocational education but who is not involved in the administration of state or local vocational-education programs;

(8) one member who is currently serving as superintendent or other administrator of a local educational agency;

(9) one member who is currently serving on a local school board;

(10) one member who is familiar with the programs of teachers' training for technical-vocational teachers in the post secondary institutions;

(11) one member who is familiar with post secondary baccalaureate technological degree programs;

(12) one member representing the State Employment Training Council established pursuant to Section 110 of the Comprehensive Employment and Training Act (29 U.S.C. 801);

(13) one member representing school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

(14) one member having special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

(15) one member representative of and knowledgeable about the poor and disadvantaged;

(16) one member representing and familiar with the vocational needs and problems of agriculture in the state;

(17) one member representing the general public;

(18) one member representing proprietary vocational-technical schools of the state;

(19) one member who is a present or recent vocational education student who is not otherwise qualified for membership;

(20) one member representing and familiar with vocational guidance and counseling services;

(21) one member representing and familiar with nonprofit private schools;

(22) one member representing state correctional institutions;

(23) one member who is a vocational education teacher presently teaching in a local educational agency;

(24) one member who is a woman with a background and experience in employment and training programs, and who is knowledgeable with respect to the special experiences and problems of sex discrimination in job training and employment, of sex stereotyping in vocational education, and of discrimination in job training and employment against women who are members of minority groups; and

(25) one member who is receiving basic adult education services or who received those services at some time during the three years immediately prior to appointment.

[Amended by Acts 1975, 64th Leg., p. 2160, ch. 694, § 3, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 336, ch. 165, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 137, ch. 63, § 1, eff. April 22, 1981.]

Section 4 of the 1981 amendatory act provides:

"(a) The first member of the Advisory Council for Technical-Vocational Education appointed under Section 33.12(b)(25) [so in enrolled bill; probably should read 'Section 31.12(b)(25)'], Texas Education Code, as added by this Act, shall serve for a term expiring February 1, 1984.

"(b) Members of the Advisory Council for Technical-Vocational Education appointed for terms expiring on August 31 of 1981, 1982, or 1983 shall serve for terms expiring respectively on February 1 of 1982, 1983, or 1984."

Sections 6 and 7 of the 1975 amendatory act provided:

"Sec. 6. All members of the Advisory Council for Technical-Vocational Education holding office on the effective date of this Act shall serve for the remainder of their respective terms of office. The governor shall recommend and the State Board of Education shall appoint three new members with the qualifications specified in Subdivisions (18), (19), and (20), of Subsection (b), Section 31.12, Texas Education Code, as amended. The board shall designate one of the new members for a term expiring August 31, 1977, one for a term expiring on August 31, 1979, and one for a term expiring on August 31, 1981."

"Sec. 7. This Act takes effect September 1, 1975."

§ 31.13. Terms

Members of the council hold office for staggered terms of three years, with the terms of eight or nine members expiring on February 1 of each year. [Amended by Acts 1977, 65th Leg., p. 337, ch. 165, § 2, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 138, ch. 63, § 2, eff. April 22, 1981.]

§ 31.20. Application of Sunset Act

The council is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the council is abolished effective September 1, 1983. [Added by Acts 1979, 66th Leg., p. 1877, ch. 759, § 1, eff. June 13, 1979.]

SUBCHAPTER C. POWERS AND DUTIES

§ 31.33. Duties

The council shall be the advisory council to the State Board for Vocational Education and shall:

(1) recommend and evaluate the role and scope of secondary institutions, public junior colleges, community colleges, technical training institutes, and public senior colleges and universities in a comprehensive plan for developing manpower education and training in the State of Texas;

(2) recommend the appropriate subjects to be taught at each level of training and in each of the above types of institutions;

(3) recommend a state plan designating the method and the criteria to be utilized in establishing area technical schools which will be consistent with the Vocational Educational Act of 1963, as amended,<sup>1</sup> the Manpower Development and Training Act of 1962, as amended,<sup>2</sup> and other federal statutes;

(4) recommend and evaluate a list of courses offered by these types of institutions eligible to be funded by the legislature or through the allocation of federal funds. These courses shall be freely transferable among the public institutions in the State of Texas, with credit for such courses to be given on the same basis as if they had been taken at the receiving institutions;

(5) recommend to the governor and the legislature methods of funding existing programs and propose methods for funding new programs;

(6) suggest and evaluate pilot projects and present recommendations to the governor and the legislature for implementing cooperative programs among the several types of institutions named hereinabove, which will provide a more effective and efficient method of supplying business and industry with trained manpower;

(7) recommend the establishment of the responsibility of public schools, public junior colleges, community colleges, technical training institutes, and public senior colleges and universities in adult basic education, adult technical education, and adult vocational education;

(8) recommend, encourage, and evaluate cooperative programs between educational institutions and industry, and, with the assistance of industry, assist in the development of new curricula and instructional materials as may be required for new and emerging occupational categories as may be prescribed by industry;

(9) provide up-to-date information on employment opportunities in the Texas economy to persons trained in these institutions through cooperation with the Texas Employment Commission and other appropriate research agencies at both the state and national levels;

(10) identify, after consultation with the State Employment Training Council, the vocational education and employment and training needs of the state and assess the extent to which vocational education, employment training, vocational rehabilitation, and other programs represent a consistent, integrated, and coordinated approach to meeting such needs;

(11) comment, at least once annually, on the reports of the State Employment Training Council, which comments shall be included in the annual report submitted by the state advisory council;

(12) recommend research projects as may be necessary to implement and improve a statewide system of technical, vocational, and manpower training from funds provided by appropriations from the United States Congress or private gifts, grants, or awards;

(13) recommend and evaluate a program of teacher certification for instructors of occupational training courses;

(14) recommend and evaluate a statewide plan for the development of a comprehensive program of apprenticeship training;

(15) support actions and activities to encourage and strengthen local and regional vocational advisory councils in carrying out their responsibilities;

(16) recommend methods through which increased numbers of physically and mentally handicapped individuals may effectively benefit from programs of vocational education offered at secondary institutions, the Texas School for the Blind and the Texas School for the Deaf, public junior colleges, community colleges, technical training institutes, and public senior colleges and universities; and

(17) recommend and evaluate innovative programs to assure that physically or mentally handicapped individuals who cannot readily participate in programs of vocational education offered at secondary institutions, the Texas School for the Blind and the Texas School for the Deaf, public junior colleges, community colleges, technical training institutes, and public senior colleges and universities derive vocational education benefits from sums appropriated for vocational education by the legislature, by extending vocational education programs through nonprofit facilities operated other than on campus settings.

[Amended by Acts 1975, 64th Leg., p. 2161, ch. 694, § 4, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 2379, ch. 734, § 4, eff. June 21, 1975; Acts 1977, 65th Leg., p. 338, ch. 165, § 3, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 138, ch. 63, § 3, eff. April 22, 1981.]

<sup>1</sup> See 20 U.S.C.A. § 1241 et seq.

<sup>2</sup> 42 U.S.C.A. § 2571 et seq. (repealed; see, now, 29 U.S.C.A. § 801 et seq.).

### § 31.34. Studies; Reports

[See *Compact Edition, Volume 1* for text of (a) and (b)]

(c) The council shall make a report to the governor annually and to the legislature not later than December 1 prior to the regular session of the legislature, setting forth the numbers of physically and mentally handicapped individuals deriving benefits from vocational education programs within the State of Texas during the period covered by the report, indicating the severity of the handicaps of the individuals involved, reflecting the types of vocational education being received, specifying the amounts of state and federal vocational education funds expended, evaluating the impact of such vocational education services on the lives of the handicapped individuals involved, and describing the cooperation received from other state boards and agencies pursuant to Section 31.36 of this code.

[Amended by Acts 1975, 64th Leg., p. 2380, ch. 734, § 5, eff. June 21, 1975.]

### § 31.39. Status of Recommendations

[See *Compact Edition, Volume 1* for text of (a) to (c)]

(d) Each state board, commission, council, or agency which develops policy or administers programs of vocational, technical, or adult education or manpower training shall receive the reports and recommendations of the advisory council and shall respond in accordance with procedures outlined in this section. [Amended by Acts 1975, 64th Leg., p. 2162, ch. 694, § 5, eff. Sept. 1, 1975.]

### § 31.40. Allocation of State and Federal Funds

(a) The State Board for Vocational Education shall have the authority to allocate, as provided herein, funds appropriated by the legislature and funds of the United States government received by the State of Texas under the Vocational Education Act of 1963, as amended,<sup>1</sup> and the Manpower Development and Training Act of 1962, as amended,<sup>2</sup> or other such federal statutes, as may come under its jurisdiction. Only institutions and programs approved by the State Board of Education or the Coordinating Board, Texas College and University System, will be eligible for the distribution of such funds; such program approvals shall include all those previously approved including industrial arts.

(b) Of the state funds appropriated for the support of vocational education programs within the State of Texas, there is hereby allocated for specific and identifiable use in behalf of individuals with handicapping conditions of such severity as to render such individuals eligible for vocational rehabilitation services, a percentage of the appropriation of state funds which corresponds to the percentage of the federal appropriation for vocational education re-

quired by federal law to be expended in behalf of handicapped individuals.

[Amended by Acts 1975, 64th Leg., p. 2380, ch. 734, § 6, eff. June 21, 1975.]

<sup>1</sup> See 20 U.S.C.A. § 1241 et seq.

<sup>2</sup> 42 U.S.C.A. § 2571 et seq. (repealed; see, now, 29 U.S.C.A. § 801 et seq.)

SUBCHAPTER E. JOINT COMMITTEE

§§ 31.81 to 31.83. Repealed by Acts 1981, 67th Leg., p. 917, ch. 333, § 1(5), eff. Aug. 31, 1981.

CHAPTER 32. TEXAS PROPRIETARY SCHOOL ACT

SUBCHAPTER B. GENERAL PROVISIONS

§ 32.12. Exemptions

(a) The following schools or educational institutions are specifically exempt from the provisions of this chapter and are not within the definition of "proprietary school."

[See Compact Edition, Volume 1 for text of (a)(1) to (a)(8)]

(9) a school which offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations, or medical college admissions tests.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1977, 65th Leg., p. 1075, ch. 392, § 1, eff. Aug. 29, 1977.]

CHAPTER 33. APPRENTICESHIP SYSTEM OF ADULT VOCATIONAL EDUCATION

Section	
33.01.	Definitions.
33.02.	General Provisions Relating to Apprenticeship Training Programs.
33.03.	Duties of Apprenticeship Committee.
33.04.	Notice of Available Funds.
33.05.	Apprenticeship and Training Advisory Committee.
33.06.	Duties of Apprenticeship and Training Advisory Committee.
33.07.	Audit Procedures.
33.08.	Appropriation and Distribution of Funds.
33.09.	Rules.
33.10.	Status of Recommendations.
33.11.	Applicability.

§ 33.01. Definitions

In this chapter:

(1) "Apprenticeship training program" means a training program that provides on-the-job training, preparatory instruction, supplementary instruction, or related instruction in a trade that has been certified as an apprenticeship occupation by the Bureau of Apprenticeship Training of the United States Department of Labor.

(2) "Preparatory instruction" means a course of instruction lasting six months or less that teaches the basic skills required for an individual to comply with the terms of his or her apprenticeship agreement as required by Section 33.02(d) of this code.

(3) "Supplementary instruction" means a course of instruction for persons employed as journeymen craftsmen in apprenticeship trades that is designed to provide new skills or upgrade current skills.

(4) "Related instruction" means organized, off-the-job instruction in theoretical or technical subjects required for the completion of an apprenticeship program for a particular apprenticeship trade.

(5) "Advisory committee" means the Apprenticeship and Training Advisory Committee to the State Board of Vocational Education.

(6) "BAT" means the Bureau of Apprenticeship Training of the United States Department of Labor.

(7) "CEA" means the Central Education Agency.

[Added by Acts 1977, 65th Leg., p. 621, ch. 230, § 1, eff. Aug. 29, 1977.]

§ 33.02. General Provisions Relating to Apprenticeship Training Programs

(a) Pursuant to the provisions of this chapter, the commissioner of education may allocate state funds for the support of apprenticeship training programs that meet the criteria set forth in this chapter.

(b) A program must be sponsored by a public school district or a state postsecondary institution pursuant to a contract between the district or institution and an apprenticeship committee.

(c) A program must be under the direction of an apprenticeship committee whose members are appointed by one or more employers of apprentices, one or more bargaining agents representing members of an apprenticeship trade, or a combination of the above, and the committee shall perform the duties set forth in Section 33.03 of this code. If an apprenticeship committee is composed of representatives of one or more employers and one or more bargaining agents, the number of committee members designated by the employer or employers shall be equal to the number of committee members designated by the bargaining agent or agents.

(d) Each apprentice participating in a program must be given a written apprenticeship agreement by the apprenticeship committee stating the standards and conditions of his employment and training. The standards must conform substantially with the standards of apprenticeship for the particular trade which have been adopted by BAT.

(e) An apprentice may not be charged tuition or fees by a public school district or state postsecondary institution other than an administrative fee to cover the costs of processing his records which shall not exceed \$5 for each course in which the apprentice is enrolled.

(f) Funding for a program, in addition to any other money available, shall be provided by the apprenticeship committee pursuant to the terms of the contract referred to in Subsection (b) of this section.

(g) Pursuant to the terms of the contract referred to in Subsection (b) of this section, adequate facilities, personnel, and resources to effectively administer the apprenticeship training program in a manner consistent with the public's need for skilled craftsmen and the apprentices' need for marketable skills in apprenticeship occupations must be provided.

(h) A program must be registered with the BAT and approved by the State Board of Vocational Education or the Coordinating Board, Texas College and University System.

[Added by Acts 1977, 65th Leg., p. 622, ch. 230, § 1, eff. Aug. 29, 1977.]

### § 33.03. Duties of Apprenticeship Committee

The apprenticeship committee for each apprenticeship training program shall:

- (1) establish standards and goals for preparatory instruction, supplementary instruction, and related instruction for apprentices in the program;
- (2) establish rules governing the on-the-job training and other instruction for apprentices in the program;
- (3) plan and organize instructional materials designed to provide technical and theoretical knowledge and basic skills required by apprentices in the program;
- (4) recommend qualified instructors for the program;
- (5) monitor and evaluate the performance and progress of each apprentice in the program and the program as a whole;
- (6) interview applicants and select those most qualified for entrance into the program;
- (7) provide for the keeping of records of the on-the-job training and progress of each apprentice;
- (8) encourage instructors to maintain recommended qualifications; and
- (9) perform any other duties which, in the opinion of the apprenticeship committee, promote the goals of individual apprentices and of the program as a whole.

[Added by Acts 1977, 65th Leg., p. 622, ch. 230, § 1, eff. Aug. 29, 1977.]

### § 33.04. Notice of Available Funds

In order to insure that all citizens of Texas have an equal opportunity to benefit from apprenticeship training programs, the State Board of Vocational Education shall provide for statewide publication in a manner recommended by the advisory committee and intended to give actual notice to all potential program sponsors of the amount of funds that will

be available to support apprenticeship training programs during the current and following fiscal years, the qualifications required of program sponsors and apprenticeship committees, and the procedures to be followed in applying for state funds. The notice may also include other information recommended by the advisory committee and approved by the State Board of Vocational Education. Notwithstanding the foregoing, the State Board of Vocational Education shall publish any information concerning available funds given to a particular program sponsor in a manner recommended by the advisory committee and intended to give actual notice to all potential program sponsors statewide.

[Added by Acts 1977, 65th Leg., p. 623, ch. 230, § 1, eff. Aug. 29, 1977.]

### § 33.05. Apprenticeship and Training Advisory Committee

(a) The State Board of Vocational Education shall appoint an Apprenticeship and Training Advisory Committee composed of members with the following qualifications:

- (1) five persons representing employers of members of apprenticeship trades;
- (2) five persons representing bargaining agents for members of apprenticeship trades;
- (3) five persons employed as training directors of program administrators by apprenticeship committees;
- (4) five persons employed by public schools or state postsecondary institutions who teach or immediately supervise preparatory instruction, supplementary instruction, or related instruction courses.

(b) Members of the advisory committee shall serve terms of four years, except that the state board shall designate two members from each of the groups referred to in Subdivisions (1), (2), (3), and (4) of Subsection (a) of this section to serve an initial term of two years. Thereafter all members shall serve four-year terms.

(c) Vacancies shall be filled for the unexpired portion of a term vacated.

(d) Nonvoting members of the advisory committee shall include the following:

- (1) one person designated by and representing the State Board of Vocational Education;
- (2) one person designated by and representing the Advisory Council for Technical Vocational Education;
- (3) one person designated by and representing the Coordinating Board, Texas College and University System;
- (4) one person designated by and representing BAT;
- (5) one person designated by and representing the Teachers Training Division of the Texas A&M University Engineering Extension Service; and

(6) one person representing the general public who is familiar with the goals and needs of technical vocational education in Texas, and who is not otherwise eligible for service on the advisory committee.

(e) The member representing the general public shall be appointed by the State Board of Vocational Education for a term of four years. All other non-voting members of the advisory committee shall serve at the pleasure of the agency or institution each respective member represents.

[Added by Acts 1977, 65th Leg., p. 623, ch. 230, § 1, eff. May 24, 1977.]

**§ 33.06. Duties of Apprenticeship and Training Advisory Committee**

(a) The advisory committee shall recommend and evaluate a statewide plan for the development of a comprehensive program of apprenticeship training which shall include but not be limited to the following:

(1) formulas and administrative procedures to be used in requesting appropriations of state funds for apprenticeship training;

(2) forms, formulas, and administrative procedures to be used in distributing available funds to apprenticeship training programs, with the formulas based on data contained in the biennial update to the Apprenticeship Related Instruction Cost Study required by Section 33.08 of this code, and the formulas shall be uniform in application to all program sponsors; and

(3) the content and method of the public notice required by this chapter.

(b) The CEA shall furnish the advisory committee with the current data necessary to determine these formulas. All state boards and agencies shall cooperate with the advisory committee and shall furnish information and material on request.

[Added by Acts 1977, 65th Leg., p. 624, ch. 230, § 1, eff. Aug. 29, 1977.]

**§ 33.07. Audit Procedures**

(a) The CEA shall maintain a clear audit trail of all funds appropriated for the apprenticeship system of adult vocational education. For each course that is funded, the audit trail in the CEA shall include the following records:

(1) the name of the sponsoring public school district or state postsecondary institution;

(2) the name of the instructor;

(3) the number of students enrolled;

(4) the place and schedule of class meetings; and

(5) certification by the BAT for preparatory and related instruction courses that the students enrolled were registered apprentices.

(b) Public school districts or state postsecondary institutions receiving funds shall maintain a clear

audit trail which shall include records of receipts for all expenditures relating solely to each particular course. Where an expense is shared by two or more courses, the allocation to that expense from the funds for a particular course shall be supported by a formula based on the comparative benefit derived by each course from the expense. No charges for the depreciation of facilities or the retirement of indebtedness shall be allocated to an apprenticeship course.

(c) Funds appropriated for the apprenticeship system of adult vocational education shall not be commingled with funds appropriated for other purposes.

(d) The State Auditor shall include all state funds appropriated to the Central Education Agency pursuant to this chapter in the periodic audits of the Central Education Agency. Funds received pursuant to this chapter by a school district or postsecondary institution are subject to audit as otherwise provided by law.

(e) All records, receipts, working papers, and other components of the audit trail shall be public records.

[Added by Acts 1977, 65th Leg., p. 624, ch. 230, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 23, ch. 19, § 1, eff. April 1, 1981.]

**§ 33.08. Appropriation and Distribution of Funds**

(a) On recommendation of the advisory committee the State Board of Vocational Education shall adopt formulas and administrative procedures to be used in requesting appropriations of state funds as a budgetary line item for the Apprenticeship System of Adult Vocational Education.

(b) The CEA shall prepare an update to the Apprenticeship Related Instruction Cost Study adopted by the State Board of Education on February 10, 1973, prior to each biennial session of the legislature.

(c) On recommendation of the advisory committee the State Board of Vocational Education shall adopt forms, formulas, and administrative procedures for the distribution of available funds to apprenticeship training programs. Distribution formulas must be uniform in application to all local program sponsors.

(d) On recommendation of the advisory committee the State Board of Vocational Education shall reserve until December 1 of each year a percentage of the funds appropriated under the line item described in this section to be used solely for apprenticeship-related instruction programs. This percentage shall be established by the formulas required by this section. Reserved funds that are not obligated on December 1 may be used for preparatory and supplementary instruction programs as well as related instruction programs.

(e) No funds shall be distributed to a public school district or state postsecondary institution until the district or institution has filed all reports required by this chapter and by the State Board of Vocational Education.

[Added by Acts 1977, 65th Leg., p. 625, ch. 230, § 1, eff. Aug. 29, 1977.]

**§ 33.09. Rules**

The State Board of Vocational Education shall promulgate rules necessary to implement the provisions of this chapter.

[Added by Acts 1977, 65th Leg., p. 625, ch. 230, § 1, eff. Aug. 29, 1977.]

**§ 33.10. Status of Recommendations**

(a) Recommendations of the advisory committee submitted to the State Board of Vocational Education must be acted on, and either accepted or rejected.

(b) A recommendation which is rejected must be returned immediately to the advisory committee, accompanied by written notice of the reasons for rejecting the recommendation.

[Added by Acts 1977, 65th Leg., p. 625, ch. 230, § 1, eff. Aug. 29, 1977.]

**§ 33.11. Applicability**

The provisions of this chapter apply only to those apprenticeship training programs which receive state funds pursuant to the provisions of Section 33.02 of this chapter.

[Added by Acts 1977, 65th Leg., p. 625, ch. 230, § 1, eff. Aug. 29, 1977.]

**TITLE 3. HIGHER EDUCATION****SUBTITLE A. HIGHER EDUCATION  
IN GENERAL****CHAPTER 51. PROVISIONS GENERALLY  
APPLICABLE TO HIGHER EDUCATION****SUBCHAPTER E. PROTECTION OF BUILDINGS  
AND GROUNDS**

## Section

- 51.213. Abandoned Personal Property.  
51.214. Security Officers for Medical Corporations in Certain Cities.

**SUBCHAPTER H. GUIDELINES FOR ACADEMIC  
WORKLOADS**

- 51.401. Purpose.  
51.402. Report of Institutional and Academic Duties.  
51.403. Reports of Student Enrollment.  
51.404. Submission of Reports.  
51.405. Reporting of Noncompliance.

**SUBCHAPTER Z. MISCELLANEOUS PROVISIONS**

- 51.906. Sequential Education Planning for Nursing Education.  
51.907. Competitive Bidding on Contracts.  
51.908. [Blank].  
51.909. Expulsion of Certain Foreign Students.

**SUBCHAPTER A. CONTROL OF FUNDS BY  
CERTAIN INSTITUTIONS****§ 51.001. Institutions to which Applicable**

Subject to Section 51.008 of this code, the provisions of this subchapter apply to:

(1) each institution and branch of The University of Texas System;

(2) each institution, agency, and service of The Texas A & M University System;

(3) Texas A & I University;

(4) Texas Tech University;

(5) East Texas State University;

(6) North Texas State University;

(7) Sam Houston State University;

(8) Stephen F. Austin State University;

(9) Southwest Texas State University;

(10) Sul Ross State University;

(11) West Texas State University;

(12) Texas Eastern University; and

(13) each public junior college to the extent possible.

[Amended by Acts 1975, 64th Leg., p. 813, ch. 317, § 2, eff. Sept. 1, 1975.]

**§ 51.005. Reports**

(a) True and full accounts shall be kept by the governing board and by the employees of the institution of all funds collected from all sources and of all sums paid out and the persons to whom and the purposes for which the sums are paid. The governing board shall annually, between September 1 and January 1, print a complete report of all the sums collected, all expenditures, and all sums remaining on hand. The report shall show the true condition of all funds as of the August 31 preceding as well as the collections and expenditures for the preceding year.

(b) The governing board shall furnish one copy of the report each to the governor, comptroller of public accounts, state auditor, Coordinating Board, Texas College and University System, Legislative Budget Board, House Appropriations Committee, and Legislative Reference Library. The governing board shall retain five copies of the report for distribution to legislators or other state officials on request.

[Amended by Acts 1975, 64th Leg., p. 568, ch. 227, § 1, eff. May 20, 1975; Acts 1977, 65th Leg., p. 1187, ch. 455, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1053, ch. 484, § 1, eff. Aug. 27, 1979.]

**SUBCHAPTER B. GENERAL PROPERTY  
DEPOSITS: INVESTMENTS AND USES****§ 51.052. Student Deposit Fund; Composition and  
Uses**

[See Compact Edition, Volume 1 for text of (a)]

(b) The student deposit fund shall be used, at the discretion of the board, for any of the following purposes: making scholarship awards to needy and deserving students, the support of a general student union program, or for the establishment of an institutional loan program for students. Loans made under this subsection shall bear a nominal interest

rate, be secured by a promissory note from the student to the loan fund, require no collateral, and be of a duration not more than 12 months. A student obtaining a loan under this subsection may have no more than two such loans outstanding at any time. The board shall administer the scholarship awards for the institution, including the selection of recipients and the amounts and conditions of the awards. The recipients of the scholarships must be residents of the state as defined for tuition purposes. Any use of the funds for the support of student union programs shall be approved as to amount and purpose by the board. The student deposit funds for The University of Texas at Austin, Texas A&M University, and Texas Tech University shall be available for scholarship purposes only. Direct expenses for the administration of the funds shall be paid from the funds.

[Amended by Acts 1977, 65th Leg., p. 1691, ch. 670, § 1, eff. Aug. 29, 1977.]

SUBCHAPTER C. FACULTY DEVELOPMENT  
LEAVES OF ABSENCE

§ 51.105. Duration and Compensation

[See Compact Edition, Volume 1, for text of (a)]

(b) A faculty member on faculty development leave may accept a grant for study, research, or travel from any institution of higher education, from a charitable, religious, or educational corporation or foundation, from any business enterprise, or from any federal, state, or local governmental agency. An accounting of all grants shall be made to the governing board of the institution by the faculty member. A faculty member on faculty development leave may not accept employment from any other person, corporation, or government, unless the governing board determines that it would be in the public interest to do so and expressly approves the employment.

[Amended by Acts 1981, 67th Leg., p. 890, ch. 316, § 1, eff. Aug. 31, 1981.]

SUBCHAPTER D. INFORMATION  
NETWORK ASSOCIATIONS

§ 51.153. Western Information Network Association

[See Compact Edition, Volume 1 for text of (a) to (d)]

(e) The Western Information Network Association is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the association is abolished effective September 1, 1989.

[Amended by Acts 1977, 65th Leg., p. 1854, ch. 735, § 2.157, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

§ 51.168. Creation of Additional Associations

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) An information network association created under this section is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the association is abolished effective September 1, 1989.

[Amended by Acts 1977, 65th Leg., p. 1854, ch. 735, § 2.158, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

SUBCHAPTER E. PROTECTION OF  
BUILDINGS AND GROUNDS

§ 51.213. Abandoned Personal Property

The governing board of each state institution of higher education, including public junior colleges, is authorized to promulgate rules and regulations providing for the disposition of abandoned and unclaimed personal property coming into the possession of the campus security personnel where the personal property is not being held as evidence to be used in any pending criminal case.

[Added by Acts 1977, 65th Leg., p. 1712, ch. 680, § 1, eff. Aug. 29, 1977.]

§ 51.214. Security Officers for Medical Corporations in Certain Cities

In any city with a population of 1,200,000 or more, according to the most recent federal census, the governing board of a private, nonprofit medical corporation that provides security services for institutions of higher education and other entities located within the same medical complex, or that provides security services for a branch of that medical complex, may employ and commission security personnel to enforce the law of this state at the medical complex and its branches. An officer commissioned under this section has all the powers, privileges, and immunities of a peace officer while on the property under the control and jurisdiction of the medical corporation or while otherwise performing his assigned duties. An officer assigned to duty and commissioned shall take and file the oath required of peace officers and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor, with two or more good and sufficient sureties, conditioned that he will fairly, impartially, and faithfully perform the duties required of him by law. The bond may be sued on from time to time in the name of the person injured until the whole amount is recovered.

[Added by Acts 1981, 67th Leg., p. 1810, ch. 399, § 1, eff. June 11, 1981.]

Section 2 of the 1981 Act provides:

"Security personnel who on the effective date of this Act are in the employment of a medical corporation described in Section 1 of this Act may be commissioned as provided for by that section."

SUBCHAPTER F. REQUIRED AND  
ELECTIVE COURSES

§ 51.303. Elective Courses in Dactylogy

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) American Sign Language is recognized as a language, and any state institute of higher educa-

tion may offer an elective course in American Sign Language. A student is entitled to count credit received for a course in American Sign Language toward satisfaction of a foreign language requirement of the institution of higher education where it is offered.

[Amended by Acts 1979, 66th Leg., p. 735, ch. 327, § 2, eff. Aug. 27, 1979.]

#### SUBCHAPTER G. OPTIONAL RETIREMENT SYSTEM

#### §§ 51.351 to 51.358. Repealed by Acts 1981, 67th Leg., p. 2063, ch. 453, § 3(2), eff. Sept. 1, 1981

Acts 1981, 67th Leg., ch. 453, repealing these sections, enacted Title 110B of the Revised Civil Statutes, Public Retirement Systems.

For disposition of the subject matter of the repealed sections, see Disposition Table following Title 110B.

Prior to repeal, § 51.352 was amended by Acts 1981, 67th Leg., p. 1863, ch. 441, § 2, which was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(2).

Prior to repeal, § 51.354 was amended by Acts 1981, 67th Leg., p. 1863, ch. 441, § 3, which was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(2).

Prior to repeal, § 51.355 was amended by Acts 1979, 66th Leg., p. 1035, ch. 465, § 1.

Prior to repeal, § 51.357 was amended by Acts 1981, 67th Leg., p. 1863, ch. 441, § 4, which was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(2).

Prior to repeal, § 51.358 was amended by Acts 1981, 67th Leg., p. 1864, ch. 441, § 5, which was repealed by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, § 110(a)(2).

#### SUBCHAPTER H. GUIDELINES FOR ACADEMIC WORKLOADS

##### § 51.401. Purpose

It is the intent of the legislature that all public higher education institutions of this state shall manage their institutions and institutional resources to achieve maximum effectiveness and to provide the greatest attainable educational benefit from the expenditure of public funds.

[Added by Acts 1977, 65th Leg., p. 1478, ch. 601, § 1, eff. Aug. 29, 1977.]

##### § 51.402. Report of Institutional and Academic Duties

(a) The Coordinating Board, Texas College and University System, in cooperation with governing boards, institutional officials, and faculty representatives of general academic institutions of higher education, shall develop and recommend general policies and standard reports for academic faculty workloads and services.

(b) The governing board of each institution of higher education in the state shall adopt rules and regulations concerning faculty academic workloads. The established rules and regulations of each institution shall be reported to the coordinating board and included in the operating budgets of each institution.

(c) Within 30 days of the end of each academic year, the institution shall file with its governing board a report, by department, of the academic

duties and services performed by each member of the faculty during the nine-month academic year, showing evidence of compliance with requirements established by the governing board. The report of academic duties and services performed by each member of the faculty shall indicate all appointments held by the faculty member in the employing institution, the salary paid to each appointment, the percent of time of each appointment, and the source of funds from which salary payments were made. Teaching responsibilities in each workload standard shall be in proportion to the portion of salary paid from funds appropriated for instructional purposes.

(d) The institutional head of each higher education institution shall designate the officer of his staff who will monitor workloads, prepare and review appropriate workload reports, and submit the reports to the institutional head for his certification or approval and comments as may be appropriate. [Added by Acts 1977, 65th Leg., p. 1478, ch. 601, § 1, eff. Aug. 29, 1977.]

##### § 51.403. Reports of Student Enrollment

(a) All higher education institutions of this state shall offer only such courses and teach such classes as are economically justified in the considered judgment of the appropriate governing board.

(b) The chief executive officer of each institution shall provide its governing board a report for each fall and spring semester indicating for each instructor the number of students enrolled in each class, the number of semester-credit hours accrued to each course, the course number and title, the department in which the course is offered, and the identity and academic rank of the instructor.

(c) At the close of each fall and spring semester, the chief executive officer of each institution shall provide the appropriate governing board with a semester report comparing student enrollments in each class on the last day with enrollments as set out in Section 51.403(b) of this code.

(d) Each institution shall file with its governing board and the coordinating board a small class report, excluding individual instruction courses, indicating department, course number, title of course, and the name of the instructor. "Small classes," for the purpose of this report, are undergraduate-level courses with less than 10 registrations, and graduate-level courses with less than 5 registrations. No small classes shall be offered in any institution except as authorized by the appropriate governing board, within the guidelines established by the Coordinating Board.

[Added by Acts 1977, 65th Leg., p. 1479, ch. 601, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1100, ch. 516, § 1, eff. Aug. 27, 1979.]

##### § 51.404. Submission of Reports

Each institution shall submit all reports required by this subchapter to the coordinating board. The coordinating board shall furnish such summaries of

these reports as the governor's budget office and legislative budget board may request, including an analysis of compliance by each institution of higher education with its adopted rules and regulations as filed with the coordinating board in compliance with Section 51.402(b) of this code. All such reports shall be public information.

[Added by Acts 1977, 65th Leg., p. 1479, ch. 601, § 1, eff. Aug. 29, 1977.]

**§ 51.405. Reporting of Noncompliance**

Should any institution of higher education fail to comply with its adopted rules and regulations as determined by the coordinating board in Section 51.404 of this code, the coordinating board shall inform the governor's budget office, the legislative budget board, and the chairmen of the house and senate appropriations committees.

[Added by Acts 1977, 65th Leg., p. 1479, ch. 601, § 1, eff. Aug. 29, 1977.]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

**§ 51.904. Street Closing**

The governing body of a state-supported college or university in a county having a population in excess of 2,000,000 may vacate, abandon, and close a street or alley running through the campus if the state-supported college or university owns all of the real property abutting the street or alley.

[Amended by Acts 1981, 67th Leg., p. 597, ch. 237, § 136, eff. Sept. 1, 1981.]

**§ 51.905. State-Owned Museum Buildings**

[See Compact Edition, Volume 1 for text of (a)]

(b) Repealed by Acts 1975, 64th Leg., p. 1251, ch. 474, § 1, eff. Sept. 1, 1975.

[See Compact Edition, Volume 1 for text of (c) and (d)]

[Amended by Acts 1975, 64th Leg., p. 1251, ch. 474, § 1, eff. Sept. 1, 1975.]

**§ 51.906. Sequential Education Planning for Nursing Education**

The governing board of each state-supported institution of higher education which provides a nursing education program shall plan and incorporate into the program standards and sequential procedures which will recognize and grant credit for actual educational and clinical experiences in the nursing field which are equivalent to regular course content. The board may require students to pass examinations demonstrating competence based on educational and clinical experiences before granting academic credit.

[Added by Acts 1975, 64th Leg., p. 1912, ch. 615, § 1, eff. Sept. 1, 1975.]

**§ 51.907. Competitive Bidding on Contracts**

All contracts for the construction or erection of permanent improvements at an institution of higher education as defined in Section 61.003 of this code are void unless made after advertising for bids thereon in a manner prescribed by its governing board, receiving sealed competitive bids, and awarding of the contract to the lowest responsible bidder by the governing body. If a contract is to be recommended for award to other than the lowest bidder, any bidder making a lower bid than the recommended bid shall be notified of the recommendation for award and shall be allowed an opportunity prior to the award to present evidence to the board or its designated representative as to the responsibility of that bidder.

[Added by Acts 1977, 65th Leg., p. 562, ch. 197, § 1, eff. May 20, 1977.]

**§ 51.908. [Blank]**

**§ 51.909. Expulsion of Certain Foreign Students**

(a) The governing board of a public institution of higher education may expel from that institution any student who is a citizen of a country other than the United States attending the institution under a nonimmigrant visa issued by the Immigration and Naturalization Service and who is finally convicted of an offense under Section 28.03, 28.04, 42.02, 42.03, 42.05, or 42.09, Penal Code, as amended, or under Section 4.30 of this code.

(b) In this section, a person is finally convicted if the conviction has not been reversed on appeal and all appeals, if any, have been exhausted.

[Added by Acts 1979, 66th Leg., p. 1258, ch. 595, § 1, eff. June 13, 1979.]

CHAPTER 52. STUDENT LOAN PROGRAM

SUBCHAPTER C. STUDENT LOANS

Section 52.40. Cancellation of Certain Loan Repayments.

SUBCHAPTER C. STUDENT LOANS

**§ 52.36. Loan Interest**

The board shall from time to time fix the interest to be charged for any student loan at a rate sufficient to pay the interest on outstanding bonds plus any expenses incident to their issuance, sale, and retirement. Interest shall be postponed by the board as long as a student is enrolled at a participating institution and may be postponed at the board's discretion as long as a student is enrolled at any other higher educational institution, provided that the total interest paid is to be equal to that fixed at the time the note evidencing the loan is executed.

[Amended by Acts 1979, 66th Leg., p. 785, ch. 347, § 1, eff. June 6, 1979.]

### § 52.40. Cancellation of Certain Loan Repayments

(a) The board may cancel the repayment of a loan received by a student who earns a professional doctor of medicine degree or a doctorate of psychology degree and who is employed by the Texas Youth Council, State Department of Public Welfare, Texas Department of Corrections, or Department of Mental Health and Mental Retardation prior to the date on which repayment of the loan is to commence.

(b) A person who wishes to apply for a loan cancellation shall enter into a contract with the board which contains the following provisions:

(1) No payment is due from the person as long as he is employed by one of the designated state agencies.

(2) Half of the total amount of the loan plus interest due is to be cancelled after two years of service with a designated state agency, and the remainder is to be cancelled after two additional years of service.

(3) Repayment of the loan and interest is to commence immediately if the person leaves the designated state agency before the expiration of two years; repayment of one-half of the loan and interest is to commence immediately if the person leaves the designated state agency after completing two years service; upon completion of four years service, the loan, principal and interest, shall be fully cancelled.

(4) Interest continues to accrue until the loan is cancelled or repaid.

(c) The legislature shall appropriate to the Texas Opportunity Plan Fund an amount equal to the loans and interest cancelled pursuant to the provisions of this section.

(d) The board shall publicize the availability of the loan cancellation procedures provided in this section at all institutions of higher education which offer graduate programs in medicine or psychology.

[Added by Acts 1975, 64th Leg., p. 1344, ch. 503, § 1, eff. Sept. 1, 1975.]

[Sections 52.41 to 52.50 reserved for expansion]

## CHAPTER 53. HIGHER EDUCATION AUTHORITIES

### SUBCHAPTER C. POWERS AND DUTIES

Section

53.47. Bonds for the Purchase of Student Loan Notes.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 53.02. Definitions

[See Compact Edition, Volume 1 for text of (1) to (4)]

(5) "Institution of higher education" means either a degree-granting college or university corporation accredited by the Texas Education Agency, or a postsecondary proprietary school accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools,

or the National Accrediting Commission of Cosmetology Arts and Sciences.

[See Compact Edition, Volume 1 for text of (6) to (10)]

[Amended by Acts 1981, 67th Leg., p. 3067, ch. 807, § 1, eff. June 17, 1981.]

### SUBCHAPTER C. POWERS AND DUTIES

#### § 53.47. Bonds for the Purchase of Student Loan Notes

(a) An authority heretofore created may, upon approval of the city or cities which created the same, issue revenue bonds to obtain funds to purchase student loan notes which are guaranteed under the provisions of the Higher Education Act of 1965 (Public Law 89-329).<sup>1</sup> Revenue bonds issued for such purpose shall be issued in accordance with and with the effect provided in this chapter, except Section 53.36 shall not apply, as said chapter has been modified by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), and by Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes). Such bonds shall be payable from and secured by a pledge of revenues derived from or by reason of the ownership of student loan notes and investment income after deduction of such expenses or operating the loan program as may be specified by the bond resolution or trust indenture.

(b) The authority, acting through a bank with trust powers, may cause bond proceeds to be expended to purchase for its account student loan notes executed by students who (1) are residents of this state or (2) who have been admitted to attend an accredited institution within this state. An accredited institution shall mean an institution which has either been recognized by a recognized accrediting agency, as defined by Section 61.003(12) of the Texas Education Code, or accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences.

(c) The authority shall contract with a nonprofit corporation, organized under the laws of this state, whereby such corporation will provide the reports and other information required for continued participation in the federally guaranteed loan program provided by the Higher Education Act of 1965 (Public Law 89-329). The custody of student loan notes, purchased by the bank on behalf of the authority, shall be held by a bank with trust powers located within this state.

(d) The authority, as a municipal corporation of the state, is charged with a portion of the responsibility of the state to provide educational opportunities in keeping with all applicable state and federal laws. Nothing in this section shall be construed as a prohibition against establishing policies to limit the purchase of notes to notes executed by students attending school in a certain geographical area or by students who are residents of the area.

(e) In lieu of establishing an authority under the provisions of this chapter, the governing body of a home-rule city or cities may request a nonprofit corporation organized to exercise the powers enumerated and provided in this section for and on its behalf. If the corporation agrees to exercise such powers, the directors of such corporation shall thereafter be appointed by and be subject to removal by the governing body of the home-rule city or cities, and except as herein provided, Sections 53.14, 53.15, 53.31, 53.32, 53.38, and 53.41 through 53.43 of the Texas Education Code shall apply to and govern such corporation, its procedures, and bonds. Notwithstanding the provisions of Section 53.42, a nonprofit corporation which has been requested to exercise the powers enumerated and requested in this section may invest or cause a trustee or custodian on behalf of such nonprofit corporation, to invest the proceeds of any bonds, notes, or other obligations issued by such nonprofit corporation and any monies which are pledged to the payment thereof in (1) government obligations (as defined hereinbelow), (2) certificates of deposit of banks and savings and loan associations which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, provided the amount of any certificate of deposit in excess of that covered by such insurance must be secured by a first and prior pledge of government obligations having a market value of not less than 100 percent of the excess. For purposes of this paragraph "government obligations" means any of the following which at the time of investment are legal investments under the laws of the state for the monies proposed to be invested therein:

- (1) direct general obligations of, or obligations the payment of the principal and interest of which are unconditionally guaranteed by, the United States of America;
- (2) bonds, debentures, or notes issued by any one or a combination of any of the following federal agencies: federal financing bank.

[Added by Acts 1975, 64th Leg., p. 963, ch. 365, § 1, eff. June 19, 1975. Amended by Acts 1981, 67th Leg., p. 3067, ch. 807, §§ 2, 3, eff. June 17, 1981.]  
<sup>1</sup> 20 U.S.C.A. § 1001 et seq.

**CHAPTER 54. TUITION AND FEES**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section 54.006. Refund of Tuition and Fees.

**SUBCHAPTER B. TUITION RATES**

54.062. Tuition Limit in Cases of Concurrent Enrollment.

**SUBCHAPTER D. EXEMPTIONS FROM TUITION**

54.210. Senior Citizens.

**SUBCHAPTER E. OTHER FEES AND DEPOSITS**

54.504. Repealed.  
 54.505. Mandatory Student Services Fees in Cases of Concurrent Enrollment in More Than One Institution Within Public Systems of Higher Education.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 54.006. Refund of Tuition and Fees**

(a) A general academic teaching institution or medical and dental unit shall refund applicable tuition and fees collected for courses from which students drop within the first 12 days of a fall or spring semester or within the first four days of a summer term, provided the student remains enrolled at the institution for that semester or term. Refunds for courses dropped by a student who later in the semester or term withdraws from the institution are calculated according to the percentage schedules in Subsections (b) or (c) of this Act.

(b) A general academic teaching institution or medical and dental unit shall refund a percentage of collected tuition and mandatory fees to students withdrawing from the institution during a fall or spring semester or comparable trimester if such are in effect according to the following withdrawal schedule and subject to the provisions of Subsection (d) below:

(1) prior to the first class day	100 percent
(2) during the first five class days	80 percent
(3) during the second five class days	70 percent
(4) during the third five class days	50 percent
(5) during the fourth five class days	25 percent
(6) after the fourth five class days	None

Separate withdrawal refund schedules may be established for optional fees such as intercollegiate athletics, cultural entertainment, parking, and year-books.

(c) A general academic teaching institution or medical and dental unit shall refund a percentage of collected tuition and mandatory fees to students withdrawing from the institution during a summer term according to the following withdrawal schedule and subject to the provisions of Subsection (d) below:

(1) prior to the first class day	100 percent
(2) during the first, second, or third class day	80 percent
(3) during the fourth, fifth, or sixth class day	50 percent
(4) seventh day of class and thereafter	None

Separate withdrawal refund schedules may be established for optional fees such as intercollegiate athletics, cultural entertainment, parking, and year-books.

(d) A general academic teaching institution or medical and dental unit may assess up to \$15 as a matriculation fee if the student withdraws from the institution before the first day of classes.

(e) A general academic teaching institution or medical and dental unit shall refund tuition and fees paid by a sponsor, donor, or scholarship to the source rather than directly to the student who has withdrawn if the funds were made available through the institution.

(f) A general academic teaching institution or medical and dental unit shall terminate student services and privileges, such as health services, library privileges, facilities usage, and athletic and cultural entertainment tickets, when a student withdraws from the institution.

[Added by Acts 1977, 65th Leg., p. 220, ch. 106, § 1, eff. Aug. 29, 1977.]

#### SUBCHAPTER B. TUITION RATES

##### § 54.051. Tuition Rates

(a) The governing board of each institution of higher education shall cause to be collected from students registering at the institution tuition or registration fees at the rates prescribed in this section.

(b) Tuition for resident students, except as otherwise hereinafter provided, is \$4 per semester credit hour, but the total of such charge shall be not less than \$50 per semester or 12-week summer session, and not less than \$25 per 6-week summer term.

(c) Tuition for nonresident students, except as otherwise hereinafter provided, is \$40 per semester credit hour.

(d) Resident or nonresident students registered for thesis or dissertation credit only, in those instances where such credit is the final credit hour requirement for the degree in progress, shall pay a sum proportionately less than herein prescribed but not more than \$50.

(e) Tuition for resident students registered in a medical or dental branch, school or college is \$400 per academic year of 12 months.

(f) Tuition for nonresident students registered in a medical or dental branch, school or college is \$1,200 per academic year of 12 months.

(g) Resident or nonresident students registered for a course or courses in art, architecture, drama, speech, or music, where individual coaching or instruction is the usual method of instruction, shall pay a fee in addition to the regular tuition, said fee to be designated by the governing board of such institution; but in no event shall such fees be more per course per semester of four and one-half months or per summer session than \$75.

(h) Tuition for students who are citizens of any country other than the United States of America is the same as tuition required of other nonresident students.

(i) Tuition for students who are citizens of any country other than the United States of America registered in a medical or dental branch, school or college is the same as tuition required of other nonresident students.

(j) Tuition for nonresident students registered in a public junior college is as provided in Subsection (b), Section 130.003 of the Texas Education Code.

(k) Tuition for students registered in a school of nursing as a nursing student is \$50 per semester and per 12-week summer session.

(l) Tuition for students registered in a school of nursing as a nursing student for less than 12 semester credit hours of work or for less than a full semester credit hour or term hour load during a summer session shall pay an amount proportionately less than the amount provided in Subsection (k) of this section, but not less than \$20.

(m) Repealed by Acts 1975, 64th Leg., p. 2326, ch. 720, § 2, eff. Sept. 1, 1975.

(n) Notwithstanding the preceding provisions of this section, any nonresident student who is enrolled for the spring semester of 1971 in an institution covered by this section may continue to enroll at the same institution at the same tuition rate that was effective at the time of his original enrollment until one of the following conditions first occurs:

(1) he receives the degree at the degree level (i. e., the baccalaureate, master's, or doctoral degree) toward which he is working during the spring semester of 1971; or

(2) he voluntarily withdraws from the institution or the institution involuntarily withdraws the student for disciplinary reasons or for failing to meet the academic standards of the institution; or

(3) the termination of the spring semester of 1975.

(o) A teaching assistant, research assistant, or other student employee of any institution covered by this section is entitled to register himself, his spouse, and their children in a state institution of higher education by paying the tuition fees and other fees or charges required for Texas residents, without regard to the length of time he has resided in Texas; provided that said student employee is employed at least one-half time in a position which relates to his degree program under rules and regulations established by the employer institution. This exemption shall continue for students employed two consecutive semesters through the summer session following such employment if the institution is unable to provide employment and, as determined under standards established by the institution, if the employee has satisfactorily completed his employment.

(p) A student who holds a competitive scholarship of at least \$200 for the academic year or summer for which he is enrolled and who is either a nonresident or a citizen of a country other than the United States of America is entitled to pay the fees and charges required of Texas residents without regard to the length of time he has resided in Texas, provided that he must compete with other students, including Texas residents, for the scholarship and that the scholarship must be awarded by a scholarship committee officially recognized by the administration of the institution of higher education.

[Amended by Acts 1975, 64th Leg., p. 1358, ch. 515, §§ 1, 2, eff. June 19, 1975; Acts 1975, 64th Leg., p. 2326, ch. 720, § 2, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1382, ch. 617, § 1, eff. Aug. 27, 1979.]

Section 4 of ch. 515 provided:

"The provisions of this Act apply only to foreign students who enter state colleges and universities for the first time after the effective date of this Act."

§ 54.052. **Residents; Nonresidents; General Rules**

(a) In this subchapter:

- (1) "Residence" means "domicile."
- (2) "Resided in" means "domiciled in."
- (3) "Dependent" means an individual who is claimed as a dependent for federal income tax purposes by the individual's parent or guardian at the time of registration and for the tax year preceding the year in which the individual registers.

(b) For the purposes of this subchapter, the status of a student as a resident or nonresident student is determined as prescribed by this section, subject to the other applicable provisions of this subchapter.

(c) An individual who is under 18 years of age or is a dependent and who is living away from his family and whose family resides in another state or has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student.

(d) An individual who is 18 years of age or under or is a dependent and whose family has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student, regardless of whether he has become the legal ward of residents of Texas or has been adopted by residents of Texas while he is attending an educational institution in Texas, or within a 12-month period before his attendance, or under circumstances indicating that the guardianship or adoption was for the purpose of obtaining status as a resident student.

(e) An individual who is 18 years of age or over who has come from outside Texas and who is gainfully employed in Texas for a 12-month period immediately preceding registration in an educational institution shall be classified as a resident student as long as he continues to maintain a legal residence in Texas.

(f) An individual who is 18 years of age or over who resides out of the state or who has come from outside Texas and who registers in an educational institution before having resided in Texas for a 12-month period shall be classified as a nonresident student.

(g) An individual who would have been classified as a resident for the first five of the six years immediately preceding registration but who resided in another state for all or part of the year immediately preceding registration shall be classified as a resident student.

[Amended by Acts 1979, 66th Leg., p. 1065, ch. 496, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 1813, ch. 402, § 1, eff. June 11, 1981.]

Section 3 of the 1979 amendatory act provided:  
 "Individuals shall be classified for tuition purposes in accordance with this Act beginning with the spring semester of 1980."

Section 2 of the 1981 amendatory act provided:  
 "If this Act is immediately effective, it applies to registration for the fall semester of 1981. If this Act is not immediately effective, it applies to registration for the spring semester of 1982."  
 Acts 1981, 67th Leg., p. 1813, ch. 402, was immediately effective.

§ 54.055. **Parents, Change of Residence to Another State**

An individual who is 18 years of age or under or is a dependent and whose parents were formerly residents of Texas is entitled to pay the resident tuition fee following the parents' change of legal residence to another state, as long as the individual remains continuously enrolled in a regular session in a state-supported institution of higher education.

[Amended by Acts 1979, 66th Leg., p. 1066, ch. 496, § 2, eff. Aug. 27, 1979.]

§ 54.060. **Resident of Bordering State: Tuition**

The nonresident tuition fee prescribed in this chapter does not apply to a nonresident student who is a resident of a state situated adjacent to Texas and who registers in any Texas public junior college situated in a county immediately adjacent to the state in which the nonresident student resides. The nonresident junior college student described in this section shall pay an amount equivalent to the amount charged a Texas student registered at a similar school in the state in which the nonresident student resides. The nonresident student described in this section shall pay equivalent fees and charges to those charged Texas students registered at a similar institution in the state in which the nonresident student resides, when such student registers at a Texas public senior upper level (those institutions offering only junior, senior, and graduate level programs) institution of higher education located within the Texas public junior college district from which the nonresident student has graduated or completed 45 semester credit hours.

[Amended by Acts 1975, 64th Leg., p. 280, ch. 122, § 1, eff. May 5, 1975.]

§ 54.062. **Tuition Limit in Cases of Concurrent Enrollment**

When a student registers at more than one public institution of higher education at the same time, his tuition charges shall be determined in the following manner:

(1) The student shall pay the full tuition charge to the first institution at which he is registered; and in any event he shall pay an amount at least equal to the minimum tuition specified in this code.

(2) If the minimum tuition specified in this code for the first institution at which the student is registered is equal to or greater than the minimum tuition specified in this code for the second institution at which the student is registered concurrently, the student shall not be required to pay the specified minimum tuition charge to the second institution in addition to the tuition charge paid to the first institution, but shall pay only the

hourly rates, as provided in this code, to the second institution.

(3) If the minimum tuition specified in this code for the first institution at which the student is registered is less than the specified minimum tuition charge at the second institution (that is, if the second institution has a higher minimum tuition charge specified in this code), then the student shall first register at the institution having the lower minimum tuition and shall pay to the second institution only the amount equal to the difference between his total tuition charge at the second institution and his total tuition charge at the first institution, but in no case shall the student pay to the second institution less than the hourly rates as provided in this code.

(4) If a student is considered to be a Texas resident and therefore qualified to pay Texas resident tuition rates by one institution at which he is registered, that student shall be considered a Texas resident at each of the institutions at which he is concurrently registered for the purposes of determining the proper tuition charges. Nothing in this subsection shall be so construed as to allow a nonresident to pay resident tuition except at institutions covered by Section 54.060 of this code.

[Added by Acts 1977, 65th Leg., p. 21, ch. 7, § 1, eff. March 3, 1977.]

Section 2 of the 1977 Act provided:  
"Should any provision of this Act conflict with, limit, or impair any pledge, covenant, or option made or reserved by any governing board with respect to any bonds outstanding as of the effective date of this Act, this Act is hereby repealed to the extent of the conflict, limitation, or impairment."

#### SUBCHAPTER C. TUITION SCHOLARSHIPS [REPEALED]

§§ 54.101, 54.102. Repealed by Acts 1975, 64th Leg., p. 2326, ch. 720, § 2, eff. Sept. 1, 1975

#### SUBCHAPTER D. EXEMPTIONS FROM TUITION

§ 54.202. Repealed by Acts 1975, 64th Leg., p. 2326, ch. 720, § 2, eff. Sept. 1, 1975

§ 54.204. Children of Disabled Firemen and Peace Officers

[See Compact Edition, Volume 1 for text of (a)]

(b) The governing board of each institution of higher education shall exempt from the payment of all dues, fees, and charges any person whose parent is an eligible employee who has suffered an injury, resulting in death or disability, sustained in the line of duty according to the regulations and criteria then in effect governing the department or agency in which he was employed. The exemption does not apply to general property deposits or to fees or charges for lodging, board, or clothing.

[See Compact Edition, Volume 1 for text of (c) to (h)]

[Amended by Acts 1975, 64th Leg., p. 1386, ch. 534, § 1, eff. Sept. 1, 1975.]

§ 54.206. Repealed by Acts 1975, 64th Leg., p. 2326, ch. 720, § 2, eff. Sept. 1, 1975

#### § 54.210. Senior Citizens

(a) In this section, "senior citizen" means a person 65 years of age or older.

(b) The governing board of a state-supported institution of higher education may allow a senior citizen to audit any course offered by the institution without the payment of a fee if space is available. [Added by Acts 1975, 64th Leg., p. 265, ch. 111, § 1, eff. Sept. 1, 1975.]

[Sections 54.211 to 54.500 reserved for expansion]

#### SUBCHAPTER E. OTHER FEES AND DEPOSITS

#### § 54.503. Student Service Fees

(a) For the purposes of this section, "student services" means activities which are separate and apart from the regularly scheduled academic functions of the institution and directly involve or benefit students, including textbook rentals, recreational activities, health and hospital services, medical services, automobile parking privileges, intramural and intercollegiate athletics, artists and lecture series, cultural entertainment series, debating and oratorical activities, student publications, student government, and any other student activities and services specifically authorized and approved by the governing board of the institution of higher education. The term does not include services for which a fee is charged under another section of this code.

(b) The governing board of an institution of higher education may charge and collect from students registered at the institution fees to cover the cost of student services. The fee or fees may be either voluntary or compulsory as determined by the governing board. The total of all compulsory student services fees collected from a student for any one semester or summer session shall not exceed \$60. All compulsory student services fees charged and collected under this section by the governing board of an institution of higher education, other than a public junior college, shall be assessed in proportion to the number of semester credit hours for which a student registers. No fee for parking services or facilities may be levied on a student unless the student desires to use the parking facilities provided.

[See Compact Edition, Volume 1 for text of (c) to (f)]

(g) Prior to recommending student fee raises to the governing board, the president of each institution may duly consider the recommendations of a student fee advisory committee. A majority of the committee's members shall be students enrolled in the institution and appointed by the student governing body of the institution or elected by a majority of students enrolled in the institution voting in an election held for that purpose. Other committee members from the staff and faculty may be included and selected as the president sees fit. The regents may duly consider the matter of raising student fees

in open meeting. Along with his own recommendations, the president may make known to the Board of Regents the student fee committee's recommendations. If the decision of the board differs from that of the student fee committee, the president may deliver to the student fee committee a written explanation of the board's decision within 30 days of that decision.

[Amended by Acts 1979, 66th Leg., p. 1872, ch. 756, §§ 1, 2, eff. Sept. 1, 1979.]

**§ 54.504. Repealed by Acts 1979, 66th Leg., p. 1873, ch. 756, § 3, eff. Sept. 1, 1979.**

The repealed section, added by Acts 1975, 64th Leg., p. 323, ch. 135, § 1, related to medical service fees.

**§ 54.505. Mandatory Student Services Fees in Cases of Concurrent Enrollment in More Than One Institution Within Public Systems of Higher Education**

(a) For the purposes of this section "mandatory student services fees" means health and hospital services, intramural and intercollegiate athletics, student union, shuttle bus service, and any other student activities and services specifically authorized, approved, and mandated by the appropriate governing body, and "concurrent enrollment" means enrollment in joint or cooperative programs involving two or more institutions within a college or university system.

(b) When a student registers at more than one public institution of higher education within a college or university system under concurrent enrollment provisions of joint or cooperative programs between said institutions, the student shall pay all mandatory student services fees to the institution designated as the "home institution" under the joint or cooperative program and the governing board may waive the payment of all mandatory student services fees at the other institution(s).

[Added by Acts 1979, 66th Leg., p. 146, ch. 78, § 1, eff. April 26, 1979.]

Section 2 of the 1979 Act provided:  
 "Should any provision of this Act conflict with, limit, or impair any pledge, covenant, or option made or reserved by any governing board with respect to any bonds outstanding as of the effective date of this Act, this Act is hereby repealed to the extent of the conflict, limitation, or impairment."

**CHAPTER 55. FINANCING PERMANENT IMPROVEMENTS**

**SUBCHAPTER B. REVENUE BONDS AND FACILITIES**

**§ 55.16. Rentals, Rates, Charges, and Fees**

Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees from students and others for the occupancy, services, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or other facilities, in such amounts and in such manner as may be determined by the board; provided, however, that all student use fees shall be fixed and collected in

proportion to the number of semester credit hours for which a student registers, and shall not exceed \$6 per semester hour, except that those schools charging more than \$6 per semester hour as of May 1, 1975, shall not exceed the amount being charged as of that date, and except that the legislature may specifically authorize individual boards to levy fees in excess of the \$6 limit set herein. The board may waive all or any part of any such student use fees in the case of any student for whom the payment of such student use fee would cause an undue economic hardship, except that the number of such students for whom such waivers are granted shall not exceed 5% of the total enrollment; and further provided that nothing in this section shall affect, limit, or impair any pledge, covenant, or option made or reserved by the board with respect to any revenue bonds outstanding as of the 1975 amendment to this section, issued by the board pursuant to this chapter; and provided that hereafter if bonds are issued pursuant to Section 55.17 of this code, to be secured by a pledge of a limited or unlimited use fee, and if, at the time of authorizing the issuance of the bonds, (1) the estimated maximum amount per semester hour of such pledged use fee (based on then current enrollment and conditions) during any future semester necessary to provide for the payment of the principal of and interest on the bonds when due, together with (2) the aggregate amount of all use fees which were levied on a semester hour basis for the then current semester to pay the principal of and interest on all previously issued bonds, do not exceed \$6 per semester hour, then such limited or unlimited use fee shall be levied and collected when and to the extent required by the resolution authorizing the issuance of the bonds in any amount required to provide for the payment of the principal of and interest on the bonds, regardless of any other provision of this section or the limitations contained herein.

[Amended by Acts 1975, 64th Leg., p. 1245, ch. 469, § 1, eff. June 19, 1975.]

**§ 55.171. Specific Institutions**

[See Compact Edition, Volume 1 for text of (a)]

(b) The board of directors of the Texas A & M University System may acquire, purchase, construct, improve, enlarge, and equip property, buildings, structures, and facilities for Texas A & M University at Galveston, and for these purposes may issue revenue bonds pursuant to this subchapter. The board may pledge irrevocably to the payment of these revenue bonds all or any part of the aggregate amount of student tuition charges required or authorized by law to be imposed on students enrolled at Texas A & M University and Texas A & M University at Galveston; and the amount of any pledge so made shall never be reduced or abrogated while the bonds are outstanding. However, the tuition charges shall not be pledged pursuant to the authority granted by this subsection except to the payment

of bonds issued in an aggregate principal amount not to exceed \$7.5 million for the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and equip property, buildings, structures, and facilities for Texas A & M University at Galveston.

*[See Compact Edition, Volume 1 for text of (c) and (d)]*

[Amended by Acts 1981, 67th Leg., p. 3052, ch. 799, § 3, eff. June 17, 1981.]

## CHAPTER 56. STUDENT FINANCIAL ASSISTANCE GRANTS

### SUBCHAPTER A. GENERAL PROVISIONS

Section	Short Title.
56.001.	Short Title.
56.002.	Declaration of Policy.
56.003.	Definitions.

### SUBCHAPTER B. TEXAS ASSISTANCE GRANTS

56.010.	Short Title.
56.011.	Purpose.
56.012.	Administrative Authority for the Program.
56.013.	Rules Governing Eligibility of Postsecondary Institutions.
56.014.	Rules Governing Eligibility of Students.
56.015.	Awarding of Grants and Their Limitations.
56.016.	Adoption of Regulations Governing the Program.

### SUBCHAPTER C. TEXAS PUBLIC EDUCATIONAL GRANTS

56.031.	Short Title.
56.032.	Purpose.
56.033.	Source of Program Funding.
56.034.	Guidelines for Determining Eligibility and Awarding Grants.
56.035.	Type of Grants to be Awarded and Restrictions.
56.036.	Transfer of Grant Funds for Use as Matching Funds.
56.037.	Priorities in Awarding Matching Funds.
56.038.	Restrictions and Return of Transferred Funds.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 56.001. Short Title

This Chapter may be cited as the Student Financial Assistance Act of 1975.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.002. Declaration of Policy

The legislature, giving due consideration to the historical and continuing interest of the people of the State of Texas in encouraging deserving and qualified persons to realize their aspirations for education beyond high school finds and declares that postsecondary education for those who desire such an education and are properly qualified therefor is important to the welfare and security of this state and the nation and, consequently, is an important public purpose. The legislature finds and declares that the state can achieve its full economic and social potential only if every individual has the opportunity to contribute to the full extent of his capabilities and only when financial barriers to his economic, social, and educational goals are removed.

It is, therefore, the policy of the legislature and the purpose of this Chapter to establish financial assistance programs to enable qualified students to receive a postsecondary education.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.003. Definitions

In this Chapter:

(1) "Institution of higher education" has the same meaning as is assigned to it by Section 61.003 of this code.

(2) "Governing board" has the same meaning as is assigned to it by section 61.003 of this code.

(3) "Postsecondary educational institution" means any institution, public or private, which provides courses of instruction beyond that offered in secondary schools.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

[Sections 56.004 to 56.009 reserved for expansion]

### SUBCHAPTER B. TEXAS ASSISTANCE GRANTS

#### § 56.010. Short Title

The grant program authorized by this subchapter shall be cited as the Texas Assistance Grants Program, and individual grants awarded pursuant to this program shall be cited as Texas Assistance Grants.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.011. Purpose

The purpose of this subchapter is to provide a program to supply grants of money enabling students to attend postsecondary educational institutions, public or private, of their choice in Texas.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.012. Administrative Authority for the Program

The Coordinating Board, Texas College and University System, is authorized to provide Texas Assistance Grants to students enrolled in any approved postsecondary educational institution, based on student financial need but not to exceed a grant amount of more than that specified in the appropriation by the legislature.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.013. Rules Governing Eligibility of Postsecondary Institutions

(a) The coordinating board shall approve for participation in the Texas Assistance Grants Program only such colleges, universities, associations, agencies, institutions, and facilities as are located within the state, which meet program standards and accreditation as determined by the board.

(b) The coordinating board shall make such regulations as may be necessary to insure compliance with the Civil Rights Act of 1964, Title VI (Public Law 88-352), as amended,<sup>1</sup> and in regard to nondiscrimination in admissions or employment.

(c) Any public postsecondary educational institution receiving any benefit under the provisions of this subchapter, either directly or indirectly, shall be subject to all present or future laws enacted by the legislature.

(d)(1) Postsecondary institutions which request approval for eligibility under this section and are denied such approval shall be provided written reasons for such denial by the coordinating board.

(2) The coordinating board shall adopt reasonable regulations allowing an institution to appeal denial of eligibility.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

<sup>1</sup> 42 U.S.C.A. § 2000d et seq.

**§ 56.014. Rules Governing Eligibility of Students**

To be eligible for a grant under this subchapter, a person must

(a) be a resident of Texas as defined by the coordinating board, provided, however, the person must meet, at a minimum, the resident requirements as defined by law for Texas resident tuition in fully state-supported institutions of higher education; or be a permanent resident of the United States who is otherwise qualified for an educational grant under this subchapter; no more than 10 percent of the funds awarded to eligible students enrolled at any approved institutions may be allocated to out-of-state students;

(b) be enrolled in an approved postsecondary educational institution in other than a theology or religious degree program;

(c) not be the recipient of an athletic scholarship during the period for which the grant is to be awarded;

(d) establish financial need in accordance with procedures and regulations of the coordinating board; and

(e) have complied with other requirements adopted by the coordinating board under this subchapter.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

**§ 56.015. Awarding of Grants and Their Limitations**

(a) On receipt of a student application, enrollment report, and certification of the amount of financial need from an approved institution, the coordinating board shall certify the amount of the Texas Assistance Grant based on financial need but not to exceed a grant amount of more than that specified in the appropriation by the legislature nor

- (1) the student's demonstrated financial need as determined by the coordinating board; or
- (2) \$1,000 during any one fiscal year.

(b) The proper amount of the Texas Assistance Grant shall be paid to the student through the postsecondary educational institution in which the student is enrolled.

(c)(1) If a student's grant application is denied, the coordinating board shall provide the student with written notification of the reasons for such denial.

(2) The coordinating board shall adopt reasonable regulations allowing a student to appeal denial of the grant.

(d) Financial need shall be the only consideration in establishing guidelines to determine a student's eligibility for a grant except that returning students who are on scholastic probation or all students on disciplinary probation who have been placed on such probation by their respective institutions may be deemed ineligible by the coordinating board.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

**§ 56.016. Adoption of Regulations Governing the Program**

(a) The coordinating board may make reasonable regulations consistent with the purposes and policies of this subchapter to enforce the requirements, conditions, and limitations expressed in this Act.

(b) The coordinating board shall make such regulations as may be necessary to comply with the provisions of Article I, Section 7; Article III, Section 51, and other parts of the Texas Constitution.

(c) The coordinating board shall provide copies of regulations proposed for its adoption to all eligible institutions one month prior to the meeting at which the proposals shall be acted upon.

(d) The coordinating board shall distribute copies of all regulations adopted pursuant to this Act to each eligible institution.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

[Sections 56.017 to 56.030 reserved for expansion]

**SUBCHAPTER C. TEXAS PUBLIC EDUCATIONAL GRANTS**

**§ 56.031. Short Title**

The grant program authorized by this subsection shall be cited as the Texas Public Educational Grants Program and individual grants awarded pursuant to this program shall be cited as Texas Public Educational Grants.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

**§ 56.032. Purpose**

The purpose of this subchapter is to provide a program to supply grants of money to students attending institutions of higher education in Texas

whose educational costs are not met in whole or in part from other sources and to provide institutions of higher education with funds to supplement and add flexibility to existing financial aid programs. [Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.033. Source of Program Funding

The governing boards of institutions of higher education shall cause to be set aside for use as Texas Public Educational Grants twenty-five cents out of each hourly charge in Subsection (b), \$1.50 out of each hourly charge in Subsection (c) of Section 54.051 of this code, as amended, and six percent of hourly tuition charges for vocational-technical courses at public community and junior colleges. [Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.034. Guidelines for Determining Eligibility and Awarding Grants

(a) The governing boards of institutions of higher education shall establish guidelines to determine eligibility for awarding Texas Public Educational Grants subject to the limitations of this section.

(b) Financial need shall be the only consideration in establishing guidelines to determine a student's eligibility for a grant except that returning students who are on scholastic probation or all students on disciplinary probation may be deemed ineligible at the governing board's discretion.

(c) Guidelines adopted shall be submitted to the coordinating board, which is authorized to review and reject guidelines it determines to be contrary to the purposes of this section.

(1) In reviewing guidelines, the coordinating board shall give consideration to differing needs of each institution and desirability of this program being used to aid students who may have demonstrable financial need but be ineligible for other aid programs.

(2) If the coordinating board rejects guidelines adopted by a governing board, it shall provide a written explanation of such rejection and promulgate regulations allowing governing boards to appeal such rejection.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.035. Type of Grants to be Awarded and Restrictions

(a) Texas Public Educational Grants shall not be awarded for any specific purpose other than meeting all or part of a student's demonstrated financial need.

(b) No more than 10 percent of total grant funds awarded by institutions of higher education in a fiscal year under this subchapter may be allocated to out-of-state students.

(c) No funds may be awarded to alien students nor any money set aside from tuition revenues of alien students for use in this program.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.036. Transfer of Grant Funds for Use as Matching Funds

Each institution of higher education is authorized to transfer any or all of the funds set aside for the Texas Public Educational Grant Program to the coordinating board to be used for matching federal or other grant funds for awarding to students attending that institution. Said scholarship fund transferred to the coordinating board and all matching funds may be expended by the coordinating board for awarding scholarships as provided herein and in the general appropriation acts of the legislature.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.037. Priorities in Awarding Matching Funds

In awarding matching funds to be used in conjunction with Texas Public Educational Grants, the coordinating board shall give first priority to those institutions and students showing the highest amount of financial need.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

#### § 56.038. Restrictions and Return of Transferred Funds

The coordinating board may not use funds transferred to it pursuant to this subchapter from one institution to award grants to students of a different institution. Should matching funds be unavailable for an institution, all funds transferred from that institution to the coordinating board shall be returned to that institution.

[Added by Acts 1975, 64th Leg., p. 2323, ch. 720, § 1, eff. Sept. 1, 1975.]

### CHAPTER 57. GUARANTEED STUDENT LOANS

#### SUBCHAPTER A. GENERAL PROVISIONS

Section	
57.01.	Declaration of Policy.
57.02.	Definitions.

#### SUBCHAPTER B. ADMINISTRATION

57.11.	Texas Guaranteed Student Loan Corporation.
57.12.	Application of Sunset Act.
57.13.	Composition of Board of Directors.
57.14.	Directors' Terms of Office.
57.15.	Vacancies.
57.16.	Expenses.
57.17.	Officers.
57.18.	Meetings.
57.19.	Executive Director.
57.20.	Employees.
57.21.	Delegation of Power.

- Section 57.22. Application of the Texas Non-Profit Corporation Act.
- 57.23. Liabilities of the Corporation.

SUBCHAPTER C. STUDENT LOANS

- 57.41. Guaranteed Student Loans.
- 57.42. Reinsurance.
- 57.43. Premiums.
- 57.44. Eligible Students.
- 57.45. Eligible Lenders.
- 57.46. Eligible Institutions.
- 57.47. Suits on Default.
- 57.48. Warrants Not to be Issued to Defaulting Parties.
- 57.49. Cooperation of State Agencies and Subdivisions.
- 57.50. Nondiscrimination.
- 57.51. Transition Provision.

SUBCHAPTER D. FISCAL PROVISIONS

- 57.71. Reserve Fund.
- 57.72. Guarantee Account.
- 57.73. Operating Account.
- 57.74. Other Corporate Accounts.
- 57.75. Tax Exemption.
- 57.76. Annual Audit.
- 57.77. Annual Report.
- 57.78. Investments, Depositories.

SUBCHAPTER A. GENERAL PROVISIONS

§ 57.01. Declaration of Policy

The legislature, giving due consideration to the historical and continuing interest of the people of the State of Texas in encouraging deserving and qualified persons to realize their aspirations for education beyond high school, finds and declares that postsecondary education for those who desire such an education and are properly qualified therefor is important to the welfare and security of this state and the nation and, consequently, is an important public purpose. The legislature finds and declares that the state can achieve its full economic and social potential only if every individual has the opportunity to contribute to the full extent of his or her capabilities and only when financial barriers to his or her economic, social, and educational goals are removed. It is, therefore, the purpose of this chapter to establish a guaranteed student loan program to enable qualified students to receive a postsecondary education.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

§ 57.02. Definitions

In this chapter:

- (1) "Board" means the board of directors of the corporation.
- (2) "Corporation" means the Texas Guaranteed Student Loan Corporation.
- (3) "Postsecondary educational institution" means any institution, public or private, that provides courses of instruction beyond that offered in secondary schools.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

[Sections 57.03 to 57.10 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

§ 57.11. Texas Guaranteed Student Loan Corporation

(a) The Texas Guaranteed Student Loan Corporation is created to administer the program authorized by this chapter. The corporation is a public nonprofit corporation and, except as otherwise provided in this chapter, has all the powers and duties incident to a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(b) Except as otherwise provided by law, all expenses of the corporation shall be paid from income of the corporation.

(c) Corporate headquarters shall be in Austin. [Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

Section 2 of the 1979 Act provided:

"The sum of \$1.5 million is transferred from the federal lender's allowance funds of the Coordinating Board, Texas College and University System, to the corporation. The corporation shall use the funds to meet initial operating expenses, to establish the initial reserve necessary for loan guarantees, and to match federal funds available under the Higher Education Act of 1965, as amended."

§ 57.12. Application of Sunset Act

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes) and unless continued in existence as provided by that Act the corporation is abolished, and this chapter expires effective September 1, 1991.

(b) If the corporation is abolished, the comptroller of public accounts shall serve as trustee to administer the assets of the corporation and satisfy all outstanding obligations.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

§ 57.13. Composition of Board of Directors

(a) The corporation is governed by a board of 11 directors appointed in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint eight members to the board. Three members must be persons working in commercial finance, three must be members of the faculty or administration of an eligible postsecondary educational institution, as defined by Section 57.46 of this code, and two must be members of the general public who do not derive a majority of their income from higher education or commercial finance.

(c) The chairman of the Coordinating Board, Texas College and University System, shall appoint a member of the coordinating board to the corporation board of directors.

(d) The commissioner of higher education shall appoint a student enrolled in a public or private postsecondary educational institution to the board. Before making the appointment, the commissioner of higher education shall consult with higher education student organizations from all regions of the state.

(e) The comptroller of public accounts shall serve as a member of the board.

(f) Each member of the board must be a Texas resident.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

Section 3 of the 1979 Act provided:

"In making the initial appointments to the board of directors of the Texas Guaranteed Student Loan Corporation, the governor shall designate two members to serve for terms expiring in 1981, three members to serve for terms expiring in 1983, and three members to serve for terms expiring in 1985. The initial student member shall serve for a term expiring in 1981."

#### § 57.14. Directors' Terms of Office

Members of the board appointed by the governor or the commissioner of higher education serve for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. [Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.15. Vacancies

(a) A member of the board vacates the office if the member ceases to be a member of the field from which he or she was appointed.

(b) A vacancy on the board shall be filled by the original appointing authority for the remainder of the unexpired term.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.16. Expenses

Members of the board serve without compensation but are entitled to reimbursement for actual and necessary expenses in attending meetings of the board or performing other official duties authorized by the chairman.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.17. Officers

The board shall elect from among its members a chairman, vice-chairman, and other officers that the board considers necessary. The chairman and vice-chairman serve for a term of one year and may be reelected.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.18. Meetings

The board may meet as often as necessary, but shall meet at least twice a year.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.19. Executive Director

The board shall appoint an executive director to serve as chief executive officer in administering the program and carrying out the policies of the board. The executive director serves at the will of the board.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.20. Employees

The board may appoint employees and may fix their compensation and prescribe their duties.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.21. Delegation of Power

The board may delegate any of its powers to the executive director and corporation employees.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.22. Application of the Texas Non-Profit Corporation Act

The corporation is subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except that:

(1) the corporation may not make donations for the public welfare or for charitable, scientific, or educational purposes or in aid of war activities;

(2) the corporation is not required to file articles of incorporation;

(3) the corporation may not merge or consolidate with another corporation;

(4) the corporation is not subject to voluntary or involuntary dissolution;

(5) the corporation may not be placed in receivership; and

(6) the corporation is not required to make reports to the secretary of state under Article 9.01 of that Act.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

#### § 57.23. Liabilities of the Corporation

Liabilities created by the corporation are not debts of the state and the corporation may not secure any liability with funds or assets of the state except as otherwise provided by law.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

[Sections 57.24 to 57.40 reserved for expansion]

### SUBCHAPTER C. STUDENT LOANS

#### § 57.41. Guaranteed Student Loans

(a) The corporation shall guarantee loans made to eligible students by eligible lenders as provided by the federal guaranteed student loan program under the Higher Education Act of 1965, 20 U.S.C. Sec. 1001 et seq., as amended.

(b) The corporation may prescribe the terms and conditions on which the loans are to be guaranteed. In prescribing those terms and conditions, the board shall take into consideration the need to encourage lenders to make loans while at the same time maintaining the fiscal integrity of the program.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.42. Reinsurance**

The corporation may enter into an agreement with the United States Office of Education for reinsurance against loss under the loan program due to death, disability, or default of the borrower.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.43. Premiums**

The corporation may impose and collect insurance premiums from student borrowers in an amount not to exceed the maximum allowable under the Higher Education Act of 1965, as amended.<sup>1</sup>

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> 20 U.S.C.A. § 1001 et seq.

**§ 57.44. Eligible Students**

In order to be eligible for a loan to be guaranteed under this chapter, a person must:

- (1) be accepted for enrollment or be in good standing, as determined by the institution, at an eligible postsecondary educational institution;
- (2) be registered for or enrolled in at least one-half the normal full-time course load, as determined by the institution; and
- (3) have executed a promissory note for a loan that is eligible for reinsurance by the United States Office of Education.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.45. Eligible Lenders**

(a) In order to qualify as an eligible lender under this subchapter, the lender must:

- (1) be an eligible lender for purposes of the Higher Education Act of 1965, as amended;<sup>1</sup>
- (2) have its principal place of business in Texas; and
- (3) enter into an agreement with the corporation for participation in the program.

(b) In contracting with the corporation, the eligible lender shall agree to adhere to the lending requirements of the corporation and to periodic review of guaranteed student loan accounts as considered necessary by the corporation.

(c) Each eligible lender shall submit to the corporation at the end of each fiscal year a report on the student loan accounts of that lender.

(d) In accordance with federal and state law, the corporation may provide, and charge a fee for, services to eligible lenders necessary to encourage lender participation in the loan program. Services for which the corporation charges a fee shall be provided at the option of the lender.

(e) In order to be guaranteed by the corporation, a loan made by an eligible lender must comply with all provisions of the Higher Education Act of 1965, as amended, including provisions relating to:

- (1) limits on annual loan amounts;
- (2) cumulative loan amount limits;
- (3) maximum interest rates;
- (4) grace periods;
- (5) repayment terms; and
- (6) deferment conditions.

(f) The corporation may suspend or revoke the eligibility of a lender that the corporation determines is not in compliance with this chapter.

(g) Loans guaranteed by the corporation may be assigned or transferred by the holders thereof to any eligible lender as provided by the Higher Education Act of 1965, as amended, notwithstanding the state in which the principal place of business of any such eligible lender is located. Any loan so assigned or transferred shall continue to be guaranteed by the corporation, and, in the event of default, the corporation shall meet the claim out of the guarantee account established under Section 57.72 of this code; provided, however, any such subsequent holder shall be required to comply with other provisions of this chapter.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 18, ch. 13, § 2, eff. March 20, 1981.]

<sup>1</sup> 20 U.S.C.A. § 1001 et seq.

**§ 57.46. Eligible Institutions**

(a) In order to qualify as an eligible institution under this subchapter, a postsecondary educational institution must:

- (1) be an eligible institution for purposes of the Higher Education Act of 1965, as amended;<sup>1</sup> and
- (2) be eligible for reinsurance of guaranteed loans by the United States Office of Education.

(b) An otherwise eligible postsecondary educational institution may be located anywhere.

(c) The corporation may suspend or revoke the eligibility of an institution that the corporation determines is not in compliance with this chapter.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> 20 U.S.C.A. § 1001 et seq.

**§ 57.47. Suits on Default**

(a) If a student borrower defaults on a loan and the corporation is required to honor the guarantee, the corporation shall bring suit against the defaulting party as soon as practicable.

(b) A suit against a defaulting party under this section may be brought in the county in which the defaulting person resides, in which the lender is located, or in Travis County.

(c) It is not a defense to a suit under this section that the defaulting party was a minor at the time the promissory note was executed or that the statute of limitations has expired.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.48. Warrants Not to be Issued to Defaulting Parties**

(a) The corporation shall report to the comptroller of public accounts the name of any person who is in default on a loan guaranteed under this chapter.

(b) The comptroller of public accounts may not issue a warrant to any person who has been reported by the corporation to be in default on a loan guaranteed under this chapter.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.49. Cooperation of State Agencies and Subdivisions**

To the extent allowed by law, each agency and political subdivision of the state shall cooperate with the corporation in attempts to collect on defaulted loans.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.50. Nondiscrimination**

Neither the corporation nor an eligible lender may discriminate against an eligible student in making a loan or loan guarantee on the basis of race, age, religion, income, or sex.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.51. Transition Provision**

(a) For the purpose of this section, "authorities" means educational authorities or corporations created or established pursuant to Section 53.47 of the Texas Education Code which participate in the student loan program under the Higher Education Act of 1965, as amended.<sup>1</sup>

(b) It is recognized that there are authorities which may have issued bonds prior to May 15, 1979, for the purpose of acquiring federally insured student loans and which authorities may have unexpended bond proceeds, from issues sold prior to May 15, 1979, at the time the corporation begins guaranteeing student loans. To maximize the availability of funds for student loans and to protect the fiscal integrity of the authorities, the authorities shall be allowed to continue to acquire federally insured loans to the extent of the unexpended bond proceeds of the authorities from issues sold prior to May 15, 1979, until the date that the corporation begins guaranteeing loans. However, the authorities shall not issue bonds for the sole purpose of purchasing federally insured loans after May 15, 1979.

(c) This section expires on the day that the corporation becomes liable for the guarantee of a loan under this chapter.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> 20 U.S.C.A. § 1001 et seq.

[Sections 57.52 to 57.70 reserved for expansion]

SUBCHAPTER D. FISCAL PROVISIONS

**§ 57.71. Reserve Fund**

The corporation shall establish a reserve fund into which all money received by the corporation shall be deposited. The corporation shall establish accounts in that fund in accordance with this section.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.72. Guarantee Account**

(a) The corporation shall establish a guarantee account in the reserve fund to be used only for meeting the claims of eligible lenders on defaulted loans.

(b) Federal money advanced to the corporation for the purpose of helping to establish or strengthen the reserve fund shall be deposited in the guarantee account. The guarantee account must identify federal funds as a separate item.

(c) Excess corporate earnings, contributions, gifts, grants, federal reinsurance receipts, and investment earnings of the guarantee account earned after September 1, 1983, shall be deposited in the guarantee account.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.73. Operating Account**

(a) The corporation shall establish an operating account in the reserve fund to meet administrative and operating expenses.

(b) Insurance premium receipts, administrative cost allowance receipts, collections on defaulted loans held by the corporation, and earnings from the reserve fund (except investment earnings of the guarantee account earned after September 1, 1983) shall be deposited in the operating account, as permissible by law.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.74. Other Corporate Accounts**

The corporation may establish other accounts in the reserve fund as required or permitted by law.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.75. Tax Exemption**

All income, property, and other assets of the corporation are exempt from taxation by the state and political subdivisions of the state.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

**§ 57.76. Annual Audit**

At least once each year the corporation shall have a fiscal and compliance audit performed by a certified public accountant.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

§ 57.77. Annual Report

(a) The corporation annually shall prepare a written report on the financial and program operations of the corporation. The report shall include the audited financial statement for the year, the number and dollar value of loans guaranteed during the year, and the total dollar value of outstanding guaranteed loans.

(b) The corporation shall submit the annual report to the governor, lieutenant governor, speaker of the house of representatives, comptroller of public accounts, state treasurer, and commissioner of higher education.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

§ 57.78. Investments, Depositories

All money of the corporation may be invested in direct obligations of the United States of America; obligations which in the opinion of the Attorney General of the United States are general obligations of the United States and backed by its full faith and credit; obligations guaranteed by the United States of America; evidences of indebtedness of the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Federal National Mortgage Association, Federal Financing Bank Participation Certificates in the Federal Assets Financing Trust, New Housing Authority Bonds and Project Notes fully secured by contracts with the United States or any other agency or instrumentality of the United States of America; and deposits or certificates of deposits of any bank or trust company which are fully secured (to the extent not insured by a corporation instrumentality or agency of the United States of America) by obligations in which the corporation may invest under the provisions hereof.

[Added by Acts 1979, 66th Leg., p. 1711, ch. 706, § 1, eff. Aug. 27, 1979.]

CHAPTER 58. COMPENSATION OF RESIDENT PHYSICIANS

Section	
58.001.	Legislative Finding and Intent.
58.002.	Definitions.
58.003.	Authorization for Legislative Appropriations of Funds; Conditions Regarding Those Funds.
58.004.	Contingent Arrangement in the Event of Insufficient Funds.
58.005.	Appointment of Resident Physicians Under Certain Conditions.

§ 58.001. Legislative Finding and Intent

(a) The legislature finds that it will improve the quality of the delivery of medical care to the citizens of this state and, therefore, that it will be in the public interest of this state for the resident physicians being educated, trained, developed, and prepared for a career in medicine by the schools of medicine in The University of Texas System, the Texas

Tech University Health Sciences Center, the Texas A & M University Medical Program, and the Texas College of Osteopathic Medicine to be compensated by those schools while the resident physicians are undergoing education, training, development, and preparation. The legislature further finds that the delivery of quality medical care to the citizens of this state has been and will continue to be enhanced by the expansion of family practice residency programs as provided by Sections 61.501 through 61.505 of this code and intends that nothing in this chapter be interpreted or implemented in a manner that will deter the development or expansion of family practice residency programs or will deter the legislative goal of having at least 25 percent of the first-year residency positions devoted to family medicine.

(b) Beginning September 1, 1981, and subject to the provisions of Section 58.003 of this code, each resident physician being educated, trained, developed, and prepared for a career in medicine by an accredited school of medicine in the schools listed in Subsection (a) of this section shall be compensated by that school while the person is undergoing education, training, development, and preparation at or under the direction and supervision of the school. [Added by Acts 1981, 67th Leg., p. 3245, ch. 855, § 1, eff. Aug. 31, 1981.]

§ 58.002. Definitions

(a) In this chapter:

(1) "Resident physician" means a person who is appointed a resident physician by one of the schools of medicine listed in Section 58.001 of this code and who:

(A) has received a Doctor of Medicine or a Doctor of Osteopathic Medicine degree from the Baylor College of Medicine or from one of the schools listed in Section 58.001 of this code; or

(B) is a citizen of Texas and has received a Doctor of Medicine or a Doctor of Osteopathic Medicine degree from some other school of medicine that is accredited by the Liaison Committee on Medical Education or by the Bureau of Professional Education of the American Osteopathic Association.

(2) "Primary teaching hospital" means a hospital at which one of the schools listed in Section 58.001 of this code educates and trains both resident physicians and undergraduate medical students.

(3) "Compensation" includes stipends; payments, if any, for services rendered; and fringe benefits when applied to payments to or for the benefit of resident physicians.

(b) A person may not be considered a resident physician for a period of time longer than is ordinarily and customarily required for a resident physician to complete a graduate medical specialty program approved by the Accrediting Council on Graduate Medical Education or the American Osteopathic As-

sociation for the specialty in which the resident physician seeks certification as a diplomate and to obtain the certification from the appropriate board or agency approved by the American Board of Medical Specialties or the American Osteopathic Association.

(c) Notwithstanding the provisions of Subsection (b) of this section, a person may not be considered a resident physician under this Act for a period of time longer than four years.

(d) The total number of the first-year resident physicians compensated under this chapter and Sections 61.097 through 61.099 of this code may not exceed the combined total number of persons in the previous year's graduating classes of the schools listed in Section 58.001 of this code and the Baylor College of Medicine. Each school shall give priority consideration to applicants who demonstrate a willingness to practice in medically underserved areas of Texas.

(e) It is the intent of this chapter that eventually at least 50 percent of the first-year resident physicians appointed by medical schools shall be in the primary care areas of family medicine, internal medicine, pediatrics, geriatrics, and obstetrics/gynecology, with 25 percent of those residents in family practice.

[Added by Acts 1981, 67th Leg., p. 3245, ch. 855, § 1, eff. Aug. 31, 1981.]

**§ 58.003. Authorization for Legislative Appropriations of Funds; Conditions Regarding Those Funds**

(a) Beginning September 1, 1981, each accredited school listed in Section 58.001 of this code is entitled to receive funds appropriated by the legislature in an amount not to exceed \$15,000 in any fiscal year for each resident physician appointed by the school as a resident physician for that year. Money appropriated under this chapter may not be transferred from the resident physicians program.

(b) If a resident physician under this chapter does not perform in that appointed capacity during an entire fiscal year, the compensation paid to the person by the school shall be reduced proportionately to cover only the part of the fiscal year during which the performance is actually rendered.

(c) If any resident physician under this chapter is compensated by an agency or institution of the federal government or by any other agency or institution other than a primary teaching hospital for the person's performance as a resident physician, the compensation that would otherwise be paid to the person by the school shall be reduced by the amount of the compensation actually received by the person from the agency or institution. If a school under this chapter receives from an agency or institution of the federal government or from any other agency or institution other than a primary teaching hospital compensation for the performance of resident physicians' duties by any of the school's resident physi-

cians to or for the benefit of the agency or institution, to the extent of the compensation actually received by the school, the school is prohibited from spending funds appropriated under this chapter that would otherwise be available to pay the same resident physicians for the performance of the same resident physician duties.

(d) If a school covered by this chapter receives from the Coordinating Board, Texas College and University System, a sum granted for the education, training, development, and preparation of the school's family practice resident physicians, to the extent of the sum actually received by the school, the school is prohibited from spending funds appropriated under this chapter that would otherwise be available to pay the same family practice resident physicians for the same education, training, development, and preparation.

(e) To the extent that The University of Texas Medical Branch at Galveston receives legislative appropriations under this chapter for the education and training of resident physicians, that school may not receive legislative appropriations in any other state appropriation act for the education and training of the same resident physicians in the same fiscal year.

[Added by Acts 1981, 67th Leg., p. 3245, ch. 855, § 1, eff. Aug. 31, 1981.]

Section 3 of the 1981 Act provided:

"The 67th Session of the Texas Legislature [1981] shall appropriate no funds for this legislation but may authorize the use of federal block grant funds if such funds become available."

**§ 58.004. Contingent Arrangement in the Event of Insufficient Funds**

Notwithstanding any other provisions of this chapter, if at any time a school under this chapter determines that it does not have sufficient available funds from legislative appropriations and other sources to support adequately the full number of resident physicians that the school deems to be required in order to provide the delivery of the best possible medical care to the citizens of this state, the school may assign and place for education and training in any hospital or hospitals with which the school has a resident physician affiliation agreement any of its resident physicians that cannot be supported adequately from the funds available for that purpose. During the period for which a resident physician is assigned and placed in a hospital or hospitals under the terms of this section, the resident physician shall directly or indirectly receive all or the primary portion of his or her compensation from the hospital or hospitals just as has been ordinarily and customarily done before the adoption of this chapter. The exact method and manner of compensating the resident physician shall be set forth in the resident physician affiliation agreement entered into between the school and the hospital or hospitals.

[Added by Acts 1981, 67th Leg., p. 3245, ch. 855, § 1, eff. Aug. 31, 1981.]

**§ 58.005. Appointment of Resident Physicians Under Certain Conditions**

Notwithstanding any other provisions of this chapter, if at any time a school under this chapter determines that it cannot provide one of its primary teaching hospitals with resident physicians who qualify under Subdivision (1) of Subsection (a) of Section 58.002 of this code in sufficient quantity or kind to meet the standard that the school deems necessary in order to provide the delivery of the best possible medical care to the citizens of this state, until the school is able to provide the hospital with a sufficient quantity and kind or resident physicians who do qualify, the school may appoint, to be educated and trained in the hospital, resident physicians who are not citizens of Texas but otherwise qualify under Subdivision (1) of Subsection (a) of Section 58.002 and may compensate those resident physicians as if they did qualify under the provisions of that section. [Added by Acts 1981, 67th Leg., p. 3245, ch. 855, § 1, eff. Aug. 31, 1981.]

**SUBTITLE B. STATE COORDINATION OF HIGHER EDUCATION**

**CHAPTER 61. COORDINATING BOARD, TEXAS COLLEGE AND UNIVERSITY SYSTEM**

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

Section  
61.0211. Application of Sunset Act.

**SUBCHAPTER C. POWERS AND DUTIES OF BOARD**

61.072. Regulation of Foreign Student Tuition.  
61.073. Allocation of Funds for Tuition and Fee Exemptions.  
61.074. Official Grade Point Average.

**SUBCHAPTER D. CONTRACTS WITH BAYLOR COLLEGE OF MEDICINE AND BAYLOR UNIVERSITY COLLEGE OF DENTISTRY**

Section  
61.096. Restrictions: Medical School Admissions Policies.  
61.097. Contracts with Respect to Resident Physicians.  
61.098. Contract Provisions.  
61.099. Appointment of Resident Physicians Under Certain Conditions.

**SUBCHAPTER G. REGULATION OF PRIVATE DEGREE-GRANTING INSTITUTIONS OF HIGHER EDUCATION**

61.301. Purpose.  
61.302. Definitions.  
61.303. Exemptions.  
61.304. Requisite Authority to Grant Degrees and Offer Courses.  
61.305. Application for Certificate of Authority.  
61.306. Issuance of Certificate.  
61.307. Amendments to Applications.  
61.308. Renewal of Certificate.  
61.309. Revocation of Certificate of Authority.  
61.310. Appeal.  
61.311. Rules and Regulations.  
61.312. Honorary Degrees.  
61.313. Use of the Term "College" or "University".  
61.314. Advisory Council on Private Degree-Granting Institutions of Higher Education.  
61.315. Agents and Records.  
61.316. Duty of Prosecuting Attorney.  
61.317. Penalties.

**SUBCHAPTER H. REGULATION OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION ESTABLISHED OUTSIDE THE BOUNDARIES OF THE STATE OF TEXAS**

Section  
61.401. Definitions.  
61.402. Requisite Approval.  
61.403. Rules and Regulations.  
61.404. Procedures in Case of Violation.  
61.405. Advisory Committees.

**SUBCHAPTER I. CONTRACTS FOR MEDICAL RESIDENCY PROGRAMS**

61.501. Definitions.  
61.502. Contracts.  
61.503. Rules and Regulations.  
61.504. Disbursements.  
61.505. Advisory Committee.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

**§ 61.0211. Application of Sunset Act**

The Coordinating Board, Texas College and University System, is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the board is abolished, and this chapter expires effective September 1, 1989.

[Added by Acts 1977, 65th Leg., p. 1853, ch. 735, § 2.151, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

**SUBCHAPTER C. POWERS AND DUTIES OF BOARD**

**§ 61.051. Coordination of Institutions of Public Higher Education**

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) The board shall classify and prescribe the role and scope for each public institution of higher education in Texas, shall make such changes in classification or role and scope of each institution as it deems necessary, and shall hear applications from the institutions for changes in classification or role and scope. The board shall make recommendation to the legislature with respect to maximum enrollment limits for each public institution of higher education in the State of Texas and may recommend to the legislature maximum enrollment limits for any department, school, degree program, or certificate program at any such institution.

(e) The board shall review periodically all degree and certificate programs offered by the institutions of higher education to assure that they meet the present and future needs of the state. The board shall also order the initiation, consolidation, or elimination of degree or certificate programs where that action is in the best interest of the institutions themselves or the general requirements of the State of Texas, or when that action offers hope of achieving excellence by a concentration of available resources. No new department, school, degree program, or certificate program may be added at any institution of higher education except with specific

prior approval of the board. Once approved, no department, school, degree program, or certificate program at any institution of higher education may be expanded to include subject matter courses that are outside of approved degree and certificate programs except with specific prior approval of the board.

(f) The board shall encourage and develop in cooperation with the State Board of Vocational Education new certificate programs in technical and vocational education in institutions of higher education as the needs of technology and industry may demand and shall recommend the elimination of certificate programs for which a need no longer exists. The board may contract with the State Board of Education (State Board of Vocational Education) so that the coordinating board may assume the leadership role and administrative responsibilities of the State Board for Vocational Education for state level administration of technical-vocational education programs in Texas public community colleges, public technical institutes, and other eligible public postsecondary institutions.

[See Compact Edition, Volume 1 for text of (g) to (i)]

(j) No off-campus courses for credit may be offered by any public college or university without specific prior approval of the board. The board shall establish regulations for the coordination of credit and noncredit activities of adult and continuing education by public colleges and universities.

[Amended by Acts 1975, 64th Leg., p. 2055, ch. 676, §§ 1, 2, eff. June 20, 1975.]

Section 5 of the 1975 Act provided:  
"The coordinating board shall have all the previously listed powers in this Act in connection with The University of Texas System and The Texas A & M University System."

#### § 61.058. Construction Funds and Development of Physical Plants

To assure efficient use of construction funds and the orderly development of physical plants to accommodate projected college student enrollments, the board shall:

(1) determine formulas for space utilization in all educational and general buildings and facilities at institutions of higher education;

(2) devise and promulgate methods to assure maximum daily and year-round use of educational and general buildings and facilities, including but not limited to maximum scheduling of day and night classes and maximum summer school enrollment;

(3) consider plans for selective standards of admission when institutions of higher education approach capacity enrollment;

(4) require, and assist the public senior colleges and universities, medical and dental units, and other agencies of higher education in developing, long-range plans for campus development;

(5) endorse, or delay until the next succeeding session of the legislature has the opportunity to approve or disapprove, the proposed purchase of any real property by an institution of higher education, except a public junior college;

(6) develop and publish standards, rules, and regulations to guide the institutions and agencies of higher education in making application for the approval of new construction and major repair and rehabilitation of all buildings and facilities regardless of proposed use;

(7) ascertain that the standards and specifications for new construction, repair, and rehabilitation of all buildings and facilities are in accordance with Chapter 324, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 678(g) Vernon's Texas Civil Statutes); and

(8) approve or disapprove all new construction and repair and rehabilitation of all buildings and facilities at institutions of higher education financed from any source other than ad valorem tax receipts of the public junior colleges, provided that:

(A) the board's consideration and determination shall be limited to the purpose for which the new or remodeled buildings are to be used to assure conformity with approved space utilization standards and the institution's approved programs and role and scope if the cost of the project is not more than \$500,000, but the board may consider cost factors and the financial implications of the project to the state if the total cost is in excess of \$500,000;

(B) the requirement of approval for new construction financed from other than appropriated funds applies only to projects the total cost of which is in excess of \$100,000;

(C) the requirement of approval for major repair and rehabilitation of buildings and facilities applies only to projects the total cost of which is in excess of \$100,000; and

(D) the requirement of approval or disapproval by the board does not apply to any new construction or major repair and rehabilitation project that is specifically approved by the legislature.

[Amended by Acts 1975, 64th Leg., p. 2056, ch. 676, § 3, eff. June 20, 1975; Acts 1977, 65th Leg., p. 1133, ch. 425, § 1, eff. Aug. 29, 1977.]

#### § 61.066. Studies and Recommendations; Reports

(a) The board shall make studies and recommendations directed toward the achievement of excellence or toward improved effectiveness and efficiency in any phase of higher education in Texas and shall report on their studies and recommendations to the governor and the legislature. The officials of the institutions of higher education shall comply with requests for reports or information made by the board or the commissioner. To assure that the

institutions of higher education timely file various reports with the appropriate agencies, the board shall receive and distribute the reports required by statute to be filed with the governor, the Legislative Budget Board, the state auditor, the state library, and any other state agency.

(b) The board shall prepare biennial reports with reference to new programs in higher education as well as restructuring existing programs to meet the changing needs of the populace of the state. This will include but will not be limited to projected student enrollments at the various institutions, the areas of study which they will enter, and the projected demand for the various professional activities. In addition, the board shall make specific recommendations regarding the physical needs at each campus with the physical, mental, and educational needs of the student population in mind. In order to insure adequate time available for study of the reports, they shall be distributed to the appropriate offices as required by statute no later than the end of the fiscal year prior to the convening of the legislature.

[Amended by Acts 1975, 64th Leg., p. 252, ch. 101, § 1, eff. Sept. 1, 1975.]

**§ 61.072. Regulation of Foreign Student Tuition**

The board shall adopt rules and policies to be followed by the governing boards of institutions of higher education in fixing foreign student tuition fees pursuant to Subsections (h) and (i), Section 54.051, of this code.

[Added by Acts 1975, 64th Leg., p. 1359, ch. 515, § 3, eff. June 19, 1975.]

**§ 61.073. Allocation of Funds for Tuition and Fee Exemptions**

(a) Funds shall be appropriated to the Coordinating Board, Texas College and University System, for allocation to each junior and community college in an amount equal to the total of all tuition and laboratory fees foregone each semester as a result of the tuition and laboratory fee exemptions required by law in Sections 54.201 through 54.209, Texas Education Code.

(b) The governing board of each junior or community college shall report to the coordinating board the number of students enrolled on the 12th class day of each semester who were exempt from the payment of tuition and laboratory fees which would have been collected from the students if they had not been exempt from the payment thereof. The coordinating board shall remit to each junior and community college an amount equal to the tuition and laboratory fees foregone from the funds appropriated for that purpose.

[Added by Acts 1977, 65th Leg., p. 83, ch. 40, § 1, eff. Aug. 29, 1977.]

**§ 61.074. Official Grade Point Average**

The board shall by rule establish a mandatory uniform method of calculating the official grade point average of a student enrolled in, or seeking admission to a graduate or professional school of, an institution of higher education.

[Added by Acts 1977, 65th Leg., p. 1610, ch. 628, § 1, eff. Aug. 29, 1977.]

[Sections 61.075 to 61.090 reserved for expansion]

**SUBCHAPTER D. CONTRACTS WITH BAYLOR COLLEGE OF MEDICINE AND BAYLOR UNIVERSITY COLLEGE OF DENTISTRY**

**§ 61.096. Restrictions: Medical School Admission Policies**

As a restriction of the authority granted to the Coordinating Board by Sections 61.092 and 61.093 of this Code, no contract shall be entered into with the Baylor College of Medicine until the Baylor College of Medicine promulgates appropriate rules and regulations pertaining to the admission of students to medical schools under its jurisdiction which will provide for admission of those students to its entering class each year who are equally or as well qualified as all other students, and who have entered a contract with or received a commitment for a stipend, grant, loan or scholarship from the State Rural Medical Education Board. The State Rural Medical Education Board may contract with medical students providing for such students to engage in a general or family practice of medicine for not less than four years after licensing and a period of medical residency, as determined by the rules and regulations established by the State Rural Medical Education Board, in cities of Texas which have a population of less than 5,000 or in rural areas, as that term may be defined by the State Rural Medical Education Board, and said Board is hereby given the authority to define and from time to time redefine the term rural area, at the time the medical practice is commenced. This contract shall provide for a monthly stipend of at least \$100 to be granted by the State Rural Medical Education Board to each person under contract with the State while enrolled as a medical school student.

[Added by Acts 1975, 64th Leg., p. 2407, ch. 740, § 1, eff. Sept. 1, 1975.]

Section 5 of the 1975 Act provided:

"If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the applications thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision. All of the terms and provisions of this Act are to be liberally construed to effectuate the purposes, powers, rights, functions, and authorities herein set forth."

**§ 61.097. Contracts with Respect to Resident Physicians**

(a) The board shall contract with the Baylor College of Medicine for the administration, direction, and performance of services necessary or proper to

the education, training, development, and preparation of resident physicians for a career in medicine. Included in those services shall be the payment and furnishing by the medical school to the resident physicians of all compensation that has previously been paid or furnished by the hospital or hospitals in which the resident physicians have been educated and trained.

(b) In Sections 61.097 and 61.098 of this code:

(1) "Resident physician" means a person who is appointed a resident physician by the Baylor College of Medicine and who:

(A) has received a Doctor of Medicine or a Doctor of Osteopathic Medicine degree from the Baylor College of Medicine or from one of the schools of medicine listed in Section 58.001 of this code; or

(B) is a citizen of Texas and has received a Doctor of Medicine or a Doctor of Osteopathic Medicine degree from some other school of medicine that is accredited by the Liaison Committee on Medical Education or by the Bureau of Professional Education of the American Osteopathic Association.

(2) "Primary teaching hospital" is a hospital at which the Baylor College of Medicine educates and trains both resident physicians and undergraduate medical students.

(3) "Compensation" includes stipends; payments, if any, for services rendered; and fringe benefits when applied to payments to or for the benefit of resident physicians.

(c) A person may not be considered a resident physician for a period of time longer than is ordinarily and customarily required for a resident physician to complete a medical specialty program approved by the Accrediting Council on Graduate Medical Education for the specialty in which the resident physician seeks certification as a diplomate and to obtain the certification from the appropriate board or agency approved by the American Board of Medical Specialties.

(d) Notwithstanding the provisions of Subsection (c) of this section, a person may not be considered a resident physician under this section for a period of time longer than four years.

(e) The total number of the first-year resident physicians compensated under this section and Chapter 58 of this code may not exceed the combined total number of persons in the previous year's graduating classes of the schools listed in Section 58.001 of this code and the Baylor College of Medicine. The Baylor College of Medicine shall give priority consideration to applicants who demonstrate a willingness to practice in medically underserved areas of Texas.

(f) It is the intent of this section that eventually at least 50 percent of the first-year resident physicians appointed by medical schools shall be in the primary care areas of family medicine, internal medicine,

pediatrics, geriatrics, and obstetrics/gynecology, with 25 percent of those residents in family practice.

(g) In the exercise of the authority under Subsection (a) of this section, the board shall disburse to the Baylor College of Medicine, out of funds appropriated by the legislature to the board for that purpose, an amount not to exceed \$15,000 per fiscal year of disbursement for each resident physician appointed by the school for that year. The board shall establish, by contract with the Baylor College of Medicine, the method by which the disbursement shall be accomplished. The funds authorized by this section are separate from and in addition to the funds authorized in Sections 61.092 and 61.093 of this code.

[Added by Acts 1981, 67th Leg., p. 3248, ch. 855, § 2, eff. Aug. 31, 1981.]

Section 3 of the 1981 Act provided:

"The 67th Session of the Texas Legislature [1981] shall appropriate no funds for this legislation but may authorize the use of federal block grant funds if such funds become available."

#### § 61.098. Contract Provisions

(a) Notwithstanding the provisions of Section 61.092 of this code, the board shall include in the contract that it makes with the medical school under Section 61.097 of this code provisions that will effectuate the terms and conditions provided in this section.

(b) The money appropriated to the board and disbursed to the Baylor College of Medicine under Section 61.097 of this code shall be spent by the school exclusively for the education, training, development, and preparation of resident physicians for a career in medicine.

(c) If a resident physician does not perform in that capacity during an entire fiscal year of disbursement, the compensation paid to the person by the medical school shall be reduced proportionately to cover only the part of the fiscal year during which such performance is actually rendered.

(d) If a resident physician is compensated by an agency or institution of the federal government or by any other agency or institution other than a primary teaching hospital on account of the person's performance as a resident physician, the compensation that would otherwise be paid to the person by the medical school shall be reduced by the amount of the compensation actually received by the person from such agency or institution. If the medical school receives from an agency or institution of the federal government or from any other agency or institution other than a primary teaching hospital compensation for the performance of resident physicians' duties by any of the school's resident physicians to or for the benefit of such agency or institution to the extent of the compensation actually received by the medical school, the school is prohibited from spending funds that are appropriated and disbursed under Section 61.097 of this code and that would otherwise be available to pay the same resi-

dent physicians for the performance of the same resident physician duties.

(e) If the medical school receives from the Coordinating Board, Texas College and University System, a sum granted for the education, training, development, and preparation of the school's family practice resident physicians, to the extent of the sum actually received by the medical school, the school is prohibited from spending funds that are appropriated and disbursed under Section 61.097 of this code and that would otherwise be available to pay the same family practice resident physicians for the same education, training, development, and preparation.

(f) If at any time the medical school determines that it does not have sufficient available funds from legislative appropriations and other sources to support adequately the full number of resident physicians that the school deems to be required in order to provide the delivery of the best possible medical care to the citizens of this state, the school may assign and place for education and training in any hospital or hospitals with which the school has a resident physician affiliation agreement any of its resident physicians that cannot be supported adequately from the funds available for that purpose. During the period for which a resident physician is assigned and placed in a hospital or hospitals under this subsection, the resident physician shall directly or indirectly receive all or a primary portion of his or her compensation from the hospital or hospitals just as has been ordinarily and customarily done before the adoption of this section. The exact method and manner of compensating the resident physician shall be set forth in the resident physician affiliation agreement entered into between the school and the hospital or hospitals.

[Added by Acts 1981, 67th Leg., p. 3248, ch. 855, § 2, eff. Aug. 31, 1981.]

**§ 61.099. Appointment of Resident Physicians Under Certain Conditions**

Notwithstanding any other provisions of Sections 61.097 and 61.098 of this code, if at any time the medical school determines that it cannot provide one of its primary teaching hospitals with resident physicians who qualify under Subdivision (1) of Subsection (b) of Section 61.097 of this code in sufficient quantity or kind to meet the standard that the medical school deems necessary in order to provide the delivery of the best possible medical care to the citizens of this state, until the medical school is able to provide the hospital with a sufficient quantity and kind of resident physicians who do qualify, the medical school may appoint, to be educated and trained in the hospital, resident physicians who are not citizens of Texas but otherwise qualify under Subdivision (1) of Subsection (b) of Section 61.097 of this code and may compensate the resident physicians as if they did qualify under the provisions of that section.

[Added by Acts 1981, 67th Leg., p. 3248, ch. 855, § 2, eff. Aug. 31, 1981.]

[Sections 61.100 to 61.200 reserved for expansion]

**SUBCHAPTER F. TUITION EQUALIZATION GRANT**

**§ 61.225. Qualifications For Grant**

To be eligible for a tuition equalization grant, a person must:

(1) be a Texas resident as defined by the coordinating board and meet, at a minimum, the resident requirements defined by law for Texas resident tuition in fully state-supported institutions of higher education;

(2) be enrolled for at least one-half of a full course load conforming to an individual degree plan in an approved college or university;

(3) be required to pay more tuition than is required at a public college or university and be charged no less than the regular tuition required of all students enrolled at the institution;

(4) establish financial need in accordance with procedures and regulations of the coordinating board;

(5) not be a recipient of any form of athletic scholarship; and

(6) have complied with other requirements adopted by the coordinating board under this subchapter.

[Amended by Acts 1979, 66th Leg., p. 93, ch. 56, § 1, eff. Aug. 27, 1979.]

**§ 61.227. Payment of Grant; Amount**

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) In no event shall a tuition equalization grant paid pursuant to this subchapter in behalf of any student during any one fiscal year exceed an amount equal to 50 percent of the average state appropriation in the biennium preceding the biennium in which the grant is made for a full-time student or the equivalent at public senior colleges and universities, as determined by the board. A grant to a part-time student shall be made on a pro-rata basis of a full-time equivalent.

[Amended by Acts 1979, 66th Leg., p. 93, ch. 56, § 2, eff. Aug. 27, 1979.]

**SUBCHAPTER G. REGULATION OF PRIVATE DEGREE-GRANTING INSTITUTIONS OF HIGHER EDUCATION**

**§ 61.301. Purpose**

It is the policy and purpose of the State of Texas to prevent deception of the public resulting from the conferring and use of fraudulent or substandard college and university degrees; it is also the purpose of this subchapter to regulate the use of academic terminology in naming or otherwise designating educational institutions, the advertising, solicitation or representation by educational institutions or their agents, and the maintenance and preservation of essential academic records. Because degrees and

equivalent indicators of educational attainment are used by employers in judging the training of prospective employees, by public and private professional groups in determining qualifications for admission to and continuance of practice, and by the general public in assessing the competence of persons engaged in a wide range of activities necessary to the general welfare, regulation by law of the evidences of college and university educational attainment is in the public interest. To the same end the protection of legitimate institutions and of those holding degrees from them is also in the public interest. [Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

### § 61.302. Definitions

In this subchapter:

(1) "Degree" means any title or designation, mark, abbreviation, appellation, or series of letters or words, including associate, bachelor's, master's, doctor's, and their equivalents, which signifies, purports to, or is generally taken to signify satisfactory completion of the requirements of all or part of a program of study leading to an associate, bachelor's, master's, or doctor's degree or its equivalent.

(2) "Private institution of higher education" or "institution" means an educational institution which:

(A) is not an institution of higher education as defined by Section 61.003(7) of this code;

(B) is incorporated under the laws of this state, or maintains a place of business in this state, or solicits business in this state; and

(C) furnishes or offers to furnish courses of instruction in person or by correspondence leading to a degree or providing credits alleged to be applicable to a degree.

(3) "Agent" means a person employed by or representing a private institution of higher education who solicits students for enrollment in the institution.

(4) "Commissioner" means the Commissioner of Higher Education.

(5) "Board" means the Coordinating Board, Texas College and University System.

(6) "Person" means any individual, firm, partnership, association, corporation, or other private entity or combination thereof.

(7) "Program of study" means any course or grouping of courses which are alleged to entitle a student to a degree or to credits alleged to be applicable to a degree.

(8) "Recognized accrediting agency" means an association or organization so designated by rule of the board for the purposes of this subchapter.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975. Amended by Acts 1981, 67th Leg., p. 2729, ch. 745, § 1, eff. June 16, 1981.]

### § 61.303. Exemptions

(a) The provisions of this subchapter do not in any way apply to:

(1) an institution which:

(A) is fully accredited by a recognized accrediting agency, or

(B) is a candidate for accreditation by a recognized accrediting agency on the effective date of this Act, so long as the institution maintains candidacy status or subsequently is fully accredited.

(2) an institution whose graduates are subject to licensure by an agency of the State of Texas prior to their engaging in professions directly related to their course of study.

(b) The exemptions provided by Subsection (a)(1) apply only to the extent that an institution is accredited, and if an institution offers to award a degree for which it is not accredited, the exemption does not apply.

(c) An exempt institution or person may be issued a certificate of authorization to grant degrees.

(d) An exempt institution or person would continue in that status only so long as it maintained accreditation standards acceptable to the board.

(e) The board shall provide for due process and procedures for revoking the exemption status of an institution or person.

(f) A private institution of higher education may not establish or operate a branch campus, extension center, or other off-campus unit in Texas except as provided by Subsection (g) of this section or as provided under the rules of the board.

(g) Subsection (f) of this section does not affect the exemption under Subsection (a)(1) of this section of an accredited institution or a separately accredited branch, extension center, or off-campus unit of the institution if:

(1) the institution, branch, center, or unit was accredited prior to January 1, 1981;

(2) the institution files with the board the name and location of its home campus and each branch, center, or unit that was accredited prior to that date; and

(3) the institution and each separately accredited branch, center, or unit maintains accreditation by the accrediting agency recognized by the board as of that date.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975. Amended by Acts 1981, 67th Leg., p. 2729, ch. 745, § 2, eff. June 16, 1981.]

### § 61.304. Requisite Authority to Grant Degrees and Offer Courses

After the effective date of this subchapter, no person may grant or award a degree on behalf of a private institution of higher education or enroll students for courses unless the institution has been issued a certificate of authority to grant the degree

by the board in accordance with the provisions of this subchapter. No person may represent that credits earned or granted by that person or institution are applicable for credit toward a degree to be granted by some other person or institution except under conditions and in a manner specified and approved by the board. The board is empowered to specify and regulate the manner, condition, and language used by an institution or person or agents thereof in making known that the person or institution holds a certificate of authority and the interpretation of the significance of such certificate.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.305. Application for Certificate of Authority**

(a) A private institution of higher education may apply to the board for a certificate of authority to grant a degree in a specified program of study on application forms provided by the board.

(b) The application form shall contain the name and address of the institution; purpose of the institution; names of the sponsors or owners of the institution; regulations, rules, constitutions, bylaws, or other regulations established for the government and operation of the institution; the names and addresses of the chief administrative officer, the principal administrators, and each member of the board of trustees or other governing board; the names of members of the faculty who will, in fact, teach in the program of study, with the highest degree held by each; a full description of the degree or degrees to be awarded and the course or courses of study prerequisite thereto; a description of the facilities and equipment utilized by the institution; and any additional information which the board may request.

(c) The application must be accompanied by an initial fee set by the board in an amount not to exceed the average cost of reviewing the application, including the cost of necessary consultants.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975. Amended by Acts 1981, 67th Leg., p. 2729, ch. 745, § 3, eff. June 16, 1981.]

**§ 61.306. Issuance of Certificate**

(a) The board may issue a certificate of authority to grant a degree or degrees and to enroll students for courses which may be applicable toward a degree if it finds that the applicant meets the standards established by the board for certification.

(b) A certificate of authority to grant a degree or degrees is valid for a period of two years from the date of issuance.

(c) An institution in operation on the effective date of this subchapter which has submitted a complete application for a certificate which has not been evaluated or acted on by the board shall be issued a provisional certificate which shall be valid for purposes of compliance with this subchapter until the board has completed its evaluation and has issued or denied a regular certificate.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.307. Amendments to Applications**

(a) The chief administrative officers of each institution which has been issued a certificate of authority shall immediately notify the board of any change in administrative personnel, faculty, or facilities at the institution or any other changes of a nature specified by the board.

(b) An institution which wishes to amend an existing program of study to award a new or different degree during the period of time covered by current certificate may file an application for amendment of the certificate with the board. The application shall be accompanied by a fee of \$75 to cover the cost of program evaluation. If the board finds that the new program of study meets the required standards, the board may amend the institution's certificate accordingly.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.308. Renewal of Certificate**

(a) A private institution of higher education which desires to renew its certificate of authority shall apply to the board at least 60 days prior to the expiration of the current certificate.

(b) The application for renewal shall be made on forms provided by the board and shall be accompanied by a renewal fee set by the board in an amount not to exceed the average cost of reviewing the application, including the cost of necessary consultants.

(c) The board shall renew the certificate if it finds that the institution has maintained all requisite standards and has complied with all rules and regulations promulgated by the board.

(d) A private institution of higher education may be granted successive certificates of authority for a period not to exceed the number of years provided by rule of the board. The board rules must recognize that certification by the state is intended to safeguard the public interest until an institution has developed the strength to satisfy appropriate accreditation standards and it is intended that an institution advance from certification status to fully accredited status in due course.

(e) If, after a good-faith effort, an institution cannot achieve accreditation within the period of time prescribed by the board, the institution may appeal for extension of eligibility for certification because of having been denied accreditation due to policies of the institution based on religious beliefs or other good and sufficient cause as defined by rule of the board. The board shall consider the application of any accreditation standard that prohibited accreditation of the institution on the basis of religious policies practiced by the institution as a prima facie justification for extending the eligibility for certification if all other standards of the board are satisfied.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975. Amended by Acts 1981, 67th Leg., p. 2729, ch. 745, § 4, eff. June 13, 1981.]

**§ 61.309. Revocation of Certificate of Authority**

The board may revoke a certificate of authority to grant degrees at any time if it finds that:

- (1) any statement contained in an application for a certificate is untrue;
- (2) the institution has failed to maintain the faculty, facilities, equipment, and programs of study on the basis of which the certificate was issued;
- (3) advertising utilized on behalf of the institution is deceptive or misleading; or
- (4) the institution has violated any rule or regulation promulgated by the board under the authority of this subchapter.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.310. Appeal**

(a) An institution whose application for an original, amended, or renewal certificate of authority to grant degrees is denied by the board is entitled to written notice of the reasons for the denial and may request a hearing before the board. The hearing shall be held within 120 days after written request is received by the board.

(b) The board shall conduct hearings, and a decision of the board may be appealed, in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975. Amended by Acts 1981, 67th Leg., p. 2730, ch. 745 § 5, eff. June 13, 1981.]

**§ 61.311. Rules and Regulations**

(a) The board shall promulgate standards, rules, and regulations governing the issuance of certificates of authority.

(b) The board may delegate to the commissioner such authority and responsibility conferred on the board by this subchapter as the board deems appropriate for the effective administration of this subchapter.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.312. Honorary Degrees**

No person may award an honorary degree on behalf of a private institution of higher education subject to the provisions of this subchapter unless the institution has been issued a certificate of authority to award such a degree. The honorary degree shall plainly state on its face that it is honorary.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.313. Use of the Term "College" or "University"**

No person may use the term "college" or "university" in the official name or title of a private institu-

tion of higher education established after the effective date of this subchapter and subject to its provisions unless the institution has been issued a certificate of authority to grant a degree or degrees.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.314. Advisory Council on Private Degree-Granting Institutions of Higher Education**

(a) The board shall appoint an advisory council on private degree-granting institutions of higher education consisting of six members with experience in the field of higher education and representative of private institutions of higher education in the State of Texas which are exempt from the provisions of this subchapter. Council members serve for terms of two years from the date of their appointment and are entitled to reimbursement for actual expenses incurred in carrying out the work of the council.

(b) The council shall advise the board on standards and procedures to be used in carrying out the provisions of this subchapter.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.315. Agents and Records**

The authorized or certified institutions may be required to furnish a list of their agents to the board, and to maintain records of students enrolled, credits awarded, and degrees awarded in a manner specified by the board.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.316. Duty of Prosecuting Attorney**

The board shall report any information concerning possible violation of this subchapter to the appropriate prosecuting attorney of the county in which the activity is occurring or has occurred, and he shall make necessary investigations. The appropriate prosecuting attorney shall immediately prosecute or bring suit to enjoin any violation of this subchapter which he discovers.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**§ 61.317. Penalties**

(a) Any person who confers or offers to confer a degree on behalf of a private institution of higher education subject to the provisions of this subchapter which has not been issued a certificate of authority to grant degrees is guilty of a misdemeanor and upon conviction is subject to a fine of not less than \$1,000 nor more than \$5,000. Each degree conferred without authority constitutes a separate offense.

(b) Any person who establishes a private institution of higher education after the effective date of this subchapter and uses the term "college" or "university" in the official name of the institution without first having been issued a certificate of authori-

ty to grant degrees for the institution is guilty of a misdemeanor and upon conviction is subject to a fine of not less than \$1,000 nor more than \$3,000.

(c) Any agent who solicits students for enrollment in a private institution of higher education subject to the provisions of this subchapter without a certificate of registration is guilty of a misdemeanor and on conviction is subject to a fine of not less than \$500 nor more than \$1,000.

(d) Any operations which are found after due process to be in fraudulent violation of this Act shall be terminated.

[Added by Acts 1975, 64th Leg., p. 1867, ch. 587, § 1, eff. June 19, 1975.]

**SUBCHAPTER H. REGULATION OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION ESTABLISHED OUTSIDE THE BOUNDARIES OF THE STATE OF TEXAS**

**§ 61.401. Definitions**

In this subchapter:

(1) "Public institution of higher education" includes any senior college, university, community college, technical institute, or junior college or the equivalent which is controlled by a public body organized outside the boundaries of the State of Texas.

(2) "Coordinating Board" means the Coordinating Board, Texas College and University System.

[Added by Acts 1975, 64th Leg., p. 1843, ch. 573, § 1, eff. June 19, 1975.]

**§ 61.402. Requisite Approval**

Public institutions of higher education established outside the boundaries of the State of Texas must have the approval of the coordinating board before offering a course or a grouping of courses within the State of Texas.

[Added by Acts 1975, 64th Leg., p. 1843, ch. 573, § 1, eff. June 19, 1975.]

**§ 61.403. Rules and Regulations**

The coordinating board shall prepare rules and regulations which, when properly followed, may qualify a public institution of higher education established outside the boundaries of the State of Texas to offer a course or a grouping of courses within the State of Texas.

[Added by Acts 1975, 64th Leg., p. 1843, ch. 573, § 1, eff. June 19, 1975.]

**§ 61.404. Procedures in Case of Violation**

If the coordinating board obtains evidence that a public institution of higher education established outside the boundaries of the State of Texas is in apparent violation of this subchapter or of rules and regulations adopted pursuant to this subchapter, the coordinating board shall take appropriate action to terminate its operation within the boundaries of the State of Texas.

[Added by Acts 1975, 64th Leg., p. 1843, ch. 573, § 1, eff. June 19, 1975.]

**§ 61.405. Advisory Committees**

The coordinating board may appoint such advisory committees as deemed useful for the effective administration of this subchapter.

[Added by Acts 1975, 64th Leg., p. 1843, ch. 573, § 1, eff. June 19, 1975.]

**SUBCHAPTER I. CONTRACTS FOR MEDICAL RESIDENCY PROGRAMS**

**§ 61.501. Definitions**

As used in this subchapter:

(1) "Medical school" means the medical school at The University of Texas Health Science Center at Houston, the medical school at The University of Texas Health Science Center at Dallas, the medical school at The University of Texas Health Science Center at San Antonio, The University of Texas Medical Branch at Galveston, the Texas Tech University School of Medicine, the Baylor College of Medicine, the Texas College of Osteopathic Medicine, or the Texas A & M University Medical Program.

(2) "Approved family practice residency training program" means a graduate medical education program operated by a medical school, licensed hospitals, or nonprofit corporations which has been approved for training physicians in family practice and for the receipt of state funds for that purpose by the board after receiving the recommendation of the Family Practice Residency Advisory Committee.

[Added by Acts 1977, 65th Leg., p. 109, ch. 53, § 2, eff. Aug. 29, 1977.]

Purpose. Section 1 of the 1977 Act enacting this Subchapter provided: "It is the intent of the legislature that family practice residency training programs created, maintained, or funded according to the provisions of this Act shall further the purpose of distributing family physicians and improving medical care in underserved urban and rural areas of the state and, insofar as possible and prudent, encourage the permanent location in underserved areas of family physicians trained in these programs in order to better serve the medical needs of the citizens of Texas."

**§ 61.502. Contracts**

The board may contract with a medical school, licensed hospitals, or nonprofit corporations for the purpose of establishing and operating an approved Family Practice Residency Training Program and may compensate the medical school, licensed hospitals, or nonprofit corporations on a formula approved by the board based upon the number of resident physicians in the training program.

[Added by Acts 1977, 65th Leg., p. 109, ch. 53, § 2, eff. Aug. 29, 1977.]

**§ 61.503. Rules and Regulations**

The board shall adopt rules and regulations to implement this subchapter, including rules providing for:

(1) prior consultation on the annual budget with the board;

(2) a postaudit in a manner acceptable to the state auditor of expenditures related to the resi-

dency training program of a medical school, licensed hospitals, or nonprofit corporations with which the board has contracted; and

(3) distribution of family physicians and improvement of medical care in underserved urban and rural areas of the state and, insofar as possible and prudent, encouraging the permanent location in underserved areas of family physicians trained in these programs.

[Added by Acts 1977, 65th Leg., p. 109, ch. 53, § 2, eff. Aug. 29, 1977.]

#### § 61.504. Disbursements

(a) Pursuant to a contract, the board may disburse through the designated project director to a medical school, licensed hospitals, or nonprofit corporations funds for the purpose of the graduate training of physicians in an approved family practice residency training program. The project director shall be the chairman of the Department of Family Practice in a medical school or the program director of an approved family practice residency training program operated by licensed hospitals or nonprofit corporations. The project director shall, in accordance with such rules as the board may adopt, make timely reports directly to the board concerning the development and progress of the family practice training program.

(b) The board may establish by contract the method or manner of the disbursement to the project director.

[Added by Acts 1977, 65th Leg., p. 109, ch. 53, § 2, eff. Aug. 29, 1977.]

#### § 61.505. Advisory Committee

(a) The Family Practice Residency Advisory Committee is created and shall consist of 12 members. One member shall be a licensed physician appointed by the Texas Osteopathic Medical Association; two members shall be licensed physicians appointed by the Association of Directors of Family Practice Training Programs; two members shall be administrators of hospitals in which an approved family practice residency training program operates and shall be appointed by the Texas Hospital Association; one member shall be a licensed physician appointed by the Texas Medical Association; two members shall be licensed physicians appointed by the Texas Academy of Family Physicians; three members of the public shall be appointed to the committee by the governor; and by virtue of his office, the president of the Texas Academy of Family Physicians shall be a member of the committee.

(b) The terms of office of each member, excluding the term of office of the president of the Texas Academy of Family Physicians, shall be for three years, except for the initial term, which shall be designated in a manner approved by the board in such a way, insofar as is possible, that one-third of the members shall serve for one year, one-third for two years, and one-third for three years, and there-

after each member shall serve for a term of three years. Each member shall serve until his replacement has been appointed to the committee.

(c) The members of the committee shall not be compensated for their service, but shall be reimbursed by the board for actual expenses incurred in the performance of duties as members of the committee.

(d) The committee shall meet at least annually and so often as requested by the board or called into meeting by the chairman.

(e) The chairman shall be elected by the members of the committee for one year.

(f) The committee shall review for the board applications for approval and funding of family practice residency training programs, make recommendations to the board relating to the standards and criteria for approval of residency training programs, and perform such other duties as may be directed by the board.

[Added by Acts 1977, 65th Leg., p. 109, ch. 53, § 2, eff. Aug. 29, 1977.]

### SUBTITLE C. THE UNIVERSITY OF TEXAS SYSTEM

#### CHAPTER 65. ADMINISTRATION OF THE UNIVERSITY OF TEXAS SYSTEM

##### SUBCHAPTER C. POWERS AND DUTIES OF BOARD

###### Section

- 65.41. Medical School Admission Policies.
- 65.42. Defense of Certain Persons.
- 65.43. Sale of Obsolete Medical Equipment.

##### SUBCHAPTER C. POWERS AND DUTIES OF BOARD

#### § 65.34. Contracts

[See Compact Edition, Volume 1 for text of (a)]

(b) Repealed by Acts 1977, 65th Leg., p. 562, ch. 197, § 2, eff. May 20, 1977.

[Amended by Acts 1977, 65th Leg., p. 562, ch. 197, § 2, eff. May 20, 1977.]

#### § 65.41. Medical School Admission Policies

The Board of Regents shall promulgate appropriate rules and regulations pertaining to the admission of students to medical schools which will provide for admission of those students to its entering class each year who are equally or as well qualified as all other students and who have entered a contract with or received a commitment for a stipend, grant, loan or scholarship from the State Rural Medical Education Board. The State Rural Medical Education Board may contract with medical students providing for such students to engage in a general or family practice of medicine for not less than four years after licensing and a period of medical residency, as determined by the rules and regulations established by the State Rural Medical Education Board, in

cities of Texas which have a population of less than 5,000 or in rural areas, as that term may be defined by the State Rural Medical Education Board, and said Board is hereby given the authority to define and from time to time redefine the term rural area, at the time the medical practice is commenced. This contract shall provide for a monthly stipend of at least \$100 to be granted by the State Rural Medical Education Board to each person under contract with the state while enrolled as a medical school student. [Added by Acts 1975, 64th Leg., p. 2408, ch. 740, § 3, eff. Sept. 1, 1975.]

**§ 65.42. Defense of Certain Persons**

Any person serving on the governing board of any foundation, corporation, or association at the request of and on behalf of The University of Texas System is an officer or employee as those terms are used in Chapter 309, Acts of the 64th Legislature, 1975, as amended (Article 6252-26, Vernon's Texas Civil Statutes).

[Added by Acts 1979, 66th Leg., p. 1165, ch. 564, § 1, eff. Aug. 27, 1979.]

**§ 65.43. Sale of Obsolete Medical Equipment**

The board shall have the authority to sell and transfer, after due notification by journal or mail, on fair and reasonable terms, to any hospital within the State of Texas operated by the state, a city, a county, a hospital district, a nonprofit corporation, or a tax-exempt charitable organization any medical equipment that has been in use at an institution or facility governed by the board and is obsolete with regard to the instructional objectives of The University of Texas System.

[Added by Acts 1981, 67th Leg., p. 2068, ch. 459, § 1, eff. June 11, 1981.]

**CHAPTER 66. PERMANENT UNIVERSITY FUND**

**SUBCHAPTER D. BOARD FOR LEASE OF UNIVERSITY LANDS**

**§ 66.62. Board for Lease**

[See Compact Edition, Volume 1 for text of (a) to (d)]

(e) The Board for Lease of University Lands is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the board is abolished effective September 1, 1985.

[Amended by Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.096, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

**§ 66.64. Placing Oil and Gas on Market; Public Auction; Advertisement**

[See Compact Edition, Volume 1 for text of (a)]

(b) The sale of the oil and gas shall be made at public auction held in Austin, or any other location

designated by the board, at any hour between 10 a. m. and 5 p. m.

[See Compact Edition, Volume 1 for text of (c)]  
[Amended by Acts 1975, 64th Leg., p. 234, ch. 88, § 1, eff. April 30, 1975.]

**§ 66.65. Royalty; Bonus; Annual Rental; Special Fee**

(a) The oil and gas in each tract shall be offered for sale for a bonus in addition to the stipulated royalty. Each tract shall be offered separately.

(b) Each bid is subject to the royalty specified in the official advertisement preceding the sale, but in no event less than one-eighth of the gross production of oil and gas in the land; and shall further be subject to the payment of an annual rental after the first year of not less than 10 cents per acre, payable each year in advance, unless the royalties received from the land during the preceding year equal or exceed the amount of the annual rental payment.

(c) Each bid is also subject to the payment of a special fee equal to one percent of the total sum bid, which special payment shall constitute a special fund from which the Board of Regents of The University of Texas System shall defray the expenses of the sale, including the payment for the services of the auctioneer crying the sale and the payment of the general operating expenses in geologizing, oil field supervision, and auditing oil and gas production of university lands, including salaries and traveling expenses of persons employed by the board of regents for those purposes, and for the purpose of acquiring, constructing, and equipping a building in the city of Midland or adjacent area to house the administrative staff of the offices of University Lands, Geology and Land Agent, and such other related agencies necessary for the management and development of university lands in West Texas.

(d) The Board of Regents of The University of Texas System may also direct the comptroller of The University of Texas System to transmit to the state treasurer for deposit to the credit of the permanent university fund any unexpended balances remaining in the special fund after reserving a sufficient amount in it for the payment of current expenses as set out in Subsection (c) of this section.

(e) The highest successful bidder shall pay to the Board of Regents of The University of Texas System on the day the bid is accepted the full amount of bonus bid and the special fee.

[Amended by Acts 1979, 66th Leg., p. 1377, ch. 616, § 1, eff. Sept. 1, 1979.]

**§ 66.68. Provisions of Lease**

[See Compact Edition, Volume 1 for text of (a) to (d)]

(e) Each lease shall provide that if at the expiration of the primary term or at any time thereafter there is located on the leased premises a well or wells capable of producing gas in paying quantities

and such gas is not produced for lack of a suitable market and such lease is not being otherwise maintained in force and effect, the lessee may pay as royalty \$1,200 per annum for each well on the lease capable of producing gas in paying quantities, such payment to be made to the Board of Regents of The University of Texas System at Austin, Texas, prior to the expiration of the primary term of the lease, or if the primary term has expired, within 60 days after lessee ceases to produce gas from such well or wells; and if such payment is made, the lease shall be considered to be a producing lease and such shut-in gas well royalty payment shall extend the term of the lease for a period of one year from the end of the primary term or from the first day of the month next succeeding the month in which production ceased; and thereafter if no suitable market for such gas exists, the lessee may extend the lease for two additional and successive periods of one year each by the payment of a like sum of money each year on or before the expiration of the extended term. Provided, however, that if, while such lease is being maintained in force and effect by payment of such shut-in gas well royalty, gas should be sold and delivered in paying quantities from a well situated within 1,000 feet of the leased premises and completed in the same producing reservoir or in any case where drainage is occurring, the right to further extend the lease by such shut-in gas well royalty payments shall cease, but such lease shall remain in force and effect for the remainder of the current one year period for which the shut-in gas well royalty has been paid, and for an additional period not to exceed a combined total of three years from the expiration of the primary term or from the first day of the month next succeeding the month in which production ceased by the payment by the lessee of compensatory royalty, at the royalty rate provided for in such university lease as would be due on an equivalent amount of like quality gas produced and delivered from the well completed in the same producing reservoir from which gas is being sold and delivered and which is situated within 1,000 feet of, or draining, the leased premises on which shut-in gas well is situated, such compensatory royalty to be paid monthly to the Board of Regents of The University of Texas System at Austin, Texas, beginning on or before the last day of the month next succeeding the month in which such gas is sold and delivered from the well situated within 1,000 feet of, or draining, the leased premises and completed in the same producing reservoir; provided further, that in the event such compensatory royalties paid in any 12-month period are in a sum less than the annual shut-in gas well royalties provided for in this section, the lessee shall pay an additional sum equal to the difference within 30 days from the end of such 12-month period; provided further, that nothing herein shall relieve the lessee of the obligation of reasonable development, nor of the obligation to drill offset wells required by Section 66.75 of this code.

(f) Each lease shall provide that if, at the expiration of the primary term, production of oil and/or gas has not been obtained in paying quantities on the leased premises but drilling operations are being conducted thereon in good faith and in good and workmanlike manner, the lessee may, on or before the expiration of the primary term, file with the Board of Regents of The University of Texas System a written application for a 30-day extension of such lease, such application to be accompanied by a payment to the Board of Regents of The University of Texas System of \$7.50 per acre for each acre in the lease, and the Chairman of the Board of Regents of The University of Texas System or a designee appointed by the Chairman shall, in writing, extend such lease for a 30-day period from and after the expiration of the primary term and so long thereafter as oil or gas is produced in paying quantities from the premises; provided further, that the lessee may, so long as such drilling operations are being conducted in good faith, make like application and payment during any 30-day extended period for an additional extension of 30 days not to exceed a combined total of 180 days; provided, however, lessee may, so long as such drilling operations are being conducted in good faith, make written application to the Board of Regents of The University of Texas System on or before the expiration of the initial extended period of 180 days for an additional extension of 180 days, such application to be accompanied by a payment to the Board of Regents of The University of Texas System of \$50 per acre for each acre in the lease, and the Chairman of the Board of Regents of The University of Texas System or a designee appointed by the Chairman shall, in writing, extend such lease for an additional 180-day period from and after the expiration of the initial extended period of 180 days, and so long thereafter as oil or gas is produced in paying quantities from the premises; provided, that no lease shall be extended under the provisions of this section for more than a total of 360 days from and after the expiration of the primary term unless production in paying quantities has been obtained.

[See Compact Edition, Volume 1 for text of (g)]

[Amended by Acts 1979, 66th Leg., p. 1377, ch. 616, §§ 2, 3, eff. Sept. 1, 1979.]

#### § 66.70. Compensatory Royalties in Lieu of Offset Wells

[See Compact Edition, Volume 1 for text of (a) to (d)]

(e) Beginning on the date fixed in the agreement, the lessee shall pay the compensatory royalty monthly to the Board of Regents of The University of Texas System in Austin, Texas.

[See Compact Edition, Volume 1 for text of (f) and (g)]

[Amended by Acts 1979, 66th Leg., p. 1379, ch. 616, § 4, eff. Sept. 1, 1979.]

**§ 66.73. Assignment; Relinquishment**

(a) Any rights acquired may be assigned; provided, however, in order for an assignment to be valid and effective, the assignment must be filed in the county or counties in which the area is situated, and an original certified copy of the assignment must be filed with the Board of Regents of The University of Texas System, accompanied by 10 cents an acre for each acre assigned and a filing fee of \$5 for each lease involved in the assignment.

(b) Any rights to any lease and to any assigned portion thereof may be relinquished to the state at any time by having an instrument of relinquishment recorded in the county or counties in which the area relinquished is situated and an original certified copy filed with the Board of Regents of The University of Texas System, accompanied by \$1 for each area relinquished and a filing fee of \$5 for each lease involved in the relinquishment.

(c) Such an assignment or relinquishment shall not relieve the lease owner of any past due obligation theretofore accrued thereon.

[Amended by Acts 1979, 66th Leg., p. 1379, ch. 616, § 5, eff. Sept. 1, 1979.]

**§ 66.74. Royalty Payments; Inspection of Records**

(a) Royalty as stipulated in the sale shall be paid to the Board of Regents of The University of Texas System at Austin, Texas, for the benefit of the university permanent fund as provided in this section.

(1) Royalty on oil is due and payable on or before the fifth day of the second month succeeding the month of production, and royalty on gas is due and payable on or before the 15th day of the second month succeeding the month of production.

(2) Royalty payments shall be accompanied by:

(a) an affidavit of the owner, manager, or other authorized agent completed in the form and manner required by the Board of Regents of The University of Texas System and showing the gross amount and disposition of all oil and gas produced and the market value of the oil and gas;

(b) a copy of all documents, records, or reports confirming the gross production, disposition, and market value, including gas meter readings, pipeline receipts, gas line receipts, and other checks or memoranda of amount produced and put into pipelines, tanks, pools, and gas lines or gas storage;

(c) a check stub, schedule, summary, or other remittance advice showing by the assigned general land office lease number the amount of royalty being paid on each lease; and

(d) other reports or records that the Board of Regents of The University of Texas System may require to verify the gross production, disposition, and market value.

(3) The lessee has the responsibility for paying royalties or having royalties paid by the date provided for payment in this section.

(4) Any royalty not paid or affidavits and supporting documents not filed when due shall become delinquent, and a delinquency penalty of one percent for each 30-day period of delinquency or fractional part of that period shall be added to the amount owed; however, no penalty may be less than \$5 per month per lease. Payment of this penalty in no way operates to prohibit the state's right of forfeiture as provided by law and does not postpone the date on which royalties were originally due. The penalty does not apply in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to fair market value. Except as provided in Subsection (g), Section 66.68 of this code, royalty payments shall be made in cash by bank draft drawn on a state or national bank in Texas, by a post-office or express money order, or in any other form that the law may provide for making payments to the State Treasury and are payable to the Board of Regents of The University of Texas System.

(5) Copies of contracts for the sale or processing of gas and subsequent agreements and amendments to those contracts shall be filed with the Board of Regents of The University of Texas System within 30 days after the contracts, agreements, or amendments are made. These contracts and agreements received by the Board of Regents of The University of Texas System shall be held in confidence by the Board of Regents of The University of Texas System unless otherwise authorized by the lessee.

*[See Compact Edition, Volume 1 for text of (b)]*

[Amended by Acts 1979, 66th Leg., p. 1379, ch. 616, § 6, eff. Sept. 1, 1979.]

**§ 66.77. Filing of Records**

All surveys, files, records, copies of lease contracts, and all other records pertaining to the leases hereby authorized, shall be filed in the general land office and constitute archives thereof and copies of any such documents shall also be filed with the Board of Regents of The University of Texas System. All existing documents now on file in the general land office shall be transferred by copies to the Board of Regents of The University of Texas System.

[Amended by Acts 1979, 66th Leg., p. 1381, ch. 616, § 7, eff. Sept. 1, 1979.]

**§ 66.78. Payments; Disposition**

Payments under this subchapter shall be made to the Board of Regents of The University of Texas System at Austin, Texas, who shall:

(1) transmit to the state treasurer for deposit to the credit of the permanent university fund all bonus, rental, and royalty payments;

(2) transmit to the state treasurer for deposit to the credit of the available university fund all filing, assignment, and relinquishment fees, and all other payments except those described in Subdivision (3) of this section; and

(3) retain the one percent fee payment prescribed by Section 66.65(c) of this code, for disbursement by the comptroller of The University of Texas System for the purposes authorized by Section 66.65(c) of this code.

[Amended by Acts 1979, 66th Leg., p. 1381, ch. 616, § 8, eff. Sept. 1, 1979.]

## CHAPTER 67. THE UNIVERSITY OF TEXAS AT AUSTIN

### SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Section

67.25. Sesquicentennial Museum.

### SUBCHAPTER C. THE UNIVERSITY OF TEXAS McDONALD OBSERVATORY AT MOUNT LOCKE

67.53. Visitor Center.

### SUBCHAPTER B. POWERS AND DUTIES OF BOARD

#### § 67.21. Special Fees

[See *Compact Edition, Volume 1 for text of (a) and (b)*]

(c) The board may levy and collect from each student a compulsory fee for operating, maintaining, improving, equipping, and/or constructing additions to the existing Texas Union building near Guadalupe Street, of not to exceed \$10 for each regular semester and \$5 for each term of each summer session, with such fees to be deposited to an account known as the Texas Union Fee Account; this fee may be raised to an amount not to exceed \$14 for each regular semester and \$7 for each term of each summer session if that increase in the fee is approved by a majority vote of those students participating in a general election called for that purpose. The activities of said Texas Union building financed in whole or in part by this fee shall be limited to those activities in which the entire student body is eligible to participate, and in no event shall any of the activities so financed be held outside of the territorial limits of the campus of The University of Texas at Austin.

[See *Compact Edition, Volume 1 for text of (d) and (e)*]

[Amended by Acts 1979, 66th Leg., p. 2074, ch. 811, § 1, eff. June 13, 1979.]

#### § 67.25. Sesquicentennial Museum

The University of Texas at Austin may contract with the Texas Sesquicentennial Museum Board to operate the Texas Sesquicentennial Museum.

[Added by Acts 1981, 67th Leg., p. 2450, ch. 630, § 2, eff. Sept. 1, 1981.]

### SUBCHAPTER C. THE UNIVERSITY OF TEXAS McDONALD OBSERVATORY AT MOUNT LOCKE

#### § 67.53. Visitor Center

The board may negotiate and contract with the Texas Highway Department and any other agency, department, or political subdivision of the state or any individual for the construction, maintenance, and operation of a visitor center and related facilities at McDonald Observatory at Mount Locke.

[Added by Acts 1975, 64th Leg., p. 370, ch. 161, § 1, eff. May 8, 1975.]

## CHAPTER 68. THE UNIVERSITY OF TEXAS AT ARLINGTON

### SUBCHAPTER A. GENERAL PROVISIONS

Section

68.04. Student Union Fee.

68.05. Shuttle Bus Fee.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 68.04. Student Union Fee

(a) The board may levy a student union fee not to exceed \$15 per student for each regular semester and not to exceed \$7.50 per student for each term of the summer session, for the sole purpose of financing, constructing, operating, maintaining, and improving the Student Union Building. The fees herein authorized to be levied are in addition to any use or service fee now or hereafter authorized to be levied.

(b) Such fees shall be deposited to an account known as "The University of Texas at Arlington Student Union Fee Account" and shall be placed under the control of and subject to the order of the Student Union Advisory Committee. The committee shall annually submit to the board of regents a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The board of regents shall make such changes in the budget as it deems necessary before approving the budget, and shall then levy the fees, within the limits herein fixed, in such amounts as will be sufficient to meet the budgetary needs of the student union building.

[Added by Acts 1977, 65th Leg., p. 832, ch. 309, § 1, eff. Aug. 29, 1977.]

#### § 68.05. Shuttle Bus Fee

(a) The board may levy a shuttle bus fee not to exceed \$10 per student for each regular semester and not to exceed \$5 per student for each term of the summer session, for the sole purpose of financing shuttle bus service for students attending the institution. The fees herein authorized to be levied are in addition to any use fee or service fee now or hereafter authorized to be levied. However, no fee

may be levied unless the fee is approved by a majority vote of those students participating in a general election called for that purpose.

(b) Such fees shall be deposited to an account known as "The University of Texas at Arlington Shuttle Bus Fee Account" and shall be expended in accordance with a budget submitted to and approved by the board of regents. The board of regents shall make such changes in the budget as it deems necessary before approving the budget, and shall then levy the fees, within the limits herein fixed, in such amounts as will be sufficient to meet the budget as approved.

[Added by Acts 1977, 65th Leg., p. 833, ch. 309, § 2, eff. Aug. 29, 1977.]

**CHAPTER 70. THE UNIVERSITY OF TEXAS AT DALLAS**

Section  
70.08. Student Union Building Fees.

**§ 70.08. Student Union Building Fees**

(a) The board may levy a student union fee, not to exceed \$15 per student for each regular semester and not to exceed \$7.50 per student for each term of the summer session, for the sole purpose of financing, constructing, operating, maintaining, and improving a student union building. The fees herein authorized to be levied are in addition to any use or service fee now or hereafter authorized to be levied.

(b) Such fees shall be deposited to an account known as "The University of Texas at Dallas Student Union Fee Account" and shall be placed under the control of and subject to the order of the Student Union Advisory Committee. The committee shall annually submit to the board of regents a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The board of regents shall make such changes in the budget as it deems necessary before approving the budget, and shall then levy the fees, within the limits herein fixed, in such amounts as will be sufficient to meet the budgetary needs of the student union building.

[Added by Acts 1977, 65th Leg., p. 1041, ch. 385, § 1, eff. Aug. 29, 1977.]

**CHAPTER 71. THE UNIVERSITY OF TEXAS AT SAN ANTONIO**

Section  
71.07. Student Union Building Fees.

**§ 71.07. Student Union Building Fees**

(a) The board may levy a student union fee, not to exceed \$15 per student for each regular semester and not to exceed \$7.50 per student for each term of the summer session, for the sole purpose of financ-

ing, constructing, operating, maintaining, and improving a student union building. This fee may be levied in addition to any other use or service fee. Furthermore, fee may be levied only upon an affirmative vote of a majority of the student body voting of The University of Texas at San Antonio.

(b) The fees collected under Subsection (a) of this section shall be deposited to an account known as The University of Texas at San Antonio Student Union Fee Account and shall be placed under the control of and subject to the order of the student union advisory committee. The committee shall annually submit to the board of regents a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident to those activities. The board of regents shall make such changes in the budget as it deems necessary before approving the budget, but only after a student referendum has been called on the issue of increase in the fee, and the issue has been approved by a majority of the students voting in the election. The board shall then levy the fees, within the limits fixed in this section, in such amounts as will be sufficient to meet the budgetary needs of the student union building.

[Added by Acts 1979, 66th Leg., p. 62, ch. 38, § 1, eff. May 11, 1979.]

**CHAPTER 74. OTHER MEDICAL, DENTAL, AND NURSING UNITS OF THE UNIVERSITY OF TEXAS SYSTEM**

**§ 74.002. Jennie Sealy Hospital; R. Waverly Smith Pavilion**

(a) The Jennie Sealy Hospital and the R. Waverly Smith Pavilion shall be operated by the medical branch as integral parts of its hospital operations.

(b) Title to those facilities shall remain in the name of the Sealy-Smith Foundation; and the property may be leased to, but shall not be sold to, the medical branch or to The University of Texas System. The Board of Regents of The University of Texas System has the sole authority to execute such lease or leases with the Sealy-Smith Foundation relating to the Jennie Sealy Hospital and the R. Waverly Smith Pavilion under such terms and conditions as the board considers to be in the best interests of the medical branch.

[See Compact Edition, Volume 1 for text of (c)]

(d) By agreement between the board of regents of The University of Texas System and the trustees of the Sealy-Smith Foundation, the purpose or use of these facilities may be changed to any other purpose or use consistent with the purposes of the foundation and with the operation of a medical school.

[Amended by Acts 1979, 66th Leg., p. 665, ch. 293, §§ 1 to 3, eff. Sept. 1, 1979.]

## CHAPTER 76. THE UNIVERSITY OF TEXAS AT TYLER

Section	
76.01.	Establishment.
76.02.	Role and Scope.
76.03.	President.
76.04.	Suits; Venue; Citation.
76.05.	Gifts and Grants.
76.06.	Management of Property.

### § 76.01. Establishment

The University of Texas at Tyler is a coeducational institution of higher education within The University of Texas System. It is under the control and management of the Board of Regents of The University of Texas System.

[Added by Acts 1979, 66th Leg., p. 699, ch. 303, § 4, eff. Sept. 1, 1979.]

### § 76.02. Role and Scope

The institution shall offer junior and senior undergraduate programs and graduate programs, both of which are subject to the authority of the Coordinating Board, Texas College and University System.

[Added by Acts 1979, 66th Leg., p. 699, ch. 303, § 4, eff. Sept. 1, 1979.]

### § 76.03. President

The board may appoint and remove the president, any faculty member, or other officer or employee of the institution. The president is the executive officer of the institution and is responsible for its general management. The president shall recommend a plan of organization and orderly course development for the institution.

[Added by Acts 1979, 66th Leg., p. 699, ch. 303, § 4, eff. Sept. 1, 1979.]

### § 76.04. Suits; Venue; Citation

The board may sue and be sued in the name of the institution. Venue is in Smith or Travis County. The institution may be impleaded by service of citation on its president, and legislative consent to suits against the institution is granted.

[Added by Acts 1979, 66th Leg., p. 699, ch. 303, § 4, eff. Sept. 1, 1979.]

### § 76.05. Gifts and Grants

The board may accept donations, gifts, and endowments for the institution. They are to be held in trust and administered by the board according to the purposes, directions, limitations, and provisions declared in writing in the donation, gift, or endowment. The provisions of the donation, gift, or endowment shall be followed to the extent that they are not inconsistent with the laws of this state or with the objective and proper management of the institution.

[Added by Acts 1979, 66th Leg., p. 699, ch. 303, § 4, eff. Sept. 1, 1979.]

### § 76.06. Management of Property

The board is vested with the exclusive management of all property owned by the institution. The board may make any agreements necessary to the effective management of the institution's property. All money received shall be deposited in the State Treasury to the credit of a special fund that may be invested and the principal and income of the fund may be expended on appropriation by the legislature for the administration of the institution.

[Added by Acts 1979, 66th Leg., p. 699, ch. 303, § 4, eff. Sept. 1, 1979.]

## SUBTITLE D. THE TEXAS A & M UNIVERSITY SYSTEM

### CHAPTER 85. ADMINISTRATION OF THE TEXAS A & M UNIVERSITY SYSTEM

#### SUBCHAPTER A. GENERAL PROVISIONS

### § 85.01. Definitions

In this chapter:

(1) "System" or "university system" means The Texas A & M University System.

(2) "Board" means the board of regents of The Texas A & M University System.

[Amended by Acts 1975, 64th Leg., p. 598, ch. 247, § 1, eff. Sept. 1, 1975.]

Section 6 of the 1973 amendatory act provided: "Wherever the phrase 'board of directors' appears in other statutes, the phrase 'board of regents' shall not affect any previous authorization and obligation thereunder and, such new name for the governing board shall be substituted."

[Sections 85.02 to 85.10 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

### § 85.11. Board of Regents

The government of the university system is vested in a board of nine regents appointed by the governor with the advice and consent of the senate.

[Amended by Acts 1975, 64th Leg., p. 598, ch. 247, § 2, eff. Sept. 1, 1975.]

### § 85.13. Certificate of Appointment

The secretary of state shall forward a certificate to each regent within 10 days after his appointment, notifying him of the fact of his appointment. If any person so appointed and notified fails for 10 days to give notice to the governor of his acceptance, his appointment shall be deemed void and his place shall be filled as in the case of a vacancy.

[Amended by Acts 1975, 64th Leg., p. 598, ch. 247, § 3, eff. Sept. 1, 1975.]

### § 85.14. Chairman of Board

The board shall elect from its members a chairman of the board, who shall call the board together for the transaction of business whenever he deems it expedient.

[Amended by Acts 1975, 64th Leg., p. 599, ch. 247, § 4, eff. Sept. 1, 1975.]

§ 85.15. Expenses of Regents

The regents shall serve without compensation but are entitled to reimbursement for actual expenses incurred in attending board meetings and in transacting the official business of the board.

[Amended by Acts 1975, 64th Leg., p. 599, ch. 247, § 5, eff. Sept. 1, 1975.]

CHAPTER 86. TEXAS A & M UNIVERSITY

SUBCHAPTER C. REAL ESTATE RESEARCH CENTER

Section

86.511. Application of Sunset Act.

SUBCHAPTER C. REAL ESTATE RESEARCH CENTER

§ 86.511. Application of Sunset Act

The Real Estate Research Center is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act, the center is abolished, and this subchapter expires effective September 1, 1993.

[Added by Acts 1977, 65th Leg., p. 1837, ch. 735, § 2.035, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 3252, ch. 856, § 3, eff. June 18, 1981.]

For provisions as to conflict of 1981 amendatory act with other laws and severability of 1981 amendatory act, see note under § 86.52.

§ 86.52. Real Estate Research Advisory Committee

[See Compact Edition, Volume 1 for text of (a)]

(b) The advisory committee is composed of nine persons appointed by the governor, without regard to the race, creed, sex, religion, or national origin of the appointee and with the advice and consent of the senate, with the following representation:

(1) six members shall be real estate brokers, licensed as such for at least five years preceding the date of their appointment, who are representative of each of the following real estate specialties:

(A) one member shall be principally engaged in real estate brokerage;

(B) one member shall be principally engaged in real estate financing;

(C) one member shall be principally engaged in the ownership or construction of real estate improvements;

(D) one member shall be principally engaged in the ownership, development or management of residential properties;

(E) one member shall be principally engaged in the ownership, development or management of commercial properties; and

(F) one member shall be principally engaged in the ownership, development or management of industrial properties;

(2) three members shall be representatives of the general public;

(3) members representative of the general public who are appointed after the effective date of this Act shall not be licensed real estate brokers or salesmen and shall not have, other than as consumers, a financial interest in the practice of a licensed real estate broker or salesman; and

(4) it is grounds for removal from the advisory committee if:

(A) a broker member of the committee ceases to be a licensed real estate broker; or

(B) a public member of the committee appointed after the effective date of this Act or a person related to the member within the second degree by consanguinity or within the second degree by affinity acquires a real estate license or a financial interest in the practice of a licensed real estate broker or salesman.

[See Compact Edition, Volume 1 for text of (c) to (i)]

(j) Each member of the board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act.

(k) The advisory committee is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), and the provisions of Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes).

(l) The state auditor shall audit the financial transactions of the center in each fiscal year.

(m) On or before January 1 of each year, the center shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the center during the preceding year.

[Amended by Acts 1981, 67th Leg., p. 3251, ch. 856, §§ 1, 2, eff. June 18, 1981.]

Sections 6 and 7 of the 1981 amendatory act provide:

"Sec. 6. All laws and parts of laws in conflict with this Act are repealed.

"Sec. 7. If any word, phrase, clause, paragraph, sentence, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, or provision."

§ 86.53. Purposes, Objectives, and Duties of the Center

The purposes, objectives, and duties of the center are as follows:

(1) to conduct studies in all areas that relate directly or indirectly to real estate and/or urban or rural economics and to publish and disseminate the findings and result of the studies;

(2) to assist the teaching program in real estate offered by the colleges and universities in the State of Texas when requested to do so, and to award scholarships and establish real estate chairs when funds are available;

(3) to supply material to the Texas Real Estate Commission for the preparation of the examinations for real estate salesmen and brokers, if requested to do so by the commission;

(4) to develop and from time to time revise and update materials for use in the extension courses in real estate offered by the universities and colleges in the State of Texas when requested to do so;

(5) to assist the Texas Real Estate Commission in developing standards for the accreditation of vocational schools and other teaching agencies giving courses in the field of real estate, and standards for the approval of courses in the field of real estate, as and when requested to do so by the commission;

(6) to make studies of and recommend changes in state statutes and municipal ordinances, providing however that no staff member of the center shall directly contact legislators or locally elected officials concerning the recommendations except to provide a factual response to an inquiry as to the method of research or nature of the findings;

(7) provided and except, however, that those conducting such research and studies shall periodically review their progress with the advisory committee or its designated representative, and the results of any research project, or study, shall not be published or disseminated until it has been reviewed and approved in writing by the advisory committee or its designated representative; and

(8) to prepare information of consumer interest describing the functions of the center and to make the information available to the general public and appropriate state agencies.

[Amended by Acts 1981, 67th Leg., p. 3252, ch. 856, § 4, eff. June 18, 1981.]

For provisions as to conflict of 1981 amendatory act with other laws as severability of 1981 amendatory act, see note under § 86.52.

**CHAPTER 87. OTHER ACADEMIC INSTITUTIONS IN THE TEXAS A & M UNIVERSITY SYSTEM**

**SUBCHAPTER A. TARLETON STATE UNIVERSITY**

Section  
87.004. Student Center Complex Fees.

**SUBCHAPTER B. PRAIRIE VIEW A & M UNIVERSITY**

87.103. Certain Land in Waller County Under Control of Board.  
87.104. Purpose of the University.

**SUBCHAPTER C. TEXAS A & M UNIVERSITY AT GALVESTON**

Section  
87.201. Texas A & M University at Galveston.  
87.202. General Powers and Duties.  
8.204. Funds, Properties, Agreements.  
87.205. Fees and Charges.

**SUBCHAPTER A. TARLETON STATE UNIVERSITY**

**§ 87.004. Student Center Complex Fees**

(a) To the extent approved by the students under Subsection (b) of this section, the Board of Regents of The Texas A & M University System may levy a regular, fixed student fee not to exceed \$10 per student for each semester for the long session and not to exceed \$5 per student for each term of the summer session or any fractional part thereof against each student enrolled in Tarleton State University for the purpose of operating, maintaining, improving, and equipping the Tarleton State University Student Center and acquiring or constructing additions to said center. The activities of the student center financed in whole or part by the student center fee shall be limited to those activities in which the entire student body is eligible to participate and in no event shall any of the activities so financed be held outside the territorial limits of Tarleton State University.

(b) The decision to levy such a fee, the amount of the initial fee, and any increase in the fee must be approved by a majority vote of those students participating in a general election called for that purpose.

(c) The business manager of Tarleton State University shall collect the fees provided for in Subsection (a) of this section and shall credit the money received from the fees to an account known as the Student Center Fee Account.

(d) The money thus collected and placed in the said Student Center Fee Account shall be used for the purposes of operating, maintaining, improving, and equipping the Tarleton State University Student Center. A complete and itemized budget shall be submitted annually to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The Board of Regents shall make such changes in the budget as it deems necessary before approving the same and shall then levy the student fees under the provisions of Subsections (a) and (b) of this section in such amounts as will be sufficient to meet the budgetary needs of the center within the statutory limits herein fixed.

[Added by Acts 1979, 66th Leg., p. 758, ch. 331, § 1, eff. June 6, 1979.]

**SUBCHAPTER B. PRAIRIE VIEW A & M UNIVERSITY**

**§ 87.103. Certain Land in Waller County Under Control of Board**

(a) The 110 acres, more or less, of land in Waller County near Prairie View A & M University, but not

adjoining its campus, conveyed as a gift to the Governor of the State of Texas when the site for then Prairie View Normal and Industrial College was purchased, is placed under the control and supervision of the Board of Directors of The Texas A & M University System for the use and benefit of Prairie View A & M University.

(b) The land is described in the deed of record in Record Book 3, pages 496, 497, and 498 of the records of the County Clerk of Waller County as being 110 acres of land off a 320-acre survey patented to the heirs of Solomon Smith No. 276, Vol. 11, the said 110 acres lying on the south side of said 320-acre survey and adjoining the Law Survey and is described by metes and bounds in Decree of Partition in District Court of Austin County in Matters Probate between Helen M. Kirby and the estate of Jared E. Kirby, deceased.

(c) The board of directors is authorized to lease the land for oil, gas, sulphur, and other mineral development under existing law applicable to other lands under its control and supervision and to apply the proceeds from such lease to the use and benefit of Prairie View A & M University.

[Added by Acts 1975, 64th Leg., p. 570, ch. 229, § 1, eff. May 20, 1975.]

§ 87.104. Purpose of the University

In addition to its designation as a statewide general purpose institution of higher education and its designation as a land-grant institution, Prairie View A&M University is designated as a statewide special purpose institution of higher education for instruction, research, and public service programs which are dedicated to: (1) enabling students with latent aptitudes, talents, and abilities and of diverse economic, ethnic, and cultural backgrounds to realize their full potential; (2) assisting small and medium-sized communities to achieve their optimal growth and development; and (3) assisting small and medium-sized agricultural, business, and industrial enterprises to manage their growth and development effectively.

[Added by Acts 1981, 67th Leg., p. 3040, ch. 795, § 1, eff. June 17, 1981.]

[Sections 87.105 to 87.200 reserved for expansion]

SUBCHAPTER C. TEXAS A & M UNIVERSITY AT GALVESTON

§ 87.201. Texas A & M University at Galveston

Texas A & M University at Galveston is a special purpose school for undergraduate instruction in the practice of seamanship, ship construction, naval architecture, wireless telegraph, engineering, the science of navigation, and undergraduate educational programs related to the general field of marine resources. Courses and programs are subject to prior approval by the Coordinating Board, Texas College and University System. The school is under the management and control of the board of regents

of The Texas A & M University System, with degrees offered under the name and authority of Texas A & M University at College Station.

[Amended by Acts 1981, 67th Leg., p. 3051, ch. 799, § 1, eff. June 17, 1981.]

Section 4 of the 1981 amendatory act provides:

"All references to and appropriations for the Texas Maritime Academy and Moody College of Marine Sciences and Maritime Resources, sometimes referred to as Moody College, apply to Texas A & M University at Galveston."

§ 87.202. General Powers and Duties

The board shall:

(1) employ a superintendent of the university, who shall also be commander;

(2) employ instructors and the necessary employees and determine their number, duties, and compensation;

(3) fix the terms and conditions under which pupils shall be received, instructed, and graduated;

(4) arrange cruises to and from the harbors of Houston, Galveston, Beaumont, Port Arthur, and Corpus Christi; and

(5) establish rules and regulations for the proper management of the university.

[Amended by Acts 1981, 67th Leg., p. 3051, ch. 799, § 1, eff. June 17, 1981.]

§ 87.204. Funds, Properties, Agreements

The board may receive any funds or property that may be subscribed, loaned, or bequeathed for the organization or maintenance of the university and shall execute all necessary agreements for the faithful application of the funds or property.

[Amended by Acts 1981, 67th Leg., p. 3051, ch. 799, § 1, eff. June 17, 1981.]

§ 87.205. Fees and Charges

The fact that provision for the establishment of this university is for the primary purpose of giving students practical and technical instruction in the arts and sciences relating to the foregoing subjects, and the further fact that training in these fields will lead to immediate and remunerative employment for those who have finished the prescribed courses, make it necessary that larger fees be charged those students who enter the university than is now paid by students enrolled in state-supported institutions of higher education. Therefore, the provisions of Subchapter E, Chapter 54 of this code,<sup>1</sup> do not apply to the students enrolled in the university. The board is specifically charged with the duty of assessing such fees and charges against the students who enter the university as may be necessary to provide for the maintenance and support of the university.

[Amended by Acts 1981, 67th Leg., p. 3051, ch. 799, § 1, eff. June 17, 1981.]

<sup>1</sup> Section 54.501 et seq.

## CHAPTER 88. AGENCIES AND SERVICES OF THE TEXAS A & M UNIVERSITY SYSTEM

### SUBCHAPTER A. GENERAL PROVISIONS

- Section  
88.002. Application of Sunset Act to Agricultural Extension Service.  
88.003. Application of Sunset Act to Engineering Extension Service.  
88.004. Application of Sunset Act to Engineering Experiment Station.

### SUBCHAPTER B. THE TEXAS FOREST SERVICE

- 88.1011. Application of Sunset Act.  
88.1101. Expired.  
88.1131. Application of Sunset Act.

### SUBCHAPTER C. THE TEXAS AGRICULTURAL EXPERIMENT STATION

- 88.2031. Application of Sunset Act.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 88.002. Application of Sunset Act to Agricultural Extension Service

The Texas Agricultural Extension Service is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the service is abolished effective September 1, 1987.

[Added by Acts 1977, 65th Leg., p. 1849, ch. 735, § 2.122, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

#### § 88.003. Application of Sunset Act to Engineering Extension Service

The Texas Engineering Extension Service is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the service is abolished effective September 1, 1987.

[Added by Acts 1977, 65th Leg., p. 1849, ch. 735, § 2.125, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

#### 88.004. Application of Sunset Act to Engineering Experiment Station

The Texas Engineering Experiment Station is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the station is abolished effective September 1, 1987.

[Added by Acts 1977, 65th Leg., p. 1849, ch. 735, § 2.124, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

### SUBCHAPTER B. THE TEXAS FOREST SERVICE

#### § 88.1011. Application of Sunset Act

The office of State Forester is subject to the Texas Sunset Act,<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1844, ch. 735, § 2.088, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

#### § 88.103. Enforcement; Appointment of Peace Officers

The state forester may appoint not to exceed 12 employees of the Texas Forest Service who are certified by the Commission on Law Enforcement Officer Standards and Education as qualified to be peace officers to serve as peace officers under his direction in executing the enforcement duties of that agency. The appointments must be approved by the board which shall commission the appointees as peace officers. Any officer commissioned under this section is vested with all the powers, privileges, and immunities of peace officers in the performance of his duties. The officer shall take the oath required of peace officers and shall execute a good and sufficient bond in the sum of \$5,000, payable to the governor and his successors in office, with two or more good and sufficient personal sureties or with one corporate surety authorized to do business in Texas, conditioned that he will fairly, impartially, and faithfully perform all the duties that may be required of him by law. The bond may be sued on in the name of any person injured until the whole amount of the bond is recovered.

[Amended by Acts 1975, 64th Leg., p. 1840, ch. 570, § 1, eff. June 19, 1975.]

#### § 88.1101. Expired

Former § 88.1101, added by Acts 1977, 65th Leg., p. 904, ch. 338, § 1, and relating to acquisition by eminent domain and development of land for the Texas Forest Service for use as a forest tree seedling nursery, expired by the terms of § 2 of the 1977 Act on December 31, 1979.

#### § 88.1131. Application of Sunset Act

The office of South Central Interstate Forest Fire Protection Compact Administrator for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1846, ch. 735, § 2.100, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

### SUBCHAPTER C. THE TEXAS AGRICULTURAL EXPERIMENT STATION

#### § 88.2031. Application of Sunset Act

The Texas Agricultural Experiment Station is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the station is abolished, and this subchapter expires effective September 1, 1987.

[Added by Acts 1977, 65th Leg., p. 1849, ch. 735, § 2.121, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

### SUBTITLE E. THE TEXAS STATE UNIVERSITY SYSTEM

## CHAPTER 95. ADMINISTRATION OF THE TEXAS STATE UNIVERSITY SYSTEM

### SUBCHAPTER B. POWERS AND DUTIES OF BOARD.

- Section  
95.33. Management of Property.  
95.34. Donations, Gifts, Grants, and Endowments.  
95.35. Student Center Fees.

SUBCHAPTER A. ADMINISTRATION PROVISIONS

§ 95.01. Board of Regents

The organization, control, and management of the state university system is vested in the Board of Regents, Texas State University System.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.03. Board Meetings

The board shall meet each year at Austin, on the first Monday in May, or as soon thereafter as practicable, for the transaction of business pertaining to the affairs of the state university system. The board shall also meet at other times and places deemed necessary for the welfare of the colleges by a majority of the members.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.04. Per Diem; Expenses

Each member of the board shall receive \$10 per day for the time spent attending the meetings of the board, in addition to reimbursement for traveling expenses. Payment shall be made out of the appropriation for the support and maintenance of the state university system as the board may direct.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

§ 95.21. General Responsibilities of Board

The board is responsible for the general control and management of the universities in the system and may erect, equip, and repair buildings; purchase libraries, furniture, apparatus, fuel, and other necessary supplies; employ and discharge presidents or principals, teachers, treasurers, and other employees; and fix the salaries of the persons employed. The president of each member institution shall nominate annually to the board the professors, teachers, officials, and assistants who, in his opinion, will promote the best interests of the institution.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.22. Inspection of Universities

The board shall visit each university under its control and management at least once during each scholastic year, inspect its work, and gather information which will enable the board to perform its duties intelligently and effectively.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.24. Admission; Diplomas and Certificates

The board may determine the conditions on which students may be admitted to the universities, the grades of certificates issued, the conditions for the

award of certificates and diplomas, and the authority by which certificates and diplomas are signed.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.25. Teaching Certificates

Diplomas and teachers certificates of each of the system universities authorize the holders to teach in the public schools.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.26. Incidental Fees

The board may fix the rate of incidental fees to be paid by students attending the universities and may make rules for the collection of the fees and for the disbursement of the funds collected.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.27. Annual Report to Governor

The board shall make an annual report to the governor showing the general condition of the affairs of each university in the system and making recommendations for its future management and welfare.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.28. Disbursement of Funds

All appropriations made by the legislature for the support and maintenance of the system universities, for the purchase of land or buildings for the universities, for the erection or repair of buildings, for the purchase of apparatus, libraries, or equipment of any kind, or for any other improvement of any kind shall be disbursed under the direction and authority of the board. The board may formulate rules for the general control and management of the universities, for the auditing and approving of accounts, and for the issuance of vouchers and warrants which are necessary for the efficient administration of the universities.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 95.29. Financial Statements and Recommendations

The board shall file in each house of the legislature at each of its regular biennial sessions a statement of the receipts and expenditures of each of the system universities, showing the amount of salaries paid to the various teachers, contingent expenses, expenditures for improvements, and other items of expense. The board shall also file its recommendations for appropriations for the universities.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

**§ 95.30. Eminent Domain**

The board has the power of eminent domain to acquire for the use of the system universities the lands necessary and proper for carrying out their purposes, in the manner prescribed in Title 52, Revised Civil Statutes of Texas, 1925, as amended.<sup>1</sup> The taking of the land is for the use of the state. The board shall not be required to deposit a bond or the amount equal to the award of damages by the commissioners as provided in Paragraph 2, Article 3268, Revised Civil Statutes of Texas, 1925, as amended.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

<sup>1</sup> Civil Statutes, Art. 3264 et seq.

**§ 95.31. Acquisition of Land; Procedures**

(a) The board may acquire land needed for the proper operation of a system university in the county in which the university is located. The acquisition may be by purchase or by condemnation.

[See Compact Edition, Volume 1 for text of (b)]

(c) When the value of the land has been ascertained and the court is satisfied with the valuation, the court shall enter a decree vesting the title of the land in the state for the use and benefit of the university for whose benefit the land is needed. No decree shall be entered until the value of the land as ascertained, together with all reasonable cost and expense of the owner in attending the proceeding, is paid to him or into court for his benefit and subject to his order. The costs and expenses, including reasonable attorneys' fees, shall be ascertained by the court in which the proceeding is held.

[Amended by Acts 1975, 64th Leg., p. 1161, ch. 434, § 4, eff. June 19, 1975.]

**§ 95.32. Dormitories**

(a) The board may enter into contracts with persons, firms, or corporations for the erection of dormitories at a university, and may purchase or lease lands and other appurtenances for the construction of the dormitories, provided that the state incurs no liability for the buildings or the sites.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1975, 64th Leg., p. 1162, ch. 434, § 5, eff. June 19, 1975.]

**§ 95.33. Management of Property**

The board shall have the sole and exclusive management and control of land set aside and appropriated to or acquired by universities under its authority. The board may sell, lease, and otherwise manage, control, and use the land in any manner and at prices and under the terms and conditions the board deems best for the interest of the university that has acquired the land. Land shall not be sold at a price less per acre than that at which the same class of other public land may be sold under the statutes. [Added by Acts 1979, 66th Leg., p. 1447, ch. 636, § 1, eff. June 13, 1979.]

**§ 95.34. Donations, Gifts, Grants, and Endowments**

The board may accept donations, gifts, grants, and endowments for the universities under its control to be held in trust and administered by the board for the purposes and under the direction, limitations, and provisions declared in writing in the donation, gift, grant, or endowment, not inconsistent with the laws of the state or with the objectives and proper management of the universities.

[Added by Acts 1979, 66th Leg., p. 1447, ch. 636, § 1, eff. June 13, 1979.]

**§ 95.35. Student Center Fees**

(a) To the extent approved by the students under Subsection (b) of this section, the board may charge each student enrolled in a university under its authority a student center fee not to exceed \$20 per semester or \$10 per six-week summer term to be used to construct, operate, maintain, improve, and program a student center at the university at which the student is enrolled.

(b) The decision to levy a student center fee, the amount of the initial fee, and an increase in the fee must be approved by a majority vote of those students participating in a general election called for that purpose; provided that this requirement shall not apply to the decision to levy a student center fee or the amount of the initial fee approved by the board prior to the effective date of this section.

(c) The chief fiscal officer of each university operating a student center shall collect the student center fee and shall deposit the money received into an account known as the student center account.

(d) The university shall hold in reserve any fee revenue that exceeds the amount necessary to meet the operating expenses of the student center and may apply that revenue only to future operating expenses of the student center.

(e) No state appropriated funds may be used to construct, operate, maintain, improve, or program the student center.

[Added by Acts 1981, 67th Leg., p. 1812, ch. 401, § 1, eff. June 11, 1981.]

**CHAPTER 96. INSTITUTIONS OF THE TEXAS STATE UNIVERSITY SYSTEM****SUBCHAPTER C. SOUTHWEST TEXAS STATE UNIVERSITY**

Section	
96.42.	Student Fees for Bus Service.
96.43.	Repealed.

**SUBCHAPTER A. SUL ROSS STATE UNIVERSITY****§ 96.01. Sul Ross State University**

Sul Ross State University is a coeducational institution of higher education located in the city of Alpine. It is under the management and control of

the Board of Regents, Texas State University System.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

SUBCHAPTER B. ANGELO STATE UNIVERSITY

§ 96.21. Angelo State University

Angelo State University is a coeducational institution of higher education located in the city of San Angelo. It is under the management and control of the Board of Regents, Texas State University System.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

SUBCHAPTER C. SOUTHWEST TEXAS STATE UNIVERSITY

§ 96.41. Southwest Texas State University

Southwest Texas State University is a coeducational institution of higher education located in the city of San Marcos. It is under the management and control of the Board of Regents, Texas State University System.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

§ 96.42. Student Fees for Bus Service

(a) The board of regents may charge each student enrolled at the university a fee initially set at \$10 per semester or \$5 per six-week summer term to be used to finance bus service for students attending the institution.

(b) Not more than once in an academic year, the board may increase the fee authorized in Subsection (a) of this section for the purpose of covering increased operating costs of the bus service. The increase may not exceed \$2 per semester or \$1 per six-week summer term. Any increase in the initial fee must be approved by a majority vote of those students participating in a general election called for that purpose.

(c) The fee for student bus service shall not be counted in determining the maximum student service fees which may be charged pursuant to the provisions of Section 54.503 of this code.

(d) The university shall hold in reserve any fee revenue that exceeds the amount necessary to meet the operating expenses of the bus service and shall apply that revenue only to future operating expenses of the bus service.

[Added by Acts 1975, 64th Leg., p. 1233, ch. 458, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg. p. 82 ch. 43, § 1.]

Section 2 of the 1981 amendatory act provided: "This Act takes effect beginning with the first semester or six-week summer term following its enactment."

§ 96.43. Repealed by Acts 1981, 67th Leg., p. 1812, ch. 401, § 2, eff. June 11, 1981

The repealed section, relating to a student center fee, was added by Acts 1979, 66th Leg., p. 855, ch. 381, § 1. See, now, § 95.35.

[Sections 96.44 to 96.60 reserved for expansion]

SUBCHAPTER D. SAM HOUSTON STATE UNIVERSITY

§ 96.61. Sam Houston State University

Sam Houston State University is a coeducational institution of higher education located in the city of Huntsville. It is under the management and control of the Board of Regents, Texas State University System.

[Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.]

SUBTITLE F. OTHER COLLEGES AND UNIVERSITIES

CHAPTER 100. EAST TEXAS STATE UNIVERSITY

SUBCHAPTER C. POWERS AND DUTIES

Section 100.37. Student Union Fees.

SUBCHAPTER A. GENERAL PROVISIONS

§ 100.01. East Texas State University

East Texas State University is a coeducational institution of higher education with its main campus located in the city of Commerce.

[Amended by Acts 1977, 65th Leg., p. 617, ch. 226, § 1, eff. Aug. 29, 1977.]

Section 2 of the 1977 amendatory act provided: "No provision of this Act shall be construed to authorize any new or additional college, university, other institution of higher education, branch, or center thereof."

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 100.11. Board of Regents

The organization, control, and management of the university is vested in a board of nine regents appointed by the governor with the advice and consent of the senate, but no regent may be a resident of the county in which the main campus is located, nor shall the Texarkana campus be organized to offer freshman or sophomore programs, and the metroplex commuter program may offer only those programs approved by the Coordinating Board, Texas College and University System and which are non-duplicative of programs offered in the Dallas educational area. The board of regents may establish different rules for the operation of the facilities and programs in each location. The members hold office for staggered terms of six years, with the terms of three regents expiring on February 15 of each odd-numbered year. The board shall elect a chairman and any other officers from its members to serve at the will of the board. The board has the powers and

duties incident to its position and to the same extent as is conferred on the Board of Regents of Texas Woman's University.

[Amended by Acts 1977, 65th Leg., p. 617, ch. 226, § 1, eff. Aug. 29, 1977.]

§ 100.12. Repealed by Acts 1977, 65th Leg., p. 617, ch. 226, § 3, eff. Aug. 29, 1977

See, now, § 100.11.

§§ 100.15, 100.16. Repealed by Acts 1977, 65th Leg., p. 617, ch. 226, § 3, eff. Aug. 29, 1977

See, now, § 100.11.

#### SUBCHAPTER C. POWERS AND DUTIES

§ 100.31. Repealed by Acts 1977, 65th Leg., p. 617, ch. 226, § 3, eff. Aug. 29, 1977

See, now, § 100.11.

§ 100.37. Student Union Fees

(a) The board may levy a regular fixed student fee not to exceed \$15 per student for each semester of the long session and not to exceed \$7.50 per student for each term of the summer school, or any fractional part thereof, as may in their discretion be just and necessary for the sole purpose of financing, constructing, operating, maintaining, and improving the Union Center Building. The amount of the fee may be changed at any time within the limits specified in order that sufficient funds to support the Union Center Building may be raised, but any increase in the fee must be approved by a majority vote of those students participating in a general election called for that purpose. The fees herein authorized to be levied should be in addition to any use fee and service fee now or hereafter levied in accordance with law. No state funds may be expended for use of the Union Center Building.

(b) The business manager of East Texas State University shall collect the fees provided for in this section and shall credit the money received from the fees to an account known as the Union Center Building Account.

(c) The money collected and placed in the Union Center Building Account shall be used for the purpose of financing, constructing, operating, maintaining, and improving the Union Center Building and shall be placed under the control of and subject to the order of the board of directors of the Union Center Building, which board of directors shall annually submit a complete itemized budget to be accompanied by a full and complete report of all activities conducted during the year and all expenditures made incident thereto. The board of regents shall make such changes in the budget as it deems necessary before approving it, and shall then levy the student fees under the provisions of this section in such amount as will be sufficient to meet the budgetary needs of the Union Center Building, within the statutory limits herein fixed.

[Added by Acts 1975, 64th Leg., p. 1916, ch. 619, § 1, eff. Sept. 1, 1975.]

### CHAPTER 101. STEPHEN F. AUSTIN STATE UNIVERSITY

#### SUBCHAPTER C. POWERS AND DUTIES

Section

101.42. University Center Student Fee.

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 101.18. Repealed by Acts 1977, 65th Leg., p. 67, ch. 34, § 1, eff. March 29, 1977

#### SUBCHAPTER C. POWERS AND DUTIES

§ 101.42. University Center Student Fee

(a) To the extent approved by the students under Subsection (b) of this section, the board may charge each student enrolled in one or more courses conducted on the main campus of the university a regular, fixed fee, not to exceed \$15 per student for each semester of the long session and not to exceed \$7.50 per student for all or part of each six-week term of the summer session, for the purpose of operating, maintaining, improving, equipping, and financing the university center and acquiring or constructing additions to the center. The amount of the fee may be changed at any time within the limits specified in order to provide sufficient funds to support the university center. The fees authorized in this section supplement any other use or service fee authorized by law.

(b) The decision to levy such a fee, the amount of the initial fee, and any increase in the fee must be approved by a majority vote of those students participating in a general election called for that purpose.

(c) The chief fiscal officer of the university shall collect the fees provided for in this section and shall credit the money received from the fees to an account known as the university center administration and program fund.

[Added by Acts 1979, 66th Leg., p. 734, ch. 326, § 1, eff. June 6, 1979.]

### CHAPTER 102. WEST TEXAS STATE UNIVERSITY

#### SUBCHAPTER C. POWERS AND DUTIES

Section

102.34. University Center Student Fee.

102.35. Donation and Construction of Building for Museum Purposes.

#### SUBCHAPTER C. POWERS AND DUTIES

§ 102.34. University Center Student Fee

(a) To the extent approved by the students under Subsection (b) of this section, the board may charge each student enrolled in one or more courses conducted on the main campus of the university a regular, fixed fee not to exceed \$15 per student for

each semester of the long session and not to exceed \$7.50 per student for all or part of each six-week term of the summer session for the purpose of operating, maintaining, improving, equipping, and financing the university center and acquiring or constructing additions to the center. The amount of the fee may be changed at any time within the limits specified in order to provide sufficient funds to support the university center. The fees authorized in this section supplement any other use or service fee authorized by law.

(b) The decision to levy such a fee, the amount of the initial fee, and any increase in the fee must be approved by a majority vote of those students participating in a general election called for that purpose.

(c) The chief fiscal officer of the university shall collect the fees provided for in this section and shall credit the money received from the fees to an account known as the University Center Administration and Program Fund.

[Added by Acts 1979, 66th Leg., p. 734, ch. 326, § 2, eff. June 6, 1979.]

**§ 102.35. Donation and Construction of Building for Museum Purposes**

The board may accept the donation from the Panhandle-Plains Historical Society of a building to be constructed for the benefit of the Panhandle-Plains Historical Museum. The building may be constructed, and existing buildings may be modified to connect with the new structure.

[Added by Acts 1981, 67th Leg., p. 111, ch. 53, § 1, eff. April 15, 1981.]

**CHAPTER 103. MIDWESTERN STATE UNIVERSITY**

Section 103.11. University Center Fee.

**§ 103.01. Midwestern State University**

Midwestern State University is a coeducational institution of higher learning located in the city of Wichita Falls.

[Amended by Acts 1975, 64th Leg., p. 1841, ch. 571, § 3, eff. Sept. 1, 1975.]

Section 1 of the 1975 Act provided:  
 "The name of Midwestern University is hereby changed to Midwestern State University. All references to Midwestern University in any law shall hereafter refer to Midwestern State University."  
 Section 2 thereof changed the title of Chapter 103 from "Midwestern University".

**§ 103.11. University Center Fee**

(a) To the extent approved by the students under Subsection (b) of this section, the Board of Regents of Midwestern State University is hereby authorized to levy a regular, fixed student fee not to exceed \$15 per student for each semester of the long session and not to exceed \$7.50 per student for all or part of each term of the summer session for the purpose of

operating, maintaining, improving, equipping, and financing the university center and acquiring or constructing additions to the center. The amount of the fee may be changed at any time within the limits specified in order to provide sufficient funds to support the university center. The fees authorized in this section supplement any other use or service fee authorized by law.

(b) The decision to levy such a fee, the amount of the initial fee, and any increase in the fee must be approved by a majority vote of those students participating in a general election called for that purpose.

(c) The chief fiscal officer of the university shall collect the fees provided for in this section and shall credit the money received from the fees to an account known as the University Center Administration and Program Fund.

[Added by Acts 1979, 66th Leg., p. 793, ch. 354, § 1, eff. June 6, 1979.]

**CHAPTER 104. THE UNIVERSITY SYSTEM OF SOUTH TEXAS**

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

Section 104.15. General Powers and Duties.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 104.01. The University System of South Texas**

The University System of South Texas is established and is composed of:

- (1) Texas A & I University;
- (2) Laredo State University;
- (3) Corpus Christi State University; and
- (4) other institutions and entities assigned to the system from time to time by specific legislative act.

[Amended by Acts 1977, 65th Leg., p. 759, ch. 288, § 4, eff. Sept. 1, 1977.]

Sections 1, 2, and 5 of the 1977 amendatory act provided:  
 "Sec. 1. The purpose of this Act creating the University System of South Texas is to provide an administrative structure which will implement and supervise the policies and long-range plans of the governing board and which will determine the higher education needs of the system, marshal existing resources for appropriate response to those needs, assure the delivery of educational services in an economical and efficient manner, and establish a high level of quality in the conduct of the total educational enterprise."  
 "Sec. 2. The name of Texas A & I University at Laredo is changed to Laredo State University, and the name of Texas A & I University at Corpus Christi is changed to Corpus Christi State University."  
 "Sec. 5. The name of the Board of Directors of Texas A & I University is changed to the Board of Directors of the University System of South Texas. Members of the board on the effective date of this Act continue to serve on the board for the terms to which they were appointed."

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

**§ 104.11. Board of Directors**

The university system is under the management and control of a board of nine directors appointed by the governor with the advice and consent of the senate.

[Amended by Acts 1977, 65th Leg., p. 759, ch. 288, § 6, eff. Sept. 1, 1977.]

**§ 104.14. Executive Officer of University System**

The board shall appoint an executive officer of the university system, fix his term of office, set his salary, and define his duties. He shall recommend a plan for the organization of the university system and the appointment of presidents for the system's component institutions. He is responsible to the board for the general management and success of the university system; and he shall have the cooperation of the board.

[Amended by Acts 1977, 65th Leg., p. 759, ch. 288, § 7, eff. Sept. 1, 1977.]

**§ 104.15. General Powers and Duties**

With respect to the management and control of the university system, the board has the same powers and duties that are conferred on the Board of Regents, Texas State University System, with respect to institutions in that system, except as otherwise provided by this chapter.

[Added by Acts 1977, 65th Leg., p. 759, ch. 288, § 8, eff. Sept. 1, 1977.]

**SUBCHAPTER C. TEXAS A & I UNIVERSITY****§ 104.21. Texas A & I University**

Texas A & I University is a coeducational institution of higher education located in the city of Kingsville.

[Amended by Acts 1977, 65th Leg., p. 760, ch. 288, § 10, eff. Sept. 1, 1977.]

**SUBCHAPTER D. LAREDO STATE UNIVERSITY****§ 104.41. Establishment; Scope; Discontinuation**

The board may establish an upper-level educational center in the city of Laredo, to be known as Laredo State University, to accept junior, senior, and master's level students only. This upper-level educational center may be discontinued by the Coordinating Board, Texas College and University System, at its discretion and shall never be converted to a free-standing, fully state-supported coeducational institution of higher learning until it has complied with all requirements imposed by the coordinating board and until the site for such institution, consisting of at least 200 acres of land, shall have been provided at no cost to the state.

[Amended by Acts 1977, 65th Leg., p. 760, ch. 288, § 12, eff. Sept. 1, 1977.]

**SUBCHAPTER E. PURCHASE OF FARMLAND, EQUIPMENT, CROPS, ETC.****§ 104.51. Authorization**

The board for the benefit of Texas A & I University may purchase, use, lease as lessor, and operate farmland, may purchase crops and other horticultural and agricultural products growing on or produced or to be produced and harvested from the land, and

may purchase any farming machinery, apparatus, and equipment used or useful in connection with it, from any person, firm, or corporation and for the price or prices the board considers reasonable and proper.

[Amended by Acts 1977, 65th Leg., p. 760, ch. 288, § 13, eff. Sept. 1, 1977.]

**SUBCHAPTER G. CORPUS CHRISTI STATE UNIVERSITY****§ 104.91. Establishment; Scope**

(a) The board is authorized and directed to establish and maintain a fully state-supported coeducational institution of higher learning to be known as Corpus Christi State University. The site for the institution shall consist of at least 200 acres of land and shall be provided for the institution at no cost to the state.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1977, 65th Leg., p. 760, ch. 288, § 15, eff. Sept. 1, 1977.]

**§ 104.93. Gifts and Grants**

(a) The board may accept and administer upon terms and conditions satisfactory to it grants or gifts of property, including real estate and/or money that may be tendered to it in aid of the planning, establishment, conduct, and operation of Corpus Christi State University, and in aid of research and teaching at the university.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1977, 65th Leg., p. 761, ch. 288, § 16, eff. Sept. 1, 1977.]

**CHAPTER 105. NORTH TEXAS STATE UNIVERSITY****SUBCHAPTER C. POWERS AND DUTIES**

Section

105.44. Eminent Domain: Restriction.

**SUBCHAPTER E. TEXAS COLLEGE OF OSTEOPATHIC MEDICINE**

105.71. Establishment of College of Osteopathic Medicine.  
105.72. Location.  
105.73. Rules and Regulations; Courses.  
105.74. Chief Executive Officer.  
105.75. Teaching Hospital; Facilities.  
105.76. Joint Appointments.  
105.77. Agreements with Other Entities.  
105.78. Gifts and Grants.  
105.79. Supervision by Coordinating Board.  
105.80. Medical School Admission Policies.  
105.81. Acquisition and Disposition of Land.

**SUBCHAPTER G. CAMPUS SECURITY PERSONNEL**

105.91. Concurrent Jurisdiction With City Police.  
105.92. Assistance to City Police.  
105.93. City Delegation of Parking Regulation Authority.  
105.94. Construction of Subchapter.

SUBCHAPTER C. POWERS AND DUTIES

§ 105.44. Eminent Domain: Restriction

The board may not use the power of eminent domain to acquire land that is dedicated to a public use by another governmental entity.

[Added by Acts 1977, 65th Leg., p. 42, ch. 26, § 1, eff. March 24, 1977.]

SUBCHAPTER E. TEXAS COLLEGE OF OSTEOPATHIC MEDICINE

§ 105.71. Establishment of College of Osteopathic Medicine

(a) There is hereby created a college of osteopathic medicine in the city of Fort Worth to be known as the Texas College of Osteopathic Medicine, a separate institution and not a department, school, or branch of North Texas State University, but under the direction, management, and control of the Board of Regents of North Texas State University.

(b) The board shall have the same powers of direction, management, and control over the college of osteopathic medicine that it exercises over the North Texas State University, but the board shall act separately and independently on all matters affecting the college of osteopathic medicine as a separate institution.

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975.]

§ 105.72. Location

The board shall select a site for the college in Tarrant County.

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975. Amended by Acts 1977, 65th Leg., p. 2071, ch. 822, § 2, eff. Aug. 29, 1977.]

§ 105.73. Rules and Regulations; Courses

(a) The board may make rules and regulations for the direction, control, and management of the medical school which are necessary for it to be a medical school of the highest quality.

(b) The board, with the approval of the Coordinating Board, Texas College and University System, may prescribe courses leading to the customary degrees and certificates granted by osteopathic medical schools.

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975.]

§ 105.74. Chief Executive Officer

The chief executive officer of the university shall serve as chief executive officer of the college of osteopathic medicine.

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975.]

§ 105.75. Teaching Hospital; Facilities

(a) A complete teaching hospital for the medical school shall be furnished at no cost or expense to the state.

(b) The board shall make provision for adequate physical facilities for use by the medical school in its teaching and research programs.

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975.]

§ 105.76. Joint Appointments

The board of regents is specifically authorized to make joint appointments in the university and the Texas College of Osteopathic Medicine under its governance; the salary of any such person who receives such joint appointment to be apportioned to the appointing institution on the basis of services rendered.

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975.]

§ 105.77. Agreements with Other Entities

After approval of the Coordinating Board, Texas College and University System, the board of regents may execute and carry out affiliation or coordinating agreements with any other entity, school, or institution in Texas to provide clinical, postgraduate, including internship and residency, or other levels of medical educational work for the medical school.

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975.]

§ 105.78. Gifts and Grants

The board may accept and administer grants and gifts from the federal government, and from any foundation, trust fund, corporation, or any individual or organization for the use and benefit of the medical school.

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975.]

§ 105.79. Supervision by Coordinating Board

The medical school is subject to the continuing supervision of and to the rules and regulations of the Coordinating Board, Texas College and University System, in accordance with the provisions of Chapter 61 of this code.<sup>1</sup>

[Added by Acts 1975, 64th Leg., p. 685, ch. 285, § 1, eff. May 22, 1975.]

<sup>1</sup> Section 61.001 et seq.

§ 105.80. Medical School Admission Policies

The Board of Regents shall promulgate appropriate rules and regulations pertaining to the admission of students to the medical school which will provide for admission of those students to its entering class each year who are equally or as well qualified as all other students and who have entered a contract with or received a commitment for a stipend, grant, loan or scholarship from the State Rural Medical Education Board. The State Rural Medical Education Board may contract with medical students providing for such students to engage in a general or family practice of medicine for not less than four years after licensing and a period of medical residency, as

determined by the rules and regulations established by the State Rural Medical Education Board, in cities of Texas which have a population of less than 5,000 or in rural areas, as that term may be defined by the State Rural Medical Education Board, and said Board is hereby given the authority to define and from time to time redefine the term rural area, at the time the medical practice is commenced. This contract shall provide for a monthly stipend of at least \$100 to be granted by the State Rural Medical Education Board to each person under contract with the state while enrolled as a medical school student. [Added by Acts 1975, 64th Leg., p. 2408, ch. 740, § 2, eff. Sept. 1, 1975.]

#### § 105.81. Acquisition and Disposition of Land

The board may acquire by purchase, donation, or otherwise for the use of the school any land or other real property necessary or convenient for carrying out its purposes as a state-supported institution of higher education, and may sell, exchange, lease, or otherwise dispose of any land or other real property owned by or acquired for the school. The power of acquisition and disposition is restricted to area within Tarrant County. The proceeds from any sale of land or other real property shall be added to the capital funds of the school.

[Added by Acts 1977, 65th Leg., p. 2071, ch. 822, § 1, eff. Aug. 29, 1977.]

### SUBCHAPTER G. CAMPUS SECURITY PERSONNEL

#### § 105.91. Concurrent Jurisdiction With City Police

(a) Campus security personnel commissioned under Section 51.203 of this code have concurrent jurisdiction with police officers of the City of Denton to enforce all criminal laws, including traffic laws, of the state and all ordinances of the city regulating traffic on any public street running through the property of the university and on any public street immediately adjacent to property owned or occupied and controlled by the university.

(b) The form and content of traffic citations issued for violations of law shall be similar to the type used by the State Highway Patrol and shall be filed in the municipal court or any justice of the peace court with jurisdiction of the offense.

[Added by Acts 1981, 67th Leg., p. 891, ch. 317, § 1, eff. Aug. 31, 1981.]

#### § 105.92. Assistance to City Police

(a) The board of regents and the city council of Denton may enter into written agreements, authorized by resolution of each governing body, to authorize the regular employed peace officers of the university to assist the peace officers of the city in enforcing the laws of the state and the ordinances of the city at any location in the city.

(b) To be valid, an agreement under Subsection (a) of this section must be approved by the attorney general.

(c) While acting pursuant to the agreement in Subsection (a) above and when such act is outside the property of the university or outside any public street running through, adjacent to, or within property owned or occupied and controlled by the university, the peace officers of the university are under the jurisdiction and command of the chief of police of Denton.

(d) Neither the state nor the university is liable for actions of a campus police officer acting under the jurisdiction and command of the chief of police of Denton.

[Added by Acts 1981, 67th Leg., p. 891, ch. 317, § 1, eff. Aug. 31, 1981.]

#### § 105.93. City Delegation of Parking Regulation Authority

(a) By contract between the city and the university, the city council of Denton may delegate to the university the authority to regulate the parking of vehicles on any public street running through or immediately adjacent to property owned or occupied and controlled by the university.

(b) The contract may authorize the university to assign and regulate parking spaces for its use, to charge and collect a fee from its personnel and students for parking, to prohibit parking, and to charge and collect a fee for removing vehicles parked in violation of law or ordinance or in violation of a rule governing the parking of vehicles adopted by the board. All parking violations shall be filed in the Municipal Court of Denton or the justice of the peace court having jurisdiction over the offense.

(c) Before the contract is considered by the city council or the board, the attorney general and the city attorney of Denton shall review and either approve the contract or file written legal objections to the contract with the chief executive officer of both the board and the council. The contract must be approved by resolution of the board and the city council.

(d) The university shall have jurisdiction over its personnel and students upon property owned by the university to the extent that it may (1) assign and regulate parking spaces for its use and charge and collect appropriate fees for parking and improper parking; (2) prohibit parking where it deems necessary; (3) set and collect fees for and remove vehicles parked in violation of its rules and regulations or the laws of the State of Texas.

[Added by Acts 1981, 67th Leg., p. 891, ch. 317, § 1, eff. Aug. 31, 1981.]

#### § 105.94. Construction of Subchapter

This subchapter does not:

(1) limit the police powers of the city or its law enforcement jurisdiction;

(2) render a campus peace officer an employee of the city or entitle a campus peace officer to compensation from the city; or

(3) restrict the power of the university under other law to enforce laws, ordinances, or rules regulating traffic or parking.

[Added by Acts 1981, 67th Leg., p. 891, ch. 317, § 1, eff. Aug. 31, 1981.]

**CHAPTER 106. TEXAS SOUTHERN UNIVERSITY**

**SUBCHAPTER C. POWERS AND DUTIES**

Section 106.37. Student Center Fees.

**SUBCHAPTER C. POWERS AND DUTIES**

**§ 106.35. Acquisition and Disposition of Land**

(a) The board on behalf of the university may acquire by purchase, exchange, or otherwise any tract or parcel of land in Harris County that is contiguous or adjacent to the campus of the university when the board deems the land necessary for campus expansion, and may sell, exchange, or lease one or more of the following tracts of land:

(1) Tract No. 1

All that certain lot, tract or parcel of land lying, situated and being in the City of Houston, Harris County, Texas;

Parts of Lots Six (6) and Seven (7) in Block Sixty-three (63), Riverside Terrace, Seventeenth Section, an addition to the City of Houston, Harris County, Texas, according to plat thereof recorded in Volume 16, page 26 of the Map Records of Harris County, Texas, said property being more particularly described as follows, to-wit:

BEGINNING at a stake in the south line of Roseneath Drive, the same being the front line of Lot Six (6) in Block Sixty-three (63), Riverside Terrace, Seventeenth Section, located in a westerly direction a distance of sixty-four (64) feet measured along the front line of said Lot Six (6) from the northeast corner of Lot 6;

THENCE, in an easterly direction along the front lines of Lots six (6) and Seven (7) in Block 63 with a curve the radius of which is 424.97 feet, a distance of 87 feet to stake for corner in the front line of said Lot Seven (7) located in an easterly direction a distance of Twenty-three (23) feet from the northwest corner of said Lot Seven (7);

THENCE in a southerly direction a distance of 211.82 feet to a stake in the rear line of Lot Seven (7) located in an easterly direction measured along the rear line of said Lot 7, a distance of 41.37 feet from the southwest corner of said lot;

THENCE in a southwesterly direction along the rear lines of Lots six (6) and seven (7) with a curve, the radius of which is 513.5 feet, a distance of 120.43 feet, to stake for corner in the rear line of said Lot six (6), located in an easterly direction measured along the rear line of said Lot six (6), a distance of 69.88 feet from the southwest corner of said Lot 6;

THENCE in a northerly direction, a distance of 224.08 feet to the Place of Beginning, and being the same property conveyed to Oscar M. Pearce by McGregor Drive Development Company by deed dated January 28, 1946 recorded in Volume 1427, page 417 of the Deed Records of Harris County, Texas, to which reference is hereby made for all purposes.

(2) Tract No. 2

Two tracts composed of all of Lot 8 in Block 78 of Riverside Terrace, 17th Section, as per map or plat recorded in Volume 16, Page 26 Harris County Map Records, described as follows:

Tract 1: A strip 20 feet wide in front and 5 ft. wide in the rear, off of the east side of said Lot 8, as described in Deed filed in Harris County Clerk's File # 535740; and,

Tract 2: The westerly part of Lot 8 in Block 78 of Riverside Terrace, 17th Section and being a tract 80 ft. wide in front and 60 ft. wide in rear, described in Deed under Harris County Clerk's File No. 535740; and,

Tract 3: 16,019 sq. ft. known as Lot 9 in Block 78 of Riverside Terrace 17th Section, lying partly in 24.073 acre tract deeded to McGregor Drive Development Company in Vol. 667, Page 362 Deed Records and partly in 17 ac. tr. deeded to D. L. Anderson in Vol. 1045, Page 716 Deed Records, all out of Lots 9 and 16 of the west ½ of the Luke Moore Survey; tract hereby conveyed being described as follows: BEGINNING at iron stake on west property line of St. Bernard Street, in southerly direction a distance of 212.95 ft. from the southeast corner of Lot 12 in Block 64 of Riverside Terrace 12th Section and said distance being measured along arc of curve whose radius is 532.07 ft.; THENCE continuing in southerly direction along the west line of St. Bernard Street, with curve to right whose radius is 532.07 ft., a distance of 160.35 feet to the end of said curve; THENCE south 19 deg. 54' west, continuing along the west line of St. Bernard Street, 25.96 ft. to iron stake for corner; THENCE south 70 deg. 52' west, a distance of 60 feet to iron stake for corner; THENCE east with curve to right whose radius is 2,017.05 feet a distance of 95.24 feet to the end of said curve;

THENCE north 74 deg. 36' E a distance of 24.76 feet to the beginning. Recorded in Map Records Volume 16, page 26 of Harris County, Texas, and in Deed Records of Harris County, Volume 1125, Page 11, and subject to restrictions, reservations and easements of records in Harris County Deed Records.

(3) Tract No. 3

Tract and parcel of real property located and situated in Hearne, Robertson County, Texas, and being described as follows:

Being Lots Numbered Six (6), Seven (7) and Eight (8) in Block Numbered Four Hundred Twenty One (421) in the City of Hearne, Texas, according to the Map of the said City as the same appears on record in Vol. 1, page 5 of the Map Records of Robertson County, Texas, together with all improvements located and situated thereon, the same being a tract of land 75 feet in width fronting on Second Street and 115 feet in depth, reference being made to the said Map for all purposes.

(b) The proceeds from any sale or lease of land or other real property shall be added to the general funds of the university.

(c) The board has the power of eminent domain for land acquisitions permitted by Subsection (a) of this section.

[Amended by Acts 1977, 65th Leg., p. 2204, ch. 869, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1059, ch. 489, § 1, eff. Aug. 27, 1979.]

**§ 106.37. Student Center Fees**

(a) The board may levy and collect a student fee not to exceed \$15 per student for each semester of the long session and not to exceed \$7.50 per student for each term of the summer session, as may in its discretion be necessary and desirable for the purpose of operating, maintaining, and improving the student center and acquiring or constructing additions to the student center. Provided, however, that a student center fee shall be levied only after a student referenda has been called on the issue of an increase in the fee, within the prescribed limits of this section, and that the issue of an increase has been approved by a majority of the students voting in the election. Provided, further, that in its levy and assessment of such fee, the board shall adopt a proportionate fee schedule which takes into consideration the number of semester credit hours for which a student registers.

(b) All fees collected pursuant to Subsection (a) hereof shall be reserved and accounted for in an account or accounts kept separate and apart from educational and general funds of the university. The fees collected shall be placed in a depository bank or banks designated by the board and shall be secured by law.

(c) Expenditures from the accounts provided for in Subsection (b) of this section shall be limited to those purposes specified in Subsection (a) of this section and pursuant to a budget approved by the board.

(d) The fee authorized to be collected pursuant to Subsection (a) of this section shall be in addition to any other fees or charges heretofore authorized by law.

[Added by Acts 1977, 65th Leg., p. 2206, ch. 869, § 2, eff. Aug. 29, 1977.]

**CHAPTER 107. TEXAS WOMAN'S UNIVERSITY**

**SUBCHAPTER C. POWERS AND DUTIES**

Section

107.45. Eminent Domain: Restriction.

**SUBCHAPTER D. DORMITORIES AND IMPROVEMENTS**

107.69. State Historical Collection.

**SUBCHAPTER E. CAMPUS SECURITY PERSONNEL**

107.81. Concurrent Jurisdiction With City Police.

107.82. Assistance to City Police.

107.83. City Delegation of Parking Regulation Authority.

107.84. Construction of Subchapter.

**SUBCHAPTER C. POWERS AND DUTIES**

**§ 107.45. Eminent Domain: Restriction**

The board may not use the power of eminent domain to acquire land that is dedicated to a public use by another governmental entity.

[Added by Acts 1977, 65th Leg., p. 42, ch. 26, § 2, eff. March 24, 1977.]

**SUBCHAPTER D. DORMITORIES AND IMPROVEMENTS**

**§ 107.69. State Historical Collection**

(a) The board may establish an historical collection of items illustrating the history of women in Texas. The historical collection is to be housed in a building belonging to the university and is to be known as "The History of Texas Women." When established, the historical collection may be designated a state historical collection and shall be for the use and enjoyment of all citizens of Texas.

(b) The board may accept donations, gifts, and collections of historical value for the use of the historical collection and shall adopt rules for the receipt, care, custody, and control of items in the collection.

[Added by Acts 1979, 66th Leg., p. 1145, ch. 551, § 1, eff. June 11, 1979.]

SUBCHAPTER E. CAMPUS SECURITY PERSONNEL

§ 107.81. Concurrent Jurisdiction With City Police

(a) Campus security personnel commissioned under Section 51.203 of this code have concurrent jurisdiction with police officers of the City of Denton to enforce all criminal laws, including traffic laws, of the state and all ordinances of the city regulating traffic on any public street running through the property of the university and on any public street immediately adjacent to property owned or occupied and controlled by the university.

(b) The form and content of traffic citations issued for violations of law shall be similar to the type used by the State Highway Patrol and shall be filed in the municipal court or any justice of the peace court with jurisdiction of the offense.

[Added by Acts 1981, 67th Leg., p. 892, ch. 317, § 2, eff. Aug. 31, 1981.]

§ 107.82. Assistance to City Police

(a) The board of regents and the city council of Denton may enter into written agreements, authorized by resolution of each governing body, to authorize the regular employed peace officers of the university to assist the peace officers of the city in enforcing the laws of the state and the ordinances of the city at any location in the city.

(b) To be valid, an agreement under Subsection (a) of this section must be approved by the attorney general.

(c) While acting pursuant to the agreement in Subsection (a) above and when such act is outside the property of the university or outside any public street running through, adjacent to, or within property owned or occupied and controlled by the university, the peace officers of the university are under the jurisdiction and command of the chief of police of Denton.

(d) Neither the state nor the university is liable for actions of a campus police officer acting under the jurisdiction and command of the chief of police of Denton.

(e) The university shall have jurisdiction over its personnel and students upon property owned by the university to the extent that it may (1) assign and regulate parking spaces for its use and charge and collect appropriate fees for parking and improper parking; (2) prohibit parking where it deems necessary; (3) set and collect fees for and remove vehicles parked in violation of its rules and regulations or the laws of the State of Texas.

[Added by Acts 1981, 67th Leg., p. 892, ch. 317, § 2, eff. Aug. 31, 1981.]

§ 107.83. City Delegation of Parking Regulation Authority

(a) By contract between the city and the university, the city council of Denton may delegate to the university the authority to regulate the parking of vehicles on any public street running through or immediately adjacent to property owned or occupied and controlled by the university.

(b) The contract may authorize the university to assign and regulate parking spaces for its use, to charge and collect a fee from its personnel and students for parking, to prohibit parking, and to charge and collect a fee for removing vehicles parked in violation of law or ordinance or in violation of a rule governing the parking of vehicles adopted by the board. All parking violations shall be filed in the Municipal Court of Denton or the justice of the peace court having jurisdiction over the offense.

(c) Before the contract is considered by the city council or the board, the attorney general and the city attorney of Denton shall review and either approve the contract or file written legal objections to the contract with the chief executive officer of both the board and the council. The contract must be approved by resolution of the board and the city council.

[Added by Acts 1981, 67th Leg., p. 892, ch. 317, § 2, eff. Aug. 31, 1981.]

§ 107.84. Construction of Subchapter

This subchapter does not:

(1) limit the police powers of the city or its law enforcement jurisdiction;

(2) render a campus peace officer an employee of the city or entitle a campus peace officer to compensation from the city; or

(3) restrict the power of the university under other law to enforce laws, ordinances, or rules regulating traffic or parking.

[Added by Acts 1981, 67th Leg., p. 892, ch. 317, § 2, eff. Aug. 31, 1981.]

CHAPTER 108. LAMAR UNIVERSITY

SUBCHAPTER C. POWERS AND DUTIES

§ 108.36. Educational Centers

(a) The Board may establish educational centers of Lamar University in the counties of Jefferson and Orange, to be known as Lamar University at Port Arthur and Lamar University at Orange, to accept freshman and sophomore level students only. These educational centers may be discontinued by the Coordinating Board, Texas College and University System, at its discretion.

(b) The board may make provision for adequate physical facilities to be provided at no cost to the State of Texas for use by the Lamar University at

Port Arthur and Lamar University at Orange and may accept and administer, on terms and conditions satisfactory to the board, grants or gifts of money or property which are tendered by any reason for the use and benefit of the school; provided, however, that any expenditure of funds, other than local funds or any such grants or gifts, for teaching classes not held on the Beaumont Campus, shall be only as specifically authorized in the General Appropriations Act.

(c) The board with approval of the Coordinating Board, Texas College and University System, may prescribe courses leading to customary degrees, and make other rules and regulations for the operation, control, and management of the Lamar University at Port Arthur and Lamar University at Orange as necessary for the school to be a first-class institution for freshman and sophomore students.

(d) Nothing in this section shall be construed to limit the powers of the board of regents of Lamar University as conferred by law.

[Amended by Acts 1977, 65th Leg., p. 199, ch. 99, § 1, eff. May 3, 1977.]

#### § 108.37. Student Center Fees

The board of regents may levy a regular fixed student fee not to exceed \$20 per student for each semester of the long session and not to exceed \$10 per student for each term of the summer session, against each student enrolled in the institution, as in their discretion may be just and necessary for the purpose of operating, maintaining, improving, and equipping the student center and acquiring or constructing additions to the student center.

[Amended by Acts 1977, 65th Leg., p. 2140, ch. 855, § 1, eff. Aug. 29, 1977.]

### CHAPTER 109. TEXAS TECH UNIVERSITY

#### SUBCHAPTER C. POWERS AND DUTIES

Section	
109.48.	Utilities Easements.
109.48.	Management of Lands.
109.49.	Sale of Crops.
109.50.	Student Fees for University Center.
109.51.	Student Recreation Fee.

#### SUBCHAPTER C. POWERS AND DUTIES

#### § 109.48. Utilities Easements

*Text as added by Acts 1975, 64th Leg., p. 362, ch. 155, § 1*

On terms, conditions, stipulations, and compensation as determined by the board, the board may convey, dedicate, or use any other appropriate method of conveyance to grant, convey, or dedicate rights, title, rights-of-way, or easements involving or in connection with the furnishing or providing of electricity, water, sewage disposal, natural gas, telephone, telegraph, or other utility service on, over, or through the campus of Texas Tech University in

Lubbock County. The chairman of the board may execute and deliver conveyances or dedications on behalf of Texas Tech University.

[Added by Acts 1975, 64th Leg., p. 362, ch. 155, § 1, eff. May 8, 1975.]

*For text as added by Acts 1975, 64th Leg., p. 1248, ch. 471, § 1, see Section 109.48, post*

#### § 109.48. Management of Lands

*Text as added by Acts 1975, 64th Leg., p. 1248, ch. 471, § 1*

The board has the sole and exclusive management and control of lands set aside and appropriated to or acquired by the institutions under its governance. The board may lease and otherwise manage, control, and use the lands in any manner and at prices and under terms and conditions the board deems best for the interest of the institutions. No grazing lease shall be made for a period of more than five years.

[Added by Acts 1975, 64th Leg., p. 1248, ch. 471, § 1, eff. Sept. 1, 1975.]

*For text as added by Acts 1975, 64th Leg., p. 362, ch. 155, § 1, see Section 109.48, ante*

#### § 109.49. Sale of Crops

Proceeds from the sale, barter, or exchange of crops resulting from any agricultural activities at the institution shall be applied to defray the expenses of conducting the agricultural activities.

[Added by Acts 1975, 64th Leg., p. 362, ch. 154, § 1, eff. May 8, 1975.]

#### § 109.50. Student Fees for University Center

(a) The board may levy a regular fixed student fee not to exceed \$20 per student for each semester of the long session and not to exceed \$10 per student for each term of the summer session, or any fractional part thereof, as may in their discretion be just and necessary for the sole purpose of operating, maintaining, and improving the University Center. The amount of the fee may be changed at any time within the limits specified in order to provide sufficient funds to support the center, but any increase in the initial fee must be approved by a majority vote of those students participating in a general election called for that purpose.

(b) The director of accounting and finance of the university shall collect the fees provided for in Subsection (a) of this section and shall credit the money received from the fees to an account known as the University Center account.

(c) The funds in the University Center account shall be used for the purpose of operating, maintaining, and improving the center and shall be placed under the control of and subject to the order of the board of directors of the University Center. The board of directors shall annually submit a complete and itemized budget accompanied by a full and complete report of all activities conducted during the

year and all expenditures made incident thereto. The board of regents shall make such changes in the budget as it deems necessary before approving it, and shall then levy the student fees in an amount sufficient to meet the budgetary needs of the center within the limits set in Subsection (a) of this section. [Added by Acts 1975, 64th Leg., p. 461, ch. 196, § 1, eff. May 13, 1975. Amended by Acts 1981, 67th Leg., p. 76 ch. 37, § 1, eff. April 15, 1981.]

Section 2 of the 1981 amendatory act provided:

"The increase in the maximum university center fee provided by this Act is effective beginning with the first summer or regular semester that begins on or after the effective date of this Act."

**§ 109.51. Student Recreation Fee**

(a) If approved by student vote, the board may charge each student enrolled in the university a recreation fee not to exceed \$25 per semester or \$12.50 per six-week summer term to be used to purchase equipment for and to operate and maintain the student recreation facilities and programs at the university.

(b) The recreation fee may not be levied unless the levy of the fee is approved and the amount of the fee is set by a majority vote of those students participating in a general student election called for that purpose.

(c) The fee may be changed within the limits specified at any time by a majority of students voting on the issue in a general student election.

(d) The university shall collect the student recreation fee and shall deposit the money collected in an account known as the Student Recreation Account.

(e) The student recreation fee is not counted in determining the maximum student services fee which may be charged under Section 54.503 of this code, as amended.

[Added by Acts 1979, 66th Leg., p. 235, ch. 122, § 1, eff. Aug. 27, 1979.]

[Sections 109.52 to 109.60 reserved for expansion]

**CHAPTER 110. TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER**

- Section 110.11. Management of Lands.
- 110.11. Medical School Admission Policies.
- 110.12. Utilities Easements.

*Acts 1979, 66th Leg., p. 724, ch. 319, § 1, provided:*

*"The name of Texas Tech University School of Medicine is changed to Texas Tech University Health Sciences Center. All references to and appropriations for Texas Tech University School of Medicine apply to Texas Tech University Health Sciences Center."*

*Section 4 of said Act changed the chapter heading.*

**§ 110.01. Separate Institution**

Texas Tech University Health Sciences Center is a separate institution and not a department, school, or branch of Texas Tech University but is under the direction, management, and control of the Texas Tech University Board of Regents. The center is composed of a medical school and other components assigned by law or by the coordinating board. [Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.02. Concurrent and Separate Powers**

The board of regents has the same powers of direction, management, and control over the Health Sciences Center as they exercise over Texas Tech University. However, the board shall act separately and independently on all matters affecting the Health Sciences Center as a separate institution. [Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.03. General Powers**

The board may make rules and regulations for the direction, control, and management of Texas Tech University Health Sciences Center as necessary for it to be an institution of the first class. [Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.04. Chief Executive Officer**

The chief executive officer of Texas Tech University is also the chief executive officer of the Health Sciences Center under the authority of Section 109.23 of this code. [Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.06. Agreements with Other Schools**

The board may, when in the best interests of medical education at the Health Sciences Center, execute and carry out affiliation or coordinating agreements with any other entity or institution in the Lubbock area, Amarillo area, El Paso area, and the Odessa-Midland area to provide clinical, post-graduate, including internship and residency, or other levels of medical educational work for the Health Sciences Center. Additionally, the board may execute and carry out affiliation or coordinating agreements with any other entity or institution necessary to conduct and operate the Health Sciences Center as a first-class institution. The board may utilize the facilities and staffs of other state biomedical units. [Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.07. Physical Facilities**

The board shall make provision for adequate physical facilities for the Health Sciences Center, including library, auditorium, and animal facilities, for use by the Health Sciences Center in its teaching and research programs. [Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.08. Grants; Gifts**

The board, in its discretion, may accept and administer grants and gifts from the federal government, any foundation, trust fund, corporation, or individual for the use and benefit of the Health Sciences Center.

[Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.09. Teaching Hospital**

A complete teaching hospital for the Health Sciences Center shall be furnished at no cost or expense to the state. The state may never contribute any funds for the construction, maintenance, or operation of a teaching hospital for the Health Sciences Center.

[Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.10. Supervision by Coordinating Board**

The Health Sciences Center is subject to the continuing supervision of and to the rules and regulations of the Coordinating Board, Texas College and University System, as provided by Chapter 61 of this code.

[Amended by Acts 1979, 66th Leg., p. 724, ch. 319, § 2, eff. June 6, 1979.]

**§ 110.11. Management of Lands**

*Text as added by Acts 1975, 64th Leg., p. 1249, ch. 471, § 2*

The board has the sole and exclusive management and control of lands set aside and appropriated to or acquired by the institutions under its governance. The board may lease and otherwise manage, control, and use the lands in any manner and at prices and under terms and conditions the board deems best for the interest of the institutions. No grazing lease shall be made for a period of more than five years. [Added by Acts 1975, 64th Leg., p. 1249, ch. 471, § 2, eff. Sept. 1, 1975.]

*For text as added by Acts 1975, 64th Leg., p. 363, ch. 155, § 2 and Acts 1975, 64th Leg., p. 2409, ch. 740, § 4, see Sections 110.11, ante and post*

**§ 110.11. Medical School Admission Policies**

*Text as added by Acts 1975, 64th Leg., p. 1249, ch. 740, § 4*

The Board of Regents shall promulgate appropriate rules and regulations pertaining to the admission of students to the medical school which will provide for admission of those students to its entering class each year who are equally or as well qualified as all other students and who have entered a contract with or received a commitment for a stipend, grant, loan or scholarship from the State Rural Medical Education Board. The State Rural Medical Education Board may contract with medical students providing for such students to engage in a general or family

practice of medicine for not less than four years after licensing and a period of medical residency, as determined by the rules and regulations established by the State Rural Medical Education Board, in cities of Texas which have a population of less than 5,000 or in rural areas, as that term may be defined by the State Rural Medical Education Board, and said Board is hereby given the authority to define and from time to time redefine the term rural area, at the time the medical practice is commenced. This contract shall provide for a monthly stipend of at least \$100 to be granted by the State Rural Medical Education Board to each person under contract with the State while enrolled as a medical school student. [Added by Acts 1975, 64th Leg., p. 2409, ch. 740, § 4, eff. Sept. 1, 1975.]

*For text as added by Acts 1975, 64th Leg., p. 363, ch. 155, § 2 and Acts 1975, 64th Leg., p. 1249, ch. 471, § 2, see Sections 110.11, ante*

**§ 110.12. Utilities Easements**

On terms, conditions, or stipulations, and compensation as determined by the board, the board may convey, dedicate, or use any other appropriate method of conveyance to grant, convey, or dedicate rights, title, rights-of-way, or easements involving or in connection with the furnishing or providing of electricity, water, sewage disposal, natural gas, telephone, telegraph, or other utility service on, over, or through the campus or properties of Texas Tech University Health Sciences Center. The chairman of the board may execute and deliver conveyances or dedications on behalf of Texas Tech University Health Sciences Center.

[Added by Acts 1975, 64th Leg., p. 363, ch. 155, § 2, eff. May 8, 1975. Renumbered and amended by Acts 1979, 66th Leg., p. 725, ch. 319, § 3, eff. June 6, 1979.]

**CHAPTER 111. THE UNIVERSITY OF HOUSTON****SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

Section  
111.20. University of Houston System.

**SUBCHAPTER C. POWERS AND DUTIES**

111.42. Student Fees for University Centers.

**SUBCHAPTER D-1. INSTITUTE OF LABOR AND INDUSTRIAL RELATIONS**

111.71. Establishment of Institute.  
111.72. Purpose.  
111.73. Activities.

**SUBCHAPTER F. THE UNIVERSITY OF HOUSTON-DOWNTOWN COLLEGE**

111.90. Establishment; Location.  
111.91. Organization and Control.  
111.92. Role and Scope.  
111.93. Authority of Coordinating Board.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 111.20. University of Houston System

(a) The University of Houston System hereby created is composed of all those institutions and entities presently under the governance, control, jurisdiction, and management of the Board of Regents of the University of Houston.

(b) The University of Houston System shall also be composed of such other institutions and entities as from time to time may be assigned by specific legislative act to the governance, control, jurisdiction, and management of the University of Houston System.

(c) The governance, control, jurisdiction, organization, and management of the University of Houston System is hereby vested in the present Board of Regents of the University of Houston, which will hereinafter be known and designated as the Board of Regents of the University of Houston System. [Added by Acts 1977, 65th Leg., p. 263, ch. 124, § 1, eff. Aug. 29, 1977.]

SUBCHAPTER C. POWERS AND DUTIES

§ 111.42. Student Fees for University Centers

(a) The board may levy a student union fee, not to exceed \$15 per student for each regular semester and not to exceed \$7.50 per student for each term of the summer session, for the sole purpose of financing, constructing, operating, maintaining, and improving a Student Union Building. The fees herein authorized to be levied are in addition to any use or service fee now or hereafter authorized to be levied.

(b) Such fees shall be deposited to an account known as "The University of Houston Center Fee Account" and shall be placed under the control of and subject to the order of the Student Service Fee Planning and Allocations Committee. The committee shall annually submit to the board of regents a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The board of regents shall make such changes in the budget as it deems necessary before approving the budget but may only levy a student union fee or increase an existing student union fee after a student referendum has been called on the levying or increase in such a fee, and the majority of the students voting in the referendum approve. The board shall then levy the fees, within the limits herein fixed, in such amounts as will be sufficient to meet the budgetary needs of the University Center Building. Expenditures from "The University of Houston Center Fee Account" shall be made solely for the purposes set forth in this section, and in compliance with the budget approved by the board of regents.

[Added by Acts 1977, 65th Leg., p. 1473, ch. 597, § 1, eff. Aug. 29, 1977.]

SUBCHAPTER D-1. INSTITUTE OF LABOR AND INDUSTRIAL RELATIONS

§ 111.71. Establishment of Institute

The board of regents shall establish an Institute of Labor and Industrial Relations.

[Added by Acts 1977, 65th Leg., p. 879, ch. 330, § 1, eff. Aug. 29, 1977.]

Section 2 of the 1977 Act provided:

"The name of the Center for Human Resources at the University of Houston is changed to the Institute of Labor and Industrial Relations, and the functions of the center as renamed shall be continued and expanded in accordance with the provisions of this Act. The budget of the center shall be the budget of the institute."

§ 111.72. Purpose

The purpose of the institute is to contribute to a more meaningful relationship between education and training and the requirements of the Texas labor force and to a positive labor and industrial relations climate.

[Added by Acts 1977, 65th Leg., p. 879, ch. 330, § 1, eff. Aug. 29, 1977.]

§ 111.73. Activities

The institute may sponsor the following activities:

- (1) adult education, technical assistance, and informational services for labor, management, and public practitioners concerned with the problems of labor, the labor force, and industrial relations;
- (2) research and training related to labor, the labor force, and industrial relations;
- (3) special informational services to assist labor, business and industry, government, and educational institutions in relating education and training to labor market requirements;
- (4) research, technical assistance, and information related to the impact of special problems on the Texas labor force, such as the energy problem, on employment, unemployment, and labor relations in the state;
- (5) degree or certificate programs appropriate to the field, subject to the approval of the board of regents and the Coordinating Board, Texas College and University System; and
- (6) a formal program of training, technical assistance, and informational services to the junior and community colleges in the state for the purpose of assisting in the development of labor study programs.

[Added by Acts 1977, 65th Leg., p. 879, ch. 330, § 1, eff. Aug. 29, 1977.]

SUBCHAPTER F. THE UNIVERSITY OF HOUSTON-DOWNTOWN COLLEGE

§ 111.90. Establishment; Location

There is established in the City of Houston a coeducational institution of higher education to be known as the University of Houston-Downtown College. This institution shall be located on land currently owned by the University of Houston System.

[Added by Acts 1979, 66th Leg., p. 319, ch. 148, § 1, eff. Aug. 27, 1979.]

**§ 111.91. Organization and Control**

The organization and control of the institution are vested in the board of regents of the University of Houston System. With respect to this institution the board of regents has all the rights, powers, and duties that it has with respect to the organization and control of the University of Houston and the University of Houston at Clear Lake City except as otherwise provided by this subchapter. However, the University of Houston-Downtown College shall be maintained as a separate and distinct institution of higher education.

[Added by Acts 1979, 66th Leg., p. 319, ch. 148, § 1, eff. Aug. 27, 1979.]

**§ 111.92. Role and Scope**

The institution shall be organized to offer four-year undergraduate programs subject to the authority of the board of regents of the University of Houston System and the Coordinating Board, Texas College and University System.

[Added by Acts 1979, 66th Leg., p. 319, ch. 148, § 1, eff. Aug. 27, 1979.]

**§ 111.93. Authority of Coordinating Board**

The institution is a general academic teaching institution, and as such it is subject to the authority of the Coordinating Board, Texas College and University System.

[Added by Acts 1979, 66th Leg., p. 319, ch. 148, § 1, eff. Aug. 27, 1979.]

## CHAPTER 112. PAN AMERICAN UNIVERSITY

### SUBCHAPTER C. POWERS AND DUTIES

#### Section

112.38. Acquisition and Disposition of Land.

### SUBCHAPTER D. PAN AMERICAN UNIVERSITY AT BROWNSVILLE

- 112.51. Establishment; Scope.  
 112.52. Facilities; Gifts and Grants.  
 112.53. Courses and Degrees; Rules and Regulations.  
 112.54. Effect of Subchapter.

### SUBCHAPTER C. POWERS AND DUTIES

**§ 112.38. Acquisition and Disposition of Land**

(a) The board on behalf of the university may acquire by purchase, exchange, or otherwise any tract or parcel of land in Hidalgo County that is contiguous or adjacent to the main campus of Pan American University in Edinburg, Texas, if the land is necessary for campus expansion. The board may sell, exchange, or lease the land owned by the university in Hidalgo County that is not adjacent or contiguous to the main campus, and is adjacent to Edinburg Consolidated School District property.

(b) The board may acquire land under Subsection (a) of this section only upon approval by the Coordinating Board, Texas College and University System.

(c) The board may convey land under Subsection (a) of this section to the highest bidder by sealed bids if the consideration for the terms and conditions of the conveyance are agreeable to the board and the transaction receives the approval of the Coordinating Board, Texas College and University System.

(d) The proceeds from any sale or lease of real property shall be deposited as other local funds of the university.

[Added by Acts 1979, 66th Leg., p. 605, ch. 282, § 1, eff. Aug. 27, 1979.]

### SUBCHAPTER D. PAN AMERICAN UNIVERSITY AT BROWNSVILLE

**§ 112.51. Establishment; Scope**

The Board of Regents of Pan American University may establish an upper-level educational center of Pan American University in the city of Brownsville, to be known as Pan American University at Brownsville, to accept junior, senior, and master's level students only. This upper-level educational center may be discontinued by the Coordinating Board, Texas College and University System, at its discretion and shall never be converted to a freestanding, fully state-supported coeducational institution of higher learning until it has complied with all requirements imposed by the Coordinating Board and until the site for such institution, consisting of at least 200 acres of land, shall have been provided at no cost to the state.

[Added by Acts 1977, 65th Leg., p. 726, ch. 271, § 1, eff. Aug. 29, 1977.]

**§ 112.52. Facilities; Gifts and Grants**

The board of regents shall make provisions for adequate physical facilities for use by Pan American University at Brownsville and may accept and administer, on terms and conditions satisfactory to the board, grants or gifts of money or property which are tendered by any person for the use and benefit of the school.

[Added by Acts 1977, 65th Leg., p. 726, ch. 271, § 1, eff. Aug. 29, 1977.]

**§ 112.53. Courses and Degrees; Rules and Regulations**

The board of regents, with the approval of the Coordinating Board, Texas College and University System, may prescribe courses leading to customary degrees and make other rules and regulations for the operation, control, and management of the university at Brownsville as necessary for the school to be a first-class upper division institution of higher learning. It is the intent of the legislature that degrees be offered only by and in the name of Pan American University and that they include only bachelor's and master's degrees and their equivalents.

[Added by Acts 1977, 65th Leg., p. 726, ch. 271, § 1, eff. Aug. 29, 1977.]

§ 112.54. Effect of Subchapter

Nothing in this subchapter shall be construed to limit the powers of the Board of Regents of Pan American University as conferred by law.

[Added by Acts 1977, 65th Leg., p. 726, ch. 271, § 1, eff. Aug. 29, 1977.]

**CHAPTER 113. TEXAS EASTERN UNIVERSITY [REPEALED]**

Acts 1975, 64th Leg., p. 813, ch. 317, § 3, provided:

*"The title of Chapter 113 of the Texas Education Code is changed from TYLER STATE COLLEGE to TEXAS EASTERN UNIVERSITY."*

Acts 1979, 66th Leg., p. 699, ch. 303, §§ 1 to 3, provided:

*"Sec. 1. The governance, operation, management, and control of Texas Eastern University and all land, buildings, facilities, improvements, equipment, supplies, and property comprising said university are transferred from the Board of Regents of Texas Eastern University to the Board of Regents of The University of Texas System. Said university, land, buildings, facilities, improvements, equipment, supplies, and property shall be governed, operated, managed, and controlled pursuant to such powers, duties, and responsibilities as are or may hereafter be conferred by law upon the Board of Regents of The University of Texas System for the governance, management, and control of the component institutions comprising said system."*

*"Sec. 2. All appropriations made by the legislature for the use and benefit of Texas Eastern University under the governance of the Board of Regents of Texas Eastern University are transferred to the Board of Regents of The University of Texas System for the use and benefit of said university, and all other funds held for the use and benefit of Texas Eastern University shall be similarly transferred."*

*"Sec. 3. All contracts and written obligations of every kind and character, including bonds, entered into by the Board of Regents of Texas Eastern University for and on behalf of said university are ratified, confirmed, and validated, and in all such contracts and written obligations, including bonds, the Board of Regents of The University of Texas System is substituted in lieu and shall stand and act in the place and stead of the Board of Regents of Texas Eastern University."*

**SUBCHAPTER A. GENERAL PROVISIONS**

§§ 113.01 to 113.36. Repealed by Acts 1979, 66th Leg., p. 700, ch. 303, § 5, eff. Sept. 1, 1979

Prior to repeal, §§ 113.01 and 113.03 were amended by Acts 1975, 64th Leg., p. 813, ch. 317, § 2.  
See, now, §§ 76.01 to 76.06.

**SUBTITLE G. NON-BACCALAUREATE SYSTEM**

**CHAPTER 130. JUNIOR COLLEGE DISTRICTS**

**SUBCHAPTER D. CHANGES IN DISTRICT BOUNDARIES**

Section

130.071. Annexation of City Territory by Certain Districts.

**SUBCHAPTER E. BOARDS OF TRUSTEES OF JUNIOR COLLEGE DISTRICTS**

130.0821. Governing Board of Certain Countywide Community College Districts.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 130.003. State Appropriation for Public Junior Colleges**

[See Compact Edition, Volume 1 for text of (a)]

(b) To be eligible for and to receive a proportionate share of the appropriation, a public junior college must:

[See Compact Edition, Volume 1 for text of (b)(1) to (3)]

(4) collect, from each full-time and part-time student enrolled, matriculation and other session fees in the amounts required and provided by law for other state-supported institutions of higher education, except, however, the governing board of a public junior college district may waive the difference in the rate of tuition for nonresident and resident students for a person, and his dependents, who owns property which is subject to ad valorem taxation by the junior college district, that the amount charged nonresidents who have not received a waiver of nonresident tuition need not be greater than the amount so required by law on January 1, 1971, and that notwithstanding the provisions of Subsection (b) of Section 54.051 of this code, the minimum tuition charge for resident students shall be \$25;

[See Compact Edition, Volume 1 for text of (b)(5) to (e)]

[Amended by Acts 1977, 65th Leg., p. 1379, ch. 550, § 1, eff. Aug. 29, 1977.]

**SUBCHAPTER D. CHANGES IN DISTRICT BOUNDARIES**

**§ 130.063. Extension of Junior College District Boundaries for Junior College Purposes Only**

Territory may be annexed to the junior college district for junior college purposes only, by either contract or election, if:

(1) the territory consists of a school district or part of a school district that is adjacent to the junior college district; or

(2) the territory consists of a school district or part of a school district and:

(A) is not contiguous with any junior college district;

(B) is not more than five miles from the annexing junior college district at its closest point; and

(C) is located in the same county as the annexing junior college district and the county has a population of 1,500,000 or more.

[Amended by Acts 1981, 67th Leg., p. 3056, ch. 802, § 1, eff. Aug. 31, 1981.]

#### § 130.071. Annexation of City Territory by Certain Districts

(a) A junior college district that is located within part of a city, town, or village may annex the territory included within the city, town, or village in accordance with this section if the district has a total annual income of \$25 million or less, as determined by the Coordinating Board, Texas College and University System, for the fiscal year preceding the fiscal year in which the annexation election is ordered. For purposes of this subsection, "income" means money received from any source for expenditure by the district, including appropriations, tuition, taxes, and grants.

(b) Except as provided by Subsection (k) of this section, the governing board of the junior college district shall order an election to be conducted within the boundaries of the district as changed by the proposed annexation. The order for the election shall:

(1) describe the territory to be annexed; and

(2) set a date for the election, which shall be the next uniform election date that is more than 45 days from the date of the order.

(c) The president of the board of trustees shall give notice of the election in the manner provided by law for notice by the county judge of general elections.

(d) The governing board of the junior college district shall procure the election supplies necessary to conduct the election and shall determine the quantity of the various types of supplies to be provided for use at each precinct polling place and absentee polling place.

(e) Any qualified voter residing within the boundaries of the district as changed by the proposed annexation is entitled to vote at the election.

(f) The ballot shall be printed to provide for voting for or against the proposition: "Annexation of the following territory for junior college purposes: \_\_\_\_\_", with the blank filled in with a description of the territory proposed for annexation.

(g) To be adopted, the measure must receive a favorable vote of a majority of those voting on the measure.

(h) If the measure is adopted, the governing board of the district shall enter an order declaring the result of the election and that the territory is annexed for junior college purposes. If the governing board members are elected from single-member districts, the order shall also assign the annexed territory to one or more single-member districts that are contiguous with the annexed territory.

(i) If the measure is not adopted, another election to annex the same territory may not be held earlier than one year after the date of the election in which the measure is defeated.

(j) An annexation does not affect the term of office for governing board members serving on election day.

(k) If the junior college district annexes under this section territory comprising all of a city, town, or village, the governing board by order may annex for junior college purposes any territory later annexed by the city, town, or village. The income limitation provided by Subsection (a) of this section does not apply to annexation under this subsection.

(l) A junior college district may not annex under this section territory that is included within the boundaries of another junior college district.

[Added by Acts 1981, 67th Leg., p. 372, ch. 152, § 1, eff. Aug. 31, 1981.]

#### SUBCHAPTER E. BOARDS OF TRUSTEES OF JUNIOR COLLEGE DISTRICTS

#### § 130.082. Governing Board of Junior College of Other than Independent School District

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) The number of members or trustees of the governing board shall be either seven or nine, in accordance with the laws applicable to the junior college district on the effective date of this code or on the date of the creation of a new district or a new board. Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Subsection (e) of this section. Any vacancy occurring on the board through death, resignation, or otherwise, shall be filled by appointment by resolution or order of the board. If the vacancy occurs on a board whose members are elected in at-large elections, the person appointed to fill the unexpired term shall serve until the next regular election of members to the board, at which time the position shall be filled by election for a term appropriately shortened to conform with what regularly would have been the length of the term for that position. If the vacancy occurs on a board whose members are elected from single-mem-

ber districts, the person appointed to fill the unexpired term shall serve until the next regular election for that particular district. Each member of the board shall be a resident, qualified voter of the district and shall take the proper oath of office before taking up the duties thereof. Members of a board shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties, to the extent authorized and permitted by the board. The board shall elect one of its members as president of the board, and the president shall preside at meetings of said board and perform such other duties and functions as are prescribed by the board. The president of the board shall have a vote the same as the other members. The board shall elect a secretary of the board who may or may not be a member of the board, and who shall be the official custodian of the minutes, books, records, and seal of said board, and who shall perform such other duties and functions as are prescribed by the board. The board shall be authorized to elect any other officers as deemed necessary or advisable. Officers of the board shall be elected at the first regular meeting of the board following the regular election of members of the board in even-numbered years, or at any time thereafter in order to fill a vacancy. Said board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a president, dean, or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the junior college. Said board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with this section.

[See Compact Edition, Volume 1 for text of (e) to (h)]

(i) The governing board of a countywide junior or community college district that contains a city with a population of more than 800,000 residents may set the date for an election held under the provisions of this section on any day in April by a resolution adopted not less than 90 days before the date selected; provided, however, that such election may not be held on the same date as the election of the governing board of any independent school district in such county unless the election date of all independent school districts in such county is on such date. The elections in each trustee district may be conducted jointly with the elections held in April in a city or school district in the trustee district. When a runoff election is necessary, the board may order the election for a date to coincide with the date of the runoff election for city officials, if the city is holding a runoff election; otherwise, the board shall

set the date of the runoff election for not later than three weeks following the regular election. When members of the board and municipal officers are to be elected on the same day, the governing bodies of the district and the city shall enter into an agreement governing the conduct of the joint election in accordance with the provisions of Article 978b, Revised Civil Statutes of Texas, 1925, as amended. [Amended by Acts 1975, 64th Leg., p. 2035, ch. 673, § 1, eff. June 20, 1975; Acts 1977, 65th Leg., p. 1386, ch. 554, § 1, eff. June 15, 1977.]

**§ 130.0821. Governing Board of Certain Countywide Community College Districts**

(a) The members of the governing board of a countywide community college district that contains a city with a population of more than 800,000 residents shall be elected from single-member trustee districts at all elections held after January 1, 1978.

(b) Before January 1, 1978, the board of trustees shall divide the district into seven compact trustee districts which contain as nearly as practicable an equal number of inhabitants according to the last preceding federal census. Residents of each trustee district shall be entitled to elect one member of the board, and each candidate seeking to represent a trustee district must reside in the trustee district he seeks to represent. Trustees shall, during their term of office, reside within the trustee district from which they were elected.

(c) Members of the board of trustees of the district shall serve for staggered terms of six years with the terms of two or three members expiring in even-numbered years.

(d) The trustees elected in 1978 shall draw lots for appropriate terms so that the terms of two trustees shall expire in 1980, two in 1982, and three in 1984.

(e) Within 90 days following the publication of census tract data compiled during each subsequent decennial federal census, the board of trustees shall redivide the district into seven trustee districts if such census data indicates that the population of the most populous trustee district exceeds the population of the least populous district by more than 10 percent. At the next district election following the redivision of the district, each trustee district shall elect a member of the board, and the members elected shall draw lots for two two-year terms, two four-year terms, and three six-year terms.

(f) Any election held pursuant to the terms of this section shall be conducted in accordance with the provisions of Subsection (i), Section 130.082 of this code.

(g) Trustees elected under the provisions of this section take office on the first Tuesday in May. [Added by Acts 1977, 65th Leg., p. 1868, ch. 743, § 1, eff. Aug. 29, 1977.]

### § 130.086. Branch Campuses.

(a) The board of trustees of a junior college district may establish and operate branch campuses, centers, or extension facilities, without regard to the geographical bounds of the junior college district, provided that each branch campus, center, or extension facility and each course or program offered in such locations is subject to the prior and continuing approval of the Coordinating Board, Texas College and University System.

(b) Such branch campuses, centers, or extension facilities shall be within the role and scope of the junior college as determined by the Coordinating Board, Texas College and University System.

[See Compact Edition, Volume 1 for text of (c)]

(d) Before any course may be offered by a junior college within the district of another operating public junior college, it must be established that the second public junior college is not capable of or is unable to offer the course. If the course is to be offered in a county which has a population of more than 97,500 persons, according to the last preceding federal census, and which has no state-supported senior college or university within its boundaries, it must also be established that any other college or university in the county is not able and willing to offer the course. After the need is established and the course is not locally available, then the first junior college may offer the course when approval is granted by the Coordinating Board, Texas College and University System, under the provisions of Subsection (a).

[See Compact Edition, Volume 1 for text of (e)]

(f) Out-of-district branch campuses, centers, or extension facilities of junior colleges existing prior to September 1, 1971, shall be reviewed by the Coordinating Board, Texas College and University System, to determine their feasibility and desirability with respect to the junior college and the population of the geographical area served by the branch campus, center, or extension facility.

[Amended by Acts 1975, 64th Leg., p. 2035, ch. 673, § 2, eff. June 20, 1975; Acts 1975, 64th Leg., p. 2109, ch. 689, §§ 1 to 4, June 20, 1975.]

## SUBCHAPTER F. REGIONAL COLLEGE DISTRICTS

### § 130.102. Taxes

The tax assessors and collectors of the county or respective counties containing territory embraced within the boundaries of such regional college district shall assess and collect the taxes of said college district on the taxable property in the territory of said district located in said county or respective counties on levies made and rates fixed by the board of regents of said district.

[Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(k), eff. Jan. 1, 1982.]

## SUBCHAPTER G. FISCAL PROVISIONS

### § 130.121. Tax Assessment and Collection

(a) The governing board of each junior college district, and each regional college district, for and on behalf of its junior college division, annually shall cause the taxable property in its district to be assessed for ad valorem taxation and the ad valorem taxes in the district to be collected, in accordance with any one of the methods set forth in this section, and any method adopted shall remain in effect until changed by the board.

(b) Each governing board shall be authorized to have the taxable property in its district assessed and/or its taxes collected, in whole or in part, by the tax assessors and/or tax collectors, respectively, of any county, city, taxing district, or other governmental subdivision in which all or any part of the junior college district is located.

(c) The governing board of a joint county junior college district shall be authorized to have the taxable property in its district assessed or its taxes collected, in whole or in part, by the tax assessors or tax collectors, respectively, of any county, city, taxing district, or other governmental subdivision in which all or any part of the joint county junior college district is located. The tax assessors or tax collectors of a governmental subdivision, on the request of the governing board of a joint county junior college district, shall assess and collect the taxes of the joint county junior college district in the manner prescribed in the Property Tax Code. Tax assessors and tax collectors shall receive compensation in an amount agreed on between the appropriate parties, but not to exceed two percent of the ad valorem taxes assessed.

[Amended by Acts 1977, 65th Leg., p. 563, ch. 198, § 1, eff. May 20, 1977; Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(k), eff. Jan. 1, 1982.]

## CHAPTER 131. SOUTHWEST COLLEGIATE INSTITUTE FOR THE DEAF

Section	
131.001.	Southwest Collegiate Institute for the Deaf.
131.002.	Administration.
131.003.	Location.
131.004.	Courses, Programs, and Services.
131.005.	Tuition.
131.006.	Appropriations; Grants.

### § 131.001. Southwest Collegiate Institute for the Deaf

The Southwest Collegiate Institute for the Deaf is a postsecondary educational institution providing instruction for hearing-impaired students preparing for a career or for enrollment in a senior college or university.

[Added by Acts 1981, 67th Leg., p. 366, ch. 149, § 1, eff. May 14, 1981.]

§ 131.002. Administration

(a) The institute is under the direct control and management of the board of trustees of the Howard Junior College District.

(b) The institute and its programs shall be administered by personnel who are trained and qualified to work with hearing-impaired students and are fluent in manual communication skills.

[Added by Acts 1981, 67th Leg., p. 366, ch. 149, § 1, eff. May 14, 1981.]

§ 131.003. Location

The institute is located on land deeded to the governing board by the federal Department of Education for the purpose of operating the institute. The governing board may not conduct regular junior college programs for students with unimpaired hearing on the institute campus except as an integral part of the program offered to hearing-impaired students when:

(1) it is educationally appropriate to enroll hearing students in classes for the hearing-impaired; or

(2) special programs are needed to train hearing and hearing-impaired persons to become professional service providers for the deaf.

[Added by Acts 1981, 67th Leg., p. 366, ch. 149, § 1, eff. May 14, 1981.]

§ 131.004. Courses, Programs, and Services

(a) The institute shall offer, but is not limited to offering, the following courses, programs, and services for hearing-impaired post-secondary students:

(1) learning development services, including academic counseling, tutorial services, reading instruction, services to counter learning disabilities, and library-related services;

(2) communications services, including interpreters for academic and nonacademic functions, speech therapy, and auditory evaluation and training;

(3) academic college preparatory courses;

(4) career analysis services designed to assist each student in identifying a career interest, considering the student's aptitudes, abilities, and skills;

(5) regular college courses, including vocational and technical education and liberal arts courses;

(6) extracurricular activities, including intramural athletics; and

(7) postgraduation services, including job placement services and services designed to orient employers to hearing-impaired workers.

(b) The course work offered by the institute shall emphasize self-contained classrooms with instruction conducted by instructors who are trained and qualified to work with hearing-impaired students and are fluent in manual communication skills. Hearing-impaired students may enroll in integrated classes that

are regular classes offered to students with unimpaired hearing enrolled in the junior college.

(c) The programs, services, and facilities of the institute shall be designed to be appropriate to the needs of hearing-impaired students.

[Added by Acts 1981, 67th Leg., p. 366, ch. 149, § 1, eff. May 14, 1981.]

§ 131.005. Tuition

(a) A Texas resident student enrolled in the institute shall pay tuition at the rate provided by law for enrollment at Howard County Junior College and is not exempt from tuition fees under Section 54.205 of this code.

(b) A student who is not a resident of Texas shall pay tuition at a rate adopted by the board of trustees in accordance with this subsection. Before July 1, of each year, the Coordinating Board, Texas College and University System, shall determine and report to the trustees the estimated average cost to the institute, not including room and board, of educating a student during the academic year beginning the next fall. Based on that estimate, the trustees shall adopt a nonresident tuition rate for the academic year that will result in the institute collecting tuition from each student in an amount approximately equal to the cost of educating the student.

[Added by Acts 1981, 67th Leg., p. 366, ch. 149, § 1, eff. May 14, 1981.]

§ 131.006. Appropriations; Grants

(a) The governing board of the institute may receive appropriations for the institute's operations only if the board operates the institute in compliance with this chapter.

(b) The board may accept gifts, grants, or donations of money or property given to the institute for the institute's exclusive use in carrying out the purposes of this subchapter.

[Added by Acts 1981, 67th Leg., p. 366, ch. 149, § 1, eff. May 14, 1981.]

CHAPTER 135. TEXAS STATE TECHNICAL INSTITUTE

SUBCHAPTER A. GENERAL PROVISIONS

Section 135.05. Interpreters for the Deaf.

§ 135.05. Interpreters for the Deaf

(a) The institute shall provide qualified interpreters for deaf students in attendance at each campus. In order to be qualified, an interpreter must:

(1) be capable of giving verbatim translation of the spoken word through finger spelling, the language of signs, and speaking without voice;

(2) be capable of reverse interpretation from the language of signs to the spoken word;

(3) be a member of the Texas Society of Interpreters for the Deaf; and

(4) hold a Comprehensive Skills Certificate from the National Registry of Interpreters for the Deaf.

(b) The institute shall also provide equipment, materials, and services, including tutoring, counseling, and other support services, necessary for the deaf student to take full advantage of existing educational programs.

[Added by Acts 1977, 65th Leg., p. 1034, ch. 379, § 1, eff. Aug. 29, 1977.]

## TITLE 4. COMPACTS

### CHAPTER 160. REGIONAL EDUCATION COMPACT

Section

160.041. Application of Sunset Act.  
160.07. Academic Common Market.

#### § 160.041. Application of Sunset Act

The office of Southern Regional Education Compact Commissioner for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1989.

[Added by Acts 1977, 65th Leg., p. 1853, ch. 735, § 2.155, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

#### § 160.07. Academic Common Market

(a) The Coordinating Board, Texas College and University System, is hereby authorized to participate on behalf of the State of Texas in the interstate

agreement known as the "Academic Common Market," which provides reciprocal higher educational opportunities to the citizens of states declared as parties to the Southern Regional Education Compact.

(b) The governing board of any public institution of higher education may propose programs and curricula for approval by the Coordinating Board, Texas College and University System, which are to be offered to citizens of participating states on a resident tuition or registration fee basis.

(c) Notwithstanding any other provisions of this code, the governing board of any public institution of higher education shall charge nonresident students from participating states enrolled in programs designated pursuant to this section the same amount charged resident students in such programs.

[Added by Acts 1977, 65th Leg., p. 105, ch. 50, § 1, eff. Aug. 29, 1977.]

### CHAPTER 161. COMPACT FOR EDUCATION

Section

161.021. Application of Sunset Act.

#### § 161.021. Application of Sunset Act

The office of Compact for Education Commissioner for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1989.

[Added by Acts 1977, 65th Leg., p. 1853, ch. 735, § 2.150, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

TABLE OF  
SPECIAL LAWS PERTAINING  
TO EDUCATION

*Certain special laws relating to education, many of which were classified to Title 49, Education—Public, of the Civil Statutes, have not been repealed and are not carried into the Education Code. They have been dropped from the Civil Statutes as special laws.*

*The tabulation below lists these special laws from the 64th through First Called Session of the 67th Legislatures numerically by article number classification to Vernon's Texas Civil Statutes (where so classified) followed by the subject matter and the original and amendatory citations to the General and Special Laws of Texas*

Civ.St.Art.	Laws Citation	Subject Matter
		COUNTY SCHOOL BOARD OR TRUSTEES
		Abolition of office and transfer of duties
—	----- 1977, ch. 544 -----	-----Fayette County Election
2676b	----- 1965, ch. 233 ----- ----- 1971, ch. 542, § 8 ----- ----- 1981, ch. 237, § 44 -----	-----County-wide district in counties of 5,150 to 5,175
2676c	----- 1965, ch. 595 ----- ----- 1971, ch. 542, § 3 ----- ----- 1981, ch. 237, § 45 -----	-----Counties of 2,000,000 or more
		Compensation and meetings
2687e	----- 1971, ch. 542, § 122 ----- ----- 1981, ch. 237, § 145 -----	-----Counties of 97,500 to 100,000
2687f	----- 1971, ch. 542, § 123 ----- ----- 1981, ch. 237, § 145 -----	-----Counties of 20,500 to 20,800
2688f	----- 1961, ch. 514 ----- ----- 1971, ch. 542, § 37 ----- ----- 1981, ch. 237, § 145 -----	-----Counties of 60,000 to 66,000
2688h	----- 1962, 3rd C.S., ch. 63 ----- ----- 1969, ch. 826 ----- ----- 1971, ch. 542, § 98 ----- ----- 1973, ch. 102 ----- ----- 1981, ch. 237, §§ 46, 145 -----	-----Counties of 110,000 to 124,000 -----Counties of 190,000 to 205,000
2688h-1	----- 1967, ch. 54 ----- ----- 1971, ch. 542, § 33 ----- ----- 1981, ch. 237, § 145 -----	-----Counties of 11,800 to 11,875
2688i	----- 1963, ch. 3 ----- ----- 1971, ch. 542, § 74 ----- ----- 1981, ch. 237, § 145 -----	-----Counties of 300,000 to 500,000

## TEXAS EDUCATION CODE

Civ.St.Art.	Laws Citation	Subject Matter
		COUNTY SUPERINTENDENT
		Abolition of office and transfer of duties
2688i-2	1967, ch. 493 1975, ch. 652 1981, ch. 237, § 145	-----Counties of 95,000 to 97,000
2688j	1963, ch. 212 1967, ch. 543 1971, ch. 542, § 30 1981, ch. 237, § 145	-----Counties of 15,800 to 16,000
2688k-1	1967, ch. 253 1971, ch. 542, § 55 1981, ch. 237, § 145	-----Counties of 18,300 to 18,600
2688l	1965, ch. 204 1971, ch. 542, §§ 34, 78 1981, ch. 237, § 145	-----Counties of 3,180 to 3,230
2688m	1965, ch. 506 1971, ch. 542, § 110 1981, ch. 237, § 145	-----Counties of 15,500 to 15,700
2688n-1	1967, ch. 26 1971, ch. 542, § 31 1981, ch. 237, § 145	-----Counties of 37,500 to 43,000
2688o	1965, ch. 709 1971, ch. 542, § 56 1981, ch. 237, § 145	-----Counties of 36,500 to 37,000
2688p	1967, ch. 145 1971, ch. 542, § 32 1981, ch. 237, § 145	-----Counties of 33,300 to 33,700
2688q	1969, ch. 311 1971, ch. 542, § 35 1981, ch. 237, § 145	-----Counties of 6,500 to 6,650
2688r	1969, ch. 312 1971, ch. 378 1971, ch. 542, § 127 1981, ch. 237, § 145	-----Counties of 19,680 to 19,800
2688s	1969, ch. 313 1971, ch. 542, § 76 1981, ch. 237, § 145	-----Counties of 50,000 to 53,000
2688t	1969, ch. 322 1971, ch. 542, § 36 1981, ch. 237, § 145	-----Counties of 24,150 to 24,400
2688u	1969, ch. 352 1971, ch. 542, § 75 1981, ch. 237, § 145	-----Counties of 17,640 to 17,700
2688v	1971, ch. 167 1981, ch. 237, § 145	-----Counties of 21,000 to 22,000
2688w	1971, ch. 204 1981, ch. 237, § 145	-----Counties of 17,400 to 17,640
2688x	1971, ch. 278 1981, ch. 237, § 145	-----Counties of 53,800 to 55,000
2688y	1971, ch. 285 1981, ch. 237, § 145	-----Counties of 27,800 to 28,800
2688z	1971, ch. 338 1981, ch. 237, § 145	-----Counties of 27,500 to 27,660
2688aa	1971, ch. 415 1973, ch. 391 1981, ch. 237, § 145	-----Counties of 24,400 to 24,600 -----Counties of 34,103 to 35,310
2688bb	1971, ch. 453 1973, ch. 376 1981, ch. 237, § 145	-----Counties of 9,100 to 9,200
---	1975, ch. 107	-----Medina County
---	1975, ch. 267	-----Crosby County

TEXAS EDUCATION CODE

Civ.St.Art.	Laws Citation	Subject Matter
		<b>COUNTY SUPERINTENDENT</b>
		Abolition of office and transfer of duties
—	1975, ch. 706	—La Salle County
—	1975, ch. 710	—Gonzales and Travis Counties
—	1975, ch. 728	—Jack County
—	1975, ch. 741	—Cameron, Nueces, Tyler, Marion and Cass Counties
2700e-1	1967, ch. 69 1969, ch. 603 1971, ch. 542, § 129 1981, ch. 237, § 145	Assistants, salaries in certain counties
2700e-2	1967, ch. 314 1971, ch. 542, § 133 1981, ch. 237, § 145	
2700e-3	1969, ch. 314 1971, ch. 542, § 43 1981, ch. 237, § 145	
2700e-4	1969, ch. 320 1971, ch. 542, § 6 1981, ch. 237, § 145	
2700e-5	1969, ch. 495 1971, ch. 542, § 130 1981, ch. 237, § 145	
2700e-6	1969, ch. 517 1971, ch. 542, § 131 1981, ch. 237, § 145	
2700e-7	1969, ch. 573 1971, ch. 542, § 44 1981, ch. 237, § 145	
2700e-8	1969, ch. 601 1971, ch. 542, § 9 1981, ch. 237, § 145	
2700e-9	1969, ch. 822 1971, ch. 542, § 132 1981, ch. 237, § 145	
2700e-10	1971, ch. 93 1981, ch. 237, § 145	
2700e-11	1971, ch. 94 1981, ch. 237, § 145	
2700e-12	1971, ch. 153 1981, ch. 237, § 145	
2700e-13	1971, ch. 196 1981, ch. 237, § 145	
2700e-14	1971, ch. 201 1981, ch. 237, § 145	
2700e-15	1971, ch. 408 1981, ch. 237, § 145	
2700e-16	1971, ch. 487 1981, ch. 237, § 145	
2700e-17	1971, ch. 914 1981, ch. 237, § 145	
2742f-2	1963, ch. 258 1971, ch. 542, § 61 1981, ch. 237, § 145	Boundary changes, counties of 110,000 to 124,000
		<b>COMMON SCHOOL DISTRICTS</b>
		Tax assessor-collector, board of equalization
2756d	1963, ch. 397 1971, ch. 542, § 124 1981, ch. 237, § 145	—Counties of 5,800 to 6,000 —Counties of 97,500 to 100,000
2766c	1965, ch. 35 1971, ch. 542, § 1 1981, ch. 237, § 47	Boundary changes —Counties of 40,000 to 40,500

## TEXAS EDUCATION CODE

Civ.St.Art.	Laws Citation	Subject Matter
		INDEPENDENT SCHOOL DISTRICTS
		Trustee elections
2774b	1951, ch. 339 1965, ch. 312 1975, ch. 717 1981, ch. 237, §§ 48, 146 1981, ch. 345	—City of 1,590,000 or more and 140,000 students
2774c-1	1965, ch. 39 1971, ch. 542, § 137 1981, ch. 237, § 49	—Counties of 20,500 to 21,000 or 99,400 to 100,000
2775a-3	1963, ch. 233 1971, ch. 542, § 128 1981, ch. 237, § 50	—Counties of 6,650 to 6,800 or 13,300 to 13,350
2775a-5	1965, ch. 452 1971, ch. 542, § 13 1981, ch. 237, § 51	—Counties of 13,550 to 13,590
2775a-6	1965, ch. 652 1971, ch. 542, § 66 1981, ch. 237, § 52	—Counties of 41,500 to 42,000
2775a-7	1965, ch. 702 1971, ch. 542, § 65 1981, ch. 237, § 53	—Counties of 121,000 to 128,000
2775a-8	1967, ch. 351 1971, ch. 542, § 11 1981, ch. 237, § 54	—Counties of 190,000 to 205,000
2775e	1962, ch. 23 1971, ch. 542, § 72 1981, ch. 237, § 55	—Counties of 160,000 to 170,000
2775e-1	1969, ch. 9 1971, ch. 542, § 46 1981, ch. 237, § 56	—Counties of 18,750 to 18,830
2775e-2	1969, ch. 443 1971, ch. 542, § 70 1981, ch. 237, § 57	—Counties of 8,300 to 8,600 or 9,100 to 9,280
2775e-3	1971, ch. 324 1981, ch. 237, § 58	—Counties of 26,500 to 27,000
2775f	1965, ch. 36 1971, ch. 542, § 67 1981, ch. 237, § 59	—Counties of 68,000 to 70,000
2775f-1	1967, ch. 34 1971, ch. 542, § 63 1981, ch. 237, § 60	—Counties of 170,000 to 190,000
		Trustee terms of office
2777d-3	1965, ch. 178 1981, ch. 237, § 61	—Counties of 1,250 to 1,350
2777f	1961, ch. 531 1971, ch. 542, § 136 1981, ch. 237, § 62	—City of 8,325 to 8,375
		Separation from municipal control to become independent district
2783d	1947, ch. 171 1949, ch. 391 1953, ch. 28 1961, ch. 2 1967, ch. 445 1971, ch. 70 1973, ch. 211 1979, ch. 798 1981, ch. 6 1981, ch. 703	—City of 290,000 or more

TEXAS EDUCATION CODE

Civ.St.Art.	Laws Citation	Subject Matter
<b>TAXES AND TAXATION</b>		
2784e-3	1959, ch. 468 1961, ch. 39 1971, ch. 542, § 68 1981, ch. 237, § 145	—Counties of 90,000 to 91,000
2784e-6	1963, ch. 98 1971, ch. 542, § 68 1981, ch. 237, § 63	—Counties of 42,500 to 43,500
2784e-7	1965, ch. 389	—Counties of 10,300 to 10,350
Common school districts		
2784e-8	1967, ch. 63 1971, ch. 45 1981, ch. 237, § 145	—County-line consolidated, counties of 18,600 to 18,690
2784e-9	1967, ch. 231 1971, ch. 542, § 106 1981, ch. 237, § 145	—County-line, counties of 24,600 to 25,000 or 49,000 to 49,400
2784e-10	1967, ch. 719 1971, ch. 542, § 69 1981, ch. 237, § 145	—Counties of 13,900 to 14,000
2784e-11	1969, ch. 229 1971, ch. 542, § 7 1981, ch. 237, § 64	—Counties of 25,200 to 26,000
2784e-12	1969, ch. 748 1971, ch. 542, § 12 1981, ch. 237, § 145	Common school districts, counties of 80,000 to 90,000
2784e-13	1971, ch. 144 1981, ch. 237, § 65	Independent school districts, counties of 12,500 to 12,600
2784e-14	1971, ch. 206 1981, ch. 237, § 145	—Counties of 17,870 to 18,050
2784e-15	1971, ch. 488 1981, ch. 237, § 145	—Counties of 19,500 to 19,680
2784e-16	1971, ch. 606 1981, ch. 237, § 145	—Certain districts located partly in four counties
2784e-17	1971, ch. 724 1981, ch. 237, § 66	—Counties of 13,450 to 13,550
Common school districts		
2784e-18	1971, ch. 779 1981, ch. 237, § 145	—Counties of 53,700 to 53,800
2784e-19	1971, ch. 805 1981, ch. 237, § 145	—Counties of 141,000 to 161,000, non-rural
—	1975, ch. 541	—Collin County
2784g-1	1963, ch. 308 1971, ch. 542, § 77 1981, ch. 237, § 67	Independent school districts, tax assessor and collector, counties of 160,000 to 170,000
<b>INDEPENDENT SCHOOL DISTRICTS</b>		
Warrants		
2790d-10	1965, ch. 82 1971, ch. 542, § 38 1981, ch. 237, § 68	—Counties of 5,330 to 5,400
2790d-12	1967, ch. 65 1971, ch. 542, § 39 1981, ch. 237, § 69	—Counties of 4,700 to 4,830
2790d-13	1969, ch. 53 1971, ch. 542, § 45 1981, ch. 237, § 70	—Counties of 12,300 to 12,500
2790d-15	1969, ch. 575 1971, ch. 542, § 125 1981, ch. 237, § 71	—Counties of 18,900 to 19,000

## TEXAS EDUCATION CODE

Civ.St.Art.	Laws Citation	Subject Matter
		INDEPENDENT SCHOOL DISTRICTS
		Warrants
2790d-16	-----1969, ch. 828 ----- 1971, ch. 542, § 4 1981, ch. 237, § 72	-----Counties of 7,300 to 7,500
2790d-17	-----1969, 2nd C.S., ch. 46 ----- 1971, ch. 542, § 64 1981, ch. 237, § 73	-----Counties of 9,275 to 9,475
2790d-19	-----1971, ch. 927 ----- 1981, ch. 237, § 74	-----City of 400,000 to 600,000
		COMMON SCHOOL DISTRICTS
		Tax assessor and collector, board of equalization
2792c	-----1969, ch. 160 ----- 1971, ch. 542, § 96 1981, ch. 237, § 145	-----Counties of 71,000 to 71,100
2792d	-----1969, ch. 162 ----- 1971, ch. 542, § 97 1981, ch. 237, § 145	-----Counties of 16,000 to 16,200
		TAX RATES
2802i-29	-----1951, ch. 266 ----- 1967, ch. 214 1971, ch. 542, § 62 1981, ch. 237, § 75	-----Certain cities and counties
		CONSOLIDATION, ANNEXATION, AND DISSOLUTION
2803e	-----1971, ch. 312 ----- 1981, ch. 237, § 76	-----Independent school districts -----Counties of 7,300 to 7,500
		DISTRICTS IN LARGE COUNTIES
2815a-1	-----1963, ch. 490 ----- 1971, ch. 542, § 40 1981, ch. 237, § 77	-----Independent school districts -----Elections, voting precincts, counties over 2,000,000
2815g-1c	-----1962, 3rd C.S., ch. 74 ----- 1965, ch. 268 1971, ch. 542, § 141 1981, ch. 237, § 78	-----Trustee elections -----School districts in counties over 2,000,000
		JUNIOR COLLEGES
-----	-----1981, ch. 421 -----	-----Validation of districts, proceedings, etc. Establishment
2815h-2a	-----1969, ch. 827 ----- 1971, ch. 542, § 5 1981, ch. 237, § 79	-----Counties of 2,000,000 or more
2815m-2	-----1965, ch. 188 ----- 1971, ch. 542, § 2 1981, ch. 237, § 80	-----Trustees -----Counties over 2,000,000

TEXAS EDUCATION CODE

Civ.St.Art.	Laws Citation	Subject Matter
		<b>INDEPENDENT SCHOOL DISTRICTS</b>
2827d -----	1965, ch. 68 ----- 1971, ch. 542, § 73 1981, ch. 237, § 81	Treatment of emotionally disturbed children, counties of 900,000 to 1,000,000
		<b>AUDIT OF COUNTY RECORDS</b>
2919g-1 -----	1963, ch. 87 ----- 1971, ch. 542, § 113 1981, ch. 237, § 82	Counties of 2,000,000 or more
		<b>COUNTY WIDE DISTRICTS</b>
2922-29 -----	1971, ch. 1044 ----- 1981, ch. 237, § 144 1981, ch. 333	County-wide special education school, available school fund use, counties of 23,000 to 23,100
-----	1971, ch. 574 ----- 1981, ch. 237, § 143 1981, ch. 333	Foundation school funds, average daily attendance, counties of 23,000 to 23,100
		<b>RURAL HIGH SCHOOL DISTRICTS</b>
2922(3.1) -----	1963, ch. 7 ----- 1971, ch. 542, § 10 1981, ch. 237, § 83	Division of ten districts into five areas, counties of 130,000 to 140,000

# INDEX TO EDUCATION CODE

References are to Sections

## ABANDONED OR UNCLAIMED PROPERTY

Colleges and universities, 51.213.

## ACADEMIC COMMON MARKET

Colleges and universities, interstate agreements, 160.07.

## ACADEMIC WORKLOADS

Colleges and universities, 51.401 et seq.

## ACCOUNTANTS

Certified public accountancy test, review courses, exemptions, Proprietary School Act, 32.12.

## ACCREDITATION

Foundation school program, bond participation requirements, 16.053.

## ACTIONS AND PROCEEDINGS

Guaranteed student loans, default, 57.47.  
University of Texas, Tyler, 76.04.

## ADMINISTRATION

Schools and school districts, foundation school program, 16.005.

## ADMISSION OF STUDENTS

Aliens, admission to public free schools, 21.031.

Schools and school districts,  
Residence establishment separate from parent or guardian, 21.031.

## ADVERTISEMENTS

Private institutions of higher education, deceptive or misleading, revocation of certificate of authority, 61.309.

## ADVISORY COMMITTEES

Apprenticeship and training, 33.03 et seq.  
Defined, vocational education, 33.01.  
Family practice residence advisory committee, medical residency program contracts, 61.505.  
Schools and school districts, television instructional services, 21.915.  
Texas school for the blind, 11.061.

## ADVISORY COUNCILS

Private degree-granting institutions of higher education, 61.314.  
Technical-vocational education, Sunset Act, 31.20.

## AGED PERSONS

Colleges and universities, auditing courses, fees, 54.210.

## AGENTS

Defined, private institution of higher education, 61.302.

Employment agencies, schools and school districts, 21.916.

Private institutions of higher education, lists, 61.315.

## AGRICULTURAL EXPERIMENT STATION

Sunset Act, application, 88.2031.

## AGRICULTURAL EXTENSION SER- VICE

Sunset Act, application, 88.002.

## AGRICULTURAL MACHINERY AND EQUIPMENT

Texas A & I university, purchase, 104.51.

## AGRICULTURAL PRODUCTS

Texas Tech university, sales, use of proceeds, 109.49.

## AGRICULTURE

Vocational teachers, service days, 16.055.

## ALCOHOLIC BEVERAGES

School buildings and grounds, crimes and offenses, 4.22.

## ALIENS

Admission to public free schools, 21.031.  
Colleges and universities, crimes and offenses, expulsion, 51.909.

## AMENDMENTS

Application for certificate of authority, private institutions of higher education, 61.307.

## APPEAL AND REVIEW

Bilingual education, 21.463.  
Private institutions of higher education, revocation of certificate of authority, 61.310.  
School funds, state aid eligibility, 11.79.  
School taxes,  
Property value study, protest, 11.86.  
Special language programs, 21.463.  
Term contracts, 21.207.  
Texas school for the deaf, board actions, 11.03.  
Transportation, county school board policy decisions, 16.210.

## APPOINTMENTS

Governor, this index.  
Texas college of osteopathic medicine, joint appointments, 105.76.

## APPRAISALS AND APPRAISERS

School taxes, common school districts, 22.11.

## APPRENTICE AND APPRENTICE- SHIPS

Generally, 33.01 et seq.

## APPRENTICESHIP AND TRAINING ADVISORY COMMITTEE

Generally, 33.05, 33.06.

## APPRENTICESHIP COMMITTEE

Generally, 33.03.

## APPRENTICESHIP TRAINING PRO- GRAM

Defined, vocational education, 33.01.

## APPROPRIATIONS

Apprenticeship training programs, formulas, 33.06, 33.08.

Physicians and surgeons, resident physicians, compensation, 58.003.  
Southwest collegiate institute for the deaf, 131.006.

## APPROVED FAMILY PRACTICE RESIDENCY TRAINING PRO- GRAM

Defined, medical residency program contracts, 61.501.

## ASSAULT AND BATTERY

Schoolteachers, suspension or removal of student from class, 21.301.

## ASSESSORS AND COLLECTORS OF TAXES

School taxes, 11.71 et seq.

## ASSIGNMENTS

Colleges and universities, student loans, 57.45.

## ASSISTANCE GRANTS PROGRAM

Generally, 56.010 et seq.

## AUDITORIALLY HANDICAPPED STUDENTS

Defined, special education, 16.104.

## AUDITS AND AUDITING

Apprenticeship training programs, 33.07.  
Guaranteed student loans, 57.76.  
Real estate research center, 86.52.  
School taxes, state payments, ad valorem tax base reduction, 20.86.  
Texas school for the deaf, 11.03.

# INDEX TO EDUCATION CODE

686

References are to Sections

## AUSTIN, CITY OF

Diagnostic and evaluation center, multiply handicapped blind children and youths, 11.091.

## AUTISTIC STUDENTS

Defined, special education, 16.104.

## BANKS AND BANKING

Defined, School Depository Act, 23.73.  
 Depositories, School Depository Act, 23.71 et seq.  
 School Depository Act, 23.71 et seq.  
 School funds,  
     Collection agent for permanent school fund investments, 15.13.  
     Loan programs, securities, 15.14.

## BAR EXAMINATIONS

Review courses, exemptions, Proprietary School Act, 32.12.

## BIDS AND BIDDING

Colleges and universities, construction contracts, 51.907.

## BILINGUAL INSTRUCTION

Schools and school districts, 21.453.  
 Vocational education, 11.18.

## BLIND PERSONS

Diagnostic and evaluation center, 11.091.  
 School funds,  
     Special education services, 1.04.  
     Supplemental allowances for exceptional expenses, 11.102.  
 Schools and School Districts, this index.  
 Special education programs, visually handicapped children, 11.052.  
 Vocational Education, this index.

## BOARDS AND COMMISSIONS

Board of regents. Colleges and Universities, generally, this index.  
 Colleges and universities,  
     Coordinating board, Texas college and university system, generally. Colleges and Universities, this index.  
 County governing body, generally.  
     Schools and School Districts, this index.  
 Defined,  
     Guaranteed student loans, 57.02.  
     School tax assessments, 11.72.  
     Term contracts, 21.201.  
 Rural medical education board, medical school admission policies, contracts to practice in rural areas, 61.096, 65.41, 105.80, 110.11.  
 School districts, tax assessment practices board, 11.71 et seq.  
 Schoolteachers professional practices commission, Sunset Act, application, 13.2031.  
 Southern regional education compact, state commissioner, office of, Sunset Act, application, 160.041.  
 Tax assessment practices board, school districts, 11.71 et seq.  
 Teaching profession, commission on standards for, Sunset Act, application, 13.031.  
 Texas school for the blind, governing board, 11.061.  
 Texas school for the deaf, 11.03.  
 University lands, leases, Sunset Act, review of board, 66.62.

## BONDS

Dormant school districts, consolidation, assumption of bonds, election, 19.246.

## BONDS (OFFICERS AND FIDUCIARIES)

Medical schools, security officers, 51.214.  
 Peace officer, Texas A & M university system, forest service, 88.103.  
 Tax collector, certain rural high school districts, 25.07.

## BOOKS

Defined, 12.02.

## BRANCH CAMPUSES

Medical schools, security officers, 51.214.  
 Private schools, 61.303.

## BRANDS, MARKS AND LABELS

Drugs and medicine, schools and school districts, 21.914.

## BREAKFAST

Schools and school districts, low-income families, 21.914.

## BROWNSVILLE, CITY OF

Pan American university, upper-level educational center, 112.51 et seq.

## BUDGETS

Colleges and Universities, this index.  
 Texas school for the blind, 11.063.  
 Texas school for the deaf, 11.03.

## BUSES

Colleges and universities, fees, 96.42.  
 University of Texas, Arlington, shuttle bus fee, 68.05.

## BUSINESS AND COMMERCE

Apprenticeship programs, 33.01 et seq.

## CATEGORICAL PROGRAM AID

Foundation school program, 16.176 et seq.

## CENTRAL EDUCATION AGENCY

Sunset Act, application, 11.011.

## CERTIFICATE OF DEPOSIT

Defined, School Depository Act, 23.73.

## CERTIFICATES AND CERTIFICATION

Private institutions of higher education, granting degrees, certificates of authority, 61.304 et seq.  
 School funds, state aid eligibility, 11.79.  
 Texas A & M university system, board of regents, certificate of appointment, 85.13.  
 Texas college of osteopathic medicine, 105.73.

## CERTIFICATES OF INDEBTEDNESS

School funds, investments, 20.42.

## CERTIFIED PUBLIC ACCOUNTANTS

Review courses, exemptions, Proprietary School Act, 32.12.

## CHANGE OF NAMES

Colleges and Universities, this index.  
 Names, this index.

## CHARITIES

Colleges and universities, medical equipment, transfers, 65.43.

## CHILD-CARING INSTITUTIONS

Out of state students, public school tuition, 21.0311.

## CHILDREN AND MINORS

Diagnostic and evaluation center, multiply handicapped blind children and youths, 11.091.  
 Juvenile Delinquents and Dependents, generally, this index.

## CITIES, TOWNS AND VILLAGES

Annexation of territory, junior colleges and districts, 130.071.

## COLLEGES AND UNIVERSITIES

Abandoned and unclaimed property, 51.213.  
 Academic common market, interstate agreements, 160.07.  
 Academic workloads, 51.401 et seq.  
 Accountants,  
     Review courses, exemptions, Proprietary School Act, 32.12.  
 Accounts and accounting,  
     East Texas state university, union center building account, 100.37.  
     Guaranteed student loans, 57.72 et seq.  
     Midwestern state university, university center administration and program fund account, 103.11.  
     Steven F. Austin state university, university center administration program fund account, 101.42.  
     Texas A & M university system, Tarleton state university, student center fee account, 87.004.  
     Texas Tech university, student recreation fee, 109.51.  
     University of Texas, San Antonio, student union building fees, 71.07.  
     West Texas state university, university center administration program fund account, 102.34.  
 Actions and proceedings, guaranteed student loans, 57.47.  
 Advertising, private institutions, revocation of certificate of authority, 61.309.  
 Advisory committees,  
     Coordinating board, Texas college and university system,  
         Out-of-state institution offering courses within state, 61.405.  
     Student fees, 54.503.  
 Advisory council on private degree-granting institutions of higher education, 61.314.  
 Aged persons, tuition exemption, 54.210.  
 Agents, private institutions of higher education, 61.315.  
 Agricultural machinery and equipment, Texas A & I university, purchase, 104.51.  
 Aliens, crimes and offenses, expulsion, 51.909.  
 Amendments to application for certificate of authority, private institutions of higher education, 61.307.  
 American sign language, instruction, 51.303.  
 Annexation of territory, junior colleges and districts, cities, 130.071.

References are to Sections

## COLLEGES AND UNIVERSITIES

—Cont'd

Appeal and review, private institutions of higher education, revocation of certificate of authority, 61.310.

Application of law,  
Texas eastern university, 51.001.

Appropriations,  
Physicians, resident physicians, compensation, 58.003.  
Southwest collegiate institute for the deaf, 131.006.

Armed forces, immunization and exemption, 2.09.

Assignments, loans, 57.45.

Auditing courses, senior citizens, fees, 54.210.

Audits and auditing, guaranteed student loans, 57.76.

Banks and banking,  
Student loan notes, custody, 53.47.

Bar examinations, review courses, exemptions, Proprietary School Act, 32.12.

Baylor university,  
College of medicine,  
Admission policies, contracts to practice in rural areas, 61.096.

Bids and bidding, construction contracts, 51.907.

Bonds,  
Higher education authorities, student loan notes, purchase, 53.47.  
Investments, student loans, 53.47.  
Nonprofit corporations, student loan notes, purchase, 53.47.  
Student loan notes, purchase, revenue bonds, 53.47.

Bonds (officers and fiduciaries), medical schools, security officers, 51.214.

Branches, medical schools, security officers, 51.214.

Budgets,  
East Texas state university, union center building, 100.37.  
Texas A & M university system, Tarleton state university, student center complex fees, 87.004.

Buildings and grounds,  
Pan American university,  
Acquisition and disposition, 112.38.  
Brownsville, city of, upper-level educational center, 112.52.

Sales,  
Pan American university, 112.38.  
State university system, 95.33.  
Texas southern university, 106.35.  
State university system, 95.33.  
Texas A & M University at Galveston, 55.171, 87.204.

Bus service, fees, 96.42.

Centers. Student centers, generally, post.

Certificates of authority, private institutions of higher education, granting degrees, 61.304 et seq.

Change of names,  
Midwestern university to Midwestern state university, 103.01.  
Senior college system, 95.01 et seq.  
Texas A & I university at Corpus Christi to Corpus Christi state university, 104.01.  
Texas A & I university at Laredo to Laredo state university, 104.01 note.

## COLLEGES AND UNIVERSITIES

—Cont'd

Change of names—Cont'd  
Texas A & M university system,  
Board of directors to board of regents, 85.01 note.  
Board of regents, presiding officers, 85.14.  
Texas Tech university school of medicine at Lubbock to Texas Tech university health sciences center, 110.01 note  
University of Houston, human resources center to labor and industrial relations institute, 111.71 note.

Charities, medical equipment, transfers, 65.43.

Common market, interstate agreements, 160.07.

Community colleges and districts,  
Change of name authorization, 130.005.  
Funds, tuition and laboratory fee exemptions, 61.073.

Compensation and salaries,  
Physicians, resident physicians, 58.001 et seq., 61.097 et seq.  
Texas A & M university system, board of regents, 85.15.

Concurrent enrollment in more than one institution, student services fees, 54.505.

Construction contracts, bidding, 51.907.

Contracts,  
Construction, competitive bidding, 51.907.  
Loans to students,  
Reports, federally guaranteed loan program, 53.47.  
Medical residency programs, 61.501 et seq.  
North Texas State University, security personnel, 105.91 et seq.  
Physicians and surgeons, resident physicians, 61.097 et seq.  
Sesquicentennial museum, 67.25.  
Texas A & M University at Galveston, 87.204.  
Texas womens university, security personnel, 107.81 et seq.

Cooperative teacher education centers, 11.311.

Coordinating board, Texas college and university system,  
Academic workloads, reports, 51.401 et seq.  
Apprenticeship and training advisory committee member, 33.05.  
Faculty, academic workload, reports, 51.401 et seq.  
Funds, reports, 51.005.  
Off-campus courses, approval, 61.051.  
Public educational grants program, 56.031 et seq.  
Recommendations to legislature, 61.051.  
State board of vocational education, contracts, leadership and administrative responsibilities, 11.24, 61.051.  
Sunset Act, application, 61.0211.  
Texas assistance grants program, 56.010 et seq.

Corporations, guaranteed student loans, 57.11.

Corpus Christi state university. University system of south Texas, post.

## COLLEGES AND UNIVERSITIES

—Cont'd

Courses of study and instruction,  
Amendments, private institutions, notice, 61.307.  
American sign language, 51.303.  
Deaf persons, Southwest collegiate institute, 131.004.  
Off-campus, approval by coordinating board, 61.051.  
Out-of-state institutions offerings, approval, 61.402.  
Pan American university, Brownsville, city of, upper-level educational center, 112.53.  
Private institutions of higher education, approval, 61.304.  
Reports, justification, 51.403.  
Southwest collegiate institute for the deaf, 131.004.

Crimes and offenses,  
Foreign students, expulsion, 51.909.  
Private institutions of higher education, granting degrees, 61.317.

Curriculum. Courses of study, generally, ante.

Deaf students,  
Southwest collegiate institute, 131.001 et seq.  
Texas state technical institute, interpreters, 135.05.

Default, guaranteed student loans, 57.47.

Definitions, resident physicians, 58.002, 61.097.

Degrees, issuance,  
Private institutions of higher education, 61.301 et seq.

Dental schools, refunds, tuition and fees, 54.006.

Deposits, student recreation account, Texas Tech university, 109.51.

Directors. University system of south Texas, post.

Discrimination, guaranteed student loans, 57.50.

Easements, Texas Tech university health sciences center, utilities, 110.12.

East Texas state university,  
Fees, student union fee, 100.37.  
Union center building, financing, 100.37.

Eminent domain, Texas southern university, 106.35.

Employment, adult education, technical assistance, information services, 111.71 et seq.

Endowments,  
State university system, 95.34.  
University of Texas, Tyler, 76.05.

Equalization grants, tuition, 61.221 et seq.

Exchange of lands,  
Pan American university, 112.38.  
Texas Southern University, 106.35.

Executive officer, university system of south Texas, 104.14.

Exemptions, immunization, 2.09.

Expenses and expenditures, Texas A & M university system, board of regents, 85.15.

Expulsion of students, foreign students, crimes and offenses, 51.909.

Faculty,  
Academic workload, 51.401 et seq.

Fees,  
Auditing courses, senior citizens, 54.210.

References are to Sections

COLLEGES AND UNIVERSITIES

—Cont'd  
 Fees—Cont'd  
 East Texas state university, students union fees, 100.37.  
 Midwestern state university, university center fee, 103.11.  
 Private institutions of higher education, certificate of authority, 61.305.  
 Refund, 54.006.  
 Renewal fee, certificate of authority, private institution of higher education, 61.308.  
 Senior citizens, auditing courses, 54.210.  
 Southwest Texas state university, Bus service, 96.42.  
 Steven F. Austin state university, student center fee, 101.42.  
 Student center, 95.35.  
 Student fees committee, 54.503.  
 Student services,  
     Concurrent enrollment in more than one institution, 54.505.  
     Defined, 54.503.  
 Texas A & M University at Galveston, 87.205.  
 Texas A & M university system, Tarleton state university, student center complex fees, 87.004.  
 Texas Tech university,  
     Student fees for university center, 109.50.  
     Student recreation fee, 109.51.  
 University of Texas at Dallas, student union building, 70.08.  
 University of Texas at San Antonio, student union building fees, 71.07.  
 Waiver, student services fees, concurrent enrollment in more than one institution, 54.505.  
 West Texas state university, student center fee, 102.34.  
 Fines and penalties,  
     Private institutions of higher education, granting degrees, 61.317.  
 Foreign language requirement, American sign language, 51.303.  
 Foreign students,  
     Crimes and offenses, expulsion, 51.909.  
     Tuition, regulation, 61.072.  
 Forms, immunization status reports, 2.09a.  
 Funds,  
     Reports, 51.005.  
     Texas A & M University at Galveston, 87.204.  
     Texas Eastern university, 51.001 et seq.  
     Tuition and fee exemptions, junior or community colleges, 61.073.  
 Gifts,  
     Corpus Christi state university, 104.93.  
     Pan American university, Brownsville, city of, upper-level educational center, 112.52.  
     State university system, 95.34.  
     Texas womens university, 107.69.  
     University of Texas, Tyler, 76.05.  
 Grants,  
     Corpus Christi state university, 104.93.  
     Pan American university, Brownsville, city of, upper-level educational center, 112.52.  
     Public educational grants program, 56.031 et seq.  
     Southwest collegiate institute for the deaf, 131.006.

COLLEGES AND UNIVERSITIES

—Cont'd  
 Grants—Cont'd  
 State university system, 95.34.  
 Texas assistance grants program, 56.010 et seq.  
 University of Texas, Tyler, 76.05.  
 Guaranteed student loans, 57.01 et seq.  
 Hearings,  
     Private institutions, revocation of certificate of authority, 61.310.  
 Higher education authorities,  
     Bonds, student loan notes, purchase, 53.47.  
 Historical collection, Texas womens university, 107.69.  
 Honorary degrees, private institutions of higher education, 61.312.  
 Hospitals, medical equipment, transfers, 65.43.  
 Human resources center, university of Houston, change of name to labor and industrial relations institute, 111.71 note.  
 Immunization records, 2.09a.  
 Injunctions, private institutions of higher education, granting degrees, 61.316.  
 Inspections, immunization records, 2.09a.  
 Institutes,  
     Labor and industrial relations, university of Houston, 111.71 et seq.  
 Institutions established outside state, offering courses within state, 61.401 et seq.  
 Interpreters, deaf students, Texas state technical institute, 135.05.  
 Interstate agreements, academic common markets, 160.07.  
 Investigations, private institutions of higher education, granting degrees, 61.316.  
 Investments, student loans, 53.47.  
 Junior colleges and districts,  
     Annexation of territory,  
         Cities, 130.071.  
         Contiguous territory, 130.066.  
         Cities and towns, annexation of territory, 130.071.  
     Elections, trustees, single-member trustee district, 130.0821.  
     Joint-county junior colleges,  
         Taxation, assessments, equalization or collection, 130.121.  
     Labor and employment, adult education, technical assistance, and information services, 111.71 et seq.  
     Notice, annexation of territory, 130.071.  
     Out-of-district branch campus, centers or extension facilities, 130.086.  
     Single-member trustee districts, elections, 130.0821.  
     Technical-vocational education council, member, 31.12.  
     Trustees, elections, 130.0821.  
     Vocational education, advisory council member, 31.12.  
 Labor and employment, adult education, technical assistance, and information services, 111.71 et seq.  
 Labor and industrial relations institute, university of Houston, 111.71 et seq.  
     Change of name from human resources center, 111.71 note.  
 Laboratory fee exemptions, funds, junior or community colleges, 61.073.  
 Lamar university at Orange, educational center, 108.36.

COLLEGES AND UNIVERSITIES

—Cont'd  
 Lamar university at Port Arthur, educational center, 108.36.  
 Laredo state university. University system of south Texas, post.  
 Law school aptitude test, review courses, exemption, Proprietary School Act, 32.12.  
 Leases of land,  
     Pan American university, 112.38.  
     Sealy-Smith Foundation, 74.002.  
     State university system, 95.33.  
     Texas Southern university, 106.35.  
 Local cooperative teacher education centers, 11.311.  
 McDonald observatory at Mount Locke, visitor center, construction, 67.53.  
 Mandatory student services fees, concurrent enrollment in more than one institution, 54.505.  
 Maritime academy. Texas A & M University at Galveston, generally, post.  
 Medical equipment, transfer, 65.43.  
 Medical schools,  
     Admission policies, contracts to practice in rural areas, 61.096, 65.41, 105.80, 110.11.  
     Bonds (officers and fiduciaries), security officers, 51.214.  
     Branches, security officers, 51.214.  
     Compensation and salaries,  
         Resident physicians, 58.001 et seq., 61.097 et seq.  
     Contracts, resident physicians, 61.097 et seq.  
     Contracts for medical residency programs, 61.501 et seq.  
     Exemptions, Proprietary School Act, 32.12.  
     Fees, refund, 54.006.  
     Peace officers, security, 51.214.  
     Privileges and immunities, security officers, 51.214.  
     Resident physicians,  
         Compensation, 58.001 et seq.  
         Contracts, 61.097 et seq.  
         Security officers, 51.214.  
     Tuition, refunds, 54.006.  
 Midwestern state university, 103.01.  
     University center fee, 103.11.  
 Military forces, immunization and exemption, 2.09  
 Moody college. Texas A & M University at Galveston, generally, post.  
 Museums, Sesquicentennial museum, 67.25.  
 Names. Change of name, generally, ante.  
 New programs, reports, 61.066.  
 Nonprofit corporations, medical equipment, transfers, 65.43.  
 Nonresidents,  
     Academic common market, interstate agreements, 160.07.  
 North Texas state university,  
     Board of regents, Texas college of osteopathic medicine, powers and duties, 105.71 et seq.  
     Contracts, security personnel, 105.91 et seq.  
     Eminent domain, restrictions, 105.44.  
     Medical school, admission policies, contracts to practice in rural areas, 105.80.  
     Parking and parking facilities, 105.93.  
     Security personnel, 105.91 et seq.  
     Traffic citations, 105.91.

## INDEX TO EDUCATION CODE

References are to Sections

## COLLEGES AND UNIVERSITIES

—Cont'd

Notice,  
 Junior colleges and districts, annexation of territory, 130.071.  
 Private institutions of higher education, change in administrative personnel, faculty, etc., 61.307.  
 Nurses and nursing,  
 Clinical experience, academic credit, 51.906.  
 Official grade point average, uniform method of calculating, 61.074.  
 Osteopathic colleges. Texas college of osteopathic medicine, generally, post.  
 Out-of-state institutions, offering course within state, 61.401 et seq.  
 Pan American university,  
 Real estate, acquisition and disposition, 112.38.  
 Upper-level educational center,  
 Brownsville, city of, 112.51 et seq.  
 Panhandle-Plains historical museum, construction and donation, 102.35.  
 Parking and parking facilities,  
 North Texas State University, 105.93.  
 Texas womens university, 107.83.  
 Personal property, abandoned or unclaimed, 51.213.  
 Physicians and surgeons, resident physicians,  
 Compensation, 58.001 et seq.  
 Contracts, 61.097 et seq.  
 Police. Security Personnel, generally, post.  
 Powers and duties, Texas A & M University at Galveston, 87.202.  
 Private institution of higher education,  
 Defined, 61.302.  
 Granting degrees, 61.301 et seq.  
 Privileges and immunities, medical schools, security officers, 51.214.  
 Public educational grants program, 56.031 et seq.  
 Public utilities, Texas Tech university health sciences center, easements, 110.12.  
 Rates and charges,  
 Loans, students, 51.052.  
 Texas A & M University at Galveston, 87.205.  
 Reciprocity, academic common market, 160.07.  
 Records and recordation,  
 Immunization records, 2.09a.  
 Private institutions of higher education, maintenance, 61.315.  
 Refund, tuition and fees, 54.006.  
 Reports,  
 Academic workloads, 51.401 et seq.  
 Guaranteed student loans, 57.77.  
 Immunization status of students, 2.09a.  
 New programs, 61.066.  
 Private institutions of higher education, violations, 61.316.  
 Workloads, academic, 51.401 et seq.  
 Reserve fund, guaranteed student loans, 57.71.  
 Resident physicians,  
 Compensation, 58.001 et seq.  
 Contracts, 61.097 et seq.  
 Restructuring existing programs, reports, 61.066.  
 Rules and regulations,  
 Abandoned or unclaimed property, 51.213.  
 Academic workloads, 51.401 et seq.

## COLLEGES AND UNIVERSITIES

—Cont'd

Rules and regulations—Cont'd  
 Pan American university, Brownsville, city of, upper-level educational center, 112.53.  
 Sales. Buildings and grounds, ante.  
 Security personnel,  
 Medical schools, 51.214.  
 North Texas State University, 105.91 et seq.  
 Texas womens university, 105.91 et seq.  
 Senior citizens, tuition exemption, 54.210.  
 Senior college system,  
 Change of name, 95.01 et seq.  
 Southwest Texas state university,  
 Bus service, fees, 96.42.  
 Sesquicentennial museum, 67.25.  
 Single-member trustee districts, junior colleges and districts, 130.0821.  
 Southwest collegiate institute for the deaf, 131.001 et seq.  
 Standards, local cooperative teacher education centers, 11.311.  
 State funds, East Texas state university, union center building, 100.37.  
 State university system, 95.01 et seq.  
 Steven F. Austin state university,  
 Fees, student center fees, 101.42.  
 Student center fee, 101.42.  
 Stipends, medical students, contracts to practice in rural areas, 61.096, 65.41, 105.80, 110.11.  
 Student centers,  
 Fees, 95.35.  
 Midwestern state university, fees, 103.11.  
 Steven F. Austin state university, fees, 101.42.  
 Texas A & M university system, Tarleton state university, fees, 87.004.  
 West Texas state university, fees, 102.34.  
 Student fees committee, 54.503.  
 Student Financial Assistance Act of 1975, 56.001 et seq.  
 Student loans, 51.052.  
 Guaranteed student loans, 57.01 et seq.  
 Notes,  
 Purchase, revenue bonds, 53.47.  
 Opportunity plan fund,  
 Repayment cancellation, employment by designated state agencies, 52.40.  
 Physicians, repayment cancellation, employment by designated state agencies, 52.40.  
 Psychologists, repayment cancellation, employment by designated state agencies, 52.40.  
 Student recreation fee, Texas Tech university, 109.51.  
 Student services, defined, fees, 54.503.  
 Student services fees, concurrent enrollment in more than one institution, 54.505.  
 Student unions,  
 East Texas state University, student fees, 100.37.  
 Fees, 95.35.  
 Texas Southern University, fees, improvements, 106.37.  
 University of Houston, fees, construction, improvements, 111.42.  
 University of Texas, Arlington, fees, 68.04.

## COLLEGES AND UNIVERSITIES

—Cont'd

Student unions—Cont'd  
 University of Texas at Dallas, 70.08.  
 University of Texas at San Antonio, building fees, 71.07.  
 Tax exemptions, guaranteed student loans, 57.75.  
 Teacher education programs, standards, 13.032.  
 Term, use by private institutions of higher education, 61.313.  
 Texas A & I University,  
 Directors, change of name to board of directors of university system of south Texas, 104.01 note.  
 Texas A & I University, Corpus Christi. University system of south Texas, post.  
 Texas A & I University, Laredo. University system of south Texas, post.  
 University system of south Texas, post.  
 Texas A & M University at Galveston, 87.201 et seq.  
 Buildings and grounds, 55.171.  
 Texas A & M university system,  
 Board of directors, change of name to board of regents, 85.01 note.  
 Board of regents, 85.11 et seq.  
 Appointment, 85.11.  
 Certificate of appointment, 85.13.  
 Chairman of board, 85.14.  
 Change of name from board of directors, 85.01 note.  
 Compensation and salaries, 85.15.  
 Expenses, 85.15.  
 Engineering extension service, apprenticeship and training advisory committee member, 33.05.  
 Forest service,  
 Bonds, peace officers, 88.103.  
 Prairie View A & M university,  
 Real property, control and supervision, 87.103.  
 Special purpose designation, 87.104.  
 Tarleton state university,  
 Fees, student center complex, 87.004.  
 Student center complex fees, 87.004.  
 Texas assistance grants program, 56.010 et seq.  
 Texas college of osteopathic medicine,  
 Acquisition and disposition of land, 105.81.  
 Agreements with other entities, 105.77.  
 Appointments, 105.76.  
 Board of regents, powers and duties, 105.71 et seq.  
 Chief executive officer, 105.74.  
 Courses, 105.73.  
 Creation, 105.71.  
 Gifts and grants, 105.78.  
 Location, 105.72.  
 Supervision, coordinating board, 105.79.  
 Teaching hospital, 105.75.  
 Texas Eastern university,  
 Application of law, 51.001.  
 Funds, 51.001 et seq.  
 Texas Southern university,  
 Acquisition, disposition of land, 106.35.  
 Exchange of property, 106.35.  
 Leases of land, 106.35.  
 Sales of lands, 106.35.  
 Student center fees, 106.37.  
 Texas state technical institute, deaf students, interpreters, 135.05.

References are to Sections

**COLLEGES AND UNIVERSITIES**

—Cont'd

Texas Tech university,  
 Agricultural products, sales, disposition of proceeds, 109.49.  
 Deeds and conveyances, utility easements, 109.48.  
 Easements, utility, 109.48.  
 Fees, student recreation fee, 109.51.  
 Land management, 109.48.  
 Recreation fee, 109.51.  
 Sale of crops, use of proceeds, 109.49.  
 Student fees,  
     Recreation fee, 109.51.  
     University center, 109.50.  
 Telegraphs and telephones, easements, 109.48.  
 Utility easements, 109.48.  
 Texas Tech university health sciences center, utilities easements, conveyances, 110.12.  
 Texas Tech university school of medicine at Lubbock,  
     Admission policies, contracts to practice in rural areas, 110.11.  
     Change of name to Texas Tech university health sciences center, 110.01 note.  
     Land management, 110.11.  
 Texas Womens university,  
     Contracts, security personnel, 107.81 et seq.  
     Eminent domain, restriction, 107.45.  
     Gifts, 107.69.  
     Parking and parking facilities, 107.83.  
     Traffic citations, 107.81 et seq.  
 Traffic citations,  
     North Texas State University, 105.91.  
     Texas womens university, 107.81.  
 Transfers,  
     Loans, 57.45.  
     Medical equipment, 65.43.  
 Tuition,  
     Concurrent enrollment, tuition limits, 54.062.  
     Junior or community colleges, 61.073.  
 Exemptions,  
     Aged persons, exemption, 54.210.  
     Private institutions of higher education, granting degrees, 61.303.  
     Foreign students, regulation, 61.072.  
     Limits, concurrent enrollment, 54.062.  
     Refunds, 54.006.  
     Southwest collegiate institute for the deaf, 131.005.  
 Tuition equalization grants, 61.221 et seq.  
 University of Houston,  
     Downtown college, 111.90 et seq.  
     Human resources center, change of name to labor and industrial relations institute, 111.71 note.  
     Labor and industrial relations institute, 111.71 et seq.  
     Regents,  
         University system, 111.20.  
     Student center fees, 111.42.  
     University system, 111.20.  
 University of Houston—downtown college, establishment, 111.90 et seq.  
 University of Texas, Arlington,  
     Shuttle bus fees, 68.05.  
     Student union fees, 68.04.  
 University of Texas, Austin,  
     Contracts, Sesquicentennial museum, 67.25.  
     McDonald observatory at Mount Locke, visitor center, construction, 67.53.  
     Sesquicentennial museum, 67.25.

**COLLEGES AND UNIVERSITIES**

—Cont'd

University of Texas, Dallas,  
     Student union building, 70.08.  
 University of Texas, San Antonio,  
     Fees, student union building fees, 71.07.  
     Student union building fees, 71.07.  
 University of Texas, Tyler, 76.01 et seq.  
     Actions and proceedings, 76.04.  
     Endowments, 76.05.  
     Gifts, 76.05.  
     Management of property, 76.06.  
     Venue, 76.04.  
 University of Texas system,  
     Affidavits, royalty payments, 66.74.  
     Board members, defense against claims, 65.42.  
     Commercial paper, royalty payments, 66.74.  
     Contracts, sale or processing of gas, filing, 66.74.  
     Defense of board members, 65.42.  
     Fines and penalties, royalty payments, 66.74.  
     McDonald observatory at Mount Locke, visitor center, construction, 67.53.  
     Medical schools,  
         Admission policies, contracts to practice in rural areas, 65.41.  
         Officers and employees, governing boards, 65.42.  
         Supporting documents, royalty payments, 66.74.  
     University system, 95.01 et seq.  
     University system of south Texas, 104.01.  
     Corpus Christi state university, 104.91.  
         Change of name from Texas A & I university, Corpus Christi, 104.01 note.  
         Grants or gifts, 104.93.  
         Part of system, 104.01.  
     Directors, 104.11.  
         Change of name from board of directors of Texas A & I university, 104.01 note.  
         Powers, 104.15.  
     Executive officer, 104.14.  
     Laredo state university, 104.41.  
         Change of name from Texas A & I university, Laredo, 104.01 note.  
         Part of system, 104.01.  
     Texas A & I university, 104.21.  
         Agricultural lands, crops, etc., purchase or lease, 104.51.  
         Directors, change of name to board of directors of the university system of south Texas, 104.01 note.  
         Part of system, 104.01.  
     Upper-level educational centers, Pan American university, Brownsville, city of, 112.51 et seq.  
     Utilities, Texas Tech university health sciences center, easements, 110.12.  
     Visitor center, McDonald observatory at Mount Locke, construction, 67.53.  
     Waiver, mandatory student services fees, concurrent enrollment in more than one institution, 54.505.  
     Warrants, guaranteed student loans, default, 57.48.  
     West Texas state university,  
         Fees, student center, 102.34.  
         Panhandle-Plains historical museum, construction and donations, 102.35.  
         Student center fee, 102.34.

**COLLEGES AND UNIVERSITIES**

—Cont'd

Womens University. Texas Womens University, generally, ante.  
 Workloads, academic, 51.401 et seq.  
**COMMITTEES**  
 Advisory Committees, generally, this index.  
 Foundation school fund budget, 16.257.  
 Language proficiency assessment, 21.462.  
 State textbook committee, Sunset Act, application, 12.11.  
**COMMON MARKETS**  
 Colleges and universities, interstate agreements, 160.07.  
**COMMUNITY EDUCATION**  
 Defined, 11.18.  
 Funds, 11.18.  
**COMMUNITY EDUCATION SERVICES**  
 Generally, 11.201.  
**COMPACT FOR EDUCATION COMMISSIONER, OFFICE OF**  
 Sunset Act, application, 161.021.  
**COMPENSATION AND SALARIES**  
 Defined,  
     Resident physicians, 58.002, 61.097.  
 Foundation school program, professional and paraprofessional personnel, foundation school program fund participation requirements, 16.055.  
 Physicians and surgeons, resident physicians, 58.001 et seq., 61.097 et seq.  
 Resident physicians, 61.097 et seq.  
 Texas school for the blind,  
     Advisory committees and governing board, 11.061.  
     Staff, 11.063.  
 Texas school for the deaf, board, 11.03.  
**CONDEMNATION**  
 Eminent Domain, generally, this index.  
**CONFIDENTIAL OR PRIVILEGED INFORMATION**  
 School taxes, property value studies, 11.87.  
**CONSOLIDATION**  
 School districts,  
     Dormant school districts, 19.246.  
**CONSUMERS ADVISORY COMMITTEE, TEXAS SCHOOL FOR THE BLIND**  
 Generally, 11.061.  
**CONTAINERS**  
 Drugs and medicine, schools, 21.914.  
**CONTRACTS**  
 Developmentally disabled children, intervention programs, 11.092.  
 Intervention programs, developmentally disabled children, 11.092.  
 Medical residency program contracts, 61.501 et seq.  
 Nonrenewal, term contracts, 21.201 et seq.  
 Physicians and surgeons, resident physicians, 61.097 et seq.  
 Regional education service centers, special education services, 16.104.

References are to Sections

**CONTRACTS—Cont'd**

Resident physicians, 61.097 et seq.  
 School taxes, appraisal and assessment of property, 11.81.  
 Schools and school districts, television instructional services, 21.915.  
 Sesquicentennial museum, 67.25.  
 Term contracts, 21.201 et seq.

**CORPORATIONS**

Defined, guaranteed student loans, 57.02.  
 Nonprofit corporations, contract with home rule cities, purchase of student loan notes, 53.47.  
 Texas guaranteed student loan corporation, 57.11.  
 Texas Nonprofit Corporation Act, application to guaranteed student loan corporation, 57.22.

**CORPUS CHRISTI STATE UNIVERSITY**

University system of south Texas. Colleges and Universities, this index.

**CORRECTIONAL INSTITUTIONS**

School textbooks, discontinued textbooks, libraries, 12.63.  
 Vocational education, advisory council, member, 31.12.

**COSTS**

Community education services, 11.201.  
 Deaf persons, regional day school programs, 11.10.  
 Foundation school program, current operating cost, 16.151, 16.152.  
 Volunteer programs, 11.202.

**COUNCIL**

Youth Council, generally, this index.

**COUNTIES**

County-line districts, dormant, consolidation, 19.246.

**COUNTY GOVERNING BODY**

Schools and School Districts, this index.

**COUNTY SCHOOL SUPERINTENDENT**

Schools and School Districts, this index.

**COURSES OF STUDY**

Off-campus courses, approval, coordinating board, 61.051.  
 Texas college of osteopathic medicine, 105.73.

**CRAFTSMEN**

Apprenticeship program, 33.01 et seq.

**CRIMES AND OFFENSES**

Alcoholic beverages, school buildings and grounds, 4.22.  
 Schoolteachers Retirement System, this index.

**CURRICULUM**

Courses of Study, generally, this index.

**DEAF AND MUTE PERSONS**

Colleges and universities, Texas state technical institute, 135.05.  
 Educational services, 11.03.  
 Multiply handicapped deaf students, services, 11.03.  
 Schools and school districts,  
 Special education programs, 16.104.

**DEAF AND MUTE PERSONS—Cont'd**  
 Southwest collegiate institute, 131.001 et seq.

**DEDICATION**

Texas Tech university, utilities easements, 109.48.

**DEEDS AND CONVEYANCES**

Texas Tech university, utilities easements, 109.48.  
 Texas Tech university health sciences center, utilities easements, 110.12.

**DEFAULT**

Guaranteed student loans, 57.47.

**DEGREES**

Private institutions of higher education, 61.301 et seq.  
 Texas college of osteopathic medicine, 105.73.

**DELINQUENT, DEPENDENT AND NEGLECTED CHILDREN**

Juvenile Delinquents and Dependents, generally, this index.

**DEPENDENT CHILDREN**

Juvenile Delinquents and Dependents, generally, this index.

**DEPENDENTS**

Defined, college tuition, 54.052.

**DEPOSITORIES**

Colleges and universities, guaranteed student loans, 57.78.  
 Guaranteed student loans, 57.78.  
 School Depository Act, 23.71 et seq.

**DEVELOPMENTALLY DELAYED CHILD**

Defined, intervention programs, 11.092.

**DEVELOPMENTALLY DISABLED CHILDREN**

Intervention programs, 11.092.

**DIAGNOSTIC AND EVALUATION CENTER FOR MULTIPLY HANDICAPPED BLIND CHILDREN AND YOUTHS**

Generally, 11.091.

**DISASTERS**

Schools, days of instruction, exemptions, 16.052.

**DISCHARGE**

Term contracts, 21.210.

**DISCRIMINATION**

Guaranteed student loans, 57.50.

**DOCTORS**

Physicians and Surgeons, generally, this index.

**DORMANT SCHOOL DISTRICTS**

Generally, 19.246.

**DRIVER EDUCATION**

Foundation school program, categorical program aid, 16.177.

**DRUGS AND MEDICINE**

Administering of medication, school employees and school districts, immunity, 21.914.

**DRUGS AND MEDICINE—Cont'd**

Labels, schools and school districts, 21.914.

**EASEMENTS**

Texas Tech university, utilities easements, 109.48.  
 Texas Tech university health sciences center, utilities, 110.12.

**EDUCATION, STATE BOARD**

Sunset Act, application, 11.211.

**EDUCATIONAL ADVISORY COMMITTEE, TEXAS SCHOOL FOR THE BLIND**

Generally, 11.061.

**EDUCATIONAL CENTERS**

Lamar university at Orange, 108.36.  
 Lamar university at Port Arthur, 108.36.

**EDUCATIONALLY DISADVANTAGED PUPILS**

Foundation school program, support, categorical program aid, 16.176.

**ELDERLY PERSONS**

Colleges and universities, auditing courses, fees, 54.210.

**ELECTIONS**

Dormant school districts, consolidation, bonds, assumption, 19.246.

**ELECTRICITY**

Texas Tech university, utilities easements, conveyance, 109.48.  
 Texas Tech university health sciences center, easements, 110.12.

**ELIGIBLE HANDICAPPED PUPIL**

Defined, transportation allotments, 16.206.

**EMINENT DOMAIN**

North Texas State university, restrictions, 105.44.  
 Texas women's university, restrictions, 105.44.

**EMOTIONALLY DISTURBED STUDENTS**

Defined, special education, 16.104.

**EMPLOYMENT**

Apprenticeship programs, 33.01 et seq.  
 Colleges and universities, adult education, technical assistance, information services, 111.71 et seq.  
 Schools and school districts,  
 Police records, access, 21.917.  
 Private employment agencies, 21.916.

**EMPLOYMENT AGENCIES**

Schools and school districts, 21.916.

**ENDOWMENTS**

University of Texas, Tyler, 76.05.

**ENGINEERING EXTENSION SERVICE**

Sunset Act, application, 88.003, 88.004.

**ENRICHMENT**

Foundation school program, equalization aid, 16.301 et seq.

References are to Sections

**EQUALIZATION**

Foundation school program enrichment, 16.301 et seq.

**EX OFFICIO COUNTY SUPERINTENDENTS**

Schools and school districts, Abolition of office, certain counties, 17.94 et seq.

**EXAMINATIONS**

Diagnostic and evaluation center, multiply handicapped blind children and youths, 11.091.

**EXCHANGE OF PROPERTY**

Texas Southern university, land, 106.35.

**EXECUTIVE OFFICER**

University system of south Texas, 104.14.

**EXEMPTIONS**

Compulsory school attendance, 21.033.  
Private institutions of higher education, granting degrees, 61.303.  
School funds, fees, 20.53.  
Schools and school districts, Days of instruction, 16.052.  
Fees, 20.53.  
Term contracts, 21.211.

**EXPELLED STUDENTS**

Schools and school districts, compulsory attendance, exemption, 21.033.

**EXPENSES AND EXPENDITURES**

Advisory council on private degree-granting institutions of higher education, 61.314.  
Apprenticeship programs, records, 33.02.  
Community education services, 11.201.  
Diagnostic and evaluation center, multiply handicapped blind children and youths, 11.091.  
Schools and school districts, Community guidance center programs, 16.404.  
Independent school districts, 20.48.  
Texas school for the deaf, board, 11.03.

**EXTENDED TIME PROGRAMS**

Bilingual education, 21.458.

**EXTENSION CENTERS**

Private schools, 61.303.

**EXTRACURRICULAR ACTIVITIES**

School buses, use, 16.204.

**FALSIFICATIONS**

Foundation school program, records, state fund allocations, 16.255.

**FAST GROWING SCHOOL DISTRICTS**

Foundation school program, support, 16.106.

**FEDERAL AID**

Student loans, reports, federally guaranteed loan program, contract, 53.47.

**FEES**

Apprenticeship programs, records, 33.02.  
Developmentally disabled children, intervention programs, 11.092.  
Diagnostic and evaluation center, multiply handicapped blind children and youths, 11.091.

**FEES—Cont'd**

Intervention programs, developmentally disabled children, 11.092.

**FINANCIAL STATEMENTS AND REPORTS**

Texas school for the deaf, 11.03.

**FINANCING**

Foundation school program, 16.251 et seq.

**FINES AND PENALTIES**

School buses, Unauthorized use or route variations, 16.205.

**FLOODS AND FLOOD CONTROL**

Schools, days of instruction, exemptions, 16.052.

**FOREIGN STUDENTS**

Colleges and universities, crimes and offenses, expulsion, 51.909.

**FORESTS AND FORESTRY**

State forester, Sunset Act, review of office, 88.1011.

**FORMS**

School taxes, appraisals and assessments, 11.84.

**FOSTER CHILDREN**

Schools and school districts, admission, 21.031.

**FOUNDATION SCHOOL FUND BUDGET COMMITTEE**

Generally, 16.257.

**FOUNDATION SCHOOL PROGRAM**

Appeal and review, local fund assignment, 16.252.  
Categorical program aid, 16.176 et seq.  
Committees, foundation school fund budget committee, 16.257.  
Costs, assessment instruments, 16.176.  
Current operating cost, 16.151, 16.152.  
Driver education, categorical program aid, 16.177.  
Education program personnel, 16.102.  
Educationally disadvantaged pupils, support, categorical program aid, 16.176.  
Enrichment, equalization aid, 16.301 et seq.  
Financing, 16.251 et seq.  
Fund, participation prerequisites, 16.051 et seq.  
Fund budget committee, 16.257.  
Handicapped children, special education program, 16.104.  
In-service training, schoolteachers, 16.055, 16.056.  
Personnel support, 16.101 et seq.  
Personnel units, 16.102.  
Handicapped children, special education programs, 16.104.  
Schools and school districts, 16.001 et seq.  
Educationally disadvantaged pupils, support, categorical program aid, 16.176.  
Eligibility of students, 16.003.  
Enrichment, equalization aid, 16.301 et seq.  
Fast growing school districts, support, 16.106.

**FOUNDATION SCHOOL PROGRAM**

**—Cont'd**

Schools and school districts—Cont'd  
Financing, 16.251 et seq.  
Gifted and talented students, demonstration programs, support, categorical program aid, 16.176.  
Transportation, 16.201 et seq.  
Schoolteachers, Compensation, fund participation requirements, 16.056.  
In-service training, 16.052, 16.055.  
Personnel support, 16.103.  
Special services, handicapped children, 16.104.  
Transportation, 16.201 et seq.  
Vocational personnel units, support, 16.103.

**FOUR-QUARTER SYSTEM**

Schools and school districts, 21.008.

**FUNDS**

Apprenticeship training programs, notice, 33.04.  
Community education, 11.18.  
Diagnostic and evaluation center, multiply handicapped blind children and youths, 11.091.  
Gifted and talented students, exemplary programs, 16.502.  
Handicapped persons, vocational education, 31.40.  
Texas school for the blind, 11.063.

**GIFTED AND TALENTED STUDENTS**

Defined, educational programs, 16.501.  
Exemplary programs, 16.501.

**GIFTS**

Diagnostic and evaluation center, multiply handicapped blind children and youths, 11.091.  
Panhandle-Plains historical museum, 102.35.  
Texas college of osteopathic medicine, 105.78.

**GOVERNOR**

Appointments,  
School tax assessment practices board, 11.71 et seq.  
Texas school for the blind, 11.061.  
Texas school for the deaf board, 11.03.  
University system of south Texas, directors, 104.11.

**GRADE POINT AVERAGE**

Colleges and universities, uniform method of calculating, 61.074.

**GRANTS**

Developmentally disabled children, intervention programs, 11.092.  
Intervention programs, developmentally disabled children, 11.092.  
Southwest collegiate institute for the deaf, 131.006.  
Texas assistance grants program, 56.016.  
Texas college of osteopathic medicine, 105.78.

**GUARANTEED STUDENT LOANS**

Colleges and universities, 57.01 et seq.

## INDEX TO EDUCATION CODE

References are to Sections

**HANDICAPPED CHILDREN**

Defined,  
Coordination services, 11.103.

**HANDICAPPED PERSONS**

Coordination of services, 11.103.  
Defined, handicapped children, special education programs, 16.104.  
Residential care facilities, state aid, 30.81 et seq.  
Schools and School Districts, this index.  
Special education programs, 1.04, 16.104.  
Plans, 11.33.  
Visually handicapped children, 11.052.  
State aid, residential care facilities, 30.81 et seq.  
Vocational education program,  
Advisory council for technical-vocational education, duties, 31.33.  
Funds, 31.40.  
Reports, 31.34.

**HANDICAPPED STUDENTS**

Defined, special education, 16.104.

**HEARINGS**

Private institutions of higher education,  
revocation of certificate of authority, 61.310.  
School taxes,  
Property value studies, protest, 11.86.  
Term contracts, 21.205.

**HIGH SCHOOLS AND DISTRICTS**

Cost,  
Summer school program, 16.522,  
16.523.  
Volunteer programs, 11.202.  
Private programs, summer school, 16.521 et seq.  
Reports, summer school programs,  
16.524.  
Rural high school districts,  
Tax collectors, bond, certain districts,  
25.07.  
Summer school, private programs, 16.521 et seq.  
Volunteers, 11.202.

**HISTORICAL COLLECTION**

Texas womens university, 107.69.

**HOLIDAYS**

Jewish holidays, excuse from school attendance, 21.035.

**HOME RULE CITIES**

Contracts with nonprofit corporations,  
purchase of student loan notes,  
53.47.

**HONORARY DEGREES**

Private institutions of higher education,  
61.312.

**HOSPITALS**

Colleges and universities, medical equipment, transfers, 65.43.  
Texas college of osteopathic medicine,  
teaching hospital, 105.75.

**HUMAN RESOURCES CENTER**

Colleges and universities, university of Houston, change of name to labor and industrial relations institute,  
111.71 note.

**IMMUNITIES**

Privileges and Immunities, generally, this index.

**IMMUNIZATION**

Armed Forces, exemption, 2.09.

**INDEX VALUE**

Defined, school taxes, 11.86.

**INDIGENT PERSONS**

Technical-vocational education council,  
member, 31.12.

**INJUNCTIONS**

Private institutions of higher education,  
granting degrees, 61.316.

**IN-SERVICE TRAINING**

Schoolteachers, foundation school program requirement, 16.052, 16.055.

**INSPECTION AND INSPECTORS**

Bilingual education, 21.461.

**INTERPRETERS**

Colleges and universities, Texas state technical institute, deaf students,  
135.05.

**INTERSTATE AGREEMENTS**

Colleges and universities, academic common markets, 160.07.

**INTERSTATE COMPACTS**

Education commissioner, office of, Sunset Act, application, 161.021.  
South-central interstate forest fire protection compact administrator, Sunset Act, review of office, 88.1131.

**INTERVENTION PROGRAMS**

Developmentally disabled children,  
11.092.

**INVESTIGATIONS AND INVESTIGATORS**

Private institutions of higher education,  
granting degrees, 61.316.

**INVESTMENTS**

Guaranteed student loans, 57.78.  
Securities, school funds, 15.03.

**JAILS**

School textbooks, discontinued textbooks, libraries, 12.63.

**JEWISH FAITH**

Excuse from school attendance, 21.035.

**JUNIOR COLLEGES AND UNIVERSITIES**

Funds, tuition and laboratory fee exemptions, 61.073.

**JUVENILE DELINQUENTS AND DEPENDENTS**

Applicability of education code, 1.04.  
Community guidance center pilot programs, schools, 16.401 et seq.  
Residential care facilities, state aid, 30.81 et seq.  
School-community guidance centers,  
16.401 et seq.

**LABELS, BRANDS AND MARKS**

Drugs and medicine, schools and school districts, 21.914.

**LABOR AND INDUSTRIAL RELATIONS INSTITUTE**

Generally, 111.71 et seq.  
Colleges and universities, university of Houston, change of name from human resources center, 111.71 note.

**LAREDO STATE UNIVERSITY**

University system of south Texas. Colleges and Universities, this index.

**LAW SCHOOL APTITUDE TEST**

Review courses, exemptions, Proprietary School Act, 32.12.

**LEARNING DISABLED STUDENTS**

Defined, special education, 16.104.

**LEARNING SYSTEMS**

Defined, textbooks,  
Elementary grades, 12.14.  
High schools, 12.15.

**LEASES**

Colleges and universities,  
Real estate, state university system,  
95.33.  
Sealy-Smith Foundation, 74.002.  
Prairie View A & M university, mineral leases, 87.103.  
Texas Southern university, land, 106.35.

**LEGISLATURE**

Colleges and universities, funds, reports,  
51.005.  
Coordinating board, Texas colleges and university systems, recommendations, 61.051.

**LIBRARIES**

Standards, 11.36.

**LINEAR DENSITY**

Defined, transportation allotments,  
16.206.

**LOCAL FUND ASSIGNMENT**

Schools and school districts, foundation school program, 16.252, 16.253.

**LOCATION**

Texas college of osteopathic medicine,  
105.72.

**LOW-INCOME FAMILIES**

Breakfast programs, schools and school districts, 21.914.

**MCDONALD OBSERVATORY, MOUNT LOCKE**

Visitor center, construction, 67.53.

**MACHINERY AND EQUIPMENT**

Colleges and universities, medical equipment, transfers, 65.43.

**MAIL AND MAILING**

School funds, state aid, eligibility notice,  
11.79.

**MAINTENANCE**

School buses, 16.204.

**MANDATORY STUDENT SERVICES FEES**

Defined, colleges and universities, 54.505.

**MANUALS**

Appraisers, school taxes, 11.77.

# INDEX TO EDUCATION CODE

694

References are to Sections

## MARITIME ACADEMY

Texas A & M University at Galveston, generally. Colleges and Universities, this index.

## MARKS, BRANDS AND LABELS

Drugs and medicine, schools and school districts, 21.914.

## MEDICAL CARE AND TREATMENT

School employees and school districts, administering of medication, immunities, 21.914.

Texas school for the blind, ophthalmological or optometric services, 11.08.

## MEDICAL CORPORATIONS

Medical schools, security officers, 51.214.

## MEDICAL SCHOOL

Defined, medical residency program contracts, 61.501.

## MEMBERS AND MEMBERSHIP

Apprenticeship and training advisory committee, 33.05.

## MENTALLY DEFICIENT AND MENTALLY ILL PERSONS

Residential care facilities, state aid, 30.81 et seq.

Schools and school districts, Residential care facilities, state aid, 30.81 et seq.

State aid, residential care facilities, 30.81 et seq.

Vocational education,

Advisory council for technical-vocational education, duties, 31.33.

Funds, 31.40.

Reports, 31.34.

## MENTALLY RETARDED

Defined, residential care facilities, 30.82.

## MENTALLY RETARDED STUDENTS

Defined, special education, 16.104.

## MIDWESTERN STATE UNIVERSITY

Generally, 103.01 et seq.

## MILITARY FORCES

Dependents, tuition, 21.0312.

Immunization, exemption, 2.09.

## MINES AND MINERALS

Prairie View A & M university, mineral leases, 87.103.

## MOODY COLLEGE

Texas A & M University at Galveston, generally. Colleges and Universities, this index.

## MULTIPLY HANDICAPPED STUDENTS

Defined, special education, 16.104.

## MUSEUMS

Panhandle-Plains historical museum, construction and donations, 102.35.

Sesquicentennial museum, contracts, 67.25.

## NAMES

Change of names, generally. Colleges and Universities, this index.

Colleges and Universities, this index.

## NONPROFIT CORPORATIONS

Contract of home rule cities, bonds, purchase of student loan notes, 53.47.  
Medical schools, security officers, 51.214.

## NONRENEWAL

Term contracts, 21.201 et seq.

## NOTICE

Apprenticeship training programs, funds, 33.04.

School funds, state aid, eligibility, 11.79.

Term contract, 21.204, 21.206.

## NURSES AND NURSING

Clinical experience, academic credit, 51.906.

## OFF-CAMPUS UNITS

Private schools, 61.303.

## OFFICERS AND EMPLOYEES

Youth council, schoolteachers retirement system, membership, 1.04.

## OIL AND GAS

Prairie View A & M university, leases, 87.103.

Texas Tech university, utilities easements, conveyance, 109.48.

Texas Tech university health sciences center, easements, 110.12.

## OPTOMETRY AND OPTOMETRISTS

Texas school for the blind, optometric services, 11.08.

## OSTEOPATHIC MEDICINE

Texas college of osteopathic medicine, generally. Colleges and Universities, this index.

## PANHANDLE-PLAINS HISTORICAL MUSEUM

Construction and donations, 102.35.

## PER DIEM

Real estate research advisory committee, 86.52.

## PERSONAL PROPERTY

Colleges and universities, abandoned or unclaimed, 51.213.

## PHYSICALLY HANDICAPPED STUDENTS

Defined, special education, 16.104.

## PHYSICIANS AND SURGEONS

Compensation and salaries, resident physicians, 58.001 et seq.

Contracts, resident physicians, 61.097 et seq.

Medical schools, generally. Colleges and Universities, this index.

Resident physicians,

Compensation, 58.001 et seq.

Contracts, 61.097 et seq.

Student loans, repayment cancellation, employment by designated state agencies, 52.40.

## PILOT PROGRAMS

Schools and school districts, community guidance centers, 16.401 et seq.

## PLANS AND SPECIFICATIONS

Apprenticeship training programs, 33.06.

## PLANS AND SPECIFICATIONS

—Cont'd

Schools and school districts, 11.32.

Handicapped children, special education, 11.33.

## POLICE

Security Personnel, generally, this index.

## POOR PERSONS

Technical-vocational education council, member, 31.12.

## POPULAR NAME LAWS

Student Financial Assistance Act of 1975, 56.001 et seq.

## POSTSECONDARY EDUCATIONAL INSTITUTION

Defined, guaranteed student loans, 57.02.

## PREPARATORY INSTRUCTION

Defined, vocational education, 33.01.

## PRIMARY TEACHING HOSPITAL

Defined, resident physicians, 58.002, 61.097.

## PRISONS AND PRISONERS

School textbooks, discontinued textbooks, libraries, 12.63.

## PRIVATE EMPLOYMENT AGENCIES

Schools and school districts, 21.916.

## PRIVATE PROGRAMS

Summer school, 16.521 et seq.

## PRIVATE SCHOOLS

Appeal and review, certificate of authority revocation, 61.310.

Branch campuses, 61.303.

Certificates of authority, 61.308.

Extension centers, 61.303.

Hearings, certificate of authority, revocation, 61.310.

Off-campus units, 61.303.

Technical-vocational education council, member, 31.12.

Vocational education, advisory council, member, 31.12.

## PRIVILEGES AND IMMUNITIES

Medical schools, security officers, 51.214.

School employees and school districts, administering of medication, 21.914.

Student teachers, 13.906.

## PROBATION

Term contracts, 21.209.

## PROTEST

School taxes,

Property value studies, 11.86.

## PSYCHOLOGISTS AND PSYCHOLOGY

Student loans, repayment cancellation, employment by designated state agencies, 52.40.

Texas school for the blind, psychological services, 11.08.

## PUBLIC EDUCATIONAL GRANTS PROGRAM

Generally, 56.031 et seq.

## INDEX TO EDUCATION CODE

References are to Sections

**PUBLIC LANDS**

University lands, leases, Sunset Act, review of board, 66.62.

**PUBLIC POLICY**

Student Financial Assistance Act of 1975, 56.002.

**PUBLIC SCHOOL PRINCIPALS**

School Principals, generally, this index.

**PUBLIC TRANSPORTATION COMPANIES**

Schools and school districts, contracts for pupil transportation, 16.212.

**PUBLIC UTILITIES**

Texas Tech university health sciences center, easements, 110.12.

**PURCHASES**

School buses, 16.211.

**QUARTER SYSTEM**

Schools and school districts, 21.008.

**RATES AND CHARGES**

School taxes, 20.03.

**REAL ESTATE**

Colleges and universities,

Pan American university acquisition and disposition, 112.38.

State university system, 95.33.

Eminent Domain, generally, this index.

Prairie View A &amp; M university, control and supervision, 87.103.

**REAL ESTATE RESEARCH CENTER**

Sunset Act, review of center, 86.511.

**RECIPROCITY**

Colleges and universities, academic common market, 160.07.

**RECOMMENDATIONS**

Apprenticeship training programs, 33.10.

**RECORDS AND RECORDATION**

Apprenticeship programs, fees, 33.02.

Consolidation order, addition of territory tax purposes, minutes, 19.247.

Private institutions of higher education, 61.315.

School funds,

Foundation school program, falsification, state fund allocations, 16.255.

School taxes, appraisal and assessment, 11.84.

Schools and School Districts, this index.

**REGIONAL EDUCATION MEDIA CENTER**

Schools and school districts, 11.33.

**REGIONAL EDUCATION SERVICE CENTERS**

Schools and School Districts, this index.

Special education, contracts, 16.104.

**REGULAR ELIGIBLE PUPIL**

Defined, transportation allotments, 16.206.

**RELATED INSTRUCTIONS**

Defined, vocational education, 33.01.

**RELIGION**

Jewish holidays, excuse from school attendance, 21.035.

**REPORTS**

Blind persons, vocational education programs, 31.34.

Guaranteed student loans, 57.77.

Handicapped persons, vocational education programs, 31.34.

Loans to students, federally guaranteed loan program, contracts, 53.47.

Mentally deficient and mentally ill persons, vocational education programs, 31.34.

Real estate research center, 86.52.

School taxes, 11.82.

Texas school for the blind, superintendents, 11.061.

**RESEARCH**

Real estate research center, Sunset Act, review of center, 86.511.

**RESERVE FUND**

Guaranteed student loans, 57.71.

**RESIDED IN**

Defined, college tuition, 54.052.

**RESIDENCE**

Defined, college tuition, 54.052.

**RESIDENT DISTRICT**

Defined, handicapped children, special education, 16.104.

**RESIDENT PHYSICIANS**

Compensation and salaries, 58.001 et seq. Contracts, 61.097 et seq.

**RESIDENTIAL CARE FACILITIES**

State aid, 30.81 et seq.

**RESOLUTIONS**

School for the deaf, audits, 11.03.

**RULES AND REGULATIONS**

Apprenticeship training programs, 33.09.

Colleges and Universities, this index.

Medical residency program contracts, 61.503.

Private institutions of higher education, certificates of authority to grant degrees, 61.310.

Schools and school districts,

Transportation, 16.209.

Texas assistance grants program, 56.013, 56.014, 56.016.

Transportation, 16.209.

**RURAL MEDICAL EDUCATION BOARD**

Medical school admissions policies, contracts to practice in rural areas, 61.096, 65.41, 105.80, 110.11.

**SALES**

Texas Southern university, land, 106.35.

Texas Tech university, agricultural products, use of proceeds, 109.49.

**SCHOOL BONDS**

Certificates of indebtedness, investments, 20.42.

Elections,

Independent school districts, authorized but unissued bonds, 20.52.

Independent school districts,

Elections, authorized but unissued bonds, 20.52.

School Depository Act, 23.71 et seq.

**SCHOOL BONDS—Cont'd**

Unissued bonds, independent school districts, elections, 20.52.

**SCHOOL BUILDINGS AND GROUNDS**

Crimes and offenses, alcoholic beverages, 4.22.

Destruction, replacement, competitive bidding, 21.901.

Expenses and expenditures, independent school districts, 20.48.

Independent school districts,

Expenses and expenditures, 20.48.

**SCHOOL BUSES**

Approved routes, 16.205.

Contracts, 16.204.

Disposition, 21.167.

Extracurricular activities, use, 16.204.

Foundation school program, transportation services, 16.201 et seq.

Handicapped persons,

State allocation, 16.206.

Transportation routes, 16.207.

Hazardous traffic conditions, transportation allotments, 16.206.

Maintenance, 16.204.

Purchase, 16.211.

Routes, 16.207.

Approval, 16.205.

Standees, 21.173.

Transportation routes, 16.207.

**SCHOOL ELECTIONS**

Independent school districts,

Buildings and grounds, expenses, 20.48.

**SCHOOL FUNDS**

Appeal and review, state aid eligibility, 11.79.

Banks and banking,

Collection agent for permanent school fund investments, 15.13.

Loan programs, securities, 15.14.

Blind persons,

Special education services, 1.04, 16.104.

Supplemental allowances, 11.102.

Certificates, state aid eligibility, 11.79.

Certificates of indebtedness, proceeds, investments, 20.42.

Collection agent, permanent school fund investments, 15.13.

County governing board,

Abolished offices, transfers of funds to school districts, 17.97.

Termination of state fiscal support in certain counties, 17.94.

County school superintendents,

Abolished offices, transfers of funds to school districts, 17.97.

Termination of state fiscal support in certain counties, 17.94.

Depositories,

School Depository Act, 23.71 et seq. Dividends, securities, collection agent, 15.13.

Exchange of securities, 15.03.

Exemptions, fees, 20.53.

Fees, 20.53.

Foundation school program, 16.251 et seq.

Enrichment, equalization aid, 16.301 et seq.

Prerequisites for participation, 16.051 et seq.

Gifted and talented students, exemplary programs, 16.502.

# INDEX TO EDUCATION CODE

696

References are to Sections

## SCHOOL FUNDS—Cont'd

Hearings, state aid eligibility, 11.79.  
 Interest, securities, collection agent, 15.13.  
 Investments,  
     Certificates of indebtedness, proceeds, 20.42.  
     Collection agent, 15.13.  
     Securities, 15.03.  
 Loan programs, securities, 15.14.  
 Mail and mailing, state aid, eligibility notice, 11.79.  
 Notice, state aid, eligibility, 11.79.  
 Payments, receipt, dividends and interest on securities, 15.13.  
 Purchase of securities, 15.03.  
 Receipt of payment, securities, dividends and interest, 15.13.  
 Reports,  
     Falsification, state fund allocation, 16.255.  
 Sale of securities, 15.03.  
 Securities,  
     Collection agent, 15.13.  
     Dividends and interest, receipt of payment, 15.13.  
     Loan programs, 15.14.  
     Purchases, sales, exchanges, 15.03.  
 State aid,  
     County school administrative offices, termination in certain counties, 17.94.  
     Eligibility, appraisal and assessment of property compliance, 11.78 et seq.  
     Television instructional services, 21.915.  
 Studies, 16.053.  
 Talented and gifted student, exemplary programs, 16.502.  
 Transfers, abolished offices of county school superintendents and county governing boards, 17.97.  
 Transportation,  
     County and district transportation funds, 16.203.  
     Purposes, use, 16.208.

## SCHOOL LIBRARIES

Standards, 11.36.

## SCHOOL OFFICERS AND EMPLOYEES

Agriculture teacher, service days, 16.055.  
 Compensation and salaries,  
     Contracts, 16.055  
     Minimum salary, 16.056.  
     Pay grades, 16.055.  
     Sick leave, 13.904, 21.919.  
 Confidential or privileged information, police records, 21.917.  
 Contracts,  
     Compensation, 16.055.  
     Private employment agencies, 21.916.  
 Counselors, term contracts, 21.201 et seq.  
 County superintendent of schools, generally. Schools and School Districts, this index.  
 Drugs and medicine, administering medication, immunities, 21.914.  
 Minimum salary, 16.056.  
 Pay grades, 16.055.  
 Police records, access, 21.917.  
 Private employment agencies, 21.916.  
 Privileges and immunities, administering medication, 21.914.  
 Records and recordation, police records, 21.917.

## SCHOOL OFFICERS AND EMPLOYEES—Cont'd

Sick leave, compensation, 13.904, 21.919.  
 Signatures, police records, statement, 21.917.  
 Statement, police records, 21.917.

## SCHOOL PRINCIPALS

Contracts, term contracts, 21.201 et seq.  
 Duties, 21.913.

## SCHOOL SUPERINTENDENTS

County superintendent of schools, generally. Schools and School Districts, this index.

## SCHOOL TAXES

Ad valorem tax base reduction, lost revenues, state payments, 20.81 et seq.  
 Addition of territory, consolidation order, county school board, 19.247.  
 Appeal and review, property value studies, protest, 11.86.  
 Appraisal,  
     Common school districts, 22.11.  
     Uniformity, 11.71 et seq.  
 Assessments, uniformity, 11.71 et seq.  
 Audits and auditing, state payments, ad valorem tax base reduction, 20.86.  
 Confidential or privileged information, property value studies, 11.87.  
 Consolidation, addition of territory, county school board, 19.247.  
 Contracts, appraisal and assessment of property, 11.81.  
 County school board, consolidation order, addition of territory, 19.247.  
 Forms, assessments and appraisals, 11.84.  
 Hearings, property value studies, protest, 11.86.  
 Index values, 11.86.  
 Lost revenues, state payments, ad valorem tax base reduction, 20.81 et seq.  
 Manuals, appraisers, 11.77.  
 Protest,  
     Property value studies, 11.86.  
 Rates, 20.03.  
 Records, appraisals and assessment, 11.84.  
 Replacement, state payments, ad valorem tax base reduction, 20.81 et seq.  
 Reports, 11.82.  
 Standards, appraisal and assessment of property, 11.74.  
 State aid, eligibility, appraisal and assessment of property compliance, 11.78 et seq.  
 State payments, lost revenues, reduction of ad valorem tax base, 20.81 et seq.  
 Studies, property value, 11.86.  
 Tax assessment practices board, 11.71 et seq.  
 Technical assistance, 11.85.  
 Training, appraisers and assessors, 11.75, 11.76.

## SCHOOL TEXTBOOKS

Adoption, cycle, 12.34.  
 Costs, adoption, cycle, 12.34.  
 Defined, 12.01.  
     Elementary grades, 12.14.  
     High schools, 12.15.  
 Discontinued textbooks, prison library, 12.63.  
 Libraries, prisons, discontinued textbooks, 12.63.

## SCHOOL TEXTBOOKS—Cont'd

Prison libraries, discontinued textbooks, 12.63.  
 State institutions, discontinued textbooks, libraries, 12.63.  
 State textbook committee, Sunset Act, application, 12.11.

## SCHOOL WARRANTS

Foundation school program, state aid, 16.254.

## SCHOOLS AND SCHOOL DISTRICTS

Abolition,  
     County governing body, certain counties, 17.95.  
     Office of county superintendent, certain counties, 17.95.  
 Administering medication, immunities, 21.914.  
 Admission of students,  
     Aliens, 21.031.  
     Foster children, 21.031.  
     Residence establishment separate from parent or guardian, 21.031.  
 Appeal and review,  
     Bilingual or special language programs, 21.463.  
     County school superintendent and county board of school trustees offices abolished, 17.96.  
     Hearings, suspension, 21.301.  
     Local fund assignment, 16.252.  
     Suspension hearings, 21.301.  
 Armed forces, immunization and exemption, 2.09.  
 Assault, suspension or removal of student from class, 21.301.  
 Autistic children, foundation school program, 16.104.  
 Bilingual programs, 21.453.  
 Blind persons,  
     Compulsory school attendance, exemptions, 21.033.  
     Special educational services, 1.04, 16.104.  
     Supplemental allowance for exceptional expenses, 11.102.  
 Boards and commissions,  
     Regional education service center, 11.32.  
     Technical-vocational education council, member, 31.12.  
 Breakfast programs, low income families, 21.914.  
 Central education agency,  
     Categorical program aid, foundation school program, 16.176.  
     Curriculum, preparation, 21.008.  
 Closing, days of instruction, exemptions, 16.052.  
 Committees, language proficiency assessment committees, 21.462.  
 Common school districts,  
     Community education services, 11.201.  
     Governing boards, reclassified districts, 17.99.  
     Independent school districts,  
         Reclassification, certain counties, 17.99.  
         Reclassification into independent school districts, certain counties, 17.99.  
 Community education services, 11.201.  
 Community guidance center pilot programs, 16.401 et seq.  
 Containers, medication, 21.914.

## INDEX TO EDUCATION CODE

References are to Sections

SCHOOLS AND SCHOOL DISTRICTS  
—Cont'd

Contracts,  
County administrative offices, funding, 17.98.  
Private employment agencies, 21.916.  
Public transportation companies, 16.212.  
School buses, 16.204.  
Special education, 16.104.  
Television instructional services, 21.915.  
Term contracts, 21.201 et seq.  
Conversion, quarter to semester system, 21.008.  
Coordination of services, handicapped children, 11.103.  
Cost,  
Summer school program, 16.522, 16.523.  
Volunteer programs, 11.202.  
County governing body,  
Abolition, certain counties, 17.95.  
Appeal and review, abolished office, 17.96.  
Consolidation order, addition of territory, tax purposes, 19.247.  
Contracts, funding, independent school districts, 17.98.  
Dormant school districts, 19.246.  
Funds, transfers from abolished offices, 17.97.  
Records, transfers from abolished offices, 17.97.  
State fiscal support, termination in certain counties, 17.94.  
Taxation, consolidation order, addition of territory, 19.247.  
Transfers of powers and duties, certain counties, 17.96.  
Transfers of records and funds, certain counties, 17.97.  
County school superintendent. County superintendent of schools, generally, post.  
County superintendent of schools,  
Abolition of office, certain counties, 17.95.  
Appeal and review, abolished office, 17.96.  
Contracts, funding, independent school districts, 17.98.  
Funds, transfers from abolished offices, 17.97.  
Records, transfers from abolished offices, 17.97.  
State fiscal support, termination in certain counties, 17.94.  
Transfers of powers and duties, certain counties, 17.96.  
Transfers of records and funds, certain counties, 17.97.  
Vacancy in office, replacement, 17.64.  
Courses of study,  
Semester system, 21.008.  
Curriculum. Courses of study, generally, ante.  
Days of instruction,  
Exemptions, 16.052.  
Number, 21.008.  
Defined,  
School Depository Act, 23.73.  
Term contracts, 21.201.  
Depositories, School Depository Act, 23.71 et seq.  
Detachment, municipal school districts, annexing public free schools, 19.161.

SCHOOLS AND SCHOOL DISTRICTS  
—Cont'd

Developmentally disabled children, intervention programs, 11.092.  
Disasters, days of instruction, exemptions, 16.052.  
Domicile and residence, foster children, 21.031.  
Dormant school districts, 19.246.  
Dropouts, community guidance center programs, 16.401 et seq.  
Drugs and medicine, labels, containers, 21.914.  
Employment agencies, private, 21.916.  
Ex officio county superintendents, certain counties, abolition of office, 17.94 et seq.  
Exemptions,  
Days of instructions, 16.052.  
Fees, 20.53.  
Immunization, 2.09.  
Expelled students, compulsory attendance exemption, 21.033.  
Expenses and expenditures, community guidance center programs, 16.404.  
Extended time programs, bilingual education, 21.458.  
Extracurricular activities, transportation, 16.204.  
Fast growing school districts, foundation school program, support, 16.106.  
Fees, 20.53.  
Finances, studies, 16.053.  
Floods, days of instruction, exemptions, 16.052.  
Food, breakfast programs, low-income, 21.914.  
Forms, immunization status reports, 2.09a.  
Foster children, admission, 21.031.  
Four quarter system, 21.008.  
Gifted and talented student, exemplary programs, 16.501.  
Guidance center programs, 16.401 et seq.  
Handicapped persons,  
Coordination of services, 11.103.  
Residential care facilities, state aid, 30.81 et seq.  
Special education programs, 1.04.  
Transportation allotments, 16.206.  
Transportation routes, 16.207.  
Hazardous areas, transportation routes, 16.207.  
Hazardous conditions, transportation allotments, 16.206.  
Hearings, suspension of student, 21.301.  
High Schools and Districts, generally, this index.  
Holidays, Jewish students, excuse from school attendance, 21.035.  
Immunization, records, 2.09a.  
Independent school districts,  
Common school districts, conversions to independent districts, certain counties, 17.99.  
Community education services, 11.201.  
District with fewer than 150 students, 23.022.  
Governing boards, reclassified common school districts, continuation in office, 17.99.  
Reclassification of common school districts, certain counties, 17.99.  
Reduction, governing boards, terms of office, 23.13, 23.15.  
Single-member district representation, 23.023.

SCHOOLS AND SCHOOL DISTRICTS  
—Cont'd

Inspection and inspectors,  
Bilingual education programs, 21.461.  
Immunization records, 2.09a.  
Interference with teachers ability to communicate, suspension or removal from class, 21.301.  
Intervention programs, developmentally disabled children, 11.092.  
Jewish holidays, excuse from school attendance, 21.035.  
Labels, medication, 21.914.  
Labor and employment, private employment agencies, 21.916.  
Languages, proficiency assessment committees, 21.462.  
Low-income families, breakfast programs, 21.914.  
Media equipment and supplies, 11.33.  
Mentally deficient and mentally ill persons,  
Residential care facilities, state aid, 30.81 et seq.  
Special education programs, 1.04.  
Military forces,  
Dependents, tuition, 21.0312.  
Immunization and exemption, 2.09.  
Negligence, medication, administering, immunities, 21.914.  
Nonrenewal, term contracts, 21.201 et seq.  
Options, two or three semester system, 21.008.  
Pilot programs, community guidance centers, 16.401 et seq.  
Planning, 11.32.  
Plans, handicapped children, special education, 11.33.  
Private employment agencies, 21.916.  
Private programs, summer school, 16.521 et seq.  
Privileges and immunities, administering medication, 21.914.  
Public transportation companies, contracts, 16.212.  
Quarter system, 21.008.  
Reclassification, certain districts, 17.99.  
Records and recordation,  
County governing board, abolished offices, transfers of records, 17.97.  
County school superintendent, abolished offices, transfers of records, 17.97.  
Handicapped children, special education programs, 16.104.  
Immunization records, 2.09a.  
Police records, access, 21.917.  
Regional education media center, 11.33.  
Regional education service centers, 11.32.  
Powers and duties, 11.33.  
Special education, contracts, 16.104.  
Removal of student from class, 21.301.  
Replacement, destroyed property, competitive bidding, 21.901.  
Reports,  
Immunization status of students, 2.09a.  
Summer school program, 16.524.  
Research and demonstration facility, hearing impaired students, 11.03.  
Residence, foster children, 21.031.  
Residence establishment separate from parent or guardian, 21.031.  
Residential care facilities, state aid, 30.81 et seq.  
Resolutions, independent school districts, governing boards, terms of office, 23.13, 23.15.

# INDEX TO EDUCATION CODE

698

References are to Sections

## SCHOOLS AND SCHOOL DISTRICTS —Cont'd

Second or subsequent offenses, suspension, 21.301.  
 Semester system, 21.008.  
 Single-member district representation, independent school districts, 23.023.  
 Special education classes,  
     Handicapped children, 1.04, 16.104.  
 Special language programs, 21.451 et seq.  
 Standards, libraries, 11.36.  
 State aid, residential care facilities, 30.81 et seq.  
 Studies, finances, 16.053.  
 Summer school, private program, 16.521 et seq.  
 Suspension of student, hearings, 21.301.  
 Talented and gifted students, exemplary programs, 16.501.  
 Television instructional services, 21.915.  
 Term contracts, 21.201 et seq.  
 Training and staff development resource, hearing impaired students, 11.03.  
 Transportation, 16.201 et seq.  
     Handicapped students, 16.206.  
 Transportation allocations, local districts, 11.10.  
 Tuition,  
     Military dependents, 21.0312.  
     Out of state students residing at child-caring institutions, 21.0311.  
     Youth council facility employees, transfer of children, 21.081.  
 Two or three semester system, 21.008.  
 Vocational education, advisory council, member, 31.12.  
 Volunteers, 11.202.  
 Youth agencies, cooperative programs, 16.402.  
 Youth council facility employees, transfer of children, tuition, 21.081.

## SCHOOLTEACHERS

Appeal and review,  
     Contracts, nonrenewal, 21.207.  
     Reprimands, 13.046.  
 Assault, suspension or removal of student from class, 21.301.  
 Boards and commissions, standards commission, 13.031.  
 Cancellation or suspension of certificates, 13.046.  
 Certificates and certification, 13.032.  
     Standards commission, 13.031.  
     Suspension or cancellation, 13.046.  
     Commission on standards, 13.031.  
 Community guidance center personnel, 16.403.  
 Compensation and salaries,  
     Foundation school program requirements, 16.056.  
     Special education programs, handicapped children, 16.104.  
 Contracts,  
     Nonrenewal, 21.205.  
     Term contracts, 21.201 et seq.  
 Definitions, term contracts, 21.201.  
 Discharge, term contracts, 21.210.  
 Education programs, standards, 13.032.  
 Evaluation, term contracts, 21.201 et seq.  
 Examinations and examiners, 13.032.  
 Exemptions term contracts, 21.211.  
 Fees, examination, 13.032.  
 Foundation School Program, this index.  
 Guidance center personnel, 16.403.  
 Language, bilingual and special language programs, 21.459.

## SCHOOLTEACHERS—Cont'd

Nonrenewal, contracts, 21.201 et seq.  
 Notice, term contracts, nonrenewal, 21.204.  
 Privileges and immunities, student teachers, 13.906.  
 Probation, term contracts, 21.209.  
 Professional practices commission, Sunset Act, application, 13.2031.  
 Reprimands, appeals, 13.046.  
 Special education program, handicapped children, 16.104.  
 Special language programs, 21.459.  
 Standards, commission, 13.031.  
 Student teachers, 13.906.  
     Local cooperative teacher education centers, 11.311.  
 Substitute, student teachers, 13.906.  
 Suspension or cancellation of certificates, 13.046.  
 Term contracts, 21.201 et seq.

## SCHOOLTEACHERS RETIREMENT SYSTEM

Distributive education teachers,  
     Approved work experience, 16.056.  
 Membership, youth council, employees, 1.04.  
 Officers and employees, youth council, membership, 1.04.  
 Youth council, employees, membership, 1.04.

## SECURITIES

School Funds, this index.

## SECURITY BROKERS OR DEALERS

School funds, loan programs, 15.14.

## SECURITY PERSONNEL

Colleges and Universities, this index.  
 Medical schools, 51.214.  
 Schools and school districts, records, access, 21.917.

## SEMESTER SYSTEM

School and school districts, 21.008.

## SENIOR CITIZENS

Colleges and universities, auditing courses, fees, 54.210.

## SEWERS AND SEWAGE

Texas Tech university, utilities easement, conveyance, 109.48.  
 Texas Tech university health science center, easements, 110.12.

## SHUTTLE BUSES

University of Texas, Arlington, fees, 68.05.

## SMALL CLASSES

Defined, colleges and universities, 51.403.

## SMITH COUNTY

University of Texas, Tyler, venue, 76.04.

## SOUTH-CENTRAL INTERSTATE FOREST FIRE PROTECTION COMPACT ADMINISTRATOR

Sunset Act, review of office, 88.1131.

## SOUTHERN STATES REGIONAL EDUCATION COMPACT

State commissioner, office of, Sunset Act, application, 160.041.

## SOUTHWEST COLLEGIATE INSTITUTE

Deaf and mute persons, 131.001 et seq.

## SPECIAL EDUCATION

Exceptional and handicapped children, 16.104.  
 Handicapped children, plans, 1.04, 11.33, 16.104.  
 Handicapped students, defined, 16.104.  
 Regional education service centers, contracting for services, 16.104.  
 Visually handicapped children, 11.052.

## SPECIAL LANGUAGE PROGRAMS

Generally, 21.451.

## SPECIAL SERVICES

Defined,  
     Foundation school program, 16.104.  
     Handicapped children, special education, 16.104.

## SPEECH HANDICAPPED STUDENTS

Defined, special education, 16.104.

## STANDARDS

School libraries, 11.36.  
 School taxes, appraisal and assessment of property, 11.74.

## STATE AID

Handicapped or nonhandicapped scholastics in need of alternative school settings, 26.65.  
 Residential care facilities, 30.81 et seq.

## STATE BOARD OF VOCATIONAL EDUCATION

Coordinating board, Texas state college and university systems, contracts, leadership and administrative responsibilities, 11.24, 61.051.

## STATE FUNDS

Colleges and universities, East Texas state university, union center building, 100.37.  
 Educational institutions receiving support, handicapped persons, special educational services, 1.04.

## STATE HISTORICAL COLLECTION

Texas womens university, 107.69.

## STATE INSTITUTIONS

School textbooks, discontinued textbooks, libraries, 12.63.

## STATE UNIVERSITY SYSTEM

Generally, 95.01 et seq.

## STIPENDS

Medical students, contracts to practice in rural areas, 61.096, 65.41, 105.80, 110.11.

## STUDENT FINANCIAL ASSISTANCE ACT OF 1975

Generally, 56.001 et seq.

## STUDENT SERVICES

Defined, college fees, 54.503.

## STUDENT TEACHERS

Generally, 13.906.  
 Local cooperative teacher education centers, 11.311.

## INDEX TO EDUCATION CODE

References are to Sections

**STUDENTS OF LIMITED ENGLISH PROFICIENCY**

Defined, bilingual education, 21.452.

**STUDIES**

Finances, 16.053.

School taxes, property value, 11.86.

**SUMMER SCHOOL**

Private programs, 16.521 et seq.

**SUNSET ACT**

Agricultural experiment station, 88.2031.

Agricultural extension service, 88.002.

Central education agency, 11.011.

Compact for education, commissioner, 161.021.

Coordinating board, Texas college and university system, 61.0211.

Education, state board, 11.211.

Engineering experiment station, 88.004.

Engineering extension service, 88.003.

Forests and forestry, review of state office, 88.1011.

Guaranteed student loan corporation, 57.12.

Real estate research center, review of center, 86.511.

Schoolteachers professional practices commission, 13.2031.

South-central interstate forest fire protection compact administrator, review of office, 88.1131.

Southern states regional education compact, state commissioner, 160.041.

State forester, review of office, 88.1011.

State textbook committee, 12.11.

Teaching profession, commission on standards for, 13.031.

Technical-vocational education, advisory council, 31.20.

University lands, leasing board, review of board, 66.62.

Western information network association, 51.153, 51.168.

**SUPERINTENDENTS**

Contracts, term contracts, 21.201 et seq.

Texas school for the blind, 11.061.

**SUPPLEMENTARY INSTRUCTION**

Defined, vocational education, 33.01.

**SUPPLEMENTARY MATERIALS**

Defined, textbooks,

Elementary grades, 12.14.

High schools, 12.15.

**SURGEONS**

Physicians and Surgeons, generally, this index.

**TALENTED AND GIFTED STUDENTS**

Gifted and Talented Students, generally, this index.

**TAX ASSESSMENT PRACTICES BOARD**

Generally, 11.71 et seq.

**TAX ASSESSORS AND COLLECTORS**

School taxes, 11.71 et seq.

**TAX EXEMPTIONS**

Guaranteed student loans, 57.75.

**TAXABLE MARKET VALUE**

Defined, school taxes, 11.86.

**TEACHING HOSPITAL**

Texas college of osteopathic medicine, 105.75.

**TELEGRAPHS AND TELEPHONES**

Texas Tech university, utilities easements, conveyance, 109.48.

Texas Tech university health sciences center, easements, 110.12.

**TELEVISION AND RADIO**

Schools and school districts, instructional services, 21.915.

**TERM CONTRACTS**

Generally, 21.201 et seq.

**TEXAS A & M UNIVERSITY AT GALVESTON**

Colleges and Universities, this index.

**TEXAS ASSISTANCE GRANTS PROGRAM**

Generally, 56.010 et seq.

**TEXAS COLLEGE OF OSTEOPATHIC MEDICINE**

Colleges and Universities, this index.

**TEXAS EASTERN UNIVERSITY**

Colleges and Universities, this index.

**TEXAS NONPROFIT CORPORATION ACT**

Application to guaranteed student loan corporation, 57.22.

**TEXAS SCHOOL FOR THE BLIND**

Advisory committees, 11.061.

Board of the Texas school for the blind, 11.061.

Budgets, 11.063.

Clothing expenses, students, 11.071.

Compensation and salaries,

Advisory committees and governing board, 11.061.

Staff, 11.063.

Diagnostic and evaluation center, multiply handicapped blind children, 11.091.

Funds, 11.063.

Management and supervision, 11.061.

Medical services, 11.08.

Multiply handicapped blind children, diagnostic and evaluation center, 11.091.

Optometric services, 11.08.

Psychological services, 11.08.

Purposes, 11.06.

Reports, 11.061.

Staffing, 11.063.

Superintendent, 11.061.

Travel expenses,

Advisory committees and governing board, 11.061.

Students, 11.071.

**TEXAS SCHOOL FOR THE DEAF**

Appointments, superintendents, 11.07.

Audits and auditors, 11.03.

Board, 11.03.

Financial statements and reports, 11.03.

Resolutions, audits, 11.03.

Superintendent, appointments, 11.07.

**TEXAS WOMENS UNIVERSITY**

Historical collection, 107.69.

**TIME CERTIFICATE**

Defined, School Depository Act, 23.73.

**TIME DEPOSIT**

Defined, School Depository Act, 23.73.

**TRADE AND BUSINESS**

Apprenticeship programs, 33.01 et seq.

**TRAINING PROGRAMS**

Appraisers and assessors, school taxes, 11.75, 11.76.

Labor and employment, 111.71 et seq.

Schoolteachers, foundation school program requirements, 16.052, 16.055.

**TRANSFER OF POWERS AND DUTIES**

County governing boards, certain counties, to governing boards of districts, commissioners court, and county judge, 17.96.

County school superintendents, certain counties, to governing boards of districts, governing board of regional education service center and county judge, 17.96.

**TRANSPORTATION**

Deaf persons, regional day school programs, 11.10.

Foundation school program, 16.201 et seq.

University of Texas, Arlington, shuttle bus fees, 68.05.

**TRAVELING EXPENSES**

Real estate research advisory committee, 86.52.

School tax assessment practices board, 11.72.

Tax assessment practices board, 11.72.

Texas school for the blind,

Advisory committees and governing board, 11.061.

Students, 11.071.

**TRAVIS COUNTY**

University of Texas, Tyler, venue, 76.04.

**TRUSTS AND TRUSTEES**

Student loan notes, bank custody, 53.47.

**TUITION**

Military forces, dependents, 21.0312.

Southwest collegiate institute for the deaf, 131.006.

**TWO OR THREE SEMESTER SYSTEM**

Schools and school districts, 21.008.

**UNIVERSITY SYSTEM**

Generally, 95.01 et seq.

**UNIVERSITY SYSTEM OF SOUTH TEXAS**

Colleges and Universities, this index.

**VACANCIES IN OFFICE**

Apprenticeship and training advisory committee, 33.05.

**VENUE**

University of Texas, Tyler, 76.04.

References are to Sections

**VISITOR CENTER**

McDonald observatory at Mount Locke, construction, 67.53.

**VISUALLY HANDICAPPED PERSONS**

Blind Persons, generally, this index.  
Defined, special education, 16.104.

**VOCATIONAL EDUCATION**

Generally, 111.71 et seq.  
Advisory council, Sunset Act, 31.20.  
Advisory councils for technical-vocational education, member, apprenticeship and training advisory committee, 33.05.  
Agriculture teacher, service days, 16.055.  
Apprenticeship programs, 33.01 et seq.  
Bilingual education, 11.18.  
Blind persons,  
    Advisory council for technical-vocational education, duties, 31.33.  
    Funds, 31.40.  
    Reports on programs, 31.34.  
Foundation school program, personnel support, 16.103.  
Funds,  
    Handicapped persons, 31.40.  
    Handicapped persons,  
        Advisory council for technical-vocational education, duties, 31.33.  
        Funds, 31.40.  
        Reports on programs, 31.34.  
Mentally Deficient and Mentally Ill Persons, this index.  
Schoolteachers,  
    Foundation school program, personnel support, 16.103.  
State board of vocational education,  
    Funds, allocation, 31.40.  
Youth council, employees, schoolteachers retirement, membership, 1.04.

**VOLUNTEERS**

School programs, 11.202.

**WAIVER**

Colleges and universities, student services fees, concurrent enrollment in more than one institution, 54.505.

**WALLER COUNTY**

Prairie View A & M university, real property, control and supervision, 87.103.

**WARRANTS**

Guaranteed student loans, default, 57.48.

**WATER SUPPLY**

Texas Tech university, utilities easements, conveyance, 109.48.  
Texas Tech university health sciences center, easements, 110.12.

**WEST TEXAS STATE UNIVERSITY**

Colleges and Universities, this index.

**WESTERN INFORMATION NETWORK ASSOCIATION**

Sunset Act, application, 51.153, 51.168.

**WOMEN**

Technical-vocational education council, member, 31.12.

**WOMENS UNIVERSITY**

Texas Womens University. Colleges and Universities, this index.

**WORDS AND PHRASES**

Advisory committee, vocational education, 33.01.  
Agent, private institution of higher education, 61.302.  
Alternative school, rehabilitation districts, 26.01.  
Apprenticeship training program, vocational education, 33.01.  
Approved family practice residency training program, medical residency program contracts, 61.501.  
Auditorially handicapped students, special education, 16.104.  
Autistic students, special education, 16.104.  
Bank, School Depository Act, 23.73.  
BAT, vocational education, 33.01.  
Board,  
    Guaranteed student loans, 57.02.  
    School tax assessments, 11.72.  
    Term contracts, 21.201.  
Board of trustees, term contracts, 21.201.  
Books, 12.01.  
CEA, vocational education, 33.01.  
Certificate of deposits, School Depository Act, 23.73.  
Community education, 11.18.  
Compensation, resident physicians, 58.002, 61.097.  
Coordinating board, institutions established outside state offering courses within state, 61.401.  
Corporation, guaranteed student loans, 57.02.  
Degrees, private institutions of higher education, 61.302.  
Dependent, college tuition, 54.052.  
Developmentally delayed child, intervention program, 11.092.  
Dormant school districts, 19.246.  
Educationally disadvantaged pupils, categorical program aid, foundation school program, 16.176.  
Eligible handicapped pupil, transportation allotments, 16.206.  
Emotionally disturbed student, special education, 16.104.  
Gifted and talented students, special educational programs, 16.501.  
Governing board, Student Financial Assistance Act of 1975, 56.003.  
Handicapped children,  
    Coordination of services, 11.103.  
Handicapped scholastic, rehabilitation districts, 26.01.  
Handicapped students, special education, 16.104.  
Index value, school taxes, 11.86.  
Institution of higher education, Student Financial Assistance Act of 1975, 56.003.  
Learning disabled students, special education, 16.104.  
Learning systems, textbooks,  
    Elementary grades, 12.14.  
    High schools, 12.15.  
Linear density, transportation allotments, 16.206.  
Mandatory student services fees, colleges and universities, 54.505.  
Manpower training, technical-vocational education, 31.03.  
Medical school, medical residency program contracts, 61.501.  
Mentally retarded, residential care facilities, 30.82.

**WORDS AND PHRASES—Cont'd**

Mentally retarded students, special education, 16.104.  
Multiply handicapped students, special education, 16.104.  
Nonhandicapped scholastic, rehabilitation districts, 26.01.  
Physically handicapped students, special education, 16.104.  
Planning, technical-vocational education, 31.03.  
Postsecondary educational institution, Guaranteed student loans, 57.02.  
    Student Financial Assistance Act of 1975, 56.003.  
Preparatory instruction, vocational education, 33.01.  
Primary teaching hospital, resident physicians, 58.002, 61.097.  
Private employment agency, school and school districts, 21.916.  
Private institution of higher education, granting degrees, 61.302.  
Public institution of higher education, out-of-state institutions, offering courses within state, 61.401.  
Regular eligible pupil, transportation allotments, 16.206.  
Related instruction, vocational education, 33.01.  
Resided in, college tuition, 54.052.  
Residence, college tuition, 54.052.  
Resident district, handicapped children, special education, 16.104.  
Resident physician,  
    Compensation, 58.002.  
    Contracts, 61.097.  
School district,  
    School Depository Act, 23.73.  
    Term contracts, 21.201.  
Small classes, colleges and universities, 51.403.  
Special services,  
    Foundation school program, 16.104.  
    Handicapped children, special education, 16.104.  
    Rehabilitation district for handicapped persons, 26.01.  
Speech handicapped students, special education, 16.104.  
Student services, college fees, 54.503.  
Students of limited English proficiency, bilingual education, 21.452.  
Supplementary instruction, vocational education, 33.01.  
Supplementary materials, textbooks,  
    Elementary grades, 12.14.  
    High schools, 12.15.  
Taxable market value, school taxes, 11.86.  
Teacher, term contracts, 21.201.  
Term contract, nonrenewal, 21.201.  
Textbooks, 12.01.  
    Elementary grades, 12.14.  
    High schools, 12.15.  
Time certificate, School Depository Act, 23.73.  
Time deposit, School Depository Act, 23.73.  
Visually handicapped students, special education, 16.104.

**YOUTH AGENCIES**  
Schools, cooperative programs, 16.402.

## INDEX TO EDUCATION CODE

References are to Sections

## YOUTH COUNCIL

Facility employees, transfer of children,  
tuition, 21.081.

## YOUTH COUNCIL—Cont'd

Residential care facilities, state aid, 30.81  
et seq.

## YOUTH COUNCIL—Cont'd

Schoolteachers retirement system, em-  
ployees, membership, 1.04.

\*



# FAMILY CODE

## TITLE 2. PARENT AND CHILD

### SUBTITLE A. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

Chapter	Section
17. Emergency Procedures in Suit by Governmental Entity .....	17.01
18. Review of Placement of Children Under the Care of the Department of Human Resources .....	18.01

## TITLE 4. PROTECTION OF THE FAMILY

71. Protective Orders .....	71.01
-----------------------------	-------

### TITLE 1. HUSBAND AND WIFE

#### SUBTITLE A. THE MARRIAGE RELATIONSHIP

#### CHAPTER 1. ENTERING THE MARRIAGE RELATIONSHIP

##### SUBCHAPTER D. CEREMONY AND RETURN OF LICENSE

Section
1.86. Duplicate License.

##### SUBCHAPTER A. APPLICATION FOR MARRIAGE LICENSE

#### § 1.05. Absent Applicant

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) The affidavit of an absent applicant must include:

(1) the absent applicant's full name (including the maiden surname, if applicable), address, date of birth, place of birth (including city, county, and state), citizenship, and social security number, if any;

(2) a declaration that the absent applicant has not been divorced within the last 30 days;

(3) a declaration that the absent applicant is not presently married (unless to the other applicant and they wish to marry again);

(4) a declaration that the other applicant is not related to the absent applicant as:

(A) an ancestor or descendant, by blood or adoption;

(B) a brother or sister, of the whole or half blood or by adoption; or

(C) a parent's brother or sister of the whole or half blood;

(5) a declaration that the absent applicant desires to marry, and the name, age, and address of the person to whom the absent applicant desires to be married;

(6) the approximate date on which the marriage is to occur;

(7) the reason the absent applicant is unable to appear personally before the county clerk for the issuance of the license; and

(8) if the absent applicant will be unable to attend the ceremony, the appointment of any adult, except the other applicant, to act as proxy for the purpose of participating in the ceremony.

[Amended by Acts 1975, 64th Leg., p. 619, ch. 254, § 1, Sept. 1, 1975.]

#### § 1.07. Issuance of License

(a) The county clerk may not issue a license to the applicants if:

(1) either applicant fails to provide information as required by Sections 1.02 and 1.05 of the code;

(2) either applicant fails to submit proof of age and identity;

(3) either applicant is under 14 years of age and has not received a court order under Section 1.53 of this code;

(4) either applicant is 14 years of age or older but under 18 years of age and has received neither parental consent nor a court order under Section 1.53 of this code;

(5) either applicant fails to comply with the requirements of Subchapter B of this chapter;

(6) either applicant checks "false" in response to a statement in the application, except as provided in Subsection (b) of this section, or fails to make a required declaration in an affidavit required of an absent applicant; or

(7) either applicant indicates that he or she has been divorced by a decree of a court of this state within the last 30 days.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1975, 64th Leg., p. 620, ch. 254, § 2, eff. Sept. 1, 1975.]

##### SUBCHAPTER B. MEDICAL EXAMINATION

#### § 1.26. Duties of Laboratory

The laboratory shall:

(1) conduct a standard serologic test prescribed by the Texas Department of Health Resources;

(2) complete the laboratory statement and the detailed laboratory report on the prescribed forms and have them signed by the person authorized to enter the results of the test;

(3) transmit the laboratory statement and one copy of the detailed laboratory report to the designated physician; and

(4) transmit a copy of the detailed reactive laboratory report to the Texas Department of Health Resources weekly except that positive darkfields (syphilis) shall be reported within 24 hours.

[Amended by Acts 1977, 65th Leg., p. 595, ch. 211, § 1, eff. May 20, 1977.]

SUBCHAPTER C. UNDERAGE APPLICANTS

§ 1.51. Age Requirements: General Rules

Except with parental consent as prescribed by Section 1.52 of this code or with a court order as prescribed by Section 1.53 of this code, the county clerk shall not issue a marriage license if either applicant is under 18 years of age.

[Amended by Acts 1975, 64th Leg., p. 620, ch. 254, § 3, eff. Sept. 1, 1975.]

§ 1.52. Underage Applicant: Parental Consent

(a) If the applicant is 14 years of age or older but under 18 years of age, the county clerk shall issue the license if parental consent is given as prescribed by this section.

[See Compact Edition, Volume 1 for text of (b) to (e)]

[Amended by Acts 1975, 64th Leg., p. 620, ch. 254, § 4, eff. Sept. 1, 1975.]

§ 1.53. Underage Applicant: Court Order

(a) A person who is under 18 years of age may petition in his own name in a district court for an order granting permission to marry. In all suits filed under this section, the trial judge may advance the cause if he determines that the best interest of the applicant would be served by an early hearing.

(b) The petition must be filed in the county where a parent resides if a managing conservator or a guardian of the person has not been appointed. If a managing conservator or a guardian of the person has been appointed, the petition must be filed in the county where the managing conservator or the guardian of the person resides. If no person authorized to consent to marriage for the child resides in this state, the petition must be filed in the county where the child lives.

(c) The petition shall include a statement of the reasons the child desires to marry, whether each parent is living or dead, the name and residence address of each living parent, and whether or not a managing conservator or a guardian of the person has been appointed for the child.

(d) Process shall be served as in other civil cases on each living parent of the child, or if a managing

conservator or a guardian of the person has been appointed, on the managing conservator or guardian of the person. Citation may be given by publication as in other civil cases, except that notice shall be published one time only.

(e) The court shall appoint a guardian ad litem to represent the child in the proceeding and to speak for or against the petition in the manner he believes to be in the best interest of the child. The court shall prescribe a fee to be paid by the child for the services of the guardian ad litem; and the fee shall be collected as are other costs of the proceeding.

(f) If, after a hearing, the court, sitting without a jury, believes marriage to be in the best interest of the child, it shall make an order granting the child permission to marry.

[Amended by Acts 1975, 64th Leg., p. 620, ch. 254, § 5, eff. Sept. 1, 1975.]

SUBCHAPTER D. CEREMONY AND RETURN OF LICENSE

§ 1.83. Persons Authorized to Conduct Ceremony

(a) The following persons are authorized to conduct marriage ceremonies:

(1) licensed or ordained Christian ministers and priests;

(2) Jewish rabbis;

(3) persons who are officers of religious organizations and who are duly authorized by the organization to conduct marriage ceremonies; and

(4) justices of the supreme court, judges of the court of criminal appeals, justices of the courts of appeals, judges of the district, county, and probate courts, judges of the county courts at law, courts of domestic relations and juvenile courts, retired justices and judges of such courts, justices of the peace, retired justices of the peace, and judges and magistrates of the federal courts of this state.

(b) For the purposes of this section, a retired judge of a county court, probate court, county court at law, court of domestic relations, or juvenile court or a retired justice of the peace is a person who has an aggregate of at least 15 years of service as judge of any court or courts or as justice of the peace and who has ceased to serve in that capacity. The person is considered as retired in the capacity of last service.

[Amended by Acts 1977, 65th Leg., p. 135, ch. 64, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 388, ch. 179, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 1835, ch. 423, § 1, eff. Aug. 31, 1981.]

§ 1.86. Duplicate License

(a) On the application and proof of identity of a person whose marriage is recorded in the records of the county clerk, the county clerk shall issue a duplicate marriage license completed with information as contained in the records.

(b) On the application and proof of identity of both persons to whom a marriage license was issued but not recorded as required by Section 1.85 of this code, the county clerk shall issue a duplicate license if each person applying submits to the clerk an affidavit stating:

(1) that the persons to whom the original license was issued were married to each other by a person authorized to conduct marriage ceremonies before the expiration date of the original license;

(2) the name of the person who conducted the ceremony; and

(3) the date on which the marriage ceremony occurred.

[Added by Acts 1975, 64th Leg., p. 621, ch. 254, § 6, eff. Sept. 1, 1975.]

[Sections 1.87 to 1.90 reserved for expansion]

## CHAPTER 2. VALIDITY OF MARRIAGE

### SUBCHAPTER B. VOID MARRIAGES

#### § 2.21. Consanguinity

(a) A person may not marry:

(1) an ancestor or descendant, by blood or adoption;

(2) a brother or sister, of the whole or half blood or by adoption;

(3) a parent's brother or sister, of the whole or half blood; or

(4) a son or daughter of a brother or sister of the whole or half blood or by adoption.

(b) A marriage entered into in violation of this section is void.

[Amended by Acts 1975, 64th Leg., p. 1184, ch. 442, § 1, eff. June 19, 1975.]

### SUBCHAPTER C. VOIDABLE MARRIAGES

#### § 2.41. Underage

(a) The licensed or informal marriage of a person under 14 years of age, unless a court order has been obtained as provided in Section 1.53 of this code, is voidable and subject to annulment on the petition of a next friend for the benefit of the underage party or on the petition of the parent or the judicially designated managing conservator or guardian (whether an individual, authorized agency, or court) of the person of the underage party. A suit filed under this subsection by a next friend must be brought within 90 days after the 14th birthday of the underage party, or it is barred. A suit by a parent, managing conservator, or guardian of the person may be brought at any time before the party is 14 years of age, but thereafter must be brought within 90 days after the petitioner knew or should have known of the marriage, or it is barred. However, in no case may a suit by a parent, managing conservator, or guardian of the person be brought

under this subsection after the underage person has reached 18 years of age.

(b) The licensed or informal marriage of a person 14 years of age or older but under 18 years of age, without parental consent as provided in Section 1.52 or 1.92 of this code or without a court order as provided by Section 1.53 of this code, is voidable and subject to annulment on the petition of a next friend for the benefit of the underage party, or on the petition of the parent or the judicially designated managing conservator or guardian (whether an individual, authorized agency or court) of the person of the underage party. A suit filed under this subsection by a next friend must be brought within 90 days after the date of the marriage, or it is barred. A suit by a parent, managing conservator, or guardian of the person must be brought within 90 days after the date the petitioner knew or should have known of the marriage, or it is barred. However, in no case may a suit by a parent, managing conservator, or guardian of the person be brought under this subsection after the underage person has reached 18 years of age.

[See Compact Edition, Volume 1 for text of (c)]

[Amended by Acts 1975, 64th Leg., p. 621, ch. 254, § 7, eff. Sept. 1, 1975.]

## CHAPTER 3. DISSOLUTION OF MARRIAGE

### SUBCHAPTER B. JURISDICTION AND VENUE; RESIDENCE QUALIFICATIONS

Section

3.26. Acquiring Jurisdiction over Nonresident Respondent.

### SUBCHAPTER C. SUIT

3.521. Citation by Publication.

3.631. Agreement Incident to Divorce or Annulment.

### SUBCHAPTER B. JURISDICTION AND VENUE; RESIDENCE QUALIFICATIONS

#### § 3.26. Acquiring Jurisdiction over Nonresident Respondent

(a) If the petitioner is a resident or a domiciliary of this state at the commencement of a suit for divorce, annulment, or to declare a marriage void, the court may exercise personal jurisdiction over the respondent, or the respondent's personal representative, although the respondent is not a resident or a domiciliary of this state if:

(1) this state is the last state in which marital cohabitation between petitioner and the respondent occurred and the suit is commenced within two years after the date on which cohabitation ended; or

(2) notwithstanding Subdivision (1) above, there is any basis consistent with the constitution of this state or the United States for the exercise of the personal jurisdiction.

(b) A court acquiring jurisdiction under this section also acquires jurisdiction in a suit affecting the parent-child relation if Section 11.051 of this code is applicable.

[Added by Acts 1975, 64th Leg., p. 622, ch. 254, § 8, eff. Sept. 1, 1975.]

[Sections 3.27 to 3.50 reserved for expansion]

SUBCHAPTER C. SUIT

§ 3.52. Pleadings

Pleadings of the parties in a suit for divorce or annulment or to declare a marriage void shall contain allegations of the grounds relied on substantially in the language of the statute and without a detailed statement of evidentiary facts. Allegations of grounds for relief, matters of defense, or facts relied on for temporary relief stated in short and plain terms are not subject to special exceptions because of form or sufficiency. All allegations of evidentiary facts shall be stricken from the pleadings on the motion of any party to the suit or by the court on its own motion.

[Amended by Acts 1981, 67th Leg., p. 2654, ch. 711, § 1, eff. Sept. 1, 1981.]

Section 4 of the 1981 amendatory act provides:

"This Act takes effect September 1, 1981, and applies only to suits for divorce, annulment, or to declare a marriage void filed on or after the effective date of this Act."

§ 3.521. Citation by Publication

(a) Citation in a suit for divorce or annulment or to declare a marriage void may be given by publication as in other civil cases, except that notice shall be published one time only.

(b) The notice shall be sufficient if given in substantially the following form:

"STATE OF TEXAS

To (name of person to be served with citation), and to all whom it may concern (if the name of any person to be served with citation is unknown), Respondent(s),

GREETINGS:

"YOU ARE HEREBY COMMANDED to appear and answer before the Honorable District Court \_\_\_\_\_ Judicial District, \_\_\_\_\_ County, Texas, at the Courthouse of said county in \_\_\_\_\_, Texas, at or before 10 o'clock a. m. of the Monday next after the expiration of 20 days from the date of service of this citation, then and there to answer the petition of \_\_\_\_\_, Petitioner, filed in said Court on the \_\_\_\_\_ day of \_\_\_\_\_, against \_\_\_\_\_, Respondent(s), and the said suit being number \_\_\_\_\_ on the docket of said Court, and entitled 'In the Matter of Marriage of \_\_\_\_\_ and \_\_\_\_\_,' the nature of which suit is a request to \_\_\_\_\_ (statement of relief sought).

"The Court has authority in this suit to enter any judgment or decree dissolving the marriage and

providing for the division of property which will be binding on you.

"Issued and given under my hand and seal of said Court at \_\_\_\_\_, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Clerk of the District Court of \_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy."

(c) The form authorized in this section and the form authorized by Section 11.09 of this code may be combined in appropriate situations.

(d) Where no parent-child relationship exists, service by publication may be completed by posting the citation at the courthouse door for a period of seven days in the county where the suit is filed.

(e) Where the petitioner or his or her attorney of record shall make oath that no children presently under 18 years of age were born or adopted by the parties and that no appreciable amount of property was accumulated by the parties during the marriage, the court may dispense with the appointment of an attorney ad litem; but, in every such case a statement of the evidence, approved and signed by the judge, shall be filed with the papers of the cause as a part of the record thereof.

[Added by Acts 1975, 64th Leg., p. 622, ch. 254, § 9, eff. Sept. 1, 1975.]

§ 3.54. Counseling

(a) After a petition for divorce is filed, the court may, in its discretion, direct the parties to counsel with a person or persons named by the court, who shall submit a written report to the court before the hearing on the petition.

(b) In his report, the counselor shall give only his opinion as to whether there exists a reasonable expectation of reconciliation of the parties, and if so, whether further counseling would be beneficial. The sole purpose of the report is to aid the court in determining whether the suit for divorce should be continued pending further counseling, and the report shall not be admitted as evidence in the suit. Copies of the report shall be furnished to the parties.

(c) If the court is of the opinion that there exists a reasonable expectation of the parties' reconciliation, the court may by written order continue the proceedings and direct the parties to any person or persons named by the court for further counseling for a period of time fixed by the court not to exceed 60 days, subject to any terms, conditions, and limitations the court deems desirable. The court shall consider the circumstances of the parties, including the needs of the parties' family, and the availability of counseling services, in making its order. At the expiration of the period of time specified by the court, the counselor to whom the parties were directed shall report to the court whether the parties have complied with the court's order. Thereafter, the court shall proceed as in divorce suits generally.

(d) No person who has counseled parties to a suit for divorce under this section is competent to testify in any action involving the parties or their children. The files, records, and other work-products of the counselor are privileged and confidential for all purposes and may not be admitted as evidence in any action involving the parties or their children.

(e) The expenses of counseling may be taxed as costs against either or both parties.

[Amended by Acts 1975, 64th Leg., p. 623, ch. 254, § 10, eff. Sept. 1, 1975.]

**§ 3.56. Repealed by Acts 1981, 67th Leg., p. 2655, ch. 711, § 3, eff. Sept. 1, 1981**

Section 4 of the 1981 repealing act provides:

"This Act takes effect September 1, 1981, and applies only to suits for divorce, annulment, or to declare a marriage void filed on or after the effective date of this Act."

**§ 3.57. Transfers and Debts Pending Decree**

After a petition for divorce or annulment is filed and until a final decree is entered, if a spouse transfers real or personal community property or incurs a debt that would subject community property to liability, the transfer or debt is void with respect to the other spouse if the transfer was made or the debt incurred with the intent to injure the rights of the other spouse. A transfer or debt is not void if the person dealing with the transferor or debtor spouse did not have notice of the intent to injure the rights of the other spouse. In an action to void any transfer or debt the spouse seeking to void said transfer or debt shall have the burden of proving that the person dealing with the transferor or debtor spouse had notice of the intent to injure the rights of the other spouse.

[Amended by Acts 1979, 66th Leg., p. 421, ch. 193, § 1, eff. Aug. 27, 1979.]

**§ 3.58. Temporary Orders**

(a) After a petition for divorce or annulment or to declare a marriage void is filed, the court, on the motion of any party, or on the court's own motion, may grant a temporary restraining order ex parte and, in addition, after notice and hearing may issue a temporary injunction for the preservation of the property and the protection of the parties as deemed necessary and equitable, including but not limited to an order prohibiting one or both parties from:

(1) intentionally communicating with the other by telephone or in writing in vulgar, profane, obscene, or indecent language, or in a coarse or offensive manner, with intent to annoy or alarm the other;

(2) threatening the other, by telephone or in writing, to take unlawful action against any person, intending by this action to annoy or alarm the other;

(3) placing one or more telephone calls, anonymously, at an unreasonable hour, in an offensive and repetitious manner, or without a legitimate purpose of communication with the intent to annoy or alarm the other;

(4) intentionally, knowingly, or recklessly causing bodily injury to the other, or to a child of either;

(5) threatening the other or a child of either with imminent bodily injury;

(6) intentionally, knowingly, or recklessly destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of the parties, or either of them, with intent to obstruct the authority of the court to order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage;

(7) intentionally falsifying any writing or record relating to the property of either of them;

(8) intentionally misrepresenting or refusing to disclose to the other or to the court, on proper request, the existence, amount, or location of any property of the parties, or either of them;

(9) intentionally or knowingly damaging or destroying the tangible property of the parties, or either of them; or

(10) intentionally or knowingly tampering with the tangible property of the parties, or either of them, and causing pecuniary loss or substantial inconvenience to the other.

(b) After a petition for divorce or annulment or to declare a marriage void is filed, the court, on the motion of any party or on the court's own motion, may grant a temporary injunction after notice and hearing for the preservation of the property and protection of the parties as deemed necessary and equitable, including but not limited to an order directed to one or both parties:

(1) requiring a sworn inventory and appraisal of all property, both real and personal, owned or claimed by the parties, and a list of all debts and liabilities owed by the parties (the form, manner, and substance of the inventory and appraisal and list of debts and liabilities to be specified by the court);

(2) requiring the support of either of the spouses;

(3) requiring the production of books, papers, documents, and tangible things by any party;

(4) ordering payment of reasonable attorney's fees and future expenses properly chargeable as court costs, on proof of necessity;

(5) appointing a receiver for the preservation and protection of the property of the parties;

(6) excluding either spouse from occupancy of the residence where the party is living;

(7) prohibiting the parties, or either of them, from the spending of funds for reasonable and necessary living expenses; or

(8) prohibiting the parties, or either of them, from engaging in acts reasonable and necessary to the conduct of that party's usual business or occupation.

The terms of the orders issued under this subsection may not be the subject of a temporary restraining order issued ex parte.

(c) A temporary restraining order or a temporary injunction issued under this section may be granted without the necessity of an affidavit or a verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held.

(d) In a suit for divorce, annulment, or to declare a marriage void, the court may dispense with the necessity of a bond as between the spouses when issuing temporary orders.

(e) The violation of any restraining order or injunction issued under this section is punishable as contempt.

[Amended by Acts 1981, 67th Leg., p. 2654, ch. 711, § 2, eff. Sept. 1, 1981.]

Section 4 of the 1981 amendatory act provides:  
 "This Act takes effect September 1, 1981, and applies only to suits for divorce, annulment, or to declare a marriage void filed on or after the effective date of this Act."

**§ 3.59. Temporary Support**

After a petition for divorce or annulment is filed, the judge, after due notice may order payments for the support of the wife, or for the support of the husband until a final decree is entered.

[Amended by Acts 1979, 66th Leg., p. 421, ch. 193, § 2, eff. Aug. 27, 1979.]

**§ 3.61. Jury**

In a suit for divorce or annulment or to declare a marriage void, either party, except as provided in Section 2.41 of this code, may demand a jury trial.

[Amended by Acts 1975, 64th Leg., p. 624, ch. 254, § 11, eff. Sept. 1, 1975.]

**§ 3.63. Division of Property**

(a) In a decree of divorce or annulment the court shall order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage.

(b) In a decree of divorce or annulment the court shall also order a division of the following real and personal property, wherever situated, in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage:

- (1) property that was acquired by either spouse while domiciled elsewhere and that would have been community property if the spouse who acquired the property had been domiciled in this state at the time of the acquisition; or
- (2) property that was acquired by either spouse in exchange for real or personal property, and that would have been community property if the spouse who acquired the property so exchanged had been domiciled in this state at the time of its acquisition.

[Amended by Acts 1981, 67th Leg., p. 2656, ch. 712, § 1, eff. Sept. 1, 1981.]

Section 3 of the 1981 amendatory act provides:

"This Act takes effect September 1, 1981, and applies only to suits for divorce or annulment in which a hearing on the issue of divorce or annulment has not been held before that date."

**§ 3.631. Agreement Incident to Divorce or Annulment**

(a) To promote amicable settlement of disputes on the divorce or annulment of a marriage, the parties may enter into a written agreement concerning the division of all property and liabilities of the parties and maintenance of either of them. The agreement may be revised or repudiated prior to rendition of the divorce or annulment unless it is binding under some other rule of law.

(b) In a proceeding for divorce or annulment, the terms of the agreement are binding on the court unless it finds that the agreement is not just and right. If the court finds the agreement is not just and right, the court may request the parties to submit a revised agreement.

(c) If the court approves the agreement, the court may set forth the agreement in full or incorporate it by reference in the decree of divorce or annulment.

[Added by Acts 1981, 67th Leg., p. 2656, ch. 712, § 2, eff. Sept. 1, 1981.]

Section 3 of the 1981 Act provides:

"This Act takes effect September 1, 1981, and applies only to suits for divorce or annulment in which a hearing on the issue of divorce or annulment has not been held before that date."

**CHAPTER 4. RIGHTS, DUTIES, POWERS, AND LIABILITIES OF SPOUSES**

Section 4.05. Criminal Conversation not Authorized.

**§ 4.02. Duty to Support**

Each spouse has the duty to support the other spouse, and each parent has the duty to support his or her minor child. A spouse or parent who fails to discharge the duty of support is liable to any person who provides necessaries to those to whom support is owed.

[Amended by Acts 1979, 66th Leg., p. 421, ch. 193, § 3, eff. Aug. 27, 1979.]

**§ 4.05. Criminal Conversation not Authorized**

A right of action by one spouse against a third party for criminal conversation is not authorized in this state.

[Added by Acts 1975, 64th Leg., p. 1942, ch. 637, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 422, ch. 193, § 4, eff. Aug. 27, 1979.]

Section 2 of the 1975 Act provided:

"This Act does not apply to litigation pending before the effective date of this Act."

SUBTITLE B. PROPERTY RIGHTS AND  
LIABILITIES

CHAPTER 5. MARITAL PROPERTY

SUBCHAPTER A. SEPARATE AND COMMUNITY  
PROPERTY

Section

5.04. Gifts Between Spouses.

SUBCHAPTER B. MANAGEMENT, CONTROL, AND  
DISPOSITION OF MARITAL PROPERTY

5.23. Earnings of Unemancipated Child.

SUBCHAPTER C. PROPERTY AGREEMENTS

5.43. Agreements Between Spouses Concerning Income or Prop-  
erty Derived From Separate Property.

5.44. Formalities of Agreements.

5.45. Marital Agreements: Burden of Proof.

5.46. Marital Agreements: Rights of Creditors, Recordation.

SUBCHAPTER A. SEPARATE AND  
COMMUNITY PROPERTY

§ 5.04. Gifts Between Spouses

If one spouse makes a gift of property to the other, the gift is presumed to include all the income and property which may arise from that property. [Added by Acts 1981, 67th Leg., p. 2964, ch. 782, § 1, eff. Sept. 1, 1981.]

SUBCHAPTER B. MANAGEMENT, CONTROL, AND  
DISPOSITION OF MARITAL PROPERTY

§ 5.23. Earnings of Unemancipated Child

During the marriage of the parents of an unemancipated minor child when a managing conservator of the child has not been appointed, the earnings of the child are subject to the joint management, control, and disposition of the parents of the child, unless otherwise provided by agreement of the parents or by judicial order.

[Added by Acts 1979, 66th Leg., p. 422, ch. 193, § 5, eff. Aug. 27, 1979.]

Former § 5.23 was repealed by Acts 1975, 64th Leg., p. 624, ch. 254, § 12, eff. Sept. 1, 1975.

SUBCHAPTER C. PROPERTY AGREEMENTS

§ 5.41. Agreement in Contemplation of Marriage

(a) Before marriage, persons intending to marry may enter into a marital property agreement concerning their property then existing or to be acquired, as they may desire.

(b) A minor capable of marrying but not otherwise capable of entering into a binding agreement may enter into a marital property agreement with the subscribed, written consent of the guardian of the minor's estate and with the approval of the probate court after the application, notice, and hearing required in the Probate Code for the sale of a minor's real estate, and if there be no guardian of the minor's estate, with the subscribed, written consent of the minor's managing conservator.

[Amended by Acts 1981, 67th Leg., p. 2964, ch. 782, § 2, eff. Sept. 1, 1981.]

§ 5.42. Partition or Exchange of Community  
Property

At any time, the spouses may partition or exchange between themselves any part of their community property, then existing or to be acquired, as they may desire. Property or a property interest transferred to a spouse by a partition or exchange agreement becomes his or her separate property. [Amended by Acts 1981, 67th Leg., p. 2964, ch. 782, § 2, eff. Sept. 1, 1981.]

§ 5.43. Agreements Between Spouses Concerning  
Income or Property Derived From Sepa-  
rate Property

At any time, the spouses may agree that the income or property arising from the separate property then owned by one of them, or which may thereafter be acquired, shall be the separate property of the owner.

[Added by Acts 1981, 67th Leg., p. 2964, ch. 782, § 2, eff. Sept. 1, 1981.]

§ 5.44. Formalities of Agreements

Each agreement, partition, or exchange agreement made under this subchapter must be in writing and subscribed by all parties.

[Added by Acts 1981, 67th Leg., p. 2964, ch. 782, § 2, eff. Sept. 1, 1981.]

§ 5.45. Marital Agreements: Burden of Proof

In any proceeding in which the validity of a provision of an agreement, partition, or exchange agreement made under this subchapter is in issue as against a spouse or a person claiming from a spouse, the burden of showing the validity of the provision is on the party who asserts it. The proponent of the agreement, partition, or exchange agreement or any person claiming under the proponent has the burden to prove by clear and convincing evidence that the party against whom enforcement of the agreement is sought gave informed consent and that the agreement was not procured by fraud, duress, or overreaching.

[Added by Acts 1981, 67th Leg., p. 2964, ch. 782, § 2, eff. Sept. 1, 1981.]

§ 5.46. Marital Agreements: Rights of Creditors,  
Recordation

(a) A provision of an agreement, partition, or exchange agreement made under this subchapter is void with respect to rights of a preexisting creditor whose rights are intended to be defrauded by it.

(b) An agreement, partition, or exchange agreement made under this subchapter may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property affected or to be affected is located. As to real property, an agreement, partition, or exchange agreement made under this subchapter is not constructive notice to a good faith purchaser for value or a creditor without actu-

al notice unless the instrument is acknowledged and recorded in the county in which the real property is located.

[Added by Acts 1981, 67th Leg., p. 2964, ch. 782, § 2, eff. Sept. 1, 1981.]

**TITLE 2. PARENT AND CHILD**

**SUBTITLE A. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP**

**CHAPTER 11. GENERAL PROVISIONS**

Section

- 11.045. Original Jurisdiction.
- 11.051. Acquiring Jurisdiction Over Nonresident.
- 11.052. Exceptions to Continuing Jurisdiction.
- 11.053. Recognition of Out-of-State Decrees Affecting a Child.
- 11.071. Identification of Court of Continuing Jurisdiction.
- 11.20. Representation of Department.

**§ 11.01. Definitions**

As used in this subtitle and Subtitle C of this title,<sup>1</sup> unless the context requires a different definition:

[See Compact Edition, Volume 1 for text of (1)]

(2) "Court" means the district court, court of domestic relations, juvenile court having the jurisdiction of a district court, or other court expressly given jurisdiction of a suit under this subtitle.

[See Compact Edition, Volume 1 for text of (3) to (6)]

(7) "Authorized agency" means a public social agency authorized to care for children or to place children for adoption, or a private association, corporation, or person approved for that purpose by the Texas Department of Human Resources through a license, certification, or other means.

(8) "Illegitimate child" means a child who is not and has never been the legitimate child of a man and whose parent-child relationship with its natural mother has not been terminated by a court decree.

(9) "Governmental entity" means the state, a political subdivision of the state, or an agency of the state.

[Amended by Acts 1975, 64th Leg., p. 1253, ch. 476, §§ 1, 2, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1471, ch. 643, § 1, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 2269, ch. 551, § 1, eff. Aug. 31, 1981.]

<sup>1</sup> Section 31.01 et seq.

**§ 11.04. Venue**

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) A child resides in the county where his parents (or parent if only one parent is living) reside, except that:

(1) if a managing conservator has been appointed by court order or designated in an affidavit of

relinquishment, or if a custodian for the child has been appointed by order of a court before January 1, 1974, the child resides in the county where the managing conservator or custodian resides;

(2) if a guardian of the person has been appointed by order of a county or probate court and a managing conservator has not been appointed, the child resides in the county where the guardian of the person resides;

(3) if the parents of the child do not reside in the same county and neither a managing conservator nor a guardian of the person has been appointed, the child resides in the county where the parent having care and control of the child resides;

(4) if the child is under the care and control of an adult other than a parent and (A) neither a managing conservator nor a guardian of the person has been appointed or (B) the whereabouts of the managing conservator or the guardian of the person is unknown or (C) the person whose residence determines the residence of the child under this section has left the child under the care and control of the adult, the child resides where the adult having care and control of the child resides;

(5) if a guardian or custodian of the child has been appointed by order of a court of another state or nation, the child resides in the county where the guardian or custodian resides; or

(6) if it appears that the child is not under the care and control of an adult, the child resides where he is found.

[Amended by Acts 1975, 64th Leg., p. 1253, ch. 476, § 3, eff. Sept. 1, 1975.]

**§ 11.045. Original Jurisdiction**

(a) A court has original jurisdiction of a suit affecting the parent-child relationship, whether or not the child is physically present in the state, only if one of the following conditions is met:

(1) this state:

(A) is the principal residence of the child at the time the proceeding is commenced; or

(B) was the principal residence of the child at any time during the six-month period before the proceeding was commenced, and a parent or person acting as a parent resides in this state at the time the proceeding is commenced; or

(2) it is in the best interest of the child that a court of this state assume jurisdiction because:

(A) the child and the child's parents or the child and at least one contestant have a significant connection with this state and there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

(B) the child is physically present in this state and there is a serious immediate question concerning the welfare of the child; or

(C) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with this section, or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine issues concerning the child.

(b) The physical presence in this state of the child or of the child and one of the contestants is alone insufficient to confer jurisdiction to the court to make a determination under this subtitle.

[Added by Acts 1979, 66th Leg., p. 1202, ch. 584, § 2, eff. June 13, 1979.]

### § 11.05. Continuing Jurisdiction

*Text of subsection as amended by Acts 1979, 66th Leg., p. 1201, ch. 584, § 1, and Acts 1979, 66th Leg., p. 1888, ch. 763, § 1*

(a) Except as provided in Subsections (b), (c), (d), and (e) of this section and in Section 11.052 of this code, when a court acquires jurisdiction of a suit affecting the parent-child relationship, that court retains continuing jurisdiction of all parties and matters provided for under this subtitle in connection with the child. No other court of this state has jurisdiction of a suit affecting the parent-child relationship with regard to that child except on transfer as provided in Section 11.06 of this code.

*Text of subsection as amended by Acts 1979, 66th Leg., p. 1471, ch. 643, § 2, and Acts 1979, 66th Leg., p. 1888, ch. 763, § 1*

(a) Except as provided in Subsections (b), (c), (d), and (e) of this section and Section 17.05 of this code, when a court acquires jurisdiction of a suit affecting the parent-child relationship, that court retains continuing jurisdiction of all matters provided for under this subtitle in connection with the child, and no other court has jurisdiction of a suit affecting the parent-child relationship with regard to that child except on transfer as provided in Section 11.06 or 17.06 of this code.

(b) A final decree of adoption ends a court's continuing jurisdiction over the child, and any subsequent suit affecting the child shall be commenced as though the child had not been the subject of a suit for adoption or any other suit affecting the parent-child relationship prior to the adoption.

(c) A court shall have jurisdiction over a suit affecting the parent-child relationship if it has been, correctly or incorrectly, informed by the Texas Department of Human Resources that the child has not been the subject of a suit affecting the parent-child relationship and the petition states that no other court has continuing jurisdiction over the child.

(d)(1) In a suit in which a determination of paternity is sought, except as provided in paragraph (2), the jurisdiction of the court terminates when an order dismissing with prejudice a suit under Chapter 13<sup>1</sup> becomes final, or when an order under Subsection (b), Section 13.08, declaring that the alleged father is not the father of the child becomes final, or

when an order denying voluntary legitimation under Section 13.21 becomes final.

(2) The jurisdiction of the court does not terminate if the child was subject to the jurisdiction of the court or some other court in a suit affecting the parent-child relationship prior to the commencement of the suit to determine paternity.

*Text of subsection as added by Acts 1979, 66th Leg., p. 1201, ch. 584, § 1*

(e) A court does not acquire continuing, exclusive jurisdiction over the matters provided for under this subtitle in connection with the child before the entry of a final decree. A voluntary or involuntary dismissal of a suit affecting the parent-child relationship or the entry of a decree by another court having dominant jurisdiction of the suit terminates all jurisdiction of the court. Unless a final decree has been entered by a court of continuing, exclusive jurisdiction, a subsequent suit shall be commenced as an original proceeding.

*Text of subsection as added by Acts 1979, 66th Leg., p. 1888, ch. 763, § 2*

(e) A court acquires jurisdiction of a suit affecting the parent-child relationship without a transfer under Section 11.06 of this code, even though another court has continuing jurisdiction over the child, if the parents of the child have remarried after the dissolution of a previous marriage between the parents and file in the court acquiring jurisdiction a suit for the dissolution of their subsequent marriage combined with a suit affecting the parent-child relationship concerning the child.

[Amended by Acts 1975, 64th Leg., p. 1254, ch. 476, §§ 4 to 6, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1201, ch. 584, § 1, eff. June 13, 1979; Acts 1979, 66th Leg., p. 1471, ch. 643, § 2, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1888, ch. 763, §§ 1, 2, eff. Aug. 27, 1979.]

<sup>1</sup> Section 13.01 et seq.

### § 11.051. Acquiring Jurisdiction Over Nonresident

In a suit affecting the parent-child relationship, the court may exercise personal jurisdiction over a person on whom service of citation is required or over the person's personal representative, although the person is not a resident or domiciliary of this state, if:

(1) the child was conceived in this state and the person on whom service is required is a parent or an alleged or probable father of the child;

(2) the child resides in this state, as defined by Section 11.04 of this code, as a result of the acts or directives or with the approval of the person on whom service is required;

(3) the person on whom service is required has resided with the child in this state; or

(4) notwithstanding Subdivisions (1), (2), or (3) above, there is any basis consistent with the constitutions of this state or the United States for the exercise of the personal jurisdiction.

[Added by Acts 1975, 64th Leg., p. 1255, ch. 476, § 7, eff. Sept. 1, 1975.]

**§ 11.052. Exceptions to Continuing Jurisdiction**

(a) Except on the written agreement of all the parties, a court may not exercise its continuing jurisdiction to modify:

(1) the appointment of a managing conservator if the managing conservator and the child have established and continued to maintain their principal residence in another state for more than six months unless the action was filed and pending before the six-month period; or

(2) any part of a decree if all of the parties and the child have established and continue to maintain their principal residence outside this state.

(b) This section does not affect the power of the court to enforce and enter a judgment on its decree.

[Added by Acts 1979, 66th Leg., p. 1202, ch. 584, § 3, eff. June 13, 1979.]

**§ 11.053. Recognition of Out-of-State Decrees Affecting a Child**

A court of this state shall recognize and enforce an original or modified final decree granted by a court of another state and entered in litigation that would have been a suit affecting the parent-child relationship in this state unless it is shown that the out-of-state court did not exercise jurisdiction under statutory authority substantially in accordance with the jurisdictional prerequisites of this code.

[Added by Acts 1979, 66th Leg., p. 1202, ch. 584, § 4, eff. June 13, 1979.]

**§ 11.06. Transfer of Proceedings**

(a) If venue is improperly laid in the court in which a suit affecting the parent-child relationship is filed, and no other court has continuing jurisdiction of the suit, on the timely motion of any party other than the petitioner, the court shall transfer the proceeding to the county where venue is proper on the basis of either a supporting uncontroverted affidavit or after a hearing when a controverting affidavit contesting the venue has been filed.

(b) If a petition for further action concerning the child or a motion to modify or enforce a decree is filed in a court having continuing jurisdiction of the suit, on the timely motion of any party, the court shall transfer the proceeding to the county where venue is proper on the basis of either a supporting uncontroverted affidavit or after a hearing when a controverting affidavit contesting the venue has been filed. If the basis of the motion is that the child resides in another county, the court may deny the motion if it is shown that the child has resided in that county for less than six months at the time the proceeding is commenced. If the child resided in another county for six months or longer, the court shall transfer the proceeding to that county. In computing the period of time during which the child has resided in that county, the court shall not require that the period of residence be continuous and uninterrupted but shall look to the child's principal residence during the said six-months period.

(c) On a showing that a suit for dissolution of the marriage of the child's parents has been filed in another court, the court having continuing jurisdiction of a suit affecting the parent-child relationship shall transfer the proceedings to the court where the dissolution of the marriage is pending.

(d) For the convenience of the parties and witnesses and in the interest of justice, the court, on the timely motion of any party, may transfer the proceeding to a proper court in any other county in the state.

(e) If a court has continuing jurisdiction over a child but another court has acquired jurisdiction over the child in suit affecting the parent-child relationship under Section 11.05(c) or (e) of this code, the court previously having jurisdiction over the child, on a motion of any party, on the court's motion, or on the request of the other court, shall transfer the proceeding to the court which has acquired jurisdiction under Section 11.05(c) or (e) of this code.

(f) A motion to transfer by a petitioner or movant is timely if it is made at the time the initial pleadings are filed. A motion to transfer by any other party is timely if it is made on or before the Monday next after the expiration of 20 days after the date of service of citation or notice of the action or before the commencement of the hearing, whichever is sooner. If a timely motion to transfer has been filed and no controverting affidavit is filed within the period allowed for its filing, the proceeding shall be transferred promptly without a hearing to the proper court.

(g) On or before the Monday next after the expiration of 20 days after the date of notice of a motion to transfer is served, a party desiring to contest the motion must file a controverting affidavit denying that grounds for the transfer exist.

(h) If a controverting affidavit contesting the motion to transfer is filed, each party is entitled to at least 10 days' notice of the hearing on the motion to transfer.

(i) Only evidence pertaining to venue shall be taken at the hearing. An order transferring or refusing to transfer the proceeding is not subject to interlocutory appeal.

(j) The court transferring a proceeding shall send to the proper court in the county to which transfer is made the complete files in all matters affecting the child, certified copies of all entries in the minutes, and a certified copy of any decree of dissolution of marriage issued in a suit joined with the suit affecting the parent-child relationship. If the transferring court retains jurisdiction of another child who was the subject of the suit, the court shall send a copy of the complete files to the court to which the transfer is made and shall keep the original files.

(k) A court to which a transfer is made becomes the court of continuing jurisdiction, and all proceedings in the suit are continued as if it were brought there originally. All judgments, decrees, and orders

transferred shall have the same effect and be enforced as if originally entered in the transferee court. The transferee court shall enforce judgments, decrees, and orders of the transferring court by contempt or by any other means by which the transferring court could have enforced them. The transferee court shall specifically have the power to punish disobedience of the transferring court's judgments, decrees, and orders, whether occurring before or after the transfer, by contempt. After transfer, the transferring court does not retain jurisdiction of the child who is the subject of the transfer.

[Amended by Acts 1975, 64th Leg., p. 1255, ch. 476, § 8, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1888, ch. 763, § 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 942, ch. 355, § 1, eff. Sept. 1, 1981.]

#### § 11.07. Commencement of Suit and Petition for Further Remedy

(a) A suit affecting the parent-child relationship shall be commenced by the filing of a petition as provided in this chapter.

(b) Except in a motion to modify as provided in Section 14.08 of this code, a request for further action concerning a child who is the subject of a suit affecting the parent-child relationship and who is under the jurisdiction of a court with continuing jurisdiction shall be initiated by the filing of a petition as provided in this chapter.

(c) On the receipt of a petition requesting further action concerning the child in the court of continuing jurisdiction, the clerk shall file the petition and all other papers relating to the request for further action in the file of the suit affecting the parent-child relationship under the same docket number as the prior proceeding.

[Amended by Acts 1975, 64th Leg., p. 1255, ch. 476, § 9, eff. Sept. 1, 1975.]

#### § 11.071. Identification of Court of Continuing Jurisdiction

(a) The petitioner or the court shall request from the Texas Department of Human Resources identification of the court that last had jurisdiction of the child in a suit affecting the parent-child relationship unless:

(1) the petition alleges that no court has continuing jurisdiction of the child, and the issue is not disputed by the pleadings; or

(2) the petition alleges that the court in which the suit, petition for further remedy, or motion to modify has been filed has acquired and retains continuing jurisdiction of the child as the result of a prior proceeding, and the issue is not disputed by the pleadings.

(b) The department shall, on the written request of the court, an attorney, or any party, identify the court that last had jurisdiction of the child in a suit affecting the parent-child relationship and give the docket number of the suit, or state that the child has not been the subject of a suit affecting the parent-

child relationship. The child shall be identified in the request by name, birthdate, and place of birth. The department shall transmit this information within 10 days after the day the request is received.

(c) If a request for information from the department relating to the identity of the court having continuing jurisdiction of the child has been made pursuant to Subsection (a), no final order, except an order of dismissal, shall be entered until the information is filed with the court. If a final order is entered in the absence of the filing of the information from the department, the order is voidable on a showing that a court other than the court that entered the order had continuing jurisdiction.

(d) If the court in which a petition in a suit affecting the parent-child relationship is filed determines that another court has continuing jurisdiction of the child, the court in which the petition is filed shall dismiss the suit without prejudice.

[Added by Acts 1975, 64th Leg., p. 1255, ch. 476, § 10, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2269, ch. 551, § 2, eff. Aug. 31, 1981.]

#### § 11.08. Contents of Petition

[See Compact Edition, Volume 1 for text of (a)]

(b) The petition must include:

(1) a statement that the court in which the petition is filed has continuing jurisdiction or that no court has continuing jurisdiction of the suit;

(2) the name, sex, place and date of birth, and place of residence of the child, except that if adoption of a child is sought, the name of the child may be omitted;

(3) the full name, age, and place of residence of the petitioner and his relationship to the child or the fact that no relationship exists;

(4) the names, ages, and place of residence of the parents, except in a suit in which adoption is sought;

(5) the name and place of residence of the managing conservator, if any, or the child's custodian, if any, appointed by an order of the court before January 1, 1974, or by order of a court of another state or nation;

(6) the names and places of residence of the guardians of the person and estate of the child, if any;

(7) the names and places of residence of possessory conservators or other persons, if any, having access to the child under an order of the court;

(8) in a suit in which termination of the parent-child relationship between an illegitimate child and its mother is sought, the name and place of residence of the alleged father or probable father of the child or a statement that the identity of the father of the child is unknown;

(9) a full description and statement of value of all property owned or possessed by the child;

(10) a statement describing what action the court is requested to make concerning the child and the statutory grounds on which the request is made; and

(11) any other information required by other provisions of this subtitle.

(c) The petition and other matters in a suit in which a determination of paternity is sought, if the petitioner is a person other than the alleged father of the child, are confidential, and the district clerk and employees of the clerk may not disclose to any person other than the court, the department, or a party to the suit any matter concerning the suit. This subsection does not apply if and when the suit is set for trial under Subsection (b) of Section 13.05 of this code.

[Amended by Acts 1975, 64th Leg., p. 1256, ch. 476, §§ 11, 12, Sept. 1, 1975.]

§ 11.09. Citation and Notice

(a) Except as provided in Subsection (b) of this section, the following persons are entitled to service of citation on the filing of a petition in a suit affecting the parent-child relationship:

- (1) the managing conservator, if any;
- (2) possessory conservators, if any;
- (3) persons, if any, having access to the child under an order of the court;
- (4) persons, if any, required by law or by order of a court to provide for the support of a child;
- (5) the guardian of the person of the child, if any;
- (6) the guardian of the estate of the child, if any;
- (7) each parent as to whom the parent-child relationship has not been terminated or process has not been waived under Section 15.03(c)(2) of this code;

(8) in a suit in which termination of the parent-child relationship between an illegitimate child and its mother is sought, the alleged father or probable father, unless there is attached to the petition an affidavit of waiver of interest in a child executed by the alleged father or probable father as provided in Section 15.041 of this code or unless the petition states that the identity of the father is unknown; and

(9) in a suit to determine the paternity of a child, the alleged father, unless the alleged father is a petitioner.

(b) Service of citation may be given to any other person who has or who may assert an interest in the child and may be given to the unknown father of an illegitimate child.

(c)(i) Except in a suit in which termination of the parent-child relationship is sought, citation on the filing of a petition in a suit affecting the parent-child relationship or notice of a hearing shall be issued and served as in other civil cases except that

citation or notice may be given by registered or certified mail, return receipt requested. In such cases, the clerk shall mail the citation and a copy of the petition to the person so notified marked for delivery to the addressee only. The filing of the returned receipt indicating delivery by registered or certified mail to the proper person shall be sufficient proof of the fact of service.

(ii) In a suit in which termination of the parent-child relationship is sought, citation on the filing of a petition or notice of a hearing shall be issued and served as in other civil cases.

(d) Citation may be given by publication as in other civil cases to persons entitled to service of citation who cannot be notified by personal service or registered or certified mail and to persons whose names are unknown. The notice shall be published one time. If the name of a person entitled to service of citation is unknown, the notice to be published shall be addressed to "All Whom It May Concern." One or more causes to be heard on a certain day may be included in one notice and hearings may be continued from time to time without further notice.

(e) Notice by publication shall be sufficient if given in substantially the following form:

"STATE OF TEXAS

To (names of persons to be served with citation), and to all whom it may concern (if the name of any person to be served with citation is unknown), Respondent(s),

GREETINGS:

"YOU ARE HEREBY COMMANDED to appear and answer before the Honorable District Court, \_\_\_\_\_ Judicial District, \_\_\_\_\_ County, Texas, at the Courthouse of said county in \_\_\_\_\_, Texas, at or before 10 o'clock a. m. of the Monday next after the expiration of 20 days from the date of service of this citation, then and there to answer the petition of \_\_\_\_\_, Petitioner, filed in said Court on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, against \_\_\_\_\_, Respondent(s), and said suit being number \_\_\_\_\_ on the docket of said Court, and entitled 'In the interest of \_\_\_\_\_, a child,' the nature of which suit is a request to (statement of relief sought, e. g., 'terminate the parent-child relationship'). Said child was born the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in (place of birth).

"The court has authority in this suit to enter any judgment or decree in the child's interest which will be binding upon you, including the termination of the parent-child relationship, the determination of paternity, and the appointment of a conservator with authority to consent to the child's adoption.

"Issued and given under my hand and seal of said Court at \_\_\_\_\_, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Clerk of the District Court of \_\_\_\_\_ County, Texas.

By \_\_\_\_\_, Deputy."

[Amended by Acts 1975, 64th Leg., p. 1257, ch. 476, § 13, eff. Sept. 1, 1975.]

### § 11.10. Guardian Ad Litem

(a) In any suit in which termination of the parent-child relationship is sought, the court shall appoint a guardian ad litem to represent the interests of the child, unless the child is a petitioner or unless an attorney ad litem has been appointed for the child or unless the court finds that the interests of the child will be represented adequately by a party to the suit and are not adverse to that party. In any other suit under this subtitle, the court may appoint a guardian ad litem. The managing conservator may be appointed guardian ad litem if he is not a parent of the child or a person petitioning for adoption of the child and if he has no personal interest in the suit.

(b) A guardian ad litem shall be appointed to represent any other person entitled to service of citation under the provisions of Section 11.09 of this code if the person is incompetent or a child, unless the person has executed an affidavit of relinquishment of parental rights or an affidavit of waiver of interest in child containing a waiver of service of citation.

(c) The court may appoint an attorney for any party in a case in which it deems representation necessary to protect the interests of the child who is the subject matter of the suit.

(d) In any suit brought by a governmental entity seeking termination of the parent-child relationship or to be named conservator of a child, the court shall appoint an attorney ad litem to represent the interests of the child as soon as practicable to insure adequate representation of the child's interest.

(e) An attorney appointed to represent a child as authorized by this section is entitled to a reasonable fee in the amount set by the court which is to be paid by the parents of the child unless the parents are indigent. If indigency is shown, an attorney appointed to represent a child in a suit to terminate the parent-child relationship shall be paid from the general funds of the county where the suit is heard in the same manner and according to the same fee schedule as applies to an attorney appointed to represent a child in a suit under Title 3 of this code<sup>1</sup> and as provided by Section 51.10(i) of this code. [Amended by Acts 1975, 64th Leg., p. 1258, ch. 476, § 14, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1471, ch. 643, § 3, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 2709, ch. 740, § 1, eff. June 16, 1981.]

<sup>1</sup>Section 51.01 et seq.

### § 11.11. Temporary Orders

(a) In a suit affecting the parent-child relationship, the court may make any temporary order for the safety and welfare of the child, including but not limited to an order:

- (1) for the temporary conservatorship of the child;
- (2) for the temporary support of the child;
- (3) restraining any party from molesting or disturbing the peace of the child or another party;

(4) prohibiting a person from removing the child beyond the jurisdiction of the court as under a writ of ne exeat; or

(5) for payment of reasonable attorney's fees, and future expenses properly chargeable as court costs, on proof of necessity, as provided by Section 11.18 of this code.

(b) Except as provided by Subsection (c) of this section, temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. An order may not be entered under Subsection (a)(1), (2), or (5) of this section except after notice and a hearing.

(c) Except on a verified pleading or an affidavit in accordance with the Texas Rules of Civil Procedure, an order may not be entered:

- (1) attaching the body of the child;
- (2) taking the child into the possession of the court or of a person designated by the court; or
- (3) excluding a parent from possession of or access to a child.

(d) In a suit under this subtitle the court may dispense with the necessity of a bond in connection with temporary orders in behalf of the child.

[Amended by Acts 1975, 64th Leg., p. 1259, ch. 476, § 15, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 943, ch. 355, § 2, eff. Sept. 1, 1981.]

### § 11.12. Social Study

[See Compact Edition, Volume 1 for text of (a)]

(b) The social study may be made by any state agency, including the Texas Department of Human Resources, or any private agency, or any person appointed by the court. If an authorized agency is the managing conservator, the social study shall be made by the authorized agency. The social study shall be made according to criteria established by the court.

(c) The agency or person making the social study shall file its findings and conclusions with the court on a date set by the court. The report shall be made a part of the record of the suit; however, the disclosure of its contents to the jury is subject to the rules of evidence.

[See Compact Edition, Volume 1 for text of (d)]

[Amended by Acts 1975, 64th Leg., p. 1259, ch. 476, § 16, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2270, ch. 551, § 3, eff. Aug. 31, 1981.]

### § 11.13. Jury

(a) In a suit affecting the parent-child relationship, except a suit in which adoption is sought, any party may demand a jury trial.

(b) The court may not enter a decree that contravenes the verdict of the jury, except with respect to

the issues of the specific terms and conditions of access to the child, support of the child, and the rights, privileges, duties, and powers of conservators, on which the court may submit or refuse to submit issues to the jury as the court determines appropriate, and on which issues the jury verdict, if any, is advisory only.

[Amended by Acts 1975, 64th Leg., p. 1259, ch. 476, § 17, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 3187, ch. 833, § 1, eff. Sept. 1, 1981.]

#### § 11.14. Hearing

[See *Compact Edition, Volume 1 for text of (a) to (g)*]

(h) Repealed by Acts 1975, 64th Leg., p. 1259, ch. 476, § 18, eff. Sept. 1, 1975.

[Amended by Acts 1975, 64th Leg., p. 1259, ch. 476, § 18, eff. Sept. 1, 1975.]

#### § 11.16. Copies of Decree

Copies of a decree of termination or adoption issued under Section 15.05 or Section 16.08 of this code are not required to be mailed to parties as provided in Rules 119a and 239a, Texas Rules of Civil Procedure.

[Amended by Acts 1975, 64th Leg., p. 1259, ch. 476, § 19, eff. Sept. 1, 1975.]

#### § 11.17. Central Record File

(a) Except as provided by Subsection (b) of this section, the clerk of each court having jurisdiction of suits affecting the parent-child relationship shall transmit to the Texas Department of Human Resources a copy of the decree entered in each suit affecting the parent-child relationship, together with the name and all prior names, birthdate, and place of birth of the child. The department shall maintain these records in a central file according to the name, birthdate, and place of birth of the child, the court which rendered the decree, and the docket number of the suit.

(b) On entry of a decree of adoption or on the termination of jurisdiction of a court as provided in Section 11.05(d) of this code, the clerk of the court at petitioner's request shall transmit to the department a complete file in the case, including all pleadings, papers, studies, and records in the suit other than the minutes of the court. The clerk of the court, on entry of a decree of adoption, shall send to the department a certified copy of the petition and decree of adoption. The clerk may not transmit to the department pleadings, papers, studies, and records relating to a suit for divorce or annulment or to declare a marriage void. When the department receives the complete file or petition and decree of adoption, it shall close the records concerning that child; and except for statistical purposes, it shall not disclose any information concerning the prior proceedings affecting the child. Except as provided in Subsection (d) of this section, any subsequent inquiries concerning the child shall be handled as though

the child had not been previously the subject of a suit affecting the parent-child relationship. On the receipt of additional records concerning a child who has been the subject of a suit affecting the parent-child relationship in which the records have been closed as required in this section, a new file shall be made and maintained as other records required by this section.

(c) The department may charge a reasonable fee to cover the cost of determining and sending information concerning the identity of courts with continuing jurisdiction. The receipts shall be deposited in any financial institution as determined by the commissioner of welfare and withdrawn as necessary for the sole purpose of operating and maintaining the central record file.

(d) The records concerning a child maintained by the district clerk after entry of a decree of adoption, and all the records required to be maintained by the department are confidential, and no person is entitled to access to or information from these records except as provided by this subtitle or on an order of the court which issued the decree or of a district court of Travis County for good cause.

[See *Compact Edition, Volume 1 for text of (e)*]

(f) The court, on the motion of a party or on the court's own motion, may order the sealing of the file, the minutes of the court, or both, in a proceeding in which adoption or termination was sought. This subsection does not relieve the clerk from the duty to transmit files or petitions and decrees of adoption to the department as required by Subsection (b) of this section.

[Amended by Acts 1975, 64th Leg., p. 1259, ch. 476, §§ 20, 21, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2270, ch. 551, § 4, eff. Aug. 31, 1981.]

#### § 11.18. Costs

(a) In any proceeding under this subtitle, including, but not limited to, habeas corpus, enforcement, and contempt proceedings, the court may award costs. Reasonable attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order for fees in his own name.

[See *Compact Edition, Volume 1 for text of (b)*]

[Amended by Acts 1981, 67th Leg., p. 944, ch. 355, § 3, eff. Sept. 1, 1981.]

#### § 11.20. Representation of Department

In any suit brought under Subtitle A or C of this title<sup>1</sup> in which the State Department of Public Welfare is a party, the department shall be represented in the trial court by the prosecuting attorney who represents the state in criminal cases in the district or county court of the county where the suit is filed or transferred or by the attorney general.

[Added by Acts 1977, 65th Leg., p. 1262, ch. 486, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> Section 11.01 et seq. or 31.01 et seq.

## CHAPTER 12. THE PARENT-CHILD RELATIONSHIP

### Section

12.05. Rights of a Living Child after an Abortion or Premature Birth.

### § 12.02. Relation of Child to Father

(a) A child is the legitimate child of his father if the child is born or conceived before or during the marriage of his father and mother.

(b) A child is the legitimate child of his father if at any time his mother and father have attempted to marry in apparent compliance with the laws of this state or another state or nation, although the attempted marriage is or might be declared void, and the child is born or conceived before or during the attempted marriage.

[See Compact Edition, Volume 1 for text of (c)]

[Amended by Acts 1975, 64th Leg., p. 1260, ch. 476, § 22, eff. Sept. 1, 1975.]

### § 12.04. Rights, Privileges, Duties, and Powers of Parent

Except as otherwise provided by judicial order or by an affidavit of relinquishment of parental rights executed under Section 15.03 of this code, the parent of a child has the following rights, privileges, duties, and powers:

(1) the right to have physical possession of the child and to establish its legal domicile;

(2) the duty of care, control, protection, moral and religious training, and reasonable discipline of the child;

(3) the duty to support the child, including providing the child with clothing, food, shelter, medical care, and education;

(4) the duty to manage the estate of the child, except when a guardian of the estate has been appointed;

(5) the right to the services and earnings of the child;

(6) the power to consent to marriage, to enlistment in the armed forces of the United States, and to medical, psychiatric, and surgical treatment;

(7) the power to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;

(8) the power to receive and give receipt for payments for the support of the child and to hold or disburse any funds for the benefit of the child;

(9) the right to inherit from and through the child; and

(10) any other right, privilege, duty, or power existing between a parent and child by virtue of law.

[Amended by Acts 1975, 64th Leg., p. 1260, ch. 476, § 23, eff. Sept. 1, 1975.]

### § 12.05. Rights of a Living Child After an Abortion or Premature Birth

(a) A living human child born alive after an abortion or premature birth is entitled to the same rights, powers, and privileges as are granted by the laws of this state to any other child born alive after the normal gestation period.

(b) In this code, "born alive" means the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached; each product of such a birth is considered born alive.

[Added by Acts 1979, 66th Leg., p. 1192, ch. 580, § 1, eff. June 13, 1979.]

Acts 1979, 66th Leg., ch. 580, § 4, provided:

"This Act does not affect the standard of care required of a physician in the performance of medical practice."

## CHAPTER 13. DETERMINATION OF PATERNITY

*Former Chapter 13, Voluntary Legitimation, consisting of Sections 13.01 to 13.06, was revised and amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, to read, Determination of Paternity, Sections 13.01 to 13.43. The provisions of former Chapter 13 are now found in Subchapters B and C herein, Sections 13.21 to 13.24, 13.42 and 13.43.*

### SUBCHAPTER A. PATERNITY SUIT

#### Section

- 13.01. Time Limitation of Suit.
- 13.02. Pretrial Proceedings: Blood Tests.
- 13.03. Pretrial Proceedings: Appointment of Experts.
- 13.04. Pretrial Proceedings: Conference.
- 13.05. Pretrial Proceedings: Effect of Blood Tests.
- 13.06. Evidence at Trial.
- 13.07. Settlement.
- 13.08. Decree.
- 13.09. Effect of Decree Establishing Paternity.

### SUBCHAPTER B. VOLUNTARY LEGITIMATION

- 13.21. Voluntary Legitimation.
- 13.22. Statement of Paternity.
- 13.23. Effect of Statement of Paternity.
- 13.24. Validation of Prior Statements.

### SUBCHAPTER C. GENERAL PROVISIONS

- 13.41. Venue.
- 13.42. Conservatorship, Support, Fees, and Payments.
- 13.43. Birth Certificate.

### SUBCHAPTER A. PATERNITY SUIT

#### § 13.01. Time Limitation of Suit

A suit to establish the parent-child relationship between a child who is not the legitimate child of a man and the child's natural father by proof of

paternity must be brought before the child is four years old, or the suit is barred.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2537, ch. 674, § 2, eff. Sept. 1, 1981.]

**§ 13.02. Pretrial Proceedings: Blood Tests**

(a) When the respondent appears in a paternity suit, the court shall order the mother, alleged father, and child to submit to the taking of blood for the purpose of one or more blood tests. If the appearance is before the birth of the child, the court shall order the taking of blood to be made as soon as medically practical after the birth.

(b) An order issued under this section is enforceable by contempt, except that if the petitioner is the mother or the alleged father and refuses to submit to the blood test, the court shall dismiss the suit. If the respondent is the mother or the alleged father and refuses to submit to the blood test, the fact of refusal may be introduced as evidence as provided in Section 13.06(d) of this code.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1023, ch. 455, § 1, eff. Aug. 27, 1979.]

**§ 13.03. Pretrial Proceedings: Appointment of Experts**

(a) The court may appoint one or more experts qualified as examiners of blood types to make the blood tests. The court may determine the number and qualifications of the experts and shall prescribe the arrangements for conducting the tests.

(b) The court may fix a reasonable fee for each court-appointed examiner and may require the fee to be paid by any or all of the parties or by the Texas Department of Human Resources, if the department is a party of the suit, in the amounts and in the manner directed, or the court may tax all or part or none of the fee as costs in the suit.

(c) A party may employ other qualified examiners of blood tests. The court may order blood samples made available to these examiners if requested.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1023, ch. 455, § 2, eff. Aug. 27, 1979.]

**§ 13.04. Pretrial Proceedings: Conference**

(a) After completion of the blood tests, the court shall order all parties to appear, either in person or by counsel, at a pretrial conference. The court shall call its appointed examiners to testify in person or by deposition about their tests and findings. A party may call other qualified examiners of blood tests to testify.

(b) Witnesses called by the court are the court's witnesses, and witnesses called by a party are that party's witnesses. The court and the parties may examine and cross-examine all witnesses.

(c) All evidence presented at the pretrial conference is a part of the record of the case.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

**§ 13.05. Pretrial Proceedings: Effect of Blood Tests**

(a) At the conclusion of the pretrial conference, if the court finds that the tests show by clear and convincing evidence that the alleged father is not the father of the child, the court shall dismiss the suit with prejudice.

(b) If the court finds that the blood tests fail to show by clear and convincing evidence the alleged father is not the father of the child, the court shall set the suit for trial.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

**§ 13.06. Evidence at Trial**

(a) Unless otherwise permitted by the court on a showing of good cause, a party may call to testify on the results of the blood tests only those experts who testified at the pretrial conference.

(b) A witness called by a party at the trial is that party's witness.

(c) If the blood tests show the possibility of the alleged father's paternity, the court may admit this evidence if offered at the trial.

(d) Evidence of a refusal by the respondent to submit to a blood test is admissible to show only that the alleged father is not precluded from being the father of the child.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

**§ 13.07. Settlement**

The child must be a party to a settlement agreement with the alleged father. The child shall be represented in the settlement agreement by a guardian ad litem appointed by the court. The court must approve any settlement agreement, dismissal, or nonsuit.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

**§ 13.08. Decree**

(a) On a verdict of the jury, or on a finding of the court if there is no jury, that the alleged father is the father of the child, the court shall issue an order designating the alleged father as the father of the child.

(b) On a verdict of the jury, or on a finding of the court if there is no jury, that the alleged father is not the father of the child, the court shall issue an order declaring this finding.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

**§ 13.09. Effect of Decree Establishing Paternity**

The effect of a decree designating the alleged father as the father of the child is to create the parent-child relationship between the father and the child as if the child were born to the father and mother during marriage.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

[Sections 13.10 to 13.20 reserved for expansion]

## SUBCHAPTER B. VOLUNTARY LEGITIMATION

## § 13.21. Voluntary Legitimation

(a) If a statement of paternity has been executed by the father of an illegitimate child, the father or mother of the child or the Texas Department of Human Resources may file a petition for a decree designating the father as a parent of the child. The statement of paternity must be attached to the petition.

(b) The court shall enter a decree designating the child as the legitimate child of its father and the father as a parent of the child if the court finds that:

(1) the parent-child relationship between the child and its original mother has not been terminated by a decree of a court;

(2) the statement of paternity was executed as provided in this chapter, and the facts stated therein are true; and

(3) the mother or the managing conservator, if any, has consented to the decree.

(c) The requirement of consent of the mother is satisfied if she is the petitioner. If the entry of the decree is in the best interest of the child, the court may consent to the legitimation of the child in lieu of the consent of the mother or managing conservator.

(d) A suit for voluntary legitimation may be joined with a suit for termination under Chapter 15 of this code.<sup>1</sup>

(e) A suit under this section may be instituted at any time.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2270, ch. 551, § 5, eff. Aug. 31, 1981.]

<sup>1</sup> Section 15.01 et seq.

## § 13.22. Statement of Paternity

The statement of paternity authorized to be used in Section 13.21 of this code must be executed by the father of the child as an affidavit and witnessed by two credible adults. The affidavit must clearly state that the father acknowledges the child as his child, that he and the mother, who is named in the affidavit, were not married to each other at the time of conception of the child or at any subsequent time, and that the child is not the legitimate child of another man. The statement must be executed before a person authorized to administer oaths under the laws of this state.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

## § 13.23. Effect of Statement of Paternity

(a) A statement of paternity executed as provided in Section 13.22 of this code is prima facie evidence that the child is the child of the person executing the statement and that the person has an obligation to support the child.

(b) If the father's address is unknown or he is outside the jurisdiction of the court at the time a suit is instituted under Section 13.21 of this code, his statement of paternity, in the absence of controverting evidence, is sufficient for the court to enter a decree establishing his paternity of the child.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

## § 13.24. Validation of Prior Statements

A statement acknowledging paternity or an obligation to support a child which was signed by the father before January 1, 1974, is valid and binding even though the statement is not executed as provided in Section 13.22 of this code and is not filed with the State Department of Public Welfare or with the court.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

[Sections 13.25 to 13.40 reserved for expansion]

## SUBCHAPTER C. GENERAL PROVISIONS

## § 13.41. Venue

(a) If the alleged father is not the petitioner, the suit shall be brought in the county where the alleged father resides, except that if the alleged father is not a resident or domiciliary of this state and jurisdiction is to be established as provided by Section 11.051 of this code, the suit shall be brought where the mother resides.

(b) If the alleged father is the petitioner, the suit shall be brought in the county where the mother resides, except that if the mother is not a domiciliary of this state and jurisdiction is to be established as provided by Section 11.051 of this code, the suit shall be brought where the child resides.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

## § 13.42. Conservatorship, Support, Fees, and Payments

(a) In a suit in which a determination of paternity is sought, the court may provide for the managing and possessory conservatorship and support of and access to the child; except that no alleged father denying paternity may be required to make any payment for the support of the child until paternity is established.

(b) In addition to the payment authorized by Section 14.05 of this code, the court may award reasonable attorney's fees incurred in the suit.

(c) A payment ordered under Subsection (b) of this section is enforceable as provided in Section 14.09 of this code.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

§ 13.43. Birth Certificate

On a determination of paternity, the clerk of the court, unless directed otherwise by the court, shall transmit a copy of the decree to the State Registrar of Vital Statistics. The decree shall state the name of the child. The registrar shall substitute for the original a new birth certificate based on the decree in accordance with the provisions of the laws which permit the correction or substitution of birth certificates for adopted children or children legitimated by the subsequent marriage of their parents and in accordance with the rules and regulations promulgated by the State Department of Health.

[Amended by Acts 1975, 64th Leg., p. 1261, ch. 476, § 24, eff. Sept. 1, 1975.]

CHAPTER 14. CONSERVATORSHIP, POSSESSION AND SUPPORT OF CHILDREN

Section

14.11. [Blank].

14.12. Probation of Contempt Order.

§ 14.02. Rights, Privileges, Duties, and Powers of Managing Conservator

(a) Except as provided in Subsection (d) of this section, a parent appointed managing conservator of the child retains all the rights, privileges, duties, and powers of a parent to the exclusion of the other parent, subject to the rights, privileges, duties, and powers of a possessory conservator as provided in Section 14.04 of this code and to any limitation imposed by court order in allowing access to the child.

[See Compact Edition, Volume 1 for text of (b) and (c)]

(d) The appointment of a managing conservator does not create, rescind, or otherwise alter a right to inherit as established by law or as modified under Chapter 15 of this code.<sup>1</sup>

[Amended by Acts 1975, 64th Leg., p. 1265, ch. 476, §§ 25 and 26, eff. Sept. 1, 1975.]

<sup>1</sup> Section 15.01 et seq.

§ 14.03. Possession of and Access to Child

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) If the court finds that it is in the best interests of the child as provided in Section 14.07 of this code, the court may grant reasonable access rights to either the maternal or paternal grandparents of the child; and to either the natural maternal or paternal grandparents of a child whose parent-child relationship has been terminated or who has been adopted before or after the effective date of this code. Such relief shall not be granted unless one of the child's legal parents at the time the relief is requested is the child's natural parent. The court may issue any necessary orders to enforce said decree.

[Amended by Acts 1975, 64th Leg., p. 1265, ch. 476, § 27, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 335, ch. 164, § 1, eff. Aug. 29, 1977.]

§ 14.04. Rights, Privileges, Duties, and Powers of Possessory Conservator

(a) A possessory conservator has the following rights, privileges, duties, and powers during the period of possession, subject to any limitations expressed in the decree:

(1) the duty of care, control, protection, and reasonable discipline of the child;

(2) the duty to provide the child with clothing, food, and shelter; and

(3) the power to consent to medical and surgical treatment during an emergency involving an immediate danger to the health and safety of the child.

(b) A possessory conservator has any other right, privilege, duty, or power of a managing conservator expressly granted to the possessory conservator in the decree awarding possession of the child.

[Amended by Acts 1981, 67th Leg., p. 944, ch. 355, § 4, eff. Sept. 1, 1981.]

§ 14.06. Agreements Concerning Conservatorship

(a) To promote the amicable settlement of disputes between the parties to a suit under this chapter, the parties may enter into a written agreement containing provisions for conservatorship and support of the child, modifications of agreements or orders providing for conservatorship and support of the child, and appointment of joint managing conservators.

[See Compact Edition, Volume 1 for text of (b) to (d)]

[Amended by Acts 1979, 66th Leg., p. 717, ch. 313, § 1, eff. Aug. 27, 1979.]

§ 14.07. Best Interest of Child

[See Compact Edition, Volume 1 for text of (a)]

(b) In determining the best interest of the child, the court shall consider the circumstances of the child. In the event of the death of the parents, the grandparents may be considered but such consideration shall not alter or diminish the discretionary power of the court.

(c) In a nonjury trial the court may interview the child in chambers to ascertain the child's wishes as to his conservator. Upon the application of any party and when the issue of managing conservatorship is contested, the court shall confer with a child 12 years of age or older and may confer with a child under 12 years of age, but in either event the results of such interview shall not alter or diminish the discretionary power of the court. The court may permit counsel to be present at the interview. On the motion of a party or on the court's own motion, the court shall cause a record of the interview to be made when the child is 12 years of age or older, which record of the interview shall be made part of the record in the case.

[Amended by Acts 1975, 64th Leg., p. 1265, ch. 476, § 28, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1862, ch. 739, § 1, eff. Aug. 29, 1977.]

### § 14.08. Modification of Order

(a) A court order or the portion of a decree that provides for the support of a child or the appointment of a conservator or that sets the terms and conditions of conservatorship for support for, or access to a child may be modified only by the filing of a motion in the court having jurisdiction of the suit affecting the parent-child relationship. Any party affected by the order or the portion of the decree to be modified may file the motion.

(b) Each party whose rights, privileges, duties, or powers may be affected by the motion is entitled to at least 30 days' notice of a hearing on the motion to modify.

(c) After a hearing, the court may modify an order or portion of a decree that:

(1) designates a managing conservator if the circumstances of the child or parent have so materially and substantially changed since the entry of the order or decree to be modified that the retention of the present managing conservator would be injurious to the welfare of the child and that the appointment of the new managing conservator would be a positive improvement for the child; or

(2) provides for the support of a child, sets the terms and conditions for access to or possession of a child, or prescribes the relative rights, privileges, duties, and powers of conservators if the circumstances of the child or a person affected by the order or portion of the decree to be modified have materially and substantially changed since the entry of the order or decree; except that an order providing for the support of a child may be modified only as to obligations accruing subsequent to the motion to modify.

(d) If the motion is filed for the purpose of changing the designation of the managing conservator and is filed within one year after the date of issuance of the order or decree to be modified, there shall be attached to the motion an affidavit executed by the person making the motion. The affidavit must contain at least one of the following allegations along with the supportive facts:

(1) that the child's present environment may endanger his physical health or significantly impair his emotional development; or

(2) that the managing conservator is the person seeking the modification or consents to the modification, and the modification is in the best interest of the child.

(e) On the filing of a motion to which the provisions of Subsection (d) of this section apply, the court shall deny the motion and refuse to schedule a hearing unless the court determines, on the basis of the affidavit, that adequate facts to support an allegation listed in Subdivision (1) or (2) of Subsection (d) of this section are stated in the affidavit. If the court determines that the facts stated are adequate to support an allegation, a time and place for the hearing shall be set.

[Amended by Acts 1975, 64th Leg., p. 1265, ch. 476, § 29, eff. Sept. 1, 1975.]

### § 14.10. Habeas Corpus

[See Compact Edition, Volume 1 for text of (a)]

(b) The court shall disregard any cross action or motion pending for modification of the decree determining managing conservatorship, possession, or support of or access to the child unless it finds that:

(1) the previous order was granted by a court that did not have jurisdiction of the parties; or

(2) the child has not been in the relator's possession and control for at least 6 months immediately preceding the filing of the petition for the writ.

[See Compact Edition, Volume 1 for text of (c) and (d)]

(e) If the right to possession of a child is not governed by a court order, the court in a habeas corpus proceeding involving the right of possession of the child shall compel return of the child to the relator if, and only if, it finds that the relator has a superior right to possession of the child by virtue of the rights, privileges, duties, and powers of a parent as set forth in Section 12.04 of this code.

(f) The court shall disregard any motion for temporary or permanent adjudication relating to the possession of the child in a habeas corpus proceeding brought under Subsection (e) of this section unless at the time of the hearing an action is pending under this subtitle, in which case the court may proceed to issue any temporary order as provided by Section 11.11 of this code.

[Amended by Acts 1975, 64th Leg., p. 1266, ch. 476, § 30, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1290, ch. 508, § 1, eff. Aug. 29, 1977.]

### § 14.11. [Blank]

### § 14.12. Probation of Contempt Order

(a) If the court finds that a person who has been ordered to make payments for the support of a child is in contempt of the court for the failure or refusal to make a payment, the court may suspend the imposition of the court's order of commitment and place the person on probation on the condition that the person shall continue the court-ordered child support payments with court costs and on other reasonable conditions that the court requires.

The terms and conditions of probation may include but shall not be limited to the conditions that the probationer shall:

1. report to the probation officer as directed;
2. permit the probation officer to visit him at his home or elsewhere;
3. obtain counseling on financial planning, budgeting management, alcohol or drug abuse, or other matters causing the defendant to fail to pay the child support payments;
4. pay all court costs.

(b) The probation may be for any period not to exceed five years or until one year has elapsed after all payments in arrears have been paid, whichever period is the longer.

(c) A court granting probation may fix a fee not exceeding \$10 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation.

The court shall deposit the fees received under this section in the special fund of the county treasury provided by Subsection (b) of Section 4.05 of Article 42.121, Code of Criminal Procedure, 1965, to be used for the provision of adult probation or community-based adult corrections services or facilities other than a jail or prison.

(d) If a probationer violates a condition of probation, the court may cause the probationer's arrest by warrant as in other cases. An arrested probationer shall be brought promptly before the court causing the arrest, and the court, after a hearing without a jury, may continue, modify, or revoke the probation as the evidence warrants.

(e) When a probationary period has been satisfactorily completed, the court shall on its own motion discharge the probationer from probation. On the motion of a probationer who has satisfactorily completed one year of probation while not delinquent in the payment of child support, the court may discharge the probationer from probation.

[Added by Acts 1981, 67th Leg., p. 2536, ch. 674, § 1, eff. Sept. 1, 1981.]

**CHAPTER 15. TERMINATION OF THE PARENT-CHILD RELATIONSHIP**

Section	
15.021.	Filing of Petition to Terminate Before Birth.
15.022.	Termination After Abortion.
15.041.	Affidavit of Waiver of Interest in Child.

**§ 15.02. Involuntary Termination of Parental Rights**

A petition requesting termination of the parent-child relationship with respect to a parent who is not the petitioner may be granted if the court finds that:

- (1) the parent has:
  - (A) voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return; or
  - (B) voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months; or
  - (C) voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months; or
  - (D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child; or

(E) engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child; or

(F) failed to support the child in accordance with his ability during a period of one year ending within six months of the date of the filing of the petition; or

(G) abandoned the child without identifying the child or furnishing means of identification, and the child's identity cannot be ascertained by the exercise of reasonable diligence; or

(H) voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from the child or failed to support the child since the birth; or

(I) contumaciously refused to submit to a reasonable and lawful order of a court under Section 34.05 of this code; or

(J) been the major cause of:
 

- (i) the failure of the child to be enrolled in school as required by the Texas Education Code; or

(ii) the child's absence from his home without the consent of his parents or guardian for a substantial length of time or without the intent to return; or

(K) executed before or after the suit is filed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided by Section 15.03 of this code; and in addition, the court further finds that

(2) termination is in the best interest of the child.

[Amended by Acts 1975, 64th Leg., p. 1266, ch. 476, § 31, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1793, ch. 727, § 1, eff. Aug. 27, 1979.]

**§ 15.021. Filing of Petition to Terminate Before Birth**

A petition in a suit affecting the parent-child relationship which requests the termination of the parent-child relationship with respect to either or both parents may be filed before the birth of the child and after the first trimester of the mother's pregnancy. If the petition is filed before the birth of the child, no hearing on the termination may be held nor may orders other than temporary orders be issued until the child is at least five days old. If the petition is filed before the birth of the child, the term "unborn child" shall be substituted for the name of the child in all records and documents required by this title that are filed before the birth of the child. After the birth of the child, the name of the child shall be entered in the record and used in subsequent proceedings other than an adoption. [Added by Acts 1975, 64th Leg., p. 1267, ch. 476, § 32, eff. Sept. 1, 1975.]

**§ 15.022. Termination After Abortion**

(a) A petition requesting termination of the parent-child relationship with respect to a parent who is not the petitioner may be granted if the child was born alive as the result of an abortion.

(b) In this code, "abortion" means an intentional expulsion of a human fetus from the body of a woman induced by any means for the purpose of causing the death of the fetus.

(c) The court or the jury may not terminate the parent-child relationship under this section with respect to a parent who:

- (1) had no knowledge of the abortion; or
- (2) participated in or consented to the abortion for the sole purpose of preventing the death of the mother.

[Added by Acts 1979, 66th Leg., p. 1192, ch. 580, § 2, eff. June 13, 1979.]

**§ 15.03. Affidavit of Relinquishment of Parental Rights**

(a) An affidavit for voluntary relinquishment of parental rights must be signed after the birth of the child by the parent, whether or not a minor, whose parental rights are to be relinquished, witnessed by two credible persons, and verified before any person authorized to take oaths.

[See Compact Edition, Volume 1 for text of (b)]

(c) The affidavit may contain:

(1) a designation of any qualified person, the Texas Department of Human Resources, or any authorized agency as managing conservator of the child;

(2) a waiver of process in a suit to terminate the parent-child relationship brought under Section 15.02(1)(K) of this code, or in a suit to terminate joined with a petition for adoption under Section 16.03(b) of this code; and

(3) a consent to the placement of the child for adoption by the Texas Department of Human Resources or by an agency authorized by the Texas Department of Human Resources to place children for adoption.

(d) An affidavit of relinquishment of parental rights which designates as the managing conservator of the child the Texas Department of Human Resources or an agency authorized by the Texas Department of Human Resources to place children for adoption is irrevocable. Any other affidavit of relinquishment is revocable unless it expressly provides that it is irrevocable for a stated period of time not to exceed 60 days after the date of its execution.

[Amended by Acts 1975, 64th Leg., p. 1267, ch. 476, § 33, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2270, ch. 551, § 6, eff. Aug. 31, 1981.]

**§ 15.04. Affidavit of Status of Child**

(a) If the child is not the legitimate child of the father, an affidavit shall be executed by the mother,

whether or not a minor, witnessed by two credible persons, and verified before any person authorized to take oaths.

(b) The affidavit must state:

(1) that the mother is not and has not been married to the father of the child;

(2) that the mother and father have not attempted to marry under the laws of this state or another state or nation;

(3) that paternity has not been established under the laws of any state or nation; and

(4) one of the following, as applicable:

(A) the father is unknown and no probable father is known;

(B) the name of the father, but the affiant does not know the whereabouts of the father;

(C) the father has executed a statement of paternity under Section 13.22 of this code and an affidavit of relinquishment of parental rights under Section 15.03 of this code and both affidavits have been filed with the court;

(D) the name and whereabouts of the father; or

(E) the name of any probable father of the child.

(c) The affidavit of status of child may be executed at any time after the first trimester of the pregnancy of the mother.

[Amended by Acts 1975, 64th Leg., p. 1268, ch. 476, § 34, eff. Sept. 1, 1975.]

**§ 15.041. Affidavit of Waiver of Interest in Child**

(a) A person may execute an affidavit disclaiming any interest in a child and waiving notice or the service of citation in any suit to be filed affecting the parent-child relationship with respect to the child.

(b) The affidavit shall be signed by the person, whether or not a minor, witnessed by two credible persons, and verified before a person authorized to take oaths. The affidavit may be executed before the birth of the child.

(c) The affidavit may contain a statement that the affiant does not admit being the father of the child or having had a sexual relationship with the mother of the child.

(d) An affidavit of waiver of interest in a child may be used in any proceeding in which the affiant attempts to establish an interest in the child. The affidavit may not be used in any proceeding brought by another person to establish the affiant's paternity of the child.

(e) In a suit to adopt a child or in a suit brought by the Texas Department of Human Resources or an authorized agency for the purpose of terminating all legal relationships and rights which exist or may exist between the child's parents and the child, the court may render a decree terminating all legal relationships and rights which exist or may exist

between a child and a man who has executed an affidavit of waiver of interest in the child, including the right to seek voluntary legitimation of the child, if the court finds that rendition of the decree is in the best interest of the child.

[Added by Acts 1975, 64th Leg., p. 1268, ch. 476, § 35, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2360, ch. 582, § 1, eff. Sept. 1, 1981.]

**§ 15.06. Dismissal of Petition**

A suit to terminate the parent-child relationship may not be dismissed nor may a nonsuit be taken in the suit unless the dismissal or nonsuit is approved by the court.

[Amended by Acts 1981, 67th Leg., p. 944, ch. 355, § 5, eff. Sept. 1, 1981.]

**§ 15.07. Effect of Decree**

A decree terminating the parent-child relationship divests the parent and the child of all legal rights, privileges, duties, and powers, with respect to each other, except that the child retains the right to inherit from and through its divested parent unless the court otherwise provides. Nothing in this chapter shall preclude or affect the rights of a natural maternal or paternal grandparent to reasonable access under Section 14.03(d) of this code.

[Amended by Acts 1975, 64th Leg., p. 1269, ch. 476, § 36, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 335, ch. 164, § 2, eff. Aug. 29, 1977.]

**CHAPTER 16. ADOPTION**

**SUBCHAPTER A. ADOPTION OF CHILDREN**

Section

16.031. Social Study: Time for Hearing.

**SUBCHAPTER A. ADOPTION OF CHILDREN**

**§ 16.02. Who May Adopt**

Any adult is eligible to adopt a child who may be adopted.

[Amended by Acts 1975, 64th Leg., p. 1269, ch. 476, § 37, eff. Sept. 1, 1975.]

**§ 16.03. Prerequisites to Petition**

[See Compact Edition, Volume 1 for text of (a)]

(b) Except as provided in Subsection (c) of this section, no petition for adoption of a child may be considered unless there has been a decree terminating the parent-child relationship as to each living parent of the child or unless the termination proceeding is joined with the proceeding for adoption.

[See Compact Edition, Volume 1 for text of (c)]

(d) If an affidavit of relinquishment of parental rights contains a consent that the Texas Department of Human Resources or an authorized agency may place the child for adoption and appoints the department or agency managing conservator of the child, no further consent by the parent is required and the

adoption decree shall terminate all rights of the parent without further termination proceedings.

[Amended by Acts 1975, 64th Leg., p. 1269, ch. 476, §§ 38 to 40, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2270, ch. 551, § 7, eff. Aug. 31, 1981.]

Former subsec. (d) was repealed by § 39 of the 1975 Act.

**§ 16.031. Social Study: Time for Hearing**

(a) In a suit affecting the parent-child relationship in which an adoption is sought, the court shall order the making of a social study as provided in Section 11.12 of this code and shall set a date for its filing.

(b) The court shall set the date for the hearing on the adoption at a time not later than 60 days, nor earlier than 40 days, after the date on which the investigator is appointed. For good cause shown, the court may set the hearing at any time that provides adequate time for filing the report of the study.

[Added by Acts 1975, 64th Leg., p. 1269, ch. 476, § 41, eff. Sept. 1, 1975.]

**§ 16.08. Decree**

(a) If the court is satisfied that the requirements for adoption have been met and the adoption is in the best interest of the child, the court shall make a decree granting the adoption, reciting the findings pertaining to the court's jurisdiction.

(b) If a request for termination of the parent-child relationship has been joined with the petition for adoption, the court shall also enter in its decree a termination of the parent-child relationship. The court must make separate findings that the termination is in the best interests of the child and that the adoption is in the best interests of the child.

(c) The name of the child may be changed in the decree if requested.

[Amended by Acts 1975, 64th Leg., p. 1269, ch. 476, § 42, eff. Sept. 1, 1975.]

**§ 16.09. Effect of Adoption Decree**

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) Nothing in this chapter shall preclude or affect the rights of a natural maternal or paternal grandparent to reasonable access under Section 14.03(d) of this code.

[Amended by Acts 1977, 65th Leg., p. 335, ch. 163, § 3, eff. Aug. 29, 1977.]

**SUBCHAPTER B. ADOPTION OF ADULTS**

**§ 16.55. Effect of Adoption Decree**

On entry of the decree of adoption, the adopted adult is the son or daughter of the adoptive parents for all purposes, and of the natural parents for inheritance purposes only. However, the natural parents may not inherit from or through the adopted adult.

[Amended by Acts 1975, 64th Leg., p. 1270, ch. 476, § 43, eff. Sept. 1, 1975.]

## CHAPTER 17. EMERGENCY PROCEDURES IN SUIT BY GOVERNMENTAL ENTITY

### Section

- 17.01. Governmental Entity May Bring Suit.
- 17.011. Living Child After Abortion.
- 17.02. Emergency Orders.
- 17.03. Taking Possession of a Child Without a Court Order.
- 17.04. Adversary Hearing.
- 17.05. Jurisdiction of Chapter 17 Proceedings.
- 17.06. Transfers in Chapter 17 Proceedings.
- 17.07. Notice of Hearings.
- 17.08. Civil Liability.

*Former Chapter 17, Suit for Protection of Child in Emergency, consisting of Sections 17.01 to 17.09, was amended by Acts 1979, 66th Leg., p. 1471, ch. 643, § 4, to read Chapter 17, Emergency Procedures in Suit by Governmental Entity, Sections 17.01 to 17.08.*

### § 17.01. Governmental Entity May Bring Suit

A suit affecting the parent-child relationship may be brought by a governmental entity with an interest in the child under Chapters 11, 13, 14, and 15 of this code. An emergency order or taking possession of a child without a court order as provided by Section 17.02 or 17.03 of this code is governed by this chapter.

[Amended by Acts 1975, 64th Leg., p. 1270, ch. 476, § 44, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1472, ch. 643, § 4, eff. Sept. 1, 1979.]

### § 17.011. Living Child After Abortion

An authorized representative of the Texas Department of Human Resources may assume the care, control, and custody of a child born alive as the result of an abortion as defined in Subsection (b) of Section 15.022 of this code and, if so, shall file a petition under Section 17.02 of this code and comply with all the provisions of Section 11.09 of this code. A child the possession of whom is assumed under this section need not be delivered to the court except on the order of the court.

[Added by Acts 1979, 66th Leg., p. 1193, ch. 580, § 3, eff. June 13, 1979.]

This section was added by Acts 1979, 66th Leg., p. 1193, ch. 580, § 3, without reference to the amendment of this chapter by Acts 1979, 66th Leg., p. 1471, ch. 643, § 4.

### § 17.02. Emergency Orders

(a) Before any temporary restraining order or attachment of the child is issued without a full adversary hearing in a suit affecting the parent-child relationship brought by a governmental entity, the court must be satisfied from a sworn petition or affidavit that:

- (1) there is an immediate danger to the physical health or safety of the child; and
- (2) there is no time, consistent with the physical health or safety of the child, for an adversary hearing.

(b) The petition or affidavit required by Subsection (a) of this section shall be sworn to by a person with personal knowledge and shall state facts sufficient to satisfy a person of ordinary prudence and caution that there is an immediate danger to the physical health or safety of the child and that there is no time, consistent with the physical health or safety of the child, for an adversary hearing.

(c) A temporary restraining order or attachment of the child issued under Subsection (a) of this section may not extend for more than 10 days. [Amended by Acts 1979, 66th Leg., p. 1472, ch. 643, § 2, eff. Sept. 1, 1979.]

### § 17.03. Taking Possession of a Child Without a Court Order

(a) An authorized representative of the Texas Department of Human Resources, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order under the following conditions and no others:

(1) upon discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(2) upon the voluntary delivery of the child by the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(3) upon personal knowledge of facts which would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code; or

(4) upon information furnished by another which has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code.

(b) When a child is taken into possession under Subdivision (3) or (4) of Subsection (a) of this section, the person taking the child into possession shall, without unnecessary delay, cause to be filed a suit affecting the parent-child relationship and request the court to cause hearing to be held by no later than the first working day after the child is taken into possession.

(c) The court in which the suit affecting the parent-child relationship has been filed under Subsection (b) of this section shall hold a hearing on or before the first working day after the child is taken

into possession and shall make such orders as are necessary to protect the physical health and safety of the child. If the court is unavailable for a hearing on the first working day, then, and only in that event, the hearing shall be held no later than the first working day after the court becomes available, provided that the hearing is held no later than the third working day after the child is taken into possession. The hearing may be ex parte and proof may be by sworn petition or affidavit if a full adversary hearing is not practicable. If the hearing established by this subsection is not held within the time limits required, the child shall be returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child.

(d) Unless the court at the hearing required under Subsection (c) of this section is satisfied that there is a continuing danger to the physical health or safety of the child if the child is returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child, the court shall order the return of the child to the person entitled to possession.

(e) A full adversary hearing shall be held within 10 days of the taking of the child into possession under Subdivision (3) or (4) of Subsection (a) of this section and such orders made as are necessary for the protection of the physical health and safety of the child.

(f) When possession of the child has been acquired under Subdivision (2) of Subsection (a) of this section, the person taking the child into possession shall cause to be filed a suit affecting the parent-child relationship within 60 days from the date of the taking of the child into possession and a hearing to be held thereon.

(g) When a child is taken into possession under this section, that child shall not be held in a jail or juvenile detention facility.

[Amended by Acts 1979, 66th Leg., p. 1471, ch. 643, § 4, eff. Sept. 1, 1979.]

**§ 17.04. Adversary Hearing**

(a) Unless the child has already been returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession and any temporary orders dissolved, a full adversary hearing shall be held within 10 days of:

(1) the taking of the child into possession by authority of Subdivision (3) or (4) of Subsection (a) of Section 17.03 of this code;

(2) the taking of the child into possession by authority of a temporary restraining order or attachment of a child issued under Section 17.02 of this code; or

(3) the filing of the suit provided under Subsection (f) of Section 17.03 of this code.

(b) At the conclusion of the full adversary hearing, the court shall order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that there is a danger to the physical health or safety of the child which was caused by any act or failure to act of the person entitled to possession.

(c) If the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that there is a danger to the physical health or safety of the child, the court shall issue appropriate temporary orders under Section 11.11 of this code.

[Amended by Acts 1979, 66th Leg., p. 1471, ch. 643, § 4, eff. Sept. 1, 1979.]

**§ 17.05. Jurisdiction of Chapter 17 Proceedings**

(a) A suit affecting the parent-child relationship brought by a governmental entity seeking conservatorship or termination and a temporary restraining order or attachment of a child under this chapter may be filed in any court with jurisdiction to hear suits affecting the parent-child relationship in the county in which the child is found.

(b) Immediately after the issuance of such temporary orders as are necessary for the protection of the child pending a final hearing, a governmental entity shall determine the court of continuing jurisdiction and shall institute any transfers as are necessary under Section 17.06 or 11.06 of this code.

[Amended by Acts 1975, 64th Leg., p. 1270, ch. 476, § 45, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1472, ch. 643, § 4, eff. Sept. 1, 1979.]

**§ 17.06. Transfers in Chapter 17 Proceedings**

(a) Immediately after entry of temporary orders necessary for the protection of the child pending a final hearing, the court on the motion of a party shall transfer to the court of continuing jurisdiction, if there is a court of continuing jurisdiction, or if there is no court of continuing jurisdiction, to the court having venue of the suit affecting the parent-child relationship under Section 11.04 of this code. Transfers shall be made under the procedures provided by Section 11.06 of this code.

(b) Temporary orders issued under this chapter are valid and enforceable until properly superseded by a court with jurisdiction to do so.

(c) Any court to which the suit has been transferred may enforce by contempt or otherwise any temporary order properly issued under this chapter. [Amended by Acts 1979, 66th Leg., p. 1471, ch. 643, § 4, eff. Sept. 1, 1979.]

**§ 17.07. Notice of Hearings**

Notice shall be given in accordance with Section 11.09 of this code and the Texas Rules of Civil Procedure.

[Amended by Acts 1979, 66th Leg., p. 1471, ch. 643, § 4, eff. Sept. 1, 1979.]

### § 17.08. Civil Liability

A person who takes possession of a child under Section 17.03 of this code is immune from civil liability if, at the time possession is taken, he had reasonable cause to believe there was an immediate danger to the physical health or safety of the child. [Amended by Acts 1979, 66th Leg., p. 1471, ch. 643, § 4, eff. Sept. 1, 1979.]

## CHAPTER 18. REVIEW OF PLACEMENT OF CHILDREN UNDER THE CARE OF THE DEPARTMENT OF HUMAN RESOURCES

### Section

- 18.01. Review of Placements by Court of Continuing Jurisdiction.
- 18.02. Voluntary Placements: Suit.
- 18.03. Persons Entitled to Notice.
- 18.04. When Child is at Home.
- 18.05. Child's Attendance at Hearing.
- 18.06. Disposition of Child.

### § 18.01. Review of Placements by Court of Continuing Jurisdiction

(a) In a suit affecting the parent-child relationship in which the Texas Department of Human Resources or any authorized agency has been named by the court or in an affidavit of relinquishment of parental rights as the managing conservator of a child, the court shall hold a hearing to review the conservatorship appointment and the placement of the child by the department or authorized agency in foster home care, group home care, or institutional care.

(b) The hearing shall be held not earlier than five and one-half months and not later than seven months after the date of the last hearing in the suit unless, for good cause shown by any party, an earlier hearing is approved by the court.

[Added by Acts 1979, 66th Leg., p. 66, ch. 41, § 1, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 821, ch. 292, § 1, eff. June 8, 1981.]

### § 18.02. Voluntary Placements: Suit

(a) If a parent, managing conservator, or guardian of the person of a child who is not subject to the continuing jurisdiction of a court under this title voluntarily agrees to surrender the custody, care, or control of a child to the Texas Department of Human Resources, the department, not later than 60 days after taking possession of or exercising control of the child, shall file a suit affecting the parent-child relationship under this title, establishing a court of continuing jurisdiction for the child, and requesting a review of the placement of the child in foster home care, group home care, or institutional care.

(b) The petition shall state that the purpose of the suit is to initiate periodic review of the necessity and propriety of the placement of the child. A copy of the agreement between the department and the parent, managing conservator, or guardian of the child shall be filed with the petition.

(c) In addition to those persons listed in Section 11.09(a) of this code as entitled to service of citation in a suit affecting the parent-child relationship, a person listed in Section 18.03 of this code is entitled to service of citation.

(d) The hearing shall be held not earlier than five and one-half months and not later than seven months after the date that the department took possession of or exercised control over the child unless, for good cause shown by any party, an earlier hearing is approved by the court.

[Added by Acts 1979, 66th Leg., p. 66, ch. 41, § 1, eff. Aug. 27, 1979.]

### § 18.03. Persons Entitled to Notice

The following persons are entitled to at least 10 days' notice of a hearing to review a child placement and are entitled to present evidence and be heard at the hearing:

- (1) the Texas Department of Human Resources;
- (2) the foster parent or director of the group home or institution where the child is residing;
- (3) each parent of the child;
- (4) the managing conservator or guardian of the person of the child; and
- (5) any other person or agency named by the court to have an interest in the welfare of the child.

[Added by Acts 1979, 66th Leg., p. 66, ch. 41, § 1, eff. Aug. 27, 1979.]

### § 18.04. When Child is at Home

(a) If the Texas Department of Human Resources or authorized agency returns a child to a parent for custody, care, or control, the department or authorized agency shall notify the court having continuing jurisdiction of the suit of the department's action and so long as the child remains under the custody, care, or control of the parent, no review of that placement is required under this chapter.

(b) If a child has been returned to a parent and if the department or authorized agency resumes the custody, care, or control of the child or designates any person other than a parent to have the custody, care, or control of the child, the department or authorized agency shall notify the court of its action.

(c) If the department or authorized agency resumes the custody, care, or control of the child or designates a person other than a parent to have the custody, care, or control of the child within three months after returning the child to a parent, the period that that child was under the custody, care, or control of his or her parent shall not be considered in determining the date for the next placement review hearing.

[Added by Acts 1979, 66th Leg., p. 66, ch. 41, § 1, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 821, ch. 292, § 2, eff. June 8, 1981.]

**§ 18.05. Child's Attendance at Hearing**

The court in its discretion may dispense with the attendance of the child at a placement review hearing.

[Added by Acts 1979, 66th Leg., p. 66, ch. 41, § 1, eff. Aug. 27, 1979.]

**§ 18.06. Disposition of Child**

At the conclusion of a placement review hearing under this chapter, the court, in accordance with the best interest of the child, may order:

(1) that the foster care, group home care, or institutional care be continued;

(2) that the child be returned to his or her parent or guardian;

(3) if the child has been placed with the Texas Department of Human Resources under a voluntary agreement, that the department institute further proceedings to appoint the department as managing conservator or to terminate parental rights in order to provide permanent placement for the child or to make the child available for adoption;

(4) if the parental rights of the child have already been terminated or the department or authorized agency has custody, care, and control of the child under an affidavit of relinquishment of parental rights naming the department or authorized agency as managing conservator, that the department or authorized agency attempt to place the child for adoption; or

(5) the Texas Department of Human Resources or authorized agency to provide services to ensure that every effort has been made to enable the parents to provide a family for their own children.

[Added by Acts 1979, 66th Leg., p. 66, ch. 41, § 1, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 821, ch. 292, § 3, eff. June 8, 1981.]

**CHAPTER 21. UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section

21.07. Declaration of Reciprocity: Other Nations.

21.08. Venue.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 21.03. Definitions**

In this chapter, unless the context requires a different definition:

(1) "State" includes any state, territory, or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted and includes a foreign nation or a state of a nation declared to have a similar reciprocal law as provided in Section 21.07 of this code.

[See Compact Edition, Volume 1 for text of (2) to (5)]

(6) "Duty of support" includes any duty of support imposed or imposable by law, including duties imposed by Chapter 12 or 13 of this code, or by any court order, decree, or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial separation, separate maintenance, or otherwise, but shall not include alimony for a former wife.

[See Compact Edition, Volume 1 for text of (7) to (14)]

(15) "Prosecuting attorney" means the criminal district attorney, an attorney designated by the court, or the county attorney, or the district attorney where there is no criminal district attorney, attorney designated by the court, or county attorney.

[See Compact Edition, Volume 1 for text of (16)]

[Amended by Acts 1975, 64th Leg., p. 1270, ch. 476, §§ 46 and 47, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 945, ch. 356, § 1, eff. Aug. 31, 1981.]

**§ 21.04. Remedies**

The remedies herein provided are in addition to and not in substitution for any other remedies even though prior orders of support exist in this state or any other jurisdiction.

[Amended by Acts 1981, 67th Leg., p. 945, ch. 356, § 2, eff. Aug. 31, 1981.]

**§ 21.07. Declaration of Reciprocity: Other Nations**

(a) If the attorney general finds that reciprocal provisions are available in a foreign nation or the state of a foreign nation for the enforcement of support orders issued in this state, the attorney general may declare the foreign nation or a state of a foreign nation to be a reciprocating state for the purpose of this chapter.

(b) A declaration made under Subsection (a) of this section may be revoked by the attorney general.

(c) A declaration by the attorney general made under Subsection (a) of this section may be reviewed by the court in an action under this title.

[Added by Acts 1975, 64th Leg., p. 1270, ch. 476, § 48, eff. Sept. 1, 1975.]

**§ 21.08. Venue**

Venue for initiating cases under this chapter is in the county of the residence of the minor child for whom support is sought. Venue in all responding cases under this chapter is in the county of the residence of the obligor.

[Added by Acts 1981, 67th Leg., p. 945, ch. 356, § 3, eff. Aug. 31, 1981.]

[Sections 21.09 to 21.10 reserved for expansion]

## SUBCHAPTER C. CIVIL ENFORCEMENT

## § 21.24. Jurisdiction

Jurisdiction of all proceedings hereunder is vested in the district court and in any other court authorized to order support for children.

[Amended by Acts 1981, 67th Leg., p. 945, ch. 356, § 4, eff. Aug. 31, 1981.]

## § 21.25. Petition for Support

The petition shall be verified and shall state the name and, so far as known to the plaintiff, the address and circumstances of the defendant and his dependents for whom support is sought and all other pertinent information. The plaintiff shall attach to the petition a certified copy of the court order, decree, or judgment of support sought to be enforced, whether interlocutory or final, if any. The plaintiff may include in or attach to the petition any information which may help in locating or identifying the defendant, such as a photograph of the defendant, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, or Social Security number.

[Amended by Acts 1981, 67th Leg., p. 945, ch. 356, § 5, eff. Aug. 31, 1981.]

## § 21.26. Representation of Plaintiff

The prosecuting attorney, upon the request of the court or the Texas Department of Human Resources, shall represent the plaintiff in any proceeding under this chapter.

[Amended by Acts 1981, 67th Leg., p. 946, ch. 356, § 6, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2271, ch. 551, § 8, eff. Aug. 31, 1981.]

## § 21.28. Court of This State as Initiating State

If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction of the defendant or his property, it shall so certify and shall cause three copies of the petition, its certificate, and this chapter to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.

[Amended by Acts 1981, 67th Leg., p. 946, ch. 356, § 7, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2271, ch. 551, § 9, eff. Aug. 31, 1981.]

## § 21.31. State Information Agency

The Texas Department of Human Resources is the state information agency under this chapter, and it shall:

(1) compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this chapter or a substantially similar act; and

(2) maintain a register of such lists received from other states and transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this chapter.

[Amended by Acts 1981, 67th Leg., p. 946, ch. 356, § 8, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2271, ch. 551, § 10, eff. Aug. 31, 1981.]

## § 21.32. Duty of State as Responding State

(a) After the court of this state, acting as a responding state, has received from the court of the initiating state the aforesaid copies, the clerk of the court shall docket the case and notify the district judge or the judge of the domestic relations court, or both judges, of his action.

[See Compact Edition, Volume 1, for text of (b)]

[Amended by Acts 1981, 67th Leg., p. 946, ch. 356, § 9, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2271, ch. 551, § 11, eff. Aug. 31, 1981.]

## § 21.35. Testimony of Husband and Wife

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. The defendant is a competent witness in the responding court and may be compelled to testify to any relevant matter, including marriage and other relevant matter establishing the duty of support or the ability to contribute support, which testimony may be the only evidence that is the basis for entry of an order.

[Amended by Acts 1981, 67th Leg., p. 946, ch. 356, § 10, eff. Aug. 31, 1981.]

## § 21.36. Rules of Evidence; Presumptions

(a) In any hearing under this chapter, the court shall be bound by the same rules of evidence that bind the district court.

(b) In any suit brought under this chapter, if the initiating court certifies that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction over the defendant or his property, the certified petition shall be admitted in the responding state as prima facie evidence that the defendant's duty to support exists.

(c) In a contested case, it is presumed:

(1) that the obligor and the obligee have an equal duty of support; or

(2) if there is a prior support order, that the most recent order correctly designates the current amount of support and duty of support.

[Amended by Acts 1981, 67th Leg., p. 947, ch. 356, § 11, eff. Aug. 31, 1981.]

**§ 21.39. Enforcement Power of Court**

In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders, and in particular:

(1) to require the defendant to furnish a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant;

(2) to require the defendant to make payments at specified intervals to the district clerk or probation department of the court;

(3) to punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court; and

(4) to order the defendant (obligor) to pay as court costs a reasonable fee to any attorney or to the prosecuting attorney's office who represents the petitioner in any enforcement proceeding.

[Amended by Acts 1975, 64th Leg., p. 1271, ch. 476, § 49, eff. Sept. 1, 1975.]

**§ 21.42. Stay of Proceedings**

No proceeding under this chapter shall be stayed because of the existence of a pending suit for divorce, separation, annulment, dissolution, habeas corpus, custody proceeding, or suit affecting the parent-child relationship.

[Amended by Acts 1981, 67th Leg., p. 947, ch. 356, § 12, eff. Aug. 31, 1981.]

**§ 21.45. Interdistrict Application**

(a) This chapter is applicable when both the plaintiff and the defendant are in this state but in different judicial districts.

(b) If the initiating court finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and finds that another court in this state may obtain jurisdiction of the defendant or his property, the clerk of the court shall send three copies of the petition and a certification of the findings to the court of the judicial district in which the defendant or his property is found. The clerk of the court receiving these copies shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the state as a responding state.

(c) In a suit under this section, no defense may be raised other than payment and satisfaction of the support obligation or invalidity of the decree or judgment creating the obligation.

[Amended by Acts 1981, 67th Leg., p. 947, ch. 356, § 13, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2272, ch. 551, § 12, eff. Aug. 31, 1981.]

**CHAPTER 31. REMOVAL OF DISABILITIES OF MINORITY**

**§ 31.01. Petition**

(a) A minor who is a resident of this state and is at least 17 years of age, or is at least 16 years of age, living separate and apart from his parents, managing conservator, or guardian and is self-supporting and managing his own financial affairs, may petition to have his disabilities of minority removed for limited purposes or for general purposes.

(b) A minor who is not a resident of this state and is at least 17 years of age may petition to have his disabilities of minority removed for a limited purpose or for general purposes if he is an adult under the laws of the state of his residence.

(c) A minor may institute suit under this section in his own name and need not be represented by next friend.

[Amended by Acts 1975, 64th Leg., p. 1271, ch. 476, § 50, eff. Sept. 1, 1975.]

**§ 31.02. Requisites of Petition**

[See Compact Edition, Volume 1 for text of (a) and (b).]

(c) The petition must be verified by a parent of the petitioner, except that if a managing conservator or guardian of the person has been appointed, the petition must be verified by the person so appointed. If the person who is to verify the petition is unavailable or his whereabouts are unknown, the guardian ad litem shall verify the petition after his appointment.

[Amended by Acts 1975, 64th Leg., p. 1271, ch. 476, § 51, eff. Sept. 1, 1975.]

**CHAPTER 33. LIABILITY OF PARENTS FOR CONDUCT OF CHILD**

**§ 33.02. Limits of Recovery**

Recovery for damage caused by wilful and malicious conduct is limited to actual damages, not to exceed \$15,000 per act, plus court costs and reasonable attorneys' fees.

[Amended by Acts 1981, 67th Leg., p. 915, ch. 331, § 1, eff. June 10, 1981.]

## CHAPTER 34. REPORT OF CHILD ABUSE

## Section

34.011.	Form.
34.07.	Failure to Report; Penalty.
34.08.	Confidentiality.

## § 34.011. Form

The Texas Department of Human Resources shall promulgate a form and cause a sample to be distributed for the reporting of suspected occurrences of child abuse as required by Section 34.01 of this code. Copies of the form shall be distributed to all licensed hospitals in this state to be available for use without charge by hospital employees, physicians, patients, and other persons. The form shall include a statement that child abuse reports are confidential and that information contained in the reports, including the name of the person making the report, may be used only for the purposes consistent with the investigation of child abuse. The form shall give the address of the Texas Department of Human Resources. Hospital employees, physicians, patients, and other persons must complete the form and return it to the Texas Department of Human Resources.

[Added by Acts 1979, 66th Leg., p. 1027, ch. 460, § 1, eff. Aug. 27, 1979.]

## § 34.02. Contents of Report: to Whom Made

(a) Nonaccusatory reports reflecting the reporter's belief that a child has been or will be abused or neglected, or has died of abuse or neglect, has violated the compulsory school attendance laws on three or more occasions, or has, on three or more occasions, been voluntarily absent from his home without the consent of his parent or guardian for a substantial length of time or without the intent to return shall be made to any local or state law enforcement agency, and in addition shall be made to:

- (1) the Texas Department of Human Resources; or
- (2) the agency designated by the court to be responsible for the protection of children.

[See Compact Edition, Volume 1 for text of (b)]

(c) All reports received by any local or state law enforcement agency shall be referred to the Texas Department of Human Resources or to the agency designated by the court to be responsible for the protection of children. The department or designated agency immediately shall notify the appropriate state or local law enforcement agency of any report it receives, other than from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.

[See Compact Edition, Volume 1 for text of (d)]

[Amended by Acts 1975, 64th Leg., p. 1271, ch. 476, § 52, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 758, ch. 289, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2272, ch. 551, § 13, eff. Aug. 31, 1981.]

## § 34.05. Investigation and Report of Receiving Agency

(a) The Texas Department of Human Resources or the agency designated by the court to be responsible for the protection of children shall make a thorough investigation promptly after receiving either the oral or written report. The primary purpose of the investigation shall be the protection of the child.

(b) In the investigation the department or agency shall determine:

- (1) the nature, extent, and cause of the abuse or neglect;
- (2) the identity of the person responsible for the abuse or neglect;
- (3) the names and conditions of the other children in the home;
- (4) an evaluation of the parents or persons responsible for the care of the child;
- (5) the adequacy of the home environment;
- (6) the relationship of the child to the parents or persons responsible for the care of the child;
- (7) all other pertinent data.

(c) The investigation shall include a visit to the child's home, a physical examination of all the children in that home, and an interview with the subject child. The investigation may include a psychological or psychiatric examination of all the children in that home. If admission to the home, school, or any place where the child may be, or permission of the parents or persons responsible for the child's care for the physical examinations cannot be obtained, then the juvenile court, or the district court, upon cause shown, shall order the parents or the persons responsible for the care of the children, or the person in charge of any place where the child may be, to allow entrance for the interview, the physical examination, and the investigation. If the parents or person responsible for the child's care does not consent to a psychological or psychiatric examination of the child that is requested by the department or agency, the juvenile court or district court, upon cause shown, shall order the examination to be made at the times and places designated by the court. A parent or person responsible for the child's care is entitled to notice and a hearing when the department or agency seeks a court order to allow a psychological or psychiatric examination.

[See Compact Edition, Volume 1 for text of (d)]

(e) The agency designated by the court to be responsible for the protection of children or the department shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the juvenile court or the district court, the district attorney, and the appropriate law enforcement agency if sufficient grounds for the institution of a suit affecting the parent-child relationship are found.

[See Compact Edition, Volume 1 for text of (f)]

[Amended by Acts 1975, 64th Leg., p. 1272, ch. 476, § 53, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1446, ch. 635, § 1, eff. Aug. 27 1979; Acts 1981, 67th Leg., p. 2272, ch. 551, § 14, eff. Aug. 31, 1981.]

§ 34.07. Failure to Report; Penalty

(a) A person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect and knowingly fails to report in accordance with Section 34.02 of this code.

(b) An offense under this section is a Class B misdemeanor.

[Added by Acts 1975, 64th Leg., p. 1272, ch. 476, § 54, eff. Sept. 1, 1975.]

§ 34.08. Confidentiality

The reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

[Added by Acts 1975, 64th Leg., p. 1272, ch. 476, § 54, eff. Sept. 1, 1975.]

CHAPTER 35. CONSENT TO MEDICAL TREATMENT

Section

35.04. Examination of Abused or Neglected Children.

§ 35.04. Examination of Abused or Neglected Children

(a) Except as provided in Subsection (b) of this section, a licensed physician or dentist having reasonable grounds to believe that a child's physical or mental condition has been adversely affected by abuse or neglect may examine the child without the consent of the child, the child's parents, or other person authorized to consent for the child or his parents. The examination may include X-rays, blood tests, and penetration of tissue necessary to accomplish these tests.

(b) Unless consent is obtained as otherwise allowed by law, a physician or dentist may not examine a child:

(1) who is 16 years old or over and refuses to consent; or

(2) if consent is refused by an order of a court.

(c) A physician or dentist examining a child under the authority of this section is not liable for damages except those damages resulting from his negligence.

[Added by Acts 1975, 64th Leg., p. 1273, ch. 476, § 55, eff. Sept. 1, 1975.]

TITLE 3. DELINQUENT CHILDREN AND CHILDREN IN NEED OF SUPERVISION

CHAPTER 51. GENERAL PROVISIONS

Section

51.18. Powers and Duties of Alternate Juvenile Court.

§ 51.02. Definitions

In this title:

[See Compact Edition, Volume 1 for text of (1)]

(2) "Parent" means the mother, the father whether or not the child is legitimate, or an adoptive parent, but does not include a parent whose parental rights have been terminated.

[See Compact Edition, Volume 1 for text of (3) to (10)]

[Amended by Acts 1975, 64th Leg., p. 2152, ch. 693, § 1, eff. Sept. 1, 1975.]

Section 27 of the 1975 amendatory act provided: "This Act takes effect on September 1, 1975."

§ 51.03. Delinquent Conduct; Conduct Indicating a Need for Supervision

(a) Delinquent conduct is conduct, other than a traffic offense, that violates:

(1) a penal law of this state punishable by imprisonment or by confinement in jail; or

(2) a reasonable and lawful order of a juvenile court entered under Section 54.04 or 54.05 of this code, including an order prohibiting conduct referred to in Subsection (b)(4) of this section.

(b) Conduct indicating a need for supervision is:

(1) conduct, other than a traffic offense or other than an offense included in Subdivision (5) of this subsection, that on three or more occasions violates either of the following:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B) the penal ordinances of any political subdivision of this state;

(2) the unexcused voluntary absence of a child on 10 or more days or parts of days within a six-month period or three or more days or parts of days within a four-week period from school;

(3) the voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return;

(4) conduct which violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or subsequent offense) or driving while under the influence of any narcotic drug or of any other drug to a degree which renders him incapable of safely driving a vehicle (first or subsequent offense); or

(5) conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives.

[See Compact Edition, Volume 1 for text of (c)]

(d) For the purpose of Subsection (b)(2) of this section an absence is excused when the absence results from:

- (1) illness of the child;
- (2) illness or death in the family of the child;
- (3) quarantine of the child and family;
- (4) weather or road conditions making travel dangerous;
- (5) an absence approved by a teacher, principal, or superintendent of the school in which the child is enrolled; or
- (6) circumstances found reasonable and proper.

[Amended by Acts 1975, 64th Leg., p. 2153, ch. 693, §§ 2 to 4, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 906, ch. 340, § 1, eff. June 6, 1977.]

#### § 51.04. Jurisdiction

(a) This title covers the proceedings in all cases involving the delinquent conduct or conduct indicating a need for supervision engaged in by a person who was a child within the meaning of this title at the time he engaged in the conduct, and the juvenile court has exclusive original jurisdiction over proceedings under this title.

[See Compact Edition, Volume 1 for text of (b) and (c)]

(d) If the judge of a court designated in Subsection (b) or (c) of this section is not an attorney licensed in this state, there shall also be designated an alternate court, the judge of which is an attorney licensed in this state. The alternate juvenile court shall rule on motions and hold hearings as provided in Section 51.18 of this chapter.

[See Compact Edition, Volume 1 for text of (e) and (f)]

(g) The juvenile board, or if there is no juvenile board, the juvenile court, may appoint a referee to conduct hearings under this title and in accordance with Section 54.10 of this code. The referee shall be an attorney licensed to practice law in this state. Payment of any referee services shall be provided from county funds.

[Amended by Acts 1975, 64th Leg., p. 1357, ch. 514, § 1, eff. June 19, 1975; Acts 1975, 64th Leg., p. 2153, ch. 693, §§ 5 to 7, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1112, ch. 411, § 1, eff. June 15, 1977.]

#### § 51.05. Court Sessions and Facilities

(a) The juvenile court shall be deemed in session at all times. Suitable quarters shall be provided by the commissioners court of each county for the hearing of cases and for the use of the judge, the probation officer, and other employees of the court.

(b) The juvenile court and the juvenile board shall report annually to the commissioners court on the suitability of the quarters and facilities of the juvenile court and may make recommendations for their improvement.

[Amended by Acts 1975, 64th Leg., p. 2154, ch. 693, § 8, eff. Sept. 1, 1975.]

#### § 51.09. Waiver of Rights

(a) Unless a contrary intent clearly appears elsewhere in this title, any right granted to a child by this title or by the constitution or laws of this state or the United States may be waived in proceedings under this title if:

(1) the waiver is made by the child and the attorney for the child;

(2) the child and the attorney waiving the right are informed of and understand the right and the possible consequences of waiving it;

(3) the waiver is voluntary; and

(4) the waiver is made in writing or in court proceedings that are recorded.

(b) Notwithstanding any of the provisions of Subsection (a) of this section, the statement of a child is admissible in evidence in any future proceeding concerning the matter about which the statement was given if:

(1) when the child is in a detention facility or other place of confinement or in the custody of an officer, the statement is made in writing and the statement shows that the child has at some time prior to the making thereof received from a magistrate a warning that:

(A) he may remain silent and not make any statement at all and that any statement he makes may be used in evidence against him;

(B) he has the right to have an attorney present to advise him either prior to any questioning or during the questioning;

(C) if he is unable to employ an attorney, he has the right to have an attorney to counsel with him prior to or during any interviews with peace officers or attorneys representing the state;

(D) he has the right to terminate the interview at any time;

(E) if he is 15 years of age or older at the time of the violation of a penal law of the grade of felony the juvenile court may waive its jurisdiction and he may be tried as an adult; and

(F) the statement must be signed in the presence of a magistrate by the child with no law enforcement officer or prosecuting attorney present. The magistrate must be fully convinced that the child understands the nature and contents of the statement and that the child is signing the same voluntarily. If such a statement is taken, the magistrate shall sign a written statement verifying the foregoing requisites have been met.

The child must knowingly, intelligently, and voluntarily waive these rights prior to and during the making of the statement and sign the statement in the presence of a magistrate who must certify that he has examined the child independent of any law enforcement officer or prosecuting attorney and determined that the child understands the

nature and contents of the statement and has knowingly, intelligently, and voluntarily waived these rights.

(2) it be made orally and the child makes a statement of facts or circumstances that are found to be true, which conduct tends to establish his guilt, such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed.

(3) the statement was *res gestae* of the delinquent conduct or the conduct indicating a need for supervision or of the arrest.

[Amended by Acts 1975, 64th Leg., p. 2154, ch. 693, § 9, eff. Sept. 1, 1975.]

**§ 51.12. Place and Conditions of Detention**

[See *Compact Edition, Volume 1 for text of (a) and (b)*]

(c) In each county, the judge of the juvenile court and the members of the juvenile board, if there is one, shall personally inspect the detention facilities at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities that they are suitable or unsuitable for the detention of children in accordance with:

- (1) the requirements of Subsection (a) of this section;
- (2) the requirements of Article 5115, Revised Civil Statutes of Texas, 1925, as amended, defining "safe and suitable jails," if the detention facility is a county jail; and
- (3) recognized professional standards for the detention of children.

[See *Compact Edition, Volume 1 for text of (d)*]

(e) If there is no certified place of detention in the county in which the petition is filed, the designated place of detention may be in another county.

[Amended by Acts 1975, 64th Leg., p. 2155, ch. 693, §§ 10 and 11, eff. Sept. 1, 1975.]

**§ 51.15. Fingerprints and Photographs**

(a) No child may be fingerprinted without the consent of the juvenile court except as provided in Subsection (f) of this section. However, if a child 15 years of age or older is referred to the juvenile court for a felony, his fingerprints may be taken and filed by a law-enforcement officer investigating the case.

(b) Except as provided in Subsection (h) of this section, no child taken into custody may be photographed without the consent of the juvenile court unless the child is transferred to criminal court for prosecution under Section 54.02 of this code.

[See *Compact Edition, Volume 1 for text of (c) to (f)*]

(g) When destruction of fingerprints or photographs is required by Subsection (e), (f), or (h) of this section, the agency with custody of the fingerprints or photographs shall proceed with destruction with-

out judicial order. However, if the fingerprints or photographs are not destroyed, the juvenile court, on its own motion or on application by the person fingerprinted or photographed, shall order the destruction as required by this section.

(h) If, during the investigation of a criminal offense, a law enforcement officer has reason to believe that a photograph of a child taken into custody or detained as permitted under this title will assist in the identification of the offender and if not otherwise prohibited by law, the officer may photograph the face of the child. If the child is not identified as an offender, the photograph and its negative shall be destroyed immediately. If the child is identified through the photograph and the child is referred to the juvenile court for the offense investigated, the photograph and its negative shall be delivered to the juvenile court for disposition. If the child is not referred to the juvenile court for the offense investigated, the photograph and its negative shall be destroyed immediately.

[Amended by Acts 1975, 64th Leg., p. 2156, ch. 693, § 12, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1101, ch. 517, §§ 1 to 3, eff. June 11, 1979.]

**§ 51.16. Sealing of Files and Records**

[See *Compact Edition, Volume 1 for text of (a) to (g)*]

(h) A person whose files and records have been sealed under this Act is not required in any proceeding or in any application for employment, information, or licensing to state that he has been the subject of a proceeding under this Act; and any statement that he has never been found to be a delinquent child shall never be held against the person in any criminal or civil proceeding.

(i) On the motion of a person in whose name files and records are kept or on the court's own motion, the court may order the destruction of all files and records concerning a person who has been adjudicated to be a child in need of supervision or a delinquent child if:

- (1) seven years have elapsed since the child's 16th birthday; and
- (2) the person has not been convicted of a felony.

[Amended by Acts 1975, 64th Leg., p. 2156, ch. 693, § 13, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 708, ch. 307, § 1, eff. Aug. 27, 1979.]

**§ 51.18. Powers and Duties of Alternate Juvenile Court**

If a juvenile court, the judge of which is not an attorney licensed in this state, issues an order that may be appealed as provided in Subsection (c) of Section 56.01 of this code, the child shall have a right to a trial *de novo* before the alternate juvenile court or may appeal the order of the court as provided in Section 56.01.

[Added by Acts 1977, 65th Leg., p. 1112, ch. 411, § 2, eff. June 15, 1977.]

## CHAPTER 53. PROCEEDINGS PRIOR TO JUDICIAL PROCEEDINGS

### § 53.02. Release from Detention

[See Compact Edition, Volume 1 for text of (a)]

(b) A child taken into custody may be detained prior to hearing on the petition only if:

(1) he is likely to abscond or be removed from the jurisdiction of the court;

(2) suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person;

(3) he has no parent, guardian, custodian, or other person able to return him to the court when required;

(4) he is accused of committing a felony offense and may be dangerous to himself or others if released; or

(5) he has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released.

(c) If the child is not released, a request for detention hearing shall be made and promptly presented to the court, and an informal detention hearing as provided in Section 54.01 of this code shall be held promptly, but not later than the time required by Section 54.01 of this code.

[Amended by Acts 1979, 66th Leg., p. 1102, ch. 518, § 1, eff. June 11, 1979; Acts 1981, 67th Leg., p. 291, ch. 115, § 1, eff. Aug. 31, 1981.]

## CHAPTER 54. JUDICIAL PROCEEDINGS

Section	
54.041.	Orders Affecting Parents and Others.
54.061.	Payment of Probation Fees.
54.10.	Hearings Before Referee.

### § 54.01. Detention Hearing

(a) If the child is not released under Section 53.02 of this code, a detention hearing without a jury shall be held promptly, but not later than the second working day after he is taken into custody; provided, however, that when a child is detained on a Friday or Saturday, then such detention hearing shall be held on the first working day after the child is taken into custody.

[See Compact Edition, Volume 1 for text of (b) to (d)]

(e) At the conclusion of the hearing, the court shall order the child released from detention unless it finds that:

(1) he is likely to abscond or be removed from the jurisdiction of the court;

(2) suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person;

(3) he has no parent, guardian, custodian, or other person able to return him to the court when required;

(4) he is accused of committing a felony offense and may be dangerous to himself or others if released; or

(5) he has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released.

[See Compact Edition, Volume 1 for text of (f) to (l)]

(m) The detention hearing required in this section may be held in the county of the designated place of detention where the child is being held even though the designated place of detention is outside the county of residence of the child or the county in which the alleged delinquent conduct or conduct indicating a need for supervision occurred.

[Amended by Acts 1975, 64th Leg., p. 2156, ch. 693, §§ 14 and 15, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1102, ch. 518, § 2, eff. June 11, 1979.]

### § 54.02. Waiver of Jurisdiction and Discretionary Transfer to Criminal Court

[See Compact Edition, Volume 1 for text of (a) to (i)]

(j) The juvenile court may waive its exclusive original jurisdiction and transfer a person to the appropriate district court or criminal district court for criminal proceedings if:

(1) the person is 18 years of age or older;

(2) the person was 15 years of age or older and under 17 years of age at the time he is alleged to have committed a felony;

(3) no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted; and

(4) the juvenile court finds from a preponderance of the evidence that after due diligence of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person because:

(A) the state did not have probable cause to proceed in juvenile court and new evidence has been found since the 18th birthday of the person; or

(B) the person could not be found.

(k) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering waiver of jurisdiction under Subsection (j) of this section.

(l) The juvenile court shall conduct a hearing without a jury to consider waiver of jurisdiction under Subsection (j) of this section.

[Amended by Acts 1975, 64th Leg., p. 2156, ch. 693, § 16, eff. Sept. 1, 1975.]

§ 54.03. Adjudication Hearing

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) Trial shall be by jury unless jury is waived in accordance with Section 51.09 of this code. Jury verdicts under this title must be unanimous.

[See Compact Edition, Volume 1 for text of (d)]

(e) A child alleged to have engaged in delinquent conduct or conduct indicating a need for supervision need not be a witness against nor otherwise incriminate himself. An extrajudicial statement which was obtained without fulfilling the requirements of this title or of the constitution of this state or the United States, may not be used in an adjudication hearing. A statement made by the child out of court is insufficient to support a finding of delinquent conduct or conduct indicating a need for supervision unless it is corroborated in whole or in part by other evidence. An adjudication of delinquent conduct or conduct indicating a need for supervision cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the child with the alleged delinquent conduct or conduct indicating a need for supervision; and the corroboration is not sufficient if it merely shows the commission of the alleged conduct. Evidence illegally seized or obtained is inadmissible in an adjudication hearing.

[See Compact Edition, Volume 1 for text of (f) to (h)]

[Amended by Acts 1975, 64th Leg., p. 2157, ch. 693, § 17, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1098, ch. 514, § 1, eff. Aug. 27, 1979.]

§ 54.04. Disposition Hearing

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) If the court makes the finding specified in subsection (c) of this section, it may:

(1) place the child on probation on such reasonable and lawful terms as the court may determine for a period not to exceed one year, subject to extensions not to exceed one year each:

- (A) in his own home or in the custody of a relative or other fit person;
- (B) in a suitable foster home; or
- (C) in a suitable public or private institution or agency, except the Texas Youth Council; and
- (D) the juvenile court, on notice to the child and on hearing, may order the child to make full or partial restitution to the victim of the offense. An order under this subsection may provide for periodic payments by the child for the period specified in the order not to exceed five years after the 18th birthday of the child. If the child is unable to make full or partial restitution or if a restitution order is not appropriate under the circumstances, the court may order the child to render personal services to a chari-

table or educational institution in the manner prescribed in the court order in lieu of restitution. The victim of an offense is not entitled to receive more than actual damages under a juvenile court order;

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct, the court may commit the child to the Texas Youth Council.

[See Compact Edition, Volume 1 for text of (e), (f)]

(g) Repealed by Acts 1975, 64th Leg., p. 2158, ch. 693, § 23, eff. Sept. 1, 1975.

[See Compact Edition, Volume 1 for text of (h)]  
 [Amended by Acts 1975, 64th Leg., p. 2158, ch. 693, § 23, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 1802, ch. 394, § 1, eff. Aug. 31, 1981.]

§ 54.041. Orders Affecting Parents and Others

(a) When a child has been found to have engaged in delinquent conduct or conduct indicating a need for supervision and the juvenile court has made a finding that the child is in need of rehabilitation or that the protection of the public or the child requires that disposition be made, the juvenile court, on notice to all persons affected, may:

(1) order any person found by the juvenile court to have, by a wilful act or omission, contributed to, caused, or encouraged the child's delinquent conduct or conduct indicating a need for supervision to do any act that the juvenile court determines to be reasonable and necessary for the welfare of the child or to refrain from doing any act that the juvenile court determines to be injurious to the welfare of the child; or

(2) enjoin all contact between the child and a person who is found to be a contributing cause of the child's delinquent conduct or conduct indicating a need for supervision.

(b) If a child is found to have engaged in delinquent conduct arising from the commission of an offense in which property damage occurred, the juvenile court, on notice to all persons affected and on hearing, may order the child or a parent to make full or partial restitution to the victim of the offense. An order under this subsection may provide for periodic payments by the child or a parent of the child for the period specified in the order not to exceed five years after the 18th birthday of the child. If the child or parent is unable to make full or partial restitution or if a restitution order is not appropriate under the circumstances, the court may order the child to render personal services to a charitable or educational institution in the manner prescribed in the court order in lieu of restitution. Restitution under this section is cumulative of any other remedy allowed by law and may be used in addition to other remedies; except that a victim of an offense is not entitled to receive more than actual damages under a juvenile court order.

(c) A person subject to an order proposed under Subsection (a) of this section is entitled to a hearing on the order before the order is entered by the court.

(d) An order made under this section may be enforced as provided by Section 54.07 of this code. [Added by Acts 1975, 64th Leg., p. 2157, ch. 693, § 18, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 338, ch. 154, § 2, eff. Sept. 1, 1979.]

#### § 54.05. Hearing to Modify Disposition

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) A hearing to modify disposition shall be held on the petition of the child and his parent, guardian, guardian ad litem, or attorney, or on the petition of the state, a probation officer, or the court itself. Reasonable notice of a hearing to modify disposition shall be given to all parties. When the petition to modify is filed under Section 51.03(a)(2) of this code, the court must hold an adjudication hearing and make an affirmative finding prior to considering any written reports under Subsection (e) of this section.

(e) After the hearing on the merits or facts, the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of other witnesses. Prior to the hearing to modify disposition, the court shall provide the attorney for the child with access to all written matter to be considered by the court in deciding whether to modify disposition. The court may order counsel not to reveal items to the child or his parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

[See Compact Edition, Volume 1 for text of (f) to (i)]

[Amended by Acts 1979, 66th Leg., p. 1829, ch. 743, § 1, eff. Aug. 27, 1979.]

#### § 54.061. Payment of Probation Fees

(a) If a child is placed on probation under Section 54.04(d)(1) of this code, the juvenile court, after giving the child, parent, or other person responsible for the child's support a reasonable opportunity to be heard, may order the child, parent, or other person, if financially able to do so, to pay to the court a fee of not more than \$15 a month during the period that the child continues on probation.

(b) Orders for the payment of fees under this section may be enforced as provided by Section 54.07 of this code.

(c) The court shall deposit the fees received under this section in the county treasury to the credit of a special fund that may be used only for juvenile probation or community-based juvenile corrections services or facilities in which a juvenile may be required to live while under court supervision.

[Added by Acts 1979, 66th Leg., p. 338, ch. 154, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2425, ch. 617, § 4, eff. Sept. 1, 1981.]

#### § 54.07. Enforcement of Order

[See Compact Edition, Volume 1 for text of (a)]

(b) The juvenile court may enforce its order for support or for the payment of restitution or probation fees by civil contempt proceedings after 10 days' notice to the defaulting person of his failure or refusal to carry out the terms of the order.

(c) On the motion of the juvenile court or any person or agency entitled to receive restitution or probation payments or payments for the benefit of a child, the juvenile court may render judgment against a defaulting person for any amount unpaid and owing after 10 days' notice to the defaulting person of his failure or refusal to carry out the terms of the order. The judgment may be enforced by any means available for the enforcement of judgments for other debts.

[Amended by Acts 1979, 66th Leg., p. 339, ch. 154, § 3, eff. Sept. 1, 1979.]

#### § 54.10. Hearings Before Referee

(a) The hearing provided in Sections 54.01, 54.03, and 54.04 of Title 3 of this code and the hearing provided in Article IV, Article V, and Article VI of the Uniform Interstate Compact on Juveniles (Chapter 25 of this code) may be held by a referee appointed in accordance with Section 51.04(g) of this code provided:

(1) the parties have been informed by the referee that they are entitled to have the hearing before the juvenile court judge or in the case of a detention hearing provided for in Section 54.01 of this code, a substitute judge as authorized by Section 51.04(f) of this code; or

(2) the child and the attorney for the child have in accordance with the requirements of Section 51.09 of this code waived the right to have the hearing before the juvenile court judge or substitute judge.

(b) At the conclusion of the hearing, the referee shall transmit written findings and recommendations to the juvenile court judge. The juvenile court judge shall adopt, modify, or reject the referee's recommendations within 24 hours. In the same case of a detention hearing as authorized by Section 54.01 of this code, the failure of the juvenile court to act within 24 hours results in release of the child by operation of law and a recommendation that the child be released operates to secure his immediate release subject to the power of the juvenile court judge to modify or reject that recommendation. [Added by Acts 1975, 64th Leg., p. 2157, ch. 693, § 19, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1830, ch. 743, § 2, eff. Aug. 27, 1979.]

### CHAPTER 55. PROCEEDINGS CONCERNING CHILDREN WITH MENTAL ILLNESS, RETARDATION, DISEASE, OR DEFECT

#### § 55.01. Physical or Mental Examination

(a) At any stage of the proceedings under this title, the juvenile court may cause the child to be

examined by a physician, psychiatrist, or psychologist.

(b) If an examination ordered under Subsection (a) of this section is to determine whether the child is mentally retarded, the examination must consist of a comprehensive diagnosis and evaluation as defined in the Mentally Retarded Persons Act<sup>1</sup> and shall be conducted at a facility approved by the Texas Department of Mental Health and Mental Retardation.

[Amended by Acts 1977, 65th Leg., p. 1453, ch. 591, § 1, eff. Jan. 1, 1978.]

<sup>1</sup> See Civil Statutes, art. 5547-300.

§ 55.02. Mentally Ill Child

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) If the juvenile court enters an order of temporary hospitalization of the child, the child shall be cared for, treated, and released in conformity to the Texas Mental Health Code except:

(1) a juvenile court order of temporary hospitalization of a child automatically expires when the child becomes 18 years of age;

(2) the head of a mental hospital shall notify the juvenile court that ordered temporary hospitalization at least 10 days prior to discharge of the child; and

(3) appeal from juvenile court proceedings under this section shall be to the court of civil appeals as in other proceedings under this title.

[See Compact Edition, Volume 1 for text of (d)]

(e) If the child is discharged from the mental hospital before reaching 18 years of age, the juvenile court may:

(1) dismiss the juvenile court proceedings with prejudice; or

(2) continue with proceedings under this title as though no order of temporary hospitalization had been made.

[Amended by Acts 1975, 64th Leg., p. 2157, ch. 693, §§ 20 and 21, eff. Sept. 1, 1975.]

§ 55.03. Mentally Retarded Child

(a) If it appears to the juvenile court, on the suggestion of a party or on the court's own notice, that a child alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision may be mentally retarded, the court shall order a comprehensive diagnosis and evaluation of the child to be performed at a facility approved by the Texas Department of Mental Health and Mental Retardation. If the court finds that the results of such comprehensive diagnosis and evaluation indicate a significantly subaverage general intellectual function of 2.5 or more standard deviations below the age-group mean for the tests used existing concurrently with deficits in adaptive behavior of Levels I-IV, the court shall initiate proceedings

to order commitment of the child to a facility for the care and treatment of mentally retarded persons.

(b) The Mentally Retarded Persons Act (Article 3871b, Vernon's Texas Civil Statutes)<sup>1</sup> governs proceedings for commitment of a child meeting the criteria set forth in Subsection (a) of this section except that:

(1) the juvenile court shall conduct the proceedings whether or not the juvenile court is also a county court; and

(2) on receipt of the court's order entering the findings set forth in Subsection (a) of this section, together with those findings set forth in the Mentally Retarded Persons Act as prerequisites for court commitments, the Texas Department of Mental Health and Mental Retardation or the appropriate community center shall thereupon admit the child to a residential care facility for the mentally retarded.

[See Compact Edition, Volume 1 for text of (c) and (d)]

(e) If the child is discharged from the facility for the care and treatment of mentally retarded persons before reaching 18 years of age, the juvenile court may:

(1) dismiss the juvenile court proceedings with prejudice; or

(2) continue with proceedings under this title as though no order of commitment had been made.

[Amended by Acts 1975, 64th Leg., p. 2158, ch. 693, § 22, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1453, ch. 591, § 2, eff. Jan. 1, 1978.]

<sup>1</sup> Repealed; see, now, Civil Statutes, art. 5547-300.

TITLE 4. PROTECTION OF THE FAMILY

CHAPTER 71. PROTECTIVE ORDERS

Section	
71.01.	Definitions.
71.02.	Commencement of Proceeding.
71.03.	Venue.
71.04.	Application for Protective Order.
71.05.	Contents of Application.
71.06.	Dismissal of Application.
71.07.	Citation.
71.08.	Answer.
71.09.	Hearing.
71.10.	Findings.
71.11.	Protective Order.
71.12.	Agreed Orders.
71.13.	Duration of Protective Orders.
71.14.	Modification of Orders.
71.15.	Temporary Orders.
71.16.	Warning on Protective Order.
71.17.	Copies of Orders.
71.18.	Duties of Law Enforcement Agencies.
71.19.	Relief Cumulative.

### § 71.01. Definitions

(a) Except as provided by Subsection (b) of this section, the definitions in Section 11.01 of this code apply to terms used in this chapter.

(b) In this chapter:

(1) "Court" means a court having jurisdiction of suits affecting the parent-child relationship under Subtitle A of Title 2 of this code or a county court.

(2) "Family violence" means the intentional use or threat of physical force by a member of a family or household against another member of the family or household, but does not include the reasonable discipline of a child by a person having that duty.

(3) "Family" includes individuals related by consanguinity or affinity, individuals who are former spouses of each other, and a foster child and foster parent, whether or not those individuals reside together.

(4) "Household" means a unit composed of persons living together in the same dwelling, whether or not they are related to each other.

(5) "Member of a household" includes a former member of a household who has filed an application or for whom protection is sought as provided by Subsection (c) of Section 71.04 of this code.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

### § 71.02. Commencement of Proceeding

A proceeding under this chapter is commenced by the filing of an application for a protective order with the clerk of the court.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

### § 71.03. Venue

An application may be filed:

(1) in the county where the applicant resides; or

(2) in the county where an individual alleged to have committed family violence resides.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

### § 71.04. Application for Protective Order

(a) An application under this chapter is entitled "An application for a protective order."

(b) An application may be filed by:

(1) an adult member of a family or household for the protection of the applicant or for any other member of the family or household; or

(2) any adult for the protection of a child member of a family or household.

(c) A person who was a member of a household at the time the alleged family violence was committed is not barred from filing an application or from protection under this chapter even if the person no longer resides in the same household with the person

who is alleged to have committed the family violence.

(d) The fee for filing an application is \$16 and is to be paid to the clerk of the court in which the application is filed.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

### § 71.05. Contents of Application

(a) An application must state:

(1) the name, address, and county of residence of each applicant and of each individual alleged to have committed family violence;

(2) the facts and circumstances concerning the alleged family violence;

(3) the relationships between the applicants and the individuals alleged to have committed family violence; and

(4) a request for one or more protective orders.

(b) If an application requests a protective order for a spouse and alleges that the other spouse has committed family violence, the application must state that no suit for the dissolution of the marriage of the spouses is pending.

(c) If an applicant is a former spouse of an individual alleged to have committed family violence:

(1) a copy of the decree dissolving the marriage must be attached to the application; or

(2) the application must state that the decree is unavailable to the applicant and that a copy of the decree will be filed with the court before the hearing on the application.

(d) If an application requests a protective order for a child who is subject to the continuing jurisdiction of a court under Subtitle A, Title 2, of this code<sup>1</sup> or alleges that a child who is subject to the continuing jurisdiction of a court under Subtitle A, Title 2, of this code has committed family violence:

(1) a copy of the court orders affecting the conservatorship, possession, and support of or the access to the child must be filed with the application; or

(2) the application must state that the orders affecting the child are unavailable to the applicant and that a copy of the orders will be filed with the court before the hearing on the application.

(e) If the application requests the issuance of a temporary ex parte order under Section 71.15 of this code, the application must:

(1) contain a detailed description of the facts and circumstances concerning the alleged family violence and the need for immediate protective orders; and

(2) be signed by each applicant under an oath that the facts and circumstances contained in the application are true to the best knowledge and belief of each applicant.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

<sup>1</sup>Section 11.01 et seq.

**§ 71.06. Dismissal of Application**

If a suit for the dissolution of marriage is pending, no application or portion of an application involving the relationship between the spouses or their respective rights, duties, or powers may be considered, and the application or portion of the application relating to those parties shall be dismissed.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

**§ 71.07. Citation**

(a) Each individual, other than an applicant, who is alleged to have committed family violence is entitled to service of citation on the filing of an application.

(b) Service of citation is not required before the issuance of a temporary ex parte order under Section 71.15 of this code.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

**§ 71.08. Answer**

An individual served with citation may but is not required to file a written answer to the application. The answer may be filed at any time before the hearing.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

**§ 71.09. Hearing**

(a) Unless a later date is requested by the applicant, the court, on the filing of an application, shall set a date and time for the hearing on the application. The date must be not later than 20 days after the date the application is filed.

(b) If a person entitled to service of citation is not served at least 48 hours before the time set for the hearing, the hearing must be rescheduled unless the person entitled to service is present at the hearing and waives notice of the hearing.

(c) If a hearing set under Subsection (a) of this section is not held because of the failure of a party to receive service of citation, the applicant may request the court to reschedule the hearing. The date for a rescheduled hearing under this subsection must be not later than 20 days after the date on which the request is made.

(d) Except as provided by Subsections (a), (b), and (c) of this section, the court may schedule hearings under this chapter as in other civil cases generally.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

**§ 71.10. Findings**

(a) At the close of a hearing on an application, the court shall find whether or not family violence has occurred and whether or not family violence is likely to occur in the foreseeable future.

(b) If the court finds that family violence has occurred and that family violence is likely to occur in

the foreseeable future, the court may make any protective order authorized by this chapter that is in the best interest of the family or household or a member of the family or household.

(c) A protective order may apply only to an individual, including an applicant, who is a party to the proceeding and who:

(1) is found to have committed family violence; or

(2) has agreed to the order under Section 71.12 of this code.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

**§ 71.11. Protective Order**

(a) In a protective order the court may:

(1) prohibit a party from:

(A) committing family violence;

(B) directly or indirectly communicating with a member of the family or household;

(C) going to or near the residence or place of employment or business of a member of the family or household or any other place a member of the family or household may be;

(D) removing a child member of the family or household from the possession of a person named in the court order or from the jurisdiction of the court; or

(E) transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business;

(2) grant exclusive possession of a residence to a party and, if appropriate, direct one or more other parties to vacate the residence if:

(A) the residence is jointly owned or leased by the party receiving exclusive possession and by some other party denied possession;

(B) the residence is owned or leased by the party retaining possession; or

(C) the residence is owned or leased by the party denied possession but only if that party has an obligation to support the party granted possession of the residence or a child of the party granted possession;

(3) provide for possession of and access to a child of a party;

(4) require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child;

(5) require one or more parties to counsel with a social worker, family service agency, physician, psychologist, or any other person qualified to provide psychological or social guidance;

(6) award to a party use and possession of specified property that is community property or jointly owned or leased; or

(7) prohibit a party from doing specified acts or require a party to do specified acts necessary or appropriate to prevent or reduce the likelihood of family violence.

(b) A protective order or an agreement approved by the court under this chapter does not affect the title to real property.

(c) A protective order made under this section that conflicts with any other court order made under Subtitle A, Title 2, of this code<sup>1</sup> is to the extent of the conflict invalid and unenforceable.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

<sup>1</sup>Section 11.01 et seq.

### § 71.12. Agreed Orders

(a) To facilitate the settlement of a proceeding under this chapter, two or more parties to the proceeding may agree in writing, subject to the approval of the court, to do or refrain from doing any act that the court could order under Section 71.11 of this code. If all or part of an agreement is approved by the court, the part of the agreement approved shall be attached to the protective order and become a part of the order of the court.

(b) An agreement that is made a part of the court's order is enforceable as a court order and is not enforceable as a contract. The agreement expires when the court order expires.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

### § 71.13. Duration of Protective Orders

(a) An order made under Section 71.11 of this code is effective for the period specified in the order, not to exceed one year.

(b) An order of a court having jurisdiction of a suit for divorce or annulment prevails over a conflicting portion of an order made under this title and relating to the parties to the suit for divorce or annulment.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

### § 71.14. Modification of Orders

(a) On the motion of any party, the court, after notice to the other parties and a hearing, may modify a prior order to exclude any item included in the prior order or to include any item that could have been included in the prior order.

(b) An order may not be modified to extend the period of its validity beyond one year after the date the original order was made.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

### § 71.15. Temporary Orders

(a) If the court finds from the information contained in an application that there is a clear and present danger of family violence, the court, without

further notice to any other member of the family or household and without a hearing, may enter a temporary ex parte order for the protection of the applicant or any other member of the family or household. The court may direct any member of the family or household who is alleged to have committed family violence to do or refrain from doing specified acts.

(b) A temporary ex parte order is valid for the period specified in the order, not to exceed 20 days.

(c) On the request of an applicant or on the court's own initiative, a temporary ex parte order may be extended for an additional 20 days and may be extended thereafter for additional 20-day periods.

(d) The court in its discretion may dispense with the necessity of a bond in connection with a temporary ex parte order.

(e) Any member of the family or household may at any time file a motion to vacate a temporary ex parte order, and on the filing of the motion the court shall set a date for a hearing on the motion as soon as possible.

(f) During the period of its validity, a temporary ex parte order prevails over any other court order made under Subtitle A, Title 2, of this code,<sup>1</sup> except that on a motion to vacate the temporary ex parte order, the court shall vacate those portions of the temporary order shown to be in conflict with any other court order made under Subtitle A, Title 2, of this code.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

<sup>1</sup>Section 11.01 et seq.

### § 71.16. Warning on Protective Order

(a) Each protective order issued under this chapter, including a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters:

**"A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."**

(b) Each protective order issued under this chapter, except a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters:

**"A VIOLATION OF THIS ORDER BY COMMISSION OF FAMILY VIOLENCE MAY BE A CRIMINAL OFFENSE PUNISHABLE BY A FINE OF AS MUCH AS \$2,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH."**

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

### § 71.17. Copies of Orders

(a) A protective order made under this chapter shall be served on the person to whom the order applies in open court at the close of the hearing or in the same manner as a writ of injunction.

(b) The clerk of the court issuing a protective order under this chapter shall send a copy of the order to the chief of police of the city where the member of the family or household protected by the order resides, if the person resides in a city, or to the sheriff of the county where the person resides, if the person does not reside in a city.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

**§ 71.18. Duties of Law Enforcement Agencies**

In order to insure that officers responding to calls are aware of the existence and terms of protective orders issued under this chapter, each municipal police department and sheriff shall establish proce-

dures within the department or office to provide adequate information or access to information for law enforcement officers of the names of persons protected by order issued under this chapter and of persons to whom protective orders are directed.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

**§ 71.19. Relief Cumulative**

Except as provided by this chapter, the relief and remedies provided by this chapter are cumulative of other relief and remedies provided by law.

[Added by Acts 1979, 66th Leg., p. 185, ch. 98, § 11, eff. Sept. 1, 1979.]

# INDEX TO FAMILY CODE

References are to Sections

## ABORTION

Defined, 15.022.  
Living child after, care, control, custody, 17.011.  
Rights of living child following, 12.05.  
Termination after, 15.022.

## ABSENCE AND ABSENTEES

Unexcused voluntary absence from school, conduct indicating need for supervision, 51.03.

## ABUSE OF CHILDREN

Children and Minors, this index.

## ACCOMPLICES AND ACCESSORIES

Juvenile delinquents, testimony of accomplice sufficient for delinquency adjudication, 54.03.

## ACKNOWLEDGEMENT OF PATERNITY

Voluntary legitimation, 13.24.

## ACTIONS AND PROCEEDINGS

Criminal conversation, abolition of action, 4.05.  
Dismissal and Nonsuit, generally, this index.  
Human resources, department of, legal representation, 11.20.  
Paternity Suits, generally, this index.  
Protection of the family, 71.01 et seq.

## ADOPTION OF CHILDREN

Files, entry of decree, clerks responsibility, 11.17.  
Grandparents, access rights, 14.03, 15.07, 16.09.  
Joinder of actions, termination proceeding, 16.03.  
Social study,  
Time for hearing, 16.031.  
Termination of proceedings, joinder, 16.03.

## ADULTERY

Criminal conversation, abolition of action, 4.05.

## ADVERSARY HEARINGS

Children and minors, emergency possession, 17.03, 17.04.

## AFFIDAVITS

Actions affecting parent-child relationship transfers, 11.06.

## AGREEMENTS

Settlement agreement, paternity suit, 13.07.

## ALCOHOL

Driving under influence of alcohol or drugs, children, conduct indicating need for supervision, 51.03.

## ANNULMENT OF MARRIAGE

Actions and proceedings, property transfers or debts, voiding, 3.57.  
Attorney ad litem, appointment, 3.521.  
Citation, publication, 3.521.  
Contracts, property division, 3.631.  
Inventory and appraisal, 3.58.  
Jurisdiction,  
Nonresident respondent, 3.26.  
Long-arm statute, 3.26.  
Nonresidents, long-arm statute, 3.26.  
Process,  
Long-arm statute, 3.26.  
Publication, 3.521.

## ANSWER

Protection of the family proceedings, 71.08.

## APPEAL AND REVIEW

Children and minors, placement, 18.01 et seq.

## APPRAISAL AND APPRAISERS

Annulment of marriage, 3.58.  
Divorce, 3.58.  
Void marriage, 3.58.

## ATTACHMENT

Children and minors, emergency possession, jurisdiction, 17.05.

## ATTORNEY AD LITEM

Appointment, divorce, etc., 3.521.  
Parent-child relationship, suits affecting, 11.10.

## ATTORNEYS

Appointment of attorney ad litem, divorce, etc., 3.521.  
Defined, prosecuting attorney, Uniform Reciprocal Enforcement of Support Act, 21.03.  
Fees,  
Actions affecting parent-child relationships, 11.11.  
Costs, Uniform Reciprocal Enforcement of Support Act, 21.39.  
Determination of paternity, suit for, 13.42.  
Juvenile board hearing, acting as referees, 51.04.  
Parent-child relationship actions, 11.10.  
Human resources department, legal representation, actions and proceedings, 11.20.

## ATTORNEYS—Cont'd

Juvenile delinquents,  
Right to counsel, waiver, admissibility of statement, 51.09.  
Referees,  
Juvenile board hearings, 51.04.  
Support, Uniform Reciprocal Enforcement Support Act, 21.26.  
Uniform Reciprocal Enforcement of Support Act, prosecuting attorney, 21.03.

## BIRTH

Rights of living child following premature birth, 12.05.

## BIRTH CERTIFICATES

Determination of paternity, suits, substitution of certificate following, 13.43.

## BLOOD TESTS

Paternity suits, 13.02 et seq.

## BORN ALIVE

Defined, abortion, 12.05.

## CENTRAL RECORDS

Files, adoption of children, 11.17.

## CHILDREN AND MINORS

Abortion, generally, this index.  
Absence from school, unexcused voluntary absence, conduct indicating need for supervision, 51.03.  
Abuse of children,  
Examination, 35.04.  
Forms, reports, 34.011.  
Reports,  
Confidentiality, 34.08.  
Access rights, grandparents, 14.03.  
Actions affecting parent-child relationship,  
Affidavits,  
Relinquishment of parental rights, 11.10.  
Transfers, 11.06.  
Waiver of interest, 11.10.  
Appeal and review, placement, 18.01 et seq.  
Attorney ad litem, 11.10.  
Attorneys fees, 11.11.  
Bonds, temporary orders, 11.11.  
Continuing jurisdiction,  
Court, identification, 11.071.  
Exceptions, 11.052.  
Further remedy, 11.07.  
Decree, modification, conservatorship, 14.06.  
Disclosure, social study file, jury, 11.12.  
Dissolution of marriage, transfers, 11.06.

# INDEX TO FAMILY CODE

744

References are to Sections

## CHILDREN AND MINORS—Cont'd

Actions affecting parent-child relationship—Cont'd  
 Evidence, social study file, disclosure to jury, 11.12.  
 Exceptions, continuing jurisdiction, 11.052.  
 Foreign states, judgments and decrees, recognition, 11.053.  
 Forms, citation, 11.09.  
 Indigency, attorneys, 11.10.  
 Judgments and decrees, foreign states, recognition, 11.053.  
 Jurisdiction, 11.05, 11.051.  
     Continuing jurisdiction, exceptions, 11.052.  
     Original jurisdiction, 11.045.  
     Petition contents, 11.08.  
 Jury,  
     Social study file, disclosure, 11.12.  
 Mail, decree, termination of parent-child relationship or adoption, 11.16.  
 Motions, transfers, 11.06.  
 Notice of hearing,  
     Service, 11.09.  
 Orders, modifications, conservatorship, 14.06.  
 Original jurisdiction, 11.045.  
 Petitions,  
     Continuing jurisdiction, petition content, 11.08.  
     Further remedy, 11.07.  
     Termination before birth, 15.021.  
     Placement, review, 18.01 et seq.  
     Social study,  
         Adoption hearing, 16.031.  
     Temporary orders,  
         Bonds, 11.11.  
     Voluntary legitimation, 13.21 et seq.  
 Actions and proceedings, emergency possession, 17.01 et seq.  
 Adversary hearings, emergency possession, 17.03, 17.04.  
 Affidavits,  
     Emergency possession, 17.02.  
     Relinquishment of parental rights, 11.10.  
 Appeal and review,  
     Placement, 18.01 et seq.  
 Attachment, emergency possession, 17.02.  
     Jurisdiction, 17.05.  
 Attorneys fees, actions affecting parent-child relationships, 11.11.  
 Care, control, and protection, living child after abortion, 17.011.  
 Compensation and salaries, unemancipated children, 5.23.  
 Consent,  
     Voluntary legitimation, mother, 13.21.  
 Conservators,  
     Joint managing conservators, appointment, 14.06.  
     Placement, review, 18.01 et seq.  
 Continuing jurisdiction. Actions affecting parent-child relationship, ante.  
 Crimes and offenses, abuse or failure to report, 34.07.  
 Custody of children,  
     Habeas corpus, 14.10.  
     Living child after abortion, 17.011.  
     Wishes of child, 14.07.  
 Death, abuse or neglect, report, 34.02.  
 Dismissal and nonsuit, actions affecting parent-child relationships, 15.06.  
 Dissolution of marriage, actions affecting parent-child relationships, transfers, 11.06.

## CHILDREN AND MINORS—Cont'd

Earnings, unemancipated child, 5.23.  
 Emergencies, possession, 17.01 et seq.  
 Evidence, placement hearing, review, 18.03.  
 Exceptions, continuing jurisdiction, 11.052.  
 Fines and penalties, abuse and neglect, failure to report, 34.07.  
 Foreign states, judgments and decrees, recognition, 11.053.  
 Grandparents,  
     Access rights, 14.03.  
     Managing conservators, 14.07.  
 Habeas corpus, possession of child, 14.10.  
 Hearings,  
     Emergency possession, 17.02 et seq.  
     Placement, review, 18.01 et seq.  
 Immunity, emergency possession, 17.08.  
 Inheritance,  
     Determination of parent-child relationship, decree, 15.07.  
 Injunction, emergency possession, 17.02, 17.06.  
     Jurisdiction, 17.05.  
 Judgments and decrees, foreign states, recognition, 11.053.  
 Jurisdiction,  
     Actions affecting parent-child relationship, ante.  
     Emergency possession, 17.05.  
     Transfers, 17.06.  
     Nonresident respondents, 3.26.  
     Resident respondents, 11.051.  
 Juvenile probation officer, emergency possession, 17.03.  
 Law enforcement officer, emergency possession, 17.03.  
 Long-arm statute, 3.26, 11.051.  
 Managing conservators,  
     Childs wishes, 14.07.  
     Determination of paternity, suits for, 13.42.  
     Inheritance rights, appointment, 14.02.  
     Notice, hearing, suit affecting parent-child relationship, 11.09.  
 Medical care and treatment,  
     Abuse forms, 34.011.  
 Nonresidents, long-arm statute, 3.26, 11.051.  
 Notice,  
     Emergency possession hearings, 17.07.  
     Placement hearing review, 18.03, 18.04.  
 Orders,  
     Actions affecting parent-child relationship, temporary orders, bond, 11.11.  
     Possession, 14.10.  
     Emergencies, 17.02, 17.03.  
 Petitions,  
     Actions affecting parent-child relationship, ante.  
     Emergency possession, 17.02.  
     Placement, review, 18.02.  
     Placement, review, 18.01 et seq.  
 Possession,  
     Emergency, 17.01 et seq.  
     Grandparents, access rights, 14.03.  
     Residence of child, custodian, 11.04.  
 Possessory conservators,  
     Childs wishes, 14.07.  
     Determination of paternity, suits for, 13.42.  
     Notice, hearing, suit affecting parent-child relationship, 11.09.  
 Premature birth, rights of living child, 12.05.

## CHILDREN AND MINORS—Cont'd

Privileges and immunities, emergency possession, 17.08.  
 Process, long-arm statute, 3.26, 11.051.  
 Protection,  
     Emergency possession, 17.01 et seq.  
     Family, 71.01 et seq.  
 Psychiatric examination, abuse or neglect, 34.05.  
 Psychological examination, abuse or neglect, 34.05.  
 Reports,  
     Abuse of children, forms, 34.011.  
 Schools, absence, unexcused and voluntary, conduct indicating need for supervision, 51.03.  
 Statement of paternity, voluntary legitimation, 13.22 et seq.  
 Temporary restraining order, emergency possession, 17.02, 17.06.  
     Jurisdiction, 17.05.  
 Termination of parent-child relationship, Affidavit,  
     Waiver of interest in child, 15.041.  
     Birth, termination before, 15.021.  
     Grandparents, access rights, 14.03, 15.07, 16.09.  
     Waiver, interest, 15.041.  
 Time,  
     Adversary hearings, emergency possession, 17.03, 17.04.  
     Placement hearing, review, 18.01, 18.02.  
 Transfer of jurisdiction, emergency possession hearings, 17.06.  
 Unemancipated child, earnings, 5.23.

## CITATION

Marriage, underage applicant proceedings, 1.53.  
 Publication,  
     Divorce, etc., 3.521.  
     Marriage, underage applicant proceedings, 1.53.  
     Suits affecting parent-child relationship, 11.09.

## CLERKS OF COURT

Records and recordation, destruction, juvenile delinquents, 51.16.

## COMPENSATION AND SALARIES

Unemancipated child, 5.23.

## CONFIDENTIAL AND PRIVILEGED INFORMATION

Child abuse reports, forms, 34.011.

## CONSTITUTIONAL RIGHTS

Juvenile delinquents, waiver, admissibility of statement in evidence, 51.09.

## CONTRACTS

Annulment of marriage, property division, 3.631.  
 Divorce, property division, 3.631.

## COSTS

Fees, generally. Attorneys, this index.

## COURTS

Defined,  
     Family protection, 71.01.  
     Suits affecting parent-child relationship, 11.01.  
 Jurisdiction, generally, this index.

## INDEX TO FAMILY CODE

References are to Sections

**CRIMES AND OFFENSES**

Children, abuse or neglect, failure to report, 34.07.

**CRIMINAL CONVERSATION**

Abolition of action, 4.05.

**CUSTODIAN**

Residence of child, 11.04.

**CUSTODY OF CHILDREN**

Children and Minors, this index.

**DAMAGES**

Juvenile delinquents, restitution, 54.041.

**DEATH**

Children, abuse or neglect, report, 34.02.

**DEBTORS AND CREDITORS**

Husband and wife, property agreements, 5.46.

**DEPOSITS**

Juvenile delinquents, probation fees, 54.061.

**DESCENT AND DISTRIBUTION**

Managing conservator, appointment, 14.02.

**DESERTION**

Children, termination of parent-child relationship, 15.02.

**DISMISSAL AND NONSUIT**Parent-child relationships, 15.06.  
Paternity suits, 13.07.Pretrial proceedings, blood tests, clear and convincing evidence, 13.05.  
Protection of the family proceedings, dismissal of application, 71.06.**DIVORCE**

Actions affecting parent-child relationships, transfers, 11.06.

Actions and proceedings, property transfers or debts, voiding, 3.57.

Appraisal and appraisers, 3.58.

Attorney ad litem, appointment, 3.521.

Citation, publication, 3.521.

Contracts, property division, 3.631.

Inventory, 3.58.

Jurisdiction, nonresidents, 3.26.

Long-arm statute, 3.26.

Nonresidents,

Respondent, jurisdiction, 3.26.

Process,

Long-arm statute, 3.26.

Publication, 3.521.

Property, 3.58.

Remarriage,

License, issuance, 1.07.

Temporary orders, 3.58.

**DOMICILE AND RESIDENCE**

Custodian, residence of child, 11.04.

**DRUGS AND MEDICINE**

Child driving under influence of alcohol or drugs, conduct indicating need for supervision, 51.03.

**DRUNKARDS AND DRUNKENNESS**

Driving while intoxicated, children, conduct indicating need for supervision, 51.03.

**DUPLICATES AND COPIES**

Marriage licenses, 1.86.

**EMERGENCIES**

Children and minors, possession, 17.01 et seq.

**EVIDENCE**

Children and minors, placement hearing, review, 18.03.

Husband and wife, marital agreements, 5.45.

Paternity Suits, this index.

**EXAMINATIONS**

Children, abused or neglected children, 35.04.

**EXPERT WITNESSES**

Blood examiners, paternity suits, 13.03 et seq.

**FAMILY**

Defined, protection, 71.01.

**FAMILY VIOLENCE**

Defined, protection of the family, 71.01.

**FATHERS**

Citation,

Paternity suits, 11.09.

Suits seeking termination of parent-child relationship, illegitimate child and mother, service, 11.09.

**FEES**

Attorneys, this index.

Determination of paternity, suits, 13.42.

Support, probation, 14.12.

**FILES**

Transfer of suit affecting parent-child relationship, 11.06.

**FINES AND PENALTIES**

Children, abuse or neglect, failure to report, 34.07.

**FOREIGN NATIONS**

Declaration of reciprocity, Uniform Reciprocal Enforcement of Support Act, 21.07.

Uniform Reciprocal Enforcement of Support Act, 21.03.

**FOREIGN STATES**

Children and minors, judgments and decrees, recognition, 11.053.

**FORMS**

Annulment of marriage, citation by publication, 3.521.

Child abuse, reports, 34.011.

Citation, suits affecting parent-child relationship, 11.09.

Divorce,

Citation by publication, 3.521.

Notice, suits affecting parent-child relationship, 11.09.

**FOSTER HOMES**

Placement, review, 18.01 et seq.

**GIFTS, DEVICES AND BEQUESTS**

Husband and wife, 5.04.

**GLUE-SNIFFING**

School absence, unexcused and voluntary, conduct indicating need for supervision, 51.03.

**GOVERNMENTAL ENTITIES**

Actions, affecting parent-child relationship, 11.10.

Children and minors, emergency possession, 17.01 et seq.

Defined, parent-child relationship actions, 11.01.

**GRANDPARENTS**

Access rights, adoption or termination of parent-child relationship, 14.03, 15.07, 16.09.

Custody of children, managing conservators, 14.07.

**GROUP HOMES**

Placement, review, 18.01 et seq.

**GUARDIAN AD LITEM**

Affidavits, relinquishment of parental rights or waiver of interest in child, suits affecting parent-child relationship, 11.10.

**GUARDIAN AND WARD**

Actions affecting parent-child relationship,

Placement, review, 18.01 et seq.

Appeal and review, placement, 18.01 et seq.

Placement, review, 18.01 et seq.

**HEALTH AND SANITATION**

Abortion, generally, this index.

**HEARINGS**

Child abuse or neglect, psychological or psychiatric examination of child, 34.05.

Children and minors, placement, review, 18.01 et seq.

Protection of the family proceedings, 71.09 et seq.

**HOSPITALS**

Child abuse reports, 34.011.

**HOUSEHOLD**

Defined, family protection, 71.01.

**HUMAN RESOURCES, DEPARTMENT OF**

Actions and proceedings, legal representation, 11.20.

**HUSBAND AND WIFE**

Criminal conversation, abolition of action, 4.05.

Debtors and creditors, marital agreements, 5.46.

Evidence, marital agreements, 5.45.

Gifts, 5.04.

Income, agreements, 5.43.

Protection of the family, 71.01 et seq.

Separate property, agreements, 5.43.

**ILLEGITIMATE CHILDREN**

Defined, 11.01.

Paternity Suits, generally, this index.

Statement of paternity, 13.22 et seq.

Decree, 13.21.

Effect, 13.23.

Validation of prior statements, 13.24.

Voluntary legitimation, 13.21 et seq.

Attorneys fees, 13.42.

Birth certificate, substitution following suit, 13.43.

Fees, 13.42.

# INDEX TO FAMILY CODE

746

References are to Sections

## ILLEGITIMATE CHILDREN—Cont'd

Voluntary legitimation—Cont'd  
Payment for support, 13.42.  
Support, 13.42.  
Venue, 13.41.

## INCOME

Husband and wife,  
Agreements, 5.43.  
Gifts, 5.04.

## INDIGENT PERSONS

Actions affecting parent-child relationships, 11.10.

## INHERITANCE

Children and minors,  
Determination of parent-child relationship, decree, 15.07.  
Managing conservator, appointment, 14.02.

## INJUNCTION

Children and minors, emergency possession, 17.02, 17.06.  
Jurisdiction, 17.05.

## INSTITUTIONS

Children and minors, placement, review, 18.01 et seq.

## INTOXICATING BEVERAGES

Driving under influence, children, conduct indicating need for supervision, 51.03.

## INVENTORY

Annulment of marriage, 3.58.  
Divorce, property, 3.58.  
Void marriages, property, 3.58.

## INVESTIGATIONS AND INVESTIGATORS

Child abuse or neglect, 34.05.

## JOINDER OF ACTIONS

Adoption and termination proceedings, 16.03.

## JUDGMENTS AND DECREES

Parent-child relationship, jurisdiction, 11.05.  
Paternity suits, 13.08 et seq.

## JURISDICTION

Annulment of marriage,  
Nonresident respondent, 3.26.  
Children and Minors, this index.  
Long-arm statute, 3.26, 11.051.  
Nonresidents,  
Divorce, annulment, etc., proceedings, 3.26.  
Suits affecting parent-child relationship, 11.051.  
Original jurisdiction, parent-child relationship suits, 11.045.  
Parent-child relationship, suit affecting,  
Nonresidents, 3.26, 11.051.  
Original jurisdiction, 11.045.  
Paternity suits, 11.05.  
Support, Uniform Reciprocal Enforcement Support Act, 21.24.  
Termination, parent-child relationship, 11.05.  
Void marriage,  
Nonresident respondents, 3.26.

## JURY

Marriages, void marriages, 3.61.

## JUVENILE BOARD

Hearings, appointment of referees, 51.04.  
Reports, suitability of quarters and facilities, 51.05.

## JUVENILE COURT JUDGES

Generally, 51.04.

## JUVENILE COURTS

Alternative juvenile courts, 51.04.  
Fingerprinting of child, consent of court, 51.15.  
Hearings, waiver of jurisdiction, 54.02.  
Jurisdiction,  
Waiver,  
Advising child, 51.09.  
Orders of courts, 54.041.  
Alternative courts, trial de novo, 51.18.  
Harmful contacts, 54.041.  
Restitution, 54.041.  
Reports, suitability of quarters and facilities, 51.05.  
Restitution, orders for, 54.04.  
Trial de novo, alternative juvenile court, 51.18.

## JUVENILE DELINQUENTS

Corroboration, testimony of accomplice, 54.03.  
Deposits, probation fees, 54.061.  
Destruction, records, 51.16.  
Detention hearings,  
Place, 54.01.  
Evidence,  
Accomplice, testimony, sufficiency, 54.03.  
Statement made in detention facilities, waiver of rights, 51.09.  
Waiver of constitutional rights, admissibility of statements, 51.09.  
Fees, probation, payment, 54.061.  
Files and records, 51.16.  
Hearings,  
Referees, 54.10.  
Appointment, 51.04.  
Mentally retarded, examination, 55.01, 55.03.  
Orders of courts, 54.041.  
Restitution, 54.04.  
Previous delinquency or conviction, release from detention, 53.02, 54.01.  
Privileges and immunities,  
Statements regarding prior delinquency, 51.16.  
Probation,  
Fee,  
Orders, enforcement, 54.07.  
Payment, 54.061.  
Protection of the family, 71.01 et seq.  
Records and recordation,  
Destruction, 51.16.  
Restitution, orders, 54.04, 54.07.  
Trials, unanimous jury verdicts, 54.03.  
Victims, restitution, 54.04.  
Waiver,  
Right to hearing before juvenile court judge, 54.10.

## JUVENILE PROBATION OFFICERS

Emergency possession of child, 17.03.

## LAW ENFORCEMENT AGENCIES

Protection of the family proceedings, duties, 71.18.

## LAW ENFORCEMENT OFFICERS

Emergency possession of child, 17.03.

## LIMITATION OF ACTIONS

Paternity suits, 13.01.  
Voluntary legitimation, non-applicability, 13.21.

## LISTS

Support, Uniform Reciprocal Enforcement Support Act, courts, 21.31.

## LONG-ARM STATUTES

Divorce, annulment, etc., 3.26.  
Parent-child relationship, 11.051.

## MAGISTRATES

Juvenile delinquents, waiver of rights, duties, 51.09.  
Marriage, conducting ceremony, 1.83.

## MAIL

Decrees, termination of parent-child relationship or adoption, copies, 11.16.

## MARRIAGE

Affidavits,  
License,  
Duplicate license, 1.86.  
Children and minors,  
Consent,  
Issuance of license, 1.07.  
Forms,  
Void marriage, citation by publication, 3.521.  
License,  
Age requirements,  
Issuance of license, 1.07.  
Duplicate license, 1.86.  
Long-arm statute, 3.26.  
Nonresidents, long-arm statute, 3.26.  
Process, long-arm statute, 3.26.  
Property, temporary orders, 3.58.  
Temporary orders, 3.58.  
Void marriages,  
Attorney ad litem, appointment, 3.521.  
Jurisdiction, nonresident respondent, 3.26.  
Jury trial, 3.61.  
Long-arm statute, 3.26.  
Process, publication, 3.521.

## MEDICAL ATTENDANCE AND TREATMENT

Abortion, generally, this index.

## MEMBER OF A HOUSEHOLD

Defined, family protection, 71.01.

## MODIFICATION OF ORDERS

Conservatorship and support, 14.08.

## MOTIONS

Actions affecting parent-child relationships, transfers, 11.06.

## MOTOR VEHICLES

Driving under influence of drugs or alcohol, children, conduct indicating need for supervision, 51.03.

## NARCOTICS

Driving under influence, children, conduct indicating need for supervision, 51.03.

## NONRESIDENTS

Divorce, long-arm statute, 3.26.

## INDEX TO FAMILY CODE

References are to Sections

**NONRESIDENTS—Cont'd**

- Jurisdiction,
  - Divorce, annulment, etc., proceedings, 3.26.
  - Suits affecting parent-child relationship, 11.051.
- Long-arm statutes,
  - Divorce, etc., 3.26.
  - Parent-child relationships, 11.051.

**NONSUIT**

- Dismissal and nonsuit, generally, this index.

**NOTICE**

- Children and minors,
  - Abuse or neglect investigations, psychological or psychiatric examination of child, 34.05.
  - Placement hearing review, 18.03, 18.04.
- Citation, suits affecting parent-child relationship, 11.09.
- Divorce, annulment, etc., proceedings, publication, form, 3.521.
- Hearings,
  - Suits affecting parent-child relationship, 11.09.
- Parent-child relationship, suits affecting, hearing, 11.09.

**ORDERS OF COURTS**

- Determination of paternity suits, enforcement, 13.42.
- Emergency orders, child possession, 17.02, 17.03.
- Juvenile Courts, this index.
- Juvenile delinquents, restitution, 54.04.
- Paternity suits, findings, order following, 13.08.
- Protection of the family, 71.01 et seq.

**ORIGINAL JURISDICTION**

- Parent-child relationship, actions, 11.045.

**PAINT SNIFFING**

- School absence, unexcused and voluntary, conduct indicating need for supervision, 51.03.

**PATERNITY SUITS**

- Agreement of settlement, 13.07.
- Attorneys fees, 13.42.
- Birth certificate, substitution following suit, 13.43.
- Blood tests, 13.02 et seq.
- Central records file, 11.17.
- Citation, father, service, 11.09.
- Conservatorship, 13.42.
- Decree, 13.08 et seq.
- Dismissal, 13.07.
  - Pretrial proceedings, blood tests, clear and convincing evidence, 13.05.
- Evidence,
  - Pretrial proceedings, blood tests, clear and convincing evidence, 13.05.
  - Trial, 13.06.
  - Witnesses, generally, post.
- Experts, blood examiners, 13.03 et seq.
- Fees, 13.42.
- File, central records file, 11.17.
- Jurisdiction, 11.05.
- Limitation of actions, 13.01.
- Nonsuit, 13.07.
- Orders,
  - Enforcement, 13.42.
  - Finding, order following, 13.08.
  - Payment for support, 13.42.
  - Pretrial conference, 13.04 et seq.

**PATERNITY SUITS—Cont'd**

- Pretrial proceedings,
  - Blood tests, 13.02 et seq.
  - Conference, 13.02 et seq.
  - Experts, blood examiners, 13.03 et seq.
- Privileged information, 11.08.
- Settlement, 13.07.
- Support, 13.42.
- Time limitation of suit, 13.01.
- Venue, 13.41.
- Witnesses,
  - Experts, blood examiners, 13.03 et seq.
  - Pretrial conference, 13.04.
  - Trial, 13.06.

**PETITIONS**

- Children and Minors, this index.
- Support, Uniform Reciprocal Enforcement Support Act, 21.25.
- Termination of parent-child relationship before birth, 15.021.

**PLACEMENT**

- Children and minors, review, 18.01 et seq.

**POSTING**

- Process, publication, divorce, etc., 3.521.

**PRESUMPTIONS**

- Support, Uniform Reciprocal Enforcement Support Act, 21.36.

**PRETRIAL PROCEEDINGS**

- Paternity Suits, this index.

**PRIVILEGED COMMUNICATIONS**

- Paternity suits, 11.08.
- Reports,
  - Child abuse or neglect, Confidentiality, 34.08.

**PRIVILEGES AND IMMUNITIES**

- Children and minors, emergency possession, 17.08.

**PROBATION**

- Support, contempt order violations, 14.12.

**PROCESS**

- Long-arm statute,
  - Divorce, annulment, etc., 3.26.
  - Parent-child relationship, 11.051.
- Publication, divorce, etc., 3.521.
- Service of process,
  - Long-arm statute,
    - Divorce, annulment, etc., 3.26.
    - Parent-child relationship, 11.051.
  - Protection of the family proceedings, 71.07.
- Publication, divorce, etc., 3.521.

**PROPERTY**

- Annulment of marriage, 3.58.
- Contracts, division, 3.631.
- Contracts, division, 3.631.
- Divorce, 3.58.
  - Contracts, division, 3.631.
- Husband and wife, gifts, 5.04.
- Marriage, temporary orders, 3.58.
- Spouse, gifts, 5.04.
- Void marriages, 3.58.

**PROTECTION OF THE FAMILY**

- Generally, 71.01 et seq.

**PROTECTIVE ORDERS**

- Protection of the family, 71.01 et seq.

**PSYCHIATRISTS AND PSYCHIATRY**

- Child abuse or neglect, investigations, examinations, 34.05.

**PSYCHOLOGISTS**

- Child abuse or neglect, investigations, examinations, 34.05.

**PUBLICATION**

- Citation, this index.

**RECORDS AND RECORDATION**

- Husband and wife, property agreements, 5.46.
- Marital property agreements, 5.46.
- Notice, property agreements, 5.46.

**REFEREES**

- Juvenile board hearings, 51.04.
- Juvenile delinquents, detention hearings, 54.10.

**REGISTER**

- Support, Uniform Reciprocal Enforcement Support Act, courts, 21.31.

**REPORTS**

- Child abuse,
  - Confidentiality, 34.08.
  - Failure to report, 34.07.
- Juvenile courts and juvenile board, suitability of quarters and facilities, 51.05.

**RESTITUTION**

- Juvenile delinquents, orders of court, 54.04, 54.041.
- Enforcement, 54.07.

**SCHOOLS AND SCHOOL DISTRICTS**

- Absence, unexcused and voluntary, conduct indicating need for supervision, 51.03.

**SETTLEMENT**

- Paternity suits, 13.07.

**SOCIAL STUDY**

- Parent-child relationship, suits affecting, 11.12.

**STATE INSTITUTIONS**

- Children and minors, placement, review, 18.01 et seq.

**SUPPORT**

- Attorneys, Uniform Reciprocal Enforcement Support Act, 21.26
- Determination of paternity, suits for, father denying paternity, 13.42.
- Fees, probation, 14.12.
- Jurisdiction, Uniform Reciprocal Enforcement Support Act, 21.24.
- Lists, courts, 21.31.
- Order,
  - Modification, 14.08.
  - Probation, 14.12.
- Paternity suits, father denying paternity, 13.42.
- Payment, determination of paternity, suits for, 13.42.
- Petitions, 21.25.
- Presumptions, 21.36.
- Probation, contempt order violations, 14.12.
- Register, courts, 21.31.

# INDEX TO FAMILY CODE

748

References are to Sections

## SUPPORT—Cont'd

Termination of parent-child relationship, failure to provide, support, 15.02.  
Uniform Reciprocal Enforcement of Support Act,  
Attorneys, 21.26.  
Fees, cost, 21.39.  
Costs,  
Attorneys fees, 21.39.  
Declaration of reciprocity, other nations, 21.07.  
Foreign nations, 21.03.  
Lists, 21.31.  
Petitions, 21.25.  
Presumptions, 21.36.  
Register, courts, 21.31.  
Venue, 21.08.  
Venue, Uniform Reciprocal Enforcement Support Act, 21.08.

## TELEGRAPHS AND TELEPHONES

Marriages, temporary orders, 3.58.

## TEMPORARY ORDERS

Children and minors, possession, 14.10.  
Protection of the family proceedings, 71.15.

## TEMPORARY RESTRAINING ORDER

Children and minors, emergency possession, 17.02, 17.06.  
Jurisdiction, 17.05.

## THIRD PARTIES

Criminal conversation, abolition of action, 4.05.

## TIME

Children and minors,  
Adversary hearing, emergency possession, 17.03, 17.04.  
Placement hearing, review, 18.01, 18.02.  
Long-arm statute, divorce, annulment, etc., 3.26.

## TRANSFER OF CAUSES

Parent-child relationship, suits affecting, files, 11.06.

## TRIAL

Dismissal and Nonsuit, generally, this index.

## UNEMANCIPATED CHILD

Earnings, 5.23.

## UNIFORM INTERSTATE COMPACT ON JUVENILES

Hearings, 54.10.

## VENUE

Paternity suits, 13.41.  
Protection of the family, protective proceedings, 71.01.  
Support, Uniform Reciprocal Enforcement Support Act, 21.08.  
Transfer to another county,  
Suits affecting parent-child relationship, files, 11.06.  
Voluntary legitimation, 13.41.

## VERDICT

Parent-child relationship, suits affecting, jury, contravening by court, 11.13.

## VIOLENCE

Protection of the family, 71.01 et seq.

## WAIVER

Children,  
Interest in child, affidavit, 15.041.

## WARNINGS

Protection of the family proceedings, protective orders, 71.16.

## WITNESSES

Expert witnesses, blood examiners, paternity suits, 13.03 et seq.  
Paternity Suits, this index.

## WORDS AND PHRASES

Abortion, 15.022.  
Born alive, abortion, 12.05.  
Court, suits affecting parent-child relationship, 11.01.  
Excused absence from school, delinquency proceedings, 51.03.  
Family, protection, 71.01.  
Family violence, family protection, 71.01.  
Governmental entity, parent-child relationship actions, 11.01.  
Household, family protection, 71.01.  
Illegitimate child, 11.01.  
Member of a household, family protection, 71.01.

## WRITINGS

Husband and wife, property agreements, 5.44.

# HUMAN RESOURCES CODE

Title	Chapter
1. General Provisions .....	1
2. Department of Human Resources .....	11
3. Facilities and Services for Children .....	61
4. Services for the Deaf .....	81
5. Services for the Blind and Visually Handi- capped .....	91
6. Services for the Elderly .....	101
7. Rehabilitation of Handicapped and Disabled ..	111
8. Rights and Responsibilities of the Handi- capped .....	121

## TITLE 1. GENERAL PROVISIONS

Chapter	Section
1. General Provisions .....	1.001

## TITLE 2. DEPARTMENT OF HUMAN RESOURCES

### SUBTITLE A. GENERAL PROVISIONS

11. General Provisions .....	11.001
12. Penal Provisions .....	12.001

### SUBTITLE B. STRUCTURE AND FUNCTIONS OF DEPARTMENT

21. Administrative Provisions .....	21.001
22. General Functions of Department .....	22.001

### SUBTITLE C. ASSISTANCE PROGRAMS

31. Financial Assistance and Services Pro- gram .....	31.001
32. Medical Assistance Program .....	32.001
33. Nutritional Assistance Programs .....	33.001

### SUBTITLE D. CHILD WELFARE AND PROTECTIVE SERVICES

41. Child Welfare Services .....	41.001
42. Regulation of Child-Care Facilities .....	42.001
43. Regulation of Child-Care Administrators ..	43.001
44. Administration of Federally Established Day-Care Programs .....	44.001
45. Interstate Placement of Children .....	45.001
46. Child Support Collection, Parent Locator, and Paternity Determination Services ..	46.001
47. Adoption Services for Hard-to-Place Chil- dren .....	47.001
48. Protective Services for the Elderly .....	48.001

### SUBTITLE E. SOCIAL WORK SERVICES

50. Certification .....	50.001
-------------------------	--------

## SUBTITLE E. SERVICES FOR FAMILIES

Chapter	Section
51. Family Violence Shelters .....	51.001

## TITLE 3. FACILITIES AND SERVICES FOR CHILDREN

### SUBTITLE A. FACILITIES FOR CHILDREN

61. Texas Youth Council .....	61.001
62. Detention Homes and Parental Schools ..	62.002

### SUBTITLE B. SERVICES FOR CHILDREN

71. Commission on Services to Children and Youth [Repealed] .....	71.001
72. Coordination of Programs for the De- velopment of Children and Youth .....	72.001

### SUBTITLE C. STATE AID TO LOCAL JUVENILE PROBATION DEPARTMENTS

75. Texas Juvenile Probation Commission ...	75.001
---	--------

## TITLE 4. SERVICES FOR THE DEAF

81. State Commission for the Deaf .....	81.001
---	--------

## TITLE 5. SERVICES FOR THE BLIND AND VISUALLY HANDICAPPED

91. State Commission for the Blind .....	91.001
92. Governor's Coordinating Office for the Visually Handicapped .....	92.001
93. Committee on Purchases of Blind-Made Products and Services [Repealed] .....	93.001
94. Vending Facilities Operated by Blind Per- sons .....	94.001

## TITLE 6. SERVICES FOR THE ELDERLY

101. Texas Department on Aging .....	101.001
--------------------------------------	---------

## TITLE 7. REHABILITATION OF HANDI-CAPPED AND DISABLED

111. Texas Rehabilitation Commission .....	111.001
--	---------

## TITLE 8. RIGHTS AND RESPONSIBILITIES OF THE HANDICAPPED

121. Participation in Social and Economic Ac- tivities .....	121.001
122. Committee on Purchases of Products and Services of Blind and Severly Dis- abled Persons .....	122.001

**TITLE 1. GENERAL PROVISIONS**

**CHAPTER 1. GENERAL PROVISIONS**

Section  
1.001. Purpose of Code.  
1.002. Construction of Code.

**§ 1.001. Purpose of Code**

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

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent human resources law more accessible and understandable by:

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

[Acts 1979, 66th Leg., p. 2334, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 1.002. Construction of Code**

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

[Acts 1979, 66th Leg., p. 2335, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**TITLE 2. DEPARTMENT OF HUMAN RESOURCES**

**SUBTITLE A. GENERAL PROVISIONS**

**CHAPTER 11. GENERAL PROVISIONS**

Section  
11.001. Definitions.  
11.002. Purpose of Title; Construction.  
11.003. Responsibility of Counties and Municipalities Not Affected.  
11.004. Powers and Functions Not Affected.

**§ 11.001. Definitions**

In this title:

- (1) "Board" means the Texas Board of Human Resources.

(2) "Department" means the Texas Department of Human Resources.

(3) "Commissioner" means the Commissioner of Human Resources.

(4) "Assistance" means all forms of assistance and services for needy persons authorized by Subtitle C of this title.<sup>1</sup>

(5) "Financial assistance" means money payments for needy persons authorized by Chapter 31 of this code.

(6) "Medical assistance" means assistance for needy persons authorized by Chapter 32 of this code.

[Acts 1979, 66th Leg., p. 2335, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> Section 31.01 et seq.

**§ 11.002. Purpose of Title; Construction**

(a) The purpose of this title is to establish a program of social security to provide necessary and prompt assistance to the citizens of this state who are entitled to avail themselves of its provisions.

(b) This title shall be liberally construed in order that its purposes may be accomplished as equitably, economically, and expeditiously as possible.

[Acts 1979, 66th Leg., p. 2335, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 11.003. Responsibility of Counties and Municipalities Not Affected**

No provision of this title is intended to release the counties and municipalities in this state from the specific responsibilities they have with regard to the support of public welfare, child welfare, and relief services. Funds which the counties and municipalities may appropriate for the support of those programs may be administered through the department's local or regional offices, and if administered in that manner must be devoted exclusively to the programs in the county or municipality making the appropriation.

[Acts 1979, 66th Leg., p. 2335, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 11.004. Powers and Functions Not Affected**

The provisions of this title are not intended to interfere with the powers and functions of the Texas Rehabilitation Commission, the State Commission for the Blind, the division of maternal and child health of the Texas Department of Health, or county juvenile boards.

[Acts 1979, 66th Leg., p. 2336, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**CHAPTER 12. PENAL PROVISIONS**

Section  
12.001. Prohibited Activities.  
12.002. Unlawful Use of Funds.  
12.003. Disclosure of Information Prohibited.

**§ 12.001. Prohibited Activities**

(a) A person who is not licensed to practice law in Texas commits an offense if the person charges a fee for representing or aiding an applicant or recipient in procuring assistance from the department.

(b) A person commits an offense if the person advertises, holds himself or herself out for, or solicits the procurement of assistance from the department.

(c) An offense under this section is a Class A misdemeanor.

[Acts 1979, 66th Leg., p. 2336, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 12.002. Unlawful Use of Funds**

(a) A person charged with the duty or responsibility of administering, disbursing, auditing, or otherwise handling the grants, funds, or money provided for in this title commits an offense if the person misappropriates the grants, funds, or money or by deception or fraud wrongfully distributes the grants, funds, or money to any person.

(b) An offense under this section is a felony punishable by confinement in the state penitentiary for a term of not less than two or more than seven years.

[Acts 1979, 66th Leg., p. 2336, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 12.003. Disclosure of Information Prohibited**

(a) Except for purposes directly connected with the administration of the department's assistance programs, it is an offense for a person to solicit, disclose, receive, or make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of the names of, or any information concerning, persons applying for or receiving assistance if the information is directly or indirectly derived from the records, papers, files, or communications of the department or acquired by employees of the department in the performance of their official duties.

(b) An offense under this section is a Class A misdemeanor.

[Acts 1979, 66th Leg., p. 2336, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**SUBTITLE B. STRUCTURE AND FUNCTIONS  
OF DEPARTMENT**

**CHAPTER 21. ADMINISTRATIVE  
PROVISIONS**

Section	
21.001.	Department of Human Resources.
21.002.	Application of Sunset Act.
21.003.	Board of Human Resources.
21.004.	Commissioner.
21.005.	Divisions of Department; Personnel.
21.006.	Local Administration.
21.007.	Merit System.
21.008.	Staff Development.
21.009.	Political Activities of Officers and Employees.
21.010.	Budget.
21.011.	Reports.

## Section

21.012.	Confidentiality of Information.
21.013.	Oaths and Acknowledgments.

**§ 21.001. Department of Human Resources**

The Texas Department of Human Resources is composed of the Texas Board of Human Resources, the Commissioner of Human Resources, and other officers and employees required to efficiently carry out the purposes of this title.

[Acts 1979, 66th Leg., p. 2337, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 21.002. Application of Sunset Act**

The Texas Department of Human Resources is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the department is abolished and this title expires effective September 1, 1985.

[Acts 1979, 66th Leg., p. 2337, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 21.003. Board of Human Resources**

(a) The Texas Board of Human Resources is responsible for the adoption of policies and rules for the government of the department.

(b) The board is composed of three members appointed by the governor with the advice and consent of the senate and representing all geographic regions of the state. To qualify for an appointment to the board, a person must have demonstrated an interest in and knowledge of public welfare and must have had experience as an executive or administrator.

(c) Members of the board serve for staggered terms of six years with the term of one member expiring on January 20 of each odd-numbered year.

(d) After the biennial appointment of a new member, the board shall elect a presiding officer who shall preside over meetings of the board.

(e) Two members of the board constitute a quorum for the transaction of business.

(f) The board's office is in Austin in a building designated by the State Board of Control.

(g) While performing their duties board members are entitled to \$25 per day for not more than 60 days during each fiscal year. They are also entitled to reimbursement for actual expenses incurred in the performance of their duties.

[Acts 1979, 66th Leg., p. 2337, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 21.004. Commissioner**

(a) The Commissioner of Human Resources is the executive and administrative officer of the department. The commissioner exercises all rights, powers, and duties imposed or conferred by law on the department unless the right, power, or duty is specifically delegated by the board to the department's agents or employees.

(b) The commissioner is appointed by the board with the advice and consent of two-thirds of the membership of the senate and serves at the pleasure of the board.

(c) To be eligible for appointment as commissioner, a person must be at least 35 years old, have had experience as an executive or administrator, and not have served as an elected state officer as defined by Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), during the six-month period preceding the date of the appointment.

[Acts 1979, 66th Leg., p. 2338, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 925, ch. 340, § 1, eff. Aug. 31, 1981.]

**§ 21.005. Divisions of Department; Personnel**

(a) The commissioner may establish divisions within the department that he considers necessary for effective administration and the discharge of the department's functions.

(b) The commissioner may allocate and reallocate functions among the divisions.

(c) The commissioner may employ personnel necessary for the administration of the department's duties.

[Acts 1979, 66th Leg., p. 2338, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 21.006. Local Administration**

(a) The department shall establish a system of local administration and employ personnel necessary to carry out the purposes of this title in an economical manner.

(b) The commissioner may provide for the appointment of local boards to advise the local administrative units. The commissioner shall determine the size of the boards and the qualifications of the members. The functions of the boards may not conflict with or duplicate the functions of other boards authorized by law to advise the department.

[Acts 1979, 66th Leg., p. 2338, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 21.007. Merit System**

The department may establish a merit system for its employees. The merit system may be maintained in conjunction with other state agencies that are required by federal law to operate under a merit system.

[Acts 1979, 66th Leg., p. 2338, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 21.008. Staff Development**

(a) The department may establish staff development plans to assist employees in obtaining the technical and professional education required to administer the department's assistance programs more effectively and efficiently and to provide improved services to the needy. The plans must include a provision for granting paid educational leave to selected employees.

(b) The department's plans must conform to the requirements of the Department of Health, Education, and Welfare.

(c) The department may make payments for the paid educational leave or other staff development plans in the form of grants or stipends or by other methods.

(d) The cost of the staff development plans may be made out of state and federal funds within the limits of appropriated funds.

[Acts 1979, 66th Leg., p. 2338, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 21.009. Political Activities of Officers and Employees**

(a) An officer or employee of the department may not use his official authority or influence or permit the use of the programs administered by the department for the purpose of interfering with or affecting the results of an election or for any political purpose.

(b) An officer or employee of the department is subject to all applicable federal restrictions on political activities. However, an officer or employee retains the right to vote as he or she pleases and may express his or her opinion as a citizen on all political subjects.

(c) An officer or employee of the department who violates a provision of this section is subject to discharge or suspension or other disciplinary measures authorized by the department's rules.

[Acts 1979, 66th Leg., p. 2339, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 1793, ch. 392, § 1, eff. Aug. 31, 1981.]

**§ 21.010. Budget**

(a) The commissioner shall prepare and submit to the board for approval a biennial budget and request for an appropriation by the legislature of funds necessary to carry out the duties of the department. The budget and request must include an estimate of all federal funds to be allotted to the state for the department's purposes.

(b) The board shall submit the budget and request to the Legislative Budget Board and the governor in the manner prescribed by law.

[Acts 1979, 66th Leg., p. 2339, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 21.011. Reports**

On or before October 1 of each year the commissioner shall prepare and submit to the board a full report on the operation and administration of the department together with his recommendations for changes. The board shall submit the report to the governor and the legislature.

[Acts 1979, 66th Leg., p. 2339, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 21.012. Confidentiality of Information

(a) The department shall establish and enforce reasonable rules governing the custody, use, and preservation of the department's records, papers, files, and communications. The department shall provide safeguards which restrict the use or disclosure of information concerning applicants for or recipients of the department's assistance programs to purposes directly connected with the administration of the programs.

(b) If under a provision of law lists of the names and addresses of recipients of the department's assistance programs are furnished to or held by a governmental agency other than the department, that agency shall adopt rules necessary to prevent the publication of the lists or the use of the lists for purposes not directly connected with the administration of the assistance programs.

[Acts 1979, 66th Leg., p. 2339, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 21.013. Oaths and Acknowledgments

A local representative of the department who is responsible for investigating and determining the eligibility of an applicant for assistance authorized in this title may administer oaths and take acknowledgments concerning all matters relating to the administration of this title. The representative shall sign the oaths or acknowledgments and indicate his or her position and title but need not seal the instruments. The agent has the same authority as a notary public coextensive with the limits of the state for the purpose of administering the provisions of this title.

[Acts 1979, 66th Leg., p. 2339, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

## CHAPTER 22. GENERAL FUNCTIONS OF DEPARTMENT

Section	
22.001.	General Powers and Duties of the Department.
22.002.	Administration of Federal Welfare Programs.
22.003.	Research and Demonstration Projects.
22.004.	Provision of Legal Services.
22.005.	Funds.

### § 22.001. General Powers and Duties of the Department

(a) The department is responsible for administering the welfare functions authorized in this title.

(b) The department shall administer assistance to needy persons who are aged, blind, or disabled and to needy families with dependent children. The department shall also administer or supervise general relief and child welfare services.

(c) The department shall assist other governmental agencies in performing services in conformity with the purposes of this title when so requested and shall cooperate with the agencies when expedient.

(d) The department shall conduct research and compile statistics on public welfare programs in the state. The research must include all phases of dependency and delinquency and related problems. The department shall cooperate with other public and private agencies in developing plans for the prevention and treatment of conditions giving rise to public welfare problems.

[Acts 1979, 66th Leg., p. 2340, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 22.002. Administration of Federal Welfare Programs

(a) The department is the state agency designated to cooperate with the federal government in the administration of Titles IV, XIX, and XX of the federal Social Security Act.<sup>1</sup> The department shall administer other titles added to the act after January 1, 1979, unless another state agency is designated by law to perform the additional functions. The department shall cooperate with federal, state, and local governmental agencies in the enforcement and administration of the federal act, and shall promulgate rules to effect that cooperation.

(b) The department shall cooperate with the United States Department of Health, Education, and Welfare and other federal agencies in a reasonable manner and in conformity with the provisions of this title to the extent necessary to qualify for federal assistance for persons entitled to benefits under the federal Social Security Act.<sup>2</sup> The department shall make reports periodically in compliance with federal regulations.

(c) The department may establish and maintain programs of assistance and services authorized by federal law and designed to help needy families and individuals attain and retain the capability of independence and self-care. Notwithstanding any other provision of law, the department may extend the scope of its programs to the extent necessary to ensure that federal matching funds are available, if the department determines that the extension of scope is feasible and within the limits of appropriated funds.

(d) If the department determines that a provision of state welfare law conflicts with a provision of federal law, the department may promulgate policies and rules necessary to allow the state to receive and expend federal matching funds to the fullest extent possible in accordance with the federal statutes and the provisions of this title and the state constitution and within the limits of appropriated funds.

(e) The department may accept, expend, and transfer federal and state funds appropriated for programs authorized by federal law. The department may accept, expend, and transfer funds received from a county, municipality, or public or private agency or from any other source, and the funds shall be deposited in the state treasury subject to withdrawal on order of the commissioner in accordance with the department's rules.

(f) The department may enter into agreements with federal, state, or other public or private agencies or individuals to accomplish the purposes of the programs authorized in Subsection (c) of this section. The agreements or contracts between the department and other state agencies are not subject to the Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes).

(g) In administering social service programs authorized by the Social Security Act, the department may prepay an agency or facility for expenses incurred under a contract with the department to provide a social service.

[Acts 1979, 66th Leg., p. 2340, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2232, ch. 530, § 1, eff. Aug. 31, 1981.]

<sup>1</sup> 42 U.S.C.A. § 501 et seq.; 42 U.S.C.A. § 1396 et seq.; 42 U.S.C.A. § 1397 et seq.  
<sup>2</sup> 42 U.S.C.A. § 301 et seq.

**§ 22.003. Research and Demonstration Projects**

(a) The department may conduct research and demonstration projects that in the judgment of the commissioner will assist in promoting the purposes of the department's assistance programs. The department may conduct the projects independently or in cooperation with a public or private agency.

(b) The department may use state or federal funds available for its assistance programs or for research and demonstration projects to support the projects. The projects must be consistent with the state and federal laws making the funds available. [Acts 1979, 66th Leg., p. 2341, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 22.004. Provision of Legal Services**

(a) On request, the department may provide legal services to an applicant for or recipient of assistance at a hearing before the department.

(b) The services must be provided by an attorney licensed to practice law in Texas or by a law student acting under the supervision of a law teacher or a legal services organization, and the attorney or law student must be approved by the department.

(c) The department shall adopt a reasonable fee schedule for the legal services. The fees may not exceed those customarily charged by an attorney for similar services for a private client. The fees may be paid only from funds appropriated to the department for the purpose of providing these legal services.

[Acts 1979, 66th Leg., p. 2341, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 22.005. Funds**

(a) The children's assistance fund and the medical assistance fund are separate accounts in the Texas Department of Human Resources fund. Money in the separate accounts may be expended only for the purposes for which the accounts were created or as otherwise provided by law.

(b) The comptroller shall maintain a department of human resources administration operating fund and a department of human resources assistance operating fund as funds in the state treasury. The commodity distribution fund may not be included in these operating funds.

(c) On authorization by the department, the comptroller may transfer funds appropriated for the operation of the department, current revenues, and balances on hand into the department of human resources administration operating fund or the department of human resources assistance operating fund. On authorization by the department, the comptroller shall transfer designated funds between the two operating funds.

(d) With the approval of the state auditor, the department shall establish an internal accounting system, and the department's expenditures shall be allocated to the various funds according to the system. At the end of each fiscal biennium the department shall report to the comptroller the amount of the unencumbered balances in each of the department's operating funds that belongs to the children's assistance fund and the medical assistance fund, and those unencumbered balances shall be returned to the appropriate special fund.

(e) If the department determines that a transfer among appropriated state funds is needed to match federal medical assistance funds, the department may authorize the comptroller in writing to transfer funds allocated to the children's assistance fund into the medical assistance fund, and the department may use the transferred funds to provide medical assistance to the greatest extent possible within the limits of state and federal law.

(f) The state treasurer is the designated custodian of all funds administered by the department and received by the state from the federal government or any other source for the purpose of implementing the provisions of the Social Security Act.<sup>1</sup> The treasurer may receive the funds, pay them into the proper fund or account of the general fund of the state treasury, provide for the proper custody of the funds, and make disbursements of the funds on the order of the department and on warrant of the comptroller.

[Acts 1979, 66th Leg., p. 2341, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> 42 U.S.C.A. § 301 et seq.

**SUBTITLE C. ASSISTANCE PROGRAMS**

**CHAPTER 31. FINANCIAL ASSISTANCE AND SERVICE PROGRAMS**

**SUBCHAPTER A. ELIGIBILITY FOR FINANCIAL ASSISTANCE AND SERVICES**

Section	
31.001.	Aid to Families With Dependent Children.
31.002.	Definition of Dependent Child.
31.003.	Amount of Financial Assistance.
31.004.	Foster Care.

Section	
31.005.	Dependent Child Residing With Relatives.
31.006.	Welfare and Related Services.
31.007.	Financial Assistance to Individuals in Institutions.
31.008.	Counseling and Guidance Services.
31.009.	Required Registration With Texas Employment Commission.
31.010.	Services.

#### SUBCHAPTER B. ADMINISTRATION OF FINANCIAL ASSISTANCE AND SERVICES

31.031.	Application for Assistance.
31.032.	Investigation and Determination of Eligibility.
31.033.	Reinvestigation and Redetermination of Eligibility.
31.034.	Appeal from Local Administrative Units.
31.035.	Method of Payment.
31.036.	Eligibility of Person Leaving the State.
31.037.	Payment of Financial Assistance Funds on Death of Recipient.
31.038.	Cancellation of Uncashed Warrants.
31.039.	Issuance of Duplicate Assistance Warrants.
31.040.	Nontransferability of Assistance Funds.
31.041.	Right to Assistance Not Vested.
31.042.	Proration of Financial Assistance.

#### SUBCHAPTER A. ELIGIBILITY FOR FINANCIAL ASSISTANCE AND SERVICES

##### § 31.001. Aid to Families With Dependent Children

The department shall provide financial assistance and services to families with dependent children in accordance with the provisions of this chapter.

[Acts 1979, 66th Leg., p. 2343, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

##### § 31.002. Definition of Dependent Child

(a) In this chapter, the term "dependent child" applies to a child:

(1) who is a resident of this state;

(2) who is under 18 years of age or is under 21 years of age and is regularly attending a school, college, university, or vocational or technical training program in accordance with standards set by the department;

(3) who has been deprived of parental support or care because of the death, continued absence from home, or physical or mental incapacity of a parent;

(4) who has insufficient income or other resources to provide a reasonable subsistence compatible with health and decency; and

(5) who is living in the home residence of his or her father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.

(b) In this chapter, the term "dependent child" also applies to a child:

(1) who meets the specifications set forth in Subdivisions (1)–(4) of the preceding subsection;

(2) who has been removed from the home of a relative specified in Subdivision (5) of the preceding subsection as a result of a judicial determina-

tion that the child's residence there is contrary to his or her welfare;

(3) whose placement and care are the responsibility of the department or an agency with which the department has entered into an agreement for the care and supervision of the child;

(4) who has been placed in a foster home or child-care institution by the department; and

(5) for whom the state may receive federal funds for the purpose of providing foster care in accordance with rules promulgated by the department.

[Acts 1979, 66th Leg., p. 2343, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

##### § 31.003. Amount of Financial Assistance

(a) The department shall adopt rules governing the determination of the amount of financial assistance to be granted for the support of a dependent child. The amount granted, when combined with the income and other resources available for the child's support, must be sufficient to provide the child with a subsistence compatible with decency and health.

(b) In considering the amount of income or other resources available to a child or a relative claiming financial assistance on the child's behalf, the department shall also consider reasonable expenses attributable to earning the income. The department may permit all or part of the earned or other income to be set aside for the future identifiable needs of the child, subject to limitations prescribed by the department.

(c) The department's agents employed in the region or county in which the dependent child resides shall determine the amount to be paid in accordance with the rules promulgated by the department.

[Acts 1979, 66th Leg., p. 2343, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

##### § 31.004. Foster Care

The department may accept and spend funds available from any source to provide foster care in facilities approved by the licensing division of the department for dependent children who meet the specifications set out in Section 31.002(b) of this code.

[Acts 1979, 66th Leg., p. 2344, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

##### § 31.005. Dependent Child Residing With Relatives

(a) If after an investigation the department determines that a family with a dependent child is needy and that the child resides with the family, the department shall provide financial assistance and services for the support of the family.

(b) The department shall formulate policies for studying and improving the child's home conditions and shall plan services for the protection of the child and for the child's health and educational needs.

(c) A dependent child who is between 18 and 21 years of age and whose family is receiving financial assistance or services on his or her behalf must enroll in school during the regular school term unless the department finds that good cause exists for the nonattendance of the child at school. Failure to comply with this requirement constitutes good cause for the termination of the financial assistance or services.

(d) The department shall develop a plan for the coordination of the services provided for dependent children under this chapter and other child welfare services for which the department is responsible. [Acts 1979, 66th Leg., p. 2344, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.006. Welfare and Related Services**

(a) The department shall develop and implement a program of welfare and related services for each dependent child which, in light of the particular home conditions and other needs of the child, will best promote the welfare of the child and his or her family and will help to maintain and strengthen family life by assisting the child's parents or relatives to attain and retain their capabilities for maximum self-support and personal independence consistent with the maintenance of continued parental care and protection.

(b) The department shall coordinate the services provided under the program with other services provided by the department and by other public and private welfare agencies for the care and protection of children.

(c) The department may promulgate rules which will enable it to fully participate in work and training programs authorized by federal law, to provide for all services required or deemed advisable under the provisions of the program, and to accept, transfer, and expend funds made available from public or private sources for the purpose of carrying out the provisions of this section.

[Acts 1979, 66th Leg., p. 2344, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.007. Financial Assistance to Individuals in Institutions**

A person who is in an institution is eligible to receive financial assistance under this chapter if the person would be eligible to receive the financial assistance if he were not in an institution and if the payments are made in accordance with the department's rules promulgated in conformity with federal law and rules.

[Acts 1979, 66th Leg., p. 2344, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.008. Counseling and Guidance Services**

(a) If the department believes that financial assistance to a family with a dependent child is not being, or may not be, used in the best interest of the child, the department may provide counseling and

guidance services to the relative receiving financial assistance with respect to the use of the funds and the management of other funds in the child's best interest.

(b) The department may advise the relative that continued failure to use the funds in the child's best interest will result in the funds being paid to a substitute payee. If the department determines that protective payments are required to safeguard the best interest of the child, the department may pay the funds to a substitute payee on a temporary basis in accordance with the department's rules.

(c) If the situation in the home which made the protective payments necessary does not improve, and if the department determines that the relative with whom the child is living is unable or does not have the capacity to use the funds for the best interest of the child, then the department may make arrangements with the family for other plans for the care of the child. The other plans may include:

- (1) removing the child to the home of another relative;
- (2) appointment of a guardian or legal representative for the relative with whom the child is living;
- (3) imposition of criminal or civil penalties if a court determines that the relative is not using, or has not used, the payments for the benefit of the child; or
- (4) referral of the case to a court for the removal of the child and the placement of the child in a foster home.

(d) The department may make payments on behalf of a dependent child residing in a foster family home or a child-care institution in accordance with the provisions of this chapter and the rules of the department.

[Acts 1979, 66th Leg., p. 2345, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.009. Required Registration With Texas Employment Commission**

(a) A person who is required to register with the Texas Employment Commission under the Employment Incentive Act<sup>1</sup> is not eligible to receive financial assistance under this chapter until the person is registered.

(b) Before making a payment, the department shall determine whether the person to whom the payment is to be made is required to register with the Texas Employment Commission under the Employment Incentive Act, and if the person is required to register, whether the person is registered. If the department finds that a person who is required to register is not registered, the department may not make the payment.

(c) On receipt of notice from the Texas Employment Commission that a person has failed to comply with the Employment Incentive Act, the department shall immediately terminate the person's financial assistance.

(d) The department shall maintain a current record of all persons found to be ineligible to receive financial assistance for failure to comply with the Employment Incentive Act. The department shall distribute the record to each division within the department in which the record is or may be relevant in determining eligibility for any welfare benefits.

(e) The department shall arrange placement of the dependent children of an ineligible person with another person or with an institution if the department determines that alternative care is in the best interest of the children.

[Acts 1979, 66th Leg., p. 2345, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> Civil Statutes, art. 695n.

### § 31.010. Services

The department may provide services designed to assist needy families and individuals attain and retain the capability of independence and self-care if federal matching funds are available for the support of the services.

[Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 31.011 to 31.030 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATION OF FINANCIAL ASSISTANCE AND SERVICES

### § 31.031. Application for Assistance

(a) The department by rule shall prescribe the form for applications for assistance authorized by this chapter and the manner of their submission.

(b) The department may require the applicant to state the amount of property in which he or she has an interest, the amount of income which he or she has at the time the application is filed, and other information.

[Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 31.032. Investigation and Determination of Eligibility

(a) On receipt of an application for assistance authorized by this chapter, the department shall investigate and record the applicant's circumstances in order to ascertain the facts supporting the application and to obtain other information it may require.

(b) After completing its investigation, the department shall determine whether the applicant is eligible for the assistance, the type and amount of assistance, the date on which the assistance shall begin, and the manner in which payments shall be made.

(c) The department shall promptly notify the applicant of its final action.

[Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 31.033. Reinvestigation and Redetermination of Eligibility

(a) The department may require periodic reconsideration of continued eligibility for assistance.

(b) After reconsideration of continuing eligibility, the department may change the amount of assistance or withdraw it if the department finds that the recipient's circumstances have altered sufficiently to warrant that action.

(c) The department may cancel or suspend assistance for a period of time if the department finds that the recipient is currently ineligible to receive it.

(d) The department shall notify the recipient immediately of its decision to change or withdraw assistance.

(e) A recipient of assistance must notify the department immediately if he or she comes into possession of income or resources in excess of the amount previously reported.

[Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 31.034. Appeal from Local Administrative Units

(a) An applicant for or recipient of financial assistance authorized by this chapter may appeal to the department an action or failure to act by a local administrative unit relating to the financial assistance. The department shall grant the applicant or recipient an opportunity for a hearing after reasonable notice.

(b) An applicant or recipient, or his or her authorized agent, may submit a written request for the information contained in the unit's records on which the action being appealed is based, and the unit shall advise the person making the request of the information within a reasonable time prior to the hearing. Information not provided to the requesting party may not be considered by the department at the hearing as a basis for decision.

[Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 31.035. Method of Payment

(a) The department shall periodically furnish the comptroller with a list of persons eligible for financial assistance under this chapter and the amount to which each person is entitled.

(b) The comptroller shall draw warrants for the specified amounts on the proper accounts of the Texas Department of Human Resources fund and shall transmit the warrants to the commissioner. The commissioner shall supervise the delivery of the warrants to the persons entitled to them.

[Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 31.036. Eligibility of Person Leaving the State

A recipient of assistance who moves out of the state is no longer eligible for the assistance. However, a recipient's temporary absence from the state

for reasons and for periods of time approved by the department does not terminate the recipient's eligibility for assistance.

[Acts 1979, 66th Leg., p. 2346, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.037. Payment of Financial Assistance Funds on Death of Recipient**

(a) If a person dies during a month for which the person is eligible for financial assistance and has not endorsed or cashed the warrant issued for financial assistance during that month, the department may pay financial assistance to the person who was responsible for caring for the recipient at the time of his or her death and who is responsible for paying the obligations incurred by the recipient.

(b) The department shall adopt rules prescribing the method of determining the person entitled to receive the deceased recipient's financial assistance, the manner of payment of the funds, and limitations on the payments.

(c) Payments to persons responsible for deceased recipients under this section may be made only in the manner and to the extent permissible under the laws and regulations governing the disbursement of funds received through the Department of Health, Education, and Welfare.

[Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.038. Cancellation of Uncashed Warrants**

On authorization by the department, the comptroller may cancel financial assistance warrants that have not been cashed within a reasonable period of time after issuance.

[Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.039. Issuance of Duplicate Assistance Warrants**

(a) Except as provided by Subsection (b) of this section, the comptroller may issue a duplicate financial assistance warrant to a recipient who has failed to receive or has lost the original warrant in accordance with Article 4365, Revised Civil Statutes of Texas, 1925, as amended.

(b) The comptroller may not issue a duplicate financial assistance warrant after one year from the date the original warrant was issued.

[Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.040. Nontransferability of Assistance Funds**

The right to financial assistance granted to recipients under this chapter may not be transferred or assigned at law or in equity, and the funds are not subject to execution, levy, attachment, garnishment, or other legal process or to the operation of an insolvency law.

[Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.041. Right to Assistance Not Vested**

(a) The provisions of this chapter providing assistance shall not be construed as vesting a right in the recipient to the assistance.

(b) Assistance granted under this chapter is subject to modification or repeal by the legislature, and a recipient has no claim for compensation or otherwise because the law authorizing the assistance is amended or repealed.

[Acts 1979, 66th Leg., p. 2347, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 31.042. Proration of Financial Assistance**

If at any time state funds are not available to pay in full all financial assistance authorized in this chapter, the department may direct the proration of the financial assistance.

[Acts 1979, 66th Leg., p. 2348, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**CHAPTER 32. MEDICAL ASSISTANCE PROGRAM**

**SUBCHAPTER A. GENERAL PROVISIONS**

- |         |                                   |
|---------|-----------------------------------|
| Section |                                   |
| 32.001. | Purpose of Chapter.               |
| 32.002. | Construction of Chapter.          |
| 32.003. | Definition of Medical Assistance. |

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

- |          |  |
|----------|--|
| 32.021.  | Administration of the Program.   |
| 32.0211. | Restrictions on Members of the Board, Commissioners, and Their Partners. |
| 32.022.  | Medical Care Advisory Committee.   |
| 32.023.  | Cooperation With Other State Agencies.                                   |
| 32.024.  | Authority and Scope of Program; Eligibility.                             |
| 32.025.  | Application for Medical Assistance.                                      |
| 32.026.  | Certification of Eligibility and Need for Medical Assistance.            |
| 32.027.  | Selection of Provider of Medical Assistance.                             |
| 32.028.  | Fees, Charges, and Rates.  |
| 32.029.  | Methods of Payment.  |
| 32.030.  | Medical Assistance Fund.   |
| 32.031.  | Receipt and Expenditure of Funds.  |
| 32.032.  | Prevention and Detection of Fraud.                                       |
| 32.033.  | Subrogation.   |
| 32.034.  | Contract Cancellation; Notice and Hearing.                               |
| 32.035.  | Appeals.   |
| 32.036.  | Program Payments Nonassignable and Exempt from Legal Process.            |
| 32.037.  | Geriatric Center.  |

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 32.001. Purpose of Chapter**

The purpose of this chapter is to enable the state to provide medical assistance on behalf of needy individuals and to enable the state to obtain all benefits for those persons authorized under the Social Security Act or any other federal act.

[Acts 1979, 66th Leg., p. 2348, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 32.002. Construction of Chapter

(a) This chapter shall be liberally construed and applied in relation to applicable federal laws and regulations so that adequate and high quality health care may be made available to all children and adults who need the care and are not financially able to pay for it.

(b) If a provision of this chapter conflicts with a provision of the Social Security Act<sup>1</sup> or any other federal act and renders the state program out of conformity with federal law to the extent that federal matching money is not available to the state, the conflicting provision of state law shall be inoperative to the extent of the conflict but shall not affect the remainder of this chapter.

[Acts 1979, 66th Leg., p. 2348, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> 42 U.S.C.A. § 301 et seq.

### § 32.003. Definition of Medical Assistance

In this chapter, "medical assistance" includes all of the health care and related services and benefits authorized or provided under federal law for needy individuals of this state.

[Acts 1979, 66th Leg., p. 2349, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 32.004 to 32.020 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

### § 32.021. Administration of the Program

(a) The department is the state agency designated to administer the medical assistance program provided in this chapter.

(b) The department shall enter into agreements with any federal agency designated by federal law to administer medical assistance when the department determines the agreements to be compatible with the state's participation in the medical assistance program and within the limits of appropriated funds. The department shall cooperate with federal agencies designated by federal law to administer medical assistance in any reasonable manner necessary to qualify for federal funds.

(c) The department shall establish methods of administration and adopt necessary rules for the proper and efficient operation of the program.

[Acts 1979, 66th Leg., p. 2349, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 32.0211. Restrictions on Members of the Board, Commissioners, and Their Partners

(a) After service in the department ends, a former member of the board or a former commissioner may not knowingly represent a person before an agency or court:

(1) in a matter related to the medical assistance program in which the department or the federal government has a direct interest and in which the

board member or commissioner participated personally while employed with the department; or

(2) for two years after the date on which service ends in a matter related to the medical assistance program if the department or the federal government has a direct interest in the matter, the matter was pending during his last year of service to the department, and the matter was one for which the board member or commissioner had responsibility.

(b) Subsection (a) of this section does not apply to a former board member or commissioner who holds one of the following positions and is acting in the scope of that position:

(1) employee or officer of federal, state, or local government;

(2) employee of a nonprofit hospital or medical research organization; or

(3) employee of an accredited degree-granting college or university.

(c) A current board member or commissioner may not knowingly participate in the course of his service in a matter related to the medical assistance program in which the department or the federal government has a direct interest and in which he, his spouse, minor child, or business partner has a substantial financial interest.

(d) A business partner of a current board member or commissioner may not knowingly represent a person before an agency or court in a matter related to the medical assistance program:

(1) in which the board member or commissioner participates or has participated personally and substantially; or

(2) that is under the official responsibility of the board member or commissioner.

(e) Past or present board members or commissioners are subject to a civil penalty of \$5,000 for each violation of this section. A partner of a current board member or commissioner is subject to a civil penalty of \$2,500 for each violation of this section. Each appearance before an agency or court constitutes a separate offense.

(f) If it appears that this section has been violated, the department may request the attorney general to conduct a suit in the name of the State of Texas to enjoin the prohibited activity and to recover the penalty provided for in this section.

[Added by Acts 1981, 67th Leg., p. 755, ch. 287, § 1, eff. Aug. 31, 1981.]

### § 32.022. Medical Care Advisory Committee

(a) The commissioner shall appoint a medical care advisory committee to advise the department in developing and maintaining the medical assistance program and in making immediate and long-range plans for reaching the program's goal of providing high quality, comprehensive medical and health care services to needy persons in the state.

(b) The commissioner shall appoint the committee of the size, membership, and experience the commissioner determines essential for the implementation of the program and in compliance with the federal agency administering medical assistance.

(c) The department shall adopt rules for membership on the committee to provide for efficiency of operation, rotation, stability, continuity, and representation of the various professions and disciplines authorized to provide medical assistance.

(d) Members of the committee receive no compensation for their services but are entitled to reimbursement for actual expenses incurred in performing committee duties.

(e) The commissioner may appoint regional and local medical care advisory committees and other advisory committees he considers necessary.

[Acts 1979, 66th Leg., p. 2349, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.023. Cooperation With Other State Agencies**

(a) The department's plan for administering medical assistance must include procedures for using health services administered by other state agencies pursuant to cooperative arrangements.

(b) The department may enter into agreements with appropriate state agencies that will enable the department to implement Title XIX of the federal Social Security Act<sup>1</sup> to provide medical assistance for individuals in institutions or in alternate care arrangements. The agreements must comply with federal law and rules. The department may make medical assistance payments in accordance with the agreements. The agreements are not subject to the Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes).

(c) State agencies responsible for the administration or supervision of facilities to which medical assistance payments may be made under federal law shall enter into the agreements with the department and maintain compliance with the agreements so that the department may receive federal matching funds to support the medical assistance program.

(d) The department may pay medical assistance to other facilities as required under federal law and rules.

[Acts 1979, 66th Leg., p. 2349, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> 42 U.S.C.A. § 1396 et seq.

**§ 32.024. Authority and Scope of Program; Eligibility**

(a) The department shall provide medical assistance to all persons who receive financial assistance from the state under Chapter 31 of this code and to other related groups of persons if the provision of medical assistance to those persons is required by federal law and rules as a condition for obtaining federal matching funds for the support of the medical assistance program.

(b) The department may provide medical assistance to other persons who are financially unable to meet the cost of medical services if federal matching funds are available for that purpose. The department shall adopt rules governing the eligibility of those persons for the services.

(c) The department shall establish standards governing the amount, duration, and scope of services provided under the medical assistance program. The standards may not be lower than the minimum standards required by federal law and rule as a condition for obtaining federal matching funds for support of the program, and may not be lower than the standards in effect on August 27, 1967. Standards or payments for the vendor drug program may not be lower than those in effect on January 1, 1973.

(d) The department may establish standards that increase the amount, duration, and scope of the services provided only if federal matching funds are available for the optional services and payments and if the department determines that the increase is feasible and within the limits of appropriated funds. The department may establish and maintain priorities for the provision of the optional medical services.

(e) The department may not authorize the provision of any service to any person under the program unless federal matching funds are available to pay the cost of the service.

[Acts 1979, 66th Leg., p. 2350, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.025. Application for Medical Assistance**

(a) A recipient of benefits under Chapter 31 of this code or supplemental security income from the federal government is automatically eligible for medical assistance, and an application for benefits under these programs constitutes an application for medical assistance.

(b) The department shall prescribe application forms for persons who are not recipients of benefits under Chapter 31 of this code or supplemental security income from the federal government and shall adopt rules for processing the applications.

[Acts 1979, 66th Leg., p. 2350, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.026. Certification of Eligibility and Need for Medical Assistance**

(a) The department shall promulgate rules for determining and certifying a person's eligibility and need for medical assistance.

(b) Medical assistance payments may not be made on a person's behalf until the person's eligibility and need for medical assistance have been certified in accordance with the department's rules.

[Acts 1979, 66th Leg., p. 2350, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.027. Selection of Provider of Medical Assistance**

(a) A recipient of medical assistance authorized in this chapter may select any provider authorized by the department to provide medical assistance.

(b) The department shall assure that a recipient of medical assistance under this chapter may select a licensed podiatrist to perform any foot health care service or procedure covered under the medical assistance program if the podiatrist is authorized by law to perform the service or procedure. This subsection shall be liberally construed.

[Acts 1979, 66th Leg., p. 2351, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.028. Fees, Charges, and Rates**

(a) The department shall adopt reasonable rules and standards governing the determination of fees, charges, and rates for medical assistance payments.

(b) The fee, charge, or rate for a professional service is the usual and customary fee, charge, or rate that prevails in the community.

(c) The fee, charge, or rate for other medical assistance is the usual and customary fee, charge, or rate that prevails in the community unless the payment is limited by state or federal law.

[Acts 1979, 66th Leg., p. 2351, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.029. Methods of Payment**

(a) The department may prescribe a method of payment for medical assistance claims by establishing a direct vendor payment program that is administered by the department, or by an insurance plan, a hospital or medical service plan, or any other health service plan authorized to do business in the state, or by a combination of those plans.

(b) The department may use any fiscal intermediary, method of payment, or combination of methods it finds most satisfactory and economical. The department may make whatever changes it finds necessary from time to time to administer the program in an economical and equitable manner consistent with simplicity of administration and the best interest of the recipients of medical assistance.

(c) If the department elects to make direct vendor payments, the payments shall be made by vouchers and warrants drawn by the comptroller on the proper account of the Texas Department of Human Resources fund. The department shall furnish the comptroller with a list of those vendors entitled to payments and the amounts to which each is entitled. When the warrants are drawn, they must be delivered to the commissioner, who shall supervise the delivery to vendors.

(d) If at any time state funds are not available to fully pay all claims for medical assistance, the board shall prorate the claims.

[Acts 1979, 66th Leg., p. 2351, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.030. Medical Assistance Fund**

(a) The medical assistance fund is a special fund in the treasury and constitutes a separate account in the Texas Department of Human Resources fund. The fund may be expended only for the purpose of carrying out the provisions of this chapter.

(b) When necessary the department may request the transfer of money appropriated for financial assistance to the medical assistance fund. The transfer shall be requested and made in the manner authorized in the General Appropriations Act and in accordance with the department's rules.

[Acts 1979, 66th Leg., p. 2351, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.031. Receipt and Expenditure of Funds**

(a) The department may accept federal funds for the support of the medical assistance program and may expend the funds in the manner prescribed by this chapter or other laws. The expenditures must be made in accordance with appropriate agreements between the state and the federal government.

(b) The department may administer and expend state funds appropriated for the program in accordance with its rules and the provisions of this chapter.

(c) The amount of state funds spent for medical assistance on behalf of a qualified individual may not exceed the amount that is matchable with federal funds, and the total amount of state funds spent for all medical assistance on behalf of all qualified individuals may not exceed the amount that is matchable with federal funds.

[Acts 1979, 66th Leg., p. 2352, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.032. Prevention and Detection of Fraud**

The department shall adopt reasonable rules for minimizing the opportunity for fraud, for establishing and maintaining methods for detecting and identifying situations in which a question of fraud in the program may exist, and for referring cases where fraud appears to exist to the appropriate law enforcement agencies for prosecution.

[Acts 1979, 66th Leg., p. 2352, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.033. Subrogation**

(a) The filing of an application for or receipt of medical assistance constitutes an assignment of the applicant's or recipient's right of recovery from:

- (1) personal insurance;
- (2) other sources; or
- (3) another person for personal injury caused by the other person's negligence or wrong.

(b) A person who applies for or receives medical assistance shall inform the department, at the time of application or at any time during eligibility and receipt of services, of any unsettled tort claim which may affect medical needs and of any private accident or sickness insurance coverage that is or may

become available. A recipient shall inform the department of any injury requiring medical attention that is caused by the act or failure to act of some other person. An applicant or a recipient shall inform the department as required by this subsection within 60 days of the date the person learns of his or her insurance coverage, tort claim, or potential cause of action. An applicant or a recipient who knowingly and intentionally fails to disclose the information required by this subsection commits a Class C misdemeanor.

(c) A claim for damages for personal injury does not constitute grounds for denying or discontinuing assistance under this chapter.

(d) A separate and distinct cause of action in favor of the state is hereby created, and the department may, without written consent, take direct civil action in any court of competent jurisdiction. A suit brought under this section need not be ancillary to or dependent upon any other action.

(e) The department's right of recovery is limited to the amount of the cost of medical care services paid by the department. Other subrogation rights granted under this section are limited to the cost of the services provided.

(f) The commissioner may waive the department's right of recovery in whole or in part when the commissioner finds that enforcement would tend to defeat the purpose of public assistance.

(g) The department may designate an agent to collect funds the department has a right to recover from third parties under this section. The department shall use any funds collected to pay costs of administering the medical assistance program.

(h) The department may adopt rules for the enforcement of its right of recovery.  
[Acts 1979, 66th Leg., p. 2352, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2436, ch. 842, art. 2, § 10, eff. Sept. 1, 1979.]

**§ 32.034. Contract Cancellation; Notice and Hearing**

(a) When the department intends to cancel its contract with a person providing medical assistance, the department shall give reasonable notice and an opportunity for a hearing if one is requested. The department shall adopt rules consistent with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) to implement this section, and hearings under this section are contested cases under that act.

(b) The department may not terminate a contract during the pendency of a hearing under this section. The department may withhold payments during the pendency of a hearing, but the department shall pay the withheld payments and resume contract payments if the final determination is favorable to the contractor.

(c) The section does not apply if a contract is cancelled because federal matching funds for con-

tract payments are no longer available or if the contract expires according to its terms.  
[Acts 1979, 66th Leg., p. 2352, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.035. Appeals**

The provisions of Section 31.034 of this code governing the right of appeal of an applicant for or recipient of financial assistance authorized under Chapter 31 of this code also apply to applicants for medical assistance authorized in this chapter.  
[Acts 1979, 66th Leg., p. 2353, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.036. Program Payments Nonassignable and Exempt from Legal Process**

(a) Neither medical assistance nor payments to providers of medical assistance under this chapter are transferable or assignable at law or in equity.

(b) No money paid or payable under the provisions of this chapter is subject to execution, levy, attachment, garnishment, or any other legal process, or the operation of any insolvency law.  
[Acts 1979, 66th Leg., p. 2353, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 32.037. Geriatric Center**

(a) The department may accept one geriatric center in the city of Austin from the federal government to be operated as a nursing home and a training facility and used in administering the department's programs.

(b) The department may charge reasonable fees for providing nursing home care. However, fees charged persons receiving medical assistance under this chapter may not exceed the amounts paid on their behalf under this chapter.

(c) Fees collected by the department under this section shall be deposited in a special fund in the state treasury or in accounts in financial institutions and may be used by the department to operate the nursing home.

(d) The department may use funds appropriated for nursing home care under its medical services programs for the maintenance and improvement of the property acquired under this section and for the operation of the nursing home.  
[Acts 1979, 66th Leg., p. 2353, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**CHAPTER 33. NUTRITIONAL ASSISTANCE PROGRAMS**

Section	
33.001.	Distribution of Surplus Commodities.
33.002.	Distribution of Commodities and Food Stamps.
33.003.	Distribution Districts; Agents.
33.004.	Advisory Boards.
33.005.	Processing Perishable Commodities.
33.006.	Handling Charges.
33.007.	Commodity Distribution Fund.
33.008.	Sale of Used Commodity Containers.

## Section

- 33.009. Revolving Funds.  
 33.010. Sale of Equipment and Property.  
 33.011. Prohibited Activities; Penalties.

**§ 33.001. Distribution of Surplus Commodities**

(a) The department is the state agency designated to cooperate with the federal government in administering the distribution of federal surplus commodities and other resources.

(b) The department may cooperate with a city or county in any manner necessary for the proper operation of this program.

[Acts 1979, 66th Leg., p. 2353, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.002. Distribution of Commodities and Food Stamps**

(a) The department is responsible for the distribution of commodities and food stamps allocated to the department by the federal government.

(b) The department may enter into agreements with federal agencies that are required as a prerequisite to the allocation of the commodities or food stamps. The department may enter into agreements with eleemosynary institutions, schools, and other eligible agencies and recipients of the commodities and food stamps.

(c) The department shall establish policies and rules that will ensure the widest and most efficient distribution of the commodities and food stamps to those eligible to receive them.

[Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.003. Distribution Districts; Agents**

(a) The department may establish distribution districts and employ distributing agents or may make other arrangements necessary to provide for the efficient distribution of commodities and food stamps.

(b) A distributing agent must be bonded. The department shall audit a distributing agent's records at least once annually and at any other time considered expedient by the department.

[Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.004. Advisory Boards**

(a) The department may establish state or district-level advisory boards to facilitate the operations of the commodity distribution or food stamp programs.

(b) The advisory boards shall be of the size, membership, and experience that the commissioner determines to be essential for the accomplishment of the purposes of this chapter and not in conflict with or duplicative of other laws on this subject.

[Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.005. Processing Perishable Commodities**

(a) The department may enter into nonprofit contracts with state institutions or state or private agencies for the processing of perishable commodities to preserve them for subsequent distribution to eligible recipients.

(b) The cost of processing shall be borne by each recipient on a pro rata basis in relation to the amount of the processed commodities received by each distribution district.

[Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.006. Handling Charges**

(a) The department may assess reasonable handling charges against the recipients of commodities or food stamps to cover the cost of distribution. The total operation must be conducted on a nonprofit basis.

(b) The department shall make the assessments at the times and in the amounts that it considers necessary for the proper administration of the programs. However, the assessments must be uniform in each distribution district and may not exceed 60 cents per recipient per year.

[Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.007. Commodity Distribution Fund**

(a) Funds received from assessments for handling charges pursuant to Section 33.006 of this code shall be paid to the department and deposited in a separate account in the state treasury subject to withdrawal on authorization of the commissioner.

(b) The funds may be used only for necessary expenses incurred in operating the commodity distribution and food stamp programs, and their use is subject to the rules of the department, the provisions of this chapter, and the provisions of the general appropriation acts of the legislature.

(c) If the commodity distribution program or food stamp program is terminated, funds remaining in the account after all due and just accounts have been paid shall be refunded to the contributors on a pro rata basis.

[Acts 1979, 66th Leg., p. 2354, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.008. Sale of Used Commodity Containers**

The department may sell used commodity containers. Proceeds from the sales in each distribution district shall be deposited in the commodity distribution fund and used for the commodity distribution program.

[Acts 1979, 66th Leg., p. 2355, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.009. Revolving Funds**

(a) The department may establish a revolving fund or petty cash expense fund in each distribution

district to provide for emergency payments for services, goods, or other necessary activities. The commissioner shall determine the amount of each fund on the basis of the anticipated needs of each district and in accordance with the department's rules.

(b) The revolving funds shall be established and reimbursed with funds received as assessments for handling charges.

(c) The revolving fund at the disposal of each distributing agent shall be deposited in a bank designated by the commissioner in an account known as the commodity distribution fund. The money shall be expended on the authority of the distributing agent under the direction of the department.

(d) The distributing agent shall make a monthly report to the department of the funds received and disbursed.

(e) If the commodity distribution program and food stamp program are terminated the money remaining in the commodity distribution fund in each district shall be refunded to the contributors on a pro rata basis after all due and just accounts are paid.

[Acts 1979, 66th Leg., p. 2355, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.010. Sale of Equipment and Property**

If the commodity distribution and/or food stamp programs are terminated, equipment and property purchased with funds from the commodity distribution fund shall be sold by competitive bids. The proceeds from the sales shall be deposited in the commodity distribution fund in each district and distributed in the manner specified by Section 33.009 of this code.

[Acts 1979, 66th Leg., p. 2355, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 33.011. Prohibited Activities; Penalties**

(a) A person commits an offense if the person knowingly uses, alters, or transfers food stamp coupons or authorizations to participate in the food stamp program in any manner not authorized by law. An offense under this subsection is a Class A misdemeanor if the value of the coupons or authorization cards is less than \$200 and a felony of the third degree if the value of the coupons or authorization cards is \$200 or more.

(b) A person commits an offense if the person knowingly possesses food stamp coupons or authorizations to participate in the food stamp program when not authorized by law to possess them, knowingly redeems food stamp coupons when not authorized by law to redeem them, or knowingly redeems food stamp coupons for purposes not authorized by law. An offense under this subsection is a Class A misdemeanor if the value of the coupons or authorization cards is less than \$200 and a felony of the third degree if the value of the coupons or cards is \$200 or more.

(c) A person commits an offense if the person knowingly possesses blank authorizations to participate in the food stamp program when not authorized by law to possess them. An offense under this subsection is a felony of the third degree.

(d) When food stamp coupons or authorizations to participate in the food stamp program of various values are obtained in violation of this section pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the values aggregated in determining the grade of the offense.

(e) The department may contract with county commissioners courts to provide funds to pay for professional and support services necessary for the enforcement of any criminal offense that involves illegally obtaining, possessing, or misusing food stamps.

[Acts 1979, 66th Leg., p. 2355, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2435, ch. 842, art. 2, § 6, eff. Sept. 1, 1979.]

Section 1 of Acts 1979, 66th Leg., p. 1648, ch. 689, eff. June 13, 1979, amending § 7-B of former Vernon's Ann.Civ.St. art. 695c, was incorporated into the Human Resources Code by Acts 1979, 66th Leg., p. 2435, ch. 842, art. 2, § 6, eff. Sept. 1, 1979. Section 2 of ch. 689 provided:

"This Act does not affect offenses committed under Section 7-B, The Public Welfare Act of 1941, as added (Article 695c, Vernon's Texas Civil Statutes), before the effective date of this Act. Such an offense is covered by the law in effect on the date that the offense was committed, and the former law is continued in effect for the prosecution of the offense."

**SUBTITLE D. CHILD WELFARE AND PROTECTIVE SERVICES**

**CHAPTER 41. CHILD WELFARE SERVICES**

**SUBCHAPTER A. GENERAL WELFARE SERVICES**

- Section 41.001. Duties of Department.
- 41.002. County Child Welfare Boards.
- 41.003. County Funds.
- 41.004. Cooperation With Children's Bureau.
- 41.005. Notification of Charters Filed With the Secretary of State.
- 41.006. Child Welfare Service Fund.

**SUBCHAPTER B. FOSTER CARE**

- 41.021. Foster Care Payments.
- 41.022. County Contracts.
- 41.023. Direct Payments.
- 41.024. Parent or Guardian Liability.
- 41.025. Medical Services Limitation.

**SUBCHAPTER A. GENERAL WELFARE SERVICES**

**§ 41.001. Duties of Department**

(a) The department shall promote the enforcement of all laws for the protection of illegitimate, dependent, neglected, and delinquent children, and shall take the initiative in all matters involving the interests of these children where adequate provision for them has not already been made.

(b) The department shall give special attention to the dissemination of information through bulletins

and visits, where practical, to all agencies operating under a provision of law affecting the welfare of these children.

(c) Through the county child welfare boards, the department shall work in conjunction with the commissioners courts, juvenile boards, and all other officers and agencies involved in the protection of these children. The department may use and allot funds for the establishment and maintenance of homes, schools, and institutions for the care, protection, education, and training of these children in conjunction with a juvenile board, a county or city board, or any other agency. However, the funds must be specifically appropriated by the legislature for this purpose.

(d) The department shall visit and study the conditions in state-supported eleemosynary institutions for these children and shall make recommendations for the management and operation of the institutions which will ensure that the children receive the best possible training in contemplation of their earliest discharge from the institutions.

(e) The department may not spend state funds to accomplish the purposes of this chapter unless the funds have been specifically appropriated for those purposes.

[Acts 1979, 66th Leg., p. 2356, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 41.002. County Child Welfare Boards

(a) The commissioners court of a county may appoint a child welfare board for the county. The commissioners court and the department shall determine the size of the board and the qualifications of its members. However, the board must have at least 7 and not more than 15 members, and the members must be residents of the county. The members shall serve at the pleasure of the commissioners court and may be removed by the court for just cause. The members serve without compensation.

(b) With the approval of the department, two or more counties may establish a joint child welfare board if that action is found to be more practical in accomplishing the purposes of this chapter. The combined counties have the same powers as a single county and are subject to the same conditions and liabilities.

(c) The members of the county child welfare board shall select a presiding officer and shall perform the duties required by the commissioners court and the department to accomplish the purposes of this chapter.

(d) A county child welfare board is an entity of the department for purposes of providing coordinated state and local public welfare services for children and their families and the coordinated use of federal, state, and local funds for these services. The child welfare board shall work with the commissioners court.

[Acts 1979, 66th Leg., p. 2357, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 41.003. County Funds

The commissioners court of a county may appropriate funds from its general fund or any other fund for the administration of its county child welfare board. The court may provide for services to and support of children in need of protection or care. [Acts 1979, 66th Leg., p. 2357, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 41.004. Cooperation With Children's Bureau

The department is the state agency designated to cooperate with the Children's Bureau of the United States Department of Health, Education, and Welfare in:

(1) establishing, extending, and strengthening public welfare services for the protection and care of homeless, dependent, and neglected children in danger of becoming delinquent, especially in rural areas;

(2) developing state services for the encouragement and assistance of adequate methods of community child welfare organizations and paying part of the cost of district, county, or other local child welfare services in rural areas and in other areas of special need; and

(3) developing necessary plans to implement the services contemplated in this section and to comply with the rules of the Children's Bureau issued and prescribed in conformity with and by virtue of the Social Security Act.<sup>1</sup>

[Acts 1979, 66th Leg., p. 2357, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> 42 U.S.C.A. § 301 et seq.

#### § 41.005. Notification of Charters Filed With the Secretary of State

The secretary of state shall notify the Texas Department of Human Resources in writing of each charter filed with the secretary by a person who proposes to provide care for children under 18 years of age and who is required to be licensed by or registered with the department to provide that care. The secretary shall send a copy of the charter to the department.

[Acts 1979, 66th Leg., p. 2357, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 41.006. Child Welfare Service Fund

The child welfare service fund is a special fund in the state treasury. The fund shall be used to administer the child welfare services provided by the department.

[Acts 1979, 66th Leg., p. 2358, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 41.007 to 41.020 reserved for expansion]

SUBCHAPTER B. FOSTER CARE

§ 41.021. Foster Care Payments

(a) The department may pay the cost of protective foster care for children:

(1) for whom the department has initiated a suit and has been named managing conservator by a court order issued under Title 2, Family Code;<sup>1</sup> and

(2) who are ineligible for foster care payments under the department's aid to families with dependent children program.

(b) The department may not pay the cost of protective foster care for a child for whom the department has been named managing conservator by a court order issued solely under Article 15.02(1)(J), Family Code, as amended.

(c) Payments for protective foster care, including medical care, must be equal to payments made for similar care for a child who is eligible for the department's aid to families with dependent children program.

[Added by Acts 1979, 66th Leg., p. 2434, ch. 842, art. 2, § 4(2), eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2554, ch. 681, § 1, eff. Aug. 31, 1981.]

<sup>1</sup> Family Code, § 11.01 et seq.

§ 41.022. County Contracts

(a) The department may contract with a county commissioners court to administer the funds authorized by this subchapter for eligible children in the county and may require county participation.

(b) The payments provided by this subchapter do not abrogate the responsibility of a county to provide child welfare services.

[Added by Acts 1979, 66th Leg., p. 2434, ch. 842, art. 2, § 4(2), eff. Sept. 1, 1979.]

§ 41.023. Direct Payments

The department may make direct payments for foster care to foster parents residing in a county with which the department does not have a contract authorized by Sec. 41.022 of this code.

[Added by Acts 1979, 66th Leg., p. 2434, ch. 842, art. 2, § 4(2), eff. Sept. 1, 1979.]

§ 41.024. Parent or Guardian Liability

The parent or guardian of a child is liable to the state or to the county for any payment made by the state or county for foster care of a child under this subchapter. The funds collected by the state under this section must be used by the department for child welfare services.

[Added by Acts 1979, 66th Leg., p. 2434, ch. 842, art. 2, § 4(2), eff. Sept. 1, 1979.]

§ 41.025. Medical Services Limitation

The department may not provide the medical care payments authorized by Section 41.021(c) of this code if:

(1) a federal law or regulation prohibits those medical payments unless medical payments are also provided for medically needy children who are not eligible for the department's aid to families with dependent children program and for whom the department is not named managing conservator; or

(2) the federal government does not fund at least 50 percent of the cost of the medical payments authorized by this subchapter.

[Added by Acts 1979, 66th Leg., p. 2434, ch. 842, art. 2, § 4(2), eff. Sept. 1, 1979.]

CHAPTER 42. REGULATION OF CHILD-CARE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Section	
42.001.	Purpose.
42.002.	Definitions.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

42.021.	Division Designated.
42.022.	State Advisory Committee.
42.023.	Annual Report.
42.024.	Administrative Procedure.

SUBCHAPTER C. REGULATION OF CHILD-CARE FACILITIES

42.041.	Required License.
42.042.	Rules and Standards.
42.043.	Rules for Immunizations.
42.044.	Inspections.
42.045.	Records.
42.046.	License Application.
42.047.	Consultations.
42.048.	Advisory Opinions.
42.049.	Licensing.
42.050.	License Renewal.
42.051.	Provisional License.
42.052.	Certification and Registration.
42.053.	Agency Homes.

SUBCHAPTER D. REMEDIES

42.071.	License Suspension.
42.072.	License Denial or Revocation.
42.073.	Closing a Facility.
42.074.	Injunctive Relief.
42.075.	Civil Penalty.
42.076.	Criminal Penalties.

SUBCHAPTER A. GENERAL PROVISIONS

§ 42.001. Purpose

The purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by establishing statewide minimum standards for their safety and protection and by regulating the facilities through a licensing program. It is the policy of the state to ensure the protection of all children under care in child-care facilities and to encourage and assist in the improvement of child-care programs. It is also the intent of the legislature that freedom of religion of all citizens is inviolate, and nothing in

this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of religious instruction or the curriculum of a school sponsored by a religious organization.

[Acts 1979, 66th Leg., p. 2358, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 42.002. Definitions

In this chapter:

(1) "Child" means a person under 18 years of age.

(2) "Division" means the division designated by the department to carry out the provisions of this chapter.

(3) "Child-care facility" means a facility that provides care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

(4) "Child-care institution" means a child-care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment camps, emergency shelters, and training or correctional schools for children.

(5) "Foster group home" means a facility that provides care for 7 to 12 children for 24 hours a day.

(6) "Foster family home" means a facility that provides care for not more than six children for 24 hours a day.

(7) "Day-care center" means a facility that provides care for more than 12 children under 14 years of age for less than 24 hours a day.

(8) "Group day-care home" means a facility that provides care for 7 to 12 children under 14 years of age for less than 24 hours a day.

(9) "Registered family home" means a facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed 12 at any given time.

(10) "Family day home" means a facility that provides care for not more than six children under 14 years of age for less than 24 hours a day not in the caretaker's own residence nor in the residence of one or more of the children.

(11) "Agency home" means a private home that provides care for not more than six children, that is used only by a licensed child-placing agency, and that meets division standards.

(12) "Child-placing agency" means a person other than the natural parents or guardian of a child who plans for the placement of or places a child in an institution, agency home, or adoptive home.

(13) "Facilities" includes child-care facilities and child-placing agencies.

(14) "State of Texas" or "state" does not include political subdivisions of the state.

(15) "Religious organization" means a church, synagogue, or other religious institution whose purpose is to support and serve the propagation of truly held religious beliefs.

[Acts 1979, 66th Leg., p. 2359, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2812, ch. 759, § 1, eff. Aug. 31, 1981.]

[Sections 42.003 to 42.020 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

##### § 42.021. Division Designated

(a) The department shall designate a division within the department to regulate and license child-care facilities and child-placing agencies. The division shall enforce the provisions of this chapter and the rules and standards adopted by the department under this chapter and shall carry out other responsibilities the department may delegate or assign.

(b) The commissioner of the department shall appoint as director of the division a person who:

(1) meets the qualifications required of a child-care administrator by Chapter 43 of this code;

(2) holds a graduate degree in social science or law and has five years' administrative experience in a field related to child care; or

(3) has 10 years' experience in a field related to child care, at least 5 of which must be administrative.

(c) The department shall employ sufficient personnel and provide training for the personnel to carry out the provisions of this chapter.

(d) The director may divide the state into regions for the purpose of administering this chapter.

[Acts 1979, 66th Leg., p. 2360, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

##### § 42.022. State Advisory Committee

(a) The State Advisory Committee on Child-Care Facilities is composed of 15 citizens of this state appointed by the commissioner.

(b) Members of the committee serve for terms of two years.

(c) The members must represent the following groups:

(1) parents, guardians, or custodians of children who use the facilities;

(2) child advocacy groups;

(3) operators of the facilities; and

(4) experts in various professional fields that are relevant to child care and development.

(d) At least three members of the division staff shall meet with the committee, and the division shall provide staff necessary for the committee.

(e) The committee shall review rules and minimum standards for child-care facilities and child-placing agencies promulgated by state agencies, and shall advise the department, the division, the council, and state agencies on problems of child-care facilities and child-placing agencies.

(f) The committee shall receive and review the annual report of the division.

(g) The committee shall meet twice a year, and the members shall receive their actual travel expenses and the state per diem.

[Acts 1979, 66th Leg., p. 2360, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.023. Annual Report**

(a) The division shall send an annual report of its activities to the governor, lieutenant governor, and members of the legislature.

(b) The annual report shall include:

(1) a report by regions of applications for licensure or certification, of provisional licenses issued, denied, or revoked, of licenses issued, denied, suspended or revoked, of emergency closures and injunctions, and of the compliance of state-operated agencies with certification requirements;

(2) a summary of the amount and kind of in-service training and other professional development opportunities provided for division staff;

(3) a summary of training and other professional development opportunities offered to facilities' staffs; and

(4) a report of new administrative procedures, of the number of staff and staff changes, and of plans for the coming year.

(c) Copies of the annual report shall be available to any state citizen on request.

[Acts 1979, 66th Leg., p. 2360, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.024. Administrative Procedure**

The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) applies to all procedures under this chapter except where it is contrary to or inconsistent with the provisions of this chapter.

[Acts 1979, 66th Leg., p. 2361, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 42.025 to 42.040 reserved for expansion]

**SUBCHAPTER C. REGULATION OF CHILD-CARE FACILITIES**

**§ 42.041. Required License**

(a) No person may operate a child-care facility or child-placing agency without a license issued by the division.

(b) This section does not apply to:

- (1) a state-operated facility;
- (2) an agency home;

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the Texas Department of Health;

(6) a hospital licensed by the Texas Department of Mental Health and Mental Retardation or the Texas Department of Health;

(7) an educational facility accredited by the Central Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above;

(8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Central Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a registered family home; or

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: kindergarten through at least grade three, elementary, or secondary grades.

(c) A single license that lists addresses and the appropriate facilities may be issued to a child-care institution that operates noncontiguous facilities that are nearby and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(d) A person operating or desiring to operate a child-care facility that is exempt from the provisions of Subsection (a) of this section may apply to the division for a license as provided in Section 42.046 of this code. The division may not deny an exempt

facility a license on the ground that it is exempt from Subsection (a) of this section. A facility exempt from the provisions of Subsection (a) of this section that desires to receive or participate in federal or state funding shall be required to comply with all other provisions of this Act and with all regulations promulgated thereunder.

(e) The exemptions provided by Subsection (b) of this section do not affect the authority of local, regional, or state health department officials, the state fire marshal, or local fire prevention officials to inspect child-care facilities.

[Acts 1979, 66th Leg., p. 2361, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2812, ch. 759, §§ 2, 3, eff. Aug. 31, 1981.]

#### § 42.042. Rules and Standards

(a) The department shall make rules to carry out the provisions of this chapter.

(b) The department shall conduct a comprehensive review of all rules and standards at least every six years.

(c) The department shall provide a standard procedure for receiving and recording complaints and a standard form for recording complaints.

(d) The department shall provide standard forms for applications and inspection reports.

(e) The department shall promulgate minimum standards for child-care facilities covered by this chapter that will:

(1) promote the health, safety, and welfare of children attending a facility;

(2) promote safe, comfortable, and healthy physical facilities for children;

(3) ensure adequate supervision of children by capable, qualified, and healthy personnel;

(4) ensure adequate and healthy food service where food service is offered;

(5) prohibit racial discrimination by child-care facilities; and

(6) require procedures for parental and guardian consultation in the formulation of children's educational and therapeutic programs.

(f) In promulgating minimum standards for child-care facilities, the department shall recognize the various categories of facilities, including facilities offering specialized care, and the various categories of children and their particular needs. Standards for child-care institutions must require an intake study before a child is placed in an institution. The intake study may be conducted at a community mental health and mental retardation center.

(g) In promulgating minimum standards the department may recognize and treat differently the following child-care facilities: child-caring institutions, foster homes, day-care centers, group day-care homes, family day homes, registered family homes, and agency homes.

(h) The department shall promulgate minimum standards for child-placing agencies.

(i) Before adopting minimum standards, the division shall present the proposed standards to the State Advisory Committee on Child-Care Facilities for review and comment, and shall send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to the council and the department.

(j) The department may waive compliance with a minimum standard in a specific instance if it determines that the economic impact of compliance is sufficiently great to make compliance impractical.

(k) The department may not regulate or attempt to regulate or control the content or method of any instruction or curriculum of a school sponsored by a religious organization.

[Acts 1979, 66th Leg., p. 2362, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 42.043. Rules for Immunizations

(a) The department shall make rules for the immunization of children admitted to facilities.

(b) The department shall require that each child at an appropriate age have a test for tuberculosis and be immunized against diphtheria, tetanus, poliomyelitis, rubella, and rubeola. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible.

(c) The Texas Department of Health shall make rules for the provisional admission of children to facilities and may modify or delete any of the immunizations listed in Subsection (b) of this section or require additional immunizations as a requirement for admission to a facility.

(d) No immunization may be required for admission to a facility if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization would be injurious to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the immunization conflicts with the tenets and practices of a recognized religious organization of which the applicant is an adherent or a member.

(e) Each facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the division at all reasonable times.

(f) The Texas Department of Health shall provide the immunizations required by this section to children in areas where there is no local provision of these services.

[Acts 1979, 66th Leg., p. 2362, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.044. Inspections**

(a) An authorized representative of the division may visit a facility during operating hours to investigate, inspect, and evaluate.

(b) The division shall inspect all licensed or certified facilities at least once a year and may inspect other facilities as necessary. At least one of the annual visits must be unannounced and all may be unannounced.

(c) The division must investigate a facility when a complaint is received. The division representative must notify the facility's director or authorized representative when a complaint is being investigated and report in writing the results of the investigation to the director or the director's authorized representative.

(d) The division may call on political subdivisions and governmental agencies for assistance within their authorized fields.

[Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.045. Records**

(a) A person who operates a licensed or certified facility shall maintain individual child development records, individual health records, statistical records, and complete financial records.

(b) A person who operates a licensed facility shall have an annual audit by a certified public accountant of the facility's books. A copy of the accountant's statement of income and disbursements must accompany an application for a license. This subsection does not apply to a facility that provides care for less than 24 hours a day or to an agency home.

[Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.046. License Application**

(a) An applicant for a license to operate a child-care facility or child-placing agency shall submit to the division a completed application on a form provided by the division.

(b) The division shall supply the applicant the application form and a copy of the appropriate minimum standards.

(c) After receiving an application, the division shall investigate the applicant and the plan of care for children.

(d) The division shall complete the investigation and decide on an application within two months after the date the division receives an application.

[Acts 1979, 66th Leg., p. 2363, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.047. Consultations**

(a) The department shall offer consultation to potential applicants, applicants, and license and certification holders about meeting and maintaining standards for licensing and certification and achieving programs of excellence in child care.

(b) The department shall offer consultation to prospective and actual users of facilities.

[Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.048. Advisory Opinions**

(a) The director of the division may give an advisory opinion on whether or not a planned facility or a planned change in an existing facility complies with the division's rules and minimum standards.

(b) A written opinion authorized by Subsection (a) of this section is binding on the division as a declaratory order if it is signed by the division director and the division representative administering this chapter in a division region, and if an applicant or license holder has acted in reliance on the opinion.

[Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.049. Licensing**

(a) The division shall issue a license after determining that an applicant has satisfied all requirements.

(b) When issuing a license, the division may impose restrictions on a facility, including but not limited to the number of children to be served and the type of children to be served.

(c) The division may grant a variance of an individual standard set forth in the applicable standards for good and just cause.

(d) A license holder must display a license issued under this chapter in a prominent place at the facility.

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. A change in location or ownership automatically revokes a license.

(f) A biennial license must be issued if the division determines that a facility meets all requirements. The evaluation shall be based on a specified number of visits to the facility and a review of all required forms and records.

[Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.050. License Renewal**

(a) A license holder may apply for a new license in compliance with the requirements of this chapter and the rules promulgated by the division.

(b) The application for a new license must be completed and decided on by the division before the expiration of the license under which a facility is operating.

(c) The division shall evaluate the application for a new license to determine if all licensing requirements are met. The evaluation must include a specified number of visits to the facility and a review of all required forms and records.

[Acts 1979, 66th Leg., p. 2364, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.051. Provisional License**

(a) The division shall issue a provisional license when a facility's plans meet the department's licensing requirements and one of the following situations exists:

- (1) the facility is not currently operating;
- (2) the facility is not licensed for the location stated in the application; or
- (3) there is a change in ownership of the facility.

(b) A provisional license is valid for six months from the date it is issued and is not renewable. [Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.052. Certification and Registration**

(a) A state-operated child-care facility or child-placing agency must receive certification of approval from the division. The certification of approval must be renewed every two years.

(b) To be certified, a facility must comply with the department's rules and standards and any provisions of this chapter that apply to a licensed facility of the same category. The operator of a certified facility must display the certification in a prominent place at the facility.

(c) A registered family home must be registered with the division.

(d) To be registered with the division, a registered family home must comply with the department's rules and standards and any provision of this chapter that applies to a registered family home.

(e) The certification requirements of this section do not apply to a Texas Youth Council facility or a facility providing services solely for the Texas Youth Council.

[Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2813, ch. 759, § 4, eff. Aug. 31, 1981.]

**§ 42.053. Agency Homes**

(a) An agency home is considered part of the child-placing agency that operates the agency home for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency home used by the agency.

(c) An agency home shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The division shall revoke or suspend the license of a child-placing agency if an agency home operated by the licensed agency fails to comply with Subsection (c) of this section.

[Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 42.054 to 42.070 reserved for expansion]

## SUBCHAPTER D. REMEDIES

**§ 42.071. License Suspension**

(a) The division may suspend the license of a facility that has temporarily ceased operation but has definite plans for starting operations again within the time limits of the issued license.

(b) The division may suspend a facility's license for a definite period rather than deny or revoke the license if the division finds repeated noncompliance with standards that do not endanger the health and safety of children. To qualify for license suspension under this subsection, a facility must suspend its operations and show that standards can be met within the suspension period.

(c) The division shall revoke the license of a facility that does not comply with standards after a license suspension.

[Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.072. License Denial or Revocation**

(a) The division shall deny or revoke the license or certification of approval of a facility that does not comply with the requirements of this chapter, the standards and rules of the department, or the specific terms of the license or certification.

(b) The division shall notify the person operating or proposing to operate a facility of the reasons for the denial or revocation and of the person's right to appeal the decision within 30 days after receiving the notice.

(c) A person who wishes to appeal a license denial or revocation shall notify the director by certified mail within 30 days after receiving the notice required in Subsection (b) of this section. The person shall send a copy of the notice of appeal to the assigned division representative.

(d) Within 14 days after the date the appeal notification was mailed, the director shall appoint an advisory review board to hear the appeal or notify the person requesting the appeal that the request is denied.

(e) Within 14 days after notifying a person that an advisory review board will hear the case, the director shall appoint five of the person's peers to the board and set a date for the hearing. The date for the hearing must be within 28 days after the date the board members are appointed.

(f) The advisory review board shall hear the appeal and render its opinion to the director within seven days after the last day of the hearing. The board members shall receive actual travel expenses and the state per diem for each day of the hearing.

(g) A committee composed of the director, the division representative responsible for establishing standards, and the division representative administering this chapter in the region where the facility in question is located shall review the opinion. The committee shall make a decision within 14 days after

receiving the opinion and shall notify, by certified mail, the person who appealed.

(h) A person whose license has been denied or revoked may challenge the committee's decision by filing a suit in a district court of Travis County or the county in which the person's facility is located within 30 days after receiving the committee's decision. The trial shall be de novo.

(i) Records of the department's hearing shall be kept for one year after a committee decision is rendered. On request, and at the person's own expense, the division shall supply a copy of the verbatim transcript of the advisory board hearing to a person appealing a license denial or revocation in district court.

(j) A person may continue to operate a facility during an appeal of a license denial or revocation unless the division has sought injunctive relief under Section 42.074 or civil penalties under Section 42.075 of this code.

[Acts 1979, 66th Leg., p. 2365, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.073. Closing a Facility**

(a) The division may close the facility and place the children attending the facility in another facility if the division finds violations of this chapter or violations of the department's rules and standards that create an immediate danger for children.

(b) A division representative who finds conditions described in Subsection (a) of this section shall immediately notify the director and request an immediate inspection of the facility by the director or the director's designee.

(c) The division shall report to the governor and the commissioner of the department when a state-operated facility is found in violation of this chapter or the department's rules and standards and the violation threatens serious harm to the children in the facility.

(d) Closing a facility under this section is an emergency measure. The division shall seek an injunction against continued operation of the facility after closing a facility under this section.

[Acts 1979, 66th Leg., p. 2366, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.074. Injunctive Relief**

(a) When it appears that a person has violated, is violating, or is threatening to violate the licensing, certification, or registration requirements of this chapter or the department's licensing, certification, or registration rules and standards, the division may file a suit in a district court in Travis County or in the county where the facility is located for assessment and recovery of civil penalties under Section 42.075 of this code, for injunctive relief, including a temporary restraining order, or for both injunctive relief and civil penalties.

(b) The district court shall grant the injunctive relief the facts may warrant.

(c) At the division's request, the attorney general shall conduct a suit in the name of the State of Texas for injunctive relief, to recover the civil penalty, or for both injunctive relief and civil penalties as authorized by Subsection (a) of this section.

[Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.075. Civil Penalty**

(a) A person is subject to a civil penalty of not less than \$50 nor more than \$100 for each day of violation and for each act of violation if the person:

(1) threatens serious harm to a child in a facility by violating a provision of this chapter or a department rule or standard;

(2) violates a provision of this chapter or a department rule or standard three or more times within a 12-month period; or

(3) places a public advertisement for an unlicensed facility.

(b) The civil penalty authorized by this section is cumulative and in addition to the criminal penalties and injunctive relief provided by this chapter.

[Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 42.076. Criminal Penalties**

(a) A person who operates a child-care facility or child-placing agency without a license commits a Class B misdemeanor.

(b) A person who places a public advertisement for an unlicensed facility commits a Class C misdemeanor.

[Acts 1979, 66th Leg., p. 2367, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**CHAPTER 43. REGULATION OF CHILD-CARE ADMINISTRATORS**

Section	
43.001.	Definitions.
43.002.	Advisory Council.
43.003.	License Required.
43.004.	Qualifications for License.
43.005.	Rules.
43.006.	Examination Fee.
43.007.	License Application.
43.008.	Licensing.
43.009.	License Renewal.
43.010.	License Revocation.
43.011.	Appeals.
43.012.	Penalty.

**§ 43.001. Definitions**

In this chapter:

(1) "Child-care institution" means a profit or nonprofit children's home, orphanage, institution, or other place that receives and provides 24-hour-a-day care for more than six children who are dependent, neglected, handicapped, delinquent, in danger of becoming delinquent, or in need of group care.

(2) "Child-care administrator" means a person who supervises and exercises direct administrative control over a child-care institution and who is responsible for its program and personnel, whether or not the person has an ownership interest in the institution or shares duties with other persons.

[Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.002. Advisory Council

(a) The board shall appoint an advisory council on child-care administration composed of six persons with experience in the fields of child care or social work.

(b) Each member of the council serves a term of two years from the date of appointment. The members are entitled to reimbursement for actual expenses incurred in performing official duties.

(c) The council shall advise the board on licensing child-care administrators, including the content of the examination administered to license applicants. [Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.003. License Required

A person may not serve as a child-care administrator of a child-care institution without a license issued by the department under this chapter.

[Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.004. Qualifications for License

To be eligible for a child-care administrator's license a person must:

(1) present evidence in writing of good moral character, ethical commitment, and sound physical and emotional health;

(2) pass an examination devised and administered by the department that demonstrates competence in the field of child-care administration;

(3) have one year of experience in management or supervision of child-care personnel and programs; and

(4) have one of the following educational and experience qualifications:

(A) a master's or doctor of philosophy degree in social work or other area of study;

(B) a bachelor's degree and two years' experience in child care or a closely related field;

(C) an associate degree from a junior college and four years' experience in child care or a closely related field; or

(D) a high school diploma or its equivalent and six years' experience in child care or a closely related field.

[Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.005. Rules

The board may make rules to administer the provisions of this chapter.

[Acts 1979, 66th Leg., p. 2368, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.006. Examination Fee

To cover the cost of administering the examination, the department shall charge a fee of \$25 to each person taking the examination for a license.

[Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.007. License Application

(a) A person who has the education and experience required by Section 43.004 of this code may apply to the department for a license.

(b) The applicant shall send a license fee of \$25 with the application.

[Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.008. Licensing

(a) The department shall issue a license to a person who has satisfied all the licensing requirements.

(b) The license is valid for a period of two years from the date issued.

[Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.009. License Renewal

(a) To be eligible for license renewal, a license holder shall present evidence to the department of participation in a program of continuing education approximating 15 actual hours of formal study during the two-year period before the renewal.

(b) The continuing education requirement may be fulfilled by studies in the areas of legal aspects of child care, concepts related to the field of social work, or other subjects approved by the department.

(c) The fee for a license renewal is \$25.

[Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 43.010. License Revocation

The department may revoke a license if the license holder is:

(1) convicted of a felony;

(2) convicted of a misdemeanor involving fraud or deceit;

(3) addicted to a dangerous drug or intemperate in the use of alcohol; or

(4) grossly negligent in performing duties as a child-care administrator.

[Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 43.011. Appeals

(a) A person whose license application is denied or whose license is revoked is entitled to written notice of the reasons and may request that the department provide a hearing.

(b) The hearing shall be held within 30 days after the date the department receives the request.

(c) If the hearing results in the department upholding the license denial or revocation, the person may challenge the department's decision by filing suit in a district court in the county where the person resides within 30 days after the date the person receives notice of the department's final decision.

(d) The trial shall be de novo.  
[Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 43.012. Penalty

A person who serves as a child-care administrator without the license required by this chapter commits a Class C misdemeanor and may be fined not less than \$50 nor more than \$100.

[Acts 1979, 66th Leg., p. 2369, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**CHAPTER 44. ADMINISTRATION OF  
FEDERALLY ESTABLISHED  
DAY-CARE PROGRAMS**

Section	
44.001.	Designated Agency.
44.002.	Administrative Rules.
44.003.	Administration of Federal-Local Program.

§ 44.001. Designated Agency

The department is the state agency designated to administer a day-care program established by federal law and financed partially or totally by federal funds.

[Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 44.002. Administrative Rules

(a) The commissioner shall promulgate rules to carry out the administrative provisions of the program consistent with federal law and regulations.

(b) The rules must include procedures to allow operators of day-care centers to review and comment on proposed rules and policies.

(c) The rules must establish procedures for input by the parents of the children in a day-care center into the operation of the center.

(d) The commissioner may promulgate eligibility standards for admittance into the program, but the standards must allow for exceptions where necessary to maintain family self-sufficiency and integrity.

[Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 44.003. Administration of Federal-Local Program

(a) If the program is to be funded through political subdivisions of the state or local agencies approved by the department matching federal grants, the department shall promulgate procedures for effective delivery of services consistent with this section and with federal law and regulations.

(b) If the services are provided through contracting with operators of day-care centers on request from political subdivisions or local agencies, the department may not promulgate standards for selection of the type of centers more restrictive than required by federal law or regulations.

(c) The department shall establish an accounting system consistent with federal law and regulations which will provide that an operator of a day-care center contracting with the department:

(1) shall receive prepayment in accordance with policies and procedures mutually agreed on by the state comptroller of public accounts and the department; and

(2) shall be paid on the basis of legitimate and reasonable expenses, insofar as possible, given federal regulations and department policy, instead of being paid on the basis of the number of children attending the center, provided that on being monitored by the department, the contracting operator can substantiate that there were sufficient preparations in the development of the services offered.

[Acts 1979, 66th Leg., p. 2370, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**CHAPTER 45. INTERSTATE PLACEMENT  
OF CHILDREN**

**SUBCHAPTER A. PLACEMENT OF CHILDREN  
FROM ANOTHER STATE**

Section	
45.001.	Definitions.
45.002.	Required Notice of Intention to Place a Child.
45.003.	Responsibilities of Sending Agency.
45.004.	Delinquent Child.
45.005.	Private Charitable Agencies.
45.006.	Exemptions.
45.007.	Penalties.

**SUBCHAPTER B. INTERSTATE COMPACT ON THE  
PLACEMENT OF CHILDREN**

45.021.	Adoption of Compact; Text.
45.022.	Definitions.
45.023.	Financial Responsibility for Child.
45.024.	Approval of Placement or Discharge.
45.025.	Placement in Another State.
45.026.	Compact Administrator.

**SUBCHAPTER A. PLACEMENT OF CHILDREN  
FROM ANOTHER STATE**

§ 45.001. Definitions

In this subchapter:

(1) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(2) "Child-care facility" means a facility that provides care, training, education, custody, treatment, or supervision for a minor child who is not related by blood, marriage, or adoption to the owner or operator of the facility, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the service offered by it.

(3) "Placement" means an arrangement for the care of a child in a family free, in a boarding home, or in a child-care facility or institution, including an institution caring for the mentally ill, mentally defective, or epileptic, but does not include an institution primarily educational in character or a hospital or other primarily medical facility.

(4) "Sending agency" means a state, a subdivision of a state, an officer or employee of a state or a subdivision of a state, a court of a state, or a person, partnership, corporation, association, charitable agency, or other entity, located outside this state, which sends, brings, or causes to be sent or brought a child into this state.

[Acts 1979, 66th Leg., p. 2371, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 45.002. Required Notice of Intention to Place a Child

(a) Prior to the placement in this state of a child from another state, the sending agency shall furnish the department written notice of its intention to place the child in this state. The notice must contain:

(1) the name and the date and place of birth of the child;

(2) the names and addresses of the child's parents or legal guardian, and the legal relationship of the named persons to the child;

(3) the name and address of the person, agency, or institution with which the sending agency proposes to place the child; and

(4) a full statement of the reasons for the placement and evidence of the authority under which the placement is proposed to be made.

(b) After receipt of a notice provided for in Subsection (a) of this section, the commissioner may request additional or supporting information considered necessary from an appropriate authority in the state where the child is located.

(c) No sending agency may send, bring, or cause to be sent or brought into this state a child for placement until the commissioner notifies the sending agency in writing that the proposed placement does not appear to be contrary to the best interests of the child.

(d) The commissioner may not approve the placement in this state of a child from outside this state without the concurrence of the individuals with whom the child is proposed to be placed or the head of an institution with which the child is proposed to be placed.

(e) No child-care facility in this state may receive a child for placement unless the placement conforms to requirements of this subchapter.

[Acts 1979, 66th Leg., p. 2371, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 45.003. Responsibilities of Sending Agency

(a) After placement in this state, the sending agency retains jurisdiction over the child sufficient to determine all matters relating to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the commissioner. The sending agency may cause the child to be returned to it or transferred to another location, except as provided by Subsection (e) of this section.

(b) The sending agency has financial responsibility for support and maintenance of the child during each period of placement in Texas. If the sending agency fails wholly or in part to provide financial support and maintenance during placement, the commissioner may bring suit under Section 14.05, Family Code, and may file a complaint with the appropriate prosecuting attorney, claiming a violation of Section 25.05, Penal Code.

(c) After failure of the sending agency to provide support or maintenance, if the commissioner determines that financial responsibility is unlikely to be assumed by the sending agency, or by the child's parents or guardian, if not the sending agency, the commissioner shall cause the child to be returned to the sending agency.

(d) After failure of the sending agency to provide support or maintenance, the department shall assume financial responsibility for the child until responsibility is assumed again by the sending agency, until it is assumed by the child's parents or guardian, or until the child is safely returned to the sending agency.

(e) The commissioner may not concur in the discharge of a child placed in a public institution in this state without the concurrence of the head of the institution.

[Acts 1979, 66th Leg., p. 2372, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 45.004. Delinquent Child

No child adjudicated delinquent in another state may be placed in Texas unless the child has received a court hearing, after notice to a parent or guardian, at which the child had an opportunity to be heard and the court found that:

(1) equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) institutional care in Texas is in the best interests of the child and will not produce undue hardship.

[Acts 1979, 66th Leg., p. 2373, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 45.005. Private Charitable Agencies

This subchapter does not prevent a private charitable agency authorized to place children in this state from performing services or acting as agent in this state for a private charitable agency in a sending state, or prevent the agency in this state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of a sending agency, without altering financial responsibility as provided by Section 45.003 of this code.

[Acts 1979, 66th Leg., p. 2373, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 45.006. Exemptions

This subchapter does not apply to:

(1) the sending or bringing of a child into this state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian, and the leaving of the child with a person described in this subdivision or with a nonagency guardian in this state; or

(2) the placement, sending, or bringing of a child into this state under the provisions of an interstate compact to which both Texas and the state from which the child is sent or brought are parties.

[Acts 1979, 66th Leg., p. 2373, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 45.007. Penalties

(a) An individual or corporation that violates Subsection (a) or (c) of Section 45.002 of this code is guilty of a Class B misdemeanor.

(b) A child-care facility in this state that violates Subsection (e) of Section 45.002 of this code is guilty of a Class B misdemeanor. On conviction, the court shall revoke any license to operate as a child-care facility or child-care institution issued the facility by the department.

[Acts 1979, 66th Leg., p. 2373, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 45.008 to 45.020 reserved for expansion]

SUBCHAPTER B. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

§ 45.021. Adoption of Compact; Text

The Interstate Compact on the Placement of Children is adopted by this state and entered into with all other jurisdictions joining therein in form substantially as follows:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. PURPOSE AND POLICY

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. DEFINITIONS

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(b) "Sending agency" means a party state, officer, or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective, or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. CONDITIONS FOR PLACEMENT

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) the name, date, and place of birth of the child;

(2) the identity and address or addresses of the parents or legal guardian;

(3) the name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child;

(4) a full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to Paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

#### ARTICLE IV. PENALTY FOR ILLEGAL PLACEMENT

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place or care for children.

#### ARTICLE V. RETENTION OF JURISDICTION

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim

of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in Paragraph (a) hereof.

#### ARTICLE VI. INSTITUTIONAL CARE OF DELINQUENT CHILDREN

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

#### ARTICLE VII. COMPACT ADMINISTRATOR

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

#### ARTICLE VIII. LIMITATIONS

This compact shall not apply to:

(a) the sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state;

(b) any placement, sending, or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. ENACTMENT AND WITHDRAWAL

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[Acts 1979, 66th Leg., p. 2373, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 45.022. Definitions

In this subchapter:

(1) "Appropriate public authorities," with reference to this state, means the Commissioner of the Texas Department of Human Resources.

(2) "Appropriate authority in the receiving state," with reference to this state, means the Commissioner of the Texas Department of Human Resources.

(3) "Executive head," with reference to this state, means the governor.

(4) "Compact" means the Interstate Compact on the Placement of Children.

[Acts 1979, 66th Leg., p. 2377, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 45.023. Financial Responsibility for Child

(a) Financial responsibility for a child placed as provided in the compact is determined, in the first instance, as provided in Article V of the compact.

After partial or complete default of performance under the provisions of Article V assigning financial responsibility, the commissioner may bring suit under Section 14.05, Family Code, and may file a complaint with the appropriate prosecuting attorney, claiming a violation of Section 25.05, Penal Code.

(b) After default, if the commissioner determines that financial responsibility is unlikely to be assumed by the sending agency or the child's parents, the commissioner shall cause the child to be returned to the sending agency.

(c) After default, the department shall assume financial responsibility for the child until it is assumed by the child's parents, or until the child is safely returned to the sending agency.

[Acts 1979, 66th Leg., p. 2377, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 45.024. Approval of Placement or Discharge

The commissioner may not approve the placement of a child in this state without the concurrence of the individuals with whom the child is proposed to be placed or the head of an institution with which the child is proposed to be placed. The commissioner may not approve the discharge of a child placed in a public institution in this state without the concurrence of the head of the institution.

[Acts 1979, 66th Leg., p. 2377, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 45.025. Placement in Another State

A juvenile court may place a delinquent child in an institution in another state as provided by Article VI of the compact. After placement in another state, the court retains jurisdiction of the child as provided by Article V of the compact.

[Acts 1979, 66th Leg., p. 2377, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 45.026. Compact Administrator

The governor shall appoint the commissioner as compact administrator.

[Acts 1979, 66th Leg., p. 2377, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

CHAPTER 46. CHILD SUPPORT COLLECTION, PARENT LOCATOR, AND PATER-NITY DETERMINATION SERVICES

Section	
46.001.	Administration of Statewide Plan for Child Support.
46.002.	Powers and Duties of Department.
46.003.	Assignment of Right to Support.
46.004.	Fees.
46.005.	Disposition of Funds.
46.006.	Confidentiality of Records.
46.007.	Attorneys Representing Department.

### § 46.001. Administration of Statewide Plan for Child Support

The department is the state agency designated to administer a statewide plan for child support to provide child support collection, parent locator, and paternity determination services which will enable it to participate in programs established by federal law.

[Acts 1979, 66th Leg., p. 2378, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 46.002. Powers and Duties of Department

(a) The department may:

(1) accept, transfer, and expend funds made available by the federal or state government or by another public or private source for the purpose of carrying out the provisions of this chapter;

(2) promulgate rules for the provision of child support services;

(3) initiate legal actions needed to implement the provisions of this chapter;

(4) enter into contracts or agreements necessary to administer this chapter; and

(5) request agencies of the state and its political subdivisions to search their records to help locate absent parents.

(b) The department may assist in the judicial determination of the paternity of an illegitimate child whose support rights have been assigned to the department.

(c) The department shall attempt to locate absent parents and shall cooperate with other governmental agencies in locating the parents.

[Acts 1979, 66th Leg., p. 2378, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 46.003. Assignment of Right to Support

(a) The filing of an application for or the receipt of financial assistance under Chapter 31 of this code constitutes an assignment to the department of any rights to support from any other person which the applicant or recipient may have in his or her own behalf or for a child for whom the applicant or recipient is claiming assistance, including the right to the amount accrued at the time the application is filed or the assistance is received. An applicant's assignment under this section is valid only if the department approves the application. The department may distribute support payments or parts of payments received by it to the family for whom the payments are made or may use the payments to provide assistance and services to and on behalf of needy dependent children.

(b) Child support payments for the benefit of a recipient child shall be made to the department. If a court has ordered support payments to be made to an applicant for or recipient of financial assistance, the department may file notice of the assignment with the court ordering the payments. The notice must include:

(1) a statement that the child is an applicant for or recipient of financial assistance;

(2) the name of the child and the caretaker for whom support has been ordered by the court;

(3) the style and cause number of the case in which support was ordered; and

(4) a request that the payments ordered be made to the department.

(c) On receipt of the notice and without a requirement of a hearing, the court shall order that the payments be made to the department.

[Acts 1979, 66th Leg., p. 2378, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2430, ch. 842, art. 2, § 1, eff. Sept. 1, 1979.]

### § 46.004. Fees

The department on request may provide parent locator, child support collection, or paternity determination services available to a person other than an applicant for or recipient of financial assistance under Chapter 31 of this code. The department may charge a reasonable application fee and recover costs for the services provided.

[Acts 1979, 66th Leg., p. 2379, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 46.005. Disposition of Funds

(a) The department shall deposit money received under assignments or as fees pursuant to this chapter in a special fund in the state treasury or in accounts in financial institutions. The department may spend these funds for the administration of this chapter or for the provision of assistance to and on behalf of needy dependent children.

(b) All other funds received pursuant to this chapter shall be deposited in a special fund in the state treasury.

[Acts 1979, 66th Leg., p. 2379, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 46.006. Confidentiality of Records

All files and records on recipients of benefits provided under this chapter and on an alleged father of an illegitimate child are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent locator, or aid to families with dependent children programs. The department by rule may provide for the release of information to public officials.

[Acts 1979, 66th Leg., p. 2379, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 46.007. Attorneys Representing Department

Attorneys employed by the department may represent the department in a suit to collect child support or determine paternity brought under the authority of federal law and this chapter. At the request of the department, the attorney general may

represent the department in an appeal of a suit brought under the authority of this chapter. This section does not limit the authority of the attorney general to represent the state in a proceeding. [Added by Acts 1979, 66th Leg., p. 2434, ch. 842, art. 2, § 4, eff. Sept. 1, 1979.]

**CHAPTER 47. ADOPTION SERVICES FOR HARD-TO-PLACE CHILDREN**

Section	Definition.
47.001.	Adoption Services Program.
47.002.	Dissemination of Information.
47.003.	Financial Assistance.
47.004.	Funds.

**§ 47.001. Definition**

In this chapter, "hard-to-place child" means a child who is:

- (1) three years of age or older; or who is
- (2) difficult to place in an adoptive home because of age, race, color, ethnic background, language, or physical, mental, or emotional handicap; or
- (3) a member of a sibling group that should be placed in the same home.

[Acts 1979, 66th Leg., p. 2379, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2231, ch. 528, § 1, eff. Aug. 31, 1981.]

**§ 47.002. Adoption Services Program**

(a) The department shall administer a program designed to promote the adoption of hard-to-place children by providing information to prospective adoptive parents concerning the availability of the relinquished children, assisting the parents in completing the adoption process, and providing financial assistance necessary for the parents to adopt the children. The legislature intends that the program benefit hard-to-place children residing in foster homes at state or county expense by providing them with the stability and security of permanent homes and that the costs paid by the state and counties for foster home care for the children be reduced.

(b) The program shall be carried out by licensed adoption agencies or county child-care or welfare units pursuant to rules adopted by the department.

(c) The department shall keep records necessary to evaluate the program's effectiveness in encouraging and promoting the adoption of hard-to-place children.

[Acts 1979, 66th Leg., p. 2379, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 47.003. Dissemination of Information**

The department, county child-care or welfare units, and licensed adoption agencies shall disseminate information to prospective adoptive parents concerning the availability for adoption of hard-to-place children and the existence of financial assist-

ance for parents who adopt them. Special effort shall be made to disseminate the information to families that have lower income levels or that belong to disadvantaged groups.

[Acts 1979, 66th Leg., p. 2380, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 47.004. Financial Assistance**

(a) Adoption fees for a hard-to-place child may be waived.

(b) The adoption of a hard-to-place child may be subsidized by an amount not exceeding the amount that would be paid for foster home care for the child if not adopted. The need for the subsidy shall be determined by the department under its rules.

(c) The county may pay the subsidy if the county is responsible for the child's foster home care at the time of the adoption. The state shall pay the subsidy if at the time of the adoption the child is receiving aid under the department's aid to families with dependent children program, and the state may pay the subsidy if the department is managing conservator for the child.

[Acts 1979, 66th Leg., p. 2380, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2436, ch. 842, art. 2, § 8, eff. Sept. 1, 1979.]

**§ 47.005. Funds**

(a) The department shall actively seek and use federal funds available for the purposes of this chapter.

(b) Gifts or grants from private sources for the purposes of this chapter shall be used to support the program.

[Acts 1979, 66th Leg., p. 2380, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**CHAPTER 48. PROTECTIVE SERVICES FOR THE ELDERLY**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	Purpose.
48.001.	Definitions.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

48.021. Provision of Services.

**SUBCHAPTER C. REPORTS OF SUSPECTED ABUSE, EXPLOITATION, OR NEGLECT**

48.036.	Report.
48.037.	Action on Report.
48.038.	Implementation of Investigation.
48.039.	Immunity.
48.040.	Representation.

**SUBCHAPTER D. PROTECTIVE SERVICES**

48.056.	Agency Powers.
48.057.	Agency Reports.
48.058.	Cost of Services.
48.059.	Voluntary Protective Services.
48.060.	Interference with Voluntary Services Prohibited.
48.061.	Emergency Order for Protective Services.

## SUBCHAPTER E. MISCELLANEOUS PROVISIONS

## Section

- 48.083. Confidentiality of Records.  
48.084. Objection to Medical Treatment.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 48.001. Purpose

The purpose of this chapter is to provide for the right to investigate the abuse, exploitation, or neglect of an elderly person.

[Added by Acts 1981, 67th Leg., p. 2368, ch. 584, § 1, eff. Sept. 1, 1981.]

## § 48.002. Definitions

In this chapter:

(1) "Elderly person" means a person 65 years of age or older.

(2) "Abuse" means the wilful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish or the wilful deprivation by a caretaker or one's self of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness.

(3) "Exploitation" means the illegal or improper act or process of a caretaker using the resources of an elderly person for monetary or personal benefit, profit, or gain.

(4) "Neglect" means the failure to provide for one's self the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(5) "Protective services" means the services furnished by the department or by a protective services agency to an elderly person who has been determined to be in a state of abuse, exploitation, or neglect. These services may include investigation of reported abuse, social casework, psychiatric and health evaluation, home care, day care, legal assistance, social services, health care, and other services consistent with this chapter.

(6) "Protective services agency" means a public or private agency, corporation, board, or organization that provides protective services to elderly persons in the state of abuse, exploitation, or neglect.

(7) "Department" means the Department of Human Resources from the effective date of this Act through August 31, 1983. From September 1, 1983, "department" means the Department on Aging.

[Added by Acts 1981, 67th Leg., p. 2368, ch. 584, § 1, eff. Sept. 1, 1981.]

[Sections 48.003 through 48.020 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

## § 48.021. Provision of Services

(a) The department may provide direct protective services or contract with protective services agencies for the provisions of those services.

(b) The department shall use existing resources and services of public and private agencies in providing protective services.

(c) The department shall cooperate with the appropriate law enforcement officials, courts, and agencies when providing protective services.

[Added by Acts 1981, 67th Leg., p. 2369, ch. 584, § 1, eff. Sept. 1, 1981.]

[Sections 48.022 through 48.035 reserved for expansion]

## SUBCHAPTER C. REPORTS OF SUSPECTED ABUSE, EXPLOITATION, OR NEGLECT

## § 48.036. Report

(a) A person having reasonable cause to believe that an elderly person is in the state of abuse, exploitation, or neglect shall report the information to the department.

(b) The report may be made orally or in writing. It shall include:

(1) the name, age, and address of the elderly person;

(2) the name and address of any person responsible for the elderly person's care;

(3) the nature and extent of the elderly person's condition;

(4) the basis of the reporter's knowledge; and

(5) any other relevant information.

[Added by Acts 1981, 67th Leg., p. 2369, ch. 584, § 1, eff. Sept. 1, 1981.]

## § 48.037. Action on Report

Not later than 24 hours upon receipt of a report of suspected need for protective services, the department shall initiate a prompt and thorough investigation to determine whether the elderly person is in need of protective services, unless the department determines that the report is frivolous or patently without a factual basis.

[Added by Acts 1981, 67th Leg., p. 2369, ch. 584, § 1, eff. Sept. 1, 1981.]

## § 48.038. Implementation of Investigation

(a) In the investigation the department shall determine:

(1) whether the person needs protective services;

(2) what services are needed;

(3) whether services are available from the department or in the community and how they can be provided;

(4) whether the person would be capable of obtaining services for himself and could bear the cost or would be eligible for services from the department;

(5) whether a caretaker would be willing to provide services or would agree to their provisions;

(6) whether the elderly person desires the services; and

(7) other pertinent data.

(b) The department's investigation shall include a visit to the elderly person's home and consultation with persons thought to have knowledge of the circumstances.

(c) To implement an investigation of reported abuse, exploitation, or neglect, the probate court, or the county court when no probate court exists, may authorize entry of the premises of the elderly person.

(d) A peace officer shall accompany the person making a forcible entry under this section, if in the opinion of the court such action is necessary.

(e) The department shall prepare and keep on file a complete written report of each investigation.

(f) If the investigation reveals that the elderly person has been physically abused by another person, a copy of the report of the investigation shall be submitted to the appropriate law enforcement agency.

(g) If the elderly person has a guardian, a copy of the report shall be filed with the court to which the guardian is accountable.

[Added by Acts 1981, 67th Leg., p. 2369, ch. 584, § 1, eff. Sept. 1, 1981.]

**§ 48.039. Immunity**

A person filing a report under this chapter, participating in an investigation required by this chapter, or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

[Added by Acts 1981, 67th Leg., p. 2370, ch. 584, § 1, eff. Sept. 1, 1981.]

**§ 48.040. Representation**

(a) The prosecuting attorney representing the state in criminal cases in the county court shall represent the department in any proceeding brought by the department under this chapter.

(b) The court shall appoint an attorney ad litem to represent the elderly person in any proceeding brought by the department under this chapter. A reasonable fee, as determined by the court, shall be paid to the attorney ad litem from the General Fund of the county.

[Added by Acts 1981, 67th Leg., p. 2370, ch. 584, § 1, eff. Sept. 1, 1981.]

[Sections 48.041 through 48.055 reserved for expansion]

**SUBCHAPTER D. PROTECTIVE SERVICES**

**§ 48.056. Agency Powers**

A protective services agency may furnish protective services to an elderly person with the person's consent.

[Added by Acts 1981, 67th Leg., p. 2370, ch. 584, § 1, eff. Sept. 1, 1981.]

**§ 48.057. Agency Reports**

A protective services agency shall make reports relating to its provision of protective services as the department or a court may require.

[Added by Acts 1981, 67th Leg., p. 2370, ch. 584, § 1, eff. Sept. 1, 1981.]

**§ 48.058. Cost of Services**

If the elderly person receiving the protective services is determined to be financially able to contribute to the payments for those services, the provider shall receive a reasonable reimbursement from the person's assets.

[Added by Acts 1981, 67th Leg., p. 2370, ch. 584, § 1, eff. Sept. 1, 1981.]

**§ 48.059. Voluntary Protective Services**

(a) An elderly person may receive voluntary protective services if the person requests or consents to receive those services.

(b) The elderly person who receives protective services shall participate in all decisions regarding his or her welfare, if able to do so.

(c) The least restrictive alternatives should be made available to the elderly person who receives protective services.

(d) If an elderly person withdraws or refuses consent, the services may not be provided.

[Added by Acts 1981, 67th Leg., p. 2370, ch. 584, § 1, eff. Sept. 1, 1981.]

**§ 48.060. Interference with Voluntary Services Prohibited**

(a) A person may not interfere with the provision of voluntary protective services to an elderly person.

(b) The department or a protective services agency may petition the appropriate court to enjoin any interference with the provision of voluntary protective services.

[Added by Acts 1981, 67th Leg., p. 2370, ch. 584, § 1, eff. Sept. 1, 1981.]

**§ 48.061. Emergency Order for Protective Services**

(a) For purposes of this section, a person lacks the capacity to consent to receive protective services if, because of mental or physical impairment, the person is incapable of understanding the nature of the services offered and agreeing to receive or rejecting protective services.

(b) If the department determines that an elderly person is suffering from abuse or neglect presenting an immediate threat to life, that the person lacks capacity to consent to receive protective services, and that no consent can be obtained, the department may petition the district court in the county in which the elderly person resides for an emergency order authorizing protective services.

(c) The petition shall be verified and shall include the name, age, and address of the elderly person who needs protective services, the nature of the abuse or neglect, the services needed, and a medical report signed by a physician stating that the person is suffering from abuse or neglect presenting an immediate threat to life and stating that the person is physically or mentally incapable of consenting to services.

(d) On finding that there is reasonable cause to believe that abuse or neglect presents an immediate threat to life for the elderly person and that the elderly person lacks capacity to consent to services, the court may order removal of the elderly person to safer surroundings, authorize medical treatment, and order other available services necessary to remove conditions creating the immediate threat to life. The court shall appoint an attorney ad litem to represent the interests of the elderly person at the first or a subsequent hearing.

(e) The emergency order expires at the end of 72 hours from the time of the order and may be renewed once for 72 hours.

(f) Any medical facility or physician treating an elderly person pursuant to an emergency order under this chapter is not liable for any damages arising from the treatment, except those damages resulting from the negligence of the facility or physician. [Added by Acts 1981, 67th Leg., p. 2370, ch. 584, § 1, eff. Sept. 1, 1981.]

[Sections 48.062 through 48.082 reserved  
for expansion]

#### SUBCHAPTER E. MISCELLANEOUS PROVISIONS

##### § 48.083. Confidentiality of Records

The records of the department or other agency pertaining to an elderly person who is protected under this chapter or for whom an application for protection has been made are not open to public inspection. Information contained in the records may not be disclosed publicly in a manner that will identify an individual, but the records shall be available on application for cause to persons approved by the court having jurisdiction of the case under Chapter V, Texas Probate Code.

[Added by Acts 1981, 67th Leg., p. 2371, ch. 584, § 1, eff. Sept. 1, 1981.]

##### § 48.084. Objection to Medical Treatment

This chapter does not authorize or require any medical treatment of a person who objects on the

grounds that he is an adherent or member of a recognized church or religious denomination the tenets and practice of which include reliance solely upon spiritual means through prayer for healing.

[Added by Acts 1981, 67th Leg., p. 2371, ch. 584, § 1, eff. Sept. 1, 1981.]

#### SUBTITLE E. SOCIAL WORK SERVICES

*Subtitle E, Social Work Services, consisting of Chapter 50, was added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1.*

*For another Subtitle E, added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, see § 51.001 et seq., post.*

#### CHAPTER 50. CERTIFICATION

Section	
50.001.	Definitions.
50.002.	Exemptions.
50.003.	Civil Rights.
50.004.	Council for Social Work Certification.
50.005.	Funding.
50.006.	Regulation and Enforcement.
50.007.	Annual Report.
50.008.	Official Roster.
50.009.	Fees.
50.010.	Limitation of Practice.
50.011.	Professional Identification.
50.012.	Public Representations.
50.013.	Applications.
50.014.	Examinations.
50.015.	Certified Social Worker.
50.016.	Social Worker.
50.017.	Social Work Associate.
50.018.	Experience Evaluation.
50.019.	Provisional Certificate.
50.020.	Private Practice.
50.021.	Revocation and Suspension.
50.022.	Disciplinary Proceedings.
50.023.	Expiration and Renewal.
50.024.	Department Regulation.
50.025.	Limitations.
50.026.	Recognition Order.
50.027.	Expiration.
50.028.	Violations.
50.029.	Enforcement.
50.030.	Appropriation.
50.031.	Grants.
50.032.	Reciprocity.
50.033.	Employment of Social Worker.

##### § 50.001. Definitions

(a) In this chapter:

(1) "Board" means the Texas Board of Human Resources.

(2) "Certified social worker" means a person who is duly certified as a certified social worker by the department in accordance with this chapter.

(3) "Social work services" means the professional activity of helping individuals, groups, or communities enhance or restore their capacity for social functioning and creating societal conditions favorable to this goal. Social work services consist of the professional application of social work

values, principles, and techniques to one or more of the following ends: helping people obtain tangible services, counseling with individuals, families, or groups, helping communities or groups provide social and health services, and participating in formulating relevant public policies. The practice of social work requires knowledge of human development and behavior, of social, economic, and cultural institutions, and of the interaction of all these factors.

(4) "Social worker" means a person who has been duly certified as a social worker by the department in accordance with this chapter.

(5) "Social work associate" means a person who has been duly certified as a social work associate by the department in accordance with this chapter.

(6) "Council" means the Council for Social Work Certification.

(7) "Department" means the Texas Department of Human Resources.

(b) The department may define by rule any word or term not defined in this section as necessary to administer or enforce this chapter. The definition may not be inconsistent or in conflict with the purposes or objectives of this chapter.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.002. Exemptions

All persons are exempt from this chapter if they do not represent or hold themselves out to the public, directly or indirectly, as certified under this chapter and do not use any name, title, or designation indicating that they are certified under this chapter.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.003. Civil Rights

A consideration of an application for certification, examination, regulation, disciplinary proceeding, and any other action and decision performed by authority of this chapter shall be made or done without regard to sex, race, religion, national origin, color, or political affiliation.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.004. Council for Social Work Certification

(a) The Council for Social Work Certification is created to advise the department on problems relating to the practice of social work. The council shall review rules and minimum standards for social work certification and make recommendations to the department concerning rules, standards, and administration under this chapter.

(b) The council is composed of nine members appointed by the board upon the recommendation of the commissioner. The council is composed as fol-

lows: three members shall be at all times certified social workers certified under this chapter, three members shall be at all times social workers or social work associates certified under this chapter, and the remaining three members shall be representatives of the public who are not certified under this chapter and who do not have, other than as consumers, any interest in the practice of social work.

(c) Except for the initial appointments, members hold office for staggered terms of three years with three members' terms expiring January 31 of each year. In making the initial appointments, the board shall appoint members within 90 days after this chapter takes effect to serve the following terms: three members for terms that expire January 31, 1985, three members for terms that expire January 31, 1984, and three members for terms that expire January 31, 1983.

(d) The board shall make appointments to the council after considering how representative the council is with regard to race, sex, age, and geographical representation.

(e) Members of the council must be citizens of the United States and residents of this state. Social workers appointed to the board must be certified as required by Section 50.004 of this chapter, except that the initial appointees must be persons who are eligible for the appropriate certificate and must have actively, actually, and continuously engaged in rendering social work services or in social work teaching or administration for a period of at least five years immediately preceding appointment.

(f) Each member of the council is entitled to a per diem as set by legislative appropriation and travel expenses to and from the business of the council. No member shall receive actual or necessary expenses except for travel to and from meetings.

(g) The council shall meet at least once a year. At the first regular meeting each year the council shall elect a chairman and a vice-chairman. Other regular meetings may be held as the rules of the council may provide. Special meetings may be held at times considered advisable by the council.

(h) The department shall provide staff necessary to assist the council in performing its duties. The staff person directly responsible for the administration of this chapter shall at all times have the confidence of the majority of the council.

(i) The council is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the council is abolished and this section expires effective September 1, 1983.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.005. Funding

(a) All money derived from fees, assessments, or charges under this chapter shall be paid by the department into the State Treasury for safekeeping

and shall be placed by the State Treasurer in a separate fund to be known as the social workers fund. The money shall be available to the department exclusively for the administration, implementation, and enforcement of this chapter. Surpluses are reserved for the use of the department in the administration and enforcement of this chapter.

(b) The comptroller shall, on requisition of the department, draw warrants from time to time on the State Treasurer for the amount specified in the requisition, not exceeding the amount in the fund at the time the requisition is made. However, all money expended in the administration, implementation, or enforcement of this chapter shall be specified and determined by itemized appropriation in the General Appropriations Act for the department and not otherwise.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.006. Regulation and Enforcement

(a) The department may adopt and enforce the rules necessary for the performance of its duties, establish standards of conduct and ethics for all persons certified under this chapter, and ensure strict compliance with and enforcement of this chapter.

(b) The violation by a certified social worker, social worker, or social work associate of this chapter or of any rule of the department pertaining to the practice of social work is sufficient reason to suspend or revoke a certificate issued under this chapter.

(c) In addition to any other action, proceeding, or remedy authorized by law, the department may institute an action to enjoin a violation of this chapter or a rule of the department. In order for the department to sustain the action, it is not necessary to allege or prove the lack of an adequate remedy at law or that substantial or irreparable damage would result from the continued violation. Either party to the action may appeal to the appellate court having jurisdiction of the cause. The department shall not be required to give any appeal bond in any cause arising under this chapter. The attorney general shall represent the department in all actions and proceedings to enforce this chapter.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.007. Annual Report

Within 90 days after the end of each fiscal year as defined by the law of this state, the department shall submit a written report to the governor and to the presiding officer of each house of the legislature regarding its work in certifying social workers during the preceding fiscal year.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.008. Official Roster

(a) A roster showing the names and addresses, as reflected by the department's records, of all certified social workers, social workers, and social work associates certified by the department shall be prepared and published by the department at its discretion. Copies of the roster shall be mailed to each person certified by the department and placed on file with the secretary of state.

(b) A person's name or address may not appear in the roster unless all fees required by this chapter are current and paid in full at the time the roster is sent to the printer or publisher.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.009. Fees

The department shall establish, charge, and collect fees sufficient to cover the cost of administering this chapter, as follows:

(1) a fee for the filing of an application to take an examination for a certificate under this chapter;

(2) a fee for the taking of an examination;

(3) a fee for the original issuance of certificate under this chapter;

(4) a fee for the original issuance of an order of recognition to practice a specialty in the practice of social work;

(5) a fee for an annual renewal of an order of recognition to practice a specialty in the practice of social work;

(6) a fee for an annual renewal of a certificate issued in accordance with this chapter;

(7) a fee for replacement of a certificate, specialty order of recognition, or renewal lost or destroyed; and

(8) a fee for a copy of the official roster of certified persons published by the department for the one copy mailed to each person certified.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.010. Limitation of Practice

(a) Unless certified under this chapter or unless specifically exempted from its provisions, a person may not:

(1) employ, use, cause to be used, or make use of any of the following terms or any combinations, variations, or abbreviations of the terms as a professional, business, or commercial identification, title, name, representation, claim, asset, or means of advantage or benefit: "certified social worker," "licensed certified social worker," "registered certified social worker," "social worker," "licensed social worker," "registered social worker," "social work associate," or "registered social work associate"; or

(2) employ, use, cause to be used, or make use of any letter, abbreviation, word, symbol, slogan, sign, or any combination or variation of them that tends or is likely to create any impression with a member of the public that a person is qualified or authorized to practice social work or is a certified social worker, social worker, or social work associate, unless appropriately certified under and practicing in accordance with this chapter.

(b) A person, firm, partnership, association, corporation, business, or professional entity that does or offers or attempts to do an act prescribed by Subsection (a) of this section is engaged in the practice of social work.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.011. Professional Identification**

A person certified by the department in accordance with this chapter shall, in the professional use of his name or any sign, directory, listing, contract, document, pamphlet, stationery, letterhead, advertisement, signature, or other means of professional identification, written or printed, use the following legally required identifications:

- (1) if certified as a certified social worker, the words "certified social worker" or the initials "C.S.W.";
- (2) if certified as a social worker, the words "social worker" or the initials "S.W."; or
- (3) if certified as a social work associate, the words "social work associate" or the initials "S.W.A."

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.012. Public Representations**

A firm, partnership, association, corporation, or other business or professional entity may not hold itself or another out to the public as being engaged in the work or practice of social work or offering social work services under an assumed, trade, business, professional, partnership, or corporate name or title or employ, use, cause to be used, or make use of, directly or indirectly or in any manner, the words or terms "social work," "social work services," "social work, inc.," "professional social workers," "certified social workers," "social workers," "social work associates," "C.S.W.," "S.W.A." or any combinations, abbreviations, or variations of any of these or in combination with any other words, letters, initials, signs, legends, or symbols on, in, or as a part of, directly or indirectly, any sign, directory, listing, contract, document, pamphlet, stationery, letterhead, advertisement, signature, trade name, assumed name, or corporate or other business or professional name, unless the firm, partnership, association, corporation, or other business or professional entity is actually and actively engaged in the practice of social work or is actually and actively performing social work services, and unless the services performed by it which

constitute the practice of social work are either personally performed or done by a certified social worker, social worker, or social work associate practicing in accordance with this chapter or under general direction of a certified social worker or social worker.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.013. Applications**

An application for certification under this chapter shall be on a form prescribed and furnished by the department and shall contain statements made under oath setting forth in detail the applicant's education, experience, and other information as required by the department that qualify the applicant for a certificate under this chapter. No person is eligible for a certificate provided under this chapter unless he is at least 18 years of age and worthy of the public trust and confidence.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.014. Examinations**

(a) At least once each calendar year the department shall prepare and administer an examination to determine the qualifications of applicants for certificates under this chapter. Examinations shall be conducted in the manner the department determines and in a manner that is fair and impartial to all individuals and to every school or system of social work. Applicants shall be known to the examiners only by numbers until after the general averages of the applicants in a class have been determined and certificates have been granted or refused. The scope and content of examinations shall be sufficient to ensure professional efficacy and competence in keeping with the highest standards of the social work profession.

(b) On satisfactory completion of all requirements of the examination conducted by the department, an applicant may be granted a certificate as a certified social worker, social worker, or social work associate as the department determines.

(c) An applicant who fails an examination may be reexamined at a subsequent time on payment of the required fees. An applicant may be reexamined only three times for the same certificate.

(d) If requested by a person who fails the examination for a certificate, the department shall furnish to the person an analysis of the person's performance on the examination.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.015. Certified Social Worker**

The department shall consider a doctoral degree or master's degree in social work or social welfare from an accredited graduate school of social work approved by the department as a minimum evidence that an applicant is qualified to be examined for a certificate as a certified social worker.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.016. Social Worker**

The department shall consider the following as minimum evidence that an applicant is qualified to be examined for a certificate as a social worker:

(1) a baccalaureate degree in social work or social welfare from an accredited social work program approved by the department or a baccalaureate degree not in social work plus satisfactory completion of a curriculum judged by an accredited and approved social work program to be equivalent to a baccalaureate degree in social work;

(2) a baccalaureate degree from a nonaccredited social work program which includes a curriculum judged by the department to be in content the substantial equivalent of a baccalaureate degree from an accredited social work program.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.017. Social Work Associate**

(a) The department shall consider the following as minimum evidence that an applicant is qualified to be examined for a certificate as a social work associate:

(1) a baccalaureate degree from an accredited educational institution and the additional satisfactory completion of a specified number of years of actual and active social work experience approved by the department;

(2) an associate of arts degree from an accredited educational institution and the additional satisfactory completion of a specified number of years of actual and active social work experience approved by the department; or

(3) a high school diploma or its substantial equivalent as determined by the department and the satisfactory completion of a specified number of years of actual and active social work experience approved by the department.

(b) Persons qualified under this section who complete all other requirements may be certified as social work associates for two years after the effective date of this chapter. After that time, persons who have been certified as social work associates may be recertified as prescribed in this chapter, but no new certifications for social work associate will be granted.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.018. Experience Evaluation**

In determining the credibility and acceptability of an applicant's professional or technical experience or competence, the department may require documentary evidence of the quality, scope, and nature of the experience and competence as necessary to ensure public safety, health, and welfare.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.019. Provisional Certificate**

Until August 31, 1982, a person who, in the judgment of the department, meets the requirements of this chapter and the educational experience requirements for examination in Section 50.015, 50.016, or 50.017 of this chapter may be issued the appropriate certificate, as the department shall determine, without examination, on application to the department in the form and content that it may require and on payment of the fee for the original issue of a certificate as established by the department in accordance with this chapter.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.020. Private Practice**

(a) The department shall establish procedures for the recognition of persons qualified for the private, independent practice of social work and publish or cause to be published a roster of qualified persons. Minimum qualifications for recognition shall include:

(1) certification as a certified social worker under this chapter; or

(2) a number of years of acceptable social work experience as determined by the department.

(b) A social worker or social work associate will not be eligible for recognition as being qualified to practice social work as a private, independent practitioner.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.021. Revocation and Suspension**

The department may refuse to issue or to renew a certificate or order of recognition or may revoke or suspend a certificate or order of recognition issued under this chapter for any of the following reasons:

(1) violating a provision of this chapter or a rule of the department;

(2) circumventing or attempting to circumvent this chapter or a rule of the department;

(3) participating, directly or indirectly, in a plan, scheme, or arrangement attempting or having as its purpose the evasion of this chapter or a rule of the department;

(4) engaging in unethical conduct;

(5) engaging in conduct which discredits or tends to discredit the profession of social work;

(6) performing an act, allowing an omission, or making an assertion or representation that is fraudulent, deceitful, or misleading or that in any manner tends to create a misleading impression;

(7) knowingly associating with or permitting or allowing the use of any certified person's professional services or professional identification in a project or enterprise that the person knows or with the exercise of reasonable diligence should know is a practice that violates this chapter or a rule of the department pertaining to the practice of social work;

(8) knowingly associating with or permitting the use of a certified person's name, professional services, professional identification, or endorsement in connection with a venture or enterprise that the person knows or with the exercise of reasonable diligence should know is a trade, business, or professional practice of a fraudulent, deceitful, misleading, or dishonest nature;

(9) revealing, directly or indirectly, or causing to be revealed a confidential communication transmitted to the certified person by a client or recipient of his services except as may be required by law;

(10) having a certificate or a license to practice social work in another jurisdiction denied, suspended, or revoked for reasons or causes the department finds would constitute a violation of this chapter or a rule pertaining to the practice of social work adopted by the department;

(11) having been convicted of a felony in an American jurisdiction; or

(12) refusing to do or perform any act or service for which the person is certified under this chapter solely on the basis of the recipient's age, sex, race, religion, national origin, color, or political affiliation.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.022. Disciplinary Proceedings**

(a) A proceeding under Section 50.021 of this chapter begins when a charge is filed with the department in writing and under oath. The charge may be made by any person.

(b) All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this chapter are privileged.

(c) The department may rule that the order revoking or suspending a certificate or order of recognition be probated so long as the probationer conforms to the orders and rules that the department sets out as the terms of probation. The department, at the time of probation, shall set out the period of time that constitutes the probationary period. The department may at any time while the probationer remains on probation hold a hearing and on majority vote rescind the probation and enforce the department's original action in revoking or suspending the certificate or order of recognition.

(d) The department shall provide for notice and an opportunity to appeal from disciplinary proceedings. Disciplinary proceedings and the appeals from the proceedings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(e) The department shall keep an information file on each complaint or charge filed. During the consideration of a charge filed under this section and until the charge is finally resolved, all parties shall be informed monthly in writing as to the status of the complaint.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.023. Expiration and Renewal**

(a) The department by rule shall adopt a system under which certificates or orders of recognition issued under this chapter expire on various dates during the year, and the dates for renewal shall be adjusted accordingly. On renewal of the certificate or order of recognition on the expiration date, the total renewal fee is payable.

(b) The department shall notify each person certified of the date of the expiration of a certificate or order of recognition issued to him, the amount of the fee for renewal, and the continuing education provisions that are required for its renewal for one year. The notice shall be mailed by United States mail to the person certified at least 30 days in advance of the date of the expiration of the certificate or order of recognition.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.024. Department Regulation**

(a) The department may establish, within the scope of social work and this chapter, specifically designed areas of specialty work service or practice for those persons certified and in good standing as certified social workers or social workers. The basis for department action in establishing a social work specialty shall be founded in the public interest and necessity and for the purpose of practicing, aiding, and assisting the public in identifying those persons in the professions qualified to practice or perform specialty services.

(b) In establishing a specialty service or practice, the department shall define the scope of the specialty, establish standards of special qualifications for the specialty workers or practitioners that will accurately and truly describe the parameters of the specialty and the use of which will be prohibited to those who have not satisfied the department's requirements for qualification in the specialty, adopt rules of conduct for specialty practitioners that will ensure strict compliance with and enforcement of this chapter, and adopt rules for suspending or revoking the order of recognition in the specialty.

(c) A specialty may not be authorized for the private practice of social work except for those persons certified as certified social workers under this chapter meeting the minimum number of years of actual and active social work practice as determined by the department. However, the department may not establish any specialty or specialty identification in conflict with any licensing law of this state.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

**§ 50.025. Limitations**

After the effective date of an order of the department establishing areas of specialty service or practice, a certified social worker or social worker may not make use of a specialty professional identifica-

tion or title designated by the department until the person has qualified and been recognized by the department as worthy of the public trust in performing services within the scope of the specialty.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.026. Recognition Order

After a certified social worker or social worker has met all requirements of the department for recognition in a specialty established by the department, the department shall recognize the person as so qualified. The recognition shall be evidenced by an order of recognition of specialty of a name, design, and content as the department shall determine, setting forth the full name of the person, official specialty serial number, the signature of the commissioner and the chairman of the council, and the department's official seal. Issue of the order of recognition of specialty shall be evidence that the person to whom it is issued has been recognized by this state as a specialty social work practitioner under the name or title designated by the department.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.027. Expiration

The department by rule shall adopt a system under which orders of recognition of specialty practice expire on various dates during the year, and the dates for renewal shall be adjusted accordingly. On renewal of the specialty order of recognition on the expiration date, the total specialty order of recognition renewal fee is payable.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.028. Violations

A person who violates this chapter or a rule of the department pertaining to the practice of social work is subject to a civil penalty of not less than \$50 nor more than \$500 for each day of violation.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.029. Enforcement

(a) When it appears that a person has violated or is violating or is threatening to violate this chapter or a rule or order of the department pertaining to social work, the department may cause a civil suit to be instituted in a district court for injunctive relief to restrain the continued violation or threat of violation or for the assessment and recovery of the civil penalty, as the court may consider proper, or for both injunctive relief and civil penalty. On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter or a rule, variance, or order of the department, the district court may grant the injunctive relief that the facts warrant.

(b) At the request of the department, the attorney general shall institute and conduct a suit in the name of this state for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty, as authorized in Subsection (a) of this section.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.030. Appropriation

For the biennium ending August 31, 1983, the funds received in the social workers fund are appropriated to the department to be expended by it in the administration of this chapter. To the extent applicable, the general rules of the General Appropriations Act apply to the expenditure of funds under this appropriation.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.031. Grants

The department is hereby empowered and authorized to take all action necessary to qualify for, accept, and receive funds or grants made available by the United States or an agency of the United States, by this state or any agency of this state, or by a private foundation or other source for the establishment and maintenance of programs of continuing education.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.032. Reciprocity

The department may, on application and payment of the appropriate fee, certify as a certified social worker, social worker, or social work associate a person who is appropriately certified or licensed by another state, territory, or possession of the United States if the requirements of that state, territory, or possession for the certificate or license are the substantial equivalent of the requirements of this chapter as determined by the department.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### § 50.033. Employment of Social Worker

Nothing in this chapter shall be construed as requiring the employment of a certified social worker, a social worker, or a social work associate by any public agency or private employer. As used in this section, private employer includes but is not limited to a nonprofit corporation.

[Added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, eff. Sept. 1, 1981.]

#### SUBTITLE E. SERVICES FOR FAMILIES

*Subtitle E, Services for Families, consisting of Chapter 51, was added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1.*

For another Subtitle E, Social Work Services, added by Acts 1981, 67th Leg., p. 2923, ch. 776, § 1, see § 50.001, ante.

**CHAPTER 51. FAMILY VIOLENCE SHELTERS**

Section	
51.001.	Purpose.
51.002.	Definitions.
51.003.	Contracts.
51.004.	Contract Bids.
51.005.	Contract Specifications.
51.006.	Report.
51.007.	Confidentiality.
51.008.	Consultations.
51.009.	Grants and Funds.
51.010.	Rules.
51.011.	Funding.

**§ 51.001. Purpose**

The purpose of this chapter is to promote the development of locally based and supported nonprofit shelters and services for victims of family violence.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

**§ 51.002. Definitions**

In this chapter:

(1) "Shelter center" means a program that is operated by a public or private nonprofit organization and that provides shelter and services to victims of family violence.

(2) "Victim of family violence" means:

(A) an adult who is subjected to physical force or the threat of physical force by another who is related by affinity or consanguinity to that adult, who is a former spouse of that adult, or who resides in the same household with that adult; or

(B) an individual, other than an individual using physical force or the threat of physical force, who resides in the same household with a victim of family violence as defined in Paragraph (A) of this subdivision.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

**§ 51.003. Contracts**

(a) The Texas Department of Human Resources shall contract for services with shelter centers that provide access to shelter and services to victims of family violence with consideration given to geographic distribution and need. These contracts are to expand existing shelter center services and may not result in reducing financial support a shelter center receives from another source. The contracts shall not provide for more than 75 percent of the cost of the shelter center program. The department shall develop a declining scale of state financial support for shelter centers, declining over a six-year

period from the initiation of each individual contract, with no more than 50 percent of a shelter center program's funding to be provided by the state after the sixth year. The balance each year shall be provided from other sources. The department may adopt rules which will allow exceptions to the above scale in individual instances when a shelter center shall demonstrate that exigent circumstances require such a waiver.

(b) The department shall contract for the provision of training, technical assistance, and evaluation related to shelter and service program development and criminal justice processes.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

**§ 51.004. Contract Bids**

(a) To be eligible for a contract, a public or private nonprofit organization must operate a shelter center that provides temporary lodging and social services for adults and their children who have left or have been removed from the family home because of family violence. The shelter center must have been in actual operation offering shelter services 24 hours a day with a capacity for not less than five persons for at least nine months before the date that the contract is awarded. The contract application must be submitted on forms prescribed by the department.

(b) The department shall consider the following factors in awarding the contracts:

(1) the shelter center's eligibility for and use of funds from the federal government, philanthropic organizations, and voluntary sources;

(2) community support for the shelter center as evidenced by financial contributions from civic organizations, local governments, and individuals;

(3) evidence that the shelter center provides services that encourage rehabilitation and effectively utilizes community resources;

(4) the endorsement and involvement of local law enforcement officials;

(5) support for the shelter center through volunteer work, especially volunteer effort by persons who have been victims of family violence; and

(6) the shelter center's efforts to provide services to violent family members and to encourage family reconciliation if rehabilitation occurs.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

**§ 51.005. Contract Specifications**

(a) The department shall contract only with shelter centers that fulfill the requirements of this chapter.

(b) The contracts shall require the persons operating a shelter center to:

(1) make a quarterly and an annual financial report on a form prescribed by the department;

(2) cooperate with inspections the department makes to ensure services standards and fiscal responsibility; and

(3) provide as a minimum access to the following:

- (A) 24-hour-a-day shelter;
- (B) a crisis call hotline available 24 hours a day;
- (C) emergency medical care;
- (D) counseling or psychological services;
- (E) emergency transportation;
- (F) legal assistance, as available;
- (G) educational arrangements for children;
- (H) information about training for and seeking employment;
- (I) cooperation with law enforcement officials;
- (J) community education;
- (K) a referral system to existing community services; and
- (L) a volunteer recruitment and training program.

(c) The contracts may require the persons operating a shelter center to use intake and case study forms. Forms required shall be developed by the department with consultation as outlined in Section 51.008 of this subtitle.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

#### § 51.006. Report

Prior to each regular session of the legislature, the department shall publish a report that summarizes reports from shelter centers under contract with the department and that analyzes the effectiveness of the contracts authorized by this chapter. The reports must include information on the expenditure of funds authorized under this chapter, the services provided, the number of persons for whom a service was provided, and any other information relating to the provision of family violence services. Copies of the report shall be submitted to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, the Senate Committee on Human Resources, and the House Committee on Human Services or their successor committees.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

#### § 51.007. Confidentiality

The department may not disclose any information gained through reports, collected case data, or inspections that would identify a particular center or a person working at or receiving services at a shelter center.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

#### § 51.008. Consultations

In implementing this chapter, the department shall consult with individuals and groups having knowledge of and experience in the problems of family violence.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

#### § 51.009. Grants and Funds

The department may seek other funds that may be available for the contracts authorized by this chapter.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

#### § 51.010. Rules

The department may adopt rules necessary to implement this chapter.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

#### § 51.011. Funding

(a) In order to finance the program created by this chapter, the department is authorized to solicit and receive grants of money from either private or public sources, including appropriation by the legislature from the general revenue fund of the State of Texas, and in that regard it is hereby declared that the need for and importance of this program require priority and preferential consideration in appropriation.

(b) The department may utilize not more than six percent of the annual legislative appropriation to the family violence program for administration of this chapter and not more than six percent annually for the contracts described in Subsection (b) of Section 51.003 of this chapter.

[Added by Acts 1981, 67th Leg., p. 3313, ch. 867, § 1, eff. Sept. 1, 1981.]

## TITLE 3. FACILITIES AND SERVICES FOR CHILDREN

### SUBTITLE A. FACILITIES FOR CHILDREN

#### CHAPTER 61. TEXAS YOUTH COUNCIL

##### SUBCHAPTER A. GENERAL PROVISIONS

Section	
61.001.	Definitions.
61.002.	Purpose.

##### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

61.011.	Texas Youth Council.
61.012.	Members.
61.013.	Presiding Officer; Meetings.
61.014.	Quorum.
61.015.	Per Diem; Expenses.
61.016.	Office.
61.017.	Executive Director.
61.018.	Superintendents.
61.019.	Delegation of Powers and Duties.
61.020.	Review.

SUBCHAPTER C. POWERS AND DUTIES

- Section
- 61.031. Continuing Study.
- 61.032. Administration of Institutions.
- 61.033. Report to Governor, Legislature.
- 61.034. Policies and Rules.
- 61.035. Employees.
- 61.036. Cooperation With Other Agencies.
- 61.037. Use of Existing Institutions and Agencies.
- 61.038. Repealed.
- 61.039. Council Programs.
- 61.040. Additional Facilities; Parole Supervision.
- 61.041. Study of Treatment Methods; Statistical Records.
- 61.042. Referrals from Federal Court.
- 61.043. Gifts; Grants.
- 61.044. Duties of Executive Director.
- 61.045. Duties of Superintendents.
- 61.046. Religious Training
- 61.047. Contract With Big Brothers/Big Sisters of America.

SUBCHAPTER D. ADMISSION AND COMMITMENT

- 61.061. Admission to State Homes.
- 61.062. Commitment by Juvenile Court.
- 61.063. Order Conveying Child.
- 61.064. Conveyance of Child to Council.
- 61.065. Notification and Duty to Furnish Information.
- 61.066. Commitment Records.

SUBCHAPTER E. CARE AND TREATMENT OF CHILDREN

- 61.071. Initial Examination.
- 61.072. Reexamination.
- 61.073. Records of Examinations and Treatment.
- 61.074. Failure to Examine or Reexamine.
- 61.075. Determination of Treatment.
- 61.076. Type of Treatment Permitted.
- 61.077. Mentally Ill, Retarded, or Epileptic Child.
- 61.078. Notice of Pending Discharge.

SUBCHAPTER F. RELEASE

- 61.081. Release Under Supervision.
- 61.082. Transportation, Clothing, Money.
- 61.083. Contracts With Counties.
- 61.084. Termination of Control.

SUBCHAPTER G. MISCELLANEOUS PROVISIONS

- 61.091. Cooperation of Other Agencies.
- 61.092. No Forfeiture of Civil Rights.
- 61.093. Escape and Apprehension.

SUBCHAPTER A. GENERAL PROVISIONS

§ 61.001. Definitions

In this chapter:

- (1) "Council" means the Texas Youth Council.
- (2) "Chairman" means the chairman of the council.
- (3) "Executive director" means the executive director of the council.
- (4) "Court" means a juvenile court.
- (5) "Delinquent child" means a child adjudged to be a delinquent child under Section 54.03 of the Family Code.

[Acts 1979, 66th Leg., p. 2382, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 61.002. Purpose

The purpose of this chapter is to provide for administration of the state's correctional facilities for delinquent children, to provide a program of constructive training aimed at rehabilitation and reestablishment in society of children adjudged delinquent by the courts of this state and committed to the Texas Youth Council, and to provide active parole supervision for delinquent children until officially discharged from custody of the Texas Youth Council.

[Acts 1979, 66th Leg., p. 2382, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 61.003 to 61.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 61.011. Texas Youth Council

The Texas Youth Council is an agency of the state.

[Acts 1979, 66th Leg., p. 2383, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 61.012. Members

(a) The council consists of six members appointed by the governor with the consent of the senate.

(b) Members of the council must be citizens who are recognized within their communities for their interest in youth.

(c) The members hold office for staggered terms of six years, with the terms of two members expiring every two years.

(d) A member is eligible for reappointment.

[Acts 1979, 66th Leg., p. 2383, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 61.013. Presiding Officer; Meetings

(a) The council shall elect one member presiding officer, who shall preside over meetings of the council.

(b) The council shall meet at least four times each year.

(c) A meeting shall be held on the call of the chairman or on the request of four members at the time and place designated by the chairman.

[Acts 1979, 66th Leg., p. 2383, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 61.014. Quorum

Four members constitute a quorum for the exercise of functions of the council not delegated to the executive director or other employees.

[Acts 1979, 66th Leg., p. 2383, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 61.015. Per Diem; Expenses

Members are entitled to receive a per diem of \$35 for not more than 90 days in any fiscal year, plus reimbursement for actual expenses incurred while on council business.

[Acts 1979, 66th Leg., p. 2383, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.016. Office**

The council shall have its office wherever it chooses, in a building designated and approved by the State Board of Control.

[Acts 1979, 66th Leg., p. 2383, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.017. Executive Director**

(a) The council shall employ an executive director to serve at the will of the board.

(b) The executive director shall devote full time to the work of the council.

(c) The executive director is entitled to actual expenses while on council business.

[Acts 1979, 66th Leg., p. 2383, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.018. Superintendents**

(a) The council shall employ a superintendent for each institution under its control.

(b) The superintendent for any institution exclusively for the care of girls must be a woman.

(c) To qualify for the position of superintendent, a person must be of high moral character, education, and training, and must be able to recommend and develop an aggressive program for youth rehabilitation.

(d) A superintendent shall take the official oath and shall execute a bond in the sum of \$10,000, payable to the governor. The bond must be conditioned on the faithful performance of the duties of the office and must be approved by the attorney general.

[Acts 1979, 66th Leg., p. 2383, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.019. Delegation of Powers and Duties**

Any power, duty, or function of the council may be exercised and performed by the executive director or any member or employee designated or assigned by the council or by the executive director.

[Acts 1979, 66th Leg., p. 2384, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.020. Review**

The council is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the council is abolished and this chapter expires effective September 1, 1987.

[Acts 1979, 66th Leg., p. 2384, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 61.021 to 61.030 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES****§ 61.031. Continuing Study**

The council shall carry on a continuing study of the problem of juvenile delinquency in this state and

shall seek to focus public attention on special solutions to this problem.

[Acts 1979, 66th Leg., p. 2384, ch. 284, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.032. Administration of Institutions**

The council shall administer the training, diagnostic treatment, and supervisory facilities and services of the state for delinquent children committed to the state and shall manage and direct all institutions and training school facilities under the authority of the council.

[Acts 1979, 66th Leg., p. 2384, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.033. Report to Governor, Legislature**

Before the convening date of each regular session of the legislature, the council shall make a report to the governor and the legislature of its activities and accomplishments and of its findings as to its major needs in fulfilling its responsibility for children committed to it by courts of the state. The report shall include specific recommendations for legislation, planned and drafted as part of a unified program to serve the best interest of the state and the youth committed to the council, and recommendations for the repeal of any conflicting, obsolete, or otherwise undesirable legislation affecting youth.

[Acts 1979, 66th Leg., p. 2384, ch. 284, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.034. Policies and Rules**

(a) The council is responsible for the adoption of all policies and shall make rules appropriate to the proper accomplishment of its functions.

(b) The council shall adopt rules for the government of the schools and facilities under its authority and shall see that the affairs of the schools and facilities are conducted according to law and to the council's rules. The purpose of the rules and of all education, work, training, discipline, recreation, and other activities in the schools and facilities is to restore and increase the self-respect and self-reliance of the youth under the authority of the council and to qualify them for good citizenship and honorable employment.

[Acts 1979, 66th Leg., p. 2384, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.035. Employees**

(a) Within the limits specified by legislative appropriation, the council may employ and compensate personnel necessary to carry out its duties.

(b) The council may remove any employee for cause, and a decision by the council is final.

(c) A superintendent may remove for cause any employee under his or her authority, with the approval of the executive director.

[Acts 1979, 66th Leg., p. 2384, ch. 284, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.036. Cooperation With Other Agencies**

(a) The council shall cooperate with all existing agencies and encourage the establishment of new agencies, both local and statewide, whose object is services to delinquent and predelinquent youth of this state.

(b) On the request of the governing body of any county or city, the council shall assist in developing, strengthening, and coordinating educational, welfare, health, recreational, and law-enforcement programs which have as their object the prevention of juvenile delinquency and crime.

[Acts 1979, 66th Leg., p. 2385, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.037. Use of Existing Institutions and Agencies**

(a) In carrying out its duties, the council may make use of law-enforcement, detention, supervisory, medical, educational, correctional, and other facilities, institutions, and agencies in the state. This section does not authorize the council to assume control of any other agency, institution, or facility in the state, or to require any agency, institution, or facility to serve the council in a manner inconsistent with its authority or function or with any law or regulation governing its activity.

(b) When funds are available for the purpose, the council may enter into agreements with appropriate public or private agencies for the separate care and treatment of persons subject to the control of the council. The council may not make use of any private institution or agency without its consent and may not pay a private institution for services that a public institution is willing and able to perform.

(c) The council shall periodically inspect all public and private institutions and agencies whose facilities it is using. Every public and private institution and agency shall afford to the council reasonable opportunity to examine and consult with children who have been committed to the council and who are in the custody of the institution or agency.

(d) Placement of a child in, or the release of a child by, any institution not operated by the council does not terminate the authority of the council over the child. No child placed in an institution or under an agency by the council may be released by the institution or agency without the approval of the council.

[Acts 1979, 66th Leg., p. 2385, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.038. Repealed by Acts 1981, 67th Leg., p. 2425, ch. 617, § 5, eff. Sept. 1, 1981**

Section 5 of the 1981 repealing act provides, in part: "On the effective date of this Act, the employees of the Texas Youth Council's Community Assistance Program are transferred to and become employees of the Texas Juvenile Probation Commission. This transfer shall not constitute a break in state service for the purpose of determining benefits due such state employees. On the effective date of this Act, any unexpended balance in the appropriation to the Texas Youth Council's Community Assistance Program is transferred to the Texas Juvenile Probation Commission and appropriated to it for the purpose of carrying out the provisions of this chapter. Counties presently receiving funds under the Community Assistance Program shall be eligible to receive those funds during the 1981-82 biennium at current levels."

The repealed section, relating to local programs, was derived from Acts 1979, 66th Leg., p. 2385, ch. 842, art. 1, § 1.  
See, now, § 75.061.

**§ 61.039. Council Programs**

The council may provide a service or program as part of its statewide plan if the service or program is not provided by a local community.

[Acts 1979, 66th Leg., p. 2385, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.040. Additional Facilities; Parole Supervision**

When funds are available, the council may:

(1) establish and operate places for detention and diagnosis of delinquent children committed to it;

(2) establish and operate additional treatment and training facilities, including forestry or parks-maintenance camps and ranches necessary to classify, segregate, and handle juvenile delinquents according to their needs;

(3) establish active parole supervision to aid children given conditional release to find homes and employment and to become reestablished in the community.

[Acts 1979, 66th Leg., p. 2386, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.041. Study of Treatment Methods; Statistical Records**

(a) The council shall conduct continuing inquiry into the effectiveness of the treatment methods it employs in the reformation of delinquent children. To this end, the council shall maintain a record of arrests and commitments of its wards subsequent to their discharge from the jurisdiction of the council and shall tabulate, analyze, and publish biennially these data for use in evaluating the relative merits of treatment methods.

(b) The council shall cooperate with courts and private and public agencies in the collection of statistics and information regarding juvenile delinquency, arrests made, complaints, informations, and petitions filed, and the dispositions made of them, and other information useful in determining the amount and causes of juvenile delinquency in this state.

[Acts 1979, 66th Leg., p. 2386, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.042. Referrals from Federal Court**

The council may enter into agreements with the federal government to accept children from the federal court for an agreed compensation.

[Acts 1979, 66th Leg., p. 2384, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.043. Gifts; Grants**

The council may accept gifts, grants, or donations of money or property from private sources to effectuate the purpose of this chapter. Donated funds

shall be placed in the state treasury in a special fund called the Texas Youth Council fund and expended as other state money is expended, on warrants drawn by the comptroller on the order of the council. [Acts 1979, 66th Leg., p. 2386, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 61.044. Duties of Executive Director

(a) The executive director shall perform the duties assigned by the council.

(b) The executive director shall prepare and submit to the council for its approval a biennial budget of all funds necessary to be appropriated by the legislature to the council to carry out the purposes of this chapter. The budget shall be submitted and filed by the council in the form and manner and within the time prescribed by law.

[Acts 1979, 66th Leg., p. 2386, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 61.045. Duties of Superintendents

(a) The superintendent of each school or facility shall have general charge of and be responsible for the welfare and custody of the children in the school or facility and for carrying out the rehabilitation program prescribed by the council. Under the direction of the council, the superintendent shall seek to establish relationships and to organize a way of life that will meet the spiritual, moral, physical, emotional, intellectual, and social needs of the children under his or her care as those needs would be met in an adequate home.

(b) The superintendent shall see that the buildings and premises are kept in good sanitary order.

(c) The superintendent is responsible for keeping the books of the school or facility fully exhibiting all money received and disbursed, the source from which it is received, and the purposes for which it is expended. All supplies for the school or facility shall be purchased in the same manner as for other similar institutions. The books shall give a full record of all products produced, whether sold or consumed, and shall at all times be open for the inspection of the council, the state auditor, and the governor.

[Acts 1979, 66th Leg., p. 2387, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 61.046. Religious Training

The council shall provide for the religious and spiritual training of children in its custody.

[Acts 1979, 66th Leg., p. 2387, ch. 1, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 61.047. Contract With Big Brothers/Big Sisters of America

(a) The council may execute contracts with Big Brothers/Big Sisters of America or its successor organization under which the council agrees to disburse money to the local affiliates in this state of Big Brothers/Big Sisters of America or its successor

organization, and Big Brothers/Big Sisters of America or its successor organization agrees to:

(1) pair adult volunteers with children who are between the ages of 6 and 18 to engage in activities in which relationships based on friendship can develop between them;

(2) monitor the relationships between the paired adults and children to determine if meaningful relationships are developing between them that are beneficial to the children; and

(3) plan and implement other programs beneficial to the character development of the children served.

(b) Before December 31 of each even-numbered year, the council shall review and present to the legislature an evaluation of the activities for which the money disbursed under Subsection (a) of this section is used.

[Added by Acts 1979, 66th Leg., p. 2436, ch. 842, art. 2, § 9, eff. Sept. 1, 1979.]

[Sections 61.048 to 61.060 reserved for expansion]

### SUBCHAPTER D. ADMISSION AND COMMITMENT

#### § 61.061. Admission to State Homes

(a) Subject to the policies adopted by the council, the Corsicana State Home, the West Texas Children's Home at Pyote, and the Waco State Home may accept for admission any child 3 years of age or older but under 19 years of age who is a full orphan, a half-orphan, or the subject of a suit affecting the parent-child relationship under Subtitle A, Title 2, of the Family Code,<sup>1</sup> and may offer, if needed, care, treatment, education, and training to the child until his or her 18th birthday. A person who is 18 years old or older and who leaves the home provided by this section may not return to live there.

(b) A person under the care of a home named in this section who is 18 years old or older may remain at the home if the home determines that room is available and if he or she is a full-time or part-time student at an accredited academic or vocational institution.

(c) A person who remains at the home under the conditions described in Subsection (b) of this section may stay at the home until his or her 21st birthday or until he or she is no longer enrolled in school.

[Acts 1979, 66th Leg., p. 2387, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> Family Code, § 11.01 et seq.

#### § 61.062. Commitment by Juvenile Court

When a child is found to have engaged in delinquent conduct as provided by Title 3, Family Code,<sup>1</sup> and a juvenile court does not release the child unconditionally or place the child on probation or in a suitable institution or agency other than a state training school, the juvenile court shall commit the

child to the council and may suspend the execution of the order of commitment.

[Acts 1979, 66th Leg., p. 2387, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> Family Code, § 51.01 et seq.

**§ 61.063. Order Conveying Child**

When a juvenile court commits a child to the council, the court may order the child conveyed to some place of detention approved, established, or designated by the council, or it may direct that the child be left at liberty until otherwise ordered by the council under conditions ensuring the child's submission to any order of the council.

[Acts 1979, 66th Leg., p. 2388, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.064. Conveyance of Child to Council**

(a) When a child is to be conveyed to a facility designated by the council, the juvenile court shall assign an officer or other suitable person to accompany the child. The person assigned to accompany a female must be a woman.

(b) The cost of conveying the child shall be paid by the county from which the child is committed. However, no compensation shall be allowed except for the actual and necessary expenses of the child and the person accompanying the child.

[Acts 1979, 66th Leg., p. 2388, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.065. Notification and Duty to Furnish Information**

(a) When a juvenile court commits a child to the council, the court shall forward to the council a certified copy of the order of commitment.

(b) The court, the probation officer, the prosecuting and police authorities, the school authorities, and other public officials shall make available to the council all pertinent information in their possession regarding the case.

(c) If requested by the council, the reports required by this section shall be made on forms furnished by the council or according to an outline furnished by the council.

[Acts 1979, 66th Leg., p. 2388, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.066. Commitment Records**

A commitment to the council may not be received in evidence or used in any way in any proceedings in any court except in subsequent proceedings under Title 3, of the Family Code<sup>1</sup> against the same child, and except in imposing sentence in any criminal proceedings against the same person.

[Acts 1979, 66th Leg., p. 2388, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> Family Code, § 51.01 et seq.

[Sections 61.067 to 61.070 reserved for expansion]

SUBCHAPTER E. CARE AND TREATMENT OF CHILDREN

**§ 61.071. Initial Examination**

The council shall examine and make a study of each delinquent child committed to it as soon as possible after the arrival of the child. The study shall be made according to rules established by the council and shall include an investigation of all pertinent circumstances of the life and behavior of the child.

[Acts 1979, 66th Leg., p. 2388, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.072. Reexamination**

The council shall periodically reexamine each child under its control except those on release under supervision or in foster homes. The examination of a child may be made as frequently as the council considers desirable, but shall be made at intervals not exceeding one year.

[Acts 1979, 66th Leg., p. 2388, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.073. Records of Examinations and Treatment**

The council shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each delinquent child subject to its control. These records are not public and are available only on the order of a district court.

[Acts 1979, 66th Leg., p. 2388, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.074. Failure to Examine or Reexamine**

Failure of the council to examine or reexamine a child as required by this chapter does not entitle the child to be discharged from the control of the council, but the child may petition the committing court for discharge. After due notice to the council, the committing court shall discharge the child from the control of the council unless the council satisfies the court that further control is necessary.

[Acts 1979, 66th Leg., p. 2389, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.075. Determination of Treatment**

When a delinquent child has been committed to the council, the council may:

(1) permit the child liberty under supervision and on conditions it believes conducive to acceptable behavior;

(2) order the child's confinement under conditions it believes best designed for the child's welfare and the interests of the public;

(3) order recommitment or renewed release as often as conditions indicate to be desirable;

(4) revoke or modify any order of the council affecting a child, except an order of final discharge, as often as conditions indicate; or

(5) discharge the child from control when it is satisfied that discharge will best serve the child's welfare and the protection of the public.

[Acts 1979, 66th Leg., p. 2389, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 61.076. Type of Treatment Permitted

(a) As a means of correcting the socially harmful tendencies of a delinquent child committed to it, the council may:

(1) require the child to participate in moral, academic, vocational, physical, and correctional training and activities;

(2) require the modes of life and conduct that seem best adapted to fit the child for return to full liberty without danger to the public;

(3) provide any medical or psychiatric treatment that is necessary; and

(4) place physically fit children in parks-maintenance camps, forestry camps, or ranches owned by the state or the United States and require the performance of suitable conservation and maintenance work.

(b) The dominant purpose of placing children in camps is to benefit and rehabilitate the children rather than to make the camps self-sustaining. Children placed in camps may not be exploited.

[Acts 1979, 66th Leg., p. 2389, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 61.077. Mentally Ill, Retarded, or Epileptic Child

If the council determines that a delinquent child committed to it is mentally ill or retarded or is an epileptic, the council, without delay, shall return the child to the court of original jurisdiction for appropriate disposition or shall request that the court in the county where the training school is located take any action required by the condition of the child.

[Acts 1979, 66th Leg., p. 2389, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 61.078. Notice of Pending Discharge

As soon as practicable after the council makes a decision to discharge a child or authorize his absence from its custody, the council shall give notice of its decision to the juvenile court and the office of the prosecuting attorney of the county in which the child was adjudicated a delinquent child.

[Added by Acts 1981, 67th Leg., p. 2223, ch. 523, § 2, eff. Aug. 31, 1981.]

[Sections 61.079 to 61.080 reserved for expansion]

### SUBCHAPTER F. RELEASE

#### § 61.081. Release Under Supervision

(a) The council may release under supervision any delinquent child in its custody and place the child in his or her home or in any situation or family approved by the council.

(b) Subject to legislative appropriation, the council may employ parole officers to investigate, place, supervise, and direct the activities of a parolee to ensure the parolee's adjustment to society in accordance with the rules adopted by the council.

(c) Parole officers may work with local organizations, clubs, and agencies to formulate plans and procedures for the prevention of juvenile delinquency.

(d) The council may resume the care and custody of any child released under supervision at any time before the final discharge of the child.

(e) Not later than 10 days before the day the council releases a delinquent child under this section, the council shall give notice of the release to the juvenile court and the office of the prosecuting attorney of the county in which the child was adjudicated a delinquent child.

[Acts 1979, 66th Leg., p. 2390, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2223, ch. 523, § 1, eff. Aug. 31, 1981.]

#### § 61.082. Transportation, Clothing, Money

(a) The council shall ensure that each delinquent child it releases under supervision has suitable clothing, transportation to his or her home or to the county in which a suitable home or employment has been found, and money in an amount authorized by the rules of the council.

(b) The expenditure for clothing and transportation and the payment of money may be made from funds for support and maintenance appropriated to the council or to the institution from which the child is released, from local funds, or from any legislative appropriation specifically made for these purposes.

[Acts 1979, 66th Leg., p. 2390, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 61.083. Contracts With Counties

(a) The council may make a contract with a county to use the services of the county's juvenile probation department for the supervision of delinquent children within the county who are on furlough from a council facility or who are released under supervision from a council facility.

(b) The council shall pay the county \$2 a day for each child subject to a contract authorized by Subsection (a) of this section. However, the maximum payment for each child in the county for more than 20 days is \$40 a month. The payments shall be made to the county treasurer on a quarterly schedule.

(c) The council may not pay a county for supervision of a child for any time after the child:

(1) is discharged from the council's custody;

(2) is returned to a council facility; or

(3) transfers his or her residence to another county or state.

(d) A county that has a contract with the council must report to the council on the status and progress of each child for whom the county is receiving

payments. The reports shall be made at the time and in the manner specified by the contract.

[Acts 1979, 66th Leg., p. 2390, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 887, ch. 313, § 1, eff. Aug. 31, 1981.]

**§ 61.084. Termination of Control**

The council shall discharge from its custody a child not already discharged on his or her 18th birthday. [Acts 1979, 66th Leg., p. 2390, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 61.085 to 61.090 reserved for expansion]

**SUBCHAPTER G. MISCELLANEOUS PROVISIONS**

**§ 61.091. Cooperation of Other Agencies**

To effectuate the purpose of this chapter and to make maximum use of existing facilities and personnel, all departments and agencies of the state and all officers and employees of the state, when requested by the council, shall cooperate with it in all activities consistent with their proper functions.

[Acts 1979, 66th Leg., p. 2391, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.092. No Forfeiture of Civil Rights**

Commitment of a delinquent child to the custody of the council does not disqualify the child in any future examination, appointment, or application for public service under the government of the state or of any political subdivision of the state.

[Acts 1979, 66th Leg., p. 2391, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 61.093. Escape and Apprehension**

A delinquent child who has been committed to the council and placed by it in any institution or facility and who has escaped or been released under supervision and broken the conditions of release, may be arrested without a warrant by a sheriff, deputy sheriff, constable, police officer, or parole officer employed or designated by the council, and may be kept in custody in a suitable place and detained until the child is returned to the custody of the council.

[Acts 1979, 66th Leg., p. 2391, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 61.094 to 62.000 reserved for expansion]

**CHAPTER 62. DETENTION HOMES AND PARENTAL SCHOOLS**

Section	
62.001.	Detention Homes and Parental Schools.
62.002.	Multicounty Facilities.

**§ 62.001. Detention Homes and Parental Schools**

(a) Any county may establish detention homes and parental schools for juveniles. The commissioners court may appropriate necessary funds from the general fund of the county to establish, equip, and

maintain detention homes and parental schools for the juveniles of the county.

(b) Any county in which no detention home or parental school exists may appropriate funds necessary to pay for the proper care and training of its juveniles in the detention home or parental school of any county that agrees to receive the juveniles. The cost of the care shall be agreed on by the commissioners courts of the counties concerned.

(c) If, in the opinion of the commissioners court, it is necessary to levy a special tax to establish and maintain a detention home or parental school or to pay for the care and training of juveniles as provided by Subsection (b) of this section, the commissioners court may hold a special election on the question of levying the tax. If a petition signed by 10 percent of the qualified voters of the county is submitted requesting a special election, the commissioners court shall hold the special election.

(d) All elections held under Subsection (c) of this section shall be governed by the general laws relating to elections for the levy of special school taxes. [Acts 1979, 66th Leg., p. 2391, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 62.002. Multicounty Facilities**

(a) The purpose of this section is to enable counties jointly to provide better probation services and detention and diagnostic facilities for juveniles than the counties, acting singly, would be able to provide.

(b) The commissioners courts of two or more counties may enter into cooperative agreements to acquire, maintain, and operate detention and diagnostic facilities for juveniles. The counties may maintain, improve, and operate the property so acquired and all improvements thereon, and may sell or lease all or any part of the property and improvements in accordance with the terms of the cooperative agreement. The counties may accept any donation or gift made for the purpose of acquiring, maintaining, or operating the juvenile facilities.

(c) In accordance with the terms of the cooperative agreement, each county which is a party to the agreement may issue the bonds of the county as provided by Chapter 2, Title 22, Revised Civil Statutes of Texas, 1925, as amended<sup>1</sup>, for the purpose of acquiring, maintaining, and operating the facilities for juveniles.

(d) The commissioners courts of two or more counties may enter into cooperative agreements to provide probation services for juveniles. The cooperative agreement shall set forth in detail how the probation services are to be provided and financed.

[Acts 1979, 66th Leg., p. 2391, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

<sup>1</sup> Civil Statutes, art. 718 et seq.

## SUBTITLE B. SERVICES FOR CHILDREN

## CHAPTER 71. COMMISSION ON SERVICES TO CHILDREN AND YOUTH [REPEALED]

## Section

71.001 to 71.009. Repealed.

## §§ 71.001 to 71.009. Repealed by Acts 1981, 67th Leg., p. 1790, ch. 390, § 3, eff. Aug. 31, 1981

## Section 2 of the 1981 repealing act provided:

"The Texas Commission on Services to Children and Youth is abolished. The records and other property in the custody of the commission are transferred to the Texas Department of Community Affairs."

The repealed sections, relating to Commission on Services to Children and Youth, were derived from Acts 1979, 66th Leg., p. 2392, ch. 842, art. 1, § 1. See, now, § 72.001 et seq.

## CHAPTER 72. COORDINATION OF PROGRAMS FOR THE DEVELOPMENT OF CHILDREN AND YOUTH

## Section

- 72.001. Policy and Purpose.  
 72.002. Definitions.  
 72.003. Authorization.  
 72.004. Powers.  
 72.005. Use of Interagency Councils.  
 72.006. Prior Law; Public Instrumentality; Cooperation of State Agencies and Personnel.  
 72.007. Cooperation of Political Subdivisions.

## § 72.001. Policy and Purpose

It is the policy of this state to foster and support families as the most important continuing factor in determining what a child will become and to provide effective public services to strengthen the family unit to fulfill the unmet developmental needs of children and youth. Each child is entitled to the concern and full protection of this state acting in concert with communities in which the child lives. In the absence of parents or in the inability of parents to provide essential care, protection, and nurture for their children, competent substitute care, protection, and nurture should be provided by proper coordinative efforts. The legislature recognizes that the public interest requires the wise investment of resources to prevent abnormalities and maladjustments in children who will later require institutional care and treatment at many times the human and fiscal costs of prevention. It further recognizes that supportive activities to families with children and youth are primarily a community responsibility that can best be served by having the state assist in the coordination of programs within communities and rural areas of the state. To carry out these policies and purposes, this chapter is enacted authorizing the Texas Department of Community Affairs to assist communities in providing for programs to enhance the development of children and youth.

[Added by Acts 1981, 67th Leg., p. 1788, ch. 390, § 1, eff. Aug. 31, 1981.]

## Section 2 of the 1981 Act provided:

"The Texas Commission on Services to Children and Youth is abolished. The records and other property in the custody of the commission are transferred to the Texas Department of Community Affairs."

## § 72.002. Definitions

In this chapter:

(1) "Department" means the Texas Department of Community Affairs.

(2) "Director" means the executive director of the Texas Department of Community Affairs.

[Added by Acts 1981, 67th Leg., p. 1788, ch. 390, § 1, eff. Aug. 31, 1981.]

## § 72.003. Authorization

The department may assist communities in planning, developing, implementing, and coordinating programs to provide services to enhance the development of children and youth.

[Added by Acts 1981, 67th Leg., p. 1788, ch. 390, § 1, eff. Aug. 31, 1981.]

## § 72.004. Powers

Within the policies and purposes provided by Section 72.001 of this chapter, the department shall give a priority to children and youth, and in addition to other powers and duties given to it by this chapter or by any other law, the department may:

(1) advocate and provide an articulate focus for the needs of children and youth and disseminate information to the public regarding children's and youth's services;

(2) determine the extent and availability of public and private resources and services to children and youth and their families;

(3) coordinate the determination of the need for services to children and youth in this state by surveying and measuring their unmet developmental needs and make recommendations to all appropriate public and private agencies as needed;

(4) provide for the development and demonstration of programs that will enhance development of children and youth;

(5) establish and promote cooperation among private groups and governmental agencies to encourage and assist families in the provision of an environment for children and youth suitable to their full development, particularly at the community level;

(6) arrange technical assistance and consultation for sources and potential sources of services to children and youth;

(7) encourage the development of systems for the efficient and effective delivery of services to children and youth and their families rendered by the departments and agencies of state government, including particularly services delivered at the neighborhood and community levels;

(8) develop, revise, and implement a state plan for childhood development in cooperation with interagency councils and with the assistance of appropriate public and private groups and agencies providing for a mechanism at the community and state levels that assures a coordinated approach in

assessing the need for and the delivery of services to children and youth and their families;

(9) provide assistance, including financial assistance, in the administration of community multi-purpose programs that assist children and youth and their families;

(10) provide departmental assistance in developing and financing joint training programs for community-based staff specialists from the state and local agencies rendering services to children and youth and their families;

(11) provide, perform, and promote consultative, evaluative, referral, and other functions as may be directed to improve service delivery;

(12) provide services directly to children and youth and their families, but only to those who have needs which are not met from any other resources of state or community governments;

(13) prepare and submit a report to the governor and appropriate interagency councils before September 1 prior to each legislative session containing a review of the status of services to children and youth, recommendations for priorities for the development and coordination of services to children and youth, an evaluation of the progress made as the result of the recommendations made in the past, a statement of goals for activities of the department relating to children and youth during the next year, and specific recommendations about what changes in law or appropriations need to be made to assist these programs to greater effectiveness; and

(14) perform other functions that may be consistent with the purposes of this chapter.

[Added by Acts 1981, 67th Leg., p. 1788, ch. 390, § 1, eff. Aug. 31, 1981.]

**§ 72.005. Use of Interagency Councils**

The department shall utilize the coordinative expertise provided by interagency councils as authorized by law and as established by the governor, and there shall exist a working committee composed of one representative appointed by each interagency council to assist and advise the department in the administration of this chapter.

[Added by Acts 1981, 67th Leg., p. 1788, ch. 390, § 1, eff. Aug. 31, 1981.]

**§ 72.006. Prior Law; Public Instrumentality; Cooperation of State Agencies and Personnel**

Nothing in this chapter shall be construed as amending prior statutory enactments which confer specific responsibilities on departments or agencies of this state for services to children and youth, including the Texas Department of Human Resources, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Rehabilitation Commission, and the Central Education Agency. It is the intent of the

legislature that the department be the public instrumentality for advocating, planning, developing, and coordinating services to optimize the development of children and youth throughout the state, but the department shall not directly administer the services except as authorized by law. All state agencies, officers, and employees shall cooperate with the department for the accomplishment of the purposes of this chapter.

[Added by Acts 1981, 67th Leg., p. 1788, ch. 390, § 1, eff. Aug. 31, 1981.]

**§ 72.007. Cooperation of Political Subdivisions**

Political subdivisions of this state are authorized and encouraged to cooperate with the department in effectuating the provisions of this chapter.

[Added by Acts 1981, 67th Leg., p. 1788, ch. 390, § 1, eff. Aug. 31, 1981.]

**SUBTITLE C. STATE AID TO LOCAL JUVENILE PROBATION DEPARTMENTS**

**CHAPTER 75. TEXAS JUVENILE PROBATION COMMISSION**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	Purpose.
75.001.	
75.002.	Definitions.

**SUBCHAPTER B. TEXAS JUVENILE PROBATION COMMISSION**

75.021.	Creation.
75.022.	Membership.
75.023.	Terms of Office.
75.024.	Chairman and Vice-Chairman.
75.025.	Expense.
75.026.	Meetings.
75.027.	Texas Advisory Council on Juvenile Services.
75.028.	Director and Employees.
75.029.	Expiration.

**SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION**

75.041.	Standards for Juvenile Boards, Probation Officers, and Facilities.
75.042.	Minimum Standards.
75.043.	Training Assistance to Local Authorities.
75.044.	Records and Reports.
75.045.	Gifts and Grants.
75.046.	Interagency Cooperation.
75.047.	Inspections, Audits.
75.048.	Studies.
75.049.	Annual Report.
75.050.	Delegation of Authority.
75.051.	Deposit of Money.

**SUBCHAPTER D. STATE AID TO JUVENILE BOARDS**

75.061.	State Aid Defined.
75.062.	Provision of Probation and Detention Services.
75.063.	Determination of Amount.
75.064.	Maintenance of Local Financial Support.
75.065.	Special Rules for Multicounty Jurisdictions.
75.066.	Reports.
75.067.	Payment of State Aid.
75.068.	Refusal or Suspension of State Aid.
75.069.	Applicability.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 75.001. Purposes

The purposes of this chapter are to make probation services available throughout the state for juveniles, to improve the effectiveness of probation services, to provide alternatives to the commitment of juveniles by providing financial aid to juvenile boards for the establishment and improvement of probation services, to establish uniform probation administration standards, and to improve communications between state and local entities within the juvenile justice system.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

## § 75.002. Definitions

In this chapter:

(1) "Director" means the executive director of the Texas Juvenile Probation Commission.

(2) "Commission" means the Texas Juvenile Probation Commission.

(3) "Juvenile board" means the body established by general or special law to provide juvenile probation services to each county or the juvenile court as designated under Article 5138d, Revised Civil Statutes of Texas, 1925, as amended.

(4) "Employee in the criminal or juvenile justice system" means a person employed as a peace officer, county attorney, district attorney, probation officer, parole officer, corrections officer, any person employed by a court, or any person employed by an agency or institution, either public or private, where children may be committed under the Family Code.

(5) "Advisory council" means the Texas Advisory Council on Juvenile Services.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

[Sections 75.003 to 75.020 reserved for expansion]

## SUBCHAPTER B. TEXAS JUVENILE PROBATION COMMISSION

## § 75.021. Creation

The Texas Juvenile Probation Commission is created.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

## § 75.022. Membership

The commission consists of three judges of the district courts of Texas and six citizens of Texas who are not employed in the criminal or juvenile justice system, all to be appointed by the governor with the advice and consent of the senate. A judge's service on the commission is an additional duty of office. The judges on the commission must, at the time of their appointment, be presiding judges over courts

designated by at least one county in their district as a juvenile court except that in counties in which a system of rotating the juvenile court among the several district courts exists, any of the district court judges is eligible to serve on the commission.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

## § 75.023. Terms of Office

(a) Members of the commission serve staggered terms of six years each ending on August 31 of each odd-numbered year.

(b) If a judicial member of the commission ceases to hold a judicial office, that person's place on the commission becomes vacant.

(c) The governor shall fill vacancies by appointment for the unexpired term

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

Section 6 of the 1981 Act provides:

"In making the initial appointments to the Texas Juvenile Probation Commission, the governor shall appoint three members for terms expiring on August 31, 1983, three members for terms expiring on August 31, 1985, and three members for terms expiring on August 31, 1987."

## § 75.024. Chairman and Vice-Chairman

(a) The governor shall designate a chairman and vice-chairman from among the members of the commission.

(b) The chairman and vice-chairman of the commission shall serve for a term of two years.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

## § 75.025. Expenses

Members of the commission are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties as commission members.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

## § 75.026. Meetings

(a) The commission shall hold regular quarterly meetings each year on dates fixed by the commission and special meetings at the call of the chairman.

(b) The commission shall make rules providing for the regulation of its proceedings.

(c) A majority of the commission constitutes a quorum.

(d) The commission shall keep a public record of its decisions at its general office.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 Act provides:

"The chairman shall call the first meeting of the Texas Juvenile Probation Commission as soon after the commission has been appointed as is practical."

## § 75.027. Texas Advisory Council on Juvenile Services

An advisory council to be appointed by the commission shall consist of two juvenile judges, three

juvenile probation officers, two citizens knowledgeable of juvenile services, and a representative of the Texas Youth Council to report to the director of the Texas Juvenile Probation Commission.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.028. Director and Employees**

(a) The commission shall employ a director, whose qualifications must comply with standards required for a probation officer and who has a minimum of two years' experience in the administration and supervision of probation services. The director may employ as many other employees as are needed to administer this chapter.

(b) The commission may delegate authority to the director to select employees of the commission. [Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

Section 5 of the 1981 Act provides:  
 "Section 61.038, Human Resources Code, is repealed. On the effective date of this Act, the employees of the Texas Youth Council's Community Assistance Program are transferred to and become employees of the Texas Juvenile Probation Commission. This transfer shall not constitute a break in state service for the purpose of determining benefits due such state employees. On the effective date of this Act, any unexpended balance in the appropriation to the Texas Youth Council's Community Assistance Program is transferred to the Texas Juvenile Probation Commission and appropriated to it for the purpose of carrying out the provisions of this chapter. Counties presently receiving funds under the Community Assistance Program shall be eligible to receive those funds during the 1981-82 biennium at current levels."

**§ 75.029. Expiration**

Unless continued by law, the commission is abolished, and this chapter expires effective September 1, 1991.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

[Sections 75.030 to 75.040 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION**

**§ 75.041. Standards for Juvenile Boards, Probation Officers, and Facilities**

Based on local information and evidence gathered through public hearings around the state, the commission shall promulgate reasonable rules for juvenile boards, probation officers, programs, and facilities:

- (1) establishing minimum standards for personnel, staffing, case loads, programs, facilities, record keeping, equipment, and other aspects of the operation of a juvenile board necessary for the provision of adequate and effective probation services;
- (2) establishing a code of ethics for probation officers and providing for the enforcement of the code; and
- (3) establishing appropriate educational, preservice and in-service training, and certification standards for probation officers or court-supervised community-based program personnel.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.042. Minimum Standards**

To be eligible for appointment as a probation officer, a person who is not employed as a juvenile probation officer on September 1, 1981, must:

- (1) be of good moral character;
- (2) have acquired a bachelor's degree conferred by a college or university accredited by an accrediting organization recognized by the Coordinating Board, Texas College and University System;
- (3) have either:
  - (A) one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or other field or instruction approved by the commission; or
  - (B) one year of experience in full-time case work, counseling, community or group work in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons and that is determined by the commission to provide the kind of experience needed to meet this requirement; and
- (4) have satisfactorily completed the course of preservice training or instruction, have passed the tests or examinations, and possess the level of certification as the commission may prescribe.

(d) The commission may make rules under which the requirement of a year of graduate study or full-time employment experience may be waived if the authority responsible for the employment of the probation officer establishes in a manner satisfactory to the commission that no person meeting this requirement could be located to fill a job opening after a diligent effort to locate a person was made. The commission may make rules providing for the temporary employment of a person who has not yet completed a course of preservice training, passed the examination, nor attained a prescribed level of certification, the employment to be contingent on his completing those requirements within the time specified by the commission.

(e) Any person to be eligible for employment by a probation office in a position having the responsibility for supervision of other probation officers must possess a level of training, experience, and certification as the commission prescribes, and several levels of certification may be required to reflect increasing levels of responsibility. However, no rule of the commission with regard to required levels of certification may affect the continued employment of a probation officer in a supervisory position that he is holding on the date that the rule takes effect.

(f) A peace officer, a prosecuting attorney, and any other person who is employed by or who reports directly to a law enforcement or prosecution official may not act as a probation officer or be made responsible for supervision of a juvenile on probation. A probation officer may not carry a firearm in the course of his official duties.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.043. Training Assistance to Local Authorities**

The commission shall provide educational training and technical assistance to counties, juvenile boards, and probation offices to promote compliance with the standards required under this chapter and to assist the local authorities in improving the operation of probation, parole, and detention services. [Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.044. Records and Reports**

The commission shall require each juvenile board in Texas to:

- (1) keep such financial and statistical records as the commission deems necessary; and
- (2) submit periodic financial and statistical reports to the commission.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.045. Gifts and Grants**

The commission may apply for and accept gifts or grants from any public or private source for use in maintaining and improving probation services in Texas.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.046. Interagency Cooperation**

(a) The commission may cooperate and contract with the federal government, with governmental agencies in Texas and other states, with political subdivisions of Texas, and with private agencies to improve probation services.

(b) The executive directors of the Texas Juvenile Probation Commission and the Texas Youth Council shall meet at least quarterly to discuss mutual problems and make recommendations to the governor and legislature.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.047. Inspections, Audits**

(a) The commission may inspect and evaluate any juvenile board and conduct audits of financial records at any reasonable time to determine compliance with the commission's rules, regulations, and standards.

(b) Juvenile boards receiving funds under this chapter are also subject to audit by the Legislative Budget Board, the Governor's Budget and Planning Office, the State Auditor, and the State Comptroller of Public Accounts.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.048. Studies**

(a) The commission may, at the request of the governor or on its own motion, conduct or partici-

pate in the studies of corrections methods and systems, and treatment and therapy programs.

(b) The commission shall review and make a written report to the governor and the legislature on or before December 31, 1982, on the current practices in Texas regarding children who are charged with committing offenses that would be a felony if committed by an adult and the disposition of these incidents, charges, or cases.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.049. Annual Report**

The commission shall make a report to the governor and to the legislature each year covering its operations and the condition of probation services in Texas during the previous year and making whatever recommendations it considers desirable.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.050. Delegation of Authority**

The commission may delegate to the director or to any other employee any authority given it by this chapter except the authority to make rules.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.051. Deposit of Money**

All money received by the commission under Section 75.045 of this chapter shall be deposited in the state treasury to be used for the sole purpose of payments of state aid under this chapter and for the administration of this chapter.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

[Sections 75.052 to 75.060 reserved for expansion]

#### SUBCHAPTER D. STATE AID TO JUVENILE BOARDS

**§ 75.061. State Aid Defined**

"State aid" means funds allocated by the commission for financial assistance to juvenile boards to achieve the purposes of this chapter as stated by Section 75.001 and to conform to the standards and policies promulgated by the commission.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.062. Provision of Probation and Detention Services**

(a) The commission shall assist counties in providing their own probation and juvenile detention services by encouraging the establishment of juvenile boards. If two or more counties lack sufficient population to provide adequate juvenile probation and detention services, the commission may assist the counties in establishing multicounty boards or offices.

(b) If a county does not provide a juvenile probation department or officer before September 1, 1985, the commission may directly provide probation or detention services in the county.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.063. Determination of Amount**

The commission shall annually allocate funds for financial assistance to juvenile boards for the provision of juvenile services. The allocation of the funds shall be based on juvenile population and other factors determined to be appropriate by the commission. The legislature shall determine and appropriate the amount of state aid necessary to supplement local funds for maintenance and improvement of statewide juvenile services which comply with the standards promulgated by the commission. A portion of the funds appropriated to the commission for state aid may be set aside for programs designed to address special needs or projects of local juvenile boards.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.064. Maintenance of Local Financial Support**

A juvenile jurisdiction does not qualify and is not eligible for state aid unless it first is demonstrated to the satisfaction of the commission that the amount of local or county funds budgeted for juvenile services, including for the basis of this calculation the amount expended on juvenile detention and correctional facilities and excluding construction or renovation, is at least equal to or greater than the amount expended for those services in the 1980 county fiscal year. At the end of each fiscal period, the commission shall satisfy itself that actual expenditures of local or county funds for juvenile services as defined in this subsection were as reflected in the representations made to the commission at the beginning of the period and may require a rebate or may withhold future state aid funds to which the jurisdiction would otherwise be entitled to the extent necessary to satisfy this requirement.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.065. Special Rules for Multicounty Jurisdictions**

If necessary, the commission may make rules providing for the payment of compensation, insurance, retirement, fringe benefits, and all related matters to those juvenile probation officers whose jurisdictions are composed of more than one county; providing for the centralization of administrative responsibilities associated with the state aid program in one of the counties in a jurisdiction composed of more than one county; and providing for the application of Section 75.063 in a jurisdiction composed of more than one county. Those juvenile probation officers who serve a jurisdiction composed of one county are considered to be employees of that county.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.066. Reports**

A juvenile board receiving state aid shall submit reports as required by the commission.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.067. Payment of State Aid**

(a) When the commission determines that a juvenile board complies with its standards, the commission shall prepare and submit to the State Comptroller of Public Accounts a voucher for payment to the juvenile board of the amount of state aid to which it is entitled.

(b) The fiscal officer designated for the juvenile board shall deposit all state aid received under this chapter into a special fund to be used solely by the juvenile board for the provision of juvenile probation services.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.068. Refusal or Suspension of State Aid**

The commission shall refuse or suspend payment of state aid to any juvenile board that fails to comply with the commission's standards or maintain local financial support. The commission shall provide for notice and a hearing in cases in which it refuses or suspends state aid.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**§ 75.069. Applicability**

The provisions of this subchapter relating to state aid to not apply to juvenile boards until September 1, 1983.

[Added by Acts 1981, 67th Leg., p. 2419, ch. 617, § 1, eff. Sept. 1, 1981.]

**TITLE 4. SERVICES FOR THE DEAF**

**CHAPTER 81. TEXAS COMMISSION FOR THE DEAF**

Section	Definition.
81.001.	Definition.
81.002.	Texas Commission for the Deaf.
81.003.	Terms.
81.004.	Application of Sunset Act.
81.005.	Chairman; Meetings; Expenses.
81.006.	Duties and Powers.
81.0061.	Interpreters in Agency or Court Proceedings.
81.007.	Board for Evaluation of Interpreters.
81.008.	Executive Director.
81.009.	Employees.
81.010.	Technical Advisory Council for Planning and Operations.
81.011.	Telecommunication Devices for the Deaf in State Agencies or Institutions.
81.012.	Pilot Programs for Deaf-Blind Multihandicapped Individuals.
81.013.	Private Outdoor Training Programs for Deaf Students.

**§ 81.001. Definition**

In this chapter, "commission" means the Texas Commission for the Deaf.

[Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979.]

### § 81.002. Texas Commission for the Deaf

(a) The Texas Commission for the Deaf is composed of nine members appointed by the governor with the advice and consent of the senate.

(b) Three members of the commission must be deaf persons, two must be parents of deaf persons, two must be professionals serving the deaf, and two must be persons from the general public.

[Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979.]

Section 10 of Acts 1979, 66th Leg., p. 1651, ch. 690, enacting former Vernon's Ann.Civ.St. art. 4413(42b), provided:

"The governor shall appoint members of the commission immediately after this Act takes effect. The governor shall designate three of the first nine members appointed to serve terms expiring in 1981, three to serve terms expiring in 1983, and three to serve terms expiring in 1985."

Section 12 of said Act provided:

"Sec. 12. Chapter 640, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 4413(42), Vernon's Texas Civil Statutes), is repealed. The State Commission for the Deaf created by that Act is abolished and its records and property are transferred to the commission created by this Act."

### § 81.003. Terms

Members hold office for staggered terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year.

[Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979.]

### § 81.004. Application of Sunset Act

The Texas Commission for the Deaf is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless the commission is continued in existence as provided by that Act, the commission is abolished and this chapter expires effective September 1, 1985.

[Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979.]

### § 81.005. Chairman; Meetings; Expenses

(a) The commission shall elect a chairman from among its members. The chairman serves for a term of one year.

(b) The commission shall hold at least six meetings a year.

(c) Five members of the commission constitute a quorum for the transaction of business.

(d) Members of the commission are entitled to reimbursement for their actual and necessary expenses in attending meetings of the commission and in carrying out official duties.

[Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979.]

### § 81.006. Duties and Powers

(a) The commission shall:

(1) develop and implement a statewide program of advocacy and education to ensure continuity of services to the deaf;

(2) provide direct services to the deaf, including interpreter services, information and referral services, advocacy services, services to elderly deaf, training in basic life skills and job-seeking skills, and individual and family counseling;

(3) work to ensure more effective coordination and cooperation among public and nonprofit organizations providing social and educational services to deaf individuals;

(4) establish a registry of available interpreters for the deaf and a catalogue of resources available for the needs of the deaf, both of which it shall disseminate to interested people and update annually; and

(5) conduct, in consultation with institutions of higher education, interpreter training workshops and institutes designed to qualify interpreters for state certification, develop guidelines for instruction of interpreters for the deaf in institutions of higher education, and with the assistance of the Central Education Agency develop and implement standards for training interpreters for the deaf in institutions of higher education.

(b) The commission may:

(1) appoint one or more advisory committees to consult with and advise the commission and may reimburse the members of an advisory committee for the actual and necessary expenses incurred in performing duties requested by the commission;

(2) accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving services to deaf persons of this state; and

(3) adopt rules necessary to implement this chapter.

[Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 351, ch. 140, § 1, eff. May 14, 1981.]

### § 81.0061. Interpreters in Agency or Court Proceedings

(a) The commission shall compile a list of qualified interpreters who are available for assignment by a state agency, a court, or a political subdivision to interpret proceedings for deaf persons. The commission shall disseminate this list to the agencies, courts, political subdivisions, and the general public. The commission shall prescribe the qualifications for interpreters who are to appear on the list and in prescribing those qualifications shall consider interpreters who are certified by the Texas Society of Interpreters for the Deaf or the National Registry of Interpreters for the Deaf, or both.

(b) The commission by rule shall adopt a schedule of reasonable fees recommended for the payment of interpreters required by law to be provided in proceedings of state agencies, courts, and political subdivisions. In adopting the schedule, the commission shall consider the recommendations of the Texas

Society of Interpreters for the Deaf and the National Registry of Interpreters for the Deaf.  
 [Added by Acts 1981, 67th Leg., p. 351, ch. 140, § 2, eff. May 14, 1981.]

**§ 81.007. Board for Evaluation of Interpreters**

(a) The commission may establish a program in accordance with this section for the certification of interpreters who have reached varying levels of proficiency in manual communication skills.

(b) The commission shall appoint a board of five persons to administer the certification program.

(c) Subject to approval of the commission, the board shall prescribe qualifications for each of several levels of certification based on proficiency and shall evaluate and certify interpreters using these qualifications.

(d) The commission shall use the recommendations of the board in compiling a statewide registry of interpreters by skill level.

(e) The commission may charge a reasonable fee for the administration of an examination or other requirements for certification of an applicant.

[Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 352, ch. 140, § 3, eff. May 14, 1981.]

**§ 81.008. Executive Director**

(a) The commission shall appoint an executive director.

(b) In selecting an executive director, the commission shall give preference to a deaf or hard of hearing person.

(c) The executive director is responsible for carrying out policies established by the commission. The commission may not delegate responsibility for establishing policy of the agency to the executive director.

[Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979.]

**§ 81.009. Employees**

The commission may hire employees it considers necessary to carry out the purposes of this chapter.  
 [Added by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979.]

**§ 81.010. Technical Advisory Council for Planning and Operations**

(a) The Technical Advisory Council for Planning and Operations is established. The commissioner of education, the commissioner of human resources, the commissioner of mental health and mental retardation, the commissioner of the Texas Rehabilitation Commission, the superintendent of the Texas School for the Deaf, the executive director of the State Commission for the Blind, the chairman of the Texas Employment Commission, the executive director of

the Governor's Committee on Aging, and the commissioner of health, or a designee of each, shall serve as ex officio members of the council. In addition, the executive director of the Texas Commission for the Deaf shall appoint a member of the faculty of a college or university who specializes in the area of training for the deaf, and shall appoint two representatives of nonprofit organizations which provide services for the deaf to serve on the council.

(b) The members of the council appointed by the executive director of the Texas Commission for the Deaf shall serve for terms of two years. They shall receive no compensation but are entitled to be reimbursed for actual and necessary expenses incurred in performing their official duties.

(c) The executive director of the Texas Commission for the Deaf may appoint representatives of other public or private agencies to serve as advisors to the council and may authorize the reimbursement of their actual and necessary expenses incurred in performing their official duties.

(d) The council serves as an interagency planning council for the coordination of services to the deaf. The council shall assist the executive director of the Texas Commission for the Deaf and the commission in resolving the differences that arise among state-supported organizations responsible for direct extension of services to deaf individuals and in determining which agency is responsible for serving a multiply handicapped deaf child.

[Added by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, § 3, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 352, ch. 140, § 4, eff. May 14, 1981.]

**§ 81.011. Telecommunication Devices for the Deaf in State Agencies or Institutions**

(a) The commission shall establish and administer a program for the placement and use of telecommunication devices for the deaf in selected state agencies.

(b) The commission shall establish rules for the program, including rules requiring reports by state agencies selected for placement of a device.

(c) The commission shall consult with other state agencies, as well as state organizations of and for the deaf, and shall determine:

- (1) the state agencies in which to place devices; and
- (2) the number of devices to place with each agency.

(d) The commission, in consultation with the State Purchasing and General Services Commission, shall establish specifications for each device that must be met before the commission will consider its purchase, lease, rent, or acquisition. The devices shall be purchased, leased, rented, or otherwise acquired by the commission in accordance with the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

(e) The commission may place devices in selected state agencies according to established guidelines, and the commission shall bear the costs of placement in accordance with legislative appropriations. The commission may accept grants, donations, or gifts of equipment for this purpose and may reassign a device if it determines that reassignment is necessary to maximize its use.

(f) After placement, a purchased device shall remain the property of the commission.

(g) The commission shall develop and administer training programs for personnel of state agencies selected for placement of a device to teach the use and general maintenance of the device.

(h) Each state agency in which a device is placed shall:

(1) take all necessary actions to help ensure continued use of a device; and

(2) file reports as required by the commission.

[Amended by Acts 1981, 67th Leg., p. 2307, ch. 566, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 Act provided:

"(a) As soon as possible after the effective date of this Act, each telecommunication device for the deaf in state agencies then in possession of such a device may be transferred to the commission.

"(b) The cost of acquisition for each device shall be set by the State Purchasing and General Services Commission at the current fair market value."

#### § 81.012. Pilot Programs for Deaf-Blind Multihandicapped Individuals

*Text of section added effective until September 1, 1985*

(a) The commission shall establish not more than four pilot programs to serve deaf-blind multihandicapped individuals and to help them attain self-sufficiency and independent living. At least one of the pilot programs shall be a program of respite care.

(b) The commission shall establish regulations for implementing and administering the pilot programs.

(c) The commission may contract for services or goods with private or public entities for purposes of this section.

(d) From information collected from the pilot programs, the commission shall determine the need for related future services and the most efficient and effective method of delivering the future services.

(e) Before implementing the pilot programs for deaf-blind multihandicapped individuals, the commission shall conduct a statewide survey to determine:

(1) the number of deaf-blind multihandicapped children and adults, their location, and their living accommodations; and

(2) the type and extent of programs and services in the state available to deaf-blind multihandicapped children and adults.

(f) Unless the pilot programs are continued in existence by the 69th Legislature, the programs are abolished and this section expires effective September 1, 1985.

[Added by Acts 1981, 67th Leg., p. 2310, ch. 568, § 1, eff. June 15, 1981.]

#### § 81.013. Private Outdoor Training Programs for Deaf Students

(a) The commission may contract with private entities to provide for the attendance of deaf students at outdoor recreational programs operated for the purpose of providing skill training and recreational experiences for deaf children or for deaf children and their parents.

(b) In selecting students to attend programs under this section, the commission shall select students from each regional day school program for the deaf, students from the Texas School for the Deaf, and other deaf children that the commission thinks will benefit from the program.

[Added by Acts 1981, 67th Leg., p. 288, ch. 113, § 1, eff. May 13, 1981.]

### TITLE 5. SERVICES FOR THE BLIND AND VISUALLY HANDICAPPED

#### CHAPTER 91. STATE COMMISSION FOR THE BLIND

##### SUBCHAPTER A. GENERAL PROVISIONS

Section	
91.001.	Application of Sunset Act.
91.002.	Definitions.

##### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

91.011.	State Commission for the Blind.
91.012.	Executive Director; Other Personnel.
91.013.	Expenses; Accounts.

##### SUBCHAPTER C. GENERAL POWERS AND DUTIES OF THE COMMISSION

91.021.	Responsibility for Visually Handicapped Persons.
91.022.	Bureau of Information.
91.023.	Rehabilitation Services.
91.024.	Workshops and Salesrooms.
91.025.	Instruction of Blind Persons in Their Homes.
91.026.	Registry of Blind and Visually Handicapped Persons.
91.027.	Prevention of Blindness and Conservation of Eyesight.
91.028.	Services for Visually Handicapped Children.
91.029.	Vocational Guidance and Related Services.
91.030.	Gifts and Grants.
91.0301.	Loans for Visual Aids.
91.031.	Reports.

##### SUBCHAPTER D. VOCATIONAL REHABILITATION OF THE BLIND

91.051.	Definitions.
91.052.	Vocational Rehabilitation Program for the Blind.
91.053.	Cooperation With Federal Government.
91.054.	Director; Appointment and Duties.
91.055.	Eligibility for Vocational Rehabilitation Services.
91.056.	Receipt and Disbursement of Funds.
91.057.	Gifts.
91.058.	Hearings.
91.059.	Misuse of Information.
91.060.	Limitation on Political Activity.

##### SUBCHAPTER E. CENTRAL MEDIA DEPOSITORY

91.081.	Purpose.
91.082.	Establishment of Central Media Depository.
91.083.	Ancillary Services.
91.084.	Funding.

SUBCHAPTER A. GENERAL PROVISIONS

§ 91.001. Application of Sunset Act

The State Commission for the Blind is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished and this chapter expires effective September 1, 1985. [Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 91.002. Definitions

In this chapter:

(1) "Commission" means the State Commission for the Blind.

(2) "Blind" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(3) "Visual handicap" includes blindness, an eye condition for which there is a medical prognosis indicating that the condition is of a progressive nature and may deteriorate either to blindness or to a substantial loss of vision, and physical or psychological handicaps that accompany or complement a disorder or imperfection of the eye.

(4) "Visually handicapped child" means a child with a visual handicap or with a visual condition requiring cosmetic treatment, psychological assistance, counseling, or other assistance that the commission can render.

[Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 91.003 to 91.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 91.011. State Commission for the Blind

(a) The State Commission for the Blind is composed of nine members appointed by the governor with the consent of the senate. Two members must be reputable blind citizens of the state and the remaining members must be outstanding citizens of the state.

(b) A person is ineligible for appointment to the commission if the person is a paid employee of an agency carrying on work for the blind or if the person is engaged in or associated with or otherwise represents a business, discipline, profession, or trade conducted for the primary purpose of selling or furnishing goods or services of the type provided by the commission as a significant part of its assistance to eligible individuals.

(c) Members of the commission hold office for terms of six years with the terms of two members expiring on January 1 of odd-numbered years.

(d) Commission members serve without compensation but are entitled to reimbursement for necessary expenses incurred in the performance of their duties.

(e) The governor shall designate a member of the commission to serve as presiding officer, and the officer shall serve at the governor's pleasure.

(f) Five members of the commission constitute a quorum for the transaction of business.

[Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2437, ch. 842, art. 2, § 11, eff. Sept. 1, 1979.]

§ 91.012. Executive Director; Other Personnel

(a) The commission shall annually appoint an executive director and other necessary employees authorized by law.

(b) On undertaking specific activities supporting special and vocational education programs for the blind and visually handicapped, the commission may appoint an assistant executive director, a deputy director for cooperative programs with other agencies and departments of the state or its political subdivisions, a deputy director for technical and consultative services to private organizations and special resource facilities within the field, and a deputy director for the regular programs of the agency. These positions and the position of executive director are exempt from the state salary classification schedule, and, within the limits of available funds, the commission may fix the salaries for the positions at amounts not exceeding the average amounts paid for equivalent positions in any other five state agencies engaged in the direct extension of state-supported services to eligible individuals. The salaries and related costs of these positions may be paid out of the general funds of the agency, the special grants received by the agency, or other funds available to the agency under interagency agreements.

(c) Within the limits of appropriated funds the commission may employ other personnel necessary to carry out its duties.

[Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

§ 91.013. Expenses; Accounts

(a) Expenses of commission members and employees must be paid in the most efficient and practical manner authorized by law.

(b) All accounts must be paid in accordance with laws applicable to the commission or to state agencies generally.

[Acts 1979, 66th Leg., p. 2397, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 91.014 to 91.020 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND  
DUTIES OF THE COMMISSION

**§ 91.021. Responsibility for Visually Handicapped Persons**

(a) The commission has primary responsibility for providing all services to visually handicapped persons except welfare services and services for children provided by regularly established educational agencies and state authorities.

(b) The commission shall negotiate interagency agreements with other state agencies to provide services for individuals who have both a visual handicap and another handicapping condition so that those multiply handicapped individuals may be provided the most beneficial services with the greatest possible economy.

(c) The commission and other concerned state agencies may not refuse to enter an interagency agreement developed to advance the state's policies regarding the rehabilitation or education of the blind and visually handicapped. In negotiating the agreements the agencies shall seek to extend and improve the regular services provided by the agencies and to effectively use all specialty and fiscal resources that are available. The agencies shall give careful consideration to avoiding unnecessary duplication or overlap of their respective efforts.

(d) The commission shall enter into agreements with the federal government to implement federal legislation authorizing the provision of services to the visually handicapped. The commission shall adopt methods of administration required by the federal government for the proper and efficient implementation of the agreements, and shall comply with other federal requirements necessary to secure the full benefits of the federal legislation.

(e) The commission and other concerned state agencies may not refuse to enter interagency agreements designed to secure the full benefits of federal legislation authorizing services for the visually handicapped.

(f) The commission shall:

(1) provide advocacy and ombudsmanship services for visually handicapped citizens of the state;

(2) serve as an information center and referral resource for the visually handicapped;

(3) develop mechanisms and procedures that tend to assist visually handicapped individuals in bridging gaps between educational, institutional, rehabilitative, vocational, and related types of services operated by public and private nonprofit organizations throughout the state; and

(4) generally supervise, oversee, and assure the effective management and operation of a state program of purchasing goods and services manufactured by handicapped individuals according to the requirements of law and in nonprofit sheltered workshop facilities.

[Acts 1979, 66th Leg., p. 2397, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2437, ch. 842, art. 2, § 12, eff. Sept. 1, 1979.]

**§ 91.022. Bureau of Information**

The commission shall maintain a bureau of information to assist blind and visually handicapped persons in finding employment.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.023. Rehabilitation Services**

The commission may furnish materials, tools, books, and other necessary apparatus and assistance for use in rehabilitating blind and visually handicapped persons.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.024. Workshops and Salesrooms**

The commission may establish workshops and salesrooms for blind and visually handicapped persons. The commission may use receipts or earnings that accrue from the operation of industrial schools, salesrooms, or workshops authorized in this chapter. Detailed statements of the receipts or earnings and expenditures shall be made to the state auditor monthly.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.025. Instruction of Blind Persons in Their Homes**

The commission may employ teachers to instruct adult blind persons in their homes. However, the commission may not undertake the permanent support or maintenance of a blind person.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.026. Registry of Blind and Visually Handicapped Persons**

The commission shall cooperate with the Governor's Coordinating Office for the Visually Handicapped in maintaining a current and comprehensive registry of blind and visually handicapped persons in the state. The registry must include appropriate information regarding individuals whose medical history or medical prognosis indicates that there is a reasonable likelihood that the individuals may experience a substantial visual handicap in the future.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.027. Prevention of Blindness and Conservation of Eyesight**

The commission shall take measures it considers advisable to prevent blindness and to conserve eyesight.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.028. Services for Visually Handicapped Children**

The commission may provide services to visually handicapped children to supplement the services provided by other state agencies if the commission determines that the provision of the services is appropriate and that the services will assist the children in achieving financial self-sufficiency and a fuller and richer life. It is the intention of the legislature that all state agencies concerned with visually handicapped children cooperate fully to achieve this purpose.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.029. Vocational Guidance and Related Services**

The commission may provide vocational guidance and related services to adults with seriously defective sight through its vocational rehabilitation division if the commission determines that it may appropriately and adequately do so.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.030. Gifts and Grants**

The commission may accept gifts and grants from individuals, associations, and corporations and may expend funds received in accordance with the provisions of this chapter.

[Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.031. Reports**

The commission shall submit a report to the legislature before January 1 of each odd-numbered year detailing the commission's activities and accomplishments during the preceding biennium and accounting for all funds it received or spent. The report must include recommendations for further improvement of the conditions of the blind in the state.

[Acts 1979, 66th Leg., p. 2399, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.0301. Loans for Visual Aids**

(a) The commission may establish a program to make loans to finance the purchase of technological aids for visually handicapped persons. Interest on the loans may not exceed 10 percent a year.

(b) The director may promulgate rules to administer the loan program.

[Added by Acts 1981, 67th Leg., p. 317, ch. 126, § 1, eff. Sept. 1, 1981.]

[Sections 91.032 to 91.050 reserved for expansion]

**SUBCHAPTER D. VOCATIONAL REHABILITATION OF THE BLIND**

**§ 91.051. Definitions**

In this subchapter:

(1) "Program" means the vocational rehabilitation program authorized in this subchapter.

(2) "Director" means the executive director of the commission or his or her designee who may devote full time to the program or to vocational rehabilitation and other closely related activities to the extent permitted by applicable federal rules.

(3) "Employment handicap" means a physical or mental condition that obstructs or impairs, or if not corrected will probably obstruct or impair, an individual's performance in an occupation.

(4) "Disabled individual" means a person who has a substantial employment handicap.

(5) "Blind disabled individual" means a person who is blind or who has a visual condition for which medical prognosis indicates a progressive deterioration that may result in a substantial vocational handicap.

(6) "Vocational rehabilitation" or "vocational rehabilitation services" means services that are provided directly by the commission or through a public or private agency and that the director determines are necessary to compensate a blind disabled individual for an employment handicap so that the individual may engage in a remunerative occupation. The terms include, but are not limited to, medical and vocational diagnosis; vocational guidance, counseling, and placement; rehabilitation training; physical restoration; transportation; occupational licenses; customary occupational tools and equipment; maintenance; training books and materials; and other goods and services for which the commission receives financial support under federal law.

(7) "Rehabilitation training" means all necessary training provided to a blind disabled individual to compensate for an employment handicap. The term includes, but is not limited to, manual, preconditioning, prevocational, vocational, and supplementary training and training to achieve broader and more lucrative skills and capacities.

(8) "Physical restoration" means medical, surgical, or therapeutic treatment necessary to correct or substantially reduce a blind disabled individual's employment handicap within a reasonable period of time. The term includes, but is not limited to, medical, surgical, dental, and psychiatric treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances. The term excludes treatment to cure acute or transitory conditions.

(9) "Prosthetic appliance" means an artificial device necessary to support or replace a part of the body or to increase the acuity of a sensory organ.

(10) "Occupational license" means a license, permit, or other written authorization required by a governmental unit as a condition for engaging in an occupation.

(11) "Maintenance" means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation.

(12) "Rule" means a rule promulgated by the director and approved by the commission.

[Acts 1979, 66th Leg., p. 2399, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 91.052. Vocational Rehabilitation Program for the Blind

(a) The commission shall conduct a program to provide vocational rehabilitation services to eligible blind disabled individuals.

(b) To achieve the purposes of the program, the commission may:

(1) cooperate with other public and private agencies in studying the problems involved in providing vocational rehabilitation and in establishing, developing, and providing necessary or desirable facilities and services;

(2) enter reciprocal agreements with other states to provide vocational rehabilitation for the residents of the states concerned; and

(3) conduct research and compile statistics relating to the vocational rehabilitation of blind disabled individuals.

[Acts 1979, 66th Leg., p. 2400, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 91.053. Cooperation With Federal Government

(a) The commission shall cooperate with the federal government to accomplish the purposes of federal laws relating to vocational rehabilitation and closely related activities.

(b) The commission shall negotiate agreements or plans with the federal government and shall adopt efficient methods of administration and comply with other conditions required to secure the full benefits of the federal laws. If the commission determines that a provision of state law precludes conformity with a federal requirement and limits federal financial support, the commission may waive or modify the state law to the extent necessary to obtain the full benefits of the federal law.

(c) In adopting the methods of administration, the commission shall include a system of necessary staffing patterns, personnel administration, and employee compensation comparable to the systems used by state agencies that receive substantial federal financial support. However, the commission may not employ personnel or adopt a system of merit pay that is not authorized in the commission's state appropriation unless the commission certifies to the state auditor that the commission's action is necessary to accomplish its statutory purposes and that the action will not be financed with state funds.

The commission shall submit financial information required by the state auditor to support the certification.

[Acts 1979, 66th Leg., p. 2400, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 91.054. Director; Appointment and Duties

(a) The commission shall appoint a director to administer the program under its general supervision.

(b) The commission shall select the director on the basis of his or her education, training, experience, and demonstrated abilities in accordance with established personnel standards.

(c) The director shall promulgate rules governing personnel standards and, with the commission's approval, shall appoint personnel necessary to efficiently accomplish the purposes of the program.

(d) With the commission's approval, the director may delegate to an employee of the program any of the director's powers and duties relating to the program except the power to make rules and appoint personnel.

(e) The director shall make rules governing standards of eligibility for vocational rehabilitation services, the form and manner of filing applications for those services, the procedures for investigating applicants and determining their eligibility, the procedures protecting records and confidential information, procedures for fair hearings, and other matters necessary to achieve the purposes of this subchapter.

(f) With the commission's approval, the director shall establish appropriate administrative units within the program.

(g) The director shall prepare and submit to the commission annual reports of program activities and expenditures, and prior to each regular session of the legislature shall estimate the amount of funds necessary to administer the program and the amount available from all sources for that purpose.

(h) With the commission's approval, the director shall take other actions he or she considers necessary or appropriate to carry out the purposes of this subchapter.

[Acts 1979, 66th Leg., p. 2400, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 91.055. Eligibility for Vocational Rehabilitation Services

(a) The commission shall provide vocational rehabilitation services to a blind disabled individual if the individual:

(1) resides in this state and the director determines after investigation that the individual's vocational rehabilitation can be satisfactorily achieved; or

(2) is eligible for the services under an agreement with another state or the federal government.

(b) Except as otherwise provided by law or an agreement with the federal government, the commission may provide the following vocational rehabilitation services at public expense only to disabled blind individuals who are found to require financial assistance:

- (1) physical restoration;
- (2) occupational licenses;
- (3) customary occupational tools and equipment;
- (4) training books and materials;
- (5) maintenance; and
- (6) transportation other than that provided to determine the individual's eligibility and the nature and extent of the vocational rehabilitation services necessary.

(c) A disabled blind individual's right to maintenance is not transferable or assignable at law or in equity.

[Acts 1979, 66th Leg., p. 2401, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.056. Receipt and Disbursement of Funds**

(a) The state treasurer is custodian of federal funds received by the state to implement federal law relating to vocational rehabilitation.

(b) The director shall certify for disbursement funds available for the vocational rehabilitation program in accordance with regulations.

(c) The treasurer shall disburse state and federal vocational rehabilitation funds on certification by the director.

[Acts 1979, 66th Leg., p. 2401, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.057. Gifts**

(a) With the approval of the commission, the director may accept and use unconditional gifts made to the commission to carry out the purposes of this subchapter.

(b) The director may accept, use, hold, or invest conditional gifts if the commission determines that the conditions are consistent with the provisions of this subchapter.

[Acts 1979, 66th Leg., p. 2401, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.058. Hearings**

An applicant for or recipient of vocational rehabilitation services who is aggrieved by an action or inaction under the program is entitled to a hearing by the commission in accordance with law.

[Acts 1979, 66th Leg., p. 2402, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.059. Misuse of Information**

Except for purposes directly connected with the administration of the vocational rehabilitation program, no person may solicit, disclose, receive, use, or knowingly permit the use of records or other information concerning an applicant for or recipient of vocational rehabilitation services that is directly or indirectly acquired by an officer or employee of the state or its political subdivisions in the course of his or her official duties.

[Acts 1979, 66th Leg., p. 2402, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Acts 1979, 66th Leg., p. 2402, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 91.060. Limitation on Political Activity**

(a) No officer or employee engaged in the administration of the vocational rehabilitation program may:

- (1) use his or her official authority or influence or permit the use of the program for a partisan political purpose or for the purpose of interfering with or affecting the results of an election;
- (2) take an active part in the management of a political campaign or participate in a political activity; or
- (3) solicit or receive any service, assistance, subscription, assessment, or contribution for a political purpose.

(b) An officer or employee engaged in the administration of the program may vote as he pleases, may express his opinions as a citizen on any subject, and may not be required to contribute or render any service, assistance, subscription, assessment, or contribution for any political purpose.

(c) An officer or employee who violates Subsection (a) of this section is subject to discharge or suspension.

[Acts 1979, 66th Leg., p. 2402, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**SUBCHAPTER E. CENTRAL MEDIA DEPOSITORY**

**§ 91.081. Purpose**

(a) The purpose of this subchapter is to establish a comprehensive central state depository for braille, large print, slow speed records and machines, tape recordings and tape players, and related forms of media that will enable the Texas State Library, the Central Education Agency, the State Commission for the Blind, volunteer organizations involved in the production of braille or recorded materials for the blind, the Library of Congress, and related types of organizations to work together more closely and effectively.

(b) It is the intent of this subchapter to allow various agencies and organizations interested in or responsible for such services to work together cooperatively in one facility without requiring one central management.

[Acts 1979, 66th Leg., p. 2406, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, § 15, eff. Sept. 1, 1979.]

**§ 91.082. Establishment of Central Media Depository**

(a) The Texas State Library and Archives Commission shall generally supervise the establishment and operation of a central media depository in Austin to house materials and devices required by blind and visually handicapped individuals or by other

individuals who are unable to use ordinary printed materials.

(b) With the approval of the library and archives commission, the agencies and organizations maintaining and operating the central media depository shall develop and periodically evaluate and modify specific arrangements for administrative support, sharing of staff and equipment, and related matters involved in the operation of the program.

[Acts 1979, 66th Leg., p. 2406, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, § 15, eff. Sept. 1, 1979.]

#### § 91.083. Ancillary Services

The library and archives commission shall allow the central media depository to be used for the repair of special media and equipment required by individuals who are unable to use ordinary print and for research and demonstration, training, and the production of materials in special media by volunteer organizations.

[Acts 1979, 66th Leg., p. 2406, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, § 15, eff. Sept. 1, 1979.]

#### § 91.084. Funding

The cost of establishing and operating the central media depository shall be paid with:

(1) funds appropriated by the legislature for that purpose;

(2) gifts, grants, bequests, and donations received by cooperating agencies for the establishment and support of the depository;

(3) reasonable fees customarily charged for services by the agencies and organizations using or occupying the facility; and

(4) funds budgeted by the cooperating agencies and organizations for that purpose pursuant to interagency contracts and agreements.

[Acts 1979, 66th Leg., p. 2406, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, § 15, eff. Sept. 1, 1979.]

### CHAPTER 92. GOVERNOR'S COORDINATING OFFICE FOR THE VISUALLY HANDICAPPED

#### SUBCHAPTER A. GENERAL PROVISIONS [REPEALED]

Section  
92.001, 92.002. Repealed.

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS [REPEALED]

92.011 to 92.013. Repealed.

#### SUBCHAPTER C. POWERS AND DUTIES OF THE OFFICE [REPEALED]

92.021 to 92.023. Repealed.

#### SUBCHAPTER D. CENTRAL MEDIA DEPOSITORY [TRANSFERRED]

92.051 to 92.054. Transferred.

#### SUBCHAPTER E. REGISTER OF BLIND AND VISUALLY HANDICAPPED PERSONS [REPEALED]

92.081 to 92.085. Repealed.

#### SUBCHAPTER A. GENERAL PROVISIONS [REPEALED]

§§ 92.001, 92.002. Repealed by Acts 1979, 66th Leg., p. 2439, ch. 842, art. 2, § 16, eff. Sept. 1, 1979.

The repealed sections, relating to purpose and definitions, respectively, were derived from Acts 1979, 66th Leg., p. 2403, ch. 842, art. 1, § 1.

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS [REPEALED]

§§ 92.011 to 92.013. Repealed by Acts 1979, 66th Leg., p. 2439, ch. 842, art. 2, § 16, eff. Sept. 1, 1979.

The repealed sections, relating to the Governor's Coordinating Office for the Visually Handicapped, the Technical Advisory Council for Planning and Operations, and the Policy Board for Services to the Visually Handicapped, respectively, were derived from Acts 1979, 66th Leg., p. 2403, ch. 842, art. 1, § 1.

#### SUBCHAPTER C. POWERS AND DUTIES OF THE OFFICE [REPEALED]

§§ 92.021 to 92.023. Repealed by Acts 1979, 66th Leg., p. 2439, ch. 842, art. 2, § 16, eff. Sept. 1, 1979.

The repealed sections, relating to general functions of the office, limitation of service activities, and interagency contracts, were derived from Acts 1979, 66th Leg., p. 2405, ch. 842, art. 1, § 1.

#### SUBCHAPTER D. CENTRAL MEDIA DEPOSITORY [TRANSFERRED]

*This subchapter, consisting of §§ 92.051 to 92.054, was transferred to Subchapter E of Chapter 91, § 91.081 et seq., renumbered, and amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, § 15.*

#### SUBCHAPTER E. REGISTER OF BLIND AND VISUALLY HANDICAPPED PERSONS [REPEALED]

§§ 92.081 to 92.085. Repealed by Acts 1979, 66th Leg., p. 2439, ch. 842, art. 2, § 16, eff. Sept. 1, 1979.

Former § 92.081 related to maintenance of register. Former § 92.082 related to reports. Former § 92.083 related to registration. Former § 92.084 related to systems, standards, and procedures. Former § 92.085 related to data processing. The repealed sections were derived from Acts 1979, 66th Leg., p. 2407, ch. 842, art. 1, § 1.

### CHAPTER 93. COMMITTEE ON PURCHASES OF BLIND-MADE PRODUCTS AND SERVICES [REPEALED]

Section  
93.001 to 93.015. Repealed.

§§ 93.001 to 93.015. Repealed by Acts 1981, 67th Leg., p. 2284, ch. 556, § 3, eff. Sept. 1, 1981.

Section 2(b) to (e) of the 1981 repealing act provides:  
“(b) The members appointed to the Texas Committee on Purchases of Blind-Made Products and Services before the effective date of this Act serve for the duration of the terms for which they were appointed as members of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons.

"(c) Any reference in law to the Texas Committee on Purchases of Blind-Made Products and Services means the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons.

"(d) Any legal obligations incurred by the Texas Committee on Purchases of Blind-Made Products and Services before the effective date of this Act are transferred to the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons.

"(e) The records and other property in the custody of the Texas Committee on Purchases of Blind-Made Products and Services are transferred to the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons. The employees of the Texas Committee on Purchases of Blind-Made Products and Services are employees of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons."

The repealed sections related to the Texas Committee on Purchases of Blind-made Products and Services. Former §§ 93.001 and 93.005 to 93.009 were derived from Acts 1979, 66th Leg., p. 2408, ch. 842, art. 1, § 1. Former §§ 93.002 to 93.004 were derived from Acts 1979, 66th Leg., p. 2408, ch. 842, art. 1, § 1; Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, §§ 17 to 19. Former § 93.010 was derived from Acts 1979, 66th Leg., p. 2410, ch. 842, art. 1, § 1; Acts 1979, 66th Leg., p. 2483, ch. 842, art. 2, §§ 14, 20. Former §§ 93.011 to 93.015 were added by Acts 1979, 66th Leg., p. 2441, ch. 842, art. 2, § 21.

See, now, § 122.001 et seq.

**CHAPTER 94. VENDING FACILITIES OPERATED BY BLIND PERSONS**

Section

94.001. Definitions.

94.002. License or Permit Required.

94.003. Licensing Procedure.

94.004. Location of Vending Facilities.

94.005. Issuance of Licenses; Eligibility.

94.006. Expiration, Renewal, and Revocation of Licenses.

94.007. Operation of Vending Facilities Under the Rehabilitation Commission.

94.008. Closing Certain Facilities Prohibited.

94.009. Employment of Assistants.

94.010. Competing Vending Machines.

94.011. Vending Facility Equipment and Stock.

94.012. Duties and Privileges of Parties.

94.013. Training Programs.

94.014. Conformity With Federal Statutes.

94.015. Application of Chapter.

**§ 94.001. Definitions**

In this chapter:

(1) "Blind person" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(2) "Vending facility" means a facility in which food, drinks, drugs, novelties, souvenirs, tobacco products, notions, or related items are sold regularly. The term excludes facilities consisting solely of vending machines that do not compete directly or indirectly with a facility that is or could be operated by a vocationally handicapped person.

(3) "State property" means land and buildings owned, leased, or otherwise controlled by the state.

(4) "Agency" means the state agency in charge of state property.

(5) "Handicapped" means a physical or mental condition that the commission or rehabilitation commission determines to constitute a substantial vocational disadvantage.

(6) "Commission" means the State Commission for the Blind.

(7) "Rehabilitation commission" means the Texas Rehabilitation Commission.

[Acts 1979, 66th Leg., p. 2411, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.002. License or Permit Required**

No person may operate a vending facility or a facility with vending machines or other coin-operated devices on state property unless the person is licensed to do so by the commission or is authorized to do so by an agency granted a permit to arrange for vending facilities.

[Acts 1979, 66th Leg., p. 2411, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.003. Licensing Procedure**

(a) On its own initiative or at the request of an agency that controls state property, the commission shall survey the property, or blueprints and other available information concerning the property, to determine whether the installation of a vending facility is feasible and consonant with the commission's vocational rehabilitation objectives.

(b) If the installation of the facility is feasible, the commission shall either license a blind person to operate a facility to be installed by the commission or allow the rehabilitation commission to install a facility to be operated by a handicapped person who is not blind according to rules and procedures comparable to those adopted by the commission. The commission and the rehabilitation commission may enter into agreements relating to management services and related forms of necessary assistance.

[Acts 1979, 66th Leg., p. 2411, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.004. Location of Vending Facilities**

(a) With the concurrence of the agency in charge of state property, the commission shall designate the location of vending facilities that have been requested by the agency.

(b) The agency responsible for state property shall alter the property to make it suitable for the proper operation of the vending facilities. To this end, the agency in charge of constructing new state property shall consult with the commission during the planning stage on the construction.

[Acts 1979, 66th Leg., p. 2412, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.005. Issuance of Licenses; Eligibility**

(a) The commission may issue a license to operate its vending facilities on state property to blind citizens of the state who are capable of operating the facilities in a manner that is reasonably satisfactory to all parties concerned.

(b) Before issuing a license to a person, the commission shall determine whether the person has the physical, psychological, and personal traits and abilities required to operate a vending facility in a satisfactory manner.

(c) The commission shall maintain a roster of the names of each person who has been certified as suitable for licensing. If two or more equally qualified persons are listed on the roster and apply for a license to operate an available vending facility, the commission shall issue the license to the person who is most in need of employment.

(d) The granting of a license does not vest the licensee with property or other rights which may constitute the basis of a cause of action, at law or in equity, against the state or its officers or employees. [Acts 1979, 66th Leg., p. 2412, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 94.006. Expiration, Renewal, and Revocation of Licenses

(a) A license or general permit to operate a vending facility on state property is valid for a period of three years from the date it is issued.

(b) The commission shall review each license or permit prior to its expiration and shall issue a new or different license or permit as the circumstances warrant.

(c) The commission and the agency may consent mutually to revoke a general permit prior to its expiration if changed circumstances warrant that action.

(d) A blind person's wilful failure to comply with the commission's rules or the provisions of this chapter constitutes grounds for the automatic revocation of the person's license.

(e) The commission shall adopt substantive and procedural rules governing the revocation of licenses.

[Acts 1979, 66th Leg., p. 2412, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 94.007. Operation of Vending Facilities Under the Rehabilitation Commission

(a) If the commission determines that a blind person could not properly operate a vending facility at a particular location, the rehabilitation commission may survey the property to determine whether a handicapped person whose disability is not of a visual nature could operate the facility in a proper manner.

(b) The commission and the rehabilitation commission may develop procedures and methods of exchanging information necessary to implement cooperative activities.

(c) The installation and operation of a vending facility by the rehabilitation commission must conform to the provisions of this chapter applicable to vending facilities installed by the commission.

[Acts 1979, 66th Leg., p. 2412, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 94.008. Closing Certain Facilities Prohibited

Neither a vending facility operated by a blind or otherwise vocationally handicapped individual nor a

vending facility location surveyed by the commission may be closed as a result of the transfer of state property from one agency to another, the alteration of a state building, or the reorganization of a state agency unless the commission or the rehabilitation commission agrees to the closing.

[Acts 1979, 66th Leg., p. 2413, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 94.009. Employment of Assistants

(a) If an individual licensed to operate a vending facility on state property requires an assistant, a qualified visually handicapped person must be given preference for employment. If the commission determines that a visually handicapped person could not perform the labor for which an assistant is required, or if a visually handicapped person is not available, a handicapped person whose disability is not of a visual nature must be given preference for employment. If no handicapped person is available for the job, preference must be given to a person who is socially, culturally, economically, or educationally disadvantaged.

(b) An assistant employed by a blind person licensed by the commission must be approved by the commission, and the deliberate refusal of a blind licensee to comply with this section constitutes grounds for the revocation of his or her license. [Acts 1979, 66th Leg., p. 2413, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

#### § 94.010. Competing Vending Machines

(a) If the commission and an agency agree to the installation and operation of an additional vending facility or vending machine on property that already has a commission-sponsored vending facility, no additional permit or license is required. However, the installation of a competing vending facility consisting of vending machines or other coin-operated devices must be authorized by the commission. The commission's authorization must be made with a view toward providing the greatest economic benefits for blind persons consonant with supplying the additional services required at the building.

(b) State agencies shall cooperate and negotiate in good faith to accomplish the purposes of this chapter.

(c) Vocationally handicapped individuals who operate vending facilities on state property are entitled to receive all commissions from vending machines installed on the same property. If two or more vending facilities are operated by vocationally handicapped persons in a building in which vending machines are installed, the commission shall divide the commissions from the vending machines among the handicapped operators in a manner that will achieve equity and equality in the incomes of the handicapped operators. If the commission and the rehabilitation commission have decided not to locate a vending facility in a building, the agency to whom a general permit has been issued shall determine the

assignment of the commissions from vending machines installed in the building.

[Acts 1979, 66th Leg., p. 2413, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.011. Vending Facility Equipment and Stock**

(a) The commission may supply a blind vending facility operator with equipment and initial stock necessary for the operator to begin business.

(b) The commission shall collect and set aside from the proceeds of the operation of its vending facilities enough money:

(1) to insure a sufficient amount of initial stock for the facilities and for their proper maintenance;

(2) to pay the costs of supervision and other expenses incidental to the operation of the facilities; and

(3) to pay other program costs to the extent necessary to assure fair and equal treatment of the blind persons licensed to operate the facilities and to the extent allowed under federal programs that provide financial support to the commission.

(c) Except for purchasing and installing original equipment, the operation of commission-sponsored vending facilities must be as self-supporting and self-sustaining as possible. To achieve this end, the commission shall periodically review and, when necessary, revise its schedules for collecting and setting aside money from the proceeds of its vending facilities.

[Acts 1979, 66th Leg., p. 2414, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.012. Duties and Privileges of Parties**

(a) The commission may promulgate rules and initiate procedures necessary to implement this chapter.

(b) A blind person licensed to operate a vending facility on state property shall operate the facility in accordance with law and the commission's rules and policies.

(c) The agency in charge of state property shall cooperate with the commission and its blind licensees to accomplish the purposes of this chapter. The agency shall also furnish all necessary utility service, including connections and outlets required for the installation of the facility, janitorial and garbage disposal services where feasible, and other related assistance.

[Acts 1979, 66th Leg., p. 2414, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.013. Training Programs**

The commission may establish training or experimentation locations necessary to train blind persons who desire to be licensed to operate vending facilities and to develop techniques which will allow blind persons to operate the facilities or related types of small businesses more efficiently and productively.

[Acts 1979, 66th Leg., p. 2414, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.014. Conformity With Federal Statutes**

(a) This chapter shall be construed in a manner consistent with the requirements of federal programs that provide financial assistance to the commission.

(b) If a provision of this chapter conflicts with a federal program requirement, the commission may waive or modify the provision to the extent necessary to secure the full benefits of the federal program.

[Acts 1979, 66th Leg., p. 2414, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 94.015. Application of Chapter**

(a) This chapter does not apply to property over which the federal government maintains partial or complete control or to property maintained and operated by state-supported institutions of higher education. However, the commission may enter into agreements with state institutions of higher education concerning the use of blind labor in vending facilities at the institutions.

(b) This chapter does not apply to vending facilities operated by an institution under the control of the Texas Department of Mental Health and Mental Retardation, or its successor, if the vending facilities are operated without profit for the benefit of the patients at the institution.

(c) This chapter does not prohibit the commission from selecting blind persons to operate other suitable types of vending facilities or business enterprises, and the chapter does not prohibit the installation of automated vending facilities serviced by blind persons.

[Acts 1979, 66th Leg., p. 2414, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**TITLE 6. SERVICES FOR THE ELDERLY**

**CHAPTER 101. TEXAS DEPARTMENT ON AGING**

**SUBCHAPTER A. ADMINISTRATIVE PROVISIONS**

Section	
101.001.	Department and Board on Aging.
101.002.	Application of Sunset Act.
101.003.	Chairman of the Board.
101.004.	Executive Director of Aging; Other Personnel.
101.005.	Citizens Advisory Council.
101.006.	Divisions of the Department; Personnel.
101.007.	Merit System.
101.008.	Budget.

**SUBCHAPTER B. POWERS AND DUTIES OF BOARD**

101.021.	Rules.
101.022.	General Functions of Department.
101.023.	Community Senior Citizens Employment Programs.
101.024.	Voluntary Community Services Programs.
101.025.	Cooperation With Federal and State Agencies.
101.026.	Donations.
101.027.	Authority to Expend Funds.

Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, amended this chapter. Section 2 of said Act provides:

*The Governor's Committee on Aging is continued in existence and its name is changed to the Texas Department on Aging. Any reference in a law to the Governor's Committee on Aging means the Texas Department on Aging.*

#### SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

##### § 101.001. Department and Board on Aging

(a) The Texas Department on Aging is created.

(b) The Texas Board on Aging is created as the governing body of the Texas Department on Aging. The board is composed of nine members appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the board, a person must have demonstrated an interest in and knowledge of the problems of aging.

(c) Members of the board serve for staggered terms of six years with the terms of three members expiring every two years. A member may be reappointed to the board.

(d) Members serve without compensation, but are entitled to reimbursement for actual travel expenses incurred in the performance of their duties.

(e) The board shall hold meetings quarterly and may hold other meetings called by the chairman. [Acts 1979, 66th Leg., p. 2415, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

##### § 101.002. Application of Sunset Act

The department is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the department is abolished and this chapter expires effective September 1, 1985. [Acts 1979, 66th Leg., p. 2415, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

##### § 101.003. Chairman of the Board

(a) In addition to the nine members of the board, the governor shall appoint a chairman of the board, who shall direct the work of the board.

(b) The chairman serves during the tenure of the appointing governor.

(c) The chairman serves without compensation but is entitled to reimbursement for actual travel expenses incurred in performing the duties of the office.

[Acts 1979, 66th Leg., p. 2416, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

##### § 101.004. Executive Director of Aging; Other Personnel

(a) The board shall appoint an executive director of aging, who shall discharge all executive and administrative functions of the department. The executive director must be a person with executive ability and experience in the area of aging. The executive director serves at the pleasure of the board.

(b) Salaries and other office expenses are paid with funds appropriated to the department for those purposes.

(c) The department may accept services performed by other agencies to accomplish the purposes of this chapter.

[Acts 1979, 66th Leg., p. 2416, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

##### § 101.005. Citizens Advisory Council

(a) The Citizens Advisory Council is composed of one member appointed by the chairman of the board, with the consent of the board, from each designated area agency on aging. Council members serve without compensation, but are entitled to reimbursement for actual travel expenses incurred in the performance of their duties as directed by the board.

(b) The council shall work under the board's direction. The council shall meet at least quarterly and may hold other meetings called by the chairman of the board.

(c) Council members serve for staggered terms of three years with the terms of one-third of the membership expiring on January 31 of each year.

[Acts 1979, 66th Leg., p. 2416, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

Section 3 of the 1981 amendatory act provides:

"The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended."

##### § 101.006. Divisions of the Department; Personnel

(a) The executive director may establish divisions within the department that he considers necessary for effective administration and the discharge of the department's functions.

(b) The executive director may allocate and reallocate functions among the divisions.

(c) The executive director may employ personnel necessary for the administration of the department's duties.

[Added by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

##### § 101.007. Merit System

The department may establish a merit system for its employees. The merit system may be maintained in conjunction with other state agencies that are required by federal law to operate under a merit system.

[Added by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

§ 101.008. **Budget**

(a) The executive director shall prepare and submit to the board for approval a biennial budget and request for an appropriation by the legislature of funds necessary to carry out the duties of the department. The budget and request must include an estimate of all federal funds to be allocated to the state for the department's purposes.

(b) The board shall submit the budget and request to the Legislative Budget Board and the governor in the manner prescribed by law.

[Added by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

[Sections 101.009 to 101.020 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

§ 101.021. **Rules**

(a) The board shall adopt rules governing the functions of the department.

(b) The board by rule or order may delegate its rights, powers, and duties to the executive director. [Acts 1979, 66th Leg., p. 2416, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

§ 101.022. **General Functions of Department**

(a) The department shall develop and strengthen the services available for the aged in the state by coordinating services provided by governmental and private agencies and facilities.

(b) The department shall extend and expand services for the aged by coordinating the interest and efforts of local communities in studying the problems of the aged citizens of this state.

(c) The department shall encourage, promote, and aid in the establishment of area agencies on aging for the development of programs and services on a local level that improve the living conditions of the aged by enabling them to more fully enjoy and participate in family and community life.

(d) The department shall sponsor voluntary community rehabilitation and recreational facilities to improve the general welfare of the aged.

(e) The department, through the executive director of aging, shall cooperate with state and federal agencies and other organizations in conducting studies and surveys on the special problems of the aged in matters such as mental and physical health, housing, family relationships, employment, income, vocational rehabilitation, recreation, and education. The department shall make appropriate reports and recommendations to the governor and to state and federal agencies.

(f) The department shall conduct studies and make recommendations to the governor and the legislature of ways to enable aging persons to live

productive and independent lives. The studies shall include:

(1) the effects of premature, mandatory retirement on aging;

(2) the need for training programs for aging persons to promote their employment in government and private enterprise; and

(3) the need for additional services of the state or local government to promote independent living for the aged.

[Acts 1979, 66th Leg., p. 2416, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

§ 101.023. **Community Senior Citizens Employment Programs**

(a) In this section, "suitable employment" means employment which is commensurate with the individual's skills and ability and for which compensation is paid equal to the federal minimum wage rate.

(b) The department may establish and administer a community program for persons 55 years of age or older who lack suitable employment and have family incomes under federal poverty guidelines.

(c) The department may contract with a public agency or a private, nonprofit organization with experience in managing similar programs to employ persons under this program in providing recreation, beautification, conservation, or restoration services, or public service employment positions for state, county, city, or regional governments or school districts. The department may not contract with an organization that is not a subscriber under the state workers' compensation law or that does not pay the federal minimum wage rate or the prevailing wage rate for the particular job, whichever is greater.

(d) The state shall finance 80 percent of the cost of the program, and the governments receiving the services shall finance 20 percent of the cost.

[Acts 1979, 66th Leg., p. 2417, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

§ 101.024. **Voluntary Community Services Programs**

(a) The department shall disburse state funds appropriated for the purpose to local public agencies or private, nonprofit corporations that operate programs to recruit retired persons to perform voluntary community services or that operate Foster Grandparent Programs.

(b) A public agency or private, nonprofit corporation may not receive state money under this section if it is not able to qualify for federal matching money for the same purpose.

(c) The board by rules shall establish guidelines or formulas to determine the proportion of state money distributed to each public agency or private, nonprofit corporation. The board by rules may establish additional qualifications to receive the state money.

(d) State funds disbursed under this section may not be used to pay compensation to volunteer workers, except for participants in the Foster Grandparent Programs, or for purposes other than financing the operation or administration of the volunteer programs, but it may be used to defray expenses incurred by volunteers in the performance of volunteer work. The board by rules may further limit the purposes for which the state money may be spent. [Acts 1979, 66th Leg., p. 2417, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2430, ch. 842, art. 2, § 2, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

#### § 101.025. Cooperation With Federal and State Agencies

(a) The department is the state agency designated to handle federal programs relating to the aging that require action within the state and that are not the specific responsibility of another state agency under federal or state law.

(b) The department is not intended to supplant or to take over from the counties and municipalities of this state or from other state agencies or facilities any of the specific responsibilities that they hold. The department shall cooperate with federal and state agencies, counties, and municipalities and private agencies or facilities in the state in accomplishing the purposes of this chapter.

[Acts 1979, 66th Leg., p. 2417, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

#### § 101.026. Donations

The department may accept and solicit gifts or grants of money or property from public or private sources. Donations of money must be placed in a special fund in the state treasury and expended on warrants drawn by the comptroller on order of the department. Donations of real property and of personal property other than money may be used or sold as the board considers proper.

[Acts 1979, 66th Leg., p. 2417, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

#### § 101.027. Authority to Expend Funds

The department may accept, expend, and transfer federal and state funds appropriated for programs authorized by federal and state law. The department may accept, expend, and transfer funds received from any source, including a county, municipality, or public or private agency. The funds shall be deposited in the state treasury and may be used for the purposes of this chapter, subject to any conditions attached to the funds.

[Added by Acts 1981, 67th Leg., p. 2388, ch. 599, § 1, eff. Sept. 1, 1981.]

## TITLE 7. REHABILITATION OF HANDICAPPED AND DISABLED

### CHAPTER 111. TEXAS REHABILITATION COMMISSION

#### SUBCHAPTER A. GENERAL PROVISIONS

Section	Purpose.
111.001.	Purpose.
111.002.	Definitions.

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

111.011.	Texas Rehabilitation Commission.
111.012.	Application of Sunset Act.
111.013.	Composition of Board; Appointment; Terms.
111.014.	Meetings.
111.015.	Expenses.
111.016.	Advisory Committees.
111.017.	Commissioner.
111.018.	Administrative Regulations.
111.019.	Planning.
111.020.	Administrative Units; Personnel.
111.021.	Reports.
111.022.	Disbursement of Funds.
111.023.	Other Duties.
111.024.	Delegation to Employees.

#### SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

111.051.	Commission as Principal Authority.
111.052.	General Functions.
111.053.	Cooperation With the Federal Government.
111.054.	Obtaining Federal Funds.
111.055.	Finances.
111.056.	Gifts and Donations to the Commission.
111.057.	Unlawful Use of Lists of Names.
111.058.	Criminal History Record Information.

#### SUBCHAPTER D. EXTENDED REHABILITATION SERVICES

111.081.	Authority.
111.082.	Administration.
111.083.	Participant Contributions.
111.084.	Standards.
111.085.	Quarterly Payments.
111.086.	Funds; Rules.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### § 111.001. Purpose

It is the policy of the State of Texas to provide rehabilitation and related services to eligible handicapped individuals so that they may prepare for and engage in a gainful occupation or achieve maximum personal independence.

[Acts 1979, 66th Leg., p. 2419, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

##### § 111.002. Definitions

In this chapter:

(1) "Commission" means the Texas Rehabilitation Commission.

(2) "Commissioner" means the chief administrative officer of the commission.

(3) "Handicapped individual" means any individual, except one whose disability is of a visual nature, who has a disability which constitutes a

substantial handicap to employment, or to achieving maximum personal independence, but which is of a nature that rehabilitation services may reasonably be expected to enable the individual to engage in a gainful occupation, including a gainful occupation which is more consistent with his or her capacities and abilities or render the individual fit for self-care and independent living. The term includes an individual for whom rehabilitation services are necessary for the determination of rehabilitation potential. The term also includes individuals disadvantaged by reason of their youth or advanced age, low educational attainments, ethnic or cultural factors, prison or delinquency records, or other conditions that constitute a barrier to employment, and the term may include members of a handicapped individual's family when the provision of rehabilitation services to family members is necessary for the rehabilitation of a handicapped individual.

(4) "Disability" means a physical or mental condition that materially limits, contributes to limiting, or, if not corrected, will probably result in limiting an individual's activities or functioning. It includes behavioral disorders characterized by deviant social behavior or impaired ability to carry out normal relationships with family and community which may result from vocational, educational, cultural, social, environmental, or other factors. The term includes low educational attainment, ethnic or cultural factors, youth or advanced age, or other factors that constitute a barrier to employment or self-care and independent living.

(5) "Substantial handicap to employment" means a disability that impedes an individual's occupational performance by preventing the individual from obtaining, retaining, or preparing for a gainful occupation consistent with the individual's capacities and abilities.

(6) "Rehabilitation services" means any goods and services necessary to enable a handicapped individual to engage in a gainful occupation or independent living, or to determine the individual's rehabilitation potential, and to provide work adjustment training or adult social services. To enable a handicapped individual to engage in a gainful occupation or independent living, may require the commission to engage in or contract for such activities as outreach, diagnosis and appraisal, treatment, training, job placement or self-employment, guidance, and counseling. Services may include maintenance, transportation, and training allowances, not exceeding the estimated cost of subsistence during rehabilitation, for the handicapped individual as well as members of the individual's family when necessary for the rehabilitation of the handicapped individual.

(7) "Gainful occupation" includes employment in the competitive labor market; practice of a profession; self-employment; homemaking, farm, or family work (including work for which payment

is in kind rather than in cash); sheltered employment; and home industries or other gainful homebound work.

(8) "Establishment of a rehabilitation facility" means:

(A) the expansion, remodeling, or alteration of existing buildings necessary to adapt or increase the effectiveness of the buildings for rehabilitation facility purposes;

(B) the acquisition of initial equipment for those purposes; or

(C) the initial staffing of a rehabilitation facility.

(9) "Establishment of a workshop" means the expansion, remodeling, or alteration of existing buildings necessary to adapt the buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops.

(10) "Construct" includes construction of new buildings, acquisition of existing buildings, and expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of new, newly acquired, expanded, remodeled, altered, or renovated buildings.

(11) "Extended rehabilitation services" means supplying rehabilitation services to:

(A) a mentally or physically handicapped person beyond a period of 18 months from the initial date that eligibility to receive vocational rehabilitation services was determined; or

(B) mentally or physically handicapped persons who were not eligible for vocational rehabilitation services under laws and regulations in effect before April 2, 1969, and who can now benefit from the provisions of this chapter.

(12) "Extended sheltered workshop employment" means employment in a sheltered workshop of persons with mental or physical handicaps that render the persons incapable of competing in the open or customary labor market.

(13) "Extended community residence" means a group living arrangement providing the essentials of community living, such as room, board, clothing, evening and nighttime supervision, recreational activities, and transportation to and from work for persons living therein who are in extended sheltered workshop employment or who, while physically or mentally handicapped, are employed in the open or customary labor market.

(14) "Sheltered workshop" means an occupation-oriented facility operated by a nonprofit agency, public or private, which except for its staff, employs only mentally or physically handicapped persons.

[Acts 1979, 66th Leg., p. 2419, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 111.003 to 111.010 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

**§ 111.011. Texas Rehabilitation Commission**

The Texas Rehabilitation Commission is composed of the board of the Texas Rehabilitation Commission, a commissioner, and other officers and employees required to efficiently carry out the purposes of this chapter.

[Acts 1979, 66th Leg., p. 2420, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.012. Application of Sunset Act**

The Texas Rehabilitation Commission is subject to the Texas Sunset Act (Art. 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished and this chapter expires effective September 1, 1985.

[Acts 1979, 66th Leg., p. 2421, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.013. Composition of Board; Appointment; Terms**

(a) The board of the Texas Rehabilitation Commission is composed of six members appointed by the governor with the advice and consent of the senate. Members serve for staggered terms of six years with the terms of two members expiring every two years.

(b) Appointees must be outstanding citizens of the state who have demonstrated a constructive interest in rehabilitation services. No paid employee of an agency carrying on work for the commission is eligible for appointment, nor is a person who owns or is employed by an organization providing rehabilitation services or related services through the commission.

(c) The governor shall designate one board member as presiding officer.

[Acts 1979, 66th Leg., p. 2421, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.014. Meetings**

The board shall meet quarterly in regular session and on call by the presiding officer when necessary for the transaction of agency business.

[Acts 1979, 66th Leg., p. 2421, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.015. Expenses**

Board members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the discharge of their official duties.

[Acts 1979, 66th Leg., p. 2421, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.016. Advisory Committees**

(a) The board may appoint an advisory committee to make recommendations for consideration by the board concerning any matter that the advisory committee believes to be pertinent to the purposes of this chapter.

(b) The advisory committee is composed of nine members appointed by the board. Committee members serve for staggered terms of three years with the terms of three members expiring each year.

(c) The advisory committee shall meet at least once in each calendar quarter and may meet on call of the board.

(d) The members of the advisory committee serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in attending the official meetings of the advisory committee.

(e) To be eligible for appointment to the advisory committee a person must have demonstrated an active and constructive interest in the rehabilitation of handicapped people.

(f) The board may also create from time to time additional technical advisory committees necessary to achieve the purposes of this chapter. The members of the committees serve without compensation unless compensation is specifically provided for by appropriation.

[Acts 1979, 66th Leg., p. 2421, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.017. Commissioner**

This chapter is administered by the commissioner under operational policies established by the board. The commissioner is appointed by the board on the basis of education, training, experience, and demonstrated ability. The commissioner serves at the pleasure of the board and is secretary to the board, as well as chief administrative officer of the agency.

[Acts 1979, 66th Leg., p. 2421, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.018. Administrative Regulations**

In carrying out his or her duties under this chapter, the commissioner shall, with the approval of the board, make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations as necessary to carry out the purposes of this chapter.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.019. Planning**

The commissioner shall, with the approval of the board, make long-range and intermediate plans for the scope and development of the program and make decisions regarding the allocation of resources in carrying out the plans.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.020. Administrative Units; Personnel**

(a) The commissioner shall, with the approval of the board, establish appropriate subordinate administrative units.

(b) The commissioner shall, under personnel policies adopted by the board, appoint the personnel necessary for the efficient performance of the functions of the agency.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.021. Reports**

The commissioner shall prepare and submit to the board annual reports of activities and expenditures and, prior to each regular session of the legislature, estimates of funds required for carrying out the purposes of this chapter, and, with the approval of the board, shall submit the reports to the governor and the legislature.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.022. Disbursement of Funds**

The commissioner shall make certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of this chapter.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.023. Other Duties**

The commissioner shall take other action as necessary or appropriate to carry out the purposes of this chapter.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.024. Delegation to Employees**

The commissioner may, with the approval of the board, delegate to any officer or employee of the commission those powers and duties, except the making of regulations and the appointment of personnel, the commissioner finds necessary to carry out the purposes of this chapter.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

[Sections 111.025 to 111.050 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION**

**§ 111.051. Commission as Principal Authority**

The Texas Rehabilitation Commission is the principal authority in the state on rehabilitation of handicapped and disabled individuals, except for those matters relating to individuals whose handicaps or disabilities are of a visual nature. All other state agencies engaged in rehabilitation activities and related services to individuals whose handicaps or dis-

abilities are not of a visual nature shall coordinate those activities and services with the commission. [Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.052. General Functions**

(a) The agency shall, to the extent of resources available and priorities established by the board, provide rehabilitation services directly or through public or private resources to individuals determined by the commissioner to be eligible for the services.

(b) In carrying out the purposes of this chapter, the commission may:

(1) cooperate with other departments, agencies, political subdivisions, and institutions, both public and private, in providing the services authorized by this chapter to eligible individuals, in studying the problems involved, and in planning, establishing, developing, and providing necessary or desirable programs, facilities, and services, including those jointly administered with state agencies;

(2) enter into reciprocal agreements with other states;

(3) establish or construct rehabilitation facilities and workshops, make grants to public agencies, make contracts or other arrangements with public and other nonprofit agencies, organizations, or institutions for the establishment of workshops and rehabilitation facilities, and operate facilities for carrying out the purposes of this chapter;

(4) conduct research and compile statistics relating to the provision of services to or the need for services by disabled individuals;

(5) provide for the establishment, supervision, management, and control of small business enterprises to be operated by severely handicapped individuals where their operation will be improved through the management and supervision of the commission; and

(6) contract with schools, hospitals, private industrial firms, and other agencies and with doctors, nurses, technicians, and other persons for training, physical restoration, transportation, and other rehabilitation services.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.053. Cooperation With the Federal Government**

The commission shall make agreements, arrangements, or plans to cooperate with the federal government in carrying out the purposes of this chapter or of any federal statutes pertaining to rehabilitation, and to this end may adopt methods of administration that are found by the federal government to be necessary, and that are not contrary to existing state laws, for the proper and efficient operation of the agreements, arrangements, or plans for rehabilitation.

[Acts 1979, 66th Leg., p. 2422, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 111.054. Obtaining Federal Funds

The commission may comply with any requirements necessary to obtain federal funds in the maximum amount and most advantageous proportion possible.

[Acts 1979, 66th Leg., p. 2423, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 111.055. Finances

The state treasurer may receive money appropriated by congress and allotted to Texas for carrying out the purposes of this chapter or authorized agreements, arrangements, or plans, and may make disbursements on the certification of the commissioner. All public money available to the commission must be deposited, administered, and disbursed in the same manner and under the same conditions and requirements required by law for other public funds in the state treasury. The state auditor shall regularly audit all accounts established by the commission in local depositories to assure that nonpublic funds made available to the commission through gift or bequest, by local organizations desiring to participate in projects for the handicapped authorized in Article XVI, Section 6, Subsection (b), of the Texas Constitution, or by endowment or other means, are expended in a manner consistent with the purposes of this chapter. The commission shall comply with the reporting procedures prescribed by the state auditor for the commission's acceptance, holding, investment, and use of nonpublic funds.

[Acts 1979, 66th Leg., p. 2423, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 111.056. Gifts and Donations to the Commission

The commission may receive and use gifts and donations for carrying out the purposes of this chapter. No person may receive payment for solicitation of any funds.

[Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 111.057. Unlawful Use of Lists of Names

Except for purposes directly connected with the administration of the rehabilitation program and in accordance with regulations, it is unlawful for a person to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, names of, or any information directly or indirectly derived from records concerning persons applying for or receiving rehabilitation.

[Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

### § 111.058. Criminal History Record Information

The commission may obtain criminal history record information from the Board of Pardons and Paroles, Texas Department of Corrections, and the Texas Department of Public Safety if the records relate to an applicant for rehabilitation services or to

a client of the agency. The Board of Pardons and Paroles, Texas Department of Corrections, and the Texas Department of Public Safety upon request shall supply the commission criminal history record information applying to applicants for rehabilitation services or clients of the commission. The commission shall treat all criminal history record information as privileged and confidential and for commission use only.

[Added by Acts 1979, 66th Leg., p. 2435, ch. 842, art. 2, § 1, eff. Sept. 1, 1979.]

### Amendment by Acts 1979, 66th Leg., p. 1669, ch. 697, § 1

*Acts 1979, 66th Leg., p. 2435, ch. 842, art. 2, § 7, which added this section, purported to do so in order to incorporate the amendment to Education Code, § 30.42, by the addition of subdivision (7) thereto by Acts 1979, 66th Leg., p. 1669, ch. 697, § 1, said § 30.42 being repealed by Acts 1979, 66th Leg., p. 2429, ch. 842, art. 1, § 2(2). However, as so added, subdivision (7) read:*

*"[T]he agency is authorized:*

*\* \* \* \* \**

*"(7) to obtain information from the Board of Pardons and Paroles and the Texas Department of Corrections, if such records relate to an applicant for rehabilitation services or to a client of the agency, who has been or is about to be released by the Texas Department of Corrections; the Board of Pardons and Paroles and the Texas Department of Corrections shall upon request supply the commission with information applying to applicants for rehabilitation services or clients of the commission if the person has been or is about to be released by the Texas Department of Corrections; the commission shall treat all information as privileged and confidential and for commission use only."*

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

[Sections 111.059 to 111.080 reserved for expansion]

## SUBCHAPTER D. EXTENDED REHABILITATION SERVICES

### § 111.081. Authority

The commission may plan, institute, support, and maintain programs of extended rehabilitation, including extended employment in a sheltered workshop and extended community residence.

[Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.082. Administration**

The commission may contract with any nonprofit agency, public or private, for the provision of any extended rehabilitation services, including extended sheltered workshop employment or extended community residence for persons participating in vocational rehabilitation, and pay for the services purchased for the state.

[Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.083. Participant Contributions**

A handicapped person in vocational rehabilitation and living in an extended community residence facility operated by a nonprofit agency that has a contract under this subchapter shall contribute to the agency a portion of his or her personal earnings, if any. The commission by rule shall determine the portion of the person's earnings that must be contributed, after deductions for personal use. The earnings contributions made under this section must be credited to the state in arriving at the net sums due to the agency contracting with the state to furnish services.

[Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.084. Standards**

The commission shall establish standards of staffing, physical plant, and services required for the operation of facilities of nonprofit agencies furnishing services under this subchapter by contract with the state. A contract entered into by the state under this subchapter is subject to cancellation by the state for cause at any time by the issuance of written notice of cancellation by the state to the contracting agency at least 30 days in advance of the date of cancellation.

[Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.085. Quarterly Payments**

From funds available for the purpose, the commission shall pay a nonprofit agency on a quarterly basis an amount equal to not less than:

- (1) \$3 for each six-hour working day for each client in a sheltered workshop; and
- (2) \$85 per month for each client in an extended community residence.

[Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 111.086. Funds; Rules**

The commission may receive and expend funds from any source, public or private, for the purposes set forth in this subchapter, and shall establish rules for the conduct and control of the programs authorized by this subchapter. A nonprofit agency operating an extended community residence facility under this subchapter shall file annually its budget showing salaries paid and expenditures with the office of the state auditor.

[Acts 1979, 66th Leg., p. 2424, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**TITLE 8. RIGHTS AND RESPONSIBILITIES OF THE HANDICAPPED**

**CHAPTER 121. PARTICIPATION IN SOCIAL AND ECONOMIC ACTIVITIES**

Section	
121.001.	State Policy.
121.002.	Definitions.
121.003.	Discrimination Prohibited.
121.004.	Penalties for and Damages Resulting from Discrimination.
121.005.	Responsibilities of Handicapped Persons.
121.006.	Penalties for Improper Use of Dog Guides.
121.007.	Blind and Incapacitated Pedestrians.
121.008.	Dissemination of Information Relating to the Handicapped.
121.009.	Construction of Chapter.
121.010.	Testing Handicapped Adults.

**§ 121.001. State Policy**

The policy of the state is to encourage and enable physically handicapped persons to participate fully in the social and economic life of the state, to achieve maximum personal independence, to become gainfully employed, and to otherwise fully enjoy and use all public facilities available within the state.

[Acts 1979, 66th Leg., p. 2425, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 121.002. Definitions**

In this chapter:

(1) "White cane" means a cane or walking stick which is metallic or white in color or white tipped with some contrasting color, and which is carried by a blind person to assist the blind person in traveling from place to place.

(2) "Dog guide" or "hearing ear dog" means a dog that:

(A) is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person or is specially trained in sensory cues to aid the auditory awareness of a deaf person;

(B) is used by a blind person who has satisfactorily completed a specific course of training in the use of a dog as an aid to personal travel or is used by a deaf person who has satisfactorily completed a specific course of training in the use of a dog as a communication aid; and

(C) has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

(3) "Public facilities" includes streets, highways, sidewalks, walkways, all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation, hotels, motels, or other places of lodging, public buildings maintained by any unit or subdivision of government, buildings to which the general public is invited,

college dormitories and other educational facilities, restaurants or other places where food is offered for sale to the public, and all other places of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

(4) "Handicapped person" means a person who has a mental or physical handicap, including mental retardation, hardness of hearing, deafness, speech impairment, visual handicap, being crippled, or any other health impairment which requires special ambulatory devices or services.

(5) "Housing accommodations" means all or part of real property which is used or occupied or is intended, arranged, or designed to be used or occupied as the home, residence, or sleeping place of one or more human beings, except a single family residence whose occupants rent, lease, or furnish for compensation only one room.

[Acts 1979, 66th Leg., p. 2425, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, § 1, eff. Aug. 31, 1981.]

#### § 121.003. Discrimination Prohibited

(a) Subject only to limitations and conditions established by law and applicable alike to all persons, persons who are physically handicapped have the same right as the able-bodied to the full use and enjoyment of any public facility in the state.

(b) No common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person who is physically handicapped solely because of the person's handicap, nor may a handicapped person be required to pay an additional fare because of his or her use of a dog guide, wheelchair, crutches, or other device used to assist the handicapped person in travel.

(c) No person who is physically handicapped may be denied admittance to any public facility in the state because of the handicapped person's use of a white cane, dog guide, wheelchair, crutches, or other device of assistance in mobility, or because the person is handicapped.

(d) The discrimination prohibited by this section includes discrimination through an open and obvious refusal to allow a handicapped person to use or be admitted to any public facility, as well as discrimination based on a ruse or subterfuge calculated to prevent or discourage a handicapped person from using or being admitted to a public facility. Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by handicapped persons who, except for their handicaps or use of dog guides or other devices for assistance in travel, would fall within the designated class. Lists containing the names of persons who desire to use particular public facilities may not be

composed or manipulated so as to deny a handicapped person a fair and equal opportunity to use or be admitted to any public facility.

(e) This section does not limit the right of the owner or manager of a public facility to refuse to admit, to refuse to serve, or to evict from a public facility a person who is so unkempt as to be clearly offensive to others using the public facility, who is obviously intoxicated, or who conducts himself in a belligerent, boisterous, profane, or other offensive manner which unreasonably interferes with the right of other persons to use and enjoy the public facility.

(f) An employer who conducts business in this state may not discriminate in his or her employment practices against a handicapped person on the basis of the handicap if the person's ability to perform the task required by a job is not impaired by the handicap and the person is otherwise qualified for the job.

(g) It is the policy of the state that the blind, the visually handicapped and the otherwise physically disabled be employed by the state, by political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

(h) The blind, the visually handicapped, and the otherwise physically disabled shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(i) Nothing in this section shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for a blind person, visually handicapped person, or otherwise physically disabled person than for a person who is not physically disabled.

(j) A totally or partially blind person who has or obtains a dog guide or a deaf person who has or obtains a hearing ear dog is entitled to full and equal access to all housing accommodations provided for in this section, and may not be required to pay extra compensation for the dog but is liable for damages done to the premises by the dog.

[Acts 1979, 66th Leg., p. 2426, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, § 2, eff. Aug. 31, 1981.]

#### § 121.004. Penalties for and Damages Resulting from Discrimination

(a) A person, firm, association, corporation, or other organization, or the agent of a person, firm, association, corporation, or other organization who violates Section 121.003 of this chapter is guilty of a misdemeanor and on conviction shall be punished by a fine of not less than \$100 nor more than \$300.

(b) In addition to the penalty provided in Subsection (a) of this section, a person, firm, association, corporation, or other organization, or the agent of a person, firm, association, corporation, or other organization who violates the provisions of Section 121.003 of this chapter is deemed to have deprived a handicapped person of his or her civil liberties. The handicapped person deprived of his or her civil liberties may maintain a cause of action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$100 to the handicapped person.

[Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 121.005. Responsibilities of Handicapped Persons**

(a) A blind or deaf person who uses a dog guide or a hearing ear dog for assistance in travel is liable for any damages done to the premises or facilities by the dog.

(b) A blind or deaf person who uses a dog guide or hearing ear dog for assistance in travel or auditory awareness shall keep the dog properly harnessed or leashed, and a person who is injured by the dog because of a blind or deaf person's failure to properly harness or leash the dog is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

(c) A physically handicapped person who, after being duly warned of a danger unique to a handicapped person's use of a particular public facility, is injured in using the facility because of a danger of the type about which warning was given, is deemed to have assumed the risk of using the public facility.

[Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, § 3, eff. Aug. 31, 1981.]

**§ 121.006. Penalties for Improper Use of Dog Guides**

(a) A person who fits a dog with a harness or leash of the type commonly used by blind or deaf persons who use trained dogs for purposes of travel or auditory awareness, in order to represent that his or her dog is a specially trained dog guide when training of the type described in Section 121.002(2)(C) of this chapter has not in fact been provided, is guilty of a misdemeanor and on conviction shall be punished by a fine of not more than \$200.

(b) A person who habitually abuses or neglects to feed or otherwise neglects to properly care for his or her dog guide is not entitled to the benefits of this chapter available to those who use dog guides, and must surrender the dog guide on demand to the person or organization furnishing the dog or to other competent authorities.

[Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, § 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3311, ch. 865, § 4, eff. Aug. 31, 1981.]

**§ 121.007. Blind and Incapacitated Pedestrians**

(a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind or otherwise incapacitated.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by a guide dog or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) The failure of a totally or partially blind or otherwise incapacitated person to carry a white cane or be guided by a guide dog does not deprive the person of the rights and privileges conferred by law on pedestrians crossing streets or highways and does not constitute evidence of contributory negligence.

(d) A person who violates this section commits a Class C misdemeanor.

[Acts 1979, 66th Leg., p. 2428, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 121.008. Dissemination of Information Relating to the Handicapped**

(a) To ensure maximum public awareness of the policies set forth in this chapter, the governor may issue a proclamation each year taking suitable public notice of October 15 as White Cane Safety Day. The proclamation must contain appropriate comment about the significance of various devices used by handicapped persons to assist them in traveling, and must call to the attention of the public the provisions of this chapter and of other laws relating to the safety and well-being of this state's handicapped citizens.

(b) State agencies regularly mailing forms or information to significant numbers of public facilities operating within the state shall cooperate with state agencies responsible for the rehabilitation of the handicapped by sending information about this chapter to those to whom regular mailings are sent. The information, which must be sent only on the request of state agencies responsible for the rehabilitation of the handicapped and not more than once each year, may be included in regular mailings or sent separately. If sent separately, the cost of mailing is borne by the state rehabilitation agency or agencies requesting the mailing and, regardless of whether sent separately or as part of a regular mailing, the cost of preparing information about this chapter is borne by the state rehabilitation agency or agencies requesting distribution of this information.

[Acts 1979, 66th Leg., p. 2428, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 121.009. Construction of Chapter**

The provisions of this chapter must be construed in a manner compatible with other state laws relating to the handicapped.

[Acts 1979, 66th Leg., p. 2428, ch. 842, art. 1, § 1, eff. Sept. 1, 1979.]

**§ 121.010. Testing Handicapped Adults**

(a) A test that evaluates a handicapped adult for a job position in business, government, or industry, or a test to determine that person's educational level, may measure individual abilities and not specific disabilities.

(b) If an examiner knows that an adult examinee has a handicap, the examiner may use an alternate form of testing. The alternate form of testing may assess the aptitude of the examinee by using that person's primary learning mode.

(c) The examiner may use as an alternate form of testing any procedure or adaption that will help ensure the best performance possible by a handicapped adult, including oral or visual administration of the test, oral or manual response to the test, the use of readers, the use of tape recorders, the removal of time constraints, and multiple testing sessions.

(d) An examiner shall select and administer a test to an examinee who has a handicap that impairs sensory, manual, or speaking skills so that the test accurately reflects the factor the test is intended to measure and does not reflect the examinee's impaired sensory, manual, or speaking skills.

(e) An examiner may not use a test that has a disproportionate, adverse effect on a handicapped adult or class of handicapped adults unless:

(1) the test has been validated as a predictor of success in the program or activity for which the handicapped adult is applying; and

(2) alternate tests that have a less disproportionate, adverse effect do not exist or are not available.

[Added by Acts 1981, 67th Leg., p. 2482, ch. 645, § 1, eff. Aug. 31, 1981.]

**CHAPTER 122. COMMITTEE ON PURCHASES OF PRODUCTS AND SERVICES OF BLIND AND SEVERELY DISABLED PERSONS**

Section	Purpose.
122.001.	Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons.
122.002.	Application of Sunset Act.
122.003.	Fair Market Price; Purchasing Procedures.
122.004.	Procurement at Determined Price.
122.005.	Records.
122.006.	Cooperation With Department of Corrections.
122.007.	Correlation With Related Federal Programs.
122.008.	Interagency Cooperation.
122.009.	Rules.
122.010.	Product Specifications.
122.011.	Determinations of Fair Market Value.
122.012.	Exceptions.
122.013.	Procurement of Political Subdivisions.
122.014.	Political Subdivisions Excluded.

**§ 122.001. Purpose**

The purpose of this chapter is to further the state's policy of encouraging and assisting disabled persons to achieve maximum personal independence by engaging in useful and productive activities and,

in addition, to provide state agencies, departments, and institutions and political subdivisions of the state with a method for achieving conformity with requirements of nondiscrimination and affirmative action in employment matters related to disabled persons.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

**§ 122.002. Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons**

(a) The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons is composed of the following members who are appointed by the governor with the advice and consent of the senate:

(1) a private citizen conversant with the problems incidental to the employment of blind persons;

(2) a private citizen conversant with the problems incidental to the employment of persons severely disabled by conditions other than blindness;

(3) a representative of a sheltered workshop for blind persons organized under state law;

(4) a representative of a sheltered workshop organized under state law to serve persons disabled by conditions other than blindness;

(5) a representative of a volunteer organization operated primarily to serve persons disabled by conditions other than blindness;

(6) a representative of the department of a Texas institution of higher education offering an advanced degree in vocational rehabilitation counseling;

(7) a representative of the Texas Rehabilitation Commission;

(8) a representative of the State Purchasing and General Services Commission;

(9) a representative of the State Commission for the Blind;

(10) a representative of the Texas Department of Mental Health and Mental Retardation;

(11) a representative of private business who is knowledgeable in the activities and processes involved in the sale of goods or services to governmental entities; and

(12) a representative of a state agency or department purchasing goods or services under this section but not involved in the daily operation of the program authorized by this chapter.

(b) Members of the committee serve for terms of two years expiring on January 31 of odd-numbered years. Members may not receive compensation for their service on the committee, but they are entitled to reimbursement for actual and necessary expenses incurred in performing their duties as members. Members who are not representatives of state agencies shall be reimbursed by the committee. Mem-

bers who are representatives of state agencies shall be reimbursed by the agencies they represent.

(c) The governor shall select one of the committee members to serve as chairman.

(d) A member who is unable to attend a meeting of the committee may designate a person from his agency, department, or other organization to represent him at the meeting.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 Act provides:

"(a) The governor shall appoint to the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons a private citizen conversant with the problems incidental to the employment of persons severely disabled by conditions other than blindness.

"(b) The members appointed to the Texas Committee on Purchases of Blind-Made Products and Services before the effective date of this Act serve for the duration of the terms for which they were appointed as members of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons.

"(c) Any reference in law to the Texas Committee on Purchases of Blind-Made Products and Services means the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons.

"(d) Any legal obligations incurred by the Texas Committee on Purchases of Blind-Made Products and Services before the effective date of this Act are transferred to the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons.

"(e) The records and other property in the custody of the Texas Committee on Purchases of Blind-Made Products and Services are transferred to the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons. The employees of the Texas Committee on Purchases of Blind-Made Products and Services are employees of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons."

**§ 122.003. Application of Sunset Act**

The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the committee is abolished and this chapter expires effective September 1, 1983.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

**§ 122.004. Fair Market Price; Purchasing Procedures**

(a) The committee shall determine the fair market price of all products and services manufactured or provided by blind or other severely disabled persons and offered for sale to the various agencies and departments of the state and its political subdivisions by a nonprofit agency for blind or other severely disabled persons organized under state law and recognized by the State Commission for the Blind or the Texas Rehabilitation Commission as capable of contributing to the purposes of this chapter.

(b) The committee shall revise the prices periodically to reflect changing market conditions.

(c) The committee shall make rules regarding designation of a central nonprofit agency to facilitate the distribution of orders among agencies serving blind or other severely disabled persons and regarding other matters related to the state's use of the products and services of blind and severely disabled persons.

(d) Requisitions for products and services required by state agencies are processed by the State Pur-

chasing and General Services Commission according to rules established by the commission.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

**§ 122.005. Procurement at Determined Price**

A suitable product or service that meets applicable specifications established by the state or its political subdivisions and that is available within the time specified must be procured from a nonprofit agency for blind or other severely disabled persons at the price determined by the committee to be the fair market price.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

**§ 122.006. Records**

The records of the committee and of any nonprofit agency participating in this program shall, to the extent that the records pertain to state purchases of the products and services of blind or other severely disabled persons, be made available upon request to the inspection of representatives of the state auditor, the governor's budget office, or the Legislative Budget Board. The inspection of the records shall be conducted with due regard to the privacy rights of blind or other severely disabled persons.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

**§ 122.007. Cooperation With Department of Corrections**

The committee may cooperate with the Texas Department of Corrections to accomplish the purposes of this chapter and to contribute to the economy of state government. The committee and the department may enter into contractual agreements, cooperative working relationships, or other arrangements necessary for effective coordination and the realization of the objectives of both entities.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

**§ 122.008. Correlation With Related Federal Programs**

The committee may adopt procedures, practices, and standards used for federal programs similar to the state program established in this chapter.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

**§ 122.009. Interagency Cooperation**

State agencies responsible for the provision of rehabilitation and related services to blind or other severely disabled persons shall cooperate with the committee in the operation of this program. The State Commission for the Blind, the Texas Rehabilitation Commission, and other state human services agencies responsible for assisting disabled persons may, through written agreements or interagency contracts, provide space, storage, logistical support,

consultation, expert services, communications services, or financial assistance with respect to any function or responsibility of the committee. However, a state agency may not assume permanent fiscal responsibility for the expense of marketing the products and services of blind or other severely disabled persons under this program.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

#### § 122.010. Rules

The committee may adopt rules for the implementation, extension, administration, or improvement of the program authorized by this chapter. Rules adopted under this section do not take effect unless approved by the State Commission for the Blind and the Texas Rehabilitation Commission.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

#### § 122.011. Product Specifications

Except as otherwise provided by this section, a product manufactured for sale through the State Purchasing and General Services Commission to any office, department, institution, or agency of the state under this chapter shall be manufactured or produced according to specifications developed by the State Purchasing and General Services Commission. If the State Purchasing and General Services Commission has not adopted specifications for a particular product, the production shall be based on commercial or federal specifications in current use by industry for the manufacture of the product for sale to the state.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

#### § 122.012. Determinations of Fair Market Value

(a) In determining the fair market value of products or services offered for sale under this chapter, the committee shall give due consideration to the following type of factors:

(1) to the extent applicable, the amounts being paid for similar articles in similar quantities by federal agencies purchasing the products or services under the authorized federal program of like effect to the state program authorized by this chapter;

(2) the amounts which private business would pay for similar products or services in similar quantities if purchasing from a reputable corporation engaged in the business of selling similar products or services;

(3) to the extent applicable, the amount paid by the state in any recent purchases of similar products or services in similar quantities, making due allowance for general inflationary or deflationary trends;

(4) the actual cost of manufacturing the product or service at a sheltered workshop offering employment services on or off premises to blind or

other severely disabled persons, with adequate weight to be given to legal and moral imperatives to pay blind or other severely disabled workers equitable wages; and

(5) the usual, customary, and reasonable costs of manufacturing, marketing, and distribution.

(b) The fair market value of a product or service, determined after consideration of relevant factors of the foregoing type, may not be excessive or unreasonable.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

#### § 122.013. Exceptions

(a) Exceptions from the operation of the mandatory provisions of Section 122.011 of this code may be made in any case where:

(1) under the rules of the State Purchasing and General Services Commission, the product or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency; or

(2) the requisitions made cannot be reasonably complied with through provision of products or services produced by blind or other severely disabled persons.

(b) Each month, the State Purchasing and General Services Commission shall provide the committee with a list of all items purchased under the exception provided by Subsection (a) of this section. The committee shall adopt the form in which the list is to be provided and may require the list to include the date of requisition, the type of product or service requested, the reason for purchase under the exception, and any other information that the committee considers relevant to a determination of why the product or service was not purchased in accordance with Section 122.011 of this code.

(c) No office, department, institution, or agency may evade the intent of this section by slight variations from standards adopted by the State Purchasing and General Services Commission, when the products or services produced or provided by blind or other severely disabled persons, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

#### § 122.014. Procurement for Political Subdivisions

A product manufactured for sale to a political subdivision of this state or an office or department thereof shall be manufactured or produced according to specifications developed by the purchaser. A political subdivision of this state may purchase products or services for its use from private businesses through its authorized purchasing procedures, but may substitute equivalent products or services produced by blind or other severely disabled persons under the provisions of this chapter. Nothing in this chapter shall be construed to require a nonprofit

agency for blind or other severely disabled persons to engage in competitive bidding.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

**§ 122.015. Political Subdivisions Excluded**

There are excluded from the application of this chapter the political subdivisions of the state that

are not covered by Title V of the Federal Rehabilitation Act of 1973, as amended (29 U.S. Code Sections 790 through 794). Nothing in this chapter shall be construed as limiting blind or other severely disabled persons in their capacity to sell their products to any willing buyer.

[Added by Acts 1981, 67th Leg., p. 2280, ch. 556, § 1, eff. Sept. 1, 1981.]

# DISPOSITION TABLE

Showing where provisions of former articles of the Civil Statutes and former sections of the Education Code are covered in the Human Resources Code.

Civ.St. Article	Human Resources Code Section	Civ.St. Article	Human Resources Code Section
46b—2, § 1	47.001	695a, § 2	41.001
	47.002	§ 3	41.001
§ 2	47.001	§ 4	41.002
§ 3	47.002	§ 5	41.001
§ 4	47.003	§ 9	41.005
	47.004	695a—1, § 1	43.001
§ 5	47.004	§ 2	43.003
§ 6	47.005	§ 3(a) to (d)	43.004
664—5, § 1(a)	93.001	§ 3(e)	43.004
§ 1(c)	93.001		43.006
§ 2	93.002	§ 4	43.007
§ 2a	93.003		43.008
§ 3	93.004	§ 5	43.009
§ 3a	93.011	§ 7	43.010
§ 3b	93.012	§ 8	43.011
§ 4	93.005	§ 9	43.002
§ 4a	93.013	§ 10	43.005
§ 4b	93.014	§ 11	43.012
§ 5	93.006	695a—2, § 1	45.021
§ 6	93.007	§ 2	45.022
§ 7	93.008	§ 3	45.023
§ 8	93.009	§ 4	45.024
§ 9	93.009	§ 5	45.025
§ 10	93.010	§ 6	45.026
§ 11	93.015	695a—3, § 1(b)	42.001
678d—1, § 1	94.001	§ 2	42.002
§ 2	94.002	§ 3	42.021
§ 3	94.003	§ 4	42.041
§ 4	94.006	§ 5	42.042
§ 5	94.006	§ 6	42.043
§ 6(a) to (d)	94.005	§ 7	42.044
§ 6(e)	94.007	§ 8	42.047
§ 6(f)	94.005	§ 9	42.048
§ 7(a)	94.007	§ 10	42.045
§ 7(b)	94.009	§ 11(a) to (d)	42.046
§ 7(c)	94.009	§ 11(e) to (i)	42.049
§ 8	94.010	§ 11(j)	42.050
§ 9	94.004	§ 12	42.051
§ 10	94.011	§ 13	42.049
§ 11	94.012	§ 14	42.052
§ 11A(a)	94.014	§ 15	42.053
§ 11A(b)	94.013	§ 16	42.022
§ 12(a)	94.015	§ 17	42.023
§ 12(b)	94.008	§ 18	42.071
§ 12(d)	94.015	§ 19	42.072
§ 12(f)	94.015	§ 20	42.024

HUMAN RESOURCES CODE

Civ.St. Article	Human Resources Code Section	Civ.St. Article	Human Resources Code Section
695a-3, § 21	42.073	695c, § 24	31.033
§ 22	42.074	§ 25	31.034
§ 23	42.075	§ 26	31.035
§ 24	42.076	§ 27	22.005
695a-4, § 1	44.001	§ 28	31.042
§ 2	44.002	§ 29	31.037
§ 3	44.003		31.038
695a-5, § 1	45.001		31.040
§ 2	45.002		31.041
§ 3	45.003	§ 29-A	31.039
§ 4	45.004	§ 30	12.002
§ 5	45.005	§ 31	21.009
§ 6	45.006	§ 32(1)	22.004
§ 7	45.007	§ 32(2)	12.001
695c, § 1	11.001	§ 33(1)	12.003
§ 2(1)	21.001	§ 33(2)	21.012
	21.003	§ 34	12.001
§ 2(1)a	21.004		12.003
§ 2(2)	21.003	§ 35	11.002
§ 2(3)	21.003	§ 36	31.041
§ 2(4)	21.002	§ 37	21.013
§ 2-A	11.001	§ 38(2)	31.007
§ 3(1)	21.004	§ 38(3)	32.023
§ 3(2)	21.003	§ 39	11.003
§ 3(3)	21.004	§ 40	41.003
§ 4	21.006	§ 41	31.036
	21.007	695c-1	—
	22.001	695c-3	—
	22.002	695f	41.006
§ 5	21.005	695j, § 2	32.001
§ 6	22.002		32.021
§ 7	33.001		32.031
§ 7-A	33.002	§ 4	32.026
	to	§ 5	32.021
	33.010		32.029
§ 7-B	33.011		32.031
§ 8	41.004	§ 6	32.029
§ 9	11.004	§ 8	32.030
§ 10	21.010		32.031
§ 11	21.011	§ 10	32.031
§ 17	31.001	695j-1, § 2	32.001
	to		to
	31.003		32.003
§ 17-A	31.002	§ 3	32.021
	31.004		to
§ 18	31.003		32.024
§ 18-A	31.006		32.031
§ 18-B(a)	46.001		to
§ 18-B(b)	46.002		32.033
§ 18-B(c)	46.003	§ 4	32.024
§ 18-B(d)	46.003	§ 5	32.024
§ 18-B(e)	46.002		32.027
§ 18-B(f)	46.004	§ 5A	32.027
§ 18-B(g)	46.005	§ 6	32.028
§ 18-B(h)	46.006		32.029
§ 18-B(i)	46.007		32.031
§ 19	31.005	§ 7	32.036
§ 19-A	31.008	§ 8	32.025
§ 19-B	31.009	§ 9	32.035
§ 22	31.031	§ 9-A	32.034
§ 23	31.032		

## DISPOSITION TABLE

Civ.St. Article	Human Resources Code Section	Civ.St. Article	Human Resources Code Section
695j—1, § 10	12.003	3207c, § 8	91.055
§ 11	21.012	§ 9	91.055
§ 12	32.033	§ 10	91.058
	12.003	§ 11	91.059
	32.032	§ 12	91.060
§ 13	32.031	3207d	—
§ 14	21.008	4413(42)	81.001
§ 15	22.003		to
§ 15A	32.037		81.009
§ 16	32.022	4413(42b), § 1	81.001
§ 17	32.030	§ 2	81.002
	32.031	§ 3	81.003
§ 19	32.023	§ 4	81.004
§ 20	32.002	§ 5	81.005
695k, § 1(a) to (c)	101.001	§ 6	81.006
§ 1(d)	101.021	§ 7	81.007
§ 1(e)	101.001	§ 8	81.008
§ 1(f)	101.002	§ 9	81.009
§ 2	101.003	§ 10	81.002
§ 3	101.004		note
§ 4	101.005	§ 11	81.010
§ 5	101.022	§ 12	81.002
§ 5a	101.023		note
§ 6	101.025	4413(43), § 1	71.001
§ 6a	101.024	§ 1a	71.002
§ 7	101.026	§ 2	71.001
695q, § 1	41.021	§ 3	71.003
§ 2	41.022	§ 4	71.006
§ 3	41.023	§ 5	71.004
§ 4	41.024	§ 6	71.005
§ 5	41.025	§ 7	71.005
3207a, § 1	91.011	§ 8	71.007
§ 1a	91.001	§ 9	71.008
§ 2(a)	91.022	§ 10	71.009
§ 2(b)	91.023	4413(202)	—
§ 2(c)	91.024	4419e, § 1	121.001
§ 2(d)	91.025	§ 2	121.002
§ 2(e)	91.026	§ 3	121.003
§ 2(f)	91.027	§ 4	121.005
§ 2(g)	91.028	§ 5	121.006
§ 2(h)	91.029	§ 6	121.004
§ 2(i)	91.030	§ 7	121.008
§ 2(j)	91.002	§ 8	121.009
§ 2a	91.021(a)	5138	62.001
	to	5143d, § 1	61.002
	91.021(e)	§ 3	61.001
§ 2b	91.021(f)	§ 4(a)	61.011
§ 3	91.012		61.012
§ 4	91.031	§ 4(b)	61.012
3207b	91.011		61.015
	to	§ 4(c)	61.015
	91.013		61.017
3207c, § 1	91.051	§ 4(d)	61.013
§ 2	91.052	§ 4(e)	61.016
§ 3	91.054	§ 4(f)	61.032
	91.056	§ 4(g)	61.017
§ 4	91.052		61.044
§ 5	91.053	§ 4(h)	61.020
§ 6	91.056	§ 5(a)	61.013
§ 7	91.057	§ 5(b)	61.034

## HUMAN RESOURCES CODE

834

Civ.St. Article	Human Resources Code Section	Civ.St. Article	Human Resources Code Section
5143d, § 5(d)	61.019	5143f	62.002
§ 5(e)	61.014	5446b, § 1	91.081
§ 6	61.031	§ 2	91.082
	to	§ 3	91.082
	61.033	§ 4	91.083
	61.036	§ 5	91.084
	61.038	6701e	121.007
	61.039		
§ 7	61.091	<b>Education Code</b>	<b>Human Resources</b>
§ 9	61.035	<b>Section</b>	<b>Code Section</b>
§ 9a	61.061	30.01	111.001
§ 10	61.043	30.02	111.002
§ 10A	61.047	30.11	111.011
§ 11	61.042	30.111	111.012
§ 12	61.062	30.12	111.013
§ 13(a)	61.063	30.13	111.014
§ 13(b)	61.064	30.14	111.015
§ 15	61.065	30.15	111.016
§ 16(a)	61.071	30.16	111.017
§ 16(b)	61.072	30.17	111.018
§ 16(c)	61.073	30.18	111.019
§ 16(d)	61.074	30.19	111.020
§ 17	61.075	30.20	111.021
§ 18	61.076	30.21	111.022
§ 19	61.032	30.22	111.023
§ 20	61.018	30.23	111.024
	61.035	30.41	111.051
§ 21	61.034	30.42	111.052
§ 22	61.018		111.058
§ 23	61.045	30.43	111.053
§ 24	61.046	30.44	111.054
§ 25	61.037	30.45	111.055
§ 25A	61.083	30.46	111.056
§ 26	61.040	30.47	111.057
§ 27	61.081	30.48	—
§ 28	61.082	30.49	—
§ 29	61.093	30.71	111.002
§ 30	61.077	30.72	111.081
§ 31	61.084	30.73	111.082
§ 32	61.092	30.74	111.083
§ 33	61.066	30.75	111.084
§ 34	61.041	30.76	111.085
§ 36	61.044	30.77	111.086

# INDEX TO HUMAN RESOURCES CODE

References are to Sections

## ABUSE

Aged persons, protective services, 48.001 et seq.  
Defined, aged persons, 48.002.

## ACKNOWLEDGMENTS

Human resources, department of, 21.013.

## ACTIONS AND PROCEEDINGS

Blind persons, civil liberties, deprivation of, actions for damages, 121.004.  
Child-care administrators, appeals, license denial or revocation, 43.011.  
Child-care facilities and agencies, Appeals, license denial or revocation, 42.072.  
Injunctions, 42.074.  
Civil liberties, handicapped persons, deprivation of, actions for damages, 121.004.  
Deaf and mute persons, civil liberties, deprivation of, actions for damages, 121.004.  
Interstate placement of children, failure of sending agency to provide support or maintenance, 45.003.  
Medical assistance program, payments, exemption from legal process, 32.036.

## ADDRESSES

Social work practitioners, certification, 50.008.

## ADMINISTRATORS

Child-Care Administrators, generally, this index.

## ADOPTION OF CHILDREN

Hard-to-place children, 47.001 et seq.  
Adoption fees, waiver, 47.004.  
Adoption services program, 47.002.  
Assistance, financial assistance, 47.004.  
Definitions, 47.001.  
Dissemination of information, 47.003.  
Financial assistance, 47.004.  
Funds, use, 47.005.  
Subsidies, 47.004.  
Interstate Placement of Children, generally, this index.  
Placement agencies. Child-Care Facilities and Agencies, generally, this index.

## ADVERSE OR PECUNIARY INTEREST

Medical assistance program, board members, 32.0211.  
State commission for the blind, ineligibility for membership, 91.011.

## ADVISORY BOARDS, COMMITTEES AND COUNCILS

Aged persons, citizens advisory council, 101.005.  
Child-care administrators, advisory council, 43.002.  
Child-care facilities and agencies, state advisory committee, 42.022.  
Deaf and mute persons, Advisory committee, 81.006.  
Technical advisory council for planning and operations, 81.010.  
Defined,  
Juvenile probation, 75.002.  
Social work practitioners, 50.001.  
Handicapped persons, rehabilitation, advisory committee, 111.016.  
Juvenile services, 75.027.  
Nutritional assistance programs, advisory board, 33.004.  
Social work certification, 50.004.

## ADVISORY OPINIONS

Child-care facilities and agencies, 42.048.

## AFDC

Aid to Families With Dependent Children, generally, this index.

## AFFIDAVITS

Child-care facilities and agencies, immunization exemption, 42.043.

## AGE

State homes, admission, 61.061.

## AGED PERSONS

Abuse, protective services, 48.001 et seq.  
Advisory councils, citizens advisory council, 101.005.  
Attorneys, protective services, 48.001 et seq.  
Attorneys fees, protective services, 48.040.  
Boards and commissions, 101.001 et seq.  
Budget, aging department, 101.008.  
Citizens advisory council, 101.005.  
Community programs,  
Employment programs, 101.023.  
Rehabilitation and recreational facilities, sponsorship, 101.022.  
Voluntary service programs, 101.024.  
Compensation and salaries, aging department, 101.004.  
Confidential or privileged information, protective services, 48.083.  
Consent, protective services, 48.056, 48.059.  
Contracts, protective services, 48.021.  
Coordinating governmental and private services, 101.022.

## AGED PERSONS—Cont'd

Coordinator of aging, 101.004.  
Costs, protective services, 48.058.  
Council, citizens advisory council, 101.005.  
Day care, protective services, 48.001 et seq.  
Definitions, protective services, 48.002.  
Department on aging, 101.001 et seq.  
Deposits, aging department, 101.027.  
Disclosure, protective services, 48.083.  
Divisions, aging department, 101.006.  
Donations, authorization to accept, 101.026.  
Emergencies, protective services, 48.061.  
Employment, community employment programs, 101.023.  
Executive director, aging board, 101.004.  
Expenses and expenditures, community employment programs, 101.023.  
Exploitation, protective services, 48.001 et seq.  
Federal and state agencies, cooperation with, 101.025.  
Foster grandparent programs, 101.024.  
Funds, aging department, 101.027.  
Home care, protective services, 48.001 et seq.  
Investigations and investigators, abuse and exploitation, 48.001 et seq.  
Labor and employment, community employment programs, 101.023.  
Medical assistance programs, protective services, 48.001 et seq.  
Merit system, aging department, 101.007.  
Neglect, protective services, 48.001 et seq.  
Orders, protective services, emergencies, 48.061.  
Petitions, protective services, emergency orders, 48.061.  
Privileges and immunities, abuse reports, 48.039.  
Protective services, 48.001 et seq.  
Psychiatrists and psychiatry, protective services, 48.001 et seq.  
Records and recordation, protective services, 48.083.  
Rehabilitation and recreational facilities, voluntary community programs, sponsorship, 101.022.  
Religious objections, medical treatment, 48.084.  
Reports, abuse, exploitation, or neglect, 48.036 et seq., 48.057.  
Services and programs, coordinating governmental and private services, 101.022.  
State aid,  
Community employment programs, 101.023.

References are to Sections

**AGED PERSONS—Cont'd**

State aid—Cont'd  
 Voluntary community services programs, 101.024.  
 State and federal agencies, cooperation with, 101.025.  
 Studies, productive and independent lives, 101.022.  
 Sunset Act, aging department, 101.002.  
 Terms of office,  
     Aging board, 101.001.  
     Citizens advisory council, 101.005.  
 Training, 101.022.  
 Traveling expenses,  
     Aging board, 101.001.  
     Citizens advisory council, 101.005.  
 Voluntary community services programs, 101.024.

**AGENCY HOMES**

Defined, child-care facilities and agencies, 42.002.  
 Licenses and permits, 42.053.

**AGENTS AND AGENCIES**

Child-placing agencies. Child-Care Facilities and Agencies, generally, this index.  
 Defined, blind persons, vending facilities operated by, 94.001.  
 Interstate placement of children, private charitable agencies, 45.005.  
 Nutritional assistance programs, distributing agents, 33.003.  
 Placement agencies. Child-Care Facilities and Agencies, generally, this index.  
 Sending agency. Interstate Placement of Children, this index.  
 State Agencies, generally, this index.

**AGREEMENTS**

Contracts, generally, this index.

**AID**

State Aid, generally, this index.

**AID TO FAMILIES WITH DEPENDENT CHILDREN**

Generally, 31.001 et seq.  
 Administration, 31.031 et seq.  
 Amount, 31.003.  
 Appeals, decision of local administrative units, 31.034.  
 Application, 31.031.  
 Assignment, 31.040.  
 Cancellation, warrants not cashed, 31.038.  
 Change in recipients economic condition, notice, 31.033.  
 Child Support Collection, generally, this index.  
 Collection. Child Support Collection, generally, this index.  
 Counseling and guidance services, 31.008.  
 Death of recipient, 31.037.  
 Definitions, 31.002.  
 Dependent child, defined, 31.002.  
 Determination, eligibility of recipient, 31.033.  
 Duplicate warrants, 31.039.  
 Eligibility,  
     Appeals, decisions of local administrative units, 31.034.  
     Investigation and determination, 31.032.  
     Leaving state, 31.036.  
     Periodic reconsideration, continued eligibility, 31.033.

**AID TO FAMILIES WITH DEPENDENT CHILDREN—Cont'd**

Employment Incentive Act, registration, 31.009.  
 Federal matching funds, state programs, development of, 31.010.  
 Foster care, 31.004.  
 Funds, federal matching funds, state programs, development of, 31.010.  
 Guidance and counseling services, 31.008.  
 Hearings, appeals from local administrative units, 31.034.  
 Information, request for, prior to hearing, 31.034.  
 Institutionalized children, continued assistance, 31.007.  
 Investigations, determination of eligibility, 31.032.  
     Periodic reconsideration, continued eligibility, 31.033.  
 Labor and employment, employment incentives, registration, 31.009.  
 Lost warrants, issuance of duplicate warrants, 31.039.  
 Notice,  
     Change or withdrawal of assistance, 31.033.  
     Recipient, change in economic condition, 31.033.  
 Payment, 31.035.  
     Cancellation of uncashed warrants, 31.038.  
 Programs, development of individual programs, 31.006.  
 Proration, 31.042.  
 Recipients,  
     Change in economic condition, notice, 31.033.  
     Death of recipient, 31.037.  
 Reinvestigation and redetermination, eligibility, 31.033.  
 Relatives, dependent child residing with, 31.005.  
 Services, development of individual programs, 31.006.  
 Support. Child Support Collection, generally, this index.  
 Transfer, 31.040.  
 Vested rights, 31.041.  
 Warrants,  
     Cancellation of uncashed warrants, 31.038.  
     Duplicate warrants, issuance of, 31.039.  
 Withdrawal, ineligibility of recipient, 31.033.

**APPEAL AND REVIEW**

Aid to families with dependent children, decisions of local administrative units, 31.034.  
 Child-care administrators, denial or revocation of license, 43.011.  
 Child-care facilities and agencies,  
     Denial or revocation of licenses, 42.072.  
     Rules and standards, periodic review, 42.042.  
 Medical assistance program, 32.035.  
 Social work practitioners, 50.006.  
     Disciplinary proceedings, 50.022.

**ASSIGNMENT**

Child support collection, recipients right to support, 46.003.  
 Medical assistance program, payments, 32.036.

**ASSISTANCE**

Defined, human resources, department of, 11.001.

**ATTACHMENT**

Medical assistance payments, 32.036.

**ATTORNEY GENERAL**

Child support collection, authority to represent state, 46.007.  
 Child-care facilities and agencies, injunctions, 42.073.

**ATTORNEYS**

Aged persons, protective services, 48.001 et seq.  
 Child support collection, authority to represent department of human resources, 46.007.  
 Crimes and offenses, unlicensed attorneys, representation of clients before department of human resources, 12.001.  
 Human resources, department of, legal services, provision of, 22.004.  
 Unlicensed attorneys, representation of clients before department of human resources, 12.001.

**ATTORNEYS FEES**

Aged persons, protective services, 48.040.

**AUDITS AND AUDITORS**

Child-care facilities and agencies, 42.045.  
 Juvenile boards, 75.047.  
 Nutritional assistance programs, distributing agents records, 33.003.

**BIDS AND BIDDING**

Family violence shelters, contracts, 51.004.

**BIG BROTHERS AND BIG SISTERS OF AMERICA**

Delinquent children, contracts with, 61.047.

**BLIND PERSONS**

Actions and proceedings, civil liberties, deprivation of, actions for damages, 121.004.  
 Admittance, public facilities, 121.003.  
 Ancillary services, central media depository, 91.083.  
 Boards and commissions,  
     State commission for the blind, generally, post.  
 Braille, central media depository, 91.081 et seq.  
 Bureau of information, 91.022.  
 Canes. White canes, generally, post.  
 Central media depository, 91.081 et seq.  
 Children and minors, services, 91.028.  
 Civil liberties, deprivation of, actions for damages, 121.004.  
 Committees, purchases of products and services of blind and severely disabled persons, 122.001 et seq.  
 Common carriers, discrimination, 121.003.  
 Communicative media, central depository, 91.081 et seq.  
 Compensation and salaries,  
     State commission for the blind, 91.011.  
     Vending facilities, 94.010.  
 Confidential or privileged information, vocational rehabilitation program, 91.059.

References are to Sections

**BLIND PERSONS—Cont'd**

Contracts, self-sufficiency and independent living programs, 81.012.  
 Crimes and offenses,  
   Discrimination, 121.004.  
   Dog guides, improper use, 121.006.  
 Damages,  
   Civil liberties, deprivation of, 121.004.  
   Dog guides, liability, 121.005.  
 Defined, state commission for the blind, 91.002.  
 Discrimination, 121.003.  
   Crimes and offenses, 121.004.  
   Fines and penalties, 121.004.  
 Dog guides,  
   Crimes and offenses, improper use, 121.006.  
   Defined, 121.002.  
   Discrimination, 121.003.  
   Fines and penalties, improper use, 121.006.  
   Harness requirement, 121.005.  
   Liability for damages, 121.005.  
 Education,  
   Central media depository, 91.081 et seq.  
   In-home instruction, 91.025.  
 Eligibility,  
   Vending facility licenses, 94.005.  
   Vocational rehabilitation, 91.055.  
 Employment. Labor and employment, generally, post.  
 Exemptions, products and services, purchases, 122.013.  
 Fines and penalties,  
   Discrimination, 121.004.  
   Dog guides, improper use, 121.006.  
 Grants, authorization to accept, 91.030.  
 Hearings, vocational rehabilitation services, 91.058.  
 Home instruction, 91.025.  
 Housing accommodations, discrimination, 121.003.  
 Independent living programs, 81.012.  
 Industrial schools, operation of, 91.024.  
 Information,  
   Bureau of information, 91.022.  
   Central media depository, 91.081 et seq.  
 Inspection and inspectors, purchases of products and services of blind and severely disabled persons committee, 122.006.  
 Instruction, in-home instruction, 91.025.  
 Interagency agreements, 91.021, 91.023.  
 Labor and employment,  
   Bureau of information, 91.022.  
   Discrimination, 121.003.  
   Vending facilities, generally, post.  
 Licenses and permits. Vending facilities, post.  
 Loans, visual aids, 91.0301.  
 Manufacturers and manufacturing, products, 122.001 et seq.  
 Media depository, 91.081 et seq.  
 Pedestrians, traffic rules and regulations, 121.007.  
 Plans and specifications, products, 122.011.  
 Political subdivisions, products and services, purchases, 122.014, 122.015.  
 Prevention of blindness and conservation of eyesight, 91.027.  
 Price, products and services, 122.005.  
   Purchasing, 122.004.  
 Proclamation, white cane safety day, 121.008.  
 Products, purchases, 122.001 et seq.

**BLIND PERSONS—Cont'd**

Public facilities,  
   Use and enjoyment, discrimination, 121.003.  
   Warnings, unique danger, assumption of risk, 121.005.  
 Purchases, products and services, 122.001 et seq.  
 Recorded materials, central media depository, 91.081 et seq.  
 Records and recordation, products and services, purchases, 122.006.  
 Rehabilitation, 91.023.  
   Vending facilities, generally, post.  
   Vocational rehabilitation, generally, post.  
 Respite care, 81.012.  
 Salaries. Compensation and salaries, generally, ante.  
 Sales, products and services, 122.001 et seq.  
 Salesrooms and workshops, 91.024.  
 Self-sufficiency programs, 81.012.  
 Services, purchases, 122.001 et seq.  
 State commission for the blind, 91.001 et seq.  
   Administration, 91.011.  
   Adverse or pecuniary interest, ineligibility for membership, 91.011.  
   Appointment, 91.011.  
   Definitions, 91.002.  
   Director, executive director, 91.012.  
   Duration, Sunset Act, application of, 91.001.  
   Executive director, 91.012.  
   Expenses and expenditures, reimbursement, 91.011, 91.013.  
   Membership, 91.011.  
   Officers and employees, 91.012.  
   Powers and duties, 11.004, 91.021 et seq.  
   Vocational rehabilitation programs, 91.052.  
   Presiding officer, election of, 91.011.  
   Qualifications, membership, 91.011.  
   Quorum, 91.011.  
   Reports, 91.031.  
   Sunset Act, application of, 91.001.  
   Terms of office, 91.011.  
 State property, defined, vending facilities, 94.001.  
 Sunset Act, purchases of products and services of blind and severely disabled persons committee, 122.003.  
 Surveys and surveyors, self-sufficiency and independent living programs, 81.012.  
 Technological aid, loans, 91.0301.  
 Traffic rules and regulations, pedestrians, 121.007.  
 Training programs, vending facility operation, 94.013.  
 Transportation, public conveyances, discrimination, 121.003.  
 Vending facilities, 94.001 et seq.  
   Application of law, 94.015.  
   Assistants, employment of, 94.009.  
   Closing, 94.008.  
   Compensation, 94.010.  
   Competing vending facilities, 94.010.  
   Conformity of state provisions with federal statutes, 94.014.  
   Definitions, 94.001.  
   Duties and privileges of parties, 94.012.  
   Eligibility, licenses, 94.005.  
   Equipment and stock, payment, 94.011.  
   Licenses and permits, 94.002 et seq.

**BLIND PERSONS—Cont'd**

Vending facilities—Cont'd  
 Licenses and permits—Cont'd  
   Competing vending facilities, 94.010.  
   Eligibility, 94.005.  
   Expiration, 94.006.  
   Issuance, 94.005.  
   Procedure, 94.003.  
   Renewal, 94.006.  
   Required, 94.002.  
   Revocation, 94.006.  
   Location, 94.004.  
   Proceeds, 94.010, 94.011.  
   Rehabilitation commission,  
     Defined, 94.001.  
     Operation under, 94.007.  
   State property, defined, 94.001.  
   Stock and equipment, payment, 94.011.  
   Training programs, 94.013.  
 Vocational rehabilitation, 91.051 et seq.  
   Confidential or privileged information, 91.059.  
   Cooperation with federal government, 91.053.  
   Counseling and guidance, 91.029.  
   Definitions, 91.051.  
   Director, 91.054.  
   Eligibility, 91.055.  
   Federal government, cooperation with, 91.053.  
   Financial assistance, 91.055.  
   Funds, receipt and disbursement, 91.056.  
   Gifts, authorization to accept, 91.057.  
   Hearings, 91.058.  
   Officers and employees of program, political activity, 91.060.  
 Warning, unique danger in use of public facility, assumption of risk, 121.005.  
 White canes,  
   Defined, 121.002.  
   Proclamation, white cane safety day, 121.008.  
   Use, 121.007.  
 Workshops and salesrooms, 91.024.

**BOARDS AND COMMISSIONS**

Advisory Boards, Committees and Councils, generally, this index.  
 Aged persons, 101.001 et seq.  
 Child welfare and protective services, county child welfare boards, 41.002.  
 Child-care facilities and agencies, advisory review boards, appeals, license denial or revocation, 42.072.  
 Counties, this index.  
 Deaf and Mute Persons, this index.  
 Defined,  
   Blind persons, vending facilities operated by, 94.001.  
   Handicapped persons, rehabilitation, 111.002.  
   Human resources, department of, 11.001.  
   Juvenile probation, 75.002.  
   Social work practitioners, 50.001.  
 Handicapped Persons, this index.  
 Human resources, board of, 21.003.  
 Juvenile boards, standards, 75.041 et seq.  
 Juvenile probation, 75.001 et seq.  
 Probation, juveniles, 75.001 et seq.  
 State commission for the blind. Blind Persons, this index.  
 Texas rehabilitation commission. Handicapped Persons, this index.

References are to Sections

**BONDS (OFFICERS AND FIDUCIARIES)**

Nutritional assistance programs, distributing agents, 33.003.  
Social work practitioners, appeals, 50.006.  
Youth council, superintendents, 61.018.

**BRAILLE**

Blind persons, central media depository, 91.081 et seq.

**BUDGET**

Aging department, 101.008.  
Human resources, department of, 21.010.  
Youth council, 61.044.

**BUREAUS**

Blind persons, bureau of information, 91.022.

**CANES**

Blind Persons, this index.

**CENTRAL MEDIA DEPOSITORY**

Blind persons, 91.081 et seq.

**CERTIFICATES AND CERTIFICATION**

Child-care facilities and agencies, state operated, 42.052.  
Denial or revocation, 42.072.  
Deaf and mute persons, certification of interpreters, 81.007.  
Delinquent children, order of commitment, certified copy, 61.065.  
Interpreters, deaf and dumb persons, 81.007.  
Medical assistance program, certification of eligibility and need, 32.026.  
Social work practitioners, 50.001 et seq.

**CERTIFIED SOCIAL WORK**

Defined, 50.001.

**CHAIRMAN**

Defined, youth council, 61.001.

**CHARGES**

Medical assistance program, restrictions, 32.028.  
Nutritional assistance programs, handling charges, 33.006.

**CHARITIES**

Interstate placement of children, private charitable agencies, 45.005.

**CHILD SUPPORT COLLECTION**

Generally, 46.001 et seq.  
Administration, state-wide plan, 46.001.  
Assignment, recipients right to support, 46.003.  
Disposition of funds, 46.005.  
Attorney general, authorization to represent state, 46.007.  
Attorneys, authority to represent department of human resources, 46.007.  
Confidential or privileged information, 46.006.  
Disposition of funds, 46.005.  
Fees, 46.004.  
Funds, disposition of money received, 46.005.  
Illegitimate children, paternity determinations, 46.002.  
Locating absent parents, 46.002.  
Notice, assignment of recipients right to support, 46.003.

**CHILD SUPPORT COLLECTION**

—Cont'd

Paternity determinations, 46.002.  
Powers and duties, human resources, department of, 46.002.  
Privileged information, 46.006.  
Records, confidential or privileged information, 46.006.  
State-wide plan, administration, 46.001.

**CHILD WELFARE AND PROTECTIVE SERVICES**

Generally, 41.001.  
Adoption of Children, generally, this index.  
Boards and commissions, county child welfare boards, 41.002.  
Care facilities. Child-Care Facilities and Agencies, generally, this index.  
Charters, filed with secretary of state, notification of, 41.005.  
Child welfare service fund, 41.006.  
Childrens bureau, cooperation with, 41.004.  
Collection. Child Support Collection, generally, this index.  
Counties,  
Child welfare boards, 41.002.  
Funds, 41.003.  
Day care programs, federally established programs, 44.001 et seq.  
Delinquent Children, generally, this index.  
Foster Care, generally, this index.  
Funds,  
Child welfare service fund, 41.006.  
County funds, 41.003.  
Juvenile delinquents. Delinquent Children, generally, this index.  
Notice, charters filed with secretary of state, 41.005.  
Placement agencies. Child-Care Facilities and Agencies, generally, this index.  
Support. Child Support Collection, generally, this index.  
United States department of health, education, and welfare, childrens bureau, cooperation with, 41.004.

**CHILD-CARE ADMINISTRATORS**

Generally, 43.001 et seq.  
Actions and proceedings, appeals, license denial or revocation, 43.011.  
Advisory council, 43.002.  
Appeal, denial or revocation of license, 43.011.  
Application, licenses, 43.007.  
Appointment, advisory council, 43.002.  
Definitions, 43.001.  
Expenses and expenditures, advisory council, 43.002.  
Fees. Licenses and permits, post.  
Fines and penalties, 43.012.  
Hearings, appeals, denial or revocation of license, 43.011.  
Licenses and permits, 43.003 et seq.  
Appeal, denial or revocation of license, 43.011.  
Application, 43.007.  
Duration, 43.008.  
Fees, 43.007.  
Examination fee, 43.006.  
Renewal, 43.009.  
Fines and penalties, unlicensed administrative employment, 43.012.  
Issuance, 43.008.

**CHILD-CARE ADMINISTRATORS**

—Cont'd

Licenses and permits—Cont'd  
Qualifications, 43.004.  
Renewal, 43.009.  
Required, 43.003.  
Revocation, 43.010.  
Appeals, 43.011.  
Qualifications, licenses, 43.004.  
Renewal, licenses, 43.009.  
Revocation, licenses, 43.010.  
Rules and regulations, 43.005.  
Terms of office, advisory council, 43.002.  
Time,  
Appeals, license denial or revocation, 43.011.  
License, 43.008.  
**CHILD-CARE FACILITIES AND AGENCIES**  
Generally, 42.001 et seq.  
Actions and proceedings,  
Appeals, license denial or revocation, 42.072.  
Injunctions, 42.074.  
Administrative procedure, 42.024.  
Advisory committee, 42.022.  
Advisory opinions, 42.048.  
Advisory review boards, appeals, license denial or revocation, 42.072.  
Affidavits, immunization exemption, 42.043.  
Agency homes, licenses, 42.053.  
Appeal and review,  
License denial or revocation, 42.072.  
Rules and standards, periodic review, 42.042.  
Application, license, 42.046.  
Attorney general, injunctions, 42.073.  
Audits, 42.045.  
Boards and commissions, advisory review boards, appeals, license denial or revocation, 42.072.  
Certificates and certification, state operated, 42.052.  
Denial or revocation, 42.072.  
Closing facilities, 42.073.  
Committees state advisory committee, 42.022.  
Complaints, investigations, 42.044.  
Consultations, 42.047.  
Crimes and offenses, 42.076.  
Definitions, 42.002.  
Interstate placement of children, 45.001.  
Denial, licenses, 42.072.  
Director, designated division, 42.021.  
Advisory opinions, 42.048.  
Diseases, immunizations, 42.043.  
Display, license, 42.049.  
Division, designation, 42.021.  
Emergency measures, closing facilities, 42.073.  
Exemptions, 42.041.  
Licensing requirements, 42.041.  
Family homes, registration, 42.052.  
Fines and penalties, 42.075.  
Forms, standard forms, applications and inspection reports, 42.042.  
Health, immunizations, 42.043.  
Hearings, license denials or revocation, appeals, 42.072.  
Immediate dangers for children, closing facilities, 42.073.  
Immunizations, 42.043.  
Injunctions, 42.074.  
Inspections, 42.044.

## INDEX TO HUMAN RESOURCES CODE

References are to Sections

**CHILD-CARE FACILITIES AND AGENCIES—Cont'd**

Investigations, 42.044.  
 License application, 42.046.  
 Jurisdiction, appeals, license denial or revocation, 42.072.  
 Licenses and permits, 42.041.  
 Agency homes, 42.053.  
 Application, 42.046.  
 Audit, copy to accompany application for license, 42.045.  
 Change in location or ownership, 42.049.  
 Denial or revocation, 42.072.  
 Exemptions, 42.041.  
 Investigations, 42.046.  
 Issuance, 42.049.  
 Provisional licenses, 42.051.  
 Renewal, 42.050.  
 Revocation, 42.072.  
 Suspension, 42.071.  
 Transfer, 42.049.  
 Medical care and treatment, immunizations, 42.043.  
 Minimum standards, 42.042.  
 Notice, appeals, license denial or revocation, 42.072.  
 Permits. Licenses and permits, generally, ante.  
 Provisional license, 42.051.  
 Records, 42.045.  
 Appeals, license denial or revocation, 42.072.  
 Immunizations, 42.043.  
 Registered family homes, 42.052.  
 Registration, state operated, 42.052.  
 Religious organizations, exemptions, 42.041.  
 Renewal, licenses, 42.050.  
 Reports,  
 Division annual reports, 42.023.  
 State operated facilities, violations, 42.073.  
 Review, rules and standards, periodic review, 42.042.  
 Revocation, licenses, 42.072.  
 Rules and regulations, 42.042.  
 Standards, 42.042.  
 State advisory committee, 42.022.  
 State operated,  
 Certification and registration, 42.052.  
 Denial or revocation, 42.072.  
 Violations, reports, 42.073.  
 Suspension, licenses, 42.071.  
 Terms of office, state advisory committee, 42.022.  
 Time, appeals, license denials or revocation, 42.072.  
 Transfer, licenses, 42.049.  
 Traveling expenses, state advisory committee, 42.022.  
 Tuberculosis, test, 42.043.  
 Violations,  
 Immediate dangers for children, closing facilities, 42.073.  
 Injunctions, 42.074.  
 Waiver, minimum standards, 42.042.

**CHILD-PLACING AGENCY**

Defined, child-care facilities and agencies, 42.002.

**CHILDREN AND MINORS**

Adoption of Children, generally, this index.  
 Age, state homes, admission, 61.061.  
 Aid to Families With Dependent Children, generally, this index.

**CHILDREN AND MINORS—Cont'd**

Blind persons, services, 91.028.  
 Care facilities. Child-Care Facilities and Agencies, generally, this index.  
 Child Welfare and Protective Services, generally, this index.  
 Community programs, 72.001 et seq.  
 Compact, interstate placement of children, 45.021.  
 Day care programs, federally established programs, 44.001 et seq.  
 Defined,  
 Child-care facilities and agencies, 42.002.  
 Community programs, 72.002.  
 Interstate placement of children, 45.001.  
 Delinquent Children, generally, this index.  
 Development programs, 72.001 et seq.  
 Foster Care, generally, this index.  
 Illegitimate children, paternity determinations, child support collections, 46.002.  
 Interstate Placement of Children, generally, this index.  
 Juvenile delinquents. Delinquent Children, generally, this index.  
 Orphans, generally, this index.  
 Placement of Children, generally, this index.  
 Plans and specifications, development, 72.004.  
 Political subdivisions, community programs, 72.001 et seq.  
 Protective services. Child Welfare and Protective Services, generally, this index.  
 Shelters, family violence, 51.001 et seq.  
 State aid, community programs, 72.004.  
 State homes, admission, 61.061.  
 Support. Child Support Collection, generally, this index.  
 Texas Youth Council, generally, this index.  
 Victims, family violence shelters, 51.001 et seq.  
 Violence, shelters, 51.001 et seq.  
 Visually handicapped children, services, 91.028.  
 Youth Council, generally, this index.

**CHILDRENS ASSISTANCE FUND**

Generally, 22.005.

**CHILDRENS BUREAU**

Human resources, department of, cooperation with, 41.004.

**CIVIL LIBERTIES**

Handicapped persons, deprivation of, actions for damages, 121.004.  
 Social work practitioners, 50.003.

**CLASSIFICATION**

Delinquent children, treatment and training facilities, establishment, 61.040.

**COLLECTION**

Child Support Collection, generally, this index.

**COLLEGES AND UNIVERSITIES**

Social work practitioners, 50.015 et seq.

**COMMISSIONER**

Defined, handicapped persons, rehabilitation, 111.002.

**COMMISSIONS**

Boards and Commissions, generally, this index.

**COMMITMENT**

Delinquent Children, this index.

**COMMITTEES**

Advisory Boards, Committees and Councils, generally, this index.  
 Blind persons, purchases of products and services, 122.001 et seq.  
 Handicapped persons, purchases of products and services, 122.001 et seq.  
 Purchases of products and services of blind and severely disabled persons, 122.001 et seq.

**COMMODITIES**

Nutritional Assistance Programs, this index.

**COMMODITY DISTRIBUTION FUND**

Nutritional assistance programs, 33.007.

**COMMON CARRIERS**

Handicapped persons, discrimination, 121.003.

**COMMUNICATIVE MEDIA**

Blind persons, central media depository, 91.081 et seq.

**COMMUNITY PROGRAMS**

Aged Persons, this index.  
 Children and minors, 72.001 et seq.

**COMPACTS**

Interstate compact on the placement of children, 45.021.

**COMPENSATION AND SALARIES**

Aging department, 101.004.  
 Blind Persons, this index.  
 Child-care administrators, advisory council, 43.002.  
 County child welfare boards, 41.002.  
 Human resources, board of, 21.003.  
 Medical care advisory committee, 32.022.  
 State commission for the blind, members, 91.011.  
 Texas rehabilitation commission, 111.015.  
 Youth council, 61.015.

**COMPLAINTS**

Social work practitioners, disciplinary proceedings, 50.022.

**CONFIDENTIAL OR PRIVILEGED INFORMATION**

Aged persons, protective services, 48.083.  
 Blind persons, vocational rehabilitation program, 91.059.  
 Child support collection, 46.006.  
 Delinquent children, commitment records, 61.066.  
 Family violence shelters, 51.007.  
 Handicapped persons, rehabilitation services, 111.057.  
 Criminal history record information, 111.058.  
 Human resources, department of, 21.012.  
 Disclosure, crimes and offenses, 12.003.  
 Support, child support collection, 46.006.

**CONSENT**

Aged persons, protective services, 48.056, 48.059.

References are to Sections

**CONSTRUCTION**

Statutory Construction, generally, this index.

**CONSULTATIONS**

Child-care facilities and agencies, 42.047.  
Family violence shelters, 51.008.

**CONTAINERS**

Nutritional assistance programs, used commodity containers, sales, 33.008.

**CONTRACTS**

Aged persons, protective services, 48.021.  
Bids and bidding, family violence shelters, 51.004.  
Blind persons, self-sufficiency and independent living programs, 81.012.  
Deaf and mute persons,  
Self-sufficiency and independent living programs, 81.012.  
Students, outdoor recreational programs, 81.013.  
Delinquent children, public and private institution and agency facilities, 61.037.  
Family violence shelters, 51.001 et seq.  
Foster care, county contracts, 41.022.  
Handicapped Persons, this index.  
Medical assistance program,  
Authorization, 32.023.  
Contract cancellation, notice and hearing, 32.034.  
Outdoor recreational programs, deaf students, 81.013.

**CONVALESCENT HOMES**

Medical assistance programs, 32.037.

**CORRECTIONAL INSTITUTIONS**

Delinquent Children, this index.

**CORSICANA STATE HOME**

Admission, 61.061.

**COSTS**

Aged persons, protective services, 48.058.

**COUNCILS**

Advisory Boards, Committees and Councils, generally, this index.  
Youth Council, generally, this index.

**COUNSELING**

Aid to families with dependent children, 31.008.  
Deaf and mute persons, 81.006.

**COUNTIES**

Boards and commissions,  
Child welfare boards, 41.002.  
Juvenile boards, generally, post.  
Child welfare and protective services,  
Child welfare boards, 41.002.  
Funds, 41.003.  
Contracts, foster care, 41.022.  
Delinquent children, juvenile boards, powers and duties, 11.004.  
Detention homes and parental schools, delinquent children, 62.001, 62.002.  
Foster care, county contracts, 41.022.  
Joint child welfare boards, 41.002.  
Juvenile boards, 11.004.  
Standards, 75.041 et seq.  
State aid, 75.061 et seq.  
Multi-county facilities, detention homes and parental schools, delinquent children, 62.002.

**COUNTIES—Cont'd**

Nutritional Assistance Programs, generally, this index.  
Parental schools and detention homes, delinquent children, 62.001, 62.002.  
Probation services, delinquent children, contracts with counties, 61.083.  
Reports, juvenile boards, state aid, 75.066.  
Responsibilities, social services, 11.003.  
State aid, juvenile boards, 75.061 et seq.

**COUPONS**

Food Stamps, generally, this index.

**COURT**

Defined youth council, 61.001.

**CRIMES AND OFFENSES**

Attorneys, unlicensed attorneys, representation of clients before department of human resources, 12.001.  
Blind persons,  
Discrimination, 121.004.  
Dog guides, improper use, 121.006.  
Child-care facilities and agencies, 42.076.  
Confidential or privileged information, human resources, department of, disclosure, 12.003.  
Deaf and mute persons, discrimination, 121.004.  
Discrimination, handicapped persons, 121.004.  
Dog guides, improper use, 121.006.  
Food stamps, 33.011.  
Fraud, generally, this index.  
Handicapped persons, discrimination, 121.004.  
Human Resources, Department of, this index.  
Nutritional assistance programs, 33.011.  
Solicitation, assistance, human resources, department of, 12.001.

**CRIMINAL HISTORY RECORD INFORMATION**

Handicapped persons, rehabilitation services, 111.058.

**DAMAGES**

Handicapped persons, civil liberties, deprivation of, 121.004.

**DAY CARE**

Aged persons, protective services, 48.001 et seq.

**DAY CARE CENTER**

Defined, child-care facilities and agencies, 42.002.

**DAY CARE PROGRAMS**

Federally established programs, 44.001 et seq.

**DEAF AND MUTE PERSONS**

Actions and proceedings, civil liberties, deprivation of, actions for damages, 121.004.  
Admittance, public facilities, 121.003.  
Boards and commissions. Texas commission for the deaf, generally, post.  
Certification, interpreters, 81.007.  
Civil liberties, deprivation of, actions for damages, 121.004.  
Common carriers, discrimination, 121.003.

**DEAF AND MUTE PERSONS—Cont'd**

Contracts,  
Outdoor recreational programs, 81.013.  
Self-sufficiency and independent living programs, 81.012.  
Counseling, 81.006.  
Crimes and offenses, discrimination, 121.004.  
Damages, civil liberties, deprivation of, 121.004.  
Discrimination, 121.003.  
Crimes and offenses, 121.004.  
Fines and penalties, 121.004.  
Dog guides, 121.002 et seq.  
Fines and penalties, discrimination, 121.004.  
Grants, authorization to accept, 81.006.  
Guides, dog guides, 121.002 et seq.  
Housing accommodations, discrimination, 121.003.  
Independent living programs, 81.012.  
Interagency planning council, technical advisory council for planning and operations, establishment, 81.010.  
Interpreters,  
Board for evaluation, 81.007.  
Registry, 81.006.  
Training programs, 81.006.  
Landlord and tenant, discrimination, 121.003.  
Public facilities,  
Use and enjoyment, discrimination, 121.003.  
Warning, unique danger, assumption of risk, 121.005.  
Recreation and recreational facilities, 81.013.  
Referral services, 81.006.  
Respite care, 81.012.  
Schools and school districts, training and recreation, 81.013.  
Self-sufficiency programs, 81.012.  
State agencies, telecommunication devices, 81.011.  
State-wide program, establishment, 81.006.  
Surveys and surveyors, self-sufficiency and independent living programs, 81.012.  
Technical advisory council for planning and operations, establishment, 81.010.  
Telecommunication devices, state agencies, 81.011.  
Texas commission for the deaf, 81.001 et seq.  
Advisory committees, appointment, 81.006.  
Appointment, members, 81.002.  
Chairman, 81.005.  
Composition, 81.002.  
Definitions, 81.001.  
Director, 81.008.  
Duration, Sunset Act, application of, 81.004.  
Expenses and expenditures, members, reimbursement, 81.005.  
Meetings, 81.005.  
Officers and employees, 81.009.  
Powers and duties, 81.006.  
Qualifications, membership, 81.002.  
Quorum, 81.005.  
Sunset Act, application of, 81.004.  
Terms of office, 81.003.  
Training,  
Interpreters, 81.006.  
Outdoor programs, 81.013.

References are to Sections

- DEAF AND MUTE PERSONS—Cont'd**  
**Training—Cont'd**  
 Telecommunication devices, state agencies, 81.011.  
 Transportation, public conveyances, discrimination, 121.003.  
 Warning, unique risk in use of public facility, assumption of risk, 121.005.
- DEATH**  
 Aid to families with dependent children, death of recipient, 31.037.
- DECEIT**  
 Fraud, generally, this index.
- DEFINITIONS**  
 Words and Phrases, this index.
- DELINQUENT CHILDREN**  
 Advisory council, 75.027.  
 Arrest, without warrant, 61.093.  
 Audits and auditors, juvenile board, 75.047.  
 Big brothers and big sisters of America, contracts with, 61.047.  
 Boards and commissions,  
 Juvenile boards. Counties, this index.  
 Probation commission, 75.001 et seq.  
 Classification, treatment and training facilities, establishment, 61.040.  
 Commitment. Institutions and facilities, post.  
 Correctional institutions. Institutions and facilities, generally, post.  
 Cost, transporting of child to institution or facility, 61.064.  
 Council, advisory council on juvenile services, 75.027.  
 County juvenile boards, powers and duties, 11.004.  
 Definitions,  
 Probation commission, 75.002.  
 Youth council, 61.001.  
 Deposits, juvenile probation commission, 75.051.  
 Detention homes and parental schools, 62.001, 62.002.  
 Diagnostic facilities, establishment, 61.040.  
 Director, juvenile probation commission, 75.028.  
 Discharge, notice, 61.078.  
 Expenses and expenditures, juvenile probation commission, 75.025.  
 Facilities. Institutions and facilities, generally, post.  
 Federal courts, referrals, 61.042.  
 Forestry or park-maintenance camps and ranches, establishment, 61.040.  
 Gifts, juvenile probation, 75.045.  
 Grants, juvenile probation commission, 75.045.  
 Inspection and inspectors, juvenile boards, 75.047.  
 Institutions and facilities,  
 Additional facilities, establishment, 61.040.  
 Administration, 61.032.  
 Care and treatment, 61.071 et seq.  
 Determination of treatment, 61.075.  
 Permissible treatments, 61.076.  
 Civil rights, forfeiture, 61.092.  
 Commitment, 61.062.  
 Certified copy, order of commitment, 61.065.  
 Civil rights, forfeiture of, 61.092.  
 Order conveying child, 61.063.
- DELINQUENT CHILDREN—Cont'd**  
**Institutions and facilities—Cont'd**  
 Contracts, public or private agencies, separate care and treatment, 61.037.  
 Cost, transporting of child, 61.064.  
 Court orders, 61.063.  
 Detention homes and parental schools, 62.001, 62.002.  
 Determination of treatment, 61.075.  
 Diagnostic facilities, establishment, 61.040.  
 Discharge, 61.084.  
 Petitions, 61.074.  
 Epileptic children, 61.077.  
 Escape, 61.093.  
 Examinations,  
 Failure to examine or reexamine, 61.074.  
 Initial examination, 61.071.  
 Records, 61.073.  
 Reexamination, 61.072.  
 Existing institutions and agencies, use of, 61.037.  
 Forestry camps and ranches, establishment, 61.040.  
 Information, furnishing to, 61.065.  
 Inspections, public and private institution and agency facilities, 61.037.  
 Investigations, prior history and behavior of child, 61.071 et seq.  
 Mentally deficient and mentally ill children, 61.077.  
 Orders of court, 61.063.  
 Parental schools and detention homes, 62.001, 62.002.  
 Park-maintenance camps and ranches, establishment, 61.040.  
 Parole and probation, parole supervision, 61.081.  
 Contracts with counties, 61.083.  
 Permissible treatment, 61.076.  
 Petitions, discharge, 61.074.  
 Records, examinations and treatments, 61.073.  
 Referrals, federal courts, 61.042.  
 Release, 61.081 et seq.  
 Conditions, breaking, arrest without warrant, 61.093.  
 Religious and spiritual training, 61.046.  
 Supervision, release under supervision, 61.081.  
 Transporting, 61.064.  
 Interstate placement of children, 45.004.  
 Juvenile boards. Counties, this index.  
 Meetings, juvenile probation, 75.026, 75.046.  
 Notice, release, 61.081.  
 Parental schools and detention homes, 62.001, 62.002.  
 Park-maintenance camps, treatment and training facilities, establishment, 61.040.  
 Parole and probation,  
 Juvenile probation commission, 75.001 et seq.  
 Parole supervision, 61.040.  
 Contracts with counties, 61.083.  
 Placement, interstate placement of children, 45.004.  
 Privileged information, commitment records, 61.066.  
 Probation commission, 75.001 et seq.  
 Ranches, treatment and training facilities, establishment, 61.040.  
 Records and recordation,  
 Commitment records, confidential or privileged information, 61.066.  
 Juvenile boards, 75.044.
- DELINQUENT CHILDREN—Cont'd**  
**Referrals, federal courts, 61.042.**  
 Release, 61.081 et seq.  
 Reports,  
 Juvenile boards, 75.044.  
 State aid, 75.066.  
 Parole and probation, 75.049.  
 Segregation, classification needs, treatment and training facilities, establishment, 61.040.  
 Standards, probation service, 75.041 et seq.  
 State aid, juvenile boards, 75.061 et seq.  
 Studies, parole and probation, 75.048.  
 Terms of office, juvenile probation commission, 75.023.  
 Training institutions, 61.040.  
 Transporting, institutions or facilities, 61.064.  
 Treatment. Institutions and facilities, generally, ante.
- DEMONSTRATION AND RESEARCH PROJECTS**  
 Human resources, department of, 22.003.
- DEPARTMENT**  
 Defined,  
 Aged persons, 48.002.  
 Children and minors, 72.002.  
 Human resources, department of, 11.001.  
 Social work practitioners, 50.001.
- DEPENDENT AND NEGLECTED CHILDREN**  
 Aid to Families With Dependent Children, generally, this index.  
 Child Welfare and Protective Services, generally, this index.
- DEPOSITORIES**  
 Blind persons, central media depository, 91.081 et seq.
- DETENTION HOMES AND PARENTAL SCHOOLS**  
 Delinquent children, 62.001, 62.002.
- DIRECTORS**  
 Blind persons, vocational rehabilitation program, 91.054.  
 Child-care facilities and agencies, designated division, 42.021.  
 Defined,  
 Children and minors, 72.002.  
 Juvenile probation, 75.002.  
 Juvenile probation commission, 75.028.  
 State commission for the blind, executive director, 91.012.  
 Texas commission for the deaf, 81.008.  
 Youth council, executive director, 61.017.
- DISABILITY**  
 Defined, handicapped persons, rehabilitation, 111.002.
- DISABLED PERSONS**  
 Handicapped Persons, generally, this index.
- DISCHARGE**  
 Delinquent children, state institutions or facilities, 61.084.
- DISCIPLINARY PROCEEDINGS**  
 Social work practitioners, 50.022.

# INDEX TO HUMAN RESOURCES CODE

842

References are to Sections

**DISCLOSURE**

Aged persons, protective services, 48.083.  
Confidential or privileged information, human resources, department of, crimes and offenses, 12.003.  
Family violence shelters, 51.007.

**DISCRIMINATION**

Blind Persons, this index.  
Deaf and Mute Persons, this index.  
Handicapped Persons, this index.  
Social work practitioners, 50.003.

**DISEASES**

Child-care facilities and agencies, immunizations, 42.043.

**DISTRIBUTION**

Nutritional Assistance Programs, this index.

**DISTRIBUTION DISTRICTS**

Nutritional assistance programs, 33.003.

**DIVISION**

Aging department, 101.006.  
Defined, child-care facilities and agencies, 42.002.

**DOG GUIDES**

Blind Persons, this index.

**DOMICILE AND RESIDENCE**

Blind persons, vocational rehabilitation services, residency requirements, 91.055.  
County child welfare boards, residency requirements, 41.002.  
Social work certification council, 50.004.

**EDUCATION**

Blind persons,  
Central media depository, 91.081 et seq.  
In-home instruction, 91.025.  
Schools and School Districts, generally, this index.  
Social work practitioners, 50.015 et seq.

**ELDERLY PERSONS**

Aged Persons, generally, this index.

**ELEMENTARY SCHOOLS**

Schools and School Districts, generally, this index.

**ELIGIBILITY**

Aid to Families With Dependent Children, this index.  
Blind persons,  
Vending facility licenses, 94.005.  
Vocational rehabilitation services, 91.055.  
Medical Assistance Program, this index.

**EMERGENCIES**

Aged persons, protective services, 48.061.

**EMPLOYMENT HANDICAP**

Defined, blind persons vocational rehabilitation, 91.051.

**EMPLOYMENT INCENTIVE ACT**

Aid to families with dependent children, financial assistance, registration, 31.009.

**EPILEPTIC CHILDREN**

Delinquent children, committed to state institutions or facilities, 61.077.

**ESCAPE**

Delinquent children, state institutions or facilities, 61.093.

**EXAMINATIONS**

Child-care administrators, licenses, examination fee, 43.006.  
Social work practitioners; certification, 50.001 et seq.

**EXECUTION**

Medical assistance payments, 32.036.

**EXECUTIVE DIRECTOR**

Aging board, 101.004.

**EXEMPTIONS**

Blind persons, products and services, exemptions, 122.013.  
Child-care facilities and agencies, permits, 42.041.  
Handicapped persons, products and services, purchases, 122.013.  
Interstate placement of children, 45.006.  
Social work practitioners, certification, 50.002.

**EXPENSES AND EXPENDITURES**

Child-care administrators, advisory council, 43.002.  
Contracts, prepayment, 22.002.  
Foster care, parent or guardian liability, 41.024.  
Human resources board, reimbursement, 21.003.  
Human resources department, prepayment contract, 22.002.  
Juvenile probation commission, 75.025.  
Medical assistance program, 32.031.  
Prepayment, contracts, 22.002.  
State commission for the blind, reimbursement, 91.011, 91.013.  
Texas commission for the deaf, members, reimbursement, 81.005.  
Texas rehabilitation commission, reimbursement, 111.015.  
Traveling Expenses, generally, this index.  
Youth council, reimbursement, 61.015.

**EXPLOITATION**

Aged persons, protective services, 48.001 et seq.  
Defined, aged persons, 48.002.

**EXTENDED COMMUNITY RESIDENCE**

Defined, handicapped persons, rehabilitation, 111.002.

**EXTENDED REHABILITATION SERVICES**

Handicapped Persons, this index.

**EXTENDED SHELTERED WORKSHOP EMPLOYMENT**

Defined, handicapped persons, rehabilitation, 111.002.

**FACILITIES**

Defined, child-care facilities and agencies, 42.002.

**FAMILY**

Violence shelters, 51.001 et seq.

**FAMILY DAY HOME**

Defined, child-care facilities and agencies, 42.002.

**FEDERAL MATCHING FUNDS**

Aid to families with dependent children, state programs, development of, 31.010.  
Day care programs, administration, 44.003.  
Human resources, department of, estimate, inclusion in budget and appropriation request, 21.010.  
Medical assistance program, 32.024.  
State programs, extension of scope to insure, 22.002.

**FEDERAL SURPLUS COMMODITIES**

Nutritional assistance programs, distribution, 33.001.

**FEDERAL WELFARE PROGRAMS**

Human resources, department of, administration, 22.002.

**FEDERALLY ESTABLISHED DAY CARE PROGRAMS**

Administration, 44.001.

**FEES**

Child support collection, 46.004.  
Child-Care Administrators, this index.  
Deaf and mute persons, certification of interpreters, 81.007.  
Human resources, department of, legal services, 22.004.  
Medical assistance program, restrictions, 32.028.  
Social work practitioners, certification, 50.009.

**FINANCIAL ASSISTANCE**

Defined, human resources, department of, 11.001.

**FINES AND PENALTIES**

Blind persons,  
Discrimination, 121.004.  
Dog guides, improper use, 121.006.  
Child-care administrators, 43.012.  
Child-care facilities and agencies, 42.075.  
Deaf and mute persons, discrimination, 121.004.  
Discrimination, handicapped persons, 121.004.  
Dog guides, improper use, 121.006.  
Handicapped persons, discrimination, 121.004.  
Interstate placement of children, 45.007.  
Placement of children, interstate placement of children, 45.007.  
Social work practitioners, certification, 50.028.

**FOOD STAMPS**

Generally, 33.002 et seq.  
Crimes and offenses, 33.011.  
Distribution, 33.002.  
Termination of program, sale of equipment and property, 33.010.

**FORCE AND VIOLENCE**

Family shelters, 51.001 et seq.

**FOREIGN STATES**

Compacts, interstate placement of children, 45.021.  
Interstate Placement of Children, generally, this index.  
Placement of children. Interstate Placement of Children, generally, this index.

## INDEX TO HUMAN RESOURCES CODE

References are to Sections

**FORESTRY CAMPS AND RANCHES**

Delinquent children, treatment and training facilities, establishment, 61.040.

**FOSTER CARE**

Generally, 41.021 et seq.

Aid to families with dependent children, 31.004.

Contracts, county contracts, 41.022.

County contracts, 41.022.

Direct payments, 41.023.

Expenses and expenditures, parent or guardian liability, 41.024.

Liability, parent or guardian, 41.024.

Medical services, 41.025.

Parent or guardian liability, 41.024.

Payments, 41.021.

Direct payments, 41.023.

**FOSTER FAMILY HOME**

Defined, child-care facilities and agencies, 42.002.

**FOSTER GRANDPARENT PROGRAMS**

Aged persons, voluntary community services, 101.024.

**FOSTER GROUP HOME**

Defined, child-care facilities and agencies, 42.002.

**FRAUD**

Human resources, department of, funds, wrongful distribution, 12.002.

Medical assistance program, prevention and detection, 32.032.

Social work practitioners, certification revocation, 50.021.

**FUNDS**

Adoption of children, hard-to-place children, use of funds, 47.005.

Aging department, 101.027.

Blind persons, vocational rehabilitation services, receipt and disbursement, 91.056.

Child welfare service fund, 41.006.

Commodity distribution fund, nutritional assistance programs, 33.007.

Family violence shelters, 51.009, 51.011.

Federal Matching Funds, generally, this index.

Handicapped persons,

Rehabilitation services, dispersement funds, 111.022.

Extended rehabilitation services, receipt and dispersement, 111.086.

Human Resources, Department of, this index.

Medical assistance fund, 32.030.

Nutritional Assistance Programs, this index.

Revolving funds, nutritional assistance programs, 33.009.

Social worker fund, 50.005.

Youth council fund, 61.043.

**GAINFUL OCCUPATION**

Defined, handicapped persons, rehabilitation, 111.002.

**GARNISHMENT**

Medical assistance payments, 32.036.

**GERIATRIC CENTER**

Medical assistance program, 32.037.

**GIFTS**

Juvenile probation commission, 75.045.

**GOVERNOR**

Appointments,

Aging board, 101.001.

Human resources, board of, 21.003.

Juvenile probation commission, 75.022.

Purchases of products and services of blind and severely disabled persons, 122.002.

State commission for the blind, 91.011.

Texas commission for the deaf, 81.002.

Texas rehabilitation commission, 111.013.

Youth council, 61.012.

Proclamations, white cane safety day, 121.008.

**GRANTS**

Aged persons, authorization to accept, 101.026.

Blind persons, authorization to accept, 91.030.

Family violence shelters, 51.009, 51.011.

Human resources, department of, misappropriation, 12.002.

Juvenile probation commission, 75.045.

Social work practitioners, certification, 50.031.

Texas commission for the deaf, authorization to accept, 81.006.

Youth council, authorization to accept, 61.043.

**GROUP DAY CARE HOME**

Defined, child-care facilities and agencies, 42.002.

**GUIDANCE SERVICES**

Aid to families with dependent children, 31.008.

**HANDICAPPED PERSONS**

Actions and proceedings, civil liberties, deprivation of, actions for damages, 121.004.

Admittance, public facilities, 121.003.

Advisory committees, rehabilitation, 111.016.

Blind Persons, generally, this index.

Boards and commissions. Texas rehabilitation commission, generally, post.

Charges, discrimination, 121.003.

Civil liberties, deprivation of, actions for damages, 121.004.

Committees,

Advisory committees, rehabilitation, 111.016.

Purchases of products and services of blind and severely disabled persons, 122.001 et seq.

Common carriers, passengers, discrimination, 121.003.

Confidential or privileged information, rehabilitation services, 111.057.

Criminal history record information, 111.058.

Construction, statutory construction, 121.009.

Contracts,

Extended rehabilitation services, public or private nonprofit agencies, 111.082.

Rehabilitation services, 111.052.

Self-sufficiency and independent living programs, 81.012.

Crimes and offenses, discrimination, 121.004.

**HANDICAPPED PERSONS—Cont'd**

Criminal history record information, rehabilitation services, 111.058.

Damages, civil liberties, deprivation of, 121.004.

Deaf and Mute Persons, generally, this index.

Definitions, 121.002.

Blind persons, vending facilities operated by, 94.001.

Rehabilitation, 111.002.

Discrimination, 121.003.

Crimes and offenses, 121.004.

Fines and penalties, 121.004.

Dissemination of information, 121.008.

Donations, rehabilitation services, authorization to accept, 111.056.

Economic and social activities, participation in, 121.001 et seq.

Educational level, testing, 121.010.

Employment, discrimination, 121.003.

Exemptions, products and services, purchases, 122.013.

Extended community residence facilities, defined, 111.002.

Extended rehabilitation services. Rehabilitation, post.

Federal government, cooperation with, rehabilitation services, 111.053.

Fines and penalties, discrimination, 121.004.

Funds,

Extended rehabilitation services, 111.086.

Federal funds, rehabilitation services, obtaining, 111.054.

Grants, rehabilitation services, authorization to accept, 111.056.

Housing accommodations,

Defined, 121.002.

Discrimination, 121.003.

Independent living programs, 81.012.

Information, dissemination, 121.008.

Inspection and inspectors, purchases of products and services of blind and severely disabled persons committee, 122.006.

Job positions, testing, 121.010.

Labor and employment,

Discrimination, 121.003.

Testing, 121.010.

Landlord and tenant, discrimination, 121.003.

Manufacturers and manufacturing, products, 122.001 et seq.

Nonprofit agencies, contracts, extended rehabilitation services, 111.082.

Passengers, common carriers, discrimination, 121.003.

Payments, extended rehabilitation services, nonprofit agencies providing services, 111.085.

Plans and specifications, products, 122.011.

Political subdivisions, products and services, purchases, 122.014, 122.015.

Price, products and services, 122.005.

Purchasing, 122.004.

Privileged information, rehabilitation services, 111.057.

Criminal history record information, 111.058.

Products, purchases, 122.001 et seq.

Public facilities,

Defined, 121.002.

Discrimination, use and enjoyment of, 121.003.

# INDEX TO HUMAN RESOURCES CODE

844

References are to Sections

## HANDICAPPED PERSONS—Cont'd

Public facilities—Cont'd  
 Warning, unique danger, assumption of risk, 121.005.  
 Purchases, products and services, 122.001 et seq.  
 Rates and charges, discrimination, 121.003.  
 Reciprocal agreements with other states, rehabilitation services, 111.052.  
 Records and recordation,  
   Criminal history record information, re-habilitation services, 111.058.  
   Products and services, purchases, 122.006.  
 Rehabilitation,  
   Advisory committees, 111.016.  
   Confidential or privileged information, 111.057.  
   Criminal history record information, 111.058.  
   Contracts, rehabilitation services, 111.052.  
   Criminal history record information, 111.058.  
   Definitions, 111.002.  
   Donations, authorization to accept, 111.056.  
   Extended rehabilitation services, 111.081 et seq.  
   Administration, 111.082.  
   Authority, 111.081.  
   Contracts, nonprofit agencies provision of services, 111.082.  
   Contributions, participants, 111.083.  
   Defined, 111.002.  
   Funds, receipt and disbursement, 111.086.  
   Nonprofit agencies,  
     Contracts to provide services, 111.082.  
     Payments, 111.085.  
   Participant contributions, 111.083.  
   Payments, nonprofit agencies, 111.085.  
   Standards, 111.084.  
 Facilities, establishment of, 111.052.  
 Federal government, cooperation with, 111.053.  
 Funds,  
   Disbursement of, 111.022.  
   Federal funds, obtaining, 111.054.  
 Grants, authorization to accept, 111.056.  
 Planning, program development and allocation of resources, 111.019.  
 Privileged information, 111.057.  
   Criminal history record information, 111.058.  
 Reciprocal agreements with other states, 111.052.  
 Reports, 111.021.  
 Research and statistical studies, 111.052.  
 Small business enterprises, establishment and management, 111.052.  
 State aid, 111.055.  
   Texas rehabilitation commission, generally, post.  
 Research and statistical studies, 111.052.  
 Respite care, 81.012.  
 Rights and responsibilities, 121.001 et seq.  
 Sales, products and services, 122.001 et seq.  
 Self-sufficiency programs, 81.012.  
 Services, purchases, 122.001 et seq.

## HANDICAPPED PERSONS—Cont'd

Sheltered workshops, defined, 111.002.  
 Small business enterprises, establishment and management, rehabilitation services, 111.052.  
 Social and economic activities, participation in, 121.001 et seq.  
 Standards, extended rehabilitation services, 111.084.  
 State aid, rehabilitation services, 111.055.  
 State policy, 121.001.  
 Statutory construction, 121.009.  
 Sunset Act, purchases of products and services of blind and severely disabled persons committee, 122.003.  
 Surveys and surveyors, self-sufficiency and independent living programs, 81.012.  
 Tests and testing, job positions or educational level, 121.010.  
 Texas rehabilitation commission, 111.001 et seq.  
   Administration, 111.011.  
   Administrative units, establishment, 111.020.  
   Advisory committees, 111.016.  
   Appointments, 111.013.  
   Commissioner, 111.016.  
   Authority, 111.051.  
   Commissioner, 111.017.  
   Committees, advisory committees, 111.016.  
   Compensation and salaries, 111.015.  
   Composition, 111.013.  
   Definitions, 111.002.  
   Delegation of authority, 111.024.  
   Duration, Sunset Act, application of, 111.012.  
   Expenses and expenditures, reimbursement, 111.015.  
   Funds, disbursement of, 111.022.  
   Meetings, 111.014.  
   Members, 111.013.  
   Officers and employees, 111.020.  
   Planning, 111.019.  
   Powers and duties, 111.051 et seq.  
     Commissioner, 111.023.  
   Presiding officer, 111.013.  
   Purpose, 111.001.  
   Qualifications, 111.013.  
   Reports, 111.021.  
   Rules and regulations, adoption, 111.018.  
   Sunset Act, application of, 111.012.  
   Terms of office, 111.013.  
 Transportation, public conveyances, discrimination, 121.003.  
 Vending facilities, state property, 94.007.  
 Vocational Rehabilitation. Rehabilitation, generally, ante.  
 Warning, unique danger in use of public facility, assumption of risk, 121.005.

**HARD-TO-PLACE CHILD**  
 Adoption of Children, this index.

**HEALTH, DEPARTMENT OF**  
 Maternal and child health, division of, powers and duties, 11.004.

**HEARINGS**  
 Aid to families with dependent children appeals from local administrative units, 31.034.  
 Blind persons, vocational rehabilitation, 91.058.  
 Child-care administrators, appeals, license revocation or denial, 43.011.

## HEARINGS—Cont'd

Child-care facilities and agencies, license denials or revocation, appeals, 42.072.  
 Medical assistance program, contract cancellation, 32.034.

**HOME CARE**  
 Aged persons, protective services, 48.001 et seq.

**HOUSING ACCOMMODATIONS**  
 Defined, handicapped persons, 121.002.  
 Handicapped persons, discrimination, 121.003.

**HUMAN RESOURCES, DEPARTMENT OF**  
 Generally, 11.001 et seq., 21.001 et seq.  
 Accounts and accounting, internal accounting system, 22.005.  
 Acknowledgments, 21.013.  
 Administration,  
   Federal welfare programs, 22.002.  
   Local administration, 21.006.  
 Administrative officer, 21.004.  
 Adoption of Children, generally, this index.  
 Advisory boards, appointment, 21.006.  
 Aid to Families with Dependent Children, generally, this index.  
 Appointment,  
   Board of human resources, 21.003.  
   Commissioner, 21.004.  
   Local advisory boards, 21.006.  
 Appropriations, budget submission, request for necessary funds, 21.010.  
 Attorneys,  
   Legal services, provision of, 22.004.  
   Unlicensed attorneys, representation of client before department, 12.001.  
 Board of human resources, 21.003.  
 Budget, 21.010.  
 Certificates and certification, social work practitioners, 50.001 et seq.  
 Children and Minors, generally, this index.  
 Commissioner, 21.004.  
   Reports, 21.011.  
 Compensation and salaries, board of human resources, 21.003.  
 Composition, 21.001.  
   Board of human resources, 21.003.  
 Confidential or privileged information, 21.012.  
   Disclosure, crimes and offenses, 12.003.  
 Construction, statutory construction, 11.002.  
 Contracts, authorization, 22.002.  
 Cooperation, federal welfare programs, 22.002.  
 Crimes and offenses,  
   Confidential or privileged information, disclosure, 12.003.  
   Disclosure, confidential or privileged information, 12.003.  
   Funds, misappropriation, 12.002.  
 Day care programs, federally established programs, administration, 44.001 et seq.  
 Definitions, 11.001.  
 Delegation of authority, divisions, establishment, 21.005.  
 Delinquent Children, generally, this index.  
 Demonstration and research projects, 22.003.

## INDEX TO HUMAN RESOURCES CODE

References are to Sections

**HUMAN RESOURCES, DEPARTMENT OF—Cont'd**

Disclosure, confidential or privileged information, 21.012.

Divisions,  
 Child-care facilities and child-placing agencies, designation, 42.021.  
 Establishment, 21.005.

Duration, Sunset Act, application, 21.002.

Education, staff development plans, 21.008.

Establishment, 21.001.

Executive officer, 21.004.

Expenses and expenditures,  
 Board of human resources, reimbursement, 21.003.  
 Prepayment contract, 22.002.

Federal funds, estimate, inclusion in budget and appropriation request, 21.010.

Federal welfare programs, administration, 22.002.

Fees, legal services, 22.004.

Financial reports, 22.005.

Foster Care, generally, this index.

Fraud, wrongful distribution of funds, 12.002.

Funds, 22.005.  
 Childrens assistance fund, 22.005.  
 Distribution, wrongful distribution, 12.002.  
 Federal matching funds, extension of state programs to insure, 22.002.  
 Medical assistance fund, 22.005.  
 Misappropriation, 12.002.  
 State treasury, 22.005.

Grants, misappropriation, 12.002.

Handicapped Persons, generally, this index.

Juvenile delinquents. Delinquent Children, generally, this index.

Legal services, 22.004.

Local administration, 21.006.

Medical Assistance Program, generally, this index.

Nutritional Assistance Programs, generally, this index.

Oaths and affirmations, 21.013.

Officers and employees,  
 Education, paid educational leaves of absence, 21.008.  
 Employment, 21.005.  
 Merit system, 21.007.  
 Political activities, 21.009.  
 Staff development plans, 21.008.

Powers and duties, 22.001.  
 Child support collection, 46.002.  
 Commissioner, 21.004.

Practitioners, social services, certification, 50.001 et seq.

Prepayment, contracts, 22.002.

Privileged information, 21.012.  
 Disclosure, crimes and offenses, 12.003.

Purpose, 11.002.

Qualifications,  
 Board of human resources, 21.003.  
 Commissioner, 21.004.

Reports,  
 Commissioner, 21.011.  
 Financial reports, 22.005.

Research and demonstration projects, 22.003.

Social Security Act, administration, 22.002.

Social work practitioners, certification, 50.001 et seq.

Staff development plans, 21.008.

**HUMAN RESOURCES, DEPARTMENT OF—Cont'd**

Statutory construction, 11.002.

Sunset Act, application, 21.002.

Support. Child Support Collection, generally, this index.

Termination, Sunset Act, application, 21.002.

Terms of office, board of human resources, 21.003.

Transfer, funds, 22.005.

Travel expenses, board of human resources, 21.003.

United States department of health, education, and welfare, childrens bureau, cooperation with, 41.004.

**ILLEGITIMATE CHILDREN**

Child support collection, paternity determinations, 46.002.

**IMMUNIZATIONS**

Child-care facilities and agencies, 42.043.

**INDEPENDENT LIVING PROGRAMS**

Handicapped persons, 81.012.

**INDUSTRIAL SCHOOLS**

Blind persons, 91.024.

**INFANTS**

Children and Minors, generally, this index.

**INFORMATION, BUREAU OF**

Blind persons, 91.022.

**INJUNCTIONS**

Child-care facilities and agencies, 42.074.  
 Social work practitioners, certification violations, 50.029.

**INSPECTIONS**

Child-care facilities and agencies, 42.044.  
 Delinquent children, institutions and facilities, public and private institution and agency facilities, 61.037.  
 Juvenile boards, 75.047.  
 Purchases of products and services of blind and severely disabled persons, records, 122.006.

**INSTITUTIONS**

Blind persons, products and services, purchases, 122.001 et seq.  
 Child-care institution, defined, administrators, 43.001.  
 Delinquent Children, this index.  
 Dependent children, financial assistance to children in institutions, 31.007.  
 Handicapped persons, products and services, purchases, 122.001 et seq.

**INSTRUCTION**

Blind persons, in-home instruction, 91.025.

**INSURANCE**

Medical assistance program, subrogation of recipients claim, 32.033.

**INTERPRETERS**

Deaf and Mute Persons, this index.

**INTERSTATE COMPACTS**

Placement of children, 45.021.

**INTERSTATE PLACEMENT OF CHILDREN**

Generally, 45.001.

Actions and proceedings, failure of sending agency to provide support or maintenance, 45.003.

Charities, private charitable agencies, 45.005.

Child-care facility, defined, 45.001.

Compact, 45.021.

Definitions, 45.001.

Delinquent children, 45.004.

Exemptions, 45.006.

Financial responsibility, sending agency, 45.003.

Fines and penalties, 45.007.

Hearings, delinquent children, 45.004.

Institutional care, delinquent children, 45.004.

Interstate compact, 45.021.

Jurisdiction, sending agency, 45.003.

Juvenile delinquents, 45.004.

Notice, placement of children from another state, 45.002.

Placement, defined, 45.001.

Private charitable agencies, 45.005.

Responsibilities, sending agency, 45.003.

Return, children from another state, failure of sending agency to provide support or maintenance, 45.003.

Sending agency,  
 Defined, 45.001.  
 Financial responsibility, 45.003.  
 Jurisdiction, 45.003.  
 Notice, intention to place child, 45.002.  
 Responsibility, 45.003.

**INVESTIGATIONS**

Aged persons, abuse and exploitation, 48.001 et seq.  
 Aid to families with dependent children, eligibility, 31.032.  
 Child-care facilities and agencies, 42.044.  
 License application, 42.046.

**JUDGES**

Juvenile probation commission, members, 75.002.  
 Juvenile services, advisory council, 75.027.

**JURISDICTION**

Child-care facilities and agencies, appeals, license denial or revocation, 42.072.  
 Interstate placement of children, sending agency, 45.003.

**JUVENILE BOARDS**

Counties, this index.

**JUVENILE DELINQUENTS**

Delinquent Children, generally, this index.

**JUVENILE PROBATION COMMISSION**

Generally, 75.001 et seq.

**LABOR AND EMPLOYMENT**

Aged persons, community employment programs, 101.023.  
 Blind Persons, this index.  
 Dependent children, employment incentives, registration, 31.009.  
 Employment Incentive Act, aid to families with dependent children, registration, 31.009.

References are to Sections

**LABOR AND EMPLOYMENT—Cont'd**

Handicapped persons,  
Discrimination, 121.003.  
Testing, 121.010.  
Social work practitioners, 50.010 et seq.

**LANDLORD AND TENANT**

Handicapped persons, discrimination,  
121.003.

**LAWYERS**

Attorneys, generally, this index.

**LEGAL SERVICES**

Human resources, department of, provi-  
sion of, 22.004.

**LEVY**

Medical assistance payments, 32.036.

**LICENSES AND PERMITS**

Agency homes, 42.053.  
Child-Care Administrators, this index.  
Child-Care Facilities and Agencies, this  
index.

**LOANS**

Blind persons, technological aids,  
91.0301.

**MAINTENANCE**

Defined, blind persons vocational rehabil-  
itation, 91.051.

**MANUFACTURERS AND MANUFAC-  
TURING**

Handicapped persons, products, purchas-  
es, 122.001 et seq.

**MATERNAL AND CHILD HEALTH,  
DIVISION OF**

Powers and duties, 11.004.

**MEDIA DEPOSITORY**

Blind persons, central media depository,  
91.081 et seq.

**MEDICAL ASSISTANCE PROGRAM**

Actions and proceedings, payments, ex-  
emption from legal process, 32.036.  
Administration, 32.021.  
Adverse or pecuniary interest, board  
commissioners, 32.0211.  
Advisory committee, 32.022.  
Aged persons, protective services, 48.001  
et seq.  
Amount, state funds, restricted to match-  
able federal funds, 32.031.  
Appeal, 32.035.  
Application, 32.025.  
Appointment, medical care advisory com-  
mittee, 32.022.  
Assignment, payments, 32.036.  
Attachment, payments, 32.036.  
Authority, 32.024.  
Boards and commissions, adverse or pe-  
cuniary interest, 32.0211.  
Cancellation, medical assistance con-  
tracts, notice and hearing, 32.034.  
Certification of eligibility and need for  
medical assistance, 32.026.  
Charges, restrictions, 32.028.  
Committees, medical care advisory com-  
mittee, 32.022.  
Compensation and salaries, medical care  
advisory committee, 32.022.  
Conflict of interest, board members,  
32.0211.

**MEDICAL ASSISTANCE PROGRAM**

—Cont'd  
Construction, statutory construction,  
32.002.  
Contracts,  
Authorization, 32.023.  
Cancellation, notice and hearing,  
32.034.  
Convalescent homes, 32.037.  
Cooperation, state agencies, 32.023.  
Definition, medical assistance, 32.003.  
Eligibility, 32.024.  
Appeal, 32.035.  
Certification, 32.026.  
Execution, program payments, exemp-  
tion, 32.036.  
Expenses and expenditures, 32.031.  
Medical care advisory committee, reim-  
bursement, 32.022.  
Federal matching funds, obtaining, cover-  
age of state program, 32.024.  
Fees, restriction, 32.028.  
Fraud, prevention and detection, 32.032.  
Funds,  
Federal matching funds, obtaining, cov-  
erage of state program, 32.024.  
Medical assistance fund, 32.030.  
Garnishment, payments, 32.036.  
Geriatric center, 32.037.  
Hearing, contract cancellation, 32.034.  
Insurance, subrogation of recipients  
claim, 32.033.  
Levy, payments, 32.036.  
Medical assistance, defined, 32.003.  
Medical assistance fund, 32.030.  
Need for medical assistance, certification,  
32.026.  
Notice, contract cancellation, 32.034.  
Nursing homes, 32.037.  
Payments, 32.029, 32.031.  
Assignment or transfer, 32.036.  
Exemption from legal process, 32.036.  
Podiatrists, selection, 32.027.  
Proration of claims, 32.029.  
Provider of medical assistance, selection,  
32.027.  
Purpose, 32.001.  
Rates and charges, restrictions, 32.028.  
Receipt, federal funds, 32.031.  
Scope, 32.024.  
Selection, provider of medical assistance,  
32.027.  
Standards, 32.024.  
State agencies, cooperation with, 32.023.  
Statutory construction, 32.002.  
Subrogation, recipients right to recovery,  
32.033.  
Termination, medical assistance con-  
tracts, notice and hearing, 32.034.  
Transfer of funds, 32.030.

**MEETINGS**

See specific index headings.

**MENTALLY DEFICIENT AND MEN-  
TALLY ILL PERSONS**

Delinquent children, committed to state  
institutions or facilities, 61.077.

**MERIT SYSTEM**

Aging department, 101.007.

**MINORS**

Children and Minors, generally, this in-  
dex.

**MISAPPROPRIATION**

Funds, human resources, department of,  
12.002.

**MISREPRESENTATION**

Fraud, generally, this index.

**NAMES**

Social work practitioners, 50.010 et seq.  
Certification, 50.008.

**NEGLECT**

Aged persons, protective services, 48.001  
et seq.  
Defined, aged persons, 48.002.

**NONPROFIT AGENCIES**

Family violence shelter, 51.001 et seq.  
Handicapped persons, extended rehabili-  
tation services contracts to provide  
services, 111.082.

**NOTICE**

Aid to families with dependent children,  
Change or withdrawal of assistance,  
31.033.  
Recipient, change in economic condi-  
tion, 31.033.  
Child-care facilities and agencies, ap-  
peals, license denial or revocation,  
42.072.  
Delinquent children,  
Discharge, 61.078.  
Release, 61.081.  
Interstate placement of children, place-  
ment of children from another state,  
45.002.  
Medical assistance program, contract  
cancellation, 32.034.  
Placement of children from another state,  
45.002.  
Social work practitioners,  
Certificates and certification, 50.023.  
Disciplinary proceedings, 50.022.

**NURSING HOMES**

Medical assistance program, 32.037.

**NUTRITIONAL ASSISTANCE PRO-  
GRAMS**

Generally, 33.001.  
Advisory boards, 33.004.  
Agents, distributing agents, 33.003.  
Assessments, handling charges, 33.006.  
Audits, distributing agents records,  
33.003.  
Boards and commissions, advisory  
boards, 33.004.  
Bonds (officers and fiduciaries) distribut-  
ing agents, 33.003.  
Commodities,  
Distribution, 33.002.  
Surplus commodities, 33.001.  
Perishable commodities, processing,  
33.005.  
Used commodity containers, sale,  
33.008.  
Commodity distribution fund, 33.007.  
Deposits, sales of equipment and prop-  
erty, 33.010.  
Containers, used commodity containers,  
sale, 33.008.  
Crimes and offenses, 33.011.  
Distribution,  
Agents, 33.003.  
Commodities, 33.002.  
Surplus commodities, 33.001.  
Districts, 33.003.  
Food stamps, 33.002.  
Districts, distribution districts, 33.003.  
Equipment and property, sale upon ter-  
mination of program, 33.010.

## INDEX TO HUMAN RESOURCES CODE

References are to Sections

**NUTRITIONAL ASSISTANCE PROGRAMS—Cont'd**

Federal surplus commodities, distribution, 33.001.  
 Food Stamps, generally, this index.  
 Funds,  
   Commodity distribution fund, 33.007.  
   Deposits, sales of equipment and property, 33.010.  
   Revolving funds, 33.009.  
 Handling charges, 33.006.  
 Perishable commodities, processing, 33.005.  
 Processing perishable commodities, 33.005.  
 Property and equipment, sale upon termination of programs, 33.010.  
 Revolving funds, 33.009.  
 Sales,  
   Termination of programs, sale of equipment and property, 33.010.  
   Used commodity containers, 33.008.  
 Surplus commodities, distribution, 33.001.  
 Termination, sale of equipment and property, 33.010.  
 Used commodity containers, sales, 33.008.

**OATHS AND AFFIRMATIONS**

Human resources, department of, 21.013.  
 Social work practitioners, disciplinary proceedings, 50.022.

**OCCUPATIONAL LICENSE**

Defined, blind persons vocational rehabilitation, 91.051.

**OFFENSES**

Crimes and Offenses, generally, this index.

**OFFICERS AND EMPLOYEES**

Blind persons, vocational rehabilitation program, political activity, 91.060.  
 Handicapped persons, discrimination, 121.003.  
 Human Resources, Department of, this index.  
 Juvenile probation commission, 75.028.  
 Probation officers,  
   Juvenile services advisory council, 75.027.  
   Qualifications, 75.042.  
 Social work certification council, 50.004.  
 State commission for the blind, 91.012.  
 Texas commission for the deaf, 81.009.  
 Texas rehabilitation commission, 111.020.  
 Youth Council, this index.

**OFFICIAL BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**OLDER PERSONS**

Aged Persons, generally, this index.

**ORDERS**

Aged persons, protective services, emergencies, 48.061.  
 Social work practitioners, specialty work, 50.026, 50.027.

**ORPHANS**

Adoption of Children, generally, this index.  
 Corsicana state home, admission, 61.061.  
 Interstate Placement of Children, generally, this index.

**ORPHANS—Cont'd**

State homes, admission, 61.061.  
 Waco state home, admission, 61.061.  
 West Texas Childrens Home at Pyote, admission, 61.061.

**OUTDOOR RECREATIONAL PROGRAMS**

Deaf students, 81.013.

**PARENTAL SCHOOLS AND DETENTION HOMES**

Delinquent children, 62.001, 62.002.

**PARKS—MAINTENANCE CAMPS AND RANCHES**

Delinquent children, treatment and training facilities, establishment, 61.040.

**PAROLE AND PROBATION**

Delinquent Children, this index.  
 Officers and employees,  
   Juvenile services advisory council, 75.027.  
   Qualifications, 75.042.  
 Standards, 75.041 et seq.  
 Training, probation officers, 75.043.  
 Youth services, parole supervision, 61.040.

**PATERNITY PROCEEDINGS**

Child support collection, 46.002.

**PAYMENTS**

See specific index heading.

**PECUNIARY INTERESTS**

State commission for the blind, ineligibility for membership, 91.011.

**PENALTIES**

Fines and Penalties, generally, this index.

**PER DIEM**

Social work certification council, 50.004.

**PERISHABLE COMMODITIES**

Nutritional assistance programs, processing, 33.005.

**PERMITS**

Licenses and Permits, generally, this index.

**PETITIONS**

Aged persons, protective services, emergency orders, 48.061.  
 Delinquent children, institutions and facilities, petitions for discharge, 61.074.

**PHYSICAL RESTORATION**

Defined, blind persons vocational rehabilitation, 91.051.

**PHYSICALLY DISABLED PERSONS**

Handicapped Persons, generally, this index.

**PLACEMENT OF CHILDREN**

Child-Care Facilities and Agencies, generally, this index.  
 Interstate Placement of Children, generally, this index.

**PLANS AND SPECIFICATIONS**

Blind persons, products, 122.011.  
 Children and minors, development, 72.004.

**PLANS AND SPECIFICATIONS**

—Cont'd

Family violence shelters, contracts, 51.005.  
 Handicapped persons, products, 122.011.

**PODIATRISTS**

Medical assistance program, selection, 32.027.

**POLICY**

Public Policy, generally, this index.

**POLITICAL ACTIVITIES**

Blind persons, vocational rehabilitation program, officers and employees, 91.060.  
 Human resources, department of, officers and employees, 21.009.

**POLITICAL SUBDIVISIONS**

Blind persons, products and services, purchases, 122.014, 122.015.  
 Children and minors, community programs, 72.001 et seq.  
 Handicapped persons, products and services, purchases, 122.014, 122.015.

**PRICES**

Handicapped persons, products, purchases, 122.004, 122.005.

**PRIVATE PRACTICE**

Social work practitioners, certification, 50.001 et seq.

**PRIVILEGED INFORMATION**

Confidential or Privileged Information, generally, this index.

**PRIVILEGES AND IMMUNITIES**

Aged persons, abuse reports, 48.039.

**PROBATION**

Parole and Probation, generally, this index.

**PROCEEDINGS**

Actions and Proceedings, generally, this index.

**PRODUCTS**

Handicapped persons, purchases, 122.001 et seq.

**PROGRAM**

Defined, blind persons vocational rehabilitation, 91.051.

**PROSTHETIC APPLIANCE**

Defined, blind persons vocational rehabilitation, 91.051.

**PROTECTIVE FOSTER CARE**

Foster Care, generally, this index.

**PROTECTIVE SERVICES**

Aged persons, 48.001 et seq.  
 Children and minors. Child Welfare and Protective Services, generally, this index.  
 Defined, aged persons, 48.002.

**PROTECTIVE SERVICES AGENCY**

Defined, aged persons, 48.002.

**PROVISIONAL LICENSES**

Child-care facilities and agencies, 42.051.

References are to Sections

**PSYCHIATRISTS AND PSYCHIA-  
TRY**

Aged persons, protective services, 48.001 et seq.

**PUBLIC FACILITIES**

Defined, handicapped persons, 121.002.  
Handicapped Persons, this index.

**PUBLIC POLICY**

Blind persons, products and services, purchases, 122.001.  
Children and minors, community programs, 72.001.  
Handicapped persons, products and services, purchases, 122.001.

**PUBLIC SCHOOLS**

Schools and School Districts, generally, this index.

**PURCHASES**

Handicapped persons, products and services, 122.001 et seq.

**PYOTE CHILDRENS HOME**

Admission, 61.061.

**QUALIFICATIONS**

Child-care administrators, licenses, 43.004.  
Child-care facilities and agencies, director, designated division, 42.021.  
County child welfare boards, 41.002.  
Probation officers, juvenile probation officers, 75.042.  
State commission for the blind, 91.011.  
Texas commission for the deaf, membership, 81.002.  
Texas rehabilitation commission, 111.013.  
Youth council, 61.012.

**QUORUM**

State commission for the blind, 91.011.  
Texas commission for the deaf, 81.005.  
Youth council, 61.014.

**RATES AND CHARGES**

Handicapped persons, discrimination, 121.003.  
Medical assistance program, restrictions, 32.028.  
Nutritional assistance programs, handling charges, 33.006.

**RECIPROCAL AGREEMENTS**

Handicapped persons, rehabilitation services, 111.052.  
Social work practitioners, certification, 50.032.

**RECORDED MATERIALS**

Blind persons, central media depository, 91.083.

**RECORDS AND RECORDATION**

Aged persons, protective services, 48.083.  
Child support collection, confidential or privileged information, 46.006.  
Child-Care Facilities and Agencies, this index.  
Handicapped persons, criminal history record information; rehabilitation services, 111.058.  
Juvenile boards, 75.044.  
Purchases of products and services of blind and severely disabled persons committee, 122.006.

**RECORDS AND RECORDATION**

—Cont'd  
Support, child support collection, confidential or privileged information, 46.006.  
Youth council, statistical records, 61.041.

**RECREATION AND RECREATIONAL FACILITIES**

Deaf students, outdoor programs, 81.013.

**REFERRAL SERVICES**

Deaf and mute persons, 81.006.

**REGISTERED FAMILY HOME**

Defined, child-care facilities and agencies, 42.002.

**REGISTRATION**

Blind persons, registry of blind and visually handicapped persons, 91.026.  
Child-care facilities and agencies, state operated, 42.052.  
Employment Incentive Act, aid to families with dependent children, financial assistance, 31.009.  
Interpreters, deaf and dumb persons, registry, 81.006.

**REHABILITATION**

Blind Persons, this index.  
Handicapped Persons, this index.

**REHABILITATION COMMISSION**

Defined, blind persons, vending facilities operated by, 94.001.

**RELATIVES**

Dependent child residing with, assistance or aid, 31.005.

**RELEASE**

Delinquent children, state institutions or facilities, 61.081 et seq.

**RELIGION**

Aged persons, protective services, objection, 48.084.

**RELIGIOUS ORGANIZATIONS**

Child-care facilities and agencies, exemptions, 42.041.  
Defined, child-care facilities, 42.002.

**RENEWAL**

Blind persons, vending facility licenses, 94.006.  
Child-care administrators, licenses, 43.009.

**REPORTS**

Aged persons, abuse, exploitation, or neglect, 48.036 et seq., 48.057.  
Blind persons, state commission for the blind, 91.031.  
Child-care facilities and agencies, division annual reports, 42.023.  
Delinquent Children, this index.  
Family violence shelters, 51.006.  
Handicapped persons, rehabilitation services, 111.021.  
Human resources, department of, commissioner, 21.011.  
Juvenile boards, 75.044.  
State aid, 75.066.  
Social work practitioners, certification, 50.007.  
Texas rehabilitation commission, 111.021.  
Youth council, 61.033.

**RESEARCH AND DEMONSTRATION PROJECTS**

Human resources, department of, 22.003.

**RESIDENCE**

Domicile and Residence, generally, this index.

**RESPIRE CARE**

Handicapped persons, 81.012.

**RETAIL SALES**

Sales, generally, this index.

**REVOCATION**

Blind persons, vending facility licenses, 94.006.  
Child-care administrators, licenses, 43.010.  
Social work practitioners, certification, 50.021.

**REVOLVING FUNDS**

Nutritional assistance programs, 33.009.

**ROSTER**

Social work practitioners, certification, 50.008.

**RULES AND REGULATIONS**

See specific index headings.

**SALARIES**

Compensation and Salaries, generally, this index.

**SALES**

Blind persons, products and services, purchases, 122.001 et seq.  
Handicapped persons, products and services, purchases, 122.001 et seq.  
Nutritional assistance programs, used commodity containers, 33.008.

**SALESROOMS AND WORKSHOPS**

Blind persons, 91.024.

**SCHOOLS AND SCHOOL DISTRICTS**

Deaf students, outdoor recreational programs, 81.013.  
Delinquent children, parental schools, 62.001, 62.002.  
Industrial schools, blind persons, operation of, 91.024.

**SEGREGATION**

Delinquent children, classification needs, treatment and training facilities, establishment, 61.040.

**SELF-SUFFICIENCY PROGRAMS**

Handicapped persons, 81.012.

**SENDING AGENCY**

Interstate Placement of Children, this index.

**SENIOR CITIZENS**

Aged Persons, generally, this index.

**SHELTER CENTER**

Defined, family violence, 51.002.

**SHELTERED WORKSHOP**

Defined, handicapped persons, rehabilitation, 111.002.

**SHELTERS**

Family violence, 51.001 et seq.

## INDEX TO HUMAN RESOURCES CODE

References are to Sections

**SOCIAL SECURITY**

Human resources, department of, administration, 22.002.

**SOCIAL WORK ASSOCIATE**

Defined, certification, 50.001.

**SOCIAL WORK CERTIFICATION COUNCIL**

Generally, 50.004.

**SOCIAL WORK PRACTITIONERS**

Certificates and certification, 50.001 et seq.

**SOCIAL WORK SERVICES**

Defined, practitioners, 50.001.

**SOCIAL WORKERS**

Defined, certification, 50.001.

**SOCIAL WORKERS FUND**

Generally, 50.005.

**SOLICITATION**

Assistance, human resources, department of, 12.001.

**SPECIALTY WORK SERVICES**

Social work practitioners, 50.024 et seq.

**SPECIFICATIONS**

Plans and Specifications, generally, this index.

**SPOUSE**

Family violence shelters, 51.001 et seq.

**STAMPS**

Food Stamps, generally, this index.

**STANDARDS**Handicapped persons, extended rehabilitation services, 111.084.  
Juvenile boards, 75.041 et seq.  
Medical assistance program, 32.024.  
Parole and probation, juveniles, 75.041 et seq.  
Social work practitioners, 50.006.**STATE AGENCIES**Blind persons, products and services, purchases, 122.001 et seq.  
Deaf and mute persons, telecommunication devices, 81.011.  
Handicapped persons, products and services, purchases, 122.001 et seq.**STATE AID**Children and minors, community programs, 72.004.  
Defined, juvenile boards, 75.061.  
Juvenile boards, 75.061 et seq.**STATE COMMISSION FOR THE BLIND**

Blind Persons, this index.

**STATE HOMES**

Children and minors, admission, 61.061.

**STATE INSTITUTIONS**

Institutions, generally, this index.

**STATE PROPERTY**

Defined, blind persons, vending facilities operated by, 94.001.

**STATE TREASURY**Human resources, department of, funds, 22.005.  
Medical assistance fund, 32.030.  
Youth council fund, 61.043.**STATUTORY CONSTRUCTION**Handicapped persons, 121.009.  
Human resources, department of, 11.002.  
Medical assistance program, 32.002.**STUDIES**Aged persons, productive and independent lives, 101.022.  
Delinquent children, parole and probation, 75.048.**SUBDIVISIONS**

Political Subdivisions, generally, this index.

**SUBROGATION**

Medical assistance program, recipients right to recovery, 32.033.

**SUBSTANTIAL HANDICAP TO EMPLOYMENT**

Defined, handicapped persons, rehabilitation, 111.002.

**SUITABLE EMPLOYMENT**

Defined, community senior citizens employment programs, 101.023.

**SUNSET ACT**Aging department, 101.002.  
Human resources, department of, application, 21.002.  
Purchases of products and services of blind and severely disabled persons, application of law, 122.003.  
State commission for the blind, application of, 91.001.  
Texas commission for the deaf, application of, 81.004.  
Texas rehabilitation commission, application of, 111.012.  
Youth council, review of council, 61.020.**SUPPORT**Child Support Collection, generally, this index.  
Interstate placement of children, sending agencies financial responsibility, 45.003.**SURVEYS**

Handicapped persons, self-sufficiency and independent living programs, 81.012.

**SUSPENSION**

Revocation, generally, this index.

**TAXATION**

Detention homes and parental schools, special tax levy, election, 62.001.

**TELECOMMUNICATION DEVICES**

Deaf and mute persons, state agencies, 81.011.

**TERMS OF OFFICE**Aged persons, citizens advisory council, 101.005.  
Aging board, 101.001.  
Child-care administrators, advisory council, 43.002.  
Child-care facilities and agencies, state advisory committee, 42.022.**TERMS OF OFFICE—Cont'd**Human resources, board of, 21.003.  
Juvenile probation, 75.023.  
Social work certification council, 50.004.  
State commission for the blind, 91.011.  
Technical advisory council for planning and operations,  
Deaf persons, 81.010.  
Texas, commission for the deaf, 81.003.  
Youth council, 61.012.**TESTS AND TESTING**

Handicapped persons, job positions or educational level, 121.010.

**TEXAS COMMISSION FOR THE DEAF**

Deaf and Mute Persons, this index.

**TEXAS REHABILITATION COMMISSION**

Handicapped Persons, this index.

**TEXAS YOUTH COUNCIL**

Youth Council, generally, this index.

**TIME**Blind persons, vending facility licenses, expiration, 94.006.  
Child-care administrators, appeals, license denial or revocation, 43.011.  
Child-care facilities and agencies, Appeals, license denials or revocation, 42.072.**TRAFFIC RULES AND REGULATIONS**

Blind persons, pedestrians, 121.007.

**TRAINING**Aged persons, 101.022.  
Deaf and Mute Persons, this index.  
Deaf students, outdoor recreational programs, 81.013.  
Probation officers, juvenile probation officers, 75.043.**TRAINING FACILITIES**

Delinquent children, 61.040.

**TRANSPORTATION**

Handicapped persons, public conveyances, discrimination, 121.003.

**TRAVELING EXPENSES**Aged persons, citizens advisory council, 101.005.  
Aging board, 101.001.  
Social work certification council, 50.004.**TREATMENT**

Delinquent Children, this index.

**TUBERCULOSIS**

Child-care facilities and agencies, testing, 42.043.

**VENDING FACILITIES**

Blind Persons, this index.

**VESTED RIGHTS**

Aid to families with dependent children, 31.041.

**VICTIM OF FAMILY VIOLENCE**

Defined, shelters, 51.002.

**VIOLENCE**

Family shelters, 51.001 et seq.

# INDEX TO HUMAN RESOURCES CODE

850

References are to Sections

## VISUAL HANDICAP

Defined, state commission for the blind, 91.002.

## VISUALLY HANDICAPPED PERSONS

Blind Persons, generally, this index.

## VOCATIONAL REHABILITATION

Blind Persons, this index.

Handicapped Persons, this index.

## WACO STATE HOME

Admission, 61.061.

## WAIVER

Child-care facilities and agencies, minimum standards, 42.042.

## WARRANTS FOR PAYMENT OF MONEY

Social workers fund, 50.005.

## WEST TEXAS CHILDRENS HOME AT PYOTE

Admission, 61.061.

## WHITE CANES

Blind Persons, this index.

## WORDS AND PHRASES

Abuse, aged persons, 48.002.

Advisory council, juvenile probation, 75.002.

Agency, blind persons, vending facilities operated by, 94.001.

Agency home, child-care facilities, and agencies, 42.002.

Assistance, human resources, department of, 11.001.

Blind, state commission for the blind, 91.002.

Blind disabled individual, vocational rehabilitation, 91.051.

Blind person, vending facilities operated by, 94.001.

Board,

Human resources, department of, 11.001.

Social work practitioners, 50.001.

Certified social work, 50.001.

Chairman, youth council, 61.001.

Child,

Care facilities, 42.002.

Interstate placement of children, 45.001.

Child-care administrators, 43.001.

Child-care facility, 42.002.

Interstate Placement of Children, 45.001.

Child-care institution,

Administrators, 43.001.

Facilities and placement agencies, 42.002.

Child-placing agency, 42.002.

Commission,

Blind persons, 91.002.

Vending facilities operated by, 94.001.

Handicapped persons, 111.002.

Juvenile probation, 75.002.

Texas commission for the deaf, 81.001.

Commissioner,

Handicapped persons, 111.002.

Human resources, department of, 11.001.

Construct, handicapped persons, rehabilitation, facilities, 111.002.

## WORDS AND PHRASES—Cont'd

Council,

Social work practitioners, 50.001.

Youth council, 61.001.

Court, youth council, 61.001.

Day care center, child-care facilities and agencies, 42.002.

Delinquent child, youth council, 61.001.

Department,

Aged persons, 48.002.

Human resources, department of, 11.001.

Social work practitioners, 50.001.

Dependent child, aid to families with dependent children, 31.002.

Director,

Children and minors, 72.002.

Juvenile probation, 75.002.

Vocational rehabilitation of the blind, 91.051.

Disability, handicapped persons, rehabilitation, 111.002.

Disabled individual, vocational rehabilitation of the blind, 91.051.

Division, child-care facilities and agencies, 42.002.

Dog guide, handicapped persons, 121.002.

Elderly persons, protective services,

48.002.

Employee in the criminal or juvenile justice system, probation, 75.002.

Employment handicap, vocational rehabilitation of the blind, 91.051.

Establishment of a rehabilitation facility, handicapped persons, 111.002.

Establishment of a workshop, handicapped persons, rehabilitation, 111.002.

Executive director, youth council, 61.001.

Exploitation, aged persons, 48.002.

Extended community residence, handicapped persons, rehabilitation, 111.002.

Extended rehabilitation services, handicapped persons, 111.002.

Extended sheltered workshop employment, handicapped persons, rehabilitation, 111.002.

Facilities, child-care facilities and agencies, 42.002.

Family day home, child-care facilities and agencies, 42.002.

Financial assistance, human resources, department of, 11.001.

Foster family home, child-care facilities and agencies, 42.002.

Foster group home, child-care facilities and agencies, 42.002.

Gainful occupation, handicapped persons, rehabilitation, 111.002.

Group day-care home, child-care facilities and agencies, 42.002.

Handicapped, blind persons, vending facilities operated by, 94.001.

Handicapped individual, rehabilitation, 111.002.

Handicapped person, 121.002.

Hard-to-place child, adoption services, 47.001.

Housing accommodations, handicapped persons, 121.002.

Juvenile board, probation, 75.002.

Maintenance, vocational rehabilitation of the blind, 91.051.

Medical assistance, 32.003.

Human resources, department of, 11.001.

## WORDS AND PHRASES—Cont'd

Neglect, aged persons, 48.002.

Occupational license, vocational rehabilitation of the blind, 91.051.

Physical restoration, vocational rehabilitation of the blind, 91.051.

Placement, interstate placement of children, 45.001.

Program, vocational rehabilitation of the blind, 91.051.

Prosthetic appliance, vocational rehabilitation of the blind, 91.051.

Protective services, aged persons, 48.002.

Protective services agency, aged persons, 48.002.

Public facilities, handicapped persons, 121.002.

Registered family home, child-care facilities and agencies, 42.002.

Rehabilitation commission, blind persons, vending facilities operated by, 94.001.

Rehabilitation services, handicapped persons, 111.002.

Rehabilitation training, blind persons, 91.051.

Religious organization, child-care facilities, 42.002.

Rule, vocational rehabilitation of the blind, 91.051.

Sending agency, interstate placement of children, 45.001.

Shelter center, family violence, 51.002.

Sheltered workshop, handicapped persons, rehabilitation, 111.002.

Social work associate, certification, 50.001.

Social work services, practitioners, 50.001.

Social workers, certification, 50.001.

State aid, juvenile boards, 75.061.

State of Texas, child-care facilities and agencies, 42.002.

State property, blind persons, vending facilities operated by, 94.001.

Substantial handicap to employment, rehabilitation, 111.002.

Suitable employment, community senior citizens employment programs, 101.023.

Vending facility, blind persons, 94.001.

Victim of family violence, shelters, 51.002.

Visual handicap, state commission for the blind, 91.002.

Visually handicapped child, state commission for the blind, 91.002.

Vocational rehabilitation, blind persons, 91.051.

White cane, handicapped persons, 121.002.

## WORKSHOPS AND SALESROOMS

Blind persons, 91.024.

## YOUTH COUNCIL

Generally, 61.001 et seq.

Administration, 61.011 et seq.

Institutions, 61.032.

Agencies,

Cooperation with, 61.036.

Use of existing institutions and agencies, 61.037.

Appointment, 61.012.

Authorization, use of existing institutions and agencies, 61.037.

Bonds (officers and fiduciaries), superintendents, 61.018.

## INDEX TO HUMAN RESOURCES CODE

References are to Sections

## YOUTH COUNCIL—Cont'd

Budget, 61.044.  
 Compensation and salaries, 61.015.  
 Composition, 61.012.  
 Cooperation, other agencies, 61.036,  
 61.091.  
 Definitions, 61.001.  
 Delegation, powers and duties, 61.019.  
 Delinquent Children, generally, this in-  
 dex.  
 Director, executive director, 61.017.  
   Powers and duties, 61.044.  
 Duration, Sunset Act, review of council,  
 61.020.  
 Expenses and expenditures, reimburse-  
 ment, 61.015.  
 Funds, youth council fund, 61.043.  
 Gifts and grants, authorization to accept,  
 61.043.

## YOUTH COUNCIL—Cont'd

Institutions and facilities, administration,  
 61.032.  
 Meetings, 61.013.  
 Membership, 61.012.  
 Office building, location, 61.016.  
 Officers and employees, 61.035.  
   Executive director, 61.017.  
   Superintendent, 61.018.  
 Parole supervision, 61.040.  
 Per diem, 61.015.  
 Policies, adoption of, 61.034.  
 Powers and duties, 61.031 et seq.  
   Delegation, 61.019.  
   Executive director, 61.044.  
   Superintendents, 61.045.  
 Presiding officers, 61.013.  
 Programs, state-wide plan, 61.039.  
 Purpose, 61.002.

## YOUTH COUNCIL—Cont'd

Qualifications, members, 61.012.  
 Quorum, 61.014.  
 Recommendations, 61.033.  
 Records, statistical records, 61.041.  
 Reports, 61.033.  
 Rules and regulations, adoption of,  
 61.034.  
 Services, state-wide plan, 61.039.  
 State-wide plan, programs and services,  
 61.039.  
 Statistical records, 61.041.  
 Studies,  
   Continuing study of juvenile delinquen-  
   cy, 61.031.  
   Treatment methods, 61.041.  
 Sunset Act, review of council, 61.020.  
 Superintendents, 61.018.  
   Powers and duties, 61.045.  
 Terms of office, 61.012.

\*



# NATURAL RESOURCES CODE

Title	Chapter
1. General Provisions .....	1
2. Public Domain .....	11
3. Oil and Gas .....	81
4. Mines and Mining .....	131
5. Geothermal Energy and Associated Resources .....	141
6. Timber .....	151
7. Resources Programs .....	161
8. Acquisition of Resources .....	181
9. Heritage .....	191
10. Caves .....	201

## TITLE 1. GENERAL PROVISIONS

Chapter	Section
1. General Provisions .....	1.001

## TITLE 2. PUBLIC DOMAIN

### SUBTITLE A. GENERAL PROVISIONS

11. Provisions Generally Applicable to the Public Domain .....	11.001
--	--------

### SUBTITLE B. SURVEYS AND SURVEYORS

21. Surveys and Field Notes .....	21.001
22. Board of Examiners of Land Surveyors .....	22.001
23. County Surveyors .....	23.001

### SUBTITLE C. ADMINISTRATION

31. General Land Office .....	31.001
32. School Land Board .....	32.001
33. Management of Coastal Public Land .....	33.001
34. Boards for Lease .....	34.001
35. Board for Lease of State Park Lands .....	35.001
36. Board for Lease of Eleemosynary and State Memorial Park Lands .....	36.001

### SUBTITLE D. DISPOSITION OF THE PUBLIC DOMAIN

51. Land, Timber, and Surface Resources .....	51.001
52. Oil and Gas .....	52.001
53. Minerals .....	53.001

### SUBTITLE E. BEACHES AND DUNES

61. Use and Maintenance of Public Beaches .....	61.001
62. Beach Park Board of Trustees .....	62.001
63. Dunes .....	63.001

## SUBTITLE F. LAND OF POLITICAL SUBDIVISIONS

Chapter	Section
71. Lease for Mineral Development .....	71.001

## TITLE 3. OIL AND GAS

### SUBTITLE A. ADMINISTRATION

81. Railroad Commission of Texas .....	81.001
--	--------

### SUBTITLE B. CONSERVATION AND REGULATION OF OIL AND GAS

85. Conservation of Oil and Gas .....	85.001
86. Regulation of Natural Gas .....	86.001
87. Regulation of Sour Natural Gas .....	87.001
88. Control of Oil Property .....	88.001
89. Abandoned Wells .....	89.001
90. Interstate Compact to Conserve Oil and Gas .....	90.001
91. Provisions Generally Applicable .....	91.001

### SUBTITLE C. POOLING AND COOPERATIVE AGREEMENTS

101. Cooperative Development .....	101.001
102. Pooling .....	102.001
103. Cooperative Facilities for Conservation and Utilization of Gas .....	103.001

### SUBTITLE D. REGULATION OF SPECIFIC BUSINESSES AND OCCUPATIONS

111. Common Carriers, Public Utilities, and Common Purchasers .....	111.001
112. Used Oil Field Equipment Dealers .....	112.001
113. Liquefied Petroleum Gas Industry .....	113.001

## TITLE 4. MINES AND MINING

131. Uranium Surface Mining and Reclamation Act .....	131.001
132. Interstate Mining Compact .....	132.001

## TITLE 5. GEOTHERMAL ENERGY AND ASSOCIATED RESOURCES

141. Geothermal Resources .....	141.001
142. Natural Energy and Water Resources Compact .....	142.001

**TITLE 6. TIMBER**

Chapter	Section
151. Provisions Generally Applicable .....	151.001
152. Forest Pest Control .....	152.001

**TITLE 7. RESOURCES PROGRAMS**

161. Veterans Land Board .....	161.001
--------------------------------	---------

**TITLE 8. ACQUISITION OF RESOURCES**

181. Texas Conservation Foundation .....	181.001
182. Texas Historical Resources Development Council .....	182.001

**TITLE 9. HERITAGE**

191. Antiquities Committee .....	191.001
----------------------------------	---------

**TITLE 10. CAVES**

201. Cavern Protection .....	201.001
------------------------------	---------

**TITLE 1. GENERAL PROVISIONS**

**CHAPTER 1. GENERAL PROVISIONS**

Section	
1.001. Purpose of Code.	
1.002. Construction of Code.	

**§ 1.001. Purpose of Code**

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

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent natural resources law more accessible and understandable by:

- (1) rearranging the statutes into a more logical order;
- (2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;
- (3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible.

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

**§ 1.002. Construction of Code**

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

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

**TITLE 2. PUBLIC DOMAIN**

**SUBTITLE A. GENERAL PROVISIONS**

**CHAPTER 11. PROVISIONS GENERALLY APPLICABLE TO THE PUBLIC DOMAIN**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
11.001. Definitions.	

**SUBCHAPTER B. TERRITORY AND BOUNDARIES OF THE STATE**

11.011. Vacant and Unappropriated Land.	
11.012. Gulfward Boundary of Texas.	
11.013. Gulfward Boundaries of Counties.	
11.0131. Jurisdiction of Home-Rule Cities Over Submerged Lands.	
11.014. Land Acquired From Oklahoma.	
11.015. Extension of Texas-New Mexico Boundary.	
11.016. Land Acquired From Mexico in 1933.	
11.017. Chamizal Area.	
11.018. Cession of Certain El Paso Land.	

**SUBCHAPTER C. SPECIAL FUNDS**

11.041. Permanent School Fund.	
11.042. Asylum Fund.	
11.043. University Fund.	

**SUBCHAPTER D. REGULATION OF THE PUBLIC DOMAIN**

11.071. Recovery of Value of Minerals and Timber.	
11.072. Fences With and Without Gates.	
11.073. Definition of Fencing.	
11.074. Herding and Line-Riding.	
11.075. Appropriation of Land by Fencing.	
11.076. Unlawful Enclosures.	
11.077. Suit Against Adverse Claimant.	
11.078. Venue.	

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 11.001. Definitions**

In this chapter:

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

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

[Sections 11.002 to 11.010 reserved for expansion]

SUBCHAPTER B. TERRITORY AND  
BOUNDARIES OF THE STATE

§ 11.011. Vacant and Unappropriated Land

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

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

§ 11.012. Gulfward Boundary of Texas

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

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

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

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

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

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

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

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

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

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

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

Neither this Act nor the general laws nor the special laws of the state shall have the effect of validating, ratifying, approving, or confirming the inclusion of territory in any such general-law city, town, or village more than 5,280 feet gulfward beyond the coastline.

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

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

Sections 2 and 3 of the 1979 amendatory act provided:

"Sec. 2. If any provision of this Act or its application to any person or circumstance is held to be invalid for any reason, the invalidity does not affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

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

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

*Text of section added effective until October 1, 1983*

(a) In this section:

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

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

(b) A home-rule city may not annex state-owned submerged lands located:

(1) gulfward from the coastline; or

(2) more than 5,280 feet from the corporate city boundaries in bays or estuaries.

(c) A contract or agreement by which a home-rule city purports to pledge, directly or indirectly, taxes or other revenue from or attributable to state-owned submerged lands located more than one marine league gulfward from the coastline does not create an enforceable right to prevent the removal, by disannexation or other means, of all or part of the submerged lands from the city's jurisdiction.

(d) This section expires October 1, 1983.

[Added by Acts 1981, 67th Leg., p. 3057, ch. 803, § 1, eff. Aug. 31, 1981.]

Section 2 of the 1981 Act provides:

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

**§ 11.014. Land Acquired From Oklahoma**

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

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

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

**§ 11.015. Extension of Texas-New Mexico Boundary**

(a) The boundary lines of all counties in the Texas Panhandle that border on the New Mexico boundary line are extended by extending the north and south lines of certain counties west to the Texas-New Mexico line, which was established by the survey of John H. Clark in 1859 and later retraced to completion on September 26, 1911, by the Boundary Commission composed of Francis M. Cockrell and Sam R. Scott, under authority of S.J.R. No. 124, of the 61st Congress, Third Session.

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

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

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

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

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

**§ 11.016. Land Acquired From Mexico in 1933**

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

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

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

(d) For the purpose of determining the boundaries, the boundary lines of the parcels and tracts established by the American Section of the International Boundary Commission, United States and Mexico, shall be accepted as the true boundaries.

(e) Any parcels or tracts of land that are adjacent to or contiguous to a water improvement district or

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

(f) None of the provisions of this section may be construed to affect the ownership of the land. [Acts 1977, 65th Leg., p. 2350, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 11.017. Chamizal Area

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

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

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

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

#### § 11.018. Cession of Certain El Paso Land

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

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

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

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

[Sections 11.019 to 11.040 reserved for expansion]

### SUBCHAPTER C. SPECIAL FUNDS

#### § 11.041. Permanent School Fund

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

(1) the mineral estate in river beds and channels;

(2) the mineral estate in areas within tidewater limits, including islands, lakes, bays, and the bed of the sea which belong to the state; and

(3) the arms and the beds and shores of the Gulf of Mexico within the boundary of Texas.

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

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

#### § 11.042. Asylum Fund

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

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

#### § 11.043. University Fund

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

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

[Sections 11.044 to 11.070 reserved for expansion]

### SUBCHAPTER D. REGULATION OF THE PUBLIC DOMAIN

#### § 11.071. Recovery of Value of Minerals and Timber

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

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

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

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

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

**§ 11.072. Fences With and Without Gates**

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

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

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

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

**§ 11.073. Definition of Fencing**

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

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

**§ 11.074. Herding and Line-Riding**

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

(b) Any owner of stock or his manager, agent, employee, or servant who fences, uses, occupies, or

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

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

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

**§ 11.075. Appropriation of Land by Fencing**

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

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

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

**§ 11.076. Unlawful Enclosures**

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

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

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

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

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

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

(g) If judgment is recovered by the state in the suit, the court shall order the enclosure or fences removed and shall charge the costs of the suit to the defendant. Property on the land which belongs to the defendant and which is not exempt from execution may be used to pay costs and damages in addition to the personal liability of the defendant. [Acts 1977, 65th Leg., p. 2353, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2644, ch. 707, § 4(32), eff. Aug. 31, 1981.]

#### § 11.077. Suit Against Adverse Claimant

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

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

#### § 11.078. Venue

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

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

### SUBTITLE B. SURVEYS AND SURVEYORS

#### CHAPTER 21. SURVEYS AND FIELD NOTES

##### SUBCHAPTER A. GENERAL PROVISIONS

Section  
21.001. Definitions.

##### SUBCHAPTER B. SURVEYS

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

##### SUBCHAPTER C. FIELD NOTES

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

##### SUBCHAPTER D. TEXAS CO-ORDINATE SYSTEM

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

##### SUBCHAPTER A. GENERAL PROVISIONS

#### § 21.001. Definitions

In this chapter:

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

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

(3) "Navigable stream" means a stream which retains an average width of 30 feet from the mouth up.

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

[Sections 21.002 to 21.010 reserved for expansion]

##### SUBCHAPTER B. SURVEYS

#### § 21.011. Surveys of Public Land

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

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

#### § 21.012. Surveys on Navigable Streams

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

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

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

#### § 21.013. Surveys Not on a Navigable Stream

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

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

#### § 21.014. Survey for Division Line

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

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

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

[Sections 21.015 to 21.040 reserved for expansion]

SUBCHAPTER C. FIELD NOTES

§ 21.041. Field Notes of a Survey of Public Land

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

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

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

§ 21.042. Surveyor's Certification

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

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

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

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

§ 21.043. Lost Field Notes

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

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

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

§ 21.044. Incorrect Field Notes

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

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

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

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

[Sections 21.045 to 21.070 reserved for expansion]

SUBCHAPTER D. TEXAS CO-ORDINATE SYSTEM

§ 21.071. Adoption of Co-Ordinate System

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

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

§ 21.072. Purpose and Limitations of Co-Ordinate System

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

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

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

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

§ 21.073. Division of State Into Zones

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

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

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

§ 21.074. Area Within Zones

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

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

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

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

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

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

#### § 21.075. Zone Names in Land Description

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

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

shall be designated, the "Texas Co-ordinate System, North Central Zone."

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

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

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

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

#### § 21.076. Co-Ordinate System Definitions

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

(1) The Texas Co-ordinate System, North Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes  $34^{\circ} 39'$  and  $36^{\circ} 11'$ , along which parallels the scale shall be exact. The origin of co-ordinates is at the intersection of the meridian  $101^{\circ} 30'$  west longitude and the parallel  $34^{\circ} 00'$  north latitude. This origin is given the co-ordinates:  $x = 2,000,000$  feet (720,000 varas) and  $y = 0$  feet (0 varas).

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

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

(4) The Texas Co-ordinate System, South Central Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes  $28^{\circ} 23'$  and  $30^{\circ} 17'$ , along which parallels the scale shall be exact. The ori-

gin of co-ordinates is at the intersection of the meridian of 99° 00' west longitude and the parallel 27° 50' north latitude. This origin is given the co-ordinates: x = 2,000,000 feet (720,000 varas) and y = 0 feet (0 varas).

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

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

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

§ 21.077. Unit of Measurement

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

- (1) one meter = 39.37 inches exactly;
- (2) one foot = 12.00 inches exactly; and
- (3) one vara = 33½ inches exactly.

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

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

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

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

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

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

§ 21.079. Land in More Than One Zone

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

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

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

SUBCHAPTER A. GENERAL PROVISIONS

Section 22.001. Repealed.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

22.011 to 22.019. Repealed.

SUBCHAPTER C. LICENSING OF LAND SURVEYORS

22.051 to 22.065. Repealed.

SUBCHAPTER D. POWERS AND DUTIES OF LICENSED SURVEYOR

22.101 to 22.111. Repealed.

SUBCHAPTER E. REVOCATION OF LICENSE

22.151. Repealed.

SUBCHAPTER A. GENERAL PROVISIONS

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

The repealed section, relating to definitions, was derived from Acts 1977, 65th Leg., p. 2361, ch. 871, art. I, § 1. See, now, Civil Statutes, art. 5282c.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

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

The repealed sections, relating to administrative provisions, were derived from Acts 1977, 65th Leg., p. 2361, ch. 871, art. I, § 1. See, now, Civil Statutes, art. 5282c.

SUBCHAPTER C. LICENSING OF LAND SURVEYORS

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

The repealed sections, relating to licensing of land surveyors, were derived from Acts 1977, 65th Leg., p. 2362, ch. 871, art. I, § 1. See, now, Civil Statutes, art. 5282c.

SUBCHAPTER D. POWERS AND DUTIES OF LICENSED SURVEYOR

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

The repealed sections, relating to powers and duties of licensed surveyor, were derived from Acts 1977, 65th Leg., p. 2365, ch. 871, art. I, § 1. See, now, Civil Statutes, art. 5282c.

## SUBCHAPTER E. REVOCATION OF LICENSE

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

The repealed section, relating to cause for revocation, was derived from Acts 1977, 65th Leg., p. 2366, ch. 871, art. I, § 1.  
See, now, Civil Statutes, art. 5282c.

## CHAPTER 23. COUNTY SURVEYORS

## SUBCHAPTER A. GENERAL PROVISIONS

Section

23.001. Definitions.

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

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

## SUBCHAPTER C. POWERS AND DUTIES

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

## SUBCHAPTER A. GENERAL PROVISIONS

## § 23.001. Definitions.

In this chapter:

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

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

[Sections 23.002 to 23.010 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

## § 23.011. Election

At each general election, a county surveyor shall be elected in each county for a term of two years.  
[Acts 1977, 65th Leg., p. 2367, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 23.012. Residence

The county surveyor shall reside in the county.  
[Acts 1977, 65th Leg., p. 2367, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 23.013. Bond

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

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

## § 23.014. Deputy Surveyor

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

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

(c) The deputy may perform all acts authorized or required by law to be done by the county surveyor.  
[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 23.015. Chain Carriers and Markers

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

(b) The county surveyor shall administer an oath to each of these employees to faithfully perform his duties in accordance with the instructions given him.  
[Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 23.016. Office Location

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

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

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

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

[Sections 23.017 to 23.050 reserved for expansion]

## SUBCHAPTER C. POWERS AND DUTIES

## § 23.051. In General

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

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

## § 23.052. Surveys on Which Patents Are to be Obtained

The county surveyor shall:

(1) receive and examine all field notes of surveys made in the county on which patents are to be obtained;

(2) certify to the same according to law; and

(3) record the field notes in a book to be kept by him for that purpose.

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

## § 23.053. Record of Field Notes

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

(b) The county surveyor shall record in a well-bound book all the surveys in his county, with the plats that he may make, whether private or official. [Acts 1977, 65th Leg., p. 2368, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

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

"Sec. 1. (a) The Commissioner of the General Land Office is hereby authorized to accept and file corrected field notes to any survey of land in Swisher, Castro, or Randall County, where said corrected field notes are made by an official surveyor thereunto duly authorized by the owners of the land covered by said corrected field notes, and where said corrected field notes are based upon the ground location of said survey as located according to the 'W. B. Hutchison Iron Pipe Survey' as the same now exists on the ground in Swisher, Castro, or Randall County. Upon approval by the Land Commissioner, and filing of said corrected field notes, the Land Commissioner shall issue corrected patents to any survey as resurveyed in Swisher, Castro, or Randall County. A present landowner in Swisher County shall pay the sum of Two Dollars (\$2.00) per acre for any excess acreage in any survey over and above the acreage called for by the present outstanding patent or award now existing on said lands. Except as provided by Subsection (b) of this section, if a corrected patent to land in Castro or Randall County is based on a survey that calls for acreage in excess of the acreage under the original patent, the Land Commissioner shall convey the excess by deed of acquittance as provided by law.

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

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

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

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

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

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

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

**§ 23.054. Right of Inspection**

At all times, any interested person, agent, or attorney may examine the books, papers, plats, maps, or other archives belonging to the office of the county surveyor on the payment of the fee set by law. In addition to the fees allowed by law for field work, the county surveyor may charge 20 cents per 100 words for the record.

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

**§ 23.055. Bound Records**

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

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

**§ 23.056. Lost Records**

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

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

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

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

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

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

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

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

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

**§ 23.059. Failure to Survey**

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

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

SUBTITLE C. ADMINISTRATION

CHAPTER 31. GENERAL LAND OFFICE

SUBCHAPTER A. GENERAL PROVISIONS

Section  
31.001. Definitions.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

31.011. Land Office Established.  
31.012. Commissioner's Election; Residence.  
31.013. Bonds.  
31.014. Commissioner's Liability.  
31.015. Chief Clerk.  
31.016. Abstract Clerk.  
31.017. Receiving Clerk.  
31.018. Translator.  
31.019. Draftsmen.  
31.020. Conditions of Employment.  
31.021. Reimbursement for Notary Public Expense.

## SUBCHAPTER C. POWERS AND DUTIES

## Section

- 31.051. General Duties.
- 31.052. Custody of Records.
- 31.053. Filing Papers.
- 31.054. Public Access to Papers.
- 31.055. Removing Papers.
- 31.056. Revision and Compilation of Abstracts.
- 31.057. Printing Supplementary Abstracts.
- 31.058. Receiving Funds.
- 31.059. Receiving Clerk's Books.
- 31.060. Financial Report.
- 31.061. Examination of Books.
- 31.062. Embezzlement.
- 31.063. Location of Coastal Boundaries.

## SUBCHAPTER D. ISSUANCE OF PERMITS

- 31.101. Definition.
- 31.102. Authority to Make Geological, Geophysical, and Other Surveys.
- 31.103. Deposit.
- 31.104. Payments on Areas Surveyed or Investigated Without a Permit.
- 31.105. Prohibition.
- 31.106. Methods.
- 31.107. Rules.
- 31.108. Penalty.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 31.001. Definitions

In this chapter:

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

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

[Sections 31.002 to 31.010 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

## § 31.011. Land Office Established

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

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

## § 31.012. Commissioner's Election; Residence

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

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

## § 31.013. Bonds

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

(b) Any bonds required by law to be executed by employees of the land office shall be executed and

approved in the manner provided for the commissioner in Subsection (a) of this section.

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

## § 31.014. Commissioner's Liability

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

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

## § 31.015. Chief Clerk

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

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

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

## § 31.016. Abstract Clerk

The commissioner shall designate one of his clerks as the abstract clerk and shall assign to him the special duty to correct the abstracts of patented, titled, and surveyed land required to be kept in the land office to reflect errors, changes caused by cancellation of patents and in county lines, and the creation of new counties and to add new patented surveys on the date they are patented.

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

## § 31.017. Receiving Clerk

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

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

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

## § 31.018. Translator

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

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

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

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

**§ 31.019. Draftsmen**

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

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

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

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

**§ 31.020. Conditions of Employment**

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

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

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

**§ 31.021. Reimbursement for Notary Public Expense**

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

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

[Sections 31.022 to 31.050 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES**

**§ 31.051. General Duties**

The commissioner shall:

(1) superintend, control, and direct the official conduct of subordinate officers of the land office;

(2) execute and perform all acts and other things relating to public land of the state or rights of individuals in public land which is required by law;

(3) make and enforce suitable rules consistent with the law; and

(4) give information when required to the governor and the legislature relating to public land and the land office.

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

**§ 31.052. Custody of Records**

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

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

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

**§ 31.053. Filing Papers**

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

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

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

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

**§ 31.054. Public Access to Papers**

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

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

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

**§ 31.055. Removing Papers**

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

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

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

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

**§ 31.056. Revision and Compilation of Abstracts**

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

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

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

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

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

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

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

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

#### § 31.057. Printing Supplementary Abstracts

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

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

(c) The commissioner shall deposit any money received from the sale of the copies of the State Treasury to the credit of the General Revenue Fund. [Acts 1977, 65th Leg., p. 2373, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 31.058. Receiving Funds

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

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

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

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

#### § 31.059. Receiving Clerk's Books

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

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

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

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

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

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

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

#### § 31.060. Financial Report

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

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

#### § 31.061. Examination of Books

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

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

#### § 31.062. Embezzlement

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

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

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

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

#### § 31.063. Location of Coastal Boundaries

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

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

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

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

[Sections 31.064 to 31.100 reserved for expansion]

SUBCHAPTER D. ISSUANCE OF PERMITS

§ 31.101. Definition

In this subchapter, "areas within tidewater limits" means islands, saltwater lakes, bays, inlets, marshes, and reefs within tidewater limits and that portion of the Gulf of Mexico within the jurisdiction of Texas. [Acts 1977, 65th Leg., p. 2374, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

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

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

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

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

§ 31.103. Deposit

(a) Before a permit is issued under this subchapter, the applicant shall deposit with the commissioner an amount equal to \$50 a day for the desired term of the permit.

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

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

(d) After the report is filed, the commissioner shall deposit in the State Treasury to the credit of the permanent school fund an amount equal to \$50 a day for the number of days during which the actual work on the survey or investigation was conducted, and the remaining portion of the deposit shall be returned to the applicant.

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

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

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

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

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

§ 31.105. Prohibition

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

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

§ 31.106. Methods

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

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

§ 31.107. Rules

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

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

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

§ 31.108. Penalty

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

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

## CHAPTER 32. SCHOOL LAND BOARD

## SUBCHAPTER A. GENERAL PROVISIONS

Section

32.001. Definitions.

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 32.011. Creation of Board.
- 32.012. Members of the Board.
- 32.013. Terms of Appointed Members.
- 32.014. Chairman of the Board.
- 32.015. Per Diem and Reimbursement.
- 32.016. Board Meetings.
- 32.017. Secretary of the Board.
- 32.018. Employment of Geologist and Mineralogist.
- 32.019. Board Employees.
- 32.020. Minutes of Board.
- 32.021. Records and Proceedings as Archives.
- 32.022. Inspection of Minutes and Docket.

## SUBCHAPTER C. POWERS AND DUTIES

- 32.061. Board's General Duties.
- 32.062. Adoption of Rules.
- 32.063. Duty to Advise Commissioner.

## SUBCHAPTER D. SALE AND LEASE OF LAND

- 32.101. Applicable Law.
- 32.102. List of Land.
- 32.103. Appraised Value of Land.
- 32.104. Appraisal Fee.
- 32.105. Date of Sale and Lease.
- 32.106. Description of Land.
- 32.107. Notice of Sale and Lease.
- 32.108. Entries on Docket.
- 32.109. Acceptance and Rejection of Bids.
- 32.110. Special Sale Fee.
- 32.111. Issuance of Award or Lease.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 32.001. Definitions

In this chapter:

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

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

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

## Application of Sunset Act

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

*"The School Land Board is subject to the Texas Sunset Act [Civil Statutes, art. 5429k];*

*and unless continued in existence as provided by that Act the board is abolished effective September 1, 1985."*

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

[Sections 32.002 to 32.010 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

## § 32.011. Creation of Board

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

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

## § 32.012. Members of the Board

(a) The board is composed of:

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

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

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

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

## § 32.013. Terms of Appointed Members

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

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

## § 32.014. Chairman of the Board

The commissioner serves as chairman of the board.

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

## § 32.015. Per Diem and Reimbursement

Each citizen member of the board is entitled to receive a per diem allowance for each day spent in performing his duties and as reimbursement for

actual and necessary travel expenses incurred in performing his duties the amount provided in the General Appropriations Act.

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

**§ 32.016. Board Meetings**

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

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

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

**§ 32.017. Secretary of the Board**

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

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

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

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

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

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

**§ 32.019. Board Employees**

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

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

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

**§ 32.020. Minutes of Board**

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

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

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

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

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

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

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

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

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

[Sections 32.023 to 32.060 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

**§ 32.061. Board's General Duties**

The board shall:

(1) set the dates for the sale and lease of surveyed land;

(2) determine the prices for which surveyed and unsurveyed land shall be sold and leased; and

(3) perform any other duties which may be required by law.

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

**§ 32.062. Adoption of Rules**

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

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

**§ 32.063. Duty to Advise Commissioner**

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

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

[Sections 32.064 to 32.100 reserved for expansion]

SUBCHAPTER D. SALE AND LEASE OF LAND

**§ 32.101. Applicable Law**

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

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

**§ 32.102. List of Land**

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

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

**§ 32.103. Appraised Value of Land**

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

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

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

**§ 32.104. Appraisal Fee**

(a) The board shall charge applicants for the purchase of excess acreage and unsurveyed public school land an appraisal fee for appraising the acreage and land to determine the price at which it is to be sold by the state.

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

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

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

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

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

**§ 32.105. Date of Sale and Lease**

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

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

**§ 32.106. Description of Land**

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

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

**§ 32.107. Notice of Sale and Lease**

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

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

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

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

**§ 32.108. Entries on Docket**

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

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

**§ 32.109. Acceptance and Rejection of Bids**

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

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

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

**§ 32.110. Special Sale Fee**

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

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

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

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

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

**§ 32.111. Issuance of Award or Lease**

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

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

**CHAPTER 33. MANAGEMENT OF COASTAL PUBLIC LAND****SUBCHAPTER A. GENERAL PROVISIONS**

Section	
33.001.	Policy.
33.002.	Purpose.
33.003.	Short Title.
33.004.	Definitions.
33.005.	Effect of Chapter.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- Section
- 33.011. Board to Administer, Implement, and Enforce Chapter.
- 33.012. Land Office to Assist Board.
- 33.013. Additional Personnel.
- 33.014. Disposition of Money for Grants of Certain Interests.
- 33.015. Special Fund.
- 33.016. Disposition of Other Funds.

SUBCHAPTER C. POWERS AND DUTIES

- 33.051. General Duty.
- 33.052. Development of Management Program.
- 33.053. Elements of Management Program.
- 33.054. Review and Amendment of Management Program.
- 33.055. Public Hearings to Consider Management Program.
- 33.056. Structures on Land Adjacent to Coastal Public Land.
- 33.057. Gifts of Interests in Land.
- 33.058. Purchase of Fee and Lesser Interests in Land.
- 33.059. Studies.
- 33.060. Locating and Marking Boundaries.
- 33.061. Complaints.
- 33.062. Designated Official Representative.
- 33.063. Fees.
- 33.064. Rules.

SUBCHAPTER D. RIGHTS IN COASTAL PUBLIC LAND

- 33.101. Application to Acquire Rights in Coastal Public Land.
- 33.102. Contents of Application.
- 33.103. Interests Which May be Granted by the Board.
- 33.104. Processing Application.
- 33.105. Persons to Whom Land May be Leased.
- 33.106. Policies, Provisions, and Conditions of Leases.
- 33.107. Protection of Rights.
- 33.108. Rights of the Public.
- 33.109. Counties and Cities Eligible to Lease Coastal Public Land.
- 33.110. Contracts and Franchises.
- 33.111. Granting Easements.
- 33.112. Failure to Obtain an Easement.
- 33.113. Interpretation of Easement Grant.
- 33.114. Policies, Provisions, and Conditions of Easements.
- 33.115. Piers.
- 33.116. Failure to Register Pier.
- 33.117. Public Policy of State to be Considered.
- 33.118. Single Permit.
- 33.119. Issuance of Permits.
- 33.120. Failure to Obtain a Permit.
- 33.121. Unauthorized Structures.
- 33.122. Exception to Permit Requirement.
- 33.123. Policies, Provisions, and Conditions of Permits.
- 33.124. Permits Prohibited for Certain Structures.
- 33.125. Automatic Revocation and Termination of a Permit.
- 33.126. Termination of Permit by Board.
- 33.127. Terms and Renewal of Permits.
- 33.128. Use of Previously Unauthorized Structures.
- 33.129. Prohibitions on the Grant of Permits.
- 33.130. Repairs and Rebuilding.
- 33.131. Structures as Property of the State.
- 33.132. Registration by Board.
- 33.133. Remedies Cumulative.
- 33.134. Use and Development of Land by Littoral Owner.

SUBCHAPTER E. ENFORCEMENT AND APPEAL

- 33.171. Enforcement of Rights of Littoral Owners.
- 33.172. Venue.
- 33.173. Right to Appeal.
- 33.174. Time for Filing Petition.
- 33.175. Service of Citation.
- 33.176. Issue on Appeal.

SUBCHAPTER F. COASTAL COORDINATION

- 33.201. Short Title.
- 33.202. Policy.

- Section
- 33.203. Definitions.
- 33.204. Study of Coastal Problems and Issues.

SUBCHAPTER G. COASTAL WETLAND ACQUISITION

- 33.231. Short Title.
- 33.232. Policy.
- 33.233. Definitions.
- 33.234. Duties and Authority of Acquiring Agency.
- 33.235. Agricultural Exemption.
- 33.236. Duties and Authority of Certifying Agency.
- 33.237. Most Essential Coastal Wetland Certification.
- 33.238. Funding.

SUBCHAPTER A. GENERAL PROVISIONS

§ 33.001. Policy

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

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

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

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

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

(f) Utilization and development of the surface estate in the coastal public land shall not be allowed unless the public interest as expressed by this chapter is not significantly impaired by it.

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

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

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

§ 33.002. Purpose

The purpose of this chapter is to implement the policies stated in Section 33.001 of this code by delegating to the board, assisted by the planning division and other staff of the land office, certain responsibilities and duties with respect to the management of the surface estate in coastal public land. [Acts 1977, 65th Leg., p. 2383, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 33.003. Short Title

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

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

### § 33.004. Definitions

In this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

### § 33.005. Effect of Chapter

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

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

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

[Sections 33.006 to 33.010 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

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

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

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

### § 33.012. Land Office to Assist Board

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

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

### § 33.013. Additional Personnel

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

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

### § 33.014. Disposition of Money for Grants of Certain Interests

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

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

**§ 33.015. Special Fund**

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

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

**§ 33.016. Disposition of Other Funds**

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

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

[Sections 33.017 to 33.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

**§ 33.051. General Duty**

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

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

**§ 33.052. Development of Management Program**

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

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

**§ 33.053. Elements of Management Program**

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

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

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

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

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

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

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

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

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

**§ 33.054. Review and Amendment of Management Program**

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

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

**§ 33.055. Public Hearings to Consider Management Program**

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

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

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

**§ 33.056. Structures on Land Adjacent to Coastal Public Land**

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

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

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

**§ 33.057. Gifts of Interests in Land**

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

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

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

### § 33.058. Purchase of Fee and Lesser Interests in Land

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

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

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

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

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

### § 33.059. Studies

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

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

### § 33.060. Locating and Marking Boundaries

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

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

### § 33.061. Complaints

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

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

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

### § 33.062. Designated Official Representative

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

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

### § 33.063. Fees

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

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

### § 33.064. Rules

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

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

[Sections 33.065 to 33.100 reserved for expansion]

## SUBCHAPTER D. RIGHTS IN COASTAL PUBLIC LAND

### § 33.101. Application to Acquire Rights in Coastal Public Land

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

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

### § 33.102. Contents of Application

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

- (1) an adequate legal description of the land in which the rights are sought;
- (2) a statement of the rights sought;
- (3) a statement of the purpose or purposes for which the land is to be used;
- (4) a description of the nature and extent of the improvements, if any, which will be made on the land;
- (5) an estimate of the time within which any improvements to be made will be completed; and
- (6) any additional information the board considers necessary, including, in the case of any application for approval of construction, modification, repair, or removal of a structure, a description of all plans for any filling, dumping, dredging, or excavating to be done.

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

### § 33.103. Interests Which May be Granted by the Board

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

- (1) leases for public purposes;
- (2) easements for purposes connected with ownership of littoral property;
- (3) permits authorizing limited continued use of previously unauthorized structures on coastal public land not connected with ownership of littoral property; and

(4) channel easements to the holder of any surface or mineral interest in coastal public land for purposes necessary or appropriate to the use of the interests.

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

**§ 33.104. Processing Application**

(a) On receiving an application, the board may circulate it for review and comment to the member agencies of the Interagency Natural Resources Council or its successor.

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

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

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

**§ 33.105. Persons to Whom Land May be Leased**

The board may lease coastal public land to:

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

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

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

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

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

**§ 33.106. Policies, Provisions, and Conditions of Leases**

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

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

**§ 33.107. Protection of Rights**

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

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

**§ 33.108. Rights of the Public**

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

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

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

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

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

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

**§ 33.110. Contracts and Franchises**

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

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

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

**§ 33.111. Granting Easements**

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

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

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

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

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

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

**§ 33.113. Interpretation of Easement Grant**

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

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

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

In addition to the policies, provisions, and conditions generally applicable in this chapter, each grant

of an easement is subject to the policies, provisions, and conditions of Sections 33.115 and 33.117 of this code.

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

#### § 33.115. Piers

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

- (1) may be used for any purpose except commercial purposes;
- (2) is 100 feet or less in length and 25 feet or less in width; and
- (3) requires no filling or dredging.

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

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

#### § 33.116. Failure to Register Pier

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

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

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

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

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

#### § 33.118. Single Permit

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

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

#### § 33.119. Issuance of Permits

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

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

#### § 33.120. Failure to Obtain a Permit

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

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

#### § 33.121. Unauthorized Structures

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

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

#### § 33.122. Exception to Permit Requirement

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

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

#### § 33.123. Policies, Provisions, and Conditions of Permits

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

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

#### § 33.124. Permits Prohibited for Certain Structures

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

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

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

#### § 33.125. Automatic Revocation and Termination of a Permit

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

- (1) subsequently leased for public purposes;
- (2) exchanged for littoral property under this chapter; or

(3) conveyed to a navigation district as provided by law.  
 [Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.126. Termination of Permit by Board**

Each permit shall provide that if the terms of the permit are broken, the permit may be terminated at the option of the board.  
 [Acts 1977, 65th Leg., p. 2390, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.127. Terms and Renewal of Permits**

Permits may be issued for a period of not more than five years and may be renewed at the discretion of the board.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.128. Use of Previously Unauthorized Structures**

Previously unauthorized structures for which permits are obtained may be used only for noncommercial, recreational purposes.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.129. Prohibitions on the Grant of Permits**

The board may not grant an application for a permit which would violate the public policy of this state as expressed in this chapter and may not grant a permit for any structure not in existence on August 27, 1973.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.130. Repairs and Rebuilding**

If a structure for which a permit is issued is severely damaged or destroyed by any means, no major repairs or rebuilding may be undertaken by the permit holder without the approval of the board.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.131. Structures as Property of the State**

A structure presently existing or to be constructed in the future for which a permit is required under this subchapter is the property of the state. Any construction, maintenance, or use of the structure other than as provided in this subchapter is declared to be a nuisance per se and is expressly prohibited.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.132. Registration by Board**

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

(b) Failure of the owner to register the structure estops the owner from making any further claim of right against the state in the structure and renders the structure a nuisance per se subject to abatement by the state at the expense of the littoral owner.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.133. Remedies Cumulative**

Remedies provided in this subchapter are cumulative of all other remedies which may be applicable, including those remedies arising from the power of a court to enforce its jurisdiction and its judgments.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.134. Use and Development of Land by Littoral Owner**

None of the provisions of this chapter shall prevent the littoral owner of property from developing or otherwise using his property in a lawful manner, and this chapter shall not be construed to confer on the board the authority to regulate, control, or restrict the use or development of the property.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]  
 [Sections 33.135 to 33.170 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT AND APPEAL

**§ 33.171. Enforcement of Rights of Littoral Owners**

(a) A littoral owner whose rights may be affected by any action of the board under this chapter may bring suit for a declaratory judgment against the State of Texas in a district court in Travis County to try the issues.  
 (b) Service of citation may be obtained by serving the commissioner.  
 [Acts 1977, 65th Leg., p. 2391, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.172. Venue**

Unless expressly waived in writing by the attorney general, venue lies in Travis County in any proceeding:  
 (1) arising out of an alleged violation of any provision of this chapter or any rule adopted by the board under this chapter;  
 (2) touching any interest in land sought or granted under this chapter; and  
 (3) to determine the boundaries or title to any coastal public land.  
 [Acts 1977, 65th Leg., p. 2392, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 33.173. Right to Appeal**

Any interested party who is aggrieved by an action of the board under this chapter may appeal the

action by filing a petition in a district court in Travis County.

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

#### § 33.174. Time for Filing Petition

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

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

#### § 33.175. Service of Citation

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

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

#### § 33.176. Issue on Appeal

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

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

### SUBCHAPTER F. COASTAL COORDINATION

#### § 33.201. Short Title

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

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

#### § 33.202. Policy

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

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

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

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

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

#### § 33.203. Definitions

(a) In this subchapter:

(1) "Coastal natural resource areas" means areas in the Gulf of Mexico within the boundaries of this state, tidal inlets and tidal deltas, bays, lagoons which contain seawater and which have

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

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

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

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

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

<sup>1</sup> Repealed; see, now, Civil Statutes, art. 4413(47c).

#### § 33.204. Study of Coastal Problems and Issues

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

(b) The council shall prepare and submit to the governor and legislature before March 1 of each even-numbered year a comprehensive report with recommendations for action on problems and issues affecting the coastal natural resource areas of the state. The comprehensive report may include a minority report and recommendations and shall include:

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

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

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

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

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

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

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

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

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

SUBCHAPTER G. COASTAL WETLAND ACQUISITION

§ 33.231. Short Title

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

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

§ 33.232. Policy

It is the declared policy of the state:

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

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

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

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

§ 33.233. Definitions

In this subchapter:

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

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

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

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

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

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

§ 33.234. Duties and Authority of Acquiring Agency

(a) The acquiring agency shall do the following:

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

(2) acquire, by purchase or condemnation, fee and lesser interests in the surface estate in coastal wetland certified by the certifying agency as most essential to protection of the public interest, provided that in each instance in which an interest in land is acquired by the acquiring agency pursuant to this section, a sufficient interest shall be acquired to preserve and protect the productivity and integrity of such land as coastal wetland; and

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

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

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

(d) If the acquiring agency seeks to condemn an interest less than the fee interest in the surface estate in any coastal wetland, the owner of the coastal wetland may demand that the acquiring

agency instead seek condemnation of the fee interest in the surface estate in the coastal wetland. Upon this demand, the acquiring agency shall either:

- (1) seek to condemn the fee interest in the surface estate in the coastal wetland; or
  - (2) cease all condemnation proceedings pursuant to this subchapter against the coastal wetland.
- [Added by Acts 1979, 66th Leg., p. 1993, ch. 785, § 2, eff. June 13, 1979.]

#### § 33.235. Agricultural Exemption

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

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

#### § 33.236. Duties and Authority of Certifying Agency

(a) The certifying agency shall do the following:

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

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

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

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

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

(e) If the commissioners court of a county described in Subsection (c) of this section agrees that the portion of the certified wetland within the county

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

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

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

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

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

#### § 33.237. Most Essential Coastal Wetland Certification

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

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

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

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

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

(5) the cost of acquiring the coastal wetland.

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

that any coastal wetland is of greater or lesser value than any other coastal wetland for any purpose other than administering the provisions of this subchapter.

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

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

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

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

§ 33.238. Funding

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

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

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

CHAPTER 34. BOARDS FOR LEASE

SUBCHAPTER A. GENERAL PROVISIONS

- Section
- 34.001. Definitions.
- 34.002. Application of Chapter.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

- 34.011. Boards for Lease.
- 34.012. Title of Board.
- 34.013. Members of Board.
- 34.014. Officers of Board.
- 34.015. Quorum.
- 34.016. Records of Board.
- 34.017. Special Mineral Funds.
- 34.018. Deposit of Receipts.
- 34.019. Expenditures.
- 34.020. Filing in General Land Office.

SUBCHAPTER C. POWERS AND DUTIES

- 34.051. Land Subject to Lease.
- 34.052. Subdivision of Land.
- 34.053. Maps and Plats.
- 34.054. Abstracts of Title.
- 34.055. Geological Surveys and Investigations.
- 34.056. Placing Lease on Market.
- 34.057. Advertisement of Lease.
- 34.058. Minimum Royalty, Bonus, and Rental.
- 34.059. Fixing Royalty, Bonus, and Rental.
- 34.060. Bids.
- 34.061. Special Fee.
- 34.062. Rejection and Acceptance of Bids.
- 34.063. Issuance of Lease.
- 34.064. Easements.

SUBCHAPTER D. CONDITIONS OF LEASES

- Section
- 34.101. Separate Leases.
- 34.102. Term of Lease.
- 34.103. Assignment.
- 34.104. Relinquishment of Lease.
- 34.105. State Laws and Orders of Regulatory Authority.

SUBCHAPTER E. RENTAL AND ROYALTY PAYMENTS

- 34.141. Annual Rental.
- 34.142. Due Date for Payment.
- 34.143. Payment to Commissioner.
- 34.144. Statements Accompanying Payment.
- 34.145. Records Subject to Inspection.
- 34.146. State's Lien on Minerals.

SUBCHAPTER F. DUTIES OF LESSEE

- 34.181. Duty to Develop.
- 34.182. Protection From Drainage.
- 34.183. Effect of Payment on Obligation.
- 34.184. Offset Drilling.
- 34.185. Forfeiture of Lease.

SUBCHAPTER A. GENERAL PROVISIONS

§ 34.001. Definitions

In this chapter:

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

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

§ 34.002. Application of Chapter

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

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

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

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

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

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

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

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

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

(c) If title to land subject to the provisions of the Relinquishment Act is acquired by a department, board, or agency of the state, the land is not subject to lease by a board created under the provisions of this chapter but shall be leased in the manner provided for the leasing of unsold public school land. [Acts 1977, 65th Leg., p. 2394, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2572, ch. 686, § 1, eff. Aug. 31, 1981.]

<sup>1</sup> Section 52.171 et seq.

Section 3 of the 1981 amendatory act provides:

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

[Sections 34.003 to 34.010 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

##### § 34.011. Boards for Lease

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

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

##### Application of Sunset Act

*Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.095, purports to add § 1a to Civil Statutes, art. 5382d, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so added, § 1a reads:*

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

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

##### § 34.012. Title of Board

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

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

##### § 34.013. Members of Board

(a) The membership of each board shall include:

(1) the commissioner;

(2) one citizen of the state appointed by the governor with the advice and consent of the senate; and

(3) the president or chairman of the board or agency or head of the department charged with the responsibility of management or control of land owned by or held in trust for the use and benefit of the department, agency, or board.

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

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

##### § 34.014. Officers of Board

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

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

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

##### § 34.015. Quorum

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

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

##### § 34.016. Records of Board

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

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

##### § 34.017. Special Mineral Funds

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

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

##### § 34.018. Deposit of Receipts

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

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

**§ 34.019. Expenditures**

(a) The expenses of executing the provisions of this chapter shall be paid by warrants drawn by the comptroller on the State Treasury against the income from the special funds accumulated from leases, rentals, royalties, and other payments.

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

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

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

**§ 34.020. Filing in General Land Office**

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

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

[Sections 34.021 to 34.050 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES**

**§ 34.051. Land Subject to Lease**

Land owned by or held in trust for the use and benefit of a department, board, or agency may be leased by the appropriate board to any person under the provisions of this chapter for the purpose of prospecting or exploring for and mining, producing, storing, caring for, transporting, preserving, selling, and disposing of the oil, gas, or other minerals.

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

**§ 34.052. Subdivision of Land**

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

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.053. Maps and Plats**

A board may make maps and plats it considers necessary to carry out the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.054. Abstracts of Title**

A board may obtain authentic abstracts of title to the land subject to its control that it considers necessary and may take the necessary steps to perfect a marketable title to the land.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.055. Geological Surveys and Investigations**

A board may issue a permit for geological, geophysical, and other surveys and investigations on land subject to lease by the board that is not under valid and existing leases and that will encourage the development of the land for oil, gas, or other minerals. A permit may be issued for a consideration and under terms and conditions which the board considers to be in the best interest of the state.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.056. Placing Lease on Market**

If a board determines there is a demand for the purchase of oil, gas, or mineral leases on a lot or tract of land subject to the control of the board which will reasonably insure an advantageous sale, the board shall place the oil, gas, or mineral leases on the market in the tract or tracts which the board may designate.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.057. Advertisement of Lease**

A board shall insert an advertisement that leases will be offered for sale on a certain date in at least three issues of each of four daily newspapers 30 days in advance of the sale date. The advertisement shall give notice that lists describing the land to be leased may be obtained from the land office.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.058. Minimum Royalty, Bonus, and Rental**

(a) A bid shall not be accepted which offers:

- (1) a royalty of less than one-eighth of the gross production of oil, gas, or other minerals; or
- (2) a cash bonus of less than \$2 an acre.

(b) The minimum royalty and bonus may be increased at the discretion of the board.

(c) A bid shall contain an obligation to pay at least \$1 an acre annual rental beginning with the second year of the lease, with the amount to be set by the board in advance of the advertisement.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.059. Fixing Royalty, Bonus, and Rental**

A board may:

- (1) set the royalty and rental and provide for bidding on a basis of the highest cash bonus offered; or
- (2) set the cash bonus and rental and provide for bidding on the basis of the highest royalty offered.

[Acts 1977, 65th Leg., p. 2396, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.060. Bids**

(a) Bidding shall be by sealed bids to be opened at 10 a. m. on the sale date by a majority of the board.

(b) A separate bid shall be made for each tract offered for lease.

(c) The bid shall state the amount of cash bonus offered and the royalty and rental provided.

(d) The bid shall be accompanied by cash or checks, collectible in Austin and payable to the commissioner, to cover the amount of the cash bonus. [Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 34.061. Special Fee

(a) In addition to the payment accompanying a bid as provided in Subsection (d) of Section 34.060 of this code, a bidder on a mineral lease sale held by a board shall remit a special sale fee by separate check in an amount equal to one percent of the bid in the manner provided in Section 32.110 of this code.

(b) Failure to pay the special fee does not render the bid void, but the commissioner shall demand payment of the fee before he issues a lease to the successful bidder.

(c) If the successful bidder fails or refuses to pay the fee within 30 days after demand is made by the commissioner, the bidder is not entitled to a lease on the tract covered by his bid and the cash bonus is automatically forfeited to the state. The commissioner shall deposit the bonus in the State Treasury to the appropriate fund.

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

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 34.062. Rejection and Acceptance of Bids

(a) A board may reject all bids.

(b) Unless a board elects to reject all bids, it must accept the highest bid submitted.

(c) The minutes of a board shall show the fact of acceptance or rejection of a bid, and the approval of the minutes constitutes the approval of the act of acceptance or the act of rejection, as the case may be.

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 34.063. Issuance of Lease

The commissioner shall issue awards or leases in accordance with the minutes as approved by each board.

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 34.064. Easements

(a) A board may grant easements on the land covered by the provisions of this chapter for irrigation canals, laterals, flumes and ditches, telephone, telegraph, and electric power lines, and pipelines for the gathering or transportation of oil, gas, water, and other fluids or substances, together with the

devices, equipment, and appurtenances which may be necessary.

(b) The easements may be granted on terms and conditions the board considers to be in the best interest of the state.

(c) The provisions of this section do not apply to land owned by the state as a part of the penitentiary system and do not repeal Chapter 166, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 6203d, Vernon's Texas Civil Statutes).

[Acts 1977, 65th Leg., p. 2397, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 34.065 to 34.100 reserved for expansion]

### SUBCHAPTER D. CONDITIONS OF LEASES

#### § 34.101. Separate Leases

Leases for minerals, except oil and gas, shall be granted on separate leases and for separate consideration.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 34.102. Term of Lease

A lease issued by the commissioner shall be for a primary term of not to exceed five years and as long thereafter as oil, gas, or other minerals covered by the lease are produced in paying quantities.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 34.103. Assignment

(a) All rights purchased may be assigned.

(b) An assignment must be recorded in the county or counties in which the area is located.

(c) The recorded assignment or a certified copy of the recorded assignment shall be filed in the land office within 100 days from the date of the first acknowledgment of the assignment, accompanied by 10 cents an acre for each acre assigned and a filing fee of \$1. The assignment is not effective if it is not filed and the fee paid in accordance with this section.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 34.104. Relinquishment of Lease

(a) Rights to a whole tract or to an assigned portion of a tract may be relinquished to the state at any time by recording an instrument of relinquishment in the county or counties in which the area is located and filing the recorded relinquishment or a certified copy of the recorded relinquishment in the land office, accompanied by a filing fee of \$1.

(b) A relinquishment does not release the lessee from an obligation or liability already accrued in favor of the state.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.105. State Laws and Orders of Regulatory Authority**

Drilling or mining operations for oil, gas, or other minerals and the production of oil, gas, or other minerals under a lease issued under the authority of this chapter are subject to:

- (1) the laws of the state;
- (2) valid orders made by the Railroad Commission of Texas or other regulatory authority controlling the development of leases for the production of oil, gas, or other minerals; and
- (3) regulations which the board may adopt.

[Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 34.106 to 34.140 reserved for expansion]

SUBCHAPTER E. RENTAL AND ROYALTY PAYMENTS

**§ 34.141. Annual Rental**

(a) Beginning with the second year of the lease, the lessee shall pay the annual rental specified by the board each year during the life of the lease, unless oil, gas, or other minerals are being produced in paying quantities.

(b) If royalties paid during any year of the life of the lease equal or exceed the annual rental, no annual rental is due for the following year.

(c) If royalties paid during the preceding year do not equal or exceed the annual rental, the annual rental is the amount specified by the board less the amount of royalties paid during the preceding year. [Acts 1977, 65th Leg., p. 2398, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.142. Due Date for Payment**

(a) Annual rental is due and payable on or before the anniversary date of the lease.

(b) Royalty payments shall be paid on or before the last day of each month following the month in which the oil, gas, or other minerals are produced. [Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.143. Payment to Commissioner**

The rental and royalty payments shall be paid to the commissioner at Austin.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.144. Statements Accompanying Payment**

A payment shall be accompanied by sworn statements of the lessee, manager, or other authorized agent showing the gross amount of production since the last report and the market value of the production, together with copies of all daily gauges of tanks, gas meter readings, pipeline run tickets and receipts, and other checks or memoranda of the amounts produced.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.145. Records Subject to Inspection**

The books, accounts, records, and contracts relating to producing, transporting, selling, and marketing the oil, gas, or other minerals are subject to inspection and examination at all times by the commissioner, the attorney general, and the chairman, president, or other member of the board, or the representative of either of them.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.146. State's Lien on Minerals**

The state has a first lien on oil, gas, or other minerals produced from the area covered by the lease to secure the payment of all unpaid royalty or other sums of money that may be due under the lease.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 34.147 to 34.180 reserved for expansion]

SUBCHAPTER F. DUTIES OF LESSEE

**§ 34.181. Duty to Develop**

The lessee shall reasonably develop the lease by drilling or mining to the extent the facts justify. [Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.182. Protection From Drainage**

The lessee shall adequately protect the oil, gas, or other minerals under the land covered by the lease from drainage from adjacent land or leases.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.183. Effect of Payment on Obligation**

The payment of the bonus, rentals, or royalties under the lease does not relieve the lessee of the obligation to develop the lease and protect the oil, gas, or other minerals from drainage.

[Acts 1977, 65th Leg., p. 2399, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 34.184. Offset Drilling**

(a) If oil or gas is produced in paying quantities from a well on privately owned land and the well is within 1,000 feet of the area covered by the lease, or in any case if the land covered by the lease is being drained, the lessee shall begin in good faith the drilling of an offset well on the area covered by his lease within 60 days after initial production on the private land and shall diligently prosecute the drilling.

(b) The offset well shall be drilled to the depth necessary to prevent the undue drainage of the area covered by the lease.

(c) The lessee, manager, or driller shall use all means reasonably necessary in a good-faith effort to make the offset well produce in paying quantities.

[Acts 1977, 65th Leg., p. 2400, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 34.185. Forfeiture of Lease

(a) A lease is subject to forfeiture by the commissioner if:

(1) the owner of the rights acquired under the provisions of this chapter fails or refuses to make the payment of a sum due as rental on the lease or for royalty on production within 30 days after it becomes due;

(2) the owner or his authorized agent knowingly makes a false return or false report concerning production, royalty, or drilling;

(3) the owner fails or refuses to drill an offset well or wells in good faith as required by his lease and the rules adopted by the board;

(4) the owner or his agent refuses the proper authority access to the records and other data pertaining to operations under his lease;

(5) the owner or his authorized agent knowingly fails to furnish the log of a well within 30 days after production is found in paying quantities; or

(6) any of the material terms of the lease are violated.

(b) If a lease is forfeited, the area is subject again to lease to the highest bidder under the same rules controlling the original sale of leases.

(c) A forfeiture may be set aside and the lease and all rights under the lease reinstated at any time before the rights of a third party intervene on satisfactory evidence to the commissioner of future compliance with the provisions of this chapter and the rules adopted relative to this chapter.

[Acts 1977, 65th Leg., p. 2400, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## CHAPTER 35. BOARD FOR LEASE OF STATE PARK LANDS

### SUBCHAPTER A. GENERAL PROVISIONS

Section  
35.001. Definitions.

### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

35.011. Board for Lease of State Park Lands.  
35.012. Members of Board.  
35.013. Quorum.  
35.014. Records of Board.  
35.015. Rules.  
35.016. Expenditures From State Park Development Fund.  
35.017. Filing in Land Office.

### SUBCHAPTER C. POWERS AND DUTIES

35.051. Land Subject to Lease.  
35.052. Subdivision of Land.  
35.053. Maps and Plats.  
35.054. Abstracts of Title.  
35.055. Examination and Perfection of Title.  
35.056. Filing Abstract of Title and Title Opinion.  
35.057. Placing Lease on Market.  
35.058. Advertisement of Lease.  
35.059. Minimum Royalty and Rental.  
35.060. Bids.  
35.061. Rejection and Acceptance of Bids.  
35.062. Necessary Facilities.

### SUBCHAPTER D. CONDITIONS OF LEASES

Section  
35.101. Term of Lease.  
35.102. Assignment of Lease.  
35.103. Relinquishment of Lease.

### SUBCHAPTER E. RENTAL AND ROYALTY PAYMENTS

35.131. Annual Rental.  
35.132. Due Date for Payment.  
35.133. Recipient of Payment.  
35.134. Statements Accompanying Payment.  
35.135. Records Subject to Inspection.  
35.136. State's Lien.

### SUBCHAPTER F. DUTIES OF LESSEE

35.171. Duty to Develop and Prevent Drainage.  
35.172. Forfeiture of Lease.  
35.173. Suit for Damages or Specific Performance.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 35.001. Definitions

In this chapter:

(1) "Board" means the Board for Lease of State Park Lands.

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

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

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.002 to 35.010 reserved for expansion]

### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

#### § 35.011. Board for Lease of State Park Lands

A board to be known as the Board for Lease of State Park Lands is created to perform the duties prescribed in this chapter.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 35.012. Members of Board

(a) The board consists of:

(1) the commissioner;

(2) one citizen of the state appointed by the attorney general with the advice and consent of the senate; and

(3) the chairman of the Parks and Wildlife Commission.

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

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 35.013. Quorum

A majority of the board constitutes a quorum with power to act in all cases except as otherwise provided in this chapter.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.014. Records of Board**

The board shall keep a complete written record of all its proceedings.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.015. Rules**

The board shall adopt proper rules, forms, and contracts that in its judgment will protect the income from land leased under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.016. Expenditures From State Park Development Fund**

(a) The state park development fund is created.

(b) All money deposited in the state park development fund shall be appropriated by the legislature for the development, improvement, and maintenance of state parks.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.017. Filing in Land Office**

All surveys, files, records, copies of sale and lease contracts, and all other records relating to the sales and leases authorized on state park land under the jurisdiction of the Parks and Wildlife Department shall be filed in the land office and constitute archives.

[Acts 1977, 65th Leg., p. 2402, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.018 to 35.050 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES**

**§ 35.051. Land Subject to Lease**

Subject to the provisions of this chapter, the board may lease land to any person for prospecting or exploring for and mining, producing, storing, caring for, transporting, preserving, and disposing of oil and gas. The board may lease all land or parcels of land within a park that is a part of the state park system.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 211, ch. 118, § 1, eff. May 9, 1979.]

Section 2 of the 1979 amendatory act provided:

"All leases of park land entered into by the Board for Lease of State Park Lands before the effective date of this Act are in all things and all respects ratified, confirmed, approved, and validated. This section does not apply to any litigation in progress that questions the validity of a lease of park land if the litigation is ultimately determined against the validity of the lease."

**§ 35.052. Subdivision of Land**

The board may have state park land surveyed and subdivided into lots or blocks which will be conducive or convenient to facilitate the advantageous sale of oil or gas leases. The board may identify the lots and blocks by permanent markings on the ground.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.053. Maps and Plats**

The board may make the maps and plats it considers necessary to carry out the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.054. Abstracts of Title**

The board shall obtain abstracts of title to the state park land.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.055. Examination and Perfection of Title**

(a) The board shall have the abstracts of title examined by the attorney general, who shall file written title opinions.

(b) The board shall take the necessary steps to perfect a marketable title to the land in the State of Texas.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.056. Filing Abstract of Title and Title Opinion**

The abstract of title and the attorney general's title opinion shall be filed in the land office as public documents for the inspection of prospective purchasers of oil and gas leases on the land.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.057. Placing Lease on Market**

If the board determines there is a demand for the purchase of oil and gas leases on a lot or tract of land that will reasonably ensure an advantageous sale, the board may place the oil and gas in the land on the market in the blocks or lots which the board may designate.

[Acts 1977, 65th Leg., p. 2403, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.058. Advertisement of Lease**

(a) The board shall advertise a brief description of the land from which the oil and gas is proposed to be sold. The advertisement shall give notice that sealed bids for the purchase of the oil and gas by lease will be opened at 10 a. m. on the designated day and that sealed bids received up to that time will be considered.

(b) The advertisement shall be made by:

(1) publication in two or more papers of general circulation in the state; and

(2) mailing a copy of the advertisement to the county clerk and county judge of every county in the state in which an advertised area is located.

(c) In addition to the provisions of Subsection (b) of this section, the board may have the advertisement placed in oil and gas journals in and out of this state and mailed generally to persons the board thinks may be interested.

[Acts 1977, 65th Leg., p. 2404, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.059. Minimum Royalty and Rental**

(a) A bid may not be accepted which offers a royalty of less than one-eighth of the gross production of oil and gas in the land covered by the bid. If all members concur, the board may increase the minimum royalty or before the promulgation of the advertisement of the land.

(b) A bid shall contain an obligation to pay at least \$1 an acre rental for delay in drilling, with the amount to be set by the board in advance of the advertisement.

[Acts 1977, 65th Leg., p. 2404, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.060. Bids**

(a) A bid shall be directed to the board in care of the land office, retained by the commissioner until the day designated for opening the bids, and opened on that day by the board, or a majority of its members, who shall list, file, and register all bids and money received.

(b) A separate bid shall be made for each survey or subdivision of a survey.

(c) The bid shall state the amount of royalty offered and the amount the bidder is willing to pay in addition to the royalty and annual delay rentals provided for in this subchapter.

(d) The bid shall be accompanied by cash or checks, collectible in Austin, to cover the amount which the bid offers in addition to the royalty and delay rentals, and a payment equal to the minimum delay rental fixed on the land per acre if the bid is accepted.

[Acts 1977, 65th Leg., p. 2404, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.061. Rejection and Acceptance of Bids**

(a) If a bidder offers a reasonable and proper price, and less than the price set by the board, the land advertised, or a whole survey or subdivision, may be leased for oil and gas purposes under the terms of this chapter and rules which the board may prescribe, not inconsistent with the provisions of this chapter.

(b) The board may reject all bids and may withdraw any land advertised for lease before receiving and opening bids.

(c) If the board rejects all bids after a bidding by sealed bids, it may offer for sale and sell the oil and gas in the land, in separate whole surveys only or subdivisions of them, by open public auction at a price less than the price offered by the sealed bids.

(d) If there is no sale at public auction, the subsequent procedure for the sale of oil and gas leases is in the manner provided in the previous sections of this subchapter.

(e) If the board determines that a satisfactory bid has been received for the oil and gas, it shall file the bid in the land office.

[Acts 1977, 65th Leg., p. 2404, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.062. Necessary Facilities**

The board shall authorize the laying of a pipeline or telephone line and the opening of roads over state park land which it considers reasonably necessary for and incident to the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.063 to 35.100 reserved for expansion]

**SUBCHAPTER D. CONDITIONS OF LEASES****§ 35.101. Term of Lease**

If oil or gas is discovered in paying quantities on a tract of land covered by a lease, the lease on that tract remains in force, and title to all rights purchased may be held by the owners, as long as oil or gas is produced in paying quantities from the tract. If oil or gas is not produced in paying quantities before the expiration of three years, the lease terminates.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.102. Assignment of Lease**

(a) All rights purchased may be assigned in quantities of not less than 40 acres, unless there are fewer than 40 acres remaining in a survey, in which case the lesser area may be assigned.

(b) An assignment shall be filed in the land office within 100 days after the date of the first acknowledgment, accompanied by 10 cents an acre for each acre assigned. If the assignment is not filed and payment made, the assignment is ineffective.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.103. Relinquishment of Lease**

(a) All rights to a whole survey or to an assigned portion of a survey may be relinquished to the state at any time by recording an instrument of relinquishment in the county or counties in which the area is located and filing it in the land office, accompanied by a \$1 fee for each area assigned.

(b) The assignment does not relieve the owner of an obligation which has already accrued.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.104 to 35.130 reserved for expansion]

**SUBCHAPTER E. RENTAL AND ROYALTY PAYMENTS****§ 35.131. Annual Rental**

(a) The lessee shall pay the annual delay rental every year for three years unless there is production in paying quantities on the land.

(b) If the royalties paid equal or exceed the annual rental fixed by the board, the payment of annual rental may be discontinued.

(c) If during the term of a lease issued under the provisions of this chapter the lessee is engaged in actual drilling operations for the discovery of oil and gas on land covered by the lease, no rental is payable on the tract on which the operations are being conducted as long as the operations are proceeding in good faith.

[Acts 1977, 65th Leg., p. 2405, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.132. Due Date for Payment**

Royalty and bonus stipulated in the sale shall be paid on or before the last day of each month for the preceding month during the life of the rights purchased.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.133. Recipient of Payment**

Royalty, bonus, delay rental, and other payments made under the provisions of this chapter, and royalty, bonus, delay rental, and other payments derived from park lands operated by local park commissions with the advice and consent of the board of control, shall be paid to the commissioner at Austin. The commissioner shall transmit to the State Treasurer for deposit to the credit of the state park development fund all royalty, bonus, rental, and other payments, including filing assignments and relinquishment fees, and royalty, bonus, rental, and other payments derived from park land operated by local park commissions.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.134. Statements Accompanying Payment**

The payment shall be accompanied by the sworn statement of the owner, manager, or other authorized agent, showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises, and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools, and gas lines or gas storage.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.135. Records Subject to Inspection**

The books, accounts, receipts, and discharges of oil wells, tanks, pools, meters, and pipelines, and all contracts and other records relating to producing, transporting, selling, and marketing the oil and gas are subject to inspection and examination at all times by the commissioner, the attorney general, or any member of the Parks and Wildlife Department.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.136. State's Lien**

The state has a first lien on all oil and gas produced on the leased area, and on all rigs, tanks, pipelines, telephone lines, machinery, and appliances used in the production and handling of oil and gas produced on the leased area, to secure any amount due from the owner of the lease.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 35.137 to 35.170 reserved for expansion]

**SUBCHAPTER F. DUTIES OF LESSEE**

**§ 35.171. Duty to Develop and Prevent Drainage**

(a) If the area in which oil or gas is sold is contiguous to or adjacent to land which is not state park land, the acceptance of the bid and the sale constitute an obligation on the owner of the lease to adequately protect the land leased from drainage from adjacent land.

(b) If oil or gas is discovered on a tract covered by a lease issued under the provisions of this chapter, or on land adjoining the leased tract, the lessee shall conduct the operations necessary to prevent drainage from the tract covered by the lease and properly develop the tract.

(c) If the oil or gas in the area is sold at a lesser royalty, the owner shall protect the state from drainage from the land leased or sold for lesser royalty.

[Acts 1977, 65th Leg., p. 2406, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 35.172. Forfeiture of Lease**

(a) The board may forfeit a lease by an order entered on the minutes of the board reciting the facts constituting the default and declaring the forfeiture.

(b) A lease is subject to forfeiture if:

(1) the owner of the rights acquired under this chapter fails to protect the land from drainage;

(2) the owner fails or refuses to make the payment of an amount due as rental on the lease or royalty on the production within 30 days after it becomes due;

(3) the owner or his authorized agent makes a false return or false report concerning production, royalty, or drilling;

(4) the owner fails or refuses to drill an offset well or wells in good faith as required by his lease;

(5) the owner or his agent refuses the proper authority access to the records and other data pertaining to the operations under the provisions of this chapter;

(6) the owner or his authorized agent fails or refuses to give correct information to the proper authority, or fails or refuses to furnish the log of a well within 30 days after production is found in paying quantities; or

(7) any of the material terms of the lease are violated.

(c) The board may have suit for forfeiture instituted by the attorney general.

(d) On proper showing by the forfeiting owner within 30 days after the declaration of forfeiture, the board may reinstate the lease on terms which it prescribes.

[Acts 1977, 65th Leg., p. 2407, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 35.173. Suit for Damages or Specific Performance

Forfeiture of the lease is not the exclusive remedy available to the state. If the owner violates the lease contract, the state may institute suit for damages or specific performance.

[Acts 1977, 65th Leg., p. 2407, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## CHAPTER 36. BOARD FOR LEASE OF ELEMOSYNARY AND STATE MEMORIAL PARK LANDS

### SUBCHAPTER A. GENERAL PROVISIONS

Section  
36.001. Definitions.

### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

36.011. Board for Lease of Eleemosynary and State Memorial Lands.  
36.012. Members of Board.  
36.013. Quorum.  
36.014. Records of Board.  
36.015. Rules.  
36.016. Filing in Land Office.

### SUBCHAPTER C. POWERS AND DUTIES

36.051. Land Subject to Lease.  
36.052. Subdivision of Land.  
36.053. Maps and Plats.  
36.054. Abstracts of Title.  
36.055. Examination and Perfection of Title.  
36.056. Filing Abstract of Title and Title Opinion.  
36.057. Placing Lease on Market.  
36.058. Advertisement of Lease.  
36.059. Minimum Royalty and Rental.  
36.060. Bids.  
36.061. Rejection and Acceptance of Bids.  
36.062. Necessary Facilities.  
36.063. Prohibited Drilling Location.

### SUBCHAPTER D. CONDITIONS OF LEASES

36.101. Term of Lease.  
36.102. Assignment of Lease.  
36.103. Relinquishment of Lease.

### SUBCHAPTER E. RENTAL AND ROYALTY PAYMENTS

36.131. Annual Rental.  
36.132. Due Date for Payment.  
36.133. Recipient of Payment.  
36.134. Statements Accompanying Payment.  
36.135. Records Subject to Inspection.  
36.136. State's Lien.

### SUBCHAPTER F. DUTIES OF LESSEE

Section  
36.171. Duty to Develop and Prevent Drainage.  
36.172. Forfeiture of Lease.  
36.173. Suit for Damages or Specific Performance.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 36.001. Definitions

In this chapter:

(1) "Board" means the Board for Lease of Eleemosynary and State Memorial Park Lands.

(2) "Eleemosynary land" means land under the control and management of the Texas Department of Mental Health and Mental Retardation.

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

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

[Acts 1977, 65th Leg., p. 2408, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.002 to 36.010 reserved for expansion]

### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

#### § 36.011. Board for Lease of Eleemosynary and State Memorial Lands

A board to be known as the Board for Lease of Eleemosynary and State Memorial Lands is created to perform the duties prescribed in this chapter.  
[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 36.012. Members of Board

(a) The board consists of:

(1) the commissioner;

(2) one citizen of the state appointed by the governor with the advice and consent of the senate; and

(3) the chairman of the Texas Board of Mental Health and Mental Retardation.

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

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 36.013. Quorum

A majority of the board constitutes a quorum with power to act in all cases except as otherwise provided in this chapter.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 36.014. Records of Board

The board shall keep a complete written record of all its proceedings.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.015. Rules

The board shall adopt proper rules, forms, and contracts that in its judgment will protect the income from land leased under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.016. Filing in Land Office

Surveys, files, records, copies of sale and lease contracts, and other records relating to the sales and leases authorized under the provisions of this chapter shall be filed in the land office and constitute archives.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.017 to 36.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 36.051. Land Subject to Lease

(a) Subject to the provisions of this chapter, the board may lease to any person land, or a parcel of land, owned by the state as state eleemosynary and state memorial park land for agricultural purposes or for prospecting or exploring for and mining, producing, storing, caring for, transporting, preserving, and disposing of the oil and gas belonging to the state.

(b) The board shall not lease any of the land composing the San Jacinto Battleground State Park or Washington-on-the-Brazos State Park for any purpose.

[Acts 1977, 65th Leg., p. 2409, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.052. Subdivision of Land

The board may have the state eleemosynary and state memorial park land surveyed and subdivided into lots or blocks that will be conducive or convenient to facilitate the advantageous sale of oil and gas leases. The board may identify the lots and blocks by permanent markings on the ground.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.053. Maps and Plats

The board may make the maps and plats it considers necessary to carry out the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.054. Abstracts of Title

The board shall obtain abstracts of title to the eleemosynary and state park land.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.055. Examination and Perfection of Title

(a) The board shall have the abstracts of title examined by the attorney general, who shall file written title opinions.

(b) The board shall take the necessary steps to perfect a marketable title to the land in the State of Texas.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.056. Filing Abstract of Title and Title Opinion

The abstract of title and the attorney general's title opinion shall be filed in the land office as public documents for the inspection of prospective purchasers of oil and gas leases on the land.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.057. Placing Lease on Market

If the board determines there is a demand for the purchase of oil and gas leases on a lot or tract of land which will reasonably ensure an advantageous sale, the board shall place the oil and gas in the land on the market in the blocks or lots which the board may designate.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.058. Advertisement of Lease

(a) The board shall advertise a brief description of the land from which the oil and gas is proposed to be sold. The advertisement shall give notice that sealed bids for the purchase of the oil and gas by lease will be opened at 10 a. m. on a designated day and that sealed bids received up to that time will be considered.

(b) The board may have the advertisement placed in oil and gas journals in and out of the state and mailed generally to persons the board thinks may be interested.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.059. Minimum Royalty and Rental

(a) A bid shall not be accepted that offers a royalty of less than one-eighth of the gross production of oil and gas in the land covered by the bid. If all members concur, the board may increase the minimum royalty before the promulgation of the advertisement of the land.

(b) A bid must contain an obligation to pay at least \$1 an acre rental for delay in drilling, with the amount to be set by the board in advance of the advertisement.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 36.060. Bids**

(a) A bid shall be directed to the board in care of the land office, retained by the commissioner until the day designated for opening the bids, and opened on that day by the board, or a majority of its members, who shall list, file, and register all bids and money received.

(b) A separate bid shall be made for each survey or subdivision of the survey.

(c) The bid shall state the amount of royalty offered and the amount the bidder is willing to pay in addition to the royalty and annual delay rentals provided for in this subchapter.

(d) The bid shall be accompanied by cash or checks, collectible in Austin, to cover the amount which the bid offers in addition to the royalty and delay rentals and a payment equal to the minimum delay rental fixed on the land per acre for delay in drilling if the bid is accepted.

[Acts 1977, 65th Leg., p. 2410, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 36.061. Rejection and Acceptance of Bids**

(a) If a bidder offers a reasonable and proper price, and less than the price set by the board, the land advertised, or a whole survey or subdivision, may be leased for oil and gas purposes under the terms of this chapter and rules the board may prescribe, not inconsistent with the provisions of this chapter.

(b) The board may reject all bids and may withdraw any land advertised for lease before receiving and opening bids.

(c) If the board rejects all bids after a bidding by sealed bids, it may offer for sale and sell the oil and gas in the land, in separate whole surveys only or subdivisions of them, by open public auction at a price less than the price offered by the sealed bids.

(d) If there is no sale at public auction, the subsequent procedure for the sale of oil and gas leases is the manner provided in the previous sections of this subchapter.

(e) If the board determines that a satisfactory bid has been received for the oil and gas, it shall file the bid in the land office.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 36.062. Necessary Facilities**

The board shall authorize the laying of a pipeline or telephone line and the opening of roads over eleemosynary and state park land it considers reasonably necessary for and incident to the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 36.063. Prohibited Drilling Location**

The board may not make a lease for oil or gas which permits the drilling for oil or gas within 1,000 feet of a building in which patients are confined.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.064 to 36.100 reserved for expansion]

## SUBCHAPTER D. CONDITIONS OF LEASES

**§ 36.101. Term of Lease**

If oil or gas is discovered in paying quantities on a tract of land covered by a lease, the lease on that tract remains in force, and title to all rights purchased may be held by the owners, as long as oil or gas is produced in paying quantities from the tract. If oil or gas is not produced in paying quantities before the expiration of three years, the lease terminates.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 36.102. Assignment of Lease**

(a) Rights purchased may be assigned in quantities of not less than 40 acres, unless there are fewer than 40 acres remaining in a survey, in which case the lesser area may be assigned.

(b) An assignment shall be filed in the land office within 100 days after the date of the first acknowledgment, accompanied by 10 cents an acre for each acre assigned. If the assignment is not filed as provided in this section and payment made, the assignment is ineffective.

[Acts 1977, 65th Leg., p. 2411, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 36.103. Relinquishment of Lease**

(a) Rights to a whole survey or to an assigned portion of a survey may be relinquished to the state at any time by recording an instrument of relinquishment in the county or counties in which the area is located and filing it in the land office, accompanied by a \$1 fee for each area assigned.

(b) Such assignment does not relieve the owner of an obligation which already has accrued.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.104 to 36.130 reserved for expansion]

## SUBCHAPTER E. RENTAL AND ROYALTY PAYMENTS

**§ 36.131. Annual Rental**

(a) The lessee shall pay the annual delay rental every year for five years unless there is production in paying quantities on the land.

(b) If the royalties paid equal or exceed the annual rental fixed by the board, the payment of annual rental may be discontinued.

(c) If during the term of a lease issued under the provisions of this chapter the lessee is engaged in actual drilling operations for the discovery of oil and gas on land covered by the lease, no rental is payable on the tract on which the operations are being conducted as long as the operations are proceeding in good faith.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.132. Due Date for Payment

The royalty stipulated in the sale shall be paid on or before the last day of each month for the preceding month during the life of the rights purchased. [Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.133. Recipient of Payment

The royalty stipulated in the sale shall be paid to the land office for the benefit of the special building fund of the eleemosynary institutions. The payments made under the provisions of this chapter shall be made to the commissioner at Austin, who shall transmit to the State Treasurer for deposit all royalty, delay rentals, and all other payments, including all filing assignments and relinquishment fees.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.134. Statements Accompanying Payment

The payment shall be accompanied by the sworn statement of the owner, manager, or other authorized agent, showing the gross amount of oil produced and saved since the last report and the amount of gas produced and sold off the premises, and the market value of the oil and gas, together with a copy of all daily gauges of tanks, gas meter readings, pipeline receipts, gas line receipts, and other checks and memoranda of the amounts produced and put into pipelines, tanks or pools, and gas lines or gas storage.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.135. Records Subject to Inspection

The books, accounts, receipts, and discharges of wells, tanks, pools, meters, and pipelines, and all contracts and other records relating to the production, transportation, sale, and marketing of oil and gas are subject to inspection and examination at all times by the commissioner, the attorney general, or any member of the Texas Board of Mental Health and Mental Retardation.

[Acts 1977, 65th Leg., p. 2412, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.136. State's Lien

The state has a first lien on all oil and gas produced on the leased area, and on all rigs, tanks, pipelines, telephone lines, machinery, and appliances used in the production and handling of oil and gas produced on the leased area, to secure any amount due from the owner of the lease.

[Acts 1977, 65th Leg., p. 2413, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 36.137 to 36.170 reserved for expansion]

SUBCHAPTER F. DUTIES OF LESSEE

§ 36.171. Duty to Develop and Prevent Drainage

(a) If the area in which oil or gas is sold is contiguous to or adjacent to land that is not eleemosynary and state park land, the acceptance of the bid and the sale constitute an obligation on the owner of the lease to adequately protect the land leased from drainage from adjacent land.

(b) If oil or gas is discovered on a tract covered by a lease issued under the provisions of this chapter, or on land adjoining the leased tract, the lessee shall conduct the operations necessary to prevent drainage from the tract covered by the lease and properly develop the tract.

(c) If the oil or gas in the area is sold at a lesser royalty, the owner shall protect the state from drainage from the land leased or sold for lesser royalty. [Acts 1977, 65th Leg., p. 2413, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 36.172. Forfeiture of Lease

(a) The board may have a lease forfeited by an order entered on the minutes of the board reciting the facts constituting the default and declaring the forfeiture.

(b) A lease is subject to forfeiture if:

(1) the owner of the rights acquired under this chapter fails to protect the land from drainage;

(2) the owner fails or refuses to make the payment of an amount due as rental on the lease or royalty on the production within 30 days after it becomes due;

(3) the owner or his authorized agent makes a false return or false report concerning production, royalty, or drilling;

(4) the owner fails or refuses to drill an offset well or wells in good faith as required by his lease;

(5) the owner or his agent refuses the proper authority access to the records and other data pertaining to the operations under the provisions of this chapter;

(6) the owner or his authorized agent fails or refuses to give correct information to the proper authority, or fails or refuses to furnish the log of a well within 30 days after production is found in paying quantities; or

(7) any of the material terms of the lease are violated.

(c) The board may have suit for forfeiture instituted by the attorney general.

(d) On proper showing by the forfeiting owner within 30 days after the declaration of forfeiture, the board may reinstate the lease on terms which it prescribes.

[Acts 1977, 65th Leg., p. 2413, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 36.173. Suit for Damages or Specific Performance

Forfeiture of the lease is not the exclusive remedy available to the state. If the owner violates the lease contract, the state may institute suit for damages or specific performance.

[Acts 1977, 65th Leg., p. 2414, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## SUBTITLE D. DISPOSITION OF THE PUBLIC DOMAIN

### CHAPTER 51. LAND, TIMBER, AND SURFACE RESOURCES

#### SUBCHAPTER A. GENERAL PROVISIONS

##### Section

51.001. Definitions.

#### SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO THE SALE AND LEASE OF PUBLIC SCHOOL AND ASYLUM LAND

51.011. Sale and Lease of Public School and Asylum Land.  
 51.012. Commissioner's Authority.  
 51.013. Classification and Valuation of Land.  
 51.014. Rules.  
 51.015. Forms.  
 51.016. Duties of the Attorney General.  
 51.017. Furnishing Data to Board of Education.  
 51.018. Records and Accounts.  
 51.019. Special Fee.  
 51.020. Refunds.

#### SUBCHAPTER C. SALE OF PUBLIC SCHOOL AND ASYLUM LAND

51.051. Sale of Land.  
 51.052. Conditions for Sale of Land.  
 51.0521. Conditions for Sale of Land of Less Than 150 Acres.  
 51.053. Prohibited Sale of Certain Land.  
 51.054. Reservation of Minerals.  
 51.055. Lease of Unsold Land.  
 51.056. Application to Purchase Land.  
 51.057. Delivery of Applications.  
 51.058. Method for Making First Payment.  
 51.059. Opening Applications.  
 51.060. Recordation of First Payments.  
 51.061. Collection of Remittances.  
 51.062. Disposition of First Payments.  
 51.063. Duplicate High Bids.  
 51.064. Individual Bids.  
 51.065. Notice and Record of Sale.  
 51.066. Notice of Award.  
 51.067. Information Required With Payments.  
 51.068. Fund Accounts.  
 51.069. Disposition of Payments on Public School Land.  
 51.070. Unpaid Interest on Public School Land.  
 51.071. Forfeiture of Land.  
 51.072. Effect of Forfeiture.  
 51.073. Classification and Sale of Leased and Forfeited Land.  
 51.074. Reinstatement of Land Purchases.  
 51.075. Forfeiture of a Deceased Purchaser's Land.  
 51.076. Legal Proceedings.  
 51.077. Lien.  
 51.078. Transfer of Indebtedness.  
 51.079. Transfers Generally.  
 51.080. Personal Transfers.  
 51.081. Transfers Other Than Personal Transfer.  
 51.082. Liability of Vendee.  
 51.083. Patent on Part of a Tract.  
 51.084. Sale Without Condition of Residence.  
 51.085. Time for Purchase of Land.

#### SUBCHAPTER D. LEASE OF LAND

##### Section

51.121. Lease of Unsold Land.  
 51.122. Advertisement of Leases.  
 51.123. Lease Application.  
 51.124. Award of Lease.  
 51.125. Rejection of Bid or Offer to Lease.  
 51.126. Notification of Acceptance and Execution of Lease.  
 51.127. Recording Lease.  
 51.128. Cancellation of Lease.  
 51.129. Lien.  
 51.130. Removal of Improvements.

#### SUBCHAPTER E. SALE AND LEASE OF VACANCIES

51.171. Sale and Lease of Vacant Land.  
 51.172. Definitions.  
 51.173. Persons Eligible to Purchase and Lease Land.  
 51.174. Purchase of Vacancy by Adjoining Landowner.  
 51.175. Application to Purchase or Lease a Vacancy.  
 51.176. Filing Fee.  
 51.177. Filing Application With County.  
 51.178. Filing Application With Commissioner.  
 51.179. Deposit.  
 51.180. Insufficient Deposit.  
 51.181. Appeal of Amount of Deposit.  
 51.182. Deposits as Trust Fund.  
 51.183. Statement and Refund of Remaining Deposit.  
 51.184. Notice of Intention to Survey.  
 51.185. Appointment of Surveyor.  
 51.186. Survey Report.  
 51.187. Personal Survey.  
 51.188. Hearing and Notice.  
 51.189. Determination of Vacancy by Commissioner.  
 51.190. Purchase or Lease by Applicant.  
 51.191. Suit to Recover Land.  
 51.192. Denial of Vacancy by Commissioner.  
 51.193. Preferential Right of Good-Faith Claimant.  
 51.194. Term of Preferential Right.  
 51.195. Effect of Good-Faith Claimant's Application.  
 51.196. Procedure for Purchase or Lease by Good-Faith Claimant.  
 51.197. Failure to Exercise Preferential Right Within Certain Time.  
 51.198. Repayment of Applicant's Expenses.  
 51.199. Judicial Determination of Good-Faith Claimant.  
 51.200. Rights of Holders of Title and Holders of Interests in Title of a Claimant.  
 51.201. Reservation of Minerals.  
 51.202. Mineral Reservations Under Sale Made to Claimant After 90-Day Deadline.  
 51.203. Royalty for Applicant.  
 51.204. Lease of Vacancy for Mineral Development.  
 51.205. Appeal.  
 51.206. Effect of Land Office Records on Certain Vacancies.

#### SUBCHAPTER F. PATENTS

51.241. Issuance of Patent.  
 51.242. Patent Fees.  
 51.243. Requisites of a Patent.  
 51.244. Delivery of Patent.  
 51.245. Deceased Patentee.  
 51.246. Acquisition of Deed of Acquittance to Excess Acreage.  
 51.247. Patents for Land That Cannot be Patented by Other Methods.  
 51.248. Doubtful Claim.  
 51.249. Conflicting Surveys.  
 51.250. Conflicting Title.  
 51.251. Partial Conflict of Title.  
 51.252. Refund of Purchase Money.

#### SUBCHAPTER G. EASEMENTS

51.291. Grants of Easements.  
 51.292. Easements and Leases for Certain Facilities.  
 51.293. Easements on University Land.

Section	
51.294.	Forms for Grant.
51.295.	Conditions for Easement.
51.296.	Term of Easements.
51.297.	Recording Easements.
51.298.	Annual Privilege Fee.
51.299.	Fees for Certain Facilities.
51.300.	Disposition of Income.
51.301.	Interest on Past-Due Payments.
51.302.	Prohibition and Penalty.
51.303.	Venue.
51.304.	Easements for Soil Conservation and Flood Prevention.
51.305.	Terms and Form of Grant.
51.306.	Consideration.
51.307.	Reservation of Mineral Rights.

SUBCHAPTER H. SALE OF TIMBER, GAYULE, AND LECHUGUILLA

51.341.	Definition.
51.342.	Sale of Timber.
51.343.	Rules.
51.344.	Application to Purchase Timber.
51.345.	Ingress and Egress From Land.
51.346.	Reversion of Title to Timber.
51.347.	Sale of Gayule and Lechuguilla.
51.348.	Conditions of Sale.
51.349.	Contracts.
51.350.	Replacement Value for Unlawful Use.

SUBCHAPTER A. GENERAL PROVISIONS

§ 51.001. Definitions

In this chapter:

- (1) "Commissioner" means the Commissioner of the General Land Office.
- (2) "Land office" means the General Land Office.
- (3) "Board" means the School Land Board.
- (4) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.
- (5) "State Treasurer" means the Treasurer of the State of Texas.
- (6) "Board of regents" means the board of regents of The University of Texas System.
- (7) "Public school land" means all land of the state that is dedicated to the permanent school fund.
- (8) "Asylum land" means all land of the state that is dedicated to the various asylum funds.
- (9) "Surveyed land" means all or part of any tract of land surveyed either on the ground or by protraction and dedicated to the public school fund which is unsold and for which field notes are on file in the land office or that may be delineated on the maps of that office as such.
- (10) "Unsurveyed land" means any land that is not included in surveys on file in the land office or surveys delineated on maps of that office.

[Acts 1977, 65th Leg., p. 2417, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.002 to 51.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO THE SALE AND LEASE OF PUBLIC SCHOOL AND ASYLUM LAND

§ 51.011. Sale and Lease of Public School and Asylum Land

Any land that is set apart to the permanent school fund and the various asylum funds under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, shall be controlled, sold, and leased by the school land board and the commissioner under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.012. Commissioner's Authority

Subject to the authority of the board and to exceptions and restrictions that may be imposed by the constitution and laws of this state, the commissioner is vested with the authority necessary to carry out the provisions of this chapter relating to the sale and lease of public school and asylum land and to the protection of this land from free use and occupancy and from unlawful enclosure.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.013. Classification and Valuation of Land

(a) As the public interest may require, the commissioner shall classify or reclassify and value or revalue all public school and asylum land and shall designate the land as agricultural, grazing, timber, or a combination of these classifications based on the facts in the particular case.

(b) After the classification and appraisalment is entered on the records of the land office, no further action needs to be taken by the commissioner and no notice is required to be given to the county clerk for the classification and appraisalment to be effective.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.014. Rules

(a) The commissioner may adopt rules necessary to carry out the provisions of this chapter and may alter or amend the rules to protect the public interest.

(b) Before rules are adopted under Subsection (a) of this section, the commissioner shall submit the rules to the governor for his approval.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 51.015. Forms

The commissioner shall adopt forms that are necessary or proper to transact business that he is required to transact and may request that the attorney general prepare the forms.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.016. Duties of the Attorney General**

The attorney general shall furnish the commissioner with advice and legal assistance that may be required to execute the provisions of this chapter. [Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.017. Furnishing Data to Board of Education**

On request, the commissioner shall furnish to the State Board of Education all available data. [Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.018. Records and Accounts**

The commissioner shall keep in his custody as records of his office each application, affidavit, obligation, and paper relating to the sale and lease of public school and asylum land and shall keep accurate accounts with each purchaser or lessee.

[Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.019. Special Fee**

Each bidder on a mineral lease or land sale by the board shall remit by separate check a special sale fee in the amount and in the manner provided in Section 34.061 of this code.

[Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.020. Refunds**

(a) On presentation of proper proof, money paid in good faith to a fund in the State Treasury for public land to which the fund is not entitled shall be refunded by the comptroller in the following instances:

(1) if an error is made in good faith and the refund, stating to whom payment is to be made, is supported by the official signature of the commissioner or the attorney general;

(2) if the payment is made according to law but title cannot issue or possession cannot pass because of a conflict in boundaries, an erroneous sale, an erroneous lease, or other cause;

(3) if there is a sale of leased land;

(4) if lease money is paid on a previous forfeited sale and the sale has been reinstated and the interest paid;

(5) if erroneous timber sales or leases have been made;

(6) if overpayments have been made in final payments to the State Treasurer because of decreased acreage or other cause;

(7) if reduction has been made in acreage of timber sold or leased; or

(8) if payments are made in good faith by claimants of land where the applicants have no right to purchase the land as revealed by investigation of title.

(b) After specific appropriations are made according to law, refunds shall be paid from the funds to which the payments have been credited.

(c) Any claim for refund except a refund covered by Subdivision (1) of Subsection (a) of this section shall be certified by the commissioner, verified by the affidavit of the claimant, and approved by the attorney general as to the correctness and as to whom the refund is due.

(d) In the event of a failure of title or right of possession, money paid by any purchaser or lessee who subsequently sells the land or assigns the lease shall be refunded to the person on whom the loss falls.

[Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.021 to 51.050 reserved for expansion]

**SUBCHAPTER C. SALE OF PUBLIC SCHOOL  
AND ASYLUM LAND**

**§ 51.051. Sale of Land**

Subject to the provisions of Section 32.109 of this code, all sales of land described in Section 51.011 of this code shall be made by or under the direction of the school land board to the applicant who submits the highest bid for the land at a price that is not less than the price set by the board for purchase of the land.

[Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.052. Conditions for Sale of Land**

(a) Land sold under the provisions of this subchapter shall be sold only in whole tracts and without condition of settlement and residence.

(b) Tracts of less than 80 acres shall be sold for cash.

(c) No land may be sold to corporations, and no corporation may purchase land under this subchapter.

[Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.0521. Conditions for Sale of Land of Less Than 150 Acres**

(a) Land in a tract of 150 acres or less shall be sold without condition of settlement, with a reservation of all oil, gas, and other minerals to the state, subject to Subchapter F, Chapter 52 of this code, commonly known as the Relinquishment Act,<sup>1</sup> and subject to Subchapter C, Chapter 53 of this code.<sup>2</sup>

(b) The owner of land that surrounds land in a tract of 150 acres or less shall have a preference right to purchase the tract before the land is made available for sale to any other person, provided the person having the preference right pays not less than the market value for the land as determined by appraisers under Subsection (d) of this section.

(c) A purchaser of land under this section under a contract of sale may make a down payment of at least 10 percent of the total cost of the land and may pay the remainder over a period of 20 years at an interest rate of eight percent a year. On full payment and satisfaction of other conditions, the purchaser is entitled to a patent for the land.

(d) Before land under this section is sold, the appraisers for the General Land Office must appraise the land at its market value and file a copy of the appraisal with the commissioner. No land covered by this section may be sold for less than the market value that appears in the appraisal made under this subsection.

(e) Except as specifically provided in this section, land sold under this section shall be sold in the manner and subject to the conditions for the sale of other land under this subchapter.

[Added by Acts 1979, 66th Leg., p. 543, ch. 257, § 1, eff. May 24, 1979.]

<sup>1</sup> Section 52.171 et seq.  
<sup>2</sup> Section 53.061 et seq.

**§ 51.053. Prohibited Sale of Certain Land**

(a) Except as provided by Subsection (b) of this section, any surveyed public school land located within five miles of a well producing oil or gas in commercial quantities is subject to lease only and the surface rights shall not be sold.

(b) Tracts of land that include 15 acres or less and that are located within five miles of a well producing oil or gas in commercial quantities may be sold under the same terms and conditions as other land sold by the board if:

- (1) all oil, gas, and other minerals on or under the tract are reserved to the state;
- (2) the purchaser of the tract acquires a one-sixteenth nonparticipating royalty; and
- (3) no drilling or mining is allowed within 500 feet of any building located on the tract.

[Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 194, ch. 104, § 1, eff. May 9, 1979.]

**§ 51.054. Reservation of Minerals**

(a) Land dedicated to the permanent school fund shall be sold subject to a reservation of one-eighth of all sulphur and other mineral substances from which sulphur may be derived or produced and one-sixteenth of all other minerals as free royalties to the state.

(b) Land that is set apart for the various asylum funds shall be sold with the oil, gas, coal, and all other minerals reserved to the fund to which the land belongs.

(c) The provisions of this section do not apply to oil and gas sold from public school and asylum land covered by Subchapter F, Chapter 52, of this code.

(d) The provisions of this section do not apply to vacancies covered by Section 51.201 of this code.  
[Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.055. Lease of Unsold Land**

(a) Unsold public school and asylum land may be leased subject to sale for a term of not more than 10 years and for an amount of not less than five cents an acre a year.

(b) Land leased under this section is subject to sale on any sale date for which it is advertised to be sold.

[Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.056. Application to Purchase Land**

(a) A person who wants to purchase public school or asylum land shall submit to the commissioner a separate written application for each tract applied for as a whole.

(b) Each application shall:

- (1) designate the land to be purchased;
- (2) state the price offered;
- (3) state any mineral reservations; and
- (4) include an affidavit that the purchaser is purchasing the land for himself and that no other person or corporation is either directly or indirectly interested in the purchase of the land.

(c) At the time the application is submitted, the applicant shall pay one-fifth of the aggregate price offered for the land and shall submit his obligation in an amount equal to the amount of the unpaid purchase price offered for the land, binding the purchaser to pay to the land office on November 1 of each year until the purchase price is paid one-fortieth of the unpaid balance with interest on the unpaid purchase price at the rate of five percent a year.

(d) The sale of the land is effective from the date of the receipt and filing of the application, affidavit, obligation, and the payment of one-fifth of the price offered.

(e) The application to purchase and the notice of award shall state that the land is sold without condition of settlement and with a reservation of one-eighth of all sulphur and other mineral substances from which sulphur may be produced or derived and one-sixteenth of all minerals as a free royalty to the state.

[Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.057. Delivery of Applications**

(a) An application for the purchase of public school or asylum land shall be delivered to the land office in a sealed envelope addressed to the commissioner with the words "application to buy land" and the date the land is to be sold endorsed on the envelope. Applications that do not have the required endorsements are nevertheless valid.

(b) The envelopes shall remain unopened and the applications unfiled, and the commissioner or his chief clerk shall keep the envelopes and applications in a safe and secure manner until the date of sale.  
[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.058. Method for Making First Payment**

(a) An applicant shall submit with his application the required first payment in the form of money or remittance collectible on demand in Austin and convertible at par into money on order of the State Treasurer without liability.

(b) If a remittance is made payable to the commissioner, the payment is not invalid for that reason, but the commissioner shall endorse it to the State Treasurer without incurring liability and the remittance shall be treated as if it were payable to the State Treasurer.

(c) An application is void if the payment is not made as provided in this section.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.059. Opening Applications**

(a) On the date of sale, the application envelopes shall be opened and the applications shall be filed and the information entered on the docket of the board as provided in Section 32.108 of this code.

(b) Any person who desires to be present at the time the envelopes are opened may do so.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.060. Recordation of First Payments**

(a) After each application envelope is opened and the first payment for the land is in the land office, the commissioner shall have the payment listed on a daily list which shall be made in triplicate, showing the name and address of each applicant and the purpose for which each payment is made and shall transmit to the State Treasurer all of the payments together with two of the lists.

(b) On receiving the payments and the lists, the treasurer shall compare the payments with the lists, and if the treasurer finds that the payments and the lists are correct, he shall receipt one of the lists and return it to the commissioner and shall retain the other list.

(c) On receiving the list from the treasurer, the commissioner shall deliver the third list to the comptroller.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.061. Collection of Remittances**

(a) The State Treasurer shall immediately collect all collectible remittances and shall report to the commissioner and comptroller all remittances not collectible in Austin.

(b) Any remittances that cannot be collected shall be returned to the commissioner.

[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.062. Disposition of First Payments**

(a) The State Treasurer shall retain all first payments he has collected until the commissioner notifies him of the final disposition of the applications to purchase land.

(b) After the treasurer is notified, he shall return to each applicant whose application is rejected the amount of his first payment.

(c) A duplicate of the notice to the treasurer of accepted and rejected applications and the amount of the first payment shall be transmitted to the comptroller.

(d) On the last working day of each month, the treasurer shall deposit in the State Treasury to the credit of the proper fund the amount collected by him on accepted applications during that month.  
[Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.063. Duplicate High Bids**

If two or more applicants submit the same bid for a tract of land and the bids are the highest bids offered on the sale date, the school land board shall reject all of the bids and the land shall be offered for sale on the next sale date. Any subsequent bid for the land may not be considered if it is less than the high bids rejected under this section.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.064. Individual Bids**

(a) Any public school or asylum land offered for sale for which no application is made under Section 51.056 of this code may be sold to any person who files a proper application in the land office in the manner provided by law.

(b) A person who files an application under this section is not required to have any memorandum on the envelope containing the application.

(c) If two or more applications are filed under this section on the same day for the same land, the person offering the highest price shall have his offer accepted, but if two or more persons offer the same price for the land, the commissioner and the school land board shall proceed in the manner provided by this chapter for the first filing.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.065. Notice and Record of Sale**

(a) The commissioner shall notify the county clerk of the proper county of the sale of each tract of land, the name and address of the purchaser, and the price of the land.

(b) After being informed of any sale of public school or asylum land, the county clerk shall enter in his books opposite the description of the land sold, the name of the purchaser and the date of the sale.

(c) The notice of sale and the book containing the entry are public records.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.066. Notice of Award**

(a) The commissioner shall prepare and issue a notice of award for each tract of land sold.

(b) Each notice of award shall be appropriately numbered and shall be worded in a manner that will constitute a receipt for the first payment after it is signed by the commissioner.

(c) One copy of the notice of award shall be retained in the land office and the other copy shall be sent to the purchaser.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.067. Information Required With Payments**

A person who is making a payment of principal, interest, or lease rental on land shall give the name of the original purchaser or lessee and shall sufficiently designate the land.

[Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.068. Fund Accounts**

(a) Payments of principal, interest, and lease rental shall be accounted for in a similar form but separate from first payments on land.

(b) The state treasurer shall deposit 80 percent of all these payments received each month to the probable fund to which they belong as indicated by the commissioner and shall hold the remaining 20 percent on deposit receipts furnished by the comptroller until definite notice is received from the commissioner as to the proper fund. After definite notice is received, the State Treasurer shall credit the full amount to the proper fund.

(c) The commissioner shall give definite notice to the State Treasurer and comptroller immediately after he issues receipts to the persons making the payments.

(d) The commissioner, State Treasurer, and comptroller shall keep an account with each fund according to advices given by them and shall retain the advices as permanent records.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.069. Disposition of Payments on Public School Land**

(a) Payments on public school land received by the commissioner shall be transmitted to the State Treasurer to be credited to the proper fund.

(b) The State Treasurer shall credit payments received on the purchase price of public school land to the permanent school fund and payments received as interest on the purchase of public school land to the available school fund.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.070. Unpaid Interest on Public School Land**

(a) Unpaid and delinquent interest on sales of public school land shall bear interest at a rate of five percent compounded annually as it accrues on November 1 of each year.

(b) No patent may be issued for any public school land until all compounded interest is paid to the time of issuing the patent.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.071. Forfeiture of Land**

(a) If interest on a sale of land is not paid when due, the land is subject to forfeiture by the commissioner by entry on the wrapper containing the papers "Land Forfeited" or similar words, the date of the forfeiture, and the official signature of the commissioner.

(b) After the entry is made on the wrapper, the land and all payments that have been made for it are forfeited to the state, and the land may be offered for sale on a subsequent sale date.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.072. Effect of Forfeiture**

In cases of forfeiture, the original obligations and penalties are as binding as if no forfeiture occurred.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.073. Classification and Sale of Leased and Forfeited Land**

(a) Before it is sold, the commissioner shall classify and value land on which leases have been cancelled or have expired and land forfeited to the state.

(b) Except as provided in Section 51.064 of this code, no land may be sold until it is advertised.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.074. Reinstatement of Land Purchases**

(a) If no rights of third persons have intervened, the purchasers or their vendees, heirs, or legal representatives, who claim land that has been forfeited for nonpayment of interest, may have the claim reinstated on written request by paying into the State Treasury the amount of interest due on the claim up to the date of reinstatement.

(b) The right to reinstate a claim under this section is limited to the last purchaser from the state, or his vendees, heirs, or legal representatives, and must be exercised within five years from the date of the forfeiture.

(c) If there is a valid outstanding grazing lease that prevents reinstatement within the time provided in Subsection (b) of this section, the claim may be reinstated within 60 days after the grazing lease expires if the application for reinstatement together

with the payment for all past due interest has been filed in the land office within five years from the date of forfeiture.

[Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.075. Forfeiture of a Deceased Purchaser's Land

(a) If a purchaser of land dies, the heirs or legal representatives of the deceased have one year following November 1 after the purchaser's death in which to make payment before the commissioner declares the land to be forfeited.

(b) If the forfeiture is declared by the commissioner within the time period stated in Subsection (a) of this section, it will be set aside on proper proof of death if no rights of third parties have intervened. [Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.076. Legal Proceedings

None of the provisions of Sections 51.071 through 51.072 and 51.074 through 51.075 of this code shall prevent the state from instituting legal proceedings necessary:

(1) to enforce a forfeiture;

(2) to recover the full amount of interest and penalties that may be owed to the state at the time the forfeiture occurred; or

(3) to protect another right to the land.

[Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.077. Lien

To secure the payment of principal and interest due on a sale of public school land, university land, and asylum land, the state has an express lien for the use and benefit of the fund to which the land belongs. The lien is in addition to any right and remedy that the state has for enforcement of the payment of principal or interest due and unpaid. [Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.078. Transfer of Indebtedness

(a) If a person or the Federal Farm Loan Bank, with the consent of the owner of land covered by Section 51.077 of this code, pays to the state the principal and interest due on any obligation given for the land, the commissioner, on written request of the owner, may execute, acknowledge, and deliver to the person or the Federal Farm Loan Bank a written transfer of the indebtedness held by the state. The written request of the owner shall be acknowledged in the manner required for the conveyance of real estate and shall be accompanied by an affidavit of ownership.

(b) The person or the Federal Farm Loan Bank is subrogated to all the rights, liens, and remedies held by the state to secure and enforce the payment of the principal and interest that was paid to the state.

(c) If the land claimed by a person claiming to be the owner is held under evidence of title that the law or rules of the land office do not authorize to be filed in the land office, the commissioner may admit the owner to be the person that the person or the Federal Farm Loan Bank paying the indebtedness admits to be the owner, and on making this admission the instrument of transfer shall be executed.

(d) None of the provisions of this section shall change any part of the law or rules that apply to the land office with relation to titles to land and issuance of patents.

[Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.079. Transfers Generally

(a) An owner of public school land or asylum land purchased from the state may sell the land or a definite portion of the land in any size tract.

(b) If land to be sold is separated from another portion of land but is not sufficiently designated by metes and bounds in the papers offered to be filed so that it may be identified with certainty, the commissioner shall require that proper field notes accompany the papers before he files them and separates the land.

[Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.080. Personal Transfers

(a) A vendee who obtains through personal transfer a whole survey or a whole portion of a survey purchased from the state as a whole or who obtains through personal transfer a portion of a survey purchased from the state as a whole or in a quantity less than the whole survey is entitled to become a substitute purchaser directly from the state in the manner provided in this section.

(b) With the approval of the commissioner, the vendee may file in the land office a complete chain of title through personal transfers that have been duly executed and recorded in the counties in which the land or a part of the land is located and shall pay the fees provided by law.

(c) After the papers are filed in the land office, the substituted purchaser shall have his portion of land separated from the other portion of land, if any, on the records of the land office and shall assume and be liable to the state for all unpaid principal and interest due the state for the land conveyed by the deeds that are filed, together with all obligations and penalties attaching to the original purchase.

(d) The obligation of the original purchaser and the obligation of all vendors of the substituted purchaser are enforceable against the substituted purchaser as if he were the original purchaser from the state, and the obligation of the vendor or vendors of the substituted purchaser are canceled.

[Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.081. Transfers Other Than Personal Transfer**

A person who claims title through a source other than by personal transfer to a definite portion of a survey that is less than the whole survey purchased from the state, with the approval of the commissioner, may have the portion of land that he claims separated from the other portion of the survey on the records of the land office by filing in the land office evidence of claims that may be required by the commissioner and by paying the fees provided by law for papers filed as evidence of the claim or a right to a separation of the area.

[Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.082. Liability of Vendee**

After a separation of land is made on the records of the land office, the portion that is separated shall be charged and credited with its pro rata part of the principal and interest due and paid to November 1 preceding the date of the filing of the transfers or other papers.

[Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.083. Patent on Part of a Tract**

(a) If an owner or claimant of land whose ownership or claim is shown on the records of the land office desires a patent on a portion of the whole tract, the owner or claimant, with the approval of the commissioner, may file field notes for the portion of the tract on which the patent is desired, together with the filing fee required by law, and may obtain a patent for the portion of the tract after the full price is paid, together with all fees required by law.

(b) If the ownership of the tract is evidenced by personal transfer, the patent shall be issued to the owner and his assigns, but if the claimant claims title through other evidence than by personal transfer, the patent shall be issued in the name of the person and his assigns who hold title by original purchase or in the name of the person and his assigns who appear on the records to hold title through the last personal transfer.

(c) If a patent is issued in the name of any person other than the legal owner, the patent and the rights granted in the patent inure to the benefit of the legal owner.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.084. Sale Without Condition of Residence**

No sale made without condition of settlement may be questioned by the state or any person after one year from the date of the sale.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.085. Time for Purchase of Land**

Each purchaser of land has the option of paying the purchase price in full at any time, together with all fees, and obtaining a patent for the land.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.086 to 51.120 reserved for expansion]

**SUBCHAPTER D. LEASE OF LAND**

**§ 51.121. Lease of Unsold Land**

(a) Except as otherwise provided, unsold public school and asylum land may be leased for a term of not more than 10 years and for an amount of not less than five cents an acre, payable annually in advance, but the land that is leased but remains unsold is subject to sale or trade pursuant to the laws governing the sale or trade of unsold land.

(b) Unsold public school and asylum land may be leased for commercial purposes in tracts of not more than 50 acres for a term of not more than 50 years. Commercial improvements on land under this subsection shall not become the property of the state and shall be taxed in the same manner as other private property.

(c) Commercial improvements on land leased under Subsection (b) of Section 51.121 of the Natural Resources Code shall be removed prior to the expiration of the lease unless a renewal or an extension of the lease has been finalized prior to the expiration of the term of the lease. If commercial improvements are not removed prior to the expiration of the lease and if there has been no renewal or extension prior to the expiration of the lease, then the commercial improvements on the land shall become property of the state.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 472, ch. 215, § 1, eff. May 17, 1979.]

**§ 51.122. Advertisement of Leases**

Leases under the provisions of this subchapter may be advertised in the manner provided in Section 32.107 of this code.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.123. Lease Application**

A person who desires to lease land shall submit a written application to the commissioner specifying and describing the particular land he desires to lease.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.124. Award of Lease**

(a) A lease shall be awarded to the highest responsible bidder.

(b) The lease shall be awarded under the rules and in the quantities the board considers to be in the best interest of the state and not inconsistent with the equities of the occupant.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.125. Rejection of Bid or Offer to Lease**

Any bid or offer to lease may be rejected by the board for fraud, collusion, or other good and sufficient cause before the lease is signed.

[Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.126. Notification of Acceptance and Execution of Lease**

After the applications are received, the commissioner shall give written notification to the successful applicant that his bid or offer to lease is accepted and execute a lease to the applicant in the name and by the authority of the State of Texas.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.127. Recording Lease**

(a) After the lessee has paid the rent for the land for a year in advance, the commissioner shall deliver the lease to the clerk of the county in which the land is located.

(b) When a lease is filed for record, the clerk shall prepare a memorandum or abstract of the lease and shall record the memorandum or abstract in a well-bound book or on microfilm kept in his office.

(c) The memorandum or abstract shall contain:

- (1) the number of the survey leased;
- (2) the name of the original grantee;
- (3) the amount of land leased;
- (4) the name of the lessee;
- (5) the date of the lease; and
- (6) the term of years the lease is to run.

(d) On payment of the fee required by law, the clerk shall deliver the lease to the lessee.

(e) Except for the record made under this section, no other record of a lease is required.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.128. Cancellation of Lease**

(a) If a lessee fails to pay the annual rent within 60 days after it is due, the commissioner shall cancel the lease with a written document signed by him with his seal attached.

(b) The commissioner shall file the document with the other papers relating to the lease, and the lease shall terminate immediately.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.129. Lien**

(a) During the continuance of the lease and after forfeiture, the state has a lien on all property owned by the lessee which is located on the leased premises to secure payment of rent due.

(b) The lien is superior to all other liens.

(c) A reservation of the lien in the lease is not essential to preserve its validity.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.130. Removal of Improvements**

An improvement made by a lessee on land leased by him may be removed by the lessee on the expiration of the lease or, at the discretion of the commissioner, may become the property of the state if, in the original lease, the commissioner and the lessee agree on adequate credit to be applied to the rental to be paid the state by the lessee, thereby allowing the lessee an agreed consideration.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.131 to 51.170 reserved for expansion]

### SUBCHAPTER E. SALE AND LEASE OF VACANCIES

**§ 51.171. Sale and Lease of Vacant Land**

Vacant and unsurveyed public school land except riverbeds, channels, islands, lakes, bays, and other areas in tidewater limits shall be sold and leased under the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.172. Definitions**

In this subchapter:

(1) "Good-faith claimant" and "claimant" mean any person:

(A) who occupies or uses or has previously occupied or used or whose predecessors in interest have occupied or used a vacancy for purposes other than exploring for or removing oil, gas, sulphur, or other minerals from the vacancy; and

(B) who has himself or whose predecessors in interest had the vacancy enclosed or within definite recognized boundaries and in possession for a period of 10 years with a good-faith belief that the vacancy was included inside the boundaries of the survey or surveys that were previously titled, awarded, or sold under circumstances that would have vested title in the vacancy if it were actually located within the boundaries of the survey or surveys whose boundaries are recognized boundaries in the community.

(2) "Vacancy" means an area of unsurveyed public school land that:

(A) is not in conflict on the ground with land previously titled, awarded, or sold;

(B) has not been listed on the records of the land office as public school land; and

(C) was, on the date of filing, neither subject to an earlier subsisting application to purchase or lease by a discoverer or claimant nor involved in pending litigation brought by the state to recover the land.

(3) "Applicant" means any person, other than a good-faith claimant, who discovers and files an application to purchase or lease a vacancy.

[Acts 1977, 65th Leg., p. 2428, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.173. Persons Eligible to Purchase and Lease Land**

(a) A vacancy may be sold to a good-faith claimant whether or not the vacancy is located within five miles of a well producing oil, gas, or other minerals in commercial quantities, but a person who is not a good-faith claimant may not purchase a vacancy that is located within five miles of a well producing oil or gas in commercial quantities.

(b) If there is no good-faith claimant or if the claimant fails to exercise his preferential right, a vacancy located within five miles of a well producing oil or gas in commercial quantities shall be available only for lease.

[Acts 1977, 65th Leg., p. 2428, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.174. Purchase of Vacancy by Adjoining Landowner**

If the owner of the land adjoining an alleged vacancy files an application to purchase the vacancy and no application to purchase or lease the vacancy has been previously filed, the owner of the adjoining land, who otherwise qualifies as a good-faith claimant, shall be considered a good-faith claimant regardless of the length of time he has owned the adjoining land or has enclosed the vacancy or has had it within definite recognized boundaries and in possession with the belief that the vacancy was included within his survey.

[Acts 1977, 65th Leg., p. 2428, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.175. Application to Purchase or Lease a Vacancy**

(a) An applicant who claims that a vacancy exists and who desires to purchase or lease the vacancy shall file with the county surveyor in the county in which any part of the vacancy is located a sworn written application in duplicate to purchase or lease the vacancy.

(b) The application shall:

(1) describe the land that is claimed to be vacant;

(2) state the desire of the applicant to purchase or lease the land under the provisions of this chapter;

(3) give the names and addresses of any owners or claimants of land or any interest in land or of leases on, adjoining, overlapping, or including the land claimed to be vacant as far as can be determined from the records of the land office and the county clerk's office in the county in which the land is located and the tax records of the county in which the land is located;

(4) give the names and addresses of any persons who, from facts known to the applicant, assert any right to the alleged vacant land; and

(5) state that the applicant knows of no other claimants than those listed.

[Acts 1977, 65th Leg., p. 2428, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.176. Filing Fee**

At the time the application is filed, the applicant shall pay to the county surveyor a filing fee of \$5. [Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.177. Filing Application With County**

(a) The county surveyor shall mark the exact date and hour of filing on the original and duplicate copy of each application and shall return one copy of the application to the applicant and shall record the other copy in a book kept for that purpose.

(b) If the county does not have a county surveyor, the preliminary filing of the application shall be with the county clerk. The county clerk shall record the application in a book kept for that purpose and not in the deed records.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.178. Filing Application With Commissioner**

(a) Within 10 days after the application is filed with the county surveyor, the copy of the application that is returned to the applicant shall be filed with the commissioner.

(b) The commissioner shall mark the date of filing on the application.

(c) The applicant shall pay to the commissioner a filing fee of \$100.

(d) Failure to file the application with the commissioner in the time provided by this section and to pay the filing fee constitutes a waiver of all rights under the application.

(e) As between applicants, priority dates from the time of filing the application with the county surveyor.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.179. Deposit**

(a) The commissioner shall notify the applicant by letter of the estimated cost of proceeding under the application, and within 30 days after the date of the commissioner's letter, the applicant shall make a deposit with the commissioner to pay the cost of the work that may be necessary to comply with the request contained in the application.

(b) On failure to make the deposit required under this section, all rights under the application are lost.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.180. Insufficient Deposit**

(a) If the deposit is insufficient, the applicant shall be requested by letter to make a further deposit of an amount determined by the commissioner.

(b) If the further deposit is not made within 30 days after the date of the letter, work shall be discontinued and the application canceled with the cancellation endorsed on the application.

(c) On cancellation, the right to purchase or lease the vacancy under the application is lost.

[Acts 1977, 65th Leg., p. 2429, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.181. Appeal of Amount of Deposit

(a) The applicant is entitled to appeal the estimated cost determined by the commissioner to a district court in Travis County by giving written notice to the commissioner within 15 days after receiving the estimated cost from the commissioner as provided in Sections 51.179 through 51.180 of this code.

(b) The applicant has 15 days after the district court enters its decision in which to pay the amount ordered by the court's decision.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.182. Deposits as Trust Fund

Deposits provided under Sections 51.179 through 51.180 of this code shall be a special trust fund to be used only for the purpose authorized by this subchapter.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.183. Statement and Refund of Remaining Deposit

As soon as the total expense properly charged against the deposit is determined, the commissioner shall render a complete statement to the applicant together with any balance remaining from the deposit.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.184. Notice of Intention to Survey

(a) After the application is filed with the commissioner and the deposit is made, the commissioner shall mail a notice of intention to survey to all persons named as interested persons in the application at the addresses provided in the application and to the attorney general.

(b) The notices shall be deposited in the post office in Austin at least 10 days before the date set for the beginning of the survey.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.185. Appointment of Surveyor

(a) The commissioner shall appoint a surveyor to make the survey in accordance with the notice of intention to survey.

(b) The surveyor shall be a surveyor licensed by the state or the county surveyor of the county in which the vacancy or part of the vacancy is located.

(c) The fees and expenses paid for the survey shall be the same as provided by law, and if the fees and expenses are not provided by law, the commissioner and surveyor shall make an agreement as to fees

and expenses that shall not be more than an amount that is reasonable for the work performed.

(d) The fees and expenses shall be paid by the applicant.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.186. Survey Report

(a) Except as provided in Subsection (b) of this section, a written report of the survey, together with field notes describing the land and the lines and corners surveyed and a plat showing the results of the survey, shall be filed in the land office within 120 days from the filing of the application.

(b) The commissioner may extend the time for filing the survey if good cause is shown. The cause for extension of time shall be stated in writing and filed as part of the record of the proceedings. An extension of time may not be more than 60 days.

(c) The survey report shall give the names and post-office addresses of all persons who have possession of the land described in the application and of all persons found by the surveyor who have or claim any interest in the land.

[Acts 1977, 65th Leg., p. 2430, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.187. Personal Survey

Any interested party at his own expense may have any surveying done that he considers desirable.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.188. Hearing and Notice

(a) Within 60 days after the surveyor makes his report, a hearing may be held before the commissioner to determine whether or not there is a vacancy.

(b) The date for the hearing shall be provided in the notice that the commissioner shall give to all persons thought to be interested parties and to all persons shown by the record of the proceeding to be interested parties, including the attorney general.

(c) The notice of the hearing shall be deposited at the post office in Austin at least 10 days before the date set for the hearing.

(d) At the hearing, the state and each interested party, whether or not he received notice, is entitled to be heard.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.189. Determination of Vacancy by Commissioner

(a) If it appears to the commissioner that the alleged vacancy is not in conflict with land previously titled, awarded, or sold by the state, he shall give prompt notice of this finding to the applicant and to all persons who were previously identified as interested parties.

(b) After the notice is given under Subsection (a) of this section, and subject to the preferential right of a good-faith claimant, the applicant is entitled for 120 days to purchase or lease the portion of the land that is determined to be vacant at a price set by the board as provided in this code and with the same royalty reservation as provided in Section 51.201 of this code.

(c) No award may be made by the commissioner unless a hearing is held, and no presumption may obtain in a suit involving the existence of a vacancy as a result of the action of the commissioner in this respect.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.190. Purchase or Lease by Applicant**

(a) If there is no good-faith claimant or if no good-faith claimant exercises his preferential right within the time allowed, the applicant is entitled to purchase or lease, according to his application, the vacancy for which he made application and which is found to exist.

(b) Consideration shall be determined by the board as provided in this subchapter, but without consideration of potential mineral value.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.191. Suit to Recover Land**

A good-faith claimant of a vacant or unsurveyed tract of land has 90 days after the sale or lease of the land by the commissioner to institute suit to set aside the sale or lease of the land. If the suit is not instituted within the 90-day period by the good-faith claimant, he loses all preferential rights to purchase or lease the land.

[Acts 1977, 65th Leg., p. 2431, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.192. Denial of Vacancy by Commissioner**

(a) If the commissioner decides that the area alleged to be vacant is not vacant, he shall endorse this decision on the application and file it with his finding.

(b) The commissioner shall promptly notify the applicant of his decision by registered mail and shall file all reports and papers received in connection with the application.

(c) After the commissioner takes all action provided under Subsections (a) and (b) of this section, he shall take no further action with respect to the application unless the existence of the alleged vacancy is determined by a court of competent jurisdiction.

(d) Within 90 days after the commissioner's decision is mailed, unless the applicant files suit in a district court in a county in which part of the alleged vacancy is located to litigate the question of the existence of a vacancy, the applicant's application

and all preference rights acquired to purchase or lease the alleged vacancy become null and void. [Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.193. Preferential Right of Good-Faith Claimant**

(a) A good-faith claimant who ascertains that a vacancy exists or that a claimed vacancy may exist or who has been notified by the commissioner that a vacancy has been found to exist on land claimed by him shall have a preferential right to purchase or lease the vacancy at any time until 90 days after a decision of the commissioner declaring the existence of a vacancy.

(b) The good-faith claimant may purchase or lease the vacancy by submitting a written application to the commissioner for the purchase or lease of the vacancy and by furnishing to the commissioner satisfactory proof that he is a good-faith claimant.

(c) The good-faith claimant is entitled to purchase or lease the portion of the land that is vacant at the price set by the board subject to the royalty reservations provided in this subchapter which are effective on the date the application is filed.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.194. Term of Preferential Right**

A good-faith claimant has a preferential right to purchase the land alleged or adjudicated to be vacant until 90 days after the final judicial determination of the existence of the vacancy.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.195. Effect of Good-Faith Claimant's Application**

The application of a good-faith claimant may not be used or considered as an admission on his part that a vacancy exists.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.196. Procedure for Purchase or Lease by Good-Faith Claimant**

(a) On the date a good-faith claimant's application is filed, if there is no valid and subsisting application previously filed by an applicant covering the alleged vacancy, the application of the good-faith claimant shall be filed and shall be accompanied by:

- (1) a \$1 filing fee;
- (2) a written report of a surveyor licensed by the state or by the county surveyor of any county in which all or part of the alleged vacancy is located;
- (3) field notes describing the land and the lines and corners surveyed;
- (4) a plat showing the results of the survey; and

(5) any proof that will show to the satisfaction of the commissioner that the applicant is a good-faith claimant.

(b) The good-faith claimant may file his application to purchase or lease and within 120 days from the date of filing the application with the commissioner have a survey made of the alleged vacancy and file the report, field notes, and plat in the land office together with proof that he is a good-faith claimant.

(c) If it appears to the commissioner that the alleged vacancy is not in conflict with land previously titled, awarded, or sold by the state, the commissioner shall grant the application under the provisions of this subchapter. Before the application is granted, the commissioner may hold a hearing at which interested persons may appear.

[Acts 1977, 65th Leg., p. 2432, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.197. Failure to Exercise Preferential Right Within Certain Time

(a) If the good-faith claimant does not exercise his preferential right to purchase within 90 days after a decision of the commissioner under the provisions of this subchapter, the applicant shall be awarded an oil, gas, and mineral lease on not more than seven-eighths of the minerals.

(b) The consideration for the lease shall not be less than \$1 an acre, and the lease shall be for a primary term of five years.

(c) The lease shall be subject to other consideration and terms required by the board and the preferential right of a good-faith claimant until 90 days after final judicial determination under Section 51.194 of this code.

[Acts 1977, 65th Leg., p. 2433, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.198. Repayment of Applicant's Expenses

Within 90 days after the commissioner declares the vacancy to exist, the good-faith claimant shall repay to the applicant the expenses incurred in determining the existence of a vacancy, except filing fees, as provided in this subchapter or the good-faith claimant will lose all preferential rights to purchase or lease the land.

[Acts 1977, 65th Leg., p. 2433, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.199. Judicial Determination of Good-Faith Claimant

If the commissioner fails to determine whether or not there is a good-faith claimant or if his decision is questioned by an applicant or by a person asserting to be a good-faith claimant, the issue shall be determined in any suit brought under this subchapter to determine the existence of the alleged vacancy.

[Acts 1977, 65th Leg., p. 2433, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.200. Rights of Holders of Title and Holders of Interests in Title of a Claimant

(a) If all owners holding title under the claimant or an interest in the title under which the claimant claims to be a good-faith claimant accept the provisions of this section and contribute their proportionate part of the royalty reserved to the state and the royalty awarded to the applicant, the purchase by the good-faith claimant under the preferential right inures distributively to their benefit.

(b) The royalty reservations shall be deducted distributively and proportionately from the mineral interest of each owner including mineral leases if the area is under a mineral lease.

(c) As a condition of this subchapter, the good-faith claimant receiving the patent or award or for whose benefit a patent or award is received shall recognize the proportionate interests of other owners who benefit by the award of the preferential right.

(d) The consideration for the purchase shall be determined by the board without considering the potential value of minerals or any improvements located on the vacancy but shall not be less than \$1 an acre. The state retains the right to recover from the party or parties liable the market value when produced of all oil, gas, sulphur, or other minerals that may have been produced from the area before the effective date of the patent or award less an offset to the operator for the actual cost of development and production.

(e) No mineral lease executed by a good-faith claimant before filing the vacancy claim may give the lessee any interest in or to the vacancy.

(f) No title to land or to a mineral interest in land acquired from the state under a preferential right may be held to pass as after-acquired title because of any covenant of general warranty, description, or other provision contained in any conveyance executed before the date of award under the preferential right.

[Acts 1977, 65th Leg., p. 2433, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.201. Reservation of Minerals

(a) If a good-faith claimant purchases a vacancy located within five miles of a well producing oil, gas, or other minerals in commercial quantities, a free royalty of one-eighth of all oil, gas, sulphur, and other minerals shall be reserved to the state.

(b) If a vacancy that is not covered by Subsection (a) of this section is sold, a free royalty of one-sixteenth of all oil and gas production and one-eighth of all sulphur and other minerals shall be reserved to the state.

(c) If a good-faith claimant fails to exercise his preferential right to purchase a vacancy within 90 days after the commissioner determines the existence of the vacancy, the royalty reserved by the state shall be one-eighth of the oil and gas and one-sixth of the sulphur and other minerals.

(d) The state shall reserve as a free royalty at least one-eighth of all oil, gas, sulphur, and other minerals on vacancies that are leased by the state as determined by the board.

[Acts 1977, 65th Leg., p. 2434, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.202. Mineral Reservations Under Sale Made to Claimant After 90-Day Deadline**

(a) If a good-faith claimant does not exercise his preferential right to purchase until after 90 days after the decision of the commissioner determining the existence of a vacancy, the sale made to the claimant shall be subject to a reservation to the state of a free royalty of one-eighth of all oil, gas, sulphur, and other minerals and subject to any lease made by the state to the applicant of not more than thirteen-sixteenths mineral interest as provided in this chapter.

(b) If the commissioner has previously executed a mineral lease on a larger portion of the minerals under the land, the lease shall be amended to cover only thirteen-sixteenths of the minerals so that it will conform to preferential rights given to good-faith claimants.

[Acts 1977, 65th Leg., p. 2434, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.203. Royalty for Applicant**

If there is a valid subsisting application previously filed by an applicant on the date that the good-faith claimant files his application to purchase under a preferential right, and if the good-faith claimant exercises his preferential right to purchase within 90 days after the commissioner's decision under this subchapter, a free royalty of one-sixteenth of all oil, gas, sulphur, and other minerals that may be produced from the land shall be added to the free royalty interest reserved to the state and shall be awarded by the state to the applicant. The free royalty shall be deducted proportionately from the good-faith claimant's award.

[Acts 1977, 65th Leg., p. 2434, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.204. Lease of Vacancy for Mineral Development**

(a) The instrument of sale for a vacancy shall provide that the purchaser is entitled to execute oil, gas, and mineral leases on the vacancy without the joinder or approval of the commissioner or the board.

(b) Bonus money and rentals paid under a lease executed under this section shall be paid to and shall be the property of the purchaser of the land.

(c) Any lease executed under the provisions of this section shall reserve to the state the free royalty provided in Section 51.201 of this code.

[Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.205. Appeal**

(a) A person who is aggrieved by any action taken by the commissioner under the provisions of this subchapter or with reference to any application to purchase or lease a vacancy may institute suit in the district court of any county in which part of the land is located to try the issues of boundary, title, ownership of any alleged vacancy involved, and preferential rights of the person.

(b) Within 30 days after the suit is filed, the plaintiff shall have a certified copy of the original petition served on the attorney general and the commissioner by the sheriff or a constable of Travis County and shall have the officer's return filed with the papers in the suit.

(c) Whether the attorney general answers or intervenes in the suit or institutes a suit, the venue of all suits following the filing of the application shall be in the county in which the land or part of the land is located.

(d) If the litigation is prosecuted to a final judgment, the judgment is binding on the state.

(e) The attorney general must intervene on behalf of the state in suits brought under this section. [Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.206. Effect of Land Office Records on Certain Vacancies**

In any case involving the boundary, title, or possession of surveys partly or wholly included in any incorporated city, town, or village validated under Section 1, Chapter 254, General Laws, Acts of the 42nd Legislature, Regular Session, 1931,<sup>1</sup> where there is sought to be established a vacancy between surveys, the field notes and official maps in use in the land office at the date of the incorporation are conclusive concerning the nonexistence of the vacancy. If no vacancy appears from the field notes or maps, it is conclusively presumed that no vacancy exists.

[Added by Acts 1979, 66th Leg., p. 2006, ch. 785, § 8, eff. June 13, 1979.]

<sup>1</sup> Civil Statutes, art. 5305a (repealed).

[Sections 51.207 to 51.240 reserved for expansion]

**SUBCHAPTER F. PATENTS**

**§ 51.241. Issuance of Patent**

The commissioner shall issue a patent when the records of his office reflect that full payment for land has been made where required and fees that are due on the land have been paid to the land office and have not been withdrawn, including the fee for recording the patent in the county or counties in which the land is located.

[Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.242. Patent Fees**

When a person applies for a patent, he shall pay to the land office in addition to all other required payments \$1 for each county in which all or a part of the land is located and shall give the name and address of the owner or agent.

[Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.243. Requisites of a Patent**

(a) Each patent for land from the state shall be issued in the name and by authority of the state under the seal of the state and the land office and shall be signed by the governor and countersigned by the commissioner.

(b) Before the patent is delivered to the person who is entitled to it, it shall be registered in the land office patent book.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.244. Delivery of Patent**

(a) When a patent is ready for delivery, the commissioner shall send it, together with the check for payment of the fee required by Section 51.242 of this code and the name and address of the owner or his agent, by registered mail to the clerk of the proper county.

(b) On receiving the patent, the clerk shall record it and shall send the patent, together with the name and address of the owner or his agent and the remaining recording fees, by registered mail to the clerk of another proper county until the patent has been recorded in each county in which all or part of the land is located.

(c) After the patent is recorded in all the proper counties, it shall be sent by registered mail to the proper party.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.245. Deceased Patentee**

A patent issued in the name of a person who is deceased at the time the patent is issued conveys and secures valid title to the heirs or assignee of the deceased person.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.246. Acquisition of Deed of Acquittance to Excess Acreage**

(a) If the area of a tract of land that is titled or patented exceeds the quantity provided in the title or patent and if under the existing law the title to all or a part of the tract may be affected by the existence of the excess acreage, the person who owns the survey or portion of the survey or has an interest in it may pay for the total excess acreage in the survey or the total excess in a given tract out of the patented or titled survey at the price fixed by the board.

(b) Any person who owns an interest in a titled or patented survey or any portion of a titled or patented survey in which excess acreage is located and who desires to pay for the excess acreage shall file with the commissioner a request for an appraisal of the land with corrected field notes in the form provided by law, together with a sworn statement of facts relating to his right to purchase and other evidence of his right to purchase which may be required by the commissioner. The corrected field notes shall describe the patented tract, and if purchasing excess in a portion of a tract, shall include a description of the portion in which the applicant is making application to purchase excess.

(c) If it appears that excess acreage actually exists and that the applicant is entitled to obtain it under the law, the commissioner shall execute a deed of acquittance covering the land in the name of the original patentee or his assignees with a mineral reservation or with no mineral reservation accordingly as may have been the case when the survey was titled or patented.

(d) The transfer shall inure distributively to the benefit of the lawful owners of the land in proportion to their holdings.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.247. Patents for Land That Cannot be Patented by Other Methods**

(a) Any headright survey, homestead donation, preemption survey, scrip survey, or other survey awarded or sold before August 20, 1931, which has been held and claimed in good faith by a person for 10 years before the date of application for a patent but which cannot be patented under existing law may be patented on payment to the commissioner of the purchase price as set by the board.

(b) The patent shall be issued to the owner of record as shown in the records of the land office and shall inure distributively to the legal owners of the land.

(c) If a tract of school land has been occupied by mistake as part of another tract, the occupant shall have a preference right for a period of six months after discovery of the mistake to purchase the land at the same price paid or contracted to be paid for the land actually conveyed to him.

[Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.248. Doubtful Claim**

If it appears to the commissioner from the records of his office or from information given to him under oath that there is an illegality in a claim, the commissioner, if he considers it necessary, shall refer the matter to the attorney general, and the attorney general's written decision is sufficient authority for the commissioner to issue or withhold the patent.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.249. Conflicting Surveys**

If conflicts exist between surveys, the commissioner shall issue patents to the portions of the surveys that are free from conflict.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.250. Conflicting Title**

(a) If a patent to land is issued by mistake on any valid claim for land and is afterwards found to be in conflict with an older title, the owner of the patent or any part of the land embraced by the patent which is in conflict may return the patent to the commissioner for cancellation. If the owner of the land that is the subject of the conflict cannot obtain the patent, he shall return to the commissioner legal evidence of his title to the patent or part of the patent.

(b) The person returning the patent or filing the evidence also shall make and file with the commissioner an affidavit stating that he is still the owner of the land and has not sold or transferred it.

(c) If the land office records or a duly certified copy of a judgment of a court of competent jurisdiction that has adjudicated the title reflects that a conflict exists, the commissioner may cancel the patent or the part of a patent that appears to belong to the party making the application.

(d) In cases where a survey in a block or system of surveys conflicts on one side or more, and omits an unpatented strip on another side or sides due to the patent being issued on an erroneous subsequent survey not conforming to the original and recognized pattern for the block or system, the commissioner, at the request of all parties owning under said patent, may cancel said patent and issue a corrected patent that shall conform to said block or system of surveys. In the event that excess acreage exists, a deed of acquittance shall be procured, as provided by law, and will be issued simultaneously with the corrected patent. This Subsection (d) shall not adversely affect the rights of any party in or entitled to possession of land affected by this subsection, but merely clarifies that the ownership in any land in a block or system of surveys exists as if the patent had been correctly issued on the date the erroneous patent was issued. The rights of a claimant under applicable law shall be construed as if the corrected patent had been originally issued.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2239, ch. 535, § 1, eff. Aug. 31, 1981.]

**§ 51.251. Partial Conflict of Title**

If there is only a partial conflict of title under a patent, the commissioner in the manner provided in Section 51.250 of this code may cancel any patent presented to him and issue a patent to the applicant for the portion of the land that is covered by his original patent but that is not in conflict with the older title if the area can be determined from the field notes.

[Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.252. Refund of Purchase Money**

(a) If a patent cannot be issued for land because of a conflict, erroneous survey, or illegal sale or if a patent is issued for land and is later canceled, the comptroller, on proper proof, may issue his warrant to the proper parties for amounts paid in good faith to the State Treasury for taxes, lease payments, or purchase payments on this land.

(b) Proof of these good-faith payments may be shown by the certificate of the commissioner if the records of the land office show that a patent cannot be issued because of conflict, erroneous survey, or illegal sale or that a patent has been canceled.

(c) The provisions of this section do not apply to surveys on which the errors may be corrected. [Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.253 to 51.290 reserved for expansion]

**SUBCHAPTER G. EASEMENTS****§ 51.291. Grants of Easements**

The commissioner may execute grants of easements for rights-of-way across unsold public school land, the portion of the Gulf of Mexico within the jurisdiction of the state, and all islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits for telephone, telegraph, electric transmission, and powerlines, for oil pipelines, including pipelines connecting the onshore storage facilities with the offshore facilities of a deepwater port, as defined by the federal Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), gas pipelines, sulphur pipelines, and other electric lines and pipelines of any nature, and for irrigation canals, laterals, and water pipelines.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.292. Easements and Leases for Certain Facilities**

The commissioner may execute grants of easements or leases for electric substations, pumping stations, loading racks, and tank farms to be located on state land other than land owned by The University of Texas System.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.293. Easements on University Land**

(a) The Board of Regents of The University of Texas System may continue to execute all right-of-way easements under authority already granted across land that belongs to the state but is dedicated to the support and maintenance of The University of Texas System for telephone, telegraph, electric transmission, and powerlines, for oil pipelines, gas pipelines, sulphur pipelines, and other electric lines and pipelines of any nature, and for irrigation canals, laterals, and water pipelines.

(b) The board of regents may continue to execute under authority already granted grants of easements or leases for the erection and maintenance of electric substations, pumping stations, loading racks, and tank farms on university land.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.294. Forms for Grant

Easements granted under Sections 51.291 through 51.293 of this code shall be granted on forms approved by the attorney general.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.295. Conditions for Easement

Telephone, telegraph, electric transmission, powerline, and pipeline right-of-way easements and easements or rights-of-way for irrigation canals, laterals, and water pipelines shall be executed on terms to be determined by the commissioner or the board of regents, but no easement for an oil, gas, or sulphur pipeline or a telephone, telegraph, electric transmission, or powerline easement may be granted that does not provide for the annual privilege fee of not less than two and one-half cents a lineal rod a year.

[Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.296. Term of Easements

(a) Except as provided in Subsection (b) of this section, no grant of easement or lease enumerated under Sections 51.291 through 51.293 of this code may be granted for a term that is longer than 10 years, but an easement may be renewed by the officials responsible for execution of grants of easement and leases under this subchapter.

(b) A right-of-way easement for a pipeline connecting onshore storage facilities with the offshore facilities of a deepwater port, as defined by the Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), may be granted for a term coincident with the term of the license issued by the secretary of transportation pursuant to the Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), and the easement may be renewed for additional terms of up to 10 years coincident with the term for each renewal of the license.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.297. Recording Easements

(a) Each easement granted under Sections 51.291 through 51.293 of this code shall be recorded in the county clerk's office of the county in which the land is located, and the recording fee shall be paid by the person who obtains the easement.

(b) The person who obtains the easement shall furnish to the commissioner a certificate showing that the easement has been recorded.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.298. Annual Privilege Fee

(a) A person who occupies or uses any unsold public school land, any islands, saltwater lakes, bays, inlets, marshes, or reefs owned by the state within tidewater limits, any portion of the Gulf of Mexico within the jurisdiction of the state, or any unsold public land dedicated to The University of Texas System as a right-of-way for a telephone, telegraph, electric transmission, or powerline, for an oil pipeline, gas pipeline, or sulphur pipeline, or for an irrigation canal, lateral, or water pipeline shall pay annually in advance to the commissioner an amount equal to two and one-half cents a lineal rod a year for each rod of telephone, telegraph, electric transmission, or powerline, or each rod of oil or gas pipeline.

(b) The annual privilege fee shall be paid by those persons who have not previously paid this fee on all oil pipelines, gas pipelines, and telephone, telegraph, electric transmission, and powerlines that are in existence and located on public land mentioned in Subsection (a) of this section.

(c) The fee shall be paid annually unless the grant of the easement makes some other provision.

(d) A higher annual privilege fee may be set by contract between the authorized officials and the grantee of the easement.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.299. Fees for Certain Facilities

The rent to be charged for an easement or lease for an electric substation site, pumping station, loading rack, or tank farm shall be an amount agreed to between the lessee and the board of regents with respect to university land and the commissioner with respect to other state land.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.300. Disposition of Income

Income received by the commissioner under this subchapter from public school land shall be credited to the available school fund, and income received from university land shall be credited to the available university fund. Other income received by the commissioner on other land under this subchapter shall be credited to the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 51.301. Interest on Past-Due Payments

(a) Payments under this subchapter that are past due shall bear interest at a rate of 10 percent a year.

(b) If no date for payment is provided in the contract or if no written contract has been executed, the unpaid annual fees shall bear interest at a rate of 10 percent calculated from January 1 following the year for which the annual privilege fee was due.

[Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.302. Prohibition and Penalty**

(a) No person may construct any of the facilities listed in Sections 51.291 through 51.293 of this code on or across any section or part of a section of land of the character enumerated in Sections 51.291 through 51.293 of this code and owned by the state, nor may any person who has not acquired a proper easement as provided in this subchapter and who owns or possesses any of the facilities listed in Sections 51.291 through 51.293 of this code that are now located on or across any section or part of a section of land of the character enumerated in Sections 51.291 through 51.293 of this code and owned by the state continue in possession of the land unless he obtains from the commissioner or the board of regents a grant of a right-of-way easement or other easement for the land on which the facility is to be constructed or is located.

(b) A person violating the provisions of Subsection (a) of this section shall be liable to a penalty of \$100 a day for each day that a violation occurs. The penalty shall be recovered by the attorney general. [Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.303. Venue**

The venue for suits by the state under Sections 51.291 through 51.302 of this code or for violation of provisions of Sections 51.291 through 51.302 of this code shall be in Travis County. [Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.304. Easements for Soil Conservation and Flood Prevention**

The commissioner may execute grants of easements on unsold public school land to conservation and reclamation districts for soil conservation and flood prevention projects authorized by the Watershed Protection and Flood Prevention Act (16 U.S.C. Section 1001 et seq.), as amended. [Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.305. Terms and Form of Grant**

The grant of the easement may contain any provisions that the commissioner considers necessary to protect the interests of the state and may be perpetual or for a term of years. [Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.306. Consideration**

The consideration paid to the state for the grant of the easement under Section 51.304 of this code shall be determined by the commissioner to compensate the state for any damage to the land or to the use of the land caused by the easement, but if the commissioner determines that the benefits resulting from the grant of the easement are more than the damage, the commissioner may waive the consideration for the easement. [Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.307. Reservation of Mineral Rights**

Mineral rights together with the right to explore for, produce, and market the minerals in land granted as an easement under Section 51.304 of this code shall be reserved to the state and shall be subject to lease for minerals in the same manner as other unsold public school land.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 51.308 to 51.340 reserved for expansion]

**SUBCHAPTER H. SALE OF TIMBER, GAYULE, AND LECHUGUILLA**

**§ 51.341. Definition**

In this subchapter, "timbered land" means land that is valued chiefly for the timber located on it. [Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.342. Sale of Timber**

Timber located on public land shall be sold in full tracts for cash at its fair market value. [Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.343. Rules**

Subject to the provisions of this chapter, the commissioner shall adopt rules for the sale of timber which are considered necessary and judicious. [Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.344. Application to Purchase Timber**

An application to purchase timber shall be made in the manner provided for filing an application to purchase land. [Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.345. Ingress and Egress From Land**

The purchaser of timber without the land is entitled to ingress and egress on the land for a period of five years after the date of the award to remove or protect the timber on the land. [Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.346. Reversion of Title to Timber**

After the five-year period provided in Section 51.345 of this code, title to the timber reverts to the fund to which the land belongs and is subject to sale by the state. [Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.347. Sale of Gayule and Lechuguilla**

The board may sell the gayule or lechuguilla growing or found on the public school land, exclusive of timber. [Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.348. Conditions of Sale**

The sale of gayule and lechuguilla may be on any terms and conditions and with any limitations that the board considers most advantageous and in the best interest in protecting the public school fund and the state.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.349. Contracts**

The board may enter into any contract including an executory contract of sale which they consider wise for the purpose of having the commercial properties and value of gayule and lechuguilla determined, but it may not spend any public money or incur any liability on behalf of the state through these contracts.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 51.350. Replacement Value for Unlawful Use**

(a) If a person without authority or right cuts or removes any mineral, gayule, or lechuguilla from land that belongs to the permanent school fund, a judgment shall be rendered against the person on behalf of the state in an amount that is equal to the value of the substance that was cut or removed.

(b) The judgment shall be collected in the same manner as a collection is made under execution.

(c) After the judgment is collected, the money shall be paid to the State Treasurer, who shall credit the money to the public school fund.

[Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 52. OIL AND GAS**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section

52.001. Definitions.

**SUBCHAPTER B. LEASE OF PUBLIC SCHOOL AND GULF LAND**

- 52.011. Area Subject to Lease.
- 52.012. Conditions for Lease.
- 52.013. Determination of Lease Price and Delay Rentals.
- 52.014. Date for Lease and Notice.
- 52.015. Application for Lease.
- 52.016. Special Fee.
- 52.017. Keeping and Opening Bids.
- 52.018. Void Application.
- 52.019. Tie Bids.
- 52.020. Return of Payments on Rejected Applications.
- 52.021. Term of Lease.
- 52.022. Royalty and Delay Rentals.
- 52.023. Lease Provisions for Drilling and Reworking.
- 52.024. Lease Provisions for Shut-In Oil or Gas Royalty and Compensatory Royalty.
- 52.025. Disposition of Lease Payments.
- 52.026. Lease Transfer.
- 52.027. Lease Relinquishment.
- 52.028. Suspension of Oil and Gas Leases.
- 52.029. Forfeiture of Rights.
- 52.030. Refund of Lease Money in Certain Situations.
- 52.0301. Suspension of Terms of Lease in Certain Situations.

Section

- 52.031. Extension of Lease by Commissioner.
- 52.032. Regulation of Development and Operations.
- 52.033. Access to Land.
- 52.034. Offset Wells.

**SUBCHAPTER C. DEVELOPMENT OF RIVERBEDS AND CHANNELS**

- 52.071. Authority Over Riverbeds and Channels.
- 52.072. State Policy.
- 52.073. Area Subject to Lease.
- 52.074. Size of Tract.
- 52.075. Board Meetings.
- 52.076. Duty to Advertise.
- 52.077. Bids.
- 52.078. Special Fee.
- 52.079. Contract to Drill Wells.
- 52.080. Forms for Lease and Contract.
- 52.081. Procedure for Orders and Contracts.
- 52.082. Term of Lease.
- 52.083. Conditions of Lease.
- 52.084. Special Lease Provisions.
- 52.085. Prevention of Pollution.
- 52.086. Development of Riverbeds and Channels More Than Two Miles From a Well.
- 52.087. Determination of Lease Price and Delay Rentals.
- 52.088. Royalty and Delay Rentals.
- 52.089. Mineral Development Fund.
- 52.090. Extension of Lease.
- 52.091. Refund of Lease Money in Certain Situations.
- 52.092. Power of Eminent Domain.
- 52.093. Eminent Domain Purposes.
- 52.094. Drilling Offset Well on Condemned Land.
- 52.095. Rights of Parties to Condemnation.
- 52.096. Exclusion From Damages in Condemnation.
- 52.097. Injunction.
- 52.098. Appeal.
- 52.099. Venue.
- 52.100. Effect of Subchapter.

**SUBCHAPTER D. ROYALTIES**

- 52.131. Payment of Royalty Generally.
- 52.132. Form of Payment.
- 52.133. Payment of Royalty in Kind.
- 52.134. Filing Contracts and Agreements.
- 52.135. Inspections and Examinations.
- 52.136. Lien.

**SUBCHAPTER E. UNITIZATION OF LEASED AREAS**

- 52.151. Authorization to Operate Areas as Units.
- 52.152. Approval of Unit Agreements.
- 52.153. Agreement Provisions.

**SUBCHAPTER F. RELINQUISHMENT**

- 52.171. School and Asylum Lands.
- 52.172. Sale and Lease by Agent.
- 52.173. Offset Wells.
- 52.174. Failure to Drill Offset.
- 52.175. Lease of Oil and Gas After Forfeiture.
- 52.176. Forfeiture of Rights.
- 52.177. Rights of Subsequent Purchaser.
- 52.178. Operation Under Permit.
- 52.179. Lease Under Permit.
- 52.180. Payments Under Permit.
- 52.181. Relinquishment Under Permit.
- 52.182. Damages to Soil.
- 52.183. Effective Date of Lease.
- 52.184. Statement of Consideration.
- 52.185. University Land.
- 52.186. Lease of Oil When Owner of the Soil Unavailable.

SUBCHAPTER G. PERMITS AND LEASES

- Section
- 52.221. Definitions.
  - 52.222. Application for Prospect and Development of Surveyed Land.
  - 52.223. Limitations on Surveyed Areas for Prospect and Development.
  - 52.224. Application for Prospect and Development of Unsurveyed Areas.
  - 52.225. Filing Documents and Issuing Permit.
  - 52.226. Annual Permit Fee.
  - 52.227. Independent Development of Areas.
  - 52.228. Extension of Permit.
  - 52.229. Suspension of Annual Fee.
  - 52.230. Conditions for Development.
  - 52.231. Right to Lease.
  - 52.232. Removal of Oil and Gas.
  - 52.233. Issuance and Renewal of Lease.
  - 52.234. Areas Covered by Applications, Permits, and Leases.
  - 52.235. Application Without Field Notes.
  - 52.236. Rental and Royalty.
  - 52.237. Application of Fee to Certain Land.
  - 52.238. Terms of Permits and Leases.
  - 52.239. Compensation of Surface Owner.
  - 52.240. Statement of Interests.
  - 52.241. Disposition of Proceeds.
  - 52.242. Abandoning Tracts; Leasing Remaining Tracts.
  - 52.243. Relinquishment Procedure.
  - 52.244. Transfer of Rights.
  - 52.245. Transfer of University Land.
  - 52.246. Dissolution of Combined Permits and Leases.
  - 52.247. Acreage Fee Exemption.
  - 52.248. Application to Single and Combination Permits and Leases.
  - 52.249. Status of Assignees.
  - 52.250. Forfeiture of Rights.
  - 52.251. Pollution of Streams.
  - 52.252. Property Taxable.

SUBCHAPTER H. LEASE LIMITATIONS

- 52.291. Coverage.
- 52.292. Prohibited Leases.
- 52.293. Prerequisite to Sale Outside State.
- 52.294. Prerequisite to Filing Leases.
- 52.295. Certain Leases Null, Void, and of No Force and Effect.
- 52.296. Granting Exceptions to Subchapter.

SUBCHAPTER I. GEOPHYSICAL AND GEOCHEMICAL EXPLORATION PERMIT

- 52.321. Definitions.
- 52.322. Permit Required for Exploration.
- 52.323. Application for Permit.
- 52.324. Authority of Commissioner.
- 52.325. Permittee's Failure to Comply.

SUBCHAPTER A. GENERAL PROVISIONS

§ 52.001. Definitions

In this chapter:

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

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

(3) "Board" means the school land board.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.002 to 52.010 reserved for expansion]

SUBCHAPTER B. LEASE OF PUBLIC SCHOOL AND GULF LAND

§ 52.011. Area Subject to Lease

Under the provisions of this subchapter, the board may lease to any person for the production of oil and natural gas:

(1) islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits;

(2) the portion of the Gulf of Mexico within the jurisdiction of the state; and

(3) all unsold surveyed and unsurveyed public school land.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.012. Conditions for Lease

Oil and gas shall only be leased together and shall be leased separately from other minerals.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.013. Determination of Lease Price and Delay Rentals

The board shall determine the price at which areas under this subchapter shall be leased and the amount of delay rentals that shall be charged.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.014. Date for Lease and Notice

(a) The date for lease of areas covered by this subchapter shall be set and notice of the date shall be given in the manner provided in Sections 32.105 and 32.107 of this code.

(b) Notice of areas being offered for lease shall be advertised for a period of 30 days before the lease date.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.015. Application for Lease

(a) Each application for a separate area and the first payment shall be delivered to the land office on or before the day and hour on which the area is subject to lease.

(b) The application and payment shall be delivered in a sealed envelope endorsed with "application to lease oil and gas" and the date on which the area is subject to lease.

(c) Any application received up to the hour in which the applications are to be opened shall be considered to be properly delivered regardless of whether it is opened or sealed or endorsed or unendorsed.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.016. Special Fee**

Each bidder on a lease under this subchapter shall remit by separate check a special sale fee in the amount and in the manner provided in Section 34-061 of this code.

[Acts 1977, 65th Leg., p. 2445, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.017. Keeping and Opening Bids**

The envelopes shall be kept securely and unopened by the commissioner or his chief clerk until the day on which the applications are to be opened, and at that time, the board shall open the envelopes in the presence of any persons who desire to be present.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.018. Void Application**

An application that includes two or more areas or that is for a price that is less than the fixed royalty and price per acre is void.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.019. Tie Bids**

(a) If the highest bid for an area is made by more than one applicant, all applications shall be rejected and the board shall set a date for lease of the area that shall not be later than the 15th day of the following month.

(b) The area will be subject to lease in the same manner as it was originally subject to lease.

(c) No bids for a lease shall be considered if the price is less than the highest bid offered in the original application.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.020. Return of Payments on Rejected Applications**

The State Treasurer shall return all amounts paid on rejected applications.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.021. Term of Lease**

A lease granted under this subchapter shall be for a primary term of five years and for as long after that time as oil or gas is produced from the leased area.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.022. Royalty and Delay Rentals**

(a) In addition to the cash amount bid for a lease, the area included in the lease shall be leased for not less than one-eighth of the gross production of oil produced and saved, or its value, and not less than one-eighth of the gross production of gas produced and sold off the area or its value, plus an amount determined by the board, until production is secured.

(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.

(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, an amount determined by the board for as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.023. Lease Provisions for Drilling and Reworking**

Each lease shall provide that:

(1) if the production of oil or gas on premises leased under this subchapter ceases for any reason at or after the expiration of the primary term, the lease will not terminate if the lessee commences additional drilling or reworking operations within 60 days after the cessation of production;

(2) the lease shall remain in effect as long as the drilling and reworking operations continue in good faith and in a workmanlike manner, without interruptions, totaling more than 60 days during any one such operation; and

(3) if the drilling or reworking operations result in the production of oil or gas, the lease shall remain in effect as long as oil or gas is produced from the premises in paying quantities or payment of shut-in gas royalties or compensatory royalties is made as provided by law.

[Acts 1977, 65th Leg., p. 2446, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2005, ch. 785, § 6, eff. June 13, 1979.]

**§ 52.024. Lease Provisions for Shut-In Oil or Gas Royalty and Compensatory Royalty**

Each lease shall provide that:

(1) if at the expiration of the primary term or at any time after the expiration of the primary term a well or wells capable of producing oil or gas in paying quantities are located on the leased premises but oil or gas is not being produced for lack of suitable production facilities or a suitable market and the lease is not being maintained in force and effect, before the expiration of the primary term or if the primary term has expired, within 60 days after the lessee ceases to produce oil or gas from the well, the lessee may pay as a shut-in oil or gas royalty an amount equal to double the annual rental provided in the lease but not less than \$1,200 a year for each well capable of producing oil or gas in paying quantities;

(2) if the shut-in oil or gas royalty is paid, the lease shall be considered to be a producing lease and the payment shall extend the term of the lease for a period of one year from the end of the

primary term or from the first day of the month next succeeding the month in which production ceased and after that if no suitable production facilities or suitable market for the oil or gas exists, the lessee may extend the lease for four additional and successive periods of one year by paying the same amount each year on or before the expiration of the extended term;

(3) if, during the period the lease is kept in effect by payment of the shut-in oil or gas royalty, oil or gas is sold and delivered in paying quantities from a well located within 1,000 feet of the leased premises and completed in the same producing reservoir or in any case in which drainage is occurring, the right to continue to extend the lease by paying the shut-in oil or gas royalty shall cease, but the lease shall remain effective for the remainder of the year for which the royalty has been paid and for an additional period of not more than five years from the expiration of the primary term by the lessee paying compensatory royalty at the royalty rate provided in the lease of the value at the well of production from the well which is causing the drainage or which is completed in the same producing reservoir and within 1,000 feet of the leased premises;

(4) the compensatory royalty is to be paid monthly to the commissioner beginning on or before the last day of the month next succeeding the month in which the oil or gas is sold and delivered from the well located within 1,000 feet of or draining the leased premises and completed in the same reservoir;

(5) if the compensatory royalty paid in any 12-month period is in an amount less than the annual shut-in oil or gas royalty, the lessee shall pay an amount equal to the difference within 30 days from the end of the 12-month period; and

(6) none of these provisions will relieve the lessee of the obligation of reasonable development nor the obligation to drill offset wells as provided in Section 52.034 of this code.

[Acts 1977, 65th Leg., p. 2447, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 1858, ch. 438, § 1, eff. June 11, 1981.]

Section 2 of the 1981 amendatory act provides:

"On application of a lessee, a valid and existing mineral lease issued by the commissioner of the General Land Office before the effective date of this Act that covers any state-owned minerals shall be amended by the commissioner of the General Land Office, by instrument in writing, to include the provisions in Section 52.024, Natural Resources Code, as amended by this Act."

**§ 52.025. Disposition of Lease Payments**

The State Treasurer shall credit the permanent school fund with amounts received from unsurveyed school land and with two-thirds of the amount received from other areas and shall credit the General Revenue Fund with the remaining one-third of the payments for the other areas.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.026. Lease Transfer**

(a) A lessee of an area under this subchapter may transfer his lease at any time.

(b) The transfer of the lease shall be recorded in any county in which all or part of the leased area is located.

(c) Within 90 days after the execution of the transfer, the recorded transfer or a certified copy of the recorded transfer accompanied by a \$5 filing fee shall be filed in the land office.

(d) The transferee shall succeed to all rights and be subject to all obligations and penalties of the original lessee.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.027. Lease Relinquishment**

(a) A lessee may relinquish his lease to the state at any time by recording the relinquishment in each county in which all or part of the leased area is located.

(b) Within 90 days after the execution of the relinquishment, the recorded relinquishment or a certified copy of the recorded relinquishment together with a \$5 filing fee shall be filed in the land office.

(c) After the lessee relinquishes the area, he is relieved of any further obligations to the state, but the relinquishment does not release the lessee from any obligations or liabilities previously accrued in favor of the state.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.028. Suspension of Oil and Gas Leases**

(a) If an oil and gas lease issued by the commissioner is involved in litigation relating to its validity or to the authority of the commissioner to lease the land, the primary term of the lease shall be suspended and all obligations imposed by the lease set aside during the period of the litigation.

(b) If the litigation is instituted at least six months before the expiration of the primary term, after final judgment is rendered, the primary term provided in the lease shall begin to run again and shall continue to run for the remainder of the period specified in the lease and all obligations and duties imposed by the lease shall be operative.

(c) The lessee shall pay all annual delay rentals and any royalties that accrue during the period of litigation in the same manner as they are paid during the period of an extended primary term. The delay rentals paid during the period of litigation shall be held and returned to the lessee if the state is unsuccessful in the litigation.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.029. Forfeiture of Rights**

The provisions of -Subchapter F of this chapter governing the forfeiture and reinstatement of rights apply to forfeiture and reinstatement of leases issued under this subchapter, and on forfeiture of a lease, the area covered by the lease may be leased, after advertisement, by any other person.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.030. Refund of Lease Money in Certain Situations**

(a) If a lessee is prevented from exploring, developing, drilling, or producing oil and gas from the tract leased to him as a result of the action of any agency of the United States or of this state during the entire primary term of the lease, he is entitled to a refund of all money paid for bonus, delay rentals, and other fees under the lease as provided by legislative appropriation.

(b) A refund shall be made only on verification of the claim by the board or on the judgment of a court of competent jurisdiction.

(c) A lessee who has a claim under this section is given permission to bring suit against the state within two years after the expiration of the lease in any court of competent jurisdiction to recover the money paid.

[Acts 1977, 65th Leg., p. 2448, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.0301. Suspension of Terms of Lease in Certain Situations**

(a) If the owner of a valid oil and gas lease granted by the state is denied access to or is denied a permit to drill on or produce from the leased premises by any duly constituted authority of the United States after a bona fide attempt has been made by the owner to obtain access or a permit to drill on or produce from the leased premises, the owner may file with the board an application describing and giving the date of the action that deprives him of access to or the right to drill on or produce from the premises.

(b) If the board is satisfied that the facts included in the application are true, the board may enter an order in its minutes suspending the running of both the primary and the principal term of the lease or suspending any condition, obligation, or duty under the lease, from the date of the cause for the suspension through the continued existence of the cause for the suspension, so long as the lessee continues to make the annual rental payments that are stipulated in the lease on each anniversary date of the lease during the period of suspension.

(c) Until 90 days after the board enters an order in its minutes stating that the cause for suspension has ceased to exist, the oil and gas lease shall remain in status quo, and all obligations and conditions existing under the lease or any of those obligations

or conditions that are suspended by the board are inoperative and of no force and effect except for the obligation to pay delay rentals.

(d) Ninety days after the board enters its order stating the cause for suspension has ceased to exist, the oil and gas lease shall again become operative if the rental payments have been made during the period of suspension, and all suspended obligations and conditions, including the payment of rentals, shall again attach and be in force. In the case of the suspension of the primary and principal terms of the lease, the lease shall continue in force for a period equivalent to the unexpired term of the lease on the date the cause of suspension began.

(e) The commissioner shall give notice immediately to the lessee of the entry of an order stating that the cause of suspension has ceased to exist, provided annual rental payments have been made.

(f) This section may not be construed as abridging any rights or privileges conveyed under Chapter 287, Acts of the 47th Legislature, Regular Session, 1941 (Article 5366a, Vernon's Texas Civil Statutes).

[Added by Acts 1979, 66th Leg., p. 2006, ch. 785, § 7, eff. June 13, 1979.]

**§ 52.031. Extension of Lease by Commissioner**

(a) At the expiration of the primary term of a lease made under the provisions of this subchapter, if production of oil or gas has not been obtained on the leased premises but drilling operations are being conducted in good faith and in good and workman-like manner, the lessee may file in the land office on or before the expiration of the primary term a written application to the commissioner for a 30-day extension of the lease accompanied by \$3,000 for 640 acres or less or \$6,000 for more than 640 acres.

(b) The commissioner shall extend the lease in writing for a 30-day period from the expiration of the primary term and as long after that time as oil or gas is produced in paying quantities.

(c) As long as drilling operations are being conducted, the lessee may submit an application and payment during any 30-day extended period for an additional extension of 30 days. On receiving the application and payment, the commissioner shall again extend the lease in writing so that it will remain effective for an additional 30-day period and as long after that time as oil or gas is produced in paying quantities.

(d) No lease may be extended under this section for more than 390 days after the expiration of the primary term unless production is obtained in paying quantities.

[Acts 1977, 65th Leg., p. 2449, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.032. Regulation of Development and Operations**

(a) Development and operations on areas covered by this subchapter shall be done insofar as practica-

ble in a manner that will prevent the pollution of water, destruction of fish, oysters, and other marine life, and obstruction of navigation.

(b) The commissioner shall adopt and enforce rules that may be necessary for the purposes stated in Subsection (a) of this section.

(c) Any rules and changes of rules adopted under this section shall be submitted to the attorney general for his written approval before the rules or their changes become effective.

[Acts 1977, 65th Leg., p. 2449, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.033. Access to Land**

(a) If it is necessary for the lessee to enter the enclosed land of another person for the purpose of ingress and egress to and from the area leased from the state and if the lessee and the owner cannot agree on the place or the conditions of entry and exit, the lessee or his agent may petition the commissioners court of the county in which all or part of the enclosure is located to open the places of ingress and egress that may be necessary.

(b) On filing the petition, the commissioners court shall delineate the roads necessary for the stated purpose in the manner provided for delineating third-class public roads.

[Acts 1977, 65th Leg., p. 2449, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.034. Offset Wells**

(a) If oil or gas is produced in commercial quantities from a well located on a privately owned area and the well is located within 1,000 feet of an area leased under this subchapter, the lessee of the state area shall begin in good faith and prosecute diligently the drilling of an offset well or wells on the area leased from the state within 60 days after the initial production on the privately owned area.

(b) An offset well shall be drilled to a depth and the means shall be employed which may be necessary to prevent undue drainage of oil or gas from beneath the state area.

(c) Within 30 days after an offset well has been completed or abandoned, a log of each well shall be filed in the land office.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.035 to 52.070 reserved for expansion]

**SUBCHAPTER C. DEVELOPMENT OF RIVERBEDS AND CHANNELS**

**§ 52.071. Authority Over Riverbeds and Channels**

The riverbeds and channels belonging to the state are subject to development by the state and to lease or contract for recovery of oil and gas.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.072. State Policy**

(a) With regard to leases and contracts for the development of riverbeds and channels, it is the policy of the state that activities of the state and all lessees and contracting parties or their heirs, successors, or assigns under a lease or contract shall comply with laws of the state and rules and orders of any state agency that are applicable to development of oil and gas bearing land in the state by persons other than the state.

(b) Each lease and contract issued under the provisions of this subchapter is subject to the provisions of Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.073. Area Subject to Lease**

Riverbeds and channels that belong to the state may be leased to any person by the board under the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.074. Size of Tract**

Subject to the conditions in this subchapter, riverbeds and channels shall be leased in tracts of the size determined by the board.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.075. Board Meetings**

(a) The board may transact business only at a meeting attended by two or more of its members.

(b) The member calling the meeting shall give written notice of the meeting to the other members.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.076. Duty to Advertise**

(a) The board shall advertise for proposals:

(1) to lease riverbeds and channels for oil and gas development;

(2) to drill riverbeds and channels on consideration involving compensation with oil and gas or money so that the state will receive a portion of the oil and gas as it is produced or advanced royalties paid in money; and

(3) to purchase oil and gas in place or recoverable without requiring mineral development.

(b) The board shall advertise the proposals as provided in Section 32.107 of this code.

[Acts 1977, 65th Leg., p. 2450, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.077. Bids**

(a) The board may receive bids on all proposals listed in Section 52.076 of this code.

(b) The board may accept any bid it considers to be in the best interest of the state, or it may reject any and all bids.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.078. Special Fee**

Each bidder on a lease under this subchapter shall remit by separate check a special sale fee in the amount and in the manner provided in Section 34.061 of this code.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.079. Contract to Drill Wells**

(a) If the board considers it advisable to reject all bids, it may give additional notice for bids or it may enter into a contract for drilling of the wells.

(b) A well that is drilled by order of the board shall be done under a contract let on competitive bids to the lowest and best bidder for a completed well.

(c) A contractor drilling under a contract with the board shall carry workmen's compensation insurance for all employees engaged in the drilling operation.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.080. Forms for Lease and Contract**

Leases and contracts for the development of riverbeds and channels shall be executed on forms approved by the attorney general and the board.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.081. Procedure for Orders and Contracts**

Orders and contracts made or entered into by the board shall be authorized at a meeting of the board and shall be signed by two members of the board. The orders and contracts shall be approved as to their legality by the attorney general.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.082. Term of Lease**

A lease granted under this subchapter shall be for a primary term of five years and for as long after that time as oil or gas is produced from the leased area.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.083. Conditions of Lease**

Oil and gas shall only be leased together and separately from other minerals.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.084. Special Lease Provisions**

Each lease shall include the provisions required by Sections 52.023 and 52.024 of this code.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.085. Prevention of Pollution**

(a) Each lease and contract shall require the lessee or contracting party or his successors or assigns to use the highest degree of care and all proper safeguards to prevent pollution of streams.

(b) If the lessee or contracting party fails to meet the requirements in Subsection (a) of this section, the state is entitled to take charge of the property immediately and to cancel the lease.

[Acts 1977, 65th Leg., p. 2451, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.086. Development of Riverbeds and Channels More Than Two Miles From a Well**

(a) The board may not lease or contract for the development or drilling of any riverbed or channel located at the time the lease or contract is to be executed more than two miles from a well producing or capable of producing oil or gas in paying quantities unless the owner of the leasehold or mineral interest in the oil or gas estate in land located adjacent to or within two miles of the riverbed or channel desires to drill a test well in, under, or within two miles of the riverbed or channel.

(b) The owner of the interest desiring to drill the test well shall apply to the board for an oil and gas lease on the available portions of the riverbed or channel he desires to lease, indicating the site in or within two miles of the riverbed or channel where he desires to drill the well.

(c) Within 60 days after the date the application is received, the board shall lease the riverbed or channel to the highest bidder for oil and gas development.

(d) The leased area shall be limited to the portion of the riverbed or channel which is within two miles of a point therein at the end of a line drawn from the designated well site perpendicular to the general course of the riverbed or channel.

(e) The lease shall expire at the end of two years from the date of its delivery to the highest bidder unless oil or gas is produced in paying quantities from the portion of the riverbed or channel covered by the lease or from adjacent or nearby land with which the leased land or a portion of it has been lawfully pooled or unitized so that royalties payable under the lease are accruing to the state on that date.

[Acts 1977, 65th Leg., p. 2452, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.087. Determination of Lease Price and Delay Rentals**

The board shall determine the price at which riverbeds and channels shall be leased and the amount of delay rentals that shall be charged.

[Acts 1977, 65th Leg., p. 2452, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.088. Royalty and Delay Rentals**

(a) In addition to the cash amount bid for a lease, the board shall lease the area for not less than one-eighth of the gross production of oil produced and saved or its value and not less than one-eighth of the gross production of gas produced and sold off the area or its value plus an amount determined by the board until production is secured.

(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.

(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, in an amount determined by the board as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease.

[Acts 1977, 65th Leg., p. 2452, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.089. Mineral Development Fund**

(a) Money collected by the board under the provisions of this subchapter shall be deposited in the State Treasury and shall be credited to the mineral development fund.

(b) The board may make disbursements from the mineral development fund to carry out the provisions of this subchapter and the necessary amounts for disbursement are appropriated from the fund.

(c) Any portion of the fund not needed for the purposes stated in Subsection (b) of this section shall be paid from time to time to the General Revenue Fund, but any portion of the mineral development fund that belongs to the public school fund shall be paid to that fund.

[Acts 1977, 65th Leg., p. 2452, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.090. Extension of Lease**

A lease may be extended in the manner provided in Section 52.031 of this code.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.091. Refund of Lease Money in Certain Situations**

A lessee under this subchapter is entitled to a refund of all money paid for bonus, delay rentals, and other fees for the reasons and in the manner provided in Section 52.030 of this code.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.092. Power of Eminent Domain**

The board or any person including a leaseholder or assignee, who has a contract with the board for the development of oil and gas resources in riverbeds and channels may exercise the power of eminent

domain to condemn land as provided in the general laws of this state for the purposes stated in Section 52.093 of this code.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.093. Eminent Domain Purposes**

The board and any person, including a leaseholder or assignee, who has a contract with the board for the development of oil and gas resources in riverbeds and channels may exercise the power of eminent domain for the following purposes:

(1) to secure additional adjoining land that may be necessary to erect power machinery and to construct storage tanks and slush pits for the operation of the river or channel development and to prevent or lessen the dangers of pollution involved in the drilling of any well in the riverbed or channel; and

(2) to secure a right-of-way to and from any well that is drilled in the riverbed or channel so that the board or any of the leaseholders or contracting parties may go to and from the well and may transport any materials necessary to develop the riverbed or channel and to transport oil and gas away from the well.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.094. Drilling Offset Well on Condemned Land**

(a) If the landowner or other interested party and the board or the lessee of the riverbed or channel cannot agree on the amount of damages, if any, and it is necessary to commence condemnation proceedings and if it is necessary for the landowner or other interested party to drill an offset well within the area to be condemned, the mineral rights of the condemned party are superior to the surface rights of the condemning party.

(b) If there is any conflict surrounding the drilling of an offset well under a permit from the Railroad Commission of Texas, the condemning party is required to move any interference or hindrance or to go around any offset well, and if he fails or refuses to immediately move the interference or hindrance on demand, the owner of the mineral rights is entitled to do so immediately without liability.

[Acts 1977, 65th Leg., p. 2453, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.095. Rights of Parties to Condemnation**

It is the intent of this subchapter that the mineral rights of the owner are superior to the surface rights of the condemning party.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.096. Exclusion From Damages in Condemnation**

In determining the damages resulting from condemnation, the commissioners or any other tribunal shall not consider the value of oil or gas located beneath the rights-of-way of the condemned property.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.097. Injunction**

(a) No injunction may be granted against the board, its agents, or persons with whom it has contracted, to restrain the board from enforcing its orders or contracts or from carrying out any development that has begun or was contemplated by the board until notice is given to the board and its agents or the contracting parties and a hearing is held.

(b) Before an injunction or restraining order is issued or becomes effective, the court shall require the complaining party to execute a bond payable to the governor with good and sufficient sureties authorized to do business in this state in an amount determined by the court to be sufficient to protect the state from loss from drainage of the riverbed or channel, of lease or bonus or consideration, or from any other reason. In determining the amount of the bond, the court shall consider the probable and possible loss to the state by granting the injunction.

(c) The attorney general shall bring suit on the bond to recover any loss to the state caused by the suit for injunction.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.098. Appeal**

(a) Either party to the suit for an injunction or restraining order is entitled to appeal from the final judgment.

(b) The appeal shall be returnable to the appellate court at once and shall have precedence in that court over all pending cases, proceedings, and causes of a different character.

(c) The court of appeals shall decide the questions involved in the appeal at as early a date as possible.

(d) If any question is certified to the supreme court or if writ of error is requested or granted, the supreme court shall set the cause for hearing immediately, and the cause shall have precedence over all other cases, proceedings, and causes of a different character. The supreme court shall decide the cause at as early a date as possible.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 799, ch. 291, § 90, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part: "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

**§ 52.099. Venue**

The venue for any suit arising from this subchapter either by or against the board and regardless of the kind or nature shall be in Travis County. [Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.100. Effect of Subchapter**

The provisions of this subchapter do not repeal or supersede Chapter 138, Acts of the 41st Legislature, Regular Session, 1929 (Article 5414a, Vernon's Texas Civil Statutes), which validated, relinquished, quit-claimed, and granted to patentees and awardees and their assignees land and minerals that are included in surveys lying across or partly across watercourses and navigable streams in the state and that have been patented or awarded as provided in that chapter.

[Acts 1977, 65th Leg., p. 2454, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.101 to 52.130 reserved for expansion]

**SUBCHAPTER D. ROYALTIES**

**§ 52.131. Payment of Royalty Generally**

(a) Royalties due under a lease of state land or minerals that are required to be paid to the land office shall be due and shall be paid as provided in this section.

(b) Royalty on oil is due and payable on or before the 5th day of the second month succeeding the month of production and royalty on gas is due and payable on or before the 15th day of the second month succeeding the month of production.

(c) Royalty payments shall be accompanied by:

(1) an affidavit of the owner, manager, or other authorized agent, completed in the form and manner required by the land office and showing the gross amount and disposition of all oil and gas produced and the market value of the oil and gas;

(2) a copy of all documents, records, or reports confirming the gross production, disposition, and market value, including gas meter readings, pipeline receipts, gas line receipts, and other checks or memoranda of amount produced and put into pipelines, tanks, pools, and gas lines or gas storage;

(3) a check stub, schedule, summary, or other remittance advice showing by the assigned land office lease number the amount of royalty being paid on each lease; and

(4) other reports or records that the land office may require to verify the gross production, disposition, and market value.

(d) The lessee has the responsibility for paying royalties or having royalties paid by the date provided for payment in this section.

(e) Any royalty not paid or affidavits and supporting documents not filed when due shall become delinquent and a delinquency penalty of one percent

for each 30-day period of delinquency or fractional part of that period shall be added to the amount owed, however, no penalty may be less than \$5. Payment of this penalty in no way operates to prohibit the state's right of forfeiture as provided by law and does not postpone the date on which royalties were originally due. The penalty does not apply in cases of title dispute as to the state's portion of the royalty or to that portion of the royalty in dispute as to fair market value.

[Acts 1977, 65th Leg., p. 2455, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.132. Form of Payment**

Except as provided in Section 52.133 of this code, royalty payments shall be made in cash, by bank draft drawn on a state or national bank in Texas, by a post-office or express money order, or in any other form that the law may provide for making payments to the State Treasury and are payable to the commissioner in Austin.

[Acts 1977, 65th Leg., p. 2455, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.133. Payment of Royalty in Kind**

(a) In this section, "royalty" means royalty payable in a sum of money equal to the market value for the general area where produced and when run or royalty that may be collected in kind.

(b) Each oil or gas lease covering land leased by the board, by a board for lease other than the Board for Lease of University Lands, or by the surface owner of land under which the state owns the minerals, commonly referred to as Relinquishment Act land, which shall be subject to approval by the commissioner before it is effective, shall include a provision granting the board authorized to lease the land or the owner of the soil of Relinquishment Act land and the commissioner authority to take their royalty in kind, and the commissioner and the boards for lease may include any other reasonable provisions that are not inconsistent with this section.

(c) The option to take the royalty in kind may be exercised at any time or from time to time on not less than 60 days' notice to the holder of the lease.

(d) The board, the commissioner, each board for lease other than the Board for Lease of University Lands, or the owner of the soil under Subchapter F of this chapter may negotiate and execute sales contracts or any other instruments or agreements necessary to dispose of their portion of the royalty taken in kind.

(e) This section does not apply to or have any effect on the Board for Lease of University Lands or any lease executed on university land.

(f) This section shall not be construed to surrender or in any way affect the right of the state or the owner of the soil under existing or future leases to receive royalty from its lessee on the basis of the fair market value produced from state public land or

land under the provisions of Subchapter F of this chapter.

[Acts 1977, 65th Leg., p. 2455, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.134. Filing Contracts and Agreements**

Copies of contracts for the sale or processing of gas and subsequent agreements and amendments to those contracts shall be filed in the land office within 30 days after the contracts, agreements, or amendments are made. These contracts and agreements received by the land office shall be held in confidence by the land office unless otherwise authorized by the lessee.

[Acts 1977, 65th Leg., p. 2456, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.135. Inspections and Examinations**

The books and accounts, receipts, and discharges of all lines, tanks, pools, and meters and all contracts and other records relating to the production, transportation, sale, and marketing of the oil and gas are subject at any time to inspection and examination by the commissioner and the attorney general and governor or their representatives.

[Acts 1977, 65th Leg., p. 2456, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.136. Lien**

The state has a first lien on all oil and gas produced on any lease area to secure payment of unpaid royalty and other amounts due.

[Acts 1977, 65th Leg., p. 2456, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.137 to 52.150 reserved for expansion]

**SUBCHAPTER E. UNITIZATION OF LEASED AREAS**

**§ 52.151. Authorization to Operate Areas as Units**

(a) The commissioner on behalf of the state or any fund that belongs to the state may execute agreements that provide for operating areas as a unit for the exploration, development, and production of oil or gas or both and to commit to the agreements the royalty interests in oil or gas or both reserved to the state or any fund of the state by law, in a patent, in a contract of sale, or under the terms of an oil and gas lease legally executed by an official, board, agent, agency, or authority of the state.

(b) The commissioner must find that the agreement is in the best interest of the state.

[Acts 1977, 65th Leg., p. 2456, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.152. Approval of Unit Agreements**

(a) An agreement that commits the royalty interest in land belonging to the permanent school fund or the asylum funds in riverbeds, inland lakes, and channels, or in an area within tidewater limits, in-

cluding islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea must be approved by the board and executed by the owner of the soil if the agreement covers land leased for oil and gas under Subchapter F of this chapter.

(b) An agreement that commits the royalty interest in any land or an area not listed in Subsection (a) of this section must be approved by the board, official, agent, agency, or authority of the state which has the authority to lease or to approve the lease of the land for oil and gas.

[Acts 1977, 65th Leg., p. 2457, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 52.153. Agreement Provisions

(a) The agreement to operate areas as units may provide:

(1) that operations incident to drilling a well on any portion of a unit shall be considered for all purposes to be conduct of the operations on each separately owned tract in the unit by the several owners;

(2) that production allocated by the agreement to each tract included in the unit when produced shall be considered for all purposes to have been produced from the tract;

(3) that the agreement and lease, with respect to the interest of the state, shall be effective as long as oil or gas or both are produced from the unit in paying quantities and royalties are paid to the state; and

(4) that royalties reserved to the state or to any fund of the state on production from any tract or portion of a tract included in the unit shall be paid only on the portion of the production allocated to the tract by the agreement.

(b) The agreement may include any other provision which the board, official, agent, agency, or authority of the state which has the authority to lease or to approve the leasing of the land may consider necessary for the protection of the interests of the state.

[Acts 1977, 65th Leg., p. 2457, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.154 to 52.170 reserved for expansion]

## SUBCHAPTER F. RELINQUISHMENT

### § 52.171. School and Asylum Lands

The state hereby constitutes the owner of the soil its agent for the purposes herein named, and in consideration therefor, relinquishes and vests in the owner of the soil an undivided fifteen-sixteenths of all oil and gas which has been undeveloped and the value of the same that may be upon and within the surveyed and unsurveyed public free school land and asylum lands and portions of such surveys sold with a mineral classification or mineral reservation, subject to the terms of this law. The remaining undi-

vided portion of said oil and gas and its value is hereby reserved for the use of and benefit of the public school fund and the several asylum funds. [Acts 1977, 65th Leg., p. 2457, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 52.172. Sale and Lease by Agent

The owner of said land is hereby authorized to sell or lease to any person, firm, or corporation the oil and gas that may be thereon or therein upon such terms and conditions as such owner may deem best, subject only to the provisions hereof, and he may have a second lien thereon to secure the payment of any sum due him. All leases and sales so made shall be assignable. No oil or gas rights shall be sold or leased hereunder for less than 10 cents per acre per year plus royalty, and the lessee or purchaser shall in every case pay the state 10 cents per acre per year of sales and rentals; and in case of production shall pay the state the undivided one-sixteenth of the value of the oil and gas reserved herein, and like amounts to the owner of the soil.

[Acts 1977, 65th Leg., p. 2457, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 52.173. Offset Wells

If oil and/or gas should be discovered in commercial quantities on lands not included in this law and within 1,000 feet of and draining land that is so included, or in any case where land so included in this law is being drained by production of oil or gas from land not so included, the owner, lessee, sublessee, receiver, or other agent in control of land included herein shall in good faith begin the drilling of a well or wells upon such land within 100 days after such well or wells on lands not so included commence to produce in commercial quantities, and shall prosecute such drilling with diligence to reasonably develop the land included hereunder and to protect such land against drainage by wells on other lands in the locality.

[Acts 1977, 65th Leg., p. 2458, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 52.174. Failure to Drill Offset

If such persons fail or refuse to begin the drilling of such well or wells within the time required or to prosecute such drilling as necessary for the purpose intended herein, any lease of such land executed under the provisions of this law shall be subject to forfeiture by the Commissioner of the General Land Office, and he shall forfeit same when he is sufficiently informed of the facts which authorize a forfeiture, and shall, on the wrapper containing the papers relating to such lease, write and sign officially words declaring such forfeiture, and the lease and all rights thereunder shall thereupon be forfeited together with all payments made thereunder. Notice of such action shall forthwith be mailed to the persons shown by the records of the General Land Office to be the owners of the surface and the

owners of the forfeited lease at their last known addresses as shown by the records of said office. Upon proper showing by the owner of the forfeited lease within 30 days after the declaration of forfeiture, the lease may, at the discretion of the commissioner and upon the terms of this subchapter and such other terms as he may prescribe, be reinstated. If such lease be not reinstated within such time, or if the commissioner finds that any unleased land included in this law is being drained, the commissioner shall notify the person at his last known address, as shown by records of the General Land Office to be the surface owner, that the oil and gas is subject to sale or lease by the owner of the soil in accordance with this law, and that drilling is required. If such owner shall fail or refuse to obtain the commencement of such a well within 100 days after the date of such notice, the relinquishment herein granted and the rights acquired thereunder shall be subject to forfeiture by the commissioner by endorsing on the file wrapper containing the papers relating to the sale of the land, words indicating such forfeiture, and such rights shall thereupon be forfeited, and notice of such forfeiture shall be forwarded to the county clerk of the county wherein the land is situated. The rights of any owner of the soil which may have ipso facto terminated under prior laws shall be reinstated and are hereby reinstated, together with all rights acquired thereunder except where rights of third parties may have intervened. All rights herein reinstated shall be subject to the terms and provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2458, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.175. Lease of Oil and Gas After Forfeiture

When the relinquishment herein granted has been so forfeited by the commissioner, the land shall be subject to lease for oil and gas under the procedure provided by law for the leasing of unsold surveyed public school lands. No lease shall be executed which provides for a royalty of less than one-eighth, payable to the state for the benefit of the permanent free school fund, and the lessee shall in every case pay to the surface owner amounts equal to the bonus money and the delay rentals paid to the state, and in case of production such lessee shall pay to the surface owner amounts equal to one-half of all royalty above the reserved one-eighth. Upon the termination or expiration of a lease so executed by the Commissioner of the General Land Office, or if no acceptable offer is received for such lease after due advertisement, the rights of the surface owner to act under this law shall be ipso facto reinstated.

[Acts 1977, 65th Leg., p. 2459, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.176. Forfeiture of Rights

If any person, firm, or corporation operating under this law shall fail or refuse to make the payment of any sum within 30 days after it becomes due, or if

such one or an authorized agent should knowingly make any false return or false report concerning production or drilling, or if such one should fail to file reports in the manner required by law or fail to comply with General Land Office rules and regulations or refuse the proper authority access to the records pertaining to the operations, or if such one or an authorized agent should knowingly fail or refuse to give correct information to the proper authority, or knowingly fail or refuse to furnish the land office a correct log of any well, or if any lease is assigned and the assignment is not filed in the General Land Office as required by law, the rights acquired under the permit or lease shall be subject to forfeiture by the commissioner, and he shall forfeit same when sufficiently informed of the facts which authorize a forfeiture, and the oil and gas shall be subject to sale in the manner provided for the sale of other forfeited rights hereunder, except that the owner of the soil shall not thereby forfeit his interest in the oil and gas. Such forfeiture may be set aside and all rights theretofore existing shall be reinstated at any time before the rights of another intervene, upon satisfactory evidence of future compliance with the provisions of this subchapter. [Acts 1977, 65th Leg., p. 2459, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.177. Rights of Subsequent Purchaser

If one acquires a valid right by permit or lease to the oil and gas in any unsold public free school or asylum land under any other law, a subsequent purchaser of such land shall not acquire any rights to any of the oil and gas that may be therein, but when the rights under such permit or lease terminate in the manner provided in the law under which they were obtained, then the owner of the soil shall become the owner of that portion of the oil and gas herein relinquished, and shall be thereafter subject to the provisions of this law. A forfeiture of the purchase of any survey or tract for any cause shall operate as a forfeiture of the minerals therein to the state. A relinquishment to the state of a lease producing oil or gas in paying quantities shall not operate to relinquish or convey to the owner of the soil any interest whatever in the oil and gas that may be in the land included in said lease.

[Acts 1977, 65th Leg., p. 2459, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.178. Operation Under Permit

The owner of a permit or combination of permits shall have 18 months from the date or average date thereof in which to begin drilling a well for oil and gas on some portion of the land included therein. The drilling on one permit shall be sufficient protection against forfeiture of all the permits included in a combination. Owners of permits or combination of permits included herein shall have three years after the date or average date thereof in which to complete the development of oil and gas thereon, and if

oil and gas should not be found in paying quantities and a lease applied for within said time all rights in such permit or combination of permits shall terminate, and the oil and gas in such land shall become subject to the provisions of this law relating to the relinquishment of oil and gas to the owner of the soil.

[Acts 1977, 65th Leg., p. 2460, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.179. Lease Under Permit

If oil or gas should be produced in paying quantities upon any land included in this law, the owner of the permit shall report the development to the commissioner within 30 days thereafter and apply for a lease upon such whole surveys or tracts in each permit as the owner or owners of a combination of permits may desire to be leased, and accompany the application with a log of the wells, and the correctness of the log shall be sworn to by the owner, manager, or driller, and thereupon a lease shall be issued without the payment of any additional sum of money and for a period not to exceed 10 years, subject to renewal or renewals.

[Acts 1977, 65th Leg., p. 2460, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.180. Payments Under Permit

The owner of a permit or combination of permits who desires to avail himself of the terms of this law, shall pay the state 10 cents per acre, annually in advance, for the second and third years, and shall likewise pay the owner of the soil 10 cents per acre for the first year of such permit, before availing himself of the privileges hereof, and a like sum thereafter annually in advance. A failure to make either of said payments shall subject the permit or permits to forfeiture by the commissioner, and when sufficiently informed of the facts which subject the permits to forfeiture, said commissioner shall forfeit the same by an endorsement of forfeiture upon the wrapper containing the papers relating to the permits and sign it officially. The payment of 10 cents per acre to the owner of the soil may be made to him or to the county clerk of the county in which the land is situated, and said clerk shall deposit such payment as he receives, in some bank at the county seat to the credit of the record owner of such land. If the owner of the soil refuses to accept such payment, said clerk shall withdraw such deposit and return it to the owner of the permit. The payment, or the tender of payment, shall be evidenced by the receipt of the owner or part owner or county clerk filed among the papers in the land office relating to such permits.

[Acts 1977, 65th Leg., p. 2460, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.181. Relinquishment Under Permit

The owner of a permit or combination of permits may relinquish to the state a permit or combination

of permits or any whole survey or whole tract included in a permit at any time before obtaining a lease therefor by having such relinquishment recorded in the counties in which the land or part thereof is situated, and by filing it in the land office within 60 days after its execution, with \$1 as a filing fee. [Acts 1977, 65th Leg., p. 2460, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.182. Damages to Soil

The payment of the 10 cents per acre and the obligation to pay the owner of the soil one-sixteenth of the production and the payment of same when produced and the acceptance of same by the owner, shall be in lieu of all damages to the soil.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.183. Effective Date of Lease

No mineral lease executed by the owner of the land or minerals under this subchapter is effective until a certified copy of the lease is filed in the land office.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.184. Statement of Consideration

No lease executed under this subchapter after September 17, 1939, is binding on the state unless it recites the actual and true consideration paid or promised.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.185. University Land

The provisions of this subchapter relating to a combination of permits and extension of time for beginning development and time for development applies to permits on university land.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.186. Lease of Oil and Gas When Owner of the Soil Unavailable

When the commissioner finds, upon the written request of any party interested in bargaining for an oil and gas lease, that the owner of the soil or of any undivided interest therein of any land subject to the terms of this subchapter is unavailable to act as the state's agent for oil and gas leasing purposes, or that his name, identity, or place of residence is unknown, such land or undivided interest therein shall be subject to lease for oil and gas under the procedure provided by Subchapter B of this Chapter 52<sup>1</sup> for the leasing of unsold surveyed public school lands.

An owner of the soil or of an undivided interest therein may be found to be unavailable by the commissioner if the written request for such finding is supported by a sworn affidavit detailing attempts to locate and contact such surface owner, which attempts satisfy the commissioner that reasonable

diligence has been used in attempting to locate and contact such surface owner and by written certification from the tax assessor-collector of each taxing entity in which the land is located stating that ad valorem taxes owed to that entity have not been paid by the owner of the soil or an undivided interest therein or his representative for any year within the five years preceding the year in which the written request is submitted to the commissioner under this section. Notice of such finding shall forthwith be mailed to the person shown by the records of the tax assessor-collector in the county where the land is located to be the surface owner at his last known address as shown by the records of said office.

If the surface owner appears within 30 days after the date of such finding or prior to the execution of an oil and gas lease on his land pursuant to this section, his rights to act under this subchapter may, at the discretion of the commissioner and upon such terms as the commissioner may prescribe, be reinstated. If the owner of the soil or of any undivided interest therein appears within two years after the execution of such oil and gas lease on his land pursuant to this section, he shall be entitled to one-half of all royalties theretofore paid or thereafter to be paid under such oil and gas lease, reduced in the proportion which his interest bears to the whole and undivided surface estate, upon showing to the satisfaction of the commissioner that a reasonably diligent search would have resulted in his being located.

Upon the termination or expiration of a lease for oil and gas executed pursuant to this section, or if no acceptable offer is received for such lease after due advertisement, the rights of the owner of the soil to act under this subchapter shall be ipso facto reinstated.

[Added by Acts 1979, 66th Leg., p. 860, ch. 384, § 1, eff. June 6, 1979.]

<sup>1</sup> Section 52.011 et seq.

[Sections 52.187 to 52.220 reserved for expansion]

SUBCHAPTER G. PERMITS AND LEASES

§ 52.221. Definitions

In this subchapter:

(1) "Surveyed land" includes any tract for which there are approved field notes filed in the land office and 80-acre tracts and multiples of these tracts in these surveys.

(2) "Unsurveyed areas" includes all areas for which there are no approved field notes filed in the land office.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.222. Application for Prospect and Development of Surveyed Land

(a) A person who desires to obtain the right to prospect for and develop oil and gas on surveyed land shall file with the county clerk of the county in which the tract or a portion of the tract is located or with the county clerk of the county to which the county is attached for judicial purposes a written application which designates the land sufficiently to identify it.

(b) On receiving \$1 as a filing fee, the county clerk shall file and record the application and shall note the filing and recording together with the time of filing on his record of surveys opposite the entry of the proper survey.

(c) The application shall be filed with the land office within 30 days after it is filed with the county clerk.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.223. Limitations on Surveyed Areas for Prospect and Development

(a) If an applicant under Section 52.222 of this code obtains four sections or their equivalent that are eligible to be included in one permit, he shall not obtain any more land within two miles of the permitted land, but if the applicant obtains less than four sections that are eligible to be included in one permit, he may obtain any additional area within two miles of the other area which will equal the four sections.

(b) No applicant may obtain more than 1,000 acres of land located within one mile of a well that is producing oil.

[Acts 1977, 65th Leg., p. 2461, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 52.224. Application for Prospect and Development of Unsurveyed Areas

(a) A person who desires to obtain the right to prospect for and develop oil and gas in an unsurveyed area shall file with the county surveyor of the county in which the area or part of the area is located a written application for each area for which application is made, designating the area sufficiently to identify it.

(b) The area shall be surveyed within 90 days and the application, field notes, and plat shall be filed in the land office within 100 days after the date of filing the application with the county surveyor.

(c) Unsurveyed areas for which application is made under this section shall not exceed 2,560 acres.

(d) On receipt of \$1 as a filing fee, the county surveyor shall file and record the application.

[Acts 1977, 65th Leg., p. 2462, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.225. Filing Documents and Issuing Permit**

(a) When the commissioner receives an application that was filed with the county clerk or surveyor, the field notes and plat, a \$1 filing fee plus 10 cents an acre for each acre for which application is made, and an affidavit made by the applicant indicating interests he has in any other permit, lease, or patent issued under this subchapter and in good standing, he shall file these documents.

(b) If examination of the application and the field notes are found to be correct and the area for which application is made is covered by the provisions of this subchapter, the commissioner shall issue to the applicant or his assignee a permit conferring on him an exclusive right to prospect for and develop oil and gas within the designated area for a period of not more than two years.

[Acts 1977, 65th Leg., p. 2462, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.226. Annual Permit Fee**

The permittee shall pay each year 10 cents an acre for each acre which he holds under a permit.

[Acts 1977, 65th Leg., p. 2462, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.227. Independent Development of Areas**

The area covered by each permit shall be developed independently of other areas.

[Acts 1977, 65th Leg., p. 2462, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.228. Extension of Permit**

A permit may be extended for a term of five years from its effective date conditioned on the payment in advance of the annual fee provided by law.

[Acts 1977, 65th Leg., p. 2462, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.229. Suspension of Annual Fee**

After production of oil and gas is obtained in paying quantities and the payment of royalty begins, the permittee is not required to pay any further annual rental fee.

[Acts 1977, 65th Leg., p. 2462, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.230. Conditions for Development**

(a) Within 12 months after the effective date of the permit, the permittee shall begin in good faith actual work necessary to the physical development of the area.

(b) If oil and gas are not developed in commercial quantities within the 12-month period provided in Subsection (a) of this section, the permittee or manager shall file in the land office within 30 days after the expiration of the 12-month period an affidavit supported by two disinterested credible persons stating:

(1) that actual work was begun within the 12-month period;

(2) that a bona fide effort to develop the area was made during the 12-month period preceding the filing of the affidavit; and

(3) what work was done, what expenditures were incurred, and whether or not oil or gas was discovered in commercial quantities.

(c) A permit is subject to forfeiture for failure to file the affidavit within the specified time or for filing an affidavit that is false in material matters. [Acts 1977, 65th Leg., p. 2462, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.231. Right to Lease**

After production of oil and gas is obtained in paying quantities and subject to the provisions of this subchapter, the permittee is entitled to a lease that shall run as long as the area covered by the lease produces oil or gas in paying quantities.

[Acts 1977, 65th Leg., p. 2463, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.232. Removal of Oil and Gas**

(a) Except as provided in Subsection (b) of this section, no permittee may take, carry away, or sell any oil or gas before a lease is obtained.

(b) Before a lease is obtained, the quantity of oil or gas necessary for continued development of the area may be used without accounting for it.

[Acts 1977, 65th Leg., p. 2463, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.233. Issuance and Renewal of Lease**

On payment of \$2 an acre for each acre covered by the permit, a lease shall be issued for a term of not more than 10 years, as desired by the permittee, and the lease shall include an option to renew for an equal or shorter period.

[Acts 1977, 65th Leg., p. 2463, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.234. Areas Covered by Applications, Permits, and Leases**

(a) A separate written application shall be made for the area desired in a permit.

(b) No permit or lease may cover areas included in two or more applications.

(c) No application, permit, or lease shall cover a divided area.

[Acts 1977, 65th Leg., p. 2463, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.235. Application Without Field Notes**

Application may be made for whole tracts of surveyed land either as a whole or in 80-acre tracts or multiples of 80-acre tracts without furnishing field notes for the tracts.

[Acts 1977, 65th Leg., p. 2463, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.236. Rental and Royalty**

On expiration of the first year after the effective date of the lease, \$2 an acre shall be paid during the term of the lease, and in addition to the \$2 an acre, the lessee shall pay a royalty of one-eighth of the value of the gross production of oil and a royalty of one-tenth of the value of the meter output of all gas disposed of off the premises of a gas well.

[Acts 1977, 65th Leg., p. 2463, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.237. Application of Fee to Certain Land**

The provisions of Section 52.236 of this code relating to the payment of \$2 an acre during the lease period and the life of the lease do not apply to leases of bays, marshes, reefs, saltwater lakes, or other submerged land that contains as much as 100 acres but not in excess of 500 acres on which as many as five wells have been drilled and on which as much as \$100,000 has been spent. The drilling of the wells and the expenditure of the stated amount shall be established to the satisfaction of the commission.

[Acts 1977, 65th Leg., p. 2463, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.238. Terms of Permits and Leases**

Each permit and lease shall contain the terms on which it is issued including authority for the commissioner to require drilling of wells necessary to offset wells drilled on adjacent private land and any other provisions that the commissioner considers important to the rights of the permittee, lessee, or the state.

[Acts 1977, 65th Leg., p. 2463, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.239. Compensation of Surface Owner**

(a) If the surface of an area covered by the provisions of this subchapter is acquired by a person before an application is filed under the provisions of this subchapter, the area shall still be subject to permit and lease, but the permittee or lessee shall pay annually in advance to the owner of the surface 10 cents an acre during the term of the lease.

(b) The amount paid to and accepted by the surface owner shall be full compensation for all damages to the surface.

[Acts 1977, 65th Leg., p. 2464, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.240. Statement of Interests**

A person who applies for a permit or lease shall file with his application an affidavit showing any interest the applicant has in another permit or lease issued by the state that is in good standing on the date of the application.

[Acts 1977, 65th Leg., p. 2464, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.241. Disposition of Proceeds**

(a) Proceeds arising from activities under this subchapter that affect land which belongs to the public school fund or the asylum funds shall be credited to the permanent funds of these institutions.

(b) Except for funds required to be credited to the permanent university fund by the constitution, proceeds paid or collected from activities under this subchapter affecting the land that belongs to the permanent fund of The University of Texas shall be credited by the State Treasurer to the available fund of that institution. These funds shall be held by the Board of Regents of The University of Texas System in a special building fund and shall be spent only for constructing buildings and equipping the buildings and for other permanent improvements.

(c) Proceeds arising from the activities affecting land other than that belonging to the public school fund, The University of Texas, and the asylums shall be credited to the same fund.

(d) Funds apportioned by this section do not include proceeds and royalties derived from the sand, gravel, and shell fund whose disposition is determined by another law.

[Acts 1977, 65th Leg., p. 2464, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.242. Abandoning Tracts; Leasing Remaining Tracts**

A person who desires a lease may abandon one or more whole tracts in a permit by relinquishment filed in the land office as provided in this subchapter and may obtain a lease on the remaining area if the area is in a solid body.

[Acts 1977, 65th Leg., p. 2464, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.243. Relinquishment Procedure**

(a) A permittee or lessee may relinquish his permit or lease at any time by having the deed of relinquishment acknowledged, recorded by the proper county clerk, and filed in the land office accompanied by a \$1 filing fee.

(b) The commissioner shall mail notice to the proper county clerk of the filing of the relinquishment and as soon as the notice has had time through the due course of mail to reach the clerk, the area shall be subject to applications as in the first instance.

[Acts 1977, 65th Leg., p. 2464, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.244. Transfer of Rights**

(a) A permittee or lessee under this subchapter may sell his permit or lease and the rights secured by the permit or lease at any time.

(b) A permittee or lessee may give a lien of any kind on his permit or lease to any person who may be qualified to receive a permit or lease under this subchapter.

(c) The instrument evidencing the sale or lien shall be recorded in the county in which the area or part of the area is located or in the county to which the county may be attached for judicial purposes.

(d) The instrument shall be filed also in the land office within 60 days after the date it is filed with the county accompanied by a filing fee of \$1.

(e) If the instrument is not filed as provided in this section, the contract evidenced by the instrument shall be void and the obligations in the contract assumed by the parties are not enforceable.

(f) A sublease contract does not have to be filed with the land office.

[Acts 1977, 65th Leg., p. 2464, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.245. Transfer of University Land

(a) A permittee or lessee of university land may sell and transfer his permitted or leased land or area in whole or in tracts of not less than 40 acres.

(b) On payment of \$1 filing fee for each transfer and an additional fee of 10 cents an acre for each acre in the transfer, the assignee may have the instruments evidencing the transfer filed in the land office and may have the portion transferred separated from the parent tract or parent subdivision of a permit or lease on the records of the land office.

(c) When considered necessary, the commissioner may require field notes before filing a transfer.

(d) Before offering a transfer in the land office, the transfer shall be recorded in the county or counties in which the area or part of the area is located.

(e) The \$1 filing fee shall be deposited in the State Treasury to the credit of the General Revenue Fund and the acreage fee shall be deposited in the State Treasury to the credit of the available fund of the state university.

[Acts 1977, 65th Leg., p. 2465, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.246. Dissolution of Combined Permits and Leases

(a) Permittees and lessees that have permits and leases which have been combined may dissolve the combinations in a manner that is satisfactory to the permittees and lessees.

(b) Dissolution of the combination shall be conditioned on:

(1) the payment of the fees prescribed in this subchapter at the time transfers are presented for filing in the land office; and

(2) recording the dissolution in the county or counties in which the area or part of the area is located.

[Acts 1977, 65th Leg., p. 2465, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.247. Acreage Fee Exemption

No acreage fee may be charged under Sections 52.245 through 52.246 of this code if the transfer includes a whole permit or a whole lease or a whole tract in a permit or lease.

[Acts 1977, 65th Leg., p. 2465, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.248. Application to Single and Combination Permits and Leases

The provisions of Sections 52.245 through 52.247 of this code apply to permits and leases that may be held singly or in combination with other permits or leases.

[Acts 1977, 65th Leg., p. 2465, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.249. Status of Assignees

After transfers provided in Sections 52.245 through 52.246 of this code are filed in the land office, the assignee or assignees in the transfer are substituted for the original permittee or lessee and assume the obligations, pains, and penalties that the law has imposed on the original permittee or lessee.

[Acts 1977, 65th Leg., p. 2465, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 52.250. Forfeiture of Rights

(a) A permit or lease is subject to forfeiture if:

(1) it is issued on a statement by the applicant that is false or untrue in material matters;

(2) the permittee fails or refuses to begin in good faith necessary work to develop the area in the time required;

(3) the permittee fails or refuses to proceed in good faith and with reasonable diligence in a bona fide effort to develop an area included in his permit after having begun the development;

(4) the permittee fails or refuses to apply for a lease within the required time;

(5) the lessee fails or refuses to make proper remittances in payment of royalty or other payments;

(6) the lessee fails or refuses to make the proper statement;

(7) the lessee fails or refuses to furnish the required evidence of the output and market value and material matters relating to them on request; or

(8) the lessee fails to make the annual payment on the area on request to do so.

(b) After the commissioner is informed sufficiently of the facts, he may declare the permit or lease forfeited by proper entry on the duplicate of the permit or lease in his office.

(c) The commissioner shall mail a notice of the forfeiture to the proper county clerk, and the area shall be subject to the application of other persons than the forfeiting permittee or lessee after the

notice has had time to reach the county clerk through regular mail.

(d) The commissioner may exercise great discretion in requiring persons to develop gas wells.

(e) Forfeitures may, in the discretion of the commissioner, be set aside and rights reinstated before the rights of another person intervene.

[Acts 1977, 65th Leg., p. 2466, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.251. Pollution of Streams**

(a) Development in water or on islands or in river beds and channels shall be done under rules that will prevent the pollution of the water, and to prevent the pollution, the commissioner may request the Parks and Wildlife Department for assistance in the adoption and enforcement of rules for protection of the water from pollution.

(b) The commissioner may cancel a permit or lease for a failure or refusal of the owner to comply with the rules that are adopted.

[Acts 1977, 65th Leg., p. 2466, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.252. Property Taxable**

The rights acquired under this subchapter are subject to taxation as is other property.

[Acts 1977, 65th Leg., p. 2466, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 52.253 to 52.290 reserved for expansion]

**SUBCHAPTER H. LEASE LIMITATIONS**

**§ 52.291. Coverage**

The following persons, agencies, and entities are subject to the provisions of Sections 52.292 through 52.293 of this code:

- (1) the commissioner;
- (2) the board;
- (3) boards for lease of land owned by a department, board, or agency of the state created by Chapter 34 of this code;
- (4) the Board for Lease of University Lands;
- (5) the Board of Regents of Texas A & M University;
- (6) the Board of Regents of Texas Tech University;
- (7) the Board of Directors of Texas A & I University;
- (8) the Board of Regents, State Senior Colleges;
- (9) the Board of Regents of the University of Houston;
- (10) any other board of regents or other governing board of a state-supported institution of higher learning having authority to execute oil, gas, and mineral leases on land owned by the institution;

(11) an owner of land or minerals in this state whose authority to lease the land or minerals as agent for the state arises in whole or in part from what is commonly known as the Relinquishment Act, codified in Subchapter F of this chapter;

(12) the Board for Lease of State Park Lands;

(13) the Board for Lease of the Texas Department of Corrections; and

(14) the commissioners court of any county in this state.

[Acts 1977, 65th Leg., p. 2466, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.292. Prohibited Leases**

It is illegal for any person included in Section 52.291 of this code to execute an oil, gas, or mineral lease on land on which he is authorized by law to execute the lease unless the lease includes the terms provided in Section 52.293 of this code.

[Acts 1977, 65th Leg., p. 2467, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.293. Prerequisite to Sale Outside State**

No natural gas or casinghead gas, including both associated and nonassociated gas, produced from the mineral estate subject to this lease may be sold or contracted for sale to any person for ultimate use outside the state unless the Railroad Commission of Texas, after notice and hearing as provided in Title 3 of this code, finds that:

(1) the person, agency, or entity that executed the lease in question does not require the natural gas or casinghead gas to meet its own existing needs for fuel;

(2) no private or public hospital, nursing home, or other similar health-care facility in this state requires the natural gas or casinghead gas to meet its existing needs for fuel;

(3) no public or private school in this state that provides elementary, secondary, or higher education requires the natural gas or casinghead gas to meet its existing needs for fuel;

(4) no facility of the state or of any county, municipality, or other political subdivision in this state requires the natural gas or casinghead gas to meet its existing needs for fuel;

(5) no producer of food and fiber requires the natural gas or casinghead gas necessary to meet the existing needs of irrigation pumps and other machinery directly related to this production; and

(6) no person who resides in this state and who relies on natural gas or casinghead gas to provide in whole or part his existing needs for fuel or raw material requires the natural gas or casinghead gas to meet those needs.

[Acts 1977, 65th Leg., p. 2467, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.294. Prerequisite to Filing Leases**

The commissioner shall not receive and file an oil, gas, and mineral lease required to be filed by law unless the lease includes the terms and conditions provided in Section 52.293 of this code.

[Acts 1977, 65th Leg., p. 2467, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.295. Certain Leases Null, Void, and of No Force and Effect**

An oil, gas, and mineral lease executed or received and filed in violation of the provisions of this subchapter is null, void, and of no force and effect.

[Acts 1977, 65th Leg., p. 2468, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 52.296. Granting Exceptions to Subchapter**

After notice and hearing as provided in Title 3 of this code, the commission may grant exceptions to the provisions of this subchapter if it finds and determines that enforcement of the provisions of this subchapter:

(1) would cause physical waste as defined in Title 3 of this code; or

(2) would unreasonably deny to the lessee an opportunity to produce economically hydrocarbons from the land subject to the lease in question.

[Acts 1977, 65th Leg., p. 2468, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**SUBCHAPTER I. GEOPHYSICAL AND GEOCHEMICAL EXPLORATION PERMIT****§ 52.321. Definitions**

In this subchapter:

(1) "Geophysical exploration" means a survey or investigation conducted to discover or locate oil and gas prospects using magnetic, gravity, seismic, and/or electrical techniques.

(2) "Geochemical exploration" means a survey or investigation conducted to discover or locate oil and gas prospects using techniques involving soil sampling and analysis.

(3) "Public school land" means land dedicated by the constitution or laws of this state to the permanent free school fund, but does not include land with a mineral classification under Subchapter F of this chapter<sup>1</sup> in which the state has retained the oil and gas interest, nor does it include areas within tidewater limits or the portion of the Gulf of Mexico that is under the jurisdiction of this state.

(4) "Permit" means a license issued by the commissioner authorizing geophysical and/or geochemical exploration on public school land.

(5) "Permittee" means the holder of a permit.

[Added by Acts 1981, 67th Leg., p. 2451, ch. 631, § 1, eff. Sept. 1, 1981.]

<sup>1</sup> Section 52.171 et seq.

**§ 52.322. Permit Required for Exploration**

(a) Except for a person who has a valid oil and gas lease on public school land authorized by this chapter, a person may not conduct geophysical or geochemical exploration on public school land unless the person obtains a permit from the commissioner.

(b) Every person who is authorized to conduct a geophysical or geochemical exploration on public school land shall comply with the commissioner's rules relating to such exploration.

(c) Nothing in this title shall prohibit the conduct of airborne geophysical exploration.

[Added by Acts 1981, 67th Leg., p. 2452, ch. 631, § 1, eff. Sept. 1, 1981.]

**§ 52.323. Application for Permit**

(a) The person responsible for conducting a geophysical or geochemical exploration is the person who must apply for a permit.

(b) An application for a permit shall be made on a form prescribed by the commissioner and shall state the name and address of each person for whom the exploration is being conducted as well as any other information required by the commissioner.

[Added by Acts 1981, 67th Leg., p. 2452, ch. 631, § 1, eff. Sept. 1, 1981.]

**§ 52.324. Authority of Commissioner**

(a) The commissioner:

(1) before issuing a permit, shall collect a fee from the applicant in an amount determined by the commissioner;

(2) may require a permittee to furnish to the commissioner, upon the commissioner's request, copies of maps, plats, reports, data, and any other information in the possession of the permittee that relates to the progress or results of an exploration under a permit; provided however, the commissioner shall not require a permittee to furnish any of its interpretive data;

(3) shall by rule require a permittee to restore land explored under the permit as nearly as is practicable to its condition immediately prior to the exploration; and

(4) may make any other rules relating to geophysical or geochemical explorations, permits, or permittees the commissioner considers appropriate.

(b) If a permittee violates a rule of the commissioner or a term of a permit, the commissioner may cancel the permit.

(c) If by authority of Subsection (a)(2) of this section the commissioner acquires information concerning a permittee's geophysical or geochemical exploration, the commissioner shall consider the information to be confidential and may not disclose it, except by authority of a court order, to the public or any other agency of this state.

[Added by Acts 1981, 67th Leg., p. 2452, ch. 631, § 1, eff. Sept. 1, 1981.]

§ 52.325. Permittee's Failure to Comply

(a) If a permittee fails to restore land in accordance with Section 52.324(a)(3) of this code and the rules of the commissioner, the commissioner and any surface lessee may maintain an action against the permittee for actual damages to the land, or to the improvements, growing crops, or domesticated animals on the land that were caused by the geophysical or geochemical exploration.

(b) If a permittee violates this subchapter, the provisions of a permit issued by authority of this subchapter, or a rule of the commissioner, the permittee commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 nor more than \$1,000. Each day that a violation occurs is a separate offense.

[Added by Acts 1981, 67th Leg., p. 2452, ch. 631, § 1, eff. Sept. 1, 1981.]

CHAPTER 53. MINERALS

SUBCHAPTER A. GENERAL PROVISIONS

Section  
53.001. Definitions.

SUBCHAPTER B. PROSPECT AND LEASE ON STATE LAND

53.011. Land Subject to Prospect.  
53.012. Application for Right to Prospect.  
53.013. Conditions of Permit.  
53.014. Assignment Prohibited.  
53.015. Application for Lease.  
53.016. Issuance of Lease.  
53.017. Annual Lease Payment.  
53.018. Royalty.  
53.019. Payments.  
53.020. Assignment of Lease.  
53.021. Forfeiture of Lease.  
53.022. Effect of Subchapter.

SUBCHAPTER C. LEASE OF COAL, LIGNITE, SULPHUR, POTASH, URANIUM, AND THORIUM

53.061. Authority to Lease Certain Minerals.  
53.062. Lease of Minerals Separately and Together.  
53.063. Forms.  
53.064. Prerequisites for Effectiveness of Lease.  
53.065. Payments Under Lease.  
53.066. Damages to Surface.  
53.067. Payment Procedure.  
53.068. Production Report and Records.  
53.069. Forfeiture of Lease.  
53.070. Reinstatement of Lease.  
53.071. Lien.  
53.072. Effect of Certain Laws.  
53.073. Certain Minerals and Laws Exempt From Subchapter.

SUBCHAPTER D. UNITIZATION OF SULPHUR PRODUCTION

53.111. Authority to Operate an Area as a Unit for Production of Sulphur.  
53.112. Approval of Certain Agreements by School Land Board.  
53.113. Approval of Other Agreements.  
53.114. Commissioner's Approval.  
53.115. Provisions of Agreement.  
53.116. Application to University Land.  
53.117. Construction of Subchapter.

SUBCHAPTER E. LEASE OF PUBLIC SCHOOL AND GULF LAND FOR COAL, LIGNITE, SULPHUR, SALT, AND POTASH

Section  
53.151. Lease of Certain Areas.  
53.152. Laws Applicable to Leases.  
53.153. Conditions of Lease.  
53.154. Royalty and Delay Rentals.

SUBCHAPTER F. GEOPHYSICAL AND GEOCHEMICAL EXPLORATION PERMIT

53.161. Definitions.  
53.162. Permit Required for Exploration.  
53.163. Laws Applicable to Permits.

SUBCHAPTER A. GENERAL PROVISIONS

§ 53.001. Definitions.

In this chapter:

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

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

[Acts 1977, 65th Leg., p. 2469, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 53.002 to 53.010 reserved for expansion]

SUBCHAPTER B. PROSPECT AND LEASE ON STATE LAND

§ 53.011. Land Subject to Prospect

Any tract of land that belongs to the state, including islands, salt and freshwater lakes, bays, inlets, marshes, and reefs owned by the state within tide-water limits, the part of the Gulf of Mexico within the state's jurisdiction, unsold surveyed public school land, rivers and channels that belong to the state, and land sold with a reservation of minerals to the state are subject to prospect by any person for all minerals except:

- (1) oil and gas;
- (2) coal, lignite, sulphur, salt, and potash;
- (3) shell, sand, and gravel; and
- (4) fissionable minerals other than uranium and thorium on land sold with a reservation of minerals to the state.

[Acts 1977, 65th Leg., p. 2469, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.012. Application for Right to Prospect

(a) A person who desires to prospect land covered by this subchapter shall file an application with the commissioner designating the area to be prospected.

(b) Each area covered by an application may not be in excess of 640 acres with a 10 percent tolerance for tracts, sections, and surveys that include more than 640 acres.

(c) Each application shall be accompanied by a rental payment of not less than 25 cents an acre. [Acts 1977, 65th Leg., p. 2469, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.013. Conditions of Permit**

(a) The commissioner shall issue to the first applicant a permit to prospect the area designated in his application for a period of one year from the date his application is filed.

(b) The commissioner may extend the permit for a period of one year on payment of an annual rental of 25 cents an acre.

(c) No permit may be extended for a period of more than five consecutive years from the date of its issuance.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.014. Assignment Prohibited**

No permit issued under this subchapter may be assigned.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.015. Application for Lease**

(a) At any time during the term of the permit, the permittee may file an application to lease the area or a designated portion of the area covered by the permit for the purpose of mining or producing the minerals covered by the permit.

(b) The application shall be accompanied by the first lease payment of not less than \$2 an acre.

(c) If the area designated for lease in the application is less than the area covered by the permit, the applicant shall include with his application field notes prepared by the county surveyor or by a licensed state land surveyor describing the land designated.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.016. Issuance of Lease**

(a) The lease shall be issued by the commissioner under the provisions of this subchapter and shall be for a primary term of five years and as long after that time as the minerals are produced in paying quantities.

(b) The commissioner may include in the lease any other provision he considers necessary for protection of the interests of the state.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.017. Annual Lease Payment**

The annual lease payment after the first year and during the primary term of the lease shall not be less than \$1 an acre, which is payable unless production in paying quantities is obtained and royalty is being paid to the state.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.018. Royalty**

The royalty under the lease shall not be less than one-sixteenth of the value of the minerals produced under the lease.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.019. Payments**

Lease payments and royalty shall be paid to the commissioner at Austin, and all payments shall be credited to the account of the permanent school fund.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.020. Assignment of Lease**

(a) A lease may be assigned in quantities of not less than 40 acres, but if there are fewer than 40 acres remaining in the tract originally leased, the lesser area may be assigned.

(b) The assignment shall be recorded in the county in which the land is located, and within 90 days after it is recorded a certified copy of the assignment, certified by the county clerk from his records, shall be sent to the land office, together with a \$1 filing fee for each tract affected.

[Acts 1977, 65th Leg., p. 2470, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.021. Forfeiture of Lease**

(a) A lease is subject to forfeiture by act of the commissioner if:

(1) the lessee fails or refuses to pay any amount which is due either as a lease payment or royalty;

(2) the lessee or his authorized agent knowingly makes any false return or false report concerning the lease;

(3) the lessee or his agent refuses the commissioner or his authorized representative access to the records or other data relating to operations under the lease; or

(4) a material term of the lease is violated.

(b) Any area forfeited under this section is subject to application for a permit under the same terms as the original application.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.022. Effect of Subchapter**

None of the provisions of this subchapter shall apply to, alter, or affect any rights existing on June 22, 1955, under a valid permit issued by the commissioner under the provisions of Section 12, Chapter 271, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 5421c, Vernon's Texas Civil Statutes), but if the permittee desires that his lease continue as long as production is obtained in paying quantities, he shall pay lease payments and royalty provided in this subchapter.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 53.023 to 53.060 reserved for expansion]

SUBCHAPTER C. LEASE OF COAL, LIGNITE, SULPHUR, POTASH, URANIUM, AND THORIUM

§ 53.061. Authority to Lease Certain Minerals

(a) The state constitutes the owner of the surface its agent to lease to any person the coal, lignite, sulphur, potash, uranium, thorium, and any minerals produced in conjunction with these which may be within all or part of a survey previously sold with all minerals reserved to the state.

(b) The lease shall be made on terms and conditions that may be prescribed by the school land board.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.062. Lease of Minerals Separately and Together

Minerals covered by the provisions of this subchapter may be leased either separately or together. [Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.063. Forms

The owner of the surface may lease to any person the minerals covered by this subchapter on lease forms prepared by the land office.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.064. Prerequisites for Effectiveness of Lease

(a) No lease executed by the owner of the surface is binding on the state unless it recites the actual consideration paid or promised for the lease.

(b) No lease is effective until a certified copy is filed in the land office and the bonus accruing to the state is paid to the commissioner. The commissioner is entitled to reject for filing any lease submitted to him that he feels is not in the best interest of the state.

[Acts 1977, 65th Leg., p. 2471, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.065. Payments Under Lease

(a) Under a lease executed under this subchapter, the lessee shall pay to the state 60 percent of all bonuses agreed to be paid for the lease and 60 percent of all rentals and royalties that are payable under the lease.

(b) The lessee shall pay to the owner of the surface 40 percent of all bonuses agreed to be paid for the lease and 40 percent of all rentals and royalties payable under the lease.

(c) If production is obtained, the state shall receive not less than one-sixteenth of the value of the minerals produced.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.066. Damages to Surface

Payments made by the lessee to the owner of the surface as provided in this subchapter and acceptance of the payments by the owner of the surface are in place of all damages to the soil.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.067. Payment Procedure

Royalties and other payments accruing to the state under this subchapter shall be paid to the commissioner in Austin and shall be deposited in the fund to which the minerals belong.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.068. Production Report and Records

(a) Each payment shall be accompanied by an affidavit of the lessee or his authorized agent indicating:

- (1) the amount of minerals produced and marketed during the month;
- (2) the person to whom the minerals were sold; and
- (3) the selling price for the minerals as shown by copies of the smelter, mint, mill, refinery, or other returns or documents attached to the affidavit.

(b) Books, accounts, weights, wage contracts, correspondence, and other documents or papers relating to production under this subchapter are open at all times to inspection by the commissioner or his authorized representatives.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 53.069. Forfeiture of Lease

(a) A lease and all rights under a lease are subject to forfeiture by action of the commissioner if the lessee or his assignee, sublessee, receiver, or other agent in control of the lease:

- (1) fails or refuses to pay any royalty within 30 days after it becomes due;
- (2) fails or refuses to the proper authorities access to the records relating to the operations; or
- (3) knowingly fails or refuses to give correct information to the proper authorities.

(b) The commissioner may declare the forfeiture when he is sufficiently informed of the facts that authorize the forfeiture. He shall write on the wrapper containing the papers relating to the lease words declaring the forfeiture and shall sign it officially. Then the lease and all rights under the lease together with payments made under it are forfeited.

(c) Notice of the forfeiture shall be mailed to the person shown by the records of the land office to be the owner of the surface and the owner of the forfeited lease at their last known addresses as shown in the land office records.

[Acts 1977, 65th Leg., p. 2472, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.070. Reinstatement of Lease**

(a) If the owner of the forfeited lease complies with the provisions of this subchapter within 30 days after the declaration of forfeiture, the commissioner may reinstate the lease under the terms of this subchapter and other terms that he may prescribe.

(b) If the lease is not reinstated within the 30-day period, the owner of the surface, as agent of the state, is entitled to lease the minerals.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.071. Lien**

The state has a first lien on all minerals produced from any lease to secure the payment of unpaid royalty or other amounts that are due under this subchapter.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.072. Effect of Certain Laws**

Any rights acquired under Articles 5388 through 5403, Revised Civil Statutes of Texas, 1925, before March 15, 1967, are not affected by the repeal of those articles, and the rights, powers, duties, and obligations conferred or imposed by those articles are governed by those repealed articles.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.073. Certain Minerals and Laws Exempt From Subchapter**

The provisions of this subchapter do not apply to or affect oil and gas and do not affect the provisions of Subchapter F, Chapter 52 of this code or Subchapter B of this chapter.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 53.074 to 53.110 reserved for expansion]

SUBCHAPTER D. UNITIZATION OF  
SULPHUR PRODUCTION

**§ 53.111. Authority to Operate an Area as a Unit for Production of Sulphur**

Subject to the provisions of this subchapter, the commissioner, on behalf of the state or any of its funds, may execute agreements that provide for the operation of areas as a unit for the exploration, development, and production of sulphur and may commit to the agreements the royalty interests in sulphur reserved to or provided for the state or any fund of the state, in or in connection with any patent, award, mining claim, or contract of sale or under any lease made by an official, board, agent, agency, or authority of the state.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.112. Approval of Certain Agreements by School Land Board**

An agreement authorized by Section 53.111 of this code that commits royalty interests in land dedicated to the permanent free school fund and the asylum funds, in riverbeds, inland lakes, channels, and areas within tidewater limits including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea must be approved by the school land board and must be executed by the owners of the surface if the agreements cover land leased for sulphur under Subchapter C of this chapter.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.113. Approval of Other Agreements**

Agreements that commit the royalty interest in land that is not covered by Section 53.112 of this code must be approved by the board, official, agent, agency, or authority of the state which has the authority to lease or to approve a lease of the land or area for sulphur.

[Acts 1977, 65th Leg., p. 2473, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.114. Commissioner's Approval**

An agreement authorized by Section 53.111 of this code must be found by the commissioner to be in the best interest of the state.

[Acts 1977, 65th Leg., p. 2474, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.115. Provisions of Agreement**

(a) An agreement executed under this subchapter may include the following provisions:

(1) that operations incident to the drilling of a well on any portion of the unit are considered for all purposes to be the conduct of the operations on each tract in the unit;

(2) that the production allocated by the agreement to each tract included in the unit shall be considered for all purposes after production to be produced from the tract;

(3) that the royalty interest reserved to or provided for the state or any of its funds on production from any tract included in the unit shall be paid only on that portion of the production from the unit which is allocated to the tract under the agreement; and

(4) that each lease included in the unit shall remain in effect so long as the agreement remains in effect and that on termination of the agreement each lease shall continue in effect under the terms and provisions of the lease.

(b) The agreement may include any other terms, conditions, and provisions the commissioner or any board, official, agent, agency, or authority of the state that has the authority to lease or to approve a lease of the land or area for sulphur may consider to be in the best interest of the state.

[Acts 1977, 65th Leg., p. 2474, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.116. Application to University Land**

None of the provisions of this subchapter apply to any land under the control and management of the Board of Regents of The University of Texas System.

[Acts 1977, 65th Leg., p. 2474, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 53.117. Construction of Subchapter**

(a) Agreements and operations under this subchapter are necessary to prevent waste and conserve the natural resources of the state and are not a violation of the provisions of Chapter 15, Business & Commerce Code, as amended.

(b) If a court finds a conflict between the provisions of this subchapter and the code cited in the previous subsection, this subchapter is intended as a reasonable exception to those laws which is necessary to prevent waste and conserve the natural resources.

(c) If a court finds that a conflict exists between this subchapter and the laws cited in Subsection (a) of this section and that this subchapter is not a reasonable exception to those laws, it is the intent of the legislature that this subchapter or any conflicting portion of this subchapter be declared invalid and that the previously cited laws remain valid. [Acts 1977, 65th Leg., p. 2474, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**SUBCHAPTER E. LEASE OF PUBLIC SCHOOL AND GULF LAND FOR COAL, LIGNITE, SULPHUR, SALT, AND POTASH**

**§ 53.151. Lease of Certain Areas**

Under this subchapter, the board may lease to any person for the production of coal, lignite, sulphur, salt, and potash:

- (1) islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits;
- (2) the portion of the Gulf of Mexico within the jurisdiction of the state; and
- (3) unsold surveyed and unsurveyed public school land.

[Added by Acts 1979, 66th Leg., p. 49, ch. 29, § 1, eff. April 3, 1979.]

**§ 53.152. Laws Applicable to Leases**

(a) Leases of land described by Section 53.151 of this code shall be made in the same manner as leases of that land for oil and gas under Chapter 52 of this code.

(b) Sections 52.034 and 52.086 of this code do not apply to leases of coal, lignite, sulphur, salt, and potash under this subchapter.

[Added by Acts 1979, 66th Leg., p. 49, ch. 29, § 1, eff. April 3, 1979.]

**§ 53.153. Conditions of Lease**

Coal, lignite, sulphur, salt, and potash may be leased together or separately.

[Added by Acts 1979, 66th Leg., p. 49, ch. 29, § 1, eff. April 3, 1979.]

**§ 53.154. Royalty and Delay Rentals**

(a) In addition to the cash amount bid for a lease, the board shall lease the area for not less than one-eighth of the gross production of sulphur or the value of the sulphur that may be produced or that may be produced and sold off the area and not less than one-sixteenth of the value of the coal, lignite, salt, and potash that may be produced plus an amount determined by the board until production is secured.

(b) If production is secured in commercial quantities and the payment of royalty begins and continues to be paid, the lessee is exempt from further delay rental payments on the acreage.

(c) If production ceases and royalty is not paid, the lessee shall pay at the end of the lease year in which the royalty ceased to be paid and annually after that time in advance, in an amount determined by the board as long as the lessee desires to maintain the rights acquired under the lease, but not for more than five years from the date of the lease.

[Added by Acts 1979, 66th Leg., p. 49, ch. 29, § 1, eff. April 3, 1979.]

**SUBCHAPTER F. GEOPHYSICAL AND GEOCHEMICAL EXPLORATION PERMIT**

**§ 53.161. Definitions**

In this subchapter:

- (1) "Mineral(s)" means coal, lignite, sulphur, salt, and potash.
- (2) "Geophysical exploration" means a survey or investigation conducted to discover or locate mineral prospects using magnetic, gravity, seismic, and/or electrical techniques.
- (3) "Geochemical exploration" means a survey or investigation conducted to discover or locate mineral prospects using techniques involving soil sampling and analysis.
- (4) "Public school land" means land dedicated by the constitution or laws of this state to the permanent free school fund, but does not include land with a mineral classification described in Section 53.061 of this chapter in which the state has retained the minerals, nor does it include areas within tidewater limits or the portion of the Gulf of Mexico that is under the jurisdiction of this state.
- (5) "Permit" means a license issued by the commissioner authorizing geophysical and/or geochemical exploration on public school land.
- (6) "Permittee" means the holder of a permit.

[Added by Acts 1981, 67th Leg., p. 2453, ch. 631, § 2, eff. Sept. 1, 1981.]

**§ 53.162. Permit Required for Exploration**

(a) Except for a person who has a valid mineral lease on public school land authorized by this chapter, a person may not conduct geophysical or geochemical exploration on public school land unless the person obtains a permit from the commissioner.

(b) Every person who is authorized to conduct a geophysical or chemical exploration on public school land shall comply with the commissioner's rules relating to such exploration.

[Added by Acts 1981, 67th Leg., p. 2453, ch. 631, § 2, eff. Sept. 1, 1981.]

**§ 53.163. Laws Applicable to Permits**

Permits for geophysical and geochemical exploration under this subchapter shall be issued in the same manner as permits for oil and gas under Subchapter I of Chapter 52 of this code.<sup>1</sup>

[Added by Acts 1981, 67th Leg., p. 2453, ch. 631, § 2, eff. Sept. 1, 1981.]

<sup>1</sup>Section 52.321 et seq.

**SUBTITLE E. BEACHES AND DUNES****CHAPTER 61. USE AND MAINTENANCE OF PUBLIC BEACHES****SUBCHAPTER A. GENERAL PROVISIONS****Section**

61.001. Definitions.

**SUBCHAPTER B. ACCESS TO PUBLIC BEACHES**

61.011. Public Policy.  
61.012. Definition.  
61.013. Prohibition of Obstructions.  
61.014. Denial of Access by Posting.  
61.015. Satisfaction of Ingress and Egress Requirement.  
61.016. Boundaries for Areas With No Marked Vegetation Line.  
61.017. Line of Vegetation Unaffected by Certain Conditions.  
61.018. Suit to Remove Obstructions.  
61.019. Declaratory Judgment Suits.  
61.020. Prima Facie Evidence.  
61.021. Area Not Covered by Subchapter.  
61.022. Exemption for Certain Structures.  
61.023. Effect on Land Titles and Property Adjacent to and on Beaches.  
61.024. Effect of Subchapter on Definition of Public Beach.

**SUBCHAPTER C. MAINTENANCE OF THE PUBLIC BEACHES**

61.061. Purpose.  
61.062. Public Policy.  
61.063. Definition.  
61.064. Application of Subchapter.  
61.065. Duty of Cities.  
61.066. Duty of County.  
61.067. Duty of State.  
61.068. Application Requirement.  
61.069. Contents of Application.  
61.070. Parking and Use Fees.  
61.071. Compliance Before Approval.  
61.072. State Funds.  
61.073. Conditions for Payments.  
61.074. Submission of Proposed Expenditures.  
61.075. Fair Distribution of Funds.  
61.076. Limitation on State Share.  
61.077. Funds for Administrative Purposes and Emergencies.  
61.078. Authority to Spend County Funds.

**Section**

61.079. Notice of Ineligibility.  
61.080. Public Beaches in Ineligible City.  
61.081. Public Beaches in Ineligible County.  
61.082. Authority of Local Governments.  
61.083. Exemptions From Subchapter.

**SUBCHAPTER D. REGULATION OF TRAFFIC AND LITTER**

61.121. Definition.  
61.122. Regulation of Traffic, Prohibition of Litter, Possession of Animals on Beaches, and Swimming in Passes to and from the Gulf of Mexico.  
61.123. Notice of Hearing.  
61.124. Copies of Order.  
61.125. Public Hearing.  
61.126. Traffic Regulations.  
61.127. Criminal Penalties.  
61.128. Order Prevails Over State Law.  
61.129. Ordinance Prevails Over Order and State Law.  
61.130. Rights of the Public.  
61.131. Effect of Subchapter on Definition of Public Beach.

**SUBCHAPTER E. LICENSES FOR BUSINESS ESTABLISHMENTS**

61.161. Public Policy.  
61.162. Findings.  
61.163. Definition.  
61.164. Application.  
61.165. Contents of Application.  
61.166. Filing Fee.  
61.167. Separate Applications.  
61.168. Granting License.  
61.169. Applications Not to be Granted.  
61.170. License Prohibition Against Glass Containers.  
61.171. Assignment.  
61.172. Termination and Revocation of License.  
61.173. Maximum Territorial Limits.  
61.174. Additional Standards.  
61.175. Rules, Procedures, and Conditions.  
61.176. Areas Exempt From Subchapter.  
61.177. Penalty.

**SUBCHAPTER F. REMOVAL OF SAND, MARL, GRAVEL, AND SHELL**

61.211. Findings.  
61.212. Exemptions From Subchapter.  
61.213. Application.  
61.214. Contents of Application.  
61.215. Prerequisites to Issuance of Permit.  
61.216. Notice of Applications Received.  
61.217. Public Hearing.  
61.218. Notice of Public Hearing.  
61.219. Issuance of Permit.  
61.220. Return of Filing Fee.  
61.221. Assignment of Permits.  
61.222. Termination and Revocation of Permit.  
61.223. Suits for Orders and Injunctions.  
61.224. Penalty.  
61.225. Sand, Marl, Gravel, or Shell From Public Beaches Within Incorporated Cities, Towns, or Villages.  
61.226. Application of Subchapter to Certain Islands and Peninsulas.  
61.227. Authority of Parks and Wildlife Department.

**SUBCHAPTER A. GENERAL PROVISIONS****§ 61.001. Definitions**

In this chapter:

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

(2) "Line of vegetation" means the extreme seaward boundary of natural vegetation which spreads continuously inland.

(3) "Highest wave" means the highest swell of the surf with such regularity that vegetation cannot grow and does not refer to the extraordinary waves which temporarily extend above the line of vegetation during storms and hurricanes.

(4) "Littoral owner" means the owner of land adjacent to the shore and includes anyone acting under the littoral owner's authority.

(5) "Public beach" means any beach area, whether publicly or privately owned, extending inland from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico to which the public has acquired the right of use or easement to or over the area by prescription, dedication, presumption, or has retained a right by virtue of continuous right in the public since time immemorial, as recognized in law and custom. [Acts 1977, 65th Leg., p. 2477, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.002 to 61.010 reserved for expansion]

SUBCHAPTER B. ACCESS TO PUBLIC BEACHES

§ 61.011. Public Policy

It is declared and affirmed to be the public policy of this state that the public, individually and collectively, shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico, or if the public has acquired a right of use or easement to or over an area by prescription, dedication, or has retained a right by virtue of continuous right in the public, the public shall have the free and unrestricted right of ingress and egress to the larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico.

[Acts 1977, 65th Leg., p. 2477, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.012. Definition

In this subchapter, "beach" means state-owned beaches to which the public has the right of ingress and egress bordering on the seaward shore of the Gulf of Mexico or any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

[Acts 1977, 65th Leg., p. 2477, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 61.013. Prohibition of Obstructions

(a) It is an offense against the public policy of this state for any person to create, erect, or construct any obstruction, barrier, or restraint that will interfere with the free and unrestricted right of the public, individually and collectively:

(1) to enter or to leave any public beach; or

(2) to use lawfully and legally any public beach or any larger area abutting on or contiguous to a public beach if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

(b) For purposes of this section, "public beach" shall mean any beach bordering on the Gulf of Mexico which extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom. This definition does not include a beach which is not accessible by a public road or public ferry.

(c) A person who creates, erects, or constructs an obstruction, barrier, or restraint in violation of Subsection (a) of this section is liable to the state for a civil penalty of not less than \$50 nor more than \$1,000.

[Acts 1977, 65th Leg., p. 2478, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1607, ch. 681, § 2, eff. Aug. 27, 1979.]

§ 61.014. Denial of Access by Posting

(a) As used in this section, "public beach" means the area extending from the line of mean low tide of the Gulf of Mexico to the line of vegetation bordering on the Gulf of Mexico, or to a line 200 feet inland from the line of mean low tide, whichever is nearer the line of mean low tide, if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

(b) Any person who displays or causes to be displayed on any public beach any sign, marker, or warning, or who shall make or have made any written or oral communication which states that the public beach is private property or who states in any other manner that the public does not have the right of access to the public beach in violation of the lawful access rights of the public guaranteed by this subchapter is liable to the state for a civil penalty of not less than \$50 nor more than \$1,000.

(c) Each day that the communication is made constitutes a separate offense.

(d) Any person who violates the provisions of this section shall be prosecuted in the county in which the public beach is located.

(e) This section does not apply to any island or peninsula that is not accessible by public road or common carrier ferry facility so long as the condition exists.

[Acts 1977, 65th Leg., p. 2478, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1607, ch. 681, § 1, eff. Aug. 27, 1979.]

**§ 61.015. Satisfaction of Ingress and Egress Requirement**

The requirement of free and unrestricted right of ingress and egress over an area landward of the line of vegetation is considered fully satisfied by access roads or ways which are in existence now and available to the public or which by or with the approval of any governmental authority having jurisdiction may be provided in the future.

[Acts 1977, 65th Leg., p. 2478, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.016. Boundaries for Areas With No Marked Vegetation Line**

(a) To determine the elevation reached by the highest waves of the Gulf of Mexico, in any area in which there is no clearly marked vegetation line (for instance, a line immediately behind well-defined dunes or mounds of sand and at a point where vegetation begins) recourse shall be to the nearest clearly marked line of vegetation on each side of the unmarked area.

(b) The "line of vegetation" for the unmarked area shall be the line of constant elevation connecting the two clearly marked lines of vegetation on each side.

(c) If the elevation of the two points on each side of the area are not the same, the extension defining the line reached by the highest waves of the Gulf shall be the average elevation as between the two points, but if there is no clearly marked line of vegetation, the extended line shall not extend inland further than 200 feet from the seaward line of mean low tide.

[Acts 1977, 65th Leg., p. 2478, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.017. Line of Vegetation Unaffected by Certain Conditions**

(a) The "line of vegetation" is not affected by the occasional sprigs of salt grass on mounds and dunes or seaward from them and by artificial fill, the addition or removal of turf, or by other artificial changes in the natural vegetation of the area.

(b) If the changes listed in Subsection (a) of this section are made and the vegetation line is obliterated or is created artificially, the line of vegetation shall be determined in the same manner as in those areas covered by Section 61.016 of this code, but if there is a vegetation line consistently following a line more than 200 feet from the seaward line of mean low tide, the 200-foot line shall constitute the landward boundary of the area subject to public easement until a final court adjudication establishes the line in another place.

[Acts 1977, 65th Leg., p. 2479, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.018. Suit to Remove Obstructions**

(a) The attorney general or any county attorney, district attorney, or criminal district attorney shall

file in a district court of Travis County, or in the county in which the property is located, a suit to obtain either a temporary or permanent court order or injunction to remove any obstruction or barrier or to prohibit any restraint or interference which restricts the right of the public, individually or collectively, to free and unrestricted ingress and egress to and from any area described in Section 61.012 of this code or any property abutting on or contiguous to the state-owned beach on which the public has acquired a prescriptive right.

(b) In the same suit, the attorney general, county attorney, district attorney, or criminal district attorney may seek recovery of the costs of removing any obstruction or barrier if it is removed by public authorities pursuant to an order of the court.

[Acts 1977, 65th Leg., p. 2479, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.019. Declaratory Judgment Suits**

(a) A littoral owner whose rights are determined or affected by this subchapter may bring suit for a declaratory judgment against the state to try the issue or issues.

(b) Service of citation on the state shall be made by serving the citation on the attorney general. [Acts 1977, 65th Leg., p. 2479, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.020. Prima Facie Evidence**

In a suit brought or defended under this subchapter or whose determination is affected by this subchapter, a showing that the area in question is located in the area from mean low tide to the line of vegetation is prima facie evidence that:

(1) the title of the littoral owner does not include the right to prevent the public from using the area for ingress and egress to the sea; and

(2) there is imposed on the area, subject to proof of easement, a prescriptive right or easement in favor of the public for ingress and egress to the sea.

[Acts 1977, 65th Leg., p. 2479, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.021. Area Not Covered by Subchapter**

None of the provisions of this subchapter apply to beaches on islands or peninsulas that are not accessible by a public road or ferry facility for as long as the condition exists.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.022. Exemption for Certain Structures**

The provisions of this subchapter do not prevent any agency, department, institution, subdivision, or instrumentality of this state or of the federal government from erecting or maintaining any groin, seawall, barrier, pass, channel, jetty, or other structure as an aid to navigation, protection of the shore,

fishing, safety, or other lawful purpose authorized by the constitution or laws of this state or the United States.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.023. Effect on Land Titles and Property Adjacent to and on Beaches**

The provisions of this subchapter shall not be construed as affecting in any way the title of the owners of land adjacent to any state-owned beach bordering on the seaward shore of the Gulf of Mexico or to the continuation of fences for the retention of livestock across sections of beach which are not accessible to motor vehicle traffic by public road or by beach.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.024. Effect of Subchapter on Definition of Public Beach**

None of the provisions of this subchapter shall reduce, limit, construct, or vitiate the definition of public beaches which has been defined from time immemorial in law and custom.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.025 to 61.060 reserved for expansion]

**SUBCHAPTER C. MAINTENANCE OF THE PUBLIC BEACHES**

**§ 61.061. Purpose**

It is the purpose of this subchapter to allocate responsibility for cleaning the beaches of this state and to preserve and protect local initiative in the maintenance and administration of beaches.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.062. Public Policy**

It is the public policy of this state that the public, individually and collectively, shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or continuous use. This creates a responsibility for the state, in its position as trustee for the public to assist local governments in the cleaning of beach areas which are subject to the access rights of the public as defined in Subchapter B of this chapter.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.063. Definition**

In this subchapter, "clean and maintain" means the collection and removal of litter and debris and the supervision and elimination of sanitary and safe-

ty conditions that would pose a threat to personal health or safety if not removed or otherwise corrected and includes the employment of lifeguards, beach patrols, and litter patrols.

[Acts 1977, 65th Leg., p. 2480, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.064. Application of Subchapter**

This subchapter applies to incorporated cities, towns, and villages that are located or border on the Gulf of Mexico and to all counties that are located or border on the Gulf of Mexico if the city, town, or village or county that makes application for funds under this subchapter has within its boundaries public beaches.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 366, ch. 163, § 1, eff. Aug. 27, 1979.]

**§ 61.065. Duty of Cities**

(a) It is the duty and responsibility of the governing body of any incorporated city, town, or village located or bordering on the Gulf of Mexico to clean and maintain the condition of all public beaches within the corporate boundaries.

(b) The duty to clean and maintain the condition of public beaches does not extend to any public beach within the corporate boundaries that is owned by the county in which it is located.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.066. Duty of County**

It is the duty and responsibility of the commissioners court of any county located or bordering on the Gulf of Mexico to clean and maintain the condition of all public beaches located inside the county but outside the boundaries of any incorporated city located or bordering on the Gulf of Mexico and all public beaches owned by the county and located inside the boundaries of an incorporated city, town, or village.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.067. Duty of State**

It is the duty and responsibility of the state to clean and maintain the condition of all public beaches located within state parks designated by the department.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.068. Application Requirement**

A city or county that seeks state funds under this subchapter to clean the public beaches must submit an application to the department.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.069. Contents of Application**

To be approved, the application must provide:

(1) for the administration or supervision of the public beaches of the city or county by a beach park board of trustees, county parks board, commissioners court, or other administrative body that the legislature may from time to time authorize, and provide that the board or agency will have adequate authority to administer an effective program of keeping clean the public beaches within its jurisdiction;

(2) for the receipt by the city or county treasurer or other officer exercising similar functions, if there is no city or county treasurer, of all funds paid to the city or county under this subchapter and provide for the proper safeguarding of the funds by the officer, provide that the funds will be spent solely for the purposes for which they are paid, and provide for the repayment by the city or county of any funds lost or diverted from the purposes for which paid;

(3) that the governing body of the city or county will make reports as to amounts and categories of expenditures that the department may from time to time require;

(4) that entrance to all public beaches under the jurisdiction of the governing body of the city or county is free of charge; and

(5) for the establishment, maintenance, and administration of at least one beach park by the city or county which meets the minimum requirements of size and facilities available to the public as determined by the department.

[Acts 1977, 65th Leg., p. 2481, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.070. Parking and Use Fees**

Subsection (4), Section 61.069 of this code shall not be construed to prohibit the assessment of a reasonable fee for off-beach parking or for the use of facilities provided for the use and convenience of the public.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.071. Compliance Before Approval**

The department shall not approve any application that fails to meet the conditions specified in Section 61.069 of this code.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.072. State Funds**

The department shall pay to each city or county that has an application approved under Sections 61.068 through 61.070 of this code from appropriations that are made available the state share for cleaning and maintenance of public beaches.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.073. Conditions for Payments**

No payments shall be made under this section until the department finds that:

(1) there will be available in the budget of the city or county not less than \$20,000 to clean and maintain public beaches within its jurisdiction for the state fiscal year for which reimbursement is sought; and

(2) there will be available in the budget of the city or county for the purpose of cleaning and maintaining the public beaches within its jurisdiction for the state fiscal year for which reimbursement is sought an amount not less than the total amount spent by the city or county to clean the beaches in the state fiscal year ending August 31, 1969.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.074. Submission of Proposed Expenditures**

A city or county that seeks reimbursement under the provisions of this subchapter shall submit to the department proposed expenditures for cleaning and maintaining the public beaches.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.075. Fair Distribution of Funds**

The department shall distribute the state share to the cities and counties in a fair and impartial manner and under procedures and accounting methods to be adopted by the department.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.076. Limitation on State Share**

(a) No city or county may receive as its state share an amount that is greater than two-thirds of the amount the city or county spends for the purpose of cleaning and maintaining public beaches within its jurisdiction during the state fiscal year for which reimbursement is sought.

(b) The department shall allocate the state share to eligible cities and counties taking into account the frequency with which public beaches within the jurisdiction of the cities and counties are used.

[Acts 1977, 65th Leg., p. 2482, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.077. Funds for Administrative Purposes and Emergencies**

(a) The department may use for administrative purposes not more than 10 percent of the appropriated funds for any state fiscal year.

(b) The department may withhold a portion of the appropriated funds to maintain a reserve emergency fund to be used for cleaning beaches in the event of a catastrophe, such as an oil spill, an influx of seaweed, or other major interference with public recreational use of public beaches.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.078. Authority to Spend County Funds**

The commissioners court of any county located or bordering on the Gulf of Mexico may spend from any available fund the amount it considers necessary to carry out the responsibilities provided in this subchapter.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.079. Notice of Ineligibility**

After reasonable notice and opportunity for a hearing to a city or county that is receiving funds under the provisions of this subchapter, if the department finds that the city or county no longer complies with the requirements of this subchapter, it shall notify the city or county that further payments will not be made until the department is satisfied that there is no longer any failure to comply.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.080. Public Beaches in Ineligible City**

(a) The governing body of any incorporated city located or bordering on the Gulf of Mexico that is not entitled to receive funds under this subchapter may contract with the commissioners court of the county in which the city is located to allow the county to clean the beaches within the corporate limits of the city.

(b) The city may apply to the department for rebates of 40 percent of the contract price, and the city is not required to meet the terms and conditions imposed in Section 61.069 of this code unless otherwise provided by law.

(c) The department shall make the rebates at the close of each fiscal year on a showing by the city that entrance to all public beaches under the jurisdiction of the city is free of charge.

(d) This section shall not be construed to prohibit the assessment of a reasonable fee for off-beach parking or the use of facilities provided for the use and convenience of the public.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.081. Public Beaches in Ineligible County**

(a) The commissioners court of a county that is not entitled to receive funds under this subchapter may contract with the commissioners court of any adjacent county that is entitled to receive funds under this subchapter to allow the adjacent county to clean the public beaches of the ineligible county.

(b) The contracting county that is not entitled to receive funds under this subchapter may apply to the department for rebates of 40 percent of the contract price, but the ineligible county is not required to meet the terms and conditions imposed in Section 61.069 of this code.

(c) The department shall make the rebates at the close of each state fiscal year on a showing by the

ineligible county that entrance to all public beaches under the jurisdiction of the county is free of charge.

(d) This section shall not be construed to prohibit the assessment of a reasonable fee for off-beach parking or for the use of facilities provided for the use and convenience of the public.

[Acts 1977, 65th Leg., p. 2483, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.082. Authority of Local Governments**

(a) The provisions of this subchapter shall not be construed to interfere with local initiative and responsibility in the cleaning, maintenance, and supervision of public beaches.

(b) The administration of public beaches, the selection of personnel, and the determination of the best uses of the funds insofar as is consistent with the purposes of this subchapter are reserved to the several political subdivisions receiving funds under this subchapter.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.083. Exemptions From Subchapter**

None of the provisions of this subchapter apply to any beach area that does not border on the Gulf of Mexico or to any island or peninsula that is not accessible by a public road or common carrier ferry facility as long as that condition exists.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.084 to 61.120 reserved for expansion]

**SUBCHAPTER D. REGULATION OF TRAFFIC AND LITTER**

**§ 61.121. Definition**

In this subchapter, "beach" shall have the same definition as provided in Section 61.012 of this code.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.122. Regulation of Traffic, Prohibition of Litter, Possession of Animals on Beaches, and Swimming in Passes to and from the Gulf of Mexico**

(a) The commissioners court of a county bordering on the Gulf of Mexico or its tidewater limits, by order, may regulate motor vehicle traffic on any beach within the boundaries of the county and may prohibit the littering of the beach and may define the term "littering."

(b) The commissioners court of a county bordering the Gulf of Mexico or its tidewaters, by order, may regulate the possession of animals on the beach within its boundaries, including but not limited to prohibiting animals to run at large on said beach.

(c) The commissioners court of a county bordering the Gulf of Mexico or its tidewaters, by order, may regulate swimming in passes leading to and from the Gulf of Mexico, located within its boundaries, including but not limited to prohibiting swimming in said passes and posting signs notifying persons of such regulation or prohibition.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 775, ch. 341, § 1, eff. Aug. 27, 1979.]

#### § 61.123. Notice of Hearing

(a) Before the commissioners court adopts an order under Section 61.122 of this code, it must publish notice of the intention to adopt the order in at least one newspaper with general circulation in the county.

(b) The notice shall state the time and place of the public hearing on the proposed order and that interested persons may obtain copies of the proposed order from the commissioners court.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 61.124. Copies of Order

The commissioners court shall make copies of the proposed order available to interested persons.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 61.125. Public Hearing

(a) Not less than one month but more than two weeks after notice is published, the commissioners court shall conduct a hearing at the time and place stated in the notice.

(b) At the hearing, the commissioners shall allow all interested persons to express their views on the proposed order.

[Acts 1977, 65th Leg., p. 2484, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 61.126. Traffic Regulations

If the order includes a traffic regulation, the order shall provide for signs that are designed and posted in compliance with the current provisions of the Texas Manual on Traffic Control Devices for Streets and Highways, stating the applicable speed limit, parking requirement, or that vehicles are prohibited.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 61.127. Criminal Penalties

In any order adopted under this subchapter, the commissioners court may adopt the following criminal penalties for violation of the order:

(1) for a first conviction, a fine of not more than \$50;

(2) for a second conviction, a fine of not more than \$200;

(3) for any subsequent convictions after the second conviction, a fine of not more than \$500 or confinement in the county jail for not more than 60 days, or both.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 61.128. Order Prevails Over State Law

If an order adopted under this subchapter conflicts with the general law of the state, the order shall control over the state law, and in cases of violation, prosecution may be maintained only under the order.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 61.129. Ordinance Prevails Over Order and State Law

(a) This subchapter does not limit the power of an incorporated city, town, or village bordering on the Gulf of Mexico or any adjacent body of water to regulate motor vehicle traffic and prohibit littering on any beach within its corporate limits.

(b) If these regulatory ordinances are adopted by a city, town, or village and the ordinance conflicts with the general law of the state or with an order of the commissioners court adopted under this subchapter, the ordinance shall control over the state law and the order, and in cases of violation, prosecution may be maintained only under the ordinance.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 61.130. Rights of the Public

The right of the public to use the public beaches defined in this subchapter is inviolate and is subject only to orders adopted by a commissioners court under this subchapter and to ordinances enacted by an incorporated city, town, or village.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 61.131. Effect of Subchapter on Definition of Public Beach

None of the provisions of this subchapter shall reduce, limit, construct, or vitiate the definition of public beaches which has been defined from time immemorial in law and custom.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.132 to 61.160 reserved for expansion]

### SUBCHAPTER E. LICENSES FOR BUSINESS ESTABLISHMENTS

#### § 61.161. Public Policy

It is the public policy of this state that the state-owned beaches bordering on the seaward shore of the Gulf of Mexico, and any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico, if the public

has acquired a right of use or easement to or over the area by the prescription or dedication or has retained a right by virtue of continuous right in the public, shall be used primarily for recreational purposes, and any use which substantially interferes with the enjoyment of the beach area by the public shall constitute an offense against the public policy of the state. Nothing in this subchapter prevents any agency, department, political subdivision, or municipal corporation of this state from exercising its lawful authority under any law of this state to regulate safety conditions on any beach area subject to public use.

[Acts 1977, 65th Leg., p. 2485, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.162. Findings**

(a) The legislature finds that the operation and maintenance of business establishments at fixed or permanent locations on the public beaches of this state bordering on the seaward shore of the Gulf of Mexico constitute a potential public health hazard and a substantial interference with the free and unrestricted rights of ingress and egress of the public, both individually and collectively, to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico or any larger area extending from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public.

(b) The legislature finds that a reasonable number of mobile business establishments which traverse the public beach while doing business are beneficial to the public interest and do not interfere with the free and unrestricted rights of ingress and egress of the public as provided in this subchapter.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.163. Definition**

In this subchapter, "business establishment" means any structure or vehicle where any commodity including memberships in any private club or other similar organization is offered to the public for sale or lease but does not include any structure or vehicle where only services are offered to the public for sale.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.164. Application**

A person who desires to operate a mobile business establishment on a public beach located outside the municipal limits of an incorporated city shall submit a written application to the department.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.165. Contents of Application**

The application shall include:

- (1) the name and street address of the applicant;
- (2) the commodity to be sold or leased; and
- (3) the limits of the territory within which the mobile business establishment will operate.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.166. Filing Fee**

(a) The application shall be accompanied by a filing fee in an amount determined by the department, not to exceed \$25.

(b) The filing fee shall be deposited in the state treasury in the Land and Water Recreation and Safety Fund 63, and the department may pay from this fund the expenses of carrying out the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.167. Separate Applications**

Any applicant who plans to operate more than one mobile business establishment must file a separate application accompanied by a separate filing fee for each mobile business establishment that he seeks to have licensed.

[Acts 1977, 65th Leg., p. 2486, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.168. Granting License**

(a) On finding that the issuance of a license is consistent with recreational needs and the public welfare, and that the mobile business establishment would not create a traffic or safety hazard, and on compliance with this subchapter by the applicant, the department shall grant the license.

(b) The license shall be valid for one year from the day it is issued.

(c) If the license is not granted, the department shall return the filing fee to the applicant.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.169. Applications Not to be Granted**

The department shall not grant an application:

- (1) for a business establishment located at a fixed or permanent location on a public beach;
- (2) for a business establishment that does not traverse the beach while doing business; or
- (3) that does not otherwise meet the terms and provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.170. License Prohibition Against Glass Containers

(a) Each license granted under this subchapter authorizing the sale of commodities on a public beach shall include a prohibition against the sale of any commodity in a glass container.

(b) Any person selling a commodity in a glass container on a public beach outside the boundaries of any incorporated city shall have his rights conferred by the license immediately terminated and revoked as provided in Section 61.172 of this code.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.171. Assignment

No license issued under this subchapter may be assigned.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.172. Termination and Revocation of License

(a) The failure or refusal of the licensee to comply with the terms and conditions of a license shall operate as an immediate termination and revocation of all rights conferred in or claimed under the license.

(b) The termination and revocation of the license is not effective until notice is delivered by mail to the address of the licensee listed on the application for the license.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.173. Maximum Territorial Limits

(a) If territorial limitations are applied uniformly to all applicants seeking to operate mobile business establishments in the territory, the department may establish maximum territorial limits over which mobile business establishments may operate.

(b) A license to sell or lease only surfboards and related equipment may not be limited as to the territory over which the mobile business establishment may operate.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.174. Additional Standards

In addition to other standards provided in this subchapter, it is the intention of the legislature that the department exercise the authority delegated to it under this subchapter according to the following considerations:

(1) that the number of mobile business establishments licensed by the department should not constitute a substantial interference with the free and unrestricted rights of ingress and egress of the public provided in this subchapter;

(2) that the number of licenses issued by the department under this subchapter are sufficient to ensure free and unrestricted competition in selling or leasing of commodities to the public; and

(3) that no person should be allowed to operate any mobile business establishment on any public beach in restraint of trade or competition by which the person controls all or substantially all the business establishments on the public beach licensed by the department.

[Acts 1977, 65th Leg., p. 2487, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.175. Rules, Procedures, and Conditions

The department may establish additional rules, procedures, and conditions necessary or appropriate to carry out the purposes of this subchapter.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.176. Areas Exempt From Subchapter

This subchapter does not apply to a public beach that is within the boundaries of a state park designated by the department or to a remote beach on any island or peninsula which is not accessible by public road or common carrier ferry facility as long as that condition exists.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.177. Penalty

A person, who for himself or on behalf of or under the direction of another person, operates any business establishment, whether mobile or at a fixed or permanent location, on any public beach outside the boundaries of any incorporated city without first obtaining a license to operate the business establishment from the department shall be fined not less than \$10 nor more than \$200.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 61.178 to 61.210 reserved for expansion]

## SUBCHAPTER F. REMOVAL OF SAND, MARL, GRAVEL, AND SHELL

### § 61.211. Findings

The legislature finds that the unregulated excavation, taking, removal, and carrying away of sand, marl, gravel, and shell from islands and peninsulas bordering on the Gulf of Mexico and from the public beaches of the state constitute a substantial interference with public enjoyment of Texas beaches and a hazard to life and property.

[Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 61.212. Exemptions From Subchapter

(a) The provisions of this subchapter do not apply:

(1) to excavating, taking, removing, or carrying away sand, marl, gravel, or shell made for the purpose of constructing improvements on real property if the improvements are constructed on the property on which the excavating, taking, removing, or carrying away occurs;

(2) to any landowner who desires to shift sand, marl, gravel, or shell from one location to another on land wholly owned by him; or

(3) to any agency of the federal or state government or any county, city, or other political subdivision or any of their agents or officers acting in their official capacities.

(b) Any person who holds a lease that was issued by the state under Chapter 377, Acts of the 57th Legislature, Regular Session, 1961 (Article 5415e, Vernon's Texas Civil Statutes), before it was repealed shall be treated as an owner of the land and shall be entitled to excavate, take, remove, and carry away sand, marl, gravel, or shell for the purposes provided in Subsection (a) of this section without obtaining a permit from the commissioners court. [Acts 1977, 65th Leg., p. 2488, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.213. Application**

Before a person excavates, takes, removes, or carries away sand, marl, gravel, or shell from land located on an exposed island or peninsula bordering on the Gulf of Mexico or from land located within 1,500 feet of a mainland public beach that is located outside the boundaries of an incorporated city, town, or village, he must submit a written application to the commissioners court of the county in which the excavation, taking, removal, or carrying away is to take place.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.214. Contents of Application**

The application shall include:

- (1) the name of the applicant;
- (2) the location and dimensions of the proposed excavation;
- (3) the property interest or contractual right that enables the applicant to excavate, take, remove, or carry away sand, marl, gravel, or shell; and
- (4) certification by the county treasurer, or other official exercising similar authority if there is no county treasurer, that the applicant has deposited a filing fee of \$50.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.215. Prerequisites to Issuance of Permit**

No permit may be issued by the commissioners court under this subchapter to excavate, take, remove, or carry away sand, marl, gravel, or shell from land owned by the state, public beach, or privately owned land that is subject to this subchapter and that is not located on a public beach, unless the applicant is the owner of the land on which the proposed excavating, taking, removing, or carrying away is to take place or unless the applicant is acting with the knowledge and consent of the owner. [Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.216. Notice of Applications Received**

(a) The commissioners court shall give public notice of all applications received for permits to excavate, take, remove, or carry away sand, marl, gravel, or shell.

(b) The notice shall be published once in a newspaper of general circulation in the county.

(c) The notice shall include the name of the applicant and the location and dimensions of the proposed activity.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.217. Public Hearing**

(a) The commissioners court shall hold a public hearing if the hearing is requested by any citizen within 10 days after notice is published under Section 61.216 of this code.

(b) The hearing may not be held less than 30 days from the date of the first publication of notice under Section 61.218 of this code.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.218. Notice of Public Hearing**

Notice of the public hearing shall be published at least once a week for at least two weeks in a newspaper of general circulation in the county.

[Acts 1977, 65th Leg., p. 2489, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.219. Issuance of Permit**

(a) On a finding that the proposed excavating, taking, removing, or carrying away would not create hazardous conditions or imperil lives or property by exposing the island or peninsula or public beach to the ravages of storm water, the commissioners court may issue a permit to the applicant, and it shall be valid for six months from the date of its issuance.

(b) The decision to issue a permit shall be made with the advice and counsel of the county engineer in counties in which the commissioners court employs a county engineer.

(c) None of the provisions of this subchapter prohibit a commissioners court from issuing a permit to a person who holds a right-of-way easement granted by the commissioner for a pipeline to cross state land, provided the applicant complies with the provisions of this subchapter relating to the issuance of permits.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.220. Return of Filing Fee**

If the commissioners court refuses to issue the permit, the applicant may recover his filing fee from the county treasurer or other official exercising similar authority if there is no county treasurer.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.221. Assignment of Permits**

No permit may be assigned without the approval of the commissioners court.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.222. Termination and Revocation of Permit**

Failure or refusal of the permittee to comply with the terms and conditions of the permit operates as an immediate termination and revocation of all rights conferred by or claimed under the permit.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.223. Suits for Orders and Injunctions**

The attorney general, any county attorney, district attorney, or criminal district attorney of the state shall file in a district court in the county in which the conduct take place, a suit seeking temporary or permanent court orders or injunctions to prohibit any excavating, taking, removing, or carrying away of any sand, marl, gravel, or shell from land located on an exposed island or peninsula bordering on the Gulf of Mexico or from land located within 1,500 feet of a public beach of this state if the land is located outside the boundaries of an incorporated city, town, or village in violation of the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.224. Penalty**

A person who for himself or on behalf of or under the direction of another person excavates, takes, removes, or carries away sand, marl, gravel, or shell from land located on an exposed island or peninsula bordering on the Gulf of Mexico or from land located within 1,500 feet of a public beach of this state, if the land is located outside the boundaries of any incorporated city, town, or village, in violation of the provisions of this subchapter shall be fined not less than \$10 nor more than \$200. Each day a violation occurs constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.225. Sand, Marl, Gravel, or Shell From Public Beaches Within Incorporated Cities, Towns, or Villages**

No incorporated city, town, or village having within its boundaries a public beach may authorize a person to excavate, take, remove, or carry away any sand, marl, gravel, or shell from the public beach except for the construction of a publicly owned and operated recreational facility or for the construction of a shoreline protection structure.

[Acts 1977, 65th Leg., p. 2490, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.226. Application of Subchapter to Certain Islands and Peninsulas**

The provisions of this subchapter do not apply to any island or peninsula that is not accessible by a public road or common carrier ferry facility as long as that condition continues.

[Acts 1977, 65th Leg., p. 2491, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 61.227. Authority of Parks and Wildlife Department**

None of the provisions of this subchapter may be construed to repeal or modify the provisions of Chapter 86, Parks and Wildlife Code, which relate to the powers and duties of the Parks and Wildlife Department over matters pertaining to the sale, taking, carrying away, or disturbing of sand, marl, gravel, or shell of commercial value and gravel, shells, mud shell, and oyster beds and their protection from free use and unlawful disturbing or appropriation, nor may this subchapter be construed to create additional or supplemental requirements or procedures to those provided in Chapter 86, Parks and Wildlife Code.

[Acts 1977, 65th Leg., p. 2491, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 62. BEACH PARK BOARD OF TRUSTEES****SUBCHAPTER A. GENERAL PROVISIONS**

- Section  
62.001. Applicability.  
62.002. Definition.

**SUBCHAPTER B. CREATION OF BOARD**

- 62.011. Purpose and Authority.  
62.012. Method of Creating Board.  
62.013. Election.

**SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

- 62.041. Members of Board.  
62.042. Term of Office.  
62.043. Oath and Bond.  
62.044. Compensation; Expenses.  
62.045. Vacancy.  
62.046. Officers of Board.  
62.047. Park Manager.  
62.048. Legal Services.  
62.049. Employees of Board.  
62.050. Meetings.  
62.051. Board Records.  
62.052. Management of Funds.  
62.053. Audit.  
62.054. Court Actions.  
62.055. Seal.

**SUBCHAPTER D. POWERS AND DUTIES**

- 62.091. Land Under Jurisdiction, Management, and Control.  
62.092. Priority of Jurisdiction.  
62.093. Park Authority.  
62.094. Fee Charged.  
62.095. Use of Funds.  
62.096. Contracts, Leases, and Other Agreements Relating to Land and Facilities.

- Section  
 62.097. Contracts, Leases, and Other Agreements Relating to Management, Operation, and Maintenance of Land and Facilities.  
 62.098. Contracts With Other Governmental Agencies.  
 62.099. Advertising.  
 62.100. Rules.  
 62.101. Legislative Intent.

SUBCHAPTER E. ISSUANCE OF BONDS

- 62.131. Authority to Issue Revenue Bonds.  
 62.132. Formal Requirements of Bonds.  
 62.133. Sale of Bonds.  
 62.134. Approval and Registration.  
 62.135. Authorized Investments.  
 62.136. Security for Deposits.  
 62.137. Tax Bonds.  
 62.138. Refunding Bonds.

SUBCHAPTER A. GENERAL PROVISIONS

§ 62.001. Applicability

(a) The provisions of this chapter apply to counties that are located or border on the Gulf of Mexico and have within their boundaries beaches that are suitable for park purposes. The suitability of a beach for park purposes is established conclusively when the commissioners court of the county makes a finding that the beach located within its boundaries, but not located within the boundaries of an incorporated city, is suitable for park purposes.

(b) As long as an island or peninsula is not accessible by a public road or common carrier ferry facility, the provisions of this chapter do not apply to that island or peninsula.

(c) The provisions of this chapter do not interfere with, preempt, or in any manner restrict or usurp the authority of the land office over state-owned beaches.

(d) The provisions of this chapter do not prohibit the creation of, or limit the lawful actions of, a beach park board of trustees of a home-rule city as provided in Chapter 33, Acts of the 57th Legislature, 3rd Called Session, 1962, as amended (Article 6081g-1, Vernon's Texas Civil Statutes).

(e) The provisions of this chapter do not permit any interference with the right the public has under the provisions of Subchapter B of Chapter 61 of this code to the free and unrestricted use of, and to ingress and egress to, the area bordering on the Gulf of Mexico from mean low tide to the line of vegetation, as that term is defined in Subsection (2), Section 61.001 of this code. A county, county official, or anyone acting under the authority of this chapter may not exercise any authority, contract out a right to exercise authority, or otherwise delegate authority beyond that specifically granted to it in Sections 61.122 through 61.128 of this code over that area notwithstanding any of the specific provisions of this chapter. The rights established in Subchapters B and D of Chapter 61 of this code are paramount over the rights or interests that might otherwise be created by the provisions of this chapter, and nothing in this chapter encroaches on those rights or upon land,

or interests in land, that may ultimately be held subject to those rights.

[Acts 1977, 65th Leg., p. 2492, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.002. Definition

In this chapter, "board" means the Beach Park Board of Trustees.

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 62.003 to 62.010 reserved for expansion]

SUBCHAPTER B. CREATION OF BOARD

§ 62.011. Purpose and Authority

A county located or bordering on the Gulf of Mexico with a beach suitable for park purposes may create a board in the manner provided in this subchapter for the purpose of improving, equipping, maintaining, financing, and operating a public park or parks, or any facilities owned by the county, or to be acquired by the county, or to be managed by the county under the terms of a written contract. The board, to be designated Beach Park Board of Trustees, has the powers and duties specified in this chapter.

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.012. Method of Creating Board

A board may be created after a favorable majority vote of the qualified voters of the county voting at an election held on the proposition.

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.013. Election

(a) The election shall be called by the commissioners court.

(b) Notice of the election shall be given in the manner provided by Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended.<sup>1</sup>

(c) The ballots shall be printed to provide for voting for or against the proposition: "Establishing a beach park board of trustees."

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> Civil Statutes, art. 701 et seq.

[Sections 62.014 to 62.040 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 62.041. Members of Board

(a) The board is composed of seven members appointed by the commissioners court.

(b) One board member shall be a member of the commissioners court.

[Acts 1977, 65th Leg., p. 2493, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.042. Term of Office**

(a) With the exception of the trustees first appointed, a trustee serves for a term of two years from the date of appointment.

(b) At the time of the appointment of the first trustees, the commissioners court shall designate three trustees to serve for one year and four trustees to serve for two years.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.043. Oath and Bond**

(a) A trustee shall qualify within 15 days after his appointment by taking the official oath and filing a good and sufficient bond with the county clerk.

(b) The bond shall be approved by the commissioners court, payable to the county, in a sum not to exceed \$5,000 as approved by the commissioners court of the county, and conditioned on the faithful performance of the duties of the trustee, including his proper handling of all money which may come into his hands in his capacity as a member of the board.

(c) The cost of the bond shall be paid by the board.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.044. Compensation; Expenses**

A trustee serves without compensation but shall be reimbursed for travel and other necessary expenses incurred in the performance of his official duties.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.045. Vacancy**

A vacancy on the board shall be filled by appointment of the commissioners court.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.046. Officers of Board**

(a) On the appointment of the first trustees, the commissioners court shall designate one of the trustees to serve as chairman of the board for a period of one year.

(b) After the first year the board annually shall elect a chairman, a vice-chairman, a secretary, and a treasurer from among its members. The office of secretary and treasurer may be held by the same person.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.047. Park Manager**

The board may employ and compensate a manager for any parks or facilities and may give him full authority in the management and operation of the park or parks or facilities subject only to the direction and orders of the board.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.048. Legal Services**

(a) The board may call on the county attorney of the county for the legal services it requires.

(b) In lieu of or in addition to the county attorney, the board may employ and compensate its own counsel and legal staff.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.049. Employees of Board**

(a) The board may employ temporary or permanent secretaries, stenographers, bookkeepers, accountants, technical experts, and other agents and employees it requires.

(b) The board shall determine the qualifications, duties, and compensation of its employees.

[Acts 1977, 65th Leg., p. 2494, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.050. Meetings**

(a) The board shall hold regular meetings at times set by the board.

(b) The board may hold special meetings at the times business or necessity requires. Special meetings may be called by the chairman or any three members of the board.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.051. Board Records**

(a) The board shall keep a true and full record of all its meetings and proceedings and preserve its minutes, contracts, accounts, and all other records in a fireproof safe or vault.

(b) The board may contract with the commissioners court of the county to have the county keep and maintain its records.

(c) All the records are the property of the board and are subject to inspection by the commissioners court at all reasonable times.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.052. Management of Funds**

The money belonging to or under control of the board shall be deposited and secured in the same manner prescribed by law for county funds.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.053. Audit**

Independent auditors selected by the board shall make an annual audit of all financial transactions and records of the board.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.054. Court Actions**

The board may sue and be sued in its own name.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.055. Seal

The board shall adopt a seal which shall be placed on all leases, deeds, and other instruments usually executed under seal and on other instruments required by the board.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 62.056 to 62.090 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 62.091. Land Under Jurisdiction, Management, and Control

(a) The following land is under the jurisdiction of the board:

(1) public beaches owned in fee by the county; and

(2) land used as parks in connection with public beaches not located inside the boundaries of an incorporated city and not inside the area bordering on the Gulf of Mexico from the line of mean low tide to the line of vegetation as that term is defined in Section 61.001(2) of this code.

(1) additional parks and facilities owned by the county; or

(2) additional parks and facilities to be managed by the county under the terms of a written contract.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.092. Priority of Jurisdiction

(a) The board has no jurisdiction over a public beach located inside the boundaries of the county that has been designated a national park, national seashore, or state park.

(b) The authority of the board preempts the right of the county board of park commissioners to act with regard to a beach, park, or facility within the jurisdiction of the board.

(c) The provisions of this chapter are cumulative of other laws relating to county parks but take precedence in the event of conflict.

[Acts 1977, 65th Leg., p. 2495, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.093. Park Authority

The board may manage, operate, maintain, equip, and finance an existing public park placed under its jurisdiction by the commissioners court and may improve, manage, operate, maintain, equip, and finance additional parks acquired by gift but not acquired by the exercise of the power of eminent domain.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

Amendment by Acts 1977, 65th Leg., p. 1263, ch. 487, § 1

Acts 1977, 65th Leg., p. 1263, ch. 487, § 1, purports to amend § 7 of Civil Statutes, art. 5415d-3 [now, this section in part], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so amended, the applicable part of § 7 reads:

“ \* \* \* In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority:

“(a) To manage, operate, maintain, equip, improve, and finance any and all existing public parks placed under its jurisdiction by the commissioners court;

“(b) To improve, manage, operate, maintain, equip, and finance additional parks acquired by gift or otherwise, but not by the exercise of the power of eminent domain; \* \* \*”.

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

§ 62.094. Fee Charged

The board may charge and collect a reasonable fee for access or entrance to or parking on the land under its jurisdiction, other than public beaches owned by the county, or use of a facility located on land under its jurisdiction.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.095. Use of Funds

(a) The board may accept, receive, and spend gifts of money or other things of value from any person for the purpose of performing any function, power, or authority vested in the board and funds from the county that are appropriated by the county from time to time for the purpose of improving, equipping, maintaining, operating, and promoting recreational facilities under the board's supervision and control.

(b) The board may spend money appropriated by the commissioners court for the purpose of cleaning and maintaining public beaches and land within its jurisdiction, including money appropriated to the commissioners court by the state for that purpose.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.096. Contracts, Leases, and Other Agreements Relating to Land and Facilities

The board may enter into a contract, lease, or other agreement connected with, incident to, or affecting the financing, construction, equipping, main-

tenance, or operation of facilities located or to be located on or pertaining to land under its jurisdiction or facilities under its control and may execute and perform its lawful powers and functions on land leased from others.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.097. Contracts, Leases, and Other Agreements Relating to Management, Operation, and Maintenance of Land and Facilities**

The board may enter into any contract, lease, or agreement with any person for a period of not more than 40 years relating to the management, operation, and maintenance of a concession, facility, improvement, leasehold, land, or other property over which the board has jurisdiction and control.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.098. Contracts With Other Governmental Agencies**

To accomplish any purpose authorized in this chapter, the board may enter into contracts with:

- (1) adjacent counties;
- (2) boards in adjacent counties; and
- (3) boards in cities of the same county in which the board has jurisdiction.

[Acts 1977, 65th Leg., p. 2496, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.099. Advertising**

The board may advertise the county's recreational advantages for the purpose of attracting tourists, residents, and other users of the public facilities operated by the board.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**Amendment by Acts 1977, 65th Leg., p. 1263, ch. 487, § 1**

*Acts 1977, 65th Leg., p. 1263, ch. 487, § 1, purports to amend § 7 of Civil Statutes, art. 5415d-3 [now, this section in part], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so amended, the applicable part of § 7 reads:*

*" \* \* \* In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority:*

*"(d) To publish brochures and otherwise advertise the county's recreational advantages for the purposes of attracting tourists, residents, and other users of the public facilities operated by the board; \* \* \*"*

*Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not*

*affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.*

**§ 62.100. Rules**

The board may adopt and enforce reasonable rules for the use of parks and facilities under the jurisdiction and control of the board by the public or by lessees, concessionaires, and other persons carrying on a business activity inside the area of the public parks and facilities.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 62.101. Legislative Intent**

It is the intent of the legislature in enacting the provisions of this chapter that the rights established or recognized in Subchapters B and D of Chapter 61 of this code are paramount over any rights or interests that might otherwise be considered created by this chapter, and none of the provisions of this chapter may trench on those rights or encroach on land or interests in land that may ultimately be held subject to those rights.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 62.102 to 62.130 reserved for expansion]

**SUBCHAPTER E. ISSUANCE OF BONDS**

**§ 62.131. Authority to Issue Revenue Bonds**

For the purpose of improving and enlarging public parks and facilities, the board may issue revenue bonds payable solely from the revenue of all or any designated part of the properties or facilities under the jurisdiction and control of the board.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**Amendment by Acts 1977, 65th Leg., p. 1263, ch. 487, § 1**

*Acts 1977, 65th Leg., p. 1263, ch. 487, § 1, purports to amend § 7 of Civil Statutes, art. 5415d-3 [now, this section in part], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so amended, the applicable part of § 7 reads:*

*" \* \* \* In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority:*

*"(1) To issue revenue bonds in the name of the board which shall be payable solely from the revenues of all or any designated part or parts of the properties or facilities under the jurisdiction and control of the board or from any other source of funds the board may wish to dedicate for that purpose, for the purpose of acquiring,*

developing, improving, and enlarging public recreational areas and facilities. \* \* \*”.

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

§ 62.132. Formal Requirements of Bonds

(a) The bonds may be issued by resolution adopted by the board without the necessity of an election.

(b) The bonds may be issued in the name of the board in one or more installments or series and shall mature serially or otherwise within 40 years from their date or dates.

(c) The bonds shall be issued on the terms and conditions, with regard to the security, manner, place, and time of payment, pledge of designated revenue, redemption before maturity, and the issuance of additional parity or junior lien bonds, that the board specifies in the resolution or resolutions authorizing the bonds.

(d) The bonds shall be executed by the chairman and secretary of the board and shall be signed by the chairman and secretary or shall bear the facsimile signature of either or both.

(e) The bonds shall display the seal of the board, which may be impressed, printed, or lithographed on the bonds.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**Amendment by Acts 1977, 65th Leg., p. 1263, ch. 487, § 1**

Acts 1977, 65th Leg., p. 1263, ch. 487, § 1, purports to amend § 7 of Civil Statutes, art. 5415d-3 [now, this section in part], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so amended, the applicable part of § 7 reads:

“ \* \* \* In addition to the powers and authority herein granted, the board shall have and exercise the following powers and authority:  
\* \* \*

“(1) \* \* \* Such bonds may be issued in one or more installments or series by resolutions adopted by the board without the necessity of an election, shall bear interest at a rate not to exceed 10 percent per annum, shall mature serially or otherwise within 40 years from their date or dates, shall be sold by the board on the best terms obtainable, except that the annual interest rate and discount may not exceed 10 percent per annum, \* \* \*”.

Section 3.11(c) of the Code Construction Act (Civil Statutes, art. 5429b-2) provides, in part, that the repeal of a statute by a code does not

affect an amendment of the statute by the same legislature which enacted the code and that the amendment is preserved and given effect as part of the code provision.

§ 62.133. Sale of Bonds

The board shall sell the bonds on the best terms obtainable but not for less than par and accrued interest.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.134. Approval and Registration

The bonds shall not be delivered until a transcript of the proceedings authorizing their issuance has been submitted to the attorney general and approved as to legality by the attorney general and the bonds are registered by the comptroller of public accounts.

[Acts 1977, 65th Leg., p. 2497, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.135. Authorized Investments

The bonds issued under the provisions of this subchapter are legal and authorized investments for banks, saving banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state.

[Acts 1977, 65th Leg., p. 2498, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.136. Security for Deposits

The bonds are eligible to secure the deposit of public funds of the state and public funds of cities, towns, villages, or other political corporations or subdivisions of the state and are lawful and sufficient security for deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant to them.

[Acts 1977, 65th Leg., p. 2498, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.137. Tax Bonds

(a) The board shall not issue bonds payable in whole or in part from ad valorem taxes.

(b) The board may receive and spend the proceeds of bonds payable from taxes which are issued by the governing body of the county for park purposes after the bonds are authorized at an election held in the manner required by law.

[Acts 1977, 65th Leg., p. 2498, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 62.138. Refunding Bonds

(a) The board may issue refunding bonds for the purpose of refunding one or more series or installments of outstanding original or refunding bonds of the board.

(b) The refunding bonds shall be issued, approved as to legality by the attorney general, and registered by the comptroller of public accounts in the manner and on the terms and conditions provided in this subchapter for the issuance of original revenue bonds.

[Acts 1977, 65th Leg., p. 2498, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## CHAPTER 63. DUNES

### SUBCHAPTER A. GENERAL PROVISIONS

Section	
63.001.	Findings of Fact.
63.002.	Definitions.
63.003.	Effect of Chapter.

### SUBCHAPTER B. DUNE PROTECTION LINE

63.011.	Establishing Dune Protection Line.
63.012.	Location of Dune Protection Line.
63.013.	Notice.
63.014.	Map and Description of Dune Protection Line.
63.015.	Dune Protection Line Prohibited.

### SUBCHAPTER C. PERMITS

63.051.	Permit Requirement.
63.052.	Permit Not Required.
63.053.	Fee.
63.054.	Grant of Application.
63.055.	Terms and Conditions of Permit.
63.056.	Notice to and Comments of Commissioner on Permits.
63.057.	Permit for Recreational Vehicle Prohibited.

### SUBCHAPTER D. PROHIBITIONS

63.091.	Conduct Prohibited Between the Texas-Louisiana State Line and Aransas Pass.
63.092.	Conduct Prohibited Between Aransas Pass and Mansfield Ship Channel.
63.093.	Prohibited Operation of Recreational Vehicles.

### SUBCHAPTER E. CRITICAL DUNE AREAS

63.121.	Identification of Critical Dune Areas.
63.122.	Notice to Counties.

### SUBCHAPTER F. APPEALS

63.151.	Appeal by Littoral Owner.
63.152.	Appeal by Commissioner.

### SUBCHAPTER G. PENALTIES

63.181.	Penalty.
---------	----------

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 63.001. Findings of Fact

The legislature finds and declares:

(1) that the barrier islands and peninsulas of this state and the adjacent mainland areas contain a significant portion of the state's human, natural, and recreational resources;

(2) that these areas are wholly or in part protected from the action of the water of the Gulf of Mexico and storms on the Gulf by a system of natural or artificially constructed vegetated sand dunes that provide a protective barrier for adja-

cent land and inland water and land against the action of sand, wind, and water;

(3) that certain persons have from time to time modified or destroyed the effectiveness of the protective barriers in the process of developing the shoreline for various purposes;

(4) that the operation of recreational vehicles over these dunes has destroyed the natural vegetation on them;

(5) that these practices constitute serious threats to the safety of adjacent properties, to public highways, to the taxable basis of adjacent property and constitute a real danger to the health, safety, and welfare of persons living, visiting, or sojourning in the area;

(6) that it is necessary to protect these dunes as provided in this chapter because stabilized, vegetated dunes offer the best natural defense against storms;

(7) that vegetated stabilized dunes help preserve state-owned beaches and shores by protecting against erosion of the shoreline;

(8) that the area bounded on the north by the Mansfield Ship Channel and extending to the southern tip of South Padre Island is an area of irregular dunes, the vast majority of which are unvegetated, unstable, and migratory, and these dunes do not afford significant protection to persons and property inland from this area; and

(9) that the area bounded on the north by the inlet known as Aransas Pass and on the south by the Mansfield Ship Channel is an area of a mixture of irregular dunes as described in Subdivision (8) of this section and dunes that afford protection to persons and property inland.

[Acts 1977, 65th Leg., p. 2499, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 63.002. Definitions.

In this chapter:

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

(2) "Barrier island" means an island bordering on the Gulf of Mexico and entirely surrounded by water.

(3) "Peninsula" means an arm of land bordering on the Gulf of Mexico surrounded on three sides by water.

(4) "Recreational vehicle" means a dune buggy, marsh buggy, minibike, trail bike, jeep, or any other mechanized vehicle that is being used for recreational purposes, but does not include any vehicle not being used for recreational purposes.

[Acts 1977, 65th Leg., p. 2500, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 63.003. Effect of Chapter

The provisions of this chapter do not apply to any island or peninsula not accessible by public road or

common carrier ferry facility for as long as that condition exists.

[Acts 1977, 65th Leg., p. 2500, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.004 to 63.010 reserved for expansion]

SUBCHAPTER B. DUNE PROTECTION LINE

§ 63.011. Establishing Dune Protection Line

After notice and hearing, the commissioners court of any county bordering on the Gulf of Mexico that has within its boundaries a barrier island or peninsula located north of the Mansfield Ship Channel may establish a dune protection line on the island or peninsula for the purpose of preserving sand dunes that offer a defense against storm water and erosion of the shoreline.

[Acts 1977, 65th Leg., p. 2500, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.012. Location of Dune Protection Line

The dune protection line shall not be located further landward than a line drawn parallel to and 1,000 feet landward of the line of mean high tide of the Gulf of Mexico.

[Acts 1977, 65th Leg., p. 2500, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.013. Notice

(a) Notice of a hearing to consider establishing the dune protection line shall be published at least three times in the newspaper with the largest circulation in the county. The notice shall be published not less than one week nor more than three weeks before the date of the hearing.

(b) Notice shall be given to the commissioner not less than one week nor more than three weeks before the hearing.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.014. Map and Description of Dune Protection Line

(a) The commissioners court in establishing a dune protection line shall define the line by presenting it on a map or drawing, by making a written description, or by both. Each shall be designated appropriately and filed with the county clerk and with the commissioner.

(b) Notice of alterations in the dune protection line shall be filed with the county clerk and with the commissioner, and the appropriate changes shall be made on the map, drawing, or description.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.015. Dune Protection Line Prohibited

No dune protection line may be established for the purpose of protecting dunes located inside a state or national park area.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.016 to 63.050 reserved for expansion]

SUBCHAPTER C. PERMITS

§ 63.051. Permit Requirement

An owner of land or a person holding an interest in land under the owner who desires to perform any acts on the land which are prohibited in Sections 63.091 through 63.092 of this code must apply for a permit from the commissioners court.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.052. Permit Not Required

No permit is required for the following activities:

- (1) grazing livestock;
- (2) production of oil and gas; and
- (3) recreational activity other than the operation of a recreational vehicle.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.053. Fee

The commissioners court may require a reasonable fee to accompany the application.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.054. Grant of Application

(a) The commissioners court shall evaluate the permit application, and if the commissioners court finds as a fact after full investigation that the particular conduct proposed will not materially weaken the dune or reduce its effectiveness as a means of protection from the effects of high wind and water, it may grant the application.

(b) In determining whether or not to grant the application, the commissioners court shall consider the height, width, and slope of the dune and the restoration of protection affected by construction as well as the restoration of vegetation.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.055. Terms and Conditions of Permit

The commissioners court may include in a permit the terms and conditions it finds necessary to assure the protection of life and property.

[Acts 1977, 65th Leg., p. 2501, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 63.056. Notice to and Comments of Commissioner on Permits

(a) After receiving an application for a permit to perform any of the acts prohibited in Sections 63.091 through 63.092 of this code in a critical dune area, the commissioners court shall notify the commissioner by sending to him, not less than 10 days before the public hearing on the application, notice of the hearing and a copy of the application.

(b) The commissioner may submit any written or oral comments regarding the effect of the proposed

activity on the dunes that protect state-owned land, shores, and submerged land.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 63.057. Permit for Recreational Vehicle Prohibited**

No permit may be issued by the commissioners court that allows the operation of a recreational vehicle on a sand dune seaward of the dune protection line.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.058 to 63.090 reserved for expansion]

**SUBCHAPTER D. PROHIBITIONS**

**§ 63.091. Conduct Prohibited Between the Texas-Louisiana State Line and Aransas Pass**

Unless a permit is obtained authorizing the conduct, no person in any county in the area bounded on the south by the inlet known as Aransas Pass and on the north by the Texas-Louisiana state line, where a dune protection line has been established, may damage, destroy, or remove a sand dune or portion of a sand dune on a barrier island or peninsula seaward of the dune protection line or kill, destroy, or remove in any manner any vegetation growing on a sand dune seaward of the dune protection line.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 63.092. Conduct Prohibited Between Aransas Pass and Mansfield Ship Channel**

In any county in the area bounded on the north by the inlet known as Aransas Pass and on the south by the Mansfield Ship Channel, where a dune protection line has been established, no person without a permit may:

(1) excavate, remove, or relocate a sand dune or a portion of a sand dune that is located seaward of the dune protection line, thus reducing the sand dune to an elevation less than the elevation or elevations shown on the Special Flood Hazard Map of the area adopted by the administrator of the Federal Insurance Administration under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.); or

(2) kill, destroy, or remove in any manner vegetation growing on a sand dune seaward of the dune protection line without making provision for the stabilization of the dune by the installation or construction of improvements or the replanting or resodding of vegetation on the dune to maintain the dune at the minimum elevation provided in Subdivision (1) of this section.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 63.093. Prohibited Operation of Recreational Vehicles**

No person may operate a recreational vehicle on a sand dune seaward of the dune protection line in any county in which a dune protection line has been established.

[Acts 1977, 65th Leg., p. 2502, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.094 to 63.120 reserved for expansion]

**SUBCHAPTER E. CRITICAL DUNE AREAS**

**§ 63.121. Identification of Critical Dune Areas**

The commissioner, in his role as trustee of the public land of this state, shall identify the critical dune areas that are essential to the protection of state-owned land, shores, and submerged land.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 63.122. Notice to Counties**

After the commissioner has identified the critical dune areas, notice of the critical dune areas shall be given to the commissioners court of each county in which one or more of these areas is located.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.123 to 63.150 reserved for expansion]

**SUBCHAPTER F. APPEALS**

**§ 63.151. Appeal by Littoral Owner**

A littoral owner aggrieved by a decision of the commissioners court under this chapter may appeal to a district court in that county.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 63.152. Appeal by Commissioner**

The commissioner, in his role as trustee of the public land of this state, may appeal to a district court of that county any decision of the commissioners court that the commissioner determines to be a violation of this chapter.

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 63.153 to 63.180 reserved for expansion]

**SUBCHAPTER G. PENALTIES**

**§ 63.181. Penalty**

(a) A person who violates the provisions of this chapter shall be fined not more than \$200.

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

[Acts 1977, 65th Leg., p. 2503, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

SUBTITLE F. LAND OF POLITICAL SUBDIVISIONS

CHAPTER 71. LEASE FOR MINERAL DEVELOPMENT

SUBCHAPTER A. LEASES BY POLITICAL SUBDIVISIONS

Section

- 71.001. Definition.
- 71.002. Authority to Lease.
- 71.003. Governing Body to Exercise Authority.
- 71.004. Notice and Hearing.
- 71.005. Notice of Intention to Lease Land.
- 71.006. Receiving Bids and Awarding Lease.
- 71.007. Rejection of Bids and Additional Bids.
- 71.008. Grant of Lease.
- 71.009. Royalty.
- 71.010. Lease Term.

SUBCHAPTER B. POOLING MINERAL LEASES

- 71.051. Definitions.
- 71.052. Inserting Pooling Provisions in Leases.
- 71.053. Compliance With Governmental Agencies.
- 71.054. Terms and Conditions of Leases of County School Land.
- 71.055. Additional Terms of Leases.
- 71.056. Amending Lease.
- 71.057. Authority to Commit Royalty Interests.

SUBCHAPTER A. LEASES BY POLITICAL SUBDIVISIONS

§ 71.001. Definition

In this subchapter, "political subdivision" means any body corporate with a recognized and defined area.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.002. Authority to Lease

A political subdivision may lease land owned by it for mineral development, including development of coal and lignite.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.003. Governing Body to Exercise Authority

The governing body of the political subdivision which is vested by law with management, control, and supervision of the political subdivision shall exercise the right to lease the land.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.004. Notice and Hearing

Before a lease is made under this subchapter, notice must be given and a public hearing must be held for consideration of bids.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.005. Notice of Intention to Lease Land

(a) After the governing body determines that it is advisable to lease land belonging to the political subdivision, it shall give notice of the intention to lease the land.

(b) The notice shall describe the land to be leased and designate the time and place at which the governing body will receive and consider bids for the lease.

(c) The notice shall be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.006. Receiving Bids and Awarding Lease

On the date specified in the notice, the governing body of the political subdivision shall receive and consider bids submitted for leasing all or part of the land that was advertised for lease, and the governing body may award the lease to the highest and best bidder who submits a bid.

[Acts 1977, 65th Leg., p. 2504, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.007. Rejection of Bids and Additional Bids

If the governing body believes that the bids submitted to it do not represent the fair value of the leases, the governing body may reject the bids, give notice, and call for additional bids.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.008. Grant of Lease

A lease made under this subchapter, including leases for coal and lignite, may be granted by public auction.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.009. Royalty

(a) In each lease other than a lease for coal and lignite executed under this subchapter, the lessor shall retain at least a one-eighth royalty.

(b) In a lease for coal and lignite executed under this subchapter, the lessor shall retain at least a royalty based on one of the following or a combination of the following:

- (1) a sum certain per ton;
- (2) a percentage certain of the gross sale price F.O.B. at the mine site of the coal and lignite; or
- (3) a sum certain for each acre-foot of coal and lignite mined and removed from the premises.

(c) Royalties under a coal and lignite lease may be paid as advanced mineral royalties.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 71.010. Lease Term

(a) No primary term of a lease other than a lease for coal and lignite made under this subchapter may be for a period of more than 10 years from the date of the execution and approval of the lease.

(b) No primary term for a coal and lignite lease made under this subchapter may be for a period of more than 35 years from the date of execution. [Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 71.011 to 71.050 reserved for expansion]

#### SUBCHAPTER B. POOLING MINERAL LEASES

##### § 71.051. Definitions

In this subchapter:

(1) "City or town" means a city or town organized or chartered under the general laws of the state or under a special act or charter.

(2) "Political subdivision" means a body corporate which has a recognized and defined area. [Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 71.052. Inserting Pooling Provisions in Leases

A city, town, or political subdivision may insert in an oil and gas lease or in an oil, gas, and mineral lease executed by it a provision authorizing the lessee to pool the lease, the land or minerals included in the lease, or any part of these with any other land, leases, mineral estates, or parts of any of these to form a drilling or spacing unit for the exploration, development, and production of oil or gas and authorizing the lessee to form the units and accomplish the pooling by written designations filed in the county in which the land is located.

[Acts 1977, 65th Leg., p. 2505, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 71.053. Compliance With Governmental Agencies

With respect to land owned by the city or town or other land owned by the political subdivisions, the drilling or spacing units may not be more than the minimum number of acres on which an oil and gas well must be located to comply with the rules or orders of the Railroad Commission of Texas or any other federal or state regulatory body that has authority to control or regulate the spacing of oil and gas wells.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 71.054. Terms and Conditions of Leases of County School Land

Leases of county school land that are governed by Article VII, Section 6, of the Texas Constitution, may include authorization for the formation of drilling and spacing units on any terms and provisions the commissioners court considers best.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 71.055. Additional Terms of Leases

A lease covered by this subchapter may provide:

(1) that the entire acreage pooled into a unit shall be treated for all purposes except the payment of royalties as if it were included in the lease and drilling or reworking operations and production of oil or gas on any part of the unit shall be considered for all purposes except the payment of royalties as if the operations were on and production were from the land included in the lease whether or not the well or wells are located on the premises included in the lease; and

(2) that instead of the royalties provided in the lease, the lessor shall receive on production from a pooled unit only the proportion of the royalty provided in the lease as the amount of the lessor's acreage placed in the unit or its royalty interest on an acreage basis bears to the total acreage included in the unit.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 71.056. Amending Lease

On application of the lessee or present owner of any oil and gas lease or any oil, gas, and mineral lease validly executed before June 4, 1953, by any city, town, or political subdivision, the governing body of the city, town, or political subdivision may amend the lease to include a pooling provision that includes the terms provided in this subchapter. [Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 71.057. Authority to Commit Royalty Interests

(a) A city, town, or political subdivision without notice may commit, to any agreement that provides for the operation of areas as a unit for the exploration, development, and production of oil or gas, any royalty interests owned by the city, town, or political subdivision in oil or gas.

(b) The agreement may include any terms and provisions that the city, town, or political subdivision considers best and may provide in substance:

(1) that operations incident to drilling a well on any portion of a unit shall be considered for all purposes to be the conduct of the operation on each separately owned tract in the unit by the several owners of the tracts;

(2) that the production allocated to each tract included in a unit shall, when produced, be considered for all purposes to have been produced from the tract by a well drilled on it;

(3) that any lease that covers any part of the area committed to the agreement shall continue in force as long as oil or gas is produced in paying quantities from any part of the unit area; and

(4) that royalties reserved to the city, town, or political subdivision from any tract or portion of a tract included within the unit shall be paid only on that portion of the production allocated to the

tract or on the value of the production allocated according to the agreement.

(c) No agreement may be made by any city, town, or political subdivision which commits the city, town, or political subdivision to the payment of any part of the cost or expense of operating any unit area or any well located on the area.

[Acts 1977, 65th Leg., p. 2506, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**TITLE 3. OIL AND GAS**

**SUBTITLE A. ADMINISTRATION**

**CHAPTER 81. RAILROAD COMMISSION OF TEXAS**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section  
81.001. Definitions.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

- 81.011. Chief Supervisor.
- 81.012. Qualifications of Chief Supervisor.
- 81.013. Deputy Supervisors, Assistants, and Clerical Personnel.
- 81.014. Qualifications of Chief Deputy Supervisor.
- 81.015. Qualifications of Deputy Supervisors.
- 81.016. Salaries.
- 81.017. Additional Employees.
- 81.018. Payment of Salaries and Other Expenses.
- 81.019. Duties of Chief Supervisor, Chief Deputy Supervisor, Deputy Supervisors, and Other Employees.
- 81.020. Additional Duties of Chief Supervisor and His Deputies.

**SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES**

- 81.051. Jurisdiction of Commission.
- 81.052. Rules.
- 81.053. Commission Powers.
- 81.054. Enforcement by Attorney General.

**SUBCHAPTER D. WITNESSES**

- 81.091. Incriminating Testimony.
- 81.092. Fee for Executing Process.

**SUBCHAPTER E. TAX**

- 81.111. Tax Levy.
- 81.112. Disposition of Tax Proceeds.
- 81.113. Use of Tax Proceeds.
- 81.114. Production Reports.
- 81.115. Payments to Oil and Gas Division.

**SUBCHAPTER F. CAMPAIGNING**

- 81.151. Penalty for Campaigning.
- 81.152. Discharge and Ineligibility.
- 81.153. Setting Civil Complaint for Hearing.
- 81.154. Notice to Employee.
- 81.155. Court's Order.
- 81.156. Appeal.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 81.001. Definitions**

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Commissioner" means any member of the Railroad Commission of Texas.

[Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 81.002 to 81.010 reserved for expansion]

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

**§ 81.011. Chief Supervisor**

(a) The commission shall employ a chief supervisor of its oil and gas division to assist the commission in enforcing the laws relating to the production, transportation, and conservation of oil and gas and rules and orders of the commission adopted under these laws.

(b) The chief supervisor also shall perform the duties of the pipeline expert as provided in the pipeline laws of this state.

[Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 81.012. Qualifications of Chief Supervisor**

In addition to other qualifications that may be required by the commission, a person appointed chief supervisor must have had at least five years' experience in some line of the oil or gas business, or in some other business or profession that would provide the necessary knowledge and experience for the performance of his duties.

[Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 81.013. Deputy Supervisors, Assistants, and Clerical Personnel**

The commission may appoint a chief deputy supervisor, deputy supervisors, assistants, and clerical personnel necessary to execute the laws relating to oil and gas.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 81.014. Qualifications of Chief Deputy Supervisor**

A person appointed chief deputy supervisor must have had at least three years' experience in oil and gas field work.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 81.015. Qualifications of Deputy Supervisors**

Any person appointed deputy supervisor must have had at least two years' experience in oil and gas field work, including substantial experience in drilling or production.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 81.016. Salaries**

The salary of the chief supervisor, the chief deputy supervisor, and the deputy supervisors shall be

the same as that provided in the General Appropriations Act.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 81.017. Additional Employees

The commission may employ gaugers, inspectors, investigators, supervisors, and clerical employees. These employees shall include a chief engineer, chief petroleum engineer, and an administrative chief, and their salaries shall be paid in the amounts provided in the General Appropriations Act.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, § 1, eff. Sept. 1, 1981.]

#### § 81.018. Payment of Salaries and Other Expenses

(a) Salaries and other expenses necessary in the administration and enforcement of the oil and gas laws shall be paid by warrants drawn by the comptroller on the State Treasury from funds provided under Section 81.112 of this code.

(b) Warrants for expenses shall be issued only on duly verified statements of the persons entitled to the funds and on approval of the chairman of the commission.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 81.019. Duties of Chief Supervisor, Chief Deputy Supervisor, Deputy Supervisors, and Other Employees

The chief supervisor, chief deputy supervisor, deputy supervisors, and other employees shall perform the duties prescribed by the commission in conformity with rules of the commission relating to the production, transportation, and conservation of crude oil and natural gas.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 81.020. Additional Duties of Chief Supervisor and His Deputies

(a) The chief supervisor and his deputies shall supervise the plugging of all abandoned wells and the shooting of wells and shall follow the rules of the commission relating to the production and conservation of oil and gas.

(b) The chief supervisor shall gather information and assist the commission in the performance of its duties under this title.

[Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 81.021 to 81.050 reserved for expansion]

### SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

#### § 81.051. Jurisdiction of Commission

(a) The commission has jurisdiction over all:

- (1) common carrier pipelines defined in Section 111.002 of this code in Texas;
- (2) oil and gas wells in Texas;
- (3) persons owning or operating pipelines in Texas; and
- (4) persons owning or engaged in drilling or operating oil or gas wells in Texas.

(b) Persons listed in Subsection (a) of this section and their pipelines and oil and gas wells are subject to the jurisdiction conferred by law on the commission.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, § 5, eff. Sept. 1, 1977.]

#### § 81.052. Rules

The commission may adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the commission as set forth in Section 81.051, including such rules as the commission may consider necessary and appropriate to implement state responsibility under any federal law or rules governing such persons and their operations.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 19, ch. 12, § 1, eff. March 15, 1979.]

#### § 81.053. Commission Powers

In the discharge of its duties and the enforcement of its jurisdiction under this title, the commission shall:

- (1) institute suits;
- (2) hear and determine complaints;
- (3) require the attendance of witnesses and pay their expenses out of funds provided for that purpose;
- (4) obtain the issuance of writs and process which may be necessary for the enforcement of its orders; and
- (5) punish for contempt or disobedience of its orders in the manner provided for the district courts.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 81.054. Enforcement by Attorney General

The attorney general shall enforce the provisions of this title by injunction or other adequate remedy and as otherwise provided by law.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 81.055 to 81.090 reserved for expansion]

SUBCHAPTER D. WITNESSES

§ 81.091. **Incriminating Testimony**

If a witness fails or refuses to appear on being summoned, to answer any question he is asked, or to produce any record or data required by subpoena, the claim that the testimony may tend to incriminate the person giving it does not excuse the witness from testifying or producing the records and data, but the evidence or testimony may not be used against the person on the trial of any criminal proceeding.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.092. **Fee for Executing Process**

The sheriff or constable executing process shall receive the compensation authorized by the commission.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 81.093 to 81.110 reserved for expansion]

SUBCHAPTER E. TAX

§ 81.111. **Tax Levy**

(a) A tax is levied on crude petroleum produced in this state in the amount of three-sixteenths of one cent on each barrel of 42 standard gallons.

(b) This tax is in addition to and shall be collected in the same manner as the occupation tax on the production of crude petroleum.

[Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.112. **Disposition of Tax Proceeds**

The tax shall be deposited in the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, § 1, eff. Sept. 1, 1981.]

§ 81.113. **Use of Tax Proceeds**

Proceeds from the tax shall be used for the administration of the state's oil and gas conservation laws.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.114. **Production Reports**

Producers of crude petroleum shall make reports of production in the same manner and under the same penalties as provided for the occupation tax on the production of crude oil.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.115. **Payments to Oil and Gas Division**

Money appropriated to the oil and gas division of the commission under the General Appropriations Act shall be paid from the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, § 1, eff. Sept. 1, 1981.]

[Sections 81.116 to 81.150 reserved for expansion]

SUBCHAPTER F. CAMPAIGNING

§ 81.151. **Penalty for Campaigning**

A person who receives a salary from funds provided under this title and who uses his time or a state-owned automobile for campaign purposes or for the purpose of furthering the candidacy of his employer or any other candidate for state office is guilty of a misdemeanor and on conviction shall be fined not less than \$100 nor more than \$500 and shall be confined in jail for not less than 30 nor more than 90 days.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.152. **Discharge and Ineligibility**

A person found guilty under Section 81.151 of this code shall be discharged immediately from his position and shall be ineligible for employment by the state in the future.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.153. **Setting Civil Complaint for Hearing**

If a citizen of this state files a civil complaint with a district court in Travis County charging an employee with use of his time or a state-owned automobile for campaign purposes or to further the candidacy of his employer or any other candidate for state office, the court shall set the complaint for hearing at a time not less than 10 nor more than 20 days after the day on which the complaint is filed.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.154. **Notice to Employee**

The court shall have notice of the hearing served on the employee against whom the complaint was filed at least five days before the date of the hearing.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.155. **Court's Order**

At the hearing, if the court determines that the employee has used his time or a state-owned automobile as charged in the complaint, the court shall certify the fact to the department, agency, or commission which employs the person and order the employee's immediate discharge.

[Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 81.156. **Appeal**

Any person against whom charges have been filed is entitled to appeal to the court of appeals, but the pendency of the appeal does not suspend his discharge.

[Acts 1977, 65th Leg., p. 2512, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 799, ch. 291, § 91, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part: "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals, having jurisdiction."

SUBTITLE B. CONSERVATION AND  
REGULATION OF OIL AND GAS

CHAPTER 85. CONSERVATION OF OIL  
AND GAS

SUBCHAPTER A. GENERAL PROVISIONS

Section	
85.001.	Definitions.
85.002.	Antitrust and Monopoly Statutes.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

85.011.	Supervisors, Deputy Supervisors, and Umpires.
85.012.	Assistants and Clerical Help.
85.013.	Persons Enforcing Rules and Orders.

SUBCHAPTER C. PROVISIONS GENERALLY APPLICABLE  
TO THE CONSERVATION OF OIL AND GAS

85.041.	Acts Prohibited in Violation of Laws, Rules, and Orders.
85.042.	Rules and Orders.
85.043.	Application of Certain Rules and Orders.
85.044.	Exempt Purchases.
85.045.	Waste Illegal and Prohibited.
85.046.	Waste.
85.047.	Exclusion From Definition of Waste.
85.048.	Authority to Limit Production.
85.049.	Hearing.
85.050.	Procedure at Hearing.
85.051.	Adoption of Rule or Order.
85.052.	Compliance With Rule or Order.
85.053.	Distribution, Proration, and Apportionment of Allowable Production.
85.054.	Allowable Production of Oil.
85.055.	Allowable Production of Gas.
85.056.	Public Interest.
85.057.	Restriction on Unexplored Territory.
85.058.	Commission Inquiry and Determination.
85.059.	Records.
85.060.	Sworn Statements and Reports.
85.061.	Inspection and Gauging.
85.062.	Examination of Books and Records.
85.063.	Violations by Corporations.
85.064.	Action Against Corporation.

SUBCHAPTER D. MARGINAL WELLS

85.121.	Definitions.
85.122.	Wells Considered as Marginal Wells.
85.123.	Curtailment of Marginal Well Production as Waste.
85.124.	Rules and Orders Restricting Marginal Wells.
85.125.	Effect of Other Subchapters.

SUBCHAPTER E. CERTIFICATE OF COMPLIANCE

85.161.	Well Owners and Operators Certificates.
85.162.	Prohibited Connection.
85.163.	Temporary Connection.
85.164.	Cancellation of Certificate.
85.165.	Effect of Cancellation on Operator of Pipeline or Other Carrier.
85.166.	Effect of Cancellation on Owner or Operator of Well.

SUBCHAPTER F. RULES AND ORDERS OF  
THE COMMISSION

85.201.	Adoption of Rules and Orders.
85.202.	Purposes of Rules and Orders.
85.203.	Considerations in Adopting Rules and Orders to Prevent Waste.
85.204.	Prohibited Rules and Orders.
85.205.	Notice and Hearing.
85.206.	Emergency Order.
85.207.	Effect of Amendment, Repeal, or Expiration of a Rule or Order.

SUBCHAPTER G. SUITS CHALLENGING THE VALIDITY  
OF LAWS AND ORDERS

Section	
85.241.	Suits by Interested Persons.
85.242.	Expeditious Trial.
85.243.	Burden of Proof.
85.244.	Conditions for Injunctive Relief.
85.245.	Notice to Commission.
85.246.	Intervention in Suit.
85.247.	Rules and Orders Prima Facie Valid.
85.248.	Bond.
85.249.	Conditions of Bond.
85.250.	Changing Amount, Parties, and Sureties.
85.251.	Suits on Bonds.
85.252.	Inadmissible Evidence.
85.253.	Appeal.
85.254.	Appeal Has Precedence.
85.255.	Early Decision by Court of Appeals.
85.256.	Appeal Procedures.
85.257.	Certified Questions and Writs of Error.
85.258.	Authority of Court of Appeals to Issue Writs.
85.259.	Issuance of Writs by Court of Appeals.

SUBCHAPTER H. RECEIVERSHIP

85.291.	Request for Receiver.
85.292.	Appointment of Receiver and Bond.
85.293.	Duties of Receiver.
85.294.	Dissolution of Receivership.

SUBCHAPTER I. DAMAGES

85.321.	Suit for Damages.
85.322.	Proceedings Not to Impair Suit for Damages.

SUBCHAPTER J. INJUNCTIONS

85.351.	Suit for Injunction.
85.352.	Types of Court Orders.
85.353.	Appointment of Receiver.

SUBCHAPTER K. PENALTIES, IMPRISONMENT,  
AND CONFINEMENT

85.381.	Penalty for Violation of Laws, Rules, and Orders.
85.382.	Venue.
85.383.	Suit.
85.384.	Effect of Recovery or Payment of Penalty.
85.385.	Persons Aiding or Abetting Violation.
85.386.	Forging Names on Permits and Tenders.
85.387.	Procuring Tenders and Permits.
85.388.	Possessing a Forged Permit or Tender.

SUBCHAPTER A. GENERAL PROVISIONS

§ 85.001. Definitions

(a) In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Pool," "common pool," "field," or "common source of supply" means a common reservoir.

(3) "Pool" means an underground reservoir containing a connected accumulation of crude petroleum oil, or natural gas, or both.

(4) "Product" and "product of oil or gas" mean a commodity or thing made or manufactured from oil or gas and derivatives or by-products of oil or gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil,

naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, lubricating oil, casinghead gas, casinghead gasoline, blended gasoline, and blends or mixtures of oil, or gas, or any derivatives or by-products of them.

(b) "Oil" means crude petroleum oil, crude petroleum, and crude oil, and "gas" means natural gas. These terms shall not be construed as referring to substances different from those referred to in this chapter and other laws as "oil and gas" and these terms mean the same whether used in this chapter or in other laws relating to the conservation of oil and gas.

[Acts 1977, 65th Leg., p. 2514, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.002. **Antitrust and Monopoly Statutes**

(a) The provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, and Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, do not affect, alter, diminish, change, or modify the antitrust and monopoly laws of this state and do not directly or indirectly authorize a violation of the antitrust and monopoly laws of this state.

(b) It is the legislative intent that no provision of this chapter that was formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, or Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, shall affect, alter, diminish, or amend in any manner a provision of the antitrust and monopoly laws of this state or authorize a violation of the antitrust and monopoly laws. The legislative intent expressed in this subsection shall prevail and take precedence over sections cited in this subsection regardless of any statement in these sections to the contrary.

(c) If any provision of this chapter that was formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, or Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, is construed by a court of this state in a manner that will affect, alter, diminish, or modify any provision of the antitrust and monopoly laws of this state, this provision which is in conflict is declared null and void rather than the antitrust and monopoly laws.

[Acts 1977, 65th Leg., p. 2515, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.003 to 85.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 85.011. **Supervisors, Deputy Supervisors, and Umpires**

The commission shall employ all supervisors, deputy supervisors, and umpires necessary to carry out the provisions of this chapter and other related laws and rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2515, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.012. **Assistants and Clerical Help**

The commission shall employ other assistants and clerical help necessary to carry out the provisions of this chapter and other related laws and rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2515, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.013. **Persons Enforcing Rules and Orders**

A person entrusted with the enforcement of the rules and orders of the commission shall be a regular employee of the state and paid by the state. No person other than a regular employee of the state may be charged with or relied on for the performance of these duties.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.014 to 85.040 reserved for expansion]

SUBCHAPTER C. PROVISIONS GENERALLY APPLICABLE TO THE CONSERVATION OF OIL AND GAS

§ 85.041. **Acts Prohibited in Violation of Laws, Rules, and Orders**

(a) The purchase, acquisition, or sale, or the transporting, refining, processing, or handling in any other way, of oil or gas, produced in whole or in part in violation of any oil or gas conservation statute of this state or of any rule or order of the commission under such a statute, is prohibited.

(b) The purchase, acquisition, or sale, or the transporting, refining, processing, or handling in any other way, of any product of oil or gas which is derived in whole or in part from oil or gas or any product of either, which was in whole or part produced, purchased, acquired, sold, transported, refined, processed, or handled in any other way, in violation of any oil or gas conservation statute of this state, or of any rule or order of the commission under such a statute, is prohibited.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.042. **Rules and Orders**

(a) The commission may promulgate and enforce rules and orders necessary to carry into effect the provisions of Section 85.041 of this code and to prevent that section's violation.

(b) When necessary, the commission shall make and enforce rules either general in their nature or applicable to particular fields for the prevention of actual waste of oil or operations in the field dangerous to life or property.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.043. Application of Certain Rules and Orders

If the commission requires a showing that refined products were manufactured from oil legally produced, the requirement shall be of uniform application throughout the state; provided that, if the rule or order is promulgated for the purpose of controlling a condition in any local area or preventing a violation in any local area, then on the complaint of a person that the same or similar conditions exist in some other local area and the promulgation and enforcement of the rule could be beneficially applied to that additional area, the commission shall determine whether or not those conditions do exist, and if it is shown that they do, the rule or order shall be enlarged to include the additional area.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.044. Exempt Purchases

The provisions of Sections 85.041 through 85.043 of this code do not apply to the purchase of products of oil if made by the ultimate consumer from a retail distributor of the products.

[Acts 1977, 65th Leg., p. 2516, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.045. Waste Illegal and Prohibited

The production, storage, or transportation of oil or gas in a manner, in an amount, or under conditions that constitute waste is unlawful and is prohibited.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.046. Waste

(a) The term "waste," among other things, specifically includes:

(1) operation of any oil well or wells with an inefficient gas-oil ratio and the commission may determine and prescribe by order the permitted gas-oil ratio for the operation of oil wells;

(2) drowning with water a stratum or part of a stratum that is capable of producing oil or gas or both in paying quantities;

(3) underground waste or loss, however caused and whether or not the cause of the underground waste or loss is defined in this section;

(4) permitting any natural gas well to burn wastefully;

(5) creation of unnecessary fire hazards;

(6) physical waste or loss incident to or resulting from drilling, equipping, locating, spacing, or operating a well or wells in a manner that reduces

or tends to reduce the total ultimate recovery of oil or gas from any pool;

(7) waste or loss incident to or resulting from the unnecessary, inefficient, excessive, or improper use of the reservoir energy, including the gas energy or water drive, in any well or pool; however, it is not the intent of this section or the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, to require repressuring of an oil pool or to require that the separately owned properties in any pool be unitized under one management, control, or ownership;

(8) surface waste or surface loss, including the temporary or permanent storage of oil or the placing of any product of oil in open pits or earthen storage, and other forms of surface waste or surface loss including unnecessary or excessive surface losses, or destruction without beneficial use, either of oil or gas;

(9) escape of gas into the open air in excess of the amount necessary in the efficient drilling or operation of the well from a well producing both oil and gas;

(10) production of oil in excess of transportation or market facilities or reasonable market demand, and the commission may determine when excess production exists or is imminent and ascertain the reasonable market demand; and

(11) surface or subsurface waste of hydrocarbons, including the physical or economic waste or loss of hydrocarbons in the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility.

(b) Notwithstanding the provisions contained in this section or elsewhere in this code or in other statutes or laws, the commission may permit production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas where the commission, after notice and hearing, has found that producing oil or gas or oil and gas in a commingled state will prevent waste, promote conservation, or protect correlative rights.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 673, ch. 300, § 1, eff. May 29, 1979; Acts 1981, 67th Leg., p. 3166, ch. 830, § 2, eff. June 17, 1981.]

#### § 85.047. Exclusion From Definition of Waste

The use of gas produced from an oil well within the permitted gas-oil ratio for manufacture of natural gasoline shall not be included in the definition of waste.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.048. Authority to Limit Production**

(a) Under the provisions of Subsection (10), Section 85.046 of this code, the commission shall not restrict the production of oil from any new field brought into production by exploration until the total production from that field is 10,000 barrels of oil a day in the aggregate.

(b) The commission's authority to restrict production from a new field under other provisions of Section 85.046 of this code is not limited by this section.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.049. Hearing**

(a) On verified complaint of any person interested in the subject matter that waste of oil or gas is taking place in this state or is reasonably imminent, or on its own initiative, the commission, after proper notice, may hold a hearing to determine whether or not waste is taking place or is reasonably imminent and if any rule or order should be adopted or if any other action should be taken to correct, prevent, or lessen the waste.

(b) The hearing shall be held at the time and place determined by the commission.

[Acts 1977, 65th Leg., p. 2517, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.050. Procedure at Hearing**

(a) At the hearing, interested parties shall be entitled to be heard and to introduce evidence and require the attendance of witnesses.

(b) The production of evidence may be required as provided by law.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.051. Adoption of Rule or Order**

If the commission finds at the hearing that waste is taking place or is reasonably imminent, it shall adopt a rule or order in the manner provided by law as it considers reasonably required to correct, prevent, or lessen the waste.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.052. Compliance With Rule or Order**

From and after the promulgation of a rule or order of the commission, it is the duty of each person affected by the rule or order to comply with it.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.053. Distribution, Proration, and Apportionment of Allowable Production**

(a) If a rule or order of the commission limits or fixes in a pool or portion of a pool the production of oil, or the production of gas from wells producing gas only, the commission shall distribute, prorate, or

otherwise apportion or allocate the allowable production among the various producers on a reasonable basis.

(b) When, as provided in Subsection (b) of Section 85.046 or Subsection (b) of Section 86.012 of this code, as amended, the commission has permitted production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas, the commission may distribute, prorate, apportion, or allocate the production of such commingled separate multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas as if they were a single pool; provided, however, that:

(i) the commingling and distribution, proration, apportionment, or allocation of separate accumulations with commission established discovery dates after January 1, 1940, and prior to June 1, 1945, shall not serve to expand, add to, or extend the vertical or areal extent of any single pool;

(ii) such commingling shall not cause the allocation of allowable production from a well producing from any separate accumulation or accumulations to be less than that which would result from the commission applying the provisions of Section 86.095 of this code to such accumulation or accumulations;

(iii) the allocation of the allowable for such commingled production shall be based on not less than two factors which the Railroad Commission shall take into account as directed by Section 86.089 of this code; and

(iv) No gas well in any field falling within the classification under Subdivision (i) above where commingled separate accumulations of gas are being prorated under the authority granted by this Subsection (b) shall be assigned an allowable in excess of its production during the most recent production period reported to the commission and in the absence of any reported production the assigned allowable shall not exceed the open-flow potential of such well as reported to the commission; provided, however, that the commission may, if it finds special conditions require such, make a greater assignment.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2578, ch. 688, § 1, eff. June 16, 1981.]

**§ 85.054. Allowable Production of Oil**

(a) To prevent unreasonable discrimination in favor of one pool as against another, and on written complaint and proof of such discrimination, the commission may allocate or apportion the allowable production of oil on a fair and reasonable basis among the various pools in the state.

(b) In allocating or ascertaining the reasonable market demand for the entire state, the reasonable market demand of one pool shall not be discriminated against in favor of another pool.

(c) The commission shall determine the reasonable market demand of the respective pool as the basis for determining the allotments to be assigned to the respective pool so that discrimination may be prevented.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.055. Allowable Production of Gas

(a) If full production from wells producing gas only from a common source of supply of gas in this state is in excess of the reasonable market demand, the commission shall inquire into the production and reasonable market demand for the gas and shall determine the allowable production from the common source of supply.

(b) The allowable production from a common source of supply is that portion of the reasonable market demand that can be produced without waste.

(c) The commission shall allocate, distribute, or apportion the allowable production from the common source of supply among the various producers on a reasonable basis and shall limit the production of each producer to the amount allocated or apportioned to the producer.

(d) When, as provided in Subsection (b) of Section 85.046 or Subsection (b) of Section 86.012 of this code, as amended, the commission has permitted production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas, the commission may allocate, distribute, or apportion the production of such commingled separate multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas as if they were a single common source of supply; provided, however, that:

(i) the commingling and distribution, proration, apportionment, or allocation of separate accumulations with commission established discovery dates after January 1, 1940, and prior to June 1, 1945, shall not serve to expand, add to, or extend the vertical or areal extent of any single common source of supply;

(ii) such commingling shall not cause the allocation of allowable production from a well producing from any separate accumulation or accumulations to be less than that which would result from the commission applying the provisions of Section 86.095 to such accumulation or accumulations;

(iii) the allocation of the allowable for such commingled production shall be based on not less than two factors which the Railroad Commission shall take into account as directed by Section 86.089 of this code; and

no gas well in any field falling within the classification under (i) above where commingled separate accumulations of gas are being prorated under the authority granted by this Subsection (d) shall be assigned an allowable in excess of its production during the most recent production period reported to

the commission and in the absence of any reported production the assigned allowable shall not exceed the open-flow potential of such well as reported to the commission; provided, however, that the commission may, if it finds special conditions require such, make a greater assignment.

[Acts 1977, 65th Leg., p. 2518, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2579, ch. 688, § 2, eff. June 16, 1981.]

#### § 85.056. Public Interest

In the administration of the provisions of this chapter that were formerly a part of Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, the commission shall take into consideration and protect the rights and interests of the purchasing and consuming public in oil and all its products, such as gasoline and lubricating oil.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.057. Restriction on Unexplored Territory

The provisions of this chapter that were formerly a part of Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, shall not be construed to grant the commission any authority to restrict or in any manner limit the drilling of wells to explore for oil or gas or both in territory that is not known to produce either oil or gas.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.058. Commission Inquiry and Determination

From time to time, the commission shall inquire into the production, storage, transportation, refining, reclaiming, treating, marketing, and processing of oil and gas, and the reasonable market demand for oil and gas, so that it may determine whether or not waste exists or is imminent or whether the oil and gas conservation laws of this state or the rules and orders of the commission promulgated under those laws are being violated.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.059. Records

Each person who produces, stores, transports, refines, reclaims, treats, markets, or processes oil or gas or the products of either shall keep in this state accurate records of the amount of oil or gas which such person produced, stored, transported, refined, reclaimed, treated, marketed, or processed and of the source from which the person produced, obtained, or received the oil or gas or the products of either and the disposition made of them.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.060. Sworn Statements and Reports

The commission may require a person who produces, stores, transports, refines, reclaims, treats,

markets, or processes oil or gas or the products of either to make and file with the commission sworn statements or reports as to facts within his knowledge or possession pertaining to the reasonable market demand for oil and to the production, storage, transportation, refining, reclaiming, treating, marketing, or processing of oil or gas and the products of either. The report shall include those facts enumerated in Section 85.059 of this code.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.061. Inspection and Gauging**

The commission may require any well, lease, refinery, plant, tank or storage, pipeline, or gathering line that belongs to or is under the control of a person who produces, stores, transports, refines, reclaims, treats, markets, or processes oil or gas or the products of either to be inspected or gauged by the agents of the commission whenever and as often as and for such periods as the commission considers necessary.

[Acts 1977, 65th Leg., p. 2519, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.062. Examination of Books and Records**

The commission and its agents and the attorney general and his assistants and representatives may examine the books and records of a person who produces, stores, transports, refines, reclaims, treats, markets, or processes oil or gas or the products of either as often as considered necessary for the purpose of determining the facts concerning matters covered by Sections 85.058 through 85.061 of this code.

[Acts 1977, 65th Leg., p. 2520, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.063. Violations by Corporations**

(a) The failure of a corporation chartered under the laws of this state to comply with the provisions of Sections 85.059 through 85.062 of this code and to keep the records required by Section 85.059 of this code in this state or the refusal to permit officers designated in Section 85.062 of this code to inspect and examine the records required by Section 85.059 of this code shall constitute grounds for forfeiture of the corporation's charter rights and privileges and dissolution of its corporate existence.

(b) The failure of a foreign corporation to comply with the provisions of Sections 85.059 through 85.062 of this code and to keep the records required by Section 85.059 of this code in this state or the refusal to permit officers designated in Section 85.062 of this code to inspect and examine the records required by Section 85.059 of this code shall be grounds for enjoining and forever prohibiting such corporation from doing business in this state.

[Acts 1977, 65th Leg., p. 2520, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.064. Action Against Corporation**

(a) If he determines that the public interest requires it, the attorney general shall institute suit or other appropriate action in Travis County for forfeiture of charter rights of a domestic corporation or to enjoin a foreign corporation from doing business in this state when a corporation is deemed guilty of violating the provisions of Sections 85.059 through 85.062 of this code. The attorney general may take this action on his own motion and without leave or order of any judge or court.

(b) On judgment against a defendant for violating the provisions of Sections 85.059 through 85.062 of this code, the court may, if in its judgment the public interest requires it, forfeit the charter rights of a defendant domestic corporation or enjoin a defendant foreign corporation from doing business in this state.

[Acts 1977, 65th Leg., p. 2520, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.065 to 85.120 reserved for expansion]

**SUBCHAPTER D. MARGINAL WELLS**

**§ 85.121. Definitions**

(a) In this subchapter, "marginal well" means an oil well that is incapable of producing its maximum capacity of oil except by pumping, gas lift, or other means of artificial lift, and which well so equipped is capable, under normal unrestricted operating conditions, of producing such daily quantities of oil, as provided in this subchapter, that would be damaged, or result in a loss of production ultimately recoverable, or cause the premature abandonment of the well, if its maximum daily production were artificially curtailed.

(b) As used in Subsection (a), Section 85.121 and Section 85.122 of this code, "gas lift" means gas lift by the use of gas not in solution with oil produced. [Acts 1977, 65th Leg., p. 2520, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.122. Wells Considered as Marginal Wells**

Wells that are considered marginal wells include any oil well in this state that is incapable of producing its maximum daily capacity of oil except by pumping, gas lift, or other means of artificial lift and having:

- (1) when producing from a depth of 2,000 feet or less, a maximum daily capacity for production of 10 barrels or less, averaged over the preceding 30 consecutive days;
- (2) when producing from a horizon deeper than 2,000 feet and less in depth than 4,000 feet, a maximum daily capacity for production of 20 barrels or less, averaged over the preceding 30 consecutive days;
- (3) when producing from a horizon deeper than 4,000 feet and less in depth than 6,000 feet, a

maximum daily capacity for production of 25 barrels or less, averaged over the preceding 30 consecutive days;

(4) when producing from a horizon deeper than 6,000 feet and less in depth than 8,000 feet, a maximum daily capacity for production of 30 barrels or less, averaged over the preceding 30 consecutive days; or

(5) when producing from a horizon deeper than 8,000 feet, a maximum daily capacity for production of 35 barrels or less, averaged over the preceding 30 consecutive days.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.123. Curtailment of Marginal Well Production as Waste

To artificially curtail the production of a marginal well below the marginal limit as set out in Sections 85.121 through 85.122 of this code before the marginal well's ultimate plugging and abandonment is declared to be waste.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.124. Rules and Orders Restricting Marginal Wells

No rule or order of the commission or of any other constituted legal authority shall be adopted requiring the restriction of the production of a marginal well.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.125. Effect of Other Subchapters

None of the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, Chapter 2, Acts of the 42nd Legislature, 4th Called Session, 1932, as amended, or Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, authorize or may be construed to limit, modify, or repeal the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.126 to 85.160 reserved for expansion]

### SUBCHAPTER E. CERTIFICATE OF COMPLIANCE

#### § 85.161. Well Owners and Operators Certificates

The owner or operator of an oil or gas well, before connecting with any oil or gas pipeline, shall secure from the commission a certificate showing compliance with the oil or gas conservation laws of the state and conservation rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.162. Prohibited Connection

No operator of a pipeline or other carrier shall connect with any oil or gas well until the owner or operator of the well furnishes a certificate from the commission that the owner or operator has complied with the conservation laws of this state and the rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2521, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.163. Temporary Connection

The provisions of this subchapter do not prevent a temporary connection with a well in order to take care of production and prevent waste until opportunity shall have been given the owner or operator of the well to secure the certificate.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.164. Cancellation of Certificate

The commission may cancel any certificate of compliance issued under the provisions of this subchapter if it appears that the owner or operator of a well covered by the provisions of the certificate, in the operation of the well or the production of oil or gas from the well, has violated or is violating the oil and gas conservation laws of this state or rules or orders of the commission adopted under those laws.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.165. Effect of Cancellation on Operator of Pipeline or Other Carrier

(a) On notice from the commission to the operator of a pipeline or other carrier connected to an oil or gas well that the certificate of compliance pertaining to that well has been cancelled, the operator of the pipeline or other carrier shall disconnect from the well.

(b) It shall be unlawful for the operator of a pipeline or other carrier to transport oil from the well until a new certificate of compliance has been issued by the commission.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 85.166. Effect of Cancellation on Owner or Operator of Well

On notice from the commission that a certificate of compliance for an oil or gas well has been cancelled, it shall be unlawful for the owner or operator of the well to produce oil or gas from the well until a new certificate of compliance covering the well has been issued by the commission.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.167 to 85.200 reserved for expansion]

SUBCHAPTER F. RULES AND ORDERS OF THE COMMISSION

§ 85.201. Adoption of Rules and Orders

The commission shall make and enforce rules and orders for the conservation of oil and gas and prevention of waste of oil and gas.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.202. Purposes of Rules and Orders

(a) The rules and orders of the commission shall include rules and orders:

(1) to prevent waste, as defined in Section 85.046 of this code, of oil and gas in drilling and producing operations and in the storage, piping, and distribution of oil and gas;

(2) to require dry or abandoned wells to be plugged in a manner that will confine oil, gas, and water in the strata in which they are found and prevent them from escaping into other strata;

(3) for the drilling of wells and preserving a record of the drilling of wells;

(4) to require wells to be drilled and operated in a manner that will prevent injury to adjoining property;

(5) to prevent oil and gas and water from escaping from the strata in which they are found into other strata;

(6) to provide rules for shooting wells and for separating oil from gas;

(7) to require records to be kept and reports made; and

(8) to provide for issuance of permits, tenders, and other evidences of permission when the issuance of the permits, tenders, or permission is necessary or incident to the enforcement of the commission's rules or orders for the prevention of waste.

(b) The commission shall do all things necessary for the conservation of oil and gas and prevention of waste of oil and gas and may adopt other rules and orders as may be necessary for those purposes.

[Acts 1977, 65th Leg., p. 2522, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.203. Considerations in Adopting Rules and Orders to Prevent Waste

The commission may consider any or all of the definitions of waste stated in Section 85.046 of this code, whenever the facts, circumstances, or conditions make them applicable, in adopting rules or orders to prevent waste of oil or gas.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.204. Prohibited Rules and Orders

The commission is not authorized to adopt a rule or order or to make a determination or holding that any mode, manner, or process of refining oil constitutes waste.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.205. Notice and Hearing

No rule or order pertaining to the conservation of oil and gas or to the prevention of waste of oil and gas may be adopted by the commission except after notice and hearing as provided by law.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.206. Emergency Order

(a) If the commission finds an emergency to exist, that in the commission's judgment requires the adoption of an order without giving notice or holding a hearing, the emergency order may be adopted and shall be valid as though notice had been given and a hearing held.

(b) The emergency order shall remain in force no longer than 15 days from its effective date.

(c) The emergency order shall expire, in any event, at the time an order relating to the same subject matter and adopted after proper notice and hearing becomes effective.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 85.207. Effect of Amendment, Repeal, or Expiration of a Rule or Order

The amendment, repeal, or expiration of a rule or order of the commission adopted under the provisions of this chapter that were formerly a part of Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, or the provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, shall not have the effect of releasing or discharging from liability, penalty, or forfeiture any person violating the rule or order before the effective date of the amendment, repeal, or expiration. Prosecutions and suits for these violations, liabilities, penalties, and forfeitures shall be instituted and proceeded with in all respects as if the rule or order had not been amended or repealed, or had not expired.

[Acts 1977, 65th Leg., p. 2523, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.208 to 85.240 reserved for expansion]

SUBCHAPTER G. SUITS CHALLENGING THE VALIDITY OF LAWS AND ORDERS

§ 85.241. Suits by Interested Persons

Any interested person who is affected by the conservation laws of this state or orders of the commission relating to oil or gas and the waste of oil or gas, and who is dissatisfied with any of these laws or orders, may file suit against the commission or its members in a court of competent jurisdiction in Travis County to test the validity of the law or order.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.242. Expeditious Trial**

A suit brought under Section 85.241 of this code shall be advanced for trial and shall be determined as expeditiously as possible. No postponement or continuance shall be granted except for reasons considered imperative by the court.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.243. Burden of Proof**

In the trial of a suit brought under Section 85.241 of this code, the burden of proof shall be on the party complaining of the law or order, and the law or order is deemed prima facie valid.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.244. Conditions for Injunctive Relief**

No temporary restraining order, temporary or permanent injunction, or other form of injunctive relief may be granted against the commission, its members, agents, and representatives to restrain it or them from enforcing any rule or order adopted by the commission under the oil and gas conservation laws of this state or from enforcing any of these laws unless notice is given to the commission and a hearing is held as provided in this subchapter.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.245. Notice to Commission**

(a) At the time a petition or application is filed requesting a temporary restraining order or any form of temporary injunctive relief, the clerk of the court in which the petition or application is filed shall issue notice in writing to the commission.

(b) The notice shall include:

- (1) the docket number;
- (2) the style of the case; and
- (3) a brief statement of the nature of the suit.

(c) The notice shall be served on the commission in Travis County by delivering a copy of the citation to the commission, a member of the commission, or the secretary of the commission for the service of other citations.

(d) Five days after the citation has been served a hearing may be held on the petition or application.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.246. Intervention in Suit**

In the discretion of the court, any person who is interested in the subject matter of the suit may intervene.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.247. Rules and Orders Prima Facie Valid**

The rule or order complained of in the suit is prima facie valid, and the use and introduction of

the verified petition of the plaintiff shall not be sufficient to overcome the prima facie validity of the rule or order or to authorize the court to grant any injunctive relief against the enforcement of the rule or order.

[Acts 1977, 65th Leg., p. 2524, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.248. Bond**

Before an order granting injunctive relief against an oil and gas conservation law, rule, or order of the commission becomes effective, the plaintiff shall be required by the court to execute a bond with good and sufficient sureties in a reasonably sufficient amount determined by the court to indemnify any persons whom the court may find from the facts proven will suffer damage as a result of the violation of the law, rule, or order in question. The persons shall be named in the order of the judge at the time the amount of the bond is fixed by the court and entered in the record.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.249. Conditions of Bond**

(a) In determining the amount of the bond, the judge shall consider all facts and circumstances surrounding the parties and the ability of the plaintiff to make the bond so that the judge can determine the amount and reasonableness of the bond under the facts and circumstances.

(b) A bond made or executed by a bonding or surety company shall be by a company authorized to do business in Texas.

(c) The bond shall be approved by the judge and shall be for the use and benefit of and may be sued on by any person named in the order who suffers damage as a result of violation of the law, rule, or order.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.250. Changing Amount, Parties, and Sureties**

On a motion and for good cause shown, and after notice to the parties, the court periodically may:

- (1) increase or decrease the amount of the bond;
- (2) add new beneficiaries; and
- (3) require new and additional sureties that the facts may justify.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.251. Suits on Bonds**

A suit on a bond must be instituted within six months from the date of the final determination of the validity in whole or in part of the rule or order.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.252. Inadmissible Evidence**

A finding by the court that any party is likely to suffer damage is not admissible as evidence of damages in a suit on the bond.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.253. Appeal**

After notice and hearing on an application for injunctive relief, either party to the suit is entitled to appeal the judgment or order granting or refusing the temporary restraining order, temporary or permanent injunction, or other form of injunctive relief or granting or overruling a motion to dissolve the temporary restraining order, temporary or permanent injunction, or other form of injunctive relief.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.254. Appeal Has Precedence**

The appeal is returnable at once to the appellate court and the action appealed shall have precedence in the appellate court over all cases, proceedings, and causes of a different character that are pending.

[Acts 1977, 65th Leg., p. 2525, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.255. Early Decision by Court of Appeals**

The court of appeals shall decide the question in the appeal at as early a date as possible.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 92, eff. Sept. 1, 1981.]

**§ 85.256. Appeal Procedures**

The provisions and requirements of Article 4662, Revised Civil Statutes of Texas, 1925, as amended, and Rule 385 of the Texas Rules of Civil Procedure, as amended, relating to temporary injunctions, apply to appeals from any order granting or refusing a temporary restraining order, or granting or overruling a motion to dissolve a temporary restraining order under the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.257. Certified Questions and Writs of Error**

(a) If a question is certified or writ of error requested or granted to the supreme court, the supreme court shall set the cause for hearing immediately and shall decide the cause at as early a date as possible.

(b) The cause shall have precedence over all other causes, proceedings, and causes of a different character in the court.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.258. Authority of Court of Appeals to Issue Writs**

The court of appeals and its judges have the jurisdiction to issue writs of prohibition, mandamus, and injunction to prevent the enforcement of any order or judgment of a trial court or judge who grants any type of injunctive relief without notice and hearing in violation of the requirements of Sections 85.244 and 85.245 of this code.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 93, eff. Sept. 1, 1981.]

**§ 85.259. Issuance of Writs by Court of Appeals**

If it appears that the provisions of Sections 85.244 and 85.245 of this code have not been complied with, then on proper application from the commission to the court of appeals having jurisdiction, the court shall issue instanter the necessary writs of prohibition, mandamus, or injunction to prohibit and restrain the trial judge from enforcing or attempting to enforce the provisions of the injunction issued by him and to prohibit and restrain the party or parties in whose favor the order is entered from acting or attempting to act under the protection of the order or from violating the law, rule, or order of the commission attacked.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 94, eff. Sept. 1, 1981.]

[Sections 85.260 to 85.290 reserved for expansion]

SUBCHAPTER H. RECEIVERSHIP

**§ 85.291. Request for Receiver**

If a rule or order of the commission has been finally adjudicated to be valid in whole or part in a suit to which the commission is a party, and if after that time a party to the suit or other proceedings in which the rule or order was declared valid violates the rule, order, or judgment or shall thereafter use or permit to be used any property owned or controlled by him in violation of the rule, order, or judgment, the commission shall make application to the judge of the trial court setting out the rule, order, or judgment and stating that the party subsequent to the date of the judgment violated or is violating the rule, order, or judgment and requesting that a receiver be appointed as provided in this subchapter.

[Acts 1977, 65th Leg., p. 2526, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.292. Appointment of Receiver and Bond**

After an application is submitted as provided in Section 85.291 of this code, the judge of the trial court, after notice and hearing, may appoint a receiver of the property involved or used in violation of the rule, order, or judgment and shall set a proper bond for the receiver.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.293. Duties of Receiver**

As soon as the receiver is qualified, he shall take possession of the property and shall perform his duties as receiver of the property under the orders of the court, strictly observing the rule, order, or judgment.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.294. Dissolution of Receivership**

A party whose property is placed in receivership may move to dissolve the receivership and to discharge the receiver on the terms the court may prescribe.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.295 to 85.320 reserved for expansion]

**SUBCHAPTER I. DAMAGES****§ 85.321. Suit for Damages**

A party who owns an interest in property or production that may be damaged by another party violating the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, or another law of this state prohibiting waste or a valid rule or order of the commission may sue for and recover damages and have any other relief to which he may be entitled at law or in equity.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.322. Proceedings Not to Impair Suit for Damages**

None of the provisions of this chapter that were formerly a part of Chapter 26, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended, no suit by or against the commission, and no penalties imposed on or claimed against any party violating a law, rule, or order of the commission shall impair or abridge or delay a cause of action for damages or other relief that an owner of land or a producer of oil or gas, or any other party at interest, may have or assert against any party violating any rule or order of the commission or any judgment under this chapter.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.323 to 85.350 reserved for expansion]

**SUBCHAPTER J. INJUNCTIONS****§ 85.351. Suit for Injunction**

(a) If it appears that a person is violating or threatening to violate the provisions of this chapter that were formerly a part of Chapter 76, General Laws, Acts of the 44th Legislature, Regular Session, 1935, as amended, or Title 102, Revised Civil Stat-

utes of Texas, 1925, as amended, including provisions of this code formerly included in that title, or any rule or order of the commission adopted under those laws, the commission, through the attorney general, shall bring suit in the name of the state to restrain the violation or threatened violation.

(b) The suit shall be brought against the person violating or threatening to violate the law, rule, or order in a court of competent jurisdiction in Travis County or in the county of residence of the defendant. If there is more than one defendant, the suit to restrain the violation of the law, rule, or order or part of it may be brought in the county of residence of any of the defendants or in the county in which the violation is alleged to have occurred.

[Acts 1977, 65th Leg., p. 2527, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.352. Types of Court Orders**

In the suit, the commission in the name of the state may obtain prohibitory and mandatory injunctions, including temporary restraining orders and temporary injunctions, that the facts may warrant.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.353. Appointment of Receiver**

(a) The violation by a person of any injunction granted under the provisions of this subchapter shall be sufficient grounds for appointment by the court of a receiver to take charge of the person's property and to exercise authority that in the judgment of the court is necessary to bring about compliance with the injunction. The court may appoint the receiver either on its own motion or on motion of the commission in the name of the state.

(b) No receiver may be appointed until after notice is given and a hearing is held.

(c) The authority to appoint a receiver is in addition to and cumulative of the authority to punish for contempt.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 85.354 to 85.380 reserved for expansion]

**SUBCHAPTER K. PENALTIES, IMPRISONMENT, AND CONFINEMENT****§ 85.381. Penalty for Violation of Laws, Rules, and Orders**

In addition to being subject to any forfeiture provided by law and to any penalty imposed by the commission for contempt for violation of its rules or orders, any person who violates the provisions of Sections 85.045 and 85.046 of this code, Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, or any rule or order of the commission promulgated under those laws shall be subject to a penalty of not more than \$1,000 for each and every

day of violation and for each and every act of violation.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.382. Venue**

The penalty provided in Section 85.381 of this code shall be recovered in a court of competent jurisdiction in Travis County or in the county of the residence of the defendant. If there is more than one defendant, the penalty may be recovered in the county of residence of any of the defendants or in the county in which the violation is alleged to have occurred.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.383. Suit**

By direction of the commission, the suit to recover the penalty shall be instituted and conducted in the name of the state by the attorney general or by the county or district attorney in the county in which the suit is brought.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.384. Effect of Recovery or Payment of Penalty**

The recovery or payment of the penalty shall not authorize the violation of any provision of Section 85.045 or 85.046 of this code, Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, or any rule or order of the commission adopted under those laws.

[Acts 1977, 65th Leg., p. 2528, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.385. Persons Aiding or Abetting Violation**

Any person who aids or abets any other person in violating Section 85.045 or 85.046 of this code, Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, or any rule or order adopted by the commission under those laws is subject to the same penalties as provided in Section 85.381 of this code.

[Acts 1977, 65th Leg., p. 2529, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.386. Forging Names on Permits and Tenders**

A person shall be imprisoned in the penitentiary for not less than two nor more than five years if he:

(1) forges the name of an agent, officer, or employee of the commission to a permit or tender of the commission relating to oil or gas or any product or by-product of oil or gas;

(2) forges the name of any person to such a tender or permit; or

(3) knowingly uses a forged instrument to induce another to handle or transport oil or gas or any product or by-product of oil or gas.

[Acts 1977, 65th Leg., p. 2529, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.387. Procuring Tenders and Permits**

A person shall be imprisoned in the penitentiary for not less than two nor more than five years if he:

(1) knowingly procures or causes an agent, officer, or employee of the commission to approve or issue a permit or tender of the commission relating to oil or gas or any product or by-product of oil or gas that includes a statement or representation that is false and that materially misrepresents the true facts respecting the oil or gas or any product or by-product of either; or

(2) procures or causes an agent, officer, or employee of the commission to issue to him a permit or tender relating to oil or gas or any product or by-product of either with the intent to defraud.

[Acts 1977, 65th Leg., p. 2529, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 85.388. Possessing a Forged Permit or Tender**

Any person who knowingly has in his possession a forged tender or permit of the commission relating to oil or gas or any product or by-product of oil or gas for the purpose of transporting, handling, or selling oil or gas shall be guilty of a misdemeanor and on conviction shall be fined not less than \$25 nor more than \$1,000 or shall be confined in the county jail for not less than 30 days nor more than one year, or both.

[Acts 1977, 65th Leg., p. 2529, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 86. REGULATION OF NATURAL GAS**

**SUBCHAPTER A. GENERAL PROVISIONS**

- |         |                                  |
|---------|----------------------------------|
| Section |                                  |
| 86.001. | Declaration of Policy.           |
| 86.002. | Definitions.                     |
| 86.003. | Determination of Separate Wells. |
| 86.004. | Applicability.                   |

**SUBCHAPTER B. WASTE OF GAS**

- |         |                            |
|---------|----------------------------|
| 86.011. | Prohibition Against Waste. |
| 86.012. | Definition of Waste.       |

**SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSION**

- |         |                            |
|---------|----------------------------|
| 86.041. | In General.                |
| 86.042. | Rules and Orders.          |
| 86.043. | Determining Gas-Oil Ratio. |

**SUBCHAPTER D. PRODUCTION OF GAS**

- |         |   |
|---------|---|
| 86.081. | Regulation of Production.   |
| 86.082. | Exercise of Authority to Prevent Waste.                               |
| 86.083. | Exercise of Authority to Adjust Correlative Rights and Opportunities. |
| 86.084. | Determination of Status of Production.                                |
| 86.085. | Determination of Demand and Volume.                                   |
| 86.086. | Monthly Reservoir Allowable.  |
| 86.087. | Monthly Well Allowable.   |
| 86.088. | Daily Allowable.  |
| 86.089. | Factors in Determining Allowable.                                     |
| 86.090. | Authorizing Overproduction and Underproduction.                       |
| 86.091. | Minimum Limits on Well Restrictions.                                  |

Section	
86.092.	Maximum Well Production.
86.093.	Effect of Oil and Gas Stratum on Gas Only Stratum.
86.094.	Authority to Increase Take Above Allowable.
86.095.	Zoning Common Reservoirs.
86.096.	Failure to Use or Sell Allowable Production.
86.097.	Production of Gas From Oil Well.

#### SUBCHAPTER E. METER AND PRESSURE TESTS

86.141.	Duty to Test Pressure.
86.142.	Pressure Test Requirements.
86.143.	Pressure Test Reports.
86.144.	Demanding Second Test.
86.145.	Duty to Test Meter.

#### SUBCHAPTER F. USE OF GAS

86.181.	Use of Sweet Gas Produced From Gas Well.
86.182.	Use of Sour Gas.
86.183.	Use of Casinghead Gas.
86.184.	Use as Gas Lift.
86.185.	Prohibition Against Gas in Air.

#### SUBCHAPTER G. ENFORCEMENT; JUDICIAL REVIEW

86.221.	Unauthorized Production Prohibited.
86.222.	Penalty.
86.223.	Suit for Penalty.
86.224.	Suit for Injunction.
86.225.	Judicial Review.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### § 86.001. Declaration of Policy

In recognition of past, present, and imminent evils occurring in the production and use of gas as a result of waste in this production and use of gas in the absence of correlative opportunities of owners of gas in a common reservoir to produce and use the gas, the provisions of this chapter are enacted for the protection of public and private interests against these evils by prohibiting waste and compelling ratable production.

[Acts 1977, 65th Leg., p. 2531, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 86.002. Definitions

In this chapter:

- (1) "Oil" means crude petroleum oil.
- (2) "Gas" means natural gas.
- (3) "Commission" means the Railroad Commission of Texas.
- (4) "Common reservoir" means all or part of any oil or gas field or oil and gas field that comprises and includes any area that is underlaid or that, from geological or other scientific data or experiments or from drilling operations or other evidence, appears to be underlaid by a common pool or accumulation of oil or gas or oil and gas.
- (5) "Gas well" means a well that:
  - (A) produces gas not associated or blended with oil at the time of production;
  - (B) produces more than 100,000 cubic feet of gas to each barrel of oil from the same producing horizon; or

(C) produces gas from a formation or producing horizon productive of gas only encountered in a well bore through which oil also is produced through the inside of another string of casing.

(6) "Oil well" means any well that produces one barrel or more of oil to each 100,000 cubic feet of gas.

(7) "Dry gas" means gas produced from a stratum that does not produce oil.

(8) "Sour gas" means gas:

(A) containing more than one and one-half grains of hydrogen sulphide per 100 cubic feet;

(B) containing more than 30 grains of total sulphur per 100 cubic feet; or

(C) which in its natural state is found by the commission to be unfit for use in generating light or fuel for domestic purposes.

(9) "Sweet gas" means all gas except sour gas and casinghead gas.

(10) "Casinghead gas" means any gas or vapor indigenous to an oil stratum and produced from the stratum with oil.

(11) "Natural gasoline" means gasoline manufactured from casinghead gas or from any gas.

(12) "Cubic foot of gas" or "standard cubic foot of gas" means the volume of gas, including natural and casinghead gas, contained in one cubic foot of space at a standard pressure base of 14.65 pounds per square inch absolute and at a standard temperature base of 60 degrees Fahrenheit, and if the conditions of pressure and temperature differ from this standard, conversion of the volume from the differing conditions to the standard conditions shall be made in accordance with the ideal gas laws, corrected for deviation.

[Acts 1977, 65th Leg., p. 2531, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 86.003. Determination of Separate Wells

If oil or gas, or both, is produced through different strings of casing set in the same well bore, the inner string through which oil or gas, or both, is produced shall be regarded as one well, and each successive additional string of casing through which oil or gas, or both, is produced from a different producing horizon through the same well bore shall be regarded as another well.

[Acts 1977, 65th Leg., p. 2532, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 86.004. Applicability

The provisions in this chapter do not impair the authority of the commission to prevent waste under the oil and gas conservation laws of this state and do not repeal, modify, or impair any of the provisions relating to oil and gas conservation in Sections 85.002, 85.041 through 85.055, 85.056 through 85.064, 85.125, 85.201 through 85.207, 85.241 through 85.243, 85.249 through 85.252, and 85.381 through 85.385 of

this code and Subchapters E and J of Chapter 85 of this code.

[Acts 1977, 65th Leg., p. 2532, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 86.005 to 86.010 reserved for expansion]

SUBCHAPTER B. WASTE OF GAS

§ 86.011. Prohibition Against Waste

The production, transportation, or use of gas in a manner, in an amount, or under conditions which constitute waste is unlawful and is prohibited.

[Acts 1977, 65th Leg., p. 2532, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.012. Definition of Waste

(a) The term "waste" includes:

(1) the operation of an oil well or wells with an inefficient gas-oil ratio;

(2) the drowning with water of a stratum or part of a stratum capable of producing gas in paying quantities;

(3) permitting a gas well to burn wastefully;

(4) the creation of unnecessary fire hazards;

(5) physical waste or loss incident to or resulting from so drilling, equipping, or operating a well or wells as to reduce or tend to reduce the ultimate recovery of gas from any pool;

(6) the escape of gas from a well producing both oil and gas into the open air in excess of the amount that is necessary in the efficient drilling or operation of the well;

(7) the production of gas in excess of transportation or market facilities or reasonable market demand for the type of gas produced;

(8) the use of gas for the manufacture of carbon black without first having extracted the natural gasoline content from the gas, except it shall not be necessary to first extract the natural gasoline content from the gas where it is utilized in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet of gas;

(9) the use of sweet gas produced from a gas well for the manufacture of carbon black unless it is used in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet and unless the sweet gas is produced from a well located in a common reservoir producing both sweet and sour gas;

(10) permitting gas produced from a gas well to escape into the air before or after the gas has been processed for its gasoline content, unless authorized as provided in Section 86.185 of this code;

(11) the production of natural gas from a well producing oil from a stratum other than that in which the oil is found unless the gas is produced in a separate string of casing from that in which the oil is produced;

(12) the production of more than 100,000 cubic feet of gas to each barrel of crude petroleum oil unless the gas is put to one or more of the uses authorized for the type of gas so produced under allocations made by the commission or unless authorized as provided in Section 86.185 of this code; and

(13) underground waste or loss however caused and whether or not defined in other subdivisions of this section.

(b) Notwithstanding the provisions contained in this section or elsewhere in this code or in other statutes or laws, the commission may permit production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas where the commission, after notice and hearing, has found that producing oil or gas or oil and gas in a commingled state will prevent waste, promote conservation, or protect correlative rights.

[Acts 1977, 65th Leg., p. 2532, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2695, ch. 871, art. II, § 8, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 674, ch. 300, § 2, eff. May 29, 1979.]

[Sections 86.013 to 86.040 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSION

§ 86.041. In General

The commission has broad discretion in administering the provisions of this chapter and may adopt any rule or order in the manner provided by law that it finds necessary to effectuate the provisions and purposes of this chapter.

[Acts 1977, 65th Leg., p. 2533, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 86.042. Rules and Orders

The commission shall adopt and enforce rules and orders to:

(1) conserve and prevent the waste of gas;

(2) prevent the waste of gas in drilling and producing operations and in the piping and distribution of gas;

(3) require dry or abandoned wells to be plugged in a way that confines gas and water in the strata in which they are found and prevents them from escaping into other strata;

(4) provide for drilling wells and preserving a record of them;

(5) require wells to be drilled and operated in a manner that prevents injury to adjoining property;

(6) prevent gas and water from escaping from the strata in which they are found into other strata;

(7) require records to be kept and reports made;

(8) provide for the issuance of permits and other evidences of permission when the issuance of the permit or permission is necessary or incident to the enforcement of its blanket grant of authority to make any rules necessary to effectuate the law; and

(9) otherwise accomplish the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2533, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.043. Determining Gas-Oil Ratio

The commission may fix and determine the gas-oil ratio of all oil wells in the state but none of the provisions of this chapter may be construed to authorize the limitation of the production of marginal wells below the amount fixed by statute. If a restriction imposed by the commission on the production of oil from an oil well operates to increase the gas-oil ratio of the well so as to then classify it as a gas well under the provisions of this chapter, the well nevertheless shall be considered to be an oil well.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 86.044 to 86.080 reserved for expansion]

### SUBCHAPTER D. PRODUCTION OF GAS

#### § 86.081. Regulation of Production

(a) For the protection of public and private interests, the commission shall prorate and regulate the daily gas well production from each common reservoir to:

(1) prevent waste; and

(2) adjust the correlative rights and opportunities of each owner of gas in a common reservoir to produce and use or sell the gas as permitted in this chapter.

(b) When, as provided in Subsection (b) of Section 85.046 or Subsection (b) of Section 86.012 of this code, as amended, the commission has permitted production by commingling oil or gas or oil and gas from multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas, the commission may prorate, allocate, and regulate the production of such commingled, separate multiple stratigraphic or lenticular accumulations of oil or gas or oil and gas as if they were a single common reservoir; provided, however, that:

(i) the commingling and distribution, proration, apportionment, or allocation of separate accumulations with commission established discovery dates after January 1, 1940, and prior to June 1, 1945, shall not serve to expand, add to, or extend the vertical or areal extent of any single common reservoir;

(ii) such commingling shall not cause the allocation of allowable production from a well producing

from any separate accumulation or accumulations to be less than that which would result from the commission applying the provisions of Section 86.095 of this code to such accumulation or accumulations;

(iii) the allocation of the allowable for such commingled production shall be based on not less than two factors which the Railroad Commission shall take into account as directed by Section 86.089 of this code; and

no gas well in any field falling within the classification under Subdivision (i) above where commingled separate accumulations of gas are being prorated under the authority granted by this Subsection (b) shall be assigned an allowable in excess of its production during the most recent production period reported to the commission and in the absence of any reported production the assigned allowable shall not exceed the open-flow potential of such well as reported to the commission; provided, however, that the commission may, if it finds special conditions require such, make a greater assignment.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2579, ch. 688, § 3, eff. June 16, 1981.]

#### § 86.082. Exercise of Authority to Prevent Waste

The commission shall exercise its authority to prevent waste when the presence or imminence of waste is supported by a finding based on the evidence introduced at a hearing after proper notice.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.083. Exercise of Authority to Adjust Correlative Rights and Opportunities

The commission shall exercise its authority to adjust correlative rights and opportunities of each owner of gas in a common reservoir to produce and use or sell the gas when evidence introduced at a hearing after proper notice will support a finding made by the commission that the aggregate lawful volume of the open flow or daily potential capacity to produce of all gas wells located in a common reservoir is in excess of the daily reasonable market demand for gas from gas wells that may be produced from the common reservoir, to be used as permitted in this chapter.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.084. Determination of Status of Production

(a) The commission shall determine the status of gas production from all reservoirs in the state.

(b) If the commission finds that waste exists or is imminent in the production of gas from a reservoir, or that the capacity of the wells to produce gas from a reservoir exceeds the market demand for gas from the reservoir, the commission by proper order shall prorate and regulate the gas production from the reservoir on a reasonable basis.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.085. Determination of Demand and Volume**

On or before the 20th day of each month, the commission, after notice and hearing, shall determine:

(1) the lawful market demand for gas to be produced from each reservoir during the following month; and

(2) the volume of gas that can be produced without waste from the reservoir and each well in the reservoir during the following month.

[Acts 1977, 65th Leg., p. 2534, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.086. Monthly Reservoir Allowable**

After determining demand and volume of production as provided in Section 86.085 of this code, the commission shall fix the monthly reservoir allowable of gas to be produced from the reservoir at the lawful market demand for the gas or at the volume that can be produced from the reservoir without waste, whichever is the smaller quantity.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.087. Monthly Well Allowable**

The monthly reservoir allowable shall be allocated among all wells entitled to produce gas from the reservoir to give each well its fair share of the gas to be produced from the reservoir, but each well is restricted to the amount of gas that can be produced from it without waste. The volume of gas allocated to each well is the monthly allowable for that well.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.088. Daily Allowable**

The daily market demand for gas and the daily allowable shall be determined by dividing the monthly demand and the monthly allowable by the number of days in the month.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.089. Factors in Determining Allowable**

(a) In determining the daily allowable production for each gas well, the commission shall take into account:

(1) the size of the tract segregated with respect to surface position and common ownership on which the gas well or wells are located;

(2) the relation between the daily producing capacity of each gas well and the aggregate daily capacity of all gas wells producing the same kind of gas in the same common reservoir or zone; and

(3) other factors that are pertinent.

(b) In determining the daily allowable production for each gas well, the commission shall not take into account the size of the tract on which any gas well or wells are located in excess of the efficient drainage area of the well or wells, producing at 25 per-

cent of the daily productive capacity. The drainage area shall be determined by the commission.

(c) In ascertaining the drainage area of a well, the commission shall take into account such factors as are reflected in the productive capacity of a gas well, including formation pressure, the permeability and porosity of the producing formation, and the well bore's structural position, together with all other factors taken into account by a reasonably prudent operator in determining the drainage area for a gas well.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.090. Authorizing Overproduction and Underproduction**

(a) In order to adjust the correlative rights and opportunities of each owner to produce, use, and sell gas from a common reservoir from which a portion of the market demand is seasonal or where a portion of the market demand fluctuates from month to month, the commission may permit the wells in the reservoir to be produced in excess of the monthly allowable, in accordance with the conditions and limitations set forth in Subsections (b), (c), and (d) of this section, if no waste is caused.

(b) No well may be permitted in any one month to produce:

(1) at a rate in excess of 25 percent of the daily producing capacity of the well as found by the commission; or

(2) in excess of two times its monthly allowable, except that if on application to the commission there is shown to exist, or there is threatened and unforeseen, an emergency requiring an increase in the demand for the gas from the reservoir which cannot be satisfied otherwise from the reservoir, then the wells under the application may be produced as authorized in this subchapter but not in excess of four times each of the well's monthly allowable.

(c) No well may ever be allowed to produce in excess of twice its allowable for more than two months in any period of six months beginning on the first day of March and September of each year. If a well has produced twice its allowable or more during a period of six months beginning on the first day of March or September, it shall be closed in until its production and allowable are in balance.

(d) On the first day of March and September of each year, the commission shall restrict production from all wells that are then overproduced to the fractional part of their monthly allowable that will bring the accumulated allowables and the accumulated monthly production in balance during the next six months. If the overproduction is not balanced during that six-month period, the overproduced well shall be shut in until its production and allowable are in balance.

(e) The commission by appropriate order may permit a gas well to be underproduced for a period of six consecutive months and may allow the accumulated underproduction to be produced in addition to the regular monthly allowable during the following six-month period.

[Acts 1977, 65th Leg., p. 2535, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.091. Minimum Limits on Well Restrictions

(a) None of the provisions of this chapter require that the production from a gas well with a daily natural open flow of 200,000 cubic feet of gas or more be restricted to a quantity less than 50,000 cubic feet of gas daily.

(b) None of the provisions of this chapter require that the production from a gas well with a daily natural open flow of less than 200,000 cubic feet of gas be reduced to a quantity less than 25 percent of its natural open flow.

[Acts 1977, 65th Leg., p. 2536, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.092. Maximum Well Production

(a) In a common reservoir producing both sweet and sour gas, no gas well may be permitted to produce in excess of 25 percent of its daily productive capacity except as provided in Subsection (b) of this section.

(b) If the commission finds that reservoir conditions require that the percentage be increased to prevent waste and that the increase will not create a drainage condition between sweet and sour gas land, the commission may authorize an increase in the allowable production.

(c) If the allowable production previously allocated to a well is more than 15 percent of its daily producing capacity and the commission finds that the production of its daily allowable from the well will cause waste due to the intermingling of sweet and sour gas, the commission may order the production from the well restricted to 15 percent of its daily producing capacity. This subsection shall not be construed to militate against the right of the commission to fix the allowable production of a well below 15 percent of its daily producing capacity in carrying out the requirements of Sections 86.089 and 86.090 of this code.

[Acts 1977, 65th Leg., p. 2536, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.093. Effect of Oil and Gas Stratum on Gas Only Stratum

If gas is produced from one stratum and oil and gas are produced from another stratum in the same well bore, the commission shall taken into account the amount of gas produced from the oil stratum in determining the amount of gas that may be produced from the stratum producing gas only. The commission may subtract the amount of the casinghead gas produced from the dry gas that would be allocat-

ed to the well if it produced dry gas and may restrict the dry gas production accordingly.

[Acts 1977, 65th Leg., p. 2536, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.094. Authority to Increase Take Above Allowable

If unforeseen contingencies increase the demand for gas required by a distributor, transporter, or purchaser to an amount in excess of the total allowable production of the wells to which he is connected, the distributor, transporter, or purchaser may increase his take ratably from all these wells in order to supply his demand for gas, provided that notice of the increase and the amount of the increase are given to the commission within five days; and provided further, the commission, at its next hearing, shall adjust the inequality of withdrawals caused by the increase in fixing the allowable production of the various wells in the common reservoir or zone.

[Acts 1977, 65th Leg., p. 2537, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.095. Zoning Common Reservoirs

(a) The commission shall zone a common reservoir if, on consideration of the evidence introduced at a hearing, it finds that either the prevention of waste or adjustment of correlative rights and opportunities, or both, as designated in Section 86.081 of this code, may be accomplished more adequately by zoning the common reservoir.

(b) If the commission zones a common reservoir, each zone shall be regarded as a separate common reservoir in making allocations of daily allowable production as provided in this chapter.

(c) If the commission zones a common reservoir, the commission:

(1) shall allocate to each zone its just proportion of the market demand for gas from the common reservoir;

(2) shall establish appropriate rules applicable to each zone;

(3) may adjust its orders to the practicable conditions that exist; and

(4) may enter any reasonable order necessary to effectuate the purposes of this chapter.

(d) The commission may segregate a sour gas area from a sweet gas area and is not required to restrict the allowable production of the sour gas zone to the same percentages that may be produced from the sweet gas zone.

[Acts 1977, 65th Leg., p. 2537, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 86.096. Failure to Use or Sell Allowable Production

If the commission finds that the owner of a gas well failed or refused to use or sell the allowable production from his well when the owner was offered a connection or market for the gas at a reason-

able price, the well shall be excluded from consideration in allocating the daily allowable production from the reservoir or zone in which it is located until the owner of the well signifies to the commission his desire to use or sell the gas. In all other cases, all gas wells shall be taken into account in allocating the allowable production among wells producing the same type of gas.

[Acts 1977, 65th Leg., p. 2537, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.097. Production of Gas From Oil Well**

No person in possession of or operating an oil well may produce from the oil well gas found in a horizon productive of gas only.

[Acts 1977, 65th Leg., p. 2537, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 86.098 to 86.140 reserved for expansion]

**SUBCHAPTER E. METER AND PRESSURE TESTS**

**§ 86.141. Duty to Test Pressure**

All persons producing gas from any gas well shall determine through appropriate tests during the months of January and July of each year the open flow and rock pressure of each gas well from which gas is produced.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.142. Pressure Test Requirements**

The test to determine pressure of a gas well shall be made:

- (1) under uniform and generally recognized methods;
- (2) in the presence of and under the supervision of a representative of the commission; and
- (3) under rules prescribed by the commission.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.143. Pressure Test Reports**

(a) Verified reports of the tests to determine pressure shall be filed with the commission on or before the 10th day of each January and July.

(b) The reports shall disclose the name of the representative of the commission who was actually present when the tests were made.

(c) The reports are a permanent public record. They shall be kept on file with the commission and shall be open to the inspection and examination of the public.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.144. Demanding Second Test**

A person producing gas from the same common reservoir who is dissatisfied with the test as made and reported may demand that a second test be

made in the manner provided in this subchapter and in the presence of the person making the demand or his representative.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.145. Duty to Test Meter**

The commission shall require one of its duly authorized agents to inspect, read, or test any meter or meters through which gas is being measured or gauged on the request of a lessor, lessee, operator, or royalty owner from whose land, lease, or royalty interest gas is being produced.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 86.146 to 86.180 reserved for expansion]

**SUBCHAPTER F. USE OF GAS**

**§ 86.181. Use of Sweet Gas Produced From Gas Well**

No sweet gas produced from a gas well may be used for any purpose except:

- (1) light or fuel;
- (2) efficient chemical manufacture, other than the manufacture of carbon black, provided that sweet gas produced from wells located in a common reservoir producing both sweet and sour gas may be used for the manufacture of carbon black if it is used in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet of gas;
- (3) bona fide introduction of gas into oil or gas bearing horizon in order to maintain or increase the rock pressure, or otherwise increase the ultimate recovery of oil or gas from the horizon; and
- (4) the extraction of natural gasoline when the residue is returned to the horizon from which it is produced.

[Acts 1977, 65th Leg., p. 2538, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.182. Use of Sour Gas**

In addition to the purposes for which sweet gas produced from a gas well may be used, sour gas may be used for efficient chemical manufacturing purposes including the manufacture of carbon black provided:

- (1) it is utilized in a plant producing a recovery of not less than one pound of carbon black to each 1,000 cubic feet of gas; and
- (2) the gasoline content is removed and saved from the sour gas before the gas is used for carbon black.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.183. Use of Casinghead Gas**

Casinghead gas may be used for any beneficial purpose, which includes the manufacture of natural gasoline.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.184. Use as Gas Lift**

(a) A producer of either sweet or sour gas or casinghead gas may use the gas as gas lift in the bona fide production of oil if the gas is not used in excess of 10,000 cubic feet per barrel of oil produced.

(b) To prevent waste in a case where the facts in the case warrant it, the commission may permit the use of additional quantities of gas to lift oil provided:

(1) all the gas used in excess of 10,000 cubic feet for each barrel of oil is processed for natural gasoline; and

(2) the residue is burned for carbon black when it is reproduced.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.185. Prohibition Against Gas in Air**

No gas from a gas well may be permitted to escape into the air after the expiration of 10 days from the time the gas is encountered in the gas well, or from the time of perforating the casing opposite a gas-bearing zone if casing is set through the zone, whichever is later, but the commission may permit the escape of gas into the air for an additional time if the operator of a well or other facility presents information to show the necessity for the escape; provided that the amount of gas which is flared under that authority is charged to the operator's allowable production. A necessity includes but is not limited to the following situations:

(1) cleaning a well of sand or acid or both following stimulation treatment of a well; and

(2) repairing or modifying a gas-gathering system.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2696, ch. 871, art. II, § 9, eff. Sept. 1, 1977.]

[Sections 86.186 to 86.220 reserved for expansion]

**SUBCHAPTER G. ENFORCEMENT;  
JUDICIAL REVIEW**

**§ 86.221. Unauthorized Production Prohibited**

No person may produce gas from a gas well in violation of the valid orders of the commission.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.222. Penalty**

Any person who violates a provision of this chapter is liable for a penalty of not more than \$1,000 for

each offense. Each day a violation occurs constitutes a separate offense.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.223. Suit for Penalty**

The penalty may be recovered with the cost of suit by the State of Texas through the attorney general or the county or district attorney when joined by the attorney general in a civil action instituted in Travis County or in the county in which the violation occurred.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.224. Suit for Injunction**

A violation or threatened violation of this chapter may be enjoined by any court of competent jurisdiction in which the suit for penalty may be brought. The court may issue mandatory or prohibitory writs of injunction that the facts justify.

[Acts 1977, 65th Leg., p. 2539, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 86.225. Judicial Review**

Any person affected by an order of the commission adopted under the authority of this chapter is entitled to judicial review of that order in a manner other than trial de novo.

[Acts 1977, 65th Leg., p. 2540, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 87. REGULATION OF  
SOUR NATURAL GAS**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section  
87.001. Definitions.

**SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION**

87.011. Rules and Orders.  
87.012. Validity.  
87.013. Hearings.  
87.014. Inspection of Records; Reports.

**SUBCHAPTER C. PRODUCTION OF SOUR GAS**

87.051. Limitation of Sour Gas Production.  
87.052. Maximum Production of Sour Gas for Carbon Black Manufacture.  
87.053. Effect of Demand Below Maximum Allowable Production.  
87.054. Effect of Demand for Other Purposes Than Carbon Black Manufacture.

**SUBCHAPTER D. PLANTS EXTRACTING  
NATURAL GASOLINE**

87.091. Prohibited Commingling of Gas.  
87.092. Permit Required.  
87.093. Issuance of Permit.  
87.094. Cancellation of Permit.  
87.095. Residue Gas Allowed in Air.  
87.096. Residue Gas: Determination by Commission.  
87.097. Use of Residue Gas for Other Purposes.

SUBCHAPTER E. USE OF GAS WITHOUT EXTRACTION OF NATURAL GASOLINE

Section

- 87.131. Use of Sweet Gas for Carbon Black Manufacture.
- 87.132. Use of Gas From Certain Wells for Carbon Black Manufacture.
- 87.133. Determining Market Price.
- 87.134. Effect of Subchapter.

SUBCHAPTER F. USE OF GAS DETERMINED BY HYDROCARBON CONTENT

- 87.171. Gas Containing Low Hydrocarbon Content.
- 87.172. Gas Containing High Hydrocarbon Content.
- 87.173. Additional Extraction to Alleviate Shortage.
- 87.174. Applicability of This Subchapter.

SUBCHAPTER G. CARBON BLACK PLANTS

- 87.211. Prohibited Location.

SUBCHAPTER H. ENFORCEMENT

- 87.241. Penalty.
- 87.242. Injunctive Relief.

SUBCHAPTER A. GENERAL PROVISIONS

§ 87.001. Definitions

In this chapter, the words "oil," "gas," "commission," "common reservoir," "gas well," "oil well," "sour gas," "sweet gas," "natural gasoline," "cubic foot of gas," and "casinghead gas" are defined as provided in Section 86.002 of this code.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.002 to 87.010 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION

§ 87.011. Rules and Orders

(a) In administering the provisions of this chapter, the commission shall hold hearings, make determinations, and promulgate rules and orders as provided in Sections 86.084-86.090 of this code and other laws of this state.

(b) After notice and hearing as provided by law, the commission shall promulgate any other rule or order it finds necessary to carry out the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.012. Validity

(a) Rules and orders adopted by the commission under the terms of this chapter are considered prima facie valid.

(b) A person affected by an order may sue to test the validity of the order adopted by the commission under this chapter in the same manner, on the same conditions, and in the same court or courts as prescribed for suits testing the validity of orders of the commission promulgated under the general oil conservation statutes of this state.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.013. Hearings

From time to time, the commission shall hold hearings, after proper notice, to hear evidence and to adopt rules and orders to enforce the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.014. Inspection of Records; Reports

In addition to authority given by existing law, the commission or its agents may:

(1) inspect the books and records of any person who is affected by the provisions of this chapter; and

(2) require sworn reports to be filed from time to time as the commission finds necessary.

[Acts 1977, 65th Leg., p. 2541, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.015 to 87.050 reserved for expansion]

SUBCHAPTER C. PRODUCTION OF SOUR GAS

§ 87.051. Limitation of Sour Gas Production

No person may produce sour gas from any sour gas well in a reservoir producing both sweet and sour gas in excess of the daily allowable production for the gas well as fixed by the orders and schedules of the commission. The rate of production from a sour gas well is considered to be the daily average rate of production for the calendar month.

[Acts 1977, 65th Leg., p. 2542, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.052. Maximum Production of Sour Gas for Carbon Black Manufacture

(a) In any common reservoir in the state producing both sweet and sour gas, there shall never be produced from the common reservoir for use in carbon black manufacture a maximum daily volume of sour gas from the gas wells in excess of 750 million cubic feet.

(b) The commission shall prorate the daily volume of sour gas from gas wells among all the sour gas wells in the reservoir to prevent cognizable and preventable drainage of gas from tracts of land in the sour gas producing area segregated as to surface position and common ownership on which the sour gas wells are located.

[Acts 1977, 65th Leg., p. 2542, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.053. Effect of Demand Below Maximum Allowable Production

(a) If the daily demand for sour gas from gas wells for use in carbon black manufacture is less than the daily maximum allowable permitted in Section 87.052 of this code, the total daily volume of gas from gas wells from the sour gas area for use in carbon black manufacture shall be equal to the daily demand.

(b) The commission shall determine the daily demand and prorate it among all the sour gas wells in the area as provided in Section 87.052 of this code. [Acts 1977, 65th Leg., p. 2542, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 87.054. Effect of Demand for Other Purposes Than Carbon Black Manufacture**

(a) If a lawful daily demand exists for sour gas from gas wells for purposes of utilization permitted by law, other than the manufacture of carbon black, the additional demand shall be added to the daily demand for carbon black manufacture, and that sum shall constitute the daily volume of sour gas from gas wells that may be withdrawn from the common reservoir for utilization.

(b) The commission shall prorate the daily volume provided for in Subsection (a) of this section among the sour gas wells in the area on the basis set forth in Section 87.052 of this code.

[Acts 1977, 65th Leg., p. 2542, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.055 to 87.090 reserved for expansion]

**SUBCHAPTER D. PLANTS EXTRACTING NATURAL GASOLINE**

**§ 87.091. Prohibited Commingling of Gas**

In a plant for the extraction of natural gasoline content of gas, no sweet gas may be commingled with sour gas and no casinghead gas may be commingled with sweet gas or sour gas or both, except on the conditions and requirements stated in this subchapter.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 87.092. Permit Required**

In any common reservoir in this state producing both sweet and sour gas, no person may operate a plant for the extraction of the natural gasoline content of gas in which sweet gas and sour gas are commingled, or plant casinghead gas is commingled with either sweet gas or sour gas or both, until the person secures from the commission a permit authorizing the operation of the plant.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 87.093. Issuance of Permit**

The commission shall issue a permit if it appears that the plant is being operated and the residue gas from the plant is and will be disposed of in accordance with the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 87.094. Cancellation of Permit**

(a) If it appears to the commission that a plant is operating in violation of any of the provisions of this

subchapter, the commission shall cancel the permit issued to the plant.

(b) After the cancellation of the permit, no operator of the plant may commingle either sweet gas and sour gas or casinghead gas with sweet gas or sour gas in the plant for the purpose of extracting the natural gasoline content.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 87.095. Residue Gas Allowed in Air**

(a) Except as provided in Subsection (b) of this section, if a plant operating under this subchapter commingles casinghead gas with sweet gas or sour gas or both, the operator of the plant shall not blow, or permit to be blown, in the air any of the residue gas remaining after the gasoline content of the gas is extracted.

(b) The operator of a plant may blow in the air an amount of residue gas from the plant that is determined by the commission to be necessary to accomplish uninterrupted deliveries in required amounts to carbon black plants for carbon black manufacture.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 87.096. Residue Gas: Determination by Commission**

If a plant operating under this subchapter commingles casinghead gas with sweet gas or sweet gas with sour gas, the commission shall ascertain:

(1) the quantity of residue gas required to be used for fuel purposes in the efficient operation of the plant; and

(2) the quantity of residue gas required to be returned by the operator of the plant to the leases to which the plant is connected for use as fuel in the operation of the leases.

[Acts 1977, 65th Leg., p. 2543, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 87.097. Use of Residue Gas for Other Purposes**

(a) The operator of the plant is required to use, or cause to be used, for one or more of the uses provided for sweet gas by law a quantity of the residue gas from the plant equal to the quantity of sweet gas taken into the plant for processing, less the extraction loss from the processing.

(b) The operator shall not be credited with use of residue for plant-fuel or lease-fuel operations in an amount in excess of the quantity of the residue gas found by the commission to be necessary for the efficient operation of the plant and return to the leases for fuel for lease operations.

[Acts 1977, 65th Leg., p. 2544, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.098 to 87.130 reserved for expansion]

SUBCHAPTER E. USE OF GAS WITHOUT EXTRACTION OF NATURAL GASOLINE

§ 87.131. Use of Sweet Gas for Carbon Black Manufacture

Sweet gas produced from any gas well in this state may be used without the prior extraction of its gasoline content for the manufacture of carbon black if it is used in a plant producing an average recovery of not less than five pounds of carbon black for each 1,000 cubic feet of gas.

[Acts 1977, 65th Leg., p. 2544, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.132. Use of Gas From Certain Wells for Carbon Black Manufacture

(a) Gas from any gas well completed on or before September 5, 1947, within a common reservoir producing both sweet and sour gas from which the gas was not sold off the leased premises to an interstate pipeline company during the year immediately preceding September 5, 1947, or gas from any gas well completed after September 5, 1947, within a common reservoir producing both sweet and sour gas, may be used for the manufacture of carbon black without the prior extraction of its natural gasoline content if:

(1) it is used in a plant producing an average recovery of not less than one and one-half pounds of carbon black for each 1,000 cubic feet of gas; and

(2) the royalty rate and market price paid for the gas at the wellhead at least equals the royalty rate and market price paid at the wellhead in the immediate area for gas used for light and fuel purposes.

(b) In arriving at the market price of sour gas, a reduction of not more than one-half cent per 1,000 cubic feet shall be allowed for purifying the gas to render it suitable for light and fuel purposes.

(c) If the gas is used by a producer, any royalty rate paid shall be paid on the same basis.

[Acts 1977, 65th Leg., p. 2544, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.133. Determining Market Price

(a) After due notice of hearing, the commission shall hold annual or semiannual hearings, as it considers necessary, for the purpose of determining the market price that is being paid at the wellhead for gas being used and sold for light and fuel purposes.

(b) After the hearing and determination of the market price, the commission shall post and publish the price in its main office in Austin, and its branch office, if any, in the area affected.

(c) All parties contracting for gas under the provisions of this subchapter may accept the posted and published price as the market price to be paid for the gas.

[Acts 1977, 65th Leg., p. 2544, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.134. Effect of Subchapter

The provisions of this subchapter are cumulative of existing laws relating to the uses of gas and do not restrict or affect the manufacture of carbon black from processed sour gas as authorized by Section 86.182 of this code.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.135 to 87.170 reserved for expansion]

SUBCHAPTER F. USE OF GAS DETERMINED BY HYDROCARBON CONTENT

§ 87.171. Gas Containing Low Hydrocarbon Content

Any natural gas, including casinghead gas, produced from any gas well or oil well in this state, containing less than one and one-half gallons of propane and heavier hydrocarbons per 1,000 cubic feet, as determined by fractional analysis made of the gas, may be used for the manufacture of carbon black in a plant producing an average recovery of at least one and one-half pounds of carbon black for each 1,000 cubic feet of gas consumed.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.172. Gas Containing High Hydrocarbon Content

(a) Except as provided in Subsection (b) of this section, no natural gas, including casinghead gas, produced from any gas well or oil well in this state, containing one and one-half gallons or more of propane and heavier hydrocarbons per 1,000 cubic feet, as determined by fractional analysis made of the gas, may be used for the manufacture of carbon black in a plant producing an average recovery of at least one and one-half pounds of carbon black for each 1,000 cubic feet of gas consumed without the prior extraction of its natural gasoline content.

(b) On the filing of an application and after proper notice and hearing as provided by law, the commission may authorize the use of any natural gas, including casinghead gas, containing one and one-half gallons or more of propane and heavier hydrocarbons per 1,000 cubic feet, as determined by fractional analysis made of the gas, in the manufacture of carbon black in a plant producing an average recovery of at least one and one-half pounds of carbon black for each 1,000 cubic feet of gas consumed if the commission finds it is unprofitable to first extract the natural gasoline content of the gas.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 87.173. Additional Extraction to Alleviate Shortage

If a general shortage of propane or heavier liquid hydrocarbons occurs, the commission, after notice and hearing, may require additional extraction of

hydrocarbons from the gas to alleviate the shortage, but additional extraction shall not be required if it is not economically feasible to do so.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 87.174. Applicability of This Subchapter

The provisions of this subchapter shall not apply to:

(1) gas produced from a common reservoir that contains both sweet and sour gas which was being lawfully used for the manufacture of carbon black under the provisions of the source law codified in Subchapters D and E of this chapter at the time of the passage of the source law for this section; or

(2) gas from gas wells located in these reservoirs which were entitled to be so used under the provisions of the source law codified in Subchapters D and E of this chapter at the time of the passage of the source law for this section.

[Acts 1977, 65th Leg., p. 2545, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.175 to 87.210 reserved for expansion]

#### SUBCHAPTER G. CARBON BLACK PLANTS

##### § 87.211. Prohibited Location

Unless adequate precaution is taken to minimize the emission of smoke from the plant, no channel-type carbon black plant shall be erected or constructed closer than five miles to:

(1) the limits of a city, town, or village incorporated at or before the time the erection or construction of the plant is begun; or

(2) a commercially operated citrus fruit orchard planted not less than one year before the time the erection or construction of the plant is commenced.

[Acts 1977, 65th Leg., p. 2546, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 87.212 to 87.240 reserved for expansion]

#### SUBCHAPTER H. ENFORCEMENT

##### § 87.241. Penalty

(a) A person who violates a provision of this chapter is liable to a penalty of not more than \$1,000 for each offense.

(b) Each day a violation occurs constitutes a separate offense.

(c) The penalty may be recovered by the State of Texas, with costs of suit, in a civil action instituted by the attorney general in Travis County or in the county in which the violation occurred.

[Acts 1977, 65th Leg., p. 2546, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 87.242. Injunctive Relief

(a) A violation or threatened violation of this chapter may be enjoined by any court of competent jurisdiction in which suit for penalty may be brought.

(b) The court shall issue the writs or prohibitory or mandatory injunctions that the facts justify. [Acts 1977, 65th Leg., p. 2546, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## CHAPTER 88. CONTROL OF OIL PROPERTY

### SUBCHAPTER A. GENERAL PROVISIONS

Section  
88.001. Definitions.

### SUBCHAPTER B. RULES

88.011. Adoption of Rules.  
88.012. Rules and Orders Relating to Records and Reports.  
88.013. Notice by Publication.

### SUBCHAPTER C. PRACTICES PROHIBITED IN THE PRODUCTION OF OIL AND GAS

88.051. Production Prohibited in Excess of Allowable Amount.  
88.052. Prohibited Passage From Control of Producer Without Measurement and Record of Amount.  
88.053. Prohibited Evasion or Prevention of Accurate Measurement.  
88.054. Passage From Control of Producer Prohibited If Tank Not Under His Control.  
88.055. Production Prohibited Without Flare.  
88.056. Identifying Signs.

### SUBCHAPTER D. INSPECTION AND EXAMINATION OF OIL PROPERTY

88.091. Access to Property and Records.  
88.092. Prohibited Interference With Access and Inspection.  
88.093. Prohibited Equipment or Enclosure.  
88.094. Prohibited Gift or Gratuity.

### SUBCHAPTER E. ENFORCEMENT; PENALTIES

88.131. Venue.  
88.132. Service of Process.  
88.133. Responsibility for Compliance and Liability to Prosecution.  
88.134. Penalties.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 88.001. Definitions

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Governmental agent" or "governmental agency" means the Railroad Commission of Texas and any other administrative governmental board and governmental agent to which the legislature delegates the duty of supervising the production of oil and gas in the State of Texas.

(3) "Oil property" means a well producing oil, gas, or oil and gas, and any group of such contiguous wells of any number owned, operated, or controlled as a producing unit by the same person in the same locality, and any leasehold estate to the

extent that it is owned, operated, and controlled by the same person.

[Acts 1977, 65th Leg., p. 2547, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 88.002 to 88.010 reserved for expansion]

SUBCHAPTER B. RULES

§ 88.011. Adoption of Rules

(a) The governmental agency may promulgate and adopt rules:

(1) to provide for the method of measuring oil and gas produced from any well in this state and to provide for the type of measuring devices to be used in obtaining the measurement;

(2) for the inspection of all oil properties to ascertain that the prescribed measuring devices are installed, are in accurate working condition, and are being accurately used;

(3) to provide that no oil or gas is being permitted to leave the possession of the producer without first being accurately measured and an accurate record of production made and preserved;

(4) to provide that no oil is being produced from a well producing both oil and gas without burning a flare or flares if the installation and use of a flare or flares is required by the terms of this chapter;

(5) for the keeping of complete and accurate records correctly reflecting the amount of oil or gas or both produced from each oil property each calendar day and the disposition and method of disposition of all the oil and gas produced, and for the monthly filing with the governmental agency of monthly reports accurately reflecting the true facts with respect to all such matters; and

(6) for the inspection and examination by the governmental agency, or its agents, servants, and employees, of all oil properties and the records provided for in this chapter.

(b) The rules shall be adopted in the manner provided by law for adoption of rules of the commission. [Acts 1977, 65th Leg., p. 2547, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.012. Rules and Orders Relating to Records and Reports

The rules and orders of the governmental agency relating to records and reports shall prescribe the form in which the records and reports will be made and kept, but the records and reports shall contain the data and information provided for in this chapter.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.013. Notice by Publication

(a) When the governmental agency adopts a rule under this chapter, the governmental agency shall

publish a complete copy of the rule once each day for three consecutive days in three newspapers of general circulation in the state, to be selected by the governmental agency.

(b) Notice of any amendment, repeal, alteration, or modification of the order may be similarly adopted and will become effective after similar notice. [Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 88.014 to 88.050 reserved for expansion]

SUBCHAPTER C. PRACTICES PROHIBITED IN THE PRODUCTION OF OIL AND GAS

§ 88.051. Production Prohibited in Excess of Allowable Amount

No person owning, leasing, operating, producing, or controlling an oil property or any oil well in this state may produce or cause to be produced on any day from any oil property or oil well any oil in excess of the amount allowed to be produced each day from the oil property or oil well under an order previously adopted by the governmental agency and in force at the time.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.052. Prohibited Passage From Control of Producer Without Measurement and Record of Amount

No person owning, leasing, operating, or controlling an oil property in this state may permit the oil or gas produced to pass beyond the possession or control of that person to the possession or control of any other person without first accurately measuring the amount of the oil or gas and making and preserving an accurate record of the amount.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.053. Prohibited Evasion or Prevention of Accurate Measurement

No person owning, leasing, operating, or controlling an oil property in this state may use a method or device to evade or prevent obtaining the accurate measurement as provided in Section 88.052 of this code.

[Acts 1977, 65th Leg., p. 2548, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 88.054. Passage From Control of Producer Prohibited If Tank Not Under His Control

No person owning, leasing, operating, or controlling an oil property may permit oil produced by him in this state to pass from his possession or control to the possession or control of any other person except from a tank or tanks under the control of the person producing the oil.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 88.055. Production Prohibited Without Flare**

If the gas from a well producing both oil and gas is not trapped and used and the gas is capable of being burned in a flare, no person owning, leasing, operating, or controlling an oil property in this state may produce oil from the well at any time without simultaneously and continuously burning a flare to consume all gas that otherwise would be permitted to escape into the open air.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 88.056. Identifying Signs**

Each oil property in this state, each tank owned or controlled by such person to which the property is connected, and each flare to which the property is connected shall be posted at all times with a sign written in the English language with letters at least one inch in height, stating:

- (1) the name of the owner of the property;
- (2) the operator of the property;
- (3) the number of acres contained in the property; and
- (4) the name by which the property is commonly known and identified.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 88.057 to 88.090 reserved for expansion]

#### SUBCHAPTER D. INSPECTION AND EXAMINATION OF OIL PROPERTY

**§ 88.091. Access to Property and Records**

The governmental agency shall have access at all times to:

- (1) the oil property of all persons for inspection and examination; and
- (2) the records of all these persons for inspection, examination, and audit.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 88.092. Prohibited Interference With Access and Inspection**

No person may:

- (1) refuse to permit the governmental agency, or an agent, servant, representative, or employee of the governmental agency, to have access to an oil property for inspection and examination;
- (2) interfere with the inspection and examination;
- (3) remove, tamper with, mutilate, or destroy a device, seal, or meter on an oil property placed there or used in the inspection and examination; or
- (4) refuse to permit the governmental agency, or an agent, servant, representative, or employee of the governmental agency, to have access, for

inspection, examination, and audit, to the books, documents, and records pertaining to, used in connection with, or required to be used in connection with an oil property.

[Acts 1977, 65th Leg., p. 2549, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 88.093. Prohibited Equipment or Enclosure**

No person owning, leasing, operating, or controlling an oil property in this state may equip or enclose his oil property, or any part of his oil property, in a manner that:

- (1) prevents inspection and examination; or
- (2) prevents an inspection and examination from revealing the true facts with respect to:
  - (A) the amount of oil or oil and gas being produced from the oil property;
  - (B) the manner in which the oil property is being operated; or
  - (C) the manner and method by which the production from the oil property is produced, stored, or delivered from the possession or control of that person.

[Acts 1977, 65th Leg., p. 2550, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 88.094. Prohibited Gift or Gratuity**

No person may corruptly give, offer, or promise to give a member of the governmental agency, chief supervisor, deputy supervisor, or any agent or employee of the governmental agency a gift or gratuity with intent to influence the officer or person in his acts or conduct with respect to:

- (1) enforcing any provision of the law applicable to oil and gas in force at the time in this state;
- (2) enforcing any order or rule of the governmental agency adopted under the power and authority given to it; or
- (3) the discharge of any duty imposed on him by the oil and gas laws, orders, and rules duly promulgated and in force at the time in this state.

[Acts 1977, 65th Leg., p. 2550, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 88.095 to 88.130 reserved for expansion]

#### SUBCHAPTER E. ENFORCEMENT; PENALTIES

**§ 88.131. Venue**

The courts of the county in which the oil property or any part of the oil property is located and with respect to which a violation of the provisions of this chapter is charged have jurisdiction of all prosecutions for violations of the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2550, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 88.132. Service of Process**

(a) In a suit or action involving the enforcement of the conservation laws of this state or the orders of

the commission affecting the conservation of the natural resources of this state, a Texas Ranger or an agent of the commission may serve civil or judicial process, citation, notice, warrant, subpoena, or writ, including process of every character in contempt proceedings, the same and as fully as a sheriff or constable of a county to whom the process, writ, notice, citation, subpoena, or warrant might be directed could within the limits of his own county.

(b) A ranger or an agent of the commission may serve the process anywhere in the State of Texas although it may be directed to "any sheriff or constable" of a particular county. He shall make the same return as any other officer, sign his name, and add under his name the title of "State Ranger" or "Agent, Railroad Commission of Texas," as the case may be, which is sufficient to make it valid if the writ otherwise is properly prepared.

(c) No fees are allowed the rangers or agents of the commission other than their regular salary or compensation.

[Acts 1977, 65th Leg., p. 2550, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 88.133. Responsibility for Compliance and Liability to Prosecution**

The president of each corporation, the chief managing executive of each association, all active members of each firm and partnership, and all trustees of each trust subject to the provisions of this chapter shall be responsible for the compliance with the terms of this chapter by the corporation, association, firm, partnership, or trust of which he is, respectively, president, chief managing executive, member, or trustee, and he shall be liable to prosecution under and subject to the criminal penalties provided in this chapter for violations of this chapter by the respective corporation, association, firm, partnership, or trust of which he has actual knowledge or to which he assents.

[Acts 1977, 65th Leg., p. 2551, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 88.134. Penalties**

(a) A person who violates any of the provisions of Sections 88.091 through 88.093 of this code, or any person who fails to comply with any of the provisions of those sections, is guilty of a misdemeanor and on conviction shall be subject to a fine of not more than \$500, or by confinement in the county jail for not more than six months, or by both.

(b) A person who violates any other provision of this chapter other than those covered by Subsection (a) of this section, a person who fails to comply with any of the other terms of this chapter, a person who fails to comply with the terms of a rule or order adopted by the governmental agency under the terms of this chapter, or a person who violates any of the rules or orders of the governmental agency adopted under the provisions of this chapter on conviction is considered guilty of a felony and on

conviction shall be punished by imprisonment in the state penitentiary for a term of not less than two nor more than four years.

[Acts 1977, 65th Leg., p. 2551, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 89. ABANDONED WELLS**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section 89.001. Policy.
- 89.002. Definitions.
- 89.003. Applicability.

**SUBCHAPTER B. DUTY TO PLUG WELLS**

- 89.011. Duty of Operator.
- 89.012. Duty of Nonoperator.
- 89.013. Duty of Landowner.

**SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSION**

- 89.041. Determining Proper Plugging.
- 89.042. Commission Order to Plug.
- 89.043. Plugging by Commission.
- 89.044. Right to Enter on Land.
- 89.045. Liability for Damages.

**SUBCHAPTER D. COSTS OF PLUGGING WELLS**

- 89.081. Cause of Action for Disproportionate Share of Cost.
- 89.082. Cause of Action If Landowner Plugs.
- 89.083. Cause of Action If Commission Plugs.
- 89.084. Money Paid Commission by Private Person.

**SUBCHAPTER E. ENFORCEMENT; JUDICIAL REVIEW**

- 89.121. Enforcement by Commission.
- 89.122. Appeal to Courts.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 89.001. Policy**

The conservation and development of all the natural resources of this state are declared to be a public right and duty. It is also declared that the protection of water and land of the state against pollution or the escape of oil or gas is in the public interest. In the exercise of the police power of the state, it is necessary and desirable to provide additional means so that wells that are drilled for the exploration, development, or production of oil or gas, or as injection or salt water disposal wells, and that have been abandoned and are leaking salt water, oil, gas, or other deleterious substances into freshwater formations or on the surface of the land, may be plugged, replugged, or repaired by or under the authority and direction of the commission.

[Acts 1977, 65th Leg., p. 2552, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.002. Definitions**

(a) In this chapter:

- (1) "Well" means a hole drilled for the purpose of:

(A) producing oil or gas;

(B) injecting fluid or gas in the ground in connection with the exploration or production of oil or gas; or

(C) obtaining geological information by taking cores or through seismic operations.

(2) "Operator" means a person who is responsible for the physical operation and control of a well at the time the well is about to be abandoned or ceases operation.

(3) "Nonoperator" means a person who owns a working interest in a well at the time the well is about to be abandoned or ceases operation and is not an operator as defined in Subdivision (2) of this subsection.

(4) "Landowner" means the owner of the land on which the well is located at the time the well is abandoned and one who holds a mineral interest therein.

(5) "Commission" means the Railroad Commission of Texas.

(b) The terms operator and nonoperator as defined in this section do not mean a royalty interest owner or an overriding royalty interest owner. [Acts 1977, 65th Leg., p. 2552, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.003. Applicability**

The provisions of this chapter do not alter causes of action arising before August 30, 1965.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 89.004 to 89.010 reserved for expansion]

**SUBCHAPTER B. DUTY TO PLUG WELLS**

**§ 89.011. Duty of Operator**

The operator of a well shall properly plug the well when required and in accordance with the commission's rules that are in effect at the time of plugging.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.012. Duty of Nonoperator**

If the operator of a well fails to comply with Section 89.011 of this code, each nonoperator is responsible for his proportionate share of the cost of the proper plugging of the well within a reasonable time, according to the rules of the commission in effect at the time the responsibility attaches.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.013. Duty of Landowner**

If the operator and the nonoperator fail to comply with Sections 89.011 and 89.012 of this code, respectively, each landowner is responsible for his proportionate share of the cost of proper plugging of the

well within a reasonable time, according to the rules of the commission in effect at the time the responsibility attaches.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 89.014 to 89.040 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSION**

**§ 89.041. Determining Proper Plugging**

If it comes to the attention of the commission that a well that has been abandoned or is not being operated is causing or is likely to cause pollution of fresh water above or below the ground or if gas or oil is escaping from the well, the commission shall determine at a hearing, after due notice, whether or not the well was properly plugged as provided in Section 89.011, Section 89.012, or Section 89.013 of this code.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.042. Commission Order to Plug**

(a) If the commission finds that the well was not properly plugged, it shall order the operator to plug the well according to the rules of the commission in effect at the time the order is issued.

(b) If the operator cannot be found or is no longer in existence or has no assets with which to properly plug the well, the commission shall order the nonoperators to plug the well according to the rules of the commission in effect at the time the order is issued.

(c) If the nonoperators cannot be found or are no longer in existence or have no assets with which to properly plug the well, the commission shall order the landowners to properly plug the well according to the rules of the commission in effect at the time the order is issued.

[Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.043. Plugging by Commission**

If the commission determines at a hearing under Section 89.041 of this code that a well has not been properly plugged or needs replugging, the commission, through its employees or through a person acting as agent for the commission, may plug or replug the well if:

(1) the well was properly plugged according to rules in effect at the time the well was abandoned or ceased to be operated; or

(2) neither the operator, nonoperator, nor the landowner properly plugged the well, and

(A) neither the operator, nonoperator, nor the landowner can be found; or

(B) neither the operator, nonoperator, nor the landowner has assets with which to properly plug the well.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.044. Right to Enter on Land**

The commission or its employees or agents, the operator, the nonoperator, or the landowner may enter the land of another for the purpose of plugging or replugging a well that the commission has determined, under the provisions of Section 89.041 of this code, has not been properly plugged.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.045. Liability for Damages**

The commission and its employees and agents, the operator, the nonoperator, and the landowner are not liable for any damages that may occur as a result of acts done or omitted to be done by them or each of them in a good-faith effort to carry out the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 89.046 to 89.080 reserved for expansion]

**SUBCHAPTER D. COSTS OF PLUGGING WELLS**

**§ 89.081. Cause of Action for Disproportionate Share of Cost**

If an operator, nonoperator, or landowner owns only a partial interest in the well, oil and gas, or land and the operator, nonoperator, or landowner pays a larger proportion of the cost of plugging the well than his proportionate interest in the well, oil and gas, or land, he has a cause of action against the other operators, nonoperators, or landowners for their proportionate shares of the cost of plugging.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.082. Cause of Action If Landowner Plugs**

(a) If a landowner plugs or replugs a well under Section 89.013 of this code, the landowner has a cause of action against the operator and nonoperator or either of them in any court of competent jurisdiction for all reasonable costs and expenses incurred in the plugging or replugging of the well, to be secured by a lien on the interest of the operator and the nonoperator or either of them in:

(1) the oil and gas underlying the lease on which the well is located; and

(2) the fixtures, machinery, and equipment found or used on the lease.

(b) Notwithstanding the provisions of Subsection (a) of this section, if the landowner is responsible for the well not being plugged properly, the landowner does not have a cause of action under this chapter.

[Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.083. Cause of Action If Commission Plugs**

If the commission plugs a well under the provisions of Sections 89.043 through 89.044 of this code,

the state has a cause of action for all reasonable expenses incurred in plugging or replugging the well according to the rules of the commission in effect at the time the well is plugged or replugged. The cause of action is:

(1) first, against the operator, to be secured by a lien on his interest in the oil and gas in the land and his fixtures, machinery, and equipment found or used on the land where the well is located;

(2) second, against the nonoperator at the time the well should have been plugged, to be secured by a lien on his interest in the oil and gas in the land; and

(3) third, against the landowner, to be secured by a lien on his interest in the land.

[Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.084. Money Paid Commission by Private Person**

(a) The commission may accept money from private persons and use the money to plug or replug a well.

(b) Paying money to the commission is not an admission that the person paying the money is obligated to plug or replug the well. Evidence that a person has paid money to the commission is not admissible against the person in a suit in which the person's obligation to plug a well is an issue and introducing the evidence is a compulsory ground for mistrial.

[Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 89.085 to 89.120 reserved for expansion]

**SUBCHAPTER E. ENFORCEMENT; JUDICIAL REVIEW**

**§ 89.121. Enforcement by Commission**

In addition to the powers specifically granted to the commission under the provisions of this chapter, the commission may enforce the provisions of this chapter or any rule or order of the commission adopted under the provisions of this chapter in the same manner and on the same conditions as provided in the other chapters of Title 3 of this code.

[Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 89.122. Appeal to Courts**

Any person affected by the provisions of this chapter may sue to test the validity of any order adopted by the commission under this chapter in the same manner, on the same conditions, and to the same court or courts as prescribed for suits testing the validity of orders of the commission adopted under the general oil conservation statutes of this state.

[Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## CHAPTER 90. INTERSTATE COMPACT TO CONSERVE OIL AND GAS

Section	
90.001.	Ratification.
90.002.	Original Copy.
90.003.	Representative.
90.004.	Extension.
90.005.	Form of Agreement.
90.006.	Withdrawal From Compact.
90.007.	Text of Compact.

### § 90.001. Ratification

The Interstate Compact to Conserve Oil and Gas, executed in the City of Dallas, on February 16, 1935, by the Governor of Texas, the text of which is set out in Section 90.007 of this code, was ratified by the legislature of this state in Chapter 81, General Laws, Acts of the 44th Legislature, Regular Session, 1935. [Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 90.002. Original Copy

The original copy of the compact is on deposit with the Department of State of the United States. [Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 90.003. Representative

(a) The governor is the official representative of the State of Texas on the Interstate Oil Compact Commission, provided for in the Interstate Compact to Conserve Oil and Gas. He shall exercise and perform for the state all the powers and duties as a member of the Interstate Oil Compact Commission.

(b) The governor may appoint an assistant representative who shall act in his stead as the official representative of the State of Texas as a member of the commission.

(c) The representative shall take the oath of office prescribed by the constitution, which shall be filed with the Secretary of State.

[Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### Application of Sunset Act

*Acts 1977, 65th Leg., p. 1840, ch. 735, § 2.062, purports to add § 5a to Civil Statutes, art. 6008-1, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(2). As so added, § 5a reads:*

*"The office of Interstate Oil Compact Commissioner for Texas is subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless continued in existence as provided by that Act the office is abolished, and this Act expires effective September 1, 1983."*

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

*amendment is preserved and given effect as part of the code provision.*

### § 90.004. Extension

(a) The continuous extension of the Interstate Compact to Conserve Oil and Gas until September 1, 1951, by an agreement executed by the governor in the name of the State of Texas with other states currently members of the Interstate Oil Compact Commission was authorized by the legislature, subject to the approval of Congress, in:

(1) Chapter 217, Acts of the 45th Legislature, Regular Session, 1937;

(2) Chapter 2, Special Laws, page 527, Acts of the 46th Legislature, Regular Session, 1939;

(3) Chapter 63, Acts of the 47th Legislature, Regular Session, 1941;

(4) Chapter 15, Acts of the 48th Legislature, Regular Session, 1943; and

(5) Chapter 52, Acts of the 50th Legislature, Regular Session, 1947.

(b) The governor may execute agreements in the name of the State of Texas for the further extension of the expiration date of the Interstate Compact to Conserve Oil and Gas.

[Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 90.005. Form of Agreement

The agreement to extend the Interstate Compact to Conserve Oil and Gas, which the governor is authorized to execute for the state, shall be in substance as follows:

*"It is hereby agreed that the Interstate Compact to Conserve Oil and Gas executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, be and the same is hereby extended for a period of four (4) years from its date of expiration (September 1, 1947), this agreement to become effective when executed by any three (3) of the States of Texas, Oklahoma, California, Kansas and New Mexico, and consent thereto is given by Congress."*

[Acts 1977, 65th Leg., p. 2556, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 90.006. Withdrawal From Compact

(a) The governor may determine if and when it is in the best interest of the state to withdraw from the compact as provided by its terms on 60 days' notice.

(b) If the governor determines that the state should withdraw from the compact, he has full authority to give necessary notice and take any steps necessary and proper to effect the withdrawal of the State of Texas from the compact.

[Acts 1977, 65th Leg., p. 2557, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 90.007. Text of Compact

The Interstate Compact to Conserve Oil and Gas reads as follows:

AN INTERSTATE COMPACT TO  
CONSERVE OIL AND GAS

ARTICLE I

This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three (3) of the States of Texas, Oklahoma, California, Kansas and New Mexico have ratified, and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

ARTICLE II

The purpose of this Compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

ARTICLE III

Each state bound hereby agrees that within a reasonable time it will enact laws, or if laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

- (a) The operation of any oil well with an inefficient gas-oil ratio;
- (b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities;
- (c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well;
- (d) The creation of unnecessary fire hazards;
- (e) The drilling, equipping, locating, spacing, or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof;
- (f) The inefficient, excessive, or improper use of the reservoir energy in producing any well.

The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

ARTICLE IV

Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid order and/or gas conservation statutes or any valid rule, order, or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

ARTICLE V

It is not the purpose of this Compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the

price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

ARTICLE VI

Each state joining herein shall appoint a representative to a Commission hereby constituted and designated as The Interstate Oil Compact Commission, the duty of which said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas; and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

No action shall be taken by the Commission, except: (1) by the affirmative votes of the majority of the whole number of the compacting states, represented at any meeting; and (2) by a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

ARTICLE VII

No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

ARTICLE VIII

This Compact shall expire September 1, 1937. But any state joining herein may, upon sixty (60) days notice, withdraw herefrom.

The representatives of the signatory states have signed this agreement in a single original, which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory states.

This Compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

[Acts 1977, 65th Leg., p. 2557, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## CHAPTER 91. PROVISIONS GENERALLY APPLICABLE

### SUBCHAPTER A. GENERAL PROVISIONS

Section  
91.001. Definitions.

### SUBCHAPTER B. DUTIES RELATING TO OIL AND GAS WELLS

91.011. Casing.  
91.012. Water in Wells.  
91.013. Plugging and Shutting in Wells by Others.  
91.014. Petition to Restrain Waste.  
91.015. Prevention of Waste.  
91.016. Confining Gas to Original Stratum.  
91.017. Using Gas in the Open Air.  
91.018. Illumination.

### SUBCHAPTER C. STANDARD GAS MEASUREMENT

91.051. Title.  
91.052. Definition.  
91.053. Commission Determination.  
91.054. Notice and Hearing.  
91.055. Findings and Rules.  
91.056. Use of Findings and Field Rules.  
91.057. Method of Reporting.  
91.058. Sale, Purchase, Delivery, and Receipt of Gas.  
91.059. Constitutionality.  
91.060. Penalty.  
91.061. Civil Suit.  
91.062. Applicability of Certain Provisions.

### SUBCHAPTER D. PREVENTION OF POLLUTION

91.101. Rules and Orders.  
91.102. Additional Personnel.  
91.103. Persons Required to Execute Bond.  
91.104. No Appeal From Commission Decision.  
91.105. Amount of Bond.  
91.106. Bond Conditions.  
91.107. Execution of Bond.  
91.108. New Bond.

### SUBCHAPTER E. BOOKS, RECORDS, AND REPORTS

91.141. Books and Records.  
91.142. Report to Commission.  
91.143. False Applications, Reports, and Documents.

### SUBCHAPTER F. UNDERGROUND NATURAL GAS STORAGE AND CONSERVATION

91.171. Short Title.  
91.172. Declaration of Policy.  
91.173. Definitions.  
91.174. Findings of Commission.  
91.175. Commission Jurisdiction.  
91.176. Withdrawal of Native Gas.  
91.177. Storage Operations Must be Bona Fide.  
91.178. Relocation of Facilities.  
91.179. Appropriation of Storage Facilities; Limitations.  
91.180. Institution of Condemnation Proceedings.  
91.181. Exercise of Right of Eminent Domain.  
91.182. Ownership of Stored Gas.  
91.183. Rights of Purchasers of Native Gas.  
91.184. Abandonment.

### SUBCHAPTER G. UNDERGROUND HYDROCARBON STORAGE

91.201. Definitions.  
91.202. Policy.  
91.203. Authority; Rules.  
91.204. Permits.  
91.205. Authority to Enter Property.  
91.206. Authority to Examine Records.

Section  
91.207. Notice of Noncompliance.  
91.208. Civil Penalty.  
91.209. Injunction.  
91.210. Procedure.

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 91.001. Definitions

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Gas" means natural gas.

(3) "Oil" means crude oil and crude petroleum oil.

[Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 91.002 to 91.010 reserved for expansion]

### SUBCHAPTER B. DUTIES RELATING TO OIL AND GAS WELLS

#### § 91.011. Casing

Before drilling into the oil or gas bearing rock, the owner or operator of a well being drilled for oil or gas shall encase the well with good and sufficient wrought iron or steel casing in a manner that will exclude surface or fresh water from the lower part of the well from penetrating the oil or gas bearing rock, and if the well is drilled through the first into the lower oil or gas bearing rock, the well shall be cased in a manner that will exclude fresh water above the last oil or gas bearing rock penetrated.

[Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 91.012. Water in Wells

(a) In boring any well for oil or gas, if a person pierces any cap rock or other geological formation in a manner that will cause a flow of salt water or fresh water injurious to an already bored oil well or any oil or gas deposits and that will probably result in the injury of the oil or gas field or already bored oil or gas well, the person shall abandon immediately all work on the well if the flow of water cannot be cased off and shall plug and fill the well in a manner and with materials that will stop the flow of the water.

(b) No well owner or person boring a well described under Subsection (a) of this section may remove the casing from the drilled well until the flow of water is stopped either by casing off or plugging the well.

(c) The provisions of this section apply only if the cap rock or other formation is pierced at a depth below the horizon at which oil or gas has been discovered already.

[Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.013. Plugging and Shutting in Wells by Others**

(a) If the owner of a well described in Subsection (a) of Section 91.012 of this code neglects or refuses to have the well plugged or shut in for more than 20 days after written notice is given to him, the owner or operator of adjacent or neighboring land may enter the premises on which the well is located and have the well plugged if it is an abandoned well or shut in if it is not abandoned, in the manner provided by law.

(b) Notice may be given to the owner of the well either by personal service on the owner or by posting the notice at a conspicuous place at or near the well.

(c) The reasonable cost and expense incurred in plugging or shutting in the well shall be paid by the owner of the well and may be recovered as debts of like amount are recovered under the law.

[Acts 1977, 65th Leg., p. 2560, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.014. Petition to Restrain Waste**

(a) In addition to any other penalties, a district judge, in term time or vacation time, shall hear and determine any petition that is filed to restrain the waste of gas in violation of this subchapter and may issue mandatory or restraining orders that in his judgment are necessary.

(b) The petition may be filed by any citizen of this state and does not have to allege further financial interest of the petitioner in the state's natural resources than that possessed in common with all citizens of the state.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.015. Prevention of Waste**

Operators, contractors, drillers, pipeline companies, and gas distributing companies that drill for or produce oil or gas or pipe oil or gas for any purpose shall use every possible precaution in accordance with the most approved methods to stop and prevent waste of oil, gas, or both oil and gas in drilling and producing operations, storage, piping, and distribution and shall not wastefully use oil or gas or allow oil or gas to leak or escape from natural reservoirs, wells, tanks, containers, or pipes.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.016. Confining Gas to Original Stratum**

(a) If gas located in a gas-bearing stratum known to contain gas in paying quantities is encountered in a well drilled for oil or gas in this state, the gas shall be confined to its original stratum until it can be produced and used without waste.

(b) Gas-bearing strata shall be adequately protected from infiltrating water.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.017. Using Gas in the Open Air**

(a) Any person who uses gas in lights in the open air or in or around derricks shall turn off the gas not later than 8 a. m. of each day the lights are burning or are used and shall not turn the lights on or relight them between 8 a. m. and 5 p. m.

(b) The person consuming the gas and using the burners in the open air shall enclose them in glass globes or lamps.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.018. Illumination**

No person, copartnership, or corporation may use gas for illuminating purposes in flambeau lights. The use of "jumbo" burners or other burners consuming no more gas than the "jumbo" burners is not prohibited.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 91.019 to 91.050 reserved for expansion]

**SUBCHAPTER C. STANDARD GAS MEASUREMENT**

**§ 91.051. Title**

This subchapter may be cited as the Standard Gas Measurement Law.

[Acts 1977, 65th Leg., p. 2561, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.052. Definition**

(a) The term "cubic foot of gas" or "standard cubic foot of gas" means the volume of gas contained in one cubic foot of space at a standard pressure base and at a standard temperature base.

(b) The standard pressure base shall be 14.65 pounds per square inch absolute, and the standard temperature base shall be 60 degrees Fahrenheit. If the conditions of pressure and temperature differ from this standard, conversion of the volume from these conditions to the standard conditions shall be made in accordance with the ideal gas laws, corrected for deviation.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.053. Commission Determination**

The commission shall determine the average temperature of gas as produced in each oil and gas field in Texas, other variable factors necessary to calculate the metered volumes in accordance with the ideal gas laws, and the variable factors to correct for deviation from the ideal gas laws in each of the oil and gas fields in the state.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.054. Notice and Hearing**

On request of any interested person, the commission shall give proper notice and hold a public hearing before making a determination under Section 91.053 of this code.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.055. Findings and Rules**

On making the determination, the commission promptly shall make its findings and shall adopt reasonable field rules that may be necessary to effectuate the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.056. Use of Findings and Field Rules**

(a) Any person may use the findings and field rules of the commission for any purposes under this subchapter.

(b) If the findings or field rules are not used as provided in Subsection (a) of this section in determining volumes under this subchapter, the volumes otherwise determined shall be corrected to the basis of the standard cubic foot of gas as defined in Section 91.052 of this code.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.057. Method of Reporting**

A person required to report volumes of gas under the laws of this state shall report the volumes in number of standard cubic feet calculated and determined under the provisions of this subchapter.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.058. Sale, Purchase, Delivery, and Receipt of Gas**

(a) Each sale, purchase, delivery, and receipt of gas by volume made in this state by, for, or on behalf of an oil and gas lease owner, royalty owner under a lease, or other mineral interest owner shall be made and the gas shall be measured, calculated, purchased, delivered, and accounted for on the basis of a standard cubic foot of gas as defined in this subchapter and determined under this subchapter.

(b) If the provisions of this subchapter operate to change the basis of measurement provided in existing contracts, the price for gas, including royalty gas, provided for in the contracts shall be adjusted to compensate for the change in the method of measuring the volume of gas delivered under the contracts if either the purchaser or seller so desires.

(c) This section is intended to protect parties to contracts in existence on October 4, 1949, so that the total amount of money paid for a volume of gas purchased or required to be accounted for under these contracts shall remain unaffected by this subchapter.

[Acts 1977, 65th Leg., p. 2562, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.059. Constitutionality**

If the provisions of Section 91.058 of this code or any part of that section are held to be invalid or unconstitutional by the courts, the remaining portions of this subchapter shall become ineffective and inoperative.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.060. Penalty**

(a) Any person who, as purchaser, shall knowingly fail or refuse to measure, calculate, or account in the manner required in this subchapter for any gas purchased is subject to a penalty of not less than \$10 nor more than \$500 for each offense.

(b) The penalty is recoverable in the name of the state in a district court in Travis County.

(c) Each day a violation is committed constitutes a separate offense.

(d) It is a defense to a claim for the penalty that the commission has not made the findings under Section 91.055 of this code with regard to the particular field in question.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.061. Civil Suit**

None of these provisions shall prevent an aggrieved person from maintaining a civil suit for damages in the county or counties in which the gas is produced.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.062. Applicability of Certain Provisions**

None of the provisions of Sections 91.058 through 91.061 of this code affect or apply to purchases or sales made on any basis other than a volume basis.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 91.063 to 91.100 reserved for expansion]

**SUBCHAPTER D. PREVENTION OF POLLUTION****§ 91.101. Rules and Orders**

To prevent pollution of streams and public bodies of surface water of the state, including subsurface water strata capable of producing water suitable for domestic or livestock use, irrigation of crops, or industrial use, that would or might result from the escape or release of oil, salt water, or other mineralized water from any well or operations in connection with any well, the commission shall adopt and enforce rules and orders relating to:

(1) the drilling of exploratory wells and oil and gas wells or any purpose in connection with them;

(2) the production of oil and gas;

(3) the operation, abandonment, and proper plugging of these wells.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.102. Additional Personnel**

The commission is directed to employ additional personnel necessary to administer this subchapter and related laws and rules and orders adopted by the commission.

[Acts 1977, 65th Leg., p. 2563, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.103. Persons Required to Execute Bond**

Before approval of an application, the commission may require the following persons to execute and file with the commission a bond:

- (1) an applicant to drill a new well or redrill or deepen an old well;
- (2) an operator who has acquired a producing well and who is requesting authorization to connect a producing well or wells to a pipeline or other outlet; and
- (3) an operator filing a well potential form who has reworked and brought into production a previously nonproducing well, resulting in making an application for an allowable for production of oil and gas from the well.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.104. No Appeal From Commission Decision**

The discretion of the commission in requiring a bond under this subchapter is final and may not be appealed.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.105. Amount of Bond**

The bond shall be in the penal sum of \$5,000 for each well to be drilled or operated or, in lieu of a separate bond for each well, a blanket bond in the penal sum of \$10,000 to cover all wells drilled, to be drilled, and to be operated in the state.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.106. Bond Conditions**

Each bond shall be conditioned that the operator will plug and abandon the well in accordance with the law of the state and the rules and orders of the commission.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.107. Execution of Bond**

Each bond shall be executed by a corporate surety authorized to do business in this state and shall be renewed and be continued in effect until the conditions have been met or release is authorized by the commission.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.108. New Bond**

If a well covered by a bond is transferred, sold, or assigned by its operator, the commission may require the party acquiring the well to execute a new bond, and the bond of the prior operator shall remain in effect until the new bond is provided or filing of the bond is waived.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 91.109 to 91.140 reserved for expansion]

SUBCHAPTER E. BOOKS, RECORDS,  
AND REPORTS

**§ 91.141. Books and Records**

(a) Owners and operators of oil and gas wells shall keep books that show accurately:

- (1) the amount of sold and unsold stock;
- (2) the amount of promotion money paid;
- (3) the amount of oil and gas produced and disposed of and the price for which the oil and gas was sold;
- (4) the receipts from the sale or transfer of leases or other property; and
- (5) disbursements made in connection with or for the benefit of the business.

(b) The books shall be kept open for the inspection of the commission or any accredited representative of the commission and any stockholder or shareholder or royalty owner in the business.

(c) The owners and operators of oil and gas wells shall report the information to the commission for its information if required by the commission to do so.

[Acts 1977, 65th Leg., p. 2564, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 91.142. Report to Commission**

A person, firm, partnership, joint stock association, corporation, or other domestic or foreign organization operating wholly or partially in this state and acting as principal or agent for another for the purpose of drilling, owning, or operating an oil or gas well or owning or controlling leases of oil or mineral rights or the transportation of oil or gas by pipeline shall file immediately with the commission:

- (1) the name of the company or organization;
- (2) the post-office address of the company or organization;
- (3) the plan under which the company or organization was organized;
- (4) the names and post-office addresses of the trustee or trustees of the company or organization; and
- (5) the names and post-office addresses of the officers and directors.

[Acts 1977, 65th Leg., p. 2565, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 91.143. False Applications, Reports, and Documents

(a) A person is guilty of a felony and on conviction shall be punished by imprisonment in the state penitentiary for not less than two years but not more than five years or by a fine of not more than \$1,000 or by both if:

(1) he makes or subscribes any application, report, or other document required or permitted to be filed with the commission by the provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, knowing that the application, report, or other document is false or untrue in a material fact;

(2) he aids or assists in, or procures, counsels, or advises the preparation or presentation of any of these applications, reports, or other documents that are fraudulent, false, or incorrect in any material matter, knowing them to be fraudulent, false, or incorrect in any material matter;

(3) he knowingly simulates or falsely or fraudulently executes or signs such an application, report, or other document; or

(4) he knowingly procures these applications, reports, or other documents to be falsely or fraudulently executed, or advises, aids in, or connives at this execution.

(b) If other penalties prescribed in Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, overlap offenses that are also punishable under this section, the penalties prescribed in this section shall be in addition to other penalties.

(c) No application, report, or other document required or permitted to be filed with the commission under Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, may be required to be under oath, verification, acknowledgment, or affirmation.

[Acts 1977, 65th Leg., p. 2565, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### SUBCHAPTER F. UNDERGROUND NATURAL GAS STORAGE AND CONSERVATION

#### § 91.171. Short Title

This subchapter may be cited as the Underground Natural Gas Storage and Conservation Act of 1977. [Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

#### § 91.172. Declaration of Policy

The underground storage of natural gas promotes the conservation of natural gas, permits the building of reserves for orderly withdrawal in periods of peak demand, makes more readily available natural gas resources to residential, commercial, and industrial customers of this state, provides a better year-round

market to the various gas fields, and promotes the public interest and welfare of this state.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

#### § 91.173. Definitions

In this subchapter:

(1) "Person" means any natural person, partnership or other combination of natural persons, corporation, group of corporations, trust, or governmental entity.

(2) "Gas utility" means a gas utility as defined in Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), or Article 6050, Revised Civil Statutes of Texas, 1925, as amended.

(3) "Natural gas" means any gaseous material composed predominantly of the following hydrocarbons or mixtures thereof: methane, ethane, propane, butane (normal or isobutane), in either its original or manufactured state, or gas which has been processed to separate it into one or more of its component parts after its withdrawal from the earth.

(4) "Native gas" means:

(A) natural gas which has not previously been withdrawn from the earth; or

(B) natural gas which has been withdrawn from the storage facility, processed, and reinjected into the storage facility.

(5) "Storage facility" means any subsurface sand, stratum, or formation used or to be used for the underground storage of natural gas and all surface and subsurface rights and appurtenances necessary to the operation of a facility for the underground storage of natural gas.

(6) "Storer" means (A) a gas utility, (B) a wholly owned subsidiary of a gas utility, (C) the parent corporation of a gas utility, or (D) a wholly owned subsidiary of a parent corporation which also wholly owns a subsidiary gas utility, but a nonutility storer included in category (B), (C), or (D) must operate the storage facility pursuant to a contract with its affiliated gas utility that provides that all withdrawals of natural gas from the storage facility must be delivered to the affiliated gas utility.

(7) "Substantially depleted" means that at least 75 percent of the estimated volume of recoverable native gas reserves originally in place in any gas-bearing sand, formation, or stratum have been withdrawn from the sand, formation, or stratum.

(8) "Interested person" means any person who enters an appearance at the commission hearing required by Section 91.174 of this code.

(9) "Commission" means the Railroad Commission of Texas.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**§ 91.174. Findings of Commission**

(a) Any storer desiring to exercise the right of eminent domain for the acquisition of a storage facility shall, as a condition precedent to the filing of its petition in the appropriate court, obtain from the commission an order finding:

(1) that the underground formation or stratum sought to be acquired is classified by the commission as a gas reservoir and is suitable for the underground storage of natural gas and that the storage of natural gas is necessary for the gas utility to provide adequate service to the public and is in the public interest;

(2) that the use of the formation or stratum as a storage facility will cause no injury to surface or underground water resources;

(3) that the formation or stratum does not contain native gas producible in paying quantities unless the the recoverable volumes of native gas originally in place are substantially depleted and unless the formation or stratum has a greater value of ultimate use to the consuming public as a storage facility to ensure an adequate supply of natural gas or for the conservation of natural gas than the production of native gas which remains;

(4) the extent of the horizontal limits of the reservoir expected to be penetrated by displaced or injected gas; and

(5) that no portion of the formation or stratum sought to be acquired has been condemned or is being utilized for the injection, storage, and withdrawal of gas by others.

(b) The designation of a storage facility does not prevent any storer from instituting additional proceedings in the event it is later determined that the underground reservoir should be extended to prevent the escape, displacement, or withdrawal by others of injected gas.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**§ 91.175. Commission Jurisdiction**

The commission shall have jurisdiction to supervise the construction and operation of all storage facilities formed pursuant to this subchapter, and in addition to the findings required by Section 91.174 of this code, the commission shall include in any order of approval a requirement that the storer file a report each month, including each month prior to the time the storage facility is in operation, with the commission showing, for that month, the volume of gas injected and stored gas withdrawn from storage.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**§ 91.176. Withdrawal of Native Gas**

A storer may withdraw from storage injected and stored gas as market demand dictates. However, any time a storer's withdrawals from a storage facility equal the volume of gas injected for storage,

the storer shall not withdraw additional gas from the storage facility without first obtaining specific authority from the commission.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**§ 91.177. Storage Operations Must be Bona Fide**

(a) A storer must initiate injection operations for gas storage within 12 months after the condemnation order of the court becomes final and storage operations must continue with reasonable diligence after that time.

(b) Should the monthly reports to the commission indicate that bona fide underground gas storage operations are not being conducted, the commission may, on its own motion or on motion of any interested person, schedule a public hearing, giving the storer the opportunity to show cause why the commission approval of the project should not be withdrawn.

(c) If the commission finds that the storage project is not being conducted in a bona fide manner, it shall issue an order withdrawing approval of the storage facility, and all property, both mineral and surface, that was condemned by the storer shall revert to those who owned the property at the time of condemnation or their successors.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**§ 91.178. Relocation of Facilities**

In the event the acquisition or operation of a storage facility acquired through the exercise of the power of eminent domain requires the relocation or alteration of any railroad, electric, telegraph, telephone, or pipeline lines or facilities, the expense of the relocation or alteration shall be borne by the storer. The expense of relocation means the actual cost incurred in providing a comparable replacement line or facility, less net salvage value from the sale or other disposition of the old facility.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**§ 91.179. Appropriation of Storage Facilities; Limitations**

After an order of the commission is issued approving a storage facility, a storer may condemn without further attack as to its right to condemn, any subsurface sand, stratum, or formation for the underground storage of natural gas, condemning all mineral and royalty rights as are reasonably necessary for the operation of the storage facility, subject to the limitations of this subchapter, and the storer may condemn any other interests in property that may be required, including interests in the surface estate in the sand, stratum, or formation reasonably necessary to the operation of the storage facility, provided that:

(1) no part of a reservoir is subject to condemnation unless the storer has acquired by option,

lease, conveyance, or other negotiated means at least 66- $\frac{2}{3}$  percent of the ownership of minerals, including working interests, and 66- $\frac{2}{3}$  percent of the ownership of the royalty interests, computed in relation to the surface area overlying the part of the reservoir which as found by the commission to be expected to be penetrated by displaced or injected gas;

(2) no dwelling, barn, store, or other building is subject to condemnation; and

(3) the right of condemnation is without prejudice to the rights of the owners or holders of other rights or interests of land to drill through the storage facility under such terms and conditions as the commission may prescribe for the purpose of protecting the storage facility against pollution or escape of natural gas and is without prejudice to the rights of the owners or holders of other rights or interests of the land to all other uses so long as those uses do not interfere with the operation of the storage facility.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

#### § 91.180. Institution of Condemnation Proceedings

(a) The finding by the commission that underground storage is in the public interest is binding on all persons whose property the storer has the right to condemn. After that finding of the commission, the storer has the right to condemn all of the underground storage area and any surface area required for the use and enjoyment of the storage facility.

(b) The storer shall initiate eminent domain proceedings in the court having jurisdiction in the area in which a portion of the land is situated. The petition shall set forth the purpose for which the property is sought to be acquired, a description of the sand, stratum, or formation and of the land under which it is alleged to be contained, the names of the owners as shown by the deed records of the county, and a description of all other property and rights sought to be appropriated for use in connection with the storage facility, including any parts of the surface necessary for any facilities incidental to the operation of the storage facility.

(c) The petition shall state facts showing that the storer has obtained the findings of the commission required by Section 91.174 of this code, that the storer in good faith has been unable to acquire the rights sought to be appropriated, that the storer has acquired, prior to the filing of the petition, by any means other than condemnation, at least 66 $\frac{2}{3}$  percent of the ownership of the minerals, including working interests, and 66 $\frac{2}{3}$  percent of the royalty interests of the property rights in the storage facility required for that purpose, and shall describe the surface area overlying the storage facility the storer seeks to acquire and the names of the owners of those rights and interests.

(d) Where more than one tract of land is involved, all or any tracts may be joined in one proceeding, without prejudice to the right of the storer to institute additional proceedings; provided, that the failure to make service upon a defendant does not affect the right of the storer to proceed against any or all other of the defendants upon whom service has been made.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

#### § 91.181. Exercise of Right of Eminent Domain

All proceedings in connection with the condemnation and acquisition of storage facilities shall be in accordance with Articles 3264 through 3271, Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict between those articles and this subchapter, the provisions of this subchapter prevail.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

#### § 91.182. Ownership of Stored Gas

All natural gas in the stratum condemned which is not native gas, and which is subsequently injected into storage facilities is personal property and is the property of the injector or its assigns, and in no event is the gas subject to the right of the owner of the surface of the land or of any mineral or royalty owner's interest under which the storage facilities lie, or of any person other than the injector to produce, take, reduce to possession, either by means of the law of capture or otherwise, waste, or otherwise interfere with or exercise any control over a storage facility. Upon failure, neglect, or refusal of the person to comply with this section, the storer has the right to compel compliance by injunction or by other appropriate relief by application to a court of competent jurisdiction.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

#### § 91.183. Rights of Purchasers of Native Gas

(a) In the event there are remaining reserves of native gas in the storage facility which are dedicated to a purchaser and the purchaser and storer are unable to agree on an equitable settlement of rights with respect to the remaining native gas within a period of time that will prevent interference with the operation of the storage facility, the storer or purchaser may apply to the commission for an adjudication concerning remaining reserves of native gas.

(b) Upon application, the commission shall direct a settlement of remaining reserves of native gas that is equitable to all parties, but which does not interfere with the public benefits arising from the operation of the storage facility.

(c) In addition to any other disposition that is equitable to all parties, the commission may make a finding of the quantity of remaining recoverable native gas and an allocation of future production on

a reasonable production schedule and order delivery to the purchaser by the storer of the amounts of native gas that the commission finds would have been taken by the purchaser during the term of the purchase agreement.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**§ 91.184. Abandonment**

(a) When a storer has permanently abandoned the storage facility, the storer shall file with the commission a notice of abandonment, and shall file an instrument in the deed records in the appropriate county or counties, stating that the storage has ceased, and that all property, both mineral and surface, condemned by the storer has reverted to those who owned the property at the time of condemnation, or their heirs, successors, or assigns.

(b) The storer shall also file in the deed records in the appropriate county or counties a list of the owners of the mineral, royalty, and surface owners to whom the various interests have reverted, together with an affidavit that the storer has compiled the list from a current examination of title records and that the list is true and correct to the best of the knowledge of the affiant.

[Added by Acts 1979, 66th Leg., p. 1997, ch. 785, § 3, eff. June 13, 1979.]

**SUBCHAPTER G. UNDERGROUND HYDROCARBON STORAGE**

**§ 91.201. Definitions**

In this subchapter:

(1) "Underground hydrocarbon storage facility" or "storage facility" means a subsurface sand, stratum, or geological formation used for the underground storage of hydrocarbons, and includes surface or subsurface rights and appurtenances necessary for the operation of the facility.

(2) "Hydrocarbons" means oil, gas, or products of oil or gas, as those terms are defined by Section 85.001 of this code.

(3) "Waste" means surface or subsurface waste, as defined by Section 85.046 of this code, of hydrocarbons, including, but not limited to, the physical or economic waste or loss of hydrocarbons in the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility.

(4) "Commission" means the Railroad Commission of Texas.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

**§ 91.202. Policy**

It is the policy of this state and the purpose of this subchapter to prevent the waste of oil, gas, and products of oil or gas, to protect the ground and surface water of the state from unreasonable degradation, and to protect the public health, welfare, and

physical property in the creation, operation, maintenance, and abandonment of underground hydrocarbon storage facilities.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

**§ 91.203. Authority; Rules**

(a) The commission shall supervise or monitor the construction, operation, maintenance, and closure of storage facilities.

(b) The commission may adopt reasonable rules or issue reasonable orders to implement the policies of this subchapter and may establish minimum standards regulating the creation, operation, maintenance, and abandonment of underground hydrocarbon storage facilities. The rules and standards of the commission may include, but are not limited to, requirements for monitoring, recordkeeping, and reporting, the drilling and creation of the facility, selecting the site of the facility, and for proper closure of the facility on abandonment.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

**§ 91.204. Permits**

(a) The commission by rule may require a person who creates, operates, maintains, or abandons an underground hydrocarbon storage facility to obtain a permit from the commission. A permit issued by the commission may contain provisions and conditions necessary to implement the policies of this subchapter. The commission may adopt reasonable rules for the amendment, revocation, transfer, or suspension of a permit.

(b) A person desiring to obtain a permit or to amend a permit must submit an application containing the information required by the commission.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

**§ 91.205. Authority to Enter Property**

Members and employees of the commission may enter public or private property at reasonable times to inspect and investigate conditions relating to the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility. The members and employees may not enter private property having management in residence without notifying the management of their presence and shall observe safety, internal security, and fire protection rules of the establishment being inspected.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

**§ 91.206. Authority to Examine Records**

Members and employees of the commission may examine and copy during regular business hours records pertaining to the creation, operation, maintenance, or abandonment of an underground hydrocarbon storage facility.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

**§ 91.207. Notice of Noncompliance**

(a) On receipt of notice from the commission that a person creating, operating, maintaining, or abandoning an underground hydrocarbon storage facility has violated this subchapter or a term, condition, or provision of a permit issued under this subchapter, an operator of the pipeline or other carrier connected to the facility shall disconnect from the facility and shall remain disconnected from the facility until notice of compliance has been received from the commission.

(b) On receipt of notice from the commission of a violation of this subchapter, a rule of the commission issued under this subchapter, or a term, condition, or provision of a permit issued under this subchapter, the owner or operator of an underground hydrocarbon storage facility shall discontinue any removal of hydrocarbons from the facility or any addition of hydrocarbons to the facility and may not begin or renew removal of hydrocarbons from the facility or begin or renew addition of hydrocarbons to the facility until notice of compliance has been received from the commission.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

Section 6 of the 1981 Act provides:

"Sections 91.207 and 91.208, Natural Resources Code, apply only to violations of Subchapter G of Chapter 91 of that code and of rules and permits that occur on or after the effective date of this Act. Authorizations for hydrocarbon storage facilities issued before the effective date of this Act continue in effect under their terms until amended, revoked, or suspended by the commission and the storage facilities continue to be governed by those authorizations."

**§ 91.208. Civil Penalty**

(a) A person who violates this subchapter, a rule or order of the commission made under this subchapter, or a term, condition, or provision of a permit issued under this subchapter is subject to a civil penalty not to exceed \$1,000 for each offense. Each day a violation is committed is a separate offense.

(b) The action may be brought by the commission in any court of competent jurisdiction in the county where the offending activity is occurring, where the defendant resides, or in Travis County.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

Section 6 of the 1981 Act provides:

"Sections 91.207 and 91.208, Natural Resources Code, apply only to violations of Subchapter G of Chapter 91 of that code and of rules and permits that occur on or after the effective date of this Act. Authorizations for hydrocarbon storage facilities issued before the effective date of this Act continue in effect under their terms until amended, revoked, or suspended by the commission and the storage facilities continue to be governed by those authorizations."

**§ 91.209. Injunction**

The commission by injunction or other appropriate remedy may enforce a valid rule or order made under this subchapter or a term or condition of a permit issued by the commission under this subchapter. The suit shall be brought in a court of competent jurisdiction in the county where the offending activity is occurring, where the defendant resides, or in Travis County.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

**§ 91.210. Procedure**

(a) At the request of the commission, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief or to recover a civil penalty as provided by Section 91.208 or 91.209 of this subchapter.

(b) A party to a suit may appeal from a final judgment as in other civil cases.

[Added by Acts 1981, 67th Leg., p. 3167, ch. 830, § 3, eff. June 17, 1981.]

**SUBTITLE C. POOLING AND COOPERATIVE AGREEMENTS****CHAPTER 101. COOPERATIVE DEVELOPMENT****SUBCHAPTER A. GENERAL PROVISIONS**

Section	
101.001.	Definition.
101.002.	Existing Agreement Rights.
101.003.	Applicability.
101.004.	Conflict With Antitrust Acts.

**SUBCHAPTER B. COOPERATIVE AGREEMENTS IN SECONDARY RECOVERY OPERATIONS**

101.011.	Authorized Agreements for Separately Owned Properties.
101.012.	Persons Bound by Agreements.
101.013.	Commission Approval.
101.014.	Jointly Owned Properties.
101.015.	Commission Regulation.
101.016.	Permissible Provisions.
101.017.	Prohibited Provisions.
101.018.	Effect of Approval Outside of Unit.

**SUBCHAPTER C. PUBLIC LAND**

101.051.	Authority of Commissioner of General Land Office.
101.052.	Necessary Approval by Other Persons and State Agencies.

**SUBCHAPTER A. GENERAL PROVISIONS****§ 101.001. Definition**

In this chapter, "commission" means the Railroad Commission of Texas.

[Acts 1977, 65th Leg., p. 2566, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.002. Existing Agreement Rights**

None of the provisions in this chapter restrict any of the rights that a person now may have to make and enter into unitization and pooling agreements.

[Acts 1977, 65th Leg., p. 2566, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.003. Applicability**

None of the provisions in this chapter impair the power of the commission to prevent waste under the oil and gas conservation laws of the state except as provided in Section 101.004 of this code or repeal, modify, or impair any of the provisions of Sections 85.002 through 85.003, 85.041 through 85.055, 85.056 through 85.064, 85.125, 85.201 through 85.207, 85.241

through 85.243, 85.249 through 85.252, or 85.381 through 85.385 of this code or Subchapters E and J of Chapter 85 of this code, relating to oil and gas conservation.

[Acts 1977, 65th Leg., p. 2566, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.004. Conflict With Antitrust Acts**

(a) Agreements and operations under agreements which are in accordance with the provisions in this chapter, being necessary to prevent waste and conserve the natural resources of this state, shall not be construed to be in violation of the provisions of Chapter 15, Business & Commerce Code, as amended.

(b) If a court finds a conflict between the provisions in this chapter and Chapter 15, Business & Commerce Code, as amended, the provisions in this chapter are intended as a reasonable exception to that law, necessary for the public interests stated in Subsection (a) of this section.

(c) If a court finds that a conflict exists between the provisions in this chapter and Chapter 15, Business & Commerce Code, as amended, and finds that the provisions in this chapter are not a reasonable exception to said Chapter 15, it is the intent of the legislature that the provisions in this chapter, or any conflicting portion of them, shall be declared invalid rather than declaring Chapter 15, Business & Commerce Code, as amended, or any portion of it, invalid.

[Acts 1977, 65th Leg., p. 2567, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 101.005 to 101.010 reserved for expansion]

**SUBCHAPTER B. COOPERATIVE AGREEMENTS IN SECONDARY RECOVERY OPERATIONS**

**§ 101.011. Authorized Agreements for Separately Owned Properties**

Subject to the approval of the commission, as provided in this chapter, persons owning or controlling production, leases, royalties, or other interests in separate property in the same oil field, gas field, or oil and gas field may voluntarily enter into and perform agreements for either or both of the following purposes:

(1) to establish pooled units, necessary to effect secondary recovery operations for oil or gas, including those known as cycling, recycling, repressuring, water flooding, and pressure maintenance and to establish and operate cooperative facilities necessary for the secondary recovery operations;

(2) to establish pooled units and cooperative facilities necessary for the conservation and use of gas, including those for extracting and separating the hydrocarbons from the natural gas or casing-head gas and returning the dry gas to a formation underlying any land or leases committed to the agreement.

[Acts 1977, 65th Leg., p. 2567, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.012. Persons Bound by Agreements**

Agreements for pooled units and cooperative facilities do not bind a landowner, royalty owner, lessor, lessee, overriding royalty owner, or any other person who does not execute them. The agreements bind only the persons who execute them, their heirs, successors, assigns, and legal representatives. No person shall be compelled or required to enter into such an agreement.

[Acts 1977, 65th Leg., p. 2567, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.013. Commission Approval**

(a) Agreements for pooled units and cooperative facilities are not legal or effective until the commission finds, after application, notice, and hearing:

(1) that the agreement is necessary to accomplish the purposes specified in Section 101.011 of this code;

(2) that it is in the interest of the public welfare as being reasonably necessary to prevent waste and to promote the conservation of oil or gas or both;

(3) that the rights of the owners of all the interests in the field, whether signers of the unit agreement or not, would be protected under its operation;

(4) that the estimated additional cost, if any, of conducting the operation will not exceed the value of additional oil and gas so recovered, by or on behalf of the several persons affected, including royalty owners, owners of overriding royalties, oil and gas payments, carried interests, lien claimants, and others as well as the lessees;

(5) that other available or existing methods or facilities for secondary recovery operations or for the conservation and utilization of gas in the particular area or field concerned or for both are inadequate for the purposes; and

(6) that the area covered by the unit agreement contains only that part of the field that has reasonably been defined by development, and that the owners of interests in the oil and gas under each tract of land in the area reasonably defined by development are given an opportunity to enter into the unit on the same yardstick basis as the owners of interests in the oil and gas under the other tracts in the unit.

(b) A finding by the commission that the area described in the unit agreement is insufficient or covers more acreage than is necessary to accomplish the purposes of this chapter is grounds for the disapproval of the agreement.

[Acts 1977, 65th Leg., p. 2568, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.014. Jointly Owned Properties**

None of the provisions in this chapter shall be construed to require the approval of the commission of voluntary agreements for the joint development and operation of jointly owned property.

[Acts 1977, 65th Leg., p. 2568, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.015. Commission Regulation**

An agreement executed under the provisions of this chapter is subject to any valid order or rule of the commission relating to location, spacing, proration, conservation, or other matters within the authority of the commission, whether adopted prior to or subsequent to the execution of the agreement. [Acts 1977, 65th Leg., p. 2568, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.016. Permissible Provisions**

(a) An agreement authorized by this chapter may provide for the location and spacing of input wells and for the extension of leases covering any part of land committed to the unit as long as operations for drilling or reworking are conducted on the unit or as long as production of oil or gas in paying quantities is had from any part of the land or leases committed to the unit. However, no agreement may relieve an operator from the obligation to develop reasonably the land and leases as a whole committed to the unit.

(b) An agreement authorized by this chapter may provide that the dry gas after extraction of hydrocarbons may be returned to a formation underlying any land or leases committed to the agreement and may provide that no royalties are required to be paid on the gas so returned.

[Acts 1977, 65th Leg., p. 2568, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.017. Prohibited Provisions**

(a) No agreement authorized by this chapter may attempt to contain the field rules for the area or field, or provide for or limit the amount of production of oil or gas from the unit properties, those provisions being solely the province of the commission.

(b) No agreement authorized by this chapter may provide directly or indirectly for the cooperative refining of crude petroleum, distillate, condensate, or gas, or any by-product of crude petroleum, distillate, condensate, or gas. The extraction of liquid hydrocarbons from gas, and the separation of the liquid hydrocarbons into propanes, butanes, ethanes, distillate, condensate, and natural gasoline, without any additional processing of any of them, is not considered to be refining.

(c) No agreement authorized by this chapter may provide for the cooperative marketing of crude petroleum, condensate, distillate, or gas, or any by-products of them.

[Acts 1977, 65th Leg., p. 2569, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.018. Effect of Approval Outside of Unit**

The approval of an agreement authorized by this chapter shall not of itself be construed as a finding that operations of a different kind or character in the portion of the field outside of the unit are wasteful or not in the interest of conservation.

[Acts 1977, 65th Leg., p. 2569, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 101.019 to 101.050 reserved for expansion]

## SUBCHAPTER C. PUBLIC LAND

**§ 101.051. Authority of Commissioner of General Land Office**

Subject to the approval specified in Section 101.052 of this code, the Commissioner of the General Land Office, in behalf of the State of Texas or of any fund belonging to the state, may execute contracts committing to the agreements declared lawful by the provisions of this chapter the royalty interests in oil or gas or both reserved to the state, or any fund of the state, by law, in any patent, in any contract of sale, or under the terms of any oil and gas lease lawfully issued by an official, board, agent, agency, or authority of the state.

[Acts 1977, 65th Leg., p. 2569, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 101.052. Necessary Approval by Other Persons and State Agencies**

(a) An agreement that commits the royalty interests in land set apart by the constitution and laws of this state for the permanent free school fund and the several asylum funds, in river beds, inland lakes, and channels, and the area within tidewater limits, including islands, lakes, bays, inlets, marshes, reefs, and the bed of the sea, must be approved by the School Land Board.

(b) An agreement that covers land leased for oil and gas under the Relinquishment Act, codified as Subchapter F in Chapter 52 of this code, must be executed by the owners of the soil.

(c) An agreement that commits the royalty interests in land or areas other than those covered by Subsections (a) and (b) of this section must be approved by the board, official, agent, agency, or authority of the state vested with authority to lease or to approve the leasing of the land or areas for oil and gas.

[Acts 1977, 65th Leg., p. 2569, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## CHAPTER 102. POOLING

## SUBCHAPTER A. GENERAL PROVISIONS

Section	Title.
102.001.	Title.
102.002.	Definitions.
102.003.	Application to Certain Reservoirs.
102.004.	Application to Public Land.

## SUBCHAPTER B. REQUIREMENTS AND PROCEDURE FOR POOLING

102.011.	Authority of Commission.
102.012.	Owners Authorized to Apply for Pooling.
102.013.	Required Voluntary Pooling Offer.
102.014.	Productive Acreage Equal to Standard Proration Unit.
102.015.	Prohibited Provisions in Operating Agreement.
102.016.	Notice of Hearing.
102.017.	Pooling Order.
102.018.	Acreage Subject to Pooling.

SUBCHAPTER C. RIGHTS IN A POOLED UNIT

- Section  
 102.051. Ownership of Production.  
 102.052. Drilling and Completion Costs.  
 102.053. Effect of Operations.

SUBCHAPTER D. DISSOLUTION OF UNIT

- 102.081. Dissolved With Consent of Owners.  
 102.082. Automatic Dissolution.  
 102.083. Termination of Pooled Lease.

SUBCHAPTER E. JUDICIAL REVIEW

- 102.111. Right to Appeal.  
 102.112. Venue.

SUBCHAPTER A. GENERAL PROVISIONS

§ 102.001. Title

This chapter may be cited as the Mineral Interest Pooling Act.

[Acts 1977, 65th Leg., p. 2570, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.002. Definitions

In this chapter:

(1) "Mineral" means and is limited to oil and gas.

(2) "Commission" means the Railroad Commission of Texas.

[Acts 1977, 65th Leg., p. 2570, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.003. Application to Certain Reservoirs

The provisions of this chapter do not apply to any reservoir discovered and produced before March 8, 1961.

[Acts 1977, 65th Leg., p. 2571, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.004. Application to Public Land

(a) The provisions of this chapter do not apply to land owned by the State of Texas nor to land in which the State of Texas has an interest directly or indirectly.

(b) The provisions of this chapter do not amend, repeal, change, alter, or affect in any manner the authority or jurisdiction of the Commissioner of the General Land Office or the State of Texas with respect to any land or interest in land in which the Commissioner of the General Land Office has jurisdiction.

(c) The provisions of this chapter do not amend, repeal, change, alter, or affect in any manner the authority, jurisdiction, or consent of the Commissioner of the General Land Office on the pooling of any interest now subject to the jurisdiction, authority, or consent of the Commissioner of the General Land Office.

(d) With the approval or consent first obtained, or at the instance of the Commissioner of the General Land Office, or any board or agency having jurisdic-

tion, the land in which the State of Texas has an interest as described in this chapter may be pooled under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2571, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 102.005 to 102.010 reserved for expansion]

SUBCHAPTER B. REQUIREMENTS AND PROCEDURE FOR POOLING

§ 102.011. Authority of Commission

When two or more separately owned tracts of land are embraced in a common reservoir of oil or gas for which the commission has established the size and shape of proration units, whether by temporary or permanent field rules, and where there are separately owned interests in oil and gas within an existing or proposed proration unit in the common reservoir and the owners have not agreed to pool their interests, and where at least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir, the commission, on the application of an owner specified in Section 102.012 of this code and for the purpose of avoiding the drilling of unnecessary wells, protecting correlative rights, or preventing waste, shall establish a unit and pool all of the interests in the unit within an area containing the approximate acreage of the proration unit, which unit shall in no event exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance.

[Acts 1977, 65th Leg., p. 2571, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.012. Owners Authorized to Apply for Pooling

The following interested owners may apply to the commission for the pooling of mineral interests:

- (1) the owner of any interest in oil and gas in an existing proration unit or with respect to a proposed unit;
- (2) the owner of any working interest; or
- (3) any owner of an unleased tract other than a royalty owner.

[Acts 1977, 65th Leg., p. 2571, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.013. Required Voluntary Pooling Offer

(a) The applicant shall set forth in detail the nature of voluntary pooling offers made to the owners of the other interests in the proposed unit.

(b) The commission shall dismiss the application if it finds that a fair and reasonable offer to pool voluntarily has not been made by the applicant.

(c) An offer by an owner of a royalty or any other interest in oil or gas within an existing proration unit to share on the same yardstick basis as the

other owners within the existing proration unit are then sharing shall be considered a fair and reasonable offer.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 102.014. Productive Acreage Equal to Standard Proration Unit**

(a) The commission shall not require the owner of a mineral interest, the productive acreage of which is equal to or in excess of the standard proration unit for the reservoir, to pool his interest with others unless requested by the holder of an adjoining mineral interest, the productive acreage of which is smaller than such pattern, who has not been provided a reasonable opportunity to pool voluntarily.

(b) If the conditions specified in Subsection (a) of this section exist, the commission shall pool the smaller tract with adjacent acreage on a fair and reasonable basis and may authorize a larger allowable for the unit if it exceeds the size of the standard proration unit for the reservoir.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 102.015. Prohibited Provisions in Operating Agreement**

A pooling agreement, offer to pool, or pooling order is not considered fair and reasonable if it provides for an operating agreement containing any of the following provisions:

- (1) preferential right of the operator to purchase mineral interests in the unit;
- (2) a call on or option to purchase production from the unit;
- (3) operating charges that include any part of district or central office expense other than reasonable overhead charges; or
- (4) prohibition against nonoperators questioning the operation of the unit.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 102.016. Notice of Hearing**

On the filing of an application for pooling of interests into a unit under the provisions of this chapter, at least 30 days notice before hearing on the application shall be given to all interested parties, including notice by publication if there are unknown owners or owners whose whereabouts are unknown. The notice shall be given in the manner and form prescribed by the commission.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 102.017. Pooling Order**

(a) After notice and hearing, all orders effecting the pooling shall be made on terms and conditions that are fair and reasonable and will afford the owner or owners of each tract or interest in the unit the opportunity to produce or receive his fair share.

(b) Each order shall:

- (1) describe the land included in the unit, identifying the reservoir to which it applies;

- (2) designate the location of the well; and
- (3) appoint an operator for the unit.

[Acts 1977, 65th Leg., p. 2572, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 102.018. Acreage Subject to Pooling**

The commission shall pool only the acreage which at the time of its order reasonably appears to lie within the productive limits of the reservoir.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 102.019 to 102.050 reserved for expansion]

**SUBCHAPTER C. RIGHTS IN A POOLED UNIT**

**§ 102.051. Ownership of Production**

(a) For the purpose of determining the portions of production owned by the persons owning interests in the pooled unit, the production shall be allocated to the respective tracts within the unit in the proportion that the number of surface acres included within each tract bears to the number of surface acres included in the entire unit.

(b) Notwithstanding the provisions in Subsection (a) of this section, if the commission finds that allocation on a surface-acreage basis does not allocate to each tract its fair share, the commission shall allocate the production so that each tract will receive its fair share, which for any nonconsenting owner shall be no less than he would receive under a surface-acreage allocation.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 102.052. Drilling and Completion Costs**

(a) As to an owner who elects not to pay his proportionate share of the drilling and completion costs in advance, the commission shall make provision in the pooling order for reimbursement solely out of production, to the parties advancing the costs, of all actual and reasonable drilling, completion, and operating costs plus a charge for risk not to exceed 100 percent of the drilling and completion costs.

(b) If there is a dispute relative to the costs, the commission shall determine the proper costs and their allocation among working interest owners after due notice to interested parties and a hearing on the costs.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 102.053. Effect of Operations**

(a) The operations on and production from any portion of a unit for which a pooling order has been entered shall be considered for all purposes the conduct of the operations on and production from each separately owned tract in the pooled unit. If a gas well on a pooled unit is shut-in, it shall be considered that the shut-in gas well is on each separately owned tract in the pooled unit.

(b) If only part of a tract is included in the unit, operations on, production from, or a shut-in gas well on the unit shall maintain an oil and gas lease on the tract as to the part excluded from the unit only if the lease would be maintained had the unit been created voluntarily under the provisions of the lease. [Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 102.054 to 102.080 reserved for expansion]

SUBCHAPTER D. DISSOLUTION OF UNIT

§ 102.081. Dissolved With Consent of Owners

A unit established by order of the commission under this chapter may not be modified or dissolved subsequently without the consent of all mineral owners affected, except as necessary to permit its enlargement as provided in Subchapter B of this chapter.

[Acts 1977, 65th Leg., p. 2573, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.082. Automatic Dissolution

A unit is automatically dissolved:

- (1) one year after its effective date if no production or drilling operations have been had on the unit;
- (2) six months after the completion of a dry hole on the unit; or
- (3) six months after cessation of production from the unit.

[Acts 1977, 65th Leg., p. 2574, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.083. Termination of Pooled Lease

On termination of a lease pooled by order of the commission under authority granted by this chapter, interests covered by the lease are considered pooled as unleased mineral interests.

[Acts 1977, 65th Leg., p. 2574, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 102.084 to 102.110 reserved for expansion]

SUBCHAPTER E. JUDICIAL REVIEW

§ 102.111. Right to Appeal

A person affected by an order of the commission adopted under the authority of this chapter is entitled to judicial review of that order in a manner other than by trial de novo.

[Acts 1977, 65th Leg., p. 2574, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 102.112. Venue

Appeal shall be to the district court of the county in which the land or any part of the land covered by the order is located and not elsewhere, notwithstanding

the provisions of Sections 85.241 through 85.243 of this code.

[Acts 1977, 65th Leg., p. 2574, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

CHAPTER 103. COOPERATIVE FACILITIES FOR CONSERVATION AND UTILIZATION OF GAS

SUBCHAPTER A. GENERAL PROVISIONS

- |          |                                  |
|----------|----------------------------------|
| Section  |                                  |
| 103.001. | Definition.                      |
| 103.002. | Rights Existing on May 12, 1953. |
| 103.003. | Conflict With Antitrust Laws.    |

SUBCHAPTER B. FACILITIES FOR CONSERVATION AND UTILIZATION OF GAS

- |          |  |
|----------|--|
| 103.041. | Authorized Cooperative Facilities for Separately Owned Property. |
| 103.042. | Commission Approval.   |
| 103.043. | Cooperative Refining.  |
| 103.044. | Cooperative Marketing.   |
| 103.045. | Effect of Approval on Operations in Other Fields.                |
| 103.046. | Jointly Owned Property.  |

SUBCHAPTER A. GENERAL PROVISIONS

§ 103.001. Definition

In this chapter, "commission" means the Railroad Commission of Texas.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.002. Rights Existing on May 12, 1953

None of the provisions in this chapter restrict any of the rights that persons had on May 12, 1953, to make and enter into contracts for the construction and operation of cooperative facilities as provided in this chapter.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 103.003. Conflict With Antitrust Laws

(a) Agreements and operations under agreements that are in accordance with the provisions in this chapter, being necessary to prevent waste and conserve the natural resources of this state, shall not be construed to be in violation of the provisions of Chapter 15, Business & Commerce Code, as amended.

(b) If a court finds a conflict between the provisions in this chapter and Chapter 15, Business & Commerce Code, as amended, the provisions in this chapter are intended as a reasonable exception necessary for the public interest stated in Subsection (a) of this section.

(c) If a court finds that a conflict exists between the provisions in this chapter and the laws cited in Subsections (a) and (b) of this section and finds that the provisions in this chapter are not a reasonable exception, it is the intent of the legislature that the provisions in this chapter, or any conflicting portion

of them, shall be declared invalid rather than declaring the cited laws, or any portion of them, invalid. [Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 103.004 to 103.040 reserved for expansion]

#### SUBCHAPTER B. FACILITIES FOR CONSERVATION AND UTILIZATION OF GAS

##### § 103.041. Authorized Cooperative Facilities for Separately Owned Property

The commission may approve agreements by persons owning or controlling leases or other interests in separate property in oil fields, gas fields, or oil and gas fields for the construction and operation of cooperative facilities necessary for the conservation and utilization of gas, including facilities for extracting and separating hydrocarbons from gas or casing-head gas.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 103.042. Commission Approval

Agreements for the construction and operation of cooperative facilities shall be approved by the commission only after application, notice, and hearing, and a finding by the commission that the cooperative facilities are in the interest of conservation and that secondary recovery operations are not feasible or necessary.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 103.043. Cooperative Refining

(a) No agreement for the construction or operation of cooperative facilities may provide directly or indirectly for the cooperative refining of oil, distillate, condensate, or gas, or any by-product of oil, distillate, condensate, or gas.

(b) The extraction of liquid hydrocarbons from gas and the separation of liquid hydrocarbons into butanes, propanes, ethanes, distillate, condensate, and natural gasoline without any additional processing of any of them is not considered to be refining.

[Acts 1977, 65th Leg., p. 2575, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 103.044. Cooperative Marketing

No agreement for the construction or operation of cooperative facilities may provide for the cooperative marketing of oil, condensate, distillate, or gas, or any by-product of oil, condensate, distillate, or gas.

[Acts 1977, 65th Leg., p. 2576, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 103.045. Effect of Approval on Operations in Other Fields

The approval of an agreement authorized by this chapter is not of itself a finding that similar operations in other fields are wasteful or not in the interest of conservation.

[Acts 1977, 65th Leg., p. 2576, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 103.046. Jointly Owned Property

None of the provisions in this chapter require the approval of the commission of voluntary agreements for the joint development and operation of jointly owned property.

[Acts 1977, 65th Leg., p. 2576, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### SUBTITLE D. REGULATION OF SPECIFIC BUSINESSES AND OCCUPATIONS

#### CHAPTER 111. COMMON CARRIERS, PUBLIC UTILITIES, AND COMMON PURCHASERS

##### SUBCHAPTER A. GENERAL PROVISIONS

Section	
111.001.	Definitions.
111.002.	Common Carriers Under Chapter.
111.003.	Applicability of Chapter.
111.004.	General Restriction on Transportation of Oil.

##### SUBCHAPTER B. COMMON CARRIERS

111.011.	Regulation in Public Interest.
111.012.	General Jurisdiction of Commission.
111.013.	Control of Pipelines.
111.014.	Publication of Tariffs.
111.015.	Transportation Without Discrimination.
111.016.	Discrimination Between Shippers.
111.017.	Equal Compensation for Like Service.
111.018.	Effect of Commission Order.
111.019.	Right of Eminent Domain.
111.0191.	Costs of Relocation of Property.
111.0192.	Limitations on the Powers of Eminent Domain in Certain Situations.
111.0193.	Restoration of Property.
111.020.	Pipeline on Public Stream or Highway.
111.021.	Pipeline Under Railroad, Street Railroad, or Canal.
111.022.	Right to Use Street or Alley in City or Town.
111.023.	Exchange of Facilities.
111.024.	Limit on Amount of Oil Carried.
111.025.	Abandoning Connections.

##### SUBCHAPTER C. PUBLIC UTILITIES

111.051.	Applicability of Statute to Public Utilities.
111.052.	Discrimination by Public Utility.
111.053.	Bond of Public Utility.
111.054.	Lien for Storage Charges.

##### SUBCHAPTER D. COMMON PURCHASERS

111.081.	Definition of Common Purchaser.
111.082.	Purpose for Including Certain Entities Under Regulation as Common Purchasers.
111.083.	Duty of Certain Common Purchasers.
111.084.	Operation of Gathering Systems for Crude Petroleum.
111.085.	Applicability of Rate Provisions to Certain Common Purchasers.
111.086.	Discrimination Between Persons and Fields.
111.087.	Conditions in Taking Production.
111.088.	Commission Relief.

- Section  
 111.089. Discrimination as to Royalty Oil.  
 111.090. Compliance by Common Purchasers.  
 111.091. Prevention of Discrimination.  
 111.092. Injunction to Prevent Discrimination.  
 111.093. Forfeiture of Charter of Domestic Corporation.  
 111.094. Forfeiture of Charter of Foreign Corporation.  
 111.095. Action for Damages.  
 111.096. Duties and Responsibilities of Common Purchasers, Purchasers, Gatherers, and Transporters.  
 111.097. Antitrust Laws Unaffected.

SUBCHAPTER E. POWERS AND DUTIES OF THE COMMISSION

- 111.131. Commission Rules for Common Carriers.  
 111.132. Commission Rules for Public Utilities.  
 111.133. Enforcement by Commission.  
 111.134. Notice and Hearing.  
 111.135. Validity of Commission Orders.  
 111.136. Review of Orders.  
 111.137. Enlargement and Extension of Facilities.  
 111.138. Books and Records.  
 111.139. Reports.  
 111.140. Filing Monthly Statements.  
 111.141. Grades of Oil.  
 111.142. Equitable Apportionment of Excessive Amount of Crude Petroleum.

SUBCHAPTER F. RATES

- 111.181. Establishing and Promulgating Rates.  
 111.182. Items Included in Rates.  
 111.183. Basis for Rate.  
 111.184. Discretion of Commission.  
 111.185. Temporary Rates.  
 111.186. Reparation and Reimbursement.  
 111.187. Reimbursement of Excess Charges.  
 111.188. Annual Rate Hearing.  
 111.189. Hearing and Determination of Rates.  
 111.190. Hearings to Adjust Rates.

SUBCHAPTER G. ENFORCEMENT

- 111.221. Complaints; Jurisdiction to Hear Complaints.  
 111.222. Application for Receivership.  
 111.223. Appointment of Receiver.  
 111.224. Duties and Responsibilities of Receiver.  
 111.225. Motion to Dissolve Receivership.  
 111.226. Bond.  
 111.227. Provisions Applicable to Enforcement.

SUBCHAPTER H. PENALTIES

- 111.261. Penalty Recoverable by State.  
 111.262. Penalty Recoverable by Aggrieved Party.  
 111.263. Penalty Recoverable by State and Aggrieved Party.

SUBCHAPTER I. COMMON CARRIER COAL PIPELINES

- 111.301. Certificate Required.  
 111.302. Commission Authority to Issue Certificates.  
 111.303. Certification Procedure.  
 111.304. Transportation Contract.  
 111.305. Other Agencies.

SUBCHAPTER A. GENERAL PROVISIONS

§ 111.001. Definitions

In this chapter:

- (1) "Commission" means the Railroad Commission of Texas.  
 (2) "Public utility" means a person, association of persons, or corporation that owns, operates, or manages crude petroleum storage tanks or storage

facilities for the public for hire, either in connection with a pipeline, pipelines, or otherwise. [Acts 1977, 65th Leg., p. 2578, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 111.002. Common Carriers Under Chapter

A person is a common carrier subject to the provisions of this chapter if it:

(1) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire, or engages in the business of transporting crude petroleum by pipeline;

(2) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire and the pipeline is constructed or maintained on, over, or under a public road or highway, or is an entity in favor of whom the right of eminent domain exists;

(3) owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or for the public for hire which is or may be constructed, operated, or maintained across, on, along, over, or under the right-of-way of a railroad, corporation, or other common carrier required by law to transport crude petroleum as a common carrier;

(4) under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind, owns, operates, manages, or participates in ownership, operation, or management of a pipeline or part of a pipeline in the State of Texas for the transportation of crude petroleum, bought of others, from an oil field or place of production within this state to any distributing, refining, or marketing center or reshipping point within this state;

(5) owns, operates, or manages, wholly or partially, pipelines for the transportation for hire of coal in whatever form or of any mixture of substances including coal in whatever form; or

(6) owns, operates, or manages, wholly or partially, pipelines for the transportation of carbon dioxide in whatever form to or for the public for hire, but only if such person files with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in consideration of the rights acquired, it becomes a common carrier subject to the duties and obligations conferred or imposed by this chapter.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, § 2, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 199, ch. 93, § 1, eff. Aug. 31, 1981.]

§ 111.003. Applicability of Chapter

(a) The provisions of this chapter do not apply to pipelines that are limited in their use to the wells, stations, plants, and refineries of the owner and that

are not a part of the pipeline transportation system of a common carrier as defined in Section 111.002 of this code.

(b) The provisions of this chapter do not apply to any property of a common carrier, as defined in Section 111.002 of this code, that is not a part of or necessarily incident to its pipeline transportation system.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.004. General Restriction on Transportation of Oil

No person, including a common carrier, may transport crude oil or petroleum in this state unless the crude oil or petroleum has been produced or purchased or both in accordance with the laws of this state or a rule of the commission made under those laws, or both.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.005 to 111.010 reserved for expansion]

### SUBCHAPTER B. COMMON CARRIERS

#### § 111.011. Regulation in Public Interest

The operation of common carriers covered by this chapter is a business in which the public is interested and is subject to regulation by law.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.012. General Jurisdiction of Commission

Particular powers granted to the commission by the provisions of this chapter do not limit the general powers conferred by other laws.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.013. Control of Pipelines

A pipeline subject to the provisions of this chapter not exempt under Section 111.003 of this code, which is used in connection with the business of purchasing or purchasing and selling crude petroleum, or in the business of transporting coal or carbon dioxide in whatever form by pipeline for hire in Texas, shall be operated as a common carrier and shall be subject to the jurisdiction of the commission.

[Acts 1977, 65th Leg., p. 2579, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, § 2, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 199, ch. 93, § 1, eff. Aug. 31, 1981.]

#### § 111.014. Publication of Tariffs

Common carriers shall make and publish their tariffs under rules prescribed by the commission.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.015. Transportation Without Discrimination

Subject to the law and the rules prescribed by the commission, a common carrier shall receive and transport crude petroleum delivered to it for transportation and perform its other related duties without discrimination.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.016. Discrimination Between Shippers

(a) A common carrier in its operations as a common carrier shall not discriminate between or against shippers with regard to facilities furnished, services rendered, or rates charged under the same or similar circumstances in the transportation of crude petroleum.

(b) A common carrier shall not discriminate in the transportation of crude petroleum produced or purchased by itself directly or indirectly.

(c) In this connection, a pipeline is a shipper of the crude petroleum produced or purchased by itself directly or indirectly and handled through its facilities.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.017. Equal Compensation for Like Service

(a) No common carrier in its operations as a common carrier may charge, demand, collect, or receive either directly or indirectly from anyone a greater or lesser compensation for a service rendered than from another for a like and contemporaneous service.

(b) The provisions of Subsection (a) of this section do not limit the right of the commission to prescribe rules and rates from or to some places that are different from rules or rates for transportation from or to other places.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.018. Effect of Commission Order

A common carrier is not guilty of discrimination when obeying an order of the commission.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.019. Right of Eminent Domain

(a) Common carriers have the right and power of eminent domain.

(b) In the exercise of the power of eminent domain granted under the provisions of Subsection (a) of this section, a common carrier may enter on and condemn the land, rights-of-way, easements, and property of any person or corporation necessary for the construction, maintenance, or operation of the common carrier pipeline.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.0191. Costs of Relocation of Property**

In the event a common carrier pipeline in the exercise of the power of eminent domain or police power or any other power granted under this chapter makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of any railroad, electric transmission, telegraph or telephone lines, properties and facilities, or pipeline, all such relocation, raising, lowering, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of such common carrier pipeline. The term "sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting therefrom the net salvage value derived from the old facility.

[Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, § 4, eff. Sept. 1, 1977.]

**§ 111.0192. Limitations on the Powers of Eminent Domain in Certain Situations**

(a) The right of eminent domain granted under this chapter to any pipelines transporting coal in whatever form shall not include and cannot be used to condemn water or water rights for use in the transportation of coal by pipeline, and no Texas water from any source shall be used in connection with the transportation, maintenance, or operation of a coal slurry pipeline (except water used for drinking, toilet, bath, or other personal uses at pumping stations or offices) within the State of Texas unless the Texas Water Commission shall determine, after public hearing, that the use will not be detrimental to the water supply of the area from which the water is sought to be extracted.

(b) The right of eminent domain granted under this chapter to any pipeline transporting coal in whatever form shall not include the power to take land or any interest in land, by exercise of the power of eminent domain, for the purpose of drilling for, mining, or producing any oil, gas, geothermal, geothermal/geopressured, lignite, coal, sulphur, uranium, plutonium, or other mineral, but this provision does not impair the right of any such entity to acquire title to real property for pipelines, including cooling ponds and related surface installations and equipment.

[Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, § 6, eff. Sept. 1, 1977.]

**§ 111.0193. Restoration of Property**

Every condemnation award granted under this chapter shall require that the condemnor restore the property which is the subject of the award to its former condition as near as reasonably practicable.

[Acts 1977, 65th Leg., p. 2695, ch. 871, art. II, § 7, eff. Sept. 1, 1977.]

**§ 111.020. Pipeline on Public Stream or Highway**

(a) Subject to the provisions of Subsection (b) of this section, all common carriers are entitled to lay, maintain, and operate along, across, or under a public stream or highway in this state pipelines, together with telegraph and telephone lines incidental to and designed for use only in connection with the operation of the pipelines.

(b) The right to run a pipeline or telegraph or telephone line along, across, or over a public road or highway may be exercised only on condition that:

(1) it does not interfere with traffic on the road or highway;

(2) the road or highway is promptly restored to its former condition of usefulness;

(3) the restoration of the road or highway is subject also to the supervision of the commissioners court or other proper local authority; and

(4) no pipes or pipelines are laid parallel with and on a public highway closer than 15 feet from the improved section of the highway except with the approval and under the direction of the commissioners court of the county in which the public highway is located.

(c) The common carrier shall compensate the county or road district, respectively, for any damage done to the public road in the exercise of the privileges conferred.

(d) A person may acquire the right conferred in this section by filing with the commission a written acceptance of the provisions of this chapter expressly agreeing that, in consideration of the rights acquired, it becomes a common carrier subject to the duties and obligations conferred or imposed by this chapter.

[Acts 1977, 65th Leg., p. 2580, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.021. Pipeline Under Railroad, Street Railroad, or Canal**

A common carrier is entitled to lay its pipe or pipeline under any railroad, railroad right-of-way, street railroad, or canal in this state.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.022. Right to Use Street or Alley in City or Town**

The provisions of this chapter do not grant a pipeline company the right to use a public street or alley in an incorporated or unincorporated city or town except with express permission of the governing body of the city or town or the right to lay its pipes or pipelines along and under a street or alley in an incorporated city or town except with the consent and under the direction of the governing body of the city or town.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.023. Exchange of Facilities**

(a) A common carrier shall exchange crude petroleum tonnage with each like common carrier.

(b) When a necessity exists, the commission may require connections and facilities for the interchange of crude petroleum tonnage to be made at every locality reached by both pipelines, subject to the rules and rates made by the commission.

(c) A common carrier pipeline under like rules shall be required to install and maintain facilities for the receipt and delivery of crude petroleum of patrons at all points on the pipeline.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.024. Limit on Amount of Oil Carried**

No common carrier may be required at any time to receive for shipment from any person more than 3,000 barrels of petroleum in any one day.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.025. Abandoning Connections**

(a) No common carrier may abandon any of its connections or lines except under authority of a permit granted by the commission or with written consent of the owner or duly authorized agent of the wells to which connections are made.

(b) Before granting a permit to abandon any connection, the commission shall issue proper notice and hold a hearing as provided by law.

[Acts 1977, 65th Leg., p. 2581, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.026 to 111.050 reserved for expansion]

**SUBCHAPTER C. PUBLIC UTILITIES****§ 111.051. Applicability of Statute to Public Utilities**

A public utility is subject to the provisions of this subchapter and other provisions of this chapter relating to public utilities.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.052. Discrimination by Public Utility**

No public utility in its operations as a public utility may discriminate between or against its patrons in regard to facilities furnished or services rendered, or rates charged under the same or similar circumstances, in the storage of crude oil.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.053. Bond of Public Utility**

(a) Before engaging in business as a public utility, a person, association, or corporation that is to engage in business as a public utility shall file a bond

in an amount not to exceed \$25,000 that is properly executed and made payable to the State of Texas with the amount of the bond and the sureties on the bond subject to the approval of the commission.

(b) The bond or securities in lieu of the bond as provided in Article 836, Revised Civil Statutes of Texas, 1925, as amended, shall be approved by the commission before it is filed.

(c) After proper notice and hearing as provided by law, the amount of the bond may be changed from time to time by order of the commission, according to the volume of business done or to be done by the public utility.

(d) The bond shall be conditioned that the public utility will observe the applicable provisions of this subchapter and chapter and the rules of the commission insofar as its business is regulated and controlled by the commission and that the public utility will exercise ordinary care in the storage, preservation, handling, and delivery of petroleum products entrusted to it and shall guarantee the classification, measurements, and grades made by it under its authority and in conformity herewith.

(e) The bond shall be for the benefit of the patrons of the public utility and their assignees as though they were named obligees in the bond and they shall severally have the right of suit on the bond.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.054. Lien for Storage Charges**

A public utility shall have a lien on the commodity in its possession to secure it in the payment of all proper storage charges against the commodity or the transportation charges accrued to or paid or advanced by it or both and the lien is superior to all other liens on the commodity except a lien for taxes.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.055 to 111.080 reserved for expansion]

**SUBCHAPTER D. COMMON PURCHASERS****§ 111.081. Definition of Common Purchaser**

(a) In this subchapter, "common purchaser" means:

(1) every person that purchases crude oil or petroleum produced within the limits of this state and that is affiliated through stock ownership, common control, contract, or in any other manner with a common carrier by pipeline or is itself a common carrier;

(2) every person, gas pipeline company, or gas purchaser that claims or exercises the right to carry or transport natural gas by pipeline or pipelines for hire, compensation, or otherwise within the limits of this state or that engages in the

business of purchasing or taking natural gas, residue gas, or casinghead gas thereof;

(3) every person that operates a crude oil gathering system, whether by pipeline or truck, that may purchase crude oil or petroleum in this state, whether or not it is a common carrier or affiliated with a common carrier; and

(4) the business of purchasing or of purchasing and selling crude petroleum by the use of a gathering system for crude petroleum, whether by pipeline or by truck.

(b) The persons covered by Subdivision (3), Subsection (a) of this section do not include persons transporting only crude oil from property in which they own an operating interest.

(c) The operation of a crude oil gathering system by a person, association of persons, or corporation transporting only crude oil from property in which it owns an operating interest shall not be considered to be included in Subdivision (4) of Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2582, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.082. Purpose for Including Certain Entities Under Regulation as Common Purchasers**

Persons, gas pipeline companies, and gas purchasers claiming or exercising the right to carry or transport natural gas by pipeline or pipelines for hire, compensation, or otherwise within the limits of this state are regulated as common purchasers under this subchapter for the purpose of further conserving the natural gas resources of this state.

[Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.083. Duty of Certain Common Purchasers**

A common purchaser as defined in Subdivision (2), Subsection (a), Section 111.081 of this code shall purchase or take the natural gas purchased or taken by it as a common purchaser under rules prescribed by the commission in the manner, under the inhibitions against discriminations, and subject to the provisions applicable under this chapter to common purchasers of oil.

[Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.084. Operation of Gathering Systems for Crude Petroleum**

The operation of gathering systems for crude petroleum by pipeline or by truck in connection with the purchase or purchase and sale of crude petroleum is a business in the mode of the conduct of which the public is interested, and as such is subject to regulation by law. Therefore, it is provided that the business of purchasing or of purchasing and selling crude petroleum by the use of a gathering system for crude petroleum, whether by pipeline or by truck, shall not be conducted unless the person oper-

ating the gathering system being used in this manner in connection with this business is a common purchaser under this law and subject to the jurisdiction conferred on the commission over common purchasers.

[Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.085. Applicability of Rate Provisions to Certain Common Purchasers**

Common purchasers as defined in Subdivision (3), Subsection (a), Section 111.081 of this code are subject to the same regulation concerning rates and charges for gathering, transporting, loading, and delivering crude petroleum as set out in Subchapter F of this chapter.

[Acts 1977, 65th Leg., p. 2583, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.086. Discrimination Between Persons and Fields**

(a) A common purchaser shall purchase oil offered to it for purchase without discrimination in favor of one producer or person against another producer or person in the same field and without unjust or unreasonable discrimination between fields in this state.

(b) A question of justice or reasonableness under this section shall be determined by the commission taking into consideration the production and age of wells in respective fields and all other proper factors.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.087. Conditions in Taking Production**

(a) No common purchaser may discriminate between or against crude oil or petroleum of a similar kind or quality in favor of its own production, or production in which the common carrier may be directly or indirectly interested in whole or part.

(b) For the purpose of prorating the purchase of crude oil or petroleum to be marketed, the production shall be taken in like manner as that of any other person or producer and shall be taken in the ratable proportion that the production bears to the total production offered for market in the field.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.088. Commission Relief**

After proper notice and hearing as provided by law, the commission may relieve any common purchaser from the duty of purchasing petroleum of inferior quality or grade.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.089. Discrimination as to Royalty Oil**

(a) In making purchases of royalty oil, a common purchaser shall comply with the provisions of this subchapter, Subchapters C, F, and G of this chapter,

and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code, and shall not discriminate between royalty owners or landowners or both in making those purchases.

(b) No common purchaser may unreasonably delay payments to a royalty owner or landowner or both in purchases of said oil or gas.

(c) In addition to other penalties, the royalty owner or landowner or both have a cause of action for violation of this section against the common purchaser for damages and may file suit for damages in any court of competent jurisdiction in the county in which the royalty lies.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.090. Compliance by Common Purchasers

The commission shall enforce compliance with this subchapter, Subchapters C, F, and G of this chapter, and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code and after notice and hearing, may make rules and orders defining the distance that extensions or gathering lines shall be made to all oil or gas wells and other rules or orders that may be necessary to carry out those provisions cited in this section and to prevent discrimination.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.091. Prevention of Discrimination

(a) The commission shall make inquiry in each field concerning the connection of various producers, and if discrimination is found to be practiced by a common purchaser, the commission shall issue an order to the common purchaser to make any reasonable extensions of its lines, reasonable connections, and ratable purchases that will prevent the discrimination.

(b) The commission may issue a show cause order to any common purchaser requesting it to appear and show cause why it should not purchase the allowable production of any producer discriminated against under Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2584, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.092. Injunction to Prevent Discrimination

On information that discrimination is practiced in its purchases by a common purchaser, the commission shall request the attorney general to bring a mandatory injunction suit against the common purchaser to compel the reasonable extensions that are necessary to prevent discrimination.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.093. Forfeiture of Charter of Domestic Corporation

(a) If a domestic corporation that is a common purchaser violates any provision of this subchapter,

Subchapter C, F, or G of this chapter, or Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code or any valid rule promulgated by the commission under those provisions, the attorney general may bring suit in a district court in Travis County against the corporation to forfeit the charter of the corporation and enjoin and forever prohibit the corporation from doing business in this state.

(b) If the corporation is found guilty by the court before whom the action is brought under this section, the charter of the corporation may be forfeited and the injunction may be granted, provided that the forfeiture and injunction are in addition to all other penalties.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.094. Forfeiture of Charter of Foreign Corporation

(a) If a foreign corporation that is a common purchaser violates a provision of this subchapter, Subchapter C, F, or G of this chapter, or Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code or a valid rule promulgated by the commission under these provisions, the attorney general may bring suit in a district court of Travis County to cancel the permit of the corporation and enjoin and forever prohibit the corporation from doing business in this state.

(b) If the corporation is found guilty by the court before whom the action is brought, the permit may be cancelled and the injunction may be granted, provided the cancellation and injunction are in addition to all other penalties.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.095. Action for Damages

(a) If a person is discriminated against by a common purchaser in favor of the production of the common purchaser, the person may bring an action for damages against the common purchaser.

(b) An action for damages under this section may be brought in any court of competent jurisdiction in the county in which the damage occurred.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 111.096. Duties and Responsibilities of Common Purchasers, Purchasers, Gatherers, and Transporters

Notwithstanding the provisions of any statute or law including the provisions of this subchapter, Subchapters C, F, and G of this chapter, and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code, none of the provisions of Sections 111.081, 111.084, 111.085, and 111.091 of this code shall increase or decrease the duties or responsibilities of any common purchaser, purchaser, gatherer, or transporter of natural gas, residue gas, or casinghead gas.

[Acts 1977, 65th Leg., p. 2585, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.097. Antitrust Laws Unaffected**

(a) No provision of this subchapter may be construed as modifying, limiting, changing, repealing, or affecting in any manner any part of the present law of this state defining and regulating trusts, monopolies, and conspiracies in restraint of trade.

(b) No provision of this subchapter may be construed as authorizing any agreement or combination or both of capital, skill, and acts or any of these and any combination or consolidation now prohibited by the antitrust laws of this state or laws of this state prohibiting trusts, monopolies, and conspiracies in restraint of trade or both.

(c) No provision of this subchapter is intended or may be construed as authorizing any agreement, act, combination, consolidation, or other arrangement that is now prohibited under the antitrust laws of this state or the laws prohibiting and defining trusts, monopolies, and conspiracies in restraint of trade or both.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.098 to 111.130 reserved for expansion]

**SUBCHAPTER E. POWERS AND DUTIES OF THE COMMISSION**

**§ 111.131. Commission Rules for Common Carriers**

The commission shall establish and promulgate rules for gathering, transporting, loading, and delivering crude petroleum by common carriers in this state and for use of storage facilities necessarily incident to this transportation and shall prescribe and enforce rules, in the manner provided by law, for the government and control of common carriers with respect to their pipelines and receiving, transferring, and loading facilities.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.132. Commission Rules for Public Utilities**

(a) The commission shall establish and enforce rules governing:

(1) the character of facilities to be furnished by public utilities;

(2) the forms of receipts to be issued by public utilities; and

(3) the rates, charges, and rules for the storage of crude petroleum by public utilities in respect to their storage facilities and for the inspection, grading, measurement, deductions for waste or deterioration, and the delivery of their products.

(b) The commission also shall exercise its authority to establish and enforce rules governing public utilities on petition of an interested person.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.133. Enforcement by Commission**

The commission may make rules for the enforcement of the provisions of Subchapters C, D, and F of this chapter and Sections 111.004, 111.025, 111.131 through 111.132, 111.136, 111.137, and 111.140 of this code.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.134. Notice and Hearing**

No order of the commission establishing, prescribing, or modifying rules or rates may be made except after a hearing and after not less than 10 days nor more than 30 days notice to the person, firm, corporation, partnership, joint stock association, or association owning or controlling and operating the pipeline or pipelines affected.

[Acts 1977, 65th Leg., p. 2586, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.135. Validity of Commission Orders**

Until set aside or vacated by an order or decree of a court of competent jurisdiction, all orders of the commission relating to any matter within its jurisdiction shall be accepted as prima facie evidence of their validity.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.136. Review of Orders**

A person affected by an order of the commission adopted under the authority of this chapter is entitled to judicial review of that order in a manner other than by trial de novo.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.137. Enlargement and Extension of Facilities**

On its own initiative without complaint, and after proper notice and hearing, as provided by law the commission may authorize or require by order any common carrier owning or operating pipelines in this state or owning, operating, or managing crude petroleum storage tanks or facilities for the public for hire, to extend or enlarge those pipelines or storage facilities if the extension or enlargement is found to be reasonable and required in the public interest and the expense involved will not impair the ability of the common carrier or public utility to perform its duty to the public.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.138. Books and Records**

The commission may investigate the books and records kept by any common carrier in connection with its business.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.139. Reports**

(a) The commission shall require each common carrier to make reports including duly verified monthly reports of:

(1) the total quantities of crude petroleum owned by the common carrier in the state;

(2) the total quantities of crude petroleum held by the common carrier in storage for others in the state; and

(3) the common carrier's unfilled storage capacity.

(b) The commission shall give no publicity to the stock of crude petroleum on hand of any particular common carrier, but the commission may, in its discretion, make public the aggregate amounts held by all common carriers making reports and their aggregate storage capacity.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.140. Filing Monthly Statements**

(a) On or before the 20th day of each calendar month, every common carrier in this state and every public utility shall file with the commission and shall post in a conspicuous place accessible to the general public in its principal office and each of its division offices in this state a statement, duly verified, containing information concerning its business during the preceding calendar month as follows:

(1) the amount of crude or refined petroleum in the actual and immediate custody of the common carrier or public utility at the beginning and close of the month and the location or holding point of this petroleum, including the location and designation of each plant or place of deposit and the name of its owner;

(2) the amount of crude or refined petroleum received by the common carrier or public utility during the month;

(3) the amount of crude or refined petroleum that was delivered by the common carrier or public utility during the month;

(4) the amount of crude or refined petroleum held by the common carrier or public utility for itself or parent or affiliated organizations; and

(5) the available empty storage owned or controlled by the common carrier or public utility and its location.

(b) The information to be provided under Subsection (a) of this section shall be set out separately as to crude petroleum and each refined product of crude petroleum in each statement.

[Acts 1977, 65th Leg., p. 2587, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.141. Grades of Oil**

(a) The commission shall make rules for:

(1) the ascertainment of the amount of water and other foreign matter in oil tendered for transportation;

(2) deduction for water and other foreign matter; and

(3) the amount of deduction to be made for temperature, leakage, and evaporation.

(b) No common carrier may be required to receive or transport any crude petroleum except that which is marketable under rules prescribed by the commission.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.142. Equitable Apportionment of Excessive Amount of Crude Petroleum**

If more crude petroleum is offered for transportation by a common carrier than can be transported immediately, it shall be apportioned equitably, and the commission may make and enforce general or specific rules for equitable apportionment.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.143 to 111.180 reserved for expansion]

**SUBCHAPTER F. RATES****§ 111.181. Establishing and Promulgating Rates**

The commission shall establish and promulgate rates of charges for gathering, transporting, loading, and delivering crude petroleum by common carriers in this state and for use of storage facilities necessarily incident to this transportation.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.182. Items Included in Rates**

The rates established and promulgated by the commission shall include both single- and joint-line transportation, deduction for evaporation and shrinkage, demurrage, storage, and overage charges and all other similar items.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.183. Basis for Rate**

The basis of the rates shall be an amount that will provide a fair return on the aggregate value of the property of a common carrier used and useful in the services performed after providing reasonable allowance for depreciation and other factors and for reasonable operating expenses under honest, efficient, and economical management.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.184. Discretion of Commission**

The commission has reasonable latitude in establishing and adjusting competitive rates.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.185. Temporary Rates**

If a common carrier makes application or files a tariff to establish a new rate on either a new or old line, a temporary rate may be placed into effect immediately on filing the tariff with the commission.

[Acts 1977, 65th Leg., p. 2588, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.186. Reparation and Reimbursement**

If rates have been filed, each shipper who pays these filed rates is entitled to reparation or reimbursement of all excess rates or transportation charges paid over and above the rate that is finally determined on the shipments.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.187. Reimbursement of Excess Charges**

If a rate is filed by a common carrier and complaint against the rate or petition to reduce the rate is filed by a shipper, and the complaint is sustained in whole or part, all shippers who have paid the rates filed by the common carrier are entitled to reparation or reimbursement of all excess transportation charges paid over and above the proper rate as finally determined on all shipments made after the date of the filing of the complaint.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.188. Annual Rate Hearing**

The commission shall hold a general hearing once each year for the purpose of adjusting rates to conform to the basis of rates and charges provided in this subchapter.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.189. Hearing and Determination of Rates**

If a person at interest files an application for a change in a rate or rates, the commission shall call a hearing and immediately after the hearing shall establish and promulgate a rate or rates in accordance with the basis provided in this subchapter.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.190. Hearings to Adjust Rates**

On its own motion or on motion of any interested person, the commission shall hold a hearing to adjust, establish, and promulgate a proper rate or rates if it has reason to believe that any rate or rates do not conform to the basis provided in this subchapter.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.191 to 111.220 reserved for expansion]

SUBCHAPTER G. ENFORCEMENT

**§ 111.221. Complaints; Jurisdiction to Hear Complaints**

Any person or the attorney general on behalf of the state may institute proceedings before the commission or apply for a hearing before the commission on any question relating to the enforcement of Subchapters C, D, and F of this chapter and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code, and the commission has jurisdiction to hear and determine these questions after giving proper notice as provided by law.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.222. Application for Receivership**

If a rule or order promulgated by the commission under Subchapter C, D, or F of this chapter or Section 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code is found by a court to be valid in whole or part in a suit to which the commission is a party, and if another party to the suit or other proceedings violates the rule, order, or judgment or allows any property owned or controlled by him to be used in violation of the rule, order, or judgment, the commission shall make application to the judge of the trial court setting out the rule, order, or judgment and that the party subsequent to the date of the judgment violated or is violating the rule, order, or judgment and requesting a receiver be appointed as provided in Section 111.223 of this code.

[Acts 1977, 65th Leg., p. 2589, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.223. Appointment of Receiver**

On application by the commission and after notice and hearing, the judge of the trial court may appoint a receiver of the property involved in violating the rule, order, or judgment and shall set a proper bond for the receiver.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.224. Duties and Responsibilities of Receiver**

As soon as the receiver has qualified, he shall take possession of the property and shall perform his duties as receiver of the property under the orders of the court, strictly observing the rule, order, or judgment.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 111.225. Motion to Dissolve Receivership**

A party whose property has been placed in the hands of a receiver may move to dissolve the receivership and discharge the receiver only on showing that the party has not wilfully violated nor allowed property owned or controlled by him to be used in violating the rule, order, or judgment or on other good cause shown.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 111.226. Bond

(a) Before dissolving the receivership or discharging the receiver, the court, in its discretion, may require the party applying for the dissolution or discharge to give bond with good and sufficient sureties in an amount to be fixed by the court, sufficient reasonably to indemnify all persons who may suffer damage by reason of the violation of the rule or order judged to be valid.

(b) In determining the amount of the bond, the judge shall take into consideration all the facts and circumstances surrounding the parties that he considers necessary to determine the reasonableness of the amount of the bond.

(c) If the bond is made by a bonding or surety company, it shall be made by a company authorized to do business in this state.

(d) The bond shall be made payable to and be approved by the judge of the court and shall be for the use and benefit of and may be sued on by all persons who suffer damage by reason of any further violation by the party giving the bond and who brings suit on the bond.

(e) From time to time on motion, the court may increase or decrease the amount of the bond and may require new or additional sureties as the facts may warrant or justify.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 111.227. Provisions Applicable to Enforcement

The provisions of Title 102, Revised Civil Statutes of Texas, 1925, as amended, including provisions of this code formerly included in that title, apply in the enforcement of Subchapters C, D, and F of this chapter and Sections 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, and 111.140 of this code.

[Acts 1977, 65th Leg., p. 2590, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 111.228 to 111.260 reserved for expansion]

## SUBCHAPTER H. PENALTIES

### § 111.261. Penalty Recoverable by State

A common carrier under this chapter is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense, recoverable in the name of the state, if the common carrier:

(1) violates Section 111.013 through 111.024, 111.134, 111.135, 111.138, 111.139, 111.141, or 111.142 of this code or a valid order of the commission; or

(2) fails to perform a duty imposed by Section 111.013 through 111.024, 111.134, 111.135, 111.138, 111.139, 111.141, or 111.142 of this code.

[Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 111.262. Penalty Recoverable by Aggrieved Party

A common carrier is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense of unlawful discrimination as defined in Sections 111.015 through 111.017 of this code. The suit shall be brought in the name of and for the use of the aggrieved person, corporation, or association of persons.

[Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 111.263. Penalty Recoverable by State and Aggrieved Party

(a) Any person who violates a provision of Subchapter C, D, F, or G of this chapter or Section 111.004, 111.025, 111.131 through 111.133, 111.136, 111.137, or 111.140 of this code, a rule promulgated under these subchapters or sections, or an order passed by the commission under these subchapters or sections or one of these rules, on violation, is subject to a penalty of not less than \$100 nor more than \$1,000 for each offense recoverable in the name of the state in a district court in Travis County. Each day a violation continues constitutes a separate offense.

(b) One-half of the penalty may be recovered by and for the use of any person against whom there is an unlawful discrimination as defined in Subchapter D of this chapter, and this suit shall be brought in the name of and for the use of the party or parties aggrieved.

[Acts 1977, 65th Leg., p. 2591, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## SUBCHAPTER I. COMMON CARRIER COAL PIPELINES

### § 111.301. Certificate Required

A person that is a common carrier under Subsection (5), Section 111.002 of this code must apply for and be issued a certificate of public convenience and necessity from the commission pursuant to the commission's authority to issue certificates under Section 111.302 of this code if the commission finds after a hearing that the public convenience and necessity will be served by the construction and operation of the pipeline.

[Acts 1977, 65th Leg., p. 2692, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

### § 111.302. Commission Authority to Issue Certificates

(a) The commission is further authorized, empowered, and directed to issue certificates of public convenience and necessity to pipelines transporting coal in whatever form or mixture for hire in Texas if the commission finds that the public convenience and necessity will be served in that existing facilities will not be able to provide the transportation as economically or efficiently as the proposed pipeline.

(b) In exercising its powers and duties under this section, the commission may not issue a permit for or attempt to regulate in any manner the condemnation, appropriation, or acquisition of surface or ground water in Texas.

(c) The commission shall not issue a permit, certificate, or any authority to any applicant whose rates and charges are not regulated by government authority, either state or federal, and that state or federal regulations insure to the public and to the ultimate electric consumer that the contracts, rates, and charges shall be just and reasonable, nondiscriminatory, and offering no preference or advantage to any person, corporation, entity, or group.

(d) The commission shall not issue a permit, certificate, or any authority to any applicant whose pipeline transporting coal in whatever form unless the pipeline transporting coal in whatever form is to be buried at least 36 inches below the surface, except in such instances in which the commission specifically exempts the 36-inch depth requirement and unless the pipeline transporting coal in whatever form conforms to all applicable state or federal regulations concerning the operation, maintenance, and construction of that same pipeline.

(e) The commission shall condition the issuance of a certification upon the requirement that the pipeline company shall take no more than 50 feet in width of right-of-way under the power of eminent domain, except for temporary work areas adjacent to the right-of-way and then not to exceed 100 feet in width for the duration of the construction period only; and provided that any condemnation award granted under this chapter shall take into account the damages to the remainder caused by the exercise of eminent domain for the temporary work areas. [Acts 1977, 65th Leg., p. 2693, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

**§ 111.303. Certification Procedure**

(a) The coal pipeline applicant shall publish, in accordance with regulations promulgated by the commission and existing law, a notice that it has filed an application for a certificate of public convenience and necessity under this Act in a newspaper of general circulation in each county in which the project will be located. The notice shall, among other things, specify to the extent practicable the land which would be subject to the power of eminent domain.

(b) The commission shall then conduct public hearings in areas of the state along the prospective pipeline right-of-way as it shall determine shall be necessary to give property owners an opportunity to be heard. The commission is vested with authority to alter the right-of-way to meet with local objections.

[Acts 1977, 65th Leg., p. 2693, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

**§ 111.304. Transportation Contract**

No common carrier pipeline transporting coal in whatever form shall contract or otherwise agree to transport coal for a term in excess of three years without prior approval of that contract or agreement by the commission which approval shall be given on determination that the contract or agreement is in the public interest in which case the contract or agreement shall be enforceable.

[Acts 1977, 65th Leg., p. 3693, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

**§ 111.305. Other Agencies**

(a) The commission shall seek and act on the recommendations of the Texas Air Control Board, the Texas Water Quality Board, the Governor's Energy Advisory Council, or their successors responsible for environmental determinations and shall specify the proper use and disposal of nondischARGEABLE water.

(b) Neither the authority conveyed to the commission by this subchapter to issue certificates and to promulgate rules governing pipelines transporting coal in whatever form nor the powers and duties conveyed on those pipelines by this chapter shall affect, diminish, or otherwise limit the jurisdiction and authority of the Texas Water Commission and the Texas Water Quality Board, or their successors, to regulate by applicable rules the acquisition, use, control, disposition, and discharge of water or water rights in Texas.

[Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, § 3, eff. Sept. 1, 1977.]

**CHAPTER 112. USED OIL FIELD EQUIPMENT DEALERS**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section 112.001. Definitions.
- 112.002. Applicability.

**SUBCHAPTER B. SALE OF USED EQUIPMENT**

- 112.011. Bill of Sale.
- 112.012. Required Information.

**SUBCHAPTER C. ENFORCEMENT; PENALTY**

- 112.031. Injunctive Relief.
- 112.032. Criminal Penalty.
- 112.033. Inspection.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 112.001. Definitions**

In this chapter:

(1) "Pipeline equipment" means all pipe, fittings, pumps, telephone and telegraph lines, and all other material and equipment used as part of or incident to the construction, maintenance, and operation of a pipeline for the transportation of oil, gas, water, or other liquid or gaseous substance.

(2) "Oil and gas equipment" means equipment and materials that are part of or incident to the exploration, development, maintenance, and operation of oil and gas properties and includes equipment and materials that are part of or incident to the construction, maintenance, and operation of oil and gas wells, oil and gas leases, gasoline plants, and refineries.

(3) "Used materials" means pipeline equipment or oil and gas equipment after the equipment has once been placed in the use for which it first was manufactured and intended.

(4) "Dealer" means every person whose primary business is buying, selling, or otherwise dealing in used materials and who has a fixed, designated place or places of business within the state.

(5) "Broker" means every person whose primary business is buying, selling, or otherwise dealing in used materials as agent for the seller of the used materials, or as agent for the buyer of the used materials, or as agent for both.

(6) "Peddler" means every person who is not a dealer or broker and whose primary business is buying, selling, or otherwise dealing in used materials.

[Acts 1977, 65th Leg., p. 2592, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2339, ch. 573, § 1, eff. Aug. 31, 1981.]

#### § 112.002. Applicability

The provisions of this chapter shall not apply if the reasonable market value of the purchase made is less than \$25.

[Acts 1977, 65th Leg., p. 2592, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 112.003 to 112.010 reserved for expansion]

### SUBCHAPTER B. SALE OF USED EQUIPMENT

#### § 112.011. Bill of Sale

Before purchasing or acquiring by exchange used materials, a dealer, broker, or peddler shall require that a bill of sale for the used materials be executed by the seller or the person who exchanges the materials. The dealer, broker, or peddler shall keep a copy of each bill of sale at his place of business. [Acts 1977, 65th Leg., p. 2592, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2339, ch. 573, § 2, eff. Aug. 31, 1981.]

#### § 112.012. Required Information

(a) The bill of sale shall include:

- (1) the name and address of the dealer, broker, or peddler;
- (2) the serial number, if any;
- (3) the kind, make, size, weight, length, and quantity of the used materials purchased or acquired by exchange;

(4) the date of the purchase or acquisition by exchange, if different from the date of the bill of sale;

(5) the name and address of the seller or person who exchanged the materials;

(6) the place of location of the property at the time purchased or acquired by exchange;

(7) the license number of each motor vehicle used in transporting a purchased or exchanged item to the dealer's, broker's or peddler's place of business; and

(8) the driver's license number of the seller or person who exchanged the materials.

(b) A dealer, broker, or peddler under this chapter shall keep at his regular place of business all records required to be kept by this chapter for two years after the date of the purchase or acquisition by exchange of the materials.

[Acts 1977, 65th Leg., p. 2592, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2340, ch. 573, § 3, eff. Aug. 31, 1981.]

[Sections 112.013 to 112.030 reserved for expansion]

### SUBCHAPTER C. ENFORCEMENT; PENALTY

#### § 112.031. Injunctive Relief

In the name and on behalf of the State of Texas, the attorney general or any district attorney or county attorney in this state may enjoin a dealer, peddler, or broker from continuing in business in this state as a dealer, peddler, or broker on violation of any of the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2593, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 112.032. Criminal Penalty

A person, dealer, peddler, or broker who violates any of the provisions of this chapter is guilty of a misdemeanor and on conviction is subject to a fine of not less than \$500 for each violation.

[Acts 1977, 65th Leg., p. 2593, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2340, ch. 573, § 4, eff. Aug. 31, 1981.]

#### § 112.033. Inspection

(a) Any commissioned officer of the Department of Public Safety, any sheriff or deputy sheriff, or any municipal police officer may enter the business premises of a dealer, broker, or peddler under this chapter during normal business hours to inspect the premises and the records of the dealer, broker, or peddler to determine whether the dealer, broker, or peddler is in compliance with this chapter.

(b) A dealer, broker, or peddler under this chapter must allow and shall not interfere with inspections conducted pursuant to this chapter.

(c) Each inspection conducted under this chapter shall be commenced and completed with reasonable

promptness and shall be conducted in a reasonable manner.

[Added by Acts 1981, 67th Leg., p. 2340, ch. 573, § 5, eff. Aug. 31, 1981.]

**CHAPTER 113. LIQUEFIED PETROLEUM GAS**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	Title.
113.001.	Definitions.
113.002.	Exceptions.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

113.011.	Liquefied Petroleum Gas Division.
113.012.	General Duties.
113.013.	Director of LPG Division.
113.014.	Employees.
113.015.	Funds for Financing LPG Division.

**SUBCHAPTER C. RULES AND STANDARDS**

113.051.	Adoption of Rules and Standards.
113.052.	Adoption of National Codes.
113.053.	Effect on Certain Containers.

**SUBCHAPTER D. LICENSING**

113.081.	License Requirement.
113.082.	Categories of Licensee; Fees. [113.083 reserved for expansion]
113.084.	Application. [113.085 to 113.086 reserved for expansion]
113.087.	Examination and Seminar Requirements.
113.088.	Examination; Seminar Fees.
113.089.	Special Requirements for Licensing. [113.090 reserved for expansion]
113.091.	License Denial.
113.092.	License Issuance.
113.093.	License Renewal. [113.094 to 113.096 reserved for expansion]
113.097.	Insurance Requirement.
113.098.	Insurance Conditions.
113.099.	Statements in Lieu of Insurance Certificates. [113.100 and 113.101 reserved for expansion]
113.102.	Prior Licenses.

**SUBCHAPTER E. MOTOR VEHICLES AND TESTING LABORATORIES**

113.131.	Transport Trucks and Trailers. [113.132 reserved for expansion]
113.133.	Motor Carrier Laws.
113.134.	Department of Public Safety.
113.135.	Testing Laboratories.

**SUBCHAPTER F. SUSPENSION AND REVOCATION OF LICENSES AND REGISTRATIONS**

113.161.	Violations of Chapter or Rules; Informal Actions.
113.162.	Hearings.
113.163.	Findings and Judgment.
113.164.	Appeal.

**SUBCHAPTER G. FEES AND FUNDS**

113.201.	Deposit and Expenditure of Fees and Funds.
----------	--

**SUBCHAPTER H. ENFORCEMENT**

113.231.	Injunctions.
113.232.	General Penalty.
113.233.	Entry for Inspection.

Section	Warning Tag.
113.234.	Supplying or Removing LPG After Warning Tag Attached.
113.235.	Penalty for Unauthorized Removal of Tag.

*Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, amended Chapter 113, Liquefied Petroleum Gas Industry, §§ 113.001 to 113.234, as Chapter 113, Liquefied Petroleum Gas, §§ 113.001 to 113.236, effective September 1, 1980.*

**Disposition Table**

*Showing where provisions of former Chapter 113 (§§ 113.001 to 113.234) are covered in §§ 113.001 to 113.236, effective September 1, 1980. Former §§ 113.085, 113.086, and 113.090 were repealed by § 3 of the 1979 act revising Chapter 113 effective August 27, 1979.*

Former Section	New Section
113.001	113.001
113.002	113.002
113.003	113.003
113.011	113.011
113.012	113.012
113.013	113.013
113.014	113.014
113.015	113.015
113.051	113.051
113.052	113.052
113.053	113.053
113.081	113.081
113.082	113.082
113.083	---
113.084	113.084
113.085	Repealed
113.086	Repealed
113.087	113.087
113.088	113.088
113.089	113.089
113.090	Repealed
113.091	113.091
113.092	113.092
113.093	113.093
113.094	---
113.095	---
113.096	---
113.097	113.097, 113.098
113.098	113.233
113.099	113.234
113.131	113.131
113.132	---
113.133	113.133, 113.134
113.161	---
113.162	113.161
113.163	113.162
113.164	113.162
113.165	113.163
113.166	113.164
113.201	---
113.202	113.201
113.203	113.201
113.231	113.231

Former Section	New Section
113.232 -----	113.232
113.233 -----	113.235
113.234 -----	113.236

SUBCHAPTER A. GENERAL PROVISIONS

§ 113.001. Title

This chapter may be cited as the Liquefied Petroleum Gas Code or LPG Code.

[Acts 1977, 65th Leg., p. 2594, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

Acts 1979, 66th Leg., p. 2043, ch. 799, revising this chapter, provided in § 4(b) of the Act:

"Sections 1 and 2 of this Act shall become effective for all purposes on September 1, 1980; provided, from and after enactment, this entire Act shall be effective for planning purposes as necessary to permit development by the railroad commission of rules and procedures for handling original and renewal license and registration applications, examinations, forms, and other requirements, and for collection of license and registration fees as provided in this Act for original licenses and registrations to be issued and for licenses and registrations to be renewed on and after September 1, 1980."

§ 113.002. Definitions

In this chapter:

- (1) "Commission" means the Railroad Commission of Texas.
- (2) "Division" means the liquefied petroleum gas division of the commission.
- (3) "Employee" means any individual who renders or performs any services or labor for compensation and includes individuals hired on a part-time or temporary basis or a full-time or permanent basis including an owner-employee.
- (4) "Liquefied petroleum gas," "LPG," or "LP-gas" means any material that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons: propane, propylene, normal butane, isobutane, and butylenes.
- (5) "Container" means any receptacle designed for the transportation or storage of LPG or any receptacle designed for the purpose of receiving injections of LPG for use or consumption by or through an LPG system.
- (6) "Appliance" means any apparatus or fixture that uses or consumes LPG furnished or supplied by an LPG system to which it is connected or attached.
- (7) "LPG system" means all piping, fittings, valves, and equipment, excluding containers and appliances, that connect one or more containers to one or more appliances that use or consume LPG.
- (8) "Transport system" means any and all piping, fittings, valves, and equipment on a transport, excluding the container.
- (9) "Transfer system" means all piping, fittings, valves, and equipment utilized in dispensing LPG between containers.

(10) "Transport" means any bobtail or semi-trailer equipped with one or more containers.

(11) "Subframing" means the attachment of supporting structural members to the pads of a container but does not include welding directly to or on the container.

(12) "Representative" means the individual designated to the commission by a license applicant or licensee as the principal person in authority and responsibility actively supervising the conduct of the licensee's LPG activities.

[Acts 1977, 65th Leg., p. 2594, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.003. Exceptions

None of the provisions of this chapter apply to:

- (1) the production, refining, or manufacture of LPG;
- (2) the storage, sale, or transportation of LPG by pipeline or railroad tank car by a pipeline company, producer, refiner, or manufacturer;
- (3) equipment used by a pipeline company, producer, refiner, or manufacturer in a producing, refining, or manufacturing process or in the storage, sale, or transportation by pipeline or railroad tank car;
- (4) any deliveries of LPG to another person at the place of production, refining, or manufacturing; or
- (5) underground storage facilities other than LP-gas containers designed for underground use.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.004 to 113.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 113.011. Liquefied Petroleum Gas Division

There is created and organized a separate and distinct division of the commission known as the liquefied petroleum gas division or the LPG division.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.012. General Duties

The LPG division shall administer and enforce the laws of this state and the rules and standards of the commission relating to liquefied petroleum gas.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.013. Director of LPG Division

The commission shall appoint and employ a director of the LPG division, who shall serve at the

pleasure of the commission and who shall devote full time and attention to administering the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.014. **Employees**

Sufficient employees shall be provided to the LPG division for the enforcement of this chapter.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.015. **Funds for Financing LPG Division**

The commission shall look only to the revenue derived from the operation of this chapter and appropriated by the legislature for expenses of conducting the liquefied petroleum gas division and administering this chapter.

[Acts 1977, 65th Leg., p. 2595, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.016 to 113.050 reserved for expansion]

SUBCHAPTER C. RULES AND STANDARDS

§ 113.051. **Adoption of Rules and Standards**

Except as provided in Section 113.003 of this code, the commission shall promulgate and adopt rules or standards or both relating to any and all aspects or phases of the LPG industry that will protect or tend to protect the health, welfare, and safety of the general public.

[Acts 1977, 65th Leg., p. 2596, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.052. **Adoption of National Codes**

The commission may adopt by reference, in whole or in part, the published codes of the National Board of Fire Underwriters, the National Fire Protection Association, the American Society for Mechanical Engineers, and other nationally recognized societies or any one or more of these codes as standards to be met in the design, construction, fabrication, assembly, installation, use, and maintenance of containers, tanks, appliances, systems, and equipment for the transportation, storage, delivery, use, and consumption of LPG or any one or more of these purposes.

[Acts 1977, 65th Leg., p. 2596, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.053. **Effect on Certain Containers**

Rules, standards, and codes adopted pursuant to Sections 113.051 through 113.052 of this code do not apply to containers used in accordance with and subject to the regulations of the United States De-

partment of Transportation or to containers that are owned or used by the United States government. [Acts 1977, 65th Leg., p. 2596, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.054 to 113.080 reserved for expansion]

SUBCHAPTER D. LICENSING

§ 113.081. **License Requirement**

(a) Unless otherwise stated in this chapter, no person may engage in any of the following activities unless that person has obtained a license from the commission authorizing that activity:

(1) container activities: the manufacture, assembly, repair, sale, installation, or subframing of containers for use in this state, except that no license is required for the sale of a container of 96 pounds water capacity or less;

(2) systems activities: the installation, service, and repair of systems for use in this state, including the laying or connecting of pipes and fittings connecting with or to systems or serving a system and appliances to be used with liquefied petroleum gas as a fuel;

(3) appliance activities: the service, installation, and repair of appliances used or to be used in this state in connection with systems using liquefied petroleum gas as a fuel, except that no license shall be required for installation or connection of unvented type appliances to LPG systems by means of LPG appliance connectors; or

(4) product activities: the sale, transportation, dispensation, or storage of liquefied petroleum gas in this state, except that no license shall be required to sell LPG where the vendor never obtains possessory rights to the product sold or where the product is transported or stored by the ultimate consumer for personal consumption only.

(b) The provisions of Subsection (a) of this section do not apply to LPG handled in a container of less than one gallon water capacity that is an integral part of a device for its use, nor to original and replacement containers for the device, nor to a person who is not engaged in business as provided in Section 113.082 of this code.

[Acts 1977, 65th Leg., p. 2596, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.082. **Categories of Licensee; Fees**

A prospective licensee in LPG may apply to the LPG division for a license to engage in any one or more of the following categories:

(A) manufacturers/fabricators: the manufacture, fabrication, assembly, repair, installation, subframing, and sale of LPG containers, including LPG motor fuel containers and systems, and the

repair and installation of transport and transfer systems; the category "A" application and original license fee is \$500; the annual renewal license fee is \$300;

(B) transport outfitters: the subframing and sale of LPG transport containers, the installation and sale of LPG motor fuel containers, and the installation and repair of transport and motor fuel systems; the category "B" application and original license fee is \$100; the annual renewal license fee is \$50;

(C) carriers: the transportation of LPG by transport, including the loading and unloading of LPG, and the installation and repair of transport systems; the category "C" application and original license fee is \$500; the annual renewal license fee is \$150;

(D) general installers and repairmen: the sale, service, and installation of containers, excluding motor fuel containers, and the service, installation, and repair of piping, certain appliances as defined by rule, and LPG systems, excluding motor fuel systems; except that the commission may, by rule, exempt journeymen and/or master plumbers duly licensed by the Texas State Board of Plumbing Examiners from this licensing requirement; the category "D" application and original license fee is \$50; the annual renewal license fee is \$35;

(E) retail and wholesale dealers: the storage, sale, transportation, and distribution of LPG at retail and wholesale, and all other activities included in this section except the manufacture, fabrication, assembly, repair, and subframing of LPG containers; the category "E" application and original license fee is \$500; the annual renewal license fee is \$150;

(F) bottle exchanges: the operation of a bottle-filling and container exchange dealership, including bottle filling and the sale of bottled LPG; the category "F" application and original license fee is \$50; the annual renewal license fee is \$25;

(G) service station: the operation of an LPG service station filling ASME containers designed for motor and mobile fuel; the category "G" application and original license fee is \$50; the annual renewal license fee is \$25;

(H) bottle dealers: the transportation and sale of bottled LPG; the category "H" application and original license fee is \$500; the annual renewal license fee is \$150;

(I) service station and bottle exchanges: any service station and bottle activity set out in categories "F" and "G" of this section; the category "I" application and original license fee is \$75; the annual renewal license fee is \$35;

(J) service station and bottle dealerships: the operation of a bottle-filling and container-exchange dealership, including bottle filling and the sale, transportation, installation, and connection of bottled LPG, and the operation of an LPG service

station as set out in category "G"; the category "J" application and original license fee is \$500; the annual renewal license fee is \$150;

(K) distribution system: the sale and distribution of LPG through mains or pipes and the installation and repair of LPG systems; the category "K" application and original license fee is \$500; the annual renewal license fee is \$150;

(L) carburetion: the sale and installation of LPG motor fuel containers, and the sale and installation of LPG motor fuel systems; application and original license fee is \$50; annual renewal license fee is \$25.

[Acts 1977, 65th Leg., p. 2597, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Section 113.083 reserved for expansion]

#### § 113.084. Application

(a) An application for a license shall be submitted to the commission on forms furnished by the commission or on a facsimile of those forms.

(b) A prospective licensee shall submit the required application together with the original nonrefundable license fee required by Section 113.082 of this code for each category for which a license application is made. The applicant shall submit additional information and data with each application as the commission may reasonably require.

(c) A licensee shall submit the nonrefundable renewal fee for each category for which license is sought along with information and data the commission may reasonably require.

[Acts 1977, 65th Leg., p. 2598, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.085 to 113.086 reserved for expansion]

#### § 113.087. Examination and Seminar Requirements

(a) The satisfactory completion of the requirements of this section is mandatory, and operations requiring an LP-gas license may not commence, continue, or resume unless examination and seminar requirements are fulfilled.

(b) Before license issuance, the commission shall require the individual designated as the licensee's representative to the commission to provide good and sufficient proof through examination prepared and administered by the commission of working knowledge of this chapter and rules of the commission which affect the category of license for which application is made. Thereafter, each licensee shall maintain a qualified representative at all times.

(c) Each individual who will be actively supervising those operations requiring any license under this chapter at any outlet or location, as designated by the commission, shall be required to provide good and sufficient proof through examination prepared

and administered by the commission that the supervisor has a working knowledge of the safety requirements and penalties in this chapter and the rules of the commission which apply to that category of license.

(d) As determined by commission rule, each individual who is or will be utilized by a licensee in LPG-related activities shall be required to provide good and sufficient proof through examination prepared and administered by the commission that the employee has a working knowledge of the safety requirements in the rules of the commission relating to the activity or activities.

(e) No licensee may employ or otherwise utilize any person as a representative to the commission, nor as a supervisor or employee in LPG-related activities, unless and until the person has qualified by satisfactory completion of the examination requirements established by this section.

(f) The commission shall promulgate rules relating to changes in representatives, supervisors, and employees, and may permit temporary exemption from the examination requirements for a maximum period of 45 days.

(g) In no event shall an original license be issued to an applicant when the representative's required examination was last taken and passed more than five years before the proposed date of license issuance.

(h) Satisfactory completion of any required examination under this section shall accrue to the individual.

(i) The commission, by appropriate rule, may require, in addition to examination requirements as set out in Subsections (b), (c), and (d) of this section, attendance at approved academic, trade, professional, or commission-sponsored seminars, other continuing education programs, and periodic reexaminations.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.088. Examination; Seminar Fees**

(a) The commission shall establish reasonable examination and seminar registration fees.

(b) Before seminar attendance or examination of any person, except as provided in Subsection (c) of this section, the commission shall receive a nonrefundable fee for each examination or seminar registration.

(c) The commission may exempt voluntary firemen, or public employees of the State of Texas, federal government, or state or federal subdivisions from seminar fees.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.089. Special Requirements for Licensing**

(a) If application is made for a license under category "E" of Section 113.082 of this code or any other category specified by commission rule, the commission, in addition to other requirements, shall have an actual inspection conducted of any and all facilities, bulk storage equipment, transportation equipment, and dispensing equipment of the applicant to verify satisfactory compliance with all current safety laws, rules, and practices.

(b) The inspection shall be performed before licensing, but in no event later than 15 days after the inspection is requested in writing by the applicant for license.

(c) A category "E" license and any other license specified by commission rule shall not be issued until the inspection under Subsection (a) of this section verifies the applicant to be in satisfactory compliance with all current safety laws, rules, and practices.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Section 113.090 reserved for expansion]

**§ 113.091. License Denial**

(a) Should an applicant fail to meet the requirements for original or renewal licensing set out in this chapter, the commission shall have written notification prepared promptly and mailed to the applicant. The notice shall specify the reason for the applicant's failure to qualify for license and advise the applicant of the right to request a hearing.

(b) Within 30 days of the notice of denial, an applicant for license under this chapter who is denied a license may request a hearing to determine whether or not the applicant has complied in all respects with the licensing procedure applicable to the category or categories of license sought. The applicant's request for hearing must be in writing and delivered to the director of the LP-gas division.

(c) A hearing to determine an applicant's compliance with the licensing procedure applicable to the category or categories of license sought must be scheduled within 30 days following receipt of a request under Subsection (b) of this section.

(d) If the record made at the hearing supports the applicant's claim, the commission shall enter an order in its records to that effect, noting the category or categories for which the applicant is found entitled to be licensed, and the commission shall have the license or licenses issued. If the applicant is found unqualified, the commission shall likewise enter an order in its records to that effect, and no license may be issued to the applicant.

[Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.092. License Issuance**

(a) The commission shall issue the appropriate license to an applicant who has satisfied the licensing procedures and requirements set out in this chapter and in the rules of the commission.

(b) The license shall be issued in the name under which the applicant proposes to conduct business.

(c) The license shall belong to the applicant to which it is issued and shall be nontransferable. [Acts 1977, 65th Leg., p. 2599, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.093. License Renewal**

(a) A license issued pursuant to this chapter is renewable on the timely payment or tender of the renewal license fee by 12 midnight, August 31, of each year.

(b) A renewal license will be issued to a licensee as soon as is practicable after compliance with Subsection (a) of this section, and fulfillment of insurance, examination, and seminar requirements established by this chapter, and submission of any information and data the commission may reasonably require.

(c) Renewal license fees shall be nonrefundable. [Acts 1977, 65th Leg., p. 2600, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

Section 2 of the 1979 amendatory act provided:  
"All current LPG licenses and registrations duly issued by the commission before September 1, 1980, shall be deemed valid in all respects and may be renewed on September 1, 1980, as provided in this Act without penalty or other abridgement of rights or privileges."

[Sections 113.094 to 113.096 reserved  
for expansion]

**§ 113.097. Insurance Requirement**

(a) The commission shall not issue a license authorizing activities under Section 113.082 of this code or renew an existing license unless the applicant for license or license renewal provides proof of required insurance coverage with an insurance carrier authorized to do business in this state.

(b) A licensee shall not perform any licensed activity under Section 113.082 of this code unless the insurance coverage required by this chapter is in effect.

(c) Except as provided in Section 113.099 of this code, the types and amounts of insurance provided in Subsections (d) through (g) of this section are required while engaged in any of the activities set forth in Section 113.082 of this code or any activity incidental thereto.

(d) A category "C," "E," "H," or "J" licensee must carry automobile bodily injury and property damage liability coverage on each motor vehicle, including trailers and semitrailers, used to transport LP-gas. The commission shall establish by rule a reasonable amount of coverage to be maintained, except that coverage shall not be less than the amounts required

as proof of financial responsibility under the Texas Motor Vehicle Safety-Responsibility Act, as amended (Article 6701h, Vernon's Texas Civil Statutes).

(e) All licensees must carry general liability coverage in a reasonable amount, based on the type or types of licensed activities, which shall be established by commission rule.

(f) All licensees must carry workers' compensation, including employer's liability coverage.

(g) A category "A," "C," or "E" licensee must carry completed operations and products liability insurance in a reasonable amount, based on the type or types of licensed activities, which shall be established by commission rule.

[Acts 1977, 65th Leg., p. 2600, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2696, ch. 871, art. II, § 12, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.098. Insurance Conditions**

(a) As evidence that required insurance has been secured and is in force, certificates of insurance shall be filed with the division before licensing and license renewal.

(b) All certificates filed under this section shall be continuous in duration.

(c) Cancellation of a certificate of insurance becomes effective on the occurrence of any of the following events and not before:

(1) division receipt of written notice stating the insurer's intent to cancel a policy of insurance and the passage of time equivalent to the notice period required by law to be given the insured before the insurance cancellation;

(2) receipt by the division of an acceptable replacement insurance certificate;

(3) voluntary surrender of a license and the rights and privileges conferred by the license; or

(4) division receipt of a statement made by a licensee stating that the licensee is not actively engaging in any operations which require a particular type of insurance and will not engage in those operations unless and until all certificates of required insurance applicable to those operations are filed with the division.

(d) Cancellation under Subsection (c) of this section shall not become effective until approved by the commission.

[Acts 1977, 65th Leg., p. 2601, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.099. Statements in Lieu of Insurance Certificates**

(a) A category "C," "E," "H," or "J" licensee or applicant for license that does not operate or contemplate the operation of a motor vehicle equipped with an LP-gas cargo tank and does not transport or contemplate the transportation of LP-gas by vehicle in any manner, may make and file with the division

a statement to that effect in lieu of filing a certificate of automobile bodily injury and property damage insurance.

(b) A licensee or applicant for a license that does not engage in or contemplate engaging in any operations which would be covered by general liability insurance for a period of time may make and file with the division a statement to that effect in lieu of filing a certificate of general liability insurance.

(c) A licensee or applicant for license that does not employ or contemplate the hiring of an employee or employees to be engaged in LPG-related activities may make and file with the division a statement to that effect in lieu of filing a certificate of workers' compensation insurance including employer's liability insurance.

(d) A category "A," "C," or "E" licensee or applicant for a license that does not engage in or contemplate engaging in any LP-gas operations which would be covered by completed operations and products liability for a period of time may make and file with the division a statement to that effect in lieu of filing a certificate of completed operations and products liability insurance.

(e) Any statement filed pursuant to Subsections (a) through (d) of this section must further state that the licensee or applicant agrees to file a certificate of insurance evidencing appropriate coverage before engaging in any activities that require insurance coverage under this subchapter.

[Acts 1977, 65th Leg., p. 2601, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.100 and 113.101 reserved for expansion]

§ 113.102. **Prior Licenses**

(a) Except as provided in Subsection (c) of this section, all prior LP-gas licenses authorizing activities previously defined by this chapter as categories 1 through 12 shall, on an applicant's compliance with the renewal procedure set out in this chapter, be converted to a license identified by category letter as specified in Subsection (b) of this section.

(b) A category "1" license shall become a category "A" license, and a category "4" shall become a category "C"; a "5," a "D"; a "6," an "E"; an "8," an "F"; a "9," a "G"; a "10," a "K"; an "11," an "H"; an "8" and "9," an "I"; an "8," "9," "11," and "12," a "J"; and an "8," "9," "11," and "5," a "J"; a "7," an "L", as those letter categories are defined in Section 113.082 of this code.

(c) Previously issued licenses designated as authorizing category "2" or "3" activities shall expire. [Added by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.103 to 113.130 reserved for expansion]

SUBCHAPTER E. MOTOR VEHICLES AND TESTING LABORATORIES

§ 113.131. **Transport Trucks and Trailers**

(a) Each transport truck, trailer, or other motor vehicle equipped with an LPG cargo tank and each truck used principally for transporting LPG in portable containers shall be registered with the commission.

(b) A licensee who has purchased, leased, or obtained other rights to use any unit described in Subsection (a) of this section shall register that unit in the name or names under which the licensee conducts business before the transportation of LPG by means of that unit.

(c) An ultimate consumer of LPG who has purchased, leased, or obtained other rights to use any unit described in Subsection (a) of this section shall register that unit in the person's name before the transportation of LPG by means of that unit on public roads or highways.

(d) The registration fee for each unit is \$150 a year for any LPG cargo trailer or semitrailer and \$100 a year for any bobtail or bottle-delivery unit.

(e) Any unit registered pursuant to this section shall be covered by automobile bodily injury and property damage liability insurance as prescribed by Section 113.097 of this code.

(f) Any delivery or transport driver shall meet the applicable examination and seminar requirements set out in Section 113.087 of this code.

[Acts 1977, 65th Leg., p. 2601, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Section 113.132 reserved for expansion]

§ 113.133. **Motor Carrier Laws**

No provision of this chapter shall be construed to modify, amend, or revoke any motor carrier law of this state.

[Acts 1977, 65th Leg., p. 2601, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.134. **Department of Public Safety**

The Department of Public Safety shall cooperate with the commission in the administration and enforcement of this chapter and the rules promulgated under this chapter to the extent that they are applicable to motor vehicles.

[Added by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

§ 113.135. **Testing Laboratories**

(a) Any person that proposes to test any container for the purpose of determining the safety of the container for LP-gas service shall apply for registration with the commission and provide any information the commission shall reasonably require.

(b) The commission shall determine the sufficiency of the application and shall act on each application by approving or denying the registration pursuant to the standards set out in Subsections (c) and (d) of this section.

(c) Should it appear to the commission that an applicant is unqualified to conduct or continue to conduct container testings with the expertise or thoroughness necessary to accurately determine the safety of a container for LP-gas service, a formal hearing shall be held following notice of the hearing, and a determination of the qualifications of the applicant or registrant shall be made.

(d) Should competent evidence presented at the hearing establish that the applicant or registrant is unqualified to determine the safety of a container for LP-gas service, the registration of that person shall be denied or revoked.

[Added by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.136 to 113.160 reserved  
for expansion]

#### SUBCHAPTER F. SUSPENSION AND REVOCATION OF LICENSES AND REGISTRATIONS

##### § 113.161. Violations of Chapter or Rules; Informal Actions

(a) The commission shall notify a licensee or registrant in writing when it finds probable violation or noncompliance with this chapter or the safety rules promulgated under this chapter.

(b) The notification shall specify the particular acts, omissions, or conduct comprising the alleged violation and shall designate a date by which the violation must be corrected or discontinued.

(c) The licensee or registrant shall report timely compliance or shall request extension of time for compliance if deemed necessary.

(d) If a licensee or registrant objects to the complaint or requirements under this section, or if the commission determines that the licensee or registrant is not proceeding adequately to compliance, then, on written request of the licensee or registrant or order of the commission, a public hearing shall be conducted as provided in Section 113.162 of this code.

(e) If the commission or division determines that the probable violation or noncompliance constitutes an immediate danger to the public health, safety, and welfare, it shall require the immediate cessation of the probable violation or noncompliance and proceed with a hearing as provided in Section 113.162 of this code.

[Acts 1977, 65th Leg., p. 2602, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

##### § 113.162. Hearings

Any hearing or proceeding under this chapter shall be subject to the provisions of the Administrative Procedure and Texas Register Act.<sup>1</sup>

[Acts 1977, 65th Leg., p. 2602, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

<sup>1</sup> Civil Statutes, art. 6252-13a.

##### § 113.163. Findings and Judgment

If the commission finds that the licensee or registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule or standard promulgated and adopted under this chapter, or both, the commission may suspend the license or registration for a definite period not to exceed 90 days or may revoke the license or registration. If the commission determines that no violation has occurred or is occurring, its order shall so state.

[Acts 1977, 65th Leg., p. 2602, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

##### § 113.164. Appeal

Any party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule.

[Acts 1977, 65th Leg., p. 2602, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

[Sections 113.165 to 113.200 reserved  
for expansion]

#### SUBCHAPTER G. FEES AND FUNDS

##### § 113.201. Deposit and Expenditure of Fees and Funds

Money received by the commission under this chapter shall be deposited in the state treasury to the credit of the General Revenue Fund and spent in accordance with the appropriations made by law.

[Acts 1977, 65th Leg., p. 2603, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2696, ch. 871, art. II, § 10, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980; Acts 1981, 67th Leg., p. 144, ch. 65, § 2, eff. Sept. 1, 1981.]

[Sections 113.202 to 113.230 reserved  
for expansion]

#### SUBCHAPTER H. ENFORCEMENT

##### § 113.231. Injunctions

(a) On request of the commission, the attorney general may bring an action in the name and on behalf of the state to enjoin a person from committing any act that violates or does not comply with any provision of this chapter or of any rule promulgated under this chapter.

(b) A suit for injunction instituted pursuant to Subsection (a) of this section shall be in addition to any other remedies at law or in equity.

(c) A district court of any county in which it is shown that all or part of the acts have been or are about to be committed has jurisdiction of an action brought under Subsection (a) of this section.

(d) No bond for injunction may be required of the commission or the attorney general in relation to a proceeding instituted pursuant to Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 2604, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.232. General Penalty**

(a) In addition to injunctive relief and other penalties provided in this chapter, a person who knowingly violates or fails to comply with this chapter or rules adopted under this chapter is guilty of a misdemeanor and is punishable by a fine of not less than \$50 nor more than \$2,000.

(b) Each day the violation or failure to comply continues constitutes a separate violation.

[Acts 1977, 65th Leg., p. 2604, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.233. Entry for Inspection**

An inspector, employee, or agent of the commission may enter the premises of a licensee under this chapter or any building or other premises open to the public at any reasonable time for the purpose of determining and verifying compliance with this chapter and the safety rules of the commission.

[Acts 1977, 65th Leg., p. 2604, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.234. Warning Tag**

An inspector, employee, or agent of the commission may declare any container, appliance, equipment, transport, or system that does not conform to the safety requirements of this chapter or rules adopted under this chapter, or which is otherwise defective, as unsafe or dangerous for LP-gas service and shall attach a warning tag in a conspicuous location.

[Acts 1977, 65th Leg., p. 2604, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.235. Supplying or Removing LPG After Warning Tag Attached**

(a) Any person who knowingly sells, furnishes, delivers, or supplies LPG for storage in or use or consumption by or through a container, appliance, transport, or system to which a warning tag is attached is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 and not more than \$2,000.

(b) LP-gas shall be removed from a container to which a warning tag is attached only under the direction of the commission.

[Added by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**§ 113.236. Penalty for Unauthorized Removal of Tag**

An unauthorized person who knowingly removes, destroys, or in any way obliterates a warning tag attached to a container, appliance, transport, or system is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 and not more than \$2,000.

[Added by Acts 1979, 66th Leg., p. 2031, ch. 799, § 1, eff. Sept. 1, 1980.]

**TITLE 4. MINES AND MINING**

**CHAPTER 131. URANIUM SURFACE MINING AND RECLAMATION ACT**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
131.001.	Short Title.
131.002.	Declaration of Policy.
131.003.	Purposes.
131.004.	Definitions.
131.005.	Reclamation.
131.006.	Exclusions and Exemptions.

**SUBCHAPTER B. POWERS AND DUTIES OF THE COMMISSION**

131.021.	General Authority of Commission.
131.022.	Jurisdiction of Commission.
131.023.	Commission Procedure.
131.024.	Compliance With Federal Surface Mining Laws.
131.025.	Hearing Procedure.
131.026 to 131.032.	Repealed.
131.033.	Differing Terms and Provisions of Rules.
131.034.	Exploration Activities.
131.035.	Rules Designating Unsuitable Land.
131.036.	Survey of Land.
131.037.	Commission Statement.
131.038.	Reasons for Unsuitable Designation.
131.039.	Petition and Hearing on Designation.
131.040.	Modifying, Amending, and Terminating Designations.
131.041.	Applicability of Subchapter.
131.042.	Records, Reports, Monitoring Equipment, and Information.
131.043.	Inspection by Commission.
131.044.	Time and Procedures for Inspections.
131.045.	Sign.
131.046.	Procedure on Detection of Violation.
131.047.	Judicial Review.
131.048.	Confidentiality.
131.049.	Temporary Orders Prior to Notice and Hearing.

**SUBCHAPTER C. PLANS AND STANDARDS**

131.101.	Reclamation Plan.
131.102.	Reclamation Standards.

**SUBCHAPTER D. SURFACE MINING PERMITS**

131.131.	Permit Required for Operation.
131.132.	Form of Permit Application.
131.133.	Required Information
131.134.	Documents to be Included With Application.

Section	
131.135.	Application Fees.
131.136.	Amendment to Permit Application.
131.137.	Combined Permit Application.
131.138.	Filing Application With County Clerk.
131.139.	Submission of Application to Agencies for Comment.
131.140.	Approval of Permit.
131.141.	Denial of a Permit.
131.142.	Term and Transferability of Permit.
131.143.	Liability Insurance Policy.
131.144.	Rules for Revision, Transfer, and Renewal of Permits.
131.145.	Right to Renewal.
131.146.	Application for and Issuance of Renewal.
131.147.	Renewal Application Fee.
131.148.	Extension of Permit Coverage.
131.149.	Term of Renewal Permit.
131.150.	Time Limit for Renewal Application.
131.151.	Revision of Permit.
131.152.	Approval or Disapproval of Permit Revision.
131.153.	Guidelines for Revision.
131.154.	Extensions to Area.
131.155.	Transfer of Permit.
131.156.	Required Information for Transfer.
131.157.	Approval of Transfer.
131.158.	Denial of Application for Transfer.
131.159.	Notice by Applicant.
131.160.	Notification by Commission.
131.161.	Comments.
131.162.	Written Objections.
131.163.	Notice and Public Hearing.
131.164.	Repealed.
131.165.	Procedure.
131.166.	Repealed.

## SUBCHAPTER E. BONDS AND DEPOSITS

131.201.	Performance Bond Requirement.
131.202.	Amount of Performance Bond.
131.203.	Bond Without Surety.
131.204.	Extent of Liability Under Bond.
131.205.	Security for Bond.
131.206.	Increase or Decrease of Bond.
131.207.	Forfeiture of Operator's Performance Bond.
131.208.	Application for Release of Performance Bond or Deposit.
131.209.	Notice.
131.210.	Inspection and Evaluation.
131.211.	Basis for Release of Bond or Deposit.
131.212.	Disapproval of Application for Bond or Deposit Release.
131.213.	Notice of Release to Local Governmental Agency.
131.214.	Objections to Release.

## SUBCHAPTER F. FUNDS

131.231.	Land Reclamation Fund.
131.232.	Appropriation.
131.233.	Use of Proceeds From Bond Forfeitures and Penalties.
131.234.	Reclamation of Land.

## SUBCHAPTER G. ENFORCEMENT

131.261.	Conditions, Practices, and Violations Creating Imminent Danger or Causing Imminent Harm.
131.262.	Violations Not Creating Imminent Danger or Causing Imminent Harm.
131.263.	Continuous Violations.
131.264.	Form of Notices and Orders.
131.265.	Civil Actions.
131.266.	Injunctive Relief and Civil Penalty.
131.267.	Criminal Penalty for Violating Permits and Orders.
131.268.	Criminal Penalty for Corporate Permittee.
131.269.	Criminal Penalty for False Statement, Representation, or Certification.
131.270.	Recovery of Civil Penalties.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 131.001. Short Title

This chapter may be cited as the Texas Uranium Surface Mining and Reclamation Act.

[Acts 1977, 65th Leg., p. 2607, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, § 39, eff. May 9, 1979; Acts 1979, 66th Leg., p. 849, ch. 379, § 1, eff. June 6, 1979.]

## § 131.002. Declaration of Policy

The legislature finds and declares that:

(1) the extraction of minerals by surface mining operations is a basic and essential activity making an important contribution to the economic well-being of the state and nation;

(2) proper reclamation of surface-mined land is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety, and property rights of the citizens of this state;

(3) surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications for reclamation operations must vary accordingly;

(4) it is not always possible to extract minerals required by our society without disturbing the surface of the earth and producing waste materials, and the very character of certain types of surface mining operations occasionally precludes complete restoration of the affected land to its original condition;

(5) unregulated surface mining may destroy or diminish the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources, which results are declared to be inimical to the public interest and destructive to the public health, safety, welfare, and economy of the State of Texas;

(6) due to its unique character or location, some land within the state may be unsuitable for all or certain types of surface mining operations;

(7) reclamation of surface-mined land as provided by this chapter will allow the mining of valuable minerals in a manner designed for the protection and subsequent beneficial use of land; and

(8) the requirements of this chapter for reclamation and maintenance of affected land are necessary for the public health and safety and thus constitute a valid application of the police power of this state.

[Acts 1977, 65th Leg., p. 2607, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 849, ch. 379, § 1, eff. June 6, 1979.]

§ 131.003. Purposes

It is declared to be the purpose of this chapter:

- (1) to prevent the adverse effects to society and the environment resulting from unregulated surface mining operations as defined in this chapter;
- (2) to assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances to the land are protected from unregulated surface mining operations;
- (3) to assure that surface mining operations are not conducted where reclamation as required by this chapter is not possible;
- (4) to assure that surface mining operations are conducted in a manner that will prevent unreasonable degradation of land and water resources; and
- (5) to assure that reclamation of all surface-mined land is accomplished as contemporaneously as practicable with the surface mining, recognizing that the extraction of minerals by responsible mining operations is an essential and beneficial economic activity.

[Acts 1977, 65th Leg., p. 2608, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.004. Definitions

In this chapter:

- (1) "Minerals" means uranium and uranium ore.
- (2) "Surface mining" means the mining of minerals by removing the overburden lying above the natural deposit of minerals and mining directly from the natural deposits that are exposed and those aspects of underground mining having significant effects on the surface; provided, this definition shall not be construed to include in situ mining activities associated with the removal of uranium or uranium ore.
- (3) "Exploration activity" means the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of a mineral deposit.
- (4) "Affected land" or "land affected" means:
  - (A) the area from which any materials are to be or have been displaced in a surface mining operation;
  - (B) the area on which any materials that are displaced are to be or have been deposited;
  - (C) the haul roads and impoundment basins within the surface mining area; and
  - (D) other land whose natural state has been or will be disturbed as a result of the surface mining operations.
- (5) "Surface mining operation" means those activities conducted at or near the mining site and concomitant with the surface mining, including extraction, storage, processing, and shipping of minerals and reclamation of the land affected.
- (6) "Operator" means the individual or entity, including any public or governmental agency, that

is to engage or that is engaged in a surface mining operation, including any individual or entity whose permit has expired or been suspended or revoked.

(7) "Overburden" means all materials displaced in a mining operation which are not, or will not be, removed from the affected area.

(8) "Reclamation" means the process of restoring an area affected by a surface mining operation to its original or other substantially beneficial condition, considering past and possible future uses of the area and the surrounding topography.

(9) "Topsoil" means the unconsolidated mineral matter naturally present on the surface of the earth which has been subjected to and influenced by genetic and environmental factors of parent material, climate, macroorganisms and microorganisms, and topography, all acting over a period of time, and which is necessary for the growth and regeneration of vegetation on the surface of the earth.

(10) "Surface mining permit" means the written certification by the commission that the named operator may conduct the surface mining operations described in the certification during the term of the surface mining permit and in the manner established in the certification.

(11) "Person affected" means any person who is a resident of a county or any county adjacent or contiguous to the county in which a mining operation is or is proposed to be located, including any person who is doing business or owns land in the county or adjacent or contiguous county and any local government and who demonstrates that he has suffered or will suffer actual injury or economic damage.

(12) "Commission" means the Railroad Commission of Texas.

(13) "Fund" means the Land Reclamation Fund.

(14) "Toxic material" means any substance present in sufficient concentration or amount to cause injury or illness to plant, animal, or human life.

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the surface-mined area so that it resembles the surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated, although the new contour may subsequently be at a moderately lower or higher elevation than existed prior to the surface mining operation.

(16) "Person" means an individual, partnership, society, jointstock company, firm, company, corporation, business organization, governmental agency, or any organization or association of citizens.

(17) "Party to the administrative proceedings" means any person who has participated in a public hearing or filed a valid petition or timely objection pursuant to any provision of this chapter.

(18) "Permit area" means all the area designated as such in the permit application and shall include all land affected by the surface mining operations during the term of the permit and may include any contiguous area that the operator proposes to surface mine after that time.

[Acts 1977, 65th Leg., p. 2608, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 308, ch. 141, § 42, eff. May 9, 1979; Acts 1979, 66th Leg., p. 853, ch. 379, § 3, eff. June 6, 1979; Acts 1979, 66th Leg., p. 1989, ch. 784, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 413, ch. 171, § 1, eff. May 20, 1981.]

*Acts 1977, 65th Leg., p. 1320, ch. 524, § 1, purported to amend subs. (2) and (5) of § 4 of Civil Statutes, art. 5920-10 [now, subs. (2) and (5) of this section], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(5). Said amendment was subsequently repealed by identical provisions of Acts 1979, 66th Leg., p. 308, ch. 141, § 43, and Acts 1979, 66th Leg., p. 854, ch. 379, § 7, which provided in part that the repeal does not affect the continued validity of subs. (2) and (5) of this section or amendments to them made by the 66th Legislature, Regular Session, 1979.*

#### § 131.005. Reclamation

(a) The basic objective of reclamation is to reestablish on a continuing basis, where required, vegetation and other natural conditions consistent with the anticipated subsequent use of the affected land.

(b) The process of reclamation may require contouring, terracing, grading, backfilling, resoiling, revegetation, compaction and stabilization and settling ponds, water impoundments, diversion ditches, and other water treatment facilities in order to minimize water diminution to existing water sources, pollution, soil and wind erosion, or flooding resulting from mining or any other activity that may be considered necessary to accomplish the reclamation of the land affected to a substantially beneficial condition.

[Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.006. Exclusions and Exemptions

The provisions of this chapter do not apply to the following:

(1) surface mining operations conducted on public land regulated by the General Land Office if the land is reclaimed in a manner consistent with this chapter; and

(2) land on which the overburden has been removed and minerals have been produced before June 21, 1975.

[Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

*Acts 1977, 65th Leg., p. 1323, ch. 524, § 7, purported to amend § 5 of Civil Statutes, art. 5920-10 [now, this section], without reference to*

*repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(5). Said amendment was subsequently repealed by identical provisions of Acts 1979, 66th Leg., p. 308, ch. 141, § 43, and Acts 1979, 66th Leg., p. 854, ch. 379, § 7, which provided in part that the repeal does not affect the continued validity of this section or amendments thereto made by the 66th Legislature, Regular Session, 1979.*

[Sections 131.007 to 131.020 reserved for expansion]

### SUBCHAPTER B. POWERS AND DUTIES OF THE COMMISSION

#### § 131.021. General Authority of Commission

In seeking to accomplish the purposes of this chapter, the commission shall have the authority:

(1) to adopt and amend rules pertaining to surface mining and reclamation operations consistent with the general intent and purposes of this chapter;

(2) to issue permits pursuant to the provisions of this chapter;

(3) to conduct hearings pursuant to the provisions of this chapter;

(4) to issue orders requiring an operator to take actions that are necessary to comply with this chapter and with rules adopted under this chapter;

(5) to issue orders modifying previous orders;

(6) to issue a final order revoking the permit of an operator who has failed to comply with an order of the commission to take action required by this chapter or rules adopted under this chapter;

(7) to order the immediate cessation of an ongoing surface mining operation if the commission finds that the operation creates an imminent danger to the health or safety of the public, or is causing or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources, and to take other action or make changes in a permit that are reasonably necessary to avoid or alleviate these conditions;

(8) to hire employees, adopt standards for employment of these persons, and hire and authorize the hiring of outside contractors to assist in carrying out the requirements of this chapter;

(9) to enter on and inspect, in person or by its agents, a surface mining operation that is subject to the provisions of this chapter to assure compliance with the terms of this chapter;

(10) to conduct, encourage, request, and participate in studies, surveys, investigations, research, experiments, training, and demonstrations by contract, grant, or otherwise;

(11) to prepare and require permittees to prepare reports;

(12) to collect and disseminate to the public information considered reasonable and necessary for the proper enforcement of this chapter;

(13) to accept, receive, and administer grants, gifts, loans, or other funds made available from any source for the purposes of this chapter;

(14) to enter into contracts with state boards and agencies that have pertinent expertise to obtain professional and technical services necessary to carry out the provisions of this chapter; and

(15) to perform other duties and acts required by and provided for in this chapter.

[Acts 1977, 65th Leg., p. 2610, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.022. Jurisdiction of Commission**

The commission is the mining and reclamation authority for the State of Texas and has exclusive jurisdiction for establishing reclamation requirements for mining operations in this state.

[Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.023. Commission Procedure**

The commission shall seek the accomplishment of the purposes of this chapter by all practicable methods.

[Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.024. Compliance With Federal Surface Mining Laws**

(a) On passage of federal surface mining legislation, the commission shall take actions necessary to establish the exclusive jurisdiction of this state over the regulation of surface mining and reclamation operations.

(b) If the federal administrative agency disapproves the regulatory program of this state as submitted, the commission shall take all necessary and appropriate action, including making recommendations for remedial legislation, to clarify, alter, or amend the program to comply with the requirements of the federal act.

[Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.025. Hearing Procedure**

At a hearing under this chapter, the commission may:

- (1) administer oaths or affirmations;
- (2) subpoena witnesses and compel their attendance;
- (3) take evidence; and
- (4) require production of books, papers, correspondence, memoranda, agreements, or other documents or records that are considered relevant or material to the administration of this chapter.

[Acts 1977, 65th Leg., p. 2611, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§§ 131.026 to 131.032. Repealed by Acts 1979, 66th Leg., p. 1991, ch. 784, § 5, eff. Aug. 27, 1979**

The repealed sections, relating to promulgation and filing of rules, requirement of a public hearing, notice of hearing, written comments and evidence, consideration of comments and data, duty to publish rules, and amending and repealing rules, respectively, were derived from Acts 1977, 65th Leg., p. 2612, ch. 871, art. I, § 1.

**§ 131.033. Differing Terms and Provisions of Rules**

A rule or an amendment of a rule adopted by the commission may differ in its terms and provisions between particular conditions, particular mining techniques, particular areas of the state, or any other conditions that appear relevant and necessary so long as the action taken is consistent with attainment of the general intent and purposes of this chapter.

[Acts 1977, 65th Leg., p. 2612, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, § 39, eff. May 9, 1979; Acts 1979, 66th Leg., p. 849, ch. 379, § 1, eff. June 6, 1979.]

**§ 131.034. Exploration Activities**

The commission shall promulgate rules in the manner provided in Sections 131.026 through 131.031 of this code for the conduct of exploration activities.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.035. Rules Designating Unsuitable Land**

(a) The commission shall develop rules that adopt appropriate procedures for identifying and designating land in this state as unsuitable for all or certain types of surface mining in accordance with Sections 131.036 through 131.041 of this code.

(b) The rules shall be in sufficient detail to provide reasonable notice to prospective operators of areas that might be designated as unsuitable for surface mining.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.036. Survey of Land**

(a) When application is made to conduct surface mining operations and before a permit is issued, the commission shall immediately have the areas to be included in the proposed permit surveyed in accordance with the requirements of Sections 131.035 and 131.037 through 131.041 of this code.

(b) In conducting the survey and in declaring various areas to be unsuitable for mining, the commission shall employ competent and scientifically sound data and information as the basis for objective decisions with respect to each area surveyed.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.037. Commission Statement**

Before designating a land area as unsuitable for surface mining operations, the commission shall prepare a detailed statement on the potential mineral and other resources in the area, the demand for these resources, and the impact of the designation on the environment, the economy, and the supply of the mineral.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.038. Reasons for Unsuitable Designation**

After the survey is made, an area may be designated unsuitable for all or certain types of surface mining if:

(1) the commission determines that reclamation under this chapter is not feasible;

(2) the operations will result in significant damage to important areas of historic, cultural, or archaeological value or to important natural systems;

(3) the operations will affect renewable resource land that includes aquifers and aquifer recharge areas, resulting in a substantial loss or reduction of long-range productivity of water supply or food or fiber products;

(4) the operations are located in an area subject to frequent flooding or an area that is geologically unstable and may reasonably be expected to endanger life and property;

(5) the operations will adversely affect any national park, national monument, national historic landmark, property listed on the national register of historic places, national forest, national wilderness area, national wildlife refuge, national wild and scenic river area, state park, state wildlife refuge, state forest, recorded Texas historic landmark, state historic site, state archaeological landmark, or city or county park; or

(6) the operations would endanger any public road, public building, cemetery, school, church, or similar structure or existing dwelling outside the permit area.

[Acts 1977, 65th Leg., p. 2613, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.039. Petition and Hearing on Designation**

(a) Any person is entitled to petition the commission to have an area designated as unsuitable for surface mining operations or to have the designation terminated.

(b) The petition shall include allegations of facts with supporting evidence that in the opinion of the commission would tend to establish the allegations.

(c) The commission shall make a determination of the validity of the petition, and if the petition is found to be valid, it shall be kept on file by the commission and made available for public inspection.

(d) On application for a surface mining permit for which a valid petition has been filed, the commission shall hold a public hearing as provided in Section 131.163 of this code in the locality of the proposed mining operation.

(e) Any person affected may intervene before the public hearing by filing allegations of facts with supporting evidence that would tend to establish the allegations.

(f) If all the petitioners and the applicant stipulate agreement before the requested hearing, the hearing does not have to be held.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, § 2, eff. Aug. 27, 1979.]

**§ 131.040. Modifying, Amending, and Terminating Designations**

The commission may modify, amend, or terminate a designation pursuant to the requirements of Sections 131.035 through 131.039 of this code.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.041. Applicability of Subchapter**

The provisions of Sections 131.035 through 131.040 of this code do not apply to land on which surface mining operations were being conducted on June 21, 1975.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.042. Records, Reports, Monitoring Equipment, and Information**

The commission shall require each permittee to:

(1) establish and maintain appropriate records;

(2) make reports as frequently as the commission may prescribe;

(3) install, use, and maintain necessary monitoring equipment for observing and determining relevant surface or subsurface effects of the mining operation and reclamation program; and

(4) provide other information relative to mining and reclamation operations the commission determines to be reasonable and necessary.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.043. Inspection by Commission**

Without advance notice and on presentation of appropriate credentials to the operation supervisor, if present, the authorized representatives of the commission are entitled to enter in, on, or through a surface mining operation or premises in which any records required under Section 131.042 of this code are located, and may at reasonable times and without delay have access to and copy any records and inspect monitoring equipment or methods of operation required under this chapter.

[Acts 1977, 65th Leg., p. 2614, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.044. Time and Procedures for Inspections**

(a) The inspections by the commission shall occur on an irregular basis at a frequency necessary to insure compliance with the intent and purposes of this chapter and the commission's rules for the surface mining and reclamation operations covered by each permit.

(b) The inspections shall occur only during normal operating hours if practicable and without prior notice to the permittee or his agents or employees.

(c) An inspection shall include the filing of an inspection report adequate to enforce the requirements of and to carry out the terms and purposes of this chapter. The commission shall make each re-

port a part of the record and furnish one copy of the report to the operator.

(d) Insofar as practicable, the commission shall establish a system of rotation of inspectors.

[Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.045. Sign

Each permittee shall maintain at the entrances to the surface mining and reclamation operations a clearly visible sign that sets forth the name, business address, and phone number of the permittee and the permit number of the surface mining and reclamation operations.

[Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.046. Procedure on Detection of Violation

On detection of each violation of a requirement of this chapter, each inspector shall inform the operator of the violation orally at the time of the detection and in writing at a later time and shall report the violation in writing to the commission.

[Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.047. Judicial Review

(a) Any party to the administrative proceedings whose interest is or may be adversely affected by a ruling, order, decision, or other act of the commission may appeal by filing a petition in a district court of Travis County or in the county in which the greater portion of the land in question is located.

(b) The plaintiff shall pursue his action with reasonable diligence, and if the plaintiff does not prosecute his action within one year after the action is filed, the court shall presume that the action has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff, after receiving due notice, can show good and sufficient cause for the delay.

(c) The court shall hear the complaint solely on the record made before the commission. The findings of the commission, if supported by substantial evidence on the record considered as a whole, shall be upheld.

(d) The court may, under conditions it may prescribe, grant temporary relief that it considers appropriate pending final determination of the proceedings.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order, or decision of the commission.

(f) Repealed by Acts 1981, 67th Leg., p. 2647, ch. 707, § 4(48), eff. Aug. 31, 1981.

[Acts 1977, 65th Leg., p. 2615, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, § 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2646, ch. 707, § 4, eff. Aug. 31, 1981.]

§ 131.048. Confidentiality

Information submitted to the commission concerning mineral deposits, test borings, core samplings, or trade secrets or privileged commercial or financial information relating to the competitive rights of the applicant and specifically identified as confidential by the applicant, if not essential for public review as determined by the commission, shall not be disclosed by any member, agent, or employee of the commission.

[Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.049. Temporary Orders Prior to Notice and Hearing

(a) The commission may issue temporary orders relating to a surface mining operation without notice and hearing, or with the notice and hearing as the commission considers practical under the circumstances, when necessary to enable action to be taken more expeditiously than is otherwise provided by this chapter to effectuate the policy and purposes of this chapter.

(b) If the commission issues a temporary order under this authority without a hearing, and if the subject matter of the order is such as to require a public hearing under Section 131.163 of this code or under any rule of the commission, the order shall set a time and place for a public hearing to be held. The hearing shall be held as soon after the temporary order is issued as is practical.

(c) At the hearing, the commission shall affirm, modify, or set aside the temporary order. If the nature of the commission's action requires, further proceedings shall be conducted as appropriate under provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) The requirements of Sections 131.159 and 131.160 of this code relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to the hearing, but general notice of the hearing shall be given that the commission considers practical under the circumstances. [Added by Acts 1979, 66th Leg., p. 853, ch. 379, § 6, eff. June 6, 1979.]

[Sections 131.050 to 131.100 reserved for expansion]

SUBCHAPTER C. PLANS AND STANDARDS

§ 131.101. Reclamation Plan

(a) A reclamation plan shall be developed in a manner consistent with local, physical, environmental, and climatological conditions and current mining and reclamation technologies.

(b) A reclamation plan submitted as part of a permit application shall include:

(1) the identification of the entire area to be mined and affected over the estimated life of the mining operation;

(2) the condition of the land to be covered by the permit prior to any mining, including:

(A) the uses existing at the time of the application, and if the land has a history of previous mining, the uses, if reasonably ascertainable, that immediately preceded any mining; and

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover;

(3) the capacity of the land to support its anticipated use following reclamation, including a discussion of the capacity of the reclaimed land to support alternative uses;

(4) a description of how the proposed postmining land condition is to be achieved and the necessary support activities that may be needed to achieve the condition, including an estimate of the cost per acre of the reclamation;

(5) the steps taken to comply with applicable air and water quality and water rights laws and regulations and any applicable health and safety standards, including copies of any pertinent permit applications;

(6) a general timetable that the operator estimates will be necessary for accomplishing the major events included in the reclamation plan; and

(7) other information the commission, by rule, determines to be reasonably necessary to effectuate the purposes of this chapter.

(c) The operator may revise or amend the reclamation plan at any time in accordance with the requirements of this code.

[Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

### § 131.102. Reclamation Standards

(a) A permit issued under this chapter to conduct surface mining operations shall require that the surface mining operations meet all applicable reclamation standards of this chapter and any other requirements that the commission establishes by rule.

(b) Reclamation standards shall apply to all surface mining and reclamation operations that are not exempted or excluded and shall require the operator as a minimum to:

(1) conduct surface mining operations in a manner consistent with prudent mining practice, so as to maximize the utilization and conservation of the resource being recovered so that re-affecting the land in the future through surface mining can be minimized;

(2) restore the land affected to the same or a substantially beneficial condition considering the present and past uses of the land, so long as the

condition does not present any actual or probable hazard to public health or safety or pose an actual or probable threat of water diminution or pollution, and the permit applicants' declared anticipated land use following reclamation is not considered to be impractical or unreasonable, to involve unreasonable delay in implementation, or to violate federal, state, or local law, provided that a variety of postmining land conditions that differ from the land condition immediately preceding the surface mining operation, including but not limited to stock ponds, fishing or recreational lakes, school or park sites, industrial, commercial, or residential sites, or open space uses, may be approved by the commission if the proposed condition is determined to be substantially beneficial and complies with the provisions of this section;

(3) reduce all highwalls, spoil piles, and banks to a degree to control erosion effectively and sufficiently to sustain vegetation, where required, consistent with the anticipated subsequent use of the affected land, provided that backfilling, compacting, and grading shall be required to restore the approximate original contour where required by federal law and where the volume of overburden is large in comparison to the volume of mineral deposit and the commission considers the requirement to be practical;

(4) stabilize and protect all surface areas affected by the mining and reclamation operation effectively to control erosion and attendant air and water pollution;

(5) remove the topsoil, if any, from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plants or other means so that the topsoil is preserved from wind and water erosion, remains free of any contamination by toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation and if other strata can be shown to be as suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner the other strata which is best able to support vegetation, provided that the requirements of this provision shall not apply if a mixing of strata can be shown to be equally suitable for revegetation requirements;

(6) replace the topsoil or the best available subsoil, if any, on top of the land to be reclaimed;

(7) fill any auger holes with an impervious material in order to prevent drainage;

(8) minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity

of water in surface and groundwater systems both during and after surface mining operations and during reclamation by:

- (A) avoiding toxic mine drainage by such measures as:
  - (i) preventing or removing water from contact with toxic-producing deposits,
  - (ii) treating drainage to reduce toxic content,
  - (iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep toxic drainage from entering ground and surface water;
- (B) conducting surface mining operations in a manner to prevent unreasonable additional contributions of suspended solids to streamflow or runoff outside the permit area above natural levels under seasonal flow conditions;
- (C) removing temporary or large siltation structures from drainways consistent with good water conservation practices after disturbed areas are revegetated and stabilized; or
- (D) other actions as the commission may prescribe pursuant to its rules;
- (9) stabilize any waste piles;
- (10) refrain from surface mining in proximity to active and abandoned underground mines in which mining would cause breakthroughs or would endanger the health or safety of miners;
- (11) incorporate with respect to the use of impoundments for the disposal of mine wastes, processing wastes, or other liquid or solid wastes current engineering practices for the design and construction of water retention facilities which, at a minimum, shall be compatible with the requirements of Section 6.0731,<sup>1</sup> Water Code, and applicable federal laws, ensure that leachate will not pollute surface or groundwater, and locate impoundments so as not to endanger public health and safety should failure occur;
- (12) ensure that all debris, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface water or combustion;
- (13) ensure that any explosives are used only in accordance with existing state and federal law and rules promulgated by the commission;
- (14) ensure that all reclamation efforts proceed as contemporaneously as practicable with the surface mining operations;
- (15) ensure that construction, maintenance, and postmining conditions of access roads into and across the site of operations will minimize erosion and siltation, pollution of air and water, damage to fish or wildlife or their habitat, or public or private property, provided that the commission may permit the retention after mining of certain access roads if compatible with the approved reclamation plan;

(16) refrain from the construction of roads or other access ways up a streambed or drainage channel or in proximity to such channel where such construction would seriously alter the normal flow of water;

(17) establish on all affected land, where required in the approved reclamation plan, a diverse vegetative cover native to the affected land where vegetation existed prior to mining and capable of self-regeneration and plant succession equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process where desirable or necessary to achieve the approved reclamation plan;

(18) assume responsibility for successful revegetation for a period of four years beyond the first year in which the vegetation has been successfully established as evidenced by the land being used as anticipated in the reclamation plan;

(19) ensure with respect to permanent impoundments of water as part of the approved reclamation plan that:

(A) the size of the impoundment and the availability of water are adequate for its intended purpose;

(B) the impoundment dam construction will meet the requirements of Section 6.0731, Water Code, and applicable federal laws;

(C) the quality of impounded water will be suitable on a permanent basis for its intended use and the discharges from the impoundment will not degrade the water quality in the receiving stream;

(D) final grading will provide adequate safety and access for anticipated water users; and

(E) the water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses; and

(20) meet other criteria pursuant to the commission's rules as are necessary to achieve reclamation in accordance with the purposes of this chapter, taking into consideration the physical, climatological, and other characteristics of the site.

(c) The purpose of this section is to have land affected restored to the same condition as the land that existed enjoyed before the mining or some substantially beneficial condition.

(d) A method of reclamation other than that provided in this section may be approved by the commission after public hearing if the commission determines that any method of reclamation required by this section is not practical and that the alternative method will provide for the affected land to be restored to a substantially beneficial condition.

(e) If an alternative method of reclamation is generally applicable to all surface mining operations

involving a particular mineral, the commission shall promulgate rules in the manner provided in Section 131.033 of this code.

(f) The operator is entitled to access to the land affected to the extent necessary to carry out the reclamation and maintenance required under this chapter.

[Acts 1977, 65th Leg., p. 2616, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 305, ch. 141, § 40, eff. May 9, 1979; Acts 1979, 66th Leg., p. 850, ch. 379, § 2, eff. June 6, 1979.]

<sup>1</sup> See, now, § 12.052.

[Sections 131.103 to 131.130 reserved  
for expansion]

#### SUBCHAPTER D. SURFACE MINING PERMITS

##### § 131.131. Permit Required for Operation

(a) No person shall conduct a surface mining operation unless he first obtains a surface mining permit issued by the commission under this subchapter; provided, any operator conducting a surface mining operation in this state before September 20, 1976, who has filed a permit application pursuant to this chapter, may continue to conduct that surface mining operation until the commission approves or denies his application.

(b) An operator who was conducting a surface mining operation in this state after the expiration of 180 days following the promulgation of the initial rules under Section 131.026 of this code and who has filed a permit application in accordance with the provisions of this subchapter may continue to conduct the surface mining operation until the commission approves or denies his application.

[Acts 1977, 65th Leg., p. 2619, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1990, ch. 784, § 3, eff. Aug. 27, 1979.]

##### Amendment by Acts 1977, 65th Leg., p. 1321, ch. 524, § 3

*Acts 1977, 65th Leg., p. 1321, ch. 524, § 3, purports to amend subsec. (a) of § 8 of Civil Statutes, art. 5920-10 [now, this section], without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(5). As so amended, subsec. (a) reads:*

*"No person shall conduct any surface mining operation without having first obtained a surface mining permit issued by the commission pursuant to this Act; provided, however, that any operator conducting a surface mining operation in this state before September 20, 1976, who has filed a permit application in accordance with the provisions of this Act may continue to conduct such surface mining operation until such time as the commission approves or denies his application."*

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

##### § 131.132. Form of Permit Application

On application to the commission for a surface mining permit, an operator shall submit three copies of a permit application on a form prescribed by the commission, and the commission shall require in the form the information it considers reasonably necessary to process the application and to ensure compliance with the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 131.133. Required Information

The permit application shall include information concerning:

(1) the name, address, ownership, and management officers of the permit applicant and affiliated persons engaged in surface mining;

(2) legal and equitable interests of record, if reasonably ascertainable, in the surface and mineral estates of the permit area and in the surface estate of land located within 500 feet of the permit area, provided that the mineral estate includes only minerals as defined in this chapter;

(3) persons residing on the property at the time of the application;

(4) current or previous surface mining permits held by the applicant, including any revocations, suspensions, or bond forfeitures;

(5) the type and method of surface mining operation, the engineering techniques, and the equipment that is proposed to be used, including mining schedules, the nature and expected amount of overburden to be removed, the depth of excavations, a description of the affected land and permit area, the results of any test borings, test pits, or core samplings that have been gathered from the permit area, and the anticipated hydrologic consequences of the mining operation;

(6) the applicant's legal right to surface mine the affected land; and

(7) other pertinent matters that the commission considers reasonably necessary to effectuate the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

##### § 131.134. Documents to be Included With Application

An applicant shall include with his permit application a copy of a reclamation plan prepared as provided in Section 131.101 of this code and a copy of the

notice published in compliance with the requirement of Section 131.159 of this code.

[Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.135. Application Fees**

(a) Each application for a surface mining permit shall be accompanied by an initial application fee as determined by the commission in accordance with a published fee schedule.

(b) An initial application fee shall be based as nearly as possible on the actual or anticipated cost of reviewing the application, but shall not exceed \$200.

(c) After approval but before issuance of the surface mining permit, the applicant shall pay an approved application fee in the amount of \$10 per acre of the permit area, which may be paid in annual installments apportioned over the term of the permit.

[Acts 1977, 65th Leg., p. 2620, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1991, ch. 784, § 4, eff. Aug. 27, 1979.]

**§ 131.136. Amendment to Permit Application**

A permit application may be amended to exclude the part of an operation that lies within an area designated as unsuitable for surface mining under Sections 131.035 through 131.041 of this code.

[Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.137. Combined Permit Application**

(a) The commission shall adopt rules permitting an operator of more than one noncontiguous surface mining operation to submit a single application for a combined surface mining permit covering all his mining operations.

(b) A combined permit application shall require the same detailing of information as required by this subchapter for each separate location.

(c) An operator desiring to operate under a combined permit may submit a consolidated reclamation plan covering all his operations under rules prescribed by the commission, but he may be required to furnish specific information relating to reclamation of a single operating area if the commission determines that this is necessary to carry out the purposes of this chapter.

(d) Except as provided in this section, each surface mining operation submitted as part of a combined permit application shall be separate and independent of all other surface mining operations included in the same permit application.

(e) The commission may approve or deny an individual surface mining operation and the reclamation plan that relates to an individual surface mining operation without affecting other portions of the same permit application.

[Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.138. Filing Application With County Clerk**

After deleting confidential information as provided in Section 131.048 of this code, the commission shall file for public inspection with the county clerk at the county courthouse of the county in which any portion of the mining is proposed to occur a copy of each application.

[Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.139. Submission of Application to Agencies for Comment**

(a) The commission immediately shall submit copies of the permit application to the Parks and Wildlife Department, Texas Water Quality Board, Texas Water Development Board, General Land Office, Texas Air Control Board, Texas Historical Commission, Texas Water Rights Commission, State Soil and Water Conservation Board, Bureau of Economic Geology, Texas Department of Health Resources, and other state agencies whose jurisdiction the commission feels the particular mining operation may affect.

(b) Each of these agencies shall review the permit application and submit any comments the agency cares to make within 30 days of receipt of the application.

(c) An agency's comments shall include an enumeration of permits or licenses required under the agency's jurisdiction.

(d) The comments of each agency shall be made a part of the record and a copy shall be furnished to the applicant.

[Acts 1977, 65th Leg., p. 2621, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.140. Approval of Permit**

(a) The commission shall grant a surface mining permit if it is established that the permit application complies with the requirements of this chapter and applicable federal and state laws.

(b) The commission may approve a surface mining permit conditioned on the approval of other state permits or licenses that may be required.

[Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.141. Denial of a Permit**

The commission shall deny a permit if:

(1) it finds that the reclamation as required by this chapter cannot be accomplished by means of the proposed reclamation plan;

(2) part of the proposed operation lies within an area designated as unsuitable for surface mining in Sections 131.035 through 131.041 of this code;

(3) it is advised by the Texas Water Quality Board that the proposed mining operation will cause pollution of water of the state, or by the Texas Air Control Board that the proposed mining operation will cause pollution of the ambient air of the state, in violation of the laws of this state;

(4) the applicant has had another permit issued under this chapter revoked or any bond posted to comply with this chapter forfeited and the conditions causing the permit to be revoked or the bond to be forfeited have not been corrected to the satisfaction of the commission;

(5) it determines that the proposed operation will endanger the health and safety of the public;

(6) the surface mining operation will adversely affect a public highway or road; or

(7) the operator is unable to produce the bonds or otherwise meet the requirements of Sections 131.201 through 131.206 of this code.

[Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, § 2, eff. Aug. 27, 1979.]

#### § 131.142. Term and Transferability of Permit

(a) A surface mining permit issued under this chapter for uranium and uranium ore shall be issued for a term of not more than 10 years.

(b) Except as provided in Sections 131.155 through 131.158 of this code, a surface mining permit is nontransferable.

[Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 308, ch. 141, § 41, eff. May 9, 1979; Acts 1979, 66th Leg., p. 853, ch. 379, § 4, eff. June 6, 1979.]

#### § 131.143. Liability Insurance Policy

(a) After a permit application is approved but before the permit is issued, the applicant shall file a certificate of insurance certifying that the applicant has in force a public liability insurance policy issued by an insurance company authorized to conduct business in this state.

(b) The liability insurance policy required by Subsection (a) of this section shall cover all surface mining operations of the applicant in this state and shall afford bodily injury protection and accidental business property damage protection in an amount determined by the commission to compensate adequately any persons damaged as a result of surface mining and reclamation operations.

(c) The liability insurance policy shall be maintained in full force and effect during the term of the permit or the renewal of the permit, including the length of all reclamation operations.

[Acts 1977, 65th Leg., p. 2622, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.144. Rules for Revision, Transfer, and Renewal of Permits

The commission shall promulgate rules for renewal, revision, and transfer of surface mining permits. [Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.145. Right to Renewal

A valid surface mining permit issued under this chapter carries with it the right of successive renewal on expiration with respect to area within the boundaries of the existing permit.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.146. Application for and Issuance of Renewal

The holder of a permit may apply for renewal and the renewal shall be issued on the basis of the following requirements and written findings by the commission that:

(1) the terms and conditions of the existing permit are being satisfactorily met;

(2) the performance bond or substitute collateral required under the terms of this chapter will continue in full force and effect and unimpaired for the requested renewal, revision, or transfer;

(3) the operator has provided additional or revised information as required by the commission; and

(4) notice under Section 131.159 of this code has been provided with respect to the application for renewal, revision, or transfer.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.147. Renewal Application Fee

(a) Each application for renewal of a surface mining permit shall be accompanied by a renewal application fee as determined by the commission in accordance with a published fee schedule.

(b) The fee shall be based as nearly as possible on the actual or anticipated cost of reviewing the application, but in no event shall the amount exceed \$200.

(c) The approved application fee as provided in Section 131.135 of this code is not applicable to a renewal application except for the portion, if any, that addresses any new land areas.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.148. Extension of Permit Coverage

If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit that addresses any new land areas shall be subject to the full standards, including application fees, applicable to new applications under this chapter.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.149. Term of Renewal Permit

A surface mining permit renewal shall be for a term not to exceed the period of the original permit established under this chapter.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.150. Time Limit for Renewal Application**

Application for permit renewal shall be made at least 90 days before the expiration of the valid permit.

[Acts 1977, 65th Leg., p. 2623, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.151. Revision of Permit**

During the term of a surface mining permit, the permittee may submit an application, together with a revised reclamation plan, to the commission for a revision of the permit.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.152. Approval or Disapproval of Permit Revision**

No application for a revision of a permit may be approved unless the commission finds that reclamation as required under this chapter can be accomplished under the revised reclamation plan.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1990, ch. 784, § 2, eff. Aug. 27, 1979.]

**§ 131.153. Guidelines for Revision**

(a) The commission shall establish by rule guidelines for a determination of the scale or extent of a revision request to which all permit application information requirements and procedures, including notice and hearings, shall apply.

(b) A revision that proposes a substantial change in the intended future use of the land or significant alteration in the reclamation plan shall be subject at a minimum to the notice and hearing requirements provided in Sections 131.159 and 131.163 of this code.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.154. Extensions to Area**

Except for incidental boundary revisions, an extension to the area covered by a permit must be made by application for another permit or for revision of a permit.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.155. Transfer of Permit**

(a) No transfer, assignment, or sale of the rights granted under a permit issued under this chapter shall be made without the written approval of the commission.

(b) A person desiring to succeed to the interests of a permittee under this chapter must file an application on a form prescribed by the commission and including any pertinent information the commission by rule may require.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.156. Required Information for Transfer**

As part of the information for transfer, the commission shall require:

(1) the information required by Subdivisions (1) and (4) of Section 131.133 of this code relating to ownership and other mining activities of the applicant;

(2) proof that the public liability insurance requirement in Section 131.143 of this code will be fulfilled;

(3) proof that the performance bond or substitute collateral required by Sections 131.201 through 131.206 of this code will be furnished; and

(4) the statement of the applicant that he will faithfully carry out all of the requirements of the reclamation plan approved in the original application.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.157. Approval of Transfer**

After notice and an opportunity for a public hearing, if required under Sections 131.159 and 131.163 of this code, and on a written finding by the commission that the requirements of Sections 131.146 through 131.150 of this code have been met, the application for transfer shall be approved.

[Acts 1977, 65th Leg., p. 2624, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.158. Denial of Application for Transfer**

An application for transfer shall be denied if the applicant has had a permit issued under this chapter revoked or a bond posted to comply with this chapter forfeited, and the conditions causing the permit to be revoked or the bond to be forfeited have not been corrected to the satisfaction of the commission.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 849, ch. 379, § 1, eff. June 6, 1979.]

**§ 131.159. Notice by Applicant**

(a) At the time an application for a surface mining permit or an application for revision, renewal, or transfer of an existing surface mining permit is submitted under this chapter, the applicant shall publish notice of the ownership, location, and boundaries of the permit area sufficiently detailed for local residents to locate readily the proposed operation and the location at which the application is available for public inspection.

(b) The notice shall be published in the local newspaper of greatest general circulation in the locality in which the proposed surface mine is to be located.

(c) The notice shall be published at least once a week for four consecutive weeks.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.160. Notification by Commission**

The commission shall contact various local governmental bodies, planning agencies, sewage, and water treatment authorities or water companies that have jurisdiction over or in the locality in which the proposed surface mining will occur, and the owners of record of surface areas within 500 feet of any part of the permit area and shall give them notice of the applicant's intention to surface mine a particularly described tract of land and indicate the applicant's permit number, if any, and the place at which a copy of the proposed mining and reclamation plan may be inspected.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.161. Comments**

(a) Within 30 days after the last publication as provided in Section 131.159 of this code, each local body, agency, authority, or company may submit written comments with respect to the effect of the proposed operation on the environment within its area of responsibility.

(b) These comments shall be made part of the record, and one copy of the comments shall be furnished to the operator.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.162. Written Objections**

(a) Within 30 days after the last publication of notice under Section 131.159 of this code, a person affected or a federal, state, or local governmental agency or authority is entitled to file with the commission written objections to the application for a surface mining permit or to the application for the renewal, revision, or transfer of a surface mining permit.

(b) The written objections shall be made part of the record and one copy of the written objections shall be furnished to the operator.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.163. Notice and Public Hearing**

(a) If the commission determines that the application for a surface mining permit is of a significance sufficient to warrant a public hearing, the commission shall hold a public hearing in the locality of the proposed surface mining and reclamation operations.

(b) In determining whether to hold a public hearing, the commission shall consider any objections that have been filed, and if no substantial written objections have been filed, no hearing shall be required.

(c) The commission shall publish notice of the date, time, and location of the public hearing in the newspaper with the greatest general circulation in

the locality at least once a week for three consecutive weeks before the scheduled hearing date.

[Acts 1977, 65th Leg., p. 2625, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 853, ch. 379, § 5, eff. June 6, 1979.]

**§ 131.164. Repealed by Acts 1979, 66th Leg., p. 1991, ch. 784, § 5, eff. Aug. 27, 1979**

The repealed section, relating to transcripts of public hearings, was derived from Acts 1977, 65th Leg., p. 2626, ch. 871, art. I, § 1.

**§ 131.165. Procedure**

The commission shall comply with the Administrative Procedure and Texas Register Act<sup>1</sup> in all proceedings under this chapter except where inconsistent with this chapter.

[Acts 1977, 65th Leg., p. 2626, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1989, ch. 784, § 2, eff. Aug. 27, 1979.]

<sup>1</sup>Civil Statutes, art. 6252-13a.

**§ 131.166. Repealed by Acts 1979, 66th Leg., p. 1991, ch. 784, § 5, eff. Aug. 27, 1979**

The repealed section, relating to a decision without an initial hearing, was derived from Acts 1977, 65th Leg., p. 2626, ch. 871, art. I, § 1.

[Sections 131.167 to 131.200 reserved for expansion]

**SUBCHAPTER E. BONDS AND DEPOSITS****§ 131.201. Performance Bond Requirement**

(a) After a surface mining permit application has been approved but before the permit is issued, the applicant shall file with the commission, on a form prescribed by rule, a bond for performance payable to the State of Texas and conditioned on full and faithful performance of all the requirements of this chapter and the permit.

(b) The bond shall cover that area of land within the permit area on which the operator will initiate and conduct surface mining and reclamation operations, and as succeeding increments of surface mining and reclamation operations are to be initiated and conducted within the permit area, the operator shall file with the commission an additional bond or bonds to cover the increments in accordance with Sections 131.202 through 131.206 of this code.

[Acts 1977, 65th Leg., p. 2626, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.202. Amount of Performance Bond**

(a) The amount of the bond required for each bonded area depends on the reclamation requirements of the approved permit and shall be determined by the commission.

(b) The commission's determination shall be based on at least two independent estimates, one of which shall be submitted by the permit applicant and the other prepared at the commission's direction under procedures established by rule. Only one independent estimate need be submitted if the applicant waives his right to submit an estimate.

(c) The amount of the bond shall be determined by the commission and shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture, but in no event shall the bond exceed the highest independent estimate made under this section.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.203. Bond Without Surety**

The commission may accept the bond of the operator itself, without separate surety, if the operator demonstrates to the satisfaction of the commission the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient to self-insure or bond the amount.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.204. Extent of Liability Under Bond**

Liability under the bond shall be for the duration of surface mining and reclamation operations and for a period coincident with the operator's responsibility pursuant to Section 131.102 of this code.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.205. Security for Bond**

(a) The bond shall be executed by the operator and a corporate surety licensed to do business in this state, or the operator may elect to deposit cash or negotiable securities acceptable to the commission, or an assignment of a savings account in a Texas bank on an assignment deposit form prescribed by the commission's rules.

(b) A cash deposit or market value of the substitute collateral shall be equal to or greater than the amount of the bond required for the bonded area.

(c) Cash or other substitute collateral shall be deposited on the same terms as the terms on which surety bonds may be deposited.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.206. Increase or Decrease of Bond**

(a) The amount of the bond or deposit required and the terms of acceptance of the applicant's bond or substitute collateral may be increased or decreased from time to time to reflect changes in the cost of future reclamation of land mined or to be mined.

(b) The amount of the bond or substitute collateral may be reduced only in accordance with the provisions of Sections 131.208 through 131.213 of this code.

[Acts 1977, 65th Leg., p. 2627, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.207. Forfeiture of Operator's Performance Bond**

On issuance of a final order revoking an operator's permit for failure to comply with an order of the commission to take action as required by this chapter or rules adopted under this chapter, the operator's performance bond shall be forfeited if it is determined that forfeiture is necessary to reclaim land disturbed by the operator's surface mining operation.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.208. Application for Release of Performance Bond or Deposit**

(a) At any time, an operator may file an application with the commission for the release of all or part of the performance bond or deposit.

(b) The application shall be on a form prescribed by the commission and in addition to other information the commission may require, shall include the type and the approximate date of reclamation work performed and a description of the results achieved as they relate to the operator's reclamation plan.

(c) The commission shall file a copy of the bond release application for public inspection with the county clerk at the county courthouse of the county in which the surface mining and reclamation operation is located.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.209. Notice**

(a) The operator shall submit a copy of a notice that has been published once a week for four consecutive weeks in the newspaper of greatest general circulation in the locality of the surface mining and reclamation operation.

(b) The advertisement shall be considered part of any bond release application and shall include:

- (1) notice of the location and boundaries of the land affected;
- (2) the permit number and the date approved;
- (3) the amount of the bond filed and the portion sought to be released; and
- (4) the location at which the bond release application has been placed for public inspection.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 131.210. Inspection and Evaluation**

(a) On receipt of the notice and request, the commission shall conduct an inspection and evaluation of the reclamation work involved, the inspection and evaluation to occur within a reasonable time not to exceed 45 days.

(b) The evaluation shall consider among other things:

- (1) the degree of difficulty to complete remaining reclamation;

(2) whether pollution of surface and subsurface water is occurring;

(3) the probability of continuance or future occurrence of pollution; and

(4) the estimated cost of abating pollution.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.211. Basis for Release of Bond or Deposit

The commission may release in whole or part the bond or deposit if it is satisfied that reclamation covered by the bond or deposit or a portion of the bond or deposit has been accomplished as required by this chapter according to the following schedule:

(1) when the operator completes required back-filling, regrading, and drainage control of a bonded area as provided in his approved reclamation plan, the commission may authorize the release of up to 75 percent of the bond or substitute collateral for the applicable permit area, provided the amount of the unreleased portion of the bond or substitute collateral is not less than the amount necessary to assure completion of the reclamation work by a third party in the event of forfeiture; and

(2) when the operator has successfully completed the remaining reclamation activities, but not before the expiration of the period specified for operator responsibility in Section 131.102 of this code, the commission may release the remaining portion of the bond or substitute collateral, provided that no bond is fully released until all reclamation requirements of this chapter are fully met.

[Acts 1977, 65th Leg., p. 2628, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.212. Disapproval of Application for Bond or Deposit Release

If the commission disapproves the application for release of the bond or deposit or a portion of the bond or deposit, it shall notify the operator in writing of the reasons for disapproval and recommend corrective actions necessary to secure the release.

[Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.213. Notice of Release to Local Governmental Agency

Within 30 days after an application for total or partial bond or deposit release is filed with the commission, the commission shall notify the local governmental agency in which the surface mining operation is located by certified mail.

[Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.214. Objections to Release

(a) Any person or the officer or head of a federal, state, or local governmental agency is entitled to file written objections to the proposed release from the bond or deposit.

(b) The objections must be filed with the commission within 30 days after the last publication of notice as provided in Section 131.209 of this code.

(c) If the commission determines that the application is of a significance sufficient to warrant a public hearing considering the objections that have been filed, the commission shall hold a public hearing.

(d) The commission shall give notice to all interested parties of the time and place of the hearing which shall be conducted as provided in Sections 131.160 through 131.164 of this code.

(e) The hearing shall be held in the locality of the surface mining operation proposed for bond or deposit release.

(f) Notice of the date, time, and location of the public hearing shall be published by the commission as provided in Section 131.163 of this code.

[Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 131.215 to 131.230 reserved for expansion]

### SUBCHAPTER F. FUNDS

#### § 131.231. Land Reclamation Fund

(a) Money received through the payment of fees, loans, grants, gifts, penalties, bond forfeitures, and other money received by the commission shall be deposited in the State Treasury and credited to a special account to be designated the land reclamation fund.

(b) The fund shall be available to the commission and may be spent for the administration and enforcement of this chapter and for the reclamation of land affected by surface mining operations.

[Acts 1977, 65th Leg., p. 2629, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.232. Appropriation

Money for the operation of the commission under this chapter shall be appropriated by the legislature.

[Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.233. Use of Proceeds From Bond Forfeitures and Penalties

Proceeds from the forfeiture of bonds and penalties recovered shall be spent to reclaim land as provided in this chapter with respect to which the bonds were provided and the penalties assessed.

[Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.234. Reclamation of Land

(a) In the reclamation of land affected by surface mining for which funds are available, the commission may use services of other state agencies or the federal government and may compensate them for the services.

(b) The commission may have reclamation work done by its own employees or by employees of other governmental agencies or through contracts with qualified persons.

(c) The contracts shall be awarded to the lowest bidder on competitive bids after reasonable advertisement.

(d) The commission and any other agency and any contractor under a contract are entitled to access to the land affected to carry out the reclamation. [Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 131.235 to 131.260 reserved for expansion]

SUBCHAPTER G. ENFORCEMENT

§ 131.261. **Conditions, Practices, and Violations Creating Imminent Danger or Causing Imminent Harm**

(a) On the basis of any inspection, if the commission or its authorized representative or agent determines that a condition or practice exists or that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, and that this condition, practice, or violation also creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause significant imminent harm to land, air, or water resources, a member of the commission shall immediately order a cessation of surface mining operations on the portion of the area relevant to the condition, practice, or violation.

(b) The cessation order shall set a time and place for a hearing to be held before the commission and shall be held as soon after the order is issued as is practicable.

(c) The requirements of Section 131.159 of this code relating to time for notice, newspaper notice, and method of giving notice do not apply to a hearing under this section, but general notice shall be given in the manner that the commission judges to be practicable under the circumstances.

(d) No more than 24 hours after the commencement of the hearing and without adjournment, the commission shall affirm, modify, or set aside the order.

[Acts 1977, 65th Leg., p. 2630, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.262. **Violations Not Creating Imminent Danger or Causing Imminent Harm**

(a) On the basis of an inspection, if the commission or its authorized representative or agent determines that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or is not causing or reasonably expected to

cause significant imminent harm to land, air, or water resources, the commission shall issue a notice to the permittee or his agent setting a reasonable time not to exceed 30 days for the abatement of the violation.

(b) If, on expiration of the period of time as originally set or subsequently extended, for good cause shown, and on written finding of the commission, the commission finds that the violation has not been abated, it may order a cessation of surface mining operations on the portion of this area relevant to the violation. However, if requested by the operator, a hearing must be held prior to a commission finding or order.

(c) The cessation order shall remain in effect until the commission determines that the violation has been abated or until modified, vacated, or terminated by the commission under Section 131.263 of this code.

[Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.263. **Continuous Violations**

(a) On the basis of an inspection, if the commission has reason to believe that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the commission also finds that these violations are caused by the unwarranted failure of the permittee to comply with requirements of this chapter or permit conditions or that the violations are wilfully caused by the permittee, the commission shall issue an order to the permittee forthwith to show cause as to why the permit should not be suspended or revoked.

(b) The order shall set a time and place for a public hearing to be held in accordance with the notice and procedural requirements of Sections 131.159 through 131.164 of this code.

(c) On failure of a permittee to show cause why the permit should not be suspended or revoked, the commission shall promptly suspend, or revoke the permit.

[Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 131.264. **Form of Notices and Orders**

(a) Notices and orders issued under Sections 131.261 through 131.263 of this code shall set forth with reasonable specificity:

- (1) the nature of the violation and the remedial action required;
- (2) the period of time established for abatement; and
- (3) a reasonable description of the portion of the surface mining and reclamation operation to which the notice or order applies.

(b) Each notice or order issued under this section shall be given promptly to the permittee or his agent by the commission.

(c) Notices and orders shall be in writing and shall be signed by the commission or its authorized representative.

(d) A notice or order issued under Sections 131.261 through 131.263 of this code may be modified, vacated, or terminated by the commission.

[Acts 1977, 65th Leg., p. 2631, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.265. Civil Actions

(a) The commission may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order, if the permittee:

(1) violates or fails or refuses to comply with an order or decision issued by the commission under this chapter;

(2) interferes with, hinders, or delays the commission or its authorized representative in carrying out the provisions of this chapter;

(3) refuses to admit an authorized representative to the mine;

(4) refuses to permit inspection of the mine by an authorized representative;

(5) refuses to furnish information or a report requested by the commission under the commission's rules; or

(6) refuses to permit access to and copying of records the commission determines reasonably necessary to carry out the provisions of this chapter.

(b) The action shall be brought in a district court in Travis County or in the county in which the greater portion of the surface mining and reclamation operation is located.

(c) The court has jurisdiction to provide the relief that is appropriate, and relief granted by the court to enforce Subdivision (1) of Subsection (a) of this section shall continue in effect until the completion or final termination of all proceedings for review of the order under this chapter unless before that time the district court granting the relief sets the order aside or modifies it.

[Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.266. Injunctive Relief and Civil Penalty

(a) The commission may have a civil suit instituted for injunctive relief to restrain a permittee from continuing a violation or threatening a violation or for the assessment of a civil penalty of not more than \$5,000 as the court considers proper for each day of violation, or for both.

(b) In determining the amount of the civil penalty, consideration shall be given to:

(1) the permittee's history of previous violations under this chapter;

(2) the appropriateness of the penalty to the size of the business of the permittee;

(3) the seriousness of the violation, including irreparable harm to the environment and hazard to the health or safety of the public;

(4) whether the permittee was negligent; and

(5) the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notice of the violation.

[Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.267. Criminal Penalty for Violating Permits and Orders

A person who wilfully and knowingly violates a condition of a permit issued under this chapter or fails or refuses to comply with an order issued under Section 131.264 of this code or an order incorporated in a final decision issued by the commission under this chapter, on conviction by a district court, shall be punished by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

[Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.268. Criminal Penalty for Corporate Permittee

If a corporate permittee violates a condition of a permit issued under this chapter or fails or refuses to comply with an order issued under Section 131.264 of this code or an order incorporated in a final decision issued by the commission under this chapter, a director, officer, or agent of the corporation who wilfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal, on conviction by a district court, is punishable by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

[Acts 1977, 65th Leg., p. 2632, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.269. Criminal Penalty for False Statement, Representation, or Certification

A person who knowingly makes a false statement, representation, or certification or who knowingly fails to make a statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained under this chapter, on conviction by a district court, is punishable by a criminal penalty of not more than \$10,000 or by imprisonment for not more than one year or by both.

[Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 131.270. Recovery of Civil Penalties

(a) The commission may request the attorney general to institute a suit to recover civil or criminal penalties or to obtain injunctive relief or for both as provided in Sections 131.265 through 131.269 of this code.

(b) Suit shall be brought in a district court in Travis County or in the county in which the greater portion of the surface mining and reclamation operation is located.

[Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 132. INTERSTATE MINING COMPACT**

Section	
132.001.	Adoption of Compact.
132.002.	Text of Compact.
132.003.	Establishment and Duties of Texas Mining Council.
132.004.	Membership of Texas Mining Council.
132.005.	Terms of Office.
132.006.	Compensation and Travel Expenses.
132.007.	Membership in Employees Retirement System.
132.008.	Filing Bylaws and Amendments.

**§ 132.001. Adoption of Compact**

The Interstate Mining Compact is enacted into law and entered into with all other jurisdictions legally joining in the compact in the form provided in Section 132.002 of this code.

[Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**Application of Sunset Act**

*Acts 1977, 65th Leg., p. 1841, ch. 735, § 2.063, purports to add § 1a to Acts 1975, 64th Leg., ch. 136 [now, this Chapter], without reference to repeal of said Act by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(5). As so added, § 1a reads:*

*"The office of Interstate Mining Compact Commissioner for Texas is subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless continued in existence as provided by that Act the office is abolished, and this Act expires effective September 1, 1983."*

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

**§ 132.002. Text of Compact**

The Interstate Mining Compact reads as follows:

**INTERSTATE MINING COMPACT**

**ARTICLE I. FINDINGS AND PURPOSES**

(a) The party states find that:

(1) Mining and the contributions thereof to the economy and well-being of every state are of basic significance.

(2) The effects of mining on the availability of land, water, and other resources for other uses

present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public.

(3) Measures for the reduction of the adverse effects of mining on land, water, and other resources may be costly and the devising of means to deal with them are of both public and private concern.

(4) Such variables as soil structure and composition, physiography, climatic conditions, and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaptation, or restoration of mined land, or the development of mineral and other natural resources, but justifiable requirements of law and practice relating to the effects of mining on land, water, and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated.

(5) The states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles and with due regard for local conditions.

(b) The purposes of this compact are to:

(1) advance the protection and restoration of land, water, and other resources affected by mining;

(2) assist in the reduction or elimination or counteracting of pollution or deterioration of land, water, and air attributable to mining;

(3) encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated;

(4) assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration, or protection of such land and other resources;

(5) assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

**ARTICLE II. DEFINITIONS**

As used in this compact, the term:

(a) "Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter, any activity or process constituting all or

part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location, and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction.

(b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

#### ARTICLE III. STATE PROGRAMS

Each party state agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws, or the continuing of the same in force, to accomplish:

(a) the protection of the public and the protection of adjoining and other landowners from damage to their land and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations;

(b) the conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational, or aesthetic value and utility of land and water;

(c) the institution and maintenance of suitable programs of adaptation, restoration, and rehabilitation of mined land;

(d) the prevention, abatement, and control of water, air, and soil pollution resulting from mining, present, past, and future.

#### ARTICLE IV. POWERS

In addition to any other powers conferred on the Interstate Mining Commission established by Article V of this compact, such commission shall have power to:

(a) study mining operations, processes, and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes, and techniques on land, soil, water, air, plant and animal life, recreation, and patterns of community or regional development or change;

(b) study the conservation, adaptation, improvement, and restoration of land and related resources affected by mining;

(c) make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact;

(d) gather and disseminate information relating to any of the matters within the purview of this compact;

(e) cooperate with the federal government and any public or private entities having interest in any subject coming within the purview of this compact;

(f) consult, on the request of a party state and within resources available therefor, with the officials of such state in respect to any problem within the purview of this compact;

(g) study and make recommendations with respect to any practice, process techniques, or course of action that may improve the efficiency of mining or the economic yield from mining operations;

(h) study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.

#### ARTICLE V. THE COMMISSION

(a) There is hereby created an agency of the party states to be known as the "Interstate Mining Commission," hereinafter called "the commission." The commission shall be composed of one commissioner from each party state who shall be the governor thereof. Pursuant to the laws of his party state, each governor shall have the assistance of any advisory body (including membership from mining industries, conservation interests, and such other public and private interests as may be appropriate) in considering problems relating to mining and in discharging his responsibilities as the commissioner of his state on the commission. In any instance where a governor is unable to attend a meeting of the commission or perform any other function in connection with the business of the commission, he shall designate an alternate, from among the members of the advisory body required by this paragraph, who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the governor to the commission in such manner as its bylaws may provide.

(b) The commissioners shall be entitled to one vote each on the commission. No action of the commission making a recommendation pursuant to Articles IV(c), IV(g), and IV(h) of this compact, or requesting, accepting, or disposing of funds, services, or other property pursuant to this paragraph or Article V(g), V(h), or VII of this compact, shall be valid unless taken at a meeting at which a majority of the total number of votes on the commission is cast in favor thereof. All other action shall be by a majority of those present and voting; provided that action of the commission shall be only at a meeting at which a majority of the commissioners, or their

alternates, is present. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The commission shall appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the commission. The executive director, the treasurer, and such other personnel as the commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the commission.

(e) Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director with the approval of the commission, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

(f) The commission may establish and maintain independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

(g) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation.

(h) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and service, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, utilize, and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to Paragraph (g) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount, and conditions, if any, of the donation, grant, or services borrowed and the identity of the donor or lender.

(i) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment

thereto, with the appropriate agency or officer in each of the party states.

(j) The commission annually shall make to the governor, legislature, and advisory body required by Article V(a) of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been made by the commission. The commission may make such additional reports as it may deem desirable.

#### ARTICLE VI. ADVISORY, TECHNICAL, AND REGIONAL COMMITTEES

The commission shall establish such advisory, technical, and regional committees as it may deem necessary, membership on which shall include private persons and public officials, and shall cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party states, problems dealing with particular commodities or types of mining operations, problems related to reclamation, development, or use of mined land, or any other matters of concern to the commission.

#### ARTICLE VII. FINANCE

(a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-half in equal shares, and the remainder in proportion to the value of minerals, ores, and other solid matter mined. In determining such values, the commission shall employ such available public source or sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of minerals, ores, and other solid matter mined.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Article V(h) of this compact; provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under Article V(h) of this compact, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

#### ARTICLE VIII. ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force when enacted into law by any four or more states. Thereafter, this compact shall become effective as to any other state on its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

#### ARTICLE IX. EFFECT ON OTHER LAWS

Nothing in this compact shall be construed to limit, repeal, or supersede any other law of any party state.

#### ARTICLE X. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

[Acts 1977, 65th Leg., p. 2633, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 132.003. Establishment and Duties of Texas Mining Council

The Texas Mining Council is established in the office of the governor and shall perform the duties of the advisory board provided in Section (a), Article V of the Interstate Mining Compact.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 132.004. Membership of Texas Mining Council

(a) The Texas Mining Council is composed of 11 members appointed by the governor.

(b) Each member of the Texas Mining Council shall be a member of the general public who has demonstrated a continuing interest in conservation matters, the head of a state agency, board, or commission, or a representative of the mining industry.

(c) Of the 11 members of the Texas Mining Council, at least three shall be members of the general public who have demonstrated an interest in conservation matters, at least three shall be representatives of the mining industry, and at least two shall be heads of state agencies, boards, or commissions.

(d) The service of members who are heads of state agencies, boards, or commissions is in addition to their other duties.

(e) A person serving as a member of the Texas Mining Council who is the head of a state agency, board, or commission ceases to be a member of the council if he ceases to be head of a state agency, board, or commission.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 132.005. Terms of Office

Members of the Texas Mining Council shall serve for terms of two years.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 132.006. Compensation and Travel Expenses

(a) The members of the Texas Mining Council are not entitled to compensation for their services.

(b) The members of the Texas Mining Council are entitled to receive actual expenses incurred for attendance at council meetings or attendance at meetings of the Interstate Mining Commission as alternate for the governor.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 132.007. Membership in Employees Retirement System

(a) The Employees Retirement System of Texas may enter into agreements with the Interstate Mining Commission for participation in the retirement system and other benefit programs for state employees administered by the agency or agencies.

(b) An agreement made under this section shall provide, as nearly as possible, for rights, contribu-

tions, obligations, and benefits comparable to those accorded employees of this state participating in or benefiting from the program involved.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 132.008. Filing Bylaws and Amendments**

A copy of the bylaws and all amendments to the bylaws of the Interstate Mining Commission promulgated under Section (i), Article V of the Interstate Mining Compact shall be filed in the office of the Secretary of State.

[Acts 1977, 65th Leg., p. 2639, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**TITLE 5. GEOTHERMAL ENERGY AND ASSOCIATED RESOURCES**

**CHAPTER 141. GEOTHERMAL RESOURCES**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section
- 141.001. Short Title.
- 141.002. Declaration of Policy.
- 141.003. Definitions.

**SUBCHAPTER B. POWERS AND DUTIES OF THE RAILROAD COMMISSION**

- 141.011. General Duty of the Railroad Commission.
- 141.012. Rules.

**SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSIONER AND BOARD**

- 141.071. General Authority of Commissioner.
- 141.072. Deposit of Fees.
- 141.073. Lease of Permanent School Fund Land.
- 141.074. Furnishing Lists of Land to Other Agencies.
- 141.075. Notice of Sale.
- 141.076. Bids.
- 141.077. Leases and Permits for Governmental Agencies.
- 141.078. Unit Agreements.
- 141.079. Report to Legislature.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 141.001. Short Title**

This chapter may be cited as the Geothermal Resources Act of 1975.

[Acts 1977, 65th Leg., p. 2640, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 141.002. Declaration of Policy**

It is declared to be the policy of the State of Texas that:

(1) the rapid and orderly development of geothermal energy and associated resources located within the State of Texas is in the interest of the people of the State of Texas;

(2) in developing the state's geothermal energy and associated resources, the primary purpose is to provide a dependable supply of energy in an efficient manner that avoids waste of the energy resources;

(3) consideration shall be afforded to protection of the environment, to protection of correlative rights, and to conservation of natural resources by all agencies and officials of the State of Texas involved in directing and prescribing rules or orders governing the exploration, development, and production of geothermal energy and associated resources and by-products in Texas;

(4) since geopressured geothermal resources in Texas are an energy resource system, and since an integrated development of components of the resources, including recovery of the energy of the geopressured water without waste, is required for best conservation of these natural resources of the state, all of the resource system components, as defined in this chapter, shall be treated and produced as mineral resources; and

(5) in making the declaration of policy in Subdivision (4) of this section, there is no intent to make any change in the substantive law of this state, and the purpose is to restate the law in clearer terms to make it more accessible and understandable.

[Acts 1977, 65th Leg., p. 2640, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 394, ch. 185, § 1, eff. Aug. 27, 1979.]

**§ 141.003. Definitions**

In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Board" means the School Land Board. (New.)

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

(4) "Geothermal energy and associated resources" means:

(A) products of geothermal processes, embracing indigenous steam, hot water and hot brines, and geopressured water;

(B) steam and other gasses, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(C) heat or other associated energy found in geothermal formations; and

(D) any by-product derived from them.

(5) "By-product" means any other element found in a geothermal formation which is brought to the surface, whether or not it is used in geothermal heat or pressure inducing energy generation.

[Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 395, ch. 185, § 2, eff. Aug. 27, 1979.]

[Sections 141.004 to 141.010 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF THE  
RAILROAD COMMISSION

§ 141.011. **General Duty of the Railroad Commission**

Except for duties and responsibilities given to other agencies and officials under this chapter, the commission shall regulate the exploration, development, and production of geothermal energy and associated resources on public and private land for the purpose of conservation and the protection of correlative rights.

[Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.012. **Rules**

(a) The commission, in consultation with the commissioner, executive director of the Texas Water Quality Board, and the executive director of the Texas Air Control Board, shall make, publish, and enforce rules providing for the rapid and orderly exploration, development, and production of geothermal energy and associated resources and to accomplish the purposes of this chapter.

(b) The rules made under this section shall include rules governing:

(1) protection of the environment against damage resulting from the exploration, development, and production of geothermal energy and associated resources;

(2) prevention of waste of natural resources, including geothermal energy and associated resources, in connection with the exploration, development, and production of geothermal energy and associated resources;

(3) protection of the general public against injury or damage resulting from the exploration, development, and production of geothermal energy and associated resources; and

(4) protection of correlative rights against infringement resulting from the exploration, development, and production of geothermal energy and associated resources.

(c) Rules shall be made and enforced only after a public hearing.

[Acts 1977, 65th Leg., p. 2641, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 141.013 to 141.070 reserved  
for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF THE  
COMMISSIONER AND BOARD

§ 141.071. **General Authority of Commissioner**

To facilitate and encourage the rapid and orderly development of geothermal energy and associated resources, the commissioner may:

(1) provide for the orderly exploration of land that belongs to the permanent school fund, exclud-

ing wildlife refuges and recreational areas except as provided in Section 141.077 of this code; and

(2) issue permits and charge reasonable fees for the permits in accordance with rules promulgated under this chapter by the board.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.072. **Deposit of Fees**

The fees collected from issuance of the permits shall be deposited in General Land Office Fund 80 and used as the legislature may direct.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.073. **Lease of Permanent School Fund Land**

(a) On direction of the commissioner, the board may lease land that belongs to the permanent school fund, excluding wildlife refuges and recreational areas, for the production of geothermal energy and associated resources.

(b) The board has full authority to set the terms and conditions of leases and may adopt rules relating to exploration, development, and production of geothermal energy and associated resources as the board determines to be in the best interest of the state.

(c) The board may require the taking in kind of the state's interest in the geothermal energy and associated resources or its by-products provided from this land.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.074. **Furnishing Lists of Land to Other Agencies**

Before advertising land for lease, the commissioner shall furnish a list of the tracts considered by the board for lease to the Texas Water Quality Board, the Texas Air Control Board, the commission, and any other state or federal agency that might have information that would be beneficial to the board in its determination of terms and conditions of the proposed lease.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.075. **Notice of Sale**

Land offered for lease to the public by the board shall be advertised in four daily newspapers in the state that have general circulation at least 30 days in advance of the sale date. The notice shall be published in three issues of each newspaper.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 141.076. **Bids**

(a) Sales of leases shall be made by sealed bids.

(b) The board is entitled to reject any and all bids, but if it accepts a bid, the bid must be determined by

the board to be in the best interest of the State of Texas.

[Acts 1977, 65th Leg., p. 2642, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 141.077. Leases and Permits for Governmental Agencies**

(a) The board may grant permits and leases to state and federal institutions, organizations, or groups desiring to do exploratory or experimental research of geothermal energy and associated resource potentials.

(b) These permits and leases may be granted on land that belongs to the permanent school fund, excluding wildlife refuges and recreational areas.

(c) The permits and leases may be issued or granted for research or experimental purposes under rules and conditions the board determines to be in the best interest of the state.

(d) In granting these leases, the commissioner and board do not have to follow the procedures in this subchapter for leasing to the public.

[Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 141.078. Unit Agreements**

(a) The board may approve unit agreements of one or more leased tracts on application of the lessees.

(b) Before approving any unit agreement, the board must find that the unit agreement if approved by the board will be in the best interest of the state.

[Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 141.079. Report to Legislature**

During the first 30 days of each regular session of the legislature, the commissioner shall report on the status of the exploration, development, and production of geothermal energy and associated resources under the land governed by this subchapter.

[Acts 1977, 65th Leg., p. 2643, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 142. NATURAL ENERGY AND WATER RESOURCES COMPACT**

Section	
142.001.	Ratification.
142.002.	Appointment of Commissioners.
142.003.	Terms and Oath of Commissioners.
142.004.	Compensation.
142.005.	Text of Compact.

**§ 142.001. Ratification**

The compact set out in Section 142.005 of this code is ratified by this state.

[Added by Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

**§ 142.002. Appointment of Commissioners**

When the compact takes effect as provided in Article I, the governor, the lieutenant governor, and the speaker of the house of representatives shall each appoint a commissioner.

[Added by Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

**§ 142.003. Terms and Oath of Commissioners**

(a) Each commissioner serves a term of two years and until his successor is appointed and has qualified.

(b) Each commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner.

(c) If a vacancy occurs in the office of commissioner, the original appointing officer shall appoint a successor to serve for the unexpired portion of the term.

[Added by Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

**§ 142.004. Compensation**

Each commissioner is entitled to compensation and reimbursement for expenses as provided by legislative appropriation.

[Added by Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

**§ 142.005. Text of Compact**

The compact reads as follows:

Article I. The states of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas are eligible to ratify this compact. When three of those states have ratified it, the compact takes effect as to those three states. It takes effect as to others of them when they ratify it.

Article II. (a) The purposes of this compact are to:

- (1) provide for the conservation and wise utilization of natural energy and water resources by party states;
- (2) establish the relative importance of different types of natural energy and water resources being used;
- (3) promote comity among the party states and remove causes of present and future controversies;
- (4) foster the expeditious development of agriculture and industry in the party states; and
- (5) give priority to the exchange of natural energy and water resources among the party states.

(b) To accomplish the purposes of this compact, the party states pledge their mutual cooperation and their intention to develop and execute appropriate programs.

Article III. (a) This compact applies within each party state to individuals, associations, corporations, and governmental and private entities claiming any

right to the use of the natural energy or water resources in a party state, except as otherwise provided in this compact.

(b) Each party state agrees that within a reasonable time it may enact laws designed to promote a free flow of natural energy and water resources among all party states. These laws will not apply to states that are not parties to this compact.

Article IV. (a) An administrative agency known as the Interstate Natural Energy and Water Resources Commission is created. Each party state shall appoint, in accordance with its laws, three members of the commission. Members of the commission are known as commissioners.

(b) The commission shall conduct studies and make recommendations to the party states regarding the conservation and wise utilization of natural energy and water resources by those states. It shall recommend to the party states methods of coordinating the exercise of state power to promote maximum conservation and utilization of natural energy and water resources.

(c) The commission may meet as often as it considers necessary, but it must meet at least once each year. At least once each year the commission shall report its findings and recommendations to the governor and legislature of each party state.

(d) The commission shall organize and adopt rules and bylaws for conducting its business. It shall adopt a seal. The commission may not act on any matter except by an affirmative vote of a majority of all commissioners serving on the commission.

(e) The commission shall elect annually from among its members a chairman, vice-chairman, and treasurer. It shall appoint a director who serves at its pleasure. The director is also secretary of the commission. The director and treasurer shall be bonded in an amount and in a manner determined by the commission. The director is responsible for the appointment and discharge of personnel. He shall establish personnel policies, retirement programs, and employee benefit programs, subject to the approval of the commission.

(f) The commission shall establish and maintain such facilities as it considers necessary for transacting its business.

(g) For the purposes of this compact, the commission may accept and use gifts or grants of money, equipment, or supplies from any public or private legal entity and may accept and use the services of personnel made available to it by any public or private legal entity.

Article V. (a) Nothing in this compact shall be construed as:

(1) affecting the jurisdiction of any interstate agency in which a party state participates;

(2) affecting the provisions of any interstate compact to which a member state is a party, or any obligation of a member state under such a compact;

(3) discouraging additional interstate compacts in which one or more parties to this compact may be a party;

(4) discouraging the coordination of activities regarding a specific natural resource or any aspect of natural resource management;

(5) discouraging the establishment of intergovernmental planning agencies within the area of the states that are party to this compact; or

(6) limiting the jurisdiction or activities of any participating government or any agency or officer of a participating government except as expressly provided in this compact.

Article VI. The commission shall submit to the governor and legislature of each party state a budget of its estimated expenditures for a period of time as is appropriate, based on the laws of that state. Each budget of estimated expenditures shall contain specific recommendations as to the apportionment of costs among the party states.

Article VII. Any party state may, by legislative act and one year's notice, withdraw from this compact.

Article VIII. The provisions of this compact are severable. If any provision or application of it is held invalid, that does not affect the validity of any other provision or application. The provisions of this compact shall be construed liberally to accomplish its purposes.

Article IX. This compact does not seek to affect political balance within the federal system and shall not be construed as requiring the consent of congress under Article I, Section 10, United States Constitution.

[Added by Acts 1979, 66th Leg., p. 2001, ch. 785, § 4, eff. June 13, 1979.]

## TITLE 6. TIMBER

### CHAPTER 151. PROVISIONS GENERALLY APPLICABLE

#### SUBCHAPTER A. BRANDING AND FLOATING TIMBER

Section	
151.001.	Definitions.
151.002.	Timber to be Branded.
151.003.	Recording Brand.
151.004.	Filing Written Report.
151.005.	Evidence of Ownership.
151.006.	Penalties.
151.007.	Venue.

#### SUBCHAPTER B. BILL OF SALE FOR PURCHASE OF TREES AND TIMBER

151.041.	Required Bill of Sale.
151.042.	Information in Bill of Sale.
151.043.	Expenses in Connection With Bill of Sale.
151.044.	Statement in Lieu of Bill of Sale for Staves or Crossties.
151.045.	Penalty.
151.046.	Applicability.

SUBCHAPTER A. BRANDING AND  
FLOATING TIMBER

§ 151.001. Definitions

In this subchapter:

(1) "Lumber" means lumber attached or bound together in some way for floating, but does not include loose lumber.

(2) "Shingles" means shingles in bunches or bundles, but does not include loose shingles.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.002. Timber to be Branded

A person engaged in floating or rafting timber on the water of a river or creek of this state shall have a log brand and shall brand distinctly each log or stick which he floats or hauls and puts in the water for sale or market.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.003. Recording Brand

(a) A person engaged in floating or rafting timber on the water of a river or creek of this state shall have his log brand recorded by the county clerk in:

(1) each county in which he cuts timber; and

(2) the county in which he proposes to sell or market the timber.

(b) The brand shall be recorded in a book kept by the county clerk for that purpose or on microfilm as permitted in Article 1941(a), Revised Civil Statutes of Texas, 1925.

(c) The county clerk shall receive the same fee as is allowed by law for recording stock brands.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.004. Filing Written Report

(a) A person who floats any logs or timber in this state shall make a written report under oath on the first day of January, April, July, and October of each year, or within 15 days of those dates, showing:

(1) the number of logs cut or floated during the next preceding three months;

(2) the survey or surveys of land from which the logs were cut or carried;

(3) the number of logs cut from each survey; and

(4) a description of the brand placed on the logs.

(b) The person who floats the logs or timber shall file the report required in Subsection (a) of this section with the county clerk of the county in which the timber was cut. The county clerk shall record and index the report in a book kept for that purpose or on microfilm as permitted in Article 1941(a), Revised Civil Statutes of Texas, 1925.

(c) This section of the code does not apply to pickets, posts, rails, or firewood.

[Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.005. Evidence of Ownership

A certificate signed by the county clerk, containing a description of a log brand and the name of the owner of the brand, with a transfer on the back of it, signed and acknowledged by the owner or proved as other instruments for record, shall be prima facie evidence that the person to whom the transfer is made owns the logs described in the certificate. [Acts 1977, 65th Leg., p. 2644, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.006. Penalties

(a) A person who buys or sells any timber or log floating, or that has been floated, in this state before it is branded shall be fined not more than \$10 for each unbranded log or piece of timber purchased, sold, or traced.

(b) A person shall be fined not more than \$200 for each offense if he:

(1) floats any unbranded log or timber for market;

(2) fails to make the reports required under Section 151.004 of this code;

(3) brands any log or timber of another without his authority;

(4) defaces a brand on any log or timber except when it is in the act of being sawed or manufactured into lumber or other commodity for use in building; or

(5) is not an employee of the owner and without the written consent of the owner takes into possession any branded or unbranded log or timber cut for floating or sawing, or any sawed timber, lumber, or shingle floating in any water of this state or deposited on the banks of a river or stream in this state.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 151.007. Venue

The accused may be prosecuted in any county in which the timber or lumber was deposited in the water or in which it was unlawfully taken into possession or unlawfully defaced, sold, purchased, or branded.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 151.008 to 151.040 reserved  
for expansion]

SUBCHAPTER B. BILL OF SALE FOR PURCHASE  
OF TREES AND TIMBER

§ 151.041. Required Bill of Sale

Before purchasing any trees or timber in the form of logs or pulpwood, a person, firm, partnership, or corporation shall require a bill of sale for the trees or timber, executed and acknowledged by the seller in the manner required by law for registration.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 151.042. Information in Bill of Sale**

The bill of sale shall include:

- (1) the name and address of the seller and purchaser;
- (2) a description of the survey or tract of land from which the logs or pulpwood were cut;
- (3) the number of logs or pulpwood; and
- (4) the markings, if any, on the logs or pulpwood.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 151.043. Expenses in Connection With Bill of Sale**

Notarial fees, filing fees, and other expenses in connection with the bill of sale shall be assumed and paid by the purchaser.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 151.044. Statement in Lieu of Bill of Sale for Staves or Crossties**

(a) On or before the 10th day of each succeeding month from the date of purchase, a purchaser of staves or crossties who does not secure a bill of sale or deed to the staves or crossties shall file a verified statement with the county clerk of the county in which the land is located from which the staves or crossties were cut.

(b) The verified statement shall include:

- (1) the name and address of the seller and purchaser;
- (2) a description of the survey or tract of land from which the staves or crossties were cut;
- (3) the number of staves or crossties; and
- (4) the markings, if any, on the staves or crossties.

(c) The verified statement shall be kept by the county clerk as a record for public inspection for a period of at least two years.

[Acts 1977, 65th Leg., p. 2645, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 151.045. Penalty**

A seller or purchaser who fails to see that a bill of sale is given in a sale as provided for in this subchapter, or a purchaser who does not secure a bill of sale and fails to file the statement required by Section 151.044 of this code, is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$100 or confinement for not more than 30 days in the county jail, or both.

[Acts 1977, 65th Leg., p. 2646, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 151.046. Applicability**

The provisions of this subchapter shall not apply to the sale of finished lumber, cedar staves, wood, or posts.

[Acts 1977, 65th Leg., p. 2646, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 152. FOREST PEST CONTROL****SUBCHAPTER A. GENERAL PROVISIONS**

Section	
152.001.	Policy.
152.002.	Public Nuisance.
152.003.	Definitions.

**SUBCHAPTER B. POWERS AND DUTIES OF THE TEXAS FOREST SERVICE**

152.011.	In General.
152.012.	Surveys and Investigations.
152.013.	Determination of Area Control Measures.
152.014.	Notice of Finding of Infestation.
152.015.	Hearing.
152.016.	Procedures for Control.
152.017.	Specific Control Measures.
152.018.	Notice to Specific Landowner.
152.019.	Notice to Forest Owner.
152.020.	Supervision.
152.021.	Control Measures Applied by Forest Service.
152.022.	Expense of Control Measures Taken by Service.
152.023.	Claim Against Landowner.
152.024.	Suit.
152.025.	Landowner Reimbursement.
152.026.	Cooperative Agreements.

**SUBCHAPTER C. POWERS AND DUTIES OF THE LANDOWNER**

152.061.	General Duty of Landowner.
152.062.	Duty to Apply Control Measures.
152.063.	Reports and Consultation With Service.
152.064.	Notifying Service of Forest Owner.

**SUBCHAPTER D. JUDICIAL REVIEW**

152.101.	Judicial Review of Service Notice.
152.102.	Venue.
152.103.	Control Measures Pending Litigation.
152.104.	Repealed.
152.105.	Injunctive Relief for Landowner.
152.106.	Notice Final.

**SUBCHAPTER A. GENERAL PROVISIONS****§ 152.001. Policy**

It is the public policy of the State of Texas to control forest pests in or threatening forests in this state in order to protect forest resources, enhance the growth and maintenance of forests, promote stability of forest-using industries, protect recreational wildlife uses, and conserve other values of the forest.

[Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.002. Public Nuisance**

Forest pests are declared to be a public nuisance.

[Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.003. Definitions**

In this chapter:

- (1) "Service" means the Texas Forest Service.
- (2) "Forest pests" means insects and diseases that are harmful, injurious, or destructive to for-

ests and whose damage, if uncontrolled, is of considerable economic importance, and includes:

- (A) pine bark beetles of the genera *Dendroctonus*, *Ips*, *Pissodes*, and *Hylobius*;
- (B) sawflies of the genus *Neodiprion*;
- (C) defoliators in the genera *Datana*, *Malacosoma*, *Hyphantria*, *Diapheromera*, and *Galerucella*;
- (D) pine shoot moth of the genus *Rhyacionia*;
- (E) wilt of the genus *Chalora*; and
- (F) rots of the genera *Fomes* and *Polyporus*.

(3) "Forest land" means land on which the trees are potentially valuable for timber products, protection of watersheds, wildlife habitat, recreational uses, or for other purposes, but does not include land within the incorporated limits of a village, town, or city.

(4) "Forest" means the standing trees on forest land.

(5) "Control" means prevent, retard, suppress, eradicate, or destroy.

(6) "Infestation" means actual infestation or infection at conditions beyond normal proportion causing abnormal epidemic loss to present or future commercial timber supply or both.

(7) "Landowner" and "owner" mean a person who owns forest land or has forest land under his direction irrespective of ownership.

(8) "Forest owner" means a person who owns the standing trees on forest land, either by a present right or by a future right under the terms of a valid existing contract.

(9) "Tract" means all contiguous land in common ownership.

[Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 152.004 to 152.010 reserved for expansion]

**SUBCHAPTER B. POWERS AND DUTIES OF THE TEXAS FOREST SERVICE**

**§ 152.011. In General**

The Texas Forest Service shall administer the provisions of this chapter and make all relevant determinations.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.012. Surveys and Investigations**

(a) The service shall make surveys and investigations to determine the existence of infestations of forest pests and means practical for their control by landowners.

(b) Duly delegated representatives of the service may enter private land and public land, including that held by the United States if permission is obtained, for the purpose of conducting surveys and investigations.

(c) All the service's information shall be available to all interested landowners.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.013. Determination of Area Control Measures**

If the service finds an infestation existent or threatened in the state, it shall determine:

- (1) when control measures are needed;
- (2) the nature of the control measures;
- (3) availability of control measures; and
- (4) the techniques by which the control measures shall be applied.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.014. Notice of Finding of Infestation**

After determining that an infestation exists, the service shall give notice of the fact by:

- (1) placing a notice in a newspaper or newspapers in the county or counties in which any infested land is located, or, if there is no newspaper in the county, placing a notice in a newspaper or newspapers with general circulation in the county or counties in which any infested land is located, stating its findings and setting a time and place for a hearing on the need for the control of the pest, to be held not less than 10 days from the date of the notice;
- (2) mailing copies of the notice to owners of forest land known to the service to have holdings in the affected area; and
- (3) arranging for publicity on the subject by all news media serving the affected area.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.015. Hearing**

At the hearing, the agent of the service who presides shall:

- (1) describe the conditions that have been found;
- (2) explain the measures needed to control the pest infestation;
- (3) hear all suggestions and protests; and
- (4) record the proceedings.

[Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.016. Procedures for Control**

(a) As soon as practicable after the hearing, the service shall promulgate procedures to be followed for the control of the infestation and shall:

- (1) mail a copy to all appearing at the hearing and to all to whom notices were originally sent; and
- (2) publish a copy in a newspaper circulated in the affected area in the same manner as publication of preliminary notice.

(b) Publication as provided in Subsection (a) of this section is notice to each landowner and each tract of land in the affected area on the date of publication.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 152.017. Specific Control Measures

If the provisions of Sections 152.013 through 152.016 of this code have not been applied and control measures are needed to check the spread of the forest pests on forest land owned or controlled by any person, written notice, signed by a duly authorized representative of the service whose mailing address is shown on the notice, shall be given to the person owning or controlling the forest land.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 152.018. Notice to Specific Landowner

(a) The notice required by Section 152.017 of this code shall inform the landowner of:

- (1) the facts found to exist;
- (2) his responsibilities for the control measures;
- (3) the control technique recommended;
- (4) the law under which control must be accomplished; and
- (5) the authority of the service in the event the landowner takes no action toward controlling the pest.

(b) The notice may be given by:

- (1) personal service on the landowner or on the person having control of the forest land;
- (2) registered or certified mail directed to the landowner or person having control of the forest land at his last known address; or
- (3) if the person or his address is unknown, publication in one issue of a newspaper of general circulation in the county in which the land is located.

(c) A published notice under Subsection (b) of this section shall include the information specified in Subsection (a) of this section, state the name of the owner, if known, and briefly describe the land to which the notice applies.

(d) No other notice is necessary under the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 152.019. Notice to Forest Owner

If the landowner has given notice to the service of an interest in the forest on his land owned by another, as provided for in Section 152.064 of this code, the service shall furnish the same information to the forest owner that it is required by the provisions of this chapter to give to the landowner.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 152.020. Supervision

(a) The service shall keep informed of what is done by the landowner to take measures to control the infestation and the result of it.

(b) The service may change its prescribed procedures as conditions or new information may require.

(c) On request, the service shall certify when all reasonably practicable measures to be done by the landowner, pursuant to its prescribed procedures, have been completed.

[Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 152.021. Control Measures Applied by Forest Service

If pest control measures prescribed by the service are not applied by the landowner or any other person within 10 days from the time notice is given as provided in this chapter, exclusive of the date the notice is given, representatives of the service shall enter the land and have the forest pests controlled or destroyed.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 152.022. Expense of Control Measures Taken by Service

(a) Except as provided in Subsection (b) of this section, all charges and expenses of destruction or control measures taken by the service shall be paid by the owner of the land on which the infestation occurred.

(b) If the tract with respect to which the service conducted control measures contains 50 acres of forest land or less and the landowner in whose name the record title to the land stands owns no more than 50 acres of forest land in the county in which the infestation occurred, the cost of control shall be borne by the service.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 152.023. Claim Against Landowner

If control is undertaken by the service, the cost, not to exceed \$10 for each infested acre or part of an acre on which control measures have been employed, constitutes a legal claim against the landowner, but does not constitute a lien on any land owned by the landowner.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 152.024. Suit

The attorney general may bring suit on behalf of the service in the county in which the infestation occurred to recover the claim against the landowner, together with all costs incurred in the suit.

[Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.025. Landowner Reimbursement**

If the landowner has given the service notice of an interest owned by another in the forest on his land and the landowner has made expenditures for pest control purposes as provided in Section 152.062 of this code, or has paid a legal claim against him under the provisions of Sections 152.022 through 152.024 of this code, the landowner is entitled to a reasonable reimbursement for the expenses from the forest owner. The reimbursement shall be proportional to the interest owned in the forest by the forest owner. [Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.026. Cooperative Agreements**

The service may enter into cooperative agreements with private landowners or forest owners, the federal government, or other public or private agencies to accomplish the control of forest pests. [Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 152.027 to 152.060 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES OF THE LANDOWNER**

**§ 152.061. General Duty of Landowner**

Each owner of forest land shall control the forest pests on land owned by him or under his direction as provided in this chapter. [Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.062. Duty to Apply Control Measures**

Within 10 days after notice is given as provided in Section 152.014 or 152.018 of this code, exclusive of the date the notice is given, each affected landowner shall commence diligently to take measures to control the infestation as prescribed and continue this activity with all practical expedition and efficiency under the direction of the service. [Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.063. Reports and Consultation With Service**

(a) The landowner shall notify the service of his actions and the result of his actions.  
 (b) The landowner may report to and consult with a representative of the service as often as necessary. [Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.064. Notifying Service of Forest Owner**

If all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall notify the service of that fact and furnish the names and addresses of the forest owner within 10 days after

receiving the notice from the service as provided for in Section 152.014 or 152.018 of this code. [Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 152.065 to 152.100 reserved for expansion]

**SUBCHAPTER D. JUDICIAL REVIEW**

**§ 152.101. Judicial Review of Service Notice**

A landowner or person having control of forest land who is aggrieved by the notice given by the service is entitled to seek relief but only if the proceedings to obtain the relief are initiated within 10 days from the time notice is given, exclusive of the date the notice is given. [Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.102. Venue**

The proceeding to obtain relief shall be in the district court of the county in which the land is located. [Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.103. Control Measures Pending Litigation**

The service shall not proceed with any control measures while the litigation is pending unless permission to do so is given by the court on a showing of probable harm due to a delay in using the control measures. [Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.104. Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(49), eff. Aug. 31, 1981**

The repealed section, relating to priority of cases, was derived from Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1.

**§ 152.105. Injunctive Relief for Landowner**

If the final judgment in an action seeking relief from a notice is in favor of the landowner, the landowner may be entitled to injunctive relief against the use of any control measures on his forest land by the service until such time as the court may determine. [Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 152.106. Notice Final**

If the final judgment is against the landowner, or if the landowner fails to seek relief in the district court of the county in which the land is located, the notice from the service is final, and the service shall summarily take the measures necessary to control the infestation. [Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**TITLE 7. RESOURCES PROGRAMS****CHAPTER 161. VETERANS LAND BOARD****SUBCHAPTER A. GENERAL PROVISIONS**

## Section

161.001. Definitions.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

161.011. Veterans Land Board Designated.  
 161.012. Bond.  
 161.013. Executive Secretary and Assistant Executive Secretary.  
 161.014. Employees.  
 161.015. Compensation and Duties of Employees.  
 161.016. Fiscal Agent.  
 161.017. Meetings of Board.  
 161.018. Minutes of Board.  
 161.019. Depository for Papers, Records, and Archives.  
 161.020. Purchase of Supplies.  
 161.021. Seal.  
 161.022. Chapter Application to Successor Boards.

**SUBCHAPTER C. POWERS AND DUTIES**

161.061. General Duties of Board.  
 161.062. General Duties of Commissioner.  
 161.063. Rules.  
 161.064. Board Authority to Make Investigations.  
 161.065. Oaths; Books, Records, and Documents.  
 161.066. Subpoena Duces Tecum.  
 161.067. Forfeiture of Charter and Rights.  
 161.068. Form of Instruments.  
 161.069. Fees.  
 161.070. Additional Fees.  
 161.071. Pamphlets.  
 161.072. Lease by Board.

**SUBCHAPTER D. BONDS**

161.111. Issuance and Sale of Bonds; Disposition of Proceeds.  
 161.112. Installments.  
 161.113. Interest Rate.  
 161.114. Payment and Maturity of Bonds.  
 161.115. Form, Denomination, and Place of Payment of Bonds.  
 161.116. Manner of Execution.  
 161.117. Signatures and Seals.  
 161.118. Approval by Attorney General.  
 161.119. Registration With Comptroller.  
 161.120. Validity of Bonds.  
 161.121. Bonds as Negotiable Instruments.  
 161.122. Preferential Right of Purchase.  
 161.123. Notice for Bids on Bonds.  
 161.124. Security for Bid.  
 161.125. Sale of Bonds.  
 161.126. Replacement Bonds.  
 161.127. Refunding Bonds.  
 161.128. Bonds as Investments and Security.  
 161.129. Taxation of Bonds.

**SUBCHAPTER E. VETERANS LAND FUND**

161.171. Money and Land Included in Veterans Land Fund.  
 161.172. Deposit and Use of Bond Money.  
 161.173. Payment of Principal and Interest; Investments.  
 161.174. Divisions; Use of Money in Divisions to Pay for Various Bond Issues.  
 161.175. Use of Fund for Expenses Related to the Land.  
 161.176. Use of Fund to Pay Bond Expenses.  
 161.177. Purchase and Destruction of Bonds.  
 161.178. Disposal of Excess Funds.  
 161.179. Legislative Appropriations.

**SUBCHAPTER F. PURCHASE, SALE, AND OTHER DISPOSITION OF LAND**

## Section

161.211. Purchase of Land and Payment of Bonds.  
 161.212. Appraisal.  
 161.213. Sworn Report.  
 161.214. Title.  
 161.215. Purchase of Land.  
 161.216. Cost of Land to Board.  
 161.217. Appointment of Local Committee.  
 161.218. Work of Local Committee.  
 161.219. Board Investigation.  
 161.220. Exemption.  
 161.221. Initiation of Sale.  
 161.222. Purchase Payments.  
 161.223. Board to Specify Terms.  
 161.224. Time Limit on Transfer.  
 161.225. Sale to a Nonveteran.  
 161.226. Disposition of Land That is Paid For.  
 161.227. Lease of Land.  
 161.228. Conditions of Leases.  
 161.229. Deeds.  
 161.230. Death of Purchaser.  
 161.231. Subdividing Land.  
 161.232. Conditions for Sale of Land.  
 161.233. Down Payment.  
 161.234. Sale to Other Purchasers.  
 161.235. Rights of Surviving Spouse.  
 161.236. Number of Tracts Purchased.

**SUBCHAPTER G. PURCHASE AND SALE OF SELECTED LAND**

161.281. Selection of Land.  
 161.282. Processing Applications.  
 161.283. Purchase by Board.  
 161.284. Appraisal and Title.  
 161.285. Separate Transactions.  
 161.286. Purchase Preference.  
 161.287. Rules Governing Sale.  
 161.288. Refund.

**SUBCHAPTER H. FORFEITURE**

161.311. Board Judge of Forfeiture.  
 161.312. Forfeiture by Board.  
 161.313. Correction of Reason for Forfeiture.  
 161.314. Time of Forfeiture.  
 161.315. Notice to County Clerk.  
 161.316. Effect of Forfeiture on Leases.  
 161.317. Reinstatement of Purchase.  
 161.318. Resale of Land.  
 161.319. Resale of Forfeited Land.  
 161.320. Interest Rate on Delinquent Principal and Interest.  
 161.321. Vacating Premises.  
 161.322. Enforcement of Forfeiture and Protection of Rights.  
 161.323. Liability.  
 161.324. Defenses in Lawsuits.

**SUBCHAPTER I. INSURANCE**

161.361. Definitions.  
 161.362. Insurance Requirement.  
 161.363. Master Insurance Contract.  
 161.364. Provisions of Insurance.  
 161.365. Approval of Contract; Contractual Relationship.  
 161.366. Insurance Not Mandatory.  
 161.367. Amount of Coverage.  
 161.368. Collection of Premium.  
 161.369. Death of Insured.  
 161.370. Cancellation by Insurer.  
 161.371. Termination of Insurance.

**SUBCHAPTER J. PENALTIES**

161.401. Penalty for Certain Transactions.  
 161.402. Penalty Relating to Certain Purchases, Sales, and Resales of Land.  
 161.403. Penalty for Defrauding Veteran and State.

SUBCHAPTER A. GENERAL PROVISIONS

§ 161.001. Definitions.

In this chapter:

- (1) "Board" means the Veterans Land Board.
- (2) "Commissioner" means the Commissioner of the General Land Office.
- (3) "Land office" means the General Land Office.
- (4) "Program" means the Veterans Land Program.
- (5) "Fund" means the veterans land fund.
- (6) "Bonds" means veterans land bonds.
- (7) "Veteran," "Texas veterans of the present war or wars, commonly known as World War II," and "Texas veterans of service in the Armed Forces of the United States of America subsequent to 1945" used in Article III, Section 49-b of the Texas Constitution, are synonymous and mean any citizen of the United States either male or female over 18 years of age, who served not less than 90 consecutive days, unless sooner discharged because of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States after September 16, 1940, who on the date of filing his or her application has not been dishonorably discharged from the branch of the service in which he or she served, who was a bona fide resident of this state at the time of his or her enlistment, induction, commission, or drafting, and who is a bona fide resident of this state at the time of seeking benefits under this chapter; or who has resided in this state for at least five years immediately before the date of filing his or her application.

[Acts 1977, 65th Leg., p. 2655, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**Application of Sunset Act**

*Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.098, purports to add § 2(D) to Civil Statutes, art. 5421m, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 2(a)(1). As so added, § 2(D) reads:*

*"The Veterans' Land Board is subject to the Texas Sunset Act [Civil Statutes, art. 5429k], but it is not abolished under that Act. The board shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished effective September 1 of 1985 and of every 12th year after 1985 are reviewed."*

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

[Sections 161.002 to 161.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 161.011. Veterans Land Board Designated

The Veterans Land Board is a state agency designated to perform the governmental functions authorized in Article III, Section 49-b of the Texas Constitution.

[Acts 1977, 65th Leg., p. 2655, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.012. Bond

(a) Each citizen member of the board shall execute a bond payable to the state in the amount of \$50,000, to be approved by the governor and conditioned on the faithful performance of the member's duties.

(b) The premiums on the member's bond shall be paid from funds appropriated by the legislature for the operation of the land office.

[Acts 1977, 65th Leg., p. 2655, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.013. Executive Secretary and Assistant Executive Secretary

(a) The board shall select an executive secretary and an assistant executive secretary, each of whom shall be nominated by the commissioner and approved by a majority of the board.

(b) The executive secretary and assistant executive secretary shall perform all duties required of them by the board.

[Acts 1977, 65th Leg., p. 2655, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.014. Employees

(a) The commissioner may employ all other employees that may be necessary for the discharge of the board's duties. The employees may include stenographers, typists, bookkeepers, surveyors, appraisers, and other employees in the number and for the time necessary to perform these duties.

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

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.015. Compensation and Duties of Employees

The employees of the board shall be paid their compensation and shall perform their duties with the same rules and requirements of the general law governing other state employees in those respects.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.016. Fiscal Agent

(a) The board may designate the State Treasurer as the fiscal agent for payment of principal of and interest on the bonds.

(b) The State Treasurer shall act as fiscal agent without compensation.

(c) In the alternative, the board may employ a private fiscal agent to perform these services and shall pay him adequate compensation.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.017. Meetings of Board

(a) When necessary, the board shall meet on the first and third Tuesdays of each month in the land office, where its session shall be held and continue until its docket is cleared. The board may recess at its own discretion.

(b) The chairman of the board may call special meetings of the board at any time he thinks necessary by giving the other members notice.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.018. Minutes of Board

Minutes of each meeting of the board shall be kept, and only those matters that actually transpire at the meeting shall be entered in the minutes.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.019. Depository for Papers, Records, and Archives

Papers, records, and archives of the board shall be deposited and kept in the land office.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.020. Purchase of Supplies

The board may purchase at state expense through the board of control supplies, including stationery, stamps, printing, record books, and other things that may be needed to carry on the board's functions as a state agency in performing the duties imposed by this chapter.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.021. Seal

The board shall procure and adopt a seal bearing the words "Veterans Land Board" encircled by the oak and olive branches common to other official seals.

[Acts 1977, 65th Leg., p. 2656, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.022. Chapter Application to Successor Boards

The provisions of this chapter shall apply to any successor of the board.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.023 to 161.060 reserved for expansion]

### SUBCHAPTER C. POWERS AND DUTIES

#### § 161.061. General Duties of Board

The board shall:

(1) authorize and execute negotiable bonds as provided by law;

(2) provide by resolution for use of the fund in a manner that will effectuate the intent of the constitution and the law;

(3) fix the interest rates as provided by law;

(4) provide for the forfeiture of contracts of sale and purchase and resale of forfeited land;

(5) conduct investigations it considers necessary; and

(6) formulate policies and rules necessary and not in conflict with the law to ensure the proper administration and to carry out the intent and purposes of the law.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.062. General Duties of Commissioner

The commissioner is the chairman of the board and administrator of the program as provided in Article III, Section 49-b of the Texas Constitution, and shall perform the duties and functions of the board prescribed by law except for those duties and functions provided in Section 161.061 of this code, which shall be performed by the board.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.063. Rules

(a) The board may adopt rules that are not inconsistent with this chapter and that it considers necessary or advisable.

(b) The rules shall be considered a part of this chapter and violation of the rules subject the offender to prosecution under Sections 161.401 through 161.403 of this code.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.064. Board Authority to Make Investigations

The board may make any investigation it considers necessary relating to transactions involving land purchases or sales under this chapter.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.065. Oaths; Books, Records, and Documents

(a) The board is specifically authorized to administer oaths and to examine the books, records, or other documents dealing with or relating to the transactions of any person involved in the transaction.

(b) The board may make copies of the books, records, and other documents that in its judgment may show or tend to show fraud on the board or a

veteran or a violation or attempted violation under this chapter.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.066. Subpoena Duces Tecum**

The board may issue a subpoena duces tecum to require a person to produce books, records, or any other documents for the board's examination.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.067. Forfeiture of Charter and Rights**

(a) If a corporation fails or refuses to comply with the orders of the board under Sections 161.064 through 161.066 of this code, the corporation shall forfeit its right to do business in this state, and its permit or charter shall be canceled or forfeited by the attorney general.

(b) The failure or refusal by a person is presumed to be prima facie evidence of fraud on the board and veteran in violation of this chapter, and the person shall lose and forfeit all rights and benefits under this chapter.

[Acts 1977, 65th Leg., p. 2657, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.068. Form of Instruments**

The board may prescribe the form and contents of notices, bids, applications, awards, contracts, deeds, and instruments used by the board in carrying out a project or plan if it is not in conflict with the law.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.069. Fees**

(a) The board shall collect the fee it considers necessary from each applicant under Subchapter G of this chapter and deposit the fee in a bank. Interest received on the deposit shall be credited to the General Land Office special fund and shall be spent for administrative purposes.

(b) The board shall collect a fee of \$35 from each successful bidder under Section 161.319 of this code. This fee shall be held in a trust fund to be used to pay for examination of title, recording fees, and other expenses, or any one or more of these items and, except as provided in Section 161.319 of this code, the unused balance remaining after the payment for these items shall be refunded.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.070. Additional Fees**

(a) The board shall charge and collect for the use of the state the following fees:

- (1) fee for each appraisal for each application under Subchapter G of this chapter \$35
- (2) contract of sale and purchase transfer fee for each transfer \$35

- (3) mineral lease service fee for each lease executed by purchasers \$10
- (4) reappraisal fee if required by the board \$35
- (5) fee for each loan of abstract \$10
- (6) fee for servicing and filing each easement \$10
- (7) service fee for each contract of sale and purchase \$35
- (8) fee for homesite, severance, or paid-in-full deed. \$20

(b) The fees shall be used for the processing and servicing of purchase applications and contracts of sale and purchase and matters incidental to these purposes.

(c) Fees or portions of fees that are in the opinion of the board unused shall be refunded.

(d) Money received from payment of these fees and not refunded shall be deposited in the State Treasury and credited to the fund and shall be spent as provided in the General Appropriations Act. [Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.071. Pamphlets**

The board shall have published pamphlets containing the provisions of this chapter and rules the board desires, and these pamphlets shall be made available to any interested veteran, veterans organization, or other interested person in the state.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.072. Lease by Board**

(a) The board may lease any property that it owns on terms it considers proper.

(b) A lease for agricultural and grazing purposes is subject to cancellation on the sale of the property to a veteran.

(c) The board may execute oil, gas, and mineral leases on land purchased by it before it sells the land by following the same procedure provided for the school land board in the lease of public school land.

[Acts 1977, 65th Leg., p. 2658, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.073 to 161.110 reserved for expansion]

**SUBCHAPTER D. BONDS**

**§ 161.111. Issuance and Sale of Bonds; Disposition of Proceeds**

By appropriate action, the board may provide by resolution for the issuance and sale of negotiable bonds authorized by the constitution, and the proceeds shall be a part of the fund.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.112. Installments**

The board, at its option, may issue bonds in one or several installments.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.113. Interest Rate**

(a) The bonds shall bear the rate of interest prescribed by the board.

(b) The weighted average annual interest rate of the bonds, as that phrase is commonly and ordinarily used and understood in the municipal bond market, may not be more than six percent in each installment.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.114. Payment and Maturity of Bonds**

(a) The bonds shall be payable as provided by the board and shall mature serially or otherwise not later than 40 years from their date.

(b) Bonds previously issued shall mature according to their provisions.

(c) The board shall determine the medium of payment for both principal of and interest on the bonds.

(d) The board at its own option may make the bonds redeemable before maturity at the price and under the terms and conditions fixed by the board in the resolution providing for the issuance and sale of the bonds.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.115. Form, Denomination, and Place of Payment of Bonds**

The board shall determine the form of the bonds, including the forms of interest coupons attached to the bonds, and shall fix the denomination or denominations of the bonds and the place or places for payment of the principal of and interest on the bonds.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.116. Manner of Execution**

(a) The bonds shall be executed by and on behalf of the board as obligations of the state in the manner provided in Subsection (b) of this section.

(b) The bonds shall be signed by the chairman and the secretary of the board and the seal of the board shall be impressed on the bonds. In addition, the bonds shall be signed by the governor and attested by the Secretary of State with the seal of the state impressed on the bonds.

[Acts 1977, 65th Leg., p. 2659, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.117. Signatures and Seals**

(a) The resolution authorizing the issuance of an installment or series of bonds may prescribe the

extent to which facsimile signatures and facsimile seals may be used in lieu of manual signatures and manually impressed seals in executing the bonds and attached coupons.

(b) Interest coupons may be signed with the facsimile signatures of the chairman and secretary of the board.

(c) If an officer whose manual or facsimile signature appears on a bond, or whose facsimile signature appears on a coupon, ceases to be an officer before the bonds are delivered, the signature shall still be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.118. Approval by Attorney General**

Before bonds are delivered to the purchasers, the record relating to the bonds shall be examined by the attorney general and the record and bonds shall be approved by the attorney general.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.119. Registration With Comptroller**

After the bonds are approved by the attorney general, they shall be registered in the office of the state comptroller.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.120. Validity of Bonds**

(a) After the bonds are approved by the attorney general and registered with the state comptroller, they shall be held as valid and binding obligations of the state in every action, suit, or proceeding in which their validity is or may be brought into question.

(b) In each action brought to enforce collection of the bonds or rights incident to the bonds, the certificate of approval by the attorney general or a certified copy of that certificate shall be admitted and received in evidence as to the validity of the bonds.

(c) The only defense that can be offered against the validity of the bonds shall be forgery or fraud.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.121. Bonds as Negotiable Instruments**

Bonds issued under this chapter have and are declared to have all qualities and incidents of negotiable instruments under the laws of this state.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.122. Preferential Right of Purchase**

Immediately after bonds are offered for sale, written notice shall be given to the proper administrators of the various teacher retirement funds, the permanent university fund, and the permanent free

school fund of the preferential right given by the constitution to purchase the bonds offered for sale. [Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.123. Notice for Bids on Bonds

(a) If the board authorizes the issuance of a series of bonds and decides to call for bids, it shall publish an appropriate notice at least one time not less than 10 days before the date of the sale in a daily newspaper of general statewide circulation that is published not less than seven times a week.

(b) The notice shall be published for the number of times the board determines in one or more popularly recognized financial journals of general circulation.

[Acts 1977, 65th Leg., p. 2660, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.124. Security for Bid

At its option, the board may require bidders, other than administrators of state funds listed in Section 161.122 of this code, to accompany their bids with exchange or bank cashier's checks in an amount considered adequate by the board to be a forfeit guaranteeing the acceptance and payment for bonds covered by the bids and accepted by the board.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.125. Sale of Bonds

(a) No bonds may be sold for less than their face value with accrued interest from their date and shall be sold after competitive bidding to the highest and best bidder.

(b) The provisions of Subsection (a) of this section do not apply to administrators of the state funds that are given a priority if they exercise the right of priority to take the bonds at the highest price bid by another within 15 days after notice is given.

(c) If two or more administrators of state funds desire to exercise their right of priority to purchase the bonds, the board shall prorate the bonds to the administrators who desire to make the purchase.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.126. Replacement Bonds

The board may provide for replacement of bonds that are mutilated, lost, or destroyed.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.127. Refunding Bonds

(a) The board may provide by resolution for issuance of refunding bonds for the purpose of refunding outstanding bonds issued under this chapter together with accrued interest on the bonds.

(b) As far as applicable, the preceding provisions of this subchapter shall govern:

- (1) the issuance of the refunding bonds;
- (2) the maturities and other details of the refunding bonds;
- (3) the rights of bondholders; and
- (4) the duties of the board with respect to the refunding bonds.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.128. Bonds as Investments and Security

(a) Bonds issued under Article III, Section 49-b of the Texas Constitution, and this chapter are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

(b) The bonds, if accompanied by unmatured coupons appurtenant to them, are legal and sufficient security for the deposits in the amount of the par value of the bonds.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.129. Taxation of Bonds

Bonds issued under Article III, Section 49-b of the Texas Constitution, and laws implementing that section of the constitution, are exempt from any tax by the state and by cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

[Acts 1977, 65th Leg., p. 2661, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.130 to 161.170 reserved for expansion]

SUBCHAPTER E. VETERANS LAND FUND

§ 161.171. Money and Land Included in Veterans Land Fund

(a) The veterans land fund shall include:

(1) land purchased by the board until the sale price, interest, and penalties due have been received by the board;

(2) money attributable to bonds issued and sold by the board, including proceeds from the issuance and sale of the bonds;

(3) money received from the sale or resale of land or rights in land purchased with the proceeds from the bonds;

(4) money received from the sale or resale of land or rights in land purchased with other money attributable to the bonds;

(5) interest and penalties received from the sale or resale of the land or rights in the land;

(6) bonuses, income, rents, royalties, and any other pecuniary benefit received by the board from the land;

(7) money received as indemnity or forfeiture for the failure of any bidder for purchase of bonds to comply with his bid and accept and pay for the bonds or for the failure of a bidder for purchase of land comprising a part of the fund to comply with his bid and accept and pay for the land; and

(8) interest received from investments of this money.

(b) Money in the fund shall be deposited in the State Treasury to the credit of the fund.

(c) The provisions of this section may not be construed to prevent the board from accepting<sup>1</sup> for a portion of a tract of land.

[Acts 1977, 65th Leg., p. 2662, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

<sup>1</sup>So in enrolled bill; words "full payment" probably should be inserted.

#### § 161.172. Deposit and Use of Bond Money

(a) Money attributable to bonds issued and sold under this chapter shall be credited to the fund and shall be used to retire the bonds and to pay interest on them.

(b) At the time there is sufficient money to retire the bonds, money remaining in the fund over this amount or coming into the fund at a later time shall be governed as provided in this chapter.

[Acts 1977, 65th Leg., p. 2662, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.173. Payment of Principal and Interest; Investments

(a) The principal of and interest on bonds issued by the board shall be paid from money in the fund as provided in the constitutional provision authorizing the bonds.

(b) Money in the fund that is not immediately committed to paying principal of and interest on the bonds, to the purchase of land, or to the payment of expenses as provided in this chapter may be invested in bonds or obligations of the United States until the funds are needed for these purposes.

[Acts 1977, 65th Leg., p. 2662, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.174. Divisions; Use of Money in Divisions to Pay for Various Bond Issues

(a) A division consists of money attributable to bonds issued and sold under a single constitutional authorization and land purchased with money from that issue.

(b) If a division of the fund contains sufficient money to retire bonds secured by the division, the money attributable to that division, except that portion necessary to retire bonds in that division, may be used at the discretion and direction of the board to pay principal of and interest on and authorized expenses for other bonds issued and sold by the board. However, the amount of money necessary to retire bonds in the division shall be set aside and shall remain a part of that division for the purpose of retiring those bonds.

(c) No use of money as provided in Subsection (b) of this section may be made contrary to the rights of a holder of bonds issued and sold by the board or violative of a contract to which the board is a party. [Acts 1977, 65th Leg., p. 2662, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.175. Use of Fund for Expenses Related to the Land

(a) The board may use money in the fund attributable to bonds that have been issued and sold to pay:

(1) expenses of surveying and monumenting the land and the tracts of land;

(2) the cost of constructing roads on the land or the tracts of land;

(3) legal fees, recordation fees, and advertising costs arising from the purchase and sale or resale of the land and the tracts of land; and

(4) other similar costs necessary or incidental to the purchase and sale of land acquired by the board.

(b) These expenses shall be added to the price of the land when sold or resold by the board.

(c) No money in the fund before November 11, 1967, may be used to pay the expenses listed in Subsection (a) of this section until there is sufficient money in the division to retire all bonds secured by the division, at which time, all money except that needed to retire the bonds secured by the division, which shall be retained in the division to retire the bonds, may be used to pay the expenses as fully as the money attributable to bonds.

[Acts 1977, 65th Leg., p. 2663, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.176. Use of Fund to Pay Bond Expenses

(a) The board may use money in the fund attributable to bonds issued and sold to pay:

(1) legal fees and fees for financial advice necessary in the opinion of the board to the sale of bonds;

(2) the expense of publishing notice of sale of an installment of bonds;

(3) the expense of printing the bonds;

(4) the expenses of delivering the bonds, including the costs of travel, lodging, and meals of officers or employees of the board, the state comptroller, the State Treasurer, and the attorney general that are necessary in the opinion of the board to effectuate the delivery of the bonds;

(5) the cost of manually signing the bonds; and

(6) remuneration to any agent employed by the board to pay the principal of and interest on the bonds.

(b) No money in a division of the fund created before November 11, 1967, may be used to pay the expenses listed in Subsection (a) of this section until there is sufficient money for the division to retire all

bonds secured by the division, at which time all money, except that which may be needed to retire the bonds, may be used to pay the expenses under Subsection (a) of this section as fully as money attributable to bonds issued and sold in the future. The money in the division needed to retire the bonds shall remain in the division.

[Acts 1977, 65th Leg., p. 2663, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.177. Purchase and Destruction of Bonds**

(a) The board may use money in the fund to purchase on the open market any bonds it has issued and sold, and the debt represented by these bonds when purchased is considered canceled.

(b) Bonds purchased by the board under Subsection (a) of this section shall be mutilated, burned, or otherwise destroyed by the State Treasurer, who shall certify this fact to the board under the seal of his office.

(c) No further interest shall be paid on these bonds.

[Acts 1977, 65th Leg., p. 2664, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.178. Disposal of Excess Funds**

(a) Money in the fund that is not spent for the purposes provided in this chapter shall remain in the fund until there is sufficient money to retire fully bonds issued and sold by the board.

(b) Money in the fund that is in addition to that necessary to retire the bonds shall be deposited to the credit of the General Revenue Fund to be appropriated as provided by law, and the money necessary to retire the bonds shall be set aside and shall remain in the fund.

(c) Money that becomes at a later time a part of the fund after there is sufficient money to retire the bonds shall be deposited to the credit of the General Revenue Fund.

[Acts 1977, 65th Leg., p. 2664, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.179. Legislative Appropriations**

(a) During the existence of the fund, if the board determines that there will not be sufficient money in the fund during the following biennium to pay principal of or interest on the bonds or both principal and interest that are to come due during the following biennium, the legislature shall appropriate from the General Revenue Fund sufficient money to pay the obligations.

(b) The money appropriated shall be used to pay the obligations only if at the time the principal or interest or both actually become due there is not sufficient money in the fund to pay the amount due.

[Acts 1977, 65th Leg., p. 2664, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.180 to 161.210 reserved for expansion]

**SUBCHAPTER F. PURCHASE, SALE, AND OTHER DISPOSITION OF LAND**

**§ 161.211. Purchase of Land and Payment of Bonds**

(a) A series of bonds is all bonds issued and sold in a single transaction as a single installment of bonds.

(b) Money attributable to any series of bonds issued and sold by the board may be used for the purchase of land that is likewise located and owned, if the land is sold as provided in this chapter, for a period ending eight years after the date of sale of the series of bonds.

(c) As much of the money as is necessary to pay interest on the bonds issued and sold shall be set aside for that purpose in accordance with the resolution adopted by the board authorizing the issuance and sale of the series of bonds.

(d) At the end of the eight-year period, and until there is sufficient money to retire all the bonds, the money shall be set aside to retire the bonds issued and sold and to pay interest on them, together with any expenses, in accordance with the resolution authorizing the issuance and sale of the additional bonds.

(e) Money coming into the fund not necessary to retire the bonds and pay interest on them under Subsection (d) of this section shall be governed as provided in this chapter.

[Acts 1977, 65th Leg., p. 2664, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.212. Appraisal**

(a) Before purchasing land under the provisions of this chapter, the board shall have an appraisal of the property made to determine its value.

(b) An appraiser representing the board shall be reasonably qualified to give competent appraisals of land.

(c) The appraiser shall make a written report to the board in affidavit form, duly sworn to before a notary public or other official authorized to administer oaths, and showing:

- (1) the appraised value of the land;
- (2) the name and address of any person contacted relative to the valuation of the land;
- (3) that the appraiser has examined the records of the county clerk's office relative to the amount paid by the vendor for the land;
- (4) that he has checked past sales of adjacent land to aid in determining valuation;
- (5) if the purchase is being made under Subchapter G of this chapter, that the appraiser has met the veteran on the land and has explained the transaction to him in detail as authorized by this chapter; and
- (6) that neither the appraiser nor any member of his family has received any personal benefits from the transaction and does not expect to re-

ceive any future personal benefits from the transaction.

(d) If a veteran is in the active military service and is stationed overseas or in Alaska, Hawaii, or United States territories or possessions, or aboard a ship with a mission outside the continental United States including Alaska, his representative designated by him in writing may meet the board appraiser on the land for the purpose expressed in this section. [Acts 1977, 65th Leg., p. 2665, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.213. Sworn Report

(a) Before the board purchases land under Section 161.211 of this code or Subchapter G of this chapter, it shall require the seller to execute a sworn report to the board that shall include the following:

- (1) the date the seller purchased the land;
- (2) the amount the seller paid for the land if purchased subsequent to June 7, 1949;
- (3) from whom the seller purchased the land; and
- (4) the improvements made on the land since the seller purchased it and the cost of the improvements.

(b) If the land is purchased under Subchapter G of this chapter, the sworn report shall include the following additional information:

- (1) if the seller by any manner or method is making the down payment to the board on behalf of the veteran;
- (2) if there is a lease arrangement between the seller and the veteran, and if so, the duration, term, and amount to be paid; and
- (3) if there is an agreement or contract of any nature between the seller and the veteran to transfer, sell, or convey at any time in the future.

[Acts 1977, 65th Leg., p. 2665, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.214. Title

(a) Before making payment for land, the board shall have the title of the property sought to be purchased examined and may require for this purpose an abstract of title or policy of title insurance. The board may submit the title to the attorney general for examination and opinion.

(b) The board may purchase land that is subject to outstanding mineral leases or that has all or part of the mineral interests outstanding, but the title must otherwise be marketable and good.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.215. Purchase of Land

Land purchased by the board shall be acquired at the lowest price that can be obtained in the opinion of the board, taking into consideration the quality, location, natural advantages, and improvements of

the land. The land shall be paid for in cash and shall be clear of all liens and shall be a part of the fund.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.216. Cost of Land to Board

Except for forfeited land that may be resold to the board at less than actual cost under Section 161.319 of this code, land shall not be sold to the board at less than its actual cost.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.217. Appointment of Local Committee

The commissioners court of each county in the state shall appoint a committee composed of three resident real property owners of the county.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.218. Work of Local Committee

(a) A person who considers himself an eligible veteran under this chapter and who desires to benefit under this chapter shall submit to the local committee the forms prescribed by the board before he submits his application of purchase and sales contract to the board. If the veteran is a resident of one county and is seeking to purchase land located in another, he shall submit the forms to the local committee in both counties.

(b) The local committee shall consider the forms and shall submit to the board a report concerning the financial responsibility of the veteran, if it is known, a statement of opinion as to whether or not the transaction is bona fide, a statement as to the amount the committee considers to be the reasonable value of the land in question, and a statement of the credit rating of the veteran applicant.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.219. Board Investigation

(a) The board may make other inquiries and investigations it considers proper to determine the veteran's eligibility and qualifications.

(b) If the board determines from the information submitted or from its own inquiries and investigations that the financial responsibility of the veteran leaves reasonable doubt as to his ability to carry the contract through to completion and make all payments, the board shall reject the application.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.220. Exemption

The provisions of Sections 161.217 through 161.219 of this code do not apply to sales under Sections 161.175, 161.231 through 161.234, and 161.319 of this code unless the board so desires.

[Acts 1977, 65th Leg., p. 2666, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.221. Initiation of Sale**

The sale of land by the board may be properly initiated by contract of sale and purchase, and the contract shall be recorded in the deed records in the county in which the land is located.

[Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.222. Purchase Payments**

(a) The purchaser shall make an initial payment of at least five percent of the selling price of the land if sold under Sections 161.175 and 161.231 through 161.234 of this code or at least five percent of the amount the board agrees to pay for the land if sold under Subchapter G of this chapter. In neither event shall the payment be more than five percent of \$20,000 together with an additional down payment as provided in Sections 161.175 and 161.231 through 161.234 of this code or Subchapter G of this chapter.

(b) The balance of the selling price shall be amortized over a period determined by the board not to exceed 40 years together with interest at a rate to be determined by the board. The interest may not exceed one and one-half percent a year more than the accepted bid price for each series in the bond sale division.

(c) The purchaser is entitled to pay any or all installments still remaining unpaid on any installment date.

(d) In an individual case, the board may postpone for good cause the payment of the whole or any part of an installment of the selling price or interest on the selling price on terms the board considers proper. [Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1898, ch. 768, § 1, eff. June 13, 1979.]

**§ 161.223. Board to Specify Terms**

The board may specify in each individual case the terms of the contract entered into with the purchaser as long as they are not contrary to the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.224. Time Limit on Transfer**

(a) No property sold under this chapter may be transferred, sold, or conveyed in whole or part until the original veteran purchaser has enjoyed possession for a period of three years from the date of purchase of the property and complied with the terms and conditions of this chapter and rules of the board.

(b) If the veteran purchaser dies or becomes financially incapacitated or if there is an involuntary transfer by court order or proceedings including bankruptcy, sheriff or trustee sale, or divorce, the property may be conveyed before the expiration of the three-year period by the purchaser or his heirs,

administrators, or executors by complying with rules of the board and by securing the approval of the board.

(c) After the three-year period, a purchaser may transfer, sell, or convey land purchased under this chapter at any time if all mature interest, principal, and taxes have been paid, the terms and conditions of this chapter and rules of the board have been met, and the approval of the board has been obtained. [Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.225. Sale to a Nonveteran**

If the sale is made to a person other than a qualified Texas veteran, the assignee and all subsequent assignees shall assume an interest rate on the indebtedness to the board determined by the board at an amount not less than one percent a year greater than the rate determined by the board for sale to veterans under Sections 161.175 and 161.231 through 161.234 of this code or Subchapter G of this chapter on the date on which the transfer, sale, or conveyance is approved. If the purchase contract is awarded in a divorce action or incident to a written separation agreement, the interest rate shall not change.

[Acts 1977, 65th Leg., p. 2667, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.226. Disposition of Land That is Paid For**

Property sold under this chapter may be transferred, sold, or conveyed at any time after the entire indebtedness due to the board has been paid.

[Acts 1977, 65th Leg., p. 2668, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.227. Lease of Land**

(a) No land purchased under this chapter may be leased by the purchaser for a term of more than 10 years except as follows: (1) leases for oil, gas, and other minerals may be for a term of not more than 10 years, and as long thereafter as such oil, gas, and other minerals are produced from the land in commercial quantities; and (2) leases for coal and lignite may be for a term of not more than 40 years, and as long thereafter as such coal and lignite are produced from the land in commercial quantities.

(b) No lease may contain a provision for option or renewal of the lease or re-lease of the property for any term which would cause the entire fixed term of such lease or leases to exceed the applicable maximum fixed term set forth in Subsection (a)(1) or (2) above, and the taking of any such option, renewal, or re-lease agreement in a separate instrument to take effect in the future is prohibited. A lease or instrument that contains an option, renewal, or re-lease agreement in violation of this section is expressly declared to be void.

[Acts 1977, 65th Leg., p. 2668, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 3080, ch. 812, § 1, eff. June 17, 1981.]

**§ 161.228. Conditions of Leases**

While the veteran is indebted to the board for land purchased, if he executes or there exists a lease or contract of sale of oil, gas, or other minerals, chemicals, or hard metals or a lease or contract of sale for timber, sand, gravel, or other materials that covers all or part of the land and that would result in the depletion of the corpus of the tract, at least one-half of all bonus money, delay rentals, and royalties received as consideration for or payment under the oil, gas, and mineral lease and at least one-half of all money received under a lease or contract of sale of any other minerals, chemicals, hard metals, timber, sand, gravel, and other materials or as much as is required, shall be paid to the board by the owner of the lease or contract of sale and applied by the board to the satisfaction of the indebtedness. [Acts 1977, 65th Leg., p. 2668, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 3080, ch. 812, § 2, eff. June 17, 1981.]

**§ 161.229. Deeds**

(a) When the entire indebtedness due the state under the contract of sale is paid, the chairman of the board shall execute a deed under seal to the original purchaser of the land or to the last assignee whose assignment has been approved by the board.

(b) None of the provisions of this chapter shall be construed to prohibit the board from accepting full payment for a portion of a tract and issuing a deed to the land according to the rules of the board.

(c) Deeds issued by the board and executed by the chairman under seal are ratified, confirmed, and validated whether they convey all or only a part of the land contracted to be sold to the veteran.

(d) If a deed is executed to a person other than the legal owner or to a deceased grantee, the deed and the rights conveyed still inure to the benefit of the legal owner.

[Acts 1977, 65th Leg., p. 2668, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.230. Death of Purchaser**

(a) If the purchaser of the land dies while indebted to the board under a contract, his rights, acquired under this chapter and the contract devolve on his heirs, devisees, or personal representatives under the laws of this state, but subject to all rights, claims, and charges of the board.

(b) Default by an heir, devisee, or personal representative with respect to a right, claim, or charge of the board has the same effect as default by the purchaser before his death.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.231. Subdividing Land**

Land acquired by the board may be subdivided for sale into tracts of the size the board may consider advisable.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.232. Conditions for Sale of Land**

Land acquired and subdivided under Sections 161.175, 161.231, 161.233, and 161.234 of this code shall be offered for sale according to rules adopted by the board and shall be sold by the board to veterans qualified to participate in the program in conformity with the provisions of this chapter relating to the sale of land purchased generally by the board. [Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.233. Down Payment**

(a) Unless the purchaser pays in cash as a down payment under board rules in addition to the initial payment required by Section 161.222 of this code the amount of the sale price in excess of \$20,000 not later than the sale date, no tract may be sold under Sections 161.175 and 161.231, 161.232, and 161.234 of this code at a price including the addition of the expenses provided in Section 161.175 of this code of more than \$20,000.

(b) If the sale is not consummated, the down payment shall be refunded to the veteran.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1899, ch. 768, § 2, eff. June 13, 1979.]

**§ 161.234. Sale to Other Purchasers**

The provisions of Sections 161.175 and 161.231 through 161.233 of this code notwithstanding, land acquired and subdivided under these sections that has first been offered for sale to veterans and that has not been sold to the purchasers may be sold to any purchaser in the same manner as land forfeited under this chapter.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.235. Rights of Surviving Spouse**

If an eligible Texas veteran dies after he has filed with the board an application and contract of sale to purchase through the board the tract selected by him or her and before the purchase is completed, the surviving spouse of the veteran may complete the transaction.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.236. Number of Tracts Purchased**

No veteran may purchase more than one tract of land under this chapter.

[Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.237 to 161.280 reserved for expansion]

SUBCHAPTER G. PURCHASE AND SALE  
OF SELECTED LAND

§ 161.281. Selection of Land

If a veteran desires a particular tract of land located in this state that contains not less than 10 acres, on proper showing of eligibility to benefits under this chapter, he may be authorized by the board to select the land that he desires and submit his selection to the board on its prescribed form. [Acts 1977, 65th Leg., p. 2669, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.282. Processing Applications

As far as practical, applications shall be processed in the order in which they are received by the board. [Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.283. Purchase by Board

(a) If the board is satisfied with the value and desirability of the property selected by the veteran, it may purchase the land from its owner on the agreed terms.

(b) The board shall pay not more than \$20,000 for the property, but may pay more if the veteran pays to the board in cash, in accordance with its rules, that portion of the purchase price in excess of the amount that the board agrees to pay. The amount shall be paid not later than the date on which the board acquires title to the property.

(c) A cash payment by the veteran is considered a down payment on the price of the land when sold to the veteran by the board and is in addition to the initial payment required by Section 161.222 of this code.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1899, ch. 768, § 3, eff. June 13, 1979.]

§ 161.284. Appraisal and Title

The board shall have an appraisal of the property made as it considers necessary to determine the value and, before consummating the purchase, shall satisfy itself regarding the title as provided in Section 161.214 of this code.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.285. Separate Transactions

(a) No transaction under this chapter may be considered together with any other transaction to constitute a block deal between the state and two or more veteran purchasers, and each tract of land is considered as a wholly separate entity without dependence on any other tract of land, substance, matter, person, or thing in determining its value, purchase, or sale under this chapter.

(b) None of the provisions of this chapter may be construed to prevent the purchase or sale or both of contiguous tracts of land to separate purchasers as

long as the value of the land is determined in the manner provided in Section 161.284 of this code. [Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.286. Purchase Preference

(a) The property acquired by the board becomes a part of the fund, but the veteran who has selected the land has a preference right to purchase the land from the board.

(b) To be entitled to the preference right, the veteran shall agree in writing before the board purchases the land to purchase the land from the board for the price paid for it.

(c) If the veteran fails or refuses to exercise the preference right, the land may be sold by the board in the same manner provided for the sale of land forfeited under this chapter.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.287. Rules Governing Sale

The rules governing the sale of land under this subchapter are governed by the provisions of this chapter relating to sale of land generally by the board except where those provisions conflict with this subchapter.

[Acts 1977, 65th Leg., p. 2670, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.288. Refund

If the title to the land is not approved and accepted by the board, any amount paid to the board in excess of the amount that the board agreed to pay for the selected land shall be refunded to the veteran together with any other down payment remitted to the board.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.289 to 161.310 reserved  
for expansion]

SUBCHAPTER H. FORFEITURE

§ 161.311. Board Judge of Forfeiture

The board is the sole judge of forfeiture of any purchase contract under this chapter and any person availing himself of the provisions of this chapter by so doing agrees to abide by this chapter.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.312. Forfeiture by Board

(a) If a portion of the principal of or interest on any sale is not paid when due, or if the provisions of this chapter, the contract, or the rules of the board are not complied with, the contract of sale and purchase is subject to forfeiture by action of the board on 30 days written notice to the original purchaser and his vendee.

(b) The notice shall state the reason why the contract of sale and purchase is subject to forfeiture and is sufficient if given by registered mail to the last known address of the original purchaser and his vendees.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.313. Correction of Reason for Forfeiture

If the person corrects or cures the reason for forfeiture within the 30-day notice period, the board shall not enter an order of forfeiture.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.314. Time of Forfeiture

The forfeiture is effective at the time the board meets and adopts a resolution directing its chairman to endorse on the wrapper that contains the papers of the sale or on the purchase contract filed in the land office the word "forfeited" or words of similar import and the date of the action and to officially sign the document. At that time, the land and all payments previously made are forfeited.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.315. Notice to County Clerk

Notice of the board's action in forfeiting the original contract shall be mailed to the county clerk of the county in which the land is located and the clerk shall enter a notation of the forfeiture on the margin of the page or pages containing the record of the original contract.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.316. Effect of Forfeiture on Leases

On forfeiture, the full title to the land, including both surface and mineral estates, shall revert in the board, and the board shall recognize and continue in force and effect any outstanding valid oil, gas, or mineral lease and collect all rentals, royalties, or other amounts payable under the lease.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.317. Reinstatement of Purchase

(a) If a sale is forfeited and the title to the land reverted in the fund, the original purchaser or his vendee is entitled to reinstate his purchase contract at any time before the date on which the board meets and orders the land to be advertised for resale or for lease for mineral development but not after that time.

(b) A person who exercises a right of reinstatement shall pay all delinquent installments, penalties, and costs incident to the reinstatement as prescribed by the board.

[Acts 1977, 65th Leg., p. 2671, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.318. Resale of Land

Land included in a forfeited contract is subject to resale under Section 161.319 of this code.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.319. Resale of Forfeited Land

(a) Resale of forfeited land under this chapter may be made to the highest bidder, but the sale shall be made only to a qualified purchaser under Article III, Section 49-b of the Texas Constitution, and under terms and conditions and at the time and in the manner prescribed by the board in its rules, the provisions of this chapter notwithstanding.

(b) The board may reject any and all bids.

(c) If the successful bidder refuses to execute a contract of sale and purchase, the money submitted with his bid is forfeited and shall be deposited in the State Treasury and credited to the fund.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.320. Interest Rate on Delinquent Principal and Interest

Principal and interest that become delinquent shall bear interest at a rate fixed by the board from time to time but shall not be more than 10 percent a year from the date the principal and interest become delinquent until paid.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.321. Vacating Premises

If the board declares a forfeiture under a purchase contract, the purchaser shall vacate the premises within 45 days after the date of the letter giving notice of the declaration. The letter shall be sent by registered mail to the last known address of the purchaser.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.322. Enforcement of Forfeiture and Protection of Rights

The board, by and through the attorney general, shall institute legal proceedings that are necessary to enforce the forfeiture or to recover the full amount of the delinquent installments, interest, and other penalties that may be due to the board at the time the forfeiture occurred or to protect any other right to the land.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 161.323. Liability

The liability of the original veteran purchaser and any subsequent assignee or assignees of the veteran are joint and several, but the original veteran purchaser is primarily liable for payment of the money under the original contract of sale and purchase.

[Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.324. Defenses in Lawsuits

After obtaining the permission of the legislature, in any action brought in the courts against the state involving the title to a tract of land to which the state has a warranty deed, the state is entitled to plead all statutes of limitations in the general laws of this state, but this shall not be considered as a limitation to any other defense the state may have. [Acts 1977, 65th Leg., p. 2672, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.325 to 161.360 reserved for expansion]

SUBCHAPTER I. INSURANCE

§ 161.361. Definitions

In this subchapter:

(1) "Persons purchasing land under the program" means a person or his successor or assign who buys land from the board under contract of sale and purchase regardless of whether the land is sold under Sections 161.175 and 161.231 through 161.234 or Section 161.319 of this code or Subchapter G of this chapter.

(2) "Person in the group" means a person purchasing land under the program who has elected to accept the offer of the insurance coverage provided in this subchapter.

(3) "The indebtedness due to the board" means the principal of and interest on the indebtedness necessary to pay in full the obligation set forth in any contract of sale and purchase under which a person in the group is purchasing land from the board, exclusive of delinquent principal, interest, and penalties.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.362. Insurance Requirement

(a) Each veteran purchaser shall carry insurance on the improvements on the property under contract of purchase that the board considers necessary, and failure to do so will subject the contract to forfeiture under Subchapter H of this chapter.

(b) The board may promulgate rules it considers necessary to enforce this section.

(c) If the board desires, it may require each veteran applicant to make additional semiannual payments to be held in trust to pay premiums that may become due and unpaid on the contracted insurance covering the improvements. The payments shall be deposited in a trust fund with the State Treasurer and shall be used to make the premium payments. The unused balance of the veteran's deposit shall be held by the board until the time that maintenance of the account is unnecessary and then shall be refunded to the veteran.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.363. Master Insurance Contract

The board may enter into a master contract or agreement with one or more life insurance companies authorized to do business in this state to provide group life insurance coverage cancelling on death the indebtedness due to the board of persons purchasing land under the program.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.364. Provisions of Insurance

In addition to the provisions of Article 3.50, Insurance Code, as amended, the master contract or agreement shall provide that the life insurance coverage will be offered by the insurer to all persons without physical examination and that no person may be denied coverage because he is disabled at the time of application for the coverage.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.365. Approval of Contract; Contractual Relationship

The policy contract shall be approved by the State Board of Insurance under the provisions of the Insurance Code, as amended, and shall express and control the contractual relationship between the parties to it.

[Acts 1977, 65th Leg., p. 2673, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.366. Insurance Not Mandatory

It is not mandatory that a person purchasing land under the program accept the offer of the insurance coverage, and refusal by the person to accept the offer of the coverage shall not be a ground for the board to decline to enter into a contract of sale and purchase with the person.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.367. Amount of Coverage

The total insurance coverage for any person in the group shall not at any time exceed the indebtedness due to the board and in no event shall the total insurance coverage exceed the amount provided in the master contract.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.368. Collection of Premium

The board may collect or provide for collection of the premium for insurance coverage in a reasonable manner.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 161.369. Death of Insured

If a person in the group dies while the insurance coverage is in force, the benefits of the coverage shall be paid to the board for credit to the fund and the indebtedness due the board shall be canceled.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.370. Cancellation by Insurer**

The master contract or agreement shall not prohibit cancellation by the insurer of the entire contract on reasonable notice to the board but shall prohibit cancellation of individual coverage except as provided in this subchapter.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.371. Termination of Insurance**

(a) The insurance coverage shall be terminated for any person in the group on:

- (1) the satisfaction of the indebtedness due the board;
- (2) the board's approval of a transfer of interest in the land being purchased from the board; or
- (3) failure to make timely payment of the premium to be paid for the coverage.

(b) The master contract may provide that coverage will terminate on the person purchasing land under the program attaining the age of 65 years.

(c) If the coverage is terminated for a member of the group for failure to make timely payment of the premium, renewal coverage is subject to evidence of insurability as required by and satisfactory to the insurer and to payment of the premium due plus any penalty that may be provided.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 161.372 to 161.400 reserved for expansion]

**SUBCHAPTER J. PENALTIES****§ 161.401. Penalty for Certain Transactions**

Any person, seller, veteran, or appraiser who knowingly makes, utters, publishes, passes, or uses any false, fictitious, or forged paper, document, contract, affidavit, application, assignment, or other instrument in writing in connection with or pertaining to any transaction under this chapter is guilty of a felony and on conviction shall be punished by imprisonment in the state penitentiary for not less than two nor more than 10 years, or by a fine of not less than \$1,000 nor more than \$10,000, or by both.

[Acts 1977, 65th Leg., p. 2674, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.402. Penalty Relating to Certain Purchases, Sales, and Resales of Land**

A person who knowingly files a false, fictitious, or forged paper, document, contract, affidavit, application, assignment, or other instrument in writing relating to the purchase, sale, or resale of land under this chapter is guilty of a felony and on conviction shall be punished by imprisonment in the state penitentiary for not less than two nor more than 10 years or by a fine of not less than \$1,000 nor more than \$10,000, or by both.

[Acts 1977, 65th Leg., p. 2675, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 161.403. Penalty for Defrauding Veteran and State**

A person who defrauds a veteran of his rights and benefits under this chapter by an act of fraud, duress, deceit, coercion, or misrepresentation or a person who uses the purposes or provisions of this chapter to defraud the state or any veteran by an act of fraud, duress, coercion, misrepresentation, or deceit, is guilty of a felony, and on conviction shall be punished by imprisonment in the state penitentiary for not less than two nor more than 10 years or by a fine of not less than \$1,000 nor more than \$10,000, or by both.

[Acts 1977, 65th Leg., p. 2675, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**TITLE 8. ACQUISITION OF RESOURCES****CHAPTER 181. TEXAS CONSERVATION FOUNDATION****SUBCHAPTER A. GENERAL PROVISIONS**

Section	Purpose.
181.001.	Purpose.
181.002.	Definitions.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

181.011.	Texas Conservation Foundation.
181.012.	Members of Board.
181.013.	Terms of Office.
181.014.	Board Officers.
181.015.	Board Meetings.
181.016.	Quorum.
181.017.	Compensation; Expenses.
181.018.	Suits; Liability.
181.019.	Seal.

**SUBCHAPTER C. POWERS AND DUTIES**

181.051.	In General.
181.052.	Rules and Regulations.
181.053.	Annual Report.
181.054.	Gifts, Devises, Trusts, and Bequests.
181.055.	Gifts, Devises, and Bequests Subject to Restriction or Beneficial Interest.
181.056.	Purchase or Other Acquisition of Land.
181.057.	Management and Disposition of Property or Income.
181.058.	Private Benefit or Profit Prohibited.
181.059.	Services and Facilities of Other Agencies.
181.060.	Eminent Domain.

**SUBCHAPTER D. TAX EXEMPTIONS**

181.101.	Exempt Gifts or Transfers.
181.102.	Tax on Beneficial Interest.
181.103.	Exemption of Foundation.

**SUBCHAPTER A. GENERAL PROVISIONS****§ 181.001. Purpose**

The Texas Conservation Foundation is established to encourage private gifts of real and personal property or income from or other interest in real and personal property, to survey and collect data concerning the natural resources and areas of Texas, to apply for, receive, and make proper use of federal grants and funds as well as private funds, to create

a register of Texas's unique natural areas and resources, and to make timely acquisition by purchase or option of any property for the benefit of or in connection with the Texas state system of historic sites, parks, refuges, wildlife preserves, wildlife management areas, and scientific and recreational areas, and thereby further the conservation of natural, scenic, historical, scientific, educational, inspirational, wildlife, or recreational resources for future generations of Americans.

[Acts 1977, 65th Leg., p. 2676, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**Application of Sunset Act**

*Acts 1977, 65th Leg., p. 1844, ch. 735, § 2.086, purports to add § 1a to Civil Statutes, art. 6145-7, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(4). As so added, § 1a reads:*

*"The Texas Conservation Foundation is subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless continued in existence as provided by that Act the foundation is abolished, and this Act expires effective September 1, 1985."*

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

**§ 181.002. Definitions**

In this chapter:

(1) "Foundation" means the Texas Conservation Foundation.

(2) "Board" means the board of the Texas Conservation Foundation.

(3) "Member" means a member of the board who has voting rights.

[Acts 1977, 65th Leg., p. 2676, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1647, ch. 688, § 4, eff. June 13, 1979.]

[Sections 181.003 to 181.010 reserved for expansion]

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

**§ 181.011. Texas Conservation Foundation**

A charitable and nonprofit corporation known as the Texas Conservation Foundation is established to perform the acts and have the duties and purposes in Section 181.001 of this code and to accept and administer gifts and otherwise to acquire and hold property or interests in property in accordance with the provisions of this code.

[Acts 1977, 65th Leg., p. 2676, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.012. Members of Board**

(a) The foundation shall be governed by a board that shall have as members:

(1) the executive director of the Parks and Wildlife Department;

(2) the Commissioner of the General Land Office;

(3) the executive director of the Texas Historical Commission; and

(4) three interested citizens of the State of Texas, one appointed by the governor, one appointed by the speaker of the house of representatives and one appointed by the lieutenant governor.

(b) Membership on the board is not considered to be an office within the meaning of the statutes and the Texas Constitution.

(c) Each member who is named in Subdivision (1), (2), or (3) of Subsection (a) of this section may designate in writing from time to time a representative from his staff to serve by proxy as a member of the board, thereby vesting full authority of each member in his representative.

(d) No state funds for property maintenance, operations, or development shall be expended by an agency of the state pursuant to the provisions of this Act without express legislative authorization either through the General Appropriations Act or separate statute.

[Acts 1977, 65th Leg., p. 2676, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.013. Terms of Office**

Each citizen member shall serve at the pleasure of the official who appointed him. The initial terms of the appointed members shall be staggered so that the terms of one-third of the initial members will expire every two years.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.014. Board Officers**

(a) The governor shall annually select the chairman from among the board membership.

(b) The executive director of the Parks and Wildlife Department shall be secretary of the board.

(c) The governor may from time to time appoint a variable number of advisors to the board, who shall have no vote nor receive any compensation but who shall be persons of competence who have a genuine interest in furthering the goals of the foundation. The advisors shall serve at the pleasure of the governor.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.015. Board Meetings**

(a) The board shall meet at the call of the chairman.

(b) There shall be at least one meeting each year. [Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 181.016. Quorum**

A majority of the members of the board serving at any one time constitutes a quorum for the transaction of business.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 181.017. Compensation; Expenses**

(a) No compensation shall be paid to the members of the board for their services as members.

(b) The members of the board shall be reimbursed for actual and necessary travel and subsistence expenses incurred by them in the performance of their duties as members of the board. Reimbursement shall be paid from the foundation funds available to the board for this purpose.

[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 181.018. Suits; Liability**

(a) The foundation has perpetual succession with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and be sued in its own name.

(b) The members of the board are not personally liable, except for malfeasance, and are granted immunity from civil liability while performing their official functions.

(c) The State of Texas shall not be liable for any debts, defaults, acts, or omissions of the foundation.  
[Acts 1977, 65th Leg., p. 2677, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1647, ch. 688, § 2, eff. June 13, 1979.]

**§ 181.019. Seal**

The foundation shall have an official seal, which shall be judicially recognized.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 181.020 to 181.050 reserved for expansion]

**SUBCHAPTER C. POWERS AND DUTIES****§ 181.051. In General**

The foundation may:

- (1) contract in its own name with any governmental agency or private person or entity;
- (2) act through agents and employees;
- (3) execute and acknowledge all instruments;
- (4) contract for necessary services;

(5) maintain confidential files, not subject to the provisions of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), regarding details of the location, ownership, quantity, and identifying data related to any archeological, paleontological, or geological site or any species of plants or wildlife that are rare, threatened,

or endangered or subject to abuse by collectors. No privately owned property may be listed in such files unless and until the owner or a majority of the owners if the property is owned by more than two people gives written consent to allow its inclusion. Nothing contained herein shall be construed as legislative condonance of unauthorized entry onto private property; and

(6) do any lawful acts necessary or appropriate to its statutory purposes.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.052. Rules and Regulations**

The board may adopt bylaws and rules necessary for the administration of its functions in carrying out the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 181.053. Annual Report**

As soon as practicable after the end of each fiscal year, the foundation shall transmit to the legislature and the governor an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, property, and investments.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.054. Gifts, Devises, Trusts, and Bequests**

(a) The foundation may accept, receive, solicit, hold, administer, and use gifts, devises, trusts, or bequests, either absolutely or in trust, of real or personal property or income from or other interest in real or personal property for the benefit of or in connection with the Texas system of natural areas, parks, refuges, scientific, historical, prehistoric, educational, inspirational, wildlife management, or recreational areas and sites.

(b) An interest in real property includes easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historical, archeological, geological, scientific, educational, inspirational, wildlife, or recreational resources anywhere in the State of Texas.  
[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.055. Gifts, Devises, and Bequests Subject to Restriction or Beneficial Interest**

The foundation may accept a gift, devise, or bequest that is encumbered, restricted, or subject to a beneficial interest of private persons or corporations as long as any current or future use or interest in the gift, devise, or bequest is for the benefit of the Texas system of natural areas, parks, refuges, and scenic, wildlife preservation, historical, archeological, geological, wildlife management, or scientific areas.  
[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.056. Purchase or Other Acquisition of Land**

(a) To the extent that funds or credit are available to it for this purpose, the foundation may enter into and exercise purchase options, buy by outright purchase, or contract for, trade for, or otherwise acquire in the title and name of the foundation any land or interest in land that the foundation considers significant and necessary for the purposes of the foundation.

(b) Unless specially restricted by the instrument of transfer, the foundation may hold this land or interest in land in undeveloped and protective holdings if the foundation considers such holding necessary for the accomplishment of its statutory purposes.

[Acts 1977, 65th Leg., p. 2678, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 688, § 1, eff. June 13, 1979.]

**§ 181.057. Management and Disposition of Property or Income**

(a) Except as otherwise limited or required by the instrument of transfer, the foundation may sell, lease, trade, invest, reinvest, retain, or otherwise dispose of or deal with any property or income from any property in a manner the board may from time to time determine.

(b) The foundation shall not engage in any business, nor shall it make any investment that may not lawfully be made under the Texas Trust Act, as amended (Article 7425b-1, Vernon's Texas Civil Statutes), except that the foundation may make any investment that is authorized by the instrument of transfer and may retain, manage, and operate any property accepted by the foundation.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1647, ch. 688, § 3, eff. June 13, 1979.]

**§ 181.058. Private Benefit or Profit Prohibited**

No property, income, or interest in property that passes to the foundation may enure thereafter to the private benefit or profit of any individual, firm, or corporation.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 181.059. Services and Facilities of Other Agencies**

The foundation may use the services and facilities of the Parks and Wildlife Department, the Texas Historical Commission, and the office of the attorney general. These services and facilities may be made available on request to the extent practicable without reimbursement.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 181.060. Eminent Domain**

None of the provisions of this chapter confer on the foundation the right of eminent domain.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 181.061 to 181.100 reserved for expansion]

SUBCHAPTER D. TAX EXEMPTIONS

**§ 181.101. Exempt Gifts or Transfers**

Contributions, gifts, and other transfers made to or for the use of the foundation are contributions, gifts, or transfers to or for the use of the State of Texas for scientific, educational, and benevolent purposes and shall be made without tax to the transferor.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 181.102. Tax on Beneficial Interest**

If a beneficial interest is retained, it shall be taxable to the grantor to the extent of the fair market value of the beneficial interest by the State of Texas or any taxing authority created by the laws of the State of Texas.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 181.103. Exemption of Foundation**

(a) The foundation and any income or property received or owned by it, and all transactions relating to the income or property received or owned by the foundation, are exempt from all forms of taxation.

(b) In the discretion of the board, the foundation may contribute toward the costs of local government in amounts not to exceed those that it would be obligated to pay the government if it were not exempt from taxation by virtue of Subsection (a) of this section or by virtue of its being a charitable and nonprofit corporation. The foundation may agree to contribute with respect to property transferred to it and the income derived from property transferred to it if the agreement is a condition of the transfer.

[Acts 1977, 65th Leg., p. 2679, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**CHAPTER 182. TEXAS HISTORICAL RESOURCES DEVELOPMENT COUNCIL**

SUBCHAPTER A. GENERAL PROVISIONS

Section	
182.001.	Definition.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

182.011.	Creation of Council.
182.012.	Council Membership.
182.013.	Compensation.
182.014.	Council Officers.
182.015.	Quorum.
182.016.	Council Meetings.
182.017.	Use and Provision of Services of Certain Agencies.

SUBCHAPTER C. POWERS AND DUTIES

182.041.	Communication Between Agencies.
182.042.	Study.
182.043.	Soliciting and Considering Suggestions.
182.044.	Recommendations.
182.045.	Semiannual Reports.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 182.001. Definition

In this chapter, "council" means the Texas Historical Resources Development Council.

[Acts 1977, 65th Leg., p. 2680, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**Application of Sunset Act**

*Acts 1977, 65th Leg., p. 1843, ch. 735, § 2.081, purports to add § 1a to Civil Statutes, art. 6145-10, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(4). As so added, § 1a reads:*

*"The Texas Historical Resources Development Council is subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless continued in existence as provided by that Act the council is abolished, and this Act expires effective September 1, 1983."*

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

[Sections 182.002 to 182.010 reserved for expansion]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

## § 182.011. Creation of Council

To encourage the best use of the unique historical resources of this state, the Texas Historical Resources Development Council is created.

[Acts 1977, 65th Leg., p. 2680, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 182.012. Council Membership

(a) The council consists of the following ex officio members:

- (1) the executive director of the Texas Historical Commission;
- (2) the director and librarian of the Texas State Library;
- (3) the executive director of the Texas Tourist Development Agency;
- (4) the director of the Travel and Information Division of the State Department of Highways and Public Transportation;
- (5) the director of the Park Services Division of the Parks and Wildlife Department; and
- (6) the chairman of the State Antiquities Committee.

(b) Membership on the council shall not be considered to be an office within the meaning of the statutes and Constitution of the State of Texas.

[Acts 1977, 65th Leg., p. 2680, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 182.013. Compensation

No compensation may be paid to the members of the council for their services as members.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 182.014. Council Officers

The executive director of the Texas Historical Commission is chairman of the council, and the director and librarian of the Texas State Library is the secretary.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 182.015. Quorum

A majority of the members of the council constitute a quorum authorized to transact business of the council.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 182.016. Council Meetings

(a) The council meets at least four times a year.

(b) Additional meetings may be held on the call of the chairman or on written request of any two members of the council.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

## § 182.017. Use and Provision of Services of Certain Agencies

The council may use the services and facilities of the Texas Historical Commission, the Texas State Library and Historical Commission, the Texas Tourist Development Agency, the State Department of Highways and Public Transportation, the Parks and Wildlife Department, and the State Antiquities Committee, and these services and facilities may be made available on request to the extent practicable without reimbursement for them.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 182.018 to 182.040 reserved for expansion]

## SUBCHAPTER C. POWERS AND DUTIES

## § 182.041. Communication Between Agencies

The council shall establish communication between the Texas Historical Commission, the Texas State Library and Historical Commission, the Texas Tourist Development Agency, the State Department of Highways and Public Transportation, the Parks and Wildlife Department, and the State Antiquities Committee in order to coordinate the efforts of these agencies to develop and publicize the historical resources of this state.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.042. Study

The council shall make a continuous study of the means that state agencies and private promotional and historical organizations in Texas may employ to develop and publicize the historical resources of this state.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.043. Soliciting and Considering Suggestions

The council shall solicit and consider suggestions from state officials, interested private citizens, and private promotional and historical organizations in Texas for improving the methods employed to develop and publicize the historical resources of this state.

[Acts 1977, 65th Leg., p. 2681, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.044. Recommendations

The council shall make recommendations for effective methods that may be used by state agencies and private promotional and historical organizations in Texas to develop and publicize the historical resources of this state.

[Acts 1977, 65th Leg., p. 2682, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 182.045. Semiannual Reports

The council shall make a complete and detailed report semiannually of all of its proceedings, findings, and recommendations held or made since the last report, this report to be made to the governor and to the executive director of the Texas Legislative Council.

[Acts 1977, 65th Leg., p. 2682, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**TITLE 9. HERITAGE**

**CHAPTER 191. ANTIQUITIES COMMITTEE**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	Title.
191.001.	Declaration of Public Policy.
191.002.	Definitions.
191.003.	Certain Records not Public Information.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

191.011.	Creation and Membership of Committee.
191.012.	Qualifications for Citizen Members.
191.013.	Appointment of Citizen Members.
191.014.	Term of Citizen Members.
191.015.	Per Diem and Expenses for Citizen Members.
191.016.	Chairman of Committee.
191.017.	Quorum.
191.018.	Employees of Committee.
191.019.	Records of Committee.

**SUBCHAPTER C. POWERS AND DUTIES**

191.051.	In General.
191.052.	Rules.
191.053.	Contract for Discovery and Salvage.

Section

191.054.	Permit for Salvage, Restoration, or Study.
191.055.	Supervision.
191.056.	Purchase From Salvager or Permittee.
191.057.	Restoration for Private Parties.
191.058.	Display of Artifacts.

**SUBCHAPTER D. STATE ARCHEOLOGICAL LANDMARKS**

191.091.	Ships, Wrecks of the Sea, and Treasure Imbedded in Earth.
191.092.	Other Sites or Articles.
191.093.	Prerequisites to Taking, Altering, Damaging, Destroying, Salvaging, or Excavating Certain Landmarks.
191.094.	Designating a Landmark on Private Land.
191.095.	Permit for Landmark on Private Land.
191.096.	Marking Landmark on Private Land.
191.097.	Removing Designation as Landmark.

**SUBCHAPTER E. PROHIBITIONS**

191.131.	Contract or Permit Requirement.
191.132.	Damage or Destruction.
191.133.	Entry Without Consent.

**SUBCHAPTER F. ENFORCEMENT**

191.171.	Criminal Penalty.
191.172.	Civil Action by Attorney General.
191.173.	Civil Action by Citizen.
191.174.	Assistance From State Agencies and Law Enforcement Officers.

**SUBCHAPTER A. GENERAL PROVISIONS**

§ 191.001. Title

This chapter may be cited as the Antiquities Code of Texas.

[Acts 1977, 65th Leg., p. 2683, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.002. Declaration of Public Policy

It is the public policy and in the public interest of the State of Texas to locate, protect, and preserve all sites, objects, buildings, pre-twentieth century shipwrecks, and locations of historical, archeological, educational, or scientific interest, including but not limited to prehistoric and historical American Indian or aboriginal campsites, dwellings, and habitation sites, archeological sites of every character, treasure imbedded in the earth, sunken or abandoned ships and wrecks of the sea or any part of their contents, maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants, pre-history, history, natural history, government, or culture in, on, or under any of the land in the State of Texas, including the tidelands, submerged land, and the bed of the sea within the jurisdiction of the State of Texas.

[Acts 1977, 65th Leg., p. 2683, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.003. Definitions

In this chapter:

(1) "Committee" means the Antiquities Committee.

(2) "Landmark" means a state archeological landmark.

[Acts 1977, 65th Leg., p. 2683, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.004. Certain Records Not Public Information**

(a) Information specifying the location of any site or item declared to be a state archeological landmark under Subchapter D of this chapter<sup>1</sup> is not public information.

(b) Information specifying the location or nature of an activity covered by a permit or an application for a permit under this chapter is not public information.

(c) Information specifying details of a survey to locate state archeological landmarks under this chapter is not public information.

[Added by Acts 1981, 67th Leg., p. 959, ch. 365, § 1, eff. June 10, 1981.]

<sup>1</sup> Section 191.091 et seq.

[Sections 191.005 to 191.010 reserved for expansion]

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

**§ 191.011. Creation and Membership of Committee**

There is created an Antiquities Committee, which is composed of seven members, including the Director of the Texas Historical Commission, the Director of the Parks and Wildlife Department, the Commissioner of the General Land Office, the State Archeologist, and the following citizen members: one professional archeologist from a recognized museum or institution of higher learning in Texas, one professional historian with expertise in Texas history and culture, and the Director of the Texas Memorial Museum of The University of Texas System. [Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**Application of Sunset Act**

*Acts 1977, 65th Leg., p. 1843, ch. 735, § 2.079, purports to add § 3a to Civil Statutes, art. 6145-9, without reference to repeal of said article by Acts 1977, 65th Leg., p. 2690, ch. 871, art. I, § 2(a)(4). As so added, § 3a reads:*

*"The Antiquities Committee is subject to the Texas Sunset Act [Civil Statutes, art. 5429k]; and unless continued in existence as provided by that Act the committee is abolished effective September 1, 1983."*

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

**§ 191.012. Qualifications for Citizen Members**

Each citizen member of the committee must be a resident of the State of Texas.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.013. Appointment of Citizen Members**

Each citizen member of the committee shall be appointed by the governor with the advice and consent of the senate.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.014. Term of Citizen Members**

Each citizen member of the committee shall serve for a term coexistent with the governor appointing him and until his successor is appointed and qualifies.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.015. Per Diem and Expenses for Citizen Members**

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

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.016. Chairman of Committee**

The committee shall select one of its members as chairman.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.017. Quorum**

Four members of the committee constitute a quorum for conducting business.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.018. Employees of Committee**

(a) The committee may employ the personnel necessary to perform its duties to the extent the employment is provided for by the General Appropriations Act.

(b) Employees of the committee are considered to be employees of the Texas Historical Commission. [Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.019. Records of Committee**

The committee shall keep a record of its proceedings which shall be subject to inspection by any citizen of Texas desiring to make an examination in the presence of a member of the committee or an authorized employee of the committee.

[Acts 1977, 65th Leg., p. 2684, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 191.020 to 191.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 191.051. In General

(a) The committee is the legal custodian of all items described in this chapter that have been recovered and retained by the State of Texas.

(b) The committee shall:

(1) maintain an inventory of the items recovered and retained by the State of Texas, showing the description and depository of them;

(2) determine the site of and designate landmarks and remove from the designation certain sites, as provided in Subchapter D of this chapter;

(3) contract or otherwise provide for discovery and salvage operations under the provisions of Section 191.053 of this code;

(4) consider the requests for and issue the permits provided for in Section 191.054 of this code; and

(5) protect and preserve the archeological resources of Texas.

[Acts 1977, 65th Leg., p. 2685, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.052. Rules

The committee may promulgate rules and require contract or permit conditions to reasonably effect the purposes of this chapter.

[Acts 1977, 65th Leg., p. 2685, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.053. Contract for Discovery and Salvage

(a) The committee may contract with other state agencies or institutions and with qualified private institutions, corporations, or individuals for the discovery and salvage of sunken or abandoned ships or wrecks of the sea, or any part or the contents of them, or treasure imbedded in the earth.

(b) At the discretion of the committee, the contract may provide for fair compensation to the salvager in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered. The contract may provide for appraisal by qualified experts or by representatives of the contracting parties to determine the reasonable cash value. The committee shall determine the amount constituting a fair share, taking into consideration the circumstances of each operation.

(c) The contract shall:

(1) be on a form approved by the attorney general;

(2) specify the location, nature of the activity, and the time period covered by the contract; and

(3) provide for the termination of any right in the salvager or permittee under the contract on the violation of any of the terms of the contract.

(d) The executed contract shall be recorded by the person, firm, or corporation obtaining the contract in the office of the county clerk in the county or

counties in which the operations are to be conducted prior to the commencement of the operation.

(e) Title to all objects recovered is retained by the State of Texas unless and until it is released to the salvager or permittee by the committee.

[Acts 1977, 65th Leg., p. 2685, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.054. Permit for Salvage, Restoration, or Study

(a) The committee may issue a permit to other state agencies or institutions or to qualified private institutions, companies, or individuals for the taking, salvage, excavation, restoration, or the conduct of scientific or educational studies at, in, or on landmarks, if it is the opinion of the committee that the permit is in the best interest of the State of Texas.

(b) The permit may provide for the permittee to retain a portion of any recovery as provided for contracting parties under the provisions of Section 191.053 of this code.

(c) The permit shall:

(1) be in compliance with forms approved by the attorney general;

(2) specify the location, nature of the activity, and the time period covered by the permit; and

(3) provide for the termination of any right in the permittee under the permit on the violation of any of the terms of the permit.

[Acts 1977, 65th Leg., p. 2685, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.055. Supervision

All salvage or recovery operations conducted under the contract provisions in Section 191.053 of this code and all operations conducted under permits or contracts set out in Section 191.054 of this code must be carried out:

(1) under the general supervision of the committee;

(2) in accordance with reasonable rules adopted by the committee; and

(3) in such manner that the maximum amount of historic, scientific, archeological, and educational information may be recovered and preserved in addition to the physical recovery of items.

[Acts 1977, 65th Leg., p. 2686, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

§ 191.056. Purchase From Salvager or Permittee

(a) The committee may purchase from the salvager or permittee the salvager's or permittee's share or portion of a share of items recovered that in the opinion of the committee should remain the property of the state. The committee may spend any appropriations made for this purpose that it considers advisable.

(b) The committee may accept gifts, grants, devises, or bequests of money, securities, or property to

be used in the purchase of items from the salvager or permittee.

(c) The committee may contract or agree with persons, firms, corporations, or institutions that, for the privilege of retaining temporary possession of the items, the person, firm, corporation, or institution may advance to the committee the money necessary to procure from the salvager or permittee the items the committee determines should remain the property of the State of Texas, on the condition that at any time the committee may repay the person, firm, corporation, or institution the sum so advanced, without interest or additional charge of any kind, and recover possession of the items. During the time the items are in the possession of the person, firm, corporation, or institution advancing the money for the purchase of them, the items shall be available for viewing by the general public without charge or at no more than a nominal admission fee, and the items may not be removed from the State of Texas except on the express authorization of the committee for appraisal, exhibition, or restorative purposes.

[Acts 1977, 65th Leg., p. 2686, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 191.057. Restoration for Private Parties

The committee may restore antiquities for private parties under rules promulgated by the committee. All real and administrative costs incurred in the restoration shall be paid by the private party. [Acts 1977, 65th Leg., p. 2686, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 191.058. Display of Artifacts

(a) As far as is consistent with the public policy of this chapter, the committee, on a majority vote, may arrange or contract with other state agencies or institutions, incorporated cities, and qualified private institutions, corporations, or individuals for public display of artifacts and other items in its custody through permanent exhibits established in the locality or region in which the artifacts were discovered or recovered. The committee, on a majority vote, may also arrange or contract with these same persons and groups for portable or mobile displays.

(b) The committee is the legal custodian of the items described in this chapter and shall adopt appropriate rules, terms, and conditions to assure appropriate security, qualification of personnel, insurance, facilities for preservation, restoration, and display of the items loaned under the contracts.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 191.059 to 191.090 reserved for expansion]

#### SUBCHAPTER D. STATE ARCHEOLOGICAL LANDMARKS

#### § 191.091. Ships, Wrecks of the Sea, and Treasure Imbedded in Earth

Sunken or abandoned pre-twentieth century ships and wrecks of the sea, and any part or the contents of them, and all treasure imbedded in the earth, located in, on, or under the surface of land belonging to the State of Texas, including its tidelands, submerged land, and the beds of its rivers and the sea within jurisdiction of the State of Texas, are declared to be state archeological landmarks.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

#### § 191.092. Other Sites or Articles

(a) Sites, objects, buildings, artifacts, implements, and locations of historical, archeological, scientific, or educational interest, including those pertaining to prehistoric and historical American Indians or aboriginal campsites, dwellings, and habitation sites, their artifacts and implements of culture, as well as archeological sites of every character that are located in, on, or under the surface of any land belonging to the State of Texas or to any county, city, or political subdivision of the state are state archeological landmarks.

(b) For the purposes of this section, a structure or a building has historical interest if the structure or building:

(1) was the site of an event that has significance in the history of the United States or the State of Texas;

(2) was significantly associated with the life of a famous person;

(3) was significantly associated with an event that symbolizes an important principle or ideal;

(4) represents a distinctive architectural type and has value as an example of a period, style, or construction technique; or

(5) is important as part of the heritage of a religious organization, ethnic group, or local society.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 193, ch. 90, § 1, eff. Aug. 31, 1981.]

#### § 191.093. Prerequisites to Taking, Altering, Damaging, Destroying, Salvaging, or Excavating Certain Landmarks

Landmarks under Section 191.091 or 191.092 of this code are the sole property of the State of Texas and may not be taken, altered, damaged, destroyed, salvaged, or excavated without a contract with or permit from the committee.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 193, ch. 90, § 2, eff. Aug. 31, 1981.]

**§ 191.094. Designating a Landmark on Private Land**

(a) Any site located on private land which is determined by majority vote of the committee to be of sufficient archeological, scientific, or historical significance to scientific study, interest, or public representation of the aboriginal or historical past of Texas may be designated a state archeological landmark by the committee.

(b) No site may be designated on private land without the written consent of the landowner or landowners in recordable form sufficiently describing the site so that it may be located on the ground.

(c) On designation, the consent of the landowner shall be recorded in the deed records of the county in which the land is located.

[Acts 1977, 65th Leg., p. 2687, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.095. Permit for Landmark on Private Land**

All sites or items of archeological, scientific, or historical interest located on private land in the State of Texas in areas designated as landmarks, as provided in Section 191.094 of this code, and landmarks under Section 191.092 of this code, may not be taken, altered, damaged, destroyed, salvaged, or excavated without a permit from the committee or in violation of the terms of the permit.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.096. Marking Landmark on Private Land**

Any site on private land which is designated a landmark shall be marked by at least one marker bearing the words "State Archeological Landmark" for each five acres of area.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.097. Removing Designation as Landmark**

(a) Any landmark on public or private land may be determined by majority vote of the committee to be of no further historical, archeological, educational, or scientific value, or not of sufficient value to warrant its further classification as a landmark, and on this determination may be removed from the designation as a landmark.

(b) On removal of the designation on private land which was designated by instrument of record, the committee may execute and record in the deed records of the county in which the site is located an instrument setting out the determination and releasing the site from the provisions of this chapter.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 191.098 to 191.130 reserved for expansion]

SUBCHAPTER E. PROHIBITIONS

**§ 191.131. Contract or Permit Requirement**

(a) No person, firm, or corporation may conduct a salvage or recovery operation without first obtaining a contract.

(b) No person, firm, or corporation may conduct an operation on any landmark without first obtaining a permit and having the permit in his or its possession at the site of the operation, or conduct the operation in violation of the provisions of the permit.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.132. Damage or Destruction**

(a) No person may intentionally and knowingly deface American Indian or aboriginal paintings, hieroglyphics, or other marks or carvings on rock or elsewhere that pertain to early American Indian or aboriginal habitation of the country.

(b) A person who is not the owner shall not wilfully injure, disfigure, remove, or destroy a historical structure, monument, marker, medallion, or artifact without lawful authority.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.133. Entry Without Consent**

No person who is not the owner, and does not have the consent of the owner, proprietor, lessee, or person in charge, may enter or attempt to enter on the enclosed land of another and intentionally injure, disfigure, remove, excavate, damage, take, dig into, or destroy any historical structure, monument, marker, medallion, or artifact, or any prehistoric or historic archeological site, American Indian or aboriginal campsite, artifact, burial, ruin, or other archeological remains located in, on, or under any private land within the State of Texas.

[Acts 1977, 65th Leg., p. 2688, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

[Sections 191.134 to 191.170 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

**§ 191.171. Criminal Penalty**

(a) A person violating any of the provisions of this chapter is guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than \$50 and not more than \$1,000, by confinement in jail for not more than 30 days, or by both.

(b) Each day of continued violation of any provision of this chapter constitutes a separate offense for which the offender may be punished.

[Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.172. Civil Action by Attorney General**

(a) In addition to, and without limiting the other powers of the attorney general, and without altering or waiving any criminal penalty provided in this chapter, the attorney general may bring an action in the name of the State of Texas in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter, and for the return of items taken in violation of the provisions of this chapter.

(b) Venue for an action instituted by the attorney general lies either in Travis County or in the county in which the activity sought to be restrained is alleged to be taking place or from which the items were taken.

[Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.173. Civil Action by Citizen**

(a) A citizen of the State of Texas may bring an action in any court of competent jurisdiction for restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter, and for the return of items taken in violation of the provisions of this chapter.

(b) Venue of an action by a citizen lies in the county in which the activity sought to be restrained is alleged to be taking place or from which the items were taken.

[Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**§ 191.174. Assistance From State Agencies and Law Enforcement Officers**

(a) The chief administrative officers of all state agencies are directed to cooperate and assist the committee and the attorney general in carrying out the intent of this chapter.

(b) All state and local law enforcement agencies and officers are directed to assist in enforcing the provisions and carrying out the intent of this chapter.

[Acts 1977, 65th Leg., p. 2689, ch. 871, art. I, § 1, eff. Sept. 1, 1977.]

**TITLE 10. CAVES**

**CHAPTER 201. CAVERN PROTECTION**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
201.001.	Policy.
201.002.	Definitions.

**SUBCHAPTER B. PERMITS**

201.011.	Permit Required.
201.012.	Issuance of Permit.

Section	
201.013.	Revocation.
201.014.	Penalties.

**SUBCHAPTER C. PROHIBITIONS**

201.041.	Vandalism.
201.042.	Sale of Speleothems.
201.043.	Repealed.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 201.001. Policy**

It is declared to be the public policy and in the public interest of the State of Texas to protect and preserve all caves on or under any of the land in the State of Texas, including tidelands, submerged land, and the bed of the sea within the jurisdiction of the State of Texas.

[Added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

**§ 201.002. Definitions**

In this chapter:

(1) "Cave" means any naturally occurring subterranean cavity, and includes or is synonymous with cavern, pit, pothole, well, sinkhole, and grotto.

(2) "Gate" means any structure, lock, door, or device located to limit or prohibit access or entry to any cave.

(3) "Speleothem" means a natural mineral formation or deposit occurring in a cave, and includes or is synonymous with stalagmites, stalactites, helictites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, plettes, flowstone, or other similar crystalline mineral formations commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and other similar minerals and formations.

(4) "Owner" means a person who owns title to land on which a cave is located, including a person who owns title to a leasehold estate in the land.

[Added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

[Sections 201.003 to 201.010 reserved for expansion]

**SUBCHAPTER B. PERMITS**

**§ 201.011. Permit Required**

No person may excavate, remove, destroy, injure, alter in any significant manner, or deface any part

of a cave owned by the State of Texas, unless he first obtains a permit under Section 201.012 of this code.

[Added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.012. **Issuance of Permit**

The General Land Office may issue a permit under this subsection if the person seeking the permit furnishes the following information:

- (1) a detailed statement giving the reasons and objectives for the excavation, removal, or alteration and the benefits expected to be obtained from the contemplated work;
- (2) data and results of any completed excavation;
- (3) the prior written permission from the state agency which manages the site of the proposed excavation;
- (4) a sworn statement that he will carry the permit while exercising the privileges granted; and
- (5) any other reasonable information which the General Land Office may prescribe.

[Added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.013. **Revocation**

The General Land Office may for good cause revoke any permit issued under Section 201.012 of this code.

[Added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.014. **Penalties**

(a) A person who violates Section 201.011 of this code is guilty of a Class B misdemeanor.

(b) A person who violates Section 201.012 of this code is guilty of a Class C misdemeanor and the permit shall be revoked.

[Added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

[Sections 201.015 to 201.040 reserved for expansion]

SUBCHAPTER C. PROHIBITIONS

§ 201.041. **Vandalism**

(a) A person may not, without express, prior, written permission of the owner, wilfully or knowingly:

- (1) break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material in a cave, including speleothems;
- (2) disturb or alter in any manner the natural condition of any cave; or
- (3) break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance to the cave may not be gained.

(b) A person who violates a provision of this section is guilty of a Class A misdemeanor, unless he has previously been convicted of violating this section, in which case he is guilty of a felony of the third degree.

[Added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.042. **Sale of Speleothems**

(a) A person may not sell or offer for sale any speleothems in this state, or export them for sale outside the state, without written permission from the owner of the cave from which the speleothems were removed.

(b) A person who violates this section is guilty of a Class B misdemeanor.

[Added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5, eff. June 13, 1979.]

§ 201.043. **Repealed by Acts 1981, 67th Leg., p. 2725, ch. 741, § 2(2), eff. Jan. 1, 1982**

The repealed section relating to pollution, was added by Acts 1979, 66th Leg., p. 2003, ch. 785, § 5.

See, now, Civil Statutes, art. 4477-9a, § 2.03.

Section 4 of the 1981 repealing act provides:

"This Act takes effect January 1, 1982, and applies only to offenses committed on or after that date. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed and the prior law is continued in effect for that purpose. An offense is committed before the effective date of this Act if any element of the offense occurs before that date.

## DISPOSITION TABLE

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

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

NATURAL RESOURCES CODE

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

## DISPOSITION TABLE

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

NATURAL RESOURCES CODE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5377	52.180	5382d, § 16	34.018
5378	52.181		34.019
5379	52.182	§ 17	34.019
5380	52.131	5382d—1, § 1	32.110
	52.134		34.061
	52.135		51.019
5381	52.132		52.016
5382	52.136		52.078
5382b, § 1	31.101	§ 2	—
§ 2	—	5382c, § 1	52.023
§ 3	31.102		52.024
§ 4	31.107		52.084
§ 5	31.103	§ 2	52.031
	31.104		52.090
§ 6	31.105	5382f	52.291
	31.106		52.292
§ 7	31.108		52.293
§ 7a	52.014		52.294
5282c, § 1	52.151		52.295
	52.152		52.296
§ 2	52.153	5404	51.243
5382d, § 1	34.011	5405	51.248
	34.012	5406	—
	34.013	5407	—
	34.014	5408	51.249
	34.015	5409	51.250
	34.016	5410	51.251
§ 2	34.051	5411	51.252
§ 3	34.052	5411a, § 1	51.020
	34.053	§ 2	51.020
	34.054	5412	—
§ 4	34.056	5413	51.241
	34.057		51.242
	34.060		51.244
§ 5	34.058	5414	51.245
	34.059	5415	11.011
	34.060	5415a, § 1	11.012(a)
	34.062	§ 2	11.012(b)
§ 6	34.062	§ 3	11.012(c)
	34.063		11.041
§ 7	34.101	§ 4	11.012(d)
	34.102	5415b, § 1	11.016(a)
§ 8	34.105	§ 2	11.016(b)
§ 9	34.141		to
	34.142		11.016(d)
	34.143	§ 3	11.016(e)
	34.144	§ 4	11.016(f)
	34.145	5415b—1, § 1	11.017(a)
	34.146		11.017(b)
§ 10	34.181	§ 2	11.017(c)
	34.182	5415d, § 1	61.011
	34.183		61.013
	34.184		61.015
§ 11	34.103		61.021
	34.104		61.022
§ 12	34.185		61.023
§ 13	34.055	§ 2	61.020
§ 13a	34.064	§ 3	61.001(a),
§ 14	34.020		(b), (c)
§ 15	34.002		61.012
§ 16	34.017		

DISPOSITION TABLE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5415d, § 3	61.016	5415d—3, § 7	62.055
	61.017		62.091
§ 4	61.024		62.093
	61.131		to
§ 5	61.018		62.100
§ 6	61.019		62.131
§ 7	_____		62.132
§ 8	61.122		_____
	61.123		62.133
	61.124		62.134
	61.125		62.135
	61.126		62.136
	61.127		62.137
	61.128		62.138
§ 9	61.129	§ 8	62.092
§ 10	61.130	§ 9	62.092
5415d—1, § 1	61.061	§ 10	62.001
	61.062	§ 11	62.001
	61.082		62.101
§ 2	61.064	5415d—4, § 1	61.161
§ 3	61.068	§ 2	61.162
	61.069	§ 3	61.162
	61.070		61.164
§ 4	61.071	§ 4	61.165
§ 5	61.065		61.166
	61.066		61.167
	61.067		61.173
§ 6	61.078	§ 5	61.168
§ 7	61.072	§ 5A	61.175
	61.073	§ 6	61.171
	61.074		61.172
	61.075	§ 7	61.001
	61.076		61.163
	61.077	§ 8	61.174
§ 8	61.080	§ 9	61.176
§ 9	61.081	§ 10	61.169
§ 10	61.079	§ 10A	61.170
§ 11	61.001(a)	§ 11	61.177
	61.001(b)	5415e—1, § 1	33.003
	61.063	§ 2	33.001
§ 12	61.083	§ 3	33.002
5415d—2, § 1	61.014	§ 4	33.004
§ 2	61.014	§ 5	33.011
§ 3	61.014		33.012
5415d—3, § 1	62.001		33.013
§ 2	62.002	§ 6	33.051
	62.011		33.052
	62.012		33.053
	62.013		33.054
§ 3	62.041		33.055
	62.042		33.056
	62.044		33.057
	62.045		33.058
§ 4	62.043		33.059
§ 5	62.046		33.060
	62.050		33.061
	62.052		33.062
§ 6	62.051		33.063
	62.053		33.064
§ 7	62.047	§ 7	33.101
	62.048		33.102
	62.049		
	62.054		

NATURAL RESOURCES CODE

1088

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5415e-1, § 7	33.103	5415h, § 1	63.001
	33.104	§ 2	63.002
§ 8	33.105	§ 3	63.003
	33.106		63.011
	33.107		63.012
	33.108		63.013
	33.109		63.014
	33.110	§ 4	63.091
§ 9	33.111		63.092
	33.113		63.093
	33.114	§ 5	63.051
	33.115		63.053
	33.117		63.054
	33.118		63.055
§ 10	33.119	§ 6	63.015
	33.123		63.052
	33.124		63.057
	33.125	§ 7	63.056
	33.126		63.121
	33.127		63.122
	33.128	§ 8	63.151
	33.129		63.152
	33.130	§ 9	63.181
	33.131	5417	11.043
§ 11	33.132	5418	11.042
§ 12	33.112	5419	11.076
	33.116	5420	11.077
	33.120		11.078
	33.121		11.078
	33.133	5421	11.071
	33.172	5421a, § 1	11.014
§ 13	33.171	§ 2	—
§ 14	33.014	§ 3	—
	33.015	§ 3a	—
	33.016	5421c, § 1	51.011
§ 15	33.173	§ 2	51.011
	33.174		51.053
	33.175	§ 3	51.001(10)
	33.176	§ 4	51.052
§ 16	33.122		51.054
	33.134		51.056
§ 18	33.005	§ 5	51.247
5415g, § 1	61.211	§ 6(a)	51.172
§ 2	61.213		51.174
§ 3	61.214	§ 6(b)	51.171
§ 4	61.219		51.173
§ 5	61.220		51.201
§ 6	61.215		51.204
§ 7	61.212	§ 6(c)	51.175
§ 8	61.227		to
§ 9	61.221		51.188
	61.222	§ 6(d)	51.192
§ 10	61.216	§ 6(e)	51.189
	61.217	§ 6(f)	51.191
	61.218		51.193
§ 11	61.001		to
§ 11A	61.225		51.196
§ 12	61.226		51.198
§ 12A	61.219		51.199
§ 13	61.223		51.202
§ 14	61.224	§ 6(g)	51.200

## DISPOSITION TABLE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5421c, § 6(h)	51.190	5421c-3, § 7	32.062
	51.197	§ 8	32.106
	51.203		32.108
§ 6(i)	—		32.109
§ 6(j)	51.205	§ 9	32.102
§ 7	51.070	§ 10	32.111
§ 8	52.011	§ 11	32.063
	52.012	§ 12	32.105
	52.022		32.107
	52.073	§ 13	32.109
	52.083	§ 14	—
	52.088	§ 15	—
§ 8-A	52.071	5421c-5, § 1	52.011
	52.074		52.073
§ 8-A(1)	52.100	§ 2	52.013
§ 8-A(2)	52.076		52.021
§ 8-A(3)	52.076		52.082
	52.077		52.087
§ 8-A(4)	52.079	5421c-7, § 1	53.011
§ 8-A(5)	52.086		53.012
§ 8-A(6)	52.080	§ 2	53.013
	52.085		53.015
§ 8-A(6a)	52.072		53.017
§ 8-A(6b)	—	§ 3	53.016
§ 8-A(6c)	—		53.018
§ 8-A(7)	52.100	§ 4	53.019
§ 8-A(8)	52.089	§ 5	53.014
§ 8-A(9)	52.075		53.020
	52.081	§ 6	53.022
§ 8-A(10)	52.088	§ 7	53.021
§ 8-A(11)	52.099	5421c-8, § 1	32.104
§ 8-A(12)	52.097	§ 2	32.104
§ 8-A(13)	52.098	§ 3	32.104
§ 8-A(14)	52.092	5421c-10, § 1	53.061
	52.093	§ 2	53.062
	52.094		53.063
	52.095		53.065
	52.096	§ 3	53.064
§ 9	—	§ 4	53.066
§ 10	52.022	§ 5	53.067
	52.088		53.068
§ 11	51.069	§ 6	53.069
§ 11a	52.030		53.070
	52.091	§ 7	53.071
§ 12	—	§ 8	53.073
5421c-1	51.246	§ 10	53.072
5421c-2	52.183	5421c-11, § 1	53.111
	52.184		53.112
5421c-3, § 1	—		53.113
§ 2	11.041		53.114
§ 3	32.011	§ 2	53.115
	to	§ 3	53.116
	32.014	§ 4	53.117
§ 4	32.061	5421i	52.028
	32.101	5421m, § 2	161.011
	32.103		161.062
§ 5	32.016	§ 2(A)	161.061
	32.017	§ 2(B)	161.012
	32.018	§ 2(C)	—
	32.019	§ 3	161.111
§ 6	32.020		to
	32.021		161.121
	32.022		161.126

NATURAL RESOURCES CODE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5421m, § 4	161.127	5421m, § 21	161.311
§ 5	161.122		161.321
§ 6	161.123	§ 21(A)	161.064
	161.124		to
§ 7	161.125		161.067
§ 8	161.171	§ 22	161.072
§ 9	161.016	§ 23	—
	161.128	§ 24	161.020
	161.173		161.071
	161.174	§ 25	161.013
	161.177		161.014
	161.178		161.017
	161.179		to
§ 9(a)	161.176		161.019
§ 10	161.172		161.021
	161.211		161.022
§ 10(A)	161.212	§ 26	161.015
	161.213	§ 27	—
§ 11	161.214	§ 30	161.129
	161.215	§ 31	—
§ 12	161.175	§ 32	161.401
	161.231		161.402
	161.232		161.403
	161.233	5421n, § 1	71.051
	161.234		71.052
§ 13	161.216		71.053
	161.236		71.055
§ 14	161.001	§ 2	71.051
	161.235		71.052
§ 15	161.217		71.053
	to		71.054
	161.220		71.055
	161.217	§ 3	71.056
	161.218	§ 4	71.057
	161.219	5421p, § 1	71.001
	161.220		71.002
§ 16	161.281	§ 2	71.003
	to		71.004
	161.288		71.005
§ 16(A)	161.362		71.006
§ 16(B)	161.361		71.007
	161.363	§ 2a	71.008
	to		71.009
	161.371		71.010
§ 17	161.221	§ 2b	71.010
	to		71.009
	161.227		71.008
	161.229	5421s, § 1	141.001
§ 18	161.228	§ 2	141.002
§ 19	161.312	§ 3	141.003
	to	§ 4	141.011
	161.318		141.012
	161.320	§ 5	141.071
	161.322		141.072
	to		141.073
	161.324		141.074
§ 19(A)	161.319		141.075
§ 20	161.230		141.076
§ 21	161.063		141.077
	161.068		141.078
	to		141.079
	161.070	5920—1	132.001
			132.002

DISPOSITION TABLE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
5920—2	132.003	5920—10, § 17(b)	131.166
	132.004	§ 18	131.047
	132.005	§ 19(a)	131.042
	132.006	§ 19(b)	131.043
5920—3	132.007	§ 19(c)	131.044
5920—4	132.008	§ 19(d)	131.045
5920—10, § 1	131.001	§ 19(e)	131.046
§ 2	131.002	§ 20(a)	131.261
§ 3	131.003	§ 20(b)	131.262
§ 4	131.004	§ 20(c)	131.263
	131.005	§ 20(d)	131.264
§ 5	131.006	§ 20(e)	131.265
§ 6	131.021	§ 21(a)	131.266
	to	§ 21(b)	131.267
	131.025	§ 21(c)	131.268
	131.207	§ 21(d)	131.269
§ 7	131.024	§ 21(e)	131.270
	131.026	§ 22(a)	131.231
	to	§ 22(b)	131.233
	131.033	§ 22(c)	131.234
§ 8(a)	131.131	§ 23(a)	131.208
§ 8(b)	131.142		131.209
§ 8(c)	131.135	§ 23(b)	131.210
§ 8(d)	131.135	§ 23(c)	131.211
§ 8(c)	131.132	§ 23(d)	131.212
	131.133	§ 23(e)	131.213
§ 8(f)	131.143		131.214
§ 8(g)	131.134	§ 24	131.048
§ 8(h)	131.134	§ 25	131.232
§ 8(i)	131.138	§ 26	—
§ 8(j)	131.139	§ 27	—
§ 8(k)	131.137	6004	91.011
§ 9	131.034	6005, § 1	89.002
§ 10	131.101	§ 2	89.011
§ 11	131.102	§ 3	89.012
§ 12	131.136	§ 4	89.013
	131.140	§ 5	89.082
	131.141	§ 6	89.081
§ 13(a)	131.035	§ 7	89.041
§ 13(b)	131.036		89.042
	131.037	§ 8	89.043
§ 13(c)	131.038		89.044
§ 13(d)	131.039		89.045
§ 13(e)	131.040	§ 9	89.083
§ 13(f)	131.041	§ 10	89.084
§ 14(a)	131.201	§ 11	89.121
	131.202	§ 12	89.122
§ 14(b)	131.203	§ 13	89.001
§ 14(c)	131.204	6006	91.017
§ 14(d)	131.205		91.018
§ 14(e)	131.205	6008, § 1	86.001
§ 14(f)	131.206	§ 2	86.002
§ 15	131.144	§ 3	86.011
	to		86.012
	131.158	§ 4	86.003
§ 16(a)	131.159		86.007
	to	§ 5	86.043
	131.161	§ 6	86.042
§ 16(b)	131.162	§ 7	86.181
§ 16(c)	131.163		to
§ 16(d)	131.164		86.185
§ 17(a)	131.165		

NATURAL RESOURCES CODE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
6008, § 8	86.141	6008b, § 4	101.003
	to	§ 5	101.004
	86.144	6008c, § 1	102.001
§ 9	86.145		102.002
§ 10	86.081	§ 2(a)	102.002
§ 11	86.082		102.011
	86.083		to
§ 12	86.084		102.014
	to		102.018
	86.088	§ 2(b)	102.015
§ 13	86.089	§ 2(c)	102.016
§ 14	86.090	§ 2(d)	102.017
§ 15	86.091		102.051
	to		to
	86.092		102.053
§ 16	86.221	§ 2(e)	102.081
§ 17	86.093		to
§ 18	86.094		102.083
§ 19	86.095	§ 2(f)	102.003
§ 20	86.096	§ 2(g)	102.111
§ 22	86.041		to
§ 23	86.222		102.112
	86.223	§ 2(h)	102.004
	86.224	6008-1, § 1	90.001
§ 24	86.225		90.002
§ 25	86.004		90.004
6008a, § 1	87.001	§ 2	90.007
§ 2	87.051	§ 3	90.005
	to	§ 4	90.006
	87.054	§ 5	90.003
§ 2a	87.011	6010	91.012
§ 3(a)	87.092	6012	91.013
	87.093	6013	91.014
§ 3(b)	87.095	6014	85.045
§ 3(c)	87.096		to
	87.097		85.047
§ 3(d)	87.091		85.125
	87.094		85.203
§ 3(e)	87.132	6014a	85.048
§ 3(f)	87.133		85.057
§ 3(g)	87.131		85.204
§ 3(h)	87.171	6015	91.015
	to	6016	91.016
	87.173	6018	111.002
§ 3(i)	87.174		111.003
§ 4	87.012	6019	111.011
	87.013		111.013
	87.014	6020	111.020
§ 5	87.241	6020a, § 1	51.291
	87.242		to
§ 6	87.012		51.293
6008a-1	87.211	§ 2	51.304
6008b, § 1	101.001		51.294
	to	§ 3	51.296
	101.002	§ 4	51.298
	101.011	§ 5	51.295
	to		51.298
	101.018	§ 6	51.299
§ 2	101.016	§ 7	51.300
	101.051	§ 8	51.301
	to	§ 9	51.302
	101.052	§ 10	51.303

## DISPOSITION TABLE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
6021	111.020	6046	85.042
	111.022	6047	111.261
6022	111.019		111.262
	111.020	6048	111.015
	111.021	6049	81.018
	111.022	6049a, § 1	111.001(2)
6023	81.001		111.051
	81.051	§ 2	111.052
	81.052	§ 3	111.053
	81.054	§ 4	111.132
6024	81.053	§ 5	111.054
6025	—	§ 6	111.140
6026	81.091	§ 6a	111.025
6027	—		111.131
6028	81.092		111.181
6029	85.201		to
	85.202		111.186
6029a	91.101		111.188
	to		to
	91.108		111.190
6030	81.011	§ 7	111.137
	to	§ 8	111.081
	81.016		111.086
	81.018		to
	81.019		111.088
6031	81.020	§ 8a	111.081
6032	81.111		to
	to		111.083
	81.114	§ 8aa	111.081
6032b	81.115		111.085
6032c	81.017		to
6032d	81.151		111.086
	to	§ 8aaa	111.081
	81.156		111.084
6032e	—	§ 8b	111.090
6033	85.161	§ 8bb	111.097
	to	§ 8c	111.004
	85.166	§ 9	111.133
6034	91.141	§ 10	111.134
6035	91.142		111.221
6036	85.381	§ 11	111.263
	to	§ 11a	111.093
	85.385	§ 11b	111.094
6036a	85.205	§ 11c	111.095
	to	§ 11d	111.091
	85.207	§ 11dd	111.096
6036c	91.143	§ 11e	111.092
6038	111.134	§ 11f	111.222
6039	111.187		to
6040	111.023		111.226
6041	111.141	§ 11g	111.089
6042	111.012	§ 11h	111.227
	111.135	§ 11i	—
6043	111.014	§ 12	111.136
	111.138	6049b, § 1	85.121
	111.139		85.122
6044	111.139	§ 2	85.123
6045	111.016		85.124
	to	6049c, § 5	85.058
	111.018		to
	111.024		85.064
	111.142		

NATURAL RESOURCES CODE

Civ.St. Article	Natural Resources Code Section
6049c, § 7	85.049 to 85.053
§ 8	85.241 to 85.243
§ 10	85.244 to 85.252
§ 11	85.253 to 85.259
§ 12	85.291 to 85.294
§ 13	85.321 to 85.322
§ 16	85.125
§ 18	85.013
§ 20	85.001(1), (2)
§ 21	85.002
§ 23	85.011 85.012
6049d, § 4	85.055
§ 6	85.054
§ 6-A	85.056
§ 10	85.001(a)(1) & (3), (b)
§ 12	85.125
§ 13	85.002
6049e, § 1	85.001(a)(1), (3), & (4), (b)
§ 8	85.041 to 85.044
§ 13	85.351 to 85.353
§ 17	85.207
§ 18	85.125
§ 19	85.002
6049f, § 1	85.386
§ 2	85.387
§ 3	85.388
6049g, § 1	88.001
§ 2	88.052
§ 3	88.053
§ 4	88.054
§ 5	88.091 88.092
§ 5A	88.092
§ 5B	88.093
§ 6	88.056
§ 7	88.055
§ 7A	88.051
§ 7B	88.094
§ 8	88.011
§ 8A	88.013
§ 8C	88.012

Civ.St. Article	Natural Resources Code Section
6049g, § 9	88.133 88.134
§ 10	88.131
§ 10A	88.132
6066b, § 1	91.051
§ 2	91.052
§ 4a	91.053 to 91.056
§ 4b	91.057
§ 5	91.058 to 91.062
6066c, § 1	103.001 103.002 103.041 to 103.046
§ 2	103.003
6066d, § 1	113.001
§ 2	113.002
§ 3	113.003 113.051 113.052 to 113.053
§ 4	113.132 113.011 to 113.014 113.132
§ 5	113.081
§ 6	113.082
§ 7	113.083
§ 8	113.095
§ 9	113.084 to 113.090 113.092 113.093
§ 10	113.094
§ 11	113.131 113.133
§ 12	113.201
§ 14	113.015 113.202 113.203
§ 15	113.161
§ 16	113.162
§ 17	113.163
§ 18	113.164
§ 19	113.165
§ 20	113.166
§ 21	113.091
§ 22	113.231
§ 23	113.096
§ 24	113.097
§ 25	113.232
§ 26	113.098
§ 27	113.099
§ 28	113.233
§ 29	113.234

## DISPOSITION TABLE

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
60770, § 1	35.001	6145—7, § 9	181.051
	35.011		181.052
	to	§ 10	181.101
	35.012		181.103
	35.014	§ 11	181.058
§ 2	35.051	§ 12	181.018
§ 3	35.052	§ 13	181.053
	to	6145—9, § 1	191.001
	35.056	§ 2	191.002
§ 4	35.057	§ 3	191.011
	35.058		to
§ 5	35.059		191.019
	35.060	§ 4	191.051
	35.131	§ 4a	191.058
§ 6	35.059	§ 5	191.091
	35.060		191.093
§ 7	35.061	§ 6	191.092
§ 8	35.061		191.095
	35.101	§ 7	191.094
	35.131		191.096
§ 9	35.101	§ 8	191.097
	35.131	§ 9	191.053
	35.171		191.131
	35.172	§ 10	191.054
§ 10	35.062		191.131
	35.101	§ 11	191.051
	35.102		191.052
	35.103		191.055
§ 11	35.132	§ 12	191.056
	to	§ 13	191.057
	35.135	§ 15	191.132
§ 11a	35.016	§ 16	191.133
	35.133	§ 17	191.171
§ 12	35.171	§ 18	191.172
	35.172		191.173
§ 13	35.136	§ 19	191.174
	35.172	§ 20	191.132
	35.173	6145—10, § 1	182.011
§ 14	35.016	§ 2	182.012
	35.017		182.015
	35.133	§ 3	182.014
§ 14a	35.133	§ 4(a)	182.041
§ 17	35.013	§ 4(b)	182.042
	35.015	§ 4(c)	182.043
	35.061	§ 4(d)	182.044
6145—7, § 1	181.001	§ 4(e)	182.045
	181.011	§ 4(f)	182.016
	181.060	§ 4(g)	182.017
		§ 5	182.013
§ 2	181.012	7360	151.002
	to	7361	151.003
	181.016	7361a	151.002
	181.019		to
§ 3	181.017		151.003
§ 4	181.054	7362	151.004
	181.055	7362a	151.004
	181.102	7363	151.005
§ 5	181.056	7363.1	151.005
§ 6	181.057	7363a, § 1	151.041
	181.059		to
§ 7	181.018		151.044
§ 8	181.051		151.046
		§ 2	151.045

Civ.St. Article	Natural Resources Code Section	Civ.St. Article	Natural Resources Code Section
7363b	151.001	9015, § 3	112.011
	151.006		112.012
	151.007	§ 4	112.002
9015, § 1	112.001	§ 5	112.031
§ 2	112.001		112.032

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

INDEX TO  
NATURAL RESOURCES CODE

References are to Articles

**ABANDONED OR UNCLAIMED PROPERTY**

Hydrocarbon underground storage, 91.203 et seq.  
Natural gas, storage facility, 91.184.  
Oil and gas, underground storage, 91.203 et seq.  
Pipelines, abandoning connections, 111.025.  
Wells, 89.001 et seq.

**ABSENCE AND ABSENTEES**

County surveyors, custody of records, 23.057.

**ABSTRACTS OF TITLE**

Eleemosynary and state memorial park lands, 36.054 et seq.  
Filing, 34.020.  
General land office,  
  Printing supplementary abstracts, 31.057.  
  Revision and compilation, 31.056.  
State lands, 34.054.  
State parks, 35.054.  
  Filing, 35.056.

**ACCOUNTS AND ACCOUNTING**

Asylum land sales or leases, 51.018.  
General land office, examination, 31.061.  
Public school land sales or leases, 51.018.  
Receiving clerk, examination, 31.061.

**ACQUIRING AGENCY**

Defined, coastal wetlands, 33.233.

**ACTIONS AND PROCEEDINGS**

Adverse claimant to public land, 11.077.  
Appeal and Review, generally, this index.  
Archeological landmarks, 191.172, 191.173.  
Beach park board, 62.054.  
Coastal land, littoral owners rights enforcement, 33.171 et seq.  
Conflict of Laws, generally, this index.  
Conservation foundation, 181.018.  
Control of oil property, 88.131 et seq.  
Damages, generally, this index.  
Declaratory judgments, littoral owners, beach regulations, 61.019.  
Easement actions, venue, 51.303.  
Eleemosynary and state memorial park lands, leases, damages or specific performance, 36.173.  
Evidence, generally, this index.  
Forest pest control, 152.024, 152.101 et seq.  
Hydrocarbon underground storage, 91.208.  
Injunctions, generally, this index.

**ACTIONS AND PROCEEDINGS**

—Cont'd  
Minerals appropriated from public land, value, recovery, 11.071.  
Natural gas regulation, 86.223, 86.224.  
Oil and Gas, this index.  
Oil and gas leases, riverbed and channel development, 52.099.  
Plugging abandoned oil wells, 89.081 et seq.  
Public beaches, access, obstruction removal, 61.018.  
Public School Lands, this index.  
Railroad commission personnel, campaigning, 81.151 et seq.  
Sand, marl, gravel and shell removal permits, 61.223.  
Standard gas measurement, 91.061.  
State parks, leases, 35.173.  
Surface mining and reclamation, 131.265.  
Timber appropriated from public land, value, recovery, 11.071.  
Unlawful enclosures, public land, 11.076 et seq.  
Venue, generally, this index.  
Veterans land board, forfeitures, defenses, 161.324.

**ADJOINING LAND OWNERS**

Public school land, vacant land purchase, 51.174.

**ADMINISTRATIVE LAW AND PROCEDURE**

Liquefied petroleum gas, license revocation or suspension, 113.162.  
Surface mining permits, 131.165.

**ADMIRALTY AND MARITIME JURISDICTION**

Gulfward boundary of Texas, 11.012.

**ADOPTION**

Texas co-ordinate system, 21.071.

**ADVERSE POSSESSION**

Claimants, actions against, public land claims, 11.077.

**ADVERTISEMENTS**

Asylum land, leases, 51.122.  
Beach park board, 62.099.  
Channels, oil and gas leases, 52.076.  
Eleemosynary and state memorial park lands, leases, 36.058.  
Public school land, leases, 51.122.  
Riverbeds and channel, oil and gas leases, 52.076.  
State land, leases, 34.057.  
State parks, leases, 35.058.

**AFFIDAVITS**

Oil and gas leases, unknown or unavailable owners, 52.186.

**AFFIRMATIONS**

Oaths and Affirmations, generally, this index.

**AGREEMENTS**

Contracts, generally, this index.

**AGRICULTURE**

Coastal wetlands, acquisition, exemption, 33.235.

**AIDERS AND ABETTORS**

Oil and gas conservation violations, 85.385.

**AIR**

Gas escaping into air, 86.185.

**ALLEYS**

Pipelines, right of use, 111.022.

**ALTERATION**

Archeological landmarks, 191.093.  
Caves, 201.041.  
  Permits, 201.011.

**ANIMALS**

Beaches, possession, regulation, 61.122.

**ANNEXATION OF TERRITORY**

Home-rule cities, submerged lands, 11.0131.

**ANTIQUITIES CODE OF TEXAS**

Generally, 191.001 et seq.

**ANTIQUITIES COMMITTEE**

Generally, 191.001 et seq.  
Appointment of members, 191.013.  
Chairman, 191.016.  
Creation, 191.011.  
Expenses and expenditures, 191.015.  
Membership, 191.011.  
  Appointment, 191.013.  
  Qualifications, 191.012.  
Officers and employees, 191.018.  
Per diem, 191.015.  
Powers and duties, 191.051 et seq.  
Qualifications of members, 191.012.  
Quorum, 191.017.  
Records, 191.019.  
Terms of office, 191.014.

**ANTITRUST**

Cooperative facilities for conservation and utilization of gas, conflict of laws, 103.003.

References are to Articles

**ANTITRUST—Cont'd**

Oil and gas, common purchasers, 111.097.  
 Oil and gas conservation, application of law, 85.002.  
 Oil and gas pooling and cooperative agreements, conflict of laws, 101.004.

**APPEAL AND REVIEW**

Abandoned wells, 89.122.  
 Coastal land, littoral owners, Appeal rights, 33.173.  
 Issues on appeal, 33.176.  
 Dunes, regulation, 63.151, 63.152.  
 Forest pest control, 152.101 et seq.  
 Hydrocarbon underground storage, 91.210.  
 Liquefied petroleum gas, 113.164.  
 Natural gas regulation, 86.225.  
 Oil and Gas, this index.  
 Oil and gas leases, riverbed and channel development, injunctions, 52.098.  
 Public school land, vacant land sale or lease, 51.205.  
 Railroad commission and personnel, campaigning, 81.156.  
 Surface mining operations, 131.047.  
 Unlawful enclosure of land, 11.076.

**APPLICATIONS**

Asylum Land, this index.  
 Beaches, business establishments, operating licenses, 61.164 et seq.  
 Coastal Land, this index.  
 Mineral prospecting permits, 53.012.  
 Oil and Gas Leases, this index.  
 Public School Lands, this index.  
 Sand, marl, gravel and shell removal permits, 61.213 et seq.  
 Timber purchases, 51.344.

**APPRAISERS AND APPRAISAL**

Asylum lands, 32.103, 32.104.  
 Mineral estates, areas within tidewater limits, 32.103, 32.104.  
 Permanent school fund lands, 32.103, 32.104.  
 Veterans land board,  
 Purchase, sale and disposition of land, 161.212.  
 Selected land, purchase and sale, 161.284.

**APPROPRIATION OF LAND**

Fencing, appropriation by, 11.075.  
 Herding and line-riding, appropriation by, 11.074.

**APPROPRIATIONS**

Natural gas, storage facilities, 91.179.  
 Veterans land fund, legislative appropriations, 161.179.

**ARANSAS PASS**

Dunes,  
 Conduct prohibited between Aransas pass and Mansfield ship canal, 63.092.  
 Conduct prohibited between Texas-Louisiana state line and Aransas pass, 63.091.

**ARCHEOLOGICAL LANDMARKS**

Generally, 191.091 et seq.

**ARCHIVES**

School land board, records and proceedings, 32.021.

**ARKANSAS**

Natural energy and water resources compact, 142.001 et seq.

**ARTIFACTS**

Antiquities committee, display, 191.058.

**ASSIGNMENTS**

Business establishments, operating licenses at public beaches, 61.171.  
 Eleemosynary and state memorial park lands, leases, 36.102.  
 Mineral leases, 53.020.  
 Mineral prospecting permits, 53.014.  
 Oil and gas, 85.053, 85.055, 86.081.  
 Sand, marl, gravel and shell removal permits, 61.221.  
 State land, leases, 34.103.  
 State parks, leases, 35.102.

**ASYLUM FUND**

Generally, 11.042.  
 Unlawful enclosure of land, 11.076.

**ASYLUM LAND**

Accounts, sales or leases, 51.018.  
 Actions and proceedings, sales, 51.076.  
 Advertisement of leases, 51.122.  
 Applications,  
 Leases, 51.123.  
 Purchase, 51.056.  
 Delivery, 51.057.  
 Pending applications, 51.059.  
 Appropriation by herding and line-riding, 11.074.  
 Award of lease, 51.124.  
 Bids and bidding, 32.109.  
 Duplicate high bids, 51.063.  
 Individual bids, 51.064.  
 Lease, rejection of bid, 51.125.  
 Cancellation of lease, 51.128.  
 Classification, 51.013.  
 Leased and forfeited land, 51.073.  
 Collection of remittances, sales, 51.061.  
 Commercial purposes, leases, 51.121.  
 Conditions for sale, 51.052.  
 Delivery, applications for purchase, 51.057.  
 Disposition of first payments, sales, 51.062.  
 Fencing, appropriation, 11.075.  
 Forfeitures, 51.071.  
 Classification and sale of leased and forfeited land, 51.073.  
 Deceased purchasers land, 51.075.  
 Effect of forfeiture, 51.072.  
 Fund accounts, sales or leases, 51.068.  
 Improvements, removal, lessees, 51.130.  
 Leases, 32.101 et seq., 51.011 et seq., 51.121 et seq.  
 Agents, 52.172.  
 Liens and incumbrances, 51.129.  
 Liens and incumbrances,  
 Leases, 51.129.  
 Sales, 51.077.  
 Method for making first payments, sales, 51.058.  
 Minerals, reservation, 51.054.  
 Notice,  
 Acceptance and execution of lease, 51.126.  
 Award, 51.066.  
 Leases, 32.107.  
 Acceptance and execution, 51.126.  
 Sale, 32.107, 51.065.  
 Offer of lease, rejection, 51.125.  
 Oil and Gas Leases, generally, this index.

**ASYLUM LAND—Cont'd**

Opening applications to purchase, 51.059.  
 Ownership relinquishments, 52.171 et seq.  
 Patent on part of tract, 51.083.  
 Payments,  
 Disposition of first payments, sales, 51.062.  
 Information required with payments, sale, 51.067.  
 Method for making first payment, sales, 51.058.  
 Recordation of first payments, sales, 51.060.  
 Prohibited sale of certain land, 51.053.  
 Records and recordation,  
 First payment, sales, 51.060.  
 Leases, 51.018, 51.127.  
 Sales, 51.018, 51.065.  
 Refunds, sales or leases, 51.020.  
 Reinstatement of land purchases, 51.074.  
 Rejection of lease bid or offer, 51.125.  
 Removal of improvements, lessees, 51.130.  
 Reservation of minerals, 51.054.  
 Residence, sale without condition of residence, 51.084.  
 Sales, 32.101 et seq., 51.011 et seq., 51.051 et seq.  
 Agents, 52.172.  
 Forfeitures, generally, ante.  
 Special fees, sales or leases, 51.019.  
 Time for purchase, 51.085.  
 Transfers,  
 Indebtedness, 51.078.  
 Land purchased from state, 51.079 et seq.  
 Valuation, 51.013.

**ATTORNEY GENERAL**

Duties,  
 Asylum land sale or lease, 51.016.  
 Public school land sale or lease, 51.016.  
 Railroad commission, rules, enforcement, 81.054.  
 Unlawful enclosure of land, recovery, fees, 11.076.  
 Veterans land board bonds, approval, 161.118.

**ATTORNEYS**

Beach park board, employment, 62.048.

**AUDITS AND AUDITING**

Beach park board, 62.053.

**BEACH PARK BOARD**

Generally, 62.001 et seq.  
 Actions and proceedings, 62.054.  
 Advertising, 62.099.  
 Application of law, 62.001.  
 Attorneys, employment, 62.048.  
 Audits, 62.053.  
 Authority, 62.011.  
 Bonds, 62.131 et seq.  
 Bonds (officers and fiduciaries), 62.043.  
 Chairman, 62.046.  
 Compensation, 62.044.  
 Contracts, 62.096 et seq.  
 County attorney, legal services, 62.048.  
 Creation, 62.012.  
 Definitions, 62.002.  
 Election, 62.013.  
 Expenses, 62.044.  
 Fees, charging, 62.094.  
 Funds,  
 Management, 62.052.  
 Use, 62.095.

References are to Articles

**BEACH PARK BOARD—Cont'd**

Jurisdiction, 62.091, 62.092.  
 Leases, 62.096, 62.097.  
 Legal services, 62.048.  
 Management of funds, 62.052.  
 Meetings, 62.050.  
 Members, 62.041.  
 Oath of office, 62.043.  
 Officers and employees, 62.046, 62.049.  
   Park managers, 62.047.  
 Park authority, 62.093.  
 Park managers, 62.047.  
 Powers and duties, 62.091 et seq.  
 Purpose, 62.011.  
 Records, 62.051.  
 Revenue bonds, 62.131 et seq.  
 Rules and regulations, 62.100.  
 Seal, 62.055.  
 Terms of office, 62.042.  
 Vacancies in office, 62.045.

**BEACHES**

Generally, 61.001 et seq.  
 Access, 61.001 et seq.  
 Animals, possession on, 61.122.  
 Business establishments, operation licenses, 61.161 et seq.  
 Definitions, 61.001, 61.012.  
   Maintenance of beaches, 61.063.  
 Fines and penalties,  
   Business establishments, operating without license, 61.177.  
   Limitation of access, 61.013, 61.014.  
   Obstruction, creation, 61.013.  
   Traffic and litter regulation, 61.127.  
 Gravel, removal regulation, 61.211 et seq.  
 Gulf of Mexico, swimming, 61.122.  
 Line of vegetation, 61.017.  
 Litter regulation, 61.121 et seq.  
 Maintenance, 61.061 et seq.  
 Marl, removal regulation, 61.211 et seq.  
 Obstructions, 61.013.  
 Parking fees, 61.070.  
 Penalties. Fines and penalties, generally, ante.  
 Rights of the public, 61.130.  
 Sand, removal regulation, 61.211 et seq.  
 Shells, removal regulation, 61.211 et seq.  
 Swimming, Gulf of Mexico passes, 61.122.  
 Traffic regulations, 61.121 et seq.  
 Use of facilities, fees, 61.070.

**BENEFITS**

Conservation foundation, private benefits, 181.058.

**BEQUESTS**

Conservation foundation, 181.054, 181.055.

**BIDS AND BIDDING**

Asylum Land, this index.  
 Eleemosynary and state memorial park lands, leases, 36.060.  
   Acceptance and rejection of bids, 36.061.  
 Geothermal resources, leases, 141.076.  
 Mineral estates, areas within tidewater limits, sale or lease, 32.109.  
 Oil and Gas Leases, this index.  
 Permanent school fund land, sale or lease, 32.109.  
 Political subdivisions, mineral leases,  
   Receiving bids and awarding leases, 71.006.  
   Rejecting bids and additional bids, 71.007.

**BIDS AND BIDDING—Cont'd**

Public school land, sales,  
   Duplicate high bids, 51.063.  
   Individual bids, 51.064.  
 State land, leases, 34.060.  
 State parks, leases, 35.060.  
   Acceptance and rejection of bids, 35.061.  
 Veterans land board bonds, 161.123, 161.124.

**BILLS OF SALE**

Timber sales, 151.041 et seq.

**BOARDS AND COMMISSIONS**

Beach Park Board, generally, this index.  
 Defined,  
   Coastal public lands management, 33.004.  
   Leasing boards, 34.001.  
   Natural gas, 91.173.  
   Oil and gas, 91.201.  
   School land board, 32.001.  
   State park lands leasing board, 35.001.  
   Surveys and surveyors, 22.001.  
 Eleemosynary and State Memorial Park Lands, this index.  
 Examiners board, generally. Surveys and Surveyors, this index.  
 General Land Office, this index.  
 Interstate natural energy and water resources, 142.002 et seq.  
 Leasing Boards, generally, this index.  
 Railroad Commission, generally, this index.  
 School Land Board, generally, this index.  
 State Parks, this index.  
 Veterans Land Board, generally, this index.

**BONDS**

Beach park board, 62.131 et seq.  
 Veterans land board, 161.111 et seq.

**BONDS (OFFICERS AND FIDUCIARIES)**

Beach park board, 62.043.  
 County surveyors, 23.013.  
   Deputy surveyors, 23.014.  
 Crude petroleum storage tanks or facilities, 111.053.  
 General Land Office, this index.  
 Interstate natural energy and water resources commission, director and treasurer, 142.005.  
 Oil and gas conservation laws and orders, actions challenging, 85.248 et seq.  
 Oil and gas pollution prevention, 91.103 et seq.  
 Surface mining and reclamation, 131.201 et seq.  
 Veterans land board, 161.012.

**BONUSES**

State land, leases,  
   Fixing bonus, 34.059.  
   Minimum bonus, 34.058.

**BOOKS AND PAPERS**

General Land Office, this index.  
 Oil and gas, requirements, 91.141.  
 Oil and gas conservation, examination of books, 85.062.  
 Pipelines, 111.138.  
 Veterans land board, 161.065.  
   Depository, 161.019.

**BOUNDARIES**

Generally, 11.012 et seq.  
 Coastal boundaries, location, 31.063, 33.060.  
 Extension, Texas-New Mexico boundary, 11.015.  
 Gulfward boundaries, 11.013.  
   State, 11.012.  
 Land acquired from Mexico, 11.016.  
 Public beaches, areas with no marked vegetation line, 61.016.

**BRANDS**

Timber, branding, 151.001 et seq.

**BROKERS**

Oil and gas pipeline equipment, sales, 112.001 et seq.

**BUDGET**

Interstate natural energy and water resources commission, 142.005.

**BURDEN OF PROOF**

Oil and gas, conservation laws and orders, actions challenging, 85.243.

**BUSINESS AND COMMERCE**

Public school and asylum lands, leases, 51.121.

**BUSINESS ESTABLISHMENTS**

Public beaches, operating licenses, 61.161 et seq.

**BYLAWS**

Interstate natural energy and water resources commission, 142.005.

**CAMPAIGNING**

Railroad commission personnel, 81.151 et seq.

**CANALS**

Pipelines under canals, 111.021.

**CANCELLATION**

Veterans land board, insurance, 161.370.

**CARBON BLACK MANUFACTURE**

Manufacturers and Manufacturing, this index.

**CARBON DIOXIDE**

Pipes and pipelines, common carriers, 111.001 et seq.

**CARRIERS**

Motor carriers, liquefied petroleum gas, 113.131 et seq.

**CASINGHEAD GAS**

Use, 86.183.

**CAVES**

Crimes and offenses, 201.014, 201.041 et seq.  
 Fines and penalties, 201.014, 201.041 et seq.  
 Licenses and permits, 201.011 et seq.  
 Protection, 201.001 et seq.  
 Sales, speleothems, 201.042.  
 Vandalism, 201.041.

**CENTRAL ZONE**

Texas co-ordinate system, 21.073 et seq.

References are to Articles

**CERTIFICATES AND CERTIFICATION**

Coal pipelines, 111.301 et seq.  
Coastal lands, wetlands, 33.236, 33.237.  
Oil wells, certificates of compliance, 85.161 et seq.  
Surveyors certification, 21.042.  
Wetlands, coastal wetlands, 33.236, 33.237.

**CERTIFYING AGENCY**

Defined, coastal wetlands, 33.233.

**CHAIN CARRIERS**

County surveyors, employment, 23.015.

**CHAIRMAN**

Beach park board, 62.046.  
School land board, 32.014.

**CHAMIZAL AREA**

State land, 11.017.

**CHANNELS**

Oil and gas leases, 52.071 et seq.

**CHARITABLE CORPORATIONS**

Conservation foundation, 181.001 et seq.

**CITIES, TOWNS AND VILLAGES**

Beaches, maintenance, cities ineligible for state funds, 61.080.  
Coastal land, leases, eligibility, 33.109.  
Gulfward boundaries, 11.013.  
Home-rule cities, submerged lands, revenue, 11.0131.  
Public beach maintenance, duties, 61.065.  
Public beaches within incorporated cities, sand, marl, gravel or shell removal, 61.225.

**CLAIMS**

Forest pest control, claim against landowner, 152.023.  
Land patents, doubtful claims, 51.248.

**CLASSIFICATION**

Asylum land, 51.013.  
Public school land, 51.013.

**CLERKS**

General Land Office, this index.

**COAL**

See, also, Mines and Minerals, generally, this index.  
Mineral leases, 53.061 et seq.  
Pipelines, 111.301 et seq.  
Public school lands,  
Geophysical and geochemical exploration permits, 53.161.  
Leases, 53.151 et seq.

**COASTAL BOUNDARIES**

Location, 31.063, 33.060.

**COASTAL LAND**

Generally, 33.001 et seq.  
Acquisition, wetlands, 33.231 et seq.  
Actions and proceedings, littoral owners rights enforcement, 33.171 et seq.  
Administrative provisions, 33.011 et seq.  
Agriculture, wetland acquisition, exemption, 33.235.  
Amendment of management programs, 33.054.  
Appeal and review, littoral owners rights enforcement,  
Issue on appeal, 33.176.  
Right to appeal, 33.173.

**COASTAL LAND—Cont'd**

Applications to acquire rights, 33.101.  
Contents, 33.102.  
Processing applications, 33.104.  
Automatic revocation and termination of permits, 33.125.  
Boundaries, locating and marking, 31.063, 33.060.  
Certificates and certification, wetlands, 33.236, 33.237.  
Citation, service, 33.175.  
Complaints, 33.061.  
Contracts, 33.110.  
Coordination, 33.201 et seq.  
Cumulative remedies, 33.133.  
Definitions, 33.004.  
Development of land, littoral owners, 33.134.  
Development of management program, 33.052.  
Easements, 33.111.  
Failure to obtain easement, 33.112.  
Interpretation of easements, 33.113.  
Policies, provisions and conditions of easements, 33.114.  
Elements of management program, 33.053.  
Eminent domain, wetlands, 33.231 et seq.  
Exceptions, permit requirements, 33.122.  
Executive agency, 33.011.  
Exemptions, wetland acquisition, 33.235.  
Existing rights, 33.005.  
Federal aid, wetland acquisition, 33.238.  
Fee interest, purchase, 33.058.  
Fees, leases, easements and permits, 33.063.  
Fines and penalties, unauthorized structures, 33.121.  
Forms, applications to acquire rights, 33.102.  
Franchises, 33.110.  
Funds, wetland acquisition, 33.238.  
Gifts,  
Land, 33.057.  
Wetlands, 33.234, 33.238.  
Grants, wetlands, 33.234, 33.238.  
Hearings, management programs, 33.055.  
Home-rule cities, submerged lands, revenues, 11.0131.  
Interest which may be granted, 33.103.  
Leases,  
Cities, eligibility, 33.109.  
Counties, eligibility, 33.109.  
Persons to whom land may be leased, 33.105.  
Policies, provisions and conditions, 33.106.  
Protection of rights, 33.107.  
Licenses and permits, 33.118 et seq.  
Automatic revocation and termination, 33.125.  
Exception, permit requirements, 33.122.  
Failure to obtain permit, 33.120.  
Issuance, 33.119.  
Policies, provisions and conditions, 33.123.  
Prohibitions on grant of permit, 33.129.  
Renewal, 33.127.  
Revocation, 33.125.  
Single permit, 33.118.  
Structures, permits prohibited for certain structures, 33.124.  
Termination, 33.126.  
Automatic termination, 33.125.  
Terms and renewal permits, 33.127.  
Littoral property privately owned, use, public policy, 33.117.

**COASTAL LAND—Cont'd**

Locating boundaries, 31.063, 33.060.  
Management, 33.001 et seq.  
Marking boundaries, 33.060.  
Parks and wildlife code not repealed, 33.005.  
Permits. Licenses and permits, generally, ante.  
Petitions, littoral owner rights enforcement, 33.174.  
Piers,  
Construction, 33.115.  
Failure to register piers, 33.116.  
Preservation, wetlands, 33.231 et seq.  
Priorities and preferences, wetland acquisition, 33.236, 33.237.  
Processing applications to acquire rights, 33.104.  
Programs, 33.201 et seq.  
Protection of rights, 33.107.  
Public policy, 33.001.  
Publications, reports, problems and issues, 33.204.  
Purchase of fee and lesser interests, 33.058.  
Ranching, wetland acquisition, exemption, 33.235.  
Rebuilding of structures, 33.130.  
Registration of structures, 33.132.  
Repair of structures, 33.130.  
Reports, problems and issues, 33.204.  
Review of management programs, 33.054.  
Revocation of permit, automatic revocation, 33.125.  
Rights,  
Coastal public land, 33.101 et seq.  
Littoral owners, enforcement, 33.171 et seq.  
Public, 33.108.  
Rules and regulations, wetlands, 33.234.  
Sales, wetlands, 33.231 et seq.  
Service of citation, 33.175.  
Structures,  
Land adjacent to coastal land, 33.056.  
Permits prohibited for certain structures, 33.124.  
Property of state, 33.131.  
Rebuilding, 33.130.  
Registration, 33.132.  
Repairs, 33.130.  
Unauthorized structures, 33.121.  
Use of previously unauthorized structures, 33.128.  
Studies,  
Engineering problems, 33.059.  
Problems and issues, 33.204.  
Submerged lands, home-rule cities, revenues, 11.0131.  
Termination of permits, automatic termination, 33.125.  
Time, petitions, filing, littoral owner rights enforcement, 33.174.  
Unauthorized structures, 33.121.  
Use and development by littoral owners, 33.134.  
Venue, enforcement of rights of littoral owners, 33.172.  
Wetlands, acquisition, 33.231 et seq.  
**COASTAL NATURAL RESOURCE AREAS**  
Defined, coordination, 33.203.  
**COASTAL WETLAND**  
Acquisition, 33.231 et seq.  
Defined, 33.233.

References are to Articles

**COASTLINE**

Defined,  
Gulfward boundaries, 11.013.  
Home-rule cities, 11.0131.

**COLLEGES AND UNIVERSITIES**

University Land, generally, this index.

**COMMERCIAL PAPER**

Veterans land board bonds, 161.111 et seq.

**COMMINGLING**

Oil and gas, 85.053, 85.055, 86.081.

**COMMISSIONER**

Defined, 11.001.  
Board of examiners of land surveyors, 22.001.  
General land office, 31.001.  
Surveys and surveyors, 21.001.

**COMMISSIONS**

Boards and Commissions, generally, this index.

**COMMITTEES**

Antiquities Committee, generally, this index.

**COMMON CARRIERS**

Pipes and Pipelines, generally, this index.

**COMMUNICATIONS**

Historical resources development council, 182.041.

**COMPACTS**

Mining compact, 132.001 et seq.  
Natural energy and water resources, 142.001 et seq.  
Oil and gas, conservation, 90.001 et seq.

**COMPENSATION AND SALARIES**

Beach park board, 62.044.  
Conservation foundation, 181.017.  
Historical resources development council, 182.013.  
Interstate natural energy and water resources commission, 142.004.  
Mining council, 132.006.  
Railroad commission, 81.016.  
Payment, 81.018.  
Royalties, generally, this index.  
Veterans land board, 161.015.

**COMPLAINTS**

Coastal land, unauthorized use, 33.061.

**COMPOUNDS**

Hydrocarbons, generally, this index.

**COMPROMISE AND SETTLEMENT**

Natural gas, reserves, 91.183.

**CONDEMNATION**

Eminent Domain, generally, this index.

**CONDITIONS**

Veterans land board,  
Leases, 161.228.  
Sale of land, 161.232.

**CONFIDENTIAL OR PRIVILEGED INFORMATION**

Archeological land-marks, records, 191.004.  
Conservation foundation files, 181.051.  
Surface mining operations, 131.048.

**CONFLICT OF LAWS**

Beach traffic and litter regulation orders, 61.128.  
Beach traffic and litter regulation ordinances, 61.129.  
Cooperative facilities for conservation and utilization of gas, 103.003.  
Oil and gas pooling and cooperative agreements, 101.004.

**CONSENT**

Archeological sites, entry without consent, 191.133.

**CONSERVATION**

Facilities for conservation and utilization of gas, 103.001 et seq.  
Interstate compact to conserve oil and gas, 90.001 et seq.  
Natural energy and water resources compact, 142.001 et seq.  
Natural gas, 91.171 et seq.  
Oil and Gas, this index.  
Soil conservation, easements, 51.304.

**CONSERVATION AND RECLAMATION DISTRICTS**

Land acquired from Mexico, 11.016.

**CONSERVATION FOUNDATION**

Generally, 181.001 et seq.  
Actions and proceedings, 181.018.  
Bequests, 181.054, 181.055.  
Civil immunity, official acts, 181.018.  
Compensation and salaries, 181.017.  
Confidential files, 181.051.  
Contracts, 181.051.  
Data collection, 181.001.  
Devises, 181.054, 181.055.  
Disposition of property or income, 181.057.  
Eminent domain, 181.060.  
Establishment, 181.011.  
Expenses and expenditures, 181.017.  
Facilities of other agencies, 181.059.  
Federal grants, application, 181.001.  
Funds, federal, application, 181.001.  
Gifts, 181.054, 181.055.  
Governmental agencies, contracts, 181.051.  
Grants, applications for, 181.001.  
Management of property or income, 181.057.  
Meetings, 181.015.  
Members, 181.012.  
Defined, 181.002.  
Officers and employees, 181.014.  
Powers and duties, 181.051 et seq.  
Private benefits or profits, 181.058.  
Proxy representatives, members, 181.012.  
Quorum, 181.016.  
Real estate acquisition, 181.056.  
Register, unique areas and resources, 181.001.  
Reports, 181.053.  
Rules and regulations, 181.052.  
Seal, 181.019.  
Services of other agencies, 181.059.  
Surveys, 181.001.  
Tax exemptions, 181.101 et seq.  
Terms of office, 181.013.

**CONSIDERATION**

Easements, 51.306.

**CONSTRUCTION OF CODE**

Generally, 1.002.

**CONTAINERS**

Liquefied petroleum gas, rules and standards, 113.053.

**CONTRACTS**

Antiquities committee, discovery of salvage, 191.053.  
Beach park board, 62.096 et seq.  
Coal pipelines, transportation contracts, 111.304.  
Coastal land, use, 33.110.  
Cooperative agreements, oil and gas, 101.001 et seq.  
Forest pest control, cooperative agreements, 152.026.  
Forms, riverbed and channel development, 52.080.  
Gayule sales, 51.349.  
Home-rule cities, submerged lands, 11.0131.  
Lechuguilla sales, 51.349.  
Oil and gas, pooling and cooperative agreements, 101.001 et seq.  
Riverbeds and channels,  
Development, contract procedures, 52.081.  
Well drilling, 52.079.  
Royalty contracts, filing, 52.134.  
Salvage or recovery operations, 191.131.  
Sulphur production unitization, 53.112 et seq.  
Unitization of leased areas, 52.151 et seq.

**CONVEYANCES**

Deeds and Conveyances, generally, this index.

**COOPERATIVE AGREEMENTS**

Oil and gas, 101.001 et seq.

**CORPORATIONS**

Forfeiture of charter, oil and gas violations, 111.093.

**COUNCILS**

Defined, coastal coordination, 33.203.  
Historical Resources Development Council, generally, this index.  
Mining council, 132.003 et seq.

**COUNTIES**

Beaches, maintenance, counties ineligible for state funds, 61.081.  
Coastal land, leases, eligibility, 33.109.  
Dunes, critical dune areas, notices, 63.122.  
Gulfward boundaries, 11.013.  
Public beach maintenance, duties, 61.066.  
Zone designations, Texas co-ordinate system, 21.074.

**COUNTY ATTORNEY**

Beach park board, legal services, 62.048.

**COUNTY SURVEYORS**

Generally, 23.001 et seq.  
Absence, custody of records, 23.057.  
Bonds (officers and fiduciaries), 23.013.  
Deputy surveyor, 23.014.  
Bound records, 23.055.  
Chain carriers and markers, 23.015.  
Corrections, field notes, 23.053.  
Custody of records, absence of county surveyor, 23.057.  
Definitions, 23.001.  
Deputy surveyor, 23.014.  
Designated county, 23.053.  
Election, 23.011.

References are to Articles

**COUNTY SURVEYORS—Cont'd**

Failure to make survey, 23.059.  
 Fees, corrected field notes, 23.053.  
 Field notes, records, 23.053.  
 Inspection rights, 23.054.  
 Location of office, 23.016.  
 Lost records, 23.056.  
 Markers, 23.015.  
 Office location, 23.016.  
 Powers and duties, 23.051 et seq.  
 Records and recordation,  
     Bound records, 23.055.  
     Custody of records, absence of county surveyor, 23.057.  
     Delivery of records to successor, 23.058.  
     Field notes, 23.053.  
     Lost records, 23.056.  
 Residence, 23.012.  
 Right of inspection, 23.054.  
 Successors, delivery of records to, 23.058.  
 Surveys on which patents to be obtained, 23.052.  
 Term of office, 23.011.

**CRIMES AND OFFENSES**

Appropriation of land,  
     Fencing, 11.075.  
     Herding and line-riding, 11.074.  
 Archeological landmarks, 191.171.  
 Beaches, traffic and litter regulations, 61.127.  
 Caves, 201.041 et seq.  
     Protection, 201.014.  
 Embezzlement, general land office receiving clerk, 31.062.  
 Fencing, appropriation of land, 11.075.  
 Herding, appropriation of land, 11.074.  
 Line-riding, appropriation of land, 11.074.  
 Oil and Gas, this index.  
 Oil and gas conservation violations, 85.381 et seq.  
 Speleothems, sales, 201.042.  
 Surface mining and reclamation, 131.267 et seq.  
 Used oil field equipment dealers, 112.032.

**CRUDE PETROLEUM STORAGE TANKS OR FACILITIES**

Generally, 111.051 et seq.  
 Application of law, 111.051.  
 Bonds (officers and fiduciaries), 111.053.  
 Discrimination, 111.052.  
 Liens, storage charges, 111.054.  
 Rules and regulations, 111.132 et seq.  
 Statements, monthly statements, filing, 111.140.

**CUSTODY**

County surveyors, records, absence of county surveyor, 23.057.  
 General land office, records, 31.052.

**DAMAGES**

Adverse claimant of land, 11.077.  
 Archeological landmarks, 191.093, 191.132.  
 Eleemosynary and state memorial park lands, leases, actions, 36.173.  
 Oil and gas, actions, 111.095.  
 Oil and gas conservation violations, 85.321, 85.322.  
 Oil and gas leases, riverbed and channel development, eminent domain, 52.096.  
 State parks, leases, action for damages, 35.173.

**DAMAGES—Cont'd**

Surface damages, coal, lignite, sulphur, etc., leases, 53.066.  
 Unlawful enclosure of land, recovery, 11.076.

**DANGER**

Surface mining operations, 131.261 et seq.

**DATA**

Conservation foundation, collection, 181.001.

**DEALERS**

Oil and gas pipeline equipment, sales, 112.001 et seq.

**DEATH**

Land patentee, 51.245.  
 Veterans land board, insurance, death of insured, 161.369.

**DECLARATORY JUDGMENTS**

Littoral owners, beach regulations, 61.019.

**DECREES**

Judgments and Decrees, generally, this index.

**DEEDS AND CONVEYANCES**

Acquisition of deed of acquittance to excess acreage, 51.246.  
 Land Patents, generally, this index.  
 Leases, generally, this index.  
 New Mexico, extension of boundary, 11.015.  
 Veterans land board, land purchase, sale or other disposition, 161.229.

**DEFENSES**

Veterans land board, forfeitures, 161.324.

**DEFINITIONS**

Words and Phrases, generally, this index.

**DELIVERY**

Asylum land, applications to purchase, 51.057.  
 County surveyors, delivery of records to successor, 23.058.  
 Gas delivery, standard gas measurement, 91.058.  
 Land patents, 51.244.  
 Public school land, applications to purchase, 51.057.

**DEPOSITS**

General land office permits, 31.103.  
 Geothermal resources, fee deposits, 141.072.  
 Leasing boards, receipts, 34.018.  
 Public School Lands, this index.  
 Railroad commission, 81.112.  
 Surface mining and reclamation, 131.201 et seq.

**DESCRIPTION**

Asylum land, sale or lease offers, 32.106.  
 Mineral estates, areas within tidewater limits, sale or lease offers, 32.106.  
 Permanent school fund lands, sale or lease offers, 32.106.

**DESIGNATION**

Archeological landmarks, private land, 191.094, 191.097.

**DESTRUCTION**

Archeological landmarks, 191.093, 191.132.  
 Caves, 201.041.  
     Permits, 201.011.

**DEVELOPMENT**

Historical Resources Development Council, generally, this index.

**DEVISES**

Conservation foundation, 181.054, 181.055.

**DIRECTORS**

Interstate natural energy and water resources commission, 142.005.  
 Liquefied petroleum gas division, 113.013.

**DISCRIMINATION**

Crude petroleum storage tanks or facilities, 111.052.  
 Oil and gas, common purchasers, discrimination prevention, 111.091.  
 Pipelines, 111.015 et seq.

**DISSOLUTION**

Oil and gas, pooled units, 102.081 et seq.

**DIVISION LINES**

Surveys, 21.014.

**DIVISIONS**

Liquefied petroleum gas division, 113.011 et seq.

**DOCKETS**

School land board, 32.020.  
     Inspection, 32.022.

**DOMICILE AND RESIDENCE**

Asylum land, sale without condition of residence, 51.084.  
 County surveyors, 23.012.  
 General land office commissioner, 31.012.  
 Public school land, sale without condition of residence, 51.084.

**DRAFTSMEN**

General land office, employment, 31.019.

**DRILLING**

Oil and Gas Wells, generally, this index.

**DUNES**

Generally, 63.001 et seq.  
 Appeal and review, 63.151, 63.152.  
 Application of law, 63.003.  
 Critical dune areas, 63.121, 63.122.  
 Definitions, 63.002.  
 Findings of fact, 63.001.  
 Fines and penalties, 63.181.  
 Licenses and permits, 63.051 et seq.  
 Notice, 63.056.  
     Critical dunes area, 63.122.  
     Protection lines, 63.013.  
 Prohibited activity, 63.091 et seq.  
 Protection line, 63.011 et seq.

**EASEMENTS**

Generally, 51.291 et seq.  
 Annual privilege fee, 51.298.  
 Coastal Land, this index.  
 Conditions, 51.295.  
 Consideration, 51.306.  
 Designated facilities,  
     Easements and leases for, 51.292.  
     Fees, 51.299.

References are to Articles

**EASEMENTS—Cont'd**

Disposition of easement income, 51.300.  
Facilities, fees for designated facilities, 51.299.  
Fees, annual privilege fee, 51.298.  
Fines and penalties, 51.302.  
Flood prevention, 51.304.  
Forms of grants, 51.294, 51.305.  
Grants of easements, 51.291.  
Interest, past due payments, 51.301.  
Mineral rights reservation, 51.307.  
Payments,  
  Disposition of income, 51.300.  
  Past due payments, interest, 51.301.  
Privilege fee, 51.298.  
Prohibited activities, 51.302.  
Recording, 51.297.  
Reservation of mineral rights, 51.307.  
Soil conservation, 51.304.  
State land, 34.064.  
Term of easements, 51.296.  
Terms of grant, 51.305.  
University land, 51.293.  
Venue, actions concerning easements, 51.303.

**EDUCATION, STATE BOARD**

Data, public school land sales or leases, furnishing, 51.017.

**ELECTIONS**

Beach park board, 62.013.  
County surveyors, 23.011.  
General land office commissioner, 31.012.  
Railroad commission personnel, campaigning, 81.151 et seq.

**ELECTRICITY**

Natural gas, relocation, 91.178.

**ELEEMOSYNARY AND STATE MEMORIAL PARK LANDS**

Generally, 36.001 et seq.  
Abstracts of title, 36.054 et seq.  
Actions and proceedings, leases, damages or specific performance, 36.173.  
Assignment of leases, 36.102.  
Bids and bidding, leases, 36.060.  
  Acceptance and rejection of bids, 36.061.  
Boards and commissions. Leasing boards, generally, post.  
Damages, leases, actions, 36.173.  
Development, lessee duty, 36.171.  
Drainage prevention, lessee duties, 36.171.  
Drilling locations, prohibited locations, 36.063.  
Examination of title, 36.055.  
Forfeiture of lease, 36.172.  
Lands subject to lease, 36.051.  
Leases, 36.051 et seq.  
  Advertisement, 36.058.  
  Assignment, 36.102.  
  Bids and bidding, 36.060.  
  Acceptance and rejection of bids, 36.061.  
  Conditions of leases, 36.101 et seq.  
  Development, lessee duty, 36.171.  
  Drainage prevention, lessee duty, 36.171.  
  Due date for payments, 36.132.  
  Duties of lessee, 36.171 et seq.  
  Forfeiture, 36.172.  
  Lien of state, 36.136.  
  Placing lease on market, 36.057.  
  Records, inspection, 36.135.  
  Relinquishment of lease, 36.103.

**ELEEMOSYNARY AND STATE MEMORIAL PARK LANDS—Cont'd**

Leases—Cont'd  
  Rental,  
    Minimum rental, 36.059.  
    Payments, 36.131 et seq.  
  Royalties,  
    Minimum royalty, 36.059.  
    Payments, 36.131 et seq.  
  Statements accompanying payments, 36.134.  
  Term of lease, 36.101.  
Leasing boards, 36.011 et seq.  
  Creation, 36.011.  
  Definitions, 36.001.  
  Members, 36.012.  
  Powers and duties, 36.051 et seq.  
  Quorum, 36.013.  
  Records, 36.014.  
  Rules and regulations, 36.015.  
Lien of state, leases, 36.136.  
Maps, 36.053.  
Necessary facilities, 36.062.  
Payments, rentals and royalties, leases, 36.131 et seq.  
Perfection of title, 36.055.  
Plats, 36.053.  
Prohibited drilling locations, 36.063.  
Records, leases, inspection, 36.135.  
Relinquishment of lease, 36.103.  
Rentals,  
  Minimum rental, 36.059.  
  Payments, leases, 36.131 et seq.  
Royalties,  
  Minimum royalty, leases, 36.059.  
  Payments, leases, 36.131 et seq.  
Specific performance, leases, actions, 36.173.  
Statements accompanying leases payments, 36.134.  
Subdivision of land, 36.052.  
Term of leases, 36.101.  
Title examination and perfection, 36.055.  
Title opinion, 36.056.

**ELIGIBILITY**

Public school land, vacant land purchase or lease, 51.173.

**EMBEZZLEMENT**

General land office, receiving clerk, 31.062.

**EMINENT DOMAIN**

Channel development, oil and gas leases, 52.092 et seq.  
Coastal wetlands, 33.231 et seq.  
Conservation foundation, 181.060.  
Natural gas, 91.171 et seq.  
Pipes and pipelines, 111.019 et seq.  
Riverbed development, oil and gas leases, 52.092 et seq.  
Wetlands, coastal wetlands, 33.231 et seq.

**EMPLOYEES**

Officers and Employees, generally, this index.

**EMPLOYEES RETIREMENT SYSTEM**

Interstate mining commission, 132.007.

**ENCUMBRANCES**

Liens and Incumbrances, generally, this index.

**ENERGY**

Natural energy compact, 142.001 et seq.

**ENTRY**

Archeological sites, entry without consent, 191.133.

**ERRORS**

Field notes, 21.044.  
  Correction, 23.053.  
Land patents, cancellation, 51.250.

**EVIDENCE**

Liquefied petroleum gas, insurance, 113.098.  
Oil and gas conservation laws and orders, actions challenging, 85.243, 85.252.  
Public beaches, access, 61.020.  
Public school lands, vacant land, 51.206.  
Surface mining and reclamation hearing, 131.025.  
Timber, evidence of ownership, 151.005.

**EXAMINATIONS**

Oil and gas,  
  Property examinations, 88.091 et seq.  
  Underground storage, records, 91.206.  
Royalties, 52.135.  
State parks, title examination, 35.055.

**EXAMINERS BOARD**

Surveys and Surveyors, this index.

**EXCAVATIONS**

Archeological landmarks, 191.093.  
Caves, permits, 201.001 et seq.  
Sand, marl, gravel and shell removal regulation, 61.211 et seq.

**EXCEPTIONS**

Coastal land, permit requirements, 33.122.  
Liquefied petroleum gas code, 113.003.  
Oil and gas leases, 52.296.

**EXCLUSIONS**

Surface Mining and Reclamation Act, 131.006.

**EXECUTION**

Veterans land board bonds, 161.116.

**EXEMPTIONS**

Business establishments, operating licenses, beaches, 61.176.  
Coastal lands, wetland acquisition, 33.235.  
Liquefied petroleum gas,  
  Examinations, 113.087.  
  Seminar fees, 113.088.  
Oil and gas conservation, purchases, 85.044.  
Public beaches,  
  Access, designated structures, 61.022.  
  Maintenance, 61.083.  
Surface Mining and Reclamation Act, 131.006.  
Tax exemptions, conservation foundation, 181.101 et seq.  
Wetlands, coastal wetland acquisition, 33.235.

**EXPENSES AND EXPENDITURES**

Antiquities committee, 191.015.  
Beach park board, 62.044.  
Conservation foundation, 181.017.  
General land office, notary public, reimbursement, 31.021.

References are to Articles

**EXPENSES AND EXPENDITURES**

—Cont'd  
 Leasing boards, 34.019.  
 State parks, park development fund expenditures, 35.016.  
 Pipelines, property relocation costs, 111.0191.  
 Railroad commission, 81.018.  
 School land board, reimbursement, 32.015.  
 State parks, leasing board, park development fund expenditures, 35.016.

**EXPLORATION**

Public school lands, geophysical and geochemical permits, 52.321 et seq.

**FACILITIES**

Conservation and utilization of gas, 103.001 et seq.  
 Conservation foundation, facilities of other agencies, 181.059.  
 Crude Petroleum Storage Tanks or Facilities, generally, this index.  
 Designated facilities, easements and leases, 51.292.  
 Easements, fees for designated facilities, 51.299.  
 Eleemosynary and state memorial park lands, necessary facilities, 36.062.  
 Pipelines, exchange of facilities, 111.023.  
 State parks, necessary facilities, 35.062.

**FEDERAL AID**

Coastal lands, wetland acquisition, 33.238.

**FEDERAL LAWS**

Surface mining laws, 131.024.

**FEES**

Asylum fund land,  
 Appraisal fee, 32.104.  
 Special sale fee, 32.110.  
 Beach park board, charging, 62.094.  
 Beaches,  
 Business establishments, operating licenses, 61.166.  
 Parking and use fees, 61.070.  
 Coastal land, leases, easements and permits, 33.063.  
 County surveyors, field notes, corrections, 23.053.  
 Deposit, geothermal resources, 141.072.  
 Dunes, permits, 63.053.  
 Easements, annual privilege fee, 51.298.  
 Filing fees, public school land, vacant land purchase or lease, 51.176.  
 Liquefied Petroleum Gas, this index.  
 Mineral estates, areas within tidewater limits,  
 Appraisal fee, 32.104.  
 Special sale fee, 32.110.  
 Oil and Gas Leases, this index.  
 Permanent school fund land,  
 Appraisal fee, 32.104.  
 Special sale fee, 32.110.  
 Public school lands, geophysical and geochemical exploration, 52.324.  
 Special fees,  
 Asylum land sales or leases, 51.019.  
 Public school land sales or leases, 51.019.  
 State land, leases, 34.061.  
 State land, leases, special fee, 34.061.  
 Surveys, corrected surveys, 23.053.  
 Unlawful enclosure of land, recovery, 11.076.

**FEES—Cont'd**

Veterans land board, 161.069.  
 Additional fees, 161.070.

**FELONIES**

Crimes and Offenses, generally, this index.

**FENCES**

Generally, 11.072 et seq.  
 Appropriation of public land by fencing, 11.075.  
 Defined, 11.073.  
 Fines and penalties, 11.072, 11.075.  
 Gates, fences with or without, 11.072.  
 Unlawful enclosures, 11.076.

**FIDELITY BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**FIELD NOTES**

Surveys and Surveyors, this index.

**FINANCIAL STATEMENTS AND REPORTS**

General land office, 31.060.

**FINES AND PENALTIES**

Appropriation of land,  
 Fencing, 11.075.  
 Herding and line-riding, 11.074.  
 Archeological landmarks, 191.171.  
 Beaches, this index.  
 Business establishments, operating at public beaches without license, 61.177.  
 Caves, 201.041 et seq.  
 Protection, 201.014.  
 Coastal land, unauthorized structures, 33.121.  
 Control of oil property, 88.134.  
 Dunes, regulation violations, 63.181.  
 Easements, 51.302.  
 Fencing,  
 Appropriation of land, 11.075.  
 Gates, fences without, 11.072.  
 Geological surveys, permit violations, 31.108.  
 Herding, appropriation of land, 11.074.  
 Hydrocarbon underground storage, 91.208.  
 Line-riding, appropriation of land, 11.074.  
 Liquefied petroleum gas, 113.232 et seq.  
 Natural gas regulation, 86.222, 86.223.  
 Sour natural gas regulation, 87.241.  
 Oil and Gas, this index.  
 Pipelines, 111.261 et seq.  
 Public land appropriation by herding and line-riding, 11.074.  
 Public school lands, geophysical and geochemical exploration, 52.325.  
 Railroad commission personnel, campaigning, 81.151 et seq.  
 Reclamation and surface mining, 131.267 et seq.  
 Sand, marl, gravel and shell removal, 61.224.  
 Sour natural gas regulation, 87.241.  
 Speleothems, sales, 201.042.  
 Standard gas measurement, 91.060.  
 Surface mining and reclamation, 131.267 et seq.  
 Timber, this index.  
 Unlawful enclosures, 11.076.  
 Veterans land board, transactions violations, 161.401 et seq.

**FISCAL AGENTS**

Veterans land board, 161.016.

**FLOODS AND FLOODING**

Easements, flood prevention, 51.304.

**FOREIGN CORPORATIONS**

Forfeiture of charter, oil and gas violations, 111.094.

**FOREIGN STATES**

Natural energy and water resources compact, 142.001 et seq.

**FOREST PEST CONTROL**

Generally, 152.001 et seq.

**FOREST SERVICE**

Powers and duties, forest pest control, 152.011 et seq.

**FORFEITURES**

Adverse claimant of land, 11.077.  
 Asylum Land, this index.  
 Coal, lignite, sulphur, etc., leases, 53.069.  
 Corporate charters, oil and gas violations, 111.093.  
 Eleemosynary and state memorial park lands, leases, 36.172.  
 Foreign corporation charters, oil and gas violations, 111.094.  
 Mineral leases, 53.021.  
 Oil and gas leases, rights, 52.029.  
 Public School Lands, this index.  
 State land, leases, 34.185.  
 State parks, leases, 35.172.  
 Veterans land board, 161.311 et seq.  
 Charters and rights, 161.067.

**FORGERY**

Oil and gas conservation, permits and tenders, 85.386 et seq.

**FORMS**

Asylum land sale or lease, 51.015.  
 Coastal land, applications to acquire rights, 33.102.  
 Easements, 51.305.  
 Grants, 51.294.  
 Liquefied petroleum gas, licenses, 113.084.  
 Public school lands,  
 Geophysical and geochemical exploration permits, 52.323.  
 Sale or lease, 51.015.  
 Veterans land board,  
 Bonds, 161.115.  
 Instruments, 161.068.

**FOUNDATIONS**

Conservation Foundation, generally, this index.

**FRANCHISES**

Coastal land, use, 33.110.

**FRAUD**

Oil and gas reports, 91.143.  
 Veterans land board, defrauding veteran and state, 161.403.

**FUNDS**

Asylum fund, 11.042.  
 Unlawful enclosure of land, 11.076.  
 Beach park board,  
 Management, 62.052.  
 Use, 62.095.  
 Coastal lands, wetland acquisition, 33.238.

References are to Articles

**FUNDS—Cont'd**

Disposition of funds, school land board, 33.016.  
 General land office, receiving, 31.058.  
 Leasing boards, special mineral funds, 34.017.  
 Liquefied petroleum gas, deposits, 113.201.  
 Liquefied petroleum gas division financing, 113.015.  
 Permanent school fund, 11.041.  
 Unlawful enclosure of land, 11.076.  
 School land board, disposition of money, 33.014.  
 Special funds, 11.041 et seq.  
 Coastal public land management, 33.015.  
 Mineral funds, leasing boards, 34.017.  
 Unlawful enclosure of land, 11.076.  
 State funds, public beach maintenance, 61.068 et seq.  
 State park development fund, leasing board expenditures, 35.016.  
 Surface mining and reclamation, 131.231 et seq.  
 University fund, 11.043.  
 Unlawful enclosure of land, 11.076.  
 Veterans land fund, 161.171 et seq.  
 Wetland acquisition, 33.238.

**GAS**

Air, gas escaping into air, 86.185.  
 Oil and Gas, generally, this index.

**GAS UTILITY**

Defined, conservation and storage, 91.173.

**GAS WELLS**

Oil and Gas Wells, generally, this index.

**GATE**

Defined, cave protection, 201.002.

**GAYULE**

Sales, 51.341 et seq.

**GENERAL LAND OFFICE**

Generally, 31.001 et seq.  
 Abstract clerk, 31.016.  
 Conditions of employment, 31.020.  
 Abstracts,  
 Printing supplementary abstracts, 31.057.  
 Revision and compilation, 31.056.  
 Accounts,  
 Examination, 31.061.  
 Receiving clerk, examination, 31.061.  
 Archives, school land board records and proceedings, 32.021.  
 Assistance, school land board, 33.012.  
 Boards and commissions. Commissioner, generally, post.  
 Bonds (officers and fiduciaries),  
 Chief clerk, 31.015.  
 Commissioner, 31.013.  
 Liability on bond, 31.014.  
 Receiving clerk, 31.017.  
 Books and papers. Papers, generally, post.  
 Chief clerk, 31.015.  
 Conditions of employment, 31.020.  
 Clerks, 31.015 et seq.  
 Abstract clerk, 31.016.  
 Conditions of employment, 31.020.  
 Chief clerk, 31.015.  
 Conditions of employment, 31.020.  
 Receiving clerk, generally, post.  
 Coastal boundaries, locating, 31.063.

**GENERAL LAND OFFICE—Cont'd**

Commissioner,  
 Bonds (officers and fiduciaries), 31.013.  
 Liability on bond, 31.014.  
 Citation, service, 33.175.  
 Conservation foundation, member, 181.012.  
 Defined, 11.001.  
 School land board, 32.001.  
 Surveys and surveyors, 21.001.  
 Election, 31.012.  
 Geothermal resources, powers and duties, 141.071 et seq.  
 Liability, 31.014.  
 Residence, 31.012.  
 School land board, advisory capacity, 32.063.  
 Term of office, 31.012.  
 Compilation of abstracts, 31.056.  
 Conditions of employment, 31.020.  
 Definitions, 11.001, 31.001, 31.101.  
 Draftsmen, 31.019.  
 Elections, commissioner, 31.012.  
 Embezzlement, 31.062.  
 Employment conditions, 31.020.  
 Establishment, 31.011.  
 Examination, books and accounts of receiving clerk, 31.061.  
 Expenses, notary public, reimbursement, 31.021.  
 Filing papers, leasing boards, 34.020.  
 Financial reports, 31.060.  
 Funds, receiving, 31.058.  
 Licenses and permits,  
 Deposits, 31.103.  
 Fines and penalties, 31.108.  
 Geological and geophysical surveys, permits for, 31.102.  
 Prohibited activities, 31.105.  
 Material,  
 Files in land office, 34.020.  
 Subject to filing, 35.017.  
 Notary public expenses, reimbursement, 31.021.  
 Officers and employees, additional personnel, 33.013.  
 Papers,  
 Examination, 31.061.  
 Filing, 31.053.  
 Public access, 31.054.  
 Receiving clerk, 31.059.  
 Removing papers, 31.055.  
 Payments, areas surveyed or investigated without permits, 31.104.  
 Permits. Licenses and permits, generally, ante.  
 Powers and duties, 31.051 et seq.  
 Geothermal resources, 141.071 et seq.  
 Printing supplementary abstracts, 31.057.  
 Receiving clerk, 31.017.  
 Accounts, examination, 31.061.  
 Bonds, embezzlement, recovery, 31.062.  
 Books of clerk, 31.059.  
 Examination, 31.061.  
 Conditions of employment, 31.020.  
 Embezzlement, 31.062.  
 Examination, books and accounts, 31.061.  
 Financial reports, 31.060.  
 Funds, 31.058.  
 Receiving funds, 31.058.  
 Records, custody, 31.052.  
 Reports, financial reports, 31.060.  
 Residence, commissioner, 31.012.  
 Revision of abstracts, 31.056.  
 Spanish language, translator, 31.018.  
 Supplementary abstracts, printing, 31.057.  
 Translator, 31.018.

**GEOCHEMICAL EXPLORATION**

Public school lands,  
 Mines and minerals, 53.161 et seq.  
 Permits, 52.321 et seq.

**GEOLOGICAL SURVEYS**

Areas within tidewater limits, 31.102 et seq.

**GEOLOGISTS**

School land board, employment, 32.018.

**GEOPHYSICAL EXPLORATION**

Public school lands,  
 Mines and minerals, 53.161 et seq.  
 Permits, 52.321 et seq.

**GEOPHYSICAL SURVEY**

Areas within tidewater limits, 31.102 et seq.

**GEO THERMAL RESOURCES**

Generally, 141.001 et seq.

**GIFTS**

Coastal lands, wetlands, 33.234, 33.238.  
 Conservation foundation, 181.054, 181.055.  
 Interest in coastal land, 33.057.  
 Natural energy and water resources, conservation, 142.005.  
 Wetlands, 33.238.

**GOVERNING LAW**

Conflict of Laws, generally, this index.

**GOVERNOR**

Appointments,  
 Interstate natural energy and water resources commission, 142.002.

**GRANTS**

Coastal wetlands, 33.234, 33.238.  
 Natural energy and water resources, conservation, 142.005.  
 Wetlands, 33.238.

**GRAVEL**

Removal regulations, 61.211 et seq.

**GULF LAND**

Leases, mineral production, 53.151 et seq.  
 Oil and Gas Leases, generally, this index.

**GULF OF MEXICO**

Coastal Land, generally, this index.  
 State boundary, 11.012.  
 Swimming, regulation, 61.122.

**HEARINGS**

Beaches, traffic and litter regulation hearings, 61.123, 61.125.  
 Forest pest control, 152.015.  
 Liquefied Petroleum Gas, this index.  
 Natural gas, injection operations, 91.177.  
 Oil and Gas, this index.  
 Standard gas measurement, 91.054.  
 Surface mining and reclamation, 131.021, 131.025 et seq.  
 Orders, 131.049.

**HERDING**

Public land appropriation by herding, 11.074.

**HIGHWAYS AND ROADS**

Pipelines on highways, 111.020.

References are to Articles

**HISTORIC SITES AND LANDMARKS**

Generally, 191.091 et seq.  
Acquisition of property, 181.001.

**HISTORICAL RESOURCES DEVELOPMENT COUNCIL**

Generally, 182.001 et seq.  
Compensation and salaries, 182.013.  
Creation, 182.011.  
Meetings, 182.016.  
Membership, 182.012.  
Officers and employees, 182.014.  
Powers and duties, 182.041 et seq.  
Quorum, 182.015.  
Reports, 182.045.  
Services of designated agencies, use, 182.017.

**HOME-RULE CITIES**

Submerged lands, revenue, 11.0131.

**HYDROCARBONS**

Defined, underground storage, 91.201.  
Sour natural gas, use determination, hydrocarbon content, 87.171 et seq.  
Underground storage, 91.201 et seq.

**IMMUNITY**

Conservation foundation, members, official acts, civil liability, 181.018.

**IMPROVEMENTS**

Asylum land, lessees, removal, 51.130.  
Public school land, lessees, removal, 51.130.

**INCOME**

Conservation foundation, management and disposition, 181.057.  
Easement income, disposition, 51.300.

**INCUMBRANCES**

Liens and Incumbrances, generally, this index.

**INDEBTEDNESS**

Transfer of indebtedness, asylum and public school land, 51.078.

**INGRESS AND EGRESS**

Public beaches, requirements, 61.015.  
Timber purchases, 51.345.

**INJUNCTIONS**

Forest pest control, 152.105.  
Hydrocarbon underground storage, 91.209, 91.210.  
Liquefied petroleum gas, 113.231.  
Natural Gas, this index.  
Oil and Gas, this index.  
Sand, marl, gravel and shell removal permits, 61.223.  
Sour natural gas regulation, 87.242.  
Surface mining and reclamation, 131.266.  
Used oil field equipment dealers, 112.031.

**INSPECTION AND INSPECTORS**

County surveyors, inspection rights, 23.054.  
Eleemosynary and state memorial park lands, leases, records, 36.135.  
Hydrocarbon underground storage, 91.205.  
Liquefied petroleum gas, 113.089, 113.233.  
Oil and Gas, this index.  
Royalties, inspection of books, etc., 52.135.

**INSPECTION AND INSPECTORS**

—Cont'd  
School land,  
Board, minutes and docket, 32.022.  
Leases, records, 34.145.  
State parks, leases, records, 35.135.  
Surface mining operations, 131.043, 131.044.

**INSTALLMENTS**

Veterans land board bonds, 161.112.

**INSURANCE**

Liquefied petroleum gas,  
Licensees, 113.097 et seq.  
Transport trucks and trailers, 113.131.  
Surface mining operations, 131.143.  
Veterans land board, 161.361 et seq.

**INTEREST**

Veterans land board bonds, 161.113.

**INTERESTED PERSONS**

Defined, natural gas, 91.173.

**INTERSTATE COMMERCE**

Gulfward boundary of Texas, 11.012.

**INTERSTATE COMPACTS**

Mining compact, 132.001 et seq.  
Oil and gas conservation, 90.001 et seq.

**INTERSTATE NATURAL ENERGY AND WATER RESOURCES COMMISSION**

Generally, 142.002 et seq.

**INTERVENTION**

Oil and gas conservation laws and orders, actions challenging, 85.246.

**INVESTIGATIONS AND INVESTIGATORS**

Forest pest control, 152.012.  
Hydrocarbon underground storage, 91.205.  
Public school lands, geophysical and geochemical exploration permit, 52.321 et seq.  
Mines and minerals, 53.161 et seq.  
State land, geological surveys and investigations, 34.055.  
Veterans land board, 161.064.  
Land purchase, sale or other disposition, 161.219.

**INVESTMENTS**

Beach park board bonds, 62.135.  
Veterans land board bonds, 161.128.  
Veterans land fund, 161.173.

**ISLANDS**

Defined, coastal public lands management, 33.004.  
Removal of sand, marl, gravel and shell, 61.226.  
Regulation, 61.211 et seq.

**JUDGMENTS AND DECREES**

Public school land, removal of minerals, etc., 51.350.  
Unlawful enclosure of land, 11.076.

**JURISDICTION**

Beach park board, 62.091, 62.092.  
Home-rule cities, submerged lands, 11.0131.  
Hydrocarbon underground storage, 91.208.

**JURISDICTION—Cont'd**

Land acquired from Mexico, 11.016.  
Natural gas, storage, 91.175.  
Railroad commission, 81.051 et seq.  
Surface mining and reclamation, 131.022.

**LABOR AND EMPLOYMENT**

General land office, conditions of employment, 31.020.

**LABORATORIES**

Liquefied petroleum gas, testing, containers, 113.135.

**LAND**

Defined, school land board, 32.001.  
Real Estate, generally, this index.

**LAND OFFICE**

Defined, 11.001.  
Board of examiners of land surveyors, 22.001.  
County surveyors, 23.001.  
General land office, 31.001.  
School land board, 32.001.  
Surveys and surveyors, 21.001.  
General Land Office, generally, this index.

**LAND PATENTS**

Generally, 51.241 et seq.  
Acquisition of deed of acquittance to excess acreage, 51.246.  
Asylum land purchasers, part of tract, 51.083.  
Cancellation, errors, 51.250.  
Claims, doubtful claims, 51.248.  
Conflicting surveys, 51.249.  
Conflicting title, 51.250.  
Partial conflict, 51.251.  
Deceased patentee, 51.245.  
Delivery of patent, 51.244.  
Doubtful claims, 51.248.  
Errors, cancellation, 51.250.  
Fees, 51.242.  
Issuance, 51.241.  
Land that cannot be patented by other methods, 51.247.  
Partial conflict of title, 51.251.  
Public school land purchasers, part of tract, 51.083.  
Purchase money refund, 51.252.  
Requisite of patent, 51.243.  
Surveys, conflicting surveys, 51.249.  
Title, conflicting title, 51.250.  
Partial conflict, 51.251.

**LAND SURVEYORS**

Surveys and Surveyors, generally, this index.

**LANDMARKS**

Archeological landmarks, 191.091 et seq.

**LAW ENFORCEMENT OFFICERS**

Antiquities committee, cooperation, 191.174.

**LEASES**

Asylum Land, this index.  
Beach park board, 62.096, 62.097.  
Coastal Land, this index.  
Copies of lease contracts, filing, 34.020, 35.017, 36.016.  
Eleemosynary and State Memorial Park Lands, this index.  
Mineral Leases, generally, this index.  
Oil and Gas Leases, generally, this index.

References are to Articles

**LEASES—Cont'd**

Payment of rental or royalty, 34.141 et seq.  
 Permanent school fund lands, 32.101 et seq.  
     Geothermal resources, 141.073.  
 Public School Lands, this index.  
 State Land, this index.  
 State Parks, this index.  
 Veterans land board, 161.072, 161.227, 161.228.

**LEASING BOARDS**

Generally, 34.011 et seq.  
 Application of chapter, 34.002.  
 Creation, 34.011.  
 Definitions, 34.001.  
 Deposit of receipts, 34.018.  
 Eleemosynary and State Memorial Park Lands, this index.  
 Expenditures, 34.019.  
 Funds, special mineral funds, 34.017.  
 Members, 34.013.  
 Officers, 34.014.  
 Powers and duties, 34.051 et seq.  
 Quorum, 34.015.  
 Receipts, deposit, 34.018.  
 Records, 34.016.  
 Special mineral funds, 34.017.  
 State Parks, this index.  
 Title of board, 34.012.

**LECHUGUILLA**

Sales, 51.341 et seq.

**LICENSED SURVEYOR**

Defined, 22.001.

**LICENSES AND PERMITS**

Antiquities committee, salvage, restoration or study, 191.054.  
 Beaches, business establishments, operations licenses, 61.161 et seq.  
 Cave protection, 201.011 et seq.  
 Coastal Land, this index.  
 Definitions,  
     Geophysical and geochemical exploration, 52.321.  
     Public school lands, 53.161.  
 Dunes, 63.051 et seq.  
 Exploration, public school lands, geophysical and geochemical exploration, 52.321 et seq.  
 General Land Office, this index.  
 Geochemical and geophysical exploration permit, public school lands, 52.321 et seq.  
     Mines and minerals, 53.161 et seq.  
 Geological surveys, 31.102, 31.103.  
     Fines and penalties, 31.108.  
 Geophysical surveys, 31.102, 31.103.  
     Fines and penalties, 31.108.  
 Geothermal resources, 141.077.  
 Gravel removal permits, 61.211 et seq.  
 Hydrocarbon, underground storage, 91.204.  
 Liquefied petroleum gas dealers, 113.081 et seq.  
     Suspension or revocation, 113.161 et seq.  
 Marl removal permits, 61.211 et seq.  
 Mines and Minerals, this index.  
 Oil and Gas, this index.  
 Public school lands, geophysical and geochemical exploration, 52.321 et seq.  
     Mines and minerals, 53.161 et seq.  
 Sand and shell removal permits, 61.211 et seq.

**LICENSES AND PERMITS—Cont'd**

Sour natural gas, plants extracting natural gasoline, 87.092 et seq.  
 Surface mining and reclamation, 131.021.  
 Surface mining permits, 131.131 et seq.

**LIENS AND INCUMBRANCES**

Asylum land,  
     Leases, 51.129.  
     Sales, 51.077.  
 Coal, lignite, sulphur, etc., leases, 53.071.  
 Crude petroleum storage tanks and facilities, 111.054.  
 Eleemosynary and state memorial park lands, leases, state lien, 36.136.  
 Public school land,  
     Leases, 51.129.  
     Sales, 51.077.  
 Royalties, 52.136.  
 State lands, leases, state mineral lien, 34.146.  
 State parks, leases, state lien, 35.136.  
 University land sales, 51.077.

**LIGNITE**

See, also, Mines and Minerals, generally, this index.  
 Mineral leases, 53.061 et seq.  
     Public school and gulf lands, 53.151 et seq.

**LIMITATIONS**

Texas co-ordinate system, 21.072.

**LINE—RIDING**

Public land appropriation by line-riding, 11.074.

**LIQUEFIED PETROLEUM GAS**

Generally, 113.001 et seq.  
 Administrative law and procedure, license revocation or suspension, 113.162.  
 Appeal, 113.164.  
 Applications, licenses, 113.084.  
 Categories of dealers, 113.082.  
 Containers, rules and standards, 113.053.  
 Dangerous, warning tags, 113.234.  
 Dealers, licenses, 113.081 et seq.  
     Suspension or revocation, 113.161 et seq.  
 Definitions, 113.002.  
 Denial, license, 113.091.  
 Deposits, fees, funds, 113.201.  
 Division, 113.011 et seq.  
 Evidence, insurance, 113.098.  
 Examinations,  
     Fees, 113.088.  
     Licensees, 113.087.  
 Exceptions, application of law, 113.003.  
 Exemptions,  
     Examinations, 113.087.  
     Seminar fees, 113.088.  
 Fees,  
     Deposits, 113.201.  
     Examinations and seminars, 113.088.  
     Licenses, 113.082.  
     Registration, transport trucks and trailers, 113.131.  
 Fines and penalties, 113.232 et seq.  
 Forms, licenses, 113.084.  
 Funds, deposits, 113.201.  
 Hearings,  
     Licenses,  
         Denial, 113.089, 113.091.  
         Suspension or revocation, 113.162.  
     Testing laboratories, containers, 113.135.

**LIQUEFIED PETROLEUM GAS**

—Cont'd  
 Injunctions, 113.231.  
 Inspection and inspectors, 113.089, 113.233.  
 Insurance,  
     Licensees, 113.097 et seq.  
     Transport trucks and trailers, 113.131.  
 Issuance of dealer license, 113.092.  
 Laboratories, testing, containers, 113.135.  
 Licenses, dealers, 113.081 et seq.  
     Suspension or revocation, 113.161 et seq.  
 Motor carrier laws, application of law, 113.133.  
 National codes, adoption, 113.052.  
 Notices,  
     License denial or refusal, 113.091.  
     Testing laboratories, hearings, 113.135.  
 Orders, license denial, hearing, 113.091.  
 Prior licenses, identification, 113.102.  
 Refusal, license, 113.091.  
 Registration, testing laboratories, containers, 113.135.  
 Renewal, license, 113.093.  
 Rules and regulations, 113.012, 113.051 et seq.  
 Seminars,  
     Fees, 113.088.  
     Licensees, 113.087.  
 Special requirements, licensing, 113.089.  
 Standards, 113.012, 113.051 et seq.  
 Statements, in lieu of insurance certificates, 113.099.  
 Tags, warning tags, unsafe or dangerous, 113.234.  
 Testing laboratories, containers, 113.135.  
 Time, license revocation or suspension, 113.163.  
 Transport trucks and trailers, 113.131 et seq.  
 Unsafe or dangerous, warning tags, 113.234.  
 Warning tags, unsafe or dangerous, 113.234.  
**LIST**  
 School land areas subject to lease or sale, 32.102.  
**LITTER**  
 Public beaches, regulation, 61.121 et seq.  
**LIVESTOCK**  
 Appropriation of land by herding and line-riding, 11.074.  
**LOUISIANA**  
 Natural energy and water resources compact, 142.001 et seq.  
**LUMBER**  
 Timber, generally, this index.  
**MACHINERY AND EQUIPMENT**  
 Used oil field equipment, sales, 112.001 et seq.  
**MANSFIELD SHIP CANAL**  
 Dunes, conduct prohibited between Aransas pass and Mansfield ship canal, 63.092.  
**MANUFACTURERS AND MANUFACTURING**  
 Carbon black manufacturers, 87.052, 87.054.  
 Gas from designated wells, use, 87.132.

References are to Articles

**MANUFACTURERS AND MANUFACTURING—Cont'd**

Carbon black manufacturers—Cont'd  
Plant location prohibitions, 87.211.  
Sweet gas, use, 87.131.

**MAPS AND PLATS**

Dune protection lines, 63.014.  
Eleemosynary and state memorial park lands, 36.053.  
State land, 34.053.  
State parks, 35.053.

**MARKETS AND MARKETING**

Oil and gas, facilities for conservation and utilization of gas, cooperative marketing, 103.044.

**MARL**

Removal regulations, 61.211 et seq.

**MATURITY**

Veterans land board bonds, 161.114.

**MEASUREMENTS**

Standard Gas Measurement Law, 91.051 et seq.  
Unit of measurement, surveys, 21.077.

**MEETINGS**

Beach park board, 62.050.  
Conservation foundation, 181.015.  
Historical resources development council, 182.016.  
School land board, 32.016.  
Veterans land board, 161.017.

**MEMBERS AND MEMBERSHIP**

See specific index headings.

**MEMORIAL PARK LANDS**

Eleemosynary and State Memorial Park Lands, generally, this index.

**METERS**

Natural gas, meter testing, 86.145.

**MEXICO**

State land acquired from Mexico in 1933, 11.016.

**MINERAL INTEREST POOLING ACT**

Generally, 102.001 et seq.

**MINERAL LEASES**

Annual lease payment, 53.017.  
Application of law, 53.022.  
Applications, 53.015.  
Areas within tidewater limits, 32.101 et seq.  
Assignments, 53.020.  
Bids and bidding, political subdivisions, 71.006, 71.007.  
Coal, 53.061 et seq.  
Filing prerequisites, 52.294.  
Forfeiture, 53.021.  
Gulf land, 53.151 et seq.  
Issuance, 53.016.  
Lignite, 53.061 et seq.  
Limitations, 52.291 et seq.  
Notices, political subdivision leasing, 71.004, 71.005.  
Null and void leases, 52.295.  
Payments, 53.019.  
Annual lease payment, 53.017.  
Political subdivisions,  
Leasing authority, 71.001 et seq.  
Pooling mineral leases, 71.051 et seq.

**MINERAL LEASES—Cont'd**

Potash, 53.061 et seq.  
Prerequisites to filing, 52.294.  
Prohibited leases, 52.292.  
Public school lands, 53.151 et seq.  
Royalties, generally, this index.  
Sulphur, 53.061 et seq.  
Term,  
Political subdivision leasing, 71.010.  
Pooling mineral leases, political subdivision, 71.054, 71.055.  
Thorium, 53.061 et seq.  
Uranium, 53.061 et seq.  
Void leases, 52.295.

**MINERALOGISTS**

School land board, employment, 32.018.

**MINES AND MINERALS**

Applications, prospecting permits, 53.012.  
Areas within tidewater limits, mineral estates, lease and sale, 32.101 et seq.  
Assignments, prospecting permits, 53.014.  
Bonds (officers and fiduciaries), surface mining and reclamation, 131.201 et seq.  
Conditions of prospecting permits, 53.013.  
Crimes and offenses, surface mining and reclamation, 131.267 et seq.  
Definitions, 53.001.  
Public school lands, 53.161.  
Easements, reservation of mineral rights, 51.307.  
Fines and penalties, surface mining and reclamation, 131.267 et seq.  
Geochemical and geophysical exploration permit, public school lands, 53.161 et seq.  
Injunctions, surface mining and reclamation, 131.266.  
Interstate mining compact, 132.001 et seq.  
Investigations and investigators, public school lands, geophysical and geochemical exploration permits, 53.161 et seq.  
Land subject to prospecting, 52.011.  
Licenses and permits,  
Prospecting permits, generally, post.  
Public school lands, geophysical and geochemical exploration, 53.161 et seq.  
Surface mining permits, 131.131 et seq.  
Prospecting permits,  
Application of law, 53.022.  
Applications, 53.012.  
Assignments, 53.014.  
Conditions, 53.013.  
Land subject to prospect, 53.011.  
Public School Lands, this index.  
State land, leases, state lien, 34.146.  
Sulphur, unitization of production, 53.111 et seq.  
Surface mining permits, 131.131 et seq.  
Surveys and surveyors, public school lands, geophysical and geochemical exploration permit, 53.161 et seq.  
Uranium Surface Mining and Reclamation Act, 131.001 et seq.  
Value, minerals appropriated from public land, recovery, 11.071.

**MINING COUNCIL**

Generally, 132.003 et seq.

**MINUTES**

School land board, 32.020.  
Inspection of minutes, 32.022.  
Veterans land board, 161.018.

**MISDEMEANORS**

Crimes and Offenses, generally, this index.

**MISTAKES**

Errors, generally, this index.

**MONOPOLIES**

Antitrust, generally, this index.

**MONUMENTS AND MEMORIALS**

Archeological landmarks, 191.091 et seq.

**MOTOR CARRIERS**

Liquefied petroleum gas, 113.131 et seq.

**MUNICIPALITIES**

Cities, Towns and Villages, generally, this index.

**NAMES**

Zone names, use in land description, 21.075.

**NATIVE GAS**

Defined, storage and conservation, 91.173.

**NATURAL ENERGY AND WATER RESOURCES COMPACT**

Generally, 142.001 et seq.

**NATURAL GAS**

See, also, Oil and Gas, generally, this index.  
Generally, 86.001 et seq.  
Abandonment, storage facility, 91.184.  
Actions and proceedings, 86.223, 86.224.  
Allowable, 86.086 et seq.  
Appeal and review, 86.225.  
Application of law, 86.004.  
Appropriation, storage facilities, 91.179.  
Carbon black manufacturer, prohibited locations, 87.211.  
Casinghead gas, use, 86.183.  
Commingleing, 85.046, 86.012.  
Common reservoirs, zoning, 86.095.  
Compromise and settlement, reserves, 91.183.  
Conservation, 91.171 et seq.  
Daily allowable, 86.088.  
Definitions, 86.002.  
Storage and conservation, 91.173.  
Waste, 86.012.  
Demand determination, 86.085.  
Electricity, relocation, 91.178.  
Eminent domain, 91.171 et seq.  
Facilities, relocation, 91.178.  
Failure to use or sell allowable production, 86.096.  
Fines and penalties, 86.222, 86.223.  
Sour natural gas regulation, 87.241.  
Gas lift, 86.184.  
Gas-oil ratio, determination, 86.043.  
Hearings, injection operations, 91.177.  
Hydrocarbon content, sour natural gas, use determination, 87.171 et seq.  
Injection operations, time, 91.177.  
Injunctions,  
Natural gas regulation, 86.224.  
Ownership, 91.182.  
Sour natural gas regulation, 87.242.  
Jurisdiction, storage, 91.175.

References are to Articles

**NATURAL GAS—Cont'd**

Limits on well restrictions, minimum, 86.091.  
 Maximum well production, 86.092.  
 Meter tests, 86.145.  
 Monthly reservoir allowable, 86.086.  
 Monthly well allowable, 86.087.  
 Overproduction authorization, 86.090.  
 Ownership, injunction, 91.182.  
 Petition, condemnation proceedings, 91.180.  
 Pipelines, relocation, 91.178.  
 Pressure tests, 86.141 et seq.  
 Production, 86.081 et seq.  
   Sour natural gas, 87.051 et seq.  
 Public policy, 86.001.  
 Railroads, relocation, 91.178.  
 Regulation, 86.001 et seq., 86.042.  
   Sour natural gas, 87.001 et seq.  
 Relocation, facility, 91.178.  
 Reserves, storage and conservation, 91.171 et seq.  
 Rights, purchasers, 91.183.  
 Separate wells, determination, 86.003.  
 Settlement, reserves, 91.183.  
 Sour natural gas, 87.001 et seq.  
   Carbon black manufacturer, 87.131, 87.132.  
   Definitions, 87.001.  
   Fines and penalties, 87.241.  
   Gas lift, 86.184.  
   Hearings, rules and orders, 87.013.  
   Injunctions, 87.242.  
   Inspection of records, 87.014.  
   Licenses and permits, plants extracting natural gasoline, 87.092 et seq.  
   Limitations on production, 87.051.  
   Market price determination, use of gas without extraction of natural gasoline, 87.133.  
   Maximum production for carbon black manufacturer, 87.052.  
   Natural gasoline extracting plants, 87.091 et seq.  
   Orders, 87.011 et seq.  
   Plants extracting natural gasoline, 87.091 et seq.  
   Production, 87.051 et seq.  
   Reports, 87.014.  
   Residue gas, natural gasoline extracting plant, 87.095 et seq.  
   Rules and regulations, 87.011 et seq.  
   Use, 86.182.  
     Determination by hydrocarbon content, 87.171 et seq.  
     Without extraction of natural gasoline, 87.131 et seq.  
 Status of production determination, 86.084.  
 Storage, 91.171 et seq.  
 Sweet gas,  
   Gas lift, 86.184.  
   Use, 86.181.  
 Telegraphs and telephones, relocation, 91.178.  
 Time, injection operations, 91.177.  
 Unauthorized production, 86.221.  
 Underground, storage and conservation, 91.171 et seq.  
 Underproduction authorization, 86.090.  
 Use, 86.181 et seq.  
   Sour natural gas, use without extraction of natural gasoline, 87.131 et seq.  
 Volume determination, 86.085.  
 Waste, 86.011, 86.012.  
 Prevention, 86.082.

**NATURAL GAS—Cont'd**

Withdrawals, native gas, 91.176.  
 Zoning common reservoirs, 86.095.

**NAVIGABLE STREAM**  
 Defined, surveys and surveyors, 21.001.  
 Surveys on navigable streams, 21.012.

**NEW MEXICO**  
 Extension, Texas-New Mexico boundary, 11.015.  
 Natural energy and water resources compact, 142.001 et seq.

**NONPROFIT CORPORATIONS**  
 Conservation foundation, 181.001 et seq.

**NORTH CENTRAL ZONE**  
 Texas co-ordinate system, 21.073 et seq.

**NORTH ZONE**  
 Texas co-ordinate system, 21.073 et seq.

**NOTARY PUBLIC**  
 General land office, expenses, reimbursement, 31.021.

**NOTICE**  
 Asylum Land, this index.  
 Beaches,  
   Maintenance, city or county state fund ineligibility, 61.079.  
   Traffic and litter regulations, hearings, 61.123.  
 Control of oil property, rules and regulations, 88.013.  
 Dunes, this index.  
 Forest pest control, 152.018, 152.019.  
   Findings of infestation, 152.014.  
   Landowner duties, 152.064.  
 Geothermal resources, land sales, 141.075.  
 Hearings, sand, marl, gravel and shell removal, permits, 61.216, 61.218.  
 Hydrocarbon underground storage, 91.207.  
   Inspection, 91.205.  
 Liquefied petroleum gas,  
   License denial or refusal, 113.091.  
   Testing laboratories, containers, 113.135.  
 Mineral estates, areas within tidewater limits, sale and lease, 32.107.  
 Oil and Gas, this index.  
 Oil and gas leases, date for lease, 52.014.  
 Permanent school fund lands, sale and lease, 32.107.  
 Political subdivisions,  
   Intention to lease land, 71.005.  
   Mineral leasing, 71.004.  
 Public School Lands, this index.  
 Standard gas measurement, 91.054.  
 Surface mining operations, hearings, orders, 131.049.  
 Veterans land board,  
   Bonds, bids, 161.123.  
   Forfeitures, 161.315.

**NUISANCE**  
 Public nuisance, forest pest control, 152.002.

**OATHS AND AFFIRMATIONS**  
 Beach park board members, 62.043.  
 Interstate natural energy and water resources commission, 142.003.  
 Surface mining and reclamation hearing, 131.025.  
 Veterans land board, 161.065.

**OBSTRUCTIONS**

Public beaches, 61.013.  
 Actions to remove obstructions, 61.018.

**OFFENSES**

Crimes and Offenses, generally, this index.

**OFFICERS AND EMPLOYEES**

Antiquities committee, 191.018.  
 Conservation foundation, 181.014.  
 Historical resources development council, 182.014.  
 Leasing boards, 34.014.  
 Liquefied petroleum gas division, 113.014.  
 School land board, 32.018, 32.019.  
 Veterans Land Board, this index.

**OFFICES**

County surveyors, office location, 23.016.

**OFFICIAL BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**OFFSET WELLS**

Oil and Gas Wells, this index.

**OIL AND GAS**

See, also, Natural Gas, generally, this index.

Abandoned or unclaimed property,  
 Prospecting tracts, 52.242.  
 Underground storage, 91.203 et seq.  
 Acreage fee exemption, 52.247.  
 Acreage subject to pooling, 102.018.  
 Actions and proceedings,  
   Conservation laws and orders, validity, challenges, 85.241 et seq.  
   Control of oil property, 88.131 et seq.  
   Corporate conservation violations, 85.064.  
   Damages, conservation violations, 85.321, 85.322.  
   Injunctions, generally, post.  
   Underground storage, 91.208.  
 Aiders and abettors, conservation violations, 85.385.  
 Allowable production,  
   Conservation, 85.053 et seq.  
   Excess, 88.051.  
 Antitrust statutes, application, 85.002.  
 Appeal and review,  
   Conservation laws and orders, actions challenging, 85.253 et seq.  
   Pooling, 102.111.  
   Underground storage, 91.210.  
 Applications. Prospecting permits, post.  
 Assignments, commingling, 85.053, 85.055, 86.081.  
 Automatic dissolution, pooled units, 102.082.  
 Bonds (officers and fiduciaries),  
   Actions challenging conservation laws and orders, 85.248 et seq.  
   Pollution prevention, 91.103 et seq.  
 Books and papers, requirements, 91.141.  
 Brokers, used equipment sales, 112.001 et seq.  
 Burden of proof, actions challenging conservation laws and orders, 85.243.  
 Commingling, 85.046, 85.053, 85.055, 86.012, 86.081.  
 Common purchasers, 111.081 et seq.  
 Compensation of surface owners, prospecting permits, 52.239.  
 Completion costs, pooled units, 102.052.

References are to Articles

**OIL AND GAS—Cont'd**

Conditions for development, 52.230.  
 Consent, dissolution of pooled units, 102.081.  
 Conservation, 85.001 et seq.  
   Cooperative facilities for conservation and utilization of gas, 103.001 et seq.  
   Interstate compact, 90.001 et seq.  
   Laws and orders, actions challenging, 85.253 et seq.  
 Contracts, pooling and cooperative agreements, 101.001 et seq.  
 Control of oil properties, 88.001 et seq.  
 Cooperative agreements, 101.001 et seq.  
 Cooperative facilities, conservation and utilization of gas, 103.001 et seq.  
 Crimes and offenses,  
   Conservation violations, 85.381 et seq.  
   Corporate conservation violations, 85.063, 85.064.  
   Used oil field equipment dealers, 112.032.  
 Crude Petroleum Storage Tanks or Facilities, generally, this index.  
 Damages,  
   Actions, 111.095.  
   Conservation violations, 85.321, 85.322.  
 Dealers, used equipment sales, 112.001 et seq.  
 Definitions,  
   Conservation, 85.001.  
   Underground storage, 91.201.  
 Delivery, gas delivery, standard gas measurement, 91.058.  
 Development conditions, 52.230.  
 Discrimination, common purchasers, 111.086.  
   Prevention of discrimination, 111.091.  
 Disposition of prospecting permit proceeds, 52.241.  
 Dissolution of units, 102.081 et seq.  
 Drilling costs, pooled units, 102.052.  
 Emergency orders, conservation, 85.206.  
 Evasion of accurate measurement, 88.053.  
 Evidence, actions challenging conservation laws and orders, 85.243, 85.252.  
 Examination,  
   Property, 88.091 et seq.  
 Examination of books, conservation, 85.062.  
   Underground storage, records, 91.206.  
 Excess of allowable amount, 88.051.  
 Exemptions, acreage fee, 52.247.  
 Facilities, cooperative facilities for conservation and utilization of gas, 103.001 et seq.  
 Fees, acreage fee exemption, 52.247.  
 Filing documents, prospecting permits, 52.225.  
 Fines and penalties,  
   Conservation violations, 85.381 et seq.  
   Control of oil property, 88.134.  
   Standard gas measurement, 91.060.  
   Underground storage, 91.208.  
   Used equipment sales, 112.032.  
 Flares, burning, 88.055.  
 Hearings,  
   Conservation rules and orders, 85.205.  
   Pooling, 102.016.  
   Waste, conservation, 85.049 et seq.  
 Identifying signs, 88.056.  
 Independent development of areas, 52.227.  
 Prospecting permits, 52.227.

**OIL AND GAS—Cont'd**

Injunctions,  
   Conservation laws and orders, actions challenging, 85.244.  
   Conservation violations, 85.351 et seq.  
   Discrimination prevention, common purchasers, 111.092.  
   Underground storage violations, 91.209, 91.210.  
   Used oil field equipment dealers, 112.031.  
 Inspection and inspectors, 88.091 et seq.  
   Conservation, 85.061.  
   Underground storage, 91.205.  
   Used equipment sales, 112.033.  
 Interstate compact to conserve oil and gas, 90.001 et seq.  
 Intervention, actions challenging conservation laws and orders, 85.246.  
 Investigations and investigators, underground storage, 91.205.  
 Jointly owned property, cooperative facilities for conservation and utilization of gas, 103.046.  
 Jurisdiction, underground storage violations, 91.208.  
 Leases. Oil and Gas Leases, generally, this index.  
 Licenses and permits,  
   Operation under permit, 52.178.  
   Payments under permit, 52.180.  
   Prospecting permits, generally, post.  
   Relinquishment under permit, 52.181.  
   Underground storage, 91.204.  
 Liquefied Petroleum Gas, generally, this index.  
 Machinery and equipment, used equipment, sales, 112.001 et seq.  
 Markets, cooperative marketing, 103.044.  
 Measurement,  
   Evasion or prevention of accurate measurement, 88.053.  
   Passage of control from producer, 88.052.  
 Mineral Interest Pooling Act, 102.001 et seq.  
 Monopoly statutes, application, 85.002.  
 Notices,  
   Conservation of rules and orders, 85.205.  
   Hearings, pooling, 102.016.  
   Underground storage, 91.207.  
   Inspection, 91.205.  
 Offenses. Crimes and offenses, generally, ante.  
 Orders,  
   Conservation, 85.041 et seq., 85.201 et seq.  
   Actions and proceedings, challenging, 85.241 et seq.  
   Emergency conservation orders, 85.206.  
   Pooling order, 102.017.  
 Passage from control of producer without measurement and record of amount, 88.052.  
 Peddlers, used equipment sales, 112.001 et seq.  
 Penalties. Fines and penalties, generally, ante.  
 Permits. Licenses and permits, generally, ante.  
 Pipes and Pipelines, generally, this index.  
 Pollution of streams, 52.251.  
 Pollution prevention, 91.101 et seq.  
 Pooling, 102.001 et seq.  
   Agreements, 101.001 et seq.  
   Dissolution of units, 102.081 et seq.

**OIL AND GAS—Cont'd**

Pooling—Cont'd  
   Procedure, 102.011 et seq.  
   Requirements, 102.011 et seq.  
   Rights in pool unit, 102.051 et seq.  
 Posting signs, 88.056.  
 Prerequisites to sale outside state, 52.293.  
 Prevention of accurate measurement, 88.053.  
 Procedure for pooling, 102.011 et seq.  
 Production,  
   Allowable production, conservation, 85.053 et seq.  
   Conditions in taking production, common purchasers, 111.087.  
   Limitation, conservation, 85.048.  
   Pooled units, ownership, 102.051.  
   Prohibited practices, 88.051 et seq.  
 Prospecting permits, 52.221 et seq.  
   Annual fee, 52.226.  
   Suspension, 52.229.  
 Applications,  
   Field notes, application without, 52.235.  
   Single and combination permits, 52.248.  
   Surveyed land, 52.222.  
   Unsurveyed areas, 52.224.  
 Areas covered by permits, 52.234.  
 Compensation of service owner, 52.239.  
 Definitions, 52.221.  
 Disposition of proceeds, 52.241.  
 Dissolution of combined permits, 52.246.  
 Extension, 52.228.  
 Fees, annual fee, 52.226.  
   Suspension, 52.229.  
 Filing documents, 52.225.  
 Forfeiture of rights, 52.250.  
 Independent development of areas, 52.227.  
 Issuance, 52.225.  
 Limitations, surveyed areas, 52.223.  
 Relinquishment procedure, 52.243.  
 Removal of oil and gas, 52.232.  
 Right to lease, 52.231.  
 Single and combination permits, application, 52.248.  
 Statement of interest, 52.240.  
 Status of assignees, 52.249.  
 Surveyed land,  
   Applications, 52.222.  
   Limitations, 52.223.  
 Terms, 52.238.  
 Transfer of rights, 52.244.  
 University land, 52.245.  
 Public land,  
   Pooling, application of law, 102.004.  
   Pooling and cooperative agreements, 101.051, 101.052.  
 Public policy, underground storage, 91.202.  
 Public school lands, geophysical and geochemical exploration permit, 52.321 et seq.  
 Purchases,  
   Exempt purchases, conservation, 85.044.  
   Gas purchases, standard gas measurement, 91.058.  
 Receivers and receivership, 85.291 et seq.  
 Records and recordation,  
   Amount, passage of control from producer, 88.052.  
   Conservation, 85.059.  
   Examination of records, conservation, 85.062.

References are to Articles

**OIL AND GAS—Cont'd**

Records and recordation—Cont'd  
 Requirements, 91.141.  
 Underground storage, 91.206.  
 Used equipment sales, 112.012.  
 Inspection, 112.033.  
 Refining, cooperative refining, 103.043.  
 Removal of oil and gas, prospecting permittees, 52.232.  
 Reports, 91.142.  
 Conservation, 85.060.  
 False reports, 91.143.  
 Requirements for pooling, 102.011 et seq.  
 Rights,  
 Pooled units, 102.051 et seq.  
 Taxable property, 52.252.  
 Royalties, discrimination, royalty oil, common purchasers, 111.089.  
 Rules and regulations,  
 Conservation, 85.041 et seq., 85.201 et seq.  
 Control of oil property, 88.011 et seq.  
 Underground storage, 91.203.  
 Sales,  
 Gas sales, standard gas measurement, 91.058.  
 Outside state, prerequisites, 52.293.  
 Used oil field equipment, 112.001 et seq.  
 Secondary recovery operations, cooperative agreements, 101.011 et seq.  
 Signs, posting, 88.056.  
 Standard gas measurement, 91.051 et seq.  
 Statements,  
 Conservation, 85.060.  
 Crude petroleum storage tanks, monthly statements, 111.140.  
 Interest, prospecting permit applicants, 52.240.  
 Status of assignees, 52.249.  
 Storage, underground, 91.201 et seq.  
 Streams, pollution, 52.251.  
 Tank not under control of producer, passage of control, 88.054.  
 Telegraphs and telephones, used equipment, sales, 112.001 et seq.  
 Transfer of rights, prospecting permittees, 52.244.  
 University land, 52.245.  
 Underground storage, 91.201 et seq.  
 Unexplored territory, restrictions, conservation, 85.057.  
 University Land, this index.  
 Use, cooperative facilities for conservation and utilization of gas, 103.001 et seq.  
 Used oil field equipment, sale, 112.001 et seq.  
 Venue,  
 Conservation violations, 85.382.  
 Control of oil property, 88.131.  
 Pooling, 102.112.  
 Underground storage violations, 91.208.  
 Waste,  
 Conservation, 85.045 et seq.  
 Hearings, 85.049 et seq.  
 Underground storage, 91.201 et seq.

**OIL AND GAS LEASES**  
 Generally, 52.001 et seq.  
 Abandoning tracts, 52.242.  
 Access to land, 52.033.  
 Actions and proceedings, venue, riverbed and channel development, actions, 52.099.  
 Advertisement, riverbed and channel leases, 52.076.

**OIL AND GAS LEASES—Cont'd**

Affidavits, unknown or unavailable owners, 52.186.  
 Appeal and review, riverbed and channel development, injunctions, 52.098.  
 Applications for lease, 52.015.  
 Rejected applications, payments, return, 52.020.  
 Single and combination leases, 52.248.  
 Void applications, 52.018.  
 Areas covered by leases, 52.234.  
 Areas subject to lease, 52.011.  
 Riverbeds and channels, 52.073.  
 Authority over riverbeds and channels, 52.071.  
 Bids and bidding,  
 Keeping bids, 52.017.  
 Opening bids, 52.017.  
 Riverbeds and channels, 52.077.  
 Tie bids, 52.019.  
 Channels, 52.071 et seq.  
 Compensation of surface owner, 52.239.  
 Compensatory royalty provisions, 52.024.  
 Conditions, 52.012.  
 Riverbeds and channels, 52.083.  
 Consideration, statement of consideration, 52.184.  
 Contracts, unitization, 52.152, 52.153.  
 Damage to soil, 52.182.  
 Damages, eminent domain, riverbed and channel development, 52.096.  
 Date for lease and notice, 52.014.  
 Delay rentals, 52.022.  
 Determination, 52.013.  
 Riverbeds and channels, 52.087, 52.088.  
 Development of riverbeds and channels more than two miles from well, 52.086.  
 Development regulation, 52.032.  
 Disposition of lease payments, 52.025, 52.241.  
 Dissolution of combined leases, 52.246.  
 Drilling provisions, 52.023.  
 Drilling wells, contracts, riverbeds and channels, 52.079.  
 Effective date of lease, 52.183.  
 Eminent domain, riverbeds and channels, 52.092 et seq.  
 Exceptions, 52.296.  
 Exemption, acreage fee, 52.247.  
 Extension of leases, 52.031.  
 Riverbeds and channels, 52.090.  
 Fees,  
 Acreage fee, exemption, 52.247.  
 Application of fees to designated land, 52.237.  
 Special fees, 52.016.  
 Riverbeds and channels, 52.078.  
 Filing, prerequisites, 52.294.  
 Forfeiture,  
 Lease of oil and gas after, 52.175.  
 Rights forfeiture, 52.029, 52.176, 52.250.  
 Forms, riverbeds and channels, 52.080.  
 Injunction, riverbed and channel development, 52.097.  
 Appeal and review, 52.098.  
 Issuance of lease, prospecting permittees, 52.233.  
 Keeping bids, 52.017.  
 Licenses and permits, leases under, 52.179.  
 Liens, 52.136.  
 Limitations, 52.291 et seq.  
 Mineral development fund, riverbeds and channels, 52.089.

**OIL AND GAS LEASES—Cont'd**

Notice, date for lease, 52.014.  
 Null and void leases, 52.295.  
 Offset wells, 52.034.  
 Opening bids, 52.017.  
 Operations regulation, 52.032.  
 Orders,  
 Riverbeds and channels, development, procedure, 52.081.  
 Suspension, 52.0301.  
 Owners, unknown or unavailable, 52.186.  
 Payments,  
 Disposition of lease payments, 52.025.  
 Return, rejected applications, 52.020.  
 Permits, leases under, 52.179.  
 Political subdivisions, pooling leases, 71.051 et seq.  
 Pollution of streams, 52.251.  
 Prevention, riverbed and channel development, 52.085.  
 Prerequisites to filing, 52.294.  
 Price, determination, 52.013.  
 Riverbeds and channels, 52.087.  
 Prohibited leases, 52.292.  
 Prospecting permittees, right to lease, 52.231.  
 Refund, lease money, designated situations, 52.030.  
 Riverbeds and channels, 52.091.  
 Regulation of development and operations, 52.032.  
 Rejected applications, payments, return, 52.020.  
 Relinquishment, 52.027.  
 Procedure, 52.243.  
 Renewal of lease, prospecting permittees, 52.233.  
 Rental, 52.236.  
 Delay rentals, generally, ante.  
 Reworking provisions, 52.023.  
 Right to lease, 52.231.  
 Rights of parties, eminent domain, riverbed and channel development, 52.095.  
 Rights of subsequent purchasers, 52.177.  
 Riverbeds, 52.071 et seq.  
 Royalties, 52.022, 52.236.  
 Compensatory royalty, 52.024.  
 Riverbeds and channels, 52.088.  
 Shut-in gas royalty, provisions, 52.024.  
 Shut-in gas royalty, provisions, 52.024.  
 Single and combination leases, application, 52.248.  
 Size of tract, riverbeds and channels, 52.074.  
 Soil damage, 52.182.  
 Special fees, 52.016.  
 Riverbeds and channels, 52.078.  
 Special lease provisions, riverbeds and channels, 52.084.  
 Statement of consideration, 52.184.  
 Statement of interests, 52.240.  
 Status of assignees, 52.249.  
 Streams, pollution, 52.085, 52.251.  
 Suspension, 52.028.  
 Terms, 52.0301.  
 Termination of pooled lease, 102.083.  
 Terms, 52.021, 52.238.  
 Riverbeds and channels, 52.082.  
 Tie bids, 52.019.  
 Tracts remaining after partial abandonment, leasing, 52.242.  
 Transfers, 52.026, 52.244.  
 University land, 52.245.  
 Unavailable owners, 52.186.  
 Unitization, 52.151 et seq.  
 Unknown owners, 52.186.

References are to Articles

**OIL AND GAS LEASES—Cont'd**

Venue, riverbed and channel development actions, 52.099.  
Void applications for lease, 52.018.  
Void leases, 52.295.

**OIL AND GAS WELLS**

Abandoned wells, 89.001 et seq.  
Actions and proceedings, plugging abandoned wells, 89.081 et seq.  
Air, gas escaping into air, 86.185.  
Appeal and review, abandoned wells, 89.122.  
Assignments, commingling, 85.055, 86.081.  
Casings, 91.011.  
Certificates of compliance, 85.161 et seq.  
Commingling, 85.053, 85.055, 86.081.  
Condemned land, offset drilling, 52.094.  
Confining gas to original stratum, 91.016.  
Connections, 85.162, 85.163.  
Contracts to drill, riverbeds and channels, 52.079.  
Costs, plugging abandoned wells, 89.081 et seq.  
Curtailment of marginal well production, 85.123.  
Definitions,  
Abandonment of well, 89.002.  
Marginal wells, 85.121.  
Drilling contracts, riverbeds and channels, 52.079.  
Eleemosynary and state memorial park lands, prohibited drilling locations, 36.063.  
Flares, burning, 88.055.  
Illumination, 91.018.  
Landowners, plugging abandoned wells, duty, 89.013.  
Leases, provisions, 52.023.  
Limits on well restrictions, minimum natural gas regulation, 86.091.  
Marginal wells, 85.121 et seq.  
Maximum well production, 86.092.  
Nonoperator, plugging abandoned wells, duty, 89.012.  
Offset wells, 52.034, 52.173.  
Condemned land, 52.094.  
Failure to drill offset, 52.174.  
State land, leases, lessee duties, 34.184.  
Operators, plugging abandoned wells, duties, 89.011.  
Operators certificates of compliance, 85.161 et seq.  
Orders, marginal wells, restriction, 85.124.  
Owners certificates of compliance, 85.161 et seq.  
Plugging abandoned wells,  
Adjacent or neighboring landowners, 91.013.  
Costs, 89.081 et seq.  
Duties, 89.011 et seq.  
Commission, 89.041 et seq.  
Production maximum, natural gas regulation, 86.092.  
Public policy, abandoned wells, 89.001.  
Public school lands, sales near, 51.053.  
Riverbeds and channels,  
Development more than two miles from well, 52.086.  
Drilling contracts, 52.079.  
Rules and regulations, marginal wells, restriction, 85.124.  
Separate wells, determination, 86.003.  
Shutting in wells by others, 91.013.  
Storage, underground storage, 85.046, 91.201 et seq.

**OIL AND GAS WELLS—Cont'd**

Temporary connections, 85.163.  
Underground storage, 85.046, 91.201 et seq.  
Using gas in open air, 91.017.  
Waste,  
Curtailment of marginal well production, 85.123.  
Petition to restrain waste, 91.014.  
Prevention, 91.015.  
Water in wells, 91.012.

**OKLAHOMA**

Land acquired from Oklahoma, 11.014.  
Natural energy and water resources compact, 142.001 et seq.

**OPINIONS**

Title opinions,  
Eleemosynary and state memorial park lands, 36.056.  
State parks, 35.056.

**ORDERS**

Beaches, traffic and litter regulation, 61.124.  
Conflict of laws, 61.128.  
Liquefied petroleum gas, license denial, hearing, 113.091.  
Marginal oil wells, restriction, 85.124.  
Oil and Gas, this index.  
Oil and gas leases, suspension, 52.0301.  
Railroad commission, enforcement, 85.013.  
Surface mining and reclamation, 131.021, 131.049.

**ORDERS OF COURT**

Railroad commission and personnel, campaigning, 81.155.

**ORDINANCES**

Beaches, traffic and litter regulation ordinances, conflict of laws, 61.129.

**OWNER**

Defined, cave protection, 201.002.

**OWNERSHIP**

Title, generally, this index.

**PAMPHLETS**

Veterans land board, 161.071.

**PAPERS**

Books and Papers, generally, this index.

**PARK LANDS**

Eleemosynary and State Memorial Park Lands, generally, this index.

**PARKING**

Beaches, off-beach parking, fees, 61.070.

**PARKS**

State Parks, generally, this index.

**PARKS AND WILDLIFE, DEPARTMENT OF**

Authority, application of law, 61.227.

**PARKS AND WILDLIFE CODE**

Management of coastal public land not to repeal, 33.005.

**PATENTS**

Land Patents, generally, this index.

**PAY**

Compensation and Salaries, generally, this index.

**PAYMENTS**

Area surveyed or investigated without permit, 31.104.  
Asylum Land, this index.  
Coal, lignite, sulphur, etc., leases, 53.065.  
Eleemosynary and state memorial park lands, leases, rentals and royalties, 36.131 et seq.  
Oil and gas leases,  
Disposition of lease payments, 52.025.  
Rejected applications, payments, return, 52.020.  
Public School Lands, this index.  
State land, leases, rental or royalty payments, 34.141 et seq.  
Veterans land board, down payment, land purchase, sale or other disposition, 161.233.  
Veterans land board bonds, 161.114.  
Place of payment, 161.115.

**PEDDLERS**

Oil and gas, used equipment sales, 112.001 et seq.

**PENALTIES**

Fines and Penalties, generally, this index.

**PENINSULAS**

Removal of sand, marl, gravel and shell, 61.226.  
Regulation, 61.211 et seq.

**PER DIEM**

Antiquities committee, 191.015.  
School land board, 32.015.

**PERFORMANCE BOND**

Bonds (Officers and Fiduciaries), generally, this index.

**PERMANENT SCHOOL FUND**

Generally, 11.041.  
Unlawful enclosure of land, 11.076.

**PERMITS**

Licenses and Permits, generally, this index.

**PERMITTEE**

Defined,  
Geophysical and geochemical exploration, 52.321.  
Public school lands, 53.161.

**PERSON**

Defined,  
Natural gas, 91.173.

**PETITIONS**

Natural gas, condemnation proceedings, 91.180.

**PETROLEUM AND PETROLEUM PRODUCTS**

Oil and Gas, generally, this index.

**PHRASES**

Words and Phrases, generally, this index.

**PIERS**

Coastal land,  
Construction, 33.115.  
Failure to register pier, 33.116.

References are to Articles

**PIPES AND PIPELINES**

Generally, 111.001 et seq.  
 Abandoning connections, 111.025.  
 Application of law, 111.003.  
 Books and records, 111.138.  
 Canals, pipelines under, 111.021.  
 Carbon dioxide, 111.001 et seq.  
 Coal pipelines, 111.301 et seq.  
 Compensation, equal compensation for like service, 111.017.  
 Connections, abandoning, 111.025.  
 Control of pipelines, 111.013.  
 Definitions, 111.001, 111.002.  
 Discrimination, 111.015 et seq.  
 Eminent domain, 111.019 et seq.  
 Facilities, exchange, 111.023.  
 Fines and penalties, 111.261 et seq.  
 Highways, pipelines on highways, 111.020.  
 Limitations, amount of oil carried, 111.024.  
 Natural gas, relocation, 91.178.  
 Orders of railroad commission, effect, 111.018.  
 Public interest, 111.011.  
 Publication of tariffs, 111.014.  
 Railroads, pipelines under railroad property, 111.021.  
 Rates, 111.181 et seq.  
 Receivers and receivership, 111.222 et seq.  
 Records, 111.138.  
 Relocation of property, costs, 111.0191.  
 Reports, 111.139.  
 Restoration of property after condemnation award, 111.0193.  
 Restrictions, oil transportation, 111.004.  
 Rules and regulations, 111.131 et seq.  
 Shippers, discrimination, 111.016.  
 Statements, monthly statements, filing, 111.140.  
 Streams, pipelines on public streams, 111.020.  
 Street railroads, pipelines under, 111.021.  
 Streets and alleys, right to use, 111.022.  
 Tariffs, publication, 111.014.  
 Used field equipment, sales, 112.001 et seq.

**PLANS AND SPECIFICATIONS**

Surface mining and reclamation, 131.101 et seq.

**PLATS**

Maps and Plats, generally, this index.

**PLEADINGS**

Coastal lands, unauthorized use complaints, 33.061.

**PLUGGING ABANDONED WELLS**

Generally, 89.011 et seq.  
 Commission, 89.041 et seq.

**POLICE**

Antiquities committee, cooperation, 191.174.

**POLITICAL SUBDIVISIONS**

Cities, Towns and Villages, generally, this index.  
 Counties, generally, this index.  
 Mineral leases, 71.001 et seq.  
 Pooling mineral leases, 71.051 et seq.

**POLLUTION**

Oil and gas, pollution prevention, 91.101 et seq.

**POLLUTION—Cont'd**

Oil and gas leases, riverbed and channel development, 52.085.  
 Streams, oil and gas development, 52.251.

**POOLING**

Oil and Gas, this index.

**POPULAR NAME LAWS**

Antiquities code of Texas, 191.001 et seq.  
 Coastal Coordination Act of 1977, 33.201.  
 Coastal Public Land Management Act of 1973, 33.001 et seq.  
 Coastal Wetland Acquisition Act, 33.231.  
 Geothermal Resources Act of 1975, 141.001 et seq.  
 Interstate mining compact, 132.001 et seq.  
 Liquefied Petroleum Gas Code, 113.001 et seq.  
 LPG Code, 113.001 et seq.  
 Mineral Interest Pooling Act, 102.001 et seq.  
 Standard Gas Measurement Law, 91.051 et seq.  
 Underground Natural Gas Storage and Conservation Act of 1977, 91.171.  
 Uranium Surface Mining and Reclamation Act, 131.001 et seq.

**POSTING**

Public beaches, access denial, 61.014.

**POTASH**

See, also, Mines and Minerals, generally, this index.  
 Mineral leases, 53.061 et seq.  
 Public school and gulf lands, 53.151 et seq.

**PREFERENCES**

Priorities and Preferences, generally, this index.

**PRICE**

Oil and gas leases, determination, 52.013.

**PRINTING**

General land office, supplementary abstracts, 31.057.

**PRIORITIES AND PREFERENCES**

Coastal lands, wetland acquisition, 33.236, 33.237.  
 Public School Lands, this index.  
 Veterans land board,  
 Bonds, preferential purchase right, 161.122.  
 Selected land purchase and sale, purchase preference, 161.286.  
 Wetlands, coastal wetland acquisition, 33.236, 33.237.

**PRIVILEGED INFORMATION**

Confidential or Privileged Information, generally, this index.

**PRIVILEGES AND IMMUNITIES**

Conservation foundation, members, liability immunity, 181.018.

**PROCEEDINGS**

Actions and Proceedings, generally, this index.

**PROCESS**

Railroad commission process, executing fees, 81.092.

**PROCESS—Cont'd**

Service of process, control of oil property, actions, 88.132.

**PRODUCTION**

Natural gas production, 86.081 et seq.  
 Oil and Gas, this index.

**PRODUCTION OF DOCUMENTS AND THINGS**

Surface mining and reclamation hearing, 131.025.  
 Veterans land board, 161.066.

**PROFITS**

Conservation foundation, private profits, 181.058.

**PROPERTY**

Conservation foundation, management and disposition, 181.057.  
 Real Estate, generally, this index.

**PROSPECTING PERMITS**

Mines and Minerals, this index.

**PROTECTION**

Caves, 201.001 et seq.

**PROTECTION LINES**

Dunes, 63.011 et seq.

**PUBLIC BEACHES**

Beaches, generally, this index.

**PUBLIC LAND**

Adverse claimants, actions against, 11.077.  
 Appropriation by,  
 Fencing, 11.075.  
 Herding or line-riding, 11.074.  
 Coastal Land, generally, this index.  
 Fences, 11.072 et seq.  
 Minerals appropriated from public land, value, recovery, 11.071.  
 Oil and gas pooling, application of law, 102.004.  
 Oil and gas pooling and cooperative agreements, 101.051, 101.052.  
 State Parks, generally, this index.  
 Surveys, 21.011.  
 Field notes, 21.041.  
 Texas co-ordinate system, 21.071 et seq.  
 Timber appropriated from public land, value, recovery, 11.071.  
 Unlawful enclosures, 11.076.

**PUBLIC POLICY**

Abandoned wells, 89.001.  
 Antiquities code of Texas, 191.002.  
 Beaches,  
 Access, 61.011.  
 Maintenance, 61.062.  
 Business establishments at public beaches, 61.161.  
 Cavern protection, 201.001.  
 Coastal land, coordination, 33.202.  
 Coastal wetland acquisition, 33.232.  
 Conservation foundation, 181.001.  
 Forest pest control, 152.001.  
 Geothermal Resources Act of 1975, 141.002.  
 Hydrocarbon, underground storage, 91.202.  
 Littoral land, privately owned land, use, 33.117.  
 Natural gas,  
 Regulation, 86.001.  
 Storage and conservation, 91.172.

References are to Articles

**PUBLIC POLICY—Cont'd**

Uranium Surface Mining and Reclamation Act, 131.002.

**PUBLIC SCHOOL LANDS**

Accounts, sales or leases, 51.018.  
 Actions and proceedings,  
     Geophysical or geochemical exploration, 52.325.  
     Good-faith claimant, judicial determination, vacant land purchase or lease, 51.199.  
     Recovery of land, vacant land purchase or lease, 51.191.  
     Removal of minerals, etc., 51.350.  
     Sales, 51.076.  
 Adjoining landowners, purchase of vacant land, 51.174.  
 Advertisement of leases, 51.122.  
 Appeal and review,  
     Deposit amount, vacant land purchase or lease, 51.181.  
     Vacant land sale or lease, 51.205.  
 Applications,  
     Leases, 51.123.  
     Purchase, 51.056.  
     Delivery of applications, 51.057.  
     Opening applications, 51.059.  
     Vacant land purchase or lease, 51.175, 51.190.  
     Effect of good-faith claimant location, 51.195.  
     Filing application with commissioner, 51.178.  
     Filing application with county, 51.177.  
 Bids and bidding,  
     Duplicate high bids, 51.063.  
     Individual bids, 51.064.  
     Lease, rejection of bid, 51.125.  
 Board of lease, 51.124.  
 Cancellation of lease, 51.128.  
 Classification, 51.013.  
     Leased and forfeited land, 51.073.  
 Coal,  
     Geophysical and geochemical exploration permits, 53.161 et seq.  
     Lignite, sulphur, etc., leases, 53.151 et seq.  
 Collection of remittances, sales, 51.061.  
 Commercial purposes, leases, 51.121.  
 Conditions for sale, 51.052.  
 Definitions, mines and minerals, 53.161.  
 Delivery, applications to purchase, 51.057.  
 Denial of vacancy, vacant land purchase or lease, 51.192.  
 Deposits,  
     Vacant land purchase or lease, 51.179.  
     Appeal of amount of deposit, 51.181.  
     Deposits as trust funds, 51.182.  
     Insufficient deposit, 51.180.  
     Statement and refund of remaining deposit, 51.183.  
 Designated acres, sales, 51.0521.  
 Determination of vacancy, vacant land purchase or lease, 51.189.  
 Disposition of first payments, sales, 51.062.  
 Eligibility to purchase and lease vacant land, 51.173.  
 Evidence, vacant lands, surveys, 51.206.  
 Exploration permits, geophysical and geochemical, 52.321 et seq.  
     Mines and minerals, 53.161 et seq.  
 Fees, geophysical and geochemical exploration permit, 52.324.

**PUBLIC SCHOOL LANDS—Cont'd**

Filing fees, vacant land purchase or lease, 51.176.  
 Fines and penalties, geophysical and geochemical exploration, 52.325.  
 Forfeitures, 51.071.  
     Classification and sale of leased and forfeited land, 51.073.  
     Deceased purchasers land, 51.075.  
     Sales, effect of forfeiture, 51.072.  
 Forms, geophysical and geochemical exploration permits, 52.323.  
 Fund accounts, sales or leases, 51.068.  
 Geochemical and geophysical exploration permits, 52.321 et seq.  
     Mines and minerals, 53.161 et seq.  
 Hearings, vacant land purchase or lease, 51.188.  
 Improvements, removal, lessee, 51.130.  
 Insufficient deposit, vacant land purchase or lease, 51.180.  
 Investigations and investigators, geophysical and geochemical exploration permit, 52.321 et seq.  
 Leases, 32.101 et seq., 51.011 et seq., 51.121 et seq.  
     Mineral production, 53.151 et seq.  
     Unsold land, 51.055.  
     Vacant land, 51.171 et seq.  
 Licenses and permits, geophysical and geochemical exploration, mines and minerals, 53.161 et seq.  
 Liens and incumbrances,  
     Leases, 51.129.  
     Sales, 51.077.  
 Method for making first payments, sales, 51.058.  
 Mines and minerals,  
     Development, lease of vacant land for, 51.204.  
     Leases, 53.151 et seq.  
     Reservation, 51.054.  
     Vacant lands, purchase or lease, reservation, 51.201.  
 Notice,  
     Acceptance and execution of lease, 51.126.  
     Award, 51.066.  
     Hearings, vacant land purchase or lease, 51.188.  
     Intention to survey, vacant land purchase or lease, 51.184.  
     Lease acceptance and execution, 51.126.  
     Sale, 51.065.  
     Offer of lease, rejection, 51.125.  
 Oil and gas, geophysical and geochemical exploration permit, 52.321 et seq.  
 Oil and Gas Leases, generally, this index.  
 Opening applications to purchase, 51.059.  
 Ownership relinquishments, 52.171 et seq.  
 Patent on part of tract, 51.083.  
 Payments,  
     Disposition of first payments, sales, 51.062.  
     Disposition of payments, sale, 51.069.  
     Information required with payments, sales, 51.067.  
     Method for making first payment, sales, 51.058.  
     Recording of first payments, sales, 51.060.  
 Preferential right,  
     Good-faith claimant, vacant land purchase or lease, 51.193.  
     Failure to exercise preference, 51.197.

**PUBLIC SCHOOL LANDS—Cont'd**

Preferential right—Cont'd  
     Term, vacant land purchase or lease, 51.194.  
 Priorities and preferences. Preferential right, generally, ante.  
 Procedure, vacant land purchase or lease, good-faith claimant, 51.196.  
 Proceedings. Actions and proceedings, generally, ante.  
 Prohibited sale of certain land, 51.053.  
 Records and recordation,  
     First payments, sales, 51.060.  
     Leases, 51.018, 51.127.  
     Sale, 51.018, 51.065.  
 Refunds, sales or leases, 51.020.  
 Reinstatement of land purchases, 51.074.  
 Rejection of lease, bid or offer, 51.125.  
 Removal of improvements, lessees, 51.130.  
 Repayment, applicant expenses, vacant land purchase or lease, 51.198.  
 Reservation of minerals, 51.054.  
     Vacant land purchase or lease, 51.201.  
     Reservations under sale made to claimant after 90 day deadline, 51.202.  
 Residency, sale without condition of residency, 51.084.  
 Rights of holders of interest in title of claimant, vacant land purchase or lease, 51.200.  
 Rights of holders of title, vacant land purchase or lease, 51.200.  
 Royalties,  
     Mineral leases, 53.154.  
     Vacant land sale or lease, 51.203.  
 Sale, 32.101 et seq., 51.011 et seq., 51.051 et seq.  
     Vacant land, 51.171 et seq.  
 Special fees, sales or leases, 51.019.  
 Statement and refund of remaining deposit, vacant land purchase or lease, 51.183.  
 Suits. Actions and proceedings, generally, ante.  
 Surveys and surveyors,  
     Appointment of surveyor, vacant land purchase or lease, 51.185.  
     Geophysical and geochemical exploration permit, 52.321 et seq.  
     Notice of intention to survey, vacant land purchase or lease, 51.184.  
     Personal survey, vacant land purchase or lease, 51.187.  
     Report, survey report, vacant land purchase or lease, 51.186.  
     Vacant lands, evidence, 51.206.  
 Time for purchase, 51.085.  
 Transfer of indebtedness, 51.078.  
 Transfers, land purchase from state, 51.079 et seq.  
 Unpaid interest, sales, 51.070.  
 Vacant land, sale and lease, 51.171 et seq.  
 Valuation, 51.013.  
  
**PUBLIC UTILITIES**  
 Crude Petroleum Storage Tanks or Facilities, generally, this index.  
  
**PUBLICATION**  
 Coastal lands, reports, problems and issues, 33.204.  
 Pipelines, tariffs, 111.014.

References are to Articles

**PURCHASES**

Oil and gas conservation, exempt purchases, 85.044.

**QUORUM**

Antiquities committee, 191.017.  
Conservation foundation, 181.016.  
Eleemosynary and state memorial park lands leasing board, 36.013.  
Historical resources development council, 182.015.  
Leasing boards, 34.015.  
State parks, leasing board, 35.013.

**RAILROAD COMMISSION**

Generally, 81.001 et seq.  
Abandoned wells, plugging, 89.041 et seq.  
Additional employees, 81.017.  
Assistants, 81.013.  
Employment, 85.012.  
Campaigning, 81.151 et seq.  
Chief supervisor, 81.011.  
Duties, 81.019, 81.020.  
Qualifications, 81.012.  
Clerical personnel, 81.013.  
Clerks, employment, 85.012.  
Compensation and salaries, 81.016.  
Payment, 81.018.  
Definitions, 81.001.  
Deposits, proceeds, 81.112.  
Deputy supervisors, 81.013.  
Additional duties, 81.020.  
Chief deputy supervisor,  
Duties, 81.019.  
Qualifications, 81.014.  
Duties, 81.019.  
Qualifications, 81.015.  
Director, liquefied petroleum gas division, 113.013.  
Employees, 81.017.  
Enforcement of rules and orders, 85.013.  
Expenses, payment, 81.018.  
Funds, liquefied petroleum gas division financing, 113.015.  
Geothermal resources, powers and duties, 141.011, 141.012.  
Jurisdiction, 81.051 et seq.  
Pipelines, 111.012.  
Liquefied petroleum gas division, 113.011 et seq.  
Officers and employees, liquefied petroleum gas division, 113.014.  
Powers and duties, 81.051 et seq.  
Abandoned wells, plugging, 89.041 et seq.  
Geothermal resources, 141.011, 141.012.  
Liquefied petroleum gas division, 113.012.  
Natural gas regulation, 86.041 et seq.  
Regulation of specific businesses and occupations, 111.131 et seq.  
Sour natural gas regulation, 87.011 et seq.  
Surface mining and reclamation, 131.021 et seq.  
Process, execution, 81.092.  
Rules and regulations, 81.052.  
Supervisors, employment, 85.011.  
Taxation, 81.111 et seq.  
Umpires, 85.011.  
Witnesses,  
Fees, executing process, 81.092.  
Incriminating testimony, 81.091.

**RAILROADS**

Natural gas, relocation, 91.178.  
Pipelines under railroads, 111.021.

**RANCHES**

Coastal wetlands, acquisition, exemption, 33.235.

**RATES AND CHARGES**

Pipelines, 111.181 et seq.  
Veterans land board bonds, interest rates, 161.113.

**REAL ESTATE**

Archeological landmarks on private lands, 191.094 et seq.  
Asylum Land, generally, this index.  
Coastal Land, generally, this index.  
Conservation foundation, acquisitions, 181.056.  
County Surveyors, generally, this index.  
Deeds and Conveyances, generally, this index.  
Description of land, zone names, use, 21.075.  
Dunes, generally, this index.  
Easements, generally, this index.  
Eleemosynary and State Memorial Park Lands, generally, this index.  
Gulf Land, generally, this index.  
Leases, generally, this index.  
Public Land, generally, this index.  
Public School Lands, generally, this index.  
State Land, generally, this index.  
Texas co-ordinate system, 21.071 et seq.  
University Land, generally, this index.  
Veterans Land Board, generally, this index.  
Zones, land in more than one zone, 21.079.

**RECEIPTS**

Leasing boards, deposits, 34.018.

**RECEIVERS AND RECEIVERSHIP**

Oil and gas conservation violations, 85.291 et seq.  
Pipelines, 111.222 et seq.

**RECEIVING CLERK**

General Land Office, this index.

**RECLAMATION**

Uranium Surface Mining and Reclamation Act, 131.001 et seq.

**RECORDS AND RECORDATION**

Antiquities committee, 191.019.  
Archeological land-marks, confidential or privileged information, 191.004.  
Asylum Land, this index.  
Beach park board, 62.051.  
Control of oil property, 88.012.  
County Surveyors, this index.  
Easements, 51.297.  
Eleemosynary and state memorial park lands,  
Leases, record inspection, 36.135.  
Leasing board, 36.014.  
Filing records, 34.020, 35.017, 36.016.  
General land office, custody of records, 31.052.  
Leasing boards, 34.016.  
Oil and Gas, this index.  
Pipelines, 111.138.  
Production records, coal, lignite, sulphur, leases, etc., 53.068.

**RECORDS AND RECORDATION**

—Cont'd  
Public School Lands, this index.  
School land board, 32.021.  
Sour natural gas, inspection of records, 87.014.  
State land, leases, record inspection, 34.145.  
State parks,  
Inspection of records, 35.135.  
Leasing board, 35.014.  
Surface mining operations, 131.042.  
Timber brands, 151.003.  
Veterans land board, 161.065.  
Depository, 161.019.

**RECREATIONAL VEHICLES**

Dunes, 63.057, 63.093.

**REFINING AND REFINERIES**

Oil and gas, cooperative refining, facilities for conservation and utilization of gas, 103.043.

**REFUNDING BONDS**

Beach park board, 62.138.  
Veterans land board bonds, 161.127.

**REFUNDS**

Asylum land sales or leases, 51.020.  
Land patents, purchase money, 51.252.  
Public school and sale or leases, 51.020.  
Veterans land board, selected land purchase and sale, 161.288.

**REGISTERS**

Unique natural areas and resources, 181.001.

**REGISTRATION**

Beach park board bonds, 62.134.  
Coastal land, structures, 33.132.  
Liquefied petroleum gas, testing laboratories, containers, 113.135.  
Veterans land board bonds, 161.119.

**REGULATIONS**

Rules and Regulations, generally, this index.

**REIMBURSEMENT**

Forest pest control, landowner reimbursement, 152.025.

**REMEDIES**

Coastal land, cumulative remedies, 33.133.

**RENT**

Adverse claimant of land, 11.077.

**RENTALS**

Eleemosynary and state memorial park lands, leases, payments, 36.131 et seq.  
State land, leases,  
Fixing rental, 34.059.  
Minimum rental, 34.058, 35.059.

**REPLACEMENT**

Veterans land board bonds, 161.126.

**REPLEVIN**

Unlawful enclosure of land, 11.076.

**REPORTS**

Coastal lands, problems and issues, 33.204.  
Conservation foundation, 181.053.

References are to Articles

**REPORTS—Cont'd**

Control of oil property, 88.012.  
 Forest pest control, landowner duties, 152.063.  
 General land office, financial reports, 31.060.  
 Geothermal resources, report to legislature, 141.079.  
 Historical resources development council, 182.045.  
 Natural energy and water resources, conservation, 142.005.  
 Oil and Gas, this index.  
 Pipelines, 111.139.  
 Production reports, coal, lignite, sulphur, etc., leases, 53.068.  
 Sour natural gas, 87.014.  
 Surface mining operations, 131.042.  
 Timber branding and floating, 151.004.  
 Veterans land board, land purchase, sale or other disposition, sworn report, 161.213.

**REPUBLIC OF TEXAS**

Vacant and unappropriated lands, 11.011.

**RESERVES**

Natural gas, 91.171 et seq.

**RESIDENCE**

Domicile and Residence, generally, this index.

**RESOURCES**

Historical Resources Development Council, generally, this index.

**RESTORATIONS**

Antiquities committee, 191.057.

**RETIREMENT AND PENSIONS**

Interstate mining commission, employees retirement system, 132.007.

**REVENUE BONDS**

Beach park board, 62.131 et seq.

**REVIEW**

Appeal and Review, generally, this index.

**RIVERBEDS**

Oil and gas leases, 52.071 et seq.

**ROYALTIES**

Generally, 52.131 et seq., 53.018.  
 Agreements, filing, 52.134.  
 Contracts, filing, 52.134.  
 Eleemosynary and state memorial park lands, leases, payments, 36.131 et seq.  
 Examinations, 52.135.  
 Form of payment, 52.132.  
 Gulf lands, mineral leases, 53.154.  
 In-kind payment, 52.133.  
 Inspections, 52.135.  
 Liens, 52.136.  
 Mineral leases, 53.018.  
 Oil and Gas Leases, this index.  
 Payment, 52.131 et seq.  
 Political subdivisions,  
     Mineral leases, 71.009.  
     Authority to commit royalty interest, 71.057.  
 Public school lands,  
     Mineral leases, 53.154.  
     Vacant land sale or lease, 51.203.  
 State parks, leases, minimum rent royalty, 35.059.

**RULES AND REGULATIONS**

Antiquities committee, 191.052.  
 Asylum land, sale or lease, 51.014.  
 Beach park board, 62.100.  
 Coastal public land management, 33.064.  
 Coastal wetlands, 33.234.  
 Conservation foundation, 181.052.  
 Control of oil property, 88.011 et seq.  
 Eleemosynary and state memorial park lands leasing board, 36.015.  
 Geological and geophysical surveys, areas within tidewater limits, 31.107.  
 Geothermal resources, 141.012.  
 Hydrocarbon underground storage, 91.203.  
 Interstate natural energy and water resources commission, 142.005.  
 Liquefied petroleum gas, 113.012, 113.051 et seq.  
 Marginal oil well restriction, 85.124.  
 Natural gas regulation, 86.001 et seq.  
 Oil and Gas, this index.  
 Public school land, sale or lease, 51.014.  
 Railroad commission, 81.052.  
     Enforcement, 85.013.  
 School land board, adoption, 32.062.  
 Sour natural gas regulation, 87.001 et seq.  
 State parks, leasing board, 35.015.  
 Surface mining and reclamation, 131.021.  
 Timber sales, 51.343.  
 Veterans land board, 161.063.  
 Wetlands, coastal wetlands, 33.234.

**SALARIES**

Compensation and Salaries, generally, this index.

**SALES**

Asylum Land, this index.  
 Beach park board, bonds, 62.133.  
 Caves, speleothems, 201.042.  
 Coastal wetlands, 33.231 et seq.  
 Copies of sale contracts, filing, 34.020, 35.017, 36.016.  
 Gayule, 51.341 et seq.  
 Lechuguilla, 51.341 et seq.  
 Mineral estates, areas within tidewater limits, 32.101 et seq.  
 Oil and Gas, this index.  
 Permanent school fund lands, 32.101 et seq.  
 Pipes and pipelines, used equipment, 112.001 et seq.  
 Speleothems, 201.042.  
 Timber, 51.341 et seq.  
     Bills of sale, 151.041 et seq.  
 Used oil field equipment, 112.001 et seq.  
 Veterans land board,  
     Bonds, 161.111.  
     Real estate, 161.211 et seq.  
 Wetlands, coastal wetlands, 33.231 et seq.

**SALT**

Public school and gulf lands, leases, 53.151 et seq.

**SALVAGE**

Archeological landmarks, 191.093.

**SAND AND GRAVEL**

Removal regulations, 61.211 et seq.

**SAND DUNES**

Dunes, generally, this index.

**SCHOOL LAND**

Appropriation by herding and line-riding, 11.074.  
 Fencing, appropriation, 11.075.  
 Leases and sales, 32.101 et seq.  
     Agents, 52.172.

**SCHOOL LAND BOARD**

Generally, 32.001 et seq.  
 Advising general land office commissioner, 32.063.  
 Archives, records and proceedings, 32.021.  
 Award of lease, 32.111.  
 Chairman, 32.014.  
 Citation, service, 33.175.  
 Coastal Land, generally, this index.  
 Creation, 32.011.  
 Definitions, 32.001.  
 Disposition of funds, 33.014.  
 Dockets, 32.020.  
 Employees, 32.019.  
 Expenses, 32.015.  
 Funds,  
     Disposition of funds, 33.016.  
     Special fund, 33.015.  
 Geologists, employment, 32.018.  
 Geothermal resources, powers and duties, 141.071 et seq.  
 Gifts, interests in coastal land, 33.057.  
 Inspection of minutes and docket, 32.022.  
 Leases of land, 32.101 et seq.  
 Meetings, 32.016.  
     Riverbed and channel oil and gas leases, 52.075.

Members, 32.012.

Mineralogists, employment, 32.018.

Minutes, 32.020.

Inspection, 32.022.

Official representative of state, designation, 33.062.

Per diem, 32.015.

Powers and duties, 32.061 et seq., 33.051 et seq.

Geothermal resources, 141.071 et seq.

Records, 32.021.

Proceedings, 32.020.

Reimbursement, expenses, 32.015.

Rules,

Adoption, 32.062.

Coastal public land management, 33.064.

Sales of land, 32.101 et seq.

Secretary, 32.017.

Terms of office, 32.013.

Traveling expenses, 32.015.

**SEALS**

Beach park board, 62.055.  
 Conservation foundation, 181.019.  
 Interstate natural energy and water resources commission, 142.005.  
 Veterans land board, 161.021.  
     Bonds, 161.117.

**SEAWARD**

Defined, coastal wetlands, 33.233.

**SEAWATER**

Defined,  
     Coastal coordination, 33.203.  
     Coastal wetlands, 33.233.

**SECONDARY RECOVERY OPERATIONS**

Oil and gas, cooperative agreements, 101.011 et seq.

References are to Articles

**SECRETARIES**

School land board, 32.017.

**SECURITIES**Beach park board bonds, 62.131 et seq.  
Veterans land board bonds, 161.128.**SEMINARS**Liquefied petroleum gas,  
Fees, 113.088.  
Licensees, 113.087.**SEQUESTRATION**

Unlawful enclosure of land, 11.076.

**SERVICE OF PROCESS**

Control of oil property, actions, 88.132.

**SHELLS**

Removal of regulations, 61.211 et seq.

**SHIPS**

Archeological landmarks, 191.091.

**SHORES**

Beaches, generally, this index.

**SHUT-IN ROYALTIES**

Oil and gas lease, 52.024.

**SIGNATURES**

Veterans land board bonds, 161.117.

**SIGNS**

Surface mining operation, 131.045.

**SOIL CONSERVATION**

Easements, 51.304.

**SOUR NATURAL GAS**

Natural Gas, this index.

**SOUTH CENTRAL ZONE**

Texas co-ordinate system, 21.073 et seq.

**SOUTH ZONE**

Texas co-ordinate system, 21.073 et seq.

**SPANISH LANGUAGE**

Translator, general land office, 31.018.

**SPECIAL FEES**

Fees, this index.

**SPECIAL FUNDS**

Funds, this index.

**SPECIFIC PERFORMANCE**Eleemosynary and state memorial park  
lands, leases, actions, 36.173.  
State parks, leases, actions, 35.173.**SPELEOTHEM**

Defined, cave protection, 201.002.

**STANDARD GAS AND MEASURE-  
MENT LAW**

Generally, 91.051 et seq.

**STANDARDS**Liquefied petroleum gas, 113.012, 113.051  
et seq.  
Surface mining and reclamation, 131.101  
et seq.**STATE**Beach maintenance duties, 61.067.  
Boundaries, generally, this index.  
Cession of designated El Paso land to  
United States, 11.018.**STATE—Cont'd**Defined, 11.001.  
Land. State Land, generally, this index.  
Liens, state parks, leases, 35.136.  
Zones, division of state into, 21.073 et  
seq.**STATE AGENCIES**Antiquities committee, cooperation,  
191.174.**STATE FUNDS**

Public beach maintenance, 61.068 et seq.

**STATE LAND**Abstracts of title, 34.054.  
Assignment of leases, 34.103.  
Bids and bidding, leases, 34.060.  
Acceptance and rejection of bids,  
34.062.  
Bonuses,  
Fixing bonus, 34.059.  
Minimum bonuses, 34.058.  
Chamizal area, 11.017.  
Drainage, protection from, lessees duty,  
34.182.  
Easements, 34.064.  
El Paso, ceding to United States, 11.018.  
Geological surveys, 34.055.  
Issuance of leases, 34.063.  
Leases, 34.051 et seq.  
Acceptance of bids, 34.062.  
Advertisement, 34.057.  
Application of state laws and orders of  
regulatory authority, 34.105.  
Assignment, 34.103.  
Bids, 34.060.  
Bonuses,  
Fixing bonus, 34.059.  
Minimum bonus, 34.058.  
Development, lessee duty, 34.181.  
Due date for payment, 34.142.  
Duties of lessees, 34.181 et seq.  
Forfeiture, 34.185.  
Issuance, 34.063.  
Lien on minerals, 34.146.  
Minimum royalty, bonus and rental,  
34.058.  
Obligations, payment on, effect, 34.183.  
Offset drilling, 34.184.  
Placing lease on market, 34.056.  
Protection from drainage, 34.182.  
Records, inspection, 34.145.  
Rejection of bids, 34.062.  
Relinquishment of lease, 34.104.  
Rental, 34.058, 34.059, 34.141 et seq.  
Royalties, 34.058, 34.059, 34.141 et seq.  
Separate leases, 34.101.  
Special fees, 34.061.  
Statements accompanying payment,  
34.144.  
Term of lease, 34.102.  
Maps and plats, 34.053.  
Mexico, land acquired from Mexico in  
1933, 11.016.  
Mineral Leases, generally, this index.  
Offset drilling, 34.184.  
Oklahoma, land acquired from, 11.014.  
Records, inspection, 34.145.  
Relinquishment of leases, 34.104.  
Rental, 34.058, 34.059, 34.141 et seq.  
Royalties, 34.058, 34.059, 34.141 et seq.  
State Parks, generally, this index.  
Subdivision of land, 34.052.  
Submerged lands, home-rule cities, reve-  
nue, 11.0131.  
Term of leases, 34.102.**STATE LAND—Cont'd**Texas co-ordinate system, 21.071 et seq.  
Unappropriated land, 11.011.  
Vacant land, 11.011.**STATE LAND SURVEYORS**Surveys and Surveyors, generally, this  
index.**STATE MEMORIAL PARK LANDS**Eleemosynary and State Memorial Park  
Lands, generally, this index.**STATE PARKS**Abstracts of title, 35.054.  
Filing, 35.056.  
Actions and proceedings, leases, damages  
or specific performance, 35.173.  
Assignment of leases, 35.102.  
Bids and bidding, leases, 35.060, 35.061.  
Boards and commissions. Leasing  
boards, generally, post.  
Conditions of leases, 35.101 et seq.  
Damages, leases, actions, 35.173.  
Development, lessee duty, 35.171.  
Drainage prevention, lessee duty, 35.171.  
Eleemosynary and State Memorial Park  
Lands, generally, this index.  
Examination of title, 35.055.  
Forfeiture of leases, 35.172.  
Land subject to leases, 35.051.  
Leases,  
Advertisement, 35.058.  
Assignments, 35.102.  
Bids and bidding, 35.060, 35.061.  
Conditions of leases, 35.101 et seq.  
Damages, actions for, 35.173.  
Development, duty of lessee, 35.171.  
Drainage prevention, duty of lessee,  
35.171.  
Due date for payments, 35.132.  
Duties of lessees, 35.171 et seq.  
Forfeiture of lease, 35.172.  
Land subject to lease, 35.051.  
Lien of state, 35.136.  
Minimum royalty on rental, 35.059.  
Necessary facilities, 35.062.  
Payment of rental and royalty, 35.131  
et seq.  
Placing lease on market, 35.057.  
Records, inspection, 35.135.  
Relinquishment of lease, 35.103.  
Rental,  
Minimum rental, 35.059.  
Payment, 35.131 et seq.  
Royalties,  
Minimum royalty, 35.059.  
Payment, 35.131 et seq.  
Specific performance, actions, 35.173.  
Statements accompanying payment,  
35.134.  
Term, 35.101.  
Leasing boards, 35.011 et seq.  
Creation, 35.011.  
Definitions, 35.001.  
Expenditures, state park development  
fund, 35.016.  
Members, 35.012.  
Powers and duties, 35.051 et seq.  
Quorum, 35.013.  
Records, 35.014.  
Rules and regulations, 35.015.  
Lien of state, leases, 35.136.  
Maps, 35.053.  
Necessary facilities, 35.062.  
Perfection of title, 35.055.  
Plats, 35.053.

References are to Articles

**STATE PARKS—Cont'd**

Records, inspection, 35.135.  
Relinquishment of leases, 35.103.  
Rentals,  
Leases, payments, 35.131 et seq.  
Minimum rental, leases, 35.059.  
Royalties,  
Leases, payments, 35.131 et seq.  
Minimum royalties, leases, 35.059.  
Specific performance, leases, actions, 35.173.  
Subdivision of land, 35.052.  
Term of leases, 35.101.  
Title opinions, 35.056.

**STATEMENTS**

Crude petroleum storage tanks or facilities, monthly statements, filing, 111.140.  
Eleemosynary and state memorial park lands, statements accompanying lease payments, 36.134.  
Liquefied petroleum gas, in lieu of insurance certificates, 113.099.  
Oil and Gas, this index.  
Pipelines, filing monthly statements, 111.140.  
Public school land, vacant land purchase or lease, statement and refund of remaining deposit, 51.183.  
State land, leases, rental or royalty payments, 34.144.  
State parks, leases, statements accompanying payment, 35.134.  
Timber sales, statement in lieu of bill of sale, staves or crossties, 151.044.

**STATE-OWNED SUBMERGED LANDS**

Defined, home-rule cities, 11.0131.

**STATUTORY REVISION**

Purpose of code, 1.001.

**STORAGE**

Crude Petroleum Storage Tanks or Facilities, generally, this index.  
Hydrocarbon, underground, 91.201 et seq.  
Natural gas, 91.171 et seq.

**STORAGE FACILITY**

Defined,  
Natural gas, 91.173.  
Oil and gas, 91.201.

**STORER**

Defined, natural gas, 91.173.

**STREAMS**

Pipelines on streams, 111.020.  
Pollution, oil and gas development, 52.251.

**STREET RAILROADS**

Pipelines under street railroads, 111.021.

**STREETS AND ALLEYS**

Pipelines, right of use, 111.022.

**STRIP MINING**

Uranium Surface Mining and Reclamation Act, 131.001 et seq.

**STRUCTURES**

Coastal Land, this index.

**STUDIES**

Coastal land,  
Engineering problems, 33.059.  
Problems and issues, 33.204.  
Historical resources development council, 182.042.  
Natural energy and water resources, conservation, 142.005.

**SUBDIVISIONS**

Eleemosynary and state memorial park lands, 36.052.  
State parks, 35.052.

**SUBMERGED LAND**

Defined, coastal public lands management, 33.004.  
Home-rule cities, revenues, 11.0131.

**SUBPOENA DUCES TECUM**

Veterans land board, 161.066.

**SUBPOENAS**

Surface mining and reclamation hearing, 131.025.

**SUBSTANTIALLY DEPLETED**

Defined, natural gas, 91.173.

**SUITS**

Actions and Proceedings, generally, this index.

**SULPHUR**

See, also, Mines and Minerals, generally, this index.  
Mineral leases, 53.061 et seq.  
Public school and gulf lands, 53.151 et seq.  
Unitization of production, 53.111 et seq.

**SUPPLIES**

Veterans land board, purchase, 161.020.

**SURETY BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**SURFACE MINING AND RECLAMATION ACT**

Uranium Surface Mining and Reclamation Act, 131.001 et seq.

**SURFACE MINING PERMITS**

Generally, 131.131 et seq.

**SURVEYS AND SURVEYORS**

Generally, 21.001 et seq.  
Areas within zones, 21.074.  
Certification, 21.042.  
Conservation foundation, 181.001.  
Correction, field notes, 23.053.  
County Surveyors, generally, this index.  
Definitions, 21.001.  
Co-ordinate system, 21.076.  
County surveyors, 23.001.  
Designated counties, field notes, correction, 23.053.  
Division lines, 21.014.  
Division of state into zones, 21.073 et seq.  
Examiners board, 22.001 et seq.  
Defined, 22.001.  
Fees, field notes, corrections, 23.053.  
Field notes, 21.041 et seq.  
Correction, 23.053.  
Incorrect field notes, 21.044.  
Land acquired from Mexico, 11.016.

**SURVEYS AND SURVEYORS**

—Cont'd

Field notes—Cont'd  
Lost field notes, 21.043.  
Prospecting permit applications without field notes, 52.235.  
Filing surveys, 34.020, 35.017, 36.016.  
Forest pest control, 152.012.  
Geochemical and geophysical exploration permits, public school lands, 52.321 et seq.  
Geological and geophysical surveys, areas within tidewater limits, 31.102 et seq.  
Incorrect field notes, 21.044.  
Land descriptions, zone names, use, 21.075.  
Land in more than one zone, 21.079.  
Land patents, conflicting surveys, 51.249.  
Limitations, Texas co-ordinate system, 21.072.  
Lost field notes, 21.043.  
Measurement unit, 21.077.  
Methods of conducting survey, areas within tidewater limits, 31.106.  
Navigable streams, surveys, 21.012.  
Not on navigable stream, 21.013.  
Not on navigable stream, 21.013.  
Public land, 21.011.  
Field notes, 21.041.  
Public School Lands, this index.  
Purpose, Texas co-ordinate system, 21.072.  
State land, geological surveys, 34.055.  
Surface mining operations, 131.036.  
Texas co-ordinate system, 21.071 et seq.  
Unit of measurement, 21.077.  
X co-ordinate, 21.078.  
Y co-ordinate, 21.078.  
Zones, division of state into, 21.073 et seq.

**SURVIVING SPOUSE**

Veterans land board, land purchase, sale or other disposition, rights, 161.235.

**SWEET GAS**

Use, 86.181.

**SWIMMING**

Gulf of Mexico, regulation, 61.122.

**TARIFFS**

Pipelines, publication, 111.014.

**TAX BONDS**

Beach park board, 62.137.

**TAX EXEMPTIONS**

Conservation foundation, 181.101 et seq.

**TAXATION**

Oil and gas rights, 52.252.  
Railroad commission, 81.111 et seq.  
Veterans land board bonds, 161.129.

**TELEGRAPHS AND TELEPHONES**

Natural gas, relocation, 91.178.  
Oil and gas, used equipment, sales, 112.001 et seq.

**TERMINATION**

Veterans land board insurance, 161.371.

**TERMS OF OFFICE**

Interstate natural energy and water resources commissioners, 142.003.

References are to Articles

**TESTS AND TESTING**

Liquefied petroleum gas, containers, 113.135.  
Natural gas, pressure tests, 86.141 et seq.

**TEXAS CONSERVATION FOUNDATION**

Conservation Foundation, generally, this index.

**TEXAS CO-ORDINATE SYSTEM**

Generally, 21.071 et seq.

**TEXAS-LOUISIANA STATE LINE**

Dunes, prohibited conduct between state lines, and Aransas pass, 63.091.

**TEXAS-NEW MEXICO BOUNDARY**

Extension, 11.015.

**THORIUM**

See, also, Mines and Minerals, generally, this index.  
Mineral leases, 53.061 et seq.

**TIMBER**

Generally, 151.001 et seq.  
Bills of sale, 151.041 et seq.  
Branding timber, 151.001 et seq.  
Definitions, 151.001.  
Fines and penalties,  
  Bills of sale, 151.045.  
  Branding and floating violations, 151.006.  
  Venue, 151.007.  
Floating timber, 151.001 et seq.  
Forest pest control, 152.001 et seq.  
Sales, 51.341 et seq.  
Value, timber appropriated from public land, recovery, 11.071.

**TIME**

Asylum land,  
  Sale and lease, 32.105.  
  Time for purchase, 51.085.  
Liquefied petroleum gas, license revocation or suspension, 113.163.  
Mineral estates, areas within tidewater limits, sale and lease, 32.105.  
Natural gas, injection operations, 91.177.  
Oil and gas leases, lease date, 52.014.  
Permanent school fund lands, sale and lease, 32.105.  
Public school land, time for purchase, 51.085.  
State land, leases, 34.102.  
Veterans land board,  
  Forfeitures, 161.314.  
  Land purchase, sale or other disposition, limit on transfers, 161.224.

**TITLE**

Abstracts of Title, generally, this index.  
Land patents, conflicting title, 51.250.  
  Partial conflict, 51.251.  
Reversion of title to timber, 51.346.  
Veterans land board, land purchase, sale or other disposition, 161.214, 161.284.

**TITLE OPINIONS**

Eleemosynary and state memorial park lands, 36.056.  
State parks, 35.056.

**TOWNS**

Cities, Towns and Villages, generally, this index.

**TRAFFIC RULES AND REGULATIONS**

Public beaches, 61.121 et seq.

**TRANSFERS**

Asylum land purchased from state, 51.079 et seq.  
Oil and gas leases, 52.026.  
Public school land purchased from state, 51.079 et seq.

**TRANSLATORS**

General land office, employment, 31.018.

**TRANSPORTATION**

Coal pipelines, contracts, 111.304.  
Liquefied petroleum gas, vehicles, 113.131 et seq.  
Oil transportation restrictions, 111.004.

**TRAVELING EXPENSES**

Beach park board, 62.044.  
Mining council, 132.006.  
School land board, 32.015.

**TREASURE**

Archeological landmarks, 191.091.

**TREASURERS**

Interstate natural energy and water resources commission, 142.005.

**TREES**

Timber, generally, this index.

**TRUSTS AND TRUSTEES**

Beach Park Board, generally, this index.  
Conservation foundation, 181.054.

**UNAPPROPRIATED LAND**

Generally, 11.011.

**UNCLAIMED PROPERTY**

Abandoned or Unclaimed Property, generally, this index.

**UNDERGROUND HYDROCARBON STORAGE**

Generally, 91.201 et seq.

**UNDERGROUND HYDROCARBON STORAGE FACILITY**

Defined, oil and gas, 91.201.

**UNDERGROUND NATURAL GAS**

Storage and conservation, 91.171 et seq.

**UNIT AGREEMENTS**

Geothermal resources, 141.078.

**UNITED STATES**

Designated El Paso land, cession by state, 11.018.  
Federal surface mining laws, 131.024.

**UNIVERSITY FUND**

Generally, 11.043.  
Unlawful enclosure of land, 11.076.

**UNIVERSITY LAND**

Easements, 51.293.  
Oil and gas,  
  Development, 52.185.  
  Leases, transfer of rights, 52.245.  
  Prospecting permittees, transfer of rights, 52.245.  
Sulphur production unitization, 53.116.

**URANIUM**

Mineral leases, 53.061 et seq.  
Surface mining and reclamation, 131.001 et seq.

**VACANCIES IN OFFICE**

Interstate natural energy and water resources commission, 142.003.

**VACANT LANDS**

Generally, 11.011.

**VALUATION**

Asylum land, 51.013.  
Mineral appropriated from public land, recovery, 11.071.  
Public school land, 51.013.  
Timber appropriated from public land, recovery, 11.071.

**VANDALISM**

Caves, 201.041.

**VENUE**

Adverse claimants to public land, actions against, 11.078.  
Coastal public land, 33.172.  
Control of oil property, actions, 88.131.  
Easement actions, 51.303.  
Forest pest control actions, 152.102.  
Hydrocarbon underground storage, 91.208.  
Oil and Gas, this index.  
Oil and gas leases, riverbed as channel development, 52.099.  
Timber branding and floating actions, 151.007.  
Unlawful enclosure of public land, 11.078.

**VETERANS LAND BOARD**

Generally, 161.001 et seq.  
Archives, depository, 161.019.  
Assistant executive secretary, 161.013.  
Bonds, 161.111 et seq.  
Bonds (officers and fiduciaries), 161.012.  
Books and papers, 161.065.  
Compensation and salaries, 161.015.  
Designation, 161.011.  
Disposition of bond sale proceeds, 161.111.  
Documents, 161.065.  
Executive secretary, 161.013.  
Fees, 161.069.  
  Additional fees, 161.070.  
Fines and penalties, prohibited transactions, 161.401 et seq.  
Fiscal agent, 161.016.  
Forfeitures, 161.311 et seq.  
  Charters and rights, 161.067.  
Fund, 161.171 et seq.  
Instruments, form, 161.068.  
Insurance, 161.361 et seq.  
Investigations, 161.064.  
Leases, 161.072, 161.227, 161.228.  
Meetings, 161.017.  
Minutes, 161.018.  
Oaths and affirmations, 161.065.  
Officers and employees, 161.014.  
  Compensation, 161.015.  
  Duties, 161.015.  
Pamphlets, 161.071.  
Papers, depositories, 161.019.  
Powers and duties, 161.061 et seq.  
Production of documents and things, 161.066.  
Purchases, sales and other disposition, 161.211 et seq., 161.281 et seq.

References are to Articles

**VETERANS LAND BOARD—Cont'd**

Records and recordation, 161.065.  
 Depository, 161.019.  
 Rules and regulations, 161.063.  
 Seal, 161.021.  
 Subpoena duces tecum, 161.066.  
 Successor boards, application of law, 161.022.  
 Supplies, purchase, 161.020.

**VETERANS LAND FUND**

Generally, 161.171 et seq.

**VILLAGES**

Cities, Towns and Villages, generally, this index.

**VOTERS AND VOTING**

Elections, generally, this index.

**WAGES**

Compensation and Salaries, generally, this index.

**WARNING TAGS**

Liquefied petroleum gas, unsafe or dangerous, 113.234.

**WASTE**

Hydrocarbon underground storage, 91.201 et seq.  
 Oil and Gas, this index.  
 Oil and Gas Wells, this index.

**WATER IMPROVEMENT DISTRICTS**

Land acquired from Mexico, 11.016.

**WATER RESOURCES**

Compact, 142.001 et seq.

**WELLS**

Oil and Gas Wells, generally, this index.

**WETLANDS**

Coastal wetlands, acquisition, 33.231 et seq.

**WITNESSES**

Railroad commission hearings, incriminating testimony, 81.091.  
 Surface mining and reclamation hearing, 131.025.

**WORDS AND PHRASES**

Affected land, Uranium Surface Mining and Reclamation Act, 131.004.  
 Appliance, liquefied petroleum gas, 113.002.  
 Applicant, public school land, vacant land sale and lease, 51.172.  
 Areas within tidewater limits, general land office, 31.101.  
 Asylum land, land, timber and surface resources, 51.001.  
 Barrier island, dunes, 63.002.  
 Beach, 61.012.  
 Board,  
     Beach park board, 62.002.  
     Coastal public lands management, 33.004.  
     Conservation foundation, 181.002.  
     Eleemosynary and state memorial park lands, 36.001.  
     Geothermal Resources Act of 1975, 141.003.  
     Leasing boards, 34.001.  
     Oil and gas leases, 52.001.  
     Plan, timber and surface resources, 51.001.

**WORDS AND PHRASES—Cont'd**

Board—Cont'd  
     School land board, 32.001.  
     State park land leasing board, 35.001.  
     Surveys and surveyors, 22.001.  
     Veterans land board, 161.001.  
 Board of regents, land, timber and surface resources, 51.001.  
 Bonds, veterans land board, 161.001.  
 Broker, used oil field equipment dealers, 112.001.  
 Business establishment, public beaches, 61.163.  
 By-product, Geothermal Resources Act of 1975, 141.003.  
 Casinghead gas, natural gas regulation, 86.002.  
 Cave, protection, 201.002.  
 Certifying agency, coastal lands, 33.233.  
 City or town, pooling mineral leases, 71.051.  
 Claimant, public school land, vacant land sale and lease, 51.172.  
 Clean and maintain, beaches, 61.063.  
 Coastal area, coastal public lands management, 33.004.  
 Coastal natural resource areas, coordination, 33.203.  
 Coastal public land, management, 33.004.  
 Coastal wetland, acquisition, 33.233.  
 Coastline,  
     Gulfward boundaries, 11.013.  
     Home-rule cities, 11.0131.  
 Commission, 91.001.  
     Abandoned wells, 89.002.  
     Control of oil property, 88.001.  
     Cooperative facilities for conservation and utilization of gas, 103.001.  
     Geothermal Resources Act of 1975, 141.003.  
     Liquefied petroleum gas, 113.002.  
     Mineral Interest Pooling Act, 102.002.  
     Natural gas, 86.002, 91.173.  
     Oil and gas, 91.201.  
     Conservation, 85.001.  
     Pooling and cooperative agreements, 101.001.  
 Railroad commission, 81.001.  
 Regulation of specific businesses and occupations, 111.001.  
 Uranium Surface Mining and Reclamation Act, 131.004.  
 Commissioner, 11.001.  
 Board of examiners of land surveyors, 22.001.  
 Coastal public lands management, 33.004.  
 County surveyors, 23.001.  
 Dunes, 63.002.  
 Eleemosynary and state memorial park lands, 36.001.  
 General land office, 31.001.  
 Geothermal Resources Act of 1975, 141.003.  
 Land, timber and surface resources, 51.001.  
 Leasing boards, 34.001.  
 Minerals, 53.001.  
 Oil and gas leases, 52.001.  
 Railroad commission, 81.001.  
 School land board, 32.001.  
 State park land leasing board, 35.001.  
 Surveys and surveyors, 21.001.  
 Veterans land board, 161.001.  
 Committee, antiquities code, 191.003.  
 Common carrier, regulation of specific businesses and occupations, 111.002.

**WORDS AND PHRASES—Cont'd**

Common pool, oil and gas conservation, 85.001.  
 Common purchaser, 111.081.  
 Common reservoir, natural gas regulation, 86.002.  
 Common source of supply, oil and gas conservation, 85.001.  
 Container, liquefied petroleum gas, 113.002.  
 Control, forest pest control, 152.003.  
 Controller, land, timber and surface resources, 51.001.  
 Co-ordinate system, 21.076.  
 Council,  
     Coastal coordination, 33.203.  
     Historical resources development council, 182.001.  
 Cubic foot of gas,  
     Natural gas regulation, 86.002.  
     Standard Gas Measurement Law, 91.052.  
 Dealer, used oil field equipment dealers, 112.001.  
 Department, public beaches, 61.001.  
 Division, liquefied petroleum gas, 113.002.  
 Dry gas, natural gas regulation, 86.002.  
 Eleemosynary land, 36.001.  
 Employee, liquefied petroleum gas, 113.002.  
 Exploration activity, Uranium Surface Mining and Reclamation Act, 131.004.  
 Fencing, 11.073.  
 Field, oil and gas conservation, 85.001.  
 Forest, forest pest control, 152.003.  
 Forest land, forest pest control, 152.003.  
 Forest owner, forest pest control, 152.003.  
 Forest pests, forest pest control, 152.003.  
 Foundation, conservation foundation, 181.002.  
 Fund,  
     Uranium Surface Mining and Reclamation Act, 131.004.  
     Veterans land board, 161.001.  
 Gas, 91.001.  
     Natural gas regulation, 86.002.  
 Gas utility, storage and conservation, 91.173.  
 Gas well, natural gas regulation, 86.002.  
 Gate, cave protection, 201.002.  
 Geochemical exploration, public school lands, 52.321, 53.161.  
 Geophysical exploration, public school lands, 52.321, 53.161.  
 Geothermal energy and associated resources, 141.003.  
 Good-faith claimant, public school land, vacant land sale and lease, 51.172.  
 Governmental agency, control of oil property, 88.001.  
 Highest wave, public beaches, 61.001.  
 Hydrocarbons, underground storage, 91.201.  
 Indebtedness due to board, veterans land board, 161.361.  
 Infestation, forest pest control, 152.003.  
 Interested persons, natural gas, 91.173.  
 Island, coastal public lands management, 33.004.  
 Land, school land board, 32.001.  
 Land office, 11.001.  
     Board of examiners of land surveyors, 22.001.  
     Coastal public lands management, 33.004.

References are to Articles

## WORDS AND PHRASES—Cont'd

Land office—Cont'd  
 County surveyors, 23.001.  
 Eleemosynary and state memorial park lands, 36.001.  
 General land office, 34.001.  
 Land, timber and surface resources, 51.001.  
 Leasing boards, 34.001.  
 Minerals, 53.001.  
 Oil and gas leases, 52.001.  
 School land board, 32.001.  
 State park land leasing board, 35.001.  
 Surveys and surveyors, 21.001.  
 Veterans land board, 161.001.  
 Landmark, antiquities code, 191.003.  
 Landowner,  
 Abandoned wells, 89.002.  
 Forest pest control, 152.003.  
 Licensed surveyor, 22.001.  
 Line of vegetation, public beaches, 61.001.  
 Liquefied petroleum gas, 113.002.  
 Littoral owner,  
 Coastal public lands management, 33.004.  
 Public beaches, 61.001.  
 LPG, liquefied petroleum gas, 113.002.  
 LP-gas, 113.002.  
 Lumber, 151.001.  
 Management program, coastal public lands management, 33.004.  
 Marginal well, oil wells, 85.121.  
 Member, conservation foundation, 181.002.  
 Minerals,  
 Mineral Interest Pooling Act, 102.002.  
 Public school lands, 53.161.  
 Uranium Surface Mining and Reclamation Act, 131.004.  
 Native gas, storage and conservation, 91.173.  
 Natural gas, 86.011, 86.012.  
 Storage and conservation, 91.173.  
 Natural gasoline, natural gas regulation, 86.002.  
 Navigable stream, surveys and surveyors, 21.001.  
 Nonoperator, abandoned wells, 89.002.  
 Oil, 91.001.  
 Natural gas regulation, 86.002.  
 Oil and gas equipment, used oil fields equipment dealers, 112.001.  
 Oil property, control of oil property, 88.001.  
 Oil well, natural gas regulation, 86.002.  
 Operator,  
 Abandoned wells, 89.002.  
 Uranium Surface Mining and Reclamation Act, 131.004.  
 Overburden, Uranium Surface Mining and Reclamation Act, 131.004.

## WORDS AND PHRASES—Cont'd

Owner, cave protection, 201.002.  
 Party to administrative proceedings, Uranium Surface Mining and Reclamation Act, 131.004.  
 Peddler, used oil field equipment dealers, 112.001.  
 Peninsula, dunes, 63.002.  
 Permit, public school lands, 52.321, 53.161.  
 Permit area, Uranium Surface Mining and Reclamation Act, 131.004.  
 Permittee,  
 Geophysical and geochemical exploration, 52.321.  
 Public school lands, 53.161.  
 Person,  
 Natural gas, 91.173.  
 Uranium Surface Mining and Reclamation Act, 131.004.  
 Person in group, veterans land board, 161.361.  
 Persons purchasing land under program, veterans land board, 161.361.  
 Pipeline equipment, used oil field equipment field dealers, 112.001.  
 Political subdivisions,  
 Mineral leases, 71.001.  
 Pooling mineral leases, 71.051.  
 Pool, oil and gas conservation, 85.001.  
 Product, oil and gas conservation, 85.001.  
 Program, veterans land board, 161.001.  
 Public beach, 61.001.  
 Access, 61.013.  
 Public school lands,  
 Geophysical or geochemical exploration, 52.321.  
 Land, timber and surface resources, 51.001.  
 Mines and minerals, 53.161.  
 Public utility, regulation of specific businesses and occupations, 111.001.  
 Reclamation, Uranium Surface Mining and Reclamation Act, 131.004.  
 Recreational vehicle, dunes, 63.002.  
 Representative, liquefied petroleum gas, 113.002.  
 Seaward,  
 Coastal public lands management, 33.004.  
 Coastal wetlands, 33.233.  
 Seawater,  
 Coastal coordination, 33.203.  
 Coastal wetlands, 33.233.  
 Service, forest pest control, 152.003.  
 Shingles, timber, 151.001.  
 Sour gas, natural gas regulation, 86.002.  
 Speleothem, cave protection, 201.002.  
 State, 11.001.  
 General land office, 31.001.  
 State treasurer, land, timber and surface resources, 51.001.

## WORDS AND PHRASES—Cont'd

State-owned submerged lands, home-rule cities, 11.0131.  
 Storage facility,  
 Natural gas, 91.173.  
 Oil and gas, 91.201.  
 Storer, natural gas, 91.173.  
 Structure, coastal public lands management, 33.004.  
 Subframing, liquefied petroleum gas, 113.002.  
 Submerged land, coastal public lands management, 33.004.  
 Substantially depleted, natural gas, 91.173.  
 Surface mining, Uranium Surface Mining and Reclamation Act, 131.004.  
 Surveyed land,  
 Prospecting permits, 52.221.  
 Timber and surface resources, 51.001.  
 Sweet gas, natural gas regulation, 86.002.  
 Timbered land, 51.341.  
 Topsoil, uranium surface mining and reclamation, 131.004.  
 Toxic material, Uranium Surface Mining and Reclamation Act, 131.004.  
 Tract, forest pest control, 152.003.  
 Transfer system, liquefied petroleum gas, 113.002.  
 Transport, liquefied petroleum gas, 113.002.  
 Transport system, liquefied petroleum gas, 113.002.  
 Underground hydrocarbon storage facility, oil and gas, 91.201.  
 Unsurveyed areas, prospecting permits, 52.221.  
 Unsurveyed land, land, timber and surface resources, 51.001.  
 Used materials, used oil field equipment dealers, 112.001.  
 Vacancy, public school land, vacant land sale and lease, 51.172.  
 Veteran, veterans land board, 161.001.  
 Waste,  
 Natural gas regulation, 86.012.  
 Oil and gas, 91.201.  
 Well, abandoned wells, 89.002.  
 X co-ordinate, 21.078.  
 Y co-ordinate, 21.078.  
 X CO-ORDINATE  
 Surveys, 21.078.  
 Y CO-ORDINATE  
 Surveys, 21.078.  
 ZONES  
 Common reservoirs, 86.095.  
 State, division into zones, 21.073 et seq.



# PARKS AND WILDLIFE CODE

## TITLE 1. GENERAL PROVISIONS

Chapter	Section
1. General Provisions .....	1.001

## TITLE 2. PARKS AND WILDLIFE DEPARTMENT

11. Parks and Wildlife Department .....	11.001
12. Powers and Duties Concerning Wildlife .....	12.001
13. Powers and Duties Concerning Parks and Other Recreational Areas .....	13.001

## TITLE 3. PARKS

21. Texas Park Development Fund .....	21.001
22. State Parks .....	22.001
23. National Parks, Seashores, and Forests .....	23.001
24. State Assistance for Local Parks .....	24.001

## TITLE 4. WATER SAFETY

31. Water Safety .....	31.001
------------------------	--------

## TITLE 5. WILDLIFE AND PLANT CONSERVATION

### SUBTITLE A. HUNTING AND FISHING LICENSES

41. Reciprocal Hunting and Fishing Privileges .....	41.001
42. General Hunting License .....	42.001
43. Special Licenses and Permits .....	43.001
44. Game Breeder's License .....	44.001
45. Game Bird Breeder's License .....	45.001
46. Fishing Licenses .....	46.001
47. Commercial Fishing Licenses .....	47.001
48. Fish Farmer's License .....	48.001
49. Falconry Permit .....	49.001
50. Combination Hunting and Fishing License .....	50.001
51. Shellfish Culture License .....	51.001

### SUBTITLE B. HUNTING AND FISHING

61. Uniform Wildlife Regulatory Act .....	61.001
62. Provisions Generally Applicable to Hunting .....	62.001
63. Game and Nongame Animals .....	63.001
64. Birds .....	64.001
65. Alligators .....	65.001
66. Fish .....	66.001

Chapter	Section
67. Nongame Species .....	67.001
68. Endangered Species .....	68.001

### SUBTITLE C. FUR-BEARING ANIMALS

71. Licenses and Regulations .....	71.001
72. Limitations on Taking Fur-Bearing Animals [Repealed] .....	72.001

### SUBTITLE D. CRUSTACEANS AND MOLLUSKS

76. Oysters .....	76.001
77. Shrimp .....	77.001
78. Clams, Mussels, Sponge Crabs, and Blue Crabs .....	78.001
79. Extended Fishery Jurisdiction .....	79.001

### SUBTITLE E. WILDLIFE MANAGEMENT AREAS, SANCTUARIES, AND PRESERVES

81. Management Areas and Preserves: General Authority .....	81.001
82. Statutory Sanctuaries and Preserves .....	82.001
83. Federal-State Agreements .....	83.001

### SUBTITLE F. MARL, SAND, GRAVEL, SHELL, AND MUDSHELL

86. Marl, Sand, Gravel, Shell, and MudsHELL .....	86.001
---	--------

### SUBTITLE G. PLANTS

88. Endangered Plants .....	88.001
-----------------------------	--------

## TITLE 6. COMPACTS

91. Gulf States Compact .....	91.001
-------------------------------	--------

## TITLE 7. LOCAL AND SPECIAL LAWS

101 to 354 .....	101.001
------------------	---------

## TITLE 1. GENERAL PROVISIONS

### CHAPTER 1. GENERAL PROVISIONS

#### SUBCHAPTER A. PURPOSE AND POLICY

Section	
1.001.	Purpose of Code.
1.002.	Construction of Code.

SUBCHAPTER B. PROPERTY OF THE STATE

Section

- 1.011. Property of the State.
- 1.012. Private Fresh Water.

SUBCHAPTER C. DEFINITIONS

- 1.101. Definitions.

SUBCHAPTER A. PURPOSE AND POLICY

§ 1.001. Purpose of Code

(a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 488, Acts of the 58th Legislature, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent parks and wildlife law more accessible and understandable by:

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

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 1.002. Construction of Code

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

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 1.003 to 1.010 reserved for expansion]

SUBCHAPTER B. PROPERTY OF THE STATE

§ 1.011. Property of the State

(a) All wild animals, fur-bearing animals, wild birds, and wild fowl inside the borders of this state are the property of the people of this state.

(b) All fish and other aquatic animal life contained in the freshwater rivers, creeks, and streams and in lakes or sloughs subject to overflow from rivers or other streams within the borders of this state are the property of the people of this state.

(c) All the beds and bottoms and the products of the beds and bottoms of the public rivers, bayous, lagoons, creeks, lakes, bays, and inlets in this state and of that part of the Gulf of Mexico within the jurisdiction of this state are the property of this state. The state may permit the use of the waters and bottoms and the taking of the products of the bottoms and waters.

(d) The Parks and Wildlife Department shall regulate the taking and conservation of fish, oysters, shrimp, crabs, turtles, terrapins, mussels, lobsters, and all other kinds and forms of marine life, or sand, gravel, marl, mud shell, and all other kinds of shell in accordance with the authority vested in it by this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 1.012. Private Fresh Water

Any freshwater lake, river, creek, or bayou in this state contained in any survey of private land may not be sold but shall remain open to the public. If the Parks and Wildlife Department stocks the water with fish, it is authorized to protect the fish under rules as it may prescribe.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 1.013 to 1.100 reserved for expansion]

SUBCHAPTER C. DEFINITIONS

§ 1.101. Definitions

In this code:

- (1) "Hunt" means seek or pursue with intent to take or kill and includes take, kill, and an attempt to take or kill.
- (2) "Catch" means take or kill and includes and attempt to take or kill.
- (3) "Sell" means to transfer the ownership or the right of possession of an item to a person for consideration and includes a barter and an even exchange.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 378, ch. 153, § 11, eff. Sept. 1, 1981.]

TITLE 2. PARKS AND WILDLIFE DEPARTMENT

CHAPTER 11. PARKS AND WILDLIFE DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Section

- 11.001. Definitions.

SUBCHAPTER B. ORGANIZATION OF DEPARTMENT

- 11.011. Parks and Wildlife Department.
- 11.0111. Application of Sunset Act.

Section	
11.012.	Commission.
11.013.	Terms.
11.014.	Chairman, Vice-Chairman.
11.015.	Meetings, Quorum.
11.016.	Expenses, Per Diem.
11.017.	Executive Director.
11.018.	Employees.
11.019.	Employees as Peace Officers.
11.020.	Deputy Game Wardens.

## SUBCHAPTER C. SPECIAL FUNDS

11.031.	Game, Fish, and Water Safety Fund.
11.032.	Game, Fish, and Water Safety Fund: Sources.
11.033.	Use of Game, Fish, and Water Safety Fund.
11.034.	Game, Fish, and Water Safety Fund Expenditures.
11.035.	State Parks Fund.
11.036.	Repealed.
11.037.	State Land and Water Conservation Fund.
11.038.	Operating Fund.
11.039.	Revolving Petty Cash Fund.
11.040.	Mistaken Deposit.
11.041.	Transfer of Property.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 11.001. Definitions

In this code:

- (1) "Commission" means the Parks and Wildlife Commission.
- (2) "Department" means the Parks and Wildlife Department.
- (3) "Director" means the executive director of the Parks and Wildlife Department.
- (4) "Chairman" means the chairman of the Parks and Wildlife Commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 11.002 to 11.010 reserved for expansion]

## SUBCHAPTER B. ORGANIZATION OF DEPARTMENT

## § 11.011. Parks and Wildlife Department

The Parks and Wildlife Department is established as an agency of the state. It is under the policy direction of the Parks and Wildlife Commission. [Acts 1975, 64th Leg., p. 1405, ch. 541, § 1, eff. Sept. 1, 1975.]

## § 11.0111. Application of Sunset Act

The Parks and Wildlife Department is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the department is abolished effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1846, ch. 735, § 2.099a, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

## § 11.012. Commission

(a) The commission consists of six members appointed by the governor with the advice and consent of two-thirds of the members of the senate present and voting.

(b) If the senate is not in session, the governor shall appoint the members and issue commissions to them as provided by law, and their appointment shall be submitted to the next session of the senate for its advice and consent in the manner that appointments to fill vacancies under the constitution are submitted to the senate.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 11.013. Terms

The members of the commission hold office for staggered terms of six years, with the terms of two members expiring every two years. Each member holds office until his successor is appointed and has qualified. The terms expire on January 31 of odd-numbered years.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 11.014. Chairman, Vice-Chairman

(a) The governor shall designate biennially one of the six members as chairman of the commission for a term of two years expiring on January 31 of the succeeding odd-numbered year.

(b) The commission shall elect biennially a vice-chairman from among its members for a term of two years expiring on January 31 of the succeeding odd-numbered year.

(c) A vacancy in the office of chairman or vice-chairman is filled for the unexpired portion of the term in the same manner as the original appointment or election.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 11.015. Meetings, Quorum

The commission may meet as often as is necessary but shall meet at least once during each quarter of the year. Four members constitute a quorum.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 11.016. Expenses, Per Diem

Members of the commission are entitled to reimbursement for their actual expenses incurred in attending meetings and to the per diem as provided in the general appropriations act.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 11.017. Executive Director

The commission may appoint an executive director who is the chief executive officer of the department and performs its administrative duties. The director serves at the will of the commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 11.018. **Employees**

The director may appoint heads of divisions, game management officers, park managers, and other employees authorized by appropriations and necessary for administering the duties and services of the department. These employees serve at the will of the director.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 11.019. **Employees as Peace Officers**

(a) The director may commission as peace officers any of the employees provided for in the general appropriations act.

(b) Employees commissioned under this section have the powers, privileges, and immunities of peace officers while on state parks or on state historical sites or in fresh pursuit of those violating the law in a state park or historical site.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 11.020. **Deputy Game Wardens**

(a) The director may commission deputy game wardens to serve at the will of the director. Provided, however, that no deputy game warden commissioned under this section may be commissioned for a period of longer than four years. At the expiration of each four-year commission the deputy game warden shall be eligible for recommission.

(b) The commission shall make regulations to govern the qualifications, conduct, and duties of commissioned deputy game wardens. The director shall implement an education course which includes training in pertinent aspects of a game warden's duties. Completion of this course shall be a prerequisite to any person obtaining a commission as deputy game warden.

(c) A commissioned deputy game warden may enforce state laws relating to hunting and fishing and to the preservation and conservation of wildlife and marine animals. The department shall prescribe the geographical area in which a deputy game warden may operate, except that a deputy game warden may not operate on the coastal waters, bays, or estuaries of this state. At all times when any commissioned deputy game warden is on duty or is acting in an official capacity he shall carry official identification and shall wear an official badge which is clearly visible. A commissioned deputy game warden must present his official identification to any person he believes is violating this code before the deputy game warden makes an investigation or arrest. A commissioned deputy game warden shall purchase and wear at all times when on duty or acting in an official capacity a uniform prescribed by the department.

(d) A deputy game warden must file an oath and a bond in the amount of \$2,000 payable to the department at the time he receives the commission.

(e) Commissioned deputy game wardens serve without compensation from the state, but the department may expend necessary funds to support and maintain this responsibility.

[Added by Acts 1977, 65th Leg., p. 650, ch. 241, § 1, eff. May 25, 1977.]

[Sections 11.021 to 11.030 reserved for expansion]

SUBCHAPTER C. SPECIAL FUNDS

§ 11.031. **Game, Fish, and Water Safety Fund**

There is in the state treasury a special fund called the "game, fish, and water safety fund."

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 546, ch. 260, art. 1, § 1, eff. Sept. 1, 1979.]

§ 11.032. **Game, Fish, and Water Safety Fund: Sources**

The department shall deposit to the credit of the game, fish, and water safety fund all revenue, less allowable costs, from the following sources:

- (1) all types of fishing and shrimping licenses;
- (2) all types of hunting licenses and stamps;
- (3) trapping licenses and other licenses relating to the taking, propagation, and sale of fur-bearing animals or their pelts;
- (4) sale of marl, sand, gravel, shell, and mud-shell;
- (5) oyster bed rentals and permits;
- (6) federal funds received for research and development of commercial fisheries and state funds appropriated for this purpose;
- (7) sale of property, less advertising costs, purchased from this fund or a special fund that is now part of this fund;
- (8) fines and penalties collected for violations of a law pertaining to the protection and conservation of wild birds, wild fowl, wild animals, fish, shrimp, oysters, game birds and animals, fur-bearing animals, alligators, and any other wildlife resources of the state;
- (9) sale of rough fish by the department;
- (10) fees for importation permits;
- (11) fish farm licenses;
- (12) fees from supplying fish for or placing fish in water located on private property;
- (13) sale of seized pelts;
- (14) sale or lease of grazing rights to and the products from game preserves, sanctuaries, and management areas;
- (15) contracts for the removal of fur-bearing animals and reptiles from wildlife management areas;
- (16) motorboat registration fees;
- (17) motorboat manufacturer or dealer registration fees;

(18) fines or penalties imposed by a court for violation of water safety laws contained in Chapter 31 of this code;

(19) alligator hunter's or alligator buyer's licenses;

(20) sale of alligators or any part of an alligator by the department; and

(21) any other source provided by law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 546, ch. 260, art. 1, § 1, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 439, ch. 184, § 3, eff. Aug. 31, 1981.]

### § 11.033. Use of Game, Fish, and Water Safety Fund

The game, fish, and water safety fund may be used for the following purposes only:

(1) enforcement of fish, shrimp, and oyster laws, game laws, and laws pertaining to sand, shell, and gravel;

(2) dissemination of information pertaining to marine life, wild animal life, wildlife values, and wildlife management;

(3) scientific investigation and survey of marine life for the better protection and conservation of marine life;

(4) establishment and maintenance of fish hatcheries, fish sanctuaries, tidal water fish passes, game preserves, wildlife management areas, and public hunting grounds;

(5) propagation and distribution of marine life, game animals, and wild birds;

(6) protection of wild birds, fish, and game;

(7) purchase, repair, and operation of boats and dredges;

(8) research and management of the fish and game resources of this state;

(9) salaries of employees and other expenses necessary to carry out the duties of the department under laws relating to fish, shrimp, oysters, game, and sand, shell, and gravel;

(10) expansion and development of additional opportunities of hunting and fishing in state-owned land and water;

(11) removing rough fish from public water;

(12) construction and maintenance of artificial reefs under Section 12.016 of this code;

(13) administration of the water safety laws as set out in Chapter 31 of this code;

(14) purchasing all necessary forms and supplies, including reimbursement of the department for any material produced by its existing facilities or work performed by other divisions of the department;

(15) purchase, construction, and maintenance of boat ramps on or near public waters as provided in Chapter 31 of this code; and

(16) any other use provided by law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 546, ch. 260, art. 1, § 1, eff. Sept. 1, 1979.]

### § 11.034. Game, Fish, and Water Safety Fund Expenditures

All expenditures of the department from the game, fish, and water safety fund must be approved by the director. The comptroller shall draw a warrant on the state treasury from the game, fish, and water safety fund for the amount of the expenditure in favor of the person claiming the expenditure.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 546, ch. 260, art. 1, § 1, eff. Sept. 1, 1979.]

### § 11.035. State Parks Fund

(a) There is in the state treasury a special fund called the "state parks fund."

(b) The department shall deposit to the credit of the state parks fund all revenue, less allowable costs, received from the following sources:

(1) grants or operation of concessions in state parks or fishing piers;

(2) publications on state parks, state historic sites, or state scientific areas;

(3) fines or penalties received from violations of regulations governing parks issued pursuant to Subchapter B, Chapter 13, of this code; and

(4) any other source provided by law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 11.036. Repealed by Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, § 6 eff. Sept. 1, 1979

The repealed section, relating to the special boat fund, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Section 7 of art. 1 of the 1979 Act provided:

"Money credited to the special boat fund is transferred to the game, fish, and water safety fund. An appropriation to the Parks and Wildlife Department for the biennium beginning on September 1, 1979, from the special boat fund is an appropriation from the game, fish, and water safety fund. This section expires on August 31, 1981."

### § 11.037. State Land and Water Conservation Fund

(a) There is in the state treasury a special fund called the "state land and water conservation fund."

(b) The department shall deposit in the state land and water conservation fund all revenue received from the federal government or any other source for the purpose of administering programs authorized under Sections 13.301 through 13.311 of this code.

(c) The state land and water conservation fund may be used for paying the cost of planning, acquisition, operation, and development of outdoor recreation resources of the state and the administrative expenses incident to the projects or programs authorized under Sections 13.301 through 13.311 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 11.038. Operating Fund

(a) There is a fund in the state treasury called the "parks and wildlife operating fund."

(b) The commission may transfer any funds appropriated to the department for personal services, travel, consumable supplies and materials, current operating expenses, and capital outlay, as these terms are used in the comptroller's object classification codes of the general appropriations act. All expenditures by the department from this fund shall be made only for the purposes for which appropriations are made in the general appropriations act.

(c) The parks and wildlife operating fund shall be used for the purposes specified by law and nothing may be done by any officer or employee of the department or commission to divert or jeopardize the fund or any portion of the fund, including any federal aid the department receives or administers. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 11.039. Revolving Petty Cash Fund**

(a) The department may establish a revolving petty cash fund out of existing funds on deposit in the state treasury. The balance of this fund may not exceed \$2,500.

(b) The purpose of this fund is to make refunds of cash receipts, subject to the approval of the state auditor. The account must be maintained at a bank in Austin.

(c) With the prior approval of the commission, the director may designate a bonded employee of the department to sign checks drawn on this fund. The fund shall be reimbursed by warrants drawn and approved by the comptroller out of those funds in the state treasury in which the refunded receipts were originally deposited.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 11.040. Mistaken Deposit**

(a) Any funds deposited in the state treasury by the department by mistake of fact or mistake of law shall be refunded by warrant issued against the fund in the state treasury into which the money was deposited. Refunds necessary to make the proper correction shall be appropriated by the general appropriations act.

(b) The comptroller may require written evidence from the director of the department to indicate the reason for the mistake of fact or law before issuing the refund warrant authorized in Subsection (a) of this section.

(c) This section does not apply to any funds that have been deposited under a written contract or to any funds on deposit as of June 8, 1971, which are the subject of litigation in any of the courts of this state or the United States.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 11.041. Transfer of Property**

(a) The commission may transfer tangible property, other than money or real estate held for limited purposes, from one division of the department to another division.

(b) If the property to be transferred was acquired with funds the use of which is limited by law or dedicated in any other manner, and the prospective use of the property is different from the use allowed by law, the department shall transfer from available funds to the fund from which the property was acquired the value of the property at the time of the transfer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 12. POWERS AND DUTIES CONCERNING WILDLIFE**

**SUBCHAPTER A. GENERAL POWERS AND DUTIES**

- Section
- 12.001. General Duties.
- 12.002. Report to Governor.
- 12.003. Records.
- 12.004. List of Fees and Fines.
- 12.005. Funds in Lieu of Taxes.
- 12.006. Publications on Wildlife Values and Management.
- 12.007. Cautioning Sportsmen.
- 12.008. Leasing of Grazing Rights: Sale of Products.
- 12.009. Seafood Consumption Program.
- 12.010. Noxious Vegetation Program.
- 12.011. Teaching Equipment.
- 12.012. Fire Hazard.
- 12.013. Power to Take Wildlife.
- 12.014. Fees for Stocking Fish in Private Water.
- 12.015. Noxious Aquatic Plants.
- 12.016. Artificial Reefs.
- 12.017. Damaging Markers.

**SUBCHAPTER B. ENFORCEMENT POWERS**

- 12.101. Duty to Enforce Law.
- 12.102. Power to Arrest.
- 12.103. Entering Land.
- 12.104. Right to Search.
- 12.105. Suits.
- 12.106. Notice to Appear.
- 12.107. Remission of Fines.
- 12.108. Expenses.
- 12.109. Confiscated Marine Life.
- 12.110. Disposition of Confiscated Game.
- 12.1101. Seizure and Disposal of Pelts.
- 12.1105. Seizure and Disposition of Unlawful Nets; Inside Water.
- 12.111. Violation by Employee.
- 12.112. Forfeiture of Licenses.
- 12.113. Coastal Survey Charts Admissible.

**SUBCHAPTER C. OPERATION GAME THIEF**

- 12.201. Creation of Fund.
- 12.202. Operation Game Thief Committee.
- 12.203. Rewards; Claims.
- 12.204. Rewards; Payments.
- 12.205. Powers of the Department.

SUBCHAPTER A. GENERAL POWERS  
AND DUTIES

**§ 12.001. General Duties.**

(a) The department shall administer the laws relating to game, fish, oysters, and marine life, as set out in this code.

(b) The department may:

(1) collect and enforce the payment of all taxes, licenses, fines, and forfeitures due to the department;

(2) inspect all products required to be taxed by the laws relating to game, fish, oysters, and marine life and verify the weights and measures of the products;

(3) examine on request all streams, lakes, and ponds for the purpose of stocking with fish best suited to the locations;

(4) manage the propagation and distribution of fish in state fish hatcheries; and

(5) manage the propagation and distribution of birds and game in state reservations.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.002. Report to Governor**

(a) The department shall report to the governor on August 31 of each year, or as soon after that date as practicable, but not later than October 1 of each year, showing the condition of the fish and oyster industry.

The report shall contain:

(1) a statement of the amount of special taxes collected;

(2) the number of licenses issued and the amount of license fees collected;

(3) the number and class of all boats engaged in the fish and oyster trade;

(4) the number, place, and acreage of private oyster beds and the amount of rents received for private oyster beds;

(5) all other amounts collected and disbursed by the department;

(6) a statement of all stock furnished, to whom the stock was furnished, the cost of the stock, the streams, lakes, or ponds stocked, the number and kind of fish used in each, and the condition of the plants; and

(7) any other observations or pertinent data.

(b) The governor shall order a sufficient number of copies of the report to be printed and filed in the secretary of state's office for free distribution.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.003. Records**

(a) The department shall keep a record containing the following information:

(1) the amount of all special taxes collected;

(2) a list of all licenses issued and the amount of license fees collected;

(3) a list of all certificates issued for location of private oyster beds, the date of the certificate and application, when and how the applications were executed, and the manner in which the bottoms were examined and the amount of rent collected for the location;

(4) all stock fish furnished, to whom the fish were furnished, and the cost of the stock fish;

(5) all streams, lakes, or ponds stocked and the number and kinds of fish stocked in each; and

(6) all collections and disbursements of the department.

(b) The department shall keep an account with each person, firm, or corporation holding certificates for the location of private oyster beds, showing the amounts received as rents.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.004. List of Fees and Fines**

(a) The department shall maintain a complete list of all license fees and fines collected. The list shall be maintained in Austin and is a public record.

(b) The department shall file at the end of each calendar month a written report with the comptroller showing fines, licenses, and other fees collected, their disposition, and any other necessary information.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.005. Funds in Lieu of Taxes**

(a) The department shall expend funds to counties and school districts for assessments in lieu of property taxes on wildlife management areas purchased from federal funds or grants authorized by the Pittman-Robertson Act or Dingell-Johnson Act.

(b) No general revenue funds may be expended in lieu of taxes for wildlife management areas; however, special funds may be expended for this purpose provided reimbursement or matching from the federal government is available at a federal ratio of two to one or better.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.006. Publications on Wildlife Values and Management**

(a) The department may inform the public about wildlife values and management.

(b) Any book, bulletin, or magazine published under this section may be sold for a price not to exceed the cost of publication and mailing. Money received from the sale of these publications shall be sent to the department at its office in Austin not later than 10 days following the date of collection. The money shall be deposited in the state treasury to the credit of the special game and fish fund.

(c) Under the terms of the same bond and authority, any person authorized to issue hunting and fishing licenses may sell subscriptions to any monthly publication prepared and published by the department under this section. The seller may retain 10 percent of each subscription payment as his fee for collecting and send the balance of the subscription fee to the department.

(d) The amount of money collected for each subscription to any monthly publication shall be recorded on a prenumbered form bearing the name, complete address, and length of the subscription period. The prenumbered form shall be issued and accounted for in the same manner as hunting licenses.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.007. Cautioning Sportsmen**

The department shall caution sportsmen and other persons of the danger from fire in the woods, marshes, or prairies of the state and request sportsmen and other persons to extinguish all fires left burning and to give notice, whenever possible, of fires ranging beyond control so that they may be controlled and extinguished.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.008. Leasing of Grazing Rights: Sale of Products**

(a) The department may lease grazing rights on any land acquired by, and for the use of, the department as game preserves, game sanctuaries, and game management areas. The department may harvest and sell, or sell in place, any timber, hay, or other product grown on land of the department when the product is found to be in excess of wildlife management needs.

(b) The department may agree to accept consideration in lieu of money as part or full payment for a sale or lease under this section. The consideration in lieu of money must be materials, supplies, or services that are needed for wildlife management projects on any state-owned game management area administered by the department. The materials, supplies, or services accepted in lieu of money may be assigned a value no greater than that which the department would have been authorized to pay for them in a bona fide purchase.

(c) The state board of control shall execute any sale or lease under this section under the general law governing the sale of state property; however, the department shall determine the quantity of products, or grazing lease, to be offered for sale or lease and the consideration in lieu of money to be received under the sale or lease.

(d) All money derived from a sale or lease under this section shall be deposited in the state treasury

to the credit of the game, fish, and water safety fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 549, ch. 260, art. 3, § 1, eff. Sept. 1, 1979.]

Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, § 6, purports to repeal subsec. (c) of this section. Article 3, § 1, of the same Act amends this section, including subsec. (c).

**§ 12.009. Seafood Consumption Program**

(a) The department shall develop and administer a market promotion program to foster and expand the sale and consumption of seafood by the public. The department may use its own personnel or contract for personnel and use only state funds or state funds in conjunction with federal or private funds.

(b) Forty percent of the funds collected from commercial fisherman's license fees, 20 percent of wholesale fish dealers' license fees and wholesale truck dealers' fish license fees, and 50 percent of shrimp house operators' license fees shall be used by the department in carrying out the program required by this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.010. Noxious Vegetation Program**

The department may contract or use the services of department personnel for the eradication of noxious vegetation from the water of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.011. Teaching Equipment**

On request of a state-supported institution of higher education engaged in teaching and research related to marine science and oceanography, the department may transfer to the institution fish nets, seines, motors, boats, and other marine equipment confiscated under the authority of the game and fish laws to be used in the teaching and research programs of the institution.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.012. Fire Hazard**

(a) If the state forester determines that the continuation of any hunting season is likely to cause a serious forest fire hazard in Red River, Titus, Camp, Harrison, Gregg, Henderson, Van Zandt, Anderson, Nacogdoches, Angelina, San Augustine, Sabine, Trinity, Walker, Montgomery, Polk, Liberty, Tyler, Hardin, Jasper, Newton, Grimes, or San Jacinto counties, he shall immediately notify the department of the local conditions and recommend that any hunting season then open be closed temporarily.

(b) The department shall report to the governor on the local conditions which contribute to the danger of a fire hazard.

(c) If the governor finds that an extreme fire hazard exists, he shall proclaim a closed season to remain in effect in the county until the danger

abates. The governor may revoke the proclamation at any time revocation is in the best interests of the people.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 12.013. Power to Take Wildlife

The department may take, transport, release, and manage any of the wildlife and fish in this state for investigation, propagation, distribution, or scientific purposes. It is a defense in any prosecution of an employee of the department for a violation of any law for the protection of wildlife or fish that the employee was acting within the scope of this authority.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 12.014. Fees for Stocking Fish in Private Water

(a) The commission may, at the times and in the manner found to be necessary or appropriate, set and charge a reasonable fee for each species of fish supplied to or placed in lakes or other bodies of water located solely on private property. In setting the fee, the commission may consider the costs of propagation and transportation from the fish hatchery and the size of the fish used for stocking the lake or other body of water.

(b) Repealed by Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, § 6, eff. Sept. 1, 1979.

[Added by Acts 1977, 65th Leg., p. 39, ch. 23, § 1, eff. March 24, 1977. Amended by Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, § 6, eff. Sept. 1, 1979.]

#### § 12.015. Noxious Aquatic Plants

(a) In this section, "noxious aquatic plant" means a plant that thrives in water, marshes, or swamps and that:

- (1) is harmful or potentially harmful to human life;
- (2) may impede navigation; or
- (3) may diminish the quality of water-oriented recreational areas.

(b) The department shall:

- (1) identify noxious aquatic plants;
- (2) publish a list of the names of noxious aquatic plants identified by the department; and
- (3) make rules and regulations necessary to carry out this section.

(c) The department may issue permits for the importation, sale, transport, or release of noxious aquatic plants identified by the department if the department finds that the proposed use of the noxious aquatic plants by the permit applicant will not pose a danger to persons, wildlife resources, or water resources.

(d) No person may intentionally or knowingly import or intentionally or knowingly sell, transport, or release in this state a noxious aquatic plant identi-

fied by the department unless the person has an unexpired written permit issued by the department authorizing the importation, sale, transportation, or release.

(e) A person who violates Subsection (d) of this section or who violates a regulation of the department made under this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1219, ch. 456, § 17, eff. Sept. 1, 1975.]

#### § 12.016. Artificial Reefs

The department may construct or contract for the construction of artificial reefs in the coastal water of this state or in international or United States water adjacent to the coastal water of this state. The department may also accept any such reefs which have previously been constructed by the Texas Coastal and Marine Council and marked with buoys and agree to maintain such buoys and other location navigation markers in the future as may be necessary. The department may acquire any acceptable materials including surplus vessels under the provisions of federal law for use in developing future new reefs or adding to existing reefs.

[Added by Acts 1977, 65th Leg., p. 1125, ch. 421, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 547, ch. 260, art. 1, § 2, eff. Sept. 1, 1979.]

#### § 12.017. Damaging Markers

(a) No person may damage, deface, destroy, or remove, tie up a boat to, or in any way render inoperative or ineffective a marker, buoy, light or sound signal, radar reflector, or daymark or any part of these devices, including the attachment intended to hold the device in place.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200. On a second or subsequent conviction of a violation of Subsection (a) of this section, the person shall be punished by a fine of not less than \$200 nor more than \$500.

(c) The fact that a device or part of a device specified in Subsection (a) of this section may have been established by the state in water adjacent to but outside the territorial water of the state is not a defense against a prosecution for damaging state property.

[Added by Acts 1977, 65th Leg., p. 1126, ch. 421, § 2, eff. Aug. 29, 1977.]

[Sections 12.018 to 12.100 reserved for expansion]

### SUBCHAPTER B. ENFORCEMENT POWERS

#### § 12.101. Duty to Enforce Law

The department shall enforce all state laws relating to the protection and preservation of wild game, wild birds, and fish and other marine life.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.102. Power to Arrest**

(a) An authorized employee of the department has the same authority as a sheriff to arrest, serve criminal process, and require aid in serving criminal process in connection with violations of the laws relating to game, fish, and birds. The department may receive the same fees as are provided by law for sheriffs in misdemeanor cases.

(b) An authorized employee of the department may arrest without a warrant any person found in the act of violating any law relating to game, birds, or fish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.103. Entering Land**

To enforce the game and fish laws of the state and to conduct scientific investigations and research regarding wild game or fish, an authorized employee of the department may enter on any land or water where wild game or fish are known to range or stray. No action may be sustained against an employee of the department to prevent his entering on land or water when acting in his official capacity.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.104. Right to Search**

An authorized employee of the department may search a game bag, vehicle, or other receptacle if he has reason to believe that the game bag, vehicle, or receptacle contains game unlawfully killed or taken.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.105. Suits**

(a) The department may file complaints in the name of the State of Texas to recover fines and penalties for violations of the laws relating to game, birds, and fish.

(b) The department may file a complaint and commence proceedings against an individual for violation of the laws relating to game, birds, and fish without the approval of the county attorney of the county in which the proceedings are brought. The department is not required to furnish security for costs for proceedings under this subsection.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.106. Notice to Appear**

(a) Any peace officer of this state or a political subdivision of this state or an authorized employee of the department who arrests a person for a violation of a game, fish, or park law of this state or of a regulation of the commission may deliver to the alleged violator a written notice to appear before the justice court having jurisdiction of the offense not later than 15 days after the date of the alleged violation.

(b) On signing the written notice to appear and thereby promising to appear as provided in the notice, the alleged violator shall be released.

(c) Failure to appear within the time specified in the written notice is a misdemeanor punishable by a fine of not less than \$10 nor more than \$200, and a warrant for the arrest of the alleged violator may be issued.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.107. Remission of Fines**

(a) A justice of the peace, clerk of any court, or any other officer of the state who receives a fine imposed by a court for a violation of any law relating to the protection and conservation of wild birds, wild fowl, wild animals, fish, oysters, and other wildlife shall send the fine to the department within 10 days after the date of collection. A statement containing the docket number of the case, the name of the person fined, and the section of the law violated must accompany the remission of the fine.

(b) The amount of the fine to be remitted to the department is 80 percent in county court cases and 85 percent in justice court cases.

(c) The fees set out in Articles 950 and 951, Code of Criminal Procedure, 1925, shall be deducted from fines imposed for violations of laws relating to wild game, birds, fish, oysters, and other wildlife.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.108. Expenses**

In making an arrest, summoning a witness, and serving a process, the department is entitled to the same fee and mileage allowance as a sheriff. The fee is charged and collected in the same manner as sheriff's fees.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.109. Confiscated Marine Life**

(a) When an enforcement officer of the department believes that a person has unlawful possession of any fish, oysters, shrimp, or other marine life, he shall seize and sell the marine life and dispose of the proceeds as provided in this section. If the person is in possession of a greater quantity of marine life than is authorized by law, all such marine life shall be deemed to have been taken in contravention of the law and shall be seized by the arresting officer. The officer shall give to the person a receipt for all marine life seized.

(b) The confiscated marine life shall be sold to the highest of three bidders. The proceeds of the sale shall be deposited in the state treasury to the credit of suspense fund No. 900 pending the outcome of the action taken against the person charged with illegal possession.

(c) Unless the person is found guilty, all the proceeds shall be paid to the owner of the marine life.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1214, ch. 456, § 13(k), eff. Sept. 1, 1975.]

**§ 12.110. Disposition of Confiscated Game**

(a) The department shall donate, whenever same is reasonably practicable, any wild game animal, bird, fowl, or game fish which is unlawfully killed, taken, shipped, held in storage, or found in a public eating place to a charitable institution, hospital, or person or persons.

(b) The expense of any cold storage that may be necessary for an unlawfully possessed game bird, fowl, animal, or game fish shall be assessed against the violator on his conviction.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 33, ch. 16, § 1, eff. March 16, 1977.]

**§ 12.1101. Seizure and Disposal of Pelts**

(a) A game warden or authorized employee of the department may seize the pelt of any fur-bearing animal taken or possessed in violation of a provision of this code or a lawful regulation of the commission. If an alleged violator is charged with a violation of a provision of this code or of a regulation of the commission in connection with the pelt seized, the warden or employee shall hold the pelt as evidence. On conviction of the alleged violator or on his plea of nolo contendere, the pelts may be sold to the highest bidder after taking the minimum of three written bids by the department. If the alleged violator is not guilty of the offense or if the charge is dismissed the pelts shall be returned to their lawful owner.

(b) A game warden or authorized employee of the department acting under the authority of this section is immune from liability and from suit for the seizure of pelts.

(c) Repealed by Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, § 6, eff. Sept. 1, 1979.

[Added by Acts 1977, 65th Leg., p. 82, ch. 39, § 1, eff. March 30, 1977. Amended by Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, § 6, eff. Sept. 1, 1979.]

**§ 12.1105. Seizure and Disposition of Unlawful Nets; Inside Water**

(a) When a game warden or authorized employee of the department finds in the inside water of the state a seine, net, trawl, trap, or other device that is in the water in violation of a provision of this code or in violation of a lawful regulation of the commission or is aboard a vessel in violation of a provision of this code or a lawful regulation of the commission, the warden or employee shall seize without a warrant the seine, net, trawl, trap, or device.

(b) When an alleged violator is charged with an offense in connection with the unlawful use or possession of the seine, net, trawl, trap, or device seized by the warden or employee, the warden or employee shall hold the seine, net, trawl, trap, or device as evidence. Except as provided in Subsection (f) of this section, on a final conviction for the offense of the alleged violator, including a final judgment arising from a plea of nolo contendere, the warden or

employee shall destroy the seine, net, trawl, trap, or device. If the alleged violator is not guilty of the offense or if the charge is not prosecuted and dismissed, the seine, net, trawl, trap, or device shall be returned to the owner.

(c) If no person is charged with an offense in connection with the seizure of a seine, net, trawl, trap, or other device under this section, and no person is found in possession of the seine, net, trawl, trap, or device, the warden or employee shall give notice of the seizure to the county judge or a judge of a county court at law of the county where the seizure occurred. The notice must include a description of the items seized and the location of the seizure. The court shall then direct the sheriff or a constable to post a copy of the notice in the county courthouse for not less than 10 days. At the expiration of 10 days, the court shall hold a hearing to determine if the seine, net, trawl, trap, or device was used or possessed in violation of a provision of this code or of a lawful regulation of the commission. Except as provided in Subsection (f) of this section, if the use or possession was unlawful, the warden or employee shall destroy the seine, net, trawl, trap, or device.

(d) A game warden or authorized employee of the department who seizes items under this section is immune from liability and from suit for a seizure or destruction of a net as authorized by this section.

(e) This section does not apply to shrimp trawls used for catching shrimp or on board a licensed shrimp boat.

(f) The Parks and Wildlife Department, when requested by authorized representatives of units of The University of Texas System, The Texas A & M University System, the Texas A & I University System, Pan American University, the Lamar University System, and Southwest Texas State University, engaged in teaching and research related to marine science and oceanography, may transfer to such units of said universities and university systems nets, seines, and other marine equipment, which have been seized under this section, to be used in carrying out the teaching and research programs within said institutions.

[Added by Acts 1977, 65th Leg., p. 381, ch. 190, § 3, eff. May 20, 1977.]

**§ 12.111. Violation by Employee**

An employee of the department who violates any provision of this code relating to game, fish, and oysters which the employee is authorized to enforce is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.112. Forfeiture of Licenses**

(a) The licenses issued under Chapters 42 and 46 of this code (general hunting and fishing licenses)

are not subject to forfeiture for a violation of a game or fish law or a regulation of the department.

(b) No other license issued by the department is subject to forfeiture unless forfeiture is expressly provided for and then only by the jury, or the judge in the absence of a jury, in the same manner as other penalties are assessed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 12.113. Coastal Survey Charts Admissible**

In any prosecution under this code, United States Coastal Survey Charts are admissible.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**SUBCHAPTER C. OPERATION GAME THIEF**

**§ 12.201. Creation of Fund**

The department may accept and deposit in a special fund outside the state treasury, called the operation game thief fund, donations from any person made for purposes of this subchapter. Funds deposited in the operation game thief fund may be used only for the maintenance of that fund. The Operation Game Thief Committee shall adopt rules for the implementation and maintenance of that fund.

[Added by Acts 1981, 67th Leg., p. 3316, ch. 868, § 1, eff. Aug. 31, 1981.]

**§ 12.202. Operation Game Thief Committee**

(a) The director shall appoint an Operation Game Thief Committee composed of six members to administer the operation game thief fund and to make reward payments from that fund as provided by Section 12.204 of this code. The director shall appoint persons who are not employees of the department and who have a demonstrated interest in game and fish conservation. The director may consider the recommendations or nominations of any club or association. The director shall designate one of the members as chairman of the committee. The director or an employee designated by the director for that purpose shall serve as secretary to the committee. A member of the committee serves without compensation.

(b) Each member of the committee serves a term of six years. The terms of one-third of the members expire on January 31 of each odd-numbered year. The director may reappoint members.

(c) The committee shall meet in April and October at the department's office in Austin. Four committee members must be present for approval of disbursement of rewards to eligible applicants.

[Added by Acts 1981, 67th Leg., p. 3316, ch. 868, § 1, eff. Aug. 31, 1981.]

Section 2 of the 1981 Act provides:

"The director of the Parks and Wildlife Department shall appoint the first members of the Operation Game Thief Committee as follows: two members shall be appointed for terms expiring on January 31, 1983; two members shall be appointed for terms expiring on January 31, 1985; and two members shall be appointed for terms expiring on January 31, 1987."

**§ 12.203. Rewards; Claims**

(a) A person who furnishes information leading to the arrest and conviction of a person for a flagrant violation of this code or a regulation or proclamation adopted under this code that applies to the taking, possession, or sale of an animal, bird, reptile, or fish may apply to the committee for a reward to be paid from the operation game thief fund.

(b) The committee may consider only claims made in the six-month period preceding the meeting, and those claims may relate only to convictions obtained during that period.

(c) The committee shall prescribe and furnish the forms on which claims are to be made, including any documentation to be furnished to substantiate the claim.

(d) For purposes of this section, "flagrant violation" means a violation of the hunting or fishing laws that is so extreme, conspicuous, or outstandingly bad as to be impossible not to notice. A violation of the hunting or fishing license provisions in Chapter 42 or 46 of this code is not a flagrant violation.

[Added by Acts 1981, 67th Leg., p. 3316, ch. 868, § 1, eff. Aug. 31, 1981.]

Section 3 of the 1981 Act provides:

"A conviction obtained before the effective date of this Act may not be the basis of a claim for reward made under this Act."

**§ 12.204. Reward; Payments**

At each meeting, the committee shall determine which claimants are to be granted rewards, specify the amount of each reward, and direct the payment of the rewards from the operation game thief fund. No reward may be less than \$50 or more than \$200. No amount in excess of that on deposit in the operation game thief fund is payable as a reward under this section. No reward may be granted to a person, or an immediate family member of a person, who is a peace officer, deputy game warden, prosecutor, employee of the department, or member of the judiciary.

[Added by Acts 1981, 67th Leg., p. 3316, ch. 868, § 1, eff. Aug. 31, 1981.]

**§ 12.205. Powers of the Department**

The department may:

(1) provide a toll-free telephone number for use of the public in reporting violations of the game and fish laws to an office of the department that has employees on duty 24 hours a day; and

(2) establish procedures for voluntary donations to the operation game thief fund to be collected and sent to the department.

[Added by Acts 1981, 67th Leg., p. 3316, ch. 868, § 1, eff. Aug. 31, 1981.]

**CHAPTER 13. POWERS AND DUTIES  
CONCERNING PARKS AND OTHER  
RECREATIONAL AREAS**

**SUBCHAPTER A. GENERAL POWERS AND DUTIES**

Section	
13.001.	Control by Department.
13.002.	Comprehensive State Plan.
13.003.	Gifts and Improvements of Park Sites.
13.004.	Financing of Park Programs.
13.005.	Acquisition of Historical Structures and Sites.
13.006.	Lease of Park Lands.
13.0061.	Lease of Grazing or Farming Rights on Park Lands.
13.007.	Investigation Expenses.
13.008.	Solicitation, Receipt, and Transfer of Land.
13.009.	Sale or Exchange of Land.
13.010.	Historic Locations.
13.011.	Natural Features.
13.012.	Roadside Parks.
13.013.	Construction of Roads by State Highway Department.
13.014.	Roads and Trails to Certain Park Sites.
13.015.	Concessions.
13.016.	Prison Labor.
13.017.	Publications on Parks.
13.018.	State Parklands Passport.
13.019.	Campsite Reservation Fee.

**SUBCHAPTER B. REGULATIONS GOVERNING PARKS  
AND OTHER RECREATIONAL AREAS**

13.101.	Authorization.
13.102.	Scope of Regulations.
13.103.	Hearing on Regulation.
13.104.	Publication of Notice.
13.105.	Contents of Notice.
13.106.	Posting of Regulations.
13.107.	Adoption of Penalties.
13.108.	Removal From Park.
13.109.	Enforcement of Regulations.
13.110.	Effect of Regulations.
13.111.	Portion of Fine to be Retained by County.

**SUBCHAPTER C. REGULATIONS GOVERNING AREAS  
ADJACENT TO STATE PARKS**

13.201.	Authorization.
13.202.	Application Limited.
13.203.	Notice of Regulation; Hearing.
13.204.	Effective Date of Regulation.
13.205.	Penalty.

**SUBCHAPTER D. PARTICIPATION IN FEDERAL  
PROGRAMS**

13.301.	Programs for the Development of Historic Sites and Structures.
13.302.	Programs for the Development of Outdoor Recreation Resources.
13.303.	Cooperation With Other Agencies.
13.304.	Additional Powers of Counties and Special Districts.
13.305.	Condemnation Proceedings.
13.306.	Application for Participation in Federal Programs.
13.307.	Coordination of Activities.
13.308.	Availability of State Funds.
13.309.	Availability of Local Funds.
13.310.	Receipt and Expenditure of Funds.
13.311.	Project Priority.
13.312.	Administration Expense.
13.313.	Fish and Wildlife Restoration Projects.
13.314.	Compliance in Fishery Management.

**SUBCHAPTER A. GENERAL POWERS  
AND DUTIES**

**§ 13.001. Control by Department**

Except as otherwise provided by law, all recreational and historic areas designated as state parks are under the control and custody of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.002. Comprehensive State Plan**

The department may:

(1) prepare, maintain, and revise a statewide comprehensive plan for the development of the outdoor recreation resources of this state;

(2) develop, operate, and maintain outdoor areas and facilities of the state; and

(3) acquire land, water, and interests in land and water for outdoor recreation areas and facilities.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.003. Gifts and Improvements of Park Sites**

The department may receive gifts of state park sites and may improve and equip parks sites or contract for their improvement and equipment.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.004. Financing of Park Programs**

(a) The operation, maintenance, and improvement of state parks shall be financed from the general revenue fund, the state parks fund, other funds that may be authorized by law, and donations, grants, and gifts received by the department for these purposes.

(b) No donation, grant, or gift accruing to the state or received by the department for the purpose of operating, maintaining, improving, or developing state parks may be used for any purpose other than the operation, maintenance, or developing of state parks.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.005. Acquisition of Historical Structures and Sites**

(a) The department may acquire by purchase, gift, or other manner a structure or site:

(1) where events occurred that represent an important aspect of the cultural, political, economic, military, or social history of the nation or state;

(2) significantly associated with the lives of outstanding historic persons or with an important event that represents a great ideal or idea;

(3) embodying the distinguishing characteristics of an architectural type which is inherently valuable for study of a period, style, or method of construction;

(4) that contributes significantly to the understanding of aboriginal man in the nation or state; or

(5) that is of significant geologic interest relating to prehistoric animal or plant life.

(b) The department shall restore and maintain each structure or site acquired under this section for the benefit of the general public. The department may enter into interagency contracts for this purpose.

(c) The department shall use money appropriated in the general appropriations act for restoring and maintaining the structures or sites acquired under this section.

(d) The department shall prescribe and collect a nominal fee for admission to structures and sites acquired under this section. The admission fees shall be used to pay for the restoration and maintenance of structures and sites.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.006. Lease of Park Lands**

(a) The department may lease for park purposes any land and improvements it holds to any city, county, special district, or other political subdivision. The leased area may not be referred to as a state park, and no state funds may be used to operate or maintain a park leased under this section.

(b) The conditions and duration of the lease agreement are determined by the agreement of the department and the governing body of the political subdivision.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.0061. Lease of Grazing or Farming Rights on Park Lands**

(a) The department may lease any state park or any area of a state park for the purpose of grazing livestock or growing agricultural crops.

(b) The department may agree to accept livestock instead of money as payment for grazing rights granted under this section. If the department accepts livestock as payment, the department shall sell the livestock for its fair market value.

(c) The department may agree to accept crops instead of money as payment for farming rights

granted under this section. If the department accepts crops as payment, the department shall either sell the crop for its fair market value or shall utilize the crop in any state park.

(d) All revenue derived from a lease or from the sale of livestock or crops under this section shall be deposited in the state treasury to the credit of the state parks fund.

[Added by Acts 1981, 67th Leg., p. 2697, ch. 734, § 1, eff. June 16, 1981.]

**§ 13.007. Investigation Expenses**

A locality may pay the expenses of a representative of the department for a trip to the locality to determine the suitability of a site for a state park. If the expenses of the representative are paid by the locality, state funds may not be used for the expenses of the trip.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.008. Solicitation, Receipt, and Transfer of Land**

(a) The department may solicit and receive donations of land for state park purposes and may refuse donations of land not acceptable for park purposes.

(b) If title to a site has vested in the state for park purposes and the site is deemed unsuitable for a state park by the department, the department may transfer the title:

(1) to another state department or institution requesting the site;

(2) to the donor of the land if the donor requests the return of the site;

(3) to the United States if it has undertaken the development of the site for park purposes; or

(4) on a declaration that the site is unsuitable for park purposes, to the grantor if the deed to the department contains a reversion clause providing that title reverts to the grantor when the site is not used for park purposes.

(c) A two-thirds vote of the commission is necessary for action taken under this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.009. Sale or Exchange of Land**

(a) The director with the approval of the commission may execute a deed exchanging real property or an interest in real property either as all or partial consideration for other real property or interest in real property to be used by the department for a state park, historic site, scientific area, fish hatchery, or game management area. The director with the

approval of the commission may execute a deed selling real property or an interest in real property acquired as a state park, historic site, scientific area, fish hatchery, or game management area if the real property is no longer suitable for the purpose for which it was acquired.

(b) All state land exchanged under this section shall be for other land suitable for use as a park, historic site, scientific area, fish hatchery, or game management area.

(c) The state shall receive a good and marketable title to all land exchanged under this section. The title to land received in the exchange must be approved by the attorney general.

(d) All land to be received in the exchange must be appraised and if the land to be received is of greater value, as determined by an independent and competent appraisal, than the state land exchanged, the department may use funds available for land acquisitions as a partial consideration for the exchange.

(e) All transactions for the exchange of land under this section must have the prior written approval of the governor.

(f) The receipts from the sale of land under this section shall be used for the sole purpose of acquiring other real property dedicated to the same purpose for which the land sold was dedicated.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 609, ch. 220, § 1, eff. May 24, 1977; Acts 1979, 66th Leg., p. 550, ch. 260, art. 3, § 2, eff. Sept. 1, 1979.]

#### § 13.010. Historic Locations

The department may locate, designate, and suitably mark historic grounds, battlefields, and other historic spots in Texas. Fitting markers may be erected; however, no expense may be incurred in the name of the state for this project.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.011. Natural Features

(a) The commission may locate and designate outstanding natural features and formations located in this state. It may erect or contract to have erected suitable markers or monuments to call the features and formations to the public's attention.

(b) The commission may accept title to a suitable site for a marker or monument from private individuals, associations, or corporations by gift. Sites may also be acquired by purchase with appropriated funds.

(c) The commission may adopt reasonable rules for accepting or purchasing sites, for determining the suitability of sites, and for establishing the priority of accepting and marking the sites.

(d) All other agencies shall cooperate with the department to aid in the location of sites. The department may accept jurisdiction over suitable sites located on state land by an interagency transfer of jurisdiction.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.012. Roadside Parks

An area under the control of the department which is more suitable for use as a roadside park than any other type of park may be transferred to the State Highway Department for roadside park purposes if the land meets the specifications of the State Highway Department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.013. Construction of Roads by State Highway Department

(a) The department may contract with the State Highway Commission for the construction and paving of roads in and adjacent to state parks.

(b) Agreements under this section must be made in conformity with the Interagency Cooperation Act.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.014. Roads and Trails to Certain Park Sites

(a) The department shall acquire, construct, and maintain roads and trails from public roads to park sites located on and accessible to the waters of Buchanan and Inks lakes in Burnet, Lampasas, Llano, San Saba, Travis, and Williamson counties. The park sites may be state parks or land owned by the Lower Colorado River Authority dedicated to public use for park purposes.

(b) The department may acquire the rights-of-way for the roads and trails by purchase or gift or by exercise of the power of eminent domain.

(c) The State Highway Commission shall cooperate with the department and the department shall cooperate and match funds with any state or federal governmental agency and shall sponsor any state or federal project.

(d) The department may make contracts to carry out the provisions of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.015. Concessions

(a) The department may operate or grant contracts to operate concessions in state parks or on

causeways, beach drives, or other improvements in connection with state park sites. The department may make regulations governing the granting or operating of concessions.

(b) The department shall deposit any revenue received from the contracts or operations authorized by this section in the state treasury to the credit of the state parks fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.016. Prison Labor**

(a) The department may use the labor of trusty state convicts on or in connection with state parks.

(b) Convicts working in connection with a state park remain under the control of the Texas Board of Corrections and are considered as serving their terms in the penitentiary.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.017. Publications on Parks**

(a) The department may disseminate information to the public on state parks, state historic sites, and state scientific areas. The department may sell the publications but only at state parks, historic sites, scientific areas, the state departmental headquarters, and regional and district offices.

(b) No publication authorized by this section may be published and sold at regular periodic intervals. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.018. State Parklands Passport**

(a) The following people may apply to the department for a state parklands passport:

- (1) a person who is 65 years old or over; and
- (2) a veteran of the armed services of the United States who, as a result of military service, has a service-connected disability, as defined by the Veterans' Administration, consisting of the loss of the use of a lower extremity or of a 60 percent disability rating and who is receiving compensation from the United States because of the disability.

(b) The department shall issue a passport to each qualified applicant. The passport shall be issued on a form designed and provided by the department.

(c) The holder of a state parklands passport is entitled to enter any state park without payment of an entrance or admission fee. When a fee is charged by the department for entrance of a vehicle into a state park, the vehicle of the holder of a state parklands passport is exempt from the fee when the holder is present.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 36, ch. 19, § 1, eff. Aug. 29, 1977.]

**§ 13.019. Campsite Reservation Fee**

The department may permit the advance reservation of a lodging or campsite at a state park and

require the payment of a fee by a person making the reservation. If the reservation is cancelled by 72 hours prior to the day the site is first to be occupied under the reservation, the reservation fee shall be refunded. If the reservation is confirmed by the person's arriving at the park, the reservation fee shall be applied to the first day's user fee. No user fee may be required in advance as part of the reservation procedure.

[Added by Acts 1979, 66th Leg., p. 1065, ch. 495, § 1, eff. June 7, 1979.]

[Sections 13.020 to 13.100 reserved for expansion]

**SUBCHAPTER B. REGULATIONS GOVERNING PARKS AND OTHER RECREATIONAL AREAS**

**§ 13.101. Authorization**

The commission may promulgate regulations governing the health, safety, and protection of persons and property in state parks, historic sites, scientific areas, or forts under the control of the department, including public water within state parks, historic sites, scientific areas, and forts.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1206, ch. 456, § 4(a), eff. Sept. 1, 1975.]

**§ 13.102. Scope of Regulations**

The regulations may govern:

- (1) the conservation, preservation, and use of state property whether natural features or constructed facilities;
- (2) the abusive, disruptive, or destructive conduct of persons;
- (3) the activities of park users including camping, swimming, boating, fishing, or other recreational activities;
- (4) the possession of pets or animals;
- (5) the regulation of traffic and parking; and
- (6) conduct which endangers the health or safety of park users or their property.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2725, ch. 741, § 3, eff. Jan. 1, 1982.]

**§ 13.103. Hearing on Regulation**

(a) Prior to the adoption of a regulation, the commission must hold a hearing on the regulation, at which time interested persons are entitled to express their views on the proposed regulation.

(b) The hearing may be held only within the two-week period beginning one week after the final publication of the notice.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.104. Publication of Notice**

(a) Except as provided in Subsection (b) of this section, notice of the hearing to consider the pro-

posed regulation must be published in at least three newspapers of general circulation in this state.

(b) If the proposed regulation applies to one park only, notice must be published on two consecutive weeks in the county where the park is located. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.105. Contents of Notice

The notice must contain:

(1) the time, date, and place of the hearing on the proposed regulation;

(2) a statement of the proposed regulation; and

(3) a statement that interested persons may obtain additional copies of the proposed regulation from the department prior to the hearing.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.106. Posting of Regulations

All specific or general regulations applying to a state park, historic site, scientific area, or fort must be posted in a conspicuous place at the park, site, or fort. A copy of the regulations shall be made available on request to persons using the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.107. Adoption of Penalties

The commission may adopt the following penalties for violations of regulations issued under this subchapter:

(1) a fine not to exceed \$25 for a first conviction;

(2) a fine not to exceed \$50 for a second conviction of a violation of the same regulation by the same person within a six-month period;

(3) a fine not to exceed \$200 for a third or subsequent conviction of a violation of the same regulation by the same person within a one-year period.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.108. Removal From Park

(a) Any person directly or indirectly responsible for disruptive, destructive, or violent conduct which endangers property or the health, safety, or lives of persons or animals may be removed from a park, historic site, scientific area, or fort for a period not to exceed 48 hours.

(b) Prior to removal under this section, the person must be given notice of the provisions of this section and an opportunity to correct the conduct justifying removal.

(c) A court of competent jurisdiction may enjoin a person from reentry to the park, scientific area, site, or fort, on cause shown, for any period set by the court.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.109. Enforcement of Regulations

Regulations adopted under this subchapter may be enforced by any peace officer, including those employees of the department commissioned as peace officers under Section 11.019 of this code. A notice to appear may be issued by a peace officer for violation of a regulation on a form prescribed by the commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.110. Effect of Regulations

No regulation adopted under this subchapter may amend or repeal any penal law of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.111. Portion of Fine to be Retained by County

The justice or county court imposing a fine for a violation of this subchapter may retain 15 percent of the amount of the fine collected to be deposited in the county treasury in the same manner as court costs.

[Acts 1975, 64th Leg., p. 1206, ch. 456, § 4(b), eff. Sept. 1, 1975.]

[Sections 13.112 to 13.200 reserved for expansion]

### SUBCHAPTER C. REGULATIONS GOVERNING AREAS ADJACENT TO STATE PARKS

#### § 13.201. Authorization

The commission may make regulations prohibiting the use of firearms or certain types of firearms on state property adjacent to state parks and within 200 yards of the boundary of the state park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.202. Application Limited

The regulations of the commission under Section 13.201 of this code apply only to state parks located within one mile of coastal water of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.203. Notice of Regulation; Hearing

(a) Before making a regulation under Section 13.201 of this code, the commission shall publish notice of the proposed regulation in a newspaper of general circulation in the county in which the regulation is to apply. The notice must contain the text of the proposed regulation and give the date, time, and location of the hearing on the regulation.

(b) The commission shall hold a hearing on the proposed regulation and shall hear persons who wish to speak for or against the regulation. The hearing may be held in Austin.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.204. Effective Date of Regulation**

A regulation made under Section 13.201 of this code takes effect 30 days after final action by the commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.205. Penalty**

A person who violates a regulation made by the commission under Section 13.201 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 13.206 to 13.300 reserved for expansion]

**SUBCHAPTER D. PARTICIPATION IN FEDERAL PROGRAMS**

**§ 13.301. Programs for the Development of Historic Sites and Structures**

(a) The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program involving the planning, acquisition, and development of historic sites and structures.

(b) The department may contract with the United States or its agencies to plan, acquire, and develop historic sites and structures in this state in conformity with any federal act concerning the development of historic sites and structures.

(c) The department shall keep financial and other records relating to programs under this section and shall furnish appropriate officials and agencies of the United States and of this state all reports and information reasonably necessary for the administration of the programs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.302. Programs for the Development of Outdoor Recreation Resources**

The department is the state agency to cooperate with the federal government in the administration of federal assistance programs for the planning, acquisition, operation, and development of the outdoor recreation resources of the state, including acquisition of land and water and interests in land and water. The department shall cooperate with the federal government in the administration of the provisions of the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.303. Cooperation With Other Agencies**

The department shall cooperate with departments of the federal government and other departments of state and local government, including as a part of

the state plan, water districts, river authorities, and special districts in outdoor recreation. The department shall issue rules and regulations to cooperate in the enforcement and administration of federal acts and rules and regulations.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.304. Additional Powers of Counties and Special Districts**

Counties, river authorities, water districts, and other political subdivisions organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, may:

(1) acquire land for public recreation;

(2) construct facilities for public use on land acquired for public recreation;

(3) provide for the operation, maintenance, and supervision of the public recreation areas;

(4) execute agreements with other local, state, or federal agencies for planning, construction, maintenance, and operation of public recreation facilities and necessary access roads; and

(5) maintain adequate sanitary standards on the land and water areas that are part of or adjacent to public recreation areas.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.305. Condemnation Proceedings**

(a) The department may institute condemnation proceedings according to the laws of this state to acquire land for programs developing outdoor recreation resources under Section 13.302 of this code.

(b) Costs incurred in the exercise of eminent domain under this section for the relocation, raising, lowering, rerouting, or change in grade, or alteration in the construction of any electric transmission, telegraph, or telephone line, railroad, conduit, pole, property, facility, or pipeline are the sole expense of the department.

(c) "Sole expense" means the actual cost of the lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of the facility, after deducting the net salvage value derived from the old facility.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 13.306. Application for Participation in Federal Programs**

(a) The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal outdoor recreation program.

(b) The department may contract with the United States or any appropriate federal agency to plan, acquire, and develop outdoor recreation resources of the state in conformity with the Land and Water Conservation Fund Act of 1965 or any other federal

act to develop outdoor recreation resources of the state.

(c) The department shall keep financial and other records relating to the programs under this section and shall furnish to appropriate officials and agencies of the United States and of this state reports and information reasonably necessary for the administration of the programs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.307. Coordination of Activities

To obtain the benefits of outdoor recreation programs under this subchapter, the department shall coordinate its activities with and represent the interests of all agencies and political subdivisions of the state as a part of a state plan. The state plan shall include cities, counties, water districts, river authorities, and special districts in outdoor recreation having interests in the planning, development, acquisition, operation, and maintenance of outdoor recreation resources and facilities.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.308. Availability of State Funds

(a) The department may not make a commitment or an agreement to participate in an outdoor recreation program under this subchapter until sufficient funds are available to meet the state's share of the cost of the project.

(b) An outdoor recreation area or facility acquired or developed by the department under this subchapter shall be publicly maintained to the extent necessary to insure its proper operation and maintenance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.309. Availability of Local Funds

The department may agree with the United States or any appropriate agency to plan, acquire, operate, and develop projects involving participating federal aid funds on behalf of any political subdivision of this state if the political subdivision certifies to the department that:

(1) sufficient funds are available to meet its share, if any, of the cost of the project; and

(2) the acquired or developed areas will be operated and maintained at the expense of the subdivision for public outdoor recreation use.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.310. Receipt and Expenditure of Funds

(a) The department may receive and spend federal money allocated to the state for any project established to develop outdoor recreation resources under this subchapter and for administrative and other expenses incident to the administration of these projects.

(b) The department may receive and expend funds from the state, a county, a city, or any other source for the development of outdoor recreation resources under this subchapter.

(c) The department shall deposit all funds received for the development of outdoor recreation resources in the state treasury to the credit of the state land and water conservation fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.311. Project Priority

The department may make rules and regulations governing the priority of projects submitted under an outdoor recreation plan under this subchapter and within the limitations of the appropriations made for these purposes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.312. Administration Expense

The department may employ necessary personnel, as determined by the director, and expend amounts necessary to administer efficiently the outdoor recreation programs under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.313. Fish and Wildlife Restoration Projects

The department may conduct and establish cooperative fish and wildlife restoration projects under the provisions of Public Law No. 415, Acts of the 75th Congress, and Public Law No. 681, Acts of the 81st Congress, as amended.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 13.314. Compliance in Fishery Management

The department may cooperate and contract with the Gulf of Mexico Fishery Management Council or the National Marine Fisheries Service for conduct of such work as may be necessary in complying with requirements of the Fishery Conservation and Management Act of 1976 (16 U.S.C.A. Section 1801 et seq.).

[Added by Acts 1977, 65th Leg., p. 1280, ch. 501, § 1, eff. June 15, 1977.]

## TITLE 3. PARKS

### CHAPTER 21. TEXAS PARK DEVELOPMENT FUND

#### SUBCHAPTER A. TEXAS PARK DEVELOPMENT BONDS

Section	
21.001.	Issuance of Park Development Bonds.
21.002.	Description of Bonds.
21.003.	Sale Price.
21.004.	Interest Rate.
21.005.	Form, Denomination, Place of Payment.
21.006.	Maturity.

- Section  
 21.007. Redemption Before Maturity.  
 21.008. Registered and Bearer Bonds.  
 21.009. Notice of Bond Sale.  
 21.010. Competitive Bids.  
 21.011. Security for Bids.  
 21.012. Approval of Bonds; Registration.  
 21.013. Execution of Bonds.  
 21.014. Facsimile Signatures and Seals.  
 21.015. Signature of Former Officer.  
 21.016. Bonds Incontestable, Valid, and Binding.  
 21.017. Evidence of Validity.  
 21.018. Payment by Treasurer.  
 21.019. Duties Enforceable.  
 21.020. Refunding Bonds.  
 21.021. Bonds Negotiable Instruments.  
 21.022. Bonds Not Taxable.  
 21.023. Authorized Investments.  
 21.024. Security for Deposit of Funds.  
 21.025. Mutilated, Lost, or Destroyed Bonds.
- SUBCHAPTER B. FUNDING PROVISIONS
- 21.101. Texas Park Development Fund.  
 21.102. Use of Development Fund.  
 21.103. Acquiring Park Sites.  
 21.104. Contracts Authorized.  
 21.105. Interest and Sinking Fund.  
 21.106. Credits to Interest and Sinking Fund.  
 21.107. Additional Transfers.  
 21.108. Interest and Sinking Fund: Final Transfer.  
 21.109. Transfers Required.  
 21.110. Investment of Funds.  
 21.111. Entry Fees to Parks.

SUBCHAPTER A. TEXAS PARK DEVELOPMENT BONDS

§ 21.001. Issuance of Park Development Bonds

The department, by resolution of the commission, from time to time may provide for the issuance of negotiable bonds in an aggregate amount not to exceed \$75 million pursuant to the provisions of Article III, Section 49-e, of the Texas Constitution. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.002. Description of Bonds

The bonds are called State of Texas Park Development Bonds and shall be issued on a parity. The department may issue them in one or several installments and shall date the bonds of each issue. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.003. Sale Price

The department may not sell an installment or series of bonds for an amount less than the face value of all of the bonds comprising the installment or series with the accrued interest from their date of issuance. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.004. Interest Rate

The department shall determine the rate of interest of an installment or series of bonds and shall determine whether interest is payable annually or semiannually. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.005. Form, Denomination, Place of Payment  
 The department shall determine:

- (1) the form of the bonds, including the form of any interest coupons to be attached;
- (2) the denominations of the bonds; and
- (3) the places for payment of principal and interest.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.006. Maturity

The bonds of each issue mature, serially or otherwise, not more than 40 years from their date. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.007. Redemption Before Maturity

In the resolution providing for the issuance of bonds, the department may determine the price, terms, and conditions for redemption of bonds before maturity.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.008. Registered and Bearer Bonds

The resolution may provide for the registration of bonds as to ownership, successive conversion and reconversion from bearer to registered bonds, and successive conversion and reconversion from registered to bearer bonds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.009. Notice of Bond Sale

(a) After determining to sell a series of bonds, the department shall publish notice of the sale at least one time not less than 10 days before the date of the sale. The notice shall be published in one or more recognized financial publications of general circulation published in the state and one or more recognized financial publications of general circulation published outside the state.

(b) The department may publish notice of the sale more than once and in more than one publication.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.010. Competitive Bids

The bonds shall be sold only after competitive bidding to the highest and best bidder. The department may reject any or all bids.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 21.011. Security for Bids

The department shall require every bidder, except administrators of state funds, to include with their bid an exchange or cashier's check for an amount the department considers adequate as a forfeit guaranteeing acceptance of and payment for all bonds covered by the bid.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.012. Approval of Bonds; Registration**

Before delivering bonds to the purchasers, the department shall submit the bonds and the records pertaining to them for approval by the attorney general. When approval is obtained, the bonds shall be registered in the office of the comptroller of public accounts.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.013. Execution of Bonds**

(a) The bonds shall be executed on behalf of the department as general obligations of the state as provided in this section.

(b) The bonds shall be signed by the chairman and the director, and the seal of the department shall be impressed on them.

(c) The bonds shall be signed by the governor and attested by the secretary of state, and the state seal shall be impressed on them.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.014. Facsimile Signatures and Seals**

In the resolution authorizing the issuance of an installment or series of bonds, the commission may prescribe the extent to which facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals may be used in executing the bonds and appurtenant coupons. Interest coupons may be signed by the facsimile signatures of the chairman and the director.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.015. Signature of Former Officer**

If an officer whose signature or facsimile signature appears on a bond or whose facsimile signature appears on a coupon ceases to be an officer before the delivery of the bond, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.016. Bonds Incontestable, Valid, and Binding**

(a) After approval by the attorney general, registration by the comptroller, and delivery to the purchaser, the bonds are incontestable and constitute general obligations of the state.

(b) After approval by the attorney general and registration by the comptroller, the bonds shall be held to be valid and binding obligations of the state in any action, suit, or other proceeding in which their validity is questioned.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.017. Evidence of Validity**

In an action to enforce collection of the bonds or rights incident to the bonds, the certificate of approval by the attorney general and a certificate of registration by the comptroller, or certified copies of these certificates, shall be received in evidence as proof of the validity of the bonds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.018. Payment by Treasurer**

The state treasurer shall pay or cause to be paid the principal on bonds as they mature and the interest as it becomes payable.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.019. Duties Enforceable**

The performance of the official duties of the comptroller and the treasurer may be enforced by mandamus or other appropriate proceeding.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.020. Refunding Bonds**

The commission may provide by resolution for the issuance of refunding bonds. The department may sell these bonds and use the proceeds to retire the outstanding bonds issued under this chapter, including interest accrued on outstanding bonds, or the department may exchange refunding bonds for outstanding bonds, including accrued interest. The issuance of the refunding bonds, their maturity, the rights of the bondholders, and the duties of the department with respect to refunding bonds are governed by the provisions of this chapter relating to the original bonds, to the extent they are applicable and by refunding statutes of general application not in conflict with the provisions of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.021. Bonds Negotiable Instruments**

The bonds issued under the provisions of this chapter are negotiable instruments under the laws of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.022. Bonds Not Taxable**

Bonds issued under this chapter, income from the bonds, and profit made on their sale are free from taxation within this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.023. Authorized Investments**

Bonds issued under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan and savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.024. Security for Deposit of Funds**

Bonds issued under this chapter, when accompanied by all appurtenant unmatured coupons, are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or other political subdivision or agency of the state, at the par value of the bonds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.025. Mutilated, Lost, or Destroyed Bonds**

The department may provide for the replacement of a mutilated, lost, or destroyed bond.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 21.026 to 21.100 reserved for expansion]

**SUBCHAPTER B. FUNDING PROVISIONS**

**§ 21.101. Texas Park Development Fund**

(a) The Texas Park Development Fund, referred to as the "development fund," is created pursuant to the provisions of Article III, Section 49-e, of the Texas Constitution.

(b) Proceeds derived from the sale of Texas Park Development Bonds shall be deposited in the development fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.102. Use of Development Fund**

The department may use the development fund only for:

- (1) acquiring state park sites from the United States or any of its agencies, agencies of the state, or any other person;
- (2) improving, developing, beautifying, and equipping acquired park sites; and
- (3) paying expenses incurred in issuing bonds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.103. Acquiring Park Sites**

(a) Except as provided in Subsection (b) of this section, the department may acquire park sites, including property already devoted to public use, by purchase, condemnation, or other manner.

(b) Except as provided in Subchapter O of Chapter 22 of this code,<sup>1</sup> no real property of the state or a political subdivision of the state may be acquired without its consent.

(c) The department shall exercise the power of eminent domain in the manner prescribed by general law, including the provisions of Section 13.305 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1809, ch. 736, § 3, eff. Aug. 27, 1979.]

<sup>1</sup> See, now, first Subchapter P, § 22.221 et seq.

**§ 21.104. Contracts Authorized**

The department may contract with any state or federal agency or with any other person to accomplish the functions prescribed by Subdivisions (1) and (2) of Section 22.102 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.105. Interest and Sinking Fund**

The Texas park development bonds interest and sinking fund, referred to as the "interest and sinking fund," is created to be used exclusively for:

- (1) paying the principal of Texas Park Development Bonds as they mature;
- (2) paying the interest on the bonds as it comes due; and
- (3) paying exchange and collection charges in connection with the bonds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.106. Credits to Interest and Sinking Fund**

(a) Accrued interest received in the sale of bonds, net income received from entrance or gate fees to state park sites, and income from investments of the development fund and the interest and sinking fund shall be credited to the interest and sinking fund.

(b) In the resolution authorizing a series of bonds, the commission may appropriate from the proceeds of the sale of bonds an amount which, together with accrued interest received, is sufficient to pay interest coupons coming due during the fiscal year in which the bonds are sold and to establish appropriate reserves.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 21.107. Additional Transfers**

(a) If the amount credited to the sinking and interest fund at the end of the fiscal year is insufficient to pay the interest coming due and the principal maturing on bonds for the next fiscal year, the

state treasurer shall transfer from the first money coming into the treasury, not otherwise appropriated by the constitution, an amount stipulated in the certification of the director as is necessary to pay the interest and principal on the bonds.

(b) The director shall certify the amount required to be stipulated by Subsection (a) of this section as of August 15 of each fiscal year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 21.108. Interest and Sinking Fund: Final Transfer

After all bonds have been paid, the balance of the interest and sinking fund shall be transferred to the state parks fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 21.109. Transfers Required

The state comptroller shall make any transfer required by this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 21.110. Investment of Funds

(a) The department may invest the development fund and, in making the investments, is governed by the provisions of Chapter 401, Acts of the 60th Legislature, Regular Session, 1967.

(b) The department may invest the interest and sinking fund only in direct obligations of the United States or in obligations the principal and interest of which are guaranteed by the United States.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 21.111. Entry Fees to Parks

(a) The department, wherever feasible and so long as any of the bonds are outstanding, shall charge and collect an entrance fee to state park sites.

(b) Income derived from the fees required by this section, less expenses incurred in collecting the fees, shall be deposited in a special fund with the state treasurer. The amounts deposited are net income.

(c) If any state park site includes a public beach on the seaward shore of the Gulf of Mexico, extending from the line of mean low tide to the line of vegetation, over which the public has acquired a right of use or easement to or over the area by prescription or dedication or has retained a right by virtue of continuous right in the public, no entrance or gate fee may be charged to persons desiring to enter or to leave the public beach area, so long as the persons do not enter any other portion of the park for which an entrance or gate fee is charged.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1211, ch. 456, § 11, eff. Sept. 1, 1975.]

## CHAPTER 22. STATE PARKS

### SUBCHAPTER A. FANNIN STATE BATTLEGROUND

Section	
22.001.	Jurisdiction.
22.002.	Fannin State Park Advisory Commission.
22.003.	Meetings.
22.004.	Powers of Advisory Commission.
22.005.	Data.
22.006.	Concession Account.

### SUBCHAPTER B. SAN JACINTO BATTLEGROUND

22.011.	Jurisdiction.
22.012.	San Jacinto Historical Advisory Board.
22.013.	Meetings.
22.014.	Powers of the Board.
22.015.	Data.
22.016.	San Jacinto Museum of History Association.

### SUBCHAPTER C. PALO DURO CANYON STATE PARK

22.021.	Jurisdiction.
22.022.	Powers of Department.
22.023.	Disposition of Income.
22.024.	Issuance of Bonds.
22.025.	Interest on Bonds.
22.026.	Maturity of Bonds.
22.027.	Redemption Before Maturity.
22.028.	Sale of Bonds.
22.029.	Pledge of Income.
22.030.	Right to Issue Additional Bonds.
22.031.	Additional Security for Bonds.
22.032.	Form of Bonds.
22.033.	Refunding of Bonds.
22.034.	Employment of Personnel.
22.035.	Approval by Attorney General.
22.036.	Payment of Interest and Expenses.
22.037.	Legal Investments.
22.038.	Negotiable Instruments.
22.039.	Debt Against the State.

### SUBCHAPTER D. JIM HOGG MEMORIAL PARK

22.051.	Jurisdiction.
22.052.	Historical Improvements.
22.053.	Improvements.
22.054.	Sale and Use of Timber.
22.055.	Sale of Iron Ore.
22.056.	Competitive Bids.
22.057.	Advertising for Bids.
22.058.	Regulations.
22.059.	Disposition of Funds.

### SUBCHAPTER E. HUNTSVILLE STATE PARK

22.071.	Improvements.
22.072.	Permit for Dam.
22.073.	Sale and Use of Timber.
22.074.	Competitive Bids.
22.075.	Advertising for Bids.
22.076.	Disposition of Funds.

### SUBCHAPTER F. GOLIAD STATE PARK

22.081.	Jurisdiction.
22.082.	General Ignacio Zaragoza Birthplace.
22.083.	Mission of San Rosario.
22.084.	Improvements.
22.085.	Reversion of Title; Mineral Reservation.

### SUBCHAPTER G. MISSION SAN FRANCISCO DE LOS TEJAS STATE PARK

22.091.	Facilities; Park Site.
22.092.	Timber Sale.
22.093.	Competitive Bids.
22.094.	Advertising for Bids.
22.095.	Disposition of Funds.

SUBCHAPTER H. PORT ISABEL LIGHTHOUSE STATE HISTORICAL MONUMENT AND PARK

- Section
- 22.101. Jurisdiction.
- 22.102. Powers of Department.

SUBCHAPTER I. HUECO TANKS STATE PARK

- 22.111. Control.
- 22.112. Acceptance of Gifts.
- 22.113. Title to Park.

SUBCHAPTER J. STEPHEN F. AUSTIN STATE PARK

- 22.121. Jurisdiction.

SUBCHAPTER K. NIMITZ STATE PARK

- 22.151. Jurisdiction.
- 22.152. Powers of Department.

SUBCHAPTER L. EISENHOWER STATE PARK

- 22.161. Jurisdiction.
- 22.162. Powers of Department.
- 22.163. Definitions.
- 22.164. Right to Use Roads.
- 22.165. Permits.

SUBCHAPTER M. GOVERNOR JAMES STEPHEN HOGG MEMORIAL SHRINE

- 22.171. Governor Hogg Memorial.

SUBCHAPTER N. ACQUISITION OF CERTAIN STATE PARKS

- 22.181. Spanish Missions.
- 22.182. Texas State Railroad.
- 22.183. Hubbard Lake.
- 22.184. Fishing Piers.

SUBCHAPTER O. MATAGORDA ISLAND STATE PARK AND WILDLIFE MANAGEMENT AREA

- 22.201. Matagorda Island State Park and Wildlife Management Area.
- 22.202. Dedicated Land.

SUBCHAPTER P. FRANKLIN MOUNTAINS STATE PARK

- 22.221. Park Established: Jurisdiction of Department.
- 22.222. Department to Acquire Park Land.
- 22.223. Condemnation.

SUBCHAPTER P. FLEET ADMIRAL CHESTER W. NIMITZ MEMORIAL NAVAL MUSEUM

- 22.221. Museum Jurisdiction.
- 22.222. Powers of Department.

SUBCHAPTER A. FANNIN STATE BATTLEGROUND

§ 22.001. Jurisdiction

Fannin State Battleground is under the jurisdiction of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.002. Fannin State Park Advisory Commission

(a) The Fannin State Park Advisory Commission is composed of three residents of the state appointed by the governor.

(b) Members serve terms of six years each, with the term of one member expiring each odd-numbered year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.003. Meetings

The Fannin State Park Advisory Commission shall meet quarterly to review the policies and operation of the battleground and to advise the department on the proper historical development of the battleground.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.004. Powers of Advisory Commission

The Fannin State Park Advisory Commission may accept, in the name of the state, all bequests, gifts, and grants of money or property made to the battleground and use the bequests for the purposes specified by the grantor, if any.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.005. Data

All data collected by the advisory commission is the property of the state and shall be used to depict the story of Texas history and independence at the battleground.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.006. Concession Account

A Fannin State concession account may be established in the state treasury according to the rules and procedures established by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.007 to 22.010 reserved for expansion]

SUBCHAPTER B. SAN JACINTO BATTLEGROUND

§ 22.011. Jurisdiction

The San Jacinto Battleground is under the jurisdiction of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.012. San Jacinto Historical Advisory Board

(a) The San Jacinto Historical Advisory Board is composed of:

- (1) the chairman of the Battleship Texas Commission;
- (2) the president of the San Jacinto Museum of History Association; and
- (3) three members of the public.

(b) The three members of the public are appointed by the governor for terms of six years each, with the term of one member expiring each odd-numbered year.

(c) One or more of the three members of the public may be selected from the San Jacinto Chapter, Daughters of the Republic of Texas. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.013. Meetings

The San Jacinto Historical Advisory Board shall meet quarterly to review the policies and operations of the San Jacinto Battleground and to advise the department on the proper historical development of the battleground.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.014. Powers of the Board

The board may accept, in the name of the state, all bequests, gifts, and grants of money or property made to the battleground and use the bequests for the purposes specified by the grantor, if any.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.015. Data

All data collected by the board is the property of the state and shall be used to depict the story of Texas history and independence at the battleground.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.016. San Jacinto Museum of History Association

The San Jacinto Museum of History Association, a nonprofit historical association organized for the purposes of operating the San Jacinto Memorial Building and Tower and establishing a museum, retains ownership of property and historical data held in the name of the association and may acquire museum accessions by gift, grant, or purchase from association funds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.017 to 22.020 reserved for expansion]

### SUBCHAPTER C. PALO DURO CANYON STATE PARK

#### § 22.021. Jurisdiction

(a) The Palo Duro Canyon State Park is under the jurisdiction of the department.

(b) The original boundaries of the park include the land located in Armstrong and Randall counties and described in the deed executed by Fred A. Emery and wife to Texas State Parks Board, July 28, 1933, and recorded in Volume 69, pages 347 through 350, of the deed records of Randall County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.022. Powers of Department

(a) The department may:

- (1) fix entrance fees for admission to the park;
- (2) fix charges to be collected from patrons of the park;
- (3) execute grazing leases covering all or part of the park land;
- (4) grant concessions in the park;
- (5) make improvements in the park; and
- (6) execute any other contracts necessary to carry out the provisions of this subchapter.

(b) Improvements may include the construction of dams to impound water to form a lake or lakes for recreational and other conservation purposes within the park. Before constructing any dam or lake, the commission must obtain permits required by law from the Texas Water Rights Commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.023. Disposition of Income

The department shall use the income derived from leases, royalties, and operation of the park necessary for maintaining, improving, and operating the park. One-half of the balance of the unexpended income may be used by the department on other state parks, and the remaining one-half and any other unexpended balance shall be transferred to the general revenue fund at the end of each biennium.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.024. Issuance of Bonds

The department may issue bonds necessary for the construction of improvements in the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.025. Interest on Bonds

Interest on the bonds may not exceed six percent per year, computed with relation to the absolute maturity of the bonds in accordance with standard bond interest tables currently in use by insurance companies and investment houses, excluding from the computation the amount of any premium to be paid on redemption of any bonds prior to maturity. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.026. Maturity of Bonds

The bonds may mature, serially or otherwise, not more than 40 years from the date of their issuance. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.027. Redemption Before Maturity

The department may fix the price, terms, and conditions for redemption of the bonds before maturity in the authorizing proceedings.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.028. Sale of Bonds**

The bonds may be sold, at public or private sale, at a price and under terms determined by the department to be the most advantageous terms reasonably obtainable.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.029. Pledge of Income**

The department may irrevocably pledge the rents, revenues, and income from the improvements financed by the bonds and from any other revenue-producing facilities or properties of the park, including the fees collected for admission to the park, to the payment of the interest on and the principal of the bonds and may enter into agreements regarding the imposition of charges and the collection, pledge, and disposition of revenue.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.030. Right to Issue Additional Bonds**

In pledging the rents, revenues, and income, the department may expressly reserve the right to issue additional bonds on a parity with or subordinate to the bonds then being issued.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.031. Additional Security for Bonds**

(a) If, after reasonable effort, the department is unable to sell the bonds, the bonds may be additionally secured by a deed of trust lien on the land and property comprising the park, or any part of it, after the department has obtained written approval of the governor.

(b) The governor may not give his approval under this section until he has obtained the advice and consent of the Legislative Budget Board.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.032. Form of Bonds**

The department may prescribe the form, conditions, and details of the bonds in accordance with the provisions of this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.033. Refunding of Bonds**

(a) A bond issued by the department under a law of this state which is payable from any part of the revenues of a revenue-producing facility or property of Palo Duro Canyon State Park may be refunded or refinanced by the department under this subchapter.

(b) The provisions of this subchapter are applicable to a refunding bond.

(c) In the same authorizing proceedings, the department may refund or refinance any bond issued under this subchapter and combine all refunding

bonds and any new bonds to be issued into one or more issues or series and may provide for the subsequent issuance of additional parity bonds under terms and conditions set out in the authorizing proceedings.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.034. Employment of Personnel**

The department may employ engineers, attorneys, and fiscal agents or financial advisors necessary in the issuance or refunding of bonds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.035. Approval by Attorney General**

(a) The bonds and all records relating to their issuance must be submitted to the attorney general for examination prior to delivery.

(b) The attorney general shall approve the bonds if he finds that they have been issued in accordance with the constitution and this subchapter and that they will be binding special obligations of the department.

(c) Bonds approved by the attorney general must be registered by the comptroller of public accounts.

(d) After approval and registration, the bonds are incontestable.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.036. Payment of Interest and Expenses**

The department may set aside amounts from the proceeds of the sale of a bond issue for:

(1) the payment of interest anticipated to accrue during the construction period;

(2) a deposit into the reserve for the interest and sinking fund to the extent prescribed in the authorizing proceedings; and

(3) payment of attorney's fees, engineer's fees, and expenses of the issuance and sale of bonds, including the fees of fiscal agents or financial advisors.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 22.037. Legal Investments**

(a) Bonds issued under this subchapter are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations and subdivisions of the state.

(b) The bonds are eligible to secure the deposit of the public funds of the state, cities, towns, villages, counties, school districts, and other political corporations and subdivisions of the state.

(c) The bonds are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.038. Negotiable Instruments

Bonds issued under this subchapter are negotiable instruments under the laws of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.039. Debt Against the State

Nothing in this subchapter creates a debt against the state or binds the state in any way except as to the mortgage of the land and property comprising the Palo Duro Canyon State Park and as to the pledge of the rents, revenue, and income from the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.040 to 22.050 reserved for expansion]

### SUBCHAPTER D. JIM HOGG MEMORIAL PARK

#### § 22.051. Jurisdiction

(a) The Jim Hogg Memorial Park is under the jurisdiction of the department.

(b) The original boundaries of the park include approximately 180 acres, formerly a part of the General Joseph L. Hogg homestead in Cherokee County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.052. Historical Improvements

To the extent possible, the department shall maintain a replica of the original Hogg home and the grounds adjacent to the residence.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.053. Improvements

The department may repair or construct facilities for recreational and park purposes at the park and may work in conjunction with other governmental agencies for this purpose.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.054. Sale and Use of Timber

(a) The department may use timber cut from the land in the park to repair or construct improvements.

(b) The department may sell timber from the land in the park to finance the construction or repair of improvements.

(c) Timber must be selectively cut for sale or use under the supervision of the Texas Forest Service.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.055. Sale of Iron Ore

(a) The department may sell iron ore in place located in the park. The department may grant all rights necessary for the development of the iron ore to the purchasers of the iron ore.

(b) The chairman of the commission, on behalf of the department, may execute and deliver the necessary instruments to convey the iron ore in place to the purchasers.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.056. Competitive Bids

(a) Timber and iron ore may be sold on competitive bids only. The contract shall be awarded to the party submitting the highest and best bid in the judgment of the Texas Forest Service for the sale of timber and of the department for the sale of iron ore. The department must approve the contract for sale of timber.

(b) The Texas Forest Service shall keep on file the bids for timber sale. The bids are public records. Copies of the bids shall be given to the department.

(c) The department shall keep on file the bids for the sale of iron ore. The bids are public records.

(d) The Texas Forest Service may reject any or all bids for timber sale and readvertise for new bids. The department may reject any or all bids for iron ore sale and readvertise for new bids.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.057. Advertising for Bids

(a) The Texas Forest Service shall advertise for the sale of timber. The department shall advertise for the sale of iron ore.

(b) The sale must be advertised for two weeks in at least one weekly newspaper published and circulated in Cherokee County.

(c) The advertisement must contain the necessary information pertaining to the sale and the time and place for receiving bids.

(d) The first advertisement must be at least 10 days before the date of receiving bids.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.058. Regulations

The department shall adopt regulations, forms, and contracts for the sale of iron ore and protection of the income produced from the sale.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.059. Disposition of Funds

Money received from the sale of timber or iron ore from the land in the park shall be placed in the state treasury to the credit of the Jim Hogg State Park building fund. The fund shall be used by the department for the improvement of the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.060 to 22.070 reserved for expansion]

SUBCHAPTER E. HUNTSVILLE STATE PARK

§ 22.071. Improvements

(a) The department may construct and repair improvements to be used for recreational and park purposes in Huntsville State Park, including dams to impound water and form reservoirs or lakes.

(b) The department may cooperate with other governmental agencies in making the improvements. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.072. Permit for Dam

A dam may not be constructed until a permit has been obtained from the Texas Water Rights Commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.073. Sale and Use of Timber

(a) The department may use timber cut from land in the park to repair or construct improvements.

(b) The department may sell timber from land in the park to finance the construction or repair of improvements and dams.

(c) Timber must be selectively cut for sale or use under the supervision of the Texas Forest Service.

(d) The amount of timber sold may not exceed \$250,000.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.074. Competitive Bids

(a) Timber may be sold on competitive bids only. The contract shall be awarded to the party submitting the highest and best bid in the judgment of the Texas Forest Service and then approved by the department.

(b) All bids shall be kept on file by the Texas Forest Service and are public records. Copies of the bids shall be furnished to the department.

(c) The Texas Forest Service may reject any or all bids and readvertise for new bids.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.075. Advertising for Bids

(a) The Texas Forest Service shall advertise for the sale of the timber for two weeks in at least one weekly newspaper published and circulated in Walker County.

(b) The advertisement must contain the necessary information pertaining to the timber sale and the time and place for receiving bids.

(c) The first advertisement must be at least 10 days before the date of receiving bids.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.076. Disposition of Funds

Money received from the sale of timber cut from the park shall be placed in the state treasury to the credit of the Huntsville State Park building fund to be used by the department for purposes authorized by this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.077 to 22.080 reserved for expansion]

SUBCHAPTER F. GOLIAD STATE PARK

§ 22.081. Jurisdiction

Goliad State Park, including the General Ignacio Zaragoza Birthplace and the Mission of San Rosario, is under the jurisdiction of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.082. General Ignacio Zaragoza Birthplace

(a) The department may care for and protect the birthplace of General Ignacio Zaragoza and shall designate the site as the General Ignacio Zaragoza Birthplace.

(b) The site originally accepted by the state includes approximately two acres, described as lots 4, 5, 6, 11, 12, 13, 14, 15, and 16 in Block X, La Bahia Townsite, in Goliad County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.083. Mission of San Rosario

(a) The department shall care for the grounds of the Mission of San Rosario as a suitable and appropriate memorial and shall enclose the mission grounds with an appropriate and substantial park fence.

(b) The original boundaries of the mission consist of the surface title of 4.77 acres of land in the County of Goliad, Texas, said 4.77 acres of land, more or less, being the following described parcel of land:

BEGINNING at a concrete monument in the Southeast Right-of-Way line of State Highway No. 12, same being a R/W marker for said Highway, and being 50 ft. at right angles from the center line of said Highway, and marked Sta. 914/00;

THENCE South 39 deg. 36 min. West, with right-of-way fence, 295.9 ft. to a concrete monument for corner of this present survey;

THENCE South 56 deg. 02 min. East, at 148.0 ft. an iron pipe, at 350.0 ft. a concrete monument for corner of this present survey;

THENCE South 32 deg. 08 min. East, at 69.9 ft. an iron pipe, at 193.3 ft. a tack in cedar post at 241.4 ft. a concrete monument for corner of this present survey;

THENCE North 83 deg. 35 min. East, 193.4 ft. to a concrete monument for corner of this present survey;

THENCE North 17 deg. 46 min. East, at 109.7 ft. an iron pipe, at 227.3 ft. a concrete monument for corner of this present survey;

THENCE North 43 deg. 17 min. West, at 116.8 ft. an iron pipe, at 240.5 ft. a concrete monument for corner of this present survey;

THENCE North 57 deg. 21 min. West, at 193.3 ft. an iron pipe, at 356.3 ft. a concrete monument for corner of this present survey; same being a highway R/W marker for said Highway for extra width in R/W and also marked Sta. 914/00;

THENCE North 49 deg. 55 min. West, with Highway R/W line, 34.9 ft. to the place of beginning;

Containing Four and 77/100 (4.77) acres of land and all being out of Maria de Jesus de Leon Survey, Abstract 21, Goliad County, Texas.

Said 4.77 acres of land, more or less, being the land conveyed to the County of Goliad by William J. O'Connor on July 15, 1935, as shown by deed of such date duly recorded in Volume 77, Page 565, of the Deed Records of Goliad County, Texas, on July 17, 1935, and to which reference is here made for all pertinent purposes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.084. Improvements

The department may construct, maintain, and repair historical and recreational structures and facilities in the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.085. Reversion of Title; Mineral Reservation

(a) If the state ceases to use the General Ignacio Zaragoza Birthplace or the Mission of San Rosario as park land, all right, title, and interest shall revert to Goliad County.

(b) All minerals under the land accepted as the Mission of San Rosario are excepted from any conveyance to the state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.086 to 22.090 reserved for expansion]

### SUBCHAPTER G. MISSION SAN FRANCISCO DE LOS TEJAS STATE PARK

#### § 22.091. Facilities; Park Site

(a) The department may construct and repair facilities for recreational and other appropriate purposes at Mission San Francisco de los Tejas State Park.

(b) The original boundaries of the park include portions of Hardy Ware Survey, Abstract 1240, situ-

ated on the N side of Highway No. 21, about 21 miles NE from the City of Crockett, and being the same tracts of land conveyed to the State of Texas for the use and benefit of the Agricultural and Mechanical College of Texas, more particularly described by the following deeds, to-wit:

Deed from Mrs. Kittie A. Cook, surviving widow of T. S. Cook, deceased, dated October 16, 1939, recorded in Book 200, page 533, Deed Records of Houston County, Texas;

Deed from Southern Pine Lumber Company, dated September 20, 1935, recorded in Book 170, page 367, Deed Records of Houston County, Texas;

Deed from Mrs. Kittie A. Cook, surviving widow of T. S. Cook, deceased, dated February 1, 1935, recorded in Book 166, page 141, Deed Records of Houston County, Texas;

Deed from C. H. Callaway, Trustee, dated January 3, 1935, recorded in Volume 164, page 543, Deed Records of Houston County, Texas.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.092. Timber Sale

(a) The department may sell timber from land in the park and may use timber of the park to repair or construct improvements in the park.

(b) Timber may be cut for salvage purposes only or under good forestry practices with the advice of the Texas Forest Service.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.093. Competitive Bids

(a) Timber may be sold on competitive bids only. The contract shall be awarded to the party submitting the highest and best bid in the judgment of the Texas Forest Service and then approved by the department.

(b) All bids shall be kept on file by the Texas Forest Service and are public records.

(c) The Texas Forest Service may reject any or all bids and readvertise for new bids.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 22.094. Advertising for Bids

(a) The Texas Forest Service shall advertise for the sale of the timber for two weeks in at least one weekly newspaper published and circulated in Houston County.

(b) The advertisement must contain the necessary information pertaining to the timber sale and the time and place for receiving bids.

(c) The first advertisement must be at least 10 days before the date of receiving bids.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.095. Disposition of Funds

Money received from the sale of timber cut from the park shall be placed in the state treasury to the credit of a special fund known as the Mission San Francisco de los Tejas State Park building fund to be used by the department for purposes authorized by this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.096 to 22.100 reserved for expansion]

SUBCHAPTER H. PORT ISABEL LIGHTHOUSE STATE HISTORICAL MONUMENT AND PARK

§ 22.101. Jurisdiction

The Port Isabel Lighthouse is a state historical monument and park and is under the jurisdiction of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.102. Powers of Department

The department may rehabilitate, maintain, and preserve the property of the park, and may collect entrance fees for admission to the park or operate it on a concession basis under the provisions of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.103 to 22.110 reserved for expansion]

SUBCHAPTER I. HUECO TANKS STATE PARK

§ 22.111. Control

The department has control of Hueco Tanks State Park and shall improve, preserve, restore, and protect the land and property in the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.112. Acceptance of Gifts

The department may accept gifts for constructing, building, advertising, or creating the park, including gifts for public exhibition that relate to the history of the park or the state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.113. Title to Park

The title of the land known as Hueco Tanks in El Paso County is in the name of the state and is subject to limitations, conditions, and exceptions made by the former owners and approved by the department or the department's predecessor.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.114 to 22.120 reserved for expansion]

SUBCHAPTER J. STEPHEN F. AUSTIN STATE PARK

§ 22.121. Jurisdiction

Stephen F. Austin State Park is under the jurisdiction of the department. The department shall improve, preserve, and protect the land in the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.122 to 22.150 reserved for expansion]

SUBCHAPTER K. NIMITZ STATE PARK

§ 22.151. Jurisdiction

The Nimitz State Park, located near Fredericksburg in Gillespie County, is under the jurisdiction of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.152. Powers of Department

The department may:

- (1) accept gifts for the construction, building, or advertising of the park;
- (2) accept gifts for exhibition dealing with the history or life of Fleet Admiral Chester W. Nimitz;
- (3) advertise the affairs of the park;
- (4) make rules and regulations for administration of the park;
- (5) hire personnel necessary to carry out its duties;
- (6) grant concessions; and
- (7) operate and maintain the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.153 to 22.160 reserved for expansion]

SUBCHAPTER L. EISENHOWER STATE PARK

§ 22.161. Jurisdiction

The Eisenhower State Park, located near Lake Texoma in Grayson County, is under the jurisdiction of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.162. Powers of Department

The department may:

- (1) accept gifts for the construction, building, or advertising of the park;
- (2) accept gifts for exhibition dealing with the history or life of Dwight D. Eisenhower;
- (3) advertise the affairs of the park;
- (4) make rules and regulations for administration of the park;
- (5) hire personnel necessary to carry out its duties;

- (6) grant concessions; and
- (7) operate and maintain the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 22.163. Definitions

As used in this subchapter:

(1) "Impacted property" means that real property located in Grayson County adjacent to or near the western end of Eisenhower State Park that is described as:

(A) Lots 54-79 in "Elm Ridge Homesite Area" as described on a survey and plat of this area by B. & B. Engineering Co. in May, 1958, recorded in Plat Book 1, Page 73, Deed Records, Grayson County, Texas; and

(B) the East one-half and the West one-half of a 60.49 acre tract being part of the survey patented to Alan Carter, Abstract No. 231, dated June 22, 1851, and also being part of the J. A. Sadler 380 acre tract except the 316.05 acres thereof described in a deed to the United States of America, recorded in Volume 432, Page 389, Deed Records, Grayson County, Texas.

(2) "Owner" means the owner or a lessee of impacted property.

(3) "Guest" means a business or personal guest or an employee of an owner of impacted property.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 22.164. Right to Use Roads

(a) Owners, their family members, and their guests may use the roads of the park without charge for egress from or ingress to the impacted property when traveling between the impacted property and points east of the park.

(b) Owners, their family members, and their guests may use throughout the year whatever road is maintained by the department for travel by automobiles between the eastern and western points of the park and may enter the park at the points at which they were able to enter the park and its roads prior to November 1, 1968, or other reasonably located points the department may direct by regulation.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 22.165. Permits

(a) The department may require owners, their family members, and their guests to obtain permits for entrance into and use of park roads under this subchapter.

(b) Permits shall be issued automatically on presentation of proper identification.

(c) Permits are valid for at least one year and shall be automatically renewed for owners and their family members.

(d) Permits for guests of owners shall be valid for the period of time requested by the owner.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.166 to 22.170 reserved for expansion]

## SUBCHAPTER M. GOVERNOR JAMES STEPHEN HOGG MEMORIAL SHRINE

### § 22.171. Governor Hogg Memorial

The Governor James Stephen Hogg Memorial Shrine, located near Quitman, Wood County, is established.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 22.172 to 22.180 reserved for expansion]

## SUBCHAPTER N. ACQUISITION OF CERTAIN STATE PARKS

### § 22.181. Spanish Missions

(a) The department may acquire the following Spanish Mission sites, located in Milam County:

- (1) Nuestra Senora de la Candelaria;
- (2) San Francisco Xavier de los Dolores; and
- (3) San Ildefonso.

(b) The department may acquire the sites with available or appropriated funds or may accept gifts for acquisition, construction, or restoration of the sites.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 22.182. Texas State Railroad

(a) Except as provided in Subsection (b) of this section, the department may operate any part of the Texas State Railroad as a part of the state parks system for park and recreational purposes. All revenues collected from leases or concessions shall be deposited in the state treasury to the credit of the state parks fund.

(b) The board of managers of the Texas State Railroad shall exercise control and management of the right-of-way and trackage of the Texas State Railroad from Mile Post 0.0 at Palestine, extending eastwardly to Mile Post 3.69, and exercise the powers, duties, and authority over this right-of-way and trackage that are granted to them by Chapter 58, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6550(a), Vernon's Texas Civil Statutes).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### § 22.183. Hubbard Lake

(a) The department may create, develop, operate, and maintain a state park on the land donated by the West Central Texas Municipal Water District located on Hubbard Lake in Stephens County.

(b) The department may accept additional gifts of any adjoining land or interest in land donated by the West Central Texas Water Municipal District to enlarge the park created by Subsection (a) of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 22.184. Fishing Piers

(a) The department may repair and maintain the old causeway across Copano Bay on Highway 35 in Aransas County and the old causeway across Lavaca Bay on Highway 35 in Calhoun County as public fishing piers and recreation areas.

(b) The department and the state highway department may solicit and receive gifts of labor and materials for the construction and improvement of the fishing piers.

(c) The department may grant concessions to persons allowing the concessioners to charge for use of the piers and approaches.

(d) All revenue received under this section shall be deposited in the state treasury to the credit of the state parks fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

SUBCHAPTER O. MATAGORDA ISLAND STATE PARK AND WILDLIFE MANAGEMENT AREA

§ 22.201. Matagorda Island State Park and Wildlife Management Area

(a) The Matagorda Island State Park and Wildlife Management Area is established under the jurisdiction of the department to primarily be used for public recreational purposes as a state park.

(b) The Matagorda Island State Park and Wildlife Management Area consists of all land, including tideland, submerged land, and beaches, on Matagorda Island in Calhoun County belonging to the state on June 1, 1979, other than permanent school fund land, and any other land on Matagorda Island acquired after that date by the department for inclusion in the park.

[Added by Acts 1979, 66th Leg., p. 254, ch. 132, § 1, eff. May 9, 1979.]

§ 22.202. Dedicated Land

All land within the Matagorda Island State Park and Wildlife Management Area on June 1, 1979, and all land included within the park and management area after that date are dedicated for park and wildlife management area purposes.

[Added by Acts 1979, 66th Leg., p. 254, ch. 132, § 1, eff. May 9, 1979.]

SUBCHAPTER P. FRANKLIN MOUNTAINS STATE PARK

*Acts 1979, 66th Leg., p. 1804, ch. 736, § 1, added Subchapter O, Franklin Mountains State Park, consisting of §§ 22.201 to 22.203, without reference to Subchapter O added by Acts 1979, 66th Leg., p. 254, ch. 132, § 1, ante. Acts 1981, 67th Leg., p. 3272, ch. 860, § 1, redesignated this Subchapter as Subchapter P, §§ 22.221 to 22.223, without reference to Subchapter P, §§ 22.221, 22.222, as added by Acts 1981, 67th Leg., p. 928, ch. 343, § 1, post.*

§ 22.221. Park Established: Jurisdiction of Department

The Franklin Mountains State Park is established under the jurisdiction of the department.

[Added as § 22.201 by Acts 1979, 66th Leg., p. 1804, ch. 736, § 1, eff. Aug. 27, 1979. Redesignated as § 22.221 by Acts 1981, 67th Leg., p. 3272, ch. 860, § 1, eff. Aug. 31, 1981.]

*Acts 1979, 66th Leg., p. 1805, ch. 736, § 2, as amended by Acts 1981, 67th Leg., p. 3273, ch. 860, § 2, described the boundaries of the Franklin Mountains State Park.*

§ 22.222. Department to Acquire Park Land

(a) The department shall acquire by purchase, gift, lease, or condemnation all of the land described in Section 2 of the Act that added this subchapter to this code. The department may acquire the mineral interests in that land.

(b) A lease executed under this section may only be from a public entity. A lease executed under this section from the state may not exceed 30 years and may be renewed on its expiration. A lease executed under this section from any other public entity is not limited to any term of years. For purposes of this subsection, "public entity" means an agency or instrumentality of federal, state, or local government, including the board of directors of a municipally owned utility system.

(c) The department shall acquire the land with money from the Texas Park Development Fund, or any fund created to finance the acquisition of state parks.

(d) The department shall not expend any funds for the operation and maintenance of Franklin Mountains State Park.

[Added as § 22.202 by Acts 1979, 66th Leg., p. 1804, ch. 736, § 1, eff. Aug. 27, 1979. Redesignated as § 22.222 and amended by Acts 1981, 67th Leg., p. 3272, ch. 860, § 1, eff. Aug. 31, 1981.]

§ 22.223. Condemnation

(a) If necessary for the acquisition of the Franklin Mountains State Park, the department shall institute condemnation proceedings according to the laws of this state against any person, including a governmental entity.

(b) Costs incurred in the exercise of eminent domain under this section for the relocation, raising, lowering, rerouting, or change in grade, or alteration in the construction of any electric transmission, telegraph, or telephone line, railroad, conduit, pole, property, facility, or pipeline are the sole expense of the department.

(c) "Sole expense" means the actual cost of the lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of the facility, after deducting the net salvage value derived from the old facility.

[Added as § 22.203 by Acts 1979, 66th Leg., p. 1804, ch. 736, § 1, eff. Aug. 27, 1979. Redesignated as § 22.223 by Acts 1981, 67th Leg., p. 3273, ch. 860, § 2, eff. Aug. 31, 1981.]

**SUBCHAPTER P. FLEET ADMIRAL CHESTER W. NIMITZ MEMORIAL NAVAL MUSEUM**

*Acts 1981, 67th Leg., p. 928, ch. 343, added this Subchapter P, §§ 22.221, 22.222, without reference to the redesignation of former Subchapter O, Franklin Mountains State Park, as Subchapter P, §§ 22.221 to 22.223, by Acts 1981, 67th Leg., p. 3272, ch. 860, § 1, ante.*

**§ 22.221. Museum Jurisdiction**

The Fleet Admiral Chester W. Nimitz Memorial Naval Museum is under the jurisdiction of the department.

[Added by Acts 1981, 67th Leg., p. 928, ch. 343, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 Act provided:  
"Chapter 8, Acts of the 61st Legislature, Regular Session, 1969, as amended, is repealed, and all property and appropriations of the Fleet Admiral Chester W. Nimitz Memorial Naval Museum Commission are transferred to the Parks and Wildlife Department."

**§ 22.222. Powers of Department**

With respect to the Nimitz museum and in addition to its other powers and duties, the department:

(1) shall foster and commemorate the memory of the era of supreme United States naval power upon the seas and the men and women of the armed services whose gallant and selfless dedication to duty made this era possible;

(2) shall administer the Fleet Admiral Chester W. Nimitz Memorial Naval Museum at Fredericksburg;

(3) shall act in any other capacity relative to preserving naval documents, relics, and other items of historical interest;

(4) may employ and discharge a museum director and other employees it deems necessary to fulfill its duties and responsibilities within the limits of funds available;

(5) may accept on behalf of the State of Texas donations of money, property, and historical relics related to the museum's theme; and

(6) may acquire property and historical relics by purchase within the limits of funds available.

[Added by Acts 1981, 67th Leg., p. 928, ch. 343, § 1, eff. Sept. 1, 1981.]

**CHAPTER 23. NATIONAL PARKS, SEASHORES, AND FORESTS**

**SUBCHAPTER A. BIG BEND NATIONAL PARK**

Section	
23.001.	Limited Jurisdiction Retained.
23.002.	Park Residents May Vote.

**SUBCHAPTER B. PADRE ISLAND NATIONAL SEASHORE**

23.011.	Limited Jurisdiction Retained.
23.012.	Seashore Residents May Vote.
23.013.	Regulations of Railroad Commission.
23.014.	Reversion to State.
23.015.	Consent for Acquisition of Navigation District Land.
23.016.	Roads.

**SUBCHAPTER C. GUADALUPE MOUNTAINS NATIONAL PARK**

Section	
23.031.	Limited Jurisdiction Retained.
23.032.	Park Residents May Vote.
23.033.	Reconveyance of Title.
23.034.	Mineral Rights in Park.

**SUBCHAPTER D. DAVY CROCKETT NATIONAL FOREST**

23.041.	Agreements for Wildlife Management.
23.042.	Wildlife Defined.
23.043.	Hunting and Fishing Regulations.
23.044.	Penalty.

**SUBCHAPTER E. SABINE NATIONAL FOREST**

23.051.	Agreements for Wildlife Management.
23.052.	Wildlife Defined.
23.053.	Hunting and Fishing Regulations.
23.054.	Penalty.

**SUBCHAPTER A. BIG BEND NATIONAL PARK**

**§ 23.001. Limited Jurisdiction Retained**

The state retains jurisdiction in the Big Bend National Park, concurrently with the United States, as though cession had not occurred, for:

(1) the service of criminal and civil process, issued under the authority of the state, on any person amenable to service; and

(2) the assessment and collection of taxes on the sales of products and commodities and on franchises and property.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.002. Park Residents May Vote**

A person residing in Big Bend National Park may vote in all elections in the county of his residence, subject to the same conditions as other residents of the county, as though cession had not occurred.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 23.003 to 23.010 reserved for expansion]

**SUBCHAPTER B. PADRE ISLAND NATIONAL SEASHORE**

**§ 23.011. Limited Jurisdiction Retained**

The state retains jurisdiction in the Padre Island National Seashore, concurrently with the United States, as though cession had not occurred, for:

(1) the service of criminal and civil process, issued under the authority of the state, on any person amenable to service; and

(2) the assessment and collection of taxes on the sales and use, or the gross receipts from the sales, of products and commodities and on franchises, properties, and incomes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.012. Seashore Residents May Vote**

A person residing in the Padre Island National Seashore may vote in all elections in the county of his residence, subject to the same conditions as other residents of the county, as though cession had not occurred.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.013. Regulations of Railroad Commission**

(a) The Railroad Commission shall send by certified mail to the Secretary of Interior of the United States a copy of each proposed rule or regulation affecting mineral rights reserved in deeds conveying land in the Padre Island National Seashore to the United States.

(b) The Department of Interior has 30 days from the day a copy of a proposed rule or regulation is received to send to the Railroad Commission its objections or exceptions. An objection or exception must be sent by certified mail. Thereupon, a rule or regulation, with amendments, if any, promulgated by the Railroad Commission, takes effect.

(c) The development and recovery of minerals in the Padre Island National Seashore shall be carried out in a manner that does not unreasonably interfere with the use of the land for park purposes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.014. Reversion to State**

(a) Any deed executed by the state to the United States for the creation of Padre Island National Seashore becomes null and void on the initiation by any elected or appointed agent, officer, or employee of the United States, or by any agency or department of the United States, of a suit at law or in equity in any federal court to enlarge or expand the title, right, or interest granted by the deed. When a deed becomes void under this subsection, the land immediately reverts to the state.

(b) Unless reversion is waived by the legislature during the biennium following the happening of a condition of reversion, all state-owned land conveyed to the United States for the creation of the Padre Island National Seashore reverts to the state and to the fund to which it belonged before conveyance if:

(1) the United States fails to acquire two-thirds of all privately owned land in the area described by Section 1, Chapter 38, Acts of the 58th Legislature, 1963, within 10 years after the date that the state-owned land was acquired; or

(2) the United States fails to use as a national seashore the privately owned land it has acquired.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.015. Consent for Acquisition of Navigation District Land**

The Willacy County Navigation District may consent to the acquisition of surface land for inclusion in Padre Island National Seashore. Interests in surface estates, spoil banks, easements, and rights-of-way controlled by the district in the Padre Island National Seashore shall be used for public purposes only.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.016. Roads**

The Secretary of Interior is requested to provide roads from the north boundary of Padre Island National Seashore and from the Port Mansfield cut to the access highways from the mainland.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 23.017 to 23.030 reserved for expansion]

**SUBCHAPTER C. GUADALUPE MOUNTAINS NATIONAL PARK**

**§ 23.031. Limited Jurisdiction Retained**

The state retains jurisdiction in the Guadalupe Mountains National Park, concurrently with the United States, as though cession had not occurred, for:

(1) the service of criminal and civil process, issued under the authority of the state, on any person amenable to service; and

(2) the assessment and collection of taxes on sales and use, or the gross receipts from the sales, of products and commodities and on franchises, properties, and incomes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.032. Park Residents May Vote**

A person residing in the Guadalupe Mountains National Park may vote in all elections in the county of his residence, subject to the same conditions as other residents of the county, as though cession had not occurred.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.033. Reconveyance of Title**

If any of the land described by the drawing entitled "Proposed Guadalupe Mountains National Park, Texas," numbered SA-GM-7100C, dated February, 1965, and on file in the offices of the National Park Service and the Secretary of State of Texas ceases to be used for the Guadalupe Mountains National Park, the state may require a reconveyance, without consideration, of the mineral rights conveyed for the creation of the park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.034. Mineral Rights in Park**

(a) The state reserves a preferential right, without consideration to the United States, to lease all mineral rights and interests that were conveyed by the state for the establishment of the Guadalupe Mountains National Park if:

(1) Congress declares by an act that the national welfare or an emergency requires the development and production of minerals in the park; and

(2) Congress authorizes the Secretary of Interior of the U. S. to lease park land for drilling, mining, developing, or producing minerals.

(b) If oil, gas, or other minerals are discovered and produced in commercial quantities from land outside the park sufficient to cause drainage of minerals from in the park and the Secretary of Interior participates in a communitization agreement or takes other action to protect the rights of the United States, the state retains its right to its proper share of the proceeds of the agreement or action. The state's proper share is not less than all bonuses, rentals, and royalties attributable to mineral rights conveyed to the United States for the establishment of Guadalupe Mountains National Park.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 23.035 to 23.040 reserved for expansion]

**SUBCHAPTER D. DAVY CROCKETT  
NATIONAL FOREST**

**§ 23.041. Agreements for Wildlife Management**

(a) The department may agree with the proper agency of the United States for the protection and management of wildlife resources and for restocking desirable species of wildlife in portions of the Davy Crockett National Forest, in Houston and Trinity counties, that can be designated by a natural boundary. A natural boundary may be a road, lake, stream, canyon, rock, bluff, island, or other natural feature.

(b) No agreement under this section may cover more than 40,000 acres at any one time during any five-year period.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.042. Wildlife Defined**

In this subchapter, "wildlife" means all kinds of birds, animals, and fish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.043. Hunting and Fishing Regulations**

The commission may promulgate regulations applicable to the Davy Crockett National Forest, in Houston and Trinity counties, to:

(1) prohibit hunting and fishing for periods of time as necessary to protect wildlife;

(2) provide open seasons for hunting and fishing;

(3) provide limitations on the number, size, kind, and sex of wildlife that may be taken; and

(4) prescribe the conditions under which wildlife may be taken.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.044. Penalty**

A person who violates any rule or regulation of the commission adopted under this subchapter or who hunts or fishes in the Davy Crockett National Forest at any time other than the open season is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 23.045 to 23.050 reserved for expansion]

**SUBCHAPTER E. SABINE NATIONAL FOREST**

**§ 23.051. Agreements for Wildlife Management**

The department may agree with the proper agency of the United States for the protection and management of wildlife resources and for restocking desirable species of wildlife in the parts of the Sabine National Forest, in Sabine and San Augustine counties, that are fenced.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.052. Wildlife Defined**

In this subchapter, "wildlife" means all kinds of animals, birds, and fish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.053. Hunting and Fishing Regulations**

The commission may promulgate regulations applicable to the Sabine National Forest, in Sabine and San Augustine counties, to:

(1) prohibit hunting and fishing for periods of time as necessary to protect wildlife;

(2) provide open seasons for hunting and fishing;

(3) provide limitations on the number, size, kind, and sex of wildlife that may be taken; and

(4) prescribe the conditions under which wildlife may be taken.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 23.054. Penalty**

A person who violates any regulation of the commission adopted under this subchapter or who hunts or fishes in the Sabine National Forest at any time other than during the open season is guilty of a

misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 24. STATE ASSISTANCE FOR LOCAL PARKS**

Section	
24.001.	Definitions.
24.002.	Fund Established.
24.003.	Use of Fund.
24.004.	Assistance Grants.
24.005.	Direct State Matching Grants.
24.006.	Acquisition and Development of State Parks.
24.007.	Fund Use to be Consistent With Plans.
24.008.	Acquisition of Property.
24.009.	Payments, Records, and Accounting.
24.010.	Annual Report.
24.011.	Noncompliance With Act.
24.012.	Fund Not to be Used For Publicity.
24.013.	Authority of Political Subdivisions to Have Parks.

**§ 24.001. Definitions**

In this chapter:

- (1) "Political subdivision" means a county, city, special district, river authority, or other governmental entity created under the authority of the state or a county or city.
- (2) "Urban area" means the area within a standard metropolitan statistical area (SMSA) in this state used in the last preceding federal census.
- (3) "Park" includes land and water parks owned or operated by the state or a political subdivision.
- (4) "Open space area" means a land or water area for human use and enjoyment that is relatively free of man-made structures.
- (5) "Natural area" means a site having valuable or vulnerable natural resources, ecological processes, or rare, threatened, or endangered species of vegetation or wildlife.
- (6) "Parks, recreational, and open space area plan" means a comprehensive plan that includes information on and analyses of parks, recreational, and open space area objectives, needs, resources, environment, and uses, and that identifies the amounts, locations, characteristics, and potentialities of areas for adequate parks, recreational, and open space opportunities.
- (7) "Federal rehabilitation and recovery grants" means matching grants made by the United States to or for political subdivisions for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor parks, recreational, or open space areas and facilities, including improvements in park landscapes, buildings, and support facilities.

(8) "Fund" means the Texas local parks, recreation, and open space fund.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.002. Fund Established**

The Texas local parks, recreation, and open space fund is established in the state treasury.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.003. Use of Fund**

Appropriations from the fund may be used only for assistance grants under Section 24.004 of this code, direct grants under Section 24.005 of this code, and the uses permitted under Section 24.006 of this code.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.004. Assistance Grants**

(a) The department may make grants of money from the fund to a political subdivision in an urban area for use by the political subdivision as all or part of the subdivision's required share of funds for eligibility for receiving a federal rehabilitation and recovery grant.

(b) In order to receive a grant under this section, the political subdivision seeking the federal grant shall apply to the department for the grant and present evidence that the political subdivision qualifies for the federal grant.

(c) A grant under this section is conditioned on the political subdivision qualifying for and receiving the federal grant.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.005. Direct State Matching Grants**

(a) The department may make grants of money from the fund to a political subdivision in an urban area to provide one-half of the costs of the planning, acquisition, or development of a park, recreational area, or open space area in an urban area to be owned and operated by the political subdivision.

(b) In establishing the program of grants under this section, the department shall adopt those allocation formulas, conditions for fund uses, and other procedural requirements, to the extent not inconsistent with this chapter, as are provided for the land and water conservation fund established by Section 4601-4, Title 16, United States Code, and the rules and regulations for grant assistance made from that fund.

(c) Money granted to a political subdivision under this section may not be used for the operation and maintenance of parks, recreational areas, and open space areas.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.006. Acquisition and Development of State Parks**

The department may acquire and develop in an urban area a state park, recreational area, open

space area, or natural area with money appropriated from the fund.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.007. Fund Use to be Consistent With Plans**

No grant may be made under Section 24.005 of this code nor may fund money be used under Section 24.006 of this code unless:

(1) there is a present or future need for the acquisition and development of the property for which the grant is requested or the use is proposed;

(2) the acquisition and development is consistent with the local parks, recreational, and open space plan and the Texas outdoor recreation plan; and

(3) a written statement is obtained from the regional planning commission having jurisdiction of the area in which the property is to be acquired and developed that the acquisition and development is consistent with the local parks, recreational, and open space plan most closely reflecting local needs.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.008. Acquisition of Property**

(a) No property may be acquired with grant money made under this chapter or by the department under this chapter if the purchase price exceeds the fair market value of the property as determined by two independent appraisers.

(b) A political subdivision may qualify for assistance in acquiring property in advance of actual need for development if presented with the opportunity to do so.

(c) Property may be acquired with provision for a life tenancy if that provision facilitates the orderly and expedient acquisition of the property.

(d) Property that is not to be developed for recreational use for several years may be leased back to the owner if the lessee's use of the property will not impair the character of the property for the park, recreational, or open space purpose for which it was acquired. The terms of the lease must be approved in writing by the department.

(e) If land or water designated for park, recreational, or open space use is included in the local and regional park, recreational, and open space plans for two or more contiguous jurisdictions and that land or water is also included in the Texas outdoor recreation plan, the two or more jurisdictions may cooperate under state law to secure assistance from the fund to acquire or develop the property. In those cases, the department must be assured that a cooperative management plan for the land or water can be developed and effectuated.

(f) All land or water purchased with assistance from the fund shall be dedicated for park, recrea-

tional, and open space purposes in perpetuity and may not be used for any other purpose, except where the use is compatible with park, recreational, and open space objectives, and the use is approved in advance by the department.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.009. Payments, Records, and Accounting**

(a) On the approval of a grant under this chapter and on the written request by the director, the comptroller of public accounts shall issue a warrant drawn against the fund and payable to the political subdivision in the amount specified by the director.

(b) Each recipient of assistance under this chapter shall keep records as required by the department, including records which fully disclose the amount and the disposition of the proceeds by the recipient, the total cost of the acquisition, a copy of the title and deed for the property acquired, the amount and nature of that portion of the cost of the acquisition supplied by other funds, and other records that facilitate effective audit. The director and the comptroller, or their authorized representatives, may examine any book, document, paper, and record of the recipient that are pertinent to assistance received under this chapter.

(c) The recipient of funds under this chapter shall, on each anniversary date of the grant for five years after the grant is made, furnish to the department a comprehensive report detailing the present and anticipated use of the property, any contiguous additions to the property, and any major changes in the character of the property, including the extent of park development which may have taken place.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.010. Annual Report**

(a) The commission shall report to the governor and legislature on August 31 of each year, or as soon as practicable, but not later than October 1 of each year, showing the condition of the fund. The report must contain:

(1) a statement of the amount of money deposited to the credit of the fund for the year;

(2) a statement of the amount of money disbursed by the department for department projects and for qualified political subdivision projects for the year;

(3) a listing of political subdivisions that applied for matching assistance from the fund, to include information for each political subdivision that shows the amount of money applied for, the scope of the proposed acquisition or development project, and the priority assigned the application during department review;

(4) a listing of political subdivisions and state parks which have received money from the fund, to include information for each political subdivi-

sion and state park that shows the amount of money, number of parks, recreational areas, and open space areas, and number of acres acquired or developed by park, recreational, or open space area and summed for each political subdivision for the year;

(5) a listing of political subdivisions which have received park, recreational, and open space operation and maintenance money from the fund, to include information for each subdivision which shows the amount of money allocated, amount of money spent, and general statements on how the political subdivision used the money for maintenance;

(6) a statement of the amount of money annually deposited to the credit of the fund that was not disbursed during the year and the reason for non-disbursement; and

(7) a statement of any significant problems encountered in administering the fund, with recommendations for their solution.

(b) The annual report on the fund may be included as a portion of the department's annual report to the governor.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.011. Noncompliance With Act**

The attorney general shall file suit in a court of competent jurisdiction against a political subdivision that fails to comply with the requirements of this chapter to recover the full amount of the grant plus interest on that amount of five percent a year accruing from the time of noncompliance or for injunctive relief to require compliance with this chapter. If the court finds that the political subdivision has not complied with the requirements of this chapter, it is not eligible for further participation in the program for three years following the finding for noncompliance.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.012. Fund Not to be Used For Publicity**

No money credited to the fund may be used for publicity or related purposes.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**§ 24.013. Authority of Political Subdivisions to Have Parks**

This chapter does not authorize a political subdivision to acquire, develop, maintain, or operate a park, recreational area, open space area, or natural area.

[Added by Acts 1979, 66th Leg., p. 1733, ch. 710, § 1, eff. Sept. 1, 1979.]

**TITLE 4. WATER SAFETY**

**CHAPTER 31. WATER SAFETY**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	Title.
31.001.	State Policy.
31.002.	Definitions.
31.003.	Application of Chapter.
31.004.	Contracts With Federal Government.

**SUBCHAPTER B. IDENTIFICATION OF MOTORBOATS; REQUIRED NUMBERING**

31.021.	Required Numbering.
31.022.	Exemptions From Required Numbering.
31.023.	Boats Numbered Under Federal or Other State Law.
31.024.	Application for Number.
31.025.	Renewal of Certificates of Number.
31.026.	Fees.
31.027.	Applicability of Fees to Commercial Boats.
31.028.	Certificate of Number.
31.029.	Term of Certificate of Number.
31.030.	Duplicate Certificates and Decals.
31.031.	Numbering Pattern.
31.032.	Numbering on Bow.
31.033.	Unauthorized Numbers Prohibited.
31.034.	Issuance of Numbers; Agents for Department.
31.0341.	Issuance of Numbers: County Tax Assessor-Collector.
31.035.	Rules and Regulations; Copies.
31.036.	Proof of Ownership.
31.037.	Change in Ownership Interest; Notice to Department.
31.038.	Change of Address; Notice to Department.
31.039.	Public Records.
31.040.	Boat Liveries.
31.041.	Dealer's and Manufacturer's Number.
31.042.	Cancellation of Certificates of Number; Grounds.
31.043.	Manufacturer's Serial Number.

**SUBCHAPTER B-1. CERTIFICATES OF TITLE FOR MOTORBOATS AND OUTBOARD MOTORS.**

31.045.	Ownership of Motorboats and Outboard Motors; Certificates of Title.
31.046.	Application for Certificate of Title.
31.047.	Application; Form and Content; Fee.
31.048.	Fee.
31.049.	Form of Certificate of Title.
31.050.	Form of Manufacturer's and Importer's Certificate.
31.051.	Replacement Certificates.
31.052.	Liens.
31.053.	Transfers of Motorboats and Outboard Motors.
31.054.	Provisions Applicable to Vessels Not Requiring a Certificate of Title.
31.055.	Exceptions.

**SUBCHAPTER C. REQUIRED EQUIPMENT**

31.061.	Uniformity of Equipment Regulations; State Policy.
31.062.	Operation of Vessels Without Required Equipment Prohibited.
31.063.	Classes of Motorboats.
31.064.	Lights.
31.065.	Whistles; Bells.
31.066.	Life Preserving Devices.
31.067.	Fire Extinguishers.
31.068.	Flame Arrestors; Backfire Traps.
31.069.	Ventilators.
31.070.	Exhaust Water Manifold; Muffler.
31.071.	Rearview Mirrors.
31.072.	Racing Boats; Equipment Exemptions.
31.073.	Canoes, Punts, Rowboats, Sailboats, and Rubber Rafts; Equipment Exemptions.

## SUBCHAPTER D. BOATING REGULATIONS

Section	
31.091.	Uniformity of Boating Regulations.
31.092.	Local Regulations.
31.093.	Rules of the Road.
31.094.	Reckless or Negligent Operation.
31.095.	Excessive Speed.
31.096.	Reckless Operation and Excessive Speed.
31.097.	Operation of Vessel While Intoxicated.
31.098.	Hazardous Wake or Wash.
31.099.	Circular Course Around Fisherman or Swimmer.
31.100.	Interference With Markers or Ramps.
31.101.	Obstructing Passage.
31.102.	Operating Boats in Restricted Areas.
31.103.	Water Skis, Aquaplanes, etc.: Time and Manner of Operation.
31.104.	Accidents: Duty of Operators.
31.105.	Accident Reports.

## SUBCHAPTER E. ENFORCEMENT AND PENALTIES

31.121.	Enforcement Officers.
31.122.	Water Safety Vessels: Lights.
31.123.	Required Response to Police Water Safety Vessel.
31.124.	Inspection of Vessels.
31.125.	Violations; Notice to Appear.
31.126.	Venue.
31.127.	General Penalty.
31.128.	Disposition of Fines.
31.129.	Violation of Sewage Disposal Regulations.

## SUBCHAPTER F. WATER FACILITIES

31.141.	Boat Ramps.
31.142.	Buoys and Markers.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 31.001. Title

This chapter may be cited as the Water Safety Act.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 31.002. State Policy

It is the duty of this state to promote recreational water safety for persons and property in and connected with the use of all recreational water facilities in the state, to promote safety in the operation and equipment of facilities, and to promote uniformity of laws relating to water safety.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 31.003. Definitions

In this chapter:

(1) "Boat" means a vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer, and manufactured or used primarily for noncommercial use.

(2) "Vessel" means any watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

(3) "Motorboat" means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is the principal source of propulsion.

(4) "Owner" means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.

(5) "Water of this state" means any public water within the territorial limits of this state.

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(7) "Dealer" means a person customarily engaged in the business of buying, selling, or exchanging motorboats or outboard motors at an established or permanent place of business in this state and that at each place of business there is a sign conspicuously displayed showing the name of the dealership so that it may be located by the public and sufficient space to maintain an office, service area, and display of products.

(8) "Boat livery" means a business establishment engaged in renting or hiring out motorboats for profit.

(9) "Undocumented motorboat" means a vessel that is not required to have, and does not have, a valid marine document issued by the Bureau of Customs of the United States government or its successor.

(10) "Reasonable time" means 15 days.

(11) "Manufacturer" means a person engaged in the business of manufacturing new and unused motorboats and outboard motors for the purpose of sale or trade.

(12) "New" means every motorboat or outboard motor after its manufacture and before its sale or other transfer to a person not a manufacturer or dealer.

(13) "Outboard motor" means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1252, ch. 484, §§ 1(a), 1(b), eff. Sept. 1, 1977.]

Sections 7, 8, and 11 of the 1977 amendatory act, which made various conforming amendments to this code, provided:

"Sec. 7. If a provision of this Act conflicts with another Act of the 65th Legislature, Regular Session, 1977, that amends an Act repealed by this Act or that amends a provision of the Parks and Wildlife Code amended by this Act, the other Act prevails over the provisions of this Act to the extent of the conflict."

"Sec. 8. This Act is intended as a recodification only and no change in the law is intended by this Act."

"Sec. 11. This Act takes effect September 1, 1977."

## § 31.004. Application of Chapter

The provisions of this chapter apply to all public water of this state and to all watercraft navigated or moving on the public water. Privately owned water is not subject to the provisions of this chapter. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 31.005. Contracts With Federal Government

(a) The department may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program relating to water safety, including:

(1) the acquisition, maintenance, and operating costs of facilities;

- (2) purchase of equipment and supplies;
- (3) personnel salaries; and
- (4) other federally approved reimbursable expenses, including personnel training costs, public boat safety and education costs, and general administrative and enforcement costs.

(b) The department may contract with the United States in order to comply with all necessary requirements for the receipt of funds made available under any federal legislation.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 31.006 to 31.020 reserved for expansion]

**SUBCHAPTER B. IDENTIFICATION OF MOTORBOATS; REQUIRED NUMBERING**

**§ 31.021. Required Numbering**

(a) Each undocumented motorboat on the water of this state shall be numbered in accordance with the provisions of this chapter unless specifically exempted. The numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent federal legislation.

(b) No person may operate or give permission for the operation of any motorboat on the water of this state unless the motorboat is numbered as required by this chapter, unless the certificate of number awarded to the motorboat is in full force and effect, and unless the identifying number set forth in the certificate is properly displayed on each side of the bow of the motorboat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.022. Exemptions From Required Numbering**

(a) A motorboat is not required to be numbered under the provisions of this chapter if it is:

- (1) operated within this state for a period not exceeding 90 consecutive days and is covered by a number in full force and effect which has been awarded under federal law or a federally approved numbering system of another state;
- (2) from a country other than the United States temporarily using the water of this state;
- (3) owned by the United States, a state, or a subdivision of a state; or
- (4) a ship's lifeboat.

(b) The department may exempt from numbering a class of motorboats if it finds that the numbering of the motorboats of that class will not materially aid in their identification. The department may also exempt a motorboat if it finds that it belongs to a class of motorboats that would be exempt from numbering under a numbering system of an agency of the federal government if it were subject to federal law.

(c) All canoes, punts, rowboats, sailboats, and rubber rafts when paddled, poled, oared, or windblown are exempt from the numbering provisions of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.023. Boats Numbered Under Federal or Other State Law**

The owner of any vessel or motorboat for which a current certificate of number has been awarded under any federal law or a federally approved numbering system of another state shall, if the motorboat or vessel is operated on the water of this state in excess of 90 days, make application for a certificate of number in the manner prescribed in this chapter for residents of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.024. Application for Number**

(a) The owner of each motorboat requiring numbering by this state shall file an application for a number with the department, a county tax assessor-collector, or an agent appointed under Section 31.034 of this code.

(b) The application shall be signed by the owner of the motorboat and shall be accompanied by the fee prescribed in Section 31.026 of this code. If the application is received by a county tax assessor-collector or an agent, the application and the portion of the fee not retained by the tax assessor-collector or agent as a collection fee shall be sent to the department.

(c) On receipt of the application in approved form, the department shall enter it on the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner.

(d) The application form, the form of the certificate of number, and the manner of renewal shall be prescribed by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1352, ch. 607, § 1, eff. Aug. 27, 1979.]

**§ 31.025. Renewal of Certificates of Number**

(a) An application for the renewal of each certificate of number shall be prepared by the department and mailed to the owner of the vessel during the period of the last 90 days before the expiration date of the certificate. The same number shall be issued on renewal.

(b) The application for renewal may be returned to the department, to any county tax assessor-collector, or if permitted by the department, to an agent of the department.

(c) Applications not received during the 90-day period shall be treated in the same manner as original applications.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1353, ch. 607, § 2, eff. Aug. 27, 1979.]

**§ 31.026. Fees**

(a) Each application for an original or renewal certificate of number for a motorboat shall be accompanied by a two-year fee determined by the following classification schedule:

Class	Description of Boat	Fee
Class A	less than 16 feet in length	\$ 6.00
Class 1	16 feet or over and less than 26 feet in length	\$ 9.00
Class 2	26 feet or over and less than 40 feet in length	\$12.00
Class 3	40 feet or more in length	\$15.00

(b) The fee for a boat less than 16 feet in length owned by a boat livery and used for rental purposes is \$3.00 for each original and renewal application for a certificate of number.

(c) Owners of newly purchased motorboats or other motorboats not previously operated in this state shall pay the full registration fee.

(d) In order to establish a two-year staggered registration period, fees for currently registered motorboats may be less than the full fee specified in Subsection (a) of this section if the expiration date established by the department is prior to March 21, 1974.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.027. Applicability of Fees to Commercial Boats**

The registration fees required by this chapter are inapplicable to boats licensed by the state for commercial fishing or shrimping in the salt water of the state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.028. Certificate of Number**

The certificate of number shall be pocket-size. The certificate or a facsimile of it shall be carried on board the vessel at all times. It does not have to be on the person of the operator if prior to trial the operator can produce for examination a valid certificate of number.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.029. Term of Certificate of Number**

Every certificate of number awarded pursuant to this chapter shall continue in full force and effect for a period of two years unless sooner terminated or discontinued in accordance with the provisions of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.030. Duplicate Certificates and Decals**

(a) If a certificate of number becomes lost, mutilated, or illegible, the owner of the motorboat for

which the certificate was issued may obtain a duplicate on application to the department and the payment of a fee of \$1.

(b) If a registration decal becomes lost, mutilated, or illegible, the owner of the motorboat for which the decal was issued may obtain a replacement decal on application to the department and the payment of a fee of \$1.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1275, ch. 497, § 1, eff. Aug. 29, 1977.]

**§ 31.031. Numbering Pattern**

(a) The numbering pattern used consists of the prefix "TX" followed by a combination of exactly four numerals and further followed by a suffix of two letters. The group of numerals appearing between the letters shall be separated from the letters by hyphens or equivalent spaces.

(b) All basic numbers of each series shall begin with 1000. TX-1000-AA through TX-9999-AA will be allotted to dealers and manufacturers. TX-1000-AB through TX-9999-ZZ will be allotted to all other boat owners and livery operators.

(c) The letters "G", "I", "O", and "Q" shall be omitted from all letter sequences.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.032. Numbering on Bow**

The owner shall paint on or attach to each side of the motorboat or vessel near the bow the identification number and a validation decal in the manner prescribed by the department. The number shall read from left to right and shall be of block characters of good proportion of not less than three inches in height. The numbers shall be of a color which will contrast with the hull material of the vessel and so maintained as to be clearly visible and legible.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.033. Unauthorized Numbers Prohibited**

(a) No person may paint, attach, or otherwise display on either side of the bow of a motorboat a number other than the number awarded to the motorboat or granted reciprocity under this chapter.

(b) No person may deface or alter the certificate of number or the number assigned to and appearing on the bow of a boat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.034. Issuance of Numbers; Agents for Department**

(a) The department may award a certificate of number directly or may authorize any person to act as its agent for awarding certificates. An authorized agent may be assigned a block or blocks of numbers and certificates that, on award in conformity with this chapter and with rules and regulations

of the department, are valid as if awarded directly by the department.

(b) An authorized agent shall execute a faithful performance bond of not less than \$1,000 in favor of the State of Texas.

(c) An agent is entitled to a fee for his services not to exceed 10 percent of the fee for each certificate.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.0341. Issuance of Numbers: County Tax Assessor-Collector**

(a) Each county tax assessor-collector shall award certificates of number under this chapter in the manner prescribed by this chapter and the regulations of the department. The department shall issue a block or blocks of numbers to each county tax assessor-collector for awarding to applicants on receipt of applications.

(b) The county tax assessor-collector is entitled to a fee of 10 percent of the amount of the fee for each certificate. The amount retained by the tax assessor-collector shall be deposited to the credit of the officers salary fund of the county to be used for the sole purpose of paying the salaries of persons issuing boat certificates of number.

[Added by Acts 1979, 66th Leg., p. 1353, ch. 607, § 3, eff. Aug. 27, 1979.]

**§ 31.035. Rules and Regulations; Copies**

Copies of all rules and regulations formulated under this chapter shall be furnished without cost with each certificate of number issued.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.036. Proof of Ownership**

(a) A certificate of title is required as proof of ownership of a motorboat for which a certificate of number is sought unless the motorboat is of the type for which no certificate of title is required under Section 31.045 of this code.

(b) A certified statement of ownership is sufficient proof of ownership for a motorboat of a type for which a certificate of title is not required.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(c), eff. Sept. 1, 1977.]

**§ 31.037. Change in Ownership Interest; Notice to Department**

(a) The owner of a motorboat numbered in this state shall notify the department within a reasonable time of the transfer of all or any part of his interest in the motorboat, other than the creation of a security interest, or of the destruction or abandonment of the motorboat. The notice shall be accompanied by a surrender of the certificate of number.

(b) If the boat is destroyed or abandoned, the department shall cancel the certificate and enter the cancellation in its records.

(c) The purchaser of a motorboat shall present evidence of his ownership to the department within a reasonable time along with his name, address, and the number of the motorboat and shall at the same time pay to the department a fee of \$1. On receipt of the application and fee the department shall transfer the certificate of number issued for the motorboat to the new owner. Unless the application is made and fee paid within a reasonable time the motorboat is without a certificate of number, and it is unlawful for any person to operate the motorboat until the certificate is issued.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.038. Change of Address; Notice to Department**

(a) The holder of a certificate of number shall notify the department within a reasonable time if his address no longer conforms to the address appearing on the certificate and shall inform the department of his new address.

(b) The department may provide in its regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of the outstanding certificate to show the new address of the holder. Changes of address shall be noted on the records of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.039. Public Records**

All ownership records of the department made or kept under this chapter are public records.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.040. Boat Liveries**

(a) The owner or operator of a boat livery shall obtain a certificate of number for all vessels capable of being used as motorboats that are used to rent or let for hire.

(b) To receive certificates of number, the owner of a boat livery shall apply directly to the department on application forms provided by the department. The application must state that the applicant is a boat livery within the meaning of this chapter, and the facts stated in the application must be sworn before an officer authorized to administer oaths.

(c) The owner of a boat livery shall keep a record of the name and address of the persons hiring any vessel designed or operated as a motorboat, the vessel's certificate of number, the time and date of departure, and the expected time of return. The record shall be kept for six months.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.041. Dealer's and Manufacturer's Number**

(a) A dealer or manufacturer of motorboats in this state may obtain a dealer's and manufacturer's number for motorboats he wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each boat. The number shall be attached to any motorboat that he sends temporarily on the water.

(b) The application for a number must state that the applicant is a dealer or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. The two-year fee for a dealer's and manufacturer's number is \$25. No number may be issued until the provisions of this section have been satisfied.

(c) A dealer or manufacturer holding a dealer's and manufacturer's number may issue a reasonable temporary facsimile of the number which may be used by any authorized person. A person purchasing a motorboat may use the dealer's number for a period not to exceed 15 days prior to filing an application for a certificate of number. The form of the facsimile and the manner of display shall be prescribed by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.042. Cancellation of Certificates of Number; Grounds**

(a) A certificate of number may be cancelled and the identification number voided by the department even though the action occurs before the expiration date on the certificate and even though the certificate is not surrendered to the department.

(b) Causes for cancellation of certificates and voiding of numbers include:

- (1) surrender of the certificate for cancellation;
- (2) issuance of a new number for the same boat;
- (3) issuance of a marine document by the Bureau of Customs for the same vessel;
- (4) false or fraudulent certification in an application for number;
- (5) failure to pay the prescribed fee; and
- (6) dismantling, destruction, or other change in the form or character of the motorboat or outboard motor so that it is no longer correctly described in the certificate or it no longer meets the definition of a motorboat or outboard motor.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(d), eff. Sept. 1, 1977.]

**§ 31.043. Manufacturer's Serial Number**

(a) All boats manufactured for sale in Texas shall carry a manufacturer's serial number clearly imprinted on the structure of the boat or displayed on a plate permanently attached to the boat.

(b) The owner of a vessel not required to carry a manufacturer's serial number may file an application for a serial number with the department on forms approved by it. The application must be signed by the owner of the vessel and must be accompanied by a fee of \$1. On receipt of the application in approved form, the department shall enter the information on the records of its office and shall issue to the applicant a serial number.

(c) No person may wilfully destroy, remove, alter, cover, or deface the manufacturer's serial number or plate bearing the serial number or the serial number issued by the department. No person may possess a boat with a serial number that has been altered, defaced, mutilated, or removed. A person who has a boat with an altered or missing serial number shall file a sworn statement with the department describing the boat, proving legal ownership, and, if known, stating the reason for the destruction, removal, or defacement of the serial number.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Section 31.044 reserved for expansion]

**SUBCHAPTER B-1. CERTIFICATES OF TITLE FOR MOTORBOATS AND OUTBOARD MOTORS****§ 31.045. Ownership of Motorboats and Outboard Motors; Certificates of Title**

(a) The ownership of a motorboat or of an outboard motor is evidenced by a certificate of title issued by the department, unless the motorboat or the outboard motor is new.

(b) The ownership of a new motorboat or a new outboard motor is evidenced by a manufacturer's or an importer's certificate executed on a form prescribed by the department.

(c) The ownership of a vessel, other than a motorboat more than 14 feet long, or of an outboard motor, other than an outboard motor having a manufacturer's rating of 12 or more horsepower, may, but is not required to be, evidenced by a certificate of title issued by the department, unless the vessel or outboard motor is new.

(d) The ownership of a new vessel, other than a motorboat more than 14 feet long, or of a new outboard motor, other than an outboard motor having a manufacturer's rating of 12 or more horsepower, may, but is not required to be, evidenced by a manufacturer's or importer's certificate executed on a form prescribed by the department.

(e) Separate certificates are required for motorboats and for outboard motors.

[Added by Acts 1977, 65th Leg., p. 1253, ch. 484, § 1(e), eff. Sept. 1, 1977.]

**§ 31.046. Application for Certificate of Title**

(a) Except as provided in Subsections (b) and (c) of this section, the purchaser of a motorboat or an

outboard motor shall apply to the department or to a county tax assessor-collector for a certificate of title not later than 20 days after the date of the sale of the motorboat or outboard motor.

(b) A manufacturer or a dealer who sells a motorboat or an outboard motor to a person other than a manufacturer or a dealer shall apply to the department or to a county tax assessor-collector for a certificate of title for the motorboat or outboard motor in the name of the purchaser not later than 20 days after the date of the sale.

(c) A dealer who acquires a motorboat or an outboard motor, other than a new motorboat or outboard motor, is not required to apply for a certificate of title in the name of the dealer, but on resale of the motorboat or outboard motor shall apply for the subsequent purchaser under Subsection (b) of this section and shall submit to the department or to a county tax assessor-collector the endorsed certificate of title acquired by the dealer.

[Added by Acts 1977, 65th Leg., p. 1254, ch. 484, § 1(e), eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1353, ch. 607, § 4, eff. Aug. 27, 1979.]

**§ 31.047. Application; Form and Content; Fee**

(a) A person may apply for a certificate of title on a form prescribed by the department.

(b) The form must contain:

- (1) the name and address of the owner;
- (2) a description of the motorboat or outboard motor, including, as appropriate, the manufacturer, make, model, year, length, construction material, manufacturer's or builder's number, hull identification number (HIN), motor number, outdrive number, and horsepower;
- (3) name and address of purchaser;
- (4) date of purchase;
- (5) name and address of any security interest owner; and
- (6) other information required by the department to show the ownership of the motorboat or outboard motor, a security interest in the motorboat or outboard motor, or a further description of items listed in the subdivision.

(c) The application must be accompanied by other evidence reasonably required by the department to establish that the applicant or other person is entitled to a certificate of title or a noted security interest. The evidence may include:

- (1) a certificate of title issued by another state or jurisdiction;
- (2) a manufacturer's or importer's certificate;
- (3) a bill of sale, assignment, or contract;
- (4) a promissory note;
- (5) a security agreement;
- (6) an invoice;
- (7) a bill of lading;
- (8) an affidavit;

(9) a probate or heirship proceeding or information;

(10) a judgment of a court of competent jurisdiction; or

(11) other documents.

(d) An application for a certificate of title must be accompanied by the fee required by Section 31.048 of this code.

[Added by Acts 1977, 65th Leg., p. 1254, ch. 484, § 1(e), eff. Sept. 1, 1977.]

**§ 31.048. Fee**

(a) The fee for the issuance of a certificate of title or for the notation of a security interest, lien, or other encumbrance is \$3.50 and is treated as fees collected under Section 31.026 of this code.

(b) If the fee is collected by a county tax assessor-collector, the tax assessor-collector shall retain 10 percent of the fee collected and send the remainder to the department. The amount retained by the tax assessor-collector shall be deposited to the credit of the officers salary fund of the county to be used for the sole purpose of paying the salaries of persons issuing boat and outboard motor certificates of title.

[Added by Acts 1977, 65th Leg., pp. 1255, 1259, ch. 484, §§ 1(e), 9, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 1353, ch. 607, § 5, eff. Aug. 27, 1979.]

**§ 31.049. Form of Certificate of Title**

(a) A certificate of title must be on a form prescribed by the department and must contain:

- (1) the name and address of the owner of the motorboat or outboard motor;
- (2) the name of the owner of a security interest in the motorboat or outboard motor; and
- (3) a description of the motorboat or outboard motor.

(b) If there is no lien on the motorboat or outboard motor, the original certificate of title shall be delivered to the owner and a copy retained by the department.

(c) If there is a lien on the motorboat or outboard motor, the original certificate of title shall be sent to the first lienholder, a duplicate original certificate shall be sent to the owner, and a copy shall be retained by the department.

(d) "Original" shall be printed on an original certificate of title and "duplicate original" shall be marked on a duplicate of the original certificate.

(e) Title may be transferred only by surrender of the original certificate of title properly endorsed to show the transfer.

[Added by Acts 1977, 65th Leg., p. 1255, ch. 484, § 1(e), eff. Sept. 1, 1977.]

**§ 31.050. Form of Manufacturer's and Importer's Certificate**

(a) A manufacturer's certificate or an importer's certificate must include:

(1) a description of the motorboat or outboard motor as required by Subdivision (2) of Subsection (b) of Section 31.047 of this code;

(2) the name and place of construction or other origin;

(3) the signature of the manufacturer or an equivalent of the signature of the manufacturer; and

(4) the endorsement of the original and each subsequent transferee, including the applicant for the original certificate of title.

(b) A lien, security interest, or other encumbrance may not be shown on a manufacturer's or importer's certificate.

(c) A security interest may be perfected in a new motorboat or outboard motor as provided in Chapter 9, Business & Commerce Code.

[Added by Acts 1977, 65th Leg., p. 1255, ch. 484, § 1(e), Sept. 1, 1977.]

#### § 31.051. Replacement Certificates

The department shall provide by regulation for the replacement of lost, mutilated, or stolen certificates.

[Added by Acts 1977, 65th Leg., p. 1255, ch. 484, § 1(e), eff. Sept. 1, 1977.]

#### § 31.052. Liens

(a) Except as provided in Subsection (c) of Section 31.050 of this code, all liens, security interests, and other encumbrances in a motorboat or outboard motor:

(1) shall be noted on the certificate of title of the motorboat or outboard motor to which the lien, interest, or encumbrance applies;

(2) take priority in the chronological order that each is noted on the certificate of title; and

(3) are valid as against other general creditors of the owner of the motorboat or outboard motor, subsequent purchasers of the motorboat or outboard motor, and a holder of unnoted or subsequent liens, security interests, or encumbrances.

(b) This section applies to liens, security interests, and encumbrances created after January 1, 1976.

[Added by Acts 1977, 65th Leg., p. 1255, ch. 484, § 1(e), eff. Sept. 1, 1977.]

#### § 31.053. Transfers of Motorboats and Outboard Motors

(a) No person may sell, assign, transfer, or otherwise dispose of an interest in a motorboat or an outboard motor without:

(1) if the transferee is not a manufacturer or a dealer and the vessel or outboard motor is new, delivering to the department a manufacturer's or importer's certificate showing the endorsement of the manufacturer and all intervening owners;

(2) if the transferee is a manufacturer or a dealer and the vessel or outboard motor is new,

delivering to the transferee a manufacturer's or importer's certificate showing the endorsement of the manufacturer and all intervening owners;

(3) if the motorboat or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate and if the transferor is a manufacturer or dealer, delivering to the department sufficient evidence of title or other information to permit the issuance of a certificate of title for the motorboat or outboard motor in the name of the transferee;

(4) if the motorboat or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate and if the transferor is not a manufacturer or dealer, delivering to the transferee sufficient evidence of title or other information to permit the transferee to apply for and receive a certificate of title for the motorboat or outboard motor in the name of the transferee; or

(5) delivering to the transferee a certificate of title for the motorboat or outboard motor in the name of the transferor and properly endorsed to show the transfer.

(b) A person does not acquire an interest in a motorboat or outboard motor until a certificate of title for the motorboat or outboard motor has been issued in the name of the person or, if the person is a manufacturer or a dealer, until the manufacturer's or importer's certificate is properly endorsed showing the signature of the manufacturer and all intervening owners.

[Added by Acts 1977, 65th Leg., p. 1256, ch. 484, § 1(e), eff. Sept. 1, 1977.]

#### § 31.054. Provisions Applicable to Vessels Not Requiring a Certificate of Title

The provisions of Sections 31.046, 31.047, 31.049, and 31.050 of this code apply to vessels on which a certificate may but is not required to be issued.

[Added by Acts 1977, 65th Leg., p. 1256, ch. 484, § 1(e), eff. Sept. 1, 1977.]

#### § 31.055. Exceptions

This subchapter does not apply to:

(1) vessels with a valid marine document issued by the Bureau of Customs of the United States or a federal agency that is a successor to the Bureau of Customs;

(2) an outboard motor of less than 12 horsepower as determined by the manufacturer's rating; and

(3) a motorboat 14 feet or less in length.

[Added by Acts 1977, 65th Leg., p. 1256, ch. 484, § 1(e), eff. Sept. 1, 1977.]

[Sections 31.056 to 31.060 reserved for expansion]

SUBCHAPTER C. REQUIRED EQUIPMENT

§ 31.061. Uniformity of Equipment Regulations; State Policy

It is the policy of the state that all equipment rules and regulations enacted under the authority granted in this chapter be uniform and consistent with the equipment provisions of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.062. Operation of Vessels Without Required Equipment Prohibited

No person may operate or give permission for the operation of a vessel that is not provided with the equipment required by this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.063. Classes of Motorboats

Motorboats subject to the provisions of this chapter are divided into four classes according to length as follows:

Class A. Less than 16 feet in length.

Class 1. 16 feet or over and less than 26 feet in length.

Class 2. 26 feet or over and less than 40 feet in length.

Class 3. 40 feet in length or over.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.064. Lights

(a) A vessel or motorboat when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel or motorboat when underway between sunset and sunrise in all weather must have and exhibit the lights prescribed below for boats of its class. No other lights that may be mistaken for those prescribed may be exhibited.

(b) Each class A and class 1 motorboat must have the following lights:

(1) a bright white light aft to show all around the horizon; and

(2) a combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

(c) Each class 2 and class 3 motorboat must have the following lights and light screens:

(1) a bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show an unbroken light over an arc of the horizon of 20 points of the compass and so fixed as to throw the light 10 points on each side of the vessel, namely from right ahead to 2 points abaft the beam on either side;

(2) a bright white light aft to show all around the horizon and higher than the white light forward;

(3) a green light on the starboard side so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass and so fixed as to throw the light from right ahead to 2 points abaft the beam on the starboard side;

(4) a red light on the port side so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass and so fixed as to throw the light from right ahead to 2 points abaft the beam on the port side; and

(5) inboard screens fitted on the starboard and port side lights of sufficient length and so set as to prevent the side lights from being seen across the bow.

(d) Each class A and class 1 motorboat when propelled by sail alone must have the combined lantern but not the white light aft prescribed in Subsection (b) of this section.

(e) Each class 2 and class 3 motorboat when propelled by sail alone must have the colored side lights, suitably screened, but not the white lights prescribed in Subsection (c) of this section.

(f) Motorboats of all classes when propelled by sail alone must have ready at hand a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert a collision.

(g) A white light required by this section must be visible at a distance of at least two miles. A colored light required by this section must be visible at a distance of at least one mile. In this section, "visible" means visible on dark nights with clear atmosphere.

(h) A motorboat propelled by sail and machinery must have the lights required by this section for motorboats propelled by machinery alone.

(i) A motorboat may have and exhibit the lights required by the Regulations for Preventing Collisions at Sea, 1948, Act of October 11, 1951 (65 Stat. 406-420), as amended, instead of the lights specified by this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.065. Whistles; Bells

(a) A motorboat of class 1, 2, or 3 must have an efficient whistle or other sound-producing mechanical appliance.

(b) A motorboat of class 2 or 3 must have an efficient bell.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.066. Life Preserving Devices

(a) A motorboat must have at least one life preserver, life belt, ring buoy, or other device of the sort prescribed by the regulations of the commandant of

the Coast Guard for each person on board, so placed as to be readily accessible.

(b) A motorboat carrying passengers for hire must have a readily accessible life preserver of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board.

(c) The operator of a class A or class 1 motorboat, while underway, shall require every passenger 12 years of age or under to wear a life preserver of the sort prescribed by the regulations of the commandant of the Coast Guard. A life belt or ring buoy does not satisfy this requirement.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 31.067. Fire Extinguishers

(a) A motorboat must have the number, size, and type of fire extinguishers prescribed by the commandant of the Coast Guard.

(b) The fire extinguishers must be capable of promptly and effectively extinguishing burning gasoline. They must be kept in condition for immediate and effective use at all times and must be placed so as to be readily accessible.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 31.068. Flame Arrestors; Backfire Traps

A motorboat must have the carburetor or carburetors of every engine using gasoline as fuel, except outboard motors, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by the regulations of the commandant of the Coast Guard.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 31.069. Ventilators

Each motorboat and vessel, except an open boat, using as fuel any liquid of a volatile nature must have the equipment prescribed by the commandant of the Coast Guard designed to ventilate properly and efficiently the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 31.070. Exhaust Water Manifold; Muffler

A motorboat operating on the water of this state must have an exhaust water manifold or a factory-type muffler installed on the engine.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 31.071. Rearview Mirrors

(a) A vessel used to tow a person or persons on water skis or an aquaplane or similar device on the water of this state must have a rearview mirror of a size no less than four inches from bottom to top or across from one side to the other. The mirror must

be mounted firmly so as to give the boat operator a full and complete view beyond the rear of the boat at all times.

(b) Subsection (a) of this section does not apply to motorboats or vessels used in water ski tournaments, competitions, exhibitions, or trials.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 31.072. Racing Boats; Equipment Exemptions

(a) A motorboat designed and intended solely for racing need not have a whistle or other sound-producing mechanical appliance or a bell as required by Section 31.065 of this code or a fire extinguisher as required by Section 31.067 of this code while competing in a race or while engaged in navigation that is incidental to tuning up for a race conducted in accordance with the provisions of this chapter.

(b) A racing craft engaged in a race sanctioned by the governing board of any public water of this state need not have an exhaust water manifold or factory-type muffler installed on the engine as required by Section 31.070 of this code if written permission is granted by the governing board of the water body.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 31.073. Canoes, Punts, Rowboats, Sailboats, and Rubber Rafts; Equipment Exemptions

All canoes, punts, rowboats, sailboats, and rubber rafts when paddled, poled, oared, or windblown are exempt from all the required safety equipment except the following:

- (1) one Coast Guard approved lifesaving device for each person aboard; and
- (2) the lights prescribed for class A vessels in Section 31.064 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 31.074 to 31.090 reserved for expansion]

### SUBCHAPTER D. BOATING REGULATIONS

#### § 31.091. Uniformity of Boating Regulations

In the interest of uniformity, it is the policy of the State of Texas that the basic authority for the enactment of boating regulations is reserved to the state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 31.092. Local Regulations

(a) The governing body of an incorporated city or town, with respect to public water within its corporate limits and all lakes owned by it, may designate by ordinance certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and

equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.

(b) The commissioners court of a county, with respect to public water within the territorial limits of the county that is outside of the limits of an incorporated city or town or a political subdivision designated in Subsection (c) of this section and that are not lakes owned by an incorporated city or town, may enter an order on its books designating certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.

(c) The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59, of the Texas Constitution, for the purpose of conserving and developing the public water of the state, with respect to public water impounded within lakes and reservoirs owned or operated by the political subdivision, may designate by resolution or other appropriate order certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.

(d) A copy of all rules and regulations adopted under this section shall be summarily filed with the department.

(e) No city, town, village, special district, or other political subdivision of the state may impose or collect a fee for the registration or inspection of vessels to be used on public water against the owner or operator of a vessel used on public water. This section does not apply to the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes), nor to any launch fees, docking fees, entry fees, or other recreational fees which may be imposed or collected by any political subdivision of the State of Texas for the use of the facilities afforded by any such district to the public.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1274, ch. 496, § 1, eff. Aug. 29, 1977.]

**§ 31.093. Rules of the Road**

The United States Coast Guard Inland Rules apply to all public water of this state to the extent they are applicable.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.094. Reckless or Negligent Operation**

No person may operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a wilfully or wantonly reckless or negligent manner that endangers the life, limb, or property of any person.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.095. Excessive Speed**

No person may operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.096. Reckless Operation and Excessive Speed**

(a) No person may operate a vessel or manipulate water skis, an aquaplane, or a similar device on the water of this state in wilful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner that endangers, or is likely to endanger, a person or property.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.097. Operation of Vessel While Intoxicated**

(a) No person may operate a vessel or manipulate water skis, an aquaplane, or a similar device in a careless or imprudent manner while he is intoxicated or under the influence of intoxicating liquor or while he is under the influence of a narcotic drug, barbiturate, or marijuana.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$500 or by confinement in the county jail for not more than six months, or by both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.098. Hazardous Wake or Wash**

No person may operate a motorboat so as to create a hazardous wake or wash.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.099. Circular Course Around Fisherman or Swimmer**

(a) No person may operate a motorboat in a circular course around any other boat any occupant of which is engaged in fishing or around any person swimming.

(b) No swimmer or diver may come within 200 yards of a sight-seeing or excursion boat except for maintenance purposes or unless within an enclosed area.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.100. Interference With Markers or Ramps**

(a) No person may moor or attach a boat to a buoy, beacon, light marker, stake, flag, or other aid to safe operation placed upon the public water of this state by or under the authority of the United States or the State of Texas. No person may move, remove, displace, tamper with, damage, or destroy the markers or aids to safe operation.

(b) No person may moor or attach a vessel to a state-owned boat launching ramp except in connection with the launching or retrieving of a boat from the water.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.101. Obstructing Passage**

(a) No person may anchor a boat in the traveled portion of a river or channel so as to prevent, impede, or interfere with the safe passage of any other boat through the same area.

(b) No person may anchor a vessel near a state-owned boat ramp so as to prevent, impede, or interfere with the use of the boat ramp.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.102. Operating Boats in Restricted Areas**

No person may operate a boat within a water area that has been clearly marked, by buoys or some other distinguishing device, as a bathing, fishing, swimming, or otherwise restricted area by the department or by a political subdivision of the state. This section does not apply to a patrol or rescue craft or in the case of an emergency.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.103. Water Skis, Aquaplanes, etc.: Time and Manner of Operation**

(a) No person may operate a vessel on any water of this state towing a person or persons on water skis, surfboards, or similar devices and no person may engage in water-skiing, surfboarding or similar activity at any time between the hours from one hour after sunset to one hour before sunrise. This subsection does not apply to motorboats or vessels used in water ski tournaments, competitions, or exhibitions or trials therefor if adequate lighting is provided.

(b) All motorboats having in tow or otherwise assisting in towing a person on water skis, aquaplanes, or similar contrivances shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.

(c) A person being towed on water skis, aquaplanes, or similar devices by a vessel is considered an occupant of the vessel.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.104. Accidents: Duty of Operators**

The operator of a vessel involved in a collision, accident, or casualty shall:

(1) render to other persons affected such assistance as may be practicable and necessary in order to save them from or minimize any danger insofar as he can do so without serious danger to his own vessel, crew, and passengers; and

(2) give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**Amendment by Acts 1975, 64th Leg., p. 108, ch. 48, § 1**

*Acts 1975, 64th Leg., p. 108, ch. 48, § 1, purports to amend Civil Statutes, Art. 9206, § 24, by adding a subsec. (g), without reference to repeal of said article by Acts 1975, 64th Leg., p. 1804, ch. 545, § 2(a)(4). As so added, subsec. (g) reads:*

*“(g) A person who intentionally or knowingly violates or fails to comply with the provisions of Subsection (a), Section 21 of this Act [now, this section] is guilty of a misdemeanor and on conviction is punishable by confinement in jail for a term not to exceed one year, or by a fine not to exceed \$2,000, or by both.”*

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

**§ 31.105. Accident Reports**

(a) The operator of a vessel involved in a collision, accident, or other casualty that results in death or injury to a person or damage to property in excess of \$100 shall file with the department on or before the expiration of 30 days after the incident a full description of the collision, accident, or casualty in accordance with regulations established by the department.

(b) The accident reports are confidential and are inadmissible in court as evidence.

(c) On request made by an authorized official or agency of the United States, any information available to the department under Subsection (a) of this section shall be sent to the official or agency.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 835, ch. 311, § 1, eff. May 30, 1977.]

[Sections 31.106 to 31.120 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT  
AND PENALTIES

§ 31.121. **Enforcement Officers**

(a) All peace officers of this state and its political subdivisions and game management officers are enforcement officers for the purposes of this chapter.

(b) The enforcement officers may enforce the provisions of this chapter by arresting and taking into custody any person who commits any act or offense prohibited by this chapter or who violates any provision of this chapter.

(c) Game management officers may assist in the search for and rescue of victims of water-oriented accidents.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.122. **Water Safety Vessels: Lights**

Only the department and police water safety vessels may use rotating blue beacon lights.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.123. **Required Response to Police Water Safety Vessel**

The operator of a boat underway, on sighting a rotating blue beacon light, shall reduce power immediately and bring his boat to a no-wake speed and subsequent stop until the intention of the water safety vessel is understood.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.124. **Inspection of Vessels**

(a) In order to enforce the provisions of this chapter, an enforcement officer may stop and board any vessel subject to this chapter and may inspect the boat to determine compliance with applicable provisions.

(b) An officer boarding a vessel shall first identify himself by presenting proper credentials.

(c) The operator of a vessel required by this chapter to hold a certificate of number aboard the vessel shall show the certificate to the officer on demand, and failure to do so constitutes a violation of this chapter.

(d) No person operating a boat on the water of this state may refuse to obey the directions of an enforcement officer when the officer is acting under the provisions of this chapter.

(e) The safety of the vessel shall always be the paramount consideration of an arresting officer.

(f) If an enforcement officer determines that a vessel and its associated equipment is being used in violation of this chapter or of any regulation or standard issued thereunder so as to create an especially hazardous condition, he may direct the operator to return to mooring, and the vessel may not be used until the condition creating the violation is corrected.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.125. **Violations; Notice to Appear**

(a) An enforcement officer who arrests a person for a violation of this chapter may deliver to the alleged violator a written notice to appear within 15 days after the date of the violation before the justice court having jurisdiction of the offense.

(b) The person arrested shall sign the notice to appear promising to make his appearance in accordance with the requirements set forth in the notice. After signing the notice the person may be released. Failure to appear before the court in the county having jurisdiction constitutes a violation of the chapter. A warrant for the arrest of the person failing to appear may be issued.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.126. **Venue**

(a) Venue for an alleged violation or offense under the provisions of this chapter is in the justice court or county court having jurisdiction where the violation or offense was committed.

(b) For an offense under the provisions of this chapter, there is a presumption that the offense was committed in the justice precinct and county where the dam containing the body of water is located.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.127. **General Penalty**

A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, for which no other penalty is applicable is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 31.128. **Disposition of Fines**

(a) A justice of the peace, or a clerk of any court, or any other officer of this state receiving any fine imposed by a court for a violation of this chapter shall send the fine to the department within 10 days after receipt and shall note the docket number of the case, the name of the person fined, and the section or article of the law under which the conviction was secured.

(b) In justice court cases, the amount to be remitted to the fund shall be 85 percent of the fine. In county court cases the amount to be remitted to the fund shall be 80 percent of the fine. All costs of the court shall be retained by the court having jurisdiction of the offense and deposited as other fees in the proper county fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 31.129. Violation of Sewage Disposal Regulations**

(a) A person who violates or fails to comply with a regulation of the Water Quality Board under Section 21.097, Water Code, is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. A separate offense is committed each day a violation continues.

(b) The enforcement provisions of this subchapter apply to violations punishable by this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 31.130 to 31.140 reserved for expansion]

**SUBCHAPTER F. WATER FACILITIES**

**§ 31.141. Boat Ramps**

(a) The department may construct and maintain boat ramps and access roads by the use of existing or additional services or facilities of the department.

(b) On the completion of the work, the department shall prepare and send vouchers to the comptroller of public accounts payable to the department or to any person, firm, or corporation for reimbursement for the work, and the comptroller shall issue warrants on the special boat fund to reimburse the department or any person, firm, or corporation for the work performed.

(c) The department may remove sand, silt, and other materials from state-owned submerged land and may contract for the removal of sand, silt, and other materials from state-owned submerged land to provide access to boat ramps.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1069, ch. 499, § 1, eff. Aug. 27, 1979.]

**§ 31.142. Buoys and Markers**

The department may provide for a standardized buoy-marking program for the inland water of the state. The department may purchase and provide the controlling agency of the water bodies with buoys and markers from funds remaining in the special boat fund in excess of the cost of administering this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**TITLE 5. WILDLIFE AND PLANT CONSERVATION**

*The heading of Title 5 was changed from "Wildlife Conservation" to "Wildlife and Plant Conservation" by Acts 1981, 67th Leg., p. 2463, ch. 637, § 2.*

**SUBTITLE A. HUNTING AND FISHING LICENSES**

**CHAPTER 41. RECIPROCAL HUNTING AND FISHING PRIVILEGES**

Section

41.001.	Reciprocal Hunting and Fishing.
41.002.	Reciprocal Hunting and Fishing: Louisiana.
41.003.	Reciprocal License Agreements: Border States.
41.004.	Reciprocal Agreements Proclaimed.
41.005.	Termination of Reciprocal License Agreement.
41.006.	Regulations for Reciprocal License Agreements.
41.007.	Violation of Rule or Regulation.
41.008.	Reciprocal License Agreements: Any Other State.

**§ 41.001. Reciprocal Hunting and Fishing**

(a) A nonresident who is 17 years old or older and under 66 years old may hunt and fish in this state without a Texas license if he has in his immediate possession a valid hunting or fishing license issued to him by the state of his residence and if the state of his residence likewise allows hunting and fishing by Texas residents who have Texas licenses.

(b) A nonresident who may hunt and fish in this state under this section is subject to all laws relating to the taking of wildlife resources.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 41.002. Reciprocal Hunting and Fishing: Louisiana**

(a) A Louisiana resident may hunt and fish for sport in Jefferson, Orange, and Shelby counties if he holds a valid Louisiana license and if the State of Louisiana allows a reciprocal privilege to Texas residents of Jefferson, Orange, and Shelby counties to hunt and fish in Louisiana parishes adjacent to those counties.

(b) A Louisiana resident may hunt and fish for sport on the water of Sabine River and Sabine Lake that form a common boundary between Texas and Louisiana if he holds a valid Louisiana license and if the State of Louisiana allows a reciprocal privilege to Texas residents who hold valid Texas licenses.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 41.003. Reciprocal License Agreements: Border States**

(a) The director shall negotiate for the commission with the proper representatives of each state having a common border with Texas to allow reciprocal fishing and migratory waterfowl hunting on rivers and lakes on the common boundary between Texas and the border state.

(b) An agreement must provide that residents of the border state who have a commercial or sport fishing license or a hunting license issued by the border state may fish or hunt migratory waterfowl on rivers and lakes of the common border, and Texas residents holding Texas licenses are extended equal privileges.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 41.004. Reciprocal Agreements Proclaimed**

The commission may approve any agreement under Section 41.003 of this code by proclamation. A proclamation becomes effective 30 days after the day it is issued or 30 days after the agreement has been lawfully accepted by the bordering state, whichever is later.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 41.005. Termination of Reciprocal License Agreement**

An agreement under Section 41.003 of this code may be terminated by the commission at any time after 90 days from the day notice of the termination is given to each border state that is a party to the agreement.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 41.006. Regulations for Reciprocal License Agreements**

(a) The commission may make regulations conforming to an agreement under Section 41.003 of this code for the conservation of fish and wildlife.

(b) A regulation may be adopted only at a meeting of the commission in Austin, and any interested person is entitled to be heard at the meeting.

(c) Regulations adopted by the commission or issued by the director, when authorized by the commission to issue regulations, take effect 30 days after their adoption or issuance.

(d) After adoption of a regulation, a copy shall be numbered and filed in the office of the commission. Other copies shall be filed with the secretary of state, sent to the county clerk and county attorney in each county affected by the regulation, sent to the appropriate agency in the border state to which the agreement applies, and sent to each employee of the department who performs duties in a county affected by the regulation.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 41.007. Violation of Rule or Regulation**

(a) Any person who violates a regulation of the commission under Section 41.006 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.

(b) Each freshwater fish and migratory waterfowl taken in violation of a regulation of the commission under Section 41.006 of this code is a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 41.008. Reciprocal License Agreements: Any Other State**

The department may agree with any other state to license sport hunting and fishing by residents of the other state at the same fee as Texas residents are licensed if the other state licenses Texas residents at the same fee as residents of the other state are licensed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 42. GENERAL HUNTING LICENSE**

Section

- 42.001. Definitions.
- 42.002. Resident License Required.
- 42.003. Exception: Resident Hunting on Own Land.
- 42.004. Exception: Residents of Certain Age.
- 42.0041. Exception: Resident Disabled Veterans.
- 42.005. Nonresident License Required.
- 42.006. Exception: Migratory Birds.
- 42.007. Exception: Migratory Waterfowl.
- 42.008. Qualifications for Migratory Waterfowl License.
- 42.009. Exception: Certain Armed Services Members.
- 42.010. Issuance and Form of Licenses.
- 42.011. Issuance of License by Agents.
- 42.012. Resident License Fee.
- 42.013. Resident-Exempt License Fee.
- 42.014. Nonresident Small Game License Fee.
- 42.0141. General Nonresident Hunting License Fee.
- 42.015. Migratory Bird License Fee.
- 42.016. Migratory Waterfowl License Fee.
- 42.017. Duplicate License.
- 42.0175. Expiration Date.
- 42.018. Tag to be Attached to Deer.
- 42.0185. Tag to be Attached to Turkey.
- 42.019. Possession of Certain Parts of Deer.
- 42.020. Deer or Turkey Tags: Prohibited Acts.
- 42.021. Bag Limits and Season Not Affected.
- 42.022. One License for Each Year.
- 42.023. Hunting Under License of Another.
- 42.024. Exhibiting License.
- 42.025. Penalty.

**§ 42.001. Definitions**

In this chapter:

(1) "Resident" means an individual, other than an alien, who has been a resident of this state for more than six months immediately before applying for a hunting license.

(2) "Alien" means an individual who is not a citizen of the United States and who has not declared his intention to become a citizen.

(3) "Nonresident" means an individual who is not a resident.

(4) "Carcass" means the dead body of a deer minus the offal and inedible organs, or the trunk with the limbs and head attached, with or without the hide.

(5) "Final destination" means the permanent residence of the hunter, the permanent residence of any other person receiving a dead wild turkey, deer carcass, or any part of a deer carcass, or a commercial processing plant after the carcass or turkey has been finally processed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 612, ch. 223, § 1, eff. Sept. 1, 1977.]

Section 2 of the 1977 Act amended § 42.010(b); § 3 amended § 42.017(b), (c); § 4 added § 42.0185; § 5 amended § 42.020; § 6 amended § 42.021; and § 7 thereof provided: "This Act takes effect September 1, 1977."

**§ 42.002. Resident License Required**

(a) No resident may hunt wild turkey or deer in this state without first having acquired a current resident hunting license.

(b) No resident may hunt any wild bird or animal outside the county of his residence without first having acquired a resident hunting license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.003. Exception: Resident Hunting on Own Land**

(a) A resident may hunt on land on which he resides for any wild bird, except turkey, and any wild animal, except deer, without a resident hunting license.

(b) A resident may hunt on land on which he resides for turkey and deer without a resident hunting license if he has acquired a resident exemption hunting license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.004. Exception: Residents of Certain Age**

(a) A resident who is under 17 years old or who is 65 years old or older may hunt any wild bird, except turkey, and any wild animal, except deer, without a resident hunting license.

(b) A resident who is under 17 years old or who is 65 years old or older may hunt wild turkey and deer without a resident hunting license if he has acquired a resident exemption hunting license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.0041. Exception: Resident Disabled Veterans**

(a) A resident who is a veteran of the armed forces of the United States, who has a service-connected disability, as defined by the Veterans' Administration, consisting of the loss of the use of a lower extremity or of a disability rating of 60 percent or more, and who is receiving compensation from the United States for the disability may hunt any wild bird except turkey and any wild animal except deer without a resident hunting license.

(b) A resident veteran as described in Subsection (a) of this section may hunt wild turkey and deer without a resident hunting license if he has acquired a resident exemption hunting license.

[Added by Acts 1977, 65th Leg., p. 132, ch. 61, § 2, eff. Aug. 29, 1977.]

**§ 42.005. Nonresident License Required**

(a) No nonresident in this state may hunt a nonindividually owned wild axis deer in Bexar County, wild deer, wild turkey, wild antelope, wild desert bighorn sheep, wild black bear, wild collared peccary or javelina in this state, wild aoudad sheep in Armstrong, Briscoe, Donley, Floyd, Hall, Motley, Randall, and Swisher counties, or wild elk in Brewster,

Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell counties, without first having acquired a general nonresident hunting license.

(b) No nonresident may hunt any wild bird or animal in this state without first having acquired a general nonresident hunting license or a nonresident small game hunting license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 317, ch. 150, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 1859, ch. 439, § 1, eff. Aug. 31, 1981.]

**§ 42.006. Exception: Migratory Birds**

(a) A nonresident may hunt migratory birds without a nonresident hunting license if he has acquired a valid migratory bird hunting license.

(b) A migratory bird hunting license is valid for a period of five consecutive days only.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.007. Exception: Migratory Waterfowl**

A nonresident may hunt migratory waterfowl without a nonresident hunting license if he qualifies for and has received a migratory waterfowl hunting license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.008. Qualifications for Migratory Waterfowl License**

A nonresident residing in a state or nation that allows a resident of this state to purchase a reciprocal migratory waterfowl hunting license at the same fee qualifies to acquire a migratory waterfowl hunting license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.009. Exception: Certain Armed Services Members**

(a) A nonresident who is a member of the armed services may hunt any wild bird or animal in this state without a nonresident hunting license if he qualifies for and has received a resident hunting license.

(b) A member of the armed services on active duty for more than 30 days at a federal facility or installation in this state qualifies to acquire a resident hunting license.

(c) Adequate proof of length of duty assignment may be required from each license applicant, and the validity of the license is contingent on the applicant's proof, either by certification on the license or by use of a separate form issued by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.010. Issuance and Form of Licenses**

(a) The department shall prescribe the form of and issue the licenses authorized by this chapter.

(b) Each license authorizing deer and turkey hunting must have attached the number of deer and turkey tags equal to the number of deer and turkey allowed by law to be killed during the year for which the license is issued.

(c) A resident exemption hunting license shall be printed to show clearly on its face that it is an exemption license and shall be signed by the licensee.

(d) No person may issue or receive a license authorized by this chapter except on the form provided by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 612, ch. 223, § 1, eff. Sept. 1, 1977.]

**§ 42.011. Issuance of License by Agents**

The department may authorize the issuance of licenses by agents.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.012. Resident License Fee**

The fee for a resident hunting license is \$5.25, 25 cents of which may be retained by an authorized agent issuing the license as his collection fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.013. Resident-Exempt License Fee**

The fee for a resident-exempt hunting license is \$1.25, 25 cents of which may be retained by the officer issuing the license as his collection fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 40, ch. 24, § 1, eff. March 24, 1977.]

**§ 42.014. Nonresident Small Game License Fee**

The fee for a nonresident small game hunting license is an amount set by the commission but not less than \$37.75, 75 cents of which may be retained by the officer issuing the license as his collection fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 317, ch. 150, § 2, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1397, ch. 623, § 1, eff. Aug. 27, 1979.]

**§ 42.0141. General Nonresident Hunting License Fee**

The fee for a general nonresident hunting license is an amount set by the commission but not less than \$100.75, 75 cents of which may be retained by the officer issuing the license as his collection fee.

[Added by Acts 1977, 65th Leg., p. 317, ch. 150, § 3, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1397, ch. 623, § 2, eff. Aug. 27, 1979.]

**§ 42.015. Migratory Bird License Fee**

The fee for a migratory bird hunting license is \$10.25, 25 cents of which may be retained by the officer issuing the license as his collection fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.016. Migratory Waterfowl License Fee**

The fee for a migratory waterfowl hunting license is \$10.25, 25 cents of which may be retained by the officer issuing the license as his collection fee. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.017. Duplicate License**

(a) If a person licensed to hunt under the provisions of this chapter loses the license or if the license is destroyed, the person may apply to the department for and receive a duplicate license.

(b) The application for a duplicate license is in the form of an affidavit and must contain a statement of fact concerning the loss or destruction of the license and a statement of the number of deer and turkey, if any, killed under the authority of the lost or destroyed license.

(c) A duplicate license entitling the holder to hunt deer and turkey shall have attached the number of deer tags allowed on the lost or destroyed license less the number of deer killed under the authority of the lost or destroyed license and the number of turkey tags allowed on the lost or destroyed license less the number of turkey killed under the authority of the lost or destroyed license.

(d) The fee for a duplicate license is 50 cents, 25 cents of which may be retained by the officer issuing the license as his collection fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 612, ch. 223, § 3, eff. Sept. 1, 1977.]

**§ 42.0175. Expiration Date**

A resident hunting license, a resident exemption license, and a nonresident hunting license are valid only during the yearly period for which the licenses are issued without regard to the date on which a license is acquired. Each yearly period begins on September 1 of a year and extends through August 31 of the next year.

[Added by Acts 1977, 65th Leg., p. 1536, ch. 626, § 2, eff. Aug. 29, 1977.]

**§ 42.018. Tag to be Attached to Deer**

(a) No person may possess the carcass of a wild deer at any time before the carcass has been finally processed and delivered to the final destination unless there is attached to the carcass a properly executed tag provided by the department and issued to the person who killed the deer.

(b) A tag is properly executed when it is filled out to show the date and place the deer to which the tag is attached was killed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 42.0185. Tag to be Attached to Turkey**

(a) No person may possess a dead wild turkey at any time before it has been finally processed and

delivered to the final destination unless there is attached to the dead wild turkey a properly executed turkey tag provided by the department and issued to the person who killed the turkey.

(b) A turkey tag is properly executed when it is filled out to show the date and place the turkey to which the tag is attached was killed and to show other information required on the tag.

[Added by Acts 1977, 65th Leg., p. 613, ch. 223, § 4, eff. Sept. 1, 1977.]

#### § 42.019. Possession of Certain Parts of Deer

(a) No person may possess the carcass of a wild deer with the head removed unless the carcass has been finally processed and delivered to the final destination.

(b) No person, other than the person who killed the deer, may receive or possess any part of a deer without a legible hunter's document attached to the carcass or part of the deer.

(c) A hunter's document is an instrument signed and executed by the person who killed the deer and must contain:

(1) the name and address of the person who killed the deer;

(2) the number of the hunting license of the person who killed the deer;

(3) the date on which the deer was killed; and

(4) the name of the ranch and the county where the deer was killed.

(d) A hunter's document shall remain with any part of the deer until it is finally processed and delivered to the final destination.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 42.020. Deer or Turkey Tags: Prohibited Acts

(a) No person may use more deer tags or turkey tags during a license year than are originally authorized by the hunting license for the year.

(b) No person may use the same deer tag on more than one deer.

(c) No person may use a deer tag or a turkey tag not issued to him.

(d) No person may use the same turkey tag on more than one turkey.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 613, ch. 223, § 5, eff. Sept. 1, 1977.]

#### § 42.021. Bag Limits and Season Not Affected

The provisions of this chapter do not authorize any person to exceed any bag limit or to hunt deer or turkey during a closed season, and the attachment of deer or turkey tags as provided by this chapter is not prima facie evidence that the deer or turkey was lawfully killed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 613, ch. 223, § 6, eff. Sept. 1, 1977.]

#### § 42.022. One License for Each Year

(a) No person may acquire or possess more than one hunting license during a license year.

(b) This section does not apply to the acquisition and possession of a duplicate hunting license acquired as provided in this chapter.

(c) This section does not apply to the acquisition and possession by a nonresident of both a general nonresident hunting license and a nonresident small game hunting license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 317, ch. 150, § 4, eff. Aug. 29, 1977.]

#### § 42.023. Hunting Under License of Another

No person may hunt under a license issued to another or permit another to hunt under a license issued to him.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 42.024. Exhibiting License

(a) No person required by the provisions of this chapter to have a hunting license may fail or refuse to show the license to an officer on demand.

(b) If on or before the trial of any person charged with a violation of this section, the person produces for the court or the prosecuting attorney the proper hunting license issued to the person and valid at the time of the offense, the court having jurisdiction of the suit shall dismiss the charge.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 810, ch. 368, § 1, eff. Aug. 27, 1979.]

#### § 42.025. Penalty

A person who violates any provision of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### CHAPTER 43. SPECIAL LICENSES AND PERMITS

#### SUBCHAPTER A. HUNTING BOAT LICENSE

Section	
43.001.	Hunting Boat License Required.
43.002.	Application for Hunting Boat License.
43.003.	Hunting Boat License Fee.
43.004.	License Period.
43.005.	Penalties.

#### SUBCHAPTER B. WHITE-WINGED DOVE STAMPS

43.011.	White-Winged Dove Stamp Required.
43.012.	Issuance of Stamp.
43.013.	Hunting License Required Also.
43.014.	Disposition of Stamp Fees.
43.015.	Refusal to Show Stamp.
43.016.	Penalty.

SUBCHAPTER C. PERMITS FOR SCIENTIFIC, ZOOLOGICAL, AND PROPAGATION PURPOSES

- Section
- 43.021. Protected Wildlife.
- 43.022. Permit Authorized.
- 43.023. Permit is Defense.
- 43.024. Restrictions on Permits.
- 43.025. Application.
- 43.026. Conditions of Permit; Expiration.
- 43.027. Regulations.
- 43.028. Cancellation of Permit.
- 43.029. Reports.
- 43.030. Penalty.

SUBCHAPTER D. PRESERVE AND RESORT LICENSES

- 43.041. Definitions.
- 43.042. License Required.
- 43.043. Issuance of License.
- 43.044. License Fees.
- 43.045. Duration of License.
- 43.046. Form and Execution of License.
- 43.047. Name of Club, Preserve, or Resort.
- 43.048. Affidavit Required.
- 43.0485. Shooting Preserve Records.
- 43.049. Nonresident Hunting License for Shooting Resort.
- 43.050. Shooting Resort Identified.
- 43.051. Season.
- 43.052. Banding Game Birds.
- 43.053. Releasing of Fowl Required.
- 43.054. Records.
- 43.055. Reports.
- 43.056. Cancellation of License.
- 43.057. Penalty.

SUBCHAPTER E. PERMIT FOR CAPTURE OF INDIGENOUS GAME

- 43.061. Indigenous Mammals and Birds.

SUBCHAPTER F. PRIVATE BIRD SHOOTING AREAS

- 43.071. Definitions.
- 43.072. Application for License.
- 43.073. Size of Area; Markings.
- 43.074. Taking of Game Birds Authorized.
- 43.075. Game Birds in Captivity; Banding.
- 43.076. License Form.
- 43.077. Penalty.
- 43.078. Hunting License Required.

SUBCHAPTER G. PREDATOR CONTROL FROM AIRCRAFT

- 43.101. Applicability of Subchapter.
- 43.102. Permit Authorized.
- 43.103. Definition.
- 43.104. Grounds to Issue Permit.
- 43.105. Application for Permit.
- 43.106. Form and Period of Validity of Permit; Renewal.
- 43.107. Reports Required.
- 43.108. Reports by Department.
- 43.109. Regulations.
- 43.110. Permit Fee.
- 43.111. Penalty.

SUBCHAPTER H. PERMITS TO CONTROL PROTECTED SPECIES

- 43.151. Damage to Crops or Domestic Animals.
- 43.152. Department Inspection.
- 43.153. Application for Permit.
- 43.154. Permit.
- 43.155. Deer.
- 43.156. Cancellation of Permit.
- 43.157. Violations; Penalty.

SUBCHAPTER I. ARCHERY STAMPS

- Section
- 43.201. Archery Stamp Required.
- 43.202. Fee.
- 43.203. Hunting License Required.
- 43.204. Stamp Sale Receipts.
- 43.205. Penalty.

SUBCHAPTER J. FIELD TRIAL LICENSES

- 43.251. Definitions.
- 43.252. Field Trial Licenses Authorized.
- 43.253. License Fees.
- 43.254. Who May Receive Licenses.
- 43.255. Areas to be Marked.
- 43.256. Taking Captive Reared Birds Permitted.
- 43.257. Limited Nonresident Hunting License.
- 43.258. Record Book.
- 43.259. Birds to be Banded.
- 43.260. Prohibited Acts.
- 43.261. Hunting During Season Not Prohibited.

SUBCHAPTER K. WATERFOWL STAMP

- 43.301. Definition.
- 43.302. Waterfowl Stamp Required.
- 43.303. Design and Issuance of Stamp.
- 43.304. Hunting License Required Also.
- 43.305. Disposition of Stamp Fees.
- 43.306. Grants.
- 43.307. Refusal to Show Stamp.
- 43.308. Reciprocal Agreements.
- 43.309. Penalty.

SUBCHAPTER A. HUNTING BOAT LICENSE

§ 43.001. Hunting Boat License Required

No person owning or navigating a sailboat or powerboat may accommodate on board the boat for pay another person engaged in hunting unless the owner or navigator has acquired a hunting boat license from the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 43.002. Application for Hunting Boat License

The application for a hunting boat license must include:

- (1) the name of the vessel;
- (2) a statement describing the accommodations for passengers;
- (3) the number of crew members; and
- (4) a certification signed by the applicant on forms provided by the department and stating that the applicant will not violate any provision of this code with respect to hunting, that the applicant will attempt to prevent any person he accommodates on the vessel from violating any provision of this code with respect to hunting, and that the applicant will refuse to accommodate on the vessel any hunter who does not possess a hunting license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 43.003. Hunting Boat License Fee

The fee for a hunting boat license is \$25.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.004. License Period**

A license issued under this subchapter is valid for one year only.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.005. Penalties**

(a) A person who violates Section 43.001 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

(b) The hunting boat license of a person convicted of a violation of Section 43.001 of this code may be cancelled. A person whose license is cancelled under this section may not receive another hunting boat license for one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 43.006 to 43.010 reserved for expansion]

**SUBCHAPTER B. WHITE-WINGED DOVE STAMPS****§ 43.011. White-Winged Dove Stamp Required**

No person may hunt white-winged dove in this state unless he has in his possession a white-winged dove stamp issued to him by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.012. Issuance of Stamp**

(a) The department or its agent may issue a white-winged dove stamp to any person on the payment to the department of \$3.

(b) The stamp shall be issued in the form prescribed by the department and must be signed on its face by the person using the stamp.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.013. Hunting License Required Also**

The acquisition of a white-winged dove stamp does not authorize a person to hunt white-winged dove without having acquired a hunting license as provided in Chapter 42 of this code or authorize the hunting of white-winged dove at any time or by any means not otherwise authorized by this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.014. Disposition of Stamp Fees**

(a) Ten cents of the fee collected under this subchapter may be retained by the agent of the department, other than a department employee, as his collection fee.

(b) After deduction of the collection fee, if allowed, the receipts from stamp sales shall be sent to the department.

(c) The stamp sale receipts may be spent only for research and management for the protection of

white-winged dove and for the acquisition, lease, or development of white-winged dove habitat in the state. Not more than one-half of the receipts may be expended for research and management.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1208, ch. 456, § 7, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 734, ch. 275, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 548, ch. 260, art. 1, § 3, eff. Sept. 1, 1979.]

**§ 43.015. Refusal to Show Stamp**

A person hunting white-winged dove who refuses on demand of any game management officer or peace officer to show a white-winged dove stamp is presumed to be in violation of Section 43.011 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.016. Penalty**

A person who violates Section 43.011 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 43.017 to 43.020 reserved for expansion]

**SUBCHAPTER C. PERMITS FOR SCIENTIFIC, ZOOLOGICAL, AND PROPAGATION PURPOSES****§ 43.021. Protected Wildlife**

In this subchapter, "protected wildlife" means all animals, birds, fish, and other aquatic life the taking, possession, or propagation of which is regulated by law or by the department and includes endangered species.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.022. Permit Authorized**

The department may issue a permit to a qualified person to take protected wildlife for propagation purposes, zoological gardens, aquariums, and scientific purposes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.023. Permit is Defense**

In any prosecution for the unlawful taking or transporting of wildlife, the possession of a permit issued under this subchapter to the accused is a complete defense if the conduct was authorized under the terms of the permit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.024. Restrictions on Permits**

(a) No permit may be issued for the taking or transportation of any endangered fish or wildlife the

possession, taking, or transportation of which is prohibited by federal law.

(b) The department may refuse to grant a permit for the taking or transportation of endangered fish or wildlife from their natural habitat for propagation for commercial purposes if the fish or wildlife may be legally obtained from a source in this state other than from their natural habitat.

(c) No permit may be issued for the taking of migratory birds unless the applicant has obtained a federal permit for the taking of migratory birds.

(d) No permit may be issued for the taking of alligators or marine animals for display in an aquarium unless the aquarium is a public or commercial organization or enterprise.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.025. Application**

(a) The application for a permit shall be made under oath and must state the species of protected wildlife to be taken or transported and the purpose of collection or transportation.

(b) The application must be endorsed by two recognized specialists in the biological field concerned who are residents of the United States and have known the applicant for at least five years; except that endorsement is not required for an application for a permit to take alligators or marine life for aquarium purposes.

(c) The department must find that an applicant for a permit to take alligators or marine life for aquarium purposes is qualified to carry out capture in a scientific manner without cruelty.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.026. Conditions of Permit; Expiration**

(a) The department shall issue the permits under any conditions determined to be appropriate, including specifying the number and species of wildlife that may be taken.

(b) A permit expires on the last day of the year of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.027. Regulations**

The department may make regulations governing the taking and possession of protected wildlife indigenous to the state for the scientific purposes, zoological gardens, and propagation purposes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.028. Cancellation of Permit**

The department may cancel a permit for any violation of the department's regulations.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.029. Reports**

The holder of a permit shall file with the department before January 11 of the year after the expiration of the permit a report showing the number and species of wildlife taken under the permit and their disposition. The report shall also give the results of any research conducted under the permit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.030. Penalty**

A person who violates the conditions of a permit or a regulation of the department issued under this subchapter, or who fails to file a full and complete report as required by Section 43.029 of this code, is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 43.031 to 43.040 reserved for expansion]

**SUBCHAPTER D. PRESERVE AND RESORT LICENSES**

**§ 43.041. Definitions**

In this subchapter:

(1) "Shooting preserve" means the aggregate amount of land owned by one individual, partnership, firm, or corporation in a county and leased for hunting purposes. If an individual, partnership, firm, or corporation owns a single tract of land located partially in one county and partially in another county, the individual, partnership, firm, or corporation may not be required to have a separate shooting preserve license for that portion of the land located in the second county, unless the individual, partnership, firm, or corporation owns other land leased for hunting purposes in the second county. If an individual, partnership, firm, or corporation owns a single tract of land located partially in one county and partially in another county and the individual, partnership, firm, or corporation is not required to have two licenses, the aggregate acreage of the tract shall be used for determining the amount of the license fee required by this subchapter.

(2) "Shooting resort" means a tract of land of not less than 600 nor more than 2,000 contiguous acres on which pen-raised fowls or imported game birds are released to provide hunting for members or guests.

(3) "Shooting club" means an association of persons or a legal entity that owns or operates a shooting preserve or shooting resort.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.042. License Required**

No person who is the manager or owner of a shooting preserve or shooting resort may receive as a guest of the shooting resort or shooting preserve for pay another person engaged in hunting unless the owner or manager has acquired a license from the department or an authorized agent of the department authorized the receiving of guests.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.043. Issuance of License**

The department shall issue one license for each shooting preserve or shooting resort.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.044. License Fees**

(a) The fees for shooting preserve licenses are:

(1) \$10 if the area of the shooting preserve is less than 500 acres;

(2) \$25 if the area of the shooting preserve is 500 acres or more but less than 1,000 acres; and

(3) \$40 if the area of the shooting preserve is 1,000 acres or more.

(b) The fee for a shooting resort license is \$25.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.045. Duration of License**

A shooting preserve license and a shooting resort license are valid for the period from September 1 of one year through August 31 of the following year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.046. Form and Execution of License**

(a) The department shall furnish license forms to agents who are authorized to issue hunting and fishing licenses.

(b) The license must:

(1) be numbered serially with stubs attached;

(2) be clearly marked as a shooting preserve license or a shooting resort license;

(3) have printed across the face of the license the year for which it is issued;

(4) show the expiration date of the license; and

(5) bear the seal of the department.

(c) The license shall be executed by filling in the name and address of the licensee, the name of the shooting preserve or shooting resort, the character of game found in the area to which the license applies, and the signature of the employee of the department or issuing agent.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.047. Name of Preserve or Resort**

The holder of a shooting preserve or shooting resort license shall file with the department the name of the shooting preserve or shooting resort. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.048. Affidavit Required**

The holder of a shooting preserve or shooting resort license shall certify by his signature on forms provided by the department that the licensee will:

(1) not violate any of the provisions of this subchapter;

(2) endeavor to prevent any guest of the shooting preserve or shooting resort from violating any of the provisions of this subchapter; and

(3) not receive guests who do not have valid hunting licenses.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.0485. Shooting Preserve Records**

(a) The holder of a shooting preserve license shall keep a suitable record book and shall require each guest to register. The registration of a guest must include:

(1) the name and residence of the guest;

(2) the hunting license number of the guest; and

(3) the number and type of game animals and game birds killed each day by the guest.

(b) Not later than March 1 of each year, the holder of a shooting preserve license shall report to the local game warden or other person as designated by the department. The report must include information required by the department on the previous year's hunting activity on the preserve.

[Added by Acts 1977, 65th Leg., p. 813, ch. 303, § 1, eff. Aug. 29, 1977.]

**§ 43.049. Nonresident Hunting License for Shooting Resort**

(a) A nonresident may acquire a shooting resort hunting license from the department entitling the nonresident to take wild birds from a shooting resort only.

(b) A nonresident shooting resort hunting license is valid from October 1 of one year to April 1 of the following year.

(c) The fee for a nonresident shooting resort hunting license is \$5, of which fee 25 cents may be retained as a collection fee by the agent issuing the license but not by an employee of the department. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.050. Shooting Resort Identified**

(a) The owner or manager of a shooting resort shall mark the boundaries of the shooting resort with metal signs. The signs shall be placed at each entrance to the resort and around the perimeter of the resort at a distance of not more than 1,000 feet apart.

(b) The size of the sign must be at least 18 inches by 24 inches.

(c) The signs must bear the words "Shooting resort licensed by the Parks and Wildlife Department—Hunting by permit only." The lettering of the words must be large enough so that they may be read under ordinary conditions from a distance of 200 feet.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.051. Season**

The open season on a shooting resort for the taking of game birds, pen-raised fowl, and imported game birds that have been stocked by the owner is from October 1 of one year through April 1 of the following year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.052. Banding Game Birds**

Each game bird killed on a shooting resort shall be banded with a band showing the permit number of the owner of the resort. The band must remain on the bird after it is killed and processed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.053. Releasing of Fowl Required**

The operator of a shooting resort shall release at least 500 quail or at least 500 pheasant or chukar annually for each 600 acres of land licensed as a shooting resort.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.054. Cancellation of License**

(a) If the manager of a shooting resort or shooting preserve fails or refuses to comply with any provision of this subchapter, the department or its authorized agent may cancel the license granted under this subchapter without refunding the license fee.

(b) A person whose license is cancelled under this section may not receive another license for one year after the cancellation.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975.]

**§ 43.055. Penalty**

A manager of a shooting resort or shooting preserve who violates any provision of this subchapter or who fails to comply with any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200 or by confinement in the county jail for not more than 90 days, or by both, except that a manager of a shooting preserve who knowingly and intentionally fails to comply with Section 43.0485 of this code is punishable only by a fine of not less than \$25 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 3, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 813, ch. 303, § 2, eff. Aug. 29, 1977.]

**§ 43.056. Cancellation of License**

(a) If the manager of a shooting club, shooting resort, shooting preserve, or land leased for hunting fails or refuses to comply with any provision of this subchapter, the department or its authorized agent may cancel the license granted under this subchapter without refunding the license fee.

(b) A person whose license is cancelled under this section may not receive another license for one year after the cancellation.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.057. Penalty**

A manager of a shooting club, shooting resort, shooting preserve, or land leased for hunting who violates any provision of this subchapter or who fails to comply with any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200 or by confinement in the county jail for not more than 90 days, or by both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 43.058 to 43.060 reserved for expansion]

**SUBCHAPTER E. PERMIT FOR CAPTURE OF INDIGENOUS GAME**

**§ 43.061. Indigenous Mammals and Birds**

(a) No person may capture or transport any game mammal or game bird captured from the wild that is indigenous to this state unless he has obtained a permit from the department.

(b) The department may issue permits for trapping and transporting game mammals or game birds from the wild that are indigenous to this state as a means of better wildlife management by making adjustments in the game population.

(c) This section does not apply to any game animals or game birds that are privately owned or privately raised.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 43.062 to 43.070 reserved for expansion]

SUBCHAPTER F. PRIVATE BIRD  
SHOOTING AREAS

**§ 43.071. Definitions**

In this subchapter:

(1) "Private bird shooting area" means an area on which the hunting or taking of privately owned game birds is authorized.

(2) "Licensee" means a person holding a private bird shooting area license.

(3) "Guest" means a person other than a licensee who is authorized by a license to hunt or take birds in a private bird shooting area.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.072. Application for License**

(a) Any person, including the holder of a shooting resort license, may apply to the department for a private bird shooting area license.

(b) The applicant shall certify by his signature on forms provided by the department stating that he will not violate any of the provisions of this subchapter and will endeavor to prevent guests from committing violations.

(c) The private bird shooting area license fee is \$25.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.073. Size of Area; Markings**

(a) A private bird shooting area may consist of not more than 300 contiguous acres.

(b) A private bird shooting area shall be distinguished from any other club, shooting resort, shooting preserve, or leased premises for hunting purposes by clearly marking its boundaries with wood or metal markers bearing the words, "Private Bird Shooting Area, Licensed by the Texas Parks and Wildlife Department." The lettering on these markers shall be large enough to permit reading under ordinary conditions at 200 feet.

(c) Markers shall be placed to identify clearly the boundaries of each area and each entrance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.074. Taking of Game Birds Authorized**

(a) A licensee or a guest may take privately owned game birds or pen-reared game birds in a private bird shooting area during the private bird shooting area season.

(b) The private bird shooting area season begins January 1 and extends through December 31 of each year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.075. Game Birds in Captivity; Banding**

(a) A licensee may hold game birds in captivity for use in the private bird shooting area.

(b) All privately owned game birds and pen-reared game birds released on a private bird shooting area shall be banded.

(c) The band shall remain on each bird killed until it is finally processed.

(d) Each band must show the permit number of the licensee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.076. License Form**

No person may issue or accept a private bird shooting area license except on the form prescribed by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.077. Penalty**

A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.078. Hunting License Required**

Nothing in this subchapter authorizes any person to hunt game birds without having a hunting license required by Chapter 42 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 43.079 to 43.100 reserved for expansion]

SUBCHAPTER G. PREDATOR CONTROL  
FROM AIRCRAFT

**§ 43.101. Applicability of Subchapter**

This subchapter applies only to the following counties: Andrews, Aransas, Archer, Armstrong, Atascosa, Bailey, Bandera, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazos, Brewster, Briscoe, Brown, Burnet, Caldwell, Calhoun, Callahan, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Dimmit, Donley, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fisher, Floyd, Foard, Frio, Gaines, Garza, Gillespie, Glasscock, Gray, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jeff Davis, Jim Wells, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamb, Lampasas, LaSalle, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McMullen, Martin, Mason, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Moore, Motley, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Roberts, Robertson,

Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Terry, Throckmorton, Tom Green, Upton, Uvalde, Val Verde, Victoria, Ward, Webb, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Yoakum, Young, Zapata, Zavala.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1222, ch. 456, § 23, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 568, ch. 202, § 1, eff. May 20, 1977; Acts 1979, 66th Leg., p. 255, ch. 133, § 1, eff. May 9, 1979; Acts 1979, 66th Leg., p. 784, ch. 346, § 1, eff. June 6, 1979; Acts 1981, 67th Leg., p. 936, ch. 351, § 1, eff. June 10, 1981.]

**§ 43.102. Permit Authorized**

Under Public Law 92-159, Section (b)(1) (85 Stat. 480, 16 U.S.C. 742j-1), the department may issue permits for predator animal control by the use of aircraft in this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.103. Definition**

"Predator animals" means coyotes, bobcats, red foxes, and crossbreeds between coyotes and dogs but does not include birds or fowl.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.104. Grounds to Issue Permit**

The department may issue the permit to any person if the department finds that predator animal control by the use of aircraft is necessary to protect or to aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.105. Application for Permit**

An applicant for a permit under this subchapter shall file with the application one or more affidavits, containing facts as well as opinion, stating the kind and number of predator animals that are requested to be taken by the use of aircraft, a list of the counties from which the animals are requested to be taken, and the reasons why the permit should be issued.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.106. Form and Period of Validity of Permit; Renewal**

The department shall prescribe the form and manner of issuance of the permit. No permit issued under this subchapter is valid for more than one year, but the department may renew a permit on a showing that renewal is necessary.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.107. Reports Required**

The holder of a permit under this subchapter shall file with the department within 30 days following the end of each calendar quarter a report showing:

- (1) the name and address of the permit holder;
- (2) the number and a description of the predator animals taken under the permit, and the number and description of the predator animals authorized to be taken under the permit;
- (3) a description of the area to which the permit is applicable; and
- (4) any other relevant information the department may require.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.108. Reports by Department**

The department shall report annually to the Secretary of the Interior of the United States as required by federal law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.109. Regulations**

The commission may make regulations governing predator animal control by aircraft under this subchapter. The commission shall give notice and hold hearings on all proposed regulations under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.110. Permit Fee**

The commission shall set an annual fee for the taking of predator animals by the use of aircraft.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 43.111. Penalty**

A person who violates any provision of this subchapter or any person in an aircraft who shoots any animals or birds other than predator animals with a gun, rifle, or any other device capable of injuring or killing a wild animal or bird is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 43.112 to 43.150 reserved for expansion]

**SUBCHAPTER H. PERMITS TO CONTROL PROTECTED SPECIES**

**§ 43.151. Damage to Crops or Domestic Animals**

(a) A person whose crops or domestic animals are being damaged or destroyed by a wild bird or animal protected by this code and who desires to kill the protected bird or animal shall give written notice of the facts to the county judge of the county in which the damage occurs.

(b) The county judge, on receiving the notice, shall immediately cause a substantial copy of the notice to be posted in the county courthouse and shall notify the department of the location of the property where the damage is occurring, the type of crops or animals being damaged, and the name of the applicant.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 43.152. Department Inspection

On receiving notice from a county judge, the department shall inspect the property and determine if damage is occurring as alleged in the notice. If the damage is occurring, the department shall make recommendations to the person as are feasible and appropriate for controlling the damage.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 43.153. Application for Permit

(a) A person whose crops or domestic animals are being damaged may file with the department an application for a permit to kill protected wild birds or animals.

(b) The application must be in writing and be sworn to by the applicant and must contain:

(1) a statement of facts relating to the damage; and

(2) an agreement by the applicant to comply with the provisions of this subchapter relating to the disposition of game.

(c) The application must be accompanied by:

(1) a statement signed by the employee of the department who made the investigation that damage is being done and control measures have been recommended;

(2) a statement by the applicant that he has taken all measures recommended by the department for the prevention of damage; and

(3) a certification of the county judge that the application is true.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 43.154. Permit

(a) On receipt of an application, the department may issue a permit for the killing of wild birds and wild animals without regard to the closed season, bag limit, or prohibition against night hunting.

(b) The department shall deliver the permit, if issued, to the county judge that sent the notice of damage. The permit may not be delivered earlier than 24 hours after the notice from the county judge was received by the department.

(c) A permit must specify:

(1) the period of time during which it is valid;

(2) the area in which it applies;

(3) the kind of birds and animals authorized to be killed; and

(4) the persons permitted to kill the noxious birds or animals.

(d) No permit authorizing the killing of migratory game birds protected by the Federal Migratory Bird Treaty Act may be issued unless the applicant has received a permit from the United States Department of Interior, Fish and Wildlife Service. No permit may be issued for the taking of birds or animals protected under Chapter 68 of this code (Endangered Species).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 43.155. Deer

(a) The holder of a permit issued under this subchapter who kills a deer under the authority of the permit shall give the location of the deer carcass to the game management officer or other department employee assigned to the area covered by the permit.

(b) The officer or other department employee notified shall dispose of the carcass by donating it to a charitable institution or hospital or to needy persons.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 43.156. Cancellation of Permit

The department may cancel a permit if the holder violates a term or condition of the permit, the holder exceeds the authority granted in the permit, or the permit does not accomplish its intended purposes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 43.157. Violations; Penalty

(a) No permittee may fail to notify a game management officer or other department employee of the killing of a deer as required by Section 43.155 of this code.

(b) No permittee may dispose of a deer carcass killed under the permit or allow the deer to be disposed of except as allowed under Section 43.155 of this code.

(c) No permittee may violate a term or condition of the permit.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$500.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 43.158 to 43.200 reserved for expansion]

### SUBCHAPTER I. ARCHERY STAMPS

#### § 43.201. Archery Stamp Required

(a) No person may hunt wild deer, bear, turkey, or javelina (collared peccary) during an open archery season provided by law or by the proclamations of the commission and during which season only long-bows and arrows may be used unless the person has first acquired from the department or from an au-

thorized agent of the department an archery hunting stamp.

(b) The stamp shall be issued in the form prescribed by the department and must be signed on its face by the person using the stamp.

[Acts 1975, 64th Leg., p. 1203, ch. 456, § 1, eff. Sept. 1, 1975.]

**§ 43.202. Fee**

The fee for an archery hunting stamp is \$3.25, of which 25 cents shall be retained by the agent issuing the stamp as a collection fee, except that employees of the department may not retain the collection fee.

[Acts 1975, 64th Leg., p. 1203, ch. 456, § 1, eff. Sept. 1, 1975.]

**§ 43.203. Hunting License Required**

The purchase or possession of an archery hunting stamp does not permit a person to hunt wild deer, bear, turkey, or javelina without the license required by Chapter 42 of this code or by any means or methods not allowed by law.

[Acts 1975, 64th Leg., p. 1203, ch. 456, § 1, eff. Sept. 1, 1975.]

**§ 43.204. Stamp Sale Receipts**

The net revenue derived from the sale of archery hunting stamps shall be sent to the department.

[Acts 1975, 64th Leg., p. 1203, ch. 456, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 548, ch. 260, art. 1, § 4, eff. Sept. 1, 1979.]

**§ 43.205. Penalty**

(a) A person who violates Section 43.201 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

(b) A person hunting a species covered by this chapter during an open archery season who fails or refuses on the demand of any game warden or other peace officer to exhibit an archery hunting stamp is presumed to be in violation of Section 43.201 of this code.

[Acts 1975, 64th Leg., p. 1203, ch. 456, § 1, eff. Sept. 1, 1975.]

[Sections 43.206 to 43.250 reserved for expansion]

**SUBCHAPTER J. FIELD TRIAL LICENSES**

**§ 43.251. Definitions**

In this subchapter:

(1) "Member field trial" means a trial of retriever dogs held by a club or association that is a member of the American Kennel Club and during which championship points may be awarded.

(2) "Licensed field trial" means a trial of retriever dogs held by a club or association not a member of the American Kennel Club but which trial has been licensed by the American Kennel

Club and during which championship points may be awarded.

(3) "Sanctioned field trial" means an informal retriever dog field trial held by any club or association and which trial is sanctioned by the American Kennel Club even though championship points are not awarded.

(4) "Retriever dog training" means any training activity relating to the development of retrieving breeds of dogs under field conditions for hunting purposes or which would qualify retriever breeds of dogs to take part in member, licensed, or sanctioned field trials.

(5) "Captive-reared birds" means pen-raised pheasant, chukar, mallard duck, and feral pigeon only.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

**§ 43.252. Field Trial Licenses Authorized**

(a) The department may issue primary field trial area licenses applying to not more than 1,000 contiguous acres of land for each license.

(b) The department may issue to the holder of a primary field trial license not more than six auxiliary field trial licenses applying to not more than 300 contiguous acres for each auxiliary field trial license.

(c) The licenses authorized by this section must be on a form designed and provided by the department.

(d) A license authorized by this section is valid until December 31 of the year for which it is issued.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

**§ 43.253. License Fees**

(a) The fee for a primary field trial area license is \$25.

(b) The fee for each auxiliary field trial area license is \$5.25.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

**§ 43.254. Who May Receive Licenses**

(a) The owner or other person holding a possessory interest in land may apply for and receive a primary field trial area license for the land.

(b) No person may hold more than one primary field trial area license. No person may hold more than six auxiliary field trial area licenses.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

**§ 43.255. Areas to be Marked**

(a) Each area covered by a primary field trial area license shall be identified with signs marked as follows: "Retriever dog field trial area licensed by the Parks and Wildlife Department."

(b) Each area covered by an auxiliary field trial area license shall be identified with signs marked as

follows: "Retriever dog auxiliary field trial area licensed by the Parks and Wildlife Department."

(c) The signs described in Subsections (a) and (b) of this section shall be placed at each entrance of an area and along the boundaries of the area at intervals not to exceed 1,000 feet in a manner that clearly identifies the boundaries of the area.

(d) The lettering on each sign must be large enough to permit a person with ordinary vision under ordinary conditions to read the sign from 200 feet away.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

#### § 43.256. Taking Captive-Reared Birds Permitted

(a) A person holding a valid Texas hunting license, including a license issued to a nonresident under Section 43.257 of this code, may hunt and take captive-reared birds on land covered by a primary field trial area license or an auxiliary field trial area license at any time during a member field trial, a licensed field trial, a sanctioned field trial, or during retriever dog training.

(b) Subsection (a) of this section does not apply unless the person is registered as provided in Section 43.258 of this code.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

#### § 43.257. Limited Nonresident Hunting License

(a) A nonresident may apply to the department or its agent for a nonresident field trial area hunting license, that permits the holder to hunt and take captive-reared birds on land covered by a primary field trial area license or an auxiliary field trial area license during a member field trial, a licensed field trial, or a sanctioned field trial only.

(b) The license fee for the nonresident field trial hunting license is \$5.25.

(c) A nonresident field trial hunting license expires on December 31 of the year for which it is issued.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

#### § 43.258. Record Book

The holder of a primary field trial area license or the manager of an area covered by any field trial area license shall keep a suitable record book and shall enter in the book the name and address and hunting license number of each guest participating in a member, licensed, or sanctioned field trial on the primary or an auxiliary area. The license holder or manager shall enter in the book the number and species of captive-reared birds acquired for the area or areas, the date of acquisition of the birds, the name of the seller, the number and species of captive-reared birds taken on the area or areas, and the disposition of all captive-reared birds taken on the area or areas.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

#### § 43.259. Birds to be Banded

(a) No person may release a captive-reared bird on a primary or auxiliary field trial area licensed under this subchapter unless the bird is banded with tag of a type approved by the department and which contains the license number of the area.

(b) No person may remove from a captive-reared bird the tag required by Subsection (a) of this section until the bird is finally processed.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

#### § 43.260. Prohibited Acts

(a) No person may:

(1) fail to mark the entrances and boundaries of a primary or auxiliary field trial area as required by Section 43.255 of this code;

(2) fail to keep a record book as required by Section 43.258 of this code;

(3) violate Section 43.259 of this code; or

(4) represent to others that he is the owner or manager of land covered by a primary or auxiliary field trial area when in fact he is not the owner or manager or when the land is not in fact licensed as permitted by this subchapter.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

#### § 43.261. Hunting During Season Not Prohibited

This subchapter does not prohibit the hunting of game birds by any lawful method or the operation of field trials during an open season for the taking of game birds as provided by law.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 10, eff. Sept. 1, 1975.]

### SUBCHAPTER K. WATERFOWL STAMP

#### § 43.301. Definition

In this subchapter, "waterfowl" means wild ducks of all species, wild geese and wild brant of all species, and wild coot.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

#### § 43.302. Waterfowl Stamp Required

No person may hunt waterfowl in this state unless the person has in his possession a waterfowl stamp issued to him by the department.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

#### § 43.303. Design and Issuance of Stamp

(a) The department or its agent may issue a waterfowl stamp to any person on the payment to the department of \$5. The stamp must be signed on its face by the person to whom it is issued.

(b) The commission shall prescribe by regulation the form, design, and manner of issuance of the waterfowl stamp. The department shall retain the reproduction rights to the design.

(c) The commission may contract with and pay a person for designing and producing the waterfowl stamp authorized by this chapter.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

**§ 43.304. Hunting License Required Also**

The acquisition of a waterfowl stamp does not authorize a person to hunt waterfowl without having acquired a hunting license as provided by Chapter 42 of this code or authorize the hunting of waterfowl at any time or by any means not otherwise authorized by this code.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

**§ 43.305. Disposition of Stamp Fees**

(a) Fifty cents of the fee collected under this subchapter may be retained by the agent of the department, other than a department employee, as a collection fee.

(b) After deduction of any collection fee, the net receipts from stamp sales shall be sent to the department.

(c) The stamp sale net receipts may be spent only for research, management, and protection of waterfowl, for the acquisition, lease, or development of waterfowl habitats in the state, and for grants as provided by Section 43.306 of this code. Not more than one-half of the receipts may be spent for research, management, and protection.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

**§ 43.306. Grants**

The department may make grants to appropriate international nonprofit organizations for the purpose of acquiring, developing, and maintaining waterfowl propagation areas within the Dominion of Canada that provide waterfowl for the Central Flyway. The department may not condition a grant made under this section on approval by the department of improvements or construction performed in the Dominion of Canada.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

**§ 43.307. Refusal to Show Stamp**

A person hunting waterfowl who refuses on demand of any game management officer or peace officer to show a waterfowl stamp is presumed to be in violation of Section 43.302 of this code.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

**§ 43.308. Reciprocal Agreements**

As provided by Chapter 41 of this code, the department may negotiate reciprocal agreements with states that share a common boundary with this state if the neighboring state has a similar stamp requirement and fee. The agreement may permit a resident of the state with which the agreement is made to hunt waterfowl in this state without a stamp issued under this subchapter if the person possesses a waterfowl stamp issued by the other state.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

**§ 43.309. Penalty**

A person who violates Section 43.302 of this code is guilty of a Class C misdemeanor.

[Added by Acts 1981, 67th Leg., p. 2157, ch. 502, § 1, eff. Aug. 31, 1981.]

**CHAPTER 44. GAME BREEDER'S LICENSE**

Section	
44.001.	Definitions.
44.002.	License Requirement.
44.003.	Game Breeder's License.
44.004.	Reissuance of License.
44.005.	Serial Number.
44.006.	License Privileges.
44.007.	Records.
44.008.	Enclosure Size.
44.009.	Inspection.
44.010.	Shipment of Game Animals.
44.011.	Purchase and Sale of Live Game Animals.
44.012.	Sale During Open Season.
44.013.	Use of Purchased Game Animals.
44.014.	Application of General Laws.
44.015.	Right of Department.
44.016.	Penalties.

**§ 44.001. Definitions**

In this chapter:

(1) "Game breeder" means a person holding a valid game breeder's license.

(2) "Captivity" means the keeping of game animals in an enclosure suitable for and capable of retaining the animal it is designed to retain at all times under reasonable and ordinary circumstances and to prevent entry by another animal.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 44.002. License Requirement**

No person may place in captivity or engage in the business of propagating any game animal of this state unless he has obtained a license issued under this chapter from the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1209, ch. 456, § 9, eff. Sept. 1, 1975.]

**§ 44.003. Game Breeder's License**

The department shall issue a game breeder's license on payment of a license fee of \$5. The

license is valid for a period of one year following the date of its issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1209, ch. 456, § 9, eff. Sept. 1, 1975.]

#### § 44.004. Reissuance of License

A game breeder's license may not be issued to a previous licensee unless the licensee has filed with the department a copy of the record required by Section 44.007 of this code with an affidavit made before an officer qualified to administer oaths that the copy is true and correct.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 44.005. Serial Number

(a) The department shall issue a serial number to the applicant at the time of the first issuance of a game breeder's license to the applicant. The same serial number shall be assigned to the licensee whenever he holds a game breeder's license.

(b) The game breeder shall place a suitable permanent metal tag bearing his serial number on the ear of each deer or antelope held in captivity or sold by the game breeder.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 44.006. License Privileges

The holder of a valid game breeder's license may:

(1) engage in the business of game breeding in the immediate locality for which the license was issued;

(2) sell or hold in captivity for the purpose of propagation or sale of wild deer, wild antelope, black bear, collared peccary, and wild squirrels; and

(3) sell or hold in captivity for the purpose of propagation or sale, elk in any county in which elk is a game animal.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 1860, ch. 439, § 2, eff. Aug. 31, 1981.]

#### § 44.007. Records

Each game breeder shall keep a written record in a suitably bound book for the period from the date of license issuance until the following September 1 containing:

(1) the number and source of each kind of game animal on hand at the time the license is issued;

(2) the number, source, and date of receipt of each kind of game animal on hand at any time after the license is obtained; and

(3) the number of each kind of game animal shipped or delivered, the date of shipment or delivery, and the name and address of persons to whom the shipment or delivery is made.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 44.008. Enclosure Size

A single enclosure for any game animal may not contain more than 320 acres.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 44.009. Inspection

An authorized employee of the department may inspect at any time and without warrant any pen, coop, or enclosure holding a game animal.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 44.010. Shipment of Game Animals

(a) A common carrier may not accept a live game animal unless the game animal is one listed in Section 44.006(2) of this code and the shipment is made by a game breeder.

(b) No person, except a game breeder or his authorized agent, may transport or ship a live game animal unless he obtains a permit for shipment or transportation from the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 44.011. Purchase and Sale of Live Game Animals

(a) Only game animals that are in a healthy condition may be sold, bartered, or exchanged, or offered for sale, barter, or exchange by a game breeder.

(b) No person may purchase or accept in this state a live game animal unless:

(1) the game animal bears a tag required by Section 44.005 of this code and is delivered or sold by a game breeder; or

(2) the game animal is delivered by a common carrier from outside this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 44.012. Sale During Open Season

No game breeder may sell or ship to another person in this state a wild deer, wild antelope, or collared peccary, and no person in this state may purchase from a game breeder in this state a wild deer, wild antelope, or collared peccary during an open season for taking the game animal or during a period of 10 days before and after an open season.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 44.013. Use of Purchased Game Animals

(a) Except as provided in Subsection (b) of this section, game animals may be purchased or received in this state only for the purpose of liberation for stocking purposes or holding for propagation purposes. All game animals and increase from the game animals are under the full force of the laws of this state pertaining to wild game and the game animals may be held in captivity for propagation in

this state only after a license is issued by the department under this chapter.

(b) Game animals may be held, taken, or received for scientific and zoological purposes under a permit issued by the department pursuant to Section 43.022 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 44.014. Application of General Laws**

In order that native game species may be preserved, game animals held under a game breeder's license are subject to all laws and regulations of this state pertaining to wild game animals except as specifically provided in this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 44.015. Right of Department**

The department or an authorized employee of the department may take, possess, hold, transport, or propagate any game animal of this state for public purposes.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 44.016. Penalties**

(a) A person who violates a provision of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

(b) Each animal sold, purchased, or held in violation of this chapter constitutes a separate offense.

(c) The license of a game breeder convicted of a violation of this chapter is subject to forfeiture. If the license of a game breeder is forfeited, he is not entitled to reissuance of the license for a period of one year following the date of conviction.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 45. GAME BIRD BREEDER'S LICENSE**

Section	
45.001.	License Required.
45.002.	Form of License; Period of Validity.
45.003.	Types of Licenses; Fees.
45.004.	Size of Enclosures.
45.005.	Records of Live Bird Sales.
45.006.	Sales of Game Bird Carcasses or Parts of a Game Bird.
45.0061.	Source of Game Birds.
45.007.	Prohibited Acts.
45.008.	Records; Reports.
45.009.	Exceptions.
45.010.	Inspections.
45.011.	Permits Required by the United States.
45.012.	Penalty.

**§ 45.001. License Required**

(a) Except as provided in Subsection (b) of this section, no person may engage in the business of propagating game birds without first acquiring the

proper license authorized to be issued under this chapter.

(b) A person is not required to have a license issued under this chapter if he possesses not more than 12 game birds for personal use only.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1208, ch. 456, § 8(a), eff. Sept. 1, 1975.]

**§ 45.002. Form of License; Period of Validity**

(a) The department shall issue the licenses authorized by this chapter on a form provided by the department and may designate agents for their issuance.

(b) Each license shall be numbered.

(c) A license is valid for one year from the date of its issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 45.003. Types of Licenses; Fees**

(a) A class 1 commercial game bird breeder's license entitles the holder to engage in the business of propagating game birds for sale or holding game birds in captivity. The fee for a class 1 commercial game bird breeder's license is \$50.

(b) A class 2 commercial game bird breeder's license entitles the holder to engage in the business of propagating game birds for sale or holding game birds in captivity, except that the holder of a class 2 license may not possess more than 1,000 game birds during any calendar year. The fee for a class 2 commercial game bird breeder's license is \$5.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1208, ch. 456, § 8(b), eff. Sept. 1, 1975.]

**§ 45.004. Size of Enclosures**

(a) No holder of a license under this chapter may retain game birds, other than a migratory bird or waterfowl, in an enclosure larger than 40 acres.

(b) No holder of a license under this chapter may retain a migratory bird or waterfowl in an enclosure larger than 320 acres.

(c) "Captivity" means the keeping of game birds in an enclosure or pen.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 45.005. Records of Live Bird Sales**

(a) No holder of a commercial game bird breeder's license may sell a live game bird without issuing a written document showing the name and serial number of the game bird breeder, the name and address of the purchaser, and the description and number of game birds sold. The document shall be delivered to the purchaser.

(b) The department shall issue to each holder of a commercial game bird breeder's license a serial number which shall remain the number of the person

holding the license as long as he continues to hold a license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1209, ch. 456, § 8(c), eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2441, ch. 625, § 1, eff. Sept. 1, 1981.]

#### § 45.006. Sales of Game Bird Carcasses or Parts of a Game Bird

(a) No person may sell the carcass or any part of a dead pen-raised game bird unless:

(1) the carcass or part is clearly stamped and marked by the stamp authorized by Subsection (b) of this section; or

(2) the carcass or part is delivered to the purchaser in a box, wrapping, or other container on which is printed or written the name and the serial number of the game bird breeder.

(b) Each holder of a license required by this chapter who offers for sale the carcass of a pen-raised game bird may acquire a rubber stamp which, when used, shows the serial number of the holder of the license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2441, ch. 625, § 2, eff. Sept. 1, 1981.]

#### § 45.0061. Source of Game Birds

A person who is not required to possess a commercial game bird breeder's license under Subsection (b) of Section 45.001 shall, on the request of a game warden commissioned by the department, furnish to the warden information as to the source from which game birds in the possession of the person were derived. The failure or refusal to comply with this section is a violation of this chapter.

[Acts 1975, 64th Leg., p. 1209, ch. 456, § 8(d), eff. Sept. 1, 1975.]

#### § 45.007. Prohibited Acts

(a) No holder of a game bird breeder's license may sell a live game bird unless it is in a healthy condition.

(b) No person may purchase a live game bird except from a holder of a game bird breeder's license; however, this subsection does not prohibit the purchase of live game birds delivered by a common carrier from outside the state.

(c) The carcass of a pen-raised game bird offered for sale must be killed other than by shooting. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 45.008. Records; Reports

(a) Each commercial game bird breeder shall maintain records showing the numbers of game birds acquired, propagated, sold, and disposed of in any other manner. The records shall be on forms provided by the department and shall contain any other information required by the department.

(b) During August of each year, but before August 31, a commercial game bird breeder shall send to the department a report showing the total number of game birds in the possession of the breeder during the previous year and accounting for the acquisition and disposition of each game bird.

(c) The failure to keep the records required by Subsection (a) of this section or to make the report as required by Subsection (b) of this section is a violation of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 45.009. Exceptions

(a) A person may purchase live pheasant from a commercial game bird breeder for any purpose.

(b) A commercial game bird breeder may slaughter game birds for his personal consumption at any time.

(c) This chapter does not apply to a person holding a permit under Section 43.022 of this code.

(d) Any person owning or operating a restaurant, hotel, boarding house, club, or other business where food is sold for consumption may sell game birds for consumption on the premises of the business.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 45.010. Inspections

An authorized employee of the department may inspect the facilities and enclosures of a person licensed under this chapter at any time during normal business hours without a warrant.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 45.011. Permits Required by the United States

This chapter does not authorize any act prohibited by federal law without a permit issued by the United States, nor does the possession of a permit issued by the United States authorize any act prohibited by this chapter unless expressly provided by federal law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 45.012. Penalty

A person who violates this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 46. FISHING LICENSES

### SUBCHAPTER A. GENERAL FISHING LICENSE

Section	
46.001.	Prohibited Acts.
46.0011.	Resident, Nonresident, and Alien Defined.
46.002.	Exemptions.

- Section  
 46.003. Exception for Blind and Disabled Veterans.  
 46.004. License Fees.  
 46.005. Temporary Sportfishing License.  
 46.0051. Temporary Nonresident License.  
 46.006. Duplicate License.  
 46.007. Expiration of Licenses.  
 46.008. License Form.  
 46.009. License Deputies.  
 46.010. Duties of License Deputies.  
 46.011. Monthly Report.  
 46.012. License Books.  
 46.013. Issuance or Acceptance of License.  
 46.014. Fishing Under the License of Another.  
 46.015. Penalty.

SUBCHAPTER B. LAKE TEXOMA FISHING LICENSE

- 46.101. Lake Texoma.  
 46.102. Fishing License Required.  
 46.103. Exemptions.  
 46.104. License: Period of Validity and Fee.  
 46.105. Lake Texoma 10-day Fishing License.  
 46.106. Form of License.  
 46.107. Disposition of Fees.  
 46.108. Division of Fees.  
 46.109. Payment by Comptroller.  
 46.110. Penalty.  
 46.111. Effective Date of Subchapter.

SUBCHAPTER A. GENERAL FISHING LICENSE

§ 46.001. Prohibited Acts

Except as provided in this chapter, no person may fish in the water of this state unless he has obtained a fishing license issued under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.0011. Resident, Nonresident, and Alien Defined

For this chapter, resident, nonresident, and alien are defined in Section 42.001 of this code.

[Added by Acts 1977, 65th Leg., p. 1110, ch. 409, § 1, eff. Aug. 29, 1977.]

§ 46.002. Exemptions

A license issued under this chapter is not required of a person:

- (1) under 17 years old or 65 years old or older if the person is a resident or, if a nonresident, if the person's state of residence grants a similar exemption to Texas residents;
- (2) fishing on property that he owns or on which he resides;
- (3) fishing on property that a member of his immediate family owns or on which the family resides;
- (4) fishing in the county of his residence with a trotline, throw line, or ordinary pole and line without a reel or other winding device;
- (5) having a commercial fishing license of this state;
- (6) who is a member of a group of 25 or more persons who are visiting as tourists and do their fishing as a group; or

(7) who is a resident of a hospital or state school, who is engaging in recreational fishing as a part of medically approved therapy, and who is fishing under the immediate supervision of personnel approved or employed by the hospital or state school.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 115, ch. 56, § 1, eff. April 13, 1977; Acts 1977, 65th Leg., p. 1110, ch. 409, § 5, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 2607, ch. 695, § 1, eff. Sept. 1, 1981.]

§ 46.003. Exception for Blind and Disabled Veterans

(a) The following persons are entitled to receive a special fishing license on proof of eligibility and on the payment of a fee of \$1.25, 25 cents of which may be retained as a collection fee:

(1) a blind person as defined by Section 1, Chapter 227, Acts of the 59th Legislature, Regular Session, 1965;<sup>1</sup> and

(2) a disabled veteran of the armed forces of the United States who has a service-connected disability, as defined by the Veterans' Administration, consisting of the loss of the use of a lower extremity or of a disability rating of 60 percent or more, and who is receiving compensation from the United States for the disability.

(b) The department may make regulations concerning proof of eligibility under this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 132, ch. 61, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 678d-1 (repealed; see, now, Human Resources Code, § 94.001).

§ 46.004. License Fees

(a) The resident fishing license fee is \$5.

(b) The nonresident or alien fishing license fee is an amount set by the commission but not less than \$15.

(c) The license deputy issuing the license may retain 50 cents as a fee for collecting the license fee and issuing the license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1110, ch. 409, § 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1475, ch. 599, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1397, ch. 623, § 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2607, ch. 695, § 2, eff. Sept. 1, 1981.]

§ 46.005. Temporary Sportfishing License

(a) Any person who is a Texas resident is entitled to receive from the department a license allowing fishing for sporting purposes in public water for a period of 14 consecutive days.

(b) The fee for the temporary sportfishing license is \$2.50 of which fee 50 cents may be retained as a collection fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2607, ch. 695, § 2, eff. Sept. 1, 1981.]

**§ 46.0051. Temporary Nonresident License**

(a) A nonresident or alien is entitled to receive from the department a license allowing fishing for sporting purposes in public water for a period of five days.

(b) The license fee is an amount set by the commission but not less than \$4.50, of which fee 50 cents may be retained as a collection fee.

[Added by Acts 1975, 65th Leg., p. 1110, ch. 409, § 3, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1397, ch. 623, § 4, eff. Aug. 27, 1979.]

**§ 46.006. Duplicate License**

(a) If a license issued under this subchapter is lost or destroyed, a license deputy may issue a duplicate license on application of the license holder and receipt of a 50-cent duplicate license fee.

(b) The application for a duplicate license must be an affidavit containing:

- (1) the facts concerning the loss or destruction of the license; and
- (2) the serial number of the lost or destroyed license.

(c) The license deputy issuing the license may retain 25 cents as a fee for issuing the duplicate license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 46.007. Expiration of Licenses**

(a) A license required or authorized by this subchapter is valid only during the yearly period for which it is issued without regard to the date on which the license is acquired. Each yearly period begins on September 1 of a year and extends through August 31 of the next year.

(b) A duplicate license is valid for the period of validity of the original license only.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1110, ch. 409, § 4, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1536, ch. 626, § 1, eff. Aug. 29, 1977.]

**§ 46.008. License Form**

A license issued under this subchapter must contain:

- (1) the year for which the license is issued (printed across the face of the license);
- (2) the name, address, and residence of the licensee;
- (3) an approximate weight, height, age, and color of hair and eyes of the licensee for identification in the field; and
- (4) the statement: "This license does not entitle the holder to fish on the enclosed and posted lands of another without the consent of the owner or his agent."

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1476, ch. 599, § 2, eff. Sept. 1, 1977.]

**§ 46.009. License Deputies**

Employees of the department, county clerks, and any person designated by the department to issue licenses are license deputies and may issue licenses under this subchapter. An employee of the department may not retain a collection or issuance fee. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 46.010. Duties of License Deputies**

The license deputy shall:

(1) fill out correctly and preserve for the use of the department the stubs attached to the license; and

(2) keep a complete and correct record of all licenses issued, showing the name and residence of each licensee, the serial number of the license, and the date of issuance of the license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 46.011. Monthly Report**

(a) Within 10 days after the end of each calendar month, license deputies shall send to the department the fees due the state and a report containing:

(1) the serial number and date of issuance of each license issued during the preceding month; and

(2) the names and addresses of the persons to whom licenses were issued during the preceding month.

(b) The department shall credit the license deputy with the amount remitted.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 46.012. License Books**

(a) When all licenses in a license book are issued, the license deputy shall return the license book to the department by the 10th day of the month following the month in which last license in the book is issued.

(b) Unissued licenses shall be returned on the request of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 46.013. Issuance or Acceptance of License**

No person may issue or accept a license required by this subchapter except on a form provided by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 46.014. Fishing Under the License of Another**

No person may fish under a license issued to another or allow another person to fish under a license issued to him.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.015. **Penalty**

(a) A person who violates a provision of this subchapter or, except as provided by Subsection (b) of this section, who fails or refuses to show an officer his license on the request of the officer is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

(b) If on or before the trial of any person charged with the failure or refusal to show an officer a license issued under this subchapter, the person produces for the court or the prosecuting attorney the proper fishing license issued to the person and valid at the time of the offense, the court having jurisdiction of the suit shall dismiss the charge.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 810, ch. 368, § 1, eff. Aug. 27, 1979.]

[Sections 46.016 to 46.100 reserved for expansion]

SUBCHAPTER B. LAKE TEXOMA  
FISHING LICENSE

§ 46.101. **Lake Texoma**

This subchapter applies only to Lake Texoma, which is the portion of this state inundated by the water impounded by a dam across the channel of the Red River, known as Denison Dam, and any other portion of that area of land acquired by the United States for the operation of the reservoir.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.102. **Fishing License Required**

Except as provided in this subchapter, no person may catch fish in Lake Texoma unless he has acquired and possesses on his person a valid license issued under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.103. **Exemptions**

Residents of this state engaged in fishing within the territorial boundaries of this state are not required to obtain a license issued under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.104. **License: Period of Validity and Fee**

(a) A Lake Texoma fishing license is valid until December 31 following its date of issuance.

(b) The fee for the license is \$5. Fifteen cents of the fee may be retained by the issuing officer. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1400, ch. 623, § 12, eff. Aug. 27, 1979.]

§ 46.105. **Lake Texoma 10-Day Fishing License**

(a) A Lake Texoma 10-day fishing license is valid for 10 consecutive days including the date of issuance.

(b) The fee for the license is \$1.25. Fifteen cents of the fee may be retained by the officer issuing the license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.106. **Form of License**

Licenses issued under this subchapter shall be on the form prescribed by the department and must contain:

- (1) the name and address of the licensee;
- (2) a personal description of the licensee;
- (3) date of issuance of the license; and
- (4) other information necessary for enforcement of this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.107. **Disposition of Fees**

The issuing officer shall send license fees less allowable deductions collected under this subchapter to the department by the 10th day of the month following the date of receipt.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.108. **Division of Fees**

The department shall keep separate and strict account of the revenue received from licenses issued under this subchapter for annual division between this state and the State of Oklahoma. The division shall be on a basis of the proportionate area of Lake Texoma lying within the territorial jurisdiction of the respective states.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.109. **Payment by Comptroller**

On February 1 of each year the comptroller shall pay to the state of Oklahoma 70 percent of the revenue collected from licenses issued under this subchapter during the previous calendar year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.110. **Penalty**

A person who violates this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 46.111. **Effective Date of Subchapter**

This subchapter does not become effective until:

- (1) the State of Oklahoma makes provision for the sale of licenses in Oklahoma that are parallel to the licenses authorized by this subchapter;
- (2) the State of Oklahoma provides for payment to this state of not less than 30 percent of all revenue collected by Oklahoma for the licenses; and

(3) the department is satisfied that this subchapter and the provisions of Oklahoma law are not in conflict and directs that this subchapter is effective.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 47. COMMERCIAL FISHING LICENSES

### SUBCHAPTER A. LICENSES

Section	
47.001.	Definitions.
47.002.	General Commercial Fisherman's License.
47.003.	Tidal Water Commercial Fisherman's License.
47.004.	Fish Guide License.
47.005.	Fish Boat License.
47.006.	Skiff License.
47.007.	Commercial Fishing Boat License.
47.008.	Menhaden Boat License.
47.009.	Wholesale Fish Dealer's License.
47.0091.	Purchase of Fish.
47.010.	Wholesale Truck Dealer's Fish License.
47.011.	Retail Fish Dealer's License.
47.0111.	Purchase of Fish.
47.012.	Retail Oyster Dealer's License.
47.013.	Retail Dealer's Truck License.
47.014.	Bait Dealer's License.
47.015.	Seine or Net License.
47.016.	Menhaden Fish Plant License.
47.017.	Renewal of Fish Plant License.
47.018.	Interstate Transportation.
47.019, 47.020.	Repealed.

### SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO COMMERCIAL FISHING LICENSES

47.031.	Expiration of Licenses.
47.032.	Refusal of License.
47.033.	Display of License.
47.034.	Fish Size.
47.035.	Prima Facie Evidence.
47.036.	Venue.
47.037.	Inspection.
47.038.	Seines or Nets for Menhaden.
47.039.	Seasons.

### SUBCHAPTER C. PENALTIES, DISPLAY OF LICENSE, AND TRANSFER OF FUNDS

47.051.	Penalty.
47.052.	Penalty.
47.053.	Penalty.
47.0531.	Repealed.
47.054.	Refusal to Show License.
47.055.	Disposition of Funds.

### SUBCHAPTER A. LICENSES

#### § 47.001. Definitions

In this chapter:

(1) "Commercial fisherman" means a person who catches fish, oysters, or other edible aquatic products from the water of this state for pay or for the purpose of sale, barter, or exchange.

(2) "Commercial finfish fisherman" means a person who catches only finfish from the tidal waters of this state for pay or for the purpose of sale, barter, or exchange.

(3) "Wholesale fish dealer" means a person engaged in the business of buying for the purpose of selling, canning, preserving, processing, or handling for shipments or sale fish, oysters, shrimp, or other commercial edible aquatic products to retail fish dealers, hotels, restaurants, cafes, or consumers.

(4) "Retail fish dealer" means a person engaged in the business of buying for the purpose of sale to a consumer fresh or frozen edible aquatic products.

(5) "Bait dealer" means a person who catches or transports for sale, or who is engaged in the business of selling minnows, fish, shrimp, or other aquatic products for fish bait.

(6) "Fish guide" means a person who operates a boat for compensation to accompany or to transport a person engaged in fishing in the water of this state.

(7) "Tidal water" means all the salt water of this state, including that portion of the state's territorial water in the Gulf of Mexico within three marine leagues from shore.

(8) "Nontidal water" means all the water of this state excluding tidal water.

(9) "Place of business" means the place where orders for aquatic products are received or where aquatic products are sold, including a vehicle if aquatic products are sold from the vehicle, but does not include a public cold-storage vault, temporary receiving station, or vehicle from which no orders are taken or no shipments or deliveries are made other than to the place of business of a licensee in this state.

(10) "Menhaden fish plant" means a fixed installation on land designed, equipped, and used to process fish and the by-products of fish by the application of pressure, heat, or chemicals or a combination of pressure, heat, and chemicals to raw fish to convert the raw fish into fish oil, fish solubles, fish scraps, or other products.

(11) "Red drum" means the species *Sciaenops ocellata*, commonly called "redfish."

(12) "Resident" means an individual, other than an alien, who has been a resident of this state for more than six months immediately before applying for a license from the department.

(13) "Nonresident" means an individual who is not a resident.

(14) "Finfish" means those living natural resources having either cartilaginous or bony skeletons (Chondrichthyes and Osteichthyes).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 214, ch. 105, § 2, eff. Sept. 1, 1977; Acts 1977, 65th Leg., p. 720, ch. 270, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 550, ch. 260, art. 4, § 1, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1398, ch. 623, §§ 5, 6, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 924, ch. 339, § 1, eff. June 10, 1981.]

**§ 47.002. General Commercial Fisherman's License**

(a) No person may engage in business as a commercial fisherman unless he has obtained a general commercial fisherman's license.

(b) The license fee for a general commercial fisherman's license is \$10. Twenty-five cents of the fee may be retained by the issuing agent, except an employee of the department.

(c) The license fee for a nonresident general commercial fisherman's license is the amount that a Texas resident is charged in the state in which the nonresident is residing for a similar license or \$20, whichever amount is the larger. The department shall publish a list of nonresident fees according to the fees of each state and may alter the fee amounts in the list before September 1 of each year for the remainder of that license year. Twenty-five cents of the fee may be retained by the issuing agent, except an employee of the department.

(d) A person who is in a vessel licensed under this chapter as a menhaden boat and who takes menhaden is not required to obtain or possess a general commercial fisherman's license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1398, ch. 623, § 7, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2542, ch. 676, art. 1, § 1, eff. Sept. 1, 1981.]

**§ 47.003. Commercial Finfish Fisherman's License**

(a) No person may engage in business as a commercial finfish fisherman unless he has obtained a commercial finfish fisherman's license.

(b) The license fee for a resident commercial finfish fisherman's license is \$50. Twenty-five cents of the fee may be retained by the issuing agent, except an employee of the department.

(c) The license fee for a nonresident commercial finfish fisherman's license is the amount that a Texas resident is charged in the state in which the nonresident is residing for a similar license or \$100, whichever amount is larger. The department shall publish a list of nonresident fees according to the fees of each state and may alter the fee amounts in the list before September 1 of each year for the remainder of that license year. Twenty-five cents of the fee may be retained by the issuing agent, except an employee of the department.

(d) No person may be issued a commercial finfish fisherman's license unless the person files with the department at the time he applies for the license an affidavit containing statements that:

(1) not less than 50 percent of the applicant's gainful employment is devoted to commercial fishing;

(2) the applicant is not employed at any full-time occupation other than commercial fishing; and

(3) during the period of validity of the commercial finfish fisherman's license the applicant does

not intend to engage in any full-time occupation other than commercial fishing.

(e) The department shall revoke a commercial finfish fisherman's license if:

(1) the holder engages in any full-time employment other than commercial fishing;

(2) the affidavit required by this section contains a false statement; or

(3) the holder violates any law or regulation of the commission more than one time providing for the conservation and protection of finfish and the holder is convicted of the violations by a proper court within a period of two years.

(f) If any person executes and files with the department an affidavit under this section that contains a false statement knowingly made by the person, the department shall revoke each fishing license held by the person at the time the determination is made.

*Text of subsec. (g) as added by Acts 1981, 67th Leg., p. 87, ch. 46, § 1*

(g) A person who is licensed under this chapter as a bait dealer and who takes finfish for bait only is not required to obtain a commercial finfish fisherman's license.

*Text of subsec. (g) as added by Acts 1981, 67th Leg., p. 2542, ch. 676, art. 1, § 2*

(g) A person who is in a vessel licensed under this chapter as a menhaden boat and who takes menhaden or a person who takes minnows for bait only is not required to obtain a commercial finfish fisherman's license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1398, ch. 623, § 8, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 87, ch. 46, § 1, eff. April 15, 1981; Acts 1981, 67th Leg., p. 2542, ch. 676, art. 1, § 2, eff. Sept. 1, 1981.]

This section was also repealed by Acts 1979, 66th Leg., p. 550, ch. 260, art. 4, § 5, without reference to its amendment by Acts 1979, 66th Leg., p. 1398, ch. 623, § 8.

**§ 47.004. Fish Guide License**

(a) No person may engage in business as a fish guide unless he has obtained a fish guide license.

(b) The license fee for a fish guide license is \$25. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.005. Fish Boat License**

(a) A boat equipped with a motor of any kind or sails may not be used in nontidal water to catch fish, oysters, or other edible aquatic products for pay or for the purpose of sale, barter, or exchange unless the owner of the boat has obtained a fish boat license.

(b) The license fee for a fish boat license is \$3. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.006. Skiff License**

(a) A boat propelled by oars or poles may not be used in nontidal water to catch fish, oysters, or other edible aquatic products for pay or for the purpose of sale, barter, or exchange unless the owner of the boat has obtained a skiff license and has firmly attached the skiff license to the boat.

(b) The license fee for a skiff license is \$1. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.007. Commercial Fishing Boat License**

(a) No person may use a boat required to be numbered or registered under the laws of this state or the United States for the purpose of catching or assisting in catching fish, oysters, or any other edible aquatic life, except shrimp and menhaden, from tidal water for pay or for the purpose of sale, barter, or exchange unless the owner of the boat has obtained a commercial fishing boat license and a commercial fishing boat number.

(b) The fee for a commercial fishing boat license and number is \$6. Twenty-five cents of the fee may be retained by the issuing officer, except an employee of the department.

(c) The commission shall provide by rule for the issuance and use of commercial fishing boat numbers. Each boat required to be licensed by this section must have the number affixed to the bow of the boat. A license issued under this section is not valid unless the number is affixed to the boat as required by this section and the rules of the commission.

(d) A licensee under this section whose boat is destroyed, lost, or put to another use is not required to obtain another license if another boat is used to replace the previous one. The licensee shall affix the boat number to the replacement boat as required by this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 377, ch. 153, § 10, eff. Sept. 1, 1981.]

**§ 47.008. Menhaden Boat License**

(a) A boat may not be used for the purpose of catching menhaden in tidal water unless the owner of the boat has acquired a menhaden boat license.

(b) The license fee for each menhaden boat is \$2,000 a year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2542, ch. 676, art. 1, § 3, eff. Sept. 1, 1981.]

**§ 47.009. Wholesale Fish Dealer's License**

(a) No person may engage in business as a wholesale fish dealer unless he has obtained a wholesale fish dealer's license.

(b) The license fee for a wholesale fish dealer's license is \$250 for each place of business.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.0091. Purchase of Fish**

No wholesale fish dealer may purchase in this state freshwater fish for resale unless he purchases the fish from a licensed commercial fisherman.

[Added by Acts 1981, 67th Leg., p. 2384, ch. 595, § 1, eff. Aug. 31, 1981.]

**§ 47.010. Wholesale Truck Dealer's Fish License**

The license fee for a wholesale truck dealer's fish license is \$125 for each truck.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.011. Retail Fish Dealer's License**

(a) No person may engage in business as a retail fish dealer unless he has obtained a retail fish dealer's license.

(b) The license fee for a retail fish dealer's license is:

(1) \$6 for each place of business in a city or town of less than 7,500 population according to the last preceding federal census;

(2) \$15 for each place of business in a city or town of not less than 7,500 nor more than 40,000 population according to the last preceding federal census; and

(3) \$20 for each place of business in a city or town of more than 40,000 population according to the last preceding federal census.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.0111. Purchase of Fish**

No retail fish dealer may purchase in this state freshwater fish for resale unless he purchases the fish from:

(1) a licensed wholesale fish dealer; or

(2) a licensed commercial fisherman.

[Added by Acts 1981, 67th Leg., p. 2384, ch. 595, § 1, eff. Aug. 31, 1981.]

**§ 47.012. Retail Oyster Dealer's License**

(a) A retail fish dealer may engage in the business of buying only fresh or frozen oysters for the purpose of sale to the consumer if he obtains a retail oyster dealer's license.

(b) The license fee for a retail oyster dealer's license is \$5 for each place of business in a city or town of more than 7,500 population according to the last preceding federal census.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.013. Retail Dealer's Truck License**

(a) A person may engage in the business of selling edible aquatic products from a motor vehicle to consumers only if he obtains a retail dealer's truck license.

(b) The license fee for a retail dealer's truck license is \$25 for each truck.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.014. Bait Dealer's License**

(a) No person may act as a bait dealer unless he has obtained a bait dealer's license.

(b) The license fee for a bait dealer's license is \$10 for each place of business.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 214, ch. 105, § 3, eff. Sept. 1, 1977.]

**§ 47.015. Seine or Net License**

(a) No person may use a seine or net for the purpose of catching edible aquatic life in the water of this state for pay or sale unless he has acquired a seine or net license.

(b) The license fee for a seine or net is \$1 for each 100 feet or fraction of 100 feet of the length of the seine or net.

(c) The seine or net license shall be metal and must be firmly attached to each 100 feet or fraction of 100 feet of the length of the seine or net.

(d) A seine or net license may not be issued for any seine or net that is longer than 1,800 feet or whose meshes are less than one and one-half inches from knot to knot.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.016. Menhaden Fish Plant License**

(a) No person may operate a menhaden fish plant unless he has obtained a menhaden fish plant license.

(b) Applications for a menhaden fish plant license must be submitted on forms prescribed by the department and accompanied by a \$50 filing fee and a certified copy of an order of the commissioners court of the county in which the plant will be located containing:

(1) a description of the plant and its location; and

(2) approval of the court for the construction and operation of the plant.

(c) Decisions of the commissioners court in approving or disapproving the construction of a plant are final and may not be reviewed or appealed.

(d) A menhaden fish plant license shall be issued after a hearing and a finding by the department that the construction and operation of the plant is in the public interest. Regardless of the decision of the department, the \$50 filing fee is not refundable.

(e) Notice of the hearing must be given at least 20 days prior to the date set for the hearing to the county judge of the county in which the plant is to be constructed and to all known interested parties.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.017. Renewal of Fish Plant License**

The department shall renew a menhaden fish plant license on the application of the licensee and on the payment of a \$50 renewal fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.018. Interstate Transportation**

(a) No person may bring into this state aquatic products for the purpose of offering them for sale unless he has obtained a license issued under this subchapter. Aquatic products caught in another state may not be sold under a general commercial fisherman's license, commercial finfish fisherman's license, or a commercial red drum license.

(b) Aquatic products lawfully taken from the waters of another state may be sold within this state by licensed dealers without regard to size limitations imposed on such products taken within this state. A record of the source and disposition of such undersize or oversize products shall be maintained by the dealer for as long as the undersize or oversize products are retained and for at least 30 days thereafter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1399, ch. 623, § 10, eff. Aug. 27, 1979.]

**§§ 47.019, 47.020. Repealed by Acts 1981, 67th Leg., p. 379, ch. 153, § 14, eff. Sept. 1, 1981**

The repealed sections, relating to commercial red drum license and issuance and revocation of a commercial red drum license, respectively, were added by Acts 1977, 65th Leg., p. 720, ch. 270, §§ 2, 3.

[Sections 47.021 to 47.030 reserved for expansion]

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO COMMERCIAL FISHING LICENSES**

**§ 47.031. Expiration of Licenses**

(a) Except as provided in Subsections (b) and (c) of this section, all licenses issued under this chapter expire August 31 following the date of issuance.

(b) A menhaden boat license expires one year from the date of issuance.

(c) A menhaden fish plant license expires one year from the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.032. Refusal of License**

(a) Except as provided in Subsection (b) of this section, no person owing the state any amount for a license or fee under a final judgment of a court may receive a license under this chapter until the indebtedness is satisfied by payment to the department.

(b) Subsection (a) of this section does not apply to applicants for a tidal water commercial fisherman's license, commercial fishing boat license, menhaden boat license, or menhaden fish plant license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.033. Display of License**

All licenses, except a tidal water commercial fisherman's license, commercial fishing boat license, menhaden boat license, and menhaden fish plant

license, must be publicly displayed at all times in the place of business of the licensee. Licenses required for vehicles transporting aquatic products for sale must be displayed in the vehicle.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.034. Fish Size**

(a) No person engaged in business as a commercial fisherman or wholesale or retail fish dealer may possess in his place of business or on a boat or vehicle for the purpose of sale those species of fish of greater or lesser length than set out in Subsection (c) of this section.

(b) No person may buy, sell, or offer for sale those species of fish of greater or lesser length than set out in Subsection (c) of this section.

(c) The maximum and minimum length of fish are as follows:

Fish	Maximum Length	Minimum Length
Flounder	None	12 inches
Sheephead and pompano	None	9 inches
Mackerel	None	14 inches
Gaff-topsail	None	11 inches

(d) This section does not prohibit the processing and selling of lawful fish by cutting, filleting, wrapping, freezing, or otherwise preparing the fish for market.

(e) The possession of saltwater species of fish of greater or lesser length than set out in Subsection (c) of this section on board a licensed commercial shrimp boat engaged in the taking of shrimp or returning to port after taking shrimp is not a violation of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1214, ch. 456, § 13(1), eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 377, ch. 153, § 7, eff. Sept. 1, 1981.]

**§ 47.035. Prima Facie Evidence**

Proof of possession of any undersized or oversized fish in the place of business of any wholesale or retail fish dealer or on board any boat engaged in commercial fishing or in any commercial vehicle is prima facie evidence of possession for the purpose of sale.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.036. Venue**

Venue for a suit for possession of undersized or oversized fish is in the county where the illegal fish are found in possession, where the illegal fish are sold or offered for sale, or from which the illegal fish are shipped.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.037. Inspection**

No person may refuse to allow an employee of the department to inspect aquatic products handled by or in the possession of any commercial fisherman, wholesale fish dealer, or retail fish dealer at any time or in any place.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.038. Seines or Nets for Menhaden**

(a) Nets or purse seines used for catching menhaden may not be:

(1) less than one and one-half inch stretched mesh, excluding the bag;

(2) used in any bay, river, pass, or tributary, nor within one mile of any barrier, jetty, island, or pass, nor within one-half mile offshore in the Gulf of Mexico; or

(3) used for the purpose of taking edible aquatic products for the purpose of barter, sale, or exchange.

(b) No person lawfully catching menhaden in the tidal water of this state may sell, barter, or exchange any edible aquatic products caught in a menhaden seine or net. Possession of edible aquatic fish in excess of five percent by volume of menhaden fish in possession is a prima facie violation of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 47.039. Seasons**

(a) The commission may adopt rules setting open and closed seasons for the noncommercial taking of redfish and speckled sea trout.

(b) No person may catch and retain a redfish or speckled sea trout during a closed season set by the commission under Subsection (a) of this section.

(c) A person who violates this section is guilty of a Class C misdemeanor. Each redfish or speckled sea trout taken and retained in violation of this section constitutes a separate offense.

[Added by Acts 1981, 67th Leg., p. 377, ch. 153, § 8, eff. Sept. 1, 1981.]

[Sections 47.040 to 47.050 reserved for expansion]

**SUBCHAPTER C. PENALTIES, DISPLAY OF LICENSE, AND TRANSFER OF FUNDS**

**§ 47.051. Penalty**

A person who violates a provision of Section 47.002, 47.004 through 47.006, 47.009 through 47.015, 47.017, 47.032 through 47.034, or 47.037, of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200 and is subject to the forfeiture, for one year from the date of the conviction, of a license held under the authority of the listed sections.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 47.052. Penalty

(a) A person who fails to comply with or who violates a provision of Section 47.007 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000, by confinement in jail for not less than one month nor more than one year, or by both.

(b) The department may seize boats, nets, seines, trawls, or other tackle in the possession of a person violating the sections listed in Subsection (a) of this section and hold them until after the trial of the person.

(c) Violations of the above sections may also be enjoined by the attorney general by suit filed in a district court in Travis County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 550, ch. 260, art. 4, § 2, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1399, ch. 623, § 11, eff. Aug. 27, 1979.]

§ 47.053. Penalty

(a) A person who violates a provision of Section 47.008, 47.016, or 47.038, of this code is guilty of a misdemeanor and on first conviction is punishable by a fine of not less than \$20 nor more than \$100. On second conviction, the violator is punishable by a fine of not less than \$50 nor more than \$500.

(b) A licensee under any of the above sections who violates any of the above sections is also subject to suspension of his license for not less than 7 days nor more than 30 days at the discretion of the department on first conviction for a violation. On second conviction, the licensee is subject to revocation of his license for six months after the date of conviction.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 550, ch. 260, art. 4, § 3, eff. Sept. 1, 1979.]

§ 47.0531. Repealed by Acts 1981, 67th Leg., p. 379, ch. 153, § 14, eff. Sept. 1, 1981

The repealed section, relating to penalty for violation of provisions relating to red drum license, was added by Acts 1977, 65th Leg., p. 721, ch. 270, § 4.

Section 16(a) of the 1981 repealing act provides: "An information or indictment alleging a violation of a penal offense repealed by this Act may be presented at any time if the violation occurred before the effective date of this Act, and the person named in the information or indictment as the defendant may be prosecuted and sentenced under the repealed provision as though it were not repealed."

§ 47.054. Refusal to Show License

A person catching fish for the purpose of market or sale who refuses to show his license to an authorized employee of the department upon request is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$25.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 47.055. Disposition of Funds

Money received for licenses issued under this chapter or fines paid for violations of this chapter, less allowable deductions, shall be sent to the department by the 10th day of the month following receipt.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 48. FISH FARMER'S LICENSE

Section	Definitions.
48.001.	Fish Farmer's License Required.
48.002.	Fish Farm Vehicle License Required.
48.003.	Bill of Lading Required for Certain Vehicles.
48.004.	License Fees.
48.005.	Form and Duration of License.
48.006.	Additional Fish Farmer's Licenses.
48.007.	Records.
48.008.	Harvesting and Sale of Fish.
48.009.	Sales of Bass and Crappie Limited.
48.010.	Marketing of Redfish and Speckled Sea Trout.
48.0101.	Federal Grants.
48.011.	Penalties.
48.012.	Fish Farms Protected.
48.013.	

§ 48.001. Definitions

In this chapter:

(1) "Fish farmer" means any person engaged in the business of producing, propagating, transporting, possessing, and selling fish raised in a private pond, but does not include a person engaged in the business of producing, propagating, transporting, possessing, and selling fish propagated for bait purposes.

(2) "Private pond" means a pond, reservoir, vat, or other structure capable of holding fish in confinement wholly within or on the enclosed land of an owner or lessor.

(3) "Owner" means a fish farmer licensed by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 48.002. Fish Farmer's License Required

No person may be a fish farmer without first having acquired from the department a fish farmer's license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 48.003. Fish Farm Vehicle License Required

(a) Except as provided by Subsection (b) of this section, a vehicle used to transport fish from a fish farm for sale from the vehicle is required to have a fish farm vehicle license.

(b) A fish farm vehicle license is not required for a vehicle owned and operated by the holder of a fish farmer's license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 48.004. Bill of Lading Required for Certain Vehicles

A vehicle, from which no fish sales are made, transporting fish from a fish farm shall carry a bill of lading that shows the number and species of fish carried, the name of the owner and the location and license number of the fish farm from which the fish were transported, and the destination of the cargo.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.005. License Fees**

The department shall issue a fish farmer's license or a fish farm vehicle license on the payment of \$5 for each license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.006. Form and Duration of License**

(a) A fish farmer's license and a fish farm vehicle license must be on a numbered form provided by the department.

(b) A license is valid from September 1 or the date of issue, whichever is later, through the following August 31.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.007. Additional Fish Farmer's Licenses**

A fish farmer holding a fish farmer's license may acquire additional licenses for display in or on additional premises or vehicles on payment to the department of \$1 for each additional license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.008. Records**

The holder of a fish farmer's license shall maintain a record of the sales and shipments of fish. The record is open for inspection by designated employees of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.009. Harvesting and Sale of Fish**

Fish of any size from a fish farm may be harvested and sold at any time and in any county.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.010. Sales of Bass and Crappie Limited**

(a) Except as provided in Subsection (b) of this section, no person may sell bass or crappie from a fish farm for consumption or for resale.

(b) Bass and crappie may be sold for resale to a licensed fish farmer only, and to any person for stocking purposes.

(c) Other kinds of fish from a fish farm may be sold for any purpose.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.0101. Marketing of Redfish and Speckled Sea Trout**

(a) The commission shall adopt rules providing for the raising, sale, transportation, and possession of redfish and speckled sea trout raised by a fish farmer licensed under this chapter.

(b) The rules shall provide for and require the identification of redfish and speckled sea trout raised by a fish farmer under this chapter.

(c) The license of a fish farmer who violates a rule of the commission made under this chapter may be suspended by the commission on notice to the fish farmer and on a hearing.

[Added by Acts 1981, 67th Leg., p. 377, ch. 153, § 9, eff. Sept. 1, 1981.]

**§ 48.011. Federal Grants**

Federal grants for research and development of commercial fisheries may be used for individual fishery projects with the approval of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.012. Penalties**

Any person who violates any provision of this chapter for which a specific penalty is not provided is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 48.013. Fish Farms Protected**

(a) No person, other than the owner or operator of a fish farm or a person with the owner's or operator's consent, may fish on or take fish from a fish farm.

(b) Except as provided in Subsection (c) of this section, a person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(c) A person who violates this section by taking fish of a value of more than \$200 is guilty of a felony and on conviction is punishable by imprisonment in the penitentiary for not more than 10 years.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 49. FALCONRY PERMIT**

Section	
49.001.	Definitions.
49.002.	Prohibited Acts.
49.003.	Apprentice Falconer's Permit.
49.004.	General Falconer's Permit.
49.0045.	Master Falconer's Permit.
49.0047.	Joint Federal-State Permits.
49.005.	Raptor Limit.
49.006.	Renewal.
49.007.	Renewal Fees.
49.008.	Nonresident Falconer's Permit.
49.009.	Reciprocity.
49.010.	Hunting.
49.011.	Sale of Raptors.
49.012.	Property of State.
49.013.	Transportation of Raptors.
49.014.	Powers of Department.
49.015.	Rare or Endangered Species.
49.016.	Advisory Board.
49.017.	Penalties.

§ 49.001. Definitions

In this chapter:

(1) "Nonresident" means an individual, other than an alien, who has not been a resident of this state for more than six months immediately before applying for a falconry permit.

(2) "Alien" means an individual who is not a citizen of the United States and who has not declared his intention to become a citizen.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 49.002. Prohibited Acts

(a) Except as provided in Subsection (b) of this section, no person may take, capture, or possess, or attempt to take or capture, any native raptors unless he has obtained a permit issued under this chapter.

(b) A person may collect and hold protected species of wildlife for scientific, zoological, and propagation purposes if he holds a permit issued by the department for that purpose.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 49.003. Apprentice Falconer's Permit

The department may issue an apprentice falconer's permit to any person who:

- (1) is at least 14 years of age;
- (2) is sponsored by the holder of a general falconer's or a master falconer's permit;
- (3) submits an application on forms prescribed by the department; and
- (4) submits a \$20 original permit fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 116, ch. 57, § 1, eff. Sept. 1, 1977.]

Section 11 of the 1977 Act provided:  
 "This Act takes effect September 1, 1977. A permit issued before the effective date of this Act under Chapter 49, Parks and Wildlife Code, remains valid as provided under the law under which it was issued until the date of its renewal."

§ 49.004. General Falconer's Permit

The department may issue a general falconer's permit to any person who:

- (1) is at least 18 years of age;
- (2) has at least two years of hunting experience with raptors under an apprentice falconer's permit or its equivalent;
- (3) submits an application on forms prescribed by the department; and
- (4) submits a \$30 original permit fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 116, ch. 57, § 2, eff. Sept. 1, 1977.]

§ 49.0045. Master Falconer's Permit

The department may issue a master falconer's permit to any person who:

- (1) is at least 21 years of age;
- (2) has at least five years of hunting experience with raptors under a general falconer's permit or its equivalent;
- (3) submits an application on forms prescribed by the department; and
- (4) submits a \$40 original permit fee.

[Added by Acts 1977, 65th Leg., p. 116, ch. 57, § 3, eff. Sept. 1, 1977.]

§ 49.0047. Joint Federal-State Permits

The department may issue joint federal-state falconer's permits as allowed by the regulations of the U. S. Fish and Wildlife Service.

[Added by Acts 1977, 65th Leg., p. 116, ch. 57, § 4, eff. Sept. 1, 1977.]

§ 49.005. Raptor Limit

(a) The holder of a falconer's permit may take, possess, and transport only the number of raptors allowed by regulation of the commission for the kind of permit held.

(b) The department shall designate species of raptor.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 117, ch. 57, § 5, eff. Sept. 1, 1977.]

§ 49.006. Renewal

(a) A falconer's permit expires on June 30 of the second calendar year following the date of issuance.

(b) Applications for renewal must be accompanied by the renewal fee and a report prescribed by the department accounting for all activities during the license period.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 117, ch. 57, § 6, eff. Sept. 1, 1977.]

§ 49.007. Renewal Fees

The renewal fee for each falconer's permit is \$10.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 117, ch. 57, § 7, eff. Sept. 1, 1977.]

§ 49.008. Nonresident Falconer's Permit

(a) A nonresident falconer's permit may be issued by the department to a nonresident or alien entitled to a nonresident hunting license.

(b) An applicant for a nonresident falconer's permit must submit an application on forms prescribed by the department and a \$5 permit fee.

(c) The permit is valid for five consecutive days.

(d) The holder of this permit may hunt with the aid of a validly held raptor.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 49.009. Reciprocity**

A person holding raptors under a valid license issued by another state and establishing permanent residence in this state must apply to the department within 10 days for a falconer's permit from this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 49.010. Hunting**

The holder of a valid permit issued under this chapter and a valid hunting license may hunt native species of wild birds, wild animals, and migratory game birds during the open season and may hunt unprotected species of wildlife.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 49.011. Sale of Raptors**

(a) Except as permitted in Subsection (b) of this section, no person may buy, sell, barter, or exchange, or offer to buy, sell, barter, or exchange, a raptor in this state.

(b) The holder of a falconer's permit may, with approval of the department, exchange a raptor with another holder of a falconer's permit if there is no consideration for the exchange other than the raptors exchanged.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 117, ch. 57, § 8, eff. Sept. 1, 1977.]

**§ 49.012. Property of State**

All raptors captured, taken, or held in this state remain the property of the people of the state except as provided in this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 49.013. Transportation of Raptors**

The department may issue a special permit to transport raptors out of the state on application of a permittee holding raptors who is permanently leaving the state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 49.014. Powers of Department**

The department may:

(1) prescribe reasonable rules and regulations for taking and possessing raptors, time and area from which raptors may be taken, and species that may be taken;

(2) provide standards for possessing and housing raptors held under a permit;

(3) prescribe annual reporting requirements and procedures;

(4) prescribe eligibility requirements for any falconry permit; and

(5) require and regulate the identification of raptors held by permit holders.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 117, ch. 57, § 9, eff. Sept. 1, 1977.]

**§ 49.015. Rare or Endangered Species**

The department shall insure that the taking and possessing for falconry purposes of raptors classified as rare or endangered by this state, the regulations of the department, or the United States Bureau of Sports, Fisheries, and Wildlife are restricted to competent and experienced individuals and to numbers consistent with good management practices and the current population status of the individual species or subspecies involved.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 117, ch. 57, § 10, eff. Sept. 1, 1977.]

**§ 49.016. Advisory Board**

(a) The department shall establish an advisory board consisting of three mature and experienced falconers.

(b) Members of the advisory board shall be selected by the department from nominees submitted by the Texas Hawking Association, the North American Falconers Association, or any unaffiliated resident falconers.

(c) The advisory board shall advise the department on the development and implementation of the rules and regulations issued under this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 49.017. Penalties**

A person who violates a provision of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200 for each violation.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 50. COMBINATION HUNTING AND FISHING LICENSE**

Section	
50.001.	Combination License Authorized.
50.002.	License Fee.
50.003.	Other Licenses Not Required.
50.004.	Form; Duplicate License.
50.005.	Holder Shall Comply With Other Law.

**§ 50.001. Combination License Authorized**

The department may issue to residents of this state a combination hunting and fishing license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 50.002. License Fee**

The fee for the combination license is \$8.75. Authorized agents of the department, other than employees of the department, may retain 25 cents of the fee as a collection fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 50.003. Other Licenses Not Required**

A resident who has acquired a combination hunting and fishing license is not required to obtain the hunting license required by Chapter 42 of this code or the fishing license required by Chapter 46 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 50.004. Form; Duplicate License**

(a) The department shall prescribe the form of the license and shall attach to it deer tags as provided in Chapter 42 of this code.

(b) Duplicate licenses may be issued for the same fee and in the same manner as hunting licenses under Chapter 42 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 50.005. Holder Shall Comply With Other Law**

A holder of a combination hunting and fishing license shall comply with and is subject to the penalties in Chapters 42 and 46 of this code, unless those requirements or penalties conflict with this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 51. SHELLFISH CULTURE LICENSE**

Section	
51.001.	Definitions.
51.0011.	Exemption of Crayfish.
51.002.	License Required.
51.003.	License for Each Premises.
51.004.	Issuance of License; Period of Validity.
51.005.	License Fee.
51.006.	Shipments of Shellfish.
51.007.	Records.
51.008.	Harvest and Sale of Shellfish.
51.009.	Exotic Shellfish Permit Required.
51.010.	Permits for Taking Brood Stock.
51.011.	Penalty.

**§ 51.001. Definitions**

In this chapter:

(1) "Shellfish culture" means the business of producing, propagating, transporting, selling, or possessing for sale shellfish raised in private ponds or reservoirs in this state.

(2) "Shellfish" means aquatic species of crustaceans and mollusks, including oysters, clams, shrimp, prawns, and crabs of all varieties.

(3) "Private pond" means a pond, reservoir, vat, or other structure capable of holding shellfish in confinement wholly within or on privately owned enclosed land.

(4) "Exotic shellfish" means shellfish imported alive into this state for shellfish culture purposes, but does not include shellfish taken from the high seas adjacent to the Texas coast.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 399, ch. 161, § 2, eff. May 20, 1981.]

**§ 51.0011. Exemption of Crayfish**

This chapter does not apply to crayfish, other than in public water and as may be designated in Chapters 67 and 68 of this code.

[Added by Acts 1981, 67th Leg., p. 398, ch. 161, § 1, eff. May 20, 1981.]

**§ 51.002. License Required**

No person may engage in shellfish culture in this state unless he has first acquired a shellfish culture license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 51.003. License for Each Premises**

A separate license is required for each tract of land on which a private pond is used for shellfish culture.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 51.004. Issuance of License; Period of Validity**

(a) The department shall issue the shellfish culture license, and each license shall be numbered on a form provided by the department.

(b) A license is valid during the license year for which it is issued. The license year begins September 1 and extends through August 31 of the following year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 51.005. License Fee**

The fee for a shellfish culture license is \$25.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 51.006. Shipments of Shellfish**

Vehicles transporting shellfish to or from a licensed facility shall carry a bill of lading showing:

(1) the name, location, and license number of the shellfish culturist;

(2) the quantity and species of shellfish; and

(3) the source and destination of the shellfish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 51.007. Records**

(a) The holder of a shellfish culture license shall make and keep records showing purchases, sales, and shipments of shellfish.

(b) The records are open to inspection by authorized employees of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 51.008. Harvest and Sale of Shellfish**

(a) Shellfish produced by a shellfish culturist may be harvested by any means and may be of any size.

(b) Subject to health regulations, shellfish produced by a shellfish culturist may be sold any time and in any county to any person.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 51.009. Exotic Shellfish Permit Required

(a) No person may import, possess, propagate, or transport exotic shellfish unless he has acquired a permit from the department.

(b) The department may not issue a permit to any shellfish culturist for exotic shellfish unless the applicant furnishes sufficient evidence showing that the shellfish are free of disease.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 51.010. Permits for Taking Brood Stock

(a) The department may issue permits to shellfish culturists or their agents authorizing the taking of a reasonable quantity of shellfish brood stock during a closed season, in closed public waters, or of any size.

(b) The permits shall show:

(1) the name, address, and license number of the shellfish culturist;

(2) the period of time during which brood fish may be taken;

(3) the place where taking is allowed;

(4) the species and number of shellfish to be taken; and

(5) the method of taking.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 51.011. Penalty

A person who violates any provision of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### SUBTITLE B. HUNTING AND FISHING

#### CHAPTER 61. UNIFORM WILDLIFE REGULATORY ACT

##### SUBCHAPTER A. GENERAL PROVISIONS

Section	Title.
61.001.	Purpose.
61.002.	Applicability of Chapter.
61.003.	Applicability of Additional Counties.
61.004.	Definitions.
61.005.	Crayfish.

##### SUBCHAPTER B. PROHIBITED ACTS

61.021.	Taking Wildlife Resources Prohibited.
61.022.	Taking Wildlife Resources Without Consent of Landowner Prohibited.

##### SUBCHAPTER C. REGULATORY DUTIES

Section	
61.051.	Duty to Investigate and Study Wildlife Resources.
61.052.	General Regulatory Duty.
61.053.	Open Seasons.
61.054.	Proclamations of the Commission.
61.055.	Amendments and Revocations.
61.056.	Proclamations Concerning Certain Deer, Antelope, and Elk.
61.057.	Antlerless Deer, Antelope, and Elk Permits.

##### SUBCHAPTER C-1. REGULATION OF COMMERCIAL FISHING [REPEALED]

61.061 to 61.068. Repealed.

##### SUBCHAPTER D. ADMINISTRATIVE PROCEDURES

61.101.	County Hearing on Proclamation.
61.102.	Notice on County Hearing.
61.103.	Adoption of Proclamations.
61.104.	Effective Date and Duration of Proclamations.
61.105.	Copies of Proclamations.
61.106.	Judicial Review of Proclamation.

##### SUBCHAPTER E. PROVISIONS AFFECTING LIMITED AREAS

61.201.	Lake Tawakoni.
61.202.	Approval of Certain County Commissioners Courts.
61.203.	Trotlines and Crab Traps in Aransas County.
61.204.	Repealed.
61.205.	Deer in Dimmit, Uvalde, and Zavala Counties.
61.206.	Storage and Processing of Deer in Lampasas County.
61.207.	Trailing Deer With Dogs in Panola County.
61.208.	Special Archery Season for Certain Tract.

##### SUBCHAPTER F. PENALTIES

61.901.	Penalties.
61.902.	Repealed.
61.903.	Penalties: Hunting from Vehicle or at Night.

##### SUBCHAPTER A. GENERAL PROVISIONS

#### § 61.001. Title

This chapter may be cited as the Uniform Wildlife Regulatory Act.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 61.002. Purpose

The purpose of this chapter is to provide a method for the conservation of an ample supply of wildlife resources in the places covered by this chapter to insure reasonable and equitable enjoyment of the privileges of ownership and pursuit of wildlife resources. This chapter provides a flexible law to enable the commission to deal effectively with changing conditions to prevent depletion and waste of wildlife resources.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 61.003. Applicability of Chapter

Title 7 of this code prescribes the counties, places, and wildlife resources to which this chapter applies.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 61.004. Applicability of Additional Counties**

A law making this chapter applicable to all or a portion of the wildlife resources of a county or place repeals any provision of general or special law regulating the taking or possession of those wildlife resources when the commission's proclamation relating to those wildlife resources in the county or place takes effect.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 506, ch. 213, § 1, eff. Aug. 31, 1981.]

Sections 5 and 6 of the 1981 amendatory act provide:

"Sec. 5. A proclamation that was adopted by the commission before the effective date of this Act, that purports to regulate the possession of wildlife resources, and that by its terms was in effect on the effective date of this Act is validated as of the effective date of this Act to the extent that it would have been valid if adopted on or after the effective date of this Act.

"Sec. 6. The provisions of this Act do not affect the provisions of H.B. No. 1000, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 153]."

**§ 61.005. Definitions**

In this chapter:

(1) "Hunt" includes take, kill, pursue, trap, and the attempt to take, kill, or trap.

(2) "Wildlife resources" means all game animals, game birds, marine animals, fish, and other aquatic life.

(3) "Depletion" means the reduction of a species below its immediate recuperative potential by any deleterious cause.

(4) "Waste" means a supply of a species or one sex of a species in sufficient numbers that a seasonal harvest will aid in the reestablishment of a normal number of the species.

(5) "Daily bag limit" means the quantity of a species of game that may be taken in one day.

(6) "Possession limit" means the maximum number of a species of game that may be possessed at one time.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 439, ch. 184, § 2, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2740, ch. 748, § 2, eff. Sept. 1, 1981.]

**§ 61.006. Crayfish**

Except for Section 61.022 and Chapter 68 of this code, this chapter does not apply to crayfish, other than in public water.

[Added by Acts 1981, 67th Leg., p. 399, ch. 161, § 3, eff. May 20, 1981.]

[Sections 61.007 to 61.020 reserved for expansion]

**SUBCHAPTER B. PROHIBITED ACTS**

**§ 61.021. Taking Wildlife Resources Prohibited**

Except as permitted under a proclamation issued by the commission under this chapter, no person may hunt, catch, or possess a game bird or game animal, fish, marine animal, or other aquatic life at any time or in any place covered by this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 506, ch. 213, § 2, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2740, ch. 748, § 3, eff. Sept. 1, 1981.]

**§ 61.022. Taking Wildlife Resources Without Consent of Landowner Prohibited**

No person may hunt, catch, or possess a game animal or game bird, fish, marine animal, or other aquatic life at any time and at any place covered by this chapter unless the owner of the land or water, or the owner's agent, consents.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 506, ch. 213, § 2, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2740, ch. 748, § 3, eff. Sept. 1, 1981.]

[Sections 61.023 to 61.050 reserved for expansion]

**SUBCHAPTER C. REGULATORY DUTIES**

**§ 61.051. Duty to Investigate and Study Wildlife Resources**

(a) The department shall conduct scientific studies and investigations of all species of wildlife resources to determine:

- (1) supply;
- (2) economic value;
- (3) environments;
- (4) breeding habits;
- (5) sex ratios;
- (6) effects of hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, and overpopulation; and
- (7) any other factors or conditions causing increases or decreases in supply.

(b) The studies and investigations may be made periodically or continuously.

(c) The commission shall make findings of fact based on the studies and investigations of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 61.052. General Regulatory Duty**

(a) The commission shall regulate the periods of time when it is lawful to take or possess wildlife resources in or from the places covered by this chapter.

(b) The commission shall regulate the means, methods, manners, and places in which it is lawful to take or possess wildlife resources in or from the places covered by this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 507, ch. 213, § 3, eff. Aug. 31, 1981.]

**§ 61.053. Open Seasons**

The commission shall provide open seasons for the taking or possession of wildlife resources if its investigations and findings of fact reveal that open seasons may be safely provided or if the threat of waste requires an open season to conserve wildlife resources.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 507, ch. 213, § 3, eff. Aug. 31, 1981.]

### § 61.054. Proclamations of the Commission

(a) Regulation of the taking or possession of wildlife resources under this chapter shall be by proclamation of the commission.

(b) A proclamation of the commission authorizing the taking or possession of wildlife resources must specify:

(1) the species, quantity, age or size, and, to the extent possible, the sex of the wildlife resources authorized to be taken or possessed;

(2) the means, method, or manner that may be used to take or possess the wildlife resources; and

(3) the region, county, area, or portion of a county where the wildlife resources may be taken or possessed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 507, ch. 213, § 3, eff. Aug. 31, 1981.]

Sections 5 and 6 of the 1981 amendatory act provide:

"Sec. 5. A proclamation that was adopted by the commission before the effective date of this Act, that purports to regulate the possession of wildlife resources, and that by its terms was in effect on the effective date of this Act is validated as of the effective date of this Act to the extent that it would have been valid if adopted on or after the effective date of this Act.

"Sec. 6. The provisions of this Act do not affect the provisions of H.B. No. 1000, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 153]."

### § 61.055. Amendments and Revocations

(a) If the commission finds that there is a danger of depletion or waste, it shall amend or revoke its proclamations to prevent the depletion or waste and to provide to the people the most equitable and reasonable privilege to pursue, take, possess, and kill wildlife resources.

(b) The commission may amend or revoke its proclamations at any time it finds the facts warrant a change.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 507, ch. 213, § 3, eff. Aug. 31, 1981.]

### § 61.056. Proclamations Concerning Certain Deer, Antelope, and Elk

A proclamation of the commission authorizing the taking of antlerless deer or antelope in this state, or elk in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell counties, is not effective for a specific tract of land unless the owner or other person in charge of the land agrees in writing to the removal and to the number of antlerless deer, antelope, or elk authorized to be taken.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 1860, ch. 439, § 3, eff. Aug. 31, 1981.]

### § 61.057. Antlerless Deer, Antelope, and Elk Permits

(a) Except as provided in Subsection (c) of this section, no person may hunt an antlerless deer or antelope in this state, or elk in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell counties, without first having

acquired an antlerless deer, antelope, or elk permit issued by the department on a form provided by the department.

(b) The permit may be distributed by the department or by the owner or other person in charge of a tract of land where hunting is authorized and which is subject to an agreement under Section 61.056 of this code. An owner or other person in charge of land may distribute permits only for the land he owns or is in charge of.

(c) When conditions warrant, the commission may allow hunting of antlerless deer or antelope in this state, or elk in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell counties, without a permit. The proclamation allowing hunting without a permit must be specific as to the county or portion of a county to which it applies.

(d) No person may sell or trade a permit authorized by this section for anything of value.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 1860, ch. 439, §§ 4, 5, eff. Aug. 31, 1981.]

[Sections 61.058 to 61.060 reserved for expansion]

### SUBCHAPTER C-1. REGULATION OF COMMERCIAL FISHING [REPEALED]

§§ 61.061 to 61.068. Repealed by Acts 1981, 67th Leg., p. 379, ch. 153, § 14, eff. Sept. 1, 1981

The repealed sections, relating to finfish research and reports and the taking of red drum, were added by Acts 1977, 65th Leg., p. 722, ch. 270, § 6. See, now, § 66.217.

Section 6 of Acts 1981, 67th Leg., ch. 213, provides: "The provisions of this Act do not affect the provisions of H.B. No. 1000, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 153]."

[Sections 61.069 to 61.100 reserved for expansion]

### SUBCHAPTER D. ADMINISTRATIVE PROCEDURES

#### § 61.101. County Hearing on Proclamation

(a) Before a proclamation of the commission may be adopted, the department shall hold a public hearing in the county to be affected by the proclamation.

(b) The hearing may be conducted by a member of the commission or by any designated employee of the department. This subsection does not require the presence of a member at any county hearing. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 61.102. Notice on County Hearing

Notice of the hearing must be given in a newspaper published in the county at least 10 days before the date of the hearing. If no newspaper is published in the county, the notice must be given in a newspaper published in an adjoining county and having wide circulation in the county in which the hearing is to be held.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 61.103. Adoption of Proclamations**

(a) A proclamation under this chapter must be adopted by a quorum of the commission at a meeting of the commission held in the commission's office in Austin.

(b) A proclamation may be adopted at any special or regular meeting of the commission, for which the date and time are designated by the commission.

(c) Any person interested in a proclamation is entitled to be heard at the meeting and may introduce evidence on the imminence of depletion or waste.

(d) For the purpose of adopting a proclamation under this chapter, a quorum of the commission is four members.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 61.104. Effective Date and Duration of Proclamations**

(a) Except as provided in Subsection (b) of this section, a proclamation takes effect at the time determined by the commission. The time designated by the commission may not be earlier than 20 days after the day the proclamation is adopted by the commission.

(b) If the commission finds that there is an immediate danger of depletion in any area as to a species, the commission may declare a state of emergency, and a proclamation issued under the state of emergency takes effect on issuance.

(c) A proclamation of the commission continues in effect until it expires by its own terms or until it is amended or repealed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 549, ch. 260, art. 2, § 1, eff. Sept. 1, 1979.]

**§ 61.105. Copies of Proclamations**

On the adoption of a proclamation, a copy shall be numbered and filed in the office of the commission in Austin. A copy shall be filed with the secretary of state. A copy shall be sent to each county clerk for filing and to each county attorney of a county affected by the proclamation.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 549, ch. 260, art. 2, § 2, eff. Sept. 1, 1979.]

**§ 61.106. Judicial Review of Proclamation**

(a) The venue for any suit challenging the validity of a proclamation of the commission under this chapter is in Travis County.

(b) The party complaining of a proclamation has the burden of proof to show invalidity.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 61.107 to 61.200 reserved for expansion]

**SUBCHAPTER E. PROVISIONS AFFECTING LIMITED AREAS**

**§ 61.201. Lake Tawakoni**

The commission's regulations for Lake Tawakoni shall be uniform for the entire lake.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 61.202. Approval of Certain County Commissioners Courts**

(a) No proclamation of the commission is effective in a county listed in Subsection (e) of this section unless it has been approved by the commissioners court of the county.

(b) The commissioners court of a county listed in Subsection (e) of this section shall approve or disapprove a proclamation, in whole or in part, at the first regular meeting occurring more than five days after it receives notification of the adoption of a proclamation affecting the county.

(c) If the commissioners court approves the proclamation, it takes effect at the time the commission has designated or immediately on its approval, whichever is later.

(d)(1) If the commissioners court of Bandera, Coke, Crockett, Dimmit, Edwards, Frio, Grayson, Hays, Kinney, Lampasas, Medina, Reagan, Robertson, Sutton, Val Verde, or Zavala county disapproves a proclamation, the taking of wildlife resources in the county is governed by the previous year's proclamation. After disapproval of a proclamation, no public hearing on a similar proposed proclamation may be held within six months of the disapproval, unless the commissioners court certifies to the commission that there has occurred a material change in the surrounding circumstances which requires a public hearing before the end of the six-month period.

(2) If the commissioners court of Brooks, Comal, Gillespie, Kerr, Kimble, Llano, Mason, Menard, Real, Refugio, San Saba, Schleicher, or Uvalde county disapproves a proclamation, or part of a proclamation, the taking of wildlife resources in the county is governed either by the general law of this state or by the proclamations of the prior year, to be determined by order of the commissioners court, until such time as the commissioners court approves of subsequent proclamations of the commission. If the commissioners court fails to designate either the general law or the proclamations for the prior year, the law or proclamation in effect for the prior year continues in effect. After disapproval of a proclamation, no public hearing on a similar proposed proclamation may be held within six months of the disapproval, unless the commissioners court certifies to the commission that there has occurred a material change in the surrounding circumstances which requires a public hearing before the end of the six-month period.

(e) This section applies only to Bandera, Brooks, Coke, Comal, Crockett, Dimmit, Edwards, Grayson,

Frio, Gillespie, Hays, Kerr, Kimble, Kinney, Lampasas, Llano, Mason, Medina, Menard, Reagan, Real, Refugio, Robertson, San Saba, Schleicher, Sutton, Uvalde, Val Verde, and Zavala counties.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1222, ch. 456, § 21, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 1256, ch. 484, § 2, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 524, ch. 247, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1004, ch. 440, § 2, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1013, ch. 447, § 2, eff. June 6, 1979.]

#### § 61.203. Trotlines and Crab Traps in Aransas County

(a) The commission shall regulate the use of trotlines and crab traps outside the net-free zone in Aransas County to protect persons engaged in fishing, boating, and other water sports.

(b) The regulations may require spacing and marking of trotlines and crab traps and may authorize the seizure of abandoned trotlines and traps.

(c) The regulations under this section shall be adopted in the same manner as other regulations under this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 61.204. Repealed by Acts 1977, 65th Leg., p. 802, ch. 279, § 1, eff. Aug. 29, 1977

The repealed section, relating to limitations in Trans-Pecos Counties, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

#### § 61.205. Deer in Dimmit, Uvalde, and Zavala Counties

(a) The commission shall maintain in Dimmit, Uvalde, and Zavala counties a deer herd and breeding stock of productive excellence that will assure harvest of buck deer of the size and quality for which these counties are noted.

(b) When investigations and findings of fact disclose that there is a danger of losing quality deer because of waste, depletion, or other controllable factors, the commission shall regulate the season, harvest limits, and the type, size, and sex of deer to maintain and recover the standard of excellence.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 61.206. Storage and Processing of Deer in Lampasas County

(a) The commission may regulate the making and maintenance of records by a bailee for hire accepting deer for storage or for processing. This section applies to Lampasas County only.

(b) A bailee for hire shall record the name and address of each bailor of deer, the date of the bailment, the name and address of every person who removes deer from storage (if processing is not done by the bailee), and the date of removal of the unprocessed deer. If the bailee processes the deer, he shall remove the deer tag, if any, at the time of

processing. The records required by this section may be entered in the usual and customary books of account, or in a simple journal if no other records are maintained by the bailee.

(c) The records required by this section and the tags removed from processed deer shall be kept for at least four months after the record is made or the tag removed. After the four-month period, the bailee may destroy the records and tags.

(d) An authorized representative of the commission may inspect deer held for storage and deer tags held by the bailee during normal business hours and without causing undue interference of the bailee's business. A bailee for hire shall give to an authorized representative of the commission any deer tag held by the bailee, the name and address of any person removing deer from storage, and the date of any removal if the authorized representative makes a request for the tag or information during the four-month period after a bailment and the delivery of a proper receipt for the bailment. A bailee who complies with a proper request by giving a deer tag or information to an authorized representative is not liable to any person damaged as a result of compliance.

(e) Regulations of the commission under this section may not require a more onerous standard of conduct or duty than the minimum requirements of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 61.207. Trailing Deer With Dogs in Panola County

The commission may regulate or prohibit the hunting and trailing of buck deer on any tract of 10,000 or more contiguous acres of land in Panola County which is designated as a preserve for restocking deer under the regulations of the commission and the Department of Interior of the United States and by state and federal law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 61.208. Special Archery Season for Certain Tract

(a) This section applies only to the tract of land described by Section 1, Chapter 646, Acts of the 59th Legislature, Regular Session, 1965.

(b) The commission shall:

(1) provide an archery season for the taking of buck and doe deer from October 1 through October 31; and

(2) require a special nonresident hunting license for the taking of deer and javelina by bow and arrow during the archery season required by this section.

(c) The nonresident hunting license fee is \$5 and the license is valid for five days only.

(d) It is lawful to:

(1) hunt javelina with bow and arrow of legal specifications at any time;

(2) hunt javelina with firearms during the archery season for deer; and

(3) hunt deer of either sex during the archery season.

(e) No person may use a crossbow at any time. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 61.209 to 61.900 reserved for expansion]

SUBCHAPTER F. PENALTIES

§ 61.901. Penalties

(a) Except as provided in this section or in Section 61.903 of this code, a person who violates any provision of this chapter or any proclamation or regulation of the commission issued under the authority of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each game animal, game bird, or fish taken or possessed in violation of this chapter or of a proclamation or regulation of the commission constitutes a separate offense.

(b) A person who violates a proclamation or regulation of the commission by the use of artificial lights in Hardin, Jasper, Newton, Orange, or Tyler counties is guilty of a misdemeanor and on conviction is punishable by confinement in jail for not less than 3 nor more than 90 days, or by a fine of not less than \$50 nor more than \$200, or by both.

(c) A person who violates a proclamation or regulation of the commission regulating the use and possession of nets, seines, trawls, traps, or other devices used for catching aquatic life, except shrimp, in the inside water of this state is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200 and on a second or subsequent conviction is punishable by a fine of not less than \$50 nor more than \$500. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 381, ch. 190, §§ 1, 2, eff. May 20, 1977; Acts 1981, 67th Leg., p. 507, ch. 213, § 4, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2698, ch. 735, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2740, ch. 748, § 4, eff. Sept. 1, 1981.]

§ 61.902. Repealed by Acts 1981, 67th Leg., p. 379, ch. 153, § 14, eff. Sept. 1, 1981

The repealed section, added by Acts 1977, 65th Leg., p. 723, ch. 270, § 7, provided penalties for red drum violations.

Section 16(a) of the 1981 repealing act provides: "An information or indictment alleging a violation of a penal offense repealed by this Act may be presented at any time if the violation occurred before the effective date of this Act, and the person named in the information or indictment as the defendant may be prosecuted and sentenced under the repealed provision as though it were not repealed."

§ 61.903. Penalties: Hunting from Vehicle or at Night

(a) A person who violates a proclamation of the commission that prohibits the conduct defined by Section 62.003 or 62.004 of this code is guilty of a Class C misdemeanor.

(b) If it is shown at the trial of the defendant that he has been convicted within five years before the trial date of a violation of a proclamation or regulation that prohibits the conduct defined by Section 62.003 or 62.004 of this code, he is guilty of a Class B misdemeanor.

[Added by Acts 1981, 67th Leg., p. 698, ch. 735, § 2, eff. Aug. 31, 1981.]

CHAPTER 62. PROVISIONS GENERALLY APPLICABLE TO HUNTING

SUBCHAPTER A. GENERAL PROVISIONS

- Section 62.001. Definitions.
- 62.002. Hunting With Certain Weapons.
- 62.003. Hunting From Vehicles.
- 62.004. Hunting at Night.
- 62.005. Hunting With Light.
- 62.006. Hunting for Hire.
- 62.007. Stopping for Search.
- 62.008. Prima Facie Evidence.
- 62.009. Purchase for Evidence.
- 62.010. Exceeding Bag Limits, Hunting During Closed Season, etc.; Penalty.
- 62.011. Retrieval and Waste of Game.
- 62.012. Written Consent to Hunt Required.

SUBCHAPTER B. SALE, TRANSPORTATION, AND STORAGE OF GAME

- 62.021. Sale or Purchase of Game.
- 62.022. Sale or Purchase of Certain Game.
- 62.023. Sale by Taxidermist.
- 62.024. Importation of Game.
- 62.025. Importation of Game.
- 62.026. Importation of Protected Wildlife From Mexico.
- 62.0265. Transportation of Wild Animals and Birds.
- 62.027. Affidavit for Transporting Specimens.
- 62.028. Failure to Obtain Affidavit.
- 62.029. Records of Game in Storage.
- 62.030. Possession of Game in Storage.
- 62.031. Inspections of Storage Facilities.

SUBCHAPTER C. ARCHERY SEASON

- 62.051. Application of Subchapter.
- 62.052. Definition.
- 62.053. Archery Season.
- 62.054. Possession of Firearms or Crossbow.
- 62.055. Equipment.
- 62.056. Archery Season in Certain Counties.

SUBCHAPTER D. HUNTING IN STATE PARKS

- 62.061. Prohibited Acts.
- 62.062. Season.
- 62.063. Regulatory Authority.
- 62.0631. Sea Rim State Park.
- 62.064. Fee for Hunting.
- 62.065. Disposition of Funds.
- 62.066. Management of Resources.
- 62.067. General Hunting License.
- 62.068. Arrest.
- 62.069. Penalty.

SUBCHAPTER E. WEAPONS ON LOWER COLORADO RIVER AUTHORITY LAND

- 62.081. Weapons Prohibited.
- 62.082. Target Ranges.
- 62.083. Approved Instructor and Range Records.
- 62.084. Penalty.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 62.001. Definitions

For the purpose of enforcement of the game laws of this state:

(1) "Closed season" means the period of time during which it is unlawful to hunt a game animal, wild fowl, or bird.

(2) "Open season" means the period of time during which it is lawful to hunt a specified animal, game animal, wild fowl, or bird.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 62.002. Hunting With Certain Weapons

(a) No person may use a .22 caliber jetgun, rocketgun, or firearm that uses rimfire ammunition in hunting wild deer, wild elk, wild antelope, wild Aoudad sheep, or wild desert bighorn sheep.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each animal hunted in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 62.003. Hunting From Vehicles

(a) Except as provided in Subsection (b) of this section, no person may hunt from any type of aircraft or airborne device, motor vehicle, powerboat, or sailboat, or from any other floating device any wild bird or wild animal.

(b) Animals and birds not classified as migratory may be hunted from a motor vehicle, powerboat, or sailboat, or from any other floating device within the boundaries of private property or upon private water by a person who is legally on the property or water for the purpose of hunting if no attempt is made to hunt any wild bird or wild animal on any part of the road system of this state.

(c) A person who violates this section is guilty of a Class C misdemeanor.

(d) If it is shown at the trial of the defendant that he has been convicted within five years before the trial date of a violation of this section, he is guilty of a Class B misdemeanor.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2698, ch. 735, § 3, eff. Aug. 31, 1981.]

Section 6 of the 1981 amendatory act provides:

"A person who violates the provisions of Section 62.003, 62.004, or 62.021, Parks and Wildlife Code, before the effective date of this Act shall be prosecuted under the law in existence on the day the violation occurred, and that law is continued in effect for that purpose. The fact that a person was convicted of a violation of Section 62.003, 62.004, or 62.021, Parks and Wildlife Code, before the effective date of this Act does not preclude the use of that conviction for enhancing the punishment for a violation that occurs after the effective date of this Act."

## § 62.004. Hunting at Night

(a) No person may hunt any wild bird, wild game bird, wild fowl, or wild game animal protected by

this code at any season of the year between one-half hour after sunset and one-half hour before sunrise.

(b) A person who violates this section is guilty of a Class C misdemeanor. Each bird or animal killed in violation of this section constitutes a separate offense.

(c) If it is shown at the trial of the defendant that he has been convicted within five years before the trial date of a violation of this section, he is guilty of a Class B misdemeanor.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2699, ch. 735, § 4, eff. Aug. 31, 1981.]

Section 6 of the 1981 amendatory act provides:

"A person who violates the provisions of Section 62.003, 62.004, or 62.021, Parks and Wildlife Code, before the effective date of this Act shall be prosecuted under the law in existence on the day the violation occurred, and that law is continued in effect for that purpose. The fact that a person was convicted of a violation of Section 62.003, 62.004, or 62.021, Parks and Wildlife Code, before the effective date of this Act does not preclude the use of that conviction for enhancing the punishment for a violation that occurs after the effective date of this Act."

## § 62.005. Hunting With Light

(a) No person may hunt an animal or bird protected by this code with the aid of a headlight, hunting lamp, or other artificial light, including an artificial light attached to a motor vehicle.

(b) The possession of a headlight or hunting lamp used on or about the head when hunting at night between sunset and one-half hour before sunrise by a person hunting in an area where deer are known to range constitutes prima facie evidence that the person was violating this section.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$50, by confinement in the county jail for not less than 30 days nor more than 90 days, or by both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 62.006. Hunting for Hire

(a) No person may employ another person or be employed by another person for compensation or promise of compensation to hunt any bird, wild fowl, or game animal protected by this code.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(c) If a person testifies against another person who employed him in violation of this section, all prosecutions against him in the case in which he testifies shall be dismissed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 62.007. Stopping for Search

(a) An authorized employee of the department may search the game bag, receptacle, automobile, or other vehicle if he has reason to believe that the bag, receptacle, automobile, or vehicle contains game unlawfully killed or taken.

(b) A person who refuses to allow a search or refuses to stop a vehicle when requested to do so by an authorized employee is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.008. Prima Facie Evidence**

Except as provided in Subchapter B of this chapter, possession of a wild game bird, wild game animal, or other species of protected wildlife, whether dead or alive, during a time when the hunting of the animal, bird, or species is prohibited is prima facie evidence of the guilt of the person in possession.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.009. Purchase for Evidence**

A person who, for the purpose of establishing testimony, purchases a game bird or animal whose sale is prohibited by this code, is immune from prosecution for the purchase. A conviction for the unlawful sale of game may be sustained on the uncorroborated testimony of the purchaser.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.010. Exceeding Bag Limits, Hunting During Closed Season, etc.; Penalty**

(a) No person may kill or take more than the daily, weekly, or seasonal bag limits for game birds or animals as set out in this code.

(b) No person may hunt any game bird or animal at any time of the year other than during the open season provided by this code.

(c) No person may kill, take, capture, wound, or shoot at any game bird or animal for which no open season is set out by this code.

(d) No person may possess an illegally killed game bird or animal.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each game bird or animal taken or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.011. Retrieval and Waste of Game**

(a) It is an offense if a person while lawfully hunting kills or wounds a game bird or game animal and intentionally or knowingly fails to make a reasonable effort to retrieve the animal or bird and include it in the person's daily or seasonal bag limit.

(b) It is an offense if a person intentionally takes a game bird, game animal, or a fish, other than a rough fish, and intentionally, knowingly, or recklessly, or with criminal negligence, fails to keep the edible portions of the bird, animal, or fish in an edible condition.

(c) An offense under this section is a misdemeanor the punishment for which is a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1214, ch. 456, § 15, eff. Sept. 1, 1975.]

**§ 62.012. Written Consent to Hunt Required**

(a) This section applies only to a county having a population of 2,000,000 or more.

(b) No person possessing a firearm may hunt a wild animal or wild bird on land owned by another unless the person has in his immediate possession the written consent of the owner of the land to hunt on the land.

(c) To be valid, the consent required by Subsection (b) of this section must:

(1) contain the name of the person permitted to hunt on the land;

(2) identify the land on which hunting is permitted;

(3) be signed by the owner of the land or by an agent or legal representative of the owner; and

(4) be acknowledged.

(d) A person who violates Subsection (b) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Added by Acts 1981, 67th Leg., p. 989, ch. 371, § 1, eff. Aug. 31, 1981.]

[Sections 62.013 to 62.020 reserved for expansion]

**SUBCHAPTER B. SALE, TRANSPORTATION, AND STORAGE OF GAME**

**§ 62.021. Sale or Purchase of Game.**

(a) No person may sell, offer for sale, purchase, offer to purchase, or possess after purchase a wild bird, wild game bird, or wild game animal, dead or alive, or part of the bird or animal except deer hides and antlers.

(b) This section applies only to a bird or animal protected by this code without regard to whether the bird or animal is taken or killed in this state.

(c) A person who violates this section is guilty of a Class C misdemeanor.

(d) If it is shown at the trial of the defendant that he has been convicted within five years before the trial date of a violation of this section, he is guilty of a Class B misdemeanor.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2699, ch. 735, § 5, eff. Aug. 31, 1981.]

Section 6 of the 1981 amendatory act provides:

"A person who violates the provisions of Section 62.003, 62.004, or 62.021, Parks and Wildlife Code, before the effective date of this Act shall be prosecuted under the law in existence on the day the violation occurred, and that law is continued in effect for that purpose. The fact that a person was convicted of a violation of Section 62.003, 62.004, or 62.021, Parks and Wildlife Code, before the effective date of this Act does not preclude the use of that conviction for enhancing the punishment for a violation that occurs after the effective date of this Act."

**§ 62.022. Sale or Purchase of Certain Game**

(a) No person may sell, offer for sale, or possess after purchase a wild deer, wild antelope, or Rocky Mountain sheep killed in this state; or the carcass, hide, or antlers of wild antelope or Rocky Mountain sheep; or the carcass of wild deer, excluding wild deer hides and antlers.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.023. Sale by Taxidermist**

(a) If the owner of heads or hides that have been mounted or tanned has not claimed them within 90 days after notification by a taxidermist or tanner, the taxidermist or tanner may sell the head or hides for the amount due for labor performed.

(b) Heads or hides sold under this section must have attached the original transportation affidavit required under this subchapter.

(c) A taxidermist or tanner selling heads or hides under this section shall report immediately the sale to the department. The report must include the name of the person purchasing the head or hides and a copy of the transportation affidavit regarding the manner in which the head or hides were obtained. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.024. Importation of Game**

(a) No person may bring into this state any bird or animal protected by this code during the closed season for that bird or animal except as provided by this code.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each bird or animal imported in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.025. Importation of Game**

(a) No person may bring into this state a bird or animal protected by this code for sale, barter, exchange, or shipment for sale during the open season for that bird or animal except as provided in Section 62.026 of this code.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each bird or animal imported in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.026. Importation of Protected Wildlife From Mexico**

(a) It is lawful to ship or bring any wild game birds, wild game animals, or other protected species of wildlife from the Republic of Mexico into this state at any season if the person importing the wildlife has obtained:

(1) Repealed by Acts 1979, 66th Leg., ch. 260, art. 5, § 1(1), eff. Sept. 1, 1979.

(2) a statement from the United States Customs Officer at the port of entry showing that the wildlife was brought from the Republic of Mexico.

(b) to (d) Repealed by Acts 1979, 66th Leg., p. 550, ch. 260, art. 5, § 1(1), eff. Sept. 1, 1979.

(e) The department may prescribe reasonable rules and regulations for the importation of wild game birds, wild game animals, and other protected species of wildlife, and the number of each species that may be imported during a calendar week under this section.

(f) A person who violates a provision of this section or a rule or regulation issued under this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 550, ch. 260, art. 5, § 1, eff. Sept. 1, 1979.]

**§ 62.0265. Transportation of Wild Animals and Birds**

(a) A person may transport or ship to and from a taxidermist or tannery for mounting or preserving purposes or to his home, a specimen or part of a specimen of a wild bird or wild animal of this state, if the bird or animal was lawfully taken by the person, and if the specimen is not for sale.

(b) This section does not prohibit the transportation of a specimen and parts of a specimen as permitted under Sections 62.021 and 62.022 of this code.

[Added by Acts 1977, 65th Leg., p. 610, ch. 221, § 1, eff. May 24, 1977.]

**§ 62.027. Affidavit for Transporting Specimens**

(a) A person may not ship by common carrier a specimen or part of a specimen as permitted by Section 62.0265 of this code unless he has executed the transportation affidavit set out in this section.

(b) The transportation affidavit must be made before an officer authorized to administer oaths and must be in the following form:

State of Texas

County of \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, who after being duly sworn, upon oath says: I live at \_\_\_\_\_ in the County of \_\_\_\_\_, State of \_\_\_\_\_; I have personally killed \_\_\_\_\_, which I desire to ship from

\_\_\_\_\_ to \_\_\_\_\_ County, to \_\_\_\_\_, State of \_\_\_\_\_, which I lawfully killed for lawful use; that I have not killed during the present hunting season more than the bag limit of any of the wild game birds, wild fowl, or wild animals.

Signature \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_.

Office held \_\_\_\_\_

(c) The affidavit must be attached to the shipment and delivered to the common carrier transporting the shipment, and may not be removed during the period of transportation. If the specimen is carried by the person who killed it, the affidavit does not have to be attached to the shipment.

(d) Express agents, conductors, auditors of trains, captains of boats, and employees of the department may administer oaths for the affidavit required under this section. The person administering the oath may collect 25 cents for this service.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 611, ch. 221, § 2, eff. May 24, 1977.]

**§ 62.028. Failure to Obtain Affidavit**

A person is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100 if he:

- (1) ships game from any place in this state without making the transportation affidavit;
- (2) is an agent of an express company or common carrier and receives shipment of game without an attached transportation affidavit; or
- (3) is an auditor, conductor, or person in charge of a railroad train and knowingly permits a person to carry game without having made a transportation affidavit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.029. Records of Game in Storage**

(a) As used in this section, a "public cold storage plant" is any plant in which game is stored for a person other than the owner of the plant.

(b) The owner or operator of a public cold storage plant shall maintain a book containing a record of:

- (1) the name of each person placing a game bird or game animal in storage;
- (2) the number and kind of game birds or game animals placed in storage; and
- (3) the date on which each game bird or game animal is placed in storage.

(c) The record book kept by the owner or operator of a public cold storage plant may be inspected by an authorized employee of the department at any time.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.030. Possession of Game in Storage**

A person may place and maintain, or possess, in a public or private storage plant, refrigerator, or locker lawfully taken or killed game birds; game animals, waterfowl, or migratory waterfowl not in excess of the number permitted to be possessed by law. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.031. Inspections of Storage Facilities**

(a) Authorized employees of the department may enter and inspect a public cold storage plant or other place, including taxidermist shops and tanneries, where protected wildlife are stored.

(b) In this section "protected wildlife" means game animals and game birds and nongame animals and birds that are the subject of any protective law or regulation of this state or the United States.

(c) Inspections under this section may be made during normal business hours when the facilities are open to the public generally but may include areas within a facility not generally open to the public. [Added by Acts 1977, 65th Leg., p. 611, ch. 221, § 3, eff. May 24, 1977.]

[Sections 62.032 to 62.050 reserved for expansion]

SUBCHAPTER C. ARCHERY SEASON

**§ 62.051. Application of Subchapter**

The provisions of this subchapter do not apply to the following counties: Angelina, Armstrong, Atascosa, Austin, Bailey, Bandera, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brewster, Briscoe, Burnet, Caldwell, Calhoun, Callahan, Camp, Carson, Cass, Castro, Childress, Collingsworth, Colorado, Comanche, Comal, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Deaf Smith, Delta, DeWitt, Dickens, Dimmit, Donley, Eastland, Ector, Edwards, Ellis, Erath, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harrison, Hartley, Haskell, Hays, Hemphill, Hill, Hood, Hopkins, Houston, Howard, Hutchinson, Irion, Jackson, Jasper, Johnson, Jones, Karnes, Kendall, Kenedy, Kent, Kerr, Kleberg, Kimble, King, Kinney, Knox, Lamar, Lamb, Lampasas, LaSalle, Lavaca, Lipscomb, Live Oak, Llano, McCulloch, McMullen, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Mitchell, Montgomery, Moore, Morris, Motley, Nacogdoches, Newton, Nolan, Nueces, Ochiltree, Oldham, Panola, Parmer, Polk, Rains, Reagan, Real, Red River, Roberts, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Sterling, Stonewall, Sutton, Swisher, Taylor, Terrell, Throckmorton, Titus, Tom Green, Trinity, Tyler, Upshur, Val Verde, Victoria, Walker, Waller, Wash-

ington, Wharton, Wilbarger, Wilson, Wood, and Zavala.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1257, ch. 484, § 3(a), eff. Sept. 1, 1977; Acts 1977, 65th Leg., p. 1793, ch. 721, § 1, eff. Aug. 29, 1977.]

#### § 62.052. Definition

As used in this subchapter, "buck deer" means a wild buck deer with three points or more.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 62.053. Archery Season

The open archery season for hunting buck deer, wild bear, wild turkey gobblers, and collared peccary or javelina with bow and arrow is October 1 through October 31 of each year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 62.054. Possession of Firearms or Crossbow

(a) While hunting buck deer, wild bear, wild turkey gobblers, or collared peccary or javelina during the open archery season, no person possessing a bow and arrow may have any type of firearm or crossbow on his person, in an automobile, or in a hunting camp, except as permitted in Subsection (b) of this section.

(b) Subsection (a) of this section does not prohibit the possession of a shotgun on the person of the hunter, in a hunting camp, or in an automobile if:

(1) the shotgun is not used for the taking or in assisting in the taking of deer, bear, turkey, or javelina; and

(2) the person possesses on his person or in the camp or automobile no shotgun shells having shot larger than Number 4 shot.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 107, ch. 51, § 1, eff. Aug. 29, 1977.]

#### § 62.055. Equipment

(a) No person may hunt buck deer, wild bear, wild turkey gobblers, or collared peccary or javelina during the open archery season with:

(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

(2) arrows that are not equipped with broadhead hunting points at least seven-eighths inch in width and not over one and one-half inches in width;

(3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or

(4) arrows that are poisoned, drugged, or explosive.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 62.056. Archery Season in Certain Counties

In counties covered by this subchapter where the hunting season on buck deer, wild bear, wild turkey gobblers, and collared peccary or javelina is less than 31 days, the department shall determine the length of the season to hunt these animals with bows and arrows. This archery season may not be longer than the open season for taking these game with firearms.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 62.057 to 62.060 reserved for expansion]

### SUBCHAPTER D. HUNTING IN STATE PARKS

#### § 62.061. Prohibited Acts

Except as authorized by the commission under this subchapter, no person may hunt a wild animal, wild bird, or wild fowl in a state park, fort, or historic site under the jurisdiction of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 62.062. Season

(a) As sound biological management practices warrant, the commission may prescribe an open season for hunting in state parks, forts, or sites where size, location, and other physical conditions permit hunting.

(b) The open season may be only during the period beginning on the first day of November in one year and extending through the last day of February of the following year.

(c) However, no open season is authorized for the hunting of deer in any state park, the purposes and uses for which are primarily recreational.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 350, ch. 139, § 2, eff. Aug. 31, 1981.]

#### § 62.063. Regulatory Authority

The commission may prescribe the number, size, kind, and sex and the means and methods of taking any wildlife during an open season in a state park, fort, or historic site.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 62.0631. Sea Rim State Park

(a) The commission may provide an open season for recreational hunting in Sea Rim State Park that is not inconsistent with sound biological management practices normally exercised to protect or utilize the wildlife resources occurring therein.

(b) The regulations of the commission under this section may not provide for a longer season, a greater seasonal or daily bag limit, or less restrictive means or methods of taking any wildlife resource than are provided in the regulations of the commission promulgated under the Uniform Wildlife Regulatory Act, as amended (Chapter 61 of this code), and Subchapter C, Chapter 64, of this code<sup>1</sup> for the same year applicable to the remainder of Jefferson County.

(c) The limitations provided in Subsections (a) and (b) of Section 62.062 of this code do not apply to the regulations of the commission under this section. [Added by Acts 1981, 67th Leg., p. 350, ch. 139, § 1, eff. Aug. 31, 1981.]

<sup>1</sup> Section 64.021 et seq.

**§ 62.064. Fee for Hunting**

The commission may set a reasonable fee to be collected for hunting in state parks, forts, and sites. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.065. Disposition of Funds**

Revenue received under this subchapter shall be deposited in the state treasury to the credit of the state parks fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.066. Management of Resources**

The commission may direct the service or division of the department charged with the management of wildlife resources to manage the aquatic and wildlife resources found in state parks, forts, or historic sites.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.067. General Hunting License**

The provisions of this subchapter do not waive the requirement of a hunting license under this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.068. Arrest**

A peace officer, game management officer, or commissioned state park employee may arrest without warrant a person found committing a violation of this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.069. Penalty**

A person who violates a provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 62.070 to 62.080 reserved for expansion]

SUBCHAPTER E. WEAPONS ON LOWER COLORADO RIVER AUTHORITY LAND

**§ 62.081. Weapons Prohibited**

Except as provided in Section 62.082 of this code, no person may hunt with, possess, or shoot a firearm, bow, crossbow, slingshot, or any other weapon on or across the land of the Lower Colorado River Authority.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.082. Target Ranges**

(a) The Board of Directors of the Lower Colorado River Authority may lease river authority land to be used on a nonprofit basis for a target rifle or archery range only and not for hunting.

(b) A member of the boy scouts or the girl scouts or other nonprofit public service group or organization may possess and shoot a firearm, bow, and crossbow for target or instructional purposes under the supervision of a qualified instructor registered with and approved by the Lower Colorado River Authority on ranges designated by the Lower Colorado River Authority. This subsection does not permit hunting by any person.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.083. Approved Instructor and Range Records**

The Lower Colorado River Authority shall maintain in its Austin office a current listing of approved and registered instructors and a map indicating the location of the designated ranges. The records shall be made available on request to enforcement officers and county attorneys.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 62.084. Penalty**

A person who violates Section 62.081 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 63. GAME AND NONGAME ANIMALS**

SUBCHAPTER A. GAME ANIMALS

Section	
63.001.	Game Animals.
63.002.	Bag Limit for Certain Game.
63.003.	Collared Peccary (Javelina).
63.004.	Squirrel Season.
63.005.	Squirrel Limit.
63.006.	Deer and Bear Season.
63.007.	White-Tailed Deer Permits.
63.008.	Female Deer, Fawn, Young Buck.
63.009.	Deer Call.
63.010.	Hunting Deer With Dogs.

## SUBCHAPTER B. NONGAME ANIMALS

Section	
63.101.	Coypu (Nutria).
63.102.	Wolves.
63.103.	Sale of Certain Live Animals.

## SUBCHAPTER A. GAME ANIMALS

## § 63.001. Game Animals

(a) The following animals are game animals: wild deer, wild antelope, wild desert bighorn sheep, wild black bear, wild gray or cat squirrels, wild fox squirrels or red squirrels, and collared peccary or javelina.

(b) No species of any animal set out in Subsection (a) of this section or any other animal is a game animal if it is not indigenous to this state.

(c) Aoudad sheep are game animals in Armstrong, Briscoe, Donley, Floyd, Hall, Motley, Randall, and Swisher counties.

(d) Wild elk (North American Elk or *Cervus Canadensis*) are game animals in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell counties.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. —, ch. 439, § 6, eff. Aug. 31, 1981.]

## § 63.002. Bag Limit for Certain Game

No person may hunt or possess game animals in greater number than the daily, weekly, or seasonal bag limit as follows:

- (1) two wild buck deer during the open season of any one year;
- (2) one wild bear during the open season of any one year; and
- (3) ten wild squirrels in any one day.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 63.003. Collared Peccary (Javelina)

(a) No person may hunt collared peccary (javelina) at any time except during the open season which is the period beginning November 16 and extending through January 1.

(b) No person may take more than two collared peccary (javelina) in one open season.

(c) No person may take, sell, offer to sell, or have in possession for the purpose of sale or barter any collared peccary (javelina).

(d) This section does not apply to collared peccary (javelina) or their hides imported from another state or foreign country.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each collared peccary (javelina) taken, possessed, sold, offered for sale, or possessed for sale in violation of this section is a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 63.004. Squirrel Season

(a) Except as provided in Subsection (b) of this section, the open season for the hunting of wild gray squirrels and wild red or fox squirrels is the months of May, June, July, October, November, and December.

(b) Squirrels may be kept in cages as domestic pets at any time.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 63.005. Squirrel Limit

(a) Except as provided in Subsection (b) of this section, no person may take or kill more than 10 squirrels in one day or have in possession more than 20 squirrels at one time.

(b) This section does not apply to the following counties: Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Blanco, Brown, Bosque, Brazoria, Burnet, Caldwell, Calhoun, Callahan, Chambers, Colorado, Cooke, Coryell, Comanche, Comal, Concho, Delta, DeWitt, Dimmit, Eastland, Edwards, Erath, Fayette, Fort Bend, Franklin, Galveston, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Hamilton, Hill, Hopkins, Jackson, Karnes, Kerr, Kendall, Kimble, Lamar, Lampasas, Lavaca, Live Oak, Llano, Mason, Matagorda, McCulloch, Menard, Medina, Mills, Montague, Real, Red River, Refugio, San Patricio, San Saba, Schleicher, Stephens, Tarrant, Throckmorton, Travis, Uvalde, Victoria, Waller, Washington, Wharton, Wilson, Wise, and Zavala.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 63.006. Deer and Bear Season

The open season for the hunting of wild buck deer and wild bear is the period beginning November 16 and extending through December 31.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 63.007. White-Tailed Deer Permits

(a) The department shall issue permits for the trapping, transporting, and transplanting of wild white-tailed deer to persons presenting a satisfactory showing that there is an overpopulation of the deer in an area where harvest provisions are inadequate for maintaining a balanced supply of the deer and that the deer will be removed and transplanted to an area of adaptable habitat for appropriate harvest.

(b) The trapping, transporting, and transplanting of wild white-tailed deer under a permit issued by the department shall be done at no expense to the state.

(c) No person may hunt wild white-tailed deer transplanted under this section except as allowed by law for the hunting of native wild white-tailed deer in the county to which the deer are transplanted.

(d) Permits issued under this section do not entitle a person to take, trap, or possess wild white-tailed deer on any privately owned land without the landowner's written permission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 63.008. Female Deer, Fawn, Young Buck

(a) No person may hunt a wild female deer, wild fawn deer, or wild buck deer without a pronged horn.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 63.009. Deer Call

(a) No person may use a deer call, whistle, decoy, call pipe, reed, or other mechanical or natural device to call or attract deer, except the rattling of deer horns.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$500 or by confinement in the county jail for not less than 20 days nor more than 90 days, or both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 63.010. Hunting Deer With Dogs

(a) Except as provided in Subsection (b) of this section, no person may use or permit the use of a dog in the hunting of deer.

(b) This section does not apply to Brazoria, San Augustine, and Fort Bend counties.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(d) Nothing in this section affects Chapter 61 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 63.011 to 63.100 reserved for expansion]

SUBCHAPTER B. NONGAME ANIMALS

§ 63.101. Coypu (Nutria)

(a) No person may possess, transport, or sell live coypu (nutria) unless he has obtained a written permit from the department.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

Repeal

*Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this section is*

*repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this section.*

§ 63.102. Wolves

(a) No person may possess, transport, receive, or release a live wolf in this state.

(b) Subsection (a) does not apply to the transportation of a wolf by a state or county official while performing an official duty or to the possession or transportation of a wolf by the owner or agent of a licensed circus, zoo, or menagerie for exhibition or scientific purposes.

(c) A person who violates this section is guilty of a felony and on conviction is punishable by imprisonment in the penitentiary for not less than six months nor more than five years.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 63.103. Sale of Certain Live Animals

(a) No person may sell or possess for the purpose of sale in this state a living armadillo.

(b) This section does not apply to:

(1) the sale of an animal by or to a zoo;

(2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code;<sup>1</sup> or

(3) the sale to a commercial dealer who in turn resells for purposes authorized in Subdivisions (1) and (2) of this subsection.

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) A person who violates Subsection (a) of this section is guilty of a Class B misdemeanor.

(e) A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(f) A person who violates Subsection (a) of this section, in addition to the penalties under Subsection (d) of this section, on conviction shall pay all costs and expenses incurred under Subsection (e) of this section.

[Added by Acts 1979, 66th Leg., p. 386, ch. 177, § 1, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 2741, ch. 748, § 5, eff. Sept. 1, 1981.]

<sup>1</sup> Section 43.021 et seq.

## CHAPTER 64. BIRDS

## SUBCHAPTER A. GENERAL PROVISIONS

Section	
64.001.	Game Birds.
64.002.	Protection of Nongame Birds.
64.003.	Destroying Nests or Eggs.
64.004.	Trapping Game Birds.

## SUBCHAPTER B. SEASONS AND LIMITS

64.011.	Eagle.
64.012.	Hunting Turkey Hens.
64.013.	Turkey Gobblers.
64.014.	Quail and Chachalaca.
64.015.	Prairie Chicken.

## SUBCHAPTER C. MIGRATORY GAME BIRDS

64.021.	Definitions.
64.022.	Authority of Department.
64.023.	Open Season.
64.024.	Regulations.
64.025.	Suit.
64.026.	Prohibited Acts.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 64.001. Game Birds

Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens, wild pheasants of all varieties, wild partridge, wild bobwhite quail, wild scaled quail, wild Mearn's quail, wild Gambel's quail, wild red-billed pigeons, wild band-tailed pigeons, wild mourning doves, wild white-winged doves, wild white-fronted doves, wild snipe of all varieties, wild shore birds of all varieties, chachalacas, wild plover of all varieties, and wild sandhill cranes are game birds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 202, ch. 95, § 1, eff. April 30, 1981.]

## § 64.002. Protection of Nongame Birds

(a) Except as provided in this section, Chapter 67, or Section 12.013 of this code, no person may:

- (1) catch, kill, injure, pursue, or possess, dead or alive, or purchase, sell, expose for sale, transport, ship, or receive or deliver for transportation, a bird that is not a game bird;
- (2) possess any part of the plumage, skin, or body of a bird that is not a game bird; or
- (3) disturb or destroy the eggs, nest, or young of a bird that is not a game bird.

(b) European starlings, English sparrows, grackles, ravens, red-winged blackbirds, cowbirds, feral rock doves (*Columba livia*), and crows may be killed at any time and their nests or eggs may be destroyed.

(c) Canaries, parrots, and other exotic nongame birds may be sold, purchased, and kept as domestic pets.

(d) A person may defend and protect his domestic animals from predators.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each bird or part of a bird taken or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 202, ch. 95, § 2, eff. April 30, 1981.]

## § 64.003. Destroying Nests or Eggs

(a) No person may destroy or take the nest, eggs, or young of any wild game bird, wild bird, or wild fowl protected by this code except as provided in this code.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 64.004. Trapping Game Birds

(a) No person may set a trap, net, or other device for taking game birds or take or snare a game bird by a device without obtaining a permit from the department.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 64.005 to 64.010 reserved for expansion]

## SUBCHAPTER B. SEASONS AND LIMITS

## § 64.011. Eagle

Golden eagle or Mexican brown eagle may be hunted or trapped in this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 64.012. Hunting Turkey Hens

(a) No person may hunt or possess, dead or alive, a wild turkey hen at any time except as provided in this code.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 64.013. Turkey Gobblers

(a) No person may hunt wild turkey gobblers except during the open season, which is the period beginning November 16 and extending through December 31.

(b) No person may take, kill, or possess more than two turkey gobblers in one open season.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 611, ch. 222, § 1, eff. Aug. 29, 1977.]

§ 64.014. Quail and Chachalaca

(a) No person may hunt quail or chachalaca except during the open season, which is the period beginning December 1 and extending through January 16.

(b) No person may kill more than 12 quail in one day, kill more than 36 quail in a seven-day period, or possess more than 36 quail at one time.

(c) No person may kill more than 5 chachalacas in one day, kill more than 10 chachalacas in a seven-day period, or possess more than 10 chachalacas at one time.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each bird killed or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 64.015. Prairie Chicken

(a) No person may hunt or possess prairie chicken in this state.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. Each prairie chicken taken, killed, or possessed in violation of this section constitutes a separate offense and shall be seized and disposed of as provided in Section 12.110 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 64.016 to 64.020 reserved for expansion]

SUBCHAPTER C. MIGRATORY GAME BIRDS

§ 64.021. Definitions

In this subchapter:

(1) "Migratory game bird" means wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jack snipe, woodcock, mourning doves, white-winged doves, white-fronted doves, red-billed pigeons, band-tailed pigeons, shore birds of all varieties, and sandhill cranes.

(2) "Open season" means the period of time when it is lawful to take, kill, or pursue, or attempt to take or kill migratory game birds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 202, ch. 95, § 3, eff. April 30, 1981.]

§ 64.022. Authority of Department

The department shall provide the open season, and means, methods, and devices for the taking and possessing of migratory game birds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 64.023. Open Season

An open season may be provided only for the length of time justified by the supply of the species of migratory game bird affected in this state or in the zone or section of this state where the open season applies.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 64.024. Regulations

(a) The department shall conduct investigations prior to the issuance of regulations on an open season for a migratory game bird. The regulation may be issued if the supply of the migratory game bird is sufficient.

(b) The effective date of a regulation shall be stated in the regulation but may not be less than 10 days after the regulation is issued.

(c) A regulation is valid until the time specified in the regulation unless it is suspended or amended by the department in the same manner as in issuing the original regulation.

(d) A regulation issued by the department must be incorporated in the minutes of the meeting at which it was adopted, and a copy of the regulation must be filed with the secretary of state and each county clerk and county attorney.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 64.025. Suit

A party affected by and dissatisfied with a regulation issued under this subchapter may file suit against the department to test the validity of the regulation in a court of competent jurisdiction in Travis County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 64.026. Prohibited Acts

(a) No person may hunt or possess a migratory game bird by any method or device except as provided by regulation issued under this subchapter.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. Each migratory game bird killed or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 65. ALLIGATORS

Section	
65.001.	Definitions.
65.002.	Application.
65.003.	Regulations.
65.004.	Scientific Studies.
65.005.	Possession.
65.006.	License Required.
65.007.	License Fees.
65.008.	Penalties.
65.009.	Seizure and Disposal of Alligators.

Chapter 65, Alligators, consisting of §§ 65.001 to 65.009, was added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1.

Former Chapter 65, Reptiles, consisting of §§ 65.001 to 65.006 and 65.101 to 65.104, derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, was repealed by Acts 1979, 66th Leg., p. 550, ch. 260, art. 5, § 1(2).

### § 65.001. Definitions

In this chapter:

(1) "Alligator" means American alligator (*Alligator mississippiensis*).

(2) "Alligator buyer" means a person who buys alligators, alligator hides, or any part of an alligator from an alligator hunter.

(3) "Alligator hunter" means a person who takes dead or live alligators or any part of an alligator.

(4) "Possess" means the act of having in possession or control, keeping, detaining, restraining, or holding as owner or as agent, bailee, or custodian for another.

(5) "Take" means the act of hooking, netting, snaring, trapping, pursuing, shooting, killing, or capturing by any means or device and includes the attempt to take by the use of any method.

(6) "Resident" means a person, except an alien, who has been a resident of this state for more than six months immediately before applying for an alligator hunter's or buyer's license.

(7) "Nonresident" means a person who is not a resident.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

### § 65.002. Application

Except for regulation of those populations listed on the United States List of Endangered Wildlife (50 C.F.R. Part 17), special permits issued under Chapter 43 of this code, or contracts for the removal of reptiles entered into under Section 81.404, as amended, of this code, this chapter governs the taking, possession, and sale of alligators to the exclusion of other regulatory and licensing laws.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

### § 65.003. Regulations

(a) The commission may regulate by proclamation the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators or any part of an alligator that the commission considers necessary to manage this species.

(b) The regulations of the commission under this chapter may provide for:

(1) permit application forms, fees, and procedures;

(2) hearing procedures;

(3) the periods of time when it is lawful to take, possess, sell, or purchase alligators, alligator hides, or any part of an alligator; and

(4) limits, size, means, methods, manner, and places in which it is lawful to take or possess alligators, alligator hides, or any part of an alligator.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

### § 65.004. Scientific Studies

The department shall conduct scientific studies and investigations of alligators as necessary to develop information on populations, distributions, habitat needs, limiting factors, and any other biological or ecological data or to determine appropriate management for public safety.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

### § 65.005. Possession

(a) No person may take, sell, purchase, or possess an alligator, the egg of an alligator, or any part of an alligator in this state except as permitted by the regulations of the commission.

(b) This chapter does not prohibit consumers from purchasing or possessing goods processed or manufactured from alligators that have been taken in accordance with the law.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

### § 65.006. License Required

(a) No person may take, attempt to take, possess, or accompany another person who is attempting to take an alligator in this state during the open season established by the commission for taking alligators unless he has acquired and possesses an alligator hunter's license.

(b) No person may purchase or possess after purchase from an alligator hunter an alligator, alligator hide, or any part of an alligator taken in this state unless he has acquired and possesses an alligator buyer's license.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

### § 65.007. License Fees

The fees for the licenses issued under this chapter are in the amounts set by the commission but not less than:

(1) \$25 for a resident alligator hunter's license;

(2) \$150 for a resident alligator buyer's license;

(3) \$50 for a nonresident alligator hunter's license; and

(4) \$300 for a nonresident alligator buyer's license.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

§ 65.008. Penalties

(a) A person commits an offense if the person violates this chapter or a regulation of the commission issued under this chapter.

(b) An offense under this section is a Class C misdemeanor.

(c) If it is shown at the trial of the defendant that he has been once before convicted of a violation of this chapter, the offense is a Class B misdemeanor.

(d) If it is shown at the trial of the defendant that he has been convicted of a violation of this chapter two or more previous times, the offense is a Class A misdemeanor.

(e) Each alligator or alligator hide taken, possessed, sold, or purchased in violation of this chapter constitutes a separate offense.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

§ 65.009. Seizure and Disposal of Alligators

(a) A game warden or any other peace officer may seize an alligator, alligator hide, or any part of an alligator if he has probable cause to believe it was taken, possessed, sold, or purchased in violation of this chapter or of a regulation of the commission.

(b) If a person is charged with a violation of a provision of this chapter or of a regulation of the commission issued under this chapter, the game warden or peace officer shall seize and hold the alligator, alligator hide, or any part of an alligator as evidence.

(c) On conviction of the person or on plea of nolo contendere, the alligator, alligator hide, or any part of an alligator seized may be sold at any time by the department to the highest bidder after taking a minimum of three written bids.

(d) If the person is adjudged not guilty of the offense, the department shall return all alligators, alligator hides, or parts of an alligator seized to the lawful owner.

(e) A game warden or peace officer acting under the authority of this chapter or of a regulation of the commission is immune from liability and from suit for the seizure of alligators, alligator hides, or any part of an alligator.

[Added by Acts 1981, 67th Leg., p. 437, ch. 184, § 1, eff. Aug. 31, 1981.]

CHAPTER 66. FISH

SUBCHAPTER A. PROVISIONS APPLICABLE TO FRESHWATER AND SALTWATER FISHING

Section	
66.001.	Salt and Fresh Water Defined.
66.002.	Consent to Take Fish From Private Water.
66.003.	Placing Explosives or Harmful Substances in Water.
66.004.	Taking of Fish by Electric Shock Prohibited; Exception.
66.005.	Wilful Destruction of Boat, Seine, or Net.
66.006.	Returning Small Fish Taken by Net or Seine.
66.007.	Harmful Tropical Fish.
66.008.	Fishing From Bridge.

Section	
66.009.	Navigation Districts.
66.010.	Bait Fish.

SUBCHAPTER B. FRESH WATER FISHING

66.101.	Methods of Fishing.
66.102.	Placing Prohibited Devices in Public Water.
66.103.	Water Closed to Nets and Seines.
66.104.	Seasons for Taking Fish.
66.105.	Taking of Fish: Minimum Size.
66.106.	Catch Limits.
66.107.	Possession of Certain Fish While Using Spear Gun or Bow and Arrow.
66.108.	Injuring Small Fish Prohibited.
66.109.	Fish Ladders.
66.110.	Screens to Protect Fish.
66.111.	Sale of Fish.
66.112.	Brood Fish.
66.113.	Removal of Rough Fish and Turtles From Fresh Water.
66.114.	Rough and Game Fish Defined.
66.115.	Rough Fish: Regulations.
66.116.	Rough Fish: Fees, Bonds.
66.117.	Revocation of Rough Fish Permit; Commercial License Required.
66.118.	Rough Fish: Disposition.

SUBCHAPTER C. SALTWATER FISHING

66.201.	Redfish and Speckled Sea Trout.
66.2011.	Red Drum and Speckled Sea Trout: Daily Catch and Retention Limits.
66.2012.	Regulation of Commercial Uses of Redfish and Speckled Sea Trout.
66.202.	Nets and Seines in Inside Water: Noncommercial Fishing.
66.203.	Nets and Seines in Outside Water: Noncommercial Fishing.
66.204.	Vessels and Obstructions in Fish Passes.
66.205.	Drum Seining Permits.
66.206.	Trotline Tags.
66.207.	Fish Pound Net Prohibited.
66.208.	Commercial Joint Fishing Ventures.
66.209.	Statistical Reports.
66.210.	Rough Fish.
66.211.	Permits for Taking Rough Fish.
66.212.	Holders of Rough Fish Permits: Offenses.
66.213.	Possession of Illegal Nets and Seines.
66.214.	Monofilament Nets: Use for Catching Finfish.
66.215.	Tags for Noncommercial Nets and Seines.
66.216.	Possession of Headed or Tailed Fish.
66.217.	Finfish Research.

SUBCHAPTER D. TEXAS TERRITORIAL WATER

66.301.	Definition.
66.302.	Licenses.
66.303.	Prohibited Acts.
66.304.	Port Authorities and Navigation Districts.
66.305.	Harbor Pilots.
66.306.	Enforcement.
66.307.	Political Asylum.

SUBCHAPTER A. PROVISIONS APPLICABLE TO FRESHWATER AND SALTWATER FISHING

§ 66.001. Salt and Fresh Water Defined

In this chapter:

(1) "Fresh water" means all lakes, lagoons, rivers, and streams to their mouths, but does not include coastal or tidal water.

(2) "Salt water" means all coastal or tidal water.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.002. Consent to Take Fish From Private Water**

(a) No person may catch fish by the use of a net or seine or explosive or by poisoning, polluting, muddying, ditching, or draining in any privately owned lake, pool, or pond without the consent of the owner.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

(c) In a prosecution under this section, the burden of proof to show consent is on the person charged. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.003. Placing Explosives or Harmful Substances in Water**

(a) No person may place in the water of this state an explosive, poison, or other substance or thing deleterious to fish.

(b) Subsection (a) of this section does not apply to the use of explosives necessary for construction purposes when the use is authorized in writing by the county judge of the county where the work is to be done.

(c) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$100 and by confinement in the county jail for not less than 60 nor more than 90 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.004. Taking of Fish by Electric Shock Prohibited; Exception**

(a) Except as provided by Subsection (d) of this section, no person may catch fish by using an electricity-producing device designed to shock fish.

(b) No person may manufacture or sell an electricity-producing device designed to shock fish.

(c) Except as provided by Subsection (d) of this section, no person may possess an electricity-producing device commonly used to shock fish. The possession of an electricity-producing device commonly used to shock fish, in a boat or within one-half mile of any water of this state, is a violation of this section by the person in possession of the device.

(d) This section does not prohibit the use of an electricity-producing device of not more than three volts connected to a shrimp trawl used by an operator of a licensed commercial gulf shrimp boat in the outside water of this state at depths of more than seven fathoms. To qualify under this exemption, the commercial gulf shrimp boat and the trawl must be operating in compliance with the provisions of Chapter 77 of this code relating to the taking of shrimp.

(e) An electricity-producing device used or possessed in violation of this section is a nuisance, and an officer of the department who has probable cause to believe that a device is used or possessed in

violation of this section may search a boat, vehicle, campsite, or person and seize the device and hold it as evidence for the trial of the person in possession of the device. If the person is found guilty of a violation of this section, the department shall be responsible for the destruction of the device unless it can be utilized by the department for research purposes, or upon request the device may be released to a state-supported college or university for use in marine or aquatic research. An officer of the department who seizes or destroys a device is immune from liability for any damages resulting from seizure or destruction, and the department is likewise immune from liability for any damages resulting from seizure, destruction, or disposition thereof.

(f) A person who violates this section is guilty of a Class C misdemeanor, except that:

(1) if it is shown at the trial of the defendant that he has been convicted of a violation of this section once before during the five-year period ending on the day that the offense charged was committed, he shall be guilty of a Class B misdemeanor; or

(2) if it is shown at the trial of the defendant that he has been convicted of a violation of this section two or more previous times and that one of the previous convictions occurred during the 10-year period ending on the day that the offense charged was committed, he shall be guilty of a Class A misdemeanor.

(g) For the purpose of Subsection (f) of this section, an offense is committed on the day that the last element of the offense occurred or was committed. If at the trial of the defendant facts are shown that satisfy the requirements of both Subdivisions (1) and (2) of Subsection (f) of this section, he shall be punished under Subdivision (2) of Subsection (f) of this section.

(h) Each fish taken or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1662, ch. 656, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 2542, ch. 676, art. 2, §§ 1 to 4, eff. Sept. 1, 1981.]

**§ 66.005. Wilful Destruction of Boat, Seine, or Net**

(a) No person may wilfully, with the intent to injure the owner, take a boat, seine, net, or other device for fishing into prohibited water, or use a boat, seine, net, or other device for fishing to take fish unlawfully, so as to cause the destruction of the boat, seine, net, or device.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200 and confinement in the county jail for not less than 30 nor more than 90 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.006. Returning Small Fish Taken by Net or Seine**

(a) No person who catches fish by the use of a seine or set net may fail to return to the water all fish under or over the size or weight limitations established in this chapter and all other fish for which no limitation is provided.

(b) Subsection (a) of this section does not apply to shark, gar, ray, turtle, sawfish, or catfish, except that it does apply to the gaff-topsail catfish.

(c) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.007. Harmful Tropical Fish**

(a) No person may import, possess, sell, or release into water of this state harmful or potentially harmful tropical fish or fish eggs unless he has acquired from the department a written permit.

(b) The department shall determine and publish a list of tropical fish that are harmful or potentially harmful to human or other animal life.

(c) The department shall make rules to carry out the provisions of this section.

(d) A person who violates Subsection (a) of this section or a rule of the department made under Subsection (c) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.008. Fishing From Bridge**

(a) No person may fish from the deck or road surface of any bridge or causeway on a road maintained by the State Highway Department.

(b) No person may deposit or leave any dead fish, crab, or bait on the deck or road surface of any bridge or causeway on a road maintained by the State Highway Department.

(c) The State Highway Department shall post appropriate signs on all bridges and causeways affected by this section.

(d) A person who violates Subsection (a) or (b) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.009. Navigation Districts**

(a) No person may use a seine or net of any type, trotline, or other mechanical or physical device, except hook and line, to catch fish in a channel, turning basin, or other water of a navigation district operating under Chapter 63, Water Code.

(b) The possession of a mechanical device referred to in Subsection (a) of this section within a navigation district operating under Chapter 63, Water Code, is prima facie evidence of a violation of Subsection (a) of this section.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100, by confinement in the county jail for not less than 5 days nor more than 30 days, or by both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.010. Bait Fish**

(a) No person may possess more than 250 bait fish taken from the public water for personal use.

(b) No person may catch, possess, or transport, as bait fish any of the following species or their hybrids:

- (1) black bass of any type;
- (2) crappie;
- (3) catfish, except bullheads;
- (4) walleye;
- (5) striped bass;
- (6) trout;
- (7) white bass; or
- (8) northern pike.

(c) No person may catch bait fish except by the use of dip nets, lift nets, cast nets, and umbrella nets of nonmetallic material, minnow seines of nonmetallic material not exceeding 20 feet long, and common fruit jar traps or similar devices not longer than 24 inches and with a throat not more than one inch in diameter.

(d) A person who violates a provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Added by Acts 1977, 65th Leg., p. 213, ch. 105, § 1, eff. Sept. 1, 1977.]

Acts 1977, 65th Leg., ch. 105, which by §§ 1 to 42 added this section and amended and repealed various other sections of the Parks and Wildlife Code, provided in § 43: "This Act takes effect September 1, 1977."

[Sections 66.011 to 66.100 reserved for expansion]

**SUBCHAPTER B. FRESH WATER FISHING**

**§ 66.101. Methods of Fishing**

(a) No person may catch fish in public fresh water by any method or by the use of any device except as authorized by this section.

(b) The following methods and uses are authorized:

- (1) the use of the ordinary hook and line or trotline;
- (2) the use of a minnow seine not longer than 20 feet for the taking of bait only;

(3) the use of a minnow seine not longer than 20 feet, a shad trawl having a mouth no larger than 36 inches in diameter and being no longer than 6 feet, dip net, cast net, and umbrella net of meshes of any size for the purpose of catching bream, shad, carp, suckers, gar, and buffalo fish only;

(4) the use of a trammel net, a drag or set net, or seine having meshes the sides of which are at least three inches long;

(5) the use of a spear gun and spear or bow and arrow for the purpose of catching carp, buffalo fish, gaspergou, garfish, and Rio Grande perch only; and

(6) the use of a common funnel fruit jar type trap and its metallic counterpart for the taking of minnows only for bait, but only if the trap is no longer than two feet and has a throat no larger than one inch in diameter.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1794, ch. 728, § 1, eff. June 13, 1979.]

**§ 66.102. Placing Prohibited Devices in Public Water**

(a) No person may place in the public fresh water of this state for the purpose of catching fish any device prohibited by Section 66.101 of this code or any net or seine made of wire or other metallic substance, except the metallic counterpart of a common funnel fruit jar type trap conforming to the requirements of Section 66.101(b)(6) of this code.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100.

(c) A device in the public fresh water of this state in violation of this section is a nuisance, and officers and employees of the department shall destroy the device. An officer or employee of the department is immune from liability for the destruction of devices found in violation of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.103. Water Closed to Nets and Seines**

(a) The commission may close any public fresh water to the use of nets and seines or to any type of net or seine if the commission finds that the closing is necessary to protect or conserve fish.

(b) Notice of the closing must be posted for two weeks in at least three stores or other locations near the water to be closed prior to the effective date of the closing.

(c) No person may use a net or seine or any type of net or seine prohibited by the commission in public fresh water closed by the commission under this section.

(d) A person who violates Subsection (c) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. The failure to post notice is a defense against a charge of violating Subsection (c) of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.104. Seasons for Taking Fish**

There is no period of time when the taking of fish from public fresh water is prohibited.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.105. Taking of Fish: Minimum Size**

(a) No person may take from public fresh water and retain, or place in a boat, creel, live-box, or other container or on a fish stringer, a largemouth black bass, a smallmouth black bass, a spotted bass, or any subspecies of these bass that is less than 10 inches long.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1207, ch. 456, § 6(a), eff. Sept. 1, 1975.]

**§ 66.106. Catch Limits**

(a) Except as provided in Subsections (b) and (c) of this section, no person may catch and retain in any one day, or place in or on any container or device used for holding fish while in the process of fishing, fish taken from public fresh water in excess of the following limitations:

<u>Species</u>	<u>Limit</u>
(1) large-mouth black bass, small-mouth black bass, spotted bass, or any of their subspecies, singly or in the aggregate	10
(2) striped bass	1
(3) blue, channel, or yellow flathead catfish, singly or in the aggregate	25
(4) crappie or white perch	25
(5) Walleye or sauger, singly or in the aggregate	5
(6) northern pike and muskellunge, singly or in the aggregate	3
(7) trout of the family Salmonidae, including but not limited to rainbow trout, brown trout, and coho salmon, singly or in the aggregate	5

(b) A person may possess at one time not more than 50 blue, channel, or yellow flathead catfish, singly or in the aggregate.

(c) The retention limit in this section for catfish does not apply to a person holding a commercial fishing license issued under Section 47.002 of this code.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1207, ch. 456, § 6(b), eff. Sept. 1, 1975.]

**§ 66.107. Possession of Certain Fish While Using Spear Gun or Bow and Arrow**

No person may possess fish other than carp, buffalo fish, gaspergou, garfish, and Rio Grande perch while using a spear gun and spear or a bow and arrow. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.108. Injuring Small Fish Prohibited**

(a) No person may fail to return immediately to the water any crappie or bass under the minimum size taken from public fresh water.  
 (b) No person may unnecessarily injure crappie or bass under the minimum size taken from public fresh water.  
 (c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.109. Fish Ladders**

(a) The commissioners court of each county, by written order, may require the owner of a public or private dam or other obstruction on a regularly flowing public freshwater stream to construct or repair fishways or fish ladders sufficient to allow fish in all seasons to ascend the dam or other obstruction for the purpose of depositing spawn.  
 (b) An owner who fails to construct or repair a fishway or fish ladder within 90 days after receiving the written order is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500. Each week of violation following the 90-day period constitutes a separate offense. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.110. Screens to Protect Fish**

(a) The department may direct a person or corporation taking fresh water of the state to cover the entrance of the intake canal, pipe, or other device used for taking water with a screen to protect fish.  
 (b) The department may regulate the manner of installation and the specifications of screens and other obstructions required under this section.  
 (c) No person may fail to comply with a direction of the department made in writing under Subsection (a) of this section.  
 (d) A person who violates Subsection (c) of this section is guilty of a misdemeanor and on conviction

is punishable by a fine of not less than \$50 nor more than \$200. Each day's failure to comply constitutes a separate offense. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.111. Sale and Purchase of Certain Fish**

(a) No person may buy or offer to buy, sell or offer to sell, possess for the purpose of sale, transport or ship for the purpose of sale, or barter or exchange freshwater crappie, bass of the genus *Micropterus*, striped bass and hybrids of striped bass, white bass, walleye, sauger, northern pike, muskellunge, trout of the family Salmonidae, or flathead catfish.  
 (b) No person may sell or offer to sell any freshwater fish taken from the water of any county west of the Pecos River.  
 (c) Subsection (a) of this section does not apply to a fish reared in private water and marketed for the purpose of stocking the water of this state, nor to a fish shipped into this state and offered for sale for consumption.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of:  
 (1) not more than \$200 if Subsection (a) is violated; or  
 (2) not less than \$10 nor more than \$100 if Subsection (b) is violated. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1204, ch. 456, § 2, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 908, ch. 416, § 1, eff. Aug. 27, 1979.]

**§ 66.112. Brood Fish**

Employees of the department under the direction of the commission and the United States Fish and Wildlife Service of the Department of Interior may take brood fish from public fresh water at any time and in any manner to supply the needs of state and federal fish hatcheries. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.113. Removal of Rough Fish and Turtles From Fresh Water**

(a) The department may take rough fish and turtles from public fresh water by means of crews under the supervision of the department, using methods of removal approved by the department.  
 (b) When the department determines that rough fish and turtles exist in public fresh water in numbers detrimental to the propagation and preservation of game fish, it may issue permits to applicants for rough fish and turtle removal.  
 (c) The department may not issue a permit to an applicant whose record within the knowledge of the department shows repeated violations of the fishing laws of the state to an extent that the department

finds that<sup>1</sup> the applicant's conduct to be in flagrant disregard of fish conservation laws, or if the applicant has previously had a permit issued under this section revoked for a violation of the law or a regulation of the commission.

(d) A permit issued under this section, unless revoked, is valid for a period set by the commission, not less than three months.

(e) Each permit applies to a single lake, or portion of a lake, stream, or river as determined by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

<sup>1</sup> So in enrolled bill.

#### § 66.114. Rough and Game Fish Defined

In this subchapter:

(1) "Rough fish" means fish having no sporting value, the predatory fish, bony or rough-fleshed fish, or any other fish whose numbers should be controlled to protect and encourage the propagation of game fish. A game fish may not be classified as a rough fish.

(2) "Game fish" means black bass, white bass, crappie, bream, sunfish, and channel and yellow catfish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 66.115. Rough Fish: Regulations

The commission shall make regulations on the types of equipment that may be used by persons holding a permit under Section 66.113 of this code according to the lake, stream, river, or portion of lake, stream, or river.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 66.116. Rough Fish: Fees, Bonds

(a) The commission shall set a fee which persons holding a permit to remove rough fish and turtles shall pay to the department for each pound of fish and turtles removed under the permit. The commission shall set the minimum total poundage each permit holder must take under the terms of the permit, which may vary according to the place where removal is authorized.

(b) Each holder of a permit to remove rough fish and turtles shall execute a bond in an amount set by the department and payable to the director. The bond shall be conditioned on the payment of the fee required by Subsection (a) of this section, on the removal of the minimum poundage required under the permit, and on the faithful compliance with the regulations of the commission and the law. The bond must be approved by the director.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 66.117. Revocation of Rough Fish Permit; Commercial License Required

(a) The department shall revoke the permit of any person who takes rough fish or turtles in violation of the law or of the regulations of the commission.

(b) No person may take rough fish or turtles unless he has acquired the appropriate commercial fishing license or may use nets and seines unless complying with tagging requirements.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 66.118. Rough Fish: Disposition

(a) Rough fish and turtles taken by a contractor under Section 66.113 of this code may be sold by the contractor.

(b) Rough fish and turtles taken by the department shall be used for feed for hatchery fish, and the surplus not used for feed shall be sold at the highest price obtainable. The receipts from the sale of rough fish shall be used for the removal of rough fish and turtles by the commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 66.119 to 66.200 reserved for expansion]

### SUBCHAPTER C. SALTWATER FISHING

#### § 66.201. Redfish and Speckled Sea Trout

(a) No person may possess or transport for the purpose of sale a redfish or speckled sea trout.

(b) No person may sell or offer for sale a redfish or speckled sea trout.

(c) No person may purchase or offer to purchase for resale a redfish or speckled sea trout.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of \$200. Each fish possessed, sold, offered for sale, purchased, or attempted to be purchased in violation of this section is a separate offense.

(e) In this code:

(1) "Redfish" means red drum or *sciaenops ocellata* and includes all parts of that fish.

(2) "Speckled sea trout" means *cynoscion nebulosus* and includes all parts of that fish.

(f) This section applies to the possession, transportation, sale, and purchase of redfish and speckled sea trout without regard to where the fish was caught, but does not apply to:

(1) the transportation and possession of redfish and speckled sea trout caught outside this state and transported by common carrier from outside this state to a point of delivery outside this state;

(2) redfish and speckled sea trout that are raised by a licensed fish farmer in a private pond and are marked or indentified as provided by the rules of the commission under Chapter 48 of this code; or

(3) the importation into this state of lawfully taken, caught, or raised redfish or speckled sea trout, transported or sold when not alive, if tagged, packaged, or labeled under regulations of the commission. The commission may require that redfish and speckled sea trout enter the stream of commerce for sale in Texas in a state allowing ready identification of the species, including a requirement that the fish come into the state with head and tail intact and tagged. The commission shall allow subsequent sale of lawfully imported fish without head and tail intact and without tag provided the fish are labeled in a manner prescribed by the commission and the tag when removed is destroyed. Tags, if required, shall be of a type prescribed by the commission and shall be sold to applicants at cost as determined by the commission.

(g) Any person importing, transporting, or selling for resale dead redfish or speckled sea trout taken, caught, or raised in any other state or country shall obtain a license from the commission. The fee for such license is \$5 per calendar year or part thereof. Such imported fish shall be tagged, packaged, or labeled as provided in this section and in accordance with the regulations of the commission.

(h) It shall be unlawful for any person required to hold a license under Subsection (g) of this section to possess any imported redfish or speckled sea trout unless it is tagged or packaged pursuant to this section. A violation of the above stated prohibition shall be a Class A misdemeanor. Any person possessing for final sale to the consumer redfish or speckled sea trout in violation of this Act shall be guilty of a Class C misdemeanor.

(i) Any person may sell or purchase for use as food, at any season of the year, any imported redfish or speckled sea trout tagged, packaged, or marked for identification as provided in this section.

(j) Possession of more than three times the possession limits of redfish or speckled sea trout as provided by Section 66.2011 of this code is prima facie evidence that the fish are possessed for sale in violation of Subsection (a) of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 374, ch. 153, § 1, eff. Sept. 1, 1981.]

Section 16(b) of the 1981 amendatory act provides:  
 "A punishment that is increased by this Act applies to offenses occurring on or after the effective date of this Act, and the punishment in effect before the effective date of this Act applies to offenses committed before the effective date of this Act."

**§ 66.2011. Red Drum and Speckled Sea Trout: Daily Catch and Retention Limits**

- (a) No person may:
  - (1) catch and retain in one day more than 10 red drum;
  - (2) possess at one time more than 20 red drum;
  - (3) possess at one time more than two red drum longer than 35 inches; or

(4) catch and retain a red drum shorter than 14 inches.

- (b) No person may:
  - (1) catch and retain in one day more than 20 speckled sea trout;
  - (2) possess at one time more than 40 speckled sea trout; or
  - (3) catch and retain a speckled sea trout shorter than 12 inches.

(c) Daily catch, retention, and size limits for redfish and speckled sea trout set by the commission under the Uniform Wildlife Regulatory Act (Chapter 61 of this code) prevail over the limits under this section in counties to which the regulatory Act applies, except that the commission may not set a daily catch or retention limit of a greater number of fish than is prescribed by this section and may not set a size limit that is less restrictive than the size limit prescribed by this section. If the commission does not set catch, retention, and size limits for redfish and speckled sea trout under the regulatory Act, this section applies.

(d) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200. On a second or subsequent conviction, the person is punishable by a fine of not less than \$200 nor more than \$500 and shall forfeit the fishing license under which he is fishing.

(e) In addition to the penalty provided in Subsection (d) of this section, a person who violates this section shall have all equipment, other than vessels, in his possession used for the taking of red drum or speckled sea trout confiscated.

[Added by Acts 1977, 65th Leg., p. 722, ch. 270, § 5, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 375, ch. 153, § 2, eff. Sept. 1, 1981.]

**§ 66.2012. Regulation of Commercial Uses of Redfish and Speckled Sea Trout**

*Text of section added effective September 1, 1983*

(a) The commission by proclamation may regulate the catching, possession, transportation, sale, and purchase for commercial purposes in this state of redfish and speckled sea trout. A proclamation issued under this section must contain findings by the commission that support the need for the proclamation.

(b) In determining whether to permit or prohibit any commercial use of redfish and speckled sea trout under Subsection (a) of this section, the commission shall consider:

- (1) the availability of redfish and speckled sea trout in the coastal water of this state;
- (2) the availability of redfish and speckled sea trout from sources other than the coastal water of this state;
- (3) the economic interests of commercial and sports fishermen and related industries in this state;

(4) the research of the department made under Section 66.217 of this code;

(5) the protection of redfish and speckled sea trout habitat; and

(6) the degree of compliance with state law and previous regulations of the commission by fishermen and fish dealers in this state.

(c) A proclamation issued under Subsection (a) of this section may limit the number and size of redfish and speckled sea trout that may be caught, possessed, transported, sold, or purchased and may prescribe the times, places, conditions, and means and manner of catching redfish and speckled sea trout.

(d) A proclamation of the commission under this section prevails over any conflicting provision of Sections 66.201 and 66.2011 of this code to the extent of the conflict and only during the period that the proclamation is in effect.

(e) This section does not apply to activities that are regulated under the exceptions provided by Subdivisions (1), (2), and (3) of Section 66.201(f) of this code or under Subsections (g) and (h) of that section. [Added by Acts 1981, 67th Leg., p. 378, ch. 153, § 13, eff. Sept. 1, 1983.]

#### § 66.202. Nets and Seines in Inside Water: Non-commercial Fishing

(a) No person engaged in noncommercial fishing in the coastal water of this state may use for the purpose of catching fish a seine or drag seine or any other device except:

- (1) an ordinary pole and line;
- (2) a casting rod;
- (3) a rod and reel;
- (4) artificial or natural bait;
- (5) a trotline or set line;
- (6) a cast net; and

(7) a minnow seine of not more than 20 feet in length for catching bait only.

(b) In this section, inside water is that water defined as "inside water" in Chapter 77 of this code and "noncommercial fishing" means the catching of fish for a purpose other than for pay, barter, sale, or exchange.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. On a second or subsequent conviction, the person's fishing license is subject to cancellation. If the person's license is cancelled, he is not entitled to receive another fishing license for one year from the date of his conviction.

(d) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(1), eff. May 20, 1977.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(1), eff. May 20, 1977; Acts 1981, 67th Leg., p. 376, ch. 153, § 3, eff. Sept. 1, 1981.]

Section 16(b) of the 1981 amendatory act provides:

"A punishment that is increased by this Act applies to offenses occurring on or after the effective date of this Act, and the punishment in effect before the effective date of this Act applies to offenses committed before the effective date of this Act."

#### § 66.203. Nets and Seines in Outside Water: Non-commercial Fishing

(a) No person engaged in noncommercial fishing in the outside water of this state may use a net or seine that fails to meet the requirements of Subsection (b) of this section.

(b) The mesh of a net or seine, not including the bag and 50 feet on each side of the bag, must have sides of not less than one and one-half inches. The bag and that part of the net or seine 50 feet on each side of the bag must have meshes the sides of which are not less than one inch. No net or seine or combination of nets and seines connected together may be longer than 2,000 feet.

(c) In this section, outside water is that water defined as "outside water" in Chapter 77 of this code, and "noncommercial fishing" means the catching of fish for a purpose other than for pay, barter, sale, or exchange.

(d) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$20 nor more than \$100. On a second conviction the person is punishable by a fine of not less than \$50 nor more than \$200 and may have his license suspended for a period of not less than 30 nor more than 90 days. On a third or subsequent conviction the person is punishable by confinement in the county jail for not less than 30 nor more than 90 days and may have his license suspended for a period of not less than one year. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 66.204. Vessels and Obstructions in Fish Passes

(a) No person may operate, possess, or moor a vessel or other floating device, or may place any piling, wire, rope, cable, net, trap, or other obstruction, in a natural or artificial pass opened, reopened, dredged, excavated, constructed, or maintained by the department as a fish pass between the Gulf of Mexico and an inland bay, within a distance of 2,800 feet inside the pass measured from the mouth of the pass where it empties into or opens on the Gulf of Mexico.

(b) The department shall erect permanent iron or concrete monuments showing the restricted area.

(c) This section does not restrict the power of the United States to regulate navigation.

(d) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$1 nor more than \$100. On a second or subsequent conviction the person is punishable by a fine of not less than \$1 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 66.205. Drum Seining Permits

(a) A person who has a lease for taking oysters in water where seining is prohibited may apply to the department for a permit to seine for drum.

(b) The application shall be under oath and must include a statement that drum are seriously damaging the applicant's oysters and that if the permit is issued he will not take and retain or destroy other food fish but will return them to the water.

(c) If the department finds that drum are seriously damaging the oysters of the applicant, the permit shall be issued. The permit must state the period of validity and must specify the area of its applicability.

(d) The department shall assign an employee of the department to supervise the seining.

(e) Seining for drum in prohibited water is lawful when done under the authority of a permit issued under this section and when done in the presence of the assigned employee.

(f) The holder of a permit shall pay \$2.50 for each day of seining under the permit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.206. Trotline Tags**

(a) The department shall issue numbered tags for trotlines used in public salt water.

(b) The commission may make regulations for the safe use of trotlines and to carry out the provisions of this section.

(c) A trotline tag shall be attached to each 300 feet of trotline or fractional part of 300 feet, and the department shall collect a fee of \$1 for each tag issued.

(d) No person may use a trotline in public salt water unless the trotline has attached to it the proper number of trotline tags.

(e) A person who violates this section or a rule of the commission relating to safe trotline usage is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(f) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(2), eff. May 20, 1977.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(2), eff. May 20, 1977.]

**§ 66.207. Fish Pound Net Prohibited**

(a) No person may use a fish pound net in the water of the Gulf of Mexico within three nautical miles of the coastline.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.208. Commercial Joint Fishing Ventures**

(a) No person who is engaged in taking seafood in a commercial joint venture may sell or offer to sell the products of the joint venture except in the

regular course of the joint venture with the express or implied consent of the co-venturer.

(b) No person who is employed to take seafood may sell or offer to sell the products taken in the course of his employment without the express or implied consent of his employer.

(c) No person may purchase seafood with the knowledge that it is sold in violation of Subsection (a) or (b) of this section.

(d) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$100 nor more than \$200. On a second or subsequent conviction the person is punishable by a fine of not less than \$500 nor more than \$2,000 or by confinement in the county jail for not less than five days nor more than six months, or by both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.209. Statistical Reports**

(a) The department shall gather statistical information on the harvest of fish, shrimp, oysters, and other forms of edible marine life of the Texas coast.

(b) The department shall prescribe and distribute the report form. The form shall be designed to allow for statistical information concerning the numbers and quantity by weight of seafood taken, the species taken, the kinds of equipment used, and the water from which the catch is made.

(c) No dealer who purchases fish, shrimp, oysters, or other forms of edible marine life directly from the fisherman may fail to file the report with the department each month on or before the 10th day of the month. No dealer required to report may wilfully file an incorrect report.

(d) Any dealer who violates Subsection (c) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.210. Rough Fish**

(a) The commission shall investigate saltwater species of fish. It shall classify and reclassify, when necessary, saltwater fish as game fish and nongame fish.

(b) In this subchapter:

(1) "Game fish" means species that are desirable because of their sport and recreational value and that strike or bite at bait or artificial lures.

(2) "Nongame fish" means species that have no sporting value, predatory fish, bony or rough-fleshed fish, and other species whose numbers should be controlled to protect and encourage the propagation of game fish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.211. Permits for Taking Rough Fish**

(a) The commission shall issue permits for the taking of nongame fish in salt water to control nongame fish and to provide for their use when the commission finds that the taking will not adversely affect the conservation of game fish.

(b) The permit may authorize the use of nets, seines, and other devices that are otherwise prohibited, except that the commission may not authorize the use of a net or other device, the use of which was unlawful on May 26, 1941, in water in which the use of a trammel net, set net, or gill net was unlawful on that date. The permit shall specify the species of fish permitted to be taken.

(c) An applicant for a permit must:

(1) be a citizen of the United States and have resided in this state continuously for a period of at least six months before the date of the application; and

(2) not have been convicted of a violation of any fishing law of this state for a period of two years before the date of the application.

(d) The department shall collect a fee of \$5 for the issuance of the permit.

(e) The permit is valid for one year from the date of its issuance unless it is revoked prior to its expiration.

(f) The department shall inspect, approve, and attach metal identification tags to all devices used under this section for taking fish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.212. Holders of Rough Fish Permits: Offenses**

(a) No person holding a permit to take rough saltwater fish may:

(1) use a net or other device that the commission may not authorize for use in water covered by the exception in Section 66.211 of this code;

(2) use for the taking of fish any device without there being attached to it a metal identification tag issued by the department;

(3) use any device that would be prohibited except for the permit to take any game fish or any other species of fish not authorized to be taken by the permit; or

(4) use any device that would be prohibited except for the permit in any manner that will or does carelessly or needlessly injure marine life other than those species authorized to be taken by the permit.

(b) A holder of a permit who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. On conviction he may also have the permit revoked.

(c) An officer of the department who finds a device authorized by permit being used in violation

of this section shall immediately seize the device and hold it until after the trial. During the prosecution for an offense under this section, the holder of the permit may not use any device authorized by the permit but otherwise prohibited by law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.213. Possession of Illegal Nets and Seines**

(a) No person may possess a seine, strike net, gill net, or trammel net in or on the tidal water of this state where the use of the seine or net for the catching of fish is prohibited unless the seine or net is on board a vessel in port or in a channel and going directly to or from the Gulf of Mexico or going directly to or from other waters where the use of seines or nets is not prohibited. No person may possess or use for the purpose of catching finfish any seine, strike net, trammel net, or gill net in or on any waters of this state unless said seine, strike net, gill net, or trammel net is equipped with floats at intervals of six feet or less and of sufficient buoyancy to maintain the seine, strike net, gill net, or trammel net in an upright position in the water so that the floats are visible on the surface of the water thereby avoiding a hazard to motor boat traffic.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200, and the person's commercial fishing license is subject to cancellation. A person whose license is cancelled under this section may not receive another license for one year from the date of the conviction.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 4, eff. May 20, 1977; Acts 1979, 66th Leg., p. 439, ch. 199, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 376, ch. 153, § 4, eff. Sept. 1, 1981.]

**§ 66.214. Monofilament Nets: Use for Catching Finfish**

(a) In those coastal waters to which the Uniform Wildlife Regulatory Act (Chapter 61 of this code) is not applicable, no person may possess a monofilament net for the purpose of catching finfish.

(b) A person who violates this section is guilty of a misdemeanor punishable by a fine of \$200. Each net possessed in violation of this section is a separate offense.

[Added by Acts 1979, 66th Leg., p. 1166, ch. 565, § 1, eff. July 1, 1980. Amended by Acts 1981, 67th Leg., p. 376, ch. 153, § 5, eff. Sept. 1, 1981.]

Section 16(b) of the 1981 amendatory act provides:

"A punishment that is increased by this Act applies to offenses occurring on or after the effective date of this Act, and the punishment in effect before the effective date of this Act applies to offenses committed before the effective date of this Act."

**§ 66.215. Tags for Noncommercial Nets and Seines**

(a) Except as provided in Subsection (b) of this section, no person may place or use in the coastal

water of this state a net or seine unless there is attached to the net or seine a tag that discloses the name and address of the owner of the net or seine.

(b) This section does not apply to a person who holds a commercial fishing license under Chapter 47 of this code or to a net or seine on which there is attached the license required by Section 47.015 of this code.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(d) Authorized employees of the department may seize a net or seine in coastal water in violation of this section and retain the net or seine as evidence. If the owner of the net or seine seized under this subsection is not identified before the expiration of 90 days after its seizure, the net or seine may be disposed of under Section 12.011 of this code or as provided by other law.

[Added by Acts 1979, 66th Leg., p. 1166, ch. 565, § 1, eff. July 1, 1980.]

**§ 66.216. Possession of Headed or Tailed Fish**

(a) No person may possess a finfish of any species taken from coastal water, except broadbill swordfish, shark, and king mackerel, that has the head or tail removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each fish possessed in violation of this section constitutes a separate offense.

[Added by Acts 1981, 67th Leg., p. 376, ch. 153, § 6, eff. Sept. 1, 1981.]

**§ 66.217. Finfish Research**

(a) The department shall conduct continuous research and study of:

- (1) the supply, economic value, environment, and breeding habits of the various species of finfish, including red drum and speckled sea trout;
- (2) factors affecting the increase or decrease of finfish supply;
- (3) the use of trawls, nets, and other devices for the taking of finfish;
- (4) the effect on finfish of industrial and other types of water pollution in areas naturally frequented by finfish; and
- (5) statistical information gathered by the department on the marketing, harvesting, processing, and catching of finfish landed in this state.

(b) The department shall make findings and issue reports based on the research required by Subsection (a) of this section.

(c) The findings and reports shall be filed in the permanent records of the department.

(d) The reports and findings must include recommendations for opening or closing bay areas to the use of trawls, nets, and saltwater trotlines when the studies indicate appropriate action to prevent waste or avoid depletion of finfish.

(e) Before the convening of each regular session of the legislature; the department shall publish and present to the governor and the legislature a special report on studies, findings, recommendations, and actions taken under this subchapter.

[Added by Acts 1981, 67th Leg., p. 378, ch. 153, § 12, eff. Sept. 1, 1981.]

[Sections 66.218 to 66.300 reserved for expansion]

**SUBCHAPTER D. TEXAS TERRITORIAL WATER**

**§ 66.301. Definition**

In this subchapter, "coastal water" means all of the salt water of this state, including that portion of the Gulf of Mexico within the jurisdiction of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.302. Licenses**

(a) Except as provided in Subsections (b) and (c) of this section, the department shall grant to or withhold from alien vessels licenses required for boats or vessels used in fishing or shrimping in the coastal water of this state on the basis of reciprocity or retortion.

(b) The department shall issue licenses to a vessel of a nation designated as a friendly ally or neutral on receipt of a formal suggestion transmitted to the governor by the Secretary of State of the United States.

(c) The department shall not issue a license to any boat or vessel owned in whole or in part by any alien power, or a subject or national of an alien power, or any individual who subscribes to the doctrine of international communism or who has signed a treaty of trade, friendship, and alliance or a nonaggression pact with any communist power.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.303. Prohibited Acts**

(a) No unlicensed alien vessel may take or attempt to take by any means or possess any natural resource of the coastal water of this state.

(b) A captain, master, or owner of any unlicensed alien vessel or boat who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year, or both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.304. Port Authorities and Navigation Districts**

It is the duty of the port authorities and navigation districts of this state to prevent the use of any port facility in a manner that they reasonably suspect may assist in the violation of this subchapter. They shall use all reasonable means, including the inspection of nautical logs, to ascertain from masters of newly arrived vessels of all types, other than warships of the United States, the presence of alien commercial fishing vessels within the coastal water of this state and shall promptly transmit the information to the department and to law enforcement agencies of this state as the situation may indicate. They shall request assistance from the United States Coast Guard in appropriate cases to prevent unauthorized departure from any port facility.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.305. Harbor Pilots**

All harbor pilots shall promptly transmit any knowledge coming to their attention regarding possible violations of this subchapter to the appropriate navigation district or port authority or the appropriate law enforcement officials.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.306. Enforcement**

All law enforcement agencies of the state, including agents of the department, are empowered and directed to arrest the masters and crews of vessels that are reasonably believed to be in violation of this chapter and to seize and detain the vessels and their equipment and catch. The arresting officer shall take the offending crews or property before the court having jurisdiction of the offense. The agencies are directed to request assistance from the United States Coast Guard in the enforcement of this Act when the agencies are without means to effectuate arrest and restraint of vessels and their crews operating in violation or probable violation of this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 66.307. Political Asylum**

No crew member or master seeking bona fide political asylum shall be fined or imprisoned under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 67. NONGAME SPECIES**

Section	
67.001.	Regulations.
67.0011.	Exemption of Crayfish.
67.002.	Management of Nongame Species.
67.003.	Continuing Scientific Investigations.
67.004.	Issuance of Regulations.
67.005.	Penalty.

**§ 67.001. Regulations**

The department by regulation shall establish any limitations on the taking, possession, transportation, exportation, sale, and offering for sale of nongame fish and wildlife that the department considers necessary to manage these species.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 67.0011. Exemption of Crayfish**

This chapter does not apply to crayfish, other than in public water.

[Added by Acts 1981, 67th Leg., p. 399, ch. 161, § 4, eff. May 20, 1981.]

**§ 67.002. Management of Nongame Species**

The department shall develop and administer management programs to insure the continued ability of nongame species of fish and wildlife to perpetuate themselves successfully.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 67.003. Continuing Scientific Investigations**

The department shall conduct ongoing investigations of nongame fish and wildlife to develop information on populations, distribution, habitat needs, limiting factors, and any other biological or ecological data to determine appropriate management and regulatory information.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 67.004. Issuance of Regulations**

(a) The regulations shall state the name of the species or subspecies, by common and scientific name, that the department determines to be in need of management under this chapter.

(b) The department shall conduct a public hearing on all proposed regulations and shall publish notice of the hearing in at least three major newspapers of general circulation in this state at least one week before the date of the hearing.

(c) The department shall solicit comments on the proposed regulations at the public hearing and by other means.

(d) On the basis of the information received at the hearing or by other means, the department may modify a proposed regulation.

(e) Regulations become effective 60 days after the date they are proposed unless withdrawn by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 67.005. Penalty**

(a) A person who violates a regulation of the commission issued under this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$200.

(b) A person who violates a regulation of the commission issued under this chapter and who has been convicted on one previous occasion of a violation of a commission regulation under this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$200 nor more than \$500, or by confinement in jail for not less than 30 nor more than 90 days, or by both.

(c) A person who violates a regulation of the commission issued under this chapter and who has been convicted on two or more previous occasions of a violation of commission regulations under this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$500 nor more than \$2,000 and by confinement in jail for not less than six months nor more than one year. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 68. ENDANGERED SPECIES**

Section	
68.001.	Definitions.
68.002.	Endangered Species.
68.003.	Statewide Extinction List.
68.004.	Amendments to List by Director.
68.005.	Petition of Reclassification.
68.006.	Permit for Taking Endangered Species.
68.007.	Propagation Permit Required.
68.008.	Original Propagation Permit.
68.009.	Renewal Propagation Permit.
68.010.	Reports by Permittee.
68.011.	Refusal or Cancellation of Permit.
68.012.	Appeal.
68.013.	Disposition of Fish or Wildlife.
68.014.	Regulations.
68.015.	Prohibited Acts.
68.016.	Sold Species to be Tagged.
68.017.	Seizure of Fish or Wildlife.
68.018.	Disposition of Funds; Appropriations.
68.019.	Applicability of Chapter.
68.020.	Exceptions.
68.021.	Penalty.

**§ 68.001. Definitions**

In this chapter:

(1) "Fish or wildlife" means any wild mammal, aquatic animal, wild bird, amphibian, reptile, mollusk, or crustacean, or any part, product, egg, or offspring, of any of these, dead or alive.

(2) "Management" means:

(A) the collection and application of biological information for the purpose of increasing the number of individuals within species or populations of fish or wildlife up to the optimum carrying capacity of their habitat and maintaining these numbers;

(B) the entire range of activities constituting a full scientific research program, including census studies, law enforcement, habitat acquisition and improvement, and education; and

(C) when and where appropriate, the protection of and regulation of the taking of fish and wildlife species and populations.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.002. Endangered Species**

Species of fish or wildlife are endangered if listed on:

(1) the United States List of Endangered Foreign Fish and Wildlife as in effect on August 27, 1973 (50 C.F.R. Part 17, Appendix A);

(2) the United States List of Endangered Native Fish and Wildlife as in effect on August 27, 1973 (50 C.F.R. Part 17, Appendix D); or

(3) the list of fish or wildlife threatened with statewide extinction as filed by the director of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.003. Statewide Extinction List**

(a) The director shall file with the secretary of state a list of fish or wildlife threatened with statewide extinction.

(b) Fish or wildlife may be classified by the director as threatened with statewide extinction if the department finds that the continued existence of the fish or wildlife is endangered due to:

(1) the destruction, drastic modification, or severe curtailment of its habitat;

(2) its overutilization for commercial or sporting purposes;

(3) disease or predation; or

(4) other natural or man-made factors.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.004. Amendments to List by Director**

(a) If the lists of endangered species issued by the United States are modified, the director shall file an order with the secretary of state accepting the modification. The order is effective immediately.

(b) The director may amend the list of species threatened with statewide extinction by filing an order with the secretary of state. The order is effective on filing.

(c) The director shall give notice of the intention to file a modification order under Subsection (b) of this section at least 60 days before the order is filed. The notice must contain the contents of the proposed order.

(d) If a reclassification petition is filed during the 60-day notice period required by Subsection (c) of this section, the order may not be filed until the conclusion of the proceeding on reclassification.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.005. Petition of Reclassification**

(a) Three or more persons may petition the department to add or delete species of fish or wildlife from the statewide extinction list.

(b) The petition must present substantial evidence for the addition or deletion.

(c) If fewer than 50 people join in the petition, the department may refuse to review the classification list, but if 50 or more persons join in the petition, the department shall conduct a hearing to review the classification list. The hearing shall be open to the public, and notice of the hearing shall be given in at least three major newspapers of general circulation in the state at least one week before the date of the hearing.

(d) Based on the findings at the hearing, the department may file an order with the secretary of state altering the list of fish or wildlife threatened with statewide extinction. The order takes effect on filing.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 68.006. Permit for Taking Endangered Species

The provisions of Subchapter C, Chapter 43, of this code<sup>1</sup> are applicable to all fish or wildlife classified as endangered, and it is a violation of this chapter to possess, take, or transport endangered fish or wildlife for zoological gardens or scientific purposes or to take or transport endangered fish or wildlife from their natural habitat for propagation for commercial purposes without the permit required by Section 43.022 of this code or a federal permit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

<sup>1</sup> Section 43.021 et seq.

#### § 68.007. Propagation Permit Required

No person may possess endangered fish or wildlife for the purpose of propagating them for sale unless he has first acquired a commercial propagation permit issued by the department under this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 68.008. Original Propagation Permit

(a) A person may apply for an original propagation permit by submitting an application containing information or statements as required by the department and by submitting an original propagation permit fee of \$300.

(b) The department shall issue the permit if it determines that the applicant has complied with Subsection (a) of this section, that the initial breeding stock was acquired under a permit issued under Section 43.022 of this code or was otherwise legally acquired, and that the applicant has not violated the laws of the United States, this state, or another state with respect to the acquisition of breeding stock.

(c) An original propagation permit must contain a description of endangered fish and wildlife authorized to be possessed under the permit.

(d) An original propagation permit is valid for one year from the date of its issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 68.009. Renewal Propagation Permit

(a) A person holding an original propagation permit or a renewal propagation permit is entitled to receive from the department a renewal propagation permit on application to the department and on the payment of a renewal propagation permit fee of \$550 if the application and fee are received by the department during the period beginning 10 days before the expiration date of the outstanding permit and extending through the expiration date of the permit.

(b) A renewal propagation permit is valid for a period of three years beginning on the date of its issuance.

(c) The department may refuse to renew any permit if it determines that it would be in the best interest of the species of fish or wildlife described in the permit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 68.010. Reports by Permittee

A person holding a commercial propagation permit shall send to the department annually:

(1) a written evaluation by a veterinarian licensed to practice in this state of the physical conditions of the propagation facilities and the conditions of the fish or wildlife held under the permit; and

(2) a written report on forms prepared by the department relating to propagation activities during the previous year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 68.011. Refusal or Cancellation of Permit

(a) If, on the basis of the reports required by Section 68.010 of this code or an investigation or inspection by an authorized employee of the department, the department finds that a permit holder is improperly caring for or handling the fish or wildlife held under the permit, the department shall give written notice of the objectionable actions or conditions to the permit holder.

(b) If the department finds that the improper caring for or handling of the fish or wildlife is detrimental to the fish or wildlife and immediate protection is needed, the department may seize the fish or wildlife and authorize proper care pending the correction of the improper conditions or actions.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 68.012. Appeal

(a) A person aggrieved by the action of the department in refusing to grant or renew a commercial propagation permit or in cancelling a permit may appeal within 20 days of the final action of the department to a district court of Travis County or the county of his residence.

(b) The appeal shall be by trial de novo as are appeals from the justice court to the county court. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.013. Disposition of Fish or Wildlife**

A person who ceases to hold a commercial propagation permit under this chapter shall dispose of endangered fish or wildlife held after the expiration or cancellation of the permit in the manner required by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.014. Regulations**

The department shall make regulations necessary to administer the provisions of this chapter and to attain its objectives, including regulations to govern:

- (1) permit application forms, fees, and procedures;
- (2) hearing procedures;
- (3) procedures for identifying endangered fish and wildlife or goods made from endangered fish or wildlife which may be possessed, propagated, or sold under this chapter; and
- (4) publication and distribution of lists of species and subspecies of endangered fish or wildlife and their products.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.015. Prohibited Acts**

(a) No person may possess, sell, distribute, or offer or advertise for sale endangered fish or wildlife unless the fish or wildlife have been lawfully born and raised in captivity for commercial purposes under the provisions of this chapter or federal law.

(b) No person may possess, sell, distribute, or offer or advertise for sale any goods made from endangered fish or wildlife unless:

- (1) the goods were made from fish or wildlife that were born and raised in captivity for commercial purposes under the provisions of this chapter or federal law; or
- (2) the goods were made from fish or wildlife lawfully taken in another state and the person presents documented evidence to the department to substantiate that fact.

(c) No person may sell, advertise, or offer for sale any species of fish or wildlife not classified as endangered under the name of any endangered fish or wildlife.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 3135, ch. 825, § 1, eff. June 17, 1981.]

**§ 68.016. Sold Species to be Tagged**

No person may sell endangered fish or wildlife or goods made from endangered fish or wildlife unless the fish or wildlife or goods are tagged or labeled in

a manner to indicate compliance with Section 68.015(a) and (b) of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.017. Seizure of Fish or Wildlife**

(a) A peace officer who has arrested a person for a violation of this chapter may seize fish or wildlife or goods made from fish or wildlife taken, possessed, or made in violation of this chapter.

(b) Property taken under this section shall be delivered to the department for holding pending disposition of the court proceedings. If the court determines that the property was taken, possessed, or made in violation of the provisions of this chapter, the department may dispose of the property under its regulations. The costs of the department in holding seized fish or wildlife during the pendency of the proceedings may, in appropriate cases, be assessed against the defendant.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.018. Disposition of Funds; Appropriations**

(a) All revenue received under this chapter shall be deposited in the state treasury to the credit of the general revenue fund.

(b) Funds for the administration of this chapter may be appropriated from the general revenue fund. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.019. Applicability of Chapter**

All species and subspecies of wildlife classified as endangered are governed by this chapter to the exclusion of other regulatory and licensing laws. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 68.020. Exceptions**

(a) This chapter does not apply to:

- (1) coyotes (prairie wolves);
- (2) cougars;
- (3) bobcats;
- (4) prairie dogs;
- (5) red foxes; or
- (6) animals, fish, or fowl that are privately owned or to the management or taking of privately owned animals, fish, or fowl by the private owners.

(b) This chapter does not apply to the possession of mounted or preserved endangered fish or wildlife acquired before August 31, 1973, by public or private nonprofit educational, zoological, or research institutions. The department may require an institution to furnish a list of mounted or preserved fish or wildlife possessed and proof of the time of acquisition. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 68.021. Penalty

(a) A person who violates any provision of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$200.

(b) A person who violates any provision of this chapter and who has been convicted on one previous occasion of a violation of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$200 nor more than \$500, or by confinement in jail for not less than 30 nor more than 90 days, or by both.

(c) A person who violates any provision of this chapter and who has been convicted on two or more previous occasions of a violation of this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$500 nor more than \$2,000 and by confinement in jail for not less than six months nor more than one year.

(d) A violation of a regulation of the department issued under the authority of this chapter is a violation of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

SUBTITLE C. FUR-BEARING ANIMALS

CHAPTER 71. LICENSES AND REGULATIONS

Section

- 71.001. Definitions.
- 71.0011. Application.
- 71.002. Proclamations.
- 71.003. Scientific Studies and Investigations.
- 71.004. Prohibited Acts.
- 71.005. Licenses Required.
- 71.006. Purchases by Retail Fur Buyer.
- 71.007. Purchases by Wholesale Fur Dealer.
- 71.008. Issuance of Licenses.
- 71.009. License Fees.
- 71.010. License Period.
- 71.011. Possession and Display of Licenses.
- 71.012. Inspections.
- 71.013. Fees of Issuing Agents.
- 71.014. Reports.
- 71.015. Penalties.
- 71.016. Revocation of License.

§ 71.001. Definitions

In this subtitle:

(1) "Fur-bearing animal" means wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, weasel, nutria, or civet cat.

(2) "Trapper" means a person who takes a fur-bearing animal or the pelt of a fur-bearing animal.

(3) "Retail fur buyer" means a person who purchases a fur-bearing animal or the pelt of a fur-bearing animal of this state from trappers only.

(4) "Wholesale fur dealer" means a person who purchases for himself or for another person a fur-bearing animal or the pelt of a fur-bearing

animal of this state from a trapper, a retail fur buyer, a fur-bearing animal propagator, or another wholesale fur dealer.

(5) "Resident" means a person who has resided in this state for more than six months immediately before an application for a license issued under this chapter is made.

(6) "Nonresident" means any person applying for a trapper's license other than a resident.

(7) "Sale" includes barter and other transfers of ownership for consideration.

(8) "Take" means the act of snaring, trapping, shooting, killing, or capturing by any means and includes an attempt to take.

(9) "Carcass" means the body of a dead fur-bearing animal, with or without the hide attached.

(10) "Depredation" means the loss of or damage to agricultural crops, livestock, poultry, or personal property.

(11) "Pelt" means the untanned, green or dried hide or skin of a fur-bearing animal, whether or not the hide or skin is attached to the carcass.

(12) "Place of business" means a place where fur-bearing animals or their pelts are sold, received, transported, possessed, or purchased, and includes a vehicle used by a trapper, retail fur buyer, wholesale fur dealer, or fur-bearing animal propagator.

(13) "Fur-bearing animal propagator" means a person who takes or possesses a living fur-bearing animal and holds it for the purpose of propagation or sale.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 2047, ch. 801, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

Sections 8 and 10 of Acts 1981, 67th Leg., ch. 748, revising this chapter, provide:

"Sec. 8. The following sections of the Parks and Wildlife Code, as amended, are not affected by this Act: Sections 81.404, 229.021, 334.041, and 350.021."

"Sec. 10. (a) A person who violates a provision of Chapter 71 or Chapter 72, Parks and Wildlife Code, as amended, before the effective date of this Act shall be prosecuted under the law as it existed on the day the violation occurred and that law is continued in effect for that purpose.

"(b) The fact that a person was convicted of a violation of a provision of Chapter 71 or 72, Parks and Wildlife Code, as amended, before the effective date of this Act does not preclude the use of that conviction for enhancing the punishment for an offense that was committed after the effective date of this Act."

§ 71.0011. Application

This chapter applies to fur-bearing animals in each county except those populations on the state's list of endangered fish and wildlife.

[Added by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

§ 71.002. Proclamations

(a) The commission by proclamation may regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals, pelts, and carcasses as the commission considers necessary to manage fur-bearing animals or to protect human health or property.

(b) A proclamation of the commission under this chapter may also provide for:

- (1) permit application forms, fees, procedures, and reports;
- (2) hearing procedures;
- (3) the periods of time when it is lawful to take, possess, sell, purchase, or transport fur-bearing animals, pelts, and carcasses;
- (4) catch and possession limits for fur-bearing animals and pelts; and
- (5) the means, methods, and manner that are, and places in which it is, lawful to take or possess fur-bearing animals, pelts, or carcasses.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.003. Scientific Studies and Investigations**

The department shall conduct scientific studies and investigations of fur-bearing animals as necessary to develop information on populations, distribution, habitat needs, and limiting factors, to acquire any other biological or ecological data, and to determine appropriate management policies for public safety.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.004. Prohibited Acts**

(a) No person may take, sell, purchase, or possess a fur-bearing animal, pelt, or carcass in this state, except as provided by proclamation of the commission. This chapter does not prohibit a landowner or his agent from taking a fur-bearing animal causing depredation on that person's land. No person may possess a fur-bearing animal taken for depredation purposes except as authorized by proclamation of the commission.

(b) No person may take a fur-bearing animal on any privately owned land or body of water unless the owner of the land or water, or the owner's agent, consents.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.005. Licenses Required**

(a) No person may take a fur-bearing animal or a pelt in this state unless he has acquired and possesses a trapping license.

(b) No person may purchase or possess after purchase a pelt or carcass taken in this state unless he has acquired and possesses a retail fur buyer's or wholesale fur dealer's license.

(c) No person may take or possess a live fur-bearing animal for the purpose of propagation or sale unless he has acquired and possesses a fur-bearing animal propagation license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.006. Purchases by Retail Fur Buyer**

No retail fur buyer may purchase in this state a pelt or carcass except from a licensed trapper. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.007. Purchases by Wholesale Fur Dealer**

No wholesale fur dealer may purchase in this state a pelt or carcass except from a licensed trapper, a licensed retail fur buyer, a fur-bearing animal propagator, or another licensed wholesale fur dealer. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.008. Issuance of Licenses**

The licenses authorized by this chapter shall be of a form prescribed and issued by the department, or an authorized agent of the department, to applicants on the payment of the license fees.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.009. License Fees**

The fee for a license is set by the commission in an amount necessary to provide revenue to cover the costs of implementing the provisions of this chapter, but the amount may not be less than:

- (1) \$10.75 for a resident trapper's license;
- (2) \$200.75 for a nonresident trapper's license;
- (3) \$50.75 for a resident retail fur buyer's license;
- (4) \$200.75 for a nonresident retail fur buyer's license;
- (5) \$100.75 for a resident wholesale fur dealer's license;
- (6) \$400.75 for a nonresident wholesale fur dealer's license; and
- (7) \$50.75 for a fur-bearing animal propagation permit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.010. License Period**

The license period for licenses issued under this chapter is September 1 of one year through August 31 of the following year, and a license is current and valid only for the license period for which it is issued.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

**§ 71.011. Possession and Display of Licenses**

(a) A trapper shall carry the trapper's license on his person while taking or possessing a fur-bearing animal, pelt, or carcass.

(b) A wholesale fur dealer, a retail fur buyer, or a fur-bearing animal propagator shall display the required license at his place of business or while conducting business at a place other than his place of business.

(c) The failure to display a valid license on request by the department or an authorized agent of the department while taking, possessing, selling, offering for sale, or buying a fur-bearing animal, pelt, or carcass is a violation of this chapter. If on or before the trial of a person charged with a violation of this section, the person produces for the court or the prosecuting attorney the proper license that was issued to the person and valid at the time of the offense, the court shall dismiss that charge.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

#### § 71.012. Inspections

The place of business of any fur-bearing animal propagator, wholesale fur dealer, or retail fur buyer and any vehicle being used by a fur-bearing animal propagator, wholesale fur dealer, or retail fur buyer for the collection or transportation of fur-bearing animals, carcasses, or pelts are subject to inspection without a warrant by a game warden or any other peace officer at any time.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

#### § 71.013. Fees of Issuing Agents

County clerks and other authorized agents of the department other than employees of the department may retain 75 cents of the fee for the issuance of a trapper's license, a retail fur buyer's license, or a wholesale fur dealer's license as a collection fee.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

#### § 71.014. Reports

The holder of a wholesale fur dealer's, retail fur buyer's, or fur-bearing animal propagation license shall submit reports to the department as required by proclamation of the commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

#### § 71.015. Penalties

(a) Except as provided in another subsection of this section, a person who violates any provision of this chapter or proclamation under this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(b) If it is shown at the trial of the defendant that he has been convicted once within the preceding 36 months of a violation of this chapter or a proclama-

tion under this chapter, he shall be punished by a fine of not less than \$200 nor more than \$500, by confinement in jail for not less than 30 nor more than 90 days, or by both.

(c) If it is shown at the trial of the defendant that he has been convicted two or more times within the preceding 60 months of a violation of this chapter or a proclamation under this chapter, he shall be punished by a fine of not less than \$500 nor more than \$2,000, by confinement in jail for not less than six months nor more than one year, or by both.

(d) The use of a conviction for enhancement purposes does not preclude the subsequent use of that conviction for enhancement purposes.

(e) Each fur-bearing animal or pelt of a fur-bearing animal taken or possessed in violation of this chapter constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.]

#### § 71.016. Revocation of License

(a) If a person is convicted under Section 71.015 of this chapter, the court may revoke a license issued to that person under this chapter. The decision to revoke shall be entered in the judgment.

(b) If a person's license has been revoked under Subsection (a) of this section, that person may not obtain a license issued under this chapter for a period of one year from the date of revocation.

(c) A person who obtains a license issued under this chapter within one year after the date of revocation of a license issued under this chapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$500 nor more than \$1,000.

[Added by Acts 1981, 67th Leg., p. —, ch. 748, § 1, eff. Sept. 1, 1981.]

### CHAPTER 72. LIMITATIONS ON TAKING FUR-BEARING ANIMALS [REPEALED]

Section  
72.001 to 72.007. Repealed.

§§ 72.001 to 72.007. Repealed by Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(b), eff. Sept. 1, 1981

The repealed sections, relating to limitations on taking fur-bearing animals, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, except former § 72.0035 which was added by Acts 1977, 65th Leg., p. 1419, ch. 576, § 1.

Section 10 of the 1981 repealing act provides:

"(a) A person who violates a provision of Chapter 71 or Chapter 72, Parks and Wildlife Code, as amended, before the effective date of this Act shall be prosecuted under the law as it existed on the day the violation occurred and that law is continued in effect for that purpose.

"(b) The fact that a person was convicted of a violation of a provision of Chapter 71 or 72, Parks and Wildlife Code, as amended, before the effective date of this Act does not preclude the use of that conviction for enhancing the punishment for an offense that was committed after the effective date of this Act."

SUBTITLE D. CRUSTACEANS  
AND MOLLUSKS

CHAPTER 76. OYSTERS

SUBCHAPTER A. PUBLIC AND PRIVATE OYSTER BEDS

- Section
- 76.001. Natural Oyster Bed.
- 76.002. Designation of Public and Private Beds.
- 76.003. Beds Subject to Location.
- 76.004. Riparian Rights.
- 76.005. Affidavit of Riparian Rights.
- 76.006. Application for Location; Fee.
- 76.007. Maximum Acreage Under Location.
- 76.008. Lease or Control by Foreign Corporation Prohibited.
- 76.009. Examination and Survey of Location.
- 76.010. Areas Not Subject to Location.
- 76.011. Survey Markings and Buoys.
- 76.012. Locator's Certificate.
- 76.013. Survey Fee.
- 76.014. Filing of Certificate.
- 76.015. Rights of Locator.
- 76.016. Fencing of Location.
- 76.017. Location Rental.
- 76.018. Oyster Production Required.

SUBCHAPTER B. OYSTER PERMITS

- 76.031. Application for Permit.
- 76.032. Discretion to Issue Permit.
- 76.033. Conditions of Permit.
- 76.034. Minimum Size.
- 76.035. Oysters Property of Permittee.
- 76.036. Marking Beds.
- 76.037. Theft of Oysters From Private Bed.
- 76.038. Interference With Buoys or Markers.
- 76.039. Prohibited Sales.

SUBCHAPTER C. OYSTER DREDGE LICENSE

- 76.101. Oyster Dredge License Required.
- 76.102. Exemptions From License.
- 76.103. Types of Licenses; Period of Validity.
- 76.104. License Fees.
- 76.105. Commercial License: Dredge Size.
- 76.106. Sports License: Dredge Size.
- 76.107. Sale of Sports Oysters Prohibited.
- 76.108. Open Season.
- 76.109. Night Dredging Prohibited.
- 76.110. Number and Description of Dredges.
- 76.111. Retention Limits.
- 76.112. Oyster Size Limits.
- 76.113. Culling Oysters.
- 76.114. Exception to Size and Retention Limits.
- 76.115. Closing Areas.
- 76.116. Oysters From Polluted Areas.
- 76.117. Obedience to Orders.
- 76.118. Penalty.

SUBCHAPTER D. SHELLFISH IN POLLUTED WATER

- 76.201. Definitions.
- 76.202. Declaration of Polluted Areas.
- 76.203. Rules and Regulations.
- 76.204. Inspection of Shellfish Plants.
- 76.205. Taking Shellfish From Polluted Areas.
- 76.206. Transplanting Shellfish From Polluted Areas.
- 76.207. Purification of Shellfish.
- 76.208. Sale of Shellfish Improperly Handled.
- 76.209. Sale of Shellfish From Improper Facilities.
- 76.210. Unlawfully Operating a Shellfish Plant.
- 76.211. Sale of Shellfish Without a Certificate Number.
- 76.212. Compliance With Regulations.
- 76.213. Enforcement.
- 76.214. Disposition of Unfit or Unlawful Shellfish.
- 76.215. Performance Bond.
- 76.216. Penalty.

SUBCHAPTER A. PUBLIC AND PRIVATE  
OYSTER BEDS

§ 76.001. Natural Oyster Bed

(a) A natural oyster bed exists when at least five barrels of oysters are found within 2,500 square feet of any position on a reef or bed.

(b) In this section, a barrel of oysters is equal to three boxes of oysters in the shell. The dimensions of a box are 10 inches by 20 inches by 13-½ inches. In filling a box for measurement, the oysters may not be piled more than 2-½ inches above the height of the box at the center. Two gallons of shucked oysters without shells equals one barrel of oysters in the shell.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.002. Designation of Public and Private Beds

(a) All natural oyster beds are public.

(b) All oyster beds not designated as private are public.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.003. Beds Subject to Location

Except as provided in Section 76.004 of this code, an oyster bed or reef, other than a natural oyster bed, is subject to location by the department. This section does not apply to a bed or reef that has been exhausted within an eight-year period.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.004. Riparian Rights

(a) The lawful occupant of a grant of land in this state has the exclusive right to use any creek, bayou, lake, or cove included within the metes and bounds of the original grant for the planting or sowing of oysters.

(b) If the creek, bayou, lake, or cove is not included in the original grant, a riparian owner has an exclusive right in the creek, bayou, lake, or cove for the planting and sowing of oysters to the middle of the creek, bayou, lake, or cove or to 100 yards from the shore, whichever distance is shorter.

(c) The right of a riparian owner of land along any bay shore in this state to plant oysters extends 100 yards into the bay from the high-water mark or from where the land survey ceases. The right to a natural oyster bed under this subsection is not exclusive.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.005. Affidavit of Riparian Rights

(a) The department may require the owner of riparian rights described in Section 76.004 of this code when offering oysters for sale to make an affidavit stating that the oysters were produced on his property.

(b) The failure of an owner of riparian rights described in Section 76.004(a) of this code to have an affidavit when required by the department or to show it to a game management officer on request or to the person to whom the oysters are offered for sale when required by the department is prima facie evidence that the oysters were produced from public beds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.006. Application for Location; Fee

(a) Any citizen of the United States or any domestic corporation may file a written application with the department for a certificate authorizing the applicant to plant oysters and make a private oyster bed in the public water of the state.

(b) The application must describe the location desired.

(c) The application must be accompanied by a fee of \$20.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.007. Maximum Acreage Under Location

No person may own, lease, or control more than 100 acres of land covered by water under certificates of location.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.008. Lease or Control by Foreign Corporation Prohibited

No corporation other than those incorporated under the laws of this state may lease or control land under a certificate of location.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.009. Examination and Survey of Location

(a) On receipt of an application for a location, the department shall examine the proposed location as soon as practicable by any efficient means.

(b) If the location is subject to certification, the department shall have the location surveyed by a competent surveyor.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.010. Areas Not Subject to Location

The following areas are not subject to location:

- (1) a natural oyster bed;
- (2) a bay shore area within 100 yards of the shore;
- (3) an area subject to an exclusive riparian right; and
- (4) an area already under certification as a location.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.011. Survey Markings and Buoys

(a) In making a location, the surveyor shall plant two iron stakes or pipes having a diameter of not less than two inches on the shoreline nearest to the proposed location, so that one stake or pipe is at each end of the location. The stakes or pipes shall be set at least three feet in the ground and with reference to bearings of at least three permanent objects or natural landmarks.

(b) The locator shall place and maintain, under the direction of the department, a buoy at each corner of the location farthest from the land.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.012. Locator's Certificate

(a) The department shall issue to each locator a certificate signed and sealed by the director.

(b) The certificate must contain:

- (1) the date of the application;
- (2) the date of the survey; and

(3) a description of the location by metes and bounds with reference to points of the compass and natural objects by which the location may be found and verified.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.013. Survey Fee

(a) Before delivery of the certificate, the locator shall pay to the department the surveyor's fee and other costs of establishing the location.

(b) The amount of the fee required by Section 76.006(c) of this code may be deducted from the amount owed to the department under this section.

(c) If the amount paid under Section 76.006(c) of this code exceeds the amount owed under this section, the difference shall be returned to the locator.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 76.014. Filing of Certificate

(a) Before the expiration of 60 days following the date of the certificate, the locator shall file the certificate with the county clerk of the county of the location.

(b) The clerk shall file the certificate in a well-bound book kept for that purpose and shall return the original certificate and a registration receipt to the locator. The clerk is entitled to receive as a fee for filing the certificate the same fee as for recording deeds.

(c) The original certificate and certified copies of it are admissible in court under the same rules governing the admissibility of deeds and certified copies of deeds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.015. Rights of Locator**

(a) The holder of a certificate of location as provided for in Section 76.012 of this code is protected in his possession of the location against trespass in the same manner as are freeholders.

(b) This section applies only as long as the stakes or pipes and buoys required by this chapter are maintained in their correct positions and the locator complies with the law and the regulations governing the fish and oyster industries.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.016. Fencing of Location**

A locator or his assignee may fence all or part of his location if the fence does not obstruct navigation into or through a regular channel or cut leading to other public water.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.017. Location Rental**

(a) No rental fee is owed on any location when oysters are not sold or marketed from the location for a period of five years after the date of the establishment of the location.

(b) When oysters are sold or marketed from the location and thereafter, the holder of the certificate shall pay to the department \$2.25 per acre of location per year and 10 cents for each barrel of oysters from the location sold.

(c) Rental fees are due annually by March 1.

(d) The failure to pay any rental when due terminates the lease.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 908, ch. 416, § 2, eff. Aug. 27, 1979.]

**§ 76.018. Oyster Production Required**

If oysters from the location are not sold or marketed within five years from the date of the establishment of the location, the lease is void.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 76.019 to 76.030 reserved for expansion]

SUBCHAPTER B. OYSTER PERMITS

**§ 76.031. Application for Permit**

(a) A person desiring to plant oysters on his own location or to take oysters from oyster reefs and public water shall apply to the department for an oyster permit.

(b) Only those persons who are citizens of Texas or corporations composed of American citizens and chartered by this state to engage in the culture of

oysters or to transact business in the purchase and sale of fish and oysters may apply for a permit.

(c) The application must:

- (1) state the purpose for taking oysters; and
- (2) give the quantity of oysters to be taken from designated areas.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.032. Discretion to Issue Permit**

The department may issue or refuse to issue a permit to any applicant.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.033. Conditions of Permit**

(a) The department shall require the permittee to take only the oysters authorized in the permit from beds or reefs designated in the permit.

(b) The department shall:

- (1) mark off the exact area of beds or reefs from which oysters may be taken;
- (2) designate the bottoms on which oysters may be deposited if they are taken to be prepared for market;
- (3) require the permittee to cull the oysters on the grounds where they are to be located; and
- (4) specify what implements may be used in taking oysters.

(c) The department may make other conditions or regulations to protect and conserve oysters on public reefs and beds.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.034. Minimum Size**

No permittee may take oysters of a smaller size than 3-1/2 inches from hinge to mouth unless authorized by the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.035. Oysters Property of Permittee**

All oysters taken or deposited in public water by the holder of an oyster permit under the terms of a permit are the personal property of the permit holder.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.036. Marking Beds**

(a) The holder of a permit shall clearly and distinctly mark, by buoys, stakes, or fences, the boundaries of the areas designated in the permit from which he may take or in which he may deposit oysters.

(b) No person may be prosecuted for taking oysters from the bed of a permittee unless the boundaries are established and maintained as provided in this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.037. Theft of Oysters From Private Bed**

(a) No person may fraudulently take oysters placed on private beds without the consent of the owner of the private bed or from beds or deposits made for the purpose of preparing oysters for market without the consent of the owner of the oysters who lawfully deposited them.

(b) A person who violates this section is guilty of a felony and on conviction is punishable by imprisonment in the penitentiary for not less than one nor more than two years.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.038. Interference With Buoys or Markers**

(a) No person may deface, injure, destroy, or remove a buoy, marker, or fence used to designate or enclose a private oyster bed or location where oysters have been deposited for preparation for market without the consent of the owner of the bed or location.

(b) No person may deface, injure, destroy, or remove a buoy, marker, or sign of the department used for designating water closed for the taking of fish or oysters without the consent of the department.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.039. Prohibited Sales**

(a) No person gathering oysters for planting or for depositing for market preparation on locations or on private oyster beds may sell, market, or dispose of the oysters gathered, at the time they are gathered, for any other purpose than planting or preparing for market.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

(c) This section does not affect the right of a person to sell or assign an oyster location or private bed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 76.040 to 76.100 reserved for expansion]

**SUBCHAPTER C. OYSTER DREDGE LICENSE****§ 76.101. Oyster Dredge License Required**

No person may take or attempt to take oysters from the public water of this state by the use of a dredge without first having acquired an oyster dredge license from the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.102. Exemptions From License**

An oyster dredge license is not required if the boat taking the oysters is licensed as a commercial bay or bait shrimp boat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.103. Types of Licenses; Period of Validity**

(a) Only from August 1 through August 31, the department may issue commercial oyster dredge licenses and sports oyster dredge licenses.

(b) An oyster dredge license expires on August 31 following the date of its issuance or on August 31 of the yearly period for which it is issued.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 548, ch. 229, § 1, eff. Aug. 31, 1981.]

**§ 76.104. License Fees**

(a) The fee for a commercial oyster dredge license is \$25.

(b) The fee for a sports oyster dredge license is \$5.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.105. Commercial License: Dredge Size**

No holder of a commercial oyster dredge license may use more than one dredge which may not exceed 48 inches in width.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 548, ch. 229, § 1, eff. Aug. 31, 1981.]

**§ 76.106. Sports License: Dredge Size**

No holder of a sports oyster dredge license may use more than one dredge which may not exceed 14 inches in width.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.107. Sale of Sports Oysters Prohibited**

No person may sell oysters taken under the authority of a sports oyster dredge license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.108. Open Season**

(a) No person may take oysters from public beds or reefs except during the open season or except by permit issued by the department.

(b) The open season is the period beginning on November 1 of one year and extending through April 30 of the following year.

(c) There is no closed season in that part of Laguna Madre and abutting water south of the Port Mansfield Channel.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.109. Night Dredging Prohibited**

During the open season, no person may take oysters from public water during the period between sunset and sunrise.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.110. Number and Description of Dredges**

No person may possess on board any commercial fishing boat, barge, float, or other vessel more than two oyster dredges. If a vessel is towing another vessel, the towing and towed vessels combined may not have on board more than two dredges. Each dredge may not exceed 48 inches in width across the mouth and may not have a capacity of more than two barrels.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 548, ch. 229, § 1, eff. Aug. 31, 1981.]

**§ 76.111. Retention Limits**

(a) No person may have on board any vessel in the public water of this state, or on any combination of vessels in tow, more than 50 barrels of culled oysters of the legal size.

(b) A barrel is equal to three bushels.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.112. Oyster Size Limits**

(a) No person may take or possess a cargo of oysters more than five percent of which are between three-fourths inch and three inches measured from beak to bill or along an imaginary line through the long axis of the shell.

(b) A cargo of undersized oysters shall be determined by taking at random five percent of the total cargo of oysters as a sample, of which not more than five percent may measure less than three inches along an imaginary straight line through the long axis of the shell.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.113. Culling Oysters**

(a) No person may fail or refuse to cull oysters between three-fourths inches and three inches measured as provided in Section 76.112 of this code at the time the oysters are taken or to fail or refuse to return culled oysters to the reef.

(b) No person may possess more than two barrels of uncultured oysters during the period he is on the reef.

(c) Uncultured oysters shall be kept separate from culled oysters.

(d) If returning undersized oysters to the bed from which they were taken is impractical, the department may sell them.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 548, ch. 229, § 1, eff. Aug. 31, 1981.]

**§ 76.114. Exception to Size and Retention Limits**

(a) The commission by permit may allow the use of one or more dredges of any size and cargoes in excess of 50 barrels in transplanting to or harvesting from private leases.

(b) The commission by permit may allow the taking and retention of cargoes having oysters between three-fourths inch and three inches in a greater percentage than five percent.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.115. Closing Areas**

(a) The commission may close an area to the taking of oysters when the commission finds that the area is being overworked or damaged or the area is to be reseeded or restocked.

(b) The commission may open closed areas when appropriate.

(c) Before closing any area, the commissioner shall post notices of the closing in fish and oyster houses in two towns nearest the area to be closed and shall publish notice in a daily newspaper of general circulation in the area to be closed. The notices shall be posted and published at least three days before the effective date of the closing.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1220, ch. 456, § 18, eff. Sept. 1, 1975.]

**§ 76.116. Oysters From Polluted Areas**

(a) There is no open season for taking oysters from areas declared to be polluted by the State Department of Health.

(b) The department may authorize by permit the transplanting of oysters from polluted areas to private oyster leases.

(c) A person removing oysters from polluted areas without a permit shall replace the oysters in the beds from which they were taken as directed by authorized employees of the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.117. Obedience to Orders**

No person may fail or refuse to obey a lawful order of a commissioned game management officer of the department issued under the authority of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.118. Penalty**

A person who violates a provision of this subchapter or a regulation of the commission issued under this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each day of a continuing violation constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 76.119 to 76.200 reserved for expansion]

SUBCHAPTER D. SHELLFISH IN  
POLLUTED WATER

§ 76.201. Definitions

In this subchapter:

(1) "Shellfish" means oysters, clams, and mussels, either fresh or frozen and either shucked or in the shell.

(2) "Polluted area" means an area that is continuously or intermittently subject to the discharge of sewage or other wastes, or to the presence of coliform organisms in quantities likely to indicate that shellfish taken from the area are unfit for human consumption.

(3) "Commissioner" means the State Commissioner of Health.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.202. Declaration of Polluted Areas

(a) The commissioner shall declare any area within the jurisdiction of the state to be polluted if he finds that it is a polluted area.

(b) The commissioner shall close to the taking of shellfish for a period he deems advisable any water to which shellfish from polluted areas may have been transferred.

(c) The commissioner shall establish by order the areas which he declares to be polluted and shall modify or revoke the orders in accordance with the results of sanitary and bacteriological surveys conducted by the State Department of Health. The commissioner shall file the orders in the office of the State Department of Health and shall furnish copies of the orders describing polluted areas to any interested person without charge.

(d) The commissioner shall conspicuously outline polluted areas on maps, which he shall furnish without charge to any interested person. The failure of any person or persons to avail themselves of this information does not relieve them from a violation of this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.203. Rules and Regulations

(a) The commissioner, with the approval of the State Board of Health, shall make rules and regulations establishing specifications for plant facilities and for the harvesting, transporting, storing, handling, and packaging of shellfish.

(b) The commissioner shall file the rules and regulations in the office of the secretary of state.

(c) The rules and regulations are effective three months from the date of their promulgation.

(d) The commissioner shall furnish without charge printed copies of the rules and regulations to any interested person on request.

(e) The commissioner may make reasonable and necessary regulations, not inconsistent with any provision of this subchapter, for the efficient enforcement of this subchapter.

(f) The violation of any regulation made under this subchapter is a violation of this subchapter. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.204. Inspection of Shellfish Plants

(a) The commissioner or his authorized agent shall inspect all shellfish plants and the practices followed in the handling and packaging of shellfish. If it is found that the operator is complying with the rules and regulations promulgated under this subchapter, the commissioner shall issue a certificate attesting to the compliance.

(b) The commissioner or his authorized agent may reinspect a plant at any time and shall revoke the certificate on refusal of the operator to permit an inspection or free access at reasonable hours, or on a finding that the plant is not being operated in compliance with the rules and regulations promulgated under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.205. Taking Shellfish From Polluted Areas

No person may take, sell, or offer or hold for sale any shellfish from an area declared by the commissioner to be polluted without complying with all rules and regulations made by the commissioner to insure that the shellfish have been purified.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.206. Transplanting Shellfish From Polluted Areas

(a) Section 76.205 of this code does not prohibit the transplanting of shellfish from polluted water when permission for the transplanting is first obtained from the Parks and Wildlife Department and the transplanting is supervised by the department.

(b) The department shall furnish a copy of the transplant permit to the commissioner prior to the commencement of transplanting activity.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 76.207. Purification of Shellfish

The commissioner may allow purification of shellfish taken from polluted areas by artificial means, subject to the rules and regulations of the commissioner and subject to supervision deemed necessary by the commissioner in the interest of public health.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.208. Sale of Shellfish Improperly Handled**

No person may sell or offer or hold for sale any shell stock or shucked shellfish that have not been handled and packaged in accordance with specifications fixed by the commissioner under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.209. Sale of Shellfish From Improper Facilities**

No person may sell or offer or hold for sale any shellfish where the facilities for packaging and handling the shellfish do not comply with specifications fixed by the commissioner under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.210. Unlawfully Operating a Shellfish Plant**

No person may operate a shellfish plant engaged in the handling and packaging of shellfish, either shucked or in the shell, without a valid certificate issued by the commissioner for each plant or place of business.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.211. Sale of Shellfish Without a Certificate Number**

No person may sell or offer for sale any shellfish that are not in a container bearing a valid certificate number from a state or a nation whose shellfish certification program conforms to the current Manual of Recommended Practice for Sanitary Control of the Shellfish Industry, issued by the United States Public Health Service. The provisions of this section do not apply to the sale for on-premises consumption of shellfish removed from a certified container.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.212. Compliance With Regulations**

(a) The commissioner shall give any plant a reasonable time to comply with regulations issued under this subchapter after the date of promulgation, but not longer than six months unless an extension is granted.

(b) On a showing that more time is reasonably required, the commissioner may extend the time for compliance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.213. Enforcement**

Commissioned officers of the Parks and Wildlife Department shall enforce the provisions of Section 76.205 of this code. Other provisions of this subchapter shall be enforced by the commissioner and his authorized representatives with assistance from the officers of the department as determined by the director.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.214. Disposition of Unfit or Unlawful Shellfish**

Any shellfish that are held or offered for sale at retail or for human consumption, and that have not been handled and packaged in accordance with the specifications fixed by the commissioner under this subchapter, or that are not in a certified container as provided in this subchapter or are otherwise found by the commissioner to be unfit for human consumption, are subject to immediate condemnation, seizure, and confiscation by the commissioner or his agents. The shellfish shall be held, destroyed, or otherwise disposed of as directed by the commissioner.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.215. Performance Bond**

In order to insure that the certificate holder will comply with all legal requirements imposed under this subchapter, the commissioner, when reasonably necessary for the enforcement of this subchapter, may require each person holding a plant certificate to post and maintain with him a good and sufficient bond with a corporate surety or two personal sureties approved by the commissioner, or a cash deposit in a form acceptable to the commissioner. Any failure to comply with the legal requirements of this subchapter will result in the certificate holder or his surety paying as forfeiture to the commissioner a sum not to exceed \$1,000.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 76.216. Penalty**

A person who violates any provision of this subchapter or a regulation of the commissioner is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$200 nor more than \$500. Each day of a continuing violation constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 77. SHRIMP**

**SUBCHAPTER A. GENERAL PROVISIONS**

- |         |                                 |
|---------|---------------------------------|
| Section |                                 |
| 77.001. | Definitions.                    |
| 77.002. | License Fees.                   |
| 77.003. | Disposition of Funds.           |
| 77.004. | Research Program.               |
| 77.005. | Reporting by Licensee.          |
| 77.006. | Department Findings and Report. |

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO SHRIMPING**

- |         |   |
|---------|---|
| 77.011. | License Requirement.                          |
| 77.012. | Foreign Shrimp.                               |
| 77.013. | Size.   |
| 77.014. | Method of Taking Count.                       |
| 77.015. | Gradation and Processing.                     |
| 77.016. | Restrictions on Individual Bait-Shrimp Trawl. |

Section	
77.017.	Possession After Season.
77.018.	Foreign Trawl or Shrimp.
77.019.	Prohibited Handling of Shrimp.
77.020.	Penalty.
77.021.	Separate Offense.
77.022.	Responsibility for Violation.
77.023.	License Forfeiture.
77.024.	Operation Without License.
77.025.	Period of Limitation.
77.025.	Confiscation and Disposal of Shrimp.

## SUBCHAPTER C. SHRIMP LICENSES

77.031.	Commercial Bay Shrimp Boat License.
77.032.	Issuance of Commercial Bay Shrimp Boat License.
77.033.	Commercial Bait-Shrimp Boat License.
77.034.	Repealed.
77.035.	Commercial Gulf Shrimp Boat License.
77.036.	Official Registration.
77.037.	Transfer of License.
77.0371.	Duplicate License of Transfer of Vessel.
77.038.	Display of Licenses.
77.039.	License Design.
77.040.	Other Licenses Required.
77.041.	Gear on Commercial Shrimp Boat.
77.042.	Shrimp House Operator License.
77.043.	Bait-Shrimp Dealer License.
77.044.	Issuance of Bait-Shrimp Dealer's License.
77.045.	Rights and Duties of Bait-Shrimp Dealer.
77.046.	Exemptions From Bait-Shrimp Dealer's License.
77.047.	Prohibited Handling of Shrimp by Bait-Shrimp Dealer.
77.048.	Individual Bait-Shrimp Trawl License.

## SUBCHAPTER D. SHRIMPING IN OUTSIDE WATER

77.061.	General Closed Season.
77.062.	Change in General Closed Season.
77.0621.	Contiguous Zone Season.
77.063.	General Limitation on Nets.
77.064.	Night Shrimping.
77.065.	White Shrimp.
77.066.	Sea Bobs.
77.067.	Noncommercial Bait-Shrimping.
77.068.	Noncommercial Shrimping.
77.069.	Sale of Noncommercial Shrimp.
77.070.	Possession of Shrimp.
77.071.	Regulations in Contiguous Zone.
77.072.	Shrimp Size Exception.

## SUBCHAPTER E. SHRIMPING IN INSIDE WATER

77.081.	Application.
77.082.	Shrimping in Passes.
77.083.	Heading Shrimp.
77.084.	Trawl Doors.
77.085.	Try Nets.
77.086.	Mesh Size.
77.087.	Net Width.
77.088.	Night Shrimping Prohibited.
77.089.	Noncommercial Bait-Shrimping.
77.090.	Noncommercial Shrimping.
77.091.	Commercial Shrimp Season.
77.092.	Commercial Shrimp Limit.
77.093.	Commercial Shrimp Nets.
77.094.	Commercial Bait-Shrimp Season.
77.095.	Commercial Bait-Shrimp Limit.
77.096.	Commercial Bait-Shrimp Nets.
77.097.	Commercial Bait-Shrimping at Night.
77.098.	Bait-Shrimp Sale.
77.099.	Sale of Noncommercial Shrimp.
77.100.	Retention of Certain Fish.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 77.001. Definitions

In this chapter:

(1) "Coastal water" means all the salt water of this state, including that portion of the Gulf of Mexico within the jurisdiction of the state.

(2) "Inside water" means all bays, inlets, outlets, passes, rivers, streams, and other bodies of water landward from the shoreline of the state along the Gulf of Mexico and contiguous to, or connected with, but not a part of, the Gulf of Mexico and within which the tide regularly rises and falls and in which saltwater shrimp are found or into which saltwater shrimp migrate.

(3) "Outside water" means the salt water of the state contiguous to and seaward from the shoreline of the state along the Gulf of Mexico as the shoreline is projected and extended in a continuous and unbroken line, following the contours of the shoreline, across bays, inlets, outlets, passes, rivers, streams, and other bodies of water; and that portion of the Gulf of Mexico extending from the shoreline seaward and within the jurisdiction of the state.

(4) "Major bays" means the deeper, major bay areas of the inside water, including Sabine Lake north of Cameron Causeway, Trinity Bay, Galveston Bay, East Galveston Bay, West Galveston Bay, Matagorda Bay (including East Matagorda Bay), Tres Palacios Bay south of a line from Grassy Point to the mouth of Pilkerton Bayou, Espiritu Santo Bay, Lavaca Bay seaward of State Highway 35, San Antonio Bay seaward of a line from McDowell Point to Grassy Point to Marker 32 on the Victoria Barge Canal, Ayres Bay, Carlos Bay, Aransas Bay, Mesquite Bay, and Corpus Christi Bay, all exclusive of tributary bays, bayous, and inlets, lakes, and rivers.

(5) "Possess" means the act of having in possession or control, keeping, detaining, restraining, or holding as owner, or under a fishing ley, or as agent, bailee, or custodian of another.

(6) "Commercial gulf shrimp boat" means any boat that is required to be numbered or registered under the laws of the United States or of this state and that is used for the purpose of catching or assisting in catching shrimp and other edible aquatic products from the outside water of the state for pay or for the purpose of sale, barter, or exchange, or from salt water outside the state for pay or for the purpose of sale, barter, or exchange, and that unloads at a port or other point in the state without having been previously unloaded in another state or foreign country.

(7) "Commercial bay shrimp boat" means a boat that is required to be numbered or registered under the laws of the United States or this state and that is used for the purpose of catching or assisting in catching shrimp and other edible

aquatic products from the inside water of this state for pay or for the purpose of sale, barter, or exchange.

(8) "Commercial bait shrimp boat" means a boat that is required to be numbered or registered under the laws of the United States or of this state and that is used for the purpose of catching or assisting in catching shrimp for use as bait and other edible aquatic products from the inside water of the state for pay or for the purpose of sale, barter, or exchange.

(9) "Shrimp house operator" means a person who operates a shrimp house, plant, or other establishment for compensation or profit for the purpose of unloading and handling, from commercial gulf shrimp boats or commercial bay shrimp boats, fresh shrimp and other edible aquatic products caught or taken from the coastal water of the state or from salt water outside the state and brought into the state without having been previously unloaded in another state or foreign country, but does not include a person holding a wholesale fish dealer's license under Section 47.009 of this code.

(10) "Bait-shrimp dealer" means a person who operates an established place of business in a coastal county of the state for compensation or profit for the purpose of handling shrimp caught for use as bait from the inside water of this state, but does not include a person holding a wholesale fish dealer's license under Section 47.009 of this code.

(11) "Individual bait-shrimp trawl" means a trawl, net, or rig used for the purpose of catching shrimp for one's own personal use.

(12) "Second offense" and "third and subsequent offenses" mean offenses for which convictions have been obtained within three years prior to the date of the offense charged.

(13) "Contiguous zone," means that area of the Gulf of Mexico lying adjacent to and offshore of the jurisdiction of the State of Texas and in which shrimp of the genus *Penaeus* are found.

(14) "Bait bays" includes major bays, Copano Bay east of a line running from Rattlesnake Point to the northeastern boundary of the Bayside township, Nueces Bay from the bridge at State Highway 181 west to the second overhead power line dissecting the bay, Upper Laguna Madre, Baffin Bay, Alazan Bay, Carlos Bay, Baroom Bay, Lower Laguna Madre, and the Gulf Intracoastal Waterway exclusive of all tributaries.

(15) "Nursery areas" includes tributary bays, bayous, inlets, lakes, and rivers, which are proven to serve as significant growth and development environments for postlarval and juvenile shrimp not including the outside waters, major bays, or bait bays as defined in this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1220, ch. 456, § 20(a), eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1297, ch. 600, §§ 1, 2, eff. Aug. 27, 1979.]

§ 77.002. License Fees

License fees provided in this chapter are a privilege tax on catching, buying, selling, unloading, transporting, or handling shrimp within the jurisdiction of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 77.003. Disposition of Funds

Money received for licenses issued under this chapter or fines for violations of this chapter shall be remitted to the department by the 10th day of the month following the date of collection.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 77.004. Research Program

(a) The department shall conduct continuous research and study of:

- (1) the supply, economic value, environment, and breeding habits of the various species of shrimp;
- (2) factors affecting the increase or decrease in shrimp;
- (3) the use of trawls, nets, and other devices for the taking of shrimp;
- (4) industrial and other pollution of the water naturally frequented by shrimp; and
- (5) statistical information gathered by the department on the marketing, harvesting, processing, and catching of shrimp landed at points in the state.

(b) The research may be conducted by the department or an agency designated by the department. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

Acts 1981, 67th Leg., p. 249, ch. 105, § 3, provides:  
 "Studies and Reports. (a) During 1982, the Texas Coastal and Marine Council shall conduct studies on shrimp as required by Section 77.004, Parks and Wildlife Code, and shall concentrate on factors affecting the status of the bay shrimp industry.  
 (b) Results of the study and recommendations on the issuance of shrimping licenses shall be published as a report and submitted before the convening of the 68th Legislature to the governor and each member of the legislature to aid in determining the best shrimp conservation methods."

§ 77.005. Reporting by Licensee

A licensee under this chapter who lands shrimp in the state shall submit to the department by the 10th day of each month, on forms furnished by the department, a report stating:

- (1) the number of pounds of shrimp landed at points in the state by the licensee during the reporting period;
- (2) the water from which the shrimp were taken; and
- (3) the names of the species of shrimp.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.006. Department Findings and Report**

(a) Based on the study and reports obtained under Sections 77.004 and 77.005 of this code, the department shall make findings of fact and enter the findings in the permanent records of the department.

(b) The findings of fact shall be published as a report and presented to the governor and each member of the legislature before each regular session of the legislature.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 77.007 to 77.010 reserved for expansion]

**SUBCHAPTER B. PROVISIONS GENERALLY  
APPLICABLE TO SHRIMPING**

**§ 77.011. License Requirement**

No person may operate in the coastal water without obtaining the appropriate license, if required, as prescribed in this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.012. Foreign Shrimp**

Provisions of this chapter prohibiting possession, sale, purchase, unloading, or other handling of shrimp apply to shrimp caught in this state and shrimp coming from another state or country unless specifically provided otherwise.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.013. Size**

(a) Except as provided by this chapter, no person may catch, possess, or have on board a boat within coastal water, or buy, sell, unload, transport, or handle, an amount of fresh shrimp, except sea bobs, which average in count of individual specimens more than 65 headless fresh shrimp to the pound or more than 39 heads-on fresh shrimp to the pound.

(b) In major bays from August 15 through October 31 of each year, no person may buy, sell, unload, transport, or handle an amount of fresh shrimp, except sea bobs, that average in count of individual specimens more than 50 heads-on fresh shrimp to the pound. In major bays from November 1 through December 15 of each year there are no count size requirements.

(c) From November 1 through December 15 of each year, a net with a mesh size of 6½ inches between the most widely separated knots in any consecutive series of 5 stretched meshes after the mesh has been placed in use may be used.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 2012, ch. 789, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 948, ch. 357, § 1, eff. Aug. 31, 1981.]

**§ 77.014. Method of Taking Count**

(a) An authorized employee of the department shall take the count of shrimp in the presence of the person possessing the shrimp.

(b) The employee shall select a minimum of three representative samples for each 1,000 pounds or fraction of 1,000 pounds of headless or heads-on shrimp being sampled.

(c) Each sample must weigh five pounds after draining at least three minutes.

(d) The count per pound for the sample is determined by dividing the number of specimens in the sample by five.

(e) The average count per pound for the entire quantity being sampled is determined by totalling the count per pound for each sample and dividing that total by the number of samples.

(f) The average count per pound as determined under this section is prima facie evidence of the average count per pound of the shrimp in the entire cargo or quantity of shrimp sampled.

(g) Headless and heads-on shrimp shall be sampled, weighed, and counted separately.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.015. Gradation and Processing**

Shrimp found to be of legal size under this chapter may subsequently be graded for size for packaging, processing, or sale.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.016. Restrictions on Individual Bait-Shrimp Trawl**

No person may use, possess, or have on board a boat in coastal water more than one individual bait-shrimp trawl, or an individual bait-shrimp trawl:

(1) with a mesh size of less than eight and three-fourths inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl is placed in use;

(2) exceeding 20 feet in length between the doors or boards or other spreading device; or

(3) with doors or boards exceeding 15 inches by 30 inches each, or a total of 450 square inches each.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.017. Possession After Season**

No person may retain saltwater shrimp in their fresh state legally taken in the coastal water of this state for more than five days after the end of an open season for the taking of shrimp unless he is a licensed bait dealer or sports fisherman.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.018. Foreign Trawl or Shrimp**

(a) A person may possess or have on board a boat in the coastal water of Orange or Jefferson county a trawl and spreading device that may lawfully be used in the coastal water of another state if:

(1) the trawl and equipment are immediately en route to or from a home port or destination on land;

(2) the trawl and equipment have been used during the open season for shrimp in another state; and

(3) the trawl and equipment are not used or intended for use in the coastal water of this state in violation of this chapter.

(b) A person may possess or have on board a boat in the coastal water of Orange or Jefferson county shrimp that are lawfully caught in the coastal water of another state if the catch is immediately en route to or from a home port or destination on land. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.019. Prohibited Handling of Shrimp**

No shrimp house operator, wholesale fish dealer, retail fish dealer, wholesale truck dealer, retail truck dealer, or other person holding a license issued by the department may knowingly unload, buy, or handle in any way shrimp or bait shrimp:

(1) from an unlicensed gulf shrimp boat or unlicensed commercial bay shrimp boat;

(2) of a prohibited size;

(3) caught in the inside water or outside water during the closed season for the water; or

(4) in violation of a provision of this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.020. Penalty**

(a) A person who violates a provision of this chapter except Section 77.024 of this code, or those sections specified in Subsection (b) below, is guilty of a misdemeanor and on conviction is punishable:

(1) by a fine of not less than \$50 nor more than \$200 for the first offense;

(2) by a fine of not less than \$100 nor more than \$500, or confinement in the county jail for not less than 10 days nor more than 60 days, or both, for the second offense; and

(3) by a fine of not less than \$500 nor more than \$2,000 and confinement in the county jail for not less than 30 days nor more than six months for the third offense.

(b) A person who violates Section 77.011, 77.013, 77.016, 77.017, 77.018, 77.019, 77.047, 77.061(a)(2), 77.063, 77.064, 77.065, 77.066, 77.067, 77.068, 77.069, 77.070, 77.081, 77.082, 77.085, 77.086, 77.087, 77.088, 77.089, 77.090, 77.091, 77.092, 77.093, 77.095(a), 77.096, 77.097, 77.098, or 77.099 of this code is guilty of a misdemeanor and on conviction is punishable:

(1) by a fine of \$200 for the first offense;

(2) by a fine of not less than \$300 nor more than \$700 or confinement in the county jail for not less than 10 days nor more than 60 days or both for the second offense; and

(3) by a fine of not less than \$750 nor more than \$2,500 and confinement in the county jail for not less than 30 days nor more than six months for the third offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1465, ch. 641, § 1, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 2166, ch. 506, § 2, eff. June 12, 1981.]

Section 2 of the 1979 amendatory act provided:

"(a) Except as provided by Subsection (b) of this section, this Act applies only to offenses committed on or after the effective date of this Act, and an offense committed before the effective date of this Act is governed by the law in existence before this Act took effect, and that law is continued in force for that purpose as if this Act were not in effect.

"(b) In a criminal action pending on or commenced on or after the effective date of this Act for an offense committed before this Act took effect, the defendant, if adjudged guilty, shall be assessed punishment under this Act if he so elects by written motion filed with the trial court before the sentencing hearing begins."

**§ 77.021. Separate Offense**

Each day on which a violation occurs constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.022. Responsibility for Violation**

(a) When a vessel is involved in a violation of this chapter, the captain of the vessel shall be considered primarily responsible for the violation. A member of the crew of a vessel shall not be guilty of a violation unless it also be charged that the member of the crew acted in violation of the orders of the captain of the vessel.

(b) The owner of a vessel involved in a violation of this chapter may not be found guilty of the violation unless it is charged and proved that the owner knowingly directed, authorized, permitted, agreed to, aided, or acquiesced in the violation. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1213, ch. 456, § 13(i), eff. Sept. 1, 1975.]

**§ 77.023. License Forfeiture**

(a) On conviction for a third and subsequent offense under this chapter, a license under which operations involved in the violation are being conducted is subject to forfeiture.

(b) A license that is forfeited under this section may not be reissued for a period of 12 months from the date of forfeiture.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.024. Operation Without License**

(a) No person whose license has been forfeited under Section 77.023 of this code may do business without a new license or possess another license for the period of forfeiture.

(b) A person violating this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$2,500 nor more than \$5,000 and confinement in the county jail for not less than six months nor more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.025. Period of Limitation

*Text as added by § 13(j) of Acts 1975, 64th Leg., p. 1213, ch. 456*

Except as provided in Article 12.05, Code of Criminal Procedure, 1965, as amended, an indictment or information for a violation of this chapter may be presented within one year after the date of the commission of the offense and not afterward.

[Acts 1975, 64th Leg., p. 1213, ch. 456, § 13(j), eff. Sept. 1, 1975.]

*For text as added by § 20(g) of Acts 1975, 64th Leg., p. 1222, ch. 456, see Section 77.025, post*

#### § 77.025. Confiscation and Disposal of Shrimp

*Text as added by § 20(g) of Acts 1975, 64th Leg., p. 1222, ch. 456*

When an enforcement officer of the department believes that a person has unlawful possession of any shrimp taken in violation of this chapter, all shrimp aboard any vessel involved or in the trawl, whether in storage, on deck, and whether alive or dead, whole or headed, frozen or fresh, shall be deemed to have been taken in violation of the chapter and shall be confiscated by the arresting officer. The cargo of shrimp shall be sold to the highest of three bidders by the officer. The proceeds of the sale shall be deposited in the state treasury to the credit of suspense fund number 900, pending the outcome of the action taken against the person charged with the illegal possession. Unless the person is found guilty, all the proceeds shall be paid to the defendant.

[Acts 1975, 64th Leg., p. 1222, ch. 456, § 20(g), eff. Sept. 1, 1975.]

*For text as added by § 13(j) of Acts 1975, 64th Leg., p. 1213, ch. 456, see Section 77.025, ante*  
[Sections 77.026 to 77.030 reserved for expansion]

### SUBCHAPTER C. SHRIMP LICENSES

#### § 77.031. Commercial Bay Shrimp Boat License

(a) No person may operate a commercial bay shrimp boat for the purpose of catching or assisting in catching shrimp and other edible aquatic products from the inside water unless the owner has obtained a commercial bay shrimp boat license.

(b) The fee for a commercial bay shrimp boat license is \$40.

(c) A commercial bay shrimp boat license expires on March 1 of the year following the date of issuance.

(d) An applicant for a commercial bay shrimp boat license must submit to the department an affidavit that the applicant intends to derive the major portion of his livelihood from commercial fishery and that he will maintain adequate facilities to conduct the business.

(e) Except as provided in Section 77.0371 of this code, not more than one commercial bay shrimp boat license may be issued to a boat during the licensing period.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1213, ch. 456, § 13(g), eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 2012, ch. 789, § 2, eff. Aug. 27, 1979.]

Acts 1981, 67th Leg., p. 249, ch. 105, § 1, provides:

"Issuance of Commercial Bay Shrimp Boat License—Temporary Provision.  
(a) During the calendar years 1982 and 1983 only, a commercial bay shrimp boat license may be issued only to the following persons:

"(1) any person who possessed a commercial bay shrimp boat license on February 28, 1981; and

"(2) any person who owned a shrimp boat that was under new construction and that was at least 50 percent completed on March 1, 1981.

"(b) An applicant for a commercial bay shrimp boat license must submit either an affidavit signed by the applicant or a written document executed by an employee of the Parks and Wildlife Department stating that the person meets the requirements of Subdivision (1) or (2) of Subsection (a) of this section.

"(c) This section expires on March 1, 1983."

#### § 77.032. Issuance of Commercial Bay Shrimp Boat License

A commercial bay shrimp boat license may be issued only in the months of January and February unless the applicant has acquired title to the shrimp boat by purchase or new construction after the last day of February of the year for which the license is sought, in which case the applicant must submit an affidavit that the boat was acquired after the last day of February and that prior to the last day of February the applicant had not entered into an agreement to acquire the boat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.033. Commercial Bait-Shrimp Boat License

(a) No person may operate a commercial bait-shrimp boat for the purpose of catching or assisting in catching shrimp for use as bait only and other edible aquatic products from the inside water unless the owner of the boat has obtained a commercial bait-shrimp boat license.

(b) The fee for a commercial bait-shrimp boat license is \$40.

(c) A commercial bait-shrimp boat license expires August 31 following the date of issuance.

(d) Not more than one commercial bait-shrimp boat license may be issued to a boat for each licensing period.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

Acts 1981, 67th Leg., p. 249, ch. 105, § 2, provides:

"Issuance of Commercial Bait-Shrimp Boat License—Temporary Provision.  
(a) During the calendar years 1982 and 1983 only, a commercial bait-shrimp boat license may be issued only to the following persons:

"(1) any person who possessed a commercial bait-shrimp boat license on February 28, 1981; and

"(2) any person who owned a shrimp boat that was under new construction and that was at least 50 percent completed on March 1, 1981.

"(b) An applicant for a commercial bait-shrimp boat license must submit either an affidavit signed by the applicant or a written document executed by an employee of the Parks and Wildlife Department stating that the person meets the requirements of Subdivision (1) or (2) of Subsection (a) of this section.

"(c) This section expires on March 1, 1983."

**§ 77.034. Repealed by Acts 1979, 66th Leg., p. 550, ch. 260, art. 5, § 1(3), eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1094, ch. 511, § 2, eff. June 11, 1979**

The repealed section, relating to inspection for commercial bait-shrimp boat license, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

**§ 77.035. Commercial Gulf Shrimp Boat License**

(a) No person may operate a commercial gulf shrimp boat for catching or assisting in catching shrimp and other edible aquatic products from the outside water, or have on board a boat, or unload, or allow to be unloaded at a port or point in this state, shrimp and other edible aquatic products caught or taken from the outside water or from salt water outside the state without having been previously unloaded in some other state or foreign country, unless the owner of the boat has obtained a commercial gulf shrimp boat license.

(b) The fee for a commercial gulf shrimp boat license is \$50.

(c) The commercial gulf shrimp boat license expires August 31 following the date of issuance.

(d) Except as provided in Section 77.0371 of this code, not more than one commercial gulf shrimp boat license may be issued to a boat during the licensing period.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1213, ch. 456, § 13(h), eff. Sept. 1, 1975.]

**§ 77.036. Official Registration**

(a) An applicant for a commercial shrimp boat license issued under this subchapter must submit to the department the boat's United States Bureau of Customs official document or the Texas certificate of number for a motorboat.

(b) The certificate of license issued by the department for a commercial shrimp boat must contain the name of the boat and the number appearing on the United States Bureau of Customs official document or the Texas certificate of number.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.037. Transfer of License**

A commercial shrimp boat license issued under this subchapter may be transferred on the application of the licensee only from a boat that has been destroyed or lost to a boat acquired by the licensee as a replacement.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.0371. Duplicate License of Transfer of Vessel**

On the sale of any boat licensed under this subchapter, the department, on receipt of an application

from the new owner and the surrender of the original license, shall issue, without charge, a duplicate license reflecting the change of ownership.

[Acts 1975, 64th Leg., p. 1212, ch. 456, § 13(a), eff. Sept. 1, 1975.]

**§ 77.038. Display of Licenses**

A commercial shrimp boat license issued under this subchapter must be prominently displayed on the bow, outside the wheelhouse, or at another point outside the boat designated by the department, and on each side of the boat, evidencing payment of the license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.039. License Design**

(a) A commercial shrimp boat license issued under this subchapter must be a metal or plastic sign or emblem at least 32 square inches in size, and have a different color or design for each license period.

(b) The character, color, and design of each class of commercial shrimp boat license issued under this subchapter must be distinguishable.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.040. Other Licenses Required**

(a) A person holding a commercial shrimp boat license under this subchapter is not required to obtain a commercial fishing boat license under Section 47.007 of this code.

(b) The captain and each paid member of the crew of a boat having a commercial shrimp boat license issued under this subchapter must have a general commercial fisherman's license issued under Section 47.002 of this code, but these licenses may be purchased in the name of the vessel. The license form provided by the department for a vessel may be a single license covering the number of persons licensed as captain and crew, and the fee for the total number of persons licensed is the amount provided in Section 47.002 of this code times the number of persons comprising the captain and crew.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 550, ch. 260, art. 4, § 4, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1399, ch. 623, § 9, eff. Aug. 27, 1979.]

**§ 77.041. Gear on Commercial Shrimp Boat**

All shrimp trawls and fishing gear, except fishnets or seines, with which a boat having a commercial shrimp boat license issued under this subchapter is equipped may be used unless the use is otherwise prohibited by law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.042. Shrimp House Operator License**

(a) No person may engage in business as a shrimp house operator unless he has obtained a shrimp house operator's license issued by the department.

(b) The fee for a shrimp house operator's license is \$150.

(c) A shrimp house operator's license expires August 31 following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.043. Bait-Shrimp Dealer License

(a) No person may engage in business as a bait-shrimp dealer unless he has obtained a bait-shrimp dealer's license from the department for each bait stand or place of business he maintains.

(b) The fee for a bait-shrimp dealer's license is \$40.

(c) A bait-shrimp dealer's license expires August 31 following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.044. Issuance of Bait-Shrimp Dealer's License

(a) The department shall issue a bait-shrimp dealer's license only after it has determined that the applicant for the license is a bona fide bait-shrimp dealer.

(b) A bait-shrimp dealer's license may not be held by a person who also holds a shrimp house operator's license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.045. Rights and Duties of Bait-Shrimp Dealer

(a) The holder of a bait-shrimp dealer's license may sell, purchase, and handle shrimp, minnows, fish, and other forms of aquatic life for sale or resale for fish bait purposes in the coastal counties of this state.

(b) The holder of a bait-shrimp dealer's license is not required to obtain a bait dealer's license issued under Section 47.014 of this code unless he engages in the business in a county other than a coastal county.

(c) Repealed by Acts 1981, 67th Leg., p. 2693, ch. 730, § 2, eff. Aug. 31, 1981.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2692, ch. 730, § 2, eff. Aug. 31, 1981.]

#### § 77.046. Exemptions From Bait-Shrimp Dealer's License

A bait-shrimp dealer's license is not required for:

(1) grocery stores in coastal counties which do not unload or purchase shrimp directly from commercial bait-shrimp boats;

(2) bait dealers in coastal counties who do not sell or offer for sale or handle shrimp for sale or

resale for bait purposes, but these dealers must have a bait-dealer's license issued under Section 47.014 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.047. Prohibited Handling of Shrimp by Bait-Shrimp Dealer

No bait-shrimp dealer may knowingly unload, buy, or handle in any way bait shrimp from an unlicensed commercial bait-shrimp boat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.048. Individual Bait-Shrimp Trawl License

(a) No person may possess or have on board a boat in coastal water an individual bait-shrimp trawl unless the owner of the trawl has obtained an individual bait-shrimp trawl license from the department.

(b) The fee for the individual bait-shrimp trawl license is \$5.

(c) The individual bait-shrimp trawl license expires on August 31 following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 77.049 to 77.060 reserved for expansion]

### SUBCHAPTER D. SHRIMPING IN OUTSIDE WATER

#### § 77.061. General Closed Season

(a) Except as specifically provided in this subchapter, no person may catch shrimp in outside water:

(1) from June 1 to July 15, both dates inclusive, or during a period provided under Section 77.062 of this code, as applicable; or

(2) extending from the coastline of Texas up to and including seven fathoms in depth from December 16 of each year to February 1 of the following year, both dates inclusive, unless taking sea bobs.

(b) A person who violates Subdivision (1) of Subsection (a) of this section commits an offense and on conviction is punishable by a fine of not less than \$2,500 nor more than \$5,000, by confinement in the county jail for not less than six months nor more than one year, or by both.

(c) In addition to Subsection (b) of this section, the commercial gulf shrimp boat license of the vessel on which the violation of Subdivision (1) of Subsection (a) of this section is committed shall, on conviction, be suspended and held by the court of proper jurisdiction for a period of not less than 30 nor more than 60 days. Furthermore, the suspension shall be assessed so as to be in effect during the principal gulf shrimp season from July 15 to December 15.

(d) Except as provided in this section, the presence of a shrimp trawl (excluding doors) not stored

within the confines of the hull of a vessel in outside water during the closed period provided by Subdivision (1) of Subsection (a) of this section is prima facie evidence of a violation of this section.

(e) Subsection (d) of this section does not apply to a licensed commercial gulf shrimp boat within one-fourth mile of jetties when the vessel is in direct transit to open water to catch white shrimp as provided in Section 77.065, Parks and Wildlife Code, as amended.

(f) A commercial shrimp boat operating in the outside water during the closed season as provided by Subdivision (1) of Subsection (a) of this section shall display its documentation number issued by the United States Coast Guard for documented vessels or a registration number issued by a state on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. This number shall be permanently attached or painted on the vessel in block Arabic numerals in contrasting color to the background and at least 18 inches in height on vessels over 65 feet in length or at least 10 inches in height for all other vessels.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1220, ch. 456, § 20(b), eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2165, ch. 506, § 1, eff. June 12, 1981.]

**§ 77.062. Change in General Closed Season**

Based on sound biological data, the commission may change the opening and closing dates of the June 1 to July 15 closed season to provide for an earlier, later, or longer season not to exceed 60 days. The commission may change the closing date with 72 hours public notice and may reopen the season with 24 hours notice. The commission may delegate to the director the duties and responsibilities of opening and closing the shrimping season under this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1220, ch. 456, § 20(b), eff. Sept. 1, 1975.]

**§ 77.0621. Contiguous Zone Season**

Except as specifically provided in this subchapter, no citizen of this state may catch from the contiguous zone shrimp during a closed season as provided in Subdivision (1) of Section 77.061 of this code, including a closed season modified as provided in Section 77.062 of this code.

[Acts 1975, 64th Leg., p. 1221, ch. 456, § 20(c), eff. Sept. 1, 1975.]

**§ 77.063. General Limitation on Nets**

(a) Except as specifically provided in this subchapter, no person may catch shrimp in the outside water with, or possess or have on board a boat in the coastal water for use in outside water, a trawl, except a try net or test net, with a mesh size of less than eight and three-fourths inches in length be-

tween the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been put in use. Measurement shall be made in the section of the trawl which is normally under tension when in use.

(b) When restrictions are imposed on either or both the size and number of main trawls, no person may use a try net in outside water exceeding 21 feet in width as measured along an uninterrupted corkline from leading tip of door to leading tip of door and having doors or boards that exceed 450 square inches each or a beam trawl exceeding 10 feet in width as measured along the beam of a beam trawl in its fully extended position.

(c) This section does not apply to the taking of sea bobs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1092, ch. 511, § 1, eff. June 11, 1979.]

**§ 77.064. Night Shrimping**

No person may catch shrimp of any size or species in the outside water extending from the coastline of Texas up to and including seven fathoms in depth during the period beginning 30 minutes after sunset and ending 30 minutes before sunrise.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.065. White Shrimp**

(a) A licensed commercial gulf shrimp boat operator may catch white shrimp in the outside water not exceeding four fathoms in depth from June 1 to July 15, both dates inclusive, or during the period prescribed under Section 77.062 of this code.

(b) No more than one net may be used at a time, except a try net, and when such net is an otter trawl, the trawl may not consist of doors less than three feet in length as measured along the door centerline from the leading tip to the trailing edge of the door, excluding any add-on devices of any type, and the total measurement of doors and trawl may not exceed the measurement as described in Subsection (c) below as measured along an uninterrupted corkline from leading tip of door to leading tip of door. When the trawl used is a beam trawl, the trawl may not exceed 25 feet in width as measured along the beam in its fully extended position.

(c) The total measurement for an otter trawl and doors under this section shall not exceed the following:

- (1) doors three feet or more but less than four feet—40 feet;
- (2) doors four feet or more but less than five feet—42 feet;
- (3) doors five feet or more but less than six feet—44 feet;
- (4) doors six feet or more but less than seven feet—46 feet;
- (5) doors seven feet or more but less than eight feet—48 feet;

(6) doors eight feet or more but less than nine feet—50 feet;

(7) doors nine feet or more but less than 10 feet—52 feet;

(8) doors 10 feet or more—54 feet.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1221, ch. 456, § 20(e), eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1092, ch. 511, § 1, eff. June 11, 1979.]

#### § 77.066. Sea Bobs

(a) No commercial gulf shrimp boat operator may catch sea bobs with a trawl exceeding 25 feet in width measured along the corkline from board to board or between the extremes of any other spreading device or with a trawl having a mesh size in excess of six and one-half inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl has been placed in use. Not more than one trawl may be used at a time.

(b) No person catching sea bobs may catch or have on board a boat any other species of shrimp which exceed ten percent, in weight or number, of the entire catch.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.067. Noncommercial Bait-Shrimping

(a) A person may catch shrimp for use as bait only at any time of the year in the outside water with an individual bait-shrimp trawl, cast net, dip net, bait trap, or minnow seine not larger than 20 feet in length manually operated on foot only without the use of any mechanical means or devices.

(b) No person catching shrimp with an individual bait-shrimp trawl may possess or have on board a boat in the outside water more than two quarts of shrimp per person or four quarts of shrimp per boat for use as bait.

(c) Shrimp caught under this section are not subject to the size requirements set out in Section 77.013 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.068. Noncommercial Shrimping

(a) Subject to the limitations prescribed in this section, during the open season in outside water a person may catch shrimp for personal use by means of:

(1) a cast net, dip net, bait trap, or minnow seine that is not more than 20 feet long and that is manually operated on foot only without the use of any mechanical means or devices;

(2) an individual bait-shrimp trawl; or

(3) a manually operated seine not exceeding 400 feet in length with a mesh of not less than one and one-half inch square, except for the bag and 50 feet on each side of the bag, the mesh of which may not be larger than one inch square.

(b) A person may catch for personal use not more than 100 pounds of shrimp (in their natural state with heads attached) each day during the open season in outside water.

(c) The seine described in Subsection (a)(3) of this section may not be used within one mile of any natural or man-made pass leading from inside water to outside water, and any shrimp or marine life caught with the seine but not kept by the person using the seine shall be returned to the water. Shrimp caught with this seine may not be sold. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.069. Sale of Noncommercial Shrimp

No person may buy, sell, offer for sale, or handle in any way for profit shrimp caught in outside water with an individual bait-shrimp trawl, dip net, cast net, bait trap, or minnow seine not larger than 20 feet in length.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.070. Possession of Shrimp

Except as permitted by Section 77.065 and Section 77.067 of this code, no person may possess or have on board a boat in coastal water, or buy, sell, unload, transport, or handle in any way, shrimp caught in the outside water during the closed season or shrimp taken unlawfully from the contiguous zone during the closed season.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1221, ch. 456, § 20(d), eff. Sept. 1, 1975.]

#### § 77.071. Regulations in Contiguous Zone

(a) The department shall not enforce any regulations in the contiguous zone if it determines that the shrimp it desires to manage are being harvested on a meaningful basis by vessels not subject to the same or similar regulations.

(b) The department may negotiate reciprocal agreements with another state with respect to the application of one state's shrimping regulations in its contiguous zone to citizens of the other state.

[Acts 1975, 64th Leg., p. 1221, ch. 456, § 20(f), eff. Sept. 1, 1975.]

#### § 77.072. Shrimp Size Exception

Minimum size restrictions as provided in Chapter 77, Parks and Wildlife Code, as amended, do not apply to shrimp taken from outside waters when:

(1) the Gulf of Mexico Fishery Management Council's Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico is in effect; and

(2) such plan as described in Subsection (a) of this section restricts the taking of shrimp in the Fishery Conservation Zone contiguous to the outside waters of Texas, to conform with the Texas

closed Gulf season as defined in Sections 77.061(1) and 77.062 of this code.

[Added by Acts 1981, 67th Leg., p. 452, ch. 187, § 1, eff. May 25, 1981.]

[Sections 77.073 to 77.080 reserved for expansion]

**SUBCHAPTER E. SHRIMPING IN INSIDE WATER**

**§ 77.081. Application**

No person may catch shrimp of any size or species within the inside water except as provided in this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.082. Shrimping in Passes**

No person may catch shrimp of any size or species within the natural or man-made passes leading from the inside water to the outside water.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.083. Heading Shrimp**

No person may head shrimp aboard a boat in the inside water or dump or deposit shrimp heads in the inside water except in artificial passes, canals, or basins.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.084. Trawl Doors**

No person may have on board a boat in the inside water for use on the inside water more than one set of trawl doors or other spreading devices nor more than one set of try-net doors not to exceed 450 square inches per door.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 2012, ch. 789, § 3, eff. Aug. 27, 1979.]

**§ 77.085. Try Nets**

No person may use, possess, or have on board a boat in inside water a try net or test net (1) exceeding 21 feet in width as measured along an uninterrupted corkline from leading tip of door to leading tip of door and having doors or boards that exceed 450 square inches each, or (2) a beam trawl 10 feet in width as measured along the beam of a beam trawl in its fully extended position.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1212, ch. 456, § 13(b), eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1092, ch. 511, § 1, eff. June 11, 1979.]

**§ 77.086. Mesh Size**

(a) Except as provided in this subchapter, no person may catch shrimp in the inside water with, or possess or have on board a boat in the coastal water for use in inside water, a trawl and bag or trawl liner having a mesh size of less than eight and

three-fourths inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the trawl or bag has been placed in use. The measurement shall be made in the section of the trawl which is normally under tension when in use.

(b) This section does not apply to try nets or test nets.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1212, ch. 456, § 13(c), eff. Sept. 1, 1975.]

**§ 77.087. Net Width**

During the period from August 15 to December 15 of each year, both dates inclusive, no person may catch shrimp of any size or species in the major bays with more than one otter trawl or an otter trawl exceeding 95 feet in width as measured along an uninterrupted corkline, from leading tip of door to leading tip of door. This section does not apply to try nets or test nets.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1212, ch. 456, § 13(d), eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1092, ch. 511, § 1, eff. June 11, 1979.]

**§ 77.088. Night Shrimping Prohibited**

Except as provided in this subchapter, no person may catch shrimp or use or operate a net or trawl to catch shrimp of any size or species in the inside water except during the period beginning 30 minutes before sunrise and ending 30 minutes after sunset.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.089. Noncommercial Bait-Shrimping**

(a) A person may catch shrimp for use as bait only at any time of the year in bait bays with an individual bait-shrimp trawl, cast net, dip net, bait trap, or minnow seine not larger than 20 feet in length manually operated without the use of any mechanical means or devices.

(b) No person catching shrimp with an individual bait-shrimp trawl may possess or have on board a boat in the inside water more than two quarts of shrimp per person or four quarts of shrimp per boat for use as bait.

(c) Shrimp caught under this section are not subject to the size requirement set out in Section 77.013 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1297, ch. 600, § 3, eff. Aug. 27, 1979.]

**§ 77.090. Noncommercial Shrimping**

*Text of subsection as amended by Acts 1979, 66th Leg., p. 1297, ch. 600, § 4*

(a) A person may catch shrimp for personal use with an individual bait-shrimp trawl, cast net, dip net, bait trap, or minnow seine not larger than 20

feet in length manually operated on foot only and without the use of any mechanical means or devices:

(1) in major bays of inside water during the open season ending on December 15 as provided in Section 77.091 of this code in an amount not to exceed 100 pounds of shrimp per day; and

(2) in major bays of inside water from May 15 to July 15, both dates inclusive, in an amount not to exceed 15 pounds of shrimp per day.

*Text of subsection as amended by Acts 1979, 66th Leg., p. 2012, ch. 789, § 4*

(a) A person may catch shrimp for personal use with an individual bait-shrimp trawl, cast net, dip net, bait trap, or minnow seine not larger than 20 feet in length manually operated on foot only and without the use of any mechanical means or devices in major bays of inside water from August 15 to December 15 and from May 15 to July 15 in an amount not to exceed 15 pounds of shrimp per day.

(b) The weight of shrimp taken or caught under this section is determined in their natural state with heads attached.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 340, ch. 167, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1297, ch. 600, § 4, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 2012, ch. 789, § 4, eff. Aug. 27, 1979.]

#### § 77.091. Commercial Shrimp Season

A licensed commercial bay shrimp boat operator may catch shrimp of lawful size in the major bays during the periods from August 15 to December 15, both dates inclusive, and May 15 to July 15, both dates inclusive.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.092. Commercial Shrimp Limit

(a) During the period from May 15 to July 15, both dates inclusive, a licensed commercial bay shrimp boat operator may catch not more than 300 pounds of shrimp per boat per calendar day, and may possess or have on board a boat in the inside water or unload or attempt to unload at a point in this state not more than 300 pounds of shrimp.

(b) The weight of shrimp must be determined in their natural state with heads attached.

(c) Shrimp caught or taken under this section are not subject to the size requirement set out in Section 77.013 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 77.093. Commercial Shrimp Nets

In major bays of inside water during the period from May 15 to July 15, no licensed commercial bay shrimp boat operator may catch shrimp with more than one net at a time, except a try net, or with a net:

(1) in the case of an otter trawl, exceeding a total measurement as described in Subsection (2) below as measured along an uninterrupted cork-line from leading tip of door to leading tip of door or with doors less than three feet in length as measured along the door centerline from the leading tip to the trailing edge of the door, excluding any add-on devices of any type; and

(2) the total measurement for the otter trawl and doors under Subsection (1) above shall not exceed the following:

(A) doors three feet or more but less than four feet—40 feet;

(B) doors four feet or more but less than five feet—42 feet;

(C) doors five feet or more but less than six feet—44 feet;

(D) doors six feet or more but less than seven feet—46 feet;

(E) doors seven feet or more but less than eight feet—48 feet;

(F) doors eight feet or more but less than nine feet—50 feet;

(G) doors nine feet or more but less than 10 feet—52 feet;

(H) doors 10 feet or more—54 feet; or

(3) in the case of a beam trawl, the beam trawl shall not exceed 25 feet in width as measured along the beam in its fully extended position; or

(4) having meshes, including the meshes of the bag or liner, less than six and one-half inches between the most widely separated knots in any consecutive series of five stretched meshes after the net or bag has been placed in use.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1213, ch. 456, § 13(e), eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1092, ch. 511, § 1, eff. June 11, 1979.]

#### § 77.094. Commercial Bait-Shrimp Season

(a) A licensed commercial bait-shrimp boat operator in the inside water may catch shrimp of any size or species in bait bays for use as bait only at any time of the year.

(b) Persons holding a valid bait-shrimp dealer's license and maintaining a fixed place of business immediately adjacent to a nursery area, prior to designation of the area as a nursery area, shall be authorized to operate not more than two licensed bait-shrimp boats during any given day within the area adjacent to their facility wherein bait-shrimping has otherwise been prohibited. This authorization will terminate 12 years after designation of the prohibition on shrimping in the area and is subject to the limitations of this chapter and within the period of validity of the bait-shrimp dealer's license. Authorized vessels must be reported to the department prior to period of operation within the specific area authorized. This report must include vessel identifi-

cation, bait-shrimp dealer's license number under which authorization is granted, body of water to be shrimped, and other information deemed necessary for proper enforcement by the department. This provision does not apply to bait-shrimp dealers not harvesting bait shrimp from nursery areas.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1298, ch. 600, § 5, eff. Aug. 27, 1979.]

**§ 77.095. Commercial Bait-Shrimp Limit**

(a) No licensed commercial bait-shrimp boat operator may catch more than 200 pounds of shrimp per boat per calendar day, or possess or have on board a boat, or unload or attempt to unload at a point in the state more than 200 pounds of shrimp.

(b) The weight of the shrimp must be determined in their natural state with their heads attached. Not more than 50 percent of the shrimp may be dead and 50 percent of the shrimp must be kept in a live condition on board the vessel taking the bait shrimp during the period from November 15 through August 15.

(c) Shrimp caught or taken under this section are not subject to the size requirement set out in Section 77.013 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2692, ch. 730, § 1, eff. Aug. 31, 1981.]

**§ 77.096. Commercial Bait-Shrimp Nets**

No licensed commercial bait-shrimp boat operator may catch shrimp in bait bays with:

(1) more than one net at a time, except one try net not exceeding 12 feet in total measurement as measured along an uninterrupted corkline from leading tip of door to leading tip of door and having doors or boards that do not exceed 450 square inches each, or a beam trawl exceeding five feet in width as measured along the beam of a beam trawl in its fully extended position;

(2) an otter trawl and doors not exceeding the total measurement as described in Subdivision (3) below as measured along an uninterrupted corkline from leading tip of door to leading tip of door; and

(3) the total measurement for the otter trawl and doors under Subdivision (2) above shall not exceed the following:

(A) doors three feet or more but less than four feet—40 feet;

(B) doors four feet or more but less than five feet—42 feet;

(C) doors five feet or more but less than six feet—44 feet;

(D) doors six feet or more but less than seven feet—46 feet;

(E) doors seven feet or more but less than eight feet—48 feet;

(F) doors eight feet or more but less than nine feet—50 feet;

(G) doors nine feet or more but less than 10 feet—52 feet;

(H) doors 10 feet or more—54 feet; or

(4) a beam trawl that does not exceed 25 feet as measured along the beam in its fully extended position; or

(5) a net or bag having a mesh size of not less than six and one-half inches in length between the two most widely separated knots in any consecutive series of five stretched meshes after the net or bag has been placed in use.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1213, ch. 456, § 13(f), eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1092, ch. 511, § 1, eff. June 11, 1979; Acts 1979, 66th Leg., p. 1298, ch. 600, § 6, eff. Aug. 27, 1979.]

**§ 77.097. Commercial Bait-Shrimping at Night**

(a) No licensed commercial bait-shrimp boat operator may catch shrimp for use as bait between sunset and sunrise except during the period beginning December 16 of one year and ending August 14 of the following year, both dates inclusive.

(b) Bait-shrimp may be taken at any time of the day or night in the water of the Laguna Madre. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.098. Bait-Shrimp Sale**

No licensed commercial bait-shrimp boat operator may sell or unload shrimp caught under this subchapter at any time except to a bona fide bait-shrimp dealer or a sports fisherman.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 921, ch. 337, § 1, eff. Aug. 31, 1981.]

**§ 77.099. Sale of Noncommercial Shrimp**

No person may buy, sell, offer for sale, or handle in any way for profit shrimp caught in inside water with an individual bait-shrimp trawl, dip net, cast net, bait trap, or minnow seine not larger than 20 feet in length.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 77.100. Retention of Certain Fish**

During the period beginning on December 16 of a year and extending through February 28 of the following year, no person may retain redfish or spotted sea trout caught in inside water with a trawl.

[Added by Acts 1979, 66th Leg., p. 195, ch. 105, § 1, eff. Aug. 27, 1979.]

## CHAPTER 78. CLAMS, MUSSELS, SPONGE CRABS, AND BLUE CRABS

### SUBCHAPTER A. MUSSELS, CLAMS, OR NAIADS

Section	
78.001.	License Required.
78.002.	License Form; Expiration.
78.003.	License Fee.
78.004.	Unlawful Acts.

### SUBCHAPTER B. SPONGE CRABS

78.101.	Definitions.
78.102.	Unlawful Taking of Sponge Crabs.

### SUBCHAPTER C. BLUE CRABS

78.201.	Unlawful Taking of Blue Crabs.
---------	--------------------------------

### SUBCHAPTER A. MUSSELS, CLAMS, OR NAIADS

#### § 78.001. License Required

No person may take any mussels, clams, or naiads or their shells from the public water of the state without a license.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 78.002. License Form; Expiration

The license form shall be prescribed by the department and shall designate the water in which the licensee may operate. The license expires one year after the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 78.003. License Fee

The license fee is \$10, payable to the department, with an additional \$25 fee for permission to use a dredge.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 78.004. Unlawful Acts

A person who violates the provisions of Section 78.001 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 78.005 to 78.100 reserved for expansion]

### SUBCHAPTER B. SPONGE CRABS

#### § 78.101. Definitions

"Coastal water" has the same meaning as is given to the term by the Texas Shrimp Conservation Act (Chapter 77 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 78.102. Unlawful Taking of Sponge Crabs

(a) No person may take sponge crabs from the coastal water of the state by any means.

(b) No person may buy or sell a female crab that:

- (1) has its abdominal apron detached; and
- (2) was taken from coastal water.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1765, ch. 714, § 2, eff. Aug. 27, 1979.]

### SUBCHAPTER C. BLUE CRABS

#### § 78.201. Unlawful Taking of Blue Crabs

(a) Except as provided in Subsections (b) and (c) of this section, no person may possess or may catch and retain a blue crab smaller than five inches across the shell from tip to tip.

(b) During the period from March 1 through April 30, a person may catch and retain blue crabs of any size for use as bait if bait blue crabs smaller than the minimum size are kept alive in a container separate from nonbait blue crabs.

(c) The holder of a commercial fishing license may catch and retain a number of blue crabs smaller than the minimum size that equals or is less than five percent of the total number of blue crabs caught and retained by the licensee, excluding bait blue crabs.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Added by Acts 1979, 66th Leg., p. 1765, ch. 714, § 1, eff. Aug. 27, 1979.]

## CHAPTER 79. EXTENDED FISHERY JURISDICTION

Section	
79.001.	Compliance.
79.002.	Authority.
79.003.	Suspension of Other Laws.

#### § 79.001. Compliance

The department is authorized to cooperate with the Gulf of Mexico Fishery Management Council established pursuant to the Fishery Conservation and Management Act of 1976 (16 U.S.C.A. Section 1801 et seq.), in developing state management programs which are consistent with plans proposed by the council and approved by the secretary of commerce.

[Added by Acts 1977, 65th Leg., p. 1280, ch. 501, § 2, eff. June 15, 1977.]

#### § 79.002. Authority

New regulatory authority by the department may occur only if federal regulation in state waters is proposed and under no other circumstances. When necessary to retain jurisdiction of resources in the state, and only then, the department may follow procedures outlined in Chapter 61 of this code in promulgating rules for harvest of any and all species of marine life subject to the Fishery Conservation and Management Act of 1976 (16 U.S.C.A. Section 1801 et seq.).

[Added by Acts 1977, 65th Leg., p. 1280, ch. 501, § 2, eff. June 15, 1977.]

§ 79.003. Suspension of Other Laws

Irrespective of exclusions or limited application of the Uniform Wildlife Regulatory Act (Chapter 61 of this code) or any chapter in Title 7 of this code the commission shall exercise the authority set out in Section 79.002 of this code and conflicting provisions limiting the area, species to which applicable, or special seasons, are hereby suspended when the proclamation of the commission becomes effective, but only for the period specified in such proclamation. [Added by Acts 1977, 65th Leg., p. 1281, ch. 501, § 2, eff. June 15, 1977.]

SUBTITLE E. WILDLIFE MANAGEMENT AREAS, SANCTUARIES, AND PRESERVES

CHAPTER 81. MANAGEMENT AREAS AND PRESERVES: GENERAL AUTHORITY

SUBCHAPTER A. ACTS PROHIBITED IN WILDLIFE PROTECTION AREAS

- |         |   |
|---------|---|
| Section |   |
| 81.001. | Taking of Wildlife From Hatcheries and Reservations Prohibited. |
| 81.002. | Predacious Animals on Hatcheries or Reservations.               |
| 81.003. | Trespass on State Hatcheries and Reservations.                  |
| 81.004. | Fishing in Sanctuary.   |
| 81.005. | Hunting on Game Preserves Prohibited.                           |
| 81.006. | Taking or Possessing Species From Wildlife Management Areas.    |

SUBCHAPTER B. FISH HATCHERIES

- |         |   |
|---------|---|
| 81.101. | Saltwater Areas.                        |
| 81.102. | Freshwater Areas.                       |
| 81.103. | Property Acquisition; Manner and Means. |
| 81.104. | Condemnation Suits.                     |

SUBCHAPTER C. FISH SANCTUARIES

- |         |  |
|---------|--|
| 81.201. | Creation of Freshwater Sanctuaries.            |
| 81.202. | Purposes of Sanctuaries.                       |
| 81.203. | Designation of Sanctuaries.                    |
| 81.204. | Sanctuary Duration.                            |
| 81.205. | Amount of Fresh Water Set Aside in One County. |
| 81.206. | Proclamation.                                  |
| 81.207. | Notice.  |
| 81.208. | Effective Date of Proclamation.                |
| 81.209. | Excluded Counties.                             |

SUBCHAPTER D. GAME PRESERVES [REPEALED]

- 81.301 to 81.307. Repealed.

SUBCHAPTER E. WILDLIFE MANAGEMENT AREAS

- |         |   |
|---------|---|
| 81.401. | Management of Areas.                          |
| 81.402. | Regulation of Hunting and Fishing.            |
| 81.403. | Permits.                                      |
| 81.404. | Contracts for Renewal of Fur-Bearing Animals. |

SUBCHAPTER F. SCIENTIFIC AREAS

- |         |  |
|---------|--|
| 81.501. | Creation of Scientific Areas.          |
| 81.502. | Powers and Duties.                     |
| 81.503. | Land of Public Entities.               |
| 81.504. | Effect on Existing Areas.              |
| 81.505. | Protected Status.                      |
| 81.506. | Funds to be Specifically Appropriated. |

SUBCHAPTER A. ACTS PROHIBITED IN WILDLIFE PROTECTION AREAS

§ 81.001. Taking of Wildlife From Hatcheries and Reservations Prohibited

(a) No person may take, injure, or kill any fish kept by the state in its hatcheries, or any bird or animal kept by the state on its reservation grounds or elsewhere for propagation or exhibition purposes.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 81.002. Predacious Animals on Hatcheries or Reservations

(a) No person may bring into or keep any cat, dog, or other predacious animal on a fish hatchery or reservation for the propagation or exhibition of birds or animals.

(b) Any predacious animal found on the grounds of a hatchery or reservation is a nuisance and any authorized employee of the department shall destroy the animal. When an animal is destroyed under the authority of this subsection, no damage suit for the destruction of the animal may be brought. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 81.003. Trespass on State Hatcheries and Reservations

(a) No person may enter without the permission of the department on the grounds of a state fish hatchery or on grounds set apart by the state for the propagation and keeping of birds and animals.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$25. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 81.004. Fishing in Sanctuary

(a) No person may fish or attempt to take fish from a fish sanctuary designated under Subchapter C of this chapter.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 81.005. Hunting on Game Preserves Prohibited

(a) No person may hunt, take, or molest a game bird or animal in a state game preserve created under Subchapter D of this chapter.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.006. Taking or Possessing Species From Wildlife Management Areas**

(a) No person may take or attempt to take or possess any wildlife or fish from a wildlife management area except in the manner and during the times permitted by the department under Subchapter E of this chapter.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 81.007 to 81.100 reserved for expansion]

**SUBCHAPTER B. FISH HATCHERIES**

**§ 81.101. Saltwater Areas**

The commission may construct and maintain saltwater hatcheries and propagation farms for fish, oysters, and game on islands owned by the state in coastal water. Funds available to the department for the enforcement of game, fish, and oyster laws may be used for costs and expenses authorized under this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.102. Freshwater Areas**

The department may purchase land for the construction, maintenance, enlargement, and operation of freshwater fish hatcheries, and for the construction and maintenance of passes leading from one body of tidewater to another. On approval of the title by the attorney general, purchases may be made from funds appropriated to the department. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.103. Property Acquisition; Manner and Means**

The department may enter on, condemn, and appropriate land, easements, rights-of-way, and property of any person or corporation in the state for the purpose of erecting, constructing, enlarging, and maintaining fish hatcheries, buildings, equipment, roads, and passageways to the hatcheries. The department may also enter on, condemn, and appropriate land, easements, rights-of-way, and property of any person or corporation in the state for the purpose of constructing, enlarging, and maintaining passes or channels from one body of tidewater to another body of tidewater in the state. The manner and method of condemnation, assessment, and payment of damages is the same as is provided for railroads.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.104. Condemnation Suits**

Condemnation suits under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department and shall be held in Travis County. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad condemnation proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the comptroller against any fund in state treasury that is limited in use for fish or wildlife purposes and that is appropriated to the department. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 81.105 to 81.200 reserved for expansion]

**SUBCHAPTER C. FISH SANCTUARIES**

**§ 81.201. Creation of Freshwater Sanctuaries**

The department, with the approval of the commissioners court of the affected county, shall set aside and reserve portions of each public freshwater stream or other body of water as fish sanctuaries in the county for the propagation of freshwater fish in their natural state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.202. Purposes of Sanctuaries**

The department shall use fish sanctuaries to increase and preserve the supply of freshwater fish in all fresh water where the fish supply has been reduced from any cause below the maximum number of fish in their natural state that the water will support.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.203. Designation of Sanctuaries**

When the department determines that any public fresh water in its natural state has a lesser supply of fish than it can support, the department, without delay, shall set aside and designate one or more portions of the water as a sanctuary for the propagation of freshwater fish in order to increase the supply of fish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.204. Sanctuary Duration**

An area set aside and designated as a sanctuary under Section 81.203 of this code may be used for a sanctuary for any period not longer than five years.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.205. Amount of Fresh Water Set Aside in One County**

No more than 50 percent of the public fresh water in any county may be set aside or designated as a sanctuary or sanctuaries.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.206. Proclamation**

(a) Sanctuaries shall be set aside and designated by proclamation of the commission signed by the chairman.

(b) The proclamation must contain:

- (1) the area to be included in the sanctuary;
- (2) the reason for creation of the sanctuary;
- (3) the date on which the proclamation takes effect;
- (4) the duration of the proclamation; and
- (5) a statement that the sanctuary is set aside and designated under the authority of this subchapter, the citation of which must be included.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.207. Notice**

The department shall give notice of the creation of a sanctuary by each of the following methods:

- (1) by posting copies of the proclamation on the courthouse door of each county in which the sanctuary is located;
- (2) by publishing a brief summary of the proclamation in a newspaper in the county in which the sanctuary is located, or in a newspaper of an adjoining county if the county where the sanctuary is located has no newspaper, once each week for five consecutive weeks; and
- (3) by posting at least six signs bearing the conspicuous inscription "State Fish Sanctuary—No Fishing" around the boundary of the sanctuary.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.208. Effective Date of Proclamation**

The proclamation takes effect on the day of the last publication of the notice required by Section 81.207(2) of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.209. Excluded Counties**

This subchapter does not apply to Wichita, Clay, Baylor, and Wilbarger counties.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 81.210 to 81.300 reserved for expansion]

SUBCHAPTER D. GAME PRESERVES [REPEALED]

**§§ 81.301 to 81.307. Repealed by Acts 1979, 66th Leg., p. 550, ch. 260, art. 5, § 1(4), eff. Sept. 1, 1979**

The repealed sections, relating to game preserves, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

SUBCHAPTER E. WILDLIFE MANAGEMENT AREAS

**§ 81.401. Management of Areas**

The department may manage, along sound biological lines, wildlife and fish found on any land the department has or may acquire as a wildlife management area.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.402. Regulation of Hunting and Fishing**

(a) The department may prohibit hunting and fishing in game management areas to protect any species of wildlife or fish.

(b) The department from time to time, as sound biological management permits, may allow open seasons for hunting or fishing.

(c) During an open season the department may prescribe the number, kind, sex, and size of game or fish that may be taken.

(d) The department may prescribe the means, methods, and conditions for the taking of game or fish during an open season.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.403. Permits**

(a) Except as provided in Subsection (b) of this section, special permits for hunting of wildlife on game management areas shall be issued by the department to applicants by means of an impartial method of distribution subject to limitations on the maximum number of permits to be issued.

(b) No person may receive a special permit for hunting on game management areas for two consecutive years unless all applications from persons who applied but did not receive a permit for the preceding year are filled.

(c) The department shall charge a permit fee in the amount set by the commission based on the costs of the department in issuing the permits, enforcing game laws, and protecting hunters during hunting periods on game management areas.

(d) This subchapter does not exempt any person from compliance with hunting license laws.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 81.404. Contracts for Removal of Fur-Bearing Animals**

(a) The department may contract for the removal of fur-bearing animals and reptiles in wildlife man-

agement areas under the control of the department. The removal of fur-bearing animals and reptiles shall be according to sound biological management practices.

(b) Contracts for the removal of fur-bearing animals and reptiles shall be entered into under the direction of the State Board of Control in the manner provided by general law for the sale of state property, except that the department shall determine the means, methods, and quantities of fur-bearing animals and reptiles to be taken, and the department may accept or reject any bid received by the board of control.

(c) Fur-bearing animals may be removed only during the open season provided in Section 72.002 of this code. Reptiles may be removed at any time unless there is a proclamation relating to a specific species of reptiles in effect under Chapter 67 of this code, in which case that species of reptiles may be removed only during the open season provided for in the proclamation.

(d) Repealed by Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, § 6, eff. Sept. 1, 1979.

[Acts 1975, 64th Leg., p. 1207, ch. 456, § 5, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 549, ch. 260, art. 1, § 6, eff. Sept. 1, 1979.]

Acts 1981, 67th Leg., p. 2737, ch. 748, which amended various provisions relating to the taking, possession, propagation, transportation, purchase, and sale of fur-bearing animals, in § 8 thereof, provides:

"The following sections of the Parks and Wildlife Code, as amended, are not affected by this Act: Sections 81.404, 229.021, 334.041, and 350.021."

[Sections 81.405 to 81.500 reserved for expansion]

#### SUBCHAPTER F. SCIENTIFIC AREAS

##### § 81.501. Creation of Scientific Areas

The department may promote and establish a state system of scientific areas for the purposes of education, scientific research, and preservation of flora and fauna of scientific or educational value. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

##### § 81.502. Powers and Duties

To the extent necessary to carry out the purposes of this subchapter, the department may:

(1) determine the acceptance or rejection of state scientific areas proposed for incorporation into a state system of scientific areas;

(2) make and publish all rules and regulations necessary for the management and protection of scientific areas;

(3) cooperate and contract with any agencies, organizations, or individuals for the purposes of this subchapter;

(4) accept gifts, grants, devises, and bequests of money, securities, or property to be used in accordance with the tenor of such gift, grant, devise, or bequest;

(5) formulate policies for the selection, acquisition, management, and protection of state scientific areas;

(6) negotiate for and approve the dedication of state scientific areas as part of the system;

(7) advocate research, investigations, interpretive programs, and publication and dissemination of information pertaining to state scientific areas and related areas of scientific value;

(8) acquire interests in real property by purchase; and

(9) hold and manage lands within the system.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

##### § 81.503. Land of Public Entities

All public entities and their agencies are authorized and urged to acquire, administer, and dedicate land as state scientific areas within the system under the policies of the commission authorized by this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

##### § 81.504. Effect on Existing Areas

Inclusion of a state or local park, preserve, wildlife refuge, or other area within the system established under this subchapter does not cancel, supersede, or interfere with any other law or provision of an instrument relating to the use, management, or development of the area for other purposes except that any agency administering an area within the system is responsible for preserving the natural character of the area under the policies of the commission. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

##### § 81.505. Protected Status

Neither the designation of an area as a scientific area within the state system nor an intrusion, easement, or taking allowed by the commission under this subchapter voids or replaces a protected status under the law which the area would have if it were not included within the system.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

##### § 81.506. Funds to be Specifically Appropriated

The commission may not use any funds for the acquisition of scientific areas other than those specifically appropriated for use under this subchapter. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 82. STATUTORY SANCTUARIES AND PRESERVES

### SUBCHAPTER A. GUS ENGELING WILDLIFE MANAGEMENT AREA

Section 82.001.	Creation.
82.002.	Prohibitions on Hunting, Fishing, Trapping, and Seasons.
82.003.	Special Permits.
82.004.	Unlawful Acts.
82.005.	Penalty.

SUBCHAPTER B. CONNIE HAGAR WILDLIFE SANCTUARY—ROCKPORT

- Section
- 82.101. Creation and Boundaries.
- 82.102. Boundary Markers.
- 82.103. Unlawful Act.
- 82.104. Penalties.

SUBCHAPTER C. BLACK GAP WILDLIFE MANAGEMENT AREA, CULBERSON AND HUDSPETH COUNTIES

- 82.201. Creation.
- 82.202. Acceptance of Gifts; Game Fund.
- 82.203. Land Purchase; School Lands.
- 82.204. Other Land; Title Approval.
- 82.205. Land Purchase; Private.
- 82.206. Condemnation.
- 82.207. Expenditures.

SUBCHAPTER D. WILDLIFE SANCTUARY: GALVESTON COUNTY

- 82.301. Creation.
- 82.302. Unlawful Acts.
- 82.303. Penalties.

SUBCHAPTER E. GAME AND FISH RESERVE: MARION AND HARRISON COUNTIES

- 82.401. Land Set Aside.
- 82.402. Creation.
- 82.403. Boundary Markers.
- 82.404. Amount of Area Set Aside.
- 82.405. Public Hunting and Fishing.
- 82.406. Investigation of Feasibility of Timber Land Purchase.
- 82.407. Mineral Rights.
- 82.408. Unlawful Acts.
- 82.409. Penalty.

SUBCHAPTER F. INGLESIDE COVE WILDLIFE SANCTUARY: SAN PATRICIO AND NUECES COUNTIES

- 82.501. Creation.
- 82.502. Marking Boundaries.
- 82.503. Unlawful Acts.
- 82.504. Penalties.

SUBCHAPTER G. FISH HATCHERIES: SMITH COUNTY

- 82.601. Creation.
- 82.602. Property Acquisition.
- 82.603. Condemnation; Manner and Means.

SUBCHAPTER H. ISLAND CHANNEL

- 82.651. Island Channel.

SUBCHAPTER I. LAKE CORPUS CHRISTI GAME SANCTUARY

- 82.701. Game Sanctuary.
- 82.702. Prohibited Acts.
- 82.703. Markers.
- 82.704. Penalty.

SUBCHAPTER J. LaSALLE COUNTY RIVERS SANCTUARY

- 82.711. Creation.
- 82.712. Prohibited Acts.
- 82.713. Penalty.

SUBCHAPTER K. McMULLEN COUNTY RIVERS SANCTUARY

- 82.721. Creation.
- 82.722. Prohibited Acts.
- 82.723. Penalty.

SUBCHAPTER L. BEE COUNTY RIVERS SANCTUARY

- Section
- 82.731. Creation.
- 82.732. Prohibited Acts.
- 82.733. Penalty.

SUBCHAPTER O. LIVE OAK COUNTY RIVERS SANCTUARY

- 82.761. Creation.
- 82.762. Prohibited Acts.
- 82.763. Penalty.

SUBCHAPTER A. GUS ENGELING WILDLIFE MANAGEMENT AREA

§ 82.001. Creation

The department may manage wildlife and fish species in the Gus Engeling Wildlife Management Area in Anderson County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 82.002. Prohibitions on Hunting, Fishing, Trapping, and Seasons

(a) The department may prohibit all hunting, trapping, and fishing within the management area for any period of time necessary to safeguard any species of wildlife or fish found within the management area.

(b) The department, as sound biological management practices warrant, may prescribe open seasons for hunting, trapping, and fishing within the management area.

(c) The department may prescribe the number, kind, sex, and size of any wildlife and fish that may be taken from the area and may prescribe the means and methods for taking and the conditions under which any wildlife or fish species may be taken within the area.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 82.003. Special Permits

Any special permit issued for the taking of wildlife or fish species within the management area is available to all applicants on an impartial basis to the extent of the total number of permits issued. No person may receive a special permit for two consecutive years unless all applications from persons who applied but did not receive a special permit in the preceding year are filled. The provisions of this section do not waive the license requirements as provided by law.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 82.004. Unlawful Acts

No person may hunt or possess any wildlife or fish species taken from the area except as permitted by the department under the provision of this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.005. Penalty**

A person who violates any provision of this subchapter or who takes wildlife or fish at any time except as permitted by the department is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.006 to 82.100 reserved for expansion]

**SUBCHAPTER B. CONNIE HAGAR WILDLIFE  
SANCTUARY—ROCKPORT**

**§ 82.101. Creation and Boundaries**

The Connie Hagar Wildlife Sanctuary—Rockport in Aransas County is described as follows:

Being all of the water area of Aransas Bay and Little Bay between the shoreline of Live Oak Peninsula and a line described as follows:

BEGINNING at the point where the city limits of the City of Rockport intersects the shoreline of the Aransas Bay;

THENCE, one mile due east to a point in Aransas Bay;

THENCE, in a northeasterly direction approximately  $1\frac{3}{8}$  miles to a point which is  $\frac{1}{2}$  mile due east of Nine Mile Point;

THENCE, in a north by northwesterly direction approximately 2 miles to a point which is  $\frac{1}{2}$  mile due east of the channel entrance to the Fulton Harbor;

THENCE, due west to the shoreline of Live Oak Peninsula.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.102. Boundary Markers**

The department shall place suitable markers defining the boundaries of the wildlife sanctuary. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.103. Unlawful Act**

No person may hunt any bird or animal within the wildlife sanctuary.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.104. Penalties**

A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.105 to 82.200 reserved for expansion]

**SUBCHAPTER C. BLACK GAP WILDLIFE  
MANAGEMENT AREA, CULBERSON AND  
HUDSPETH COUNTIES**

**§ 82.201. Creation**

The department may set aside a fenced game management area in Culberson and Hudspeth counties for the protection and perpetuation of Texas Bighorn Mountain Sheep (*Ovis canadensis texiana*). [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.202. Acceptance of Gifts; Game Fund**

The department may accept gifts of land in Culberson and Hudspeth counties or money to be deposited in the special game and fish fund. The gifts shall be used for the Texas Bighorn Sheep management unit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.203. Land Purchase; School Lands**

The department may purchase the surface rights in not more than eight sections of public school lands located in Culberson and Hudspeth counties in the following blocks: Blocks 65 and 66, T. & P. Ry. Co. land; Blocks 42- $\frac{1}{2}$ , 43, 54- $\frac{1}{2}$ , Public School Lands. The minerals on the land purchased shall be reserved to the school fund and managed by the school land board. The price to be paid for the land shall not exceed \$1 per acre and shall be paid for by the department out of the special game and fish fund. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.204. Other Land; Title Approval**

The department may purchase other land in Culberson and Hudspeth counties as necessary for the operation of the game management unit. The department may pay for the land out of the special game and fish fund on approval of the title by the attorney general.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.205. Land Purchase; Private**

The department may enter on, condemn, and appropriate not more than 12 sections of land belonging to any person or corporation in Culberson and Hudspeth counties for the purpose stated in this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.206. Condemnation**

The method of condemnation, assessment, and payment of damages is the same as is provided by law for railroads. Condemnation suits brought under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department. All costs in the proceed-

ings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the state by warrant drawn on the special game and fish fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.207. Expenditures**

All expenditures provided under this subchapter shall be made from the special game and fish fund. The expenditures shall not exceed \$20,000 in one year. Three-fourths of the expenditures shall be reimbursed out of federal aid in wildlife restoration funds available to the state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.208 to 82.300 reserved for expansion]

SUBCHAPTER D. WILDLIFE SANCTUARY:  
GALVESTON COUNTY

**§ 82.301. Creation**

The group of small islands located in Galveston Bay near Smith's Point and known as Vingt et Un Islands are a state wildlife sanctuary.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.302. Unlawful Acts**

No person may hunt or in any way molest any of the birds on any of the islands or within 50 yards of the islands, nor may any person enter on the islands for any purpose without first obtaining permission from the department.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.303. Penalties**

A person violating any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.304 to 82.400 reserved for expansion]

SUBCHAPTER E. GAME AND FISH RESERVE:  
MARION AND HARRISON COUNTIES

**§ 82.401. Land Set Aside**

All of the public land and school land situated in, under, and adjacent to the bed of Caddo Lake in the counties of Marion and Harrison are withdrawn from sale and preserved for public use as a state game and fish reserve.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.402. Creation**

The department may establish one or more game sanctuaries in the water of Caddo Lake for the protection of wild ducks, geese, and all other migratory birds. The sanctuaries shall protect the birds from being pursued, hunted, taken, or disturbed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.403. Boundary Markers**

The department shall designate and define the boundaries of the sanctuaries by placing markers or signs around the boundaries of each sanctuary with the words "Game Preserve" on each marker or sign. The markers or signs shall be placed not more than 500 yards apart.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.404. Amount of Area Set Aside**

The sanctuaries shall not include more than 20 percent of the area of the lake.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.405. Public Hunting and Fishing**

The public may hunt and fish on all of the water of the lake except that water set aside for sanctuaries.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.406. Investigation of Feasibility of Timber Land Purchase**

The department, in conjunction with the state forester, shall investigate the feasibility and desirability of acquiring title to a block of timbered land adjacent to the lake comprising from 5,000 to 10,000 acres, to be placed under the joint control of the state forester and the department, with the view of ultimately preserving a belt of native forest for the future and also for the propagation of game.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.407. Mineral Rights**

The mineral rights under the land reserved for the sanctuaries are withdrawn from sale and the rights may not be offered for sale until the legislature directs the rights to be sold.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 82.408. Unlawful Acts**

(a) No person may hunt any kind of game on the sanctuaries established under this subchapter.

(b) No person may hunt any birds, fowl, or game of any kind on the sanctuaries established under this subchapter.

(c) No person may pursue or frighten or attempt to pursue or frighten any birds, fowl, or game of any kind on the sanctuaries established under this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 82.409. Penalty

A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$500, and in addition, the hunting license of the violator is subject to forfeiture for one year following the date of the conviction.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.410 to 82.500 reserved for expansion]

#### SUBCHAPTER F. INGLESIDE COVE WILDLIFE SANCTUARY: SAN PATRICIO AND NUECES COUNTIES

#### § 82.501. Creation

The Ingleside Cove Wildlife Sanctuary is composed of an area in San Patricio and Nueces counties described as follows:

**BEGINNING** at Kinney Bayou on the east shoreline of Ingleside Cove, also known as North Shore Channel;

**THENCE**, in a northwesterly direction along the shoreline to channel marker number "22" with a flashing red light every 4 seconds known as Donnel Point;

**THENCE**, due west crossing the Reynolds Channel to the east side of a spoil bank;

**THENCE**, following the eastern edge of this spoil bank in a southeasterly direction to its southern most point, continuing southeast crossing Ingleside cut to the north shore of Ingleside Point;

**THENCE**, in an easterly and southeasterly direction along the east shoreline following the Reynolds Channel through Ingleside Point to the southern most portion of this cut;

**THENCE**, due east across the Reynolds Channel to the west shoreline of the mainland known as the southern most portion of Ingleside Cove;

**THENCE**, following the shoreline in a northerly direction being the east shoreline of Ingleside Cove to the point of beginning.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 82.502. Marking Boundaries

The department shall place suitable markers defining the boundary of the wildlife sanctuary as described in this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 82.503. Unlawful Acts

(a) No person may hunt any bird within the sanctuary.

(b) No person may fish by any means other than rod and reel within the sanctuary.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 82.504. Penalties

A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.505 to 82.600 reserved for expansion]

#### SUBCHAPTER G. FISH HATCHERIES: SMITH COUNTY

#### § 82.601. Creation

The department may construct, enlarge, and maintain fish hatcheries in Smith County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 82.602. Property Acquisition

The department may enter on, condemn, and appropriate land, water rights, easements, rights-of-way, and property of any person or corporation in Smith County for the purposes designated in this subchapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 82.603. Condemnation; Manner and Means

The method of condemnation, assessment, and payment of damages is the same as is provided for railroads. Condemnation suits brought under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad condemnation proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the state by warrant drawn by the comptroller against any fund in the state treasury appropriated to the department for the use of constructing and maintaining fish hatcheries.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.604 to 82.650 reserved for expansion]

SUBCHAPTER H. ISLAND CHANNEL

§ 82.651. **Island Channel**

(a) The department may construct and maintain a channel through Padre Island, Mustang Island, and St. Jo Island, or any of them.

(b) The department may contract for the construction of a channel under this section on approval by the commission and approval from the federal government of an application for authority to construct channels.

(c) The cost of the construction and maintenance of a channel constructed under this section may be paid from the special game and fish fund only. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.652 to 82.700 reserved for expansion]

SUBCHAPTER I. LAKE CORPUS CHRISTI GAME SANCTUARY

§ 82.701. **Game Sanctuary**

All the water of Lake Corpus Christi in San Patricio and Live Oak counties is a game sanctuary. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 82.702. **Prohibited Acts**

(a) Except as provided in Subsection (b) of this section, no person may enter on the portion of Lake Corpus Christi that is a game sanctuary with a gun or rifle, and no person may attempt to shoot a bird or animal in the portion of Lake Corpus Christi that is a game sanctuary.

(b) A person may hunt ducks and geese during the open seasons for ducks and geese with a shotgun in the portion of Lake Corpus Christi in San Patricio County. This exception does not apply to hunting within one mile of the boy scout camp, the girl scout camp, or Lake Corpus Christi Park. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 82.703. **Markers**

The Parks and Wildlife Department shall erect appropriate markers at intervals adequately spaced to warn hunters of the one-mile limit around the boy scout camp, the girl scout camp, and Lake Corpus Christi Park in San Patricio County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 82.704. **Penalty**

A person who violates Section 82.702 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 82.705 to 82.710 reserved for expansion]

SUBCHAPTER J. LaSALLE COUNTY RIVERS SANCTUARY

§ 82.711. **Creation**

All of the land area and public water in state-owned riverbeds in LaSalle County, including the Nueces and Frio rivers, is a game sanctuary.

[Added by Acts 1977, 65th Leg., p. 2072, ch. 823, § 1, eff. Aug. 29, 1977.]

§ 82.712. **Prohibited Acts**

(a) Except as permitted under Subsections (b) and (c) of this section, no person may possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in the game sanctuary created by Section 82.711 of this code.

(b) Subsection (a) of this section does not apply to a peace officer of this state, a law enforcement officer of the United States, or a member of the armed forces of the United States or of this state during the time that the officer or member is in the actual discharge of official duties.

(c) Subsection (a) of this section does not apply to waterfowl hunting on any reservoir owned, operated, or maintained by a governmental entity now existing or to be constructed on said rivers.

[Added by Acts 1977, 65th Leg., p. 2072, ch. 823, § 1, eff. Aug. 29, 1977.]

§ 82.713. **Penalty**

A person who violates Section 82.712 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Added by Acts 1977, 65th Leg., p. 2072, ch. 823, § 1, eff. Aug. 29, 1977.]

[Sections 82.714 to 82.720 reserved for expansion]

SUBCHAPTER K. McMULLEN COUNTY RIVERS SANCTUARY

§ 82.721. **Creation**

All of the land area and public water in state-owned riverbeds in McMullen County, including the Nueces and Frio rivers, is a game sanctuary.

[Added by Acts 1977, 65th Leg., p. 2072, ch. 823, § 2, eff. Aug. 29, 1977.]

§ 82.722. **Prohibited Acts**

(a) Except as permitted under Subsections (b) and (c) of this section, no person may possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in the game sanctuary created by Section 82.721 of this code.

(b) Subsection (a) of this section does not apply to a peace officer of this state, a law enforcement officer of the United States, or a member of the armed forces of the United States or of this state during the time that the officer or member is in the actual discharge of official duties.

(c) Subsection (a) of this section does not apply to waterfowl hunting on any reservoir owned, operated, or maintained by a governmental entity now existing or to be constructed on said rivers.

[Added by Acts 1977, 65th Leg., p. 2072, ch. 823, § 2, eff. Aug. 29, 1977.]

#### § 82.723. Penalty

A person who violates Section 82.722 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Added by Acts 1977, 65th Leg., p. 2073, ch. 823, § 2, eff. Aug. 29, 1977.]

### SUBCHAPTER L. BEE COUNTY RIVERS SANCTUARY

#### § 82.731. Creation

All of the land area and water in the Aransas and Poesta rivers in Bee County, to the extent same are owned by the state, are declared to be a game sanctuary.

[Added by Acts 1981, 67th Leg., p. 2080, ch. 471, § 1, eff. Aug. 31, 1981.]

#### § 82.732. Prohibited Acts

(a) Except as permitted by Subsections (b) and (c) of this section, no person may possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in the game sanctuary created by Section 82.731 of this code.

(b) Subsection (a) of this section does not apply to a peace officer of this state, a law enforcement officer of the United States, or a member of the armed forces of the United States or of this state during the time that the officer or member is in the actual discharge of official duties.

(c) Subsection (a) of this section does not apply to waterfowl hunting on any reservoir owned, operated, or maintained by a governmental entity now existing or to be constructed on the listed rivers.

[Added by Acts 1981, 67th Leg., p. 2080, ch. 471, § 1, eff. Aug. 31, 1981.]

#### § 82.733. Penalty

A person who violates Section 82.732 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Added by Acts 1981, 67th Leg., p. 2080, ch. 471, § 1, eff. Aug. 31, 1981.]

### SUBCHAPTER O. LIVE OAK COUNTY RIVERS SANCTUARY

#### § 82.761. Creation.

All of the land area and public water in the state-owned beds of the Nueces, Frio, and Atascosa rivers in Live Oak County is a game sanctuary.

[Added by Acts 1979, 66th Leg., p. 2083, ch. 814, § 1, eff. Aug. 21, 1979.]

#### § 82.762. Prohibited Acts

(a) Except as permitted by Subsections (b) and (c) of this section, no person may possess, shoot, or hunt with a firearm, bow and arrow, or crossbow in the game sanctuary created by Section 82.761 of this code.

(b) Subsection (a) of this section does not apply to a peace officer of this state, a law enforcement officer of the United States, or a member of the armed forces of the United States or of this state during the time that the officer or member is in the actual discharge of official duties.

(c) Subsection (a) of this section does not apply to waterfowl hunting on any reservoir owned, operated, or maintained by a governmental entity now existing or to be constructed on the listed rivers.

[Added by Acts 1979, 66th Leg., p. 2083, ch. 814, § 1, eff. Aug. 27, 1979.]

#### § 82.763. Penalty

A person who violates Section 82.762 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Added by Acts 1979, 66th Leg., p. 2083, ch. 814, § 1, eff. Aug. 27, 1979.]

## CHAPTER 83. FEDERAL-STATE AGREEMENTS

Section	
83.001.	Fish Restoration Projects.
83.002.	Commercial Fisheries Research.
83.003.	Wildlife-Restoration Projects.
83.004.	Migratory Game Bird Reservations.

#### § 83.001. Fish Restoration Projects

The department shall conduct and establish cooperative fish restoration projects under an Act of Congress entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects" (Public Law No. 681, 81st Congress). The department shall comply with the act and rules and regulations promulgated under the act by the secretary of the interior.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 83.002. Commercial Fisheries Research

(a) The department shall conduct research in and develop commercial fisheries under an Act of Congress entitled "Commercial Fisheries Research and Development Act of 1964" (Title 16, Sections 779-779f, U.S.C.A.). The department shall comply with the act and the rules and regulations promulgated under the act by the secretary of the interior.

(b) Funds received from the federal government and appropriated by the state for research and development of commercial fisheries shall be deposited in the state treasury to the credit of the special game and fish fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 83.003. Wildlife-Restoration Projects**

The department shall establish and conduct cooperative wildlife-restoration projects under an Act of Congress entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes" (Public Law No. 415, 75th Congress). The department shall comply with the act and rules and regulations promulgated under the act by the secretary of agriculture. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 83.004. Migratory Game Bird Reservations**

(a) The United States of America may acquire by purchase, gift, devise, or lease areas of land or water in this state necessary for the establishment of migratory bird reservations under an Act of Congress entitled "An Act to more effectively meet the obligations of the United States under the Migratory Bird Treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes."

(b) The state retains jurisdiction and authority over the areas which are not incompatible with the administration, maintenance, protection, and control of the areas by the United States under the act. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**SUBTITLE F. MARL, SAND, GRAVEL, SHELL, AND MUDSHELL**

**CHAPTER 86. MARL, SAND, GRAVEL, SHELL, AND MUDSHELL**

Section	
86.001.	Management and Protection.
86.002.	Permit Required; Penalty.
86.003.	Application for Permit.
86.004.	Granting of Permit.
86.005.	Economic Considerations.
86.006.	Permit.
86.007.	Permits Not Assignable.
86.008.	Denial of Permit.
86.009.	Termination and Revocation.
86.010.	Removal and Replanting of Oysters and Oyster Beds.
86.011.	No Special Privileges.
86.012.	Sales of Materials.
86.013.	Use on Roads.
86.014.	Use for Seawalls, etc.
86.015.	Sand From Corpus Christi and Nueces Bays.
86.0151.	Use to Open Brown Cedar Cut.
86.016.	Deposit of Funds.
86.017.	Use of Funds.
86.018.	Taking From Certain Areas Prohibited.
86.019.	Oil and Gas Lessees.

**§ 86.001. Management and Protection**

The commission shall manage, control, and protect marl and sand of commercial value and all gravel,

shell, and mudshell located within the tidewater limits of the state, and on islands within those limits, and within the freshwater areas of the state not embraced by a survey or private land, and on islands within those areas.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.002. Permit Required; Penalty**

(a) No person may disturb or take marl, sand, gravel, shell, or mudshell under the management and protection of the commission or operate in or disturb any oyster bed or fishing water for any purpose other than that necessary or incidental to navigation or dredging under state or federal authority without first having acquired from the commission a permit authorizing the activity.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day's operation in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.003. Application for Permit**

(a) A person desiring a permit may apply to the commission.

(b) The application must be in writing and must describe the area in which authorization to operate is sought.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.004. Granting of Permit**

The commission may grant a permit to an applicant who has complied with all requirements of the commission if the commission finds that the disturbing, taking, and carrying away of marl, sand, gravel, shell, or mudshell will not:

(1) damage or injuriously affect any island, reef, bar, channel, river, creek, or bayou used for navigation, or any oysters, oyster beds, or fish in or near the water used in the operation; and

(2) change or injuriously affect any current that would affect navigation.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.005. Economic Considerations**

In determining whether or not a permit should be granted, the commission shall consider the injurious effect on oysters, oyster beds, and fish in or near the water used in the operation as well as the needs of industry for marl, sand, gravel, shell, and mudshell and its relative value to the state for commercial use.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.006. Permit**

(a) The permit shall identify the person authorized to disturb, take, or carry away marl, sand, gravel, shell, or mudshell and shall describe the nature of the material that may be disturbed, taken, or carried away.

(b) The permit shall describe the area where the operation may occur and shall state the purpose of the operation.

(c) The permit may contain other terms and conditions.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.007. Permits Not Assignable**

A permit issued under this chapter is not assignable.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.008. Denial of Permit**

If the commission refuses to grant a permit to an applicant, it shall make a full written finding of facts explaining the reason for the refusal.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.009. Termination and Revocation**

The failure or refusal by the holder of a permit to comply with any term or condition of the permit operates as an immediate termination and revocation of all rights conferred or claimed under the permit.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.010. Removal and Replanting of Oysters and Oyster Beds**

(a) The commission may remove oysters and oyster beds and replant them in other natural or artificial reefs if the commission finds that the removal and replanting will benefit the growth and propagation or the betterment of oysters and oyster beds or fishing conditions.

(b) The removal and replanting of oysters and oyster beds shall be at the expense of the person holding a permit or of an applicant for a permit and not the state.

(c) Before authorizing the removal and replanting of oysters or oyster beds the commission shall give notice to interested parties and hold a hearing on the subject.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.011. No Special Privileges**

No special privileges or exclusive rights may be granted to any person to take marl, sand, gravel, shell, or mudshell or to operate in or on any place under this chapter.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.012. Sales of Materials**

(a) The commission, with the approval of the governor, may sell marl, sand, gravel, shell, and mudshell for not less than four cents a ton.

(b) The commission may require other terms and conditions for the sale of marl, sand, gravel, shell, and mudshell.

(c) Payment for sales shall be made to the commission.

(d) Marl, sand, gravel, shell, and mudshell may be removed without payment to the commission if removed from land or flats patented to a navigation district by the state for any use on the land or flats or on any adjoining land or flats for any purpose for which the land or flats may be used under the authority of the patent to the district, or if removed to provide access to a boat ramp under Section 31.141(c) of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1069, ch. 499, § 2, eff. Aug. 27, 1979.]

**§ 86.013. Use on Roads**

(a) A county, subdivision of a county, city, or town that has a permit to take marl, sand, gravel, shell, or mudshell is not required to purchase marl, sand, gravel, shell, or mudshell taken and used for roads and streets.

(b) A county, subdivision of a county, city, or town that purchases marl, sand, gravel, shell, or mudshell for use on roads and streets from a holder of a permit who has purchased the material from the commission may receive a refund of the amount paid by the permit holder by submitting a sworn itemized account of an official of the county, subdivision of the county, city, or town. All refunds under this subsection must be approved by the commission and be paid by the comptroller by warrant.

(c) The State Highway Commission may receive a refund of the amount paid to the commission for the purchase of marl, sand, gravel, shell, or mudshell used by the highway commission on public roads.

(d) The commission may make regulations for the payment of refunds under this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.014. Use for Seawalls, etc.**

(a) The commission shall grant to any county, city, or town that is authorized under Title 118, Revised Civil Statutes of Texas, 1925, to build and maintain seawalls a permit for the taking of marl, sand, gravel, shell, or mudshell to be used for the building, extending, protecting, maintaining, or improving any seawall, breakwater, levee, dike, floodway, or drainway.

(b) Permits under this section shall be issued under regulations established by the commission.

(c) A county, city, or town taking marl, sand, gravel, shell, or mudshell under this section is not

required to purchase the marl, sand, gravel, shell, or mudshell.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.015. Sand From Corpus Christi and Nueces Bays**

Sand and other deposits having no commercial value may be taken from Corpus Christi and Nueces bays for filling and raising the grade of the salt flats in the northern part of the city of Corpus Christi and the lowlands lying north of the north boundary line of the city of Corpus Christi, in Nueces County, and south of the south boundary line of the city of Portland, in San Patricio County, without making payments for it to the commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.0151. Use to Open Brown Cedar Cut**

(a) A nonprofit corporation, fund, or foundation exempted from federal income taxes under Section 503(c)(3), Internal Revenue Code of 1954, as amended (26 U.S.C. Sec. 503(c)(3)), may take sand, gravel, marl, shell, and mudshell from Brown Cedar Cut in Matagorda County for the sole purpose of opening and reopening that passage between the Gulf of Mexico and East Matagorda Bay.

(b) The fee required by Section 86.012 of this code does not apply to sand, gravel, marl, shell, or mudshell taken under Subsection (a) of this section, and that sand, gravel, marl, shell, and mudshell may be deposited on private land.

[Added by Acts 1979, 66th Leg., p. 911, ch. 419, § 1, eff. Aug. 27, 1979.]

**§ 86.016. Deposit of Funds**

The proceeds from the sale of marl, sand, gravel, shell, and mudshell shall be deposited in the special game and fish fund.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.017. Use of Funds**

Funds collected by the commission from the sale of marl, sand, gravel, shell, and mudshell may be used for the enforcement of the provisions of this chapter, the payment of refunds, and the construction and maintenance of fish hatcheries. No less than three-fourths of the proceeds from the sale of marl, sand, gravel, shell, and mudshell, after the payment of refunds, shall be used for the construction and maintenance of fish hatcheries.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.018. Taking From Certain Areas Prohibited**

(a) No person may take marl, sand, gravel, shell, or other material from any place between a seawall and the water's edge, from a beach or shoreline within 300 feet of the mean low tide, or within

one-half mile of the end of any seawall, for any purpose other than that necessary or incidental to navigation or dredging under state or federal authority.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 86.019. Oil and Gas Lessees**

This chapter does not require the holder of an oil and gas lease executed by the state to obtain a permit from the commission to exercise any right granted under the lease or other laws of this state.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

SUBTITLE G. PLANTS

CHAPTER 88. ENDANGERED PLANTS

Section	
88.001.	Definitions.
88.002.	Endangered, Threatened, or Protected Native Plants.
88.003.	Statewide List.
88.004.	Amendment to List.
88.005.	Permit.
88.006.	Regulations.
88.007.	Activities by the Department.
88.008.	Prohibited Acts.
88.009.	Exceptions.
88.010.	Inspections.
88.011.	Penalties.
88.012.	Injunction Against Governmental Violator.

**§ 88.001. Definitions**

In this chapter:

(1) "Endangered plant" means a species of plant life that is in danger of extinction throughout all or a significant portion of its range.

(2) "Threatened plant" means a species of plant life that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(3) "Protected plant" means a species of plant life that the director determines is of historical or cultural value to the state or the area in which it is found.

(4) "Native plant" means any tree, shrub, herb, grass, forb, legume, fern, fern ally, or wildflower that is indigenous to the state and that is growing on public or private land.

(5) "Public land" means land that is owned by the state or a local governmental entity.

(6) "Take" means to collect, pick, cut, dig up, or remove.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

**§ 88.002. Endangered, Threatened, or Protected Native Plants**

Species of native plants are endangered, threatened, or protected if listed as such on:

- (1) the United States List of Endangered Plant Species as in effect on the effective date of this Act (50 C.F.R. Part 17); or
- (2) the list of endangered, threatened, or protected native plants as filed by the director of the department.

[Added by Acts 1981, 67th Leg., p. —, ch. 637, § 1, eff. Sept. 1, 1981.]

**§ 88.003. Statewide List**

The director shall file with the secretary of state a list of endangered, threatened, or protected native plants.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

**§ 88.004. Amendment to List**

(a) If the list of endangered or threatened plants issued by the United States is modified, the director shall file an order with the secretary of state accepting the modification unless the director finds that the plant does not occur in this state. The order is effective immediately.

(b) The director may amend the list of endangered, threatened, or protected native plants by filing a modification order with the secretary of state. The order is effective on filing.

(c) The director shall give public notice of the intention to file a modification order under Subsection (b) of this section at least 60 days before the order is filed. The notice must contain the contents of the proposed order.

(d) The director shall hold a public hearing at least 30 days before the modification order authorized by Subsection (b) of this section is filed.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

**§ 88.005. Permit**

The department shall issue a permit to a qualified person to take endangered, threatened, or protected plants or parts thereof from public land for the purpose of propagation, education, or scientific studies.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

**§ 88.006. Regulations**

The department shall adopt regulations to administer the provisions of this chapter, including regulations to provide for:

- (1) permit application forms, fees, and procedures;
- (2) hearing procedures;
- (3) procedures for identifying endangered, threatened, or protected plants; and

(4) publication and distribution of lists of endangered, threatened, or protected plants.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

**§ 88.007. Activities by the Department**

(a) The department may conduct biological research and field investigations to help determine the classification of native plants.

(b) The department may collect and disseminate information about the conservation of native plants and their habitats.

(c) The department may take an endangered, threatened, or protected plant from public land without a permit for the purpose of conservation, education, or scientific studies.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

**§ 88.008. Prohibited Acts**

(a) Except as otherwise provided by this chapter, no person may take for commercial sale, possess for commercial sale, or sell all or part of an endangered, threatened, or protected plant from public land.

(b) No contract or common carrier may transport or receive for shipment all or part of an endangered, threatened, or protected native plant taken from public land.

(c) No person may take for commercial sale, possess for commercial sale, or sell all or part of an endangered, threatened, or protected plant from private land unless the landowner consents in writing to the taking.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

**§ 88.009. Exceptions**

(a) This chapter does not apply to the taking, possession, or sale of endangered, threatened, or protected plants if the taking, possession, or sale is incidental to:

- (1) the possession or sale of the real property on which the plant is growing;
- (2) the possession or acquisition of easements or leases on which the plant is growing; or
- (3) the harvest or sale of an agricultural crop if the endangered, threatened, or protected plant grows among that crop.

(b) This chapter does not apply to the possession, transportation, or sale of an endangered, threatened, or protected plant if:

- (1) the plant originates in another state; and
- (2) the person possessing, transporting, or selling the plant complies with the terms of any required federal permit or with the terms of a state permit required by the laws of the originating state.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

§ 88.010. Inspections

A person authorized to enforce this chapter may detain for inspection and inspect a vehicle, package, crate, or other container if the person has probable cause to believe it contains a plant in violation of this chapter.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

§ 88.011. Penalties

(a) A person who violates any provision of this chapter is guilty of a misdemeanor and, except as provided by Subsection (b) or (c) of this section, on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(b) If it is shown at the trial of the defendant that he has been convicted within the preceding 36 months of a violation of this chapter, he shall be punished by a fine of not less than \$200 nor more than \$500, by confinement in jail for not less than 30 nor more than 90 days, or by both.

(c) If it is shown at the trial of the defendant that he has been convicted two or more times within the preceding 60 months of a violation of this chapter, he shall be punished by a fine of not less than \$500 nor more than \$2,000, by confinement in jail for not less than six months nor more than one year, or by both.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

§ 88.012. Injunction Against Governmental Violator

A state or local governmental agency that violates or threatens to violate a provision of this chapter is subject to a civil suit for injunctive relief. The suit shall be brought in the name of the State of Texas.

[Added by Acts 1981, 67th Leg., p. 2461, ch. 637, § 1, eff. Sept. 1, 1981.]

TITLE 6. COMPACTS

CHAPTER 91. GULF STATES COMPACT

Section	
91.001.	Members of Commission.
91.0011.	Application of Sunset Act.
91.002.	Terms of Commission Members.
91.003.	Delegate of Commissioner.
91.004.	Powers and Duties.
91.005.	Cooperation of State Agencies.
91.006.	Reports.
91.007.	Auditor.
91.008.	Text of Compact.

§ 91.001. Members of Commission

The three members of the Gulf States Marine Fisheries Commission from the state authorized under Article III of the Gulf States Marine Fisheries Compact are:

- (1) the executive director of the department;
- (2) a legislator appointed jointly by the lieutenant governor and speaker of the house of representatives; and

- (3) a citizen with a knowledge of the marine fisheries problems appointed by the governor with the advice and consent of the senate.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 91.0011. Application of Sunset Act

The office of Gulf States Marine Fisheries Compact Commissioner for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1844, ch. 735, § 2.087, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

§ 91.002. Terms of Commission Members

(a) The executive director of the department shall serve on the Gulf States Marine Fisheries Commission in an ex-officio capacity, and his term expires when he ceases to hold the office of executive director of the department. His successor as a member of the Gulf States Marine Fisheries Commission is his successor as executive director of the department.

(b) The legislator appointed as a member of the Gulf States Marine Fisheries Commission shall serve in an ex-officio capacity, and his term expires at the time he ceases to hold his legislative office. His successor as a member of the Gulf States Marine Fisheries Commission shall be appointed as provided by Section 91.001(2) of this code.

(c) The citizen appointed as a member of the Gulf States Marine Fisheries Commission shall serve a term of three years or until his successor has been appointed and has qualified. A vacancy in this position shall be filled for the unexpired term by appointment by the governor with the advice and consent of the senate.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 91.003. Delegate of Commissioner

The executive director of the department as ex-officio member of the Gulf States Marine Fisheries Commission may delegate to an authorized employee of the department the power to be present and participate, including the right to vote for the executive director, at any meeting, hearing, or proceeding of the Gulf States Marine Fisheries Commission.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 91.004. Powers and Duties

All the powers provided for in the compact and all the powers necessary or incidental to the carrying

out of the compact are granted to the Gulf States Marine Fisheries Commission and members of the commission. These powers are in aid of and supplemental to but not a limitation on the powers vested in the Gulf States Marine Fisheries Commission by other laws of this state or by the terms of the compact.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 91.005. Cooperation of State Agencies

(a) All officers of the state shall do all things falling within their respective jurisdictions necessary or incidental to the carrying out of the compact.

(b) All officers, bureaus, departments, and persons in state government shall furnish the Gulf States Marine Fisheries Commission information and data requested by the commission and aid the commission by loan of personnel or other means lying within their legal rights.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 91.006. Reports

The Gulf States Marine Fisheries Commission shall keep accurate accounts of receipts and disbursements and shall submit on or before February 10 of each year a report to the governor and legislature of the state containing:

(1) a detailed description of the transactions conducted by the commission during the preceding calendar year;

(2) recommendations for any legislative action considered advisable or necessary to carry out the intent and purposes of the compact.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 91.007. Auditor

The state auditor from time to time shall examine the accounts and books of the Gulf States Marine Fisheries Commission, including receipts, disbursements, and other items relating to its financial standing. The auditor shall report the results of the examination to the governor of each state that is a party to the compact.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 91.008. Text of Compact

The Gulf States Marine Fisheries Compact reads as follows:

##### GULF STATES MARINE FISHERIES COMPACT

The contracting states solemnly agree:

##### ARTICLE I

Whereas the Gulf Coast States have the proprietary interest in and jurisdiction over fisheries in the waters within their respective boundaries, it is the

purpose of this compact to promote the better utilization of the fisheries, marine, shell and anadromous, of the seaboard of the Gulf of Mexico, by the development of a joint program for the promotion and protection of such fisheries and the prevention of the physical waste of the fisheries from any cause.

##### ARTICLE II

This compact shall become operative immediately as to those states ratifying it whenever any two or more of the states of Florida, Alabama, Mississippi, Louisiana and Texas have ratified it and the Congress has given its consent, pursuant to Article I, Section 10 of the Constitution of the United States. Any state contiguous to any of the aforementioned states or riparian upon waters which flow into waters under the jurisdiction of any of the aforementioned States and which are frequented by anadromous fish or marine species, may become a party hereto as hereinafter provided.

##### ARTICLE III

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Gulf States Marine Fisheries Commission. One shall be the head of the administrative agency of such State charged with the conservation of the fishery resources to which this compact pertains; or, if there be more than one officer or agency, the official of that State named by the Governor thereof. The second shall be a member of the Legislature of such State designated by such Legislature, or in the absence of such designation, such legislator shall be designated by the Governor thereof; provided that if it is constitutionally impossible to appoint a legislator as a commissioner from such State, the second member shall be appointed in such manner as may be established by law. The third shall be a citizen who shall have a knowledge of and interest in the marine fisheries, to be appointed by the Governor. This commission shall be a body corporate with the powers and duties set forth herein.

##### ARTICLE IV

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the Gulf Coast. The commission shall have power to recommend the coordination of the exercise of the police powers of the several States within their respective jurisdictions to promote the preservation of these fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever, and to assure a continuing yield from the fishery resources of the aforementioned States. To that end the commission shall draft and recommend to the

Governors and Legislatures of the various signatory States, legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Gulf seaboard. The commission shall from time to time present to the Governor of each compacting State its recommendations relating to enactments to be presented to the Legislature of that State in furthering the interest and purposes of this compact. The commission shall consult with and advise the pertinent administrative agencies in the States party hereto with regard to problems connected with the fisheries, and recommend the adoption of such regulations as it deems advisable. The commission shall have power to recommend to the States party hereto the stocking of the waters of such States with fish and fish eggs or joint stocking by some or all of the States party hereto, and when two or more States shall jointly stock waters the commission shall act as the coordinating agency for such stocking.

ARTICLE V

The commission shall elect from its number a chairman and vice-chairman and shall appoint, and at its pleasure remove or discharge, such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business, and may meet at any time or place; but must meet at least once a year.

ARTICLE VI

No action shall be taken by the commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting States. No recommendation shall be made by the commission in regard to any species of fish except by the affirmative vote of a majority of the compacting States which have an interest in such species. The commission shall define what shall be an interest.

ARTICLE VII

The Fish and Wildlife Service of the Department of the Interior of the Government of the United States shall act as the primary research agency of the Gulf States Marine Fisheries Commission, cooperating with the research agencies in each State for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the commission. An advisory committee to be representative of the commercial salt water fishermen and the salt water anglers and such other interests of each State as the commissioners deem advisable may be established by the commissioners from each State for the purpose of advising those commissioners upon such recommendations as it may desire to make.

ARTICLE VIII

When any State, other than those named specifically in Article II of this compact, shall become a party hereto for the purpose of conserving its anadromous fish or marine species in accordance with the provisions of Article II, the participation of such State in the action of the commission shall be limited to such species of fish.

ARTICLE IX

Nothing in this compact shall be construed to limit the powers of the proprietary interest of any signatory State, or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by a signatory State, imposing additional conditions and restrictions to conserve its fisheries.

ARTICLE X

It is agreed that any two or more States party hereto may further amend this compact by acts of their respective Legislatures, subject to approval of Congress as provided in Article I, Section X, of the Constitution of the United States, to designate the Gulf States Marine Fisheries Commission as a joint regulating authority for the joint regulation of specific fisheries affecting only such States as shall so compact, and at their joint expense. The representatives of such States shall constitute a separate section of the Gulf States Marine Fisheries Commission for the exercise of the additional powers so granted, but the creation of such section shall not be deemed to deprive the States so compacting of any of their privileges or powers in the Gulf States Marine Fisheries Commission as constituted under the other Articles of this compact.

ARTICLE XI

Continued absence of representation or of any representative on the commission from any State party hereto, shall be brought to the attention of the Governor thereof.

ARTICLE XII

The operating expenses of the Gulf States Marine Fisheries Commission shall be borne by the States party hereto. Such initial appropriation as set forth below shall be made available yearly until modified as hereinafter provided:

Florida	\$3,500.00
Alabama	1,000.00
Mississippi	1,000.00
Louisiana	5,000.00
Texas	2,500.00
Total	\$13,000.00

The proration and total cost per annum of Thirteen Thousand (\$13,000.00) Dollars, above mentioned, is estimative only, for initial operations, and may be changed when found necessary by the commission and approved by the Legislatures of the

respective States. Each State party hereto agrees to provide in the manner most acceptable to it, the travel costs and necessary expenses of its commissioners and other representatives to and from meetings of the commission or its duly constituted sections or committees.

#### Article XIII

This compact shall continue in force and remain binding upon each compacting State until renounced by Act of the Legislature of such State, in such form as it may choose; provided that such renunciation shall not become effective until six months after the effective date of the action taken by the Legislature. Notice of such renunciation shall be given the other States party hereto by the Secretary of State of compacting State so renouncing upon passage of the Act.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### TITLE 7. LOCAL AND SPECIAL LAWS

#### Chapter

101. Anderson County.
102. Andrews County.
103. Angelina County.
104. Aransas County.
105. Archer County.
106. Armstrong County.
107. Atascosa County.
108. Austin County.
109. Bailey County.
110. Bandera County.
111. Bastrop County.
112. Baylor County.
113. Bee County.
114. Bell County.
115. Bexar County.
116. Blanco County.
117. Borden County.
118. Bosque County.
119. Bowie County.
120. Brazoria County.
121. Brazos County.
122. Brewster County.
123. Briscoe County.
124. Brooks County.
125. Brown County.
126. Burleson County.
127. Burnet County.
128. Caldwell County.
129. Calhoun County.
130. Callahan County.
131. Cameron County.
132. Camp County.
133. Carson County.
134. Cass County.
135. Castro County.
136. Chambers County.
137. Childress County.
138. Cherokee County.
139. Clay County.
140. Cochran County.
141. Coke County.
142. Coleman County.

#### Chapter

143. Collin County.
144. Collingsworth County.
145. Colorado County.
146. Comal County.
147. Comanche County.
148. Concho County.
149. Cooke County.
150. Coryell County.
151. Cottle County.
152. Crane County.
153. Crosby County.
154. Crockett County.
155. Culberson County.
156. Dallam County.
157. Dallas County.
158. Dawson County.
159. Deaf Smith County.
160. Delta County.
161. Denton County.
162. DeWitt County.
163. Dickens County.
164. Dimmit County.
165. Donley County.
166. Duval County.
167. Eastland County.
168. Ector County.
169. Edwards County.
170. Ellis County.
171. El Paso County.
172. Erath County.
173. Falls County.
174. Fannin County.
175. Fayette County.
176. Fisher County.
177. Floyd County.
178. Foard County.
179. Fort Bend County.
180. Franklin County.
181. Freestone County.
182. Frio County.
183. Gaines County.
184. Galveston County.
185. Garza County.
186. Gillespie County.
187. Glasscock County.
188. Goliad County.
189. Gonzales County.
190. Gray County.
191. Grayson County.
192. Gregg County.
193. Grimes County.
194. Guadalupe County.
195. Hale County.
196. Hall County.
197. Hamilton County.
198. Hansford County.
199. Hardeman County.
200. Hardin County.
201. Harris County.
202. Harrison County.
203. Hartley County.
204. Haskell County.
205. Hays County.
206. Hemphill County.
207. Henderson County.
208. Hidalgo County.
209. Hill County.

Chapter

- 210. Hockley County.
- 211. Hood County.
- 212. Hopkins County.
- 213. Houston County.
- 214. Howard County.
- 215. Hudspeth County.
- 216. Hunt County.
- 217. Hutchinson County.
- 218. Irion County.
- 219. Jack County.
- 220. Jackson County.
- 221. Jasper County.
- 222. Jeff Davis County.
- 223. Jefferson County.
- 224. Jim Hogg County.
- 225. Jim Wells County.
- 226. Johnson County.
- 227. Jones County.
- 228. Karnes County.
- 229. Kaufman County.
- 230. Kendall County.
- 231. Kenedy County.
- 232. Kent County.
- 233. Kerr County.
- 234. Kimble County.
- 235. King County.
- 236. Kinney County.
- 237. Kleberg County.
- 238. Knox County.
- 239. Lamar County.
- 240. Lamb County.
- 241. Lampasas County.
- 242. La Salle County.
- 243. Lavaca County.
- 244. Lee County.
- 245. Leon County.
- 246. Liberty County.
- 247. Limestone County.
- 248. Lipscomb County.
- 249. Live Oak County.
- 250. Llano County.
- 251. Loving County.
- 252. Lubbock County.
- 253. Lynn County.
- 254. McCulloch County.
- 255. McLennan County.
- 256. McMullen County.
- 257. Madison County.
- 258. Marion County.
- 259. Martin County.
- 260. Mason County.
- 261. Matagorda County.
- 262. Maverick County.
- 263. Medina County.
- 264. Menard County.
- 265. Midland County.
- 266. Milam County.
- 267. Mills County.
- 268. Mitchell County.
- 269. Montague County.
- 270. Montgomery County.
- 271. Moore County.
- 272. Morris County.
- 273. Motley County.
- 274. Nacogdoches County.
- 275. Navarro County.
- 276. Newton County.
- 277. Nolan County.

Chapter

- 278. Nueces County.
- 279. Ochiltree County.
- 280. Oldham County.
- 281. Orange County.
- 282. Palo Pinto County.
- 283. Panola County.
- 284. Parker County.
- 285. Parmer County.
- 286. Pecos County.
- 287. Polk County.
- 288. Potter County.
- 289. Presidio County.
- 290. Rains County.
- 291. Randall County.
- 292. Reagan County.
- 293. Real County.
- 294. Red River County.
- 295. Reeves County.
- 296. Refugio County.
- 297. Roberts County.
- 298. Robertson County.
- 299. Rockwall County.
- 300. Runnels County.
- 301. Rusk County.
- 302. Sabine County.
- 303. San Augustine County.
- 304. San Jacinto County.
- 305. San Patricio County.
- 306. San Saba County.
- 307. Schleicher County.
- 308. Scurry County.
- 309. Shackelford County.
- 310. Shelby County.
- 311. Sherman County.
- 312. Smith County.
- 313. Somervell County.
- 314. Starr County.
- 315. Stephens County.
- 316. Sterling County.
- 317. Stonewall County.
- 318. Sutton County.
- 319. Swisher County.
- 320. Tarrant County.
- 321. Taylor County.
- 322. Terrell County.
- 323. Terry County.
- 324. Throckmorton County.
- 325. Titus County.
- 326. Tom Green County.
- 327. Travis County.
- 328. Trinity County.
- 329. Tyler County.
- 330. Upshur County.
- 331. Upton County.
- 332. Uvalde County.
- 333. Val Verde County.
- 334. Van Zandt County.
- 335. Victoria County.
- 336. Walker County.
- 337. Waller County.
- 338. Ward County.
- 339. Washington County.
- 340. Webb County.
- 341. Wharton County.
- 342. Wheeler County.
- 343. Wichita County.
- 344. Wilbarger County.
- 345. Willacy County.

## Chapter

- 346. Williamson County.
- 347. Wilson County.
- 348. Winkler County.
- 349. Wise County.
- 350. Wood County.
- 351. Yoakum County.
- 352. Young County.
- 353. Zapata County.
- 354. Zavala County.

**CHAPTER 101. ANDERSON COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

## Section

- 101.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

- 101.011. Fish Sale.
- 101.012. Nets.
- 101.013. Leaving Fish to Die.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 101.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Anderson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 101.002 to 101.010 reserved for expansion]

**SUBCHAPTER B. FISH****§ 101.011. Fish Sale**

(a) No person, firm, or corporation may fish for, take, catch, or have in possession for sale, or carry, transport, or ship for sale, or buy or sell, or offer to buy or sell, barter, or exchange any fish, except bait fish, caught from the water of the Neches River in Anderson County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$100. Each fish caught and each sale or shipment in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 214, ch. 105, § 4, eff. Sept. 1, 1977.]

**§ 101.012. Nets**

(a) During the months of June, July, August, September, October, November, December, and January, no person may place or use a set or drag net or seine in the water of the Neches River in Anderson County, or take or catch fish from this water with a set or drag net or seine.

(b) This section does not prohibit the use of minnow seines as provided by law.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 400, ch. 187, § 1, eff. May 15, 1979.]

**§ 101.013. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit any catfish, perch, crappie, white perch, bass, trout, or other edible fish on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Anderson County and leave the fish to die without the intention to eat the fish or use them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left in violation of this section is a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 102. ANDREWS COUNTY****§ 102.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Andrews County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 103. ANGELINA COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

## Section

- 103.001. Regulatory Act: Applicability.

**SUBCHAPTER B. GAME ANIMALS**

- 103.011. Squirrel Season.
- 103.012. Repealed.
- 103.013. Trailing Wounded Deer With Dogs.

**SUBCHAPTER C. BIRDS**

- 103.021. Quail.
- 103.022. Turkey.

**SUBCHAPTER D. FISH**

- 103.031. Fish.

**SUBCHAPTER E. FUR-BEARING ANIMALS**

- 103.041. Fox.
- 103.042. Fur-Bearing Animals.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 103.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies in Angelina County only to freshwater fish in Sam Rayburn Reservoir.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 103.002 to 103.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 103.011. Squirrel Season

(a) No person may hunt squirrel in Angelina County at any time except during the period beginning on October 1 and extending through January 15.

(b) A person who violates a provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 103.012. Repealed by Acts 1977, 65th Leg., p. 37, ch. 21, § 1, eff. March 24, 1977

The repealed section, relating to a squirrel limit, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

§ 103.013. Trailing Wounded Deer With Dogs

A person may use dogs to trail a wounded deer in Angelina County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 103.014 to 103.020 reserved for expansion]

SUBCHAPTER C. BIRDS

§ 103.021. Quail

(a) No person may hunt wild quail in Angelina County except during the period beginning on December 1 and extending through January 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. The taking or killing of each bird in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 103.022. Turkey

(a) No person may hunt wild turkey in Angelina County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$300.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 103.023 to 103.030 reserved for expansion]

SUBCHAPTER D. FISH

§ 103.031. Fish

(a) No person may use a net with less than three inches square mesh to take fish in the water of Angelina County, excluding Sam Rayburn Reservoir.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500, or confinement in the county jail for not less than 10 days nor more than 30 days, or both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 103.032 to 103.040 reserved for expansion]

SUBCHAPTER E. FUR-BEARING ANIMALS

§ 103.041. Fox

(a) No person may shoot or attempt to shoot or trap wild fox in Angelina County on land other than that which he owns, leases, or holds under an agreement to work the land unless:

- (1) the fox is rabid; or
- (2) prior written consent to kill fox from the owner or lessee of the land on which he is hunting has been obtained.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 103.042. Fur-Bearing Animals

(a) No person may take the pelt of a fur-bearing animal in Angelina County except during the months of January and December.

(b) Only during the season set out in Subsection (a) of this section, a person may take fur-bearing animals by a trap or other mechanical device on property that he owns or on property for which a written permit has been given by the owner for trapping purposes.

(c) Pelts of fur-bearing animals taken under this section may be sold or offered for sale.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 104. ARANSAS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

- Section 104.001. Regulatory Act: Applicability.
- 104.002. Partial Exclusion of Certain Area.

SUBCHAPTER B. FISH

- 104.011. Shrimp.
- 104.012. Net-Free Zone.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 104.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources of Aransas County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 104.002. **Partial Exclusion of Certain Area**

For that part of San Antonio Bay lying within the northeast part of Aransas County, the Aransas River where it forms the boundary with Refugio County, and Copano Creek where it forms the boundary with Calhoun County, wildlife resources under the Uniform Wildlife Regulatory Act includes only fish, aquatic life, and marine animals and does not include oysters.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 104.003 to 104.010 reserved  
for expansion]

SUBCHAPTER B. FISH

§ 104.011. **Shrimp**

In Aransas County shrimp are not covered under the Uniform Wildlife Regulatory Act.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 104.012. **Net-Free Zone**

(a) The net-free zone in Aransas County is comprised of Little Bay and the water area of Aransas Bay within one-half mile of a line from Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the causeway between Lamar Peninsula and Live Oak Peninsula, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine-mile Point, past the town of Rockport to a point at the east end of Talley Island. The net-free zone also includes that part of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula.

(b) No person may set or drag a net or seine except a minnow seine not exceeding 20 feet in length for taking bait in the net-free zone.

(c) No person may place or set a trotline or crab trap in the net-free zone.

(d) A person who violates a provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 105. ARCHER COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
105.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

105.011. Fish Sale.  
105.012. Leaving Fish to Die.  
105.013. Injuring Fish.  
105.014. Special Charge.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 105.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Archer County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 105.002 to 105.010 reserved  
for expansion]

SUBCHAPTER B. FISH

§ 105.011. **Fish Sale**

(a) No person, firm, or corporation may barter, sell, offer for barter or sale, or buy any bass, perch, crappie, catfish, or any other fish, except minnows, taken from the water located in the valley of the Big Wichita River from the diversion dam on the Big Wichita River in the northeast corner of Archer County, above the dam and up the valley of the Big Wichita River to the storage dam on the river in Baylor County, up the river from the storage dam as far as the water is impounded in the river by the storage dam in Archer County, or from any water in Lake Wichita in Archer County, or from Diversion Lake formed in Archer County, or from the water in laterals leading off of irrigation canals connected with Lake Kemp or the diversion dam, or from any water in Archer County in the lateral, canal, or drainage ditch leading from what is known as the South Side Canal out of Diversion Lake from a point in the South Side Canal in Section No. 16, of Denton County school lands, League No. 4, Wichita County, to Holliday Creek and down Holliday Creek to Lake Wichita in Archer County, or from the water of Lake Arrowhead located in Archer County or any water in Lake Kickapoo in Archer County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50 for each violation.

(c) Each fish caught, sold, or purchased in violation of this section constitutes a separate offense.

(d) A person alleged to have violated this section may be prosecuted in the county where the fish are caught, where he is found with them in his posses-

sion, or the county where the fish are sold, bartered, offered for sale or barter, or bought.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 105.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the water described in Subsection (a), Section 105.011 of this code, any bass, crappie, white perch, sunfish, drum, catfish, or other edible fish and leave the fish to die without any intent to eat the fish, or leave any minnows without any intent to use them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$25. Each fish allowed to die constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 105.013. Injuring Fish

(a) No person may injure or destroy any fish by using dynamite, powder, other explosive, or poison in any of the water described in Subsection (a), Section 105.011 of this code.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000, and may be confined in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 105.014. Special Charge

District judges of Archer County shall give a special charge on this subchapter to the grand juries of Archer County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 106. ARMSTRONG COUNTY

§ 106.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Armstrong County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 107. ATASCOSA COUNTY

§ 107.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Atascosa County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 108. AUSTIN COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
108.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS

108.011. Squirrel Season.  
108.012. Squirrel Retention Limits.

SUBCHAPTER C. FISH

108.021. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 108.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies only to the following wildlife resources in Austin County:

- (1) deer;
- (2) quail; and
- (3) turkey.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 108.002 to 108.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 108.011. Squirrel Season

(a) No person may hunt squirrel in Austin County except during the open season.

(b) The open season for squirrel in Austin County is during May, June, July, October, November, and December of each year.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 108.012. Squirrel Retention Limits

(a) No person may take or kill more than 10 squirrels in one day in Austin County.

(b) No person may possess at one time more than 20 squirrels taken or killed in Austin County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each squirrel taken or possessed in violation of this section is a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 108.013 to 108.020 reserved for expansion]

## SUBCHAPTER C. FISH

**§ 108.021. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 109. BAILEY COUNTY

**§ 109.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Bailey County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 110. BANDERA COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

110.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

110.011. Injuring Fish.

110.012. Leaving Fish to Die.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

**§ 110.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Bandera County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 110.002 to 110.010 reserved for expansion]

## SUBCHAPTER B. FISH

**§ 110.011. Injuring Fish**

(a) No person may destroy fish in the freshwater streams of Bandera County by the use of any dynamite, powder, or other explosive.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and may be confined in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 110.012. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Bandera County any catfish, crappie, perch, white perch, bass, trout, or other

edible fish and leave the fish to die without any intention to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 111. BASTROP COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

111.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

111.011. Repealed.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

**§ 111.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Bastrop County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 111.002 to 111.010 reserved for expansion]

## SUBCHAPTER B. FISH

**§ 111.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 112. BAYLOR COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

112.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

112.011. Fish Sale.

112.012. Leaving Fish to Die.

112.013. Injuring Fish.

112.014. Special Charge.

112.015. Repealed.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

**§ 112.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Baylor County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 112.002 to 112.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 112.011. Fish Sale

(a) No person, firm, or corporation may barter, sell, offer for barter or sale, or buy any bass, perch, crappie, catfish, or any other fish, except minnows, taken from the water located in the valley of the Big Wichita River from where the lower or diversion dam on the Big Wichita River is located, above the dam, up the valley of the river to the storage dam on the river in Baylor County, up the valley of the river from the storage dam as far as the water is impounded by the dam in the river in Baylor County, or from any water impounded in Baylor County by the diversion dam, or from any water impounded in Baylor County by the storage dam, or from any water in the Big Wichita River in Baylor County connecting with the big reservoir or Lake Kemp created by the storage dam with the diversion reservoir or Diversion Lake formed in Baylor County by the diversion dam, or from any water of the irrigation canals connected with Lake Kemp or the diversion dam, or from any water in laterals leading off of the canals in Baylor County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50 for each violation.

(c) Each fish caught, sold, or purchased in violation of this section constitutes a separate offense.

(d) A person alleged to have violated this section may be prosecuted in the county where the fish are caught, where he is found with them in possession, or where the fish are sold, bartered, offered for sale or barter, or bought.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 112.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the water described in Subsection (a), Section 112.011 of this code, any bass, crappie, white perch, sunfish, drum, catfish, or other edible fish and leave the fish to die without any intent to eat the fish or leave any minnows without any intent to use them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$25. Each fish allowed to die constitutes a separate offense. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 112.013. Injuring Fish

(a) No person may injure or destroy any fish by using dynamite, powder, other explosive, or poison in any of the water described in Subsection (a), Section 112.011 of this chapter.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and by confinement in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 112.014. Special Charge

District judges of the judicial districts of Baylor County shall give a special charge on Sections 112.011 through 112.013 of this code to the grand juries of Baylor County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 112.015. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow sale and transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 113. BEE COUNTY

§ 113.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Bee County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 114. BELL COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

114.001. Regulatory Act: Applicability.

SUBCHAPTER B. STILLHOUSE HOLLOW RESERVOIR

114.011. Hunting Prohibited.

114.012. Repealed.

SUBCHAPTER A. APPLICATION OF UNIFORM WILDLIFE REGULATORY ACT

§ 114.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Bell County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 114.002 to 114.010 reserved for expansion]

SUBCHAPTER B. STILLHOUSE HOLLOW RESERVOIR

§ 114.011. Hunting Prohibited

(a) Except as provided by Subsection (b) of this section, no person on the water of Stillhouse Hollow

Reservoir in Bell County or on land that is owned by the federal government and that is adjacent to Stillhouse Hollow Reservoir may hunt any wild bird or animal.

(b) A person may hunt birds on the water of Stillhouse Hollow Reservoir in Bell County or on land that is owned by the federal government and that is adjacent to Stillhouse Hollow Reservoir during the open season only if:

(1) the person is at least 600 feet from the nearest private property line when the person shoots the gun; and

(2) the person uses a shotgun.

(c) A person who violates this section is guilty of a Class C misdemeanor.

[Added by Acts 1981, 67th Leg., p. 2102, ch. 486, § 1, eff. Aug. 31, 1981.]

A former § 114.011, relating to minnow sale and derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, was repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977.

See, now, § 66.010.

**§ 114.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to transporting minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait, see, now, § 66.010.

## CHAPTER 115. BEXAR COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
115.001. Regulatory Act: Applicability.

### SUBCHAPTER B. GAME ANIMALS

115.011. Axis Deer.  
115.012. Axis Deer; Treated as Other Deer.

### SUBCHAPTER C. FISH

115.021. Fish Sale.  
115.022. Leaving Fish to Die.  
115.023. Injuring Fish.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

**§ 115.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Bexar County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 115.002 to 115.010 reserved for expansion]

### SUBCHAPTER B. GAME ANIMALS

**§ 115.011. Axis Deer**

In Bexar County, wild axis deer not individually owned are included under the term "wildlife resources" for regulatory purposes under the Uniform Wildlife Regulatory Act (Chapter 61 of this code). [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 115.012. Axis Deer: Treated as Other Deer**

(a) The regulations on the taking of axis deer not individually owned in Bexar County shall be the same as for other deer.

(b) The licensing and tagging requirements of Chapter 42 of this code shall be uniformly applied to axis deer not individually owned, and no extra deer tags may be issued for axis deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 115.013 to 115.020 reserved for expansion]

### SUBCHAPTER C. FISH

**§ 115.021. Fish Sale**

(a) No person may barter, sell, or offer to barter or sell any bass, white perch, crappie, catfish taken from the streams of Bexar County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 and not more than \$50. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 115.022. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Bexar County any catfish, crappie, perch, white perch, bass, trout, or other edible fish and leave the fish to die without any intention to eat the fish or use them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die constitutes a separate offense. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 115.023. Injuring Fish**

(a) No person may destroy fish in the freshwater streams of Bexar County by the use of any dynamite, powder, or other explosive.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and may be confined in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 116. BLANCO COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
116.001. Regulatory Act: Applicability.  
116.002. Regulatory Act: Archery Season Exclusion.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING [REPEALED]

Section  
116.011 to 116.017. Repealed.

SUBCHAPTER C. FISH

116.021. Fish Sale.  
116.022. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 116.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Blanco County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 116.002. Regulatory Act: Archery Season Exclusion

The Parks and Wildlife Commission may not authorize for Blanco County a special open season for the taking of deer, turkey, or javelina by means of bow and arrow only.

[Added by Acts 1977, 65th Leg., p. 1621, ch. 635, § 1, eff. Aug. 29, 1977.]

[Sections 116.003 to 116.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING [REPEALED]

§§ 116.011 to 116.017. Repealed by Acts 1977, 65th Leg., p. 1258, ch. 484, § 3(b), eff. Sept. 1, 1977; Acts 1977, 65th Leg., p. 1621, ch. 635, § 2, eff. Aug. 29, 1977

Repealed §§ 116.011 and 116.014 to 116.016, relating to definitions, deer permits, limit and possession of deer, and penalties, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Repealed §§ 116.012, 116.013, and 116.017, relating to an open archery season, prohibited archery equipment, and possession of firearms, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, as amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16.

SUBCHAPTER C. FISH

§ 116.021. Fish Sale

(a) No person may take, offer, or possess for the purpose of sale any catfish, perch, crappie, bream, or bass in Blanco County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 116.022. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 117. BORDEN COUNTY

§ 117.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Borden County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 118. BOSQUE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
118.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

118.011. Sale of Fish From Lake Waco or Bosque River.  
118.012. Sale of Fish From the Brazos River or Lake Whitney.  
118.013. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 118.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Bosque County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 118.002 to 118.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 118.011. Sale of Fish From Lake Waco or Bosque River

(a) No person may barter or sell, offer to barter or sell, or buy any bass, crappie, perch, channel or Opelousas catfish, or any other fish, except bait fish, taken from the water of Lake Waco or the Bosque Rivers and their tributaries in Bosque County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish caught, possessed, sold, offered for sale, or purchased in violation of this section constitutes a separate offense.

(c) A person alleged to have violated this section may be prosecuted in the county where the offense is committed, where he is found with the fish, or where the fish are sold or offered for sale.

(d) The district judges of the judicial districts of Bosque County shall give a special charge on this section to the grand juries of Bosque County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 214, ch. 105, § 5, eff. Sept. 1, 1977.]

**§ 118.012. Sale of Fish From the Brazos River or Lake Whitney**

(a) No person may offer, expose, or possess for sale or sell any fish taken from the water of the Brazos River, Lake Whitney, or their tributaries in Bosque County except as authorized by the department.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. The possession of each fish in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 118.013. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 119. BOWIE COUNTY**

**§ 119.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Bowie County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 120. BRAZORIA COUNTY**

**§ 120.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Brazoria County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 121. BRAZOS COUNTY**

**§ 121.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Brazos County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 122. BREWSTER COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
122.001. Regulatory Act: Applicability

**SUBCHAPTER B. FISH**

122.011. Regulatory Act: Exemption.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 122.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Brewster County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 122.002 to 122.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 122.011. Regulatory Act: Exemption**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to fish in Brewster County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 123. BRISCOE COUNTY**

**§ 123.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Briscoe County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 124. BROOKS COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
124.001. Regulatory Act: Applicability.

**SUBCHAPTER B. GAME ANIMALS [REPEALED]**

124.011, 124.012. Repealed.

**SUBCHAPTER C. BIRDS [REPEALED]**

124.021. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 124.001. Regulatory Act: Applicability**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Brooks County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1004, ch. 440, § 1, eff. Aug. 27, 1979.]

[Sections 124.002 to 124.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS [REPEALED]

§§ 124.011, 124.012. Repealed by Acts 1979, 66th Leg., p. 1005, ch. 440, § 3, eff. Aug. 27, 1979

Repealed section 124.011, relating to collared peccary, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Repealed section 124.012, relating to buck deer, was added by Acts 1977, 65th Leg., p. 1342, ch. 533, § 1.

SUBCHAPTER C. BIRDS [REPEALED]

§ 124.021. Repealed by Acts 1979, 66th Leg., p. 1005, ch. 440, § 3, eff. Aug. 27, 1979

The repealed section, relating to quail, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

CHAPTER 125. BROWN COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 125.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

125.011. Fish Sale.  
125.012. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 125.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Brown County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 125.002 to 125.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 125.011. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, channel catfish, or catfish caught, trapped, or ensnared in the streams of Brown County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 125.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Brown County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 126. BURLESON COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 126.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

126.011. Regulatory Act: Exemption.  
126.012. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 126.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Burleson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 126.002 to 126.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 126.011. Regulatory Act: Exemption

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to fish in Burleson County except those fish in the Somerville Reservoir.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 126.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 127. BURNET COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 127.001. Regulatory Act: Applicability.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

127.011. Definitions.  
127.012. Open Archery Season.  
127.013. Prohibited Archery Equipment.  
127.014. Deer Permits.  
127.015. Limit and Possession of Deer.  
127.016. Penalty.  
127.017. Possession of Firearms.

## SUBCHAPTER C. FISH

Section	
127.021.	Fish Sale.
127.022.	Leaving Fish to Die.
127.023.	Repealed.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 127.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Burnet County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 127.002 to 127.010 reserved for expansion]

## SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

## § 127.011. Definitions

As used in this subchapter:

(1) "Buck deer" means a deer that has a hardened antler protruding through the skin.

(2) "Antlerless deer" is any deer other than a buck deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 127.012. Open Archery Season

(a) The open archery season in Burnet County begins on October 1 and extends through October 31 each year.

(b) During the open archery season, a person may hunt, take, and kill wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

## § 127.013. Prohibited Archery Equipment

No person may hunt, take, or kill wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Burnet County by means of:

(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

(2) arrows that are not equipped with broadhead hunting points at least seven-eighths inch in width and not more than one and one-half inches in width;

(3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or

(4) poisoned, drugged, or explosive arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

## § 127.014. Deer Permits

(a) At least 15 days prior to the opening date of the open archery season, a landowner or lessee in Burnet County who desires to permit the hunting of deer on his land with bows and arrows during the open archery season may apply to the department for antlerless deer permits.

(b) The department shall issue to each applicant the number of antlerless deer permits consistent with sound wildlife management practices and consistent with any law authorizing the department to regulate the taking of antlerless deer.

(c) Landowners or lessees receiving antlerless deer permits shall return the fully completed stubs from used permits and all unused permits and stubs to the issuing officer not later than January 10 of the year following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 127.015. Limit and Possession of Deer

(a) No person may take or kill more than one antlerless deer with bow and arrow during the open archery season.

(b) No person may possess an antlerless deer in Burnet County unless he has in his possession an antlerless deer permit on which appears the date of the kill, the hunter's name, and the signature of the owner or agent on whose tract the deer was killed.

(c) No person may possess the carcass of any deer in Burnet County that does not have attached to it a tag issued to him on his valid hunting license unless the carcass has been finally processed.

(d) In Burnet County no person may attach the bonus deer tag from a valid hunting license to a deer other than an antlerless deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 127.016. Penalty

A person who violates Section 127.012 through Section 127.015 of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 127.017. Possession of Firearms

(a) No person may hunt, kill, or take wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Burnet County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

[Sections 127.018 to 127.020 reserved for expansion]

SUBCHAPTER C. FISH.

§ 127.021. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, or catfish caught, trapped, or ensnared in the streams of Burnet County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 127.022. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Burnet County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention to eat the fish or use them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 127.023. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 128. CALDWELL COUNTY

§ 128.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Caldwell County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 129. CALHOUN COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section	
129.001.	Regulatory Act: Applicability.
129.002.	Wildlife Act Applicability: Exclusions.

SUBCHAPTER B. FISH

129.011.	Guadalupe River: Fishing Methods.
----------	-----------------------------------

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 129.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Calhoun County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 129.002. Wildlife Act Applicability: Exclusions

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to oysters and shrimp in Calhoun County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 129.003 to 129.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 129.011. Guadalupe River: Fishing Methods

(a) No person may catch fish from the Guadalupe River in Calhoun County except by:

- (1) hook and line;
- (2) trotline;
- (3) flounder gig and light; or
- (4) cast net or minnow seine not exceeding 20 feet in length to be used for catching bait only.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 130. CALLAHAN COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section	
130.001.	Regulatory Act: Applicability.

SUBCHAPTER B. LAKE BAIRD

130.011.	Repealed.
130.012.	Fish Sale.
130.013.	Discharge of Firearm.
130.014.	Penalty.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 130.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Callahan County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 130.002 to 130.010 reserved for expansion]

SUBCHAPTER B. LAKE BAIRD

§ 130.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

**§ 130.012. Fish Sale**

No person may sell, buy, offer to sell or buy, or take or possess for commercial purposes fish, except bait fish, taken from Lake Baird in Callahan County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 214, ch. 105, § 6, eff. Sept. 1, 1977.]

**§ 130.013. Discharge of Firearm**

(a) Except as provided in this section, no person may shoot, fire, or discharge any pistol or rifle in, on, along, or across Lake Baird in Callahan County.

(b) This section does not apply to peace officers or other representatives of the department in the conduct of their official duties.

(c) This section does not apply to a person hunting with a shotgun during an open season in Callahan County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 130.014. Penalty**

A person who violates this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each fish taken or possessed in violation of this subchapter constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 131. CAMERON COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

## Section

- 131.001. Regulatory Act: Applicability.  
131.002. Regulatory Act: Shrimp and Oysters in Outside Water Excluded.

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING**

- 131.011. Audubon Society Land.

**SUBCHAPTER C. FISH**

- 131.021. Flounder, Speckled Trout, and Redfish Size Limits.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 131.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Cameron County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 131.002. Regulatory Act: Shrimp and Oysters in Outside Water Excluded**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to shrimp and oysters in the outside water of the Gulf of Mexico in Cameron County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 131.003 to 131.010 reserved for expansion]

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING****§ 131.011. Audubon Society Land**

(a) This section applies to Green Island and the group of three islands in Big Bay and the flats, reefs, and shallow water near those islands in Cameron County during the period that the National Association of the Audubon Societies is the lessee of those islands.

(b) No person, other than an agent, representative, or employee of the National Association of Audubon Societies or an officer of this state or the United States may enter on the land without the knowledge or consent of the association for the purpose of hunting a bird or for the purpose of taking or destroying a bird egg or nest.

(c) No person may hunt or molest a bird on the described land whether the person is on or off the described land.

(d) No person may discharge a firearm or explosive on or above the described land.

(e) No person may land, tie, or anchor a fishing boat in the described land.

(f) This section does not prohibit an agent, representative, or employee of the association from:

- (1) hunting birds known to be a prey on other birds or eggs; or
- (2) taking birds and eggs for propagation, conservation, or scientific purposes.

(g) This section does not prohibit a person from taking refuge on the described land because of storms.

(h) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500 or by confinement in jail for not less than 10 days nor more than 6 months, or by both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 131.012 to 131.020 reserved for expansion]

**SUBCHAPTER C. FISH****§ 131.021. Flounder, Speckled Trout, and Redfish Size Limits**

(a) No person in Cameron County may retain or place in a container or boat or on a stringer a speckled trout less than 12 inches long, a flounder less than 12 inches long, or a redfish less than 14 inches long.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each fish retained in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 132. CAMP COUNTY

SUBCHAPTER A. APPLICABILITY TO UNIFORM WILDLIFE REGULATORY ACT

Section

132.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS [REPEALED]

132.011 to 132.015. Repealed.

SUBCHAPTER C. BIRDS [REPEALED]

132.021, 132.022. Repealed.

SUBCHAPTER D. FUR-BEARING ANIMALS [REPEALED]

132.031, 132.032. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 132.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources of Camp County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 598, ch. 214, § 1, eff. Aug. 29, 1977.]

[Sections 132.002 to 132.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS [REPEALED]

§§ 132.011 to 132.015. Repealed by Acts 1977, 65th Leg., p. 598, ch. 214, § 2, eff. Aug. 29, 1977

The repealed sections, relating to game animals, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

SUBCHAPTER C. BIRDS [REPEALED]

§§ 132.021, 132.022. Repealed by Acts 1977, 65th Leg., p. 598, ch. 214, § 2, eff. Aug. 29, 1977

The repealed sections, relating to quail and turkey, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

SUBCHAPTER D. FUR-BEARING ANIMALS [REPEALED]

§§ 132.031, 132.032. Repealed by Acts 1977, 65th Leg., p. 598, ch. 214, § 2, eff. Aug. 29, 1977

The repealed sections, relating to fox and hunting mink with dogs, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

CHAPTER 133. CARSON COUNTY

§ 133.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Carson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 134. CASS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

134.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS

134.011. Deer Season.  
134.012. Deer Limit.  
134.013. Use of Firearms.  
134.014. Penalty.  
134.015. Squirrel.  
134.016. Deer: Bows and Arrows.

SUBCHAPTER C. BIRDS

134.021. Turkey.  
134.022. Quail.

SUBCHAPTER D. FISH

134.031. Methods of Fishing.  
134.032. Crappie.

SUBCHAPTER E. LAKE TEXARKANA

134.041. Discharge of Firearm.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 134.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Cass County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 134.002 to 134.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 134.011. Deer Season

No person may hunt deer in Cass County except during the open season, which is November 16 through November 25 and December 26 through December 31.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2092, ch. 481, § 1, eff. Aug. 31, 1981.]

§ 134.012. Deer Limit

(a) No person may take or kill more than two deer during an open season in Cass County.

(b) No person may take, kill, or possess any deer except a buck deer with a pronged antler or a spike deer in Cass County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1011, ch. 445, § 1, eff. Aug. 27, 1979.]

§ 134.013. Use of Firearms

(a) No person may use .22 caliber rimfire ammunition to hunt deer in Cass County.

(b) No person may hunt wild deer in Cass County by any means other than with a rifle or shotgun capable of being fired from the shoulder or bows and arrows conforming to the specifications described in Section 62.055 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2079, ch. 470, § 2, eff. Aug. 31, 1981.]

#### § 134.014. Penalty

A person who violates Sections 134.011 through 134.013 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each deer taken, killed, or possessed in violation of this subchapter constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 134.015. Squirrel

(a) No person may take or kill squirrel in Cass County except during the months of October, November, and December.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 134.016. Deer: Bows and Arrows

A person may hunt wild deer in Cass County with bow and arrow during the open season beginning on October 25 and extending through October 31.

[Added by Acts 1981, 67th Leg., p. 2079, ch. 470, § 1, eff. Aug. 31, 1981.]

[Sections 134.017 to 134.020 reserved for expansion]

### SUBCHAPTER C. BIRDS

#### § 134.021. Turkey

(a) No person may possess wild turkey killed or caught in Cass County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 134.022. Quail

(a) No person may hunt wild quail in Cass County except during the open season, which is December 1 through February 15.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each bird taken or killed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 134.023 to 134.030 reserved for expansion]

### SUBCHAPTER D. FISH

#### § 134.031. Methods of Fishing

(a) No person may take or catch fish in the public fresh water of Cass County by any means other than an ordinary hook and line, set hook and line, gig, or artificial bait.

(b) Except as provided in Subsections (c) and (d) of this section, no person may place in the public fresh water of Cass County any seine, net, or other device or trap for taking or catching fish.

(c) A minnow seine not longer than 20 feet may be used to catch minnows for bait.

(d) A hoop, trammel, or gill net with meshes not less than three inches square may be used in the fresh water of Cass County for taking or catching buffalo fish, carp, and catfish except during the months of March and April.

(e) No person may use a pond net.

(f) All fish and minnows more than two and one-half inches long taken in seining for minnows must be returned to the water alive.

(g) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 134.032. Crappie

There is no daily catch or retention limit on crappie or white perch in Cass County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 134.033 to 134.040 reserved for expansion]

### SUBCHAPTER E. LAKE TEXARKANA

#### § 134.041. Discharge of Firearm

(a) Except as provided in this section, no person may shoot a pistol or rifle in, on, along, or across Lake Texarkana.

(b) Subsection (a) of this section does not apply to peace officers, game wardens, or representatives of the department in the lawful discharge of their duties.

(c) Subsection (a) of this section does not apply to a person hunting with a shotgun during an open season or when it is lawful to hunt in or on Lake Texarkana.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 135. CASTRO COUNTY

§ 135.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Castro County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 136. CHAMBERS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

- Section
- 136.001. Regulatory Act: Applicability.
- 136.002. Regulatory Act: Red Drum.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

- 136.011. Hunting With Certain Weapons.
- 136.012. Shooting in Certain Places.
- 136.013. Enforcement; Penalties.

SUBCHAPTER C. GAME ANIMALS

- 136.021. Squirrel.
- 136.022. Deer.

SUBCHAPTER D. BIRDS

- 136.031. Turkey.
- 136.032. Quail.

SUBCHAPTER E. FISH

- 136.041. Catfish Size Limits.
- 136.042. Net Size for Rough Fish and Catfish.
- 136.043. Seining Near Cities Prohibited.
- 136.044. Galveston and Trinity Bays: Nets.
- 136.045. East Galveston Bay: Nets.
- 136.046. Other Water: Fishing Methods.
- 136.047. Commission May Close Certain Water.
- 136.048. Nets and Trotlines: Use.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 136.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources of Chambers County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 724, ch. 270, § 8, eff. Oct. 1, 1978.]

§ 136.002. Regulatory Act: Red Drum

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to red drum in Chambers County.

[Added by Acts 1977, 65th Leg., p. 724, ch. 270, § 8, eff. Oct. 1, 1978.]

[Sections 136.003 to 136.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 136.011. Hunting With Certain Weapons

(a) No person in Chambers County may hunt with a shotgun using a shell larger than No. four squirrel shot or with a rifle larger than a rimfire .22 caliber rifle where deer are known to roam, except during the open season for deer.

(b) The evidence of possession of a shotgun and shell containing larger than No. four squirrel shot or a rifle larger than a rimfire .22 caliber rifle in or through woods where deer are known to roam constitutes prima facie evidence of a violation of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 136.012. Shooting in Certain Places

(a) No person may shoot a pistol or rifle in, on, along, or across the water of the Trinity River, Wallisville Reservoir, and Lake Anahuac in Chambers County.

(b) No person may shoot a pistol, crossbow, bow and arrow, shotgun, or rifle in, on, along, or across the water of Oyster Bayou in Chambers County from State Highway 65 south to the mouth of Oyster Bayou in East Bay.

(c) The water described in Subsections (a) and (b) of this section are part of the public fresh water of this state suited and adapted to the preservation, protection, and propagation of game and fish, and this section is to aid in the preservation, protection, and propagation of game and fish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 136.013. Enforcement; Penalties

(a) Section 136.012 of this code does not apply to a person hunting migratory waterfowl with a shotgun during a prescribed open season in and on the Trinity River and the Wallisville Reservoir.

(b) Sections 136.011 and 136.012 of this code do not apply to peace officers, or representatives of the department in the lawful discharge of their duties.

(c) It is the duty of the department to enforce the provisions of this subchapter, and enforcement officers may arrest without a warrant a person violating a provision in his presence.

(d) A person who violates Section 136.011 or Section 136.012 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 136.014 to 136.020 reserved for expansion]

## SUBCHAPTER C. GAME ANIMALS

## § 136.021. Squirrel

(a) No person may hunt squirrel in Chambers County except during the open seasons beginning on May 1 and extending through July 31 and beginning on October 15 and extending through January 15.

(b) No person in Chambers County may take or kill more than 10 squirrels during a day or possess more than 20 squirrels at a time.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each squirrel killed, taken, or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 136.022. Deer

*Text of section added effective until  
September 1, 1986*

(a) No person may hunt wild deer in Chambers County east of the Trinity River.

(b) No person may hunt wild deer in Chambers County west of the Trinity River except during the open season as set by the commission.

(c) The commission shall determine the times when deer may be taken in Chambers County west of the Trinity River in the same way as provided by the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500.

(e) This section expires September 1, 1986.

[Added by Acts 1981, 67th Leg., p. 2074, ch. 465, § 1, eff. Aug. 31, 1981.]

A former § 136.022 relating to deer and derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, expired by its own terms on November 16, 1980.

[Sections 136.023 to 136.030 reserved  
for expansion]

## SUBCHAPTER D. BIRDS

## § 136.031. Turkey

(a) No person may hunt wild turkey in Chambers County except during the open season beginning on November 16 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 136.032. Quail

(a) No person may hunt quail in Chambers County except during the open season beginning on December 1 and extending through February 15.

(b) No person in Chambers County may kill or take more than 12 quail of all varieties during a day or possess more than 24 quail of all varieties at a time.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each quail taken, killed, or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 43, ch. 27, § 1, eff. Aug. 29, 1977.]

[Sections 136.033 to 136.040 reserved  
for expansion]

## SUBCHAPTER E. FISH

## § 136.041. Catfish Size Limits

(a) No person may retain or place in a container or boat or on a stringer a catfish caught from the public water of Chambers County which is less than 11 inches long.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish retained in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 136.042. Net Size for Rough Fish and Catfish

(a) In Chambers County, except in the water of Trinity Bay, Lake Anahuac, and Turtle Bay Bayou, a hoop net, gill net, and trammel net may be used for the catching of rough fish and catfish only.

(b) No person may use in the water described in Subsection (a) of this section for the purpose of taking rough fish or catfish a hoop net, gill net, or trammel net having meshes smaller than three inches.

(c) No person may take bass or crappie with a net authorized by this section.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 136.043. Seining Near Cities Prohibited

(a) No person may attempt to take any fish, shrimp, green turtle, loggerhead, or terrapin by the use of a seine, drag, fyke, setnet, trammel net, trap, dam, or weir from a bay or other navigable water in Chambers County within one mile of the limits of a city.

(b) In this section, "city" means any community having 100 or more families within an area of one square mile.

(c) A city shall set out and maintain buoys, stakes, or other markers showing the limits within which Subsection (a) of this section applies.

(d) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. In a prosecution under this section, identification of the boat from which a violation occurred, if any, is prima facie evidence against the owner, lessee, person in charge, or master of the boat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 136.044. Galveston and Trinity Bays: Nets**

(a) No person may possess, use, or place in or on that portion of Galveston Bay or Trinity Bay in Chambers County lying north of a line from Eagle Point to Smith Point a setnet, gill net, trap, or other device for the catching of fish.

(b) A person may possess and use in the water described in Subsection (a) of this section a trammel net not exceeding 1,200 feet in length and having mesh of not less than three and one-half inches when stretched.

(c) This section does not prohibit the possession of a device the use of which is prohibited in the water described in Subsection (a) of this section when the device is on board a vessel in port or in a channel while under way to a place where the use of the device is not prohibited.

(d), (e) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(3), eff. May 20, 1977.

(f) A person who violates this section is guilty of a misdemeanor and on a first conviction shall be punished by a fine of not less than \$50 nor more than \$250. On a second or subsequent conviction he may be punished by a fine of not less than \$50 nor more than \$250, and his commercial fishing license is subject to forfeiture.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(3), eff. May 20, 1977.]

**§ 136.045. East Galveston Bay: Nets**

(a) Except as provided in Subsection (b) of this section, it is lawful to use strike nets, gill nets, trammel nets, and shrimp trawls for the purpose of taking fish in the water of East Galveston Bay in Chambers County during the period beginning on August 15 and extending through May 15 of the following year.

(b) No person may use a strike net, gill net, trammel net, or shrimp trawl for the purpose of taking fish in any of the following water of Chambers County at any time:

- (1) water lying northwest of a line from Kemah in Galveston County to Mesquite Knoll in Chambers County; and

(2) water of Galveston Bay lying east of a line from the extreme western point of Smith's Point in Chambers County to the west bank of Siever's Cut where East Bay intersects with the north bank of the Intracoastal Canal on Bolivar Peninsula in Galveston County at Siever's Fish Camp, which cut is between Elm Grove Point and Baffle Point, both points being on the north shore of Bolivar Peninsula.

(c) No person operating under the authority of Subsection (a) of this section may use a strike net, gill net, trammel net, or shrimp trawl for catching fish if the meshes are less than one and one-half inches from knot to knot.

(d), (e) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(4), eff. May 20, 1977.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200, and his commercial fishing license is subject to revocation for one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(4), eff. May 20, 1977.]

**§ 136.046. Other Water: Fishing Methods**

(a) No person may place or use a seine, net, or other device for catching fish in any of the bays, streams, bayous, or canals of Chambers County not covered by Sections 136.042, 136.043, and 136.044 of this code except:

- (1) an ordinary pole and line;
- (2) a casting rod and reel;
- (3) artificial bait;
- (4) a trotline;
- (5) a setline;
- (6) a flounder gig and light; and
- (7) a cast net or minnow seine not more than 20 feet long and used only for catching bait.

(b) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(5), eff. May 20, 1977.

(c) The identification of a boat, vehicle, seine, or net from or by which a violation of this section occurs is prima facie evidence against the owner of the boat, vehicle, net, or seine, or against the party last in charge of the boat.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. On a second or subsequent conviction, the person is punishable by a fine of not less than \$100 nor more than \$200 and his commercial fishing license is subject to forfeiture for a period of one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(5), eff. May 20, 1977.]

**§ 136.047. Commission May Close Certain Water**

(a) The commission may close tidal water in Chambers County for the use of nets, seines, spears, gigs, lights, and other devices for catching fish except a hook and line or cast net or minnow seine not more than 20 feet in length when the commission finds that the closing is best for the protection and increase of fish life or to prevent its destruction.

(b) The commission shall give notice of the closing at least two weeks before the effective date of the closing. The notice must contain:

- (1) the reason for the closing;
- (2) a designation of the area to be closed;
- (3) the effective date and duration of the closing;

(4) a statement that after the effective date of the closing it will be unlawful to drag a seine, set a net, or use a gig and light to catch fish in the described area.

(c) After an investigation and hearing, and on a finding that the closing of an area no longer promotes the conservation of fish, the commission may open the area to seining, netting, gigging, and other fishing.

(d) The department may seize seines used in violation of this section and hold them as evidence in the trial of a defendant, and no suit may be maintained against the department or an authorized employee for the seizure.

(e) This section does not apply to any of the water to which Sections 136.043, 136.044, and 136.045 apply. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 136.048. Nets and Trotlines: Use**

(a) In that portion of Galveston Bay or Trinity Bay in Chambers County where nets, seines, and saltwater trotlines are permitted, during the period beginning the Saturday of Memorial Day weekend through sunset on Labor Day, nets and saltwater trotlines may not be used from sunset Friday to sunset Sunday.

(b) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200. On a second or subsequent conviction, the person is punishable by a fine of not less than \$200 nor more than \$500 and shall forfeit the license under which the person is fishing.

[Added by Acts 1977, 65th Leg., p. 724, ch. 270, § 9, eff. Oct. 1, 1978.]

**CHAPTER 137. CHILDRESS COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
137.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH [REPEALED]**

137.011, 137.012. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 137.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Childress County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 137.002 to 137.010 reserved for expansion]

**SUBCHAPTER B. FISH [REPEALED]****§§ 137.011, 137.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed sections, relating to a definition of "minnow hatchery" and minnow transport, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 138. CHEROKEE COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
138.001. Regulatory Act: Applicability.  
138.002. Lake Palestine.

**SUBCHAPTER B. GAME ANIMALS**

138.011. Deer.  
138.012. Hunting Deer With Dogs: Evidence.  
138.013. Squirrel.

**SUBCHAPTER C. BIRDS**

138.021. Turkey.  
138.022. Quail.

**SUBCHAPTER D. FISH**

138.031. Fish Sale.  
138.032. Nets and Seines.  
138.033. Prohibited Methods of Fishing.

**SUBCHAPTER E. FUR-BEARING ANIMALS [REPEALED]**

138.041. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 138.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Cherokee County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 138.002. Lake Palestine**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to all of the water area of Lake Palestine located in Cherokee County. The provi-

sions of this chapter do not apply to the water area of Lake Palestine in Cherokee County, except as specifically noted.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 138.003 to 138.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 138.011. Deer

(a) No person may hunt wild deer north of U. S. Highway 84 in Cherokee County except during the open season for the taking of deer beginning on November 16 and extending through December 31 of each year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1223, ch. 456, § 24, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 1876, ch. 452, § 1, eff. Aug. 31, 1981.]

§ 138.012. Hunting Deer With Dogs: Evidence

Possession of a high-powered rifle or a shotgun with buckshot while in control of a dog, or while accompanying a person in control of a dog, in any area in Cherokee County where deer are known to range is prima facie evidence of a violation of Section 63.010 of this code, relating to hunting deer with dogs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 138.013. Squirrel

(a) No person may hunt, take, or kill any squirrel in Cherokee County except during the period beginning October 1 and extending through December 31 of each year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 138.014 to 138.020 reserved for expansion]

SUBCHAPTER C. BIRDS

§ 138.021. Turkey

(a) No person may hunt wild turkey in Cherokee County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$300. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 138.022. Quail

(a) No person may hunt, take, or kill any wild quail in Cherokee County except during the period beginning on December 1 of one year and extending through February 15 of the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each quail taken or killed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 138.023 to 138.030 reserved for expansion]

SUBCHAPTER D. FISH

§ 138.031. Fish Sale

(a) No person may sell, offer for sale, or possess for the purpose of sale any fish, except bait fish, caught or taken from the public fresh water of Cherokee County, including that portion of Lake Palestine located within the county, or from the portion of the Angelina River that is the boundary line between Cherokee and Nacogdoches counties north of Texas Highway 21.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 214, ch. 105, § 7, eff. Sept. 1, 1977.]

§ 138.032. Nets and Seines

(a) During the months of June, July, August, September, October, November, December, and January, no person may place or use a set or drag net or seine in the public fresh water of Cherokee County or in the water of the Neches River in Cherokee County, or take or catch fish from these waters with a set or drag net or seine.

(b) This section does not prohibit the use of minnow seines as provided by general law.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 400, ch. 187, § 2, eff. May 15, 1979.]

§ 138.033. Prohibited Methods of Fishing

(a) This section applies to the Angelina River and Mud Creek in Cherokee County.

(b) No person may catch or attempt to catch fish by placing any lime, poison, drug, dynamite, nitroglycerin, giant powder, or any other explosive or substance harmful to fish in the water of the river or creek.

(c) No person may catch or attempt to catch fish by the aid of what is commonly known as "telephoning," or by using any other electricity-producing apparatus designed for shocking fish. Possession of any such equipment in a boat or along the bank or shore of the river or creek is prima facie evidence of a violation of this section.

(d) A person who violates this section is guilty of a misdemeanor and on first conviction is punishable by a fine of not less than \$300 nor more than \$750. On second conviction of a violation of this section, a person is punishable by a fine of not less than \$500 nor more than \$1,000 and by confinement in the county jail for not less than 30 days nor more than six months. On a third or subsequent conviction of a violation of this section, a person is punishable by a fine of not less than \$1,000 nor more than \$2,000 and by confinement in the county jail for not less than six months nor more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 138.034 to 138.040 reserved for expansion]

#### SUBCHAPTER E. FUR-BEARING ANIMALS [REPEALED]

#### § 138.041. Repealed by Acts 1977, 65th Leg. p. 86, ch. 42, § 1, eff. April 5, 1977

The repealed section, relating to steel traps, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

### CHAPTER 139. CLAY COUNTY

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
139.001. Regulatory Act: Applicability.

#### SUBCHAPTER B. LAKE ARROWHEAD

139.011. Fish Sale.  
139.012. Injuring Fish.  
139.013. Leaving Fish to Die.

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 139.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Clay County.  
[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 139.002 to 139.010 reserved for expansion]

#### SUBCHAPTER B. LAKE ARROWHEAD

#### § 139.011. Fish Sale

(a) No person may barter, sell, offer for barter or sale, or buy any bass, perch, crappie, or catfish or any other fish except minnows taken from Lake Arrowhead in Clay County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish sold or bought in violation of this section is a separate offense.

(c) A person alleged to have violated this section may be prosecuted in the county where the fish are caught, where he is found with them in possession, or where the fish are sold, bartered, offered for sale or barter, or bought.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 139.012. Injuring Fish

(a) No person may injure or destroy fish by the use of dynamite, powder, other explosive, or poison in the water of Lake Arrowhead in Clay County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and may be confined in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 139.013. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to the water of Lake Arrowhead in Clay County any bass, crappie, white perch, sunfish, drum, catfish, or other edible fish or minnows and leave the fish to die without any intention to eat the fish or use the minnows for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### CHAPTER 140. COCHRAN COUNTY

#### § 140.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Cochran County.  
[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 141. COKE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
141.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

141.011. Fish Sale.  
141.012. Repealed.  
141.013. Trespass.  
141.014. Penalty.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 141.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Coke County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 141.002 to 141.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 141.011. Fish Sale

No person may sell, buy, offer to sell or buy, take, or possess for commercial purposes fish, except bait fish, taken from the water of Sweetwater Oak Creek Lake in Coke County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 215, ch. 105, § 8, eff. Sept. 1, 1977.]

§ 141.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

§ 141.013. Trespass

This subchapter does not license, permit, or authorize any person to go on the land of another person to catch fish or minnows without the consent of the owner of the land or water. In any prosecution for a violation of this subchapter, the burden to prove consent of the owner of the land is on the alleged trespasser. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 141.014. Penalty

A person who violates a provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$100. Each fish taken or possessed in violation of this subchapter constitutes a separate offense. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 142. COLEMAN COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
142.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

142.011. Fish Sale.  
142.012. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 142.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Coleman County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 142.002 to 142.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 142.011. Fish Sale

(a) No person may sell or offer for sale any bass or crappie (white perch) caught, trapped, or ensnared in the water of Coleman County.  
(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 142.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Coleman County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention of eating the fish or using it for bait.  
(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 143. COLLIN COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
143.001. Regulatory Act: Applicability.

SUBCHAPTER B. MINNOWS

143.011. Repealed.

SUBCHAPTER C. LAKE LAVON

143.021. Fish Sale.  
143.022. Repealed.  
143.023. Discharge of Firearm.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 143.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Collin County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 143.002 to 143.010 reserved  
for expansion]

SUBCHAPTER B. MINNOWS

§ 143.011. **Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

[Sections 143.012 to 143.020 reserved  
for expansion]

SUBCHAPTER C. LAKE LAVON

§ 143.021. **Fish Sale**

(a) No person may sell, barter, offer to sell or barter, take, or possess fish, except bait fish, taken from the water of Lake Lavon in Collin County for commercial purposes.

(b) A person violating this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each fish taken or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 215, ch. 105, § 9, eff. Sept. 1, 1977.]

§ 143.022. **Repealed by Acts 1981, 67th Leg., p. 2710, ch. 741, § 2, eff. Jan. 1, 1982.**

The repealed section, relating to harmful refuse, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

§ 143.023. **Discharge of Firearm**

(a) Except as provided in Subsections (b) and (c) of this section, no person may shoot, fire, or discharge any firearm in, on, along, or across Lake Lavon in Collin County.

(b) This section does not apply to peace officers, game wardens, or other representatives of the department in the lawful discharge of their duties.

(c) This section does not apply to a person hunting with a shotgun during an open season or when it is lawful to hunt in or on Lake Lavon.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200 plus costs, or confinement in the county jail for not more than one year, or both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 144. COLLINGSWORTH COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section

144.001. Regulatory Act: Applicability.

SUBCHAPTER B. BIRDS

144.011. Quail.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 144.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Collingsworth County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 144.002 to 144.010 reserved  
for expansion]

SUBCHAPTER B. BIRDS

§ 144.011. **Quail**

(a) No person may hunt quail in Collingsworth County except during the open season, which is December 1 through January 31, both dates inclusive.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each bird taken in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 145. COLORADO COUNTY

§ 145.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Colorado County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 146. COMAL COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 146.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

146.011. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 146.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Comal County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 146.002 to 146.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 146.011. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Comal County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 147. COMANCHE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 147.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

147.011. Fish Sale.  
147.012. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 147.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code)

applies to the wildlife resources in Comanche County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 147.002 to 147.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 147.011. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, channel catfish, or catfish caught, trapped, or ensnared in the water of Comanche County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 147.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 148. CONCHO COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 148.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

148.011. Fish Sale.  
148.012. Leaving Fish to Die.  
148.013. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 148.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Concho County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 148.002 to 148.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 148.011. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, or catfish caught, trapped, or ensnared in the streams of Concho County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 148.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Concho County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention to eat the fish or use the fish for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 148.013. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish; see, now, § 66.010.

## CHAPTER 149. COOKE COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
149.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

149.011. Fish Sale.  
149.012. Lake Texoma: Fish Sale.  
149.013. Repealed.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 149.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Cooke County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 149.002 to 149.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 149.011. Fish Sale

(a) No person may take or possess for the purpose of sale any fish, except bait fish, from the fresh water in Cooke County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine not to exceed \$100. Each act of taking, and each fish taken or possessed, in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 215, ch. 105, § 10, eff. Sept. 1, 1977.]

## § 149.012. Lake Texoma: Fish Sale

A person may buy or sell any sucker, buffalo, carp, shad, or gar taken from Lake Texoma in Cooke County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 149.013. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 61.010.

## CHAPTER 150. CORYELL COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
150.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

150.011. Repealed.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 150.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Coryell County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 150.002 to 150.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 150.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 151. COTTLE COUNTY**

Section  
 151.001. Regulatory Act: Applicability.  
 151.002. Regulatory Act: Special Quail Season.

**§ 151.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Cottle County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 151.002. Regulatory Act: Special Quail Season**

The proclamations of the commission under the Uniform Wildlife Regulatory Act (Chapter 61 of this code) shall provide for an open season for the hunting of wild quail of all varieties in Cottle County beginning on December 1 of one year and extending through January 31 of the following year. [Acts 1975, 64th Leg., p. 1214, ch. 456, § 14, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 34, ch. 17, § 1, eff. Aug. 29, 1977.]

**CHAPTER 152. CRANE COUNTY**

**§ 152.001. Regulatory Act: Applicability**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Crane County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 153. CROSBY COUNTY**

**§ 153.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Crosby County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 154. CROCKETT COUNTY**

**§ 154.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Crockett County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 155. CULBERSON COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
 155.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

155.011. Regulatory Act: Exemption.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 155.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Culberson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 155.002 to 155.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 155.011. Regulatory Act: Exemption**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to fish in Culberson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 156. DALLAM COUNTY**

**§ 156.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Dallam County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 157. DALLAS COUNTY**

**§ 157.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Dallas County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 158. DAWSON COUNTY**

**§ 158.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Dawson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 159. DEAF SMITH COUNTY**

**§ 159.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Deaf Smith County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 160. DELTA COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
160.001. Regulatory Act: Applicability.

## SUBCHAPTER B. GAME ANIMALS

160.011. Deer.  
160.012. Squirrels.

## SUBCHAPTER C. BIRDS

160.021. Turkey.  
160.022. Quail

## SUBCHAPTER D. FISH

160.031. Nets and Seines.

## SUBCHAPTER E. FUR-BEARING ANIMALS

160.041. Hunting Mink With Dogs.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 160.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Delta County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 160.002 to 160.010 reserved for expansion]

## SUBCHAPTER B. GAME ANIMALS

## § 160.011. Deer

(a) No person may hunt deer in Delta County except during the open season beginning on November 22 and extending through December 1.

(b) During the open season, no person may take, kill, or have in his possession a deer other than a buck with pronged horn. No person may take or kill more than one buck deer in one season.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 160.012. Squirrels

(a) No person may hunt squirrel in Delta County except during the open seasons beginning on May 1 and extending through July 31, and beginning on October 1 and extending through December 31. During the open seasons no person may kill, take, or have in his possession more than eight squirrels a day.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each squirrel killed, taken, or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 160.013 to 160.020 reserved for expansion]

## SUBCHAPTER C. BIRDS

## § 160.021. Turkey

(a) No person may hunt wild turkey in Delta County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200 or confinement in the county jail for not less than 1 day nor more than 30 days, or both. Each turkey killed or possessed in violation of this section constitutes a separate offense and shall be seized and disposed of as provided in Section 12.110 of this code. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 160.022. Quail

(a) No person may hunt wild quail in Delta County except during the open season beginning on December 1 and extending through January 16. During the open season, no person may hunt wild quail in Delta County on Sunday.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 160.023 to 160.030 reserved for expansion]

## SUBCHAPTER D. FISH

## § 160.031. Nets and Seines

No person may take or catch catfish, perch, buffalo fish, or drum in Delta County by hand or with a seine or net having meshes one inch square, except during the open season.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 160.032 to 160.040 reserved for expansion]

## SUBCHAPTER E. FUR-BEARING ANIMALS

## Repeal

*Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this Subchapter is repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this Subchapter.*

## § 160.041. Hunting Mink With Dogs

A person may hunt, take, or kill or attempt to hunt, take, or kill wild mink in Delta County with dogs. A person may have in his possession a mink pelt while hunting with dogs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 161. DENTON COUNTY

§ 161.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Denton County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 162. DEWITT COUNTY

§ 162.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in DeWitt County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 163. DICKENS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
163.001. Regulatory Act: Applicability.

SUBCHAPTER B. BIRDS

163.011. Quail Season.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 163.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Dickens County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 34, ch. 17, § 3, eff. Aug. 29, 1977.]

SUBCHAPTER B. BIRDS

§ 163.011. Quail Season

(a) No person may hunt quail in Dickens County except during the open season.

(b) The open season for quail in Dickens County begins on December 1 of one year and extends through January 31 of the following year.

(c) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Added by Acts 1977, 65th Leg., p. 34, ch. 17, § 3, eff. Aug. 29, 1977.]

CHAPTER 164. DIMMIT COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
164.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

164.011. Fish Sale.  
164.012. Leaving Fish to Die.  
164.013. Repealed.

SUBCHAPTER C. PROVISIONS GENERALLY APPLICABLE TO HUNTING

164.021. Hunting With Light.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 164.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Dimmit County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 164.002 to 164.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 164.011. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, or catfish caught, trapped, or ensnared in the streams of Dimmit County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 164.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Dimmit County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die, unless the person intends to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. The allowing of each fish to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 164.013. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow sale and transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

SUBCHAPTER C. PROVISIONS GENERALLY  
APPLICABLE TO HUNTING

§ 164.021. **Hunting With Light**

(a) No person in Dimmit County may hunt an animal or bird protected by this code with the aid of a headlight, hunting lamp, or other artificial light, including an artificial light attached to a motor vehicle.

(b) The possession of a headlight or hunting lamp used on or about the head when hunting in Dimmit County at night between sunset and one-half hour before sunrise by a person hunting in an area where deer are known to range constitutes prima facie evidence that the person was violating this section.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,000, by confinement in the county jail for not more than six months, or by both. [Added by Acts 1981, 67th Leg., p. 993, ch. 374, § 1, eff. June 10, 1981.]

CHAPTER 165. DONLEY COUNTY

§ 165.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Donley County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 166. DUVAL COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
166.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS

166.011. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 166.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Duval County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 166.002 to 166.010 reserved  
for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 166.011. **Repealed by Acts 1981, 67th Leg., p. 933, ch. 348, § 1, eff. June 10, 1981**

The repealed section, relating to inapplicability of the Regulatory Act to deer without antlers, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

CHAPTER 167. EASTLAND COUNTY

§ 167.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Eastland County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 168. ECTOR COUNTY

§ 168.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Ector County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 169. EDWARDS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
169.001. Regulatory Act: Applicability.  
169.002. Expired.

SUBCHAPTER B. FISH

169.011. Fish Sale.  
169.012. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 169.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Edwards County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 169.002. **Expired**

This section, relating to a mandatory proclamation as to hunting of doe, was added by Acts 1975, 64th Leg., p. 1222, ch. 456, § 22, and expired of its own terms on January 1, 1977.

[Sections 169.003 to 169.010 reserved  
for expansion]

SUBCHAPTER B. FISH

§ 169.011. **Fish Sale**

(a) No person may take, offer, or possess, for the purpose of sale, any bass, crappie, perch, or bream in Edwards County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 169.012. **Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Edwards County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 170. ELLIS COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
170.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

170.011. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

§ 170.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Ellis County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 170.002 to 170.010 reserved for expansion]

**SUBCHAPTER B. FISH**

§ 170.011. **Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 171. EL PASO COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
171.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

171.011. Regulatory Act: Exemption.  
171.012. Method of Taking Fish.  
171.013. Fish Limit.  
171.014. Importation and Sale of Black Bass.  
171.015. Importation Tags.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

§ 171.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in El Paso County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 171.002 to 171.010 reserved for expansion]

**SUBCHAPTER B. FISH**

§ 171.011. **Regulatory Act: Exemption**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to fish in El Paso County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 171.012. **Method of Taking Fish**

(a) No person may use a method or device to catch fish other than a hook and line, pole and line, or trotline or setline in El Paso County.

(b) No person may use a minnows seine longer than 10 feet or a seine with meshes larger than three-eighths of an inch square to catch bait in El Paso County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each fish taken in violation of this chapter constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 171.013. **Fish Limit**

(a) Except as provided in Subsection (b) of this section, no person may catch or possess more than 10 fish in one day or more than 30 fish in one week in El Paso County.

(b) No person may catch or possess more than 20 perch in one day or more than 60 perch in one week in El Paso County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 171.014. **Importation and Sale of Black Bass**

(a) Black bass imported from another country may be sold in El Paso County if:

(1) the fish were caught in inland water of a foreign country which is not international water of the United States and the foreign country;

(2) the country from which the fish were imported permits the taking of the fish for sale; and

(3) an importation tag is attached to the gill, dorsal fin, or tail of each black bass sold.

(b) A person who sells or attempts to sell a black bass in El Paso County which does not have properly attached an importation tag is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 171.015. Importation Tags

(a) A licensed customhouse broker who wishes to handle the importation of black bass for sale in El Paso County shall notify the commission. The commission shall assign the broker a permanent record number and provide the number of metal importation tags requested by the broker.

(b) The cost of the importation tags shall be paid by the broker, and each tag shall contain the permanent record number of the broker and a separate number to identify the tag. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 172. ERATH COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 172.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

172.011. Fish Sale. 172.012. Minnow Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 172.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Erath County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 172.002 to 172.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 172.011. Fish Sale

(a) No person may barter, buy, or sell or offer to barter or sell any bass, crappie, perch, channel or Opelousas catfish, or any other fish, except bait fish, taken from the Bosque River or its tributaries in Erath County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish bartered, bought, or sold or offered for barter or sale constitutes a separate offense. A person who

violates this section may be prosecuted in the county where the offense is committed, where he is found with the fish in his possession, or where the fish are sold or offered for sale.

(c) It is the duty of the district judge of the judicial district in Erath County to give a special charge on this law to the grand juries of Erath County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 215, ch. 105, § 11, eff. Sept. 1, 1977.]

§ 172.012. Minnow Sale

In Erath County a person may raise and propagate minnows on his own premises or on premises under his control for personal use or for commercial purposes, and for sale inside or outside the county, at any time.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 173. FALLS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 173.001. Regulatory Act: Applicability.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

173.011. Instruments to Call or Attract Animals.

SUBCHAPTER C. FISH

173.021. Fish Sale. 173.022. Minnow Transport.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 173.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Falls County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 173.002 to 173.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 173.011. Instruments to Call or Attract Animals

(a) No person may use any device or instrument used to call or attract animals to aid in the hunting of any wild animal on state-owned land in Falls County.

(b) The Commissioners Court of Falls County may extend the prohibition expressed in Subsection (a) to any privately owned land in Falls County, any designated portion or section of the county, or to all of

the county. The commissioners court shall notify the Texas Parks and Wildlife Commission of its desire to broaden the coverage of Subsection (a) of this section. After receiving a return from the commission, the commissioners court shall specify what land or portion of the county is added to the coverage of Subsection (a) of this section on forms prescribed by the Texas Parks and Wildlife Commission. The court shall return the forms to the commission, properly attested to as the official act of the Commissioners Court of Falls County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 173.012 to 173.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 173.021. Fish Sale

(a) No person may barter, buy, or sell or offer to barter or sell any bass, crappie, perch, catfish, or any other fish, except bait fish, taken from the water of the Brazos River in Falls County or from the water within one mile from the mouth of any tributary of the Brazos River in Falls County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$25. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 215, ch. 105, § 12, eff. Sept. 1, 1977.]

§ 173.022. Minnow Transport

(a) No person may transport at any one time beyond the borders of Falls County more than 125 minnows taken from any stream, pond, lake, or lagoon in Falls County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 174. FANNIN COUNTY

§ 174.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Fannin County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 175. FAYETTE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 175.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

175.011. Minnow Transport and Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 175.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Fayette County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 175.002 to 175.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 175.011. Minnow Transport and Sale

(a) No person may transport any minnows taken from the water of Fayette County out of the county for the purpose of sale, nor transport more than 200 minnows out of the county for any purpose.

(b) Possession of more than 200 minnows is prima facie evidence of a violation of this section.

(c) This section does not apply to the transportation of minnows by the state and federal fish hatcheries in Fayette County.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 176. FISHER COUNTY

§ 176.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Fisher County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 177. FLOYD COUNTY

§ 177.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Floyd County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 178. FOARD COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
178.001. Regulatory Act: Applicability.

## SUBCHAPTER B. GAME ANIMALS

178.011. Deer.

## SUBCHAPTER C. BIRDS

178.021. Turkey.  
178.022. Quail.

## SUBCHAPTER D. FISH

178.031. Minnow Transport.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

## § 178.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Foard County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 178.002 to 178.010 reserved  
for expansion]

## SUBCHAPTER B. GAME ANIMALS

## § 178.011. Deer

(a) No person may hunt deer in Foard County except during the open season between November 30 and December 15, both dates inclusive.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 178.012 to 178.020 reserved  
for expansion]

## SUBCHAPTER C. BIRDS

## § 178.021. Turkey

(a) No person may hunt wild turkey in Foard County except during the open season between November 5 and December 5, both dates inclusive.

(b) A person may take not more than one turkey gobbler or bearded hen in Foard County during the open season.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 145, ch. 77, § 1, eff. Aug. 27, 1979.]

## § 178.022. Quail

(a) No person may hunt quail in Foard County except during the open season between December 1 and January 31, both dates inclusive. No person may kill more than 12 quail in any one day in Foard County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 178.023 to 178.030 reserved  
for expansion]

## SUBCHAPTER D. FISH

## § 178.031. Minnow Transport

(a) No person may transport into another county any minnows caught, seined, or taken from the water of Foard County, except that a person may transport into another county no more than 150 minnows for personal use or any minnows raised in a minnow hatchery in this state.

(b) For the purpose of this section, a "minnow hatchery" is a pond or series of ponds situated wholly on private, enclosed property and not connected with nor a part of any stream, and used either in whole or in part for the propagation of minnows.

(c) Possession of more than 500 minnows by any person at one time is prima facie evidence of a violation of this section.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 179. FORT BEND COUNTY

## § 179.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Fort Bend County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 180. FRANKLIN COUNTY

## § 180.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Franklin County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 181. FREESTONE COUNTY

§ 181.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Freestone County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 182. FRIO COUNTY

§ 182.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Frio County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 183. GAINES COUNTY

§ 183.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Gaines County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 184. GALVESTON COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section	
184.001.	Regulatory Act: Applicability.
184.002.	Regulatory Act: Saltwater Marine Life.

SUBCHAPTER B. BIRDS

184.011. Turkey.

SUBCHAPTER C. FISH

184.021.	Galveston Bay: Seines.
184.022.	Other Water: Net and Seines.
184.023.	Seining Near Cities Prohibited.
184.024.	Commission May Close Certain Water.
184.025.	Nets and Trotlines: Use.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 184.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Galveston County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 724, ch. 270, § 10, eff. Oct. 1, 1978.]

§ 184.002. **Regulatory Act: Saltwater Marine Life**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to all marine life except shrimp in Galveston County.

[Added by Acts 1977, 65th Leg., p. 724, ch. 270, § 10, eff. Oct. 1, 1978. Amended by Acts 1979, 66th Leg., p. 719, ch. 315, § 1, eff. Aug. 27, 1979.]

[Sections 184.003 to 184.010 reserved for expansion]

SUBCHAPTER B. BIRDS

§ 184.011. **Turkey**

(a) No person may hunt wild turkey in Galveston County except during the open season beginning on November 16 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 184.012 to 184.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 184.021. **Galveston Bay: Seines**

(a) Except as provided in Subsection (b) of this section, it is lawful to use strike nets, gill nets, trammel nets, and shrimp trawls for the purpose of taking fish in the water of East Galveston Bay in Galveston County during the period beginning on August 15 of one year and extending through May 15 of the following year.

(b) No person may use a strike net, gill net, trammel net, or shrimp trawl for the purpose of taking fish in any of the following water of Galveston County at any time:

- (1) Swan Lake;
- (2) Moses Lake;
- (3) Clear Lake;
- (4) Dickinson Bayou or Bay west of a line from Miller's Point to April Fool Point;
- (5) water lying northwest of a line from Kemah in Galveston County to Mesquite Knoll in Chambers County; and
- (6) water of Galveston Bay lying east of a line from the extreme western point of Smith's Point in Chambers County to the west bank of Siever's Cut where East Bay intersects with the north bank of the Intracoastal Canal on Bolivar Peninsula in Galveston County at Siever's Fish Camp, which cut is between Elm Grove Point and Baffle Point, both points being on the north shore of Bolivar Peninsula.

(c) No person operating under the authority of Subsection (a) of this section may use a strike net, gill net, trammel net, or shrimp trawl for catching fish if the meshes are less than one and one-half inches from knot to knot.

(d), (e) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(6), eff. May 20, 1977.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200, and his commercial fishing license is subject to revocation for one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(6), eff. May 20, 1977.]

**§ 184.022. Other Water: Net and Seines**

(a) No person may place or use a seine, net, or other device for catching fish, except an ordinary pole and line, casting rod and reel, artificial bait, trotline, setline, flounder gig and light, or cast net or minnow seine of not more than 20 feet long for catching bait only, in any of the bays, streams, bayous, or canals of Galveston County not covered by Section 184.021 of this code, or in San Luis Pass in Galveston County.

(b) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(7), eff. May 20, 1977.

(c) The identification of a boat, vehicle, seine, or net from or by which a violation of this section occurred is prima facie evidence against the owner of the boat, vehicle, net, or seine or against the person last in charge of the boat.

(d) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$100. On a second or subsequent conviction, the person is punishable by a fine of not less than \$100 nor more than \$200, and his commercial fishing license is subject to forfeiture for a period of one year. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(7), eff. May 20, 1977.]

**§ 184.023. Seining Near Cities Prohibited**

(a) No person may attempt to take any fish, shrimp, green turtle, loggerhead, or terrapin by the use of a seine, drag, fyke, setnet, trammel net, trap, dam, or weir from a bay or other navigable water in Galveston County within one mile of the limits of a city.

(b) In this section, "city" means any community having 100 or more families within an area of one square mile.

(c) A city shall set out and maintain buoys, stakes, or other markers showing the limits within which Subsection (a) of this section applies.

(d) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. In a prosecution under this section, identification of the boat from which a violation occurred, if any, is prima facie evidence against the owner, lessee, person in charge, or master of the boat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 184.024. Commission May Close Certain Water**

(a) The commission may close tidal water in Galveston County for the use of nets, seines, spears, gigs, lights, and other devices for catching fish except a hook and line or cast net or minnow seine not more than 20 feet in length when the commission finds that the closing is best for the protection and increase of fish life or to prevent their destruction.

(b) The commission shall give notice of the closing at least two weeks before the effective date of the closing. The notice must contain:

(1) the reason for the closing;

(2) a designation of the area to be closed;

(3) the effective date and duration of the closing;

(4) a statement that after the effective date of the closing it will be unlawful to drag a seine, set a net, or use a gig and light to catch fish in the described area.

(c) After an investigation and hearing, and on a finding that the closing of an area no longer promotes the conservation of fish, the commission may open the area to seining, netting, gigging, and other fishing.

(d) The department may seize seines used in violation of this section and hold them as evidence in the trial of a defendant, and no suit may be maintained against the department or an authorized employee for the seizure.

(e) This section does not apply to any of the water to which Sections 184.021, 184.022, and 184.023 apply. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 184.025. Nets and Trotlines: Use**

(a) In that portion of Galveston Bay or Trinity Bay in Galveston County where nets, seines, and saltwater trotlines are permitted, during that period beginning the Saturday of Memorial Day weekend through sunset on Labor Day, nets and saltwater trotlines may not be used from sunset Friday to sunset Sunday.

(b) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200. On a second or subsequent conviction, the person is punishable by a fine of not less than \$200 nor more than \$500 and shall forfeit the license under which the person is fishing.

[Added by Acts 1977, 65th Leg., p. 724, ch. 270, § 11, eff. Sept. 1, 1977.]

**CHAPTER 185. GARZA COUNTY****§ 185.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Garza County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 186. GILLESPIE COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
186.001. Regulatory Act: Applicability.

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING**

186.011. Definitions.  
186.012. Open Archery Season.  
186.013. Prohibited Archery Equipment.  
186.014. Deer Permits.  
186.015. Limit and Possession of Deer.  
186.016. Penalty.  
186.017. Possession of Firearms.

**SUBCHAPTER C. FISH**

186.021. Fish Sale.  
186.022. Repealed.  
186.023. Leaving Fish to Die.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 186.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Gillespie County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 186.002 to 186.010 reserved for expansion]

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING**

**§ 186.011. Definitions**

As used in this subchapter:

- (1) "Buck deer" means a deer that has a hardened antler protruding through the skin.
- (2) "Antlerless deer" is any deer other than a buck deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 186.012. Open Archery Season**

(a) The open archery season in Gillespie County begins on October 1 and extends through October 31 each year.

(b) During the open archery season a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

**§ 186.013. Prohibited Archery Equipment**

No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of:

(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

(3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or

(4) poisoned, drugged, or explosive arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

**§ 186.014. Deer Permits**

(a) At least 15 days prior to the opening date of the open archery season, a landowner or lessee in Gillespie County who desires to permit the hunting of deer on his land with bows and arrows during the open archery season may apply to the department for antlerless deer permits.

(b) The department shall issue to each applicant the number of antlerless deer permits consistent with sound wildlife management practices and consistent with any law authorizing the department to regulate the taking of antlerless deer.

(c) Landowners or lessees receiving antlerless deer permits shall return the fully completed stubs from used permits and all unused permits and stubs to the issuing officer not later than January 10 of the year following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 186.015. Limit and Possession of Deer**

(a) No person may take or kill more than one antlerless deer with bow and arrow during the open archery season in Gillespie County.

(b) No person may possess an antlerless deer in Gillespie County unless he has in his possession an antlerless deer permit on which appears the date of the kill, the hunter's name, and the signature of the owner or agent on whose tract the deer was killed.

(c) No person may possess the carcass of any deer in Gillespie County which does not have attached to it a tag issued to him on his valid hunting license unless the carcass has been finally processed.

(d) In Gillespie County no person may attach the bonus deer tag from a valid hunting license to a deer other than an antlerless deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 186.016. Penalty**

A person who violates Section 186.012 through Section 186.015 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 186.017. Possession of Firearms**

(a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Gillespie County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

[Sections 186.018 to 186.020 reserved for expansion]

**SUBCHAPTER C. FISH****§ 186.021. Fish Sale**

(a) No person may catch or possess for the purpose of sale any catfish, crappie, or bass in Gillespie County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2107, ch. 490, § 1, eff. June 11, 1981.]

**§ 186.022. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

**§ 186.023. Leaving Fish to Die**

(a) No person may knowingly place, throw, deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Gillespie County any catfish, perch, crappie, white perch, bass, trout, or other edible fish, and leave the fish to die without any intention of eating the fish or using them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 187. GLASSCOCK COUNTY****§ 187.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Glasscock County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 188. GOLIAD COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
188.001. Regulatory Act: Applicability.

**SUBCHAPTER B. GAME ANIMALS**

188.011. Squirrel.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 188.001. Regulatory Act: Applicability**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Goliad County except for fish and other aquatic life in Coletto Creek Reservoir, deer, quail, turkey, and alligators.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 414, ch. 172, § 1, eff. May 20, 1981.]

[Sections 188.002 to 188.010 reserved for expansion]

**SUBCHAPTER B. GAME ANIMALS****§ 188.011. Squirrel**

Squirrel may be killed at any time in Goliad County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 189. GONZALES COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
189.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

189.011. Fishing Methods.  
189.012. Fish Sale.  
189.013. Leaving Fish to Die.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 189.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Gonzales County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 189.002 to 189.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 189.011. Fishing Methods

(a) No person may catch any fish from the public water of Gonzales County by any means other than an ordinary hook and line or artificial bait or trotline not more than 300 feet in length, but a net or seine not more than 20 feet in length may be used to take minnows or perch for bait only.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 189.012. Fish Sale

(a) No person may sell, offer for sale, or possess for the purpose of sale any fish, except minnows and perch used for bait, taken from the public water of Gonzales County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 189.013. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to the water of Gonzales County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 190. GRAY COUNTY

§ 190.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Gray County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 191. GRAYSON COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
191.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

191.011. Repealed.  
191.012. Fish Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 191.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Grayson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 191.002 to 191.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 191.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.  
Sale, transportation, and taking bait fish, see, now, § 66.010.

§ 191.012. Fish Sale

(a) Except as provided in Subsection (b) of this section, no person may catch fish from the fresh water of Grayson County for the purpose of sale or possess for the purpose of sale fish caught from the fresh water of Grayson County.

(b) A person may sell or buy bait fish, sucker, buffalo fish, carp, shad, and gar caught from the fresh water of Grayson County, including Lake Texoma in Grayson County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10. Each fish caught or possessed for the purpose of sale constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 215, ch. 105, § 13, eff. Sept. 1, 1977.]

CHAPTER 192. GREGG COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
192.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS

192.011. Deer.

SUBCHAPTER C. BIRDS

192.021. Turkeys.

SUBCHAPTER D. FUR-BEARING ANIMALS

192.031. Hunting Mink With Dogs.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 192.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Gregg County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 192.002 to 192.010 reserved for expansion]

## SUBCHAPTER B. GAME ANIMALS

## § 192.011. Deer

(a) No person may take or kill any deer in Gregg County, except that a person may take or kill buck deer with pronged horns during the open season between November 15 and November 30, both dates inclusive.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500 or by confinement in the county jail for not less than ten days nor more than six months, or both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 192.012 to 192.020 reserved for expansion]

## SUBCHAPTER C. BIRDS

## § 192.021. Turkeys

(a) No person may hunt any wild turkeys in Gregg County except during the open season beginning on November 16 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 192.022 to 192.030 reserved for expansion]

## SUBCHAPTER D. FUR-BEARING ANIMALS

## Repeal

*Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this Subchapter is repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this Subchapter.*

## § 192.031. Hunting Mink With Dogs

(a) No person may hunt wild mink in Gregg County with dogs.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each mink found in possession in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 193. GRIMES COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
193.001. Regulatory Act: Applicability.

## SUBCHAPTER B. GAME ANIMALS

193.011. Deer Season.  
193.012. Deer: Bag Limits.  
193.013. Repealed.  
193.014. Penalty.

## SUBCHAPTER C. FISH

193.021. Nets and Seines: Rough Fish.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 193.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources other than deer, of Grimes County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1742, ch. 694, § 1, eff. Aug. 29, 1977.]

[Sections 193.002 to 193.010 reserved for expansion]

## SUBCHAPTER B. GAME ANIMALS

## § 193.011. Deer Season

(a) No person may hunt deer in Grimes County except during the open season for deer.

(b) The open season for deer in Grimes County begins on the Saturday nearest to November 15 and extends through December 31 of each year.

[Added by Acts 1977, 65th Leg., p. 1742, ch. 694, § 1, eff. Aug. 29, 1977.]

## § 193.012. Deer: Bag Limits

(a) No person may take more than two buck deer during an open season in Grimes County.

(b) No person may hunt spike or antlerless deer in Grimes County.

(c) In this section:

(1) "Buck deer" means a deer having a forked antler.

(2) "Spike deer" and "antlerless deer" include all deer other than buck deer.

[Added by Acts 1977, 65th Leg., p. 1742, ch. 694, § 1, eff. Aug. 29, 1977.]

## § 193.013. Repealed by Acts 1979, 66th Leg., p. 1006, ch. 442, § 1, eff. June 6, 1979

The repealed section, relating to weapons used while hunting deer, was added by Acts 1977, 65th Leg., p. 1742, ch. 694, § 1.

§ 193.014. **Penalty**

A person who violates a provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Added by Acts 1977, 65th Leg., p. 1743, ch. 694, § 1, eff. Aug. 29, 1977.]

SUBCHAPTER C. FISH

§ 193.021. **Nets and Seines: Rough Fish**

Nets and seines with meshes three inches square and larger may be used to take rough fish from the rivers and streams in Grimes County.

[Added by Acts 1979, 66th Leg., p. 956, ch. 430, § 1, eff. June 6, 1979.]

CHAPTER 194. GUADALUPE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

194.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

194.011. Fish Sale.

194.012. Explosives.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 194.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Guadalupe County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 194.002 to 194.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 194.011. **Fish Sale**

(a) No person may barter, buy, or sell, or offer to barter or sell, any bass, crappie, perch, catfish, or any other fish, except bait fish, taken from the fresh water of Guadalupe County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 215, ch. 105, § 14, eff. Sept. 1, 1977.]

§ 194.012. **Explosives**

(a) No person may destroy fish by using any dynamite, powder, or any other explosive in any freshwater stream in Guadalupe County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for no more than one year, or both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 195. HALE COUNTY

§ 195.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hale County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 196. HALL COUNTY

§ 196.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hall County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 197. HAMILTON COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

197.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

197.011. Fish Sale.

197.012. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 197.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hamilton County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 197.002 to 197.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 197.011. **Fish Sale**

(a) No person may barter, buy, or sell or offer to barter or sell any bass, crappie, perch, channel or Opelousas catfish, or any other fish, except bait fish, taken from the Bosque River or its tributaries in Hamilton County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish bartered, bought, or sold or offered for barter or sale constitutes a separate offense. A person who violates this section may be prosecuted in the county where the offense is committed, where he is found with the fish in his possession, or where the fish are sold or offered for sale.

(c) It is the duty of the district judge of the judicial district in Hamilton County to give a special charge on this law to the grand juries of Hamilton County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 215, ch. 105, § 15, eff. Sept. 1, 1977.]

**§ 197.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 198. HANSFORD COUNTY**

**§ 198.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hansford County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 199. HARDEMAN COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
199.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

199.011. Repealed.

**SUBCHAPTER C. BIRDS**

199.021. Quail.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 199.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hardeman County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 199.002 to 199.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 199.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**SUBCHAPTER C. BIRDS**

**§ 199.021. Quail**

The proclamations of the commission under the Uniform Wildlife Regulatory Act (Chapter 61 of this code) shall provide for an open season for the hunting of quail in Hardeman County beginning on December 1 of one year and extending through January 31 of the following year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 200. HARDIN COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
200.001. Regulatory Act: Applicability.

**SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING**

200.011. Hunting With Dogs.

**SUBCHAPTER C. GAME ANIMALS**

200.021. Hunting Deer With Dogs.  
200.022. Possession of Deer.

**SUBCHAPTER D. FUR-BEARING ANIMALS**

200.031. Attracting Foxes With Calling Devices.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 200.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hardin County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 200.002 to 200.010 reserved for expansion]

**SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING**

**§ 200.011. Hunting With Dogs**

A person may use dogs to hunt game birds and game animals in Hardin County, but only during the open season for the game bird or game animal. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 200.012 to 200.020 reserved for expansion]

SUBCHAPTER C. GAME ANIMALS

§ 200.021. Hunting Deer With Dogs

(a) No person may allow or permit a dog under his control to hunt, chase, or molest any wild deer in Hardin County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 200.022. Possession of Deer

(a) No person may possess the freshly killed carcass of a wild deer, or part of one, in Hardin County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 200.023 to 200.030 reserved for expansion]

SUBCHAPTER D. FUR-BEARING ANIMALS

§ 200.031. Attracting Foxes With Calling Devices

(a) No person may use any horn, recording, or other device to call or attract a wild fox in Hardin County, except that a person may use the devices for scientific research or in making wildlife movies after obtaining a permit to use them from the Parks and Wildlife Department.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 201. HARRIS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
201.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

201.011. Regulatory Act: Saltwater Marine Life Excluded.  
201.012. Seining Near Cities Prohibited.  
201.013. Galveston Bay: Nets and Seines.  
201.014. Other Water: Nets and Seines.  
201.015. Commission May Close Certain Water.  
201.016. Nets and Trotlines: Use.  
201.016. Crab Traps and Pots; Certain Bays.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 201.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Harris County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 201.002 to 201.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 201.011. Regulatory Act: Marine Life Excluded

In Harris County, saltwater species of marine life, except red drum, are not wildlife resources under the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 725, ch. 270, § 12, eff. Oct. 1, 1978.]

§ 201.012. Seining Near Cities Prohibited

(a) No person may attempt to take any fish, shrimp, green turtle, loggerhead, or terrapin by the use of a seine, drag, fyke, setnet, trammel net, trap, dam, or weir from a bay or other navigable water in Harris County within one mile of the limits of a city.

(b) In this section, "city" means any community having 100 or more families within an area of one square mile.

(c) A city shall set out and maintain buoys, stakes, or other markers showing the limits within which Subsection (a) of this section applies.

(d) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. In a prosecution under this section, identification of the boat from which a violation occurred, if any, is prima facie evidence against the owner, lessee, person in charge, or master of the boat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 201.013. Galveston Bay: Nets and Seines

(a) No person may possess, use, or place in or on that portion of Galveston Bay lying in Harris County a setnet, gill net, trap, or other similar device for the catching of fish.

(b) A person may possess and use in the water described in Subsection (a) of this section a trammel net not exceeding 1,200 feet in length and having mesh of not less than three and one-half inches when stretched.

(c) This section does not prohibit the possession of a device the use of which is prohibited in the water described in Subsection (a) of this section when the

device is on board a vessel in port or in a channel while under way to a place where the use of the device is not prohibited.

(d), (e) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(8), eff. May 20, 1977.

(f) A person who violates this section is guilty of a misdemeanor and on a first conviction shall be punished by a fine of not less than \$50 nor more than \$250. On a second or subsequent conviction, he may be punished by a fine of not less than \$50 nor more than \$250, and his commercial fishing license is subject to forfeiture.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(8), eff. May 20, 1977.]

#### § 201.014. Other Water: Nets and Seines

(a) No person may place or use a seine, net, or other device for catching fish, except an ordinary pole and line, casting rod and reel, artificial bait, trotline, setline, flounder gig and light, or cast net or minnow seine of not more than 20 feet long for catching bait only, in any of the saltwater bays, streams, bayous, or canals of Harris County other than Galveston Bay.

(b) Repealed by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(9), eff. May 20, 1977.

(c) The identification of a boat, vehicle, net, or seine from or by which a violation of this section occurred is prima facie evidence against the owner of the boat, vehicle, net, or seine or against the person last in charge of the boat.

(d) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$100. On a second or subsequent conviction, the person is punishable by a fine of not less than \$100 nor more than \$200 and his commercial fishing license is subject to forfeiture for a period of one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 382, ch. 190, § 5(9), eff. May 20, 1977.]

#### § 201.015. Commission May Close Certain Water

(a) The commission may close tidal water in Harris County for the use of nets, seines, spears, gigs, lights, and other devices for catching fish except a hook and line or cast net or minnow seine not more than 20 feet in length when the commission finds that the closing is best for the protection and increase of fish life or to prevent their destruction.

(b) The commission shall give notice of the closing at least two weeks before the effective date of the closing. The notice must contain:

- (1) the reason for the closing;
- (2) a designation of the area to be closed;
- (3) the effective date and duration of the closing;
- (4) a statement that after the effective date of the closing it will be unlawful to drag a seine, set

a net, or use a gig and light to catch fish in the described area.

(c) After an investigation and hearing, and on a finding that the closing of an area no longer promotes the conservation of fish, the commission may open the area to seining, netting, gigging, and other fishing.

(d) The department may seize seines used in violation of this section and hold them as evidence in the trial of a defendant and no suit may be maintained against the department or an authorized employee for the seizure.

(e) This section does not apply to any of the water to which Sections 201.012, 201.013, and 201.014 apply. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 201.016. Nets and Trotlines: Use

*Text as added by Acts 1977, 65th Leg., p. 725, ch. 270, § 13*

(a) No person may use a net, seine, or trotline within a saltwater bay or lake in Harris County:

(1) during the period beginning on Saturday of Memorial Day weekend and extending through sunset on Labor Day; and

(2) during the period beginning at sunset on Friday and extending through sunset on Sunday of each week.

(b) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200. On a second or subsequent conviction, the person is punishable by a fine of not less than \$200 nor more than \$500 and shall forfeit the license under which the person is fishing.

[Added by Acts 1977, 65th Leg., p. 725, ch. 270, § 13, eff. Sept. 1, 1977.]

*For text as added by Acts 1977, 65th Leg., p. 1258, ch. 484, § 5, see Section 201.016, post.*

#### § 201.016. Crab Traps and Pots; Certain Bays

*Text as added by Acts 1977, 65th Leg., p. 1258, ch. 484, § 5.*

(a) This section applies only to the water of Burnett Bay, Crystal Bay, Scott Bay, and Black Duck Bay in Harris County.

(b) No person may possess, use, or place more than three crab traps, crab pots, or other similar devices used for the catching of crabs on or in the water described in Subsection (a) of this section. This prohibition does not include crab lines, hooks or lines, or trotlines normally employed for the catching of crabs.

(c) It is an affirmative defense to a prosecution under this section that the person possessed the trap, pot, or device prohibited by Subsection (b) of this section on board a vessel while en route to water where the use of the trap, pot, or device is not

prohibited and that the trap, pot, or other device was not used for the purpose of catching crabs in the water to which this section applies.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(e) Peace officers and other authorized employees of the department may seize crab traps, crab pots, and other devices used in violation of this section. Items seized under this section shall be held for evidence and may be destroyed or disposed of as required by law if used in violation of this section. No suit may be maintained against an officer or an authorized employee of the department for the seizure of items as authorized by this section.

[Added by Acts 1977, 65th Leg., p. 1258, ch. 484, § 5, eff. Sept. 1, 1977.]

*For text as added by Acts 1977, 65th Leg., p. 725, ch. 270, § 13, see Section 201.016, ante.*

**CHAPTER 202. HARRISON COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
202.001. Regulatory Act: Applicability.

**SUBCHAPTER B. GAME ANIMALS**

202.011. Hunting Deer With Dogs.

**SUBCHAPTER C. FISH**

202.021. Fish Sale.

**SUBCHAPTER D. CADDO LAKE**

202.031. Firing Weapons.

**SUBCHAPTER E. BIRDS**

202.041. Blinds.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 202.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Harrison County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 202.002 to 202.010 reserved for expansion]

**SUBCHAPTER B. GAME ANIMALS**

**§ 202.011. Hunting Deer With Dogs**

No person may pursue or take deer with dogs in Harrison County except in that portion of the county south of Interstate Highway 20 and east of State Highway 43.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 202.012 to 202.020 reserved for expansion]

**SUBCHAPTER C. FISH**

**§ 202.021. Fish Sale**

(a) No person may buy or sell, offer to buy or sell, possess for sale, or carry, transport, or ship for sale, barter, or exchange any white bass or striped bass (barfish) in Harrison County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of no more than \$100. Each sale, shipment, or other act in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 202.022 to 202.030 reserved for expansion]

**SUBCHAPTER D. CADDO LAKE**

**§ 202.031. Firing Weapons**

(a) No person may shoot a pistol or rifle in, on, along, or across Caddo Lake in Harrison County.

(b) This section does not apply to peace officers, game management officers, or representatives of the Parks and Wildlife Commission in the discharge of their official duties, nor does it prevent a person from hunting with a shotgun during an open season or when it is lawful to hunt in or upon Caddo Lake in Harrison County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.

(d) Venue for prosecutions for violations of this section is in Harrison or Marion counties. Prosecutions may be brought and maintained in either county without regard to the county where the offense was committed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**SUBCHAPTER E. BIRDS**

**§ 202.041. Blinds**

(a) No person may construct a blind to be leased for the hunting of waterfowl within 200 yards of the shoreline of or on Caddo Lake in Harrison County without first having obtained from the department a permit.

(b) No person may lease a blind to be used within 200 yards of the shoreline of or on Caddo Lake in Harrison County for the hunting of waterfowl without first having obtained from the department a permit for each blind.

(c) The department shall issue the permits required by this section for an annual fee of \$5 for each blind leased.

(d) No person may construct or use a blind within 200 yards of the shoreline of or on Caddo Lake in Harrison County for the hunting of waterfowl if the

blind is nearer than 300 yards to another blind used for the hunting of waterfowl. This section applies to any blind whether leased or used privately.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.

(f) In a prosecution for using a blind nearer than 300 yards to another blind, it is an affirmative defense that the blind being used by the accused was located, built, and ready for use before the other blind was constructed.

(g) "Blind" means a concealing enclosure from which a person may shoot game or observe wildlife. [Added by Acts 1979, 66th Leg., p. 517, ch. 241, § 1, eff. Aug. 27, 1979.]

## CHAPTER 203. HARTLEY COUNTY

### § 203.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hartley County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 204. HASKELL COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
204.001. Regulatory Act: Applicability.

### SUBCHAPTER B. FISH

204.011. Repealed.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

### § 204.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Haskell County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 204.002 to 204.010 reserved for expansion]

### SUBCHAPTER B. FISH

### § 204.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 205. HAYS COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
205.001. Regulatory Act: Applicability.

### SUBCHAPTER B. FISH

205.011. Repealed.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

### § 205.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hays County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 205.002 to 205.010 reserved for expansion]

### SUBCHAPTER B. FISH

### § 205.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport and sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 206. HEMPHILL COUNTY

### § 206.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hemphill County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 207. HENDERSON COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
207.001. Regulatory Act: Applicability.

### SUBCHAPTER B. FISH

207.011. Cedar Creek Reservoir: Fish Sale.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

### § 207.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Henderson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 207.002 to 207.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 207.011. Cedar Creek Reservoir: Fish Sale

(a) Except as provided by Subsection (b) of this section no person may sell or offer to sell any fish, except bait fish, taken from that portion of the Joe B. Hogsett Reservoir known as the Cedar Creek Reservoir situated in Henderson County.

(b) This section does not prohibit the selling of rough fish taken by seine or net under contract with the Parks and Wildlife Department as provided by general law.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 216, ch. 105, § 16, eff. Sept. 1, 1977.]

CHAPTER 208. HIDALGO COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
208.001. Regulatory Act: Applicability.

SUBCHAPTER B. BIRDS

208.011. Pheasants.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 208.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hidalgo County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 208.002 to 208.010 reserved for expansion]

SUBCHAPTER B. BIRDS

§ 208.011. Pheasants

(a) No person may hunt wild pheasants in Hidalgo County except during the open season, which is the months of October, November, December, January, February, and March. During the open season wild pheasants may be hunted in Hidalgo County only on enclosed tracts of land consisting of not less than 250 acres that have been stocked with wild pheasants raised by a licensed game breeder in this state.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each pheasant taken or killed in violation of this section constitutes a separate offense.

(c) This section does not permit the hunting of pheasants on private land without consent of the person owning or having control of the land. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 209. HILL COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
209.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

209.011. Fish Sale.  
209.012. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 209.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hill County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 209.002 to 209.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 209.011. Fish Sale

(a) No person may offer, expose, or possess for sale or sell any fish caught or taken from the Brazos River, Lake Whitney, or their tributaries in Hill County except as authorized by the Parks and Wildlife Department.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Possession of each fish taken in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 209.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.  
Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 210. HOCKLEY COUNTY

§ 210.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hockley County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 211. HOOD COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## Section

211.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

211.011. Repealed.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 211.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hood County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 211.002 to 211.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 211.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport and sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 212. HOPKINS COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## Section

212.001. Regulatory Act: Applicability.

## SUBCHAPTER B. GAME ANIMALS

212.011. Deer.

212.012. Squirrel.

## SUBCHAPTER C. BIRDS

212.021. Turkey.

212.022. Quail.

## SUBCHAPTER D. FUR-BEARING ANIMALS

212.031. Hunting Mink With Dogs.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 212.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Hopkins County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 212.002 to 212.010 reserved for expansion]

## SUBCHAPTER B. GAME ANIMALS

## § 212.011. Deer

(a) No person may hunt deer in Hopkins County except during the open season beginning on November 22 and extending through December 1.

(b) During the open season, no person may take, kill, or have in his possession a deer other than a buck with pronged horn. No person may take or kill more than one buck deer in one season.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 212.012. Squirrel

(a) No person may hunt squirrel in Hopkins County except during the open seasons beginning on May 1 and extending through July 31, and beginning on October 1 and extending through December 31. During the open seasons no person may kill, take, or have in his possession more than eight squirrels a day.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each squirrel killed, taken, or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 212.013 to 212.020 reserved for expansion]

## SUBCHAPTER C. BIRDS

## § 212.021. Turkey

(a) No person may hunt any wild turkey in Hopkins County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200 or confinement in the county jail for not less than 1 day nor more than 30 days, or both. Each turkey killed or possessed in violation of this section constitutes a separate offense and shall be seized and disposed of as provided in Section 12.110 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 212.022. Quail

(a) No person may hunt wild quail in Hopkins County except during the open season beginning on December 1 and extending through January 31. During the open season, no person may hunt wild quail in Hopkins County on Sunday.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 212.023 to 212.030 reserved for expansion]

SUBCHAPTER D. FUR-BEARING ANIMALS

**Repeal**

Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this Subchapter is repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this Subchapter.

§ 212.031. **Hunting Mink With Dogs**

A person may hunt wild mink in Hopkins County with dogs. A person may have in his possession a mink pelt while hunting with dogs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 213. HOUSTON COUNTY**

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 213.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS

213.011. Deer.  
213.012. Special Archery Season.

SUBCHAPTER C. FISH

213.021. Fish Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 213.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Houston County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 213.002 to 213.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 213.011. **Deer**

(a) No person may hunt wild deer in Houston County except during the open season beginning on November 16 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each deer taken or killed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 213.012. **Special Archery Season**

The commission shall provide for an archery season for the taking of deer in Houston County begin-

ning on October 1 and extending through October 31 of each year.

[Added by Acts 1977, 65th Leg., p. 1258, ch. 484, § 4(b), eff. Sept. 1, 1977.]

[Sections 213.013 to 213.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 213.021. **Fish Sale**

(a) No person may sell, offer for sale, or possess for sale any fish, except bait fish, caught or taken from the public fresh water of Houston County, except fish taken from those parts of the Trinity and Neches rivers which are in Houston County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 216, ch. 105, § 17, eff. Sept. 1, 1977.]

**CHAPTER 214. HOWARD COUNTY**

§ 214.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Howard County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 215. HUDSPETH COUNTY**

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 215.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

215.011. Regulatory Act: Exemption.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 215.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hudspeth County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 215.002 to 215.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 215.011. **Regulatory Act: Exemption**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to fish in Hudspeth County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 216. HUNT COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

## Section

216.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

- 216.011. Fish Sale.  
 216.012. Sale of Fish From Lake Tawakoni.  
 216.013. Leaving Fish to Die.

**SUBCHAPTER C. SABINE RIVER**

216.021. Sabine River: Navigability.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 216.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hunt County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 216.002 to 216.010 reserved for expansion]

**SUBCHAPTER B. FISH****§ 216.011. Fish Sale**

(a) No person may sell or offer for sale any bass, white perch, crappie, or catfish caught in the streams of Hunt County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 216.012. Sale of Fish From Lake Tawakoni**

(a) Except as provided in this section, no person may sell or offer to sell any fish, except bait fish, taken from Lake Tawakoni in Hunt County.

(b) This section does not prohibit the sale of rough fish taken by net or seine under contract with the department as provided in this code.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 216, ch. 105, § 18, eff. Sept. 1, 1977.]

**§ 216.013. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Hunt County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention to eat the fish or use them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 216.014 to 216.020 reserved for expansion]

**SUBCHAPTER C. SABINE RIVER****§ 216.021. Sabine River: Navigability**

(a) That part of the Sabine River located between its source and its juncture with the east boundary line of Hunt County is not a navigable stream for the purpose of hunting and fishing rights on and along the stream. This section does not divest the state of whatever title it may have to the bed or water of the stream.

(b) Article 5302, Revised Civil Statutes of Texas, 1925, does not apply to that portion of the Sabine River described in Subsection (a) of this section. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 217. HUTCHINSON COUNTY****§ 217.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Hutchinson County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 218. IRION COUNTY****§ 218.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Irion County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 219. JACK COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

## Section

219.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

219.011. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 219.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Jack County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 219.002 to 219.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 219.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 220. JACKSON COUNTY

§ 220.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Jackson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 221. JASPER COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 221.001. Regulatory Act: Applicability.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

- 221.011. Hunting With Dogs.
- 221.012. Hunting Deer With Dogs.
- 221.013. Possession of Deer.

SUBCHAPTER C. FISH

221.021. Fish Sale.

SUBCHAPTER D. FUR-BEARING ANIMALS

- 221.031. Regulatory Act: Exclusion.
- 221.032. Calling Devices.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 221.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Jasper County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 221.002 to 221.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 221.011. Hunting With Dogs

A person may use dogs to hunt game birds and game animals in Jasper County only during the open season for the game bird or game animal. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 221.012. Hunting Deer With Dogs

(a) No person may knowingly allow a dog under his control to hunt wild deer in Jasper County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 221.013. Possession of Deer

(a) No person may possess the freshly killed carcass of a wild deer in Jasper County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 221.014 to 221.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 221.021. Fish Sale

(a) No person may sell, offer for sale, or possess for sale any black bass, trout, white perch, or catfish of less than 18 inches in length taken from the water of the Sabine, Attoyoc, Angelina, and Neches rivers or any of their tributaries or lakes through which the flood streams of the rivers or their tributaries flow in Jasper County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500, or confinement in the county jail for not less than 10 days nor more than 30 days, or both. Each fish sold in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 221.022 to 221.030 reserved for expansion]

## SUBCHAPTER D. FUR-BEARING ANIMALS

§ 221.031. **Regulatory Act: Exclusion**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to fox in Jasper County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 221.032. **Calling Devices**

(a) No person may use a horn, recording, or other device to call or attract wild fox in Jasper County unless he has obtained a permit from the department allowing him to use the devices for scientific research or making wildlife movies.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 222. JEFF DAVIS COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

222.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

222.011. Regulatory Act: Exemption.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 222.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Jeff Davis County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 222.002 to 222.010 reserved for expansion]

## SUBCHAPTER B. FISH

§ 222.011. **Regulatory Act: Exemption**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to fish in Jeff Davis County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 223. JEFFERSON COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

223.001. Regulatory Act: Applicability.

## SUBCHAPTER B. SHRIMP

223.011. Regulatory Act: Exclusion.

223.012. Shrimp Regulations.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 223.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Jefferson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 223.002 to 223.010 reserved for expansion]

## SUBCHAPTER B. SHRIMP

§ 223.011. **Regulatory Act: Exclusion**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to shrimp in Jefferson County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 223.012. **Shrimp Regulations**

(a) The commission may regulate the taking of shrimp from the coastal water of Jefferson County to provide for the most profitable and equitable harvest of shrimp from year to year and to conserve and protect the shrimp resources of Jefferson County from depletion and waste.

(b) The commission may make regulations to carry out the policy of this section including regulating:

- (1) the size of shrimp that may be taken;
- (2) open and closed shrimp seasons;
- (3) the means of taking shrimp;
- (4) the size and type of boats and equipment that may be used for taking shrimp;
- (5) the length and mesh size of nets and trawls and their spreading devices; and
- (6) the possession, transportation, sale, and other handling of shrimp in the coastal water of Jefferson County.

(c) The commission, by regulation adopted in accordance with this section, may provide for the licensing of all persons taking, selling, or handling shrimp in Jefferson County and may license boats and equipment used for the taking, selling, or handling of shrimp in Jefferson County. The commission may adopt the licensing provisions of the Texas Shrimp Conservation Act (Chapter 77 of this code).

(d) The commission shall conduct continuous research, investigations, and studies of the shrimp resources in Jefferson County in the same manner as required by Sections 77.004, 77.005, and 77.006 of this code. Based on the information obtained and after hearings, the commission shall promulgate the regulations authorized by this section. The hearings, the methods of adoption of the regulations, the effective date of the regulations, and the procedure for appeal shall be governed by the provisions of Chapter 125,

Acts of the 52nd Legislature, Regular Session, 1951, as amended.

(e) "Coastal water" is defined by Section 77.001(1) of this code.

(f) A person who violates a regulation of the commission adopted under this section shall be punished as provided in Section 77.020 of this code. The commission has all powers of enforcement granted to it under Chapter 77 of this code for the enforcement of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 224. JIM HOGG COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
224.001. Regulatory Act: Applicability.

**SUBCHAPTER B. GAME ANIMALS**

224.011. Deer Season.  
224.012. Collared Peccary.

**SUBCHAPTER C. BIRDS**

224.021. Quail Season.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 224.001. Regulatory Act: Applicability**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Jim Hogg County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 224.002 to 224.010 reserved for expansion]

**SUBCHAPTER B. GAME ANIMALS**

**§ 224.011. Deer Season**

(a) In this section, "buck deer" means a wild buck deer with a hardened antler protruding through the skin, and includes a spike deer.

(b) No person may hunt a buck deer in Jim Hogg County except during the open season beginning on the second Saturday in November and extending through December 31.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 3244, ch. 854, § 1, eff. June 17, 1981.]

**§ 224.012. Collared Peccary**

(a) Collared peccary (javelina) may be hunted at any time in Jim Hogg County.

(b) No person may sell, offer for sale, or take or possess for the purpose of barter or sale any collared peccary (javelina) or any part of a collared peccary (javelina).

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each collared peccary (javelina) or part of a collared peccary (javelina) possessed for sale, sold, or offered for sale in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 224.013 to 224.020 reserved for expansion]

**SUBCHAPTER C. BIRDS**

**§ 224.021. Quail Season**

(a) No person may hunt wild quail in Jim Hogg County except during the open season beginning on November 15 of one year and extending through January 31 of the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each quail taken or killed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1825, ch. 733, § 1, eff. Aug. 29, 1977.]

**CHAPTER 225. JIM WELLS COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
225.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

225.011. Fish Sale.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 225.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Jim Wells County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 225.002 to 225.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 225.011. Fish Sale**

(a) No person may take for sale any fish, except bait fish, from Lake Corpus Christi formerly known as Lake Lovenskiold in Jim Wells County.

(b) No person may take for sale any fish from the water of the Nueces River in Jim Wells County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 216, ch. 105, § 19, eff. Sept. 1, 1977; Acts 1977, 65th Leg., p. 1401, ch. 565, § 1, eff. Aug. 29, 1977.]

**CHAPTER 226. JOHNSON COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section 226.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

226.011. Fish Sale.  
226.012. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 226.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Johnson County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 226.002 to 226.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 226.011. Fish Sale**

(a) No person may sell, offer for sale, or possess for sale any fish caught or taken from the Brazos River, Lake Whitney, or their tributaries in Johnson County except as authorized by the department.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each fish possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 226.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 227. JONES COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section 227.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

227.011. Fish Sale.  
227.012. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 227.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Jones County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 227.002 to 227.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 227.011. Fish Sale**

(a) No person may catch fish, except bait fish, in the public water of Jones County for commercial purposes.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$250. Each day a person violates this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 216, ch. 105, § 20, eff. Sept. 1, 1977.]

**§ 227.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 228. KARNES COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section 228.001. Regulatory Act: Applicability.

**SUBCHAPTER B. GAME ANIMALS**

228.011. Sale of Collared Peccary (Javelina).

**SUBCHAPTER C. FISH**

228.021. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 228.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Karnes County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 228.002 to 228.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 228.011. Sale of Collared Peccary (Javelina)

(a) No person may take, kill, or possess for the purpose of sale or sell or offer for sale any collared peccary (javelina) or any part of a collared peccary (javelina) in Karnes County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each collared peccary (javelina) or part of a collared peccary (javelina) taken, possessed, or offered for sale or sold in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 228.012 to 228.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 228.021. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow sale and transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 229. KAUFMAN COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 229.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

229.011. Fish Sale.  
229.012. Sale of Certain Fish.

SUBCHAPTER C. ANIMALS

229.021. Sale of Certain Live Animals.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 229.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Kaufman County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 229.002 to 229.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 229.011. Fish Sale

(a) No person may take or possess for sale, sell, or offer for sale any bass, trout, crappie, white perch, bream or other perch or channel catfish measuring less than 12 inches in length, taken from the fresh water of Kaufman County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 229.012. Sale of Certain Fish

(a) No person may sell or offer to sell any fish, except bait fish, taken from Lake Tawakoni in Kaufman County or from Joe B. Hogsett Reservoir (Cedar Creek Reservoir) in Kaufman County.

(b) This section does not prohibit the selling of rough fish taken by seine or net under contract with the department as provided in this code.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 216, ch. 105, § 21, eff. Sept. 1, 1977.]

SUBCHAPTER C. ANIMALS

§ 229.021. Sale of Certain Live Animals

(a) No person may sell or possess for the purpose of sale in Kaufman County a living armadillo, squirrel, skunk, bobcat, porcupine, raccoon, wolf, coyote, bear, fox, or opossum.

(b) This section does not apply to:

- (1) the sale of an animal by or to a zoo; or
- (2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code.<sup>1</sup>

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) A person who violates Subsection (a) of this section is guilty of a Class B misdemeanor.

(e) A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(f) A person who violates Subsection (a) of this section, in addition to the penalties under Subsection (d) of this section, on conviction shall pay all costs and expenses incurred under Subsection (e) of this section.

[Added by Acts 1979, 66th Leg., p. 261, ch. 136, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> Section 43.021 et seq.

Acts 1981, 67th Leg., p. 2742, ch. 749, which amended various provisions relating to the taking, possession, propagation, transportation, purchase, and sale of fur-bearing animals, in § 8 thereof, provides:

"The following sections of the Parks and Wildlife Code, as amended, are not affected by this Act: Sections 81.404, 229.021, 334.041, and 350.021."

## CHAPTER 230. KENDALL COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
230.001. Regulatory Act: Applicability.

### SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

230.011. Definitions.  
230.012. Open Archery Season.  
230.013. Prohibited Archery Equipment.  
230.014. Deer Permits.  
230.015. Limit and Possession of Deer.  
230.016. Penalty.  
230.017. Possession of Firearms.  
230.018. Axis Deer Hunting.

### SUBCHAPTER C. BIRDS

230.021. Turkey Gobblers.

### SUBCHAPTER D. FISH

230.031. Setlines.  
230.032. Balcones Creek.  
230.033. Penalty.  
230.034. Fish Sale.

### SUBCHAPTER E. SPECIAL REGULATORY PROVISIONS

230.041. Regulatory Authority.  
230.042. Definitions.  
230.043. Investigations.  
230.044. Open Seasons.  
230.045. Consent of Landowner.  
230.046. Regulations.  
230.047. Amendments and Revocation.  
230.048. Regulations for Antlerless Deer.  
230.049. Antlerless Deer Permits.  
230.050. Adoption of Regulations.  
230.051. Approval of Commissioners Court.  
230.052. Effective Date and Duration of Regulations.  
230.053. Copies of Regulations.  
230.054. Penalty.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 230.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Kendall County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 230.002 to 230.010 reserved for expansion]

### SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

#### § 230.011. Definitions

As used in this subchapter:

(1) "Buck deer" means a deer that has a hardened antler protruding through the skin.

(2) "Antlerless deer" is any deer other than a buck deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 230.012. Open Archery Season

(a) The open archery season in Kendall County begins on October 1 and extends through October 31 each year.

(b) During the open archery season, a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers, or bearded hens and collared peccary (javelina) by means of bows and arrows. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

#### § 230.013. Prohibited Archery Equipment

No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Kendall County by means of:

(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

(3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or

(4) poisoned, drugged, or explosive arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

#### § 230.014. Deer Permits

(a) At least 15 days prior to the opening date of the open archery season, a landowner or lessee in Kendall County who desires to permit the hunting of deer on his land with bows and arrows during the open archery season may apply to the department for antlerless deer permits.

(b) The department shall issue to each applicant the number of antlerless deer permits consistent with sound wildlife management practices and consistent with any law authorizing the department to regulate the taking of antlerless deer.

(c) Landowners or lessees receiving antlerless deer permits shall return the fully completed stubs from used permits and all unused permits and stubs to the issuing officer not later than January 10 of the year following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 230.015. **Limit and Possession of Deer**

(a) No person may take or kill more than one antlerless deer with a bow and arrow during the open archery season in Kendall County.

(b) No person may possess an antlerless deer in Kendall County unless he has in his possession an antlerless deer permit on which appears the date of the kill, the hunter's name, and the signature of the owner or agent on whose tract the deer was killed.

(c) No person may possess the carcass of any deer in Kendall County that does not have attached to it a tag issued to him on his valid hunting license unless the carcass has been finally processed.

(d) In Kendall County no person may attach the bonus deer tag from a valid hunting license to a deer other than an antlerless deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 230.016. **Penalty**

A person who violates Sections 230.012 through Section 230.015 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 230.017. **Possession of Firearms**

(a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Kendall County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

§ 230.018. **Axis Deer Hunting**

(a) No person may hunt axis deer by any means in Kendall County outside of property enclosed by a deer-proof fence.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. Each axis deer taken or killed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 230.019 to 230.020 reserved for expansion]

SUBCHAPTER C. BIRDS

§ 230.021. **Turkey Gobblers**

(a) No person may take or attempt to take more than two turkey gobblers during the open season in Kendall County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each turkey gobbler taken in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 230.022 to 230.030 reserved for expansion]

SUBCHAPTER D. FISH

§ 230.031. **Setlines**

No person may catch fish in Kendall County with a trotline or setline having more than 25 hooks or having hooks spaced less than four feet apart. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 230.032. **Balcones Creek**

No person may catch fish in Kendall County from February 1 to May 1 in that portion of Balcones Creek which forms the boundary between Bexar and Kendall counties.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 230.033. **Penalty**

A person who violates Section 230.031 or 230.032 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 230.034. **Fish Sale**

(a) No person may take, offer, or possess for sale any catfish, perch, crappie, bream, or bass in Kendall County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 230.035 to 230.040 reserved for expansion]

SUBCHAPTER E. SPECIAL REGULATORY PROVISIONS

*This subchapter expires on December 31, 1983. See § 230.041(d).*

§ 230.041. **Regulatory Authority**

(a) The Parks and Wildlife Commission has regulatory authority over the wildlife resources in Kendall County as provided in this subchapter.

(b) All general laws relating to Kendall County and the provisions of this chapter remain applicable until superseded or suspended by regulation of the commission issued under this subchapter.

(c) On the expiration of any regulation issued by the commission under this subchapter, or on the expiration of this subchapter, the general law or provision of this subchapter superseded or suspended by a regulation shall apply.

(d) This subchapter expires on December 31, 1983. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1791, ch. 719, § 1, eff. Aug. 29, 1977.]

#### § 230.042. Definitions

In this subchapter:

(1) "Depletion" means the reduction of a species below immediate recuperative potentials by any deleterious cause or causes.

(2) "Waste" means supply of a species or sex of a species sufficient that a seasonal harvest of the species will not prevent or, in the case of overpopulation, that will aid in the reestablishment of normal numbers of the species.

(3) "Wildlife resources" means all game birds, game animals, collared peccary (javelina), and all freshwater fish.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2741, ch. 748, § 6, eff. Sept. 1, 1981.]

#### § 230.043. Investigations

The commission shall conduct investigations on the wildlife resources in Kendall County as provided in Section 61.051 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 230.044. Open Seasons

The commission shall provide open seasons for the hunting and catching of wildlife resources in Kendall County if the investigations and findings of fact reveal that it is safe to provide an open season.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 230.045. Consent of Landowner

No person may hunt or catch wildlife resources in Kendall County by any means during an open season established by the commission unless the owner of the land or water, or his agent, has given his consent.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 230.046. Regulations

(a) The regulation of the taking of wildlife resources in Kendall County under this subchapter shall be by regulation issued by the commission.

(b) A regulation of the commission authorizing the hunting or catching of wildlife resources in Kendall County must specifically provide for:

(1) the species, quantity, age or size, and sex of the wildlife resource authorized to be taken;

(2) the means or method that may be used to take the wildlife resource; and

(3) the area or portion of the county where the wildlife resource may be taken.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 230.047. Amendments and Revocation

(a) If the commission finds that there is a danger of depletion or waste of wildlife resources in Kendall County, it shall amend or revoke its regulations to prevent the depletion or waste and to provide the people the most equitable and reasonable privilege to hunt wildlife resources in Kendall County.

(b) The commission may amend or revoke its regulations in accordance with this subchapter at any time it finds the facts warrant a change.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 230.048. Regulations for Antlerless Deer

A regulation of the commission authorizing the taking of antlerless deer is not effective for a tract of land unless the owner or other person in charge of the land agrees in writing to the regulation and to the number of antlerless deer authorized to be taken.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 230.049. Antlerless Deer Permits

(a) No person may hunt antlerless deer in Kendall County without first having obtained an antlerless deer permit issued by the commission on a form provided by the commission under rules established by the commission.

(b) No person may sell any permit received from the commission for the hunting and taking of antlerless deer if:

(1) payment for the permit is contingent on the purchaser killing and taking the antlerless deer; or

(2) retention of the purchase price by the seller is contingent on the purchaser killing and taking the antlerless deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 230.050. Adoption of Regulations**

Regulations governing the hunting or catching of wildlife resources in Kendall County shall be adopted by the commission after notice and hearing as provided in Sections 61.101, 61.102, and 61.103 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 230.051. Approval of Commissioners Court**

(a) The Commissioners Court of Kendall County shall approve or disapprove of a regulation of the commission, in whole or in part, at the first regular meeting occurring more than five days after notification of the adoption by the commission.

(b) If the commissioners court disapproves a regulation, the taking of the wildlife resource in Kendall County is governed by the appropriate general law or provision of this chapter.

(c) After disapproval of a regulation, no public hearing on a similar proposed regulation may be held within six months of the disapproval unless the commissioners court certifies to the commission that there has occurred a material change in the surrounding circumstances which requires a public hearing before the end of the six-month period.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 230.052. Effective Date and Duration of Regulations**

(a) Except as provided in Subsection (b) of this section, a regulation takes effect within 15 days after the day the regulation was approved by the commissioners court.

(b) If the commission finds that there is an immediate danger of depletion in any area of Kendall County as to a species because of an act of God, it may declare a state of emergency, and a regulation issued under the state of emergency takes effect on approval of the commissioners court.

(c) A regulation of the commission continues in effect until it expires of its own terms or until it is amended or repealed.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 230.053. Copies of Regulations**

On approval of a regulation by the Commissioners Court of Kendall County, the commission shall file, copy, and circulate the regulation as provided in Section 61.105 of this code.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 230.054. Penalty**

A person who violates a provision of this subchapter or a regulation issued under this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than

\$200. Each wildlife resource taken in violation of this subchapter or a regulation issued under this subchapter constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 231. KENEDY COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
231.001. Regulatory Act: Applicability.

**SUBCHAPTER B. ANIMALS**

231.011. Precinct No. 1: Deer and Javelina.

**SUBCHAPTER C. BIRDS**

231.021. Precinct No. 1: Turkey.  
231.022. Quail.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 231.001. Regulatory Act: Applicability**

(a) The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the coastal water of Kenedy County with respect to fish, aquatic life, and marine animals except shrimp and oysters.

(b) Except as provided in Subsection (a) of this section, the Uniform Wildlife Act (Chapter 61 of this code) does not apply to wildlife resources in Kenedy County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 231.002 to 231.010 reserved for expansion]

**SUBCHAPTER B. ANIMALS**

**§ 231.011. Precinct No. 1: Deer and Javelina**

(a) No person may hunt deer or javelina (collared peccary) in justice precinct No. 1 in Kenedy County except during the open season beginning on November 15 and extending through December 1.

(b) No person may take more than one buck deer or more than one javelina (collared peccary) in precinct No. 1 in Kenedy County during a year.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 231.012 to 231.020 reserved for expansion]

## SUBCHAPTER C. BIRDS

## § 231.021. Precinct No. 1: Turkey

(a) No person may hunt wild turkey gobbler in justice precinct No. 1 in Kenedy County except during the open season beginning on November 15 and extending through December 1.

(b) No person may take more than one wild turkey gobbler in precinct No. 1 in Kenedy County during a year.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 231.022. Quail

(a) No person may hunt wild quail in Kenedy County except during the open season beginning on December 1 of one year and extending through January 31 of the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each quail taken in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 232. KENT COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
232.001. Regulatory Act: Applicability.

## SUBCHAPTER B. BIRDS

232.011. Quail.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 232.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Kent County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 291, ch. 116, § 1, eff. Aug. 31, 1981.]

[Sections 232.002 to 232.010 reserved for expansion]

## SUBCHAPTER B. BIRDS

## § 232.011. Quail

(a) No person may hunt quail in Kent County except during the open season beginning on December 1 of one year and extending through January 31 of the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each quail taken in violation of this section constitutes a separate offense.

[Added by Acts 1981, 67th Leg., p. 291, ch. 116, § 1, eff. Aug. 31, 1981.]

## CHAPTER 233. KERR COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
233.001. Regulatory Act: Applicability.

## SUBCHAPTER B. GAME ANIMALS

233.011. Collared Peccary (Javelina) Sale.

## SUBCHAPTER C. FISH

233.021. Injuring Fish.  
233.022. Leaving Fish to Die.

## SUBCHAPTER D. NONGAME ANIMALS

233.031. Exotic Animals Defined.  
233.032. Hunting Exotic Game on Road.  
233.033. Hunting Exotic Animals Without Consent of Landowner.  
233.034. Possession of Carcass of Exotic Animal.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 233.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Kerr County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 233.002 to 233.010 reserved for expansion]

## SUBCHAPTER B. GAME ANIMALS

## § 233.011. Collared Peccary (Javelina) Sale

(a) No person may take or possess for barter or sale, sell, or offer for sale any collared peccary (javelina), or any part of one, in Kerr County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each collared peccary (javelina), or part of one, taken, possessed, sold, or offered for sale in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 233.012 to 233.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 233.021. Injuring Fish

(a) No person may destroy fish in any freshwater stream in Kerr County by the use of dynamite, powder, or other explosives.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and may be confined in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 233.022. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Kerr County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

SUBCHAPTER D. NONGAME ANIMALS

§ 233.031. Exotic Animals Defined

In this chapter, "exotic animal" means axis deer, fallow deer, blackbuck antelope, sika deer, aoudad sheep, mouflon sheep, barbado sheep, European red deer, Corsican sheep, four-horned sheep, sambar deer, eland antelope, sable antelope, white-tailed gnu, impala, greater kudu, blesbok, gazelle, oryx, guanaco, llama, thar, nilgai antelope, or ibex.

[Added by Acts 1979, 66th Leg., p. 2121, ch. 821, § 1, eff. June 13, 1979.]

§ 233.032. Hunting Exotic Game on Road

(a) No person on a public road or on the right-of-way of a public road in Kerr County may hunt an exotic animal.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,500 or confinement in jail for not more than six months or both.

[Added by Acts 1979, 66th Leg., p. 2121, ch. 821, § 1, eff. June 13, 1979. Amended by Acts 1981, 67th Leg., p. 2075, ch. 466, § 1, eff. Aug. 31, 1981.]

Section 2 of the 1981 amendatory act provides:

"The penalties provided by this Act apply only to offenses that occur or are committed on or after the effective date of this Act. The penalties provided by Sections 233.032, 233.033, and 233.034, Parks and Wildlife Code, as amended before the effective date of this Act, are continued in effect for the prosecution of persons who committed the offenses defined by those sections before the effective date of this Act."

§ 233.033. Hunting Exotic Animals Without Consent of Landowner

(a) No person may hunt on the land of another in Kerr County for an exotic animal without the express consent of the owner of the land to hunt for exotic animals.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,500 or confinement in jail for not more than six months or both.

[Added by Acts 1979, 66th Leg., p. 2121, ch. 821, § 1, eff. June 13, 1979. Amended by Acts 1981, 67th Leg., p. 2075, ch. 466, § 1, eff. Aug. 31, 1981.]

Date of commission of offense relative to effective date of 1981 amendment of this section, penalty provision applicable, see note under § 233.032.

§ 233.034. Possession of Carcass of Exotic Animal

(a) Except as provided in Subsections (b) and (c) of this section, no person may possess the carcass of an exotic animal in Kerr County.

(b) Subsection (a) of this section does not apply to the owner or employee of the owner of the exotic animal, a public health officer, a law enforcement officer, or a veterinarian.

(c) It is an affirmative defense to a prosecution under Subsection (a) of this section that the person possessed the carcass of the exotic animal with the knowledge and consent of the owner.

(d) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,500 or confinement in jail for not more than six months or both.

[Added by Acts 1979, 66th Leg., p. 2121, ch. 821, § 1, eff. June 13, 1979. Amended by Acts 1981, 67th Leg., p. 2075, ch. 466, § 1, eff. Aug. 31, 1981.]

Date of commission of offense relative to effective date of 1981 amendment of this section, penalty provision applicable, see note under § 233.032.

CHAPTER 234. KIMBLE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 234.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS

234.011. Doe Archery Season.

SUBCHAPTER C. FISH

234.021. Fish Sale.

234.022. Repealed.

234.023. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 234.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Kimble County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 234.002 to 234.010 reserved for expansion]

## SUBCHAPTER B. GAME ANIMALS

## § 234.011. Doe Archery Season

In Kimble County, does may be taken by longbow and arrow during the open season for buck deer. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 234.012 to 234.020 reserved for expansion]

## SUBCHAPTER C. FISH

## § 234.021. Fish Sale

(a) No person may offer, take, or possess for sale any catfish, perch, crappie, bream, or bass taken from the water of Kimble County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 234.022. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, sale, and possession, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## § 234.023. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Kimble County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 235. KING COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
235.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

235.011. Repealed.

## SUBCHAPTER C. BIRDS

235.021. Quail Season.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 235.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in King County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 235.002 to 235.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 235.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## SUBCHAPTER C. BIRDS

## § 235.021. Quail Season

(a) No person may hunt quail in King County except during the open season.

(b) The open season for quail in King County begins on December 1 of one year and extends through January 31 of the following year.

(c) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1977, 65th Leg., p. 34, ch. 17, § 2, eff. Aug. 29, 1977.]

## CHAPTER 236. KINNEY COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
236.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

236.011. Fish Sale.

236.012. Leaving Fish to Die.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 236.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Kinney County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 236.002 to 236.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 236.011. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, or catfish caught in the streams of Kinney County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 236.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Kinney County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 237. KLEBERG COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

237.001. Regulatory Act: Applicability.

SUBCHAPTER B. ANIMALS [REPEALED]

237.011. Repealed.

SUBCHAPTER C. BIRDS

237.021. Repealed.

237.022. Audubon Society Land.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 237.001. Regulatory Act: Applicability

Except as provided by this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources, except shrimp and oysters, in Kleberg County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1052, ch. 482, § 1, eff. June 7, 1979.]

[Sections 237.002 to 237.010 reserved for expansion]

SUBCHAPTER B. ANIMALS [REPEALED]

§ 237.011. Repealed by Acts 1979, 66th Leg., p. 1052, ch. 482, § 2

This section is repealed effective as provided by § 61.004.

The repealed section was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. The section read:

§ 237.011. Javelina

"(a) This section applies to the following land in Kleberg County:

"All lands within the Kleberg Town and Improvement Company's Subdivision (except those lands lying within the confines of the city of Kingsville, the town of Ricardo, and the United States Naval Auxiliary Air Station);

"All lands lying within King Addition, except farm lots one, three, and the West one-half and the Northeast one-fourth of lot five; and

"All lands lying within King Addition No. 3, King Addition No. 4, and King Addition No. 2.

"(b) There is no closed season during which javelina may not be hunted in the area described in Subsection (a) of this section.

"(c) No person may take or possess for sale, sell, barter, or offer for sale in the area described in Subsection (a) of this section a javelina or a part of a javelina.

"(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each javelina taken, possessed, sold, or offered for sale in violation of this section constitutes a separate offense."

SUBCHAPTER C. BIRDS

§ 237.021. Repealed by Acts 1979, 66th Leg., p. 1052, ch. 482, § 2

This section is repealed effective as provided by § 61.004.

The repealed section was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. The section read:

§ 237.021. Quail

"(a) No person may hunt wild quail in Kleberg County except during the open season beginning on December 1 of one year and extending through January 31 of the following year.

"(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less \$10 nor more than \$200. Each quail taken in violation of this section constitutes a separate offense."

§ 237.022. Audubon Society Land

(a) This section applies to North Bird Island and South Bird Island and the flats, reefs, and shallow water near those islands in Kleberg County during the period that the National Association of the Audubon Societies is the lessee of those islands.

(b) No person, other than an agent, representative, or employee of the National Association of Audubon Societies or an officer of this state or the United States, may enter on the land without the knowledge or consent of the association for the purpose of hunting a bird or for the purpose of taking or destroying a bird egg or nest.

(c) No person may hunt or molest a bird on the described land whether the person is on or off the described land.

(d) No person may discharge a firearm or explosive on or above the described land.

(e) No person may land, tie, or anchor a fishing boat in the described land.

(f) This section does not prohibit an agent, representative, or employee of the association from:

(1) hunting birds known to be a prey on other birds or eggs; or

(2) taking birds and eggs for propagation, conservation, or scientific purposes.

(g) This section does not prohibit a person from taking refuge on the described land because of storms.

(h) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500 or by confinement in jail for not less than 10 days nor more than 6 months, or by both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

Acts 1979, 66th Leg., p. 1052, ch. 482, §§ 1, 2, amended § 237.001 and repealed subchapter B of this chapter and § 237.021. Section 3 of said Act provided:

"Section 237.022, Parks and Wildlife Code, is not repealed as provided by Section 61.004, Parks and Wildlife Code."

## CHAPTER 238. KNOX COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
238.001. Regulatory Act: Applicability.

### SUBCHAPTER B. BIRDS

238.011. Quail.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 238.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Knox County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 238.002 to 238.010 reserved for expansion]

### SUBCHAPTER B. BIRDS

#### § 238.011. Quail

(a) No person may hunt quail in Knox County except during the open season beginning on December 1 of one year and extending through January 31 of the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each quail taken in violation of this section constitutes a separate offense.

[Added by Acts 1981, 67th Leg., p. 292, ch. 116, § 2, eff. Aug. 31, 1981.]

Acts 1981, 62nd Leg., p. 292, ch. 116, § 2, also changed the subchapter heading of this subchapter from "Fish" to "Birds".

Former § 238.011 was repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977.

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 239. LAMAR COUNTY

#### § 239.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Lamar County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 240. LAMB COUNTY

#### § 240.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Lamb County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 241. LAMPASAS COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
241.001. Regulatory Act: Applicability.

### SUBCHAPTER B. FISH

241.011. Fish Sale.  
241.012. Leaving Fish to Die.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 241.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Lampasas County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 241.002 to 241.010 reserved for expansion]

### SUBCHAPTER B. FISH

#### § 241.011. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, or catfish caught in the streams of Lampasas County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 241.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Lampasas County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention of eating the fish or using it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 242. LA SALLE COUNTY

SUBCHAPTER A. APPLICABILITY TO UNIFORM WILDLIFE REGULATORY ACT

- Section  
 242.001. Regulatory Act: Applicability.  
 242.002. Certain Methods of Taking Game Prohibited.

SUBCHAPTER B. GAME ANIMALS [REPEALED]

242.011, 242.012. Repealed.

SUBCHAPTER C. BIRDS [REPEALED]

242.021 to 242.023. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 242.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in La Salle County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1184, ch. 575, § 1, eff. Aug. 27, 1979.]

§ 242.002. Certain Methods of Taking Game Prohibited

Section 62.005 of this code applies in La Salle County and the provisions of that section prevail over provisions of the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Added by Acts 1979, 66th Leg., p. 1184, ch. 575, § 2, eff. Aug. 27, 1979.]

[Sections 242.003 to 242.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS [REPEALED]

§ 242.011, 242.012. Repealed by Acts 1979, 66th Leg., p. 1184, ch. 575, § 3

These sections were repealed effective as provided by § 61.004.

The repealed sections were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, as amended by Acts 1977, 65th Leg., p. 567, ch. 201, §§ 1 and 2, respectively. The sections read:

“§ 242.011. Deer Season

“(a) No person may hunt buck deer in La Salle County except during the open season beginning on the Saturday nearest November 15 of one year and extending through the first Sunday in January of the following year, unless the first Sunday in January is later than January 4, in which case the season extends through January 1.

“(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each deer killed, taken, or possessed in violation of this section constitutes a separate offense.

“§ 242.012. Collared Peccary (Javelina)

“(a) No person may hunt collared peccary (javelina) in La Salle County except during the open season beginning on November 1 and extending through the first Sunday in January of the following year, unless the first Sunday in January is later than January 4, in which case the season extends through January 1.

“(b) No person may take or possess collared peccary (javelina) or any part of a collared peccary (javelina) for barter or sale or barter or sell collared peccary (javelina) in La Salle County.

“(c) No person may take more than two collared peccary (javelina) in one open season.

“(d) This section does not apply to collared peccary (javelina) or their hides imported from another state or country.

“(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each collared peccary (javelina) taken, possessed, sold, offered for sale, or possessed for sale in violation of this section is a separate offense.”

SUBCHAPTER C. BIRDS [REPEALED]

§§ 242.021 to 242.023. Repealed by Acts 1979, 66th Leg., p. 1184, ch. 575, § 3

These sections were repealed effective as provided by § 61.004.

Sections 242.021 and 242.022 were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, as amended by Acts 1977, 65th Leg., p. 567, ch. 201, §§ 3 and 4, respectively. Section 242.023 was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. The sections read:

“§ 242.021. Turkey

“(a) No person may hunt turkey in La Salle County except during the open season beginning on November 1 and extending through the first Sunday in January of the following year, unless the first Sunday in January is later than January 4, in which case the season extends through January 1.

“(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each turkey killed, taken, or possessed in violation of this section constitutes a separate offense.

“§ 242.022. Quail

“(a) No person may hunt quail in La Salle County except during the open season beginning on November 1 and extending through the first Sunday in January of the following year, unless the first Sunday in January is later than January 4, in which case the season extends through January 1.

“(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each quail taken, killed, or possessed in violation of this section constitutes a separate offense.

“§ 242.023. Pheasant

“Wild pheasant of all varieties may be hunted at any time in La Salle County.”

CHAPTER 243. LAVACA COUNTY

§ 243.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Lavaca County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 244. LEE COUNTY

§ 244.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Lee County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 245. LEON COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

- Section  
 245.001. Regulatory Act: Applicability.  
 245.002. Lake Limestone.

SUBCHAPTER B. GAME ANIMALS

- 245.011. Deer.  
 245.012. Squirrel.

SUBCHAPTER C. BIRDS

- 245.021. Quail.  
 245.022. Turkey.

SUBCHAPTER D. FISH

- 245.031. Fish Limit.

SUBCHAPTER E. FUR-BEARING ANIMALS

- 245.041. Calling Devices.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 245.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Leon County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 391, ch. 182, § 1, eff. May 15, 1979.]

§ 245.002. **Lake Limestone**

The Uniform Wildlife Regulatory Act applies to the wildlife resources in all of the water area of Lake Limestone located in Leon County.

[Added by Acts 1979, 66th Leg., p. 391, ch. 182, § 2, eff. May 15, 1979.]

[Sections 245.003 to 245.010 reserved  
for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 245.011. **Deer**

(a) No person may hunt deer in Leon County except during the open season beginning on the Saturday nearest to November 15 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 245.012. **Squirrel**

(a) No person may hunt or possess squirrel in Leon County except during the open seasons beginning on May 16th and extending through July 31, and beginning on October 1 and extending through December 31.

(b) No person may take, kill, or possess more than 5 squirrels in one day or more than 15 squirrels in one calendar week during the open seasons in Leon County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 245.013 to 245.020 reserved  
for expansion]

SUBCHAPTER C. BIRDS

§ 245.021. **Quail**

(a) No person may hunt wild quail in Leon County except during the open season beginning on December 15 of one year and extending through the last day of February the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each quail taken or killed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 245.022. **Turkey**

(a) No person may hunt turkey in Leon County at any time.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 245.023 to 245.030 reserved  
for expansion]

SUBCHAPTER D. FISH

§ 245.031. **Fish Limit**

There is no daily catch or retention limit on crap-pie or white perch in Leon County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 245.032 to 245.040 reserved  
for expansion]

SUBCHAPTER E. FUR-BEARING ANIMALS

§ 245.041. **Calling Devices**

(a) No person may use any horn, recording, or other device to call or attract wild fox in Leon County unless he has obtained a permit from the department for the use of the device for scientific research or making wildlife movies.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 246. LIBERTY COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
246.001. Regulatory Act: Applicability.

SUBCHAPTER B. PROVISIONS GENERALLY  
APPLICABLE TO HUNTING

246.011. Hunting With Certain Weapons.  
246.012. Discharge of Firearms.  
246.013. Penalty.

SUBCHAPTER C. GAME ANIMALS

Section

246.021. Squirrel Transport.

SUBCHAPTER D. FUR-BEARING ANIMALS

246.031. Calling Devices.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 246.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Liberty County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 246.002 to 246.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 246.011. Hunting With Certain Weapons

(a) No person may hunt with a shotgun using a shell containing larger than Number Four squirrel shot or with a rifle larger than a rimfire 22-caliber rifle in an area of Liberty County where deer roam unless it is the open season for taking deer in Liberty County.

(b) Possession of a shotgun and shell containing larger than Number Four squirrel shot or a rifle larger than a rimfire 22-caliber rifle in, through, or at woods where deer roam in Liberty County is prima facie evidence of a violation of this section.

(c) This section does not apply to peace officers or representatives of the commission in the lawful discharge of their official duties.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 246.012. Discharge of Firearms

(a) Except as provided in Subsection (b) of this section, no person may shoot a pistol or rifle in, on, along, and across the water of the Trinity River or Wallisville Reservoir in Liberty County.

(b) This section does not apply to peace officers or representatives of the department in the lawful discharge of their duties or to a person hunting migratory waterfowl during an open season in and on the Trinity River and Wallisville Reservoir.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 246.013. Penalty

A person who violates a provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 246.014 to 246.020 reserved for expansion]

SUBCHAPTER C. GAME ANIMALS

§ 246.021. Squirrel Transport

(a) No person may ship or cause to be shipped, receive for the purpose of transportation, transport, or carry beyond the limits of Liberty County wild squirrels.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 246.022 to 246.030 reserved for expansion]

SUBCHAPTER D. FUR-BEARING ANIMALS

Repeal

Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this Subchapter is repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this Subchapter.

§ 246.031. Calling Devices

(a) No person may use any horn, recording, or other device to call or attract wild fox in Liberty County unless he has first obtained a permit from the department to use the devices for making wildlife movies or scientific research.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 247. LIMESTONE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

247.001. Regulatory Act: Applicability.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

247.011. Calling Devices.

SUBCHAPTER C. GAME ANIMALS

247.021. Squirrel.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 247.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Limestone County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 247.002 to 247.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 247.011. Calling Devices

(a) No person may use any type of squealer, call, or other device or instrument used to call or attract animals to aid in the hunting of any wild animal on state-owned land in Limestone County.

(b) The Commissioners Court of Limestone County may extend the prohibition set out in Subsection (a) of this section to any privately owned land in Limestone County or to all or part of Limestone County. The commissioners court must notify the commission of their intent to broaden the prohibition. On receipt of a return from the commission, the commissioners court shall specify the land to which the prohibition is to be applied on forms prescribed by the commission. The forms shall be returned to the commission and be properly attested to as the official act of the Commissioners Court of Limestone County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 247.012 to 247.020 reserved for expansion]

SUBCHAPTER C. GAME ANIMALS

§ 247.021. Squirrel

(a) No person may hunt squirrel in Limestone County except during the open seasons beginning on May 1 and extending through July 31 and beginning on October 1 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 248. LIPSCOMB COUNTY

§ 248.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Lipscomb County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 249. LIVE OAK COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
249.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

249.011. Fish Sale.  
249.012. Fishing Methods.

Section  
249.013. Trotlines.  
249.014. Nets and Seines.  
249.015. Penalties.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 249.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Live Oak County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 249.002 to 249.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 249.011. Fish Sale

No person may barter or sell, offer to barter or sell, or buy any fish, except bait fish, taken from the public fresh water of Live Oak County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 216, ch. 105, § 22, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2082, ch. 813, § 1, eff. Aug. 27, 1979.]

§ 249.012. Fishing Methods

Except as provided by Section 249.014 of this code, no person may catch fish from the public fresh water of Live Oak County by any means other than ordinary hook and line, rod and reel, jugline, throw-line, trotline, or artificial bait.

[Added by Acts 1979, 66th Leg., p. 2082, ch. 813, § 2, eff. Aug. 27, 1979.]

§ 249.013. Trotlines

No trotline used in the public fresh water of Live Oak County may be metallic or have more than 50 hooks or have hooks placed less than three feet apart. No person may set out more than two trotlines. Each trotline shall bear a tag, of a material as durable as the trotline, which states legibly the name and address of the fisherman and the date when the trotline was set out. No trotline may be set out for more than 90 days unless the identifying tag is redated at the end of each 90-day period.

[Added by Acts 1979, 66th Leg., p. 2082, ch. 813, § 2, eff. Aug. 27, 1979.]

§ 249.014. Nets and Seines

(a) Minnow seines not more than 20 feet in length, cast nets, dip nets, and umbrella nets of meshes of any size may be used to catch bream, minnows, gar, shad, and suckers.

(b) A common funnel fruit jar type trap, or its metallic counterpart, may be used to catch minnows for bait if the trap is no longer than 24 inches and has a throat no larger than one inch in diameter. [Added by Acts 1979, 66th Leg., p. 2082, ch. 813, § 2, eff. Aug. 27, 1979.]

§ 249.015. Penalties

A person who violates this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each fish taken or possessed in violation of Section 249.011 or 249.012 and each device used in violation of Section 249.013 or 249.014 constitutes a separate offense.

[Added by Acts 1979, 66th Leg., p. 2082, ch. 813, § 2, eff. Aug. 27, 1979.]

CHAPTER 250. LLANO COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
250.001. Regulatory Act: Applicability.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

250.011. Definitions.  
250.012. Open Archery Season.  
250.013. Prohibited Archery Equipment.  
250.014. Deer Permits.  
250.015. Limit and Possession of Deer.  
250.016. Penalty.  
250.017. Possession of Firearms.

SUBCHAPTER C. FISH

250.021. Fish Sale.  
250.022. Injuring Fish.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 250.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Llano County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 250.002 to 250.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 250.011. Definitions

In this subchapter:

- (1) "Buck deer" means a deer that has a hardened antler protruding through the skin.
- (2) "Antlerless deer" is any deer other than a buck deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 250.012. Open Archery Season

(a) The open archery season in Llano County begins on October 1 and extends through October 31 each year.

(b) During the open archery season a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

§ 250.013. Prohibited Archery Equipment

No person may hunt wild buck deer, wild bear, wild antlerless deer, wild turkey gobblers or bearded hens, and collared peccary (javelina) in Llano County by means of:

- (1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;
- (2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;
- (3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or
- (4) poisoned, drugged, or explosive arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

§ 250.014. Deer Permits

(a) At least 15 days prior to the opening date of the open archery season, a landowner or lessee in Llano County who desires to permit the hunting of deer on his land with bows and arrows during the open archery season may apply to the department for antlerless deer permits.

(b) The department shall issue to each applicant the number of antlerless deer permits consistent with sound wildlife management practices and consistent with any law authorizing the department to regulate the taking of antlerless deer.

(c) Landowners or lessees receiving antlerless deer permits shall return the fully completed stubs from the used permits and all unused permits and stubs to the issuing officer not later than January 10 of the year following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 250.015. Limit and Possession of Deer

(a) No person may take or kill more than one antlerless deer with bow and arrow during the open archery season in Llano County.

(b) No person may possess an antlerless deer in Llano County unless he has in his possession an antlerless deer permit on which appears the date of the kill, the hunter's name, and the signature of the owner or agent on whose tract the deer was killed.

(c) No person may possess the carcass of any deer in Llano County if it does not have attached to it a tag issued to him on his valid hunting license unless the carcass has been finally processed.

(d) In Llano County no person may attach the bonus deer tag from a valid hunting license to a deer other than an antlerless deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 250.016. Penalty

A person who violates Section 250.012 through Section 250.015 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 250.017. Possession of Firearms

(a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp in Llano County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

[Sections 250.018 to 250.020 reserved for expansion]

#### SUBCHAPTER C. FISH

##### § 250.021. Fish Sale

(a) No person may take, offer, or possess for sale any catfish, perch, crappie, bream, or bass from the water of Llano County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

##### § 250.022. Injuring Fish

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Llano County any catfish, perch, crappie, white perch, bass, trout, or other edible fish, and leave the fish to die without any intention of eating the fish or using it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### CHAPTER 251. LOVING COUNTY

##### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
251.001. Regulatory Act: Applicability.

##### SUBCHAPTER B. FISH

251.011. Fish Sale.  
251.012. Fishing Methods.  
251.013. Leaving Fish to Die.

##### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

##### § 251.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Loving County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 251.002 to 251.010 reserved for expansion]

##### SUBCHAPTER B. FISH

##### § 251.011. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, or catfish caught in the streams of Loving County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

##### § 251.012. Fishing Methods

(a) Except as provided in Subsection (b) of this section, no person may take or catch any fish in the freshwater rivers, creeks, lakes, bayous, pools, or lagoons of Loving County by any means other than an ordinary hook and line, trotline, or artificial bait, and no person may place in that water any seine, net or other device, or trap for taking or catching fish.

(b) A person may use a minnow seine not more than 20 feet long to catch minnows for bait.

(c) In seining for bait as permitted by this section, all minnows more than three inches long shall be returned to the water at once while alive.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

##### § 251.013. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Loving County any

catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 252. LUBBOCK COUNTY**

**§ 252.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Lubbock County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 253. LYNN COUNTY**

**§ 253.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Lynn County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 254. McCULLOCH COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section

254.001. Regulatory Act: Applicability.

**SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING**

- 254.011. Definitions.
- 254.012. Open Archery Season.
- 254.013. Prohibited Archery Equipment.
- 254.014. Deer Permits.
- 254.015. Limit and Possession of Deer.
- 254.016. Penalty.
- 254.017. Possession of Firearms.

**SUBCHAPTER C. FISH**

- 254.021. Fish Sale.
- 254.022. Leaving Fish to Die.
- 254.023, 254.024. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 254.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in McCulloch County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 254.002 to 254.010 reserved for expansion]

**SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING**

**§ 254.011. Definitions**

In this subchapter:

- (1) "Buck deer" means a deer that has a hardened antler protruding through the skin.
- (2) "Antlerless deer" is any deer other than a buck deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 254.012. Open Archery Season**

(a) The open archery season in McCulloch County begins on October 1 and extends through October 31 each year.

(b) During the open archery season a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers, or bearded hens and collared peccary (javelina) by means of bows and arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

**§ 254.013. Prohibited Archery Equipment**

No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in McCulloch County by means of:

- (1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;
- (2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;
- (3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or
- (4) poisoned, drugged, or explosive arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

**§ 254.014. Deer Permits**

(a) At least 15 days prior to the opening date of the open archery season, a landowner or lessee in McCulloch County who desires to permit the hunting of deer on his land with bows and arrows during the open archery season may apply to the department for antlerless deer permits.

(b) The department shall issue to each applicant the number of antlerless deer permits consistent with sound wildlife management practices and consistent with any law authorizing the department to regulate the taking of antlerless deer.

(c) Landowners or lessees receiving antlerless deer permits shall return the fully completed stubs from used permits and all unused permits and stubs to the issuing officer not later than January 10 of the year following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 254.015. Limit and Possession of Deer**

(a) No person may take or kill more than one antlerless deer with bow and arrow during the open archery season.

(b) No person may possess an antlerless deer in McCulloch County unless he has in his possession an antlerless deer permit on which appears the date of the kill, the hunter's name, and the signature of the owner or agent on whose tract the deer was killed.

(c) No person may possess the carcass of any deer in McCulloch County that does not have attached to it a tag issued to him on his valid hunting license unless the carcass has been finally processed.

(d) In McCulloch County no person may attach the bonus deer tag from a valid hunting license to a deer other than an antlerless deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 254.016. Penalty**

A person who violates Section 254.012 through Section 254.015 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 254.017. Possession of Firearms**

(a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in McCulloch County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

[Sections 254.018 to 254.020 reserved for expansion]

**SUBCHAPTER C. FISH****§ 254.021. Fish Sale**

(a) No person may sell or offer to sell any bass, white perch, crappie, or catfish caught in the streams of McCulloch County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 254.022. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in McCulloch County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§§ 254.023, 254.024. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed sections, relating to minnow transport and minnow sale, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 255. McLENNAN COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****Section**

255.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

255.011. Fish Sale.

255.012. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 255.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in McLennan County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 255.002 to 255.010 reserved for expansion]

**SUBCHAPTER B. FISH****§ 255.011. Fish Sale**

(a) No person may buy, barter, or sell or offer to barter or sell any bass, crappie, perch, channel or Opelousas catfish, or any other fish, except bait fish, taken from Lake Waco, the Bosque River, or their tributaries in McLennan County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish bought, sold, bartered or offered for sale or barter in violation of this section constitutes a separate offense.

rate offense. A person may be prosecuted for a violation of this section in the county where the offense is committed, where he is found possessing the fish, or where the fish are sold or offered for sale.

(c) It is the duty of the district judge of the judicial district in McLennan County to give a special charge on this law to the grand juries of McLennan County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 216, ch. 105, § 23, eff. Sept. 1, 1977.]

**§ 255.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport and sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 256. McMULLEN COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
256.001. Regulatory Act: Applicability.

**SUBCHAPTER B. GAME ANIMALS**

256.011. Deer.  
256.0111. Definitions; Bag Limit for Deer.  
256.0112. Antlerless Deer Permit.  
256.0113. Studies.  
256.012. Collared Peccary (Javelina).

**SUBCHAPTER C. BIRDS**

256.021. Turkeys.  
256.022. Quail.

**SUBCHAPTER D. FISH**

256.031. Fish Sale.  
256.032. Fishing Methods.  
256.033. Trotlines.  
256.034. Nets and Seines.  
256.035. Penalties.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 256.001. Regulatory Act: Applicability**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in McMullen County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 256.002 to 256.010 reserved for expansion]

**SUBCHAPTER B. GAME ANIMALS**

**§ 256.011. Deer**

A person may hunt deer in McMullen County during the open season beginning on November 1 and extending through December 15.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 256.0111. Definitions; Bag Limit for Deer**

(a) In this subchapter:

(1) "Buck deer" means a deer that has a hardened antler protruding through the skin.

(2) "Antlerless deer" means any deer other than a buck deer.

(b) No person may take more than three white-tailed deer in McMullen County during the open season, and within that limit, no person may take more than two white-tailed buck deer.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Added by Acts 1981, 67th Leg., p. 3228, ch. 850, § 1, eff. June 17, 1981.]

**§ 256.0112. Antlerless Deer Permit**

(a) No person may take antlerless deer in McMullen County during the open season unless that person has an antlerless deer permit.

(b) The department shall issue antlerless deer permits to landowners or their agents in McMullen County in a number consistent with good deer management as determined by studies conducted by the department.

(c) A landowner may distribute antlerless deer permits only for land he owns, and a landowner's agent may distribute antlerless deer permits only for land he is in charge of.

(d) A landowner or a landowner's agent is not required to distribute antlerless deer permits.

[Added by Acts 1981, 67th Leg., p. 3228, ch. 850, § 1, eff. June 17, 1981.]

**§ 256.0113. Studies**

(a) The department shall conduct scientific studies and investigations of deer in McMullen County to determine:

- (1) supply;
- (2) economic value;
- (3) environments;
- (4) breeding habits;
- (5) sex ratios;
- (6) effects of hunting, disease, infestation, predation, agricultural pressure, and overpopulation; and
- (7) any other factors or conditions causing increases or decreases in supply.

(b) The studies and investigations shall be made continuously.

(c) The department shall annually report findings of fact based on the studies and investigations to the commissioners court of McMullen County.

[Added by Acts 1981, 67th Leg., p. 3228, ch. 850, § 1, eff. June 17, 1981.]

**§ 256.012. Collared Peccary (Javelina)**

(a) This section applies to all collared peccary (javelina) and their hides except those imported from another state or foreign country.

(b) A person may hunt collared peccary (javelina) in McMullen County at any time.

(c) No person may possess at any time in McMullen County more than two collared peccary (javelina).

(d) No person may take or possess for barter or sale, or offer for sale, or sell collared peccary (javelina), or part of one, in McMullen County at any time.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each collared peccary (javelina) taken or possessed, or offered or possessed for sale, or sold in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 3229, ch. 850, § 2, eff. June 17, 1981.]

[Sections 256.013 to 256.020 reserved for expansion]

**SUBCHAPTER C. BIRDS****§ 256.021. Turkeys**

A person may hunt wild turkeys in McMullen County during the open season beginning on November 1 and extending through December 15.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 256.022. Quail**

A person may hunt quail in McMullen County during the open season beginning on October 15 and extending through December 15.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1212, ch. 456, § 12, eff. Sept. 1, 1975.]

**SUBCHAPTER D. FISH****§ 256.031. Fish Sale**

No person may barter or sell, offer to barter or sell, or buy any fish, except bait fish, taken from the public fresh water of McMullen County.

[Added by Acts 1979, 66th Leg., p. 392, ch. 183, § 1, eff. Aug. 27, 1979.]

**§ 256.032. Fishing Methods**

Except as provided by Section 256.034 of this code, no person may catch fish from the public fresh water of McMullen County by any means other than ordinary hook and line, rod and reel, jugline, throwline, trotline, or artificial bait.

[Added by Acts 1979, 66th Leg., p. 392, ch. 183, § 1, eff. Aug. 27, 1979.]

**§ 256.033. Trotlines**

No trotline used in the public fresh water of McMullen County may be metallic or have more than 50 hooks or have hooks placed less than three feet apart. No person may set out more than two trotlines. Each trotline shall bear a tag, of a material as durable as the trotline, which states legibly the name and address of the fisherman and the date when the trotline was set out. No trotline may be set out for more than 90 days unless the identifying tag is redated at the end of each 90-day period. [Added by Acts 1979, 66th Leg., p. 392, ch. 183, § 1, eff. Aug. 27, 1979.]

**§ 256.034. Nets and Seines**

(a) Minnow seines not more than 20 feet in length, cast nets, dip nets, and umbrella nets of meshes of any size may be used to catch bream, minnows, gar, shad, and suckers.

(b) A common funnel fruit jar type trap, or its metallic counterpart, may be used to catch minnows for bait if the trap is no longer than 24 inches and has a throat no larger than one inch in diameter. [Added by Acts 1979, 66th Leg., p. 392, ch. 183, § 1, eff. Aug. 27, 1979.]

**§ 256.035.<sup>1</sup> Penalties**

A person who violates this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each fish taken or possessed in violation of Section 256.031 or 256.032 and each device used in violation of Section 256.033 or 256.034 constitutes a separate offense.

[Added by Acts 1979, 66th Leg., p. 392, ch. 183, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> Enrolled bill read "236.035."

**CHAPTER 257. MADISON COUNTY****§ 257.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Madison County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 258. MARION COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
258.001. Regulatory Act: Applicability.

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING**

258.011. Shooting Pistols on Caddo Lake.

**SUBCHAPTER C. ANIMALS**

258.021. Deer.  
258.022. Squirrel.

- Section 258.023. Coypu.
- 258.024. Deer: Bows and Arrows.

SUBCHAPTER D. BIRDS

- 258.031. Quail.
- 258.032. Blinds.
- 258.033. Turkey.

SUBCHAPTER E. FISH

- 258.041. Fishing Methods.
- 258.042. Fish Size and Retention Limits.
- 258.043. Fish Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 258.001. **Regulatory Act: Applicability**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Marion County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 258.002 to 258.110 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 258.011. **Shooting Pistols on Caddo Lake**

(a) No person may shoot a pistol in, on, along, or across Caddo Lake in Marion County.

(b) This section does not apply to peace officers or employees of the department engaged in official duties, nor does this section prohibit hunting with a shotgun during an open season.

(c) Peace officers and authorized employees of the department may inspect boats and other watercraft for violations of this section without a warrant.

(d) A prosecution for a violation of this section may be maintained in Marion or Harrison County without regard to where the offense occurred.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 258.012 to 258.020 reserved for expansion]

SUBCHAPTER C. ANIMALS

§ 258.021. **Deer**

(a) No person may hunt deer in Marion County except during the open seasons beginning on November 16 and extending through November 25 and beginning on December 26 and extending through December 31.

(b) No person may take more than two buck deer with pronged antlers or spike deer during a calendar year in Marion County.

(c) No person may hunt deer in Marion County during the period between sunset and sunrise.

(d) No person may hunt deer on the land of another without the permission of the owner or lessee.

(e) No person may hunt deer in Marion County by a method other than with a rifle or shotgun capable of being fired from the shoulder, or bows and arrows conforming to the specifications described in Section 62.055 of this code, and no person may hunt deer in Marion County with:

(1) .22 caliber rimfire ammunition; or

(2) a .22 caliber rifle, jet gun, or rocket gun.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$500, or by confinement in jail for not less than 10 days nor more than three months, or by both.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2076, ch. 467, § 1, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2078, ch. 469, § 2, eff. Aug. 31, 1981; Acts 1981, 67th Leg., p. 2087, ch. 477, § 1, eff. Aug. 31, 1981.]

§ 258.022. **Squirrel**

(a) No person may take or kill squirrel in Marion County except during the open season during the months of October, November, and December.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 258.023. **Coypu**

Coypu (nutria) may be hunted at any time in Marion County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 258.024. **Deer: Bows and Arrows**

A person may hunt wild deer in Marion County with bow and arrow during the open season beginning on October 25 and extending through October 31.

[Added by Acts 1981, 67th Leg., p. 2078, ch. 469, § 1, eff. Aug. 31, 1981.]

[Sections 258.025 to 258.030 reserved for expansion]

SUBCHAPTER D. BIRDS

§ 258.031. **Quail**

(a) No person may hunt quail in Marion County except during the open season beginning on December 1 of one year and extending through February 15 of the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each

bird taken or killed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 258.032. Blinds

(a) No person may construct a blind to be leased for the hunting of waterfowl within 200 yards of the shoreline of or on Caddo Lake in Marion County without first having obtained from the department a permit.

(b) No person may lease a blind to be used within 200 yards of the shoreline of or on Caddo Lake in Marion County for the hunting of waterfowl without first having obtained from the department a permit for each blind.

(c) The department shall issue the permits required by this section for an annual fee of \$5 for each blind leased.

(d) No person may construct or use a blind within 200 yards of the shoreline of or on Caddo Lake in Marion County for the hunting of waterfowl if the blind is nearer than 300 yards to another blind used for the hunting of waterfowl. This section applies to any blind whether leased or used privately.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.

(f) In a prosecution for using a blind nearer than 300 yards of another blind, it is an affirmative defense that the blind being used by the accused was located, built, and ready for use before the other blind was constructed.

(g) "Blind" means a concealing enclosure from which a person may shoot game or observe wildlife. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 517, ch. 241, §§ 2, 3, eff. Aug. 27, 1979.]

#### § 258.033. Turkey

*Text of section effective until September 1, 1985*

(a) No person may hunt or kill wild turkey in Marion County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(c) This section expires on September 1, 1985. [Acts 1975, 64th Leg., p. 1223, ch. 456, § 25, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2104, ch. 488, § 1, eff. Aug. 31, 1981.]

[Sections 258.034 to 258.040 reserved for expansion]

### SUBCHAPTER E. FISH

#### § 258.041. Fishing Methods

(a) No person may catch fish in Marion County except by the following methods:

(1) ordinary hook, rod and reel, set hook and line, trotline, or artificial bait;

(2) for minnows for bait only, a minnow seine not more than 20 feet long;

(3) for buffalo fish, gar, catfish, shad, and bowfin or grindle during any month of the year except February, March, April, and May, a hoop net, setnet, or trammel net the meshes of which are not less than three and one-half inches square; and

(4) for buffalo fish, gar, catfish, shad, and bowfin or grindle in Caddo Lake, a gig.

(b) No person using a net authorized by Subdivision (2) or (3) of Subsection (a) of this section may fail to return to the water any fish taken with the net that are not authorized to be caught with the net being used. No person may possess a fish not authorized to be taken with a net while the person is using a net.

(c) Nets, the use of which are not authorized by this section in Marion County, are a public nuisance, and peace officers and enforcement officers of the department are to destroy them. No suit may be maintained against an officer or employee of the department for carrying out the provisions of this subsection.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 258.042. Fish Size and Retention Limits

(a) No person may catch and keep a catfish from the water of Caddo Lake in Marion County if the fish is shorter than eight inches.

(b) No person may catch and keep more than 25 catfish from Caddo Lake in Marion County during one day.

(c) There is no daily limit or possession limit on crappie in Marion County.

(d) No person may possess or catch and keep in one day more than 25 white bass or striped bass in Marion County.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50, unless the person violates Subsection (d) of this section, in which case he is punishable by a fine of not less than \$100. Each fish taken in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 258.043. Fish Sale

(a) No person may possess for sale, sell, buy, offer to sell or buy, transport or ship for the purpose of sale, or barter a white bass or a striped bass in Marion County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$100. Each fish sale or shipment in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 259. MARTIN COUNTY**

**§ 259.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Martin County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 260. MASON COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section

260.001. Regulatory Act: Applicability.

**SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING**

- 260.011. Definitions.
- 260.012. Open Archery Season.
- 260.013. Prohibited Archery Equipment.
- 260.014. Deer Permits.
- 260.015. Limit and Possession of Deer.
- 260.016. Penalty.
- 260.017. Possession of Firearms.

**SUBCHAPTER C. FISH**

- 260.021. Fish Sale.
- 260.022. Leaving Fish to Die.
- 260.023. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 260.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Mason County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 260.002 to 260.010 reserved for expansion]

**SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING**

**§ 260.011. Definitions**

In this subchapter:

- (1) "Buck deer" means a deer that has a hardened antler protruding through the skin.
- (2) "Antlerless deer" is any deer other than a buck deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 260.012. Open Archery Season**

(a) The open archery season in Mason County begins on October 1 and extends through October 31 each year.

(b) During the open archery season, a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

**§ 260.013. Prohibited Archery Equipment**

No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Mason County by means of:

- (1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;
- (2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;
- (3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or
- (4) poisoned, drugged, or explosive arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

**§ 260.014. Deer Permits**

(a) At least 15 days prior to the opening date of the open archery season, a landowner or lessee in Mason County who desires to permit the hunting of deer on his land with bows and arrows during the open archery season may apply to the department for antlerless deer permits.

(b) The department shall issue to each applicant the number of antlerless deer permits consistent with sound wildlife management practices and consistent with any law authorizing the department to regulate the taking of antlerless deer.

(c) Landowners or lessees receiving antlerless deer permits shall return the fully completed stubs from used permits and all unused permits and stubs to the issuing officer not later than January 10 of the year following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 260.015. Limit and Possession of Deer**

(a) No person may take or kill more than one antlerless deer with bow and arrow during the open archery season.

(b) No person may possess an antlerless deer in Mason County unless he has in his possession an antlerless deer permit on which appears the date of the kill, the hunter's name, and the signature of the owner or agent on whose tract the deer was killed.

(c) No person may possess the carcass of any deer in Mason County that does not have attached to it a tag issued to him on his valid hunting license unless the carcass has been finally processed.

(d) In Mason County no person may attach the bonus deer tag from a valid hunting license to a deer other than an antlerless deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 260.016. Penalty

A person who violates Section 260.012 through Section 260.015 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 260.017. Possession of Firearms

(a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Mason County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

[Sections 260.018 to 260.020 reserved for expansion]

### SUBCHAPTER C. FISH

#### § 260.021. Fish Sale

(a) No person may take for sale, offer for sale, or possess for sale any catfish, perch, crappie, bream, or bass in Mason County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 260.022. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Mason County any catfish, perch, crappie, white perch, bass, trout, or other edible fish, and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die

in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 260.023. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

### CHAPTER 261. MATAGORDA COUNTY

#### Section

261.001. Regulatory Act: Applicability.

261.002. Regulatory Act: Shrimp Excluded.

#### § 261.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Matagorda County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 261.002. Regulatory Act: Shrimp Excluded

In Matagorda County shrimp are not wildlife resources under the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### CHAPTER 262. MAVERICK COUNTY

#### § 262.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Maverick County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### CHAPTER 263. MEDINA COUNTY

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### Section

263.001. Regulatory Act: Applicability.

#### SUBCHAPTER B. FISH

263.011. Fish Sale.

263.012. Injuring Fish.

263.013. Leaving Fish to Die.

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 263.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Medina County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 263.002 to 263.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 263.011. Fish Sale

(a) No person may barter, sell, or offer for barter or sale any bass, perch, crappie, or catfish taken from the freshwater streams of Medina County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 263.012. Injuring Fish

(a) No person may use dynamite, powder, or other explosive in the freshwater streams of Medina County resulting in the destruction of fish.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and confinement in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 263.013. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Medina County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention of eating the fish or using it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 264. MENARD COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
264.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

264.011. Fish Sale.  
264.012. Repealed.  
264.013. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 264.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Menard County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 264.002 to 264.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 264.011. Fish Sale

(a) No person may take, offer, or possess for the purpose of sale any catfish, perch, crappie, bream, or bass in Menard County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 264.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

§ 264.013. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Menard County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention of eating the fish or using it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 265. MIDLAND COUNTY

§ 265.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Midland County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 266. MILAM COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
266.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

266.011. Fish Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 266.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Milam County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 266.002 to 266.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 266.011. Fish Sale

(a) No person may barter, sell, offer for barter or sale, buy, or possess after purchase any fish taken from the water of Milam County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 267. MILLS COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
267.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

267.011. Fish Sale.  
267.012. Leaving Fish to Die.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 267.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Mills County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 267.002 to 267.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 267.011. Fish Sale

(a) No person may sell or offer for sale any bass, white perch, crappie, or catfish caught in the streams of Mills County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 267.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, lagoons, or tanks, in Mills County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without any intention to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 268. MITCHELL COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
268.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

268.011. Fish Sale: Lake Colorado City.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 268.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Mitchell County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 268.002 to 268.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 268.011. Fish Sale: Lake Colorado City

(a) No person may catch fish, except bait fish, from Lake Colorado City in Mitchell County for the purpose of sale.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 24, eff. Sept. 1, 1977.]

## CHAPTER 269. MONTAGUE COUNTY

## § 269.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Montague County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 270. MONTGOMERY COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
270.001. Regulatory Act: Applicability.

## SUBCHAPTER B. GAME ANIMALS

270.011. Squirrel Sale.

## SUBCHAPTER C. FISH

270.021. Importation, Possession, and Release of Grass Carp.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 270.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Montgomery County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 270.002 to 270.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 270.011. **Squirrel Sale**

(a) No person may sell, offer for sale, or ship for sale any squirrel in Montgomery County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 270.012 to 270.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 270.021. **Importation, Possession, and Release of Grass Carp**

*Text of section added effective until September 1, 1987*

(a) Grass carp (white amur or *Ctenopharyngodon idella*) may be imported, possessed, and released by Texas A&M University into the water of Lake Conroe in Montgomery County for research purposes. This section prevails over any contrary regulation of the department issued under Chapter 43, Chapter 66, or Chapter 67 of this code.

(b) This section expires September 1, 1987.

[Added by Acts 1981, 67th Leg., p. 3295, ch. 863, § 1, eff. Aug. 31, 1981.]

Section 4 of the 1981 Act provides:

"This Act expires on September 1, 1987."

Former § 270.021, relating to minnow sale and transport, and derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, was repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a).

Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 271. MOORE COUNTY

§ 271.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Moore County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 272. MORRIS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 272.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS

- 272.011. Deer Season.
- 272.012. Deer Limit.
- 272.013. Methods of Hunting Deer.
- 272.014. Permission of Owner.
- 272.015. Penalty.
- 272.016. Squirrel.
- 272.017. Special Archery Season.

SUBCHAPTER C. BIRDS

- 272.021. Quail.
- 272.022. Turkey.

SUBCHAPTER D. FISH

- 272.031. Nets.

SUBCHAPTER E. FUR-BEARING ANIMALS

- 272.041. Coypu.

SUBCHAPTER F. LAKE TEXARKANA AND DAINGERFIELD LAKE

- 272.051. Discharge of Firearms.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 272.001. **Regulatory Act: Applicability**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Morris County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2103, ch. 487, § 1, eff. June 11, 1981.]

[Sections 272.002 to 272.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 272.011. **Deer Season**

No person may hunt deer in Morris County except during the open seasons beginning on November 16 and extending through November 22 and beginning on December 25 and extending through December 31.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 272.012. **Deer Limit**

In Morris County, no person may take or kill more than one deer during an open season or take, kill, or possess any deer except a buck deer with a pronged horn of three points or more.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 272.013. Methods of Hunting Deer**

(a) No person may use .22 caliber rimfire ammunition in hunting deer in Morris County.

(b) No person may hunt wild deer in Morris County with a .22 caliber rifle.

(c) No person may hunt wild deer in Morris County by any means other than a rifle, except a .22 caliber rifle, or a shotgun capable of being fired from the shoulder or bows and arrows conforming to the specifications described in Section 62.055 of this code.

(d) No person may use a dog to hunt deer or allow a dog to run, trail, or pursue a deer in Morris County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 272.014. Permission of Owner**

No person may hunt deer on the land of another in Morris County without the permission of the owner or lessee of the land.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 272.015. Penalty**

A person who violates Sections 272.011 through 272.014 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each deer taken, killed, or possessed in violation of these sections constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 272.016. Squirrel**

(a) No person may hunt squirrel in Morris County except during the open season beginning on October 1 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50.  
[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 272.017. Special Archery Season**

A person may hunt wild deer in Morris County with bow and arrow during the open season beginning on October 1 and extending through October 31.

[Added by Acts 1977, 65th Leg., p. 1790, ch. 718, § 1, eff. Aug. 29, 1977.]

[Sections 272.018 to 272.020 reserved for expansion]

**SUBCHAPTER C. BIRDS****§ 272.021. Quail**

(a) No person may hunt wild quail in Morris County except during the open season beginning on

December 1 of one year and extending through February 15 of the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each bird taken or killed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 272.022. Turkey**

*Text of section added effective until September 1, 1983*

(a) No person may hunt wild turkey in Morris County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.

(c) This section expires on September 1, 1983.  
[Added by Acts 1979, 66th Leg., p. 2120, ch. 820, § 1, eff. Aug. 27, 1979.]

[Sections 272.023 to 272.030 reserved for expansion]

**SUBCHAPTER D. FISH****§ 272.031. Nets**

(a) Except as provided in Subsections (b), (c), and (d) of this section, a person may use a seine or net with meshes of not less than three inches to catch fish from the water of Morris County.

(b) No person may use nets of any type in Daingerfield State Park Lake or Ellison Creek Reservoir (Lone Star Lake) in Morris County.

(c) No person may use a setnet or seine to catch white perch, crappie, or bass of any kind in Morris County.

(d) A person may use a minnow seine not more than 20 feet long to catch minnows for bait in Morris County.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.  
[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 272.032 to 272.040 reserved for expansion]

**SUBCHAPTER E. FUR-BEARING ANIMALS****§ 272.041. Coypu**

A person may take or kill coypu (nutria) at any time in Morris County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 272.042 to 272.050 reserved for expansion]

SUBCHAPTER F. LAKE TEXARKANA AND  
DAINGERFIELD LAKE

§ 272.051. Discharge of Firearms

(a) Except as provided in Subsection (b) of this section, no person may shoot a pistol or rifle in, on, along, or across Daingerfield Lake or Lake Texarkana in Morris County.

(b) This section does not apply to peace officers, game wardens, or agents of the department in the lawful exercise of their duty or to persons hunting with a shotgun during an open season in or on Daingerfield Lake or Lake Texarkana.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 273. MOTLEY COUNTY

§ 273.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Motley County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 274. NACOGDOCHES COUNTY

§ 274.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Nacogdoches County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 275. NAVARRO COUNTY

§ 275.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Navarro County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 276. NEWTON COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
276.001. Regulatory Act: Applicability.

SUBCHAPTER B. PROVISIONS GENERALLY  
APPLICABLE TO HUNTING

276.011. Hunting With Dogs.  
276.012. Hunting Deer With Dogs.  
276.013. Possession of Deer.

SUBCHAPTER C. FISH

Section  
276.021. Fish Sale.

SUBCHAPTER D. FUR-BEARING ANIMALS

276.031. Regulatory Act: Exclusion.  
276.032. Calling Devices.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 276.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Newton County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 276.002 to 276.010 reserved  
for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY  
APPLICABLE TO HUNTING

§ 276.011. Hunting With Dogs

A person may use dogs to hunt game birds and game animals in Newton County only during the open season for the game bird or game animal. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 276.012. Hunting Deer With Dogs

(a) No person may knowingly allow a dog under his control to hunt wild deer in Newton County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 276.013. Possession of Deer

(a) No person may possess the freshly killed carcass of a wild deer in Newton County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and imprisonment in the county jail for not less than three days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 276.014 to 276.020 reserved  
for expansion]

## SUBCHAPTER C. FISH

## § 276.021. Fish Sale

(a) No person may sell, offer for sale, or possess for sale any black bass, trout, white perch, or catfish of less than 18 inches in length taken from the water of the Sabine, Attoyoc, Angelina, and Neches rivers or any of their tributaries or lakes through which the flood streams of the rivers or their tributaries flow in Newton County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500, or imprisonment in the county jail for not less than 10 days nor more than 30 days, or both. Each fish sold in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 276.022 to 276.030 reserved for expansion]

## SUBCHAPTER D. FUR-BEARING ANIMALS

## § 276.031. Regulatory Act: Exclusion

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to fox in Newton County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 276.032. Calling Devices

(a) No person may use a horn, recording, or other device to call or attract wild fox in Newton County unless he has obtained a permit from the department allowing him to use the device for scientific research or making wildlife movies.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 277. NOLAN COUNTY

## § 277.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Nolan County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 278. NUECES COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
278.001. Regulatory Act: Applicability.

## SUBCHAPTER B. SHRIMP

278.011. Nets and Seines.

## SUBCHAPTER C. FISH

278.021. Fish Sale: Nueces River.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 278.001. Regulatory Act: Applicability

Except as provided by this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources, except shrimp and oysters, in Nueces County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2498, ch. 657, § 1, eff. June 15, 1981.]

[Sections 278.002 to 278.010 reserved for expansion]

## SUBCHAPTER B. SHRIMP

## § 278.011. Nets and Seines

(a) No person may use for the purpose of catching shrimp a net or seine, except a cast net or minnow seine not more than 20 feet in length for catching bait only, in the water of the Gulf of Mexico within one mile of the Horace Caldwell pier located on Mustang Island and the Bob Hall pier located on Padre Island in Nueces County or within 1,000 feet of the shoreline of Padre Island in Nueces County.

(b) A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$100, and on a second or subsequent conviction is punishable by a fine of not less than \$100 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## SUBCHAPTER C. FISH

## § 278.021. Fish Sale: Nueces River

(a) No person may take for sale any fish from the portion of the Nueces River in Nueces County west and north of the Calallen Dam or from a tributary of the Nueces River in Nueces County the confluence of which with the Nueces River is west and north of the Calallen Dam.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Added by Acts 1977, 65th Leg., p. 1401, ch. 565, § 2, eff. Aug. 29, 1977.]

## CHAPTER 279. OCHILTREE COUNTY

## § 279.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Ochiltree County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 280. OLDHAM COUNTY

§ 280.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Oldham County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 281. ORANGE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

281.001. Regulatory Act: Applicability.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

281.011. Hunting With Dogs.

SUBCHAPTER C. SHRIMP

281.021. Regulatory Act: Shrimp Excluded.

281.022. Shrimp Regulations.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 281.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Orange County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 281.002 to 281.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 281.011. Hunting With Dogs

(a) In Orange County a person may use dogs in hunting game animals (including deer) and game birds during the open season when the animal may be hunted.

(b) In Orange County no person may allow or permit a dog under his control to hunt or molest a wild deer except during the open deer season.

(c) No person in Orange County may possess the freshly killed carcass or a part of the carcass of a wild deer except during the open deer season.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 281.012 to 281.020 reserved for expansion]

SUBCHAPTER C. SHRIMP

§ 281.021. Regulatory Act: Shrimp Excluded

In Orange County shrimp are not wildlife resources under the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 281.022. Shrimp Regulations

(a) The commission may regulate the taking of shrimp from the coastal water of Orange County to provide for the most profitable and equitable harvest of shrimp from year to year and to conserve and protect the shrimp resources of Orange County from depletion and waste.

(b) The commission may make regulations to carry out the policy of this section including regulating:

- (1) the size of shrimp that may be taken;
- (2) open and closed shrimp seasons;
- (3) the means of taking shrimp;
- (4) the size and type of boats and equipment that may be used for taking shrimp;
- (5) the length and mesh size of net and trawls and their spreading devices; and
- (6) the possession, transportation, sale, and other handling of shrimp in the coastal water of Orange County.

(c) The commission by regulation adopted in accordance with this section may provide for the licensing of all persons taking, selling, or handling shrimp in Orange County and may license boats and equipment used for the taking, selling, or handling of shrimp in Orange County. The commission may adopt the licensing provisions of the Texas Shrimp Conservation Act (Chapter 77 of this code).

(d) The commission shall conduct continuous research, investigations, and studies of the shrimp resources in Orange County in the same manner as required by Sections 77.004, 77.005, and 77.006 of this code. Based on the information obtained, and after hearings, the commission shall promulgate the regulations authorized by this section. The hearings, the method of adoption of the regulations, the effective date of the regulations, and the procedure for appeal shall be governed by the provisions of Chapter 125, Acts of the 52nd Legislature, Regular Session, 1951, as amended.

(e) "Coastal water" is defined by Section 77.001(1) of this code.

(f) A person who violates a regulation of the commission adopted under this section shall be punished as provided in Section 77.020 of this code. The commission has all powers of enforcement granted to it under Chapter 77 of this code for the enforcement of this section.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 282. PALO PINTO COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT.

Section  
282.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

282.011. Possum Kingdom Lake: Fish Sale.  
282.012. Repealed.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 282.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Palo Pinto County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 282.002 to 282.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 282.011. Possum Kingdom Lake: Fish Sale

(a) No person may barter or sell, offer to barter or sell, or buy any fish taken from Possum Kingdom Lake or any of its backwater in Palo Pinto County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 282.012. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport and sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 283. PANOLA COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
283.001. Regulatory Act: Applicability.

## SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

283.011. Hunting Deer With Dogs.

## SUBCHAPTER C. MURVAUL LAKE

283.021. Camping.  
283.022. Firearms.  
283.023. Certain Water Sports on Lake Murvaul.  
283.024. Penalty.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 283.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Panola County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 283.002 to 283.010 reserved for expansion]

## SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

## § 283.011. Hunting Deer With Dogs

Except as prohibited by the commission under the Uniform Wildlife Regulatory Act (Chapter 61 of this code), it is lawful to hunt or trail buck deer in Panola County with dogs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 283.012 to 283.020 reserved for expansion]

## SUBCHAPTER C. MURVAUL LAKE

## § 283.021. Camping

No person may camp on the shores of Murvaul Lake in Panola County on land owned by the Panola County Fresh Water Supply District Number 1 except at places designated as campsites by the Board of Supervisors of the Panola County Fresh Water Supply District Number 1.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 283.022. Firearms

(a) Except as provided by Subsection (b) of this section, no person may possess for shooting a rifle or pistol of any kind on or over the water of Murvaul Lake in Panola County.

(b) This section does not apply to a peace officer or game management officer of this state or to a regular employee of the Panola County Fresh Water Supply District Number 1.

(c) Possession of a rifle or pistol of any kind within 500 feet from the water of Murvaul Lake is prima facie evidence of a violation of this section. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 283.023. Certain Water Sports on Lake Murvaul

No person may swim, bathe, wade, or water ski in or on Lake Murvaul except within areas designated by the Board of Supervisors of the Panola County Fresh Water Supply District No. 1 as areas for swimming, bathing, wading, or water skiing.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 283.024. **Penalty**

A person who violates a provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200 and costs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 284. PARKER COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
284.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

284.011. Repealed.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

§ 284.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Parker County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 284.002 to 284.010 reserved for expansion]

**SUBCHAPTER B. FISH**

§ 284.011. **Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 285. PARMER COUNTY**

§ 285.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Parmer County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 286. PECOS COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
286.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

286.011. Regulatory Act: Exception.  
286.012. Fishing Methods.  
286.013. Fish Sale.  
286.014. Leaving Fish to Die.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

§ 286.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Pecos County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 286.002 to 286.010 reserved for expansion]

**SUBCHAPTER B. FISH**

§ 286.011. **Regulatory Act: Exception**

In Pecos County fish are not "wildlife resources" as that term is used in the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 286.012. **Fishing Methods**

(a) No person may catch fish in the freshwater rivers, creeks, lakes, bayous, pools, or lagoons of Pecos County by any means other than ordinary hook and line, trotline, or artificial bait.

(b) Except as provided in Subsection (c) of this section, no person may place in the water described in this section any seine, net or other device, or trap for taking or catching fish.

(c) A person may use a minnow seine not more than 20 feet long for the purpose of catching minnows for bait.

(d) In seining for bait as permitted in Subsection (c) of this section, all minnows more than three inches long shall be returned to the water at once while alive.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 286.013. **Fish Sale**

(a) No person may sell or offer to sell any bass, white perch, crappie, or catfish caught in the streams of Pecos County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 286.014. **Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Pecos County any catfish, perch, crappie, white perch, bass, trout, or other

edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 287. POLK COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

287.001. Regulatory Act: Applicability.

### SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING

287.011. Hunting With Dogs.

### SUBCHAPTER C. GAME ANIMALS

287.021. Hunting Deer With Dogs.

287.022. Possession of Deer.

### SUBCHAPTER D. FISH

287.031. Repealed.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 287.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Polk County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 287.002 to 287.010 reserved for expansion]

### SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING

#### § 287.011. Hunting With Dogs

A person may use dogs to hunt game birds or game animals in Polk County only during the open season for the game bird or game animal.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 287.012 to 287.020 reserved for expansion]

### SUBCHAPTER C. GAME ANIMALS

#### § 287.021. Hunting Deer With Dogs

(a) No person may knowingly allow or permit a dog under his control to hunt any wild deer in Polk County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 287.022. Possession of Deer

(a) No person may possess the freshly killed carcass of a wild deer, or part of one, in Polk County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 287.023 to 287.030 reserved for expansion]

### SUBCHAPTER D. FISH

#### § 287.031. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport and sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 288. POTTER COUNTY

### § 288.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Potter County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 289. PRESIDIO COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

289.001. Regulatory Act: Applicability.

### SUBCHAPTER B. FISH

289.011. Regulatory Act: Exception.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 289.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Presidio County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 289.002 to 289.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 289.011. **Regulatory Act: Exception**

In Presidio County fish are not "wildlife resources" as that term is used in the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 290. RAINS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

- 290.001. Regulatory Act: Applicability.
- 290.002. Regulatory Act: Lake Tawakoni.

SUBCHAPTER B. BIRDS

- 290.011. Quail.

SUBCHAPTER C. FISH

- 290.021. Lake Tawakoni: Fish Sale.
- 290.022. Leaving Fish to Die.

SUBCHAPTER D. FUR-BEARING ANIMALS

- 290.031. Hunting Mink With Dogs.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 290.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Rains County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 290.002. **Regulatory Act: Lake Tawakoni**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in the water area of Lake Tawakoni in Rains County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 290.003 to 290.010 reserved for expansion]

SUBCHAPTER B. BIRDS

§ 290.011. **Quail**

(a) No person may hunt wild quail in Rains County except during the open season beginning on December 1 of one year and extending through January 31 of the following year. During the open season no person may hunt wild quail in Rains County on Sundays.

(b) No person may kill more than 12 quail in one day or more than 36 quail during any seven-day period. No person may possess more than 36 quail at one time.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each quail killed or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 2084, ch. 815, § 1, eff. June 13, 1979.]

[Sections 290.012 to 290.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 290.021. **Lake Tawakoni: Fish Sale**

(a) No person may sell any fish, except bait fish, taken from that part of the water area of Lake Tawakoni located in Rains County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 25, eff. Sept. 1, 1977.]

§ 290.022. **Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Rains County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 290.023 to 290.030 reserved for expansion]

SUBCHAPTER D. FUR-BEARING ANIMALS

**Repeal**

*Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this Subchapter is repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this Subchapter.*

§ 290.031. **Hunting Mink With Dogs**

A person may hunt wild mink in Rains County with dogs. A person may have in his possession a mink pelt while hunting with dogs.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 291. RANDALL COUNTY****§ 291.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Randall County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 292. REAGAN COUNTY****§ 292.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Reagan County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 293. REAL COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
293.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

293.011. Fish Sale.  
293.012. Leaving Fish to Die.

**SUBCHAPTER C. NONGAME ANIMALS**

293.021. Exotic Animals Defined.  
293.022. Hunting Exotic Game on Road.  
293.023. Hunting Exotic Animals Without Consent of Landowner.  
293.024. Possession of Carcass of Exotic Animal.  
293.025. Penalties.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 293.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Real County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 293.002 to 293.010 reserved for expansion]

**SUBCHAPTER B. FISH****§ 293.011. Fish Sale**

(a) No person may offer, possess, or take for sale any catfish, perch, crappie, bream, or bass in Real County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 293.012. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Real County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**SUBCHAPTER C. NONGAME ANIMALS****§ 293.021. Exotic Animals Defined**

In this chapter, "exotic animal" means axis deer, fallow deer, blackbuck antelope, sika deer, aoudad sheep, mouflon sheep, barbado sheep, European red deer, Corsican sheep, four-horned sheep, sambar deer, eland antelope, sable antelope, white-tailed gnu, impala, greater kudu, blesbok, gazelle, oryx, guanaco, llama, thar, nilgai antelope, or ibex.

[Added by Acts 1981, 67th Leg., p. 2077, ch. 468, § 1, eff. Aug. 31, 1981.]

**§ 293.022. Hunting Exotic Game on Road**

No person on a public road or on the right-of-way of a public road in Real County may hunt an exotic animal.

[Added by Acts 1981, 67th Leg., p. 2077, ch. 468, § 1, eff. Aug. 31, 1981.]

**§ 293.023. Hunting Exotic Animals Without Consent of Landowner**

No person may hunt on the land of another in Real County for an exotic animal without the express consent of the owner of the land to hunt for exotic animals.

[Added by Acts 1981, 67th Leg., p. 2077, ch. 468, § 1, eff. Aug. 31, 1981.]

**§ 293.024. Possession of Carcass of Exotic Animal**

(a) Except as provided in Subsections (b) and (c) of this section, no person may possess the carcass of an exotic animal in Real County.

(b) Subsection (a) of this section does not apply to the owner or employee of the owner of the exotic animal, a public health officer, a law enforcement officer, or a veterinarian.

(c) It is an affirmative defense to a prosecution under Subsection (a) of this section that the person possessed the carcass of the exotic animal with the knowledge and consent of the owner.

[Added by Acts 1981, 67th Leg., p. 2077, ch. 468, § 1, eff. Aug. 31, 1981.]

§ 293.025. Penalties

A person who violates this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,500 or confinement in jail for not more than six months or both.

[Added by Acts 1981, 67th Leg., p. 2077, ch. 468, § 1, eff. Aug. 31, 1981.]

CHAPTER 294. RED RIVER COUNTY

§ 294.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Red River County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 295. REEVES COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
295.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

295.011. Regulatory Act: Exception.  
295.012. Fishing Methods.  
295.013. Fish Sale.  
295.014. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 295.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Reeves County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 295.002 to 295.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 295.011. Regulatory Act: Exception

In Reeves County, fish are not "wildlife resources" as that term is used in the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 295.012. Fishing Methods

(a) No person may catch fish in the freshwater rivers, creeks, lakes, bayous, pools, or lagoons of Reeves County by any means other than ordinary hook and line, trotline, or artificial bait.

(b) Except as provided in Subsection (c) of this section, no person may place in the water described

in this section any seine, net or other device, or trap for catching fish.

(c) A person may use a minnow seine not more than 20 feet long for the purpose of catching minnows for bait.

(d) In seining for bait as permitted in Subsection (c) of this section, all minnows more than three inches long shall be returned to the water at once while alive.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 295.013. Fish Sale

(a) No person may sell or offer to sell any bass, white perch, crappie, or catfish caught in the streams of Reeves County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 295.014. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Reeves County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 296. REFUGIO COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
296.001. Regulatory Act: Applicability.

SUBCHAPTER B. BIRDS

296.011. Quail.

SUBCHAPTER C. FISH

296.021. Fishing Methods: Guadalupe River.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 296.001. Regulatory Act: Applicability

Except as provided by this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code)

applies to deer and all aquatic life except shrimp and oysters in Refugio County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 1012, ch. 447, § 1, eff. June 6, 1979; Acts 1981, 67th Leg., p. 2741, ch. 748, § 7, eff. Sept. 1, 1981.]

[Sections 296.002 to 296.010 reserved for expansion]

#### SUBCHAPTER B. BIRDS

##### § 296.011. Quail

The open season for wild quail in Refugio County when it is lawful to hunt wild quail begins on November 15 in one year and extends through February 15 of the following year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

Acts 1979, 66th Leg., p. 1012, ch. 447, §§ 1, 2, amended §§ 61.202 and 296.001. Section 3 of said Act provided:

"Sections 296.011 and 296.021 Parks and Wildlife Code, are not repealed by this Act or by Section 61.004, Parks and Wildlife Code."

[Sections 296.012 to 296.020 reserved for expansion]

#### SUBCHAPTER C. FISH

##### § 296.021. Fishing Methods: Guadalupe River

(a) No person may catch fish in the Guadalupe River in Refugio County except by:

- (1) hook and line;
- (2) trotline;
- (3) flounder gig and light; and

(4) a cast net or minnow seine not exceeding 20 feet in length and used for catching bait only.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

See note following § 296.011.

#### CHAPTER 297. ROBERTS COUNTY

##### § 297.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Roberts County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### CHAPTER 298. ROBERTSON COUNTY

##### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 298.001. Regulatory Act: Applicability.

##### SUBCHAPTER B. FISH

298.011. Repealed.

##### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

##### § 298.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Robertson County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 298.002 to 298.010 reserved for expansion]

##### SUBCHAPTER B. FISH

##### § 298.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

#### CHAPTER 299. ROCKWALL COUNTY

##### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 299.001. Regulatory Act: Applicability.  
299.002. Repealed.

##### SUBCHAPTER B. FISH

299.011. Repealed.  
299.012 to 299.021. [Blank].  
299.022. Fish Sale.  
299.023. Repealed.

##### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

##### § 299.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Rockwall County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 181, ch. 88, § 1, eff. April 29, 1977.]

##### § 299.002. Repealed by Acts 1977, 65th Leg., p. 181, ch. 88, § 2, eff. April 29, 1977

The repealed section, relating to Lake Ray Hubbard, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

[Sections 299.003 to 299.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 299.011. Repealed by Acts 1977, 65th Leg., p. 181, ch. 88, § 3

This section was repealed effective as provided in § 61.004. The repealed section, relating to fishing methods, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

§§ 299.012 to 299.021. [Blank]

§ 299.022. Fish Sale

(a) No person may take for sale or possess for sale any fish, except bait fish, from the fresh water of Rockwall County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$200. Each fish taken or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 26, eff. Sept. 1, 1977.]

§ 299.023. Repealed by Acts 1977, 65th Leg., p. 181, ch. 88, § 3; Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repeal of this section by ch. 88 is effective as provided in § 61.004. The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 300. RUNNELS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 300.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

- 300.011. Fish Sale.
- 300.012. Leaving Fish to Die.
- 300.013. Repealed.
- 300.014. New Lake Winters; Fish Sale.
- 300.015. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 300.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Runnels County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 300.002 to 300.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 300.011. Fish Sale

(a) No person may sell or offer to sell any bass, white perch, crappie, or catfish caught in the streams of Runnels County.

(b) This section does not apply to New Lake Winters in Runnels County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 300.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Runnels County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 300.013. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

§ 300.014. New Lake Winters; Fish Sale

(a) No person may buy, sell, offer to buy or sell, or take or possess for commercial purposes, except bait fish, fish from the water of New Lake Winters in Runnels County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each fish taken or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 27, eff. Sept. 1, 1977.]

§ 300.015. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to possession of minnows taken from New Lake Winters, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 301. RUSK COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 301.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

- 301.011. Fish Sale.
- 301.012. Prohibited Methods of Fishing.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 301.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Rusk County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 301.002 to 301.010 reserved  
for expansion]

SUBCHAPTER B. FISH

§ 301.011. **Fish Sale**

(a) No person may sell, offer for sale, or possess for sale any fish, except bait fish, caught from the public fresh water of Rusk County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 28, eff. Sept. 1, 1977.]

§ 301.012. **Prohibited Methods of Fishing**

(a) This section applies only to the Angelina River and Mud Creek in Rusk County.

(b) No person may place any lime, poison, drug, dynamite, nitroglycerin, giant powder, or other explosive or substance harmful to fish in the water of the Angelina River or Mud Creek to catch or attempt to catch fish.

(c) No person may catch fish by the aid of "telephoning" or by using any other electricity-producing apparatus designed to shock fish.

(d) Possession of equipment described in Subsection (c) of this section in a boat or along the bank or shore of the Angelina River or Mud Creek in Rusk County is prima facie evidence of a violation of this section.

(e) A person who violates this section is guilty of a misdemeanor and on first conviction is punishable by a fine of not less than \$300 nor more than \$750. A second conviction of a violation of this section is punishable by a fine of not less than \$500 nor more than \$1,000 and by confinement in the county jail for not less than 30 days nor more than six months. A third or subsequent conviction of a violation of this section is punishable by a fine of not less than \$1,000 nor more than \$2,000 and by confinement in the county jail for not less than six months nor more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 302. SABINE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section	
302.001.	Regulatory Act: Applicability.
302.002.	Regulatory Act: Certain Tract.

SUBCHAPTER B. METHODS GENERALLY  
APPLICABLE TO HUNTING

302.011.	Open Season for Game Birds and Game Animals.
----------	--

SUBCHAPTER C. GAME ANIMALS

302.021.	Hunting Deer With Dogs.
302.022.	Squirrel Limit.

SUBCHAPTER D. BIRDS

302.031.	Turkey.
----------	---------

SUBCHAPTER E. FISH

302.041.	Regulatory Act: Applicability.
302.042.	[Blank].
302.043.	Fish Sale.
302.044.	Sabine River: Fish Sale.

SUBCHAPTER F. FUR-BEARING ANIMALS

302.051.	Methods of Taking Opossum, Bobcats, and Catamounts.
302.052.	Attracting Foxes With Calling Devices.
302.053.	Fox.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 302.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Sabine County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 302.002. **Regulatory Act: Certain Tract**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to all wildlife resources in that portion of the following described land which is located in Sabine County:

A tract of land containing approximately 10,500 acres partly in Sabine County and partly in San Augustine County described as follows:

BEGINNING at the intersection of the north line of Farm to Market Highway 83 and the east line of Farm to Market Highway 1751;

THENCE in a northerly direction with the east line of Farm to Market Highway 1751, 34,300 feet to its point of intersection with the south line of the Armstead Chumney League;

THENCE easterly with the south line of the Armstead Chumney League 6,700 feet to the southeast corner of the Armstead Chumney League;

THENCE northerly with the east line of the Armstead Chumney League 1800 feet to the southwest corner of the Ben Clark Survey;

THENCE easterly with the south line of the Ben Clark Survey and easterly with the north line of the Nicholas Coleman Survey, 3,000 feet to the Nicholas Coleman Survey's northeast corner;

THENCE southerly with the east line of the Nicholas Coleman Survey and the west line of the Hulda Hollien Survey, 1,800 feet to the northwest corner of the Southern Pine Lumber Company tract in the Hulda Hollien Survey;

THENCE easterly with the north line of the Southern Pine Lumber Company tract, 7,500 feet to the east line of the Hulda Hollien Survey;

THENCE southerly with the east line of the Hulda Hollien Survey, 1,600 feet to the westerly northeast corner of the J. C. Dickerson Survey;

THENCE westerly with the north line of the J. C. Dickerson Survey, 2,100 feet to its northwest corner;

THENCE southerly with the west line of the J. C. Dickerson Survey, 2,000 feet to its southwest corner;

THENCE easterly with the south line of the J. C. Dickerson Survey, 2,500 feet to the west line of the county road;

THENCE southerly with the west line of the County Road 28,100 feet to the north line of Farm to Market Highway 83;

THENCE westerly with the north line of Farm to Market Highway 83, 15,000 feet to the place of beginning.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 302.003 to 302.010 reserved for expansion]

**SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING**

**§ 302.011. Open Season for Game Birds and Game Animals**

(a) No person may hunt or possess a game bird or game animal in Sabine County except during the open season, which is the same as the open season provided from time to time for game birds and game animals in Jasper, Newton, and Tyler counties under the Uniform Wildlife Regulatory Act.

(b) This section does not apply to wild turkeys in Sabine County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 302.012 to 302.020 reserved for expansion]

**SUBCHAPTER C. GAME ANIMALS**

**§ 302.021. Hunting Deer With Dogs**

A person may hunt and trail wild buck deer in Sabine County with dogs during the open season for hunting deer in Sabine County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 302.022. Squirrel Limit**

(a) During the open season for taking squirrel in Sabine County, no person may take, kill, or possess more than five squirrels in one day.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 302.023 to 302.030 reserved for expansion]

**SUBCHAPTER D. BIRDS**

**§ 302.031. Turkey**

(a) No person may take or kill or attempt to take or kill any wild turkey in Sabine County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$300.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 302.032 to 302.040 reserved for expansion]

**SUBCHAPTER E. FISH**

**§ 302.041. Regulatory Act: Applicability**

(a) The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in all of the water area of the Sam Rayburn Reservoir located in Sabine County and in all of the water area of Toledo Bend Reservoir located in Sabine County.

(b) In that part of the Sam Rayburn Reservoir located in Sabine County, only freshwater fish are included in the term "wildlife resources."

(c) In that part of Toledo Bend Reservoir located in Sabine County only fish are included in the term "wildlife resources."

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 302.042. [Blank]**

**§ 302.043. Fish Sale**

(a) No person may offer or possess for sale or sell any fish, except bait fish, caught or taken from the public fresh water of Sabine County.

(b) This section does not apply to that part of the Sabine River (Toledo Bend Reservoir) in Sabine County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 29, eff. Sept. 1, 1977.]

§ 302.044. Sabine River: Fish Sale

(a) A person may sell fish, except bass and crappie, taken from that part of the Sabine River located in Sabine County.

(b) This section does not exempt a person from other laws regulating catching fish for commercial purposes. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 302.045 to 302.050 reserved for expansion]

SUBCHAPTER F. FUR-BEARING ANIMALS

§ 302.051. Methods of Taking Opossum, Bobcats, and Catamounts

A person may take opossum, bobcats, and catamounts in Sabine County with a steel trap or any other type of trap or snare. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 302.052. Attracting Foxes With Calling Devices

(a) No person may use any horn, recording, or other device to call or attract a wild fox in Sabine County, except that a person may use the devices for scientific research or in making wildlife movies after obtaining a permit from the department to use them.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 302.053. Fox

(a) No person may trap fox in Sabine County.  
(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Added by Acts 1979, 66th Leg., p. 2122, ch. 822, § 1, eff. Aug. 27, 1979.]

CHAPTER 303. SAN AUGUSTINE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
303.001. Regulatory Act: Applicability.  
303.002. Repealed.

SUBCHAPTER B. GAME ANIMALS [REPEALED]

Section  
303.011 to 303.013. Repealed.

SUBCHAPTER C. BIRDS [REPEALED]

303.021 to 303.022. Repealed.

SUBCHAPTER D. FISH [REPEALED]

303.031. Repealed.

SUBCHAPTER E. FUR-BEARING ANIMALS [REPEALED]

303.041 to 303.042. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 303.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in San Augustine County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 564, ch. 199, § 1, eff. Aug. 29, 1977.]

§ 303.002. Repealed by Acts 1977, 65th Leg., p. 564, ch. 199, § 2, eff. Aug. 29, 1977

The repealed section, relating to applicability of the Regulatory Act to a certain tract, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

[Sections 303.003 to 303.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS [REPEALED]

§§ 303.011 to 303.013. Repealed by Acts 1977, 65th Leg., p. 564, ch. 199, § 3, eff. Aug. 29, 1977

The repealed sections, relating to a deer season, a squirrel season, and a squirrel limit, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

SUBCHAPTER C. BIRDS [REPEALED]

§§ 303.021, 303.022. Repealed by Acts 1977, 65th Leg., p. 564, ch. 199, § 3, eff. Aug. 29, 1977

The repealed sections, relating to turkey and quail, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

SUBCHAPTER D. FISH [REPEALED]

§ 303.031. Repealed by Acts 1977, 65th Leg., p. 564, ch. 199, § 2, eff. Aug. 29, 1977

The repealed section, relating to applicability of the Regulatory Act to water area of the Sam Rayburn Reservoir, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

SUBCHAPTER E. FUR-BEARING ANIMALS [REPEALED]

§§ 303.041, 303.042. Repealed by Acts 1977, 65th Leg., p. 564, ch. 199, § 3, eff. Aug. 29, 1977

The repealed sections, relating to methods of taking opossum, bobcats, and catamounts, and attracting foxes with calling devices, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

CHAPTER 304. SAN JACINTO COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

- 304.001. Regulatory Act: Applicability.
- 304.002. Regulatory Act: Lake Livingston.

SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING

- 304.011. Hunting With Dogs.

SUBCHAPTER C. GAME ANIMALS

- 304.021. Hunting Deer With Dogs.
- 304.022. Possession of Deer.
- 304.023. Squirrels.

SUBCHAPTER D. BIRDS

- 304.031. Turkey.

SUBCHAPTER E. FUR-BEARING ANIMALS

- 304.041. Fox.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 304.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in San Jacinto County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 304.002. Regulatory Act: Lake Livingston

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to all of the public water area in San Jacinto County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1754, ch. 702, § 1, eff. Aug. 29, 1977.]

[Sections 304.003 to 304.010 reserved for expansion]

SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING

§ 304.011. Hunting With Dogs

A person may use dogs to hunt game birds and game animals in San Jacinto County during the open season for the game bird or game animal.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 304.012 to 304.020 reserved for expansion]

SUBCHAPTER C. GAME ANIMALS

§ 304.021. Hunting Deer With Dogs

(a) No person may allow or permit a dog under his control to hunt wild deer in San Jacinto County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 304.022. Possession of Deer

(a) No person may possess the freshly killed carcass of a wild deer, or part of one, in San Jacinto County except during the open season for deer.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 304.023. Squirrels

(a) No person may hunt squirrel in San Jacinto County except during the open season beginning on October 15 and extending through January 15.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each squirrel hunted in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 304.024 to 304.030 reserved for expansion]

SUBCHAPTER D. BIRDS

§ 304.031. Turkey

(a) No person may hunt wild turkey in San Jacinto County except during the open season beginning on November 16 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 304.032 to 304.040 reserved for expansion]

SUBCHAPTER E. FUR-BEARING ANIMALS

Repeal

*Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this Subchapter is repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this Subchapter.*

### § 304.041. Fox

(a) A person may hunt or trap wild fox at any time in San Jacinto County.

(b) The commissioners court in San Jacinto County may fix and pay, out of the general fund of the county, bounties on the destruction of wild fox in the county.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 305. SAN PATRICIO COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
305.001. Regulatory Act: Applicability.

### SUBCHAPTER B. BIRDS

305.011. Regulatory Act: Quail Exempted.  
305.012. Quail Season.

### SUBCHAPTER C. FISH

305.021. Fish Sale: Lake Corpus Christi and Nueces River.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 305.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in San Patricio County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 305.002 to 305.010 reserved for expansion]

### SUBCHAPTER B. BIRDS

#### § 305.011. Regulatory Act: Quail Exempted

In San Patricio County quail are not wildlife resources under the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 305.012. Quail Season

The open season when it is lawful to hunt wild quail of all varieties in San Patricio County begins on December 1 of one year and extends through January 31 of the following year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### SUBCHAPTER C. FISH

#### § 305.021. Fish Sale: Lake Corpus Christi and Nueces River

(a) No person may take for sale any fish from Lake Corpus Christi in San Patricio County.

(b) No person may take for sale any fish from the portion of the Nueces River in San Patricio County west and north of the Calallen Dam or from a tributary of the Nueces River in San Patricio County the confluence of which with the Nueces River is west and north of the Calallen Dam.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Added by Acts 1977, 65th Leg., p. 1401, ch. 565, § 3, eff. Aug. 29, 1977.]

## CHAPTER 306. SAN SABA COUNTY

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
306.001. Regulatory Act: Applicability.

### SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING

306.011. Definitions.  
306.012. Open Archery Season.  
306.013. Prohibited Archery Equipment.  
306.014. Deer Permits.  
306.015. Limit and Possession of Deer.  
306.016. Penalty.  
306.017. Possession of Firearms.

### SUBCHAPTER C. FISH

306.021. Fish Sale.  
306.022. Leaving Fish to Die.  
306.023, 306.024. Repealed.

### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 306.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in San Saba County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 306.002 to 306.010 reserved for expansion]

### SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING

#### § 306.011. Definitions

In this subchapter:

(1) "Buck deer" means a deer that has a hardened antler protruding through the skin.

(2) "Antlerless deer" is any deer other than a buck deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 306.012. Open Archery Season

(a) The open archery season in San Saba County begins on October 1 and extends through October 31 each year.

(b) During the open archery season a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

**§ 306.013. Prohibited Archery Equipment**

No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) in San Saba County by means of:

- (1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;
- (2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;
- (3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or
- (4) poisoned, drugged, or explosive arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

**§ 306.014. Deer Permits**

(a) At least 15 days prior to the opening of the archery season, a landowner or lessee in San Saba County who desires to permit the hunting of deer on his land with bows and arrows during the open archery season may apply to the department for antlerless deer permits.

(b) The department shall issue to each applicant the number of antlerless deer permits consistent with sound wildlife management practices and consistent with any law authorizing the department to regulate the taking of antlerless deer.

(c) Landowners or lessees receiving antlerless deer permits shall return the fully completed stubs from the used permits and all unused permits and stubs to the issuing officer not later than January 10 of the year following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 306.015. Limit and Possession of Deer**

(a) No person may take or kill more than one antlerless deer with bow and arrows during the open archery season in San Saba County.

(b) No person may possess an antlerless deer in San Saba County unless he has in his possession an antlerless deer permit on which appears the date of the kill, the hunter's name, and the signature of the owner or agent on whose tract the deer was killed.

(c) No person may possess the carcass of any deer in San Saba County if it does not have attached to it a tag issued to him on his valid hunting license unless the carcass has been finally processed.

(d) No person may attach the bonus deer tag from a valid hunting license to a deer other than an antlerless deer in San Saba County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 306.016. Penalty**

A person who violates Section 306.012 through Section 306.015 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 306.017. Possession of Firearms**

(a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or in a hunting camp in San Saba County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

[Sections 306.018 to 306.020 reserved for expansion]

**SUBCHAPTER C. FISH**

**§ 306.021. Fish Sale**

(a) No person may buy, barter, or sell or offer to barter or sell any bass, crappie, perch, catfish, or any other fish, except bait fish, taken from the fresh water in San Saba County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 30, eff. Sept. 1, 1977.]

**§ 306.022. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in San Saba County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die

in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§§ 306.023, 306.024. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed sections, relating to minnow sale and minnow transport, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

**CHAPTER 307. SCHLEICHER COUNTY**

**§ 307.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Schleicher County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 308. SCURRY COUNTY**

**§ 308.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Scurry County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 309. SHACKELFORD COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
309.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

309.011. Fish Sale.  
309.012. Hubbard Creek Lake: Fish Sale.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 309.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Shackelford County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 309.002 to 309.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 309.011. Fish Sale**

(a) No person may take for commercial purposes any fish, except bait fish, from the public water of Shackelford County.

(b) This section does not apply to that portion of Hubbard Creek Lake located in Shackelford County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$250. Each day in which a person takes fish for commercial purposes from the public water of Shackelford County is a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 31, eff. Sept. 1, 1977.]

**§ 309.012. Hubbard Creek Lake: Fish Sale**

(a) Except as provided in Subsection (b) of this section, no person may catch for barter or sale, possess or transport for barter or sale, offer to barter or sell, or barter or seil any fish, except bait fish, taken from that part of Hubbard Creek Lake located in Shackelford County.

(b) A person may catch, possess, transport, barter, or sell fish from Hubbard Creek Lake under a contract with the department for removal of rough fish as provided in Section 66.113 of this code.

(c) Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(b), eff. Sept. 1, 1977.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each fish possessed or sold in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, §§ 32, 42(b), eff. Sept. 1, 1977.]

**CHAPTER 310. SHELBY COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
310.001. Regulatory Act: Applicability.

**SUBCHAPTER B. GAME ANIMALS [REPEALED]**

310.011 to 310.013. Repealed.

**SUBCHAPTER C. BIRDS [REPEALED]**

310.021 to 310.022. Repealed.

**SUBCHAPTER D. FUR-BEARING ANIMALS**

310.031. Methods of Taking Fur-Bearing Animals.  
310.032. Fox.  
310.033. Attracting Foxes With Calling Devices.

**SUBCHAPTER E. FISH**

310.041. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 310.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Shelby County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 927, ch. 342, § 1, eff. June 10, 1981.]

[Sections 310.002 to 310.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS [REPEALED]

§§ 310.011 to 310.013. Repealed by Acts 1981, 67th Leg., p. 927, ch. 342, § 2

These sections are repealed effective as provided by § 61.004. The repealed sections, relating to deer, hunting deer with dogs, and squirrel, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

SUBCHAPTER C. BIRDS [REPEALED]

§§ 310.021 to 310.022. Repealed by Acts 1981, 67th Leg., p. 927, ch. 342, § 2

These sections are repealed effective as provided by § 61.004. Former §§ 310.021 and 310.022 were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Former § 310.0211 was added by Acts 1977, 65th Leg., p. 37, ch. 20, § 1. The sections read:

- "§ 310.021. Turkeys
  - "(a) No person may hunt wild turkey in Shelby County except during the open season beginning on November 16 and extending through December 31.
  - "(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200."
- "§ 310.0211. Turkey
  - "(a) Section 310.021 of this code is suspended during the effective period of this section.
  - "(b) No person may hunt turkey in Shelby County at any time.
  - "(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.
  - "(d) This section expires on September 1, 1982."
- "§ 310.022. Quail
  - "(a) No person may take or kill quail in Shelby County except during the open season beginning on December 1 of one year and extending through January 31 of the next year.
  - "(b) No person may kill more than 12 quail in one day, take more than 36 quail in one week, or possess more than 36 quail at one time during the open season in Shelby County.
  - "(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each bird taken or possessed in violation of this section constitutes a separate offense."

SUBCHAPTER D. FUR-BEARING ANIMALS

§ 310.031. Methods of Taking Fur-Bearing Animals

(a) No person may trap any fur-bearing animal, or set any trap or deadfall for any fur-bearing animal in Shelby County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 310.032. Fox

(a) Except as provided in Subsections (b) and (c) of this section, no person may hunt wild fox in Shelby County.

(b) A person may kill wild fox caught destroying domestic fowl or other domestic stock.

(c) When the state health officer finds and declares that the health of the people of Shelby County is menaced by rabies caused by rabid foxes, a person may kill or destroy wild foxes until the state health officer declares that the danger from rabid foxes has passed.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 310.033. Attracting Foxes With Calling Devices

(a) No person may use any horn, recording, or other device to call or attract a wild fox in Shelby County, except that a person may use the devices for scientific research or in making wildlife movies after obtaining a permit to use them from the department.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 310.034 to 310.040 reserved for expansion]

SUBCHAPTER E. FISH [REPEALED]

§ 310.041. Repealed by Acts 1981, 67th Leg., p. 927, ch. 342, § 2, eff. June 10, 1981

The repealed section, relating to the applicability of the Regulatory Act, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Section 2 of the 1981 repealing act provided in part: "A proclamation made by the commission under Subchapter E, Chapter 310, Parks and Wildlife Code, is not repealed by this Act."

CHAPTER 311. SHERMAN COUNTY

§ 311.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Sherman County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 312. SMITH COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

- Section 312.001. Regulatory Act: Applicability.
- 312.002. Regulatory Act: Aquatic Life.

SUBCHAPTER B. GAME ANIMALS

- 312.011. Regulatory Authority: Deer.
- 312.012. Prohibited Weapons.
- 312.013. Squirrel.

## SUBCHAPTER C. BIRDS

Section	
312.021.	Regulatory Authority: Quail.
312.022.	Daily Hunting Permitted.
312.023.	Turkey.
312.024.	Pheasant.

## SUBCHAPTER D. FISH

312.031.	Fish Sale.
----------	------------

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 312.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources in Smith County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 312.002. Regulatory Act: Aquatic Life

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to all aquatic life in Smith County.

[Added by Acts 1979, 66th Leg., p. 908, ch. 416, § 3, eff. Aug. 27, 1979.]

[Sections 312.003 to 312.010 reserved for expansion]

## SUBCHAPTER B. GAME ANIMALS

## § 312.011. Regulatory Authority: Deer

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to deer in Smith County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 312.012. Prohibited Weapons

(a) In Smith County, no person may hunt using a shotgun shell containing larger than Number 4 shot, except during the open season for deer.

(b) In Smith County, no person may hunt with a high-powered rifle in an area where deer are known to roam, except during the open deer season.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each violation constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 312.013. Squirrel

(a) No person may hunt squirrel in Smith County except during the open season beginning on October 1 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each violation constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 312.014 to 312.020 reserved for expansion]

## SUBCHAPTER C. BIRDS

## § 312.021. Regulatory Authority: Quail

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to quail in Smith County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 312.022. Daily Hunting Permitted

A person in Smith County may hunt game birds each day of the week during the open seasons. This section does not apply to quail.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 312.023. Turkey

(a) No person may hunt turkey in Smith County except during the open season beginning on November 16 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 312.024. Pheasant

There is no closed season for the hunting of pheasant of all varieties in Smith County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 312.025 to 312.030 reserved for expansion]

## SUBCHAPTER D. FISH

## § 312.031. Fish Sale

(a) Except as provided in Subsection (b) of this section, no person may sell, offer for sale, or possess for the purpose of sale fish, except bait fish, caught from the public fresh water of Smith County.

(b) A person having a commercial fishing license may sell rough fish (drum, shad, carp, suckers, gar, and buffalo fish) caught from the Sabine River in Smith County.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 217, ch. 105, § 33, eff. Sept. 1, 1977.]

## CHAPTER 313. SOMERVELL COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section	
313.001.	Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

313.011.	Repealed.
313.012.	Fish Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 313.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Somervell County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 313.002 to 313.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 313.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

§ 313.012. Fish Sale

(a) Except as authorized by the department, no person may sell, possess for sale, offer for sale, or expose for sale fish caught from the Brazos River or its tributaries or from Lake Whitney or its source streams in Somervell County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each fish possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 218, ch. 105, § 34, eff. Sept. 1, 1977.]

CHAPTER 314. STARR COUNTY

§ 314.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Starr County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 315. STEPHENS COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
315.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

315.011. Repealed.  
315.012. Fish Sale: Possum Kingdom Lake.  
315.013. Fish Sale: Hubbard Creek Lake.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 315.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Stephens County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 315.002 to 315.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 315.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow sale, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

§ 315.012. Fish Sale: Possum Kingdom Lake

(a) No person may barter, sell, or buy or offer to barter or sell fish, except bait fish, caught from Possum Kingdom Lake or its backwater located in Stephens County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 218, ch. 105, § 35, eff. Sept. 1, 1977.]

§ 315.013. Fish Sale: Hubbard Creek Lake

(a) No person may catch, possess, or transport for the purpose of sale or sell or barter or offer to sell or barter fish, except bait fish, from Hubbard Creek Lake in Stephens County.

(b) This section does not apply to a person operating under contract with the department authorized by Section 66.113 of this code.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each fish possessed or sold in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 218, ch. 105, § 36, eff. Sept. 1, 1977.]

CHAPTER 316. STERLING COUNTY

§ 316.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Sterling County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 317. STONEWALL COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
317.001. Regulatory Act: Applicability.

**SUBCHAPTER B. BIRDS**

317.011. Quail.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 317.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Stonewall County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 292, ch. 116, § 3, eff. Aug. 31, 1981.]

[Sections 317.002 to 317.010 reserved for expansion]

**SUBCHAPTER B. BIRDS****§ 317.011. Quail**

(a) No person may hunt quail in Stonewall County except during the open season beginning on December 1 of one year and extending through January 31 of the following year.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each quail taken in violation of this section constitutes a separate offense.

[Added by Acts 1981, 67th Leg., p. 292, ch. 116, § 3, eff. Aug. 31, 1981.]

**CHAPTER 318. SUTTON COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
318.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

318.011. Fish Sale.  
318.012. Leaving Fish to Die.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT****§ 318.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Sutton County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 318.002 to 318.010 reserved for expansion]

**SUBCHAPTER B. FISH****§ 318.011. Fish Sale**

(a) No person may catch or possess for the purpose of sale or offer for sale catfish, perch, crappie, bream, or bass in Sutton County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 318.012. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Sutton County any catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 319. SWISHER COUNTY****§ 319.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Swisher County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 320. TARRANT COUNTY****§ 320.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Tarrant County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 321. TAYLOR COUNTY****SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
321.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

321.011. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 321.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Taylor County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 321.002 to 321.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 321.011. **Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnows caught from Fort Phantom Hill Lake, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 322. TERRELL COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

322.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

322.011. Regulatory Act: Exception.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 322.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Terrell County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 322.002 to 322.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 322.011. **Regulatory Act: Exception**

In Terrell County fish are not "wildlife resources" as that term is used in the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 323. TERRY COUNTY

§ 323.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Terry County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 324. THROCKMORTON COUNTY

§ 324.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Throckmorton County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 325. TITUS COUNTY

§ 325.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Titus County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 326. TOM GREEN COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

326.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

326.011. Repealed.

326.012. Fish Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 326.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Tom Green County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 326.002 to 326.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 326.011. **Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

§ 326.012. **Fish Sale**

(a) No person may purchase or sell or attempt to purchase or sell freshwater fish caught from the water of Tom Green County except bait fish, buffalo fish, carp, suckers, and garfish.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 218, ch. 105, § 37, eff. Sept. 1, 1977.]

## CHAPTER 327. TRAVIS COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
327.001. Wildlife Act: Applicability.

## SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING

327.011. Definitions.  
327.012. Open Archery Season.  
327.013. Prohibited Archery Equipment.  
327.014. Deer Permits.  
327.015. Limit and Possession of Deer.  
327.016. Penalty.  
327.017. Possession of Firearms.

## SUBCHAPTER C. BIRDS

327.021. Release of Pheasants.

## SUBCHAPTER D. FISH

327.031. Repealed.  
327.032. Fish Sale.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 327.001. Wildlife Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Travis County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 327.002 to 327.010 reserved for expansion]

## SUBCHAPTER B. METHODS GENERALLY APPLICABLE TO HUNTING

## § 327.011. Definitions

In this subchapter:

- (1) "Buck deer" means a deer that has a hardened antler protruding through the skin.
- (2) "Antlerless deer" means a deer other than a buck deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 327.012. Open Archery Season

(a) The open archery season in Travis County begins on October 1 and extends through October 31 each year.

(b) During the open archery season, a person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, and collared peccary (javelina) by means of bows and arrows. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

## § 327.013. Prohibited Archery Equipment

No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) in Travis County by means of:

(1) a bow that is not capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards;

(2) arrows that are not equipped with broadhead hunting points at least seven-eighths of an inch in width and not more than one and one-half inches in width;

(3) arrows that do not have on them in a non-water-soluble medium the name and address of the user; or

(4) poisoned, drugged, or explosive arrows.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

## § 327.014. Deer Permits

(a) At least 15 days before the opening date of the open archery season, a landowner or lessee in Travis County who desires to permit the hunting of deer on his land with bows and arrows during the open archery season may apply to the department for antlerless deer permits.

(b) The department shall issue to each applicant the number of antlerless deer permits consistent with sound wildlife management practices and consistent with any law authorizing the department to regulate that taking of antlerless deer.

(c) Landowners or lessees receiving antlerless deer permits shall return the fully completed stubs to the issuing officer not later than January 10 of the year following the date of issuance.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 327.015. Limit and Possession of Deer

(a) No person may take or kill more than one antlerless deer with bow and arrow during the open archery season.

(b) No person may possess an antlerless deer in Travis County unless he has in possession an antlerless deer permit on which appears the date of the kill, the hunter's name, and the signature of the owner or agent on whose tract the deer was killed.

(c) No person may possess the carcass of a deer in Travis County that does not have attached to it a tag issued to the person on his valid hunting license unless the carcass has been finally processed.

(d) No person may attach the bonus deer tag from a valid hunting license to a deer other than an antlerless deer.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 327.016. Penalty

A person who violates Section 327.012 through Section 327.015 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 327.017. Possession of Firearms

(a) No person may hunt wild buck deer, wild antlerless deer, wild bear, wild turkey gobblers or bearded hens, or collared peccary (javelina) during the open archery season in Travis County while having any type of firearm or crossbow on his person or in his possession and simultaneously possessing a bow and arrow in an automobile or hunting camp.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1975, 64th Leg., p. 1215, ch. 456, § 16, eff. Sept. 1, 1975.]

[Sections 327.018 to 327.020 reserved for expansion]

SUBCHAPTER C. BIRDS

§ 327.021. Release of Pheasants

(a) A person may purchase wild pheasants legally propagated by a person holding a license under Chapter 45 of this code and may release the pheasants in Travis County for hunting or shooting purposes.

(b) The holder of a license issued under Chapter 45 of this code may release pheasants for hunting or shooting purposes in Travis County.

(c) At least 30 percent of the birds released on any premises for shooting purposes shall be released within five days before the opening of the controlled season, and the remainder of the birds may be released at any time during the controlled season.

(d) Birds released under this section must be in good health, be full-winged, and in condition to go wild.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 327.022 to 327.030 reserved for expansion]

SUBCHAPTER D. FISH

§ 327.031. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1. Sale, transportation, and taking of bait fish, see, now, § 66.010.

§ 327.032. Fish Sale

(a) Except as provided in Subsection (b) of this section, no person may catch or possess for the purpose of sale or offer for sale fish, except bait fish, from the water of Travis County.

(b) This section does not apply to rough fish, including shad, carp, suckers, gar, buffalo fish, mullet, and needlefish, from the water of Travis County, but not including the water of the Colorado River Lakes.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. Each fish caught or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 218, ch. 105, § 38, eff. Sept. 1, 1977.]

CHAPTER 328. TRINITY COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 328.001. Regulatory Act: Applicability.

SUBCHAPTER B. GAME ANIMALS

328.011. Deer Season; Spike Deer.

SUBCHAPTER C. FISH

328.021. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 328.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Trinity County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 328.002 to 328.010 reserved for expansion]

SUBCHAPTER B. GAME ANIMALS

§ 328.011. Deer Season; Spike Deer

(a) No person may hunt deer in Trinity County except during the open season beginning on November 16 and extending through December 31 of each year and during an archery season provided for by the commission beginning on October 1 and extending through October 31 of each year.

(b) No person may take or kill a spike deer in Trinity County at any time.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each

animal taken in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 574, ch. 207, § 1, eff. Aug. 29, 1977.]

[Sections 328.012 to 328.020 reserved for expansion]

#### SUBCHAPTER C. FISH

#### § 328.021. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

### CHAPTER 329. TYLER COUNTY

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
329.001. Regulatory Act: Applicability.

#### SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

329.011. Hunting With Dogs.

#### SUBCHAPTER C. FUR-BEARING ANIMALS

329.021. Regulatory Act: Fox Excluded.  
329.022. Fox: Calling Devices.

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 329.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Tyler County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 329.002 to 329.010 reserved for expansion]

#### SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

#### § 329.011. Hunting With Dogs

(a) In Tyler County a person may use dogs in hunting game birds and game animals only during the open season for the game bird or game animal.

(b) In Tyler County no person may knowingly allow a dog under his control to hunt a wild deer except during the open deer season.

(c) Except during the open deer season, no person in Tyler County may possess the carcass or a part of the carcass of a wild deer freshly killed.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200 and by confinement in the county jail for not less than 3 days nor more than 30 days.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 329.012 to 329.020 reserved for expansion]

#### SUBCHAPTER C. FUR-BEARING ANIMALS

#### Repeal

*Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this Subchapter is repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this Subchapter.*

#### § 329.021. Regulatory Act: Fox Excluded

In Tyler County fox are not included as wildlife resources under the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

#### § 329.022. Fox: Calling Devices

(a) No person may use a horn, recording, or other device to call or attract wild fox in Tyler County except that, with a permit obtained from the department a device may be used for scientific research or the making of wildlife movies.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

### CHAPTER 330. UPSHUR COUNTY

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
330.001. Regulatory Act: Applicability.

#### SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

330.011. Hunting Weapons.

#### SUBCHAPTER C. GAME ANIMALS

330.021. Deer.  
330.022. Squirrels.

#### SUBCHAPTER D. BIRDS

330.031. Quail.  
330.032. Turkey.

#### SUBCHAPTER E. FISH

330.041. Suckerfish.

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

#### § 330.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources of Upshur County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 330.002 to 330.010 reserved for expansion]

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING

§ 330.011. Hunting Weapons

(a) No person may hunt with a rifle larger than .22 caliber or with a shotgun loaded with buck-shot or a slug in an area of Upshur County where deer are known to range, except during the open deer season.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$20 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 330.012 to 330.020 reserved for expansion]

SUBCHAPTER C. GAME ANIMALS

§ 330.021. Deer

(a) No person may hunt or possess deer in Upshur County except during a 30-day open season beginning on the Saturday nearest November 15.

(b) No person in Upshur County may hunt a deer other than a buck deer.

(c) No person may kill or take more than one buck deer during the open season in Upshur County.

(d) A "buck deer" means a deer having a hardened antler protruding through the skin.

(e) A person who violates a provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each deer taken in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1763, ch. 711, § 1, eff. Aug. 29, 1977.]

§ 330.022. Squirrels

(a) No person may hunt wild red or fox squirrel or wild gray squirrel in Upshur County except during the open season beginning on October 1 and extending through December 31.

(b) No person may take or kill more than 10 squirrels in a day or more than 20 squirrels during the open season.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1763, ch. 711, § 2, eff. Aug. 29, 1977.]

[Sections 330.023 to 330.030 reserved for expansion]

SUBCHAPTER D. BIRDS

§ 330.031. Quail

(a) No person may hunt wild quail in Upshur County except during the open season beginning on December 1 of one year and extending through February 15 of the following year.

(b) Persons may hunt wild quail on every day of the week.

(c) No person may kill more than 12 quail in one day or more than 36 quail during any period of seven days. No person may possess at one time more than 36 quail.

(d) No person may hunt quail on the land of another without the oral consent of the owner or other person in charge of the land given in the presence of two witnesses or the written consent of the owner or other person in charge of the land.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each quail killed or possessed in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1763, ch. 711, § 3, eff. Aug. 29, 1977.]

§ 330.032. Turkey

(a) No person may hunt wild turkey in Upshur County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$300. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 330.033 to 330.040 reserved for expansion]

SUBCHAPTER E. FISH

§ 330.041. Suckerfish

A person may catch suckerfish in Gin and Glade creeks during February, March, and April with any kind of trammel net.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 331. UPTON COUNTY

§ 331.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Upton County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 332. UVALDE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
332.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

332.011. Repealed.  
332.012. Fish Sale.  
332.013. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

## § 332.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Uvalde County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 332.002 to 332.010 reserved  
for expansion]

## SUBCHAPTER B. FISH

§ 332.011. Repealed by Acts 1977, 65th Leg., p.  
219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.  
Sale, transportation, and taking of bait fish, see, now, § 66.010.

## § 332.012. Fish Sale

(a) No person may sell or offer for sale a bass, white perch, crappie, or catfish caught in the streams of Uvalde County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 332.013. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water in Uvalde County an edible fish and leave the fish to die without an intention to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 333. VAL VERDE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
333.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

333.011. Repealed.  
333.012. Fish Sale.  
333.013. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

## § 333.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Val Verde County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 333.002 to 333.010 reserved  
for expansion]

## SUBCHAPTER B. FISH

§ 333.011. Repealed by Acts 1977, 65th Leg., p.  
219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.  
Sale, transportation, and taking of bait fish, see, now, § 66.010.

## § 333.012. Fish Sale

(a) No person may sell or offer for sale a bass, white perch, crappie, or catfish caught in the streams of Val Verde County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 333.013. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water in Val Verde County an edible fish and leave the fish to die without an intention to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 334. VAN ZANDT COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section

- 334.001. Regulatory Act: Applicability.
- 334.002. Regulatory Act: Lake Tawakoni.

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING**

- 334.011. Trapping Without Permission of Landowner.

**SUBCHAPTER C. BIRDS**

- 334.021. Quail.
- 334.022. Turkey.
- 334.023. Turkey: Specific Tract.

**SUBCHAPTER D. FISH**

- 334.031. Fish Sale; Lake Tawakoni.

**SUBCHAPTER E. ANIMALS**

- 334.041. Sale of Certain Live Animals.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 334.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) does not apply to the wildlife resources of Van Zandt County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 334.002. Regulatory Act: Lake Tawakoni**

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in all of the water area of Lake Tawakoni in Van Zandt County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 334.003 to 334.010 reserved for expansion]

**SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO HUNTING**

**§ 334.011. Trapping Without Permission of Landowner**

(a) No person in Van Zandt County may set a trap, snare, deadfall, or other device for the taking of a bird or animal protected by this code on the land of another person without first having received from the landowner or his authorized agent written permission for the taking. The permit must specify the period of time during which the taking is authorized and the methods of taking authorized.

(b) The evidence that a person was setting a device for the taking of a bird or animal on land of another person and that the person did not have in his possession the permit required by this section is prima facie evidence of a violation of this section.

(c) No person may use a forged or otherwise fraudulent permit in taking or attempting to take a bird or animal by a trap, snare, deadfall, or other device on the land of another.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 334.012 to 334.020 reserved for expansion]

**SUBCHAPTER C. BIRDS**

**§ 334.021. Quail**

(a) No person may hunt quail in Van Zandt County except during the open season beginning on December 1 of one year and extending through January 31 of the following year.

(b) No person may hunt quail on a Sunday in Van Zandt County.

(c) No person may hunt quail with a gun or a dog outside the county of his residence on the land of another person in Van Zandt County without first having received from the landowner or his agent in charge of the land written permission to hunt. The permission must give the time during which hunting is allowed. This subsection does not apply to a person hunting in the company of the landowner or agent.

(d) The evidence that a person was hunting quail with a gun or a dog on the private land of another outside the county of his residence without being in possession of the permit required by this section is prima facie evidence of a violation of this section.

(e) No person may use a forged or otherwise fraudulent permit to hunt quail with a gun or dog on the land of another in Van Zandt County.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 334.022. Turkey**

(a) No person may hunt turkey in Van Zandt County except during the open season beginning on November 16 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 334.023. Turkey: Specific Tract**

*Text of section effective until November 16, 1984*

(a) No person may hunt turkey at any time in the following described tract in Van Zandt County:

BEGINNING at a point where the Sabine River crosses F.M. 17;

THENCE, southwest along F.M. 17 to the first county road on the right, a distance of 4.3 miles;

THENCE, north and northwest 2.1 miles along the county road to the paved Caney Creek road;

THENCE, northwest along Caney Creek road 2.6 miles to its intersection with the Clark's Ferry road;

THENCE, north along Clark's Ferry road 2.8 miles to the Sabine River and the county line separating Van Zandt County and Rains County;

THENCE, southeast along the Sabine River to the point of beginning.

(b) A person who violates this section is guilty of a misdemeanor and on conviction shall be punished by a fine of not less than \$50 nor more than \$200.

(c) This section expires on November 16, 1984.

[Added by Acts 1979, 66th Leg., p. 250, ch. 129, § 1, eff. May 9, 1979.]

[Sections 334.024 to 334.030 reserved for expansion]

#### SUBCHAPTER D. FISH

##### § 334.031. Fish Sale; Lake Tawakoni

(a) No person may sell fish, except bait fish, caught from Lake Tawakoni in Van Zandt County except under a contract with the department for the taking of rough fish.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 218, ch. 105, § 39, eff. Sept. 1, 1977.]

#### SUBCHAPTER E. ANIMALS

##### § 334.041. Sale of Certain Live Animals

(a) No person may sell or possess for the purpose of sale in Van Zandt County a living armadillo, squirrel, skunk, bobcat, porcupine, raccoon, wolf, coyote, bear, fox, or opossum.

(b) This section does not apply to:

(1) the sale of an animal by or to a zoo; or

(2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code.<sup>1</sup>

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) A person who violates Subsection (a) of this section is guilty of a Class B misdemeanor.

(e) A peace officer who has probable cause to believe that an animal has been sold or held for sale

in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(f) A person who violates Subsection (a) of this section, in addition to the penalties under Subsection (d) of this section, on conviction shall pay all costs and expenses incurred under Subsection (e) of this section.

[Added by Acts 1979, 66th Leg., p. 262, ch. 136, § 2, eff. Aug. 27, 1979.]

<sup>1</sup>Section 43.021 et seq. Acts 1981, 67th Leg., p. 2737, ch. 748, which amended various provisions relating to the taking, possession, propagation, transportation, purchase, and sale of fur-bearing animals in § 8 thereof provides:

"The following sections of the Parks and Wildlife Code, as amended, are not affected by this Act: Sections 81.404, 229.021, 334.041, and 350.021."

### CHAPTER 335. VICTORIA COUNTY

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section 335.001. Regulatory Act: Applicability.

#### SUBCHAPTER B. BIRDS

335.011. Quail.

#### SUBCHAPTER C. FISH

335.021. Regulatory Act: Marine Life Excluded.  
335.022. Fishing Methods: Guadalupe River.  
335.023. Seining Within One Mile of City.  
335.024. Fishing Methods: Certain Water.  
335.025. Commission May Close Certain Water.

#### SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

##### § 335.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Victoria County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 335.002 to 335.010 reserved for expansion]

#### SUBCHAPTER B. BIRDS

##### § 335.011. Quail

(a) In Victoria County, quail are not included as wildlife resources under the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

(b) The open season when it is lawful to hunt wild quail of all varieties in Victoria County begins on November 15 of one year and extends through February 15 of the following year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 335.012 to 335.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 335.021. **Regulatory Act: Marine Life Excluded**

In Victoria County saltwater species of marine life, except red drum, are not wildlife resources under the Uniform Wildlife Regulatory Act (Chapter 61 of this code).

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 725, ch. 270, § 14, eff. Oct. 1, 1978.]

§ 335.022. **Fishing Methods: Guadalupe River**

(a) No person may catch fish from the Guadalupe River in Victoria County except by:

- (1) hook and line;
- (2) trotline;
- (3) flounder gig and light;
- (4) cast net or minnow seine not exceeding 20 feet in length to be used for catching bait only.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 335.023. **Seining Within One Mile of City**

(a) No person may catch fish, shrimp, green turtle, loggerhead, or terrapin by the use of a seine, drag, fyke, setnet, trammel net, trap, dam, or weir from a bay or other navigable water in Victoria County within one mile of a city.

(b) "City" means a community having 100 or more families within an area of one square mile.

(c) A city shall set out and maintain buoys, stakes, or other markers showing the limits within which Subsection (a) of this section applies.

(d) A person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. The identification of a boat operating in violation of this section is prima facie evidence of a violation by the owner, lessee, person in charge, or master of the boat.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 335.024. **Fishing Methods: Certain Water**

(a) No person may catch fish from the water of Lavaca Bay, Banal Lake, Mesquite Creek, Placedo Creek, Garcitas Creek, or Oyster Bayou in Victoria County except by:

- (1) hook and line;
- (2) rod and reel;
- (3) trotline;
- (4) flounder gig and light; or
- (5) cast net or minnow seine not exceeding 20 feet in length and for catching bait only.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 335.025. **Commission May Close Certain Water**

(a) The commission may close tidal water in Victoria County for the use of nets, seines, spears, gigs, lights, and other devices for catching fish except a hook and line or cast net or minnow seine not more than 20 feet in length when the commission finds that the closing is best for the protection and increase of fish life or to prevent their destruction.

(b) The commission shall give notice of the closing at least two weeks before the effective date of the closing. The notice must contain:

- (1) the reason for the closing;
- (2) a designation of the area to be closed;
- (3) the effective date and duration of the closing;
- (4) a statement that after the effective date of the closing it will be unlawful to drag a seine, set a net, or use a gig and light to catch fish in the described area.

(c) After an investigation and hearing, and on a finding that the closing of an area no longer promotes the conservation of fish, the commission may open the area to seining, netting, giggering, and other fishing.

(d) The department may seize seines used in violation of this section and hold them as evidence in the trial of a defendant and no suit may be maintained against the department or an authorized employee for the seizure.

(e) This section does not apply to any of the water to which Sections 335.023 and 335.024 apply. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 336. WALKER COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT.

Section 336.001. Regulatory Act: Applicability.

SUBCHAPTER B. FUR-BEARING ANIMALS

336.011. Fox Calling Devices.

SUBCHAPTER C. FISH

336.021. Importation, Possession, and Release of Grass Carp.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 336.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Walker County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 336.002 to 336.010 reserved for expansion]

## SUBCHAPTER B. FUR-BEARING ANIMALS

**Repeal**

*Acts 1981, 67th Leg., p. 2741, ch. 748, § 9(a), eff. Sept. 1, 1981, provides that this Subchapter is repealed on the effective date of a proclamation by the commission that regulates the conduct proscribed by this Subchapter.*

## § 336.011. Fox Calling Devices

(a) No person may use a horn, recording, or other device to call or attract fox in Walker County except that a person may use a calling device for scientific research or the making of wildlife movies if a permit is acquired from the department.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 336.012 to 336.020 reserved for expansion]

## SUBCHAPTER C. FISH

## § 336.021. Importation, Possession, and Release of Grass Carp

*Text of section added effective until September 1, 1987*

(a) Grass carp (white amur or *Ctenopharyngodon idella*) may be imported, possessed, and released by Texas A&M University into the water of Lake Conroe in Walker County for research purposes. This section prevails over any contrary regulation of the department issued under Chapter 43, Chapter 66, or Chapter 67 of this code.

(b) This section expires September 1, 1987. [Added by Acts 1981, 67th Leg., p. 3295, ch. 863, § 2, eff. Aug. 31, 1981.]

Section 4 of the 1981 Act provides:

"This Act expires on September 1, 1987."

Former § 336.021, relating to minnows, and derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, was repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a).

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 337. WALLER COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

337.001. Regulatory Act: Applicability.

## SUBCHAPTER B. ANIMALS

337.011. Squirrel.

## SUBCHAPTER C. FISH

337.021. Repealed.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 337.001. Regulatory Act: Applicability

The Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies only to the following wildlife resources in Waller County:

- (1) deer;
- (2) quail; and
- (3) turkey.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 337.002 to 337.010 reserved for expansion]

## SUBCHAPTER B. ANIMALS

## § 337.011. Squirrel

(a) No person may hunt squirrel in Waller County except during the open seasons beginning on May 1 and extending through July 31 and beginning on October 1 and extending through December 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$50. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 337.012 to 337.020 reserved for expansion]

## SUBCHAPTER C. FISH

## § 337.021. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## CHAPTER 338. WARD COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section

338.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

338.011. Fish Sale.

338.012. Leaving Fish to Die.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 338.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Ward County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 338.002 to 338.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 338.011. Fish Sale

(a) No person may sell or offer for sale a bass, white perch, crappie, or catfish caught in the streams of Ward County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 338.012. Leaving Fish to Die

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water in Ward County an edible fish and leave the fish to die without an intention to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish left to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 339. WASHINGTON COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

- Section 339.001. Regulatory Act: Applicability.
- 339.002. Repealed.

SUBCHAPTER B. ANIMALS

339.011, 339.012. Repealed.

SUBCHAPTER C. FISH

339.021. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 339.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Washington County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 1761, ch. 709, § 1, eff. Aug. 29, 1977.]

§ 339.002. Repealed by Acts 1977, 65th Leg., p. 1761, ch. 709, § 2, eff. Aug. 29, 1977

The repealed section, relating to area of the Somerville Reservoir, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

[Sections 339.003 to 339.010 reserved for expansion]

SUBCHAPTER B. ANIMALS

§§ 339.011, 339.012. Repealed by Acts 1977, 65th Leg., p. 1761, ch. 709, § 3, eff. Aug. 29, 1977

The repealed sections, relating to deer and squirrel, respectively, were derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

[Sections 339.013 to 339.020 reserved for expansion]

SUBCHAPTER C. FISH

§ 339.021. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 340. WEBB COUNTY

- Section 340.001. Regulatory Act: Applicability.
- 340.002. Certain Methods of Taking Game Prohibited.

§ 340.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Webb County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 340.002. Certain Methods of Taking Game Prohibited

Sections 62.003, 62.005, and 66.004 of this code apply in Webb County and the provisions of those sections prevail over provisions of the Uniform Wildlife Regulatory Act (Chapter 61 of this code). [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 341. WHARTON COUNTY

§ 341.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Wharton County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 342. WHEELER COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

- Section 342.001. Regulatory Act: Applicability.

SUBCHAPTER B. BIRDS

342.011. Quail.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 342.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Wheeler County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 342.002 to 342.010 reserved for expansion]

**SUBCHAPTER B. BIRDS**

**§ 342.011. Quail**

(a) No person may hunt quail in Wheeler County except during the open season beginning on December 1 and extending through January 31.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100. Each bird taken in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 343. WICHITA COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
343.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

343.011. Repealed.  
343.012. Fish Sale.  
343.013. Leaving Fish to Die.  
343.014. Injuring Fish.  
343.015. Special Charge.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 343.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Wichita County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 343.002 to 343.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 343.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.  
Sale, transportation, and taking of bait fish, see, now, § 66.010.

**§ 343.012. Fish Sale**

(a) No person may barter, sell, offer for barter or sale, or buy a bass, perch, crappie, catfish, or any other fish, except minnows, taken from the water located in the valley of the Big Wichita River from where the lower or diversion dam on the Big Wichita River is located, above the dam, up the valley of the Big Wichita River to the storage dam in Baylor County, and up the river valley from the dam as far as the water is impounded by the dam, or in any water in Lake Wichita in Wichita County, or in any water impounded by the dam across Holliday Creek forming Lake Wichita, or in any of the irrigation canals connected with Lake Kemp or the diversion dam, or in any of the water in laterals leading from the canals in Wichita County, or in the lateral, canal, or drainage ditch leading from the South Side Canal from Diversion Lake from a point in the South Side Canal in Section 16, of Denton County school lands, League No. 4, Wichita County, Texas, to Holliday Creek and thence down Holliday Creek to Lake Wichita in Wichita County, or in any of the water of Buffalo Creek Reservoir, Lake Iowa Park, or Old City Lake, located in Wichita County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish sold or purchased in violation of this section constitutes a separate offense.

(c) A person alleged to have violated this section may be prosecuted in the county where the fish were caught, where he is found in possession of them, or where the fish were bartered or sold, or offered for sale or barter, or purchased.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 343.013. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the water described in Section 343.012(a) of this code, a bass, crappie, white perch, sunfish, drum, catfish, or other edible fish and leave the fish to die without an intent to eat the fish or leave any minnows without an intent to use them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$25. Each fish allowed to die constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 343.014. Injuring Fish**

(a) No person may injure or destroy fish by using dynamite, powder, or other explosive or poison in any of the water described in Section 343.012(a) of this code.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and

by confinement in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 343.015. Special Charge**

District judges of the judicial districts of Wichita County shall give a special charge on Sections 343.012 through 343.014 of this code to the grand juries of Wichita County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 344. WILBARGER COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
344.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

344.011. Repealed.  
344.012. Fish Sale.  
344.013. Leaving Fish to Die.  
344.014. Injuring Fish.  
344.015. Special Charge.

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

**§ 344.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Wilbarger County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 344.002 to 344.010 reserved for expansion]

**SUBCHAPTER B. FISH**

**§ 344.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.  
Sale, transportation, and taking of bait fish, see, now, § 66.010.

**§ 344.012. Fish Sale**

(a) No person may barter, sell, offer for barter or sale, or buy a bass, perch, crappie, catfish, or any other fish, except minnows, taken from any water in laterals leading off from irrigation canals connected with Lake Kemp or Diversion Lake or from those irrigation canals in Wilbarger County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish sold or purchased in violation of this section constitutes a separate offense.

(c) A person alleged to have violated this section may be prosecuted in a county where the fish were caught, where the person was in possession of them, or where the fish were sold, bartered, offered for sale or barter, or purchased.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 344.013. Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the water described in Section 344.012(a) of this code, a bass, crappie, white perch, sunfish, drum, catfish, or other edible fish and leave the fish to die without an intent to eat the fish or leave any minnows without an intent to use them for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$1 nor more than \$25. Each fish allowed to die constitutes a separate offense.  
[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 344.014. Injuring Fish**

(a) No person may injure or destroy fish by using dynamite, powder, or other explosive or poison in any of the water described in Section 344.012(a) of this code.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and by confinement in the county jail for not more than one year.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 344.015. Special Charge**

District judges of the judicial districts of Wilbarger County shall give a special charge on Sections 344.012 through 344.014 of this code to the grand juries of Wilbarger County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 345. WILLACY COUNTY**

**§ 345.001. Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Willacy County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**CHAPTER 346. WILLIAMSON COUNTY**

**SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT**

Section  
346.001. Regulatory Act: Applicability.

**SUBCHAPTER B. FISH**

346.011. Repealed.  
346.012. Fish Sale.  
346.013. Leaving Fish to Die.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 346.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Williamson County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 346.002 to 346.010 reserved  
for expansion]

SUBCHAPTER B. FISH

§ 346.011. **Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977**

The repealed section, relating to minnow transport, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

§ 346.012. **Fish Sale**

(a) No person may sell or offer to sell a bass, white perch, crappie, or catfish caught in the streams of Williamson County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

§ 346.013. **Leaving Fish to Die**

(a) No person may knowingly place, throw, or deposit on the banks or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools, or lagoons, or tanks, in Williamson County a catfish, perch, crappie, white perch, bass, trout, or other edible fish and leave the fish to die without an intent to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 347. WILSON COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
347.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

347.011. Fish Sale.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 347.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Wilson County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 347.002 to 347.010 reserved  
for expansion]

SUBCHAPTER B. FISH

§ 347.011. **Fish Sale**

(a) No person may sell or barter or offer for sale or barter a bass, perch, crappie, or catfish caught from the fresh water of Wilson County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

CHAPTER 348. WINKLER COUNTY

§ 348.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources of Winkler County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 252, ch. 118, § 1, eff. May 4, 1977.]

CHAPTER 349. WISE COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

Section  
349.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

349.011. Repealed.

SUBCHAPTER A. APPLICABILITY OF UNIFORM  
WILDLIFE REGULATORY ACT

§ 349.001. **Regulatory Act: Applicability**

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Wise County.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 349.002 to 349.010 reserved  
for expansion]

SUBCHAPTER B. FISH

§ 349.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts, 1975, 64th Leg., p. 1405, ch. 545, § 1.  
Sale, transportation, and taking of bait fish, see, now, § 66.010.

CHAPTER 350. WOOD COUNTY

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
350.001. Regulatory Act: Applicability.

SUBCHAPTER B. FISH

350.011. Fish Sale.  
350.012. Sale of White Perch and Crappie Outside County.

SUBCHAPTER C. ANIMALS

350.021. Sale of Certain Live Animals.

SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

§ 350.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Wood County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 350.002 to 350.010 reserved for expansion]

SUBCHAPTER B. FISH

§ 350.011. Fish Sale

(a) No person may sell, offer for sale, or possess for sale fish, except bait fish, caught from the fresh water of Wood County.

(b) Licensed commercial fishermen may sell drum, shad, carp, suckers, gar, and buffalo fish caught from the Sabine River forming the boundary between Smith and Wood Counties.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 218, ch. 105, § 40, eff. Sept. 1, 1977.]

§ 350.012. Sale of White Perch and Crappie Outside County

(a) No operator or owner of a private fish hatchery in Wood County may sell white perch or crappie for the purpose of stocking water outside Wood County.

(b) The owner or operator of a fish hatchery in Wood County is not prohibited from selling fish for the purpose of stocking water in Wood County and the Commissioners Court of Wood County and any

person may purchase white perch and crappie for that purpose from a private fish hatchery.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

SUBCHAPTER C. ANIMALS

§ 350.021. Sale of Certain Live Animals

(a) No person may sell or possess for the purpose of sale in Wood County a living armadillo, squirrel, skunk, bobcat, porcupine, raccoon, wolf, coyote, bear, fox, or opossum.

(b) This section does not apply to:

(1) the sale of an animal by or to a zoo; or

(2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code.<sup>1</sup>

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) A person who violates Subsection (a) of this section is guilty of a Class B misdemeanor.

(e) A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(f) A person who violates Subsection (a) of this section, in addition to the penalties under Subsection (d) of this section, on conviction shall pay all costs and expenses incurred under Subsection (e) of this section.

[Added by Acts 1979, 66th Leg., p. 262, ch. 136, § 3, eff. Aug. 27, 1979.]

<sup>1</sup> Section 43.021 et seq.

Acts 1981, 67th Leg., p. 2737, ch. 748, which amended various provisions relating to the taking, possession, propagation, transportation, purchase, and sale of fur-bearing animals, in § 8 thereof, provides:

"The following sections of the Parks and Wildlife Code, as amended, are not affected by this Act: Sections 81.404, 229.021, 334.041, and 350.021."

CHAPTER 351. YOAKUM COUNTY

§ 351.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Yoakum County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 352. YOUNG COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
352.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

352.011. Repealed.  
352.012. Fish Sale.  
352.013. Fish Sale: Possum Kingdom Lake.  
352.014. Leaving Fish to Die.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 352.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Young County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 352.002 to 352.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 352.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## § 352.012. Fish Sale

(a) No person may sell, barter, offer for sale or barter, or buy a bass, crappie, perch, catfish, or any other fish, except minnows, caught in Young County.

(b) Subsection (a) of this section does not apply to Lake Possum Kingdom or its backwater in Young County or to the Clear Fork of the Brazos River in Young County.

(c) A person alleged to have violated this section may be prosecuted in Young County, where the person was found to be in possession of the fish, or where the fish were sold or bought.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50. Each fish sold or bought in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## § 352.013. Fish Sale: Possum Kingdom Lake

(a) No person may sell, barter, offer for sale or barter, or buy fish, except bait fish, caught from Lake Possum Kingdom or its backwater.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$100. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1977, 65th Leg., p. 218, ch. 105, § 41, eff. Sept. 1, 1977.]

## § 352.014. Leaving Fish to Die

(a) No person may knowingly throw, place, or deposit on the banks or grounds within 500 feet of any water to which Section 352.012 of this code applies a bass, crappie, white perch, bream, sunfish, drum, catfish, or other edible fish and leave it to die without an intent to eat the fish or to leave a minnow to die without an intent to use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$2 nor more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 353. ZAPATA COUNTY

## § 353.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Zapata County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

## CHAPTER 354. ZAVALA COUNTY

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

Section  
354.001. Regulatory Act: Applicability.

## SUBCHAPTER B. FISH

354.011. Repealed.  
354.012. Fish Sale.  
354.013. Leaving Fish to Die.

## SUBCHAPTER A. APPLICABILITY OF UNIFORM WILDLIFE REGULATORY ACT

## § 354.001. Regulatory Act: Applicability

Except as provided in this chapter, the Uniform Wildlife Regulatory Act (Chapter 61 of this code) applies to the wildlife resources in Zavala County. [Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

[Sections 354.002 to 354.010 reserved for expansion]

## SUBCHAPTER B. FISH

## § 354.011. Repealed by Acts 1977, 65th Leg., p. 219, ch. 105, § 42(a), eff. Sept. 1, 1977

The repealed section, relating to minnows, was derived from Acts 1975, 64th Leg., p. 1405, ch. 545, § 1.

Sale, transportation, and taking of bait fish, see, now, § 66.010.

## § 354.012. Fish Sale

(a) No person may sell or offer to sell a bass, white perch, crappie, or catfish caught in the streams of Zavala County.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$50.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

**§ 354.013. Leaving Fish to Die**

(a) No person may throw, place, or deposit on the bank or grounds adjacent to any of the fresh water, creeks, lakes, bayous, rivers, pools or lagoons, or tanks, in Zavala County a catfish, perch, crappie,

white perch, bass, trout, or other edible fish and leave it to die, without the person intending to eat the fish or use it for bait.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25. Each fish allowed to die in violation of this section constitutes a separate offense.

[Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975.]

# DISPOSITION TABLE

Showing where provisions of former articles of Vernon's Annotated Penal Code of 1925 and Vernon's Annotated Civil Statutes and the unclassified laws of the General and Special Laws of Texas are covered in the Parks and Wildlife Code.

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
871	-----	879g-4	63.003
871a	1.011(a)		224.012
871b	43.061	879h	63.004
872	64.001		339.012
873	62.010	879h-1	62.053
873a	62.011	879h-1 note	62.051
874	64.002	879h-2	62.054
874a, § 1	43.071	879h-3	62.055
	43.072	879h-3a, § 1	43.201
	43.074		43.202
§ 2	43.073	§ 2	43.203
§ 3	43.072	§ 3	43.204
§ 4	43.074	§ 4	43.205
	43.075	879h-4	62.052
	43.078	879h-5	62.056
§ 5	43.076	879h-6	62.002
§ 6	43.077	879i	64.011
875	-----	880	63.010
876	-----		103.013
877	64.012	880a	-----
878	-----	880b	310.012
to	-----	880c	272.013
879a-5	-----		272.015
879a-6, § 1	43.011	880d, § 1	49.002
§ 2	43.012	§ 1(a)	49.003
§ 3	43.013		49.004
§ 4	43.014	§ 1(b)	49.005
§ 5	43.015	§ 1(c)	49.005
	43.016	§ 2(a)	49.003
879b	-----		49.006
879c	64.013		49.007
879c-1	-----	§ 2(b)	49.004
to	-----		49.006
879f-5	-----		49.007
879f-6, §§ 1, 2	64.015	§ 2(c)	49.006
§ 3	-----	§ 3	49.008
879g	63.006		49.010
879g-1	-----	§ 4	49.011
879g-2	63.003	§ 5	49.012
879g-2a	63.003		49.013
	224.012	§ 6(a)	49.014
879g-3	63.003		

PARKS AND WILDLIFE CODE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
880d, § 6(b)	49.015
§ 6(c)	49.016
§ 7	49.009
§ 8	49.001
§ 9	49.017
881	63.002
	64.013
881a	---
881b, § 1	64.021
§ 2	64.021
	64.026
§ 3	64.026
§ 4	---
§ 5	64.022
	64.023
§§ 6, 7	64.024
§ 8	64.025
882	62.001
882a	12.012
883	---
884	62.021
	62.024
885	62.009
	62.021
	62.024
886	---
887	62.004
888, § (a)	43.151
	43.152
§ (b)	43.151
§ (c)	43.153
	43.154
§§ (d), (e)	43.154
§ (f)	43.155
§ (g)	43.156
§ (h)	43.157
888a	64.004
888b, § 1	43.251
§ 2	43.252
§ 3	43.253
§ 4	43.254
§ 5	43.255
§ 6	43.256
§ 7	43.257
§ 8	43.258
§ 9	43.259
§ 10	43.260
§ 11	43.261
889	62.027
890	62.027
	62.028
891	64.003
892	63.001
893	---
to	---
895b	---

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
895c, § 1	42.002
	42.009
	42.011
	42.012
§ 2	42.005
	to
	42.008
	42.011
	42.014
	to
	42.016
§ 3	42.002
§ 4	42.010
§ 5	42.017
	42.022
§ 6(a)	42.001
§ 6(b)	42.018
§ 6(c)	42.019
§ 6(d)	42.018
§ 6(e)	42.020
§ 6(f)	42.021
§ 7	---
§ 8	42.003
	42.004
	42.010
	42.013
§ 9	42.023
§ 10	42.024
§§ 11, 12	---
§ 13	42.025
895c-1, § (1)	50.001
§ (2)	50.002
§ (3)	50.003
§ (4)	50.004
§ (5)	50.005
895d	12.112
896	---
897	12.104
	12.110
	62.007
897a	12.109
898	12.004
899	---
900	62.006
901	62.003
901 note	43.101
	to
	43.111
902	62.005
903	43.001
	to
	43.005
904	---
904a	---
905	12.102

## DISPOSITION TABLE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
906	12.101	913a, § 6	68.004
	12.105	§ 7	68.005
907	62.008	§ 8	68.015
	62.021	§ 9(a)	68.006
	62.026	§ 9(b), (c)	43.024
908, § (a)	43.042	§ 9(d)	43.021
	43.045	§ 9(e)	43.026
§ (b)	43.041(1)	§ 9(f)	68.020
§ (c)	43.041(2)	§ 10	68.007
§ (d)	43.050	§ 11	68.008
§ (e)	43.053	§ 12	68.009
§ (f)	43.043	§ 13	68.010
§ (g)	43.044	§ 14	68.011
	43.047	§ 15	68.012
	43.048	§ 16	68.013
	43.049	§ 17	68.014
§ (h)	43.052	§ 18	68.018
§ (i)	43.051	§ 19(a), (b)	68.015
§ (j)	—	§ 19(c)	68.016
§ (k)	43.054	§ 20	68.020
§ (l)	43.055	§ 21(a), (b)	—
§ (m)	43.046	§ 21(c), (d)	68.017
909	62.029	§ 22	67.005
909a	—		68.021
909a—1	62.030	§ 23	68.019
909a—2, § 1	62.030	§ 24	68.018
§ 2	—	§§ 25, 26	—
910	63.008	913b	12.015
911	—	914	—
912	12.107	915	—
913, § 1	43.022	915a	12.111
	43.024	916	—
	43.025	917	81.005
§ 1A	43.022		81.301
	43.024		to
	43.025		81.307
	43.026	918	12.007
§ 2	43.023	919	12.103
	43.026	920	42.001
§ 3	43.027	921	—
	43.028	to	—
§ 4	43.029	923	—
§ 5	12.013	923a	62.025
§ 6	12.013	923b	—
	43.023	923b—1	—
§ 7	43.030	923c	131.011
913a, § 1	68.001		237.022
§ 2(a)	67.002	923d	62.007
	to	923e	62.009
	67.004	923f	62.028
§ 2(b)	67.001	923f—1, § 1	—
	67.004	§§ 2 to 5	63.007
§ 3	68.002	923(g)	63.009
§ 4	68.003	923g	—
§ 5	—	to	—
		923g—2	—

PARKS AND WILDLIFE CODE

1402

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
923h	62.022
	62.023
923i	246.021
923k	270.011
923l	103.012
923ll	—
923ll—1	188.011
923ll—2	—
923ll—3	—
923ll—4	108.011
	337.011
923ll—5	—
923ll—6	63.005
923ll—7	—
923m, § 1	1.011(a)
	71.001(1)
§ 2	72.001
	72.002
§ 3	72.003
§ 4	72.004
	132.032
	160.041
	212.031
	290.031
§ 5	72.007
923mm	—
to	—
923pp	—
923q, §§ 1A to 8	—
§ 9	71.003
	71.009
	71.010
	71.014
§§ 10, 11	—
§ 12	71.015
§§ 13, 13-A	—
923q1	—
923qa, § 1	71.001(2)
	to
	71.001(6)
§ 2	71.002
	71.005
	to
	71.010
§ 3	71.013
§ 4	71.011
	71.012
§ 5	—
§ 6	71.005
	71.006
	71.007
§ 7	71.015
923qa—1	—
923qa—2	—
923qa—3	63.102
923qa—4	—
to	—
923qa—6	—

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
923qa—7, § 1	71.004
	71.009
	71.013
§§ 2, 2a	—
§ 3	71.015
923qq	—
923r	72.005
923rr	72.006
923s	72.006
923ss	72.006
923t	72.005
923tt	—
to	—
923v	—
923vv	72.007
923w	—
923ww	—
923x	63.101
924	66.003
924a	66.004
925	66.002
926	66.001
927	66.101
	66.102
927a, § 1	66.104
§ 2	66.105
§ 3	66.106
§ 4	66.105
	66.106
§ 5	—
928	66.103
928a, § 1	81.201
	81.202
	81.209
§ 2	81.203
	to
	81.205
§ 3	81.206
	to
	81.208
§§ 4, 5	81.004
928b	—
to	—
931	—
931a	66.201
932	66.108
933	—
to	—
933½b	—
933½c	66.111
933½d	66.111
934	—
934a, § 1(a) to (f)	47.001
§ 1(g)	47.001
	47.012

DISPOSITION TABLE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
934a, § 2	47.002	934b-3	66.208
	47.004	934b-4, § 1(a)	65.102
	to	§ 1(b)	65.101
	47.006	§ 2	65.104
	47.009	§ 3	65.103
	47.011	934b-5, § 1	65.004
	47.014	§ 2	65.006
	47.015	§ 3	65.005
§ 3, subdiv. 1	47.002	934c, § 1	—
	47.031	§§ 2, 3	47.003
§ 3, subdiv. 2	47.009	§ 4	47.008
§ 3, subdiv. 2a	47.010		47.031
§ 3, subdiv. 3(a)	47.011	§§ 5, 6	47.038
to (c)	47.011	§ 6a(a)	47.016
§ 3, subdiv. 3(d)	47.012	§ 6a(b)	47.016
§ 3, subdiv. 3(e)	47.013		47.017
§ 3, subdiv. 4	47.014	§ 6a(c)	—
§ 3, subdiv. 5	—	§ 6a(d)	47.001
§ 3, subdiv. 6	47.015	§ 7	47.053
§ 3, subdiv. 7	47.005	§§ 8, 9	—
§ 3, subdiv. 8	47.006	935	47.054
§ 3, subdiv. 9	—	936	—
§ 3, subdiv. 10	47.004	to	—
§ 3, subdiv. 11	47.001	937a	—
	47.018	937b, § 1(a)	78.102
	47.033	§ 1(b)	78.101
§ 3, subdiv. 12	47.001	§ 2	78.102
§ 3, subdiv. 13	47.034	§ 3	—
	to	938	—
	47.036	to	—
	66.106	940	—
§ 3, subdiv. 14	—	941	66.202
§ 4	47.037	941, §§ 1, 1f	136.046
§ 5	—		184.022
§ 6	47.051		201.014
§ 7	47.032	941-1	—
§ 8	47.031	941-2	—
	47.055	941-3, §§ 1, 3	66.206
§ 9	47.055	941a	—
§ 10	—	941a-1, § 1	330.041
934b-1	—	§ 2	—
934b-2, § 1(a)	47.001	941b	66.101
§ 1(b)	47.007	942	—
§ 1(c)	47.001	943	—
§ 2	47.003	944	136.046
	47.031		184.022
§ 3	47.007	945	66.203
	47.031	945a	—
§§ 4 to 5	—	946	—
§ 6	47.003	947	136.043
	47.007		184.023
§ 7	47.007		201.012
§§ 8, 9	—		335.023
§ 10	47.052		
§ 11	47.055		

PARKS AND WILDLIFE CODE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
948	66.101
	to
	66.103
949	66.006
950	—
951	—
951a	66.109
952, § 1	115.021
	263.011
	347.011
§ 2	110.011
	115.023
	194.012
	233.021
	263.012
§§ 3 to 6	—
952a	105.011
	112.011
	139.011
	343.012
	344.012
952aa	258.041
952aa-1	—
952aa-2	—
952aa-3	134.031
952aa-4, § 1	—
§ 2	283.021
§ 3	283.023
§§ 4 to 6	—
§ 7	283.022
§§ 8 to 11	—
§ 12	283.024
952aa-5	138.033
	301.012
952aa-6	—
952b	105.013
	112.013
	139.012
	343.014
	344.014
952c	—
to	—
952g	—
952h	105.012
	112.012
	139.013
	343.013
	344.013
952i	105.011
	112.011
	139.011
	343.012
	344.012
952j	105.014
	112.014
	343.015

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
952j	344.015
952k	—
952l	—
to	—
952l-8	—
952l-9, § 1	221.021
	276.021
§ 2	103.031
§ 3	103.031
	221.021
	276.021
952l-10, § 1	136.045
	184.021
§ 2	66.213
§ 3	136.045
	184.021
§ 4	66.213
	136.045
	184.021
952l-11, §§ 1 to 2	—
§ 3	66.210
	66.211
	66.212
§§ 4, 5	66.212
952l-12	—
953	—
953a, § 1	352.012
§§ 2 to 7	—
§ 8	352.014
§ 9	352.012
954	66.207
955	101.013
	110.012
	115.021
	115.022
	125.011
	125.012
	127.021
	127.022
	142.011
	142.012
	146.011
	148.011
	148.012
	164.011
	164.012
	169.012
	186.023
	216.011
	216.013
	233.022
	234.023
	236.011
	236.012
	241.011
	241.012

## DISPOSITION TABLE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
955	250.022	962a, § 3	76.107
	251.011	§ 4	76.108
	to	§ 5	76.109
	251.013	§ 6	76.115
	254.021	§ 6A	76.116
	254.022	§ 7	76.110
	260.022		76.111
	263.013		76.114
	264.013	§ 8	76.112
	267.011		76.113
	267.012		76.114
	286.012		76.116
	to		76.117
	286.014	§§ 9, 10	—
	290.022	§ 11	76.118
	293.012	962b, § 1	51.002
	295.012		51.004
	to	§ 2	51.001
	295.014	§ 3	51.002
	300.011		to
	300.012		51.006
	306.022	§ 4	51.007
	318.012	§ 5	51.008
	332.012	§§ 6, 7	51.009
	332.013	§ 8	51.010
	333.012	§§ 9, 10	—
	333.013	§ 11	51.011
	338.011	963	
	338.012	to	
	346.012	969	—
	346.013	970	76.039
	354.012	971	
	354.013	to	
955a—1	—	974	—
955a—2	309.012	975	78.004
	315.013	976	86.002
955a—3	66.007	976a	86.018
956	66.005	977	12.113
957	65.001	978	—
958	65.002	978a	81.003
959	76.038	978b	81.001
960	76.001	978c	66.110
	to	978d	—
	76.003	978d—1	65.003
961	76.004	978e	66.111
	76.005	978e—1, § (a)	171.014
962	76.037	§ (b)	171.014
962a, § 1	76.101		171.015
	to	§ (c)	171.014
	76.103	978f	—
§ 2	76.103	978f—1	66.209
	to	978f—2, § 1	23.051
	76.105	§ 2	23.052
§ 3	76.103		23.053
	76.104	§ 3	23.054
	76.106	987f—3	—

PARKS AND WILDLIFE CODE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
978f-3a, § 1(a)	11.011	978f-5g, § 5	13.205
§ 1(b)	11.012	978f-5h	81.404
§ 1(c)	11.013	978f-6, § 1	41.003
§ 1(d)	11.014	§ 2	41.001
§ 1(e)	11.015	§ 3	41.004
§ 1(f)	11.016	§§ 4 to 6	41.006
§ 2	---	§ 7	41.005
§ 3	11.017	§ 8	41.007
	11.018	978f-7	41.008
§ 4	---	978f-8	41.002
§ 5	13.004	978g	
§ 6	13.313	to	
	83.001	978i	---
	83.003	978j note	See General & Special Laws Citations
978f-3b	12.011	978j-1, § 1	61.001
978f-3c	12.009		101.001
978f-3d, § 1	81.501		102.001
§ 2	81.502		103.001
§ 3	81.503		104.001
	81.504		105.001
§ 4	81.506		106.001
978f-3e	11.041		107.001
978f-4	12.008		108.001
978f-4a	13.009		109.001
978f-5, § 1	81.401		110.001
§ 2	81.402		111.001
§ 3	81.403		112.001
§§ 4, 5	81.006		113.001
978f-5a	12.005		114.001
978f-5b, § 1	48.002		115.001
	48.005		116.001
	48.006		117.001
§ 2	48.001		118.001
§ 3	48.002		119.001
	to		to
	48.007		122.001
§ 4	48.008		123.001
§ 5	48.009		125.001
§ 6	48.010		126.001
§ 6A	48.011		127.001
§ 7	---		128.001
§ 8	48.012		129.001
§ 9	---		130.001
978f-5c	11.019		131.001
978f-5d, § 1	62.061		133.001
	62.068		135.001
	62.069		137.001
§ 2	62.062		138.002
	to		139.001
	62.067		140.001
978f-5e	12.106		141.001
978f-5f	---		142.001
978f-5g, § 1	13.201		143.001
§ 2	13.202		144.001
§ 3	13.203		
§ 4	13.204		

## DISPOSITION TABLE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
978j—1, § 1	145.001	978j—1, § 1	208.001
	146.001		209.001
	147.001		210.001
	148.001		211.001
	149.001		213.001
	150.001		214.001
	151.001		215.001
	151.002		216.001
	153.001		217.001
	to		to
	155.001		219.001
	156.001		220.001
	157.001		221.001
	158.001		222.001
	159.001		223.001
	161.001		225.001
	162.001		226.001
	164.001		227.001
	165.001		228.001
	166.001		229.001
	167.001		232.001
	to		233.001
	169.001		234.001
	170.001		236.001
	171.001		238.001
	172.001		239.001
	173.001		240.001
	174.001		241.001
	175.001		243.001
	176.001		244.001
	177.001		246.001
	179.001		247.001
	to		248.001
	183.001		249.001
	185.001		250.001
	186.001		252.001
	187.001		to
	188.001		254.001
	189.001		255.001
	190.001		257.001
	191.001		259.001
	193.001		260.001
	194.001		261.001
	195.001		262.001
	196.001		263.001
	197.001		264.001
	198.001		265.001
	199.001		266.001
	200.001		267.001
	201.001		268.001
	202.001		269.001
	203.001		270.001
	204.001		271.001
	205.001		273.001
	206.001		274.001
	207.001		275.001

PARKS AND WILDLIFE CODE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
978j—1, § 1	276.001	978j—1, § 1	334.002
	277.001		335.001
	279.001		336.001
	to		337.001
	281.001		338.001
	282.001		339.002
	283.001		340.001
	284.001		341.001
	285.001		342.001
	286.001		343.001
	287.001		344.001
	288.001		345.001
	289.001		347.001
	290.002		349.001
	291.001		350.001
	292.001		351.001
	293.001		352.001
	294.001		353.001
	295.001		354.001
	297.001	§ 1A	104.002
	298.001		129.002
	299.002		131.002
	300.001		231.001
	301.001		237.001
	302.002		278.001
	302.041		296.001
	303.002	§ 2	61.002
	303.031		61.021
	304.002		61.022
	305.001		61.052
	306.001		144.011
	307.001	§ 3, subsec. a	61.005(3)
	to	§ 3, subsec. b	61.005(4)
	309.001	§ 3, subsec. c	61.005(2)
	310.041	§ 3, subsec. c(1)	104.011
	311.001		223.011
	312.001		261.002
	313.001		281.021
	314.001	§ 3, subsec. c(2)	108.001
	315.001		337.001
	316.001	§ 3, subsec. c(3)	122.011
	to		155.011
	318.001		171.011
	319.001		215.011
	to		222.011
	321.001		286.011
	322.001		289.011
	323.001		295.011
	to		322.011
	326.001	§ 3, subsec. c(4)	126.011
	327.001	§ 3, subsec. c(5)	166.011
	328.001	§ 3, subsec. c(6)	201.011
	329.001		335.021
	331.001	§ 3, subsec. c(7)	188.001
	332.001		
	333.001		

## DISPOSITION TABLE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
978j—1, § 3, subsec. c(8)	221.031 276.031 329.021	978j—1, § 13, subsec. p	234.011
§ 3, subsec. c(9)	305.011 335.011	§ 13, subsec. q	115.012
§ 3, subsec. c(10)	—	§ 13, subsec. r	169.002
§ 3, subsec. c(11)	103.001 302.041 303.031	§ 14	61.901 144.011 328.011
§ 3, subsec. c(12)	302.041 310.041	§ 14A	61.901
§ 3, subsec. c(13)	312.011 312.021	§ 15(f)	340.002
§ 3, subsec. c(14)	115.011	§§ 16, 17	—
§ 3, subsec. d(1)	104.002	§ 18	61.004
§ 3, subsec. d(2)	—	978j—2	48.013
§ 4	61.051 61.053 61.054	978j—3	—
§ 5	61.055 61.104	978k, § 1	44.001 to 44.003
§ 6	61.056 61.057	§ 2	44.006
§ 7	61.101 61.102	§ 3	44.014
§ 8	61.103	§ 4	44.001 44.008
§ 9	61.104	§ 5	44.009
§ 10	61.105	§ 6	44.005
§ 11	—	§ 7	44.011 44.013
§ 12	61.055 61.106	§ 8	—
§ 13, subsec. a	61.201	§ 9	44.012
§ 13, subsec. b	61.202	§ 10	44.010
§ 13, subsecs. c, d	104.012	§ 11	44.015
§ 13, subsec. e	61.203	§ 11a	—
§ 13, subsec. f	61.204	§ 12	44.004 44.007
§ 13, subsec. g	61.205	§§ 13, 14	—
§ 13, subsec. h	61.206	§ 15	44.016
§ 13, subsec. i	61.207 283.011	978k—1, § 1	45.001 45.0061
§ 13, subsec. j	—	§ 2	45.002
§ 13, subsec. k	199.021	§ 3	45.003
§ 13, subsec. n	328.011	§ 4	45.004
§ 13, subsec. o	61.208 144.011	§ 5	45.010
		§ 6	45.005
		§ 7	45.006
		§§ 8, 9	45.007
		§ 10	45.009
		§ 11	45.008
		§ 12	45.012
		§ 13	45.011
		978l, § 1	306.021
		§§ 2, 3	—
		§ 4	306.021
		§ 5	—
		978l—1	66.111
		978l—2	—
		to	—
		978l—4	—

PARKS AND WILDLIFE CODE

Vernon's Ann.P.C. Article	V.T.C.A. Parks & Wildlife Code Section
978l-5, § 1	46.101
§ 2	46.102
§ 3	46.102
	to
	46.105
§ 4	46.104
	46.105
	46.107
§ 5	46.106
§ 6	46.108
	46.109
§ 7	46.111
§ 8	46.110
§ 9	46.111
978l-6, §§ 1, 2	---
§ 3	149.012
§ 4	---
978l-7	---
978l-8, § 1(a)	62.081
§ 1(b), (c)	62.082
§ 1(d)	62.083
§ 2	62.084
978m	---
978n, § 1	82.201
§ 2	82.202
§ 3	82.203
§ 4	82.204
§ 5	82.205
§ 6	82.206
§ 7	---
§ 8	82.207
978n-1	---
978n-2	---

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
4016	---
4017	---
4018	12.001
	12.102
4019	12.002
4020	12.003
4021	---
to	---
4023	---
4024	12.108
4025	---
4025a, § 1	23.041
§ 2	23.042
	23.043
§ 3	23.044
4025b	12.006
4026	1.011(b)
	1.011(c)
	1.011(d)

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
4026a	---
4026b	216.021
4027	76.001
	76.002
	76.003
4028	76.004
	76.005
4029	1.012
4030	---
to	---
4032b	---
4032b-1, § 1	46.001
	46.004
	46.009
§ 1A	46.005
§ 1B	46.002
§ 2	46.002
§ 2A	46.003
§ 3	46.006
	46.009
§ 4(a)	46.008
	46.013
§ 4(b)	46.007
§ 5	46.009
	46.010
	46.011
	46.012
§ 6	---
§ 7	46.014
§ 8	---
§ 9	46.015
4032c	---
to	---
4034	---
4035	76.006
4036	76.009
	76.010
	76.011
4037	76.012
	76.013
	76.014
4038	76.015
4039	76.007
	76.008
4040	76.016
4041	76.017
	76.018
4042	76.031
	76.032
	76.033
	76.034
	76.035
	76.036
4043	---
4044	---

## DISPOSITION TABLE

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
4045	136.047	4053, § 2	86.005
	184.024	§ 3	86.008
	201.015	§ 4	86.010
	335.025	§ 5	86.019
4046	66.205	4053a	
4047	—	to	
4048	—	4053c	—
4049	81.002	4053d	86.012(a)
4049a	81.101		86.012(b)
4049b, § 1	82.601		86.012(c)
	82.602		86.013
	82.603		86.016
	82.603		86.017
4049c, § 1	81.102	4053e	
§ 2	81.103	4054	86.013
§ 3	81.104	4054a	86.014
4050	66.112	4054b	86.015
4050a	83.004	4055	—
4050b	83.003	4056	78.001
4050c, § 1	66.113		78.002
§ 2	66.113		78.003
§ 3(a)	66.116	4056a	
§ 3(b)	66.115	to	
§ 4(a)	66.116	4075	—
§ 4(b), (c)	66.117	4075a, § 1	91.008
§ 5	66.118	§ 2	91.001
§ 6	66.114		91.002
4050c-1, § 1	66.101		91.003
§ 2	66.107	§ 3	91.004
4050d	83.001		91.005
4050e	83.002	§ 4	91.004
4050f, § 1	76.201	§ 5	91.006
§ 2	76.202		91.007
§ 3	76.203	§§ 6, 7	—
§ 4	76.204	4075b, § 1	—
§ 5	76.205	§ 2	77.004
	76.206		77.005
	76.207		77.006
	76.208	§ 3(a)	66.301
	76.209		77.001
	76.210	§ 3(b)	77.001
	76.211	§ 3(c), (d)	—
	76.212	§ 3(e)	77.001
	76.213		77.012
	76.216	§ 3(f) to (k)	77.001
	76.214	§ 3(l)	—
	76.215	§ 3(m)	77.001
4051	86.001	§ 3(n)	77.062
	86.002	§ 4(a)	77.013
4052	—		77.089
4053, § 1	86.003		77.095
	86.004	§ 4(b)	77.014
	86.006	§ 4(c)	77.015
	86.007		
	86.009		
	86.011		

PARKS AND WILDLIFE CODE

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
4075h, § 5(a)	77.031	4075b, § 7(g)	77.013
	77.032		77.061
	77.038		77.063
	77.039		77.066
	77.040	§ 8(a)	77.017
	77.041	§ 8(b)	—
§ 5(b)	77.031	§ 9	77.042
§ 5(c)	77.033	§ 10(a)	77.043
	77.038		77.044
	77.039	§ 10(b)	77.045
	77.040		77.046
	77.041	§ 11(a)	77.067
§ 5(d)	77.031		77.089
	77.033	§ 11(b)	77.048
	77.036	§ 11(c)	77.016
	77.037	§ 11(d)	77.067
	77.0371		77.068
§ 5(e)	77.032		77.069
§ 6(a)	77.081		77.089
§ 6(b)	77.082		77.090
§ 6(c)	77.088		77.099
§ 6(d)	77.083	§ 11(e)	—
§ 6(e)	77.084	§ 11A	77.018
§ 6(f)	77.085	§ 12(a)	—
	77.086	§ 12(b)	77.002
	77.087		77.003
	77.091	§ 13(a)	77.020
§ 6(g)	77.091	§ 13(aa)	77.025
	77.092	§ 13(b)	77.022
	77.093	§ 13(c)	77.021
§ 6(h)	77.034	§ 13(d)	77.023
	77.045	§ 13(e)	77.011
	77.094	§ 13(f)	77.024
	77.095	§ 13(g)	77.019
	77.096		77.047
	77.097	§ 13(h)	77.001
	77.098	§ 13(i)	77.025
§ 7(a)	77.035	§ 14	—
	77.038	4075b-1, § 1	77.068
	77.039	§ 2	—
	77.040	4075c, §§ 1, 2	—
	77.041	§ 3(a)	66.302
§ 7(b)	77.035	§ 3(b)	66.301
	77.036	§ 4	66.303
	77.037	§ 5	66.304
	77.0371	§ 6	66.305
§ 7(c)	77.061	§ 7	66.306
	77.062	§ 8	66.303
	77.0621	§ 9	66.307
	77.065	4386b, § 1	11.031
	77.070	§ 2	11.032
	77.071	§ 3	11.033
§ 7(d)	77.064	§ 4	11.032
§ 7(e)	77.061	§ 5	—
§ 7(f)	77.063	§ 6	11.034
		§ 7	—

## DISPOSITION TABLE

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section	Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
4386b—1	11.039	6070h, § 5	21.020
4386b—2	11.038	§ 6	21.022
4386b—3	11.040		21.023
4413d—3	12.010		21.024
6067	—		21.025
6067a, § 1	13.001	§ 7	21.003
§ 2	—		21.009
6067b, § 1	13.101		21.010
	13.102		21.011
§ 2(1)	13.104	§ 8	21.111
§ 2(2)	13.105	§ 9	21.101
§ 2(3) a	13.103		21.102
§ 2(3) b	13.106		21.105
§ 2(3) c	13.107		21.106
§ 2(3) d	13.108	§ 9-A	21.107
§ 3	13.109		21.108
§ 4	11.035	§ 9-B	21.018
§ 5	13.110		21.019
6067c	—		21.109
6067d	13.018	§ 9-C	21.106
6068	13.008		21.110
6069	—	§ 10	21.102
6069a	13.014		21.103
6069b	13.013		21.104
6069c	22.182	§ 11	—
6070	13.007	6071a	—
6070a, § 1	13.015	6071b, § 1	22.001
§ 2	11.035		22.011
	13.015	§ 2	—
§ 3	13.016	6071c, §§ 1, 2	—
6070b, § 1	13.003	§ 3	22.012
§§ 2 to 4	—	§ 4	22.013
6070d	13.010		22.014
6070d—1, § 1	13.017		22.015
§ 2	11.035		22.016
	13.017	6077a—1, § 1	22.083
6070g, §§ 1, 2	13.006	§ 2	22.083
§ 3	13.012		22.084
6070h, §§ 1 to 3	—	§ 3	22.085
§ 4	21.001	6077b	—
	21.002	to	—
	21.004	6077d	—
	21.005	6077e, §§ 1 to 7	—
	21.006	§ 8	23.001
	21.007		23.002
	21.008	6077f	—
	21.012	6077g, § 1	—
	21.013	§ 2	22.121
	21.014	6077h	22.051
	21.015		22.052
	21.016	6077h—1, § 1	22.053
	21.017		22.054
	21.021	§ 2	22.056
	21.025		22.057
	21.101	§ 3	22.059

PARKS AND WILDLIFE CODE

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
6077h—2, § 1	22.055
§ 2	22.056
	22.057
§ 3	22.059
§ 4	22.058
6077j, §§ 1 to 4	—
§ 5	22.022
	22.023
§ 6	—
§ 7	22.021(b)
§ 8	—
6077j—1, § 1	22.022
§ 2	22.024
	22.025
	22.026
	22.027
	22.028
§ 3	22.029
	22.030
	22.031
§ 4	22.032
§ 5	22.033
§ 6	22.034
	22.036
§ 7	22.037
§ 8	22.035
	22.038
§ 9	22.039
§§ 10, 11	—
6077k, § 1	22.151
	22.161
§ 2	22.152
	22.162
§ 3	22.151
	22.152
	22.161
	22.162
6077l, § 1	22.101
§ 2	22.102
6077m—1	—
6077m—2, § 5(a)	22.002
§ 5(b)	22.003
	22.004
	22.005
§ 6	22.006
§§ 7, 8	—
6077n	—
6077n—1	—
6077p, § 1	22.071
	22.072
	22.073
§ 2	22.074
	22.075
§ 3	22.076

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
6077q, § 1	22.091
§ 2	22.091
	22.092
§ 3	22.093
	22.094
§ 4	22.095
6077r, § 1	22.113
§ 2	22.111
§ 3	22.112
6077s, § 1	22.082
	22.085
§ 2	22.082
	22.084
6077t, §§ 1 to 2	—
§ 3	23.011
	23.012
	23.013
§ 4	—
§ 5	23.014
§ 6	—
§ 7	23.015
§ 8	23.016
§ 9	23.014
§§ 10, 11	—
6077u, § 1	23.033
§ 2	23.031
	23.032
§§ 3 to 6	—
§ 7(a)	23.033
§ 7(b), (c)	23.034
6081r, § 1	13.302
	13.303
	13.304
	13.305
§ 2	13.002
§ 3	13.306
	13.307
§ 4	13.308
	13.309
§ 5	13.310
§ 6	11.037
§ 7	13.311
§ 8	13.312
6081s, § 1	13.005
§ 2	13.301
6081s—1	13.011
6145—1, art. I	22.171
6701d—4	66.008
9206, § 1	31.001
	31.002
§ 2	—
§ 2a(1) to (4)	31.003
§ 2a(5)	31.003
	31.004
§ 2a(6)	—

DISPOSITION TABLE

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
9206, § 2a(7) -----	31.003
§ 2a(8) -----	-----
§ 2a(9) to (11) -----	31.003
§ 2a(12) -----	31.028
§ 2a(13) -----	31.003
§ 2b -----	-----
§ 3 -----	31.021
§ 4(a) -----	31.024
	31.026
	31.028
	31.032
§ 4(b) -----	31.031
§ 4(c) -----	31.023
§ 4(d) -----	31.034
§ 4(e) -----	31.037
§ 4(f) -----	31.035
	31.039
§ 4(g) -----	31.029
§ 4(h) -----	31.038
§ 4(i) -----	31.030
§ 4(j), (k) -----	31.033
§ 4(l) -----	31.025
§ 5(a) to (c) -----	31.036
§ 5(d) -----	31.042
§ 6 -----	31.043
§ 7 -----	31.041
§ 8(a) -----	31.063
§ 8(b), (c) -----	31.064
§ 8(d), (e) -----	31.065
§ 8(f) -----	31.066
§ 8(g) -----	31.067
§ 8(h) -----	31.072
§ 8(i) -----	31.068
§ 8(j) -----	31.069
§ 8(k) -----	31.062
§ 8(l) -----	31.061
§ 8(m) -----	31.070
	31.072
§ 9 -----	31.022
	31.073
§ 10(a) to (c) -----	31.040
§ 10(d) -----	31.066
§ 11 -----	31.094
§ 12 -----	31.004
§ 13 -----	31.095
§ 14 -----	31.093
§ 15 -----	31.098
§ 16 -----	31.099
§ 17 -----	31.100
§ 18 -----	31.101
§ 19 -----	31.102
§ 20 -----	31.092
§ 21(a) -----	31.104
§ 21(b), (c) -----	31.105

Vernon's Ann.Civ. St. Article	V.T.C.A. Parks & Wildlife Code Section
9206, § 22(a) -----	31.071
§ 22(b) -----	31.071
	31.103
§ 22(c) -----	31.071
	31.103
§ 22(d), (e) -----	31.103
§ 23 -----	31.105
§ 24(a) to (c) -----	31.127
§ 24(d) -----	31.097
§ 24(e) -----	31.096
§ 24(f) -----	31.129
§ 25(a) -----	31.121
	31.122
	31.123
§ 25(b), (c) -----	31.124
§ 25(d) -----	31.125
§ 25(e) -----	31.126
§ 26 -----	11.036
	31.128
§ 27(a), (b) -----	31.026
§ 27(c) -----	11.036
§ 27(d) -----	31.026
§ 28 -----	31.027
§ 29(a) -----	31.141
§ 29(b) -----	31.142
§ 30 -----	31.091
§ 31 -----	31.005
§§ 32, 33 -----	-----

General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section
42nd Leg.,	
ch. 323, §§ 3, 4 -----	299.022
42nd Leg., S.L.,	
ch. 68, §§ 1, 7, 8 -----	172.011
ch. 69, § 1 -----	160.031
ch. 127, § 1 -----	82.401
§ 2 -----	82.402
to	82.404
82.408	82.408
82.409	82.409
§ 3 -----	82.405
§ 4 -----	82.406
§ 5 -----	82.407
ch. 227, §§ 1, 2 -----	82.651
ch. 237, § 1 -----	171.012
§§ 1a, 1b -----	171.013
42nd Leg., 2nd C.S.,	
ch. 28, §§ 1, 7, 8 -----	118.011
	197.011
	255.011

PARKS AND WILDLIFE CODE

General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section
43rd Leg., S.L.,	
ch. 77 -----	103.042
ch. 89, §§ 2, 3 -----	149.011
ch. 106, § 1 -----	302.051
	303.041
43rd Leg., 2nd C.S.,	
ch. 27, §§ 1, 3 -----	114.011
44th Leg.,	
ch. 144, §§ 2, 4, 5 -----	64.014
ch. 345, § 2 -----	47.051
44th Leg., S.L.,	
ch. 3, §§ 1, 1-a, 2 -----	254.024
	306.024
ch. 16, §§ 1 to 3 -----	191.012
ch. 22, §§ 1, 2 -----	245.012
ch. 36 -----	173.022
ch. 42, §§ 1, 5 -----	194.011
ch. 45, §§ 1 to 3 -----	116.022
	127.023
	170.011
	186.022
	204.011
	209.012
	254.023
	260.023
	284.011
	306.023
	346.011
§ 4 -----	170.011
	209.012
	254.023
	284.011
	306.023
	346.011
§ 5 -----	116.022
	127.023
	170.011
	186.022
	204.011
	209.012
	254.023
	260.023
	284.011
	306.023
	346.011
44th Leg., 2nd C.S.,	
ch. 457 -----	132.031
45th Leg.,	
ch. 16, §§ 4, 6 -----	250.021
ch. 112, § 1 -----	310.013
§ 2 -----	303.022
	310.022

General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section
45th Leg.,	
ch. 112, § 4 -----	303.022
	310.013
	310.022
ch. 115, § 1 -----	82.301
	82.302
§ 2 -----	82.303
ch. 156 -----	66.009
ch. 403, §§ 3, 4 -----	150.011
	226.012
ch. 412, §§ 1, 4 -----	225.011
	249.011
ch. 413, §§ 4, 5 -----	327.032
ch. 496 -----	173.021
45th Leg., 1st C.S.,	
ch. 48 -----	258.041
45th Leg., 2nd C.S.,	
ch. 55 -----	334.011
46th Leg.,	
p. 336, G.L., ch. 1, § 1 ..	82.101
	82.103
§ 2 ..	82.102
§ 3 ..	82.104
p. 802, S.L., ch. 53; § 1	227.011
	309.011
p. 806, S.L., ch. 56	
§§ 1, 2 -----	116.021
	169.011
	186.021
	230.034
	260.021
	293.011
	318.011
p. 810, S.L., ch. 59,	
§§ 2, 4 -----	164.013
	332.011
p. 811, S.L., ch. 60 -----	336.021
p. 815, S.L., ch. 65,	
§§ 1-A, 2 -----	197.012
p. 829, S.L., ch. 77,	
§§ 4 to 6 -----	202.031
	258.011
§§ 7, 8 -----	258.011
§ 9 -----	202.031
	258.011
p. 836, S.L., ch. 83,	
§§ 5a, 5b -----	230.021
p. 839, S.L., ch. 84 -----	66.204

## DISPOSITION TABLE

General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section	General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section
47th Leg.,		50th Leg.,	
ch. 115	258.032	ch. 49, §§ 2, 3	302.022
ch. 225, § 1	82.701		303.013
	82.702	ch. 51	290.011
§ 1a	82.701	ch. 95	334.021
§ 1b	82.702	ch. 100, § 1	160.012
	82.703		212.012
§ 2	82.704	§ 3	160.012
ch. 271, §§ 1, 2, 4	148.013		212.012
ch. 313, §§ 1, 4	132.022	ch. 159	101.011
	136.031	ch. 243	231.022
	184.011		237.021
	192.021	ch. 246, §§ 1, 2	255.012
	303.021	ch. 442	312.022
	304.031	51st Leg.,	
	310.021	ch. 136, § 1	202.021
	312.023		258.043
	334.022	§ 2	258.042
ch. 373, § 1	160.022	§ 3	202.021
§ 2	212.022		258.042
§§ 3, 4	160.022		258.043
	212.022	ch. 175, §§ 2, 3	266.011
ch. 425, §§ 7, 8	333.011	ch. 179, §§ 1 to 5	178.031
ch. 538, § 1	321.011		199.011
§ 3	227.012	ch. 183, § 1	256.011
	321.011		256.021
§ 4	321.011		256.022
§ 5	227.012	ch. 215, §§ 3, 4	118.013
	321.011	ch. 225	349.011
ch. 582	282.011	ch. 356	270.021
	315.012	ch. 434	138.013
	352.013	ch. 473, § 1a	134.015
48th Leg.,			258.022
ch. 121	287.031	ch. 511	339.021
	328.021	ch. 521	138.041
ch. 124, § 1	230.031	ch. 531	310.031
§ 2	230.032	ch. 568	298.011
§ 3	230.033	51st Leg., 1st C.S.,	
ch. 141, §§ 2, 3	134.021	ch. 47, §§ 2, 3	205.011
ch. 159, § 1	304.041	52nd Leg.,	
49th Leg.,		ch. 46, § 3	130.011
ch. 48	219.011	§ 5	130.012
	282.012	§ 6	130.013
	315.011	§ 8	130.014
	352.011	ch. 52, §§ 1, 3	112.015
ch. 62, §§ 3, 5, 8	229.011	ch. 53, §§ 2, 5	211.011
ch. 83, §§ 2 to 4	272.051	ch. 67	132.021
ch. 120, § 1	326.012	ch. 105, §§ 5a, 7	327.031
§ 3	326.012	ch. 113, §§ 2 to 5, 7	258.021
§ 5	326.011	ch. 160	330.031
§ 6	326.011	ch. 191, §§ 1 to 5	235.011
	326.012		238.011
ch. 135	149.013	ch. 220	268.011
	191.011	ch. 244, § 1	327.032

PARKS AND WILDLIFE CODE

General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section	General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section
52nd Leg.,		53rd Leg., 1st C.S.,	
ch. 283, §§ 2a, 3	108.021	ch. 20, § 3	242.011
	337.021		242.021
ch. 293, §§ 2, 3	175.011		242.022
ch. 297, §§ 2, 3	138.031	ch. 37, § 2	191.012
	213.021	54th Leg.,	
	301.011	ch. 80	131.021
	302.043	ch. 83	343.011
	312.031	ch. 90, § 4	300.015
	350.011	§ 5	300.014
ch. 362	147.012	§ 6	300.014
ch. 437	111.011		300.015
ch. 450	344.011	ch. 91, § 1	160.021
ch. 493, §§ 1 to 3	192.011		212.021
	310.011	§ 2	160.011
53rd Leg.,			212.011
ch. 101, § 2	141.011	§ 3	160.021
§ 4	141.012		212.021
§ 7	141.013	ch. 142, § 1	303.012
§ 9	141.014		310.013
ch. 110, § 1	105.011	ch. 144, § 5	234.021
§ 3	105.013		264.011
	112.013	§ 6	234.022
	343.014		264.012
	344.014	§ 7	234.021
§ 6	105.012		234.022
	112.012		264.011
	343.013		264.012
	344.013	ch. 186	143.021
§ 9	105.014	ch. 225	299.011
	112.014	ch. 321	129.011
	343.015		296.021
	344.015		335.022
§ 10	105.011	ch. 325	228.021
	112.011	ch. 327	208.011
	343.012	ch. 345, § 1	242.023
	344.012	ch. 403, §§ 3, 4	150.011
ch. 152, §§ 1, 2	143.011	ch. 435, §§ 1, 4	327.021
	299.023	ch. 439, §§ 1, 3, 4	258.042
ch. 158	108.012	ch. 474, § 1	118.013
ch. 188, §§ 4, 5	118.012		150.011
	209.011		172.012
	226.011		197.012
	313.012	ch. 481, § 1	82.001
ch. 393, §§ 1, 2	330.011	§ 2	82.002
ch. 398	103.011	§ 3	82.003
ch. 407	312.024	§ 4	82.004
ch. 409, §§ 1, 3	303.011	§ 5	82.005
53rd Leg., 1st C.S.,		55th Leg.,	
ch. 15	114.012	ch. 55	143.022
ch. 20, § 1(a)	242.011	ch. 70, §§ 1, 2	173.011
§ 1(b)	242.021		247.011
	242.022	ch. 184	304.023
§ 1(c)	242.011	ch. 191	313.011
	242.021	ch. 197	335.024
	242.022		

## DISPOSITION TABLE

		V.T.C.A.				V.T.C.A.	
General & Special Laws Citation		Parks & Wildlife Code Section		General & Special Laws Citation		Parks & Wildlife Code Section	
55th Leg.,				58th Leg.,			
ch. 330, §§ 2, 4	-----	192.031		ch. 33, §§ 1, 2	-----	310.032	
ch. 335, § 2	-----	302.044		ch. 49, §§ 1(b), 2	-----	272.016	
ch. 480, §§ 1, 3 to 5	-----	136.044		ch. 273	-----	272.031	
		201.013		ch. 280, § 1	-----	302.011	
55th Leg., 1st C.S.,				ch. 339	-----	223.012	
ch. 3, §§ 4 to 6	-----	134.041				281.022	
		272.051		ch. 409, §§ 1, 3	-----	302.011	
55th Leg., 2nd C.S.,				ch. 410	-----	103.041	
ch. 18, §§ 1 to 3, 4(a)	-----	137.012		ch. 417, § 1	-----	312.012	
§ 4(b)	-----	137.011		§§ 4, 5	-----	312.012	
§ 5	-----	137.012		§ 6	-----	312.013	
56th Leg.,				§ 7	-----	312.012	
ch. 65	-----	272.031				312.013	
ch. 72	-----	258.023		ch. 510	-----	329.011	
		272.041		§ 1	-----	281.011	
ch. 138	-----	126.012		§ 2	-----	200.011	
ch. 189, § 2A, as amended						221.011	
by 60th Leg., chs. 116						276.011	
and 300, § 2B	-----	62.051				281.011	
ch. 208	-----	300.013				287.011	
ch. 260	-----	231.011				304.011	
		231.021		§ 3(a)	-----	200.021	
ch. 266, § 1	-----	330.022				281.011	
ch. 267, § 1	-----	160.011				304.021	
		212.011		§ 3(b)	-----	221.012	
ch. 272, §§ 1, 2 and 4	-----	124.021				276.012	
ch. 274, §§ 1, 2	-----	242.012				287.021	
		256.012		§ 3(c)	-----	200.022	
ch. 498, §§ 4, 5	-----	143.023				221.013	
ch. 499, § 1	-----	302.021				276.013	
56th Leg., 2nd C.S.,						281.011	
ch. 18	-----	136.042				287.022	
ch. 38, § 1	-----	233.011				304.022	
57th Leg.,				§ 3(d)	-----	200.021	
ch. 49, § 1(a)	-----	132.015				200.022	
§ 1(b)	-----	272.016				221.012	
§ 2	-----	132.015				221.013	
		272.016				276.012	
ch. 143	-----	136.022		ch. 510, § 3(d)	-----	276.013	
ch. 166	-----	296.011				281.011	
		305.012				287.021	
		335.011				287.022	
ch. 358, §§ 1, 2, 4	-----	224.021				304.021	
ch. 459, §§ 1, 3	-----	354.011				304.022	
57th Leg., 1st C.S.,				59th Leg.,			
ch. 10, § 1	-----	22.184		ch. 228, § 4	-----	207.011	
§ 2	-----	11.035				216.012	
		22.184				229.012	
§§ 3, 4	-----	22.184				334.031	
58th Leg.,				§§ 4(a), (c)	-----	290.021	
ch. 12	-----	124.011		ch. 230, §§ 2, 3(a)	-----	272.011	
		228.011		§§ 3(b), 3(c)	-----	272.012	
ch. 16, § 1	-----	22.184		§ 4(a)	-----	272.013	
§ 2	-----	11.035		§ 4(b)	-----	272.013	
		22.184				272.014	
§§ 3, 4	-----	22.184		§ 5	-----	272.015	

PARKS AND WILDLIFE CODE

General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section
59th Leg.,	
ch. 231, §§ 2, 3(a)	134.011
§§ 3(b), (c)	134.012
§ 4	134.013
§ 5	134.014
ch. 404	278.011
ch. 412	258.031
ch. 412, § 1	134.022
	272.021
§ 2	134.022
§§ 2(a), 2(b)	272.021
ch. 426	230.018
ch. 428, § 1	—
§ 2	116.012
	127.012
	186.012
	230.012
	250.012
	254.012
	260.012
	306.012
	327.012
§ 3	116.017
	127.017
	186.017
	230.017
	250.017
	254.017
	260.017
	306.017
	327.017
§ 4	116.013
	127.013
	186.013
	230.013
	250.013
	254.013
	260.013
	306.013
	327.013
§ 5	116.011
	127.011
	186.011
	230.011
	250.011
	254.011
	260.011
	306.011
	327.011
§ 6	116.015
	127.015
	186.015
	230.015
	250.015
	254.015

General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section
59th Leg.,	
ch. 428, § 6	260.015
	306.015
	327.015
§ 7	116.014
	127.014
	186.014
	230.014
	250.014
	254.014
	260.014
	306.014
	327.014
§ 8	116.016
	127.016
	186.016
	230.016
	250.016
	254.016
	260.016
	306.016
	327.016
ch. 429	247.021
ch. 435	103.021
ch. 562	237.011
ch. 586	224.011
ch. 589	330.021
§ 2	132.012
§ 3	132.011
	132.013
§ 4	132.014
ch. 593	350.012
ch. 646, § 1	302.002
	303.002
60th Leg.,	
ch. 30, § 1	82.101
ch. 164, § 1	101.012
	138.032
ch. 165, §§ 1(a), 2	138.022
ch. 236	245.021
ch. 263	339.011
ch. 392, §§ 1, 2	103.022
	138.021
	302.031
	330.032
ch. 408	213.011
ch. 410	138.012
ch. 552, § 1	230.041
	230.045
§ 2	230.043
	230.044
	230.046
§ 3	230.047
	230.052
§ 4	230.042

DISPOSITION TABLE

General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section	General & Special Laws Citation	V.T.C.A. Parks & Wildlife Code Section
60th Leg.,		62nd Leg.,	
ch. 552, § 5	230.042	ch. 97, § 4	136.013
§ 6	230.048		246.012
	230.049	§ 5	136.013
§§ 7, 8	230.050		246.013
§ 9	230.051	§ 6	136.013
	230.052	ch. 99	245.031
§ 10	230.053	ch. 490, § 1a	258.042
§ 12	230.047	ch. 566, § 1	189.012
§ 13	230.054	§ 2	189.011
§ 14	230.042	§ 3	189.011
§ 15	230.041		189.012
§ 17	230.041	§ 4	189.013
ch. 676	22.184	ch. 601	22.181
ch. 771	22.183	ch. 607, § 1	82.501
61st Leg.,			82.503
ch. 66, § 1	134.032	§ 2	82.502
ch. 135	342.011	§§ 3, 4	82.504
ch. 215, § 2	178.011	ch. 781, § 1	245.011
	178.021	§ 2	245.022
	178.022	§ 3	245.011
§ 3(a)	178.022		245.022
§ 3(b)	178.011	ch. 955, § 1	22.163
§ 3(c)	178.021	§§ 3, 4(a)	22.164
§ 4	178.022	§ 4(b)	22.165
§ 5	178.011	ch. 999, § 1, 2	136.011
	178.021		246.011
	178.022	§ 3	136.013
ch. 248	202.011		246.013
ch. 514, § 3	64.002	§ 4	136.013
ch. 585	136.041		246.011
ch. 586	136.032	§ 5	136.013
ch. 587	136.021	63rd Leg.,	
ch. 640	200.031	ch. 147, § 1	43.102
	221.032		43.104
	245.041	§ 2	43.103
	246.031	§ 3	43.105
	276.032	§ 4	43.106
	302.052	§ 5	43.107
	303.042	§ 6	43.108
	310.033	§ 7	43.109
	329.022	§ 8	43.110
	336.011	§ 9	43.111
ch. 743, § 1, 2	147.011	§ 10	43.101
62nd Leg.,		64th Leg.,	
ch. 97, § 1	136.012	ch. 31	13.018
§ 2	136.012	ch. 670	258.033
	246.012	ch. 671	138.011
§ 3	136.012		

INDEX TO  
PARKS AND WILDLIFE CODE

References are to Sections

**ABANDONED PROPERTY**

Boats and boating, cancellation of number, 31.037.  
Oysters, private oyster beds, 76.017, 76.018.

**ABORIGINAL VALUE**

Historical sites, acquisition, 13.005.

**ACCIDENTS**

Boats and Boating, this index.

**ACCOUNTS AND ACCOUNTING**

Gulf states marine fisheries commission, 91.007.  
Parks and wildlife department, 12.003.  
Texas local parks, recreation and open space fund, 24.009.

**ACTIONS AND PROCEEDINGS**

Big Bend national park, jurisdiction, 23.001.  
Coastal survey charts, admissibility of evidence, 12.113.  
Eminent Domain, generally, this index.  
Enforcement of rules and regulations, 12.105.  
Fish hatcheries, eminent domain, 81.104.  
Guadalupe Mountains national park, jurisdiction, 23.031.  
Hunting and fishing licenses, forfeiture, 12.112.  
Injunctions, generally, this index.  
Migratory game birds, rules and regulations, 64.025.  
Padre Island national seashore, jurisdiction, 23.011.  
Political subdivisions, state assistance for local parks, noncompliance with state requirements, 24.011.  
Venue, generally, this index.

**ADDRESS**

Boats and boating, numbering, change, notice, 31.038.

**ADJOINING PROPERTY**

State parks, weapons, 13.201 et seq.

**ADMISSIONS FEES**

Historical sites, 13.005.  
Palo Duro Canyon state park, 22.022.  
Pledge, payment of bonds, 22.029.  
Park development bonds, payment, 21.111.  
Port Isabel Lighthouse state historical monument and park, 22.102.  
State parks, 13.018.

**ADVANCE RESERVATIONS**

State park reservations, fees, 13.019.

**ADVERSE POSSESSION**

State parks, public beaches, entrance fees where public has acquired right of use or easement, 21.111.

**ADVERTISEMENTS**

Huntsville state park, timber sales, bids, 22.075.  
Jim Hogg memorial park, timber and iron ore, bids for sale, 22.057.  
Mission San Francisco De Los Tejas state park, timber sales, bids, 22.094.  
Nimitz state park, 22.152.

**ADVISORY BOARDS AND COMMISSIONS**

Falconry, 49.016.  
Fannin State Park Advisory Commission, generally, this index.  
San Jacinto Historical Advisory Board, generally, this index.

**AFFIDAVITS**

Hunting and fishing, transporting specimens, 62.027.  
Fines and penalties, 62.028.  
Oysters, riparian owner, place of production, 76.005.  
Shooting preserves, licenses and permits, 43.048.  
Shrimp, commercial shrimp boat license, application, 77.031.

**AGE**

Hunting and fishing licenses, nonresidents, 41.001.

**AGED PERSONS**

Hunting and fishing licenses, exemptions, 42.004, 46.002.  
State parks, passports, 13.018.

**AGENTS AND AGENCIES**

Commercial fishing licenses, fees, 47.002.  
Finfish, 47.003.  
Fur-bearing animals, licenses, fees, 71.013.  
Hunting and fishing, territorial waters, enforcement, 66.306.  
Hunting and Fishing Licenses, this index.

**AGREEMENTS**

Contracts, generally, this index.

**AGRICULTURAL PRODUCTS**

Damages by protected species, control, 43.151 et seq.  
Licenses and permits. Protection, post. Protection,  
Deer, 43.155.  
Fines and penalties, 43.157.

**AGRICULTURAL PRODUCTS—Cont'd**

Protection—Cont'd  
Inspection, 43.152.  
Licenses and permits, 43.151, 43.153.  
Cancellation, 43.156.  
Issuance, 43.154.  
Wildlife management areas, sales, 12.008.

**AGRICULTURE**

Parks, leases, 13.0061.

**AID**

Federal Aid, generally, this index.

**AIRCRAFT**

Predator control, 43.101 et seq.  
Crimes and offenses, 43.111.  
Definitions, 43.103.  
Fines and penalties, 43.111.  
Licenses and permits, 43.102, 43.104.  
Application, 43.105.  
Application of law, 43.101.  
Fees, 43.110.  
Forms, 43.106.  
Reports, 43.107.  
United States, 43.108.  
Rules and regulations, 43.109.

**ALCOHOLIC BEVERAGES**

Boats, operation while intoxicated, 31.097.

**ALIENS**

Defined, fishing licenses, 46.0011.  
Falconry, licenses and permits, 49.008.  
Fishing licenses, fees, 46.004.  
Hunting and fishing, territorial waters, licenses, 66.302.  
Political asylum, fishing in territorial waters, 66.307.

**ALLIGATORS**

Generally, 65.001 et seq.  
Game, fish and water safety fund, revenue source, 11.032.  
Licenses and permits,  
Display purposes, 43.024.  
Scientific purposes, application, 43.025.  
Uniform Wildlife Regulatory Act, 61.001 et seq.

**AMMUNITION**

Hunting and fishing, big game, 62.002.

**AMPHIBIANS**

Endangered Species, generally, this index.

**ANDERSON COUNTY**

See, also, Counties, generally, this index.

References are to Sections

**ANDERSON COUNTY—Cont'd**

Archery season, big game, 62.051 et seq.  
 Fire hazard, hunting and fishing, closing season, 12.012.  
 Local and special laws, 101.001 et seq.

**ANDREWS COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 102.001.

**ANGELINA COUNTY**

See, also, Counties, generally, this index.  
 Fire hazard, hunting and fishing, closing season, 12.012.  
 Local and special laws, 103.001 et seq.

**ANTELOPE**

Definitions, game animals, 63.001.  
 Game breeders, 44.006.  
 Licenses and permits, 61.057.  
 Nonresident hunting licenses, designated counties, 42.005.  
 Rules and regulations, 61.056.  
 Sales, 62.022.  
 Weapons, ammunition, 62.002.

**ANTLERLESS DEER**

Defined, McMullen county, 256.0111.

**AOUDAD SHEEP**

Definitions, game animals, 63.001.  
 Nonresident hunting licenses, designated counties, 42.005.  
 Weapons, use of specific ammunition, 62.002.

**APPEAL AND REVIEW**

Endangered species, license cancellation, 68.012.  
 Hunting and fishing, rules and regulations, 61.106.

**APPEARANCE**

Justice court, arrest, 12.106.

**APPRAISALS AND APPRAISERS**

State parks, exchange of property, 13.009.

**APPRENTICES**

Falconry permit, 49.003.

**AQUAPLANES**

Drunkenness, operation while intoxicated, fines and penalties, 31.097.  
 Fines and penalties, reckless operation, 31.096.  
 Negligent operation, 31.094.  
 Rear-view mirrors, 31.071.  
 Reckless operation, 31.096.  
 Rules and regulations, 31.103.  
 Speed, fines and penalties, 31.096.  
 Traffic rules and regulations, 31.103.

**AQUARIUMS**

Licenses and permits, 43.022.  
 Marine animals, 43.024.

**ARANSAS COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Crab traps, 61.203.  
 Local and special laws, 104.001 et seq.  
 Trotlines, 61.203.

**ARCHER COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 105.001 et seq.

**ARCHERY**

Bear, this index.  
 Bearded Hens, this index.  
 Big game, seasons, 62.051 et seq.  
 Blanco county, archery seasons exclusion, 116.002.  
 Cass county, deer season, 134.013, 134.016.  
 Collared Peccary (Javelina), this index.  
 Cross Bow, generally, this index.  
 Deer, this index.  
 Disposition of stamp sale receipts, 43.204.  
 Lower Colorado River authority, 62.081.  
 Leases of property, 62.082.  
 Marion county, deer season, 258.021, 258.024.  
 Method of fishing, 66.101.  
 Possession, 66.107.  
 Seasons,  
   Big game, 62.051 et seq.  
   Special seasons, Houston county, 213.012.  
 Stamps, 43.201 et seq.  
 Wild Turkeys, this index.

**ARMADILLOS**

Kaufman county, sales, 229.021.  
 Sales, crimes and offenses, 63.103.  
 Van Zandt county, sales, 334.041.  
 Wood county, sales, 350.021.

**ARMSTRONG COUNTY**

See, also, Counties, generally, this index.  
 Aoudad sheep, game animals, 63.001.  
 Local and special laws, 106.001.  
 Nonresident hunting licenses, designated game, 42.005.

**ARREST**

Boats and Boating, this index.  
 Deputy game wardens, 11.020.  
 Endangered species, enforcement of law, 68.017.  
 Expenses, 12.108.  
 Hunting and fishing,  
   State parks, 62.068.  
   Territorial waters, enforcement, 66.306.  
   Warrants, 12.102.  
 Justice court, appearance, 12.106.  
 Operation game thief fund, 12.201 et seq.  
 Warrants, failure to appear for trial, 12.106.

**ARTIFICIAL REEFS**

Generally, 12.016.  
 Construction and maintenance, game, fish and water safety fund use, 11.033.

**ASSIGNMENTS**

Oysters, private oyster beds, 76.039.  
 Sand and gravel, licenses and permits, 86.007.  
 Shells, licenses and permits, 86.007.

**ASSOCIATIONS AND SOCIETIES**

Birds, consumption on premises, 45.009.  
 Hunting and fishing licenses, tourist, exemptions, 46.002.  
 Lower Colorado River authority, rifle ranges, use, 62.082.

**ASSOCIATIONS AND SOCIETIES**

—Cont'd  
 San Jacinto museum of history association, 22.016.  
 Shooting Preserves, generally, this index.

**ATASCOSA COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 107.001.

**ATTORNEYS**

Palo Duro Canyon state park, employment, 22.034.

**AUDITS AND AUDITING**

Gulf states marine fisheries commission, 91.007.

**AUSTIN COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 108.001.

**AUTHORITIES**

Lower Colorado River authority, hunting and fishing, 62.081 et seq.

**AUTOMOBILES**

Motor Vehicles, generally, this index.

**AXIS DEER**

Nonresidents hunting licenses, Bexar county, 42.005.

**BACKFIRE TRAPS**

Boats and boating, equipment, 31.068.

**BADGES, EMBLEMS AND INSIGNIA**

Deputy game wardens, 11.020.

**BAG LIMITS**

See specific index headings.

**BAILEY COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 109.001.

**BAILMENTS**

Deer, storage, Lampasas county, 61.206.

**BAIT**

Blue crabs, season, 78.201.  
 Bridges and causeways, dead bait, leaving on bridge, 66.008.  
 Commercial fishing, dealers license, 47.014.  
 Dealers, commercial fishing, finfish licenses, 47.003.  
 Method of fishing, 66.101.  
 Saltwater fish, method of fishing, 66.202.  
 Shrimp, this index.  
 Taking, possession, designated species, 66.010.

**BAIT BAYS**

Defined, shrimp, Gulf of Mexico, 77.001.

**BANDERA COUNTY**

See, also, Counties, generally, this index.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 110.001 et seq.

**BARBITURATES**

Boats and boating, operation under influence of narcotic drug, fines and penalties, 31.097.

References are to Sections

**BASS**

Bag limits, 66.106.  
 Black bass, bait fish, use as, 66.010.  
 Crimes and offenses,  
   Injuring small fish, 66.108.  
   Minimum size, 66.105.  
   Sales, 66.111.  
 Definitions, game fish, 66.114.  
 Fines and penalties,  
   Injuring small fish, 66.108.  
   Minimum size, 66.105.  
   Sales, 66.111.  
 Fish farmers, sales, 48.010.  
 Minimum size, 66.105.  
   Return to water, 66.108.  
 Sales, 66.111.  
 Size of fish, 66.105, 66.108.  
 Striped Bass, generally, this index.  
 White bass, bait fish, use as, 66.010.

**BASTROP COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
 Local and special laws, 111.001 et seq.

**BAYLOR COUNTY**

See, also, Counties, generally, this index.

Fish sanctuaries, application of law, 81.209.  
 Local and special laws, 112.001 et seq.

**BAYOUS**

Private land, sales, 1.012.  
 Title of property, 1.011.

**BAYS**

Shrimp, sales, 77.013.

**BEACHES**

Boats and boating,  
   Buzzing swimmers, 31.099.  
   Local regulations, 31.092.  
   Operation in restricted areas, 31.103.  
 Concessions, contracts, 13.015.  
 Rules and regulations, 13.102.  
 State parks, Gulf of Mexico, entrance fees where public has acquired right of use or easement, 21.111.

**BEACONS**

Boats and boating, interference, 31.100.

**BEAR**

Archery season, 62.053, 62.056.  
   Burnet county, 127.012 et seq.  
   Gillespie county, 186.012 et seq.  
   Kendall county, 230.012 et seq.  
   Llano county, 250.012 et seq.  
   McCulloch county, 254.012 et seq.  
   Mason county, 260.012 et seq.  
   Possession of equipment or weapons, 62.054, 62.055.  
   San Saba county, 306.012 et seq.  
   Stamps, 43.201 et seq.  
   Travis county, 327.012 et seq.  
 Bag limit, 63.002.  
 Black bear, nonresident hunting licenses, designated counties, 42.005.  
 Definitions, game animals, 63.001.  
 Game breeders, powers and duties, 44.006.  
 Kaufman county, sales, 229.021.  
 Seasons, 63.006.  
 Trans-Pecos counties,  
   Archery season, 62.053, 62.056.  
   Possession of equipment or weapons, 62.054, 62.055.

**BEAR—Cont'd**

Van Zandt county, sales, 334.041.  
 Weapons, possession during archery season, 62.054.  
 Wood county, sales, 350.021.

**BEARDED HENS**

Archery season,  
   Burnet county, 127.012 et seq.  
   Gillespie county, 186.012 et seq.  
   Kendall county, 230.012 et seq.  
   Llano county, 250.012 et seq.  
   McCulloch county, 254.012 et seq.  
   Mason county, 260.012 et seq.  
   San Saba county, 306.012 et seq.  
   Travis county, 327.012 et seq.

**BEDS OF WATERS**

Title of property, 1.011.

**BEE COUNTY**

See, also, Counties, generally, this index.

Game sanctuary, 82.731 et seq.  
 Local and special laws, 113.001.

**BELL COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 114.001 et seq.  
 Stillhouse hollow reservoir, hunting and fishing, 114.011.

**BEQUESTS**

Gifts, Devises and Bequests, generally, this index.

**BEXAR COUNTY**

See, also, Counties, generally, this index.

Axis deer, nonresident hunting licenses, 42.005.  
 Local and special laws, 115.001 et seq.

**BIDS AND BIDDING**

Huntsville state park, timber and lumber, sales, 22.074.  
   Advertising, 22.075.  
 Jim Hogg memorial park, timber and iron ore, sales, 22.056.  
   Advertising, 22.057.  
 Mission San Francisco De Los Tejas state park, timber sales, 22.093.  
   Advertising, 22.094.  
 Park development bonds, 21.010.  
   Security, 21.011.  
 Pelts, seizure, disposal, 12.1101.

**BIG BEND NATIONAL PARK**

Elections, rights of suffrage, 23.002.  
 Jurisdiction, 23.001.

**BIG HORN SHEEP**

Black Gap Wildlife Management Area, generally, this index.  
 Definition, game animals, 63.001.  
 Nonresident hunting licenses, designated counties, 42.005.  
 Weapons, specific ammunition, 62.002.

**BILLS OF LADING**

Fish farmers, 48.004.  
 Shellfish, 51.006.

**BIRD BREEDERS**

Crimes and offenses, 45.012.  
 Exemptions, licenses and permits, 45.009.  
 Exports and imports, 45.007.

**BIRD BREEDERS—Cont'd**

Falconry, licenses and permits, exemptions, 49.002.  
 Fines and penalties, 45.012.  
 Foreign states, purchases of birds, 45.007.  
 Inspection of premises, 45.010.  
 Licenses and permits,  
   Class 1 licenses, 45.003.  
   Class 2 licenses, 45.003.  
   Exemptions, 45.009.  
   Fees, 45.003.  
   Form, 45.002.  
   Possession of birds for personal use, 45.001.  
   Records, 45.008.  
   Reports, 45.008.  
   Sales, 45.007.  
   Serial numbers, 45.005.  
   Size of enclosure, 45.004.  
   United States, 45.011.  
 Name, sales requirements, 45.005.  
 Persons not required to have license, 45.001.  
   Source of game birds, 45.0061.  
 Records and recordation, 45.005.  
 Sales, 45.007.  
   Carcasses, 45.009.  
   Dead birds, 45.006.  
 Source of game birds, persons not required to possess license, 45.0061.  
 Stamps, sale of carcasses, 45.006.  
 United States, licenses and permits, 45.011.

**BIRDS**

Bag limits, 64.011 et seq.  
 Brant. Migratory Game Birds, generally, this index.  
 Breeders. Bird Breeders, generally, this index.  
 Coots. Migratory Game Birds, generally, this index.  
 Cranes. Migratory Game Birds, generally, this index.  
 Crimes and offenses, 64.002.  
   Destroying nests or eggs, 64.003.  
   Trapping without license, 64.004.  
 Definition, 64.001.  
 Doves. Migratory Game Birds, generally, this index.  
 Ducks. Migratory Game Birds, generally, this index.  
 Eggs,  
   Destruction, 64.002.  
   Fines and penalties, 64.003.  
 Endangered Species, generally, this index.  
 Field Trials, generally, this index.  
 Fines and penalties, 64.002.  
   Destroying nests or eggs, 64.003.  
   Game, fish and water safety fund, source of revenue, 11.032.  
   Trapping without license, 64.004.  
 Gallinules. Migratory Game Birds, generally, this index.  
 Geese. Migratory Game Birds, generally, this index.  
 Jacksnipes. Migratory Game Birds, generally, this index.  
 Licenses and permits,  
   Breeders. Bird Breeders, this index.  
   Trapping, 64.004.  
 Migratory Game Birds, generally, this index.  
 Nests,  
   Destruction, 64.002.  
   Fines and penalties, 64.003.

References are to Sections

**BIRDS—Cont'd**

Pets, 64.002.  
 Plovers. Migratory Game Birds, generally, this index.  
 Possession, 64.002.  
 Rails. Migratory Game Birds, generally, this index.  
 Sales,  
   Breeders. Bird Breeders, this index.  
   Fines and penalties, 64.002.  
 Seasons, 64.011 et seq.  
 Second and subsequent offenses, 64.002.  
 Snipe. Migratory Game Birds, generally, this index.  
 Transportation of specimens, 62.0265.  
 Trapping, fines and penalties, 64.004.  
 Woodcocks. Migratory Game Birds, generally, this index.

**BLACK BEARS**

Nonresident hunting licenses, designated counties, 42.005.

**BLACK DUCK BAY**

Harris county, crabs, traps, pots, 201.016.

**BLACK GAP WILDLIFE MANAGEMENT AREA**

Acquisition of property, 82.203, 82.204.  
 Creation, 82.201.  
 Eminent domain, 82.205, 82.206.  
 Funds, appropriations, 82.207.  
 Gifts, 82.202.

**BLACKBIRDS**

Killing, seasons, 64.002.

**BLANCO COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 116.001 et seq.

**BLIND PERSONS**

Hunting and fishing licenses, exemptions, 46.003.

**BLINDS**

Waterfowl blinds, construction, lease or use,  
   Harrison county, 202.041.  
   Marion county, 258.032.

**BLUE CRABS**

Taking, 78.201.

**BLUE LIGHTS**

Boats, 31.122.  
 Reducing speed, 31.123.

**BOARDING AND LODGING HOUSES**

Birds, consumption on premises, 45.009.

**BOARDS AND COMMISSIONS**

Advisory Boards and Commissions, generally, this index.  
 Gulf States Marine Fisheries Commission, generally, this index.  
 Parks and Wildlife Commission, generally, this index.

**BOATS AND BOATING**

Abandonment, cancellation of number, 31.037.  
 Accidents, 31.104.  
   Reports, 31.105.  
   Search and rescue, 31.121.  
 Address, change, notice, 31.038.  
 Applications, certificates of title, 31.046, 31.047.  
 Aquaplanes, generally, this index.

**BOATS AND BOATING—Cont'd**

Arrest,  
   Enforcement of rules and regulations, 31.121.  
   Failure to appear, 31.125.  
   Unsafe vessels, 31.124.  
 Artificial reefs,  
   Construction and maintenance, game, fish and water safety fund use, 11.033.  
   Surplus vessels, acquisition, 12.016.  
 Backfire traps, 31.068.  
 Beaches, this index.  
 Bells, 31.065.  
 Blue lights, 31.122.  
   Reducing speed, 31.123.  
 Bonds (officers and fiduciaries), numbers, issuance, 31.034.  
 Buoys,  
   Interference, 31.100.  
   Standardization, 31.142.  
 Buzzing fishermen or swimmers, 31.099.  
 Certificates and certification. Numbers and numbering, generally, post.  
 Certificates of title, 31.045 et seq.  
 Class A boats, definitions, 31.063.  
 Class 1 boats, definitions, 31.063.  
 Class 2 boats, definitions, 31.063.  
 Class 3 boats, definitions, 31.063.  
 Classification, equipment, 31.063.  
 Commercial Fishing, this index.  
 Confidential information, accident reports, 31.105.  
 Confiscated equipment, use for research, 12.011.  
 County tax assessor-collector,  
   Certificates of title, fees, 31.048.  
   Issuance of numbers, 31.0341.  
 Crimes and offenses,  
   Sewage disposal, 31.129.  
   Wilful destruction, 66.005.  
 Damaging markers, 12.017.  
 Dealers, number, 31.041.  
 Definitions, 31.003.  
 Destruction of property, cancellation of number, 31.037.  
 Destruction or dismantling, certificates, cancellation, 31.042.  
 Display, numbers, 31.021.  
 Driving while intoxicated, 31.097.  
 Drugs, operation under influence of drugs, 31.097.  
 Drunken driving, 31.097.  
 Duplicate registration decals, 31.030.  
 Electricity producing devices, seizure, 66.004.  
 Equipment, 31.061 et seq.  
   Classification, 31.063.  
   Exemptions, 31.072.  
     Canoes and sailboats, 31.073.  
     Exhaust manifold, 31.070.  
     Fire extinguishers, 31.067.  
     Flame arrestors, 31.068.  
     Life preservers, 31.066.  
     Lights, 31.064.  
     Mirrors, 31.071.  
     Mufflers, 31.070.  
     Operation without adequate equipment, 31.062.  
   Rules and regulations, 31.061.  
   Ventilators, 31.069.  
   Warning signals, 31.065.  
 Evidence,  
   Accident reports, 31.105.  
   Ownership of motorboat or outboard motor, 31.045 et seq.  
 Exceptions, certificates of title, 31.055.

**BOATS AND BOATING—Cont'd**

Exemptions,  
   Equipment, 31.072.  
     Canoes and sailboats, 31.073.  
   Mirrors, 31.071.  
   Numbers, 31.022.  
     Federal or other state boats, 31.023.  
 Exhaust water manifold, 31.070.  
 Racing boats, exemption, 31.072.  
 Fees,  
   Certificates of title, 31.048.  
   Duplicate decals, 31.030.  
   Local inspection, registration, 31.092.  
   Numbers and numbering, 31.024, 31.026.  
   Certificates, 31.034.  
   Dealers or manufacturers, number, 31.041.  
 Fines and penalties, 31.127.  
   Disposition, 31.128.  
   Drunken driving, 31.097.  
   Sewage disposal, 31.129.  
   Water skis, reckless operation, 31.096.  
   Wilful destruction, 66.005.  
 Fire extinguishers, 31.067.  
   Racing boats, exemptions, 31.072.  
 Fish passes, obstructions, 66.204.  
 Fishermen, buzzing fishermen, 31.099.  
 Fishing areas, operation in restricted area, 31.102.  
 Flame arrestors, 31.068.  
 Foreign states, numbering, 31.023.  
 Forms,  
   Application for number, 31.024.  
   Certificate of number, 31.024.  
 Certificates,  
   Applications, 31.047.  
   Manufacturers, importers, 31.050.  
   Title, 31.049.  
 Game management officers, enforcement of rules and regulations, 31.121.  
 Garbage disposal, 31.129.  
 Hazardous wake, 31.098.  
 Hunting Boat Licenses, generally, this index.  
 Hunting from boat, 62.003.  
 Identity and identification. Numbers and numbering, generally, post.  
 Inspection, 31.123.  
   Application of law, 31.124.  
   Political subdivisions, fees, 31.092.  
 Jurisdiction, rule violations, 31.126.  
 Leases,  
   Hunting boat licenses, 43.001 et seq.  
   Life preservers, 31.066.  
   Numbers, 31.031, 31.040.  
 Licenses and permits,  
   Fishing in territorial waters, 66.302.  
   Hunting Boat Licenses, generally, this index.  
 Liens and incumbrances, title of property, 31.052.  
 Life preservers, 31.066.  
 Lifesaving device, 31.073.  
 Lights and lighting, 31.064, 31.073.  
   Blue lights, 31.122.  
   Reducing speed, 31.123.  
   Interference with light markers, 31.100.  
 Liveries, 31.040.  
   Life preservers, 31.066.  
 Local regulations, 31.092.  
 Machinery and equipment. Equipment, generally, ante.  
 Manufacturers and manufacturing,  
   Certificates, form, 31.050.  
   Defined, 31.003.  
   Number, 31.031, 31.041.  
   Serial number, 31.043.

References are to Sections

**BOATS AND BOATING—Cont'd**

Markers,  
 Interference, 31.100.  
 Standardization, 31.142.  
 Mirrors, rear-view mirrors, 31.071.  
 Mooring to buoys, 31.100.  
 Mufflers, 31.070.  
 Racing boats, exemptions, 31.072.  
 Negligence, 31.094.  
 New, defined, 31.003.  
 Notice,  
 Appear, rule violations, 31.125.  
 Change of address, numbering, 31.038.  
 Noxious aquatic plants, 12.015.  
 Number of boats used in fishing, reports, 12.002.  
 Numbers and numbering, 31.021, 31.022.  
 Application, 31.024.  
 Cancellation, 31.042.  
 Certificate, size, 31.028.  
 Change of address, notice, 31.038.  
 Change of ownership, 31.037.  
 County tax assessor-collector, issuance of numbers, 31.0341.  
 Dealers or manufacturers, 31.041.  
 Duplicate certificates, 31.030.  
 Duplicate registration decals, 31.030.  
 Exemption, 31.022.  
 Fees, 31.026.  
 County tax assessor-collector, 31.0341.  
 Foreign states, 31.023.  
 Inspections, 31.124.  
 Issuance of numbers, 31.034.  
 County tax assessor-collector, 31.0341.  
 Leases, 31.040.  
 Liveries, 31.040.  
 Pattern, 31.031.  
 Place on vessel, 31.032.  
 Political subdivisions, fees, 31.092.  
 Record, 31.039.  
 Renewal of certificates, 31.025.  
 Rules and regulations, 31.035.  
 Serial numbers, 31.043.  
 Term of certificate, 31.029.  
 Title of property, change, 31.037.  
 Unauthorized numbers, 31.033.  
 Obstruction of watercourse, 31.101.  
 Occupants, person on water skis, 31.103.  
 Operation in restricted areas, 31.102.  
 Outboard motors,  
 Certificates of title, ownership, 31.045 et seq.  
 Defined, 31.003.  
 Transfers, 31.053.  
 Ownership, certificates of title, 31.045 et seq.  
 Peace officers, enforcement of rules and regulations, 31.121.  
 Police, reducing speed, 31.123.  
 Political subdivisions, rules and regulations, 31.092.  
 Pollution, sewage disposal, 31.129.  
 Presumptions, venue, rule violations, 31.126.  
 Racing boats, equipment exemptions, 31.072.  
 Rafts, generally, this index.  
 Ramps,  
 Highways and roads, 31.141.  
 Interference, 31.100.  
 Obstruction, 31.101.  
 Purchase, construction and maintenance, game, fish and water safety fund, use, 11.033.  
 Rear-view mirrors, 31.071.

**BOATS AND BOATING—Cont'd**

Reckless driving, 31.094.  
 Water skis, fines and penalties, 31.096.  
 Records and recordings,  
 Dealers and manufacturers number, 31.041.  
 Leases, 31.040.  
 Numbers, 31.039.  
 Registration. Numbers and numbering, generally, ante.  
 Registration decals, duplicates, 31.030.  
 Registration fees, game, fish and water safety fund, source of revenue, 11.032.  
 Replacement certificates, 31.051.  
 Rescue, victims of accidents, 31.121.  
 Restricted areas, operation, 31.102.  
 Rules and regulations, 31.091 et seq.  
 Sailboats, generally, this index.  
 Second and subsequent offenses, sewage disposal, 31.129.  
 Serial numbers, 31.043.  
 Sewage disposal, 31.129.  
 Shrimp, this index.  
 Sightseeing boats, distance, 31.099.  
 Signals,  
 Equipment, 31.065.  
 Racing boats, exemptions, 31.072.  
 Skis. Water Skis, generally, this index.  
 Speed, 31.095.  
 Police inspection, reduction, 31.123.  
 Water skis, fines and penalties, 31.096.  
 Swimming Areas, this index.  
 Territorial waters, licenses and permits, hunting and fishing, 66.302.  
 Testing, dealers and manufacturers, number, 31.041.  
 Title to property,  
 Certificate of title, 31.036.  
 Certificates, ownership, 31.045 et seq.  
 Change, 31.037.  
 Evidence, 31.036.  
 Presentation for certificate of number, 31.037.  
 Traffic rules and regulations, 31.093.  
 Transfer, motorboats, outboard motors, 31.053.  
 United States, numbering, 31.023.  
 Vandalism, 66.005.  
 Numbers, 31.031.  
 Serial numbers, 31.043.  
 Ventilators, 31.069.  
 Venue, rule violations, 31.126.  
 Water Safety, generally, this index.  
 Water Skis, generally, this index.  
 Whistles, 31.065.  
 Willful and wanton misconduct, 31.094.

**BOBCATS**

Aircraft, predator control, 43.101 et seq.  
 Endangered species, exemptions, 68.020.  
 Kaufman county, sales, 229.021.  
 Traps and trapping, Sabine county, 302.051.  
 Van Zandt county, sales, 334.041.  
 Wood county, sales, 350.021.

**BONDS**

Palo Duro Canyon State Park, this index.  
 Park development bonds, 21.001.  
 Approval, 21.012.  
 Bids and bidding, 21.010.  
 Security, 21.011.  
 Conditions, 21.005.  
 Description, 21.002.  
 Duplicates, 21.025.  
 Duration, 21.006.

**BONDS—Cont'd**

Park development bonds—Cont'd  
 Facsimile signature, 21.014.  
 Former officer, signature, 21.015.  
 Incontestability, 21.016.  
 Interest rate, 21.004.  
 Investments, 21.023.  
 Lost or destroyed bonds, 21.025.  
 Mandamus, payment, 21.019.  
 Negotiability, 21.021.  
 Notice of sale, 21.009.  
 Payment, 21.018.  
 Excess funds, 21.108.  
 Expenses, 21.102.  
 Redemption, 21.007.  
 Refunding bonds, 21.020.  
 Registration, 21.008.  
 Approval, 21.012.  
 Sales, 21.009.  
 Security for,  
 Bids, 21.011.  
 Deposit of funds, 21.024.  
 Selling price, 21.003.  
 Signature, 21.013 et seq.  
 Sinking fund, 21.105 et seq.  
 Taxation, 21.022.  
 Validity, evidence, 21.017.  
 Park development fund, source of funds, 21.101.

**BONDS (OFFICERS AND FIDUCIARIES)**

Boats and boating, numbers, issuance, 31.034.  
 Deputy game wardens, 11.020.  
 Revolving petty cash fund, employees signing checks, 11.039.  
 Rough fish, licenses and permits, removal, 66.116.  
 Shellfish, plant certificate holder, 76.215.

**BOOKS AND PAPERS**

Hunting and fishing information, publication, 12.006.

**BORDEN COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 117.001.

**BOSQUE COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 118.001.

**BOUNDARIES**

Caddo Lake Game and Fish Reserve, this index.  
 Connie Hagar wildlife sanctuary, 82.101.  
 Markers, 82.102.  
 Fish sanctuaries, 81.205.  
 Game breeders, breeding area, 44.008.  
 Hunting and fishing licenses, reciprocal agreements on boundary waters, 41.003.  
 Ingleside cove wildlife sanctuary, 82.501.  
 Marking, 82.502.  
 Lake Corpus Christi game sanctuary, markers, 82.703.  
 Mission of San Rosario, Goliad state park, 22.083.  
 Mission San Francisco De Los Tejas state park, 22.091.  
 Oyster beds, 76.036.  
 Marking, 76.011.  
 Private bird shooting areas, 43.073.  
 Shooting preserves or resorts, marking, 43.050.

References are to Sections

**BOW AND ARROW**

Archery, generally, this index.

**BOWIE COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 119.001.

**BOY SCOUTS**

Lower Colorado River authority, rifle ranges, use, 62.082.

**BRANCH OFFICES**

Commercial fishing,

Retail fish dealers license, 47.011.

Wholesale fish dealers license, 47.009.  
Shellfish culture, licenses, 51.003.**BRANT**

Generally, 64.001 et seq.

Migratory Game Birds, generally, this index.

**BRAZORIA COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 120.001.

**BRAZOS COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051.

Local and special laws, 121.001.

**BREAM**

Definitions, game fish, 66.114.

Nets and seines, method of fishing, 66.101.

**BREEDERS**

Bird Breeders, generally, this index.

Fish Farmers, generally, this index.

Game Breeders, generally, this index.

**BREWSTER COUNTY**

See, also, Counties, generally, this index.

Elk, game animals, 63.001.

Local and special laws, 122.001 et seq.

Nonresident hunting licenses, designated game, 42.005.

**BRIDGES**

Fishing from bridges, fines and penalties, 66.008.

**BRISCOE COUNTY**

See, also, Counties, generally, this index.

Aoudad sheep, game animals, 63.001.

Local and special laws, 123.001.

Nonresident hunting licenses, designated game, 42.005.

**BROOD FISH**

Hatcheries, taking brood fish for fish hatcheries, 66.112.

**BROOKS COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051.

Hunting and fishing regulations, approval by commissioners, 61.202.

Local and special laws, 124.001 et seq.

**BROWN CEDAR CUT**

Opening and reopening passage, sand, gravel, marl, shell and mudshell, taking, 86.0151.

**BROWN COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051.

Local and special laws, 125.001 et seq.

**BUCHANAN LAKE**

Highways and roads, access, 13.014.

**BUCK DEER**

Deer, generally, this index.

**BUFFALO FISH**

Method of fishing, 66.101.

Spear gun, possession of other fish while using spear, 66.107.

**BUILDINGS**

Fish hatcheries, eminent domain, 81.103, 81.104.

**BULLETINS**

Hunting and fishing information, publication, 12.006.

**BUOYS AND MARKERS**

Artificial reefs, 12.016.

Boats and boating, interference, 31.100.

Damage, 12.017.

Oysters, marking beds, 76.011, 76.036.

Vandalism, 76.038.

Standardization, 31.142.

**BURLESON COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 126.001 et seq.

**BURNET COUNTY**

See, also, Counties, generally, this index.

Buchanan and Inks lakes, highways and roads, maintaining access, 13.014.

Local and special laws, 127.001 et seq.

**BURNETT BAY**

Harris county, crabs, traps, pots, 201.016.

**CADDO LAKE**

Waterfowl blinds, construction, lease or use,

Harrison county, 202.041.

Marion county, 258.032.

Weapons,

Firing weapons, 202.031.

Marion county, 258.011.

**CADDO LAKE GAME AND FISH RESERVE**

Boundaries, 82.401.

Markers, 82.403.

Percentage of lake, 82.404.

Creation, 82.402.

Designation of area, 82.401.

Fines and penalties, 82.409.

Hunting and fishing, 82.405.

Rules and regulations, 82.408.

Mineral rights, reservation, 82.407.

Timber and lumber, investigation, 82.406.

**CALDWELL COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 128.001.

**CALHOUN COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 129.001 et seq.

**CALLAHAN COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 130.001 et seq.

**CAMERON COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 131.001 et seq.

**CAMP COUNTY**

See, also, Counties, generally, this index.

Fire hazard, hunting and fishing, closing season, 12.012.

Local and special laws, 132.001 et seq.

Uniform Wildlife Regulatory Act, applicability, 132.001.

**CAMPS AND CAMPING**

Electricity producing devices, seizure, 66.004.

Murvaul lake, Panola county, 283.021.

Rules and regulations, 13.102.

State parks, campsite reservation, fees, 13.019.

**CANALS**

Hunting and fishing, screens to protect fish, 66.110.

**CANARIES**

Pets, 64.002.

**CANOES**

Equipment, 31.073.

Numbering, exemptions, 31.022.

**CAPTIVE-REARED BIRDS**

Field trials, taking, 43.256.

**CAPTURE OF ANIMALS AND BIRDS**

Licenses and permits, 43.061.

**CARP**

Lake Conroe, research, 236.021, 270.021.

Method of fishing, 66.101.

Spear gun, possession of other fish while using spear, 66.107.

**CARRIERS**

Motor Carriers, generally, this index.

**CARS**

Motor Vehicles, generally, this index.

**CARSON COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 133.001.

**CASS COUNTY**

See, also, Counties, generally, this index.

Deer, season, 134.013, 134.016.

Local and special laws, 134.001 et seq.

**CAST NETS**

Saltwater fish, method of fishing, 66.101, 66.202.

**CASTRO COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 135.001.

**CAT SQUIRRELS**

Definitions, game animals, 63.001.

References are to Sections

**CATAMOUNTS**

Traps and trapping, Sabine county, 302.051.

**CATCH**

Defined, hunting and fishing, 1.101.

**CATFISH**

Bait fish, use as, 66.010.  
Catch limit, 66.106.  
Definitions, game fish, 66.114.  
Sales, flathead catfish, 66.111.  
Small fish, returning to water, fines and penalties, 66.006.

**CATS**

Fish hatcheries, bringing on property, 81.002.  
Game preserves, bringing on property, 81.002.

**CAUSEWAYS**

Concessions, contracts, 13.015.  
Copano Bay, Aransas county, state park, 22.184.  
Dead fish, littering, 66.008.  
Fishing from causeways, fines and penalties, 66.008.  
Lavaca Bay, Calhoun county, fishing piers, state park, 22.184.

**CERTIFICATES AND CERTIFICATION**

Boats and Boating, this index.  
Oysters, this index.  
Shellfish, this index.  
Shrimp, boat registration, 77.036.

**CHACHALACAS**

Generally, 64.001 et seq.  
Bag limits, 64.014.

**CHAMBERS COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Deer, hunting, 136.022.  
Local and special laws, 136.001 et seq.

**CHARITABLE ORGANIZATIONS**

Confiscated game, disposition, 12.110.  
Deer killed to protect agricultural products, donation, 43.155.

**CHEROKEE COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 138.001 et seq.

**CHICKENS**

Prairie Chickens, generally, this index.

**CHILDREN AND MINORS**

Hunting and fishing licenses, exemptions, 42.004, 46.002.

**CHILDRESS COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 137.001 et seq.

**CHUKAR**

Shooting preserves or resorts, release of birds, 43.053.

**CIRCUSES**

Wolves, possession, 63.102.

**CITIES**

Municipal Corporations, generally, this index.

**CLAMS**

Crimes and offenses, 78.004.  
Enforcement of law, 12.101 et seq.  
Fees, licenses and permits, 78.003.  
Fines and penalties, 78.004.  
Licenses and permits, 78.001.  
Fees, 78.003.  
Forms, 78.002.  
Shellfish Culture, generally, this index.

**CLAY COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Fish sanctuaries, application of law, 81.209.  
Local and special laws, 139.001 et seq.

**CLUBS**

Associations and Societies, generally, this index.  
Shooting Preserves, generally, this index.

**COASTAL SURVEY CHARTS**

Actions and proceedings, admissibility, 12.113.

**COASTAL WATERS**

Artificial reefs, 12.016.  
Construction and maintenance, game, fish and water safety fund, use, 11.033.  
Finfish, heads or tails, removal, 66.216.

**COCHRAN COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 140.001.

**COKE COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 141.001 et seq.

**COLEMAN COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 142.001 et seq.

**COLLARED PECCARY (JAVELINA)**

Generally, 63.003.  
Archery season, 62.053.  
Blanco county, 116.002.  
Burnet county, 127.012 et seq.  
Duration, 62.056.  
Gillespie county, 186.012 et seq.  
Kendall county, 230.012 et seq.  
Llano county, 250.012 et seq.  
McCulloch county, 254.012 et seq.  
Mason county, 260.012 et seq.  
Possession of equipment, 62.055.  
Possession of weapons, 62.054.  
San Saba county, 306.012 et seq.  
Stamps, 43.201 et seq.  
Travis county, 327.013.  
Definitions, game animals, 63.001.  
Game breeders, powers and duties, 44.006.  
Hunting and fishing, Kerr county, 233.011.

**COLLARED PECCARY (JAVELINA)**

—Cont'd  
McMullen county, hunting, 256.012.  
Nonresident hunting licenses, designated counties, 42.005.  
Nonresidents, archery license, Sabine and San Augustine counties, 61.208.  
Sales, Karnes county, 228.011.  
Seasons,  
Archery season, generally, ante.  
Jim Hogg county, 224.012.  
Kenedy county, 231.011.  
Weapons, possession during archery season, 62.054.

**COLLEGES AND UNIVERSITIES**

Hunting and fishing, confiscated equipment, use for research, 12.011.  
Nets and seines, transfer of property seized, 12.1105.

**COLLIN COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 143.001 et seq.

**COLLINGSWORTH COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 144.001 et seq.

**COLORADO COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 145.001.

**COLORADO RIVER**

Hunting and fishing, Lower Colorado River authority, 62.081 et seq.

**COMAL COUNTY**

See, also, Counties, generally, this index.  
Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 146.001 et seq.

**COMANCHE COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 147.001 et seq.

**COMBINATION LICENSES**

Hunting and Fishing Licenses, this index.

**COMMERCIAL FINFISH FISHERMEN**

Defined, 47.001.

**COMMERCIAL FISHING**

Affidavit,  
Finfish license, 47.003.  
Bait dealers,  
Application of law, 47.003.  
License, 47.014.  
Blue crabs, 78.201.  
Boats and boating,  
Confiscation, 47.052.  
Licenses and permits, 47.005, 47.007.  
Menhaden, 47.008.  
Number, 47.007.  
Registration fees, 31.027.  
Catch limits, catfish, 66.106.  
Catfish, bag limits, 66.106.  
Confiscation, boats, 47.052.  
Crabs, blue crabs, 78.201.

References are to Sections

**COMMERCIAL FISHING—Cont'd**

Crimes and offenses, 47.051.  
 Boat license, 47.052.  
 Menhaden boat license, 47.053.  
 Refusal to show license, 47.054.  
 Dealers,  
   Purchases, 47.0091, 47.0111.  
   Size of fish, 47.034.  
 Definitions, 47.001.  
 Enforcement of laws, 12.101 et seq.  
 Evidence, size of fish, 47.035.  
 Exports and imports, 47.018.  
 Federal aid, 48.011.  
 Fees. Licenses and permits, post.  
 Fines and penalties, 47.051.  
   Boat license, 47.052.  
   Disposition of funds, 47.055.  
   Menhaden boat license, 47.053.  
   Refusal to show license, 47.054.  
 Finfish,  
   Defined, 47.001.  
   Licenses and permits, 47.003.  
 Forfeitures, 47.051.  
 Guides, licenses and permits, 47.004.  
 Injunction, 47.052.  
 Inspection, 47.037.  
 Licenses and permits, 47.002.  
   Affidavits, finfish, 47.003.  
   Bait dealers, 47.014.  
   Boats, 47.005, 47.007.  
     Menhaden, 47.008.  
   Display, 47.033.  
   Disposition of funds, 47.055.  
   Duration, 47.031.  
   Exports and imports, 47.018.  
   Fees, 47.002.  
     Bait dealers, 47.014.  
     Boats, 47.005, 47.007.  
     Finfish, 47.003.  
     Guides, 47.004.  
     Menhaden boat license, 47.008.  
     Menhaden fish plant license, renewal,  
       47.017.  
     Nets and seines, 47.015.  
     Nonresidents, 47.002.  
       Finfish license, 47.003.  
     Retail dealers truck licenses, 47.013.  
     Retail fish dealer, 47.011.  
     Retail oyster dealers license, 47.012.  
     Seafood promotion program, source  
       of funds, 12.009.  
     Skiffs, 47.006.  
     Wholesale fish dealer, 47.009.  
     Wholesale truck dealer, 47.010.  
   Fines and penalties, 47.051.  
 Finfish, 47.003.  
 Game, fish and water safety fund,  
   source of revenue, 11.032.  
 Guides, 47.004.  
 Menhaden fish plant, 47.016.  
   License, renewal, 47.017.  
 Nets and seines, 47.015.  
   Possession in tidal waters, cancella-  
     tion, 66.213.  
 Refusal, 47.032.  
 Retail dealer, 47.011.  
   Truck license, 47.013.  
 Retail oyster dealer, 47.012.  
 Rough fish, removal, 66.117.  
 Skiffs, 47.006.  
 Wholesale fish dealer, 47.009.  
 Wholesale truck dealer, 47.010.  
 Manufacturing, Menhaden fish plant  
 license, 47.016, 47.017.  
 Menhaden boat, license exemption,  
 47.002, 47.003.

**COMMERCIAL FISHING—Cont'd**

Nets and seines,  
 Confiscation, 47.052.  
 Licenses and permits, 47.015.  
 Menhaden, 47.038.  
 Nonresidents,  
   Finfish license, fees, 47.003.  
   License fees, 47.002.  
 Numbers and numbering, boat, 47.007.  
 Offenses. Crimes and offenses, general-  
 ly, ante.  
 Penalties. Fines and penalties, generally,  
 ante.  
 Redfish, 66.2012.  
 Retail dealers truck license, 47.013.  
 Retail fish dealers license, 47.011.  
 Retail oyster dealers license, 47.012.  
 Rough fish, removal, 66.117.  
 Sales,  
   Bait dealers license, 47.014.  
   Imports, 47.018.  
   Inspection of premises, 47.037.  
   Retail dealers truck license, 47.013.  
   Retail fish dealers license, 47.011.  
   Retail oyster dealers license, 47.012.  
   Size of fish, 47.034, 47.036.  
   Evidence, 47.035.  
 Seafood, joint ventures, sales, 66.208.  
 Second and subsequent offenses, Menha-  
 den boat license, 47.053.  
 Size of fish, 47.034, 47.036.  
   Evidence, 47.035.  
 Skiff license, 47.005.  
 Speckled sea trout, 66.2012.  
 Wholesalers,  
   Fish dealers license, 47.009.  
   Inspection of premises, 47.037.  
   Size of fish, 47.034.  
   Evidence, 47.035.  
   Venue, 47.036.  
   Truck dealers license, 47.010.

**COMMERCIAL PAPER**

Palo Duro Canyon state park, bonds, ne-  
 gotiable instruments, 22.038.

**COMMISSIONS**

Advisory Boards and Commissions, gen-  
 erally, this index.  
 Gulf States Marine Fisheries Commis-  
 sion, generally, this index.  
 Parks and Wildlife Commission, general-  
 ly, this index.

**COMMITTEES**

Operation game thief, 12.201 et seq.

**COMMUNISTS**

Fishing in territorial waters, licenses,  
 66.302.

**COMPACTS**

Gulf state compact, 91.001 et seq.  
 Lake Texoma fishing licenses, Oklahoma,  
 46.111.

**COMPENSATION AND SALARIES**

Deputy game wardens, 11.020.  
 Hunting and fishing, employing person to  
 hunt, 62.006.  
 Parks and wildlife commission, 11.016.  
 Parks and wildlife department employ-  
 ees, source of funds, 11.033.

**CONCESSIONS**

Generally, 13.015.  
 Eisenhower state park, 22.162.  
 Fannin state battleground, 22.006.

**CONCESSIONS—Cont'd**

Fishing piers, 22.184.  
 Funds, state parks fund, source of reve-  
 nue, 11.035.  
 Nimitz state park, 22.152.  
 Palo Duro Canyon state park, 22.022.  
 Port Isabel Lighthouse state historical  
 monument and park, 22.102.  
 Texas state railroad, state park, 22.182.

**CONCHO COUNTY**

See, also, Counties, generally, this in-  
 dex.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 148.001 et seq.

**CONDEMNATION**

Confiscation, generally, this index.  
 Eminent Domain, generally, this index.

**CONFIDENTIAL AND PRIVILEGED INFORMATION**

Boating accidents, reports, 31.105.

**CONFISCATION**

Commercial fishing, boats, nets and  
 seines, 47.052.  
 Disposition of confiscated game, 12.110.  
 Endangered species, 68.017.  
 Game fish, 12.110.  
 Hunting and fishing,  
   Illegal devices, 66.102.  
   Territorial waters, enforcement, 66.306.  
 Marine life, 12.109.  
 Nets and seines,  
   Saltwater fishing, 66.202.  
 Pelts, disposal, 12.1101.  
 Prairie chickens, 64.015.  
 Red drum,  
   Equipment, 66.2011.  
 Rough fish, saltwater,  
   Fishing devices, 66.212.  
   Removal, 66.212.  
 Shellfish, unfit for human consumption,  
 76.214.  
 Shrimp, 77.025.  
 Speckled sea trout, equipment, 66.2011.

**CONNIE HAGAR WILDLIFE SANCTUARY**

Boundaries, 82.101.  
 Markers, 82.102.  
 Crimes and offenses, 82.104.  
 Fines and penalties, 82.104.  
 Hunting and fishing, 82.103.

**CONSENT**

Endangered plants, taking, 88.008.  
 Hunting, 62.012.  
 Real county, exotic animals, hunting,  
 293.023.

**CONSERVATION**

Endangered plants, 88.001 et seq.

**CONSTRUCTION**

Artificial reefs, 12.016.  
 Game, fish and water safety fund, use,  
 11.033.

**CONTAINERS**

Endangered plants, inspection, 88.010.  
 Searches and seizures, hunting and fish-  
 ing, 12.104, 62.007.

**CONTIGUOUS ZONE**

Defined, shrimp, Gulf of Mexico, 77.001.  
 Shrimp, this index.

References are to Sections

**CONTRACTS**

Artificial reefs, construction, 12.016.  
 Game, fish and water safety fund, use, 11.033.  
 Bids and Bidding, generally, this index.  
 Davy Crockett national forest, 23.041.  
 Fishery Conservation and Management Act of 1976, compliance, 13.314.  
 Fur-bearing animals, removal, 81.404.  
 Proceeds, disposition, 11.032.  
 Highways and roads, state parks, 13.013.  
 Historical sites,  
     Federal aid, 13.301.  
     Operation and maintenance, 13.005.  
 Jim Hogg memorial park, timber and iron ore, sales, 22.056.  
 Palo Duro Canyon state park, 22.022.  
 Park development fund, 21.104.  
 Recreational facilities,  
     Federal aid, application of law, 13.306.  
     Political subdivisions, 13.304.  
 Removal of fur-bearing animals and reptiles, 81.404.  
     Proceeds, disposition, 11.032.  
 Reptiles, removal, 81.404.  
     Proceeds, disposition, 11.032.  
 Sabine national forest, wildlife management, 23.051.  
 State parks,  
     Highways and roads, acquisition of access roads, 13.014.  
     Improvements, 13.003.  
 Water safety, federal government, 31.005.  
 Weeds, noxious weeds, eradication, 12.010.

**CONVICT LABOR**

State parks, 13.016.

**COOKE COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 149.001 et seq.

**COOT**

Migratory Game Birds, generally, this index.

**CORPORATIONS**

Nonprofit Corporations, generally, this index.

**CORPUS CHRISTI, CITY OF**

See, also, Municipal Corporations, generally, this index.  
 Sand and gravel, removal from Corpus Christi bay to raise grade of salt flats, 86.015.

**CORPUS CHRISTI BAY**

Sand and gravel, removal, 86.015.

**CORRECTIONAL INSTITUTIONS**

State parks, prison labor, 13.016.

**CORYELL COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 150.001 et seq.

**COSTS**

Black Gap wildlife management area, eminent domain, 82.206.  
 Fish hatcheries, eminent domain, 81.104.  
 Security for cost, actions to enforce game laws, 12.105.

**COTTLE COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 151.001.

**COUGARS**

Endangered species, exemptions, 68.020.

**COUNTIES**

See, also,  
     Political Subdivisions, generally, this index.  
     Specific named counties.  
 Fairs and Expositions, generally, this index.  
 Fines and penalties, portion retained by county, 13.111.  
 Hunting and fishing licenses, 42.002.  
 Park lands, leases, 13.006.  
 Predator control, aircraft use, application of law, 43.101.  
 Sand and gravel,  
     Highways and roads, use, 86.013.  
     Seawalls, use, 86.014.  
 Shells,  
     Highways and roads, use, 86.013.  
     Seawalls, use, 86.014.  
 Wildlife management areas, assessments in lieu of taxes, 12.005.

**COWBIRDS**

Killing, seasons, 64.002.

**COYOTES**

Aircraft, predator control, 43.101 et seq.  
 Endangered species, exemptions, 68.020.  
 Kaufman county, sales, 229.021.  
 Van Zandt county, sales, 334.041.  
 Wood county, sales, 350.021.

**CRABS**

Blue crabs, taking, 78.201.  
 Crimes and offenses,  
     Blue crabs, 78.201.  
     Harris county, designated bays, traps, pots, 201.016.  
     Taking, 78.102.  
 Dead crabs, leaving on bridge or causeways, 66.008.  
 Definitions, 78.101.  
 Enforcement of laws, 12.101 et seq.  
 Fines and penalties,  
     Blue crabs, 78.201.  
     Harris county, designated bays, traps, pots, 201.016.  
     Taking, 78.102.  
 Harris county, designated bays, traps, pots, 201.016.  
 Rules and regulations, supervision, 1.011.  
 Sale, female crabs, abdominal apron detached, 78.102.  
 Seasons, bait blue crabs, 78.201.  
 Shellfish Culture, generally, this index.

**CRANE COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 152.001.

**CRANES**

Migratory Game Birds, generally, this index.

**CRAPPIES**

Bag limits, 66.106.  
 Bait fish, use as, 66.010.  
 Crimes and offenses, injuring small fish, 66.108.  
 Definitions, game fish, 66.114.

**CRAPPIES—Cont'd**

Fines and penalties,  
     Injuring small fish, 66.108.  
     Sales, 66.111.  
 Fish farms, sales, 48.010.  
 Minimum size, return to water, 66.108.  
 Sales, 66.111.  
**CRAYFISH**  
 Licenses, exemptions, 51.0011.  
 Uniform Wildlife Regulatory Act, exemptions, 61.006.  
**CREEKS**  
 Rivers and Streams, generally, this index.  
**CRIMES AND OFFENSES**  
 See, also, Fines and Penalties, generally, this index.  
 Agricultural products, destruction of game animals for protection, 43.157.  
 Aircraft, predator control, 43.111.  
 Alligators, 65.008.  
 Animals, protection, licenses and permits, 43.157.  
 Archery stamps, 43.205.  
 Armadillos, sales, class B misdemeanors, 63.103.  
 Arrest, generally, this index.  
 Bait fish, taking, possession, 66.010.  
 Bass, this index.  
 Big Bend national park, jurisdiction, 23.001.  
 Bird breeders, 45.012.  
 Birds, this index.  
 Boats and boating,  
     Sewage disposal, 31.129.  
     Wilful destruction, 66.005.  
 Caddo lake game and fish reserve, 82.409.  
 Catch limits, fishing, 66.106.  
 Catfish, sale of flathead catfish, 66.111.  
 Chachalacas, bag limits, 64.014.  
 Clams, 78.004.  
 Commercial Fishing, this index.  
 Connie Hagar wildlife sanctuary, 82.104.  
 Counties, named counties, local and special laws, 101.001 et seq.  
 Crabs, this index.  
 Crappies,  
     Injuring small fish, 66.108.  
     Sales, 66.111.  
 Deer, this index.  
 Deputy game wardens, 11.020.  
 Dimmit county, lights, 164.021.  
 Endangered plants, protection violations, 88.011.  
 Endangered species, 68.021.  
 Exotic animals,  
     Hunting, 293.025.  
     Kerr county, 233.032, 233.034.  
 Falconry, 49.017.  
 Field trials, 43.260.  
 Finfish, monofilament nets, use, 66.214.  
 Fish farmers, 48.012.  
     Taking fish without permission, 48.013.  
 Fish hatcheries, taking wildlife, 81.001.  
 Fish ladders, repairs, 66.109.  
 Fish passes, obstruction, 66.204.  
 Fish sanctuaries, taking fish, 81.004.  
 Fishing, catch limits, 66.106.  
 Flathead catfish, sales, 66.111.  
 Fox, trapping, Sabine county, 302.053.  
 Fur-bearing animals, 71.015.  
 Game breeders, 44.016.  
 Game Preserves, this index.  
 Guadalupe Mountain national park, jurisdiction, 23.031.

References are to Sections

**CRIMES AND OFFENSES—Cont'd**

Gus Engeling wildlife management area, 82.005.  
 Hunting and Fishing, this index.  
 Hunting boat licenses, 43.005.  
 Ingleside cove wildlife sanctuary, 82.504.  
 Kaufman county, sale of designated animals, class B misdemeanor, 229.021.  
 Lake Corpus Christi game sanctuary, 82.704.  
 Lake Texoma fishing licenses, 46.110.  
 Limitation of prosecutions, shrimp violations, 77.025.  
 Live Oak county, 249.015.  
 Local and special laws, 101.001 et seq.  
 McMullen county, fishing violations, 256.035.  
 Markers, damaging, 12.017.  
 Migratory game birds, possession, 64.026.  
 Monofilament nets, finfish, 66.214.  
 Muskellunge, sales, 66.111.  
 Mussels, 78.004.  
 Nets and Seines, this index.  
 Nongame species, 67.005.  
 Northern pike, sales, 66.111.  
 Noxious aquatic plants, selling, transporting or releasing, 12.015.  
 Oysters, this index.  
 Padre Island national seashore, jurisdiction, 23.011.  
 Peccary, 63.003.  
 Pelts, seizure, disposal, 12.1101.  
 Prairie chickens, 64.015.  
 Private bird shooting areas, 43.077.  
 Quail, bag limits, 64.014.  
 Retrieval and waste of game, 62.011.  
 Rough fish, saltwater fishing, devices, 66.212.  
 Sale of fish, 66.111.  
 Saltwater fishing, reports, 66.209.  
 Sand and gravel,  
   Dredging without permit, 86.002.  
   Seawalls, removal, 86.018.  
 Sauger, sales, 66.111.  
 Scientific use of wildlife, licenses and permits, 43.030.  
 Seafoods, sales, joint adventures, 66.208.  
 Second and Subsequent Offenses, generally, this index.  
 Shellfish, polluted waters, 76.216.  
 Shellfish culture, 51.011.  
 Shells, seawalls, removal, 86.018.  
 Shooting preserves or resorts, licenses and permits, 43.055.  
 Shrimp, this index.  
 Special laws, local and special laws, 101.001 et seq.  
 Tags, noncommercial nets and seines, 66.215.  
 Trespass, generally, this index.  
 Tropical fish, release of harmful tropical fish, 66.007.  
 Trout, sales, 66.111.  
 Van Zandt county, sale of designated animals, class B misdemeanor, 334.021.  
 Vandalism, generally, this index.  
 Vingt et Un islands wildlife sanctuary, 82.303.  
 Walleye, sales, 66.111.  
 Waste of game, 62.011.  
 Waterfowl blinds, Harrison county, regulation violations, 202.041.  
 White-winged doves, 43.016.  
 Wild Turkeys, this index.  
 Wildlife management areas, taking species, 81.006.  
 Wolves, 63.102.

**CRIMES AND OFFENSES—Cont'd**

Wood county, sale of designated animals, class B misdemeanor, 350.021.

**CROCKETT COUNTY**

See, also, Counties, generally, this index.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 154.001.

**CROSBY COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 153.001.

**CROSS BOW**

Deer hunting, seasons, Sabine and San Augustine counties, 61.208.  
 Hunting and fishing, Lower Colorado River authority, 62.081.  
 Season, possession, 62.054.

**CROWS**

Killing, seasons, 64.002.

**CRUSTACEANS**

See, also, specific crustaceans.  
 Generally, 76.001 et seq.

**CRYSTAL BAY**

Harris county, crabs, traps, pots, 201.016.

**CULBERSON COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Elk, game animals, 63.001.  
 Local and special laws, 155.001 et seq.  
 Nonresident hunting licenses, designated game, 42.005.

**CULTURE**

Historical sites, acquisition, 13.005.

**DAINGERFIELD LAKE**

Weapons, discharge, Morris county, 272.051.

**DALLAM COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 156.001.

**DALLAS COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 157.001.

**DAMAGES**

Boating accidents, reports, 31.105.  
 Protected species, control, licenses and permits, 43.151 et seq.

**DAMS AND RESERVOIRS**

Boats and boating, local rules and regulations, 31.092.  
 Fish ladders, repairs, fines and penalties, 66.109.  
 Huntsville state park,  
   Improvements, 22.071.  
   Licenses and permits, 22.072.  
 Palo Duro Canyon state park, 22.022.  
 Stillhouse hollow reservoirs, hunting, 114.011.

**DAVY CROCKETT NATIONAL FOREST**

Contracts, 23.041.  
 Definitions, 23.042.

**DAVY CROCKETT NATIONAL FOREST—Cont'd**

Hunting and fishing,  
 Fines and penalties, 23.044.  
 Regulations, 23.043.

**DAWSON COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 158.001.

**DEAF SMITH COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 159.001.

**DEALERS**

Armadillos, sales, 63.103.  
 Boats and boating,  
   Numbering, 31.031, 31.041.  
 Purchases, fresh water fish, 47.0091, 47.0111.  
 Saltwater fishing, reports, 66.209.  
 Wholesale fish dealers, license fees, seafood promotion program, source of funds, 12.009.

**DEATH**

Boating accidents, reports, 31.105.

**DEBENTURES**

Bonds, generally, this index.

**DECEIT**

Fraud, generally, this index.

**DEDICATION**

Scientific areas, 81.503.  
 State Parks, this index.

**DEEDS AND CONVEYANCES**

Fish hatcheries, 13.009.  
 Historic sites, 13.009.  
 Parks and wildlife director, 13.009.  
 Scientific areas, 13.009.  
 State parks, 13.009.  
   Unsuitable lands, 13.008.  
 Wildlife management areas, 13.009.

**DEER**

Aged persons, hunting without license, 42.004.  
 Agricultural products, protection, 43.155.  
 Antlerless deer, McMullen county, permit, 256.0112.  
 Archery season, 62.053.  
   Blanco county, 116.002.  
   Burnet county, 127.012 et seq.  
   Cass county, 134.016.  
   Duration, 62.056.  
   Gillespie county, 186.012 et seq.  
   Kendall county, 230.011 et seq.  
   Kimble county, 234.011.  
   Llano county, 250.011 et seq.  
   Marion county, season, 258.024.  
   Mason county, 260.011 et seq.  
   McCulloch county, 254.011 et seq.  
   Morris county, 272.017.  
 Possession,  
   Equipment, 62.055.  
   Weapons, 62.054.  
 Sabine and San Augustine counties, 61.208.  
 San Saba county, 306.012 et seq.  
 Stamps, 43.201 et seq.  
 Travis county, 327.011 et seq.  
 Trinity county, 328.011.

References are to Sections

**DEER—Cont'd**

Axis deer, Bexar county, local and special laws, 115.011, 115.012.  
 Bag limit, 42.021, 63.002.  
     Grimes county, 193.012.  
 Calling deer, fines and penalties, 63.009.  
 Cass county,  
     Bows and arrows, season, 134.016.  
     Hunting, 134.012.  
 Chambers county, hunting, 136.022.  
 Children and minors, hunting without license, 42.004.  
 Closed season, authorization, 42.021.  
 Crimes and offenses,  
     Calling deer, 63.009.  
     Chambers county, hunting, 136.022.  
     Dogs, hunting with dogs, 63.010.  
     Female deer, 63.008.  
     Sales, 62.022.  
 Decoys, fines and penalties, 63.009.  
 Definitions,  
     Game animals, 63.001.  
     Hunting, 224.011.  
     McMullen county, 256.0111.  
 Dimmit county, seasons, 61.205.  
 Doe deer, Edwards county, hunting, 169.002.  
 Dogs, hunting with dogs, 63.010.  
     Hardin county, 200.021.  
     Jasper county, 221.012.  
     Newton county, 276.012.  
     Panola county, 61.207, 283.011.  
     Polk county, 287.021.  
     Sabine county, 302.021.  
     San Jacinto county, 304.021.  
 Fawn, hunting, 63.008.  
 Females, fines and penalties, 63.008.  
 Fines and penalties,  
     Calling deer, 63.009.  
     Chambers county, 136.022.  
     Dogs, hunting with dogs, 63.010.  
     Female deer, 63.008.  
     Grimes county, 193.014.  
     McMullen county, season, 256.0111.  
     Protection of crops and animals, 43.157.  
     Sales, 62.022.  
 Game breeders, powers and duties, 44.006.  
 Hunting,  
     Chambers county, 136.022.  
     Own land, 42.003.  
 Hunting licenses, 42.002.  
     Aged persons, 42.004.  
     Children and aged persons, 42.004.  
     Duplicates, 42.017.  
     McMullen county, antlerless deer, 256.0112.  
     Tags, generally, post.  
 Lampasas county, storage and processing, 61.206.  
 Licenses and permits, 61.057.  
     Hunting licenses, generally, ante.  
     Trapping, 63.007.  
 Local and special laws,  
     Burnet county, 127.011 et seq.  
     Cass county, 134.011 et seq.  
     Cherokee county, 138.011, 138.012.  
     Delta county, 160.011.  
     Foard county, 178.011.  
     Gillespie county, 186.011 et seq.  
     Grimes county, 193.011 et seq.  
     Morris county, 272.017.  
 McMullen county, 256.0111 et seq.  
 Marion county, bows and arrows, season, 258.024.

**DEER—Cont'd**

Nonresidents,  
     Archery license, Sabine and San Augustine counties, 61.208.  
     Hunting licenses, designated counties, 42.005.  
 Possession,  
     Jasper county, 221.013.  
     Parts of deer, 42.019.  
     Without tag, 42.018.  
 Records, hunting deer, 42.019.  
 Rules and regulations, 61.056.  
     San Saba county, 306.011 et seq.  
 Sales, fines and penalties, 62.022.  
 Seasons, 63.006.  
     Archery season, generally, ante.  
     Cass county, 134.013.  
     Dimmit, Uvalde and Zavala counties, 61.205.  
     Grimes county, 193.011 et seq.  
     Hopkins county, 212.011.  
     Houston county, 213.011.  
     Jim Hogg county, 224.011.  
     Kenedy county, 231.011.  
     Leon county, 245.011.  
     Marion county, 258.021, 258.024.  
     McMullen county, 256.011.  
     White-tailed deer, 256.0111.  
     Morris county, 272.011 et seq.  
     Trinity county, 328.011.  
     Upshur county, 330.021.  
 Tags, 42.010.  
     Attaching to animal, 42.018.  
     Bag limits, 42.021.  
     Evidence of lawful killing, 42.021.  
     Fraud, 42.020.  
 Transplanting, overpopulation, permits, 63.007.  
 Transportation, licenses and permits, 63.007.  
 Uvalde county, seasons, 61.205.  
 Weapons,  
     Ammunition, 62.002.  
     Possession during archery season, 62.054.  
     Size of weapon, Smith county, 312.012.  
 Whistles, fines and penalties, 63.009.  
 White-tailed deer, McMullen county, 256.0111.  
 Young bucks, hunting, 63.008.  
 Zavala county, seasons, 61.205.  
**DEFENSES**  
 Markers, damage, 12.017.  
**DEFINITIONS**  
 Words and Phrases, generally, this index.  
**DELTA COUNTY**  
 See, also, Counties, generally, this index.  
 Local and special laws, 160.001 et seq.  
**DENTON COUNTY**  
 See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 161.001.  
**DEPOSITS OF FUNDS**  
 Errors and mistakes, 11.040.  
 Pelts, seizure and disposal, 12.1101.  
**DEPUTY GAME WARDENS**  
 Generally, 11.020.  
**DESTRUCTION OF PROPERTY**  
 Boats and boating, cancellation of number, 31.037.  
 Nets and seines, 12.1105.

**DEVISES**

Gifts, Devises and Bequests, generally, this index.  
**DEWITT COUNTY**  
 See, also, Counties, generally, this index.  
 Local and special laws, 162.001.  
**DICKENS COUNTY**  
 See, also, Counties, generally, this index.  
 Local and special laws, 163.001.  
**DIMITT COUNTY**  
 See, also, Counties, generally, this index.  
 Deer, seasons, 61.205.  
 Hunting and fishing, 61.202.  
 Lights, 164.021.  
 Local and special laws, 164.001 et seq.  
**DISABLED VETERANS**  
 Hunting and fishing licenses, exemption, 42.0041, 46.003.  
 State parks, passports, 13.018.  
**DISMISSAL OF PROSECUTIONS**  
 Fishing licenses, failure or refusal to show, subsequent production for court, 46.015.  
 Hunting license, failure or refusal to show, subsequent production for court, 42.024.  
**DISORDERLY CONDUCT**  
 Injunctions,  
     Historical sites, 13.108.  
     Recreational areas, 13.108.  
     State parks, 13.108.  
 Recreational areas, eviction, 13.108.  
 State parks, rules and regulations, 13.102.  
**DISTRICTS**  
 Political Subdivisions, generally, this index.  
**DOGS**  
 Deer, this index.  
 Fish hatcheries, bringing on property, 81.002.  
 Game preserves, bringing on property, 81.002.  
 Hunting and fishing,  
     Jasper county, 221.011.  
     San Jacinto county, 304.011.  
 Hunting with dogs,  
     Newton county, 276.011 et seq.  
     Tyler county, 329.011.  
 Mink, this index.  
**DONATIONS**  
 Gifts, Devises and Bequests, generally, this index.  
**DONLEY COUNTY**  
 See, also, Counties, generally, this index.  
 Aoudad sheep, game animals, 63.001.  
 Local and special laws, 165.001.  
 Nonresident hunting licenses, designated game, 42.005.  
**DOVES**  
 Generally, 64.001 et seq.  
 Killing, seasons, 64.002.  
 Migratory Game Birds, generally, this index.

References are to Sections

**DOVES—Cont'd**

White-Winged Doves, generally, this index.

**DREDGE LICENSES**

Oysters, this index.

**DRUGS AND MEDICINE**

Archery equipment, possession during hunting season, 62.055.

Boats and boating, operation under influence of narcotic drug, fines and penalties, 31.097.

**DRUNKARDS AND DRUNKENNESS**

Boats, operation while intoxicated, 31.097.

**DUCKS**

Generally, 64.001 et seq.

Migratory Game Birds, generally, this index.

**DUVAL COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 166.001 et seq.

**EAGLES**

Hunting and fishing, 64.011.

**EASEMENTS**

Eisenhower state park, person living on property, 22.164.

Fish hatcheries, 81.103, 81.104.

Smith county, 82.602.

Franklin Mountains state park, 22.223.

Padre Island national seashore, Willacy county navigation districts, 23.015.

State parks, public beaches, entrance fees where public has acquired right of use, 21.111.

**EASTLAND COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 167.001.

**ECTOR COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 168.001.

**EDUCATION**

Deputy game wardens, 11.020.

**EDWARDS COUNTY**

See, also, Counties, generally, this index.

Hunting and fishing regulations, approval by commissioners, 61.202.

Local and special laws, 169.001 et seq.

**EISENHOWER STATE PARK**

Concessions, 22.162.

Definitions, 22.163.

Easements, person living on property, 22.164.

Gifts, devises and bequests, 22.162.

Highways and roads, easements for person living on property, 22.164.

Impacted property, 22.163 et seq.

Jurisdiction, 22.161.

Licenses and permits, persons living on property, 22.165.

Rules and regulations, 22.162.

**EL PASO COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Elk, game animals, 63.001.

Local and special laws, 171.001 et seq.

Nonresident hunting licenses, designated game, 42.005.

**ELECTIONS**

Big Bend national park, right of suffrage, 23.002.

Guadalupe Mountains national park, residents, right of suffrage, 23.032.

Padre Island national seashore, residents, right of suffrage, 23.012.

**ELECTRICITY**

Hunting and fishing, electric shock, 66.004.

Recreational facilities, eminent domain, relocation expenses, 13.305.

Shrimp fishing, use of devices, 66.004.

**ELK**

Definitions, game animals, 63.001.

Game breeders, powers and duties, 44.006.

Licenses and permits, 61.057.

Nonresident hunting licenses, designated counties, 42.005.

Rules and regulations, 61.056.

Weapons, ammunition, 62.002.

**ELLIS COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 170.001 et seq.

**EMERGENCIES**

Boats and boating, operation in restricted areas, 31.102.

**EMINENT DOMAIN**

Black Gap wildlife management area, 82.205, 82.206.

Fish hatcheries, 81.103, 81.104.

Smith county, 82.602, 82.603.

Franklin Mountains state park, 22.223.

Highways and roads, state parks, 13.014.

Historical sites, 13.005.

Park development fund, acquisition of property, 21.103.

Recreational Facilities, this index.

**ENDANGERED PLANTS**

Generally, 88.001 et seq.

**ENDANGERED SPECIES**

Generally, 68.001 et seq.

Advertising for sale, 68.015.

Appeal and review, license cancellation, 68.012.

Application of law, 68.006, 68.019.

Arrest, 68.017.

Confiscation, 68.017.

Crimes and offenses, 68.021.

Definitions, 68.001.

Exemptions, 68.020.

Falconry, rules and regulations, 49.015.

Fines and penalties, 68.021.

Funds, disposition, 68.018.

Game breeders. Propagation, generally, post.

Hearings, reclassification, 68.005.

Licenses and permits, 68.006.

Appeal, 68.012.

Cancellation, 68.011.

Disposition of animals, 68.013.

**ENDANGERED SPECIES—Cont'd**

Licenses and permits—Cont'd

Propagation, post.

Reports, 68.010.

List, 68.002.

Amendments, 68.004.

Statewide extinction list, 68.003.

Notice, modification of list, 68.004.

Petition, reclassification, 68.005.

Possession, 68.015.

Propagation,

Licenses and permits, 68.007.

Original permit, 68.008.

Renewal, 68.009.

Reports, 68.010.

Reclassification, petition, 68.005.

Rules and regulations, issuance, 68.014.

Sales, 68.015.

Tags, 68.016.

Second and subsequent offenses, 68.021.

Venue, license cancellation, 68.012.

**ENGINEERS**

Palo Duro Canyon state park, employment, 22.034.

**EQUIPMENT**

Machinery and Equipment, generally, this index.

**ERATH COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 172.001 et seq.

**ERRORS AND MISTAKES**

Deposits of funds, 11.040.

**EVICTON**

Recreational areas, disorderly conduct, 13.108.

**EVIDENCE**

Alligators, seizure, 65.009.

Boating accidents, reports, 31.105.

Commercial fishing, size of fish, 47.035.

Deer, killing, attachment of tag, 42.021.

Dimmit county, hunting, lights, 164.021.

Hunting and Fishing, this index.

Oysters, place of production, 76.005.

Pelts, seizure, 12.1101.

Presumptions, archery stamps, failure or refusal to exhibit, 43.205.

Wild turkeys, killing, attachment of tag, 42.021.

**EXCHANGE OF PROPERTY**

Falconry, 49.011.

Fish hatcheries, 13.009.

Historical sites, 13.009.

Hunting and fishing licenses, 61.057.

Scientific areas, 13.009.

State parks, 13.009.

Wildlife management areas, 13.009.

**EXEMPTIONS**

Bee county, game preserve, 82.732.

Bird breeders, licenses and permits, 45.009.

Boats and Boating, this index.

Crayfish,

Licenses, 51.0011.

Uniform Wildlife Regulatory Act, 61.006.

Endangered plants, 88.009.

Endangered species, 68.020.

Falconry, licenses, 49.002.

Fish sanctuaries, 81.209.

References are to Sections

**EXEMPTIONS—Cont'd**

Hunting and Fishing Licenses, this index.  
Real county, exotic animals, hunting, 293.024.  
Shrimp, this index.

**EXHAUST WATER MANIFOLD**

Boats and boating, 31.070.  
Racing boats, exemptions, 31.072.

**EXOTIC ANIMALS**

Hunting, 293.021 et seq.  
Kerr county, 233.031 et seq.  
Real county, hunting, 293.023.

**EXPLOSIVES**

Archery equipment, possessing during hunting season, 62.055.  
Hunting and fishing,  
Fines and penalties, 66.003.  
Private property, consent, 66.002.

**EXPORTS AND IMPORTS**

Alligators, 65.001 et seq.  
Aquatic products, size limitations, 47.018.  
Bird breeders, 45.007.  
Collared peccary (javelina), application of law, 63.003.  
Commercial fishing, 47.018.  
Falconry, licenses and permits, 49.013.  
Fees, game, fish and water safety fund, source of revenue, 11.032.  
Grass carp, Lake Conroe, 236.021, 270.021.  
Hunting and Fishing, this index.  
Nongame species, rules and regulations, 67.001.  
Protected wildlife, importing from Mexico, 62.026.  
Redfish, license, 66.201.  
Shellfish, licenses and permits, 51.009.  
Shrimp, application of law, 77.012.  
Speckled sea trout, licenses, 66.201.  
Tropical fish, harmful tropical fish, 66.007.

**EXPOSITIONS**

Fairs and Expositions, generally, this index.

**EXPRESS COMPANIES**

Hunting and fishing, affidavit of transportation, fines and penalties, 62.028.

**FACSIMILE SIGNATURES**

Park development bonds, 21.014.

**FAIRS AND EXPOSITIONS**

Game preserves, taking wildlife, 81.001.  
Water skis,  
Motorboats, mirrors, 31.071.  
Time of operation, 31.103.  
Wolves, possession, 63.102.

**FALCONRY**

Advisory board, 49.016.  
Aliens, licenses and permits, 49.008.  
Apprentice permit, 49.003.  
Crimes and offenses, 49.017.  
Definitions, 49.001.  
Endangered species, 49.015.  
Exchange, 49.011.  
Exemptions, licenses, 49.002.  
Exports and imports, licenses, 49.013.  
Fees. Licenses and permits, post.  
Fines and penalties, 49.017.  
Joint permits, 49.0047.

**FALCONRY—Cont'd**

Licenses and permits, 49.001 et seq.  
Apprentice license, 49.003.  
Duration, 49.006.  
Fees, 49.004.  
Apprentice license, 49.003.  
Master permit, 49.0045.  
Nonresidents, 49.008.  
Renewal, 49.007.  
Joint permits, 49.0047.  
Master permit, 49.0045.  
Nonresidents, 49.008.  
Qualifications, 49.004.  
Reciprocity, 49.009.  
Renewal, 49.006.  
Fees, 49.007.  
Rules and regulations, 49.014.  
Transportation, 49.013.  
Master permit, 49.0045.  
Nonresidents, licenses and permits, 49.008.  
Possession limits, 49.005.  
Reciprocity, licenses and permits, 49.009.  
Reports, 49.014.  
Rules and regulations, 49.014.  
Sales, 49.011.  
Second and subsequent offenses, 49.017.  
Title to property, 49.012.  
Transportation, 49.013.

**FALLS COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 173.001 et seq.

**FALSE PERSONATION**

Hunting and fishing licenses, 42.023, 46.014.

**FALSE REPRESENTATION**

Fraud, generally, this index.

**FANNIN COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 174.001.

**FANNIN STATE BATTLEGROUND**

Advisory commission, 22.002 et seq.  
Concessions, 22.006.  
Gifts, 22.004.  
Jurisdiction, 22.001.  
Title to property, 22.005.

**FANNIN STATE PARK ADVISORY COMMISSION**

Generally, 22.002 et seq.  
Meetings, 22.003.  
Powers and duties, 22.004.

**FARM PRODUCTS**

Agricultural Products, generally, this index.

**FAYETTE COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 175.001 et seq.

**FEDERAL AID**

Commercial fishing, 48.011, 83.002.  
Fish and wildlife restoration projects, 13.313.  
Fish farmers, 48.011.  
Game, fish and water safety fund, source of revenue, 11.032.  
Historical sites, 13.301.

**FEDERAL AID—Cont'd**

Hunting and fishing restoration projects, 83.001 et seq.  
Land and water conservation fund, source of funds, 11.037.  
Recreational Facilities, this index.  
Wildlife management areas, 83.001 et seq.  
Assessments in lieu of taxes, 12.005.

**FEDERAL GOVERNMENT**

United States, generally, this index.

**FEDERAL REHABILITATION AND RECOVERY GRANTS**

Defined, state assistance for local parks, 24.001.

**FEES**

See specific index headings.

**FELONIES**

Crimes and Offenses, generally, this index.

**FENCES**

Oysters, this index.

**FERNS**

Endangered plants, protection, 88.001 et seq.

**FIDELITY BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**FIDUCIARIES**

Bonds (Officers and Fiduciaries), generally, this index.

**FIELD TRIALS**

Generally, 43.251 et seq.  
Areas to be marked, 43.255.  
Banding of birds, 43.259.  
Captive-reared birds, taking, 43.256.  
Crimes and offenses, 43.260.  
Definitions, 43.251.  
Fines and penalties, 43.260.  
Hunting during season, 43.261.  
Licenses and permits, 43.251 et seq.  
Auxiliary licenses, 43.252.  
Duration of license, 43.252.  
Fees, 43.253.  
Limited nonresident license, 43.257.  
Nonresidents, limited license, 43.257.  
Persons who may hold, 43.254.  
Making of areas, 43.255.  
Record book, 43.258.

**FINANCIAL ADVISORS**

Palo Duro Canyon state park, employment, 22.034.

**FINES AND PENALTIES**

See, also, Crimes and Offenses, generally, this index.  
Actions and proceedings, enforcement, 12.105.  
Agricultural products, destruction of game animals for protection, 43.157.  
Aircraft, predator control, 43.111.  
Alligators, 65.008.  
Archery stamps, 43.205.  
Arrest, failure to appear for trial, 12.106.  
Bait fish, taking, possession, 66.010.  
Bass, this index.  
Bee county, game preserve, 82.733.  
Bird breeders, 45.012.

References are to Sections

**FINES AND PENALTIES—Cont'd**

Birds, this index.  
Boats and Boating, this index.  
Caddo lake game and fish reserve, 82.409.  
Catch limits, fishing, 66.106.  
Catfish, sale of flathead catfish, 66.111.  
Chachalacas, bag limits, 64.014.  
Chambers county, nets and trotlines, 136.048.  
Clams, 78.004.  
Collared peccary (javelina), 63.003.  
Collections, list, 12.004.  
Commercial Fishing, this index.  
Connie Hagar wildlife sanctuary, 82.104.  
Counties,  
  Named counties, local and special laws, 101.001 et seq.  
  Portion of fine to be retained by county, 13.111.  
Crabs, this index.  
Crappies,  
  Injuring small fish, 66.108.  
  Sales, 66.111.  
Davy Crockett national forest, hunting and fishing, 23.044.  
Deer, this index.  
Department employees, violation of game laws, 12.111.  
Dimmit county, lights, 164.021.  
Disposition of fines and penalties, 12.107.  
Drum, taking in oyster waters, 66.205.  
Endangered plants, protection violations, 88.011.  
Endangered species, 68.021.  
Exotic animals,  
  Hunting, 293.025.  
  Kerr county, 233.032, 233.034.  
Falconry, 49.017.  
Field trials, 43.260.  
Finfish, heads or tails, removal, 66.216.  
Fish farmers, 48.012.  
  Taking fish without permission, 48.013.  
Fish hatcheries,  
  Taking wildlife, 81.001.  
  Trespass, 81.003.  
Fish ladders, repairs, 66.109.  
Fish passes, obstruction, 66.204.  
Fish sanctuaries, taking fish, 81.004.  
Fishing, catch limits, 66.106.  
Flathead catfish, sales, 66.111.  
Fox, trapping, Sabine county, 302.053.  
Fur-bearing animals, 71.015.  
Galveston county, nets and trotlines, 184.025.  
Game, fish and water safety fund, source of revenue, 11.032.  
Game breeders, 44.016.  
Game Preserves, this index.  
Gus Engeling wildlife management area, 82.005.  
Harris county, nets and trotlines, 201.016.  
Historical sites, rules and regulations, 13.107 et seq.  
Hunting and Fishing, this index.  
Hunting and Fishing Licenses, this index.  
Hunting boat licenses, 43.005.  
Ingleside cove wildlife sanctuary, 82.504.  
Kaufman county, sales of designated animals, 229.021.  
Kent county, quail seasons, 232.011.  
Knox county, quail season, 238.011.  
Lake Corpus Christi game sanctuary, 82.704.  
Lake Texoma fishing licenses, 46.110.  
Live Oak county, 249.015.

**FINES AND PENALTIES—Cont'd**

Live Oak county rivers sanctuary, 82.763.  
Local and special laws, 101.001 et seq.  
McMullen county,  
  Deer season, 256.0111.  
  Fishing violations, 256.035.  
Markers, damaging, 12.017.  
Migratory game birds, possession, 64.026.  
Motor vehicles, hunting from, 61.903.  
Muskellunge, sales, 66.111.  
Mussels, 78.004.  
Nets and Seines, this index.  
Nighttime, hunting, 61.903.  
Nongame species, 67.005.  
Northern pike, sales, 66.111.  
Noxious aquatic plants, selling, transporting or releasing, 12.015.  
Nueces river, fish, sales, 278.021, 305.021.  
Oysters, this index.  
Pelts, seizure, disposal, 12.1101.  
Portion of fine to be retained by county, 13.111.  
Prairie chickens, 64.015.  
Private bird shooting areas, 43.077.  
Protected animals, licenses and permits, 43.157.  
Quail, this index.  
Recreational areas, rules and regulations, 13.107 et seq.  
Red drum, 66.2011.  
Redfish,  
  Sales, 66.201.  
  Seasons, 47.039.  
Removal, heads or tails, 66.216.  
Retrieval and waste of game, 62.011.  
Rough fish, saltwater fishing, devices, 66.212.  
Sabine national forest, hunting and fishing, 23.054.  
Sales of fish, 66.111.  
Saltwater fishing, reports, 66.209.  
Sand and gravel,  
  Dredging without permit, 86.002.  
  Seawalls, removal, 86.018.  
Sauger, sales, 66.111.  
Scientific use of wildlife, licenses and permits, 43.030.  
Seafoods, sales, joint adventures, 66.208.  
Shellfish,  
  Culture, 51.011.  
  Polluted waters, 76.216.  
Shells, seawalls, removal, 86.018.  
Shooting preserves or resorts, licenses and permits, 43.055.  
Shrimp, this index.  
Special laws, local and special laws, 101.001 et seq.  
Speckled Sea Trout, this index.  
State parks,  
  Rules and regulations, 13.107 et seq.  
  Weapons on adjoining property, 13.205.  
State parks fund, source of revenue, 11.035.  
Stillhouse hollow reservoir, hunting, 114.011.  
Stonewall county, quail seasons, 317.011.  
Striped bass, sales, 66.111.  
Supervision, 12.001.  
Tags, noncommercial nets and seines, 66.215.  
Tropical fish, release of harmful tropical fish, 66.007.  
Trotlines, tags, 66.206.  
Trout, sales, 66.111.  
Uniform Wildlife Regulatory Act, 61.901.

**FINES AND PENALTIES—Cont'd**

Van Zandt county, sale of designated animals, 334.041.  
Vingt et Un islands wildlife sanctuary, 82.303.  
Walleye, sales, 66.111.  
Waste of game, 62.011.  
Water skis, reckless operation, 31.096.  
Waterfowl blinds, Harrison county, regulation violations, 202.041.  
Waterfowl stamps, 43.309.  
White-winged doves, 43.016.  
Wild Turkeys, this index.  
Wildlife management areas, taking species, 81.006.  
Wood county, sale of designated animals, 350.021.

**FINFISH**

Defined, commercial fishing, 47.001.  
Heads or tails, removal, 66.216.  
Monofilament nets, use, 66.214.  
Research, 66.217.

**FIRE EXTINGUISHERS**

Boats and boating, 31.067.  
Racing boats, exemptions, 31.072.

**FIREARMS**

Weapons, generally, this index.

**FIRES**

Hunting and fishing,  
  Closing seasons, 12.012.  
  Warning of danger to sportsmen, 12.007.

**FIRING RANGES**

Lower Colorado river authority, leases, 62.082.

**FISH DEALERS**

Purchases, 47.0091, 47.0111.

**FISH EGGS**

Tropical fish, harmful tropical fish, release into waters, 66.007.

**FISH FARMERS**

Bass, sales, 48.010.  
Bill of lading, transportation, 48.004.  
Crappies, sales, 48.010.  
Crimes and offenses, 48.012.  
  Taking fish without permission, 48.013.  
Definitions, 48.001.  
Federal aid, 48.011.  
Fines and penalties, 48.012.  
  Taking fish without permission, 48.013.  
Game, fish and water safety fund, use, 11.033.  
Harvesting of fish, sales, 48.009.  
Licenses and permits, 48.002.  
  Additional license, 48.007.  
  Duration, 48.006.  
  Fees, 48.005.  
  Additional license, 48.007.  
Forms, 48.006.  
Motor carriers, post.  
Records, 48.008.  
Revocation or suspension, redfish or speckled sea trout, marketing, 48.0101.  
Vehicle, 48.003.  
Motor carriers,  
  Bill of lading, 48.004.  
  Licenses and permits, 48.003.  
  Additional license, 48.007.  
  Fees, 48.005.

References are to Sections

**FISH FARMERS—Cont'd**

Records, sales and shipments, 48.008.  
 Redfish, marketing, 48.0101.  
 Research, federal aid, 48.011.  
 Revocation or suspension, license, redfish or speckled sea trout, marketing, 48.0101.  
 Sales,  
     Bass and crappies, 48.010.  
     Harvested fish, 48.009.  
 Shellfish Culture, generally, this index.  
 Speckled sea trout, marketing, 48.0101.  
 Taking fish without permission, fines and penalties, 48.013.

**FISH HATCHERIES**

Brood fish, taking, 66.112.  
 Buildings, eminent domain, 81.103, 81.104.  
 Cats, bringing cats on property, 81.002.  
 Costs, eminent domain, 81.104.  
 Creation, Smith county, 82.601.  
 Crimes and offenses,  
     Taking wildlife, 81.001.  
     Trespass, 81.003.  
 Dogs, bringing dogs on property, 81.002.  
 Easements, 81.103, 81.104.  
 Eminent domain, 81.103, 81.104.  
     Smith county, 82.602, 82.603.  
 Fines and penalties,  
     Taking wildlife, 81.001.  
     Trespass, 81.003.  
 Freshwater areas, 81.102.  
 Game, fish and water safety fund, use, 11.033.  
 Highways and roads, eminent domain, 81.103, 81.104.  
 Predacious animals, bringing on property, 81.002.  
 Sale or exchange of land, 13.009.  
 Saltwater areas, 81.101.  
 Sand and gravel, use of funds, 86.017.  
 Shells, use of funds, 86.017.  
 Smith county, 82.601 et seq.  
 Supervision, 12.001.  
 Trespass, 81.003.  
 Venue, eminent domain, 81.104.

**FISH LADDERS**

Crimes and offenses, 66.109.

**FISH PASSES**

Fish hatcheries, eminent domain, 81.103, 81.104.  
 Game, fish and water safety fund, use, 11.033.  
 Obstruction, 66.204.

**FISH SANCTUARIES**

Boundaries, 81.205.  
 Caddo Lake Game and Fish Reserve, generally, this index.  
 Connie Hagar Wildlife Sanctuary, generally, this index.  
 Creation, 81.201.  
 Designation, 81.203.  
 Duration, 81.204.  
 Enforcement of laws, 12.101 et seq.  
 Exemptions, 81.209.  
 Fines and penalties, 81.004.  
 Game, fish and water safety fund, use, 11.033.  
 Grazing rights, leases, 12.008.  
 Ingleside Cove Wildlife Sanctuary, generally, this index.  
 Notice, creation, 81.207.

**FISH SANCTUARIES—Cont'd**

Proclamations, 81.206.  
     Effective, date, 81.208.  
 Purposes, 81.202.

**FISH STOCKING**

Private water, fees, 12.014.

**FISHER COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 176.001.

**FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976**

Compliance, 13.314.  
 Management programs, 79.001 et seq.

**FISHING**

Hunting and Fishing, generally, this index.

**FISHING LICENSES**

Hunting and Fishing Licenses, generally, this index.

**FISHWAYS**

Crimes and offenses, 66.109.

**FLAGRANT VIOLATIONS**

Defined, operation game thief fund, 12.203.

**FLAME ARRESTORS**

Boats and boating, equipment, 31.068.

**FLATHEAD CATFISH**

Sales, 66.111.

**FLOUNDER**

Commercial fishing, size, 47.034.  
 Size, Cameron county, 131.021.

**FLOYD COUNTY**

See, also, Counties, generally, this index.  
 Aoudad sheep, game animals, 63.001.  
 Local and special laws, 177.001.  
 Nonresident hunting licenses, designated game, 42.005.

**FOARD COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 178.001.  
 Wild turkey, hunting, 178.021.

**FOOD**

Game birds, sale for food, 45.009.

**FOREIGN CORPORATIONS**

Oysters, private oyster beds, 76.008.

**FOREIGN COUNTRIES**

Boats and boating, numbering, exemptions, 31.022.  
 Hunting and fishing, territorial waters, licenses and permits, 66.302.

**FOREIGN STATES**

Bird breeders, purchases, 45.007.  
 Boats and boating, numbering, exemptions, 31.022, 31.023.  
 Gulf states marine fisheries compact, 91.001 et seq.  
 Hunting and Fishing Licenses, this index.  
 Shrimp, possession for transportation purposes, 77.018.

**FOREST FIRES**

Hunting and fishing, closing seasons, 12.012.

**FORESTS**

National Forests, generally, this index.

**FORFEITURES**

See, also, Fines and Penalties, generally, this index.  
 Caddo lake game and fish reserve, hunting license, 82.409.  
 Chambers county, fishing license, 136.048.  
 Fur-bearing animals, 71.015.  
 Game breeders, 44.016.  
 Harris county, fishing license, 201.016.  
 Hunting and fishing licenses, 12.112.  
 Shellfish, polluted areas, performance bond, 76.215.  
 Shrimp,  
     License, second and subsequent offenses, 77.023.  
     Operation without license, 77.024.  
     Supervision, 12.001.

**FORMS**

Waterfowl stamps, 43.303.

**FORT BEND COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 179.001.

**FOX**

Aircraft, predator control, 43.101 et seq.  
 Calling devices,  
     Hardin county, 200.031.  
     Sabine county, 302.052.  
     Shelby county, 310.033.  
 Endangered species, exemptions, 68.020.  
 Kaufman county, sales, 229.021.  
 Trapping,  
     Sabine county, 302.053.  
 Van Zandt county, sales, 334.041.  
 Wood county, sales, 350.021.

**FOX SQUIRRELS**

Squirrels, generally, this index.

**FRANCHISE TAXES**

Big Bend national park, jurisdiction, 23.001.  
 Guadalupe Mountain national park, jurisdiction, 23.031.  
 Padre Island national seashore, jurisdiction, 23.011.

**FRANKLIN COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 180.001.

**FRANKLIN MOUNTAINS STATE PARK**

Generally, 22.221 et seq.

**FRAUD**

Boats and boating, numbers, cancellation, 31.042.  
 Deer, tags, 42.020.  
 Oysters, private beds, 76.037.  
 Wild turkeys, tags, 42.020.

**FREE PASSES**

State parks, 13.018.

References are to Sections

**FREESTONE COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 181.001.

**FRESH PURSUIT**

Peace officers, powers and duties, 11.019.

**FRIO COUNTY**

See, also, Counties, generally, this index.

Hunting and fishing regulations, approval, 61.202.

Local and special laws, 182.001.

**FUNDS**

Game, fish and water safety fund, 11.031 et seq.

Operation game thief fund, 12.201 et seq.

Pelts, seizure and disposal, disposition of revenues, 12.1101.

Texas local parks, recreation and open space fund, 24.001 et seq.

**FUNNEL FRUIT JAR TYPE TRAP**

Fishing, method of fishing, 66.101.

**FUR-BEARING ANIMALS**Agents, licenses, fee for issuance, 71.013.  
Angelina county, local and special laws, 103.041.**Buyers,**Inspection of place of business, 71.012.  
Licenses, 71.006.

Agency, 71.013.

**Calling devices,**

Jasper county, 221.032.

Leon county, 245.041.

Consent, taking, 71.004.

Contracts for removal, 81.404.

Disposition of proceeds, 11.032.

Crimes and offenses, 71.015.

**Dealers,**

Licenses, 71.005, 71.007.

Display, 71.011.

Definitions, 71.001.

Depredation, 71.004.

Fees, licenses, 71.009.

Fines and penalties, 71.015.

Forfeitures, license violations, 71.015.

Forms, licenses, 71.008.

Fur buyers, licenses, 71.006.

Hearings, 71.002.

Inspection, place of business, 71.012.

Investigations, 71.003.

Licenses and permits, 71.002.

Agents, fees, 71.013.

Dealers, 71.007.

Display, 71.011.

Duration, 71.010.

Fees, 71.009.

Fur buyers, 71.006.

License fees, 71.009.

Issuance, 71.008.

Propagation, 71.003, 71.005.

Revocation or suspension, 71.016.

Time, 71.010.

Traps and trapping, post.

Wholesalers and retailers, 71.005.

Limits, 71.002.

Nonresident, license fees, 71.009.

Pelts, seizure, disposal, 12.1101.

Private property, 71.004.

**Propagation,**

Inspection, 71.012.

Licenses, 71.005, 71.011.

Fees, 71.009.

Reports, 71.014.

**FUR-BEARING ANIMALS—Cont'd**

Removal, contracts, 81.404.

Disposition of proceeds, 11.032.

Reports, propagation, 71.014.

Revocation or suspension, license, 71.016.

Rules and regulations, Newton county, 276.031, 276.032.

Sales, 71.002.

Inspection of place of business, 71.012.

Licenses, 71.005.

Game, fish and water safety fund, source of revenue, 11.032.

Propagation license, 71.005.

Retail fur buyers, display of licenses, 71.011.

Studies, 71.003.

Time, licenses, 71.010.

Title of property, 1.011.

Transportation, 71.002.

Inspection of place of business, 71.012.

Traps and trapping,

Inspection, 71.012.

Licenses and permits, 71.005.

Agents, fees, 71.013.

Fees, beaver and otter, 71.009.

Possession, 71.011.

Shelby county, 310.031.

Uniform Wildlife Regulatory Act, 61.001 et seq.

**Wholesalers,**

Inspection, 71.012.

Licenses, 71.005.

Wildlife management areas, contracts for removal, 81.404.

Disposition of proceeds, 11.032.

**GAINES COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 183.001.

**GALLINULES**

Migratory Game Birds, generally, this index.

**GALVESTON COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 184.001 et seq.

Wildlife sanctuary, 82.301 et seq.

**GAME, FISH AND WATER SAFETY FUND**

Generally, 11.031 et seq.

Establishment, 11.031.

Expenditures, 11.034.

Fish stocking, private waters, fees,

source of revenue, 11.032.

Leases of grazing rights, source of revenue, 12.008.

Pelts, proceeds of sale of seized pelts, source of revenue, 11.032.

Sources of revenue, 11.032.

Use of funds, 11.033.

**GAME BREEDERS**

Bird Breeders, generally, this index.

Boundaries, breeding area, 44.008.

Definitions, 44.001.

Endangered Species, this index.

Forfeitures, 44.016.

Game, fish and water safety fund, use, 11.033.

Hunting and fishing licenses, 43.021 et seq.

Inspection, 44.009.

**GAME BREEDERS—Cont'd**

Licenses and permits, 43.022, 44.002, 45.001.

Application, 43.025.

Application of law, 44.014.

Cancellation, 43.028.

Conditions, 43.026.

Crimes and offenses, 43.030, 44.016.

Duration, 44.003.

Fees, 44.003.

Fines and penalties, 43.030, 44.016.

Game, fish and water safety fund,

source of revenue, 11.032.

Possession, presumptions, 43.023.

Privileges and immunities, 44.006.

Records, 44.007.

Reissuance, 44.004.

Reports, 43.029.

Fines and penalties, 43.030.

Restrictions on permits, 43.024.

Rules and regulations, 43.027.

Serial number, 44.005.

Transportation, 44.010.

Records, 44.007.

Sales, 44.011.

Open season, 44.012.

Purposes, 44.013.

Second and subsequent offenses, 44.016.

Supervision, 12.001.

Taking wildlife for breeding purposes, 12.013.

Taking wildlife from game preserves, 81.001.

Transportation of animals, 44.010.

**GAME MANAGEMENT AREAS**

Grazing rights, leases, 12.008.

**GAME MANAGEMENT OFFICERS**

Boats and boating, enforcement of regulations, 31.121.

**GAME PRESERVES**

Bee county, 82.731 et seq.

Caddo Lake Game and Fish Reserve, generally, this index.

Cats, bringing on property, 81.002.

Connie Hagar Wildlife Sanctuary, generally, this index.

Crimes and offenses,

Hunting on lands, 81.005.

La Salle county rivers sanctuary,

82.711 et seq.

McMullen county rivers sanctuary,

82.721 et seq.

Taking wildlife, 81.001.

Trespass, 81.003.

Dogs, bringing on property, 81.002.

Enforcement of laws, 12.101 et seq.

Fines and penalties,

Hunting, 81.005.

Taking wildlife, 81.001.

Trespass, 81.003.

Game, fish and water safety fund, use, 11.033.

Grazing rights, leases, 12.008.

Ingleside Cove Wildlife Sanctuary, generally, this index.

La Salle county rivers sanctuary, 82.711 et seq.

Lake Corpus Christi Game Sanctuary, generally, this index.

Live Oak county rivers sanctuary, 82.761 et seq.

McMullen county rivers sanctuary, 82.711 et seq.

References are to Sections

**GAME PRESERVES—Cont'd**

Migratory birds, federal aid, 83.004.  
Predacious animals, bringing on property, 81.002.  
Trespass, 81.003.

**GAME WARDENS**

Deputies, 11.020.  
Indemnity, seizure of nets and seines, 12.1105.  
Pelts, seizure, 12.1101.

**GAR**

Bow and arrow, method of fishing, 66.101.  
Nets and seines, method of fishing, 66.101.  
Small fish, returning to water, fines and penalties, 66.006.  
Spear gun, possession of other fish while using spear, 66.107.

**GARBAGE AND REFUSE**

Boats and boating, disposal regulations, 31.129.  
State parks, rules and regulations, 13.102.

**GARZA COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 185.001.

**GASPERGOU**

Bow and arrow, method of fishing, 66.101.  
Spear gun, possession of other fish while using spear, 66.107.

**GEESE**

Generally, 64.001 et seq.  
Migratory Game Birds, generally, this index.

**GEOLOGICAL VALUE**

Historical sites, acquisition, 13.005.

**GIFTS, DEVISES AND BEQUESTS**

Beautiful scenery areas, 13.011.  
Black Gap wildlife management area, 82.202.  
Eisenhower state park, 22.162.  
Fannin state battleground, 22.004.  
Historical sites, 13.005.  
Hubbard Lake state park, 22.183.  
Hueco Tanks state park, 22.112.  
Nimitz state park, 22.152.  
Parks,  
Assistance grants, 24.004.  
State matching grants, 24.005.  
San Jacinto battleground, 22.014.  
San Jacinto museum of history association, 22.016.  
State Parks, this index.  
Waterfowl propagation, 43.306.

**GILLESPIE COUNTY**

See, also, Counties, generally, this index.  
Hunting and fishing regulations, approval by commissioner, 61.202.  
Local and special laws, 186.001 et seq.

**GIRL SCOUTS**

Lower Colorado River authority, rifle ranges, use, 62.082.

**GLASSCOCK COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 187.001.

**GOLIAD COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 188.001.

**GOLIAD STATE PARK**

Boundaries, mission of San Rosario, 22.083.  
General Ignacio Zaragoza birthplace, 22.082.  
Improvements, 22.084.  
Jurisdiction, 22.081.  
Mines and minerals, reservation of rights, 22.085.  
Mission of San Rosario, 22.083.  
Title to property, reversion, 22.085.

**GONZALES COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 189.001 et seq.

**GOVERNOR JAMES STEPHEN HOGG MEMORIAL SHRINE**

Generally, 22.171.

**GRACKLES**

Killing, seasons, 64.002.

**GRANTS**

Gifts, Devises and Bequests, generally, this index.

**GRASS CARP**

Lake Conroe, research, 236.021, 270.021.

**GRASSES**

Endangered plants, protection, 88.001 et seq.

**GRAVEL**

Sand and Gravel, generally, this index.

**GRAY COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 190.001.

**GRAY SQUIRRELS**

Definitions, game animals, 63.001.  
Squirrels, generally, this index.

**GRAYSON COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 191.001 et seq.

**GRAZING**

Parks, leases, 13.0061.  
Wildlife management areas, leases, 12.008.

**GREGG COUNTY**

See, also, Counties, generally, this index.  
Fire hazard, hunting and fishing, closing season, 12.012.  
Local and special laws, 192.001 et seq.

**GRIMES COUNTY**

See, also, Counties, generally, this index.  
Deer, 193.011 et seq.  
Fire hazard, hunting and fishing, closing season, 21.012.  
Local and special laws, 193.001.  
Rough fish, taking, nets and seines use, 193.021.

**GROCERY STORES**

Shrimp, bait-shrimp dealers, license, exemptions, 77.046.

**GROSS RECEIPTS TAXES**

Guadalupe Mountain national park, jurisdiction, 23.031.  
Padre Island national seashore, jurisdiction, 23.011.

**GROUSE**

Generally, 64.001 et seq.

**GUADALUPE COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 194.001 et seq.

**GUADALUPE MOUNTAINS NATIONAL PARK**

Elections, residents, right of suffrage, 23.032.  
Jurisdiction, 23.031.  
Mineral rights,  
Leases, 23.034.  
Reversion, 23.033.  
Reversion, 23.033.  
Leases, mineral rights, 23.034.

**GULF OF MEXICO**

Fish passes, obstruction, 66.204.  
Gulf states marine fisheries compact, 91.001 et seq.  
Pound nets, 66.207.  
State park public beaches, entrance fees where public has acquired right of use or easement, 21.111.  
Territorial waters, hunting and fishing, 66.301 et seq.  
Title to property, 1.011.

**GULF OF MEXICO FISHERY MANAGEMENT COUNCIL**

Fishery Conservation and Management Act of 1976, compliance, 13.314.  
Management programs, 79.001 et seq.

**GULF STATES COMPACT**

Generally, 91.001 et seq.

**GULF STATES MARINE FISHERIES COMMISSION**

Accounts and accounting, 91.007.  
Audits, reports, 91.007.  
Cooperation of state agencies, 91.005.  
Delegate of commissioner, 91.003.  
Membership, 91.001.  
Powers and duties, 91.004.  
Reports, 91.006.  
Audits, 91.007.  
Sunset Act, 91.0011.  
Term of office, 91.002.

**GUNS**

Weapons, generally, this index.

References are to Sections

**GUS ENGELING WILDLIFE MANAGEMENT AREA**

Creation, 82.001.  
Crimes and offenses, 82.005.  
Hunting and fishing,  
Licenses, 82.003.  
Rules and regulations, 82.002.  
Possession of wildlife, 82.004.  
Traps and trapping, rules and regulations, 82.002.

**HALE COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 195.001.

**HALL COUNTY**

See, also, Counties, generally, this index.  
Aoudad sheep, game animals, 63.001.  
Local and special laws, 196.001.  
Nonresident hunting licenses, designated game, 42.005.

**HAMILTON COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 197.001 et seq.

**HANSFORD COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 198.001.

**HARBOR PILOTS**

Territorial waters, fishing regulations, 66.305.

**HARDEMAN COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 199.001 et seq.

**HARDIN COUNTY**

See, also, Counties, generally, this index.  
Hunting and fishing,  
Fire hazard, closing season, 12.012.  
Lights, fines and penalties, 61.901.  
Local and special laws, 200.001 et seq.

**HARRIS COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Crabs, designated bays, traps, pots, 201.016.  
Local and special laws, 201.001 et seq.

**HARRISON COUNTY**

See, also, Counties, generally, this index.  
Caddo lake game and fish reserve, 82.401 et seq.  
Fire hazard, hunting and fishing, closing season, 12.012.  
Local and special laws, 202.001 et seq.

**HARTLEY COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 203.001.

**HASKELL COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 204.001 et seq.

**HATCHERIES**

Fish Hatcheries, generally, this index.

**HAWKS**

Falconry, generally, this index.

**HAY**

Wildlife management areas, sales, 12.008.

**HAYS COUNTY**

See, also, Counties, generally, this index.  
Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 205.001 et seq.

**HEALTH AND SANITATION**

Recreational areas, 13.101.  
Political subdivisions, 13.304.

**HEMPHILL COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 206.001.

**HENDERSON COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Fire hazard, hunting and fishing, closing season, 12.012.  
Local and special laws, 207.001 et seq.

**HIDALGO COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 208.001 et seq.

**HIGHWAYS AND ROADS**

Boat ramps, access roads, 31.141.  
Contracts, 13.013.  
Eisenhower state park, easements for persons living on property, 22.164.  
Exotic animals, hunting, 293.022.  
Kerr county, 233.032.  
Fish hatcheries, eminent domain, 81.103, 81.104.  
Franklin Mountains state park, 22.223.  
Padre Island national seashore, 23.016.  
Recreational facilities, eminent domain, relocation expenses, 13.305.  
Rights of Way, generally, this index.  
Roadside parks, acquisition, 13.012.  
Sand and gravel, use, 86.013.  
Shells, use, 86.013.  
State parks, construction and maintenance, 13.014.

**HILL COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 209.001 et seq.

**HISTORICAL SITES**

Acquisition, 13.005.  
Disorderly conduct, eviction, 13.108.  
Eviction, disorderly conduct, 13.108.  
Exchange of property, 13.009.  
Fannin State Battleground, generally, this index.  
Federal aid, 13.301.  
Fines and penalties, rules and regulations, 13.107 et seq.  
Fleet admiral Chester W. Nimitz memorial naval museum, 22.221, 22.222.  
Goliad State Park, generally, this index.  
Governor James Stephen Hogg memorial shrine, 22.171.

**HISTORICAL SITES—Cont'd**

Health and sanitation, 13.101.  
Hearings, rules and regulations, 13.103.  
Hunting and fishing, 62.061 et seq.  
Information, publication, 13.017.  
Injunction, disorderly conduct, 13.108.  
Jim Hogg Memorial Park, generally, this index.  
Licenses and permits, state parks fund, source of revenue, 11.035.  
Markers, 13.010.  
Notices,  
Disorderly conduct, warnings, 13.108.  
Rules and regulations, 13.104 et seq.  
Peace officers,  
Enforcement of regulations, 13.109.  
Powers and duties, 11.019.  
Port Isabel Lighthouse state historical monument and park, 22.101, 22.102.  
Rules and regulations, 13.101 et seq.  
Application of law, 13.110.  
Enforcement, peace officers, 13.109.  
San Jacinto Battleground, generally, this index.  
Second and subsequent offenses, 13.107.  
Supervision, 13.001.

**HOCKLEY COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 210.001.

**HOGG, GOVERNOR JAMES STEPHEN HOGG MEMORIAL SHRINE**

See, also, Jim Hogg Memorial Park, generally, this index.  
Generally, 22.171.

**HOOD COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 211.001 et seq.

**HOPKINS COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 212.001 et seq.

**HOSPITALS**

Confiscated game, disposition, 12.110.  
Deer killed to protect agricultural products, donation, 43.155.  
Hunting and fishing licenses, exemptions, 46.002.

**HOTELS**

Birds, consumption on premises, 45.009.

**HOUSTON COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 213.001 et seq.

**HOWARD COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 214.001.

**HUBBARD LAKE**

State park, 22.183.

**HUDSPETH COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Elk, game animals, 63.001.

References are to Sections

**HUDSPETH COUNTY—Cont'd**  
Local and special laws, 215.001 et seq.  
Nonresident hunting licenses, designated game, 42.005.

**HUECO TANKS STATE PARK**  
Gifts, devises and bequests, 22.112.  
Improvements, 22.111.  
Supervision, 22.111.  
Title of property, 22.113.

**HUNT COUNTY**  
See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
Local and special laws, 216.001 et seq.

**HUNTING AND FISHING**  
Affidavit for transportation, 62.027.  
Fines and penalties, 62.028.  
Aircraft, hunting from vehicles, 62.003.  
Aliens, political asylum, 66.307.  
Alligators, 65.001 et seq.  
Antelope, generally, this index.  
Appeal and review, rules and regulations, 61.106.

Application of law, 61.003, 61.004.  
Archery, generally, this index.  
Arrest, this index.  
Bag limits, 66.106.  
Fines and penalties, 62.010.  
Storage, 62.030.

Bear, generally, this index.  
Bell county, stillhouse hollow reservoir, 114.011.

Bow and arrow. Archery, generally, this index.

Bridges, 66.008.  
Brood fish, taking for fish hatcheries, 66.112.

Caddo lake game and fish reserve, 82.405.  
Rules and regulations, 82.408.

Causeways, 66.008.  
Chambers county, deer, 136.022.  
Coastal waters, 66.301 et seq.  
Common carriers, transporting specimens, 62.027.

Confiscation,  
Marine life, 12.109.  
Use of equipment for research, 12.011.  
Connie Hagar wildlife sanctuary, 82.103.  
Consent, 62.012.

Construction of Act, 1.002.  
Counties, named counties, local and special laws, 101.001 et seq.

Crimes and offenses,  
Affidavit for transportation, failure to obtain, 62.028.  
Bag limits, 66.106.

Bridges or causeways, 66.008.  
Deputy game wardens, 11.020.  
Dimmit county, lights, 164.021.  
Electric shock, 66.004.  
Equipment, possession during archery season, 62.055.

Explosives, 66.003.  
Exports and imports, generally, post.  
General penalties, 61.901.  
Hunting for hire, 62.006.  
Hunting from vehicles, 62.003.

Imports. Exports and imports, generally, post.  
Lights, 61.901, 62.005.  
Lower Colorado River authority, 62.084.  
Method of fishing, 66.101.

**HUNTING AND FISHING—Cont'd**  
Crimes and offenses—Cont'd  
Minimum size, bass, 66.105.  
Navigation districts, nets and seines, 66.009.  
Nighttime, 62.004.  
Operation game thief fund, 12.201 et seq.

Private property, consent, 66.002.  
Prohibited devices, 66.102.  
Retrieval and waste of game, 62.011.  
Sales, 62.021.  
Saltwater fishing, 66.202.  
Screens to protect fish, pipe lines, 66.110.

Seasons, 62.010.  
Second and subsequent offenses, generally, post.

Small fish, returning, 66.006.  
State parks, 62.069.  
Stopping for search, 62.007.  
Storage records, 62.029.  
Territorial waters, 66.303.  
Waste of game, 62.011.  
Weapons, 62.002.  
Archery season, 62.054.  
Wolves, 63.102.

Cross bow, archery season, 62.054.  
Dams and reservoir, stillhouse hollow reservoir, 114.011.

Davy Crockett national forest,  
Fines and penalties, 23.044.  
Rules and regulations, 23.043.  
Dead fish, littering, 66.008.

Deer, generally, this index.  
Definitions, 1.101, 61.005.  
Deputy game wardens, 11.020.  
Dimmit county, lights, 164.021.  
Eagles, 64.011.  
Electric shock, 66.004.

Elk, generally, this index.  
Employing person to hunt, 62.006.  
Endangered Species, generally, this index.

Enforcement of laws, 12.101 et seq.  
Evidence,  
Navigation districts, 66.009.  
Possession, 62.008.  
Purchase of game to establish testimony, privileges and immunities, 62.009.

Rules and regulations, 61.106.  
Exotic animals, 293.021 et seq.  
Kerr county, 233.032.  
Explosives, fines and penalties, 66.003.  
Exports and imports, 62.024.  
Mexico, 62.026.  
Sales, 62.025.

Field Trials, generally, this index.  
Fines and penalties,  
Affidavit for transportation, failure to obtain, 62.028.  
Bag limits, 66.106.

Bridges or causeways, 66.008.  
Consent violation, 62.012.  
Dimmit county, lights, 164.021.  
Electric shock, 66.004.  
Exotic animals, 293.025.

Explosives, 66.003.  
Exports and imports, generally, ante.  
General penalties, 61.901.  
Hunting for hire, 62.006.  
Hunting from vehicles, 62.003.

Imports. Exports and imports, generally, ante.  
Lights, 62.005.  
Lower Colorado River authority, 62.084.

Lower Colorado River authority, 62.084.

**HUNTING AND FISHING—Cont'd**  
Fines and penalties—Cont'd  
Method of fishing, 66.101.  
Minimum size, bass, 66.105.  
Motor vehicles, 61.903.  
Navigation districts, nets and seines, 66.009.

Nighttime, 61.903, 62.004.  
Operation game thief fund, 12.201 et seq.  
Private property, consent, 66.002.  
Prohibited devices, 66.102.  
Retrieval and waste of game, 62.011.  
Sales, 62.021.

Saltwater fishing, 66.202.  
Outside water, 66.203.  
Screens to protect fish, pipe lines, 66.110.

Seasons, 62.010.  
Small fish, returning, 66.006.  
State parks, 62.069.  
Stopping for search, 62.007.  
Storage records, 62.029.

Territorial waters, 66.303.  
Waste of game, 62.011.  
Weapons, 62.002.  
Archery season, 62.054.

Fires,  
Cautioning sportsmen, 12.007.  
Closing season, 12.012.  
Fish passes, 66.204.  
Fish stocking, private water, fees, 12.014.

Freshwater, 66.101 et seq.  
Defined, 66.001.  
Funds, operation game thief fund, 12.201 et seq.  
Game preserves, fines and penalties, 81.005.

Gus Engeling wildlife management area, 82.002.  
Heads, finfish, removal, 66.216.  
Hearings, rules and regulations, county commissioners courts, 61.202.

Hiring person to hunt, 62.006.  
Historical sites, 62.061 et seq.  
Hook and line, method of fishing, 66.101.  
Ingleside cove wildlife sanctuary, 82.503.

Investigations, 61.051.  
Javelina, McMullen county, 256.012.  
Lake Corpus Christi game sanctuary, 82.702.  
Leases, Lower Colorado River authority, 62.082.

Licenses and permits. Hunting and Fishing Licenses, generally, this index.  
Lights, 62.005.  
Fines and penalties, 61.901.  
La Salle county, 62.005.

Littering bridges or causeways with dead fish, 66.008.  
Live Oak county, methods of fishing, 249.012.

Live Oak county rivers sanctuary, 82.762.  
Local and special laws, 101.001 et seq.  
Lower Colorado River authority, 62.081 et seq.  
McMullen county, 256.031 et seq.

Javelina, 256.012.  
Machinery and equipment, possession during archery season, 62.055.  
Means of taking wildlife, rules and regulations, 61.052.

Methods of fishing, 66.101 et seq.  
Live Oak county, 249.012.  
Saltwater fish, 66.202.  
Mexico, exports and imports, 62.026.

References are to Sections

**HUNTING AND FISHING—Cont'd**

Motor vehicles, hunting from vehicles, 62.003.  
 Fines and penalties, 61.903.  
 Navigation districts, 66.009.  
 Territorial waters, enforcement of law, 66.304.  
 Nets and Seines, generally, this index.  
 Nighttime, 62.004.  
 Fines and penalties, 61.903.  
 Nongame Species, generally, this index.  
 Notice, rules and regulations, hearings, 61.102.  
 Obstructing fish passes, 66.204.  
 Operation game thief fund, 12.201 et seq.  
 Parks, Sea Rim state park, recreational hunting, 62.0631.  
 Pelts, seizure, disposal, 12.1101.  
 Poisons, fines and penalties, 66.003.  
 Political asylum, alien, 66.307.  
 Possession,  
   Evidence, 62.008.  
   Illegally killed animal, fines and penalties, 62.010.  
 Private property, 61.022.  
   Consent, 66.002.  
   Fish stocking, fees, 12.014.  
   Vehicles, 62.003.  
 Privileges and immunities,  
   Employing person to hunt, testifying in prosecution, 62.006.  
   Public policy, 61.002.  
   Purchases of game to establish testimony in prosecution, 62.009.  
   Use of nuisance devices, confiscation, 66.102.  
 Proclamations. Rules and regulations, generally, post.  
 Prohibited devices, 66.102.  
 Public policy, 1.001, 61.002.  
 Purchases. Sales, generally, post.  
 Purpose of Act, 1.001.  
 Real county, exotic animals, 293.023, 293.024.  
 Reciprocity, 41.001.  
 Records, storage, 62.029.  
 Red fish, catching in inside water with trawl, retention, 77.100.  
 Research purposes, powers of department, 12.013.  
 Restoration projects, 83.001 et seq.  
   Federal aid, 13.313, 83.001.  
 Retrieval and waste of game, 62.011.  
 Rewards, operation game thief fund, 12.201 et seq.  
 Rough Fish, generally, this index.  
 Rules and regulations, 13.102, 61.054.  
   Adoption, 61.103.  
   Amendments, 61.055.  
   Appeal and review, 61.106.  
   Approval by county commissioners, 61.202.  
   Copies, distribution, 61.105.  
   Duration, 61.104.  
   Effective date, 61.104.  
   Hearings, 61.101 et seq.  
   State parks, 62.063.  
 Sabine national forest,  
   Fines and penalties, 23.054.  
   Rules and regulations, 23.053.  
 Sales, 62.021.  
   Exports and imports, 62.025.  
   Licenses, 61.057.  
   Taxidermists, 62.023.  
 Saltwater,  
   Defined, 66.001.  
 Sanctuaries, fines and penalties, 81.004.

**HUNTING AND FISHING—Cont'd**

Screens to protect fish, intake valves, 66.110.  
 Sea Rim state park, recreational hunting, 62.0631.  
 Searches and seizures, 62.007.  
 Seasons, 61.052.  
   Archery, 62.051 et seq.  
   Closed season, fines and penalties, 62.010.  
   Definitions, 62.001.  
   Designation, 61.053.  
   General provision, 66.104.  
   State parks, 62.062.  
 Second and subsequent offenses,  
   Exports and imports, 62.024, 62.025.  
   General penalties, 61.901.  
   Importing for sale, 62.025.  
   Nighttime, 62.004.  
   Saltwater fishing, 66.202.  
   Outside waters, 66.203.  
 Screens to protect fish, pipe lines, 66.110.  
   Seasons, 62.010.  
   Weapons, 62.002.  
 Seines. Nets and Seines, generally, this index.  
 Size of fish, 66.105.  
 Small fish, returning to water, 66.006.  
 Spear guns,  
   Method of fishing, 66.101.  
   Possession, 66.107.  
 Special laws, local and special laws, 101.001 et seq.  
 Spotted sea trout, catching in inside water with trawl, retention, 77.100.  
 State parks, 62.061 et seq.  
   Management of resources, 62.066.  
   Stillhouse hollow reservoir, 114.011.  
 Storage,  
   Bag limits, 62.030.  
   Records, 62.029.  
   Supervision, 12.001.  
 Tails, removal, 66.216.  
 Taking wildlife, seasons, 61.021.  
 Tawakoni Lake, rules and regulations, 61.201.  
 Territorial waters, 66.301 et seq.  
   Aliens, political asylum, 66.307.  
   Crimes and offenses, 66.303.  
   Enforcement of act, 66.304, 66.306.  
   Fines and penalties, 66.303.  
   Harbor pilots, notice, 66.305.  
 Theft, operation game thief fund, 12.201 et seq.  
 Title of Act, 61.001.  
 Transportation, wild animal, bird specimens, 62.025.  
 Transportation affidavit, 62.027.  
   Fines and penalties, 62.028.  
 Tropical fish, releasing in waters, 66.007.  
 Trotlines, generally, this index.  
 Uniform Wildlife Regulatory Act, 61.001 et seq.  
 Vingt en Un islands wildlife sanctuary, 82.302.  
 Warnings to sportsmen, 12.007.  
 Waste of game, 62.011.  
 Waterfowl, stamp, 43.301 et seq.  
 Weapons, generally, this index.  
 Weight of fish, 66.006.  
 Wild Turkeys, generally, this index.  
 Wildlife management areas, rules and regulations, 81.402.  
 Wolves, 63.102.

**HUNTING AND FISHING LICENSES**

Generally, 41.001 et seq.  
 Actions and proceedings, forfeiture, 12.112.  
 Age, nonresidents, 41.001.  
 Aged persons, 42.004.  
   Exemptions, 46.002.  
 Agents and agencies,  
   Combination licenses, fees, 50.002.  
   Duplicate licenses, fees, 42.017, 46.006.  
   Fees, 42.012.  
   Resident exempt license, 42.013.  
 Issuance, 42.011, 46.009.  
   Powers and duties, 46.010.  
 License books, return, 46.012.  
 Migratory birds, fee, 42.015.  
 Migratory waterfowl, fees, 42.016.  
 Nonresident license, fees, 42.014.  
 Reports, 46.011.  
 Agricultural products, 43.151 et seq.  
 Aliens, fees, 46.004.  
 Animals, protection, 43.151 et seq.  
 Armed forces, nonresidents, 42.009.  
 Associations and societies, tourists, exemptions, 46.002.  
 Blind persons, exemptions, 46.003.  
 Boats. Hunting Boat Licenses, generally, this index.  
 Books, agents, return, 46.012.  
 Border states, reciprocity, 41.003.  
 Boundary waters, reciprocity, 41.003.  
 Caddo lake game and fish reserve, forfeitures, 82.409.  
 Cancellation, saltwater fishing, 66.202.  
   Outside water, 66.203.  
 Chambers county, forfeiture, 136.048.  
 Children and minors, 42.004.  
   Exemptions, 46.002.  
 Combination licenses, 50.001.  
   Application of law, 50.005.  
   Conditions, 50.003.  
   Duplicates, 50.004.  
   Fees, 50.002.  
   Duplicate license, 50.004.  
   Fines and penalties, 50.005.  
 Commercial Fishing, generally, this index.  
 Counties, resident license, 42.002.  
 Crimes and offenses, 42.025, 46.015.  
   Operation game thief fund, 12.201 et seq.  
 Deer, this index.  
 Definitions, 42.001, 46.0011.  
 Disabled veteran, exemption, 46.003.  
 Display to officer, 42.024.  
 Duplicate licenses,  
   Duration, 46.007.  
   Fees, 42.017, 46.006.  
 Duration, 46.007.  
 Exchange, 61.057.  
 Exemptions, 46.002.  
   Blind persons, 46.003.  
   Children and aged persons, 42.004.  
   Expiration date, exemption license, 42.0175.  
   Form, 42.010.  
   Hunting on own land, 42.003.  
   Lake Texoma, 46.103.  
   Tourists, 46.002.  
   Veterans, disabled veterans, 42.0041, 46.003.  
 Expiration, 42.0175, 46.007.  
 Exports and imports, Mexico, 62.026.  
 Falconry, 49.010.  
 False personation, 42.023, 46.014.  
 Fees, 42.012 et seq., 46.004.  
   Agents, 46.009.

References are to Sections

**HUNTING AND FISHING LICENSES**

—Cont'd  
**Fees—Cont'd**  
 Duplicates, 46.006.  
 Nonresidents, temporary license, 46.0051.  
 Reciprocity, 41.008.  
 Sportfishing license, 46.005.  
 State parks, 62.064.  
     Disposition of funds, 62.065.  
 Temporary nonresident license, 46.0051.  
 Field trial licenses. Field Trials, this index.  
 Fines and penalties, 42.025, 46.015.  
     Combination licenses, 50.005.  
     Operation game thief fund, 12.201 et seq.  
     Reciprocity, 41.007.  
 Foreign states. Reciprocity, generally, post.  
 Forfeitures, 12.112.  
 Forms, 42.010, 46.008.  
 Funds, operation game thief fund, 12.201 et seq.  
 Galveston county, forfeiture, 184.025.  
 Game, fish and water safety fund, source of revenue, 11.032.  
 Harris county, forfeiture, 201.016.  
 Hospitals, residents, exemptions, 46.002.  
 Issuance, 42.010, 46.009, 46.013.  
     Agents, 42.011.  
     Deputy employees, 46.009.  
 Jurisdiction, 1.011.  
 Lake Texoma, this index.  
 Lost or destroyed licenses, duplicates, 46.006.  
 Louisiana, reciprocity, 41.002.  
 Migratory Game Birds, this index.  
 Nonresidents, 42.005.  
     Age, 41.001.  
     Armed forces, 42.009.  
     Collared peccary (javelina), archery license, Sabine and San Augustine counties, 61.208.  
     Deer, Sabine and San Augustine counties, 61.208.  
     Defined, 46.0011.  
     Designated counties, animals, 42.005.  
     Expiration of license, 42.0175.  
     Falconry, 49.008.  
     Fees, 42.014, 42.0141, 46.004.  
     Fur-bearing animals, license fees, 71.009.  
     Migratory birds, 42.006.  
     Migratory waterfowl, Exemptions, 42.007.  
     Qualifications, 42.008.  
     Possession of more than one license, 42.022.  
     Reciprocity, 41.001.  
     Small game licenses, 42.005.  
     Fees, 42.014.  
     Temporary fishing license, 46.0051.  
 Notice, termination of reciprocal agreements, 41.005.  
 Number issued to one person, 42.022.  
 Operation game thief, 12.201 et seq.  
 Peace officers, display, 42.024.  
 Penalties. Fines and penalties, generally, ante.  
 Predator control. Aircraft, this index.  
 Private Bird Shooting Areas, generally, this index.  
 Private property, exemptions, 46.002.  
 Production of license for court, license violation prosecution dismissal, 42.024, 46.015.

**HUNTING AND FISHING LICENSES**  
 —Cont'd

Propagation purposes, 43.021 et seq.  
 Protected species, 43.021.  
 Public policy, 46.001.  
 Reciprocity, 41.001, 46.002.  
     Border states, 41.003.  
     Boundary waters, 41.003.  
     Fees, 41.008.  
     Fines and penalties, 41.007.  
     Louisiana, 41.002.  
     Migratory waterfowl, 42.008.  
     Nonresidents, 42.005.  
     Proclamations, 41.004.  
     Rules and regulations, 41.006.  
     Termination, 41.005.  
 Reports, agents, issuance, 46.011.  
 Resident hunting licenses, county residents, 42.002.  
 Rewards, operation game thief fund, 12.201 et seq.  
 Rough fish, removal, 66.113.  
 Rules and regulations, reciprocity, 41.006.  
 Sales, 61.057.  
 Schools, state schools, exemptions, 46.002.  
 Scientific purposes, 43.021 et seq.  
 Sportfishing license, temporary, 46.005.  
 State parks, general license, application of law, 62.067.  
 Temporary license, sportfishing, 46.005.  
 Temporary nonresident license, 46.0051.  
 Territorial waters, 66.302.  
 Tourists, exemptions, 46.002.  
 Veterans, disabled veteran, exemption, 46.003.  
 White-winged doves, 43.013.  
 Wild Turkeys, this index.  
 Wildlife management areas, 81.403.  
 Zoological purposes, 43.021 et seq.

**HUNTING BOAT LICENSES**

Generally, 43.001 et seq.  
 Application, 43.002.  
 Cancellation, 43.005.  
 Crimes and offenses, 43.005.  
 Duration, 43.004.  
 Fees, 43.003.  
 Fines and penalties, 43.005.

**HUNTSVILLE STATE PARK**

Advertising for bids, timber sales, 22.075.  
 Bids and bidding, timber and lumber, sales, 22.074.  
 Dams and reservoirs, Improvements, 22.071.  
     Permits, 22.072.  
 Improvements, 22.071.  
     Timber, sales, 22.073 et seq.  
 Licenses and permits, dams and reservoirs, 22.072.  
 Sales, timber and lumber, 22.073 et seq.  
 Timber and lumber, Bids, Advertising, 22.075.  
     Sales, 22.074.  
     Sales, 22.073 et seq.

**HUTCHINSON COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 217.001.

**IDENTITY AND IDENTIFICATION**

Boats and Boating, this index.  
 Deputy game wardens, 11.020.  
 Nets and seines, tags, 66.215.

**IDENTITY AND IDENTIFICATION**  
 —Cont'd

Sand and gravel, licenses and permits, 86.006.  
 Shells, licenses and permits, 86.006.

**IMMUNITIES**

Privileges and Immunities, generally, this index.

**IMPORTS**

Exports and Imports, generally, this index.

**IMPROVEMENTS**

Goliad state park, 22.084.  
 Hueco Tanks state park, 22.111.  
 Huntsville state park, 22.071.  
 Jim Hogg Memorial Park, this index.  
 Palo Duro Canyon state park, 22.022.  
 Port Isabel Lighthouse state historical monument and park, 22.102.  
 State parks, Contracts, 13.003.  
     Gifts, 13.004.  
 Stephen F. Austin, state park, 22.121.

**INCOME TAX—STATE**

Guadalupe Mountain national park, jurisdiction, 23.031.  
 Padre Island national seashore, jurisdiction, 23.011.

**INDEBTEDNESS**

State, Palo Duro Canyon state park bonds, 22.039.

**INDEMNITY**

Game warden, seizure of nets and seines, 12.1105.

**INDIGENT PERSONS**

Confiscated game, disposition, 12.110.  
 Deer killed to protect agricultural products, donation, 43.155.

**INGLESIDE COVE WILDLIFE SANCTUARY**

Boundaries, 82.501.  
 Marking, 82.502.  
 Creation, 82.501.  
 Fines and penalties, 82.504.  
 Hunting and fishing, 82.503.

**INJUNCTIONS**

Commercial fishing, 47.052.  
 Disorderly Conduct, this index.  
 Endangered plants, protection violations, 88.012.

**INKS LAKE**

Highways and roads, access, 13.014.

**INSPECTORS AND INSPECTIONS**

Bird breeders, premises, 45.010.  
 Boats and boating, 31.123.  
     Application of law, 31.124.  
 Cold storage facility, taxidermist shops, tanneries, 62.031.  
 Commercial fishing, 47.037.  
 Deer, storage and processing, Lampasas county, 61.206.  
 Endangered plants, protection violations, 88.010.  
 Fur-bearing animals, place of business, 71.012.  
 Game breeder areas, 44.009.  
 Rough fish, tagging devices, saltwater fishing, 66.211.

References are to Sections

**INSPECTORS AND INSPECTIONS**

—Cont'd

Shellfish, polluted waters, 76.204.  
Supervision, 12.001.**INSURANCE**

Fidelity insurance. Bonds (Officers and Fiduciaries), generally, this index.

**INTEREST**Palo Duro Canyon state park, bonds, 22.025.  
Payment, 22.036.**INTERNATIONAL WATERS**Artificial reefs, 12.016.  
Construction and maintenance, game, fish and water safety fund, use, 11.033.**INTERSTATE COMPACTS**Gulf state compact, 91.001 et seq.  
Lake Texoma fishing licenses, Oklahoma, 46.111.**INTOXICATING LIQUORS**

Boats, operation while intoxicated, 31.097.

**INVESTIGATIONS**Deputy game wardens, 11.020.  
Endangered plants, 88.007.  
Fur-bearing animals, 71.003.  
McMullen county, deer, 256.0113.  
Taking wildlife for investigative purposes, 12.013.**INVESTMENTS**Palo Duro Canyon state park, bonds, legal investments, 22.037.  
Park development bonds, 21.023.  
Park development fund, 21.110.**IRION COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 218.001.**IRON ORE**

Jim Hogg Memorial Park, this index.

**ISLAND CHANNEL**

Padre Island, 82.651.

**ISLANDS**Channel, Padre Island, 82.651.  
Fish hatcheries, saltwater areas, 81.101.  
Galveston county, wildlife sanctuary, 82.301 et seq.  
Sand and gravel,  
Damages, 86.004.  
Management and protection, 86.001 et seq.  
Shells,  
Damages, 86.004.  
Management and protection, 86.001 et seq.**JACK COUNTY**See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 219.001 et seq.**JACK SNIPE**

Migratory Game Birds, generally, this index.

**JACKSON COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 220.001.**JASPER COUNTY**See, also, Counties, generally, this index.  
Hunting and fishing,  
Fire hazard, closing season, 12.012.  
Lights, fines and penalties, 61.901.  
Local and special laws, 221.001 et seq.**JAVELINA**

Collared Peccary (Javelina), generally, this index.

**JEFF DAVIS COUNTY**See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Elk, game animals, 63.001.  
Local and special laws, 222.001 et seq.  
Nonresident hunting licenses, designated game, 42.005.**JEFFERSON COUNTY**See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 223.001 et seq.  
Shrimp, trawls, possession, 77.018.**JETGUNS**

Weapons, generally, this index.

**JIM HOGG COUNTY**See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 224.001 et seq.**JIM HOGG MEMORIAL PARK**Advertising for bids, sale of timber and iron ore, 22.057.  
Bids and bidding, timber and iron ore, sales, 22.056.  
Advertising, 22.057.  
Contracts, timber and iron ore, sales, 22.056.  
Improvements, 22.052.  
Cooperation, 22.053.  
Timber, sales, 22.054.  
Iron ore,  
Bids,  
Advertising, 22.057.  
Competitive bids, 22.056.  
Sales, 22.055.  
Competitive bids, 22.056.  
Disposition of funds, 22.059.  
Rules and regulations, 22.058.  
Jurisdiction, 22.051.  
Mines and minerals. Iron ore, generally, ante.  
Sales,  
Iron ore, ante.  
Timber and lumber, post.Timber and lumber,  
Bids, advertising, 22.057.  
Sales, 22.054.  
Bids, 22.056.  
Disposition of funds, 22.059.  
Rules and regulations, 22.058.**JIM WELLS COUNTY**See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 225.001 et seq.**JOHNSON COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 226.001 et seq.**JOINT ADVENTURES**

Seafood, sales, 66.208.

**JONES COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 227.001 et seq.**JURISDICTION**Fisheries, 79.001 et seq.  
Fleet admiral Chester W. Nimitz memorial naval museum, 22.221.**JUSTICE COURTS**

Fees, fines and penalties, collection, 12.107.

**KARNES COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 228.001 et seq.**KAUFMAN COUNTY**See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 229.001 et seq.**KENDALL COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 230.001 et seq.**KENEDY COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 231.001 et seq.**KENT COUNTY**See, also, Counties, generally, this index.  
Quail, seasons, 232.011.  
Uniform Wildlife Regulatory Act, 232.001.**KERR COUNTY**See, also, Counties, generally, this index.  
Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 233.001 et seq.**KIMBLE COUNTY**See, also, Counties, generally, this index.  
Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 234.001 et seq.**KING COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 235.001 et seq.**KINNEY COUNTY**See, also, Counties, generally, this index.  
Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 236.001 et seq.**KLEBERG COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 237.001 et seq.

References are to Sections

**KNOX COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 238.001 et seq.  
Quail, season, 238.011.

**LA SALLE COUNTY**

See, also, Counties, generally, this index.  
Hunting and fishing, lights, 62.005.  
Local and special laws, 242.001 et seq.  
Rivers sanctuary, 82.711 et seq.

**LABOR AND EMPLOYMENT**

State parks, prison labor, 13.016.

**LADDERS**

Fish ladders, fines and penalties, 66.109.

**LAGOONS**

Lakes and Ponds, generally, this index.

**LAGUNA MADRE**

Oysters, seasons, 76.108.  
Shrimp, commercial bait-shrimping at night, 77.097.

**LAKE CONROE**

Grass carp, research, 236.021, 270.021.

**LAKE CORPUS CHRISTI**

San Patricio county, fish, sales, 305.021.

**LAKE CORPUS CHRISTI GAME SANCTUARY**

Boundaries, markers, 82.703.  
Creation, 82.701.  
Fines and penalties, 82.704.  
Hunting and fishing, 82.702.

**LAKE LIMESTONE**

Uniform Wildlife Regulatory Act, application of law, 245.002.

**LAKE TEXARKANA**

Weapons, discharge, Morris county, 272.051.

**LAKE TEXOMA**

Exemptions, fishing license, 46.103.  
Fishing licenses, 46.101, 46.102.  
Crimes and offenses, 46.110.  
Duration, 46.104.  
Exemptions, 46.103.  
Fees, 46.104.  
Disposition, 46.107.  
Division, 46.108.  
10-day fishing license, 46.105.  
Fines and penalties, 46.110.  
Form, 46.106.  
Oklahoma, interstate compact, 46.111.  
Payment, division of fees, 46.109.  
10-day fishing license, 46.105.

**LAKES AND PONDS**

Caddo Lake, generally, this index.  
Lake Conroe, grass carp, research, 236.021, 270.021.  
Lake Texoma, generally, this index.  
Land, sales, 1.012.  
Limestone lake, Uniform Wildlife Regulatory Act, application of law, 245.002.  
Palo Duro Canyon state park, 22.022.  
Private land, sales, 1.012.  
Private waters, stocking fish, fees, 12.014.  
Stocking fish, supervision, 12.001.  
Title of property, 1.011.

**LAMAR COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 239.001.

**LAMAR UNIVERSITY SYSTEM**

Nets and seines, transfer of seized property, 12.1105.

**LAMB COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 240.001.

**LAMPASAS COUNTY**

See, also, Counties, generally, this index.  
Buchanan and Inks lakes, highways and roads, maintaining access, 13.014.  
Deer, storage and processing, 61.206.  
Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 241.001 et seq.

**LAND AND WATER CONSERVATION FUND**

Generally, 11.037.

**LARCENY**

Oysters, private beds, 76.037.

**LAVACA COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 243.001.

**LAW ENFORCEMENT OFFICERS**

Peace Officers, generally, this index.

**LEASES**

Boats and Boating, this index.  
Consideration in lieu of money, grazing rights leases, 12.008.  
Franklin Mountains state park, 22.222.  
Grazing rights, wildlife management areas, 12.008.  
Guadalupe Mountains national park, mineral rights, 23.034.  
Hunting and fishing, Lower Colorado River authority, 62.082.  
Oil and gas, application of law, 86.019.  
Oysters, this index.  
Palo Duro Canyon state park, grazing leases, 22.022.  
Parks, agriculture or grazing, 13.0061.  
Political subdivisions, recreational areas, 13.006.  
Recreational areas, political subdivisions, 13.006.  
Shooting preserves or resorts, licenses and permits, 43.041.  
State parks,  
Terms, 13.006.  
Texas state railroad, 22.182.  
Waterfowl blinds,  
Harrison county, 202.041.  
Marion county, 258.032.  
White-winged dove habitats, stamp receipts, 43.014.

**LEE COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 244.001.

**LEGACIES**

Gifts, Devises and Bequests, generally, this index.

**LEON COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 245.001 et seq.

**LIBERTY COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Fire hazard, hunting and fishing, closing season, 12.012.  
Local and special laws, 246.001 et seq.

**LICENSES AND PERMITS**

Agricultural Products, this index.  
Alligators, 65.001 et seq.  
Antelope, 61.057.  
Archery stamps, 43.201 et seq.  
Beds of streams, 1.011.  
Bird Breeders, this index.  
Birds, trapping, 64.004.  
Clams, this index.  
Commercial Fishing, this index.  
Deer, this index.  
Drum, taking in oyster waters, 66.205.  
Eisenhower state park, persons living on property, 22.165.  
Elk, 61.057.  
Endangered plants, 88.005.  
Endangered Species, this index.  
Falconry, this index.  
Fees,  
Alligators, 65.007.  
List, 12.004.  
Field Trials, this index.  
Fish Farmers, this index.  
Fishing licenses. Hunting and Fishing licenses, generally, this index.  
Funds, operation game thief fund, 12.201 et seq.  
Fur-Bearing Animals, this index.  
Game, fish and water safety fund, source of revenue, 11.032.  
Game Breeders, this index.  
Gus Engeling wildlife management area, special permit, 82.003.  
Hunting and Fishing Licenses, generally, this index.  
Hunting Boat Licenses, generally, this index.  
Huntsville state park, dams and reservoirs, 22.072.  
McMullen county, antlerless deer, 256.0112.  
Mussels, this index.  
Nets and Seines, this index.  
Noxious aquatic plants, importation, sale, transport or release, 12.015.  
Number issued, reports, 12.002.  
Operation game thief fund, 12.201 et seq.  
Oysters, this index.  
Predator control. Aircraft, this index.  
Private Bird Shooting Areas, this index.  
Records, fees, 12.003.  
Redfish, sales, 66.201.  
Rewards, operation game thief fund, 12.201 et seq.  
Rough Fish, this index.  
Sand and Gravel, this index.  
Scientific Purposes, this index.  
Shellfish, transplanting from polluted waters, 76.206.  
Shellfish Culture, this index.  
Shells, this index.  
Shooting Preserves, this index.  
Shooting resorts, 43.041 et seq.  
Shrimp, this index.

References are to Sections

**LICENSES AND PERMITS—Cont'd**

Speckled sea trout, sales, 66.201.  
 State parks fund, source of revenue, 11.035.  
 Supervision, 12.001.  
 Traps and trapping, 43.061.  
 Tropical fish, release of harmful tropical fish, 66.007.  
 Turtles, this index.  
 Waterfowl blinds, construction, lease or use,  
   Harrison county, 202.041.  
   Marion county, 258.032.  
 Waters and water courses, use of beds of streams, 1.011.  
 Wildlife management areas, hunting and fishing, 81.403.  
 Zoological Gardens, this index.

**LIFE PRESERVERS**

Boats and boating, 31.066.

**LIFEBOATS**

Numbering, exemptions, 31.022.

**LIFESAVING EQUIPMENT**

Canoes, 31.073.  
 Rafts, 31.073.  
 Rowboats, 31.073.  
 Sailboats, 31.073.

**LIGHT SIGNALS**

Damaging, 12.017.

**LIGHTHOUSES**

Port Isabel Lighthouse state historical monument and park, 22.101, 22.102.

**LIGHTS AND LIGHTING**

Boats and Boating, this index.  
 Canoes, 31.073.  
 Dimmit county, hunting, 164.021.  
 Hunting and Fishing, this index.  
 Rafts, 31.073.  
 Rowboats, 31.073.  
 Sailboats, 31.073.

**LIMESTONE COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
 Local and special laws, 247.001 et seq.

**LIMESTONE LAKE**

Uniform Wildlife Regulatory Act, application of law, 245.002.

**LIMITATION OF PROSECUTIONS**

Shrimp violations, 77.025.

**LIMITS**

See specific index headings.

**LIPSCOMB COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 248.001.

**LIQUOR**

Boats, operation while intoxicated, 31.097.

**LISTS**

Endangered plants, 88.003 et seq.  
 Endangered Species, this index.

**LITTERING**

Dead fish,  
   Bridges or causeways, 66.008.  
   Local and special laws, 101.001 et seq.

**LIVE OAK COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 249.001 et seq.  
 Rivers sanctuary, 82.761 et seq.

**LIVERIES**

Boats and boating, 31.040.  
 Life preservers, 31.066.

**LLANO COUNTY**

See, also, Counties, generally, this index.

Buchanan and Inks Lakes, highways and roads, maintaining access, 13.014.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 250.001 et seq.

**LOBSTERS**

Rules and regulations, supervision, 1.011.

**LOCAL PARKS, RECREATION AND OPEN SPACE FUND**

State assistance for local parks, 24.001 et seq.

**LOST OR DESTROYED INSTRUMENTS**

Bonds, park development bonds, duplicates, 21.025.  
 Hunting and fishing licenses, duplicates, 46.006.

**LOUISIANA**

Hunting and fishing licenses, reciprocity, 41.002.

**LOVING COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
 Local and special laws, 251.001 et seq.

**LOWER COLORADO RIVER AUTHORITY**

Hunting and fishing, 62.081 et seq.  
 State parks, highways and roads, 13.014.

**LUBBOCK COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
 Local and special laws, 252.001.

**LUMBER**

Timber and Lumber, generally, this index.

**LYNN COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
 Local and special laws, 253.001.

**McCULLOCH COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 254.001 et seq.

**McLENNAN COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
 Local and special laws, 255.001 et seq.

**McMULLEN COUNTY**

See, also, Counties, generally, this index.

**McMULLEN COUNTY—Cont'd**

Archery season, big game, 62.051 et seq.  
 Deer, 256.0111 et seq.  
 Fishing, regulation, 256.031 et seq.  
 Javelina, hunting, 256.012.  
 Local and special laws, 256.001 et seq.  
 Rivers sanctuary, 82.721 et seq.

**MACHINERY AND EQUIPMENT**

Boats and Boating, this index.  
 Hunting and fishing, archery season, possession, 62.055.  
 Park development fund, purchases, 21.102.  
 Rough fish, removal, 66.115.  
   Saltwater, 66.212.  
 Saltwater fishing, reports, 66.209.  
 Shrimp boats, 77.041.  
 State parks, contracts, 13.003.

**MACKEREL**

Commercial fishing, size, 47.034.

**MADISON COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
 Local and special laws, 257.001.

**MAGAZINES**

Hunting and fishing information, publication, 12.006.

**MANDAMUS**

Park development bonds, payment, 21.019.

**MANUFACTURERS AND MANUFACTURING**

Boats and Boating, this index.

**MARIJUANA**

Boats and boating, operation under influence of narcotic drug, fines and penalties, 31.097.

**MARION COUNTY**

See, also, Counties, generally, this index.

Caddo Lake game and fish reserve, 82.401 et seq.

**Deer,**

Seasons, 258.021.

Bows and arrows, 258.024.

Local and special laws, 258.001 et seq.

**MARKERS**

Buoys and Markers, generally, this index.

**MARKETS AND MARKETING**

Redfish and speckled sea trout, 48.0101.  
 Seafood, promotion program, 12.009.

**MARL**

Sand and Gravel, generally, this index.

**MARSHES OR SWAMPS**

Noxious aquatic plants, 12.015.

**MARTIN COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 259.001.

**MASON COUNTY**

See, also, Counties, generally, this index.

Hunting and fishing regulations, approval by commissioners, 61.202.

Local and special laws, 260.001 et seq.

References are to Sections

**MASTER PERMIT**

Falconry, 49.0045.

**MATAGORDA COUNTY**

See, also, Counties, generally, this index.

Brown cedar cut, opening and reopening passage, minerals, taking, 86.0151.  
Local and special laws, 261.001, 261.002.

**MAVERICK COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 262.001.

**MEDINA COUNTY**

See, also, Counties, generally, this index.

Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 263.001 et seq.

**MEMORIALS**

Monuments and Memorials, generally, this index.

**MENARD COUNTY**

See, also, Counties, generally, this index.

Hunting and fishing regulations, approval by commissioners, 61.202.  
Local and special laws, 264.001 et seq.

**MENHADEN**

Commercial Fishing, generally, this index.

**MEXICO**

Hunting and fishing, exports and imports, 62.026.

**MIDLAND COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
Local and special laws, 265.001.

**MIGRATORY GAME BIRDS**

Generally, 64.001 et seq.

**Blinds,**

Harrison county, 202.041.  
Marion county, 258.032.

Breeders, size of enclosure, 45.004.  
Crimes and offenses, possession, 64.026.  
Definitions, 64.021.

Fines and penalties, possession, 64.026.  
Hunting and fishing licenses, 49.010.  
Fees, 42.015, 42.016.  
Nonresidents, 42.006.  
Exemption, 42.007.

Qualifications, nonresidents, 42.008.  
Licenses and permits,  
Protection of crops and animals, 43.154.

Scientific purposes, 43.024.  
Possession, fines and penalties, 64.026.  
Reservations, federal aid, 83.004.  
Rules and regulations,  
Actions and proceedings, 64.025.  
Seasons, 64.024.  
Seasons, 64.022.  
Duration, 64.023.  
Rules and regulations, 64.024.  
Second and subsequent offenses, possession, 64.026.

**MILAM COUNTY**

See, also, Counties, generally, this index.

**MILAM COUNTY—Cont'd**

Archery season, big game, 62.051 et seq.  
Local and special laws, 266.001 et seq.

**MILEAGE**

Traveling Expenses, generally, this index.

**MILITARY FORCES**

Disabled veterans, state parks, passports, 13.018.

**MILITARY VALUE**

Historical sites, acquisition, 13.005.

**MILLS COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
Local and special laws, 267.001 et seq.

**MINES AND MINERALS**

Black Gap wildlife management area, reservation of mineral rights, 82.203.  
Caddo lake game and fish reserve, reservation of mineral rights, 82.407.  
Goliad state park, reservation of rights, 22.085.

Guadalupe Mountains national park,  
Lease of mineral rights, 23.034.  
Reversion of mineral rights, 23.033.  
Jim Hogg Memorial Park, generally, this index.  
Padre Island national seashore, rules and regulations, 23.013.

**MINNOWS**

Traps, method of fishing, 66.101.

**MIRRORS**

Boats and boating, equipment, 31.071.

**MISDEMEANORS**

Crimes and Offenses, generally, this index.

**MISREPRESENTATION**

Fraud, generally, this index.

**MISSION SAN FRANCISCO DE LOS TEJAS STATE PARK**

Boundaries, 22.091.  
Facilities, 22.091.  
Sales, timber and lumber, 22.092 et seq.  
Timber and lumber,  
Bids,  
Advertising, 22.094.  
Sales, 22.093.  
Sales, 22.092 et seq.  
Disposition of funds, 22.095.

**MITCHELL COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 268.001 et seq.

**MOLLUSKS**

See, also, specific mollusks.  
Generally, 76.001 et seq.

**MONTAGUE COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
Local and special laws, 269.001.

**MONTGOMERY COUNTY**

See, also, Counties, generally, this index.

Fire hazard, hunting and fishing, closing season, 12.012.

**MONTGOMERY COUNTY—Cont'd**

Lake Conroe, grass carp, research, 270.021.  
Local and special laws, 270.001 et seq.

**MONTHLY PUBLICATIONS**

Hunting and fishing information, sales, 12.006.

**MONUMENTS AND MEMORIALS**

Fleet admiral Chester W. Nimitz memorial naval museum, 22.221, 22.222.  
Governor James Stephen Hogg memorial shrine, 22.171.  
Historical sites, erection, 13.010.  
Port Isabel Lighthouse state historical monument and park, 22.101, 22.102.  
Scenic areas, 13.011.

**MOORE COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 271.001.

**MORRIS COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 272.001 et seq.

**MORTGAGES**

Palo Duro Canyon state park, debt against the state, 22.039.

**MOTELS**

Birds, consumption on premises, 45.009.

**MOTLEY COUNTY**

See, also, Counties, generally, this index.  
Aoudad sheep, game animals, 63.001.  
Local and special laws, 273.001.  
Nonresident hunting licenses, designated game, 42.005.

**MOTOR CARRIERS**

Commercial fishing,  
Retail dealers truck license, 47.013.  
Wholesale truck dealers fish license, 47.010.  
Fish Farmers, this index.  
Hunting and fishing, affidavit of transportation, fines and penalties, 62.028.  
Wholesale fish dealers, license fees, seafood promotion program, source of funds, 12.009.

**MOTOR VEHICLES**

Electricity producing devices, seizure, 66.004.  
Endangered plants, inspection, 88.010.  
Hunting and fishing,  
Fines and penalties, 61.903.  
Searches and seizures, 12.104, 62.007.  
State parks, rules and regulations, 13.102.

**MOTORBOATS**

Boats and Boating, generally, this index.

**MOURNING DOVES**

Doves, generally, this index.

**MUD SHELLS**

Shells, generally, this index.

**MUFFLERS**

Boats and boating, 31.070.  
Racing boats, exemptions, 31.072.

## INDEX TO PARKS AND WILDLIFE CODE

References are to Sections

**MUNICIPAL CORPORATIONS**

Boats and boating, inspection, registration, fees, 31.092.  
 Park lands, lease, 13.006.  
 Sand and gravel,  
   Highways and roads, use, 86.013.  
 Seawalls, use, 86.014.  
 Shells,  
   Highways and roads, use, 86.013.  
 Seawalls, use, 86.014.

**MURVAUL LAKE**

Wildlife rules and regulations, Panola county, 283.021 et seq.

**MUSEUMS**

Fleet admiral Chester W. Nimitz memorial naval museum, 22.221, 22.222.  
 San Jacinto museum of history association, 22.016.

**MUSKELLUNGE**

Catch limits, 66.106.  
 Sales, 66.111.

**MUSSELS**

Crimes and offenses, 78.004.  
 Enforcement of laws, 12.101 et seq.  
 Fees, licenses and permits, 78.003.  
 Fines and penalties, 78.004.  
 Licenses and permits, 78.001.  
   Fees, 78.003.  
   Forms, 78.002.  
 Rules and regulations, supervision, 1.011.

**MUSTANG ISLAND**

Island channel, 82.651.

**NACOGDOCHES COUNTY**

See, also, Counties, generally, this index.  
 Fire hazard, hunting and fishing, closing season, 12.012.  
 Local and special laws, 274.001.

**NAIADS**

Shellfish, generally, this index.

**NAMES**

Shooting preserves or resorts, licenses and permits, 43.047.

**NARCOTICS**

Boats and boating, operation under influence of narcotic drug, fines and penalties, 31.097.

**NATIONAL FORESTS**

Generally, 23.001 et seq.  
 Davy Crockett National Forest, generally, this index.  
 Sabine National Forest, generally, this index.

**NATIONAL MARINE FISHERIES SERVICE**

Fishery Conservation and Management Act of 1976, compliance, 13.314.  
 Management programs, 79.001 et seq.

**NATIONAL PARKS**

Generally, 23.001 et seq.  
 Big Bend national park,  
   Jurisdiction, 23.001.  
   Suffrage, 23.002.  
 Guadalupe Mountains National Park,  
   generally, this index.  
 Transfer of property, 13.008.

**NATIONAL SEASHORES**

Generally, 23.001 et seq.  
 Padre Island National Seashore, generally, this index.

**NATIVE PLANTS**

Endangered, protection, 88.001 et seq.

**NATURAL AREA**

State assistance for local parks, 24.001 et seq.

**NAVAL MUSEUM**

Fleet admiral Chester W. Nimitz memorial, 22.221, 22.222.

**NAVARRO COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 275.001.

**NAVIGATION DISTRICTS**

Hunting and fishing, 66.009.  
 Territorial waters, fishing laws, enforcement, 66.304.

**NEGLIGENCE**

Boats and boating, 31.094.

**NETS AND SEINES**

Alligators, 65.001 et seq.  
 Anderson county, Natches river, use, 101.012.  
 Aransas county, trotlines and crab traps, 61.203.  
 Bait fish, 66.010.  
 Cast net, method of fishing, 66.101, 66.202.  
 Chambers county, use, 136.048.  
 Cherokee county, Natches river, use, 138.032.  
 Closing waters to nets and seines, 66.103.  
 Commercial Fishing, this index.  
 Confiscated equipment, use for research, 12.011.  
 Counties, named counties, local and special laws, 101.001 et seq.  
 Crimes and offenses,  
   Closed waters, 66.103.  
   Monofilament nets, finfish, 66.214.  
   Possession in tidal waters, 66.213.  
   Pound nets in Gulf of Mexico, 66.207.  
   Tags, 66.215.  
   Wilful destruction, 66.005.  
 Destruction, 12.1105.  
 Dip net, method of fishing, 66.101.  
 Drag nets, method of fishing, 66.101.  
 Drum, oyster waters, 66.205.  
 Fines and penalties,  
   Closed waters, 66.103.  
   Possession in tidal waters, 66.213.  
   Pound nets in Gulf of Mexico, 66.207.  
   Tags, 66.215.  
   Wilful destruction, 66.005.  
 Finfish, monofilament net, use, 66.214.  
 Fish passes, obstructions, 66.204.  
 Galveston county, use, 184.025.  
 Grimes county, use, rough fish taking, 193.021.  
 Harris county, use, 201.016.  
 Hunting and fishing, private property, consent, 66.002.  
 Identification, tags, 66.215.  
 Licenses and permits,  
   Oysters, 66.205.  
   Rough fish, 66.211.  
   Removal, 66.117.

**NETS AND SEINES—Cont'd**

Live Oak county, uses, 249.014.  
 Local and special laws, 101.001 et seq.  
 McMullen county, regulation, 256.034.  
 Method of fishing,  
   Fines and penalties, 66.102.  
   Live Oak county, 249.014.  
 Minnow seine, method of fishing, 66.101.  
 Monofilament net, finfish, 66.214.  
 Navigation districts, 66.009.  
 Offenses. Crimes and offenses, generally, ante.  
 Oysters, permits, 66.205.  
 Penalties. Fines and penalties, generally, ante.  
 Permits. Licenses and permits, generally, ante.  
 Possession in tidal waters, 66.213.  
 Pound nets, Gulf of Mexico, 66.207.  
 Red fish, catching in inside water, retention, 77.100.  
 Rough fish, licenses and permits, 66.211.  
   Removal, 66.117.  
 Saltwater fishing,  
   Inside water, 66.202.  
   Outside water, 66.203.  
 Sea bobs, size, 77.066.  
 Seizures, 12.1105.  
   Untagged nets and seines, 66.215.  
 Set net, method of fishing, 66.101.  
 Shad trawl, method of fishing, 66.101.  
 Shrimp, this index.  
 Small fish, returning to water, 66.006.  
 Special laws, local and special laws, 101.001 et seq.  
 Spotted sea trout, catching in inside water, retention, 77.100.  
 Tags, 66.215.  
 Tidal waters, possession, 66.213.  
 Trammel nets, method of fishing, 66.101.  
 Umbrella net, method of fishing, 66.101.  
 Vandalism, 66.005.

**NEWTON COUNTY**

See, also, Counties, generally, this index.  
 Fire hazard, hunting and fishing, closing season, 12.012.  
 Hunting and fishing, lights, fines and penalties, 61.901.  
 Local and special laws, 276.001 et seq.

**NIGHTTIME**

Hunting and fishing, 62.004.  
 Fines and penalties, 61.903.  
 Oysters, dredge licenses, 76.109.  
 Shrimp, this index.

**NIMITZ STATE PARK**

Concessions, 22.152.  
 Gifts, devises and bequests, 22.152.  
 Jurisdiction, 22.151.  
 Powers and duties, 22.152.  
 Rules and regulations, 22.152.

**NOLAN COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 277.001.

**NONGAME SPECIES**

Crayfish, application of law, 67.0011.  
 Crimes and offenses, 67.005.  
 Exotic Animals, generally, this index.  
 Fines and penalties, 67.005.  
 Kerr county, hunting, 233.031 et seq.  
 Management programs, 67.002.

References are to Sections

**NONGAME SPECIES—Cont'd**

Rules and regulations, 67.001.  
 Issuance, 67.004.  
 Scientific investigations, 67.003.  
 Second and subsequent offenses, 67.005.

**NONPROFIT CORPORATIONS**

Endangered species, exemptions, 68.020.  
 Lower Colorado River authority, rifle ranges, use, 62.082.  
 San Jacinto museum of history association, 22.016.

**NONRESIDENTS**

Boats and boating, numbering, exemptions, 31.022.  
 Defined, commercial fishing, 47.001.  
 Field trial licenses, 43.257.  
 Hunting and Fishing Licenses, this index.  
 Shooting preserves or resorts, licenses and permits, 43.049.

**NORTHERN PIKE**

Bait fish, use as, 66.010.  
 Catch limits, 66.106.  
 Sales, 66.111.

**NOTICE**

Endangered plants, list, modification, 88.004.  
 Fish sanctuaries, creation, 81.207.  
 Hunting and fishing, rules and regulations, 61.102.  
 Nets and seines,  
     Closing waters, 66.103.  
     Seizure, 12.1105.  
 Oysters, closing areas, 76.115.  
 Park development bonds, sale, 21.009.  
 State Parks, this index.

**NOXIOUS AQUATIC PLANTS**

Generally, 12.015.

**NOXIOUS WEEDS**

Elimination, 12.010.

**NUECES BAY**

Sand and gravel, removal, 86.015.

**NUECES COUNTY**

See, also, Counties, generally, this index.  
 Ingleside cove wildlife sanctuary, 82.501 et seq.  
 Local and special laws, 278.001 et seq.

**NUECES RIVER**

Jim Wells county, fish, sales, 225.011.  
 Nueces county, fish, sales, 278.021.  
 San Patricio county, fish, sales, 305.021.

**NUESTRA SENORA DE LA CANDELARIA SPANISH MISSION**

State parks, acquisition of property, 22.181.

**NUISANCES**

Devices for fishing, illegal devices, 66.102.  
 Fish hatcheries, predacious animals, 81.002.  
 Game preserves, predacious animals, 81.002.

**NUMBERS AND NUMBERING**

Boats and Boating, this index.  
 Commercial fishing, boats, 47.007.

**NURSERY AREAS**

Defined, shrimp, Gulf of Mexico, 77.001.

**NUTRIA**

Seasons,  
     Marion county, 258.023.  
     Morris county, 272.041.

**OATHS AND AFFIRMATIONS**

Deputy game wardens, 11.020.

**OBSTRUCTING WATERCOURSE**

Boats and boating, 31.101.

**OCHILTREE COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 279.001.

**OFFENSES**

Crimes and Offenses, generally, this index.

**OFFICERS AND EMPLOYEES**

Parks and Wildlife Department, generally, this index.

**OFFICIAL BONDS**

Bonds (Officers and Fiduciaries), generally, this index.

**OIL AND GAS**

Guadalupe Mountains national park, lease of mineral rights, 23.034.  
 Leases, application of law, 86.019.

**OKLAHOMA**

Lake Texoma fishing licenses, Division of fees, 46.109.  
 Interstate compact, 46.111.

**OLDHAM COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 280.001.

**OPEN SPACE AREA**

State assistance for local parks, 24.001 et seq.

**OPERATION GAME THIEF COMMITTEE**

Generally, 12.201 et seq.

**OPERATION GAME THIEF FUND**

Generally, 12.201 et seq.

**OPOSSUMS**

Kaufman county, sales, 229.021.  
 Traps and trapping, Sabine county, 302.051.  
 Van Zandt county, sales, 334.041.  
 Wood county, sales, 350.021.

**ORANGE COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Hunting and fishing, lights, fines and penalties, 61.901.  
 Local and special laws, 281.001 et seq.  
 Shrimp, trawls, possession, 77.018.

**OUTBOARD MOTORS**

Boats and Boating, this index.

**OUTDOOR AREAS**

Recreational Facilities, generally, this index.

**OYSTERS**

Abandonment, private oyster beds, 76.017.  
 Assignments, private oyster beds, 76.039.  
 Bag limits, 76.111.  
     Culling oysters, 76.113.  
     Exemptions, 76.114.  
 Beds,  
     Natural oyster beds, generally, post.  
     Private oyster beds, generally, post.  
 Boundaries,  
     Beds, 76.036.  
     Interference, 76.038.  
 Buoys,  
     Boundaries of beds, interference, 76.038.  
     Marking beds, 76.036.  
 Certificates and certification. Private oyster beds, generally, post.  
 Closing areas, 76.115.  
 Confiscation, 12.109.  
 Crimes and offenses,  
     Bed markers, interference, 76.038.  
     Dredges, 76.118.  
     Sales, 76.039.  
     Theft, 76.037.  
 Culling oysters, 76.113.  
 Dredge licenses, 76.101.  
     Duration, 76.103.  
     Exemptions, 76.102.  
     Fees, 76.104.  
     Nighttime, 76.109.  
     Number of dredges, 76.110.  
     Sale of oysters taken under dredge license, 76.107.  
     Size of dredge, 76.105, 76.106.  
 Dredges,  
     Fines and penalties, 76.118.  
     Number, 76.110.  
     Size, 76.110.  
 Drum, nets and seines, permits, 66.205.  
 Enforcement of law, 12.101 et seq., 76.117.  
 Evidence, production from private beds, 76.005.  
 Exemptions,  
     Bag limits, 76.114.  
     Dredge licenses, 76.102.  
 Fees,  
     Dredge licenses, 76.104.  
     Private oyster beds, post.  
 Fences,  
     Bed markers, vandalism, 76.038.  
     Marking beds, 76.036.  
     Private oyster beds, 76.016.  
 Fines and penalties,  
     Bed markers, interference, 76.038.  
     Dredges, 76.118.  
     Game, fish and water safety fund, source of revenue, 11.032.  
     Sales, 76.039.  
 Foreign corporations, private oyster beds, 76.008.  
 Fraud, private oyster beds, 76.037.  
 Hatcheries on islands, saltwater areas, 81.101.  
 Laguna Madre, seasons, 76.108.  
 Leases. Private oyster beds, generally, post.  
 Licenses and permits, 51.0011 et seq.  
     Application, 76.031.  
     Bag limits, exemptions, 76.114.  
     Conditions, 76.033.  
     Dredge licenses, generally, ante.  
     Game, fish and water safety fund, source of revenue, 11.032.  
     Issuance, 76.032.

References are to Sections

**OYSTERS—Cont'd**

Licenses and permits—Cont'd  
 Nets and seines, 66.205.  
 Seasons, 76.108.  
 Transplanting from polluted waters, 76.116.  
 Natural oyster beds,  
 Boundaries, 76.036.  
 Interference, 76.038.  
 Definitions, 76.001.  
 Designation, 76.002.  
 Location as private oyster bed, 76.010.  
 Markers, interference, 76.038.  
 Seasons, 76.108.  
 Transplanting from polluted waters, 76.116.  
 Nets and seines, permits, 66.205.  
 Nighttime, dredging, 76.109.  
 Notices, closing areas, 76.115.  
 Offenses. Crimes and offenses, generally, ante.  
 Penalties. Fines and penalties, generally, ante.  
 Permits. Licenses and permits, generally, ante.  
 Polluted water, 76.116.  
 Private oyster beds,  
 Abandonment of use, 76.018.  
 Application, 76.006.  
 Assignments, 76.039.  
 Beds subject to location, 76.003.  
 Boundaries, 76.036.  
 Interference, 76.038.  
 Certificates, records, 12.003.  
 Fees,  
 Application, 76.006.  
 Filing of certificate, 76.014.  
 Rental fees, 76.017.  
 Surveys, 76.013.  
 Fencing, 76.016.  
 Filing certificate, 76.014.  
 Foreign corporation, 76.008.  
 Issuance of certificate, 76.012.  
 Markers, interference, 76.038.  
 Maximum acreage, 76.007.  
 Place of production, affidavits, 76.005.  
 Qualifications, 76.010.  
 Rental fees, 76.017.  
 Reports, 12.002.  
 Rights of owner, 76.015.  
 Riparian owner, affidavits, 76.005.  
 Riparian rights, 76.004.  
 Surveys and surveyors, 76.009.  
 Fee, 76.013.  
 Markings, 76.011.  
 Theft, 76.037.  
 Transplanting oysters from polluted areas, 76.116.  
 Trespass, 76.015.  
 Public oyster beds. Natural oyster beds, generally, ante.  
 Records and recording, certificates, private oyster beds, 76.014.  
 Riparian rights, beds, affidavit, 76.005.  
 Rules and regulations, supervision, 1.011.  
 Sales,  
 Affidavit of place of production, 76.005.  
 Crimes and offenses, 76.039.  
 Fines and penalties, 76.039.  
 Oysters taken under dredge license, 76.107.  
 Place of production, affidavits, 76.005.  
 Private oyster beds, abandonment, 76.018.  
 Taxation, 76.017.  
 Sand and gravel, disturbing oyster beds, 86.001 et seq.

**OYSTERS—Cont'd**

Seasons, 76.108.  
 Second and subsequent offenses, dredges, 76.118.  
 Shellfish Culture, generally, this index.  
 Size,  
 Limits, 76.112.  
 Minimum size, 76.034.  
 Statistical reports, 66.209.  
 Supervision, 12.001.  
 Surveys and surveyors. Private oyster beds, ante.  
 Taxation, sales, 76.017.  
 Theft, 76.037.  
 Title to property, 76.035.  
 Transplanting polluted waters, 76.116.  
 Trespass, private oyster beds, 76.015.  
 Vandalism, bed markers, 76.038.

**PADRE ISLAND**

Island channel, 82.651.

**PADRE ISLAND NATIONAL SEASHORE**

Elections, residents right of suffrage, 23.012.  
 Franchise taxes, jurisdiction, 23.011.  
 Gross receipts tax, jurisdiction, 23.011.  
 Highways and roads, 23.016.  
 Income taxes, jurisdiction, 23.011.  
 Jurisdiction, 23.011.  
 Mines and minerals, rules and regulations, 23.013.  
 Quieting title, reversion of land, 23.014.  
 Residents, right of suffrage, 23.012.  
 Reversion, title of property, 23.014.  
 Sales taxes, jurisdiction, 23.011.  
 Taxation, jurisdiction, 23.011.  
 Willacy county navigation district, transfer of property, 23.015.

**PALO DURO CANYON STATE PARK**

Admission fees, 22.022.  
 Bonds, 22.024 et seq.  
 Additional bonds, 22.030.  
 Security, 22.031.  
 Advisors, employment, 22.034.  
 Approval, 22.035.  
 Debt against state, 22.039.  
 Duration, 22.026.  
 Form, 22.032.  
 Interest, 22.025.  
 Legal investments, 22.037.  
 Negotiable instruments, 22.038.  
 Pledge of revenues, 22.029.  
 Redemption, 22.027.  
 Refunding bonds, 22.033.  
 Sales, 22.028.  
 Sinking fund, 22.036.  
 Concessions, 22.022.  
 Contracts, 22.022.  
 Dams and reservoirs, improvements, 22.022.  
 Funds, disposition, 22.023.  
 Grazing leases, 22.022.  
 Improvements, 22.022.  
 Jurisdiction, 22.021.  
 Lakes and ponds, improvements, 22.022.  
 Leases, grazing leases, 22.022.  
 Officers and employees, 22.034.  
 Professional employees, employment, 22.034.  
 Redemption, bonds, 22.027.  
 Refunding bonds, 22.033.

**PALO PINTO COUNTY**

See, also, Counties, generally, this index.

**PALO PINTO COUNTY—Cont'd**

Archery season, big game, 62.051 et seq.  
 Local and special laws, 282.001 et seq.

**PAN AMERICAN UNIVERSITY**

Nets and seines, transfer of seized property, 12.1105.

**PANOLA COUNTY**

See, also, Counties, generally, this index.

Dogs, trailing deer, 61.207.

Local and special laws, 283.001 et seq.

**PARK DEVELOPMENT BONDS**

Bonds, this index.

**PARK DEVELOPMENT FUNDS**

Generally, 21.101 et seq.

Contracts, 21.104.

Eminent domain, acquisition of property, 21.103.

Investments, 21.110.

Use of funds, 21.102.

**PARKER COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 284.001 et seq.

**PARKING**

State parks, rules and regulations, 13.102.

**PARKS**

Acquisition of property, 24.008.

Agriculture or grazing, leases, 13.0061.

Gifts, devises and bequests,

Assistance grants, 24.004.

State matching grants, 24.005.

Grazing or farming, leases, 13.0061.

Local parks, state assistance, 24.001 et seq.

National Parks, generally, this index.

Nimitz State Park, generally, this index.

Seasons, hunting and fishing, 62.062.

State assistance for local parks, 24.001 et seq.

State Parks, generally, this index.

Texas local parks, recreation and open space fund, 24.001 et seq.

**PARKS AND WILDLIFE COMMISSION**

Appointment, 11.012.

Chairman, 11.014.

Defined, 11.001.

Compensation, 11.016.

Definitions, 11.001.

Meetings, 11.015.

Membership, 11.012.

Quorum, 11.015.

Terms of office, 11.013.

Traveling expenses, 11.016.

Vacancy in office, 11.014.

Vice-chairman, 11.014.

**PARKS AND WILDLIFE DEPARTMENT**

Accounts and accounting, 12.003.

Creation, 11.011.

Definitions, 11.001.

Director, defined, 11.001.

Executive director, 11.017.

Fishery Conservation and Management

Act of 1976, compliance, 13.314.

Management programs, 79.001 et seq.

References are to Sections

**PARKS AND WILDLIFE DEPARTMENT—Cont'd**

Hunting and fishing for research purposes, 12.013.  
 Officers and employees, 11.018.  
 Compensation, source of funds, 11.033.  
 Deputy game wardens, 11.020.  
 Peace officers, 11.019.  
 Pelts, seizure, 12.1101.  
 Violation of game laws, 12.111.  
 Peace officers, 11.019.  
 Powers and duties, 12.001 et seq.  
 Property, transfer between divisions, 11.041.  
 Records, 12.003.  
 Reports, 12.002.  
 Revolving petty cash fund, 11.039.  
 Sunset Act, 11.0111.

**PARKS AND WILDLIFE OPERATING FUND**

Generally, 11.038.

**PARMER COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 285.001.

**PARROTS**

Pets, 64.002.

**PARTRIDGE**

Generally, 64.001 et seq.

**PATROL BOATS**

Restricted areas, operation, 31.102.

**PAYMENT**

Park development bonds. Bonds, this index.  
 Texas local parks, recreation and open space fund, 24.009.

**PEACE OFFICERS**

Boats and boating,  
 Blue rotating lights, reducing speed, 31.123.  
 Enforcement of regulations, 31.121.  
 Fresh pursuit, powers and duties, 11.019.  
 Harris county, crabs, traps, pots, seizure, 201.016.  
 Historical sites, powers and duties, 11.019.  
 Hunting and fishing licenses, display, 42.024.  
 Parks and wildlife department, officers and employees, 11.019.  
 Recreational areas, enforcement of regulations, 13.109.  
 State parks, powers and duties, 11.019.

**PECCARY**

Collared Peccary (Javelina), generally, this index.

**PECOS COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Elk, game animals, 63.001.  
 Local and special laws, 286.001 et seq.  
 Nonresident hunting licenses, designated game, 42.005.

**PECOS RIVER**

Fish, sale of fish taken west of river, 66.111.

**PELTS**

Fur-Bearing Animals, generally, this index.

**PENALTIES**

Fines and Penalties, generally, this index.

**PERCH**

Bag limits, 66.106.  
 Bow and arrow, method of fishing, 66.101.  
 Spear gun, possession of other fish while using spear, 66.107.

**PERMITS**

Licenses and Permits, generally, this index.

**PERSONAL INJURIES**

Boating accidents, reports, 31.105.

**PERSONAL PROPERTY**

Parks and wildlife department, transfer between divisions, 11.041.

**PETS**

Birds, 64.002.  
 State parks, rules and regulations, 13.102.

**PHEASANTS**

Generally, 64.001 et seq.  
 Release, Travis county, 327.021.  
 Seasons,  
 Hidalgo county, 208.011.  
 Shooting preserves or resorts, release of birds, 43.053.

**PIGEONS**

Generally, 64.001 et seq.

**PILOTS**

Harbor pilots, territorial waters, fishing regulations, 66.305.

**PIPES AND PIPE LINES**

Hunting and fishing, screens to protect fish, 66.110.  
 Recreational facilities, eminent domain, relocation expenses, 13.305.

**PISTOLS**

Weapons, generally, this index.

**PLANS AND SPECIFICATIONS**

Recreational facilities, 13.002.

**PLANTS**

Endangered plants, conservation, 88.001 et seq.

**PLEDGES**

Palo Duro Canyon state park, bonds, payment, 22.029.

**PLOVERS**

Migratory Game Birds, generally, this index.

**POISONS**

Archery equipment, possession during hunting season, 62.055.  
 Hunting and fishing,  
 Fines and penalties, 66.003.  
 Private property, consent, 66.002.

**POLES AND WIRES**

Recreational facilities, eminent domain, relocation expenses, 13.305.

**POLICE**

Peace Officers, generally, this index.

**POLITICAL ASYLUM**

Aliens, fishing in territorial waters, 66.307.

**POLITICAL SUBDIVISIONS**

Boats and boating, rules and regulations, 31.092.  
 Park lands,  
 Leases, 13.006.  
 State assistance for local parks, 24.001 et seq.  
 Recreational areas, leases, 13.006.  
 Sand and gravel, highways and roads, use, 86.013.  
 Shells, highways and roads, use, 86.013.

**POLITICAL VALUE**

Historical sites, acquisition, 13.005.

**POLK COUNTY**

See, also, Counties, generally, this index.  
 Fire hazard, hunting and fishing, closing season, 12.012.  
 Local and special laws, 287.001 et seq.

**POLLUTION**

Shellfish, this index.  
 Water Pollution, generally, this index.

**POMPANO**

Commercial fishing, size, 47.034.

**PONDS**

Lakes and Ponds, generally, this index.

**POPULAR NAME LAWS**

Parks and Wildlife Code, 1.001 et seq.  
 Uniform Wildlife Regulatory Act, 61.001 et seq.  
 Water Safety Act, 31.001 et seq.

**PORCUPINES**

Kaufman county, sales, 229.021.  
 Van Zandt county, sales, 334.041.  
 Wood county, sales, 350.021.

**PORT AUTHORITIES**

Territorial waters, fishing regulations, enforcement, 66.304.

**PORT ISABEL LIGHTHOUSE STATE HISTORICAL MONUMENT AND PARK**

Admission fees, 22.102.  
 Concessions, 22.102.  
 Jurisdiction, 22.101.  
 Powers and duties, 22.102.

**POSSESSION**

See specific index headings.

**POTTER COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 288.001.

**POUND NETS**

Gulf of Mexico, 66.207.

**PRAIRIE CHICKENS**

Generally, 64.001 et seq.  
 Confiscation, 64.015.  
 Crimes and offenses, 64.015.  
 Fines and penalties, 64.015.  
 Second and subsequent offenses, 64.015.

References are to Sections

**PRAIRIE DOGS**

Endangered species, exemptions, 68.020.

**PRAWNS**

Shellfish Culture, generally, this index.

**PREDATOR CONTROL**

Aircraft, this index.

**PREHISTORIC VALUE**

Historical sites, acquisition, 13.005.

**PRESCRIPTION**

State parks, public beaches, entrance fees where public has acquired right of use or easement, 21.111.

**PRESERVES**Game Preserves, generally, this index.  
Shooting Preserves, generally, this index.**PRESIDIO COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
Elk, game animals, 63.001.  
Local and special laws, 289.001 et seq.  
Nonresident hunting licenses, designated game, 42.005.**PRESUMPTIONS**

Archery stamps, failure or refusal to exhibit, 43.205.

**PRINCIPAL AND AGENT**

Agents and Agencies, generally, this index.

**PRIORITIES AND PREFERENCES**Beautiful scenery areas, marking, 13.011.  
Recreational facilities, federal aid, 13.311.**PRISON LABOR**

State parks, 13.016.

**PRIVATE BIRD SHOOTING AREAS**Generally, 43.071 et seq.  
Banding birds, 43.075.  
Boundaries, 43.073.  
Crimes and offenses, 43.077.  
Definitions, 43.071.  
Fines and penalties, 43.077.  
Licenses and permits, 43.072.  
Boundaries, 43.073.  
Fees, 43.072.  
Fines and penalties, 43.077.  
Form, 43.076.  
Season, 43.074.**PRIVATE PROPERTY**

Hunting and Fishing, this index.

**PRIVILEGES AND IMMUNITIES**Alligators, searches and seizures, 65.009.  
Electricity producing devices, fishing seizure, destruction, 66.004.  
Game breeders, licenses, 44.006.  
Game preserves, destruction of predatory animals by public employees, 81.002.  
Hunting and Fishing, this index.  
Peace officers, parks and wildlife department, 11.019.  
Pelts, seizure, game wardens, parks and wildlife department employees, 12.1101.  
Saltwater fishing, nets and seines, confiscation, 66.202.**PROCEEDINGS**

Actions and Proceedings, generally, this index.

**PROCESS**Big Bend national park, jurisdiction, 23.001.  
Guadalupe Mountains national park, jurisdiction, 23.031.  
Hunting and fishing, serving criminal process, 12.102.  
Padre Island national seashore, jurisdiction, 23.011.  
Service of process,  
Big Bend national park, jurisdiction, 23.001.  
Fees, 12.108.  
Guadalupe Mountains national park, jurisdiction, 23.031.  
Hunting and fishing violations, 12.102.  
Padre Island national seashore, jurisdiction, 23.011.**PROOF**

Evidence, generally, this index.

**PROPAGATION**Bird Breeders, generally, this index.  
Endangered Species, this index.  
Fish Farmers, generally, this index.  
Fish Hatcheries, generally, this index.  
Fish Sanctuaries, generally, this index.  
Fur-Bearing Animals, this index.  
Game Breeders, generally, this index.  
Game Preserves, generally, this index.**PROPERTY**

Title to Property, generally, this index.

**PROTECTED SPECIES**

Damages, control, 43.151 et seq.

**PROTECTED WILDLIFE**

Storage facilities, inspection, 62.031.

**PROTECTIVE PLANTS**

Defined, conservation, 88.001

**PUBLIC BEACHES**

Beaches, generally, this index.

**PUBLIC ENTITY**

Defined, Franklin Mountains state park, 22.222.

**PUBLIC LANDS**Defined, endangered plants, 88.001.  
Endangered plants, 88.007.**PUBLIC POLICY**Fishing licenses, 46.001.  
Hunting and fishing, 1.001, 61.002.  
Water safety, 31.002.**PUBLIC UTILITIES**Franklin Mountains state park, easements, 22.223.  
Recreational facilities, eminent domain, relocation expenses, 13.305.**PUBLICATION**

Endangered plants, list, 88.006.

**QUAIL**Generally, 64.001 et seq.  
Bag limits, 64.014.  
Crimes and offenses, bag limits, 64.014.  
Fines and penalties,  
Bag limits, 64.014.**QUAIL—Cont'd**

Fines and penalties—Cont'd

Dickens county, taking, 163.011.  
King county, taking, 235.021.  
Knox county, season, 238.011.  
Seasons, 64.014.  
Angelina county, 103.021.  
Chambers county, 136.032.  
Cottle county, 151.002.  
Dickens county, 163.011.  
Hopkins county, 212.022.  
Jim Hogg county, 224.021.  
Kenedy county, 231.022.  
Kent county, 232.011.  
King county, 235.021.  
Leon county, 245.021.  
Marion county, 258.031.  
McMullen county, 256.022.  
Morris county, 272.021.  
Rains county, 290.011.  
Refugio county, 296.011.  
San Patricio county, 305.012.  
Smith county, 312.021.  
Stonewall county, 317.011.  
Upshur county, 330.031.  
Van Zandt county, 334.021.  
Victoria county, 335.011.  
Wheeler county, 342.011.  
Second and subsequent offenses, bag limits, 64.014.  
Shooting preserves or resorts, release of birds, 43.053.**QUIETING TITLE**

Padre Island national seashore, reversion of land, 23.014.

**RACCOONS**Kaufman county, sales, 229.021.  
Van Zandt county, sales, 334.041.  
Wood county, sales, 350.021.**RACING BOATS**

Equipment, exemptions, 31.072.

**RADAR REFLECTORS**

Damaging, 12.017.

**RAFTS**Equipment exemptions, 31.073.  
Hunting from boat, 62.003.  
Lifesaving device, 31.073.  
Lights, 31.073.  
Numbering, exemptions, 31.022.**RAIL**

Migratory Game Birds, generally, this index.

**RAILROADS**Hunting and fishing, affidavit of transportation, fines and penalties, 62.028.  
Recreational facilities, eminent domain, relocation expenses, 13.305.  
Texas state railroad, state park, 22.182.**RAINS COUNTY**See, also, Counties, generally, this index.  
Local and special laws, 290.001 et seq.**RAMPS**

Boats and Boating, this index.

**RANDALL COUNTY**See, also, Counties, generally, this index.  
Aoudad sheep, game animals, 63.001.

References are to Sections

**RANDALL COUNTY—Cont'd**  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 291.001.  
 Nonresident hunting licenses, designated game, 42.005.

**RAPTORS**  
 Falconry, generally, this index.

**RAVENS**  
 Killing, seasons, 64.002.

**RAY**  
 Small fish, returning to water, fines and penalties, 66.006.

**REAGAN COUNTY**  
 See, also, Counties, generally, this index.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 292.001.

**REAL COUNTY**  
 See, also, Counties, generally, this index.

Exotic animals, hunting, 293.023, 293.024.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 293.001 et seq.

**REAL ESTATE**  
 Eminent Domain, generally, this index.  
 Exchange of Property, generally, this index.  
 Franklin Mountains state park, 22.221 et seq.  
 Parks, generally, this index.  
 Parks and wildlife department, transfer between divisions, 11.041.  
 Recreational facilities, acquisition, 13.002.  
 Sales, game, fish and water safety fund, source of revenue, 11.032.  
 Title to Property, generally, this index.  
 Trespass, generally, this index.

**REAR-VIEW MIRRORS**  
 Boats and boating, equipment, 31.071.

**RECEIPTS**  
 Confiscated marine life, 12.109.

**RECIPROCITY**  
 Boats and boating, numbering, 31.022.  
 Falconry, licenses and permits, 49.009.  
 Hunting and Fishing Licenses, this index.  
 Shrimp, contiguous zone regulations, 77.071.  
 Territorial waters, hunting and fishing, 66.302.  
 Waterfowl stamps, fees, 43.308.

**RECKLESS DRIVING**  
 Aquaplanes, fines and penalties, 31.096.  
 Boats and Boating, this index.

**RECORDS AND RECORDINGS**  
 Bird breeders, 45.005.  
 Licenses and permits, 45.008.  
 Boats and Boating, this index.  
 Deer,  
     Killed animals, 42.019.  
     Storage, Lampasas county, 61.206.  
 Field trials, record book, 43.258.  
 Fines and penalties, 12.004.  
     Disposition, 12.107.  
 Fish farmers, sales and shipments, 48.008.

**RECORDS AND RECORDINGS**  
 —Cont'd  
 Game breeders, 44.007.  
 Historical sites, federal aid, 13.301.  
 Hunting and fishing, storage, 62.029.  
 Huntsville state park, timber and lumber sales, bids, 22.074.  
 Jim Hogg memorial park, timber and iron ore, sales, 22.056.  
 Licenses fees, 12.004.  
 Lower Colorado River authority, registered instructor to use of weapons, 62.083.  
 Mission San Francisco De Los Tejas state park, timber sales, 22.093.  
 Oysters, private oyster beds, certificate, 76.014.  
 Parks and wildlife department, 12.003.  
 Recreational facilities, federal aid, 13.306.  
 Shellfish culture, 51.007.  
 Shooting preserves, 43.0485.  
 Shrimp, research, 77.006.  
 Subscriptions to monthly publications, hunting and fishing information, 12.006.  
 Texas local parks, recreation and open space fund, 24.009.

**RECREATIONAL FACILITIES**  
 Administrative expenses, 11.037.  
 Cooperation with other agencies, 13.303.  
 Coordination of activities, political subdivisions, 13.307.  
 Disorderly conduct, eviction, 13.108.  
 Eminent domain,  
     Acquisition, 13.002.  
     Federal aid, 13.302.  
     Local fund, 13.309.  
     Political subdivisions, 13.304.  
     Coordination of activities, 13.307.  
     Relocation expenses, 13.305.  
 Eviction, disorderly conduct, 13.108.  
 Exchange of property, 13.009.  
 Federal aid, 13.302.  
     Administration expenses, 13.312.  
     Application for participation, 13.306.  
     Handling of funds, 13.310.  
     Local funds, 13.309.  
     Matching funds, 13.308.  
     Priorities and preferences, 13.311.  
 Fines and penalties, rules and regulations, 13.107 et seq.  
 Fishing piers, 22.184.  
 Health and sanitation, 13.101.  
 Hearings, rules and regulations, 13.103.  
 Information, publication, 13.017.  
 Injunction, disorderly conduct, 13.108.  
 Leases, political subdivisions, 13.006.  
 Local funds, federal aid, 13.309.  
 Matching funds, federal aid, 13.308.  
 Notice,  
     Disorderly conduct, warnings, 13.108.  
     Rules and regulations, 13.104 et seq.  
 Peace officers, enforcement of regulations, 13.109.  
 Planning, 13.002.  
 Political subdivisions,  
     Coordination of activities, 13.307.  
     Powers and duties, 13.304.  
 Priorities and preferences, federal aid, 13.311.  
 Relocation expenses, eminent domain, 13.305.  
 Rules and regulations, 13.101 et seq.  
     Application of law, 13.110.  
     Enforcement, peace officers, 13.109.  
     Sale or exchange of land, 13.009.  
 Second and subsequent offenses, 13.107.

**RECREATIONAL FACILITIES**  
 —Cont'd  
 State aid,  
     Local parks, 24.001 et seq.  
     Payments, 13.308.  
 Supervision, 13.001.  
 Water Safety, generally, this index.

**RED DRUM**  
 Catching in inside water with trawl, retention, 77.100.  
 Chambers county, Uniform Wildlife Regulatory Act, application of law, 136.002.  
 Harris county, wildlife resource, 201.011.  
 Limits, 66.2011.  
 Research, 66.217.  
 Size, 66.2011.  
 Victoria county, wildlife resource, 335.021.

**RED FOXES**  
 Aircraft, predator control, 43.101 et seq.  
 Endangered species, exemptions, 68.020.

**RED RIVER COUNTY**  
 See, also, Counties, generally, this index.  
 Fire hazard, hunting and fishing, closing season, 12.012.  
 Local and special laws, 294.001.

**RED SQUIRRELS**  
 Definition, game animals, 63.001.  
 Squirrels, generally, this index.

**REDEMPTION**  
 Bonds,  
     Palo Duro Canyon state park, 22.027.  
     Park development bonds, 21.007.

**REDFISH**  
 Commercial fishing, 66.2012.  
 Marketing, 48.0101.  
 Sales, 66.201.  
 Seasons, 47.039.  
 Size,  
     Cameron county, 131.021.  
 Transportation, 66.201.

**REEFS**  
 Artificial, 12.016.  
     Construction and maintenance, game, fish and water safety fund, use, 11.033.

**REEVES COUNTY**  
 See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Elk, game animals, 63.001.  
 Local and special laws, 295.001 et seq.  
 Nonresident hunting licenses, designated game, 42.005.

**REFUGIO COUNTY**  
 See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 296.001 et seq.

**REFUNDING BONDS**  
 Palo Duro Canyon state park, 22.033 et seq.

References are to Sections

**REGISTRATION**

Boats and Boating, this index.  
 Commercial fishing, boats, fees, 31.027.  
 Palo Duro Canyon state park, bonds,  
 22.035.  
 Park development bonds, 21.008.  
 Approval, 21.012.  
 Shrimp,  
 Boats and boating, 77.036.  
 Number, display, 77.061.

**REMOVAL**

Finfish, heads or tails, 66.216.

**REPORTS**

Aircraft, predator control, 43.107.  
 United States, 43.108.  
 Bird breeders, licenses and permits,  
 45.008.  
 Endangered species, propagation, 68.010.  
 Falconry, 49.014.  
 Fees, disposition, 12.004.  
 Fines and penalties, disposition, 12.004.  
 Finfish research, 66.217.  
 Fire hazard, closing hunting and fishing  
 season, 12.012.  
 Gulf states marine fisheries commission,  
 91.006.  
 Audits, 91.007.  
 McMullen county, deer, 256.0113.  
 Parks and wildlife department, 12.002.  
 Saltwater fishing, 66.209.  
 Scientific uses, animals and wildlife,  
 43.029.  
 Fines and penalties, 43.030.  
 Shooting preserves, 43.0485, 43.055.  
 Taxidermist, sales, 62.023.  
 Texas local parks, recreation and open  
 space fund, annual report, 24.010.

**REPTILES**

Contracts for removal, 81.404.  
 Disposition of proceeds, 11.032.  
 Endangered Species, generally, this in-  
 dex.

**RESCUE**

Boat accident victims, 31.121.

**RESCUE BOATS**

Restricted areas, operation, 31.102.

**RESEARCH**

Commercial fishing,  
 Federal aid, 82.002.  
 Endangered plants, 88.007.  
 Endangered species, exemptions, 68.020.  
 Entry on land, 12.103.  
 Finfish, 66.217.  
 Fish farmers, federal aid, 48.011.  
 Game, fish and water safety fund, use,  
 11.033.  
 Grass carp, Lake Conroe, 270.021.  
 Hunting and fishing, confiscated equip-  
 ment, 12.011.  
 Scientific areas, creation, 81.501.  
 Shrimp, 77.004.  
 Taking wildlife powers and duties,  
 12.013.  
 White-winged doves, stamp fees, use,  
 43.014.

**RESERVATIONS**

Game Preserves, generally, this index.  
 State park campsites reservations, fees,  
 13.019.

**RESERVOIRS**

Dams and Reservoirs, generally, this in-  
 dex.

**RESIDENT**

Defined,  
 Commercial fishing, 47.001.  
 Fishing licenses, 46.0011.

**RESORTS**

Shooting Preserves, generally, this index.

**RESTAURANTS**

Birds, consumption on premises, 45.009.

**RESTORATION**

Historical sites, funds, 13.005.

**REVENUE BONDS**

Bonds, generally, this index.

**REVERSION**

Goliad state park, title to property,  
 22.085.  
 Guadalupe Mountains national park,  
 23.033.  
 Padre Island national seashore, title of  
 property, 23.014.  
 State parks, unsuitable lands, 13.008.

**REVOLVERS**

Weapons, generally, this index.

**REWARDS**

Operation game thief fund, 12.201 et seq.

**RIFLES**

Weapons, generally, this index.

**RIGHTS OF WAY**

Exotic animals, hunting, 293.022.  
 Fish hatcheries, 81.103, 81.104.  
 Smith county, 82.602.

**RIMFIRE AMMUNITION**

Hunting big game, 62.002.

**RIPARIAN RIGHTS**

Oyster beds, 76.004.

**RIVER AUTHORITIES**

Political Subdivisions, generally, this in-  
 dex.

**RIVERS AND STREAMS**

Land, sales, 1.012.  
 Stocking fish, supervision, 12.001.  
 Title of property, 1.011.

**ROADS**

Highways and Roads, generally, this in-  
 dex.

**ROADSIDE PARKS**

Acquisition, 13.012.

**ROBERTS COUNTY**

See, also, Counties, generally, this in-  
 dex.  
 Local and special laws, 297.001.

**ROBERTSON COUNTY**

See, also, Counties, generally, this in-  
 dex.  
 Archery season, big game, 62.051 et seq.  
 Hunting and fishing regulations, approval  
 by commissioners, 61.202.  
 Local and special laws, 298.001 et seq.

**ROCKETGUNS**

Weapons, generally, this index.

**ROCKWALL COUNTY**

See, also, Counties, generally, this in-  
 dex.  
 Local and special laws, 299.001 et seq.

**ROCKY MOUNTAIN SHEEP**

Sales, fines and penalties, 62.022.

**ROUGH FISH**

Confiscation of devices, saltwater fishing,  
 66.212.  
 Crimes and offenses, saltwater, removal,  
 66.212.  
 Definitions, 66.114.  
 Saltwater fishing, 66.210.  
 Disposition after removal, 66.118.  
 Fines and penalties, saltwater, removal,  
 66.212.  
 Grimes county, taking, net and seine use,  
 193.021.  
 Licenses and permits,  
 Fees, saltwater fishing, 66.211.  
 Removal, 66.116.  
 Revocation, 66.117.  
 Saltwater fishing, 66.211.  
 Devices, pool, 66.212.  
 Removal, 66.113.  
 Rules and regulations, 66.115.  
 Sales, disposition after removal, 66.118.  
 Saltwater, definitions, 66.210.

**ROWBOATS**

Boats and Boating, generally, this index.

**RUNNELS COUNTY**

See, also, Counties, generally, this in-  
 dex.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 300.001 et seq.

**RUSK COUNTY**

See, also, Counties, generally, this in-  
 dex.  
 Local and special laws, 301.001 et seq.

**SABINE COUNTY**

See, also, Counties, generally, this in-  
 dex.  
 Deer, archery season, 61.208.  
 Fire hazard, hunting and fishing, closing  
 season, 12.012.  
 Local and special laws, 302.001 et seq.  
 Nonresidents, deer license, archery,  
 61.208.

**SABINE NATIONAL FOREST**

Contracts, wildlife management, 23.051.  
 Definitions, wildlife management, 23.052.  
 Fines and penalties, hunting and fishing,  
 23.054.  
 Hunting and fishing regulations, 23.053.

**SABINE RIVER**

Hunting and fishing rights, Hunt county,  
 216.021.

**SAILBOATS**

Equipment exemptions, 31.073.  
 Hunting Boat Licenses, generally, this in-  
 dex.  
 Hunting from boat, 62.003.  
 Lifesaving device, 31.073.  
 Lights, 31.073.  
 Numbering, exemptions, 31.022.

References are to Sections

**ST. JO ISLAND**

Island channel, 82.651.

**SALARIES**

Compensation and Salaries, generally, this index.

**SALES**

Alligators, 65.001 et seq.  
 Antelope, fines and penalties, 62.022.  
 Armadillos, crimes and offenses, 63.103.  
 Bass, 66.111.  
 Bird Breeders, this index.  
 Bonds, park development bonds, 21.009.  
 Commercial Fishing, this index.  
 Confiscated marine life, 12.109.  
 Crabs, female crabs, abdominal apron detached, 78.102.  
 Crappies, 66.111.  
 Crimes and offenses, fish, 66.111.  
 Dealers, fresh water fish, purchases, 47.0091, 47.0111.  
 Deer, fines and penalties, 62.022.  
 Endangered plants, 88.008.  
 Endangered species, 68.015.  
 Tags, 68.016.  
 Falcons, 49.011.  
 Fines and penalties, fish, 66.111.  
 Fish,  
     Game, fish and water safety fund, source of revenue, 11.032.  
     Jim Wells county, Nueces river, 225.011.  
     Live Oak county, 249.011.  
     McMullen county, 256.031.  
     Nueces county, Nueces river, 278.021.  
     San Patricio county, Nueces river, lake Corpus Christi, 305.021.  
 Fish dealers, purchases, 47.0091, 47.0111.  
 Fish farmers, records, 48.008.  
 Fur-Bearing Animals, this index.  
 Game Breeders, this index.  
 Hunting and Fishing, this index.  
 Jim Hogg Memorial Park, this index.  
 Kaufman county, designated live animals, 229.021.  
 Live Oak county, fish, 249.011.  
 McMullen county, fish, 256.031.  
 Mission San Francisco De Los Tejas state park, timber and lumber, 22.092 et seq.  
 Muskellunge, 66.111.  
 Nongame species, rules and regulations, 67.001.  
 Northern pike, 66.111.  
 Operation game thief fund, 12.201 et seq.  
 Oysters, this index.  
 Palo Duro Canyon state park, bonds, 22.028.  
 Peccary, 63.003.  
 Pelts, seizure, disposal, 12.1101.  
 Redfish, 48.0101, 66.201.  
 Rocky Mountain sheep, fines and penalties, 62.022.  
 Rough fish, disposition after removal, 66.118.  
 Sand and gravel, 86.012.  
 Sauger, 66.111.  
 Seafood,  
     Joint adventures, 66.208.  
     Promotion program, 12.009.  
 Shellfish, this index.  
 Shells, this index.  
 Shrimp, this index.  
 Speckled sea trout, 48.0101, 66.201.  
 State parks, unsuitable lands, 13.008.  
 Striped bass, 66.111.

**SALES—Cont'd**

Taxidermist, powers and duties, 62.023.  
 Theft, operation game thief fund, 12.201 et seq.  
 Tropical fish, harmful tropical fish, 66.007.  
 Trout, 66.111.  
 Turtles, disposition after removal, 66.118.  
 Van Zandt county, designated live animals, 334.041.  
 Walleye, 66.111.  
 White bass, 66.111.  
 Wildlife management areas, products grown on property, 12.008.  
 Wood county, designated animals, 350.021.

**SALES AND USE TAXES**

Big Bend national park, jurisdiction, 23.001.  
 Guadalupe Mountain national park, jurisdiction, 23.031.  
 Padre Island national seashore, jurisdiction, 23.011.

**SAN AUGUSTINE COUNTY**

See, also, Counties, generally, this index.  
 Deer, archery season, 61.208.  
 Fire hazard, hunting and fishing, closing season, 12.012.  
 Local and special laws, 303.001 et seq.

**SAN FRANCISCO XAVIER DE LOS DOLORES SPANISH MISSION**

State parks, acquisition of property, 22.181.

**SAN ILDEFONSO SPANISH MISSION**

State parks, acquisition of property, 22.181.

**SAN JACINTO BATTLEGROUND**

Advisory board, 22.012 et seq.  
 Gifts, devises and bequests, 22.014.  
 Jurisdiction, 22.011.  
 Museum of history association, 22.016.  
 Title to property, 22.015.

**SAN JACINTO COUNTY**

See, also, Counties, generally, this index.  
 Fire hazard, hunting and fishing, closing season, 12.012.  
 Local and special laws, 304.001 et seq.

**SAN JACINTO HISTORICAL ADVISORY BOARD**

Meetings, 22.013.  
 Membership, 22.012.  
 Powers and duties, 22.014.

**SAN JACINTO MEMORIAL BUILDING AND TOWER**

Operation and maintenance, 22.016.

**SAN JACINTO MUSEUM OF HISTORY ASSOCIATION**

Generally, 22.016.

**SAN PATRICIO COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Ingleside cove wildlife sanctuary, 82.501 et seq.  
 Local and special laws, 305.001 et seq.

**SAN ROSARIO MISSION**

Goliad State Park, generally, this index.

**SAN SABA COUNTY**

See, also, Counties, generally, this index.  
 Buchanan and Inks Lakes, highways and roads, maintaining access, 13.014.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 306.001 et seq.

**SANCTUARIES**

Fish Sanctuaries, generally, this index.  
 Game Preserves, generally, this index.  
 Vingt Et Un Islands Wildlife Sanctuary, generally, this index.

**SAND AND GRAVEL**

Assignments, licenses, 86.007.  
 Corpus Christi bay, removal, 86.015.  
 Crimes and offenses,  
     Dredging without permit, 86.002.  
     Removal from seawalls, 86.018.  
 Fines and penalties,  
     Dredging without permit, 86.002.  
     Removal from seawalls, 86.018.  
 Funds, use of funds, 86.016.  
 Highways and roads, use, 86.013.  
 Licenses and permits, 86.002.  
     Application, 86.003.  
     Assignments, 86.007.  
     Denial, 86.008.  
     Economic considerations, 86.005.  
     Identification, 86.006.  
     Issuance, 86.004.  
     Seawalls, use, 86.014.  
     Special privileges, 86.011.  
     Suspension or revocation, 86.009.  
 Matagorda county, ground cedar cut, opening and reopening passage, 86.0151.  
 Migratory Game Birds, generally, this index.  
 Notice, replanting oyster beds, 86.010.  
 Nueces bay, removal, 86.015.  
 Oyster beds, removal, 86.010.  
 Removal, providing access to boat ramps, 31.141, 86.012.  
 Sales, 86.012.  
     Proceeds, deposit of funds, 86.016.  
 Seawalls,  
     Removal, 86.018.  
     Use, 86.014.  
 Second and subsequent offenses, dredging without permit, 86.002.

**SAUGER**

Catch limits, 66.106.  
 Sales, 66.111.

**SAWFISH**

Small fish, returning to water, fines and penalties, 66.006.

**SCENIC AREAS**

Monuments and memorials, 13.011.

**SCHLEICHER COUNTY**

See, also, Counties, generally, this index.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 307.001.

**SCHOOL BUILDINGS AND GROUNDS**

Black Gap wildlife management area, acquisition of property, 82.203.

References are to Sections

**SCHOOLS AND SCHOOL DISTRICTS**

State schools, hunting and fishing licenses, exemptions, 46.002.  
Wildlife management areas, assessments in lieu of taxes, 12.005.

**SCIENTIFIC AREAS**

Creation, 81.501.  
Dedication, 81.503.  
Existing areas, application of law, 81.504.  
Funds, appropriations, 81.506.  
Protected status, 81.505.  
Rules and regulations, 81.502.  
Sale or exchange of land, 13.009.

**SCIENTIFIC PURPOSES**

Armadillos, sales, 63.103.  
Endangered species, application of law, 68.006.  
Entry on land, scientific studies, 12.103.  
Game breeders, purchase of animals, 44.013.  
Hunting and fishing licenses, 43.021 et seq.  
Investigations, hunting and fishing, 61.051.  
Licenses and permits, 43.022.  
Application, 43.025.  
Cancellation, 43.028.  
Conditions, 43.026.  
Crimes and offenses, 43.030.  
Fines and penalties, 43.030.  
Possession, presumptions, 43.023.  
Reports, 43.029.  
Fines and penalties, 43.030.  
Restrictions on permits, 43.024.  
Rules and regulations, 43.027.  
Nongame species, investigations, 67.003.  
Taking wildlife for scientific purposes, 12.013.  
Wolves, possession, 63.102.

**SCOTT BAY**

Harris county, crabs, traps, pots, 201.016.

**SCREENS**

Hunting and fishing, protection, pipe lines, 66.110.

**SCURRY COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 308.001.

**SEA BOBS**

Nets and seines,  
Application of law, 77.063.  
Size, 77.066.

**SEA RIM STATE PARK**

Recreational hunting, open season, 62.0631.

**SEAFOODS**

Joint adventures, sales, 66.208.  
Marketing promotion program, 12.009.

**SEARCHES AND SEIZURES**

Alligators, 65.009.  
Commercial fishing, boats, nets and seines, 47.052.  
Confiscation, generally, this index.  
Electricity producing devices, 66.004.  
Hunting and fishing, 12.104, 62.007.  
Nets and seines, 12.1105.  
Pelts, 12.1101.  
Sales,  
Armadillo, 63.103.

1 West's Tex.Stats. & Codes '81 Supp.—32

**SEARCHES AND SEIZURES—Cont'd**

Sales—Cont'd  
Designated animals,  
Kaufman county, 229.021.  
Van Zandt county, 334.041.  
Wood county, 350.021.  
Pelts, proceeds, game, fish and water safety fund, source of revenue, 11.032.

**SEASONS**

See specific index headings.

**SEAWALLS**

Sand and gravel,  
Removal, 86.018.  
Use, 86.014.  
Shells,  
Removal, 86.018.  
Use, 86.014.

**SECOND AND SUBSEQUENT OFFENSES**

Birds, 64.002.  
Boats and boating, sewage disposal, 31.129.  
Chachalacas, bag limits, 64.014.  
Commercial fishing, Menhaden boat license, 47.053.  
Drum, taking in oyster waters, 66.205.  
Endangered species, 68.021.  
Falconry, 49.017.  
Fish ladders, repairs, 66.109.  
Game breeders, 44.016.  
Hunting and Fishing, this index.  
Migratory game birds, possession, 64.026.  
Nongame species, 67.005.  
Oysters, dredges, 76.118.  
Prairie chickens, 64.015.  
Quail, bag limits, 64.014.  
Sand and gravel, dredging without permit, 86.002.  
Seafoods, sales, joint adventures, 66.208.  
Shellfish, polluted waters, 76.216.  
Shrimp, this index.

**SECURITY**

Palo Duro Canyon state park, bonds, additional bonds, 22.031.

**SECURITY DEPOSITS**

Park development bonds, public funds, 21.024.

**SEINES**

Nets and Seines, generally, this index.

**SEIZURES**

Searches and Seizures, generally, this index.

**SELF INCRIMINATION**

Hunting and fishing, hunting for hire, 62.006.

**SELL**

Defined, hunting and fishing, 1.101.

**SERIAL NUMBERS**

Bird breeders licenses, 45.005.  
Boats and boating, 31.043.  
Game breeders licenses, 44.005.

**SERVICE OF PROCESS**

Process, this index.

**SEWERS AND SEWAGE**

Boats and boating, disposal regulation, 31.129.

**SEWERS AND SEWAGE—Cont'd**

State parks, rules and regulations, 13.102.

**SHACKELFORD COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 309.001 et seq.

**SHAD**

Nets and seines, method of fishing, 66.101.

**SHARKS**

Small fish, returning to water, fines and penalties, 66.006.

**SHEEP**

Big Horn Sheep, generally, this index.

**SHEEPHEAD**

Commercial fishing, size, 47.034.

**SHELBY COUNTY**

Counties, generally, this index.

**SHELLFISH**

Bonds (officers and fiduciaries), certificate holders, 76.215.  
Certificates and certification,  
Operation of plants, 76.210.  
Performance bond, 76.215.  
Plants, rules and regulations, 76.212.  
Sales, 76.211.  
Confiscation, unfit for human consumption, 76.214.  
Counties, named counties, local and special laws, 101.001 et seq.  
Crimes and offenses, polluted waters, 76.216.  
Fines and penalties, polluted waters, 76.216.  
Forfeitures, rules and regulations, compliance, 76.215.  
Gulf states marine fisheries compact, 91.001 et seq.  
Inspection, polluted waters, 76.204.  
Licenses and permits, transplanting from polluted area, 76.206.  
Local and special laws, 101.001 et seq.  
Pollution,  
Declaration, 76.202.  
Definitions, 76.201.  
Enforcement of act, 76.212, 76.213.  
Fines and penalties, 76.216.  
Inspection of plants, 76.204.  
Performance bond, 76.215.  
Purification, 76.207.  
Rules and regulations, 76.203.  
Sales, 76.205.  
Improper facilities, 76.209.  
Rules and regulations, 76.208.  
Transplanting, 76.206.  
Rules and regulations, polluted waters, 76.202.  
Sales,  
Certificates, 76.211.  
Exotic shellfish, licenses and permits, 51.009.  
Improper facilities, 76.209.  
Pollution, ante.  
Records, 51.007.  
Rules and regulations, 51.008.  
Unfit for human consumption, 76.214.  
Second and subsequent offenses, polluted waters, 76.216.  
Special laws, local and special laws, 101.001 et seq.

References are to Sections

**SHELLFISH—Cont'd**

Statistical reports, 66.209.  
Transplanting, polluted areas, 76.206.

**SHELLFISH CULTURE**

Bills of lading, transportation, 51.006.  
Brood stock, licenses and permits, 51.010.  
Crimes and offenses, 51.011.  
Definitions, 51.001.  
Exports and imports, licenses, 51.009.  
Fines and penalties, 51.011.  
Harvesting, 51.008.  
Licenses and permits, 51.002.  
    Branch offices, 51.003.  
    Brood stock, 51.010.  
    Duration, 51.004.  
    Exotic shellfish, 51.009.  
    Exports and imports, 51.009.  
    Fees, 51.005.  
    Transportation, 51.006.  
Records, 51.007.  
Rules and regulations, harvesting, 51.008.

**SHELLS**

Assignments, licenses, 86.007.  
Crimes and offenses,  
    Dredging without permit, 86.002.  
    Removal from seawalls, 86.018.  
Fines and penalties, removal from seawalls, 86.018.  
Funds, use of funds, 86.016.  
Highways and roads, use, 86.013.  
Licenses and permits, 86.002.  
    Application, 86.003.  
    Assignments, 86.007.  
    Denial, 86.008.  
    Economic considerations, 86.005.  
    Identification, 86.006.  
    Issuance, 86.004.  
    Seawalls, use, 86.014.  
    Special privileges, 86.011.  
    Suspension or revocation, 86.009.  
Matagorda county, brown cedar cut, opening and reopening passage, 86.0151.  
Notice, replanting oyster beds, 86.010.  
Removal, providing access to boat ramps, 31.141, 86.012.  
Removal of oyster beds, 86.010.  
Rules and regulations, supervision, 1.011.  
Sales, 86.012.  
    Licenses, game, fish and water safety fund, source of revenue, 11.032.  
    Proceeds, deposit of funds, 86.016.  
Seawalls,  
    Removal, 86.018.  
    Use, 86.014.  
Second and subsequent offenses, dredging without permit, 86.002.

**SHERIFFS**

Fees, service of process, 12.108.

**SHERMAN COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 311.001.

**SHIPS AND SHIPPING**

Boats and Boating, generally, this index.

**SHOOTING PRESERVES**

Banding game birds, 43.052.  
Boundaries, marking, 43.050.  
Defined, licenses and permits, 43.041.  
Guests, registration, 43.0485.  
Leases, licenses and permits, 43.041 et seq.

**SHOOTING PRESERVES—Cont'd**

Licenses and permits, 43.041 et seq.  
    Affidavits, 43.048.  
    Cancellation, 43.054.  
    Crimes and offenses, 43.055.  
    Definitions, 43.041.  
    Duration, 43.045.  
    Fees, 43.044.  
        Nonresidents, 43.049.  
    Fines and penalties, 43.055.  
    Form, 43.046.  
    Issuance, 43.043.  
    Name, 43.047.  
    Nonresidents, 43.049.  
    Seasons, 43.051.  
Nonresidents, licenses and permits, 43.049.  
Private Bird Shooting Areas, generally, this index.  
Quail, number of fowl released, 43.053.  
Records and reports, 43.0485.  
Seasons, hunting season, 43.051.

**SHOTGUNS**

Weapons, generally, this index.

**SHRIMP**

Affidavits, commercial shrimp boat license, application, 77.031.  
Application of law,  
    Jefferson county, 223.011, 223.012.  
    Matagorda county, 261.002.  
Bag limits,  
    Commercial bait-shrimp, inside water, 77.095.  
    Inside water, 77.092.  
    Outside water, 77.068.  
Bait bays, defined, 77.001.  
Bait-shrimp,  
    Bag limits, inside water, 77.095.  
    Bait bays, 77.089.  
    Commercial nets, size, bait bays, 77.096.  
    Nets and seines, 77.067.  
    Nighttime, inside water, 77.097.  
    Nursery areas, bait-shrimping within, 77.094.  
Sales,  
    Inside water, 77.098.  
    Outside water, 77.069.  
Seasons, commercial fishing, inside water, 77.094.  
Bait-shrimp boat, licenses and permits, 77.033.  
    Nursery areas, authorization to operate within, 77.094.  
Bait-shrimp dealers,  
    Licenses and permits, 77.043.  
    Exemptions, 77.046.  
    Issuance, 77.044.  
Powers and duties, 77.047.  
Reports, nursery areas, operation within, 77.094.  
Bait-shrimp season, inside water, 77.094.  
Bait-shrimp trawls, 77.067.  
    Licenses and permits, individual licenses, 77.048.  
    Use, 77.016.  
Bays, sales, 77.013.  
Boats and boating,  
    Bait-shrimp boat, licenses, 77.033.  
    Captain of vessel, responsibility for violations, 77.022.  
    Change of ownership, duplicate license, 77.0371.  
    Equipment, 77.041.  
    Exemption, nets and seines, seizure, 12.1105.  
    Licenses and permits, 77.031.

**SHRIMP—Cont'd**

Boats and boating—Cont'd  
Licenses and permits—Cont'd  
    Bait-shrimp boat, 77.033.  
    Change of ownership, duplicate license, 77.0371.  
    Commercial fishing, 77.031 et seq.  
    Seasons, inside water, 77.091.  
    Design, 77.039.  
    Display, 77.038.  
    Duplicate licenses, change of ownership, 77.0371.  
    Fees, 77.035.  
    Issuance, 77.032.  
    Other licenses, 77.040.  
    Requirements, 77.035.  
    Transfer, 77.037.  
Registration, 77.036.  
Saltwater species of fish in possession, size requirement exemptions, 47.034.  
Violations, guilt of owner, 77.022.  
Certificates, boat registration, 77.036.  
Closed season,  
    Outside waters, 77.061 et seq.  
    Possession, 77.070.  
Commercial bait-shrimp nets, size, inside water, 77.096.  
Commercial shrimp nets, inside water, 77.093.  
Confiscation, 12.109, 77.025.  
Contiguous zone,  
    Possession during season, 77.070.  
    Regulations, 77.071.  
    Seasons, 77.0621.  
Crimes and offenses, 77.020.  
Closed season violations, 77.061.  
Confiscation and disposal, 77.025.  
Game, fish and water safety fund, penalties, source of revenue, 11.032.  
General penalties, 77.020.  
Limitation of prosecutions, 77.025.  
Operation without license, 77.024.  
Responsibility for violations, 77.022.  
Second and subsequent offenses, generally, post.  
Definitions, 77.001.  
Disposal, confiscated shrimp, 77.025.  
Electric shock, use of devices, 66.004.  
Enforcement of laws, 12.101 et seq.  
Equipment, 77.041.  
Exemptions,  
    Bait-shrimp dealers license, 77.046.  
    Nets and seines, seizure, 12.1105.  
    Size, 77.072.  
    Uniform Wildlife Regulatory Act, 61.901.  
Exports and imports, application of law, 77.012.  
Fees,  
    Bait-shrimp dealers license, 77.043.  
    Bait-shrimp trawl license, 77.048.  
    Boat license, 77.031.  
    Commercial bait-shrimp boat license, 77.033.  
    Commercial gulf shrimp boat license, 77.035.  
    House operators license, 77.042.  
    Licenses and permits, 77.002.  
    Disposition of funds, 77.003.  
Fines and penalties, 77.020.  
Closed season violations, 77.061.  
Disposition of funds, 77.003.  
Game, fish and water safety fund, source of revenue, 11.032.  
General penalties, 77.020.  
Operation without license, 77.024.

References are to Sections

**SHRIMP—Cont'd**

Fines and penalties—Cont'd  
 Uniform Wildlife Regulatory Act, exemption, 61.901.  
 Fish passes, inside water, catching, 77.082.  
 Foreign states, possession for transportation purposes, 77.018.  
 Forfeitures,  
 Licenses, second and subsequent offenses, 77.023.  
 Operation without license, 77.024.  
 Galveston county, Uniform Wildlife Regulatory Act, application of law, 184.002.  
 General closed season, 77.061 et seq.  
 Heading shrimp, inside water, 77.083.  
 House operators license, 77.042.  
 Inside water, 77.081 et seq.  
 Jefferson county, trawls, possession, 77.018.  
 Laguna Madre, commercial bait-shrimping at night, 77.097.  
 Length of trawl, inside water, 77.090.  
 Licenses and permits, 51.0011 et seq.  
 Bait-shrimp dealers, ante.  
 Boats and boating, ante.  
 Closed season violations, suspension, 77.061.  
 Commercial fishing, 77.031 et seq.  
 Fees, 77.002.  
 Disposition of funds, 77.003.  
 Seafood promotion program, source of funds, 12.009.  
 Game, fish and water safety fund, source of revenue, 11.032.  
 House operator, 77.042.  
 Operation without license, fines and penalties, 77.024.  
 Other licenses, 77.040.  
 Reports, 77.005.  
 Rules and regulations, 77.011.  
 Sales, 77.043 et seq.  
 Unlicensed persons, 77.019.  
 Limitation of prosecutions, 77.025.  
 Littering, inside water, 77.083.  
 Local and special laws, Aransas county, 104.011.  
 Nets and seines, 77.013.  
 See, also, Trawls, generally, post.  
 Bag limits, outside water, 77.068.  
 Bait-shrimp, 77.067.  
 Bait bays, 77.089.  
 Bait-shrimp trawls, generally, ante.  
 Commercial bait-shrimp, size, bait bays, 77.096.  
 Commercial fishing, inside water, 77.093.  
 Equipment, 77.041.  
 Inside water, 77.090, 77.093.  
 Mesh size, 77.086.  
 Nueces county, 278.011.  
 Outside water, 77.063.  
 Sales, 77.069.  
 Research, 77.004.  
 Sale of noncommercial shrimp, inside water, 77.099.  
 Size,  
 Inside water, 77.086.  
 Outside water, 77.063.  
 Try nets, inside water, 77.085.  
 Width,  
 Inside water, 77.087.  
 Outside water, 77.063.  
 Nighttime,  
 Commercial bait-shrimping, inside water, 77.097.

**SHRIMP—Cont'd**

Nighttime—Cont'd  
 Inside water, 77.088.  
 Outside water, 77.064.  
 Numbers and numbering, boat registration, 77.061.  
 Nursery areas,  
 Bait-shrimping, operation within, 77.094.  
 Defined, 77.001.  
 Orange county, trawls, possession, 77.018.  
 Outer trawls,  
 Commercial bait-shrimp,  
 Nets, inside water, 77.096.  
 Size, bait bays, 77.096.  
 Commercial fishing, inside water, 77.093.  
 White shrimp, 77.065.  
 Width restrictions, inside water, 77.087.  
 Outside water, 77.061 et seq.  
 Pollution of water, research, 77.004.  
 Possession,  
 After season, 77.017.  
 Closed season, 77.070.  
 Transportation purposes, 77.018.  
 Reciprocal agreements with other states, contiguous zone regulations, 77.071.  
 Records, research, 77.006.  
 Registration,  
 Boats, 77.036.  
 Display, 77.061.  
 Reports,  
 Bait-shrimp dealers, nursery areas, operation within, 77.094.  
 Licenses and permits, 77.005.  
 Research, 77.006.  
 Research, 77.004.  
 Rules and regulations,  
 Contiguous zone, 77.071.  
 Orange county, 281.021, 281.022.  
 Supervision, 1.011.  
 Sales,  
 Bait-shrimp, inside water, 77.098.  
 Bait-shrimp dealers, generally, ante.  
 Confiscated shrimp, 77.025.  
 Imports, application of law, 77.012.  
 Licenses and permits, 77.002, 77.043 et seq.  
 Noncommercial shrimp, inside water, 77.099.  
 Outside water, 77.069.  
 Research, 77.004.  
 Unlicensed persons, 77.019.  
 Samples, size, computation, 77.014.  
 Seasons,  
 Bait-shrimp, inside water, 77.090.  
 Closed season, possession, 77.070.  
 Commercial bait-shrimp, inside water, 77.094.  
 Contiguous zone season, 77.0621.  
 General closed season, 77.061 et seq.  
 Inside water, 77.091.  
 Outside water, 77.061.  
 Bag limits, 77.068.  
 Change, 77.062.  
 Possession, 77.017.  
 Sale of shrimp caught in closed season, outside water, 77.070.  
 Second and subsequent offenses, 77.021.  
 Forfeiture of license, 77.023.  
 General penalties, 77.020.  
 Size, 77.013.  
 Bait-shrimp, 77.067.  
 Bait bays, 77.089.  
 Bait-shrimp trawls, 77.016.

**SHRIMP—Cont'd**

Size—Cont'd  
 Computation, 77.014.  
 Exemption, 77.072.  
 Grading, 77.015.  
 Inside water, 77.082.  
 Sales of small shrimp, 77.019.  
 Trawls, outside water, 77.063.  
 Standards and grades, 77.015.  
 Statistical reports, 66.209.  
 Taking shrimp in inside water, 77.081.  
 Territorial waters, hunting and fishing, licenses, 66.302.  
 Trawls,  
 Bait-shrimp trawls, generally, ante.  
 Closed season violations, 77.061.  
 Doors, inside water, 77.084.  
 Equipment, 77.041.  
 Exemptions, nets and seines, seizure, 12.1105.  
 Outer trawls, generally, ante.  
 Outside water, 77.063.  
 Possession, Orange or Jefferson county, 77.018.  
 Size,  
 Inside water, 77.086.  
 Outside water, 77.063.  
 White shrimp, outside water, 77.065.  
 Try nets,  
 Inside water, 77.085.  
 White shrimp, outside waters, 77.065.  
 Uniform Wildlife Regulatory Act, fines and penalties, exemptions, 61.901.  
 White shrimp, outside water, 77.065.

**SHRUBS AND SHRUBBERY**

Endangered plants, protection, 88.001 et seq.

**SIGHTSEEING BOATS**

Swimmers or divers, distance, 31.099.

**SIGNATURES**

Archery stamps, 43.201.  
 Park development bonds, 21.013 et seq.

**SIGNS AND SIGNALS**

Boats and boating, equipment, 31.065.  
 Racing boats, exemptions, 31.072.  
 Falconry, licenses and permits, exemptions, 49.002.  
 Field trial areas, 43.255.  
 Shooting preserves or resorts, boundaries, 43.050.

**SINKING FUNDS**

Palo Duro Canyon state park, bond payment, 22.036.

**SKIING**

Water Skis, generally, this index.

**SKUNKS**

Kaufman county, sales, 229.021.  
 Sales, crimes and offenses, 63.103.  
 Van Zandt county, sales, 334.041.  
 Wood county, sales, 350.021.

**SMITH COUNTY**

See, also, Counties, generally, this index.

Fish hatcheries, 82.601 et seq.  
 Local and special laws, 312.001 et seq.

**SNIPE**

Generally, 64.001 et seq.  
 Migratory Game Birds, generally, this index.

References are to Sections

**SOCIAL VALUE**

Historical sites, acquisition, 13.005.

**SOCIETIES**

Associations and Societies, generally, this index.

**SOLE EXPENSE**

Defined, Franklin Mountains state park, 22.223.

**SOLID WASTE**

State parks, rules and regulations, 13.102.

**SOMERVELL COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 313.001 et seq.

**SOUND SIGNALS**

Damaging, 12.017.

**SOUTHWEST TEXAS STATE UNIVERSITY**

Nets and seines, transfer of seized property, 12.1105.

**SPANISH MISSIONS**

State parks, acquisition, 22.181.

**SPARROWS**

Killing, seasons, 64.002.

Transportation, Liberty county, 246.021.

**SPEAR GUNS**

Hunting and fishing, possession, 66.107.

Method of fishing, 66.101.

Possession of other fish, 66.107.

**SPECKLED SEA TROUT**

Commercial fishing, 66.2012.

Fines and penalties, 66.2011.

Sales, 66.201.

Seasons, 47.039.

Limits, 66.2011.

Marketing, 48.0101.

Research, 66.217.

Sales, 66.201.

Seasons, 47.039.

Size, 66.2011.

Transportation, 66.201.

**SPEED**

Aquaplanes, fines and penalties, 31.096.

Boats and Boating, this index.

Water skis, fines and penalties, 31.096.

**SPONGE CRABS**

Crabs, generally, this index.

**SPOTTED SEA TROUT**

Retention, catching in inside water with trawl, 77.100.

**SQUIRRELS**

Bag limit, 63.002, 63.005.

Sabine county, 302.022.

Definitions, game animals, 63.001.

Game breeders, powers and duties, 44.006.

Kaufman county, sales, 229.021.

Local and special laws,

Austin county, 108.011, 108.012.

Delta county, 160.012.

Sales, Montgomery county, 270.011.

Seasons, 63.004.

Cass county, 134.015.

Hopkins county, 212.012.

**SQUIRRELS—Cont'd**

**Seasons—Cont'd**

Leon county, 245.012.

Limestone county, 247.021.

Marion county, 258.022.

Morris county, 272.016.

San Jacinto county, 304.023.

Smith county, 312.013.

Upshur county, 330.022.

Waller county, 337.011.

Van Zandt county, sales, 334.041.

Wood county, sales, 350.021.

**STAMPS**

Waterfowl stamp, 43.301 et seq.

White-Winged Doves, this index.

**STANDARDS AND GRADES**

Shrimp, 77.015.

**STARLINGS**

Killing, seasons, 64.002.

**STARR COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 314.001.

**STATE**

Boats and boating, numbering, exemptions, 31.022.

Indebtedness, Palo Duro Canyon state park bonds, 22.039.

**STATE AID**

Game, fish and water safety fund, source of revenue, 11.032.

Parks, state assistance for local parks, 24.001 et seq.

Recreational facilities, payment, 13.308.

Wildlife management areas, assessments in lieu of taxes, 12.005.

**STATE OFFICERS AND EMPLOYEES**

Possession of fish and game, 44.015.

**STATE PARKS**

Generally, 22.001 et seq.

Acquisition and development, urban areas, 24.006.

Adjoining property, weapons, 13.201 et seq.

Admission fees, bond payments, 21.111.

Beaches, Gulf of Mexico shore, entrance fees where public has acquired right of use or easement, 21.111.

Campsites, reservation, fees, 13.019.

Concessions, generally, this index.

Dedication,

Gifts for improvements, 13.004.

Public beaches, entrance fees where public has acquired right of use or easement, 21.111.

Disorderly conduct, eviction, 13.108.

Easements, public beaches, entrance fees where public has acquired right of use, 21.111.

Eisenhower State Park, generally, this index.

Eviction, disorderly conduct, 13.108.

Exchange of property, 13.009.

Fannin State Battleground, generally, this index.

Fees, campsite reservations, 13.019.

Fines and penalties,

Rules and regulations, 13.107 et seq.

**STATE PARKS—Cont'd**

**Fines and penalties—Cont'd**

Weapons on adjoining property, 13.205.

Fishing piers, 22.184.

Franklin Mountains state park, 22.221 et seq.

Free passes, 13.018.

Gifts, devises and bequests, 13.003.

Fishing piers, 22.184.

Goliad State Park, generally, this index.

Governor James Stephen Hogg memorial shrine, 22.171.

Health and sanitation, 13.101.

Hearings, rules and regulations, 13.103.

Highways and roads, 13.014.

Construction and maintenance, 13.014.

Contracts, 13.013.

Hubbard lake, 22.183.

Improvements, 13.004.

Solicitation, 13.008.

Spanish missions, 22.181.

Hubbard lake, 22.183.

Hueco Tanks State Park, generally, this index.

Hunting and fishing, 62.061 et seq.

Management of resources, 62.066.

Huntsville State Park, generally, this index.

Improvements, 13.003.

Gifts, 13.004.

Information, publication, 13.017.

Injunction, disorderly conduct, 13.108.

Investigation expenses, 13.007.

Jim Hogg Memorial Park, generally, this index.

Leases, terms, 13.006.

Licenses and permits, state parks fund, source of revenue, 11.035.

Mission San Francisco De Los Tejas State Park, generally, this index.

Nimitz state park, 22.151, 22.152.

Notice,

Disorderly conduct, warnings, 13.108.

Rules and regulations, 13.104 et seq.

Weapons on adjoining property, 13.203.

Nuestra Senora de la Candelaria Spanish mission, acquisition of property, 22.181.

Palo Duro Canyon State Park, generally, this index.

Passports, 13.018.

Peace officers,

Enforcement of regulations, 13.109.

Powers and duties, 11.019.

Port Isabel Lighthouse state historical monument and park, 22.101, 22.102.

Public beaches on the Gulf of Mexico, entrance fees where public has acquired right of use or easement, 21.111.

Reservations, campsites, fees, 13.019.

Rules and regulations, 13.101 et seq.

Application of law, 13.110.

Enforcement, peace officers, 13.109.

Weapons on adjoining property,

Application of law, 13.202.

Effective date, 13.204.

Notice, 13.203.

Sale or exchange of land, 13.009.

San Francisco Xavier de los Dolores Spanish mission, acquisition of property, 22.181.

San Ildefonso Spanish mission, acquisition of property, 22.181.

San Jacinto Battleground, generally, this index.

## INDEX TO PARKS AND WILDLIFE CODE

References are to Sections

**STATE PARKS—Cont'd**

Sea Rim state park, recreational hunting, open season, 62.0631.  
 Second and subsequent offenses, 13.107.  
 Sources of funds, 11.035.  
 Spanish missions, acquisition, 22.181.  
 Stephen F. Austin state park, 22.121.  
 Supervision, 13.001.  
 Texas state railroad, 22.182.  
 Urban areas, acquisition and development of state parks, 24.006.  
 User fees, 13.019.  
 Weapons, adjoining property, 13.201 et seq.

**STATE SCHOOLS**

Hunting and fishing licenses, exemptions, 46.002.

**STATE TREASURY**

Operation game thief fund, 12.201 et seq.  
 Special funds, 11.031 et seq.

**STATISTICS**

Saltwater fishing, reports, 66.209.

**STEPHEN F. AUSTIN STATE PARK**

Jurisdiction, 22.121.

**STEPHENS COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 315.001 et seq.

**STERLING COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 316.001.

**STILLHOUSE HOLLOW RESERVOIR**

Hunting and fishing, 114.011.

**STOCKING LAKES AND STREAMS**

Private waters, fees, 12.014.  
 Records, 12.003.  
 Reports, 12.002.

**STONEWALL COUNTY**

See, also, Counties, generally, this index.  
 Quail, seasons, 317.011.  
 Uniform Wildlife Regulatory Act, 317.001.

**STORAGE**

Cold storage plants, taxidermists shops, tanneries, inspection, 62.031.  
 Deer, Lampasas county, 61.206.

**STREAMS**

Rivers and Streams, generally, this index.

**STREETS AND ALLEYS**

Sand and gravel, use, 86.013.  
 Shells, use, 86.013.

**STRIPED BASS**

Bait fish, use as, 66.010.  
 Catch limits, 66.106.  
 Sales, 66.111.

**STUDIES**

Alligators, 65.004.  
 Finfish, 66.217.  
 Fur-bearing animals, 71.003.  
 McMullen county, deer, 256.0113.

**SUBSCRIPTIONS**

Monthly publications, hunting and fishing information, 12.006.

**SUCKERS**

Nets and seines, method of fishing, 66.101.  
 Taking, Upshur county, 330.041.

**SUITS**

Actions and Proceedings, generally, this index.

**SUNFISH**

Definitions, game fish, 66.114.

**SUNSET ACT**

Gulf state marine fisheries commission, 91.0011.  
 Parks and wildlife department, 11.0111.

**SURFBOARDS**

Rules and regulations, 31.103.

**SURVEYS AND SURVEYORS**

Coastal survey charts, actions and proceedings, admissibility of evidence, 12.113.  
 Oysters, this index.

**SUTTON COUNTY**

See, also, Counties, generally, this index.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 318.001 et seq.

**SWAMPS OR MARSHES**

Noxious aquatic plants, 12.015.

**SWIMMING AREAS**

See, also, Beaches, generally, this index.  
 Boats and boating,  
 Buzzing swimmers, 31.099.  
 Local regulations, 31.092.  
 Operation in restricted areas, 31.102.  
 Rules and regulations, 13.102.

**SWISHER COUNTY**

See, also, Counties, generally, this index.  
 Aoudad sheep, game animals, 63.001.  
 Local and special laws, 319.001.  
 Nonresident hunting licenses, designated game, 42.005.

**TAGS**

Deer, this index.  
 Nets and seines, 66.215.  
 Wild Turkeys, this index.

**TAKE**

Defined, endangered plants, 88.001.

**TANNERY**

Inspection, 62.031.

**TARRANT COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 320.001.

**TAWAKONI LAKE**

Hunting and fishing, rules and regulations, 61.201.

**TAX EXEMPTIONS**

Park development bonds, 21.022.

**TAXATION**

Big Bend national park, jurisdiction, 23.001.  
 Franchise Taxes, generally, this index.  
 Guadalupe Mountain national park, jurisdiction, 23.031.  
 Oysters, sales, 76.017.  
 Padre Island national seashore, jurisdiction, 23.011.  
 Park development bonds, exemption, 21.022.  
 Records, 12.003.  
 Reports, 12.002.  
 Sales and Use Taxes, generally, this index.  
 Supervision, 12.001.  
 Wildlife management areas, assessment in lieu of taxes, 12.005.

**TAXIDERMISTS**

Affidavits, transporting specimens, 62.027.  
 Endangered species, exemptions, 68.020.  
 Sale of game, 62.023.  
 Shop inspection, 62.031.  
 Transportation of wild animal, bird specimens, 62.0265.

**TAYLOR COUNTY**

See, also, Counties, generally, this index.  
 Local and special laws, 321.001 et seq.

**TELEGRAPHS AND TELEPHONES**

Operation game thief program, 12.205.  
 Recreational facilities, eminent domain, relocation expenses, 13.305.

**TERRAPIN**

Turtles, generally, this index.

**TERRELL COUNTY**

See, also, Counties, generally, this index.  
 Elk, game animals, 63.001.  
 Local and special laws, 322.001 et seq.  
 Nonresident hunting licenses, designated game, 42.005.

**TERRITORIAL WATERS**

Artificial reefs, 12.016.  
 Construction and maintenance, game, fish and water safety fund, use, 11.033.  
 Hunting and Fishing, this index.  
 Markers, damaging, 12.017.

**TERRY COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 323.001 et seq.

**TEXAS A & I UNIVERSITY SYSTEM**

Nets and seines, transfer of seized property, 12.1105.

**TEXAS A & M UNIVERSITY SYSTEM**

Nets and seines, transfer of seized property, 12.1105.

**TEXAS LOCAL PARKS, RECREATION AND OPEN SPACE FUND**

State assistance for local parks, 24.001 et seq.

References are to Sections

**TEXAS STATE RAILROAD**

State parks, 22.182.

**THEFT**

Operation game thief fund, 12.201 et seq.  
Oysters, private beds, 76.037.

**THREATENED PLANT**

Defined, protection, 88.001.

**THROCKMORTON COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 324.001.

**TIMBER AND LUMBER**

Caddo lake game and fish reserve, investigation, 82.406.

Huntsville State Park, this index.

Jim Hogg Memorial Park, this index.

Mission San Francisco De Los Tejas State Park, this index.

Wildlife management areas, sales, 12.008.

**TITLE TO PROPERTY**

Animals and birds, 1.011.

Beautiful scenery areas, 13.011.

Birds, 1.011.

Boats and Boating, this index.

Falcons, 49.012.

Fannin state battleground, 22.005.

Goliad state park, reversion, 22.085.

Hueco Tanks state park, 22.113.

Hunting and fishing licenses, hunting on own land, 42.003.

Oysters, 76.035.

San Jacinto battleground, 22.015.

State parks,

Exchange of property, 13.009.

Sale of property as unsuitable for parks, 13.008.

**TITUS COUNTY**

See, also, Counties, generally, this index.

Fire hazard, hunting and fishing, closing season, 12.012.

Local and special laws, 325.001.

**TOM GREEN COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 326.001 et seq.

**TORTOISES**

Turtles, generally, this index.

**TOURISTS**

Hunting and fishing licenses, exemptions, 46.002.

**TOURNAMENTS**

Water skis,

Motor boat mirrors, 31.071.

Time of operation, 31.103.

**TOWNS**

Municipal Corporations, generally, this index.

**TRAFFIC RULES AND REGULATIONS**

Boats and boating, 31.093.

State parks, 13.102.

**TRAILS**

State parks, construction and maintenance, 13.014.

**TRANSPORTATION**

Alligators, 65.001 et seq.

Endangered plants, 88.008.

Falconry, licenses and permits, 49.013.

Fish farmers, bill of lading, 48.004.

Game breeders, animals, licenses, 44.010.

Hunting and fishing, affidavits, fines and penalties, 62.028.

Licenses and permits, capture of animals and birds, 43.061.

Nongame species, rules and regulations, 67.001.

Protected wildlife, defined, 62.031.

Redfish, 48.0101, 66.201.

Shellfish, exotic shellfish, licenses and permits, 51.009.

Shellfish culture, licenses and permits, 51.006.

Speckled sea trout, 48.0101, 66.201.

State officers and employees, powers and duties, 44.015.

Wild animal, bird specimens, 62.0265, 62.027.

**TRAPS AND TRAPPING**

Alligators, 65.001 et seq.

Aransas county, crab traps, 61.203.

Birds, fines and penalties, 64.004.

Crabs, devices for catching, Harris county, 201.016.

Deer, permits, 63.007.

Fish passes, obstructions, 66.204.

Fishing, method of fishing, 66.101.

Fox, Sabine county, 302.053.

Fur-Bearing Animals, this index.

Gus Engeling wildlife management area, 82.002.

Licenses and permits, 43.061.

Game, fish and water safety fund, source of revenue, 11.032.

Pelts, seizure, disposal, 12.1101.

Permission of landowner, Van Zandt county, 334.011.

Uniform Wildlife Regulatory Act, 61.001 et seq.

**TRAVELING EXPENSES**

Arrest, 12.108.

Parks and wildlife commission, 11.016.

State parks, investigations, 13.007.

**TRAVIS COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Buchanan and Inks lakes, highways and roads, maintaining access, 13.014.

Local and special laws, 327.001 et seq.

**TRAWLS**

Nets and Seines, generally, this index.

**TREES**

Endangered plants, protection, 88.001 et seq.

**TRESPASS**

Fish hatcheries, fines and penalties, 81.003.

Game preserves, fines and penalties, 81.003.

Oysters, private oyster beds, 76.015.

Research, entry on land, 12.103.

**TRINITY COUNTY**

See, also, Counties, generally, this index.

Fire hazard, hunting and fishing, closing season, 12.012.

Local and special laws, 328.001 et seq.

**TROPICAL FISH**

Harmful tropical fish, 66.007.

**TROT LINES**

Chambers county, use, 136.048.

Galveston county, use, 184.025.

Harris county, use, 201.016.

Live Oak county, use, 249.013.

McMullen county, use, 256.033.

Method of fishing, 66.101, 66.202.

Navigation districts, 66.009.

Tags, 66.206.

**TROUT**

Bait fish, use as, 66.010.

Catch limits, 66.106.

Sales, 66.111.

Size, Cameron County, 131.021.

Speckled Sea Trout, generally, this index.

Spotted sea trout, catching in inside water with trawl, retention, 77.100.

**TRUCKS**

Motor Carriers, generally, this index.

**TURKEYS**

Wild Turkeys, generally, this index.

**TURTLES**

Disposition after removal, 66.118.

Licenses and permits,

Removal, 66.116.

Fresh water, 66.113.

Revocation, 66.117.

Removal from fresh water, 66.113.

Rules and regulations, supervision, 1.011.

Sales, disposition after removal, 66.118.

Small fish, returning to water, fines and penalties, 66.006.

**TYLER COUNTY**

See, also, Counties, generally, this index.

Fire hazard, hunting and fishing, closing season, 12.012.

Hunting and fishing, lights, fines and penalties, 61.901.

Local and special laws, 329.001 et seq.

**UNIFORM WILDLIFE REGULATORY ACT**

Generally, 61.001 et seq.

Brooks county, application of law, 124.001.

Chambers county, application of law, 136.001 et seq.

Dickens county, applicability, 163.001.

Galveston county, application of law, 184.001 et seq.

Kent county, application of law, 232.001.

Kleberg county, application of law, 237.001.

La Salle county, application of law, 242.001 et seq.

Leon county, application of law, 245.001.

Limestone lake, application of law, 245.002.

Local and special laws, 101.001 et seq.

Morris county, 272.001.

Nueces county, 278.001.

Refugio county, application of law, 296.001.

Smith county, application of law, 312.002.

Stonewall county, application of law, 317.001.

References are to Sections

**UNIFORMS**

Deputy game wardens, 11.020.

**UNITED STATES**Aid. Federal Aid, generally, this index.  
Bird breeders, licenses and permits, 45.011.

Boats and boating, numbering, exemptions, 31.022, 31.023.

Falconry, joint permits, 49.0047.

Federal Aid, generally, this index.

Franklin Mountains state park, easements, 22.223.

Park development fund, acquisition of property, 21.102.

Predator control, reports, 43.108.

State parks, transfer of land, 13.008.

Water safety, contracts, 31.005.

**UNITED STATES COASTAL SURVEY CHARTS**

Actions and proceedings, admissibility of evidence, 12.113.

**UNITED STATES WATERS**

Artificial reefs, 12.016.

Construction and maintenance, game, fish and water safety fund, use, 11.033.

**UNIVERSITY OF TEXAS SYSTEM**

Nets and seines, transfer of seized property, 12.1105.

**UPSHUR COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 330.001 et seq.

**UPTON COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 331.001.

**UVALDE COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Deer, seasons, 61.205.

Hunting and fishing regulations, approval by commissioners, 61.202.

Local and special laws, 332.001 et seq.

**VAL VERDE COUNTY**

See, also, Counties, generally, this index.

Hunting and fishing regulations, approval by commissioners, 61.202.

Local and special laws, 333.001 et seq.

**VAN ZANDT COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Fire hazard, hunting and fishing, closing season, 12.012.

Local and special laws, 334.001 et seq.

Wild turkey, hunting, 334.023.

**VANDALISM**

Boats and Boating, this index.

Buoys or markers, 31.100.

Nets and seines, 66.005.

**VEHICLES**

Motor Vehicles, generally, this index.

**VENTILATORS**

Boats and boating, equipment, 31.069.

**VENUE**

Boats and boating, rule violations, 31.126.

Commercial fishing, size of fish, 47.036.

Endangered species, license cancellation, 68.012.

Fish hatcheries, eminent domain, 81.104.

**VESSELS**

Boats and Boating, generally, this index.

**VETERANS**

Disabled veterans,

Hunting and fishing licenses, exemptions, 42.0041, 46.003.

State parks, passports, 13.018.

**VICTORIA COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 335.001 et seq.

**VILLAGES**

Municipal Corporations, generally, this index.

**VINGT ET UN ISLANDS WILDLIFE SANCTUARY**

Creation, 82.301.

Fines and penalties, 82.303.

Hunting and fishing, 82.302.

**WAGES**

Compensation and Salaries, generally, this index.

**WALKER COUNTY**

See, also, Counties, generally, this index.

Fire hazard, hunting and fishing, closing season, 12.012.

Lake Conroe, grass carp, research, 236.021.

**WALLER COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 337.001 et seq.

**WALLEYE**

Bait fish, use as, 66.010.

Catch limits, 66.106.

Sales, 66.111.

**WARD COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 338.001 et seq.

**WASHINGTON COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 339.001 et seq.

**WASTE**

Wildlife resources, public policy, 61.002.

**WATER DISTRICTS**

Political Subdivisions, generally, this index.

**WATER POLLUTION**

Boats and boating, fines and penalties, 31.129.

Hunting and fishing, private property, consent, 66.002.

**WATER POLLUTION—Cont'd**

Oysters, taking from polluted water, 76.116.

Shellfish in polluted water, 76.201.

Shrimp, research, 77.004.

**WATER SAFETY**

Generally, 31.001 et seq.

Administration of laws, game, fish and water safety fund, use, 11.033.

Application of law, 31.004.

Contracts, federal government, 31.005.

Definitions, 31.003.

Peace officers, enforcement of rules and regulations, 31.121.

Public policy, 31.002.

Title of law, 31.001.

Violations, fines and penalties, game, fish and water safety fund, source of revenue, 11.032.

**WATER SKIS**

Drunkennes, operation while intoxicated, 31.097.

Fines and penalties, 31.096.

Negligent operation, 31.094.

Rear-view mirrors on boats, 31.071.

Reckless operation, 31.096.

Speed, fines and penalties, 31.096.

Traffic rules and regulations, 31.103.

**WATERCRAFT**

Boats and Boating, generally, this index.

**WATERFOWL STAMP**

Generally, 43.301 et seq.

**WATERS AND WATER COURSES**

Artificial reefs, coastal waters, 12.016.

Construction and maintenance, game, fish and water safety fund, use, 11.033.

Boats and Boating, generally, this index.

Coastal Waters, generally, this index.

Land, sales, 1.012.

Noxious aquatic plants, 12.015.

Private land, sales, 1.012.

Private waters, stocking fish, fees, 12.014.

Public waters within state parks, historic sites, scientific areas and forts, regulations, 13.101.

Recreational facilities, acquisition, 13.002.

Title to property, 1.011.

**WEAPONS**

Generally, 62.002.

Archery, generally, this index.

Deer, this index.

Lower Colorado River authority,

Hunting and fishing, 62.081 et seq.

Rifle ranges, 62.082 et seq.

Peccary, hunting during archery season, 61.208.

Spear Guns, generally, this index.

State parks, adjoining property, 13.201 et seq.

**WEASEL**

Fur-Bearing Animals, generally, this index.

**WEBB COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 340.001, 340.002.

References are to Sections

**WEEDS**

Noxious weeds, elimination, 12.010.

**WEIGHTS AND MEASURES**

Hunting and fishing, returning small fish to water, 66.006.  
Supervision, 12.001.

**WHARTON COUNTY**

See, also, Counties, generally, this index.

Local and special laws, 341.001 et seq.

**WHARVES, DOCKS AND PIERS**

Fishing piers, state parks, 22.184.

**WHEELER COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.

Local and special laws, 342.001 et seq.

**WHITE BASS**

Sales, 66.111.

**WHITE-WINGED DOVES**

Crimes and offenses, 43.016.  
Fees, stamps, disposition of fees, 43.014.  
Fines and penalties, 43.016.  
Licenses and permits, 43.013.  
Stamps, 43.011.  
Display, 43.015.  
Disposition of fees, 43.014.  
Issuance, 43.012.

**WHOLESALEERS**

Commercial Fishing, this index.  
Fur-Bearing Animals, this index.

**WICHITA COUNTY**

See, also, Counties, generally, this index.

Archery season, big game, 62.051 et seq.  
Fish sanctuaries, application of law, 81.209.

Local and special laws, 343.001 et seq.

**WILBARGER COUNTY**

See, also, Counties, generally, this index.

Fish sanctuaries, application of law, 81.209.

Local and special laws, 344.001 et seq.

**WILD TURKEYS**

Generally, 64.001 et seq.  
Aged persons, hunting without licenses, 42.004.  
Archery season, 62.053.  
Burnet county, 127.012 et seq.  
Duration, 62.056.  
Gillespie county, 186.012 et seq.  
Kendall county, 230.012 et seq.  
Llano county, 250.012 et seq.  
McCulloch county, 254.012 et seq.  
Mason county, 260.012 et seq.  
Possession of equipment, 62.055.  
Possession of weapons, 62.054.  
San Saba county, 306.012 et seq.  
Stamps, 43.201 et seq.  
Travis county, 327.012 et seq.  
Bag limit, 42.021.  
Foard county, 178.021.  
Gobblers, 64.013.  
Kendall county, 230.021.  
Children and minors, hunting without license, 42.004.  
Closed season, authorization, 42.021.

**WILD TURKEYS—Cont'd**

Crimes and offenses,  
Hens, 64.012.  
Morris county, hunting, 272.022.  
Fines and penalties,  
Angelina county, 103.022.  
Foard county, hunting, 178.021.  
Hunting hens, 64.012.  
Morris county, hunting, 272.022.  
Van Zandt county, hunting, 334.023.  
Foard county, hunting, 178.021.  
Gobblers, bag limit, 64.013.  
Hens, hunting, 64.012.  
Hopkins county, hunting, 212.021.  
Hunting licenses, 42.002.  
Children and aged persons, 42.004.  
Duplicate licenses, 42.017.  
Form, 42.010.  
Own land, 42.003.  
Marion county, hunting or killing, 258.033.  
Morris county, hunting, 272.022.  
Nonresident hunting licenses, designated counties, 42.005.  
Possession, tags, 42.0185.  
Seasons,  
Foard county, 178.021.  
Kenedy county, 231.021.  
Leon county, 245.022.  
McMullen county, 256.021.  
Sabine county, 302.031.  
San Jacinto county, 304.031.  
Smith county, 312.023.  
Van Zandt county, 334.022.  
Tags, 42.0185.  
Bag limit, 42.021.  
Evidence of lawful killing, 42.021.  
Fraud, 42.020.  
Upshur county, hunting, 330.032.  
Van Zandt county, hunting, 334.023.  
Weapons, possession during archery season, 62.054.

**WILDFLOWERS**

Endangered plants, protection, 88.001 et seq.

**WILDLIFE MANAGEMENT AREAS**

Black Gap Wildlife Management Area, generally, this index.  
Connie Hagar Wildlife Sanctuary, generally, this index.  
Consideration in lieu of money, grazing rights leases, 12.008.  
Contracts, removal of fur-bearing animals and reptiles, 81.404.  
Disposition of proceeds, 11.032.  
Crimes and offenses, taking species, 81.006.  
Davy Crockett national forest, 23.041 et seq.  
Enforcement of laws, 12.101 et seq.  
Exchange of property, 13.009.  
Fees, hunting license, 81.403.  
Fines and penalties, taking species, 81.006.  
Game, fish and water safety fund, use, 11.033.  
Grazing rights, leases, 12.008.  
Gus Engeling Wildlife Management Area, generally, this index.  
Hunting and fishing, licenses and permits, 81.403.  
Information, publication, 12.006.  
Ingleside Cove Wildlife Sanctuary, generally, this index.

**WILDLIFE MANAGEMENT AREAS**

—Cont'd  
Removal of fur-bearing animals and reptiles, contracts, 81.404.  
Disposition of proceeds, 11.032.  
Restoration projects, federal aid, 83.003.  
Rules and regulations, 13.101 et seq.  
Hunting and fishing, 81.402.  
Sabine national forest, 23.051 et seq.  
Sale or exchange of land, 13.009.  
Seasons, hunting and fishing, 81.402.  
Supervision, 81.401.  
Taxation, assessments in lieu of taxes, 12.005.  
Vingt Et Un Islands Wildlife Sanctuary, generally, this index.

**WILLACY COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 345.001.  
Navigation district, Padre Island national seashore, transfer of property, 23.015.

**WILLIAMSON COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Buchanan and Inks lakes, highways and roads, maintaining access, 13.014.  
Local and special laws, 346.001 et seq.

**WILLS**

Gifts, Devises and Bequests, generally, this index.

**WILSON COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 347.001 et seq.

**WINKLER COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 348.001.

**WISE COUNTY**

See, also, Counties, generally, this index.  
Archery season, big game, 62.051 et seq.  
Local and special laws, 349.001 et seq.

**WOLVES**

Crimes and offenses, 63.102.  
Endangered species, exemptions, 68.020.  
Hunting, 63.102.  
Kaufman county, sales, 229.021.  
Van Zandt county, sales, 334.041.  
Wood county, sales, 350.021.

**WOOD COUNTY**

See, also, Counties, generally, this index.  
Local and special laws, 350.001 et seq.

**WOODCOCK**

Migratory Game Birds, generally, this index.

**WORDS AND PHRASES**

Antlerless deer, McMullen county, 256.0111.  
Bait bays, shrimp, Gulf of Mexico, 77.001.  
Bait dealers, 47.001.

References are to Sections

**WORDS AND PHRASES—Cont'd**

Birds, 64.001.  
 Blind, waterfowl blind, 202.041, 258.032.  
 Boats and boating, 31.003.  
   Classifications, 31.063.  
 Buck deer,  
   Hunting, 224.011.  
   McMullen county, 256.0111.  
 Captive-reared birds, field trial licenses, 43.251.  
 Catch, hunting and fishing, 1.101.  
 Commercial finfish fisherman, 47.001.  
 Commercial fishing, 47.001.  
 Contiguous zone, shrimp, Gulf of Mexico, 77.001.  
 Crabs, 78.101.  
 Davy Crockett national forest, 23.042.  
 Eisenhower state park, 22.163.  
 Endangered plants, protection, 88.001.  
 Endangered species, 68.001.  
 Exotic animals,  
   Hunting, 293.021.  
   Kerr county, 233.031.  
 Falconry, 49.001.  
 Federal rehabilitation and recovery grants, parks, state assistance, 24.001.  
 Finfish, commercial fishing, 47.001.  
 Fish farmers, 48.001.  
 Flagrant violation, operation game thief fund, 12.203.  
 Fresh water, hunting and fishing, 66.001.  
 Fund, parks, state assistance, 24.001.  
 Fur-bearing animals, 71.001.  
 Game animals, 63.001.  
 Game breeders, 44.001.  
 Hunting and fishing, 1.101, 61.005.  
   Archery season, 62.052.  
   Protected species, 43.021.  
   Seasons, 62.001.  
 Hunting and fishing licenses, 42.001.  
 Inside water, saltwater fishing, 66.202.  
 Licensed field trials, 43.251.  
 Manufacturer, boats and boating, 31.003.  
 Member field trials, licenses, 43.251.  
 Migratory game birds, 64.021.  
 Native plant, conservation, 88.001.  
 Natural area, parks, state assistance, 24.001.  
 New, boats and boating, 31.003.  
 Nonresident, commercial fishing, 47.001.  
 Noxious aquatic plants, 12.015.  
 Nursery areas, shrimp, Gulf of Mexico, 77.001.  
 Open space area, parks, state assistance, 24.001.

**WORDS AND PHRASES—Cont'd**

Outboard motor, boats and boating, 31.003.  
 Outside water, saltwater fishing, 66.203.  
 Parks, state assistance for local parks, 24.001.  
 Parks and wildlife commission, 11.001.  
 Parks and wildlife department, 11.001.  
 Political subdivision, parks, state assistance, 24.001.  
 Predator control, aircraft, 43.103.  
 Private bird shooting areas, 43.071.  
 Protected plant, conservation, 88.001.  
 Protected wildlife, specimen transportation, 62.031.  
 Public entity, Franklin Mountains state park, 22.222.  
 Public land, endangered plants, 88.001.  
 Red drum, commercial fishing, 47.001.  
 Redfish, sales, 66.201.  
 Resident, commercial fishing, 47.001.  
 Retriever dog training, field trial licenses, 43.251.  
 Rough fish, 66.114.  
   Saltwater fishing, 66.210.  
 Sabine national forest, wildlife management, 23.052.  
 Saltwater, hunting and fishing, 66.001.  
 Sanctioned field trials, field trial licenses, 43.251.  
 Sell, hunting and fishing, 1.101.  
 Shellfish culture, 51.001.  
 Shellfish in polluted water, 76.201.  
 Shooting preserves, licenses and permits, 43.041.  
 Shooting resorts, licenses and permits, 43.041.  
 Shrimp, 77.001.  
 Sole expenses, Franklin Mountains state park, 22.223.  
 Speckled sea trout, sales, 66.201.  
 Take, endangered plants, 88.001.  
 Threatened plant, protection, 88.001.  
 Urban area, parks, state assistance, 24.001.  
 Water safety, 31.003.  
 Waterfowl, stamp, 43.301.  
 Zoo,  
   Armadillo sales, 63.103.  
   Kaufman county, sale of designated animals, 229.021.  
   Van Zandt county, sale of designated animals, 334.041.  
   Wood county, sale of designated animals, 350.021.

**YOAKUM COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 351.001.

**YOUNG COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 352.001 et seq.

**ZAPATA COUNTY**

See, also, Counties, generally, this index.  
 Archery season, big game, 62.051 et seq.  
 Local and special laws, 353.001.

**ZARAGOZA, GENERAL IGNACIO, BIRTHPLACE**

Goliad state park, birthplace, 22.082.

**ZAVALA COUNTY**

See, also, Counties, generally, this index.  
 Deer, seasons, 61.205.  
 Hunting and fishing regulations, approval by commissioners, 61.202.  
 Local and special laws, 354.001.

**ZOOLOGICAL GARDENS**

Endangered species,  
   Application of law, 68.006.  
   Exemptions, 68.020.  
 Falconry, licenses and permits, exemptions, 49.002.  
 Game breeders, purchase of animals, 44.013.  
 Hunting and fishing licenses, 43.021 et seq.  
 Licenses and permits, 43.022.  
   Application, 43.025.  
   Cancellation, 43.028.  
   Conditions, 43.026.  
   Crimes and offenses, 43.030.  
   Fines and penalties, 43.030.  
   Possession, presumptions, 43.023.  
   Reports, 43.023.  
   Fines and penalties, 43.030.  
   Restrictions on permits, 43.024.  
   Rules and regulations, 43.027.  
 Wolves, possession, 63.102.



# PENAL CODE

## TITLE 10. OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS

Chapter	Section
48. Conduct Affecting Public Health	48.01

## TITLE 11. ORGANIZED CRIME

71. Organized Crime	71.01
---------------------	-------

## TITLE 1. INTRODUCTORY PROVISIONS

### CHAPTER 1. GENERAL PROVISIONS

#### § 1.07. Definitions

(a) In this code:

[See Compact Edition, Volume 1 for text of (1)]

(2) "Suspect" means a person whose criminal responsibility is in issue in a criminal action. Whenever the term "actor" is used in this code, it means "suspect".

[See Compact Edition, Volume 1 for text of (3) to (9)]

(9.1) "Corporation" includes nonprofit corporations, professional associations created pursuant to statute, and joint stock companies.

[See Compact Edition, Volume 1 for text of (10) to (36)]

*Text of subdivision as added by Acts 1979, 66th Leg., p. 1113, ch. 530, § 1*

(37) "Electric generating plant" means a facility that generates electric energy for distribution to the public.

*Text of subdivision as added by Acts 1979, 66th Leg., p. 1520, ch. 655, § 1*

(37) "Participant in a court proceeding" means a judge, a prosecuting attorney or an assistant prosecuting attorney who represents the state, a grand juror, a party in a court proceeding, an attorney representing a party, a witness, or a juror.

(38) "Electric utility substation" means a facility used to switch or change voltage in connection with the transmission of electric energy for distribution to the public.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1975, 64th Leg., p. 912, ch. 342, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 2123, ch. 848, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1113, ch. 530, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1520, ch. 655, § 1, eff. Sept. 1, 1979.]

Saving provisions. Section 17 of the 1975 Act provided:

"(a) Except as provided in Subsections (b) and (c) of this section, this Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act's effective date is governed by the law existing before the effective date, which law is continued in effect for this purpose, as if this Act were not in force. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date.

"(b) Conduct constituting an offense under existing law that is repealed by this Act and that does not constitute an offense under this Act may not be prosecuted after the effective date of this Act. If, on the effective date of this Act, a criminal action is pending for conduct that was an offense under the laws repealed by this Act and that does not constitute an offense under this Act, the action is dismissed on the effective date of this Act. However, a conviction existing on the effective date of this Act for conduct constituting an offense under laws repealed by this Act is valid and unaffected by this Act. For purposes of this section, "conviction" means a finding of guilt in a court of competent jurisdiction, and it is of no consequence that the conviction is not final.

"(c) In a criminal action pending on or commenced on or after the effective date of this Act, for an offense committed before the effective date, the defendant, if adjudged guilty, shall be assessed punishment under this Act if he so elects by written motion filed with the trial court before the sentencing hearing begins."

### CHAPTER 2. BURDEN OF PROOF

#### § 2.05. Presumption

When this code or another penal law establishes a presumption with respect to any fact, it has the following consequences:

(1) if there is sufficient evidence of the facts that give rise to the presumption, the issue of the existence of the presumed fact must be submitted to the jury, unless the court is satisfied that the evidence as a whole clearly precludes a finding beyond a reasonable doubt of the presumed fact; and

(2) if the existence of the presumed fact is submitted to the jury, the court shall charge the jury, in terms of the presumption and the specific element to which it applies, as follows:

(A) that the facts giving rise to the presumption must be proven beyond a reasonable doubt;

(B) that if such facts are proven beyond a reasonable doubt the jury may find that the element of the offense sought to be presumed exists, but it is not bound to so find;

(C) that even though the jury may find the existence of such element, the state must prove beyond a reasonable doubt each of the other elements of the offense charged; and

(D) if the jury has a reasonable doubt as to the existence of a fact or facts giving rise to the presumption, the presumption fails and the jury shall not consider the presumption for any purpose.

[Amended by Acts 1975, 64th Leg., p. 912, ch. 342, § 2, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

#### § 2.06. Repealed by Acts 1975, 64th Leg., p. 918, ch. 342, § 16, eff. Sept. 1, 1975

For saving provisions see note set out under Section 1.07.

**TITLE 2. GENERAL PRINCIPLES OF  
CRIMINAL RESPONSIBILITY**

**CHAPTER 6. CULPABILITY GENERALLY**

**§ 6.01. Requirement of Voluntary Act or Omission**

(a) A person commits an offense only if he voluntarily engages in conduct, including an act, an omission, or possession.

*[See Compact Edition, Volume 1 for text of (b) and (c)]*

[Amended by Acts 1975, 64th Leg., p. 913, ch. 342, § 3, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**CHAPTER 7. CRIMINAL RESPONSIBILITY  
FOR CONDUCT OF ANOTHER**

**SUBCHAPTER B. CORPORATIONS  
AND ASSOCIATIONS**

**§ 7.22. Criminal Responsibility of Corporation or Association**

*[See Compact Edition, Volume 1 for text of (a)]*

(b) A corporation or association is criminally responsible for a felony offense only if its commission was authorized, requested, commanded, performed, or recklessly tolerated by:

(1) a majority of the governing board acting in behalf of the corporation or association; or

(2) a high managerial agent acting in behalf of the corporation or association and within the scope of his office or employment.

[Amended by Acts 1975, 64th Leg., p. 913, ch. 342, § 4, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**§ 7.24. Defense to Criminal Responsibility of Corporation or Association**

It is an affirmative defense to prosecution of a corporation or association under Section 7.22(a)(1) or (a)(2) of this code that the high managerial agent having supervisory responsibility over the subject matter of the offense employed due diligence to prevent its commission.

[Amended by Acts 1975, 64th Leg., p. 913, ch. 341, § 5, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**CHAPTER 8. GENERAL DEFENSES TO  
CRIMINAL RESPONSIBILITY**

**§ 8.07. Age Affecting Criminal Responsibility**

(a) A person may not be prosecuted for or convicted of any offense that he committed when younger than 15 years of age except:

(1) perjury and aggravated perjury when it appears by proof that he had sufficient discretion to understand the nature and obligation of an oath;

(2) a violation of a penal statute cognizable under Chapter 302, Acts of the 55th Legislature, Regular Session, 1957, as amended,<sup>1</sup> except conduct which violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or subsequent offense) or driving while under the influence of any narcotic drug or of any other drug to a degree which renders him incapable of safely driving a vehicle (first or subsequent offense); or

(3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

(b) Unless the juvenile court waives jurisdiction and certifies the individual for criminal prosecution, a person may not be prosecuted for or convicted of any offense committed before reaching 17 years of age except:

(1) perjury and aggravated perjury when it appears by proof that he had sufficient discretion to understand the nature and obligation of an oath;

(2) a violation of a penal statute cognizable under Chapter 302, Acts of the 55th Legislature, Regular Session, 1957, as amended, except conduct which violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or subsequent offense) or driving while under the influence of any narcotic drug or of any other drug to a degree which renders him incapable of safely driving a vehicle (first or subsequent offense); or

(3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

(c) Unless the juvenile court waives jurisdiction and certifies the individual for criminal prosecution, a person who has been alleged in a petition for an adjudication hearing to have engaged in delinquent conduct or conduct indicating a need for supervision may not be prosecuted for or convicted of any offense alleged in the juvenile court petition or any offense within the knowledge of the juvenile court judge as evidenced by anything in the record of the juvenile court proceedings.

(d) No person may, in any case, be punished by death for an offense committed while he was younger than 17 years.

[Amended by Acts 1975, 64th Leg., p. 2158, ch. 693, § 24, eff. Sept. 1, 1975.]

<sup>1</sup> Civil Statutes, art. 6701-4.

Acts 1975, 64th Leg., p. 912, ch. 342, § 16 and Acts 1975, 64th Leg., p. 2159, ch. 693, § 26 repealed Penal Code (1925), art. 30, as amended by Acts 1973, 63rd Leg., p. 1484, ch. 544, § 2.

For saving provisions see note set out under Section 1.07.

**CHAPTER 9. JUSTIFICATION EXCLUDING  
CRIMINAL RESPONSIBILITY**

**SUBCHAPTER D. PROTECTION OF PROPERTY**

**§ 9.44. Use of Device to Protect Property**

The justification afforded by Sections 9.41 and 9.43 of this code applies to the use of a device to protect land or tangible, movable property if:

(1) the device is not designed to cause, or known by the actor to create a substantial risk of causing, death or serious bodily injury; and

(2) use of the device is reasonable under all the circumstances as the actor reasonably believes them to be when he installs the device.

[Amended by Acts 1975, 64th Leg., p. 913, ch. 342, § 6, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

## TITLE 3. PUNISHMENTS

### CHAPTER 12. PUNISHMENTS

#### SUBCHAPTER D. EXCEPTIONAL SENTENCES

Section

12.46. Use of Prior Convictions.

#### SUBCHAPTER C. ORDINARY FELONY PUNISHMENTS

### § 12.32. First-Degree Felony Punishment

(a) An individual adjudged guilty of a felony of the first degree shall be punished by confinement in the Texas Department of Corrections for life or for any term of not more than 99 years or less than 5 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed \$10,000.

[Amended by Acts 1979, 66th Leg., p. 1058, ch. 488, § 1, eff. Sept. 1, 1979.]

Section 2 of the 1979 amendatory act provided:

"This Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act's effective date is governed by the law existing before this Act's effective date, which law is continued in effect for this purpose as if this Act were not in force. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date."

#### SUBCHAPTER D. EXCEPTIONAL SENTENCES

### § 12.46. Use of Prior Convictions

The use of a conviction for enhancement purposes shall not preclude the subsequent use of such conviction for enhancement purposes.

[Added by Acts 1979, 66th Leg., p. 1027, ch. 459, § 1, eff. June 7, 1979.]

#### SUBCHAPTER E. CORPORATIONS AND ASSOCIATIONS

### § 12.51. Authorized Punishments for Corporations and Associations

[See Compact Edition, Volume 1 for text of (a)]

(b) If a corporation or association is adjudged guilty of an offense that provides a penalty including imprisonment, or that provides no specific penalty, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed:

(1) \$20,000 if the offense is a felony of any category;

(2) \$10,000 if the offense is a Class A or Class B misdemeanor; or

(3) \$2,000 if the offense is a Class C misdemeanor.

(c) In lieu of the fines authorized by Subsections (a) and (b)(1) and (b)(2) of this section, if a court finds that the corporation or association gained money or property or caused personal injury, property damage, or other loss through the commission of a felony or Class A or Class B misdemeanor, the court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed double the amount gained or caused by the corporation to be lost, whichever is greater.

(d) In addition to any sentence that may be imposed by this section, a corporation that has been adjudged guilty of an offense may be ordered by the court to give notice of the conviction to any person the court deems appropriate.

[Amended by Acts 1977, 65th Leg., p. 1917, ch. 768, § 1, eff. June 16, 1977.]

## TITLE 4. INCHOATE OFFENSES

### CHAPTER 15. PREPARATORY OFFENSES

#### § 15.01. Criminal Attempt

(a) A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

(b) If a person attempts an offense that may be aggravated, his conduct constitutes an attempt to commit the aggravated offense if an element that aggravates the offense accompanies the attempt.

(c) It is no defense to prosecution for criminal attempt that the offense attempted was actually committed.

(d) An offense under this section is one category lower than the offense attempted, and if the offense attempted is a felony of the third degree, the offense is a Class A misdemeanor.

[Amended by Acts 1975, 64th Leg., p. 478, ch. 203, § 4, eff. Sept. 1, 1975.]

Subsection 7(a) of the 1975 amendatory act provided:

"Sections 1, 2, and 4 of this Act apply only to offenses committed on or after the effective date of this Act, and except as provided in Subsections (b), (c), and (d) of this section, a criminal action for an offense committed before the effective date of this Act is governed by the law existing before the effective date, which law is continued in effect for this purpose as though this law were not in force."

### CHAPTER 16. CRIMINAL INSTRUMENTS AND INTERCEPTION OF WIRE OR ORAL COMMUNICATION

The heading of the chapter was amended by Acts 1981, 67th Leg., p. 740, ch. 275, § 3, effective until September 1, 1985.

Section  
16.02. Unlawful Interception, Use, or Disclosure of Wire or Oral Communications.

§ 16.01. Unlawful Use of Criminal Instrument

(a) A person commits an offense if:

(1) he possesses a criminal instrument with intent to use it in the commission of an offense; or

(2) with knowledge of its character and with intent to use or aid or permit another to use in the commission of an offense, he manufactures, adapts, sells, installs, or sets up a criminal instrument.

(b) For the purpose of this section, "criminal instrument" means anything, the possession, manufacture, or sale of which is not otherwise an offense, that is specially designed, made, or adapted for use in the commission of an offense.

(c) An offense under Subsection (a)(1) of this section is one category lower than the offense intended. An offense under Subsection (a)(2) of this section is a felony of the third degree.

[Amended by Acts 1975, 64th Leg., p. 913, ch. 342, § 7, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

§ 16.02. Unlawful Interception, Use, or Disclosure of Wire or Oral Communications

*Text of section added effective until September 1, 1985*

(a) In this section, "covert entry," "communication common carrier," "contents," "electronic, mechanical, or other device," "intercept," "investigative or law enforcement officer," "oral communication," and "wire communication" have the meanings given those terms in Article 18.20, Code of Criminal Procedure, 1965.

(b) Except as specifically provided by Subsection (c) of this section, a person commits an offense if he:

(1) knowingly or intentionally intercepts, endeavors to intercept, or procures another person to intercept or endeavor to intercept a wire or oral communication;

(2) knowingly or intentionally discloses or endeavors to disclose to another person the contents of a wire or oral communication if he knows or is reckless about whether the information was obtained through the interception of a wire or oral communication in violation of this subsection;

(3) knowingly or intentionally uses or endeavors to use the contents of a wire or oral communication if he knows or is reckless about whether the information was obtained through the interception of a wire or oral communication in violation of this subsection; or

(4) knowingly or intentionally effects a covert entry for the purpose of intercepting wire or oral communications without court order or authorization.

(c) It is an affirmative defense to the application of Subsection (b) of this section that:

(1) an operator of a switchboard or an officer, employee, or agent of a communication common carrier whose facilities are used in the transmission of a wire communication intercepts a communication or discloses or uses an intercepted communication in the normal course of employment while engaged in an activity that is a necessary incident to the rendition of service or to the protection of the rights or property of the carrier of the communication, unless the interception results from the communication common carrier's use of service observing or random monitoring for purposes other than mechanical or service quality control checks;

(2) an officer, employee, or agent of a communication common carrier provides information, facilities, or technical assistance to an investigative or law enforcement officer who is authorized as provided by this article to intercept a wire or oral communication;

(3) a person acting under color of law intercepts a wire or oral communication if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception; or

(4) a person not acting under color of law intercepts a wire or oral communication if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitution of laws of the United States or of this state or for the purpose of committing any other injurious act.

(d) Except as provided by Subsection (e) of this section, a person commits an offense if he knowingly or intentionally manufactures, assembles, possesses, sells, sends, or carries an electronic, mechanical, or other device that is designed primarily for nonconsensual interception of wire or oral communications.

(e) It is an affirmative defense to the application of Subsection (d) of this section that the manufacture, assembly, possession, sale, sending, or carrying of an electronic, mechanical, or other device that is designed primarily for the purpose of nonconsensual interception of wire or oral communication is by:

(1) a communication common carrier or an officer, agent, or employee of or a person under contract with a communication common carrier acting in the normal course of the communication carrier's business; or

(2) an officer, agent, or employee of a person under contract with, bidding on contracts with, or doing business with the United States or this state acting in the normal course of the activities of the United States or this state.

(f) An offense under this section is a felony of the second degree.

(g) An electronic, mechanical, or other device that is used, manufactured, assembled, possessed, sold, sent, or carried in violation of this section may be seized by a peace officer pursuant to executing a lawful search or arrest.

(h) Property seized pursuant to this section may be forfeited to the Department of Public Safety in the manner provided by Article 18.18, Code of Criminal Procedure, 1965, as amended, for disposition of seized property. The department may destroy the property or maintain, repair, use, and operate the property in a manner consistent with Article 18.20, Code of Criminal Procedure, 1965.

[Added by Acts 1981, 67th Leg., p. 738, ch. 275, § 2, eff. Aug. 31, 1981.]

Section 5 of the 1981 Act provides:

"This Act shall not be in force after September 1, 1985".

## TITLE 5. OFFENSES AGAINST THE PERSON

### CHAPTER 21. SEXUAL OFFENSES

Section

21.13. Evidence of Previous Sexual Conduct.

#### § 21.01. Definitions

In this chapter:

(1) "Deviate sexual intercourse" means:

(A) any contact between and part of the genitals of one person and the mouth or anus of another person; or

(B) the penetration of the genitals or the anus of another person with an object.

(2) "Sexual contact" means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

[See Compact Edition, Volume 1 for text of (3)]

[Amended by Acts 1979, 66th Leg., p. 373, ch. 168, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 203, ch. 96, § 3, eff. Sept. 1, 1981.]

Section 4 of the 1981 amendatory act provides:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

"(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

#### § 21.02. Rape

[See Compact Edition, Volume 1 for text of (a)]

(b) The intercourse is without the female's consent under one or more of the following circumstances:

(1) he compels her to submit or participate by force that overcomes such earnest resistance as might reasonably be expected under the circumstances;

(2) he compels her to submit or participate by any threat, communicated by actions, words, or

deeds, that would prevent resistance by a woman of ordinary resolution, under the same or similar circumstances, because of a reasonable fear of harm;

(3) she has not consented and he knows she is unconscious or physically unable to resist;

(4) he knows that as a result of mental disease or defect she is at the time of the intercourse incapable either of appraising the nature of the act or of resisting it;

(5) she has not consented and he knows that she is unaware that sexual intercourse is occurring;

(6) he knows that she submits or participates because she erroneously believes that he is her husband; or

(7) he has intentionally impaired her power to appraise or control her conduct by administering any substance without her knowledge.

[See Compact Edition, Volume 1 for text of (c)]

[Amended by Acts 1975, 64th Leg., p. 476, ch. 203, § 1, eff. Sept. 1, 1975.]

Subsection 7(a) of the 1975 amendatory act provided:

"Sections 1, 2, and 4 of this Act apply only to offenses committed on or after the effective date of this Act, and except as provided in Subsections (b), (c), and (d) of this section, a criminal action for an offense committed before the effective date of this Act is governed by the law existing before the effective date, which law is continued in effect for this purpose as though this law were not in force."

#### § 21.03. Aggravated Rape

(a) A person commits an offense if he commits rape as defined in Section 21.02 of this code or rape of a child as defined in Section 21.09 of this code and he:

(1) causes serious bodily injury or attempts to cause death to the victim or another in the course of the same criminal episode; or

(2) by acts, words, or deeds places the victim in fear of death, serious bodily injury, or kidnapping to be imminently inflicted on anyone; or

(3) by acts, words, or deeds occurring in the presence of the victim threatens to cause death, serious bodily injury, or kidnapping to be inflicted on anyone; or

(4) uses or exhibits a deadly weapon in the course of the same criminal episode; or

(5) the victim is younger than 14 years.

(b) The defenses enumerated in Subsections (b) and (c) of Section 21.09 of this code shall not apply to this section.

(c) An offense under this section is a felony of the first degree.

[Amended by Acts 1981, 67th Leg., p. 203, ch. 96, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 471, ch. 202, § 1, eff. Sept. 1, 1981.]

Section 4 Acts 1981, 67th Leg., p. 203, ch. 96, provides:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

"(b) An offense committed before the effective date of this Act if covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

Section 5 Acts 1981, 67th Leg., p. 472, ch. 202, provides:  
 "This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date."

**§ 21.04. Sexual Abuse**

[See Compact Edition, Volume 1 for text of (a)]

(b) The intercourse is without the other person's consent under one or more of the following circumstances:

- (1) the actor compels the other person to submit or participate by force that overcomes such earnest resistance as might be reasonably expected under the circumstances;
- (2) the actor compels the other person to submit or participate by any threat, communicated by actions, words, or deeds, that would prevent resistance by a person of ordinary resolution, under the same or similar circumstances, because of a reasonable fear of harm;
- (3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;
- (4) the actor knows that as a result of mental disease or defect the other person is at the time of the deviate sexual intercourse incapable either of appraising the nature of the act or of resisting it;
- (5) the other person has not consented and the actor knows the other person is unaware that deviate sexual intercourse is occurring;
- (6) the actor knows that the other person submits or participates because of the erroneous belief that he is the other person's spouse; or
- (7) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge.

[See Compact Edition, Volume 1 for text of (c)]

[Amended by Acts 1975, 64th Leg., p. 477, ch. 203, § 2, eff. Sept. 1, 1975.]

Subsection 7(a) of the 1975 amendatory act provided:  
 "Sections 1, 2, and 4 of this Act apply only to offenses committed on or after the effective date of this Act, and except as provided in Subsections (b), (c), and (d) of this section, a criminal action for an offense committed before the effective date of this Act is governed by the law existing before the effective date, which law is continued in effect for this purpose as though this law were not in force."

**§ 21.05. Aggravated Sexual Abuse**

(a) A person commits an offense if he commits sexual abuse as defined in Section 21.04 of this code or sexual abuse of a child as defined in Section 21.10 of this code and he:

- (1) causes serious bodily injury or attempts to cause death to the victim or another in the course of the same criminal episode; or
- (2) by acts, words, or deeds places the victim in fear of death, serious bodily injury, or kidnapping to be imminently inflicted on anyone; or
- (3) by acts, words, or deeds occurring in the presence of the victim threatens to cause death,

serious bodily injury, or kidnapping to be inflicted on anyone; or

- (4) uses or exhibits a deadly weapon in the course of the same criminal episode; or
- (5) the victim is younger than 14 years.

(b) The defenses enumerated in Subsections (b) and (c) of Section 21.10 of this code shall not apply to this section.

(c) An offense under this section is a felony of the first degree.

[Amended by Acts 1981, 67th Leg., p. 203, ch. 96, § 2, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 471, ch. 202, § 2, eff. Sept. 1, 1981.]

Section 4 Acts 1981, 67th Leg., p. 203, ch. 96, provides:  
 "(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.  
 "(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

Section 5 Acts 1981, 67th Leg., p. 472, ch. 202, provides:  
 "This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date."

**§ 21.09. Rape of a Child**

(a) A person commits an offense if he has sexual intercourse with a female not his wife and she is younger than 17 years.

(b) It is a defense to prosecution under this section that the female was at the time of the alleged offense 14 years or older and had, prior to the time of the alleged offense, engaged promiscuously in sexual intercourse or deviate sexual intercourse.

(c) It is an affirmative defense to prosecution under this section that the actor was not more than two years older than the victim.

(d) An offense under this section is a felony of the second degree.

[Amended by Acts 1975, 64th Leg., p. 914, ch. 342, § 8, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**§ 21.11. Indecency with a Child**

(a) A person commits an offense if, with a child younger than 17 years and not his spouse, whether the child is of the same or opposite sex, he:

- (1) engages in sexual contact with the child; or
- (2) exposes his anus or any part of his genitals, knowing the child is present, with intent to arouse or gratify the sexual desire of any person.

(b) It is a defense to prosecution under this section that the child was at the time of the alleged offense 14 years or older and had, prior to the time of the alleged offense, engaged promiscuously in:

- (1) sexual intercourse;
- (2) deviate sexual intercourse;
- (3) sexual contact; or
- (4) indecent exposure as defined in Subsection (a)(2) of this section.

(c) It is an affirmative defense to prosecution under this section that the actor was not more than two years older than the victim and of the opposite sex.

(d) An offense under Subsection (a)(1) of this section is a felony of the second degree and an offense under Subsection (a)(2) of this section is a felony of the third degree.

[Amended by Acts 1981, 67th Leg., p. 472, ch. 202, § 3, eff. Sept. 1, 1981.]

Section 5 of the 1981 amendatory act provides:

"This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date."

### § 21.13. Evidence of Previous Sexual Conduct

(a) Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct may be admitted under Sections 21.02 through 21.05 of this code (rape, aggravated rape, sexual abuse, and aggravated sexual abuse) only if, and only to the extent that, the judge finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(b) If the defendant proposes to ask any question concerning specific instances, opinion evidence, or reputation evidence of the victim's sexual conduct, either by direct examination or cross-examination of any witness, the defendant must inform the court out of the hearing of the jury prior to asking any such question. After this notice, the court shall conduct an in camera hearing, recorded by the court reporter, to determine whether the proposed evidence is admissible under Subsection (a) of this section. The court shall determine what evidence is admissible and shall accordingly limit the questioning. The defendant shall not go outside these limits nor refer to any evidence ruled inadmissible in camera without prior approval of the court without the presence of the jury.

(c) The court shall seal the record of the in camera hearing required in Subsection (b) of this section for delivery to the appellate court in the event of an appeal.

(d) This section does not limit the right of the state or the accused to impeach credibility by showing prior felony convictions nor the right of the accused to produce evidence of promiscuous sexual conduct of a child 14 years old or older as a defense to rape of a child, sexual abuse of a child, or indecency with a child. If evidence of a previous felony conviction involving sexual conduct or evidence of promiscuous sexual conduct is admitted, the court shall instruct the jury as to the purpose of the evidence and as to its limited use.

[Added by Acts 1975, 64th Leg., p. 477, ch. 203, § 3, eff. Sept. 1, 1975.]

Subsection 7(b) of the 1975 amendatory act provided:

"Sections 3 and 6 of this Act apply to the prosecution of criminal offenses committed but not brought to trial before the effective date of this Act."

## CHAPTER 22. ASSAULTIVE OFFENSES

### § 22.01. Assault

(a) A person commits an offense if he:

(1) intentionally, knowingly, or recklessly causes bodily injury to another, including his spouse; or

(2) intentionally or knowingly threatens another with imminent bodily injury, including his spouse; or

(3) intentionally or knowingly causes physical contact with another when he knows or should reasonably believe that the other will regard the contact as offensive or provocative.

(b) An offense under Subsection (a)(1) of this section is a Class A misdemeanor unless the offense is committed by the owner or an employee of an institution described in Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), or a person providing medical or psychiatric treatment at an institution described in that subsection, and the offense is committed by causing bodily injury to a patient or resident of an institution described in that subsection, in which event the offense is a felony of the third degree.

(c) An offense under Subsection (a)(2) of this section is a Class C misdemeanor unless:

(1) the offense is committed by the owner or an employee of an institution described in Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), or a person providing medical or psychiatric treatment at an institution described in that subsection, and the offense is committed by threatening a patient or resident of an institution described in that subsection with bodily injury, in which event the offense is a Class B misdemeanor; or

(2) the offense is committed against a classroom teacher, counselor, principal, or other similar instructional or administrative employee of a primary or secondary school accredited by the Texas Education Agency while engaged in performing his educational duties, in which event the offense is a Class B misdemeanor.

(d) An offense under Subsection (a)(3) of this section is a Class C misdemeanor unless the offense is committed against a classroom teacher, counselor, principal, or other similar instructional or administrative employee of a primary or secondary school accredited by the Texas Education Agency while engaged in performing his educational duties, in which event the offense is a Class B misdemeanor.

[Amended by Acts 1977, 65th Leg., 1st C.S., p. 55, ch. 2, §§ 12, 13, eff. July 22, 1977; Acts 1979, 66th Leg., p. 260, ch. 135, §§ 1, 2, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 367, ch. 164, § 2, eff. Sept. 1, 1979.]

**§ 22.02. Aggravated Assault**

(a) A person commits an offense if he commits assault as defined in Section 22.01 of this code and he:

- (1) causes serious bodily injury to another, including his spouse;
- (2) causes bodily injury to a peace officer when he knows or has been informed the person assaulted is a peace officer:
  - (A) while the peace officer is lawfully discharging an official duty; or
  - (B) in retaliation for or on account of the peace officer's exercise of official power or performance of official duty as a peace officer; or
- (3) causes bodily injury to a participant in a court proceeding when he knows or has been informed the person assaulted is a participant in a court proceeding:
  - (A) while the injured person is lawfully discharging an official duty; or
  - (B) in retaliation for or on account of the injured person's having exercised an official power or performed an official duty as a participant in a court proceeding; or
- (4) uses a deadly weapon.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1979, 66th Leg., p. 367, ch. 164, § 3, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1520, ch. 655, § 2, eff. Sept. 1, 1979.]

**§ 22.03. Deadly Assault on a Peace Officer or Court Participant**

(a) A person commits an offense if, with a firearm or a prohibited weapon, he intentionally or knowingly causes serious bodily injury:

- (1) to a peace officer where he knows or has been informed the person assaulted is a peace officer:
    - (A) while the peace officer is acting in the lawful discharge of an official duty; or
    - (B) in retaliation for or on account of the peace officer's exercise of official power or performance of official duty as a peace officer; or
  - (2) to a participant in a court proceeding when he knows or has been informed that the person assaulted is a participant in a court proceeding:
    - (A) while the injured person is in the lawful discharge of official duty; or
    - (B) in retaliation for or on account of the injured person's having exercised an official power or performed an official duty as a participant in a court proceeding.
- (b) The actor is presumed to have known the person assaulted was a peace officer if he was wearing a distinctive uniform indicating his employment as a peace officer.

(c) An offense under this section is a felony of the first degree.

[Amended by Acts 1979, 66th Leg., p. 1520, ch. 655, § 3, eff. Sept. 1, 1979.]

**§ 22.04. Injury to a Child or an Elderly Individual**

(a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that causes to a child who is 14 years of age or younger or to an individual who is 65 years of age or older:

- (1) serious bodily injury;
- (2) serious physical or mental deficiency or impairment;
- (3) disfigurement or deformity; or
- (4) bodily injury.

(b) An offense under Subsection (a)(1), (2), or (3) of this section is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly it shall be a felony of the third degree.

(c) An offense under Subsection (a)(4) of this section is a felony of the third degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly it shall be a Class A misdemeanor.

(d) An offense under Subsection (a) of this section when the person acts with criminal negligence shall be a Class A misdemeanor.

[Amended by Acts 1977, 65th Leg., p. 2067, ch. 819, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 365, ch. 162, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 472, ch. 202, § 4, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2397, ch. 604, § 1, eff. Sept. 1, 1981.]

Section 5 of Acts 1981, 67th Leg., p. 472, ch. 202, provides: "This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date."

**§ 22.07. Terroristic Threat**

(a) A person commits an offense if he threatens to commit any offense involving violence to any person or property with intent to:

- (1) cause a reaction of any type to his threat by an official or volunteer agency organized to deal with emergencies;
- (2) place any person in fear of imminent serious bodily injury; or
- (3) prevent or interrupt the occupation or use of a building; room; place of assembly; place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place; or
- (4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service.

(b) An offense under Subdivision (1) or (2) of Subsection (a) of this section is a Class B misdemeanor. An offense under Subdivision (3) of Subsection (a) of this section is a Class A misdemeanor. An offense under Subdivision (4) of Subsection (a) of this section is a felony of the third degree.

[Amended by Acts 1979, 66th Leg., p. 1114, ch. 530, § 2, eff. Aug. 27, 1979.]

## TITLE 6. OFFENSES AGAINST THE FAMILY

### CHAPTER 25. OFFENSES AGAINST THE FAMILY

Section	
25.06.	Sale or Purchase of Child.
25.06.	Solicitation of a Child.
25.07.	Harboring Runaway Child.

#### § 25.03. Interference with Child Custody

(a) A person commits an offense if he takes or retains a child younger than 18 years out of this state when he:

(1) knows that his taking or retention violates the express terms of a judgment or order of a court disposing of the child's custody; or

(2) has not been awarded custody of the child by a court of competent jurisdiction and knows that a suit for divorce, or a civil suit or application for habeas corpus to dispose of the child's custody, has been filed.

*[See Compact Edition, Volume 1 for text of (b) and (c)]*

[Amended by Acts 1979, 66th Leg., p. 1111, ch. 527, § 1, eff. Aug. 27, 1979.]

#### § 25.05. Criminal Nonsupport

Acts 1975, 64th Leg., p. 912, ch. 342, § 16, repealed Penal Code (1925), arts. 602 and 602-A, as amended by Acts 1973, 63rd Leg., p. 603, ch. 257, §§ 1, 2 and art. 602-B, as added by § 3 of the 1973 Act.

For saving provisions see note set out under Section 1.07.

#### § 25.06. Sale or Purchase of Child

*Text as added by Acts 1977, 65th Leg., p. 81, ch. 38, § 1, and amended by Acts 1981, 67th Leg., p. 2211, ch. 514, § 1*

(a) A person commits an offense if he:

(1) possesses a child or has the custody, conservatorship, or guardianship of a child, whether or not he has actual possession of the child, and he offers to accept, agrees to accept, or accepts a thing of value for the delivery of the child to another or for the possession of the child by another for purposes of adoption; or

(2) offers to give, agrees to give, or gives a thing of value to another for acquiring or maintaining the possession of a child for the purpose of adoption.

(b) It is an exception to the application of this section that the thing of value is:

(1) a fee paid to a child-placing agency as authorized by law;

(2) a fee paid to an attorney or physician for services rendered in the usual course of legal or medical practice; or

(3) a reimbursement of legal or medical expenses incurred by a person for the benefit of the child.

(c) An offense under this section is a felony of the third degree unless the actor has been convicted previously under this section, in which event the offense is a felony of the second degree.

[Added by Acts 1977, 65th Leg., p. 81, ch. 38, § 1, eff. March 30, 1977. Amended by Acts 1981, 67th Leg., p. 2211, ch. 514, § 1, eff. Sept. 1, 1981.]

*For text of section added by Acts 1977, 65th Leg., p. 1115, ch. 413, § 1, see § 25.06, post*

Section 2 of the 1981 amendatory act provides:

"(a) The change in law made by this Act applies only to the punishment for offenses committed on or after its effective date. For purposes of this section, an offense is committed on or after the effective date of this Act only if each element of the offense occurs on or after the effective date.

"(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

#### § 25.06. Solicitation of a Child

*Text as added by Acts 1977, 65th Leg., p. 1115, ch. 413, § 1*

(a) A person commits an offense if he entices, persuades, or invites a child younger than 14 years to enter a vehicle, building, structure, or enclosed area with intent to engage in or propose engaging in sexual intercourse, deviate sexual intercourse, or sexual contact with the child or with intent to expose his anus or any part of his genitals to the child.

(b) The definitions of "sexual intercourse," "deviate sexual intercourse," and "sexual contact" in Chapter 21 of this code<sup>1</sup> apply to this section.

(c) An offense under this section is a Class A misdemeanor unless the actor takes the child out of the county of residence of the parent, guardian, or person standing in the stead of the parent or guardian of the child, in which event the offense is a felony of the third degree.

[Added by Acts 1977, 65th Leg., p. 1115, ch. 413, § 1, eff. June 15, 1977.]

<sup>1</sup> See § 21.01.

*For text of section added by Acts 1977, 65th Leg., p. 81, ch. 38, § 1, and amended by Acts 1981, 67th Leg., p. 2211, ch. 514, § 1, see § 25.06, ante*

#### § 25.07. Harboring Runaway Child

(a) A person commits an offense if he knowingly harbors a child and he is criminally negligent about whether the child:

(1) is younger than 18 years; and

(2) has escaped from the custody of a peace officer, a probation officer, the Texas Youth Council, or a detention facility for children, or is voluntarily absent from the child's home without the consent of the child's parent or guardian for a substantial length of time or without the intent to return.

(b) It is a defense to prosecution under this section that the actor was related to the child within the second degree by consanguinity or affinity.

(c) It is a defense to prosecution under this section that the actor notified:

(1) the person or agency from which the child escaped or a law enforcement agency of the presence of the child within 24 hours after discovering that the child had escaped from custody; or

(2) a law enforcement agency or a person at the child's home of the presence of the child within 24 hours after discovering that the child was voluntarily absent from home without the consent of the child's parent or guardian.

(d) An offense under this section is a Class A misdemeanor.

[Added by Acts 1979, 66th Leg., p. 1155, ch. 558, § 1, eff. Sept. 1, 1979.]

**TITLE 7. OFFENSES AGAINST PROPERTY**

**CHAPTER 28. ARSON, CRIMINAL MISCHIEF, AND OTHER PROPERTY DAMAGE OR DESTRUCTION**

**§ 28.01. Definitions**

In this chapter:

[See Compact Edition, Volume 1 for text of (1) to (3)]

(4) "Vehicle" includes any device in, on, or by which any person or property is or may be propelled, moved, or drawn in the normal course of commerce or transportation.

[Amended by Acts 1979, 66th Leg., p. 1216, ch. 588, § 1, eff. Sept. 1, 1979.]

**§ 28.02. Arson**

(a) A person commits an offense if he starts a fire or causes an explosion with intent to destroy or damage any building, habitation, or vehicle:

(1) knowing that it is within the limits of an incorporated city or town;

(2) knowing that it is insured against damage or destruction;

(3) knowing that it is subject to a mortgage or other security interest;

(4) knowing that it is located on property belonging to another;

(5) knowing that it has located within it property belonging to another; or

(6) when he is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.

(b) It is a defense to prosecution under Subsection (a)(1) of this section that prior to starting the fire or causing the explosion, the actor obtained a permit or other written authorization granted in accordance with a city ordinance, if any, regulating fires and explosions.

(c) An offense under this section is a felony of the second degree, unless bodily injury or death is suffered by any person by reason of the commission of the offense, in which event it is a felony of the first degree.

[Amended by Acts 1979, 66th Leg., p. 1216, ch. 588, § 2, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 1837, ch. 425, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 amendatory act provides:

"This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date."

Section 3 of the 1979 amendatory act provided:

"This Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act takes effect is governed by the law existing before the effective date, which law is continued in effect for this purpose as if this Act were not in force. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date."

**§ 28.03. Criminal Mischief**

(a) A person commits an offense if, without the effective consent of the owner:

(1) he intentionally or knowingly damages or destroys the tangible property of the owner; or

(2) he intentionally or knowingly tampers with the tangible property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person.

(b) An offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$5; or

(B) except as provided in Subdivision (4)(B) of this subsection, it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is \$5 or more but less than \$20;

(3) a Class A misdemeanor if the amount of pecuniary loss is \$20 or more but less than \$200;

(4) a felony of the third degree if:

(A) the amount of pecuniary loss is \$200 or more but less than \$10,000;

(B) regardless of the amount of pecuniary loss, the actor causes in whole or in part impairment or interruption of public communications, public transportation, public water, gas, or power supply, or other public service, or diverts, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for such purpose, any public communications, public water, gas, or power supply;

(C) regardless of the amount of pecuniary loss, the property is one or more head of cattle, horses, sheep, swine, or goats;

(D) regardless of the amount of pecuniary loss, the property was a fence used for the production of cattle, horses, sheep, swine, or goats; or

(E) regardless of the amount of pecuniary loss, the damage or destruction was inflicted by

branding one or more head of cattle, horses, sheep, swine, or goats.

(5) a felony of the second degree if the amount of the pecuniary loss is \$10,000 or more.

(c) For the purposes of this section, it shall be presumed that a person in whose name public communications, public water, gas, or power supply is or was last billed and who is receiving the economic benefit of said communication or supply, has knowingly tampered with the tangible property of the owner if the communication or supply has been:

(1) diverted from passing through a metering device; or

(2) prevented from being correctly registered by a metering device; or

(3) activated by any device installed to obtain public communications, public water, gas, or power supply without a metering device.

(d) The term public communication, public transportation, public water, gas, or power supply, or other public service shall mean, refer to, and include any such services subject to regulation by the Public Utility Commission of Texas or the Railroad Commission of Texas or any such services enfranchised by the State of Texas or any political subdivision thereof.

[Amended by Acts 1981, 67th Leg., p. 66, ch. 29, § 1, eff. Aug. 31, 1981.]

### CHAPTER 30. BURGLARY AND CRIMINAL TRESPASS

#### § 30.05. Criminal Trespass

(a) A person commits an offense if he enters or remains on property or in a building of another without effective consent and he:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

(1) "entry" means the intrusion of the entire body; and

(2) "notice" means:

(A) oral or written communication by the owner or someone with apparent authority to act for the owner;

(B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock; or

(C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(c) An offense under this section is a Class B misdemeanor unless it is committed in a habitation or the actor carries a deadly weapon on or about his person during the commission of the offense, in which event it is a Class A misdemeanor.

[Amended by Acts 1979, 66th Leg., p. 1114, ch. 530, § 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2385, ch. 596, § 1, eff. Sept. 1, 1981.]

Section 2 of the 1981 amendatory act provides:

"This Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act's effective date is governed by the law in existence at the time the offense was committed. That law is continued in effect for this purpose as if this Act were not in force. For the purpose of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurred on or after the effective date."

### CHAPTER 31. THEFT

Section

- 31.11. Tampering with Identification Numbers.  
31.12. Unauthorized Use of Television Decoding and Interception Device.  
31.13. Manufacture, Sale, or Distribution of Television Decoding and Interception Device.

#### § 31.01. Definitions

In this chapter:

[See Compact Edition, Volume 1 for text of (1) to (4)]

(5) "Appropriate" means:

(A) to bring about a transfer or purported transfer of title to or other nonpossessory interest in property, whether to the actor or another; or

(B) to acquire or otherwise exercise control over property other than real property.

[See Compact Edition, Volume 1 for text of (6) to (8)]

[Amended by Acts 1975, 64th Leg., p. 914, ch. 342, § 9, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

#### § 31.03. Theft

(a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

(b) Appropriation of property is unlawful if:

(1) it is without the owner's effective consent; or

(2) the property is stolen and the actor appropriates the property knowing it was stolen by another;

(c) For purposes of Subsection (b)(2) of this section:

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice.

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know

upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon's Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or recklessly;

(i) fails to record the name, address, and physical description or identification number of the seller or pledgor;

(ii) fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(iii) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements.

(4) for the purposes of Subparagraph (i) above, "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual.

(d) An offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than \$5;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is \$5 or more but less than \$20; or

(B) the value of the property stolen is less than \$5 and the defendant has previously been convicted of any grade of theft;

(3) a Class A misdemeanor if the value of the property stolen is \$20 or more but less than \$200;

(4) a felony of the third degree if:

(A) the value of the property stolen is \$200 or more but less than \$10,000, or the property is one or more head of cattle, horses, sheep, swine, or goats or any part thereof under the value of \$10,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave; or

(C) the value of the property stolen is less than \$200 and the defendant has been previously convicted two or more times of any grade of theft;

(5) a felony of the second degree if:

(A) regardless of the value, the property is combustible hydrocarbon natural or synthetic natural gas, crude petroleum oil, or equipment designed for use in exploration for or production of natural gas or crude petroleum oil;

(B) the value of the property stolen is \$10,000 or more; or

(C) regardless of the value, the property was unlawfully appropriated or attempted to be unlawfully appropriated by threat to commit a felony offense against the person or property of the person threatened or another or to withhold information about the location or purported location of a bomb, poison, or other harmful object that threatens to harm the person or property of the person threatened or another person.

[Amended by Acts 1975, 64th Leg., p. 914, ch. 342, § 10, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 937, ch. 349, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 849, ch. 298, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2065, ch. 455, § 1, eff. June 11, 1981.]

Acts 1981, 67th Leg., p. 849, ch. 298, § 2, and Acts 1981, 67th Leg., p. 2065, ch. 455, § 2, both provide:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

For saving provisions see note set out under Section 1.07.

Section 2 of the 1977 amendatory act provided:

"The provisions of Subsections (c)(3) and (4) shall not apply to the purchase or sale of property at a public sale commonly known as a neighborhood garage sale or community-wide flea market or First Monday Sale."

§ 31.04. Theft of Service

(a) A person commits theft of service if, with intent to avoid payment for service that he knows is provided only for compensation:

(1) he intentionally or knowingly secures performance of the service by deception, threat, or false token;

(2) having control over the disposition of services of another to which he is not entitled, he intentionally or knowingly diverts the other's services to his own benefit or to the benefit of another not entitled to them; or

(3) having control of personal property under a written rental agreement, he holds the property beyond the expiration of the rental period without the effective consent of the owner of the property, thereby depriving the owner of the property of its use in further rentals.

(b) For purposes of this section, intent to avoid payment is presumed if

(1) the actor absconded without paying for the service in circumstances where payment is ordinarily made immediately upon rendering of the service, as in hotels, restaurants, and comparable establishments; or

(2) the actor failed to return the property held under a rental agreement within 10 days after receiving notice demanding return.

(c) For purposes of Subsection (b)(2) of this section, notice shall be notice in writing, sent by registered or certified mail with return receipt requested or by telegram with report of delivery requested, and addressed to the actor at his address shown on the rental agreement.

(d) If written notice is given in accordance with Subsection (c) of this section, it is presumed that the

notice was received no later than five days after it was sent.

(e) An offense under this section is:

(1) a Class C misdemeanor if the value of the service stolen is less than \$5;

(2) a Class B misdemeanor if the value of the service stolen is \$5 or more but less than \$20;

(3) a Class A misdemeanor if the value of the service stolen is \$20 or more but less than \$200;

(4) a felony of the third degree if the value of the service stolen is \$200 or more but less than \$10,000;

(5) a felony of the second degree if the value of the service stolen is \$10,000 or more.

[Amended by Acts 1977, 65th Leg., p. 1138, ch. 429, § 1, eff. Aug. 29, 1977.]

### § 31.11. Tampering with Identification Numbers

(a) A person commits an offense if, without the effective consent of the owner:

(1) he knowingly or intentionally removes, alters, or obliterates the serial number or other permanent identification marking on tangible personal property other than a motor vehicle; or

(2) he possesses tangible personal property other than a motor vehicle knowing that the serial number or other permanent identification marking has been removed, altered, or obliterated.

(b) Property involved in a violation of this section may be treated as stolen for purposes of custody and disposition of the property.

(c) An offense under this section is a Class A misdemeanor.

[Added by Acts 1979, 66th Leg., p. 417, ch. 191, § 1, eff. Sept. 1, 1979.]

Section 3 of the 1979 Act provided:

"This Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act takes effect is governed by the law existing before the effective date, which law is continued in effect for this purpose as if this Act were not in force. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date."

### § 31.12. Unauthorized Use of Television Decoding and Interception Device

(a) A person commits an offense if, with the intent to intercept and decode a transmission by a subscription television service without the authorization of the provider of the service, the person intentionally or knowingly attaches to, causes to be attached to, or incorporates in a television set, video tape recorder, or other equipment designed to receive a television transmission a device that intercepts and decodes the transmission.

(b) "Subscription television service" in this section shall mean a service whereby television broadcast programs intended to be received in an intelligible form by members of the public only for a fee or charge are transmitted pursuant to the grant of subscription television authority by the Federal Communications Commission. The term shall not include cable television service or community antenna television service.

(c) An offense under this section is a Class B misdemeanor unless the actor committed the offense for remuneration, in which event it is a Class A misdemeanor.

[Added by Acts 1981, 67th Leg., p. 67, ch. 29, § 2, eff. Aug. 31, 1981.]

Section 3 of the 1981 Act provides:

"(a) A provider of subscription television service may bring an action to enjoin a violation or threatened violation of Section 31.12 or 31.13 of the Penal Code. A party bringing such an action shall be entitled to issuance of such an injunction upon a showing that a violation of Section 31.12 or 31.13 of the Penal Code has occurred or will occur. Irreparable injury, inadequate remedy at law, and probability of recovery need not be shown to prove a prima facie right to such an injunction.

"(b) The court shall award three times actual damages and reasonable attorney's fees to a prevailing plaintiff in an action under this section."

### § 31.13. Manufacture, Sale, or Distribution of Television Decoding and Interception Device

(a) A person commits an offense if the person for remuneration intentionally or knowingly manufactures, distributes, or sells, with an intent to aid an offense under Section 31.12 of this code, a device or a plan or part for a device that intercepts and decodes a transmission by a subscription television service.

(b) "Subscription television service" in this section shall mean a service whereby television broadcast programs intended to be received in an intelligible form by members of the public only for a fee or charge are transmitted pursuant to the grant of subscription television authority by the Federal Communications Commission. The term shall not include cable television service or community antenna television service.

(c) An offense under this section is a Class A misdemeanor.

[Added by Acts 1981, 67th Leg., p. 67, ch. 29, § 2, eff. Aug. 31, 1981.]

Injunction to prevent or halt violation under this section, see note under § 31.12.

## CHAPTER 32. FRAUD

### SUBCHAPTER D. OTHER DECEPTIVE PRACTICES

Section

32.49. Issuance of Checks Printed on Red Paper.

### SUBCHAPTER C. CREDIT

### § 32.33. Hindering Secured Creditors

(a) For purposes of this section:

(1) "Remove" means transport, without the effective consent of the secured party, from the state in which the property was located when the security interest or lien attached.

(2) "Security interest" means an interest in personal property or fixtures that secures payment or performance of an obligation.

(b) A person who has signed a security agreement creating a security interest in property or a mortgage or deed of trust creating a lien on property commits an offense if, with intent to hinder enforce-

ment of that interest or lien, he destroys, removes, conceals, encumbers, or otherwise harms or reduces the value of the property.

(c) For purposes of this section, a person is presumed to have intended to hinder enforcement of the security interest or lien if, when any part of the debt secured by the security interest or lien was due, he failed:

(1) to pay the part then due; and

(2) if the secured party had made demand, to deliver possession of the secured property to the secured party.

(d) Except as provided in Subsections (e) and (f) of this section, an offense under this section is a Class A misdemeanor.

(e) If the actor removes the property, the offense is a felony of the third degree.

(f) A person commits an offense if he transfers or otherwise disposes of secured property without the effective consent of the secured party and with intent to appropriate (as defined in Chapter 31 of this code) the interest of the secured party. An offense under this subsection is:

(1) a Class A misdemeanor if the unpaid balance remaining on the secured indebtedness is less than \$10,000;

(2) a felony of the third degree if the unpaid balance remaining on the secured indebtedness is \$10,000 or more.

[Amended by Acts 1979, 66th Leg., p. 501, ch. 232, § 1, eff. Sept. 1, 1979.]

Section 2 of the 1979 amendatory act provided:

"This Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act's effective date is governed by the law existing before this Act's effective date, which law is continued in effect for this purpose as if this Act were not in force. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date."

SUBCHAPTER D. OTHER DECEPTIVE PRACTICES

§ 32.42. Deceptive Business Practices

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) An offense under Subsections (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6) of this section is:

(1) a Class C misdemeanor if the actor commits an offense with criminal negligence and if he has not previously been convicted of a deceptive business practice; or

(2) a Class A misdemeanor if the actor commits an offense intentionally, knowingly, recklessly or if he has been previously convicted of a Class B or C misdemeanor under this section.

(d) An offense under Subsections (b)(7), (b)(8), (b)(9), (b)(10), (b)(11), and (b)(12) is a Class A misdemeanor.

[Amended by Acts 1975, 64th Leg., p. 1350, ch. 508, §§ 1, 2, eff. Sept. 1, 1975.]

§ 32.49. Issuance of Checks Printed on Red Paper

(a) A person commits an offense if he issues a check or similar sight order for payment of money printed on dark red or other colored paper that prevents reproduction of an image of the order by microfilming or other similar reproduction equipment, knowing that the colored paper prevents reproduction.

(b) An offense under this section is a Class A misdemeanor.

[Added by Acts 1979, 66th Leg., p. 865, ch. 389, § 1, eff. Sept. 1, 1979.]

TITLE 8. OFFENSES AGAINST PUBLIC ADMINISTRATION

CHAPTER 36. BRIBERY AND CORRUPT INFLUENCE

§ 36.01. Definitions

In this chapter:

(1) "Coercion" means a threat, however communicated:

(A) to commit any offense;

(B) to inflict bodily injury on the person threatened or another;

(C) to accuse any person of any offense;

(D) to expose any person to hatred, contempt, or ridicule;

(E) to harm the credit or business repute of any person; or

(F) to take or withhold action as a public servant, or to cause a public servant to take or withhold action.

(2) "Custody" means:

(A) detained or under arrest by a peace officer; or

(B) under restraint by a public servant pursuant to an order of a court.

(3) "Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant authorized by law to take statements under oath.

(4) "Party official" means a person who holds any position or office in a political party, whether by election, appointment, or employment.

(5) "Pecuniary benefit" means money, property, commercial interests, or other similar benefit the primary significance of which is economic gain; but does not include contributions made and reported in accordance with law.

(6) "Vote" means to cast a ballot in an election regulated by law.

[Amended by Acts 1975, 64th Leg., p. 915, ch. 342, § 11, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**§ 36.02. Bribery**

(a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:

(1) any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

(2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

(3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official.

(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.

(c) An offense under this section is a felony of the second degree.

[Amended by Acts 1975, 64th Leg., p. 915, ch. 342, § 11, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**§ 36.07. Compensation for Past Official Behavior**

(a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer any pecuniary benefit on a public servant for the public servant's having exercised his official powers or performed his official duties in favor of the actor or another.

(b) A public servant commits an offense if he intentionally or knowingly solicits, accepts, or agrees to accept any pecuniary benefit for having exercised his official powers or performed his official duties in favor of another.

(c) An offense under this section is a Class A misdemeanor.

[Amended by Acts 1975, 64th Leg., p. 915, ch. 342, § 11, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**§ 36.08. Gift to Public Servant by Person Subject to His Jurisdiction**

(a) A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.

(b) A public servant in an agency having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows to be in his custody or the custody of his agency.

(c) A public servant in an agency carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his agency.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

(f) A public servant who is a member of or employed by the legislature or by an agency of the legislature commits an offense if he solicits, accepts, or agrees to accept any pecuniary benefit from any person.

(g) An offense under this section is a Class A misdemeanor.

[Amended by Acts 1975, 64th Leg., p. 915, ch. 342, § 11, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**§ 36.10. Non-Applicable**

Sections 36.07 (Compensation for Past Official Behavior), 36.08 (Gift to Public Servant), and 36.09 (Offering Gift to Public Servant) of this code do not apply to:

(1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

(2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

(3) an honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities if:

(A) not more than one honorarium is received from the same person in a calendar year; and

(B) not more than one honorarium is received for the same service; and

(C) the value of the honorarium does not exceed \$250 exclusive of reimbursement for travel, food, and lodging expenses incurred by the recipient in performance of the services;

(D) the honorarium, regardless of amount, is reported in the financial statement filed under Chapter 421, Acts of the 63rd Legislature, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), if the recipient is required to file a financial statement under that Act; and

(E) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;

(4) a benefit consisting of food, lodging, transportation, or entertainment accepted as a guest and reported as required by law; or

(5) a benefit to a public servant required to file a financial statement under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), that is derived from a function in honor or appreciation of the recipient if:

(A) the benefit and the source of any benefit in excess of \$20 is reported in the financial statement; and

(B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision.

(6) Subsection (5) of Section 36.10 of this Act does not apply to those public servants designated in Section 36.08(f) of this Act 30 days prior to or during a regular session of the Texas Legislature. [Amended by Acts 1975, 64th Leg., p. 915, ch. 342, § 11, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2707, ch. 738, § 1, eff. Jan. 1, 1982.]

For saving provisions see note set out under Section 1.07.

**CHAPTER 38. OBSTRUCTING GOVERNMENTAL OPERATION**

Section 38.14. Preventing Execution of Civil Process.

**§ 38.06. Compounding**

(a) A complaining witness commits an offense if, after criminal proceedings have been instituted, he solicits, accepts, or agrees to accept any benefit in consideration of abstaining from, discontinuing, or delaying the prosecution of another for an offense.

(b) It is a defense to prosecution under this section that the benefit received was:

(1) reasonable restitution for damages suffered by the complaining witness as a result of the offense; and

(2) the result of an agreement negotiated with the assistance or acquiescence of an attorney for the state who represented the state in the case.

(c) An offense under this section is a Class A misdemeanor.

[Amended by Acts 1981, 67th Leg., p. 2660, ch. 716, § 1, eff. Sept. 1, 1981.]

**§ 38.14. Preventing Execution of Civil Process**

(a) A person commits an offense if he intentionally or knowingly prevents the execution of any process in a civil cause.

(b) It is an exception to the application of this section that the actor evaded service of process by avoiding detection.

(c) An offense under this section is a Class C misdemeanor.

[Added by Acts 1977, 65th Leg., p. 1136, ch. 427, § 1, eff. Aug. 29, 1977.]

**CHAPTER 39. ABUSE OF OFFICE**

Section 39.021. Violations of the Civil Rights of a Prisoner.  
39.04. Public Disclosure by Public Servant.

**§ 39.021. Violations of the Civil Rights of a Prisoner**

(a) A peace officer or a jailer or guard employed at a municipal or county jail or by the Texas Department of Corrections commits an offense if he:

(1) intentionally subjects a person in his custody to bodily injury knowing his conduct is unlawful;

(2) willfully denies or impedes a person in his custody in the exercise or enjoyment of any right, privilege, or immunity knowing his conduct is unlawful.

(b) An offense under this section is a felony of the third degree. An offense under this section is a felony of the second degree if serious bodily injury occurs or a felony of the first degree if death occurs.

(c) This section shall not preclude prosecution for any other offense set out in this code.

(d) The Attorney General of Texas shall have concurrent jurisdiction with law enforcement agencies to investigate violations of this statute involving serious bodily injury or death.

[Added by Acts 1979, 66th Leg., p. 1383, ch. 618, § 1, eff. Sept. 1, 1979.]

**§ 39.04. Public Disclosure by Public Servant**

(a) For purposes of this section:

(1) "Public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if he has not yet qualified for office or assumed his duties:

(A) an officer of government; or

(B) a candidate for nomination or election to public office.

(2) "Public disclosure" means the filing of an affidavit with the county clerks of the counties wherein the property to be acquired is located and wherein the public servant resides within 10 days prior to the acquisition, setting forth the following:

(A) name of the public servant;  
 (B) the public office, public title, or job designation with which the public servant is connected;

(C) a full and complete description of the property;

(D) a full description of the nature, type, and amount of interest in the property, including but not limited to the percent ownership interest in the property;

(E) the date the public servant acquired an interest in the property;

(F) a verification by the public servant, reading, "I do solemnly swear that the above and foregoing statement, filed herewith, is of my own personal knowledge in all things true and correct, and fully shows the information required to be reported by me pursuant to Section 39.04, Texas Penal Code"; and

(G) an acknowledgement of the same type as required for the recording of deeds in the deed records of the county clerk's office.

(3) "Property" means both real and personal.

(4) "Acquired" means by purchase or condemnation.

(5) "Public funds" mean any funds collected by or through any government.

(b) A public servant commits an offense if he fails to make public disclosure of any legal or equitable interest he may have in property which is acquired with public funds provided such public servant has actual notice of the acquisition or intended acquisition.

(c) If the public servant fails to file the affidavit provided for herein within the time period prescribed, his intent to commit the offense provided herein shall be presumed.

(d) An offense under this section is a Class A misdemeanor.

[Added by Acts 1975, 64th Leg., p. 1361, ch. 518, § 1, eff. Sept. 1, 1975.]

Section 2 of the 1975 Act provided:

"If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are declared to be severable."

## TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY

### CHAPTER 42. DISORDERLY CONDUCT AND RELATED OFFENSES

Section

42.12. Repealed.

42.13. Interference with Emergency Communication.

#### § 42.01. Disorderly Conduct

(a) A person commits an offense if he intentionally or knowingly:

[See Compact Edition, Volume 1 for text of (a)(1) to (a)(7)]

(8) discharges a firearm in a public place other than a public road;

(9) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

(10) discharges a firearm on or across a public road; or

(11) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act.

[See Compact Edition, Volume 1 for text of (b) and (c)]

(d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(8) or (a)(9) of this section, in which event it is a Class B misdemeanor; and further provide that a person who violates Subsection (a)(10) is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200, on a second conviction is punishable by a fine of not less than \$200 nor more than \$500, and on a third or subsequent conviction is punishable by a fine of \$500.

[Amended by Acts 1977, 65th Leg., p. 181, ch. 89, § 1, eff. Aug. 29, 1977.]

#### § 42.06. False Alarm or Report

(a) A person commits an offense if he knowingly initiates, communicates or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that he knows is false or baseless and that would ordinarily:

(1) cause action by an official or volunteer agency organized to deal with emergencies;

(2) place a person in fear of imminent serious bodily injury; or

(3) prevent or interrupt the occupation of a building, room, place of assembly, place to which the public has access, or aircraft, automobile, or other mode of conveyance.

(b) An offense under this section is a Class A misdemeanor unless the false report is of an emergency involving public communications, public transportation, public water, gas, or power supply or other public service, in which event the offense is a felony of the third degree.

[Amended by Acts 1979, 66th Leg., p. 1114, ch. 530, § 4, eff. Aug. 27, 1979.]

#### § 42.11. Cruelty to Animals

(a) A person commits an offense if he intentionally or knowingly:

(1) tortures or seriously overworks an animal;

(2) fails unreasonably to provide necessary food, care, or shelter for an animal in his custody;

(3) abandons unreasonably an animal in his custody;

(4) transports or confines an animal in a cruel manner;

(5) kills, injures, or administers poison to an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent; or

(6) causes one animal to fight with another.

[See Compact Edition, Volume 1 for text of (b) to (d)]

[Amended by Acts 1975, 64th Leg., p. 917, ch. 342, § 12, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**§ 42.12. Repealed by Acts 1975, 64th Leg., p. 918, ch. 342, § 16, eff. Sept. 1, 1975**

For saving provisions see note set out under Section 1.07.

**§ 42.13. Interference with Emergency Communication**

(a) A person commits an offense if the person intentionally, knowingly, recklessly, or with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over a citizen's band radio channel, the purpose of which communication is to inform or inquire about an emergency.

(b) In this section, "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person transmitting the communication to be in imminent danger of serious bodily injury or in which property is or is reasonably believed by the person transmitting the communication to be in imminent danger of damage or destruction.

(c) An offense under this section is a Class B misdemeanor unless, as a result of the commission of the offense, serious bodily injury or property loss in excess of \$1,000 occurs, in which event the offense is a felony of the third degree.

[Added by Acts 1979, 66th Leg., p. 806, ch. 365, § 1, eff. Aug. 27, 1979.]

**CHAPTER 43. PUBLIC INDECENCY**

**SUBCHAPTER B. OBSCENITY**

Section

43.25. Sexual Performance by a Child.

**SUBCHAPTER A. PROSTITUTION**

**§ 43.01. Definitions**

In this subchapter:

[See Compact Edition, Volume 1 for text of (1) and (2)]

(3) "Sexual contact" means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

[See Compact Edition, Volume 1 for text of (4) and (5)]

[Amended by Acts 1979, 66th Leg., p. 373, ch. 168, § 2, eff. Aug. 27, 1979.]

**§ 43.02. Prostitution**

(a) A person commits an offense if he knowingly:

(1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or

[See Compact Edition, Volume 1 for text of (a)(2)]

(b) An offense is established under Subsection (a)(1) of this section whether the actor is to receive or pay a fee. An offense is established under Subsection (a)(2) of this section whether the actor solicits a person to hire him or offers to hire the person solicited.

(c) An offense under this section is a Class B misdemeanor, unless the actor has been convicted previously under this section, in which event it is a Class A misdemeanor.

[Amended by Acts 1977, 65th Leg., p. 757, ch. 286, § 1, eff. May 27, 1977.]

**§ 43.03. Promotion of Prostitution**

(a) A person commits an offense if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she knowingly:

(1) receives money or other property pursuant to an agreement to participate in the proceeds of prostitution; or

(2) solicits another to engage in sexual conduct with another person for compensation.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1977, 65th Leg., p. 758, ch. 287, § 1, eff. May 27, 1977.]

**SUBCHAPTER B. OBSCENITY**

**§ 43.21. Definitions**

(a) In this subchapter:

(1) "Obscene" means material or a performance that:

(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

(2) "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.

(3) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6) "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(7) "Obscene device" means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(b) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

[Amended by Acts 1975, 64th Leg., p. 372, ch. 163, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1974, ch. 778, § 1, eff. Sept. 1, 1979.]

Sections 3 and 4 of the 1979 amendatory act provided:

"Sec. 3. If any portion of this Act is declared unlawful by a court of competent jurisdiction, this declaration does not invalidate any other portions of this Act.

"Sec. 4. This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date of this Act, and Sections 43.21 and 43.23, Penal Code, as in existence before the effective date of this Act, are continued in effect for this purpose as if this Act were not in effect. For the purpose of this section, an offense is committed before the effective date of this Act if any element of the offense is committed before the effective date."

### § 43.23. Obscenity

(a) A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.

(b) An offense under Subsection (a) of this section is a felony of the third degree.

(c) A person commits an offense if, knowing its content and character, he:

(1) promotes or possesses with intent to promote any obscene material or obscene device; or

(2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(d) An offense under Subsection (c) of this section is a Class A misdemeanor.

(e) A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

(f) A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same.

(g) This section does not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct otherwise prescribed<sup>1</sup> by this section when the possession, participation, or conduct occurs in the course of law enforcement activities.

[Amended by Acts 1979, 66th Leg., p. 1975, ch. 778, § 2, eff. Sept. 1, 1979.]

<sup>1</sup> So in enrolled bill; probably should read "proscribed".  
For severability of 1979 amendatory act and application of act to offenses committed before its effective date, see note under § 43.21.

### § 43.25. Sexual Performance by a Child

(a) In this section:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than 17 years of age.

(2) "Obscene sexual performance" means any performance that includes sexual conduct by a child younger than 17 years of age of any material that is obscene, as that term is defined by Section 43.21 of this code.

(3) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals.

(4) "Performance" means any play, motion picture, photograph, dance, or other visual representation that is exhibited before an audience.

(5) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(6) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which the persons engaging in the conduct exhibit any uncovered portion of the breasts, genitals, or buttocks.

(7) "Deviate sexual intercourse" has the meaning defined by Section 43.01 of this code.

(8) "Sado-masochistic abuse" has the meaning defined by Section 43.24 of this code.

(b) A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 17 years of age to engage in a sexual performance. A parent or legal guardian or custodian of a child younger than 17 years of age commits an offense if he consents to the participation by the child in a sexual performance.

(c) An offense under Subsection (b) of this section is a felony of the second degree.

(d) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes an obscene performance that includes sexual conduct by a child younger than 17 years of age.

(e) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 17 years of age.

(f) An offense under Subsection (d) or (e) of this section is a felony of the third degree.

(g) It is an affirmative defense to a prosecution under this section that the defendant, in good faith, reasonably believed that the person who engaged in the sexual conduct was 17 years of age or older.

(h) When it becomes necessary for the purposes of this section to determine whether a child who participated in sexual conduct was younger than 17 years of age, the court or jury may make this determination by any of the following methods:

- (1) personal inspection of the child;
- (2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;
- (3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;
- (4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or
- (5) any other method authorized by law or by the rules of evidence at common law.

[Added by Acts 1977, 65th Leg., p. 1035, ch. 381, § 1, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 1976, ch. 779, § 1, eff. Sept. 1, 1979.]

Section 2 of the 1979 amendatory act provided:

"This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence when the offense was committed, and Section 43.25, Penal Code, as in existence before the effective date of this Act, is continued in effect for this purpose as if this Act were not in effect. For the purpose of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date."

**TITLE 10. OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS**

**CHAPTER 46. WEAPONS**

**§ 46.01. Chapter Definitions**

In this chapter:

[See Compact Edition, Volume 1 for text of (1) to (5)]

- (6) "Illegal knife" means a:
  - (A) knife with a blade over five and one-half inches;
  - (B) a hand instrument designed to cut or stab another by being thrown;

- (C) dagger, including but not limited to a dirk, stiletto, and poniard;
- (D) bowie knife;
- (E) sword; or
- (F) spear.

[See Compact Edition, Volume 1 for text of (7) to (11)]

[Amended by Acts 1975, 64th Leg., p. 917, ch. 342, § 13, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

**§ 46.03. Non-Applicable**

The provisions of Section 46.02 of this code do not apply to a person:

- (1) in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution;
- (2) on his own premises or premises under his control unless he is an employee or agent of the owner of the premises and his primary responsibility is to act in the capacity of a private security guard to protect persons or property, in which event he must comply with Subdivision (5) of this section;
- (3) traveling;
- (4) engaging in lawful hunting, fishing, or other sporting activity if the weapon is a type commonly used in the activity;
- (5) who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:
  - (A) he is engaged in the performance of his duties as a security officer or traveling to and from his place of assignment;
  - (B) he is wearing a distinctive uniform; and
  - (C) the weapon is in plain view; or
- (6) who is a peace officer.

[Amended by Acts 1975, 64th Leg., p. 109, ch. 49, § 1, eff. April 15, 1975; Acts 1975, 64th Leg., p. 918, ch. 342, § 14, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1330, ch. 494, § 2; Acts 1977, 65th Leg., p. 1879, ch. 746, § 26, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 2273, ch. 552, § 1, eff. Aug. 31, 1981.]

For saving provisions of Acts 1975, 64th Leg., ch. 342, see note set out under Section 1.07.

**§ 46.06. Prohibited Weapons**

(a) A person commits an offense if he intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

- (1) an explosive weapon;
- (2) a machine gun;
- (3) a short-barrel firearm;
- (4) a firearm silencer;
- (5) a switchblade knife; or
- (6) knuckles.

(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the

performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a penal institution.

(c) It is a defense to prosecution under this section that the actor's possession was pursuant to registration pursuant to the National Firearms Act, as amended.<sup>1</sup>

(d) It is an affirmative defense to prosecution under this section that the actor's conduct was incidental to dealing with a switchblade knife, springblade knife, or short-barrel firearm solely as an antique or curio.

(e) An offense under this section is a felony of the second degree unless it is committed under Subsection (a)(5) or (a)(6) of this section, in which event, it is a Class A misdemeanor.

[Amended by Acts 1975, 64th Leg., p. 918, ch. 342, § 15, eff. Sept. 1, 1975.]

<sup>1</sup> 26 U.S.C.A. § 5801 et seq.

For saving provisions see note set out under Section 1.07.

## CHAPTER 47. GAMBLING

Section

47.10. Bingo.

### § 47.02. Gambling

(a) A person commits an offense if he:

(1) makes a bet on the partial or final result of a game or contest or on the performance of a participant in a game or contest;

(2) makes a bet on the result of any political nomination, appointment, or election or on the degree of success of any nominee, appointee, or candidate; or

(3) plays and bets for money or other thing of value at any game played with cards, dice, or balls.

(b) It is a defense to prosecution under this section that:

(1) the actor engaged in gambling in a private place;

(2) no person received any economic benefit other than personal winnings; and

(3) except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.

(c) It is a defense to prosecution under this section that the actor reasonably believed that the conduct was permitted under the Bingo Enabling Act.<sup>1</sup>

(d) An offense under this section is a Class C misdemeanor.

[Amended by Acts 1981, 67th Leg., 1st C.S., p. 101, ch. 11, § 43, eff. Nov. 10, 1981.]

<sup>1</sup> Civil Statutes, art. 179d.

### § 47.04. Keeping a Gambling Place

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) It is an affirmative defense to prosecution under this section that the gambling place is aboard

an ocean-going vessel that enters the territorial waters of this state to call at a port in this state in the course of a bona fide voyage to or from a foreign port if:

(1) before the vessel enters the territorial waters of this state, the district attorney or, if there is no district attorney, the county attorney for the county in which the port is located receives notice of the existence of the gambling place on board the vessel and of the anticipated dates on which the vessel will enter and leave the territorial waters of this state;

(2) the portion of the vessel that is used as a gambling place is locked or otherwise physically secured in a manner that makes the area inaccessible to anyone other than the master and crew of the vessel at all times while the vessel is in the territorial waters of this state;

(3) no person other than the master and crew of the vessel is permitted to enter or view the gambling place while the vessel is in the territorial waters of this state; and

(4) the gambling place is not used for gambling or other gaming purposes while the vessel is in the territorial waters of this state.

(d) An offense under this section is a felony of the third degree.

[Amended by Acts 1977, 65th Leg., p. 667, ch. 251, § 1, eff. Aug. 29, 1977.]

### § 47.06. Possession of Gambling Device or Equipment

[See Compact Edition, Volume 1 for text of (a) and (b)]

Text of subsec. (c) added by Acts 1977, 65th Leg., p. 668, ch. 251, § 2

(c) It is an affirmative defense to prosecution under this section that the device or equipment is aboard an ocean-going vessel that enters the territorial waters of this state to call at a port in this state in the course of a bona fide voyage to or from a foreign port if:

(1) before the vessel enters the territorial waters of this state, the district attorney or, if there is no district attorney, the county attorney for the county in which the port is located receives notice of the existence of the device or equipment on board the vessel and of the anticipated dates on which the vessel will enter and leave the territorial waters of this state;

(2) the portion of the vessel in which the device or equipment is located is locked or otherwise physically secured in a manner that makes the area inaccessible to anyone other than the master and crew of the vessel at all times while the vessel is in the territorial waters of this state;

(3) no person other than the master and crew of the vessel is permitted to enter or view the portion of the vessel in which the device or equipment is located while the vessel is in the territorial waters of this state; and

(4) the device or equipment is not used for gambling or other gaming purposes while the vessel is in the territorial waters of this state.

*Text of subsec. (c) added by Acts 1977, 65th Leg., p. 1865, ch. 741, § 1*

(c) It is a defense to prosecution under this section that the gambling device was manufactured prior to 1940 and not used for gambling, gambling promotion, or keeping a gambling place under Sections 47.02, 47.03, and 47.04, respectively, of this code, and that the party possessing same:

(1) within 30 days after coming into possession of same or the effective date of this amendment, whichever last occurs, furnished the following information to the sheriff of the county wherein such device is to be maintained:

(A) the name and address of the party possessing same

(B) the name of the manufacturer, date of manufacture, and serial number of the device, if available, and

(2) within 30 days of the transfer of such device advises the sheriff of the county to whom the information provided for in item (1) above was furnished of the name and address of the transferee.

(d) An offense under this section is a felony of the third degree.

[Amended by Acts 1977, 65th Leg., p. 668, ch. 25, § 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1865, ch. 741, § 1, eff. Aug. 29, 1977.]

**§ 47.07. Possession of Gambling Paraphernalia**

[See Compact Edition, Volume 1 for text of (a)]

(b) It is an affirmative defense to prosecution under this section that the gambling paraphernalia is aboard an ocean-going vessel that enters the territorial waters of this state to call at a port in this state in the course of a bona fide voyage to or from a foreign port if:

(1) before the vessel enters the territorial waters of this state, the district attorney or, if there is no district attorney, the county attorney for the county in which the port is located receives notice of the existence of the gambling paraphernalia on board the vessel and of the anticipated dates on which the vessel will enter and leave the territorial waters of this state;

(2) the portion of the vessel in which the gambling paraphernalia is located is locked or otherwise physically secured in a manner that makes the area inaccessible to anyone other than the master and crew of the vessel at all times while the vessel is in the territorial waters of this state;

(3) no person other than the master and crew of the vessel is permitted to enter or view the portion of the vessel in which the gambling paraphernalia is located while the vessel is in the territorial waters of this state; and

(4) the gambling paraphernalia is not used for gambling or other gaming purposes while the vessel is in the territorial waters of this state.

(c) An offense under this section is a Class A misdemeanor.

(d) The district or county attorney shall not be required to have a search warrant or subpoena to enter the vessel to inspect the gambling paraphernalia.

[Amended by Acts 1977, 65th Leg., p. 668, ch. 251, § 3, eff. Aug. 29, 1977.]

**§ 47.10. Bingo**

It is a defense to prosecution for an offense under this chapter that the conduct was authorized under the Bingo Enabling Act.<sup>1</sup>

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 11, § 44, eff. Nov. 10, 1981.]

<sup>1</sup> Civil Statutes, art. 179d.

**CHAPTER 48. CONDUCT AFFECTING PUBLIC HEALTH**

**§ 48.01. Smoking Tobacco**

(a) A person commits an offense if he is in possession of a burning tobacco product or smokes tobacco in a facility of a public primary or secondary school or an elevator, enclosed theater or movie house, library, museum, hospital, transit system bus, or intrastate bus, as defined by Section 4(b) of the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), plane, or train which is a public place.

(b) It is a defense to prosecution under this section that the conveyance or public place in which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such conveyance and/or public place and that an offense is punishable by a fine not to exceed \$200.

(c) All conveyances and public places set out in Subsection (a) of Section 48.01 shall be equipped with facilities for extinguishment of smoking materials and it shall be a defense to prosecution under this section if the conveyance or public place within which the offense takes place is not so equipped.

(d) It is an exception to the application of Subsection (a) if the person is in possession of the burning tobacco product or smokes tobacco exclusively within an area designated for smoking tobacco or as a participant in an authorized theatrical performance.

(e) An area designated for smoking tobacco on a transit system bus or intrastate plane or train must also include the area occupied by the operator of the transit system bus, plane, or train.

(f) An offense under this section is punishable as a Class C misdemeanor.

[Acts 1975, 64th Leg., p. 744, ch. 290, § 1, eff. Sept. 1, 1975.]

Section 2 of the 1975 Act provided:

"The provisions of this Act shall not preempt any ordinance adopted by a government entity now or in the future which prohibits the possession of lighted tobacco products or prohibits the smoking of tobacco within the jurisdiction of said governmental entity."

## TITLE 11. ORGANIZED CRIME

### CHAPTER 71. ORGANIZED CRIME

#### Section

- 71.01. Definitions.
- 71.02. Engaging in Organized Criminal Activity.
- 71.03. Defenses Excluded.
- 71.04. Testimonial Immunity.
- 71.05. Renunciation Defense.

#### § 71.01. Definitions

In this chapter,

(a) "combination" means five or more persons who collaborate in carrying on criminal activities, although:

- (1) participants may not know each other's identity;
- (2) membership in the combination may change from time to time; and
- (3) participants may stand in a wholesaler-retailer or other arm's-length relationship in illicit distribution operations.

(b) "Conspires to commit" means that a person agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense and that person and one or more of them perform an overt act in pursuance of the agreement. An agreement constituting conspiring to commit may be inferred from the acts of the parties.

[Added by Acts 1977, 65th Leg., p. 922, ch. 346, § 1, eff. June 10, 1977.]

#### § 71.02. Engaging in Organized Criminal Activity

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination, he commits or conspires to commit one or more of the following:

- (1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, or forgery;
- (2) any felony gambling offense;
- (3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- (4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- (5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same; or

(7) any unlawful employment, authorization, or inducing of a child younger than 17 years of age in an obscene sexual performance.

(b) Except as provided in Subsection (c) of this section, an offense under this section is one category higher than the most serious offense listed in Subdivisions (1) through (7) of Subsection (a) of this section that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a felony of the third degree, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree.

(c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subdivisions (1) through (7) of Subsection (a) of this section that the person conspired to commit.

[Added by Acts 1977, 65th Leg., p. 922, ch. 346, § 1, eff. June 10, 1977. Amended by Acts 1981, 67th Leg., p. 2373, ch. 587, §§ 1 to 3, eff. Sept. 1, 1981.]

Section 6 of the 1981 amendatory act provides:

"This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence when the offense was committed, and Section 71.02, Penal Code, as in existence before the effective date of this Act, is continued in force for this purpose as if this Act were not in force. For the purpose of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date."

#### § 71.03. Defenses Excluded

It is no defense to prosecution under Section 71.02 of this code that:

- (1) one or more members of the combination are not criminally responsible for the object offense;
- (2) one or more members of the combination have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are immune from prosecution;
- (3) a person has been charged with, acquitted, or convicted of any offense listed in Subsection (a) of Section 71.02 of this code; or
- (4) once the initial combination of five or more persons is formed there is a change in the number or identity of persons in the combination as long as two or more persons remain in the combination and are involved in a continuing course of conduct constituting an offense under this chapter.

[Added by Acts 1977, 65th Leg., p. 922, ch. 346, § 1, eff. June 10, 1977.]

#### § 71.04. Testimonial Immunity

(a) A party to an offense under this chapter may be required to furnish evidence or testify about the offense.

(b) No evidence or testimony required to be furnished under the provisions of this section nor any information directly or indirectly derived from such evidence or testimony may be used against the witness in any criminal case, except a prosecution for aggravated perjury or contempt.

[Added by Acts 1977, 65th Leg., p. 922, ch. 346, § 1, eff. June 10, 1977.]

## § 71.05. Renunciation Defense

(a) It is an affirmative defense to prosecution under Section 71.02 of this code that under circumstances manifesting a voluntary and complete renunciation of his criminal objective the actor withdrew from the combination before commission of an offense listed in Subdivisions (1) through (7) of Subsection (a) of Section 71.02 of this code and took further affirmative action that prevented the commission of the offense.

(b) Renunciation is not voluntary if it is motivated in whole or in part:

(1) by circumstances not present or apparent at the inception of the actor's course of conduct that increase the probability of detection or apprehension or that make more difficult the accomplishment of the objective; or

(2) by a decision to postpone the criminal conduct until another time or to transfer the criminal act to another but similar objective or victim.

(c) Evidence that the defendant withdrew from the combination before commission of an offense listed in Subdivisions (1) through (7) of Subsection (a) of Section 71.02 of this code and made substantial effort to prevent the commission of an offense listed in Subdivisions (1) through (7) of Subsection (a) of Section 71.02 of this code shall be admissible as mitigation at the hearing on punishment if he has been found guilty under Section 71.02 of this code, and in the event of a finding of renunciation under this subsection, the punishment shall be one grade lower than that provided under Section 71.02 of this code.

[Added by Acts 1977, 65th Leg., p. 922, ch. 346, § 1, eff. June 10, 1977. Amended by Acts 1981, 67th Leg., p. 2374, ch. 587, §§ 4, 5, eff. Sept. 1, 1981.]

INDEX TO  
PENAL CODE

---

References are to Sections

---

**ACTIONS AND PROCEEDINGS**

Bribery, 36.02.

**ADMINISTRATIVE LAW AND PROCEDURE**

Bribery, 36.02.

**ADOPTION**

Sale or purchase of children, 25.06.

**AFFIDAVITS**

Public disclosure, property of public servant, acquisition with public funds, 39.04.

**AFFIRMATIVE DEFENSES**

Defenses, this index.

**AGE**

Rape, aggravated rape, 21.03.  
Sexual abuse, aggravated sexual abuse, 21.05.

**AGED PERSONS**

Personal injuries, 22.04.

**AGGRAVATED ASSAULT**

Organized crime, 71.02.

**AGGRAVATED KIDNAPPING**

Organized crime, 71.02.

**AGGRAVATED ROBBERY**

Organized crime, 71.02.

**AIRPLANES**

Smoking, 48.01.

**ALCOHOLICS AND ALCOHOLISM**

Children and minors, driving under influence, 8.07.

**ANTIQUE GAMBLING DEVICES**

Possession, defense, information to sheriff, 47.06.

**APPROPRIATE**

Defined, theft, 31.01.

**ARSON**

Motor vehicles, 28.01, 28.02.  
Organized crime, 71.02.

**ASSAULT AND BATTERY**

Medical treatment, 22.01.  
Participants in a court proceeding, assault against, 22.02, 22.03.  
Rape, aggravated rape, 21.03.  
Schoolteachers, assault upon, 22.01.  
Sexual abuse, aggravated, 21.05.

**ASSOCIATIONS AND SOCIETIES**

Criminal responsibility, 7.22.

**ATTEMPTS**

Aggravated offenses, 15.01.

**ATTORNEYS**

Children, sale or purchase, 25.06.

**BATTERY**

Assault and Battery, generally, this index.

**BINGO**

Gambling, defense, 47.02, 47.10.

**BRIBERY AND CORRUPTION**

Application of law, 36.10.  
Exclusions, 36.10.  
Honorariums, public servants, exemption, 36.10.  
Pecuniary benefits, defined, 36.01.  
Public servants, gifts, 36.08.

**BURGLARY**

Organized crime, 71.02.

**BUSES**

Smoking, 48.01.

**BUSINESS AND COMMERCE**

Manufacturers and Manufacturing, generally, this index.

**CAPITAL OFFENSES**

Children and minors, 8.07.

**CHARACTER AND REPUTATION**

Sexual offenses, evidence, 21.13.

**CHECKS**

Issuance on red paper, 32.49.

**CHILDREN AND MINORS**

Capital offenses, punishment, 8.07.  
Criminal responsibility, age affecting, 8.07.  
Driving under influence of alcoholic drugs, 8.07.  
Harboring runaway child, 25.07.  
Obscenity, sexual performance by, 43.25.  
Organized crime, sexual offenses, 71.02.  
Personal injuries, 22.04.  
Runaway child, harboring, 25.07.  
Sale or purchase, 25.06.  
Sexual offenses, organized crime, 71.02.  
Sexual performance by children, 43.25.  
Solicitation, 25.06.

**CIGARS AND CIGARETTES**

Smoking in public places, 48.01.

**CITIZENS BAND RADIO**

Emergency communications, interference with, 42.13.

**CIVIL PROCESS**

Preventing execution, 38.14.

**CIVIL RIGHTS**

Prisoners, violations, 39.021.

**CLUB**

Private security guards, unlawful carrying, 46.03.

**COMMERCIAL PAPER**

Checks, issuance on red paper, 32.49.

**COMMUNICATIONS**

Criminal mischief, 28.03.  
Emergency communications, interference with, 42.13.  
False alarms or reports, 42.06.  
Interception, unlawful interception, 16.02.  
Mischief, criminal mischief, 28.03.

**CONSPIRACY**

Organized crime, 71.01 et seq.

**CONTROLLED SUBSTANCES**

Organized crime, 71.02.

**CONVALESCENT HOMES**

Assault, 22.01.

**CORPORATIONS**

Defined, 1.07.  
Notice of conviction, 12.51.

**COUNTY JAILS**

Prisoners civil rights, violations, 39.021.

**COVERT ENTRIES**

Wire or oral communications, interception, 16.02.

**DAMAGES**

Criminal mischief, 28.03.

**DANCING**

Obscenity, 43.21 et seq.

**DEADLY ASSAULT ON PARTICIPANTS IN A COURT PROCEEDING**

Generally, 22.03.

**DECODING DEVICES**

Television, 31.12, 31.13.

**DEFENSES**

Affirmative defenses,  
Indecency with children, 21.11.

# INDEX TO PENAL CODE

1490

References are to Sections

## DEFENSES—Cont'd

### Affirmative defenses—Cont'd

Wire or oral communications, interception, 16.02.  
Arson, 28.02.  
Bingo, gambling, 47.02, 47.10.  
Gambling devices, equipment, paraphernalia, possession, 47.06, 47.07.  
Gambling places, keeping, 47.04.  
Harboring runaway child, 25.07.  
Indecency with children, affirmative defenses, 21.11.  
Obscenity, sexual performance by children, 43.25.  
Oral communication, interception, 16.02.  
Organized crime, 71.03, 71.05.  
Sexual performance by child, 43.25.  
Smoking, 48.01.  
Wire or oral communications, interception, 16.02.  
Witnesses, compounding, 38.06.

## DEVIATE SEXUAL INTERCOURSE

Children, solicitation, 25.06.  
Defense, rape of a child, 21.09.  
Defined, children, 43.25.

## DISCLOSURE

Property of public servant, acquisition with public funds, 39.04.  
Wire or oral communications, 16.02.

## DRUGS AND MEDICINE

Children and minors, driving while under influence of narcotics, 8.07.  
Organized crime, 71.02.

## DRUNKARDS AND DRUNKENNESS

Children and minors, driving while under influence, 8.07.

## ELDERLY PERSONS

Personal injuries, 22.04.

## ELECTRIC GENERATING PLANT

Defined, 1.07.

## ELECTRIC LIGHT AND POWER COMPANIES

False alarm or report, 42.06.

## ELECTRIC UTILITY SUBSTATION

Defined, 1.07.

## ELECTRICITY

Criminal mischief, 28.03.  
Terroristic threats, 22.07.

## ELECTRONIC DEVICES

Wire or oral communications, interception, 16.02.

## ELEVATORS

Smoking, 48.01.

## EMERGENCY

Defined, communication interference, 42.13.

## ENHANCEMENT

Use of prior convictions, 12.46.

## ESCAPE

Harboring runaway child, 25.07.

## EVIDENCE

Juvenile delinquents, court records, 8.07.  
Sexual offenses, previous conduct, 21.13.

## EXECUTION

Process, preventing, 38.14.

## EXEMPTIONS

Children, sale or purchase, 25.06.

## EXHIBITIONS AND SHOWS

Obscenity, sexual performance by children, 43.25.

## FALSE REPORTS

Peace officers, 37.08.

## FINANCIAL STATEMENTS

Public servants, honorariums, 36.10.

## FINES AND PENALTIES

Assault,  
Medical, psychiatric treatment, 22.01.  
Participants in a court proceeding, deadly assault, 22.03.  
School personnel, assaults upon, 22.01.  
Business practices, deceptive, 32.42.  
Checks, issuance on red paper, 32.49.  
Children and minors,  
Sale or purchase, 25.06.  
Sexual performance by child, 43.25.  
Solicitation, 25.06.  
Corporations, associations, property damage by, 12.51.  
Deceptive business practices, 32.42.  
Discharge of firearms, public roads, 42.01.  
Emergency communications, interference with, 42.13.  
Executions, civil process, preventing, 38.14.  
Harboring runaway child, 25.07.  
Highways and roads,  
Discharge of firearms on public roads, 42.01.  
Obscenity, 43.23, 43.25.  
Organized crime, 71.02.  
Participants in a court proceeding, deadly assault upon, 22.03.  
Personal injury, corporations, associations, 12.51.  
Prisoners civil rights, violations, 39.021.  
Process, preventing executions, 38.14.  
Prostitution,  
Solicitation to engage in with another, 43.03.  
Public roads, shooting, 42.01.  
Rental agreements, theft of service, 31.04.  
Roads, shooting, 42.01.  
Service, theft, 31.04.  
Sexual performance by child, 43.25.  
Smoking in public places, posting notice, 48.01.  
Solicitation, 43.03.  
Children, 25.06.  
Tampering with identification numbers, 31.11.  
Theft of service, 31.04.  
Weapons, shooting, public roads, 42.01.

## FIREARMS

Weapons, generally, this index.

## FOOD

Honorariums, expenses, 36.10.

## FORGERY

Organized crime, 71.02.

## FRAUD

False reports to police officers, 37.08.  
Peace officers, false reports to, 37.08.

## GAMBLING

Organized crime, 71.02.

## GAMBLING DEVICE

Possession, 47.06.

## GAMBLING PARAPHERNALIA

Possession, 47.07.

## GAMBLING PLACES

Keeping, 47.04.

## GAS COMPANIES

Oil and Gas Companies, generally, this index.

## GUARDS

Prisoners civil rights, violations, 39.021.

## GUNS

Weapons, generally, this index.

## HIGHWAYS AND ROADS

Disorderly conduct, discharge of firearm on public roads, 42.01.

## HOME BOX OFFICE

Television decoding and interception devices, 31.12, 31.13.

## HOMICIDE

Organized crime, 71.02.

## HOMOSEXUAL CONDUCT

Evidence,  
Admissibility of evidence, 21.13.  
Prior offenses, 21.13.

## HONORARIUMS

Public servants, exemption bribery or corruption, 36.10.

## HOSPITALS

Smoking, 48.01.

## IDENTIFICATION NUMBERS

Tampering with, 31.11.

## IMMUNITY

Organized crime, testimonial, 71.04.

## INDECENT EXPOSURE

Evidence,  
Admissibility of evidence, 21.13.  
Prior offenses, 21.13.

## INJURIES

Personal Injury, generally, this index.

## INSTRUCTIONS TO JURY

Sexual offenses, evidence of prior sexual conduct, 21.13.

## INTERCEPTION DEVICES

Television, 31.12, 31.13.  
Wire or oral communications, 16.02.

## INTOXICATION

Drunkards and Drunkenness, generally, this index.

## JAILS

Prisoners civil rights, violations, 39.021.

## JUDGES

Bribery, 36.02.

## JURY

Instructions to jury, sexual offenses, prior conduct, evidence, 21.13.

## INDEX TO PENAL CODE

References are to Sections

**JUVENILE COURT**

Waiver of jurisdiction, 8.07.

**JUVENILE DELINQUENTS AND DEPENDENTS**

Certification for criminal prosecution, 8.07.

**KIDNAPPING**Organized crime, 71.02.  
Rape, aggravated rape, 21.03.  
Sexual abuse, aggravated, 21.05.**KNIVES**

Private security guards, unlawful carrying, 46.03.

**LEWDNESS AND OBSCENITY**Children and minors, sexual performance by, 43.25.  
Fines and penalties, 43.23.  
Organized crime, 71.02.**LIBRARIES**

Smoking, 48.01.

**LIVESTOCK**

Trespass, criminal trespass, 30.05.

**LOBBYING**

Honorariums, 36.10.

**MANUFACTURERS AND MANUFACTURING**Oral communication, interception devices, 16.02.  
Television decoding and interception devices, 31.13.  
Wire communications, interception, 16.02.**MEDICAL CARE AND TREATMENT**

Assault, 22.01.

**MOTION PICTURES**

Obscenity, sexual performance by children, 43.25.

**MOTOR BUSES**

Smoking, 48.01.

**MOTOR VEHICLES**Arson, 28.01, 28.02.  
Driving under influence of drugs or narcotics, children and minors, 8.07.**MOVING PICTURES**

Smoking, 48.01.

**MUNICIPAL JAILS**

Prisoners civil rights, violations, 39.021.

**MUSEUMS**

Smoking, 48.01.

**NARCOTICS**

Drugs and Medicine, generally, this index.

**NOTICE**Corporations, conviction notice, 12.51.  
Harboring runaway child, defenses, 25.07.  
Property of public servants, acquisition with public funds, actual notice of public servant, 39.04.  
Rental agreements, theft of service, return demanded, 31.04.  
Smoking, prohibition of smoking, 48.01.**NOTICE—Cont'd**

Theft of service, rental agreements, return demanded, 31.04.

**NUMBERS AND NUMBERING**

Personal property, identification numbers, tampering, 31.11.

**NURSING HOMES**

Assault, 22.01.

**OBSCENE DEVICE**

Defined, obscenity, 43.21.

**OBSCENE SEXUAL PERFORMANCE**

Defined, children, 43.25.

**OBSCENITY**

Lewdness and Obscenity, generally, this index.

**OFFICERS AND EMPLOYEES**Nursing, convalescent homes, assault, 22.01.  
Public disclosure, property of public servant, acquisition with public funds, 39.04.  
Schools and school districts, assaults upon, 22.01.**OIL AND GAS COMPANIES**Criminal mischief, 28.03.  
False alarm or report, 42.06.  
Terroristic threats, 22.07.**ORAL COMMUNICATION**

Interception, unlawful interception, 16.02.

**ORDINANCE VIOLATIONS**

Children and minors, traffic ordinance, criminal responsibility, 8.07.

**ORGANIZED CRIME**

Generally, 71.01 et seq.

**OWNER**

Nursing, convalescent homes, assault, 22.01.

**PARTICIPANTS IN A COURT PROCEEDING**Assault against, 22.03.  
Defined, 1.07.**PATENTLY OFFENSIVE**

Defined, obscenity, 43.21.

**PEACE OFFICERS**Prisoners civil rights, violations, 39.021.  
Reports, false reports to, 37.08.**PECUNIARY BENEFITS**

Defined, bribery and corruption, 36.01.

**PERFORMANCE**Defined, obscenity, 43.21.  
Sexual performance by child, 43.25.**PERJURY AND FALSIFICATION**Aggravated perjury,  
Children and minors, criminal responsibility, 8.07.  
Children and minors, criminal responsibility, 8.07.**PERSONAL INJURY**Aged persons, 22.04.  
Children and minors, 22.04.  
Corporations, associations, 12.51.**PERSONAL INJURY—Cont'd**Rape, aggravated rape, 21.03.  
Sexual abuse, aggravated, 21.05.**PERSONAL PROPERTY**Identification numbers, tampering with, 31.11.  
Rental agreements, theft of service, 31.04.  
Serial numbers, tampering with, 31.11.  
Theft, buyers, sellers of used property, money lenders, presumptions, 31.03.**PETROLEUM**

Oil and Gas Companies, generally, this index.

**PHOTOGRAPHS**

Sexual performance by children, 43.25.

**PHYSICIANS AND SURGEONS**

Children, sale or purchase, 25.06.

**PLANES**

Smoking, 48.01.

**POLICE**

Weapons, carrying, 46.03.

**PRESUMPTIONS**Property of public servant, acquisition with public funds, failure to file affidavit, 39.04.  
Theft, buyers, sellers of used property, money lenders, 31.03.**PRIOR CONVICTIONS**

Enhancement purposes, use for, 12.46.

**PRISONS AND PRISONERS**

Civil rights, violations, 39.021.

**PRIVATE SECURITY GUARDS**

Weapons, unlawful carrying, 46.03.

**PRIVILEGES AND IMMUNITIES**

Organized crime, testimonial, 71.04.

**PROCESS**

Execution, prevention, 38.14.

**PROMOTE**Defined, obscenity, 43.21.  
Sexual performance by child, 43.25.**PROMOTION**

Sexual performance by children, obscenity, 43.25.

**PROPERTY**Criminal mischief, 28.03.  
Damage by corporations, associations, 12.51.  
Personal Property, generally, this index.  
Public servants, public disclosure, acquisition with public funds, 39.04.**PROSTITUTION**Organized crime, 71.02.  
Promotion, solicitation to engage in with another, 43.03.**PSYCHIATRIC TREATMENT**

Assault, 22.01.

**PUBLIC DISCLOSURE**Defined, property acquisitions, property of public servants, 39.04.  
Property of public servant, acquisition with public funds, 39.04.

# INDEX TO PENAL CODE

1492

References are to Sections

## PUBLIC PLACE OR SQUARE

Smoking, 48.01.

## PUBLIC RECORDS

Records and Recording, generally, this index.

## PUBLIC ROADS

Disorderly conduct, discharge of firearms, 42.01.

## PUBLIC SERVANT

Bribery, 36.02.

Defined, public disclosure, property acquisitions, 39.04.

## PUBLIC TRANSPORTATION

False alarms or reports, 42.06.

Terroristic threats, 22.07.

## PUBLIC UTILITIES

Criminal mischief, 28.03.

Terroristic threats, 22.07.

## RADIO AND TELEVISION

Decoding and interception devices, 31.12, 31.13.

Emergency communications, interference with, 42.13.

## RAILROADS

Smoking, 48.01.

## RAPE

Actions, words or deeds, compelling submission, 21.02.

Evidence,

Admissibility of evidence, 21.13.

Prior offense, 21.13.

## REAL PROPERTY

Public servants, public disclosure, acquisition with public funds, 39.04.

## RECORDS AND RECORDING

Juvenile court records, evidence in subsequent criminal prosecutions, 8.07.

Public disclosure, property of public servant, acquisition with public funds, affidavit, 39.04.

Television decoding and interception devices, 31.12, 31.13.

## RENTAL AGREEMENTS

Personal property, theft of service, 31.04.

## REPORTS

Public servants, honorariums, 36.10.

## RETAIL SALES

Sales, generally, this index.

## ROADS

Disorderly conduct, discharge of firearms, 42.01.

## ROBBERY

Organized crime, 71.02.

## RUNAWAY CHILDREN

Harboring, 25.07.

## SADO-MASOCHISTIC ABUSE

Defined, children, 43.25.

## SALES

Children and minors, sale or purchase of, 25.06.

Oral communications, interception devices, 16.02.

## SALES—Cont'd

Television decoding and interception devices, 31.13.

Used property, theft, presumptions, 31.03.

Wire communications, interception devices, 16.02.

## SCHOOLS AND SCHOOL DISTRICTS

Employees, assaults upon, 22.01.

Smoking, 48.01.

## SCHOOLTEACHERS

Assaults upon, 22.01.

## SEARCHES AND SEIZURES

Wire or oral communication, interception devices, 16.02.

## SENIOR CITIZENS

Personal injuries, 22.04.

## SERIAL NUMBERS

Tampering with, 31.11.

## SERVICE

Theft, 31.04.

## SEXUAL ABUSE

Actions, words or deeds, compelling submission, 21.04.

Evidence,

Admissibility of evidence, 21.13.

Prior offenses, 21.13.

## SEXUAL CONDUCT

Children and minors,

Sexual performance by, 43.25.

Solicitation, 25.06.

Defined, children, 43.25.

Performance by children, 43.25.

Promotion, solicitation to engage in with another, 43.03.

## SEXUAL CONTACT

Children, solicitation, 25.06.

## SEXUAL INTERCOURSE

Deviate Sexual Intercourse, generally, this index.

Promotion, solicitation to engage in with another, 43.03.

## SEXUAL PERFORMANCE

Defined, children, 43.25.

## SHIPS AND SHIPPING

Gambling, defenses, 47.04, 47.06, 47.07.

## SHOWS

Smoking, 48.01.

## SIMULATED

Defined, sexual performance by child, 43.25.

## SMOKING

Public places, 48.01.

## SOLICITATION

Children, 25.06.

Prostitution, promotion to engage in with another, 43.03.

## SUBSCRIPTION TELEVISION SERVICE

Decoding and interception devices, 31.12, 31.13.

## SUSPECT

Defined, 1.07.

## TAMPERING

Identification numbers, personal property, 31.11.

## TAPE RECORDERS

Decoding and interception devices, 31.12, 31.13.

## TELEGRAPHS AND TELEPHONES

False alarms or reports, 42.06.

Interception, 16.02.

Terroristic threats, impairment or interruption, 22.07.

## TELEPHONES

Telegraphs and Telephones, generally, this index.

## THEATERS AND SHOWS

Smoking, 48.01.

## THEFT

Buyers or sellers of used property, presumptions, 31.03.

Money lenders, used property, presumptions, 31.03.

Organized crime, 71.02.

Presumptions, buyers, sellers of used property, money lenders, 31.03.

## THREATS

Theft, 31.03.

## TOBACCO

Smoking in public places, 48.01.

## TRAFFIC ORDINANCES

Children and minors, violation, criminal responsibility, 8.07.

## TRANSPORTATION

Criminal mischief, 28.03.

False alarms or reports, 42.06.

Terroristic threats, 22.07.

## TRAVELING EXPENSES

Honorariums, 36.10.

## TRIAL

Assault upon participant in a court proceeding, 22.02, 22.03.

## USED PROPERTY

Sale, money lent upon, presumption of theft, 31.02.

## VEHICLE

Defined, offenses against property, 28.01.

## VIDEO TAPE RECORDERS

Decoding and interception devices, 31.12, 31.13.

## WAIVER

Juvenile court jurisdiction, 8.07.

## WATER SUPPLY

Criminal mischief, 28.03.

False alarm or report, 42.06.

Mischief, criminal mischief, 28.03.

Terroristic threats, 22.07.

## WEAPONS

Discharge, public roads, 42.01.

Licenses and permits, carrying weapons, persons eligible, 46.03.

## INDEX TO PENAL CODE

References are to Sections

**WEAPONS—Cont'd**

Organized crime, 71.02.  
 Private Investigators and Private Agencies Act, applicability, 46.03.  
 Rape, aggravated rape, 21.03.  
 Trespass, criminal trespass, 30.05.

**WHOLESALE PROMOTE**

Defined, obscenity, 43.21.

**WIRE COMMUNICATIONS**

Interception, unlawful interception, 16.02.

**WITNESSES**

Defenses, compounding, 38.06.  
 Organized crime, 71.04.

**WORDS AND PHRASES**

Acquired, public disclosure by public servant of interests in property acquired from them with public funds, 39.04.  
 Appropriate, theft, 31.01.  
 Combination, organized crime, 71.01.

**WORDS AND PHRASES—Cont'd**

Conspires to commit, organized crime, 71.01.  
 Corporations, 1.07.  
 Deviate sexual intercourse, children, 43.25.  
 Electric generating plant, 1.07.  
 Electric utility substation, 1.07.  
 Emergency, interference with communications, 42.13.  
 Obscene device, 43.21.  
 Obscene sexual performance, children, 43.25.  
 Participant in a court proceeding, 1.07.  
 Patently offensive, obscenity, 43.21.  
 Pecuniary benefits, bribery and corruption, 36.01.  
 Performance,  
   Obscenity, 43.21.  
   Sexual performance by child, 43.25.  
 Promote,  
   Obscenity, 43.21.  
   Sexual performance by child, 43.25.

**WORDS AND PHRASES—Cont'd**

Property,  
   Public disclosure by public servant of interests of property acquired from them with public funds, 39.04.  
 Public disclosure, property acquisitions, property of public servants, 39.04.  
 Public funds, public disclosure by public servant of interests in property acquired from them with public funds, 39.04.  
 Public servant, property of, disclosure of acquisitions, 39.04.  
 Sado-masochistic abuse, children, 43.25.  
 Sexual conduct, children, 43.25.  
 Sexual performance, trial, 43.25.  
 Simulated, sexual performance by child, 43.25.  
 Subscription television service, decoding and interception devices, 31.12, 31.13.  
 Suspect, 1.07.  
 Vehicle, offenses against property, 28.01.  
 Wholesale promote, obscenity, 43.21.

\*



# CODE OF CRIMINAL PROCEDURE

## PART I. CODE OF CRIMINAL PROCEDURE OF 1965

Chapter	Section
32A. Speedy Trial .....	32A.01

### CHAPTER ONE. GENERAL PROVISIONS

#### Art. 1.23. Dignity of State

All justices of the Supreme Court, judges of the Court of Criminal Appeals, justices of the Courts of Appeals and judges of the District Courts, shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on "in the name and by authority of The State of Texas," and conclude, "against the peace and dignity of the State".  
[Amended by Acts 1981, 67th Leg., p. 801, ch. 291, § 97, eff. Sept. 1, 1981.]

### CHAPTER TWO. GENERAL DUTIES OF OFFICERS

#### Art. 2.01. Duties of District Attorneys

Each district attorney shall represent the State in all criminal cases in the district courts of his district and in appeals therefrom, except in cases where he has been, before his election, employed adversely. When any criminal proceeding is had before an examining court in his district or before a judge upon habeas corpus, and he is notified of the same, and is at the time within his district, he shall represent the State therein, unless prevented by other official duties. It shall be the primary duty of all prosecuting attorneys, including any special prosecutors, not to convict, but to see that justice is done. They shall not suppress facts or secrete witnesses capable of establishing the innocence of the accused.  
[Amended by Acts 1981, 67th Leg., p. 801, ch. 291, § 98, eff. Sept. 1, 1981.]

#### Art. 2.02. Duties of County Attorneys

The county attorney shall attend the terms of court in his county below the grade of district court, and shall represent the State in all criminal cases under examination or prosecution in said county; and in the absence of the district attorney he shall represent the State alone and, when requested, shall aid the district attorney in the prosecution of any case in behalf of the State in the district court. He shall represent the State in cases he has prosecuted which are appealed.  
[Amended by Acts 1981, 67th Leg., p. 801, ch. 291, § 99, eff. Sept. 1, 1981.]

#### Art. 2.09. Who are Magistrates

Each of the following officers is a magistrate within the meaning of this Code: The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeals, the judges of the District Court, the county judges, the judges of the county courts at law, judges of the county criminal courts, the justices of the peace, the mayors and recorders and the judges of the municipal courts of incorporated cities or towns.  
[Amended by Acts 1981, 67th Leg., p. 801, ch. 291, § 100, eff. Sept. 1, 1981.]

#### Art. 2.12. Who are Peace Officers

The following are peace officers:

- (1) sheriffs and their deputies;
- (2) constables and deputy constables;
- (3) marshals or police officers of an incorporated city, town, or village;
- (4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- (5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- (6) law enforcement agents of the Alcoholic Beverage Commission;
- (7) each member of an arson investigating unit of a city, county or the state;
- (8) any private person specially appointed to execute criminal process;
- (9) officers commissioned by the governing board of any state institution of higher education, public junior college or the Texas State Technical Institute;
- (10) officers commissioned by the Board of Control;
- (11) law enforcement officers commissioned by the Parks and Wildlife Commission;
- (12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state that operates an airport served by a Civil Aeronautics Board certificated air carrier;
- (13) municipal park and recreational patrolmen and security officers; and
- (14) security officers commissioned as peace officers by the State Treasurer.

[Amended by Acts 1975, 64th Leg., p. 480, ch. 204, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 618, ch. 227, § 2, eff. May 24, 1977; Acts 1977, 65th Leg., p. 1082, ch. 396, § 1, eff. Aug. 29, 1977.]

Section 2 of Acts 1977, 65th Leg., p. 1082, ch. 396, provided:

"The following named criminal investigators of the United States shall not be deemed peace officers, but shall have the powers of arrest, search and seizure as to felony offenses only under the laws of the State of Texas:

- "Special Agents of the Federal Bureau of Investigation,
- "Special Agents of the Secret Service,
- "Special Agents of United States Customs, excluding border patrolmen and custom inspectors,
- "Special Agents of Alcohol, Tobacco and Firearms, and
- "Special Agents of Federal Drug Enforcement Agency."

#### Art. 2.21. Duty of Clerks

(a) Each clerk of the district or county court shall receive and file all papers and exhibits in respect to criminal proceedings, issue all process in such cases, and perform all other duties imposed upon them by law.

(b) Any firearm or contraband received by a clerk as an exhibit in any criminal proceeding may be placed by the clerk in the hands of the sheriff for safekeeping at any time during the pendency of such proceeding or thereafter.

(c) The sheriff shall receive and hold such exhibits and release them only to the person or persons authorized by the court in which such exhibits have been received.

[Amended by Acts 1979, 66th Leg., p. 212, ch. 119, § 1, eff. Aug. 27, 1979.]

### CHAPTER THREE. DEFINITIONS

#### Art. 3.01. Words and Phrases

All words, phrases and terms used in this Code are to be taken and understood in their usual acceptance in common language, except where specially defined.

[Amended by Acts 1975, 64th Leg., p. 909, ch. 341, § 1, eff. June 19, 1975.]

Saving provisions. Section 7 of the 1975 Act provided:

"Sec. 7. (a) Except as provided in Subsections (b) and (c) of this section, this Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act's effective date is governed by the law existing before the effective date, which law is continued in effect for this purpose, as if this Act were not in force. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date.

"(b) Conduct constituting an offense under existing law that is repealed by this Act and that does not constitute an offense under this Act may not be prosecuted after the effective date of this Act. If, on the effective date of this Act, a criminal action is pending for conduct that was an offense under the laws repealed by this Act and that does not constitute an offense under this Act, the action is dismissed on the effective date of this Act. However, a conviction existing on the effective date of this Act for conduct constituting an offense under laws repealed by this Act is valid and unaffected by this Act. For purposes of this section, "conviction" means a finding of guilt in a court of competent jurisdiction, and it is of no consequence that the conviction is not final."

"(c) In a criminal action pending on or commenced on or after the effective date of this Act, for an offense committed before the effective date, the defendant, if adjudged guilty, shall be assessed punishment under this Act if he so elects by written motion filed with the trial court before the sentencing hearing begins."

### CHAPTER FOUR. COURTS AND CRIMINAL JURISDICTION

#### Art. 4.01. What Courts Have Criminal Jurisdiction

The following courts have jurisdiction in criminal actions:

- (1) The Court of Criminal Appeals;
- (2) Courts of appeals;
- (3) The district courts;

- (4) The criminal district courts;
- (5) The county courts;
- (6) All county courts at law with criminal jurisdiction;
- (7) County criminal courts;
- (8) Justice courts; and
- (9) Municipal courts.

[Amended by Acts 1981, 67th Leg., p. 801, ch. 291, § 101, eff. Sept. 1, 1981.]

#### Art. 4.03. Courts of Appeals

The Courts of Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed by the county court, the county criminal court or county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

[Amended by Acts 1981, 67th Leg., p. 802, ch. 291, § 102, eff. Sept. 1, 1981.]

#### Art. 4.04. Court of Criminal Appeals

Sec. 1. The Court of Criminal Appeals and each judge thereof shall have, and is hereby given, the power and authority to grant and issue and cause the issuance of writs of habeas corpus, and, in criminal law matters the writs of mandamus, procedendo, prohibition, and certiorari. The court and each judge thereof shall have, and is hereby given, the power and authority to grant and issue and cause the issuance of such other writs as may be necessary to protect its jurisdiction or enforce its judgments.

Sec. 2. The Court of Criminal Appeals shall have, and is hereby given, final appellate and review jurisdiction in criminal cases coextensive with the limits of the state, and its determinations shall be final. The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. In addition, the Court of Criminal Appeals may, on its own motion, with or without a petition for such discretionary review being filed by one of the parties, review any decision of a court of appeals in a criminal case. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

[Amended by Acts 1981, 67th Leg., p. 802, ch. 291, § 103, eff. Sept. 1, 1981.]

### CHAPTER SIX. PREVENTING OFFENSES BY THE ACT OF MAGISTRATES AND OTHER OFFICERS

#### Art. 6.01. When Magistrate Hears Threat

It is the duty of every magistrate, when he may have heard, in any manner, that a threat has been

made by one person to do some injury to himself or the person or property of another, including the person or property of his spouse, immediately to give notice to some peace officer, in order that such peace officer may use lawful means to prevent the injury. [Amended by Acts 1979, 66th Leg., p. 366, ch. 164, § 1, eff. Sept. 1, 1979.]

#### Art. 6.02. Threat to Take Life

If, within the hearing of a magistrate, one person shall threaten to take the life of another, including that of his spouse, or himself, the magistrate shall issue a warrant for the arrest of the person making the threat, or in case of emergency, he may himself immediately arrest such person.

[Amended by Acts 1979, 66th Leg., p. 366, ch. 164, § 1, eff. Sept. 1, 1979.]

#### Art. 6.03. On Attempt to Injure

Whenever, in the presence or within the observation of a magistrate, an attempt is made by one person to inflict an injury upon himself or to the person or property of another, including the person or property of his spouse, it is his duty to use all lawful means to prevent the injury. This may be done, either by verbal order to a peace officer to interfere and prevent the injury, or by the issuance of an order of arrest against the offender, or by arresting the offender; for which purpose he may call upon all persons present to assist in making the arrest.

[Amended by Acts 1979, 66th Leg., p. 366, ch. 164, § 1, eff. Sept. 1, 1979.]

#### Art. 6.05. Duty of Peace Officer as to Threats

It is the duty of every peace officer, when he may have been informed in any manner that a threat has been made by one person to do some injury to himself or to the person or property of another, including the person or property of his spouse, to prevent the threatened injury, if within his power; and, in order to do this, he may call in aid any number of citizens in his county. He may take such measures as the person about to be injured might for the prevention of the offense.

[Amended by Acts 1979, 66th Leg., p. 366, ch. 164, § 1, eff. Sept. 1, 1979.]

#### Art. 6.06. Peace Officer to Prevent Injury

Whenever, in the presence of a peace officer, or within his view, one person is about to commit an offense against the person or property of another, including the person or property of his spouse, or injure himself, it is his duty to prevent it; and, for this purpose the peace officer may summon any number of the citizens of his county to his aid. The peace officer must use the amount of force necessary to prevent the commission of the offense, and no greater.

[Amended by Acts 1979, 66th Leg., p. 366, ch. 164, § 1, eff. Sept. 1, 1979.]

## HABEAS CORPUS

### CHAPTER ELEVEN. HABEAS CORPUS

#### Art. 11.07. Return to Certain County; Procedure After Conviction

[See Compact Edition, Volume 1 for text of 1]

Sec. 2. (a) After final conviction in any felony case, the writ must be made returnable to the Court of Criminal Appeals of Texas at Austin, Texas.

(b) Whenever a petition for writ of habeas corpus is filed after final conviction in a felony case, the clerk shall transfer or assign it to the court in which the conviction being challenged was obtained. When the petition is received by that court, a writ of habeas corpus, returnable to the Court of Criminal Appeals, shall issue by operation of law. The clerk of that court shall make appropriate notation thereof, assign to the case a file number (ancillary to that of the conviction being challenged), and send a copy of the petition by certified mail, return receipt requested, to the attorney representing the state in that court, who shall have 15 days in which it may answer the petition. Matters alleged in the petition not admitted by the state are deemed denied.

(c) Within 20 days of the expiration of the time in which the state is allowed to answer, it shall be the duty of the convicting court to decide whether there are controverted, previously unresolved facts material to the legality of the applicant's confinement. If the convicting court decides that there are no such issues, the clerk shall immediately transmit to the Court of Criminal Appeals a copy of the petition, any answers filed, and a certificate reciting the date upon which that finding was made. Failure of the court to act within the allowed 20 days shall constitute such a finding.

(d) If the convicting court decides that there are controverted, previously unresolved facts which are material to the legality of the applicant's confinement, it shall enter an order within 20 days of the expiration of the time allowed for the state to reply, designating the issues of fact to be resolved. To resolve those issues the court may order affidavits, depositions, interrogatories, and hearings, as well as using personal recollection. Also, the convicting court may appoint an attorney or a magistrate to hold a hearing and make findings of fact. An attorney so appointed shall be compensated as provided in Article 26.05 of this code. It shall be the duty of the reporter who is designated to transcribe a hearing held pursuant to this article to prepare a transcript within 15 days of its conclusion. After the convicting court makes findings of fact or approves the findings of the person designated to make them, the clerk of the convicting court shall immediately transmit to the Court of Criminal Appeals, under one cover, the petition, any answers filed, any motions filed, transcripts of all depositions and hearings, any affidavits, and any other matters such as official records used by the court in resolving issues of fact.

[See Compact Edition, Volume 1 for text of 3 to 4]

Sec. 5. When the attorney for the state files an answer, motion, or other pleading relating to a petition for a writ of habeas corpus or the court issues an order relating to a petition for a writ of habeas corpus, the clerk of the court shall mail or deliver to the petitioner a copy of the answer, motion, pleading, or order.

[Amended by Acts 1977, 65th Leg., p. 1974, ch. 789, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1017, ch. 451, § 1, eff. Sept. 1, 1979.]

**LIMITATION AND VENUE**

**CHAPTER TWELVE. LIMITATION**

**Art. 12.01. Felonies**

Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

- (1) no limitation: murder and manslaughter;
- (2) ten years from the date of the commission of the offense:
  - (A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;
  - (B) theft by a public servant of government property over which he exercises control in his official capacity;
  - (C) forgery or the uttering, using or passing of forged instruments;
- (3) five years from the date of the commission of the offense:
  - (A) theft, burglary, robbery;
  - (B) arson;
- (4) three years from the date of the commission of the offense: all other felonies.

[Amended by Acts 1975, 64th Leg., p. 478, ch. 203, § 5, eff. Sept. 1, 1975.]

Subsection 7(c) of the 1975 amendatory act provided:  
 (c) Section 5 of this Act applies to the prosecution of criminal offenses committed not more than one year before the effective date of this Act.

**CHAPTER THIRTEEN. VENUE**

Article

- 13.20. Venue by Consent.
- 13.21. Organized Criminal Activity.
- 13.22. Possession and Delivery of Marihuana.

**Art. 13.04. On the Boundaries of Counties**

An offense committed on the boundaries of two or more counties, or within four hundred yards thereof, may be prosecuted and punished in any one of such counties and any offense committed on the premises of any airport operated jointly by two municipalities and situated in two counties may be prosecuted and punished in either county.

[Amended by Acts 1981, 67th Leg., p. 2239, ch. 534, § 1, eff. Aug. 31, 1981.]

**Art. 13.15. Rape**

Rape may be prosecuted in the county in which it is committed, in the county in which the victim is abducted, or in any county through or into which the victim is transported in the course of the abduction and rape. When it shall come to the knowledge of any district judge whose court has jurisdiction under this Article that rape has probably been committed, he shall immediately, if his court be in session, and if not in session, then, at the first term thereafter in any county of the district, call the attention of the grand jury thereto; and if the court be in session, but the grand jury has been discharged, he shall immediately recall the grand jury to investigate the accusation. The district courts are authorized and directed to change the venue in such cases whenever it shall be necessary to secure a speedy trial.

[Amended by Acts 1977, 65th Leg., p. 692, ch. 262, § 1, eff. May 25, 1977; Acts 1981, 67th Leg., p. 2636, ch. 707, § 4(17), eff. Aug. 31, 1981.]

**Art. 13.20. Venue by Consent**

The trial of all felony cases, without a jury, may, with the consent of the defendant in writing, his attorney, and the attorney for the state, be held in any county within the judicial district or districts for the county where venue is otherwise authorized by law.

[Added by Acts 1975, 64th Leg., p. 242, ch. 91, § 1, eff. Sept. 1, 1975.]

**Art. 13.21. Organized Criminal Activity**

The offense of engaging in organized criminal activity may be prosecuted in any county in which any act is committed to effect an objective of the combination.

[Added by Acts 1977, 65th Leg., p. 924, ch. 346, § 2, eff. June 10, 1977.]

**Art. 13.22. Possession and Delivery of Marihuana**

An offense of possession or delivery of marihuana may be prosecuted in the county where the offense was committed or with the consent of the defendant in a county that is adjacent to and in the same judicial district as the county where the offense was committed.

[Added by Acts 1979, 66th Leg., p. 18, ch. 10, § 1, eff. March 7, 1979.]

Section 2 of the 1979 Act provided:  
 "This Act applies to a prosecution commenced by the filing of an indictment or information on or after the effective date of this Act."

**ARREST, COMMITMENT AND BAIL**

**CHAPTER FOURTEEN. ARREST WITHOUT WARRANT**

**Art. 14.03. Authority of Peace Officers**

Any peace officer may arrest, without warrant:

- (a) persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony or

breach of the peace, or threaten, or are about to commit some offense against the laws; or

(b) persons who the peace officer has probable cause to believe have committed an assault resulting in bodily injury to another person and the peace officer has probable cause to believe that there is immediate danger of further bodily injury to that person.

[Amended by Acts 1981, 67th Leg., p. 1865, ch. 442, § 1, eff. Aug. 31, 1981.]

#### CHAPTER FIFTEEN. ARREST UNDER WARRANT

##### Art. 15.17. Duties of Arresting Officer and Magistrate

(a) In each case enumerated in this Code, the person making the arrest shall without unnecessary delay take the person arrested or have him taken before some magistrate of the county where the accused was arrested. The magistrate shall inform in clear language the person arrested of the accusation against him and of any affidavit filed therewith, of his right to retain counsel, of his right to remain silent, of his right to have an attorney present during any interview with peace officers or attorneys representing the state, of his right to terminate the interview at any time, of his right to request the appointment of counsel if he is indigent and cannot afford counsel, and of his right to have an examining trial. He shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person arrested reasonable time and opportunity to consult counsel and shall admit the person arrested to bail if allowed by law.

(b) When a deaf accused is taken before a magistrate under Article 14.06 or 15.17 of this Code, an interpreter appointed by the magistrate qualified and sworn as provided in Article 38.31 of this Code shall interpret the warning required by those articles in a language that the accused can understand, including but not limited to sign language.

[Amended by Acts 1979, 66th Leg., p. 398, ch. 186, § 3, eff. May 15, 1979.]

#### CHAPTER SIXTEEN. THE COMMITMENT OR DISCHARGE OF THE ACCUSED

##### Art. 16.16. If Insufficient Bail Has Been Taken

Where it is made to appear by affidavit to a judge of the Court of Criminal Appeals, a justice of a court of appeals, or to a judge of the district or county court, that the bail taken in any case is insufficient in amount, or that the sureties are not good for the amount, or that the bond is for any reason defective or insufficient, such judge shall issue a warrant of arrest, and require of the defendant sufficient bond and security, according to the nature of the case. [Amended by Acts 1981, 67th Leg., p. 802, ch. 291, § 104, eff. Sept. 1, 1981.]

#### CHAPTER SEVENTEEN. BAIL

##### Article

17.151. Release Because of Delay.

17.39. Records of Bail.

##### Art. 17.151. Release Because of Delay

Sec. 1. A defendant who is detained in jail pending trial of an accusation against him must be released either on personal bond or by reducing the amount of bail required, if the state is not ready for trial of the criminal action for which he is being detained within:

(1) 90 days from the commencement of his detention if he is accused of a felony;

(2) 30 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment in jail for more than 180 days;

(3) 15 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less; or

(4) five days from the commencement of his detention if he is accused of a misdemeanor punishable by a fine only.

Sec. 2. The provisions of this article do not apply to a defendant who is:

(1) serving a sentence of imprisonment for another offense while he is serving that sentence;

(2) being detained pending trial of another accusation against him as to which the applicable period has not yet elapsed; or

(3) incompetent to stand trial, during the period of his incompetence.

Sec. 3. If a person released under this article is arrested and detained for a violation of the conditions of his release, the time for release under Section 1 of this article begins to run on the date of the arrest for violation of conditions of the release. [Added by Acts 1977, 65th Leg., p. 1972, ch. 787, § 2, eff. July 1, 1978.]

##### Art. 17.39. Records of Bail

A magistrate or other officer who sets the amount of bail or who takes bail shall record in a well-bound book the name of the person whose appearance the bail secures, the amount of bail, the date bail is set, the magistrate or officer who sets bail, the offense or other cause for which the appearance is secured, the magistrate or other officer who takes bail, the date the person is released, and the name of the bondsman, if any.

[Added by Acts 1977, 65th Leg., p. 1525, ch. 618, § 1, eff. Aug. 29, 1977.]

## SEARCH WARRANTS

## CHAPTER EIGHTEEN. SEARCH WARRANTS

## Article

Art. 18.021. Issuance of Search Warrant to Photograph Injured Child.

Art. 18.20. Interception and Use of Wire or Oral Communications.

**Art. 18.01. Search Warrant**

(a) A "search warrant" is a written order, issued by a magistrate and directed to a peace officer, commanding him to search for any property or thing and to seize the same and bring it before such magistrate or commanding him to search for and photograph a child and to deliver to the magistrate any of the film exposed pursuant to the order.

(b) No search warrant shall issue for any purpose in this state unless sufficient facts are first presented to satisfy the issuing magistrate that probable cause does in fact exist for its issuance. A sworn affidavit setting forth substantial facts establishing probable cause shall be filed in every instance in which a search warrant is requested. The affidavit is public information if executed.

(c) A search warrant may not be issued pursuant to Subdivision (10) of Article 18.02 of this code unless the sworn affidavit required by Subsection (b) of this article sets forth sufficient facts to establish probable cause: (1) that a specific offense has been committed, (2) that the specifically described property or items that are to be searched for or seized constitute evidence of that offense or evidence that a particular person committed that offense, and (3) that the property or items constituting evidence to be searched for or seized are located at or on the particular person, place, or thing to be searched. Only a judge of a statutory county court, district court, the Court of Criminal Appeals, or the Supreme Court may issue warrants pursuant to Subdivision (10), Article 18.02 of this code.

(d) Only the specifically described property or items set forth in a search warrant issued under Subdivision (10) of Article 18.02 of this code or property or items enumerated in Subdivisions (1) through (9) of Article 18.02 of this code may be seized. Subsequent search warrants may not be issued pursuant to Subdivision (10) of Article 18.02 of this code to search the same person, place, or thing subjected to a prior search under Subdivision (10) of Article 18.02 of this code.

(e) A search warrant may not be issued under Subdivision (10) of Article 18.02 of this code to search for and seize property or items that are not described in Subdivisions (1) through (9) of that article and that are located in an office of a newspaper, news magazine, television station, or radio station, and in no event may property or items not described in Subdivisions (1) through (9) of that article be legally seized in any search pursuant to a search warrant of an office of a newspaper, news magazine, television station, or radio station.

(f) A search warrant may not be issued pursuant to Article 18.021 of this code unless the sworn affidavit required by Subsection (b) of this article sets forth sufficient facts to establish probable cause:

(1) that a specific offense has been committed;

(2) that a specifically described person has been a victim of the offense;

(3) that evidence of the offense or evidence that a particular person committed the offense can be detected by photographic means; and

(4) that the person to be searched for and photographed is located at the particular place to be searched.

[Amended by Acts 1977, 65th Leg., p. 640, ch. 237, § 1, eff. May 25, 1977; Acts 1979, 66th Leg., p. 1076, ch. 505, § 1, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1124, ch. 536, § 1, eff. June 11, 1979; Acts 1981, 67th Leg., p. 759, ch. 289, §§ 3, 4, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2789, ch. 755, § 1, eff. Sept. 1, 1981.]

**Art. 18.02. Grounds for Issuance**

A search warrant may be issued to search for and seize:

(1) property acquired by theft or in any other manner which makes its acquisition a penal offense;

(2) property specially designed, made, or adapted for or commonly used in the commission of an offense;

(3) arms and munitions kept or prepared for the purposes of insurrection or riot;

(4) weapons prohibited by the Penal Code;

(5) gambling devices or equipment, altered gambling equipment, or gambling paraphernalia;

(6) obscene materials kept or prepared for commercial distribution or exhibition, subject to the additional rules set forth by law;

(7) drugs kept, prepared, or manufactured in violation of the laws of this state;

(8) any property the possession of which is prohibited by law;

(9) implements or instruments used in the commission of a crime

(10) property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense; or

(11) persons.

[Amended by Acts 1977, 65th Leg., p. 640, ch. 237, § 2, eff. May 25, 1977; Acts 1981, 67th Leg., p. 2790, ch. 755, § 5, eff. Sept. 1, 1981.]

**Art. 18.021. Issuance of Search Warrant to Photograph Injured Child**

(a) A search warrant may be issued to search for and photograph a child who is alleged to be the

victim of the offenses of injury to a child as defined by Section 22.04, Penal Code, as amended; rape of a child as defined by Section 21.09, Penal Code, as amended; or sexual abuse of a child as defined by Section 21.10, Penal Code.

(b) The officer executing the warrant may be accompanied by a photographer who is employed by a law enforcement agency and who acts under the direction of the officer executing the warrant. The photographer is entitled to access to the child in the same manner as the officer executing the warrant.

(c) In addition to the requirements of Subdivisions (1) and (4) of Article 18.04 of this code, a warrant issued under this article shall identify, as near as may be, the child to be located and photographed, shall name or describe, as near as may be, the place or thing to be searched, and shall command any peace officer of the proper county to search for and cause the child to be photographed.

(d) After having located and photographed the child, the peace officer executing the warrant shall take possession of the exposed film and deliver it forthwith to the magistrate. The child may not be removed from the premises on which he or she is located except under Section 17.03, Family Code, as amended.

(e) A search warrant under this section shall be executed by a peace officer of the same sex as the alleged victim or, if the officer is not of the same sex as the alleged victim, the peace officer must be assisted by a person of the same sex as the alleged victim. The person assisting an officer under this subsection must be acting under the direction of the officer and must be with the alleged victim during the taking of the photographs.

[Added by Acts 1981, 67th Leg., p. 758, ch. 289, § 2, eff. Sept. 1, 1981.]

#### Art. 18.06. Execution of Warrants

[See Compact Edition, Volume 1 for text of (a)]

(b) On searching the place ordered to be searched, the officer executing the warrant shall present a copy of the warrant to the owner of the place, if he is present. If the owner of the place is not present but a person who is present is in possession of the place, the officer shall present a copy of the warrant to the person. Before the officer takes property from the place, he shall prepare a written inventory of the property to be taken. He shall legibly endorse his name on the inventory and present a copy of the inventory to the owner or other person in possession of the property. If neither the owner nor a person in possession of the property is present when the officer executes the warrant, the officer shall leave a copy of the warrant and the inventory at the place.

[Amended by Acts 1981, 67th Leg., p. 2789, ch. 755, § 2, eff. Sept. 1, 1981.]

#### Art. 18.10 How Return Made

Upon returning the search warrant, the officer shall state on the back of the same, or on some paper attached to it, the manner in which it has been executed and shall likewise deliver to the magistrate a copy of the inventory of the property taken into his possession under the warrant. The officer who seized the property shall retain custody of it until the magistrate issues an order directing the manner of safekeeping the property. The property may not be removed from the county in which it was seized without an order approving the removal, issued by a magistrate in the county in which the warrant was issued; provided, however, nothing herein shall prevent the officer, or his department, from forwarding any item or items seized to a laboratory for scientific analysis.

[Amended by Acts 1981, 67th Leg., p. 2789, ch. 755, § 3, eff. Sept. 1, 1981.]

#### Art. 18.11. Custody of Property Found

Property seized pursuant to a search warrant shall be kept as provided by the order of a magistrate issued in accordance with Article 18.10 of this code. (Amended by Acts 1981, 67th Leg., p. 2789, ch. 755, § 4, eff. Sept. 1, 1981.)

#### Art. 18.20. Interception and Use of Wire or Oral Communications

*Text of article added effective until September 1, 1985*

##### Definitions

Sec. 1. In this article:

(1) "Wire communication" means a communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by a person engaged as a common carrier in providing or operating the facilities for the transmission of communications.

(2) "Oral communication" means an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying that expectation.

(3) "Intercept" means the aural acquisition of the contents of a wire or oral communication through the use of an electronic, mechanical, or other device.

(4) "Electronic, mechanical, or other device" means a device or apparatus primarily designed or used for the nonconsensual interception of wire or oral communications.

(5) "Investigative or law enforcement officer" means an officer of this state or of a political subdivision of this state who is empowered by law to conduct investigations of or to

make arrests for offenses enumerated in Section 4 of this article or an attorney authorized by law to prosecute or participate in the prosecution of the enumerated offenses.

(6) "Contents," when used with respect to a wire or oral communication, includes any information concerning the identity of the parties to the communication or the existence, substance, purport, or meaning of that communication.

(7) "Judge of competent jurisdiction" means a judge from the panel of nine active district judges with criminal jurisdiction appointed by the presiding judge of the court of criminal appeals as provided by Section 3 of this article.

(8) "Prosecutor" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney, with jurisdiction in the county in which the facility or place where the communication to be intercepted is located.

(9) "Director" means the director of the Department of Public Safety or, if the director is absent or unable to serve, the assistant director of the Department of Public Safety.

(10) "Communication common carrier" has the meaning given the term "common carrier" by Section 153(h), Title 47, of the United States Code.

(11) "Aggrieved person" means a person who was a party to an intercepted wire or oral communication or a person against whom the interception was directed.

(12) "Covert entry" means any entry into or onto premises which if made without a court order allowing such an entry under this Act, would be a violation of the Penal Code.

#### Prohibition of Use as Evidence of Intercepted Communications

Sec. 2. The contents of an intercepted communication and evidence derived from an intercepted communication may not be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States or of this state or a political subdivision of this state if the disclosure of that information would be in violation of this article. The contents of an intercepted communication and evidence derived from an intercepted communication may be received in a civil trial, hearing, or other proceeding only if the civil trial, hearing, or other proceeding arises out of a violation of the Penal Code, Code of Criminal Procedure, Controlled Substances Act, or Dangerous Drug Act.

#### Judges Authorized to Consider Interception Applications

Sec. 3. (a) The presiding judge of the court of criminal appeals, by order filed with the clerk of that court, shall appoint one district judge from each of the administrative judicial districts of this state to serve at his pleasure as the judge of competent

jurisdiction within that administrative judicial district. The presiding judge shall fill vacancies, as they occur, in the same manner.

(b) Except as provided by Subsection (c) of this section, only the judge of competent jurisdiction for the administrative judicial district in which the proposed interception will be made may act on an application for authorization to intercept wire or oral communications.

(c) If the judge of competent jurisdiction for an administrative judicial district is absent or unable to serve or if exigent circumstances exist, the application may be made to the judge of competent jurisdiction in an adjacent administrative judicial district. Exigent circumstances does not include a denial of a previous application on the same facts and circumstances. To be valid, the application must fully explain the circumstances justifying application under this subsection.

#### Offenses for Which Interceptions may be Authorized

Sec. 4. A judge may issue an order authorizing interception of wire or oral communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of a felony (other than felony possession of marijuana) under the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) or of a felony under the Texas Dangerous Drug Act (Article 4476-14, Vernon's Texas Civil Statutes).

#### Control of Intercepting Devices

Sec. 5. (a) Only the Department of Public Safety is authorized by this article to own, possess, install, operate, or monitor an electronic, mechanical, or other device. The Department of Public Safety may be assisted by an investigative or law enforcement officer in the operation and monitoring of an interception of wire or oral communications, provided that a commissioned officer of the Department of Public Safety is present at all times.

(b) The director shall designate in writing the commissioned officers of the Department of Public Safety who are responsible for the possession, installation, operation, and monitoring of electronic, mechanical, or other devices for the department.

#### Request for Application for Interception

Sec. 6. (a) The director may, based on written affidavits, request in writing that a prosecutor apply for an order authorizing interception of wire or oral communications.

(b) The head of a local law enforcement agency or, if the head of the local law enforcement agency is absent or unable to serve, the acting head of the local law enforcement agency may, based on written affidavits, request in writing that a prosecutor apply for an order authorizing interception of wire or oral communications. Prior to the requesting of an ap-

plication under this subsection, the head of a local law enforcement agency must submit the request and supporting affidavits to the director, who shall make a finding in writing whether the request and supporting affidavits establish that other investigative procedures have been tried and failed or they reasonably appear unlikely to succeed or to be too dangerous if tried, is feasible, is justifiable, and whether the Department of Public Safety has the necessary resources available. The prosecutor may file the application only after a written positive finding on all the above requirements by the director.

Authorization for Disclosure and Use of Intercepted Communications

Sec. 7. (a) An investigative or law enforcement officer who, by any means authorized by this article, obtains knowledge of the contents of a wire or oral communication or evidence derived from the communication may disclose the contents or evidence to another investigative or law enforcement officer to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) An investigative or law enforcement officer who, by any means authorized by this article, obtains knowledge of the contents of a wire or oral communication or evidence derived from the communication may use the contents or evidence to the extent the use is appropriate to the proper performance of his official duties.

(c) A person who receives, by any means authorized by this article, information concerning a wire or oral communication or evidence derived from a communication intercepted in accordance with the provisions of this article may disclose the contents of that communication or the derivative evidence while giving testimony under oath in any proceeding held under the authority of the United States, of this state, or of a political subdivision of this state.

(d) An otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this article does not lose its privileged character and any evidence derived from such privileged communication against the party to the privileged communication shall be considered privileged also.

(e) When an investigative or law enforcement officer, while engaged in intercepting wire or oral communications in a manner authorized by this article, intercepts wire or oral communications relating to offenses other than those specified in the order of authorization, the contents of and evidence derived from the communication may be disclosed or used as provided by Subsections (a) and (b) of this section. Such contents and any evidence derived therefrom may be used under Subsection (c) of this section when authorized by a judge of competent jurisdiction where the judge finds, on subsequent application, that the contents were otherwise intercepted in

accordance with the provisions of this article. The application shall be made as soon as practicable.

Application for Interception Authorization

Sec. 8. (a) To be valid, an application for an order authorizing the interception of a wire or oral communication must be made in writing under oath to a judge of competent jurisdiction and must state the applicant's authority to make the application. An applicant must include the following information in the application:

(1) the identity of the prosecutor making the application and of the officer requesting the application;

(2) a full and complete statement of the facts and circumstances relied on by the applicant to justify his belief that an order should be issued, including:

(A) details about the particular offense that has been, is being, or is about to be committed;

(B) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted;

(C) a particular description of the type of communication sought to be intercepted; and

(D) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(3) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed or to be too dangerous if tried;

(4) a statement of the period of time for which the interception is required to be maintained and, if the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication is first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur after the described type of communication is obtained;

(5) a statement whether or not a covert entry will be necessary to properly and safely install the wiretapping or electronic surveillance or eavesdropping equipment; if a covert entry is requested, a statement as to why such an entry is necessary and proper under the facts of the particular investigation shall be required;

(6) a full and complete statement of the facts concerning all applications known to the prosecutor making the application that have been previously made to a judge for authorization to intercept wire or oral communications involving any of the persons, facilities, or places specified in the application and of the action taken by the judge on each application; and

(7) if the application is for the extension of an order, a statement setting forth the results already obtained from the interception or a reasonable explanation of the failure to obtain results.

(b) The judge may, in an ex parte hearing in chambers, require additional testimony or documentary evidence in support of the application, and such testimony or documentary evidence shall be preserved as part of the application.

**Action on Application for Interception Order**

Sec. 9. (a) On receipt of an application, the judge may enter an ex parte order, as requested or as modified, authorizing interception of wire or oral communications if the judge determines from the evidence submitted by the applicant that:

(1) there is probable cause to believe that a person is committing, has committed, or is about to commit a particular offense enumerated in Section 4 of this article;

(2) there is probable cause to believe that particular communications concerning that offense will be obtained through the interception;

(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed or to be too dangerous if tried; and

(4) there is probable cause to believe that the facilities from which or the place where the wire or oral communications are to be intercepted are being used or are about to be used in connection with the commission of an offense or are leased to, listed in the name of, or commonly used by the person;

(5) a covert entry is or is not necessary to properly and safely install the wiretapping or electronic surveillance or eavesdropping equipment.

(b) An order authorizing the interception of a wire or oral communication must specify:

(1) the identity of the person, if known, whose communications are to be intercepted;

(2) the nature and location of the communications facilities as to which or the place where authority to intercept is granted;

(3) a particular description of the type of communication sought to be intercepted and a statement of the particular offense to which it relates;

(4) the identity of the officer making the request and the identity of the prosecutor;

(5) the time during which the interception is authorized, including a statement of whether or not the interception will automatically terminate when the described communication is first obtained; and

(6) whether or not a covert entry or surreptitious entry is necessary to properly and safely

install wiretapping, electronic surveillance, or eavesdropping equipment.

(c) In an order authorizing the interception of a wire or oral communication, the judge issuing it, on request of the applicant, shall direct that a communication common carrier, landlord, custodian, or other person furnish the applicant all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the carrier, landlord, custodian, or other person is providing the person whose communications are to be intercepted. Any communication common carrier, landlord, custodian, or other person furnishing facilities or technical assistance is entitled to compensation by the applicant for the facilities or assistance at the prevailing rates.

(d) An order entered pursuant to this section may not authorize the interception of a wire or oral communication for longer than is necessary to achieve the objective of the authorization and in no event may it authorize interception for more than 30 days. The issuing judge may grant extensions of an order, but only on application for an extension made in accordance with Section 8 of this article and the court making the findings required by Subsection (a) of this section. The period of extension may not be longer than the authorizing judge deems necessary to achieve the purposes for which it is granted and in no event may the extension be for more than 30 days. To be valid, each order and extension of an order must provide that the authorization to intercept be executed as soon as practicable, be conducted in a way that minimizes the interception of communications not otherwise subject to interception under this article, and terminate on obtaining the authorized objective or within 30 days, whichever occurs sooner.

(e) Whenever an order authorizing interception is entered pursuant to this article, the order may require reports to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Reports shall be made at any interval the judge requires.

(f) A judge who issues an order authorizing the interception of a wire or oral communication may not hear a criminal prosecution in which evidence derived from the interception may be used or in which the order may be an issue.

**Procedure for Preserving Intercepted Communications**

Sec. 10. (a) The contents of a wire or oral communication intercepted by means authorized by this article shall be recorded on tape, wire, or other comparable device. The recording of the contents of a wire or oral communication under this subsection shall be done in a way that protects the recording from editing or other alterations.

(b) Immediately on the expiration of the period of the order and all extensions, if any, the recordings shall be made available to the judge issuing the order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. The recordings may not be destroyed until at least 10 years after the date of expiration of the order and the last extension, if any. A recording may be destroyed only by order of the judge of competent jurisdiction for the administrative judicial district in which the interception was authorized.

(c) Duplicate recordings may be made for use or disclosure pursuant to Subsections (a) and (b), Section 7, of this article for investigations.

(d) The presence of the seal required by Subsection (b) of this section or a satisfactory explanation of its absence is a prerequisite for the use or disclosure of the contents of a wire or oral communication or evidence derived from the communication under Subsection (c), Section 7, of this article.

#### Sealing of Orders and Applications

Sec. 11. The judge shall seal each application made and order granted under this article. Custody of the applications and orders shall be wherever the judge directs. An application or order may be disclosed only on a showing of good cause before a judge of competent jurisdiction and may not be destroyed until at least 10 years after the date it is sealed. An application or order may be destroyed only by order of the judge of competent jurisdiction for the administrative judicial district in which it was made or granted.

#### Contempt

Sec. 12. A violation of Section 10 or 11 of this article may be punished as contempt of court.

#### Notice and Disclosure of Interception to a Party

Sec. 13. (a) Within a reasonable time but not later than 90 days after the date an application for an order is denied or after the date an order or the last extension, if any, expires, the judge who granted or denied the application shall cause to be served on the persons named in the order or the application and any other parties to intercepted communications, if any, an inventory, which must include notice:

- (1) of the entry of the order or the application;
- (2) of the date of the entry and the period of authorized interception or the date of denial of the application; and
- (3) that during the authorized period wire or oral communications were or were not intercepted.

(b) The judge, on motion, may in his discretion make available to a person or his counsel for inspection any portion of an intercepted communication, application, or order that the judge determines, in the interest of justice, to disclose to that person.

(c) On an ex parte showing of good cause to the judge, the serving of the inventory required by this section may be postponed, but in no event may any evidence derived from an order under this article be disclosed in any trial, until after such inventory has been served.

#### Preconditions to Use as Evidence

Sec. 14. (a) The contents of an intercepted wire or oral communication or evidence derived from the communication may not be received in evidence or otherwise disclosed in a trial, hearing, or other proceeding in a federal or state court unless each party, not later than the 10th day before the date of the trial, hearing, or other proceeding, has been furnished with a copy of the court order and application under which the interception was authorized or approved. This 10-day period may be waived by the judge if he finds that it is not possible to furnish the party with the information 10 days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving the information.

(b) An aggrieved person charged with an offense in a trial, hearing, or proceeding in or before a court, department, officer, agency, regulatory body, or other authority of the United States or of this state or a political subdivision of this state may move to suppress the contents of an intercepted wire or oral communication or evidence derived from the communication on the ground that:

- (1) the communication was unlawfully intercepted;
- (2) the order authorizing the interception is insufficient on its face; or
- (3) the interception was not made in conformity with the order.

(c) A person identified by a party to an intercepted wire or oral communication during the course of that communication may move to suppress the contents of the communication on the grounds provided in Subsection (b) of this section or on the ground that the harm to the person resulting from his identification in court exceeds the value to the prosecution of the disclosure of the contents.

(d) The motion to suppress must be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. The hearing on the motion shall be held in camera upon the written request of the aggrieved person. If the motion is granted, the contents of the intercepted wire or oral communication and evidence derived from the communication shall be treated as having been obtained in violation of this article. The judge, on the filing of the motion by the aggrieved person, shall make available to the aggrieved person or his counsel for inspection any portion of the intercepted communication or evidence derived from the communication that the judge determines, in the interest of justice, to make available.

(e) Any judge of this state, upon hearing a pre-trial motion regarding conversation intercepted by wire pursuant to this article, or who otherwise becomes informed that there exists on such intercepted wire or oral communication identification of a specific individual who is not a party or suspect to the subject of interception:

(1) shall give notice and an opportunity to be heard on the matter of suppression of references to that person if identification is sufficient so as to give notice; or

(2) shall suppress references to that person if identification is sufficient to potentially cause embarrassment or harm which outweighs the probative value, if any, of the mention of such person, but insufficient to require the notice provided for in Subdivision (1), above.

#### Reports Concerning Intercepted Wire or Oral Communications

Sec. 15. (a) Within 30 days after the date an order or the last extension if any, expires or after the denial of an order, the issuing or denying judge shall report to the Administrative Office of the United States Courts:

(1) the fact that an order or extension was applied for;

(2) the kind of order or extension applied for;

(3) the fact that the order or extension was granted as applied for, was modified, or was denied;

(4) the period of interceptions authorized by the order and the number and duration of any extensions of the order;

(5) the offense specified in the order or application or extension;

(6) the identity of the officer making the request and the prosecutor; and

(7) the nature of the facilities from which or the place where communications were to be intercepted.

(b) In January of each year each prosecutor shall report to the Administrative Office of the United States Courts the following information for the preceding calendar year:

(1) the information required by Subsection (a) of this section with respect to each application for an order or extension made;

(2) a general description of the interceptions made under each order or extension, including the approximate nature and frequency of incriminating communications intercepted, the approximate nature and frequency of other communications intercepted, the approximate number of persons whose communications were intercepted, and the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(3) the number of arrests resulting from interceptions made under each order or extension and the offenses for which arrests were made;

(4) the number of trials resulting from interceptions;

(5) the number of motions to suppress made with respect to interceptions and the number granted or denied;

(6) the number of convictions resulting from interceptions, the offenses for which the convictions were obtained, and a general assessment of the importance of the interceptions; and

(7) the information required by Subdivisions (2) through (6) of this subsection with respect to orders or extensions obtained.

(c) Any judge or prosecutor required to file a report with the Administrative Office of the United States Courts shall forward a copy of such report to the director of the Department of Public Safety. On or before March 1 of each year, the director shall submit to the governor; lieutenant governor; speaker of the house of representatives; chairman, senate jurisprudence committee; and chairman, house of representatives criminal jurisprudence committee a report of all intercepts as defined herein conducted pursuant to this article and terminated during the preceding calendar year. Such report shall include:

(1) the reports of judges and prosecuting attorneys forwarded to the director as required in this section;

(2) the number of Department of Public Safety personnel authorized to possess, install, or operate electronic, mechanical, or other devices;

(3) the number of Department of Public Safety and other law enforcement personnel who participated or engaged in the seizure of intercepts pursuant to this article during the preceding calendar year; and

(4) the total cost to the Department of Public Safety of all activities and procedures relating to the seizure of intercepts during the preceding calendar year, including costs of equipment, manpower, and expenses incurred as compensation for use of facilities or technical assistance provided to the department.

#### Recovery of Civil Damages Authorized

Sec. 16. (a) A person whose wire or oral communication is intercepted, disclosed, or used in violation of this article has a civil cause of action against any person who intercepts, discloses, or uses or procures another person to intercept, disclose, or use the communication and is entitled to recover from the person:

(1) actual damages but not less than liquidated damages computed at a rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

(2) punitive damages; and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

(b) A good faith reliance on a court order or legislative authorization constitutes a complete defense to any civil or criminal action brought under this article.

**Exceptions**

Sec. 17. It is an exception to the application of Section 16 that:

(1) an operator of a switchboard or an officer, employee, or agent of a communication common carrier whose facilities are used in the transmission of a wire communication intercepts a communication or discloses or uses an intercepted communication in the normal course of employment while engaged in an activity that is a necessary incident to the rendition of service or to the protection of the rights or property of the carrier of the communication, unless the interception results from the communication common carrier's use of service observing or random monitoring for purposes other than mechanical or service quality control checks;

(2) an officer, employee, or agent of a communication common carrier provides information, facilities, or technical assistance to an investigative or law enforcement officer who is authorized as provided by this article to intercept a wire or oral communication;

(3) a person acting under color of law intercepts a wire or oral communication if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception; or

(4) a person not acting under color of law intercepts a wire or oral communication if the person is a party to the communication or if one of the parties to the communication has given prior consent to the interception unless the communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitution or laws of the United States or of this state or for the purpose of committing any other injurious act.

[Added by Acts 1981, 67th Leg., p. 729, ch. 275, § 1, eff. Aug. 31, 1981.]

Section 5 of the 1981 Act provides:

"This Act shall not be in force after September 1, 1985."

## AFTER COMMITMENT OR BAIL AND BEFORE THE TRIAL

### CHAPTER NINETEEN. ORGANIZATION OF THE GRAND JURY

#### Art. 19.01. Appointment of Jury Commissioners; Selection Without Jury Commission

(a) The district judge, at or during any term of court, shall appoint not less than three, nor more than five persons to perform the duties of jury commissioners, and shall cause the sheriff to notify them of their appointment, and when and where

they are to appear. The district judge shall, in the order appointing such commissioners, designate whether such commissioners shall serve during the term at which selected or for the next succeeding term. Such commissioners shall receive as compensation for each day or part thereof they may serve the sum of Ten Dollars, and they shall possess the following qualifications:

1. Be intelligent citizens of the county and able to read and write the English language;
2. Be qualified jurors in the county;
3. Have no suit in said court which requires intervention of a jury;
4. Be residents of different portions of the county; and
5. The same person shall not act as jury commissioner more than once in the same year.

(b) In lieu of the selection of prospective jurors by means of a jury commission, the district judge may direct that 20 to 50 prospective grand jurors be selected and summoned, with return on summons, in the same manner as for the selection and summons of panels for the trial of civil cases in the district courts. The judge shall try the qualifications for and excuses from service as a grand juror and impanel the completed grand jury in the same manner as provided for grand jurors selected by a jury commission.

[Amended by Acts 1979, 66th Leg., p. 393, ch. 184, § 1, eff. Sept. 1, 1979.]

#### Art. 19.06. Shall Select Grand Jurors

The jury commissioners shall select not less than 15 nor more than 20 persons from the citizens of the county to be summoned as grand jurors for the next term of court, or the term of court for which said commissioners were selected to serve, as directed in the order of the court selecting the commissioners. The commissioners shall, to the extent possible, select grand jurors who the commissioners determine represent a broad cross-section of the population of the county, considering the factors of race, sex, and age.

[Amended by Acts 1979, 66th Leg., p. 394, ch. 184, § 4, eff. Sept. 1, 1979.]

#### Art. 19.08. Qualifications

No person shall be selected or serve as a grand juror who does not possess the following qualifications:

1. He must be a citizen of the state, and of the county in which he is to serve, and be qualified under the Constitution and laws to vote in said county, provided that his failure to register to vote shall not be held to disqualify him in this instance;
2. He must be of sound mind and good moral character;
3. He must be able to read and write;

4. He must not have been convicted of any felony;

5. He must not be under indictment or other legal accusation for theft or of any felony. [Amended by Acts 1981, 67th Leg., p. 3143, ch. 827, § 5, eff. Aug. 31, 1981.]

#### Art. 19.25. Excuses from Service

Any person summoned who does not possess the requisite qualifications shall be excused by the court from serving. The following qualified persons may be excused from grand jury service:

- (1) a person older than 65 years;
- (2) a person responsible for the care of a child younger than 18 years;
- (3) a student of a public or private secondary school;
- (4) a person enrolled and in actual attendance at an institution of higher education; and
- (5) any other person that the court determines has a reasonable excuse from service.

[Amended by Acts 1979, 66th Leg., p. 393, ch. 184, § 2, eff. Sept. 1, 1979.]

#### Art. 19.30. Challenge to "Array"

A challenge to the "array" shall be made in writing for these causes only:

1. That those summoned as grand jurors are not in fact those selected by the method provided by Article 19.01(b) of this chapter or by the jury commissioners; and
2. In case of grand jurors summoned by order of the court, that the officer who summoned them had acted corruptly in summoning any one or more of them.

[Amended by Acts 1979, 66th Leg., p. 394, ch. 184, § 3, eff. Sept. 1, 1979.]

### CHAPTER TWENTY. DUTIES AND POWERS OF THE GRAND JURY

#### Art. 20.21. Indictment Presented

When the indictment is ready to be presented, the grand jury shall through their foreman, deliver the indictment to the judge or clerk of the court. At least nine members of the grand jury must be present on such occasion.

[Amended by Acts 1979, 66th Leg., p. 1033, ch. 463, § 1, eff. June 7, 1979.]

#### Art. 20.22. Presentment Entered of Record

The fact of a presentment of indictment by a grand jury shall be entered upon the minutes of the court, noting briefly the style of the criminal action and the file number of the indictment, but omitting the name of the defendant, unless he is in custody or under bond.

[Amended by Acts 1979, 66th Leg., p. 1033, ch. 463, § 2, eff. June 7, 1979.]

### CHAPTER TWENTY-ONE. INDICTMENT AND INFORMATION

#### Art. 21.09. Description of Property

If known, personal property alleged in an indictment shall be identified by name, kind, number, and ownership. When such is unknown, that fact shall be stated, and a general classification, describing and identifying the property as near as may be, shall suffice. If the property be real estate, its general locality in the county, and the name of the owner, occupant or claimant thereof, shall be a sufficient description of the same.

[Amended by Acts 1975, 64th Leg., p. 909, ch. 341, § 2, eff. June 19, 1975.]

For saving provisions of 1975 amendatory act, see note set out under art. 3.01.

### CHAPTER TWENTY-TWO. FORFEITURE OF BAIL

#### Article

Art. 22.12a. Powers of the Court.

#### Art. 22.01. Bail Forfeited, When

When a defendant is bound by bail to appear and fails to appear in any court in which such case may be pending and at any time when his personal appearance is required under this Code, or by any court or magistrate, a forfeiture of his bail and a judicial declaration of such forfeiture shall be taken in the manner provided in Article 22.02 of this Code and entered by such court.

[Amended by Acts 1981, 67th Leg., p. 886, ch. 312, § 2, eff. Aug. 31, 1981.]

#### Art. 22.10. Scire Facias Docket

When a forfeiture has been declared upon a bond, the court or clerk shall docket the case upon the scire facias or upon the civil docket, in the name of the State of Texas, as plaintiff, and the principal and his sureties, if any, as defendants; and the proceedings had therein shall be governed by the same rules governing other civil suits.

[Amended by Acts 1981, 67th Leg., p. 886, ch. 312, § 3, eff. Aug. 31, 1981.]

#### Art. 22.12a. Powers of the Court

After a judicial declaration of forfeiture is entered, the court may proceed with the trial required by Article 22.14 of this code. The court may exonerate the defendant and his sureties, if any, from liability on the forfeiture, remit the amount of the forfeiture or set aside the forfeiture only as expressly provided by this chapter.

[Added by Acts 1981, 67th Leg., p. 886, ch. 312, § 4, eff. Aug. 31, 1981.]

#### Art. 22.16. The Court may Remit

If, before final judgment is entered against the bail, the principal appears or is arrested and lodged in jail of the proper county, the court may, at its

discretion, remit the whole or part of the sum specified in the bond if the arrest or appearance is a direct result of money spent or information furnished by the surety or is because of the principal's initiative in submitting himself to the authority of the court, sheriff, or other peace officers.

[Amended by Acts 1981, 67th Leg., p. 886, ch. 312, § 5, eff. Aug. 31, 1981.]

**Art. 22.17. Repealed by Acts 1981, 67th Leg., p. 886, ch. 312, § 6, eff. Aug. 31, 1981**

### CHAPTER TWENTY-THREE. THE CAPIAS

#### Art. 23.03. Capias or Summons in Felony

(a) A capias shall be issued by the district clerk upon each indictment for felony presented, after bail has been set or denied by the judge of the court. Upon the request of the attorney representing the State, a summons shall be issued by the district clerk. The capias or summons shall be delivered by the clerk or mailed to the sheriff of the county where the defendant resides or is to be found. A capias or summons need not issue for a defendant in custody or under bond.

[See Compact Edition, Volume 2 for text of (b) and (c)]

[Amended by Acts 1979, 66th Leg., p. 1034, ch. 463, § 3, eff. June 7, 1979.]

#### Art. 23.11. Sheriff May Take Bail in Felony

In cases of arrest for felony less than capital, made during vacation or made in another county than the one in which the prosecution is pending, the sheriff may take bail; in such cases the amount of the bail bond shall be the same as is endorsed upon the capias; and if no amount be endorsed on the capias, the sheriff shall require a reasonable amount of bail. If it be made to appear by affidavit, made by any district attorney, county attorney, or the sheriff approving the bail bond, to a judge of the Court of Criminal Appeals, a justice of a court of appeals, or to a judge of the district or county court, that the bail taken in any case after indictment is insufficient in amount, or that the sureties are not good for the amount, or that the bond is for any reason defective or insufficient, such judge shall issue a warrant of arrest and require of the defendant sufficient bond, according to the nature of the case.

[Amended by Acts 1981, 67th Leg., p. 803, ch. 291, § 105, eff. Sept. 1, 1981.]

### CHAPTER TWENTY-FOUR. SUBPOENA AND ATTACHMENT

#### Art. 24.01. Issuance of Subpoenas

(a) A subpoena may summon one or more persons to appear:

(1) before a court to testify in a criminal action at a specified term of the court or on a specified day; or

(2) on a specified day:

(A) before an examining court;

(B) at a coroner's inquest;

(C) before a grand jury;

(D) at a habeas corpus hearing; or

(E) in any other proceeding in which the person's testimony may be required in accordance with this code.

(b) The person named in the subpoena to summon the person whose appearance is sought must be:

(1) a peace officer; or

(2) at least 18 years old and, at the time the subpoena is issued, not a participant in the proceeding for which the appearance is sought.

(c) A person who is not a peace officer may not be compelled to accept the duty to execute a subpoena, but if he agrees in writing to accept that duty and neglects or refuses to serve or return the subpoena, he may be punished in accordance with Article 2.16 of this code.

(d) A court or clerk issuing a subpoena shall sign the subpoena and indicate on it the date it was issued, but the subpoena need not be under seal. [Amended by Acts 1981, 67th Leg., p. 503, ch. 209, § 1, eff. Sept. 1, 1981.]

#### Art. 24.04. Service and Return of Subpoena

A subpoena is served by reading the same in the hearing of the witness or by delivering a copy of the subpoena to the witness. The officer having the subpoena shall make due return thereof, showing the time and manner of service, if served, and if not served, he shall show in his return the cause of his failure to serve it; and if the witness could not be found, he shall state the diligence he has used to find him, and what information he has as to the whereabouts of the witness.

[Amended by Acts 1979, 66th Leg., p. 770, ch. 336, § 1, eff. Aug. 27, 1979.]

### CHAPTER TWENTY-SIX. ARRAIGNMENT

Article

26.055. Contribution from State for Defense of Certain Prisoners.

#### Art. 26.05. Compensation of Counsel Appointed to Defend

Sec. 1. A counsel appointed to defend a person accused of a felony or a misdemeanor punishable by imprisonment, or to represent an indigent in a habeas corpus hearing, shall be paid from the general fund of the county in which the prosecution was instituted or habeas corpus hearing held, according to the following schedule:

(a) For each day or a fractional part thereof in court representing the accused, a reasonable fee to be set by the court but in no event to be less than \$50;

(b) For each day in court representing the accused in a capital case, a reasonable fee to be set by the court but in no event to be less than \$250;

(c) For each day or a fractional part thereof in court representing the indigent in a habeas corpus hearing, a reasonable fee to be set by the court but in no event to be less than \$50;

(d) For expenses incurred for purposes of investigation and expert testimony, a reasonable fee to be set by the court but in no event to exceed \$500;

(e) For the prosecution to a final conclusion of a bona fide appeal to a court of appeals or the Court of Criminal Appeals, a reasonable fee to be set by the court but in no event to be less than \$350;

(f) For the prosecution to a final conclusion of a bona fide appeal to the Court of Criminal Appeals in a case where the death penalty has been assessed, a reasonable fee to be set by the court but in no event to be less than \$500.

Sec. 2. The minimum fee will be automatically allowed unless the trial judge orders more within five days of the judgment.

Sec. 3. All payments made under the provisions of this Article may be included as costs of court.

Sec. 4. An attorney may not receive more than one fee for each day in court, regardless of the number of cases in which he appears as appointed counsel on the same day.

[Amended by Acts 1981, 67th Leg., p. 803, ch. 291, § 106, eff. Sept. 1, 1981.]

#### Art. 26.055. Contribution from State for Defense of Certain Prisoners

Sec. 1. A county in which a facility of the Texas Department of Corrections is located shall pay from its general fund only the first \$250 of the aggregate sum allowed and awarded by the court for attorneys' fees, investigation, and expert testimony under Article 26.05 toward defending a prisoner committed to that facility who is being prosecuted for an offense committed in that county while in the custody of the department if the prisoner was originally committed for an offense committed in another county.

Sec. 2. If the fees awarded for court-appointed counsel in a case covered by Section 1 of this article exceed \$250, the court shall certify the amount in excess of \$250 to the Comptroller of Public Accounts of the State of Texas. The comptroller shall issue a warrant to the court-appointed counsel in the amount certified to the comptroller by the court. [Added by Acts 1975, 64th Leg., p. 168, ch. 72, § 1, eff. Sept. 1, 1975.]

#### Art. 26.13. Plea of Guilty

(a) Prior to accepting a plea of guilty or a plea of nolo contendere, the court shall admonish the defendant of:

(1) the range of the punishment attached to the offense;

(2) the fact that the recommendation of the prosecuting attorney as to punishment is not binding on the court. Provided that the court shall inquire as to the existence of any plea bargaining agreements between the state and the defendant and, in the event that such an agreement exists, the court shall inform the defendant whether it will follow or reject such agreement in open court and before any finding on the plea. Should the court reject any such agreement, the defendant shall be permitted to withdraw his plea of guilty or nolo contendere, and neither the fact that the defendant had entered a plea of guilty or nolo contendere nor any statements made by him at the hearing on the plea of guilty or nolo contendere may be used against the defendant on the issue of guilt or punishment in any subsequent criminal proceeding; and

(3) the fact that if the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by the defendant and his attorney, the trial court must give its permission to the defendant before he may prosecute an appeal on any matter in the case except for those matters raised by written motions filed prior to trial.

(b) No plea of guilty or plea of nolo contendere shall be accepted by the court unless it appears that the defendant is mentally competent and the plea is free and voluntary.

(c) In admonishing the defendant as herein provided, substantial compliance by the court is sufficient, unless the defendant affirmatively shows that he was not aware of the consequences of his plea and that he was misled or harmed by the admonishment of the court.

[Amended by Acts 1975, 64th Leg., p. 909, ch. 341, § 3, eff. June 19, 1975; Acts 1977, 65th Leg., p. 748, ch. 280, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1108, ch. 524, § 1, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1160, ch. 561, § 1, eff. Sept. 1, 1979.]

For saving provisions of 1975 amendatory act, see note set out under art. 3.01.

#### CHAPTER TWENTY-SEVEN. THE PLEADING IN CRIMINAL ACTIONS

##### Art. 27.14. Plea of Guilty or Nolo Contendere in Misdemeanor

(a) A plea of "guilty" or a plea of "nolo contendere" in a misdemeanor case may be made either by the defendant or his counsel in open court; in such case, the defendant or his counsel may waive a jury,

and the punishment may be assessed by the court either upon or without evidence, at the discretion of the court.

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a) of this article, mail to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve. If the court receives a plea and waiver before the time the defendant is scheduled to appear in court, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall notify the defendant by certified mail, return receipt requested, of the amount of any fine assessed in the case and, if requested by the defendant, the amount of an appeal bond that the court will approve. The defendant shall pay any fine assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice.

(c) In a misdemeanor case arising out of a moving traffic violation for which the maximum possible punishment is by fine only, payment of a fine, or an amount accepted by the court constitutes a finding of guilty in open court, as though a plea of nolo contendere had been entered by the defendant. [Amended by Acts 1977, 65th Leg., p. 2143, ch. 858, § 1, eff. June 16, 1977; Acts 1979, 66th Leg., p. 450, ch. 207, § 1, eff. Sept. 1, 1979.]

Section 4 of the 1979 amendatory act provided:

"This Act applies only to appeal bonds given for an appeal from a sentence of a justice or municipal court rendered on or after the effective date of this Act. The sufficiency of an appeal bond for an appeal from a sentence of a justice or municipal court rendered before the effective date of this Act is governed by the law amended by this Act as it existed at the time the sentence was rendered, and that law is continued in effect for this purpose as if this Act were not in force."

#### Art. 27.16. Plea of Not Guilty, How Made

(a) The plea of not guilty may be made orally by the defendant or by his counsel in open court. If the defendant refuses to plead, the plea of not guilty shall be entered for him by the court.

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a) of this article, mail to the court a plea of not guilty.

[Amended by Acts 1977, 65th Leg., p. 2143, ch. 858, § 2, eff. June 16, 1977.]

### CHAPTER TWENTY-EIGHT. MOTIONS, PLEADINGS AND EXCEPTIONS

Article

28.061. Discharge for Delay.

#### Art. 28.01. Pre-Trial

Sec. 1. The court may set any criminal case for a pre-trial hearing before it is set for trial upon its merits, and direct the defendant and his attorney, if

any of record, and the State's attorney, to appear before the court at the time and place stated in the court's order for a conference and hearing. The defendant must be present at the arraignment, and his presence is required during any pre-trial proceeding. The pre-trial hearing shall be to determine any of the following matters:

- (1) Arraignment of the defendant, if such be necessary; and appointment of counsel to represent the defendant, if such be necessary;
- (2) Pleadings of the defendant;
- (3) Special pleas, if any;
- (4) Exceptions to the form or substance of the indictment or information;
- (5) Motions for continuance either by the State or defendant; provided that grounds for continuance not existing or not known at the time may be presented and considered at any time before the defendant announces ready for trial;
- (6) Motions to suppress evidence—When a hearing on the motion to suppress evidence is granted, the court may determine the merits of said motion on the motions themselves, or upon opposing affidavits, or upon oral testimony, subject to the discretion of the court;
- (7) Motions for change of venue by the State or the defendant; provided, however, that such motions for change of venue, if overruled at the pre-trial hearing, may be renewed by the State or the defendant during the voir dire examination of the jury;
- (8) Discovery;
- (9) Entrapment; and
- (10) Motion for appointment of interpreter.

Sec. 2. When a criminal case is set for such pre-trial hearing, any such preliminary matters not raised or filed seven days before the hearing will not thereafter be allowed to be raised or filed, except by permission of the court for good cause shown; provided that the defendant shall have sufficient notice of such hearing to allow him not less than 10 days in which to raise or file such preliminary matters. The record made at such pre-trial hearing, the rulings of the court and the exceptions and objections thereto shall become a part of the trial record of the case upon its merits.

[See Compact Edition, Volume 1 for text of 3]

[Amended by Acts 1979, 66th Leg., p. 204, ch. 113, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 453, ch. 209, § 2, eff. Aug. 27, 1979.]

#### Art. 28.061. Discharge for Delay

If a motion to set aside an indictment, information, or complaint for failure to provide a speedy trial as required by Article 32A.02 is sustained, the court shall discharge the defendant. A discharge under this article is a bar to any further prosecution

for the offense discharged or for any other offense arising out of the same transaction.

[Added by Acts 1977, 65th Leg., p. 1972, ch. 787, § 4, eff. July 1, 1978.]

#### CHAPTER TWENTY-NINE. CONTINUANCE

##### Art. 29.02. By Agreement

A criminal action may be continued by consent of the parties thereto, in open court, at any time on a showing of good cause, but a continuance may be only for as long as is necessary.

[Amended by Acts 1977, 65th Leg., p. 1972, ch. 787, § 3, eff. July 1, 1978.]

##### Art. 29.03. For Sufficient Cause Shown

A criminal action may be continued on the written motion of the State or of the defendant, upon sufficient cause shown; which cause shall be fully set forth in the motion. A continuance may be only for as long as is necessary.

[Amended by Acts 1977, 65th Leg., p. 1972, ch. 787, § 3, eff. July 1, 1978.]

##### Art. 29.08. Motion Sworn to

All motions for continuance must be sworn to by a person having personal knowledge of the facts relied on for the continuance.

[Amended by Acts 1981, 67th Leg., p. 504, ch. 210, § 1, eff. Sept. 1, 1981.]

#### CHAPTER THIRTY. DISQUALIFICATION OF THE JUDGE

##### Art. 30.03. County Judge Disqualified, Absent or Disabled

Sec. 1. When the judge of the county court or county court at law, or of any county criminal court, is disqualified in any criminal case pending in the court of which he is judge, the parties may by consent agree upon a special judge to try such case. If they fail to agree upon a special judge to try such case, on or before the third day of the term at which such case may be called for trial, the practicing attorneys of the court present may elect from among their number a special judge who shall try the case. The election of the special judge shall be conducted in accordance with the provisions of Article 1887, et seq., V.A.C.S.

Sec. 2. In the event a county judge or the regular judge of a county court at law created in a county is absent, or is for any cause disabled from presiding, a special judge, who is an attorney, may be appointed by the commissioners court of the county.

Sec. 3. The special judge so appointed must possess those qualifications required of the regular judge of the court and, when appointed shall serve for the period of time designated by the order of appointment but in no event beyond that period of time the regular judge is absent or disabled.

[Amended by Acts 1975, 64th Leg., p. 1191, ch. 448, § 1, eff. June 19, 1975.]

##### Art. 30.04. Special Judge to Take Oath

The attorney agreed upon, elected, or appointed shall, before he enters upon his duties as special judge, take the oath of office required by the Constitution.

[Amended by Acts 1975, 64th Leg., p. 1191, ch. 448, § 2, eff. June 19, 1975.]

##### Art. 30.05. Record Made by Clerk

When a special judge is agreed upon by the parties, elected, or appointed as herein provided, the clerk shall enter in the minutes as a part of the proceedings in such cause a record showing:

1. That the judge of the court was disqualified, absent, or disabled to try the cause;

2. That such special judge (naming him) was by consent of the parties agreed upon, or elected or appointed;

3. That the oath of office prescribed by law was duly administered to such special judge.

[Amended by Acts 1975, 64th Leg., p. 1191, ch. 448, § 3, eff. June 19, 1975.]

#### CHAPTER THIRTY-ONE. CHANGE OF VENUE

##### Art. 31.03. Granted on Motion of Defendant

(a) A change of venue may be granted in any felony or misdemeanor case punishable by confinement on the written motion of the defendant, supported by his own affidavit and the affidavit of at least two credible persons, residents of the county where the prosecution is instituted, for either of the following causes, the truth and sufficiency of which the court shall determine:

1. That there exists in the county where the prosecution is commenced so great a prejudice against him that he cannot obtain a fair and impartial trial; and

2. That there is a dangerous combination against him instigated by influential persons, by reason of which he cannot expect a fair trial.

An order changing venue to a county beyond an adjoining district shall be grounds for reversal, if upon timely contest by defendant, the record of the contest affirmatively shows that any county in his own and the adjoining district is not subject to the same conditions which required the transfer.

(b) For the convenience of parties and witnesses, and in the interest of justice, the court upon motion of the defendant and with the consent of the attorney for the state may transfer the proceeding as to him to another district.

(c) The court upon motion of the defendant and with the consent of the attorney for the state may transfer the proceedings to another district in those cases wherein the defendant stipulates that a plea of guilty will be entered.

[Amended by Acts 1979, 66th Leg., p. 266, ch. 140, § 1, eff. Aug. 27, 1979.]

## TRIAL AND ITS INCIDENTS

## CHAPTER THIRTY-TWO A. SPEEDY TRIAL

## Article

32A.01. Trial Priorities.

32A.02. Time Limitations.

**Art. 32A.01. Trial Priorities**

Insofar as is practicable, the trial of a criminal action shall be given preference over trials of civil cases, and the trial of a criminal action against a defendant who is detained in jail pending trial of the action shall be given preference over trials of other criminal actions.

[Added by Acts 1977, 65th Leg., p. 1970, ch. 787, § 1, eff. July 1, 1978.]

Section 5 of the 1977 Act provided: "The effective date of this Act shall be July 1, 1978."

**Art. 32A.02. Time Limitations**

Sec. 1. A court shall grant a motion to set aside an indictment, information, or complaint if the state is not ready for trial within:

(1) 120 days of the commencement of a criminal action if the defendant is accused of a felony;

(2) 90 days of the commencement of a criminal action if the defendant is accused of a misdemeanor punishable by a sentence of imprisonment for more than 180 days; or

(3) 60 days of the commencement of a criminal action if the defendant is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less or punishable by a fine only.

Sec. 2. (a) Except as provided in subsections (b) and (c) of this section, a criminal action commences for purposes of this article when an indictment, information, or complaint against the defendant is filed in court, unless prior to the filing the defendant is either detained in custody or released on bail or personal bond to answer for the same offense or any other offense arising out of the same transaction, in which event the criminal action commences when he is arrested.

(b) If a defendant is to be retried following a mistrial, an order granting a new trial, or an appeal or collateral attack, a criminal action commences for purposes of this article on the date of the mistrial, the order granting a new trial, or the remand.

(c) If an indictment, information, or complaint is dismissed on motion of the defendant, a criminal action commences for the purposes of the article when a new indictment, information, or complaint against the defendant is filed in court, unless the defendant is either detained in custody or released on bail or personal bond to answer for the same offense or any other offense arising out of the same transaction, in which event the criminal action commences when he is detained or released.

Sec. 3. The failure of a defendant to move for discharge under the provisions of this article prior to trial or entry of a plea of guilty constitutes a waiver of the rights accorded by this article.

Sec. 4. In computing the time by which the state must be ready for trial, the following periods shall be excluded:

(1) a reasonable period of delay resulting from other proceedings involving the defendant, including but not limited to proceedings for the determination of competence to stand trial, hearing on pretrial motions, appeals, and trials of other charges;

(2) any period during which the defendant is incompetent to stand trial;

(3) a period of delay resulting from a continuance granted at the request or with the consent of the defendant or his counsel, except that a defendant without counsel is deemed not to have consented to a continuance unless the court advised him of his right to a speedy trial and of the effect of his consent;

(4) a period of delay resulting from the absence of the defendant because his location is unknown and:

(A) he is attempting to avoid apprehension or prosecution; or

(B) the state has been unable to determine his location by due diligence;

(5) a period of delay resulting from the unavailability of the defendant whose location is known to the state but whose presence cannot be obtained by due diligence or because he resists being returned to the state for trial;

(6) a reasonable period of delay resulting from a continuance granted at the request of the state if the continuance is granted:

(A) because of the unavailability of evidence that is material to the state's case, if the state has exercised due diligence to obtain the evidence and there are reasonable grounds to believe the evidence will be available within a reasonable time; or

(B) to allow the state additional time to prepare its case and the additional time is justified because of the exceptional circumstances of the case;

(7) if the charge is dismissed upon motion of the state or the charge is disposed of by a final judgment and the defendant is later charged with the same offense or another offense arising out of the same transaction, the period of delay from the date of dismissal or the date of the final judgment to the date the time limitation would commence running on the subsequent charge had there been no previous charge;

(8) a reasonable period of delay when the defendant is joined for trial with a codefendant

as to whom the time for trial has not run, if there is good cause for not granting a severance;

(9) a period of delay resulting from detention of the defendant in another jurisdiction, if the state is aware of the detention and exercises due diligence to obtain his presence for trial; and

(10) any other reasonable period of delay that is justified by exceptional circumstances.

[Added by Acts 1977, 65th Leg., p. 1970, ch. 787, eff. July 1, 1978. Amended by Acts 1979, 66th Leg., p. 4, ch. 3, § 1, eff. Sept. 1, 1979.]

Section 2 of the 1979 amendatory act provided:  
 "Sec. 2. This Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act's effective date is governed by the law existing before the effective date, which law is continued in effect for this purpose as if this Act were not in force. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date."

## TRIAL AND ITS INCIDENTS

### CHAPTER THIRTY-THREE. THE MODE OF TRIAL

#### Art. 33.02. Failure to Register

Failure to register to vote shall not disqualify any person from jury service.

[Amended by Acts 1981, 67th Leg., p. 3143, ch. 827, § 6, eff. Aug. 31, 1981.]

#### Art. 33.03. Presence of Defendant

In all prosecutions for felonies, the defendant must be personally present at the trial, and he must likewise be present in all cases of misdemeanor when the punishment or any part thereof is imprisonment in jail; provided, however, that in all cases, when the defendant voluntarily absents himself after pleading to the indictment or information, or after the jury has been selected when trial is before a jury, the trial may proceed to its conclusion. When the record in the appellate court shows that the defendant was present at the commencement, or any portion of the trial, it shall be presumed in the absence of all evidence in the record to the contrary that he was present during the whole trial. Provided, however, that the presence of the defendant shall not be required at the hearing on the motion for new trial in any misdemeanor case.

[Amended by Acts 1979, 66th Leg., p. 1832, ch. 745, § 1, eff. Aug. 27, 1979.]

### CHAPTER THIRTY-FIVE. FORMATION OF THE JURY

#### Art. 35.12. Mode of Testing

In testing the qualification of a prospective juror after he has been sworn, he shall be asked by the court, or under its direction:

1. Except for failure to register, are you a qualified voter in this county and state under the Constitution and laws of this state?

2. Have you ever been convicted of theft or any felony?

3. Are you under indictment or legal accusation for theft or any felony?

[Amended by Acts 1981, 67th Leg., p. 3143, ch. 827, § 7, eff. Aug. 31, 1981.]

#### Art. 35.16. Reasons for Challenge for Cause

(a) A challenge for cause is an objection made to a particular juror, alleging some fact which renders him incapable or unfit to serve on the jury. A challenge for cause may be made by either the state or the defense for any one of the following reasons:

1. That he is not a qualified voter in the state and county under the Constitution and laws of the state; provided, however, the failure to register to vote shall not be a disqualification;

2. That he has been convicted of theft or any felony;

3. That he is under indictment or other legal accusation for theft or any felony;

4. That he is insane or has such defect in the organs of feeling or hearing, or such bodily or mental defect or disease as to render him unfit for jury service, or that he is legally blind and either the court or the state in its discretion or the defendant or the prospective juror in his discretion is not satisfied that he is fit for jury service in that particular case;

5. That he is a witness in the case;

6. That he served on the grand jury which found the indictment;

7. That he served on a petit jury in a former trial of the same case;

8. That he has a bias or prejudice in favor of or against the defendant;

9. That from hearsay, or otherwise, there is established in the mind of the juror such a conclusion as to the guilt or innocence of the defendant as would influence him in his action in finding a verdict. To ascertain whether this cause of challenge exists, the juror shall first be asked whether, in his opinion, the conclusion so established will influence his verdict. If he answers in the affirmative, he shall be discharged without further interrogation by either party or the court. If he answers in the negative, he shall be further examined as to how his conclusion was formed, and the extent to which it will affect his action; and, if it appears to have been formed from reading newspaper accounts, communications, statements or reports or mere rumor or hearsay, and if the juror states that he feels able, notwithstanding such opinion, to render an impartial verdict upon the law and the evidence, the court, if satisfied that he is impartial and will render such verdict, may, in its discretion, admit him as competent

to serve in such case. If the court, in its discretion, is not satisfied that he is impartial, the juror shall be discharged;

10. That he cannot read or write.

No juror shall be impaneled when it appears that he is subject to the second, third or fourth grounds of challenge for cause set forth above, although both parties may consent. All other grounds for challenge may be waived by the party or parties in whose favor such grounds of challenge exist.

In this subsection, "legally blind" shall mean having not more than 20/200 of visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1975, 64th Leg., p. 475, ch. 202, § 2, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 3143, ch. 827, § 8, eff. Aug. 31, 1981.]

**Art. 35.24. Repealed by Acts 1975, 64th Leg., p. 1353, ch. 510, § 2, eff. Sept. 1, 1975**

See, now, Civil Statutes, art. 2122.

**Art. 35.26. Lists Returned to Clerk**

(a) When the parties have made or declined to make their peremptory challenges, they shall deliver their lists to the clerk. Except as provided in Subsection (b) of this section, the clerk shall, if the case be in the district court, call off the first twelve names on the lists that have not been stricken. If the case be in the county court, he shall call off the first six names on the lists that have not been stricken. Those whose names are called shall be the jury.

(b) In a capital case, the court may direct that two alternate jurors be selected and that the first fourteen names not stricken be called off by the clerk. The last two names to be called are the alternate jurors.

[Amended by Acts 1981, 67th Leg., p. 2264, ch. 545, § 1, eff. June 12, 1981.]

**Art. 35.27. Compensation of Nonresident Witnesses**

[See Compact Edition, Volume 2 for text of 1]

**Amount of Compensation for Expenses**

Sec. 2. Any person seeking compensation as a witness shall make an affidavit setting out the travel and daily living expenses necessitated by his travel to and from and attendance at the place he appeared to give testimony, together with the number of days that such travel and attendance made him absent from his place of residence. Compensation paid by the State to the witness for such expenses shall not exceed \$50 per day for daily living expenses and 16 cents per mile for travel by personal automobile.

[See Compact Edition, Volume 2 for text of 3 to 9]

[Amended by Acts 1979, 66th Leg., p. 1039, ch. 469, § 1, eff. Sept. 1, 1979.]

Section 2 of the 1979 amendatory act provided:

"This Act applies to reimbursement of a nonresident witness for travel expenses and daily living expenses incurred on or after the effective date of this Act. The reimbursement for travel expenses and daily living expenses incurred before the effective date of this Act are governed by the law amended by this Act as it existed before the effective date of this Act, and that law is continued in force for this purpose as if this Act were not in effect."

**CHAPTER THIRTY-SIX. THE TRIAL BEFORE THE JURY**

**Art. 36.14. Charge of Court**

Subject to the provisions of Article 36.07 in each felony case and in each misdemeanor case tried in a court of record, the judge shall, before the argument begins, deliver to the jury, except in pleas of guilty, where a jury has been waived, a written charge distinctly setting forth the law applicable to the case; not expressing any opinion as to the weight of the evidence, not summing up the testimony, discussing the facts or using any argument in his charge calculated to arouse the sympathy or excite the passions of the jury. Before said charge is read to the jury, the defendant or his counsel shall have a reasonable time to examine the same and he shall present his objections thereto in writing, distinctly specifying each ground of objection. Said objections may embody errors claimed to have been committed in the charge, as well as errors claimed to have been committed by omissions therefrom or in failing to charge upon issues arising from the facts, and in no event shall it be necessary for the defendant or his counsel to present special requested charges to preserve or maintain any error assigned to the charge, as herein provided. The requirement that the objections to the court's charge be in writing will be complied with if the objections are dictated to the court reporter in the presence of the court and the state's counsel, before the reading of the court's charge to the jury. Compliance with the provisions of this Article is all that is necessary to preserve, for review, the exceptions and objections presented to the charge and any amendment or modification thereof. In no event shall it be necessary for the defendant to except to the action of the court in over-ruling defendant's exceptions or objections to the charge.

[Amended by Acts 1975, 64th Leg., p. 617, ch. 253, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 2244, ch. 537, § 1, eff. June 12, 1981.]

**Art. 36.15. Requested Special Charges**

Before the court reads his charge to the jury, counsel on both sides shall have a reasonable time to present written instructions and ask that they be given to the jury. The requirement that the instructions be in writing is complied with if the instructions are dictated to the court reporter in the presence of the court and the state's counsel, before the

reading of the court's charge to the jury. The court shall give or refuse these charges. The defendant may, by a special requested instruction, call the trial court's attention to error in the charge, as well as omissions therefrom, and no other exception or objection to the court's charge shall be necessary to preserve any error reflected by any special requested instruction which the trial court refuses.

Any special requested charge which is granted shall be incorporated in the main charge and shall be treated as a part thereof, and the jury shall not be advised that it is a special requested charge of either party. The judge shall read to the jury only such special charges as he gives.

When the defendant has leveled objections to the charge or has requested instructions or both, and the court thereafter modifies his charge and rewrites the same and in so doing does not respond to objections or requested charges, or any of them, then the objections or requested charges shall not be deemed to have been waived by the party making or requesting the same, but shall be deemed to continue to have been urged by the party making or requesting the same unless the contrary is shown by the record; no exception by the defendant to the action of the court shall be necessary or required in order to preserve for review the error claimed in the charge. [Amended by Acts 1979, 66th Leg., p. 1109, ch. 525, § 1, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 2244, ch. 537, § 1, eff. June 12, 1981.]

#### Art. 36.29. If a Juror Becomes Ill

(a) Not less than twelve jurors can render and return a verdict in a felony case. It must be concurred in by each juror and signed by the foreman. Except as provided in Subsection (b) of this section, however, when pending the trial of any felony case, one juror may die or be disabled from sitting at any time before the charge of the court is read to the jury, the remainder of the jury shall have the power to render the verdict; but when the verdict shall be rendered by less than the whole number, it shall be signed by every member of the jury concurring in it.

(b) If alternate jurors have been selected in a capital case and a juror dies or becomes disabled from sitting at any time before the charge of the court is read to the jury, the alternate juror whose name was called first under Article 35.26 of this code shall replace the dead or disabled juror. Likewise, if another juror dies or becomes disabled from sitting before the charge of the court is read to the jury, the other alternate juror shall replace the second juror to die or become disabled.

(c) After the charge of the court is read to the jury, if any one of them becomes so sick as to prevent the continuance of his duty, or any accident of circumstance occurs to prevent their being kept together under circumstances under which the law or the instructions of the court requires that they be kept together, the jury shall be discharged.

(d) After the charge of the court is read to the jury, the court shall discharge an alternate juror who has not replaced a juror.

[Amended by Acts 1981, 67th Leg., p. 2264, ch. 545, § 2, eff. June 12, 1981.]

### CHAPTER THIRTY-SEVEN. THE VERDICT

#### Art. 37.04. When Jury Has Agreed

When the jury agrees upon a verdict, it shall be brought into court by the proper officer; and if it states that it has agreed, the verdict shall be read aloud by the judge, the foreman, or the clerk. If in proper form and no juror dissents therefrom, and neither party requests a poll of the jury, the verdict shall be entered upon the minutes of the court. [Amended by Acts 1981, 67th Leg., p. 171, ch. 78, § 1, eff. April 30, 1981.]

#### Art. 37.07. Verdict Must be General; Separate Hearing on Proper Punishment

[See Compact Edition, Volume 1 for text of 1 and 2]

##### Sec. 3.

[See Compact Edition, Volume 1 for text of 3(a) and 3(b)]

(d) When the judge assesses the punishment, he may order an investigative report as contemplated in Section 4 of Article 42.12 of this code and after considering the report, and after the hearing of the evidence hereinabove provided for, he shall forthwith announce his decision on open court as to the punishment to be assessed.

[See Compact Edition, Volume 1 for text of 3(e)]

[Amended by Acts 1981, 67th Leg., p. 2466, ch. 639, § 1, eff. Sept. 1, 1981.]

#### Art. 37.071. Procedure in Capital Case

[See Compact Edition, Volume 1 for text of (a) to (d)]

(e) If the jury returns an affirmative finding on each issue submitted under this article, the court shall sentence the defendant to death. If the jury returns a negative finding on or is unable to answer any issue submitted under this article, the court shall sentence the defendant to confinement in the Texas Department of Corrections for life. The court, the attorney for the state, or the attorney for the defendant may not inform a juror or a prospective juror of the effect of failure of the jury to agree on an issue submitted under this article.

[See Compact Edition, Volume 1 for text of (f)]

[Amended by Acts 1981, 67th Leg., p. 2673, ch. 725, § 1, eff. Aug. 31, 1981.]

## CHAPTER THIRTY-EIGHT. EVIDENCE IN CRIMINAL ACTIONS

### Article

- 38.07. Testimony in Corroboration of Victim of Sexual Offense.  
38.33. Preservation and Use of Evidence of Drunk or Drugged Driving Convictions.

### Art. 38.03. Presumption of Innocence

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that he has been arrested, confined, or indicted for, or otherwise charged with, the offense gives rise to no inference of guilt at his trial. [Amended by Acts 1981, 67th Leg., p. 2247, ch. 539, § 1, eff. June 12, 1981.]

### Art. 38.07. Testimony in Corroboration of Victim of Sexual Offense

A conviction under Chapter 21, Penal Code,<sup>1</sup> is supportable on the uncorroborated testimony of the victim of the sexual offense if the victim informed any person, other than the defendant, of the alleged offense within six months after the date on which the offense is alleged to have occurred. The court shall instruct the jury that the time which lapsed between the alleged offense and the time it was reported shall be considered by the jury only for the purpose of assessing the weight to be given to the testimony of the victim.

[Added by Acts 1975, 64th Leg., p. 479, ch. 203, § 6, eff. Sept. 1, 1975.]

<sup>1</sup> Penal Code, § 21.01 et seq.  
Subsection 7(b) of the 1975 amendatory act provided:  
"Sections 3 and 6 of this Act apply to the prosecution of criminal offenses committed but not brought to trial before the effective date of this Act."

### Art. 38.21. Statement

A statement of an accused may be used in evidence against him if it appears that the same was freely and voluntarily made without compulsion or persuasion, under the rules hereafter prescribed. [Amended by Acts 1977, 65th Leg., p. 935, ch. 348, § 1, eff. Aug. 29, 1977.]

### Art. 38.22. When Statements May be Used

Sec. 1. In this article, a written statement of an accused means a statement signed by the accused or a statement made by the accused in his own handwriting or, if the accused is unable to write, a statement bearing his mark, when the mark has been witnessed by a person other than a peace officer.

Sec. 2. No written statement made by an accused as a result of custodial interrogation is admissible as evidence against him in any criminal proceeding unless it is shown on the face of the statement that:

- (a) the accused, prior to making the statement, either received from a magistrate the warning provided in Article 15.17 of this code or

received from the person to whom the statement is made a warning that:

(1) he has the right to remain silent and not make any statement at all and that any statement he makes may be used against him at his trial;

(2) any statement he makes may be used as evidence against him in court;

(3) he has the right to have a lawyer present to advise him prior to and during any questioning;

(4) if he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him prior to and during any questioning; and

(5) he has the right to terminate the interview at any time; and

(b) the accused, prior to and during the making of the statement, knowingly, intelligently, and voluntarily waived the rights set out in the warning prescribed by Subsection (a) of this section.

Sec. 3. (a) No oral or sign language statement of an accused made as a result of custodial interrogation shall be admissible against the accused in a criminal proceeding unless:

(1) an electronic recording, which may include motion picture, video tape, or other visual recording, is made of the statement;

(2) prior to the statement but during the recording the accused is given the warning in Subsection (a) of Section 2 above and the accused knowingly, intelligently, and voluntarily waives any rights set out in the warning;

(3) the recording device was capable of making an accurate recording, the operator was competent, and the recording is accurate, has not been altered, and reflects that the accused was advised before the interrogation that the interrogation will be recorded; and

(4) all voices on the recording are identified.

(b) Every electronic recording of any statement made by an accused during a custodial interrogation must be preserved until such time as the defendant's conviction for any offense relating thereto is final, all direct appeals therefrom are exhausted, or the prosecution of such offenses is barred by law.

(c) Subsection (a) of this section shall not apply to any statement which contains assertions of facts or circumstances that are found to be true and which conduce to establish the guilt of the accused, such as the finding of secreted or stolen property or the instrument with which he states the offense was committed.

(d) If the accused is a deaf person, the accused's statement under Section 2 or Section 3(a) of this article is not admissible against the accused unless the warning in Section 2 of this article is interpreted to the deaf person by an interpreter who is qualified and sworn as provided in Article 38.31 of this code.

Sec. 4. When any statement, the admissibility of which is covered by this article, is sought to be used in connection with an official proceeding, any person who swears falsely to facts and circumstances which, if true, would render the statement admissible under this article is presumed to have acted with intent to deceive and with knowledge of the statement's meaning for the purpose of prosecution for aggravated perjury under Section 37.03 of the Penal Code. No person prosecuted under this subsection shall be eligible for probation.

Sec. 5. Nothing in this article precludes the admission of a statement made by the accused in open court at his trial, before a grand jury, or at an examining trial in compliance with Articles 16.03 and 16.04 of this code, or of a statement that is the res gestae of the arrest or of the offense, or of a statement that does not stem from custodial interrogation, or of a voluntary statement, whether or not the result of custodial interrogation, that has a bearing upon the credibility of the accused as a witness, or of any other statement that may be admissible under law.

Sec. 6. In all cases where a question is raised as to the voluntariness of a statement of an accused, the court must make an independent finding in the absence of the jury as to whether the statement was made under voluntary conditions. If the statement has been found to have been voluntarily made and held admissible as a matter of law and fact by the court in a hearing in the absence of the jury, the court must enter an order stating its conclusion as to whether or not the statement was voluntarily made, along with the specific finding of facts upon which the conclusion was based, which order shall be filed among the papers of the cause. Such order shall not be exhibited to the jury nor the finding thereof made known to the jury in any manner. Upon the finding by the judge as a matter of law and fact that the statement was voluntarily made, evidence pertaining to such matter may be submitted to the jury and it shall be instructed that unless the jury believes beyond a reasonable doubt that the statement was voluntarily made, the jury shall not consider such statement for any purpose nor any evidence obtained as a result thereof. In any case where a motion to suppress the statement has been filed and evidence has been submitted to the court on this issue, the court within its discretion may reconsider such evidence in his finding that the statement was voluntarily made and the same evidence submitted to the court at the hearing on the motion to suppress shall be made a part of the record the same as if it were being presented at the time of trial. However, the state or the defendant shall be entitled to present any new evidence on the issue of the voluntariness of the statement prior to the court's final ruling and order stating its findings.

Sec. 7. When the issue is raised by the evidence, the trial judge shall appropriately instruct the jury, generally, on the law pertaining to such statement. [Amended by Acts 1977, 65th Leg., p. 935, ch. 348, § 2, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 398, ch. 186, §§ 4, 5, eff. May 15, 1979; Acts 1981, 67th Leg., p. 711, ch. 271, § 1, eff. Sept. 1, 1981.]

Section 3 of the 1977 amendatory act provided:

"This Act applies only to statements made on or after its effective date."

Section 2 of the 1981 amendatory act provides:

"This Act applies to oral statements of an accused made on or after its effective date. Section 3, Article 38.22, Code of Criminal Procedure, 1965, as amended, as in existence before the effective date of this Act, is continued in force for the purpose of determining the admissibility in a criminal proceeding of an oral statement of an accused made before the effective date of this Act."

#### Art. 38.30. Interpreter

When a motion for appointment of an interpreter is filed by any party or on motion of the court, in any criminal proceeding, it is determined that a person charged or a witness does not understand and speak the English language, an interpreter must be sworn to interpret for him. Any person may be subpoenaed, attached or recognized in any criminal action or proceeding, to appear before the proper judge or court to act as interpreter therein, under the same rules and penalties as are provided for witnesses. In the event that the only available interpreter is not considered to possess adequate interpreting skills for the particular situation or the interpreter is not familiar with use of slang, the person charged or witness may be permitted by the court to nominate another person to act as intermediary between himself and the appointed interpreter during the proceedings. Interpreters appointed under the terms of this article will receive from the general fund of the county for their services a sum not to exceed \$100 a day as follows: interpreters shall be paid not less than \$15 nor more than \$100 a day at the discretion of the judge presiding, and when travel of the interpreter is involved all the actual expenses of travel, lodging, and meals incurred by the interpreter pertaining to the case he is appointed to serve shall be paid at the same rate applicable to state employees.

[Amended by Acts 1979, 66th Leg., p. 453, ch. 209, § 1, eff. Aug. 27, 1979.]

Sections 3 and 4 of the 1979 amendatory act provided:

"Sec. 3. All laws or parts of laws in conflict or inconsistent with the provisions of this Act are hereby repealed.

"Sec. 4. If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act or the application thereof to any person or circumstance for any reason is held invalid or unconstitutional, such holding shall not affect the validity or enforceability of the remaining portions of this Act, and the legislature hereby declares that it would have passed such remaining portions of this Act despite such invalidity or unconstitutionality of any part or portion thereof."

#### Art. 38.31. Interpreters for Deaf Persons

(a) If the court is notified by a party that the defendant is deaf and will be present at an arraignment, hearing, examining trial, or trial, or that a witness is deaf and will be called at a hearing, examining trial, or trial, the court shall appoint a qualified interpreter to interpret the proceedings in any language that the deaf person can understand, including but not limited to sign language. On the court's motion or the motion of a party, the court may order testimony of a deaf witness and the

interpretation of that testimony by the interpreter visually, electronically recorded for use in verification of the transcription of the reporter's notes. The clerk of the court shall include that recording in the appellate record if requested by a party under Article 40.09 of this Code.

(b) Following the filing of an indictment, information, or complaint against a deaf defendant, the court on the motion of the defendant shall appoint a qualified interpreter to interpret in a language that the defendant can understand, including but not limited to sign language, communications concerning the case between the defendant and defense counsel. The interpreter may not disclose a communication between the defendant and defense counsel or a fact that came to the attention of the interpreter while interpreting those communications if defense counsel may not disclose that communication or fact.

(c) In all cases where the mental condition of a person is being considered and where such person may be committed to a mental institution, and where such person is deaf, all of the court proceedings pertaining to him shall be interpreted by a qualified interpreter appointed by the court.

(d) A proceeding for which an interpreter is required to be appointed under this Article may not commence until the appointed interpreter is in a position not exceeding ten feet from and in full view of the deaf person.

(e) The interpreter appointed under the terms of this Article shall be required to take an oath that he will make a true interpretation to the person accused or being examined, which person is deaf, of all the proceedings of his case in a language that he understands; and that he will repeat said deaf person's answer to questions to counsel, court, or jury, in the English language, in his best skill and judgment.

(f) Interpreters appointed under this Article are entitled to a reasonable fee determined by the court after considering the recommendations of the State Commission for the Deaf. When travel of the interpreter is involved all the actual expenses of travel, lodging, and meals incurred by the interpreter pertaining to the case he is appointed to serve shall be paid at the same rate applicable to state employees.

(g) In this Code:

(1) "Deaf person" means a person who has a hearing impairment, regardless of whether the person also has a speech impairment, that inhibits the person's comprehension of the proceedings or communication with others.

(2) "Qualified interpreter" means an interpreter for the deaf whose qualifications have been approved by the State Commission for the Deaf.

[Amended by Acts 1979, 66th Leg., p. 396, ch. 186, § 1, eff. May 15, 1979.]

### Art. 38.33. Preservation and Use of Evidence of Drunk or Drugged Driving Convictions

#### Documents Filed

Sec. 1. When a person is finally convicted of an offense of driving while intoxicated or driving while under the influence of drugs, the clerk of the court shall mail a notice of the conviction to the sheriff of the county in which the offense occurred. The sheriff shall compile and send to the clerk copies of any photograph, picture, description, fingerprint, or measurement of the defendant made by a law enforcement agency in connection with that offense. The clerk shall forward to the department of public safety those documents and any complaint, information, indictment, judgment, sentence, mandate, or written waiver or motion in possession of the clerk pertaining to the conviction and the name of the attorney of record in that case.

#### Use as Evidence

Sec. 2. A certified copy of a document of the department of public safety forwarded to the department pursuant to Section 1 of this article is admissible as evidence in a criminal proceeding to prove that a particular person was convicted of the offense to which the document pertains if the court finds that 15 days before trial, the party against whom the evidence is offered was provided a copy of the document offered as evidence.

#### Dissemination of Documents

Sec. 3. (a) On written request of a prosecuting attorney for any documents of the department of public safety forwarded to the department pursuant to Section 1 of this article pertaining to a particular person, the department shall furnish the prosecuting attorney at no cost to the prosecuting attorney certified copies of those documents.

(b) The court in which a criminal case is pending may request the department to mail to the defendant or the defendant's attorney copies of documents filed in the name of the defendant under Section 1 of this article. The department shall furnish the copies to the defendant or the defendant's attorney without cost to the defendant or the attorney. [Added by Acts 1979, 66th Leg., p. 1851, ch. 751, § 1, eff. Sept. 1, 1979.]

## PROCEEDINGS AFTER VERDICT

### CHAPTER FORTY. NEW TRIALS

#### Art. 40.05. Time to Apply for New Trial; Amendment

(a) A motion for new trial, if filed, shall be filed prior to or within 30 days after the date the sentence is imposed or suspended in open court.

(b) One or more amended motions for new trial may be filed without leave of court before any preceding motion for new trial filed by the movant

is overruled and within 30 days after the date the sentence is imposed or suspended in open court.

(c) In the event an original or amended motion for new trial is not determined by written order signed within 75 days after the date the sentence is imposed or suspended in open court, it shall be considered overruled by operation of law on expiration of that period.

(d) It shall be the duty of the proponent of an original or amended motion for new trial to present the same to the court within 10 days after the same is filed. However, at the discretion of the judge, an original motion or amended motion for new trial may be presented or hearing thereon completed after such 10-day period. Such delayed hearing shall not operate to extend the 75-day time limit within which the original or amended motion must be determined.

(e) Within the time limits prescribed in this article, a motion for new trial may be filed after the expiration of the term at which the date the sentence was imposed or suspended in open court, either during a new term of court or during vacation, and a motion for new trial may be determined in vacation or at a new term of court, and need not be determined during the term at which filed.

[Amended by Acts 1981, 67th Leg., p. 803, ch. 291, § 107, eff. Sept. 1, 1981.]

### Art. 40.09. The Record on Appeal

#### 1. Record on Appeals

In all cases appealable by law to the courts of appeals or the Court of Criminal Appeals, the clerk of the court that entered the judgment of conviction or order revoking probation sought to be appealed from shall, under his hand and seal of the court, make and prepare an appellate record comprising a true copy of the matter designated by the parties, but shall always include, whether designated or not, copies of the material pleadings, material docket entries made by the court, the court's charges, the jury's verdicts, the judgment or any order revoking probation, the motion or amended motion for new trial, the notice of appeal, any appeal bond, and all formal bills of exception. The matter so prepared shall be assembled and shall constitute the record on appeal. The pages of this record shall be numbered consecutively and there shall be an index prepared by the clerk showing the location of each document in the record. The record shall be made in duplicate and one copy shall be retained by the clerk for use by the parties with permission of the court.

#### 2. Designation of Material for Inclusion in the Record

Each party may file with the clerk a written designation specifying matter for inclusion in the record. The appellant shall file his designation within 20 days after the giving of notice of appeal. The state shall file its designation within 30 days after the giving of notice of appeal. The failure of

the clerk to include designated matter will not be ground for complaint on appeal if the designation specifying such matter is not timely filed. Each party shall serve a copy of its designation on the opposing party.

#### 3. Statement of Facts and Other Proceedings

The record may include a transcription of all or any part of the proceedings shown by notes of the reporter to have occurred before, during or after the trial and the same will constitute the statement of facts for the appeal. A transcription applicable to any proceeding occurring before notice of appeal shall be filed with the clerk for inclusion in the record not later than 60 days after notice of appeal. A transcription of the notes applicable to any proceeding occurring after notice of appeal shall be filed with the clerk for inclusion in the record not later than thirty days after the end of such proceeding.

#### 4. Effect of the Transcription of the Court Reporter's Notes

At the request of either party the court reporter shall take shorthand notes of all trial proceedings, including voir dire examination, objections to the court's charge, and final arguments. He is not entitled to any fee in addition to his salary for taking these notes. A transcription of the reporter's notes when certified to by him and included in the record shall establish the occurrence and existence of all testimony, argument, motions, pleas, objections, exceptions, court actions, refusals of the court to act and other events thereby shown and no further proof of the occurrence or existence of same shall be necessary on appeal; provided, however, that the court shall have power, after hearing, to enter and make part of the record any finding or adjudication which the court may deem essential to make any such transcription speak the truth in any particular in which the court finds it does not speak the truth and any such finding or adjudication having support in the evidence shall be final.

#### 5. Responsibility for Obtaining a Transcription of the Reporter's Notes

If a party desires to have all or any portion of a transcription of the court reporter's notes included in the record, he shall so designate with the clerk in writing and within the time required by Section 2 of this Article. Such party shall then have the responsibility of obtaining such transcription from the court reporter and furnishing the same to the clerk in duplicate in time for inclusion in the record and the appellant shall pay therefor. The court will order the reporter to make such transcription without charge to appellant if the court finds, after hearing in response to an affidavit filed by the appellant not more than 20 days after giving notice of appeal that he is unable to pay or give security therefor. Upon certificate of the court that this service has been rendered, payment therefor shall be

made from the general funds by the county in which the offense is alleged to have been committed in a sum to be set by the trial judge. The court reporter shall report any portion of the proceedings requested by either party or directed by the court.

#### 6. Bills of Exception

(a) A party desiring to have the record disclose some action, testimony, evidence, proceeding, objection, exception or other event or occurrence not otherwise shown by the record may utilize a bill of exception for this purpose. Bills of exception must be filed with the clerk within 75 days after notice of appeal is given. The clerk shall notify the court of each bill immediately upon its being filed and shall immediately send a copy of the bill to opposing counsel. Opposing counsel shall then have 10 days after the filing of the bill in which to make his objections to the same. The bill shall then be presented to the court not less than 10 days nor more than 20 days after the filing of the bill. Upon presentation, the court shall either approve the bill without qualification or shall approve it subject to qualification or refuse it, setting forth in the qualification or refusal any reasons that may seem proper to the judge. Notice of the court's action in qualifying or refusing a bill shall be immediately given by the clerk to the party filing the bill or to his counsel and the opposing counsel, and the party filing the bill, if unwilling to accept the court's qualification or refusal may not later than 15 days after receipt of such notice, file a bystander's bill of exception, and the clerk shall include same in the record. A bill of exception will be deemed approved without qualification if it be not acted upon by the trial judge within a period of 100 days after notice of appeal is given and no extension of time for filing has been granted; provided, however, if an extension of time for filing has been granted, a bill of exception will be deemed approved without qualification if it be not acted upon by the trial judge within a period of 25 days after the actual filing of the bill.

(b) A bill of exception shall be a necessary predicate for appellate review only if the matter complained of is not otherwise shown by the record as herein provided. Errors otherwise shown by the record may be reviewed on appeal without the necessity of any bill of exception. If the date of filing with the clerk of any document in the record is shown by notation of the clerk thereon, no further proof of such date or of the fact of the filing of the document with the clerk shall be necessary. If the transcription of the reporter's notes or any court order or docket entry by the court shows the occurrence or existence of any particular action by the court or refusal of the court to act or any objection or exception or any other event, no further proof of the occurrence or existence of same shall be necessary.

(c) Formal exceptions to rulings in evidence, opinions or other actions of the court are unnecessary;

but for all purposes for which an exception has heretofore been necessary, it is sufficient that a party, at the time ruling, opinion or action of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and if a party has no opportunity to object to the ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

(d)(1) When the court refuses to admit offered testimony or other evidence, the party offering same shall as soon as practicable but before the court's charge is read to the jury be allowed, out of the presence of the jury, to adduce the excluded testimony or other evidence before the reporter, and a transcription of his notes showing such testimony or other evidence and any objections and exceptions of the party offering same shall, when certified to by the reporter and included in the record, establish the nature of such testimony or other evidence, and the objections and exceptions made in connection with the court's exclusion of such testimony or other evidence and no bills of exception shall be essential to authorize appellate review of the question whether the court erred in excluding such testimony or other evidence. The court, in its discretion, may allow an offer of proof in the form of a concise statement by the party offering the same of what the excluded evidence would show, to be made before the reporter out of the presence of the jury as an alternative method of causing the record to show such excluded testimony or other evidence, and in the event the record contains transcription of the reporter's notes showing such an offer of proof the same shall be accepted on appeal as establishing what such excluded testimony or other evidence would have consisted of had it been admitted into evidence.

(2) When testimony or other evidence has been excluded by the court over objection of the party offering same, no further offer of the same need be made to preserve the claimed error.

(3) When the court hears objections to offered evidence out of the presence of the jury and rules that such evidence shall be admitted, then in that event such objections shall be deemed to apply to such evidence when it is admitted before the jury without the necessity of such objections being renewed in the presence of the jury.

#### 7. Approval of the Record

Notice of completion of the record shall be made by the clerk by certified or registered mail to the parties or their respective counsel. If neither files and presents to the court in writing any objection to the record, within 15 days after the mailing of such notice and if the court has no objection to the record, he shall approve the same. If the trial court deems that a supplemental record or any other modification of the record be necessary to make the record speak

the truth, for any reason, with or without objections from the state or the defendant, and whether on the court's own motion or the motion of either party or by order of the court of appeals or the Court of Criminal Appeals, the defendant and the state shall be notified by certified or registered mail of same and be given five days from receipt of notice for objections to such modification or supplementation. If objection be made, or if the court fails to approve the record within five days after the expiration of such 15-day period, the court shall set the matter down for hearing, and, after hearing, shall enter such orders as may be appropriate to cause the record to speak the truth and the findings and adjudications in such orders, if supported by evidence, shall be final. In its discretion, the court may require the attendance of the defendant at such hearing. Such proceeding shall be included in the record, and the entire record approved by the court.

#### 8. Filing Approved Record with Clerk

The record, on approval by the court, shall be filed with the clerk of the trial court, who shall immediately transmit it to the appropriate appellate court. Notice of the approval of the record by the court shall be made by the clerk by registered or certified mail to the parties or their respective counsel. The 30-day time limit provided in Section 9 of this article shall commence when the notice is mailed.

#### 9. Appellant's Brief

Within 30 days after approval of the record by the court, the appellant shall file with the clerk of the appellate court the original and three copies of his appellate brief, or the number of copies required by the rules of the court of criminal appeals. The rules may not require him to file more than 10 copies. This brief shall set forth separately each ground of error of which the appellant desires to complain on appeal and may set forth such arguments as he deems appropriate. Each ground of error shall briefly refer to that part of the ruling of the trial court, charge given to the jury, or charge refused, admission or rejection of evidence, or other proceedings which are designated to be complained of in such way so that the point of objection can be clearly identified and understood by the court. If the appellant includes in his brief arguments supporting a particular ground of error, they shall be construed with it in determining what point of objection is sought to be presented by such ground of error; and if the court, upon consideration of such ground of error in the light of arguments made in support thereof in the brief, can identify and understand such point of objection, the same shall be reviewed notwithstanding any generality, vagueness, or any other technical defect that may exist in the language employed to set forth such ground of error.

#### 10. The State's Brief

Within 30 days after appellant files his brief with the clerk of the appellate court, the state shall file with the clerk of the appellate court the original and three copies of its brief, or the number of copies required by the rules of the court of criminal appeals. The rules may not require the state to file more than 10 copies. Each party, upon filing his brief with the clerk of the appellate court, shall cause a true copy thereof to be delivered to the opposing party or to the latter's counsel.

#### 11. Agreed Statement

The parties may agree, with the approval of the trial court, upon a brief statement of the case and of the facts proven as will enable the appellate court to determine whether there is error in the trial. Such statement shall be copied into the record in lieu of the proceedings themselves.

#### 12. Order as to Original Papers or Exhibits

Whenever the trial court is of the opinion that original papers or exhibits should be inspected by the appellate court or sent to the appellate court in lieu of copies, it may make such order therefor and for the safekeeping, transportation and return thereof as it deems proper. The appellate court on its own initiative may direct the clerk of the trial court to send to it any original paper or exhibit for its inspection.

#### 13. Extensions of Time

*Text of subd. 13 as amended by Acts 1981, 67th Leg., p. 804, ch. 291, § 108*

Extensions of time for meeting the limits prescribed in Sections 3, 6, 7, 9, and 10 of this Article for either the appellant or the state may be granted by the appellate court in which the case will be filed or a judge thereof for good cause shown on timely application to the appellate court.

#### 13. Extensions of Time

*Text of subd. 13 (former subd. 16) as amended by Acts 1981, 67th Leg., p. 361, ch. 144, § 1*

Extensions of time for meeting the limits prescribed in Sections 3, 6, 9, and 10 of this Article for either the appellant or the State may be granted by the trial court for good cause shown on timely application to the trial court.

[Amended by Acts 1977, 65th Leg., p. 638, ch. 236, §§ 1 to 3, eff. May 25, 1977; Acts 1979, 66th Leg., p. 447, ch. 204, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 731, ch. 324, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 865, ch. 390, § 1, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 804, ch. 291, § 108, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 361, ch. 144, § 1, eff. May 14, 1981.]

Acts 1979, 66th Leg., p. 866, ch. 390, amending §§ 9 and 10 of this article, provided in § 2:

"This Act applies to an appellate brief only if that brief is filed with the clerk of the trial court on or after the effective date of this Act."

**Art. 40.10. Application of Civil Statutes**

The provisions of the rules of civil procedure, insofar as the same are applicable and not in conflict with the provisions of this Code or rules promulgated by the court of criminal appeals, as such rules now exist or may hereafter exist, shall govern bills of exception and statements of fact.

[Amended by Acts 1981, 67th Leg., p. 808, ch. 291, § 109, eff. Sept. 1, 1981.]

**CHAPTER FORTY-ONE. ARREST  
OF JUDGMENT**

**Art. 41.02. Time to Make Motion**

(a) A motion must be made within 30 days after the date the sentence is imposed or suspended in open court.

(b) In the event a motion on arrest of judgment is not determined by oral order or written signed order within 75 days after the date the sentence is imposed or suspended in open court, it shall be considered overruled by operation of law on expiration of that period.

(c) An order overruling a motion in arrest of judgment shall be considered as an order overruling a motion or amended motion for new trial for the purpose of giving notice of appeal.

[Amended by Acts 1981, 67th Leg., p. 808, ch. 291, § 110, eff. Sept. 1, 1981.]

**CHAPTER FORTY-TWO. JUDGMENT  
AND SENTENCE**

**Article**

42.04a. Issuance of Mandate; Judgments Final.

42.121. Texas Adult Probation Commission.

42.17. Transfer Under Treaty.

**Art. 42.01. Judgment**

Sec. 1. A judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant. The judgment should reflect:

1. The title and number of the case;
2. That the case was called and the parties appeared, naming the attorney for the state, the defendant, and the attorney for the defendant, or, where a defendant is not represented by counsel, that the defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel;
3. The plea or pleas of the defendant to the offense charged;
4. Whether the case was tried before a jury or a jury was waived;
5. The submission of the evidence, if any;
6. In cases tried before a jury that the jury was charged by the court;
7. The verdict or verdicts of the jury or the finding or findings of the court;

8. In the event of a conviction that the defendant is adjudged guilty of the offense as found by the verdict of the jury or the finding of the court, and that the defendant be punished in accordance with the jury's verdict or the court's finding as to the proper punishment;

9. In the event of conviction where death or any nonprobated punishment is assessed that the defendant be sentenced to death, a term of imprisonment, or to pay a fine, as the case may be;

10. In the event of conviction where any probated punishment is assessed that the imposition of sentence is suspended and the defendant is placed on probation, setting forth the punishment assessed, the length of probation, and the probationary terms and conditions; and

11. In the event of acquittal that the defendant be discharged.

Sec. 2. The judge may order the clerk of the court, the prosecuting attorney, or the attorney or attorneys representing any defendant to prepare the judgment, or the court may prepare the same.

Sec. 3. The provisions of this Article shall apply to both felony and misdemeanor cases.

[Amended by Acts 1975, 64th Leg., p. 245, ch. 95, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 809, ch. 291, § 111, eff. Sept. 1, 1981.]

**Art. 42.02. Sentence**

The sentence is that part of the judgment, or order revoking a probated sentence, that orders that the punishment be carried into execution in the manner prescribed by law.

[Amended by Acts 1981, 67th Leg., p. 809, ch. 291, § 112, eff. Sept. 1, 1981.]

**Art. 42.03. Pronouncing Sentence; Time; Credit for Time Spent in Jail Between Arrest and Sentence or Pending Appeal**

Sec. 1. Except as provided in Article 42.14, sentence shall be pronounced in the defendant's presence.

Sec. 2. (a) In all criminal cases the judge of the court in which the defendant was convicted shall give the defendant credit on his sentence for the time that the defendant has spent in jail in said cause, from the time of his arrest and confinement until his sentence by the trial court.

(b) In all felony probation revocations the judge shall enter the restitution or reparation due and owing on the date of the revocation of probation.

[See Compact Edition, Volume 1 for text of 3 and 4]

Sec. 5. (a) Where jail time has been awarded, the trial judge, at the time of the pronouncement of sentence or at any time while the defendant is serving the sentence, when in his or her discretion

the ends of justice would best be served and upon written motion of the defendant, may permit the defendant to serve his or her sentence during his or her off-work hours, or on weekends. When such a sentence is permitted by the trial judge it must be served on consecutive days or consecutive weekends. The trial judge may require bail of the defendant to insure the faithful performance of the sentence. The trial judge may attach conditions regarding the employment, travel, and other conduct of the defendant during the performance of such a sentence.

(b) The court may impose as a condition to permitting a defendant to serve the jail time assessed during off-work hours or on weekends a requirement that he or she make any of the following payments to the court, agencies, or persons, or that the defendant execute a letter and direct it to his or her employer directing the employer to deduct from the defendant's salary an amount directed by the court, which is to be sent by the employer to the clerk of the court. The money directed by the court under this section may be used to pay the following expenses as directed by the court:

- (1) the support of the prisoner's dependents, if necessary;
- (2) the prisoner's personal, business, and travel expenses;
- (3) reimbursement of the general fund of the county for the maintenance of the prisoner in jail; and
- (4) installment payments on restitution, fines, and court costs ordered by the court.

The condition shall not be binding on the employer and his or her compliance shall be on a voluntary basis.

(c) The court may permit the defendant to serve his or her sentence during his or her off-work hours or on weekends in order for the defendant to continue his or her employment if the court imposes confinement for failure to pay a fine or court costs, or as punishment for criminal nonsupport under Section 25.05, Penal Code, or contempt of a court order for periodic payments for the support of a child.

(d) The court may impose as a condition to permitting a defendant to serve the jail time assessed during off-work hours or on weekends a requirement that the defendant execute a letter and direct it to his or her employer directing the employer to deduct from the defendant's salary an amount directed by the court, which is to be sent by the employer to the clerk of the court and credited against any arrears of child support payments. The condition shall not be binding on the employer and his or her compliance shall be on a voluntary basis.

(e) The court may permit the defendant to seek employment or obtain medical or psychological treatment or counseling or obtain training or needed

education under the same terms and conditions that apply to employment under this statute.

[Amended by Acts 1977, 65th Leg., p. 1036, ch. 382, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 2076, ch. 827, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 353, ch. 141, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 809, ch. 291, § 113, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2418, ch. 616, § 1, eff. Aug. 31, 1981.]

#### Art. 42.04. Sentence When Appeal is Taken

When a defendant is sentenced to death, no date shall be set for the execution of sentence until after the receipt by the clerk of the trial court of the mandate of affirmance of the court of criminal appeals.

[Amended by Acts 1981, 67th Leg., p. 809, ch. 291, § 114, eff. Sept. 1, 1981.]

#### Art. 42.04a. Issuance of Mandate; Judgments Final

(a) When a decision of a court of appeals or the Court of Criminal Appeals becomes final, the clerk of such court shall issue a mandate in the case to the trial court.

(b) A decision of a court of appeals shall be final:

(1) at the expiration of 45 days after the final ruling of the court, unless:

(A) a petition for review has been filed within 30 days after the final ruling of the court of appeals; or

(B) the Court of Criminal Appeals has filed an order for review of the decision on its own motion; or

(2) at the expiration of 15 days from the date of refusal of the Court of Criminal Appeals to grant a petition for review.

(c) A decision of the Court of Criminal Appeals shall be final at the expiration of 15 days from the ruling on the final motion for rehearing from the rendition of the decision if no motion for rehearing is filed.

[Added by Acts 1981, 67th Leg., p. 810, ch. 291, § 116, eff. Sept. 1, 1981.]

#### Art. 42.07. Reasons to Prevent Sentence

Before pronouncing sentence, the defendant shall be asked whether he has anything to say why the sentence should not be pronounced against him. The only reasons which can be shown, on account of which sentence cannot be pronounced, are:

1. That the defendant has received a pardon from the proper authority, on the presentation of which, legally authenticated, he shall be discharged.

2. That the defendant is incompetent to stand trial; and if evidence be shown to support a finding of incompetency to stand trial, no sentence shall be pronounced, and the court shall proceed under Article 46.02 of this code; and

3. When a person who has been convicted escapes after conviction and before sentence and an individual supposed to be the same has been arrested, he may before sentence is pronounced, deny that he is the person convicted, and an issue be accordingly tried before a jury, or before the court if a jury is waived, as to his identity.

[Amended by Acts 1975, 64th Leg., p. 1102, ch. 415, § 3, eff. June 19, 1975; Acts 1981, 67th Leg., p. 810, ch. 291, § 115, eff. Sept. 1, 1981.]

#### Art. 42.09. Commencement of Sentence and Delivery to Place of Confinement

Sec. 1. Except as provided in Sections 2 and 3, a defendant shall be delivered to jail or to the Department of Corrections when his sentence to imprisonment is pronounced, or his sentence to death is announced, by the court. The defendant's sentence begins to run on the day it is pronounced, but with all credits, if any, allowed by Article 42.03.

Sec. 2. If a defendant appeals his conviction and is released on bail pending disposition of his appeal, when his conviction is affirmed, the clerk of the trial court, on receipt of the mandate from the appellate court, shall issue a commitment against the defendant. The officer executing the commitment shall endorse thereon the date he takes the defendant into custody and the defendant's sentence begins to run from the date endorsed on the commitment. The Department of Corrections shall admit the defendant named in the commitment on the basis of the commitment.

Sec. 3. If a defendant is convicted of a felony and sentenced to death, life, or a term of more than ten years in the Department of Corrections and he gives notice of appeal, he shall be transferred to the Department of Corrections on a commitment pending a mandate from the court of appeals or the Court of Criminal Appeals.

Sec. 4. If a defendant is convicted of a felony and his sentence is a term of ten years or less and he gives notice of appeal, he shall be transferred to the Department of Corrections on a commitment pending a mandate from the court of appeals or the Court of Criminal Appeals upon request in open court or upon written request to the sentencing court. Upon a valid transfer to the Department of Corrections under this section, the defendant may not thereafter be released on bail pending his appeal.

Sec. 5. If a defendant is transferred to the Department of Corrections pending appeal under Section 3 or 4, his sentence shall be computed as if no appeal had been taken if the appeal is affirmed.

Sec. 6. All defendants who have been transferred to the Department of Corrections pending the appeal of their convictions under this Article, shall be under the control and authority of the Depart-

ment of Corrections for all purposes as if no appeal were pending.

[Amended by Acts 1977, 65th Leg., p. 2018, ch. 806, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 810, ch. 291, § 117, eff. Sept. 1, 1981.]

#### Art. 42.11. Uniform Act for Out-of-State Parolee Supervision

[See Compact Edition, Volume 1 for text of 1 to 3]

Sec. 3a. The office of Interstate Parole Compact Administrator for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this Article expires effective September 1, 1987.

<sup>1</sup> Civil Statutes, art. 5429k.

[Amended by Acts 1977, 65th Leg., p. 1851, ch. 735, § 2.134, eff. Aug. 29, 1977.]

#### Art. 42.12. Adult Probation, Parole, and Mandatory Supervision Law

##### A. Purpose of Article and Definitions

Sec. 1. It is the purpose of this Article to place wholly within the State courts of appropriate jurisdiction the responsibility for determining when the imposition of sentence in certain cases shall be suspended, the conditions of probation, and the supervision of probationers, in consonance with the powers assigned to the judicial branch of this government by the Constitution of Texas. It is also the intent of this Article to provide for the release of persons on parole and for the method thereof, to designate the Board of Pardons and Paroles as the responsible agency of State government to recommend determination of paroles and to further designate the Board of Pardons and Paroles as responsible for the investigation and supervision of persons released on parole. It is the intent of this Article to aid all prisoners to readjust to society upon completion of their period of incarceration by providing a program of mandatory supervision for those prisoners not released on parole or through executive clemency and to designate the Board of Pardons and Paroles as the agency of government responsible for the program. It is the final purpose of this Article to remove from existing statutes the limitations, other than questions of constitutionality, that have acted as barriers to effective systems of probations and paroles in the public interest.

Sec. 2. This Article may be cited as the "Adult Probation, Parole, and Mandatory Supervision Law".

Unless the context otherwise requires, the following definitions shall apply to the specified words and phrases as used in this Article:

a. "Courts" shall mean the courts of record having original criminal jurisdiction;

b. "Probation" shall mean the release of a convicted defendant by a court under conditions imposed by the court for a specified period during which the imposition of sentence is suspended;

c. "Parole" shall mean the release of a prisoner from imprisonment but not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Pardons and Paroles may determine. Parole shall not be construed to mean a commutation of sentence or any other form of executive clemency;

d. "Mandatory supervision" shall mean the release of a prisoner from imprisonment but not on parole and not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Pardons and Paroles may determine. Mandatory supervision may not be construed as a commutation of sentence or any other form of executive clemency;

e. "Probation officer" shall mean either a person duly appointed by one or more courts of record having original criminal jurisdiction, to supervise defendants placed on probation; or a person designated by such courts for such duties on a part-time basis;

f. "Parole officer" shall mean a person duly appointed by the Director of the Division of Parole Supervision and assigned the duties of investigating and supervising paroled prisoners and prisoners released to mandatory supervision to see that the conditions of parole or mandatory supervision are complied with;

g. "Board" shall mean the Board of Pardons and Paroles;

h. "Division" shall mean the Division of Parole Supervision of the Board of Pardons and Paroles; and

i. "Director" shall mean the Director of the Board of Pardons and Paroles.

#### B. Probations

Sec. 3. The judges of the courts of the State of Texas having original jurisdiction of criminal actions, when it shall appear to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, shall have the power, after conviction or a plea of guilty for any crime or offense, where the maximum punishment assessed against the defendant does not exceed ten years imprisonment, to suspend the imposition of the sentence and may place the defendant on probation or impose a fine applicable to the offense committed and also place the defendant on probation as hereinafter provided. In all cases where the punishment is assessed by the Court it may fix the period of probation without regard to the term of punishment assessed, but in no event may the period of probation be greater than 10 years or less than the minimum prescribed for the offense for which the defendant was convicted. Any such person placed on probation, whether in a trial by jury or before the court, shall be under the supervision of such court.

Sec. 3a. When there is a conviction in any court of this State and the punishment assessed by the jury shall not exceed ten years, the jury may recommend probation for a period of any term of years authorized for the offense for which the defendant was convicted, but in no event for more than ten years, upon written sworn motion made therefor by the defendant, filed before the trial begins. When the jury recommends probation, it may also assess a fine applicable to the offense for which the defendant was convicted. When the trial is to a jury, and the defendant has no counsel, the court shall inform the defendant of his right to make such motion, and the court shall appoint counsel to prepare and present same, if desired by the defendant. In no case shall probation be recommended by the jury except when the sworn motion and proof shall show, and the jury shall find in their verdict that the defendant has never before been convicted of a felony in this or any other State. This law is not to be construed as preventing the jury from passing on the guilt of the defendant, but he may enter a plea of not guilty. In all eligible cases, probation shall be granted by the court, if the jury recommends it in their verdict, for the period recommended by the jury.

[See Compact Edition, Volume 1 for text of 3b and 3c]

Sec. 3d. (a) When in its opinion the best interest of society and the defendant will be served, the court may, after receiving a plea of guilty or plea of nolo contendere, hearing the evidence, and finding that it substantiates the defendant's guilt, defer further proceedings without entering an adjudication of guilt, and place the defendant on probation for a period as the court may prescribe, not to exceed 10 years. The court may impose a fine applicable to the offense and require any reasonable terms and conditions of probation, including any of the conditions enumerated in Sections 6 and 6a of this Article. However, upon written motion of the defendant requesting final adjudication filed within 30 days after entering such plea and the deferment of adjudication, the court shall proceed to final adjudication as in all other cases.

(b) On violation of a condition of probation imposed under Subsection (a) of this section, the defendant may be arrested and detained as provided in Section 8 of this Article. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. No appeal may be taken from this determination. After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of probation, and defendant's appeal continue as if the adjudication of guilt had not been deferred.

(c) On expiration of a probationary period imposed under Subsection (a) of this section, if the court has not proceeded to adjudication of guilt, the

court shall dismiss the proceedings against the defendant and discharge him. The court may dismiss the proceedings and discharge the defendant prior to the expiration of the term of probation if in its opinion the best interest of society and the defendant will be served. A dismissal and discharge under this section may not be deemed a conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense, except that upon conviction of a subsequent offense, the fact that the defendant had previously received probation shall be admissible before the court or jury to be considered on the issue of penalty.

Sec. 3e. (a) For the purposes of this section, the jurisdiction of a court in which a sentence requiring confinement in the Texas Department of Corrections is imposed for conviction (of a felony) shall continue for 180 days from the date the execution of the sentence actually begins. After the expiration of 60 days but prior to the expiration of 180 days from the date the execution of the sentence actually begins, the judge of the court that imposed such sentence may on his own motion or on written motion of the defendant, suspend further execution of the sentence imposed and place the defendant on probation under the terms and conditions of this article, if in the opinion of the judge the defendant would not benefit from further incarceration in a penitentiary. Probation may be granted under this section only if:

(1) the defendant is otherwise eligible for probation under this article; and

(2) the defendant had never before been incarcerated in a penitentiary serving a sentence for a felony; and

(3) the offense for which the defendant was convicted was other than those defined by Section 19.02, 20.04, 21.03, 21.05, 22.03, 22.04(a)(1), (2), or (3), 29.03, 36.02, 38.07, 71.02, or a felony of the second degree under Section 38.10, Penal Code.

(b) When the defendant files a written motion requesting suspension by the court of further execution of the sentence and placement on probation, and when requested to do so by the court, the clerk of the court shall request a copy of the defendant's record while incarcerated from the Texas Department of Corrections. Upon receipt of such request, the Texas Department of Corrections shall forward to the court, as soon as possible, a full and complete copy of the defendant's record while incarcerated. When the defendant files a written motion requesting suspension of further execution of the sentence and placement on probation, he shall immediately deliver or cause to be delivered a true and correct copy of the motion to the office of the prosecuting attorney.

(c) The court may deny the motion without a hearing but may not grant the motion without holding a hearing and providing the attorney for the

state and the defendant the opportunity to present evidence on the motion.

Sec. 3f. (a) The provisions of Sections 3 and 3e of this Article do not apply:

(1) to a defendant adjudged guilty of an offense defined by the following sections of the Penal Code:

(A) Section 19.03 (Capital murder);

(B) Section 20.04 (Aggravated kidnapping);

(C) Section 21.03 (Aggravated rape);

(D) Section 21.05 (Aggravated sexual abuse);

(E) Section 29.03 (Aggravated robbery); or

(2) to a defendant when it is shown that the defendant used or exhibited a deadly weapon as defined in Section 1.07(a)(11), Penal Code, during the commission of a felony offense or during immediate flight therefrom. Upon affirmative finding that the defendant used or exhibited a deadly weapon during the commission of an offense or during immediate flight therefrom, the trial court shall enter the finding in the judgment of the court. Upon an affirmative finding that the deadly weapon the defendant used or exhibited was a firearm, the court shall enter that finding in its judgment.

(b) If there is an affirmative finding that the defendant convicted of a felony of the second degree or higher used or exhibited a firearm during the commission or flight from commission of the offense and the defendant is granted probation, the court may order the defendant confined in the Texas Department of Corrections for not less than 60 and not more than 120 days. At any time after the defendant has served 60 days in the custody of the Department of Corrections, the sentencing judge, on his own motion or on motion of the defendant, may order the defendant released to probation. The Department of Corrections shall release the defendant to probation after he has served 120 days.

*Text of subsection (c) as added by Acts 1981, 67th Leg., p. 707, ch. 268, § 16*

(c) The provisions of Section 3d of this Article do not apply to a defendant charged with or adjudged guilty of an offense under Section 4.052, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) or an offense listed in Section 4.012(b) of that Act.

*Text of subsection (c) as added by Acts 1981, 67th Leg., p. 741, ch. 276, § 3*

(c) A court may not grant deferred adjudication under Section 3d of this Article to a person prosecuted under Section 4.051, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes).

Sec. 4. When directed by the court, a probation officer shall fully investigate and report to the court

in writing the circumstances of the offense, criminal record, social history and present condition of the defendant. Whenever practicable, such investigation shall include a physical and mental examination of defendant. Defendant, if not represented by counsel, counsel for defendant and counsel for the state shall be afforded an opportunity to see a copy of the report upon request. If a defendant is committed to any institution the probation officer shall send a report of such investigation to the institution at the time of commitment.

Sec. 5. (a) Only the court in which the defendant was tried may grant probation, fix or alter conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. Only the judge who originally sentenced the defendant may suspend execution thereof and place the defendant under probation pursuant to Section 3e of this article except that if the judge who originally sentenced the defendant is deceased or disabled or if the office is vacant and a motion is filed in accordance with Section 3e of this article, the clerk of the court shall promptly forward a copy of the motion to the presiding judge of the administrative judicial district for that court, who may deny the motion without a hearing or appoint a judge to hold a hearing on the motion.

(b) After a defendant has been placed on probation, jurisdiction of the case may be transferred to a court of the same rank in this State having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs. Upon transfer, the clerk of the court of original jurisdiction shall forward a transcript of such portions of the record as the transferring judge shall direct to the court accepting jurisdiction, which latter court shall thereafter proceed as if the trial and conviction had occurred in that court.

(c) Any court having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs may issue a warrant for his arrest, but the determination of action to be taken after arrest shall be only by the court having jurisdiction of the case at the time the action is taken.

Sec. 6. The court having jurisdiction of the case shall determine the terms and conditions of probation and may, at any time, during the period of probation alter or modify the conditions; provided, however, that the clerk of the court shall furnish a copy of such terms and conditions to the probationer, and shall note the date of delivery of such copy on the docket. Terms and conditions of probation may include, but shall not be limited to, the conditions that the probationer shall:

a. Commit no offense against the laws of this State or of any other State or of the United States;

- b. Avoid injurious or vicious habits;
- c. Avoid persons or places of disreputable or harmful character;
- d. Report to the probation officer as directed by the judge or probation officer and obey all rules and regulations of the probation department;
- e. Permit the probation officer to visit him at his home or elsewhere;
- f. Work faithfully at suitable employment as far as possible;
- g. Remain within a specified place;
- h. Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the court shall determine;
- i. Support his dependents;
- j. Participate in any community-based program;
- k. Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending him in the case, if counsel was appointed, or if he was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;
- l. Remain under custodial supervision in a community-based facility, obey all rules and regulations of such facility, and pay a percentage of his income to the facility for room and board;
- m. Pay a percentage of his income to his dependents for their support while under custodial suspension in a community-based facility; and
- n. Pay a percentage of his income to the victim of the offense, if any, to compensate the victim for any property damage or medical expenses sustained by the victim as a direct result of the commission of the offense.

Sec. 6a. (a) A court granting probation may fix a fee not exceeding \$15 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation.

(b) The court shall deposit the fees received under Subsection (a) of this section in the special fund of the county treasury provided by Section 4.05(b), Article 42.121 of this Code, to be used for the same purposes for which state-aid may be used under that section.

Sec. 6b. (a) When the court having jurisdiction of the case grants probation to the defendant, in addition to the conditions imposed under Section 6 of this article, the court may require as a condition of

probation that the defendant submit to a period of detention in a penal institution to serve a term of imprisonment not to exceed 30 days or one-third of the sentence whichever is lesser.

(b) The imprisonment imposed shall be treated as a condition of probation, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such subsequent imprisonment.

[See Compact Edition, Volume 1 for text of 7]

Sec. 8. (a) At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause the defendant to be arrested. Any probation officer, police officer or other officer with power of arrest may arrest such defendant without a warrant upon the order of the judge of such court to be noted on the docket of the court. A probationer so arrested may be detained in the county jail or other appropriate place of detention until he can be taken before the court. Such officer shall forthwith report such arrest and detention to such court. If the defendant has not been released on bail, on motion by the defendant the court shall cause the defendant to be brought before it for a hearing within 20 days of filing of said motion, and after a hearing without a jury, may either continue, modify, or revoke the probation. The state may amend the motion to revoke probation any time up to seven days before the date of the revocation hearing, after which time the motion may not be amended except for good cause shown, and in no event may the state amend the motion after the commencement of taking evidence at the hearing. The court may continue the hearing for good cause shown by either the defendant or the state. If probation is revoked, the court may proceed to dispose of the case as if there had been no probation, or if it determines that the best interests of society and the probationer would be served by a shorter term of imprisonment, reduce the term of imprisonment originally assessed to any term of imprisonment not less than the minimum prescribed for the offense of which the probationer was convicted.

(b) Any probationer who removes himself from the State of Texas without permission of the court having jurisdiction of the case, shall be deemed and considered a fugitive from justice and shall be subject to extradition as now provided by law. No part of the time that the defendant is on probation shall be considered as any part of the time that he shall be sentenced to serve. The right of the probationer to appeal to the Court of Appeals for a review of the trial and conviction, as provided by law, shall be accorded the probationer at the time he is placed on probation. When he is notified that his probation is revoked for violation of the conditions of probation and he is called on to serve a sentence in a jail or in

an institution operated by the Department of Corrections, he may appeal the revocation.

(c) In a probation revocation hearing at which it is alleged only that the probationer violated the conditions of probation by failing to pay compensation paid to appointed counsel, probation fees, court costs, restitution, or reparations, the inability of the probationer to pay as ordered by the court is an affirmative defense to revocation, which the probationer must prove by a preponderance of evidence.

[See Compact Edition, Volume 1 for text of 9]

Sec. 10. (a) For the purpose of providing adequate probation services, the district judge or district judges trying criminal cases in each judicial district in this state shall establish a probation office and employ, in accordance with standards set by the commission, district personnel as may be necessary to conduct presentence investigation, supervise and rehabilitate probationers, and enforce the terms and conditions of misdemeanor and felony probation. If two or more judicial districts serve a county, or a district has more than one county, one district probation department shall serve all courts and counties in the districts. However, the adult probation commission may adopt rules to allow more than one probation department in a judicial district with more than one county if providing more than one probation department will promote administrative convenience or economy or improve probation services.

(b) Where more than one probation officer is required, the judge or judges shall appoint a chief adult probation officer or director, who, with their approval, shall appoint a sufficient number of assistants and other employees to carry on the professional, clerical, and other work of the court.

(c) To be eligible for appointment as an adult probation officer, a person who is not an adult probation officer on the effective date of this Act:

(1) must have acquired a bachelor's degree conferred by a college or university accredited by an accrediting organization recognized by the Coordinating Board, Texas College and University System; and

(A) one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or a related field that has been approved by the Texas Adult Probation Commission;<sup>1</sup> or

(B) one year of experience in full-time case work, counseling, or community or group work in a social, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons that has been approved by the Texas Adult Probation Commission; and

(2) must not be otherwise disqualified by Section 31 of this article.

(d) The adult probation commission may adopt rules under which a judicial district may employ an adult probation officer who is not qualified under

Subdivision (B), Subsection (c) of this section if the district judge, district judges, chief adult probation officer, or director tried but failed to employ a probation officer qualified under Subsection (c) of this section.

(e) The same person serving as a probation officer for juveniles may not be required to serve as a probation officer for adults and vice versa.

(f) Probation officers shall be furnished transportation or, alternatively, shall be entitled to an automobile allowance for use of personal automobile on official business.

(g) Personnel of the respective district probation departments shall not be deemed state employees and the responsible judge or judges of a district probation department shall negotiate a contract with the most populous county within the judicial district for all district probation department staff to participate in that county's group insurance programs, liability insurance, or self-insurance for acts done in the course and scope of their employment as probation department staff, retirement plan, including the district and county retirement system if the county participates in that system for any county employees, and personnel policies with regard to vacation credit, sick leave credit, holiday schedule, credit union, jury leave, military leave, etc. It shall be the responsibility of the county or counties comprising the judicial district or geographical area served by such district probation department to provide physical facilities, equipment, and utilities for an effective and professional adult probation and adult community-based correctional service.

(h) Where a judicial district has criminal jurisdiction in two or more counties, those counties may enter into agreement that the total expenses of such facilities, equipment, and utilities be distributed approximately in the same proportion as the population in each county bears to the total population of all those counties, according to the last preceding or any future federal census.

(i) The salaries of personnel, and other expenses essential to the adequate supervision of probationers, shall be paid from the funds of the judicial district. In all the instances of employment of probation officers, the responsible judges are authorized to accept state-aid, grants or gifts from other political subdivisions of the state or associations and foundations, for the sole purpose of financing adequate and effective probationary programs and community-based correctional facilities other than jails or prisons in the various parts of the district. For the purposes of this Act, the municipalities of this state are specifically authorized to grant and allocate such sums of money as their respective governing bodies may approve to their appropriate county governments for the support and maintenance of effective programs. All grants, gifts, and allocations of the character and purpose described in this section shall be handled and accounted for separately from other public funds of the county.

<sup>1</sup> See Art. 42.121.

Sec. 10A. Deferred Adjudication and Performance of Community Service.

(a) A defendant who pleads guilty or nolo contendere to a first offense felony that does not involve bodily injury or the threat of bodily injury to any person and for which the maximum punishment assessed against the defendant does not exceed 10 years' imprisonment is eligible for community-service restitution probation.

(b) The judges of the courts of the State of Texas having original jurisdiction of criminal actions, when it shall appear to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, shall have the power, upon application of an eligible defendant and after receiving the defendant's plea, hearing the evidence, and finding that it substantiates the defendant's guilt, to defer further proceedings without entering an adjudication of guilt and place the defendant on community-service restitution probation.

(c) If the court places a defendant on community-service restitution probation, the court shall require, as a condition of the probation, that the defendant work a specified number of hours at a specified community-service project for an organization named in the court's order.

(d) The amount of community-service work ordered by the court:

(1) may not exceed 1,000 hours and may not be less than 320 hours for an offense classified as a first degree felony;

(2) may not exceed 800 hours and may not be less than 240 hours for an offense classified as a second degree felony; and

(3) may not exceed 600 hours and may not be less than 160 hours for an offense classified as a third degree felony.

(e) The terms of community-service restitution probation shall include the condition that the defendant shall:

(1) work faithfully at the community-service task assigned by the court; and

(2) make restitution and/or reparation to the victim of the offense and any other person who suffered loss of property or physical injury as a result of the offense as ordered by the court; and shall include, but shall not be limited to, the conditions set forth in Sections 6 and 6a of this article.

(f) The clerk of a court granting community-service restitution probation shall promptly furnish the probationer with a written statement of the period and terms of the probation.

(g) Community-service work authorized pursuant to this section must be for any nonprofit organization that has agreed to accept community-service probationers and supervise and report on their work

and whose services are provided to the general public and are designed to enhance the social welfare, physical or mental stability, environmental quality, or general well-being of the community.

(h) The court shall select community-service tasks that may be performed during hours the probationer is not working or attending school and that are within the probationer's capabilities. A probationer may not receive compensation for community-service work.

(i) On violation of a condition of community-service probation, the defendant may be arrested and detained as provided in Section 8 of this article. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. No appeal may be taken from this determination. After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of probation, and defendant's appeal continue as if the adjudication of guilt had not been deferred.

(j) Except as provided in Subsection (k) of this section on satisfactory completion by a probationer of the required amount of community-service restitution work and full payment of restitution as ordered by the court, if the court has not proceeded to adjudication of guilt, the court shall dismiss the proceedings against the defendant and discharge him. A dismissal and discharge under this section may not be deemed a conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense, except that on conviction of a subsequent offense the fact that the defendant previously received community-service probation is admissible on the issue of penalty.

(k) The provisions of Subsection (j) of this section do not apply a<sup>1</sup> defendant charged with an offense listed in Section 4.012(b), Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes). On satisfactory completion of probation by a defendant charged with such an offense, the court shall adjudge the defendant guilty of the offense and shall discharge him without further punishment.

<sup>1</sup> So in enrolled bill; probably should read "to a".

[See Compact Edition, Volume 1 for text of 11]

Sec. 11a. The provisions of Sections 6a, 10, and 11 of this Article also apply to Article 42.13.

#### C. Paroles

Sec. 12. The Board of Pardons and Paroles created by Article 4, Section 11 of the Constitution of this State, shall administer the provisions of this Act respecting determinations of which prisoners shall be paroled from an institution operated by the Department of Corrections, the conditions of parole and mandatory supervision, and may recommend the revocation of releases to mandatory supervision, paroles, and conditional pardons by the Governor. Keeping the goals of this Act in mind, the Board

shall have the authority to determine the degree and intensity of supervision a prisoner released on parole or released to mandatory supervision should receive.

Sec. 12a. The Board of Pardons and Paroles is subject to the Texas Sunset Act,<sup>1</sup> but it is not abolished under that Act. The board shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished effective September 1 of 1987 and of every 12th year after 1987 are reviewed.

<sup>1</sup> Civil Statutes, art. 5429k.

Sec. 13. The members of the Board shall give full time to the duties of their office and shall be paid such salaries as the Legislature may determine in Appropriation Acts. The Governor shall biennially designate one member to serve as chairman and one member to serve as vice-chairman.

The Board shall meet at the call of the chairman and from time to time as may otherwise be determined by majority vote of the Board. A majority of the Board shall constitute a quorum for the transaction of all business.

The Board shall adopt an official seal of which the courts shall take judicial notice. Decisions of the Board shall be by majority vote.

The Board shall keep a record of its acts and shall notify each institution of its decision relating to the persons who are confined therein. At the close of each fiscal year the Board shall submit to the Governor and to the Legislature a report with statistical and other data of its work.

All minutes of the Board and decisions relating to mandatory supervision, parole, pardon, and clemency shall be matters of public record and subject to public inspection at all reasonable times.

The Board shall employ an executive director who shall be responsible to the Board for the conduct of the affairs of the agency.

[See Compact Edition, Volume 1 for text of 14]

Sec. 14A. (a) To aid and assist the Board of Pardons and Paroles in parole and mandatory supervision decisions, provision is hereby made for the employment of parole commissioners.

(b) There shall be employed no less than six commissioners subject to the approval of a majority of the members of the Board.

(c) The commissioners shall assist the Board in recommendations to the Governor on parole decisions and mandatory supervision revocation decisions. The votes on individual recommendations by the commissioners on parole decisions and mandatory supervision revocation decisions shall be independent and have the same force and effect as votes by the Board. The commissioners may assist the Board in other matters as determined by the Board.

A parole panel, as hereinafter provided, may recommend the granting, denying, or revocation of parole, the revocation of mandatory supervision status, and may conduct parole revocation hearings and mandatory supervision revocation hearings. The commissioners shall perform their duties as directed by the board.

(d) The board may provide and promulgate a written plan for the administrative review of actions taken by a parole panel.

(e) In matters of parole and release to mandatory supervision, the board members and commissioners may act in panels comprised of three persons in each panel. The composition of the respective panels shall be designated by the board. A majority of each panel shall constitute a quorum for the transaction of its business, and its decisions shall be by a majority vote. The functions given to the board throughout Article 42.12, Code of Criminal Procedure, 1965, as amended, may be enlarged and extend to the parole panels, as provided by board rules. The powers of the board and the board members can be delegated by the board to the parole panels and to the commissioners as needed for the convenience of and assistance to the board.

Sec. 15. (a) The Board is authorized to release on parole, with the approval of the Governor, any person confined in any penal or correctional institution of this State who is eligible for parole under Subsection (b) of this Section. The period of parole shall be equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. All paroles shall issue upon order of the Board, duly adopted and approved by the Governor.

(b) A prisoner under sentence of death is not eligible for parole. If a prisoner is serving a sentence for the offenses listed in Section 3f(a)(1) of this Article or if the judgment contains an affirmative finding under Section 3f(a)(2) of this Article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals one-third of the maximum sentence or 20 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years. All other prisoners shall be eligible for release on parole when their calendar time served plus good conduct time equals one-third of the maximum sentence imposed or 20 years, whichever is less.

(c) A prisoner who is not on parole, except a person under sentence of death, shall be released to mandatory supervision by order of the Board when the calendar time he has served plus any accrued good conduct time equal the maximum term to which he was sentenced. A prisoner released to mandatory supervision shall, upon release, be deemed as if released on parole. To the extent practicable, arrangements for the prisoner's proper

employment, maintenance, and care shall be made prior to his release to mandatory supervision. The period of mandatory supervision shall be for a period equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. The time served on mandatory supervision is calculated as calendar time. Every prisoner while on mandatory supervision shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

(d) A prisoner who has not been released to mandatory supervision and has 180 calendar days or less remaining on his sentence may be released by order of the Board to mandatory supervision.

(e) Within one year after a prisoner's admittance to the penal or correctional institution and at such intervals thereafter, as it may determine, the Board shall secure and consider all pertinent information regarding each prisoner, except any under sentence of death, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and his physical and mental health.

(f) Before ordering the parole of any prisoner, the Board may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his employment or for his maintenance and care, and when the Board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released but shall be amenable to the orders of the Board.

(g) The Board may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole and mandatory supervision, the conduct of parole and mandatory supervision hearings, or conditions to be imposed upon parolees and persons released to mandatory supervision. Each person to be released on parole shall be furnished a written statement and contract setting forth in clear and intelligible language the conditions and rules of parole. The conditions shall include the making of restitution or reparation to the victim of the prisoner's crime, in an amount not greater than such restitution or reparation as established by the court and entered in the sentence of the court which sentenced the prisoner to his term of imprisonment. Acceptance, signing, and execution of the contract by the inmate to be paroled shall be a precondition to release on parole. Persons to be released on mandatory supervision shall be furnished a written statement setting forth in clear and intelligible language the conditions and rules of mandatory supervision.

(h) The board shall certify and contract with halfway houses and shall use them to the maximum extent:

- (1) to provide close supervision;
- (2) to help persons released on parole make restitution or reparation and fulfill the obligations of law-abiding citizens; and
- (3) to reduce recidivism.

(i) The halfway houses shall include a pilot project for selected inmates over 55 years of age in order to assist these elderly persons in obtaining parole by providing transitional living arrangements and possible suitable employment.

(j) Funding for this pilot project for parole for the elderly should come from the Criminal Justice Division of the Governor's Office. The funding agency should evaluate the performance of the pilot project at the end of two years of operation and provide recommendations to the Governor and the Legislature regarding the need and value of continuing the project.

(k) It shall be the duty of the Board at least ten days before ordering the parole of any prisoner or upon the granting of executive clemency by the Governor to notify the sheriff, the prosecuting attorney and the district judge in the county where such person was convicted that such parole or clemency is being considered by the Board or by the Governor.

(l) If no parole officer has been assigned to the locality where a person is to be released on parole, mandatory supervision, or executive clemency the Board shall notify the chairman of the Voluntary Parole Board of such county prior to the release of such person. The Board shall request such Voluntary Parole Board, in the absence of a parole officer, for information which would herein be required of such duly appointed parole officer. This shall not, however, preclude the Board from requesting information from any public agency in such locality. Further, the Board is authorized to contract with the Texas Adult Probation Commission for the supervision of persons released on parole or mandatory supervision for supervision by an adult probation officer, subject to the approval of the judge or judges that employ the officer. The Board shall report annually all such payments made to the Texas Adult Probation Commissioner, the Governor, and the Legislature.

*[See Compact Edition, Volume 1 for text of 16 to 19].*

Sec. 20. The Board shall have the power and duty to make rules for the conduct of persons placed on parole and of persons released to mandatory supervision.

Sec. 21. (a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which he

was paroled, released, or pardoned may be issued by the Board on order by the Governor when there is reason to believe that he has committed an offense against the laws of this State or of the United States, violated a condition of his parole, mandatory supervision, or conditional pardon, or when the circumstances indicate that he poses a danger to society that warrants his immediate return to incarceration. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and return him to the institution from which he was released. Pending hearing, as hereinafter provided, upon any charge of parole violation or violation of the conditions of mandatory supervision, the prisoner shall remain incarcerated.

(b) A prisoner for whose return a warrant has been issued by the Board shall, after the issuance of such warrant, be deemed a fugitive from justice and if it shall appear that he has violated the conditions or provisions of his mandatory supervision or parole, then the time from the issuing of such warrant to the date of his arrest shall not be counted as any part of the time to be served under his sentence. The law now in effect concerning the right of the State of Texas to extradite persons and return fugitives from justice, and Article 42.11 of this Code concerning the waiver of all legal requirements to obtain extradition of fugitives from justice, from other states to this State, shall not be impaired by this Act and shall remain in full force and effect.

Sec. 22. Whenever a prisoner or a person granted a conditional pardon is accused of a violation of his parole, mandatory supervision, or conditional pardon on information and complaint by a law enforcement officer or parole officer, he shall be entitled to be heard on such charges before the Board or its designee under such rules and regulations as the Board may adopt; providing, however, said hearing shall be a public hearing and shall be held within ninety days of the date of arrest under a warrant issued by the Board of Pardons and Paroles or the Governor and at a time and place set by the Board. When the Board has heard the facts, it may recommend to the Governor that the parole, mandatory supervision, or conditional pardon be continued, or revoked, or modified in any manner the evidence may warrant. When the Governor revokes a person's parole, mandatory supervision, or conditional pardon, that person may be required to serve the portion remaining of the sentence on which he was released, such portion remaining to be calculated without credit for the time from the date of his release to the date of revocation. When a warrant is issued by the Board of Pardons and Paroles or the Governor charging a violation of release conditions, the sentence time credit shall be suspended until a determination is made by the Board of Pardons and Paroles or the Governor in such case and such suspended time credit may be re-instated by the Board of Pardons and Paroles should such parole, mandatory supervision, or conditional pardon be continued.

[See Compact Edition, Volume 1 for text of 23]

Sec. 24. When any prisoner who has been paroled or released to mandatory supervision has complied with the rules and conditions governing his release until the end of the term to which he was sentenced, and without a revocation of his parole or mandatory supervision, the Board shall make a final order of discharge and issue the prisoner a certificate of discharge.

[See Compact Edition, Volume 1 for text of 25]

Sec. 26. The Board of Pardons and Paroles shall have general responsibility for the investigation and supervision of all prisoners released on parole and to mandatory supervision. For the discharge of this responsibility, there is hereby created with the Board of Pardons and Paroles, a Division of Parole Supervision. Subject to the general direction of the Board of Pardons and Paroles, the Division of Parole Supervision, including its field staff shall be responsible for obtaining and assembling any facts the Board of Pardons and Paroles may desire in considering parole eligibility, in establishing a mandatory supervision plan, and for investigating and supervising paroled prisoners and prisoners released to mandatory supervision to see that the conditions of parole and mandatory supervision are complied with, and for making such periodic reports on the progress of parolees and prisoners released to mandatory supervision as the Board may desire.

Sec. 27. All information obtained in connection with inmates of the Texas Department of Corrections subject to parole, release to mandatory supervision, or executive clemency or individuals who may be on mandatory supervision or parole and under the supervision of the division, or persons directly identified in any proposed plan of release for a prisoner, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the Governor and the Board of Pardons and Paroles upon request. It is further provided, that statistical and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory supervision, and data recorded in connection with parole and mandatory supervision services, shall be subject to public inspection at any reasonable time.

Sec. 28. It is expressly provided that no person may be employed as a parole officer or supervisor, or be responsible for the investigations or supervision of persons on parole or mandatory supervision, unless he meets the following qualifications together with any other qualifications that may be specified by the Director, with the approval of the Board of Pardons and Paroles; four years of successfully completed education in an accredited college or university, and two years of full time paid employment in responsible correctional work with adults or juve-

niles, social welfare work, teaching, or personnel work. Additional experience in the above categories may be substituted year for year for the required college education, with a maximum substitution for two years.

Sec. 29. Any parole officer or supervisor may, with the approval of the director, be designated as a probation officer by the judge of a court of the State having original jurisdiction of criminal actions. Any proportional part of the salary paid to a parole officer or supervisor so designated, however, in compensation for his service as a probation officer, shall be only with the prior written approval of the director; and all such proportional salary payments shall be periodically reported to the Governor and the Legislature by the director.

Sec. 30. In order to provide supervision of parolees, persons released to mandatory supervision, and persons granted executive clemency who reside in sparsely settled areas of the State and in localities not served by regularly employed parole officers, the Governor of this State is authorized to appoint chairmen of Voluntary Parole Boards for such areas or localities. The appointed chairman may, with the advice and approval of the Director, appoint additional members of such Voluntary Parole Boards. The term of service by such appointed chairmen of Voluntary Parole Boards shall not exceed the term of office of the appointing Governor; and the terms of service of locally appointed additional members of such Voluntary Parole Boards shall not exceed the terms of office of the director. However, it is expressly provided that the terms of service by such chairmen and additional members of Voluntary Parole Boards may be continued by appropriate reappointments. The chairman of the Voluntary Parole Board shall be responsible for assigning supervision of parolees and of persons released to mandatory supervision to the members of such board.

Sec. 31. No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas Ranger, state highway patrolman, or similar law enforcement officer, or as a prosecuting attorney, shall act as a parole officer or be responsible for the supervision of persons on parole or released to mandatory supervision.

Sec. 32. Any parole officer or supervisor may, upon request of the Governor or the Board of Pardons and Paroles and by direction of the director, be responsible for supervising persons placed on conditional pardon or furlough.

#### E. General Provisions

[See Compact Edition, Volume 1 for text of 33 to 35]

Sec. 36. The provisions of this article do not apply to temporary furloughs granted to an inmate by

the Texas Department of Corrections under Article 6184n, Revised Civil Statutes of Texas, 1925.

[Amended by Acts 1975, 64th Leg., p. 263, ch. 110, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 572, ch. 231, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 909, ch. 341, § 4, eff. June 19, 1975; Acts 1975, 64th Leg., p. 1243, ch. 467, § 1, eff. June 19, 1975; Acts 1975, 64th Leg., p. 1244, ch. 468, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 2150, ch. 692, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 38, ch. 22, § 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 102, ch. 47, § 1, eff. April 5, 1977; Acts 1977, 65th Leg., p. 821, ch. 306, §§ 1, 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 909, ch. 342, §§ 1, 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 914, ch. 343, § 2, eff. Sept. 1, 1978; Acts 1977, 65th Leg., p. 925, ch. 347, §§ 1, 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1058, ch. 388, §§ 1, 2, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 1850, ch. 735, § 2.133, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 265, ch. 139, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1336, ch. 605, §§ 1, 2, 4, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 154, ch. 69, §§ 1 to 4, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 353, ch. 141, §§ 2 to 9, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 707, ch. 268, § 16, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 741, ch. 276, § 3, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 811, ch. 291, § 118, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2246, ch. 538, § 2, eff. June 12, 1981; Acts 1981, 67th Leg., p. 2263, ch. 544, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2464, ch. 638, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2466, ch. 639, § 2, eff. Sept. 1, 1981.]

For saving provisions of Acts 1975, 64th Leg., p. 909, ch. 341, see note set out under art. 3.01.

Section 7 of Acts 1977, 65th Leg., p. 934, ch. 347, provided:

"This Act applies only to inmates sentenced to the Texas Department of Corrections for an offense committed on or after the effective date of this Act. Inmates sentenced for an offense committed prior to the effective date of this Act are governed by the law existing before the effective date, which is continued in effect for this purpose. For the purpose of this Act, an offense is committed on or after the effective date if any element of the offense occurs on or after the effective date."

Section 5 of Acts 1981, 67th Leg., p. 155, ch. 69, provides:

"A defendant's eligibility for shock probation is governed by this Act if the judgment of conviction is entered on or after the effective date of this Act. The eligibility for shock probation of a defendant as to whom a judgment of conviction was entered before the effective date of this Act is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this law were not in force."

Section 10 of Acts 1981, 67th Leg., p. 357, ch. 141, provides:

"The terms of the parole commissioners expire on the effective date of this Act. They shall remain employed as commissioners until the employment is terminated by a majority of the Board of Pardons and Paroles."

Acts 1981, 67th Leg., p. 820, ch. 291, § 149, provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

## Art. 42.121. Texas Adult Probation Commission

*Text of article added effective until September 1, 1987*

### SUBCHAPTER A. GENERAL PROVISION

#### Purposes

Sec. 1.01. The purposes of this article are to make probation services available throughout the state, to improve the effectiveness of probation services, to provide alternatives to incarceration by providing financial aid to judicial districts for the estab-

lishment and improvement of probation services and community-based correctional programs and facilities other than jails or prisons, and to establish uniform probation administration standards.

#### Definitions

Sec. 1.02. In this article:

- (1) "Director" means the executive director of the Texas Adult Probation Commission.
- (2) "Commission" means the Texas Adult Probation Commission.
- (3) "Probation office" means the office established under Section 10(a), Article 42.12, Code of Criminal Procedure, 1965, as amended, to provide probation services in each judicial district.
- (4) "Employee in the criminal justice system" means a person employed as a peace officer, county attorney, district attorney, probation officer, parole officer, corrections officer, or any person employed by a court.

### SUBCHAPTER B. TEXAS ADULT PROBATION COMMISSION

#### Creation

Sec. 2.01. The Texas Adult Probation Commission is hereby created.

#### Membership

Sec. 2.02. The commission shall consist of three judges of the district courts of Texas and two citizens of Texas who are not employed in the criminal justice system to be appointed by the Chief Justice of the Supreme Court of Texas and three judges of the district courts of Texas and one citizen of Texas not employed in the criminal justice system to be appointed by the presiding judge of the Texas Court of Criminal Appeals.

#### Terms of Office

Sec. 2.03. (a) The first members appointed to the Board shall serve terms of two, four, and six years respectively, and until their successors are appointed. Thereafter each member shall serve for six years.

(b) The appointing authority shall draw lots to determine which members serve two, four, and six-year terms.

(c) If any member of the commission resigns or expires, the appointing authority for his respective commission position shall appoint another member to serve the remainder of the unexpired term.

#### Chairman

Sec. 2.04. (a) The members of the commission shall elect a chairman from among its members.

(b) The chairman of the commission shall serve for a term of two years.

Expenses

Sec. 2.05. Members of the commission are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties as commission members.

Meetings

Sec. 2.06. (a) The Chief Justice of the Supreme Court of Texas shall call the first meeting of the commission in September, 1977.

(b) The commission shall hold regular quarterly meetings each year on dates fixed by the commission and such special meetings as the commission determines necessary. The commission shall make rules providing for the regulation of its proceedings and for the holding of special meetings.

(c) A majority of the commission shall constitute a quorum.

(d) The commission shall keep a public record of its decisions at its general office.

Executive Director, Employees

Sec. 2.07. (a) The commission shall employ an executive director, whose qualifications shall comply with the standards required for a probation officer and who has a minimum of two years experience in the administration and supervision of adult probation services, and as many other employees as it needs to administer this article.

(b) The commission may delegate authority to the executive director to select employees of the commission.

Expiration

Sec. 2.08. Unless continued by law, the commission is abolished and this article expires effective September 1, 1987.

SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

Standards for Probation Offices, Probation Officers, and Community-based Correctional Programs and Facilities

Sec. 3.01. The commission shall promulgate reasonable rules:

(1) establishing minimum standards for case loads, programs, facilities, and equipment, and other aspects of the operation of a probation office necessary for the provision of adequate and effective probation services;

(2) establishing a code of ethics for probation officers and providing for the enforcement thereof.

Records and Reports

Sec. 3.02. The commission shall require each probation office in Texas to:

(1) keep such financial and statistical records as the commission deems necessary;

(2) submit periodic financial and statistical reports to the commission.

Gifts and Grants

Sec. 3.03. The commission may apply for and accept gifts or grants from any public or private source for use in maintaining and improving probation services in Texas.

Intergovernmental Cooperation

Sec. 3.04. The commission may cooperate and contract with the federal government, with governmental agencies of Texas and other states, and with political subdivisions of Texas to improve probation services.

Inspections, Audits

Sec. 3.05. The commission may inspect and evaluate any probation office and conduct audits of financial records at any reasonable time to determine compliance with the commission's rules, regulations, or standards.

Studies

Sec. 3.06. The commission may conduct or participate in studies of corrections methods and systems.

Annual Report

Sec. 3.07. The commission shall make a report to the governor and to the legislature each year covering its operations and the condition of probation services in Texas during the previous year and making whatever recommendations it considers desirable.

Delegation of Authority

Sec. 3.08. The commission may delegate to the director or to any other employee any authority given it by this article except the authority to make rules.

Deposit of Money

Sec. 3.09. All money received by the commission under Section 3.03 of this article shall be deposited to the credit of special funds, which shall be appropriated, from the General Revenue Fund, for the payment of state aid by this article and for the administration of this article.

SUBCHAPTER D. STATE-AID TO PROBATION OFFICES

State-Aid Defined

Sec. 4.01. "State-aid" means funds appropriated by the state legislature to be used by the commission for financial assistance to judicial districts to achieve the purposes of this Act as stated previously in Section 1.01 of this Act and to conform to the standards and policies promulgated by the commission.

Determination of Amount

Sec. 4.02. The legislature shall determine and appropriate the amount of state-aid necessary to maintain and improve statewide probation services com-

mensurate with the purposes as stated in Section 1.01 of this Act.

**Data for State-Aid**

Sec. 4.03. The district judge or judges in each judicial district shall present data to the commission, determined by the commission, which is necessary to determine the amount of state financial aid needed for use in maintaining and improving probation services and community-based correctional programs and facilities other than jails or prisons in the district.

**Reports**

Sec. 4.04. A judicial district receiving state-aid shall submit reports as required by the commission.

**Payment of State-Aid**

Sec. 4.05. (a) When the commission determines that a judicial district complies with its standards, the commission shall prepare and submit to the comptroller of public accounts a voucher for payment to the district the amount of state-aid to which it is entitled.

(b) The fiscal officer designated for the district shall deposit all state-aid received under this article in a special fund of the county treasury, to be used solely for the provision of adult probation services and community-based correctional programs and facilities other than jails or prisons.

**Refusal or Suspension of State-Aid**

Sec. 4.06. The commission shall refuse or suspend payment of state-aid to any district that fails to comply with the commission standards. The commission shall provide for notice and a hearing in cases in which it refuses or suspends state-aid. [Added by Acts 1977, 65th Leg., p. 910, ch. 343, § 1, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 1644, ch. 687, § 1, eff. Aug. 27, 1979.]

Section 3 of the 1977 Act provided:

"Section 4.05 of Article 42.121, Code of Criminal Procedure, 1965, as amended, and Section 2 of this Act take effect on September 1, 1978."

**Art. 42.13. Misdemeanor Adult Probation and Supervision Law**

Sec. 1. It is the purpose of this article to place wholly within the state courts of appropriate jurisdiction the responsibility for determining when the imposition of sentence in certain cases shall be suspended, the conditions of probation, and the supervision of probationers in consonance with the powers assigned to the judicial branch of this government by the Constitution of Texas. It is the further purpose of this article to remove from existing statutes the limitations other than questions of constitutionality that have acted as barriers to an effective system of probation in the public interest.

Sec. 2. This article may be cited as the "Misdemeanor Adult Probation and Supervision Law."

Unless the context otherwise requires, the following definitions shall apply to the specified words and phrases as used in this article:

(1) "Courts" shall mean the courts of record having original criminal jurisdiction.

(2) "Probation" shall mean the release of a convicted defendant by a court under conditions imposed by the court for a specified period during which the imposition of sentence is suspended.

(3) "Probationer" means a defendant who is on probation.

(4) "Probation officer" shall mean either a person duly appointed by one or more courts of record having original criminal jurisdiction to supervise defendants placed on probation or a person designated by such courts for such duties on a part-time basis.

Sec. 3. The judges of the courts of the State of Texas having original jurisdiction of criminal actions, when it shall appear to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, shall have the power, after conviction or a plea of guilty or nolo contendere for any crime or offense, where the punishment assessed against the defendant is by confinement in jail or by fine or by both such fine and imprisonment, to suspend the imposition of the sentence and may place the defendant on probation or impose a fine applicable to the offense committed and also place the defendant on probation as hereinafter provided. When imprisonment is assessed, the period of probation shall be for the maximum imprisonment applicable to such offense. Any such person placed on probation, whether in a trial by jury or before the court, shall be under the supervision of such court.

Sec. 3a. Where there is a conviction in any court of this state and the punishment assessed by the jury shall be by imprisonment in jail or by a fine or by both such fine and imprisonment, the jury may recommend probation for a period of the maximum imprisonment applicable to such offense of which the defendant is convicted, upon sworn motion made therefor by the defendant, filed before the penalty stage of the trial begins. When the jury recommends probation, it may recommend that the imprisonment or fine or both such fine and imprisonment found in its verdict may be probated and may recommend that any operator's, commercial operator's, or chauffeur's license issued to the defendant under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes), not be suspended. When the trial is to a jury and the defendant has no counsel, the court shall inform the defendant of his right to make such motion, and the court shall appoint counsel to prepare and present same, if desired by the defendant. In no case shall probation be recommended by the jury except when the defendant, before the trial began, had filed a sworn statement that the defendant has never before been convicted of a felony, and after conviction and before the

penalty stage of the trial began, the defendant shall have filed a sworn motion for probation and the proof shall show and the jury shall find in their verdict that the defendant has never before been convicted of a felony in this or any other state. This law is not to be construed as preventing the jury from passing on the guilt of the defendant, but the defendant may enter a plea of not guilty. In all eligible cases, probation shall be granted by the court, if the jury recommends it in their verdict.

If probation is granted by the jury, the court may impose only those conditions which are set out in Section 6, 6a, 6b, or 6c hereof. The court may impose any one or all of those conditions.

Sec. 3b. Where probation is recommended by the verdict of a jury as provided for in Section 3a above, a defendant's probation shall not be revoked during his good behavior, so long as the defendant is within the jurisdiction of the court and his residence is known, except in accordance with the provisions of Section 8 of this article. If such defendant has no counsel, it shall be the duty of the court to inform the defendant of his right to show cause why the defendant's probation should not be revoked; and if the defendant requests such right, the court shall appoint counsel in accordance with Articles 26.04 and 26.05 of this code to prepare and present the same; and in all other respects the procedure set forth in Section 8 of this article shall be followed.

Sec. 3c. Nothing herein shall limit the power of the court to grant a probation of sentence regardless of the recommendation of the jury or prior conviction of the defendant.

Sec. 3d. (a) When in its opinion the best interest of society and the defendant will be served, the court may, after receiving a plea of guilty or a plea of nolo contendere, hearing the evidence, and finding that it substantiates the defendant's guilt, defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period as the court may prescribe, not to exceed the maximum period of imprisonment prescribed for the offense for which the defendant is charged. The court may impose a fine applicable to the offense and require any reasonable terms and conditions of probation, including any of the conditions enumerated in Sections 6, 6a, and 6c of this Article. However, upon written motion of the defendant requesting final adjudication filed within 30 days after entering such plea and the deferment of adjudication, the court shall proceed to final adjudication as in all other cases.

(b) On violation of a condition of probation imposed under Subsection (a) of this section, the defendant may be arrested and detained as provided in Section 8 of this article. The defendant is entitled to a hearing limited to a determination by the court of whether it proceeds with an adjudication of guilt

on the original charge. No appeal may be taken from this determination. After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of probation, and defendant's appeal continue as if the adjudication of guilt had not been deferred.

(c) On expiration of a probationary period imposed under Subsection (a) of this section, if the court has not proceeded to adjudication of guilt, the court shall dismiss the proceedings against the defendant and discharge the defendant. The court may dismiss the proceedings and discharge the defendant prior to the expiration of the term of probation if in its opinion the best interest of society and the defendant will be served. A dismissal and discharge under this section may not be deemed a conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense, except that upon conviction of a subsequent offense, the fact that the defendant had previously received probation shall be admissible before the court or jury to be considered on the issue of penalty.

Sec. 3e. (a) For the purposes of this section, the jurisdiction of the courts in this state in which a sentence requiring confinement in a jail is imposed for conviction of a misdemeanor shall continue for a period of 90 days from the date the execution of the sentence actually begins. After the expiration of 10 days but prior to 90 days from the date the execution of the sentence actually begins, the judge of the court that imposed such sentence may on his own motion or on the motion of the defendant suspend further execution of the sentence imposed and place the defendant on probation under the terms and conditions of this article, if prior to the execution of that sentence the defendant had never been incarcerated in a penitentiary or jail serving a sentence for a felony or misdemeanor and in the opinion of the judge the defendant would not benefit from further incarceration in a jail.

(b) When the defendant files a written motion with the court requesting suspension of further execution of the sentence and placement on probation or when requested to do so by the judge, the clerk of the court shall request a copy of the defendant's record while incarcerated from the agency operating the jail where the defendant is incarcerated. Upon receipt of such request, the agency operating the jail where the defendant is incarcerated shall forward to the court as soon as possible a full and complete copy of the defendant's record while incarcerated.

Sec. 4. When directed by the court, a probation officer shall fully investigate and report to the court in writing the circumstances of the offense, criminal record, social history and present condition of the defendant. Whenever practicable, such investigation shall include a physical and mental examination of the defendant. Defendant, if not represented by

counsel, counsel for defendant, and counsel for the state shall be afforded an opportunity to see a copy of the report upon request. If a defendant is committed to any institution, the probation officer shall send a report of such investigation to the institution at the time of commitment.

Sec. 5. Only the court in which the defendant was tried may grant probation, fix or alter conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. After a defendant has been placed on probation, jurisdiction of the case may be transferred to a court of the same rank in this state having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs. Upon transfer, the clerk of the court of original jurisdiction shall forward a transcript of such portions of the record as the transferring judge shall direct to the court accepting jurisdiction, which latter court shall thereafter proceed as if the trial and conviction had occurred in that court. Any court having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs may issue a warrant for his arrest, but the determination of action to be taken after arrest shall be only by the court having jurisdiction of the case at the time the action is taken.

Sec. 6. The court having jurisdiction of the case shall determine the terms and conditions of probation and may at any time during the period of probation alter or modify the conditions; provided, however, that the clerk of the court shall furnish a copy of such terms and conditions to the probationer and shall note the date of delivery of such delivery on the docket. Terms and conditions of probation may include but shall not be limited to the conditions that the probationer shall:

- (1) commit no offense against the laws of this state or of any other state or of the United States;
- (2) avoid injurious or vicious habits;
- (3) avoid persons or places of disreputable or harmful character;
- (4) report to the probation officer as directed by the court or probation officer and obey all rules and regulations of the probation department;
- (5) permit the probation officer to visit him at his home or elsewhere;
- (6) work faithfully at suitable employment as far as possible;
- (7) remain within a specified place;
- (8) pay his fine, if one be assessed, and all court costs, whether a fine be assessed or not, in one or several sums and make restitution or reparation in any sum that the court shall determine;

(9) support his dependents;

(10) participate in any community-based program or participate in an alcohol or drug abuse treatment or education program and abstain from the use of alcoholic beverages or specified drugs at all times or under certain circumstances;

(11) reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending him in the case, if counsel was appointed or if he was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;

(12) remain under custodial supervision in a community-based facility, obey all rules and regulations of such facility, and pay a percentage of his income to the facility for room and board;

(13) pay a percentage of his income to his dependents for their support while under custodial supervision in the community-based facility; and

(14) pay a percentage of his income to the victim of the offense, if any, to compensate the victim for any property damage or medical expenses sustained by the victim as a direct result of the commission of the offense.

Sec. 6a. (a) A court granting probation may fix a fee not exceeding \$15 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation.

(b) The court shall deposit the fees received under Subsection (a) of this section in the special fund of the county treasury provided by Section 4.05(b), Article 42.121 of this code, as added, to be used for the same purposes for which state aid may be used under that section.

Sec. 6b. (a) When the court having jurisdiction of the case grants probation to the defendant, in addition to the conditions imposed under Section 6 of this article, the court may require as a condition of probation that the defendant submit to a period of detention in jail to serve a term of imprisonment not to exceed 30 days or one-third of the sentence, whichever is lesser.

(b) The imprisonment imposed shall be treated as a condition of probation, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such subsequent imprisonment.

Sec. 6c. If a person convicted of an offense under Article 6701/-1, Revised Civil Statutes of Texas,

1925, as amended, is placed on probation, the court shall require, as a condition of the probation, that the defendant attend and successfully complete an educational program jointly approved by the Texas Commission on Alcoholism, the Texas Department of Public Safety, the Traffic Safety Section of the State Department of Highways and Public Transportation, and the Texas Adult Probation Commission designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcoholism shall publish the jointly approved rules and regulations and shall monitor and coordinate the educational programs. Persons who have successfully completed an approved educational program or who are currently under an order to attend an educational program shall not be eligible for attendance upon a subsequent offense. The judge may waive the educational program requirement, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider, but is not limited to: the offender's school and work schedule, the offender's health, the distance which the offender must travel to attend an educational program, and the fact that the offender resides out-of-state, has no valid driver's license or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a person is required, as a condition of probation to attend an educational program, the court clerk shall immediately report such fact to the Texas Department of Public Safety for inclusion in the person's driving record. Upon the successful completion of the educational program, the person shall give notice to the court clerk. The court clerk shall then report the date of successful completion of the educational program to the Texas Department of Public Safety for inclusion in the person's driving record. No report of the offense for which the educational program was required as a condition of probation shall be made to the Texas Department of Public Safety unless the person fails to comply with the terms of the probation order. Information regarding the required attendance or successful completion of an educational program may not be used for any purpose other than to determine eligibility under this section.

Sec. 7. At any time after the defendant has satisfactorily completed one-third of the original probationary period, the period of probation may be reduced or terminated by the court. Upon the satisfactory fulfillment of the conditions of probation and the expiration of the period of probation, the court by order duly entered shall amend or modify the original sentence imposed, if necessary, to conform to the probation period and shall discharge the defendant. In case the defendant has been convicted or has entered a plea of guilty or a plea of nolo contendere and the court has discharged the defendant hereunder, such court shall set aside the verdict or permit the defendant to withdraw his plea, and shall dismiss the accusation, complaint, information,

or indictment against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which defendant has been convicted or to which defendant has pleaded guilty or pleaded nolo contendere, except that proof of defendant's conviction or plea of guilty or nolo contendere shall be made known to the court should the defendant again be convicted of any criminal offense.

Sec. 8. (a) At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause the defendant to be arrested. Any probation officer, police officer or other officer with power of arrest may arrest such defendant without a warrant upon the order of the judge of such court to be noted on the docket of the court. A probationer so arrested may be detained in the county jail or other appropriate place of detention until he can be taken before the court. Such officer shall forthwith report such arrest and detention to such court. If the defendant has not been released on bail, on motion by the defendant the court shall cause the defendant to be brought before it for a hearing within 20 days of filing of said motion, and after a hearing without a jury, may either continue, modify, or revoke the probation. The court may continue the hearing for good cause shown by either the defendant or the state. If probation is revoked, the court may proceed to dispose of the case as if there had been no probation or if it determines that the best interests of society and the probationer would be served by a shorter term of imprisonment, reduce the term of imprisonment not less than the minimum prescribed for the offense of which the probationer was convicted.

(b) Any probationer who removes himself from the State of Texas without permission of the court having jurisdiction of the case shall be deemed and considered a fugitive from justice and shall be subject to extradition as now provided by law. No part of the time that the defendant is on probation shall be considered as any part of the time that defendant shall be sentenced to serve. The right of the probationer to appeal to the Court of Appeals for a review of the trial and conviction as provided by law shall be accorded the probationer at the time the defendant is placed on probation. When the probationer is notified that his probation is revoked for violation of the conditions of probation and he is called on to serve a sentence in jail or in an institution operated by the Texas Department of Corrections, he may appeal the revocation.

(c) In a probation revocation hearing at which it is alleged only that the probationer violated the conditions of probation by failing to pay probation fees, court costs, restitution, or reparations or compensation paid to appointed counsel, the inability of the probationer to pay as ordered by the court is an affirmative defense to revocation, which the probationer must prove by a preponderance of evidence.

Sec. 9. If for good and sufficient reasons probationers desire to change their residence within the state, such transfer may be effected by application to their supervising probation officer, which transfer shall be subject to the court's consent and subject to such regulations as the court may require in the absence of a probation officer in the locality to which the probationer is transferred.

Sec. 10. For the purpose of providing adequate probation services under this article, all of the provisions of Section 10 of Article 42.12 of the Code of Criminal Procedure, 1965, as amended, apply hereto.

Sec. 11. For the purpose of determining when fees are to be paid to any officer or officers, the placing of the defendant on probation shall be considered a final disposition of the case, without the necessity of waiting for the termination of the period of probation or suspension of sentence.

[Acts 1979, 66th Leg., p. 1514, ch. 654, § 1, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 358, ch. 142, §§ 1, 2, eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 811, ch. 291, § 119, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2263, ch. 544, § 2, eff. Sept. 1, 1981.]

*Acts 1979, 66th Leg., p. 2062, ch. 807, § 1, without reference to the repeal and reenactment of this article by Acts 1979, 66th Leg., p. 1514, ch. 654, § 1, added a § 3B to read as follows:*

**Suspension of Sentence and Performance of Community Service**

Sec. 3B. (a) A defendant who pleads guilty or nolo contendere to a first offense misdemeanor that does not involve bodily injury or the threat of bodily injury to any person and for which the maximum permissible punishment is by confinement in jail or by a fine in excess of \$200 or by both a fine and confinement is eligible for community-service probation.

(b) If an eligible defendant applies for community-service probation and the court finds that it will be in the best interests of society and the defendant, the court, after receiving the defendant's plea, hearing the evidence, and finding that it substantiates the defendant's guilt, may defer further proceedings without entering an adjudication of guilt and place the defendant on community-service probation.

(c) If the court places a defendant on community-service probation, the court shall require, as a condition of the probation, that the defendant work a specified number of hours at a specified community-service project for an organization named in the court's order.

(d) The amount of community-service work ordered by the court:

(1) may not exceed 100 hours and may not be less than 24 hours for an offense classified as a Class B misdemeanor or for any other misdemeanor for which the maximum permissible imprisonment, if any, does not exceed six months

and the maximum permissible fine, if any, does not exceed \$1,000; and

(2) may not exceed 200 hours and may not be less than 80 hours for an offense classified as a Class A misdemeanor or for any other misdemeanor for which the maximum permissible imprisonment, if any, exceeds six months or the maximum permissible fine, if any, exceeds \$1,000.

(e) The terms of community-service probation must include, but are not limited to, requirements that the probationer:

(1) commit no offense against the laws of this or any other state or the United States;

(2) avoid injurious or vicious habits;

(3) avoid persons or places of disreputable or harmful character;

(4) work faithfully at suitable employment as far as possible;

(5) work faithfully at the community-service task assigned by the court;

(6) remain within a specified place; and

(7) support his dependents.

(f) The clerk of a court granting community-service probation shall promptly furnish the probationer with a written statement of the period and terms of the probation.

(g) Community-service work authorized pursuant to this section must be for any nonprofit organization that has agreed to accept community-service probationers and supervise and report on their work and whose services are provided to the general public and are designed to enhance the social welfare, physical or mental stability, environmental quality, or general well-being of the community.

(h) The court shall select community-service tasks that may be performed during hours the probationer is not working or attending school and that are within the probationer's capabilities. A probationer may not receive compensation for community-service work.

(i) On violation of a condition of community-service probation, the defendant may be arrested and detained as provided in Section 6 of this article. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. No appeal may be taken from this determination. After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of probation, and defendant's appeal continue as if the adjudication of guilt had not been deferred.

(j) On satisfactory completion by a probationer of the required amount of community-service work, if the court has not proceeded to adjudication of guilt, the court shall dismiss the proceedings against the defendant and discharge him. A dismissal and discharge under this section may not be deemed a

conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense, except that on conviction of a subsequent offense the fact that the defendant previously received community-service probation is admissible on the issue of penalty.

[Added by Acts 1979, 66th Leg., p. 2062, ch. 807, § 1, eff. Sept. 1, 1979.]

Acts 1979, 66th Leg., p. 1514, ch. 654, § 1, repealed former art. 42.13, as amended, and enacted a new art. 42.13 in lieu thereof. Section 2 of ch. 654 repealed Acts 1965, 59th Leg., ch. 164 and Acts 1979, 66th Leg., H.B. 588 (ch. 26). Section 3 of ch. 654 provided:

"If any provision, section, or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision, section, or clause, and to this end the provisions of this Act are declared to be severable."

Prior to repeal and reenactment of this article by Acts 1979, 66th Leg., p. 1514, ch. 654, § 1, this article was amended by:

Acts 1975, 64th Leg., p. 910, ch. 341, § 5.

Acts 1977, 65th Leg., p. 822, ch. 306, § 3.

Acts 1977, 65th Leg., p. 1059, ch. 388, §§ 3, 4.

Acts 1979, 66th Leg., p. 952, ch. 428, § 31.

Acts 1979, 66th Leg., p. 1339, ch. 605, § 5.

Acts 1981, 67th Leg., p. 359, ch. 142, § 4, provides:

"This Act takes effect January 1, 1982, and applies only to probation and license suspension for offense committed on or after that date. Probation under Article 42.13, Code of Criminal Procedure, 1965, as amended, and license suspension under Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes), for an offense committed before the effective date of this Act are governed by the law as it existed when the offense occurred, and that law is continued in effect for that purpose. For the purpose of this Act, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date."

Acts 1981, 67th Leg., p. 820, ch. 291, § 149, provides:

"This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction. At least 1,800 appeals including death penalty appeals pending in the Court of Criminal Appeals prior to September 1, 1981, shall be retained by that court for disposition in accordance with laws in effect prior to the effective date of this Act, and for that purpose, all laws repealed or amended by this Act shall remain in force and effect for those appeals pending in the Court of Criminal Appeals. The remaining appeals pending in the Court of Criminal Appeals shall be transferred to the various courts of appeals on which the number of judges is increased by the 67th Session of the legislature; provided, no more than 75 nondeath penalty appeals shall be transferred for each newly created judgeship and such a transfer shall not be made until such justice assumes office."

#### Art. 42.17. Transfer Under Treaty

When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders who are citizens or nationals of foreign countries to the foreign countries of which they are citizens or nationals, the governor is authorized, subject to the terms of such treaty, to act on behalf of the State of Texas and to consent to the transfer of such convicted offenders under the provisions of Article IV, Section 11 of the Constitution of the State of Texas.

[Added by Acts 1977, 65th Leg., p. 1266, ch. 489, § 1, eff. June 15, 1977.]

### CHAPTER FORTY-THREE. EXECUTION OF JUDGMENT

#### Art. 43.09. Fine Discharged

When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgement be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding Article; or if there be no such workhouse, farm or improvements,

he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such labor or imprisonment at fifteen dollars for each day thereof; provided, however, that the defendant may pay the pecuniary fine assessed against him at any time while he is serving at work in the workhouse, or on the county farm, or on the public improvements of the county, or while he is serving his jail sentence, and in such instances he shall be entitled to a credit of fifteen dollars for each day or fraction of a day that he has served and he shall only be required to pay his balance of the pecuniary fine assessed against him.

[Amended by Acts 1981, 67th Leg., p. 360, ch. 143, § 1, eff. May 14, 1981.]

#### Art. 43.10. To Do Manual Labor

Where the punishment assessed in a conviction for misdemeanor is confinement in jail for more than one day, or where in such conviction the punishment is assessed only at a pecuniary fine and the party so convicted is unable to pay the fine and costs adjudged against him, those so convicted shall be required to do manual labor in accordance with the provisions of this Article under the following rules and regulations:

1. Each commissioners court may provide for the erection of a workhouse and the establishment of a county farm in connection therewith for the purpose of utilizing the labor of said parties so convicted;

2. Such farms and workhouses shall be under the control and management of the sheriff, and the sheriff may adopt such rules and regulations not inconsistent with the rules and regulations of the Texas Commission on Jail Standards and with the laws as the sheriff deems necessary;

3. Such overseers and guards may be employed by the sheriff under the authority of the commissioners court as may be necessary to prevent escapes and to enforce such labor, and they shall be paid out of the county treasury such compensation as the commissioners court may prescribe;

4. They shall be put to labor upon public works;

5. One who from age, disease, or other physical or mental disability is unable to do manual labor shall not be required to work. His inability to do manual labor may be determined by a physician appointed for that purpose by the county judge or the commissioners court, who shall be paid for such service such compensation as said court may allow; and

6. For each day of manual labor, in addition to any other credits allowed by a law, a prisoner is entitled to have one day deducted from each sentence he is serving. The deduction authorized by this Act, when combined with the deduc-

tion required by Article 42.10, Code of Criminal Procedure, 1965, may not exceed two-thirds ( $\frac{2}{3}$ ) of the sentence.

[Amended by Acts 1981, 67th Leg., p. 2647, ch. 708, § 1, eff. Aug. 31, 1981.]

Section 4 of the 1981 amendatory act provides:

"This Act affects the term of a prisoner serving a sentence in a county jail on the effective date of this Act only to the extent that the sentence is served on or after the effective date of this Act."

#### Art. 43.14. Execution of Convict

Whenever the sentence of death is pronounced against a convict, the sentence shall be executed at any time before the hour of sunrise on the day set for the execution not less than thirty days from the day the court sets the execution date, as the court may adjudge, by intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until such convict is dead, such execution procedure to be determined and supervised by the Director of the Department of Corrections.

[Amended by Acts 1977, 65th Leg., p. 287, ch. 138, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 812, ch. 291, § 120, eff. Sept. 1, 1981.]

#### Art. 43.15. Warrant of Execution

Whenever any person is sentenced to death, the clerk of the court in which the sentence is pronounced, shall within ten days after the court enters its order setting the date for execution, issue a warrant under the seal of the court for the execution of the sentence of death, which shall recite the fact of conviction, setting forth specifically the offense, the judgment of the court, the time fixed for his execution, and directed to the Director of the Department of Corrections at Huntsville, Texas, commanding him to proceed, at the time and place named in the order of execution, to carry the same into execution, as provided in the preceding Article, and shall deliver such warrant to the sheriff of the county in which such judgment of conviction was had, to be by him delivered to the said Director of the Department of Corrections, together with the condemned person if he has not previously been so delivered.

[Amended by Acts 1981, 67th Leg., p. 812, ch. 291, § 121, eff. Sept. 1, 1981.]

#### Art. 43.16. Taken to Department of Corrections

Immediately upon the receipt of such warrant, the sheriff shall transport such condemned person to the Director of the Department of Corrections, if he has not already been so delivered, and shall deliver him and the warrant aforesaid into the hands of the Director of the Department of Corrections and shall take from the Director of the Department of Corrections his receipt for such person and such warrant, which receipt the sheriff shall return to the office of the clerk of the court where the judgment of death was rendered. For his services, the sheriff shall be entitled to the same compensation as is now allowed by law to sheriffs for removing or conveying prison-

ers under the provisions of Section 4 of Article 1029 or 1030 of the Code of Criminal Procedure of 1925, as amended.

[Amended by Acts 1981, 67th Leg., p. 812, ch. 291, § 122, eff. Sept. 1, 1981.]

#### Art. 43.17. Visitors

Upon the receipt of such condemned person by the Director of the Department of Corrections, the condemned person shall be confined therein until the time for his or her execution arrives, and while so confined, all persons outside of said prison shall be denied access to him or her, except his or her physician, lawyer, and clergyperson, who shall be admitted to see him or her when necessary for his or her health or for the transaction of business, and the relatives and friends of the condemned person, who shall be admitted to see and converse with him or her at all proper times, under such reasonable rules and regulations as may be made by the Board of Directors of the Department of Corrections.

[Amended by Acts 1979, 66th Leg., p. 1181, ch. 572, § 1, eff. Aug. 27, 1979.]

#### Art. 43.18. Executioner

The Director of the Texas Department of Corrections shall designate an executioner to carry out the death penalty provided by law.

[Amended by Acts 1975, 64th Leg., p. 911, ch. 341, § 6, eff. June 19, 1975; Acts 1977, 65th Leg., p. 288, ch. 138, § 2, eff. Aug. 29, 1977.]

For saving provisions of 1975 amendatory act, see note set out under art. 3.01.

## APPEAL AND WRIT OF ERROR

### CHAPTER FORTY-FOUR. APPEAL AND WRIT OF ERROR

#### Article

44.251. Reformation of Sentence in Capital Case.

44.45. Review by Court of Criminal Appeals.

#### Article 44.01. State Cannot Appeal

The State shall have no right of appeal in criminal actions. However, this statute shall not be construed to prevent the State from petitioning the Court of Criminal Appeals to review a decision of a court of appeals in a criminal case, on its own motion.

[Amended by Acts 1981, 67th Leg., p. 812, ch. 291, § 123, eff. Sept. 1, 1981.]

#### Art. 44.02. Defendant May Appeal

A defendant in any criminal action has the right of appeal under the rules hereinafter prescribed, provided, however, before the defendant who has been convicted upon either his plea of guilty or plea of nolo contendere before the court and the court, upon the election of the defendant, assesses punishment and the punishment does not exceed the punishment recommended by the prosecutor and agreed

to by the defendant and his attorney may prosecute his appeal, he must have permission of the trial court, except on those matters which have been raised by written motion filed prior to trial. This article in no way affects appeals pursuant to Article 44.17 of this chapter.

[Amended by Acts 1977, 65th Leg., p. 940, ch. 351, § 1, eff. Aug. 29, 1977.]

#### Art. 44.03. Presence in Appellate Court

The defendant need not be personally present upon the hearing of his cause in the court of appeals or the Court of Criminal Appeals, but if not in jail, he may appear in person.

[Amended by Acts 1981, 67th Leg., p. 813, ch. 291, § 124, eff. Sept. 1, 1981.]

#### Art. 44.04. Bond Pending Appeal

(a) Pending the determination of any new motion for new trial or the appeal from any misdemeanor conviction, the defendant is entitled to be released on reasonable bail, and if a defendant charged with a misdemeanor is on bail, is convicted, and appeals that conviction, his bond is not discharged until his conviction is final or in the case of an appeal to a court where a trial de novo is held, he files an appeal bond as required by this code for appeal from the conviction.

(b) The defendant may not be released on bail pending the determination of any motion for new trial or the appeal from any felony conviction where the punishment exceeds 15 years confinement or where the defendant has been convicted of an offense listed under Section 4.012(b), Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), but shall immediately be placed in custody and the bail discharged.

(c) Pending the determination of any motion for new trial or the appeal from any felony conviction other than a conviction described in Subsection (b) of this section, the trial court may deny bail and commit the defendant to custody if there then exists good cause to believe that the defendant would not appear when his conviction became final or is likely to commit another offense while on bail, permit the defendant to remain at large on the existing bail, or, if not then on bail, admit him to reasonable bail until his conviction becomes final. The court may impose reasonable conditions on bail pending the finality of his conviction. On a finding by the court on a preponderance of the evidence of a violation of a condition, the court may revoke the bail.

(d) After conviction, either pending determination of any motion for new trial or pending final determination of the appeal, the court in which trial was had may increase or decrease the amount of bail, as it deems proper, either upon its own motion or the motion of the State or of the defendant.

(e) Any bail entered into after conviction and the sureties on the bail must be approved by the court where trial was had. Bail is sufficient if it substan-

tially meets the requirements of this code and may be entered into and given at any term of court.

(f) In no event shall the defendant and the sureties on his bond be released from their liability on such bond or bonds until the defendant is placed in the custody of the sheriff.

(g) The right of appeal to the Court of Appeals of this state is expressly accorded the defendant for a review of any judgment or order made hereunder, and said appeal shall be given preference by the appellate court.

(h) When a conviction is reversed by a decision of a Court of Appeals and the State files a petition for discretionary review, the defendant, if in custody, shall be entitled to release on reasonable bail, regardless of the length of term of imprisonment, pending final determination of the appeal. The Court of Criminal Appeals shall determine the amount of bail, but the sureties on the bail must be approved by the court where the trial was had. [Amended by Acts 1977, 65th Leg., p. 636, ch. 234, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 707, ch. 268, § 17, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 813, ch. 291, § 125, eff. Sept. 1, 1981.]

#### Art. 44.05. Receipt of Mandate

When the clerk of any court from whose judgment an appeal has been taken in cases wherein bail has been allowed shall receive the mandate of the court of appeals or the Court of Criminal Appeals affirming such judgment, he shall send an acknowledgment to the court of appeals or the Court of Criminal Appeals of the receipt of the mandate and immediately file the same and forthwith issue a *capias* for the arrest of the defendant for the execution of the sentence of the court, which shall recite the fact of conviction, setting forth the offense and the judgment and sentence of the court, the appeal from and affirmance of such judgment and the filing of such mandate, and shall command the sheriff to arrest and take into his custody the defendant and place him in jail and therein keep him until delivered to the proper authorities, as directed by said sentence. The sheriff shall forthwith execute such *capias* as directed. The sheriff shall notify the clerk of the trial court and the court of appeals or the Court of Criminal Appeals when the mandate has been carried out and executed.

[Amended by Acts 1979, 66th Leg., p. 1900, ch. 769, § 1, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 814, ch. 291, § 126, eff. Sept. 1, 1981.]

#### Art. 44.08. Notice of Appeal

(a) It shall be necessary for defendant, as a condition of perfecting an appeal to the Court of Appeals, to give notice of appeal. This notice may be given orally in open court or may be in writing and filed in duplicate with the clerk. If notice is given orally in open court, the clerk shall in duplicate reduce the same to writing. In either case, the clerk of the trial court shall note upon the duplicate the file

number of the case and the date the notice of appeal was filed or given and forward it to the appropriate court of appeals. Such notice shall be sufficient if it shows the desire of defendant to appeal from the judgment or other appealable order to the Court of Appeals. A notice of appeal may be withdrawn by a defendant at any time prior to the decision of the court of appeals. The withdrawal shall be in writing, signed by the defendant, and filed in duplicate with the clerk of the court of appeals in which the appeal is pending, who shall immediately forward the duplicate to the clerk of the trial court in which the notice of appeal was filed or given. Notice of appeal may not be withdrawn after the decision of the court of appeals without consent of the state and approval by the court of appeals. If consent and approval are obtained, the opinion of the court of appeals shall be withdrawn, and the appeal shall be dismissed. Notice of the dismissal shall be sent to the clerk of the trial court in which notice of appeal was filed or given. No notice of appeal need be given in a case in which the death penalty has been assessed, because appeal is automatic to the Court of Criminal Appeals in such cases.

(b) Notice of appeal shall be filed within 15 days after overruling of the motion or amended motion for new trial and if there be no motion or amended motion for new trial, then within 15 days after sentencing.

(c) For the purpose of this article, "sentencing" means the date the sentence is imposed or suspended in open court or the date the other appealable order is signed by the trial judge.

(d) The record on appeal will be deemed sufficient to show notice of appeal if it contains written notice of appeal showing a date of filing within the time required by law or if the record contains any judgment or other court order or any docket entry by the court showing that notice of appeal was duly given.

(e) For good cause shown, the court of appeals may permit the giving of notice of appeal after the expiration of such 15 days.

[Amended by Acts 1981, 67th Leg., p. 814, ch. 291, § 127, eff. Sept. 1, 1981.]

#### Art. 44.09. Escape Pending Appeal

If the defendant, after giving notice of appeal, makes his escape from custody, the jurisdiction of the court of appeals or the Court of Criminal Appeals shall no longer attach in the case. Upon the fact of such escape being made to appear, the appropriate court shall, on motion of the attorney representing the state, dismiss the appeal and withdraw any prior opinion; but the order dismissing the appeal shall be set aside if it is made to appear that the defendant has voluntarily returned within ten days to the custody of the officer from whom he escaped; and in cases where the punishment inflicted by the jury or the court is confinement in an institution operated by the Department of Corrections for life, the court may in its discretion rein-

state the appeal if the defendant is recaptured or voluntarily surrenders within thirty days after such escape. No appeal shall be dismissed as to any defendant to whom the death penalty has been assessed.

[Amended by Acts 1981, 67th Leg., p. 815, ch. 291, § 128, eff. Sept. 1, 1981.]

#### Art. 44.11. Effect of Appeal

Upon the appellate record being filed in the court of appeals or the Court of Criminal Appeals, all further proceedings in the trial court, except as to bond as provided in Article 44.04, shall be suspended and arrested until the mandate of the appellate court is received by the trial court. In cases where the record or any portion thereof is lost or destroyed it may be substituted in the trial court and when so substituted the record may be prepared and transmitted to the court of appeals or the Court of Criminal Appeals as in other cases.

[Amended by Acts 1981, 67th Leg., p. 815, ch. 291, § 129, eff. Sept. 1, 1981.]

#### Art. 44.12. Procedure as to Bail Pending Appeal

The amount of any bail given in any felony or misdemeanor case to perfect an appeal from any court to the Court of Appeals shall be fixed by the court in which the judgment or order appealed from was rendered. The sufficiency of the security thereon shall be tested, and the same proceedings had in case of forfeiture, as in other cases regarding bail.

[Amended by Acts 1981, 67th Leg., p. 815, ch. 291, § 130, eff. Sept. 1, 1981.]

#### Art. 44.13. Appeals from Justice and Municipal Courts

(a) In appeals from the judgments and sentence of justice or municipal courts, the defendant shall, if he be in custody, be committed to jail unless he gives bail.

(b) If the court from whose judgment and sentence the appeal is taken is in session, the court must approve the bail. The amount of a bail bond may not be less than double the amount of fine and costs adjudged against the defendant, payable to the State of Texas; provided the bail shall not in any case be for a less sum than fifty dollars. Without requiring a court appearance by the defendant, the court shall approve an appeal bond in an amount that the court under Article 27.14(b) of this code notified the defendant would be approved if the appeal bond otherwise meets the requirements of this code.

(c) If the court from whose judgment and sentence the appeal is taken is not in session, a peace officer may take a bail bond of the defendant. The amount shall be double the amount of fine and costs adjudged against the defendant or fifty dollars, whichever is the lesser. The bond shall be payable to the State of Texas. The peace officer shall file the bond with the court from whose judgment and sentence the appeal is taken.

(d) An appeal bond shall recite that in the cause the defendant was convicted and has appealed, and be conditioned that the defendant shall make his personal appearance before the court to which the appeal is taken instantler, if said court be then in session; and if said court be not in session, then at its next regular term, stating the time and place of holding the same, and there remain from day to day and term to term, and answer in said cause in said court.

[Amended by Acts 1979, 66th Leg., p. 451, ch. 207, § 2, eff. Sept. 1, 1979; Acts 1981, 67th Leg., p. 1866, ch. 443, § 1, eff. Sept. 1, 1981.]

#### Art. 44.16. Appeal Bond Given Within What Time

If the defendant is not in custody, a notice of appeal as provided in Article 44.13 shall have no effect whatever until the required appeal bond has been given and approved. The appeal bond shall be given within ten days after the sentence of the court has been rendered, except as provided in Article 27.14 of this code.

[Amended by Acts 1979, 66th Leg., p. 450, ch. 207, § 3, eff. Sept. 1, 1979.]

#### Art. 44.22. Failure to Receive Record

When it appears by the clerk's certificate that an appeal has been taken but that the record has not been received by the clerk of the court of appeals or the Court of Criminal Appeals within the time required by law for filing the record, such clerk shall immediately notify the clerk of the proper court that the same has not been received, and such clerk without delay shall prepare and forward another record as in the first instance, and notify the clerk of the appellate court by letter of the fact that such record has been forwarded and how and when it was forwarded.

[Amended by Acts 1981, 67th Leg., p. 815, ch. 291, § 131, eff. Sept. 1, 1981.]

#### Art. 44.23. Appeals, When Determined

The courts of appeals and the Court of Criminal Appeals shall hear and determine appeals in criminal actions at the earliest time it may be done, with due regard to the rights of parties and proper administration of justice, and no affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal.

[Amended by Acts 1981, 67th Leg., p. 816, ch. 291, § 132, eff. Sept. 1, 1981.]

#### Art. 44.24. Presumptions on Appeal; Decisions by the Appellate Court

(a) The courts of appeals and the Court of Criminal Appeals shall presume that the venue was proved in the court below; that the jury was properly impaneled and sworn; that the defendant was arraigned; that he pleaded to the indictment or other charging instrument; that the court's charge was certified by the judge and filed by the clerk

before it was read to the jury, unless such matters were made an issue in the court below, or it otherwise affirmatively appears to the contrary from the record.

(b) The courts of appeals and the Court of Criminal Appeals may affirm the judgment of the court below, or may reverse and remand for a new trial, or may reverse and dismiss the case, or may reform and correct the judgment or may enter any other appropriate order, as the law and nature of the case may require.

(c) The Courts of Appeals, in each case decided by them, shall deliver a written opinion, setting forth the reason for such decision; or where precedent exists, in its discretion may decide the same by a certificate of affirmance or reversal with citation of supporting authorities. In either event, any judge may file an opinion dissenting from or concurring in the action of the court.

(d) The Court of Criminal Appeals, in each case decided by it, either on appeal or on review, shall deliver a written opinion setting forth the reasons for such decision and precedent where it exists. Any judge may file an opinion concurring in or dissenting from the action of the court.

(e) The clerk of each court of appeals shall, on the date the court renders a decision in a criminal case, mail or deliver a copy of the opinion to the clerk of the trial court, the trial judge, the attorney for the appellant, the local prosecuting attorney, the state prosecuting attorney, and the clerk of the Court of Criminal Appeals.

(f) The clerk of the Court of Criminal Appeals shall, upon the date the court renders a decision, mail or deliver a copy of the opinion to the clerk of the trial court, the trial judge, the attorney for the appellant, the local prosecuting attorney, the state prosecuting attorney, and, in a discretionary review case, the clerk of the court of appeals from which discretionary review was sought.

[Amended by Acts 1981, 67th Leg., p. 816, ch. 291, § 133, eff. Sept. 1, 1981.]

#### Art. 44.25. Cases Remanded

The courts of appeals or the Court of Criminal Appeals may reverse the judgment in a criminal action, as well upon the law as upon the facts. [Amended by Acts 1981, 67th Leg., p. 817, ch. 291, § 134, eff. Sept. 1, 1981.]

#### Art. 44.251. Reformation of Sentence in Capital Case

The court of criminal appeals shall reform a sentence of death to a sentence of confinement in the Texas Department of Corrections for life if:

(1) the court finds that there is insufficient evidence to support an affirmative answer to an issue submitted to the jury under Article 37-071(b) of this code; and

(2) within 15 days after the date on which the opinion is handed down, the prosecuting attorney files a motion requesting that the sentence be reformed to confinement for life.

[Added by Acts 1981, 67th Leg., p. 2673, ch. 725, § 2, eff. Aug. 31, 1981.]

**Art. 44.26. Duty of the Clerk After Judgment**

When the judgment of the court of appeals or of the Court of Criminal Appeals is final, the clerk shall make out the proper certificate of the proceedings had and judgment rendered, and mail the same to the clerk of the proper court.

[Amended by Acts 1981, 67th Leg., p. 817, ch. 291, § 135, eff. Sept. 1, 1981.]

**Art. 44.27. Mandate to be Filed**

When the mandate of the court of appeals or of the Court of Criminal Appeals is received by the proper clerk, he shall file it with the papers of the cause, and note it upon the docket.

[Amended by Acts 1981, 67th Leg., p. 817, ch. 291, § 136, eff. Sept. 1, 1981.]

**Art. 44.29. Effect of Reversal**

Where the court of appeals or the Court of Criminal Appeals awards a new trial to the defendant, the cause shall stand as it would have stood in case the new trial had been granted by the court below.

[Amended by Acts 1981, 67th Leg., p. 817, ch. 291, § 137, eff. Sept. 1, 1981.]

**Art. 44.31. Defendant Discharged, When**

When the court of appeals or the Court of Criminal Appeals reverses a judgment and orders the cause to be dismissed, the defendant, if in custody, must be discharged.

[Amended by Acts 1981, 67th Leg., p. 817, ch. 291, § 138, eff. Sept. 1, 1981.]

**Art. 44.33. Hearing in Appellate Court**

(a) The Court of Criminal Appeals shall make rules of posttrial and appellate procedure as to the hearing of criminal actions not inconsistent with this Code. After the record is filed in the Court of Appeals or the Court of Criminal Appeals the parties may file such supplemental briefs as they may desire before the case is submitted to the court. Each party, upon filing any such supplemental brief, shall promptly cause true copy thereof to be delivered to the opposing party or to the latter's counsel. In every case at least two counsel for the defendant shall be heard in the Court of Appeals if such be desired by defendant. In every case heard by the Court of Criminal Appeals at least two counsel for the defendant shall be permitted oral argument if desired by the appellant.

(b) Appellant's failure to file his brief in the time prescribed shall not authorize a dismissal of the appeal by the Court of Appeals or the Court of Criminal Appeals, nor shall the Court of Appeals or

the Court of Criminal Appeals, for such reason, refuse to consider appellant's case on appeal.

[Amended by Acts 1981, 67th Leg., p. 817, ch. 291, § 139, eff. Sept. 1, 1981.]

**Art. 44.34. Appeal in Habeas Corpus**

When the defendant appeals from the judgment rendered on the hearing of an application under habeas corpus, a record of the proceedings in the cause shall be made out and certified to, together with all the testimony offered, if requested by the defendant, and shall be sent up to the Court of Appeals for review. This record shall be sent up to the Court of Appeals within fifteen days after the date of the judgment, except that if good cause is shown, the time may be extended by the Court of Appeals. This record, when the proceedings take place before the court in session, shall be prepared and certified by the clerk thereof; but when had before a judge in vacation, the record may be prepared by any person, under direction of the judge, and certified by such judge.

[Amended by Acts 1981, 67th Leg., p. 818, ch. 291, § 140, eff. Sept. 1, 1981.]

**Art. 44.36. Hearing Habeas Corpus**

Cases of habeas corpus, taken to the Court of Appeals by appeal, or in which the Court of Criminal Appeals has granted discretionary review, shall be heard at the earliest practicable time. The appellant need not be personally present, and such appeal shall be heard and determined upon the law and the facts arising upon record. No incidental question which may have arisen on the hearing of the application before the court below shall be reviewed. The only design of the appeal or discretionary review is to do substantial justice to the party appealing or seeking discretionary review.

[Amended by Acts 1981, 67th Leg., p. 818, ch. 291, § 141, eff. Sept. 1, 1981.]

**Art. 44.37. Orders on Appeal**

The appellate court shall enter such judgment, and make such orders as the law and the nature of the case may require, and may make such orders relative to the costs in the case as may seem right, allowing costs and fixing the amount, or allowing no costs at all.

[Amended by Acts 1981, 67th Leg., p. 818, ch. 291, § 142, eff. Sept. 1, 1981.]

**Art. 44.38. Judgment Conclusive**

The judgment of the Court of Appeals in appeals under habeas corpus shall be final and conclusive if discretionary review is not granted by the Court of Criminal Appeals. If discretionary review is granted, the judgment of the Court of Criminal Appeals under habeas corpus shall be final and conclusive. In either case, no further application in the same case can be made for the writ, except in cases specially provided for by law.

[Amended by Acts 1981, 67th Leg., p. 818, ch. 291, § 143, eff. Sept. 1, 1981.]

**Art. 44.39. Appellant Detained by Other Than Officer**

If the appellant in a case of habeas corpus be detained by any person other than an officer, the sheriff receiving the mandate of the appellate court, shall immediately cause the person so held to be discharged; and the mandate shall be sufficient authority therefor.

[Amended by Acts 1981, 67th Leg., p. 818, ch. 291, § 144, eff. Sept. 1, 1981.]

**Art. 44.40. Judgment to be Certified**

The judgment of the appellate court shall be certified by the clerk thereof to the officer holding the defendant in custody, or when he is held by any person other than an officer, to the sheriff of the proper county.

[Amended by Acts 1981, 67th Leg., p. 819, ch. 291, § 145, eff. Sept. 1, 1981.]

**Art. 44.41. Who Shall Take Bail Bond**

When, by the judgment of the appellate court upon cases of habeas corpus, the applicant is ordered to give bail, such judgment shall be certified to the officer holding him in custody; and if such officer be the sheriff, the bail bond may be executed before him; if any other officer, he shall take the person detained before some magistrate, who may receive a bail bond, and shall file the same in the proper court of the proper county; and such bond may be forfeited and enforced as provided by law.

[Amended by Acts 1981, 67th Leg., p. 819, ch. 291, § 146, eff. Sept. 1, 1981.]

**Art. 44.45. Review by Court of Criminal Appeals**

(a) The Court of Criminal Appeals may review decisions of the court of appeals on its own motion. An order for review must be filed before the decision of the court of appeals becomes final as determined by Article 42.04a.

(b) The Court of Criminal Appeals may review decisions of the court of appeals upon a petition for review.

(1) The state or a defendant in a case may petition the Court of Criminal Appeals for review of the decision of a court of appeals in that case.

(2) The petition shall be filed with the clerk of the court of appeals which rendered the decision within 30 days after the final ruling of the court of appeals.

(3) The petition for review shall be addressed to "The Court of Criminal Appeals of Texas," and shall state the name of the petitioning party and shall include a statement of the case and authorities and arguments in support of each ground for review.

(4) Upon filing a petition for review, the petitioning party shall cause a true copy to be delivered to the attorney representing the op-

posing party. The opposing party may file a reply to the petition with the Court of Criminal Appeals within 30 days after receipt of the petition from the petitioning party.

(5) Within 15 days after the filing of a petition for review, the clerk of the court of appeals shall note the filing on the record and forward the petition together with the original record and the opinion of the court of appeals to the Court of Criminal Appeals.

(6) The Court of Criminal Appeals shall either grant the petition and review the case or refuse the petition.

(7) Subsequent to granting the petition for review, the Court of Criminal Appeals may reconsider, set aside the order granting the petition, and refuse the petition as though the petition had never been granted.

(c) The Court of Criminal Appeals may promulgate rules pursuant to this article.

[Added by Acts 1981, 67th Leg., p. 819, ch. 291, § 147, eff. Sept. 1, 1981.]

**JUSTICE AND CORPORATION COURTS****CHAPTER FORTY-FIVE. JUSTICE AND CORPORATION COURTS****Article**

45.54. Suspension of Fine and Deferral of Final Disposition.

**Art. 45.53. Discharged From Jail**

A defendant placed in jail on account of failure to pay the fine and costs can be discharged on habeas corpus by showing:

1. That he is too poor to pay the fine and costs; and

2. That he has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$15 for each day.

[Amended by Acts 1981, 67th Leg., p. 2648, ch. 708, § 3, eff. Aug. 31, 1981.]

Section 4 of the 1981 amendatory act provides:

"This Act affects the term of a prisoner serving a sentence in a county jail on the effective date of this Act only to the extent that the sentence is served on or after the effective date of this Act."

**Art. 45.54. Suspension of Fine and Deferral of Final Disposition**

(1) Upon conviction of the defendant of a misdemeanor punishable by fine only, other than a misdemeanor described by Section 143A, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), the justice may suspend the imposition of the fine and defer final disposition of the case for a period not to exceed 180 days.

(2) During said deferral period, the justice may require the defendant to:

(a) post a bond in the amount of the fine assessed to secure payment of the fine;

(b) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;

(c) submit to professional counseling; and

(d) comply with any other reasonable condition, other than payment of all or part of the fine assessed.

(3) At the conclusion of the deferral period, if the defendant presents satisfactory evidence that he has complied with the requirements imposed, the justice may dismiss the complaint. Otherwise, the justice may reduce the fine assessed or may then impose the fine assessed. If the complaint is dismissed, a special expense not to exceed \$50 may be imposed.

(4) Records relating to a complaint dismissed as provided by this article may not be expunged under Article 55.01 of this code.

[Added by Acts 1981, 67th Leg., p.894, ch. 318, § 1, eff. Sept. 1, 1981.]

## MISCELLANEOUS PROCEEDINGS

### CHAPTER FORTY-SIX. INSANITY AS DEFENSE

Article

46.03. Insanity Defense.

#### Art. 46.02. Incompetency to Stand Trial

##### Incompetency to Stand Trial

Sec. 1. (a) A person is incompetent to stand trial if he does not have:

(1) sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding; or

(2) a rational as well as factual understanding of the proceedings against him.

(b) A defendant is presumed competent to stand trial and shall be found competent to stand trial unless proved incompetent by a preponderance of the evidence.

##### Raising the Issue of Incompetency to Stand Trial

Sec. 2. (a) The issue of the defendant's incompetency to stand trial shall be determined in advance of the trial on the merits if the court determines there is evidence to support a finding of incompetency to stand trial on its own motion or on written motion by the defendant or his counsel filed prior to the date set for trial on the merits asserting that the defendant is incompetent to stand trial.

(b) If during the trial evidence of the defendant's incompetency is brought to the attention of the court from any source, the court must conduct a hearing out of the presence of the jury to determine whether or not there is evidence to support a finding of incompetency to stand trial.

##### Examination of the Defendant

Sec. 3. (a) At any time the issue of the defendant's incompetency to stand trial is raised, the court may, on its own motion or motion by the defendant, his counsel, or the prosecuting attorney, appoint disinterested experts experienced and qualified in mental health or mental retardation to examine the defendant with regard to his competency to stand trial and to testify at any trial or hearing on this issue.

(b) The court may order any defendant to submit to examination for the purposes described in this article. If the defendant is free on bail, the court in its discretion may order him to submit to examination. If the defendant fails or refuses to submit to examination, the court may order him to custody for examination for a reasonable period not to exceed 21 days. The court may not order a defendant to a facility operated by the Texas Department of Mental Health and Mental Retardation for examination without the consent of the head of that facility or for a period exceeding 21 days. If a defendant who has been ordered to a facility operated by Texas Department of Mental Health and Mental Retardation for examination remains in such facility for a period of time exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the Texas Department of Mental Health and Mental Retardation facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(c) The court shall advise any expert appointed pursuant to this section of the nature of the offense with which the defendant is charged and the meaning of incompetency to stand trial.

(d) A written report of the examination shall be submitted to the court within 30 days of the order of examination, and the court shall furnish copies of the report to the defense counsel and the prosecuting attorney. The report shall include a description of the procedures used in the examination, the examiner's observations and findings pertaining to the defendant's competency to stand trial, and recommended treatment. If the examiner concludes that the defendant is incompetent to stand trial, the report shall include the examiner's observations and findings about whether there is a substantial probability that the defendant will attain the competence to stand trial in the foreseeable future. The examiner shall also submit a separate report setting forth his observations and findings concerning:

(1) whether the defendant is mentally ill and requires observation and/or treatment or hospitalization in a mental hospital for his own welfare and protection or the protection of others; or

(2) whether the defendant is a mentally retarded person as defined in The Mentally Retarded Persons Act (Article 3871b, Vernon's Texas Civil Statutes)<sup>1</sup> and requires commitment to a mental retardation facility.

(e) If the examiner is a physician and concludes that the defendant is mentally ill, he shall complete and submit to the court a Certificate of Medical Examination for Mental Illness. If the examiner concludes that the defendant is a mentally retarded person and the examination has been conducted at a facility of the Texas Department of Mental Health and Mental Retardation or at a diagnostic center approved by the Texas Department of Mental Health and Mental Retardation, the examiner shall submit to the court an affidavit setting forth the conclusions reached as a result of the diagnostic examination.

(f) The appointed experts shall be paid by the county in which the indictment was returned or information was filed. A facility operated by the Texas Department of Mental Health and Mental Retardation which accepts a defendant for examination under Subsection (a) of this section shall be reimbursed by the county in which the indictment was returned or information was filed for such expenses incurred as are determined by the department to be reasonably necessary and incidental to the proper examination of the defendant.

(g) No statement made by the defendant during the examination or hearing on his competency to stand trial may be admitted in evidence against the defendant on the issue of guilt in any criminal proceeding.

(h) When a defendant wishes to be examined by a psychiatrist or other expert of his own choice, the court on timely request shall provide the examiner with reasonable opportunity to examine the defendant.

(i) The experts appointed under this section to examine the defendant with regard to his competency to stand trial also may be appointed by the court to examine the defendant with regard to the insanity defense pursuant to Section 3 of Article 46.03 of this code, but separate written reports concerning the defendant's competency to stand trial and the insanity defense shall be filed with the court.

<sup>1</sup> Repealed; see, now, the Mentally Retarded Persons Act of 1977, classified as Civil Statutes, art. 5547-300.

#### Incompetency Hearing

Sec. 4. (a) If the court determines that there is evidence to support a finding of incompetency to stand trial, a jury shall be impaneled to determine the defendant's competency to stand trial. This determination shall be made by a jury that has not been selected to determine the guilt or innocence of the defendant. If the defendant is found incompetent to stand trial, a further hearing may be held to determine whether or not the defendant is mentally ill and requires observation and/or treatment or hospitalization in a mental hospital for his own wel-

fare and protection or the protection of others or whether he is a mentally retarded person as defined in The Mentally Retarded Persons Act (Article 3871b, Vernon's Texas Civil Statutes), and requires commitment to a mental retardation facility.

(b) The defendant is entitled to counsel at the competency hearing. If the defendant is indigent and the court has not yet appointed counsel to represent the defendant, the court shall appoint counsel prior to the competency hearing.

(c) If the issue of incompetency to stand trial is raised other than by written motion in advance of trial pursuant to Subsection (a) of Section 2 of this article and the court determines that there is evidence to support a finding of incompetency to stand trial, the court shall set the issue for determination immediately or at any time prior to the sentencing of the defendant. If the competency hearing is delayed until after a verdict on the guilt or innocence of the defendant is returned, the competency hearing shall be held as soon thereafter as reasonably possible, but a competency hearing may be held only if the verdict in the trial on the merits is "guilty." If the defendant is found incompetent to stand trial after the beginning of the trial on the merits, the court shall declare a mistrial in the trial on the merits. A subsequent trial and conviction of the defendant for the same offense is not barred and jeopardy does not attach by reason of a mistrial under this section.

(d) Instructions submitting the issue of incompetency to stand trial shall be framed to require the jury to state in its verdict:

(1) whether the defendant is incompetent to stand trial; and

(2) if found incompetent to stand trial, whether there is no substantial probability that the defendant will attain the competency to stand trial within the foreseeable future.

(e) If the jury is unable to agree on a unanimous verdict after a reasonable opportunity to deliberate, the court shall declare a mistrial of the incompetency hearing, discharge the jury, and impanel another jury to determine the incompetency of the defendant to stand trial.

(f) If the defendant is found competent to stand trial, the court shall dismiss the jury that decided the issue and may continue the trial on the merits before the court or with the jury selected for that purpose.

(g) If the defendant is found incompetent to stand trial and it is determined that there is a substantial probability that he will attain the competency to stand trial within the foreseeable future, the court shall proceed under Section 5 of this article.

(h) If the defendant is found incompetent to stand trial and there is found no substantial probability that he will become competent within the foreseeable future, and the court determines there is evi-

dence that the defendant is mentally ill or is a mentally retarded person, and all charges pending against the defendant are not then dismissed, the court shall proceed under Section 6 of this article or shall release the defendant.

(i) If the defendant is found incompetent to stand trial and there is found no substantial probability that he will become competent within the foreseeable future, and the court determines there is evidence that the defendant is mentally ill or is a mentally retarded person, and all charges pending against the defendant are then dismissed, the court shall proceed under Section 7 of this article or shall release the defendant.

#### Criminal Commitment

Sec. 5. (a) When a defendant has been determined incompetent to stand trial, and absent a determination that there is no substantial probability that the defendant will attain competency to stand trial in the foreseeable future, the court shall enter an order committing the defendant to the maximum security unit of Rusk State Hospital, to the maximum security unit of any other facility designated by the Texas Department of Mental Health and Mental Retardation, to an agency of the United States operating a mental hospital, or to a Veterans Administration hospital for a period of at least 60 days, but not to exceed 18 months, and placing him in the custody of the sheriff for transportation to the facility to be confined therein for further examination and treatment toward the specific objective of attaining competency to stand trial. The court shall order that a transcript of all medical testimony received by the jury be forthwith prepared by the court reporter and that such transcript, together with a statement of the facts and circumstances surrounding the alleged offense, shall accompany the patient to the facility.

(b) No person shall be committed to a mental health or mental retardation facility under this section except on competent medical or psychiatric testimony.

(c) The facility to which the defendant is committed shall develop an individual program of treatment and shall report on the defendant's progress towards achieving competency to the court at least every 90 days.

(d) Nothing in this section precludes the court from allowing the defendant to be released on bail if the court determines that the defendant can be adequately treated on an outpatient basis for the purpose of attaining competency to stand trial.

(e) If the charges pending against a defendant are dismissed, the committing court shall send a copy of the order of dismissal to the head of the facility in which the defendant is held and the defendant shall then be discharged.

(f) The head of a facility to which a person has been committed pursuant to Subsection (a) of this section shall promptly notify the committing court:

(1) when he is of the opinion that the defendant has attained competency to stand trial; or

(2) when he is of the opinion that there is no substantial probability that the defendant will attain the competency to stand trial in the foreseeable future; or

(3) when an 18-month commitment is due to expire, such notice to be given 14 days prior to such expiration.

(g) On notification to the committing court under Subsection (f) of this section, the sheriff of the county in which the committing court is located shall forthwith transport the defendant to the committing court; provided, however, that if the defendant remains in the maximum security unit of a facility of the Texas Department of Mental Health and Mental Retardation 14 days following receipt by the committing court of such notification, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the Texas Department of Mental Health and Mental Retardation facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(h) Upon the defendant's return to court, if he has no counsel and the court determines that the defendant is indigent, the court shall appoint counsel to represent him.

(i) When the head of a facility to which the defendant is committed discharges the defendant and the defendant is returned to court, a final report shall be filed with the court documenting the applicable reason therefor under Subsection (f) of this section, and the court shall furnish copies to the defense counsel and the prosecuting attorney. If the head of such facility is of the opinion that the defendant is mentally ill and requires observation and/or treatment or hospitalization in a mental hospital for his own welfare and protection or the protection of others, he shall complete and submit to the court a Certificate of Medical Examination for Mental Illness. If the head of such facility is of the opinion that the defendant is mentally retarded, he shall submit to the court an affidavit setting forth the conclusions reached as a result of the diagnostic examination. When the report is filed with the court, the court is authorized to make a determination based solely on the report with regard to the defendant's competency to stand trial, unless the prosecuting attorney or the defense counsel objects in writing or in open court to the findings of the report within 15 days from the time the report is served on the parties. In the event of objection, the issue shall be set for a hearing before the court or, on motion by the defendant, his counsel, the prosecuting attorney, or the court, the hearing shall be held before a jury. The hearing shall be held within 30 days following the date of objection unless continued for good cause.

(j) No defendant who has been committed to a facility under Subsection (a) of this section may be recommitted to a facility under that subsection in connection with the same offense.

(k) If the defendant is found competent to stand trial, criminal proceedings against him may be resumed.

(l) If the defendant is found incompetent to stand trial, and all charges pending against the defendant are not then dismissed, the court shall proceed under Section 6 of this article or shall release the defendant.

(m) If the defendant is found incompetent to stand trial, and all charges pending against the defendant are then dismissed, the court shall proceed under Section 7 of this article or shall release the defendant.

**Civil Commitment—Charges Pending**

Sec. 6. (a) If a defendant is found incompetent to stand trial and there is found no substantial probability that he will become competent in the foreseeable future, or if the defendant is found incompetent to stand trial and he has been previously committed to a facility under Subsection (a) of Section 5 of this article in connection with the same offense, and, in either event, all charges pending against the defendant are not then dismissed, the court shall determine whether there is evidence to support findings that the defendant is mentally ill or is mentally retarded and requires commitment to a mental health or mental retardation facility.

(b) If it appears to the court that the defendant may be mentally ill and there is on file with the court Certificates of Medical Examination for Mental Illness by two physicians, at least one of whom must not be employed by the Texas Department of Mental Health and Mental Retardation, who have examined the defendant within 45 days of the date of the commitment hearing, each stating that the defendant is mentally ill and requires observation and/or treatment or hospitalization in a mental hospital, the court shall impanel a jury to determine whether the defendant shall be committed to a mental health facility or such hearing may be held before the jury impaneled to determine the defendant's competency to stand trial.

(1) If there has not been filed with the court two such Certificates of Medical Examination for Mental Illness, the judge shall appoint the necessary physicians, at least one of whom shall be a psychiatrist if one is available in the county, to examine the defendant and file certificates with the court. The judge may order the defendant to submit to the examination.

(2) The Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes) shall govern proceedings for commitment of the defendant to a mental health facility insofar as the provisions of that code are applicable and

not in conflict herewith, except that the criminal court shall conduct the proceedings whether or not the criminal court is also the county court.

(3) If the defendant has not been under observation and/or treatment in a mental hospital for at least 60 days under the provisions of Section 5(a) above or under an Order of Temporary Commitment pursuant to the provisions of the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes) within the 12 months immediately preceding the date of the hearing, the instructions submitting the issue shall be framed to require the jury to state in its verdict:

(i) whether the defendant is mentally ill, and if so

(ii) whether he requires observation and/or treatment in a mental hospital for his own welfare and protection or the protection of others.

(4) If the jury finds that the defendant is not mentally ill or does not require observation and/or treatment in a mental hospital, the court shall order the immediate release of the defendant.

If the jury finds that the defendant is mentally ill and requires observation and/or treatment in a mental hospital for his own welfare and protection or the protection of others, the court shall order that the defendant be committed as a patient for observation and/or treatment in a state mental hospital for a period not exceeding 90 days.

(5) If the defendant has been under observation and/or treatment in a mental hospital for at least 60 days under the provisions of Section 5(a) above or under an Order of Temporary Commitment pursuant to the provisions of the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes) within the 12 months immediately preceding the date of the hearing, the instructions submitting the issue shall be framed to require the jury to state in its verdict:

(i) whether the defendant is mentally ill, and if so

(ii) whether he requires hospitalization in a mental hospital for his own welfare and protection or the protection of others, and if so

(iii) whether he is mentally incompetent.

(6) If the jury finds that the defendant is not mentally ill or that he does not require hospitalization in a mental hospital for his own welfare and protection or the protection of others, the court shall enter an order discharging the defendant.

If the jury finds that the defendant is mentally ill and requires hospitalization in a mental hospital for his own welfare and protection or

the protection of others, the court shall order that the defendant be committed as a patient to a state mental hospital for an indefinite period.

(7) If the court enters an order committing the defendant to a state mental hospital, the defendant shall be treated and released in conformity to the Texas Mental Health Code except as may be provided in this article.

(c) If it appears to the court that the defendant may be mentally retarded and there is on file with the court an Affidavit of Examination of Alleged Mentally Retarded Person based upon an examination conducted at a facility of the Texas Department of Mental Health and Mental Retardation or at a diagnostic center approved by that department, the court shall impanel a jury to determine whether the defendant is a mentally retarded person or such hearing may be held before the jury impaneled to determine the defendant's competency to stand trial.

(1) If such affidavit is not on file with the court, the judge shall arrange for such diagnostic examination of the defendant by a facility of the Texas Department of Mental Health and Mental Retardation or by a diagnostic center approved by that department. The judge may order the defendant to submit to the examination. The county shall reimburse the facility or center which conducts the examination for the reasonable and necessary expenses incurred in conducting such examination.

(2) The Mentally Retarded Persons Act (Article 3871b, Vernon's Texas Civil Statutes) shall govern proceedings for commitment of the defendant to a mental retardation facility insofar as the provisions of that Act are applicable and not in conflict herewith, except that the criminal court shall conduct the proceedings whether or not the criminal court is also a county court.

(3) The instructions submitting the issue of mental retardation to the jury shall be framed to require the jury to state in its verdict whether the defendant is a mentally retarded person as defined in the Mentally Retarded Persons Act, and if so, whether he requires commitment to a mental retardation facility.

(4) If the jury finds that the defendant is not a mentally retarded person as defined in the Mentally Retarded Persons Act, or that he does not require commitment to a mental retardation facility, the court shall enter an order discharging the defendant.

(5) If the jury finds that the defendant is a mentally retarded person as defined in the Mentally Retarded Persons Act, and requires commitment to a mental retardation facility, the court shall enter an order declaring that fact and that the person is committed to a mental retardation facility of the Texas Department of Mental Health and Mental Retardation.

(d) In the proceedings conducted under this section:

(1) no Application for Temporary Hospitalization, Petition for Indefinite Commitment or Application to have the defendant declared a mentally retarded person shall be required;

(2) the provisions of the Texas Mental Health Code and the Mentally Retarded Persons Act of 1977 relating to notice of hearing shall not be applicable;

(3) appeals from the criminal court proceedings under this section shall be to the court of appeals as in the proceedings for temporary hospitalization or for indefinite commitment under the Texas Mental Health Code.

#### Civil Commitment—Charges Dismissed

Sec. 7. If a defendant is found incompetent to stand trial and there is found no substantial probability that he will become competent in the foreseeable future, or if the defendant is found incompetent to stand trial and he has been previously committed to a facility under Section 5 of this article and all charges pending against the defendant are then dismissed, the court shall determine whether there is evidence to support findings that the defendant is either mentally ill or is a mentally retarded person. If it appears to the court that there is evidence to support either of such findings, the court shall enter an order transferring the defendant to the appropriate court for civil commitment proceedings, stating that all charges pending against the defendant in that court have been dismissed, and may order the defendant detained in jail or other suitable place pending the prompt initiation and prosecution by the attorney for the state or other person designated by the court of appropriate civil proceedings to determine whether the defendant will be committed to a mental health or mental retardation facility; provided, however, that a patient placed in a facility of the Texas Department of Mental Health and Mental Retardation pending civil hearing under this section may be detained in such facility only pursuant to an Order of Protective Custody issued pursuant to the provisions of the Texas Mental Health Code and with the consent of the head of the facility, or the court may give the defendant into the care of a responsible person on satisfactory security being given for his proper care and protection; otherwise, the defendant shall be discharged.

#### General

Sec. 8. (a) A person committed to a mental health or mental retardation facility as a result of the proceedings initiated pursuant to Section 6 or Section 7 of this article shall be committed to the maximum security unit of Rusk State Hospital or to the maximum security unit of any other facility designated by the Texas Department of Mental Health and Mental Retardation. Within 60 days following arrival at the maximum security unit, the person shall be transferred to a nonsecurity unit of a mental health or mental retardation facility designated by the Texas Department of Mental Health

and Mental Retardation unless the person is determined to be manifestly dangerous by a review board with the Texas Department of Mental Health and Mental Retardation. The Commissioner of the Texas Department of Mental Health and Mental Retardation shall appoint three psychiatrists who are licensed to practice medicine in the State of Texas to determine whether the person is manifestly dangerous. If the superintendent of the facility at which the maximum security unit is located disagrees with the determination, then the matter will be referred to the Commissioner of the Texas Department of Mental Health and Mental Retardation who will resolve the disagreement by deciding whether the person is manifestly dangerous.

(b) The court shall order that a transcript of all medical testimony received in both the criminal proceedings and the civil commitment proceedings be prepared forthwith by the court reporters and that such transcripts, together with a statement of the facts and circumstances surrounding the alleged offense, shall accompany the patient to the mental health or mental retardation facility.

(c) If the head of a mental health facility determines that a patient committed to a state mental hospital for a period not exceeding 90 days as a result of proceedings initiated pursuant to Section 6 or Section 7 of this article requires indefinite commitment to a mental hospital for his own welfare and protection or the protection of others, he shall notify the court from which the patient was committed in writing at least 30 days prior to the expiration of the temporary commitment. The court from which the patient was committed shall order the sheriff of the county in which the court is located to return the patient for a Hearing for Indefinite Commitment or shall make arrangements for the hearing to be held in an appropriate court of the county in which the patient is hospitalized. Provided, however, that if the patient has not received a Hearing for Indefinite Commitment by the date on which the temporary commitment expires, the head of the facility in which the patient is hospitalized shall cause the patient to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the court is located. That county shall reimburse the facility of the Texas Department of Mental Health and Mental Retardation for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(d) The head of a mental health or mental retardation facility to which a person has been committed or transferred as a result of the proceedings initiated pursuant to Section 6 of this article and who has received written notice from a court or prosecuting attorney that criminal charges are pending against the person shall notify the court in writing at least 14 days prior to the discharge of the person unless

the notice provided for in (c) above has been given. A written report as to the competency of the person to stand trial shall accompany the notice of discharge.

(e) On written notice by the head of a mental health or mental retardation facility that in his opinion a person who has been civilly committed to that facility and against whom criminal charges are pending is competent to stand trial, or on good cause shown by the defendant, his counsel, or the prosecuting attorney, the court in which the criminal charges are pending may hold a hearing to determine the competency of the defendant to stand trial. The hearing shall be before a jury unless waived by agreement of the parties. The order setting the hearing shall order the defendant placed in the custody of the sheriff for transportation to the court. The court may appoint disinterested experts to examine the defendant in accordance with the provisions of Section 3 of this article. If the defendant is found to be competent to stand trial, the proceedings on the criminal charges may be continued. If the defendant is found incompetent to stand trial and is under an order of commitment to a mental health or mental retardation facility, the court shall order him placed in the custody of the sheriff for transportation to that facility.

#### Time Credited

Sec. 9. The time a person charged with a criminal offense is confined in a mental health or mental retardation facility pending trial shall be credited to the term of his sentence on subsequent sentencing or resentencing.

[Amended by Acts 1975, 64th Leg., p. 1095, ch. 415, § 1, eff. June 19, 1975; Acts 1977, 65th Leg., p. 1458, ch. 596, § 1, Sept. 1, 1977; Acts 1981, 67th Leg., p. 820, ch. 291, § 148, eff. Sept. 1, 1981.]

Section 10 of the 1977 amendatory act provided:

"If any portion of this Act is declared invalid or unconstitutional, it is the intention of the legislature that the other portions shall remain in full force and effect, and to this end the provisions of this Act are declared to be severable."

#### Art. 46.03. Insanity Defense

##### The Insanity Defense

Sec. 1. (a) The insanity defense provided in Section 8.01 of the Penal Code shall be submitted to the jury only if supported by competent evidence.

(b) When the insanity defense is submitted, the trier of facts shall determine and include in the verdict or judgment or both whether the defendant is guilty, not guilty, or not guilty by reason of insanity.

(c) A defendant who has been found not guilty by reason of insanity shall stand acquitted of the offense charged and may not be considered a person charged with a criminal offense.

##### Raising the Insanity Defense

Sec. 2. (a) A defendant planning to offer evidence of the insanity defense shall file a notice of his intention to offer such evidence with the court and the prosecuting attorney:

(1) at least 10 days prior to the date the case is set for trial; or

(2) if the court sets a pretrial hearing before the 10-day period, the defendant shall give notice at the hearing; or

(3) if the defendant raises the issue of his incompetency to stand trial before the 10-day period, he shall at the same time file notice of his intention to offer evidence of the insanity defense.

(b) Unless notice is timely filed pursuant to Subsection (a) of this section, evidence on the insanity defense is not admissible unless the court finds that good cause exists for failure to give notice.

#### Examination of the Defendant

Sec. 3. (a) If notice of intention to raise the insanity defense is filed under Section 2 of this article, the court may, on its own motion or motion by the defendant, his counsel, or the prosecuting attorney, appoint disinterested experts experienced and qualified in mental health and mental retardation to examine the defendant with regard to the insanity defense and to testify thereto at any trial or hearing on this issue.

(b) The court may order any defendant to submit to examination for the purposes described in this article. If the defendant is free on bail, the court in its discretion may order him to submit to examination. If the defendant fails or refuses to submit to examination, the court may order him to custody for examination for a reasonable period not to exceed 21 days. The court may not order a defendant to a facility operated by the Texas Department of Mental Health and Mental Retardation for examination without the consent of the head of that facility or for a period exceeding 21 days. If a defendant who has been ordered to a facility operated by the Texas Department of Mental Health and Mental Retardation for examination remains in such facility for a period of time exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the Texas Department of Mental Health and Mental Retardation facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at that time.

(c) The court shall advise any expert appointed pursuant to this section of the facts and circumstances of the offense with which the defendant is charged and the elements of the insanity defense.

(d) A written report of the examination shall be submitted to the court within 30 days of the order of examination, and the court shall furnish copies of the report to the defense counsel and the prosecuting attorney. The report shall include a description of the procedures used in the examination and the

examiner's observations and findings pertaining to the insanity defense. The examiner shall also submit a separate report setting forth his observations and findings concerning:

(1) whether the defendant is presently mentally ill and requires observation and/or treatment or hospitalization in a mental hospital for his own welfare and protection or the protection of others; or

(2) whether the defendant is a mentally retarded person as defined in the Mentally Retarded Persons Act (Article 3871b, Vernon's Texas Civil Statutes).<sup>1</sup>

(e) The appointed experts shall be paid by the county in which the indictment was returned or information was filed. A facility operated by the Texas Department of Mental Health and Mental Retardation which accepts a defendant for examination under Subsection (a) of this section shall be reimbursed by the county in which the indictment was returned or information was filed for such expenses incurred as are determined by the department to be reasonably necessary and incidental to the proper examination of the defendant.

(f) When a defendant wishes to be examined by a psychiatrist or other expert of his own choice, the court on timely request shall provide the examiner with reasonable opportunity to examine the defendant.

(g) The experts appointed under this section to examine the defendant with regard to the insanity defense also may be appointed by the court to examine the defendant with regard to his competency to stand trial pursuant to Section 3 of Article 46.02 of this code, provided that separate written reports concerning the defendant's competency to stand trial and the insanity defense shall be filed with the court.

<sup>1</sup> Repealed; see, now, the Mentally Retarded Persons Act of 1977, classified as Civil Statutes, art. 5547-300.

#### Civil Commitment

Sec. 4. (a) If a defendant is found not guilty by reason of insanity in the trial of a criminal offense, the court shall determine whether there is evidence to support findings that the defendant is either mentally ill or is a mentally retarded person. If the court determines that there is evidence to support either of such findings, the court shall transfer the defendant to the appropriate court for civil commitment proceedings and may order the defendant detained in jail or other suitable place pending the prompt initiation and prosecution by the attorney for the state or other person designated by the court of appropriate civil proceedings to determine whether the defendant shall be committed to a mental health or mental retardation facility; provided, however, that a patient placed in a facility of the Texas Department of Mental Health and Mental Retardation pending civil hearing under this section shall only be detained pursuant to the provisions for an

Order of Protective Custody as set out in the Texas Mental Health Code and with the consent of the head of the facility, or the court may give the defendant into the care of a responsible person on satisfactory security being given for his proper care and protection; otherwise, the defendant shall be discharged.

(b) A person committed to a mental health or mental retardation facility as a result of the proceedings initiated pursuant to Subsection (a) of this section shall be committed to the maximum security unit of Rusk State Hospital or the maximum security unit of any other facility designated by the Texas Department of Mental Health and Mental Retardation. Within 60 days following arrival at the maximum security unit, the person shall be transferred to a nonsecurity unit of a mental health or mental retardation facility designated by the Texas Department of Mental Health and Mental Retardation unless the person is determined to be manifestly dangerous by a review board within the Texas Department of Mental Health and Mental Retardation. The Commissioner of the Texas Department of Mental Health and Mental Retardation shall appoint three psychiatrists who are licensed to practice medicine in the State of Texas to determine whether the person is manifestly dangerous. If the superintendent of the facility at which the maximum security unit is located disagrees with the determination, then the matter will be referred to the Commissioner of the Texas Department of Mental Health and Mental Retardation who will resolve the disagreement by deciding whether the person is manifestly dangerous.

(c) The court shall order a transcript of all medical testimony received in both the criminal proceedings and the civil commitment proceedings shall be prepared forthwith by the court reporters and that such transcripts, together with a statement of the facts and circumstances surrounding the alleged offense, shall accompany the patient to the mental health or mental retardation facility.

[Added by Acts 1975, 64th Leg., p. 1100, ch. 415, § 2, eff. June 19, 1975. Amended by Acts 1977, 65th Leg., p. 1467, ch. 596, § 2, eff. Sept. 1, 1977.]

**CHAPTER FORTY-SEVEN. DISPOSITION OF STOLEN PROPERTY**

Article

47.01a. Restoration When No Trial is Pending.

**Art. 47.01a. Restoration When No Trial is Pending**

If no criminal action is pending, a magistrate of the county or city in which the property is being held may hold a hearing to determine the right to possession of the property, upon the petition of any interested person. The magistrate shall order the property delivered to whoever has the superior right to possession, subject to the condition that the prop-

erty be made available to the prosecuting authority should it be needed in the future, or the magistrate may remand the property to the custody of the peace officer.

[Added by Acts 1977, 65th Leg., p. 2034, ch. 813, § 1, eff. Aug. 29, 1977.]

**CHAPTER FORTY-EIGHT. PARDON AND PAROLE**

**Art. 48.05. Repealed by Acts 1977, 65th Leg., p. 933, ch. 347, § 6, eff. Aug. 29, 1977**

**CHAPTER FORTY-NINE. INQUESTS UPON DEAD BODIES**

**Art. 49.03. Autopsies and Tests**

The justice of the peace may in all cases call in the County Health Officer, or if there be none or if his services are not then obtainable, then a duly licensed and practicing physician, and shall procure their opinions and their advice on whether or not to order an autopsy to determine the cause of death. If upon his own determination he deems an autopsy necessary, the justice of the peace shall, by proper order, request the County Health Officer, or if there be none or if it be impracticable to secure his service, then some duly licensed and practicing physician who is trained in pathology to make an autopsy in order to determine the cause of death, and whether death was from natural causes or resulting from violence, and the nature and character of either of them. The county in which such autopsy is ordered shall pay the physician making such autopsy a reasonable fee. The Commissioners Court may authorize payment for transportation of the body within this state for the performance of an autopsy ordered by a justice of the peace. In those cases where a complete autopsy is deemed unnecessary by the justice of the peace to ascertain the cause of death, he may by proper order, order the taking of blood samples or any other samples of fluids, body tissues or organs in order to ascertain the cause of death or whether any crime has been committed. In the case of a body of a human being whose identity is unknown, the justice of the peace may, by proper order, authorize such investigative and laboratory tests and processes as are required to determine the identity as well as the cause of death.

In those cases where a complete autopsy is deemed unnecessary by the justice of the peace to ascertain the cause of death, he may by proper order, order the taking of blood samples or any other samples of fluids, body tissues or organs in order to ascertain the cause of death or whether any crime has been committed. In the case of a body of a human being whose identity is unknown, the justice of the peace may, by proper order, authorize such investigative and laboratory tests and processes as are required to determine the identity as well as the cause of death. [Amended by Acts 1977, 65th Leg., p. 691, ch. 261, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 601, ch. 277, § 1, eff. May 24, 1979.]

**Art. 49.05. Consent to Autopsy**

Sec. 1. Consent for a licensed physician to conduct an autopsy of the body of a deceased person shall be deemed sufficient when given by the following: In the case of a married person, the surviving spouse, or if no spouse survive him, by any child of such marriage, or in the event of a minor child of such marriage, the guardian of such child if any there be, or in the absence of such guardian, the court having jurisdiction of the person of such minor; in the event that neither spouse nor child survives such deceased, then permission for an autopsy shall be valid when given by a person who would be allowed to give such permission in the case of an unmarried deceased.

If the deceased be unmarried, then permission shall be given by the following for such autopsy, in the order stated: parent, guardian, or next of kin, and in the absence of any of the foregoing, by any natural person assuming custody of and responsibility for burial of the body of such deceased. If two or more of the above-named persons assume custody of the body, consent of one of them shall be deemed sufficient.

[See Compact Edition, Volume 1 for text of 2]  
[Amended by Acts 1977, 65th Leg., p. 1106, ch. 407, § 1, eff. Aug. 29, 1977.]

**Art. 49.25. Medical Examiners**

[See Compact Edition, Volume 1 for text of 1 to 10]

**Waiting Period Between Death and Cremation**

Sec. 10a. The body of a deceased person shall not be cremated within forty-eight hours after the time of death as indicated on the regular death certificate, unless the death certificate indicates death was caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox, or unless the time requirement is waived in writing by the county medical examiner or, in counties not having a county medical examiner, a justice of the peace.

[See Compact Edition, Volume 1 for text of 11 to 13]

[Amended by Acts 1975, 64th Leg., p. 1826, ch. 562, § 1, eff. Sept. 1, 1975.]

**CHAPTER FIFTY-ONE. FUGITIVES FROM JUSTICE****Article**

51.14. Interstate Agreement on Detainers.

**Art. 51.14. Interstate Agreement on Detainers**

This article may be cited as the "Interstate Agreement on Detainers Act." This agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joined therein in the form substantially as follows:

The contracting states solemnly agree that:

**ARTICLE I.**

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations, or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations, or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

**ARTICLE II.**

As used in this agreement: (a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

**ARTICLE III.**

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information, or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decision of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in Paragraph (a) hereof shall be

given or sent by the prisoner to the warden, commissioner of corrections, or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections, or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information, or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to Paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations, or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections, or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information, or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to Paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of Paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in Paragraph (a) hereof shall void the request.

## ARTICLE IV.

(a) The appropriate officer of the jurisdiction in which an untried indictment, information, or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Paragraph (a) of Article V hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information, or complaint shall have duly approved, recorded, and transmitted the request; and provided further that there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in Paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in Paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executing authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information, or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Paragraph (e) of Article V hereof, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

## ARTICLE V.

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information, or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place of trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) proper identification and evidence of his authority to act for the state into whose temporary custody this prisoner is to be given;

(2) a duly certified copy of the indictment, information, or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information, or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information, or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations, or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations, or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping, and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

## ARTICLE VI.

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement shall apply to any person who is adjudged to be mentally ill.

## ARTICLE VII.

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

## ARTICLE VIII.

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

ARTICLE IX.

(a) This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(b) As used in this article, "appropriate court" means a court of record with criminal jurisdiction.

(c) All courts, departments, agencies, officers, and employees of this state and its political subdivisions are hereby directed to enforce this article and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

(d) Any prisoner escapes from lawful custody while in another state as a result of the application of this article shall be punished as though such escape had occurred within this state.

(e) The governor is empowered to designate the officer who will serve as central administrator of and information agent for the agreement on detainees pursuant to the provisions of Article VII hereof.

(f) Copies of this article, upon its enactment, shall be transmitted to the governor of each state, the Attorney General and the Secretary of State of the United States, and the council of state governments. [Added by Acts 1975, 64th Leg., p. 920, ch. 343, § 1, eff. June 19, 1975.]

**CHAPTER FIFTY-THREE. COSTS AND FEES**

Article

- 53.08. Fees in Proceedings for Expunction of Criminal Records.
- 53.08. Fee for Collecting and Processing Sight Order.

**Art. 53.08. Fees in Proceedings for Expunction of Criminal Records**

*Text as added by Acts 1979, 66th Leg., p. 1335, ch. 604, § 2*

The following fees shall be taxed against the petitioner seeking expunction of a criminal record:

- (1) the fee charged for filing ex parte petitions in other civil actions in district court;
- (2) \$1.00 plus postage for each certified mailing of notice of the hearing date;
- (3) \$2.00 plus postage for each certified mailing of certified copies of the order of expunction.

[Added by Acts 1979, 66th Leg., p. 1335, ch. 604, § 2, eff. Aug. 27, 1979.]

*For text as added by Acts 1979, 66th Leg., p. 1802, ch. 734, § 1, see art. 53.08, post*

**Art. 53.08. Fee for Collecting and Processing Sight Order**

*Text as added by Acts 1979, 66th Leg., p. 1802, ch. 734, § 1*

(a) A county attorney, district attorney, or criminal district attorney may collect a fee if his office collects and processes a check or similar sight order if the check or similar sight order:

(1) has been issued or passed in a manner which makes the issuance or passing an offense under:

- (A) Section 32.41, Penal Code;
- (B) Section 31.03, Penal Code; or
- (C) Section 31.04, Penal Code; or

(2) has been forged under Section 32.21, Penal Code.

(b) The county attorney, district attorney, or criminal district attorney may collect the fee from any person who is a party to the offense described in Subsection (a) of this article.

(c) The amount of the fee shall not exceed:

(1) \$5 if the face amount of the check or sight order does not exceed \$10;

(2) \$10 if the face amount of the check or sight order is greater than \$10 but does not exceed \$100;

(3) \$30 if the face amount of the check or sight order is greater than \$100 but does not exceed \$300;

(4) \$50 if the face amount of the check or sight order is greater than \$300 but does not exceed \$500; and

(5) \$75 if the face amount of the check or sight order is greater than \$500.

(d) If the person from whom the fee is collected was a party to the offense of forgery under Section 32.21, Penal Code, committed by altering the face amount of the check or sight order, the face amount as altered governs for the purpose of determining the amount of the fee.

(e) Fees collected under this article shall be deposited in the county treasury in a special fund to be administered by the county attorney, district attorney, or criminal district attorney. Expenditures from this fund shall be at the sole discretion of the attorney, and may be used only to defray the salaries and expenses of the prosecutor's office, but in no event may the county attorney, district attorney, or criminal district attorney supplement his or her own salary from this fund. Nothing in this Act shall be construed to decrease the total salaries, expenses, and allowances which a prosecuting attorney's office is receiving at the time this Act takes effect. [Added by Acts 1979, 66th Leg., p. 1802, ch. 734, § 1, eff. Aug. 27, 1979.]

*For text as added by Acts 1979, 66th Leg., p. 1335, ch. 604, § 2, see art. 53.08, ante*

## CHAPTER FIFTY-FIVE. EXPUNCTION OF CRIMINAL RECORDS

### Article

- 55.01. Right to Expunction.  
 55.02. Procedure for Expunction.  
 55.03. Effect of Expunction.  
 55.04. Violation of Expunction Order.  
 55.05. Notice of Right to Expunction.

*Acts 1979, 66th Leg., p. 1333, ch. 604, which by § 1 amended this Chapter 55, provided in § 3:*

*"Any law or portion of a law that conflicts with Chapter 55, Code of Criminal Procedure, 1965, as amended, is repealed to the extent of the conflict."*

### Art. 55.01. Right to Expunction

A person who has been arrested for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if each of the following conditions exist:

(1) an indictment or information charging him with commission of a felony has not been presented against him for an offense arising out of the transaction for which he was arrested or, if an indictment or information charging him with commission of a felony was presented, it has been dismissed and the court finds that it was dismissed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(2) he has been released and the charge, if any, has not resulted in a final conviction and, is no longer pending and there was no court ordered supervision under Article 42.13, Code of Criminal Procedure, 1965, as amended, nor a conditional discharge under Section 4.12 of the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes); and

(3) he has not been convicted of a felony in the five years preceding the date of the arrest.

[Added by Acts 1977, 65th Leg., p. 1880, ch. 747, § 1, eff. Aug. 29, 1977. Amended Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.]

### Art. 55.02. Procedure for Expunction

Sec. 1. (a) A person who is entitled to expunction of records and files under this chapter may file an ex parte petition for expunction in a district court for the county in which he was arrested.

(b) The petitioner shall include in the petition a list of all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any

political subdivision of this state and of all central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction.

Sec. 2. The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition by certified mail, return receipt requested, and such entity may be represented by the attorney responsible for providing such agency with legal representation in other matters.

Sec. 3. (a) If the court finds that the petitioner is entitled to expunction of any records and files that are the subject of the petition, it shall enter an order directing expunction and directing any state agency that sent information concerning the arrest to a central federal depository to request such depository to return all records and files, subject to the order of expunction. Any petitioner or agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases. When the order of expunction is final, the clerk of the court shall send a certified copy of the order by certified mail, return receipt requested, to each official or agency or other entity of this state or of any political subdivision of this state named in the petition that there is reason to believe has any records or files that are subject to the order. The clerk shall also send a certified copy by certified mail, return receipt requested, of the order to any central federal depository of criminal records that there is reason to believe has any of the records, together with an explanation of the effect of the order and a request that the records in possession of the depository, including any information with respect to the proceeding under this article, be destroyed or returned to the court.

(b) All returned receipts received by the clerk from notices of the hearing and copies of the order shall be maintained in the file on the proceedings under this chapter.

Sec. 4. (a) If the state establishes that the petitioner is still subject to conviction for an offense arising out of the transaction for which he was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against him for the offense, the court may provide in its order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

(b) Unless the petitioner is again arrested for or charged with an offense arising out of the transaction for which he was arrested, the provisions of

Articles 55.03 and 55.04 of this code apply to files and records retained under this section.

Sec. 5. (a) On receipt of the order, each official or agency or other entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or, if removal is impracticable, obliterate all portions of the record or file that identify the petitioner and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(b) The court may give the petitioner all records and files returned to it pursuant to its order.

(c) If an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the petitioner unless the order permits retention of a record under Section 4 of this article and the petitioner is again arrested for or charged with an offense arising out of the transaction for which he was arrested. The clerk of the court issuing the order shall obliterate all public references to the proceeding and maintain the files or other records in an area not open to inspection.

[Added by Acts 1977, 65th Leg., p. 1880, ch. 747, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.]

**Art. 55.03. Effect of Expunction**

After entry of an expunction order:

(1) the release, dissemination, or use of the expunged records and files for any purpose is prohibited;

(2) except as provided in Subdivision 3 of this article, the petitioner may deny the occurrence of the arrest and the existence of the expunction order; and

(3) the petitioner or any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.

[Added by Acts 1977, 65th Leg., p. 1880, ch. 747, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.]

**Art. 55.04. Violation of Expunction Order**

Sec. 1. A person who acquires knowledge of an arrest while an officer or employee of the state or of any agency or other entity of the state or any political subdivision of the state and who knows of an order expunging the records and files relating to that arrest commits an offense if he knowingly releases, disseminates, or otherwise uses the records or files.

Sec. 2. A person who knowingly fails to return or to obliterate identifying portions of a record or

file ordered expunged under this chapter commits an offense.

Sec. 3. An offense under this article is a Class B misdemeanor.

[Added by Acts 1977, 65th Leg., p. 1880, ch. 747, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.]

**Art. 55.05. Notice of Right to Expunction**

On release or discharge of an arrested person, the person responsible for the release or discharge shall give him a written explanation of his rights under this chapter and a copy of the provisions of this chapter.

[Added by Acts 1977, 65th Leg., p. 1880, ch. 747, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.]

**PART II. MISCELLANEOUS PROVISIONS**

Chapter	Article
101. Collection of Money .....	1001
102. Taxation of Costs .....	1009
103. Costs Paid by the State .....	1018
104. Costs Paid by Counties .....	1037
105. Costs to be Paid by Defendant .....	1061

*The Texas Code of Criminal Procedure enacted in 1965, expressly saved from repeal certain enumerated articles which had theretofore appeared in the Code of Criminal Procedure of 1925, as amended and supplemented. See Article 54.02 of the 1965 Code.*

*Included in the articles saved from repeal were articles 944 through 951, 1009 through 1035, 1037 through 1056, 1058 through 1064, and 1075 through 1082. These articles are incorporated herein as Part II. Articles 944 through 951 have been renumbered as 1001 through 1008. The remainder appear under the same numbers assigned to them in the 1925 Code.*

**CHAPTER ONE HUNDRED ONE. COLLECTION OF MONEY**

Article
1001. Reports of Money Collected.
1002. Contents of Report.
1003. Report of Collections for County.
1004. What Officers to Report.
1005. Report to Embrace All Moneys.
1006. Money Collected Paid to Treasurer.
1007. Commissions on Collections.
1008. Commissions to Other Officers.

**Art. 1001. Reports of Money Collected**

All officers charged by law with collecting money in the name or for the use of the State shall report in writing under oath to the respective district

courts of their several counties, on the first day of each term, the amounts of money that have come to their hands since the last term of their respective courts aforesaid.

[1925 C.C.P.]

#### Art. 1002. Contents of Report

Such report shall state:

1. The amount collected.
2. When and from whom collected.
3. By virtue of what process collected.
4. The disposition that has been made of the money.
5. If no money has been collected, the report shall so state.

[1925 C.C.P.]

#### Art. 1003. Report of Collections for County

A report, such as is required by the two preceding articles, shall also be made of all moneys collected for the county, which report shall be made to each regular term of the commissioners court for each county.

[1925 C.C.P.]

#### Art. 1004. What Officers to Report

The officers charged by law with the collection of money, within the meaning of the three preceding articles, and who are required to make the reports therein mentioned, are: District and county attorneys, clerks of the district and county courts, sheriffs, constables, and justices of the peace.

[1925 C.C.P.]

#### Art. 1005. Report to Embrace All Moneys

The moneys required to be reported embrace all moneys collected for the State or county other than taxes.

[1925 C.C.P.]

#### Art. 1006. Money Collected Paid to Treasurer

Money collected by an officer upon recognizances, bail bonds and other obligations recovered upon in the name of the State under any provision of this Code, and all fines, forfeitures, judgments and jury fees, collected under any provision of this Code, shall forthwith be paid over by the officers collecting the same to the county treasurer of the proper county, after first deducting therefrom the legal fees and commissions for collecting the same.

[1925 C.C.P.]

#### Art. 1007. Commissions on Collections

The district or county attorney shall be entitled to ten per cent of all fines, forfeitures or moneys collected for the State or county, upon judgments recovered by him; and the clerk of the court in which said judgments are rendered shall be entitled to five per cent of the amount of said judgments, to be paid out of the amount when collected.

[1925 C.C.P.]

#### Art. 1008. Commissions to Other Officers

The sheriff or other officer, except a justice of the peace or his clerk, who collects money for the State or county, except jury fees, under any provision of this Code, shall be entitled to retain five per cent thereof when collected.

[1925 C.C.P.; Acts 1929, 41st Leg., p. 240, ch. 105, § 1.]

### CHAPTER ONE HUNDRED TWO. TAXATION OF COSTS

#### Article

1009. Fee Books.

1010. Fee Book Shall Show What.

1010a. Receipt Books; Delivery Monthly to County Auditor; Penalty.

1011. Extortion.

1012. Costs Payable in Money.

1013. When Costs Payable.

1014. Bill of Costs to Accompany Appeal.

1015. Taxing After Payment.

1016. Costs Retaxed.

1017. Fee Book Evidence.

#### Art. 1009. Fee Books

Each clerk of a court, county judge, justice of the peace, sheriff, constable and marshal, shall keep a fee book and enter therein all fees charged for service rendered in any criminal action or proceeding; which book may be inspected by any person interested in such costs.

[1925 C.C.P.]

#### Art. 1010. Fee Book Shall Show What

The fee book shall show the number and style of the action or proceeding in which the costs are charged, and shall name the officer or person to whom such costs are due, and state each item of costs separately.

[1925 C.C.P.; Acts 1935, 44th Leg., p. 470, ch. 188.]

#### Art. 1010a. Receipt Books; Delivery Monthly to County Auditor; Penalty

Sec. 1. Each fee officer within this State collecting fines and fees in criminal cases shall be furnished, by the county, in addition to the fee books now provided by law, duplicate official receipts in book form, each of which receipts shall bear a distinct number, and a facsimile of the official seal of the county. Whenever any money is received by any such officer in his official capacity, to be applied on the payment of any fine or costs in any case, the person paying said money shall be given a receipt showing the amount, date, style of case, number of case and purpose for which paid, which receipt shall show the name of the person paying and the official signature of the receiving officer.

Sec. 2. At the close of each month's business the receipt book shall be delivered to the County Auditor and the County Auditor shall thoroughly check said receipt book to see that proper disposition has been made of the money collected, and after such audit,

the receipt books shall be returned to the officer, if any portion of the book is unused, but if all the book is used it shall be retained by the County Auditor. Such books shall be open to public inspection.

Sec. 3. Any officer who shall fail or refuse to comply with any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction therefor, may be fined not to exceed Two Hundred Dollars (\$200.00), and may be removed from office upon petition of the County or District Attorney; and the principal of any office shall be responsible for the failure of his Deputies to comply herewith, insofar as the remedy of removal from office shall apply; but the Deputy so failing or refusing to comply herewith shall be liable for the fine herein provided.

[Acts 1935, 44th Leg., p. 470, ch. 188.]

#### Art. 1011. Extortion

No item of costs shall be taxed for a purported service which was not performed, or for a service for which no fee is expressly provided by law.

[1925 C.C.P.]

#### Art. 1012. Costs Payable in Money

All costs in criminal actions or proceedings are due and payable in money.

[1925 C.C.P.]

#### Art. 1013. When Costs Payable

No costs shall be payable by any person until there be produced, or ready to be produced, unto the person chargeable with the same, a written bill containing the items of such costs, signed by the officer to whom such costs are due or by whom the same are charged.

[1925 C.C.P.]

#### Art. 1014. Bill of Costs to Accompany Appeal

When a criminal action or proceeding is taken by appeal from one court to another, or whenever the same is in any other way transferred from one court to another, it shall be accompanied by a complete bill of all costs that have accrued therein, certified to and signed by the proper officer of the court from which the same is forwarded.

[1925 C.C.P.]

#### Art. 1015. Taxing After Payment

No further costs shall be taxed against or collected from a defendant after he has paid the costs taxed against him at the time of such payment, unless otherwise adjudged by the court upon a proper motion filed for that purpose.

[1925 C.C.P.]

#### Art. 1016. Costs Retaxed

Whenever costs have been erroneously taxed against a defendant, he may have the error corrected, and the costs properly taxed, upon filing a writ-

ten motion for that purpose in the court in which the case is then or was last pending. Such motion may be made at any time within one year after the final disposition of the case in which the costs were taxed, and not afterward. Notice of such motion shall be given to each party to be affected thereby, as in the case of a similar motion in a civil action.

[1925 C.C.P.]

#### Art. 1017. Fee Book Evidence

The items of costs taxed in an officer's fee book shall be prima facie evidence of the correctness of such items.

[1925 C.C.P.]

### CHAPTER ONE HUNDRED THREE. COSTS PAID BY THE STATE

#### Article

- 1018. Defendant Liable for Costs.
- 1019. Conviction for Misdemeanor.
- 1019a. Fees in Felony Cases Against Same Defendant.
- 1020. Fees in Examining Court.
- 1021. District Attorneys of Two or More Counties.
- 1022. If There are Several Defendants.
- 1023. Fees in Trust Cases.
- 1024. Attorney for Dallas and Harris Counties.
- 1025. Fees to District and County Attorneys.
- 1026. Fees of District Clerk.
- 1027. Officers Not to be Paid Fees Until Case Finally Disposed Of.
- 1028. Sheriff Due Fees After Approval.
- 1029. Fees to Sheriff or Constable.
- 1030. Fees to Sheriff or Constable.
- 1030a. Fugitives from Justice; Allowance to Sheriffs and Deputies for Expenses.
- 1031. Services by Officer Other Than Sheriff.
- 1032. Sheriff Shall Not Charge Fees, When.
- 1033. Officer Shall Make Out Cost Bill.
- 1034. Judge to Examine Bill, Etc.
- 1035. Duty of Comptroller.

#### Art. 1018. Defendant Liable for Costs

When the defendant is convicted, the costs and fees paid by the State under this title shall be a charge against him, except when sentenced to death or to imprisonment for life, and when collected shall be paid into the State Treasury.

[1925 C.C.P.]

#### Art. 1019. Conviction for Misdemeanor

If the defendant is indicted for a felony and upon conviction his punishment is by fine or confinement in the county jail, or by both such fine and confinement in the county jail or convicted of a misdemeanor, no costs shall be paid by the State to any officer. All costs in such cases shall be taxed, assessed and collected as in misdemeanor cases.

[1925 C.C.P.; Acts 1931, 42nd Leg., p. 338, ch. 205, § 1.]

#### Art. 1019a. Fees in Felony Cases Against Same Defendant

In all felony cases where any officer is allowed fees payable by the State for services performed either before or after indictment, including examining trials before magistrates and habeas corpus

proceedings, no officer shall be entitled to fees in more than five cases against the same defendant; provided, however, that where defendants are indicted and tried separately after severance of their cases, said officers shall be entitled to fees in five cases against each of said defendants, the same as if indicted and tried separately for separate offenses; provided further, that cases in which the same defendant has previously been indicted, tried, and convicted prior to the date of any act or acts for which said defendant is again apprehended, indicted, and/or tried shall not be computed in determining the number of cases against such defendant in which such officers are entitled to collect fees.

[Acts 1931, 42nd Leg., p. 334, ch. 200, § 1. Amended by Acts 1935, 44th Leg., p. 697, ch. 297, § 1.]

#### **Art. 1020. Fees in Examining Court**

In each case where a County Judge or a Justice of the Peace shall sit as an examining court in a felony case, they shall be entitled to the same fees allowed by law for similar services in misdemeanor cases to Justices of the Peace, and ten cents for each one hundred words for writing down the testimony, to be paid by the State, not to exceed Three and No/100 (\$3.00) Dollars, for all his services in any one case.

Sheriffs and Constables serving process and attending any examining court in the examination of any felony case, shall be entitled to such fees as are fixed by law for similar services in misdemeanor cases in County Court to be paid by the State, not to exceed Four and No/100 (\$4.00) Dollars in any one case, and mileage actually and necessarily traveled in going to the place of arrest, and for conveying the prisoner or prisoners to jail as provided in Articles 1029 and 1030, Code of Criminal Procedure, as the facts may be, but no mileage whatever shall be paid for summoning or attaching witnesses in the county where case is pending. Provided no sheriff or constable shall receive from the State any additional mileage for any subsequent arrest of a defendant in the same case, or in any other case in an examining court or in any district court based upon the same charge or upon the same criminal act, or growing out of the same criminal transaction, whether the arrest is made with or without a warrant, or before or after indictment, and in no event shall he be allowed to duplicate his fees for mileage for making arrests, with or without warrant, or when two or more warrants of arrest or capiases are served or could have been served on the same defendant on any one day.

District and County Attorneys, for attending and prosecuting any felony case before an examining court, shall be entitled to a fee of Five and no/100 (\$5.00) Dollars, to be paid by the State for each case prosecuted by him before such court. Such fee shall not be paid except in cases where the testimony of the material witnesses to the transaction shall be reduced to writing, subscribed and sworn to by said

witnesses; and provided further that such written testimony of all material witnesses to the transaction shall be delivered to the District Clerk under seal, who shall deliver the same to the foreman of the grand jury and take his receipt therefor. Such foreman shall, on or before the adjournment of the grand jury, return the same to the clerk who shall receipt him and shall keep said testimony in the files of his office for a period of five years.

The fees mentioned in this Article shall become due and payable only after the indictment of the defendant for an offense based upon or growing out of the charge filed in the examining court and upon an itemized account, sworn to by the officers claiming such fees, approved by the Judge of the District Court, and said County or District Attorney shall present to the District Judge the testimony transcribed in the examining trial, who shall examine the same and certify that he has done so and that he finds the testimony of one or more witnesses to be material; and provided further that a certificate from the District Clerk, showing that the written testimony of the material witnesses has been filed with said District Clerk, in accordance with the preceding paragraph, shall be attached to said account before such District or County Attorney shall be entitled to a fee in any felony case for services performed before an examining court.

Only one fee shall be allowed to any officer mentioned herein for services rendered in an examining trial, though more than one defendant is joined in the complaint, or a severance is had. When defendants are proceeded against separately, who could have been proceeded against jointly, but one fee shall be allowed in all cases that could have been so joined. No more than one fee shall be allowed to any officer where more than one case is filed against the same defendant for offenses growing out of the same criminal act or transaction. The account of the officer and the approval of the District Judge must affirmatively show that the provisions of this Article have been complied with.

[1925 C.C.P.; Acts 1933, 43rd Leg., p. 219, ch. 99.]

#### **Art. 1021. District Attorneys of Two or More Counties**

District Attorneys in all judicial districts composed of two counties or more, shall receive from the State as pay for their services the sum of \$500.00 per annum, and in addition thereto, shall receive from the State as pay for their services, the sum of \$20.00 for each day they attend the Session of the District Court in their respective districts in the necessary discharge of their official duties, and \$20.00 for each day used in necessarily going to and coming from the District Court in one county to the District Court in another county in their respective districts in the necessary discharge of their official duties, and in attending any Session of said Court; and \$20.00 per day for each day they represent the State at examining trials, inquest proceedings and habeas corpus

proceedings in vacation; said \$20.00 per day to be paid upon the sworn account of the District Attorney, approved by the District Judge, who shall certify that the attendance of said District Court for the number of days mentioned in his account was necessary, after which said account shall be recorded in the Minutes of the District Court; provided that the maximum number of days for which compensation is allowed shall not exceed one hundred and seventy-five days in any one year. All commissions and fees allowed District Attorneys under the provisions hereof, in the districts composed of two or more counties, shall, when collected, be paid to the District Clerk of the County of his residence, who shall pay the same over to the State Treasurer.

[1925 C.C.P.; Acts 1927, 40th Leg., p. 350, ch. 236, § 1.]

#### Art. 1022. If There are Several Defendants

If there be more than one defendant in a case, and they are tried jointly, but one fee shall be allowed the district or county attorney. If the defendants sever, and are tried separately, a fee shall be allowed for each final conviction, except in habeas corpus cases, in which cases only one fee shall be allowed, without regard to the number of defendants or whether they are tried jointly or separately.

[1925 C.C.P.]

#### Art. 1023. Fees in Trust Cases

For every conviction obtained under the provisions of the anti-trust laws, the State shall pay to the county or district attorney in such prosecution the sum of two hundred and fifty dollars. If both the county and district attorney shall serve together in such prosecution, such fee shall be divided between them as follows: One hundred dollars to the county attorney, and one hundred and fifty dollars to the district attorney.

[1925 C.C.P.]

#### Art. 1024. Attorney for Dallas and Harris Counties

In addition to the fees allowed by law to other district attorneys for other services, the Criminal District Attorney of Dallas county and the Criminal District Attorney of Harris county shall each receive the following fees:

For all convictions of felony when the defendant does not appeal or dies or escapes after appeal and before final judgment of the appellate court, or when the judgment is affirmed on appeal, thirty dollars for each felony other than felonious homicide, and forty dollars for each such homicide.

For representing the State in each case of habeas corpus where the applicant is charged with felony, twenty dollars.

[1925 C.C.P.]

#### Art. 1025. Fees to District and County Attorneys

In each county where there have been cast at the preceding presidential election 3000 votes or over, the district or county attorney shall receive the following fees:

For all convictions of felony when the defendant does not appeal, or dies or escapes after appeal and before final judgment of the appellate court, or when the judgment is affirmed on appeal, twenty-four dollars for each felony other than felonious homicide, and forty dollars for each such homicide.

For representing the State in each case of habeas corpus where the applicant is charged with felony, sixteen dollars.

In each county where less than 3000 such votes have been so cast, such attorney shall receive thirty dollars for each such conviction of felony other than homicide, and fifty dollars for each such conviction of felonious homicide, and twenty dollars for each such habeas corpus case.

[1925 C.C.P.]

#### Art. 1026. Fees of District Clerk

In each county where there have been cast at the preceding presidential election 3000 votes or over, the district clerk or criminal district clerk shall receive the following fees: Eight dollars for each felony case finally disposed of without trial or dismissed, or tried by jury whether the defendant be acquitted or convicted; eight cents for each one hundred words in each transcript on appeal or change of venue; eighty cents for entering judgment in habeas corpus cases, and eight cents for each one hundred words for preparing transcript in habeas corpus cases. In no event shall the fees in habeas corpus cases exceed eight dollars in any one case. In each county where less than 3000 such votes have been so cast, such clerk shall receive ten dollars for each felony case so disposed of, and ten cents for each one hundred words in such transcripts, and one dollar for entering judgment in each habeas corpus. The district clerk of any county shall receive fifty cents for recording each account of the sheriff.

[1925 C.C.P.]

#### Art. 1027. Officers Not to be Paid Fees Until Case Finally Disposed Of

In all cases where a defendant is indicted for a felony but under the indictment he may be convicted of a misdemeanor or a felony, and the punishment which may be assessed is a fine, jail sentence or both such fine and imprisonment in jail, the State shall pay no fees to any officer, except where the defendant is indicted for the offense of murder, until the case has been finally disposed of in the trial court. Provided the provisions of this Article shall not be construed as affecting in any way the provisions of Article 1019, Code of Criminal Procedure, as amended by Chapter 205, General Laws, Regular Session,

Forty-second Legislature; Provided this shall not apply to examining trial fees to County Attorneys and/or Criminal District Attorneys.

[1925 C.C.P.; Acts 1931, 42nd Leg., p. 338, ch. 205; Acts 1933, 43rd Leg., p. 308, ch. 119.]

#### Art. 1028. Sheriff Due Fees After Approval

All fees accruing under the two succeeding articles shall be due and payable at the close of each term of the district court, after being duly approved, except as provided for in subdivisions 7 and 8 of said articles, which shall be paid when approved by the judge under whose order the writ was issued.

[1925 C.C.P.]

#### Art. 1029. Fees to Sheriff or Constable

In each county where there have been cast at the preceding presidential election 3000 votes or more, the sheriff and constable shall receive the following fees:

1. For executing each warrant of arrest or *capias*, for making arrest without warrant when so authorized by law, the sum of one dollar, and in all cases five cents per mile for each mile actually and necessarily traveled in going to the place of arrest; and for conveying each prisoner to jail, he shall receive the mileage provided in subdivision 4.

2. For summoning or attaching each witness, fifty cents.

3. For summoning a jury in each case where a jury is actually sworn in, two dollars.

4. For removing or conveying prisoners, for each mile going and coming, including guards and all other necessary expenses, when traveling by railroad, ten cents. When traveling otherwise than by railroad, fourteen cents; provided that where more than one prisoner is so conveyed or removed at the same time, in addition to the foregoing, he shall be allowed eight cents per mile for each additional prisoner.

5. For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, five cents; provided that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case or series of cases against the same defendant, or in companion cases, or otherwise; when it is possible to serve process on them in the same neighborhood or vicinity during the same trip, he shall not charge mileage for serving such witnesses to or from the County seat, but shall charge only one mileage and for such additional miles only as are actually and necessarily travelled in summoning each additional witness.

6. For service of criminal process, not otherwise provided for, the sum of five cents a mile going and returning shall be allowed. If two or

more persons are mentioned in the same or different writs, the rule prescribed in subdivision 5 shall apply.

7. For conveying witnesses attached by him to any court, or in habeas corpus proceedings out of his county, or when directed by the judge from any other county to the court where the case is pending, one dollar and fifty cents per day for each day actually and necessarily consumed in going to and returning from such courts, and his actual and necessary expenses by the nearest practical route, or nearest practical public conveyance, the amount to be stated by him in an account which shall show the place where the witnesses were attached, the distance to the nearest railroad station, and miles actually traveled to each court; if horses or vehicles are used, from whom hired and price paid and length of time consumed and paid out for feeding horses, and to whom; if meals and lodgings are provided from whom and when, and price paid; provided that officers shall not be entitled to receive exceeding fifty cents per meal, and thirty-five cents per night for lodging for any witness. No item for expenses shall be allowed, unless the officer present with his account to the officer whose duty it is to approve the same, a written receipt for each item of account, except as to such items as are furnished by the officer himself. When meals and lodgings are furnished by the officer in person, conveying the witness, he shall be allowed to receive not exceeding twenty-five cents per meal, and twenty-five cents per night for lodging. Each said receipt shall be filed with the clerk of the court approving such accounts. Said accounts shall also show, before said officer shall be entitled to compensation for expenses of attached witnesses, that, before starting with said witnesses to the foreign court, he carried each of them before the magistrate nearest place of serving the attachment, giving his name and residence, and that said witness made oath in writing before said magistrate, certified copies of which shall be attached to the account, that they were unable to give bond for their appearance at court, or refused to give bond after having been advised by said officer of their right to do so. The officer shall also present to the court the affidavit of the witness to the same effect, or shall show that the witness refused to make the affidavit; and should it appear to the court that the witness is willing and able to give bond, the sheriff shall not be entitled to any compensation for conveying such witness. All accounts for fees in criminal cases, by sheriffs, shall be sworn to by the said officer, and shall state that said account is true, just and correct in every particular, and be presented to the judge, who shall during such term of court, carefully examine such account and, if found to be correct, in

whole or in part, shall so certify and allow the same for such amount as he may find to be correct. If allowed by him in whole or in part, he shall so certify; and such account, with the affidavit of the sheriff, and certificate of the judge, shall be recorded by the district clerk in a book kept by him for that purpose, which shall constitute a part of the proceedings or minutes of the court. The clerk shall certify to the original account, and shall show that the same has been recorded, and said account shall then become due, and the same shall constitute a voucher on which the Comptroller is authorized to issue a warrant, if such account, when presented to the Comptroller, shall be accompanied by a certified copy under the hand and seal of the district clerk, of the returns made on the process for which such officer is claiming fees, corresponding to the amount so claimed in his account. The minutes of the court above provided for, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be wilfully false. When the officer receiving the writ for the attachment of such a witness shall take bond for the appearance of such witness, he shall be entitled to receive from the State one dollar for each bond so taken; but he shall be responsible to the court issuing said writ, that the said bond is in proper form, and has been executed by the witness with one or more good and solvent sureties; and said bond shall in no case be less than one hundred dollars. The Comptroller may require from such officer a certified copy of all such process before auditing any account. When no inquest or examining trial has been held at which sufficient evidence is taken upon which to find an indictment, which fact shall be certified by the grand jury, or when the grand jury shall state to the district judge that an indictment cannot be procured except upon testimony of nonresident witnesses, the district judge may have attachments issued to other counties for witnesses not to exceed the number for which the sheriff may receive pay as provided for by law, to testify before grand juries; provided, that the judge shall not approve the accounts of any sheriff for more than one witness to any one fact, nor more than three witnesses to any one case pending before the grand jury, in which case the sheriff shall receive the same compensation as he does for conveying attached witnesses before the court. Subdivision 7 of this article shall apply to the officers affected thereby in all counties in Texas.

8. For attending a prisoner on habeas corpus, for each day, four dollars, together with mileage as provided in subdivision 4 when removing such prisoner out of the county, under an order issued by a district or appellate judge.

[1925. C.C.P.; Acts 1933, 43rd Leg., p. 144, ch. 69.]

#### Art. 1030. Fees to Sheriff or Constable

In each county where there have been cast at the preceding presidential election less than 3000 votes, the sheriff or constable shall receive the following fees when the charge is a felony:

1. For executing each warrant of arrest or *capias*, or for making arrest without warrant, when authorized by law, the sum of one dollar; and five cents for each mile actually and necessarily traveled in going to place of arrest, and for conveying the prisoner or prisoners to jail, mileage, as provided for in subdivision 4 shall be allowed; provided, that in counties that have a population of less than forty thousand inhabitants, as shown by the preceding Federal census, the following fees shall apply: For executing each warrant of arrest or *capias*, or for making arrest without warrant, when authorized by law, three dollars and fifteen cents for each mile actually and necessarily traveled in going to place of arrest, and for conveying prisoners to jail, mileage as provided for in subdivision 4 shall be allowed; and one dollar shall be allowed for the approval of a bond.

2. For summoning or attaching each witness, fifty cents; provided that in counties that have a population of less than forty thousand inhabitants, as shown by the preceding Federal census, the following fees shall apply: For summoning or attaching each witness, fifty cents, and where a bond is required of said witness, for the approval of said bond, one dollar.

3. For summoning jury in each case, where jury is actually sworn in, two dollars.

4. For removing a prisoner, for each mile going and coming, including guards and all other expenses, when traveling by railroad, ten cents; when traveling otherwise than by railroad, fifteen cents; provided, that when more than one prisoner is removed at the same time, in addition to the foregoing, he shall only be allowed ten cents a mile for each additional prisoner.

5. For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, five cents; provided that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case, and he shall serve process on them in the same vicinity or neighborhood, during the same trip; he shall not charge mileage for serving such witness to and from the county seat, but shall only charge one mileage and for such additional miles only as are actually and necessarily traveled in summoning or attaching each additional witness. When process is sent by mail to any officer away from the county seat or returned by mail by such officer, he shall only be allowed to charge mileage for the miles actu-

ally traveled by him in executing such process, and the return of the officer shall show the character of the service and miles actually traveled in accordance with this subdivision; and his accounts shall show the facts; provided, that in counties that have a population of less than forty thousand inhabitants, as shown by the preceding Federal census, the following fees shall apply: For each mile the officer may be compelled to travel in executing criminal process, summoning or attaching witnesses, ten cents; provided, that in no case shall he be allowed to duplicate his mileage when two or more witnesses are named in the same or different writs in any case and he shall serve process on them in the same vicinity or neighborhood, during the same trip, he shall not charge mileage for serving such witness to and from the county seat, but shall only charge one mileage, and for such additional miles only as are actually and necessarily traveled in summoning or attaching each additional witness. When process is sent by mail to any officer away from the county seat or returned by mail by such officer, he shall only be allowed to charge mileage for the miles actually traveled by him in executing such process, and the return of the officer shall show the character of the service and the miles actually traveled in accordance with this subdivision; and his accounts shall show the facts.

6. To officers for service of criminal process not otherwise provided for, the sum of five cents a mile going and returning, shall be allowed; provided, if two or more persons are mentioned in the same or different writs, the rules prescribed in subdivision 5 shall apply; provided, that in counties that have a population of less than forty thousand inhabitants, as shown by the preceding Federal census, the following fees shall apply: To officers for service of criminal process not otherwise provided for, the sum of ten cents a mile going and returning shall be allowed; provided, if two or more persons are mentioned in the same or different writs, the rule prescribed in subdivision 5 shall apply.

7. For conveying a witness attached by him to any court, or grand jury, or in habeas corpus proceeding out of his county, or when directed by the judge from any other county, to the court where the case is pending, one dollar per day for each day actually and necessarily consumed in going and returning from such court, and his actual necessary expenses, by the nearest practicable route or nearest practicable public conveyance, the amount to be stated by him in an account, which shall show the place at which the witness was attached, the distance to the nearest railroad station, and miles actually traveled to reach the court; if horses or vehicles are used, from whom hired, and price paid, and

length of time consumed, and the amount paid out for feeding horses, and to whom; if meals and lodging were provided, from whom and when and price paid; provided, that officers shall not be entitled to receive exceeding fifty cents per meal, and thirty-five cents per night for lodging for any witness. Said account shall also show, before said officer shall be entitled to compensation for expenses of attached witnesses, that, before starting with said witnesses to the foreign court, he carried each of them before the magistrate nearest the place of serving the attachment, giving his name and residence, and that said witness made oath in writing before such magistrate, certified copies of which shall be attached to the account, that they were unable to give bond for their appearance at court, or refused to give bond after having been advised by said officer of their right to do so. The officer shall also present to the court the affidavit of the witness to the same effect or shall show that the witness refused to make the affidavit and, should it appear to the court that the witness was able and willing to give bond the sheriff shall not be entitled to any compensation for conveying such witness; and said account shall be sworn to by the officer, and shall state that said account is true, just and correct in every particular, and present same to the judge, who shall, during such term of court, carefully examine such account, and, if found to be correct, in whole or in part, shall so certify, and allow the same for such an amount as he may find to be correct; and, if by him allowed, in whole or in part, he shall so certify; and such account with the affidavit of the sheriff, and certificate of the judge, shall be recorded by the district clerk in a book to be kept by him for that purpose, which shall constitute a part of the proceedings or minutes of the court; and the clerk shall certify to the original account and shall show that the same has been so recorded; and said account shall then become due, and the same shall constitute a voucher, on which the Comptroller is authorized to issue a warrant; and such minutes of the court, or a certified copy thereof, may be used in evidence against the officer making the affidavit, for perjury, in case said affidavit shall be wilfully false. When the officer receiving a writ for the attachment of such witness shall take a bond for the appearance of any such witness he shall be entitled to receive from the State, one dollar for each bond so taken; but he shall be responsible to the court issuing said writ, that said bond is in proper form, and has been executed by the witness with one or more good or solvent securities; and said bond shall, in no case, be less than one hundred dollars. The Comptroller may require from such officer a certified copy of all such process before auditing any such account.

8. For attending a prisoner on habeas corpus, for each day, four dollars, together with mileage as provided in subdivision 5, when removing such prisoner out of the county under an order issued by a district or appellate judge.  
[1925 C.C.P.]

**Art. 1030a. Fugitives from Justice; Allowance to Sheriffs and Deputies for Expenses**

Sec. 1. Every sheriff, or deputy sheriff, in any county of this State, who shall hereafter arrest, or cause to be arrested, any person, or persons indicted for a criminal offense of the grade of a felony, in the county where such officer is the duly acting sheriff, or deputy sheriff, shall be paid the sum of five cents (5¢) per mile from the state line and return thereto, along the nearest practicable route, to the point where such person or persons has been, or will be, placed under arrest, and in addition thereto, such officer, or officers, shall be paid, not to exceed Five Dollars (\$5) per day, per person, for hotel bills, meals and other expenses necessarily contracted in the performance of such official duty.

Sec. 2. The Comptroller of Public Accounts of the State of Texas is authorized and directed to pay, out of any fund or funds, provided for such purpose, upon the presentment of a duly itemized and verified mileage, per diem and expense account of any such officer, approved by the District Judge of the District where such official duty was performed as provided in the preceding Section, all of such account due, provided that only one (1) claim for mileage shall be paid for any such trip, and further providing that not more than two (2) such officers shall draw per diem and expense accounts for one (1) of such trips.

Sec. 3. In the event the Comptroller of Public Accounts of the State of Texas certifies that no funds are available for the payment of such per diem mileage and expense account, as specified in the preceding Section, then upon presentment of such itemized account duly verified by such officer and approved by the District Judge of the Judicial District in which such county is located, the Commissioners Court is authorized, within its discretion, to pay out of any fund or funds not otherwise pledged, such mileage per diem and expense accounts.

Sec. 4. It is further specifically provided that if the county of the sheriff or deputy sheriff making said trip is operating on a fee basis and no State funds are available, then and in that event, the Commissioners Court is authorized, within its discretion, to pay out of any available funds the mileage and per diem not in excess of the amounts stated in Section 1 of this Act, to said sheriff or deputy sheriff from the county seat to the state line and return.

Sec. 5. The compensation herein provided for the sheriff or any deputy sheriff of the county shall be

allowable to such officer as expenses of office, and shall not be included in his compensation, and/or salary paid him, as now authorized by law.

Sec. 6. The provisions of this Act shall be severable, and if any section, subsection, sentence, clause or word of the same shall be held unconstitutional, or invalid for any reason, the same shall not be construed to affect the validity of any of the remaining provisions of this Act. It is hereby declared as the legislative intent that this Act would have been adopted, had such invalid provision not been included therein.

Sec. 7. It is not the intention of the Legislature by the passage of this Act to repeal any existing law providing for the reimbursement of traveling expenses and this Act is cumulative of all other statutes on this subject.

[1925 C.C.P.]

**Art. 1031. Services by Officer Other Than Sheriff**

When services have been rendered by any peace officer other than a sheriff, such as are enumerated in the two preceding articles, such officer shall receive the same fees therefor as are allowed the sheriff. The same shall be taxed in the sheriff's bill of costs, and noted therein as costs due such peace officer; and when received by such sheriff, he shall pay the same to such peace officer.

[Acts 1941, 47th Leg., p. 669, ch. 412.]

**Art. 1032. Sheriff Shall Not Charge Fees, When**

A sheriff shall not charge fees for arrests made by rangers, or mileage for prisoners transported by rangers, or mileage or other fees for transporting a witness under attachment issued from another county, unless such witness refuses to give bail for his appearance, or files an affidavit with such sheriff of his inability to give bail.

[1925 C.C.P.]

**Art. 1033. Officer Shall Make Out Cost Bill**

Before the close of each term of the district court, the district or county attorney, sheriff and clerk of said court shall each make out a bill of the costs claimed to be due them by the State, respectively, in the felony cases tried at that term; the bill shall show:

1. The style and number of each case.
2. The offense charged against the defendant.
3. The term of the court at which the case was disposed of.
4. The disposition of the case, and that the case was finally disposed of, and no appeal taken.
5. The name and number of defendants; and, if more than one, whether they were tried jointly or separately.

6. Where each defendant was arrested, or witness served, stating the county in which the service was made, giving distance and direction from county seat of county in which the process is served.

7. The court shall inquire whether there have been several prosecutions for a transaction that is but one offense in law. If there is more than one prosecution for the same transaction, or a portion thereof, that could have been combined in one indictment against the same defendant, the judge shall allow fees to sheriffs, clerks and district and county attorneys in but one prosecution.

8. Where the defendants in a case have severed on the trial, the judge shall not allow the charges for service of process and mileage to be duplicated in each case as tried; but only such additional fees shall be allowed as are caused by the severance.

[1925 C.C.P.]

#### Art. 1034. Judge to Examine Bill, Etc.

The District Judge, when any such bill is presented to him, shall examine the same carefully, and inquire into the correctness thereof, and approve the same, in whole or in part, or disapprove the entire bill, as the facts and law may require; and such approval shall be conditioned only upon, and subject to the approval of the State Comptroller as provided for in Article 1035 of this Code, and the Judge's approval shall so state therein; and such bill, with the action of the Judge thereon, shall be entered on the minutes of said Court; and immediately on the rising of said Court, the Clerk thereof shall make a certified copy from the minutes of said Court of said bill, and the action of the Judge thereon, and send same by registered letter to the Comptroller. Provided the bill herein referred to shall before being presented to such District Judge, be first presented to the County Auditor, if such there be, who shall carefully examine and check the same, and shall make whatever recommendations he shall think proper to be made to such District Judge relating to any item or the whole bill.

Fees due District Clerks for recording sheriff's accounts shall be paid at the end of said term; and all fees due District Clerks for making transcripts on change of venue and on appeal shall be paid as soon as the service is performed; and the Clerk's bill for such fees shall not be required to show that the case has been finally disposed of. Bills for fees for such transcripts shall be approved by the District Judge as above provided, and with the same conditions, and when approved shall be recorded as part of the minutes of the last preceding term of the Court. [1925 C.C.P.; Acts 1931, 42nd Leg., p. 239, ch. 143, § 1.]

#### Art. 1035. Duty of Comptroller

The Comptroller upon the receipt of such claim, and said certified copy of the minutes of said Court,

shall closely and carefully examine the same, and, if he deems the same to be correct, he shall draw his warrant on the State Treasurer for the amount found by him to be due, and in favor of the officer entitled to the same. If the appropriation for paying such accounts is exhausted, the Comptroller shall file the same away, if found to be correct, and issue a certificate in the name of the officer entitled to the same, stating herein the amount of the claim and the character of the services performed. All such claims or accounts not sent to or placed on file in the office of the Comptroller within twelve (12) months from the date the same becomes due and payable shall be forever barred.

[1925 C.C.P.; Acts 1931, 42nd Leg., p. 239, ch. 143, § 2.]

### CHAPTER ONE HUNDRED FOUR. COSTS PAID BY COUNTIES

#### Article

- 1037. County Liable for Costs.
- 1038. Food and Lodging of Jurors.
- 1039. Juror May Pay His Own Expenses.
- 1040. Allowance to Sheriff for Prisoners.
- 1041. Guards and Matrons.
- 1041a. Chief Jailer or Turnkey.
- 1041b. Vacations for Jailers, Jail Guards and Matrons.
- 1042. Sheriff Reimbursed.
- 1043. Sheriff Shall Present Account.
- 1044. Judge Shall Examine Account.
- 1045. Judge Shall Give Sheriff Draft.
- 1046. Account for Keeping Prisoners.
- 1047. Court to Examine Account.
- 1048. Expenses of Prisoner from Another County.
- 1049. Draft to Sheriff.
- 1050. In Case of Change of Venue.
- 1051. Account in Change of Venue.
- 1052. Fees of Judge and Justice of the Peace.
- 1053. Inquest Fee.
- 1054. Pay for Inquest.
- 1055. Half Costs Paid Officers.
- 1056. Repealed.
- 1057. Repealed.
- 1058. Pay of Bailiffs.
- 1058a. Bailiffs of Court of Civil Appeals.
- 1059. Certificates for Pay.
- 1060. Receivable for Taxes.

#### Art. 1037. County Liable for Costs

Each county shall be liable for all expense incurred on account of the safe keeping of prisoners confined in jail or kept under guard, except prisoners brought from another county for safe keeping, or on habeas corpus or change of venue; in which cases, the county from which the prisoner is brought shall be liable for the expense of his safe keeping. [1925 C.C.P.]

#### Art. 1038. Food and Lodging of Jurors

The Sheriff of each County shall, with the approval of the Commissioners Court, provide food and lodging for jurors empaneled in a felony case and jurors so empaneled shall be paid as other jurors are paid, in addition to such food and lodging. [1925 C.C.P.; Acts 1953, 53rd Leg., p. 918, ch. 380, § 1.]

**Art. 1039. Juror May Pay His Own Expenses**

A juror may pay his own expenses and draw his script; but the county is responsible in the first place for all expense incurred by the sheriff in providing suitable food and lodging for the jury, not to exceed two dollars a day.

[1925 C.C.P.]

**Art. 1040. Allowance to Sheriff for Prisoners**

For the safe keeping, support and maintenance of prisoners confined in jail or under guard, the sheriff shall be allowed the following charges:

1. For the safe keeping of each prisoner for each day the sum of fifteen cents, not to exceed the sum of two hundred dollars per month.

2. For support and maintenance, for each prisoner for each day such an amount as may be fixed by the commissioners court, provided the same shall be reasonably sufficient for such purpose, and in no event shall it be less than forty cents per day nor more than seventy-five cents per day for each prisoner. The net profits shall constitute fees of office and shall be accounted for by the sheriff in his annual report as other fees now provided by law. The sheriff shall in such report furnish an itemized verified account of all expenditures made by him for feeding and maintenance of prisoners, accompanying such report with receipts and vouchers in support of such items of expenditure, and the difference between such expenditures and the amount allowed by the commissioners court shall be deemed to constitute the net profits for which said officer shall account as fees of office.

3. For necessary medical bill and reasonable extra compensation for attention to a prisoner during sickness, such an amount as the commissioners court of the county where the prisoner is confined may determine to be just and proper.

4. For reasonable funeral expenses in case of death.

[1925 C.C.P.]

**Art. 1041. Guards and Matrons**

The sheriff shall be allowed for each guard or matron necessarily employed in the safekeeping of prisoners Two Dollars and Fifty Cents (\$2.50) for each day. No allowance shall be made for the board of such guard or matron, nor shall any allowance be made for jailer or turnkey, except in counties having a population in excess of forty thousand (40,000) inhabitants according to the last preceding Federal Census. In such counties of forty thousand (40,000) or more inhabitants, the Commissioners Court may allow each jail guard, matron, jailer and turnkey Four Dollars and Fifty Cents (\$4.50) per day; provided that in counties having a population in excess of seventy thousand (70,000) inhabitants and less than two hundred and twenty thousand (220,000) inhabitants, according to the last preceding Federal

Census, the Commissioners Court of such counties may allow each jail guard, jailer, matron and turnkey a salary of not to exceed One Hundred and Eighty-seven Dollars and Fifty Cents (\$187.50) per month; provided further that, in counties having a population in excess of two hundred and twenty thousand (220,000) inhabitants, according to the last preceding Federal Census, each jail guard, matron, jailer, jail bookkeeper and turnkey shall be paid not less than One Hundred and Seventy-five Dollars (\$175) per month.

[1925 C.C.P.; Acts 1937, 45th Leg., p. 7, ch. 7, § 1; Acts 1941, 47th Leg., p. 843, ch. 518, § 1; Acts 1945, 49th Leg., p. 205, ch. 158, § 1; Acts 1947, 50th Leg., p. 166, ch. 104, § 1.]

**Art. 1041a. Chief Jailer or Turnkey**

In all counties in this State having a population of one hundred and forty-five thousand (145,000) inhabitants and not more than three hundred thousand (300,000) inhabitants according to the last or any future Federal Census, the Commissioners Court shall allow the chief jailer and/or turnkey who has the care and custody of persons in the County Jail, not to exceed Eight Dollars (\$8) per day, and shall allow each assistant jailer and/or turnkey who has the care and custody of prisoners in the County Jail, not to exceed Six Dollars and Fifty Cents (\$6.50) per day, and not to exceed four (4) assistant jailers and/or turnkeys and a matron for each jail.

[Acts 1933, 43rd Leg., 1st C.S., p. 151, ch. 51, § 1. Amended by Acts 1947, 50th Leg., p. 1011, ch. 429, § 1.]

**Art. 1041b. Vacations for Jailers, Jail Guards and Matrons**

Every member of the sheriff's department assigned to duty as jailer, jail guard, or jail matron at any county jail in any city of more than twenty-five thousand (25,000) inhabitants shall be allowed fifteen (15) days vacation in each year with pay, not more than two (2) members to be on vacation at the same time; provided that the provisions of this Section of this Act shall not be applied to any such jailer, jail guard, or jail matron in any city of more than twenty-five thousand (25,000) inhabitants, unless such member shall have been regularly employed as such jailer, jail guard, or jail matron for a period of at least one year.

Each preceding Federal Census shall determine the population.

The sheriff having supervision of the county jail shall designate the days upon which each jailer, jail guard, or jail matron shall be allowed to be on vacation.

The sheriff having supervision of the county jail in any such city who violates any provision of this Article shall be fined not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100).

[Acts 1937, 45th Leg., p. 247, ch. 129, § 1.]

**Art. 1042. Sheriff Reimbursed**

The sheriff shall pay the expenses of jurors impaneled in cases of felony (except when they are paid by the juror himself), the expenses of employing and maintaining a guard, and to support and take care of all prisoners, for all of which, he shall be reimbursed by the proper county according to the rates fixed in the two preceding articles.  
[1925 C.C.P.]

**Art. 1043. Sheriff Shall Present Account**

At each term of the district court of his county, the sheriff may present to the district judge presiding his accounts for all expenses incurred by him for food and lodging of jurors in case of trials for felony during the term at which his account is presented. Such account shall state the number and style of the cases in which the jurors were impaneled, and specify by name each juror's expenses paid by such sheriff, and the number of days the same were paid, and shall be verified by the affidavit of such sheriff.  
[1925 C.C.P.]

**Art. 1044. Judge Shall Examine Account**

Such account shall be carefully examined by the district judge; and he shall approve it, or so much thereof as he finds correct. He shall write his approval of said account, specifying the amount for which it is approved, date and sign the same officially, and shall cause the same to be filed in the office of the district clerk of the county liable therefor.  
[1925 C.C.P.]

**Art. 1045. Judge Shall Give Sheriff Draft**

The district judge shall give the sheriff a draft upon the county treasurer of the proper county for the amount of each account allowed by him; and the same, when presented to such treasurer, shall be paid in like manner as jury certificates are paid.  
[1925 C.C.P.]

**Art. 1046. Account for Keeping Prisoners**

At each regular term of the commissioners court, the sheriff shall present to such court his account verified by his affidavit for the expense incurred by him since the last account presented for the safe-keeping and maintenance of prisoners, including guards employed, if any. Such account shall state the name of each prisoner, each item of expense incurred on account of such prisoner, the date of each item, the name of each guard employed, the length of time employed and the purpose of such employment.  
[1925 C.C.P.]

**Art. 1047. Court to Examine Account**

The commissioners court shall examine such account and allow the same, or so much thereof as is reasonable and in accordance with law, and shall order a draft issued to the sheriff upon the county treasurer for the amount so allowed. Such account shall be filed and kept in the office of such court.  
[1925 C.C.P.]

**Art. 1048. Expenses of Prisoner from Another County**

If the expenses incurred are for the safe-keeping and maintenance of a prisoner from another county, the sheriff shall make out a separate account therefor, and submit the same to the county judge of his county, who shall carefully examine the same, write thereon his approval for such amount as he finds correct and sign and date such approval officially.  
[1925 C.C.P.]

**Art. 1049. Draft to Sheriff**

The account mentioned in the preceding article shall then be presented to the commissioners court of the county liable for the same, at a regular term of such court; and such court shall, if the charges therein be in accordance with law, order a draft issued to the sheriff upon the county treasurer for the amount allowed.  
[1925 C.C.P.]

**Art. 1050. In Case of Change of Venue**

In all causes where indictments have been presented against persons in one county and such causes have been removed by change of venue to another county, and tried therein, the county from which such cause is removed shall be liable for all expenses incurred for pay for jurors in trying such causes.  
[1925 C.C.P.]

**Art. 1051. Account in Change of Venue**

The county commissioners of each county at each regular meeting shall ascertain whether, since the last regular meeting, any person has been tried for crime upon a change of venue from any other county. If they find such to be the case they shall make out an account against such county from which such cause was removed showing the number of days the jury in such case was employed therein, and setting forth the amount paid for such jury service; such account shall then be certified to as correct by the county judge of such county, under his hand and seal, and be, by him, forwarded to the county judge of the county from which the said cause was removed; which account shall be paid in the same manner as accounts for the safe keeping of prisoners.  
[1925 C.C.P.]

**Art. 1052. Fees of Judge and Justice of the Peace**

Five Dollars (\$5) shall be paid to the County Judge or Judge of the Court at Law and Four Dollars (\$4) shall be paid to the Justice of the Peace for each criminal action tried and finally disposed of before him. Such Judge or Justices shall present to the Commissioners Court of his county at a regular term thereof a written account specifying each criminal action in which he claims such fee certified by such Judge or Justice to be correct and filed with the County Clerk. The Commissioners Court shall approve such account for such amounts as they find to

be correct and order a draft to be issued on the County Treasurer in favor of such Judge or Justice for the amount due said Judge or Justice from the county. The Commissioners Court shall not however pay any account or trial fees in any case tried and in which an acquittal is had unless the State of Texas was represented in the trial of said cause by the County Attorney or his assistant, Criminal District Attorney or his assistant and the certificate of said Attorney is attached to said account certifying to the fact that said cause was tried, and the State of Texas was represented, and that in their judgment there was sufficient evidence in said cause to demand a trial of the same. All fees provided herein which are paid to officers who are compensated on a salary basis shall be paid into the Officers Salary Fund.

[1925 C.C.P.; Acts 1929, 41st Leg., 1st C.S., p. 155, ch. 55, § 1. Acts 1949, 51st Leg., p. 917, ch. 496, § 1; Acts 1953, 53rd Leg., p. 852, ch. 344, § 1.]

#### Art. 1053. Inquest Fee

A Justice of the Peace shall be entitled, for an inquest on a dead body, including certifying and returning the proceeding to the proper court, the sum of Ten Dollars (\$10), to be paid by the county. When an inquest is held over the dead body of a State penitentiary convict, the State shall pay the inquest fees allowed by law of all officers, upon the approval of the account therefor by the Commissioners Court of the county in which the inquest may be held and by the General Manager of the Texas Prison System.

[1925 C.C.P.; Acts 1947, 50th Leg., p. 745, ch. 369, § 5.]

#### Art. 1054. Pay for Inquest

Any officer claiming pay for services mentioned in the preceding article shall present to the commissioners court of the county, at a regular term of such court, an account therefor, verified by the affidavit of such claimant. If such account be found correct the court shall order a draft to issue upon the county treasurer in favor of such claimant for the amount due him. Such account shall be filed and kept in the office of the county clerk.

[1925 C.C.P.]

#### Art. 1055. Half Costs Paid Officers

The county shall not be liable to the officer and witness having costs in a misdemeanor case where defendant pays his fine and costs. The county shall be liable for one-half of the fees of the officers of the Court, when the defendant fails to pay his fine and lays his fine out in the county jail or discharges the same by means of working such fine out on the county roads or on any county project. And to pay such half of costs, the County Clerk shall issue his warrant on the County Treasurer in favor of such officer to be paid out of the Road and Bridge Fund or other funds not otherwise appropriated.

[1925 C.C.P.; Acts 1937, 45th Leg., p. 1323, ch. 488, § 1. Acts 1939, 46th Leg., p. 143, § 1.]

Art. 1056. Repealed by Acts 1975, 64th Leg., p. 1353, ch. 510, § 2, eff. Sept. 1, 1975

See, now, Civil Statutes, Art. 2122.

Art. 1057. Repealed by Acts 1945, 49th Leg., p. 371, ch. 239, § 4

#### Art. 1058. Pay of Bailiffs

Each grand jury bailiff appointed as such bailiff shall receive as compensation for his services the sum of Five (\$5.00) Dollars for each day he may serve, and each riding grand jury bailiff appointed in counties of a population of one hundred fifty thousand (150,000) or more, according to the last Federal Census, shall receive as compensation for his services the sum of Six (\$6.00) Dollars for each day he may serve, and shall further receive One (\$1.00) Dollar per day for automobile expense and upkeep; provided, however, that not more than ten (10) such bailiffs shall be employed at any one time; and providing further, that the sheriff or deputy sheriff attending any County or District Court in counties of over three hundred fifty thousand (350,000), according to the last preceding Federal Census shall be paid the sum of Six (\$6.00) Dollars for each day the sheriff or deputy sheriff shall serve in any of such said courts as bailiffs, and One (\$1.00) Dollar per day as automobile expense and upkeep for each day he may use said automobile.

The compensation herein provided for shall be paid from the General or Jury Fund of the county affected, as may be determined by the Commissioners Court thereof, upon sworn accounts showing the Court in which or the Grand Jury for which, said Bailiff, Sheriff, or Deputy Sheriff serves, with a statement showing the dates on which the service was performed and the amounts due. No such claim shall be paid until approved by the foreman of the Grand Jury or the Judge of the Court for which the service was performed, and said claim shall be presented to the Commissioners Court or to the County Auditor in counties having a County Auditor, and shall be allowed in the manner provided by law for so much thereof as may be found due, and no warrant in payment of the amount due shall be paid unless countersigned by the County Auditor, if any.

[1925 C.C.P.; Acts 1927, 40th Leg., p. 320, ch. 217, § 1. Acts 1927, 40th Leg., 1st C.S., p. 154, ch. 54, § 1; Acts 1931, 42nd Leg., p. 222, ch. 130, § 1; Acts 1935, 44th Leg., p. 476, ch. 192, § 1; Acts 1947, 50th Leg., p. 781, ch. 388, § 1.]

#### Art. 1058a. Bailiffs of Court of Civil Appeals

That the Commissioners court of any county, having a population of 210,000 or more, in which is located a Court of Civil Appeals having its quarters in the County Court House, is authorized to pay out of its General Fund, not exceeding fifty dollars per month, to the Bailiff of such Court of Civil Appeals, or other employee of said Court designated by it, as additional compensation for his services as Custodian of the Court Room, Judges Chambers and Library of such Court of Civil Appeals.

[Acts 1927, 40th Leg., 1st C.S., p. 154, ch. 54, § 1.]

**Art. 1059. Certificates for Pay**

The amount due jurors and bailiffs shall be paid by the county treasurer, upon the certificate of the proper clerk or the justice of the peace, stating the service, when and by whom rendered, and the amount due therefor.

[1925 C.C.P.]

**Art. 1060. Receivable for Taxes**

Drafts drawn and certificates issued under the provisions of this chapter may be transferred by delivery, and shall without further action or acceptance by any authority, except registration by the county treasurer, be receivable from the holder thereof at par for all county taxes.

[1925 C.C.P.]

## CHAPTER ONE HUNDRED FIVE. COSTS TO BE PAID BY DEFENDANT

### 1. IN DISTRICT AND COUNTY COURTS

#### Article

- 1061. District and County Attorneys.
- 1062. Joint Defendants.
- 1063. Attorney Appointed.
- 1064. Fees of District and County Clerks.
- 1065. County Clerks in Counties of 53,500 to 53,800; Temporary Support Orders; Fee.

### 2. JURY AND TRIAL FEES

- 1075. Jury Fee in Justice Court.
- 1076. Several Defendants.
- 1077. Jury Fee Collected.

### 3. WITNESS FEES

- 1078. Fees of Witnesses.
- 1079. Taxed Against Defendant.
- 1080. No Fees Allowed.
- 1081. Witness Record.
- 1082. Witness Liable for Costs.

### 4. CRIMINAL JUSTICE PLANNING FUND

- 1083. Criminal Justice Planning Fund.

### 1. IN DISTRICT AND COUNTY COURTS

**Art. 1061. District and County Attorneys**

District and county attorneys shall be allowed the following fees in cases tried in the district or county courts, or a county court at law, to be taxed against the defendant:

For every conviction under the laws against gaming when no appeal is taken, or when, on appeal, the judgment is affirmed, Fifteen Dollars (\$15.00);

For every other conviction in cases of misdemeanor, where no appeal is taken, or when, on appeal the judgment is affirmed, Fifteen Dollars (\$15.00).

[1925 C.C.P.; Acts 1955, 54th Leg., p. 1112, ch. 410, § 1.]

**Art. 1062. Joint Defendants**

Where several defendants are tried together, but one fee shall be allowed and taxed in the case for the

district or county attorney. Where the defendants sever and are tried separately, a fee shall be allowed and taxed for each trial.

[1925 C.C.P.]

**Art. 1063. Attorney Appointed**

An attorney appointed by the court to represent the State in the absence of the district or county attorney shall be entitled to the fee allowed by law to the district or county attorney.

[1925 C.C.P.]

**Art. 1064. Fees of District and County Clerks**

(1) The clerks of the county courts, county courts at law and district courts shall be allowed the following fees:

(a) A fee of Fifteen Dollars (\$15.00) in each cause filed in said courts: for filing complaints, information, for docketing and taxing costs for each defendant, for issuing original writs, issuing subpoenas, for swearing and impaneling a jury, receiving and recording verdict, for filing each paper entered in this cause, for swearing witnesses and for all other clerical duties in connection with such cause in county and district courts.

(b) A fee of One Dollar (\$1.00) per page or part of a page, to be paid at the time each order is placed, for issuing each certified copy, transcript or any other paper authorized, permitted, or required, to be issued by said county clerk or clerk of county courts or clerk of district courts.

[1925 C.C.P.; Acts 1967, 60th Leg., p. 2010, ch. 743, § 1, eff. Aug. 28, 1967.]

**Art. 1065. County Clerks in Counties of 53,500 to 53,800; Temporary Support Orders; Fee**

In any county having a population of not less than 53,500, nor more than 53,800, according to the last preceding federal census, the clerk of the county court is entitled to a fee of \$5 for the administrative costs of handling temporary support orders issued pursuant to Article 604, Penal Code of Texas, 1925, as amended. The fee shall be taxed against the defendant at the time the order is entered against him.

[Acts 1971, 62nd Leg., p. 2371, ch. 732, § 1, eff. June 8, 1971.]

### 2. JURY AND TRIAL FEES

**Art. 1075. Jury Fee in Justice Court**

If the defendant is convicted in a criminal action tried by a jury in a justice court, a jury fee of three dollars shall be taxed against him.

[1925 C.C.P.]

**Art. 1076. Several Defendants**

Only one jury fee shall be taxed against several defendants tried jointly. A jury fee shall be taxed in each trial if they sever and are tried separately.

[1925 C.C.P.]

**Art. 1077. Jury Fee Collected**

A jury fee shall be collected as other costs in a case, and the officer collecting it shall forthwith pay it to the county treasurer of the county where the conviction was had.  
[1925 C.C.P.]

**3. WITNESS FEES**

**Art. 1078. Fees of Witnesses**

Witnesses in criminal cases shall be allowed one dollar and fifty cents a day for each day they are in attendance upon the court, and six cents for each mile they may travel in going to or returning from the place of trial.  
[1925 C.C.P.]

**Art. 1079. Taxed Against Defendant**

Upon conviction, the costs accruing from the attendance of witnesses shall be taxed against the defendant, upon the affidavit of such witness, or of some credible person, stating the number of days that such witness has attended upon the court in the case, and the number of miles he has traveled in going to and returning from the place of trial. The affidavit shall be filed with the papers in the case.  
[1925 C.C.P.]

**Art. 1080. No Fees Allowed**

No fees shall be allowed to a person as witness fees unless such person has been subpoenaed, attached or recognized as a witness in the case.  
[1925 C.C.P.]

**Art. 1081. Witness Record**

Each clerk of the district and county court or county court at law, and each justice of the peace, shall keep a book, in which shall be entered the number and style of each criminal action in their respective courts, and the name of each witness subpoenaed, attached or recognized to testify therein, showing whether on the part of the State or the defendant.  
[1925 C.C.P.]

**Art. 1082. Witness Liable for Costs**

In any criminal case where a witness has been subpoenaed and fails to attend, he shall be liable for the costs of an attachment, unless good cause be shown to the court why he failed to obey the subpoena.  
[1925 C.C.P.]

**4. CRIMINAL JUSTICE PLANNING FUND**

**Art. 1083. Criminal Justice Planning Fund**

**Purpose**

Sec. 1. The purpose of this Act is to continue in existence the special fund known as the Criminal Justice Planning Fund, to provide for the continued

use of this fund for assistance to state and local law enforcement, judicial, prosecutorial, criminal defense, and adult and juvenile correctional and rehabilitative agencies; to provide for the continued administration of this fund; to provide for costs of court as the source of this fund; and to provide that the costs be borne in part by those who necessitate the establishment and maintenance of the criminal justice system.

**Creation**

Sec. 2. There is hereby created and established a special fund to be known as the Criminal Justice Planning Fund.

**Costs Upon Conviction in Certain Misdemeanor Cases; Traffic Violations**

Sec. 3. (a) The sum of \$5.00 shall be taxed as costs of court, in addition to other taxable court costs, upon conviction in each misdemeanor case in which original jurisdiction lies in courts whose jurisdiction is limited to a maximum fine of \$200.00 only.

(b) Convictions arising under the traffic laws of this State are specifically included and are those defined in:

- (1) Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes), known as the "Driver's License Law"; and
- (2) Chapter 421, Acts of the 50th Legislature, 1947, as amended (Article 6701d, Vernon's Texas Civil Statutes) known as the "Uniform Act Regulating Traffic on Highways," except laws regulating pedestrians and the parking of motor vehicles.

**Costs Upon Conviction in Misdemeanor and Felony Cases**

Sec. 4. The sum of \$10.00 shall be taxed as costs of court in addition to other taxable court costs, upon conviction in each misdemeanor case, including cases in which probation is granted, and the sum of \$20.00 shall be taxed as costs of court, in addition to other taxable court costs, upon conviction in each felony case, including cases in which probation is granted, in all cases in which original jurisdiction lies in courts whose jurisdiction is limited to fines and/or confinement in a jail or the department of corrections.

**Collection of Costs**

Sec. 5. The costs due the State under this Act shall be collected along with and in the same manner as other fines or costs are collected in the case.

**Officers Collecting Costs; Separate Records; Deposits**

Sec. 6. (a) The officer collecting the costs due under this Act in cases in municipal court shall keep separate records of the funds collected as costs under this Act, and shall deposit the funds in the municipal treasury.

(b) The officer collecting the costs due under this Act in justice, county and district courts shall keep separate records of the funds collected as costs under this Act, and shall deposit the funds in the county treasury.

(c) The officer collecting the costs due under this Act in county courts on appeal from justice or municipal courts shall keep separate records of the funds collected under this Act, and shall deposit the funds in the county treasury.

**Custodians of Funds; Quarterly Remittance; Service Fee**

Sec. 7. The custodians of the municipal and county treasuries with whom funds collected under this Act are deposited shall keep records of the amount of funds collected under this Act which are on deposit with them, and shall on or before the last day of the month following each calendar quarter period of three months remit to the Comptroller of Public Accounts funds collected under this Act during the preceding quarter. The municipal and county treasuries are hereby authorized to retain ten percent (10%) of funds collected under this Act as a service fee for said collection.

**Special Fund Deposits**

Sec. 8. The Comptroller of Public Accounts shall deposit the funds received by him in a Special Fund to be known as the Criminal Justice Planning Fund.

**Appropriation of Funds; Simultaneous Expenditure with Federal Funds**

Sec. 9. The legislature shall determine and appropriate the necessary amount from the Criminal Justice Planning Fund to the Criminal Justice Division of the Governor's Office for expenditure for state and local criminal justice projects and for costs of administering the funds for such projects. The Criminal Justice Division shall allocate not less than 20 percent of these funds to juvenile justice programs. The distribution of the funds to local units of government shall be in an amount equal at least

to the same percentage as local expenditures for criminal justice activities are to total state and local expenditures for criminal justice activities for the preceding state fiscal year. Funds shall be allocated among combinations of local units of government taking into consideration the population of the combination of local units of government as compared to the population of the state and the incidence of crime of the combination of local units of government as compared to the incidence of crime of the state. All funds collected shall be subject to audit by the comptroller of public accounts. All funds expended shall be subject to audit by the state auditor. Additionally, all funds collected or expended shall be subject to audit by the Governor's Division of Planning Coordination.

**Appropriation of Unexpended Balance of Funds Authorized**

Sec. 10. The Legislature may appropriate the unobligated balance of the Criminal Justice Planning Fund for the preceding biennium for the improvement and upgrading of the criminal justice system.

**Officers Collecting Funds; Reports**

Sec. 11. (a) All officers collecting funds due as costs under this Act shall file the reports required under Articles 1001 and 1002, Code of Criminal Procedure, 1925.

(b) If no funds due as costs under this section have been collected in any quarter, the report required for each quarter shall be filed in the regular manner, and the report shall state that no funds due under this section were collected.

[Acts 1971, 62nd Leg., p. 2855, ch. 935, §§ 1 to 11, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 2123, ch. 495, §§ 2 to 8, eff. Sept. 1, 1981.]

*This article was not enacted as part of the Code of Criminal Procedure of 1965*

INDEX TO  
CODE OF CRIMINAL PROCEDURE

References are to Articles

**ABANDONED OR UNCLAIMED PROPERTY**

Searches and seizures, disposition, 18.17.

**ABSENCE AND ABSENTEES**

Limitation of prosecutions, computation of time, 12.05.  
New trial, 40.03.

**ACCOMPLICES AND ACCESSORIES**

Witnesses, competency, 38.14.

**ADULT PROBATION AND SUPERVISION LAW**

Generally, 42.13.

**ADULT PROBATION COMMISSION**

Generally, 42.121.

**AFFIDAVITS**

Defendants, mental retardation, 46.02.  
Habeas corpus, unresolved facts, 11.07.  
Interception, wire or oral communications, 18.20.  
Oral communications, interception, 18.20.  
Physicians and surgeons, defendants, mental retardation, 46.02.  
Wire communications, interception, 18.20.

**AFFIRMATIVE DEFENSES**

Probation revocation, 42.12.

**AFFRAYS**

Conservators of the peace, powers and duties, 2.17.

**AGE**

Subpoenas, 24.01.

**AGED PERSONS**

Grand jury, excused from service, 19.25.  
Halfway houses, pardons and paroles, 42.12.

**AGGRAVATED PERJURY**

Venue, 13.03.

**AGGRIEVED PERSON**

Defined, communication interception, 18.20.

**ALIENS**

Convicted offenders, transfer under treaty, 42.17.  
Intermediaries, interpreters, arrest, 38.30.

**AMENDMENT**

Probation revocation, motion, 42.12.

**APPEALS AND WRITS OF ERROR**

Acknowledgment, receipt of mandate affirming judgment on appeal, 44.05.  
Bonds (officers and fiduciaries), municipal courts, 44.13.  
Copies, briefs, 40.09.  
County courts,  
Jurisdiction, 4.09.  
Court of criminal appeals, jurisdiction, 4.03.  
Dismissal and nonsuit,  
Notice of appeal, 44.08.  
Expunction of criminal record, protesting, 55.02.  
Mail and mailing, opinions, 44.24.  
Mentally deficient and mentally ill persons, civil commitment, charges pending, 46.02.  
Misdemeanors, bonds, 27.14, 44.13.  
Modification of record, 40.09.  
Municipal courts, 44.13 et seq.  
Notice,  
Bond required, 27.14.  
Mandate affirming judgment on appeal, execution, 44.05.  
Plea of nolo contendere or guilty, permission to appeal, admonition of consequences, 26.13.  
Record on appeal, 40.09.  
Right of appeal, 44.02.  
Sentence and punishment, credit for time spent in jail pending appeal, 42.03.  
Supplemental record, modification of records, 40.09.  
Withdrawal, notice of appeal, 44.08.  
Written opinions, 44.24.

**APPEARANCE**

Associations and societies, 17A.06.  
Corporations, 17A.06.

**APPROPRIATIONS**

Criminal justice planning fund, 1083.

**ARGUMENTS OF COUNSEL**

Generally, 28.02.  
Failure of defendant to testify, 38.08.  
Instructions to jury, 36.16.  
Time of giving instructions, 36.14.  
Number of arguments, 36.08.  
Order of argument, 36.07.

**ARMED FORCES**

Habeas corpus, 11.63.

**ARRAIGNMENT**

Generally, 16.01 et seq.  
Arrest. Witnesses, post.  
Capital offenses, 16.15.

**ARRAIGNMENT—Cont'd**

Commitment, 16.17.  
Duty of sheriffs, 16.21.  
Lack of a safe jail, 16.18.  
Order, 16.20.  
Continuance, 16.02.  
Duress, witnesses, 16.10.  
Evidence,  
Rules of evidence, 16.07.  
Transcript, 16.09.  
Guilty plea,  
Appeal, 44.02.  
Parole and probation, 42.12.  
Plea bargaining, 26.13.  
Indictment, reading to accused, 26.11.  
Indigent persons, attorney fees, 26.05.  
Miranda warnings, 16.03.  
Nolo contendere plea,  
Appeal, 44.02.  
Jury, empanelment to fix punishment, 26.14.  
Parole and probation, 42.12.  
Plea bargaining, 26.13.  
Presence of accused, 16.08.  
Pretrial hearing, 28.01 et seq.  
Rights of accused, 1.05.  
Searches and seizures, 18.14.  
Self-incrimination, 16.03.  
Waiver, 16.04.  
Subpoenas, transfer to witnesses, 16.10.  
Testimony. Evidence, generally, ante.  
Warrant, commitment, transportation to safe jail, 16.19.  
Witnesses,  
Arrest, 16.05, 16.10.  
Another county, 16.11.  
Bail, 16.13.  
Bail, 16.13.  
Examination, 16.06.  
Fees, 16.12.  
Postponing examination, 16.14.  
Subpoenas, 16.10.

**ARREST**  
Arraignment, this index.  
Associations and societies, criminal prosecutions, agents and employees, 17A.03.  
Business nuisance, 9.02.  
Capias,  
Delivery, service, 23.03.  
Misdemeanors, 43.04 et seq.  
Service, 23.03.  
Citizens arrest,  
Executing warrant, 15.15 et seq.  
Magistrate, appearance, 15.16.  
Corporations, criminal prosecutions, agents and employees, 17A.03.  
Custody of prisoners, 2.18.  
Deaf persons, Miranda warning, 15.17.

References are to Articles

**ARREST—Cont'd**

Disorderly conduct, warrants, 14.01.  
Electors, privilege, 1.22.  
Fines and penalties,  
    Judgment in absence of defendant,  
    43.04.  
Grand Jury, this index.  
Intermediaries, 38.30.  
Interpreters, criminal prosecution, 38.30,  
    38.31.  
Miranda warnings, 15.17.  
Misdemeanor adult probation, violation,  
    42.13.  
Nighttime, time of arrest, 15.23.  
Notice, mandate affirming judgment on  
    appeal, execution, 44.05.  
Out-of-county offenses, bail, 15.18.  
Peace officers, powers and duties, 2.13.  
Powers and duties, 2.17.  
Refusal to make arrest, fines and penal-  
    ties, 2.16.  
Rights of accused, warnings, 15.17.  
Summons,  
    Failure to appear, 15.03.  
Territorial jurisdiction of warrant, 15.06.  
Threats, this index.  
Venue, place of crime not determined,  
    13.19.  
Warrant of arrest,  
    Territorial jurisdiction, 15.06.  
Without warrant,  
    Assault and battery, 14.03.  
Witnesses,  
    Liability for costs, 1082.

**ARREST OF JUDGMENT**

Effect of motion, 41.05.  
Form of judgment, 41.04.  
Grounds, 41.03.  
Sentence and punishment, preventing  
    sentence, 42.07.  
Time for filing motion, 41.02.

**ARSON**

Limitation of prosecutions, 12.01 et seq.

**ASSAULT AND BATTERY**

Arrest, without warrant, 14.03.  
Conservators of the peace, powers and  
    duties, 2.17.  
Threats, 6.01 et seq.

**ASSOCIATIONS AND SOCIETIES**

Generally, 17A.01 et seq.  
Appearance, 17A.06.  
Arraignment, appearance, 17A.06.  
Arrest, agents and employees, 17A.03.  
Complaint, filing, 17A.02.  
Definitions, 17A.01.  
Indictment and information, name,  
    17A.02.  
Name, pleading, 17A.02.  
Notice of conviction, 17A.09.  
Pleading, 17A.07.  
Presence of organization, 17A.07.  
Probation, criminal prosecutions, 17A.08.  
Service of process, 17A.04, 17A.05.  
Summons, 17A.03.

**ATTACHMENT**

Witnesses,  
    Fleeing county, 24.15.  
    Out-of-county fees, misdemeanor cases,  
    24.16.

**ATTEMPTS**

Limitations of criminal prosecutions,  
    12.03.  
Perjury, venue, 13.03.

**ATTORNEYS**

Arraignment, presence, 16.01 et seq.  
Attorney pro tem, appointment, 2.07.  
Counsel for accused,  
    Confessions, 38.22.  
    Examination for competency to stand  
    trial, 46.02.  
    Fees, prosecution of escaped prisoner,  
    state aid, 26.055.  
    Rights, 1.05.  
Fees, escaped prisoner, prosecution, state  
    aid, 26.055.  
Habeas corpus hearings, 11.07.  
Indigent persons, misdemeanor probation  
    and supervision, 42.13.  
Judgments and decrees, criminal cases,  
    preparation, 42.01.  
Misdemeanor adult probation and super-  
    vision, 42.13.  
Right of accused, deaf persons, advising,  
    15.17.  
Statements, 38.22.

**AUDITS**

Criminal justice planning fund, 1083.  
Probation officers, adult probate commis-  
    sion, 42.121.

**BAIL**

Additional bail, 16.16.  
Affidavits,  
    Sufficiency of security, 17.14.  
Bonds,  
    Corporations courts, forfeiture, 45.12.  
    Forfeitures, remission, 48.04.  
Capital offenses, 1.07.  
    Arraignment, 16.15.  
Conditions of bond, 17.08.  
Continuance, 29.12.  
    Arraignment, 16.02.  
    Forfeiture, setting aside, 22.12a.  
Corporation court, admission to bail,  
    45.12.  
Discharge pending trial, 16.17.  
Forfeiture,  
    Continuance,  
        Vacating or setting aside, 22.12a.  
    Powers, 22.12a.  
    Remission,  
        Vacating or setting aside, 22.12a.  
Indictment and information,  
    Service of indictments, 25.03.  
Interpreters, criminal prosecution, 38.30,  
    38.31.  
Mentally deficient and mentally ill per-  
    sons, examination of competency to  
    stand trial, 46.02.  
Notice, appeals, mandate affirming judg-  
    ment, execution, 44.05.  
Out-of-county offenses, arrest, 15.18.  
Powers and duties, forfeitures, 22.12a.  
Records, 17.39.  
Remission of forfeitures,  
    Vacating or setting aside, 22.12a.  
Speedy trial, discharge of defendant,  
    32.01, 32.02.  
Threats, this index.  
Vacating or setting aside, forfeitures,  
    22.12a.  
Witnesses, arraignment, 16.13.

**BANISHMENT**

Generally, 1.18.

**BIAS OR PREJUDICE**

Jury, challenge for cause, 35.16.

**BIGAMY**

Husband and wife,  
    Competency of witnesses, 38.11.

**BLIND PERSONS**

Defined, jury qualifications, 35.16.  
Jury, challenge for cause, 35.16.

**BLOOD**

Conviction, corruption of blood, 1.19.

**BOARD AND LODGING**

Jury, deliberations, 36.21.

**BOARD OF CRIMINAL APPEALS**

Search warrants, issuance, 18.01.

**BOARDS AND COMMISSIONS**

Adult probation commission, 42.121.  
Defined, adult probation, parole, and  
    mandatory supervision, 42.12, § 2.

**BONDS**

Highways and roads, obstruction, 10.01  
    et seq.

**BONDS (OFFICERS AND FIDUCIAR-  
IES)**

Forfeitures, jurisdiction, 4.10.  
Municipal courts, appeals, 44.13.  
Threats, arrest, 6.04.

**BREACH OF THE PEACE**

Arrest without warrant, 14.01.

**BUBONIC PLAGUE**

Cremation, waiting period, 49.25.

**BURGLARY**

Limitation of prosecutions, 12.01 et seq.

**BUSINESS**

Nuisances, 9.01 et seq.

**CAPITAL OFFENSES**

Alternate jurors, 35.26, 36.29.  
Arraignment, 16.15.  
Confinement, reformation of sentence,  
    44.251.  
Conviction, requirements, 1.15.  
Death sentence,  
    Execution,  
        Lethal injection, 43.14.  
Indictment and information, waiver,  
    1.141.  
Indigent persons, attorney fees, 26.05.  
Jury,  
    Alternate jurors, 35.26, 36.29.  
    Challenge for cause, opposition to capi-  
    tal punishment, 35.16.  
Mandatory supervision, 42.12, §§ 3f, 15.  
Parole and probation, 42.12, § 3f.  
Reformation, confinement, 44.251.

**CERTIFICATES AND CERTIFICA-  
TION**

Defendants, mental illness, examinations,  
    46.02.  
Halfway houses, 42.12.  
Mentally deficient and mentally ill per-  
    sons, defendants, examination, 46.02.

**CERTIFIED MAIL**

Expunction of criminal records, notice,  
    55.02.

**CHARACTER AND REPUTATION**

Evidence, impeachment, 38.28.

# INDEX TO CODE OF CRIMINAL PROCEDURE

1580

References are to Articles

## CHATTEL MORTGAGES

Venue, 13.09.

## CHECKS

Collecting and processing, fees, 53.08.

## CHILDREN AND MINORS

Custody, husband and wife as witness, 38.11.

Grand jury, care, excuse from service, 19.25.

Personal injuries, search warrants, photographs, 18.021.

Photographs, search warrants, injuries, 18.021.

Search warrants, injuries, photographs, 18.021.

## CHOLERA

Cremation, waiting period, 49.25.

## CITIZENS AND CITIZENSHIP

Grand jury, qualifications, 19.08.

Commissioners, 19.01.

Jury, challenge for cause, 35.16.

## CITY, TOWN OR VILLAGE COURTS

Municipal Courts, generally, this index.

## CLERKS OF COURT

Judgments and decrees, preparation, 42.01.

## CODE OF CRIMINAL PROCEDURE

Effective date, 1.02.

Public policy, 1.03.

## COLLECTION

Sight orders, fees, 53.08.

## COMMERCIAL PAPER

Forgery,

Venue, 13.02.

Sight orders, collecting and processing, fees, 53.08.

## COMMITMENT

Arraignment, this index.

## COMMUNICATION COMMON CARRIER

Defined, interception, 18.20.

## COMMUNICATIONS

Interception, wire or oral communications, 18.20.

## COMMUNITY SERVICES

Pardons and parole, 42.12.

## COMMUNITY-BASED CORRECTIVE PROGRAMS AND FACILITIES

Standards, adult probation commission, 42.121.

## COMMUNITY-SERVICE PROBATION

Generally, 42.13.

## COMPENSATION AND SALARIES

Adult probation commission, 42.121.

Constables, counties over 225,000, 45.22.

Court interpreters, deaf persons, 38.31.

Parole commissioners, 42.12.

## COMPLAINTS

Jurisdiction, concurrent jurisdiction, 4.16.

Misdemeanors, dismissal, 45.54.

## CONDITIONAL PARDON

Generally, 42.12, § 12.

## CONDITIONAL SALES

Venue, 13.09.

## CONFESSIONS

Statement, generally, this index.

## CONFIDENTIAL OR PRIVILEGED INFORMATION

Court interpreters for deaf persons, communication between defendant and counsel, 38.31.

## CONSENT

Convicted offenders, transfer under treaty, governor, 42.17.

## CONSERVATORS OF THE PEACE

Definitions, 2.17.

## CONSPIRACY

Foreign states, venue, 13.13.

## CONSTABLES

Compensation and salaries, counties over 225,000, 45.22.

Deputies and assistants,

Mandatory supervision, supervisors, 42.12, § 31.

Fines and penalties,

Refusal to execute process, 2.16.

Mandatory supervision, supervisor, 42.12, § 31.

## CONSTRUCTION OF LAW

Generally, 1.26.

## CONTEMPT

Depositions, failure of witness to appear, 39.03.

Habeas Corpus, this index.

Interception, wire or oral communications, 18.20.

Oral communications, interception, 18.20.

Securing attendance of witnesses, foreign states, 24.28.

Wire communications, interception,

18.20.

## CONTENTS

Defined, communication interception, 18.20.

## CONTINUANCE

Agreement, 29.02.

Argument and conduct of counsel, 29.11.

Denial, 29.10.

During trial, 29.13.

Grounds, 29.01.

Motions, 29.06.

Controverting motion, 29.09.

Oaths and affirmations, 29.08.

Pretrial hearing, 28.01 et seq.

State, 29.04.

Subsequent motion, 29.05.

Subsequent motion, 29.07.

Sufficient cause, granting motion,

29.03.

## CONTRABAND

Court clerks, safekeeping, 2.21.

Searches and seizures,

Disposition of property, 18.18.

Warrants, grounds for issuance, 18.02.

## CONTRACTS

Halfway houses, 42.12.

Parole, conditions and rules, 42.12, § 15.

## CONVICTIONS

Aliens, transfer under treaty, 42.17.

Requirements, 1.15.

Treaties, aliens, transfer, 42.17.

Verdict, 37.07.

## COPIES

Driving while intoxicated or under the influence of drugs, evidence, copies of documents filed, 38.33.

## CORPORATION COURTS

Court of criminal appeals, abolition, continuing criminal jurisdiction, 4.02.

Municipal Courts, generally, this index.

## CORPORATIONS

Generally, 17A.01 et seq.

Arraignment, appearance, 17A.06.

Arrest, agents and employees, 17A.03.

Complaint, filing, 17A.02.

Definitions, 17A.01.

Indictment and information, name, 17A.02.

Name, pleading, 17A.02.

Notice of conviction, 17A.09.

Pleading, 17A.07.

Presence of organization, 17A.07.

Probation, 17A.08.

Service of process, 17A.04, 17A.05.

Summons, 17A.03.

## CORRECTIONAL INSTITUTIONS

Attorneys fees, prosecution of escaped prisoner, state aid, 26.055.

Expert witness fees, prosecution of escaped prisoner, state aid, 26.055.

Interstate agreement on detainees, 51.14.

Investigation fees, prosecution of escaped prisoner, state aid, 26.055.

Mandatory supervision, inmates, 42.12.

Standards, 42.121.

Temporary furloughs, parole and probation, 42.12, § 36.

## COSTS

Collections,

Commissions on collections, 1007.

District and county courts, fees, 1064.

Interstate agreement on detainees, 51.14.

Roads and highways, removal of obstruction, 10.03.

Subpoenas, disobedience, 1082.

## COUNSEL FOR ACCUSED

Attorneys, this index.

## COUNSELING

Sentence and punishment, 42.03.

## COUNTIES

Death in county other than county of injury, venue, 13.07.

## COUNTY ATTORNEYS

Checks, collecting and processing, fees, 53.08.

Fees and charges, sight orders, collecting and processing, 53.08.

Nonfeasance, 2.03.

Sight orders, collecting and processing, fees, 53.08.

## COUNTY CLERKS

Fees, 1064.

Salaries and compensation, 1064.

References are to Articles

**COUNTY COURT CLERKS**

Contraband, safekeeping, 2.21.  
Firearms, safekeeping, 2.21.  
Reports, 2.23.

**COUNTY COURTS**

Bail, forfeiture, jurisdiction, 4.10.  
Bonds (officers and fiduciaries), forfeiture, jurisdiction, 4.10.  
Court of criminal appeals, abolition, continuing criminal jurisdiction, 4.02.  
Criminal jurisdiction, 4.08.  
Fines and penalties, appeals, amount in controversy, jurisdiction, 4.03.  
Jury, number, 33.01.  
Search warrants, issuance, 18.01.

**COUNTY COURTS AT LAW**

Bail, forfeiture, jurisdiction, 4.10.  
Bonds (officers and fiduciaries), forfeiture, jurisdiction, 4.10.  
Court of criminal appeals, abolition, continuing criminal jurisdiction, 4.02.  
Criminal jurisdiction, 4.01.  
Existing courts continued, 4.02.  
Fines and penalties, appeals, amount in controversy, jurisdiction, 4.03.  
Jurisdiction, forfeiture of bonds, 4.10.

**COUNTY CRIMINAL COURTS**

Court of criminal appeals, abolition, continuing criminal jurisdiction, 4.02.  
Fines and penalties, appeals, amount in controversy, jurisdiction, 4.03.  
Jurisdiction, 4.01.

**COUNTY JUDGES**

Disqualification, special judge, 30.03 et seq.  
Special judges,  
Minutes of appointment proceedings, recording, 30.05.  
Oath of office, 30.04.

**COURT INTERPRETERS**

Confidential and privileged information, court interpreters for deaf persons, 38.31.  
Intermediaries, 38.30.  
Miranda warning, transmission to accuse, 15.17.  
Pretrial hearings, motions, 28.01.

**COURT OF CRIMINAL APPEALS**

Bail, review of judgments or orders, 44.04.  
Decisions, finality, 42.04a.  
Habeas corpus, 4.04.  
Motions, courts of appeals, decisions, review, 44.45.  
Petitions, courts of appeals, decisions, review, 44.45.  
Time, courts of appeals, decisions, review, 44.45.  
Writs, 4.04.

**COURTS**

Defined,  
Adult probation, parole and mandatory supervision, 42.12, § 2.  
Misdemeanor adult probation and supervision, 42.13.

**COURTS OF APPEALS**

Court of criminal appeals, decisions, review, 44.45.  
Decisions,  
Finality, 42.04a.  
Review, 44.45.

**COURTS OF APPEALS—Cont'd**

Jurisdiction, 4.01 et seq.  
Justices, conservators of peace, 1.23.  
Magistrates, designation, 2.09.

**COURTS OF DOMESTIC RELATIONS**

Court of criminal appeals, abolition, continuing criminal jurisdiction, 4.02.

**COVERT ENTRY**

Defined, communication interception, 18.20.

**CREDIT UNIONS**

Probation officers, 42.12, § 10.

**CREMATION**

Waiting period, 49.25.

**CRIME VICTIMS**

Parolees, restitution or reparation, 42.12, § 15.

**CRIMINAL DISTRICT ATTORNEYS**

Fees, sight orders, collecting and processing, 53.08.

**CRIMINAL DISTRICT COURT JUDGES**

Disqualification, change of venue, 30.02.

**CRIMINAL DISTRICT COURTS**

Court of criminal appeals, abolition, continuing criminal jurisdiction, 4.02.

**DAMAGES**

Interception, wire or oral communications, 18.20.  
Oral communications, interception, 18.20.  
Personal injuries, generally, this index.  
Roads and highways, obstruction, 10.02.  
Wire communications, interception, 18.20.

**DEAD BODIES**

Cremation, waiting period, 49.25.

**DEAF AND MUTE PERSONS**

Defined, court interpreter, 38.31.  
Jury, challenge for cause, 35.16.  
Sign language, admissibility of statements made, 38.22.

**DEATH**

Investigations, medical examiners, 49.25.  
Venue, 13.07.

**DEBTORS AND CREDITORS**

Crimes and offenses, venue, 13.09.

**DECISIONS**

Courts of appeals, finality, 42.04a.

**DEDUCTIONS**

Jails, manual labor, 43.10.

**DEFENSES**

Mental illness and insanity, 46.03.

**DEFINITIONS**

Aggrieved person, communication interception, 18.20.  
Communication common carrier, interception, 18.20.  
Contents, communication interception, 18.20.  
Courts, misdemeanor adult probation and supervision, 42.13.

**DEFINITIONS—Cont'd**

Covert entry, communication interception, 18.20.  
Deaf person, interpreter, 38.31.  
Director, communication interception, 18.20.  
Electronic, mechanical or other device, interception, 18.20.  
Intercept, wire or oral communications, 18.20.  
Investigative or law enforcement officer, communication interception, 18.20.  
Judge of competent jurisdiction, communication interception, 18.20.  
Oral communication, interception, 18.20.  
Probation, misdemeanor adult probation and supervision, 42.13.  
Probation officer, misdemeanor adult probation and supervision, 42.13.  
Probationer, misdemeanor adult probation and supervision, 42.13.  
Prosecutor, communication interception, 18.20.  
Qualified interpreter, deaf persons, 38.31.  
Sentencing, appeal notice, 44.08.  
Wire communication, interception, 18.20.

**DELINQUENT CHILDREN**

Attorneys fees, defending indigent persons in training school, state aid, 26.05-1.

**DELIVERY**

Capias, service, 23.03.  
Marihuana, 13.22.

**DEPOSITIONS**

Contempt, failure of witness to appear, 39.03.  
Cross examination, 39.01.  
Defendants, 39.02.  
Habeas corpus, unresolved facts, 11.07.  
Impeachment, 39.13.  
Nonresidents, 39.09.

**DEPOSITORY**

Criminal records, expunction, 55.02.

**DEPOSITS**

Probation, adult probate commission, 42.121.

**DEPUTIES AND ASSISTANTS**

Mandatory supervision, supervisor, 42.12, § 31.

**DETAINEES**

Interstate agreement on detainees, 51.14.

**DIRECTORS**

Defined,  
Adult probation commission, 42.121.  
Communication interception, 18.20.

**DISCHARGE**

Trial, speedy trial, 28.061.

**DISCLOSURE**

Wire or oral communications, interception, 18.20.

**DISCOVERY**

Pretrial hearing, 28.01 et seq.

**DISEASES**

Cremation, waiting period, 49.25.  
Jury, challenge for cause, 35.16.

References are to Articles

**DISMISSAL AND NONSUIT**

Misdemeanor, complaint, 45.54.

**DISORDERLY CONDUCT**

Arrest without warrant, 14.01.

**DISTRICT ATTORNEYS**

Checks, collecting and processing, fees, 53.08.

Fees and charges, sight orders, collecting and processing, 53.08.

Judgments and decrees, preparation, 42.01.

Nonfeasance, 2.03.

Sight orders, collecting and processing, fees, 53.08.

**DISTRICT COURT CLERKS**

Contraband, safekeeping, 2.21.

Fees, 1064.

Firearms, safekeeping, 2.21.

Reports, 2.23.

Salaries and compensation, 1064.

**DISTRICT COURT JUDGES**

Probation, adult probation commission, membership, 42.121.

**DISTRICT COURTS**

Court of criminal appeals, abolition, continuing criminal jurisdiction, 4.02.

Search warrants, issuance, 18.01.

**DIVISION**

Defined, adult probation, parole, and mandatory supervision, 42.12, § 2.

**DOCKETS**

District and county courts, fees, 1064.

Supervision, 33.08.

**DOMICILE OR RESIDENCE**

Grand jury commissioners, qualifications, 19.01.

**DOUBLE JEOPARDY**

Indictment and Information, this index.

**DRUG ADDICTS**

Medical care and treatment, privileged communications, 38.101.

**DRUGS AND MEDICINES**

Death sentence, lethal injection, 43.14.

Lethal injection, death sentence, 43.14.

Searches and seizures, warrants, grounds for issuance, 18.02.

**DRUNKARDS AND DRUNKENNESS**

Misdemeanor probation, educational program attendance, 42.13.

**DURESS OR COERCION**

Statements of accused, 38.21, 38.22.

**ELECTRONIC, MECHANICAL, OR OTHER DEVICE**

Defined, interception, 18.20.

**ELECTRONIC DEVICES**

Wire or oral communications, interception, 18.20.

**EMPLOYMENT**

Labor and Employment, generally, this index.

**ENGLISH LANGUAGE**

Grand jury commissioners, qualifications, 19.01.

**ENTRAPMENT**

Pretrial hearing, 28.01 et seq.

**ESCAPE**

Arrest without warrant, felonies, 14.04.

Interstate agreement on detainees, 51.14.

Prosecution of escaped prisoners, fees, state aid, 26.055.

**ESTATES**

Forfeiture, conviction of crime, 1.19.

**ETHICS**

Probation officers, adult probation commission, 42.121.

**EVIDENCE**

Arraignment, this index.

Bail, 1.07.

Convictions, stipulations, 1.15.

Corroboration of evidence,

Accomplice testimony, 38.14.

Sexual offenses, 38.07.

Death, presumptions, 38.32.

Driving while intoxicated or under the influence of drugs, preservation, use, 38.33.

Indictment and information, 21.03.

Interception, wire or oral communications, 18.20.

Interpreters, 38.30, 38.31.

Oral communications, interception, 18.20.

Procedure for giving testimony, 28.03.

Self incrimination, failure of defendant to testify, comments, 38.08.

Sentence and punishment by jury, 37.07.

Sexual offenses, corroboration, 38.07.

Statements of accused, admissibility, 38.22.

Subscribing witnesses, denial of execution, 38.26.

Suppression,

Pretrial hearing on motion, 28.01 et seq.

Sign language, suppression of statements, 38.22.

Trial, presentation, time, 36.02.

Two witnesses, instruction to jury, 38.17.

Venue, 13.17.

Weight and sufficiency, 1.15.

Wire communications, interception, 18.20.

**EXAMINATIONS**

Competency to stand trial, defendants, 46.02.

Mentally deficient or mentally ill persons, civil commitment, charges pending, 46.02.

**EXAMINING COURTS**

Generally, 2.11.

**EXECUTION**

Exemptions, bail bond,

Amount, 17.11.

**EXEMPTIONS**

Interception, wire or oral communications, 18.20.

Jury and Jurors, this index.

Oral communications, interception, 18.20.

Search warrants, personal writings, 18.02.

Wire communications, interception, 18.20.

**EXPENSES AND EXPENDITURES**

Adult probation commission, 42.121.

Prisoners, deductions from salaries, work release, 42.03.

Probation officers, 42.12, § 10.

**EXPERTS**

Fees, witnesses, prosecution of escaped prisoner, state aid, 26.055.

Handwriting, 38.27.

**EXPUNCTION**

Criminal records, 55.01 et seq.

Fees, 53.08.

**EXTRADITION**

Interstate agreement on detainees, 51.14.

Venue, 13.19.

**FAIR TRIAL**

Generally, 2.03.

**FALSE PERSONATION**

State officers, venue, 13.10.

**FEDERAL BUREAU OF INVESTIGATION**

Special agents, peace officers, 2.12.

**FEDERAL DRUG ENFORCEMENT AGENCY**

Special agents, peace officers, 2.12.

**FEES AND CHARGES**

Expunction of criminal records, 53.08.

Sight orders, collecting and processing, 53.08.

**FELONIES**

Expunction of criminal records, 55.01 et seq.

**FINANCIAL REPORTS**

Adult probation commission, 42.121.

**FINES AND PENALTIES**

Absence of defendant, rendition of judgment, arrest, 43.04.

Commissions on collections, 1007.

Death, medical examination, 49.25.

Justices of the peace, counties over 225,000, 45.22.

Misdemeanors, community-service probation, 42.13.

Parole and probation, fines in lieu of sentence, 42.12.

Witnesses,

Foreign states, securing attendance, 24.28.

Refusal to obey subpoena, 24.22.

**FINGERPRINTS**

Driving while intoxicated or under the influence of drugs, evidence, preservation and use, 38.33.

**FISH AND GAME**

Law enforcement officers, peace officers, 2.12.

**FORCE AND VIOLENCE**

Riots and mobs, suppression, 8.06.

Threats, prevention, 6.03.

Witnesses, new trial, 40.03.

**FOREIGN COUNTRIES**

Treaties, transfer of convicted offenders, 42.17.

References are to Articles

**FOREIGN LANGUAGES**

Court interpreters,  
Intermediaries, 38.30.

**FOREIGN STATES**

Conspiracy, venue, 13.13.  
Homicide, venue, 13.05.  
Interstate agreement on detainees, 51.14.

**FORFEITURES**

Bonds (officers and fiduciaries), jurisdiction, 4.10.  
Commissions or collections, 1007.  
Estates, convictions, 1.19.  
Searches and seizures,  
  Contraband, disposition of property, 18.18.  
  Deadly weapons, 18.19.

**FORGERY**

Limitation of prosecutions, 12.01 et seq.

**FRAUD**

Witnesses, new trial, 40.03.

**FREEDOM OF THE PRESS**

Criminal trial, 2.03.

**FUGITIVES FROM JUSTICE**

Misdemeanor probation, 42.13.

**FUNDS**

Adult probation commission, 42.121.

**GAMBLING**

Searches and seizures,  
  Devices, disposition of property, 18.18.  
  Warrants, grounds for issuance, 18.02.

**GIFTS**

Probation, adult probate commission, acceptance, 42.121.

**GOVERNOR**

Aliens, convicted offenders, transfer under treaty, 42.17.  
Foreign countries, criminal offenders, transfer under treaty, 42.17.  
Probation, adult probation commission, reports, 42.121.

**GRAND JURY**

Advice,  
  States attorney, 20.05.  
Age, selection criteria, 19.06.  
Aged persons, excused from service, 19.25.  
Arrest,  
  Out-of-county witnesses, compelling attendance, 20.11.  
  Witnesses,  
    Compelling attendance, 20.10.  
    Grand jury in vacation, 20.12.  
Child care, excuse from service, 19.25.  
District and county attorneys, nonfeasance, investigations, 2.03.  
Fees, out-of-county witnesses, 20.11.  
High schools, service, excused, 19.25.  
Higher education, persons in attendance, excuse from service, 19.25.  
Illiterate persons, testing, 19.23.  
Race, selection criteria, 19.06.  
Records, indictment, 20.22.  
Secondary school, excuse from service, 19.25.  
Selection without jury commission, 19.01.  
Service of process,  
  Out-of-county witnesses, 20.11.  
Sex, selection criteria, 19.06.

**GRAND JURY—Cont'd**

Witnesses,  
  Arrest, evasion of process, 20.14.  
  Attachment,  
    Vacation, 20.12.  
  Compelling attendance, 20.10.  
  Foreign states, securing attendance, 24.28.

**GRANTS**

Probation, adult probation commission, acceptance, 42.121.

**GROUP INSURANCE**

Probation officers, 42.12, § 10.

**GUILTY PLEA**

Venue, change, stipulated guilty plea, 31.03.

**HABEAS CORPUS**

Affidavits, unresolved facts, 11.07.  
Contempt,  
  Refusal to give copy of process, 11.62.  
  Refusal to obey writ, 11.61.  
  Refusing to execute writ, 11.16.  
Court of criminal appeals, 4.04.  
Delivery, orders, pleadings, petitioner, 11.07.  
Depositions, unresolved facts, 11.07.  
Discharge of prisoner, 11.40.  
Federal court jurisdiction, 11.63.  
Hearing, unresolved facts, 11.07.  
Interrogatories, unresolved facts, 11.07.  
Mail, pleadings, orders, delivery to petitioner, 11.07.  
Orders, pleadings, delivery to petitioner, 11.07.

**HALFWAY HOUSES**

Pardons and parole, 42.12.

**HEARINGS**

Defendants, mentally deficient or mentally ill, treatment or commitment, 46.02.  
Mentally deficient or mentally ill persons, indefinite commitment, 46.02.  
Records, expunction, 55.02.  
Stolen property, restoration, 47.01a.

**HIGH SCHOOLS AND SECONDARY SCHOOLS**

Grand jury service, excused, 19.25.

**HOLIDAYS**

Probation officers, 42.12, § 10.

**HOMICIDE**

Foreign states, venue, 13.05.  
Limitation of prosecutions, 12.01 et seq.  
Venue, 13.05.

**HUSBAND AND WIFE**

Threats against, duty to report and prevent, 6.01 et seq.  
Venue, bigamy, 13.14.

**ILLITERATE PERSONS**

Grand jury,  
  Qualifications, 19.08.  
  Testing, 19.23.  
Jury, challenge for cause, 35.16.

**IN ABSENTIA TRIAL**

Defendant, new trial, 40.03.

**INDICTMENT AND INFORMATION**

Generally, 27.01 et seq.

**INDICTMENT AND INFORMATION**

—Cont'd

Affidavits,  
  Special pleas, 27.06.  
Bail,  
  Service of indictment, 25.03.  
Concurrent jurisdiction, 4.16.  
Counts, verdict, 37.07.  
Defendants, pleading, 27.02.  
District and county courts, fees, 1064.  
Double jeopardy,  
  Exception to special pleas, 28.12.  
  Prosecution for higher grade of offense, 28.13.  
  Special plea by defendant, 27.05 et seq.  
Election to have jury assess punishment if found guilty, defendants pleading, 27.02.  
Evidence, 21.03.  
Exceptions,  
  Charging no offense, discharge of defendant, 28.07.  
  Defendants pleas, 27.02.  
  Grounds, 27.08.  
  Pretrial hearing, 28.01 et seq.  
  Writing, 36.14.  
Expunction of criminal record, 55.01 et seq.  
Filing pleadings, 27.11.  
Former jeopardy. Double jeopardy, generally, ante.  
Guilty plea, entry, 27.02.  
Interstate agreement on detainees, 51.14.  
Joint defendants, severance, 36.09.  
  Order of trial, 36.10.  
Jury, challenge for cause, 35.16.  
Language,  
  Special and general terms, 21.12.  
Lesser included offenses, jurisdiction, 4.06.  
Limitation of prosecutions, 21.02.  
  Discharge of defendant, 28.06.  
  Presentation, time, 12.06, 12.07.  
Name,  
  Purchaser, unlawful sales, 21.12.  
  Nolo contendere plea, entry, 27.02.  
  Not guilty plea, entry, 27.02.  
Nuisances, 9.01 et seq.  
Personal property, description, 21.09.  
Pretrial hearing, pleadings of defendant, 28.01 et seq.  
Probation, application by defendant on pleading, 27.02.  
Process, testimony on pleadings, 28.03.  
Service, copy on accused,  
  Time, 27.12.  
Special pleas, 27.05 et seq.  
Speedy trial, discharge of defendant, 32.01, 32.02.  
Time,  
  Filing pleas, 27.11.  
  Presentation, limitation of prosecutions, 12.06, 12.07.  
  Service of pleadings, 27.12.  
Title to property, 21.08.  
Trial, special pleas, 27.07.  
Vacating or setting aside, grounds, 27.03.  
Variances, perjury, 21.14.  
Venue, 21.02.  
  Change of venue, pleading, 27.15.  
Written pleadings by defendant, 27.10.

**INDIGENT PERSONS**  
Arrest, Miranda warnings, 15.17.  
Competency to stand trial, right to counsel, 46.02.  
Confessions, right to counsel, 38.22.

References are to Articles

**INDIGENT PERSONS—Cont'd**

Deaf persons, advising of right to counsel, 15.17.

**INJURIES**

Personal Injuries, generally, this index.

**INSPECTIONS AND INSPECTORS**

Probation, adult probation commission, probation officers, 42.121.

**INSTRUCTIONS TO JURY**

Sexual offenses, corroboration, 38.07.  
Statements, accused persons, 38.22.  
Witnesses, two witnesses required for corroborating circumstances, 38.17.  
Writing, objections and exceptions, 36.14.

**INSURANCE**

Probation officers, liability insurance, 42.12, § 10.

**INSURRECTIONS**

Conservators of the peace, powers and duties, 2.17.  
Searches and seizures, warrants, grounds for issuance, 18.02.

**INTERCEPT**

Defined, wire or oral communications, 18.20.

**INTERCEPTION**

Wire or oral communications, 18.20.

**INTERPRETERS**

Court Interpreters, generally, this index.

**INTERROGATORIES**

Dying declarations, admissibility of evidence, 38.20.  
Habeas corpus, unresolved facts, 11.07.

**INTERSTATE COMPACTS**

Detainers, 51.14.

**INTERSTATE PAROLE COMPACT ADMINISTRATOR**

Sunset Act, abolition, continuation, or re-organization, 42.11.

**INTOXICATING LIQUORS**

Misdemeanor probation, educational program attendance, 42.13.

**INVENTORY**

Searches and seizures, 18.06.

**INVESTIGATIONS**

Fees,  
Prosecution of escaped prisoner, state aid, 26.055.  
Interception, wire or oral communications, 18.20.  
Oral communications, interception, 18.20.  
Probation offices, pre-sentence investigations, 42.12, § 10.  
Wire communications, interception, 18.20.

**JAILS AND JAILERS**

Contempt, work-release sentences, 42.03.  
Discharge, 45.53.  
Standards, 42.121.  
Work-release sentences, 42.03.

**JUDGES**

Adverse or pecuniary interest, 30.01 et seq.

**JUDGES—Cont'd**

Comments on evidence, 38.05.  
Magistrates, designation, 2.09.  
Peace officers, 1.23.  
Relatives, criminal cases, disqualification, 30.01 et seq.  
Special judges, 30.03 et seq.

**JUDGMENTS**

Absence of defendant, arrest, issuance of capias, territorial extent, 42.06.  
Attorneys, criminal cases, preparation, 42.01.  
Clerks of court, preparation, criminal cases, 42.01.  
Collections, commissions on collections, 1007.  
Contents, 42.01.  
Crime victims, restitution or reparation, parolees, 42.12, § 15.  
Fines and penalties, absence of defendant, hearing after arrest, 43.05.  
Parolees, crime victims, restitution or reparation, 42.12, § 15.  
Prosecuting attorney, preparation, 42.01.

**JUDICIAL DISTRICTS**

Probation offices, 42.12, § 10.

**JURISDICTION**

Indictment and information, 21.02.  
Lack of jurisdiction, bail pending warrant of arrest from proper county, 36.12.  
Lesser included offenses, 4.06.  
Probation, 42.13.

**JURY AND JURORS**

Calling jurors, 35.01.  
Challenges, 35.06 et seq.  
Grounds, 35.16.  
Conviction of crime, 1.15.  
District and county courts, fees, 1064.  
Examination, 35.17 et seq.  
Exemptions, 35.03.  
Claiming exemptions, 35.04.  
Consent of parties, 35.05.  
Facts in case, exclusive judge, 36.13.  
Food, deliberations, 36.21.  
Hung jury,  
Discharge, 36.31.  
Mistrial, 37.07.  
Mentally deficient and mentally ill persons, competency to stand trial, commitment, 46.02.  
New trial, challenges, 35.09.  
Parole and probation, powers and duties, 42.12.  
Presence of defendant, 33.03.  
Probation officers, leave, 42.12, § 10.  
Summons, 35.01.  
Venue of felony cases without jury, consent, 13.20.  
Women,  
Separate facilities, 36.21.  
Separate housing, 35.23.

**JUSTICES OF THE PEACE**

Adverse or pecuniary interest, 30.01 et seq.  
Amount in controversy, criminal jurisdiction, 4.11.  
Appeal and review,  
Cessation of jurisdiction, 45.48.  
Bail,  
Bonds, forfeiture, jurisdiction, 4.13.  
Continuance, 45.23.  
Counties over 225,000, precinct courts, jurisdiction, 45.22.

**JUSTICES OF THE PEACE—Cont'd**

Court of criminal appeals, abolition, continuing criminal jurisdiction, 4.02.  
Disqualification,  
Transfer of causes, 30.07, 30.08.  
Fines and penalties,  
Counties over 225,000, 45.22.  
Jurisdiction, 4.11.  
Jurisdiction,  
Counties over 225,000, 45.22.  
Forfeiture of bonds, 4.13.  
Misdemeanor cases, 4.12.  
Precinct courts, counties over 225,000, jurisdiction, 45.22.  
Relatives, criminal cases, disqualification, 30.01 et seq.  
Speedy trial, 45.23.  
Venue,  
Change, counties over 225,000, 45.22.

**JUVENILE DELINQUENTS**

Attorney fees, defending indigent persons in training school, state aid, 26.05-1.

**JUVENILE INSTITUTIONS**

Attorneys fees, delinquent children, state aid, 26.05-1.

**KIDNAPPING**

Parole and probation, 42.12, § 3f.

**LABOR AND EMPLOYMENT**

Payroll deductions, work-release sentences, 42.03.  
Prison inmates, mandatory supervision, 42.12, § 15.  
Work-release sentences, 42.03.

**LANGUAGE**

Court Interpreters, generally, this index.

**LAW ENFORCEMENT OFFICERS**

Mandatory supervision, supervisors, 42.12, § 31.

**LEGISLATURE**

Reports, adult probate commission, 42.121.

**LESSER INCLUDED OFFENSES**

Jurisdiction, 4.06.

**LETHAL INJECTION**

Death sentence, execution, 43.14.

**LEWDNESS OR OBSCENITY**

Grand jury, qualifications, 19.08.  
Searches and seizures, warrants, grounds for issuance, 18.02.

**LIBEL AND SLANDER**

Newspapers, defenses, 1.16.  
Truth, defenses, 1.16.

**LIENS AND INCUMBRANCES**

Bail bonds, amount, 17.11.  
Venue, 13.09.

**LIMITATION OF PROSECUTIONS**

Absence from state, computation of time, 12.05.  
Aggravated offenses, 12.03.  
Attempt, 12.03.  
Business injurious to health, action on bond, 9.04.  
Computation of time, 12.04.  
Conspiracy, 12.03.  
Detainers, interstate agreement, 51.14.  
Discharge of defendant, 28.06.

References are to Articles

**LIMITATION OF PROSECUTIONS**

—Cont'd

Indictment and Information, this index.  
 Misdemeanors, 12.02.  
 Solicitation of felonies, 12.03.

**LOTTERIES**

Verdict, new trial, 40.03.

**MAGAZINES**

Searches and seizures, offices, warrants, 18.01.

**MAGISTRATES**

Definitions, 2.09.  
 Powers and duties, 2.10.

**MAIL AND MAILING**

Habeas corpus, pleadings, orders, delivery to petitioner, 11.07.  
 Misdemeanors, pleas, 27.14, 27.16.

**MALFEASANCE**

Jurisdiction, 4.05.

**MANDATORY SUPERVISION**

Probation, parole, and mandatory supervision law, 42.12, § 1 et seq.

**MANSLAUGHTER**

Limitation of prosecutions, 12.01 et seq.

**MARIHUANA**

Possession and delivery, 13.22.

**MARRIAGE**

Venue, bigamy, 13.14.

**MEDIA**

Searches and seizures, offices, warrants, 18.01.

**MEDICAL CARE AND TREATMENT**

Drug addicts, privileged communications, 38.101.  
 Sentence and punishment, 42.03.

**MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF**

Expenses, reimbursement, transportation of criminal defendants, 46.02.

**MENTALLY DEFICIENT AND MENTALLY ILL PERSONS**

Civil commitment, criminal defendants, 46.02, 46.03.  
 Defenses to crime, 46.03.  
 Dying declarations, 38.20.  
 Hearings, civil commitment, charges pending, 46.02.  
 Trial, competency to stand trial, 46.02.

**MILITARY FORCES**

Probation officers, leave, 42.12, § 10.

**MIRANDA WARNINGS**

Arrestment, 16.03.  
 Arrested persons, magistrates, 15.17.  
 Deaf persons, interpreters, 15.17.

**MISDEMEANOR ADULT PROBATION AND SUPERVISION LAW**

Generally, 42.13.

**MISDEMEANORS**

Adult Probation and Supervision Law, 42.13.  
 Bonds, appeals, 27.14, 44.13.

**MISDEMEANORS—Cont'd**

Complaints, dismissal, 45.54.  
 Dismissal, complaints, 45.54.  
 Expunction of criminal record, 55.01 et seq.  
 Fines and penalties, suspension, 45.54.  
 Mailing, plea, 27.14, 27.16.  
 Suspension, fines and penalties, 45.54.

**MISFEASANCE**

Jurisdiction, 4.05.

**MISTRIAL**

Disposition of defendant, 33.06.  
 Hung jury, 37.07.  
 Mentally deficient and mentally ill persons, examination for competency to stand trial, 46.02.

**MOBS AND RIOTS**

Riots and Mobs, generally, this index.

**MORTGAGES**

Venue, 13.09.

**MOTIONS**

Appeal, defendants, 44.02.  
 Continuance, this index.  
 Courts of appeals, review, 44.45.  
 Interception, wire or oral communications, 18.20.  
 Interpreters, pretrial hearings, 28.01.  
 Misdemeanor adult probation and supervision, 42.13.  
 Oral communications, interception, 18.20.  
 Probation, 42.13.  
 Right of appeal, defendants, 44.02.  
 Wire communications, interception, 18.20.

**MOTOR VEHICLES**

Driving while intoxicated or under the influence of drugs, evidence, preservation and use, 38.33.  
 Probation officers, 42.12, § 10.

**MULTIPLE OFFENSES**

Verdict, form, 37.07.

**MUNICIPAL COURTS**

Generally, 45.01 et seq.  
 Appeals, 44.13 et seq., 45.10, 45.11.  
 Arrest warrant, expenses, 45.06.  
 Attorneys, 45.03.  
 Bail,  
   Appeals, 44.13.  
   Bond, forfeiture, 45.12.  
 Bonds (officers and fiduciaries),  
   Appeals, 44.13.  
   Forfeiture, 45.12.  
 Commitments, 45.05.  
 Complaints, 45.01.  
   Notice, 45.04.  
 Concurrent jurisdiction, 4.14.  
 Costs, 45.07.  
   Appeals, 45.11.  
 Directed verdicts, 45.031.  
 Dockets, 45.13.  
 Evidence, 4.15.  
 Fees,  
   Jury, 45.08.  
   Officers, 45.09.  
 Fines and penalties, 4.14, 45.06.  
   Evidence, rules of, 4.15.  
 Forfeitures, bonds (officers and fiduciaries), 45.12.  
 Inquests, 49.01 et seq.

**MUNICIPAL COURTS—Cont'd**

Judges,  
   Inquests, 49.01.  
   Magistrates, generally, this index.  
 Jurisdiction, 4.02, 4.14.  
 Jury fees, 45.08.  
 Justice courts, concurrent jurisdiction, 4.14.  
 Oaths and affirmations, complaints, 45.01.  
 Officers fees, 45.09.  
 Process, 45.04.  
 Records and recordation, 2.09, 45.01 et seq.  
   Arrest warrants, 15.06, 15.07.  
   Compensation and fees, 45.09.  
 Seals, 45.02.  
 Sentence and punishment, 45.06.  
 Service of process, 45.04.  
 Sessions, 4.15.  
 Warrant of arrest, expenses, 45.06.  
 Witnesses, 45.08.

**NAME**

Prosecution of actions, 3.02.

**NARCOTICS**

Searches and seizures, warrants, grounds for issuance, 18.02.

**NEW TRIAL**

Grounds, 40.03.  
 Hearing on motion, presence of defendant, 33.03.

**NEWSPAPERS**

Libel and slander, defenses, 1.16.  
 Searches and seizures, offices, warrants, 18.01.

**NIGHTTIME**

Arrest, time of arrest, 15.23.

**NOLO CONTENDERE**

Misdemeanor probation, 42.13.

**NONFEASANCE**

District and county attorneys, 2.03.  
 Habeas corpus, fines and penalties, 11.16.  
 Jurisdiction, 4.05.  
 Peace officers, fines and penalties, 2.16.

**NONPROFIT ORGANIZATIONS**

Community-service probation, 42.13.

**NONRESIDENTS**

State officers, false personation, venue, 13.10.  
 Witnesses,  
   Foreign states, securing attendance, 24.28.

**NONSUPPORT**

Support, generally, this index.

**NOTICE**

Criminal record expunction, 55.05.  
 Hearing, 55.02.  
 Interception, wire or oral communications, 18.20.  
 Mentally deficient or mentally ill persons, indefinite commitment, hearings, 46.02.  
 Oral communications, interception, 18.20.  
 Record on appeal, approval, 40.09.  
 Wire communications, interception, 18.20.

References are to Articles

**NUISANCES**

Indictment and information, 9.01 et seq.

**OATHS AND AFFIRMATIONS**

Complaints in criminal prosecutions, 2.06.  
District and county courts, fees, 1064.  
Interpreters, deaf persons, 38.31.

**OBJECTIONS AND EXCEPTIONS**

Record on appeal, 40.09.

**OFFICERS AND EMPLOYEES**

Theft, limitation of prosecutions, 12.01 et seq.

**ORAL COMMUNICATIONS**

Interception, 18.20.

**ORDERS OF COURT**

Child support, contempt, work-release sentences, 42.03.  
Criminal records expunction, 55.02.  
Work-release sentences, contempt, child support, 42.03.

**ORGANIZED CRIME**

Venue, 13.21.

**PARDONS AND PAROLES**

Administrative review, eligibility hearings, 42.12.  
Commissioners, parole commissioners, appointment, 42.12.  
Community services, 42.12.  
Conditional pardon, 42.12, § 12.  
Crime victim, restitution or reparation, 42.12, § 15.  
Deferred adjudication, 42.12.  
Defined, adult probation, parole and mandatory supervision, 42.12, § 2.  
Expunging record, subsequent offenses, 42.12.  
Felons, 42.12, § 3e.  
Halfway houses, 42.12.  
Interstate parole compact administrator, Sunset Act, application, 42.11.  
Mandatory supervision, 42.12, § 1 et seq.  
Nolo contendere plea, 42.12.  
Not guilty plea, 42.12.  
Parole panel, investigation of eligibility for parole, 42.12.  
Restitution or reparation, victim of crime, 42.12, § 15.  
Revocation,  
Hearings, conduct of hearings, 42.12.  
Sentence and punishment, condition of probation, 42.12.

**PAROLE OFFICERS**

Generally, 42.12 et seq.

**PEACE OFFICERS**

Custody of stolen property, 47.01a.  
Definitions, 2.12.  
Judges, 1.23.  
Nonfeasance, fines and penalties, 2.16.  
Private persons,  
Refusing to aid peace officers, 2.15.  
Summoning aid, 2.14.  
Security officers, treasury department, 2.12.  
Threats,  
Powers and duties, 6.05.  
Treasury department, security officers, 2.12.

**PERJURY**

Aggravated perjury,  
Admissibility of evidence, 38.18.

**PERSONAL INJURIES**

Children and minors, search warrants, photographs, 18.021.  
Threats, peace officers, prevention, 6.01 et seq.  
Venue, personal injuries in one county, death in another, 13.07.

**PERSONAL PROPERTY**

Indictment and information, description, 21.09.

**PETITIONS**

Courts of appeals, review, 44.45.  
Criminal records, expunction, 55.02.  
Stolen property, restoration, 47.01a.

**PHOTOGRAPHS AND PICTURES**

Children and minors, search warrants, injuries, 18.021.  
Driving while intoxicated or under the influence of drugs, evidence, preservation and use, 38.33.

**PHYSICIANS AND SURGEONS**

Criminal defendants, diagnostic examination, competency to stand trial, report, 46.02.

**PLEA BARGAINING**

Arraignment, 26.13.

**PLEADINGS**

Indictment and Information, generally, this index.

**PLEDGES**

Venue, 13.09.

**POLICE**

Mandatory supervision, supervisors, 42.12, § 31.

**POPULAR NAME LAWS**

Code of Criminal Procedure, 1.02 et seq.  
Extradition, Uniform Criminal Extradition Act, 51.13.  
Interstate Agreement on Detainers Act, 51.14.  
Misdemeanor Adult Probation and Supervision Law, 42.13.  
Uniform Criminal Extradition Act, 51.13.

**POSSESSION**

Marihuana, 13.22.

**PRESENCE OF DEFENDANT**

Trials, 33.03.

**PRE-SENTENCE INVESTIGATIONS**

Probation offices, 42.12, § 10.

**PRE-TRIAL HEARINGS**

Interpreters, motions for appointment, 28.01.  
Mentally deficient and mentally ill persons, insanity defense, 46.03.

**PRIORITIES AND PREFERENCES**

Rape, prosecution, 13.15.  
Trial, speedy trial, 32A.01.

**PRIVILEGED COMMUNICATIONS**

Drug addicts, medical treatment, 38.101.

**PRIVILEGES AND IMMUNITIES**

Deprivation, 1.04.  
Electors, arrest, 1.22.  
Legislature, arrest, 1.21.

**PROBATION**

Adult probation commission, 42.121.  
Alcoholism educational program, misdemeanors, condition of probation, 42.13.  
Arrest, violations, misdemeanors, 42.13.  
Attorney, reimbursements, 42.12, § 6.  
Community-based programs, 42.12, § 6.  
Community-service probation, 42.13.  
Compensation, misdemeanor probation, 42.13.  
Conditions, misdemeanors, 42.13.  
Definitions,  
Adult probation, parole, and mandatory supervision, 42.12, § 2.  
Misdemeanor adult probation and supervision, 42.13.  
Discharge, 42.13.  
Felons, 42.12, § 3e.  
Fugitives from justice, misdemeanor probationers, status as, 42.13.  
Furloughs, 42.12, § 36.  
Mandatory supervision, 42.12, § 1 et seq.  
Reimbursement, counties, appointed counsel, 42.12, § 6.  
Residence change, misdemeanor probation, 42.13.  
Revocation,  
Affirmative defenses, 42.12.  
Amending motion, 42.12.  
Misdemeanor adult probation and supervision, 42.13.  
Second and subsequent offenses, misdemeanors, 42.13.  
Sentence and punishment,  
Condition of probation, 42.12.  
Support, dependents, 42.12, § 6.  
Terms and conditions, misdemeanors, 42.13.  
Uniform act for out of state parolee supervision, 42.11.  
Victims, compensation, 42.12, § 6.  
Violations, arrest, misdemeanors, 42.13.

**PROBATION OFFICE**

Defined, adult probation commission, 42.121.

**PROBATION OFFICERS**

Generally, 42.12, § 10.  
Adult probation commission, 42.121.  
Defined,  
Adult probation, parole and mandatory supervision, 42.12, § 2.  
Misdemeanor adult probation and supervision, 42.13.  
Liability insurance, 42.12, § 10.  
Records and reports, 42.121.  
Self-insurance, liability, 42.12, § 10.  
Standards, 42.121.

**PROBATIONER**

Defined, misdemeanor adult probation and supervision, 42.13.

**PROCESS**

Associations and societies, prosecutions, 17A.05.  
Corporations, 17A.04.  
Refusal to execute, fines and penalties, 2.16.  
Service of process,  
Powers and duties, 2.13.  
Refusal, fines and penalties, 2.16.

References are to Articles

**PROCESS—Cont'd**

Style, 1.23.  
Testimony on pleadings, 28.03.

**PRODUCTION OF DOCUMENTS AND THINGS**

Generally, 39.14.  
Disobedience, definition, 24.06.

**PROSECUTORS**

Defined, communication interception, 18.20.

**PSYCHOLOGY AND PSYCHOLOGISTS**

Sentence and punishment, treatment, 42.03.

**PUBLIC POLICY**

Code of Criminal Procedure, 1.03.

**QUALIFIED INTERPRETER**

Defined, court interpreter for deaf person, 38.31.

**RADIO STATIONS**

Searches and seizures, warrants, 18.01.

**RAPE**

Parole, 42.12, § 3f.  
Priorities and preferences, prosecution, 13.15.  
Probation, 42.12, § 3f.  
Speedy trial, 13.15.  
Venue, 13.15.

**REASONABLE DOUBT**

Weight of evidence, 38.03.

**RECORDS**

Bail, 17.39.  
Criminal records, expunction, 55.01 et seq.  
Interception, wire or oral communications, 18.20.  
Municipal Courts, this index.  
Oral communications, interception, 18.20.  
Pardons and parole board, mandatory supervision, minutes and decisions, 42.12, § 13.  
Probation officers, 42.121.  
Statements of accused persons, electronic recording, 38.22.  
Supplemental record, court of criminal appeals, 40.09.  
Wire communications, interception, 18.20.

**RECREATIONAL FACILITIES**

Peace officers, 2.12.

**REFORMATION OF SENTENCE**

Capital offenses, confinement, 44.251.

**REHABILITATION**

Probationers, probation offices, 42.12, § 10.

**RELATIVES**

Judges, disqualification, 30.01 et seq.  
Jury, challenge for cause, 35.16.

**RELEASE**

Speedy trial, delay, 17.151.

**REPARATION**

Parolees, 42.12, § 15.

**REPEALING CLAUSE**

Generally, 54.02.

**REPORTS**

Defendants, competency to stand trial, 46.02.  
Interception, wire or oral communications, 18.20.  
Mentally deficient and mentally ill persons, competency to stand trial, examination, 46.02.  
Oral communications, interception, 18.20.  
Probation officers, 42.121.  
Trial, defendants, competency, 46.02.  
Wire communications, interception, 18.20.

**RESTITUTION**

Parolees, 42.12, § 15.  
Searches and seizures, discharge of defendants, 18.13.

**RETIREMENT AND PENSIONS**

Probation officers, 42.12, § 10.

**RIGHTS OF ACCUSED**

Deaf person, advising, 15.17.

**RIOTS AND MOBS**

Aid in disbursing mob, 8.05.  
Conservators of the peace, powers and duties, 2.17.  
Force needed to suppress riot, 8.06.  
Searches and seizures, warrants, grounds for issuance, 18.02.

**ROADS AND HIGHWAYS**

Costs, removal of obstructions, 10.03.  
Damages, obstruction, 10.02.

**ROBBERY**

Limitation of prosecutions, 12.01 et seq.  
Parole and probation, 42.12, § 3f.

**RULES AND REGULATIONS**

Probation officers, 42.121.

**SALES**

Secured property, venue, 13.09.

**SEARCHES AND SEIZURES**

Abandoned or unclaimed property, disposition, 18.17.  
Affidavits, warrants, 18.01.  
Arraignment, 18.14.  
Business nuisance, 9.02.  
Children and minors, injuries, photographs, 18.021.  
Contraband, disposition of property, 18.18.  
Copy, warrant, 18.06.  
Courts authorized to issue warrants, 18.01.  
Custody of property, 18.11.  
Definitions, 18.01.  
Disposition of property, 18.09.  
Drugs and medicine, adulterated medicine, 9.06.  
Food, unwholesome food, 9.06.  
Forfeitures,  
  Contraband, 18.18.  
  Deadly weapons, 18.19.  
Intoxicating liquors, abandoned property, disposition, 18.17.  
Inventories, 18.06.  
Investigations,  
  Discharge of defendant, 18.13.  
  Warrants, 18.12.

**SEARCHES AND SEIZURES—Cont'd**

Magazine offices, 18.01.  
News magazine offices, 18.01.  
Newspaper offices, warrants, 18.01.  
Photographs, children, injuries, 18.021.  
Preventing theft of property, 18.16.  
Production of property, disposition, 18.09.  
Property, preventing theft, 18.16.  
Radio stations, warrants, 18.01.  
Records, 18.15.  
Restitution, discharge of defendant, 18.13.  
Television stations, warrants, 18.01.  
Theft, preventing consequences, 18.16.  
Warrants,  
  Affidavits, 18.01.  
  Arrest, order for arrest, 18.03.  
  Children and minors, photographs, injuries, 18.021.  
  Contents, 18.04.  
  Duration, 18.07.  
  Execution of warrants, 18.06 et seq.  
  Fire marshal, 18.05.  
  Grounds for issuance, 18.02.  
  Health officers, 18.05.  
  Investigations, 18.12.  
  Peace officers, powers and duties, 18.08.  
  Photographs, children, injuries, 18.021.  
  Records, 18.15.  
  Return, 18.10.  
  Stolen property, probable cause, 18.16.  
  Weapons, disposition of property, 18.18, 18.19.

**SECOND AND SUBSEQUENT OFFENSES**

Misdemeanor adult probation and supervision, 42.13.  
Probation, expunging record, 42.12.

**SECRET SERVICE**

Special agents, peace officers, 2.12.

**SECURED TRANSACTIONS**

Venue, 13.09.

**SECURITY OFFICERS**

Treasury department, 2.12.

**SELF-INCRIMINATION**

Arraignment, waiver, 16.04.  
Evidence, failure of defendant to testify, comments, 38.08.  
Rights of accused, deaf persons, interpreting, 15.17.  
Statement, advice to remain silent, 38.22.

**SENTENCE AND PUNISHMENT**

Bail pending appeal, 44.04.  
Costs, collection, 42.15, 42.16.  
Counseling, 42.03.  
Credits, time spent in jail pending trial, 42.03.  
Deduction, prisoners expenses, work release, 42.03.  
Deferred sentence, probation, 42.12.  
Definitions, appeal notice, 44.08.  
Escape, identity of escapee after arrest, trial before sentence, 42.07.  
Felonies,  
  Bail, 44.04.  
  Suspended sentence, 42.12, § 3e.  
Fines and penalties,  
  Absence of defendant, hearing after arrest, 43.05.  
  Collection, 42.15.

References are to Articles

**SENTENCE AND PUNISHMENT**

—Cont'd  
 Good time allowance,  
     Pardon, parole and mandatory supervision, 42.12, § 15.  
     Time spent in mental hospital, 46.02.  
 Medical care and treatment, 42.03.  
 Mentally deficient and mentally ill persons, preventing sentence, 42.07.  
 Misdemeanors, bail, 44.04.  
 Pardons, preventing sentence, 42.07.  
 Presence of defendant, misdemeanor cases, 42.14.  
 Preventing sentence, 42.07.  
 Probation, imprisonment as condition of probation, 42.12.  
 Psychological treatment, 42.03.  
 Work release, 42.03.

**SEXUAL ABUSE**

Parole and probation, 42.12, § 3f.

**SEXUAL OFFENSES**

Evidence, corroboration, 38.07.

**SHERIFFS**

Deputies or assistants,  
     Mandatory supervision, supervisors, 42.12, § 31.  
 Fines and penalties,  
     Vacations for jailors, guards and matrons, 1041b.  
 Mandatory supervision, supervisor, 42.12, § 31.  
 Notice, mandate affirming judgment, execution, 44.05.

**SHIPS AND SHIPPING**

Venue, 13.11.

**SICK LEAVE**

Probation officers, 42.12, § 10.

**SIGHT ORDERS**

Collecting and processing, fees, 53.08.

**SIGN LANGUAGE**

Admissibility of statements, 38.22.

**SIGNATURES**

Statements, accused persons, 38.22.

**SMALLPOX**

Cremation, waiting period, 49.25.

**SPEEDY TRIAL**

Trial, this index.

**STATE AID**

Defined, adult probation commission, 42.121.  
 Prisoners, fees for prosecution of escaped prisoner, 26.055.  
 Probation officers, 42.121.

**STATE HIGHWAY PATROL**

Mandatory supervision, supervisors, 42.12, § 31.

**STATE OFFICERS AND EMPLOYEES**

False personation, venue, 13.10.

**STATEMENT**

Generally, 38.22.  
 Sign language, statement of accused, admissibility, 38.22.

**STOLEN PROPERTY**

Restoration, no trial pending, 47.01a.

**SUBPOENAS**

Age, 24.01.  
 Disobedience,  
     Costs, 1082.  
     Definition, 24.06.  
 District and county courts, fees, 1064.  
 Interpreters,  
     Criminal prosecution, 38.30, 38.31.  
 Service, refusal, fines and penalties, 2.16.

**SUPERVISION**

Misdemeanor adult probation and supervision, 42.13.

**SUPPORT**

Children and minors, contempt, work-release programs, 42.03.  
 Husband and wife, competency of witnesses, 38.11.  
 Probationers, dependents, 42.12, § 6.  
 Venue, 13.16.

**SUPPRESSION**

Evidence,  
     Motions on pretrial hearing, 28.01 et seq.

**SUPREME COURT**

Search warrants, issuance, 18.01.

**SUSPENDED SENTENCES**

Misdemeanors, 42.13.

**TAXATION**

Costs, drafts of certificate, use for payment, 1060.  
 Fees received by court officers, drafts, use for payment, 1060.

**TELEGRAPHS AND TELEPHONES**

Interception, 18.20.

**TELEVISION STATIONS**

Searches and seizures, warrants, 18.01.

**TERM OF OFFICE**

Adult probation commission, 42.121.

**TEXAS RANGERS**

Mandatory supervision, supervisor, 42.12, § 31.

**THEFT**

Jury, challenge for cause, 35.16.  
 Restoration of stolen property, 47.01a.  
 Searches and seizures, warrants, grounds for issuance, 18.02.

**THREATS**

Aid, summoning, arrest, 6.06.  
 Appearance bonds, 7.02.  
 Arraignment, 7.03.  
 Arrest,  
     Peace officers, duties, 6.01 et seq.  
     Summoning aid, 6.06.  
     Warrants, 7.01.  
 Assault and battery, 6.01 et seq.  
 Bail, 6.04.  
     Action on bond, 7.16.  
     Amount, 7.03, 7.06.  
     Discharge of defendants, 7.09, 7.10.  
     Exoneration of sureties, 7.07.  
     Failure to give bond, 7.08.  
     Filing, 7.05.  
     Form of bond, 7.04.  
     Hearing, 7.02.

**THREATS—Cont'd**

Force and violence,  
     Amount of force, 6.07.  
     Prevention, 6.03.  
 Protection of persons, order of, 7.15.  
 Warrant for arrest, 7.01.  
 Witnesses, new trial, 40.03.

**TIME**

Courts of appeals, review, 44.45.  
 Cremation, dead bodies, 49.25.  
 Defendants, mental health and mental retardation department facilities, examination, 46.02.  
 Extension of time,  
     Record on appeal, 40.09.  
 Indictment and Information, this index.  
 Prison inmates, mandatory supervision, 42.12, § 15.  
 Trial, speedy trial, 32A.02.

**TITLE TO PROPERTY**

Indictment and information, 21.08.

**TRANSCRIPTS**

Appeals, 40.09.  
 Records, district and county courts, fees, 1064.

**TRANSPORTATION**

Autopsies, payment for, 49.03.

**TRAVELING EXPENSES**

Defendants, transportation, 46.02.  
 Interpreters, criminal prosecutions, 38.31.  
 Probation officers, 42.12, § 10.

**TREATIES**

Convicted offenders, aliens, transfer, 42.17.

**TRIAL**

Generally, 28.01 et seq., 33.01 et seq.  
 Bail during trial, 33.05.  
 Discharge for delay, 28.061.  
 Docket, 33.07.  
     Supervision, 33.08.  
 Evidence, presentation, time, 36.02.  
 Fair trial, 2.03.  
 Incompetency to stand trial, 46.02.  
 Interstate agreement on detainees, 51.14.  
 Misdemeanor cases, appearance by counsel, 33.04.  
 Presumption, competency to stand trial, 46.02.  
 Release because of delay, 17.151.  
 Speedy trial, 32A.01, 32A.02.  
     Discharge for delay, 28.061, 32.01, 32.02.  
     Interstate agreement, detainees, 51.14.  
 Rape, 13.15.  
 Release because of delay, 17.151.

**TRIAL DE NOVO**

Appeals and writs of error, appeal bond, 44.04.  
 Bail, 44.04.

**TYPHUS**

Cremation, waiting period, 49.25.

**UNITED STATES**

Officers and employees, special agents, peace officers, 2.12.  
 Treaties, aliens, convicted offenders, transfer, 42.17.

## INDEX TO CODE OF CRIMINAL PROCEDURE

References are to Articles

**UNITED STATES COURTS**

Habeas corpus, application of law, 11.63.

**UNITED STATES CUSTOMS**

Special agents, peace officers, 2.12.

**VACATING OR SETTING ASIDE**

Bail, forfeiture, 22.12a.

**VACATIONS**

Probation officers, 42.12, § 10.

**VANDALISM**

Threats, 6.01 et seq.

**VENUE**

Generally, 13.01 et seq.

Arrest, place of crime not determined, 13.19.

Bigamy, 13.14.

Boundaries of counties, 13.04.

Change of venue,

Defendants motion, 31.03.

Motions, pretrial hearing, 28.01 et seq.

Rape, 13.15.

Consent, felony cases tried without jury, 13.20.

Conspiracy, 13.13.

County in which offense committed, venue not specifically stated, 13.18.

Death in one county after injury in another, 13.07.

Determination, 13.19.

Domicile and residence, place of crime not determined, 13.19.

Evidence, 13.17.

Extradition, 13.19.

False imprisonment, 13.12.

Guilty plea stipulation, change of venue, 31.03.

Homicide, 13.05.

Indictment and information, 21.02.

Kidnapping, 13.12.

Marihuana, possession and delivery, crimes, 13.22.

**VENUE—Cont'd**

Organized crime, 13.21.

Perjury, 13.03.

Personal injuries, death in different county, 13.07.

Rape, 13.15.

Support of persons, 13.16.

Theft, 13.08.

Trials without jury, consent, 13.20.

Unknown venue, 13.19.

**VERDICTS**

Conviction, 1.15.

Discharge before verdict, 36.11.

District and county courts, fees, 1064.

Insanity, 46.03.

Lesser included offenses, 37.08, 37.09.

Not guilty plea, 37.07.

Separate verdict, several counts in indictment, 37.07.

**WARNINGS**

Accused before making statement, 38.22.

**WARRANTS**

Prisoners, parole, mandatory supervision, emergency reprieve or furlough, conditional pardon, 42.12, § 15.

Searches and Seizures, this index.

**WEAPONS**

Court clerks, safekeeping, 2.21.

Probation, commission of a felony, 42.12, § 3f.

Searches and seizures, disposition of property, 18.18, 18.19.

Second degree felony, probation, 42.12, § 3f.

**WIRE COMMUNICATIONS**

Interception, 18.20.

**WITHDRAWAL**

Appeals and writs of error, notice, 44.08.

**WITNESSES**

Arraignment, this index.

Arrest, liability for costs, 1082.

Bonds, attachment, 24.14.

Character witnesses, subpoenas, 24.16.

Defaulting witnesses, fines and penalties, 24.22.

Disobedience,

Costs, 1082.

Subpoena, fines and penalties, 24.22.

Expert witnesses,

Fees,

Prosecution of escaped prisoner, state aid, 26.055.

Fees,

Expert witnesses, prosecution of escaped prisoner, state aid, 26.055.

Out-of-county witnesses, misdemeanor cases, 24.16.

Fines and penalties,

Fleeing county in anticipation of attachment, 24.15.

Refusal to obey subpoena, 24.22.

Interpreters, deaf persons, 38.31.

Material witnesses,

Attachment, 24.14.

Threats, new trial, 40.03.

Out-of-county witnesses, subpoenas, misdemeanor cases, 24.16.

**WORK RELEASE**

Child support, contempt, 42.03.

Sentence and punishment, 42.03.

**WRITING**

Search warrants, grounds for issuance, 18.02.

**WRITS**

Court of criminal appeals, 4.04.



# TAX CODE

## TITLE 1. PROPERTY TAX CODE

### SUBTITLE A. GENERAL PROVISIONS

Chapter	Section
1. General Provisions .....	1.01

### SUBTITLE B. PROPERTY TAX ADMINISTRATION

5. State Administration .....	5.01
6. Local Administration .....	6.01

### SUBTITLE C. TAXABLE PROPERTY AND EXEMPTIONS

11. Taxable Property and Exemptions .....	11.01
---	-------

### SUBTITLE D. APPRAISAL AND ASSESSMENT

21. Taxable Situs .....	21.01
22. Renditions and Other Reports .....	22.01
23. Appraisal Methods and Procedures .....	23.01
24. Central Appraisal .....	24.01
25. Local Appraisal .....	25.01
26. Assessment .....	26.01

### SUBTITLE E. COLLECTIONS AND DELINQUENCY

31. Collections .....	31.01
32. Tax Liens and Personal Liability .....	32.01
33. Delinquency .....	33.01
34. Tax Sales and Redemption .....	34.01

### SUBTITLE F. REMEDIES

41. Local Review .....	41.01
42. Judicial Review .....	42.01
43. Suit Against Appraisal Office .....	43.01

## TITLE 2. STATE TAXATION

### SUBTITLE A. GENERAL PROVISIONS

101. General Provisions .....	101.001
-------------------------------	---------

### SUBTITLE B. ENFORCEMENT AND COLLECTION

111. Collection Procedures .....	111.001
112. Taxpayers' Suits .....	112.001
113. Tax Liens .....	113.001

### SUBTITLE C. TAX CLEARANCE FUND

131. Tax Clearance Fund .....	131.001
-------------------------------	---------

## SUBTITLE D. COMPACTS AND UNIFORM LAWS

Chapter	Section
141. Multistate Tax Compact .....	141.001

## SUBTITLE E. SALES, EXCISE, AND USE TAXES

151. Limited Sales, Excise, and Use Tax ..	151.001
152. Motor Vehicle Sales Tax .....	152.001
153. Motor Fuels Tax .....	153.001
154. Cigarette Tax .....	154.001
155. Tobacco Products and Cigar Tax .....	155.001
156. Hotel Occupancy Tax .....	156.001

## SUBTITLE F. FRANCHISE TAX

171. Franchise Tax .....	171.001
--------------------------	---------

## SUBTITLE G. GROSS RECEIPTS TAXES

181. Cement Production Tax .....	181.001
182. Miscellaneous Gross Receipts Taxes ..	182.001

## SUBTITLE H. BUSINESS PERMIT TAXES

191. Miscellaneous Occupation Taxes .....	191.001
192. Quotation Services .....	192.001

## SUBTITLE I. SEVERANCE TAXES

201. Gas Production Tax .....	201.001
202. Oil Production Tax .....	202.001
203. Sulphur Production Tax .....	203.001

## SUBTITLE J. INHERITANCE TAX

211. Inheritance Tax .....	211.001
----------------------------	---------

## SUBTITLE K. POLL TAX [REPEALED]

251. Poll Tax [Repealed] .....	251.001
--------------------------------	---------

## TITLE 1. PROPERTY TAX CODE

### SUBTITLE A. GENERAL PROVISIONS

#### CHAPTER 1. GENERAL PROVISIONS

Section	
1.01.	Short Title.
1.02.	Applicability of Title.

Section

- 1.03. Construction of Title.
- 1.04. Definitions.
- 1.05. City Fiscal Year.
- 1.06. Effect of Weekend or Holiday.
- 1.07. Delivery of Notice.
- 1.08. Timeliness of Action by Mail.
- 1.09. Availability of Forms.
- 1.10. Rolls in Electronic Data-Processing Records.
- 1.11. Communications to Fiduciary.
- 1.12. Weighted Average Level of Appraisal.

*Section 1 of Acts 1979, 66th Leg., p. 2217, ch. 841, enacted this Title. Section 6(b) of said Act provided:*

*"All other general, local and special laws in conflict with this Act are repealed to the extent of the conflict, and the failure expressly to repeal or amend any law in conflict with this Act is not evidence of a legislative intent that the law not be repealed."*

*Section 3 of the 1979 Act was the effective date provision. Subsection (h) thereof provided:*

*"To the extent necessary to apply provisions of the Property Tax Code that take effect before January 1, 1982, Chapter 1 takes effect on January 1, 1980."*

**§ 1.01. Short Title**

This title may be cited as the Property Tax Code. [Acts 1979, 66th Leg., p. 2218, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 1.02. Applicability of Title**

This title applies to a taxing unit that is created by or pursuant to any general, special, or local law enacted before or after the enactment of this title unless a law enacted after enactment of this title by or pursuant to which the taxing unit is created expressly provides that this title does not apply. This title supersedes any provision of a municipal charter or ordinance relating to property taxation. Nothing in this title invalidates or restricts the right of voters to utilize municipal-level initiative and referendum to set a tax rate, level of spending, or limitation on tax increase for that municipality. [Acts 1979, 66th Leg., p. 2218, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 117, ch. 13, § 1, eff. Jan 1, 1982.]

Section 168 (b) of the 1981 amendatory act provides:

*"An amendment by this Act of a provision that is not yet in effect on the effective date of this Act does not take effect until the provision amended takes effect."*

**§ 1.03. Construction of Title**

The Code Construction Act<sup>1</sup> applies to the construction of each provision of this title except as otherwise expressly provided by this title.

[Acts 1979, 66th Leg., p. 2218, ch. 841, § 1, eff. Jan. 1, 1982.]

<sup>1</sup> Civil Statutes, art. 5429b-2.

**§ 1.04. Definitions**

In this title:

(1) "Property" means any matter or thing capable of private ownership.

(2) "Real property" means:

- (A) land;
- (B) an improvement;
- (C) a mine or quarry;
- (D) a mineral in place;
- (E) standing timber; or

(F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated in Paragraphs (A) through (E) of this subdivision.

(3) "Improvement" means:

(A) a building, structure, fixture, or fence erected on or affixed to land; or

(B) a transportable structure that is designed to be occupied for residential or business purposes, whether or not it is affixed to land, if the owner of the structure owns the land on which it is located, unless the structure is unoccupied and held for sale or normally is located at a particular place only temporarily.

(4) "Personal property" means property that is not real property.

(5) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or otherwise perceived by the senses, but does not include a document or other perceptible object that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

(6) "Intangible personal property" means a claim, interest (other than an interest in tangible property), right, or other thing that has value but cannot be seen, felt, weighed, measured, or otherwise perceived by the senses, although its existence may be evidenced by a document. It includes a stock, bond, note or account receivable, franchise, license or permit, demand or time deposit, certificate of deposit, share account, share certificate account, share deposit account, insurance policy, annuity, pension, cause of action, contract, and goodwill.

(7) "Market value" means the price at which a property would transfer for cash or its equivalent under prevailing market conditions if:

(A) exposed for sale in the open market with a reasonable time for the seller to find a purchaser;

(B) both the seller and the purchaser know of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions on its use; and

(C) both the seller and purchaser seek to maximize their gains and neither is in a position to take advantage of the exigencies of the other.

(8) "Appraised value" means the value determined as provided by Chapter 23 of this code.

(9) "Assessed value" means the amount determined by multiplying the appraised value by the applicable assessment ratio.

(10) "Taxable value" means the amount determined by deducting from assessed value the amount of any applicable partial exemption.

(11) "Partial exemption" means an exemption of part of the value of taxable property.

(12) "Taxing unit" means a county, an incorporated city or town (including a home-rule city), a school district, a special district or authority (including a junior college district, a hospital district, a district created by or pursuant to the Water Code, a mosquito control district, a fire prevention district, or a noxious weed control district), or any other political unit of this state, whether created by or pursuant to the constitution or a local, special, or general law, that is authorized to impose and is imposing ad valorem taxes on property even if the governing body of another political unit determines the tax rate for the unit or otherwise governs its affairs.

(13) "Tax year" means the calendar year.

(14) "Assessor" means the officer or employee responsible for assessing property taxes as provided by Chapter 26 of this code for a taxing unit by whatever title he is designated.

(15) "Collector" means the officer or employee responsible for collecting property taxes for a taxing unit by whatever title he is designated.

(16) "Possessory interest" means an interest that exists as a result of possession or exclusive use or a right to possession or exclusive use of a property and that is unaccompanied by ownership of a fee simple or life estate in the property. However, "possessory interest" does not include an interest, whether of limited or indeterminate duration, that involves a right to exhaust a portion of a real property.

[Acts 1979, 66th Leg., p. 2218, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, § 2, eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., p. 2217, ch. 841, enacted Title 1 of the Tax Code, the Property Tax Code. Section 3 of said Act was the effective date provision. Subsection (k) thereof provided:

"For purposes of applying the parts of the Property Tax Code that take effect before January 1, 1982, 'appraisal office,' 'appraisal district,' and 'chief appraiser' means the office or officer, as applicable, that appraises property for the tax purposes of a taxing unit."

### § 1.05. City Fiscal Year

The governing body of a home-rule city may establish by ordinance a fiscal year different from that fixed in its charter if a different fiscal year is desirable to adapt budgeting and other fiscal activities to the tax cycle required by this title.

[Acts 1979, 66th Leg., p. 2220, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 1.06. Effect of Weekend or Holiday

If the last day for the performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day.

[Acts 1979, 66th Leg., p. 2220, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 1.07. Delivery of Notice

(a) An official or agency required by this title to deliver a notice to a property owner may deliver the notice by regular first-class mail, with postage prepaid, unless this title requires a different method of delivery.

(b) The official or agency shall address the notice to the property owner or, if appropriate, his agent at his address according to the most recent record in the possession of the official or agency. However, if a property owner files a written request that notices be sent to a particular address, the official or agency shall send the notice to the address stated in the request.

(c) A notice permitted to be delivered by first-class mail by this section is delivered when it is deposited in the mail.

[Acts 1979, 66th Leg., p. 2220, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 1.08. Timeliness of Action by Mail

When a property owner is required by this title to make a payment or to file or deliver a report, application, statement, or other document or paper before a specified date, his action is timely if:

(1) it is sent by regular first-class mail, properly addressed with postage prepaid; and

(2) it bears a post office cancellation mark of a date earlier than the specified date and within the specified period or the property owner furnishes satisfactory proof that it was deposited in the mail before the specified date and within the specified period.

[Acts 1979, 66th Leg., p. 2220, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 1.09. Availability of Forms

When a property owner is required by this title to use a form, the office or agency with which the form is filed shall make printed forms readily and timely available and shall furnish a property owner a form without charge.

[Acts 1979, 66th Leg., p. 2220, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 1.10. Rolls in Electronic Data-Processing Records

The appraisal roll for an appraisal district and the appraisal roll or the tax roll for the unit may be retained in electronic data-processing equipment. However, a physical document for each must be prepared and made readily available to the public.

[Acts 1979, 66th Leg., p. 2220, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, § 3, eff. Jan 1, 1982.]

**§ 1.11. Communications to Fiduciary**

(a) On the written request of a property owner, an appraisal office or an assessor or collector shall deliver all notices, tax bills, and other communications relating to the owner's property or taxes to the owner's fiduciary.

(b) A request pursuant to this section remains in effect until revoked by the owner.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, § 4, eff. Jan. 1, 1982.]

**§ 1.12. Weighted Average Level of Appraisal**

For purposes of this title, "weighted average level of appraisal" is determined by dividing the total appraised value, as determined by the appraisal office or the appraisal review board, of all properties in an appraisal district or of a statistically valid sample of properties in the district by the sum of the following with respect to those properties:

(1) the total value determined according to law of properties that qualify for appraisal for tax purposes according to a standard other than market value; and

(2) the total market value of all other properties.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, § 5, eff. Jan. 1, 1982.]

SUBTITLE B. PROPERTY TAX ADMINISTRATION

CHAPTER 5. STATE ADMINISTRATION

Section

- 5.01. State Property Tax Board.
- 5.02. Board Personnel.
- 5.03. Powers and Duties Generally.
- 5.04. Training and Education of Appraisers.
- 5.05. Appraisal Manuals and Other Materials.
- 5.06. Explanation of Taxpayer Remedies.
- 5.07. Property Tax Forms and Records Systems.
- 5.08. Professional and Technical Assistance.
- 5.09. Annual Report.
- 5.10. Ratio Studies.

**§ 5.01. State Property Tax Board**

(a) The State Property Tax Board is established. The board consists of six members appointed by the governor with the advice and consent of the senate. In making the appointments, the governor, to the extent practicable, shall select persons so that each geographical area of the state is represented. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(b) Members of the board hold office for terms of six years, with the terms of two members expiring on March 1 of each odd-numbered year.

(c) To be eligible to serve on the board, a person must have been a resident of this state for at least 10 years.

(d) After March 1, 1983, at least two members must be certified by the Board of Tax Assessor Examiners.

(e) A majority of the board constitutes a quorum.

(f) The governor shall designate one of the members of the board to serve as chairman for a term, in that capacity, of two years expiring on March 1 of each odd-numbered year.

(g) The board shall maintain a principal office in Austin.

(h) The board shall meet at least once in each calendar quarter and may meet at other times at the call of the chairman or as provided by the rules of the board.

(i) A member of the board may not receive compensation for his service on the board but is entitled to reimbursement for actual and necessary expenses, as provided by legislative appropriation, incurred while on travel status in the performance of official duties.

[Acts 1979, 66th Leg., p. 2221, ch. 841, § 1, eff. Jan. 1, 1980.]

Section 1 of Acts 1979, 66th Leg., p. 2217, ch. 841, enacted Title 1 of the Tax Code, the Property Tax Code. Section 8(a) of said Act provided: "The name of the School Tax Assessment Practices Board is changed to the State Property Tax Board, and its members serve as members of the State Property Tax Board for the terms to which each was appointed to serve on the School Tax Assessment Practices Board. A reference to the School Tax Assessment Practices Board by a statute means the State Property Tax Board. All books, records, property, and personnel of the School Tax Assessment Practices Board are transferred to the State Property Tax Board."

**§ 5.02. Board Personnel**

(a) The board shall employ an executive director who shall administer board operations as directed by the board.

(b) The director may employ professional, clerical, and other personnel to assist him in the performance of his duties.

[Acts 1979, 66th Leg., p. 2221, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 5.03. Powers and Duties Generally**

(a) The board shall adopt rules establishing minimum standards for the administration and operation of an appraisal district. The minimum standards may vary according to the number of parcels and the kinds of property the district is responsible for appraising.

(b) The board may require from each district engaged in appraising property for taxation an annual report on a form prescribed by the board on the administration and operation of the appraisal office.

(c) The board may contract with consultants to assist in performance of the duties imposed by this chapter.

[Acts 1979, 66th Leg., p. 2221, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, § 6, eff. Aug. 14, 1981.]

Section 1 of Acts 1979, 66th Leg., p. 2217, ch. 841, enacted Title 1 of the Tax Code. Section 7(a) and (b) of said Act provided:

"(a) Every power or duty relating to the administration of ad valorem taxation that is conferred on the comptroller of public accounts by a law that is repealed by this Act is transferred to the State Property Tax Board. The powers and duties relating to administration of ad valorem taxation that are conferred on the comptroller of public accounts by Article 7260, Revised Civil Statutes of Texas, 1925, as amended, are transferred to the State Property Tax Board.

"(b) On January 1, 1980, all books and records, property, and personnel in the office of the comptroller of public accounts that are involved or used in administration of ad valorem taxation are transferred to the State Property Tax Board. The state auditor shall resolve any dispute over what property, books, or records are subject to this section, and the auditor's decision is final."

#### § 5.04. Training and Education of Appraisers

(a) The board shall conduct, sponsor, or approve courses of instruction and inservice and intern training programs on the technical, legal, and administrative aspects of property taxation.

(b) The board shall cooperate in developing curricula with other public agencies, with educational institutions, and with private organizations interested in training and educating appraisers, and the board may cooperate with them in conducting or sponsoring courses of instruction and training programs.

(c) An appraisal district shall reimburse an employee of the appraisal office for all actual and necessary expenses, tuition and other fees, and costs of materials incurred in attending, with approval of the chief appraiser, a course or training program conducted, sponsored, or approved by the board. [Acts 1979, 66th Leg., p. 2222, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, § 7, eff. Aug. 14, 1981.]

#### § 5.05. Appraisal Manuals and Other Materials

(a) The board shall prepare and issue:

- (1) a general appraisal manual;
- (2) special appraisal manuals;
- (3) cost, price, and depreciation schedules, with provision for inserting local market index factors and with a standard procedure for determining local market index factors;
- (4) news and reference bulletins;
- (5) annotated digests of all laws relating to property taxation; and
- (6) a handbook of all rules promulgated by the board relating to the property tax and its administration.

(b) The board shall revise or supplement all materials periodically as necessary to keep them current.

(c) The board shall provide without charge all materials to officials of local government who are responsible for administering the property tax system. It shall make the materials available to members of the public but may charge a reasonable fee to offset the costs of printing and distributing the materials.

(d) If the appraised value of property is at issue in a lawsuit involving property taxation, a court may not admit in evidence appraisal manuals or cost, price, and depreciation schedules, or portions thereof, that are prepared and issued pursuant to this section. The manuals or schedules may only be used for the limited purpose of impeachment in the same manner and pursuant to the same evidentiary rules as applicable to books and treatises.

[Acts 1979, 66th Leg., p. 2222, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, § 8, eff. Aug. 14, 1981.]

#### § 5.06. Explanation of Taxpayer Remedies

The board shall prepare and publish a pamphlet explaining the remedies available to dissatisfied taxpayers and the procedures to be followed in seeking remedial action. It shall include in the pamphlet advice on preparing and presenting a protest.

[Acts 1979, 66th Leg., p. 2222, ch. 841, § 1, eff. Jan. 1, 1980.]

#### § 5.07. Property Tax Forms and Records Systems

(a) The board shall prescribe the contents of all forms necessary for the administration of the property tax system and on request shall furnish sufficient copies of model forms of each type to the appropriate local officials. The board may require reimbursement for the costs of printing and distributing the forms.

(b) The board shall make the contents of the forms uniform to the extent practicable but may prescribe or approve additional or substitute forms for special circumstances.

(c) The board shall also prescribe a uniform record system to be used by all offices appraising property for tax purposes.

[Acts 1979, 66th Leg., p. 2222, ch. 841, § 1, eff. Jan. 1, 1980.]

#### § 5.08. Professional and Technical Assistance

(a) The board may provide professional and technical assistance on request in appraising property, installing or updating tax maps, purchasing equipment, developing recordkeeping systems, or performing other appraisal activities. The board may also provide professional and technical assistance on request to an appraisal review board. The board may require reimbursement for the costs of providing the assistance.

(b) The board may provide information to and consult with persons actively engaged in appraising property for tax purposes about any matter relating to property taxation without charge.

[Acts 1979, 66th Leg., p. 2223, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, § 9, eff. Aug. 14, 1981.]

Section 1 of Acts 1979, 66th Leg., p. 2217, ch. 841, enacted Title 1 of the Tax Code, the Property Tax Code. Section 3 of said Act was the effective date provision. Subsection (b) thereof provided:

"Chapter 5 takes effect January 1, 1980. The board shall provide advice and assistance as provided by Section 5.08 to local officials on the implementation of the Property Tax Code."

#### § 5.09. Annual Report

(a) The board shall publish an annual report of its operations under this code and of the operations of the appraisal districts. The report shall include for each appraisal district, each county, and each school district and may include for other taxing units the total appraised values, assessed values, and taxable values of taxable property by class of property, the assessment ratio, and the tax rate.

(b) The board shall deliver a copy of each annual report to the governor, the lieutenant governor, and each member of the legislature.

[Acts 1979, 66th Leg., p. 2223, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, § 10, eff. Aug. 14, 1981.]

§ 5.10. Ratio Studies

*Text of section added effective January 1, 1984*

(a) The board shall conduct annual studies in each appraisal district to determine the degree of uniformity of and the weighted average level of appraisals by the appraisal district within each major kind of property. The board shall publish the findings of the studies. In conducting the studies, the board shall use appropriate standard statistical analysis techniques to compute measures of central tendency and average dispersion.

(b) The published findings of a ratio study conducted by the State Property Tax Board shall be distributed to all members of the legislature and to all appraisal districts.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, § 11, eff. Jan 1, 1984.]

CHAPTER 6. LOCAL ADMINISTRATION

SUBCHAPTER A. APPRAISAL DISTRICTS

Section

- 6.01. Appraisal Districts Established.
- 6.02. District Boundaries.
- 6.03. Board of Directors.
- 6.031. Changes in Board Membership or Selection.
- 6.04. Organization, Meetings, and Compensation.
- 6.05. Appraisal Office.
- 6.06. Appraisal District Budget and Financing.
- 6.061. Changes in Method of Financing.
- 6.07. Taxing Unit Boundaries.
- 6.08. Notice of Optional Exemptions.
- 6.09. Designation of District Depository.
- 6.10. Disapproval of Board Actions.
- 6.11. Competitive Bidding Requirement.

SUBCHAPTER B. ASSESSORS AND COLLECTORS

- 6.21. County Assessor-Collector.
- 6.22. Assessor and Collector for Other Taxing Units.
- 6.23. Duties of Assessor and Collector.
- 6.24. Contracts for Assessment and Collection.
- 6.25. Repealed.
- 6.26. Election to Consolidate Assessing and Collecting Functions.
- 6.27. Compensation for Assessment and Collection.
- 6.28. Bonds for State and County Taxes.
- 6.29. Bonds for Other Taxes.
- 6.30. Attorneys Representing Taxing Units.

SUBCHAPTER C. APPRAISAL REVIEW BOARD

- 6.41. Appraisal Review Board.
- 6.42. Organization, Meetings, and Compensation.
- 6.43. Personnel.

SUBCHAPTER A. APPRAISAL DISTRICTS

§ 6.01. Appraisal Districts Established

(a) An appraisal district is established in each county.

(b) The district is responsible for appraising property in the district for ad valorem tax purposes of the state and of each taxing unit that imposes ad valorem taxes on property in the district.

(c) An appraisal district is a political subdivision of the state.

[Acts 1979, 66th Leg., p. 2224, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, §§ 12, 13, eff. Aug. 14, 1981.]

Section 161 of the 1981 amendatory act provides:

"(a) The appraisal district may postpone appraising property in the district until 1983 or 1984 as authorized by this section.

"(b) If an appraisal district postpones appraising property until 1983, the taxing units shall appraise property during 1982 as provided by Subsection (d) and Subsections (h) through (j) of this section. If an appraisal district postpones appraising property for all taxing units until 1984, the district and taxing units shall appraise property during 1982 and 1983 as provided by Subsections (e) through (j) of this section.

"(c) The decision under this section to postpone must be made by resolution adopted by the governing bodies of two-thirds of the taxing units entitled to vote on appointment of the members of the district board of directors. The resolution must specify the postponement date and must be filed with the secretary of the appraisal district board of directors before October 1, 1981. The secretary of the board, on October 1, shall count the resolutions that were timely filed and notify each taxing unit participating in the district of the result.

"(d) If an appraisal district postpones appraising property until 1983, the tax assessor for a taxing unit shall prepare appraisal records and appraise property for that unit and all other taxing units for which he is the tax assessor by law or intergovernmental contract for purposes of 1982 taxes. He shall exercise all powers and duties of the chief appraiser and the appraisal office relating to administration of ad valorem taxes for those units. During the one-year period of postponement, Subchapter A, Chapter 6, Tax Code, governs the allocation of the district's costs.

"(e)(1) If an appraisal district postpones appraising for all taxing units until 1984, the district shall appraise property as provided by this subsection.

"(2)(i) In 1982, except as provided by Subdivision (2)(ii) of this subsection, an appraisal district that postpones appraisal for all taxing units until 1984 shall appraise all property in the territory of the most populous city, according to the 1980 federal census, that participates in the district and in the territory of the school district that participates in the district that had the highest average daily attendance in the 1980-1981 school year.

"(ii) An appraisal district may, by resolution adopted by its board of directors, elect to allow the tax assessor for the most populous city to appraise property during 1982 in the city and any taxing unit for which the city provides assessment or collection services by law or contract. The tax assessor for the most populous city shall exercise all the powers and duties of a chief appraiser and an appraisal office relating to administration of ad valorem taxes for those units.

"(iii) Notwithstanding any provision to the contrary in its charter, a home-rule city by ordinance may create and appoint an appraisal review board to equalize the values of all property appraised by the city. The city may prescribe the qualifications, compensation, and number of members of the board, except that a board must consist of not fewer than 5 or more than 30 members. A board of equalization appointed hereunder may sit in panels of not fewer than 3 members. The decision of a panel is final and may be appealed to the district court as provided by Chapter 42 of the Property Tax Code.

"(3) In 1983, the district shall appraise, in addition to all property in the territory included in Subdivision (2)(i) of this subsection, all property in the territory of each school district participating in the district that is contiguous to the school district that had the highest average daily attendance in the 1980-1981 school year.

"(4) In either 1982 or 1983, the district may appraise all property in the territory of any other taxing unit participating in the district if the governing body of the unit requests it to do so by resolution delivered to the secretary of the district's board of directors before October 1 of the year preceding the year for which it requests the district to appraise, and the board of directors of the district approves. A request made before October 1, 1981, applies to both 1982 and 1983. A request that has been approved by the board may not be revoked.

"(5) Operations by the district in 1982 and 1983 shall be in accordance with the Property Tax Code. The appraisal review board shall review the appraisal records on all territory appraised by the district and hear protests on those properties; the chief appraiser shall certify an appraisal roll to the tax assessor for each taxing unit participating in the district whose territory is entirely inside the area appraised by the district; and a taxing unit that receives a roll certified by the chief appraiser shall use that roll in assessing taxes.

"(f)(1) If an appraisal district postpones appraising for all taxing units until 1984, the district board of directors shall, by resolution, apportion the costs of operating the district in 1982 and 1983 among the taxing units participating in the district.

"(2) The resolution shall specify the approximate percentages of the 1982 and 1983 budgets that are allocable to each of the following activities:

- "(A) collection of data;
- "(B) appraisal of property;
- "(C) review and approval of appraisal records and hearing and determination of taxpayer protests;
- "(D) maintenance of records; and
- "(E) administration.

"(3) The resolution shall designate the taxing units that benefit from each activity specified in Subdivision (2) of this subsection in each year.

"(4) In each year, a taxing unit shall pay a proportionate share of the costs of each activity it benefits from. The district board of directors shall determine the unit's proportionate share on the basis of the benefit the unit receives from the activity in that year.

"(5) Before the board adopts a resolution under this subsection, the secretary of the board shall deliver a copy of the proposed resolution to the presiding officer of each taxing unit participating in the district, together with a notice of the date, time, and place the board will hold a hearing on the proposal.

"(6) The board shall hold the hearing on the proposed resolution not less than 14 days or more than 21 days after the date a copy is delivered under Subdivision (5) of this subsection.

"(7) The board shall complete its hearings, make any amendments to the proposed resolution it desires, and adopt the resolution before December 15, 1981.

"(8) The board may amend the adopted resolution at any time, but the secretary of the board must deliver a copy of the proposed amendment to the presiding officer of the governing body of each taxing unit participating in the district not later than the 30th day before the date the board acts on it.

"(9) A resolution adopted as provided by this subsection governs the allocation of district costs in 1982 and 1983 and is binding on all taxing units participating in the district.

"(g) The tax assessor for a taxing unit that is not required to use an appraisal roll certified by the chief appraiser during a particular year shall prepare appraisal records and appraise property for that unit for that year. He shall exercise all powers and duties of the chief appraiser and the appraisal office relating to administration of ad valorem taxes for that unit.

"(h) A property owner or other person required or permitted by the Tax Code to file or deliver a document or other matter to the chief appraiser or appraisal office complies with the law with respect to taxation by a taxing unit that is not required to use an appraisal roll certified by the chief appraiser during a particular year if he files or delivers it to the tax assessor for that taxing unit.

"(i)(1) The governing body of each taxing unit that employs a tax assessor who prepares appraisal records and appraises property shall appoint an appraisal review board as provided by Subchapter C, Chapter 6, Tax Code. The residence requirements of Section 6.41(c), Tax Code, are satisfied if an individual resides in the territory appraised by that tax assessor.

"(2) An appraisal review board appointed as provided by this subsection shall exercise the powers and duties prescribed by the Tax Code for an appraisal review board but only with respect to the appraisal roll prepared by the tax assessor for the taxing unit that appointed that board.

"(j) For the purposes of administering the provisions of the Tax Code other than Subchapter A, Chapter 6, the governing body of a taxing unit that employs a tax assessor who prepares appraisal records and appraises property shall exercise the powers and duties of the appraisal district board of directors, and the appraisal district includes the territory appraised by that tax assessor.

"(k) An irrigation district organized under Chapter 58, Water Code, that has territory in two counties may postpone joining an appraisal district until January 1, 1984. During the postponement, Subsections (h)-(j) of this section govern appraisal and equalization of property for the irrigation district.

"(l) An action under this section that occurred before this Act takes effect is valid after this Act takes effect if it conformed to the requirements of this section.

"(m) This section expires January 1, 1984."

### § 6.02. District Boundaries

(a) Except as otherwise provided by this section, the appraisal district's boundaries are the same as the county's boundaries.

(b) A taxing unit that has boundaries extending into two or more counties may choose to participate in only one of the appraisal districts. In that event, the boundaries of the district chosen extend outside the county to the extent of the unit's boundaries. If the unit chooses to participate in a district other than the district for the county in which the greatest number of its parcels of taxable real property are located, the choice must be approved by resolution of the board of directors of the district chosen.

(c) A taxing unit that chooses to participate in only one appraisal district as provided by Subsection (b) of this section must make the choice by an official action of its governing body in the manner required by law for official action by the body adopted at least 90 days before the first day of the tax year in which appraisal districts first begin appraising property for ad valorem tax purposes or, if the unit is newly created, at least 90 days before the first day of the next tax year after the year in which it is created. The choice made by a taxing unit is binding and may not be repealed or modified while the unit's boundaries extend into the county in which the appraisal district it joins is located. However, if the unit ceases to have territory in that county but still has territory in two or more counties, the unit may choose to participate in only one district in the manner prescribed by this subsection. The choice must be made at least 90 days before the first day of the next tax year.

(d) Repealed by Acts 1981, 67th Leg., 1st C.S., p. 182, ch. 13, § 167(a), eff. Aug. 14, 1981.

(e) All costs of operating an appraisal district in territory outside the county for which the appraisal

district is established are allocated to the taxing unit that chooses to add that territory to the district. If two or more taxing units add the same territory to an appraisal district, costs of operating the district in that territory are allocated to the units in the proportion the total dollar amount of taxes each unit imposes in that territory bears to the total dollar amount of taxes all taxing units participating in the appraisal district impose in that territory.

[Acts 1979, 66th Leg., p. 2224, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 120, ch. 13, §§ 14, 167(a), eff. Aug. 14, 1981.]

Sections 157 and 158 of the 1981 amendatory act provide:

"Sec. 157. Change of Appraisal Districts. (a) A taxing unit that has territory in more than one county and has chosen to participate in only one appraisal district may change to another appraisal district before October 1, 1981, subject to the provisions of this section. A choice to change appraisal districts that was made before this Act takes effect is valid after this Act takes effect if it conformed to this section.

"(b) If a taxing unit changes to another appraisal district, the unit may not receive a refund of money paid to the district it leaves and shall pay to the district it joins, in addition to the costs of adding its additional territory to the district, its proportionate share of the costs previously incurred by the district (excluding personnel costs) in preparation for operation under the Property Tax Code and its share of operating the district for the remainder of 1981.

"(c) The unit's proportionate share of previously incurred costs is calculated as if it had joined the district before 1981. The board of directors of the district shall provide for a refund to each unit that previously paid money to the district of that unit's proportionate share of the money recovered from the newly joining unit for previously incurred costs.

"(d) The requirement by Section 6.02(b), Property Tax Code, as amended by this Act, that an appraisal district board of directors consent to the choice by a taxing unit to have all its territory included in that appraisal district applies only to a choice first made in 1981. A choice made before 1981 continues in effect and does not require consent of the appraisal district board of directors.

"Sec. 158. Costs for County Joining Appraisal District. (a) When a county that has not previously participated in the appraisal district begins participation as required by this Act, it shall pay to the district its proportionate share of the costs previously incurred by the district (excluding personnel costs) in preparation for operation under the Property Tax Code and its share of operating the district for the remainder of 1981.

"(b) The county's proportionate share of previously incurred costs is calculated as if it had joined the district before 1981. The board of directors of the district shall provide for a refund to each unit that previously paid money to the district of that unit's proportionate share of the money received from the county for previously incurred costs."

### § 6.03. Board of Directors

(a) The appraisal district is governed by a board of five directors. To be eligible to serve on the board of directors, an individual must be a resident of the district and must have resided in the district for at least two years immediately preceding the date he takes the office. An individual who is otherwise eligible to serve on the board is not ineligible because of membership on the governing body of a taxing unit. However, not more than one employee of a taxing unit may serve on the board at one time. If more than one employee is appointed to the board, the employee receiving the highest vote total serves, and the taxing unit that nominated each of the other employees appointed to the board shall name a replacement who is not an employee of a taxing unit.

(b) Members of the board of directors serve two-year terms beginning on January 1 of even-numbered years.

(c) Members of the board of directors are appointed by vote of the governing bodies of the incorporated cities and towns and the school districts that participate in the district and of the county. A governing body may cast all its votes for one candidate or distribute them among candidates for any number of directorships.

(d) The voting entitlement of a taxing unit that is entitled to vote for directors is determined by dividing the total dollar amount of property taxes imposed in the district by the taxing unit for the preceding tax year by the sum of the total dollar amount of property taxes imposed in the district for that year by each taxing unit that is entitled to vote, by multiplying the quotient by 1,000, and by rounding the product to the nearest whole number. That number is multiplied by the number of directorships to be filled. A taxing unit participating in two or more districts is entitled to vote in each district in which it participates, but only the taxes imposed in a district are used to calculate voting entitlement in that district.

(e) The county clerk shall calculate the number of votes to which each taxing unit is entitled and shall deliver written notice to the presiding officer of the governing body of each unit of its voting entitlement before October 1 of each odd-numbered year.

(f) Each taxing unit that is entitled to vote may nominate by resolution adopted by its governing body one candidate for each position to be filled on the board of directors. The presiding officer of the governing body of the unit shall submit the names of the unit's nominees to the county clerk before October 15. Before October 30, the county clerk shall prepare a ballot, listing the candidates alphabetically according to the first letter in each candidate's surname, and shall deliver a copy of the ballot to the presiding officer of the governing body of each taxing unit that is entitled to vote.

(g) The governing body of each taxing unit entitled to vote shall determine its vote by resolution and submit it to the county clerk before November 15. The county clerk shall count the votes, declare the five candidates who receive the largest cumulative vote totals elected, and submit the results before December 1 to the governing body of each taxing unit in the district and to the candidates. The county clerk shall resolve a tie vote by any method of chance.

(h) If a vacancy occurs on the board of directors, each taxing unit that is entitled to vote by this section may nominate by resolution adopted by its governing body a candidate to fill the vacancy. The unit shall submit the name of its nominee to the county clerk within 10 days after notification from the board of directors of the existence of the vacancy, and the county clerk shall prepare and deliver to the board of directors within the next five days a list of the nominees. The board of directors shall elect by majority vote of its members one of the nominees to fill the vacancy.

(i) Repealed by Acts 1981, 67th Leg., 1st C.S., p. 182, ch. 13, § 167(a), eff. Aug. 14, 1981. [Acts 1979, 66th Leg., p. 2224, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 120, ch. 13, §§ 15, 167(a), eff. Aug. 14, 1981.]

Section 1 of Acts 1979, 66th Leg., p. 2217, ch. 841, enacted Title 1 of the Tax Code, the Property Tax Code. Section 3 of said Act was the effective date provision. Subsection (c) thereof provided, in part:

"(1) Except as otherwise provided by this subsection, Subchapter A of Chapter 6 takes effect January 1, 1980.

"(2) For the purpose of appointing the first members of the appraisal district board of directors, Section 6.03 takes effect September 1, 1979."

Section 156(a) of the 1981 amendatory act provides:

"A change in the membership of an appraisal district board of directors or in the method of selection that was made under Section 6.03(l), Property Tax Code, prior to the effective date of this Act expires December 31, 1981, and does not apply to appointment of members for terms beginning January 1, 1982, unless the change conforms to and is proposed anew as provided by Section 6.031, Property Tax Code, as added by this Act. A change proposed after August 15, 1981, but before this Act takes effect, is valid and applies to appointments to terms beginning in 1982 if it conforms to Section 6.031, Property Tax Code, as added by this Act.

**§ 6.031. Changes in Board Membership or Selection**

(a) The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the district before August 15, may increase the number of members on the board of directors of the district to not more than 13, change the method or procedure for appointing the members, or both, unless the governing body of a taxing unit that is entitled to vote on the appointment of board members adopts a resolution opposing the change, and files it with the board of directors before September 1. If a change is rejected, the board shall notify, in writing, each taxing unit participating in the district before September 15.

(b) The taxing units participating in an appraisal district may increase the number of members on the board of directors of the district to not more than 13, change the method or procedure for appointing the members, or both, if the governing bodies of three-fourths of the taxing units that are entitled to vote on the appointment of board members adopt resolutions providing for the change. However, a change under this subsection is not valid if it reduces the voting entitlement of one or more taxing units that do not adopt a resolution proposing it to less than a majority of the voting entitlement under Section 6.03 of this code or if it reduces the voting entitlement of any taxing unit that does not adopt a resolution proposing it to less than 50 percent of its voting entitlement under Section 6.03 of this code and if that taxing unit's allocation of the budget is not reduced to the same proportional percentage amount, or if it expands the types of taxing units that are entitled to vote on appointment of board members.

(c) An official copy of a resolution under this section must be filed with the county clerk of the county the appraisal district primarily serves after June 30 and before October 1 of a year in which board members are appointed or the resolution is ineffective.

(d) Before October 5 of each year in which board members are appointed, the county clerk shall determine whether a sufficient number of eligible taxing units have filed valid resolutions proposing a change for the change to take effect. The clerk shall notify each taxing unit participating in the district of each change that is adopted before October 10.

(e) A change in membership or selection made as provided by this section remains in effect until

changed in a manner provided by this section or rescinded by resolution of a majority of the governing bodies that are entitled to vote on appointment of board members under Section 6.03 of this code.

(f) A provision of Section 6.03 of this code that is subject to change under this section but is not expressly changed by resolution of a sufficient number of eligible taxing units remains in effect.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 121, ch. 13, § 16, eff. Aug. 14, 1981.]

Section 156(a) of the 1981 Act provides:

"A change in the membership of an appraisal district board of directors or in the method of selection that was made under Section 6.03(i), Property Tax Code, prior to the effective date of this Act expires December 31, 1981, and does not apply to appointment of members for terms beginning January 1, 1982, unless the change conforms to and is proposed anew as provided by Section 6.031, Property Tax Code, as added by this Act. A change proposed after August 15, 1981, but before this Act takes effect, is valid and applies to appointments to terms beginning in 1982 if it conforms to Section 6.031, Property Tax Code, as added by this Act."

#### § 6.04. Organization, Meetings, and Compensation

(a) A majority of the appraisal district board of directors constitutes a quorum. At its first meeting each calendar year, the board shall elect from its members a chairman and a secretary.

(b) The board may meet at any time at the call of the chairman or as provided by board rule. The board shall meet on October 1 of each year to receive the chief appraiser's proposed budget.

(c) Members of the board may not receive compensation for service on the board but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties as provided by the budget adopted by the board.

[Acts 1979, 66th Leg., p. 2225, ch. 841, § 1, eff. Jan. 1, 1980.]

#### § 6.05. Appraisal Office

(a) Except as authorized by Subsection (b) of this section, each appraisal district shall establish an appraisal office.

(b) The board of directors of an appraisal district may contract with an appraisal office in another district or with a taxing unit in the district to perform the duties of the appraisal office for the district.

(c) The chief appraiser is the chief administrator of the appraisal office. The chief appraiser is appointed by and serves at the pleasure of the appraisal district board of directors. If a taxing unit performs the duties of the appraisal office pursuant to a contract, the assessor for the unit is the chief appraiser.

(d) The chief appraiser is entitled to compensation as provided by the budget adopted by the board of directors. He may employ and compensate professional, clerical, and other personnel as provided by the budget.

(e) The chief appraiser may delegate authority to his employees.

[Acts 1979, 66th Leg., p. 2224, ch. 841, § 1, eff. Jan. 1, 1980.]

Section 1 of Acts 1979, 66th Leg., p. 2217, ch. 841, enacted Title 1 of the Tax Code, the Property Tax Code. Section 3 of said Act was the effective date provision. Subsection (k) thereof provided:

1 West's Tex.Stats. & Codes '81 Supp.—35

"For purposes of applying the parts of the Property Tax Code that take effect before January 1, 1982, 'appraisal office,' 'appraisal district,' and 'chief appraiser' mean the office or officer, as applicable, that appraises property for the tax purposes of a taxing unit."

Acts 1981, 67th Leg., 1st C.S., p. 181, ch. 13, § 164, provides:

"Appraisers Prohibited. Effective January 1, 1984, a taxing unit may not employ any person for the purpose of appraising property for taxation purposes except to the extent necessary to perform a contract under Section 6.05(b), Property Tax Code."

#### § 6.06. Appraisal District Budget and Financing

(a) Each year the chief appraiser shall prepare a proposed budget for the operations of the district for the following tax year and shall submit copies to each taxing unit participating in the district and to the district board of directors before June 15. He shall include in the budget a list showing each proposed position, the proposed salary for the position, all benefits proposed for the position, each proposed capital expenditure, and an estimate of the amount of the budget that will be allocated to each taxing unit.

(b) The board of directors shall hold a public hearing to consider the budget. The secretary of the board shall deliver to the presiding officer of the governing body of each taxing unit participating in the district not later than the 10th day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The board shall complete its hearings, make any amendments to the proposed budget it desires, and finally approve a budget before September 15. If governing bodies of a majority of the taxing units entitled to vote on the appointment of board members adopt resolutions disapproving a budget and file them with the secretary of the board within 30 days after its adoption, the budget does not take effect, and the board shall adopt a new budget within 30 days of the disapproval.

(c) The board may amend the approved budget at any time, but the secretary of the board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the district not later than the 30th day before the date the board acts on it.

(d) Each taxing unit participating in the district is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the district by the unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the district by each participating unit for that year. If a taxing unit participates in two or more districts, only the taxes imposed in a district are used to calculate the unit's cost allocations in that district. If the number of real property parcels in a taxing unit is less than 5 percent of the total number of real property parcels in the district and the taxing unit imposes in excess of 25 percent of the total amount of the property taxes imposed in the district by all of the participating taxing units for a year, the unit's allocation may not exceed a percentage of the appraisal district's

budget equal to three times the unit's percentage of the total number of real property parcels appraised by the district.

(e) Unless the governing body of a unit and the chief appraiser agree to a different method of payment, each taxing unit shall pay its allocation in four equal payments to be made at the end of each calendar quarter, and the first payment shall be made before January 1 of the year in which the budget takes effect. A payment is delinquent if not paid on the date it is due. A delinquent payment incurs a penalty of 5 percent of the amount of the payment and accrues interest at an annual rate of 10 percent. If the budget is amended, any change in the amount of a unit's allocation is apportioned among the payments remaining.

(f) Payments shall be made to a depository designated by the district board of directors. The district's funds may be disbursed only by a written check, draft, or order signed by the chairman and secretary of the board or, if authorized by resolution of the board, by the chief appraiser.

(g) If a taxing unit decides not to impose taxes for any tax year, the unit is not liable for any of the costs of operating the district in that year, and those costs are allocated among the other taxing units as if that unit had not imposed taxes in the year used to calculate allocations. However, if that unit has made any payments, it is not entitled to a refund.

(h) If a newly formed taxing unit or a taxing unit that did not impose taxes in the preceding year imposes taxes in any tax year, that unit is allocated a portion of the amount budgeted to operate the district as if it had imposed taxes in the preceding year, except that the amount of taxes the unit imposes in the current year is used to calculate its allocation. Before the amount of taxes to be imposed for the current year is known, the allocation may be based on an estimate to which the district board of directors and the governing body of the unit agree, and the payments made after that amount is known shall be adjusted to reflect the amount imposed. The payments of a newly formed taxing unit that has no source of funds are postponed until the unit has received adequate tax or other revenues.

[Acts 1979, 66th Leg., p. 2226, ch. 841, § 1, eff. Jan. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 122, ch. 13, §§ 17, 18, eff. Aug. 14, 1981.]

Section 1 of Acts 1981, 67th Leg., p. 2217, ch. 841, enacted Title 1 of the Tax Code, the Property Tax Code. Section 3 of said Act was the effective date provision. Subdivisions (c)(3) to (c)(6) thereof provided:

"(3) Section 6.06 takes effect January 1, 1981. However, for the purpose of preparing and adopting a budget for 1981, Subsections (a) through (c) of Section 6.06 take effect September 1, 1980. The board shall perform the chief appraiser's functions as provided by Section 6.06 before the district employs a chief appraiser.

"(4) Between January 1, 1980, and January 1, 1982, the appraisal district board of directors shall prepare for the district's operations pursuant to the Property Tax Code. The board of directors shall establish, equip, and staff the appraisal office before January 1, 1982. In 1980, the board of directors shall operate with funds distributed by the State Property Tax Board and in 1981 shall operate with the state funds and with the money paid to the district pursuant to Section 6.06, Property Tax Code.

"(5) Before January 1, 1982, the appraisal district may contract as provided by the Interlocal Cooperation Act [Civil Statutes, art. 4413(32c)] to perform appraisal services for any taxing unit within the district. A contract authorized by this subsection must provide that each contracting taxing unit pay the actual costs of the appraisal services performed for it and that a board of equalization appointed by the district's board of directors serve as board of equalization for the unit.

"(6) For the purposes of a contract authorized by this subsection, the appraisal district board of directors shall appoint three residents of the district to serve as a board of equalization each year the district appraises property pursuant to a contract authorized by this subsection. The board of directors shall designate one of its appointees to serve as chairman of the board of equalization. Members of the board of equalization are entitled to per diem set by the board of directors for each day the board meets. Before the board of equalization begins to perform its duties, each member shall take an oath in substantially the form required by Article 7215, Revised Civil Statutes of Texas, 1925. The appraisal district board of equalization has the powers and shall perform the duties of the county board of equalization as provided by Title 122, Revised Civil Statutes of Texas, 1925, as amended."

Section 156(b) and (c) of the 1981 amendatory act provides:

"(b) A change in the allocation among taxing units of the costs of operating an appraisal district that was made under Section 6.06(d), Property Tax Code, prior to the effective date of this Act expires December 31, 1981, and does not apply to allocation of cost for 1982 unless the change conforms to and is proposed anew as provided by Section 6.061 Property Tax Code, as added by this Act.

"(c) The deadlines provided by Sections 6.06 and 6.061, Property Tax Code, as amended by this Act, do not apply in 1981. In 1981, a change in the allocation of costs of operating an appraisal district must be made by resolutions filed with the county clerk before October 1 or within 10 days after this Act takes effect, whichever is later; the county clerk must certify the change, if any, before October 10 or within 20 days after this Act takes effect, whichever is later; the chief appraiser shall submit the district's budget before October 1; and the budget must be adopted before December 1."

§ 6.061. Changes in Method of Financing

(a) The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the district after June 15 and before August 15, may prescribe a different method of allocating the costs of operating the district unless the governing body of any taxing unit that participates in the district adopts a resolution opposing the different method, and files it with the board of directors before September 1. If a board proposal is rejected, the board shall notify, in writing, each taxing unit participating in the district before September 15.

(b) The taxing units participating in an appraisal district may adopt a different method of allocating the costs of operating the district if the governing bodies of three-fourths of the taxing units that are entitled to vote on the appointment of board members adopt resolutions providing for the other method. However, a change under this subsection is not valid if it requires any taxing unit to pay a greater proportion of the appraisal district's costs than the unit would pay under Section 6.06 of this code without the consent of the governing body of that unit.

(c) An official copy of a resolution under this section must be filed with the county clerk of the county the appraisal district primarily serves after April 30 and before May 15 or the resolution is ineffective.

(d) Before May 20, the county clerk shall determine whether a sufficient number of eligible taxing units have filed valid resolutions proposing a change in the allocation of district costs for the change to take effect. Before May 25, the clerk shall notify each taxing unit participating in the district of each change that is adopted.

(e) A change in allocation of district costs made as provided by this section remains in effect until changed in a manner provided by this section or rescinded by resolution of a majority of the governing bodies that are entitled to vote on appointment of board members under Section 6.03 of this code. [Added by Acts 1981, 67th Leg., 1st C.S., p. 123, ch. 13, § 19, eff. Aug. 14, 1981.]

Section 156(b) and (c) of the 1981 Act provides:

"(b) A change in the allocation among taxing units of the costs of operating an appraisal district that was made under Section 6.06(d), Property Tax Code, prior to the effective date of this Act expires December 31, 1981, and does not apply to allocation of cost for 1982 unless the change conforms to and is proposed anew as provided by Section 6.061, Property Tax Code, as added by this Act.

"(c) The deadlines provided by Sections 6.06 and 6.061, Property Tax Code, as amended by this Act, do not apply in 1981. In 1981, a change in the allocation of costs of operating an appraisal district must be made by resolutions filed with the county clerk before October 1 or within 10 days after this Act takes effect, whichever is later; the county clerk must certify the change, if any, before October 10 or within 20 days after this Act takes effect, whichever is later; the chief appraiser shall submit the district's budget before October 1; and the budget must be adopted before December 1."

### § 6.07. Taxing Unit Boundaries

If a new taxing unit is formed or an existing taxing unit's boundaries are altered, the unit shall notify the appraisal office of the new boundaries within 30 days after the date the unit is formed or its boundaries are altered.

[Acts 1979, 66th Leg., p. 2227, ch. 841, § 1, eff. Jan. 1, 1980.]

### § 6.08. Notice of Optional Exemptions

If a taxing unit adopts, amends, or repeals an exemption that the unit by law has the option to adopt or not, the taxing unit shall notify the appraisal office of its action and of the terms of the exemption within 30 days after the date of its action.

[Acts 1979, 66th Leg., p. 2227, ch. 841, § 1, eff. Jan. 1, 1980.]

### § 6.09. Designation of District Depository

(a) The appraisal district depository must be a banking corporation incorporated under the laws of this state or the United States or a savings and loan association in this state whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

(b) The appraisal district board of directors shall designate as the district depository the financial institution or institutions that offer the most favorable terms and conditions for the handling of the district's funds.

(c) The board shall solicit bids to be designated as depository for the district at least once in each two-year period.

(d) To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties. [Added by Acts 1981, 67th Leg., 1st C.S., p. 124, ch. 13, § 20, eff. Aug. 14, 1981.]

### § 6.10. Disapproval of Board Actions

If the governing bodies of a majority of the taxing units entitled to vote on the appointment of board members adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board of directors and file them with the secretary of the board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 124, ch. 13, § 21, eff. Aug. 14, 1981.]

### § 6.11. Competitive Bidding Requirement

(a) The board of directors of an appraisal district may not make a contract requiring an expenditure of more than \$5,000 unless the proposed contract is submitted to competitive bidding.

(b) The board of directors is subject to the same requirements and has the same powers regarding the following matters as apply to a commissioners court under The Certificate of Obligation Act of 1971 (Article 2368a.1, Vernon's Texas Civil Statutes):

- (1) notice of the contract;
- (2) issuance of the contract to the lowest responsible bidder;
- (3) rejection of bids;
- (4) expenditure of funds on the completion and acceptance of the contract;
- (5) exceptions to the competitive bidding requirement;
- (6) change orders; and
- (7) effect of noncompliance with the competitive bidding requirements.

(c) The notice of the contract shall be published in a newspaper of general circulation in the district. If there is no newspaper of general circulation in the district, the notice shall be posted at the appraisal office for the district.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 124, ch. 13, § 21, eff. Aug. 14, 1981.]

[Sections 6.12 to 6.20 reserved for expansion]

## SUBCHAPTER B. ASSESSORS AND COLLECTORS

### § 6.21. County Assessor-Collector

(a) The assessor-collector for a county is determined as provided by Article VIII, Sections 14, 16, and 16a, of the Texas Constitution.

(b) If a county with a population of less than 10,000 authorizes a separate county assessor-collector as provided by Article VIII, Section 16a, of the Texas Constitution, the commissioners court may appoint a county assessor-collector to serve until an assessor-collector is elected at the next general election and has qualified.

[Acts 1979, 66th Leg., p. 2227, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 6.22. Assessor and Collector for Other Taxing Units

(a) The assessor and collector for a taxing unit other than a county or a home-rule city are determined by the law creating or authorizing creation of the unit.

(b) The assessor and collector for a home-rule city are determined by the city's charter and ordinances.

(c) The governing body of a taxing unit authorized to have its own assessor and collector by official action in the manner required by law for official action by the body may require the county to assess

and collect the taxes the unit imposes in the county in the manner in which the county assesses and collects its taxes. The governing body of the unit may revoke the requirement at any time by the same official action.

[Acts 1979, 66th Leg., p. 2227, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 6.23. Duties of Assessor and Collector**

(a) The county assessor-collector shall assess and collect taxes on property in the county for the state and the county. He shall also assess and collect taxes on property for another taxing unit if:

(1) the law creating or authorizing creation of the unit requires it to use the county assessor-collector for the taxes the unit imposes in the county;

(2) the law creating or authorizing creation of the unit does not mention who assesses and collects its taxes and the unit imposes taxes in the county;

(3) the governing body of the unit requires the county to assess and collect its taxes as provided by Subsection (c) of Section 6.22 of this code; or

(4) required by an intergovernmental contract.

(b) The assessor and collector for a taxing unit other than a county shall assess, collect, or assess and collect taxes, as applicable, for the unit. He shall also assess, collect, or assess and collect taxes, as applicable, for another unit if:

(1) required by or pursuant to the law creating or authorizing creation of the other unit; or

(2) required by an intergovernmental contract.

[Acts 1979, 66th Leg., p. 2227, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 125, ch. 13, § 22, eff. Jan. 1, 1982.]

**§ 6.24. Contracts for Assessment and Collection**

(a) The governing body of a taxing unit other than a county may contract as provided by the Interlocal Cooperation Act<sup>1</sup> with the governing body of another unit or with the board of directors of an appraisal district for the other unit or the district to perform duties relating to the assessment or collection of taxes.

(b) The commissioners court with the approval of the county assessor-collector may contract as provided by the Interlocal Cooperation Act with the governing body of another taxing unit in the county or with the board of directors of the appraisal district for the other unit or the district to perform duties relating to the assessment or collection of taxes for the county. If a county contracts to have its taxes assessed and collected by another taxing unit or by the appraisal district, the contract shall require the other unit or the district to assess and collect all taxes the county is required to assess and collect.

(c) To be effective, a contract between a county and another taxing unit or an appraisal district for the assessment and collection of state taxes must be approved by the State Property Tax Board.

(d) A contract under this section may provide for the entity that collects taxes to contract with an attorney, as provided by Section 6.30 of this code, for collection of delinquent taxes.

[Acts 1979, 66th Leg., p. 2228, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 125, ch. 13, §§ 23, 24, eff. Jan. 1, 1982.]

<sup>1</sup> Civil Statutes, art. 4413(32c).

**§ 6.25. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 182, ch. 13, § 167(a), eff. Jan. 1, 1982.**

The repealed section, relating to county contract appraisal district, was derived from Acts 1979, 66th Leg., p. 2228, ch. 841, § 1, eff. Jan. 1, 1982.

**§ 6.26. Election to Consolidate Assessing and Collecting Functions**

(a) The qualified voters residing in an appraisal district by petition may require that an election be held to determine whether or not to require the appraisal district, the county assessor-collector, or a specified taxing unit within the appraisal district to assess, collect, or assess and collect property taxes on property appraised by the district for all taxing units.

(b) The qualified voters of a taxing unit that assesses, collects, or assesses and collects its own property taxes by petition may require that an election be held to determine whether or not to require the appraisal district, the county assessor-collector, or another taxing unit that is assessing and collecting property taxes to assess, collect, or assess and collect the unit's property taxes.

(c) A petition is valid if:

(1) it states that it is intended to require an election in the appraisal district or taxing unit on the question of consolidation of assessing or collecting functions or both;

(2) it states the functions to be consolidated and identifies the entity or office that will be required to perform the functions; and

(3) it is signed by a number of qualified voters equal to at least 10 percent of the number of qualified voters, according to the most recent official list of qualified voters, residing in the appraisal district, if the petition is authorized by Subsection (a) of this section, or in the taxing unit, if the petition is authorized by Subsection (b) of this section, or by 10,000 qualified voters, whichever number is less.

(d) Not later than the 10th day after the day the petition is submitted, the board of directors of the appraisal district, if the petition is authorized by Subsection (a) of this section, or the governing body of the taxing unit, if the petition is authorized by Subsection (b) of this section, shall determine whether the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.

(e) If the board of directors or the governing body finds that the petition is valid (or fails to act within

the time allowed), it shall order that an election be held in the district or taxing unit on the next uniform election date prescribed by the Texas Election Code that is more than 60 days after the last day on which it could have acted to approve or disapprove the petition. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Requiring the (name of entity or office) to (assess, collect, or assess and collect, as applicable) property taxes for (all taxing units in the appraisal district for \_\_\_\_\_ county or name of taxing unit or units, as applicable)."

(f) If a majority of the qualified voters voting on the question in the election favor the proposition, the entity or office named by the ballot shall perform the functions named by the ballot beginning with the next time property taxes are assessed or collected, as applicable, that is more than 90 days after the date of the election. If the governing bodies (and appraisal district board of directors when the district is involved) agree, a function may be consolidated when performance of the function begins in less than 90 days after the date of the election.

(g) A taxing unit shall pay the actual cost of performance of the functions to the office or entity that performs functions for it pursuant to an election as provided by this section.

(h) If a taxing unit is required by election pursuant to Subsection (b) of this section to assess, collect, or assess and collect property taxes for another taxing unit, it also shall perform the functions for all taxing units for which the other unit previously performed those functions pursuant to law or inter-governmental contract.

(i) If functions are consolidated by an election, a taxing unit may not terminate the consolidation within two years after the date of the consolidation.

(j) An appraisal district may not be required by an election to assess, collect, or assess and collect taxes on property outside the district's boundaries. A taxing unit may not be required by an election to assess, collect, or assess and collect taxes on property outside the boundaries of the appraisal district that appraises property for the unit.

[Acts 1979, 66th Leg., p. 2229, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 125, ch. 13, § 25, eff. Jan. 1, 1982.]

#### § 6.27. Compensation for Assessment and Collection

(a) For assessing and collecting state taxes, the county assessor-collector is entitled to a fee equal to two percent of the amount of state taxes collected in the county.

(b) The county assessor-collector is entitled to a reasonable fee, which may not exceed the actual costs incurred, for assessing and collecting taxes for a taxing unit pursuant to Subdivisions (1) through (3) of Subsection (a) of Section 6.23 of this code.

(c) The assessor or collector for a taxing unit other than a county is entitled to reasonable compensation, which may not exceed the actual costs incurred, for assessing or collecting taxes for a taxing unit pursuant to Subsection (b) of Section 6.23 of this code.

[Acts 1979, 66th Leg., p. 2230, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 125, ch. 13, § 26, eff. Jan. 1, 1982.]

#### § 6.28. Bonds for State and County Taxes

(a) To qualify for office, a person elected or appointed as county assessor-collector must, within 20 days after receiving notice of his election or appointment, give bonds to the state and to the county, conditioned on the faithful performance of his duties as assessor-collector.

(b) The bond for state taxes must be payable to the governor and his successors in office in an amount equal to five percent of the net state collections from motor vehicle sales and use taxes and motor vehicle registration fees in the county during the year ending August 31 preceding the date bond is given, except that the amount of bond may not be less than \$2,500 or more than \$100,000. To be effective, the bond must be approved by the commissioners court and the state comptroller of public accounts.

(c) The bond for county taxes must be payable to the commissioners court in an amount equal to 10 percent of the total amount of county taxes imposed in the preceding tax year, except that the amount of the bond may not be more than \$100,000. To be effective, the bond must be approved by the commissioners court.

(d) The state comptroller of public accounts or the commissioners court may require a new bond for state taxes at any time. The commissioners court may require a new bond for county taxes at any time. However, the total amount of state bonds or county bonds required of an assessor-collector may not exceed \$100,000 at one time. The commissioners court shall suspend the assessor-collector from office and begin removal proceedings if he fails to give new bond within a reasonable time after demand.

(e) The assessor-collector's official oath and bonds for state and county taxes shall be recorded in the office of the county clerk, and the county judge shall submit the bond for state taxes to the state comptroller of public accounts.

(f) A county shall pay a reasonable premium for the assessor-collector's bonds for state and county taxes out of the county general revenue fund on presentation to the commissioners court of a bill for the premium authenticated as required by law for other claims against the county. A court of competent jurisdiction may determine the reasonableness of any amount claimed as premium.

[Acts 1979, 66th Leg., p. 2230, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 126, ch. 13, § 27, eff. Jan. 1, 1982.]

§ 6.29. Bonds for Other Taxes

(a) A taxing unit, other than a county, that has its own collector shall require him to give bond conditioned on the faithful performance of his duties. To be effective, the bond must be made payable to and must be approved by the governing body of the unit in an amount determined by the governing body. The governing body may require a new bond at any time, and failure to give new bond within a reasonable time after demand is a ground for removal from office. The governing body may prescribe additional requirements for the bond.

(b) A taxing unit whose taxes are collected by the collector for another taxing unit may require the collector to give bond conditioned on the faithful performance of his duties. To be effective, the bond must be made payable to and must be approved by the governing body of the unit requiring bond in an amount determined by the governing body. The governing body may prescribe additional requirements for the bond.

(c) A taxing unit shall pay the premium for a bond required pursuant to this section from its general fund or as provided by intergovernmental contract.

[Acts 1979, 66th Leg., p. 2231, ch. 841, § 1, eff. Jan. 1, 1982.]

§ 6.30. Attorneys Representing Taxing Units

(a) The county attorney or, if there is no county attorney, the district attorney shall represent the state and county to enforce the collection of delinquent taxes if the commissioners court does not contract with a private attorney as provided by Subsection (c) of this section.

(b) The governing body of a taxing unit other than a county may determine who represents the unit to enforce the collection of delinquent taxes. If a taxing unit collects taxes for another taxing unit, the attorney representing the unit to enforce the collection of delinquent taxes may represent the other unit with consent of its governing body.

(c) The governing body of a taxing unit may contract with any competent attorney to represent the unit to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected.

(d) To be effective, a contract with an attorney for the collection of state taxes must be approved by the State Property Tax Board and the attorney general.

(e) A contract with an attorney that does not conform to the requirements of this section is void. [Acts 1979, 66th Leg., p. 2231, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 126, ch. 13, § 28, eff. Jan. 1, 1982.]

[Sections 6.31 to 6.40 reserved for expansion]

SUBCHAPTER C. APPRAISAL REVIEW BOARD

§ 6.41. Appraisal Review Board

(a) The appraisal review board is established for each appraisal district.

(b) The board consists of three members. However, the district board of directors by resolution of a majority of its members may increase the size of the appraisal review board to not more than nine members or, in a district established for a county with a population of at least 250,000, to not more than 15 members or, in a district established for a county with a population of at least 500,000, to not more than 30 members.

(c) To be eligible to serve on the board, an individual must be a resident of the district and must have resided in the district for at least two years. A member of the appraisal district board of directors or an officer or employee of the State Property Tax Board, the appraisal office, or a taxing unit is ineligible to serve on the board.

(d) Members of the board are appointed by resolution of a majority of the appraisal district board of directors. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(e) Members of the board hold office for terms of two years beginning January 1. The appraisal district board of directors by resolution shall provide for staggered terms, so that the terms of as close to one-half of the members as possible expire each year. In making the initial appointments, the board of directors shall designate those members who serve terms of one year.

[Acts 1979, 66th Leg., p. 2231, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, § 29, eff. Jan. 1, 1982.]

§ 6.42. Organization, Meetings, and Compensation

(a) A majority of the appraisal review board constitutes a quorum. The board shall elect a chairman and a secretary from its members.

(b) The board may meet at any time at the call of the chairman or as provided by rule of the board. The board shall meet to examine the appraisal records within 10 days after the date the chief appraiser submits the records to the board.

(c) Members of the board are entitled to per diem set by the appraisal district budget for each day the board meets and to reimbursement for actual and necessary expenses incurred in the performance of board functions as provided by the district budget. [Acts 1979, 66th Leg., p. 2232, ch. 841, § 1, eff. Jan. 1, 1982.]

§ 6.43. Personnel

The appraisal review board may employ legal counsel as provided by the district budget or use the services of the county attorney and may use the staff of the appraisal office for clerical assistance. [Acts 1979, 66th Leg., p. 2232, ch. 841, § 1, eff. Jan. 1, 1982.]

SUBTITLE C. TAXABLE PROPERTY  
AND EXEMPTIONS

CHAPTER 11. TAXABLE PROPERTY  
AND EXEMPTIONS

SUBCHAPTER A. TAXABLE PROPERTY

Section

- 11.01. Real and Tangible Personal Property.  
11.02. Intangible Personal Property.

SUBCHAPTER B. EXEMPTIONS

- 11.11. Public Property.  
11.12. Federal Exemptions.  
11.13. Residence Homestead.  
11.14. Household Goods and Personal Effects.  
11.15. Family Supplies.  
11.16. Farm Products.  
11.161. Implements of Farming or Ranching.  
11.17. Cemeteries.  
11.18. Charitable Organizations.  
11.19. Youth Spiritual, Mental, and Physical Development Associations.  
11.20. Religious Organizations.  
11.21. Schools.  
11.22. Disabled Veterans.  
11.23. Miscellaneous Exemptions.  
11.24. Historic Sites.  
11.25. Automobiles.  
11.26. Limitation of School Tax on Homesteads of Elderly.  
11.27. Solar and Wind-Powered Energy Devices.  
11.28. Property Exempted From City Taxation by Agreement.

SUBCHAPTER C. ADMINISTRATION OF EXEMPTIONS

- 11.41. Partial Ownership of Exempt Property.  
11.42. Exemption Qualification Date.  
11.43. Application for Exemption.  
11.431. Late Application for Homestead Exemption.  
11.44. Notice of Application Requirements.  
11.45. Action on Exemption Applications.  
11.46. Compilation of Partial Exemptions.  
11.47. Mail Survey of Residence Homesteads.

SUBCHAPTER A. TAXABLE PROPERTY

§ 11.01. Real and Tangible Personal Property

(a) All real and tangible personal property that this state has jurisdiction to tax is taxable unless exempt by law.

(b) This state has jurisdiction to tax real property if located in this state.

(c) This state has jurisdiction to tax tangible personal property if the property is:

- (1) located in this state for longer than a temporary period;
- (2) temporarily located outside this state and the owner resides in this state; or
- (3) used continually, whether regularly or irregularly, in this state.

(d) Goods, wares, ores (other than oil, gas, and other petroleum products), and merchandise are presumed to be in interstate commerce and/or are not to be located in this state for longer than a temporary period if the property is:

- (1) transported from outside this state into this state to be forwarded outside this state;

(2) detained in this state for assembling, storing, manufacturing, processing, or fabricating purposes; and

(3) not located in this state for longer than 175 days.

[Acts 1979, 66th Leg., p. 2233, ch. 841, § 1, eff. Jan. 1, 1980.]

§ 11.02. Intangible Personal Property

(a) Except as provided by Subsection (b) of this section, intangible personal property is not taxable.

(b) Stock in a banking corporation, intangible property of an unincorporated bank, intangible property of a transportation business listed in Subchapter A, Chapter 24 of this code,<sup>1</sup> and intangible property governed by Article 4.01, Insurance Code, or by Section 11.09, Texas Savings and Loan Act,<sup>2</sup> are taxable as provided by law, unless exempt by law, if this state has jurisdiction to tax those intangibles.

(c) This state has jurisdiction to tax intangible personal property, other than stock in a banking corporation, if the property is:

- (1) owned by a resident of this state; or
- (2) located in this state for business purposes.

(d) This state has jurisdiction to tax stock in a banking corporation that is incorporated in this state or, if the bank is a national bank, is located in this state.

[Acts 1979, 66th Leg., p. 2233, ch. 841, § 1, eff. Jan. 1, 1980.]

<sup>1</sup> Section 24.01 et seq.

<sup>2</sup> Civil Statutes, art. 852a, § 11.09.

[Sections 11.03 to 11.10 reserved for expansion]

SUBCHAPTER B. EXEMPTIONS

§ 11.11. Public Property

(a) Except as provided by Subsections (b) and (c) of this section, property owned by this state or a political subdivision of this state is exempt from taxation if the property is used for public purposes.

(b) Land owned by the Permanent University Fund is taxable for county purposes. Any notice required by Section 25.19 of this code shall be sent to the State Property Tax Board, and the board shall appear in behalf of the state in any protest or appeal relating to taxation of Permanent University Fund land.

(c) Agricultural or grazing land owned by a county for the benefit of public schools under Article VII, Section 6, of the Texas Constitution is taxable for all but state purposes. The county shall pay the taxes on the land from the revenue derived from the land. If revenue from the land is insufficient to pay the taxes, the county shall pay the balance from the county general fund.

*Text of subsection added effective January 1, 1984*

(d) Property owned by the state that is not used for public purposes is taxable. Property owned by a

state agency or institution is not used for public purposes if the property is rented or leased for compensation to a private business enterprise to be used by it for a purpose not related to the performance of the duties and functions of the state agency or institution or used to provide private residential housing for compensation to members of the public other than students and employees of the state agency or institution owning the property, unless the residential use is secondary to its use by an educational institution primarily for instructional purposes. Any notice required by Section 25.19 of this code shall be sent to the agency or institution that owns the property, and it shall appear in behalf of the state in any protest or appeal related to taxation of the property.

[Acts 1979, 66th Leg., p. 2234, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, § 30, eff. Jan. 1, 1984.]

Subsections (a) and (f) of § 168 of the 1981 amendatory act provide: "(a) An amendment by this Act of Subchapter B, Chapter 11, Property Tax Code, takes effect January 1, 1982."

"(f) Section 11.11(d), Property Tax Code, as added by this Act, takes effect January 1, 1984."

**§ 11.12. Federal Exemptions**

Property exempt from ad valorem taxation by federal law is exempt from taxation.

[Acts 1979, 66th Leg., p. 2234, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 11.13. Residence Homestead**

(a) A family or single adult is entitled to an exemption from taxation for state purposes and for the county purposes authorized in Article VIII, Section 1-a, of the Texas Constitution of \$3,000 of the assessed value of his residence homestead.

(b) An adult is entitled to exemption from taxation by a school district of \$5,000 of the appraised value of his residence homestead.

(c) In addition to the exemption provided by Subsection (b) of this section, an adult who is disabled or is 65 or older is entitled to an exemption from taxation by a school district of \$10,000 of the appraised value of his residence homestead.

(d) In addition to the exemptions provided by Subsections (b) and (c) of this section, an individual who is disabled or is 65 or older is entitled to an exemption from taxation by a taxing unit of a portion (the amount of which is fixed as provided by Subsection (e) of this section) of the appraised value of his residence homestead if the exemption is adopted either:

- (1) by the governing body of the taxing unit; or
- (2) by a favorable vote of a majority of the qualified voters of the taxing unit at an election called by the governing body of the taxing unit, and the governing body shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the taxing unit.

(e) The amount of an exemption adopted as provided by Subsection (d) of this section is \$3,000 of

the appraised value of the residence homestead unless a larger amount is specified by:

- (1) the governing body authorizing the exemption if the exemption is authorized as provided by Subdivision (1) of Subsection (d) of this section; or
- (2) the petition for the election if the exemption is authorized as provided by Subdivision (2) of Subsection (d) of this section.

(f) Once authorized, an exemption adopted as provided by Subsection (d) of this section may be repealed or decreased or increased in amount by the governing body of the taxing unit or by the procedure authorized by Subdivision (2) of Subsection (d) of this section. In the case of a decrease, the amount of the exemption may not be reduced to less than \$3,000 of the market value.

(g) If the residence homestead exemption provided by Subsection (d) of this section is adopted by a county that levies a tax for the county purposes authorized by Article VIII, Section 1-a, of the Texas Constitution, the residence homestead exemptions provided by Subsections (a) and (d) of this section may not be aggregated for the county tax purposes. An individual who is eligible for both exemptions is entitled to take only the exemption authorized as provided by Subsection (d) of this section for purposes of that county tax.

(h) Joint or community owners may not each receive the same exemption provided by or pursuant to this section for the same residence homestead in the same year. An eligible disabled person who is 65 or older may not receive both a disabled and an elderly residence homestead exemption but may choose either.

(i) The assessor and collector for a taxing unit may disregard the exemptions authorized by Subsection (b), (c), or (d) of this section and assess and collect a tax pledged for payment of debt without deducting the amount of the exemption if:

- (1) prior to adoption of the exemption, the unit pledged the taxes for the payment of a debt; and
- (2) granting the exemption would impair the obligation of the contract creating the debt.

(j) For purposes of this section, "residence homestead" means a structure (including a mobile home) or a separately secured and occupied portion of a structure (together with the land, not to exceed 20 acres, and improvements used in the residential occupancy of the structure, if the structure and the land and improvements have identical ownership) that:

- (1) is owned by one or more individuals;
- (2) is designed or adapted for human residence;
- (3) is used as a residence; and
- (4) is occupied as his principal residence by an owner who qualifies for the exemption.

(k) A qualified residential structure does not lose its character as a residence homestead if a portion of the structure is rented to another or is used primari-

ly for other purposes that are incompatible with the owner's residential use of the structure. However, the amount of any residence homestead exemption does not apply to the value of that portion of the structure that is used primarily for purposes that are incompatible with the owner's residential use.

(l) A qualified residential structure does not lose its character as a residence homestead when the owner who qualifies for the exemption temporarily stops occupying it as a principal residence if that owner does not establish a different principal residence and intends to return and occupy the structure as his principal residence.

(m) In this section:

(1) "Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance.

(2) "School district" means a political subdivision organized to provide general elementary and secondary public education. "School district" does not include a junior college district or a political subdivision organized to provide special education services.

[Acts 1979, 66th Leg., p. 2234, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, § 31, eff. Jan. 1, 1982.]

Acts 1981, 67th Leg., p. 3082, ch. 814, eff. June 17, 1981, as amended by Acts 1981, 67th Leg., 1st C.S., p. 181, ch. 13, § 165, eff. Aug. 14, 1981, provides:

"Sec. 1. An individual who, in 1979, qualified for but did not receive the limitation on increases in school district taxes on his residence homestead pursuant to Section 7, Article 7150.5, Revised Civil Statutes of Texas, 1925, as it existed December 31, 1979, may file an application with the chief appraiser to limit taxes imposed by the school district on the homestead for 1982 to the amount of taxes the district would have imposed for 1979 if the individual had applied for and received in 1979 the residence homestead exemption for individuals 65 years of age or older. The application must be filed before April 1, 1982.

"Sec. 2. (a) The chief appraiser with whom an application is filed pursuant to Section 1 of this Act shall determine the validity of the application before April 15, 1982, or as soon thereafter as practicable.

"(b) The chief appraiser shall give each applicant written notice of the denial or modification of the exemption within five days after the date he makes that determination.

"Sec. 3. (a) If the chief appraiser determines that an applicant was qualified in 1979 for the residence homestead exemption for individuals 65 years of age or older, he shall make an entry on the appraisal records of the school district in which the homestead is taxable reflecting that the individual is entitled to a limitation on school district taxes on his homestead for 1982.

"(b) Taxes imposed by the school district for 1982 on the applicant's homestead may not exceed the amount of taxes the district would have imposed on the homestead for 1979 if the individual had applied for and received in 1979 the residence homestead exemption for individuals 65 years of age or older.

"Sec. 4. (a) The chief appraiser shall publish in a newspaper a notice of the tax relief provided by this Act. The notice shall be published once each week for three weeks immediately preceding the date of the deadline prescribed by Section 1 of this Act for filing an application for the tax relief.

"(b) The chief appraiser of each appraisal district shall include a notice of the availability of the tax relief provided by this Act with each application form sent pursuant to Section 11.44(a) of the Tax Code in the 1982 tax year to the previous year's claimants of a homestead exemption provided by Section 11.13(c) of the Tax Code."

#### § 11.14. Household Goods and Personal Effects

(a) An individual is entitled to an exemption from taxation of his household goods and personal effects that are not held or used for production of income.

(b) In this section:

(1) "Household goods" means furnishings, appliances, utensils, and other tangible personal property used primarily in or around a residence by the residents and their guests.

(2) "Personal effects" means tangible personal property that normally is worn or carried by an individual or that is used by an individual in personal, recreational, or other activities that do not involve production of income. "Personal effects" does not include a motor vehicle, boat, or other means of transportation, a trailer that must be registered for operation on a highway, or a mobile home or similar vehicle designed for occupancy as a dwelling.

[Acts 1979, 66th Leg., p. 2236, ch. 841, § 1, eff. Jan. 1, 1980.]

#### § 11.15. Family Supplies

A family is entitled to an exemption from taxation of its family supplies for home or farm use. [Acts 1979, 66th Leg., p. 2236, ch. 841, § 1, eff. Jan. 1, 1980.]

#### § 11.16. Farm Products

(a) A producer is entitled to an exemption from taxation of the farm products that he produces and owns. A nursery product, as defined by Section 71.041, Agriculture Code, is a farm product for purposes of this section if it is in a growing state.

(b) Farm products in the hands of the producer are exempt.

(c) For purposes of this exemption, the following definitions apply:

(1) "Farm products" includes livestock and poultry.

(2) "In the hands of the producer," for livestock and poultry means under the ownership of the person who is financially providing for the physical requirements of such livestock and poultry on January 1 of the tax year.

[Acts 1979, 66th Leg., p. 2236, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., p. 457, ch. 192, § 1, eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 1487, ch. 388, § 3, eff. Sept. 1, 1981.]

Section 1 of Acts 1981, 67th Leg., p. 1012, ch. 388, enacts the Agriculture Code.

#### § 11.161. Implements of Farming or Ranching

An individual is entitled to an exemption from taxation of implements of farming or ranching that he owns and uses in the production of farm or ranch products.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, § 32, eff. Jan. 1, 1982.]

#### § 11.17. Cemeteries

A person is entitled to an exemption from taxation of the property he owns and uses exclusively for human burial and does not hold for profit.

[Acts 1979, 66th Leg., p. 2236, ch. 841, § 1, eff. Jan. 1, 1980.]

#### § 11.18. Charitable Organizations

(a) An organization that qualifies as a charitable organization as provided by Subsection (c) of this section is entitled to an exemption from taxation of the buildings and tangible personal property that:

(1) are owned by the charitable organization; and

(2) except as permitted by Subsection (b) of this section, are used exclusively by qualified charitable organizations.

(b) Use of exempt property by persons who are not charitable organizations qualified as provided by Subsection (c) of this section does not result in the loss of an exemption authorized by this section if the use is incidental to use by qualified charitable organizations and limited to activities that benefit the beneficiaries of the charitable organizations that own or use the property.

(c) To qualify as a charitable organization for the purposes of this section, an organization (whether operated by an individual, as a corporation, or as an association) must:

(1) be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsection (d) of this section, engage exclusively in performing one or more of the following charitable functions:

(A) providing medical care without regard to the beneficiaries' ability to pay;

(B) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(C) providing support to elderly persons or the handicapped without regard to the beneficiaries' ability to pay;

(D) preserving a historical landmark or site;

(E) promoting or operating a museum, zoo, library, theater of the dramatic arts, or symphony orchestra or choir;

(F) promoting or providing humane treatment of animals;

(G) acquiring, storing, transporting, selling, or distributing water for public use;

(H) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(I) promoting the athletic development of boys or girls under the age of 18 years;

(J) preserving or conserving wildlife;

(K) promoting educational development through loans or scholarships to students;

(L) providing halfway house services pursuant to a certification as a halfway house by the Board of Pardons and Paroles; or

(M) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(2) be operated in a way that does not result in accrual of distributable profits, realization of pri-

vate gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain and, if the organization performs one or more of the charitable functions specified by Paragraph (C), (D), (E), (F), (G), (J), (K), or (M) of Subdivision (1) of this subsection, be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act;<sup>1</sup> and

(3) by charter, bylaw, or other regulation adopted by the organization to govern its affairs:

(A) pledge its assets for use in performing the organization's charitable functions; and

(B) direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state or to an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.<sup>2</sup>

(d) Performance of noncharitable functions by a charitable organization that owns or uses exempt property does not result in loss of an exemption authorized by this section if those other functions are incidental to the organization's charitable functions.

(e) In this section, "building" includes the land that is reasonably necessary for use of, access to, and ornamentation of the building.

(f) An exemption authorized by Paragraph (J) of Subdivision (1) of Subsection (c) of this section is limited to land and improvements and may not exceed 1,000 acres in any one county.

[Acts 1979, 66th Leg., p. 2236, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, § 33, eff. Jan. 1, 1982.]

<sup>1</sup> Civil Statutes, art. 1396-1.01 et seq.  
<sup>2</sup> 26 U.S.C.A. § 501(c)(3).

**§ 11.19. Youth Spiritual, Mental, and Physical Development Associations**

(a) An association that qualifies as a youth development association as provided by Subsection (d) of this section is entitled to an exemption from taxation of the tangible property that:

(1) is owned by the association;

(2) except as permitted by Subsection (b) of this section, is used exclusively by qualified youth development associations; and

(3) is reasonably necessary for the operation of the association.

(b) Use of exempt tangible property by persons who are not youth development associations qualified as provided by Subsection (d) of this section does not result in the loss of an exemption under this section if the use is incidental to use by qualified associations and benefits the individuals the associations serve.

(c) An association that qualifies as a youth development association as provided by Subsection (d) of this section is entitled to an exemption from taxation of those endowment funds the association owns that are used exclusively for the support of the association and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(d) To qualify as a youth development association for the purposes of this section, an association must:

(1) engage primarily in promoting the threefold spiritual, mental, and physical development of boys, girls, young men, or young women;

(2) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain;

(3) operate in conjunction with a state or national organization that is organized and operated for the same purpose as the association; and

(4) by charter, bylaw, or other regulation adopted by the association to govern its affairs:

(A) pledge its assets for use in performing the association's youth development functions; and

(B) direct that on discontinuance of the association by dissolution or otherwise the assets are to be transferred to this state or to a charitable, educational, religious, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.<sup>1</sup>

[Acts 1979, 66th Leg., p. 2237, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 129, ch. 13, § 34, eff. Jan. 1, 1982.]

<sup>1</sup> 26 U.S.C.A. § 501(c)(3).

### § 11.20. Religious Organizations

(a) An organization that qualifies as a religious organization as provided by Subsection (c) of this section is entitled to an exemption from taxation of:

(1) the real property that is owned by the religious organization, is used primarily as a place of regular religious worship, and is reasonably necessary for engaging in religious worship;

(2) the tangible personal property that is owned by the religious organization and is reasonably necessary for engaging in worship at the place of worship specified in Subdivision (1) of this subsection;

(3) the real property that is owned by the religious organization and is reasonably necessary for use as a residence (but not more than one acre of land for each residence) if the property:

(A) is used exclusively as a residence for those individuals whose principal occupation is to serve in the clergy of the religious organization; and

(B) produces no revenue for the religious organization; and

(4) the tangible personal property that is owned by the religious organization and is reasonably necessary for use of the residence specified by Subdivision (3) of this subsection.

(b) An organization that qualifies as a religious organization as provided by Subsection (c) of this section is entitled to an exemption from taxation of those endowment funds the organization owns that are used exclusively for the support of the religious organization and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(c) To qualify as a religious organization for the purposes of this section, an organization (whether operated by an individual, as a corporation, or as an association) must:

(1) be organized and operated primarily for the purpose of engaging in religious worship or promoting the spiritual development or well-being of individuals;

(2) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain; and

(3) by charter, bylaw, or other regulation adopted by the organization to govern its affairs:

(A) pledge its assets for use in performing the organization's religious functions; and

(B) direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state or to a charitable, educational, religious, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.<sup>1</sup>

(d) Use of property that qualifies for the exemption prescribed by Subdivision (1) or (2) of Subsection (a) of this section for occasional secular purposes other than religious worship does not result in loss of the exemption if the primary use of the property is for religious worship and all income from the other use is devoted exclusively to the maintenance and development of the property as a place of religious worship.

(e) For the purposes of this section, "religious worship" means individual or group ceremony or

meditation, education, and fellowship, the purpose of which is to manifest or develop reverence, homage, and commitment in behalf of a religious faith. [Acts 1979, 66th Leg., p. 2238, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 129, ch. 13, § 35, eff. Jan. 1, 1982.]

<sup>1</sup> 26 U.S.C.A. § 501(c)(3).

§ 11.21. Schools

(a) A person is entitled to an exemption from taxation of the buildings and tangible personal property that he owns and that are used for a school that is qualified as provided by Subsection (d) of this section if:

(1) the school is operated exclusively by the person owning the property;

(2) except as permitted by Subsection (b) of this section, the buildings and tangible personal property are used exclusively for educational functions; and

(3) the buildings and tangible personal property are reasonably necessary for the operation of the school.

(b) Use of exempt tangible property for functions other than educational functions does not result in loss of an exemption authorized by this section if those other functions are incidental to use of the property for educational functions and benefit the students or faculty of the school.

(c) A person who operates a school that is qualified as provided by Subsection (d) of this section is entitled to an exemption from taxation of those endowment funds he owns that are used exclusively for the support of the school and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(d) To qualify as a school for the purposes of this section, an organization (whether operated by an individual, as a corporation, or as an association) must:

(1) normally maintain a regular faculty and curriculum and normally have a regularly organized body of students in attendance at the place where its educational functions are carried on;

(2) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain and, if the organization is a corporation, be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act;<sup>1</sup> and

(3) by charter, bylaw, or other regulation adopted by the organization to govern its affairs:

(A) pledge its assets for use in performing the organization's educational functions; and

(B) direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state or to an educational, charitable, religious, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.<sup>2</sup>

(e) In this section, "building" includes the land that is reasonably necessary for use of, access to, and ornamentation of the building.

[Acts 1979, 66th Leg., p. 2239, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 130, ch. 13, § 36, eff. Jan. 1, 1982.]

<sup>1</sup> Civil Statutes, art. 1396-1.01 et seq.

<sup>2</sup> 26 U.S.C.A. § 501(c)(3).

§ 11.22. Disabled Veterans

(a) A disabled veteran is entitled to an exemption from taxation of a portion of the assessed value of a property he owns and designates as provided by Subsection (f) of this section in accordance with the following schedule:

an exemption of up to:	for a disability rating of	
	at least:	but not greater than:
\$1,500 of the assessed value	10%	30%
2,000	31	30
2,500	51	70
3,000	71 and over	

(b) A disabled veteran is entitled to an exemption from taxation of \$3,000 of the assessed value of a property he owns and designates as provided by Subsection (f) of this section if the veteran:

(1) is 65 years of age or older and has a disability rating of at least 10 percent;

(2) is totally blind in one or both eyes; or

(3) has lost the use of one or more limbs.

(c) If a disabled veteran who is entitled to an exemption by Subsection (a) or (b) of this section dies, the veteran's surviving spouse is entitled to an exemption from taxation of a portion of the assessed value of a property the spouse owns and designates as provided by Subsection (f) of this section. The amount of the exemption is the amount of the veteran's exemption at time of death. The spouse is entitled to an exemption by this subsection only for as long as the spouse remains unmarried. If the spouse does not survive the veteran, each of the veteran's surviving children who is younger than 18 years of age and unmarried is entitled to an exemption from taxation of a portion of the assessed value of a property the child owns and designates as provided by Subsection (f) of this section. The amount of exemption for each eligible child is computed by dividing the amount of the veteran's exemption at time of death by the number of eligible children.

(d) If an individual dies while on active duty as a member of the armed services of the United States:

(1) the individual's surviving spouse is entitled to an exemption from taxation of \$2,500 of the assessed value of the property the spouse owns and designates as provided by Subsection (f) of this section; and

(2) each of the individual's surviving children who is younger than 18 years of age and unmarried is entitled to an exemption from taxation of a portion of the assessed value of a property the child owns and designates as provided by Subsection (f) of this section, the amount of exemption for each eligible child to be computed by dividing \$2,500 by the number of eligible children.

(e) An individual who qualifies for more than one exemption authorized by this section is entitled to aggregate the amounts of the exemptions, except that:

(1) a disabled veteran who qualifies for more than one exemption authorized by Subsections (a) and (b) of this section is entitled to only one exemption but may choose the greatest exemption for which he qualifies; and

(2) an individual who receives an exemption as a surviving spouse of a disabled veteran as provided by Subsection (c) of this section may not receive an exemption as a surviving child as provided by Subsection (c) or (d) of this section.

(f) An individual may receive an exemption to which he is entitled by this section against only one property, which must be the same for every taxing unit in which the individual claims the exemption. If an individual is entitled by Subsection (e) of this section to aggregate the amounts of more than one exemption, he must take the entire aggregated amount against the same property. An individual must designate on his exemption application form the property against which he takes an exemption under this section.

(g) An individual is not entitled to an exemption by this section unless he is a resident of this state.

(h) In this section:

(1) "Child" includes an adopted child or a child born out of wedlock whose paternity has been admitted or has been established in a legal action.

(2) "Disability rating" means a veteran's percentage of disability as certified by the Veterans' Administration or its successor or the branch of the armed services in which the veteran served.

(3) "Disabled veteran" means a veteran of the armed services of the United States who is classified as disabled by the Veterans' Administration or its successor or the branch of the armed services in which the veteran served and whose disability is service-connected.

(4) "Surviving spouse" means the individual who was married to a disabled veteran or member of the armed services at the time of the veteran's or member's death.

[Acts 1979, 66th Leg., p. 2240, ch. 841, § 1, eff. Jan. 1, 1980.]

### § 11.23. Miscellaneous Exemptions

(a) Veterans' Organizations. The American Legion, American Veterans of World War II, Veterans of Foreign Wars of the United States, Disabled American Veterans, Jewish War Veterans, Catholic War Veterans, or the American G.I. Forum is entitled to an exemption from taxation of the buildings (including the land that is reasonably necessary for use of, access to, and ornamentation of the buildings) that are owned and primarily used by that organization if the property is not used to produce revenue or held for gain.

(b) Federation of Women's Clubs. The Texas Federation of Women's Clubs is entitled to an exemption from taxation of the tangible property it owns if the property is not held for gain.

(c) Nature Conservancy of Texas. The Nature Conservancy of Texas, Incorporated, is entitled to an exemption from taxation of the tangible property it owns if the property is not held for gain, as long as the organization is a nonprofit corporation as defined by the Texas Non-Profit Corporation Act.<sup>1</sup>

(d) Congress of Parents and Teachers. The Texas Congress of Parents and Teachers is entitled to an exemption from taxation for state and county purposes of the buildings (including the land that is reasonably necessary for use of, access to, and ornamentation of the buildings) it owns and uses as its state headquarters.

(e) Private Enterprise Demonstration Associations. An association that engages exclusively in conducting nonprofit educational programs designed to demonstrate the American private enterprise system to children and young people and that operates under a state or national organization that is organized and operated for the same purpose is entitled to an exemption from taxation of the tangible property that it owns and uses exclusively if it is reasonably necessary for the association's operation.

(f) Buffalo and Cattalo. A person is entitled to an exemption from taxation of the buffalo and cattalo he owns that are not held for gain and that are used in experimental breeding with cattle for the purpose of producing an improved strain of meat animal or kept in parks to preserve the species.

(g) Theater Schools. A corporation that is organized to promote the teaching and study of the dramatic arts is entitled to an exemption from taxation of the property it owns and uses in the operation of a school for the dramatic arts if:

(1) the corporation is organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act;

(2) the corporation is not self-sustaining in any fiscal year from income other than gifts, grants, or donations;

(3) the corporation is exempt from federal income taxes;

(4) the school maintains a theater-school program with regular classes for at least four grades, formal textbooks and curriculum, an enrollment of 150 or more students during each of at least two semesters every calendar year, and a faculty substantially all of whom hold degrees in theater arts from an accredited school of higher education;

(5) the school offers apprenticeship or other practical training in theater management and operation for college students or offers similar training for playwrights, actors, and production personnel; and

(6) more than one-half of each season's theatrical productions for which admission is charged have significant literary merit of the character that contributes to the educational programs of secondary schools and schools of higher education.

(h) Biomedical Research Corporations. A non-profit corporation as defined in the Texas Non-Profit Corporation Act is entitled to an exemption from taxation of the property it owns and uses exclusively for biomedical research and education for the public benefit.

(i) Community Service Clubs. An association that qualifies as a community service club is entitled to an exemption from taxation of the tangible property the club owns that qualifies under Article VIII, Section 2, of the constitution and that is not used for profit or held for gain. To qualify as a community service club for the purposes of this subsection, an association must:

(1) be organized to promote and must engage primarily in promoting:

(A) the religious, educational, and physical development of boys, girls, young men, or young women;

(B) the development of the concepts of patriotism and love of country; and

(C) the development of interest in community, national, and international affairs;

(2) be affiliated with a state or national organization of similar purpose;

(3) be open to membership without regard to race, religion, or national origin; and

(4) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain.

(j) Medical Center Development. All real and personal property owned by a nonprofit corporation, as defined in the Texas Non-Profit Corporation Act, and held for use in the development of a medical center area or areas in which the nonprofit corporation has donated land for a state medical, dental, or nursing school, and for other hospital, medical, and educational uses and uses reasonably related thereto, during the time remaining property is held for the

development to completion of the medical center and not leased or otherwise used with a view to profit, is exempt from all ad valorem taxation as though the property were, during that time, owned and held by the state for health and educational purposes.

[Acts 1979, 66th Leg., p. 2242, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 130, ch. 13, § 37, eff. Jan. 1, 1982.]

<sup>1</sup> Civil Statutes, art. 1396-1.01 et seq.

§ 11.24. Historic Sites

The governing body of a taxing unit by official action of the body adopted in the manner required by law for official actions may exempt from taxation part or all of the assessed value of a structure and the land necessary for access to and use of the structure, if the structure is:

(1) designated as a Recorded Texas Historical Landmark by the Texas Historical Commission and by the governing body of the taxing unit; or

(2) designated as a historically significant site in need of tax relief to encourage its preservation pursuant to an ordinance or other law adopted by the governing body of the unit.

[Acts 1979, 66th Leg., p. 2243, ch. 841, § 1, eff. Jan. 1, 1980.]

§ 11.25. Automobiles

(a) A family or an individual who is not a member of a family is entitled to exemption from state ad valorem taxation of all automobiles that the family or individual owns and does not hold or use for production of income.

(b) Except as provided by Subsection (c) of this section, a family or an individual who is not a member of a family is entitled to exemption from ad valorem taxation by a taxing unit of all automobiles that the family or individual owns and does not hold or use for production of income.

(c) The governing body of a taxing unit, by ordinance, resolution, or order, depending on the method prescribed by law for official action by that governing body, may provide for taxation of all automobiles. If the governing body of a taxing unit provides for taxation of all automobiles as provided by this subsection, the exemption prescribed by Subsection (b) of this section does not apply to that unit.

(d) A family owns an automobile for the purposes of this section if any member of the family owns the automobile.

(e) In this section, "automobile" means a passenger car or a light truck as those terms are defined by Section 2, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes).

[Acts 1979, 66th Leg., p. 2244, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1979, 66th Leg., p. 697, ch. 302, art. 11, § 1, eff. Jan. 1, 1980.]

### § 11.26. Limitation of School Tax on Homesteads of Elderly

(a) Except as provided by Subsection (b) of this section, a school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years or older above the amount of the tax it imposed in the first year the individual qualified that residence homestead for the exemption provided by Subsection (c) of Section 11.13 of this code. The tax officials shall continue to appraise the property and to calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the tax imposed in the first year the individual qualified the residence homestead for the exemption.

(b) If an individual makes improvements to his residence homestead, other than improvements required to comply with governmental requirements or repairs, the school district may increase the tax on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference in the assessed value of the homestead with the improvements and the assessed value it would have had without the improvements. The limitations imposed by Subsection (a) of this section then apply to the increased amount of tax until more improvements, if any, are made.

(c) The limitation on tax increases required by this section expires if on January 1:

- (1) none of the owners of the structure who qualify for the exemption and who owned the structure when the limitation first took effect is using the structure as a residence homestead; or
- (2) none of the owners of the structure qualifies for the exemption.

(d) If the appraisal roll provides for taxation of appraised value for a prior year because a residence homestead exemption for persons 65 years or older was erroneously allowed, the tax assessor shall add, as back taxes due as provided by Subsection (d) of Section 26.09 of this code, the positive difference if any between the tax that should have been imposed for that year and the tax that was imposed because of the provisions of this section.

[Acts 1979, 66th Leg., p. 2244, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 130, ch. 13, § 38, eff. Jan. 1, 1982.]

Special provisions relating to extension of filing deadline, elderly and disabled persons, property tax relief not claimed in 1979, see note under § 11.13.

### § 11.27. Solar and Wind-Powered Energy Devices

(a) A person is entitled to an exemption from taxation of the amount of appraised value of his property that arises from the installation or construction of a solar or wind-powered energy device that is primarily for production and distribution of energy for on-site use.

(b) The State Property Tax Board, with the assistance of the Texas Energy and Natural Resources Advisory Council, or its successor, shall develop guidelines to assist local officials in the administration of this section.

(c) In this section:

(1) "Solar energy device" means an apparatus designed or adapted to convert the radiant energy from the sun, including energy imparted to plants through photosynthesis employing the bioconversion processes of anaerobic digestion, gasification, pyrolysis, or fermentation, but not including direct combustion, into thermal, mechanical, or electrical energy; to store the converted energy, either in the form to which originally converted or another form; or to distribute radiant solar energy or the energy to which the radiant solar energy is converted.

(2) "Wind-powered energy device" means an apparatus designed or adapted to convert the energy available in the wind into thermal, mechanical, or electrical energy; to store the converted energy, either in the form to which originally converted or another form; or to distribute the converted energy.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 130, ch. 13, § 39, eff. Jan. 1, 1982.]

### § 11.28. Property Exempted From City Taxation by Agreement

The owner of property to which an agreement made under the Property Redevelopment and Tax Abatement Act applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 56, ch. 5, § 7]

Section 9 of the 1981 Act provides:

"This Act takes effect on the adoption of the constitutional amendment proposed by S.J.R. No. 8, 67th Legislature, 1st Called Session, 1981."

The constitutional amendment proposed by S.J.R. No. 8, Acts 1981, 67th Leg., 1st C.S., was adopted at an election held November 3, 1981.

[Sections 11.29 to 11.40 reserved for expansion]

## SUBCHAPTER C. ADMINISTRATION OF EXEMPTIONS

### § 11.41. Partial Ownership of Exempt Property

(a) Except as provided by Subsection (b) of this section, if a person who qualifies for an exemption as provided by this chapter is not the sole owner of the property to which the exemption applies, the exemption is limited to the value of the property interest the person owns.

(b) If a person who qualifies for an exemption as provided by Section 11.13 or 11.22 of this code is not the sole owner of the property to which the exemption applies, the amount of the exemption is calculated on the basis of the value of the property interest the person owns.

(c) In the application of this section, community ownership by a person who qualifies for the exemption and his spouse is treated as if the person owns the community interest of his spouse.

[Acts 1979, 66th Leg., p. 2244, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 11.42. Exemption Qualification Date

(a) Except as provided by Subsection (b) of this section, eligibility for and amount of an exemption authorized by this chapter for any tax year are determined by a claimant's qualifications on January 1. A person who does not qualify for an exemption on January 1 of any year may not receive the exemption that year.

(b) An exemption authorized by Section 11.11 of this code is effective immediately on qualification for the exemption.

[Acts 1979, 66th Leg., p. 2245, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 11.43. Application for Exemption

(a) To receive an exemption, a person claiming the exemption, other than an exemption authorized by Section 11.11, 11.12, 11.14, 11.15, 11.16, or 11.25 of this code, must apply for the exemption. To apply for an exemption, a person must file an exemption application form with the chief appraiser for each appraisal district in which the property subject to the claimed exemption has situs.

(b) Except as provided by Subsection (c) of this section, a person required to apply for an exemption must apply each year he claims entitlement to the exemption.

(c) An exemption provided by Section 11.13, 11.18, 11.19, 11.20, or 11.21 of this code, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e) of this section, the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes. However, the chief appraiser may require a person allowed one of the exemptions in a prior year to file a new application to confirm his current qualification for the exemption by delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exemption.

(d) A person required to claim an exemption must file a completed exemption application form before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing an exemption application by written order for a single period not to exceed 60 days.

(e) Except as provided by Section 11.431 of this code, if a person required to apply for an exemption in a given year fails to file timely a completed application form, he may not receive the exemption for that year.

(f) The State Property Tax Board, in prescribing the contents of the application form for each kind of

exemption, shall ensure that the form requires an applicant to furnish the information necessary to determine the validity of the exemption claim. The board shall include on the forms a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The board shall include, on application forms for exemptions that do not have to be claimed annually, a statement explaining that the application need not be made annually and that if the exemption is allowed, the applicant has a duty to notify the chief appraiser when his entitlement to the exemption ends.

(g) A person who receives an exemption that is not required to be claimed annually shall notify the appraisal office in writing before May 1 after his entitlement to the exemption ends.

(h) If the chief appraiser learns of any reason indicating that an exemption previously allowed should be canceled, he shall investigate. If he determines that the property should not be exempt, he shall cancel the exemption and deliver written notice of the cancellation within five days after the date he makes the cancellation.

(i) If the chief appraiser discovers that an exemption that is not required to be claimed annually has been erroneously allowed in any one of the 10 preceding years, he shall add the property or appraised value that was erroneously exempted for each year to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation. If an exemption that was erroneously allowed did not apply to all taxing units in which the property was located, the chief appraiser shall note on the appraisal records, for each prior year, the taxing units that gave the exemption and are entitled to impose taxes on the property or value that escaped taxation.

[Acts 1979, 66th Leg., p. 2245, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 131, ch. 13, §§ 40, 41, eff. Jan. 1, 1982.]

Special provisions relating to extension of filing deadline, elderly and disabled persons, property tax relief not claimed in 1979, see note under § 11.13.

#### § 11.431. Late Application for Homestead Exemption

(a) The chief appraiser shall accept and approve or deny an application for a residence homestead exemption after the deadline for filing it has passed if it is filed not later than one year after the date the taxes on the homestead were paid or became delinquent, whichever is earlier.

(b) If a late application is approved after approval of the appraisal records by the appraisal review board, the chief appraiser shall notify the collector for each unit in which the residence is located. The collector shall deduct from the person's tax bill the amount of tax imposed on the exempted amount if the tax has not been paid. If the tax has been paid, the collector shall refund the amount of tax imposed on the exempted amount.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 132, ch. 13, § 42, eff. Jan. 1, 1982.]

**§ 11.44. Notice of Application Requirements**

(a) Before February 1 of each year, the chief appraiser shall deliver an appropriate exemption application form to each person who in the preceding year was allowed an exemption that must be applied for annually. He shall include a brief explanation of the requirements of Section 11.43 of this code.

(b) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of Section 11.43 of this code and the availability of application forms.

(c) The State Property Tax Board shall prescribe by rule the content of the explanation required by Subsection (a) of this section, and shall require that each exemption application form be printed and prepared:

- (1) as a separate form from any other form; or
- (2) on the front of the form if the form also provides for other information.

[Acts 1979, 66th Leg., p. 2246, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 132, ch. 13, § 43, eff. Jan. 1, 1982.]

**§ 11.45. Action on Exemption Applications**

(a) The chief appraiser shall determine separately each applicant's right to an exemption. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

- (1) approve the application and allow the exemption;
- (2) modify the exemption applied for and allow the exemption as modified;
- (3) disapprove the application and request additional information from the applicant in support of the claim; or
- (4) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for exemption filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser modifies or denies an exemption, he shall deliver a written notice of the modification or denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action.

[Acts 1979, 66th Leg., p. 2246, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 133, ch. 13, § 44, eff. Jan. 1, 1982.]

Special provisions relating to extension of filing deadline, elderly and disabled persons, property tax relief not claimed in 1979, see note under § 11.13.

**§ 11.46. Compilation of Partial Exemptions**

Each year the chief appraiser shall compile and make available to the public a list showing for each taxing unit in the district the number of each kind of partial exemption allowed in that tax year and the total assessed value of each taxing unit that is exempted by each kind of partial exemption.

[Acts 1979, 66th Leg., p. 2246, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 133, ch. 13, § 45, eff. Jan. 1, 1982.]

**§ 11.47. Mail Survey of Residence Homesteads**

(a) Between December 1 and December 31 of any year, the appraisal office may mail a card to each person who was allowed, in that year, one or more residence homestead exemptions that are not required to be claimed annually. The appraisal office shall include on the card the description of the property and the kind and amount of residence homestead exemptions allowed for the property according to the appraisal office records.

(b) The appraisal office shall include on each card mailed as authorized by this section a direction to the postal authorities not to forward it to any other address and to return it to the appraisal office if the addressee is no longer at the address to which the card was mailed.

(c) The appraisal office shall investigate each residence homestead exemption allowed a person whose card is returned undelivered.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 133, ch. 13, § 46, eff. Jan. 1, 1982.]

**SUBTITLE D. APPRAISAL AND ASSESSMENT**

**CHAPTER 21. TAXABLE SITUS**

**SUBCHAPTER A. TAXABLE SITUS OF PROPERTY GENERALLY**

Section	
21.01.	Real Property.
21.02.	Tangible Personal Property Generally.
21.03.	Interstate Allocation.
21.04.	Railroad Rolling Stock.
21.05.	Repealed.
21.06.	Intangible Property Generally.
21.07.	Intangibles of Certain Transportation Businesses.
21.08.	Intangibles of Certain Financial Institutions.
21.09.	Bank Stock.

**SUBCHAPTER B. DETERMINATION OF SITUS OF MOBILE HOMES**

21.21.	Definition.
21.22.	Record of Movement.
21.23.	Report of Movement.
21.24.	Penalty for Failure to Record or Report Movement.
21.25.	Exemption.

**SUBCHAPTER A. TAXABLE SITUS OF PROPERTY GENERALLY**

**§ 21.01. Real Property**

Real property is taxable by a taxing unit if located in the unit on January 1.

[Acts 1979, 66th Leg., p. 2247, ch. 841, § 1, eff. Jan. 1, 1979.]

**§ 21.02. Tangible Personal Property Generally**

Except as provided by Sections 21.04 and 21.05 of this code, tangible personal property is taxable by a taxing unit if:

- (1) it is located in the unit on January 1 for more than a temporary period;
- (2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;
- (3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or
- (4) the owner resides (for property not used for business purposes) or maintains his principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) of this section.

[Acts 1979, 66th Leg., p. 2247, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 21.03. Interstate Allocation**

(a) If personal property that is taxable by a taxing unit is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the total market value of the property that fairly reflects its use in this state.

(b) The State Property Tax Board shall adopt rules:

- (1) identifying the kinds of property subject to this section; and
- (2) establishing formulas for calculating the proportion of total market value to be allocated to this state.

[Acts 1979, 66th Leg., p. 2247, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 21.04. Railroad Rolling Stock**

(a) A portion of the total market value of railroad rolling stock that is appraised as provided by Subchapter B of Chapter 24 of this code<sup>1</sup> is taxable by the state and each county in which the railroad operates.

(b) The portion of the total market value that is taxable by a county is determined by the provisions of Subchapter B of Chapter 24 of this code.

[Acts 1979, 66th Leg., p. 2247, ch. 841, § 1, eff. Jan. 1, 1982.]

<sup>1</sup> Section 24.31 et seq.

**§ 21.05. Repealed by Acts 1981, 67th Leg., p. 457, ch. 192, § 2, eff. Jan. 1, 1982.**

The repealed section, relating to livestock whose range overlapped taxing unit boundaries, was derived from Acts 1979, 66th Leg., p. 2217, ch. 841, § 1, eff. Jan. 1, 1982.

**§ 21.06. Intangible Property Generally**

(a) Except as provided by Sections 21.07 through 21.09 of this code, intangible property is taxable by a taxing unit if the owner of the property resides in the unit on January 1, unless the property normally

is used in this state for business purposes outside the unit. In that event, the intangible property is taxable by each taxing unit in which the property normally is used for business purposes.

(b) Depositing intangible property with an agency of the state pursuant to a law requiring or authorizing the deposit is not using it for a business purpose at the depository.

[Acts 1979, 66th Leg., p. 2248, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 21.07. Intangibles of Certain Transportation Businesses**

(a) A portion of the total intangible value of a transportation business whose intangibles are appraised as provided by Subchapter A of Chapter 24 of this code<sup>1</sup> is taxable by the state and by each county in which the business operates.

(b) The portion of the total value that is taxable as provided by Subsection (a) of this section is determined by the provisions of Subchapter A of Chapter 24 of this code.

[Acts 1979, 66th Leg., p. 2248, ch. 841, § 1, eff. Jan. 1, 1982.]

<sup>1</sup> Section 24.01 et seq.

**§ 21.08. Intangibles of Certain Financial Institutions**

(a) The taxable situs of intangible property owned by an insurance company incorporated under the laws of this state is determined as provided by Article 4.01, Insurance Code.

(b) The taxable situs of intangible property owned by a savings and loan association is determined as provided by Section 11.09, Texas Savings and Loan Act.<sup>1</sup>

[Acts 1979, 66th Leg., p. 2248, ch. 841, § 1, eff. Jan. 1, 1982.]

<sup>1</sup> Civil Statutes, art. 852a, § 11.09.

**§ 21.09. Bank Stock**

Stock in a banking corporation is taxable by a taxing unit if the bank is located in the unit on January 1.

[Acts 1979, 66th Leg., p. 2248, ch. 841, § 1, eff. Jan. 1, 1982.]

**SUBCHAPTER B. DETERMINATION OF SITUS OF MOBILE HOMES**

**§ 21.21. Definition**

In this subchapter, "mobile home" means "manufactured housing" as that term is defined by the Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes).

[Added by Acts 1981, 67th Leg., p. 3132, ch. 823, § 2, eff. Sept. 1, 1981.]

**§ 21.22. Record of Movement**

(a) A person who moves a mobile home in this state shall make a record of the movement of the mobile home on a form prescribed by the State Property Tax Board.

(b) The board, in prescribing the contents of the form, shall ensure that the form requires the person to furnish the information necessary to identify the mobile home and determine its ownership, to name the person for whom the mobile home was moved, and to state the address of the place from which and the place to which the mobile home was moved.

(c) A person required to make a record of the movement of a mobile home shall keep the record for the period of time prescribed by the board. He shall keep the record at his principal place of business if he has one, and if he does not have one, he shall keep the record at his principal residence. [Added by Acts 1981, 67th Leg., p. 3132, ch. 823, § 2, eff. Sept. 1, 1981.]

### § 21.23. Report of Movement

(a) A person who moves a mobile home in this state shall file a report of the movement by the 10th day of the month following the month in which the move occurs with the chief appraiser of the appraisal district in which the move began or, if the move began outside this state, in which the move ended. The chief appraiser who receives the report shall deliver a notice of movement of a mobile home to another appraisal district to the chief appraiser of the district to which the mobile home was moved.

(b) The report must be signed by the person required to file the report. When a corporation is required to file a report, an officer of the corporation must sign the report.

(c) For good cause shown, the chief appraiser may extend the filing deadline for the monthly report for a single period not to exceed 15 days.

[Added by Acts 1981, 67th Leg., p. 3132, ch. 823, § 2, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, § 47, eff. Sept. 1, 1981.]

### § 21.24. Penalty for Failure to Record or Report Movement

(a) If a person knowingly fails or refuses to make, keep, or report the movement of a mobile home as provided by this subchapter, the person is liable to the state for a civil penalty not exceeding \$200 for each failure or refusal.

(b) The attorney general shall collect the penalty in a suit on the behalf of the state. Venue for the suit is in Travis County. All civil penalties recovered under this subchapter shall be deposited in the general revenue fund.

[Added by Acts 1981, 67th Leg., p. 3132, ch. 823, § 2, eff. Sept. 1, 1981.]

### § 21.25. Exemption

The requirement by this subchapter of a record and report of movement of a mobile home in this state does not apply to a move that begins outside this state and ends outside this state nor to any move which is reported to the Department of Labor and Standards by a registrant pursuant to the provisions of the Texas Manufactured Housing Standards

Act<sup>1</sup> and rules and regulations issued pursuant thereto.

[Added by Acts 1981, 67th Leg., p. 3132, ch. 823, § 2, eff. Sept. 1, 1981.]

<sup>1</sup>Civil Statutes, art. 5221f.

## CHAPTER 22. RENDITIONS AND OTHER REPORTS

### SUBCHAPTER A. INFORMATION FROM TAXPAYER

Section	
22.01.	Rendition Generally.
22.02.	Rendition of Property Losing Exemption During Tax Year.
22.03.	Report of Decreased Value.
22.04.	Report by Bailee, Lessee, or Other Possessor.
22.05.	Rendition by Railroad.
22.06.	Rendition by Bank.
22.07.	Inspection of Property.

### SUBCHAPTER B. REQUIREMENTS AND PROCEDURES

22.21.	Publicizing Requirements.
22.22.	Method for Requiring Rendition or Report.
22.23.	Filing Date.
22.24.	Rendition and Report Forms.
22.25.	Place and Manner of Filing.
22.26.	Signature.
22.27.	Confidential Information.

### SUBCHAPTER A. INFORMATION FROM TAXPAYER

#### § 22.01. Rendition Generally

(a) Except as provided by Chapter 24 of this code, a person shall render for taxation all tangible personal property used for the production of income that he owns or that he manages and controls as a fiduciary on January 1.

(b) When required by the chief appraiser, a person shall render for taxation any other taxable property that he owns or that he manages and controls as a fiduciary on January 1.

(c) A person may render for taxation any property that he owns or that he manages and controls as a fiduciary on January 1, although he is not required to render it by Subsection (a) or (b) of this section.

(d) A fiduciary who renders property shall indicate his fiduciary capacity and shall state the name and address of the owner.

[Acts 1979, 66th Leg., p. 2249, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, § 48, eff. Jan. 1, 1982.]

#### § 22.02. Rendition of Property Losing Exemption During Tax Year

If an exemption applicable to a property on January 1 terminates during the tax year, the person who owns or acquires the property on the date applicability of the exemption terminates shall render the property for taxation within 30 days after the date of termination.

[Acts 1979, 66th Leg., p. 2249, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 22.03. Report of Decreased Value**

(a) A person who believes the appraised value of his property decreased during the preceding tax year for any reason other than normal depreciation may file an information report describing the property involved and stating the nature and cause of the decrease.

(b) Before determining the appraised value of property that is the subject of a completed and timely filed report as provided by Subsection (a) of this section, the chief appraiser must view the property to verify any reported change in appraised value and its cause and nature. The person who views the property shall note on the back of the property owner's report his name, the date he viewed the property, and his determination of any decrease in appraised value and its cause and nature.

(c) The chief appraiser shall deliver a written notice to the property owner of the determination made as provided by Subsection (b) of this section. [Acts 1979, 66th Leg., p. 2249, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 134, ch. 13, § 49, eff. Jan. 1, 1982.]

**§ 22.04. Report by Bailee, Lessee, or Other Possessor**

(a) When required by the chief appraiser, a person shall file a report listing the name and address of each owner of property that is in his possession or under his management on January 1 by bailment, lease, consignment, or other arrangement.

(b) When required by the chief appraiser, a person who leases or otherwise provides space to another for storage of personal property shall file an information report stating the name and address of each person to whom he leased or otherwise provided storage space on January 1. [Acts 1979, 66th Leg., p. 2249, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, § 50, eff. Jan. 1, 1982.]

**§ 22.05. Rendition by Railroad**

(a) In addition to other reports required by Chapter 24 of this code, a railroad corporation shall render the property the railroad corporation owns or possesses as of January 1.

- (b) The rendition shall:
- (1) list all real property other than the property covered by Subdivision (2) of this subsection;
  - (2) list the number of miles of railroad together with the market value per mile, which value shall include right-of-way, roadbed, superstructure, and all buildings and improvements used in the operation of the railroad; and
  - (3) list all personal property as required by Section 22.01 of this code.

[Acts 1979, 66th Leg., p. 2249, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, § 51, eff. Jan. 1, 1982.]

**§ 22.06. Rendition by Bank**

A bank located in this state shall file a rendition statement listing the bank's assets and liabilities. [Acts 1979, 66th Leg., p. 2250, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 22.07. Inspection of Property**

(a) The chief appraiser or his authorized representative may enter the premises of a business, trade, or profession and inspect the property to determine the existence and market value of tangible personal property used for the production of income and having a taxable situs in the district.

(b) An inspection under this section must be during normal business hours or at a time mutually agreeable to the chief appraiser or his representative and the person in control of the premises. [Added by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, § 52, eff. Jan. 1, 1982.]

[Sections 22.08 to 22.20 reserved for expansion]

**SUBCHAPTER B. REQUIREMENTS AND PROCEDURES**

**§ 22.21. Publicizing Requirements**

Each year the director of the State Property Tax Board and each chief appraiser shall publicize in a manner reasonably designed to notify all property owners the requirements of the law relating to filing rendition statements and property reports and of the availability of forms.

[Acts 1979, 66th Leg., p. 2250, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, § 53, eff. Jan. 1, 1982.]

**§ 22.22. Method for Requiring Rendition or Report**

The chief appraiser may require a rendition statement or property report he is authorized to require by this chapter by delivering written notice that the statement or report is required to the person responsible for filing it. He shall attach to the notice a copy of the appropriate form.

[Acts 1979, 66th Leg., p. 2250, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, § 53, eff. Jan. 1, 1982.]

**§ 22.23. Filing Date**

(a) Rendition statements and property reports must be delivered to the chief appraiser after January 1 and before May 1, except as provided by Section 22.02 of this code.

(b) For good cause shown the chief appraiser may extend a deadline for filing a rendition statement or property report by written order but no single extension may exceed 15 days and in no event may he extend the filing deadline beyond May 15.

[Acts 1979, 66th Leg., p. 2250, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, § 53, eff. Jan. 1, 1982.]

**§ 22.24. Rendition and Report Forms**

(a) A person required to render property or to file a report as provided by this chapter shall use a form that substantially complies with the appropriate form prescribed or approved by the State Property Tax Board.

(b) A person filing a rendition or report shall include all information required by the form.

(c) The State Property Tax Board may prescribe or approve different forms for different kinds of property but shall ensure that each form requires a property owner to furnish the information necessary to identify the property and to determine its ownership, taxability, and situs. A form may not require a property owner to furnish information not relevant to the appraisal of property for tax purposes or to the assessment or collection of property taxes.

(d) A rendition or report form shall permit but may not require a property owner to state his opinion about the market value of his property.

[Acts 1979, 66th Leg., p. 2250, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, § 54, eff. Jan. 1, 1982.]

**§ 22.25. Place and Manner of Filing**

A rendition statement or property report required or authorized by this chapter must be filed with the chief appraiser for the district in which the property listed in the statement or report is taxable.

[Acts 1979, 66th Leg., p. 2251, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, § 55, eff. Jan. 1, 1982.]

**§ 22.26. Signature**

(a) Each rendition statement or property report required or authorized by this chapter must be signed by an individual who is required to file the statement or report.

(b) When a corporation is required to file a statement or report, an officer of the corporation or an employee or agent who has been designated in writing by the board of directors or by an authorized officer to sign in behalf of the corporation must sign the statement or report.

[Acts 1979, 66th Leg., p. 2251, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 22.27. Confidential Information**

(a) Rendition statements and real and personal property reports filed with an appraisal office and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential are confidential and not open to public inspection. The statements and reports and the information they contain about specific real or personal property or a specific real or personal property owner and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential may not be disclosed to anyone other than an employee of the appraisal office who ap-

praises property except as authorized by Subsection (b) of this section.

(b) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the statement or report or the owner of property subject to the statement, report, or information or to a representative of either authorized in writing to receive the information;

(3) to the director of the State Property Tax Board and his employees authorized by him in writing to receive the information or to an assessor or a chief appraiser if requested in writing;

(4) in a judicial or administrative proceeding relating to property taxation to which the person who filed the statement or report or the owner of the property that is a subject of the statement, report, or information is a party;

(5) for statistical purposes if in a form that does not identify specific property or a specific property owner; or

(6) if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain.

(c) A person who legally has access to a statement or report or to other information made confidential by this section or who legally obtains the confidential information commits a Class B misdemeanor if he knowingly:

(1) permits inspection of the statement or report by a person not authorized to inspect it by Subsection (b) of this section; or

(2) discloses the confidential information to a person not authorized to receive the information by Subsection (b) of this section.

[Acts 1979, 66th Leg., p. 2251, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 136, ch. 13, § 56, eff. Jan. 1, 1982.]

**CHAPTER 23. APPRAISAL METHODS AND PROCEDURES****SUBCHAPTER A. APPRAISALS GENERALLY**

Section	
23.01.	Appraisals Generally.
23.02.	Reappraisal of Property Damaged in Natural Disaster Area.

**SUBCHAPTER B. SPECIAL APPRAISAL PROVISIONS**

23.11.	Banking Corporation.
23.12.	Inventory.
23.13.	Taxable Leaseholds.
23.14.	Unincorporated Bank.
23.15.	Intangibles of an Insurance Company.
23.16.	Intangibles of a Savings and Loan Association.
23.17.	Mineral Interest Not Being Produced.
23.18.	Property Owned by a Nonprofit Homeowners' Organization for the Benefit of Its Members.

SUBCHAPTER C. LAND DESIGNATED FOR AGRICULTURAL USE

- Section
- 23.41. Appraisal.
- 23.42. Eligibility.
- 23.43. Application.
- 23.431. Late Application for Agricultural Designation.
- 23.44. Action on Application.
- 23.45. Application Confidential.
- 23.46. Additional Taxation.

SUBCHAPTER D. APPRAISAL OF AGRICULTURAL LAND

- 23.51. Definitions.
- 23.52. Appraisal of Qualified Agricultural Land.
- 23.53. Capitalization Rate.
- 23.54. Application.
- 23.541. Late Application for Appraisal as Agricultural Land.
- 23.55. Change of Use of Land.
- 23.56. Land Ineligible for Appraisal as Open-Space Land.
- 23.57. Action on Applications.

SUBCHAPTER E. APPRAISAL OF TIMBER LAND

- 23.71. Definitions.
- 23.72. Qualification for Productivity Appraisal.
- 23.73. Appraisal of Qualified Timber Land.
- 23.74. Capitalization Rate.
- 23.75. Application.
- 23.751. Late Application for Appraisal as Timber Land.
- 23.76. Change of Use of Land.
- 23.77. Land Ineligible for Appraisal as Timber Land.
- 23.78. Minimum Taxable Value of Timber Land.
- 23.79. Action on Applications.

SUBCHAPTER F. APPRAISAL OF RECREATIONAL, PARK, AND SCENIC LAND

- 23.81. Definitions.
- 23.82. Voluntary Restrictions.
- 23.83. Appraisal of Restricted Land.
- 23.84. Application.
- 23.85. Action on Application.
- 23.86. Additional Taxation for Preceding Years.
- 23.87. Penalty for Violating Deed Restriction.

SUBCHAPTER G. APPRAISAL OF PUBLIC ACCESS AIRPORT PROPERTY

- 23.91. Definitions.
- 23.92. Voluntary Restrictions.
- 23.93. Appraisal of Restricted Land.
- 23.94. Application.
- 23.95. Action on Application.
- 23.96. Taxation for Preceding Years.
- 23.97. Penalty for Violating Deed Restriction.

SUBCHAPTER A. APPRAISALS GENERALLY

§ 23.01. Appraisals Generally

(a) Except as otherwise provided by this chapter, all taxable property is appraised at its market value as of January 1.

(b) The market value of property shall be determined by the application of generally accepted appraisal techniques, and the same or similar appraisal techniques shall be used in appraising the same or similar kinds of property.

[Acts 1979, 66th Leg., p. 2252, ch. 841, § 1, eff. Jan. 1, 1982.]

§ 23.02. Reappraisal of Property Damaged in Natural Disaster Area

(a) The governing body of a taxing unit that is located partly or entirely inside an area declared to be a natural disaster area by the governor may authorize reappraisal of all property damaged in the disaster at its market value immediately after the disaster.

(b) If a taxing unit authorizes a reappraisal pursuant to this section, the appraisal office shall complete the reappraisal as soon as practicable. The appraisal office shall include on the appraisal records, in addition to other information required or authorized by law:

(1) the date of the disaster;

(2) the appraised value of the property after the disaster; and

(3) if the reappraisal is not authorized by all taxing units in which the property is located, an indication of the taxing units to which the reappraisal applies.

(c) A taxing unit that authorizes a reappraisal under this section must pay the appraisal district all the costs of making the reappraisal. If two or more taxing units provide for the reappraisal in the same territory, each shall share the costs of the reappraisal in that territory in the proportion the total dollar amount of taxes imposed in that territory in the preceding year bears to the total dollar amount of taxes all units providing for reappraisal of that territory imposed in the preceding year.

(d) If property damaged in a natural disaster is reappraised as provided by this section, the governing body shall provide for prorating the taxes on the property for the year in which the disaster occurred. If the taxes are prorated, taxes due on the property are determined as follows: the taxes on the property based on its value on January 1 of that year are multiplied by a fraction, the denominator of which is 365 and the numerator of which is the number of days before the date the disaster occurred; the taxes on the property based on its reappraised value are multiplied by a fraction, the denominator of which is 365 and the numerator of which is the number of days, including the date the disaster occurred, remaining in the year; and the total of the two amounts is the amount of taxes on the property for the year.

(e) This section does not apply to taxes imposed for state purposes.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 136, ch. 13, § 57, eff. Jan. 1, 1982.]

[Sections 23.03 to 23.10 reserved for expansion]

SUBCHAPTER B. SPECIAL APPRAISAL PROVISIONS

§ 23.11. Banking Corporation

(a) The stock of a banking corporation that is located in this state is appraised by subtracting the

market value of the real property owned by the bank from the actual cash value of the bank's stock.

(b) Real property owned by a banking corporation subject to this section is appraised in the same manner as other real property, but a banking corporation's personal property is not subject to taxation except as provided by Section 25.15 of this code. [Acts 1979, 66th Leg., p. 2253, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 23.12. Inventory

(a) The market value of an inventory is the price for which it would sell as a unit to a purchaser who would continue the business.

(b) The chief appraiser shall establish procedures for the equitable and uniform appraisal of inventory for taxation. In conjunction with the establishment of the procedures, the chief appraiser shall:

(1) establish, publish, and adhere to one procedure for the determination of the quantity of property held in inventory without regard to the kind, nature, or character of the property comprising the inventory; and

(2) apply the same enforcement, verification, and audit procedures, techniques, and criteria to the discovery, physical examination, or quantification of all inventories without regard to the kind, nature, or character of the property comprising the inventory.

(c) In appraising an inventory, the chief appraiser shall use the information obtained pursuant to Subsection (b) of this section and shall apply generally accepted appraisal techniques in computing the market value as defined in Subsection (a) of this section.

(d) Subsections (b) and (c) of this section apply only to an inventory held for sale, lease, or rental. [Acts 1979, 66th Leg., p. 2253, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 137, ch. 13, § 58, eff. Jan. 1, 1982.]

#### § 23.13. Taxable Leaseholds

A taxable leasehold or other possessory interest in real property that is exempt from taxation to the owner of the estate or interest encumbered by the possessory interest is appraised at the market value of the leasehold or other possessory interest. However, the appraised value may not be less than the total rental paid for the interest for the current tax year.

[Acts 1979, 66th Leg., p. 2253, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 23.14. Unincorporated Bank

(a) Except as provided by Subsection (b) of this section, the real property and the tangible and intangible personal property owned by an unincorporated bank are appraised at market value.

(b) Money on hand, in transit, or on deposit and notes and accounts receivable, unpaid interest accrued, and other credits are appraised by deducting the total amount of the bank's deposit liability from the total market value of all of those items.

[Acts 1979, 66th Leg., p. 2253, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 23.15. Intangibles of an Insurance Company

Intangible property owned by an insurance company incorporated under the laws of this state is appraised as provided by Article 4.01, Insurance Code.

[Acts 1979, 66th Leg., p. 2253, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 23.16. Intangibles of a Savings and Loan Association

Intangible property owned by a savings and loan association is appraised as provided by Section 11.09, Texas Savings and Loan Act.<sup>1</sup>

[Acts 1979, 66th Leg., p. 2253, ch. 841, § 1, eff. Jan. 1, 1982.]

<sup>1</sup> Civil Statutes, art. 852a, § 11.09.

#### § 23.17. Mineral Interest Not Being Produced

An interest in a mineral that may be removed by surface mining or quarrying from a deposit and that is not being produced is appraised at the price for which the interest would sell while the mineral is in place and not being produced. The appraised value is determined by applying a per acre value to the number of acres covered by the interest. The aggregate of the appraised value of the interest and the appraised value of all other interests that if not under separate ownership would constitute a fee simple estate in real property may not exceed the appraised value that would be placed on the fee estate if the interest in minerals were not owned separately.

[Acts 1979, 66th Leg., p. 2253, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 23.18. Property Owned by a Nonprofit Homeowners' Organization for the Benefit of Its Members

(a) Because many residential subdivisions are developed on the basis of a nonprofit corporation or association maintaining nominal ownership to property, such as swimming pools, parks, meeting halls, parking lots, tennis courts, or other similar property, that is held for the use, benefit, and enjoyment of the members of the organization, that nominally owned property is to be appraised as provided by this section on the basis of a nominal value to avoid double taxation of the property that would result from taxation on the basis of market value of both the property of the organization and the residential units or lots of the members of the organization, whose property values are enhanced by the right to use the organization's property.

(b) All property owned by an organization that qualifies as a nonprofit homeowners' organization under this section is appraised at a nominal value as provided by this section if:

(1) the property is held for the use, benefit, and enjoyment of all members of the organization equally;

(2) each member of the organization owns an easement, license, or other nonrevokable right for the use and enjoyment on an equal basis of all

property held by the organization, even if the right is subject to a restriction imposed by the instruments conveying the right or interest or granting the easement or subject to a rule, regulation, or bylaw imposed by the organization pursuant to authority granted by articles of incorporation, declaration of covenants, conditions and restrictions, bylaws, or articles of association of the organization; and

(3) each member's easement, license, or other nonrevokable right to the use and enjoyment of the property is appurtenant to and an integral part of the taxable real property owned by the member.

(c) The chief appraiser, in appraising property owned by a member of a qualified nonprofit homeowners' organization who is entitled to the use and enjoyment of facilities owned by the organization, shall consider the enhanced value of the property resulting from the member's right to the use and benefit of those facilities.

(d) An organization qualifies as a nonprofit homeowners' organization under this section if:

(1) it engages in residential real estate management;

(2) it is organized and operated to provide for the acquisition, construction, management, maintenance, and care of property nominally owned by the organization and held for the use, benefit, and enjoyment of its members;

(3) 60 percent or more of the gross income of the organization consists of amounts received as membership dues, fees, or assessments from owners of residences or residential lots within an area subject to the jurisdiction and assessment of the organization;

(4) 90 percent or more of the expenditures of the organization is made for the purpose of acquiring, constructing, managing, maintaining, and caring for the property nominally held by the organization;

(5) each member owns an easement, a license, or other nonrevokable right for the use and enjoyment on an equal basis of all property nominally owned by the organization even if the right is subject to a restriction imposed by the instruments conveying the right or interest or granting the easement or subject to a rule, regulation, or bylaw imposed by the organization pursuant to authority granted by articles of incorporation, declaration of covenants, conditions and restrictions, the bylaws, or articles of association of the organization;

(6) net earnings of the organization do not inure to the benefit of any member of the organization or individual, other than by acquiring, constructing, or providing management, maintenance, and care of the organization's property or by a rebate of excess membership dues, fees, or assessments; and

(7) it qualifies for taxation under Section 1301<sup>1</sup> of the Tax Reform Act of 1976, Section 528 of the Internal Revenue Code of 1954, as amended, entitled "Certain Homeowners Associations."<sup>2</sup>

[Added by Acts 1981, 67th Leg., 1st C.S., p. 138, ch. 13, § 59, eff. Jan. 1, 1982.]

<sup>1</sup> So in enrolled bill; probably should read "Section 2101".  
<sup>2</sup> 26 U.S.C.A. § 528.

[Sections 23.19 to 23.40 reserved for expansion]

SUBCHAPTER C. LAND DESIGNATED FOR AGRICULTURAL USE

§ 23.41. Appraisal

(a) Land designated for agricultural use is appraised at its value based on the land's capacity to produce agricultural products. The value of land based on its capacity to produce agricultural products is determined by capitalizing the average net income the land would have yielded under prudent management from production of agricultural products during the five years preceding the current year. However, if the value of land as determined by capitalization of average net income exceeds the market value of the land as determined by other generally accepted appraisal methods, the land shall be appraised by application of the other appraisal methods.

(b) The State Property Tax Board shall promulgate rules specifying the methods to apply and the procedures to use in appraising land designated for agricultural use.

(c) The board shall compile, publish, and distribute to the appraisal offices information about soil type, general topography, general weather conditions, and other factors affecting land's capacity to produce agricultural products for use in classifying agricultural land.

(d) Each year the board shall compile, publish, and distribute to appraisal offices schedules of the agricultural costs and prices for use in calculating average net income for each type of agricultural operation. The board shall use information provided by other state agencies and educational institutions, federal agencies, and other entities interested in agriculture in developing the classifications of land and the schedules.

(e) Improvements other than appurtenances to the land, the mineral estate, and all land used for residential purposes and for processing harvested agricultural products are appraised separately at market value. Riparian water rights, private roads, dams, reservoirs, water wells, and canals, ditches, terraces, and similar reshaping of or additions to the soil for agricultural purposes are appurtenances to the land, and the effect of each on the value of the land for agricultural use shall be considered in appraising the land. However, the State Property Tax Board shall provide that in calculating average net income from land a deduction from income be

allowed for an appurtenance subject to depreciation or depletion.

[Acts 1979, 66th Leg., p. 2254, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 139, ch. 13, § 60, eff. Jan. 1, 1982.]

### § 23.42. Eligibility

(a) An individual is entitled to have land he owns designated for agricultural use if, on January 1:

(1) the land has been devoted exclusively to or developed continuously for agriculture for the three years preceding the current year;

(2) he is using and intends to use the land for agriculture as an occupation or a business venture for profit during the current year; and

(3) agriculture is his primary occupation and primary source of income.

(b) Use of land for nonagricultural purposes does not deprive an owner of his right to an agricultural designation if the nonagricultural use is secondary to and compatible with the agricultural use of the land.

(c) Agriculture is an individual's primary occupation and primary source of income if as of January 1 he devotes a greater portion of his time to and derives a greater portion of his gross income from agriculture than any other occupation. The time an individual devotes to each occupation and the gross income he derives from each is determined by averaging the time he devoted to each and the gross income he derived from each for any number of consecutive years not exceeding five years immediately preceding January 1 of the current year, that he has engaged in agriculture as an occupation. However, if he has not been engaged in agriculture as an occupation for the entire year preceding January 1, the time he has devoted to and the income he has derived from each occupation since the date he began engaging in agriculture as an occupation determine whether agriculture is his primary occupation and primary source of income.

(d) For purposes of this section:

(1) "Agriculture" means the use of land to produce plant or animal products, including fish or poultry products, under natural conditions but does not include the processing of plant or animal products after harvesting or the production of timber or forest products.

(2) "Occupation" includes employment and a business venture that requires continual supervision or management.

[Acts 1979, 66th Leg., p. 2254, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 23.43. Application

(a) An individual claiming the right to have his land designated for agricultural use must apply for the designation each year he claims it. Application for the designation is made by filing a sworn application form with the chief appraiser for the appraisal district in which the land is located.

(b) A claimant must deliver a completed application form to the chief appraiser before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

(c) If a claimant fails to timely file a completed application form in a given year, he may not receive the agricultural designation for that year.

(d) The State Property Tax Board in prescribing the contents of the application forms shall ensure that each form requires a claimant to furnish the information necessary to determine the validity of the claim. The board shall require that the form permit a claimant who has previously been allowed an agricultural designation to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported.

(e) Before February 1 the chief appraiser shall deliver an application form to each individual whose land was designated for agricultural use during the preceding year. He shall include with the application a brief explanation of the requirements for obtaining agricultural designation.

(f) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

[Acts 1979, 66th Leg., p. 2255, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 139, ch. 13, §§ 61, 62, eff. Jan. 1, 1982.]

### § 23.431. Late Application for Agricultural Designation

(a) The chief appraiser shall accept and approve or deny an application for an agricultural designation after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If an application for agricultural designation is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed without the agricultural designation.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit to which an agricultural designation allowed after a late application applies shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a

tax, and accrues penalty and interest in the same manner as a delinquent tax.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 140, ch. 13, § 63, eff. Jan. 1, 1982.]

**§ 23.44. Action on Application**

(a) The chief appraiser shall determine individually each claimant's right to the agricultural designation. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

- (1) approve the application and designate the land for agricultural use;
- (2) disapprove the application and request additional information from the claimant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requests additional information from a claimant, the claimant must furnish the information within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for agricultural designation filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the claimant within five days after the date of denial. The notice must include a brief explanation of the procedures for protesting the denial.

[Acts 1979, 66th Leg., p. 2255, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 140, ch. 13, § 64, eff. Jan. 1, 1982.]

**§ 23.45. Application Confidential**

(a) An application for agricultural designation filed with a chief appraiser is confidential and not open to public inspection. The application and the information it contains about specific property or a specific owner may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.

(b) Information made confidential by this section may be disclosed:

- (1) in a judicial or administrative proceeding pursuant to a lawful subpoena;
- (2) to the person who filed the application or to his representative authorized in writing to receive the information;
- (3) to the director of the State Property Tax Board and his employees authorized by him in writing to receive the information or to an assessor or a chief appraiser if requested in writing;

(4) in a judicial or administrative proceeding relating to property taxation to which the person who filed the application is a party;

(5) for statistical purposes if in a form that does not identify specific property or a specific property owner; or

(6) if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain.

(c) A person who legally has access to an application for agricultural designation or who legally obtains the confidential information the application contains commits a Class B misdemeanor if he knowingly:

(1) permits inspection of the application by a person not authorized to inspect it by Subsection (b) of this section; or

(2) discloses confidential information contained in the report to a person not authorized to receive the information by Subsection (b) of this section.

[Acts 1979, 66th Leg., p. 2256, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 141, ch. 13, § 65, eff. Jan. 1, 1982.]

**§ 23.46. Additional Taxation**

(a) When appraising land designated for agricultural use, the chief appraiser also shall appraise the land at its market value and shall record both the market value and the value based on its capacity to produce agricultural products in the appraisal records.

(b) Property taxes imposed on land designated for agricultural use are based on the land's agricultural use value determined as provided by Section 23.41 of this code after the appropriate assessment ratio has been applied to that value. When an assessor calculates the amount of tax due on the land, however, he shall also calculate the amount of tax that would have been imposed had the land not been designated for agricultural use. The difference in the amount of tax imposed and the amount that would have been imposed is the amount of additional tax for that year, and the assessor shall enter that amount in his tax records relating to the property.

(c) If land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted plus interest at the rate provided for delinquent taxes becomes due. The assessor for each taxing unit shall prepare and deliver a statement for the additional taxes plus interest as soon as practicable after the sale or change of use occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before February 1 of the year following the year in which the sale or change of use occurs.

(d) A tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax and interest imposed by Subsection (c) of this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

[Acts 1979, 66th Leg., p. 2256, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 141, ch. 13, § 66, eff. Jan. 1, 1982.]

[Sections 23.47 to 23.50 reserved for expansion]

#### SUBCHAPTER D. APPRAISAL OF AGRICULTURAL LAND

##### § 23.51. Definitions

In this subchapter:

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights.

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(3) "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. Categories of land include but are not limited to irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste and may be further divided according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors which influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, Soil Conservation Service, and other recognized agricultural sources for the purposes of determining the categories of production existing in the appraisal district.

(4) "Net to land" means the average annual net income derived from the use of open-space land that would have been earned from the land during the five-year period preceding the appraisal by an owner using ordinary prudence in the management of the land and the farm crops or livestock produced or supported on the land and, in addi-

tion, any income received from hunting or recreational leases. The chief appraiser shall calculate net to land using an owner-operator budget, subtracting all ordinary and prudent expenses incurred in pursuit of agricultural use, including all ordinary and prudent expenses incurred in connection with hunting and recreational leases and including owner labor and fixed and variable costs, from the five-year average agricultural income using estimates, including but not limited to those available from the Texas Agricultural Extension Service, U.S. Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Texas Department of Agriculture Crop and Livestock Reporting Service, and universities and colleges within this state. Only if insufficient data is available to calculate net to land on the basis of an owner-operator budget, net to land may be determined by considering the income that would be due to the owner of the land under cash lease, share lease, or whatever lease arrangement is typical in that area for that category of land, and all expenses directly attributable to the agricultural use of the land by the owner shall be subtracted from this owner income and the results shall be used in income capitalization. Net to land shall be determined by the same method for all land in the same category located in the same appraisal district. However, when net to land is calculated using an owner-operator budget and it varies by more than 50 percent from net to land calculated on the basis of the typical lease arrangement, net to land shall be adjusted to the nearest amount that varies from the typical lease amount by only 50 percent. In calculating net to land, a reasonable deduction shall be made for any depletion that occurs of underground water used in the agricultural operation.

(5) "Income capitalization" means the process of dividing net to land by the capitalization rate to determine the appraised value.

[Acts 1979, 66th Leg., p. 2257, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 142, ch. 13, § 67, eff. Jan. 1, 1982.]

##### § 23.52. Appraisal of Qualified Agricultural Land

(a) The appraised value of qualified open-space land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value as determined by other appraisal methods.

(b) The chief appraiser shall determine the appraised value according to this subchapter and, when requested by a landowner, the appraised value according to Subchapter C of this chapter<sup>1</sup> of each category of open-space land owned by that landowner and shall make each value and the market value according to the preceding year's appraisal roll available to a person seeking to apply for appraisal as provided by this subchapter or as provided by Subchapter C of this chapter.

(c) The chief appraiser may not change the appraised value of a parcel of open-space land unless the owner has applied for and the land has qualified for appraisal as provided by this subchapter or by Subchapter C of this chapter or unless the change is made as a result of a reappraisal.

(d) The State Property Tax Board by rule shall develop and distribute to each appraisal office appraisal manuals setting forth this method of appraising qualified open-space land, and each appraisal office shall use the appraisal manuals in appraising qualified open-space land. The State Property Tax Board by rule shall develop and the appraisal office shall enforce procedures to verify that land meets the conditions contained in Subdivision (1) of Section 23.51 of this code. The rules, before taking effect, must be approved by a majority vote of a committee comprised of the following officials or their designees: the governor, the comptroller, the attorney general, the agriculture commissioner, and the Commissioner of the General Land Office.

(e) For the purposes of Section 23.55 of this code, the chief appraiser also shall determine the market value of qualified open-space land and shall record both the market value and the appraised value in the appraisal records.

(f) The appraisal of minerals or subsurface rights to minerals is not within the provisions of this subchapter.

[Acts 1979, 66th Leg., p. 2258, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 143, ch. 13, § 68, eff. Jan. 1, 1982.]

<sup>1</sup> Section 23.41 et seq.

**§ 23.53. Capitalization Rate**

The capitalization rate to be used in determining the appraised value of qualified open-space land as provided by this subchapter is 10 percent or the interest rate specified by the Federal Land Bank of Houston on December 31 of the preceding year plus 2½ percentage points, whichever percentage is greater.

[Acts 1979, 66th Leg., p. 2259, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 23.54. Application**

(a) A person claiming that his land is eligible for appraisal under this subchapter must file a valid application with the chief appraiser.

(b) To be valid, the application must:

(1) be on a form provided by the appraisal office and prescribed by the State Property Tax Board; and

(2) contain the information necessary to determine the validity of the claim.

(c) The State Property Tax Board shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The board, in prescribing the contents of the application form, shall require that the form permit a claimant who

has previously been allowed appraisal under this subchapter to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported.

(d) The form must be filed before May 1. However, for good cause the chief appraiser may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(f) The appraisal office shall make a sufficient number of printed application forms readily available at no charge.

(g) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

(h) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends or after a change in the category of agricultural use. If a person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(i) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(j) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the 10 preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility has ended, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

[Acts 1979, 66th Leg., p. 2259, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 143, ch. 13, § 69, eff. Jan. 1, 1982.]

#### § 23.541. Late Application for Appraisal as Agricultural Land

(a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 144, ch. 13, § 70, eff. Jan. 1, 1982.]

#### § 23.55. Change of Use of Land

(a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section

and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) The assessor shall prepare and deliver a statement for the additional taxes plus interest as soon as practicable after the change of use occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before February 1 of the year after the year in which the change of use occurs.

(f) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

(g) If the use of the land changes to a use that qualifies under Subchapter E of this chapter,<sup>1</sup> the sanctions provided by Subsection (a) of this section do not apply.

(h) Additional taxes, if any, for a year in which land was designated for agricultural use as provided by Subchapter C of this chapter<sup>2</sup> (or Article VIII, Section 1-d, of the constitution) are determined as provided by that subchapter, and the additional taxes imposed by this section do not apply for that year. [Acts 1979, 66th Leg., p. 2259, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 145, ch. 13, § 71, eff. Jan. 1, 1982.]

<sup>1</sup> Section 23.71 et seq.

<sup>2</sup> Section 23.41 et seq.

#### § 23.56. Land Ineligible for Appraisal as Open-Space Land

Land is not eligible for appraisal as provided by this subchapter if:

(1) the land is located inside the corporate limits of an incorporated city or town, unless:

(A) the city or town is not providing the land with governmental and proprietary services substantially equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography, land utilization, and population density; or

(B) the land has been devoted principally to agricultural use continuously for the preceding five years;

(2) the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal

law to register his ownership or acquisition of that property; or

(3) the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

[Acts 1979, 66th Leg., p. 2260, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 23.57. Action on Applications**

(a) The chief appraiser shall determine separately each applicant's right to have his land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

- (1) approve the application and allow appraisal under this subchapter;
- (2) disapprove the application and request additional information from the applicant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action and a full explanation of the reasons for denial of the application.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 145, ch. 13, § 72, eff. Jan. 1, 1982.]

[Sections 23.58 to 23.70 reserved for expansion]

**SUBCHAPTER E. APPRAISAL OF TIMBER LAND**

**§ 23.71. Definitions**

In this subchapter:

(1) "Category of the land" means the value classification of land for timber production, based on soil type, soil capability, general topography, weather, location, and other pertinent factors, as determined by competent governmental sources.

(2) "Net to land" means the average net income that would have been earned by a category of land over the preceding five years by a person using

ordinary prudence in the management of the land and the timber produced on the land. The net income for each year is determined by multiplying the land's potential average annual growth, expressed in cords or board feet of wood, by the average stumpage value, taking into consideration the three general types of timber as produced on the four different soil types, as determined by using information from the U.S. Forest Service, U.S. Geological Survey, the Soil Conservation Service, the Texas Forest Service, and colleges and universities within this state, and by subtracting from the product reasonable management costs and other reasonable expenses directly attributable to the production of the timber.

[Acts 1979, 66th Leg., p. 2261, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 23.72. Qualification for Productivity Appraisal**

Land qualifies for appraisal as provided by this subchapter if it is currently and actively devoted principally to production of timber or forest products to the degree of intensity generally accepted in the area with intent to produce income and has been devoted principally to production of timber or forest products for five of the preceding seven years.

[Acts 1979, 66th Leg., p. 2261, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 23.73. Appraisal of Qualified Timber Land**

(a) The appraised value of qualified timber land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value of the land as determined by other appraisal methods.

(b) The State Property Tax Board by rule shall develop and distribute to each appraisal office appraisal manuals setting forth this method of appraising qualified timber land, and each appraisal office shall use the appraisal manuals in appraising qualified timber land. The State Property Tax Board by rule shall develop and the appraisal office shall enforce procedures to verify that land meets the conditions contained in Section 23.72 of this code. The rules, before taking effect, must be approved by majority vote of a committee comprised of the following officials or their designees: the governor, the comptroller, the attorney general, the agriculture commissioner, and the Commissioner of the General Land Office.

(c) For the purposes of Section 23.76 of this code, the chief appraiser also shall determine the market value of qualified timber land and shall record both the market value and the appraised value in the appraisal records.

(d) The appraisal of minerals or subsurface rights to minerals is not within the provisions of this subchapter.

[Acts 1979, 66th Leg., p. 2261, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg. 1st C.S., p. 145, ch. 13, § 73, eff. Jan. 1, 1982.]

**§ 23.74. Capitalization Rate**

The capitalization rate to be used in determining the appraised value of qualified timber land as provided by this subchapter is the interest rate specified by the Federal Land Bank of Houston on December 31 of the preceding year plus 2-½ percentage points. [Acts 1979, 66th Leg., p. 2262, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 23.75. Application**

(a) A person claiming that his land is eligible for appraisal as provided by this subchapter must file a valid application with the chief appraiser.

(b) To be valid, the application must:

(1) be on a form provided by the appraisal office and prescribed by the State Property Tax Board; and

(2) contain the information necessary to determine the validity of the claim.

(c) The State Property Tax Board shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The board, in prescribing the contents of the application form, shall require that the form permit a claimant who has previously been allowed appraisal under this subchapter to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported.

(d) The form must be filed before May 1. However, for good cause the chief appraiser may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(f) The appraisal office shall make a sufficient number of printed application forms readily available at no charge.

(g) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district the requirements of this section and the availability of application forms.

(h) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land

under this subchapter ends. If a person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(i) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(j) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the 10 preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility had ended, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

[Acts 1979, 66th Leg., p. 2262, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 146, ch. 13, § 74, eff. Jan. 1, 1982.]

**§ 23.751. Late Application for Appraisal as Timber Land**

(a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector

for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 147, ch. 13, § 75, eff. Jan. 1, 1982.]

**§ 23.76. Change of Use of Land**

(a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) The assessor shall prepare and deliver a statement for the additional taxes and interest as soon as practicable after the change of use occurs. The taxes and interest are due and become delinquent and incur penalties and interests as provided by law for ad valorem taxes imposed by the taxing unit if not paid before February 1 of the year after the year in which the change of use occurs.

(f) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

(g) If the use of the land changes to a use that qualifies under Subchapter C or D of this chapter,<sup>1</sup> the sanctions provided by Subsection (a) of this section do not apply.

[Acts 1979, 66th Leg., p. 2262, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 148, ch. 13, § 76, eff. Jan. 1, 1982.]

<sup>1</sup> Sections 23.41 et seq. and 23.51 et seq.

**§ 23.77. Land Ineligible for Appraisal as Timber Land**

Land is not eligible for appraisal as provided by this subchapter if:

(1) the land is located inside the corporate limits of an incorporated city or town, unless:

(A) the city or town is not providing the land with governmental and proprietary services substantially equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography, land utilization, and population density; or

(B) the land has been devoted principally to production of timber or forest products continuously for the preceding five years;

(2) the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal law to register his ownership or acquisition of that property; or

(3) the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

[Acts 1979, 66th Leg., p. 2263, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 23.78. Minimum Taxable Value of Timber Land**

The taxable value of qualified timber land appraised as provided by this subchapter may not be less than the appraised value of that land for the taxing unit in the 1978 tax year, except that the taxable value used for any tax year may not exceed the market value of the land as determined by other generally accepted appraisal methods. If the appraised value of timber land determined as provided by this subchapter is less than a taxing unit's appraised value of that land in 1978, the assessor for the unit shall substitute the 1978 appraised value for that land on the unit's appraisal roll.

[Acts 1979, 66th Leg., p. 2263, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 148, ch. 13, § 77, eff. Jan. 1, 1982.]

**§ 23.79. Action on Applications**

(a) The chief appraiser shall determine separately each applicant's right to have his land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional information from the applicant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 148, ch. 13, § 78, eff. Jan. 1, 1982.]

#### SUBCHAPTER F. APPRAISAL OF RECREATIONAL, PARK, AND SCENIC LAND

##### § 23.81. Definitions

In this subchapter:

(1) "Recreational, park, or scenic use" means use for individual or group sporting activities, for park or camping activities, for development of historical, archaeological, or scientific sites, or for the conservation and preservation of scenic areas.

(2) "Deed restriction" means a valid and enforceable provision that limits the use of land and that is included in a written instrument filed and recorded in the deed records of the county in which the land is located.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, § 79, eff. Jan. 1, 1982.]

##### § 23.82. Voluntary Restrictions

(a) The owner of a fee simple estate in land of at least five acres may limit the use of the land to recreational, park, or scenic use by filing with the county clerk of the county in which the land is located a written instrument executed in the form and manner of a deed.

(b) The instrument must describe the land, name each owner of the land, and provide that the restricted land may be used only for recreational, park, or scenic uses during the term of the deed restriction. The term of the deed restriction must be for at least 10 years, and the length of the term must be stated in the instrument.

(c) The county attorney of the county in which the restricted land is located or any person owning or having an interest in the restricted land may enforce a deed restriction that complies with the requirements of this section.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, § 79, eff. Jan. 1, 1982.]

##### § 23.83. Appraisal of Restricted Land

(a) A person is entitled to have land he owns appraised under this subchapter if, on January 1:

(1) the land is restricted as provided by this subchapter;

(2) the land is used in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain;

(3) the land has been devoted exclusively to recreational, park, or scenic uses for the preceding year; and

(4) he is using and intends to use the land exclusively for those purposes in the current year.

(b) The chief appraiser may not consider any factor other than one relating to the value of the land as restricted. Sales of comparable land not restricted as provided by this subchapter may not be used to determine the value of restricted land.

(c) Improvements other than appurtenances to the land and the mineral estate are appraised separately at market value. Riparian water rights, private roads, dams, reservoirs, water wells, and canals, ditches, terraces, and similar reshaping of or additions to the soil are appurtenances to the land and the effect of each on the value of the land for recreational, park, or scenic uses shall be considered in appraising the land.

(d) If land is appraised under this subchapter for a year, the chief appraiser shall determine at the end of that year whether the land was used exclusively for recreational, park, or scenic uses. If the land was not used exclusively for recreational, park, or scenic uses, the assessor for each taxing unit shall impose an additional tax equal to the difference in the amount of tax imposed and the amount that would have been imposed for that year if the land had not been restricted to recreational, park, or scenic uses. The assessor shall include the amount of additional tax plus interest on the next bill for taxes on the land.

(e) The State Property Tax Board shall promulgate rules specifying the methods to apply and the procedures to use in appraising land under this subchapter.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, § 79, eff. Jan. 1, 1982.]

##### § 23.84. Application

(a) A person claiming the right to have his land appraised under this subchapter must apply for the right the first year he claims it. Application for appraisal under this chapter is made by filing a sworn application form with the chief appraiser for the appraisal district in which the land is located.

(b) A claimant must deliver a completed application form to the chief appraiser before May 1 and must furnish the information required by the form.

For good cause shown the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

(c) If a claimant fails to timely file a completed application form, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter during the term of the deed restriction without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser, if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(d) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends.

(e) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the 10 preceding years, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land if it had not been restricted to recreational, park, or scenic uses to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

(f) The State Property Tax Board in prescribing the contents of the application forms shall ensure that each form requires a claimant to furnish the information necessary to determine the validity of the claim and that the form requires the claimant to state that the land for which he claims appraisal under this subchapter will be used exclusively for recreational, park, or scenic uses in the current year. [Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, § 79, eff. Jan. 1, 1982.]

#### § 23.85. Action on Application

(a) The chief appraiser shall determine individually each claimant's right to appraisal under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

- (1) approve the application and allow appraisal under this subchapter;
- (2) disapprove the application and request additional information from the claimant in support of the claim; or
- (3) deny the application.

(b) If the chief appraiser requests additional information from a claimant, the claimant must furnish the information within 30 days after the date of

the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the claimant within five days after the date of denial. The notice must include a brief explanation of the procedures for protesting the denial.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, § 79, eff. Jan. 1, 1982.]

#### § 23.86. Additional Taxation for Preceding Years

(a) If land that has been appraised under this subchapter is no longer subject to a deed restriction or is diverted to a use other than recreational, park, or scenic uses, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs or the deed restriction expires that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land not been restricted to recreational, park, or scenic uses in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the land on the date the change of use occurs or the deed restriction expires to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

(c) The assessor shall prepare and deliver a statement for the additional taxes as soon as practicable after the change of use occurs or the deed restriction expires. The taxes become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next date on which the unit's taxes become delinquent that is more than 10 days after the date the statement is delivered.

(d) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, § 79, eff. Jan. 1, 1982.]

#### § 23.87. Penalty for Violating Deed Restriction

(a) If land appraised under this subchapter is used for other than recreational, park, or scenic uses before the term of the deed restriction expires, a penalty is imposed on the land equal to the differ-

ence between the taxes imposed on the land for the year in which the violation occurs and the amount that would have been imposed for that year had the land not been restricted to recreational, park, or scenic uses.

(b) The chief appraiser shall make an entry in the appraisal records for the land against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who filed the application for appraisal under this subchapter. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty.

(c) The assessor for each taxing unit that imposed taxes on the land on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the land against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the land against which the penalty is imposed. The amount of the penalty constitutes a lien on the land against which the penalty is imposed and accrues penalties and interest in the same manner as a delinquent tax.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, § 79, eff. Jan. 1, 1982.]

[Sections 23.88 to 23.90 reserved for expansion]

#### SUBCHAPTER G. APPRAISAL OF PUBLIC ACCESS AIRPORT PROPERTY

*Acts 1981, 67th Leg., 1st C.S., p. 152, ch. 13, § 80, relettered this Subchapter, which was added as Subchapter F by Acts 1981, 67th Leg., p. 2355, ch. 581, § 1, as Subchapter G.*

#### § 23.91. Definitions

In this subchapter:

(1) "Airport property" means real property that is designed to be used or is used for airport purposes, including the landing, parking, shelter, or takeoff of aircraft and the accommodation of individuals engaged in the operation, maintenance, or navigation of aircraft or of aircraft passengers in connection with their use of aircraft or of airport property.

(2) "Public access airport property" means privately owned airport property that is regularly used by the public for or regularly provides services to the public in connection with airport purposes.

(3) "Deed restriction" means a valid and enforceable provision that restricts the use of property and that is included in a written instrument filed and recorded in the deed records of the county in which the property is located.

[Added by Acts 1981, 67th Leg., p. 2355, ch. 581, § 1, eff. Jan. 1, 1982.]

#### § 23.92. Voluntary Restrictions

(a) The owner of a fee simple estate in property of at least five acres may limit the use of that part of the property which is airport property to public access airport property by filing with the county clerk of the county in which the property is located a written instrument executed in the form and manner of a deed.

(b) The instrument must describe the property and the restricted part of the property, name each owner of the property, and provide that the restricted property may only be used as public access airport property during the term of the deed restriction. The term of the deed restriction must be for at least 10 years, and the length of the term must be stated in the instrument.

(c) The county attorney of the county in which the restricted property is located or any person owning or having an interest in the restricted property may enforce a deed restriction that complies with the requirements of this section.

[Added by Acts 1981, 67th Leg., p. 2355, ch. 581, § 1, eff. Jan. 1, 1982.]

#### § 23.93. Appraisal of Restricted Land

(a) A person is entitled to have airport property he owns appraised under this subchapter if, on January 1:

(1) the property is restricted as provided by this subchapter;

(2) the property has been devoted exclusively to use as public access airport property for the preceding year; and

(3) he is using and intends to use the property exclusively as public access airport property in the current year.

(b) The chief appraiser may not consider any factor other than one relating to the value of the airport property as restricted. Sales of comparable airport property not restricted as provided by this subchapter may not be used to determine the value of restricted property.

(c) Improvements to the property that qualify as public access airport property are appraised as provided by this subchapter, but other improvements and the mineral estate are appraised separately at market value.

(d) If airport property is appraised under this subchapter for a year, the chief appraiser shall determine at the end of that year whether the property was used exclusively as public access airport property. If the airport property was not used exclusively as public access airport property, the assessor for each taxing unit shall impose an additional tax equal to the difference in the amount of tax imposed and the amount that would have been imposed for that year if the property had not been restricted to use as public access airport property. The assessor shall include the amount of additional tax plus interest on the next bill for taxes on the land.

(e) The State Property Tax Board shall promulgate rules specifying the methods to apply and the procedures to use in appraising property under this subchapter.

[Added by Acts 1981, 67th Leg., p. 2355, ch. 581, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 152, ch. 13, § 81, eff. Jan. 1, 1982.]

**§ 23.94. Application**

(a) A person claiming the right to have his airport property appraised under this subchapter must apply for the right the first year he claims it. Application for appraisal under this subchapter is made by filing a sworn application form with the chief appraiser for each appraisal district in which the land is located.

(b) A claimant must deliver a completed application form to the chief appraiser before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

(c) If a claimant fails to timely file a completed application form, the property is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the property is eligible for appraisal under this subchapter during the term of the deed restriction without a new application unless the ownership of the property changes or its eligibility under this subchapter ends. However, the chief appraiser, if he has good cause to believe the property's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the property is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(d) A person whose property is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the property under this subchapter ends.

(e) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the 10 preceding years, he shall add the difference between the appraised value of the property under this subchapter and the value of the property if it had not been restricted to use as public access airport property to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

(f) The State Property Tax Board in prescribing the contents of the application forms shall ensure that each form requires a claimant to furnish the information necessary to determine the validity of the claim and that the form requires the claimant to state that the airport property for which he claims appraisal under this subchapter will be used exclu-

sively as public access airport property in the current year.

[Added by Acts 1981, 67th Leg., p. 2355, ch. 581, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 152, ch. 13, § 82, eff. Jan. 1, 1982.]

**§ 23.95. Action on Application**

(a) The chief appraiser shall determine individually each claimant's right to appraisal under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional information from the claimant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from a claimant, the claimant must furnish the information within 30 days after the date of the request or before April 15, whichever is earlier, or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the claimant within five days after the date of denial. The notice must include a brief explanation of the procedures for protesting the denial.

[Added by Acts 1981, 67th Leg., p. 2355, ch. 581, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 153, ch. 13, § 83, eff. Jan. 1, 1982.]

**§ 23.96. Taxation for Preceding Years**

(a) If airport property that has been appraised under this subchapter is no longer subject to a deed restriction, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the five years preceding the year in which the deed restriction expires that the property was appraised as provided by this subchapter and the tax that would have been imposed had the property not been restricted to use as public access airport property in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the property on the date the deed restriction expires to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

(c) The assessor shall prepare and deliver a statement for the additional taxes as soon as practicable after the deed restriction expires. The taxes become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next date on which the unit's taxes become delinquent that is more than 10 days after the date the statement is delivered.

(d) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

[Added by Acts 1981, 67th Leg., p. 2355, ch. 581, § 1, eff. Jan. 1, 1982.]

### § 23.97. Penalty for Violating Deed Restriction

(a) If airport property appraised under this subchapter is used as other than public access airport property before the term of the deed restriction expires, a penalty is imposed on the property equal to the difference between the taxes imposed on the property on the basis of appraisal under this subchapter for the year in which the violation occurs and the amount that would have been imposed for that year had the property not been restricted to use as public access airport property.

(b) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who filed the application for appraisal under this subchapter. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty.

(c) The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The county assessor-collector shall add the amount of the penalty to the county's tax bill for taxes on the property. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

[Added by Acts 1981, 67th Leg., p. 2355, ch. 581, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, § 84, eff. Jan. 1, 1982.]

## CHAPTER 24. CENTRAL APPRAISAL

### SUBCHAPTER A. TRANSPORTATION BUSINESS INTANGIBLES

Section	
24.01.	Appraisal by State Property Tax Board.
24.02.	Property Information Report.
24.03.	Additional Information.
24.04.	Penalty for Failure or Refusal to Deliver Required Information.

Section	
24.05.	Assistance from State Agencies.
24.06.	Method of Appraisal.
24.07.	Intrastate Apportionment.
24.08.	Protest Hearing.
24.09.	Notice.
24.10.	Rules.
24.11.	Certification of Apportioned Value.
24.12.	Omitted Property.
24.13.	Imposition of Tax.
24.14.	Exemption from Gross Receipts Tax.

### SUBCHAPTER B. RAILROAD ROLLING STOCK

24.31.	Appraisal at Headquarters.
24.32.	Rolling Stock Information Reports.
24.33.	Report of Leased Rolling Stock Forwarded.
24.34.	Interstate Allocation.
24.35.	Notice, Review, and Protest.
24.36.	Certification to State Property Tax Board.
24.37.	Intrastate Apportionment.
24.38.	Certification of Apportioned Value.
24.39.	Imposition of Tax.
24.40.	Omitted Property.

### SUBCHAPTER A. TRANSPORTATION BUSINESS INTANGIBLES

#### § 24.01. Appraisal by State Property Tax Board

The State Property Tax Board shall appraise for taxation the intangible value of the transportation operation in this state of the following businesses:

- (1) railroads;
- (2) toll roads, toll bridges, and ferries;
- (3) motor bus carriers subject to regulation by the railroad commission;
- (4) common or contract motor carriers subject to regulation by the railroad commission; and
- (5) oil pipelines and common carrier pipelines engaged in the transportation of oil.

[Acts 1979, 66th Leg., p. 2264, ch. 841, § 1, eff. Jan. 1, 1980.]

#### § 24.02. Property Information Report

(a) In addition to any reports required by Chapter 22 or Section 24.32 of this code, a person who on January 1 owns or manages and controls as a fiduciary a transportation business described by Section 24.01 of this code shall file a property information report with the board annually.

(b) The report must be on a form prescribed and furnished by the board. In prescribing the forms, the board shall ensure that each requires a taxpayer to furnish the information necessary for the board to perform its duties under this subchapter.

(c) The report must contain all the information required by the form and must be signed by the individual required to file the report by Subsection (a) of this section. When a corporation is required to file the report, an officer of the corporation or an employee or agent who has been designated in writing by the board of directors or by an authorized officer to sign in behalf of the corporation must sign the report.

(d) Reports must be filed before March 1. For good cause shown the board may extend the filing

deadline by written order for a single period not to exceed 60 days.

[Acts 1979, 66th Leg., p. 2264, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, § 85, eff. Jan. 1, 1982.]

**§ 24.03. Additional Information**

(a) If the board determines that it needs information in addition to that furnished in a transportation business's property information report, the board may require the business to supply the additional information by written notice delivered to the business by registered or certified mail, return receipt requested.

(b) A business shall furnish any additional information required as provided by Subsection (a) of this section within 15 days after the date notice is mailed. For good cause shown the board may extend the deadline for a single period not to exceed 15 days.

[Acts 1979, 66th Leg., p. 2264, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.04. Penalty for Failure or Refusal to Deliver Required Information**

(a) If a transportation business knowingly fails or refuses to deliver a completed report in the time and manner required by Section 24.02 of this code or knowingly fails or refuses to deliver additional information in the time and manner required by Section 24.03, the business is liable to the state for a civil penalty not exceeding \$5,000.

(b) The attorney general shall collect the penalty in a suit on the board's behalf. Venue for suit is in Travis County.

[Acts 1979, 66th Leg., p. 2265, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.05. Assistance from State Agencies**

The board may call on the railroad commission or any other state entity that may have information or expertise relevant to the board's duties under this chapter for assistance in determining the amount, value, interstate allocation, and intrastate apportionment of a transportation business's property.

[Acts 1979, 66th Leg., p. 2265, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.06. Method of Appraisal**

(a) To appraise the intangible value of the transportation operation in this state of a transportation business described by Section 24.01 of this code, the board shall determine the market value of the operating portion of the business as of January 1.

(b) If the business has property used in its transportation business located in another state or country or used both inside and outside this state, the board shall allocate to this state the proportion of the total market value of the business's transportation operation that fairly reflects its use in this state.

(c) The board shall deduct the market value of the business's tangible operating property located in or

allocable to this state from the market value of all the transportation operation allocable to this state determined as provided by Subsection (b) of this section. The remainder is the market value of the intangibles of the business in this state.

[Acts 1979, 66th Leg., p. 2265, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.07. Intrastate Apportionment**

The board shall apportion to each county in which a transportation business described by Section 24.01 of this code operates the proportion of the market value of its intangibles in this state determined as provided by Section 24.06 of this code that fairly reflects its use in the county.

[Acts 1979, 66th Leg., p. 2265, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.08. Protest Hearing**

(a) After it apportions intangible values among the counties, the board shall determine the date, time, and place it will convene for a public hearing to decide protests of its appraisal, interstate allocation, or intrastate apportionment.

(b) The board shall convene a hearing to determine protests before June 15 of each year. The board shall finally decide all protests before July 15 of each year.

(c) Section 19 and Subsections (c) through (f) of Section 16, Administrative Procedure and Texas Register Act,<sup>1</sup> do not apply to hearings under this section. The board's decision may be appealed as provided by Chapter 42 of this code.

[Acts 1979, 66th Leg., p. 2265, ch. 841, § 1, eff. Jan. 1, 1980.]

<sup>1</sup> Civil Statutes, art. 6252-13a.

**§ 24.09. Notice**

(a) Before May 31 of each year and at least 10 days before the date fixed for protest hearings pursuant to Section 24.08 of this code, the board shall notify each transportation business whose intangible value in this state it has appraised of the board's determination of:

(1) the market value of the business's transportation operation;

(2) the amount of that value allocated to this state in the case of an interstate or international business;

(3) the market value of its tangible property located in or allocable to this state;

(4) the market value of its intangibles in this state; and

(5) the amount of intangible value apportioned to each county in which the business operates.

(b) The notice shall be in writing, delivered by mail, and shall include the date, time, and place the board will convene a hearing to decide protests.

[Acts 1979, 66th Leg., p. 2265, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, § 86, eff. Jan. 1, 1982.]

**§ 24.10. Rules**

The board shall adopt rules to implement this subchapter. The rules shall prescribe, among other matters:

- (1) the evidences of value and appraisal formulas used in appraising property under this subchapter;
- (2) the formulas applied to each kind of transportation business in making interstate allocations and intrastate apportionments;
- (3) the requirements of report forms; and
- (4) the nature of the good cause required to extend the reporting deadline.

[Acts 1979, 66th Leg., p. 2266, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.11. Certification of Apportioned Value**

(a) Before August 1, the board shall certify to the assessor-collector for each county in which a business described by Section 24.01 of this code operates:

- (1) the name and address of each business that operates in the county; and
- (2) the amount of the market value of the business's intangibles apportioned to the county.

(b) Before August 1, the board also shall certify to the comptroller:

- (1) the name and address of each business described by Section 24.01 of this code that operates in this state;
- (2) the market value of each business's intangibles in this state; and
- (3) the amount of the market value of the business's intangibles that is apportioned to each county.

[Acts 1979, 66th Leg., p. 2266, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.12. Omitted Property**

(a) If the board discovers that the intangible value of the transportation operation in this state of a business described by Section 24.01 of this code has not been appraised and apportioned to the counties in one of the two preceding years, the board shall appraise the property and apportion its value as of January 1 for each year it was omitted.

(b) The board shall note that the appraisal and allocation are for intangibles that escaped taxation in a prior year and shall indicate the year and the appraised value for each year.

[Acts 1979, 66th Leg., p. 2266, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.13. Imposition of Tax**

The county assessor-collector and commissioners court may not change the apportioned values certified as provided by this subchapter. The county assessor-collector shall add each business's intangibles and the value apportioned to the county as certified to him to the appraisal roll certified to him by the chief appraiser pursuant to Section 26.01 of this code for state and county tax purposes. He shall calculate the state and county tax due on the

intangible value as provided by Section 26.09 of this code.

[Acts 1979, 66th Leg., p. 2266, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, § 87, eff. Jan. 1, 1982.]

**§ 24.14. Exemption from Gross Receipts Tax**

A transportation business described by Section 24.01 of this code that pays all ad valorem taxes imposed on its intangible value in full and before delinquent is not liable in that year for any occupation tax measured by gross receipts imposed by any law of this state.

[Acts 1979, 66th Leg., p. 2267, ch. 841, § 1, eff. Jan. 1, 1980.]

[Sections 24.15 to 24.30 reserved for expansion]

**SUBCHAPTER B. RAILROAD ROLLING STOCK****§ 24.31. Appraisal at Headquarters**

The chief appraiser for the county in which the owner of rolling stock used by a railroad resides or maintains a principal place of business in this state shall appraise for taxation the rolling stock owned on January 1. However, if the owner does not reside or maintain a place of business in this state, the chief appraiser for the county in which a railroad that leases the rolling stock maintains its principal place of business in this state shall appraise it.

[Acts 1979, 66th Leg., p. 2267, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, § 88, eff. Jan. 1, 1982.]

**§ 24.32. Rolling Stock Information Reports**

(a) In addition to any reports required by Chapter 22 or Section 24.02 of this code, a person who on January 1 owns or manages and controls as a fiduciary any rolling stock used in the operation of a railroad shall file a property information report listing the rolling stock with the chief appraiser for the county in which the owner maintains his principal place of business in this state.

(b) If the owner of a railroad is leasing or otherwise using rolling stock on January 1 for use in the operation of the railroad, he shall file a separate report, attached to the report required by Subsection (a) of this section, listing the rolling stock, the name and business address of the owner, and the full consideration for the lease or use.

(c) A report required by this section must be on a form prescribed by the State Property Tax Board. In prescribing the form, the board shall ensure that it requires the information necessary to determine market value of rolling stock used in this state.

(d) The report must contain all the information required by the form and must be signed by the individual required to file the report by Subsection (a) of this section. When a corporation is required to file the report, an officer of the corporation or an employee or agent who has been designated in writing by the board of directors or by an authorized

officer to sign in behalf of the corporation must sign the report.

(e) A report must be filed before May 1. For good cause shown the chief appraiser may extend the filing deadline by written order for a single period not to exceed 15 days.

[Acts 1979, 66th Leg., p. 2267, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, § 89, eff. Jan. 1, 1982.]

**§ 24.33. Report of Leased Rolling Stock Forwarded**

If the owner of leased rolling stock resides in this state or maintains a place of business in this state, the chief appraiser receiving the lessee's report required by Subsection (b) of Section 24.32 of this code shall deliver a certified copy of the report by registered or certified mail to the chief appraiser responsible for appraising the rolling stock as provided by Section 24.31 of this code.

[Acts 1979, 66th Leg., p. 2267, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, § 90, eff. Aug. 14, 1981.]

**§ 24.34. Interstate Allocation**

(a) If the railroad operates in another state or country, the chief appraiser shall allocate to this state the proportion of the total market value of the rolling stock that fairly reflects its use in this state during the preceding tax year.

(b) The State Property Tax Board shall adopt rules establishing formulas for interstate allocation of the value of railroad rolling stock.

[Acts 1979, 66th Leg., p. 2267, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, § 91, eff. Aug. 14, 1981.]

**§ 24.35. Notice, Review, and Protest**

(a) The chief appraiser shall deliver notice to the owner of the rolling stock as provided by Section 25.19 of this code and present the appraised value for review and protest as provided by Chapter 41 of this code.

(b) Review and protests of appraisals of railroad rolling stock must be completed by July 1 or as soon thereafter as practicable and for that reason shall be given priority.

[Acts 1979, 66th Leg., p. 2268, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, § 92, eff. Aug. 14, 1981.]

**§ 24.36. Certification to State Property Tax Board**

On approval of the appraised value of the rolling stock as provided by Chapter 41 of this code, the chief appraiser shall certify to the State Property Tax Board the amount of market value allocated to this state for each owner whose rolling stock is appraised in the county and the name and business address of each owner.

[Acts 1979, 66th Leg., p. 2268, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, § 93, eff. Aug. 14, 1981.]

**§ 24.37. Intrastate Apportionment**

The State Property Tax Board shall apportion the appraised value of each owner's rolling stock to each county in which the railroad using it operates according to the ratio the mileage of road owned by the railroad in the county bears to the total mileage of road the railroad owns in this state.

[Acts 1979, 66th Leg., p. 2268, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.38. Certification of Apportioned Value**

(a) Before August 1, the State Property Tax Board shall certify to the county assessor-collector for each county in which a railroad operates:

- (1) the county's apportioned amount of the market value of each owner's rolling stock; and
- (2) the name and business address of each owner.

(b) Before August 1 the board also shall certify to the comptroller:

- (1) the name and address of each owner of railroad rolling stock that is appraised pursuant to this subchapter;
- (2) the market value of each owner's rolling stock; and
- (3) the amount of the market value that is apportioned to each county.

[Acts 1979, 66th Leg., p. 2268, ch. 841, § 1, eff. Jan. 1, 1980.]

**§ 24.39. Imposition of Tax**

The county assessor-collector and commissioners court may not change the apportioned values certified as provided by this subchapter. The county assessor-collector shall add each owner's rolling stock and the value apportioned to the county as certified to him to the appraisal roll certified to him by the chief appraiser as provided by Section 26.01 of this code for state and county tax purposes. He shall calculate the state and county tax due on the rolling stock as provided by Section 26.09 of this code.

[Acts 1979, 66th Leg., p. 2268, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, § 94, eff. Aug. 14, 1981.]

**§ 24.40. Omitted Property**

(a) If a chief appraiser discovers that rolling stock used in this state and subject to appraisal by him has not been appraised and apportioned to the counties in one of the two preceding years, he shall appraise the property as of January 1 for each year it was omitted, submit the appraisal for review and protest, and certify the approved value to the State Property Tax Board.

(b) The certification shall show that the appraisal is for property that escaped taxation in a prior year and shall indicate the year and the appraised value for each year.

[Acts 1979, 66th Leg., p. 2268, ch. 841, § 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 156, ch. 13, § 95, eff. Aug. 14, 1981.]

## CHAPTER 25. LOCAL APPRAISAL

Section	
25.01.	Preparation of Appraisal Records.
25.011.	Special Appraisal Records.
25.02.	Form and Content.
25.03.	Description.
25.04.	Separate Estates or Interests.
25.05.	Life Estates.
25.06.	Property Encumbered by Possessory or Security Interest.
25.07.	Leasehold and Other Possessory Interests in Exempt Property.
25.08.	Improvements.
25.09.	Condominiums and Planned Unit Developments.
25.10.	Standing Timber.
25.11.	Undivided Interests.
25.12.	Mineral Interest.
25.13.	Exempt Property Subject to Contract of Sale.
25.14.	Stock in Banking Corporation.
25.15.	Bank Personal Property Subject to Lease.
25.16.	Property Losing Exemption During Tax Year.
25.17.	Property Overlapping Taxing Unit Boundaries.
25.18.	Periodic Reappraisals.
25.19.	Notice of Appraised Value.
25.20.	Notice to Taxing Units.
25.21.	Omitted Property.
25.22.	Submission for Review and Protest.
25.23.	Supplemental Appraisal Records.
25.24.	Appraisal Roll.
25.25.	Correction of Appraisal Roll.

## § 25.01. Preparation of Appraisal Records

(a) By May 15 or as soon thereafter as practicable, the chief appraiser shall prepare appraisal records listing all property that is taxable in the district and stating the appraised value of each.

(b) The chief appraiser with the approval of the board of directors of the district may contract with a private appraisal firm to perform appraisal services for the district, subject to his approval. A contract for private appraisal services is void if the amount of compensation to be paid the private appraisal firm is contingent on the amount of or increase in appraised, assessed, or taxable value of property appraised by the appraisal firm.

(c) A contract for appraisal services for an appraisal district is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district and such appraisals and supporting data shall be public records. "Supporting data" shall not be construed to include personal notes, correspondence, working papers, thought processes, or any other matters of a privileged or proprietary nature.

[Acts 1979, 66th Leg., p. 2269, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 156, ch. 13, § 96, eff. Jan. 1, 1982.]

## § 25.011. Special Appraisal Records

(a) The chief appraiser for each appraisal district shall prepare and maintain a record of property specially appraised under Chapter 23 of this code and subject, in the future to additional taxation for change in use or status.

(b) The record for each type of specially appraised property must be maintained in a separate document for each 12-month period beginning June 1. The

document must include the name of at least one owner of the property, the acreage of the property, and other information sufficient to identify the property as required by the State Property Tax Board. All entries in each document must be kept in alphabetical order according to the last name of each owner whose name is part of the record. [Added by Acts 1981, 67th Leg., 1st C.S., p. 156, ch. 13, § 97, eff. Jan. 1, 1982.]

## § 25.02. Form and Content

(a) The appraisal records shall be in the form prescribed by the State Property Tax Board and shall include:

(1) the name and address of the owner or, if the name or address is unknown, a statement that it is unknown;

(2) real property;

(3) separately taxable estates or interests in real property, including taxable possessory interests in exempt real property;

(4) personal property;

(5) the appraised value of land and, if the land is appraised as provided by Subchapter C, D, or E, Chapter 23 of this code,<sup>1</sup> the market value of the land;

(6) the appraised value of improvements to land;

(7) the appraised value of a separately taxable estate or interest in land;

(8) the appraised value of personal property;

(9) the kind of any partial exemption the owner is entitled to receive, whether the exemption applies to appraised or assessed value, and, in the case of an exemption authorized by Section 11.23 of this code, the amount of the exemption;

(10) the tax year to which the appraisal applies; and

(11) an identification of each taxing unit in which the property is taxable.

(b) A mistake in the name or address of an owner does not affect the validity of the appraisal records, of any appraisal or tax roll based on them, or of the tax imposed. The mistake may be corrected as provided by this code.

[Acts 1979, 66th Leg., p. 2270, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 157, ch. 13, § 98, eff. Jan. 1, 1982.]

<sup>1</sup> Section 23.41 et seq., 23.51 et seq., or 23.71 et seq.

## § 25.03. Description

(a) Property shall be described in the appraisal records with sufficient certainty to identify it.

(b) The State Property Tax Board may adopt rules establishing minimum standards for descriptions of property.

[Acts 1979, 66th Leg., p. 2270, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 25.04. Separate Estates or Interests**

Except as otherwise provided by this chapter, when different persons own land and improvements in separate estates or interests, each separately owned estate or interest shall be listed separately in the name of the owner of each if the estate or interest is described in a duly executed and recorded instrument of title.

[Acts 1979, 66th Leg., p. 2270, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 25.05. Life Estates**

Real property owned by a life tenant and remainderman shall be listed in the name of the life tenant.

[Acts 1979, 66th Leg., p. 2270, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 25.06. Property Encumbered by Possessory or Security Interest**

Except as provided by Sections 25.07 and 25.15 of this code, property encumbered by a leasehold or other possessory interest or by a mortgage, deed of trust, or other interest securing payment or performance of an obligation shall be listed in the name of the owner of the property so encumbered.

[Acts 1979, 66th Leg., p. 2270, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 25.07. Leasehold and Other Possessory Interests in Exempt Property**

(a) Except as provided by Subsection (b) of this section, a leasehold or other possessory interest in property that is exempt from taxation to the owner of the estate or interest encumbered by the possessory interest shall be listed in the name of the owner of the possessory interest if the duration of the interest may be at least one year.

(b) Except as provided by Subsections (b) and (c) of Section 11.11 of this code, a leasehold or other possessory interest in exempt property may not be listed if:

- (1) the property is permanent university fund land;
- (2) the property is county public school fund agricultural land;
- (3) the property is a part of a public transportation facility owned by an incorporated city or town and:

(A) is an airport passenger terminal building or a building used primarily for maintenance of aircraft or other aircraft services, for aircraft equipment storage, or for air cargo;

(B) is an airport fueling system facility; or

(C) is in a foreign-trade zone established and operating pursuant to federal law if the area of the zone does not exceed 250 acres;

(4) the interest is in a part of a park, market, fairground, or similar public facility that is owned by an incorporated city or town; or

(5) the interest involves only the right to use the property for grazing or other agricultural purposes.

[Acts 1979, 66th Leg., p. 2270, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2615, ch. 700, § 1, eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 157, ch. 13, § 99, eff. Jan. 1, 1982.]

**§ 25.08. Improvements**

(a) Except as provided by Subsections (b) through (d) of this section, an improvement may be listed in the name of the owner of the land on which the improvement is located.

(b) If a person who is not entitled to exemption owns an improvement on exempt land, the improvement shall be listed in the name of the owner of the improvement.

(c) When a person other than the owner of an improvement owns the land on which the improvement is located, the land and the improvement shall be listed separately in the name of the owner of each if either owner files with the chief appraiser before May 1 a written request for separate taxation on a form furnished for that purpose together with proof of separate ownership. After an improvement qualifies for taxation separate from land, the qualification remains effective in subsequent tax years and need not be requested again. However, the qualification ceases when ownership of the land or the improvement is transferred or either owner files a request to cancel the separate taxation.

(d) Within 30 days after an owner of land or an improvement qualifies for separate taxation or cancels a qualification, the chief appraiser shall deliver a written notice of the qualification or cancellation to the other owner.

[Acts 1979, 66th Leg., p. 2271, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 158, ch. 13, § 100, eff. Jan. 1, 1982.]

**§ 25.09. Condominiums and Planned Unit Developments**

(a) A separately owned apartment or unit in a condominium as defined in the Condominium Act<sup>1</sup> shall be listed in the name of the owner of each particular apartment or unit. The value of each apartment or unit shall include the value of its fractional share in the common elements of the condominium.

(b) Property owned by a planned unit development association may be listed and taxes imposed proportionately against each member of the association if the association files with the chief appraiser before May 1 a resolution adopted by vote of a majority of all members of the association authorizing the proportionate imposition of taxes. A resolution adopted as provided by this subsection remains effective in subsequent tax years unless it is revoked by a similar resolution.

(c) If property is listed and taxes imposed proportionately as authorized by Subsection (b) of this section, the amount of tax to be imposed on the association's property shall be divided by the number of parcels of real property in the development. The quotient is the proportionate amount of tax to be imposed on each parcel, and a tax lien attaches to each parcel to secure payment of its proportionate share of the tax on the association's property.

(d) For purposes of this section, "planned unit development association" means an association that owns and maintains property in a real property development project for the benefit of its members, who are owners of individual parcels of real property in the development and are members of the association because of that ownership.

[Acts 1979, 66th Leg., p. 2271, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 158, ch. 13, § 101, eff. Jan. 1, 1982.]

<sup>1</sup> Civil Statutes, art. 1301a.

#### § 25.10. Standing Timber

(a) Except as provided by Subsections (b) and (c) of this section, standing timber may be listed together with the land on which it is located in the name of the owner of the land.

(b) If a person who is not entitled to exemption owns standing timber on exempt land, the timber shall be listed separately in the name of the owner of the timber.

(c) When a person other than the owner of standing timber owns the land on which the timber is located, the land and the timber shall be listed separately in the name of the owner of each if either owner files with the chief appraiser before May 1 a written request for separate taxation on a form furnished for that purpose together with proof of separate ownership. A qualification for separate taxation of timber expires at the end of the tax year.

(d) Within 30 days after an owner of land or timber qualifies for separate taxation, the chief appraiser shall deliver a written notice of the qualification to the other owner.

[Acts 1979, 66th Leg., p. 2272, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 158, ch. 13, § 102, eff. Jan. 1, 1982.]

#### § 25.11. Undivided Interests

(a) Except as provided by Section 25.12 of this code and by Subsection (b) of this section, a property owned in undivided interests may be listed jointly in the name of all owners of undivided interests in the property or in the name of any one or more owners.

(b) An undivided interest in a property shall be listed separately from other undivided interests in the property in the name of its owner if the interest is described in a duly executed and recorded instrument of title and the owner files with the appraisal office before May 1 a written request for separate taxation on a form furnished for that purpose together with proof of ownership and of the proportion his interest bears to the whole. After an undivided interest qualifies for separate taxation, the qualification remains effective in subsequent tax years and need not be requested again. However, the qualification ceases when ownership is transferred or when any owner files a request to cancel separate taxation.

(c) Within 30 days after an owner qualifies for separate taxation or cancels a qualification, the chief appraiser shall deliver a written notice of the qualification or cancellation to the other owners.

[Acts 1979, 66th Leg., p. 2272, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 158, ch. 13, § 103, eff. Jan. 1, 1982.]

#### § 25.12. Mineral Interest

(a) Except as provided by Subsection (b) of this section, each separate interest in minerals in place shall be listed separately from other interests in the minerals in place in the name of the owner of the interest.

(b) Separate interests in minerals in place shall be listed jointly in the name of the operator designated with the railroad commission or the name of all owners or any combination of owners if the designated operator files with the appraisal office before May 1 a written request for joint taxation on a form furnished for that purpose. A qualification pursuant to this subsection for joint taxation remains effective in subsequent tax years and need not be requested again. However, the qualification ceases when the designated operator files a request to cancel joint taxation.

[Acts 1979, 66th Leg., p. 2272, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 159, ch. 13, § 104, eff. Jan. 1, 1982.]

#### § 25.13. Exempt Property Subject to Contract of Sale

Property that is exempt from taxation to the titleholder but is subject on January 1 to a contract of sale to a person not entitled to exemption shall be listed in the name of the purchaser.

[Acts 1979, 66th Leg., p. 2273, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 25.14. Stock in Banking Corporation

Stock in a banking corporation may be listed in the name of the bank as agent for its stockholders.

[Acts 1979, 66th Leg., p. 2273, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 25.15. Bank Personal Property Subject to Lease

Tangible personal property owned by a banking corporation that is not liable for taxes on its tangible personal property and is leased to another shall be listed in the name of the lessee.

[Acts 1979, 66th Leg., p. 2273, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 25.16. Property Losing Exemption During Tax Year

(a) If an exemption applicable to a property on January 1 terminates during the tax year, the property shall be listed in the name of the person who owns or acquires the property on the date applicability of the exemption terminates.

(b) The chief appraiser shall make an entry on the appraisal records showing that taxes on the property are to be calculated as provided by Section 26.10 of this code and showing the date on which exemption terminated.

[Acts 1979, 66th Leg., p. 2273, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 159, ch. 13, § 105, eff. Jan. 1, 1982.]

**§ 25.17. Property Overlapping Taxing Unit Boundaries**

If real property is located partially outside and partially inside a taxing unit's boundaries, the portion inside the unit's boundaries shall be listed separately from the remaining portion.

[Acts 1979, 66th Leg., p. 2273, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 25.18. Periodic Reappraisals**

(a) Each appraisal office shall implement a plan for periodic reappraisal of property to update appraised values.

*Text of subsection effective until January 1, 1984*

(b) The plan shall provide for review of all real property in the district or county, as applicable, at least once every five years.

*Text of subsection effective January 1, 1984*

(b) The plan shall provide for reappraisal of all real property in the district at least once every four years.

(c) A taxing unit by resolution adopted by its governing body may require the appraisal office to appraise all property within the unit or to identify and appraise newly annexed territory and new improvements in the unit as of a date specified in the resolution. On or before the deadline requested by the taxing unit, which deadline may not be less than 30 days after the date the resolution is delivered to the appraisal office, the chief appraiser shall complete the appraisal and deliver to the unit an estimate of the total appraised value of property taxable by the unit as of the date specified in such resolution. The unit must pay the appraisal district for the cost of making the appraisal. The chief appraiser shall provide sufficient personnel to make the appraisals required by this subsection on or before the deadline requested by the taxing unit. An appraisal made pursuant to this subsection may not be used by a taxing unit as the basis for the imposition of taxes.

[Acts 1979, 66th Leg., p. 2273, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 159, ch. 13, § 106, eff. Jan. 1, 1982.]

Section 168(e) of the 1981 amendatory act provides:

"The amendment by this Act of Section 25.18(b), Property Tax Code, to the extent it requires periodic reappraisal of all real property in an appraisal district, does not take effect until January 1, 1984."

**§ 25.19. Notice of Appraised Value**

(a) By May 15 or as soon thereafter as practicable and, in any event, not later than the 20th day before the date the appraisal review board begins considering protests under Chapter 41 of this code, the chief appraiser shall deliver a written notice to a property owner of the appraised value of his property if:

- (1) the appraised value of the property is greater than it was in the preceding year;
  - (2) the appraised value of the property is greater than the value rendered by the property owner;
- or

(3) the property was not on the appraisal roll in the preceding year.

(b) The chief appraiser shall separate real from personal property and include in the notice for each:

- (1) a list of the taxing units in which the property is taxable;
- (2) the appraised value of the property in the preceding year;
- (3) the assessed and taxable value of the property in the preceding year for each taxing unit taxing the property;
- (4) the appraised value of the property for the current year and the kind and amount of each partial exemption, if any, approved for the current year;
- (5) if the appraised value is greater than it was in the preceding year:

(A) the tax rate that would be announced pursuant to Section 26.04 of this code if the total values being submitted to the appraisal review board were to be approved by the board with an explanation that that rate would raise the same amount of revenue for operating purposes from property taxed in the preceding year as the unit raised for those purposes in the preceding year;

(B) the amount of tax that would be imposed on the property on the basis of the rate described by Paragraph (A) of this subdivision; and

(C) a statement that the governing body of the unit may not adopt a rate that will increase tax revenues for operating purposes from properties taxed in the preceding year without publishing notice in a newspaper that it is considering a tax increase and holding a hearing for taxpayers to discuss the tax increase;

(6) in italic typeface, the following statement: *"The Texas Legislature does not set the amount of your local taxes. Your property tax burden is decided by your locally elected officials, and all inquiries concerning your taxes should be directed to those officials";*

(7) a brief explanation of the time and procedure for protesting the value;

(8) the date and place the appraisal review board will begin hearing protests; and

(9) a brief explanation that:

(A) the governing body of each taxing unit decides whether or not taxes on the property will increase and the appraisal district only determines the value of the property; and

(B) a taxpayer who objects to increasing taxes and government expenditures should complain to the governing bodies of the taxing units and only complaints about value should be presented to the appraisal office and the appraisal review board.

(1) a list of the taxing units in which the property is taxable;

(2) the appraised value of the property in the preceding year;

(3) the tax rate and the assessed and taxable value of the property in the preceding year for each taxing unit taxing the property and the amount of taxes each imposed in the preceding year;

(c) In making the preliminary calculation required by Subsection (b)(5)(A) of this section of the effective tax rate that will not increase taxes, taxes imposed by a unit in the preceding year on property not yet appraised and submitted to the appraisal review board for the current year shall be excluded.

(d) In the case of the residence homestead of a person 65 years of age or older that is subject to the limitation on a tax increase over the preceding year for school tax purposes, the chief appraiser shall indicate on the notice that the preceding year's taxes may not be increased.

(e) On the notice, the chief appraiser shall enclose the information required by Subsections (b)(2)-(6) of this section in a printed rectangle with dimensions of not less than 15 square inches. The chief appraiser shall have the information required by Subsections (b)(2)-(5) printed in bold-faced type that is distinct from and located above the other information enclosed in the rectangle.

(f) Failure to receive the notice required by this section does not affect the validity of the appraisal of the property, the imposition of any tax on the basis of the appraisal, the existence of any tax lien, or any proceeding instituted to collect the tax.

(g) The chief appraiser, with the approval of the appraisal district board of directors, may dispense with the notice required by Subdivision (1) of Subsection (a) of this section if the amount of increase in appraised value is \$1,000 or less.

[Acts 1979, 66th Leg., p. 2274, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 159, ch. 13, §§ 107, 162.]

Section 162 of the 1981 amendatory act, amending subsec. (b) of this section provided, in part: "This section is contingent on adoption of the amendment of Article VIII, Section 21, Subsection (c), of the Texas Constitution, proposed by H.J.R. No. 81, Acts of the 67th Legislature, Regular Session." H.J.R. No. 81, was approved by the voters at an election held on November 3, 1981.

Section 163 of the 1981 amendatory act provides:

"Transition for Reappraisal Notices. It is the intent of the legislature that all appraisal districts comply with the provisions of Section 25.19(b), Property Tax Code, in the first year of operation under the Property Tax Code. However, the legislature recognizes that, in some districts, full compliance in that first year may be impracticable. For that reason, an appraisal district is not required to comply with Section 25.19(b)(2) and (3) or with that part of Section 25.19(b)(6) that relates to current taxes using the preceding year's tax rate in the first year the district appraises property for a taxing unit to the extent that compliance is impracticable."

### § 25.20. Notice to Taxing Units

(a) By May 15 or as soon thereafter as practicable, the chief appraiser shall submit to each taxing unit in the district a certified estimate of the total appraised value of all property in the district that is taxable by the unit.

(b) The chief appraiser shall give the assessor for a taxing unit in the district reasonable access to the appraisal records at any time.

[Acts 1979, 66th Leg., p. 2274, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 161, ch. 13, § 108, eff. Jan. 1, 1982.]

### § 25.21. Omitted Property

(a) If the chief appraiser discovers that real property was not taxed in any one of the 10 preceding years or that personal property was not taxed in one of the two preceding years, he shall appraise the property as of January 1 of each year that it escaped taxation and enter the property and its appraised value in the appraisal records.

(b) The entry shall show that the appraisal is for property that escaped taxation in a prior year and shall indicate the year and the appraised value for each year.

[Acts 1979, 66th Leg., p. 2274, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 161, ch. 13, § 109, eff. Jan. 1, 1982.]

### § 25.22. Submission for Review and Protest

(a) By May 15 or as soon thereafter as practicable, the chief appraiser shall submit the completed appraisal records to the appraisal review board for review and determination of protests. However, the chief appraiser may not submit the records until he has delivered the notices required by Subsection (d) of Section 11.45, Subsection (d) of Section 23.44, Subsection (d) of Section 23.57, Subsection (d) of Section 23.79, Subsection (d) of Section 23.85, Subsection (d) of Section 23.95, and Sections 25.19 and 25.20 of this code.

(b) The chief appraiser shall make and subscribe an affidavit on the submission substantially as follows:

"I, \_\_\_\_\_, (Chief Appraiser) for \_\_\_\_\_ solemnly swear that I have made or caused to be made a diligent inquiry to ascertain all property in the district subject to appraisal by me and that I have included in the records all property that I am aware of at an appraised value determined as required by law."

(c) The chief appraiser may require of his employees who are engaged in listing and appraising property an affidavit similar to his own.

[Acts 1979, 66th Leg., p. 2275, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2359, ch. 581, § 2, eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 161, ch. 13, § 110, eff. Jan. 1, 1982.]

### § 25.23. Supplemental Appraisal Records

(a) After submission of appraisal records, the chief appraiser shall prepare supplemental appraisal records listing each taxable property he discovers that is not included in the records already submitted, including property that escaped taxation in a prior tax year.

(b) Supplemental appraisal records shall be in the form prescribed by the State Property Tax Board and shall include the items required by Section 25.02 of this code.

(c) As soon as practicable after determining the appraised value of a property listed in supplemental appraisal records, the chief appraiser shall deliver

the notices required by Sections 25.19 and 25.20 of this code, if applicable, and submit the records for review and determination of protest as provided by Section 25.22 of this code.

(d) Supplemental appraisal records are subject to review and protest as provided by Chapters 41 and 42 of this code. However, a property owner must file a notice of protest within 10 days after the date the records are submitted for review, and the appraisal review board shall complete its review within 30 days after the date the records are submitted or as soon thereafter as practicable.

(e) The chief appraiser shall add supplemental appraisal records, as changed by the appraisal review board and approved by that board, to the appraisal roll for the district and certify the addition to the taxing units.

[Acts 1979, 66th Leg., p. 2275, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 162, ch. 13, § 111, eff. Jan. 1, 1982.]

§ 25.24. Appraisal Roll

The appraisal records, as changed by order of the appraisal review board and approved by that board, constitute the appraisal roll for the district.

[Acts 1979, 66th Leg., p. 2276, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 162, ch. 13, § 112, eff. Jan. 1, 1982.]

§ 25.25. Correction of Appraisal Roll

(a) Except as provided by Chapters 41 and 42 of this code and by this section, the appraisal roll may not be changed.

(b) The chief appraiser may change the appraisal roll at any time to correct a name or address, a description of property, or a clerical error that does not affect the amount of tax liability.

(c) At any time, the appraisal review board, on motion of the chief appraiser, or of a property owner may direct by written order changes in the appraisal roll to correct:

- (1) clerical errors that affect a property owner's liability for a tax; or
- (2) multiple appraisals of a property in a single tax year.

(d) The chief appraiser shall certify each change made as provided by this section to the assessor for each unit affected by the change within five days after the date the change is entered.

[Acts 1979, 66th Leg., p. 2276, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 162, ch. 13, § 113, eff. Jan. 1, 1982.]

CHAPTER 26. ASSESSMENT

Section	
26.01.	Submission of Rolls to Taxing Units.
26.011.	Limitation on Application of Reappraised Values.
26.02.	Assessment Ratios Prohibited.
26.03.	State Assessment Ratio.
26.04.	Submission of Roll to Governing Body.

Section	
26.05.	Tax Rate.
26.06.	Notice, Hearing, and Vote on Tax Increase.
26.07.	Election to Repeal Increase.
26.08.	Election to Limit School Taxes.
26.09.	Calculation of Tax.
26.10.	Prorating Taxes—Loss of Exemption.
26.11.	Prorating Taxes—Acquisition by Government.
26.12.	Units Created During Tax Year.
26.13.	Taxing Unit Consolidation During Tax Year.
26.14.	Annexation of Property During Tax Year.
26.15.	Correction of Tax Roll.

§ 26.01. Submission of Rolls to Taxing Units

(a) By July 25 or as soon thereafter as practicable, the chief appraiser shall prepare and certify to the assessor for each taxing unit participating in the district that part of the appraisal roll for the district that lists the property taxable by the unit. The part certified to the assessor is the appraisal roll for the unit.

(b) When a chief appraiser submits an appraisal roll for state and county taxes to a county assessor-collector, he also shall certify the roll to the State Property Tax Board. However, the State Property Tax Board by rule may provide for submission of only a summary of the appraisal roll. In that event, the chief appraiser shall certify the summary in the form and manner prescribed by the board's rule. [Acts 1979, 66th Leg., p. 2276, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 162, ch. 13, § 114, eff. Jan. 1, 1982.]

§ 26.011. Limitation on Application of Reappraised Values

*Text of section added effective until January 1, 1987*

(a) If the appraised value of a property in any year from 1982 through 1985, after subtracting the appraised value of any new or previously undiscovered improvements, increases for the first time above its assessed value on a taxing unit's 1981 tax roll, the assessor for the unit shall limit the appraised value in the year of the reappraisal, if the percentage of the increase is greater than 1½ times the percentage of increase above the 1981 value of all other property on the unit's tax roll in both 1981 and the current year, to an amount that is only 1½ times greater than the percentage of increase in the value of all other property.

(b) If the appraised value submitted by the appraisal district is less than the value required to be substituted under Subsection (a) of this section, the assessor shall retain the appraised value submitted by the district instead of substituting a value pursuant to this section.

(c) A tax assessor shall limit increases in market values of land appraised as provided by Subchapters C, D, E, and F of Chapter 23 of this code<sup>1</sup> in the same manner as increases in appraised value are limited and shall substitute the limited values in the records for purposes of calculating additional taxes.

(d) To be entitled to limitation of an increase in appraised value of personal property as prescribed by this section, a person must present to the tax assessor records establishing the kinds, amounts, and values of personal property he owned on January 1, 1981, and on January 1 of the year in which the increase occurs.

(e) In this section, a new improvement is an improvement made after January 1, 1981, and a previously undiscovered improvement is an improvement that was made on or before January 1, 1981, but was not included on the taxing unit's 1981 tax roll.

(f) This section does not apply to a taxing unit unless the unit, by ordinance, order, or resolution (depending on the requirements of law for adoption of a law by that unit), provides that it applies.

(g) The State Property Tax Board shall issue rules and regulations necessary for the effective implementation of this section.

(h) This section expires January 1, 1987.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 163, ch. 13, § 115, eff. Jan. 1, 1982.]

<sup>1</sup> Sections 23.41 et seq., 23.51 et seq., 23.71 et seq., and 23.81 et seq.

#### § 26.02. Assessment Ratios Prohibited

Except as provided by Section 26.03 of this code, the assessment of property for taxation on the basis of a percentage of its appraised value is prohibited. All property shall be assessed on the basis of 100 percent of its appraised value.

[Acts 1979, 66th Leg., p. 2277, ch. 841, § 1, eff. Jan. 1, 1981.]

This section was effective January 1, 1981, under the provisions of § 3(i) of Acts 1979, 66th Leg., p. 2315, ch. 841.

#### § 26.03. State Assessment Ratio

The assessment ratio for calculating taxes for state purposes is .0001 percent.

[Acts 1979, 66th Leg., p. 2277, ch. 841, § 1, eff. Jan. 1, 1980.]

This section was effective January 1, 1980, under the provisions of § 3(g) of Acts 1979, 66th Leg., p. 2315, ch. 841.

#### § 26.04. Submission of Roll to Governing Body

(a) On receipt of the appraisal roll, the assessor for a taxing unit shall determine the total appraised value, the total assessed value, and the total taxable value of property taxable by the unit. He shall also determine, using information provided by the appraisal office, the appraised, assessed, and taxable value of property added to the appraisal roll since the preceding tax year by annexation of territory and the appraised, assessed, and taxable value of the improvements on the roll that were made after January 1 of the preceding tax year. The sum of the taxable value of annexed property and the taxable value of improvements made after January 1 of the preceding tax year is the taxable value of new property.

(b) The assessor shall submit the appraisal roll for the unit showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property to the governing body of the

unit by August 1 or as soon thereafter as practicable.

(c) An officer or employee designated by the governing body shall subtract from the total amount of property taxes imposed by the unit in the preceding year:

(1) the amount of taxes imposed in the preceding year to pay principal of and interest on bonds, warrants, certificates of obligation, or other lawfully authorized evidences of indebtedness issued or assumed by the unit and to pay lawfully incurred contractual obligations providing security for the payment of principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision;

(2) the amount of taxes imposed in the preceding year on property in territory that has ceased to be a part of the unit;

(3) the amount of taxes imposed in the preceding year on taxable value that is exempt in the current year; and

(4) the amount of taxes imposed in the preceding year on taxable value that is not taxable in the current year because property appraised at market value in the preceding year is required by law to be appraised at less than market value in the current year.

(d) The designated officer or employee shall calculate the tax rate that if applied to the total taxable value submitted to the governing body less the taxable value of new property would impose the amount of property taxes determined as provided by Subsection (c) of this section. He shall add to that rate the amount that, if applied to the total taxable value submitted to the governing body, will impose the amount of taxes needed to pay the principal of and interest on bonds, warrants, certificates of obligation, or other lawfully authorized evidences of indebtedness issued or assumed by the unit and to pay lawfully incurred contractual obligations providing security for the payment of principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision.

(e) By August 7 or as soon thereafter as practicable, the designated officer or employee shall publicize:

(1) the tax rate calculated as provided by this section and the calculations used to determine it in a manner designed to come to the attention of all owners of property in the unit and shall submit the rate to the governing body of the unit; and

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligation, except that for a school district, estimated funds necessary for the operation of the district prior to the receipt of the first state education aid payment in the succeed-

ing school year shall be subtracted from the estimated fund balances.

(f) If as a result of consolidation of taxing units a taxing unit includes territory that was in two or more taxing units in the preceding year, the amount of taxes imposed in each in the preceding year is combined for purposes of calculating the tax rate under this section.

[Acts 1979, 66th Leg., p. 2277, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 163, ch. 13, § 116, eff. Jan. 1, 1982.]

**§ 26.05. Tax Rate**

(a) By September 1 or as soon thereafter as practicable, the governing body of each taxing unit shall adopt a tax rate for the current tax year and shall notify the assessor for the unit of the rate adopted.

(b) A taxing unit may not impose property taxes in any year until the governing body has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order, depending on the method prescribed by law for adoption of a law by the governing body. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget.

(c) The governing body may not adopt a tax rate that exceeds the tax rate calculated as provided by Section 26.04 of this code by more than three percent until it has held a public hearing on the proposed increase and has otherwise complied with Section 26.06 of this code. The governing body of a taxing unit shall reduce a tax rate set by law or by vote of the electorate to the rate calculated as provided by Section 26.04 of this code and may not adopt a higher rate unless it first complies with Section 26.06 of this code.

[Acts 1979, 66th Leg., p. 2268, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 164, ch. 13, § 117, eff. Jan. 1, 1982.]

**§ 26.06. Notice, Hearing, and Vote on Tax Increase**

(a) A public hearing required by Section 26.05 of this code may not be held before the seventh day after the date the notice of the public hearing on the proposed increase is given. The hearing must be on a weekday that is not a public holiday. The hearing must be held inside the boundaries of the unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. At the hearing, the governing body must afford adequate opportunity for proponents and opponents of the tax increase to present their views.

(b) The notice of a public hearing may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. The notice must be in the following form:

**"NOTICE OF PUBLIC HEARING ON TAX INCREASE**

"The (name of the taxing unit) will hold a public hearing on a proposal to increase total tax revenues from properties on the tax roll in (the preceding year) by (percentage of increase over the tax rate submitted pursuant to Section 26.04 of this code) percent. Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property.

"The public hearing will be held on (date and time) at (meeting place).

"(Names of all members of the governing body, showing how each voted on the proposal to consider the tax increase or, if one or more were absent, indicating the absences.)"

(c) The notice may be delivered by mail to each property owner in the unit, or it may be published in a newspaper. If the notice is published in a newspaper, it may not be in the part of the paper in which legal notices and classified advertisements appear.

(d) At the public hearing the governing body shall announce the date, time, and place of the meeting at which it will vote on the proposed tax increase. After the hearing it shall give notice of the meeting at which it will vote on the tax rate and the notice shall be in the same form as prescribed by Subsection (b) of this section, except that it must state as follows:

**"NOTICE OF VOTE ON TAX RATE**

"The (name of the taxing unit) conducted a public hearing on a proposal to increase your property taxes by (percentage of increase over the rate submitted under Section 26.04 of this code) percent on (date and time public hearing was conducted).

"A public meeting to vote on the tax rate will be held on (date and time) at (meeting place)."

(e) The meeting to vote on the increase may not be earlier than the third day or later than the 14th day after the date of the public hearing. The meeting must be held inside the boundaries of the unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. If the governing body does not adopt an increased rate by the 14th day, it must give a new notice under Subsection (d) of this section before it may adopt a rate that exceeds the tax rate calculated as provided by Section 26.04 of this code.

[Acts 1979, 66th Leg., p. 2278, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 164, ch. 13, § 118, eff. Jan. 1, 1982.]

**§ 26.07. Election to Repeal Increase**

(a) If the governing body of a taxing unit other than a school district adopts a tax rate that exceeds

the rate calculated as provided by Section 26.04 of this code by more than eight percent, the qualified voters of the taxing unit by petition may require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to a rate that exceeds the rate calculated as provided by Section 26.04 of this code by only eight percent.

(b) A petition is valid only if:

(1) it states that it is intended to require an election in the taxing unit on the question of reducing the tax rate for the current year;

(2) it is signed by a number of qualified voters of the taxing unit equal to at least 10 percent of the number of qualified voters of the taxing unit according to the most recent official list of qualified voters not counting the signatures of voters gathered by a person who received compensation for circulating the petition; and

(3) it is submitted to the governing body on or before the 90th day after the date on which the governing body adopted the tax rate for the current year.

(c) Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether or not the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.

(d) If the governing body finds that the petition is valid (or fails to act within the time allowed), it shall order that an election be held in the taxing unit on a date not less than 30 or more than 90 days after the last day on which it could have acted to approve or disapprove the petition. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Reducing the tax rate in (name of taxing unit) for the current year from (the rate adopted) to (the rate that is only eight percent greater than the rate calculated as provided by Section 26.04 of this code).

(e) If a majority of the qualified voters voting on the question in the election favor the proposition, the tax rate for the taxing unit for the current year is the tax rate that is eight percent greater than the rate calculated as provided by Section 26.04 of this code; otherwise, the tax rate for the current year is the one adopted by the governing body.

(f) If the tax rate is reduced by an election called under this section after tax bills for the unit are mailed, the assessor for the unit shall prepare and mail corrected tax bills. He shall include with the bill a brief explanation of the reason for and effect of the corrected bill. The date on which the taxes become delinquent for the year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the corrected tax bills were sent.

(g) If a property owner pays taxes calculated using the higher tax rate when the rate is reduced by an election called under this section, the taxing unit shall refund the difference between the amount of taxes paid and the amount due under the reduced rate.

[Acts 1979, 66th Leg., p. 2279, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 165, ch. 13, § 119, eff. Jan. 1, 1982.]

#### § 26.08. Election to Limit School Taxes

(a) If the governing body of a school district adopts a rate that exceeds the rate calculated as provided by Section 26.04 of this code by more than eight percent, the qualified voters of the district by petition may require that an election be held to determine whether or not to limit the tax rate the governing body may adopt for the following year. When increased expenditure of funds by a school district is necessary to respond to a disaster, such as a tornado, hurricane, flood, or other calamity (not including a drought) which has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, a petition is not valid under this section to repeal a tax increase adopted the next time the district adopts a tax rate after the date the disaster occurs.

(b) A petition is valid only if:

(1) it states that it is intended to require an election in the school district on the question of limiting the tax rate for the following year;

(2) it is signed by a number of qualified voters of the school district equal to at least 10 percent of the number of qualified voters of the district according to the most recent official list of qualified voters not counting the signatures of voters gathered by a person who received compensation for circulating the petition; and

(3) it is submitted to the governing body on or before the 90th day after the date on which the governing body adopted the tax rate for the current year.

(c) Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether or not the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.

(d) If the governing body finds that the petition is valid (or fails to act within the time allowed), it shall order that an election be held in the school district on a date not less than 30 or more than 90 days after the last day on which it could have acted to approve or disapprove the petition. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Limiting the

ad valorem tax rate in (name of school district) for (the following year)."

(e) If a majority of the qualified voters voting on the question in the election favor the proposition, the governing body may not adopt a tax rate in the following year that exceeds the rate calculated as provided by Section 26.04 of this code for that year by more than eight percent, except that in making the calculation under Subsection (d) of Section 26.04 of this code, the assessor shall use the amount of taxes determined as provided by Subsection (c) of Section 26.04 of this code in the year in which the tax increase that initiated the referendum occurred rather than the year in which the calculation occurs. [Acts 1979, 66th Leg., p. 2280, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 166, ch. 13, § 120, eff. Jan. 1, 1982.]

**§ 26.09. Calculation of Tax**

(a) On receipt of notice of the tax rate for the current tax year, the assessor for a taxing unit other than a county shall calculate the tax imposed on each property included on the appraisal roll for the unit.

(b) The county assessor-collector shall add the properties and their values certified to him as provided by Chapter 24 of this code to the appraisal roll for state and county tax purposes. The county assessor-collector shall use the appraisal roll certified to him as provided by Section 26.01 with the added properties and values to calculate state and county taxes.

(c) The tax is calculated by:

(1) subtracting from the appraised value of a property as shown on the appraisal roll for the unit the amount of any partial exemption allowed the property owner that applies to appraised value to determine net appraised value;

(2) multiplying the net appraised value by the assessment ratio to determine assessed value;

(3) subtracting from the assessed value the amount of any partial exemption allowed the property owner to determine taxable value; and

(4) multiplying the taxable value by the tax rate.

(d) If a property is subject to taxation for a prior year in which it escaped taxation, the assessor shall calculate the tax for each year separately. In calculating the tax, he shall use the assessment ratio and tax rate in effect in the unit for the year for which back taxes are being imposed. To the amount of back taxes due, he shall add interest calculated at the rate provided by Subsection (c) of Section 33.01 of this code from the date the tax would have become delinquent had the tax been imposed in the proper tax year.

(e) The assessor shall enter the amount of tax determined as provided by this section in the appraisal roll and submit it to the governing body of the unit for approval. The appraisal roll with

amounts of tax entered as approved by the governing body constitutes the unit's tax roll.

[Acts 1979, 66th Leg., p. 2281, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S. p. 166, ch. 13, § 121, eff. Jan. 1, 1982.]

**§ 26.10. Prorating Taxes—Loss of Exemption**

If the appraisal roll shows that a property is eligible for taxation for only part of a year because an exemption applicable on January 1 of that year terminated during the year, the tax due against the property is calculated by multiplying the tax due for the entire year as determined as provided by Section 26.09 of this code by a fraction, the denominator of which is 365 and the numerator of which is the number of days the exemption is not applicable. [Acts 1979, 66th Leg., p. 2282, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 26.11. Prorating Taxes—Acquisition by Government**

(a) If the federal government, the state, or a political subdivision of the state acquires the right to possession of taxable property under a court order issued in condemnation proceedings or acquires title to taxable property, the amount of the tax due on the property is calculated by multiplying the amount of taxes imposed on the property for the entire year as determined as provided by Section 26.09 of this code by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed prior to the date of the conveyance or the date of the order granting the right of possession.

(b) If the amount of taxes to be imposed on the property for the year of transfer has not been determined at the time of transfer, the assessor for each taxing unit in which the property is taxable may use the taxes imposed on the property for the preceding tax year as the basis for determining the amount of taxes to be imposed for the current tax year.

(c) If the amount of prorated taxes determined to be due as provided by this section is tendered to the collector for the unit, he shall accept the tender. The payment absolves the transferor of liability for taxes by the unit on the property for the year of the transfer.

[Acts 1979, 66th Leg., p. 2282, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 26.12. Units Created During Tax Year**

(a) If a taxing unit is created after January 1, the chief appraiser shall prepare and deliver an appraisal roll for the unit as provided by Section 26.01 of this code as if the unit had existed on January 1.

(b) If the taxing unit created after January 1 imposes taxes for the year, it shall do so as provided by this chapter as if it had existed on January 1.

(c) If a taxing unit is created too late for observance of the deadlines required by this code, the chief appraiser shall submit the appraisal roll as provided by Section 26.01 of this code as soon as practicable.

The assessor for the unit shall submit the appraisal roll to the governing body of the unit within five days after receipt from the appraisal office. The limitations imposed by Section 26.02 of this code do not apply to the unit in the year it is created. The governing body of the unit shall adopt an assessment ratio and a tax rate and notify the assessor as provided by Section 26.05 of this code within 20 days after receipt of the appraisal roll. The assessor shall calculate the taxes and prepare and mail tax bills not later than 60 days after the date the appraisal office submits the unit's appraisal roll.

[Acts 1979, 66th Leg., p. 2282, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 26.13. Taxing Unit Consolidation During Tax Year

(a) If two or more taxing units consolidate into a single taxing unit after January 1, the governing body of the consolidated unit may elect to impose taxes for the current tax year either as if the unit as consolidated had existed on January 1 or as if the consolidation had not occurred.

(b) The chief appraiser shall prepare and deliver an appraisal roll for the unit or units in accordance with the election made by the governing body.

(c) Whatever the election, the assessor and collector for the unit, as consolidated shall assess and collect taxes on property that is taxable by the unit as consolidated.

[Acts 1979, 66th Leg., p. 2283, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 26.14. Annexation of Property During Tax Year

(a) Except as provided by Subsection (b) of this section, a taxing unit may not impose a tax on property annexed by the unit after January 1.

(b) If a taxing unit annexes territory during a tax year that was located in another taxing unit of like kind on January 1, each unit shall impose taxes on property located within its boundaries on the date the appraisal review board approves the appraisal roll for the district. The chief appraiser shall prepare and deliver an appraisal roll for each unit in accordance with the requirements of this subsection.

(c) For purposes of this section, "taxing units of like kind" are taxing units that are authorized by the laws by or pursuant to which they are created to perform essentially the same services.

[Acts 1979, 66th Leg., p. 2283, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 26.15. Correction of Tax Roll

(a) Except as provided by Chapters 41 and 42 of this code and in this section, the tax roll for a taxing unit may not be changed after it is completed.

(b) The assessor for a unit shall enter on the tax roll the changes made in the appraisal roll as provided by Section 25.25 of this code.

(c) At any time, the governing body of a taxing unit, on motion of the assessor for the unit or of a property owner, may direct by written order changes in the tax roll to correct errors in the mathematical

computation of a tax. The assessor shall enter the corrections ordered by the governing body.

(d) Except as provided by Subsection (e) of this section, if a correction in the tax roll that changes the tax liability of a property owner is made after the tax bill is mailed, the assessor shall prepare and mail a corrected tax bill in the manner provided by Chapter 31 of this code for tax bills generally. He shall include with the bill a brief explanation of the reason for and effect of the corrected bill.

(e) If a correction that increases the tax liability of a property owner is made after the tax is paid, the assessor shall prepare and mail a supplemental tax bill in the manner provided by Chapter 31 of this code for tax bills generally. He shall include with the supplemental bill a brief explanation of the reason for and effect of the supplemental bill. The additional tax is due on receipt of the supplemental bill and becomes delinquent if not paid before the delinquency date prescribed by Chapter 31 of this code or before the first day of the next month after the date of the mailing that will provide at least 21 days for payment of the tax, whichever is later.

(f) If a correction decreases the tax liability of a property owner after he has paid the tax, the taxing unit shall refund to the property owner the difference between the tax paid and the tax legally due.

[Acts 1979, 66th Leg., p. 2283, ch. 841, § 1, eff. Jan. 1, 1982.]

## SUBTITLE E. COLLECTIONS AND DELINQUENCY

### CHAPTER 31. COLLECTIONS

#### Section

31.01.	Tax Bills.
31.02.	Delinquency Date.
31.03.	Split Payment of Texas.
31.04.	Postponement of Delinquency Date.
31.05.	Discounts.
31.06.	Medium of Payment.
31.07.	Certain Payments Accepted.
31.08.	Tax Certificate.
31.09.	Reports and Remittances of State Taxes.
31.10.	Reports and Remittances of Other Taxes.
31.11.	Refunds of Overpayments or Erroneous Payments.

### § 31.01. Tax Bills

(a) Except as provided by Subsection (f) of this section, the assessor for each taxing unit shall prepare and mail a tax bill to each person in whose name the property is listed on the tax roll or to his authorized agent. The assessor shall mail tax bills by October 1 or as soon thereafter as practicable. The assessor shall mail to the state agency or institution the tax bill for any taxable property owned by the agency or institution. The agency or institution shall pay the taxes from funds appropriated for payment of the taxes or, if there are none, from funds appropriated for the administration of the agency or institution.

(b) The county assessor-collector shall mail the tax bill for Permanent University Fund land to the

comptroller. The comptroller shall pay all county tax bills on Permanent University Fund land with warrants drawn on the General Revenue Fund and mailed to the county assessors-collectors before February 1.

(c) The tax bill or a separate statement accompanying the tax bill shall:

- (1) identify the property subject to the tax;
- (2) state the appraised value, assessed value, and taxable value of the property;
- (3) if the property is land appraised as provided by Subchapter C, D, or E, Chapter 23 of this code,<sup>1</sup> state the market value and the taxable value for purposes of deferred or additional taxation as provided by Section 23.46, 23.55, or 23.76, as applicable, of this code;
- (4) state the assessment ratio for the unit;
- (5) state the type and amount of any partial exemption applicable to the property, indicating whether it applies to appraised or assessed value;
- (6) state the total tax rate for the unit;
- (7) state the amount of tax due and the due date;
- (8) explain the payment options and discounts provided by Sections 31.03 and 31.05 of this code, if available to the unit's taxpayers;
- (9) state the rates of penalty and interest imposed for delinquent payment of the tax; and
- (10) include any other information required by the State Property Tax Board.

(d) Each tax bill shall also state the amount of penalty, if any, imposed pursuant to Sections 23.431, 23.54, 23.541, 23.75, 23.751, 23.87, and 23.97 of this code.

(e) An assessor may include taxes for more than one taxing unit in the same tax bill, but he shall include the information required by Subsection (c) of this section for the tax imposed by each unit included in the bill.

(f) The governing body of a taxing unit may provide in the manner required by law for official action by the body that a tax bill not be sent until the total amount of unpaid taxes the unit collects on the property is \$5 or more. Penalties and interest do not accrue during a period when a bill is not sent because of the provisions of this section.

(g) Except as provided by Subsection (f) of this section, failure to send or receive the tax bill required by this section does not affect the validity of the tax, penalty, or interest, the due date, the existence of a tax lien, or any procedure instituted to collect a tax.

[Acts 1979, 66th Leg., p. 2284, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2359, ch. 581, § 1, eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 166, ch. 13, § 122, eff. Jan. 1, 1982.]

<sup>1</sup>Section 23.41 et seq., 23.51 et seq., or 23.71 et seq.

**§ 31.02. Delinquency Date**

Except as provided by Sections 31.03 and 31.04 of this code, taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed.

[Acts 1979, 66th Leg., p. 2285, ch. 841, § 1, eff. Jan. 1, 1982.]

Acts 1981, 67th Leg., 1st C.S., p. 182, ch. 13, § 166, provides:

"Municipal Delinquency Dates. The Property Tax Code does not affect the date a city's taxes for 1981 become delinquent if a city ordinance or charter provides an earlier delinquency date."

**§ 31.03. Split Payment of Taxes**

(a) If a person pays one-half of state and county taxes before December 1, he may pay the remaining one-half of the taxes without penalty or interest at any time before July 1 of the following year.

(b) The governing body of a taxing unit, other than a county, that collects its own taxes may adopt, in the manner required by law for official action by the body, the split-payment option provided by Subsection (a) of this section. The split-payment option, if adopted, applies to taxes for all units for which the adopting taxing unit collects taxes.

(c) If one or more taxing units contract with the appraisal district for collection of taxes, the split-payment option provided by Subsection (a) of this section does not apply to taxes collected by the district unless approved by resolution adopted by a majority of the governing bodies of the taxing units whose taxes the district collects and filed with the secretary of the appraisal district board of directors. After an appraisal district provides for the split-payment option, the option applies to all taxes collected by the district until revoked. It may be revoked in the same manner as provided for adoption.

[Acts 1979, 66th Leg., p. 2285, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, § 123, eff. Jan. 1, 1982.]

**§ 31.04. Postponement of Delinquency Date**

(a) If tax bills are mailed after January 10, the delinquency date provided by Section 31.02 of this code is postponed to the first day of the next month that will provide a period of at least 21 days after the date of mailing for payment of taxes before delinquent.

(b) If the delinquency date is postponed as provided by this section, the assessor who mails the bills shall notify the governing body of each taxing unit whose taxes are included in the bills of the postponement. If the due date for state taxes is postponed, the county assessor-collector shall notify the State Property Tax Board of the postponement.

(c) A payment option provided by Section 31.03 of this code or a discount provided by Section 31.05 of this code does not apply to taxes that are calculated too late for it to be available.

[Acts 1979, 66th Leg., p. 2285, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 31.05. Discounts**

(a) A person is entitled to a discount from the amount of state tax due if he pays the tax before January. The amount of discount is:

- (1) three percent if the tax is paid in October;
- (2) two percent if the tax is paid in November;

and

- (3) one percent if the tax is paid in December.

(b) The governing body of a taxing unit that collects its own taxes may adopt the discounts provided by Subsection (a) of this section in the manner required by law for official action by the body. The discounts, if adopted, apply to taxes for all units for which the adopting taxing unit collects taxes.

(c) If one or more taxing units contract with the appraisal district for collection of taxes, the discounts provided by Subsection (a) of this section do not apply to taxes collected by the district unless approved by resolution adopted by a majority of the governing bodies of the taxing units whose taxes the district collects and filed with the secretary of the appraisal district board of directors. After an appraisal district provides for discounts, the discounts apply to all taxes collected by the district until revoked. They may be revoked in the same manner as provided for adoption.

[Acts 1979, 66th Leg., p. 2285, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, § 124, eff. Jan. 1, 1982.]

**§ 31.06. Medium of Payment**

(a) Taxes are payable only in currency of the United States. However, a collector may accept a check or money order in payment of taxes.

(b) Acceptance by a collector of a check or money order constitutes payment of a tax as of the date of acceptance if the check or money order is duly paid or honored. If the check or money order is not duly paid or honored, the collector shall deliver written notice of nonpayment to the person who attempted payment by check or money order. Until payment is made in full by cash or by a check or money order that is duly paid or honored, the lien securing payment of the tax remains in effect, whether or not the person receives notice of nonpayment.

(c) If a check or money order accepted in payment of taxes is not duly paid or honored, the amount of any charge against the taxing unit for processing the check or order is added to the amount of tax due in the same manner as penalties and interest are added for taxes that are delinquent. The tax lien on the property also secures payment of the amount of the charge.

[Acts 1979, 66th Leg., p. 2285, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, § 125, eff. Jan. 1, 1982.]

**§ 31.07. Certain Payments Accepted**

(a) A person may pay the tax imposed on any one property without simultaneously paying taxes imposed on other property he owns.

(b) A person may not pay the tax imposed on a property by the state or a taxing unit separate from taxes imposed on that property by the state or other taxing units using the same collector unless the tax is included in a separate bill.

[Acts 1979, 66th Leg., p. 2286, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 31.08. Tax Certificate**

(a) At the request of any person, a collector for a taxing unit shall issue a certificate showing the amount of delinquent taxes, penalties, and interest due the unit on a property according to the unit's current tax records. The collector shall charge a fee of \$2 for each certificate issued. The collector shall pay all fees collected under this section into the treasury of the taxing unit that employs him.

(b) Except as provided by Subsection (c) of this section, if a person transfers property accompanied by a tax certificate erroneously showing that no delinquent taxes, penalties, or interest are due a taxing unit on the property, the unit's tax lien on the property is extinguished and the purchaser of the property is absolved of liability to the unit for delinquent taxes, penalties, or interest on the property. The person who was liable for the tax for the year it was imposed remains personally liable for the delinquent tax, penalties, and interest.

(c) A tax certificate issued through fraud or collusion is void.

[Acts 1979, 66th Leg., p. 2286, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 31.09. Reports and Remittances of State Taxes**

(a) The State Property Tax Board shall adopt rules prescribing methods of accounting for and remitting state property taxes and shall prescribe and furnish forms for periodic reports.

(b) A county assessor-collector shall file with the State Property Tax Board at the times and in the manner required by the rules sworn reports accounting for all state property taxes, collected or delinquent, on the tax roll for state taxes.

(c) A county assessor-collector shall remit the state property taxes he collects at the times and in the manner required by the rules.

(d) The State Property Tax Board shall periodically examine the records of each county assessor-collector's office to verify the accuracy of reports accounting for state property taxes.

[Acts 1979, 66th Leg., p. 2286, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 31.10. Reports and Remittances of Other Taxes**

(a) Each month the collector of taxes for a taxing unit shall prepare and submit to the governing body of the unit a written report made under oath accounting for all taxes collected for the unit during the preceding month. Reports of collections made in the months of October through January are due on the 25th day of the month following the month that is the subject of the report. Reports of collections made in all other months are due on the 15th day of

the month following the month that is the subject of the report. A collector for more than one taxing unit may prepare one report accounting for taxes collected for all units, and he may submit a certified copy of the report as his monthly report to the governing body of each unit.

(b) The collector for a taxing unit shall prepare and submit to the governing body of the unit an annual report made under oath accounting for all taxes of the unit collected or delinquent on property taxed by the unit during the preceding 12-month period. Annual reports are due August 1.

(c) At least monthly the collector for a taxing unit shall deposit in the unit's depository all taxes collected for the unit. The governing body of a unit may require deposits to be made more frequently. [Acts 1979, 66th Leg., p. 2286, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 31.11. Refunds of Overpayments or Erroneous Payments**

(a) If a taxpayer applies to the tax collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes and the auditor for the unit determines that the payment was erroneous or excessive, the tax collector shall refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making refunds. However, if the amount of the refund exceeds \$500, the collector may not make the refund unless the governing body of the taxing unit also determines that the payment was erroneous or excessive and approves the refund.

(b) An application for a refund must be made within three years after the date of the payment or the taxpayer waives the right to the refund. [Added by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, § 126, eff. Jan. 1, 1982.]

**CHAPTER 32. TAX LIENS AND PERSONAL LIABILITY**

Section	
32.01.	Tax Lien.
32.02.	Restrictions on a Mineral Interest Tax Lien.
32.03.	Restrictions on Personal Property Tax Lien.
32.04.	Priorities Among Tax Liens.
32.05.	Priority of Tax Liens Over Other Property Interests.
32.06.	Transfer of Tax Lien.
32.07.	Personal Liability for Tax.

**§ 32.01. Tax Lien**

On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on that property, whether or not the taxes are imposed in the year the lien attaches. The lien exists in favor of the state and each taxing unit having power to tax the property. [Acts 1979, 66th Leg., p. 2287, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 32.02. Restrictions on a Mineral Interest Tax Lien**

(a) If a mineral estate is severed from a surface estate and if different persons own the mineral estate and surface estate, the lien resulting from taxes imposed against each interest in the mineral estate exists only for the duration of the interest it encumbers. After an interest in the mineral estate terminates, the lien encumbering it expires and is not enforceable:

- (1) against any part of the surface estate not owned by the owner of the interest encumbered by the lien;
- (2) against any part of the mineral estate not owned by the owner of the interest encumbered by the lien; or
- (3) against the owner of the surface estate as a personal obligation, unless he also owns the interest encumbered by the lien.

(b) Taxes imposed on a severed interest in a mineral estate that has terminated remain the personal liability of the person who owned the interest on January 1 of the year for which the tax was imposed. [Acts 1979, 66th Leg., p. 2287, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 32.03. Restrictions on Personal Property Tax Lien**

A tax lien may not be enforced against personal property transferred to a bona fide purchaser for value who does not have actual notice of the existence of the lien. [Acts 1979, 66th Leg., p. 2287, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 32.04. Priorities Among Tax Liens**

(a) Whether or not a tax lien provided by this chapter takes priority over a tax lien of the United States is determined by federal law. In the absence of federal law, a tax lien provided by this chapter takes priority over a tax lien of the United States.

(b) Tax liens provided by this chapter have equal priority. [Acts 1979, 66th Leg., p. 2287, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 32.05. Priority of Tax Liens Over Other Property Interests**

(a) A tax lien on real property takes priority over a homestead interest in the property.

(b) Except as provided by Subsection (c) of this section, a tax lien provided by this chapter takes priority over the claim of any creditor of a person whose property is encumbered by the lien and over the claim of any holder of a lien on property encumbered by the tax lien, whether or not the debt or lien existed before attachment of the tax lien.

(c) A tax lien provided by this chapter is inferior to claims for any survivor's allowance, funeral expenses, or expenses of the last illness of a decedent made against the estate of a decedent as provided by law. [Acts 1979, 66th Leg., p. 2287, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 32.06. Transfer of Tax Lien

(a) A person may authorize another person to pay the taxes imposed by a taxing unit on his real property by filing with the collector for the unit a sworn document stating the authorization, naming the person authorized to pay the taxes, and describing the property.

(b) If a person authorized to pay another's taxes pursuant to Subsection (a) of this section pays the taxes and any penalties and interest imposed, the collector shall issue a tax receipt to the person paying the taxes. In addition, the collector shall certify on the sworn document that payment of the taxes and any penalties and interest on the described property has been made by a person other than the person liable for the taxes when imposed and that the taxing unit's tax lien is transferred to the person paying the taxes. The collector shall attach to the document his seal of office and deliver the document to the person paying the taxes. The collector shall keep a record of all tax liens transferred as provided by this section.

(c) Except as otherwise provided by this section, the transferee of a tax lien and any successor in interest is entitled to foreclose the lien in the manner provided by law for foreclosure of tax liens.

(d) To be enforceable, a tax lien transferred as provided by this section must be recorded in the deed records of each county in which the property encumbered by the lien is located.

(e) A person holding a tax lien transferred as provided by this section may not charge a greater rate of interest than 10 percent a year on the taxes, penalties, interest, and recording expenses paid to acquire and record the lien.

(f) The holder of a preexisting lien on property encumbered by a tax lien transferred as provided by this section is entitled, within six months after the date on which the tax lien is recorded in all counties in which the property is located, to pay the holder of the tax lien the amount paid for the lien, plus interest accrued and recording expenses, and becomes subrogated to all rights in the lien.

(g) A suit to foreclose a tax lien transferred as provided by this section may not be instituted within one year from the date on which the lien is recorded in all counties in which the property is located.

(h) After one year from the date on which a tax lien transferred as provided by this section is recorded in all counties in which the property is located, the holder of the lien may file suit to foreclose the lien unless a contract between the holder of the lien and the owner of the property encumbered by the lien provides otherwise. If the suit results in foreclosure of the lien, the person filing suit is entitled to recover attorney's fees in an amount not to exceed 10 percent of the judgment. The proceeds of a sale following foreclosure as provided by this subsection shall be applied first to the payment of court costs, then to payment of the judgment, including

accrued interest, and then to the payment of any attorney's fees fixed in the judgment. Any remaining proceeds shall be paid to other holders of liens on the property in the order of their priority and then to the person whose property was sold at the tax sale.

(i) The person whose property is sold as provided by this section or any person holding a first lien against the property is entitled, within one year after the date the property is sold, to redeem the property from the purchaser at the tax sale by paying him the tax sale purchase price, plus costs and interest accrued on the judgment to the date of redemption or 110 percent of the amount of the judgment, whichever is less. If a person redeems the property as provided by this subsection, the purchaser at the tax sale shall deliver a deed to the property to the person redeeming the property. If the person who owned the property at the time of foreclosure redeems the property, all liens existing on the property at the time of the tax sale remain in effect to the extent not paid from the sale proceeds.

(j) This section does not abridge the right of an owner of real property to enter into a contract for the payment of taxes with the holder of a lien on the property or affect a contract between the owner and holder of a lien for the payment of taxes on the property.

[Acts 1979, 66th Leg., p. 2288, ch. 841, § 1, eff. Jan. 1, 1982.]

### § 32.07. Personal Liability for Tax

(a) Except as provided by Subsection (b) of this section, property taxes are the personal obligation of the person who owns or acquires the property on January 1 of the year for which the tax is imposed. A person is not relieved of the obligation because he no longer owns the property.

(b) The person in whose name a property is required to be listed by Section 25.13 or 25.15 of this code is personally liable for the taxes imposed on the property.

[Acts 1979, 66th Leg., p. 2289, ch. 841, § 1, eff. Jan. 1, 1980.]

## CHAPTER 33. DELINQUENCY

### SUBCHAPTER A. GENERAL PROVISIONS

Section	
33.01.	Penalties and Interest.
33.02.	Installment Payment of Delinquent Taxes.
33.03.	Delinquent Tax Roll.
33.04.	Notice of Delinquency.
33.05.	Limitation on Collection of Taxes.
33.06.	Deferred Collection of Certain Taxes.
33.07.	Additional Penalty for Collection Costs.

### SUBCHAPTER B. SEIZURE OF PERSONAL PROPERTY

33.21.	Property Subject to Seizure.
33.22.	Institution of Seizure.
33.23.	Tax Warrant.
33.24.	Bond for Payment of Taxes.
33.25.	Notice of Tax Sale.

SUBCHAPTER C. DELINQUENT TAX SUITS

Section	
33.41.	Suit to Collect Delinquent Tax.
33.42.	Taxes Included in Foreclosure Suit.
33.43.	Petition.
33.44.	Joinder of Other Taxing Units.
33.45.	Pleading and Answering to Claims Filed.
33.46.	Partition of Real Property.
33.47.	Tax Records as Evidence.
33.48.	Recovery of Costs and Expenses.
33.49.	Liability of Taxing Unit for Costs.
33.50.	Adjudged Value.
33.51.	Writ of Possession.
33.52.	Judgment for Current Taxes.
33.53.	Order of Sale.
33.54.	Limitation on Actions Relating to Property Sold for Taxes.

SUBCHAPTER A. GENERAL PROVISIONS

§ 33.01. Penalties and Interest

(a) A delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent.

(b) If a person who exercises the split-payment option provided by Section 31.03 of this code fails to make the second payment before July 1, the second payment is delinquent and incurs a penalty of twelve percent of the amount of unpaid tax.

(c) A delinquent tax accrues interest at a rate of one percent for each month or portion of a month the tax remains unpaid.

[Acts 1979, 66th Leg., p. 2290, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, § 127, eff. Jan. 1, 1982.]

Section 159 of the 1981 amendatory act provides:  
 "Transition for Penalties and Interest. Penalties and interest for back taxes on property omitted from a tax roll in any year before January 1, 1982, are imposed at the rates in effect before January 1, 1982, for the period before that date and at the rate provided by the Tax Code for any period after that date. Interest on ad valorem taxes that are delinquent on January 1, 1982, accrues at the rate in effect before January 1, 1982, for the period of delinquency before January 1, 1982, and at the rate provided by the Tax Code for any period after that date."

§ 33.02. Installment Payment of Delinquent Taxes

(a) The collector for a taxing unit that collects its own taxes may enter an agreement with a person delinquent in the payment of the tax for payment of the tax, penalties, and interest in installments. The agreement must be in writing and may not extend for a period of more than 36 months.

(b) Interest accrues as provided by Subsection (c) of Section 33.01 of this code on the unpaid balance during the period of the agreement.

(c) A property owner's execution of an installment agreement under this section is an irrevocable admission of liability for all taxes, penalties, and interest that are subject to the agreement.

(d) Property may not be seized and sold and a suit may not be filed to collect a delinquent tax subject to an installment agreement unless the property owner:

(1) fails to make a payment as required by the agreement;

(2) fails to pay other property taxes collected by the unit when due as required by the collector; or

(3) breaches any other condition of the agreement.

(e) Execution of an installment agreement tolls the limitation periods provided by Section 33.05 of this code for the period during which enforced collection is barred by Subsection (d) of this section. [Acts 1979, 66th Leg., p. 2290, ch. 841, § 1, eff. Jan. 1, 1982.]

§ 33.03. Delinquent Tax Roll

Each year the collector for each taxing unit shall prepare a current and a cumulative delinquent tax roll for the unit.

[Acts 1979, 66th Leg., p. 2290, ch. 841, § 1, eff. Jan. 1, 1982.]

§ 33.04. Notice of Delinquency

(a) At least once each year the collector for a taxing unit shall deliver a notice of delinquency to each person whose name appears on the current delinquent tax roll. However, the notice need not be delivered if a bill for the tax was not mailed pursuant to the authorization provided by Subsection (f) of Section 31.01 of this code.

(b) In addition to the notice required by Subsection (a) of this section, the tax collector for each taxing unit in each year divisible by five shall deliver a written notice of delinquency to each person who owes a tax that has been delinquent more than one year. He shall state in the notice the amount of the delinquent tax, penalties, and interest due, the description of the property on which the tax was imposed, and the year for which the tax is delinquent. If the person owes delinquent taxes for more than one year or on more than one property, the collector may include all the delinquent taxes the person owes in a single notice.

(c) The collector shall deliver the notice required by Subsection (b) of this section by mail if the collector knows or by exercising reasonable diligence can determine the delinquent taxpayer's name and mailing address. However, if the collector cannot determine the delinquent taxpayer's name or mailing address by exercising reasonable diligence, he may deliver the notice by publishing it in a newspaper.

(d) Penalties and interest on a tax delinquent more than five years or a multiple of five years are cancelled and may not be collected if the collector has not delivered the notice required by Subsection (b) of this section in each year that is divisible by five following the date on which the tax first became delinquent for one year.

[Acts 1979, 66th Leg., p. 2290, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, § 128, eff. Jan. 1, 1982.]

**§ 33.05. Limitation on Collection of Taxes**

(a) Personal property may not be seized and a suit may not be filed:

(1) to collect a tax on personal property that has been delinquent more than four years; or

(2) to collect a tax on real property that has been delinquent more than 20 years.

(b) A tax delinquent for more than the limitation period prescribed by this section and any penalty and interest on the tax is presumed paid unless a suit to collect the tax is pending.

[Acts 1979, 66th Leg., p. 2291, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.06. Deferred Collection of Certain Taxes**

(a) An individual is entitled to defer or abate a suit to collect a delinquent tax if he is 65 or older and he owns and occupies as a residence homestead the property on which the tax subject to the suit is delinquent.

(b) To obtain a deferral, an individual must file with the chief appraiser for the appraisal district in which the property is located an affidavit stating the facts required to be established by Subsection (a) of this section. The chief appraiser shall notify each taxing unit participating in the district of the filing. After an affidavit is filed under this subsection, a taxing unit may not file suit to collect delinquent taxes on the property until the individual no longer owns and occupies the property as a residence homestead.

(c) To obtain an abatement, the individual must file in the court in which suit is pending an affidavit stating the facts required to be established by Subsection (a) of this section. If no controverting affidavit is filed by the taxing unit filing suit or if, after a hearing, the court finds the individual is entitled to the deferral, the court shall abate the suit until the individual no longer owns and occupies the property as a residence homestead.

(d) A tax lien remains on the property and penalties and interest continue to accrue during the period collection of taxes is deferred as provided by this section. A plea of limitation, laches, or want of prosecution does not apply against the taxing unit because of deferral of collection as provided by this section.

(e) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the district or county the provisions of this section and, specifically, the method by which eligible persons may obtain a deferral.

[Acts 1979, 66th Leg., p. 2291, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, § 129, eff. Jan. 1, 1982.]

**§ 33.07. Additional Penalty for Collection Costs**

(a) A taxing unit or appraisal district may provide, in the manner required by law for official action by the body, that taxes that remain delin-

quent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection, if the unit or district or another unit that collects taxes for the unit has contracted with an attorney pursuant to Section 6.30 of this code. The amount of the penalty may not exceed 15 percent of the amount of taxes, penalty, and interest due.

(b) A tax lien attaches to the property on which the tax is imposed to secure payment of the penalty.

(c) If a penalty is imposed pursuant to this section, a taxing unit may not recover attorney's fees in a suit to collect delinquent taxes subject to the penalty.

(d) If a taxing unit or appraisal district provides for a penalty under this section, the collector shall deliver a notice of delinquency and of the penalty to the property owner at least 30 and not more than 60 days before July 1.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, § 130, eff. Jan. 1, 1982.]

[Sections 33.08 to 33.20 reserved for expansion]

**SUBCHAPTER B. SEIZURE OF PERSONAL PROPERTY****§ 33.21. Property Subject to Seizure**

(a) A person's personal property is subject to seizure for the payment of a delinquent tax, penalty, and interest he owes the state or a taxing unit on property.

(b) A person's personal property is subject to seizure for the payment of a tax imposed by the state or a taxing unit on his property before the tax becomes delinquent if:

(1) the collector discovers that property on which the tax has been or will be imposed is about to be removed from the county; and

(2) the collector knows of no other personal property in the county from which the tax may be satisfied.

(c) Current wages in the possession of an employer are not subject to seizure.

[Acts 1979, 66th Leg., p. 2292, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.22. Institution of Seizure**

(a) At any time after a tax becomes delinquent, a collector may apply for a tax warrant to any court in any county in which the person liable for the tax has personal property. If more than one collector participates in the seizure, all may make a joint application.

(b) A collector may apply at any time for a tax warrant authorizing seizure of property as provided by Subsection (b) of Section 33.21 of this code.

(c) The court shall issue the tax warrant if the applicant shows by affidavit that:

(1) the person whose property he intends to seize is delinquent in the payment of taxes, penalties, and interest in the amount stated in the application; or

(2) the applicant has reason to believe the property owner is about to remove from the county personal property on which a tax has been or will be imposed, the applicant knows of no other personal property the person owns in the county from which the tax may be satisfied, and taxes in a stated amount have been imposed on the property or taxes in an estimated amount will be imposed on the property.

[Acts 1979, 66th Leg., p. 2292, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.23. Tax Warrant**

(a) A tax warrant shall direct a peace officer in the county and the collector to seize as much of the person's personal property as may be reasonably necessary for the payment of all taxes, penalties, and interest included in the application and all costs of seizure and sale. The warrant shall direct the person whose property is seized to disclose to the officer executing the warrant the name and the address if known of any other person having an interest in the property.

(b) A bond may not be required of the state or a taxing unit for issuance or delivery of a tax warrant, and a fee or court cost may not be charged for issuance or delivery of a warrant.

(c) After a tax warrant is issued, the collector shall take possession of the property pending its sale. The person against whom a tax warrant is issued or another person having possession of property of the person against whom a tax warrant is issued shall surrender the property on demand.

[Acts 1979, 66th Leg., p. 2292, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.24. Bond for Payment of Taxes**

A person may prevent seizure of property or sale of property seized by delivering to the collector a cash or surety bond conditioned on payment of the tax before delinquency. The bond must be approved by the collector in an amount determined by him, but he may not require an amount greater than the amount of tax if imposed or the collector's reasonable estimate of the amount of tax if not yet imposed.

[Acts 1979, 66th Leg., p. 2293, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.25. Notice of Tax Sale**

(a) After a seizure of personal property, the collector shall make a reasonable inquiry to determine the identity and address of any person having an interest in the property other than the person against whom the tax warrant is issued. He shall deliver as soon as possible a written notice stating the time and place of the sale and briefly describing the property seized to the person against whom the

warrant is issued and to any other person he discovers has an interest in the property whose address he ascertains.

(b) Failure to send or receive the notice provided by this section does not affect the validity of the sale or title to the seized property.

[Acts 1979, 66th Leg., p. 2293, ch. 841, § 1, eff. Jan. 1, 1982.]

[Sections 33.26 to 33.40 reserved for expansion]

**SUBCHAPTER C. DELINQUENT TAX SUITS**

**§ 33.41. Suit to Collect Delinquent Tax**

(a) At any time after its tax on property becomes delinquent, a taxing unit may file suit to foreclose the lien securing payment of the tax, to enforce personal liability for the tax, or both. The suit must be in a court of competent jurisdiction for the county in which the tax was imposed.

(b) A suit to collect a delinquent tax takes precedence over all other suits pending in appellate courts.

[Acts 1979, 66th Leg., p. 2293, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2644, ch. 707, § 4(33), eff. Aug. 31, 1981.]

**§ 33.42. Taxes Included in Foreclosure Suit**

(a) In a suit to foreclose a lien securing payment of its tax on real property, a taxing unit shall include all delinquent taxes due the unit on the property.

(b) If a taxing unit's tax on real property becomes delinquent after the unit files suit to foreclose a tax lien on the property but before entry of judgment, the court shall include the amount of the tax and any penalty and interest in its judgment.

(c) If a tax required by this section to be included in a suit is omitted from the judgment in the suit, the taxing unit may not enforce collection of the tax at a later time.

[Acts 1979, 66th Leg., p. 2293, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.43. Petition**

(a) A petition initiating a suit to collect a delinquent property tax is sufficient if it alleges that:

(1) the taxing unit is legally constituted and authorized to impose and collect ad valorem taxes on property;

(2) tax in a stated amount was legally imposed on each separately described property for each year specified and on each person named if known who owned the property on January 1 of the year for which the tax was imposed;

(3) the tax was imposed in the county in which the suit is filed;

(4) the tax is delinquent;

(5) penalties, interest, and costs authorized by law in a stated amount for each separately assessed property are due;

(6) the person sued owned the property on January 1 of the year for which the tax was imposed if the suit seeks to enforce personal liability;

(7) the person sued owns the property when the suit is filed if the suit seeks to foreclose a tax lien;

(8) the taxing unit asserts a lien on each separately described property to secure the payment of all taxes, penalties, interest, and costs due if the suit seeks to foreclose a tax lien;

(9) all things required by law to be done have been done properly by the appropriate officials; and

(10) the attorney signing the petition is legally authorized to prosecute the suit on behalf of the taxing unit.

(b) If the petition alleges that the person sued owns the property on which the taxing unit asserts a lien, the prayer in the petition shall be for foreclosure of the lien and payment of all taxes, penalties, interest, and costs that are due or will become due and that are secured by the lien. If the petition alleges that the person sued owned the property on January 1 of the year for which the taxes were imposed, the prayer shall be for personal judgment for all taxes, penalties, interest, and costs that are due or will become due on the property. If the petition contains the appropriate allegations, the prayer may be for both foreclosure of a lien on the property and personal judgment.

(c) If the suit is for personal judgment against the person who owned personal property on January 1 of the year for which the tax was imposed on the property, the personal property may be described generally.

(d) The petition need not be verified.

(e) The State Property Tax Board shall prepare forms for petitions initiating suits to collect delinquent taxes. An attorney representing a taxing unit may use the forms or develop his own form. [Acts 1979, 66th Leg., p. 2293, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 33.44. Joinder of Other Taxing Units

(a) A taxing unit filing suit to foreclose a tax lien on real property shall join other taxing units that have claims for delinquent taxes against all or part of the same property.

(b) For purposes of joining the state and a county, citation may be served on the county tax assessor-collector. For purposes of joining any other taxing unit, citation may be served on the officer charged with collecting taxes for the unit or on the presiding officer or secretary of the governing body of the unit. Citation may be served by certified mail, return receipt requested. A person on whom service is authorized by this subsection may waive the issuance and service of citation in behalf of his taxing unit.

(c) A taxing unit joined in a suit as provided by this section must file its claim for delinquent taxes

against the property or its lien on the property is extinguished. The court's judgment in the suit shall reflect the extinguishment of a lien under this subsection.

[Acts 1979, 66th Leg., p. 2294, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 33.45. Pleading and Answering to Claims Filed

A party to the suit must take notice of and plead and answer to all claims and pleadings filed by other parties that have been joined or have intervened, and each citation must so state.

[Acts 1979, 66th Leg., p. 2294, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 33.46. Partition of Real Property

(a) If suit is filed to foreclose a tax lien on real property owned in undivided interests by two or more persons, one or more of the owners may have the property partitioned in the manner prescribed by law for the partition of real property in district court.

(b) The court shall apportion the taxes, penalties, interest, and costs sued for to the owners of the property in proportion to the interest of each. If an owner pays the taxes, penalties, interest, and costs apportioned to him, the property partitioned to him is free from further claim or lien for the taxes involved in the suit. If an owner refuses to pay the amount apportioned to him, the suit shall proceed against him for that amount.

(c) The court shall allow reasonable attorney's fees and costs of partitioning for each property partitioned. The fee shall be taxed as costs against each owner in proportion to his interest and constitutes a lien against the property until paid.

[Acts 1979, 66th Leg., p. 2294, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 33.47. Tax Records as Evidence

(a) In a suit to collect a delinquent tax, the taxing unit's current tax roll and delinquent tax roll or certified copies of the entries showing the property and the amount of the tax imposed constitute prima facie evidence that each person charged with a duty relating to the imposition of the tax has complied with all requirements of law and that the amount of tax alleged to be delinquent against the property listed is the correct amount.

(b) If the description of a property in the tax roll or delinquent tax roll is insufficient to identify the property, the records of the appraisal office are admissible to identify the property.

[Acts 1979, 66th Leg., p. 2295, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 33.48. Recovery of Costs and Expenses

(a) In addition to other costs authorized by law, a taxing unit is entitled to recover the following costs and expenses in a suit to collect a delinquent tax:

(1) all usual court costs, including the cost of serving process;

(2) expenses of foreclosure sale;

(3) reasonable expenses, subject to approval by the court, that are incurred by the taxing unit in determining the name, identity, and location of necessary parties and in procuring necessary legal descriptions of the property on which a delinquent tax is due; and

(4) reasonable attorney's fees approved by the court and not exceeding 15 percent of the total amount of taxes, penalties, and interest adjudged due the unit.

(b) Each item specified by Subsection (a) of this section is a charge against the property subject to foreclosure in the suit and shall be collected out of the proceeds of the sale of the property or, if the suit is for personal judgment, charged against the defendant.

(c) Fees collected for attorneys and other officials are fees of office, except that fees for contract attorneys representing a taxing unit that is joined or intervenes shall be applied toward the compensation due the attorney under the contract.

[Acts 1979, 66th Leg., p. 2295, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, § 131, eff. Jan. 1, 1982.]

**§ 33.49. Liability of Taxing Unit for Costs**

(a) Except as provided by Subsection (b) of this section, a taxing unit is not liable in a suit to collect taxes for court costs, including any fees for service of process, and may not be required to post security for the costs.

(b) A taxing unit shall pay the cost of publishing citations, notices of sale, or other notices from the unit's general fund as soon as practicable after receipt of the publisher's claim for payment. The taxing unit is entitled to reimbursement from other taxing units that are parties to the suit for their proportionate share of the publication costs on satisfaction of any portion of the tax indebtedness before further distribution of the proceeds. A taxing unit may not pay a word or line rate for publication of citation or other required notice that exceeds the rate the newspaper publishing the notice charges private entities for similar classes of advertising.

[Acts 1979, 66th Leg., p. 2295, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.50. Adjudged Value**

(a) In a suit for foreclosure of a tax lien on property, the court shall determine the market value of the property on the date of trial. The appraised value of the property according to the most recent appraisal roll approved by the appraisal review board is presumed to be its market value on the date of trial, and the person being sued has the burden of establishing that the market value of the property differs from that appraised value. The court shall incorporate a finding of the market value of the property on the date of trial in the judgment.

(b) If the judgment in a suit to collect a delinquent tax is for the foreclosure of a tax lien on

property, the order of sale shall specify that the property may not be sold to a person owning an interest in the property or to any party to the suit, other than a taxing unit, for less than the market value of the property stated in the judgment or the aggregate amount of the judgments against the property, whichever is less.

[Acts 1979, 66th Leg., p. 2296, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.51. Writ of Possession**

If the court orders the foreclosure of a tax lien and the sale of real property, the judgment shall provide for the issuance of a writ of possession to the purchaser at the sale or his assigns within 20 days after the period of redemption expires.

[Acts 1979, 66th Leg., p. 2296, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.52. Judgment for Current Taxes**

(a) If the court orders the foreclosure of a tax lien and the sale of real property, the judgment shall order that the taxing unit recover from the proceeds of the sale the amount of tax on the property for the current tax year prorated to the day of judgment.

(b) If the amount of tax for the current tax year has not been determined on the date of judgment, the court shall order recovery of the amount of tax imposed on the property for the preceding tax year, prorated to the date of judgment.

[Acts 1979, 66th Leg., p. 2296, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.53. Order of Sale**

If judgment in a suit to collect a delinquent tax is for foreclosure of a tax lien, the court shall order the property sold in satisfaction of the amount of the judgment.

[Acts 1979, 66th Leg., p. 2296, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 33.54. Limitation on Actions Relating to Property Sold for Taxes**

(a) Except as provided by Subsection (b) of this section, a cause of action relating to the title to property may not be maintained against the purchaser of the property at a tax sale unless the action commences within three years after the deed executed to the purchaser at the tax sale is filed of record.

(b) If a person other than the purchaser at the tax sale or his successor in interest pays taxes on the property during the three years following the date the deed is filed and that person was not served citation in the suit to foreclose the tax lien, the three-year limitations period does not apply to that person.

(c) When actions are barred by this section, the purchaser at the tax sale or his successor in interest shall be held to have full title to the property, precluding all other claims.

[Acts 1979, 66th Leg., p. 2296, ch. 841, § 1, eff. Jan. 1, 1982.]

## CHAPTER 34. TAX SALES AND REDEMPTION

### SUBCHAPTER A. TAX SALES

#### Section

- 34.01. Sale of Property.
- 34.02. Distribution of Proceeds.
- 34.03. Disposition of Excess Proceeds.
- 34.04. Claims for Excess Proceeds.
- 34.05. Resale by Taxing Unit.
- 34.06. Distribution of Proceeds of Resale.
- 34.07. Subrogation of Purchaser at Void Sale.
- 34.08. State a Taxing Unit.

### SUBCHAPTER B. REDEMPTION

- 34.21. Right of Redemption.
- 34.22. Evidence of Title to Redeem Real Property.
- 34.23. Distribution of Redemption Proceeds.

### SUBCHAPTER A. TAX SALES

#### § 34.01. Sale of Property

(a) Property seized or ordered sold pursuant to foreclosure of a tax lien shall be sold in the manner similar property is sold under execution except as otherwise provided by this subchapter.

(b) The owner of real property subject to sale may file with the officer charged with the sale a written request that the property be divided and that only as many portions be sold as is necessary to pay the tax, penalties, interest, and costs adjudged due against the property. In the request the owner shall describe the desired portions and shall specify the order in which the portions should be sold.

(c) If a sufficient bid is not received, the officer making the sale shall bid the property off to a taxing unit that is a party to the judgment for the aggregate amount of the judgment against the property or for the market value of the property as specified in the judgment, whichever is less. The taxing unit takes title to the property for the use and benefit of itself and all other taxing units that established tax liens in the suit. Payments in satisfaction of the judgment and any costs or expenses may not be required until the property is redeemed or resold by the purchasing taxing unit.

(d) The officer making the sale shall prepare a deed to the purchaser of real property at the sale or to any other person whom the purchaser may specify. The deed vests good and perfect title in the purchaser or his assigns to the interest owned by the defendant in the property subject to the foreclosure, subject to the defendant's right of redemption. The deed may be impeached only for fraud.

[Acts 1979, 66th Leg., p. 2297, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 34.02. Distribution of Proceeds

(a) The proceeds of a tax sale shall be applied first to the payment of costs. The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each.

(b) If the proceeds are not sufficient to pay the costs and taxes, penalties, and interest due all participants in the sale, each participant is entitled to a share of the proceeds after payment of costs in an amount equal to the proportion its taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all costs and of all taxes, penalties, and interest due all participants in the sale to the clerk of the court issuing the order of sale.

(d) If the sale is pursuant to seizure of personal property, the officer conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution.

[Acts 1979, 66th Leg., p. 2297, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 34.03. Disposition of Excess Proceeds

(a) The clerk of the court shall keep the excess proceeds paid into court as provided by Subsection (c) of Section 34.02 of this code for a period of seven years after the date of the sale unless otherwise ordered by the court.

(b) If no claimant establishes entitlement to the proceeds within seven years, the clerk shall distribute the excess proceeds to each taxing unit participating in the sale in an amount equal to the proportion its taxes, penalties, and interests bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) The clerk shall note on the execution docket in each case the amount of the excess proceeds, the date they were received, and the date they were transmitted to the taxing units participating in the sale.

[Acts 1979, 66th Leg., p. 2298, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, § 132, eff. Jan. 1, 1982.]

#### § 34.04. Claims for Excess Proceeds

(a) A person may file a petition in the court that ordered the sale setting forth a claim to the excess proceeds within seven years from the date of the sale of the property.

(b) A copy of the petition shall be served on the county attorney or, if there is no county attorney, the district attorney and on all parties to the suit that ordered the sale, if any, not later than the 20th day before the date set for a hearing on the petition. The county attorney or district attorney shall represent the state at the hearing.

(c) At the hearing if the court finds that the claimant is entitled to recover the excess proceeds, it shall order that the proceeds be paid to him. Interest or costs may not be allowed.

(d) A claim for the excess proceeds may not be filed after the expiration of seven years from the date the property is sold.

[Acts 1979, 66th Leg., p. 2298, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 34.05. Resale by Taxing Unit**

(a) If property is sold to a taxing unit that is a party to the judgment, the taxing unit may sell the property at any time, subject to any right of redemption existing at the time of the sale. If property is sold to the state, the commissioners court of the county in which the property is located may act for the state.

(b) Unless the property is sold pursuant to Subsections (c) and (d) of this section, it may not be sold for less than the market value specified in the judgment of foreclosure or the total amount of the judgments against the property, whichever is less, without the consent of each taxing unit entitled to receive proceeds of the sale under the judgment. Joinder of the taxing units in the conveyance of the property constitutes consent. The collector for the county in which the property is located may consent in behalf of the state. The presiding officer of the governing body of a taxing unit may consent in behalf of the taxing unit.

(c) The taxing unit purchasing the property by resolution of its governing body may request the sheriff to sell the property at a public sale. If the purchasing taxing unit has not sold the property within six months after the date on which the owner's right of redemption terminates, any taxing unit that is entitled to receive proceeds of the sale by resolution of its governing body may request the sheriff in writing to sell the property at a public sale. On receipt of a request made under this subsection, the sheriff shall sell the property as provided by Subsection (d) of this section.

(d) Except as provided by this subsection, all public sales requested as provided by Subsection (c) of this section shall be conducted in the manner prescribed by the Rules of Civil Procedure for the sale of property under execution. The notice of the sale must contain a description of the property to be sold, which must be a legal description in the case of real property, the number and style of the suit under which the property was sold at the tax foreclosure sale, and the date of the tax foreclosure sale. The officer conducting the sale shall reject any bid for the property if it is his judgment that the amount bid is insufficient. If all bids are insufficient, the property shall be readvertised and offered for sale again. The acceptance of a bid by the officer conducting the sale is conclusive and binding on the question of its sufficiency. An action to set aside the sale on the grounds that the bid is insufficient may not be sustained in court, except that a taxing unit that participates in distribution of proceeds of the sale may file an action within one year after the date of the sale to set aside the sale on the grounds of fraud or collusion between the officer making the sale and the purchaser.

(e) The presiding officer of a taxing unit or the sheriff selling real property pursuant to this section shall execute a deed to the property conveying to the purchaser the right, title, and interest acquired or

held by each taxing unit that was a party to the judgment foreclosing tax liens on the property. The conveyance shall be made subject to any remaining right of redemption at the time of the sale.

(f) An action attacking the validity of a resale of property pursuant to this section may not be instituted after the expiration of one year after the date of the resale.

[Acts 1979, 66th Leg., p. 2298, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 34.06. Distribution of Proceeds of Resale**

(a) The proceeds of a resale of property purchased by a taxing unit at a tax foreclosure sale shall be paid to the purchasing taxing unit.

(b) The purchasing taxing unit shall pay all costs and expenses of court and sale and shall distribute the remainder of the proceeds as provided by Section 34.02 of this code for distribution of proceeds after payment of costs.

[Acts 1979, 66th Leg., p. 2299, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 34.07. Subrogation of Purchaser at Void Sale**

(a) The purchaser at a void or defective tax sale is subrogated to the rights of the taxing unit in whose behalf the property was sold to the same extent a purchaser at a void or defective sale conducted in behalf of a judgment creditor is subrogated to the rights of the judgment creditor.

(b) Except as provided by Subsection (c) of this section, the purchaser at a void or defective tax sale is subrogated to the tax lien of the taxing unit in whose behalf the property was sold to the same extent a purchaser at a void or defective mortgage or other lien foreclosure sale is subrogated to the lien of the lienholder, and the purchaser is entitled to a reforeclosure of the lien to which he is subrogated.

(c) If the purchaser at a void or defective tax sale paid less than the total amount of the judgment against the property, he is subrogated to the tax lien only in the amount he paid at the sale.

(d) In lieu of pursuing the rights to which he is subrogated, a purchaser at a void tax sale may elect to file an action against the taxing units to which the proceeds of the sale were distributed to recover the amount paid at the sale. A purchaser who files a suit authorized by this subsection waives all rights to which he would otherwise be subrogated.

[Acts 1979, 66th Leg., p. 2299, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 34.08. State a Taxing Unit**

For the purposes of this chapter, the state is a taxing unit.

[Acts 1979, 66th Leg., p. 2300, ch. 841, § 1, eff. Jan. 1, 1982.]

[Sections 34.09 to 34.20 reserved for expansion]

## SUBCHAPTER B. REDEMPTION

## § 34.21. Right of Redemption

(a) The owner of real property sold at a tax sale may redeem the property within two years after the date on which the purchaser's deed is filed for record by paying the purchaser the amount he bid for the property, the amount of the deed recording fee, and the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus 25 percent of the aggregate total if the property is redeemed during the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed during the second year of the redemption period.

(b) If the owner of the property makes an affidavit that he has made diligent search in the county in which the property is located for the purchaser at the tax sale and has failed to find him, that the purchaser at the sale is not a resident of the county in which the property is located, that he and the purchaser cannot agree on the amount of redemption money due, or that the purchaser refuses to give him a quitclaim deed to the property, the owner may redeem the land by paying the required amount to the assessor-collector for the county in which the property is located. The assessor-collector receiving the payment shall give the owner a signed receipt witnessed by two persons. The receipt, when recorded, is notice to all persons that the property described has been redeemed. The assessor-collector shall on demand pay the money received by him to the purchaser at the tax sale.

[Acts 1979, 66th Leg., p. 2300, ch. 841, § 1, eff. Jan. 1, 1979.]

## § 34.22. Evidence of Title to Redeem Real Property

(a) A person asserting ownership of real property sold for taxes is entitled to redeem the property if he had title to the property or he was in possession of the property in person or by tenant either at the time suit to foreclose the tax lien on the property was instituted or at the time the property was sold. A defect in the chain of title to the property does not defeat an offer to redeem.

(b) A person who establishes title to real property that is superior to the title of one who has previously redeemed the property is entitled to redeem the property during the redemption period by paying the amounts provided by law to the person who previously redeemed the property.

[Acts 1979, 66th Leg., p. 2300, ch. 841, § 1, eff. Jan. 1, 1982.]

## § 34.23. Distribution of Redemption Proceeds

(a) If the owner of property sold for taxes to a taxing unit redeems the property before the property is resold, the taxing unit shall distribute the redemption proceeds in the manner that proceeds of the resale of property are distributed.

(b) If the owner of property sold for taxes redeems the property from the taxing unit after the

property has been resold, the taxing unit shall pay the purchaser at the resale the amount he paid for the property, plus 25 percent of that amount if the redemption occurs within one year after the date the property is resold or 50 percent of that amount if the redemption occurs more than one year after the date the property is resold. The taxing unit shall distribute the redemption proceeds remaining after payment of the amount due the purchaser at resale to the taxing units adjudged to have tax liens against the property in the proportion the amount of each unit's lien bears to the total amount of all liens established in the foreclosure suit.

[Acts 1979, 66th Leg., p. 2300, ch. 841, § 1, eff. Jan. 1, 1982.]

## SUBTITLE F. REMEDIES

## CHAPTER 41. LOCAL REVIEW

## SUBCHAPTER A. REVIEW OF APPRAISAL RECORDS BY APPRAISAL REVIEW BOARD

Section	
41.01.	Scope of Review.
41.02.	Action by Board.
41.03.	Challenge by Taxing Unit.
41.04.	Challenge Petition.
41.05.	Hearing on Challenge.
41.06.	Notice of Challenge Hearing.
41.07.	Determination of Challenge.
41.08.	Correction of Records on Order of Board.
41.09.	Clerical Errors.
41.10.	Correction of Records on Recommendation of Chief Appraiser.
41.11.	Notice to Property Owner of Change in Records.
41.12.	Completion of Review by Board.

## SUBCHAPTER B. EQUALIZATION BY COMMISSIONERS COURT [REPEALED]

41.21 to 41.27. Repealed.

## SUBCHAPTER C. TAXPAYER PROTEST

41.41.	Right of Protest.
41.42.	Protest of Situs.
41.43.	Protest of Inequality of Appraisal.
41.44.	Notice of Protest.
41.45.	Hearing on Protest.
41.46.	Notice of Protest Hearing.
41.47.	Determination of Protest.

## SUBCHAPTER D. ADMINISTRATIVE PROVISIONS

41.61.	Issuance of Subpoena.
41.62.	Service and Enforcement of Subpoena.
41.63.	Compensation for Subpoenaed Witness.
41.64.	Inspection of Tax Records.
41.65.	Request for State Assistance.
41.66.	Hearing Procedures.
41.67.	Evidence.
41.68.	Record of Proceeding.
41.69.	Conflict of Interest.

## SUBCHAPTER A. REVIEW OF APPRAISAL RECORDS BY APPRAISAL REVIEW BOARD

## § 41.01. Scope of Review

The appraisal review board shall examine the appraisal records for the appraisal district to determine whether:

(1) appraisals are substantially uniform in terms of their relationship to the appraised value required by law;

(2) an exemption or a partial exemption is improperly granted;

(3) land is improperly granted appraisal as provided by Subchapter C, D, or E, Chapter 23 of this code;<sup>1</sup> or

(4) the records do not conform to the requirements of law in any other respect.

[Acts 1979, 66th Leg., p. 2302, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, § 133, eff. Jan. 1, 1982.]

<sup>1</sup> Section 23.41 et seq.; 23.51 et seq.; and 23.71 et seq.

**§ 41.02. Action by Board**

If after reviewing the appraisal records the appraisal review board finds that appraisals are not substantially uniform or that the records do not conform to the requirements of law in some other respect, the board shall refer the matter to the appraisal office and by written order shall direct the chief appraiser to make the reappraisals or corrections in the records that are necessary to conform the records to the requirements of law.

[Acts 1979, 66th Leg., p. 2302, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 41.03. Challenge by Taxing Unit**

*Text of section effective until January 1, 1984*

A taxing unit is entitled to challenge before the appraisal review board:

(1) a determination of the appraised value of property or, in the case of land appraised as provided by Subchapter C, D, or E, Chapter 23 of this code,<sup>1</sup> a determination of its appraised value or market value;

(2) an exclusion of property from the appraisal records;

(3) a grant in whole or in part of a partial exemption;

(4) a determination that land qualifies for appraisal as provided by Subchapter C, D, or E, Chapter 23 of this code; or

(5) failure to identify the taxing unit as one in which a particular property is taxable.

[Acts 1979, 66th Leg., p. 2302, ch. 841, § 1, eff. Jan. 1, 1982.]

<sup>1</sup> Section 23.41 et seq.; 23.51 et seq.; 23.71 et seq.

*For text of section effective January 1, 1984, see § 41.03, post*

**§ 41.03. Challenge by Taxing Unit**

*Text of section effective January 1, 1984*

A taxing unit is entitled to challenge before the appraisal review board:

(1) the level of appraisals of any category of property in the district or in any territory in the district, but not the appraised value of a single taxpayer's property;

(2) an exclusion of property from the appraisal records;

(3) a grant in whole or in part of a partial exemption;

(4) a determination that land qualifies for appraisal as provided by Subchapter C, D, or E, Chapter 23 of this code;<sup>1</sup> or

(5) failure to identify the taxing unit as one in which a particular property is taxable.

[Acts 1979, 66th Leg., p. 2302, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, § 134, eff. Jan. 1, 1984.]

<sup>1</sup> Section 23.41 et seq.; 23.51 et seq.; 23.71 et seq.

*For text of section effective until January 1, 1984, see § 41.03, ante*

**§ 41.04. Challenge Petition**

The appraisal review board is not required to hear or determine a challenge unless the taxing unit initiating the challenge files a petition with the board before June 1 or within 15 days after the date that the appraisal records are submitted to the appraisal review board, whichever is later. The petition must include an explanation of the grounds for the challenge.

[Acts 1979, 66th Leg., p. 2302, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, § 134, eff. Jan. 1, 1982.]

**§ 41.05. Hearing on Challenge**

(a) On the filing of a challenge petition, the appraisal review board shall schedule a hearing on the challenge.

(b) The taxing unit initiating the challenge and each taxing unit in which property involved in the challenge is or may be taxable are entitled to an opportunity to appear to offer evidence or argument.

(c) The chief appraiser shall appear at each hearing to represent the appraisal office.

[Acts 1979, 66th Leg., p. 2303, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 41.06. Notice of Challenge Hearing**

(a) The secretary of the appraisal review board shall deliver to the presiding officer of the governing body of each taxing unit entitled to appear at a challenge hearing written notice of the date, time, and place fixed for the hearing. The secretary shall deliver the notice not later than the 10th day before the date of the hearing.

(b) The secretary shall give the chief appraiser advance notice of the date, time, place, and subject matter of each challenge hearing.

[Acts 1979, 66th Leg., p. 2303, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 41.07. Determination of Challenge**

(a) The appraisal review board shall determine each challenge and make its decision by written order.

(b) If on determining a challenge the board finds that the appraisal records are incorrect in some respect raised by the challenge, the board shall refer the matter to the appraisal office and by its order shall direct the chief appraiser to make the reap-

praisals or corrections in the records that are necessary to conform the records to the requirements of law.

(c) The board shall determine all challenges before approval of the appraisal records as provided by Section 41.12 of this code.

(d) The board shall deliver by certified mail a notice of the issuance of the order and a copy of the order to the taxing unit.

[Acts 1979, 66th Leg., p. 2303, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, § 135, eff. Jan. 1, 1982.]

#### § 41.08. Correction of Records on Order of Board

The chief appraiser shall make the reappraisals or other corrections of the appraisal records ordered by the appraisal review board as provided by this subchapter. The chief appraiser shall submit a copy of the corrected records to the board for its approval as promptly as practicable.

[Acts 1979, 66th Leg., p. 2303, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 41.09. Clerical Errors

At any time before approval of the appraisal records as provided by Section 41.12 of this code, the appraisal review board in writing may correct a clerical error in the records without referring the matter to the appraisal office if the correction will not affect the tax liability of a property owner and if the chief appraiser does not object in writing.

[Acts 1979, 66th Leg., p. 2303, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 41.10. Correction of Records on Recommendation of Chief Appraiser

At any time before approval of the appraisal records as provided by Section 41.12 of this code, the chief appraiser may submit written recommendations to the appraisal review board for corrections in the records. If the board approves a recommended correction and it will not result in an increase in the tax liability of a property owner, the board may make the correction by written order.

[Acts 1979, 66th Leg., p. 2303, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 41.11. Notice to Property Owner of Change in Records

(a) Not later than the 15th day before the date the appraisal review board approves the appraisal records as provided by Section 41.12 of this code, the secretary of the board shall deliver written notice to a property owner of any change in the records that is ordered by the board as provided by this subchapter and that will result in an increase in the tax liability of the property owner.

(b) The secretary shall include in the notice a brief explanation of the procedure for protesting the change.

(c) Failure to deliver notice to a property owner as required by this section nullifies the change in the records to the extent the change is applicable to that property owner.

[Acts 1979, 66th Leg., p. 2303, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 41.12. Completion of Review by Board

The appraisal review board shall complete its review of the appraisal records, approve the records, and submit a list of its approved changes in the records to the chief appraiser by July 20 or as soon thereafter as practicable.

[Acts 1979, 66th Leg., p. 2304, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, § 136, eff. Jan. 1, 1982.]

[Sections 41.13 to 41.20 reserved for expansion]

#### SUBCHAPTER B. EQUALIZATION BY COMMISSIONERS COURT [REPEALED]

#### §§ 41.21 to 41.27. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 182, ch. 13, § 167 (a), eff. Jan. 1, 1982

The repealed sections, relating to equalization by commissioners court, were derived from Acts 1979, 66th Leg., p. 2304, ch. 841, § 1, eff. Jan. 1, 1982.

#### SUBCHAPTER C. TAXPAYER PROTEST

#### § 41.41. Right of Protest

A property owner is entitled to protest before the appraisal review board the following actions:

- (1) determination of the appraised value of his property or, in the case of land appraised as provided by Subchapter C, D, or E, Chapter 23 of this code,<sup>1</sup> determination of its appraised or market value;
- (2) unequal appraisal of his property in comparison to the weighted average level of appraisals of other property in the appraisal district;
- (3) inclusion of his property on the appraisal records;
- (4) denial to him in whole or in part of a partial exemption;
- (5) determination that his land does not qualify for appraisal as provided by Subchapter C, D, or E, Chapter 23 of this code;
- (6) identification of the taxing units in which his property is taxable in the case of the appraisal district's appraisal roll;
- (7) determination that he is the owner of property; or
- (8) any other action that applies to the property owner and adversely affects him.

[Acts 1979, 66th Leg., p. 2305, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, § 170, eff. Jan. 1, 1982.]

<sup>1</sup> Section 23.41 et seq.; 23.51 et seq.; 23.71 et seq.

#### § 41.42. Protest of Situs

A protest against the inclusion of property on the appraisal records for an appraisal district on the ground that the property does not have taxable situs in that district may not be determined in favor of the protesting party unless he establishes that the property is on the appraisal records for another

district or that the property is not taxable in this state.

[Acts 1979, 66th Leg., p. 2305, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, § 137, eff. Jan. 1, 1982.]

#### § 41.43. Protest of Inequality of Appraisal

A protest on the ground of unequal appraisal of property may not be determined in favor of the protesting party unless he establishes that his property is appraised at a level greater than the weighted average level of appraisals in the appraisal district.

[Acts 1979, 66th Leg., p. 2305, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, § 137, eff. Jan. 1, 1982.]

#### § 41.44. Notice of Protest

(a) Except as provided by Subsection (b) of this section, to be entitled to a hearing and determination of a protest, the property owner initiating the protest must file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

(1) before June 11 or within 20 days after the date the appraisal records are submitted as provided by Section 25.22 of this code, whichever is later; or

(2) in the case of a protest of a change in the appraisal records ordered as provided by Subchapter A of this chapter, within 10 days after the date notice of the change is delivered to the property owner.

(b) A property owner who files his notice of protest after the deadline prescribed by Subsection (a) of this section but before the appraisal review board approves the appraisal records is entitled to a hearing and determination of the protest if he shows good cause as determined by the board for failure to file the notice on time.

(c) A notice of protest is sufficient if it identifies the protesting property owner and the property that is the subject of the protest and indicates apparent dissatisfaction with some determination of the appraisal office. The notice need not be on an official form, but the State Property Tax Board shall prescribe a form that provides for more detail about the nature of the protest. The form must permit a property owner to include each property in the appraisal district that is the subject of a protest. The State Property Tax Board, each appraisal office, and each appraisal review board shall make the forms readily available and deliver one to a property owner on request.

[Acts 1979, 66th Leg., p. 2306, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, § 137, eff. Jan. 1, 1982.]

#### § 41.45. Hearing on Protest

(a) On the filing of a notice as required by Section 41.44 of this code, the appraisal review board shall schedule a hearing on the protest.

(b) The property owner initiating the protest is entitled to an opportunity to appear to offer evidence or argument. The property owner may offer his evidence or argument by affidavit without personally appearing if he attests to the affidavit before an officer authorized to administer oaths and submits the affidavit to the board hearing the protest before it begins the hearing on the protest. On receipt of an affidavit, the board shall notify the chief appraiser. The chief appraiser may inspect the affidavit and is entitled to a copy on request.

(c) The chief appraiser shall appear at each protest hearing before the appraisal review board to represent the appraisal office.

[Acts 1979, 66th Leg., p. 2306, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 171, ch. 13, § 138, eff. Jan. 1, 1982.]

#### § 41.46. Notice of Protest Hearing

(a) The appraisal review board before which a protest hearing is scheduled shall deliver written notice to the property owner initiating a protest of the date, time, and place fixed for the hearing on the protest. The board shall deliver the notice not later than the 15th day before the date of the hearing.

(b) The board shall give the chief appraiser advance notice of the date, time, place, and subject matter of each protest hearing.

[Acts 1979, 66th Leg., p. 2306, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 172, ch. 13, § 139, eff. Jan. 1, 1982.]

#### § 41.47. Determination of Protest

(a) The appraisal review board hearing a protest shall determine the protest and make its decision by written order.

(b) If on determining a protest the board finds that the appraisal records are incorrect in some respect raised by the protest, the board by its order shall correct the appraisal records by changing the appraised value placed on the protesting property owner's property or by making the other changes in the appraisal records that are necessary to conform the records to the requirements of law.

(c) The board shall determine all protests before it before approval of the appraisal records as provided by Subchapter A of this chapter.

(d) The board shall deliver by certified mail a notice of issuance of the order and a copy of the order to the property owner and the chief appraiser.

[Acts 1979, 66th Leg., p. 2307, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 172, ch. 13, § 140, eff. Jan. 1, 1982.]

[Sections 41.48 to 41.60 reserved for expansion]

### SUBCHAPTER D. ADMINISTRATIVE PROVISIONS

#### § 41.61. Issuance of Subpoena

(a) If reasonably necessary in the course of a proceeding provided by this chapter, the appraisal

review board on its own motion or at the request of a party may subpoena witnesses or books, records, or other documents.

(b) On the written request of a party to a proceeding provided by this chapter, the appraisal review board shall issue a subpoena if the requesting party:

(1) shows good cause for issuing the subpoena; and

(2) deposits with the board a sum the board determines is reasonably sufficient to insure payment of the costs estimated to accrue for issuance and service of the subpoena and for compensation of the individual to whom it is directed.

[Acts 1979, 66th Leg., p. 2307, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 172, ch. 13, § 141, eff. Jan. 1, 1982.]

#### § 41.62. Service and Enforcement of Subpoena

(a) A sheriff or constable shall serve a subpoena issued as provided by this subchapter.

(b) If the person to whom a subpoena is directed fails to comply, the issuing board or the party requesting the subpoena may bring suit in the district court to enforce the subpoena. If the district court determines that good cause exists for issuance of the subpoena, the court shall order compliance. The district court may modify the requirements of a subpoena that the court determines are unreasonable. Failure to obey the order of the district court is punishable as contempt.

(c) The county attorney or, if there is no county attorney, the district attorney shall represent the board in a suit to enforce a subpoena.

[Acts 1979, 66th Leg., p. 2307, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 172, ch. 13, § 142, eff. Jan. 1, 1982.]

#### § 41.63. Compensation for Subpoenaed Witness

(a) An individual who is not a party to the proceeding and who complies with a subpoena issued as provided by this subchapter is entitled to:

(1) the reasonable costs of producing the documents;

(2) mileage of 15 cents a mile for going to and returning from the place of the proceeding; and

(3) a fee of \$10 a day for each whole or partial day that the individual is necessarily present at the proceedings.

(b) The appraisal review board by rule may prescribe greater mileage or fee, but an increase is not effective unless uniformly applicable to all individuals who are entitled to mileage or fee as provided by Subsection (a) of this section.

(c) Compensation authorized as provided by this section is paid by the appraisal office if the subpoena is issued on the motion of the appraisal review board or by the party requesting the subpoena.

(d) Compensation is not payable unless the amount claimed is approved by the appraisal review board that issued the subpoena.

[Acts 1979, 66th Leg., p. 2307, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, § 143, eff. Jan. 1, 1982.]

#### § 41.64. Inspection of Tax Records

The appraisal review board may inspect the records or other materials of the appraisal office that are not made confidential under this code. On demand of the board, the chief appraiser shall produce the materials as soon as practicable.

[Acts 1979, 66th Leg., p. 2308, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, § 144, eff. Jan. 1, 1982.]

#### § 41.65. Request for State Assistance

The appraisal review board may request the State Property Tax Board to assist in determining the accuracy of appraisals by the appraisal office or to provide other professional assistance. The appraisal office shall reimburse the costs of providing assistance if the State Property Tax Board requests reimbursement.

[Acts 1979, 66th Leg., p. 2308, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, § 144, eff. Jan. 1, 1982.]

#### § 41.66. Hearing Procedures

(a) The appraisal review board shall establish by rule the procedures for hearings it conducts as provided by Subchapters A and C of this chapter.<sup>1</sup>

(b) Hearing procedures to the greatest extent practicable shall be informal.

(c) A property owner who is entitled as provided by this chapter to appear at a hearing may appear by himself or by his agent. A taxing unit may appear by a designated agent.

(d) Hearings conducted as provided by this chapter are open to the public.

[Acts 1979, 66th Leg., p. 2308, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, § 145, eff. Jan. 1, 1982.]

<sup>1</sup> Sections 41.01 et seq. and 41.41 et seq.

#### § 41.67. Evidence

(a) A member of the appraisal review board may swear witnesses who testify in proceedings under this chapter. All testimony must be given under oath.

(b) Documentary evidence may be admitted in the form of a copy if the appraisal review board conducting the proceeding determines that the original document is not readily available. A party is entitled to an opportunity to compare a copy with the original document on request.

(c) Official notice may be taken of any fact judicially cognizable. A party is entitled to an opportunity to contest facts officially noticed.

[Acts 1979, 66th Leg., p. 2308, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, § 146, eff. Jan. 1, 1982.]

**§ 41.68. Record of Proceeding**

The appraisal review board shall keep a record of its proceedings in the form and manner prescribed by the State Property Tax Board.

[Acts 1979, 66th Leg., p. 2309, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, § 147, eff. Jan. 1, 1982.]

**§ 41.69. Conflict of Interest**

A member of the appraisal review board may not participate in the determination of a taxpayer protest in which he is interested or in which he is related to a party by affinity within the second degree or by consanguinity within the third degree. [Acts 1979, 66th Leg., p. 2309, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, § 147, eff. Jan. 1, 1982.]

**CHAPTER 42. JUDICIAL REVIEW**

**SUBCHAPTER A. IN GENERAL**

- Section
- 42.01. Right of Appeal by Property Owner.
- 42.02. Right of Appeal by Chief Appraiser.
- 42.03. Right of Appeal by County.
- 42.03.1. Right of Appeal by Taxing Unit.
- 42.04. Repealed.
- 42.05. State Property Tax Board as Party.
- 42.06. Notice of Appeal.
- 42.07. Costs of Appeal.
- 42.08. Forfeiture of Remedy for Nonpayment of Taxes.
- 42.09. Remedies Exclusive.

**SUBCHAPTER B. REVIEW BY DISTRICT COURT**

- 42.21. Petition for Review.
- 42.22. Venue.
- 42.23. Scope of Review.
- 42.24. Action by Court.
- 42.25. Remedy for Excessive Appraisal.
- 42.26. Remedy for Unequal Appraisal.
- 42.27. Additional Remedy for Erroneous Value.
- 42.28. Appeal of District Court Judgment.

**SUBCHAPTER C. POSTAPPEAL ADMINISTRATIVE PROCEDURES**

- 42.41. Correction of Rolls.
- 42.42. Corrected and Supplemental Tax Bills.
- 42.43. Refund.

**SUBCHAPTER A. IN GENERAL**

**§ 42.01. Right of Appeal by Property Owner**

A property owner is entitled to appeal:

(1) an order of the appraisal review board determining a protest by the property owner as provided by Subchapter C of Chapter 41 of this code;<sup>1</sup>

(2) an order of the State Property Tax Board determining a protest by the property owner of the appraisal, interstate allocation, or intrastate apportionment of transportation business intangibles as provided by Subchapter A, Chapter 24 of this code;<sup>2</sup> or

(3) an order of the State Property Tax Board issued as provided by Subchapter B, Chapter 24 of this code<sup>3</sup> apportioning among the counties the appraised value of railroad rolling stock owned by the property owner.

[Acts 1979, 66th Leg., p. 2309, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, § 148, eff. Jan. 1, 1982.]

<sup>1</sup> Section 41.41 et seq.  
<sup>2</sup> Section 24.01 et seq.  
<sup>3</sup> Section 24.31 et seq.

**§ 42.02. Right of Appeal by Chief Appraiser**

The chief appraiser is entitled to appeal an order of the appraisal review board determining a taxpayer protest as provided by Subchapter C, Chapter 41 of this code<sup>1</sup> if he has written approval of the local appraisal district board of directors to appeal.

[Acts 1979, 66th Leg., p. 2310, ch. 841, § 1, eff. Jan. 1, 1982.]

<sup>1</sup> Section 41.41 et seq.

**§ 42.03. Right of Appeal by County**

A county may appeal the order of the State Property Tax Board issued as provided by Subchapter B, Chapter 24 of this code<sup>1</sup> apportioning among the counties the appraised value of railroad rolling stock. [Acts 1979, 66th Leg., p. 2310, ch. 841, § 1, eff. Jan. 1, 1982.]

<sup>1</sup> Section 24.31 et seq.

**§ 42.03.1. Right of Appeal by Taxing Unit**

A taxing unit is entitled to appeal an order of the appraisal review board determining a challenge by the taxing unit.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, § 149, eff. Jan. 1, 1982.]

**§ 42.04. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 182, ch. 13, § 167(a), eff. Jan. 1, 1982**

The repealed section, relating to right of appeal by county assessor-collector, was derived from Acts 1979, 66th Leg., p. 2310, ch. 841, § 1, eff. Jan. 1, 1982.

**§ 42.05. State Property Tax Board as Party**

The State Property Tax Board is an opposing party in an appeal by:

(1) a property owner of an order of the board determining a protest of the appraisal, interstate allocation, or intrastate apportionment of transportation business intangibles; or

(2) a county or a property owner of an order of the board apportioning among the counties the appraised value of railroad rolling stock.

[Acts 1979, 66th Leg., p. 2310, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 42.06. Notice of Appeal**

(a) To exercise his right of appeal, a party must file written notice of appeal within 15 days after the date he receives the notice required by Section 41.47 or, in the case of a taxing unit, by Section 41.07 of this code that the order appealed has been issued.

(b) The notice must be filed with the body that issued the order appealed.

(c) If the chief appraiser, a taxing unit, or a county appeals, the body with which the notice of appeal is filed shall deliver a copy of the notice to the property owner whose property is involved in the appeal within 10 days after the date the notice is filed.

(d) On the filing of a notice of appeal, the chief appraiser shall indicate where appropriate those entries on the appraisal records that are subject to the appeal.

[Acts 1979, 66th Leg., p. 2310, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, § 150, eff. Jan. 1, 1982.]

#### § 42.07. Costs of Appeal

The reviewing court in its discretion may charge all or part of the costs of an appeal taken as provided by this chapter against any of the parties. [Acts 1979, 66th Leg., p. 2310, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 42.08. Forfeiture of Remedy for Nonpayment of Taxes

(a) The pendency of an appeal as provided by this chapter does not affect the date taxes become delinquent.

(b) A property owner who appeals as provided by this chapter must pay the tax due on the amount of value of the property involved in the pending action that is not in dispute or the amount of tax paid on the property in the preceding year, whichever is greater, before the delinquency date or he forfeits his right to proceed to a final determination of the pending action. In that event, the reviewing court on its own motion or on the motion of an opposing party shall dismiss the pending action.

[Acts 1979, 66th Leg., p. 2310, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 42.09. Remedies Exclusive

The procedures prescribed by this title for adjudication of the grounds of protest authorized by this title are exclusive, and a property owner may not raise any of those grounds:

(1) in defense to a suit to enforce collection of delinquent taxes; or

(2) as a basis of a claim for relief in a suit by the property owner to arrest or prevent the tax collection process or to obtain a refund of taxes paid.

[Acts 1979, 66th Leg., p. 2311, ch. 841, § 1, eff. Jan. 1, 1982.]

[Sections 42.10 to 42.20 reserved for expansion]

### SUBCHAPTER B. REVIEW BY DISTRICT COURT

#### § 42.21. Petition for Review

A party who appeals as provided by this chapter must file a petition for review with the district court

within 45 days after the party received notice that a final order has been entered from which an appeal may be had; failure to timely file a petition bars any appeal under this section. Citation is issued and served in the manner provided by law for civil suits generally.

[Acts 1979, 66th Leg., p. 2311, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 42.22. Venue

Venue is in the county in which the appraisal review board that issued the order appealed is located. Venue is in Travis County if the order appealed was issued by the State Property Tax Board.

[Acts 1979, 66th Leg., p. 2311, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, § 151, eff. Jan. 1, 1982.]

#### § 42.23. Scope of Review

(a) Review is by trial de novo. The district court shall try all issues of fact and law raised by the pleadings in the manner applicable to civil suits generally.

(b) The court may not admit in evidence the fact of prior action by the appraisal review board or State Property Tax Board, except to the extent necessary to establish its jurisdiction.

(c) Any party is entitled to trial by jury on demand.

[Acts 1979, 66th Leg., p. 2311, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, § 152, eff. Jan. 1, 1982.]

#### § 42.24. Action by Court

In determining an appeal, the district court may:

(1) fix the appraised value of property in accordance with the requirements of law if the appraised value is at issue;

(2) enter the orders necessary to ensure equal treatment under the law for the appealing property owner if inequality in the appraisal of his property is at issue; or

(3) enter other orders necessary to preserve rights protected by and impose duties required by the law.

[Acts 1979, 66th Leg., p. 2311, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 42.25. Remedy for Excessive Appraisal

If the court determines that the appraised value of property according to the appraisal roll exceeds the appraised value required by law, the property owner is entitled to a reduction of the appraised value on the appraisal roll to the appraised value determined by the court.

[Acts 1979, 66th Leg., p. 2311, ch. 841, § 1, eff. Jan. 1, 1982.]

#### § 42.26. Remedy for Unequal Appraisal

The district court may not grant relief on the ground that a property is appraised unequally in

comparison to the level of appraisals of other property in the appraisal district unless the appraised value of the property varies at least 10 percent from its value calculated on the basis of the weighted average level of appraisals in the district. In that event, the court shall order the appraised value changed to the value as calculated on the basis of the weighted average level of appraisals in the district.

[Acts 1979, 66th Leg., p. 2311, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, § 153, eff. Jan. 1, 1982.]

**§ 42.27. Additional Remedy for Erroneous Value**

(a) The issue to be determined by the district court in an appeal under this section is whether or not the market value of the property in question according to the appraisal roll is in error.

(b) If the trier of fact finds that the market value is in error, meaning it is higher than the value set out by the property owner in a property information report properly filed pursuant to Chapter 22 of this code, then the trier of fact shall fix a market value for the property in question as of January 1 of the tax year of controversy. In order for a taxpayer to prevail on appeal, the variance in market value must be found to be in excess of 5 percent of the market value as contended by the taxpayer.

(c) The market value fixed by the court or jury pursuant to Subsection (b) of this section shall be binding on the taxing units or unit involved in the law suit for the tax year in question.

(d) A taxpayer who prevails in an appeal to the court shall be entitled to reimbursement for reasonable attorneys fees.

[Acts 1979, 66th Leg., p. 2312, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 175, ch. 13, § 154, eff. Jan. 1, 1982.]

**§ 42.28. Appeal of District Court Judgment**

A party may appeal the final judgment of the district court as provided by law for appeal of civil suits generally, except that an appeal bond is not required of the chief appraiser, the county, the State Property Tax Board, or the commissioners court.

[Acts 1979, 66th Leg., p. 2312, ch. 841, § 1, eff. Jan. 1, 1982.]

[Sections 42.29 to 42.40 reserved for expansion]

**SUBCHAPTER C. POSTAPPEAL ADMINISTRATIVE PROCEDURES**

**§ 42.41. Correction of Rolls**

The chief appraiser shall correct the appraisal roll and other appropriate records as necessary to reflect

the final determination of an appeal, and the assessor for each affected taxing unit shall correct the tax roll and other appropriate records for which he is responsible.

[Acts 1979, 66th Leg., p. 2312, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 175, ch. 13, § 155, eff. Jan. 1, 1982.]

**§ 42.42. Corrected and Supplemental Tax Bills**

(a) Except as provided by Subsection (b) of this section, if the final determination of an appeal that changes a property owner's tax liability occurs after the tax bill is mailed, the assessor for each affected taxing unit shall prepare and mail a corrected tax bill in the manner provided by Chapter 31 of this code for tax bills generally. The assessor shall include with the bill a brief explanation of the reason for and effect of the corrected bill.

(b) If the final determination of an appeal that increases a property owner's tax liability occurs after the property owner has paid his taxes, the assessor for each affected taxing unit shall prepare and mail a supplemental tax bill in the manner provided by Chapter 31 of this code for tax bills generally. The assessor shall include with the bill a brief explanation of the reason for and effect of the supplemental bill. The additional taxes due on receipt of the supplemental bill and becomes delinquent if not paid before the delinquency date prescribed by Chapter 31 of this code or before the first day of the next month after the date of mailing that will provide at least 21 days for payment of the tax, whichever is later.

(c) If the final determination of an appeal occurs after the property owner has paid a portion of the tax finally determined to be due as required by Section 42.08 of this code, the assessor for each affected taxing unit shall prepare and mail a supplemental tax bill in the form and manner prescribed by Subsection (b) of this section. The additional tax is due and becomes delinquent as provided by Subsection (b), but the property owner is liable for interest on the tax included in the supplemental bill at the rate prescribed by this code for delinquent taxes.

[Acts 1979, 66th Leg., p. 2312, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 42.43. Refund**

If the final determination of an appeal that decreases a property owner's tax liability occurs after the property owner has paid his taxes, the taxing unit shall refund to the property owner the difference between the amount of taxes paid and amount of taxes for which the property owner is liable.

[Acts 1979, 66th Leg., p. 2313, ch. 841, § 1, eff. Jan. 1, 1982.]

**CHAPTER 43. SUIT AGAINST  
APPRAISAL OFFICE**

## Section

- 43.01. Authority to Bring Suit.  
43.02. Venue.  
43.03. Action by Court.

**§ 43.01. Authority to Bring Suit**

A taxing unit may sue the appraisal district that appraises property for the unit to compel the appraisal district to comply with the provisions of this title, rules of the State Property Tax Board, or other applicable law.

[Acts 1979, 66th Leg., p. 2313, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 43.02. Venue**

Venue is in the county in which the appraisal district is established.

[Acts 1979, 66th Leg., p. 2313, ch. 841, § 1, eff. Jan. 1, 1982.]

**§ 43.03. Action by Court**

The court as the evidence warrants shall enter those orders necessary to compel compliance by the appraisal office.

[Acts 1979, 66th Leg., p. 2313, ch. 841, § 1, eff. Jan. 1, 1982.]

**TITLE 2. STATE TAXATION**

**SUBTITLE A. GENERAL PROVISIONS**

**CHAPTER 101. GENERAL PROVISIONS**

Section	
101.001.	Purpose of Title.
101.002.	Construction of Code.
101.003.	Definitions.
101.004.	Common Law.
101.005.	Grammatical Errors: Punctuation.
101.006.	Fiscal Year.
101.007.	References to State Officers.
101.008.	Occupation Taxes Levied by Local Governments.
101.109.	Allocation and Transfer of Net Revenues.

*Section 1 of Acts 1981, 67th Leg., p. 1490, ch. 389, enacted Title 2. Section 40 of said Act provides:*

*"Sec. 40. Legislative Intent. This Act is intended as a recodification only, and no substantive change in the law is intended by this Act."*

**§ 101.001. Purpose of Title**

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

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent state tax laws more accessible and understandable by:

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

[Acts 1981, 67th Leg., p. 1492, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 101.002. Construction of Code**

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

[Acts 1981, 67th Leg., p. 1492, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 101.003. Definitions**

In this title:

- (1) "Comptroller" means the comptroller of public accounts of the State of Texas.
- (2) "Month" means a calendar month.
- (3) "Year" means a calendar year.
- (4) "Effects" means personal property or an interest in personal property.
- (5) "Affidavit" means a statement in writing of a fact signed by the party making the statement, sworn to before some officer authorized to administer oaths, and officially certified by the officer under the officer's seal of office.
- (6) "Officer" means a state officer.
- (7) "Standard time" means that designation of time prescribed by Chapter 359, Acts of the 50th Legislature, Regular Session, 1947 (Article 23a, Vernon's Texas Civil Statutes).
- (8) "Taxpayer" means a person liable for a tax imposed by this title.
- (9) "Attorney general" means the attorney general of the State of Texas.
- (10) "Treasurer" means the state treasurer of Texas.

(11) "Report" means a tax return, declaration, statement, or other document required to be filed with the comptroller by a provision of this title. [Acts 1981, 67th Leg., p. 1492, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 101.004. Common Law**

The rule that statutes in derogation of the common law shall be construed strictly does not apply to this title.

[Acts 1981, 67th Leg., p. 1493, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 101.005. Grammatical Errors: Punctuation**

(a) A grammatical error does not vitiate a law, and when a sentence or clause is without meaning, words and clauses may be transposed to determine the intended meaning.

(b) The punctuation of a sentence does not control or affect the intention of the legislature in the enactment of this title.

[Acts 1981, 67th Leg., p. 1493, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 101.006. Fiscal Year**

Article 12, Revised Civil Statutes of Texas, 1925, as amended, establishing a fiscal year for the state, applies to this title.

[Acts 1981, 67th Leg., p. 1493, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 101.007. References to State Officers**

A reference in this title to the comptroller, the treasurer, or another officer includes authorized representatives and employees of the officer unless the provision indicates that only the officer is intended in the reference.

[Acts 1981, 67th Leg., p. 1493, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 101.008. Occupation Taxes Levied by Local Governments**

No city, county, or other political subdivision may levy an occupation tax imposed by this title unless specifically permitted to do so by state law.

[Acts 1981, 67th Leg., p. 1493, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 101.009. Allocation and Transfer of Net Revenues**

(a) Except as provided by Subsection (b) of this section, all revenues collected from the taxes imposed by the chapters of this title and by Chapter 8, Title 132, Revised Civil Statutes of Texas, 1925, as amended, after deduction of the portion allocated for collection, enforcement, and administration purposes, shall first be deposited in the general revenue fund. After the initial deposit, transfers from the general revenue fund to the available school fund shall be made at the time, in the manner, and in the amounts provided by law.

(b) Cigarette tax revenue allocated under Section 154.603(b) of this code shall be allocated as provided by Section 154.603 of this code. Motor fuel tax revenue shall be allocated and deposited as provided by Subchapter F of Chapter 153 of this code. [Added by Acts 1981, 67th Leg., p. 2776, ch. 752, § 9(a), eff. Jan. 1, 1982.]

## SUBTITLE B. ENFORCEMENT AND COLLECTION

**CHAPTER 111. COLLECTION PROCEDURES****SUBCHAPTER A. COLLECTION DUTIES AND POWERS**

Section	
111.001.	Comptroller to Collect Taxes.
111.002.	Comptroller's Rules; Compliance; Forfeiture.
111.003.	Comptroller's Investigations.
111.004.	Power to Examine Records and Persons.
111.0041.	Records.
111.0042.	Sampling in Auditing; Projecting Assessments.
111.0043.	General Audit and Prehearing Powers.
111.0044.	Special Procedures for Third-Party Orders and Subpoenas.
111.005.	Governmental Entities to Cooperate.
111.006.	Confidentiality of Information.
111.007.	Criminal Penalties for Disclosing Federal Tax Information.
111.008.	Deficiency Determination.
111.009.	Redetermination.
111.010.	Suit to Recover Taxes.
111.011.	Injunction to Halt Business Activities.
111.012.	Security for the Payment of Taxes.
111.013.	Evidence: Occupation Tax Claims.
111.014.	Evidence: Copies of Graphic Matter.

Section	
111.015.	Remedies Cumulative.
111.016.	Payment to the State of Tax Collections.

**SUBCHAPTER B. TAX REPORTS AND PAYMENTS**

111.051.	Reports and Payments; Due Dates.
111.052.	Form of Report.
111.053.	Filing Dates: Weekends and Holidays.
111.054.	Timely Filing: Mail Delivery.
111.055.	Timely Filing: Diligence.
111.056.	Filing Within 10 Days: Penalty and Interest.
111.057.	Extension for Filing Report.
111.058.	Filing Extension Because of Natural Disaster.
111.059.	Oath Not Required.
111.060.	Interest on Delinquent Tax.

**SUBCHAPTER C. SETTLEMENTS, REFUNDS,  
AND CREDITS**

111.101.	Settlement Before Redetermination.
111.102.	Settlement on Redetermination.
111.103.	Settlement of Penalty and Interest Only.
111.104.	Refunds.
111.105.	Tax Refund: Hearing.
111.106.	Interest on Refund or Credit.
111.107.	When Refund or Credit is Permitted.
111.108.	Recovery of Refund or Credit.

**SUBCHAPTER D. LIMITATIONS**

111.201.	Assessment Limitation.
111.202.	Suit Limitation.
111.203.	Agreements to Extend Period of Limitation.
111.204.	Beginning of Period of Limitation.
111.205.	Exception to Assessment Limitation.
111.206.	Exception to Limitation: Determination Resulting From Administrative Proceeding.
111.207.	Tolling of Limitation Period.

**SUBCHAPTER E. ASSIGNMENT OF TAX CLAIMS**

111.251.	Assignment on Payment by Third Person.
111.252.	Notice to Taxpayer.
111.253.	Venue for Enforcement of Assigned Claims.
111.254.	Reassignment.
111.255.	Recording of Assignment.

**SUBCHAPTER A. COLLECTION DUTIES  
AND POWERS****§ 111.001. Comptroller to Collect Taxes**

The comptroller shall collect the taxes imposed by this title except as otherwise provided by this title. [Acts 1981, 67th Leg., p. 1495, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.002. Comptroller's Rules; Compliance; Forfeiture**

(a) The comptroller may adopt rules that do not conflict with the laws of this state or the constitution of this state or the United States for the enforcement of the provisions of this title and the collection of taxes and other revenues under this title.

(b) A person who does not comply with a rule made under this section forfeits to the state an amount of not less than \$25 nor more than \$500. Each day on which a failure to comply occurs or continues is a separate violation.

(c) If a forfeiture is not paid, the attorney general shall file suit to recover the forfeiture in a court of competent jurisdiction in Travis County or in any other county where venue lies.

(d) Any other provision of this code that imposes a different penalty for the violation of a comptroller's rule made for the enforcement or collection of a specific tax imposed by this title prevails over the penalty provided by this section.

[Acts 1981, 67th Leg., p. 1495, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.003. Comptroller's Investigations**

(a) On the governor's request, the comptroller shall:

(1) investigate the books and accounts of assessing and collecting officers of the state and other officers or persons receiving, disbursing, or possessing public funds;

(2) perform other duties and make investigations in relation to public funds as requested by the governor; and

(3) investigate any state institution and its policies, management, and operation, including the fiscal affairs and the conduct and efficiency of any state employee of the institution.

(b) The comptroller shall report to the governor the results of an investigation requested under Subsection (a) of this section. The report must be written and include:

(1) a description of each violation of the revenue laws;

(2) a description of the failure, if any, to enforce revenue laws;

(3) the name of each person reasonably believed to have committed a violation or to have been guilty of nonfeasance; and

(4) if a state institution is investigated, a description of the expenditures of the institution and of all sums of money due the state, the ascertainment and collection of which does not devolve upon other officers of the state under existing law.

(c) A person connected with the public service shall submit all books, records, and accounts to the comptroller without delay on the request of the comptroller when conducting an investigation under Subsection (a) of this section.

(d) On the receipt of a report that indicates a violation of revenue laws or neglect of duty, the governor shall notify the attorney general, who shall institute criminal and civil proceedings in the name of the state against persons accused of a violation or neglect of duty.

(e) The comptroller may at any time examine and investigate the expenditure of appropriated money for a state institution or for any other purpose or for improvements made by the state on state property or money received and disbursed by any board au-

thorized to receive and disburse state money. The comptroller shall investigate any state institution when required by information coming to his own knowledge.

[Acts 1981, 67th Leg., p. 1495, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.004. Power to Examine Records and Persons**

(a) For the purpose of carrying out the terms of this title the comptroller may examine at the principal or any other office in the United States of any person, firm, agent, or corporation permitted to do business in this state, all books, records and papers and also any of their officers or employees under oath.

(b) If any person refuses to permit an examination or answer any question authorized by Subsection (a) of this section, the comptroller may certify the fact of the refusal to the secretary of state, who shall immediately forfeit the charter or the permit to do business of the person until the examination as required is completed.

(c) No charge may be made by the comptroller to examine a book, record, or paper or to question an officer or employee.

(d) The comptroller's authority to examine books, records, and papers under this chapter extends to all books, records, papers, and other objects which the comptroller determines are necessary for conducting a complete examination under this title.

[Acts 1981, 67th Leg., p. 1496, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.0041. Records**

(a) Any taxpayer who is required by this title to keep records shall keep those records open to inspection by the comptroller, the attorney general, or the authorized representatives of either of them for four years.

(b) This section prevails over any other conflicting provision of this title except Section 191.024(b) of this code.

[Acts 1981, 67th Leg., p. 1496, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.0042. Sampling in Auditing; Projecting Assessments**

(a) Pursuant to a written agreement with the taxpayer, or without an agreement in cases coming within the provisions of Subsection (b)(2) of this section, the comptroller or his designee may use sample and projection auditing methods for determining tax liability when he determines that the sampling and projection will provide the most reasonable means of determining any tax imposed by this title. Should the taxpayer not agree in writing to a sample and projection audit method as provided by this section, any audit performed on the taxpayer shall be a detailed audit. The comptroller may use sample audit methods in preliminary testing to de-

termine if an error exists without the written approval of the taxpayer, but the sample may not be used as a basis for a tax liability without the written consent of the taxpayer.

(b) Sampling auditing methods are appropriate if:

(1) the taxpayer's records are so detailed, complex, or voluminous that an audit of all detailed records would be unreasonable or impractical;

(2) the taxpayer's records are inadequate or insufficient, so that a competent audit for the period in question is not otherwise possible; or

(3) the cost of an audit of all detailed records to the taxpayer or to the state will be unreasonable in relation to the benefits derived, and sampling procedures will produce a reasonable result.

(c) Before using a sample technique to establish a tax liability, the comptroller or his designee must notify the taxpayer in writing of the sampling procedure to be used.

(d) The sample must reflect as nearly as possible the normal conditions under which the business was operated during the period to which the audit applies. If a taxpayer can demonstrate that a transaction in a sample period is not representative of the taxpayer's business operations, the transaction shall be eliminated from the sample and be separately assessed in the audit. If records are inadequate to reflect accurately the business operations of the taxpayer, the comptroller or his designee shall determine the best information available and base his audit report on that information.

(e) If the taxpayer demonstrates that any sampling method used by the comptroller was not in accordance with generally recognized sampling techniques, the audit will be dismissed as to that portion of the audit established by projection based upon the sampling method, and a new audit may be performed.

[Acts 1981, 67th Leg., p. 1496, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 111.0043. General Audit and Prehearing Powers

(a) In this section:

(1) "Person" includes an individual, corporation, partner, partnership, officer, or director of a corporation, joint venture, trust, trustee, agent, or association.

(2) "Taxpayer" means the person whose tax obligation the comptroller is seeking to determine.

(b)(1) Before a determination of or a hearing on a taxpayer's tax obligation, if any, the comptroller may issue a subpoena addressed to the sheriff or constable of any county in this state to require any person who the comptroller determines may provide assistance in the examination of a taxpayer's tax obligation to appear at the place and time stated in the subpoena for the taking of his oral deposition before an official authorized to take depositions. The subpoena may require the person to produce at the time of the deposition books, documents, records,

papers, accounts, and other objects as may be specified by the comptroller. The subpoena must include a statement setting out the reason why the requested material is needed.

(2) The deposition shall be taken in the county of the person's residence or in the county where the person is employed or regularly transacts business. The subpoena shall specify that the person shall remain in attendance from day to day until the deposition is begun and completed.

(3) The officer taking the oral deposition may not sustain objections to any of the testimony taken or exclude any of it.

(4) When the testimony is fully transcribed, the deposition shall be submitted to the person for examination and read to or by the person, unless the examination and reading are waived in writing by the person and by the comptroller. However, if the person is represented by an attorney of record, the deposition officer shall notify the attorney of record in writing by registered mail or certified mail that the deposition is ready for examination and reading at the office of the deposition officer. If the person does not appear and examine, read, and sign the deposition within 10 days after the mailing of the notice, the deposition shall be returned and may be used as fully as though signed. The officer shall enter on the deposition any changes in form or substance that the person desires to make and a statement of the reasons given by the person for making them. The deposition shall then be signed by the person, unless the person and the comptroller by stipulation waive the signing or the person is ill, cannot be found, or refuses to sign. If the deposition is not signed by the person, the officer shall sign it and state on the record the fact of the waiver, illness, or absence of the person or the fact of the refusal to sign, together with the reason, if any, given for failure to sign. The deposition may then be used as fully as though signed.

(5) The deposition shall be returned to the comptroller by the official taking the deposition either by mail or by delivering it in person.

(c) Before a determination of or a hearing on a taxpayer's tax obligation, if any, the comptroller may:

(1) issue a subpoena addressed to the sheriff or constable of any county in this state to require any person to produce at the place and time stated in the subpoena books, documents, records, papers, accounts, and other objects that the comptroller determines may assist in an examination of a person's tax obligation;

(2) issue an order to a person to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation on the property that may be material to any matter

involved in the examination; the order must specify the time, place, and manner of making the inspection, measurement, or survey and taking the copies and photographs and may prescribe any terms and conditions that are just;

(3) copy or conduct a complete examination of books, documents, records, papers, accounts, and other objects that are produced as a result of the subpoenas or orders specified in this section; and

(4) serve or have served by his designated agent any subpoena or order issued under this section by delivering a copy of the subpoena to the person.

(d) A person, other than the taxpayer, who is subpoenaed to give a deposition or to produce books, records, papers, or other objects under the authority of this section is entitled to receive after presentation of a voucher sworn by the person and approved by the comptroller:

(1) mileage of 20 cents a mile, or a greater amount as prescribed by agency rule, for going to and returning from the place of the hearing or the place where the deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(2) a fee of \$20 a day, or a greater amount as prescribed by agency rule, for each day or part of a day the person is necessarily present as a deponent.

(e) If a person fails to comply with a subpoena or order issued under this section, the comptroller may:

(1) acting through the attorney general, bring suit to enforce the subpoena or order in a district court of Travis County; the court, if it determines that good cause exists for the issuance of a subpoena or order, shall order the compliance with the requirements of the subpoena or order; failure to obey the order of the court may be punishable by the court as contempt;

(2) use records, books, papers, and other documents obtained or depositions taken under this section only in an administrative hearing of the comptroller or a judicial proceeding brought by or against the comptroller; the information may be made available to the federal government or to another state under an exchange agreement; and

(3) delegate his authority to issue subpoenas or orders and to participate in the taking of depositions as specified in this section to any attorney employed by him.

(f) If a foreign corporation doing business in this state has such contact with this state that it becomes subject to the taxes administered and collected by the comptroller and fails to appoint or maintain a registered agent in this state, or if the registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of the corporation and may be served with any subpoena or other order issued under this section in the manner provided for service of process in Article 8.10, Texas Business Corporation Act, as amended.

(g) Any person, including the taxpayer, shall be entitled to obtain upon request a copy of any statement he has previously made concerning the examination or its subject matter and which is in the possession, custody, or control of the comptroller. Copies of statements made to the comptroller by any person which are used as a basis for an assessment against a taxpayer may be obtained by the taxpayer upon request. If the request is refused, the person may move for an agency order under this subsection. For the purpose of this section, a statement previously made is:

(1) a written statement signed or otherwise adopted or approved by the person making it; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

[Acts 1981, 67th Leg., p. 1497, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.0044. Special Procedures for Third-Party Orders and Subpoenas**

(a)(1) If any order or subpoena described in Section 111.0043 of this code is served on any person who is a third-party recordkeeper, and the order or subpoena requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person ordered or subpoenaed) who is identified in the description of the record contained in the order or subpoena, then notice of the order or subpoena shall be given to any person so identified within three days of the day on which the service on the third-party recordkeeper is made but no later than the 14th day before the day fixed in the order or subpoena as the day upon which the records are to be examined. The notice shall be accompanied by a copy of the order or subpoena which has been served and shall contain directions for staying compliance with the order or subpoena under Subsection (b)(2) of this section.

(2) The notice shall be sufficient if, on or before the third day, the notice is delivered in hand to the person entitled to notice or is mailed by certified or registered mail to the last mailing address of the person or, in the absence of a last known address, is left with the person ordered or subpoenaed. If the notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice.

(3) For purposes of this section, the term "third-party recordkeeper" means:

(A) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under federal or state law, a bank as defined in Section 581 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 581), or any credit union within the meaning of Section 501(c)(14)(A), Internal Revenue Code;

(B) any consumer reporting agency as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f));

(C) any person extending credit through the use of credit cards or similar devices; and

(D) any broker as defined in Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)).

(4) Subsection (a)(1) of this section may not apply to an order or subpoena served on the person with respect to whose liability the order or subpoena is issued or an officer or employee of the person; or any order or subpoena to determine whether or not records of the business transactions or affairs of an identified person have been made or kept; or any order or subpoena described in Subsection (e) of this section.

(5) An order or subpoena to which this subsection applies shall identify the taxpayer to whom the order or subpoena relates and to whom the records pertain and shall provide other information to enable the person ordered or subpoenaed to locate the records required under the order or subpoena.

(b)(1) Notwithstanding any other law or rule of law, a person who is entitled to notice of an order or subpoena under Subsection (a) of this section shall have the right to intervene in any proceeding with respect to the enforcement of the order or subpoena under Subsection (e) of Section 111.0043 of this code.

(2) Notwithstanding any other law or rule of law, a person who is entitled to notice of an order or subpoena under Subsection (a) of this section shall have the right to stay compliance with the order or subpoena if, not later than the 14th day after the day the notice is given in the manner provided in Subsection (a)(2) of this section:

(A) notice in writing is given to the person ordered or subpoenaed not to comply with the order or subpoena;

(B) a copy of the notice not to comply with the order or subpoena is mailed by registered or certified mail to the person and to the office the comptroller directs in the notice referred to in Subsection (a)(1) of this section; and

(C) suit is filed against the comptroller in a district court of Travis County to stay compliance with the order or subpoena.

(c) No examination of any records required to be produced under an order or subpoena as to which notice is required under Subsection (a) of this section may be made:

(1) before the expiration of the 14-day period allowed for the notice not to comply under Subsection (b)(2) of this section; or

(2) when the requirements of Subsection (b)(2) of this section have been met, except in accordance with an order issued by a district court of Travis County authorizing examination of the rec-

ords or with the consent of the person staying compliance.

(d) If any person takes any action as provided in Subsection (b) of this section and such person is the person with respect to whose liability the order or subpoena is issued under Section 111.0043 of this code (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under Subchapter D of this chapter with respect to the person shall be suspended for the period during which a proceeding and appeals of the proceeding with respect to the enforcement of such order are pending.

(e) Any order or subpoena issued under Section 111.0043 of this code that does not identify the person with respect to whose liability the order is issued may be served only after a court proceeding in which the comptroller establishes that:

(1) the order relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with any provision of state law; and

(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the order is issued) is not readily available from other sources.

(f) In the case of an order or subpoena issued under Section 111.0043 of this code, the provisions of Subsections (a)(1) and (b) of this section may not apply if, upon petition by the comptroller, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(g)(1) A district court of Travis County has jurisdiction to hear and determine proceedings brought under Subsection (e) or (f) of this section. The determinations required to be made under Subsections (e) and (f) of this section shall be ex parte and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order that may be appealed.

(2) Except for cases the court considers of greater importance, a proceeding brought for the enforcement of any order, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

(h) The comptroller shall by rule establish the rates and conditions for payments to reimburse rea-

sonably necessary costs directly incurred by third-party recordkeepers in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by order or subpoena upon request of the comptroller. The reimbursement shall be in addition to mileage and fees paid under Subsections (d)(1) and (d)(2) of Section 111.0043 of this code.

[Acts 1981, 67th Leg., p. 1499, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.005. Governmental Entities to Cooperate**

Each department, officer, and employee of the state or of a local governmental entity shall cooperate with and give reasonable assistance and information to the comptroller when performing authorized duties.

[Acts 1981, 67th Leg., p. 1502, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.006. Confidentiality of Information**

(a) The following matter is confidential and may not be used publicly, opened to public inspection, or disclosed except as permitted under Subsection (b) of this section:

(1) a federal tax return or federal tax return information required to have been submitted to the comptroller with a state tax return or report; and

(2) all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer.

(b) All information made confidential in this title may not be subject to subpoena directed to the comptroller or the attorney general except in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party.

(c) The comptroller or the attorney general may use information or records made confidential by provisions of this title to enforce any provisions of this title or may authorize their use in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party.

[Acts 1981, 67th Leg., p. 1502, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.007. Criminal Penalties for Disclosing Federal Tax Information**

(a) The comptroller, a person who formerly held the office of comptroller, or an employee or former employee of the comptroller commits an offense if he discloses in a manner unauthorized by law a federal tax return or federal tax return information that is required to be submitted to the comptroller by any person.

(b) An offense under this section is a misdemeanor or punishable by a fine of not more than \$1,000 or by confinement in jail for not more than one year, or by both a fine and confinement.

[Acts 1981, 67th Leg., p. 1502, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.008. Deficiency Determination**

(a) If the comptroller is not satisfied with a tax report or the amount of the tax required to be paid to the state by a person, the comptroller may compute and determine the amount of tax to be paid from information contained in the report or from any other information available to the comptroller.

(b) On making a determination under this section, the comptroller shall notify the person against whom a determination is made of the determination. The notice may be given by mail or by personal service.

(c) If the notice is given by mail, it shall be addressed to the taxpayer or other person at the taxpayer's address as it appears in the records of the comptroller. Service by mail is complete when the notice is deposited in a U.S. Post Office.

[Acts 1981, 67th Leg., p. 1502, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.009. Redetermination**

(a) A person having a direct interest in a determination may petition the comptroller for a redetermination.

(b) A petition for redetermination must be filed before the expiration of 30 days after the date on which the service of the notice of determination is completed or the redetermination is barred. If a petition for redetermination is not filed before the expiration of the period provided by this subsection, the determination is final on the expiration of the period.

(c) If the petition requests a hearing on the redetermination, the person filing the petition is entitled to a hearing and to receive notice of the hearing at least 20 days before the day of the hearing.

(d) An order or decision of the comptroller on a petition for redetermination becomes final 15 days after service on the petitioner of the notice of the order or decision.

[Acts 1981, 67th Leg., p. 1503, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.010. Suit to Recover Taxes**

(a) The attorney general shall bring suit in the name of the state to recover delinquent state taxes, tax penalties, and interest owed to the state.

(b) This section applies to state taxes imposed by this title or by other laws not included in this title but does not apply to the state ad valorem tax on property.

(c) Venue for and jurisdiction of a suit arising under this section is conferred upon the courts of Travis County.

[Acts 1981, 67th Leg., p. 1503, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.011. Injunction to Halt Business Activities**

(a) If a person engaged in a business the operation of which involves the receipt, collection, or withholding of a tax imposed by this title fails to file a report or pay the tax as required by this title, the attorney general may bring suit for an injunction prohibiting the person from continuing in that business until the report is filed and the tax is paid.

(b) The venue for a suit under this section is in Travis County.

[Acts 1981, 67th Leg., p. 1503, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.012. Security for the Payment of Taxes**

(a) If the comptroller finds that a tax imposed by this title is insecure, the comptroller may require a taxpayer who is delinquent in the payment of the tax to provide security for the payment of taxes.

(b) The security may consist of:

- (1) a cash deposit filed with the comptroller;
- (2) a surety bond; or
- (3) other security as permitted by the comptroller.

(c) The amount and form of the security shall be set by the comptroller, except that the amount may not be more than double the amount of taxes that the comptroller estimates will be due from the taxpayer during the succeeding 12 months.

(d) The comptroller shall give notice to a taxpayer from whom security is required under this section.

(e) If a taxpayer does not furnish security to the comptroller as required by the comptroller before the expiration of 10 days following the day on which notice is given, the comptroller may bring suit for an order enjoining the taxpayer from engaging in business until the security is furnished. Venue for a suit under this section is in Travis County.

[Acts 1981, 67th Leg., p. 1503, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.013. Evidence: Occupation Tax Claims**

In a suit involving the establishment or collection of an occupation tax, a claim showing the amount of tax due the state and certified by the comptroller or the chief clerk of the comptroller is admissible as evidence. When admitted, the claim is prima facie evidence of its contents.

[Acts 1981, 67th Leg., p. 1504, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.014. Evidence: Copies of Graphic Matter**

(a) A copy of graphic matter is admissible, without further proof, in a judicial or administrative proceeding concerning the administration or enforcement of a tax imposed by this title if:

- (1) the copy or information contained in the copy is relevant;
- (2) the copy is a reproduction made by a photographic, photostatic, magnetic, or other process

that accurately duplicates or forms a durable medium for accurately reproducing the original matter or information contained in the original matter; and

(3) the graphic matter was kept or recorded by the comptroller in the performance of official functions.

(b) "Graphic matter" means a memorandum, entry, report, or other document, a record of information contained in a memorandum, entry, report, or other document, or a record of an action taken by the comptroller.

(c) The admissibility of a copy of graphic matter as allowed under this section does not affect the admissibility of the original matter or other competent evidence offered to show the incorrectness of the copy or of information reflected in the copy. [Acts 1981, 67th Leg., p. 1504, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.015. Remedies Cumulative**

The rights, powers, remedies, liens, and penalties provided by this title are cumulative of other rights, powers, remedies, liens, and penalties for the collection of taxes provided by this title and by other law. [Acts 1981, 67th Leg., p. 1504, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(h) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides: "Sections 1 through 18 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 20], are repealed. Section 20 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 196 in the same manner that Section 20 of S.B. No. 196 applies to the provisions of S.B. No. 196."

Section 20 of Acts 1981, 67th Leg., p. 30, ch. 20, provides: "(a) This Act takes effect January 1, 1982.

"(b) The amendment by this Act in extending the period of limitations against a claim by the comptroller of public accounts for an erroneously made tax refund or credit does not apply to a claim against which the period of limitation provided by Section (13) of Article 1.11A, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as in effect immediately before the effective date of this Act, expired before the effective date of this Act.

"(c) Sections 1 through 3 of this Act apply to all taxes erroneously paid for tax periods which are after the effective date of this Act.

"(d) Sections 4 through 18 of this Act apply to all unpaid taxes that are delinquent on the effective date of this Act and that become delinquent after the effective date of this Act."

**§ 111.016. Payment to the State of Tax Collections**

Any person who receives or collects a tax or any money represented to be a tax from another person is liable to the state for the full amount of the taxes plus any accrued penalties and interest on the taxes. [Acts 1981, 67th Leg., p. 1504, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 111.017 to 111.050 reserved for expansion]

**SUBCHAPTER B. TAX REPORTS AND PAYMENTS****§ 111.051. Reports and Payments; Due Dates**

(a) The comptroller may set the date for filing a report for and making a payment of a tax imposed by this title.

(b) A date set by the comptroller under this section prevails over a different date prescribed by this title for the filing of a report for or the payment of a tax, except that the comptroller may not set a report or payment date for the state sales and use tax that conflicts with the dates prescribed by Chapter 151 of this code.

[Acts 1981, 67th Leg., p. 1504, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.052. Form of Report**

(a) The comptroller may revise the form of a report required under this title to eliminate specific information that may be required by any other provision of this title.

(b) Information that is no longer required because of a revision under Subsection (a) of this section may be required again at any time by the comptroller.  
[Acts 1981, 67th Leg., p. 1504, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.053. Filing Dates: Weekends and Holidays**

If the date on which a report or payment is due falls on a Saturday, Sunday, or legal holiday, the next day that is not a Saturday, Sunday, or legal holiday becomes the due date.

[Acts 1981, 67th Leg., p. 1505, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.054. Timely Filing: Mail Delivery**

(a) If a tax payment or a report is placed in a U.S. Post Office or in the hands of a common or contract carrier properly addressed to the comptroller on or before the date the payment or report is required to be made or filed, the payment or report is made or filed on time.

(b) The receipt mark of a contract or common carrier or the postmark on a tax payment or report is prima facie evidence of the date on which the payment or report was delivered to a carrier or the post office. The comptroller or the person making the payment or filing the report may show by competent evidence that the actual date of delivery to the carrier or post office differs from the receipt mark or postmark.

(c) The comptroller may refund or issue credits for penalties and interest paid solely as a result of returns or tax payments timely mailed but post-marked after the required filing date.

[Acts 1981, 67th Leg., p. 1505, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.055. Timely Filing: Diligence**

A person who files a report or makes a tax payment complies with the filing requirements for timeliness if the person exercises reasonable diligence to comply and through no fault of the person the report is not filed or the payment is not made on time.

[Acts 1981, 67th Leg., p. 1505, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.056. Filing Within 10 Days: Penalty and Interest**

If a report is filed or a tax payment is made before the expiration of 10 days after the date on which the report or payment is due and if the report as originally filed shows the correct amount of the tax due or the amount of the payment is for the correct amount due, no assessment for penalty or interest may be made solely on the grounds of late filing after the expiration of 90 days after the date the report was required to be filed or the payment required to be made.

[Acts 1981, 67th Leg., p. 1505, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.057. Extension for Filing Report**

(a) The comptroller may grant a reasonable extension of time, not to exceed 45 days, for the filing of a report required by this title.

(b) To qualify for an extension of time under this section, the person required to file a report must make a request for the extension to the comptroller and remit not less than 90 percent of the amount of the tax estimated to be due on or before the filing date as required by other provisions of this title. The request must be in writing and include the reason an extension is needed.

[Acts 1981, 67th Leg., p. 1505, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.058. Filing Extension Because of Natural Disaster**

(a) The comptroller may grant to a person whom the comptroller finds to be a victim of a natural disaster an extension of not more than 90 days to make or file a return or pay a tax imposed by this title.

(b) The person owing the tax may file a request for an extension at any time before the expiration of 90 days after the original due date.

(c) If an extension under this section is granted, interest on the unpaid tax does not begin to accrue until the day after the day on which the extension expires, and tax penalties are assessed and determined as though the last day of the extension were the original due date.

[Acts 1981, 67th Leg., p. 1505, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.059. Oath Not Required**

A report, return, declaration, claim for refund, or other document required or permitted to be filed with the comptroller is not required to be made or submitted under oath, verification, acknowledgment, or affirmation.

[Acts 1981, 67th Leg., p. 1506, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.060. Interest on Delinquent Tax**

(a) The yearly interest rate on all delinquent taxes imposed by this title is 10 percent, except that no interest accrues on the taxes imposed by Chapter 154 of this code. This subsection does not apply to the taxes imposed by Chapter 152 of this code except as provided by Section 152.045(a) of this code.

(b) Except as provided by Subsection (c) of this section, delinquent taxes draw interest beginning 60 days from the date due.

(c) Subsection (b) of this section does not apply to the taxes imposed by Chapters 152, 153, and 211 of this code.

[Acts 1981, 67th Leg., p. 1506, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(h) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides: "Sections 1 through 18 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 20], are repealed. Section 20 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 196 in the same manner that Section 20 of S.B. No. 196 applies to the provisions of S.B. No. 196."

Section 20 of Acts 1981, 67th Leg., p. 30, ch. 20, provides:

"(a) This Act takes effect January 1, 1982.

"(b) The amendment by this Act in extending the period of limitations against a claim by the comptroller of public accounts for an erroneously made tax refund or credit does not apply to a claim against which the period of limitation provided by Section (13) of Article 1.11A, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as in effect immediately before the effective date of this Act, expired before the effective date of this Act.

"(c) Sections 1 through 3 of this Act apply to all taxes erroneously paid for tax periods which are after the effective date of this Act.

"(d) Sections 4 through 18 of this Act apply to all unpaid taxes that are delinquent on the effective date of this Act and that become delinquent after the effective date of this Act."

[Sections 111.061 to 111.100 reserved  
for expansion]

### SUBCHAPTER C. SETTLEMENTS, REFUNDS, AND CREDITS

**§ 111.101. Settlement Before Redetermination**

(a) After the comptroller examines a taxpayer's records and before a petition for redetermination of the tax is filed, the comptroller may settle a claim for a tax, penalty, or interest imposed by this title if the cost of collection of the amount due would exceed the amount of tax due and if the amount due is not more than \$300.

(b) A settlement under this section is not effective unless it is approved by the assistant comptroller for legal services.

[Acts 1981, 67th Leg., p. 1506, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.102. Settlement on Redetermination**

As a part of a redetermination order, the comptroller may settle a claim for a tax, penalty, or interest imposed by this title if:

(1) the cost of collection of the amount of tax due would exceed the amount of tax due and the amount of tax due is not more than \$1,000;

(2) collection of the amount of tax due would make the taxpayer insolvent and the taxpayer has submitted to the comptroller all financial records, including income tax reports and an inventory of all property owned wherever located; or

(3) the taxpayer is insolvent, is in liquidation, or has ceased to do business and:

(A) the taxpayer has no property that may be seized by the courts of this or another state; or

(B) the value of the taxpayer's property is less than the amount of tax due and the amount of debts against the property.

[Acts 1981, 67th Leg., p. 1506, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.103. Settlement of Penalty and Interest Only**

(a) The comptroller may settle a claim for a tax penalty or interest on a tax imposed by this title if the taxpayer exercised reasonable diligence to comply with the provisions of this title.

(b) A settlement under this section is not effective unless it is approved by the assistant comptroller for legal services.

[Acts 1981, 67th Leg., p. 1507, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.104. Refunds**

(a) If the comptroller finds that an amount of tax, penalty, or interest has been unlawfully or erroneously collected, the comptroller shall credit the amount against any other amount when due and payable by the taxpayer from whom the amount was collected. The remainder of the amount, if any, may be refunded to the taxpayer from money appropriated for tax refund purposes.

(b) A tax refund claim may be filed with the comptroller by the person who paid the tax or by the person's attorney, assignee, or other successor.

(c) A claim for a refund must:

(1) be written;

(2) state the grounds on which the claim is founded; and

(3) be filed before the expiration of the applicable limitation period as provided by this code or before the expiration of six months after a jeopardy or deficiency determination becomes final, whichever period expires later.

(d) A refund claim for an amount of tax that has been found due in a jeopardy or deficiency determination is limited to the amount of tax, penalty, and interest and to the tax payment period for which the determination was issued. The failure to file a timely tax refund claim is a waiver of any demand against the state for an alleged overpayment.

(e) This section applies to all taxes and license fees collected or administered by the comptroller, except the state property tax.

(f) No taxes, penalties, or interest may be refunded to a person who has collected the taxes from another person unless the person has refunded all the taxes and interest to the person from whom the taxes were collected.

[Acts 1981, 67th Leg., p. 1507, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(h) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides:  
 "Sections 1 through 18 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 20], are repealed. Section 20 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 196 in the same manner that Section 20 of S.B. No. 196 applies to the provisions of S.B. No. 196."

Section 20 of Acts 1981, 67th Leg., p. 30, ch. 20, provides:

"(a) This Act takes effect January 1, 1982.

"(b) The amendment by this Act in extending the period of limitations against a claim by the comptroller of public accounts for an erroneously made tax refund or credit does not apply to a claim against which the period of limitation provided by Section (13) of Article 1.11A, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as in effect immediately before the effective date of this Act, expired before the effective date of this Act.

"(c) Sections 1 through 3 of this Act apply to all taxes erroneously paid for tax periods which are after the effective date of this Act.

"(d) Sections 4 through 18 of this Act apply to all unpaid taxes that are delinquent on the effective date of this Act and that become delinquent after the effective date of this Act."

**§ 111.105. Tax Refund: Hearing**

(a) A person claiming a refund under Section 111.104 of this code is entitled to an oral hearing on the claim if the person requests a hearing. The person is entitled to 20 days' notice of the time and place of the hearing.

(b) A decision of the comptroller on a claim for a refund becomes final 15 days after it is issued.

(c) A tax refund claimant who is dissatisfied with the decision on the claim is entitled to file a motion for rehearing.

(d) A motion for rehearing on a tax refund claim must be written and assert each specific ground of error.

[Acts 1981, 67th Leg., p. 1507, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.106. Interest on Refund or Credit**

In a comptroller's final decision on a claim for refund or in an audit, interest shall be allowed at the rate of 10 percent a year on the amount found to be erroneously paid from 60 days after the date of payment or the due date of the tax report, whichever is later, to the date of allowance of credit on account of the comptroller's final decision or audit or to a date within 10 days prior to the date of the refund warrant, the date to be determined by the comptroller; except that a credit taken by a taxpayer on his return does not accrue interest.

[Acts 1981, 67th Leg., p. 1507, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(h) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides:  
 "Sections 1 through 18 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 20], are repealed. Section 20 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 196 in the same manner that Section 20 of S.B. No. 196 applies to the provisions of S.B. No. 196."

Section 20 of Acts 1981, 67th Leg., p. 30, ch. 20, provides:

"(a) This Act takes effect January 1, 1982.

"(b) The amendment by this Act in extending the period of limitations against a claim by the comptroller of public accounts for an erroneously made tax refund or credit does not apply to a claim against which the period of limitation provided by Section (13) of Article 1.11A, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as in effect immediately before the effective date of this Act, expired before the effective date of this Act.

"(c) Sections 1 through 3 of this Act apply to all taxes erroneously paid for tax periods which are after the effective date of this Act.

"(d) Sections 4 through 18 of this Act apply to all unpaid taxes that are delinquent on the effective date of this Act and that become delinquent after the effective date of this Act."

**§ 111.107. When Refund or Credit is Permitted**

A person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 of this code and the refund is made or the credit is issued under a court order;

(2) under Article 111.104 of this code; or

(3) under Chapter 153 of this code.

[Acts 1981, 67th Leg., p. 1508, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(h) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides:  
 "Sections 1 through 18 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 20], are repealed. Section 20 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 196 in the same manner that Section 20 of S.B. No. 196 applies to the provisions of S.B. No. 196."

Section 20 of Acts 1981, 67th Leg., p. 30, ch. 20, provides:

"(a) This Act takes effect January 1, 1982.

"(b) The amendment by this Act in extending the period of limitations against a claim by the comptroller of public accounts for an erroneously made tax refund or credit does not apply to a claim against which the period of limitation provided by Section (13) of Article 1.11A, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as in effect immediately before the effective date of this Act, expired before the effective date of this Act.

"(c) Sections 1 through 3 of this Act apply to all taxes erroneously paid for tax periods which are after the effective date of this Act.

"(d) Sections 4 through 18 of this Act apply to all unpaid taxes that are delinquent on the effective date of this Act and that become delinquent after the effective date of this Act."

**§ 111.108. Recovery of Refund or Credit**

The comptroller may recover an amount of refund erroneously paid or an amount of credit erroneously allowed in a jeopardy or deficiency determination issued within four years after the date of refund or credit.

[Acts 1981, 67th Leg., p. 1508, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(h) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides:  
 "Sections 1 through 18 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 20], are repealed. Section 20 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 196 in the same manner that Section 20 of S.B. No. 196 applies to the provisions of S.B. No. 196."

Section 20 of Acts 1981, 67th Leg., p. 30, ch. 20, provides:

"(a) This Act takes effect January 1, 1982.

"(b) The amendment by this Act in extending the period of limitations against a claim by the comptroller of public accounts for an erroneously made tax refund or credit does not apply to a claim against which the period of limitation provided by Section (13) of Article 1.11A, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as in effect immediately before the effective date of this Act, expired before the effective date of this Act.

"(c) Sections 1 through 3 of this Act apply to all taxes erroneously paid for tax periods which are after the effective date of this Act.

"(d) Sections 4 through 18 of this Act apply to all unpaid taxes that are delinquent on the effective date of this Act and that become delinquent after the effective date of this Act."

[Sections 111.109 to 111.200 reserved for expansion]

**SUBCHAPTER D. LIMITATIONS**

**§ 111.201. Assessment Limitation**

No tax imposed by this title may be assessed after four years from the date that the tax becomes due and payable.

[Acts 1981, 67th Leg., p. 1508, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(l) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides: "Sections 1 through 8 of S.B. No. 371, Acts of the 67th Legislature, Regular Session, 1981 [Chapter 102], are repealed. Section 10 of S.B. No. 371, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 371 in the same manner that Section 10 of S.B. No. 371 applies to the provisions of S.B. No. 371."

Section 10 of Acts 1981, 67th Leg., p. 243, ch. 102, eff. Aug. 31, 1981, provides:

"The amendment by this Act in narrowing the period of limitations for collection of tax does not apply to the estates of persons who died prior to the effective date of this Act."

### § 111.202. Suit Limitation

At any time within three years after a deficiency or jeopardy determination has become due and payable or within three years after the last recording of a lien, the comptroller may bring an action in the courts of this state, or any other state, or of the United States in the name of the people of the State of Texas to collect the amount delinquent together with penalties and interest.

[Acts 1981, 67th Leg., p. 1508, ch. 389, § 1, eff. Jan. 1, 1982.]

For provisions as to application of 1981 amendment of article from which this section was derived, see note under § 111.201.

### § 111.203. Agreements to Extend Period of Limitation

(a) Before the expiration of the periods prescribed in Sections 111.201 and 111.202 of this code for the assessment and collection of any tax imposed by this title, the comptroller and a taxpayer may agree in writing to an assessment and collection after that time. The agreement must contain the reasons the comptroller and the taxpayer wish to extend the period. At any time before the expiration of the period agreed on, the tax may be assessed and collected or an action may be commenced in any court to collect the amount delinquent.

(b) The extended period agreed on under Subsection (a) of this section may be extended by subsequent agreements made before the expiration of the extended period. All subsequent agreements must set forth the reasons for extending the period.

(c) No single extension agreement may be for a period of more than 24 months from the expiration date of the period being extended.

(d) The period for assessment and collection of a tax may be extended if:

(1) without an extension, there might occur a revenue loss to the state;

(2) either the taxpayer or the comptroller, despite good faith efforts, requires more time to prepare for or complete the audit;

(3) without an extension, circumstances beyond the control of either the comptroller or the taxpayer would make an audit by the comptroller impractical or burdensome for either party; or

(4) an issue of law involved in the audit is awaiting determination in either litigation or an administrative proceeding.

[Acts 1981, 67th Leg., p. 1508, ch. 389, § 1, eff. Jan. 1, 1982.]

For provisions as to application of 1981 amendment of article from which this section was derived, see note under § 111.201.

### § 111.204. Beginning of Period of Limitation

In determining the beginning date for a period of limitation provided in this title, the date that a tax is due and payable is the day after the last day on which a payment is required by the chapter of this title imposing the tax.

[Acts 1981, 67th Leg., p. 1509, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 111.205. Exception to Assessment Limitation

The limitation provided by Section 111.201 of this code does not apply and the comptroller may assess a tax imposed by this title at any time if:

(1) with intent to evade the tax, the taxpayer files a false or fraudulent report;

(2) no report for the tax has been filed; or

(3) information contained in the report of the tax contains a gross error and the amount of tax due and payable after correction of the error is 25 percent or more greater than the amount initially reported.

[Acts 1981, 67th Leg., p. 1509, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 111.206. Exception to Limitation: Determination Resulting From Administrative Proceeding

(a) This section applies only to a final determination resulting from:

(1) an administrative proceeding of a local, state, or federal regulatory agency; or

(2) a judicial proceeding arising from an administrative proceeding of a local, state, or federal regulatory agency.

(b) A final determination that affects the amount of liability of a tax imposed by this title shall be reported to the comptroller before the expiration of 60 days after the day on which the determination becomes final. The report must include a detailed statement of the reasons for the difference in tax liability as required by the comptroller.

(c) Notwithstanding the expiration of a period of limitation provided in this title, the comptroller may assess and collect or bring suit for the collection of any tax deficiency, including penalties and interest, resulting from a final determination or from investigation at any time before the expiration of one year after:

(1) the day the report required by Subsection (b) of this section is received, if the report is filed within the 60-day period; or

(2) if the report is not made or is made after the 60-day period, the day the report is received or the day the final determination is discovered, whichever period is the shorter.

(d) If a final determination or investigation results in the taxpayer having overpaid the amount of tax due the state, the comptroller shall refund or issue a credit for the amount of the overpayment at

any time during the one-year period during which assessments may be made under Subsection (c) of this section.

(e) This section does not shorten any period of limitation elsewhere provided in this title.

[Acts 1981, 67th Leg., p. 1509, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.207. Tolling of Limitation Period**

(a) In determining the expiration date for a period when a tax imposed by this title may be assessed or collected, the following periods are not considered:

- (1) the period following the date of a tax payment made under protest;
- (2) the period during which a judicial proceeding is pending in a court of competent jurisdiction to determine the amount of the tax due; and
- (3) the period during which an administrative proceeding is pending before the comptroller for a redetermination of the tax liability.

(b) The suspension of a period of limitation under Subsection (a) of this section applies only to the amount of taxes in issue under Subdivision (1), (2), or (3) of that subsection.

(c) A bankruptcy case commenced under Title 11 of the United States Code suspends the running of the period prescribed by any section of this title for the assessment or collection of any tax imposed by this title until the bankruptcy case is dismissed or closed. After the case is dismissed or closed, the running of the period resumes until finally expired.

[Acts 1981, 67th Leg., p. 1510, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 111.208 to 111.250 reserved for expansion]

**SUBCHAPTER E. ASSIGNMENT OF TAX CLAIMS**

**§ 111.251. Assignment on Payment by Third Person**

(a) A person may voluntarily pay to the comptroller the tax, fine, penalty, and interest due for a period of time under this title by another person after the tax becomes due or may pay a judgment for those taxes, and when the tax or judgment is paid, the comptroller may assign all rights, liens, judgments, and remedies of the state to secure and enforce tax payments to the person paying the tax or the judgment.

(b) A person paying a tax or judgment for another under Subsection (a) of this section is subrogated to and succeeds to all rights, liens, judgments, and remedies of the state relating to the enforcement of the taxes paid.

[Acts 1981, 67th Leg., p. 1510, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.252. Notice to Taxpayer**

(a) No assignment under Section 111.251 of this code may be made until after the expiration of 30 days after notice of the assignments is given to the taxpayer from whom the tax is due or against whom the judgment is taken.

(b) Notice of the assignment must be sent by certified mail to the taxpayer at his last known address as shown in the comptroller's records.

[Acts 1981, 67th Leg., p. 1510, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.253. Venue for Enforcement of Assigned Claims**

Venue for the enforcement of an assigned tax claim or judgment under this subchapter by the assignee is governed by the general law establishing venue and not by the special venue provisions of this title.

[Acts 1981, 67th Leg., p. 1510, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.254. Reassignment**

(a) The rights, liens, judgments, and remedies assigned under Section 111.251 of this code may be reassigned by any assignee.

(b) If notice is given as required by Section 111.252 of this code, all rights, liens, judgments, and remedies originally held by the state to enforce and secure the tax claim or judgment pass to each person receiving a reassignment unless the reassignment is expressly limited in writing.

[Acts 1981, 67th Leg., p. 1511, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 111.255. Recording of Assignment**

The assignee of a tax claim or judgment under this subchapter may record the assignment in the state tax lien record book in the office of the county clerk. A recorded assignment shall be indexed to show the names of the assignor and assignee and the date of the assignment.

[Acts 1981, 67th Leg., p. 1511, ch. 389, § 1, eff. Jan. 1, 1982.]

**CHAPTER 112. TAXPAYERS' SUITS**

**SUBCHAPTER A. JURISDICTION**

Section 112.001. Taxpayers' Suits: Jurisdiction.

**SUBCHAPTER B. SUIT AFTER PROTEST PAYMENT**

- 112.051. Protest Payment Required.
- 112.052. Taxpayer Suit After Payment Under Protest.
- 112.053. Taxpayer Suit: Parties; Issues.
- 112.054. Trial De Novo.
- 112.055. Class Actions.
- 112.056. Additional Protest Payments Before Hearing.
- 112.057. Protest Payments During Appeal.
- 112.058. Submission of Protest Payments to Treasurer.
- 112.059. Disposition of Protest Payments Belonging to the State.
- 112.060. Refund.

## SUBCHAPTER C. INJUNCTIONS

Section	
112.101.	Requirements Before Injunction.
112.102.	Records After Injunction.
112.103.	Reports After Injunction.
112.104.	Additional Payments or Bond.
112.105.	Dismissal of Injunction.
112.106.	Final Dismissal or Dissolution of Injunction.
112.107.	Refund.

## SUBCHAPTER D. SUIT FOR TAX REFUND

112.151.	Suit for Refund.
112.152.	Issues in Suit.
112.153.	Attorney General to Represent Comptroller.
112.154.	Trial De Novo.
112.155.	Judgment.
112.156.	Res Judicata.

## SUBCHAPTER A. JURISDICTION

## § 112.001. Taxpayers' Suits: Jurisdiction

The courts of Travis County have exclusive, original jurisdiction of a taxpayer suit brought under this chapter.

[Acts 1981, 67th Leg., p. 1512, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 112.002 to 112.050 reserved for expansion]

## SUBCHAPTER B. SUIT AFTER PROTEST PAYMENT

## § 112.051. Protest Payment Required

(a) If a person who is required to pay to any department of the state government an occupation, gross receipts, franchise, license, or other privilege tax or fee contends that the tax or fee is unlawful or that the department may not legally demand or collect the tax or fee, the person shall pay the amount claimed by the state, and if the person intends to bring suit under this subchapter, the person must submit with the payment a protest.

(b) The protest must be in writing and must state fully and in detail each reason for recovering the payment.

[Acts 1981, 67th Leg., p. 1512, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 112.052. Taxpayer Suit After Payment Under Protest

(a) A person may bring suit against the state to recover an occupation, gross receipts, franchise, license, or privilege tax or fee required to be paid to the state if the person has first paid the tax under protest as required by Section 112.051 of this code.

(b) A suit under this section must be brought within 90 days after the day the protest payment was made, or the suit is barred.

[Acts 1981, 67th Leg., p. 1512, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 112.053. Taxpayer Suit: Parties; Issues

(a) A suit authorized by this subchapter must be brought against the public official charged with the duty of collecting the tax or fee, the treasurer, and the attorney general.

(b) The issues to be determined in the suit are limited to those arising from the reasons expressed in the written protest as originally filed.

[Acts 1981, 67th Leg., p. 1512, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 112.054. Trial De Novo

The trial of the issues in a suit under this subchapter is de novo.

[Acts 1981, 67th Leg., p. 1512, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 112.055. Class Actions

(a) In this section, a class action includes a suit brought under this subchapter by at least two persons who have paid taxes under protest as required by Section 112.051 of this code.

(b) In a class action, all taxpayers who are within the same class as the persons bringing the suit, who are represented in the class action, and who have paid taxes under protest as required by Section 112.051 of this code, are not required to file separate suits, but are entitled to and are governed by the decision rendered in the class action.

[Acts 1981, 67th Leg., p. 1512, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 112.056. Additional Protest Payments Before Hearing

(a) A petitioner shall pay additional taxes when due under protest after the filing of a suit authorized by this subchapter and before the trial. The petitioner shall amend the original petition to include all additional taxes paid under protest before five days before the day the suit is set for a hearing.

(b) If a petitioner pays additional taxes under protest after the filing of a suit authorized by this subchapter and before the trial and if the total of the original payment and additional payments exceeds the jurisdictional limitations of the court in which the suit was originally filed, the petitioner may file suit in the proper court of Travis County at any time before the expiration of 90 days following the day the additional taxes that caused the excess in the jurisdictional amount were paid. The court in which a suit is refiled as authorized by this subsection may dispose of those taxes paid under protest more than 90 days before the refiled, if those taxes were included in the original suit.

(c) This section applies to additional taxes paid under protest only if a written protest is filed with the additional taxes and the protest states the same reason for contending the payment of taxes that was stated in the original protest.

[Acts 1981, 67th Leg., p. 1513, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 112.057. Protest Payments During Appeal**

(a) If a person appeals the judgment of a trial court in a suit authorized by this subchapter, the person shall continue to pay additional taxes under protest as the taxes become due during the appeal.

(b) Additional taxes that are paid under protest during the appeal of the suit shall be governed by the outcome of the suit without the necessity of the person filing an additional suit for the additional taxes.

[Acts 1981, 67th Leg., p. 1513, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 112.058. Submission of Protest Payments to Treasurer**

(a) An officer who receives payments made under protest as required by Section 112.051 of this code shall each day send to the treasurer the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

(b) The comptroller shall issue a deposit receipt to each state department for the daily total of payments received from each department.

(c) The treasurer shall make and keep a suspense cash book in which deposit receipts are entered.

(d) The treasurer shall, immediately on receipt, place the payments in state depositories bearing interest in the same manner that other funds are required to be placed in state depositories at interest.

(e) The treasurer shall allocate the interest earned on these funds and credit the amount allocated to the suspense account until the status of the funds is finally determined.

[Acts 1981, 67th Leg., p. 1513, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 112.059. Disposition of Protest Payments Belonging to the State**

(a) If a suit authorized by this subchapter is not brought in the manner or within the time required or if the suit is properly filed and results in a final determination that a tax payment or a portion of a tax payment made under protest, including the pro rata amount of interest earned on the payment, belongs to the state, the treasurer shall transfer the proper amount from the suspense account to the appropriate state fund by the issuance of a deposit warrant.

(b) Each warrant issued under this section shall be entered in the suspense cash book and the appropriate fund to which the transfer is made shall be properly credited with the correct amount.

[Acts 1981, 67th Leg., p. 1513, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 112.060. Refund**

(a) If a suit under this subchapter results in a final determination that all or part of the money

paid under protest was unlawfully demanded by the public official and belongs to the taxpayer, the treasurer shall refund the proper amount, with the pro rata interest earned on that amount, by the issuance of a refund warrant.

(b) A refund warrant shall be styled and designated "tax refund warrant," written and signed by the comptroller, countersigned by the treasurer, and issued from a separate series used only for the purpose of making refunds.

(c) Each tax refund warrant shall be drawn against the suspense account.

(d) The treasurer shall return to the comptroller each tax refund warrant issued, and the comptroller shall deliver it to the person entitled to receive it.

[Acts 1981, 67th Leg., p. 1514, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 112.061 to 112.100 reserved for expansion]

SUBCHAPTER C. INJUNCTIONS

**§ 112.101. Requirements Before Injunction**

(a) No restraining order or injunction that prohibits the collection of a state tax; license, registration, or filing fee; or statutory penalty assessed for the failure to pay the state tax or fee may be granted in this state or may be granted against a state official or a representative of an official in this state unless the applicant for the order or injunction has first:

(1) paid into the suspense account of the treasurer all taxes, fees, and penalties then due by the applicant to the state; or

(2) filed with the treasurer a good and sufficient bond to guarantee the payment of the taxes, fees, and penalties in an amount equal to twice the amount of the taxes, fees, and penalties then due and that may reasonably be expected to become due during the period the order or injunction is in effect.

(b) The amount of the bond and the sureties on the bond authorized by Subsection (a)(2) of this section must be approved by and acceptable to the judge of the court granting the order or injunction and the attorney general.

(c) The application for the restraining order or injunction must state under the oath of the applicant or the agent or attorney of the applicant that:

(1) the payment of taxes, fees, and penalties has been made as provided by Subsection (a)(1) of this section; or

(2) a bond has been approved and filed as provided by Subsection (a)(2) and Subsection (b) of this section.

[Acts 1981, 67th Leg., p. 1514, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 112.102. Records After Injunction**

(a) After the granting of a restraining order or injunction under this subchapter, the applicant shall make and keep a well-bound record book of all taxes accruing during the period that the order or injunction is effective.

(b) The record book is open for inspection by the attorney general and the state officer authorized to enforce the collection of the tax to which the order or injunction applies during the period that the order or injunction is effective and for one year after the date that the order or injunction expires.

(c) The record book must include a record of each purchase, receipt, sale, or other disposition of a commodity, product, material, or article on which the tax is levied or by which the tax is measured. [Acts 1981, 67th Leg., p. 1515, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 122.103. Reports After Injunction**

(a) On each Monday during the period that an order or injunction granted under this subchapter is effective, the applicant shall make and file a report with the state officer authorized to enforce the collection of the tax to which the order or injunction applies.

(b) The report must include the following weekly information:

- (1) the amount of the tax accruing;
- (2) a description of the total purchases, receipts, sales, and other dispositions of all commodities, products, materials, and articles on which the tax is levied or by which the tax is measured;
- (3) the name and address of each person to whom a commodity, product, material, or article is sold or distributed; and
- (4) if payment of the tax is evidenced or measured by the sale or use of stamps or tickets, a complete record of all stamps or tickets used, sold, or handled.

(c) The report shall be made on a form prescribed by the state official with whom the report is required to be filed.

[Acts 1981, 67th Leg., p. 1515, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 112.104. Additional Payments or Bond**

(a) If an applicant for an order or injunction granted under this subchapter has not filed a bond as required by Section 112.101(a)(2) of this code, the applicant shall on each Monday pay into the suspense account of the treasurer all taxes, fees, and penalties to which the order or injunction applies as those taxes, fees, and penalties accrue and before they become delinquent.

(b) If the attorney general determines that the amount of a bond filed under this subchapter is insufficient to cover double the amount of taxes, fees, and penalties accruing after the restraining

order or injunction is granted, the attorney general shall demand that the applicant file an additional bond.

[Acts 1981, 67th Leg., p. 1515, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 112.105. Dismissal of Injunction**

(a) The attorney general or the state official authorized to enforce the collection of a tax to which an order or injunction under this subchapter applies may file in the court that has granted the order or injunction an affidavit stating that the applicant has failed to comply with or has violated a provision of this subchapter.

(b) On the filing of an affidavit authorized by Subsection (a) of this section, the clerk of the court shall give notice to the applicant to appear before the court to show cause why the order or injunction should not be dismissed. The notice shall be served by the sheriff of the county where the applicant resides or by any other peace officer in the state.

(c) The date of the show-cause hearing, which shall be within five days of service of the notice or as soon as the court can hear it, shall be named in the notice.

(d) If the court finds that the applicant failed, at any time before the suit is finally disposed of by the court of last resort, to make and keep a record, file a report, file an additional bond on the demand of the attorney general, or pay additional taxes, fees, and penalties as required by this subchapter, the court shall dismiss the application and dissolve the order or injunction.

[Acts 1981, 67th Leg., p. 1515, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 112.106. Final Dismissal or Dissolution of Injunction**

(a) If a restraining order or injunction is finally dismissed or dissolved, the treasurer shall:

- (1) if a bond was filed, make demand on the applicant and the applicant's sureties for the immediate payment of all taxes, fees, and penalties due the state; or
- (2) if no bond was filed, transfer the amount of taxes, fees, and penalties from the suspense account to the proper fund to which the taxes, fees, and penalties are allocated.

(b) Taxes, fees, and penalties that are secured by a bond and remain unpaid after a demand for payment shall be recovered in a suit by the attorney general against the applicant and the applicant's sureties in a court of competent jurisdiction of Travis County or in any other court having jurisdiction of the suit.

[Acts 1981, 67th Leg., p. 1516, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 112.107. Refund

If the final judgment in a suit under this subchapter maintains the right of the applicant for a permanent injunction to prevent the collection of the tax, the treasurer shall refund to the applicant the money deposited in the suspense account under this subchapter with the pro rata interest earned on the money.

[Acts 1981, 67th Leg., p. 1516, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 112.108 to 112.150 reserved for expansion]

SUBCHAPTER D. SUIT FOR TAX REFUND

§ 112.151. Suit for Refund

(a) A person may sue the comptroller to recover an amount of tax, penalty, or interest that has been the subject of a tax refund claim if the person has:

(1) filed a tax refund claim under Section 111.104 of this code;

(2) filed, as provided by Section 111.105 of this code, a motion for rehearing that has been denied by the comptroller; and

(3) paid any additional tax found due in a jeopardy or deficiency determination that applies to the tax liability period covered in the tax refund claim.

(b) The suit must be filed in a district court.

(c) The suit must be filed before the expiration of 30 days after the issue date of the denial of the motion for rehearing or it is barred.

[Acts 1981, 67th Leg., p. 1516, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 112.152. Issues in Suit

(a) The grounds of error contained in the motion for rehearing are the only issues that may be raised in a suit under this subchapter.

(b) The suit applies only to a tax liability period considered in the comptroller's decision.

[Acts 1981, 67th Leg., p. 1516, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 112.153. Attorney General to Represent Comptroller

The attorney general shall represent the comptroller in a suit under this subchapter.

[Acts 1981, 67th Leg., p. 1517, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 112.154. Trial De Novo

In a suit under this subchapter, the issues shall be tried de novo as are other civil cases.

[Acts 1981, 67th Leg., p. 1517, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 112.155. Judgment

(a) The amount of a judgment for the plaintiff shall be credited against any tax, penalty, or interest imposed by this title or by Section 81.111, Natural Resources Code, and due from the plaintiff.

(b) The remainder of the amount of a judgment not credited to a tax, penalty, or interest due shall be refunded to the plaintiff.

(c) The plaintiff is entitled to interest at the rate of 10 percent a year on the amount of a judgment for the plaintiff beginning from the date that the tax was paid until:

(1) the date that the amount is credited against the plaintiff's tax liability; or

(2) a date determined by the comptroller that is not sooner than 10 days before the actual date on which a refund warrant is issued.

[Acts 1981, 67th Leg., p. 1517, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(h) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides:

"Sections 1 through 18 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, are repealed. Section 20 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 196 in the same manner that Section 20 of S.B. No. 196 applies to the provisions of S.B. No. 196."

Section 20 of Acts 1981, 67th Leg., p. 30, ch. 20, provides:

"(a) This Act takes effect January 1, 1982.

"(b) The amendment by this Act in extending the period of limitations against a claim by the comptroller of public accounts for an erroneously made tax refund or credit does not apply to a claim against which the period of limitation provided by Section (13) of Article 1.11A, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as in effect immediately before the effective date of this Act, expired before the effective date of this Act.

"(c) Sections 1 through 3 of this Act apply to all taxes erroneously paid for tax periods which are after the effective date of this Act.

"(d) Sections 4 through 18 of this Act apply to all unpaid taxes that are delinquent on the effective date of this Act and that become delinquent after the effective date of this Act."

§ 112.156. Res Judicata

The rule of res judicata applies in a suit under this subchapter only if the issues and the tax liability periods in controversy are the same as were decided in a previous final judgment entered in a Texas court of record in a suit between the same parties.

[Acts 1981, 67th Leg., p. 1517, ch. 389, § 1, eff. Jan. 1, 1982.]

Section 39(h) of Acts 1981, 67th Leg., p. 1787, ch. 389, provides:

"Sections 1 through 18 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, are repealed. Section 20 of S.B. No. 196, Acts of the 67th Legislature, Regular Session, 1981, applies to the provisions of Title 2, Tax Code, that incorporate the amendments contained in S.B. No. 196 in the same manner that Section 20 of S.B. No. 196 applies to the provisions of S.B. No. 196."

Section 20 of Acts 1981, 67th Leg., p. 30, ch. 20, provides:

"(a) This Act takes effect January 1, 1982.

"(b) The amendment by this Act in extending the period of limitations against a claim by the comptroller of public accounts for an erroneously made tax refund or credit does not apply to a claim against which the period of limitation provided by Section (13) of Article 1.11A, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as in effect immediately before the effective date of this Act, expired before the effective date of this Act.

"(c) Sections 1 through 3 of this Act apply to all taxes erroneously paid for tax periods which are after the effective date of this Act.

"(d) Sections 4 through 18 of this Act apply to all unpaid taxes that are delinquent on the effective date of this Act and that become delinquent after the effective date of this Act."

**CHAPTER 113. TAX LIENS****SUBCHAPTER A. FILING AND RELEASE OF STATE TAX LIENS**

Section	
113.001.	Tax Liability Secured by Lien.
113.002.	Tax Lien Notice.
113.003.	Execution of Documents.
113.004.	State Tax Lien Book.
113.005.	Duties of County Clerk.
113.006.	Effect of Filing Tax Lien Notice.
113.007.	Evidence of Tax Payment.
113.008.	Release of Lien on Specific Property.
113.009.	Filing of Tax Lien Release.
113.010.	Release of Lien by Assignee.
113.011.	Liens Filed With Highway Department.

**SUBCHAPTER B. APPLICATION AND STATUS OF STATE TAX LIENS**

113.101.	Applicability of Lien Before Filing.
113.102.	Applicability of Lien to Merchandise Purchased.
113.103.	Applicability of Lien to Financial Institutions.
113.104.	Preferential Transfers.
113.105.	Tax Lien; Period of Validity.
113.106.	Lien; Suit to Determine Validity.
113.107.	Assignment of Judgment on Lien.

**SUBCHAPTER C. UNIFORM FEDERAL TAX LIEN REGISTRATION ACT**

113.201.	Place of Filing.
113.202.	Certification.
113.203.	Duties of Filing Officer.
113.204.	Fees.
113.205.	Purpose.
113.206.	Short Title.

**SUBCHAPTER A. FILING AND RELEASE OF STATE TAX LIENS****§ 113.001. Tax Liability Secured by Lien**

(a) All taxes, fines, interest, and penalties due by a person to the state under this title are secured by a lien on all of the person's property that is subject to execution and is owned at the time the lien attaches.

(b) The lien for taxes attaches to all of the property of a person liable for the taxes on the day the tax becomes due and payable.

[Acts 1981, 67th Leg., p. 1518, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.002. Tax Lien Notice**

(a) The comptroller shall issue and file a tax lien notice required by this chapter.

(b) A tax lien notice must include the following information:

- (1) the name and address of the taxpayer;
- (2) the type of tax that is owing;
- (3) each period for which the tax is claimed to be delinquent; and
- (4) the amount of tax only due for each period, excluding the amount of any penalty, interest, or other charge.

(c) A tax lien notice may include other relevant information that the comptroller considers proper.  
[Acts 1981, 67th Leg., p. 1518, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.003. Execution of Documents**

The comptroller may execute, certify, authenticate, or sign any instrument authorized under this chapter to be issued by the comptroller or under the comptroller's authority with a facsimile signature and seal.

[Acts 1981, 67th Leg., p. 1518, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.004. State Tax Lien Book**

The county clerk of each county shall provide at the expense of the county a well-bound book, entitled "State Tax Liens," in which notices of state tax liens filed by the comptroller are recorded.

[Acts 1981, 67th Leg., p. 1519, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.005. Duties of County Clerk**

(a) On receipt of a tax lien notice from the comptroller, the county clerk shall immediately:

- (1) record the notice in the state tax lien book;
- (2) note on the notice the date and hour of its recording;

(3) enter in an alphabetical index the name of each person to whom the notice applies, along with the volume and page number of the state tax lien book where the notice is recorded;

(4) furnish to the comptroller, on a form prescribed by the comptroller, a notice showing that the tax lien notice is recorded and filed, the date and hour of its recording and filing, and the volume and page number of the state tax lien book where the lien is recorded; and

(5) send the comptroller a statement of the fee due for recording and indexing the lien.

(b) This section prevails over conflicting provisions of other law.

[Acts 1981, 67th Leg., p. 1519, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.006. Effect of Filing Tax Lien Notice**

(a) The filing and recording of a tax lien notice constitutes a record of the notice.

(b) One tax lien notice is sufficient to cover all taxes of the same nature that may accrue after the filing of the notice.

[Acts 1981, 67th Leg., p. 1519, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.007. Evidence of Tax Payment**

A payment in whole or in part of a tax secured by a state tax lien may be evidenced by a receipt, acknowledgment, or release signed by an authorized representative of the state agency that filed the lien.

[Acts 1981, 67th Leg., p. 1519, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.008. Release of Lien on Specific Property**

(a) With the approval of the attorney general, the comptroller may release a state tax lien on specific

real or personal property when payment of the reasonable cash market value of the property is made to the comptroller.

(b) The value of the property to be released shall be determined in the manner prescribed by the comptroller.

[Acts 1981, 67th Leg., p. 1519, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.009. Filing of Tax Lien Release**

(a) A tax lien release shall be filed in the office of the county clerk in the manner that other releases are filed. On the filing of a release, the county clerk shall release the state tax lien filed with the clerk in accordance with the regulations of the clerk's office.

(b) The county clerk is entitled to the customary fee for the filing of a release at no expense to the state. The payment of the fee constitutes the full fee for the filing and indexing of the release of the tax lien notice.

[Acts 1981, 67th Leg., p. 1519, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.010. Release of Lien by Assignee**

A release in whole or in part by an assignee of the state's claim for a tax and of its tax lien or of a judgment for a tax secured by a tax lien may be filed and recorded with the county clerk for the same fee and in the same manner as a release by the comptroller or by another state agency that may file a notice of a lien in the state tax lien records.

[Acts 1981, 67th Leg., p. 1520, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.011. Liens Filed With Highway Department**

The comptroller shall furnish to the State Department of Highways and Public Transportation each release of a tax lien filed by the comptroller with that department.

[Acts 1981, 67th Leg., p. 1520, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 113.012 to 113.100 reserved for expansion]

**SUBCHAPTER B. APPLICATIONS AND STATUS OF STATE TAX LIENS**

**§ 113.101. Applicability of Lien Before Filing**

(a) No lien created by this title is effective against a person listed in Subsection (b) of this section who acquires a lien, title, or other right or interest in property before the filing, recording, and indexing of the lien:

(1) on real property, in the county where the property is located; or

(2) on personal property, in the county where the taxpayer resided at the time the tax became due and payable or in the county where the taxpayer filed the report.

(b) This section applies to a bona fide purchaser, mortgagee, holder of a deed of trust, judgment creditor, or any other person who acquired the lien, title, or right or interest in the property for bona fide consideration.

[Acts 1981, 67th Leg., p. 1520, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.102. Applicability of Lien to Merchandise Purchase**

No lien created by this title is effective against a bona fide purchaser for value of goods, wares, or merchandise daily exposed for sale in the regular course of business if the purchase and actual or constructive possession of the goods, wares, or merchandise is completed before the goods, wares, or merchandise are seized under a valid legal writ or other lawful process.

[Acts 1981, 67th Leg., p. 1520, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.103. Applicability of Lien to Financial Institutions**

(a) A bank or savings and loan institution is not required to recognize the claim of the state to a deposit or to withhold payment of a deposit to a depositor or to the depositor's order unless the bank or institution has been served by the comptroller with a notice of the state's claim.

(b) Notice of a state claim must be in writing and be served by certified mail to the bank or institution or served personally on the president or any vice-president, cashier, or assistant cashier of the bank or institution.

[Acts 1981, 67th Leg., p. 1520, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 113.104. Preferential Transfers**

(a) The comptroller may recover in a suit brought in Travis County by the attorney general the property or the value of property transferred in a preferential transfer.

(b) The transfer of property or an interest in property by a person who at the time of the transfer is insolvent and has received or withheld money as a tax under this title or who is delinquent in the payment of a tax imposed by this title is a preferential transfer if the transfer occurred during the six-month period before the date of the filing of a tax lien notice against the transferor as permitted by this chapter and if the transfer is made with intent to defraud the state. The transfer of the property or the interest in property without adequate and sufficient consideration creates a rebuttable presumption that the transfer was made with intent to defraud the state. A transfer with sufficient consideration creates a rebuttable presumption that the transfer was not made with intent to defraud the state.

(c) All property subject to execution of a transferee in a preferential transfer is subject to a prior

lien in favor of the state to secure the recovery of the value of the property transferred in a preferential transfer.

(d) The remedies provided by this section are cumulative of other remedies of the comptroller as a creditor.

[Acts 1981, 67th Leg., p. 1520, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 113.105. Tax Lien; Period of Validity

The state tax lien on personal property and real estate continues until the taxes secured by the lien are paid.

[Acts 1981, 67th Leg., p. 1521, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 113.106. Lien; Suit to Determine Validity

(a) In an action to determine the validity of a state tax lien, the lien shall be:

- (1) perpetuated and foreclosed; or
- (2) nullified.

(b) If a lien is perpetuated and foreclosed, no further action or notice on the judgment is required, and the notice of the state tax lien on record continues in effect.

(c) If all or part of a lien is nullified, a certified copy of the judgment may be filed with the county clerk of the county where the tax lien notice was filed and may be recorded in the same manner as a release by the comptroller.

(d) Execution, order for sale, or other process for the enforcement of the lien may be issued on the judgment at any time.

[Acts 1981, 67th Leg., p. 1521, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 113.107. Assignment of Judgment on Lien

(a) A judgment perpetuating and foreclosing a tax lien may be transferred and assigned for the amount of the taxes covered in the judgment and may be reassigned by a subsequent holder.

(b) An assignment shall be filed and recorded and shall be released in the same manner as are liens before judgment.

(c) If notice of the assignment is given as provided by Subchapter E of Chapter 111 of this code, the assignee is fully subrogated to and succeeds to all rights, liens, and remedies of the state.

[Acts 1981, 67th Leg., p. 1521, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 113.108 to 113.200 reserved  
for expansion]

### SUBCHAPTER C. UNIFORM FEDERAL TAX LIEN REGISTRATION ACT

#### § 113.201. Place of Filing

(a) Notices of liens upon real property for taxes payable to the United States, and certificates and

notices affecting the liens shall be filed in the office of the county clerk of the county in which the real property subject to a federal tax lien is situated.

(b) Notices of liens upon personal property, whether tangible or intangible, for taxes payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) if the person against whose interest the tax lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state; and

(2) in all other cases in the office of the county clerk of the county where the taxpayer resides at the time of filing of the notice of lien.

[Acts 1981, 67th Leg., p. 1521, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 113.202. Certification

Certification by the secretary of the treasury of the United States or his delegate of notices of liens, certificates, or other notices affecting tax liens entitles them to be filed and no other attestation, certification, or acknowledgment is necessary.

[Acts 1981, 67th Leg., p. 1522, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 113.203. Duties of Filing Officer

(a) If a notice of a federal tax lien, a refiling of a notice of tax lien, or a notice of revocation of any certificate described in Subsection (b) of this section is presented to the filing officer and:

(1) he is the secretary of state, he shall cause the notice to be marked, held, and indexed in accordance with the provisions of Section 9.403(d), Uniform Commercial Code, as if the notice were a financing statement within the meaning of that code; or

(2) he is any other officer described in Section 113.201 of this code, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the district director, and the total unpaid balance of the assessment appearing on the notice of lien.

(b) If a certificate of release, nonattachment, discharge, or subordination of any tax lien is presented to the secretary of state for filing, he shall:

(1) cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, except that the notice of lien to which the certificate relates shall not be removed from the files; and

(2) cause a certificate of discharge or subordination to be held, marked, and indexed as if the

certificate were a release of collateral within the meaning of the Uniform Commercial Code.

(c) If a refiled notice of a federal tax lien referred to in Subsection (a) or any of the certificates or notices referred to in Subsection (b) is presented for filing with any other filing officer specified in Section 113.201 of this code, he shall permanently attach the refiled notice of the certificate to the original notice of lien and shall enter the refiled notice or the certificate with the date of filing in any alphabetical federal tax lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of a federal tax lien or certificate or notice affecting the lien, filed on or after January 1, 1972, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is \$1. Upon request the filing officer shall furnish a copy of any notice of a federal tax lien or notice or certificate affecting a federal tax lien for a fee of \$1 per page.

[Acts 1981, 67th Leg., p. 1522, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 113.204. Fees

The fee under this subchapter for filing and indexing each notice of lien or certificate or notice affecting the tax lien is:

- (1) for a notice of tax lien, \$2;
- (2) for a certificate of discharge or subordination, \$1; and
- (3) for all other notices, including a certificate of release or nonattachment, \$1.

[Acts 1981, 67th Leg., p. 1523, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 113.205. Purpose

This subchapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it. The fees specified under the provisions of this subchapter for filing and indexing a notice of lien or certificate or notice affecting a tax lien shall be assessed in lieu of fees for such filing and indexing provided in Article 3930, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1981, 67th Leg., p. 1523, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 113.206. Short Title

This subchapter may be cited as the Uniform Federal Tax Lien Registration Act.

[Acts 1981, 67th Leg., p. 1523, ch. 389, § 1, eff. Jan. 1, 1982.]

SUBTITLE C. TAX CLEARANCE FUND

CHAPTER 131. TAX CLEARANCE FUND

§§ 131.001 to 131.009. Repealed by Acts 1981, 67th Leg., p. 2779, § 9(i)(1), eff. Jan. 1, 1982

The repealed sections, relating to a tax clearance fund, were derived from Acts 1981, 67th Leg., p. 1523, ch. 389, § 1.

SUBTITLE D. COMPACTS AND UNIFORM LAWS

CHAPTER 141. MULTISTATE TAX COMPACT

Section

- 141.001. Adoption of Multistate Tax Compact.
- 141.002. Commission Member for This State.
- 141.003. Local Government Council.
- 141.004. Multistate Tax Compact Advisory Committee.
- 141.005. Interstate Audit Article Adopted.

§ 141.001. Adoption of Multistate Tax Compact

The Multistate Tax Compact is adopted and entered into with all jurisdictions legally adopting it to read as follows:

MULTISTATE TAX COMPACT

ARTICLE I. PURPOSES

The purposes of this compact are to:

- 1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
- 2. Promote uniformity or compatibility in significant components of tax systems.
- 3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
- 4. Avoid duplicative taxation.

ARTICLE II. DEFINITIONS

As used in this compact:

- 1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
- 2. "Subdivision" means any governmental unit or special district of a state.
- 3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.
- 4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
- 5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

### ARTICLE III. ELEMENTS OF INCOME TAX LAWS

#### Taxpayer Option, State and Local Taxes

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if

the apportionment or allocation were being made with respect to a state income tax.

#### Taxpayer Option, Short Form

2. Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The Multistate Tax Commission, not more than once in five years, may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the \$100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

#### Coverage

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

### ARTICLE IV. DIVISION OF INCOME

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

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipe line, or the production, trans-

mission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.

3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this article.

5. (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state: (1) if and to the extent that the property is utilized in this state, or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of

physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

6. (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if (1) the property had a situs in this state at the time of the sale, or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

7. Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

8. (a) Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the payer in this state, or (2) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the

taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this state if:

(a) the individual's service is performed entirely within the state;

(b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this state if:

(a) the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f. o. b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

17. Sales, other than sales of tangible personal property, are in this state if:

(a) the income-producing activity is performed in this state; or

(b) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

18. If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

#### ARTICLE V. ELEMENTS OF SALES AND USE TAX LAWS

##### Tax Credit

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

##### Exemption Certificates, Vendors May Rely

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

#### ARTICLE VI. THE COMMISSION

##### Organization and Management

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions

affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice-chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall

include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

#### Committees

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice-chairman, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

#### Powers

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

#### Finance

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross re-

ceipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

#### ARTICLE VII. UNIFORM REGULATIONS AND FORMS

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

#### ARTICLE VIII. INTERSTATE AUDITS

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident: provided that such state has adopted this article.

4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the pur-

pose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

6. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax," in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

#### ARTICLE IX. ARBITRATION

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of Article VII.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ Article IV, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency

or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

#### ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

#### ARTICLE XI. EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement Article III 2 of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to Article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

#### ARTICLE XII. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

[Acts 1981, 67th Leg., p. 1528, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 141.002. Commission Member for This State

(a) The governor shall appoint the comptroller to represent this state on the Multistate Tax Commission created by Article VI of the compact.

(b) The comptroller may designate one of his division chiefs as an alternate representative on the commission.

(c) The office of Multistate Tax Compact Commissioner for Texas is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the office is abolished and this chapter expires effective September 1, 1989.

[Acts 1981, 67th Leg., p. 1540, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 141.003. Local Government Council

After consultation with representatives of local governments, the governor shall appoint three persons who are representative of political subdivisions affected or likely to be affected by the compact. The comptroller and his alternate shall consult regularly with these appointees in accordance with Article VI 1(b) of the compact.

[Acts 1981, 67th Leg., p. 1540, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 141.004. Multistate Tax Compact Advisory Committee

(a) The Multistate Tax Compact Advisory Committee is created. It consists of:

(1) the comptroller and his alternate designated under Section 141.002 of this code;

(2) the attorney general or his designee;

(3) two members of the senate appointed by the president of the senate; and

(4) two members of the house appointed by the speaker of the house.

(b) The comptroller is chairman of the advisory committee.

(c) The committee shall meet at the call of the chairman or at the request of a majority of the members, but in any event the committee shall meet at least three times a year.

(d) The committee may consider any matters relating to recommendations of the Multistate Tax Commission and the activities of the members representing this state on the commission.

[Acts 1981, 67th Leg., p. 1540, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 141.005. Interstate Audit Article Adopted**

The provisions of Article VIII of the compact, relating to interstate audits, are in force with respect to this state.

[Acts 1981, 67th Leg., p. 1540, ch. 389, § 1, eff. Jan. 1, 1982.]

**SUBTITLE E. SALES, EXCISE, AND USE TAXES**

**CHAPTER 151. LIMITED SALES, EXCISE, AND USE TAX**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	Short Title.
151.001.	Applicability of Definitions, Etc.
151.002.	"Business".
151.003.	"In This State".
151.004.	"Sale" or "Purchase".
151.005.	"Sale for Resale".
151.006.	"Sales Price" or "Receipts".
151.007.	"Seller" or "Retailer".
151.008.	"Tangible Personal Property".
151.009.	"Taxable Item".
151.010.	"Use and "Storage".

**SUBCHAPTER B. ADMINISTRATION AND RECORDS**

151.021.	Employees.
151.022.	Retroactive Effect of Rules.
151.023.	Investigations and Audits.
151.024.	Persons Who May be Regarded as Retailers.
151.025.	Records Required to be Kept.
151.026.	Out-of-State Records.
151.027.	Confidentiality of Tax Information.
151.028.	Federal Excise Tax Information.
151.029.	Remedies Not Exclusive.

**SUBCHAPTER C. IMPOSITION AND COLLECTION OF SALES TAX**

151.051.	Sales Tax Imposed.
151.052.	Collection by Retailer.
151.053.	Sales Tax Brackets.
151.054.	Gross Receipts Presumed Subject to Tax.
151.055.	Sales of Items Acquired for Lease or Rental.
151.056.	Property Consumed in Repairs and Contracts.

**SUBCHAPTER D. IMPOSITION AND COLLECTION OF USE TAX**

151.101.	Use Tax Imposed.
151.102.	User Liable for Tax.
151.103.	Collection by Retailer; Purchaser's Receipt.
151.104.	Sale for Storage, Use, or Consumption.
151.105.	Importation for Storage, Use, or Consumption.

Section	
151.106.	Registration of Retailers.
151.107.	Retailer Engaged in Business in This State.

**SUBCHAPTER E. RESALE AND EXEMPTION CERTIFICATES**

151.151.	Resale Certificate.
151.152.	Resale Certificate: Form.
151.153.	Resale Certificate: Commingled Fungible Goods.
151.154.	Resale Certificate: Liability of Purchaser.
151.155.	Exemption Certificate.

**SUBCHAPTER F. SALES TAX PERMITS**

151.201.	Sales Tax Permits.
151.202.	Application for Permit.
151.203.	Suspension and Revocation of Permit.
151.204.	Reissued or New Permit After Revocation or Suspension.
151.205.	Appeals.

**SUBCHAPTER G. SELLER'S AND RETAILER'S SECURITY**

151.251.	Security Required.
151.252.	Temporary Permit.
151.253.	Security: Requirements.
151.254.	Exemption From Filing Security.
151.255.	Notice.
151.256.	Failure to Provide Security: Loss of Permit.
151.257.	Forfeiture of Security: Determination.
151.258.	Sale of Security.
151.259.	Security Insufficient to Pay Tax.
151.260.	Security Sufficient to Pay Tax.
151.261.	Notice to Cities.
151.262.	Suits by Attorney General.

**SUBCHAPTER H. EXEMPTIONS**

151.301.	"Exempted From the Taxes Imposed by This Chapter".
151.302.	Sales for Resale.
151.303.	Previously Taxed Items: Use Tax Exemption or Credit.
151.304.	Occasional Sales.
151.305.	Coin-Operated Machine Sales.
151.306.	Transfers of Common Interests in Property.
151.307.	Exemptions Required by Prevailing Law.
151.308.	Items Taxed by Other Law.
151.309.	Governmental Entities.
151.310.	Religious, Educational, and Public Service Organizations.
151.311.	Property Used for Improvement of Realty of an Exempt Organization.
151.312.	Religious Periodicals and Writings.
151.313.	Health Care Supplies.
151.314.	Food and Meals.
151.315.	Water.
151.316.	Agricultural Items.
151.317.	Gas and Electricity.
151.318.	Property Used in Manufacturing.
151.319.	Newspapers and Property Used in Newspaper Publication.
151.320.	Magazines.
151.321.	Packaging Supplies and Wrapping.
151.322.	Containers.
151.323.	Telephone and Telegraph.
151.324.	Equipment Used Elsewhere for Mineral Exploration or Production.
151.325.	Solar Energy Devices.
151.326.	Broadcasting Stations.
151.327.	Motion Picture Films.
151.328.	Aircraft.
151.329.	Certain Ships and Ship Equipment.
151.330.	Interstate Shipments and Common Carriers.
151.331.	Rolling Stock; Train Fuel and Supplies.
151.332.	Certain Sales by Senior Citizen Organization.

SUBCHAPTER I. REPORTS, PAYMENTS, AND  
METHODS OF REPORTING

Section	
151.401.	Tax Due Dates.
151.402.	Tax Report Dates.
151.403.	Who Must File a Report.
151.404.	Manufacturers: Annual Report.
151.405.	Other Due Dates Set by Comptroller.
151.406.	Contents and Form of Report.
151.407.	Special Use Tax Reports.
151.408.	Accounting Basis for Reports.
151.409.	Reports and Payments: Where Made.
151.410.	Method of Reporting Sales Tax: General Rule.
151.411.	Method of Reporting: Sellers Having Sales Below Taxable Amount.
151.412.	Optional Method of Reporting: Percentage of Sales.
151.413.	Optional Method of Reporting: Small Grocers.
151.414.	"Retail Grocer" Defined.
151.415.	Assessment of Penalties and Interest Against Seller Using Optional Method of Reporting.
151.416.	Commingled Receipts and Tax.
151.417.	Direct Payment of Tax by Purchaser.
151.418.	Issuance of Direct Payment Permit.
151.419.	Application for Direct Payment Permit: Qualifications.
151.420.	Revocation of Direct Payment Permit.
151.421.	Voluntary Relinquishment of Direct Payment Permit.
151.422.	Cancellation or Termination of Direct Payment Permit: Duty of Permit Holder.
151.423.	Reimbursement to Taxpayer for Tax Collections.
151.424.	Discount for Prepayments.
151.425.	Forfeiture of Discount or Reimbursement.
151.426.	Credits and Refunds for Bad Debts, Returned Merchandise, and Repossessions.
151.427.	Deduction for Property on Which the Tax is Paid and Held for Resale.

## SUBCHAPTER J. TAX DETERMINATIONS

151.501.	Determination After the Filing of a Report.
151.502.	Determination: Penalty.
151.503.	Determination if No Report Filed.
151.504.	Determination When a Business is Discontinued.
151.505.	When Determination Becomes Final.
151.506.	Jeopardy Determination.
151.507.	Limitations on Determination.
151.508.	Offsets.
151.509.	Petition for Redetermination.
151.510.	Hearing on Redetermination.
151.511.	Redetermination.
151.512.	Interest.
151.513.	When Payment is Required.
151.514.	Notices.
151.515.	Proceedings Against Consumer.

SUBCHAPTER K. PROCEDURES FOR COLLECTION  
OF DELINQUENT TAXES

151.601.	Suit.
151.602.	Venue.
151.603.	Evidence: Comptroller's Certificate.
151.604.	Form of Action.
151.605.	Writs of Attachment.
151.606.	Service of Process.
151.607.	Limitation Period.
151.608.	Judgments.
151.609.	Notice to Holders of Assets Belonging to Delinquent.
151.610.	Seizure and Sale of Property.
151.611.	Notice of Sale of Seized Property.
151.612.	Sale of Seized Property; Disposition of Proceeds.
151.613.	Tax Collection on Termination of Business.
151.614.	Res Judicata.
151.615.	Tax Suit Comity.

SUBCHAPTER L. PROHIBITED ACTS AND CIVIL AND  
CRIMINAL PENALTIES

Section	
151.701.	Use of Stamps or Tokens Prohibited.
151.702.	Collection of Tax on Amount of Federal Excise Tax.
151.703.	Failure to Report or Pay Tax.
151.704.	Prohibited Advertising; Criminal Penalty.
151.705.	Collection of Use Tax; Criminal Penalty.
151.706.	Exemption Certificate; Criminal Penalty.
151.707.	Resale Certificate; Criminal Penalty.
151.708.	Selling Without Permit; Criminal Penalty.
151.709.	Failure to Furnish Report or Information; Criminal Penalty.
151.710.	General Criminal Penalty.
151.711.	Limitations on Prosecutions.

## SUBCHAPTER M. DISPOSITION OF PROCEEDS

151.801.	Disposition of Proceeds.
----------	--------------------------

## SUBCHAPTER A. GENERAL PROVISIONS

## § 151.001. Short Title

This chapter may be cited as the Limited Sales, Excise, and Use Tax Act.

[Acts 1981, 67th Leg., p. 1545, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 151.002. Applicability of Definitions, Etc.

The definitions and other provisions of this chapter relating to the collection, administration, and enforcement of the taxes imposed by this chapter, including the requirements for sales tax permits, apply to the parties to a sale of a taxable item that is exempted from the taxes imposed by this chapter but that is subject to the taxes imposed by a city under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes).

[Acts 1981, 67th Leg., p. 1545, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 151.003. "Business"

"Business" means an activity of or caused by a person for the purpose of a direct or indirect gain, benefit, or advantage.

[Acts 1981, 67th Leg., p. 1545, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 151.004. "In This State"

"In this state" means within the exterior limits of Texas and includes all territory within these limits ceded to or owned by the United States.

[Acts 1981, 67th Leg., p. 1545, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 151.005. "Sale" or "Purchase"

"Sale" or "purchase" means any of the following when done or performed for consideration:

(1) a transfer of title or possession of tangible personal property or the segregation of tangible personal property in contemplation of a transfer of its title or possession;

(2) the exchange, barter, lease, or rental of tangible personal property;

- (3) the performance of a taxable service;
- (4) the production, fabrication, processing, printing, or imprinting of tangible personal property for consumers who directly or indirectly furnish the materials used in the production, fabrication, processing, printing, or imprinting;
- (5) the furnishing and distribution of tangible personal property by a social club or fraternal organization to anyone;
- (6) the furnishing, preparation, or service of food, meals, or drinks;
- (7) a transfer of the possession of tangible personal property if the title to the property is retained by the seller as security for the payment of the price; or
- (8) a transfer of the title or possession of tangible personal property that has been produced, fabricated, or printed to the special order of the customer.

[Acts 1981, 67th Leg., p. 1545, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.006. "Sale for Resale"**

"Sale for resale" means a sale of:

- (1) tangible personal property to a purchaser who acquires the property for the purpose of reselling it in the United States of America or a possession or territory of the United States of America in the normal course of business in the form or condition in which it is acquired or as an attachment to or integral part of other tangible personal property;
- (2) tangible personal property to a purchaser for the sole purpose of the purchaser's leasing or renting it in the United States of America or a possession or territory of the United States of America to another person, but not if incidental to the leasing or renting of real estate;
- (3) tangible personal property to a purchaser who acquires the property for the purpose of transferring it in the United States of America or a possession or territory of the United States of America as an integral part of a taxable service; or
- (4) a taxable service performed on tangible personal property that is held for sale by the purchaser of the taxable service.

[Acts 1981, 67th Leg., p. 1546, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.007. "Sales Price" or "Receipts"**

(a) "Sales price" or "receipts" means the total amount for which a taxable item is sold, leased, or rented, valued in money, without a deduction for the cost of:

- (1) the taxable item sold, leased, or rented;
- (2) the materials used, labor or service employed, interest, losses, or other expenses;
- (3) the transportation of tangible personal property before the sale; or

(4) transportation incident to the performance of a taxable service.

(b) The total amount for which a taxable item is sold, leased, or rented includes a service that is a part of the sale and the amount of credit given to the purchaser by the seller.

(c) "Sales price" or "receipts" does not include any of the following if separately identified to the customer by such means as an invoice, billing, sales slip or ticket, or contract:

- (1) a cash discount allowed on the sale;
- (2) the amount charged for tangible personal property returned by a customer if the total amount charged is refunded by cash or credit;
- (3) a refund of the charges for the performance of a taxable service;
- (4) the amount of tax imposed by the United States on or with respect to retail or wholesale sales of tires or fishing equipment, whether imposed on the retailer, wholesaler, or consumer under Subtitle D or E, Title 26, United States Code;

(5) finance, carrying and service charges, or interest from credit extended on sales of taxable items under a conditional sales contract or other contract providing for the deferred payment of the purchase price;

(6) the value of tangible personal property taken by a seller in trade as all or part of the consideration for a sale of a taxable item;

(7) a charge for transportation of tangible personal property after the sale, including a separately stated charge for transportation of tangible personal property segregated in contemplation of the transfer of possession or title with the terms of the sale at a price fixed F.O.B. at the seller's place of business.

(8) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the tangible personal property sold;

(9) the face value of United States coin or currency in a sale of that coin or currency in which the total consideration given by the purchaser exceeds the face value of the coin or currency; or

(10) a voluntary gratuity or a reasonable mandatory charge for the service of a meal or food products, including soft drinks and candy, for immediate human consumption when the service charge is separated from the sales price of the meal or food product and identified as a gratuity or tip and when the total amount of the service charge is disbursed by the employer to employees who customarily and regularly provide the service.

[Acts 1981, 67th Leg., p. 1546, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.008. "Seller" or "Retailer"**

(a) "Seller" or "retailer" means a person engaged in the business of making sales of taxable items of a

kind the receipts from the sale of which are included in the measure of the sales or use tax imposed by this chapter.

(b) "Seller" and "retailer" include:

(1) a person in the business of making sales at auction of tangible personal property owned by the person or by another;

(2) a person who makes more than two sales of taxable items during a 12-month period, including sales made in the capacity of an assignee for the benefit of creditors or receiver or trustee in bankruptcy; and

(3) a person regarded by the comptroller as a seller or retailer under Section 151.024 of this code.

[Acts 1981, 67th Leg., p. 1547, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.009. "Tangible Personal Property"

"Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner.

[Acts 1981, 67th Leg., p. 1547, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.010. "Taxable Item"

"Taxable item" means tangible personal property.

[Acts 1981, 67th Leg., p. 1547, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.011. "Use" and "Storage"

(a) Except as provided by Subsections (b) and (e) of this section, "use" means the exercise of a right or power incidental to the ownership of tangible personal property over tangible personal property and, except as provided by Section 151.056(b) of this code, includes the incorporation of tangible personal property into real estate or into improvements of real estate whether or not the real estate is subsequently sold.

(b) "Use" does not include the sale of tangible personal property in the regular course of business or the transfer of tangible personal property as an integral part of a taxable service performed in the regular course of business.

(c) Except as provided by Subsections (d) and (e) of this section, "storage" means the keeping or retaining for any purpose in this state of tangible personal property sold by a retailer.

(d) "Storage" does not include the keeping or retaining of tangible personal property for sale in the regular course of business.

(e) Neither "use" nor "storage" includes the exercise of a right or power over, or the keeping or retaining of, tangible personal property for the purpose of:

(1) transporting the property outside the state for use solely outside the state; or

(2) processing, fabricating, or manufacturing the property into other property or attaching the property to or incorporating the property into other property to be transported outside the state for use solely outside the state.

[Acts 1981, 67th Leg., p. 1547, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.012 to 151.020 reserved for expansion]

### SUBCHAPTER B. ADMINISTRATION AND RECORDS

#### § 151.021. Employees

The comptroller may employ accountants, auditors, investigators, assistants, and clerks for the administration of this chapter and may delegate to employees the authority to conduct hearings, prescribe rules, and perform other duties required by this chapter.

[Acts 1981, 67th Leg., p. 1548, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.022. Retroactive Effect of Rules

The comptroller may prescribe the extent to which a rule or ruling shall be applied without retroactive effect.

[Acts 1981, 67th Leg., p. 1548, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.023. Investigations and Audits

The comptroller, or another person authorized by the comptroller in writing, may examine the books, records, papers, and equipment of a person who sells taxable items or of a person liable for the use tax and may investigate the character of the business of the person to verify the accuracy of the person's report or to determine the amount of tax that may be required to be paid if no report has been filed.

[Acts 1981, 67th Leg., p. 1548, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.024. Persons Who May be Regarded as Retailers

If the comptroller determines that it is necessary for the efficient administration of this chapter to regard a salesman, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains the tangible personal property that he sells, whether or not the sale is made in his own behalf or for the dealer, distributor, supervisor, or employer, the comptroller may so regard the salesman, representative, peddler, or canvasser, and may regard the dealer, distributor, supervisor, or employer as a retailer or seller for the purpose of this chapter.

[Acts 1981, 67th Leg., p. 1548, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.025. Records Required to be Kept**

(a) All sellers and all other persons storing, using, or consuming in this state a taxable item purchased from a retailer shall keep the records, receipts, invoices, and other pertinent papers in the form that the comptroller reasonably requires.

(b) A record required by Subsection (a) of this section shall be kept for not less than four years from the day that it is made unless the comptroller authorizes its destruction at an earlier date.

[Acts 1981, 67th Leg., p. 1548, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.026. Out-of-State Records**

A taxpayer is entitled to keep or store the taxpayer's records outside this state. If the comptroller requests to examine a record kept or stored outside this state, the taxpayer shall bring the record into this state for the examination or permit the comptroller to examine the record at the out-of-state location.

[Acts 1981, 67th Leg., p. 1549, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.027. Confidentiality of Tax Information**

(a) Information in or derived from a record, report, or other instrument required to be furnished under this chapter is confidential and not open to public inspection, except for information set forth in a lien filed under this title or a permit issued under this chapter to a seller and except as provided by Subsection (c) of this section.

(b) Information secured, derived, or obtained during the course of an examination of a taxpayer's books, records, papers, officers, or employees, including the business affairs, operations, profits, losses, and expenditures of the taxpayer, is confidential and not open to public inspection except as provided by Subsection (c) of this section.

(c) This section does not prohibit:

(1) the examination of information, if authorized by the comptroller, by another state officer or law enforcement officer, by a tax official of another state, or by an official of the United States if a reciprocal agreement exists;

(2) the delivery to a taxpayer, or a taxpayer's authorized representative, of a copy of a report or other paper filed by the taxpayer under this chapter;

(3) the publication of statistics classified to prevent the identification of a particular report or items in a particular report;

(4) the use of records, reports, or information secured, derived, or obtained by the attorney general or the comptroller in an action under this chapter against the same taxpayer who furnished the information; or

(5) the delivery to a successor, receiver, executor, administrator, assignee, or guarantor of a taxpayer of information about items included in

the measure and amounts of any unpaid tax or amounts of tax, penalties, and interest required to be collected.

[Acts 1981, 67th Leg., p. 1549, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.028. Federal Excise Tax Information**

The comptroller shall provide to each seller who sells taxable items subject to a tax under Subtitle D or E, Title 26, United States Code:

(1) information concerning the amount of federal excise tax collected from the manufacturer, wholesaler, retailer, or consumer; and

(2) tables for the computation of the sales price of taxable items.

[Acts 1981, 67th Leg., p. 1549, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.029. Remedies Not Exclusive**

An action taken by the comptroller or the attorney general under this chapter is not an election to pursue one remedy to the exclusion of any other remedy authorized by this chapter.

[Acts 1981, 67th Leg., p. 1549, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.030 to 151.050 reserved for expansion]

SUBCHAPTER C. IMPOSITION AND COLLECTION OF SALES TAX

**§ 151.051. Sales Tax Imposed**

(a) A tax is imposed on each sale of a taxable item in this state.

(b) The sales tax rate is four percent of the sales price of the taxable item sold.

[Acts 1981, 67th Leg., p. 1550, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.052. Collection by Retailer**

(a) A seller who makes a sale subject to the sales tax imposed by this chapter shall add the amount of the tax to the sales price, and when the amount of the tax is added:

(1) it becomes a part of the sales price;

(2) it is a debt of the purchaser to the seller until paid; and

(3) if unpaid, it is recoverable at law in the same manner as the original sales price.

(b) The owner or former owner of tangible personal property, a factor of the owner or former owner, or an agent of the owner, former owner, or factor shall collect the sales tax and add the amount of the tax to the sales price of the tangible personal property if the person delivers the property to a consumer in this state or to another person for redelivery to a consumer in this state under a sale of the property that is not a sale for resale and that is made by a seller not engaged in business in this state.

(c) When several taxable items are sold together and at the same time, the sales tax is determined on the sum of the sales prices of the items sold exclusive of any item the sale of which is exempted by this chapter.

[Acts 1981, 67th Leg., p. 1550, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.053. Sales Tax Brackets

(a) If the sales price involves a fraction of a dollar, the sales tax to be added to the sales price shall be determined under the following schedule:

AMOUNT OF SALE	TAX
\$ .01 to \$ .12	No tax
.13 to .37	\$ .01
.38 to .62	.02
.63 to .87	.03
.88 to 1.12	.04

(b) Successive brackets for the schedule in this section shall be computed by multiplying the percentage rate of the sales tax times the amount of the sale. A fraction of one cent that is less than one-half of one cent is not collected and a fraction of one cent that is equal to one-half of one cent or more is collected as one cent of tax.

[Acts 1981, 67th Leg., p. 1550, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.054. Gross Receipts Presumed Subject to Tax

(a) Except as provided by Subsections (b) and (c) of this section, all gross receipts of a seller are presumed to have been subject to the sales tax until the contrary is established.

(b) The burden of showing that a sale of tangible personal property is a sale for resale is on the seller unless the seller receives in good faith from a purchaser, who is in the business of selling, leasing, or renting taxable items, a resale certificate stating that the tangible personal property is acquired for the purpose of selling, leasing, or renting it in the regular course of business or for the purpose of transferring it as an integral part of a taxable service performed in the regular course of business.

(c) A sale of liquor, wine, beer, or malt liquor by the holder of a manufacturer's license, wholesaler's permit, general class B wholesaler's permit, local class B wholesaler's permit, local distributor's permit, or a general, local, or branch distributor's license issued under the Alcoholic Beverage Code to the holder of a retail license or permit issued under the Alcoholic Beverage Code is presumed to be a sale for resale. In a sale to which this section applies, the seller is not required to receive a resale certificate from the purchaser.

[Acts 1981, 67th Leg., p. 1550, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.055. Sales of Items Acquired for Lease or Rental

(a) If a person purchases tangible personal property by means of a sale for resale for the purpose of renting or leasing the property for use but subsequently sells the property in an occasional sale before the person has collected and paid to the state an amount of sales tax on rental or lease charges equal to the amount of sales tax that would have been due if the person had not acquired the property at a sale for resale, the person at the time of the occasional sale shall include in his receipts from taxable sales the amount by which the purchase price of the item at the occasional sale exceeds the amount received from renting or leasing the property.

(b) If tangible personal property is rented or leased under an agreement that provides that all or a portion of the rental or lease payments may be credited against the purchase price of the item and the property is sold to the lessee, the lessor shall collect the sales tax only on that portion of the sales price that exceeds the amount of lease or rental charges on which the tax has previously been collected and paid.

[Acts 1981, 67th Leg., p. 1551, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.056. Property Consumed in Repairs and Contracts

(a) A contractor or repairman is the consumer of tangible personal property furnished by him and incorporated into the property of his customer if the contract between the contractor or repairman and his customer contains a lump-sum price covering both the performance of the service and the furnishing of the necessary incidental material.

(b) A contractor or repairman is the seller of tangible personal property furnished by him and incorporated into the property of his customer, from whom he shall collect the tax, if the contract between the contractor or repairman and his customer contains separate amounts for the performance of the service and for the furnishing of the necessary incidental material. The tax rate is applied to the price of the materials as agreed in the contract or the price of the materials to the contractor or repairman, whichever is the greater.

(c) If a contractor or repairman has paid the sales tax to his supplier when the tangible personal property is purchased, the contractor or repairman may credit the amount of the tax paid to the supplier against the tax imposed as provided in Subsection (b) of this section with respect to a subsequent sale of the property.

(d) In this section, "contractor" or "repairman" means a person who performs a repair service on tangible personal property or makes an improvement on real estate and who, as a necessary or incidental part of the service, incorporates tangible personal property into the property repaired or improved.

(e) This section does not apply to the use or consumption of tangible personal property as a necessary or incidental part of a taxable service.

[Acts 1981, 67th Leg., p. 1551, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.057 to 151.100 reserved for expansion]

SUBCHAPTER D. IMPOSITION AND COLLECTION OF USE TAX

§ 151.101. Use Tax Imposed

(a) A tax is imposed on the storage, use, or other consumption in this state of a taxable item purchased from a retailer for storage, use, or other consumption in this state.

(b) The tax is at the same percentage rate as is provided by Section 151.051 of this code on the sales price of the taxable item.

[Acts 1981, 67th Leg., p. 1552, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.102. User Liable for Tax

(a) The person storing, using, or consuming a taxable item in this state is liable for the tax imposed by Section 151.101 of this code, and except as provided by Subsection (b) of this section, the liability continues until the tax is paid to the state.

(b) A person storing, using, or consuming a taxable item in this state is not further liable for the tax imposed by Section 151.101 of this code if the person pays the tax to a retailer engaged in business in this state or other person authorized by the comptroller to collect the tax and receives from the retailer or other person a purchaser's receipt given as provided in Section 151.103 of this code.

[Acts 1981, 67th Leg., p. 1552, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.103. Collection by Retailer; Purchaser's Receipt

(a) A retailer engaged in business in this state who makes a sale of a taxable item for storage, use, or consumption in this state shall collect the use tax that is due from the purchaser and give the purchaser a receipt for the tax payment.

(b) The purchaser's receipt must be issued in the form and manner prescribed by the comptroller.

[Acts 1981, 67th Leg., p. 1552, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.104. Sale for Storage, Use, or Consumption Presumed

(a) A sale of tangible personal property by a person for delivery in this state is presumed to be a sale for storage, use, or consumption in this state until the contrary is established.

(b) The burden of showing that a sale of tangible personal property for delivery in this state is not for

storage, use, or consumption in this state is on the person making the sale unless the person receives in good faith from a purchaser, who is in the business of selling, leasing, or renting taxable items, a resale certificate stating that the property is acquired for the purpose of selling, leasing, or renting it in the regular course of business or for the purpose of transferring it as an integral part of a taxable service performed in the regular course of business.

[Acts 1981, 67th Leg., p. 1552, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.105. Importation for Storage, Use, or Consumption Presumed

(a) Tangible personal property that is shipped or brought into this state by a purchaser is presumed, in the absence of evidence to the contrary, to have been purchased from a retailer for storage, use, or consumption in this state.

(b) A taxable service used in this state is presumed, in the absence of evidence to the contrary, to have been purchased from a retailer for use in this state.

[Acts 1981, 67th Leg., p. 1552, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.106. Registration of Retailers

(a) A retailer who sells a taxable item for storage, use, or consumption in this state shall register with the comptroller.

(b) The registration must include:

(1) the name and address of each agent of the retailer operating in the state;

(2) the location of all distribution or sales houses or offices or other places of business in the state; and

(3) other information that the comptroller requires.

(c) A retailer required to register under this section must comply with Subchapter G of this chapter.

[Acts 1981, 67th Leg., p. 1553, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.107. Retailer Engaged in Business in This State

For the purpose of this subchapter and in relation to the use tax, a retailer is engaged in business in this state if the retailer:

(1) maintains, occupies, or uses in this state permanently, temporarily, directly, or indirectly or through a subsidiary or agent by whatever name, an office, place of distribution, sales or sample room or place, warehouse, storage place, or any other place of business; or

(2) has a representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling or delivering or the taking of orders for a taxable item.

[Acts 1981, 67th Leg., p. 1553, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.108 to 151.150 reserved for expansion]

SUBCHAPTER E. RESALE AND EXEMPTION  
CERTIFICATES

§ 151.151. Resale Certificate

A purchaser may give a resale certificate for the acquisition of tangible personal property if the purchaser intends to sell, lease, or rent it in the regular course of business or transfer it as an integral part of a taxable service performed in the regular course of business or if, at the time of the sale, the purchaser is unable to ascertain whether it will be sold, leased, rented, or transferred in the regular course of business or used for some other purpose.

[Acts 1981, 67th Leg., p. 1553, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.152. Resale Certificate: Form

(a) A resale certificate must be substantially in the form prescribed by the comptroller.

(b) A resale certificate must:

(1) be signed by the purchaser and contain the purchaser's name and address;

(2) state the purchaser's tax permit number or that the purchaser's application for a tax permit is pending before the comptroller; and

(3) contain a description of the tangible personal property sold, leased, or rented by the purchaser in the regular course of business or transferred as an integral part of a taxable service performed in the regular course of business.

[Acts 1981, 67th Leg., p. 1553, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.153. Resale Certificate: Commingled Fungible Goods

If a purchaser gives a resale certificate with respect to the purchase of fungible goods and then commingles the goods with other similar fungible goods for which a resale certificate was not given, sales from the mass of commingled fungible goods are deemed to be sales of goods covered by the resale certificate until the quantity of goods covered by the certificate equals the quantity of goods sold.

[Acts 1981, 67th Leg., p. 1554, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.154. Resale Certificate: Liability of Purchaser

(a) If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration, or display while holding it for sale, lease, or rental in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business, the purchaser shall be liable for payment of the sales tax on the fair market rental value for any period during which the tangible personal property is used other than for retention, demonstration, or display. The fair market rental value of the tangible personal property is the amount that a purchaser would pay on the open market to rent or lease the tangible

personal property for his use. If the item has no fair market rental value, the original purchase price shall be the measure of the tax. At any time, the person making the divergent use may cease paying tax on the fair market rental value and pay sales tax on the original purchase price without credit for taxes previously paid on the fair market rental value.

(b) A purchaser of tangible personal property who gives a resale certificate is not liable for the tax imposed by this chapter if he donates the property to an organization exempted under Section 151.309 or 151.310(a)(1) or (2) of this code; except that any use by the purchaser of the property other than retention, demonstration, or display shall be subject to taxes imposed by Subsection (a) of this section. [Acts 1981, 67th Leg., p. 1554, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.155. Exemption Certificate

(a) If a purchaser certifies in writing to a seller that a taxable item sold, leased, or rented to the purchaser will be used in a manner or for a purpose that qualifies the sale of the item for an exemption from the taxes imposed by this chapter, and if the purchaser then uses the item in some other manner or for some other purpose, the purchaser is liable for the payment of the sales tax on the fair market rental value for any period during which the item is used in the divergent manner or for the divergent purpose. The fair market rental value is the amount that a purchaser would pay on the open market to rent or lease the property for his use. If the item has no fair market rental value, the original purchase price shall be the measure of tax. At any time, the person making the divergent use may cease paying tax on the fair market rental value and pay sales tax on the original purchase price without credit for taxes previously paid on the fair market rental value.

(b) A purchaser of tangible personal property who gives an exemption certificate is not liable for the tax imposed by this chapter if he donates the property to an organization exempted under Section 151.309 or 151.310(a)(1) or (2) of this code; except that any use by the purchaser of the property other than retention, demonstration, or display shall be subject to taxes imposed by Subsection (a) of this section. [Acts 1981, 67th Leg., p. 1554, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.156 to 151.200 reserved  
for expansion]

SUBCHAPTER F. SALES TAX PERMITS

§ 151.201. Sales Tax Permits

(a) The comptroller shall issue without charge to an applicant who qualifies under Section 151.202 of this code and under Subchapter G of this chapter a separate permit for each place of business in this state.

(b) The holder of a permit shall display it conspicuously in the place of business to which it applies.

(c) A permit is valid only for the person and the place of business to which it applies and is nonassignable.

[Acts 1981, 67th Leg., p. 1555, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.202. Application for Permit**

(a) A person desiring to be a seller in this state shall file with the comptroller an application for a permit for each place of business.

(b) An application must:

(1) be on a form prescribed by the comptroller;

(2) state the name under which the applicant transacts or intends to transact business;

(3) give the address of the place of business to which the permit is to apply;

(4) contain any other information required by the comptroller; and

(5) be signed by the owner if the owner is an individual, a member or partner if the owner is an association or partnership, or an executive officer or other person authorized by the corporation to sign the application if the owner is a corporation.

[Acts 1981, 67th Leg., p. 1555, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.203. Suspension and Revocation of Permit**

(a) If a person fails to comply with a provision of this chapter or with a rule of the comptroller adopted under this chapter and relating to the sales tax, the comptroller, after a hearing, may revoke or suspend one or more permits issued to the person.

(b) A person whose permit the comptroller proposes to revoke or suspend is entitled to 20 days' written notice of the time and place of the hearing on the revocation or suspension. At the hearing the person must show cause why each permit should not be suspended or revoked.

(c) The comptroller shall give written notice of the revocation or suspension of a permit to the holder of the permit.

(d) Notices under this section may be served on the permit holder personally or may be mailed to the permittee's address as shown in the records of the comptroller.

[Acts 1981, 67th Leg., p. 1555, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.204. Reissued or New Permit After Revocation or Suspension**

(a) A new permit may not be issued to a former holder of a revoked permit unless the comptroller is satisfied that the person will comply with the provisions of this chapter and the rules of the comptroller relating to the sales tax.

(b) The comptroller may prescribe the terms under which a suspended permit may be reissued.

[Acts 1981, 67th Leg., p. 1555, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.205. Appeals**

A taxpayer may appeal the revocation or suspension of a tax permit in the same manner that appeals are made from a final deficiency determination.

[Acts 1981, 67th Leg., p. 1556, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.206 to 151.250 reserved for expansion]

**SUBCHAPTER G. SELLER'S AND RETAILER'S SECURITY**

**§ 151.251. Security Required**

(a) An applicant for a sales tax permit or for registration as a retailer under Section 151.106 of this code must file with the comptroller adequate security for the payment of the taxes imposed by this chapter.

(b) If the holder of a sales tax permit or a retailer registered under Section 151.106 of this code who is exempted under Section 151.254 of this code from filing security under this subchapter is determined by the comptroller to be delinquent in the payment of the taxes imposed by this chapter, the comptroller shall require the holder or retailer to file with the comptroller adequate security for the payment of the taxes imposed by this chapter.

(c) For the purposes of Subsection (b) of this section, a holder of a permit or a retailer is delinquent in the payment of the taxes imposed by this chapter if the holder or retailer fails to file all reports due or to pay any determination before the day the determination could be paid without additional penalty.

(d) If the comptroller determines that it is necessary to ensure compliance with this chapter, the comptroller may require security from a person as a condition to retaining a permit under this chapter.

[Acts 1981, 67th Leg., p. 1556, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.252. Temporary Permit**

(a) The comptroller may issue a temporary sales tax permit or retailer's registration to an applicant for a period determined by the comptroller in order to arrange for and provide the security required by this subchapter.

(b) A temporary permit or registration expires without further notice on the expiration date shown on the temporary permit or registration.

[Acts 1981, 67th Leg., p. 1556, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.253. Security: Requirements**

(a) The security required by this subchapter may be a cash bond, a bond from a surety company chartered or authorized to do business in this state, a certificate of deposit, a certificate of savings or U.S.

Treasury bond, an assignment of negotiable stocks or bonds that has been approved by the comptroller, or any other security deemed by the comptroller to be sufficient for the payment of taxes imposed by this chapter.

(b) The comptroller shall fix the amount of security required in each case, taking into consideration the amount of tax that has or is expected to become due from the person under this chapter and the Local Sales and Use Tax Act and the necessity to protect the state against the failure to pay these taxes, except that the maximum amount of security that may be required is the lesser of \$50,000 or three times the amount of the person's average quarterly tax liability.

(c) A bond qualifying under this subchapter must be a continuing instrument and a new and separate obligation for the penal sum named in the bond for each calendar year or portion of a calendar year while the bond is in effect. The bond must remain in effect until the surety or sureties are released and discharged.

[Acts 1981, 67th Leg., p. 1556, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.254. Exemption From Filing Security

(a) A person who has filed security under this subchapter is exempted from the security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the security if in the judgment of the comptroller the person has for two consecutive years continuously complied with the conditions of the security filed under this subchapter.

(b) A person who received a sales tax permit or was registered as a retailer before January 1, 1974, and has not been determined to be delinquent as provided by Section 151.251(b) of this code or been required to file security under this subchapter is exempted from filing security.

[Acts 1981, 67th Leg., p. 1557, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.255. Notice

(a) If the comptroller determines that the holder of a permit or a registered retailer is required to file security under Section 151.251(b) of this code, the comptroller shall notify the person in writing that security is required to be filed and state the amount of security set by the comptroller.

(b) Notice under this subsection shall be mailed to the permit holder or registered retailer at the address shown in the comptroller's records.

[Acts 1981, 67th Leg., p. 1557, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.256. Failure to Provide Security: Loss of Permit

If a person fails to provide security under this subchapter as provided by Section 151.251(b) of this code, the comptroller shall revoke or suspend the

permit or retailer's registration of the person as provided by Section 151.203 of this code.

[Acts 1981, 67th Leg., p. 1557, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.257. Forfeiture of Security: Determination

(a) If a person who has filed a security under this subchapter fails to pay the taxes imposed by this chapter or by a city under the Local Sales and Use Tax Act or fails to file a tax return required by this chapter or under the Local Sales and Use Tax Act, the comptroller shall issue a deficiency or jeopardy determination containing a demand for the amount of taxes, penalties, and interest due. The determination shall state that if payment is not made on or before the last day that the deficiency may be paid without incurring further penalty, the security or a part of the security may be forfeited.

(b) If the security filed by the person is a surety bond, the comptroller shall send a copy of the determination to each surety on the bond and shall demand payment from both the person filing the bond and each surety.

[Acts 1981, 67th Leg., p. 1557, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.258. Sale of Security

(a) If necessary to recover an amount of tax, penalty, or interest, the comptroller may sell security deposited under this subchapter. A sale shall be public and notice of the sale may be given personally or by mail to the person who deposited the security.

(b) If the notice is given by mail, the comptroller may send it to the last known address appearing in the records of the comptroller.

(c) Subject to the requirement of additional security required by Section 151.260 of this code, the comptroller shall return to the depositor any security remaining after the sale and after recovering the amount of tax, penalty, and interest due from the depositor.

[Acts 1981, 67th Leg., p. 1557, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.259. Security Insufficient to Pay Tax

(a) If payment of the tax due is not made and the forfeiture of the security does not satisfy the delinquency, the comptroller shall suspend or revoke the permit or registration of the taxpayer as provided by Section 151.203 of this code.

(b) If the permit or registration is suspended, the comptroller shall certify to the attorney general the amount of taxes, penalties, and interest delinquent under this chapter.

(c) A permit or registration revoked or suspended under this section may not be reinstated until all taxes, penalties, and interest have been paid and another security is filed with the comptroller. The comptroller shall set the amount of the security subject only to the maximum amounts provided by Section 151.253(b) of this code.

[Acts 1981, 67th Leg., p. 1558, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.260. Security Sufficient to Pay Tax**

(a) If the security is forfeited in whole or in part and no delinquency remains, the comptroller shall demand from the person new or additional security to be filed before the expiration of 10 days after the date the notice of the demand is given.

(b) The amount of the new or additional security shall be set by the comptroller subject only to the maximum amounts as provided by Section 151.253(b) of this code.

(c) If the person fails to file the amount of the new or additional security before the expiration of the 10-day period, the comptroller shall suspend or revoke the permit or registration of the taxpayer as provided by Section 151.203 of this code and certify the name and address of the person to the attorney general.

[Acts 1981, 67th Leg., p. 1558, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.261. Notice to Cities**

If a permit or registration is revoked or suspended under this subchapter, the comptroller shall notify the applicable city of any delinquency under the Local Sales and Use Tax Act.

[Acts 1981, 67th Leg., p. 1558, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.262. Suits by Attorney General**

(a) The attorney general may file suit for an injunction prohibiting a person from engaging in the business of selling taxable items subject to the taxes imposed by this chapter if the person engages in that business and does not have a valid permit or retailer's registration issued to him by the comptroller for each place of business.

(b) The attorney general shall bring suit against a person whose name is certified to him under Section 151.259(b) of this code, the person's sureties, or both, to collect the amount of delinquent tax due.

(c) The attorney general may bring suit on a surety bond against the sureties without making the person who is the principal obligor a party to the suit.

(d) Venue for a suit under this section is in Travis County.

[Acts 1981, 67th Leg., p. 1558, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.263 to 151.300 reserved for expansion]

**SUBCHAPTER H. EXEMPTIONS**

**§ 151.301. "Exempted From the Taxes Imposed by This Chapter"**

If a taxable item is exempted from the taxes imposed by this chapter, the sale, storage, use or other consumption of the item is not subject to the sales tax imposed by Section 151.051 of this code or

the use tax imposed by Section 151.101 of this code if the item meets the qualifications for exemption as provided in this subchapter; and when an item is exempted from the taxes imposed by this chapter the receipts from its sale are excluded from the computation of the taxes.

[Acts 1981, 67th Leg., p. 1559, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.302. Sales for Resale**

The sale for resale of a taxable item is exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1559, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.303. Previously Taxed Items: Use Tax Exemption or Credit**

(a) The storage, use, or other consumption of a taxable item the sale of which is subject to the sales tax is exempted from the use tax imposed by Subchapter D of this chapter.

(b) The storage, use, or other consumption of a taxable item on which the person storing, using, or consuming the item has paid a use tax is exempted from the use tax imposed by Subchapter D of this chapter.

(c) A taxpayer is entitled to a credit against the use tax imposed by Subchapter D of this chapter on a taxable item in an amount equal to the amount of any similar tax paid by the taxpayer in another state on the sale, purchase, or use of the taxable item if the state in which the tax was paid provides a similar credit for a taxpayer of this state.

[Acts 1981, 67th Leg., p. 1559, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.304. Occasional Sales**

(a) An occasional sale of a taxable item and the storage, use, or consumption of a taxable item the sale or transfer of which to a consumer is made by an occasional sale are exempted from the taxes imposed by this chapter.

(b) In this section, "occasional sale" means:

(1) one or two sales of taxable items at retail during a 12-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail;

(2) the sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business; or

(3) a transfer of all or substantially all the property used by a person in the course of an activity if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer.

(c) Within the meaning of Subsection (b)(2) of this section, a separate division, branch, or identifiable segment of a business exists if before its sale the income and expenses attributable to the separate

division, branch, or segment could be separately ascertained from the books of account or record.

(d) Within the meaning of Subsection (b)(3) of this section, the stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity have the real or ultimate ownership of the property of the corporation or other entity. [Acts 1981, 67th Leg., p. 1559, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.305. Coin-Operated Machine Sales

(a) Tangible personal property when sold through a coin-operated vending machine for a total consideration of 16 cents or less is exempted from the taxes imposed by this chapter.

(b) Telephone service paid for by the insertion of coins into a coin-operated telephone is exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1560, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.306. Transfers of Common Interests in Property

If an interest in tangible personal property is sold, under the terms of a good faith, bona fide contractual relationship, to another person who either before or after the sale owned or owns a joint or undivided interest in the property with the seller, and if the taxes imposed by this chapter have previously been paid on the tangible personal property, the tangible personal property is exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1560, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.307. Exemptions Required by Prevailing Law

Tangible personal property or service that this state is prohibited from taxing by the law of the United States, the United States Constitution, or the Constitution of Texas is exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1560, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.308. Items Taxed by Other Law

The following are exempted from the taxes imposed by this chapter:

- (1) oil as taxed by Chapter 202 of this code;
- (2) sulphur as taxed by Chapter 203 of this code;
- (3) cigarettes as defined and taxed by Chapter 154 of this code;
- (4) cigars and tobacco products as defined and taxed under Chapter 155 of this code;
- (5) motor fuels and special fuels as defined, taxed, or exempted by Chapter 153 of this code;
- (6) cement as taxed by Chapter 181 of this code;

(7) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152 of this code;

(8) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Chapter 202, Alcoholic Beverage Code; and

(9) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club.

[Acts 1981, 67th Leg., p. 1560, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.309. Governmental Entities

A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following governmental entities is exempted from the taxes imposed by this chapter:

- (1) the United States;
- (2) an unincorporated instrumentality of the United States;
- (3) a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States;
- (4) this state; or
- (5) a county, city, special district, or other political subdivision of this state.

[Acts 1981, 67th Leg., p. 1560, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.310. Religious, Educational, and Public Service Organizations

(a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following organizations is exempted from the taxes imposed by this chapter:

- (1) an organization created for religious, educational, or charitable purposes if no part of the net earnings of the organization benefits a private shareholder or individual and the items purchased are related to the purpose of the organization;
- (2) an organization qualifying for an exemption from federal income taxes under Section 501(c)(3), (4), (8), (10), or (19), Internal Revenue Code, if the item sold, leased, rented, stored, used, or consumed relates to the purpose of the exempted organization and the item is not used for the personal benefit of a private stockholder or individual;
- (3) a nonprofit organization engaged exclusively in providing athletic competition among persons under 19 years old if no financial benefit goes to an individual or shareholder;
- (4) a company, department, or association organized for the purpose of answering fire alarms

and extinguishing fires or for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services, the members of which receive no compensation or only nominal compensation for their services rendered, if the taxable item is used exclusively by the company, department, or association; or

(5) a chamber of commerce that is not organized for profit and no part of the net earnings of which inures to a private shareholder or other individual.

(b) The sale of, or contracting for the sale of, concessions at an event conducted by an organization exempted under Subsection (a)(3) of this section does not prevent the application of the exemption to that organization.

(c) An organization that qualifies for an exemption under Subsection (a)(1) of this section may hold one tax-free sale or auction during a calendar year and the tax-free sale or auction may continue for one day only. The sale of a taxable item by a qualified organization at a tax-free sale or auction is exempted from the sales tax imposed by Subchapter C of this chapter. The storage, use, or consumption of a taxable item acquired from a qualified organization at a tax-free sale or auction is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.

(d) If two or more organizations jointly hold a tax-free sale or auction, neither organization may hold another tax-free sale or auction during the calendar year. The employment of and payment of a reasonable fee to an auctioneer to conduct a tax-free auction does not disqualify an otherwise qualified organization from receiving the exemption provided by Subsection (c) of this section.

[Acts 1981, 67th Leg., p. 1561, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2771, ch. 752, § 7(a), eff. Jan. 1, 1982.]

**§ 151.311. Property Used for Improvement of Realty of an Exempt Organization**

Tangible personal property purchased by a contractor for use in the performance of a contract for the improvement of realty for an organization exempted from the taxes imposed by this chapter is exempted from the taxes imposed by this chapter to the extent of the value of the tangible personal property used or consumed or both in the performance of the contract.

[Acts 1981, 67th Leg., p. 1561, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.312. Religious Periodicals and Writings**

Periodicals that are published or distributed by a religious faith and that consist wholly of writings promulgating the teaching of the faith and books that consist wholly of writings sacred to a religious faith are exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1561, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.313. Health Care Supplies**

The following items are exempted from the taxes imposed by this chapter:

(1) a drug or medicine, other than insulin, if prescribed or dispensed for a human or animal by a licensed practitioner of the healing arts;

(2) insulin;

(3) a hypodermic syringe or needle;

(4) a brace; hearing aid; orthopedic, dental, or prosthetic device; ileostomy, colostomy, or ileal bladder appliance; or supplies or replacement parts for the listed items;

(5) a therapeutic appliance, device, and any related supplies specifically designed for those products, if dispensed or prescribed by a licensed practitioner of the healing arts; when those items are purchased and used by an individual for whom the items listed in this subdivision were dispensed or prescribed;

(6) corrective lens and necessary and related supplies, if dispensed or prescribed by an ophthalmologist or optometrist; and

(7) specialized printing or signalling equipment used by the deaf for the purpose of enabling the deaf to communicate through the use of an ordinary telephone and all materials, paper, and printing ribbons used in that equipment.

[Acts 1981, 67th Leg., p. 1562, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2758, ch. 752, § 5(a), eff. Jan. 1, 1982.]

**§ 151.314. Food and Meals**

(a) Food is exempted from the taxes imposed by this chapter if:

(1) it is not served, prepared, or sold by or in a restaurant, drugstore, lunch counter, cafeteria, hotel, or like place of business or from a motor vehicle, pushcart, or other vehicle; and

(2) it is not served, prepared, or sold ready for immediate consumption.

(b) Carbonated and noncarbonated packaged soft drinks, diluted fruit juices sold in liquid or frozen form, ice, and candy are not exempted by Subsection (a) of this section.

(c) In this section, "food" includes cereal and cereal products, milk and milk products, ice cream, oleo-margarine, meat and meat products, poultry and poultry products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices, condiments and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa products, and combinations of the listed items. "Food" does not include alcoholic beverages, medicines, tonics, vitamins, or medicinal preparations in any form.

(d) Food and drink purchased by a common carrier for the purpose of serving passengers traveling en route aboard the carrier are exempted from the taxes imposed by this chapter.

(e) Food, meals, soft drinks, and candy for human consumption are exempted from the taxes imposed by this chapter if:

(1) served by a public or private school, school district, student organization, or parent-teacher association under an agreement with the proper school authorities in an elementary or secondary school during the regular school day or by a parent-teacher association during a fund-raising sale the proceeds of which do not benefit an individual;

(2) sold by a church or at a function of a church; or

(3) served to a patient or inmate of a hospital or other institution licensed by the state for the care of humans.

(f) Food, candy, carbonated beverages, and diluted juices are exempted from the taxes imposed by this chapter if sold at an exempt sale qualifying under this subsection or if stored or used by the purchaser of the item at the exempt sale. A sale is exempted under this subsection if:

(1) the sale is made by a person under 18 years old who is a member of a nonprofit organization devoted to the exclusive purpose of education or religious or physical training or by a group associated with a public or private elementary or secondary school;

(2) the sale is made as a part of a fund-raising drive sponsored by the organization or group; and

(3) all net proceeds from the sale go to the organization or group for its exclusive use.

[Acts 1981, 67th Leg., p. 1562, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.315. Water

Water is exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1563, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.316. Agricultural Items

The following items are exempted from the taxes imposed by this chapter:

(1) horses, mules, and work animals;

(2) animal life the products of which ordinarily constitute food for human consumption;

(3) feed for farm and ranch animals;

(4) feed for animals that are held for sale in the regular course of business;

(5) seeds and annual plants the products of which:

(A) ordinarily constitute food for human consumption; or

(B) are to be sold in the regular course of business;

(6) fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:

(A) food for human consumption;

(B) feed for animal life; or

(C) other agricultural products to be sold in the regular course of business;

(7) fertilizer;

(8) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business; and

(9) machinery and equipment exclusively used in the processing, packing, or marketing of agricultural products by the original producer at a location operated by the original producer exclusively for processing, packing, or marketing the producer's own products.

[Acts 1981, 67th Leg., p. 1563, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.317. Gas and Electricity

(a) Gas and electricity are exempted from the taxes imposed by this chapter except when sold for commercial use.

(b) The sale, production, distribution, lease, or rental of, and the use, storage, or other consumption in this state of, gas and electricity, except when sold for residential or commercial use, are exempted from the taxes imposed by a city under the Local Sales and Use Tax Act, unless sales for residential use are further exempted by the city as provided by the Local Sales and Use Tax Act.

(c) In this section:

(1) "Residential use" means use in a family dwelling or in a multifamily apartment or housing complex or building or a part of a building occupied as a home or residence.

(2) "Commercial use" means use by a person engaged in selling, warehousing, or distributing a commodity or a professional or personal service, but does not include use by a person engaged in:

(A) processing tangible personal property for sale as tangible personal property;

(B) exploring for, or producing and transporting, a material extracted from the earth;

(C) agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation; or

(D) electrical processes such as electroplating, electrolysis, and cathodic protection.

[Acts 1981, 67th Leg., p. 1563, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.318. Property Used in Manufacturing

(a) The following items are exempted from the taxes imposed by this chapter:

(1) tangible personal property that will become an ingredient or component part of tangible per-

sonal property manufactured, processed, or fabricated for ultimate sale; and

(2) tangible personal property used or consumed in or during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation.

(b) The exemption includes chemicals, catalysts, and other materials that are used during a manufacturing, processing, or fabrication operation to produce or induce a chemical or physical change, to remove impurities, or to make the product more marketable.

(c) The exemption does not include:

(1) machinery, equipment, or replacement parts or their accessories having a useful life when new in excess of six months;

(2) intraplant transportation equipment, maintenance or janitorial supplies or equipment, or other machinery, equipment, materials, or supplies that are used incidentally in a manufacturing, processing, or fabrication operation;

(3) hand tools; or

(4) office equipment or supplies, equipment or supplies used in sales or distribution activities, research or development of new products, or transportation activities, or other tangible personal property not used in an actual manufacturing, processing, or fabrication operation.

(d) In this section, "manufacturing" includes each operation beginning with the first stage in the production of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) that it has when transferred by the manufacturer to another.

[Acts 1981, 67th Leg., p. 1564, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.319. Newspapers and Property Used in Newspaper Publication**

(a) A newspaper sold or distributed by individual copy or by subscription is exempted from the taxes imposed by this chapter.

(b) A transaction involving a sale of a newspaper that has been produced, fabricated, or printed to the special order of a customer is exempted from the taxes imposed by this chapter if:

(1) the customer is responsible for gathering substantially all of the information contained in the newspaper and for formulating the design, layout, and format of the newspaper; and

(2) the customer would be entitled to the exemption provided by Subsection (d) of this section if the customer had a printing facility capable of processing and printing the newspaper and printed and processed the newspaper.

(c) A transaction involving the sale of a handbill, circular, flyer, advertising supplement, or similar item that is printed to the special order of a customer is exempted from the taxes imposed by this chapter if the item is printed for the exclusive purpose of being distributed as a part of a newspaper, is actually distributed as a part of the newspaper, and is delivered to the person who is responsible for the distribution of the newspaper in which the item is distributed and not to the customer.

(d) The following items are exempted from the taxes imposed by this chapter:

(1) tangible personal property that enters into and becomes an ingredient or component part of a newspaper, whether or not the newspaper is printed for ultimate sale in this state;

(2) tangible personal property used or consumed in or during a phase of actual printing or processing of a newspaper if the use of the property is necessary or essential to the processing or printing operation; and

(3) chemicals, catalysts, and other materials that are used for the purpose of producing a chemical or physical change or removing impurities during the printing or processing of a newspaper or are used for placing a newspaper in its final distributable form.

(e) the following items are not exempted by Subsection (d) of this section:

(1) machinery or equipment or their accessories or replacement parts having a useful life when new in excess of six months;

(2) intraplant transportation equipment, maintenance or janitorial supplies or equipment, or other machinery, equipment, materials, or supplies that are used incidentally to printing or processing;

(3) hand tools; or

(4) office equipment or supplies; equipment or supplies used in sales, distribution, or transportation activities, or in gathering information; or other tangible personal property used by a newspaper printer in an activity other than the actual printing and processing operation.

(f) In this section, "newspaper" means a publication that is printed on newsprint, the average sales price of which for each copy over a 30-day period does not exceed 75 cents, and that is printed and distributed at a daily, weekly, or other short interval for the dissemination of news of a general character and of a general interest. "Newspaper" does not include a magazine, handbill, circular, flyer, sales catalog, or similar printed item unless the printed item is printed for distribution as a part of a newspaper and is actually distributed as a part of a newspaper. For the purposes of this section, an advertisement is news of a general character and of a general interest.

[Acts 1981, 67th Leg., p. 1565, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.320. Magazines**

(a) Subscriptions to magazines that are sold for a semiannual or longer period and are entered as second class mail are exempted from the taxes imposed by this chapter.

(b) "Magazine" means a publication that is usually paperbacked and sometimes illustrated, that appears at a regular interval, and that contains stories, articles, and essays by various writers and advertisements.

[Acts 1981, 67th Leg., p. 1566, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.321. Packaging Supplies and Wrapping**

(a) Internal and external wrapping, packing, and packaging supplies are exempted from the taxes imposed by this chapter if sold to a person for use, stored for future use, or used in wrapping, packing, or packaging tangible personal property for the purpose of furthering the sale of the property wrapped, packed, or packaged or for the purpose of furthering the distribution of a newspaper whether or not the newspaper is distributed without charge.

(b) In this section, "wrapping," "packing," and "packaging supplies and materials" include:

(1) wrapping paper, wrapping twine, bags, cartons, crates, crating material, tape, rope, rubber bands, labels, staples, glue, and mailing tubes; and

(2) excelsior, straw, cardboard fillers, separators, shredded paper, ice, dry ice, cotton batting, shirt boards, hay, laths, and other property used inside a package in order to shape, form, stabilize, preserve, or protect the contents.

[Acts 1981, 67th Leg., p. 1566, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.322. Containers**

(a) The following are exempted from the taxes imposed by this chapter:

(1) a container sold with its contents if the sales price of the contents is not taxed under this chapter;

(2) a nonreturnable container sold without contents to a person who fills the container and sells the contents and the container together; and

(3) a returnable container sold with its contents or resold for refilling.

(b) In this section:

(1) "Returnable container" means a container of a kind customarily returned for reuse by the buyer of the contents.

(2) "Nonreturnable container" means a container other than a returnable container.

[Acts 1981, 67th Leg., p. 1566, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.323. Telephone and Telegraph**

There are exempted from the taxes imposed by this chapter the receipts from the sale, production,

distribution, lease or rental of and the storage, use, or other consumption in this state of telephone and telegraph service.

[Acts 1981, 67th Leg., p. 1566, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.324. Equipment Used Elsewhere for Mineral Exploration or Production**

(a) The following items are exempted from the sales tax imposed by Subchapter C of this chapter:

(1) drill pipe, casing, tubing, and other pipe used for the exploration for or production of oil, gas, sulphur, or other minerals offshore not in this state; and

(2) tangible personal property exclusively used for the exploration for or production of oil, gas, sulphur, or other minerals offshore not in this state.

(b) Drilling equipment that is used for the exploration for or production of oil, gas, sulphur, or other minerals, that is built for exclusive use outside this state, and that is, on completion, removed forthwith from this state is exempted from the taxes imposed by this chapter.

(c) The delivery of items exempted by this section to the purchaser or lessee in this state does not disqualify the purchaser or lessee from the exemption if the property is removed from the state by any means, including by the use of the purchaser's or lessee's own facilities.

(d) The shipment to a place in this state of equipment exempted by this section for further assembly or fabrication does not disqualify the purchaser or lessee from the exemption if on completion of the further assembly or fabrication the equipment is removed forthwith from this state. This section applies to a sale that may occur when the equipment exempted is further assembled or fabricated if on completion the equipment is removed forthwith from the state.

[Acts 1981, 67th Leg., p. 1567, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.325. Solar Energy Devices**

(a) A solar energy device is exempted from the taxes imposed by this chapter.

(b) "Solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power or both by means of collecting and transferring solar-generated energy, and includes mechanical or chemical devices having the capacity for storing solar-generated energy for use in heating or cooling or in the production of power.

[Acts 1981, 67th Leg., p. 1567, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.326. Broadcasting Stations**

(a) Film, tape, photographs, transparencies, and graphic art material that is sold to or by or used by a

licensed radio or television station subject to the regulatory jurisdiction of the Federal Communications Commission and that is used or consumed in or during a phase of broadcasting operations or program services are exempted from the taxes imposed by this chapter.

(b) Machinery, equipment, and replacement parts and accessories for machinery and equipment having a useful life when new in excess of six months are not exempted by this section.

[Acts 1981, 67th Leg., p. 1567, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.327. Motion Picture Films**

A motion picture film leased or licensed to or by a motion picture theater or to or by a licensed television station is exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1567, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.328. Aircraft**

(a) Aircraft are exempted from the taxes imposed by this chapter if:

(1) sold to a person using the aircraft as a certificated or licensed carrier of persons or property;

(2) sold to a person and used for the exclusive purpose of training or instructing pilots in a licensed course of instruction; or

(3) sold to a foreign government or to persons who are not residents of this state.

(b) Repair services to aircraft operated by a certificated or licensed carrier of persons or property are exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1567, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.329. Certain Ships and Ship Equipment**

The following items are exempted from the taxes imposed by this chapter:

(1) materials, equipment, and machinery that enter into and become component parts of a ship or vessel that is of eight or more tons displacement and is:

(A) used exclusively and directly in a commercial enterprise, including commercial fishing; or

(B) used commercially as a vessel for pleasure fishing by individuals as paying passengers on the vessel;

(2) a ship or vessel of eight or more tons displacement, that is used exclusively and directly in a commercial enterprise and is sold by the vessel's builder;

(3) materials and labor used in repairing, renovating, or converting a ship or vessel that is of eight or more tons displacement and that is used exclusively and directly in a commercial enterprise; and

(4) materials and supplies purchased by the owner or operator of a ship or vessel operating exclusively in foreign or interstate coastal commerce if the materials and supplies:

(A) are loaded on the ship or vessel and used in the maintenance and operation of the ship or vessel; or

(B) enter into and become component parts of the ship or vessel.

[Acts 1981, 67th Leg., p. 1568, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.330. Interstate Shipments and Common Carriers**

(a) The sale of tangible personal property that under the sales contract is shipped to a point outside this state is exempted from the sales tax imposed by Subchapter C of this chapter if the shipment is made by the seller by means of:

(1) the facilities of the seller;

(2) delivery by the seller to a carrier for shipment to a consignee at a point outside this state; or

(3) delivery by the seller to a customs broker or forwarding agent for shipment outside this state.

(b) The sale of tangible personal property to a common carrier is exempted from the sales tax imposed by Subchapter C of this chapter if the tangible personal property:

(1) is shipped by the seller, freight charges paid in advance or collect, via the purchasing carrier to a point outside this state; and

(2) is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier outside this state.

(c) The use of tangible personal property acquired outside this state and moved into this state for use as a licensed and certificated carrier of persons or property is exempted from the use tax imposed by Subchapter D of this chapter.

(d) The temporary storage of tangible personal property acquired outside this state and then moved into this state is exempted from the use tax imposed by Subchapter D of this chapter if after being moved into this state the property is stored here temporarily and:

(1) is used solely outside this state; or

(2) is physically attached to or incorporated into other tangible personal property that is used solely outside this state.

(e) The storage or use of tangible personal property acquired outside this state for use as a repair or replacement part for and actually affixed in this state to a self-propelled vehicle that is a licensed and certificated common carrier of persons or property is exempted from the use tax imposed by Subchapter D of this chapter.

(f) The storage, use, or other consumption of tangible personal property that is acquired outside this state is exempted from the use tax imposed by

Subchapter D of this chapter if the sale, use, or storage of the property would be exempted from the taxes imposed by this chapter had it been sold, leased, or rented in this state.

[Acts 1981, 67th Leg., p. 1568, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.331. Rolling Stock; Train Fuel and Supplies

Rolling stock, locomotives, and fuel and supplies essential to the operation of locomotives and trains are exempted from the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1569, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.332. Certain Sales by Senior Citizen Organizations

(a) There are exempted from the sales tax imposed by Subchapter C of this chapter the receipts from the sale of tangible personal property that has been manufactured, produced, made, or assembled exclusively by a person 65 years old or older and that is sold at a qualified sale. A sale under this section qualifies for the exemption only if it is made as a part of a fund-raising drive held or sponsored by a nonprofit organization created for the sole purpose of providing assistance to elderly persons. All of the net proceeds derived from sales made during the fund-raising drive must go to the organization, to the persons who manufactured, produced, made, or assembled the items sold, or to both. An organization created for the purpose of providing assistance to the elderly is entitled to conduct not more than four separate tax exempt fund-raising drives during each calendar year, and the aggregate number of days during a calendar year during which one or more tax exempt fund-raising drives may be held by the organization is 20. Any sale occurring after the end of the fourth separate fund-raising drive in a calendar year or after the 20th day on which a fund-raising drive is held in a calendar year is not exempted by this section.

(b) There are exempted from the taxes imposed by this chapter the use, storage, or other consumption in this state of tangible personal property by a purchaser at a sale exempted by this section.

[Added by Acts 1981, 67th Leg., p. 2771, ch. 752, § 7(b), eff. Jan. 1, 1982.]

#### Amendment by Acts 1981, 67th Leg., p. 3036, ch. 792, § 14

*Section 14 of Acts 1981, 67th Leg., p. 3036, ch. 792, purports to amend Taxation—General, art. 20.04 [now, § 151.301 et seq.] by adding subd. (HH) without reference to repeal of said article by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a). As so added, subd. (HH) reads:*

*“(HH) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease, or rental of any taxable items to or the storage, use, or other consumption of taxable items by any nonprofit corporation formed*

*under the Development Corporation Act of 1979 (Article 5190.6, Vernon’s Texas Civil Statutes), if the items are for the exclusive use and benefit of the nonprofit corporation. The exemption provided by this section does not apply to an item that is a project or a part of a project that is to be leased, sold, or lent by the nonprofit corporation.”*

*For effect of amendment, see Civil Statutes, art. 5429b-2, § 3.11(c).*

[Sections 151.333 to 151.400 reserved for expansion]

#### SUBCHAPTER I. REPORTS, PAYMENTS, AND METHODS OF REPORTING

#### § 151.401. Tax Due Dates

(a) The taxes imposed by this chapter are due and payable to the comptroller quarterly on the last day of the month after the end of the quarter unless a taxpayer owes for a month more than the amount provided by Subsection (b) of this section.

(b) If a taxpayer owes more than \$1,500 for a calendar month, the taxes for that month are due and payable on the last day of the month after that month, except that the taxpayer may file the tax reports on a quarterly basis if the taxpayer prepays the tax as permitted by Section 151.424 of this code.

[Acts 1981, 67th Leg., p. 1569, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2779, ch. 752, § 10, eff. Jan. 1, 1982.]

#### § 151.402. Tax Report Dates

A tax report required by this chapter for a reporting period is due on the same date that the tax payment for the period is due as provided by Section 151.401 of this code.

[Acts 1981, 67th Leg., p. 1569, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.403. Who Must File a Report

(a) A person subject to the sales tax shall file a tax report.

(b) A retailer engaged in business in this state as provided by Section 151.107 of this code shall file a tax report with respect to the use tax.

(c) A person who acquires a taxable item, the storage, use, or consumption of which is subject to the use tax, shall file a tax report if the person did not pay the use tax to a retailer.

[Acts 1981, 67th Leg., p. 1569, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.404. Manufacturers: Annual Report

A taxpayer who is engaged solely in manufacturing as defined by Section 151.318(d) of this code and who derives less than two percent of his receipts from taxable sales during a quarterly period is not required to file reports when provided by Section 151.402 of this code or pay the tax when provided by Section 151.401 of this code if the taxpayer files a tax report and pays the tax on the basis of the calendar year or his fiscal year.

[Acts 1981, 67th Leg., p. 1569, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.405. Other Due Dates Set by Comptroller

The comptroller may require a seller, retailer, or purchaser to file a return or pay the taxes imposed by this chapter for a quarterly period other than a calendar quarter or for a period other than a quarterly period if necessary to ensure the payment or to facilitate the collection of the taxes due.

[Acts 1981, 67th Leg., p. 1570, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.406. Contents and Form of Report

(a) Except as provided by Section 151.407 of this code, a tax report required by this chapter must:

(1) for sales tax purposes, show the amount of the total receipts of a seller for the reporting period;

(2) for use tax purposes, show the amount of the total receipts from sales by a retailer of taxable items during the reporting period for storage, use, or consumption in this state;

(3) show the amount of the total sales prices of taxable items that are subject to the use tax during the reporting period and that were acquired for storage, use, or consumption in this state by a purchaser who did not pay the tax to a retailer;

(4) show the amount of the taxes due for the reporting period; and

(5) include other information that the comptroller determines to be necessary for the proper administration of this chapter.

(b) The comptroller by rule may determine the manner of reporting gross proceeds from taxable rentals and leases of tangible personal property.

(c) The report must be in the form as prescribed by the comptroller.

(d) A tax report must be signed by the person required to file it or by the person's authorized agent.

[Acts 1981, 67th Leg., p. 1570, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.407. Special Use Tax Reports

(a) The comptroller may require any person or class of persons who have in their possession or custody information relating to the sale of a taxable item, the storage, use, or consumption of which is subject to the use tax, to file a report.

(b) A report required under this section must:

(1) be filed at the time required by the comptroller; and

(2) contain the name and address of the purchaser of the tangible personal property, the sales price of the property, the date of the sale, and other information required by the comptroller.

[Acts 1981, 67th Leg., p. 1570, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 151.408. Accounting Basis for Reports

A taxpayer whose regular books are kept on a cash basis, accrual basis, or some other generally recognized accounting basis that accurately reflects the operation of the business may file the tax reports required by this chapter on the same basis that is used for the taxpayer's regular books.

[Acts 1981, 67th Leg., p. 1570, ch. 389, § 1, eff. Jan. 1, 1982.]

Amendment by Acts 1981, 67th Leg., p. 2529, ch. 670, § 1

*Acts 1981, 67th Leg., p. 2529, ch. 670, § 1, eff. Jan. 1, 1982, purports to amend Taxation—General, art. 20.05 [now, §§ 151.401 et seq. and 151.408 et seq.], by adding subd. (L) without reference to repeal of said article by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a). As so added, subd. (L) reads:*

*“(L) A retailer who sells taxable items on credit or under any other deferred payment agreement and charges interest or time price differential on the amount of the credit extended for the payment of sales price of the item and the amount of all sales taxes and who remits the tax and files tax reports to the Comptroller on the basis of the cash system of accounting under Section (C)(4) of this Article shall, in addition to any other taxes imposed by this Chapter; the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon’s Texas Civil Statutes); Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon’s Texas Civil Statutes); and Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon’s Texas Civil Statutes), pay to the Comptroller at the time of making each tax report under this Chapter an amount, calculated according to whichever of the following yields the greater amount:*

*“(1) one-half (½) of the amount of interest or time price differential received by the retailer on credit extended to the purchaser for the payment of the amount of all sales taxes imposed; or*

*“(2)(a) the amount of interest or time price differential received by the retailer on credit extended to the purchaser for the payment of the amount of all sales taxes imposed, less*

*“(b) an amount of interest or time price differential at a rate of nine percent (9%) per year received on credit extended by the retailer to the purchaser for the payment of the sales tax, provided,*

*“(c) the deduction described in the foregoing Subsection (b) shall be allowed only if the rate of interest or time price differential charged by the retailer on the credit extended for payment of the sales tax and the method of computing*

such interest or the time price differential is uniform with the rate charged by the retailer on the credit extended on the sales price and the method of computing such interest or time price differential.

"With the exception of Article 20.05(E) of this Chapter, all reporting, collection, penalty, and refund provisions of Chapters 1 and 20 of Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, shall apply to this Section. All payments made by a retailer under this Section to the Comptroller shall be deposited by the Comptroller to the credit of the higher education available fund created by H.J.R. No. 111 of the 67th Legislature, Regular Session, 1981. For the period beginning on January 1, 1982, and extending until the Secretary of State certifies the vote on the proposition proposed by H.J.R. No. 111, the Comptroller shall retain the revenue received under this Section in a suspense account to be allocated as provided by this Section. If H.J.R. No. 111 is not approved by the voters, all revenue received under this Section shall be deposited as provided by Article 20.13 of this Chapter."

For effect of amendment, see Civil Statutes, art. 5429b-2, § 3.11(c).

#### § 151.409. Reports and Payments: Where Made

A tax report or tax payment shall be delivered to the office of the comptroller.

[Acts 1981, 67th Leg., p. 1570, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.410. Method of Reporting Sales Tax: General Rule

A seller shall compute the sales tax imposed by Subchapter C of this chapter to be paid to the comptroller by multiplying the percentage rate of the sales tax times the total receipts of the seller from all sales of taxable tangible personal property and of taxable services.

[Acts 1981, 67th Leg., p. 1571, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.411. Method of Reporting: Sellers Having Sales Below Taxable Amount

(a) If not less than 50 percent of the total receipts of a seller from the sale of tangible personal property and taxable services come from separate transactions in which the sales price is 12 cents or less, the seller may exclude the receipts from these transactions when reporting and paying the sales tax.

(b) A seller may not exclude any receipts from sales as permitted under Subsection (a) of this section unless the seller has received from the comptroller before the filing of the tax report written approval allowing the exclusion, and all receipts from sales of taxable tangible personal property and taxable services are subject to the tax until the approval is granted.

(c) The comptroller shall approve the reporting and computation of the sales tax as permitted under Subsection (a) of this section by a seller if the seller qualifies for the exclusion and if the seller submits to the comptroller satisfactory evidence that the seller can and will maintain records adequate to substantiate the authorized exclusion.

[Acts 1981, 67th Leg., p. 1571, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.412. Optional Method of Reporting: Percentage of Sales

(a) A seller who is a retail grocer, a seller who operates a separate grocery department having separate records that are separately auditable, or any other seller whose taxable receipts from the sale of taxable items are less than 10 percent of the total receipts of the seller may be determine the total taxable receipts of the grocer, separate grocery department, or other seller by:

(1) adding the amount of all invoices for merchandise sold to the seller during the preceding calendar or fiscal year to obtain the total sum of merchandise purchased;

(2) adding the amount of all invoices for exempt merchandise sold to the seller during the preceding calendar or fiscal year to obtain the total sum of exempt merchandise purchased;

(3) dividing the sum obtained under Subdivision (2) of this subsection by the sum obtained under Subdivision (1) of this subsection to obtain a percentage relationship;

(4) multiplying the percentage obtained under Subdivision (3) of this subsection times the total sales by the seller for the reporting period to obtain the total nontaxable sales of the seller; and

(5) subtracting the total nontaxable sales of the seller obtained under Subdivision (4) of this subsection from the total sales by the seller during the reporting period to obtain the total taxable receipts of the seller from sales of tangible personal property.

(b) A seller determining taxable receipts as provided by Subsection (a) of this section shall add to the total taxable receipts the sales prices of all purchases made by the seller that are subject to the use tax and on which the use tax has not been paid.

(c) If the comptroller audits a seller who qualifies for and uses the method of reporting allowed by this section and determines that the actual tax liability of the seller computed on the actual taxable receipts of the seller differs from the amount reported and paid under this section, the comptroller shall collect the difference due to the state, if any, or refund or credit the seller with the difference that is an overpayment to the state, if any.

(d) The comptroller may not assess a penalty or interest against a seller because of an underpayment of the actual tax due disclosed by an audit under Subsection (c) of this section unless the audit discloses

es wilful evasion of the tax or fraud. The state may not pay interest on an overpayment disclosed by an audit under Subsection (c) of this section.

[Acts 1981, 67th Leg., p. 1571, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.413. Optional Method of Reporting: Small Grocers**

(a) A seller who is a retail grocer and whose annual total receipts do not exceed \$100,000 may pay the taxes imposed by this chapter by multiplying 15 percent times the total receipts of the seller to obtain the amount of taxable receipts.

(b) A state audit of a retailer electing to report his taxable receipts as provided by this section is limited to determining whether or not the grocer is eligible to use this method. No additional tax may be assessed or a refund or credit granted because of a showing that the tax liability of the retail grocer electing this method of reporting differs or would differ under any other method of reporting.

(c) A retail grocer who elects to report under this section shall continue to report as provided by this section for three years unless the grocer's total receipts for a year exceed \$100,000.

(d) If a retail grocer electing to report under this section has gross receipts in excess of \$100,000 for a year, the grocer is ineligible to continue reporting under this section beginning on the first day of the calendar month after the month in which the limitation was exceeded, shall report the ineligibility to the comptroller, and shall immediately cease to use the method of reporting permitted by this section.

(e) Subsection (b) of this section does not apply to audits or the tax liability of a retail grocer who fails to report his ineligibility to the comptroller as required by Subsection (d) of this section.

[Acts 1981, 67th Leg., p. 1572, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.414. "Retail Grocer" Defined**

In this subchapter, "retail grocer" means a retail vendor who sells food for human consumption off the premises, together with household supplies and nondurable household goods.

[Acts 1981, 67th Leg., p. 1572, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.415. Assessment of Penalties and Interest Against Seller Using Optional Method of Reporting**

The comptroller may assess a penalty and interest against a seller using an optional method of reporting under Section 151.412 or Section 151.413 of this code if the seller fails to file a tax report on or before its due date or fails to remit the correct amount of tax due with the report. This section prevails over Section 151.412(d) and Section 151.413(b) of this code.

[Acts 1981, 67th Leg., p. 1572, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.416. Commingled Receipts and Tax**

A seller who has an accounting system under which the taxes collected under this chapter are commingled with the receipts from the sales of taxable items may compute his taxable receipts by:

(1) subtracting from the total receipts of the seller the receipts from the sales of items that are exempted or are specifically excluded from the taxes imposed by this chapter to obtain a remainder consisting of the commingled receipts from taxable sales and the taxes collected; and

(2) dividing this remainder by 1.04 to obtain a quotient that is the taxable receipts that may be reported under Section 151.410 of this code.

[Acts 1981, 67th Leg., p. 1573, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.417. Direct Payment of Tax by Purchaser**

(a) The holder of a direct payment permit issued by the comptroller may give a blanket exemption certificate to sellers who sell, lease, or rent taxable items to the holder of the direct payment permit. The blanket exemption certificate covers all future sales of taxable items to the permit holder and relieves the seller of the obligation of collecting the taxes imposed by this chapter from the permit holder.

(b) A blanket exemption certificate given under this section must contain the direct payment permit number and the statement that the direct payment permit holder agrees to accrue and pay to this state all taxes that are or may become due on the taxable items sold under the exemption certificate to the permit holder.

[Acts 1981, 67th Leg., p. 1573, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.418. Issuance of Direct Payment Permit**

(a) The comptroller shall issue a direct payment permit to an applicant for the permit who qualifies as provided by Section 151.419 of this code.

(b) The comptroller is the sole judge of an applicant's qualifications, and the comptroller's refusal to issue a permit to an applicant is not appealable.

(c) An applicant for a direct payment permit who has been denied the issuance of a permit may:

(1) request permission from the comptroller to submit an amended application; or

(2) submit a new application for a direct payment permit after a reasonable period after the denial of the original application.

[Acts 1981, 67th Leg., p. 1573, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.419. Application for Direct Payment Permit: Qualifications**

(a) A person desiring a direct payment permit must file with the comptroller a written application for the permit.

(b) The application must be accompanied with:

(1) an agreement that is signed by the applicant or a responsible officer of an applicant corporation, that is in a form prescribed by the comptroller, and that provides that the applicant agrees to:

(A) accrue and pay all taxes imposed by Subchapter D of this chapter on the storage and use of all taxable items sold to or leased or rented by the permit holder unless the items are exempted from the taxes imposed by this chapter;

(B) pay the imposed taxes quarterly on or before the last day of the month following the last month of the quarter; and

(C) waive the discount permitted by Section 151.423 of this code on the payment of all taxes under the direct payment permit only;

(2) a description, in the amount of detail that the comptroller requires, of the accounting method by which the applicant proposes to differentiate between taxable and exempt transactions; and

(3) records establishing that the applicant is a responsible person who annually purchases taxable items that have a value when purchased of \$200,000 or more excluding the value of taxable items for which resale certificates were or could have been given.

[Acts 1981, 67th Leg., p. 1573, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.420. Revocation of Direct Payment Permit

(a) A person to whom a direct payment permit has been issued holds the permit as a matter of revocable privilege and not as a matter of right. The comptroller on his own initiative may cancel a direct payment permit, and the cancellation is not appealable.

(b) A person whose direct payment permit is canceled by the comptroller is entitled to written notice of the cancellation, which shall be sent by the comptroller by registered mail.

[Acts 1981, 67th Leg., p. 1574, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.421. Voluntary Relinquishment of Direct Payment Permit

(a) The holder of a direct payment permit may notify the comptroller that the direct payment permit is to be voluntarily relinquished.

(b) A direct payment permit and the direct payment agreement remain valid and enforceable until the comptroller issues a termination notice.

[Acts 1981, 67th Leg., p. 1574, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.422. Cancellation or Termination of Direct Payment Permit: Duty of Permit Holder

(a) On the receipt of a notice issued under Section 151.420 of this code canceling a direct payment permit or of a notice issued under Section 151.421 of

this code terminating a direct payment permit, the person who held the permit shall immediately notify each seller to whom a blanket exemption certificate has been given that the exemption certificate is no longer valid.

(b) The failure of a person to notify a seller as required by Subsection (a) of this section is a failure and refusal to pay the taxes imposed by this chapter by the person required to make the notification. [Acts 1981, 67th Leg., p. 1574, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.423. Reimbursement to Taxpayer for Tax Collections

A taxpayer may deduct and withhold one percent of the amount of taxes due from the taxpayer on a quarterly or monthly return as reimbursement for the cost of collecting the taxes imposed by this chapter.

[Acts 1981, 67th Leg., p. 1574, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.424. Discount for Prepayments

(a) A taxpayer who prepays the taxpayer's tax liability on the basis of a reasonable estimate of the tax liability for a quarter in which a prepayment is made or for a month in which a prepayment is made may deduct and withhold two percent of the amount of the prepayment in addition to the amount permitted to be deducted and withheld under Section 151.423 of this code.

(b) In order to qualify for the deduction permitted by Subsection (a) of this section, the taxpayer must make the tax prepayment:

(1) on or before the 15th day of the second month of the calendar quarter for which the prepayment is made if the taxpayer pays the tax quarterly; or

(2) on or before the 15th day of the month for which the prepayment is made if the taxpayer pays the tax monthly.

(c) A taxpayer who prepays the tax liability as permitted by this section must file a report when due as provided by this chapter. The amount of a prepayment made by a taxpayer under this section shall be credited against the amount of actual tax liability of the taxpayer as shown on the tax report of the taxpayer. If there is a tax liability owed by the taxpayer in excess of the prepayment credit, the taxpayer shall send to the comptroller the remaining tax liability at the time of filing the quarterly or monthly report. The taxpayer is entitled to the deduction permitted under Section 151.423 of this code on the amount of the remaining tax liability.

(d) If the amount of a prepayment exceeds the actual tax liability, the excess of the prepayment shall be credited against future tax liability of the taxpayer or refunded to the taxpayer as provided by Subchapter C of Chapter 111 of this code.

[Acts 1981, 67th Leg., p. 1574, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.425. Forfeiture of Discount or Reimbursement**

If a taxpayer fails to file a report required by this chapter when due or to pay the tax when due, the taxpayer forfeits any claim to a deduction or discount allowed under Section 151.423 or Section 151.424 of this code.

[Acts 1981, 67th Leg., p. 1575, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.426. Credits and Refunds for Bad Debts, Returned Merchandise, and Repossessions**

(a) A seller may withhold the payment of the tax on a portion of the sales price of a taxable item that remains unpaid by the purchaser if:

(1) during the reporting period in which the item was sold, leased, or rented the seller determines that the unpaid portion will remain unpaid;

(2) the seller enters the unpaid portion of the sales price in the seller's books as a bad debt; and

(3) the bad debt is claimed as a deduction for federal tax purposes during the same or a subsequent reporting period.

(b) If the portion of a debt determined to be bad under Subsection (a) of this section is paid, the seller shall report and pay the tax on the portion during the reporting period in which the payment is made.

(c) A retailer is entitled to credit or reimbursement for taxes paid on the portion of:

(1) an account determined to be worthless and actually charged off for federal income tax purposes; and

(2) the remaining unpaid sales price of a taxable item when the item is repossessed under a conditional sales contract.

(d) A seller is entitled to credit for the amount of taxes paid on the amount of a refund or credit made to a purchaser under a bona fide agreement in which the sales price of a taxable item is renegotiated. This credit applies to a refund or credit made under an agreement in settlement of a claim for an alleged breach of warranty on a taxable item sold by the seller to the person with whom the agreement is made.

[Acts 1981, 67th Leg., p. 1575, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.427. Deduction for Property on Which the Tax is Paid and Held for Resale**

(a) A seller who has paid the tax imposed by this chapter on the sales price of tangible personal property acquired for storage or use may deduct the amount of the tax paid if the seller resells, leases, or rents the item to another in the regular course of business before the seller has made any use of the property other than retaining, displaying, or demonstrating it while holding it for sale in the regular course of business.

(b) If a deduction is taken under Subsection (a) of this section, the person who sold the property to the seller may not receive a credit or refund with respect to the sale of the property to the seller.

(c) The deduction allowed by Subsection (a) of this section must be taken in accordance with any rule on the deduction made by the comptroller.

[Acts 1981, 67th Leg., p. 1576, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.428 to 151.500 reserved for expansion]

SUBCHAPTER J. TAX DETERMINATIONS

**§ 151.501. Determination After the Filing of a Report**

If a person has filed a tax report, the comptroller may issue a deficiency determination under Section 111.008 of this code.

[Acts 1981, 67th Leg., p. 1576, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.502. Determination: Penalty**

The Comptroller shall add a penalty of 25 percent of the amount of a deficiency determination if a part of the deficiency on which a determination is made is due to fraud or an intent to evade the application of this chapter or a rule made under this chapter or Chapter 111 of this code.

[Acts 1981, 67th Leg., p. 1576, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.503. Determination if No Report Filed**

(a) If a person fails to file a report, the comptroller shall estimate the amount of receipts of the person subject to the sales tax, the amount of total sales prices of taxable items sold, leased, or rented by the person to another for storage, use, or consumption in this state, and the total sales prices of taxable items acquired by the person for storage, use, or consumption without the payment of the use tax to a retailer for each period or the total period for which the person failed to report as required by this chapter.

(b) The estimate required by Subsection (a) of this section may be made on any information available to the comptroller.

(c) On the basis of the estimate, the comptroller shall compute and determine the amount required to be paid to the state for each period.

(d) The comptroller shall add to the determination an amount equal to 10 percent of the amount computed under Subsection (c) of this section as a penalty.

(e) A determination under this section may be issued for one or more periods, and more than one determination may be issued for a single period.

[Acts 1981, 67th Leg., p. 1576, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.504. Determination When a Business is Discontinued

If a business is discontinued, the comptroller may make a determination of tax liability under this subchapter before the date a report or tax payment is due with respect to the discontinued business. [Acts 1981, 67th Leg., p. 1576, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.505. When Determination Becomes Final

A determination made under Section 151.501, 151.503, or 151.504 of this code becomes final on the expiration of 30 days after the day on which the determination was served by personal service or by mail, unless a petition for a redetermination is filed before the determination becomes final.

[Acts 1981, 67th Leg., p. 1577, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.506. Jeopardy Determination

(a) If the comptroller believes that the collection of a tax required to be collected and paid to the state or the amount of a determination is jeopardized by delay, the comptroller shall issue a determination stating the amount and that the tax collection is in jeopardy. The amount determined is due and payable immediately.

(b) A determination made under this section becomes final on the expiration of 20 days after the day on which the notice of the determination was served by personal service or by mail unless a petition for a redetermination is filed before the determination becomes final.

(c) If a determination made under this section becomes final without payment of the amount of the determination being made, the comptroller shall add to the amount a penalty of 10 percent of the amount of the tax and interest.

[Acts 1981, 67th Leg., p. 1577, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.507. Limitations on Determination

(a) A notice of a deficiency determination must be personally served or mailed within the period provided by Subchapter D, Chapter 111 of this code after the last day of the calendar month following the close of the regular reporting period of the taxpayer for which the amount is proposed to be determined or within the period provided by Subchapter D, Chapter 111 of this code after the report is filed, whichever period expires the later.

(b) If no tax report is filed, a notice of determination must be mailed or personally served within the period provided by Subchapter D, Chapter 111 of this code after the last day of the calendar month following the close of the regular reporting period of the taxpayer for which the amount is proposed to be determined.

(c) The limitations provided by Subsections (a) and (b) of this section do not apply to a determination proposed to be made:

(1) for the collection of an amount of sales tax on the sale of a taxable item if a deficiency notice has been given or is given for the collection of the use tax on the same taxable item; or

(2) for the collection of the use tax on the storage, use, or consumption of a taxable item if a deficiency notice has been or is given for the collection of the sales tax on the same taxable item.

[Acts 1981, 67th Leg., p. 1577, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.508. Offsets

In making a determination, the comptroller may offset an overpayment for one or more periods against an underpayment, penalty, and interest accrued on the underpayment for the same period or one or more other periods. Any interest accrued on the overpayment shall be included in the offset.

[Acts 1981, 67th Leg., p. 1577, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.509. Petition for Redetermination

(a) A person against whom a determination has been made for taxes imposed by this chapter or any other person having a direct interest in the determination may file a petition with the comptroller requesting a redetermination of the amount of taxes claimed to be owed. The petition must be filed before the determination becomes final and not thereafter.

(b) A person petitioning for a redetermination of a determination made under Section 151.506 of this code must file, before the determination becomes final, security as the comptroller requires to ensure compliance with this chapter. The security may be sold by the comptroller in the manner provided by Section 151.611 of this code.

[Acts 1981, 67th Leg., p. 1577, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.510. Hearing on Redetermination

(a) If a petition for a redetermination is filed before the determination becomes final, the petitioner is entitled on a request stated in the petition to an oral hearing on the redetermination and to at least 20 days' notice of the time and place of the hearing.

(b) The comptroller may continue the hearing from time to time as is necessary.

[Acts 1981, 67th Leg., p. 1578, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 151.511. Redetermination

(a) The comptroller may decrease the amount of a determination at any time before the determination becomes final.

(b) The comptroller may increase the amount of a determination that is not final if the additional claim is asserted by the comptroller at or before a hearing on a redetermination.

(c) If an additional claim is asserted, the petitioner is entitled to a 30-day continuance of the hearing to permit the petitioner to obtain and present evidence applicable to the items on which the additional claim is based.

(d) An order or decision of the comptroller on a petition for redetermination becomes final 15 days after service on the petitioner of the notice of the order or decision.

[Acts 1981, 67th Leg., p. 1578, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.512. Interest**

Unpaid taxes imposed by this chapter draw interest beginning 60 days after the date on which the tax or the amount of the tax required to be collected became due and payable to the state.

[Acts 1981, 67th Leg., p. 1578, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.513. When Payment is Required**

The amount of a determination made under Section 151.501, 151.503, or 151.504 of this code is due and payable 20 days after it becomes final. If the amount of the determination is not paid within 20 days after the day the determination became final, a penalty of 10 percent of the amount of the determination exclusive of penalties and interest shall be added.

[Acts 1981, 67th Leg., p. 1578, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.514. Notices**

The comptroller shall give notice of a determination made under this subchapter promptly as provided by Sections 111.008(b) and (c) of this code. Any other notice required by this subchapter shall be given in the same manner. Notices under this subchapter are effective as provided by Section 111.008(c) of this code.

[Acts 1981, 67th Leg., p. 1578, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.515. Proceedings Against Consumer**

This chapter does not prohibit the comptroller from proceeding against a consumer for an amount of tax that the consumer should have paid but failed to pay.

[Acts 1981, 67th Leg., p. 1578, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.516 to 151.600 reserved for expansion]

**SUBCHAPTER K. PROCEDURES FOR COLLECTION OF DELINQUENT TAXES**

**§ 151.601. Suit**

The comptroller may bring an action in a court of this state, another state, or the United States to collect an amount of the taxes imposed by this

chapter that is due and unpaid, including penalties and interest. The action shall be prosecuted by the attorney general.

[Acts 1981, 67th Leg., p. 1579, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.602. Venue**

A suit brought under this subchapter against a taxpayer in a court of this state may be filed and heard in the county where the person owing the tax resides or has a place of business or in Travis County.

[Acts 1981, 67th Leg., p. 1579, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.603. Evidence: Comptroller's Certificate**

In an action brought under this subchapter a certificate of the comptroller showing the delinquency is prima facie evidence of the determination of the tax or the amount of the tax, of the amount of penalties and interest stated, of the delinquency of the amounts stated, and of the compliance of the comptroller with this chapter in computing and determining the amounts due.

[Acts 1981, 67th Leg., p. 1579, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.604. Form of Action**

A suit under this subchapter against any person for recovery of the tax is in the form of an action for debt.

[Acts 1981, 67th Leg., p. 1579, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.605. Writs of Attachment**

In a suit under this subchapter, no bond or affidavit is required before the issuance of a writ of attachment.

[Acts 1981, 67th Leg., p. 1579, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.606. Service of Process**

In a suit under this subchapter, a seller or retailer may be served with process as provided by the rules of civil procedure or by service on an agent or clerk in this state employed by the retailer or seller in a place of business in this state maintained by the seller or retailer. If process is served on the agent or clerk of the retailer or seller, a copy of the process shall forthwith be sent by registered mail to the retailer or seller at his principal or home office.

[Acts 1981, 67th Leg., p. 1579, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.607. Limitation Period**

The limitation period provided by Section 111.203 of this code applies to a suit brought under this subchapter, except that the suit may be brought at any time within 3 years after a determination made under Subchapter J of this code becomes final or within 3 years after the last recording of a lien under this title.

[Acts 1981, 67th Leg., p. 1579, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.608. Judgments**

(a) A judgment in favor of the state obtained in an action under this chapter may be filed for record with the county clerk of any county in the state and when filed constitutes a lien on all of the real property located in the county and belonging to the person named in the judgment as the defendant. The lien applies to all real property in the county owned by the defendant at the time of the filing or acquired by him after the filing of the judgment.

(b) The lien has the force and effect of a judgment lien for 10 years after the date of the judgment unless the lien is released or discharged before the expiration of the 10-year period.

(c) On the payment in full of the amount of a judgment obtained under this chapter, the comptroller may release the lien.

(d) A prior judgment is not a bar to a subsequent suit under this chapter for additional taxes, penalties, and interest accruing after the prior judgment if the suit is brought before the expiration of the limitation period.

(e) Execution on a judgment obtained under this chapter may issue in the same manner as an execution under other judgments, and the sale under an execution is held as provided by the rules of civil procedure and the statutes of this state.

[Acts 1981, 67th Leg., p. 1579, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.609. Notice to Holders of Assets Belonging to Delinquent**

(a) If a person is delinquent in the payment of an amount required to be paid or has not paid an amount claimed in a determination made against the person, the comptroller may notify personally or by registered mail any other person who:

(1) possesses or controls a credit or personal property belonging to the delinquent or the person to whom the unpaid determination is made; or

(2) owes a debt to the delinquent or person to whom the unpaid determination is made.

(b) A notice under this section to a state officer, department, or agency must be given before the officer, department, or agency presents to the comptroller the claim of the delinquent or person to whom the unpaid determination applies.

(c) A notice under this section may be given at any time within three years after the payment becomes delinquent or within three years after the last recording of a lien filed under this title, but not thereafter.

(d) On receipt of a notice given under this section, the person receiving the notice:

(1) within 20 days after receiving the notice, shall advise the comptroller of each credit and item of personal property belonging to the delinquent or person to whom an unpaid determination applies that is possessed or controlled by the per-

son receiving the notice and of each debt owed by the person receiving the notice to the delinquent person or person to whom an unpaid determination applies; and

(2) may not transfer or dispose of the credit, property, or debt possessed, controlled, or owed by the person at the time the person received the notice for a period of 60 days after receipt of the notice, unless the comptroller consents to an earlier disposal.

(e) A notice under this section that attempts to prohibit the transfer or disposal of a deposit, credit, or item of personal property possessed or controlled by a bank is not effective unless it is delivered or mailed to the office of the bank at which the deposit is carried or the credit or property is held.

(f) A person who has received a notice under this section and who violates Subsection (d)(2) of this section is liable to the state for the amount of indebtedness of the person with respect to whose obligation the notice was given to the extent of the value of the credit, personal property, or debt transferred or disposed of.

[Acts 1981, 67th Leg., p. 1580, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.610. Seizure and Sale of Property**

Before the expiration of three years after a person becomes delinquent in the payment of any amount under this chapter, the comptroller may seize and sell at public auction real and personal property of the person. A seizure made to collect the sales tax is limited only to property of the vendor that is not exempt from execution.

[Acts 1981, 67th Leg., p. 1581, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.611. Notice of Sale of Seized Property**

(a) The delinquent person whose property is seized under Section 151.610 of this code is entitled to written notice of the sale of the property at least 20 days before the date of the sale.

(b) The notice must:

(1) contain a description of the property to be sold, a statement of the amount of the tax, penalties, interest, and costs due, the name of the delinquent person, and a statement that unless the amount due, including costs, is paid before the time of the sale as stated in the notice, the described property, or as much of it as necessary, will be sold;

(2) be enclosed in an envelope that is addressed to the delinquent person at the person's last known address or place of business, or if the amount due is for unpaid use taxes, the envelope must be addressed to the person at the person's last known residence or place of business in this state;

(3) be deposited in the United States mail, postage prepaid; and

(4) be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the seized property is to be sold or, if there is no newspaper of general circulation in that county, the notice must be posted in three public places in that county for 20 days before the date set for the sale.

[Acts 1981, 67th Leg., p. 1581, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.612. Sale of Seized Property; Disposition of Proceeds**

(a) The comptroller may sell at public auction, as provided in the notice, property seized under Section 151.610 of this code and may deliver to the purchaser a bill of sale for personal property sold and a deed for real property sold. A bill of sale or a deed vests in the purchaser the interest or title in the property held by the person liable for the amount.

(b) The comptroller may leave unsold property at the place of the sale at the risk of the person liable for the amount.

(c) The amount by which the proceeds from the sale exceeds the amount of taxes, penalties, interest, and costs shall be disposed of by the comptroller as follows:

(1) if before the sale of the property a person who is not the person liable for the amount and who has an interest in or lien on the property files notice of the interest or lien with the comptroller, the comptroller shall hold the amount of the excess pending a determination of the rights of respective parties in the amount of the excess by a court;

(2) if no notice is given under Subdivision (1) of this subsection and the person liable for the amount gives a receipt for the amount of the excess, the comptroller shall return the amount of the excess to the person; or

(3) if no notice is given under Subdivision (1) of this subsection and the comptroller is unable to obtain a receipt under Subdivision (2) of this subsection, the comptroller shall deposit the amount of the excess with the treasurer who shall hold the amount as trustee for the owner subject to the order of the person liable for the amount or a successor of the person.

[Acts 1981, 67th Leg., p. 1581, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.613. Tax Collection on Termination of Business**

(a) If a seller who is liable for the payment of an amount under this chapter sells the business or the stock of goods of the business or quits the business, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the comptroller showing that

the amount has been paid or a certificate stating that no amount is due.

(b) The purchaser of a business or stock of goods who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a business may request that the comptroller issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The comptroller shall issue the certificate or statement within 60 days after receiving the request or within 60 days after the day on which the records of the former owner of the business are made available for audit, whichever period expires later, but in either event the comptroller shall issue the certificate or statement within 90 days after the date of receiving the request.

(d) If the comptroller fails to mail the certificate or statement within the applicable period provided by Subsection (c) of this section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(e) A period of limitation during which the obligation of a purchaser under this section may be enforced begins when the former owner of the business sells the business or stock of goods or when a determination is made against the former owner, whichever event occurs later.

[Acts 1981, 67th Leg., p. 1582, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.614. Res Judicata**

In the determination of a suit arising under this chapter, the rule of res judicata applies only if the liability at issue is for the same quarterly period as was at issue in a previously determined suit.

[Acts 1981, 67th Leg., p. 1582, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.615. Tax Suit Comity**

A court of this state shall recognize and enforce a liability for a sales or use tax lawfully imposed by another state if the other state extends a like comity to this state.

[Acts 1981, 67th Leg., p. 1582, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.616 to 151.700 reserved for expansion]

**SUBCHAPTER L. PROHIBITED ACTS AND CIVIL AND CRIMINAL PENALTIES**

**§ 151.701. Use of Stamps or Tokens Prohibited**

No person may use stamps or tokens for the purpose of collecting or enforcing the collection of the taxes imposed by this chapter or for any other purpose connected with the taxes.

[Acts 1981, 67th Leg., p. 1582, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.702. Collection of Tax on Amount of Federal Excise Tax**

It is a violation of this chapter if a seller collects the tax imposed by this chapter on the sale of a taxable item for which the seller includes in the amount of the sales price the amount of a tax imposed under Subtitle D or E, Title 26, United States Code.

[Acts 1981, 67th Leg., p. 1583, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.703. Failure to Report or Pay Tax**

(a) A person who fails to file a report as required by this chapter or who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional five percent.

(b) The minimum penalty provided by Subsection (a) of this section is \$1.

(c) A delinquent tax draws interest beginning 60 days from the due date.

[Acts 1981, 67th Leg., p. 1583, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.704. Prohibited Advertising; Criminal Penalty**

(a) A retailer commits an offense if the retailer directly or indirectly advertises, holds out, or states to a customer or to the public that the retailer:

(1) will assume, absorb, or refund a part of the tax; or

(2) will not add the tax to the sales price of a taxable item sold, leased, or rented.

(b) This section does not prohibit a utility from billing a customer in one lump-sum price including the utility sales price and the amount of the tax imposed by this chapter.

(c) An offense under this section is a misdemeanor punishable by a fine of not more than \$500.

[Acts 1981, 67th Leg., p. 1583, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.705. Collection of Use Tax; Criminal Penalty**

A retailer engaged in business in this state who violates Section 151.103 of this code commits a misdemeanor punishable by a fine of not more than \$500.

[Acts 1981, 67th Leg., p. 1583, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.706. Exemption Certificate; Criminal Penalty**

(a) A person commits an offense if the person gives an exemption certificate to a seller for a taxable item that the person knows, at the time of the purchase, will be used in a manner other than that expressed in the exemption certificate.

(b) An offense under this section is a misdemeanor or punishable by a fine of not more than \$500. [Acts 1981, 67th Leg., p. 1583, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.707. Resale Certificate; Criminal Penalty**

(a) A person commits an offense if the person gives a resale certificate to a seller for property that the person knows, at the time of purchase, is purchased for the purpose of use and not for the purpose of resale, lease, or rental by the person to another in the regular course of business or for transfer as an integral part of a taxable service performed in the regular course of business.

(b) An offense under this section is a misdemeanor or punishable by a fine of not more than \$500. [Acts 1981, 67th Leg., p. 1583, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.708. Selling Without Permit; Criminal Penalty**

(a) A person or officer of a corporation commits an offense if the person or corporation engages in business as a retailer in this state without a permit required by this chapter or after the permit is suspended.

(b) An offense under this section is a misdemeanor or punishable by a fine of not more than \$500.

(c) A separate offense is committed each day that a person or officer of a corporation violates this section.

[Acts 1981, 67th Leg., p. 1583, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.709. Failure to Furnish Report or Information; Criminal Penalty**

(a) A person commits an offense if the person refuses to furnish a report or other data as required by this chapter or by the comptroller as authorized by this chapter.

(b) An offense under this section is a misdemeanor or punishable by a fine of not more than \$500.

[Acts 1981, 67th Leg., p. 1584, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.710. General Criminal Penalty**

Except as otherwise provided by this chapter, any violation of this chapter is a misdemeanor punishable by a fine of not more than \$500.

[Acts 1981, 67th Leg., p. 1584, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 151.711. Limitations on Prosecutions**

An indictment or information for a criminal offense brought under this chapter must be presented within four years after the commission of the offense or it is barred.

[Acts 1981, 67th Leg., p. 1584, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 151.712 to 151.800 reserved for expansion]

SUBCHAPTER M. DISPOSITION OF PROCEEDS

§ 151.801. Disposition of Proceeds

(a) Except for the amount allocated under Subsection (b) of this section, all proceeds from the collection of the taxes imposed by this chapter shall be deposited to the credit of the general revenue fund.

(b) The amount of the proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of lubricating and motor oils used to propel motor vehicles over the public roadways shall be deposited to the credit of the state highway fund.

(c) The comptroller shall certify the amount to be deposited to the highway fund under Subsection (b) of this section to the treasurer on the basis of available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. If satisfactory data are not available, the comptroller may require taxpayers who make taxable sales or uses of those lubricants to report to the comptroller as necessary to make the allocation required by Subsection (b) of this section.

(d) In this section, "motor vehicle" means a trailer, a semitrailer, or a self-propelled vehicle in or by which a person or property can be transported upon a public highway. "Motor vehicle" does not include a device moved only by human power or used exclusively on stationary rails or tracks, a farm machine, a farm trailer, a road-building machine, or a self-propelled vehicle used exclusively to move farm machinery, farm trailers, or road-building machinery. [Acts 1981, 67th Leg., p. 1584, ch. 389, § 1, eff. Jan. 1, 1982.]

CHAPTER 152. TAXES ON SALE, RENTAL, AND USE OF MOTOR VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Section	
152.001.	Definitions.
152.002.	Total Consideration.
152.003.	Duties of Comptroller.

SUBCHAPTER B. IMPOSITION OF TAX

152.021.	Retail Sales Tax.
152.022.	Tax on Motor Vehicle Purchased Outside This State.
152.023.	Tax on Motor Vehicle Brought Into State by New Texas Resident.
152.024.	Tax on an Even Exchange of Motor Vehicles.
152.025.	Tax on Gift of Motor Vehicle.
152.026.	Tax on Gross Rental Receipts.
152.027.	Tax on Metal Dealer Plates.

SUBCHAPTER C. COLLECTION OF TAXES

152.041.	General Collection Procedure.
152.042.	Collection of Tax on Metal Dealer Plates.
152.043.	Collection of Tax on Motor Vehicles Operated by Non-residents.
152.044.	Payment by Seller.
152.045.	Collection of Tax on Gross Rental Receipts.
152.046.	Change in Tax Status of Motor Vehicle.

SUBCHAPTER D. TAX ENFORCEMENT PROCEDURES

Section	
152.061.	Registration of Motor Vehicle Purchased for Rental.
152.062.	Required Affidavits.
152.063.	Records.
152.064.	Tax Receipts.
152.065.	Registration as a Retailer; Permit.
152.066.	Deficiency Determination; Penalty and Interest.
152.067.	Petition for Redetermination of a Deficiency.
152.068.	Revocation of Motor Vehicle Retail Seller's Permit.

SUBCHAPTER E. EXEMPTIONS

152.081.	Driver Training Motor Vehicles.
152.082.	Sale of Motor Vehicle to or Use of Motor Vehicle by Public Agency.
152.083.	Lease of Motor Vehicle to Public Agency.
152.084.	Rental of Motor Vehicle to Public Agency.
152.085.	Rental of Motor Vehicle for Purposes of Re-Rental.
152.086.	Motor Vehicles Driven by Handicapped Persons.
152.087.	Fire Trucks and Ambulances.
152.088.	Motor Vehicles Used for Religious Purposes.
152.089.	Vehicle Taxed by Other Law.

SUBCHAPTER F. PENALTIES

152.101.	Penalty for Signing False Affidavit.
152.102.	Operation Without Payment of Tax.
152.103.	Failure to Keep Records.

SUBCHAPTER G. DISPOSITION OF TAXES

152.121.	Amount of Tax Sent to Comptroller.
152.122.	Allocation of Tax.

SUBCHAPTER A. GENERAL PROVISIONS

§ 152.001. Definitions

In this chapter:

(1) "Sale" includes:

- (A) an installment and credit sale;
- (B) an exchange of property for property or money;
- (C) an exchange in which property is transferred but the seller retains title as security for payment of the purchase price; and
- (D) any other closed transaction that constitutes a sale.

(2) "Retail sale" means a sale of a motor vehicle except:

- (A) a sale in which the purchaser acquires a vehicle for the exclusive purpose of resale; or
- (B) a sale of a vehicle that is operated under and in accordance with Article 6686, Revised Civil Statutes of Texas, 1925, as amended.

(3) "Motor vehicle" includes:

- (A) a self-propelled vehicle capable of transporting persons or property on a public highway;
- (B) a trailer and semitrailer; and
- (C) a house trailer as defined by the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

(4) "Motor vehicle" does not include:

- (A) a device moved only by human power;
- (B) a device used exclusively on stationary rails or tracks;

(C) farm machinery, a farm trailer, or road-building machinery; or

(D) a self-propelled vehicle used exclusively to move a farm trailer, farm machinery, or road-building machinery.

(5) "Rental" means:

(A) an agreement by the owner of a motor vehicle to give for not longer than 180 days the exclusive use of that vehicle to another for consideration;

(B) an agreement by the original manufacturer of a motor vehicle to give exclusive use of the motor vehicle to another for consideration; or

(C) an agreement to give exclusive use of a motor vehicle to another for re-rental purposes.

(6) "Lease" means an agreement, other than a rental, by an owner of a motor vehicle to give for longer than 180 days exclusive use of the vehicle to another for consideration.

(7) "Public agency" means:

(A) a department, commission, board, office, institution, or other agency of this state or of a county, city, town, school district, hospital district, water district, or other special district or authority or political subdivision created by or under the constitution or the statutes of this state; or

(B) an unincorporated agency or instrumentality of the United States.

(8) "Gross rental receipts" means value received or promised as consideration to the owner of a motor vehicle for rental of the vehicle, but does not include:

(A) separately stated charges for insurance;

(B) charges for damages to the motor vehicle occurring during the rental agreement period;

(C) separately stated charges for motor fuel sold by the owner of the motor vehicle; or

(D) discounts.

(9) "Owner of a motor vehicle" means:

(A) a person named in the certificate of title as the owner of the vehicle; or

(B) a person who has the exclusive use of a motor vehicle by reason of a rental and holds the vehicle for re-rental.

(10) "Orthopedically handicapped person" means a person who because of a physical impairment is unable to operate or reasonably be transported in a motor vehicle that has not been specially modified.

(11) "Volunteer fire department" means a company, department, or association whose members receive no or nominal compensation and which is organized for the purpose of answering fire alarms and extinguishing fires or answering fire alarms, extinguishing fires, and providing emergency medical services.

(12) "Motor vehicle used for religious purposes" means a motor vehicle that is:

(A) designed to carry more than six passengers;

(B) sold to, rented to, or used by a church or religious society;

(C) used primarily for the purpose of providing transportation to and from a church or religious service or meeting; and

(D) not registered as a passenger vehicle and not used primarily for the personal or official needs or duties of a minister.

[Acts 1981, 67th Leg., p. 1586, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 5(c), eff. Jan. 1, 1982.]

### § 152.002. Total Consideration

(a) "Total consideration" means the amount paid or to be paid for a motor vehicle and its accessories attached on or before the sale, without deducting:

(1) the cost of the motor vehicle;

(2) the cost of material, labor or service, interest paid, loss, or any other expense;

(3) the cost of transportation of the motor vehicle before its sale; or

(4) the amount of manufacturers' or importers' excise tax imposed on the motor vehicle by the United States.

(b) "Total consideration" does not include:

(1) a cash discount;

(2) a full cash or credit refund to a customer of the sales price of a motor vehicle returned to the seller;

(3) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the motor vehicle sold;

(4) a financing, carrying, or service charge or interest on credit extended on a motor vehicle sold under a conditional sale or other deferred payment contract;

(5) the value of a motor vehicle taken by a seller as all or a part of the consideration for sale of another motor vehicle; or

(6) a charge for transportation of the motor vehicle after a sale.

(c) A person who is in the business of selling, renting, or leasing motor vehicles, who obtains the certificate of title to a motor vehicle, and who uses that motor vehicle for business or personal purposes may deduct its fair market value from the total consideration paid for a replacement vehicle if:

(1) the person obtains the certificate of title to the replacement motor vehicle;

(2) the person uses the replacement motor vehicle for business or personal purposes; and

(3) the replaced motor vehicle is offered for sale.

[Acts 1981, 67th Leg., p. 1587, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 152.003. Duties of Comptroller

(a) The comptroller may:

(1) supervise the collection of taxes imposed by this chapter; and

(2) establish rules for the determination of taxable value of motor vehicles and the administration of this chapter.

(b) The comptroller shall furnish a copy of the rules to each county tax assessor-collector.

(c) All county tax assessors-collectors shall consistently apply the rules authorized by this section to the determination of taxable value of each motor vehicle purchased in the state or taxable under the use tax levied by this chapter.

[Acts 1981, 67th Leg., p. 1588, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 152.004 to 152.020 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF TAX

§ 152.021. Retail Sales Tax

(a) A tax is imposed on every retail sale of every motor vehicle sold in this state. The tax is an obligation of and shall be paid by the purchaser of the motor vehicle.

(b) The tax rate is four percent of the total consideration.

[Acts 1981, 67th Leg., p. 1588, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 152.022. Tax on Motor Vehicle Purchased Outside This State

(a) A use tax is imposed on a motor vehicle purchased at retail sale outside this state and used on the public highways of this state by a Texas resident or other person who is domiciled or doing business in this state.

(b) The tax rate is four percent of the total consideration.

[Acts 1981, 67th Leg., p. 1588, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 152.023. Tax on Motor Vehicle Brought Into State by New Texas Resident

(a) A use tax is imposed on a new resident of this state who brings into this state a motor vehicle that has been registered previously in the new resident's name in any other state or foreign country.

(b) The tax is \$15 for each vehicle.

(c) The tax imposed by this section is in lieu of the tax imposed by Section 152.022 of this code.

[Acts 1981, 67th Leg., p. 1589, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 152.024. Tax on an Even Exchange of Motor Vehicles

(a) A tax is imposed on each party to a transaction involving the even exchange of two motor vehicles.

(b) The tax on each party is \$5.

(c) No transfer of title in an even exchange shall be accomplished until the taxes have been paid.

[Acts 1981, 67th Leg., p. 1589, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 152.025. Tax on Gift of Motor Vehicle

(a) A tax is imposed on the recipient of a gift of a motor vehicle.

(b) The tax is \$10.

[Acts 1981, 67th Leg., p. 1589, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 152.026. Tax on Gross Rental Receipts

(a) A tax is imposed on the gross rental receipts from the rental of a rented motor vehicle.

(b) The tax rate is four percent of the gross rental receipts.

(c) Except for a destroyed motor vehicle or an unrecovered stolen motor vehicle, the total amount of gross rental receipts tax paid by the owner, as defined by Section 152.001(9)(A) of this code, on a motor vehicle registered under Section 152.061 of this code may not be less than an amount equal to the tax that would be imposed by Section 152.021 or 152.022 of this code but for Subsection (d) of this section.

(d) The taxes imposed by Sections 152.021 and 152.022 of this code are not due on a motor vehicle as long as it is registered as a rental vehicle under Section 152.061 of this code.

[Acts 1981, 67th Leg., p. 1589, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 152.027. Tax on Metal Dealer Plates

(a) A use tax is imposed on each person to whom is issued a metal dealer's plate authorized by Article 6686, Revised Civil Statutes of Texas, 1925, as amended.

(b) The tax is \$20 for each plate issued.

(c) The tax imposed by this section is in lieu of any other tax imposed by this chapter.

[Acts 1981, 67th Leg., p. 1589, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 152.028 to 152.040 reserved for expansion]

SUBCHAPTER C. COLLECTION OF TAXES

§ 152.041. General Collection Procedure

(a) The tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made shall collect taxes imposed

by this chapter unless another person is required by this chapter to collect the taxes.

(b) The tax assessor-collector may not accept an application unless the tax is paid.

[Acts 1981, 67th Leg., p. 1589, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 152.042. Collection of Tax on Metal Dealer Plates

A person required to pay the tax imposed by Section 152.027 of this code shall pay the tax to the State Department of Highways and Public Transportation, and the department may not issue the metal dealer's plates until the tax is paid.

[Acts 1981, 67th Leg., p. 1589, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 152.043. Collection of Tax on Motor Vehicles Operated by Non-residents

A person doing business in this state who registers a motor vehicle under Section 14, Chapter 110, Acts of the 47th Legislature, Regular Session, 1941 (Article 6675a-16, Vernon's Texas Civil Statutes), shall pay the tax imposed by Section 152.022 of this code to the comptroller on or before the day the motor vehicle is brought into Texas.

[Acts 1981, 67th Leg., p. 1590, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 152.044. Payment by Seller

If the comptroller on an audit of the records of a seller finds that the amount of tax due was incorrectly reported on a joint affidavit and that the amount of tax paid was less than the amount due or that the seller failed to execute and deliver to the purchaser a joint affidavit and any other documents necessary to register the vehicle, the seller is liable for the amount of the tax determined to be due.

[Acts 1981, 67th Leg., p. 1590, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 152.045. Collection of Tax on Gross Rental Receipts

(a) An owner of a motor vehicle subject to the tax on gross rental receipts shall report and pay the tax to the comptroller in the same manner as the Limited Sales, Excise and Use Tax is reported and paid by retailers under Chapter 151 of this code.

(b) The owner shall add the tax to the rental charge, and when added, the tax is:

- (1) a part of the rental charge;
- (2) a debt owed to the motor vehicle owner by the person renting the vehicle; and
- (3) recoverable at law in the same manner as the rental charge.

(c) The comptroller may proceed against a person renting a motor vehicle for any unpaid gross rental receipts tax.

[Acts 1981, 67th Leg., p. 1590, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 152.046. Change in Tax Status of Motor Vehicle

(a) If the owner, as defined by Section 152.001(9)(A) of this code, of a motor vehicle registered as a rental vehicle ceases to use the vehicle for rental, the owner shall report and remit on the next report required to be filed with the comptroller by Section 152.045(a) of this code any unpaid portion of gross rental receipts tax imposed by Section 152.026 of this code.

(b) An owner of a motor vehicle on which the motor vehicle sales or use tax has been paid who subsequently uses the vehicle for rental shall collect the gross rental receipts tax imposed by this chapter from the person renting the vehicle. The owner may credit an amount equal to the motor vehicle sales or use tax paid by the owner to the comptroller against the amount of gross rental receipts due. This credit is not transferable and cannot be applied against tax due and payable from the rental of another vehicle belonging to the same owner.

(c) For the purpose of determining the amount of minimum tax due under Section 152.026(c) of this code only, an owner of a motor vehicle on which the tax on gross rental receipts is imposed may credit against the amount of gross rental receipts due an amount equal to the tax on gross rental receipts the owner has paid to any other state. This credit is not transferable and cannot be applied against tax due and payable from the rental of another vehicle belonging to the same owner.

[Acts 1981, 67th Leg., p. 1590, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 152.047 to 152.060 reserved for expansion]

#### SUBCHAPTER D. TAX ENFORCEMENT PROCEDURES

#### § 152.061. Registration of Motor Vehicle Purchased For Rental

(a) An owner of a motor vehicle purchased for rental may furnish the county tax assessor-collector a rental certificate in lieu of the motor vehicle sales or use tax imposed by Sections 152.021 and 152.022 of this code. The county tax assessor-collector shall accept the motor vehicle for registration and issue a receipt for the license and title application.

(b) A rental certificate may be furnished by:

- (1) a dealer licensed under Article 6686, Revised Civil Statutes of Texas, 1925, as amended; or
- (2) the owner if the vehicle is for use in a rental business that rents at least five different motor vehicles within any 12-month period.

(c) The rental certificate shall be in a form designated by the comptroller and must contain:

- (1) the name, address, and signature of the owner;
- (2) the owner's or dealer's license number or a statement by the owner that the rental business of

the owner meets the activity requirements of Subsection (b) of this section;

(3) the motor vehicle identification number; and

(4) the amount of total consideration for the motor vehicle and the amount of tax that would be due if the rental certificate had not been furnished.

[Acts 1981, 67th Leg., p. 1591, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.062. Required Affidavits**

(a) The persons obligated by this chapter to pay taxes on the transaction shall file a joint affidavit with the tax assessor-collector of the county in which the application for registration and for a Texas certificate of title is made.

(b) The affidavit must be in the following form:

(1) if a motor vehicle is sold, the seller and purchaser shall make a joint affidavit stating the then value in dollars of the total consideration for the vehicle; or

(2) if the ownership of a motor vehicle is transferred as the result of a gift or even exchange, the principal parties shall make a joint affidavit stating the nature of the transaction.

(c) If a party to a sale, even exchange, or gift is a corporation, the president, vice-president, secretary, manager, or other authorized officer of the corporation shall make the affidavit for the corporation.

(d) The tax assessor-collector shall keep a copy of each affidavit until it is called for by the comptroller for auditing.

[Acts 1981, 67th Leg., p. 1591, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.063. Records**

(a) The seller of a motor vehicle shall keep at his principal office for at least four years from the date of the sale a complete record of each retail sale of a motor vehicle. The record must include a copy of the invoice of each vehicle sold. The invoice copy must show the full price of the motor vehicle and the itemized price of all its accessories. All sales and supporting records of a seller are open to inspection and audit by the comptroller.

(b) The owner of a motor vehicle used for rental purposes shall keep for four years after purchase of a motor vehicle records and supporting documents containing the following information on the amount of:

(1) total consideration for the motor vehicle;

(2) motor vehicle sales or use tax paid on the motor vehicle;

(3) gross rental receipts received from the rental of the motor vehicle; and

(4) gross rental receipts tax paid to the comptroller on each motor vehicle used for rental purposes by the owner.

(c) No mileage records are required.

[Acts 1981, 67th Leg., p. 1591, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.064. Tax Receipts**

(a) The comptroller shall prescribe the form of a tax receipt to be issued to a person paying a tax imposed by this chapter.

(b) The tax assessor-collector of each county shall:

(1) issue the original receipt to the person paying a tax imposed by this chapter;

(2) send a duplicate copy of the receipt to the comptroller at the same time and along with the amount of the tax collections required to be sent under Section 152.121 of this code; and

(3) retain one duplicate copy of the receipt as a permanent record of the transaction.

[Acts 1981, 67th Leg., p. 1592, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.065. Registration as a Retailer; Permit**

A motor vehicle owner required to collect, report, and pay a tax on gross rental receipts imposed by this chapter shall register as a retailer with the comptroller in the same manner as is required of a retailer under Subchapter F of Chapter 151 of this code. The owner shall also obtain from the comptroller a motor vehicle retailer's permit.

[Acts 1981, 67th Leg., p. 1592, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.066. Deficiency Determination; Penalty and Interest**

(a) The comptroller shall give written notice to the seller of a motor vehicle of a deficiency determination made under Section 152.044 of this code.

(b) Before the expiration of 10 days after the day a notice of a deficiency determination is received, the seller shall pay to the comptroller the amount of tax due, a penalty of 10 percent of the amount of the tax due, and interest, if any is accrued. The interest rate on the amount of tax due under this section is 10 percent a year.

(c) Interest begins to accrue on unpaid taxes 60 days after the day on which the joint affidavit was executed.

[Acts 1981, 67th Leg., p. 1592, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.067. Petition for Redetermination of a Deficiency**

(a) The comptroller shall:

(1) promulgate rules under which the seller may petition for a redetermination of deficiency; and

(2) grant an oral hearing to any seller who requests a hearing.

(b) The comptroller may increase or decrease the determination of deficiency before it becomes final, but the amount may be increased only if the comptroller asserts a claim for the increase at or before the oral hearing.

(c) If the comptroller asserts a claim for an increase in the determination, the seller is entitled to a

30-day continuance of the hearing in order to obtain other evidence relating to the items on which the increase is based.

[Acts 1981, 67th Leg., p. 1592, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.068. Revocation of Motor Vehicle Retail Seller's Permit**

(a) The comptroller may revoke or suspend any one or more of the motor vehicle retailer's permits held by a person if that person fails to comply with a provision of this chapter or with a rule of the comptroller relating to a tax imposed by this chapter.

(b) Before revoking or suspending the permit, the comptroller must provide the permit holder with a hearing. The permit holder must be given at least 20 days' notice specifying the time and place of hearing and requiring that the permit holder show cause why the permit or permits should not be revoked or suspended.

(c) The comptroller shall give the person notice of the suspension or revocation of any permit.

(d) Notice required by this section must be written and may be served either personally or by mail.

(e) The comptroller may not issue a new permit after the revocation of a permit unless satisfied that the former permit holder will comply with the provisions of this chapter and the rules of the comptroller. The comptroller may prescribe the terms under which a suspended permit may be reissued.

(f) The permit holder or person whose permit is revoked may appeal the comptroller's action in the same manner as a final deficiency determination may be appealed.

[Acts 1981, 67th Leg., p. 1593, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 152.069 to 152.080 reserved for expansion]

**SUBCHAPTER E. EXEMPTIONS**

**§ 152.081. Driver Training Motor Vehicles**

The taxes imposed by this chapter do not apply to the sale or use of a motor vehicle that is:

(1) owned by a motor vehicle dealer as defined by Article 6686(a), Revised Civil Statutes of Texas, 1925, as amended;

(2) purchased in this state; and

(3) loaned free of charge by the dealer to a public school for use in an approved standard driver training course.

[Acts 1981, 67th Leg., p. 1593, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.082. Sale of Motor Vehicle to or Use of Motor Vehicle by Public Agency**

The taxes imposed by this chapter do not apply to the sale of a motor vehicle to or use of a motor

vehicle by a public agency if the motor vehicle is operated with an exempt license plate issued under Section 3-AA, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-3aa, Vernon's Texas Civil Statutes).

[Acts 1981, 67th Leg., p. 1593, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.083. Lease of Motor Vehicle to Public Agency**

(a) The taxes imposed by this chapter do not apply to the purchase of a motor vehicle that is to be leased to a public agency.

(b) This exemption applies only if the person purchasing the motor vehicle to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller and showing:

(1) the identification of the motor vehicle;

(2) the name and address of the lessor and the lessee; and

(3) verification by an officer of the public agency to which the motor vehicle will be leased that the agency will operate the vehicle with an exempt license plate issued under Section 3-AA, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-3aa, Vernon's Texas Civil Statutes).

(c) If a motor vehicle for which the tax has not been paid ceases to be leased to a public agency, the owner shall notify the comptroller on a form provided by the comptroller and shall pay the sales or use tax on the motor vehicle based on the owner's book value of the motor vehicle. The tax is imposed at the same rate that is provided by Section 152.021(b) of this code.

[Acts 1981, 67th Leg., p. 1593, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.084. Rental of Motor Vehicle to Public Agency**

The taxes imposed by this chapter do not apply to the rental of a motor vehicle to a public agency. The tax which would have been remitted on gross rental receipts without this exemption shall be deemed to have been remitted for the purpose of calculating the minimum gross rental receipts tax imposed by Section 152.026 of this code.

[Acts 1981, 67th Leg., p. 1594, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.085. Rental of Motor Vehicle for Purposes of Re-Rental**

(a) The taxes imposed by this chapter on the gross rental receipts from the rental of a motor vehicle do not apply to the rental of a motor vehicle for the purpose of re-rental.

(b) The minimum gross rental receipts tax imposed by Section 152.026 of this code remains the obligation of the owner as defined by Section 152-

001(9)(A) of this code. The owner may credit all gross rental receipts taxes paid to the comptroller on the re-rental of a motor vehicle registered under Section 152.061 of this code for the purpose of calculating the amount of minimum gross rental receipts tax due.

(c) A person authorized by Section 152.061 of this code to register motor vehicles for rental may issue an exemption certificate to the owner of the motor vehicle. An owner who takes the certificate in good faith is relieved of the burden of proving that the motor vehicle was rented for purposes of re-rental.

[Acts 1981, 67th Leg., p. 1594, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.086. Motor Vehicles Driven by Handicapped Persons**

(a) The taxes imposed by this chapter do not apply to the sale or use of a motor vehicle that:

(1) has been or will be modified for operation by, or for the transportation of, an orthopedically handicapped person; and

(2) is driven by or used for the transportation of an orthopedically handicapped person.

(b) The comptroller shall promulgate rules to ensure that motor vehicles exempted from taxation by this section are used primarily by orthopedically handicapped persons. The comptroller may require any individual seeking exemption under this section to present information establishing qualification for the exemption.

(c) If the comptroller finds that the motor vehicle is not used primarily for the purposes specified in this Act or that the exemption should not have been granted, the comptroller shall assess the tax in an amount that would have been due had the exemption not been given under this section.

[Acts 1981, 67th Leg., p. 1594, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2758, ch. 752, § 5(b), eff. Jan. 1, 1982.]

**§ 152.087. Fire Trucks and Ambulances**

The taxes imposed by this chapter do not apply to the purchase, rental, or use of a fire truck, ambulance, or other motor vehicle used exclusively for fire-fighting purposes or for emergency medical services when purchased by a volunteer fire department.

[Acts 1981, 67th Leg., p. 1594, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.088. Motor Vehicles Used for Religious Purposes**

The taxes imposed by this chapter do not apply to the sale or use of or the receipts from the rental of a motor vehicle that is used for religious purposes.

[Acts 1981, 67th Leg., p. 1595, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.089. Vehicles Taxed by Other Law**

The taxes imposed by this chapter do not apply to motor vehicles, trailers, and semitrailers taxed under Chapter 157 of this code, and the taxes imposed by Chapter 157 of this code do not apply to motor vehicles taxed under this chapter; provided that if a motor vehicle, trailer, or semitrailer taxed under Chapter 157 of this code ceases to be used as an interstate motor vehicle, trailer, or semitrailer within one year of either the date the vehicle was purchased in Texas or the date the vehicle was first brought into Texas, the taxes imposed by this chapter will apply at that time.

[Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1(b), eff. Jan. 1, 1982.]

Acts 1981, 67th Leg., p. 633, ch. 254, § 1, eff. Jan. 1, 1982, which added § (b) to Taxation-General, art. 6.09, and which was repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17, eff. Jan. 1, 1982, was incorporated into the Tax Code by the addition of this section. Acts 1981, 67th Leg., p. 637, ch. 254, § 3, provides:

"(a) Since Chapter 6, Title 122A, failed to establish adequate administrative provisions and failed to define "use" in regard to interstate commerce, the use tax provisions in Chapter 6 will not apply to interstate motor vehicles as defined in this Act and which were purchased or first brought into the state prior to the effective date of this Act or to contracts executed prior to the effective date of this Act. The clarifying amendments of this Act shall apply to interstate motor vehicles purchased or first brought into the state or contracts executed after the effective date of this Act.

"(b) This Act becomes effective January 1, 1982."

[Sections 152.090 to 152.100 reserved for expansion]

**SUBCHAPTER F. PENALTIES**

**§ 152.101. Penalty for Signing False Affidavit**

(a) A person commits an offense if the person signs a joint affidavit required by Section 152.062 of this code and knows that it is false in any material fact.

(b) An offense under this section is a felony punishable by imprisonment for not less than two nor more than five years or a fine of not more than \$1,000, or both.

[Acts 1981, 67th Leg., p. 1595, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.102. Operation Without Payment of Tax**

(a) A person commits an offense if the person knowingly operates a motor vehicle on a highway of this state without paying the tax imposed by this chapter on the vehicle.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$10 nor more than \$500 or confinement in the county jail for not less than one day nor more than 30 days, or both.

[Acts 1981, 67th Leg., p. 1595, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 152.103. Failure to Keep Records**

(a) A seller commits an offense if he fails to make and retain complete records for the period of four years as provided by Section 152.063(a) of this code.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$25 nor more than \$500.

[Acts 1981, 67th Leg., p. 1595, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 152.104 to 152.120 reserved for expansion]

## SUBCHAPTER G. DISPOSITION OF TAXES

## § 152.121. Amount of Tax Sent to Comptroller

(a) On the 10th day of each month, the county tax assessor-collector shall send 95 percent of the money collected from taxes imposed by this chapter to the comptroller.

(b) The county tax assessor-collector shall retain five percent of the taxes collected under this chapter as fees of office or to be paid into the officers' salary fund of the county as provided by general law.

(c) Taxes on metal dealer plates collected by the State Department of Highways and Public Transportation shall be deposited by the department in the state treasury in the same manner as are other taxes collected under this chapter.

[Acts 1981, 67th Leg., p. 1595, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 152.122. Allocation of Tax

The comptroller shall deposit one-fourth of the funds received under Section 152.121 of this code to the credit of the available school fund and the remaining three-fourths to the credit of the general revenue fund.

[Acts 1981, 67th Leg., p. 1595, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, § 9(h), eff. Jan. 1, 1982.]

## CHAPTER 153. MOTOR FUEL TAXES

## SUBCHAPTER A. GENERAL PROVISIONS

Section	
153.001.	Definitions.
153.002.	Tax Liability on Leased Vehicles.
153.003.	Carrier Records.
153.004.	Motor Fuel Transportation: Required Documents.
153.005.	Redetermination of Tax Liability.
153.006.	Cancellation or Refusal of Permit.
153.007.	Enforcement of Permit Cancellation or Refusal.
153.008.	Inspection of Premises and Records.
153.009.	Calibration of Cargo Tanks and Containers.
153.010.	Authority to Stop and Examine.
153.011.	Impoundment and Seizure.
153.012.	Sale of Seized Property.
153.013.	Presumptions.
153.014.	Venue of Tax Collection Suits.
153.015.	Other Motor Fuel Taxes Prohibited.

## SUBCHAPTER B. GASOLINE TAX

153.101.	Gasoline Tax Imposed.
153.102.	Tax Rates.
153.103.	Computation of Tax.
153.104.	Exceptions.
153.105.	Collection of Tax; Allowances.
153.106.	Permits: Application.
153.107.	Distributor's Permit.
153.108.	Interstate Trucker's Permit.
153.109.	Trip Permits.
153.110.	Aviation Fuel Dealer's Permit.
153.111.	Distributor May Perform Other Functions.
153.112.	Permits: Periods of Validity.
153.113.	Display of Permit.
153.114.	List of Distributors and Aviation Fuel Dealers.
153.115.	Tax Payments by an Interstate Trucker; Allowance.
153.116.	Bonds and Other Security for Taxes.
153.117.	Records.

Section	
153.118.	Reports and Payments.
153.119.	Refunds of Taxes Paid on Excepted Uses of Gasoline.
153.120.	Claims for Refunds.
153.121.	When Gasoline Tax Refund May be Filed.
153.122.	Gasoline Tax Refund Payment and Filing Fee.
153.123.	Gasoline and Alcohol Mixtures: Special Fund and Tax Credits and Payments.

## SUBCHAPTER C. DIESEL FUEL TAX

153.201.	Diesel Fuel Tax Imposed.
153.202.	Tax Rates.
153.203.	Exceptions.
153.204.	Computation of Tax.
153.205.	Statement for Purchase of Diesel Fuel Tax Free.
153.206.	Collection and Payment of Tax; Allowances.
153.207.	Permits; Application.
153.208.	Bonded Supplier's Permit.
153.209.	Bonded User Permit.
153.210.	Diesel Tax Prepaid User Permit.
153.211.	Interstate Trucker's Permit.
153.212.	Trip Permits.
153.213.	Aviation Fuel Dealer's Permit.
153.214.	Supplier May Perform Other Functions.
153.215.	Permits: Periods of Validity.
153.216.	Display of Permit.
153.217.	List of Suppliers, Bonded Users, and Aviation Fuel Dealers.
153.218.	Bonds and Other Security for Taxes.
153.219.	Records.
153.220.	Invoices.
153.221.	Reports and Payments.
153.222.	Refunds of Taxes Paid on Excepted Uses of Diesel Fuel.
153.223.	Claims for Refunds.
153.224.	When Diesel Fuel Tax Refund May be Filed.
153.225.	Diesel Fuel Tax Refund Payments and Filing Fee.

## SUBCHAPTER D. LIQUEFIED GAS TAX

153.301.	Tax Imposed; Rate.
153.302.	Payment of Tax.
153.303.	Permits; Application; Display.
153.304.	Dealer's Permit.
153.305.	Liquefied Gas Tax Decal Permit.
153.306.	Interstate Trucker's Permit.
153.307.	Permits: Periods of Validity.
153.308.	Computation of Taxes; Allowances.
153.309.	Records.
153.310.	Reports and Payments.
153.311.	Refunds; Transfer of Decals.
153.312.	Renumbered.

## SUBCHAPTER E. PENALTIES AND OFFENSES.

153.401.	Failure to Pay Tax or Report.
153.402.	Prohibited Acts; Civil Penalties.
153.403.	Criminal Offenses.
153.404.	Criminal Offenses: Special Provisions and Exceptions.
153.405.	Criminal Penalties.
153.406.	Criminal Penalties: Corporations and Associations.
153.407.	Venue of Criminal Prosecutions.

## SUBCHAPTER F. ALLOCATION OF TAXES

153.501.	Tax Administration Fund.
153.502.	Allocation of Unclaimed Refundable Gasoline Taxes.
153.503.	Allocation of Gasoline Tax.
153.504.	Allocation of Diesel Fuel Tax.
153.505.	Allocation of Liquefied Gas Tax.

## SUBCHAPTER A. GENERAL PROVISIONS

## § 153.001. Definitions

In this chapter:

- (1) "Aviation fuel dealer" means a person who:  
(A) is the operator of an aircraft servicing facility;

(B) delivers gasoline or diesel fuel exclusively into the fuel supply tanks of aircraft or into equipment used solely for servicing aircraft and used exclusively off-highway; and

(C) does not use, sell, or distribute gasoline or diesel fuel on which a fuel tax is required to be collected or paid to this state.

(2) "Cargo tank" means an assembly that is used for transporting, hauling, or delivering liquids and that consists of a tank having one or more compartments mounted on a wagon, automobile, truck, trailer, or wheels, and includes accessory piping, valves, and meters, but does not include a fuel supply tank connected to the carburetor or fuel injector of a motor vehicle.

(3) "Dealer" means a person who is the operator of a service station or other retail outlet and who delivers motor fuel into the fuel supply tanks of motor vehicles or motorboats.

(4) "Diesel fuel" means kerosene or another liquid suitable for the propulsion of diesel-powered motor vehicles, but does not include gasoline or liquefied gas.

(5) "Diesel bulk delivery" means a delivery of a quantity of diesel fuel in excess of five gallons, but does not include a delivery into the fuel supply tanks of a motor vehicle.

(6) "Diesel tax prepaid user" means a person:

(A) whose purchases of diesel fuel are predominantly for nonhighway use;

(B) whose only diesel-powered motor vehicles are passenger cars or light trucks; and

(C) who elects to prepay an annual diesel fuel tax to the comptroller on each diesel-powered motor vehicle.

(7) "Diesel user" means a person who delivers, or causes to be delivered, diesel fuel into the fuel supply tanks of motor vehicles owned or operated by him.

(8) "Distributor" means a person who:

(A) regularly makes sales or distributions of gasoline that are not into the fuel supply tanks of motor vehicles, motorboats, or aircraft;

(B) refines, distills, manufactures, produces, or blends for sale or distribution tax-free gasoline in this state;

(C) imports or exports tax-free gasoline other than in the fuel supply tanks of motor vehicles; or

(D) in any other manner acquires or possesses tax-free gasoline.

(9) "Gasoline" means a liquid offered for sale, sold or used as the fuel for a gasoline-powered engine, but does not include diesel fuel or liquefied gas.

(10) "Gasoline or diesel bulk user" means a person who purchases tax-paid gasoline or diesel fuel in quantities of 2,500 or more gallons at each

delivery into storage facilities maintained by him primarily for delivery of the gasoline or diesel fuel into fuel supply tanks of motor vehicles or motorboats owned or operated by him.

(11) "Interstate trucker" means a person who imports motor fuel in the fuel supply tanks of a motor vehicle having an aggregate fuel tank capacity of 42 or more gallons, operated for commercial purposes, for taxable use on the public highways of this state, but who does not sell or distribute motor fuel to other persons within this state, except as provided in Subchapter D of this chapter.

(12) "Lessor" means a person:

(A) whose principal business is the leasing or renting of motor vehicles for compensation to the general public;

(B) who maintains established places of business; and

(C) whose lease or rental contracts require the motor vehicles to be returned to the established places of business at the termination of the lease.

(13) "Light truck" means a pickup truck, panel delivery truck, carryall truck, or other motor vehicle that is designed, used, or maintained primarily for the transportation of property and that has a manufacturer's rated carrying capacity not exceeding 2,000 pounds.

(14) "Liquefied gas" means all combustible gases that exist in the gaseous state at 69 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, but does not include gasoline or diesel fuel.

(15) "Liquefied gas tax decal user" means a person who owns or operates on the public highways of this state a motor vehicle:

(A) equipped with a liquefied gas carburetion system;

(B) required to be licensed by the State Department of Highways and Public Transportation; and

(C) required to have a Texas certificate of inspection.

(16) "Motorboat" means a vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(17) "Motor fuel" includes gasoline, diesel fuel, liquefied gas, and other products that are usable as propellants of a motor vehicle.

(18) "Motor vehicle" means a self-propelled vehicle licensed for highway use or used on the highway.

(19) "Passenger car" means a motor vehicle designed for carrying 10 or fewer passengers and used for the transportation of persons.

(20) "Public highway" means a way or place of whatever nature open to the use of the public as a

matter of right for the purpose of vehicular travel, even if the way or place is temporarily closed for the purpose of construction, maintenance, or repair.

(21) "Registered gross weight" or "RGW" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the State Department of Highways and Public Transportation.

(22) "Sale" means a transfer of title, exchange, or barter of motor fuel, but does not include transfer of possession of motor fuel on consignment.

(23) "Supplier" means a person who:

(A) refines, distills, manufactures, produces, or blends for sale or distribution diesel fuel in this state;

(B) imports or exports diesel fuel other than in the fuel supply tanks of motor vehicles;

(C) sells or delivers diesel fuel in bulk quantities to dealers, users, aviation fuel dealers, or other suppliers; or

(D) is engaged in the business of selling or delivering diesel fuel in bulk quantities to consumers for nonhighway uses.

(24) "Transit company" means a business that:

(A) transports in a political subdivision persons in carriers designed for 12 or more passengers;

(B) holds a franchise from a political subdivision; and

(C) has its rates regulated by the subdivision or is owned or operated by the political subdivision.

(25) "Wholesaler" or "jobber" means a person who purchases tax-paid gasoline for resale or distribution at wholesale.

[Acts 1981, 67th Leg., p. 1598, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.002. Tax Liability on Leased Vehicles

(a) A user or interstate trucker is liable for the tax on motor fuel imported into this state in fuel supply tanks of motor vehicles leased to him and used on the Texas highways to the same extent and in the same manner as motor fuel imported in his own motor vehicles and used on the public highways of Texas, unless the lessor is liable under Subsection (b) of this section.

(b) A lessor who is engaged regularly in the business of leasing for compensation motor vehicles and equipment he owns to carriers or other lessees for interstate operation may be deemed to be the user or interstate trucker when he supplies or pays for the motor fuel consumed in those vehicles, and the lessor may be issued a permit as an interstate trucker when an application and bond have been properly filed with and approved by the comptroller.

(c) A lessee may exclude motor vehicles that he leases from his reports and liabilities under this chapter, but only if the motor vehicles in question have been leased from a lessor holding a valid permit as a bonded interstate trucker for the calendar year.

(d) A lessor described in Subsection (b) of this section must file with his application for an interstate trucker permit one copy of the form-lease or service contract he enters into with the various lessees of his motor vehicles. When the interstate trucker permit has been secured, the lessor shall make and assign to each motor vehicle he leases for interstate operation a photocopy of the permit to be carried in the cab compartment of the motor vehicle. The photocopy of the permit must have typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned and the name of the lessee. The lessor is responsible for the proper use of the photocopy of the permit issued and for its return to him with the motor vehicle to which it is assigned.

[Acts 1981, 67th Leg., p. 1600, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.003. Carrier Records

(a) All common and contract carriers operating in this state shall keep for four years, open to inspection by the comptroller, a complete and separate record of each intrastate and interstate transportation of motor fuel.

(b) The record must show:

- (1) the date of transportation;
- (2) the name of the consignor and consignee;
- (3) the means of transportation; and
- (4) the quantity and kind of motor fuel transported.

(c) The record must also include:

- (1) full data concerning the diversion of shipments, including the number of gallons diverted from interstate to intrastate and intrastate to interstate commerce; and

- (2) the points of origin and destination, the number of gallons shipped or transported, the date, the consignee and the consignor, and the kind of motor fuel which has been diverted.

[Acts 1981, 67th Leg., p. 1600, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.004. Motor Fuel Transportation: Required Documents

(a) Except as provided by Subsection (c) of this section, a person who transports motor fuel, regardless of whether or not a tax is due on the motor fuel under this chapter, shall record the shipment of the cargo on a cargo manifest containing such information as may be required by the comptroller.

(b) The cargo manifest shall be carried with the motor fuel until the motor fuel is resold or removed from the cargo tank.

(c) This section does not apply to a pipeline operating as a common carrier or to the transporting of motor fuel in the fuel supply tanks of motor vehicles. A cargo manifest is not required for any motor fuel being transported by a person in his own cargo tanks for his own use and not for resale.

[Acts 1981, 67th Leg., p. 1601, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.005. Redetermination of Tax Liability**

(a) A person against whom a determination for any tax, penalty, or interest is made under this chapter may petition for a redetermination within 30 days after service of the notice of the determination.

(b) If a petition for redetermination is filed within the 30-day period, the comptroller shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him 20 days' notice of the time and place of the hearing. The notice may be served personally or by mail. If the notice is served by mail, it shall be addressed to the permittee at his address as it appears in the records of the comptroller.

(c) In case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.

(d) An order or decision of the comptroller on a petition for redetermination becomes final 30 days after service on the petitioner of notice of the order or decision.

[Acts 1981, 67th Leg., p. 1601, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.006. Cancellation or Refusal of Permit**

(a) The comptroller may cancel or refuse to issue or reissue a motor fuel permit to any person who has violated or has failed to comply with a provision of this chapter or a rule of the comptroller.

(b) Before a permit may be canceled, or the issuance or reissuance refused, the comptroller shall give the permittee or permit applicant not less than 10 days' notice of a hearing at the office of the comptroller, in Austin, Texas, or at a specified comptroller's field office, granting the permittee or applicant an opportunity to show cause before the comptroller why the proposed action should not be taken. If a permit is in effect, the permit remains in force pending the determination of the show-cause hearing. Notice must be in writing and may be mailed by United States registered mail or certified mail to the permittee or applicant at his last known address, or may be delivered by the comptroller to the permittee or applicant, and no other notice is necessary. In case of service by mail of a notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.

(c) The comptroller may prescribe rules of procedure and evidence for the hearings in accordance with the Administrative Procedure and Texas Regis-

ter Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) If, after the hearing or the opportunity to be heard, the permit is canceled or the issuance or reissuance refused by the comptroller, all taxes that have been collected or that have accrued, although the taxes are not then due and payable to the state, except by the provisions of this chapter, shall become due and payable concurrently with the notice of cancellation of the permit. The permittee shall within five days make a report covering the period of time not covered by preceding reports filed by the permittee and ending with the date of cancellation, and shall remit and pay to the comptroller all taxes that have been collected and that have accrued from the sale, use, or distribution of motor fuel in this state.

[Acts 1981, 67th Leg., p. 1601, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.007. Enforcement of Permit Cancellation or Refusal**

(a) The comptroller may examine any books and records incident to the conduct of the business of a person whose permit has been canceled on the person's failure to file the reports required by this chapter or to remit all taxes due. The comptroller shall issue an audit deficiency determination of the amount of delinquent taxes, penalties, and interest, containing a demand for payment. The deficiency determination shall provide that if neither a payment is made nor a request for a redetermination is filed within 30 days after the date of the notice of the deficiency, the amount of the determination becomes due and payable. If the amount is not paid on or before the 44th day after service of the notice of the deficiency determination, the bond or other security required under this chapter shall be forfeited. The demand for payment shall be addressed to both the surety or sureties and the person who owes the delinquency.

(b) If the forfeiture of the bond or other security does not satisfy the delinquency, the comptroller shall certify the taxes, penalty, and interest delinquent to the attorney general, who may file suit against the person or his surety or both to collect the amount due. After being given notice of an order of cancellation, it shall be unlawful for any person to continue to operate his business under a canceled permit. The attorney general may file suit to enjoin the person from continuing to operate under his permit until the person's permit is reissued by the comptroller.

(c) An appeal from an order of the comptroller canceling or refusing the issuance or reissuance of a permit may be taken to a district court of Travis County by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits, except that:

(1) an appeal must be perfected and filed within 30 days after the effective date of the order, decision, or ruling of the comptroller;

(2) the proceeding shall have precedence over all other causes of a different nature;

(3) the trial of the case shall begin within 10 days after its filing; and

(4) the order, decision, or ruling of the comptroller may be suspended or modified by the court pending a trial on the merits.

[Acts 1981, 67th Leg., p. 1602, ch. 389, § 1, eff. Jan. 1, 1982.]

**Amendment by Acts 1981, 67th Leg., p. 2644, ch. 707, § 4(34)**

*Section 4 (34) of Acts 1981, 67th Leg., p. 2644, ch. 707, purports to amend subd. (7) of Taxation—General, art. 9.006 [now, this section], without reference to repeal of said article by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a). As so amended, subd. (7) reads:*

*“An appeal from an order of the comptroller cancelling or refusing the issuance or reissuance of a permit may be taken to the district court of Travis County, Texas, by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits with the following exceptions:*

*“(A) an appeal shall be perfected and filed within 30 days after the effective date of the order, decision, or ruling of the comptroller;*

*“(B) the trial of the case shall commence within 10 days after its filing; and*

*“(C) the order, decision, or ruling of the comptroller may be suspended or modified by the court pending a trial on the merits.”*

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

**§ 153.008. Inspection of Premises and Records**

For the purpose of determining the amount of tax collected and payable to the state, the amount of tax accruing and due, and whether a tax liability has been incurred under this chapter, the comptroller may:

(1) inspect any premises where motor fuel; crude petroleum; natural gas; derivatives or condensates of crude petroleum, natural gas, or their products; methyl alcohol; ethyl alcohol; or other blending agents are produced, made, prepared, stored, transported, sold, or offered for sale or exchange;

(2) examine the books and records required to be kept and records incident to the business of any distributor, supplier, dealer, or any person receiving or possessing, delivering, or selling motor fuel,

crude oil, derivatives or condensates of crude petroleum, natural gas, or their products, or any blending agents;

(3) examine and either gauge or measure the contents of all storage tanks, containers, and other property or equipment; and

(4) take samples of any and all of these products stored on the premises.

[Acts 1981, 67th Leg., p. 1603, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.009. Calibration of Cargo Tanks and Containers**

(a) Before initially transporting gasoline or diesel fuel for sale or distribution, a person shall have the cargo tanks or other containers used for transporting gasoline or diesel fuel tested, measured, and calibrated by the comptroller, an authorized representative of another state, or a commercial calibration company that meets the calibration standards approved by the comptroller. The person shall obtain a measurement certificate showing the capacity by liquid volume for each cargo tank or container and its compartments before transporting gasoline or diesel fuel.

(b) The owner of a cargo tank or container tested and measured by the comptroller may be required to pay to the state a reasonable fee for the water used to calibrate tank capacity.

(c) The measurement certificate or a duplicate measurement certificate shall be carried with the vehicle for which it was issued. The certificate number and the total capacities of each cargo tank must be marked on the rear of the vehicle. Compartment capacities must be marked on each compartment dome.

(d) Cargo tanks or containers that have been damaged, repaired, or modified in any way that might affect their capacity must be retested or remeasured before transporting gasoline or diesel fuel. The comptroller shall mark “out of order” on a cargo tank that is not in conformity with this section or with a rule promulgated under this section.

[Acts 1981, 67th Leg., p. 1603, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.010. Authority to Stop and Examine**

In order to enforce the provisions of this chapter, the comptroller or a peace officer may stop a motor vehicle that appears to be operating with or transporting motor fuel in order to examine the cargo manifest or invoices required to be carried, examine a permit or copy of a permit that may be required to be carried, take samples from the fuel supply or cargo tanks, and make any other investigation that could reasonably be made to determine whether the taxes have been paid or accounted for by a distributor, supplier, dealer, user, or any person required to be so permitted.

[Acts 1981, 67th Leg., p. 1603, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.011. Impoundment and Seizure**

(a) If after examination or other investigation, it is found that the owner or operator of any motor vehicle or cargo tanks has not paid all motor fuel taxes due, or does not possess a valid permit as a distributor, supplier, user, dealer, or interstate trucker to use or transport motor fuel in motor vehicles operating on the public highways, the comptroller or peace officer may impound the motor vehicle or cargo tanks. Unless proof is produced within 72 hours after the beginning of impoundment that the owner or operator has paid the taxes and has paid all other taxes established by audit or investigation by the comptroller to be due on the motor fuel used or transported, or that the owner or operator holds a valid permit to use or transport motor fuel for such purposes, the motor vehicle or cargo tanks and cargo may be held until all taxes, penalties, and interest found to be due this state and all costs of impoundment have been paid, or until the owner or operator has filed a bond with the comptroller payable to the treasurer in an amount equal to twice the amount of taxes, penalties, interest, and costs found to be due, to guarantee the payment of such liabilities to the state.

(b) If the owner or operator does not produce the required permit, pay the taxes, penalties, and interest due, or post the bond required, the comptroller may seize the impounded property.

(c) The comptroller may seize:

(1) all motor fuel on which taxes are imposed by this chapter that is found in the possession, custody, or control of any person for the purpose of being sold, transported, removed, or used by him in violation of this chapter;

(2) all motor fuel that is removed or is deposited, stored, or concealed in any place with intent to avoid payment of taxes;

(3) any automobile, truck, tank truck, boat, conveyance, or other vehicle used in the removal or transportation of the motor fuel to avoid payment of taxes; and

(4) all equipment, paraphernalia, storage tanks, or tangible personal property incident to and used for avoiding the payment of taxes and found in the place, building, or vehicle where the motor fuel is found.

(d) The comptroller, when making a seizure under this section, shall immediately make a written report showing the name of the agent or representative making the seizure, the place where or the person from whom the property was seized, an inventory of the property, and an appraisal at the usual and ordinary retail price of each article seized. The report shall be prepared in duplicate and signed by the agent or representative making the seizure. The original report shall be given to the person from whom the property is taken, and the duplicate shall be filed in the office of the comptroller and be open to public inspection.

[Acts 1981, 67th Leg., p. 1604, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.012. Sale of Seized Property**

(a) The comptroller may sell property seized under Section 153.011 of this code.

(b) Notice of the time and place of a sale shall be given to the delinquent person in writing by certified mail at least 20 days before the date set for the sale. The notice shall be enclosed in an envelope addressed to the person at his last known address or place of business. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published once a week for two consecutive weeks before the date of the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 14 days before the date set for the sale. The notice must contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or as much of it as may be necessary, will be sold at public auction in accordance with the law and the notice.

(c) At the sale, the comptroller shall sell the property and shall deliver to the purchaser a bill of sale for personal property and a deed for real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

(d) The proceeds of a sale shall be allocated according to the following priorities:

(1) the payment of expenses of seizure, appraisal, custody, advertising, auction, and any other expenses incident to the seizure and sale;

(2) the payment of the tax, penalty, and interest; and

(3) the repayment of the remaining balance to the person liable for the amount unless a claim is presented before the sale by any other person who has an ownership interest evidenced by a financing statement or lien, in which case the comptroller shall withhold the remaining balance pending a determination of the rights of the respective parties.

[Acts 1981, 67th Leg., p. 1604, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.013. Presumptions**

(a) A distributor, supplier, dealer, interstate trucker, or user who fails to keep a record, issue an invoice, or file a report required by this chapter, is presumed to have sold or used for taxable purposes all motor fuel shown by an audit by the comptroller to have been sold to the distributor, supplier, dealer, interstate trucker, or user. Motor fuel unaccounted

for is presumed to have been sold or used for taxable purposes. The comptroller may fix or establish the amount of taxes, penalties, and interest due the state from the records of deliveries or from any records or information available to him. If a tax claim, as developed from this procedure, is not paid, after the opportunity to request a redetermination, the claim and any audit made by the comptroller or any report filed by the distributor, supplier, dealer, interstate trucker, or user, are evidence in any suit or judicial proceedings filed by the attorney general, and are prima facie evidence of the correctness of the claim or audit. A prima facie presumption of the correctness of the claim may be overcome at the trial by evidence adduced by the distributor, supplier, dealer, interstate trucker, or user.

(b) In the absence of records showing the number of miles actually operated per gallon of motor fuel consumed, it is presumed that not less than one gallon of motor fuel was consumed for every four miles traveled. An interstate trucker may produce evidence of motor fuel consumption to establish another mileage factor. If an examination or audit made by the comptroller from the records of an interstate trucker shows that a greater amount of motor fuel was consumed than was reported by the interstate trucker for tax purposes, the interstate trucker is liable for the tax, penalties, and interest on the additional amount shown or he is entitled to a credit or refund on overpayments of tax established by the audit.

[Acts 1981, 67th Leg., p. 1605, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.014. Venue of Tax Collection Suits

The venue of a suit, injunction, or other proceeding at law available for the establishment or collection of a claim for delinquent taxes, penalties, or interest accruing under this chapter and the enforcement of the terms and provisions of this chapter is in Travis County or in any other county having venue under existing venue statutes.

[Acts 1981, 67th Leg., p. 1606, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.015. Other Motor Fuel Taxes Prohibited

The taxes imposed by this chapter are in lieu of any other excise or occupation tax imposed by a political subdivision of the state on the sale, use, or distribution of gasoline, diesel fuel, or liquefied gas.

[Acts 1981, 67th Leg., p. 1606, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 153.016 to 153.100 reserved for expansion]

### SUBCHAPTER B. GASOLINE TAX

#### § 153.101. Gasoline Tax Imposed

A tax is imposed on the first sale or use of gasoline in this state.

[Acts 1981, 67th Leg., p. 1606, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.102. Tax Rates

(a) The gasoline tax rate is five cents for each gross or volumetric gallon or fractional part sold or used in this state except as provided by Subsection (b) of this section.

(b) The gasoline tax rate for gasoline sold to a transit company for exclusive use in its transit carrier vehicles under an exemption certificate promulgated by the comptroller is four cents for each gallon.

[Acts 1981, 67th Leg., p. 1606, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.103. Computation of Tax

(a) The amount of the tax shall be computed and paid over to the state on the temperature-adjusted volume of gallons of taxable gasoline sold to wholesalers, jobbers, dealers, or other persons purchasing gasoline for resale, where such sales are made in single deliveries of 5,000 gallons or more, or in lesser quantities where required by city ordinance, as computed from the authorized measurement certificate issued for the cargo tank making deliveries. The comptroller may publish and distribute a table to be used for converting the measurement of gross gallons of gasoline to temperature-adjusted gallons of gasoline.

(b) The amount of the tax shall be computed and paid to the state on the gross or volumetric gallons of taxable gasoline sold where the sales are made in single deliveries of less than 5,000 gallons or in quantities less than the maximum prescribed by city ordinance, if the maximum is less than 5,000 gallons.

(c) For a distributor whose gasoline deliveries are made to retail outlets that are operated by him or deliveries by him on consignment, the tax on sales to users and consumers shall be computed on the basis of actual sales.

(d) If the comptroller is not satisfied with a tax return or the amount of tax required to be paid to the state by any distributor who elects to report on the basis of actual sales, the comptroller may compute and determine the amount required to be paid on the basis of the beginning inventory, showing the total gallons of gasoline in storage at the location on the first day of the calendar month, plus the total gallons of gasoline delivered into the storage facility during the month, less the total gallons of gasoline in the storage facility at the end of the calendar month.

[Acts 1981, 67th Leg., p. 1606, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2774, ch. 752, § 8(b), eff. Jan. 1, 1982.]

#### § 153.104. Exceptions

The tax imposed by this subchapter does not apply to gasoline:

(1) brought into this state in the fuel tank of a vehicle with a capacity of less than 42 gallons when the tank is connected to the carburetor or

fuel injection system of the power plant providing the propulsion of the vehicle;

(2) delivered by a permitted distributor to a common or contract carrier, oceangoing vessel (including ship, tanker, or boat), or a barge for export from this state if the gasoline is moved forthwith outside the state;

(3) sold by a permitted distributor to another permitted distributor;

(4) sold to the federal government for its exclusive use;

(5) delivered by a permitted distributor into a storage facility of a permitted aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment; or

(6) sold by one aviation fuel dealer to another aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment.

[Acts 1981, 67th Leg., p. 1607, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.105. Collection of Tax; Allowances**

(a) A person who makes a sale or use of gasoline on which the tax has not been previously paid in this state for any purpose other than those excepted by Section 153.104 of this code shall at the time of sale or use collect the tax from the purchaser or recipient of gasoline in addition to the selling price and is also liable to the state for the taxes collected at the time and in the manner as provided by this chapter. A person is liable to the state for the tax at the applicable tax rate for each gallon of gasoline or fractional part thereof used or consumed by him in a taxable manner and shall report and pay the tax as provided by this chapter. In each subsequent sale of gasoline on which the tax has been collected, the amount of the tax shall be added to the selling price so that the tax is paid ultimately by the person using or consuming the gasoline for the purpose of propelling a vehicle upon the public highways of this state.

(b) Gasoline is deemed to be used when it is delivered into a fuel supply tank.

(c) If gasoline is purchased, in a single delivery of 5,000 gallons or more, or in lesser quantities where required by city ordinance, by any person for the purpose of resale, the seller, distributor, or broker shall sell the product to the retailer or any other person purchasing the product on the basis of temperature-corrected gallonage to 60 degrees Fahrenheit and the tax shall be computed and paid over to the state on the temperature-corrected basis. All other sales shall be reported to the comptroller on the basis of gross or volumetric gallons of taxable gasoline sold.

(d) For each one degree Fahrenheit that the temperature of gasoline taken at the time of loading for sale differs from 60 degrees Fahrenheit, an adjustment in the contract price shall be made equal to

the stipulated value of six-hundredths of one percent of the total volume delivered.

(e) The tax on two percent of the taxable gallons of gasoline sold in this state shall be allocated to the distributor making the first taxable sale or use of the gasoline and paying the tax to the state for the expenses of collecting, accounting for, reporting, and remitting the tax collected and for keeping records. [Acts 1981, 67th Leg., p. 1607, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2774, ch. 752, § 8(c), eff. Jan. 1, 1982.]

**§ 153.106. Permits: Application**

(a) A distributor, interstate trucker, or aviation fuel dealer shall file an application with the comptroller for one of the nonassignable permits provided for in this subchapter.

(b) The comptroller shall promulgate the application form, which must contain the following information:

(1) the name under which the applicant transacts or intends to transact business;

(2) the principal office, residence, or place of business in Texas of the applicant;

(3) if the applicant is not an individual, the names of the principal officers of an applicant corporation, or the names of the members of an applicant partnership, and the office, street, or post office addresses of each; and

(4) other information required by the comptroller.

[Acts 1981, 67th Leg., p. 1608, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.107. Distributor's Permit**

A person performing the functions of a distributor shall obtain a distributor's permit.

[Acts 1981, 67th Leg., p. 1608, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.108. Interstate Trucker's Permit**

An interstate trucker's permit authorizes a person who imports gasoline into Texas in the fuel supply tanks of motor vehicles having an aggregate capacity of 42 or more gallons to report and pay the tax due on the gasoline imported into this state or to claim a credit or refund of the tax paid on gasoline purchased in Texas and used in other states.

[Acts 1981, 67th Leg., p. 1608, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.109. Trip Permits**

(a) In lieu of an annual interstate trucker's permit, a person bringing a motor vehicle into this state for commercial purposes with fuel supply tanks having an aggregate capacity of 42 or more gallons may obtain a trip permit. The trip permit must be obtained prior to entry into state or at the time of entry.

(b) No more than five trip permits for each person may be issued during a calendar year.

(c) A fee for each trip permit shall be collected from the applicant and shall be an amount equivalent to the tax payable on the quantity of gasoline that could be imported in the fuel supply tanks of the motor vehicle, but not less than \$5.

(d) No reports are required with respect to the vehicle.

(e) Operating a motor vehicle without a valid interstate trucker's or trip permit may subject the operator to a penalty under Section 153.402 of this code.

[Acts 1981, 67th Leg., p. 1608, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.110. Aviation Fuel Dealer's Permit

A person who delivers gasoline exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment shall obtain an aviation fuel dealer's permit. A person who obtains an aviation fuel dealer's permit may sell aviation fuel to another aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment. The holder of an aviation fuel dealer's permit may not act as a distributor of gasoline other than as provided by this section.

[Acts 1981, 67th Leg., p. 1609, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.111. Distributor May Perform Other Functions

A distributor may operate under the distributor's permit as an interstate trucker or an aviation fuel dealer without securing a separate permit, but is subject to all other conditions, requirements, and liabilities imposed on those permittees.

[Acts 1981, 67th Leg., p. 1609, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.112. Permits: Periods of Validity

(a) A distributor's permit is permanent and is valid so long as the permittee has in force and effect the required bond or security and furnishes timely reports as required, or until the permit is surrendered by the holder or canceled by the comptroller.

(b) An aviation fuel dealer's permit is permanent and is valid until the permit is surrendered by the holder or canceled by the comptroller.

(c) An interstate trucker's permit is valid from the date of its issuance through December 31 of each calendar year or until the permit is surrendered by the holder or canceled by the comptroller. The comptroller may renew the permit for each ensuing calendar year if the permittee has in force and effect the required bond or security and furnishes timely reports as required. An interstate trucker exempted from bonding and reporting requirements by Section 153.116(b) of this code must file the affidavit required by that section before the permit may be issued.

(d) A trip permit is valid for the period stated on it as determined by the comptroller.

[Acts 1981, 67th Leg., p. 1609, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.113. Display of Permit

(a) A permit must be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner. A copy of the permit must be kept at each place of business or other place of storage from which gasoline is sold, distributed, or used, and in each motor vehicle used by the permit holder to transport gasoline purchased by him for resale, distribution, or use.

(b) A person holding an interstate trucker's permit shall reproduce the permit and carry a photocopy with each motor vehicle being operated into or from the state.

[Acts 1981, 67th Leg., p. 1609, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.114. List of Distributors and Aviation Fuel Dealers

The comptroller, on or before December 20 of each year, shall mail or distribute to all permitted distributors a printed alphabetical list of permitted distributors and aviation fuel dealers who are qualified to purchase gasoline tax free during the ensuing calendar year. A supplemental list of additions and deletions shall be delivered to the distributors each month. A current and effective permit or the list furnished by the comptroller is evidence of the validity of the permit until the comptroller notifies distributors of a change in the status of a permit holder.

[Acts 1981, 67th Leg., p. 1610, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.115. Tax Payments by an Interstate Truck-er; Allowance

(a) An interstate trucker who imports gasoline into Texas in the fuel supply tanks of motor vehicles having an aggregate capacity of 42 or more gallons for each vehicle shall report and pay the tax at the imposed rate on gasoline that is imported and used on Texas highways. The number of gallons of gasoline used on Texas highways shall be computed by dividing the total miles traveled in all states by the total number of gallons of gasoline delivered into the fuel supply tanks of motor vehicles in all states. The mileage factor obtained shall be divided into the total Texas miles traveled in order to determine the number of gallons of gasoline used in Texas.

(b) An interstate trucker shall remit all taxes due by him based on the applicable tax rate for each gallon on gasoline consumed within the state at the time of the filing of his quarterly reports.

(c) A permitted interstate trucker is entitled to deduct one-half of one percent of the taxable gallons of gasoline on payment of the taxes to the state for the expense of recordkeeping, reporting, and remitting the tax.

[Acts 1981, 67th Leg., p. 1610, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 153.116. Bonds and Other Security for Taxes

(a) A distributor or interstate trucker shall post a surety bond equal to two times the highest tax that could accrue on tax-free gasoline purchased or acquired during a reporting period. The minimum bond is \$1,000 for a distributor and \$500 for an interstate trucker. The maximum bond for a distributor or interstate trucker is \$100,000 unless the comptroller believes there is undue risk of loss of tax revenues, in which event he may require one or more bonds or securities in a total amount exceeding \$100,000.

(b) A permitted interstate trucker who maintains all fuel records in Texas, and all or substantially all of whose highway use is made with gasoline purchased within this state with the tax paid, may be exempted from the bonding requirements under an annual affidavit to the comptroller attesting to the intrastate or substantially intrastate tax-paid purchases of gasoline.

(c) A bond must be a continuing instrument, must constitute a new and separate obligation in the penal sum named in the bond for each calendar year or portion of a year while the bond is in force, and must remain in effect until the surety on the bond is released and discharged.

(d) In lieu of filing a surety bond, an applicant for a permit may substitute the following security:

(1) cash in the form of U. S. currency in an amount equal to the required bond to be deposited in the suspense account of the state treasury; or

(2) an assignment to the comptroller of a certificate of deposit in any bank or savings and loan association in Texas that is a member of the FDIC or the FSLIC in an amount at least equal to the bond amount required.

(e) If the amount of an existing bond becomes insufficient or a security becomes unsatisfactory or unacceptable, the comptroller may require the filing of a new or of an additional bond or security.

(f) No surety bond or other form of security may be released until it is determined by examination or audit that no tax, penalty, or interest liability exists. The cash or securities shall be released within 60 days after the comptroller determines that no liability exists.

(g) The comptroller may use the cash or certificate of deposit security to satisfy a final determination of delinquent liability or a judgment secured in any action by this state to recover gasoline taxes, costs, penalties, and interest found to be due this state by a person in whose behalf the cash or certificate security was deposited.

(h) A surety on a bond furnished by a permittee shall be released and discharged from liability to the state accruing on the bond after the expiration of 30 days after the date on which the surety files with the comptroller a written request to be released and discharged. The request does not relieve, release, or discharge the surety from a liability already accrued,

or that accrues before the expiration of the 30-day period. The comptroller, promptly on receipt of the request, shall notify the permittee who furnished the bond, and unless the permittee, before the expiration date of the existing security, files with the comptroller a new bond with a surety company duly authorized to do business under the laws of the state, or other authorized security, in the amount required in this section, the comptroller shall cancel the permit in the manner provided by this chapter.

(i) A permittee may request an examination or audit to obtain release of the security when he relinquishes the permit or when he desires to substitute one form of security for an existing one. [Acts 1981, 67th Leg., p. 1610, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 153.117. Records

(a) A distributor shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline refined, compounded, or blended;

(3) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(4) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(5) all gasoline lost by fire or other accident.

(b) A dealer shall keep a record showing the number of gallons of:

(1) gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all gasoline sold or used, showing the date of the sale or use; and

(4) all gasoline lost by fire or other accident.

(c) An interstate trucker shall keep a record of:

(1) the total miles traveled in all states by all vehicles traveling into or from Texas and the total quantity of gasoline consumed in those vehicles; and

(2) the total miles traveled in Texas and the total quantity of gasoline purchased and delivered into the fuel supply tanks of motor vehicles in Texas.

(d) An aviation fuel dealer shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all gasoline sold or used in aircraft or aircraft servicing equipment; and

(4) all gasoline lost by fire or other accident.

(e) The records of an aviation fuel dealer made under Subsection (d)(3) of this section must show:

(1) the name of the purchaser or user of gasoline;

(2) the date of the sale or use of gasoline; and

(3) the registration or "N" number of the airplane or a description or number of the aircraft or a description or number of the aircraft servicing equipment in which gasoline is used.

(f) The comptroller may require selective schedules from a distributor, dealer, aviation fuel dealer, interstate trucker, or common or contract carrier for any purchases, sales, or deliveries of gasoline when the schedules are not inconsistent with the requirements of this chapter.

(g) The records required must be kept for four years and are open to inspection at all times by the comptroller and the attorney general.

[Acts 1981, 67th Leg., p. 1611, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.118. Reports and Payments

(a) On or before the 25th day of each month, a distributor shall file a report and remit the amount of tax required to be collected during the preceding month. The report shall be executed by the distributor or his representative and shall be filed with the comptroller on a form provided or approved by the comptroller, containing complete and detailed information not inconsistent with the requirements of this chapter of gasoline transactions. A distributor required to file a report under this section who has not sold or used any gasoline during the reporting period shall file with the comptroller the report setting forth the facts or information. The failure of a distributor to obtain forms from the comptroller is no excuse for the failure to file a report containing all the information required to be reported.

(b) On or before the 25th day of the month following the end of each calendar quarter, an interstate trucker shall file a report and remit the amount of tax due. The report shall be properly executed and filed with the comptroller and must contain complete and detailed information as the comptroller may require on forms provided for that purpose. An interstate trucker who has not used any gasoline during the reporting period shall file with the comptroller the report setting forth the facts or information. The failure of an interstate trucker to obtain forms from the comptroller is no excuse for the failure to file a report containing all the information required to be reported.

(c) An interstate trucker who maintains all fuel records in Texas and all or substantially all of whose highway use is made with gasoline purchased within this state with the tax paid may be exempted from the quarterly reporting requirements under an annual affidavit to the comptroller attesting to the intrastate, or substantial intrastate, tax-paid purchases of gasoline.

(d) An aviation fuel dealer is not required to file a report with the comptroller.

[Acts 1981, 67th Leg., p. 1612, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.119. Refunds of Taxes Paid on Excepted Uses of Gasoline

(a) A person who exports, sells to the federal government, loses by fire or other accident, or uses gasoline for the purpose of operating or propelling a motorboat, tractor used for agricultural purposes, or stationary engine, or for another purpose except in a vehicle operated or intended to be operated on the public highways of this state, and who has paid the tax imposed on gasoline by this chapter either directly or indirectly is, when the person has complied with the invoice and filing provisions of this section and the rules of the comptroller, entitled to reimbursement of the tax paid by him, less a filing fee and any amount allowed distributors, wholesalers or jobbers, dealers, or others under Section 153.105(c) of this code.

(b) A person may file a refund claim for tax paid on the gasoline used in motor vehicles that are operated exclusively off the public highways except for incidental travel on the public highways as determined by the comptroller, but not for that portion used in incidental travel.

(c) A permitted interstate trucker is entitled to a credit equivalent to the tax rate for each gallon paid on all gasoline on which the gasoline tax has been paid and later consumed in vehicles outside the state. If the amount of credit to which the interstate trucker is entitled for any calendar quarter exceeds the amount of tax for which the interstate trucker is liable for gasoline consumed in the vehicles during the reporting period, the excess shall be allowed as a credit or refund on a timely filed quarterly report against tax for which the interstate trucker would be otherwise liable for any of the three succeeding quarters. Evidence of the mileage traveled and gallonage consumed and the payment of the gasoline tax on a form as may be required by or is satisfactory to the comptroller shall be furnished by an interstate trucker claiming a credit or tax refund.

(d) If the quantity of gasoline used in Texas by auxiliary power units or power take-off equipment on any motor vehicle can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or methods designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of any device as a basis for determining the quantity of gasoline consumed in those operations for tax credit or tax refund.

(e) A person who exports or loses by fire or other accident 100 or more gallons of gasoline on which the tax has been paid, or sells gasoline in any quantity to the United States government for the exclusive use of that government on which the tax

has been paid, may file a claim for a refund of the net tax paid to the state in the manner provided by this chapter or as the comptroller may direct. A permitted distributor who establishes proof satisfactory to the comptroller of export, loss by accident, or sale to the United States, may take a credit for the net amount of the tax paid to the state on any subsequent monthly report and tax payment made to the comptroller within one year after the date of the exportation, loss, or sale.

(f) The right to receive a refund under this section is not assignable, except that a person residing or maintaining a place of business outside the state who purchases 100 or more gallons of gasoline and forthwith exports the entire quantity may assign his right to claim a refund to the permitted distributor from whom the gasoline was purchased or to any permitted distributor who has paid the tax on the gasoline either directly or through another permitted distributor in Texas. If a distributor secures an assignment and the proof of export required by the comptroller, he may credit the tax paid on any monthly report filed with the comptroller within one year after the first day of the month following the date of delivery of the gasoline to the exporter. [Acts 1981, 67th Leg., p. 1613, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.120. Claims for Refunds

(a) A refund claim must be filed on form provided by the comptroller, be supported by the original invoice issued by the seller, and contain:

- (1) the stamped or preprinted name and address of the seller;
- (2) the name of the purchaser;
- (3) the date of delivery of the gasoline;
- (4) the date of the issuance of the invoice (if different from the date of fuel delivery);
- (5) the number of gallons of gasoline delivered;
- (6) the amount of tax, either separately stated from the selling price or a notation that the selling price includes the tax; and
- (7) the type of vehicle or equipment, such as a motorboat, railway engine, highway vehicle, off-highway vehicle, or refrigeration unit or stationary engine into which the fuel is delivered.

(b) The invoice shall be made out in duplicate. The original invoice shall be delivered to the purchaser of the gasoline no later than 30 days after the date of delivery of the gasoline. The duplicate invoice shall be retained by the seller at his place of business. If the delivery of gasoline is made through an automated method whereby the purchase is automatically applied to the purchaser's account, one invoice may be issued at the time of billing covering multiple purchases made during a 30-day billing cycle.

(c) A person who files a claim for a tax refund on gasoline used for a purpose for which a tax refund is not authorized or who files an invoice supporting a

refund claim on which the date, figures, or any material information has been falsified or altered forfeits his right to the entire amount of the refund claim filed unless the claimant provides proof satisfactory to the comptroller that the incorrect refund claim filed was due to a clerical or mathematical calculation error.

[Acts 1981, 67th Leg., p. 1614, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.121. When Gasoline Tax Refund May be Filed

(a) Except as provided by this section, a claim for a refund must be filed with the comptroller within one year after the first day of the calendar month following the purchase, use, delivery, export, or loss by fire or other accident of gasoline, whichever period expires latest.

(b) An interstate trucker may accumulate credits for four successive calendar quarters, but he must take the credit or claim a refund on a report filed on or before the 25th day following the fourth quarter.

(c) If an audit of a distributor determines that tax-free sales were made to an unauthorized purchaser and the purchaser could have filed for a refund if the tax had been paid at the time of the sale, the unauthorized purchaser must file a refund claim within one year after the date of the final assessment.

[Acts 1981, 67th Leg., p. 1614, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.122. Gasoline Tax Refund Payment and Filing Fee

(a) After examination of the refund claim, the comptroller before issuing a refund warrant shall deduct from the amount of the refund:

- (1) the two percent deducted originally by the distributor on the first sale or distribution of the gasoline; and
- (2) \$1.50 as a filing fee.

(b) The filing fees shall be set aside for the use and benefit of the comptroller in the administration and enforcement of this section. All filing fees shall be paid into the state treasury and shall be paid out on vouchers and warrants in the manner prescribed by law.

[Acts 1981, 67th Leg., p. 1614, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.123. Gasoline and Alcohol Mixtures: Special Fund and Tax Credits and Payments

(a) On or before the 25th day of each month, the comptroller shall determine from appropriate reports prescribed by the comptroller and furnished during the prior month by distributors the number of gallons of first sales or uses of a mixture of gasoline and alcohol that meets the specifications provided in Subsection (e) of this section and shall transfer from

the General Revenue Fund to the gasoline and alcohol mixture fund, which is hereby created, the following amounts:

(1) until January 1, 1987, five cents per gallon on the first sale or use of that mixture;

(2) from January 1, 1987, through December 31, 1987, four cents per gallon on the first sale or use of that mixture;

(3) from January 1, 1988, through December 31, 1988, three cents per gallon on the first sale or use of that mixture;

(4) from January 1, 1989, through December 31, 1989, two cents per gallon on the first sale or use of that mixture;

(5) from January 1, 1990, through December 31, 1990, one cent per gallon on the first sale or use of that mixture; and

(6) on and after January 1, 1991, no amount of transfers to the gasoline and alcohol mixture fund may be made.

(b) On the effective date of this section, the comptroller shall estimate the amount of credit to be claimed within the subsequent 60 days and shall transfer that amount of money to the gasoline and alcohol mixture fund.

(c) A distributor required by this subchapter to make and keep records of motor fuel sales, distributions, uses, or consumptions and who is required to make reports to the comptroller shall include separately in the records and reports, in the detail as the comptroller may prescribe, the sale, distribution, use, or consumption of the gasoline and alcohol mixture defined in Subsection (e) of this section. The records and reports shall include the amount of all alcohol manufactured or purchased as a motor fuel blending agent.

(d) A distributor may claim a credit on the first sale or use of the gasoline and alcohol mixture described in Subsection (e) of this section or on the gasoline used for mixing with ethyl alcohol if the mixture meets the specifications described in Subsection (e) of this section, in the amount per gallon transferred to the gasoline and alcohol mixture fund as specified in Subsection (a) of this section. The distributor may take the credit on his monthly Texas gasoline distribution report. Thereafter, the comptroller shall promptly transfer funds from the gasoline and alcohol mixture fund to the highway motor fuel tax fund in the amount of the credits allowed to distributors. If a claim is based on gasoline used for mixing with ethyl alcohol, the comptroller may require the person making the claim to include in the claim the total number of gallons of ethyl alcohol produced or purchased and not thereafter resold or distributed as ethyl alcohol and any other information deemed necessary. The forms to be used, the procedure for filing, and the time within which a claim for credit must be instituted are the same as those set forth for claims for refund of taxes provided in Sections 153.120 and 153.121 of this code, with

any modifications that the comptroller determines to be appropriate to accomplish the purposes of this section.

(e) The mixture of gasoline and alcohol for which transfers, credits, or payments shall be made under this section shall meet the following specifications:

(1) the mixture must contain at least 10 percent ethyl alcohol;

(2) the alcohol added to the gasoline must have been at least 192 proof when added;

(3) the alcohol added to the gasoline must have been produced or distilled from a renewable source only; and

(4) except as provided by Subsection (f) of this section, the mixture must contain no alcohol that was produced or distilled outside the state.

(f) If the comptroller certifies that another state provides an exemption from that state's taxes applicable to gasoline or a credit or refund for taxes collected or an amount in lieu of taxes collected on a mixture of gasoline and alcohol, and if the other state's exemption, credit, or refund allowance applies to a mixture that includes alcohol produced or distilled in Texas, and if the alcohol produced in the other state meets the specifications provided by Subdivisions (1), (2), and (3) of Subsection (e) of this section, then the specifications for the mixture for which the transfers shall be made to the gasoline and alcohol mixture fund and for which credits or payments shall be made shall include mixtures that include alcohol produced and distilled in the other state or in Texas and the other state. However, if a mixture of alcohol produced or distilled in another state and gasoline qualifies under this subsection for a transfer and a credit, the amount of the transfer and credit under this section for the mixture may not exceed the amount of the exemption, credit, or refund (stated in or converted to cents for each gallon of the mixture) provided by the state in which the alcohol was produced or distilled.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 43, ch. 3, § 2, eff. Jan. 1, 1982.]

Section 1 of the 1981 Act adding this section provides:

"The Legislature of the State of Texas finds that:

"(1) it is in the public interest of the people of Texas to conserve its mineral resources;

"(2) the encouragement of the use of a gasoline and alcohol mixture meeting the specifications of this Act is in furtherance of the public interest; and

"(3) the public interest of this state will be served by creating the gasoline and alcohol mixture fund, transferring money to that fund, and providing for credits or payments in accordance with this Act."

[Sections 153.124 to 153.200 reserved for expansion]

#### SUBCHAPTER C. DIESEL FUEL TAX

##### § 153.201. Diesel Fuel Tax Imposed

A tax is imposed on the first sale or use of diesel fuel in this state.

[Acts 1981, 67th Leg., p. 1615, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 153.202. Tax Rates

(a) The diesel fuel tax rate is 6.5 cents for each gross or volumetric gallon or fractional part sold or used in this state except as provided by Subsection (b) of this section.

(b) The diesel fuel tax rate for diesel fuel sold by a permitted supplier to a transit company for exclusive use in its transit vehicles under an exemption certificate issued by the comptroller is six cents for each gallon.

[Acts 1981, 67th Leg., p. 1615, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 153.203. Exceptions

The tax imposed by this subchapter does not apply to:

(1) diesel fuel delivered by a permitted supplier to a common or contract carrier, oceangoing vessel (including ship, tanker, or boat), or barge for export from this state, if the diesel fuel is moved forthwith outside this state;

(2) diesel fuel sold by a permitted supplier to the federal government for its exclusive use;

(3) diesel fuel sold or delivered by a permitted supplier to another permitted supplier or bonded user, to the bulk storage facility of a diesel tax prepaid user, or to a purchaser who provides a signed statement as provided by Section 153.205 of this code, but not including a delivery of tax-free diesel fuel into the fuel supply tanks of a motor vehicle, except for a motor vehicle owned by the federal government;

(4) diesel fuel sold or delivered by a permitted supplier into the storage facility of a permitted aviation fuel dealer, from which diesel fuel will be sold or delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(5) diesel fuel sold or delivered by a permitted supplier into fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(6) kerosene when delivered by a permitted supplier into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; or

(7) diesel fuel sold or delivered by one aviation fuel dealer to another aviation fuel dealer who will deliver the diesel fuel exclusively into the supply tanks of aircraft or aircraft servicing equipment.

[Acts 1981, 67th Leg., p. 1615, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 153.204. Computation of Tax

(a) The amount of the tax shall be computed and paid to the state on the temperature-adjusted volume of gallons of taxable diesel fuel sold to wholesalers, jobbers, dealers, or other persons purchasing

diesel fuel for resale, where such sales are made in single deliveries of 5,000 gallons or more, or in lesser quantities where required by city ordinance, as computed from the authorized measurement certificate issued for the cargo tank making deliveries. The comptroller may publish and distribute a table to be used for converting the measurement of gross gallons of diesel fuel to temperature-adjusted gallons of diesel fuel.

(b) The amount of the tax shall be computed and paid to the state on the gross or volumetric gallons of taxable diesel fuel sold where the sales are made in single deliveries of less than 5,000 gallons or in quantities less than the maximum prescribed by city ordinance, if the maximum is less than 5,000 gallons.

(c) For a supplier whose diesel fuel deliveries are made to retail outlets that are operated by him or deliveries by him on consignment, the tax on sales to users and consumers shall be computed on the basis of actual sales.

(d) If the comptroller is not satisfied with a tax return or the amount of tax required to be paid to the state by a supplier who elects to report on the basis of actual sales, the comptroller may compute and determine the amount required to be paid on the basis of the beginning inventory, showing the total gallons of diesel fuel in storage at the location on the first day of the calendar month, plus the total gallons of diesel fuel delivered into the storage facility during the month, and less the total gallons of diesel fuel in the storage facility at the end of the calendar month.

[Acts 1981, 67th Leg., p. 1616, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2775, ch. 752, § 8(d), eff. Jan. 1, 1982.]

§ 153.205. Statement for Purchase of Diesel Fuel Tax Free

(a) The first sale or use of diesel fuel in this state is taxable, except that the sale of diesel fuel may be made without collecting the tax if the purchaser furnishes to a permitted supplier a signed statement that stipulates that:

(1) the purchaser does not operate any diesel-powered motor vehicles on the public highway;

(2) all of the diesel fuel will be consumed by the purchaser and no diesel fuel purchased on a signed statement will be resold; and

(3) none of the diesel fuel purchased in this state will be delivered or permitted by the purchaser to be delivered into fuel supply tanks of motor vehicles.

(b) The signed statement from the purchaser relieves the permitted supplier from the burden of proof that the sale of diesel fuel was not taxable to the purchaser and remains in effect unless:

(1) the statement is revoked in writing by the purchaser or supplier;

(2) the comptroller notifies the supplier in writing that the purchaser may no longer make tax-free purchases; or

(3) the supplier is put on notice by making taxable sales of diesel fuel to a purchaser who has previously submitted a signed statement to this supplier.

(c) A taxable sale to a person who has previously submitted a signed statement creates a rebuttable presumption that the supplier had reasonable notice that all subsequent sales should have been taxable.

(d) A taxable use of any part of the diesel fuel purchased under a signed statement shall, in addition to any criminal penalty, forfeit the right of the person to purchase diesel fuel tax free for a period of one year from the date of the offense, and any tax, interest, and penalty found to be due through false or erroneous execution or continuance of a promissory statement by the purchaser, if assessed to the supplier, is a debt of the purchaser to the supplier until paid, and is recoverable at law in the same manner as the purchase price of the fuel. The person may, however, claim a refund of the tax paid on any diesel fuel used for nonhighway purposes under Section 153.222 of this code.

(e) The statement must be signed by the purchaser or his representative.

(f) The comptroller's regulations may allow separate operating divisions of corporations to give separate signed statements as if they were different legal entities.

(g) The comptroller may promulgate necessary forms and rules to comply with this section.

[Acts 1981, 67th Leg., p. 1616, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.206. Collection and Payment of Tax; Allowances

(a) A supplier who makes a sale or use of diesel fuel in this state for a purpose other than those exceptions listed in Section 153.203 of this code shall at the time of sale or use be liable to the state for the tax imposed in this subchapter and shall report and pay the tax in the manner provided in the subchapter.

(b) A dealer shall collect the tax at the rate imposed on each gallon of diesel fuel delivered by him into the fuel supply tanks of a motor vehicle and shall report and pay to the state any tax collected that has not been paid to a permitted supplier.

(c) A user, except a diesel tax prepaid user, shall report and pay to the state the tax at the rate imposed on each gallon of diesel fuel delivered by him into the fuel supply tanks of a motor vehicle, unless the tax has been paid to a permitted supplier or a dealer, or, as a diesel tax prepaid user, the tax has been prepaid directly to the comptroller.

(d) An interstate trucker who imports diesel fuel into Texas in the fuel supply tanks of a motor vehicle having an aggregate capacity of 42 or more gallons for each vehicle shall report and pay the tax at the rate imposed on diesel fuel that is imported and used on Texas highways. The number of gal-

lons of diesel fuel used on Texas highways shall be computed by dividing the total miles traveled in all states by the total number of gallons of diesel fuel delivered into the fuel supply tanks of motor vehicles in all states. The mileage factor obtained shall be divided into the total Texas miles traveled in order to determine the number of gallons of diesel fuel used in Texas. An interstate trucker shall remit all taxes due by him based on the diesel fuel tax rate for each gallon on diesel fuel consumed within the state at the time of the filing of the quarterly report.

(e) Diesel fuel is deemed to be used when it is delivered into fuel supply tanks.

(f) If diesel fuel is purchased, in a single delivery of 5,000 gallons or more, or in lesser quantities where required by city ordinance, by any person for the purpose of resale, the seller, distributor, or broker shall sell the product to the retailer or any other person purchasing the product on the basis of temperature-corrected gallonage to 60 degrees Fahrenheit and the tax shall be computed and paid over to the state on the temperature-corrected basis. All other sales shall be reported to the comptroller on the basis of gross or volumetric gallons of taxable gasoline sold.

(g) For each one degree Fahrenheit that the temperature of diesel fuel taken at the time of loading for sale or consignment differs from 60 degrees Fahrenheit, an adjustment in the contract price shall be made equal to the stipulated value of four-hundredths of one percent of the total volume delivered.

(h) The tax on two percent of the taxable gallons of diesel fuel sold in this state shall be allocated to the supplier making the first taxable sale or use of the diesel fuel and paying the tax to the state for the expenses of collecting, accounting for, reporting, and remitting the tax collected and for keeping records.

(i) A bonded user or permitted interstate trucker is entitled to deduct one-half of one percent of the taxable gallons of diesel fuel on payment of the taxes to this state for the expense of recordkeeping, reporting, and remitting the tax.

[Acts 1981, 67th Leg., p. 1617, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2775, ch. 752, § 8(e), eff. Jan. 1, 1982.]

#### § 153.207. Permits; Application

(a) A bonded supplier, bonded user, interstate trucker, diesel tax prepaid user, or aviation fuel dealer shall file an application with the comptroller for one of the nonassignable permits provided for in this subchapter.

(b) The comptroller shall promulgate the application form, which must contain the following information:

(1) the name under which the applicant transacts or intends to transact business;

(2) the principal office, residence, or place of business in Texas of the applicant;

(3) if the applicant is not an individual, names of the principal officers of an applicant corporation, names of each partner in an applicant partnership, and the office, street, or post office address of each; and

(4) other information required by the comptroller.

(c) The comptroller shall determine from the information shown in the application or other investigation the kind and class of permit to be issued. [Acts 1981, 67th Leg., p. 1618, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.208. Bonded Supplier's Permit**

(a) A bonded supplier's permit authorizes a person to sell tax-free diesel fuel to:

- (1) another bonded supplier;
- (2) a bonded user;
- (3) an aviation fuel dealer;
- (4) a diesel prepaid user if delivered into his bulk storage facilities only; and
- (5) a person issuing a signed statement.

(b) A bonded supplier's permit authorizes a person to supply tax-paid diesel fuel to suppliers and other purchasers.

(c) A bonded supplier may not make a tax-free sale or delivery of diesel fuel into the fuel supply tanks of a motor vehicle other than a motor vehicle owned by the United States.

[Acts 1981, 67th Leg., p. 1618, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.209. Bonded User Permit**

A bonded user permit authorizes a user whose purchases of diesel fuel are predominantly for non-highway use to purchase diesel fuel tax free from permitted suppliers and to report and pay taxes to this state on that part of the diesel fuel that is delivered into the fuel supply tanks of motor vehicles owned or operated by him.

[Acts 1981, 67th Leg., p. 1619, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.210. Diesel Tax Prepaid User Permit**

(a) A diesel tax prepaid user permit authorizes a person whose use of diesel fuel is predominantly for nonhighway use, but who owns or operates one or more passenger cars or light trucks only in the weight class shown in this section to elect to prepay an annual tax on the fuel delivered from his own tax-free storage rather than obtain a bonded user permit. If he elects to obtain a diesel tax prepaid user permit, he must prepay the tax at the rate prescribed for each motor vehicle based on the class of registered gross weight. A person whose purchases of diesel fuel are predominantly for highway

use does not qualify for a diesel tax prepaid user permit.

(b) The vehicle classes and amounts of tax are:

Class A	Less than 2,500 pounds	.....\$20
Class B	2,500 to 3,500 pounds	..... 36
Class C	3,501 to 4,500 pounds	..... 45
Class D	4,501 to 7,000 pounds	..... 54

[Acts 1981, 67th Leg., p. 1619, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.211. Interstate Trucker's Permit**

An interstate trucker's permit authorizes a person who imports diesel fuel into the state in the fuel supply tanks of motor vehicles having an aggregate capacity of 42 or more gallons for each vehicle to report and pay the tax due on diesel fuel imported into this state or to claim a credit or a refund of the tax paid on diesel fuel purchased in this state and then used in other states. An interstate trucker may not make tax-free purchases of diesel fuel.

[Acts 1981, 67th Leg., p. 1619, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.212. Trip Permits**

(a) In lieu of an annual interstate trucker's permit, a person bringing motor vehicles into this state for commercial purposes with fuel supply tanks having an aggregate capacity of 42 or more gallons for each vehicle may obtain a trip permit.

(b) The trip permit must be obtained before entry into the state or at the time of entry. No more than five trip permits may be issued during a calendar year to a person operating interstate.

(c) A fee for each trip permit shall be collected from the applicant. The fee is an amount equal to the tax payable on the quantity of diesel fuel that could be imported in the fuel supply tanks of the motor vehicle, but not less than \$5.

[Acts 1981, 67th Leg., p. 1619, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.213. Aviation Fuel Dealer's Permit**

An aviation fuel dealer's permit authorizes a person to deliver diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment. The holder of an aviation fuel dealer's permit may sell or deliver diesel fuel to another aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment. The holder of an aviation fuel dealer's permit may not act as a supplier of diesel fuel other than as allowed by this section.

[Acts 1981, 67th Leg., p. 1619, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.214. Supplier May Perform Other Functions**

A supplier may operate under the supplier's permit as a user, dealer, interstate trucker, or aviation fuel dealer without securing a separate permit, but

is subject to all other conditions, requirements, and liabilities imposed on those permittees.

[Acts 1981, 67th Leg., p. 1620, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.215. Permits: Periods of Validity

(a) A bonded supplier's and bonded user permit is permanent and valid as long as the permittee has in force and effect the required bond or security and furnishes timely reports as required, or until the permit is surrendered by the holder or canceled by the comptroller.

(b) An aviation fuel dealer's permit is permanent and is valid until the permit is surrendered by the holder or canceled by the comptroller.

(c) An interstate trucker's permit is valid from the date of issuance through December 31 of each calendar year or until the permit is surrendered by the holder or canceled by the comptroller. The comptroller may renew the permit for each ensuing calendar year if the permittee has in force and effect the required bond or security and furnishes timely reports as required. An interstate trucker exempted by Section 153.218(b) of this code must file the affidavit required by that section before the permit may be issued.

(d) A trip permit is valid for the period stated on it as determined by the comptroller.

(e) A diesel tax prepaid user permit shall be issued annually and is valid from the date of its issuance through December 31 of the calendar year unless a motor vehicle for which the tax is prepaid is sold or no longer used on the public highway. A diesel tax prepaid user must make application for a new permit each calendar year.

[Acts 1981, 67th Leg., p. 1620, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.216. Display of Permit

(a) A permit must be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner. A copy of the permit must be kept at each place of business or other place of storage from which diesel fuel is sold, distributed, or used, and in each motor vehicle used by the permit holder to transport diesel fuel purchased by him for resale, distribution, or use.

(b) A person holding an interstate trucker's permit shall reproduce the permit and carry a photocopy with each motor vehicle being operated into or from the state.

[Acts 1981, 67th Leg., p. 1620, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.217. List of Suppliers, Bonded Users, and Aviation Fuel Dealers

(a) The comptroller, on or before December 20 of each calendar year, shall mail or distribute to each bonded supplier a printed alphabetical list of permitted suppliers, bonded users, and aviation fuel dealers

who are qualified to purchase diesel fuel tax free during the ensuing calendar year. A supplemental list of additions and deletions shall be delivered to each supplier each month.

(b) The comptroller, on or before January 31, of each calendar year, shall mail or distribute to each bonded supplier a printed alphabetical list of diesel tax prepaid user permittees who are qualified to purchase diesel fuel tax free during the ensuing calendar year. A supplemental list of additions and deletions shall be delivered to each supplier each month.

[Acts 1981, 67th Leg., p. 1620, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.218. Bonds and Other Security for Taxes

(a) Except as provided by Subsection (b) of this section, a supplier, bonded user, or interstate trucker shall post a surety bond equal to two times the highest tax that will or may be expected to accrue on taxable sales and uses of diesel fuel during a reporting period. The minimum bond for a supplier is \$1,000. The minimum bond for a bonded user or interstate trucker is \$500.

(b) A permitted interstate trucker who maintains all fuel records in Texas, and all or substantially all of whose highway use is made with diesel fuel purchased within this state with the tax paid may be exempted from the bonding requirements under an annual affidavit to the comptroller attesting to the intrastate or substantially intrastate tax-paid purchase of diesel fuel.

(c) A bond must be a continuing instrument, must constitute a new and separate obligation, in the penal sum named in the bond, for each calendar year or portion of a year while the bond is in force, and must remain in effect until the surety on the bond is released and discharged.

(d) In lieu of filing a surety bond, an applicant for a permit may substitute the following security:

(1) cash in the form of U.S. currency in an amount equal to the required bond to be deposited in the suspense account of the state treasury; or

(2) an assignment to the comptroller of a certificate of deposit in any bank or savings and loan association in the state that is a member of the FDIC or the FSLIC in an amount at least equal to the bond amount required.

(e) if the amount of an existing bond becomes insufficient, or a surety on a bond becomes unsatisfactory or unacceptable, the comptroller may require the filing of a new or an additional bond.

(f) No surety bond or other form of security may be released until it is determined by examination or audit that no tax, penalty, or interest liability exists. The cash or securities shall be released within 60 days after the comptroller determines that no liability exists.

(g) The comptroller may use the cash or certificate of deposit to satisfy a final determination of

delinquent liability or a judgment secured in an action by this state to recover diesel fuel taxes, costs, penalties, and interest found to be due this state by a person in whose behalf the cash or securities were deposited.

(h) A surety on any bond furnished by a permittee shall be released and discharged from liability to the state accruing on the bond after the expiration of 30 days after the date on which the surety files with the comptroller a written request to be released and discharged. The request does not relieve, release, or discharge the surety from a liability already accrued or that accrues before the expiration of the 30-day period. The comptroller promptly on receipt of the request shall notify the permittee who furnished the bond, and unless the permittee, before the expiration date of the existing security, files with the comptroller a new bond with a surety company duly authorized to do business under the laws of the state, or other authorized security, in the amount required in this section, the comptroller shall cancel the permit in the manner provided in this chapter.

(i) A permittee may request an examination or audit to obtain release of the security when he relinquishes the permit or when he desires to substitute one form of security for an existing one. [Acts 1981, 67th Leg., p. 1621, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.219. Records**

(a) A supplier shall keep a record showing the number of gallons of:

- (1) all diesel fuel inventories on hand at the first of each month;
- (2) all diesel fuel refined, compounded, or blended;
- (3) all diesel fuel purchased or received, showing the name of the seller, and the date of each purchase or receipt;
- (4) all diesel fuel sold, distributed, or used showing the name of the purchaser and the date of sale, distribution, or use; and
- (5) all diesel fuel lost by fire or other accident.

(b) A dealer shall keep a record showing the number of gallons of:

- (1) all diesel fuel inventories on hand at the first of each month;
- (2) all diesel fuel purchased or received, showing the name of the seller, the date of each purchase or receipt;
- (3) all diesel fuel sold, distributed, or used; and
- (4) all diesel fuel lost by fire or other accident.

(c) A bonded user or other user with nonhighway equipment uses who files a claim for a refund shall keep a record showing the number of gallons of:

- (1) inventories of all diesel fuel on hand at the first of each month;
- (2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase;

(3) all diesel fuel deliveries into the fuel supply tanks of motor vehicles;

(4) diesel fuel used for other purposes, showing the purpose for which used; and

(5) all diesel fuel lost by fire or other accident.

(d) An aviation fuel dealer shall keep a record showing the number of gallons of:

- (1) all diesel fuel inventories on hand at the first of each month;
- (2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;
- (3) all diesel fuel sold, distributed, or used in aircraft or aircraft servicing equipment; and
- (4) diesel fuel lost by fire or other accident.

(e) The records of an aviation fuel dealer made under Subsection (d)(3) of this section must show:

- (1) the name of the purchaser or user of diesel fuel;
- (2) the date of the sale, distribution, or use of the diesel fuel; and
- (3) the registration or "N" number of the airplane or a description or number of the aircraft servicing equipment in which diesel fuel is used.

(f) A permitted interstate trucker shall keep a record of:

- (1) the total miles traveled in all states by all vehicles traveling into or from Texas and the total quantity of diesel fuel consumed in those vehicles; and
- (2) the total miles traveled in Texas and the total quantity of diesel fuel delivered into the fuel supply tanks of motor vehicles in Texas.

(g) The comptroller may require selective schedules from a supplier, dealer, aviation fuel dealer, interstate trucker, or common or contract carrier for a purchase, sale, or delivery of diesel fuel if the schedules are not inconsistent with the requirements of this chapter.

(h) The records required must be kept for four years and are open to inspection at all times by the comptroller or the attorney general.

[Acts 1981, 67th Leg., p. 1622, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.220. Invoices**

(a) A delivery of diesel fuel into the fuel supply tanks of a motor vehicle having an aggregate capacity of 42 or more gallons shall be evidenced by an invoice issued in duplicate by a dealer or an invoice or a distribution log issued by a bonded user or other user.

(b) An invoice must be carried in the vehicle until the next purchase or delivery of fuel into that vehicle. A distribution log must be carried with the vehicle until the end of the calendar month.

(c) A dealer shall also issue an invoice for a sale, distribution, or use for a purpose other than propell-

ing a motor vehicle on the public highways of this state.

(d) The invoice or distribution log must contain:

(1) the name and address of the person making the delivery stamped or preprinted on it;

(2) a statement of the amount of the diesel fuel tax separate from the selling price or a statement that the diesel fuel tax is included in the selling price;

(3) a statement that no diesel fuel tax was collected by the seller if the invoice is to be used by the seller to support a refund claim; and

(4) spaces for providing the following:

(A) the name of the purchaser;

(B) the date of delivery of the fuel;

(C) the number of gallons delivered;

(D) the odometer or hubmeter reading;

(E) the state highway license or unit number;

(F) the type of vehicle or equipment, such as a motorboat, railway engine, highway vehicle, off-highway vehicle, or refrigeration unit or stationary engine into which the fuel is delivered; and

(G) the signature of the recipient.

(e) If the delivery of tax-paid diesel fuel is made through an automated method whereby the purchase is automatically applied to the purchaser's account, one invoice may be issued at the time of billing covering multiple purchases made during a 30-day billing cycle.

(f) If the fuel delivery into the fuel supply tanks of a motor vehicle is through a method where there is no seller or agent present, then the purchaser or recipient must prepare the required invoice at the time of delivery.

[Acts 1981, 67th Leg., p. 1623, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.221. Reports and Payments

(a) On or before the 25th day of each month, a supplier shall file a report of diesel fuel transactions and remit the amount of tax required to be collected during the preceding month. A report must be filed on a form provided by the comptroller and contain information required by the comptroller, showing complete and detailed information of diesel fuel transactions during the preceding month. A supplier required to file a report under this section who has not sold, used, or distributed any diesel fuel during the reporting period shall file with the comptroller the report setting forth the facts or information. The failure of a supplier to obtain forms from the comptroller is no excuse for the failure to file a report. The report must be executed by the supplier or his representative and is subject to the penalties provided in this chapter.

(b) On or before the 25th day of the month following the end of each calendar quarter, a bonded user or interstate trucker shall file a report and remit the

amount of tax due except as provided by Subsection (d) of this section. A report must be executed and filed with the comptroller and contain complete and detailed information on diesel fuel transactions during the preceding calendar quarter and other information required by the comptroller on forms provided for that purpose. A bonded user or interstate trucker required to file a report under this section who has not sold, used, or distributed any diesel fuel during the reporting period shall file with the comptroller the report setting forth the facts or information. The failure of a bonded user or interstate trucker to obtain forms from the comptroller is no excuse for the failure to file a report containing all the information required to be reported.

(c) No report is required to be filed by:

(1) an aviation fuel dealer;

(2) a trip permit user;

(3) a diesel tax prepaid user;

(4) a person issuing signed statements; or

(5) a common or contract carrier.

(d) A permitted interstate trucker who maintains all fuel records in Texas, and all, or substantially all, of whose highway use is made with diesel fuel purchased within this state with the tax paid may be exempted from the quarterly reporting requirements under an annual affidavit to the comptroller attesting to the intrastate, or substantially intrastate, purchases of tax-paid diesel fuel.

[Acts 1981, 67th Leg., p. 1623, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.222. Refunds of Taxes Paid on Excepted Uses of Diesel Fuel

(a) A dealer who has paid tax on diesel fuel that has been used or sold for use by the dealer for any purpose other than propelling a motor vehicle on the public highways of this state or that has been sold to the United States for its exclusive use, and a user who has paid tax on any diesel fuel that has been used by him for a purpose other than propelling a motor vehicle on the public highways may file a claim for a refund of taxes paid, less the deduction allowed vendors and a filing fee.

(b) A person may file a refund claim for tax paid on the diesel fuel used in motor vehicles that are operated exclusively off the public highways except for incidental travel on the public highways as determined by the comptroller, but not for that portion used in the incidental travel.

(c) A permitted interstate trucker is entitled to a credit equivalent to the tax rate for each gallon paid on all diesel fuel on which the diesel fuel tax has been paid and later consumed in motor vehicles outside the state. If the amount of credit to which the interstate trucker is entitled for any calendar quarter exceeds the amount of tax for which the interstate trucker is liable for diesel fuel consumed in the motor vehicles during the reporting period, the excess shall be allowed as a credit or refund on a

timely filed quarterly report against the tax for which the interstate trucker would be otherwise liable for any of the three succeeding quarters. Evidence of the mileage traveled and gallonage consumed and the payment of the diesel fuel tax, on a form that may be required by or is satisfactory to the comptroller, shall be furnished by the interstate trucker claiming the credit or tax refund.

(d) If the quantity of diesel fuel used in Texas by auxiliary power units or power take-off equipment on any motor vehicle can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of any device as a basis for determining the quantity of diesel fuel consumed in those operations for tax credit or tax refund. If no separate metering device or other approved measuring method is provided, the following credit or refund procedures are authorized. A permitted supplier or bonded user who operates diesel-powered motor vehicles equipped with a power take-off or a diesel-powered auxiliary power unit mounted on the motor vehicle and using the fuel supply tank of the motor vehicle may be allowed a five percent deduction from the taxable gallons used in this state in each motor vehicle so equipped. A user who is required to pay the tax on diesel fuel used in motor vehicles so equipped may file a claim for a refund not to exceed five percent of the total taxable fuel used in this state in each motor vehicle so equipped.

(e) A person who exports or loses by fire or other accident 100 or more gallons of diesel fuel on which the tax has been paid, or who sells diesel fuel in any quantity to the United States for its exclusive use on which the tax has been paid, may file a claim for a refund of the net tax paid to the state as the comptroller may direct.

[Acts 1981, 67th Leg., p. 1624, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.223. Claims for Refunds**

(a) A refund claim must be filed with the comptroller on forms provided by the comptroller and show the date of filing, the period covered in the claim, the number of gallons of diesel fuel subject to refund, and other information required by the comptroller. A claim must be supported by one or more original invoices issued to or by the claimant, or such other information as the comptroller deems necessary.

(b) If a motor vehicle is sold, transferred, or destroyed, the owner is entitled to a refund of the unused portion of the advance taxes paid for that calendar year. The owner or operator must submit to the comptroller an affidavit identifying the vehicle, the permit number, the circumstances entitling him to a refund, and all other information required by the comptroller. On receipt of the affidavit and when satisfied as to the circumstances, the comptrol-

ler shall refund to the owner or operator that portion of the payment that corresponds to the number of complete months remaining in the calendar year for which the vehicle was no longer utilized. No refund may be made if the use of the vehicle ceased within the last month of the calendar year.

(c) A person who files a claim for a tax refund on diesel fuel used for a purpose for which a tax refund is not authorized, or who files an invoice supporting a refund claim on which the date, figures, or any material information has been falsified or altered, forfeits his right to the entire amount of the refund claim filed unless the claimant provides proof satisfactory to the comptroller that the incorrect refund claim filed was due to a clerical or mathematical calculation error.

[Acts 1981, 67th Leg., p. 1625, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.224. When Diesel Fuel Tax Refund May be Filed**

(a) Except as provided by this section, a claim for a refund must be filed with the comptroller within one year after the first day of the calendar month following the purchase, use, delivery, export, or loss by fire or other accident of diesel fuel, whichever period expires latest.

(b) An interstate trucker may accumulate credits for four successive calendar quarters, but he must take the credit or claim a refund on a report filed on or before the 25th day following the fourth quarter.

(c) If an audit of a supplier determines that tax-free sales were made to an unauthorized purchaser and the purchaser could have filed for a refund if the tax had been paid at the time of the sale, the unauthorized purchaser must file a refund claim within one year after the date of the final assessment.

[Acts 1981, 67th Leg., p. 1625, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.225. Diesel Fuel Tax Refund Payments and Filing Fee**

(a) After examination and approval of the refund claim, the comptroller before issuing a refund warrant shall deduct from the amount of the refund payment:

(1) the 1½ percent deducted originally by the supplier on the sale or delivery of the diesel fuel; and

(2) \$1.50 as a filing fee.

(b) The filing fees shall be set aside for the use and benefit of the comptroller in the administration and enforcement of the provisions of this chapter, and for payment of expenses in furnishing the claim forms and other forms. All filing fees shall be paid into the state treasury and shall be paid out on vouchers and warrants in the manner prescribed by law.

[Acts 1981, 67th Leg., p. 1626, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 153.226 to 153.300 reserved for expansion]

SUBCHAPTER D. LIQUEFIED GAS TAX

§ 153.301. Tax Imposed; Rate

(a) A tax is imposed on the use of liquefied gas for the propulsion of motor vehicles on the public highways of this state.

(b) The liquefied gas tax rate is five cents a gallon.

[Acts 1981, 67th Leg., p. 1626, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 153.302. Payment of Tax

(a) A person using a liquefied gas-propelled motor vehicle, including a motor vehicle equipped to use liquefied gas interchangeably with another motor fuel, that is required to be licensed in Texas for use on the public highways of Texas, shall prepay the liquefied gas tax to the comptroller on an annual basis; except that a person holding a motor vehicle dealer's liquefied gas tax decal shall pay the tax to a permitted dealer at the time the fuel is delivered into the fuel supply tank of a motor vehicle.

(b) An interstate trucker operating a motor vehicle licensed in a base state other than Texas and any other out-of-state user shall pay the excise tax on delivery of the liquefied gas into the fuel supply tanks of a motor vehicle.

[Acts 1981, 67th Leg., p. 1626, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2783, ch. 752, § 13(b), eff. Jan. 1, 1982.]

§ 153.303. Permits; Application; Display

(a) A dealer who sells taxable liquefied gas, interstate trucker, liquefied gas tax decal user, or a motor vehicle dealer's liquefied gas tax decal permittee shall file an application with the comptroller for the kind and class of a nonassignable permit required by this subchapter.

(b) An application for a permit must be filed on a form provided by the comptroller showing the kind and class of permit desired, the odometer reading of a Class A through F motor vehicle, and other information required by the comptroller.

(c) A permit shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner. A permit holder shall reproduce the permit and keep a copy on display at each additional place of business from which liquefied gas is sold, delivered, or used in motor vehicles. A person holding an interstate trucker's permit shall reproduce the permit and carry a copy with each motor vehicle being operated into or from Texas. The liquefied gas tax decal user shall affix the decal in the lower right-hand corner of the front windshield of the passenger side of the vehicle.

[Acts 1981, 67th Leg., p. 1626, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2783, ch. 752, § 13(c), eff. Jan. 1, 1982.]

§ 153.304. Dealer's Permit

A dealer's permit authorizes a dealer to collect and remit taxes on liquefied gas delivered into the fuel supply tanks of motor vehicles displaying an out-of-state license plate or a motor vehicle displaying a motor vehicle dealer's liquefied gas tax decal.

[Acts 1981, 67th Leg., p. 1627, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2783, ch. 752, § 13(d), eff. Jan. 1, 1982.]

§ 153.305. Liquefied Gas Tax Decal Permit

(a) A user of liquefied gas for the propulsion of a motor vehicle on the public highways of Texas shall pay in advance annually on each motor vehicle owned, operated, and licensed in Texas by him, a tax based on the registered gross weight and mileage driven the previous year in the following schedule:

	Less than 5,000 miles	5,000 to 9,999 miles	10,000 miles and over
Class A: Less than 4,000 pounds	\$24.00	\$ 48.00	\$ 72.00
Class B: 4,000 to 10,000 pounds	27.00	54.00	84.00
Class C: 10,001 to 15,000 pounds	39.00	78.00	120.00
Class D: 15,001 to 27,500 pounds	42.00	84.00	168.00
Class E: 27,501 to 43,500 pounds	57.00	114.00	228.00
Class F: 43,501 pounds and over	60.00	120.00	300.00

(b) The first issuance of a liquefied gas tax decal for a Class A through F motor vehicle shall be issued on a basis of estimated miles which will be driven annually or at the rate of 5,000 miles annually prorated monthly if issuance is after January 31.

(c) The following special use liquefied gas tax decal and tax shall be required for the types of vehicles described below:

Class T: Transit carrier vehicles operated by a transit company . . . . . \$330

Class Y: Motor vehicles designed for carrying fewer than 10 passengers and used for the transportation of persons for compensation . . . . . 204

(d) An entity holding a valid registration under Article 6686, Revised Civil Statutes of Texas, 1925, as amended, may obtain a decal for each liquefied gas-powered motor vehicle held for sale or resale and pay the tax per gallon to a permitted dealer on each delivery of liquefied gas into the fuel supply tank of the motor vehicle.

[Acts 1981, 67th Leg., p. 1627, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2783, ch. 752, § 13(e), eff. Jan. 1, 1982.]

§ 153.306. Interstate Trucker's Permit

An interstate trucker's permit authorizes an interstate trucker operating a motor vehicle with a base license plate issued by a state other than Texas to import liquefied gas into this state in the fuel supply tanks of motor vehicles owned or operated by him for commercial purposes, to report and pay the tax due, and to make sales or distributions in Texas

from his cargo tanks, but no delivery may be made in Texas into the fuel supply tanks of motor vehicles not bearing a current liquefied gas tax decal without first obtaining the required dealer's permit to make taxable sales. The interstate trucker's permit for users operating a motor vehicle with a base license plate issued by a state other than Texas is in lieu of the liquefied gas tax decal permit required to operate motor vehicles on the highways of the state. [Acts 1981, 67th Leg., p. 1627, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.307. Permits: Periods of Validity**

(a) A dealer's permit is permanent and valid as long as the permittee furnishes timely reports as required, or until the permit is surrendered by the holder or canceled by the comptroller.

(b) An interstate trucker's permit is valid from the date of its issuance through December 31 of each calendar year, or until the permit is surrendered by the holder or canceled by the comptroller. The comptroller may renew the permit for each ensuing calendar year if the permittee furnishes timely reports as required.

(c) A liquefied gas tax decal permit shall be issued annually and is valid from the date of its issuance through December 31 of the calendar year unless a motor vehicle for which the tax is prepaid is sold or no longer used on the public highway. A liquefied gas tax decal permittee must make application for a new permit each calendar year. The ending odometer reading must be provided on the renewal application. In the absence of an ending odometer reading, the previous year's mileage of the motor vehicle shall be presumed to be at least 10,000 miles.

(d) A motor vehicle dealer's liquefied gas tax decal permit shall be issued annually and is valid from the date of its issuance through December 31 of each calendar year unless the motor vehicle is sold at which time the decal shall be removed by the dealer from the motor vehicle. A motor vehicle dealer's liquefied gas tax decal permittee must make application for a new permit each year.

[Acts 1981, 67th Leg., p. 1627, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2784, ch. 752, § 13(f), eff. Jan. 1, 1982.]

**§ 153.308. Computation of Taxes; Allowances**

(a) A permitted dealer who makes a sale or delivery of liquefied gas into a fuel supply tank of a motor vehicle on which the tax is required to be collected is liable to the state for the tax imposed, and shall report and pay the tax in the manner required by this subchapter.

(b) A permitted interstate trucker shall report and pay to this state the tax at the rate imposed on each gallon of liquefied gas delivered by him into the fuel supply tank of a motor vehicle, unless the tax has been paid to a permitted dealer, and shall report and pay the tax on each gallon of liquefied gas imported into this state in the fuel supply tanks of

motor vehicles owned or operated by him and consumed in the operation of the motor vehicles on the public highways of this state.

(c) The tax on one percent of the taxable gallons of liquefied gas sold in this state shall be allocated to the permitted dealer making the sale for the expense of collecting, accounting for, reporting, and remitting the taxes collected and keeping the records. The allocation allowance shall be deducted by the permitted dealers in the payment to the state.

(d) The tax of one-half of one percent of the taxable gallons of liquefied gas used in this state by persons permitted as interstate truckers shall be allocated to the interstate trucker making the use of the liquefied gas for the expense of accounting for, reporting, and remitting the taxes due.

[Acts 1981, 67th Leg., p. 1628, ch. 389, § 1, eff. Jan. 1, 1982. Renumbered from § 153.309 by Acts 1981, 67th Leg., p. 2784, ch. 752, § 13(h), eff. Jan. 1, 1982.]

A former § 153.308, relating to security for payment of tax, derived from Acts 1981, 67th Leg., p. 1628, ch. 389, § 1, was repealed by Acts 1981, 67th Leg., p. 2784, ch. 752, § 13(g).

**§ 153.309. Records**

(a) A dealer shall keep for four years, open to inspection at all times by the comptroller and the attorney general, a complete record of all liquefied gas sold or delivered for taxable purposes.

(b) An interstate trucker shall keep for four years, open to inspection by the comptroller and the attorney general, a record of:

- (1) the total miles traveled in all states by all the interstate trucker's motor vehicles traveling into or from Texas and the total quantity of liquefied gas used in the motor vehicles; and
- (2) the total miles traveled in Texas and the total quantity of liquefied gas purchased in Texas, showing both tax-paid fuel delivered into the fuel supply tanks of motor vehicles and tax-free fuel delivered into storage facilities in Texas.

(c) Each taxable sale or delivery of liquefied gas into the fuel supply tanks of a motor vehicle, including deliveries by interstate truckers from bulk storage, shall be covered by an invoice. The invoice must be printed and contain the following:

- (1) the preprinted or stamped name and address of the permitted dealer or interstate trucker;
- (2) the date;
- (3) the number of gallons delivered;
- (4) the mileage recorded on the odometer;
- (5) the state and state highway license number;
- (6) the signature of the driver of the motor vehicle; and
- (7) the amount of tax paid or accounted for separately from the selling price.

(d) The invoice must be carried with the vehicle and will serve as a trip permit.

(e) A liquefied gas tax decal permittee required to report beginning and ending odometer readings may deduct the miles travelled outside the State of Texas

from the total miles travelled. A record of miles travelled by the vehicle in states other than Texas must be maintained and submitted with the renewal each year. A decal may not be renewed for an amount less than the rate for 4,999 miles annually. [Acts 1981, 67th Leg., p. 1628, ch. 389, § 1, eff. Jan. 1, 1982. Renumbered from § 153.310 and amended by Acts 1981, 67th Leg., p. 2784, ch. 752, § 13(h)(i), eff. Jan. 1, 1982.]

### § 153.310. Reports and Payments

(a) A permitted dealer, on or before the 25th day of the month following the end of each calendar quarter, shall file a report and remit the amount of tax due. A permitted dealer who has not made taxable sales during the reporting period shall file with the comptroller the report setting forth the facts or information.

(b) Every permitted interstate trucker, on or before the 25th day of the month following the end of each calendar quarter, shall file a report and remit the amount of tax due. A report shall be filed with the comptroller and must contain the number of miles traveled in this state, the number of miles traveled outside this state, and other information required by the comptroller on forms provided for that purpose. An interstate trucker who is required to file a report under this section and who has not made interstate trips or used liquefied gas in motor vehicles in Texas during the reporting period shall file with the comptroller the report setting forth the facts or information.

[Acts 1981, 67th Leg., p. 1629, ch. 389, § 1, eff. Jan. 1, 1982. Renumbered from § 153.311 by Acts 1981, 67th Leg., p. 2784, ch. 752, § 13(h), eff. Jan. 1, 1982.]

### § 153.311. Refunds; Transfer of Decals

(a) If a motor vehicle bearing a liquefied gas tax decal is sold or transferred, the seller and purchaser shall promptly notify the comptroller of the sale or transfer and a new decal shall be issued in the new purchaser's name.

(b) If a motor vehicle bearing a liquefied gas tax decal is destroyed or the liquefied gas carburetor system removed, the owner is entitled to a refund of the unused portion of the advance taxes paid for that calendar year. The owner or operator shall submit to the comptroller an affidavit identifying the vehicle, the permit number, the decal number assigned to the vehicle, the circumstances entitling him to a refund, and all other information required by the comptroller. On receipt of the affidavit and when satisfied as to the circumstances, the comptroller shall refund that portion of the tax payment that corresponds to the number of complete months remaining in the calendar year for which the tax has been paid, beginning with the month following the date on which the vehicle or the liquefied gas carburetor was no longer utilized. No refund may be made if the use of the vehicle ceased within the last month of the calendar year.

(c) A permitted interstate trucker is entitled to a refund of the amount of the Texas liquefied gas tax paid on each gallon of liquefied gas subsequently used outside this state. On verification by the comptroller that the interstate trucker's report was timely filed with all information required, he shall issue a warrant to the interstate trucker for the amount of the refund less the one percent deducted originally by the permitted dealer making the sale and a filing fee of \$1.50. Failure to file an interstate trucker report by the 25th of the month following the end of a calendar quarter forfeits the right to a refund. [Acts 1981, 67th Leg., p. 1629, ch. 389, § 1, eff. Jan. 1, 1982. Renumbered from § 153.312 by Acts 1981, 67th Leg., p. 2784, ch. 752, § 13(h), eff. Jan. 1, 1982.]

### § 153.312. Renumbered as § 153.311 by Acts 1981, 67th Leg., p. 2784, ch. 752, § 13(h), eff. Jan. 1, 1982

[Sections 153.313 to 153.400 reserved for expansion]

## SUBCHAPTER E. PENALTIES AND OFFENSES

### § 153.401. Failure to Pay Tax or Report

If a person having a permit as a distributor, supplier, user, dealer, or interstate trucker does not make a timely report and remittance of a tax due under this chapter, the permittee forfeits as a penalty two percent of the amount due and unpaid, and if the tax is not remitted or paid within 30 days after the date the comptroller gives the permittee notice of either the amount due or notice of failure to report, the permittee forfeits an additional eight percent of the amount due as a penalty.

[Acts 1981, 67th Leg., p. 1630, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 153.402. Prohibited Acts; Civil Penalties

A person forfeits to the state a civil penalty of not less than \$25 nor more than \$200 if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) operates a motor vehicle in this state without a valid interstate trucker's or a trip permit when the person is required to hold one of those permits;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in Texas, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal;

(4) transports gasoline or diesel fuel for sale or distribution in a cargo tank that has not been calibrated by the comptroller, by an authorized representative of another state, or by a commercial calibration company that meets the calibration standards approved by the comptroller;

(5) transports motor fuel in any cargo tank designated "out of order" by the comptroller;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(7) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's permit;

(8) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(9) makes a tax-free or taxable sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal;

(10) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(11) sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a motor vehicle;

(12) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(13) furnishes a signed statement to a supplier for purchasing diesel fuel tax free when he owns, operates, or acquires a diesel-powered motor vehicle;

(14) fails or refuses to comply with or violates a provision of this chapter; or

(15) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter.

[Acts 1981, 67th Leg., p. 1630, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2780, ch. 752, § 13(a), eff. Jan. 1, 1982.]

### § 153.403. Criminal Offenses

Except as provided by Section 153.404 of this code, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on the demand of a peace officer or the comptroller;

(2) is required to hold a valid trip permit or interstate trucker's permit, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's permit;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in Texas, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal;

(4) transports gasoline or diesel fuel for sale or distribution in a cargo tank that has not been calibrated by the comptroller, by an authorized representative of another state, or by a commercial calibration company that meets the calibration standards approved by the comptroller;

(5) transports motor fuel in any cargo tank designated "out of order" by the comptroller;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(7) makes a sale or delivery of liquefied gas on which he knows the tax is required to be collected, if at the time the sale is made he does not hold a valid dealer's permit;

(8) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(9) makes a tax-free or taxable sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal;

(10) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(11) sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or carburetor of a motor vehicle;

(12) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(13) refuses to permit the comptroller or the attorney general to inspect, examine, and audit a book or record required to be kept by a distributor, supplier, user, dealer, interstate trucker, aviation fuel dealer, common or contract carrier, or any person required to hold a permit under this chapter;

(14) refuses to permit the comptroller or the attorney general to inspect and examine any plant, equipment, materials, or premises where motor fuel is produced, processed, stored, sold, delivered, or used;

(15) refuses to permit the comptroller or the attorney general to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, stored, sold, delivered, or used;

(16) as a diesel tax prepaid user fails to prepay the tax on every diesel-powered motor vehicle owned or operated by him;

(17) mutilates, destroys, or secretes a book or record required by this chapter to be kept by a

distributor, supplier, user, dealer, interstate trucker, aviation fuel dealer, or a person required to hold a permit under this chapter;

(18) is a distributor, bonded user, interstate trucker, or supplier and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(19) conceals motor fuel with the intent of engaging in any conduct proscribed by this chapter or refuses to make sales of motor fuel on the volume-corrected basis prescribed by this chapter;

(20) refuses, while transporting motor fuel, to stop the motor vehicle he is operating when called on to do so by a person authorized to stop the motor vehicle;

(21) refuses to surrender a motor vehicle and cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;

(22) transports motor fuel for which a cargo manifest is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest containing the information required to be shown on the manifest;

(23) is a distributor, supplier, user, dealer, interstate trucker, aviation fuel dealer, or other person required to hold a permit under this chapter, or the agent or employee of one of those persons and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person;

(24) transports in any manner motor fuel under a false cargo manifest;

(25) engages in a motor fuel transaction that requires that the person have a permit under this chapter without then and there holding the required permit;

(26) makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(27) forges, falsifies, or alters an invoice prescribed by law;

(28) makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(29) furnishes to a supplier a signed statement for purchasing diesel fuel tax free when he owns, operates, or acquires a diesel-powered motor vehicle;

(30) holds an aviation fuel dealer's permit and makes a taxable sale or use of any gasoline or diesel fuel;

(31) fails to remit any tax funds collected by a distributor, supplier, user, dealer, interstate trucker, or any other person required to hold a permit under this chapter;

(32) makes a sale of diesel fuel tax free into a storage facility of a person who:

(A) is not permitted as a supplier, as an aviation fuel dealer, as a bonded user, or as a diesel tax prepaid user of diesel fuel; or

(B) does not furnish to the permitted supplier a signed statement prescribed in Section 153.205 of this code; or

(33) makes a sale of gasoline tax free to any person who is not permitted as either a distributor or an aviation fuel dealer.

[Acts 1981, 67th Leg., p. 1631, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2772, ch. 752, §§ 8(a), 13(a), eff. Jan. 1, 1982.]

#### § 153.404. Criminal Offenses: Special Provisions and Exceptions

(a) A person does not commit an offense under Section 153.403 of this code unless he intentionally or knowingly engaged in conduct as the definition of the offense requires, except that no culpable mental state is required for an offense under Section 153.403(12) of this code.

(b) Each day that a refusal prohibited under Section 153.403(13), (14), or (15) of this code continues is a separate offense.

(c) The prohibition under Section 153.403(32) of this code does not apply to the tax-free sale or distribution of diesel fuel authorized by Section 153.203(1), (2), or (5) of this code.

(d) The prohibition under Section 153.403(33) of this code does not apply to the tax-free sale or distribution of gasoline under Section 153.104(2) or (4) of this code.

[Acts 1981, 67th Leg., p. 1633, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.405. Criminal Penalties

(a) An offense under Sections 153.403(1) through (16) of this code is a Class C misdemeanor.

(b) An offense under Sections 153.403(17) through (19) of this code is a Class B misdemeanor.

(c) An offense under Sections 153.403(20) through (22) of this code is a Class A misdemeanor.

(d) An offense under Sections 153.403(23) through (33) of this code is a felony of the third degree.

[Acts 1981, 67th Leg., p. 1633, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 153.406. Criminal Penalties: Corporations and Associations

(a) Except as provided by Subsection (b) of this section, Subchapter E, Chapter 12, Penal Code, applies to offenses under this chapter committed by a corporation or association.

(b) The fine that may be fixed by the court under Section 12.51(b)(2), Penal Code, for a Class A or Class B misdemeanor, is any amount not to exceed \$5,000. The court may not fine a corporation or

association under Section 12.51(c), Penal Code, unless the amount of the fine under that subsection is greater than the amount that could be fixed by the court under Section 12.51(b), Penal Code.

(c) In addition to a sentence imposed on a corporation, the court may order the corporation to give notice of the conviction to any person.

[Acts 1981, 67th Leg., p. 1633, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.407. Venue of Criminal Prosecutions**

The venue for a prosecution under this subchapter is in Travis County or in the county where the offense occurred.

[Acts 1981, 67th Leg., p. 1634, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 153.408 to 153.500 reserved for expansion]

**SUBCHAPTER F. ALLOCATION OF TAXES**

**§ 153.501. Tax Administration Fund**

(a) Before any other allocation of the taxes collected under this chapter is made, one percent of the gross amount of the taxes shall be deposited in the state treasury in a special fund, subject to the use of the comptroller in the administration and enforcement of this chapter.

(b) The unexpended portion of the special fund shall revert, at the end of the fiscal year, to the highway motor fuel tax fund for allocation to the other funds to which revenue is allocated by this subchapter in proportion to the amounts originally derived from the respective sources.

[Acts 1981, 67th Leg., p. 1634, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.502. Allocation of Unclaimed Refundable Gasoline Taxes**

(a) Each month the comptroller, after making the deductions for refund purposes, shall determine as accurately as possible the number of gallons of fuel used in motorboats on which the gasoline tax has been paid to this state, and on which refund of the tax has not been made and against which limitation has run for filing claim for refund of the tax. From the number of gallons so determined the comptroller shall compute the amount of taxes that would have been refunded under the law had refund claims been filed in accordance with the law.

(b) The comptroller shall allocate and deposit these unclaimed refunds as follows:

(1) 25 percent of the revenues based on unclaimed refunds of taxes paid on motor fuel used in motorboats shall be deposited to the credit of the available school fund; and

(2) the remaining 75 percent of the revenue shall be deposited to the credit of the game, fish, and water safety fund.

[Acts 1981, 67th Leg., p. 1634, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.503. Allocation of Gasoline Tax**

(a) Each month the comptroller, after making all deductions for refund purposes and for the funds derived from unclaimed refunds, shall allocate the net remainder of the taxes collected under Subchapter B of this chapter as follows:

(1) one-fourth of the tax shall be deposited to the credit of the available school fund;

(2) one-half of the tax shall be deposited to the credit of the state highway fund for the construction and maintenance of the state road system under existing law; and

(3) from the remaining one-fourth of the tax the comptroller shall:

(A) deposit to the credit of the county and road district highway fund all the remaining tax receipts until a total of \$7,300,000 has been credited to the fund each fiscal year; and

(B) after the amount required to be deposited to the county and road district highway fund has been deposited, deposit to the credit of the state highway fund the remainder of the one-fourth of the tax, the amount to be provided on the basis of monthly allocations, which sum shall be used by the State Department of Highways and Public Transportation for the construction and improvement of farm-to-market roads; except that one-half of the amount may be used for the maintenance of farm-to-market roads during a fiscal year for which at least \$15 million is appropriated for the construction of farm-to-market roads under Article 6673-1, Revised Civil Statutes of Texas, 1925.

(b) All receipts due the available school fund which are in the highway motor fuel tax fund on August 31 of each fiscal year shall be credited to the available school fund on August 31 of each fiscal year.

[Acts 1981, 67th Leg., p. 1634, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2777, ch. 752, § 9(e), eff. Jan. 1, 1982.]

**§ 153.504. Allocation of Diesel Fuel Tax**

Each month the comptroller, after making deductions for refund purposes, and for the administration and enforcement of this chapter, shall allocate the remainder of the taxes collected under Subchapter D of this chapter as follows:

(1) one-fourth of the taxes shall be deposited to the credit of the available school fund; and

(2) three-fourths of the taxes shall be deposited to the credit of the state highway fund.

[Acts 1981, 67th Leg., p. 1635, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 153.505. Allocation of Liquefied Gas Tax**

Each month the comptroller, after making deductions for refund purposes and for the administration and enforcement of this chapter, shall allocate the remainder of the taxes collected under Subchapter B of this chapter, in the proportions as follows:

(1) one-fourth of the taxes shall be deposited to the credit of the available school fund; and

(2) three-fourths of the taxes shall be deposited to the credit of the state highway fund.

[Acts 1981, 67th Leg., p. 1635, ch. 389, § 1, eff. Jan. 1, 1982.]

## CHAPTER 154. CIGARETTE TAX

### SUBCHAPTER A. GENERAL PROVISIONS

#### Section

154.001. Definitions.

### SUBCHAPTER B. IMPOSITION AND RATE OF TAX

154.021. Imposition and Rate of Tax.  
154.022. First Sale.  
154.023. Impact of Tax.  
154.024. Importation of Small Quantities.

### SUBCHAPTER C. TAX STAMPS AND METERS

154.041. Stamp Required.  
154.042. Distributor.  
154.043. Sale of Stamps.  
154.044. Purchase From a Distributor.  
154.045. Recall by Comptroller.  
154.046. Invoice for Stamps.  
154.047. Stamps Shipped With Draft Attached.  
154.048. Stamp Meters.  
154.049. Meter Settings.  
154.050. Payment.  
154.051. Payment Bond.  
154.052. Distributor's Discount.  
154.053. Manufacture of Stamps.  
154.054. Redemption of Stamps.  
154.055. Exchange.  
154.056. Refunds.  
154.057. Obsolete Stamps.  
154.058. Inventory if Denomination Changes.  
154.059. Denomination Change.  
154.060. Cancellation.

### SUBCHAPTER D. PERMITS

154.101. Permits.  
154.102. Solicitor's Permit.  
154.103. Distributing Agent's Permit.  
154.104. Issuance of Distributing Agent's Permit.  
154.105. Forms.  
154.106. Application for a Distributor's Permit.  
154.107. Distributor's Permit Denied.  
154.108. Exception for Personal Use.  
154.109. Application for Wholesale or Retail Dealer's Permit.  
154.110. Issuance of Permits.  
154.111. Licensing Year; Fees.  
154.112. Additional Fees.  
154.113. Permit for More Than a Year.  
154.114. Suspension or Revocation of a Permit.  
154.115. Permit Required.  
154.116. Treasurer May Refuse to Sell Stamps.  
154.117. Display of Permit.  
154.118. Additional Permits.  
154.119. Unexpired Permit.  
154.120. Vending Machine, Train, Vehicle.  
154.121. Revenue.

### SUBCHAPTER E. INTERSTATE BUSINESS

154.151. Comptroller.  
154.152. Interstate Stock.  
154.153. Additional Bond.

### SUBCHAPTER F. RECORDS AND REPORTS

Section  
154.201. Record of Cigarettes.  
154.202. Record of Stamps.  
154.203. Report of Sale or Use.  
154.204. Interstate Business.  
154.205. Salesman.  
154.206. Solicitor.  
154.207. Carrier.  
154.208. Distributing Agent.  
154.209. Availability of Records.  
154.210. Distributor's Report.  
154.211. Solicitor's Report.  
154.212. Distributing Agent's Report.

### SUBCHAPTER G. ADMINISTRATION BY COMPTROLLER AND TREASURER

154.301. Audits.  
154.302. Payment of Double Amount.  
154.303. Supervision of Stamp Procurement.  
154.304. Inspection.  
154.305. Refund for Damaged Stamps.  
154.306. Exchange of Stamps.  
154.307. Records.  
154.308. Information Confidential.

### SUBCHAPTER H. ENFORCEMENT OF TAX

154.401. Evidence.  
154.402. Venue.  
154.403. Seizure.  
154.404. Comptroller's Report.  
154.405. Forfeiture Proceeding.  
154.406. Sale by Sheriff.  
154.407. Sale by Comptroller.  
154.408. Summary Proceeding.  
154.409. Unstamped Cigarettes.  
154.410. Seizure or Sale No Defense.  
154.411. Waiver Permitted.  
154.412. Payment to Treasury.  
154.413. State Tax Lien.  
154.414. Property Included.

### SUBCHAPTER I. PENALTIES

154.501. Penalties.  
154.502. Unstamped Cigarettes.  
154.503. Possession in Quantities Less Than 10,000.  
154.504. Possession of Quantities Less Than Individual Package.  
154.505. Cancellation of Stamp.  
154.506. Concealment of a Violation.  
154.507. Misleading the Comptroller.  
154.508. Refusing to Surrender Cigarettes.  
154.509. Permits.  
154.510. Misdemeanor.  
154.511. Transportation of Cigarettes.  
154.512. Inspection of Premises.  
154.513. Previously Used or Old Design Stamps.  
154.514. Sale of Stamps.  
154.515. Possession in Quantities of 10,000 or More.  
154.516. Books and Records.  
154.517. Felony.  
154.518. Overlap of Penalties.  
154.519. Venue.  
154.520. Counterfeit Stamps.  
154.521. Disclosure of Records.

### SUBCHAPTER J. NATURE OF TAX AND DISPOSITION OF FUNDS

154.601. Nature of Tax.  
154.602. Enforcement Fund.  
154.603. Disposition of Revenue.

SUBCHAPTER A. GENERAL PROVISIONS

§ 154.001. Definitions

In this chapter:

(1) "Cigarette" means a roll for smoking made of tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco, but does not include a cigar.

(2) "Individual package of cigarettes" means:

(A) the smallest package of cigarettes ordinarily sold at retail; or

(B) any size package of cigarettes taxed by the United States.

(3) "Place of business" means:

(A) a place where cigarettes are sold;

(B) a place where cigarettes are stored or kept for sale or consumption; or

(C) a vehicle, train, or vending machine if cigarettes are sold from the vehicle, train, or vending machine.

(4) "Stamp" means a stamp that is printed, manufactured, or made by authority of the comptroller; issued, sold, or circulated by the treasurer; and used to show payment of a tax imposed by this chapter.

(5) "Counterfeit stamp" means a stamp, label, print, tag, or token that is not authorized by the comptroller or not issued by the treasurer, but is used to show payment of a tax imposed by this chapter.

(6) "Previously used stamp" means a stamp that has been used to show payment of a tax imposed by this chapter and is again used, sold, or possessed to sell or use, to show payment of a tax imposed by this chapter.

(7) "First sale" means:

(A) the first sale or distribution of cigarettes in intrastate commerce;

(B) the first use or consumption of cigarettes in this state; or

(C) the loss of cigarettes in this state whether through negligence, theft, or other unaccountable loss.

(8) "Drop shipment" means a delivery of cigarettes received by a person in this state if payment for the cigarettes is made to the shipper or seller by a person other than the consignee.

(9) "Distributor" means a person in this state who:

(A) manufactures or produces cigarettes;

(B) ships, transports, imports into this state, or acquires or possesses cigarettes and makes a first sale of the cigarettes in this state; or

(C) is authorized to purchase on open account unstamped cigarettes direct from all manufacturers who have general distribution of cigarettes in this state and:

(i) sells cigarettes to licensed wholesalers; or

(ii) acquires or possesses unstamped cigarettes to make a first sale in this state.

(10) "Wholesale dealer" means a person, other than a distributor or a salesman who is employed by a manufacturer handling only the products of the salesman's employer, who sells or distributes cigarettes in this state for resale.

(11) "Retail dealer" means:

(A) a person, other than a distributor or wholesale dealer, who sells or distributes cigarettes, offers them for sale or distribution, or possesses them for the purpose of sale or distribution;

(B) a person, other than a distributor or wholesale dealer, who distributes or disposes of cigarettes in unbroken individual packages or in quantities of 10 or more if no sale is involved; or

(C) a coin-operated cigarette or tobacco products vending machine.

(12) "Distributing agent" means a person in this state who is an agent of a person outside this state, receives cigarettes in interstate commerce, and stores the cigarettes for distribution or delivery to distributors, wholesale dealers, and retail dealers upon orders from the person outside this state.

(13) "Solicitor" means an individual who offers cigarettes for sale in this state for delivery in this state for any person's account.

[Acts 1981, 67th Leg., p. 1638, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.002 to 154.020 reserved for expansion]

SUBCHAPTER B. IMPOSITION AND RATE OF TAX

§ 154.021. Imposition and Rate of Tax

(a) A tax is imposed on a person who uses or disposes of cigarettes in this state.

(b) The tax rates are:

(1) \$9.25 per thousand on cigarettes weighing three pounds or less per thousand; and

(2) \$11.35 per thousand on cigarettes weighing more than three pounds per thousand.

[Acts 1981, 67th Leg., p. 1640, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 154.022. First Sale

The cigarette tax is imposed and becomes due and payable when a person in this state receives cigarettes to make a first sale.

[Acts 1981, 67th Leg., p. 1640, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.023. Impact of Tax**

The ultimate consumer or user in this state bears the impact of the tax imposed by this chapter. If another person pays the tax, the amount of the tax is added to the price to the ultimate consumer or user.

[Acts 1981, 67th Leg., p. 1640, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.024. Importation of Small Quantities**

(a) A person who imports and personally transports 200 or fewer cigarettes into this state is not required to pay the tax imposed by this chapter if the person uses the cigarettes and does not sell them or offer them for sale.

(b) Employees of the Texas Alcoholic Beverage Commission who collect taxes on alcoholic beverages at ports of entry shall collect at the ports of entry the tax imposed by this chapter on cigarettes imported into this state.

(c) The comptroller and the Texas Alcoholic Beverage Commission shall make rules for the administration of this section.

[Acts 1981, 67th Leg., p. 1640, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.025 to 154.040 reserved for expansion]

**SUBCHAPTER C. TAX STAMPS AND METERS****§ 154.041. Stamp Required**

(a) A person who pays a tax imposed by this chapter shall securely affix a stamp to each individual package of cigarettes to show payment of the tax.

(b) Each person, other than a distributing agent, bonded distributor, or common carrier, shall obtain the necessary stamps before receiving or accepting delivery of unstamped cigarettes. The possession of unstamped cigarettes without the possession of the requisite amount or number of stamps is prima facie evidence that the cigarettes are possessed for the purpose of making a first sale without stamps and without payment of a tax imposed by this chapter.

(c) The absence of a stamp on an individual package of cigarettes is notice that the tax has not been paid.

(d) A manufacturer of cigarettes outside this state may purchase a stamp and affix it to the individual package and no further payment of the tax is required.

(e) A stamp is not required on a sample package that contains five or fewer cigarettes if the manufacturer reports the tax and pays it directly to the state.

[Acts 1981, 67th Leg., p. 1640, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.042. Distributor**

(a) A distributor shall affix the required tax stamps to each individual package that is to be sold, offered for sale, consumed, distributed, handled or transported.

(b) Each distributor in this state shall affix the required stamps within 96 hours after receiving the cigarettes, excluding Saturdays, Sundays, and legal holidays.

[Acts 1981, 67th Leg., p. 1641, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.043. Sale of Stamps**

Except as provided in Section 154.044 of this code, only the treasurer may sell cigarette stamps. The stamps may be sold only in unbroken sheets of 100. The purchaser shall send the order for stamps directly to the treasurer.

[Acts 1981, 67th Leg., p. 1641, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.044. Purchase From a Distributor**

(a) If a distributor does not possess sufficient unused stamps to cover the distributor's inventory of unstamped cigarettes, the comptroller may allow the distributor to purchase the required stamps from any distributor through a requisition from the comptroller so that the unstamped cigarettes may be stamped immediately under the direction of the comptroller.

(b) The comptroller may issue the requisition. The requisition shall be in triplicate on a form prescribed by the comptroller. The copies shall be designated "original," "duplicate," and "triplicate." The comptroller shall keep the original and send the duplicate to the purchaser and the triplicate to the seller. The purchaser and seller shall keep their respective copies available at all times for two years for inspection by the comptroller and the attorney general.

[Acts 1981, 67th Leg., p. 1641, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.045. Recall by Comptroller**

(a) The comptroller may recall unused stamps that have been sold by the treasurer.

(b) If the comptroller recalls stamps, the purchaser, on the comptroller's demand, shall surrender the stamps to the treasurer for exchange.

(c) If the comptroller recalls stamps and the treasurer receives them from the purchaser, the treasurer shall issue stamps with different serial numbers for the recalled stamps.

[Acts 1981, 67th Leg., p. 1641, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.046. Invoice for Stamps**

(a) The treasurer shall send an invoice for stamps to the purchaser.

(b) The treasurer shall prescribe the form of the invoice.

(c) The invoice shall be issued in triplicate and numbered consecutively. The invoice must show:

- (1) the date of sale;
- (2) the name and address of the purchaser;
- (3) the number of stamps;
- (4) the serial numbers of the stamps; and
- (5) the denomination and value of the stamps.

(d) The treasurer shall sign the invoice and send the original and the stamps to the purchaser. The treasurer shall keep a copy of the invoice and send a copy to the comptroller.

(e) The purchaser shall have the original invoice available at all times for two years for inspection by the comptroller and the attorney general.

[Acts 1981, 67th Leg., p. 1641, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.047. Stamps Shipped With Draft Attached**

(a) A distributor may order stamps to be shipped to a bank with which the distributor regularly transacts business if the bank is authorized to do business under the laws of this state and the United States. The treasurer may ship the stamps to the bank with the invoice required by Section 154.046 of this code and a form draft.

(b) The state auditor shall prescribe the form of the draft. The draft must show:

- (1) the amount of the draft;
- (2) the name of the distributor;
- (3) the name and address of the bank; and
- (4) the date of shipment.

(c) If the draft is not paid within 20 days after the date of the draft, the bank shall return the draft and stamps to the treasurer. The treasurer shall notify the distributor to appear before the treasurer to show cause why the distributor should not be denied the privilege of ordering stamps shipped with draft attached. If the distributor fails to show good cause, the treasurer may stop shipping stamps with draft attached.

[Acts 1981, 67th Leg., p. 1642, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.048. Stamp Meters**

(a) The comptroller may authorize a licensed distributor to use a stamp metering machine to impress on or to attach to each package of cigarettes evidence of tax payment. The comptroller shall adopt rules for the use of tax meter stamps.

(b) No distributor may use a tax meter stamp without authorization from the comptroller. The comptroller may revoke or suspend without prior notice authorization to use tax meter stamps.

[Acts 1981, 67th Leg., p. 1642, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.049. Meter Settings**

A distributor using a stamp metering machine shall submit a request for a setting on a form

furnished by the treasurer. The distributor shall at his own expense send the meter with the proper payment to the treasurer. The treasurer shall set and return the meter, with insurance and shipping cost collect on delivery. The treasurer shall keep the key to the meter. Only the treasurer may remove or break the seal on the meter. A distributor may request meter settings only in units of 100. No distributor may request a meter setting of more than 99,900.

[Acts 1981, 67th Leg., p. 1642, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.050. Payment**

(a) The treasurer shall require that payment in full for stamps or meter settings be made within 30 days after the date stamps or a set meter is received by the distributor, except that at the close of each biennium, payment for stamps or meter settings purchased or received on or before August 16 of that fiscal year shall be made in full on or before August 31 of that fiscal year. When the treasurer receives the order for stamps or a meter setting, the treasurer shall ship the stamps or the set meter with a certified statement showing the amount due. Except as provided in this section, the distributor shall forward payment in full within 30 days after the date the stamps or set meter and certified statement are received.

(b) The treasurer may not ship stamps or set a meter without advance payment under this section unless the distributor has filed the bond provided for in Section 154.051 of this code.

[Acts 1981, 67th Leg., p. 1642, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2779, ch. 752, § 12, eff. Jan. 1, 1982.]

**§ 154.051. Payment Bond**

(a) A distributor may file a surety bond, approved by the treasurer and the attorney general, with a corporate surety authorized to do business in this state, conditioned on timely payment in full for stamps or a meter setting. The treasurer shall set the amount of the bond at 1½ times the amount of stamps and meter setting requested by the distributor and approved by the treasurer to be purchased for the following month. The treasurer shall accept payment by a company check or by a personal check of a bonded distributor.

(b) If a bonded distributor fails to pay in full by the due date, the treasurer shall notify the distributor within five days after the due date to appear before the treasurer to show cause why the treasurer should not deny the distributor the privilege of ordering stamps without advance payment. If a distributor fails to show good cause, the treasurer may discontinue shipping stamps or setting meters without advance payment and may enforce payment of the bond.

[Acts 1981, 67th Leg., p. 1643, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.052. Distributor's Discount**

(a) A licensed distributor is entitled to a discount of 2.75 percent of the face value of stamps purchased, except that an out-of-state purchaser residing in a state that does not give a discount on cigarette tax stamps purchased by a cigarette distributor residing in this state may not purchase stamps at a discount as provided by this section.

(b) If a distributor violates a provision of this chapter, the distributor shall pay the full face value for stamps purchased during the period of the offense. The comptroller shall send the treasurer an affidavit setting forth a violation, and the treasurer shall refuse to supply stamps at the discount until the distributor has paid any unauthorized discounts and has satisfied the comptroller that the distributor is not in violation of a provision of this chapter. [Acts 1981, 67th Leg., p. 1643, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.053. Manufacture of Stamps**

(a) The comptroller shall design and have printed or manufactured cigarette tax stamps. If the comptroller determines that it is necessary for the best enforcement of this chapter, the comptroller may change the design of the stamps. The comptroller shall determine the size, denomination, and quantity of stamps manufactured. The stamps shall be manufactured so that they may be easily and securely attached to an individual package of cigarettes. The comptroller may designate the method of identification for the stamps. The comptroller shall award the contract for the printing or manufacturing to the person submitting the lowest and best bid that will give the best protection to the state in enforcing this chapter.

(b) When the treasurer receives a new design of stamps authorized by the comptroller, the treasurer shall designate the date of issue of the new stamps by issuing a proclamation. The date of the proclamation is the date of issue.

[Acts 1981, 67th Leg., p. 1643, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.054. Redemption of Stamps**

(a) The treasurer shall redeem unused cigarette tax stamps that were lawfully issued before a design or denomination change. Except as provided by Subsection (c) of this section, the treasurer shall exchange old stamps for new stamps at face value.

(b) If a design or denomination change is made, a person who has stamps of the old design or denomination shall send the stamps to the treasurer for exchange. In the case of a design change, the person shall send the stamps within 60 days after the date of issue. In the case of a denomination change, the person shall send the stamps within 60 days after the effective date of a tax increase.

(c) The treasurer may not exchange any stamps unless the treasurer is satisfied that the stamps were

properly purchased and paid for by the person exchanging the stamps. The treasurer may refuse to exchange stamps that are effaced or mutilated.

(d) A stamp not exchanged within the 60-day period provided for in this section is void.

(e) Cigarettes stamped with an old design stamp more than 60 days after the date of a new design are unstamped cigarettes.

(f) Stamps of an old denomination removed from cigarettes determined by the comptroller to be unsalable may be redeemed under rules made by the comptroller.

[Acts 1981, 67th Leg., p. 1643, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.055. Exchange**

The treasurer shall exchange stamps in unbroken sheets of 100 for stamps of a different denomination. [Acts 1981, 67th Leg., p. 1644, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.056. Refunds**

The treasurer may make refunds on unused stamps in unbroken sheets of 100. The treasurer may not make a refund unless the treasurer is satisfied that the stamps were properly purchased and paid for by the person requesting the refund. The treasurer shall make the refund from revenue collected under this chapter before the revenue is allocated.

[Acts 1981, 67th Leg., p. 1644, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.057. Obsolete Stamps**

The comptroller has authority over obsolete stamps. The comptroller shall burn obsolete stamps. [Acts 1981, 67th Leg., p. 1644, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.058. Inventory if Denomination Changes**

On the effective date of a tax increase, a retail or wholesale dealer who has 2,000 or more cigarettes stamped with stamps of an old denomination shall immediately inventory the packages and file a report of the inventory with the comptroller. The dealer shall attach to the inventory a cashier's check payable to the treasurer equal to the amount of additional tax due because of the tax increase. The dealer shall keep a copy of the inventory and the purchaser's copy of the cashier's check.

[Acts 1981, 67th Leg., p. 1644, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.059. Denomination Change**

No person may, 60 days after a tax increase:

- (1) possess stamps of an old denomination; or
- (2) sell, offer for sale, or possess for the purpose of sale cigarettes stamped with stamps of an old denomination.

[Acts 1981, 67th Leg., p. 1644, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.060. Cancellation**

No person may cancel, mark, or mutilate a stamp on a package of cigarettes so that the comptroller is prevented from or hindered in examining the genuineness of the stamp.

[Acts 1981, 67th Leg., p. 1644, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.061 to 154.100 reserved for expansion]

**SUBCHAPTER D. PERMITS**

**§ 154.101. Permits**

(a) A person may not engage in business as a distributor, wholesale dealer, or retail dealer unless the person has applied for and received the applicable permit from the comptroller.

(b) A distributor, wholesale dealer, and retail dealer shall obtain a permit for each place of business owned or operated by the distributor, wholesale dealer, or retail dealer.

[Acts 1981, 67th Leg., p. 1645, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.102. Solicitor's Permit**

(a) A person may not engage in business as a solicitor unless the person has applied for and received a solicitor's permit from the comptroller.

(b) A solicitor's permit must set forth the name and address of the vendors and employers the solicitor represents. The solicitor may not represent a vendor or employer whose name is not on the permit.

[Acts 1981, 67th Leg., p. 1645, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.103. Distributing Agent's Permit**

(a) A person may not engage in business as a distributing agent unless the person has applied for and received a distributing agent's permit from the comptroller.

(b) The comptroller shall furnish the application form for the permit if the applicant makes a written request. The applicant has an excuse for failure to file if the applicant can show that the comptroller refused to furnish a form.

(c) The application must include:

(1) the name under which the distributing agent will do business;

(2) the address of the principal office and place of business in this state to which the permit applies;

(3) if the applicant is not an individual, the principal officers' or members' names and addresses; and

(4) any other information the comptroller requests.

(d) A distributing agent shall obtain a permit for each place of business owned or operated by the distributing agent.

[Acts 1981, 67th Leg., p. 1645, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.104. Issuance of Distributing Agent's Permit**

(a) The comptroller shall issue a permit to a distributing agent for a designated place of business if the comptroller has received the application and fee.

(b) The permits are nonassignable and consecutively numbered.

(c) The distribution or delivery of cigarettes by a distributing agent to a licensed distributor on this state under instructions received from outside this state is not a first sale.

[Acts 1981, 67th Leg., p. 1645, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.105. Forms**

The comptroller shall prescribe the form for an application for a permit to be a wholesale dealer, retail dealer, distributor, or distributing agent.

[Acts 1981, 67th Leg., p. 1645, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.106. Application for a Distributor's Permit**

(a) The comptroller may direct a distributor to file an application at any time. The applicant shall accurately set forth the information required on the application. The comptroller may require, either on the application or in a supplement, information about the applicant that the comptroller believes is necessary to determine whether the applicant may receive a permit.

(b) If the applicant is a corporation, association, joint venture, syndicate, partnership, or proprietorship, the comptroller may require each officer, director, stockholder owning 10 percent or more of the outstanding stock, partner, member, owner, and managing employee to furnish information as provided for in this section.

[Acts 1981, 67th Leg., p. 1645, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.107. Distributor's Permit Denied**

The comptroller may reject an application and deny a distributor's permit if the comptroller after notice and opportunity for hearing finds that:

(1) the premises where business will be conducted are not adequate to protect the revenue; or

(2) the applicant or managing employee, or if the applicant is a corporation, an officer, director, manager, or any stockholder who holds directly or through family or partner relationship 10 percent or more of the corporation's stock, or if the applicant is a partnership, a partner or manager:

(A) is, because of business experience, financial standing, trade connections, previous busi-

ness affiliation, prior employment, or prior conviction of a felony, not likely to comply with the provisions of this chapter; or

(B) has failed to disclose any required material information or has made a material false statement in the application.

[Acts 1981, 67th Leg., p. 1646, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.108. Exception for Personal Use

If a distributor acquires cigarettes for personal use or consumption and not for sale, gift, or other disposition:

(1) the distributor is not required to have a distributor's permit, but shall comply with all other provisions of this chapter; and

(2) the treasurer may sell stamps to the distributor in quantities of less than unbroken sheets of 100.

[Acts 1981, 67th Leg., p. 1646, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.109. Application for Wholesale or Retail Dealer's Permit

(a) The comptroller shall furnish the application form to an applicant on the applicant's written request. The applicant has an excuse for failure to file if the applicant can show that the comptroller refused to furnish a form.

(b) The application must include:

(1) the manner in which the applicant will do business;

(2) the applicant's principal office, residence, and place of business in Texas to which the permit is to apply;

(3) if the applicant is not an individual, the principal officers' or members' names and addresses, not to exceed three; and

(4) any other information the comptroller requests.

[Acts 1981, 67th Leg., p. 1646, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.110. Issuance of Permits

(a) The comptroller shall issue a permit to a distributor, wholesale dealer, or retail dealer if the comptroller:

(1) has received the application and fee;

(2) believes that the applicant has complied with the conditions of issuance; and

(3) determines that issuing the permit will not jeopardize the revenue.

(b) The permit shall be issued for a designated place of business.

(c) The permits are nonassignable and shall be consecutively numbered. The permit must show the kind of permit and authorize the sale of cigarettes in this state. The permit must show that it is revocable and shall be forfeited or suspended if the condi-

tions of issuance, provisions of this chapter, or reasonable rules of the comptroller are violated.

[Acts 1981, 67th Leg., p. 1646, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.111. Licensing Year; Fees

(a) A permit required by this chapter expires on the last day of February of each year.

(b) An application for a permit required by this chapter must be accompanied by a fee of:

(1) \$100 for a distributing agent's permit;

(2) \$25 for a distributor's permit;

(3) \$15 for a wholesale dealer's permit;

(4) \$5 for a retail dealer's permit; and

(5) \$1 for a solicitor's permit.

(c) The comptroller shall prorate the fee for a new or renewal permit required by Section 154.101 or 154.103 of this code by allowing a discount computed by quarters of the licensing year.

[Acts 1981, 67th Leg., p. 1647, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.112. Additional Fees

(a) A person who is required by this chapter to have a permit and who does not obtain a renewal permit before the beginning of the licensing year shall pay a late application fee of \$1 to the comptroller at the time the person pays the permit fee.

(b) If the comptroller must visit a permit holder to collect a permit fee due under this chapter, the permit holder shall pay a service fee of \$5 in addition to the permit fee.

[Acts 1981, 67th Leg., p. 1647, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.113. Permit for More Than a Year

If a permit expires within three months after the date of issuance or renewal, the comptroller, with the consent of the permit holder, may collect the discounted permit fee or the fee for a current permit plus a fee for the next licensing year and issue a permit or permits for both periods.

[Acts 1981, 67th Leg., p. 1647, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.114. Suspension or Revocation of a Permit

(a) The comptroller shall give notice to a person at the place of business named in the application for a permit to show cause why a permit should not be suspended or revoked if the comptroller believes that:

(1) a distributor, wholesale dealer, or retail dealer:

(A) has engaged in any activity that endangers the revenue;

(B) has not maintained the premises to protect the revenue; or

(C) has not notified the comptroller of a business change affecting ownership, operation, or control;

(2) a distributing agent, distributor, wholesale dealer, or retail dealer:

(A) has violated a provision of this chapter; or

(B) has violated a rule made under this chapter;

(3) a wholesale dealer or retail dealer fails to make the inventory required by Section 154.058 of this code; or

(4) a solicitor does not make the report required by Section 154.211 of this code.

(b) If the person does not show cause, the comptroller shall revoke the permit or suspend it for a period to be determined by the comptroller.

[Acts 1981, 67th Leg., p. 1647, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.115. Permit Required**

(a) If a permit issued under this chapter is revoked or suspended, the person may not sell cigarettes from the place of business to which the permit applied until a new permit is granted or the suspension is removed.

(b) Except at the comptroller's discretion, if a permit is revoked the person may not receive a new permit within one year after the date of the revocation.

[Acts 1981, 67th Leg., p. 1648, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.116. Treasurer May Refuse to Sell Stamps**

The treasurer may refuse to sell stamps to a person who has not obtained a distributor's permit or to a distributor who does not have a valid permit.

[Acts 1981, 67th Leg., p. 1648, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.117. Display of Permit**

A person who has a permit required by Section 154.101 of this code shall keep the permit on public display at the place of business of the person to whom it is issued.

[Acts 1981, 67th Leg., p. 1648, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.118. Additional Permits**

(a) If a person operates as a distributor and a wholesale dealer in the same place of business, the person shall obtain only a distributor's permit for the place of business.

(b) If a distributor or wholesale dealer sells cigarettes wholesale and retail, the distributor or wholesale dealer shall obtain a retail dealer's permit in addition to the distributor's permit or wholesale dealer's permit.

[Acts 1981, 67th Leg., p. 1648, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.119. Unexpired Permit**

A person who has a permit that is required by Section 154.101 of this code and that is unexpired may return the permit to the comptroller for credit on the unexpired portion for the purchase of a permit of a higher classification.

[Acts 1981, 67th Leg., p. 1648, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.120. Vending Machine, Train, Vehicle**

If a distributor, wholesale dealer, or retail dealer applies for a permit to sell cigarettes from a vending machine, train, or vehicle, the applicant must show on the application:

(1) the serial number of the vending machine;

(2) the make, motor number, and license number of the vehicle; or

(3) the number of the train and the name of the railway company.

[Acts 1981, 67th Leg., p. 1648, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.121. Revenue**

Revenue from the sale of permits to distributors, wholesale dealers, and retail dealers is allocated in the same manner as other revenue is allocated by Subchapter J of this chapter.

[Acts 1981, 67th Leg., p. 1648, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.122 to 154.150 reserved for expansion]

SUBCHAPTER E. INTERSTATE BUSINESS

**§ 154.151. Comptroller**

The comptroller may make rules to regulate the sale of cigarettes that are for movement into a state adjoining this state and that are stamped with the tax stamps of the adjoining state.

[Acts 1981, 67th Leg., p. 1649, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.152. Interstate Stock**

(a) If a person executes and files with the comptroller a good and sufficient surety bond signed by the person and a good and sufficient surety company or companies authorized to do business in this state, the person may set aside unstamped cigarettes for interstate business. The person shall keep the interstate stock in a separate part of the building from the stamped stock. If the person does not keep the interstate stock separate, the stock shall be considered intrastate stock and be subject to the same requirements as cigarettes possessed for the purpose of a first sale.

(b) The bond shall be payable to the state in Austin, Travis County, and conditioned upon full and faithful performance of the requirements of this chapter. The comptroller, with the approval of the

attorney general, shall prescribe the form of the bond.

(c) The bond shall be approved by and acceptable to the comptroller. The comptroller shall set the amount of the bond at not less than \$250 nor more than double the amount necessary to stamp the largest quantity of cigarettes set aside at any time.

(d) If a person sets aside more cigarettes than permitted under the bond, the cigarettes are subject to the same requirements as cigarettes in intrastate commerce.

[Acts 1981, 67th Leg., p. 1649, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 154.153. Additional Bond

The comptroller shall require an additional or new bond if an existing bond becomes insufficient or a surety becomes unsatisfactory. The person shall supply the additional or new bond within 10 days after the date of the demand, and if the person refuses, the comptroller may cancel any existing bond made by the person. If the comptroller cancels a bond, the person, within 48 hours after cancellation, excluding Sundays and legal holidays, shall affix the appropriate stamps to cigarettes received before the cancellation.

[Acts 1981, 67th Leg., p. 1649, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.154 to 154.200 reserved  
for expansion]

## SUBCHAPTER F. RECORDS AND REPORTS

### § 154.201. Record of Cigarettes

(a) A distributor, wholesale dealer, or retail dealer shall keep at each place of business in this state, except as provided by Section 154.209 of this code, a record of cigarettes purchased and of cigarettes received. The record must include all invoices, bills of lading, waybills, freight bills, express receipts or copies of express receipts, and any shipping records furnished by the carrier and the seller or shipper.

(b) A distributor, wholesale dealer, or retail dealer shall keep at each place of business in this state, except as provided by Section 154.209 of this code, a record in a well-bound book that provides complete information on cigarettes purchased and on cigarettes received. The record book must show:

- (1) the date cigarettes were received;
- (2) whether the cigarettes were drop-shipped or otherwise;
- (3) the name and address of the seller and the shipper;
- (4) the place from which the cigarettes were shipped or delivered;
- (5) the place where the cigarettes were received;
- (6) the name of the carrier;

(7) whether or not the cigarettes were shipped by common carrier;

(8) the name of the boat or barge if shipped by water;

(9) if received by mail, whether sent registered mail, insured parcel post, or ordinary mail;

(10) the number and kind of stamped cigarettes received;

(11) if received by a distributor, the number and kind of unstamped cigarettes;

(12) if a distributor, an inventory made on the first of each month showing the number and kind of stamped cigarettes on hand; and

(13) if a distributor, an inventory made on the first of each month showing the number and kind of unstamped cigarettes on hand.

[Acts 1981, 67th Leg., p. 1649, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 154.202. Record of Stamps

(a) A distributor shall keep at each place of business in this state, except as provided by Section 154.209 of this code, the invoice of stamps purchased or received from the treasurer and a record in a well-bound book that provides complete information on stamps purchased and the disposition of the stamps.

(b) The record book must show:

(1) the date of receipt of stamps purchased;

(2) the number or quantity of stamps purchased;

(3) the denomination of stamps purchased;

(4) the amount paid for the stamps;

(5) if stamps were sold pursuant to Section 154.044 of this code, the name of the purchaser, the number or quantity of stamps, and the denomination and face value of the stamps;

(6) the number or quantity of and the denomination and face value of stamps sent to or received from the treasurer as an exchange; and

(7) the inventory of stamps on hand on the first day of each month, showing the number or quantity, denomination, and face value of the stamps.

[Acts 1981, 67th Leg., p. 1650, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 154.203. Report of Sale or Use

(a) A distributor or wholesale dealer shall keep at each place of business in this state, except as provided by Section 154.209 of this code, a record of each sale, distribution, or use of cigarettes whether taxed under this chapter or not. The record shall be kept on an invoice supplied by the distributor or wholesale dealer. The invoice shall be supported by the receipts and records furnished by the carrier. The invoice shall be issued in duplicate, unless the sale or distribution is made by drop shipment, in which case the invoice shall be issued in triplicate. The original invoice shall be delivered to the purchaser and the

duplicate shall be kept by the distributor or wholesale dealer. If cigarettes are distributed or exchanged in a manner other than a sale, the invoice must explain the transaction. If a distributor or wholesale dealer sells cigarettes at retail, the distributor or wholesale dealer shall issue an invoice to the retail department for cigarettes to be sold at retail, and the distributor or wholesale dealer shall keep the stock invoiced for retail sale separated from other stock.

(b) A distributor or wholesale dealer shall keep at each place of business in this state a record in a well-bound book of all cigarettes sold, distributed, or used by the distributor or wholesale dealer.

(c) The invoice and record book must show for each sale, distribution, or use of cigarettes:

- (1) the date of sale, the distribution, or use;
- (2) the purchaser's name and address;
- (3) the means of delivery;
- (4) if delivered by common carrier, the name of the carrier;
- (5) if delivered by mail, whether by registered mail, insured parcel post, or ordinary mail;
- (6) the designation of drop shipment if the sale is a drop shipment by a distributor;
- (7) the number and kind of cigarettes sold;
- (8) if the sale is by a distributor, the number and kind of stamped cigarettes; and
- (9) if the sale is by a distributor, the number and kind of unstamped cigarettes.

[Acts 1981, 67th Leg., p. 1650, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.204. Interstate Business**

If a person sells cigarettes in interstate commerce only, the person shall keep the same type of records and make the same type of reports that are required of a distributor.

[Acts 1981, 67th Leg., p. 1651, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.205. Salesman**

A salesman who is employed by a manufacturer, who handles only the product of the employer, and who sells or distributes stamped cigarettes in this state for resale shall keep the same records that are required of a wholesale dealer. The salesman shall deliver the original of the invoice required by Section 154.203 of this code to the purchaser or recipient of the cigarettes.

[Acts 1981, 67th Leg., p. 1651, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.206. Solicitor**

(a) A solicitor shall keep in this state a record of orders solicited and orders taken for cigarettes. The record must show:

- (1) the quantity and kind of cigarettes ordered or shipped;

(2) the name of the person from whom the cigarettes were ordered or by whom the cigarettes are shipped;

(3) the name and address of the purchaser;

(4) the date the cigarettes were ordered; and

(5) if available, the date the cigarettes were shipped.

(b) If a solicitor is given credit for or furnished records of an order or shipment shipped by the vendor the solicitor represents, the solicitor shall keep the record whether or not the solicitor took the order.

[Acts 1981, 67th Leg., p. 1651, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.207. Carrier**

(a) A common or contract carrier that transports cigarettes in this state shall keep a record in this state of cigarettes handled or transported. The record must show for each transaction:

(1) the name of the consignor and consignee;

(2) the date of delivery; and

(3) the number or quantity of cigarettes transported or handled.

(b) The carrier shall keep the record required by this section, and all books or records in the custody of the carrier showing the shipment of cigarettes, open at all times for inspection by the comptroller or the attorney general. The carrier shall allow the comptroller and the attorney general free access to books, records, and cigarettes in the carrier's custody.

[Acts 1981, 67th Leg., p. 1651, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.208. Distributing Agent**

(a) A distributing agent shall keep at each place of business in this state a record of cigarettes received and a record of each distribution or delivery made by the distributing agent.

(b) The record of cigarettes received must include all:

(1) invoices;

(2) orders;

(3) bills of lading;

(4) waybills;

(5) freight bills;

(6) express receipts; and

(7) shipping records furnished by the carrier and shipper.

(c) A distributing agent may use a copy of a record required by Subsection (b) of this section.

(d) The record of distribution or delivery must include all:

(1) orders or copies of orders;

(2) invoices or copies of invoices; and

(3) shipping records furnished by the carrier and the person ordering the distribution or delivery.

[Acts 1981, 67th Leg., p. 1652, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.209. Availability of Records

(a) A person, other than a common carrier or a contract carrier, required by this subchapter to keep a record shall keep the record available at all times for two years for inspection by the comptroller and the attorney general.

(b) If a distributor's, wholesale dealer's, or retail dealer's place of business is a vending machine, train, or vehicle, the distributor, wholesale dealer, or retail dealer shall designate in the application for a permit a permanent place to keep the records. The distributor, wholesale dealer, or retail dealer shall keep the records in the designated place after the cigarettes are delivered from the vending machine, train, or vehicle.

[Acts 1981, 67th Leg., p. 1652, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.210. Distributor's Report

(a) A distributor shall deliver to the comptroller in Austin, on or before the 10th day of each month, a report for the preceding calendar month.

(b) The report must show:

- (1) the date the report was made;
- (2) the distributor's name and address;
- (3) the month the report covers;
- (4) the number of unstamped and the number of stamped cigarettes on hand at the beginning of the month;
- (5) the number of unstamped and the number of stamped cigarettes purchased and received during the month;
- (6) the number of unstamped and the number of stamped cigarettes returned by customers or received from any other source;
- (7) the number of unstamped and the number of stamped cigarettes sold, used, lost, stolen, returned to the factory, or disposed of in any other manner;

(8) the number of unstamped and the number of stamped cigarettes on hand at the end of the month;

(9) the number of cigarettes sold or distributed in interstate commerce;

(10) the number of cigarettes sold or distributed in intrastate commerce;

(11) the number, denomination, and face value of unused stamps on hand at the beginning of the month;

(12) the number, denomination, and face value of stamps purchased and received;

(13) the number, denomination, and face value of stamps sold, used, lost, stolen, exchanged, returned, or disposed of in any other manner;

(14) the number, denomination, and face value of stamps on hand at the end of the month; and

(15) all drop shipments handled by or through the distributor during the month, including the date of shipment, invoice number, name and address of the consignee, number and brand of cigarettes, and means of delivery.

(c) The distributor shall attach copies of invoices of drop shipments handled by or through the distributor during the month.

(d) The comptroller may furnish a form for the report, but a distributor's failure to obtain a form is not an excuse for failure to file a report.

[Acts 1981, 67th Leg., p. 1652, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.211. Solicitor's Report

(a) A solicitor shall file with the comptroller, on or before the fifth day of each month, a copy of each order solicited by him in this state during the preceding calendar month. The comptroller shall supply the forms.

(b) the copy must show:

- (1) the quantity and kind of cigarettes ordered;
- (2) the name of the person ordering the cigarettes;
- (3) the name of the person that the cigarettes were ordered from;
- (4) the name and address of the purchaser;
- (5) the date the cigarettes were ordered; and
- (6) any other information the comptroller requires.

[Acts 1981, 67th Leg., p. 1653, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 154.212. Distributing Agent's Report

(a) A distributing agent in this state shall report to the comptroller each day except Sundays and holidays all cigarette deliveries made by the distributing agent on the preceding day or days.

(b) The comptroller shall prescribe the form of the report, and the distributing agent shall furnish the form.

(c) The report must show:

- (1) the name of the person ordering the delivery;
- (2) the date of delivery;
- (3) the name and address of the person to whom delivered;
- (4) the invoice number;
- (5) the bill of lading or waybill number;
- (6) the number and kind of cigarettes delivered;
- (7) the means of delivery;
- (8) the transportation agent; and

(9) the designation of drop shipment if a drop shipment.

(d) If the invoice furnished to the distributing agent by the manufacturer or person ordering the delivery or the bill of lading prepared by the distributing agent to cover the shipment under the invoice contains the information required by this section, a copy of each invoice or bill of lading may be sent to the comptroller instead of the report.

[Acts 1981, 67th Leg., p. 1653, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.213 to 154.300 reserved for expansion]

SUBCHAPTER G. ADMINISTRATION BY COMPTROLLER AND TREASURER

§ 154.301. Audits

(a) If a distributor fails to pay a tax or penalty in the proper manner when due as required by this chapter, the comptroller may employ a person to determine the amount due. If the distributor has not paid the tax or penalty, the distributor shall pay the reasonable expenses incurred for the investigation and audit as an additional penalty.

(b) The comptroller shall deposit funds paid in under this section to the credit of the general revenue fund.

[Acts 1981, 67th Leg., p. 1654, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 154.302. Payment of Double Amount

(a) If the comptroller finds that a person has sold unstamped cigarettes, the comptroller may require the person to pay the state through the comptroller a sum equal to twice the amount of stamp tax due.

(b) If the person does not furnish the comptroller evidence that enough stamps were purchased to cover unstamped cigarettes purchased, it is presumed that the cigarettes were sold without the proper stamps.

[Acts 1981, 67th Leg., p. 1654, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 154.303. Supervision of Stamp Procurement

The director of the cigarette tax division shall:

(1) direct the administration and enforcement of the provisions of this chapter;

(2) supervise the printing and manufacturing of tax stamps under the contract as awarded by the State Purchasing and General Services Commission;

(3) have possession and custody of, and be responsible for, specification plans, photographs, impressions, drawings, electroplates, printing stones, and any property that may provide a way to reproduce, manufacture, or print cigarette tax stamps in the design selected by the comptroller;

(4) inspect the stamps after the manufacturing or printing;

(5) reject and supervise the destruction of sheets of stamps that do not meet the specifications in the contract; and

(6) have control of manufactured or printed stamps and be responsible for the stamps until the treasurer receives the stamps.

[Acts 1981, 67th Leg., p. 1654, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 154.304. Inspection

(a) To determine the tax liability of a person dealing in cigarettes, the comptroller may:

(1) inspect any premises where cigarettes are manufactured, produced, stored, transported, sold, or offered for sale or exchange;

(2) remain on the premises as long as necessary to determine the tax liability;

(3) examine the records required by this chapter or records kept incident to the conduct of the cigarette business of the person dealing in cigarettes; and

(4) examine stocks of cigarettes and cigarette stamps.

(b) A person dealing in cigarettes may not:

(1) fail to produce, on the comptroller's demand, records required by this chapter; or

(2) hinder or prevent the inspection of the required records or the examination of the premises.

[Acts 1981, 67th Leg., p. 1654, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 154.305. Refund for Damaged Stamps

The treasurer may make rules providing for a refund for stamps that are unfit for sale or use because of damage.

[Acts 1981, 67th Leg., p. 1655, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 154.306. Exchange of Stamps

(a) The treasurer may make rules providing for exchange or replacement without cost of stamps affixed to a package of cigarettes if the cigarettes have become unfit for use or consumption or unsalable.

(b) The treasurer may not exchange stamps under this section unless the treasurer is satisfied that the cigarettes are unfit for use or consumption or unsalable and have been destroyed or returned to the manufacturer.

[Acts 1981, 67th Leg., p. 1655, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 154.307. Records

The treasurer shall keep a record of:

(1) stamps sold by the treasurer or under the treasurer's direction;

(2) stamps exchanged by the treasurer; and

(3) refunds made on stamps purchased.

[Acts 1981, 67th Leg., p. 1655, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.308. Information Confidential**

(a) Information obtained by the attorney general or comptroller from a record, report, instrument, or copy of a record, report, or instrument required by this chapter is confidential and not open to public inspection, except as provided by Subsections (c), (d), and (e) of this section.

(b) Information obtained by the attorney general or comptroller during an examination of a taxpayer's books, records, papers, officers, employees, business affairs, operations, source of income, profits, losses, or expenditures is confidential and not open to public inspection, except as provided by Subsections (c) and (d) of this section.

(c) The comptroller or attorney general may use information obtained from an examination or obtained from a record, report, instrument, or copy of a record, report, or instrument to enforce the provisions of this chapter.

(d) The comptroller or attorney general may authorize examination by other officers and law enforcement officials of this state, or by tax officials of another state, or by officials of the federal government if a reciprocal arrangement exists.

(e) Information set forth in a lien filed under this title or in a permit issued under Section 154.101 or 154.102 of this code is not confidential.

[Acts 1981, 67th Leg., p. 1655, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.309 to 154.400 reserved for expansion]

**SUBCHAPTER H. ENFORCEMENT OF TAX****§ 154.401. Evidence**

(a) In a suit to establish or collect a tax, penalty, and cost of audit from a distributor, the following types of reports are admissible in evidence and are prima facie evidence of their contents:

(1) a report filed with the comptroller by the distributor, or a copy of a report certified to by the comptroller or the comptroller's chief clerk, showing the number of cigarettes sold by the distributor on which a tax, penalty, and cost of audit have not been paid; or

(2) an audit made by the comptroller from the books or records of the distributor, or audit made by another person if signed and sworn to as being made from the records of the distributor or persons from whom the distributor has bought, received, or delivered cigarettes.

(b) The inaccuracy of the report or audit may be shown.

(c) If the attorney general files suit for taxes and attaches or files as an exhibit a report or audit and an affidavit of the comptroller that the taxes are unpaid and that all payments and credits have been allowed, unless the opposing party files an answer as required by Rule 185, Texas Rules of Civil Proce-

dure, the audit or report shall be taken as prima facie evidence of the amount owed. Rule 185, Texas Rules of Civil Procedure, applies to suits to collect taxes under this chapter.

[Acts 1981, 67th Leg., p. 1656, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.402. Venue**

A civil suit filed under this chapter may be brought in Travis County or in the county of the defendant's domicile.

[Acts 1981, 67th Leg., p. 1656, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.403. Seizure**

(a) The comptroller with or without process may seize:

(1) cigarettes taxed under this chapter that are possessed or controlled by a person for the purpose of selling or removing the cigarettes in violation of this chapter;

(2) cigarettes that are removed, deposited, or concealed by a person intending to avoid payment of taxes imposed by this chapter;

(3) an automobile, boat, conveyance, or other type of vehicle used to remove or transport cigarettes by a person intending to avoid payment of taxes imposed by this chapter; and

(4) equipment, paraphernalia, or other tangible personal property used by a person intending to avoid payment of taxes imposed by this chapter found in the place where the cigarettes are found.

(b) An item seized under this section is forfeited to the state and remains in the custody of the comptroller, sheriff, or other officer for disposition as provided by this chapter. The seized item is not subject to replevin.

[Acts 1981, 67th Leg., p. 1656, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.404. Comptroller's Report**

(a) If the comptroller seizes property under Section 154.403 of this code, the comptroller shall immediately make a written report showing:

(1) the name of the person making the seizure;

(2) the place where the property was seized;

(3) the person from whom the property was seized;

(4) an inventory; and

(5) an appraisal showing ordinary retail price of the items seized.

(b) The comptroller shall prepare the report in duplicate. The person who seized the property shall sign the report. The comptroller shall give the original to the person from whom the property was seized and shall file a duplicate copy open for public inspection in the comptroller's office.

[Acts 1981, 67th Leg., p. 1656, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.405. Forfeiture Proceeding**

(a) At the comptroller's request, the attorney general or the district or county attorney of the county where the seizure occurred shall file an in rem proceeding in a court of competent jurisdiction in the county of seizure. The state is the plaintiff, and the owner or person in possession of the seized property is defendant. If the owner or possessor is unknown, the seized property is the defendant.

(b) After the suit is filed, the clerk of the court shall notify the owner or person in possession to appear before the court on a named date to show cause why the property should not be forfeited. The date of appearance may not be set for less than two days after the date of service of the notice. The notice shall be served by the sheriff of the county.

(c) On the comptroller's affidavit that the defendant is a nonresident, that the defendant's residence is unknown, or that the defendant's name is unknown, notice or process shall be served or published in the manner provided by law for service on nonresidents or unknown defendants. The hearing may not be held before the expiration of 10 days after the date of service or the first publication of the notice. The court shall appoint an attorney to represent the nonresident or unknown defendant. The attorney has the rights, duties, and compensation as provided by law for an attorney appointed to represent a nonresident defendant or an unknown defendant.

[Acts 1981, 67th Leg., p. 1657, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.406. Sale by Sheriff**

(a) If a court renders final judgment maintaining a seizure and declaring a forfeiture as provided by Section 154.405 of this code, the court shall order that the sheriff sell the property to the highest bidder at public auction in the county of seizure. The sheriff shall give 10 days' notice of the sale by advertising at least twice in a legal publication in the county.

(b) The sheriff shall send the sale proceeds, less expenses of seizure and court costs, to the state treasury. The net proceeds are allocated as provided by Subchapter J of this chapter.

(c) If the district or county attorney files and prosecutes a case under Section 154.405 of this code, a fee of \$15 shall be paid to the official in addition to other fees allowed by law. The fee is collected as court costs out of the sale proceeds.

[Acts 1981, 67th Leg., p. 1657, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.407. Sale by Comptroller**

In lieu of the forfeiture proceeding provided by Section 154.405 of this code, the comptroller may sell seized property through the summary proceeding provided by Section 154.408 of this code if the property appears by the report or receipt of the officer seizing it to have an appraised value of \$500 or less.

[Acts 1981, 67th Leg., p. 1657, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.408. Summary Proceeding**

(a) The comptroller shall publish a notice in a newspaper in the county where the seizure was made. The notice must:

- (1) give a description of the property;
- (2) state the time and place of seizure;
- (3) state the cause of seizure; and
- (4) require a person claiming an interest in the property to appear and make a claim within 15 days after the date of publication.

(b) A person claiming an interest in seized property may:

- (1) file a timely claim with the comptroller stating the person's interest in the property; and
- (2) execute a bond to the state in the amount of \$250 with sureties approved by the comptroller conditioned on the person paying the cost of the forfeiture proceeding if forfeiture is established.

(c) If the comptroller receives the bond provided for in this section, the comptroller shall send the bond with a certified copy of the report or receipt of the property seized as provided by Section 154.404 of this code to the attorney general or the county or district attorney of the county of seizure. The attorney general or county or district attorney shall file and prosecute forfeiture proceedings as provided by Section 154.405 of this code.

(d) If no person files a timely claim and executes a bond, the comptroller shall:

- (1) give 10 days' notice of the sale of the seized property by publishing notice twice in a newspaper in the county of seizure;
- (2) sell the seized property at the time and place specified in the notice at public auction; and
- (3) after deducting the cost of seizure, appraisal, custody, and sale, deposit the proceeds in the state treasury to be allocated as provided by Subchapter J of this chapter.

[Acts 1981, 67th Leg., p. 1657, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.409. Unstamped Cigarettes**

If cigarettes seized under Section 154.403 of this code are unstamped, an officer selling the cigarettes shall affix the required stamps to the cigarettes and deduct the cost of the stamps from the sale proceeds.

[Acts 1981, 67th Leg., p. 1658, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.410. Seizure or Sale No Defense**

The seizure, forfeiture, and sale of cigarettes or property under this chapter, with or without court action, is not a defense to criminal prosecution for an offense or from liability for a penalty under this chapter.

[Acts 1981, 67th Leg., p. 1658, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.411. Waiver Permitted**

(a) The comptroller may waive a forfeiture proceeding for property seized under Section 154.403 of this code if the owner or possessor of the property:

- (1) affixes the required stamp to the individual packages of cigarettes; and
- (2) in addition to the value of the stamps required to be affixed, pays to the state through the comptroller a sum equal to the value of the required stamps.

(b) The comptroller may make a compromise with a person before or after a claim is filed in court. The comptroller shall keep a record open for public inspection of compromises and waivers of forfeiture made under this section.

[Acts 1981, 67th Leg., p. 1658, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.412. Payment to Treasury**

The comptroller shall deposit money collected under Section 154.411, after payment of costs and commissions, in the treasury to be allocated as provided by Subchapter J of this chapter.

[Acts 1981, 67th Leg., p. 1658, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.413. State Tax Lien**

Taxes, penalties, and costs of auditing as provided in Section 154.301 of this code that a distributor owes this state are a preferred lien, first and prior to other existing liens, contract or statutory, legal or equitable, on all property of the distributor used in the distributor's business.

[Acts 1981, 67th Leg., p. 1659, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.414. Property Included**

Property subject to the lien provided for in Section 154.413 of this code includes:

- (1) manufacturing plants;
- (2) storage plants;
- (3) warehouses;
- (4) office buildings and equipment;
- (5) motor vehicles or equipment used as a vehicle;
- (6) each tract of land on which a manufacturing plant, storage plant, warehouse, office building, or other property is located;
- (7) tangible property that is used to carry on the distributor's business; and
- (8) the distributor's cigarettes and stamps.

[Acts 1981, 67th Leg., p. 1659, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.415 to 154.500 reserved for expansion]

## SUBCHAPTER I. PENALTIES

**§ 154.501. Penalties**

(a) A person violates this chapter if the person:

(1) is a distributor, wholesale dealer, retail dealer, or distributing agent and fails to keep records required by this chapter;

(2) is a distributor, wholesale dealer, or retail dealer and sells cigarettes taxed under this chapter without a valid permit;

(3) is a distributor, wholesale dealer, or distributing agent and fails to make a report or makes a false or incomplete report required by this chapter to the comptroller;

(4) is a distributing agent and stores, distributes, or delivers unstamped cigarettes in this state without a valid permit; or

(5) is a person affected by this chapter and fails or refuses to abide by or violates a provision of this chapter or a rule made by the comptroller under this chapter.

(b) A person who violates this section forfeits and shall pay to the state a penalty of not less than \$25 nor more than \$500.

(c) Each day on which a violation occurs is a separate offense.

(d) The attorney general shall bring suits to recover penalties under this section.

(e) A suit under this section may be brought in a court of competent jurisdiction in Travis County or in any court having jurisdiction.

[Acts 1981, 67th Leg., p. 1659, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.502. Unstamped Cigarettes**

A person commits an offense if the person:

(1) makes a first sale of unstamped cigarettes;

(2) sells, offers for sale, or presents as a prize or gift unstamped cigarettes; or

(3) knowingly consumes, uses, or smokes cigarettes taxed under this chapter without a stamp affixed to each individual package.

[Acts 1981, 67th Leg., p. 1659, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.503. Possession in Quantities Less Than 10,000**

(a) Except as provided by Section 154.042 of this code, a person commits an offense if the person possesses unstamped cigarettes in quantities less than 10,000.

(b) This section does not prohibit transportation of cigarettes by a common carrier.

[Acts 1981, 67th Leg., p. 1660, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.504. Possession of Quantities Less Than Individual Package**

A person commits an offense if the person sells cigarettes in quantities less than an individual package.

[Acts 1981, 67th Leg., p. 1660, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.505. Cancellation of Stamp**

A person commits an offense if the person knowingly cancels or mutilates, with fraudulent intent or to conceal a violation of this chapter, a stamp affixed to an individual package of cigarettes.

[Acts 1981, 67th Leg., p. 1660, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.506. Concealment of a Violation**

A person commits an offense if the person uses any artful device or deceptive practice to conceal a violation of this chapter.

[Acts 1981, 67th Leg., p. 1660, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.507. Misleading the Comptroller**

A person commits an offense if the person misleads the comptroller in the enforcement of this chapter.

[Acts 1981, 67th Leg., p. 1660, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.508. Refusing to Surrender Cigarettes**

A person commits an offense if the person refuses to surrender to the comptroller on demand cigarettes possessed in violation of this chapter.

[Acts 1981, 67th Leg., p. 1660, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.509. Permits**

A person commits an offense if the person:

(1) as a distributor or representative of a distributor, makes a first sale without having a valid permit;

(2) as a distributor or representative of a distributor, makes a first sale without having a permit posted where it can be easily seen by the public;

(3) as a distributor, wholesale dealer, or agent of a distributor or wholesale dealer, does not deliver an invoice required by Section 154.203 of this code to the purchaser;

(4) as a wholesale dealer, retail dealer, or agent of a wholesale dealer or retail dealer, sells cigarettes without having a valid permit;

(5) as a wholesale dealer, retail dealer, or agent of a wholesale dealer or retail dealer, sells cigarettes without having a permit posted where it can be easily seen by the public;

(6) as a distributing agent, stores or distributes unstamped cigarettes without having a valid permit; or

(7) offers for sale or solicits an order in this state for cigarettes to be shipped to a place in this state without having a valid solicitor's permit.

[Acts 1981, 67th Leg., p. 1660, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.510. Misdemeanor**

An offense under Sections 154.502 through 154.509 of this code is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1981, 67th Leg., p. 1660, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.511. Transportation of Cigarettes**

A person, other than a common carrier, commits an offense if the person:

(1) knowingly transports more than 200 cigarettes without a stamp affixed to each individual package;

(2) wilfully refuses to stop a motor vehicle operated to transport cigarettes after a request to stop from an authorized person; or

(3) while transporting cigarettes refuses to permit a complete inspection of the cargo by an authorized person.

[Acts 1981, 67th Leg., p. 1661, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.512. Inspection of Premises**

A person commits an offense if the person refuses to permit a complete inspection by an authorized person of any premises where cigarettes are manufactured, produced, stored, transported, sold, or offered for sale or exchange.

[Acts 1981, 67th Leg., p. 1661, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.513. Previously Used or Old Design Stamps**

A person commits an offense if the person:

(1) uses, sells, offers for sale, or possesses for use or sale previously used stamps;

(2) attaches or causes to be attached a previously used stamp to an individual package of cigarettes;

(3) uses or consents to the use of previously used stamps in connection with the sale or offering for sale of cigarettes; or

(4) sells, offers for sale, or possesses stamps of an old design more than 60 days after the date of issue of a new design of stamps.

[Acts 1981, 67th Leg., p. 1661, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.514. Sale of Stamps**

A person commits an offense if the person, without having the requisition from the comptroller as provided by Section 154.044 of this code:

(1) purchases stamps from a person other than the treasurer; or

(2) sells lawfully issued stamps to a person other than the treasurer.

[Acts 1981, 67th Leg., p. 1661, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.515. Possession in Quantities of 10,000 or More**

(a) Except as provided by Section 154.042 of this code, a person commits an offense if the person possesses unstamped cigarettes in quantities of 10,000 or more.

(b) This section does not prohibit transportation of cigarettes by a common carrier.

[Acts 1981, 67th Leg., p. 1661, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.516. Books and Records**

A person commits an offense if the person:

(1) as a distributor, distributing agent, or agent of a distributor or distributing agent, knowingly makes, delivers to, and files with the comptroller a false return or report or an incomplete return or report;

(2) knowingly fails to make and deliver to the comptroller a return or report as required by this chapter;

(3) as a distributor, wholesale dealer, retail dealer, distributing agent, or the agent of a distributor, wholesale dealer, retail dealer, or distributing agent, destroys, mutilates, or conceals a book or record required by this chapter;

(4) refuses to permit the attorney general or the comptroller to inspect and audit books and records that are required to be kept by this chapter or that are incidental to the conduct of the cigarette business and may be kept;

(5) knowingly makes a false entry or fails to make entries in the books and records required by this chapter to be kept by a distributor, wholesale dealer, retail dealer, or distributing agent; or

(6) fails to keep for two years in this state books and records required by this chapter to be kept by a distributor, wholesale dealer, retail dealer, or distributing agent.

[Acts 1981, 67th Leg., p. 1661, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.517. Felony**

An offense under Sections 154.511 through 154.516 of this code is a felony punishable by:

(1) confinement in the state penitentiary for not more than two years or in the county jail for not less than one month nor more than six months;

(2) a fine of not less than \$100 nor more than \$5,000; or

(3) both fine and confinement.

[Acts 1981, 67th Leg., p. 1662, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.518. Overlap of Penalties**

If an offense is punishable under Section 154.510 of this code and also under Section 154.517 of this code, the punishment prescribed by Section 154.517 of this code controls.

[Acts 1981, 67th Leg., p. 1662, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.519. Venue**

Venue of a prosecution for an offense punishable under Section 154.510 or 154.517 of this code is in Travis County or in the county where the offense occurred.

[Acts 1981, 67th Leg., p. 1662, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.520. Counterfeit Stamps**

(a) A person commits an offense if the person:

(1) prints, engraves, makes, issues, sells, or circulates counterfeit stamps;

(2) possesses with intent to use, sell, circulate, or pass a counterfeit stamp;

(3) uses or consents to the use of a counterfeit stamp in the sale or offering for sale of cigarettes; or

(4) places or causes to be placed a counterfeit stamp on an individual package of cigarettes.

(b) An offense under this section is a felony punishable by confinement in the state penitentiary for not less than 2 years nor more than 20 years.

(c) Venue of a prosecution under this section is in Travis County.

[Acts 1981, 67th Leg., p. 1662, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 154.521. Disclosure of Records**

(a) An employee of the attorney general or the comptroller commits an offense if the employee:

(1) gives a person information obtained from the examination of books or records as provided for by Section 154.301 or 154.304 of this code;

(2) permits a person to inspect records, reports, or copies of records or reports required by this chapter;

(3) gives a person a copy of a record or report required by this chapter; or

(4) gives a person information about a record or report.

(b) An offense under this section is a Class B misdemeanor.

(c) It is an exception to the offense defined by this section that the employee of the attorney general or the comptroller furnished information as authorized by Section 154.308 of this code.

[Acts 1981, 67th Leg., p. 1662, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 154.522 to 154.600 reserved for expansion]

SUBCHAPTER J. NATURE OF TAX AND DISPOSITION OF FUNDS

§ 154.601. Nature of Tax

(a) The tax imposed by this chapter is not an occupation tax.

(b) If a court of competent jurisdiction declares the tax imposed by this chapter to be an occupation tax:

(1) the legislature intends that the holding not affect the validity of the remaining provisions of this chapter; and

(2) the net revenue is allocated to the general revenue fund, except that one-fourth of the net revenue shall be transferred from the general revenue fund to the available school fund.

(c) A tax imposed by this chapter is in lieu of any other occupation or excise tax imposed by the state or a political subdivision of the state on cigarettes. [Acts 1981, 67th Leg., p. 1663, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2777, ch. 752, § 9(d), eff. Jan. 1, 1982.]

§ 154.602. Enforcement Fund

(a) The legislature may appropriate money for manufacturing and printing of cigarette tax stamps. Amounts appropriated under this section shall be taken from revenue received from the cigarette tax before the revenue is allocated.

(b) An enforcement fund is established in the state treasury to be used by the comptroller for the administration and enforcement of this chapter subject to appropriation by the legislature in the General Appropriations Act.

(c) The comptroller shall deposit to the credit of the enforcement fund 1.875 percent of:

(1) the first \$2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand; and

(2) the first \$4.10 of tax received per 1,000 cigarettes for cigarettes weighing more than three pounds per thousand.

(d) At the end of each biennium, any unexpended portion of the fund is allocated as provided by Section 154.603 of this code.

[Acts 1981, 67th Leg., p. 1663, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2776, ch. 752, § 9(c), eff. Jan. 1, 1982.]

§ 154.603. Disposition of Revenue

(a) After the deduction for the enforcement fund, the revenue remaining of the first \$2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the first \$4.10 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand is allocated:

(1) 18.75 percent to the available school fund; and

(2) 81.25 percent to the general revenue fund.

(b) The revenue remaining after deduction for the enforcement fund and allocation under Subsection (a) of this section is allocated:

(1) 50 cents per 1,000 cigarettes to the state parks fund;

(2) 50 cents per 1,000 cigarettes to the local parks, recreation and open space fund (this allocation expires on August 31, 1983); and

(3) the remainder to the general revenue fund.

(c) The Parks and Wildlife Department may use the money allocated under Subsection (b)(1) of this section to plan, develop, acquire, maintain, and operate state parks and historic sites. The department may not use more than 25 percent of the revenue credited to the state parks fund under Subsection (b)(1) to operate and maintain state parks and historic sites.

(d) Revenues allocated under Subsection (b) of this section shall be credited to the general revenue fund and then transferred from the general revenue fund to the appropriate funds as designated in Subsection (b) of this section.

[Acts 1981, 67th Leg., p. 1663, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2776, ch. 752, § 9(b), eff. Jan. 1, 1982.]

Amendment by Acts 1981, 67th Leg., p. 2450, ch. 630, § 3

*Section 3 of Acts 1981, 67th Leg., p. 2450, ch. 630, § 3, purports to amend Taxation—General, art. 7.06 [now, §§ 154.021, 154.022, 154.024, 154.041, 154.043, and this section], by adding subd. (4), without reference to repeal of said article by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a). As so added, subd. (4) reads:*

*“(a) For the period beginning on September 1, 1981, and extending through August 31, 1983, only, three cents of the tax allocated under Section (3)(b) of this Article on each 1,000 cigarettes shall be credited to a special fund in the State Treasury called the Sesquicentennial Museum Fund. Provided, no portion of the revenues allocated under this Section shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided, further, the revenues allocated under this Section may be credited daily to the Omnibus Clearance Fund hereafter referred to in this Act and on the first day of each month following the collection of the revenues allocated under this Section, the said revenues shall be credited to the Sesquicentennial Museum Fund except that the revenues allocated under this Section during the month of August of each year shall be credited to the Sesquicentennial Museum Fund on the thirty-first day of August of each year; it being specifically understood that no portion of the said revenues allocated under this Section shall remain or be distributed under the provisions governing the said Clearance Fund.*

“(b) The remaining net revenue derived from the tax levied under this Article after allocating the amounts specified in Subsection (a) of this Section shall be credited to the General Fund of this State. Provided, no portion of the revenues allocated under this Subsection shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided, further, the revenues allocated under this Subsection may be credited daily to the Omnibus Clearance Fund hereafter referred to in this Act and on the first day of each month following the collection of the revenues allocated under this Subsection, the said revenues shall be credited to the General Fund, except that the revenues allocated under this Subsection during the month of August of each year shall be credited to the General Fund on the thirty-first day of August of each year; it being specifically understood that no portion of the said revenues allocated under this Subsection shall remain or be distributed under the provisions governing the said Clearance Fund.”

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

## CHAPTER 155. CIGARS AND TOBACCO PRODUCTS TAX

### SUBCHAPTER A. GENERAL PROVISIONS

Section  
155.001. Definitions.

### SUBCHAPTER B. IMPOSITION AND RATE OF TAX

155.021. Tax Imposed.  
155.022. First Sale.  
155.023. Payment of Tax.  
155.024. Exception for Personal Use.  
155.025. Selling Only From a Vending Machine.  
155.026. Penalty for Failure to Pay Tax.  
155.027. Venue.

### SUBCHAPTER C. PERMITS

155.041. Permits.  
155.042. Solicitor's Permit.  
155.043. Distributing Agent's Permit.  
155.044. Issuance of Distributing Agent's Permit.  
155.045. Joint Permit.  
155.046. Forms.  
155.047. Exception for Personal Use.  
155.048. Issuance of Permits.  
155.049. Licensing Year; Fees.  
155.050. Payment for Permits.  
155.051. Additional Fees.  
155.052. Permit Required.  
155.053. Display of Permit.  
155.054. Additional Permits.  
155.055. Unexpired Permit.  
155.056. Vending Machine, Train, Boat, Airplane, Vehicle.  
155.057. Vending Machine With Cigarette Dealer's Permit.

Section  
155.058. Revenue.  
155.059. Revocation of Distributor's, Wholesale Dealers', or Retailer's Permit.  
155.060. Revocation of Solicitor's Permit.  
155.061. Bond.  
155.062. Insufficient Bond.  
155.063. Release of Surety.  
155.064. Cash or Securities.

### SUBCHAPTER D. RECORDS AND REPORTS

155.101. Record of Tobacco Products.  
155.102. Report of Sale or Use.  
155.103. Interstate Business.  
155.104. Salesman.  
155.105. Solicitor.  
155.106. Records Kept Separate.  
155.107. Carrier.  
155.108. Distributing Agent's Record.  
155.109. Vending Machine Record.  
155.110. Availability of Records.  
155.111. Distributor's Report.  
155.112. Solicitor's Report.  
155.113. Distributing Agent's Report.

### SUBCHAPTER E. ENFORCEMENT OF TAX

155.141. Evidence.  
155.142. Venue.  
155.143. Seizure.  
155.144. Comptroller's Report.  
155.145. Forfeiture Proceeding.  
155.146. Sale by Sheriff.  
155.147. Sale by Comptroller.  
155.148. Summary Proceeding.  
155.149. Tax Not Paid.  
155.150. Seizure or Sale No Defense.  
155.151. Waiver Permitted.  
155.152. Payment to Treasury.  
155.153. State Tax Lien Preferred.  
155.154. Property Included.

### SUBCHAPTER F. ADMINISTRATION BY COMPTROLLER

155.181. Auditing Costs.  
155.182. Payment of Double Amount.  
155.183. Inspection.  
155.184. Credit for Tax Paid.  
155.185. Information Confidential.

### SUBCHAPTER G. PENALTIES

155.201. Penalties.  
155.202. Payment of Tax.  
155.203. Possession: Tax Due \$50 or Less.  
155.204. Concealment of Violation.  
155.205. Misleading the Comptroller.  
155.206. Refusing to Surrender Tobacco Products.  
155.207. Permits.  
155.208. Misdemeanor.  
155.209. Transportation of Tobacco Products.  
155.210. Inspection of Premises.  
155.211. Possession: Tax Due More Than \$50.  
155.212. Books and Records.  
155.213. Felony.  
155.214. Overlap of Penalties.  
155.215. Venue for Felony.

### SUBCHAPTER H. ALLOCATION OF TAX

155.241. Allocation of Tax.

SUBCHAPTER A. GENERAL PROVISIONS

§ 155.001. Definitions

In this chapter:

(1) "Cigar" means a roll of fermented tobacco wrapped in tobacco. The main stream of smoke from a cigar produces an alkaline reaction to litmus paper. The main stream of smoke from a cigarette produces an acid reaction to litmus paper.

(2) "Cigar containing a substantial amount of nontobacco ingredients" means a cigar that contains sheet binder, sheet wrapper, sheet filler, or a combination of sheet binder, sheet wrapper, or sheet filler.

(3) "Tobacco product" means:

- (A) a cigar;
- (B) a cheroot;
- (C) a stogie;

(D) smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette;

(E) chewing tobacco, including Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing; or

(F) an article or product made of tobacco or a tobacco substitute, but does not include snuff or a cigarette.

(4) "First sale" means:

(A) the first sale or distribution in intrastate commerce in this state; or

(B) the first use or consumption in this state.

(5) "Drop shipment" means a delivery of cigars or tobacco products received by a person in this state if payment for the cigars or tobacco products is made to the shipper, seller, or buyer or by a person other than the consignee.

(6) "Consumer" means a person who possesses tobacco products to consume or dispose of them.

(7) "Distributor" means a person who:

(A) engages in the business of selling tobacco products in this state and brings, or causes to be brought, into this state from outside this state tobacco products for sale, use, or consumption; or

(B) manufactures tobacco products in this state for sale, use, or consumption in this state.

(8) "Wholesale dealer" means a person:

(A) whose principal business is that of a wholesale dealer or jobber;

(B) who is known to the trade as a wholesale dealer or jobber; and

(C) who sells cigars or tobacco products to licensed retailers for resale, gives away cigars or tobacco products, or displays cigars or tobacco products so that a retailer may acquire them.

(9) "Retailer" means a dealer other than a wholesale dealer:

(A) whose principal business is selling merchandise at retail; and

(B) who sells or offers for sale cigars or tobacco products, gives away cigars or tobacco products, or displays cigars or tobacco products so that a consumer may acquire them.

(10) "Solicitor" means a person who:

(A) represents a licensed nonresident supplier; and

(B) solicits or takes orders for tobacco products to be shipped in interstate commerce to a licensed distributor in this state.

(11) "Distributing agent" means a person in this state who is an agent of a person outside this state, receives cigars and tobacco products in interstate commerce, and stores the cigars and tobacco products for distribution or delivery to distributors, wholesale dealers, retailers, or consumers on orders from the person outside this state.

(12) "Dealer" means a person who:

(A) manufactures cigars or tobacco products for distribution, sale, use, or consumption in this state; or

(B) imports cigars or tobacco products from outside this state for distribution, sale, use, or consumption in this state.

(13) "Retail price" means the ordinary price paid by the consumer for individual cigars or tobacco products before adding the tax.

[Acts 1981, 67th Leg., p. 1666, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 155.002 to 155.020 reserved for expansion]

SUBCHAPTER B. IMPOSITION AND RATE OF TAX

§ 155.021. Tax Imposed

(a) A tax is imposed on each person who makes a first sale of cigars or tobacco products.

(b) The tax rates are:

(1) one cent per 10 or fraction of 10 on cigars weighing three pounds or less per thousand;

(2) \$7.50 per thousand on cigars that:

(A) weigh more than three pounds per thousand; and

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for 3.3 cents or less each;

(3) \$11 per thousand on cigars that:

(A) weigh more than three pounds per thousand;

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain no substantial amount of nontobacco ingredients;

(4) \$15 per thousand on cigars that:

(A) weigh more than three pounds per thousand;

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain a substantial amount of nontobacco ingredients; and

(5) 25 percent of the factory list price, exclusive of any trade discount, special discount, or deal, on chewing tobacco and smoking tobacco.

(c) Cigars taxed under Subsections (b)(3) and (b)(4) of this section are presumed to contain a substantial amount of nontobacco ingredients unless the report on the cigars required by Section 155.111 of this code is accompanied by an affidavit stating that specific cigars described in the report do not contain sheet wrapper, sheet binder, or sheet filler. If the manufacturer prepares the report, the manufacturer shall make the affidavit. If the distributor prepares the report, the manufacturer and the distributor shall make the affidavit.

[Acts 1981, 67th Leg., p. 1667, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.022. First Sale

(a) A person making a first sale of cigars or tobacco products in this state shall pay the tax to the treasurer.

(b) At the time of a first sale of cigars or tobacco products in this state, the person making the first sale shall collect the tax from the purchaser or recipient in addition to the selling price.

(c) In each subsequent sale or distribution, the tax shall be added to the selling price so that the tax is ultimately paid by the person using or consuming the cigars or tobacco products in this state.

[Acts 1981, 67th Leg., p. 1668, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.023. Payment of Tax

A distributor shall pay the tax on cigars and tobacco products sold, used, or disposed of during the preceding month at the same time the distributor files the report required by Section 155.111 of this code. A distributor shall pay in legal tender, money order, or exchange made payable to the treasurer.

[Acts 1981, 67th Leg., p. 1668, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.024. Exception for Personal Use

A person who personally transports cigars or tobacco products in quantities or amounts that would ordinarily retail at 25 cents or less is not required to pay the tax imposed by this chapter if the person uses the cigars or tobacco products and does not sell them or offer them for sale.

[Acts 1981, 67th Leg., p. 1662, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.025. Selling Only From a Vending Machine

No occupation tax shall be collected from a person for the privilege of selling tobacco products only

from a vending machine other than the permit fee required by this chapter.

[Acts 1981, 67th Leg., p. 1668, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.026. Penalty for Failure to Pay Tax

(a) If a distributor fails to file the report and pay the tax when due, the distributor forfeits and shall pay to the state a penalty of five percent of the amount of the tax. After the first 30 days, the distributor shall pay an additional penalty of five percent of the amount of tax.

(b) The minimum penalty imposed by this section is \$1.

(c) The yearly interest rate on delinquent taxes under this chapter is six percent.

[Acts 1981, 67th Leg., p. 1669, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.027. Venue

Venue of a suit for collection of a penalty for late payment of taxes is in Travis County.

[Acts 1981, 67th Leg., p. 1669, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 155.028 to 155.040 reserved for expansion]

### SUBCHAPTER C. PERMITS

#### § 155.041. Permits

(a) A person may not engage in business as a distributor, wholesale dealer, or retailer unless the person has applied for and received the applicable permit from the comptroller.

(b) A distributor, wholesale dealer, or retailer shall obtain a permit for each place of business owned or operated by the distributor, wholesale dealer, or retailer.

(c) The comptroller shall furnish the application form for the permit if the applicant makes a written request. The applicant has an excuse for failure to file if the applicant can show that the comptroller refused to furnish a form.

(d) The application must include:

(1) a description of the manner in which the applicant transacts or intends to transact business;

(2) the address of the principal office, residence, and place of business for which the permit applies;

(3) if the applicant is not an individual, the principal officers' or members' names and addresses, not to exceed three; and

(4) any other information the comptroller requests.

[Acts 1981, 67th Leg., p. 1669, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.042. Solicitor's Permit**

(a) A person may not engage in business as a solicitor unless the person has applied for and received a permit from the comptroller.

(b) A solicitor's permit must set forth the names and addresses of the vendors and employers that the solicitor represents. The solicitor may not represent a vendor or employer whose name is not on the permit.

[Acts 1981, 67th Leg., p. 1669, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.043. Distributing Agent's Permit**

(a) A person may not engage in business as a distributing agent unless the person has applied for and received a distributing agent's permit from the comptroller.

(b) The comptroller shall furnish the application form for the permit if the applicant makes a written request. The applicant has an excuse for failure to file if the applicant can show that the comptroller refused to furnish a form.

(c) The application must include:

- (1) the name under which the distributing agent will do business;
- (2) the address of the principal office and place of business in this state to which the permit applies;
- (3) if the applicant is not an individual, the principal officers' or members' names and addresses; and
- (4) any other information the comptroller requests.

(d) A distributing agent shall obtain a permit for each place of business owned or operated by the distributing agent.

[Acts 1981, 67th Leg., p. 1669, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.044. Issuance of Distributing Agent's Permit**

(a) The comptroller shall issue a permit to a distributing agent for a designated place of business if the comptroller has received the application and fee.

(b) The permits are nonassignable and consecutively numbered.

[Acts 1981, 67th Leg., p. 1670, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.045. Joint Permit**

The comptroller may issue a joint permit for cigarettes and tobacco products to a distributor, wholesale dealer, retailer, or distributing agent. A person who receives a joint permit pays only one permit fee.

[Acts 1981, 67th Leg., p. 1670, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.046. Forms**

The comptroller shall prescribe the form for the application for a permit to be a distributor, wholesale dealer, retailer, or distributing agent.

[Acts 1981, 67th Leg., p. 1670, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.047. Exception for Personal Use**

If a distributor acquires tobacco products for personal use or consumption and not for sale, gift, or other disposition:

- (1) the distributor is not required to have a distributor's permit, but shall comply with all other provisions of this chapter; and
- (2) the comptroller may accept payment of the tax from the distributor.

[Acts 1981, 67th Leg., p. 1670, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.048. Issuance of Permits**

(a) The comptroller shall issue a permit to a distributor, wholesale dealer, or retailer if the comptroller has received the application and fee.

(b) The permit shall be issued for a designated place of business.

(c) The permits are nonassignable and shall be consecutively numbered. The permit must show the kind of permit and authorize the sale of tobacco products in this state. The permit must show that it is revocable and shall be forfeited or suspended if the conditions of issuance, provisions of this chapter, or reasonable rules of the comptroller are violated.

[Acts 1981, 67th Leg., p. 1670, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.049. Licensing Year; Fees**

(a) A permit required by this chapter expires on the last day of February of each year.

(b) An application for a permit required by this chapter must be accompanied by a fee of:

- (1) \$100 for a distributing agent's permit;
- (2) \$25 for a distributor's permit;
- (3) \$15 for a wholesale dealer's permit;
- (4) \$5 for a retailer's permit; and
- (5) \$1 for a solicitor's permit.

(c) The comptroller shall prorate the fee for a new permit required by Section 155.041 or 155.043 of this code by allowing a discount computed by quarters of the licensing year.

[Acts 1981, 67th Leg., p. 1670, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.050. Payment for Permits**

(a) An applicant for a permit required by Section 155.041 of this code shall send the fee with the application. Payment must be in cash, postal or express money order, or check.

(b) A permit issued in exchange for a personal check is conditioned on final payment of the check.

After giving five days' notice to the holder that the bank on which the check is drawn has refused payment, the comptroller may revoke a permit. A revoked permit is subject to recall and seizure by the comptroller. If the comptroller receives funds to redeem the dishonored check, the comptroller may reinstate the permit.

[Acts 1981, 67th Leg., p. 1671, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.051. Additional Fees

(a) A person who is required by Section 155.041 or 155.043 of this code to have a permit and who does not obtain a renewal permit before the beginning of the licensing year shall pay a late application fee of \$1 to the comptroller at the time the person pays the permit fee.

(b) If the comptroller must visit a permit holder to collect a permit fee due under this chapter, the permit holder shall pay a service fee of \$5 in addition to the permit fee.

[Acts 1981, 67th Leg., p. 1671, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.052. Permit Required

(a) If a permit issued under this chapter is revoked or suspended, the person may not sell tobacco products from the place of business to which the permit applied until a new permit is granted or the suspension is removed.

(b) Except at the comptroller's discretion, if a permit is revoked the person may not receive a new permit within one year after the date of revocation.

[Acts 1981, 67th Leg., p. 1671, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.053. Display of Permit

(a) A person who has a permit required by Section 155.041 of this code shall keep the permit on public display at the place of business of the person to whom it is issued.

(b) If the permit is assigned to a tobacco products vending machine, the person shall publicly display the permit on the machine so that all the information may be read.

(c) If the permit is assigned to a train, the person shall post the permit in the car where tobacco products are displayed or offered for sale.

(d) If the permit is assigned to a vehicle, the person shall post the permit in a conspicuous place in the vehicle.

[Acts 1981, 67th Leg., p. 1671, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.054. Additional Permits

(a) If a person operates as a distributor and a wholesale dealer in the same place of business, the person shall obtain only a distributor's permit for the place of business.

(b) If a distributor or wholesale dealer sells tobacco products at wholesale and retail, the distributor

or wholesale dealer shall obtain a retailer's permit in addition to the distributor's permit or wholesale dealer's permit.

[Acts 1981, 67th Leg., p. 1671, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.055. Unexpired Permit

A person who has an unexpired permit required by Section 155.041 of this code may return the permit to the comptroller for credit on the unexpired portion for the purchase of a permit of a higher classification.

[Acts 1981, 67th Leg., p. 1671, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.056. Vending Machine, Train, Boat, Airplane, Vehicle

If a distributor, wholesale dealer, or retailer applies for a permit to sell tobacco products from a vending machine, train, boat, airplane, or vehicle, the applicant must show on the application:

- (1) the serial number of the vending machine;
- (2) the make, motor number, and license number of the vehicle;
- (3) the name of the airplane;
- (4) the name of the boat; or
- (5) the number of the train and the name of the railway company.

[Acts 1981, 67th Leg., p. 1672, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.057. Vending Machine With Cigarette Dealer's Permit

If a person has a cigarette dealer's permit for a vending machine, a tobacco products permit for the machine is not required. The record required by Section 155.109 of this code must show that the person has a cigarette dealer's permit.

[Acts 1981, 67th Leg., p. 1672, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.058. Revenue

Revenue from the sale of permits to distributors, wholesale dealers, and retailers is allocated in the same manner that other revenue is allocated by Subchapter H of this chapter.

[Acts 1981, 67th Leg., p. 1672, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.059. Revocation of Distributor's, Wholesale Dealer's, or Retailer's Permit

(a) The comptroller may revoke or suspend a distributor's, wholesale dealer's, or retailer's permit if the distributor, wholesale dealer, or retailer has violated a provision of this chapter or a rule made under this chapter.

(b) The comptroller shall revoke or suspend a distributor's permit if the distributor:

- (1) fails or refuses to file a new or additional bond within 10 days after the date of the comp-

troller's demand as required by Section 155.062 of this code;

(2) fails to file an acceptable new bond within 15 days after the date of the notice from the comptroller required by Section 155.063 of this code; or

(3) fails or refuses to file reports and remit or pay the tax at the intervals fixed by the comptroller.

(c) The comptroller shall give written notice stating the reason for the revocation or suspension. The comptroller may mail the notice to the place designated on the application for a permit as the place of business.

[Acts 1981, 67th Leg., p. 1672, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.060. Revocation of Solicitor's Permit**

If a solicitor fails to comply with the provisions of this chapter, the comptroller, after giving the solicitor notice and an opportunity to be heard, may revoke the permit.

[Acts 1981, 67th Leg., p. 1672, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.061. Bond**

(a) A distributor shall file with the application for a permit a bond that:

(1) is conditioned on full, complete, and faithful performance of all conditions and requirements imposed by this chapter or by rules made by the comptroller; and

(2) guarantees timely payment of taxes, penalty, interest, and costs.

(b) The comptroller shall set the amount of the bond for at least three times the amount of tax that may be expected to accrue during a month, but the minimum amount is \$1,000.

(c) The bond must:

(1) be executed by a corporate surety authorized to do business in this state;

(2) be payable to the state; and

(3) remain in force for one year after its effective date unless released by the comptroller.

(d) A bond that is continuous in form may be continued in effect by a renewal certificate acceptable to the comptroller. If a renewal certificate is issued, it has the force and effect of an original bond.

[Acts 1981, 67th Leg., p. 1672, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.062. Insufficient Bond**

(a) The comptroller may require an additional or a new bond if an existing bond becomes insufficient or a surety becomes unsatisfactory. An existing bond is not invalidated by the filing of a new bond, the cancellation or suspension of a permit, or a recovery on any bond.

(b) The comptroller may require the filing of reports and payment of tax at intervals shorter than one month if the comptroller believes that an existing bond is insufficient.

[Acts 1981, 67th Leg., p. 1673, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.063. Release of Surety**

(a) If a surety files a written request with the comptroller in Austin to be released from liability on a bond, the surety shall be released from liability accruing more than 30 days after the date of the filing of the request. The surety is not released from liability accruing before the 30-day period expires.

(b) The comptroller, on receipt of the request, shall notify the person in whose behalf a bond was filed that the request has been received.

[Acts 1981, 67th Leg., p. 1673, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.064. Cash or Securities**

(a) Instead of filing the bond required by Section 155.061 of this code, an applicant may deposit:

(1) cash in the amount of the required bond in the suspense account of the treasury; or

(2) securities with a par value equal to the amount of the required bond and of a class in which funds of The University of Texas may be legally invested.

(b) Cash or securities deposited under this section shall be released within 60 days after the date of cancellation or surrender of a permit held by the person in whose behalf they were deposited if the comptroller clears the person of tax liability.

(c) If the state secures a judgment in an action against a person in whose behalf cash or securities were deposited and recovers any tax, costs, penalty, or interest, the comptroller may withdraw or use the cash or sell the securities and use the proceeds to satisfy the judgment.

(d) A person may acknowledge in writing the correctness of the state's claim for tax, costs, penalty, or interest and may authorize the use of the cash or the proceeds from the sale of the securities to pay on or pay off the claim without a suit being filed.

(e) Suit may be filed against any surety on any bond furnished by a distributor without resorting to or exhausting the assets of the distributor or making the distributor, as principal obligor to the bond, a party to the suit.

[Acts 1981, 67th Leg., p. 1673, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 155.065 to 155.100 reserved for expansion]

## SUBCHAPTER D. RECORDS AND REPORTS

**§ 155.101. Record of Tobacco Products**

(a) A distributor, wholesale dealer, or retailer shall keep at each place of business in this state, except as provided by Section 155.110 of this code, a record of tobacco products purchased and of tobacco products received. The record must include all invoices, bills of lading, waybills, freight bills, express receipts or copies of express receipts, and any shipping records furnished by the carrier and the seller or shipper.

(b) A distributor, wholesale dealer, or retailer shall keep at each place of business in this state, except as provided by Section 155.110 of this code, a record in a well-bound book that provides complete information on tobacco products purchased and on tobacco products received. The record must show:

- (1) the date the tobacco products were received;
- (2) whether the tobacco products were drop-shipped or otherwise;
- (3) the name and address of the seller and the shipper;
- (4) the place from which the tobacco products were shipped or delivered;
- (5) the place where the tobacco products were received;
- (6) the name of the carrier if shipped by common carrier;
- (7) the name of the boat or barge if shipped by water;
- (8) if received by mail, whether sent registered mail, insured parcel post, or ordinary mail;
- (9) the number and kind of tobacco products received on which tax has been paid; and
- (10) if a distributor, an inventory made the first of each month showing the number and kind of tobacco products on hand on which tax has been paid.

[Acts 1981, 67th Leg., p. 1674, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.102. Report of Sale or Use**

(a) A distributor or wholesale dealer shall keep at each place of business in this state, except as provided by Section 155.110 of this code, a record of each sale, distribution, or use of tobacco products whether taxed under this chapter or not. The record shall be kept on an invoice supplied by the distributor or wholesale dealer. The invoice shall be supported by the receipts and records furnished by the carrier. The invoice shall be issued in duplicate, unless the sale or distribution is made by drop shipment, in which case the invoice shall be issued in triplicate. The original invoice shall be delivered to the purchaser, and the duplicate shall be kept by the distributor or wholesale dealer. If tobacco products are distributed or exchanged in a manner other than a sale, the invoice must explain the transaction. If a

distributor or wholesale dealer sells tobacco products at retail, the distributor or wholesale dealer shall issue an invoice to the retail department for tobacco products to be sold at retail, and the distributor or wholesale dealer shall keep the stock invoice for retail sale separate from other stock.

(b) A distributor or wholesale dealer shall keep at each place of business in this state a record in a well-bound book of all tobacco products sold, distributed, or used by the distributor or wholesale dealer.

(c) The invoice and record book must show for each sale, distribution, or use of tobacco products:

- (1) the date of sale, distribution, or use;
- (2) the purchaser's name and address;
- (3) the means of delivery;
- (4) if delivered by common carrier, the name of the carrier;
- (5) if delivered by mail, whether by registered mail, insured parcel post, or ordinary mail;
- (6) the designation of drop shipment if the sale is a drop shipment by a distributor;
- (7) the number and kind of tobacco products sold; and
- (8) if the sale is by a distributor, the number and kind of tobacco products on which the tax has been paid.

[Acts 1981, 67th Leg., p. 1674, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.103. Interstate Business**

If a person sells tobacco products in interstate commerce only, the person shall keep the same type of records and make the same type of reports that are required of a distributor.

[Acts 1981, 67th Leg., p. 1675, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.104. Salesman**

A salesman who is employed by a manufacturer, who handles only the products of the employer, and who sells or distributes tobacco products on which the tax has been paid in this state for resale shall keep the same records that are required of a wholesale dealer. The salesman shall deliver the original of the invoice required by Section 155.102 of this code to the purchaser or recipient of the tobacco products.

[Acts 1981, 67th Leg., p. 1675, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.105. Solicitor**

(a) A solicitor shall keep in this state a record of orders solicited and orders taken for tobacco products. The record must show:

- (1) the quantity and kind of tobacco products ordered or shipped;
- (2) the name of the person from whom the tobacco products were ordered or by whom the tobacco products are shipped;

- (3) the name and address of the purchaser;
- (4) the date the tobacco products were ordered; and
- (5) if available, the date the tobacco products were shipped.

(b) If a solicitor is given credit for or furnished records of an order or shipment shipped by the vendor that the solicitor represents, the solicitor shall keep the record whether or not the solicitor took the order.

[Acts 1981, 67th Leg., p. 1675, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.106. Records Kept Separate**

A person required to keep records or invoices, bills of lading, freight bills, waybills, express receipts, requisitions, or copies of orders by this subchapter shall keep the records separate from records of other merchandise handled.

[Acts 1981, 67th Leg., p. 1675, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.107. Carrier**

(a) A common or contract carrier that transports tobacco products in this state shall keep a record in this state of tobacco products handled or transported. The record must show for each transaction:

- (1) the names of the consignor and the consignee;
- (2) the date of delivery; and
- (3) the kind or quantity of tobacco products transported or handled.

(b) The carrier shall keep the record required by this section and all books or records in the custody of the carrier showing the shipment of tobacco products open at all times for inspection by the comptroller or the attorney general. The carrier shall allow the comptroller and the attorney general free access to books, records, and tobacco products in the carrier's custody.

[Acts 1981, 67th Leg., p. 1670, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.108. Distributing Agent's Record**

(a) A distributing agent shall keep at each place of business in this state a record of tobacco products received and a record of each distribution or delivery made by the distributing agent.

(b) The record of tobacco products received must include the originals or copies of all:

- (1) orders;
- (2) invoices;
- (3) bills of lading;
- (4) waybills;
- (5) freight bills;
- (6) express receipts; and
- (7) shipping records furnished to the distributing agent by the carrier and the shipper.

(c) The record of a distribution or delivery must include:

- (1) orders or copies of orders;
- (2) invoices or copies of invoices; and
- (3) shipping records furnished by the carrier and the person ordering the distribution or delivery.

[Acts 1981, 67th Leg., p. 1676, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.109. Vending Machine Record**

(a) A person who operates a vending machine shall keep, at the place designated in the application as the permanent place for records, a record of all tobacco products vending machines possessed.

(b) The record must show for each machine:

- (1) the date the machine was received from the seller;
- (2) the serial number of the machine;
- (3) the present location of the machine;
- (4) the date the machine was placed on location;
- (5) the current permit number of the machine;
- (6) the date the permit expires; and
- (7) if the machine is sold or disposed of, the name and address of the person receiving the machine.

[Acts 1981, 67th Leg., p. 1676, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.110. Availability of Records**

(a) A person, other than a common carrier or contract carrier, required by this subchapter to keep a record, shall keep the record available at all times for two years for inspection by the comptroller and the attorney general.

(b) If a distributor's, wholesale dealer's, or retailer's place of business is a vending machine, train, or vehicle, the distributor, wholesale dealer, or retailer shall designate in the application for a permit a permanent place to keep the records. The distributor, wholesale dealer, or retailer shall keep the records in the designated place after the tobacco products are delivered from the vending machine, train, or vehicle.

[Acts 1981, 67th Leg., p. 1676, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.111. Distributor's Report**

(a) A distributor shall file with the comptroller in Austin, on or before the 10th day of each calendar month, a report for the preceding month.

(b) The report must show:

- (1) the amounts of cigars and tobacco products purchased, received, acquired, or ordered;
- (2) the amounts of cigars and tobacco products sold, distributed, used, lost, or disposed of;
- (3) the amounts of cigars and tobacco products on hand at the beginning and the end of the month; and

(4) any other information the comptroller requires relating to cigars and tobacco products handled and to taxes due on them.

(c) The comptroller shall prescribe the form of the report.

[Acts 1981, 67th Leg., p. 1677, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.112. Solicitor's Report

(a) A solicitor shall file with the comptroller, on or before the fifth day of each month, a copy of each order solicited by him in this state during the preceding calendar month. The comptroller shall supply the forms.

(b) The copy must show:

(1) the quantity and kind of tobacco products ordered;

(2) the name of the person ordering the tobacco products;

(3) the name of the person from whom the tobacco products were ordered;

(4) the name and address of the purchaser;

(5) the date the tobacco products were ordered; and

(6) any other information the comptroller requires.

[Acts 1981, 67th Leg., p. 1677, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.113. Distributing Agent's Report

(a) A distributing agent in this state shall report to the comptroller each day except Sundays and holidays all tobacco product deliveries made by the distributing agent on the preceding day or days.

(b) The comptroller shall prescribe the form of the report, and the distributing agent shall furnish the form.

(c) The report must show:

(1) the name of the person ordering the delivery;

(2) the date of delivery;

(3) the name and address of the person to whom delivered;

(4) the invoice number;

(5) the bill of lading or waybill number;

(6) the quantity and kind of tobacco products delivered;

(7) the means of delivery;

(8) the transportation agent; and

(9) the designation of drop shipment if a drop shipment.

(d) If the invoice furnished to the distributing agent by the manufacturer or person ordering the delivery or the bill of lading prepared by the distributing agent to cover the shipment under the invoice contains the information required by this section, a copy of the invoice or bill of lading may be sent to the comptroller instead of the report.

[Acts 1981, 67th Leg., p. 1677, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 155.114 to 155.140 reserved for expansion]

### SUBCHAPTER E. ENFORCEMENT OF TAX

#### § 155.141. Evidence

(a) In a suit to establish or collect a tax, penalty, and cost of audit from a distributor, the following types of reports are admissible in evidence and are prima facie evidence of their contents:

(1) a report filed with the comptroller by the distributor, or a copy of a report certified to by the comptroller or the comptroller's chief clerk, showing the number of tobacco products sold by the distributor on which a tax, penalty, and cost of audit has not been paid; or

(2) an audit made by the comptroller from the books or records of the distributor, or an audit made by another person if signed and sworn to as being made from the records of the distributor or persons from whom the distributor has bought, received, or delivered tobacco products.

(b) The inaccuracy of the report or audit may be shown.

[Acts 1981, 67th Leg., p. 1678, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.142. Venue

A civil suit filed under this chapter may be brought in Travis County or in the county of the defendant's domicile.

[Acts 1981, 67th Leg., p. 1678, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.143. Seizure

(a) The comptroller with or without process may seize:

(1) tobacco products taxed under this chapter that are possessed or controlled by a person for the purpose of selling or removing the tobacco products in violation of this chapter;

(2) tobacco products that are removed, deposited, or concealed by a person intending to avoid payment of taxes imposed by this chapter;

(3) an automobile, truck, boat, conveyance, or other type of vehicle used to remove or transport tobacco products by a person intending to avoid payment of taxes imposed by this chapter; and

(4) equipment, paraphernalia, or other tangible personal property used by a person intending to avoid payment of taxes imposed by this chapter found in the place where the tobacco products are found.

(b) An item seized under this section is forfeited to the state and remains in the custody of the comptroller, sheriff, or other officer for disposition as provided by this chapter. The seized item is not subject to replevin.

[Acts 1981, 67th Leg., p. 1678, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.144. Comptroller's Report**

(a) If the comptroller seizes property under Section 155.143 of this code, the comptroller shall immediately make a written report showing:

- (1) the name of the person making the seizure;
- (2) the place where the property was seized;
- (3) the person from whom the property was seized;
- (4) an inventory; and
- (5) an appraisal showing the ordinary retail price of the items seized.

(b) The comptroller shall prepare the report in duplicate. The person who seized the property shall sign the report. The comptroller shall give the original to the person from whom the property was seized and shall file a duplicate copy open for public inspection in the comptroller's office.

[Acts 1981, 67th Leg., p. 1678, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.145. Forfeiture Proceeding**

(a) At the comptroller's request, the attorney general or the district or county attorney of the county where the seizure occurred shall file an in rem proceeding in a court of competent jurisdiction in the county of seizure. The state is the plaintiff, and the owner or person in possession of the seized property is the defendant. If the owner or possessor is unknown, the seized property is the defendant.

(b) After the suit is filed, the clerk of the court shall notify the owner or person in possession to appear before the court on a named date to show cause why the property should not be forfeited. The date of appearance may not be set for less than two days after the date of service of the notice. The notice shall be served by the sheriff of the county.

(c) On the comptroller's affidavit that the defendant is a nonresident, that the defendant's residence is unknown, or that the defendant's name is unknown, notice or process shall be served or published in the manner provided by law for service on nonresidents or unknown defendants. The hearing may not be held before the expiration of 10 days after the date of service or of the first publication of the notice. The court shall appoint an attorney to represent the nonresident or unknown defendant. The attorney has the rights, duties, and compensation as provided by law for an attorney appointed to represent a nonresident defendant or an unknown defendant.

[Acts 1981, 67th Leg., p. 1679, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.146. Sale by Sheriff**

(a) If a court renders final judgment maintaining a seizure and declaring a forfeiture as provided by Section 155.145 of this code, the court shall order that the sheriff sell the property to the highest bidder at public auction in the county of seizure. The sheriff shall give 10 days' notice of the sale by

advertising at least twice in a legal publication in the county.

(b) The sheriff shall send the sale proceeds, less expenses of seizure and court costs, to the state treasury. The net proceeds are allocated as provided by Subchapter H of this code.

(c) If the district or county attorney files and prosecutes a case under Section 155.145 of this code, a fee of \$15 shall be paid to the official in addition to other fees allowed by law. The fee is collected as court costs out of the sale proceeds.

[Acts 1981, 67th Leg., p. 1679, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.147. Sale by Comptroller**

In lieu of the forfeiture proceeding provided by Section 155.145 of this code, the comptroller may sell seized property through the summary proceeding provided by Section 155.148 of this code if the property appears by the report or receipt of the officer seizing it to be of an appraised value of \$500 or less.

[Acts 1981, 67th Leg., p. 1679, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.148. Summary Proceeding**

(a) The comptroller shall publish a notice in a newspaper in the county where the seizure was made. The notice must:

- (1) give a description of the property;
- (2) state the time and place of seizure;
- (3) state the cause of seizure; and
- (4) require a person claiming an interest in the property to appear and make a claim within 15 days after the date of publication.

(b) A person claiming an interest in seized property may:

- (1) file a claim with the comptroller stating the person's interest in the property; and
- (2) execute a bond to the state in the amount of \$250 with sureties approved by the comptroller conditioned on the person paying the cost of the forfeiture proceeding if forfeiture is established.

(c) If the comptroller receives the bond provided for by this section, the comptroller shall send the bond with a certified copy of the report or receipt of the property seized as provided by Section 155.144 of this code to the attorney general or the county or district attorney of the county of seizure. The attorney general or county or district attorney shall file and prosecute forfeiture proceedings as provided by Section 155.145 of this code.

(d) If no person files a timely claim and executes a bond, the comptroller shall:

- (1) give 10 days' notice of the sale of the seized property by publishing notice twice in a newspaper in the county of seizure;
- (2) sell the seized property at the time and place specified in the notice at public auction; and

(3) after deducting the cost of seizure, appraisal, custody, and sale, deposit the proceeds in the treasury to be allocated as provided by Subchapter H of this chapter.

[Acts 1981, 67th Leg., p. 1679, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.149. Tax Not Paid

If the tax has not been paid on tobacco products seized under Section 155.143 of this code, an officer who sells the tobacco products shall pay the tax and deduct the amount of the tax from the sale proceeds.

[Acts 1981, 67th Leg., p. 1680, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.150. Seizure or Sale No Defense

The seizure, forfeiture, and sale of tobacco products or property under this chapter, with or without court action, is not a defense to criminal prosecution for an offense or from liability for a penalty under this chapter.

[Acts 1981, 67th Leg., p. 1680, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.151. Waiver Permitted

(a) The comptroller may waive a forfeiture proceeding for property seized under Section 155.143 of this code if the owner or possessor of the property;

(1) pays the tax due; and

(2) pays to the state through the comptroller an additional sum equal to the tax due.

(b) The comptroller may make a compromise with a person before or after a claim is filed in court. The comptroller shall keep a record open for public inspection of compromises and waivers of forfeiture made under this section.

[Acts 1981, 67th Leg., p. 1680, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.152. Payment to Treasury

The comptroller shall deposit money collected under Section 155.151 of this code, after payment of costs and commissions, in the treasury to be allocated as provided by Subchapter H of this chapter.

[Acts 1981, 67th Leg., p. 1680, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.153. State Tax Lien Preferred

The taxes, penalties, and costs of auditing provided by Section 155.181 of this code that a distributor owes this state are a preferred lien, first and prior to other existing liens, contract or statutory, legal or equitable, on all property of the distributor used in the distributor's business.

[Acts 1981, 67th Leg., p. 1680, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.154. Property Included

Property subject to the lien provided for by Section 155.153 of this code includes:

- (1) manufacturing plants;
- (2) storage plants;
- (3) warehouses;
- (4) office buildings and equipment;
- (5) motor vehicles or equipment used as a vehicle;
- (6) each tract of land on which a manufacturing plant, storage plant, warehouse, office building, or other property is located;
- (7) tangible property that is used to carry on the distributor's business; and
- (8) all the distributor's tobacco products.

[Acts 1981, 67th Leg., p. 1681, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 155.155 to 155.180 reserved for expansion]

#### SUBCHAPTER F. ADMINISTRATION BY COMPTROLLER

#### § 155.181. Auditing Costs

(a) If a distributor fails to pay a tax or penalty in the proper manner when due as required by this chapter, the comptroller may employ a person to determine the amount due. If the distributor has not paid the tax or penalty, the distributor shall pay the reasonable expenses incurred in the investigation and audit as an additional penalty.

(b) The comptroller shall deposit funds paid in under this section to the credit of a special fund in the treasury to be used for making audits. The comptroller may use other funds available for audits when the special fund is exhausted.

[Acts 1981, 67th Leg., p. 1681, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.182. Payment of Double Amount

(a) If the comptroller finds that a person has sold tobacco products without the tax having been paid, the comptroller may require the person to pay the state through the comptroller a sum equal to twice the amount of tax due.

(b) If the person does not furnish the comptroller evidence of a report showing tax payment to cover nontax-paid tobacco products purchased by the person, it is presumed that the tobacco products were sold without reporting and paying the tax.

[Acts 1981, 67th Leg., p. 1681, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 155.183. Inspection

(a) To determine the tax liability of a person dealing in tobacco products, the comptroller may:

(1) inspect any premises where tobacco products are manufactured, produced, stored, transported, sold, or offered for sale or exchange;

(2) remain on the premises as long as necessary to determine the tax liability;

(3) examine the records required by this chapter or records kept incident to the conduct of the tobacco products business of the person dealing in tobacco products; and

(4) examine stocks of tobacco products.

(b) A person dealing in tobacco products may not:

(1) fail to produce, on the comptroller's demand, records required by this chapter; or

(2) hinder or prevent the inspection of the required records or the examination of the premises.

[Acts 1981, 67th Leg., p. 1681, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.184. Credit for Tax Paid**

(a) The comptroller may make rules providing for credit for tax paid on tobacco products if the tobacco products have become unfit for use or consumption or unsalable.

(b) The comptroller may not allow credit under this section unless the comptroller is satisfied that the tobacco products are unfit for use or consumption or unsalable and have been destroyed or returned to the manufacturer.

[Acts 1981, 67th Leg., p. 1682, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.185. Information Confidential**

(a) Information obtained by the attorney general or the comptroller from a record, report, instrument, or copy of a record, report, or instrument that is required by this chapter is confidential and not open to public inspection, except as provided by Subsections (c), (d), and (e) of this section.

(b) Information obtained by the attorney general or the comptroller during an examination of a taxpayer's books, records, papers, officers, employees, business affairs, operations, source of income, profits, losses, or expenditures is confidential and not open to public inspection, except as provided by Subsections (c) and (d) of this section.

(c) The comptroller or the attorney general may use information obtained from an examination or obtained from a record, report, instrument, or copy of a record, report, or instrument to enforce the provisions of this chapter.

(d) The comptroller or the attorney general may authorize examination by other officers and law enforcement officials of this state, by tax officials of another state, or by officials of the federal government if a reciprocal arrangement exists.

(e) Information set forth in a lien filed under this title or in a permit issued under Sections 155.041-155.043 of this code is not confidential.

[Acts 1981, 67th Leg., p. 1682, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 155.186 to 155.200 reserved for expansion]

SUBCHAPTER G. PENALTIES

**§ 155.201. Penalties**

(a) A person violates this chapter if the person:

(1) is a distributor, wholesale dealer, retailer, or distributing agent and fails to keep records required by this chapter;

(2) is a distributor, wholesale dealer, or retailer and sells tobacco products taxed under this chapter without a valid permit;

(3) is a distributor, wholesale dealer, or distributing agent and fails to make a report required by this chapter to the comptroller or makes a false or incomplete report;

(4) is a distributing agent and stores, distributes, or delivers tobacco products on which the tax has not been paid in this state without a valid permit; or

(5) is a person affected by this chapter and fails or refuses to abide by or violates a provision of this chapter or a rule made by the comptroller under this chapter.

(b) A person who violates this chapter forfeits and shall pay to the state a penalty of not less than \$25 nor more than \$500.

(c) A separate offense is committed each day on which a violation occurs.

(d) The attorney general shall bring suits to recover penalties under this section.

(e) A suit under this section may be brought in a court of competent jurisdiction in Travis County or in any court having jurisdiction.

[Acts 1981, 67th Leg., p. 1682, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.202. Payment of Tax**

A person commits an offense if the person, without the tax being paid or accounted for by a licensed distributor:

(1) makes a first sale of cigars or tobacco products;

(2) sells, offers for sale, or presents as a prize or gift tobacco products; or

(3) knowingly consumes, uses, or smokes tobacco products.

[Acts 1981, 67th Leg., p. 1683, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.203. Possession: Tax Due \$50 or Less**

(a) A person commits an offense if the person possesses, in violation of this chapter, tobacco products on which a tax of \$50 or less is required to be paid. The absence of evidence of tax payment is notice that the tax has not been paid and is prima facie evidence of nonpayment.

(b) This section does not prohibit transportation of tobacco products by a common carrier.

[Acts 1981, 67th Leg., p. 1683, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.204. Concealment of Violation**

A person commits an offense if the person uses any artful device or deceptive practice to conceal a violation of this chapter.

[Acts 1981, 67th Leg., p. 1683, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.205. Misleading the Comptroller**

A person commits an offense if the person misleads the comptroller in the enforcement of this chapter.

[Acts 1981, 67th Leg., p. 1683, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.206. Refusing to Surrender Tobacco Products**

A person commits an offense if the person refuses to surrender to the comptroller on demand tobacco products possessed in violation of this chapter.

[Acts 1981, 67th Leg., p. 1683, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.207. Permits**

A person commits an offense if the person:

(1) as a distributor or representative of a distributor, makes a first sale without having a valid permit;

(2) as a distributor or a representative of a distributor, makes a first sale without having a permit posted where it can be easily seen by the public;

(3) as a distributor, wholesale dealer, or the representative of a distributor or wholesale dealer, does not deliver an invoice required by Section 155.102 of this code to the purchaser;

(4) as a wholesale dealer, retailer, or the representative of a wholesale dealer or retailer, sells tobacco products without having a valid permit;

(5) as a wholesale dealer, retailer, or representative of a wholesale dealer or retailer, sells tobacco products without having a permit posted where it can be easily seen by the public;

(6) as a distributing agent, stores or distributes tobacco products on which the tax has not been paid without having a valid permit; or

(7) offers for sale or solicits an order in this state for tobacco products to be shipped to a place in this state without having a valid solicitor's permit.

[Acts 1981, 67th Leg., p. 1683, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.208. Misdemeanor**

An offense under Sections 155.202–155.207 of this code is a misdemeanor punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1981, 67th Leg., p. 1684, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.209. Transportation of Tobacco Products**

A person commits an offense if the person:

(1) knowingly transports tobacco products taxed under this chapter without the tax being accounted for by a licensed distributor;

(2) wilfully refuses to stop a motor vehicle operated to transport tobacco products after a request to stop from an authorized person; or

(3) while transporting tobacco products, refuses to permit a complete inspection of the cargo by an authorized person.

[Acts 1981, 67th Leg., p. 1684, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.210. Inspection of Premises**

A person commits an offense if the person refuses to permit a complete inspection by an authorized person of any premises where tobacco products are manufactured, produced, stored, transported, sold, or offered for sale or exchange.

[Acts 1981, 67th Leg., p. 1684, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.211. Possession: Tax Due More Than \$50**

(a) A person commits an offense if the person possesses, in violation of this chapter, tobacco products on which a tax of more than \$50 is required to be paid.

(b) This section does not prohibit transportation of tobacco products by a common carrier.

[Acts 1981, 67th Leg., p. 1684, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 155.212. Books and Records**

A person commits an offense if the person:

(1) as a distributor, distributing agent, or the representative of a distributor or distributing agent knowingly makes, delivers to, and files with the comptroller an incomplete return or report;

(2) knowingly fails to make and deliver to the comptroller a return or report as required by this chapter;

(3) refuses to permit the attorney general or the comptroller to inspect and audit books and records that are required to be kept by this chapter or that are incidental to the conduct of the tobacco products business and may be kept;

(4) knowingly fails to make entries in the books and records required by this chapter to be kept by a distributor, wholesale dealer, retailer, or distributing agent; or

(5) fails to keep for two years in this state books and records required by this chapter to be kept by a distributor, wholesale dealer, retailer, or distributing agent.

[Acts 1981, 67th Leg., p. 1684, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 155.213. **Felony**

An offense under Sections 155.209–155.212 of this code is a felony punishable by:

(1) confinement in the state penitentiary for not more than two years or confinement in the county jail for not less than one month nor more than six months;

(2) a fine of not less than \$100 nor more than \$5,000; or

(3) both fine and confinement.

[Acts 1981, 67th Leg., p. 1684, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 155.214. **Overlap of Penalties**

If an offense is punishable under Section 155.208 of this code and also under Section 155.213 of this code, the punishment prescribed by Section 155.213 of this code controls.

[Acts 1981, 67th Leg., p. 1685, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 155.215. **Venue for Felony**

Venue of a prosecution for an offense punishable under Section 155.213 of this code is in Travis County or in the county where the offense occurred.

[Acts 1981, 67th Leg., p. 1685, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 155.216 to 155.240 reserved for expansion]

SUBCHAPTER H. ALLOCATION OF TAX

§ 155.241. **Allocation of Tax**

Revenue collected under this chapter shall be deposited to the credit of the general revenue fund.

[Acts 1981, 67th Leg., p. 1685, ch. 389, § 1, eff. Jan. 1, 1982.]

CHAPTER 156. HOTEL OCCUPANCY TAX

SUBCHAPTER A. DEFINITIONS

Section  
156.001. Definitions.

SUBCHAPTER B. TAX

156.051. Tax Imposed.  
156.052. Rate of Tax.  
156.053. Collection of Tax.

SUBCHAPTER C. EXCEPTIONS

156.101. Exception—Permanent Resident.  
156.102. Exception—Religious, Charitable, or Educational Organization.

SUBCHAPTER D. REPORTS AND PAYMENTS

156.151. Report and Payment.  
156.152. Access to Books and Records.  
156.153. Reimbursement for Tax Collection.

SUBCHAPTER E. ENFORCEMENT

Section  
156.201. Interest on Delinquent Taxes.  
156.202. Penalty.  
156.203. Criminal Penalty.

SUBCHAPTER F. DISPOSITION OF REVENUE

156.251. Revenue Deposited in General Revenue Fund.

SUBCHAPTER A. DEFINITIONS

§ 156.001. **Definitions**

In this chapter:

(1) "Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, or rooming house, but does not include a hospital, sanitarium, or nursing home.

(2) "Quarterly period" means a quarter of the calendar year. The first quarter is composed of the months of January, February, and March; the second quarter is composed of the months of April, May, and June; and the third quarter is composed of the months of July, August, and September; and the fourth quarter is composed of the months of October, November, and December.

[Acts 1981, 67th Leg., p. 1686, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 156.002 to 156.050 reserved for expansion]

SUBCHAPTER B. TAX

§ 156.051. **Tax Imposed**

(a) A tax is imposed on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room or space in a hotel costing \$2 or more each day.

(b) The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

[Acts 1981, 67th Leg., p. 1686, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 156.052. **Rate of Tax**

The rate of the tax imposed by this chapter is three percent of the price paid for a room in a hotel.

[Acts 1981, 67th Leg., p. 1686, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 156.053. **Collection of Tax**

A person owning, operating, managing, or controlling a hotel shall collect for the state the tax that is imposed by this chapter and that is calculated on the amount paid for a room in the hotel.

[Acts 1981, 67th Leg., p. 1686, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 156.054 to 156.100 reserved for expansion]

## SUBCHAPTER C. EXCEPTIONS TO TAX

**§ 156.101. Exception—Permanent Resident**

This chapter does not impose a tax on a person who has the right to use or possess a room in a hotel for at least 30 consecutive days.

[Acts 1981, 67th Leg., p. 1686, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 156.102. Exception—Religious, Charitable, or Educational Organization**

This chapter does not impose a tax on a corporation or association that is organized and operated exclusively for a religious, charitable, or educational purpose if no part of the net earnings of the corporation or association inure to the benefit of a private shareholder or individual.

[Acts 1981, 67th Leg., p. 1686, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 156.103 to 156.150 reserved for expansion]

## SUBCHAPTER D. REPORTS AND PAYMENTS

**§ 156.151. Report and Payment**

On the last day of January, April, July, and October, a person required to collect the tax imposed by this chapter shall pay the comptroller the tax collected during the preceding quarterly period and at the same time shall file with the comptroller a report stating:

- (1) the total amount of the payments made for rooms at the person's hotel during the preceding quarterly period;
- (2) the amount of the tax collected by the person during the preceding quarterly period; and
- (3) other information that the comptroller requires to be in the report.

[Acts 1981, 67th Leg., p. 1687, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 156.152. Access to Books and Records**

After the comptroller gives reasonable notice to a person that the comptroller intends to inspect the books or records of the person, the comptroller has access to the person's books or records necessary for the comptroller to determine the correctness of a report filed under this chapter or the amount of taxes due under this chapter.

[Acts 1981, 67th Leg., p. 1687, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 156.153. Reimbursement for Tax Collection**

The person required to file a report under this chapter may deduct and withhold from the taxes otherwise due to the state on the quarterly return, as reimbursement for the cost of collecting the tax, one percent of the amount of the tax due as shown on the report. If taxes due under this chapter are not paid to the state within the time required or if

the person required to file a report fails to file the report when due, the person forfeits the claim to reimbursement that could have been taken if the tax had been paid or the report filed when due.

[Added by Acts 1981, 67th Leg., p. 2779, ch. 752, § 11, eff. Jan. 1, 1982.]

Acts 1981, 67th Leg., p. 960, ch. 366, § 1, amended Taxation—General, art. 23.04 [now, this section]. Section 3 of said Act provides:

"This Act takes effect October 1, 1981, and applies to taxes collected on or after that date."

[Sections 156.154 to 156.200 reserved for expansion]

## SUBCHAPTER E. ENFORCEMENT

**§ 156.201. Interest on Delinquent Taxes**

A tax imposed by this chapter that is not paid to the comptroller when it is due draws interest as provided by Section 111.060 of this code.

[Acts 1981, 67th Leg., p. 1687, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 156.202. Penalty**

(a) If the person who is required to pay to the comptroller the tax imposed by this chapter fails to file a report or does not pay the tax when it is due, the person shall forfeit to the state a penalty of five percent of the amount of tax due.

(b) If the person who is required to pay the tax to the comptroller does not pay the tax within 30 days after it is due, the person shall forfeit to the state a penalty of an additional five percent of the amount of tax due.

(c) The minimum penalty under this section is \$1.  
[Acts 1981, 67th Leg., p. 1687, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 156.203. Criminal Penalty**

(a) A person commits an offense if the person fails to file a report with the comptroller, collect a tax for the state, or pay a tax to the comptroller as the person is required to do by this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$1,000.

[Acts 1981, 67th Leg., p. 1687, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 156.204 to 156.250 reserved for expansion]

## SUBCHAPTER F. DISPOSITION OF REVENUE

**§ 156.251. Revenue Deposited in General Revenue Fund**

The revenue from the tax imposed by this chapter shall be deposited in the state treasury to the credit of the general revenue fund.

[Acts 1981, 67th Leg., p. 1688, ch. 389, § 1, eff. Jan. 1, 1982.]

**CHAPTER 157. INTERSTATE MOTOR CARRIER SALES AND USE TAX**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section 157.001. Definitions.

**SUBCHAPTER B. IMPOSITION OF TAX**

157.101. Tax Imposed.  
157.102. Tax Rate.

**SUBCHAPTER C. ENFORCEMENT AND COLLECTION**

157.201. Permits.  
157.202. Reports.  
157.203. Records.  
157.204. Penalty and Interest.  
157.205. Enforcement by the Comptroller; Rules and Regulations.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 157.001. Definitions**

In this chapter:

(1) "Person" includes an individual, firm, partnership, joint venture, corporation, association, organization, or group or combination acting as a unit.

(2) "Motor carrier" means:

(A) a person who transports persons or property for hire or who holds himself out to the public as willing to transport persons or property for hire by motor vehicle;

(B) a person who leases, rents, or otherwise provides a motor vehicle for the use of others and who in connection therewith in the regular course of business provides, procures, or arranges for, directly, indirectly, or by course of dealing, a driver or operator therefor;

(C) a person who operates a motor vehicle over the public highways of this state for the purpose of transporting persons or property when the transportation is incidental to a primary business enterprise, other than transportation, in which such person is engaged; or

(D) a person who engages in transportation by motor vehicle of persons or property for compensation, other than transportation referred to in Paragraph (A) of this subdivision, under continuing contracts with one person or a limited number of persons either:

(i) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served; or

(ii) for the furnishing of transportation services designed to meet the distinct and peculiar needs of each individual customer which are not normally provided by a common carrier.

(3) "Interstate motor vehicle" means a motor vehicle whose registration fees could be apportioned if the motor vehicle were registered in a state or province of a country which was a mem-

ber of the International Registration Plan. For the purposes of this chapter, a bus used in transportation of chartered parties shall be considered an interstate motor vehicle if it meets all the standards required of other motor vehicles for apportioned registration fees.

(4) "Truck-tractor" means every motor vehicle designed or used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(5) "Commercial motor vehicle" means any motor vehicle (other than a motorcycle or passenger car) designed or used primarily for the transportation of property or persons.

(6) "Trailer" means every vehicle designed or used to carry its load wholly on its own structure and to be drawn by a motor vehicle.

(7) "Semitrailer" means a vehicle of the trailer type so designed or used in conjunction with a motor vehicle that some part of its own weight and that of its load rests upon or is carried by another vehicle.

(8) "Trip-lease equipment" means a motor vehicle leased between any person and a motor carrier on a single trip basis and driven by the lessor or an employee of the lessor.

(9) "Purchase" includes a lease for a time period exceeding 180 days except the lease of a motor vehicle with a driver.

(10) "Preceding year" means the period of 12 consecutive calendar months immediately prior to September 1.

[Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1, eff. Jan. 1, 1982.]

Acts 1981, 67th Leg., p. 634, ch. 254, § 2, eff. Jan. 1, 1982, which added Taxation—General, arts. 6A.201 to 6A.208, and which was repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17, eff. Jan. 1, 1982, was incorporated into the Tax Code by the addition of this chapter. Section 3 of Acts 1981, 67th Leg., p. 637, ch. 254, provides:

"(a) Since Chapter 6, Title 122A, failed to establish adequate administrative provisions and failed to define "use" in regard to interstate commerce, the use tax provisions in Chapter 6 will not apply to interstate motor vehicles as defined in this Act and which were purchased or first brought into the state prior to the effective date of this Act or to contracts executed prior to the effective date of this Act. The clarifying amendments of this Act shall apply to interstate motor vehicles purchased or first brought into the state or contracts executed after the effective date of this Act.

"(b) This Act becomes effective January 1, 1982."

**SUBCHAPTER B. IMPOSITION OF TAX**

**§ 157.101. Tax Imposed**

There is levied a motor vehicle sales and use tax on interstate motor vehicles, trailers, and semitrailers operated by motor carriers which are residents of this state or are domiciled or doing business in this state.

[Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1, eff. Jan. 1, 1982.]

**§ 157.102. Tax Rate**

(a) Except as provided in Subsections (c), (d), and (e) of this section, the payment of the tax is the responsibility of the motor carrier operating the

motor vehicle and the tax rate on an interstate motor vehicle shall be calculated as follows:

(1) The carrier's total miles operated in Texas by interstate truck-tractors and interstate commercial motor vehicles during the preceding year is divided by the total miles operated by the same interstate truck-tractors and interstate commercial motor vehicles operated in Texas during the preceding year;

(2) The percentage calculated in Subdivision (1) of this subsection is multiplied by four percent of the purchase price of each interstate motor vehicle purchased in Texas or first brought into the State of Texas during the reporting period. If a lease price is used in this formula, charges for gasoline, maintenance, insurance, and pass-through charges, such as federal highway use tax and fees for licensing and registration, may be excluded from the lease price;

(3)(A) From the amount computed in Subdivision (2) of this subsection may be deducted the amount of sales and use tax paid on the interstate motor vehicle multiplied by the formula in Subdivision (1) of this subsection;

(B) If an operator is paying sales or use tax on lease payments, he may take the credit allowed by Paragraph (A) of this subdivision on a quarterly basis.

(b) If a motor carrier has not operated in Texas during the preceding year, it shall estimate the miles it will drive during the year and use the estimate in the calculations set forth in Subsection (a) of this section. The carrier shall adjust any overpayments or underpayments of tax based on actual mileage in the first reporting period after a year of operation.

(c)(1) The payment of the tax is the responsibility of the motor carriers operating the motor vehicle, and the tax rate on an interstate trailer or semitrailer being purchased or first brought into Texas during a reporting period shall be calculated as follows:

(A) The number of truck-tractors operated in Texas by the motor carrier during the reporting period is divided by the total number of truck-tractors operated by a motor carrier in the reporting period;

(B) The percentage calculated in Paragraph (A) of this subdivision is multiplied by four percent of the purchase price of all trailers and semitrailers purchased during the reporting period;

(C) The amount calculated in Paragraph (B) of this subdivision is multiplied by the formula in Subsection (a)(1) of this section;

(D) From the amount calculated in Paragraph (C) of this subdivision shall be deducted the amount of sales and use taxes paid on all trailers and semitrailers purchased in the reporting period multiplied by the percentages calculated in Paragraph (A) of this subdivision and in Subsection (a)(1) of this section;

(2) However, if the motor carrier can prove that the actual number of trailers or semitrailers being purchased in Texas or first brought into Texas during a reporting period is less than the number under the formula in Subsection (c)(1) of this section, the motor carrier may pay tax on the lesser number using the formula in Subsection (a) of this section. If a motor carrier chooses to use the actual number of trailers or semitrailers purchased in Texas or first brought into Texas during a reporting period and then uses the formula for other reporting periods, the motor carrier must remit tax on trailers and semitrailers purchased during the period it used the actual count when the trailers or semitrailers are first brought into the state.

(d) If a motor carrier contracts to hire an interstate motor vehicle with a driver to transport persons or property over the carrier's routes and under the authority of the carrier's permits, the tax rate is \$25 per truck-tractor per contract and \$25 per trailer or semitrailer per contract and is the responsibility of the motor carrier operating the motor vehicle. However, if a sales and use tax of at least four percent of the purchase price of the motor vehicle has been paid or if tax under Subsection (a), (b), or (c) of this section has been paid, no tax is due on the vehicle under this subsection. This subsection may not be utilized by a motor carrier contracting with a person being controlled or having controlling interest in the motor carrier. Controlling interest is defined as 50 percent of ownership.

(e) If a motor carrier contracts to use trip-leased equipment, the tax rate is \$5 per motor vehicle per contract and is the responsibility of the motor carrier operating the motor vehicle. However, if a sales and use tax of at least four percent of the purchase price of the motor vehicle has been paid or if tax under Subsection (a) of this section has been paid, no tax is due on the vehicle under this subsection. This subsection may not be utilized by a motor carrier contracting with a person being controlled or having controlling interest in the motor carrier. Controlling interest is defined as 50 percent of ownership. [Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1, eff. Jan. 1, 1982.]

#### SUBCHAPTER C. ENFORCEMENT AND COLLECTION

##### § 157.201. Permits

(a) Motor carriers required to pay tax under this chapter shall be permitted by the comptroller.

(b) The permit may be used by the motor carrier to register motor vehicles, trailers, and semitrailers with the county tax assessor-collector without paying the motor vehicle sales and use tax under Chapter 152 of this code if the motor vehicle is being registered as an apportioned motor vehicle or if the motor vehicle is a bus used in the interstate transportation of chartered parties.

(c) Lessors may title an interstate motor vehicle, trailer, and semitrailer leased for periods in excess of 180 days under the permit authority of the motor carrier operating the vehicle without payment of taxes imposed by Chapter 152 of this code, if the motor vehicle is being registered as an apportioned motor vehicle or if the motor vehicle is a bus used in the interstate transportation of chartered parties. [Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1, eff. Jan. 1, 1982.]

§ 157.202. Reports

(a) The motor carriers subject to the provisions of this chapter shall report and pay the tax to the comptroller quarterly on or before the last day of the month succeeding each calendar quarter.

(b) Notwithstanding the provisions of Subsection (a) of this section, the comptroller may prescribe the date and period for filing reports and payments in order to facilitate the collection of the tax including a longer reporting period for motor carriers owing a minimal amount of tax.

[Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1, eff. Jan. 1, 1982.]

§ 157.203. Records

Motor carriers are required to keep records and supporting documents including mileage records regarding the payment of motor carrier sales and use tax in such form as the comptroller may reasonably require. The motor carriers must keep the records for at least three years.

[Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1, eff. Jan. 1, 1982.]

§ 157.204. Penalty and Interest

Any person who fails to timely pay the tax required by this chapter forfeits five percent of the amount due as a penalty, and after the first 30 days, forfeits an additional five percent. The penalty may never be less than \$1. Delinquent taxes shall draw interest at the rate of 10 percent per annum, beginning 60 days from the date due.

[Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1, eff. Jan. 1, 1982.]

§ 157.205. Enforcement by the Comptroller; Rules and Regulations

(a) The comptroller shall enforce the provisions of this chapter and may prescribe, adopt, and enforce rules relating to the administration and enforcement of this chapter.

(b) The comptroller may promulgate such forms as are necessary for the administration and enforcement of this chapter.

[Added by Acts 1981, 67th Leg., p. 2750, ch. 752, § 1, eff. Jan. 1, 1982.]

CHAPTER 158. MANUFACTURED HOUSING SALES AND USE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Section	
158.001.	Short Title.
158.002.	Definitions.

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

158.051.	Tax Imposed.
158.052.	Computation of Tax.
158.053.	Collection of Tax From Retailer.
158.054.	Permits.
158.055.	Records.
158.056.	Report and Tax Payment.
158.057.	Use Tax.

SUBCHAPTER C. EXEMPTIONS

158.101.	Exemptions.
----------	-------------

SUBCHAPTER D. ENFORCEMENT

158.151.	Penalties.
158.152.	Lien.
158.153.	Rules.
158.154.	Other Taxes.
158.155.	Limitation for Collection and Refund.

SUBCHAPTER A. GENERAL PROVISIONS

*Text of chapter added effective March 1, 1982*

§ 158.001. Short Title

This chapter is known and may be cited as the "Manufactured Housing Sales and Use Tax Act."

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2, eff. March 1, 1982.]

§ 158.002. Definitions

In this chapter, "manufactured home," "manufacturer," "retailer," and "person" have the same meanings as they are given by the Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes).

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2, eff. March 1, 1982.]

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

§ 158.051. Tax Imposed

*Text of section added effective March 1, 1982, until September 1, 1983*

A tax is imposed on the initial sale in this state of every new manufactured home at the rate of 6½ percent of the amount of the sales price determined as provided by Section 158.052 of this code.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

*For text of section effective September 1, 1983, see § 158.051, post*

§ 158.051. Tax Imposed

*Text of section effective September 1, 1983*

A tax is imposed on the initial sale in this state of every new manufactured home at the rate of five

percent of the amount of the sales price determined as provided by Section 158.052 of this code.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982. Amended by Acts 1981, 67th Leg., p. 2757, ch. 752, § 2(b), eff. Sept. 1, 1983.]

*For text of section effective March 1, 1982, until September 1, 1983, see § 158.051, ante*

#### § 158.052. Computation of Tax

The initial sale of a manufactured home occurs on the sale, shipment, or consignment by a manufacturer to a retailer or other person in this state. The tax rule is applied to 65 percent only of the sales price to be paid by the retailer or other person, as set forth in the actual invoice or bill of sale. The sales price does not include any shipping, freight, or delivery charges for the manufactured home from the manufacturer to the retailer or other person if those charges are separately stated on the invoice or bill of sale.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

#### § 158.053. Collection of Tax From Retailer

Every manufacturer engaged in business in this state shall set forth the amount of the tax imposed on each manufactured home on the actual invoice or bill of sale and shall collect the amount of the tax from the retailer or other person to or for whom the manufactured home is sold, shipped, or consigned in this state. As used in this chapter, "manufacturer engaged in business in this state" includes the following:

(1) any manufacturer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, affiliate, or agent, by whatever name called, an office, manufacturing facility, place of distribution, warehouse, storage place, or other place of business; and

(2) any manufacturer having a representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the manufacturer, or of its subsidiary, affiliate, or agent, for the purpose of selling, delivering, or the taking of orders for any manufactured home.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

#### § 158.054. Permits

Every manufacturer engaged in business in this state shall file with the comptroller an application for a permit authorizing the manufacturer to sell, ship, or consign manufactured homes to persons in this state. The application must be on a form prescribed by the comptroller and contain the information that the comptroller requires. The application must be executed by the owner of a sole proprietorship, by an officer or partner of an association or

partnership, or by an executive officer, or other person who is expressly authorized, of a corporation. A manufacturer may not be issued a permit unless the manufacturer is duly registered and bonded under the Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes).

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

#### § 158.055. Records

Every manufacturer selling, shipping, or consigning manufactured homes to or for any person in this state shall keep on file for audit purposes for the limitation period records showing:

(1) the identification number of each module or section of each manufactured home sold, shipped, or consigned;

(2) the name of the retailer or other person to whom or for whom the manufactured home was sold, shipped, or consigned and the address to which the home was delivered in this state; and

(3) the sales price of each manufactured home sold, shipped, or consigned.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

#### § 158.056. Report and Tax Payment

(a) Each manufacturer shall send to the comptroller on or before the last day of each month a report showing the total sales prices of manufactured homes sold, shipped, or consigned to or for, any person in this state during the preceding month together with the taxes imposed by this chapter. The report shall be made in the form and manner required by the comptroller.

(b) Along with each monthly report, the manufacturer shall remit to the comptroller monthly the tax imposed by this chapter and due on manufactured homes during the reporting period.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

#### § 158.057. Use Tax

(a) A use tax is imposed on the use or occupancy of a manufactured home in this state at the same rate as provided by this chapter on the initial sale of a new manufactured home.

(b) "Use" includes the exercise of any right or power over a manufactured home incident to its ownership and includes the incorporation of any manufactured home into real estate or into improvements on real estate.

(c) If a sales or use tax has previously been paid on the manufactured home in any state, credit in the amount of the tax may be taken against any use tax due on the manufactured home under this chapter. If the sales tax imposed by this chapter has previously been paid to the manufacturer, no use tax is due or payable.

(d) The person to whom or for whom the manufactured home is sold, shipped, or consigned in this state is liable for, and shall pay the use tax on 65 percent of the sales price of the manufactured home as set forth in the actual invoice, bill of sale, or other document transferring title. It is presumed that the manufactured home was sold, shipped, or consigned for use or occupancy in this state. If a manufactured home has been registered or titled in another state for a period of at least one year, as shown by a certificate or document of title, it is presumed that the manufactured home was not purchased for use in this state and no use tax is due.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

SUBCHAPTER C. EXEMPTIONS

§ 158.101. Exemptions

(a) There are exempted from the taxes imposed by this chapter the sales price of a manufactured home sold, shipped, or consigned to, or the use or occupancy of any manufactured home by:

- (1) the United States or its unincorporated agencies or instrumentalities;
- (2) any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;
- (3) this state or its unincorporated agencies or instrumentalities;
- (4) any county, city or town, special district, or other political subdivision of this state; or
- (5) any organization created for religious, educational, charitable, or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual, and provided that the use of the manufactured home is related to the purpose of the organization.

(b) If a person certifies in writing by using an exemption certificate that the person is exempt under this section and that the manufactured home will be used in a manner or for a purpose exempted from the tax, and the person then uses the manufactured home in another manner or for another purpose, the person is liable for the tax. The cost of the manufactured home to the person is the sales price for purposes of determining the amount of tax for which the person is liable.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

SUBCHAPTER D. ENFORCEMENT

§ 158.151. Penalties

(a) If any person fails to file a report required by this chapter or fails to pay the tax imposed, when the report or payment is due, an amount equal to five percent of the tax due shall be forfeited as a

penalty. After the first 30 days following the due date of any report or payment, an additional five percent of the amount of the tax shall be forfeited. A penalty may never be less than \$1. Delinquent taxes shall draw interest at the rate of 10 percent a year beginning 60 days from the due date.

(b) A person commits an offense if the person gives an exemption certificate to the seller for a manufactured home, and the person knows that the home will be used in a manner or for a purpose other than exempt purpose as defined by Section 158.101 of this code. An offense under this section is a Class A misdemeanor.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

§ 158.152. Lien

The state has a lien on each new manufactured home installed for use and occupancy in this state for the collection and payment of the tax imposed by this chapter if the tax has not been set forth on the invoice or bill of sale on the initial sale and paid to the manufacturer by the retailer or other person to whom or for whom the manufactured home is sold, shipped, or consigned. The lien shall be filed with the county clerk of the county of this state in which such new manufactured home is installed for use and occupancy. In addition, the lien shall be filed and recorded with the Texas Department of Labor and Standards.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

§ 158.153. Rules

The comptroller shall adopt rules necessary for the implementation of the provisions of this chapter and for the collection of the taxes imposed by this chapter.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

§ 158.154. Other Taxes

(a) All manufactured homes shall be taxed in accordance with the provisions of Title 1 of this code. A political subdivision of this state may not levy or collect any other tax on a manufactured home.

(b) Manufactured homes are not to be taxed as motor vehicles under Chapter 152 of this code and are not taxable items under Chapter 151 of this code. [Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

§ 158.155. Limitation for Collection and Refund

Subchapter D of Chapter 111 and Section 111.107 of this code apply to this chapter.

[Added by Acts 1981, 67th Leg., p. 2754, ch. 752, § 2(a), eff. March 1, 1982.]

## SUBTITLE F. FRANCHISE TAX

## CHAPTER 171. FRANCHISE TAX

## SUBCHAPTER A. TAX IMPOSED

Section	
171.001.	Tax Imposed.
171.002.	General Rate of Tax.
171.003.	Special Rate for Certain Corporations.
171.004.	Alternate Rate of Tax for Certain Corporations.
171.005.	Rate of Tax for Corporation in Process of Liquidation.

## SUBCHAPTER B. EXEMPTIONS

171.051.	Application for Exemption; Effective Date.
171.052.	Certain Corporations.
171.053.	Exemption—Railway Terminal Corporation.
171.054.	Exemption—Savings and Loan Association.
171.055.	Exemption—Open-End Investment Company.
171.056.	Exemption—Corporation With Business Interest in Solar Energy Devices.
171.057.	Exemption—Nonprofit Corporation Organized to Promote County, City, or Another Area.
171.058.	Exemption—Nonprofit Corporation Organized for Religious Purposes.
171.059.	Exemption—Nonprofit Corporation Organized to Provide Burial Places.
171.060.	Exemption—Nonprofit Corporation Organized for Agricultural Purposes.
171.061.	Exemption—Nonprofit Corporation Organized for Educational Purposes.
171.062.	Exemption—Nonprofit Corporation Organized for Public Charity.
171.063.	Exemption—Nonprofit Corporation Exempt From Federal Income Tax.
171.064.	Exemption—Nonprofit Corporation Organized for Conservation Purposes.
171.065.	Exemption—Nonprofit Corporation Organized to Provide Water Supply or Sewer Services.
171.066.	Exemption—Nonprofit Corporation Involved With City Natural Gas Facility.
171.067.	Exemption—Nonprofit Corporation Organized to Provide Convalescent Homes for Elderly.
171.068.	Exemption—Nonprofit Corporation Organized to Provide Cooperative Housing.
171.069.	Exemption—Marketing Associations.
171.070.	Exemption—Lodges.
171.071.	Exemption—Farmers' Cooperative Society.
171.072.	Exemption—Housing Finance Corporation.
171.073.	Exemption—Hospital Laundry Cooperative Association.
171.074.	Exemption—Development Corporation.
171.075.	Exemption—Cooperative Association.
171.076.	Exemption—Cooperative Credit Association.
171.077.	Exemption—Credit Union.
171.078.	Exemption—Banks.
171.079.	Exemption—Electric Cooperative Corporation.
171.080.	Exemption—Telephone Cooperative Corporation.
171.081.	Exemption—Corporation Exempt by Another Law.
171.082.	Exemption—Certain Homeowners' Associations.
171.083.	Exemption—Emergency Medical Service Corporation.

## SUBCHAPTER C. DETERMINATION OF TAXABLE CAPITAL; ALLOCATION AND APPORTIONMENT

171.101.	Determination of Taxable Capital.
171.102.	Determination of Taxable Capital of Corporation in Process of Liquidation.
171.103.	Determination of Gross Receipts From Business Done in This State.
171.104.	Gross Receipts From Business Done in Texas: Deduction for Food and Medicine Receipts.
171.105.	Determination of Gross Receipts From Entire Business.
171.106.	Determination of Amount of Taxable Capital Allocated to This State.
171.107.	Deduction of Cost of Solar Energy Device From Taxable Capital Allocated to This State.

Section 171.108.	Alternate Method of Determining Amount of Taxable Capital Allocated to This State.
---------------------	--

## SUBCHAPTER D. PAYMENT OF TAX

171.151.	Period Covered by Tax.
171.152.	Date on Which Payment is Due.
171.153.	Business on Which Tax is Based.
171.154.	Payment to Comptroller.
171.155.	Payment of Tax Deposit.
171.156.	Payment of Additional Tax Deposit by Foreign Corporation.
171.157.	Exemption of Foreign Corporation From Tax Deposit Requirement.
171.158.	Payment by Foreign Corporation Before Withdrawal From State.

## SUBCHAPTER E. REPORTS AND RECORDS

171.201.	Initial Report.
171.202.	Annual Report.
171.203.	Public Information Report.
171.204.	Information Report.
171.205.	Additional Information Required by Comptroller.
171.206.	Confidential Information.
171.207.	Information Not Confidential.
171.208.	Prohibition of Disclosure of Information.
171.209.	Right of Shareholder to Examine or Receive Reports.
171.210.	Permitted Use of Confidential Information.
171.211.	Examination of Corporate Records.

## SUBCHAPTER F. FORFEITURE OF CORPORATE PRIVILEGES

171.251.	Forfeiture of Corporate Privileges.
171.252.	Effects of Forfeiture.
171.253.	Suit on Cause of Action Arising Before Forfeiture.
171.254.	Exception to Forfeiture.
171.255.	Liability of Director and Officers.
171.256.	Notice of Forfeiture.
171.257.	Judicial Proceeding Not Required for Forfeiture.
171.258.	Revival of Corporate Privileges.

## SUBCHAPTER G. FORFEITURE OF CHARTER OR CERTIFICATE OF AUTHORITY

171.301.	Grounds for Forfeiture of Charter or Certificate of Authority.
171.302.	Certification by Comptroller.
171.303.	Suit for Judicial Forfeiture.
171.304.	Record of Judicial Forfeiture.
171.305.	Revival of Charter or Certificate of Authority After Judicial Forfeiture.
171.306.	Suit to Set Aside Judicial Forfeiture.
171.307.	Record of Suit to Set Aside Judicial Forfeiture.
171.308.	Corporate Privileges After Judicial Forfeiture is Set Aside.
171.309.	Forfeiture by Secretary of State.
171.310.	Judicial Proceeding Not Required for Forfeiture by Secretary of State.
171.311.	Record of Forfeiture by Secretary of State.
171.312.	Revival of Charter or Certificate of Authority After Forfeiture by Secretary of State.
171.313.	Proceeding to Set Aside Forfeiture by Secretary of State.
171.314.	Corporate Privileges After Forfeiture by Secretary of State is Set Aside.
171.315.	Use of Corporate Name After Revival of Charter or Certificate of Authority.

## SUBCHAPTER H. ENFORCEMENT

171.351.	Venue of Suit to Enforce Chapter.
171.352.	Authority to Restrain or Enjoin.
171.353.	Appointment of Receiver.
171.354.	Agent for Service of Process.
171.355.	Service of Process on Secretary of State.

- Section
- 171.356. Tax Lien.
- 171.357. Notice of Lien.
- 171.358. Effect of Tax Lien Notice.
- 171.359. Release of Lien.
- 171.360. Limitation on Suit to Enforce Lien.
- 171.361. Penalty for Disclosure of Information on Report.
- 171.362. Penalty for Failure to Pay Tax or File Report.

SUBCHAPTER I. DISPOSITION OF REVENUE

171.401. Revenue Deposited in General Revenue Fund.

§ 171.001. Tax Imposed

A franchise tax is imposed on each corporation that does business in this state or that is chartered or authorized to do business in this state.

[Acts 1981, 67th Leg., p. 1691, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.002. General Rate of Tax

(a) The rates of the franchise tax on a corporation are:

- (1) \$4.25 for each \$1,000 or fraction of \$1,000 of the corporation's taxable capital that is allocated to this state under Section 171.106 or 171.108 of this code; or
- (2) \$55.

(b) A corporation shall pay the tax on the basis of the rate provided by this section that results in the greater amount of tax due from the corporation to the state.

[Acts 1981, 67th Leg., p. 1691, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.003. Special Rate for Certain Corporations

(a) A corporation qualifies for a special franchise tax rate if it does not use the public highways by authority of a certificate of convenience and necessity issued by the Railroad Commission of Texas and if:

- (1) it annually pays a tax on intangible assets as required by the law of this state;
- (2) it is incorporated for the sole purpose of owning or operating a street railway or passenger bus system in a city, town, or suburb of a city or town;
- (3) it is incorporated and does business for the sole purpose of owning, operating, or maintaining an electric interurban railway; or
- (4) at least four-fifths of its assets are invested in, and at least four-fifths of its gross income is received from, voting common capital stock that comprises at least four-fifths of the fully voting common stock of a public utility corporation, as defined by the law of this state, whose rates or services are subject to regulation by law.

(b) The special franchise tax rates are:

- (1) one-fifth of the amount determined under Section 171.002(a)(1) of this code; or
- (2) the amount set by Section 171.002(a)(2) of this code.

(c) A corporation that qualifies for the special tax rate shall pay its tax on the basis of the special rate that results in the greater amount of tax due from the corporation to the state.

[Acts 1981, 67th Leg., p. 1691, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.004. Alternate Rate of Tax for Certain Corporations

(a) In this section, "total assets" means the items that are required to be reported as assets on a corporation's federal income tax return on the last day of the income tax reporting period that ends in the year before the year in which the tax imposed by this chapter is due.

(b) The franchise tax is determined by using the alternate rates provided by Subsection (c) of this section if the corporation:

- (1) previously has paid a franchise tax in this state;
- (2) has total assets valued at less than \$1 million; and
- (3) elects to use the rate established by Subsection (c) of this section.

(c) The alternate tax rates are:

If Total Assets Are at Least	But Less Than	The Tax Is
\$ 0	\$ 15,000	\$ 35
15,000	20,000	45
20,000	25,000	55
25,000	30,000	70
30,000	40,000	90
40,000	50,000	115
50,000	70,000	150
70,000	90,000	200
90,000	110,000	250
110,000	130,000	300
130,000	150,000	350
150,000	175,000	720
175,000	200,000	825
200,000	225,000	930
225,000	250,000	1,040
250,000	275,000	1,155
275,000	300,000	1,260
300,000	325,000	1,365
325,000	350,000	1,480
350,000	375,000	1,585
375,000	400,000	1,705
400,000	425,000	1,805
425,000	450,000	1,915
450,000	475,000	2,020
475,000	500,000	2,135
500,000	550,000	2,300
550,000	600,000	2,520
600,000	650,000	2,740
650,000	700,000	2,960
700,000	750,000	3,175
750,000	800,000	3,395
800,000	850,000	3,610
850,000	900,000	3,835
900,000	950,000	4,050
950,000	1,000,000	4,270

[Acts 1981, 67th Leg., p. 1692, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.005. Rate of Tax for Corporation in Process of Liquidation**

The franchise tax rate on a corporation in the process of liquidation, as defined by Section 171.102 of this code, is the rate established by Section 171.002(a)(1) of this code.

[Acts 1981, 67th Leg., p. 1693, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 171.006 to 171.050 reserved for expansion]

**SUBCHAPTER B. EXEMPTIONS**

**§ 171.051. Application for Exemption; Effective Date**

(a) Except as provided by Subsection (c) of this section, a corporation may apply for an exemption under this subchapter by filing with the comptroller, as provided by the rules of the comptroller, evidence of the corporation's qualifications for the exemption.

(b) If a corporation files the evidence establishing the corporation's qualifications for an exemption within 15 months after the last day of the calendar month in which the corporation's charter or certificate of authority is dated, the exemption is recognized, if it is finally established, as of the date of the charter or certificate.

(c) The exemption provided by Section 171.063 of this code must be established as provided by that section, but a corporation may apply for and receive other exemptions as provided by this section.

(d) Neither this section nor Section 171.063 of this code requires a corporation that was granted a franchise tax exemption before September 1, 1975, that was entitled to the exemption on September 1, 1975, and that has held the exemption since that date, to file an additional application, report, letter of exemption, or other evidence of qualification for that exemption.

[Acts 1981, 67th Leg., p. 1693, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.052. Certain Corporations**

A corporation that is an insurance company; surety, guaranty, or fidelity company; transportation company; or sleeping, palace car, and dining company now required to pay an annual tax measured by their gross receipts is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1693, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.053. Exemption—Railway Terminal Corporation**

A corporation organized as a railway terminal corporation and having no annual net income from its business is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1693, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.054. Exemption—Savings and Loan Association**

A savings and loan association chartered or authorized to operate as a savings and loan association by the Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes) is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1693, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.055. Exemption—Open-End Investment Company**

An open-end investment company, as defined by the Investment Company Act of 1940 (Section 80a-1 et seq., 15 U.S.C.), that is subject to that Act and that is registered under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1693, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.056. Exemption—Corporation With Business Interest in Solar Energy Devices**

A corporation engaged solely in the business of manufacturing, selling, or installing solar energy devices, as defined by Section 171.107 of this code, is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1693, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.057. Exemption—Nonprofit Corporation Organized to Promote County, City, or Another Area**

A nonprofit corporation organized solely to promote the public interest of a county, city, town, or another area in the state is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1694, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.058. Exemption—Nonprofit Corporation Organized for Religious Purposes**

A nonprofit corporation organized for the purpose of religious worship is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1694, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.059. Exemption—Nonprofit Corporation Organized to Provide Burial Places**

A nonprofit corporation organized to provide places of burial is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1694, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.060. Exemption—Nonprofit Corporation Organized for Agricultural Purposes**

A nonprofit corporation organized to hold agricultural fairs and encourage agricultural pursuits is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1694, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.061. Exemption—Nonprofit Corporation Organized for Educational Purposes**

A nonprofit corporation organized solely for educational purposes, including a corporation organized solely to provide a student loan fund or student scholarships, is exempted from the franchise tax. [Acts 1981, 67th Leg., p. 1694, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.062. Exemption—Nonprofit Corporation Organized for Public Charity**

A nonprofit corporation organized for purely public charity is exempted from the franchise tax. [Acts 1981, 67th Leg., p. 1694, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.063. Exemption—Nonprofit Corporation Exempt From Federal Income Tax**

(a) A nonprofit corporation exempted from the federal income tax under Section 501(c)(3), (4), (5), (6), or (7) of the Internal Revenue Code of 1954, as it existed on January 1, 1975, is exempted from the franchise tax.

(b) A corporation is entitled to an exemption under this section based on the corporation's exemption from the federal income tax if the corporation files with the comptroller evidence establishing the corporation's exemption.

(c) A corporation's exemption under this section may be established by furnishing the comptroller with a copy of the Internal Revenue Service's letter of exemption issued to the corporation. The copy of the letter may be filed with the comptroller within 15 months after the day that is the last day of a calendar month and that is nearest to the date of the corporation's charter or certificate of authority.

(d) If the Internal Revenue Service has not timely issued to a corporation a letter of exemption, evidence establishing the corporation's exemption under this section is sufficient if the corporation files with the comptroller within the 15-month period established by Subsection (c) of this section evidence that the corporation has applied in good faith for the federal tax exemption.

(e) An exemption established under Subsection (c) or (d) of this section is to be recognized, after it is finally established, as of the date of the corporation's charter or certificate of authority.

(f) If a corporation timely files evidence with the comptroller under Subsection (d) of this section that it has applied for a federal tax exemption and if the application is finally denied by the Internal Revenue Service, this chapter does not impose a penalty on the corporation from the date of its charter or certificate of authority to the date of the final denial.

(g) If a corporation's federal tax exemption is withdrawn by the Internal Revenue Service for failure of the corporation to qualify or maintain its qualification for the exemption, the corporation's

exemption under this section ends on April 30 following the effective date of the withdrawal.

[Acts 1981, 67th Leg., p. 1694, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.064. Exemption—Nonprofit Corporation Organized for Conservation Purposes**

A nonprofit corporation organized solely to educate the public about the protection and conservation of fish, game, other wildlife, grasslands, and forests is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1695, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.065. Exemption—Nonprofit Corporation Organized to Provide Water Supply or Sewer Services**

A nonprofit water supply or sewer service corporation organized in behalf of a city or town under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1695, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.066. Exemption—Nonprofit Corporation Involved With City Natural Gas Facility**

A nonprofit corporation organized to construct, acquire, own, lease, or operate a natural gas facility in behalf and for the benefit of a city or residents of a city is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1695, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.067. Exemption—Nonprofit Corporation Organized to Provide Convalescent Homes for Elderly**

A nonprofit corporation organized to provide a convalescent home or other housing for persons who are at least 62 years old or who are handicapped or disabled is exempted from the franchise tax, whether or not the corporation is organized for purely public charity.

[Acts 1981, 67th Leg., p. 1695, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.068. Exemption—Nonprofit Corporation Organized to Provide Cooperative Housing**

A nonprofit corporation engaged solely in the business of owning residential property for the purpose of providing cooperative housing for persons is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1695, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.069. Exemption—Marketing Associations**

A marketing association incorporated under Article 5737 et seq., Revised Civil Statutes of Texas, 1925, is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1695, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.070. Exemption—Lodges**

A lodge incorporated under Article 1399 et seq., Revised Civil Statutes of Texas, 1925, is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.071. Exemption—Farmers' Cooperative Society**

A farmers' cooperative society incorporated under Article 2514 et seq., Revised Civil Statutes of Texas, 1925, is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.072. Exemption—Housing Finance Corporation**

A housing finance corporation incorporated under the Texas Housing Finance Corporations Act (Article 1269I-7, Vernon's Texas Civil Statutes) is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.073. Exemption—Hospital Laundry Cooperative Association**

A hospital laundry cooperative association incorporated under Chapter 56, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4437f-1, Vernon's Texas Civil Statutes), is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.074. Exemption—Development Corporation**

A development corporation incorporated under the Development Corporation Act of 1979 (Article 5190-6, Vernon's Texas Civil Statutes) is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.075. Exemption—Cooperative Association**

A cooperative association incorporated under Chapter 195, Acts of the 64th Legislature, 1975 (Article 4447r, Vernon's Texas Civil Statutes), or under the Cooperative Association Act (Article 1396-50.01, Vernon's Texas Civil Statutes) is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.076. Exemption—Cooperative Credit Association**

A cooperative credit association incorporated under Article 2508 et seq., Revised Civil Statutes of Texas, 1925, is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.077. Exemption—Credit Union**

A credit union incorporated under the Texas Credit Union Act (Article 2461-1.01 et seq., Vernon's Texas Civil Statutes) is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.078. Exemption—Banks**

A corporation chartered as a national, state, or private bank is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.079. Exemption—Electric Cooperative Corporation**

An electric cooperative corporation incorporated under the Electric Cooperative Corporation Act (Article 1528b, Vernon's Texas Civil Statutes) is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.080. Exemption—Telephone Cooperative Corporations**

A telephone cooperative corporation incorporated under the Telephone Cooperative Act (Article 1528c, Vernon's Texas Civil Statutes) is exempted from the franchise tax.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.081. Exemption—Corporation Exempt by Another Law**

Another statute that exempts a corporation from the franchise tax is not affected by this chapter.

[Acts 1981, 67th Leg., p. 1696, ch. 389, § 1, eff. Jan. 1, 1982.]

**Amendment by Acts 1981, 67th Leg., p. 3035, ch. 792, § 13**

*Section 13 of Acts 1981, 67th Leg., p. 3035, ch. 792, purports to amend subd. (1) of Taxation—General, art. 12.03 [now, § 171.052 et seq., this section, and §§ 171.082 and 171.083], without reference to repeal of said article by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a). As so amended, subd. (1) reads:*

*“(1) The franchise tax imposed by this chapter shall not apply to:*

*“(a) an insurance company; surety, guaranty, or fidelity company; transportation company; sleeping, palace car, and dining company now required to pay an annual tax measured by their gross receipts;*

*“(b) a corporation organized as a railway terminal corporation and having no annual net income from the business done by it;*

*“(c) a nonprofit corporation organized for the exclusive purpose of promoting the public inter-*

est of any county, city, or town, or other area within the state;

“(d) a nonprofit corporation organized for the purpose of religious worship;

“(e) a nonprofit corporation organized for the purpose of providing places of burial;

“(f) a nonprofit corporation organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits;

“(g) a nonprofit corporation organized for strictly educational purposes, including a corporation organized for the sole purpose of providing a student loan fund or student scholarships;

“(h) a nonprofit corporation organized for purely public charity;

“(i) a savings and loan association chartered or authorized to operate as a building or savings and loan association under the provisions of the Texas Savings and Loan Act (Article 852a, Vernon’s Texas Civil Statutes);

“(j) an open-end investment company, as defined in and subject to the Federal Investment Company Act of 1940 (15 U.S.Code, secs. 80a-1 et seq.), and which also is registered as such investment company under The Securities Act, as amended (Articles 581-1 et seq., Vernon’s Texas Civil Statutes);

“(k) a nonprofit corporation organized for the sole purpose of educating the public in the protection and conservation of fish, game, and other wildlife, as well as grasslands and forests;

“(l) a nonprofit water supply or sewer service corporation organized in behalf of cities or towns pursuant to Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 1434a, Vernon’s Texas Civil Statutes);

“(m) a nonprofit corporation organized for the purpose of constructing, acquiring, owning, leasing, or operating a natural gas facility in behalf of and for the benefit of a city or residents of a city;

“(n) a nonprofit corporation organized for the purpose of providing convalescent homes or other housing for persons 62 years of age or older or for handicapped or disabled persons without regard to whether the corporation is for purely public charity;

“(o) a nonprofit corporation engaged exclusively in the business of owning residential property for the purpose of providing cooperative housing for any person or persons;

“(p) a corporation exempted from the payment of a franchise tax by the provisions of any of the laws of this state other than this chapter;

“(q) a nonprofit corporation which has been exempted from the federal income tax under

the provisions of Section 501(c)(3), (4), (5), (6), or (7) of the Internal Revenue Code of 1954, as amended, as it existed on January 1, 1975;

“(r) corporations engaged exclusively in the business of manufacturing, selling, or installing solar energy devices, which term, for the purposes of this chapter, means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power or both by means of collecting and transferring solar-generated energy and includes mechanical or chemical devices having the capacity for storing solar-generated energy for use in heating or cooling or in the production of power; and

“(s) a nonprofit corporation organized under the Development Corporation Act of 1979 (Article 5190.6, Vernon’s Texas Civil Statutes).”

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

#### § 171.082. Exemption—Certain Homeowners’ Associations

*Text of section added effective May 1, 1982*

A nonprofit corporation is exempted from the franchise tax if:

(1) the corporation is organized and operated primarily to obtain, manage, construct, and maintain the property in or of a condominium or residential real estate development; and

(2) voting control of the corporation is vested in the owners of individual lots, residences, or residential units, and not in the developer.

[Added by Acts 1981, 67th Leg., p. 2758, ch. 752, § 4, eff. May 1, 1982.]

#### Sec. 171.083. Exemption—Emergency Medical Service Corporation

*Text of section added effective May 1, 1982*

A nonprofit corporation that is organized for the sole purpose of and engages exclusively in providing emergency medical services, including rescue and ambulance services, is exempted from the franchise tax.

[Added by Acts 1981, 67th Leg., p. 2785, ch. 752, § 14, eff. May 1, 1982.]

Acts 1981, 67th Leg., p. 2785, ch. 752, § 14, added this section to conform to Acts 1981, 67th Leg., p. 2305, ch. 565, which, in § 1, amended Taxation—General, art. 12.03(1). Section 2 of Acts 1981, 67th Leg., p. 2306, ch. 565, provided:

“This Act takes effect May 1, 1982, and applies to the franchise tax reporting period beginning on that date.”

[Sections 171.084 to 171.100 reserved for expansion]

SUBCHAPTER C. DETERMINATION OF TAXABLE CAPITAL; ALLOCATION AND APPORTIONMENT

§ 171.101. **Determination of Taxable Capital**

The total taxable capital of a corporation is the sum of the corporation's:

- (1) stated capital, as defined by Article 1.02, Texas Business Corporation Act; and
- (2) surplus.

[Acts 1981, 67th Leg., p. 1697, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.102. **Determination of Taxable Capital of Corporation in Process of Liquidation**

(a) "Corporation in the process of liquidation" means a corporation that:

- (1) adopts and pursues in good faith a plan to marshal the assets of the corporation, to pay or settle with the corporation's creditors and debtors, and to apportion the remaining assets of the corporation among the corporation's stockholders;
- (2) adopts the plan by a resolution approved by the corporation's board of directors and ratified by a majority of the stockholders of record; and
- (3) conducts the liquidation in the manner provided by the law of this state to dissolve a corporation.

(b) The taxable capital of a corporation in the process of liquidation is the difference between the amount of the corporation's stock issued and the amount of the liquidating dividends paid on the stock.

(c) The president and the secretary of the corporation shall file an affidavit with the comptroller containing information about the amount of liquidating dividends paid and a statement that the corporation is in the process of liquidation. The plan described by Subsection (a) of this section for the corporation's liquidation shall be attached to and be a part of the affidavit.

[Acts 1981, 67th Leg., p. 1697, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.103. **Determination of Gross Receipts From Business Done in This State**

The gross receipts of a corporation from its business done in this state is the sum of the corporation's receipts from:

- (1) each sale of tangible personal property if the property is delivered or shipped to a buyer in this state regardless of the FOB point or another condition of the sale;
- (2) each service performed in this state;
- (3) each rental of property situated in this state;
- (4) each royalty for the use of a patent or copyright in this state; and
- (5) other business done in this state.

[Acts 1981, 67th Leg., p. 1697, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.104. **Gross Receipts From Business Done in Texas: Deduction for Food and Medicine Receipts**

A corporation may deduct from its receipts includable under Section 171.103(1) of this code the amount of the corporation's receipts from sales of the following items, if the items are shipped from outside this state and the receipts would be includable under Section 171.103(1) of this code in the absence of this section:

(1) food that is exempted from the Limited Sales, Excise, and Use Tax Act by Section 151.314(a) of this code; and

(2) health care supplies that are exempted from the Limited Sales, Excise, and Use Tax Act by Section 151.313 of this code.

[Acts 1981, 67th Leg., p. 1697, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.105. **Determination of Gross Receipts From Entire Business**

(a) The gross receipts of a corporation from its entire business is the sum of the corporation's receipts from:

- (1) each sale of the corporation's tangible personal property;
- (2) each service, rental, or royalty; and
- (3) other business.

(b) If a corporation sells an investment or capital asset, the corporation's gross receipts from its entire business include only the net gain from the sale.

[Acts 1981, 67th Leg., p. 1698, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.106. **Determination of Amount of Taxable Capital Allocated to This State**

The part of a corporation's taxable capital that is allocated to this state and that is used to determine the amount of the tax imposed by this chapter is equal to the corporation's total taxable capital multiplied by a fraction, the numerator of which is the corporation's gross receipts from business done in this state and the denominator of which is the corporation's gross receipts from its entire business.

[Acts 1981, 67th Leg., p. 1698, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 171.107. **Deduction of Cost of Solar Energy Device From Taxable Capital Allocated to This State**

(a) In this section, "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

(b) A corporation may deduct from its taxable capital allocated to this state the amortized cost of a solar energy device if:

- (1) the device is acquired by the corporation for heating or cooling or for the production of power;

(2) the device is used in this state by the corporation; and

(3) the cost of the device is amortized in accordance with Subsection (c) of this section.

(c) The amortization of the cost of a solar energy device must:

(1) be for a period of at least 60 months;

(2) provide for equal monthly amounts;

(3) begin on the month in which the device is placed in service in this state; and

(4) cover only a period in which the device is in use in this state.

(d) A corporation that makes a deduction under this section shall file with the comptroller an amortization schedule showing the period in which a deduction is to be made. On the request of the comptroller, the corporation shall file with the comptroller proof of the cost of the solar energy device or proof of the device's operation in this state.

[Acts 1981, 67th Leg., p. 1698, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.108. Alternate Method of Determining Amount of Taxable Capital Allocated to This State**

If the allocation and apportionment provisions of Sections 171.103, 171.104, 171.105, and 171.106 of this code do not fairly represent the extent of the corporation's business done in this state, the corporation is entitled to request and the comptroller may grant permission for the corporation to use, with respect to all or any part of the corporation's business activity, an alternate allocation and apportionment method by:

(1) a separate accounting;

(2) inclusion of additional factors that will fairly represent the corporation's business activity in this state; or

(3) the employment of any other method that equitably allocates and apportions the taxpayer's capital.

[Acts 1981, 67th Leg., p. 1698, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 171.109 to 171.150 reserved for expansion]

**SUBCHAPTER D. PAYMENT OF TAX**

**§ 171.151. Period Covered by Tax**

The franchise tax shall be paid for each of the following:

(1) an initial period beginning on the date that the corporation files its charter or is granted a certificate of authority and ending on the day before the first anniversary of that date;

(2) a second period beginning on the first anniversary of the date that the corporation files its charter or is granted its certificate of authority and ending on April 30 following that date; and

(3) after the initial and second periods have expired, a regular annual period beginning each year on May 1 and ending on the following April 30.

[Acts 1981, 67th Leg., p. 1699, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.152. Date on Which Payment is Due**

(a) Payment of the tax covering the initial period is due within 90 days after the date that the initial period ends.

(b) Payment of the tax covering the second period is due on the same date as the tax covering the initial period.

(c) Payment of the tax covering the regular annual period is due June 15 of each year. However, if the first anniversary of the date that the corporation files its charter or is granted its certificate of authority is after December 31 and before May 1, the payment of the tax covering the first regular annual period is due on the same date as the tax covering the initial period.

[Acts 1981, 67th Leg., p. 1699, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.153. Business on Which Tax is Based**

(a) The tax covering the initial period is based on the business done by the corporation during the period beginning on the day the corporation files its charter or is granted a certificate of authority and ending on the day that is the last day of a calendar month and that is nearest to the end of the corporation's first year of business.

(b) The tax covering the second period is based on the same business on which the tax covering the initial period is based and is to be prorated based on the length of the second period.

(c) The tax covering the regular annual period is based on the business done by the corporation during its fiscal year that ends in the year before the year in which the tax is due. However, if the first anniversary of the date that the corporation files its charter or is granted its certificate of authority is after December 31 and before May 1, the tax covering the first regular annual period is based on the same business on which the tax covering the initial period is based.

[Acts 1981, 67th Leg., p. 1699, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.154. Payment to Comptroller**

A corporation on which a tax is imposed by this chapter shall pay the tax to the comptroller.

[Acts 1981, 67th Leg., p. 1700, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.155. Payment of Tax Deposit**

(a) An applicant for a charter under the Texas Business Corporation Act or the Texas Professional Corporation Act (Article 1528e, Vernon's Texas Civil

Statutes) or for a certificate of authority under the Texas Business Corporation Act must pay to the comptroller as a requirement for the charter or certificate a tax deposit of \$100.

(b) The comptroller shall apply the deposit as a credit against any tax imposed by this chapter on the corporation receiving the charter or certificate of authority.

(c) After the secretary of state issues the charter or certificate of authority, the comptroller may not refund the deposit for any reason.

[Acts 1981, 67th Leg., p. 1700, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 171.156. Payment of Additional Tax Deposit by Foreign Corporation

(a) At the time that a foreign corporation applies for a certificate of authority to do business in this state, the corporation shall pay to the comptroller a tax deposit of \$500.

(b) The comptroller shall place the deposit in a trust fund and hold the deposit during the time that the foreign corporation does business in this state. The deposit is to be used to ensure that the foreign corporation files each report required by this chapter and pays any filing fee, tax, penalty, or interest imposed by this chapter.

(c) If a foreign corporation's certificate of authority is forfeited under this chapter, the tax deposit is forfeited. The forfeiture of the deposit does not bar the state's recovery of the amount of the tax due under this chapter that is in excess of the amount of the forfeited deposit. However, if the foreign corporation pays the amount of the tax due under this chapter and files each tax report required by this chapter, the comptroller shall refund to the corporation the amount of the deposit in excess of any tax, penalty, and interest due under this chapter.

(d) If a foreign corporation stops doing business in this state before forfeiture of its certificate of authority and if the corporation demonstrates that each tax report required by this chapter has been filed and the tax and penalty imposed by this chapter have been paid, the comptroller shall refund to the corporation's agent designated under Section 171.354 of this chapter the remaining balance of the deposit.

[Acts 1981, 67th Leg., p. 1700, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 171.157. Exemption of Foreign Corporation From Tax Deposit Requirement

(a) A foreign corporation is exempted from the payment of the tax deposit required under Section 171.156 of this code if the comptroller determines that the corporation:

(1) continuously has maintained good standing relating to the tax for three consecutive reporting years; or

(2) is exempted by law from the tax.

(b) If a foreign corporation has paid the tax deposit and the corporation becomes exempt from its payment, the comptroller shall refund the deposit to the corporation.

(c) A foreign corporation's exemption from the payment of the tax deposit ends if the comptroller determines that the corporation:

(1) has not filed a report, paid a tax, or made another payment as required by this chapter; or

(2) no longer qualifies for an exemption from the tax.

(d) At the time that a foreign corporation's exemption from the payment of the tax deposit ends, the comptroller shall notify the corporation that it must pay the tax deposit.

[Acts 1981, 67th Leg., p. 1700, ch. 389, § 1, eff. Jan. 1, 1982.]

#### § 171.158. Payment by Foreign Corporation Before Withdrawal From State

(a) Except as provided by Subsection (b) of this section, a foreign corporation holding a certificate of authority to do business in this state may withdraw from doing business in this state by filing a certificate of withdrawal with the secretary of state. The secretary of state shall file the certificate of withdrawal as provided by law.

(b) The foreign corporation may not withdraw from doing business in this state unless it has paid, before filing the certificate of withdrawal, any tax or penalty imposed by this chapter on the corporation.

[Acts 1981, 67th Leg., p. 1701, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 171.159 to 171.200 reserved for expansion]

### SUBCHAPTER E. REPORTS AND RECORDS

#### § 171.201. Initial Report

(a) A corporation on which the franchise tax is imposed shall file an initial report with the comptroller containing:

(1) information showing the financial condition of the corporation on the day that is the last day of a calendar month and that is nearest to the end of the corporation's first year of business;

(2) the name and address of each officer and director of the corporation;

(3) the name and address of the agent of the corporation designated under Section 171.354 of this code; and

(4) other information required by the comptroller.

(b) The corporation shall file the report within 90 days after the date that the initial period established by Section 171.151(1) of this code ends.

[Acts 1981, 67th Leg., p. 1701, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.202. Annual Report**

(a) A corporation on which the franchise tax is imposed shall file an annual report with the comptroller containing:

(1) information showing the financial condition of the corporation on the last day of the corporation's fiscal year that ends in the year before the year in which the tax is due;

(2) the name and address of each officer and director of the corporation;

(3) the name and address of the agent of the corporation designated under Section 171.354 of this code; and

(4) other information required by the comptroller.

(b) If the tax is determined by using the alternate rate of tax established by Section 171.004 of this code, the corporation shall file an annual report with the comptroller containing information required by the comptroller to be filed. The comptroller shall prescribe the form of the report. The corporation shall file with the report a signed copy of its federal income tax return for the tax reporting period that ends in the year before the year in which the tax is due.

(c) The corporation shall file the report before June 16 of each year. The report shall be filed on forms supplied by the comptroller.

[Acts 1981, 67th Leg., p. 1701, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.203. Public Information Report**

(a) A corporation on which the franchise tax is imposed shall file a report with the comptroller containing:

(1) the name of each corporation in which the corporation filing the report owns a 10 percent or greater interest and the percentage owned by the corporation;

(2) the name of each corporation that owns a 10 percent or greater interest in the corporation filing the report;

(3) the name, title, and mailing address of each officer and director of the corporation;

(4) the name and address of the agent of the corporation designated under Section 171.354 of this code; and

(5) the address of the corporation's principal office and principal place of business.

(b) The corporation shall file the report once a year on a form prescribed by the comptroller.

(c) The comptroller shall forward the report to the secretary of state.

[Acts 1981, 67th Leg., p. 1702, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.204. Information Report**

To determine the amount of the franchise tax or to determine the correctness of a franchise tax re-

port, the comptroller may require an officer of a corporation on which the tax is imposed to file an information report with the comptroller stating the amount of the corporation's undivided profits and other surplus.

[Acts 1981, 67th Leg., p. 1702, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.205. Additional Information Required by Comptroller**

The comptroller may require a corporation on which the franchise tax is imposed to furnish to the comptroller information from the corporation's books and records that has not been filed previously and that is necessary for the comptroller to determine the amount of the tax.

[Acts 1981, 67th Leg., p. 1702, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.206. Confidential Information**

Except as provided by Section 171.207 of this code, the following information is confidential and may not be made open to public inspection:

(1) information that is obtained from a record or other instrument that is required by this chapter to be filed with the comptroller; or

(2) information, including information about the business affairs, operations, profits, losses, or expenditures of a corporation, obtained by an examination of the books and records, officers, or employees of a corporation on which a tax is imposed by this chapter.

[Acts 1981, 67th Leg., p. 1702, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.207. Information Not Confidential**

The following information is not confidential and shall be made open to public inspection:

(1) information contained in a document filed under this chapter with a county clerk as notice of a tax lien; and

(2) information contained in a report required by Section 171.203 of this code.

[Acts 1981, 67th Leg., p. 1702, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.208. Prohibition of Disclosure of Information**

A person, including a state officer or employee or a shareholder of a corporation, who has access to a report filed under this chapter may not make known in a manner not permitted by law the amount or source of the corporation's income, profits, losses, expenditures, or other information in the report relating to the financial condition of the corporation.

[Acts 1981, 67th Leg., p. 1703, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 171.209. Right of Shareholder to Examine or Receive Reports

If a person owning at least one share of outstanding stock of a corporation on whom the franchise tax is imposed presents evidence of the ownership to the comptroller, the person is entitled to examine or receive a copy of an initial or annual report that is filed under Section 171.201 or 171.202 of this code and that relates to the corporation.

[Acts 1981, 67th Leg., p. 1703, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 171.210. Permitted Use of Confidential Information

(a) To enforce this chapter, the comptroller or attorney general may use information made confidential by this chapter.

(b) The comptroller or attorney general may authorize the use of the confidential information in a judicial proceeding in which the state is a party. The comptroller or attorney general may authorize examination of the confidential information by:

- (1) another state officer of this state;
- (2) a law enforcement official of this state; or
- (3) a tax official of another state or an official of the federal government if the other state or the federal government has a reciprocal arrangement with this state.

[Acts 1981, 67th Leg., p. 1703, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 171.211. Examination of Corporate Records

To determine the franchise tax liability of a corporation, the comptroller, the state auditor, or the state auditor's authorized representative may investigate or examine the records of the corporation.

[Acts 1981, 67th Leg., p. 1703, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 171.212 to 171.250 reserved for expansion]

## SUBCHAPTER F. FORFEITURE OF CORPORATE PRIVILEGES

### § 171.251. Forfeiture of Corporate Privileges

The comptroller shall forfeit the corporate privileges of a corporation on which the franchise tax is imposed if the corporation:

- (1) does not file, in accordance with this chapter and within 90 days after the date it is due, an initial report required by Section 171.201 of this code;
- (2) does not file, in accordance with this chapter and before September 16 of the year in which it is due, an annual report that is required by Section 171.202 of this code;
- (3) does not pay, before September 16 of the year in which it is due, a tax imposed by this chapter that is due under Section 171.152(c) of this

code on the preceding June 15 or does not pay, before September 16, a penalty imposed by this chapter relating to that tax;

(4) does not pay, within 90 days after the date it is due, a tax imposed by this chapter that is due under Section 171.152 of this code on a date other than June 15 or does not pay, within those 90 days, a penalty imposed by this chapter relating to that tax; or

(5) does not permit the comptroller, the state auditor, or the state auditor's authorized representative to examine under Section 171.211 of this code the corporation's records.

[Acts 1981, 67th Leg., p. 1703, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 171.252. Effects of Forfeiture

If the corporate privileges of a corporation are forfeited under this subchapter:

- (1) the corporation shall be denied the right to sue or defend in a court of this state; and
- (2) each director or officer of the corporation is liable for a debt of the corporation as provided by Section 171.255 of this code.

[Acts 1981, 67th Leg., p. 1704, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 171.253. Suit on Cause of Action Arising Before Forfeiture

In a suit against a corporation on a cause of action arising before the forfeiture of the corporate privileges of the corporation, affirmative relief may not be granted to the corporation unless its corporate privileges are revived under this chapter.

[Acts 1981, 67th Leg., p. 1704, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 171.254. Exception to Forfeiture

The forfeiture of the corporate privileges of a corporation does not apply to the privilege to defend in a suit to forfeit the corporation's charter or certificate of authority.

[Acts 1981, 67th Leg., p. 1704, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 171.255. Liability of Director and Officers

(a) If the corporate privileges of a corporation are forfeited for the failure to file a report or pay a tax or penalty, each director or officer of the corporation is liable for each debt of the corporation that is created or incurred in this state after the date on which the report, tax, or penalty is due and before the corporate privileges are revived. The liability includes liability for any tax or penalty imposed by this chapter on the corporation that becomes due and payable after the date of the forfeiture.

(b) The liability of a director or officer is in the same manner and to the same extent as if the director or officer were a partner and the corporation were a partnership.

(c) A director or officer is not liable for a debt of the corporation if the director or officer shows that the debt was created or incurred:

- (1) over the director's objection; or
- (2) without the director's knowledge and that the exercise of reasonable diligence to become acquainted with the affairs of the corporation would not have revealed the intention to create the debt.

(d) If a corporation's charter or certificate of authority and its corporate privileges are forfeited and revived under this chapter, the liability under this section of a director or officer of the corporation is not affected by the revival of the charter or certificate and the corporate privileges.

[Acts 1981, 67th Leg., p. 1704, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.256. Notice of Forfeiture**

(a) If the comptroller proposes to forfeit the corporate privileges of a corporation, the comptroller shall notify the corporation that the forfeiture will occur without a judicial proceeding unless the corporation:

- (1) files, within the time established by Section 171.251 of this code, the report to which that section refers; or
- (2) pays, within the time established by Section 171.251 of this code, the delinquent tax and penalty to which that section refers.

(b) The notice shall be written or printed and shall be verified by the seal of the comptroller's office.

(c) The comptroller shall mail the notice to the corporation within 45 days after the day on which the report, tax, or penalty is due. The notice shall be addressed to the corporation and mailed to the address named in the corporation's charter as its principal place of business or to another known place of business of the corporation.

(d) The comptroller shall keep at the comptroller's office a record of the date on which the notice is mailed. For the purposes of this chapter, the notice and the record of the mailing date constitute legal and sufficient notice of the forfeiture.

[Acts 1981, 67th Leg., p. 1704, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.257. Judicial Proceeding Not Required for Forfeiture**

The forfeiture of the corporate privileges of a corporation is effected by the comptroller without a judicial proceeding.

[Acts 1981, 67th Leg., p. 1705, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.258. Revival of Corporate Privileges**

The comptroller shall revive the corporate privileges of a corporation if the corporation, before the forfeiture of its charter or certificate of authority,

pays any tax, penalty, or interest due under this chapter.

[Acts 1981, 67th Leg., p. 1705, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 171.259 to 171.300 reserved for expansion]

**SUBCHAPTER G. FORFEITURE OF CHARTER OR CERTIFICATE OF AUTHORITY**

**§ 171.301. Grounds for Forfeiture of Charter or Certificate of Authority**

It is a ground for the forfeiture of a corporation's charter or certificate of authority if:

- (1) the corporate privileges of the corporation are forfeited under this chapter and the corporation does not pay, within 120 days after the date the corporate privileges are forfeited, the amount necessary for the corporation to revive under this chapter its corporate privileges; or
- (2) the corporation does not permit the comptroller, the state auditor, or the state auditor's authorized representative to examine the corporation's records under Section 171.211 of this code.

[Acts 1981, 67th Leg., p. 1705, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.302. Certification by Comptroller**

After the 120th day after the date that the corporate privileges of a corporation are forfeited under this chapter, the comptroller shall certify the name of the corporation to the attorney general and the secretary of state.

[Acts 1981, 67th Leg., p. 1705, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.303. Suit for Judicial Forfeiture**

On receipt of the comptroller's certification, the attorney general shall bring suit to forfeit the charter or certificate of authority of the corporation if a ground exists for the forfeiture of the charter or certificate.

[Acts 1981, 67th Leg., p. 1705, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.304. Record of Judicial Forfeiture**

(a) If a district court forfeits a corporation's charter or certificate of authority under this chapter, the clerk of the court shall promptly mail to the secretary of state a certified copy of the court's judgment. On receipt of the copy of the judgment, the secretary of state shall inscribe on the corporation's record at the secretary's office the words "Judgment of Forfeiture" and the date of the judgment.

(b) If an appeal of the judgment is perfected, the clerk of the court shall promptly certify to the secretary of state that the appeal has been perfected. On receipt of the certification, the secretary of state shall inscribe on the corporation's record at the secretary's office the word "Appealed" and the date on which the appeal was perfected.

(c) If final disposition of an appeal is made, the clerk of the court making the disposition shall promptly certify to the secretary of state the type of disposition made and the date of the disposition. On receipt of the certification, the secretary of state shall inscribe on the corporation's record at the secretary's office a brief note of the type of final disposition made and the date of the disposition. [Acts 1981, 67th Leg., p. 1705, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.305. Revival of Charter or Certificate of Authority After Judicial Forfeiture**

A corporation whose charter or certificate of authority is judicially forfeited under this chapter is entitled to have its charter or certificate revived and to have its corporate privileges revived if:

(1) the corporation files each report that is required by this chapter and that is delinquent;

(2) the corporation pays the tax, penalty, and interest that is imposed by this chapter and that is due at the time the suit under Section 171.306 of this code to set aside forfeiture is filed; and

(3) the forfeiture of the corporation's charter or certificate is set aside in a suit under Section 171.306 of this code.

[Acts 1981, 67th Leg., p. 1706, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.306. Suit to Set Aside Judicial Forfeiture**

If a corporation's charter or certificate of authority is judicially forfeited under this chapter, a stockholder, director, or officer of the corporation at the time of the forfeiture of the charter or certificate or of the corporate privileges of the corporation may bring suit in a district court of Travis County in the name of the corporation to set aside the forfeiture of the charter or certificate. The suit must be in the nature of a bill of review. The secretary of state and attorney general must be made defendants in the suit.

[Acts 1981, 67th Leg., p. 1706, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.307. Record of Suit to Set Aside Judicial Forfeiture**

If a court under this chapter sets aside the forfeiture of a corporation's charter or certificate of authority, the secretary of state shall inscribe on the corporation's record in the secretary's office the words "Charter Revived by Court Order" or "Certificate Revived by Court Order," a citation to the suit, and the date of the court's judgment.

[Acts 1981, 67th Leg., p. 1706, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.308. Corporate Privileges After Judicial Forfeiture is Set Aside**

If a court under this chapter sets aside the forfeiture of a corporation's charter or certificate of authority, the comptroller shall revive the corporate

privileges of the corporation and shall inscribe on the corporation's record in the comptroller's office a note of the revival.

[Acts 1981, 67th Leg., p. 1706, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.309. Forfeiture by Secretary of State**

The secretary of state may forfeit the charter or certificate of authority of a corporation if:

(1) the secretary receives the comptroller's certification under Section 171.302 of this code;

(2) the corporation does not revive its forfeited corporate privileges before January 1 following the date that the corporate privileges were forfeited; and

(3) the corporation does not have assets from which a judgment for any tax, penalty, or court costs imposed by this chapter may be satisfied.

[Acts 1981, 67th Leg., p. 1707, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.310. Judicial Proceeding Not Required for Forfeiture by Secretary of State**

The forfeiture by the secretary of state of a corporation's charter or certificate of authority under this chapter is effected without a judicial proceeding.

[Acts 1981, 67th Leg., p. 1707, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.311. Record of Forfeiture by Secretary of State**

The secretary of state shall effect a forfeiture of a corporation's charter or certificate of authority under this chapter by inscribing on the corporation's record in the secretary's office the words "Charter Forfeited" or "Certificate Forfeited," the date on which this inscription is made, and a citation to this chapter as authority for the forfeiture.

[Acts 1981, 67th Leg., p. 1707, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.312. Revival of Charter or Certificate of Authority After Forfeiture by Secretary of State**

A corporation whose charter or certificate of authority is forfeited under this chapter by the secretary of state is entitled to have its charter or certificate revived and to have its corporate privileges revived if:

(1) the corporation files each report that is required by this chapter and that is delinquent;

(2) the corporation pays the tax, penalty, and interest that is imposed by this chapter and that is due at the time the request under Section 171.313 of this code to set aside forfeiture is made; and

(3) the forfeiture of the corporation's charter or certificate is set aside in a proceeding under Section 171.313 of this code.

[Acts 1981, 67th Leg., p. 1707, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.313. Proceeding to Set Aside Forfeiture by Secretary of State**

(a) If a corporation's charter or certificate of authority is forfeited under this chapter by the secretary of state, a stockholder, director, or officer of the corporation at the time of the forfeiture of the charter or certificate or of the corporate privileges of the corporation may request in the name of the corporation that the secretary of state set aside the forfeiture of the charter or certificate.

(b) If a request is made, the secretary of state shall determine if each delinquent report has been filed and any delinquent tax, penalty, or interest has been paid. If each report has been filed and the tax, penalty, or interest has been paid, the secretary shall set aside the forfeiture of the corporation's charter or certificate of authority.

[Acts 1981, 67th Leg., p. 1707, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.314. Corporate Privileges After Forfeiture by Secretary of State is Set Aside**

If the secretary of state sets aside under this chapter the forfeiture of a corporation's charter or certificate of authority, the comptroller shall revive the corporate privileges of the corporation.

[Acts 1981, 67th Leg., p. 1708, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.315. Use of Corporate Name After Revival of Charter or Certificate of Authority**

If a corporation's charter or certificate of authority is forfeited under this chapter by the secretary of state and if the corporation requests the secretary to set aside the forfeiture under Section 171.313 of this code, the corporation shall determine from the secretary whether the corporation's name is available for use. If the name is not available, the corporation shall amend its charter or certificate to change its name.

[Acts 1981, 67th Leg., p. 1708, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 171.316 to 171.350 reserved for expansion]

SUBCHAPTER H. ENFORCEMENT

**§ 171.351. Venue of Suit to Enforce Chapter**

Venue of a civil suit against a corporation to enforce this chapter is either in a county where the corporation's principal office is located according to its charter or certificate of authority or in Travis County.

[Acts 1981, 67th Leg., p. 1708, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.352. Authority to Restrain or Enjoin**

To enforce this chapter, a court may restrain or enjoin a violation of this chapter.

[Acts 1981, 67th Leg., p. 1708, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.353. Appointment of Receiver**

If a court forfeits a corporation's charter or certificate of authority, the court may appoint a receiver for the corporation and may administer the receivership under the laws relating to receiverships.

[Acts 1981, 67th Leg., p. 1708, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.354. Agent for Service of Process**

Each corporation on which a tax is imposed by this chapter shall designate a resident of this state as the corporation's agent for the service of process.

[Acts 1981, 67th Leg., p. 1708, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.355. Service of Process on Secretary of State**

(a) Legal process may be served on a domestic corporation by serving it on the secretary of state if the process relates to the forfeiture of the corporation's charter or to the collection of a tax or penalty imposed by this chapter and:

(1) if the local agent of the corporation or if the officers named in the corporation's charter or annual report on file with the secretary of state do not reside or cannot be located in the county in which the corporation's principal office, as stated in the charter, is located; or

(2) if the principal office of the corporation is not maintained or cannot be located in the county in which the charter states that the office is located.

(b) Complete and valid service of process is made on a corporation through the secretary of state by delivering duplicate copies of the process to the secretary of state or the assistant secretary of state.

(c) On receipt of legal process under this section, the secretary of state promptly shall forward to the corporation by registered mail a copy of the process. The copy of the process shall be mailed to the address named in the corporation's charter as its principal place of business or to another place of business of the corporation as shown by the records in the secretary of state's office.

(d) The failure of the secretary of state to mail a copy of legal process to a corporation does not affect the validity of the service of process. It is competent and sufficient proof of the service of process that the secretary of state certifies under the secretary's official seal the receipt of the process.

(e) The secretary of state shall keep a record of each legal process served on the secretary under this section showing the date and time of the receipt of the process and the secretary's action on the process.

(f) This section is cumulative of other laws relating to service of process.

[Acts 1981, 67th Leg., p. 1708, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.356. Tax Lien**

The state has a prior lien on a corporation's property to secure the payment of all taxes and penalties imposed by this chapter.

[Acts 1981, 67th Leg., p. 1709, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.357. Notice of Lien**

(a) If the corporate privileges of a corporation are forfeited under this chapter, the comptroller shall file:

(1) a tax lien notice with the clerk of the county in which the principal place of business of the corporation, as stated in its charter or certificate of authority, is located; and

(2) a copy of the tax lien notice with the clerk of each county in which the comptroller believes the corporation has real or personal property.

(b) The notice shall be of any tax or penalty due under this chapter by the corporation and the liens securing their payment. The notice shall include the name of the corporation on whom the tax or penalty is imposed, the amount of the tax or penalty due, and information about any tax or penalty that may become due. The notice shall be on a form prepared or approved by the attorney general.

(c) The county clerk with whom a tax lien notice is filed shall record and index the notice in the clerk's tax lien records.

[Acts 1981, 67th Leg., p. 1709, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.358. Effect of Tax Lien Notice**

A tax lien notice that is filed, recorded, and indexed as provided by this chapter is notice to each party dealing with the real or personal property of a corporation that:

(1) a tax or penalty is due and may become due under this chapter by the corporation; and

(2) the state has liens securing the payment of the tax or penalty.

[Acts 1981, 67th Leg., p. 1709, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.359. Release of Lien**

(a) The comptroller may make and deliver:

(1) a complete release of a lien created by this chapter if full payment of any tax or penalty secured by the lien is made; or

(2) a partial release of a lien created by this chapter if partial payment of any tax or penalty secured by the lien is made in an amount that the comptroller considers adequate and proper under the circumstances.

(b) A release by the comptroller shall be on a form prepared or approved by the attorney general.

[Acts 1981, 67th Leg., p. 1709, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.360. Limitation on Suit to Enforce Lien**

A suit for the enforcement of a lien created by this chapter may not be begun more than two years after the date that the corporation against whose property the lien is imposed forfeits under this chapter its corporate privileges.

[Acts 1981, 67th Leg., p. 1710, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.361. Penalty for Disclosure of Information on Report**

(a) A person commits an offense if the person violates Section 171.208 of this code prohibiting the disclosure of information on a report filed under this chapter.

(b) An offense under this section is punishable by a fine of not more than \$1,000, confinement in jail for not more than one year, or both.

[Acts 1981, 67th Leg., p. 1710, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 171.362. Penalty for Failure to Pay Tax or File Report**

(a) If a corporation on which a tax is imposed by this chapter fails to pay the tax when it is due and payable or fails to file a report required by this chapter when it is due, the corporation is liable for a penalty of five percent of the amount of the tax due.

(b) If the tax is not paid or the report is not filed within 30 days after the due date, a penalty of an additional five percent of the tax due is imposed.

(c) The minimum penalty under this section is \$1.  
[Acts 1981, 67th Leg., p. 1710, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 171.363 to 171.400 reserved for expansion]

**SUBCHAPTER I. DISPOSITION OF REVENUE****§ 171.401. Revenue Deposited in General Revenue Fund**

The revenue from the tax imposed by this chapter shall be deposited to the credit of the general revenue fund.

[Acts 1981, 67th Leg., p. 1710, ch. 389, § 1, eff. Jan. 1, 1982.]

**SUBTITLE G. GROSS RECEIPTS TAXES****CHAPTER 181. CEMENT PRODUCTION TAX****SUBCHAPTER A. TAX**

Section	
181.001.	Tax Imposed.
181.002.	Rate of Tax.
181.003.	Payment of Tax.
181.004.	Exemption: Interstate Commerce.

**SUBCHAPTER B. REPORTS AND RECORDS**

181.051.	Report.
181.052.	Records.

SUBCHAPTER C. ENFORCEMENT

- Section  
 181.101. Interest on Delinquent Taxes.  
 181.102. Tax Lien.  
 181.103. Prohibition on Delinquent Taxpayer; Injunction.  
 181.104. Penalty.  
 181.105. Criminal Penalty.

SUBCHAPTER D. RESTRICTION ON MUNICIPALITIES

- 181.151. Restriction on Taxing Authority of Municipalities.

SUBCHAPTER E. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

- 181.201. Occupation Tax.  
 181.202. Allocation of Tax Revenue.

SUBCHAPTER A. TAX

§ 181.001. Tax Imposed

(a) A tax is imposed on a person who:

(1) manufactures or produces cement in, or imports cement into, the state; and

(2) distributes or sells the cement in intrastate commerce or uses the cement in the state.

(b) The tax is computed on the amount of cement distributed, sold, or used by the person for the first time in intrastate commerce.

(c) The tax applies to only one distribution, sale, or use of cement.

[Acts 1981, 67th Leg., p. 1711, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 181.002. Rate of Tax

The rate of the tax imposed by this chapter is \$0.0275 for each 100 pounds or fraction of 100 pounds of taxable cement.

[Acts 1981, 67th Leg., p. 1711, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 181.003. Payment of Tax

(a) The person on whom the tax is imposed by this chapter shall pay the tax to the comptroller at the comptroller's Austin office.

(b) The tax payment is due on the 25th day of each month, and the amount of the tax is computed on the amount of business done during the preceding month by the person on whom the tax is imposed.

[Acts 1981, 67th Leg., p. 1711, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 181.004. Exemption: Interstate Commerce

The tax imposed by this chapter is not computed on an interstate distribution or sale of cement.

[Acts 1981, 67th Leg., p. 1711, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 181.005 to 181.050 reserved for expansion]

SUBCHAPTER B. REPORTS AND RECORDS

§ 181.051. Report

On or before the 25th day of each month, a person on whom the tax is imposed by this chapter shall file with the comptroller a report stating:

(1) the amount of taxable cement distributed, sold, or used by the person during the preceding month;

(2) the amount of cement produced in, imported into, or exported out of the state by the person during the preceding month; and

(3) other information that the comptroller requires to be in the report.

[Acts 1981, 67th Leg., p. 1712, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 181.052. Records

(a) A person on whom the tax is imposed by this chapter shall keep a record of the business conducted by the person and of other information that the comptroller requires to be kept.

(b) The record is an open record to the comptroller and the attorney general.

(c) The comptroller shall adopt rules to enforce this section.

[Acts 1981, 67th Leg., p. 1712, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 181.053 to 181.100 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT

§ 181.101. Interest on Delinquent Taxes

A tax imposed by this chapter that is delinquent draws interest as provided by Section 111.060 of this code.

[Acts 1981, 67th Leg., p. 1712, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 181.102. Tax Lien

The state has a prior lien for a tax or interest on a tax imposed by this chapter that is delinquent or for a penalty imposed by this chapter. The lien is on the property used in the business of distributing, selling, or using cement by the person on whom the tax is imposed by this chapter.

[Acts 1981, 67th Leg., p. 1712, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 181.103. Prohibition on Delinquent Taxpayer; Injunction

(a) A person who is delinquent in the payment of the tax imposed by this chapter may not engage in an activity or participate in a transaction for which the person is taxed by this chapter.

(b) The attorney general may sue in Travis County or another county having venue to enjoin a person from violating this section.

[Acts 1981, 67th Leg., p. 1712, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 181.104. Penalty**

(a) A person on whom the tax is imposed by this chapter and who does not pay the tax when it is due forfeits to the state a penalty of five percent of the amount of tax delinquent.

(b) If the tax imposed by this chapter is not paid within 30 days after it is due, the person on whom the tax is imposed forfeits to the state a penalty of an additional five percent of the amount of tax delinquent.

(c) The minimum penalty under this section is \$1. [Acts 1981, 67th Leg., p. 1712, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 181.105. Criminal Penalty**

(a) A person who violates a provision of this chapter commits an offense.

(b) An offense under this section is punishable by a fine of not less than \$25 nor more than \$1,000. A separate offense is committed each day a violation occurs.

[Acts 1981, 67th Leg., p. 1712, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 181.106 to 181.150 reserved for expansion]

**SUBCHAPTER D. RESTRICTION ON MUNICIPALITIES****§ 181.151. Restriction on Taxing Authority of Municipalities**

A municipal corporation may not impose an occupation tax similar to the tax imposed by this chapter.

[Acts 1981, 67th Leg., p. 1713, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 181.152 to 181.200 reserved for expansion]

**SUBCHAPTER E. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE****§ 181.201. Occupation Tax**

The tax imposed by this chapter is an occupation tax.

[Acts 1981, 67th Leg., p. 1713, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 181.202. Allocation of Tax Revenue**

One-fourth of the revenue from the tax imposed by this chapter shall be deposited to the credit of the available school fund and three-fourths to the general revenue fund.

[Acts 1981, 67th Leg., p. 1713, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, § 9(h), eff. Jan. 1, 1982.]

**CHAPTER 182. MISCELLANEOUS GROSS RECEIPTS TAXES****SUBCHAPTER A. TELEGRAPH COMPANIES**

Section	
182.001.	Definitions.
182.002.	Imposition and Rate of Tax.
182.003.	Political Subdivisions of the State.
182.004.	Franchise Tax.

**SUBCHAPTER B. UTILITY COMPANIES**

182.021.	Definitions.
182.022.	Imposition and Rate of Tax.
182.023.	Payment of Tax.
182.024.	Political Subdivisions.
182.025.	Charges by a City.
182.026.	Subchapter Not Applicable.

**SUBCHAPTER C. CAR COMPANIES**

182.041.	Definitions.
182.042.	Imposition and Rate of Tax.

**SUBCHAPTER D. TELEPHONE COMPANIES**

182.061.	Definitions.
182.062.	Imposition and Rate of Tax.
182.063.	Political Subdivisions.
182.064.	Subchapter Not Applicable.

**SUBCHAPTER E. TAX COLLECTIONS AND BUSINESS PERMITS**

182.081.	Reports.
182.082.	Tax Payments: Due Date.
182.083.	Payment of Tax if Business Begun After Beginning of Quarter.
182.084.	Additional Reports.
182.085.	Forms.
182.086.	Permit Required; Form of Permit.
182.087.	Application and Issuance of Permit.
182.088.	Suspension of Permit.

**SUBCHAPTER F. PENALTIES**

182.101.	Failure to Report.
182.102.	Penalty for Failure to Pay Tax.
182.103.	Suits.
182.104.	Transacting Business Without a Permit: Penalty.

**SUBCHAPTER G. NATURE AND ALLOCATION OF TAX**

182.121.	Nature of Tax.
182.122.	Allocation of Tax.

**§ 182.001. Definitions**

In this subchapter:

(1) "Telegraph company" means a person who:

(A) owns or operates a telegraph line or a telegraph station in this state; and

(B) charges for sending telegraph messages.

(2) "Business" means the transmission of telegraph messages, at full or half rate, and the lease or use of wires or equipment, but does not include business transacted for agencies of the United States government for which rates are set by the postmaster general.

[Acts 1981, 67th Leg., p. 1714, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.002. Imposition and Rate of Tax**

(a) A tax is imposed on each telegraph company on the gross receipts from business done in this state.

(b) The tax rates are:

(1) 1.5 percent of the gross receipts from business done outside an incorporated city or town or in an incorporated city or town having a population of 2,500 or less;

(2) 1.75 percent of the gross receipts from business done in an incorporated city or town having a population of more than 2,500 but not more than 10,000; and

(3) 2.275 percent of the gross receipts from business done in an incorporated city or town having a population of more than 10,000.

[Acts 1981, 67th Leg., p. 1714, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.003. Political Subdivisions of the State**

No city or other political subdivision of this state may impose, on a telegraph company taxed under Section 182.002 of this code, an occupation tax or any charge for the privilege of doing business. [Acts 1981, 67th Leg., p. 1715, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.004. Franchise Tax**

(a) This subchapter does not prohibit the collection by a city of a franchise tax in effect on October 31, 1936.

(b) This subchapter does not affect any contracts made between a city and a franchise holder.

[Acts 1981, 67th Leg., p. 1715, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 182.005 to 182.020 reserved for expansion]

**SUBCHAPTER B. UTILITY COMPANIES**

**§ 182.021. Definitions**

In this subchapter:

(1) "Utility company" means a person who owns or operates a gas, electric light, electric power, or water works, or water and light plant used for local sale and distribution located within an incorporated city or town in this state.

(2) "Business" means the providing of gas, electric light, electric power, or water.

[Acts 1981, 67th Leg., p. 1715, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.022. Imposition and Rate of Tax**

(a) A tax is imposed on each utility company located in an incorporated city or town having a population of more than 1,000, according to the last federal census next preceding the filing of the report.

(b) The tax rates are:

(1) .581 percent of the gross receipts from business done in an incorporated city or town having a

population of more than 1,000 but less than 2,500, according to the last federal census next preceding the filing of the report;

(2) 1.07 percent of the gross receipts from business done in an incorporated city or town having a population of 2,500 or more but less than 10,000, according to the last federal census next preceding the filing of the report; and

(3) 1.997 percent of the gross receipts from business done in an incorporated city or town having a population of 10,000 or more, according to the last federal census next preceding the filing of the report.

[Acts 1981, 67th Leg., p. 1715, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.023. Payment of Tax**

Only one utility company pays the tax on a commodity. If the commodity is produced by one utility company and distributed by another, the distributor pays the tax.

[Acts 1981, 67th Leg., p. 1715, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.024. Political Subdivisions**

No city or other political subdivision of this state may impose an occupation tax or charge of any sort on a utility company taxed under this subchapter.

[Acts 1981, 67th Leg., p. 1715, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.025. Charges by a City**

(a) An incorporated city or town may make a reasonable lawful charge for the use of a city street, alley, or public way by a public utility in the course of its business.

(b) The total charges, however designated or measured, may not exceed two percent of the gross receipts of the public utility for the sale of gas, electric energy, or water within the city.

(c) If a public utility taxed under this subchapter pays a special tax, rental, contribution, or charge under a contract or franchise executed before May 1, 1941, the city shall credit the payment against the amount owed by the public utility on any charge allowable under Subsection (a) of this section.

[Acts 1981, 67th Leg., p. 1716, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.026. Subchapter Not Applicable**

(a) This subchapter does not apply to a utility company owned and operated by a city, town, county, water improvement district, or conservation district.

(b) This subchapter does not:

(1) affect collection of ad valorem taxes; or

(2) impair or alter a provision of a contract, agreement, or franchise made between a city and a public utility company relating to a payment made to the city.

[Acts 1981, 67th Leg., p. 1716, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 182.027 to 182.040 reserved for expansion]

## SUBCHAPTER C. CAR COMPANIES

## § 182.041. Definitions

In this subchapter:

(1) "Car company" means a person who:

(A) owns a stock car, refrigerator or fruit car of any kind, tank car of any kind, coal car of any kind, furniture car, common box car, or flat car; and

(B) leases or charges mileage for the use of the car.

(2) "Business" means the leasing of or charging mileage for the use of the car.

[Acts 1981, 67th Leg., p. 1716, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 182.042. Imposition and Rate of Tax

(a) A tax is imposed on each car company residing or incorporated outside this state on the gross receipts from business done in this state.

(b) The tax rate is three percent of the gross receipts.

[Acts 1981, 67th Leg., p. 1716, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 182.043 to 182.060 reserved for expansion]

## SUBCHAPTER D. TELEPHONE COMPANIES

## § 182.061. Definitions

In this subchapter:

(1) "Telephone company" means a person who owns or operates a telephone line or a telephone in this state and charges for its use.

(2) "Business" means providing telephone service or leasing a telephone, telephone equipment, or telephone line.

[Acts 1981, 67th Leg., p. 1716, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 182.062. Imposition and Rate of Tax

(a) A tax is imposed on each telephone company on the gross receipts from business done in this state.

(b) The tax rates are:

(1) 1.65 percent of the gross receipts from business done outside an incorporated city or town or in an incorporated city or town having a population of 2,500 or less;

(2) 1.925 percent of the gross receipts from business done in an incorporated city or town having a population of more than 2,500 but not more than 10,000; and

(3) 2.5025 percent of the gross receipts from business done in an incorporated city or town having a population of more than 10,000.

[Acts 1981, 67th Leg., p. 1716, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 182.063. Political Subdivisions

No city or other political subdivision of this state may impose, on a telephone company taxed under Section 182.062 of this code, an occupation tax or any charge for the privilege of doing business. [Acts 1981, 67th Leg., p. 1717, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 182.064. Subchapter Not Applicable

(a) This subchapter does not apply to a telephone company owned and operated by a cooperative, non-profit, membership corporation.

(b) This subchapter does not:

(1) prohibit the collection by a city of a franchise tax in effect on October 31, 1936;

(2) prohibit the collection of ad valorem taxes; or

(3) affect any contracts made between a city and a franchise holder.

[Acts 1981, 67th Leg., p. 1717, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 182.065 to 182.080 reserved for expansion]

## SUBCHAPTER E. TAX COLLECTIONS AND BUSINESS PERMITS

## § 182.081. Reports

(a) A person required to pay a tax under this chapter shall report to the comptroller on the first day of January, April, July, and October of each year.

(b) A report must include a statement of the gross receipts from business done, as defined in this chapter for each taxpayer, during the preceding quarterly period.

[Acts 1981, 67th Leg., p. 1717, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 182.082. Tax Payments: Due Date

Except as provided by Section 182.083 of this code, the taxes imposed by this chapter are due and payable to the treasurer on the first day of January, April, July, and October of each year.

[Acts 1981, 67th Leg., p. 1717, ch. 389, § 1, eff. Jan. 1, 1982.]

## § 182.083. Payment of Tax if Business Begun After Beginning of Quarter

If a person taxed under this chapter begins business on or after the first day of the quarter, then in lieu of the gross receipts tax provided for in this chapter, the tax for that quarter is \$50, payable to the treasurer in advance.

[Acts 1981, 67th Leg., p. 1717, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.084. Addition Reports**

The comptroller may require a person required to report under this chapter to supply additional or supplemental reports containing information necessary to compute the tax due.

[Acts 1981, 67th Leg., p. 1717, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.085. Forms**

The comptroller shall prepare forms for use in making the reports required by this chapter.

[Acts 1981, 67th Leg., p. 1718, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.086. Permit Required; Form of Permit**

(a) Each person taxed under this chapter must have a permit to transact business.

(b) The comptroller shall issue the permit in a form prescribed by the attorney general.

(c) A permit shows:

- (1) the name of the person to whom it is issued;
- (2) the business to be transacted; and

(3) that the holder has complied with this chapter.

(d) The permit must be publicly displayed at the principal office of the person to whom it is issued.

[Acts 1981, 67th Leg., p. 1718, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.087. Application and Issuance of Permit**

(a) The comptroller shall prescribe the form of the application for the permit to transact business.

(b) The application must show:

(1) to the satisfaction of the comptroller the facts required under Section 182.086 of this code; and

(2) that the applicant has paid the taxes required by this chapter or, if the applicant is the buyer of a going business, that the seller has paid all taxes due or to become due under this chapter.

(c) After determining that all taxes due under this chapter have been paid, the comptroller shall issue the permit to transact business.

(d) The permit expires on December 31 following the date of issuance.

(e) No permit may be issued without the filing of an application for which a fee of \$1 is required to defray the cost of issuing the permit.

[Acts 1981, 67th Leg., p. 1718, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.088. Suspension of Permit**

(a) If taxes due under this chapter are not paid before the expiration of 30 days after the due date, the comptroller shall mail a written notice to the delinquent taxpayer at the last known address stating that:

(1) the tax is unpaid; and

(2) the comptroller will suspend the permit to transact business if the tax is not paid within 10 days of the date of the notice.

(b) The mailing of the notice is sufficient compliance with this law.

(c) If the tax and accrued penalties are not paid before the expiration of 15 days after the mailing of the notice, the comptroller shall:

(1) Note on the records that the permit to transact business of the delinquent taxpayer has been suspended, giving the date of suspension;

(2) immediately certify the suspension to the attorney general; and

(3) have published a notice of suspension of the permit in a daily or weekly newspaper published in the county of the delinquent taxpayer's business or, if there is no newspaper published in that county, in a daily newspaper with statewide circulation.

[Acts 1981, 67th Leg., p. 1718, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 182.089 to 182.100 reserved for expansion]

SUBCHAPTER F. PENALTIES

**§ 182.101. Failure to Report**

A person who is required to report under this chapter and who fails to report before the expiration of 30 days after the due date forfeits and shall pay to the state a penalty of not more than \$1,000.

[Acts 1981, 67th Leg., p. 1719, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.102. Penalty for Failure to Pay Tax**

(a) If a person taxed under this chapter fails to pay the tax before the expiration of 30 days after the due date, the person forfeits and shall pay to the state a penalty of five percent of the amount of the tax. If the person then fails to pay after the first 30 days, the person must pay an additional penalty of five percent of the amount of the tax.

(b) The minimum penalty imposed by this section is \$1.

[Acts 1981, 67th Leg., p. 1719, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.103. Suits**

(a) The attorney general shall bring suits to collect penalties under this chapter.

(b) The courts of Travis County have concurrent jurisdiction of a violation under this chapter.

[Acts 1981, 67th Leg., p. 1719, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.104. Transacting Business Without a Permit: Penalty**

(a) A person commits an offense if the person is required by Section 182.086 of this code to have a permit and the person transacts business without a valid permit.

(b) An offense under Subsection (a) of this section is punishable by a fine of not less than \$50 nor more than \$500. Each day on which a violation occurs is a separate offense.

[Acts 1981, 67th Leg., p. 1719, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 182.105 to 182.120 reserved for expansion]

**SUBCHAPTER G. NATURE AND ALLOCATION OF TAX**

**§ 182.121. Nature of Tax**

A tax imposed by this chapter is an occupation tax.

[Acts 1981, 67th Leg., p. 1719, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 182.122. Allocation of Tax**

Revenues collected under this chapter are allocated:

- (1) one-fourth to the available school fund; and
- (2) three-fourths to the general revenue fund.

[Acts 1981, 67th Leg., p. 1719, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, § 9(h), eff. Jan. 1, 1982.]

**SUBTITLE H. BUSINESS PERMIT TAXES**

**CHAPTER 191. MISCELLANEOUS OCCUPATION TAXES**

**SUBCHAPTER A. BROKERS AND FACTORS**

Section	Definition.
191.001.	Definition.
191.002.	Imposition and Rate of Tax.
191.003.	Exemption.

**SUBCHAPTER B. PISTOL DEALERS**

191.021.	Definitions.
191.022.	Imposition and Rate of Tax.
191.023.	License.
191.024.	Records.
191.025.	Exception.
191.026.	County or City.

**SUBCHAPTER C. SHIP BROKERS**

191.041.	Definition.
191.042.	Imposition and Rate of Tax.

**SUBCHAPTER D. BILLIARD TABLE OWNERS OR OPERATORS**

191.061.	Definition.
191.062.	Imposition and Rate of Tax.
191.063.	City or Town.
191.064.	City or Town License.

**SUBCHAPTER E. OIL WELL SERVICE**

Section	Definition.
191.081.	Definition.
191.082.	Tax Imposed.
191.083.	Tax Rate.
191.084.	Report and Tax Payment.
191.085.	Record.
191.086.	Penalty.
191.087.	Failure to Pay Tax.
191.088.	State Tax Lien.
191.089.	Permit Required.

**SUBCHAPTER F. TAX RECEIPT**

191.101.	Tax Receipt as Permit.
191.102.	Display of Permit: Penalty.

**SUBCHAPTER G. NATURE AND ALLOCATION OF TAX**

191.121.	Nature of Tax.
191.122.	Allocation of Tax.

**SUBCHAPTER A. BROKERS AND FACTORS**

**§ 191.001. Definition**

(a) In this subchapter, "broker" or "factor" means a person who, for another person and for valuable consideration, rents, buys, sells, or transfers, for actual spot or future delivery, or negotiates purchases, sales, or transfers of stocks, bonds, bills of exchange, negotiable paper, promissory notes, bank notes, exchange, bullion, money, lumber, coal, cotton, grain, horses, cattle, hogs, sheep, produce, or any kind of merchandise.

(b) A person is not a broker or factor if the person:

- (1) is a salesman who is employed on a salary or commission basis by only one retailer, wholesaler, jobber, or manufacturer;
- (2) sells property only as a receiver, trustee in bankruptcy, executor, or administrator; or
- (3) sells property under a court order.

[Acts 1981, 67th Leg., p. 1721, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.002. Imposition and Rate of Tax**

(a) A tax is imposed on a person who, acting for the person or on behalf of another, engages in the business of a broker or factor.

(b) The tax rate is \$12 per year to be paid in advance.

[Acts 1981, 67th Leg., p. 1721, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.003. Exemption**

(a) The tax imposed by this subchapter does not apply to a person who is subject to a tax under Section 191.022, 191.042, 191.062, or 191.082 of this code.

(b) The exemption provided by Subsection (a) of this section does not apply to a person who engages in more than one occupation as described in this chapter.

[Acts 1981, 67th Leg., p. 1721, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 191.004 to 191.020 reserved for expansion]

SUBCHAPTER B. PISTOL DEALERS

§ 191.021. Definitions

In this subchapter:

- (1) "Pistol dealer" means a person who barter, leases, sells, exchanges, or deals in pistols for profit either at retail or wholesale.
- (2) "Pistol" means a revolver, automatic, semi-automatic, magazine pistol, or other short firearm intended or designed to be aimed or fired from one hand.

[Acts 1981, 67th Leg., p. 1721, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.022. Imposition and Rate of Tax

- (a) A tax is imposed on each pistol dealer.
- (b) The tax rate is \$10 per year.
- (c) A pistol dealer shall pay the tax on or before January 1 of each year. The dealer shall pay the tax before beginning or continuing business.

[Acts 1981, 67th Leg., p. 1721, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.023. License

- (a) A person may not engage in business as a pistol dealer unless the person has applied for and received a license as a pistol dealer.
- (b) A person shall obtain a license as a pistol dealer for each place of business.
- (c) The tax collector of the county in which a business is located shall issue the license.
- (d) The comptroller shall furnish license application forms to the county tax collector.

[Acts 1981, 67th Leg., p. 1722, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.024. Records

- (a) A pistol dealer shall keep a record of the sale, barter, exchange, lease, or disposition of each pistol.
- (b) The pistol dealer shall keep the record available during normal business hours for 10 years for inspection by any authorized law enforcement agency of a city or county or of the state.
- (c) The record must show:
  - (1) the number of the pistol;
  - (2) the name of the manufacturer;
  - (3) the date of the transaction; and
  - (4) the names and addresses of the salesman and the purchaser.

[Acts 1981, 67th Leg., p. 1722, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.025. Exception

A person is not required to pay the tax or obtain a license as required by this subchapter if the person sells pistols exclusively to the United States military or to agencies of the federal government that are authorized by law to purchase pistols.

[Acts 1981, 67th Leg., p. 1722, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.026. County or City

(a) A county or an incorporated city or town may impose an occupation tax on pistol dealers.

(b) The tax rate may not be greater than one-half of the rate of the tax imposed by the state.

[Acts 1981, 67th Leg., p. 1722, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 191.027 to 191.040 reserved for expansion]

SUBCHAPTER C. SHIP BROKERS

§ 191.041. Definition

In this subchapter, "ship broker" means a person who manages business matters between owners of vessels and the shippers or consignors of the freight carried on the vessel.

[Acts 1981, 67th Leg., p. 1722, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.042. Imposition and Rate of Tax

- (a) A tax is imposed on each ship broker.
- (b) The tax rate is \$25 per year to be paid in advance.

[Acts 1981, 67th Leg., p. 1722, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 191.043 to 191.060 reserved for expansion]

SUBCHAPTER D. BILLIARD TABLE OWNERS OR OPERATORS

§ 191.061. Definition

In this subchapter, "billiard table" means a table surrounded by a ledge or cushion with or without pockets on which balls are impelled by a stick or cue, but does not include a coin-operated billiard table.

[Acts 1981, 67th Leg., p. 1722, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.062. Imposition and Rate of Tax

(a) A tax is imposed on each person who owns and operates billiard tables for profit.

(b) The tax imposed by this section does not apply to religious, charitable, or educational organizations authorized by law in this state.

(c) The tax rate is \$5 per year for each billiard table. The tax is to be paid in advance.

[Acts 1981, 67th Leg., p. 1723, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.063. City or Town

(a) An incorporated city or town may impose an occupation tax on each person who owns and operates billiard tables for profit.

(b) The tax rate may not be greater than one-half of the rate of the tax imposed by the state.

[Acts 1981, 67th Leg., p. 1723, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.064. City or Town License**

(a) An incorporated city or town may prohibit or regulate the operation of billiard tables within the incorporated limits.

(b) This section does not apply to a religious, charitable, or educational organization authorized by the state that operates billiard tables.

(c) If a city or town charges a fee for a license to operate a billiard table, the fee may not be more than \$10 per year per table.

(d) The city or town may set penalties for violation of the prohibition or regulation.

[Acts 1981, 67th Leg., p. 1723, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 191.065 to 191.080 reserved  
for expansion]

**SUBCHAPTER E. OIL WELL SERVICE****§ 191.081. Definition**

In this subchapter, "oil well service" means cementing the casing seat of an oil or gas well, shooting, fracturing, or acidizing the sands or other formations of the earth in an oil or gas well, or surveying or testing the sands or other formations or their contents in an oil or gas well by using instruments or equipment at least a part of which are located in the well bore when the survey or test is made. [Acts 1981, 67th Leg., p. 1723, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.082. Tax Imposed**

(a) A tax is imposed on each person who engages in the business of providing any oil well service for another for consideration and who:

(1) owns, controls, or furnishes the tools, instruments, and equipment used in providing the oil well service; or

(2) uses any chemical, electrical, or mechanical process in providing the service at any oil or gas well during and in connection with the drilling and completion, or reworking or reconditioning, of the well.

(b) The tax imposed by this subchapter does not apply to the business of drilling or reworking an oil or gas well or to a service incidental to that business performed by persons engaged in the business of drilling or reworking.

[Acts 1981, 67th Leg., p. 1723, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.083. Tax Rate**

The rate of the tax imposed by this subchapter is 2.42 percent of the gross amount received for service after deduction for the reasonable value at the well of material used, consumed, or expended in or incorporated into the well.

[Acts 1981, 67th Leg., p. 1723, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.084. Report and Tax Payment**

(a) A person subject to the tax shall report the amount received from taxable services during the preceding calendar month.

(b) The comptroller shall prescribe and furnish the form for the report.

(c) The person subject to the tax shall pay the tax to the comptroller at the comptroller's office in Austin on or before the 20th day of each month. [Acts 1981, 67th Leg., p. 1724, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.085. Record**

(a) A person subject to the tax shall keep a complete record of business transacted and any other information the comptroller requires.

(b) The person shall keep the record open for two years for inspection by the comptroller or the attorney general.

[Acts 1981, 67th Leg., p. 1724, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.086. Penalty**

A person who violates this subchapter forfeits and shall pay to the state a penalty of not less than \$25 nor more than \$500. A separate offense is committed each day on which a violation occurs.

[Acts 1981, 67th Leg., p. 1724, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.087. Failure to Pay Tax**

(a) If a person taxed under this subchapter fails to pay the tax on or before the due date, the person forfeits and shall pay to the state a penalty of five percent of the amount of the tax. If the person then fails to pay after the first 30 days, the person forfeits an additional penalty of five percent of the amount of the tax.

(b) The minimum penalty imposed by this section is \$1.

[Acts 1981, 67th Leg., p. 1724, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.088. State Tax Lien**

The taxes, penalties, interests, and costs that a person owes the state under this subchapter are secured by a preferred lien, first and prior to other existing liens, contract or statutory, legal or equitable, on all property of the person used in the person's business.

[Acts 1981, 67th Leg., p. 1724, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 191.089. Permit Required**

A person subject to the tax imposed by this subchapter shall acquire the permit required by Section 182.086 of this code. Application, issuance, and suspension of the permit are subject to Sections 182.087 and 182.088 of this code.

[Acts 1981, 67th Leg., p. 1724, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 191.090 to 191.100 reserved  
for expansion]

SUBCHAPTER F. TAX RECEIPT

§ 191.101. Tax Receipt as Permit

(a) The receipt from the treasurer for tax payment is the permit to do business unless a separate permit is required by law.

(b) A person may not receive a permit to do or continue to do business in this state until the person pays the tax imposed by this chapter.

[Acts 1981, 67th Leg., p. 1724, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.102. Display of Permit; Penalty

(a) A person commits an offense if the person, without displaying the receipt for the tax imposed by this chapter:

(1) engages in a business taxed under this chapter; or

(2) exhibits a machine or instrument taxed under this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$50.

[Acts 1981, 67th Leg., p. 1724, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 191.103 to 191.120 reserved for expansion]

SUBCHAPTER G. NATURE AND ALLOCATION OF TAX

§ 191.121. Nature of Tax

A tax imposed by this chapter is an occupation tax.

[Acts 1981, 67th Leg., p. 1725, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 191.122. Allocation of Tax

One-fourth of the revenue collected under this chapter shall be deposited to the credit of the available school fund and three-fourths to the credit of the general revenue fund.

[Acts 1981, 67th Leg., p. 1725, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, § 9(h), eff. Jan. 1, 1982.]

CHAPTER 192. QUOTATION SERVICES

Section	
192.001.	Definition.
192.002.	Imposition and Rate of Tax.
192.003.	Exemption.
192.004.	Medium of Payment.
192.005.	Tax Receipt.
192.006.	Tax Receipt Required.
192.007.	Account of Receipts.
192.008.	State Tax Lien.
192.009.	City or Town.
192.010.	County.

§ 192.001. Definition

In this subchapter, "quotation service" means a person who:

(1) owns, operates, manages, controls, or engages in the business of a cotton exchange quotation service in this state or furnishes quotations on the stock market on grain; and

(2) maintains an office or place of business and has a means of furnishing quotations on the stock market.

[Acts 1981, 67th Leg., p. 1725, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 192.002. Imposition and Rate of Tax

(a) A tax is imposed on each quotation service for each office or place of business.

(b) The tax rate is \$250 per year unless the quotation service is a member of only one commodity exchange, in which case the rate is \$100 per year.

(c) A quotation service shall pay the tax annually in advance.

[Acts 1981, 67th Leg., p. 1725, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 192.003. Exemption

The tax imposed by this subchapter does not apply to a person who:

(1) gratuitously furnishes market quotations to any person who requests them;

(2) furnishes market quotations without an intent to solicit or accept orders for contracts or contracts for future deliveries or sales of any commodity, stock, or bond; and

(3) is not engaged in the business of furnishing market quotations.

[Acts 1981, 67th Leg., p. 1725, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 192.004. Medium of Payment

Taxes imposed by Section 192.002 of this code are payable in United States currency.

[Acts 1981, 67th Leg., p. 1726, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 192.005. Tax Receipt

(a) The comptroller shall have annual occupation tax receipts payable to the collectors printed with the comptroller's signature. The comptroller shall send each collector a proper number of receipts and charge the collector with the amount represented. The collector shall account for the receipts.

(b) Each receipt must state the name of the occupation and the amount of the tax.

(c) Each receipt must have blank spaces for:

(1) the month;

(2) the year;

(3) the name of the quotation service; and

(4) the collector's signature.

(d) Each receipt must have a stub attached that shows the information required by Subsection (c) of this section. The tax receipts must be bound in books.

(e) The collector shall fill in the blanks and officially sign the receipt and stub.  
[Acts 1981, 67th Leg., p. 1726, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 192.006. Tax Receipt Required

(a) A person may not engage in the business of a quotation service unless the person has a receipt as provided by Section 192.005 of this code.

(b) A quotation service shall keep the receipt posted in a conspicuous place in each place of business.  
[Acts 1981, 67th Leg., p. 1726, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 192.007. Account of Receipts

(a) The comptroller shall furnish the commissioners court of the collector's county the number and value of the receipts when the comptroller furnishes receipts to the collector and shall send the number and value of receipts returned and the amount of tax collected by the collector.

(b) When a collector makes a settlement with the comptroller, the collector shall account to the commissioners court for the amount of tax due the county under Section 192.010 of this code.

[Acts 1981, 67th Leg., p. 1726, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 192.008. State Tax Lien

(a) The tax that a quotation service owes this state is a lien on the stock and fixtures owned or used in the business.

(b) After notice, the collector may sell the property to pay the tax and the costs of the sale.  
[Acts 1981, 67th Leg., p. 1726, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 192.009. City or Town

(a) An incorporated city or town may impose an occupation tax on an occupation taxed under this chapter.

(b) The tax rate may not exceed one-half of the rate of the tax imposed by the state.

[Acts 1981, 67th Leg., p. 1726, ch. 389, § 1, eff. Jan. 1, 1982.]

### § 192.010. County

(a) A county may impose an occupation tax on an occupation taxed under this chapter.

(b) The tax rate may not exceed one-half of the rate of the tax imposed by the state.

(c) A person subject to a county occupation tax shall pay the tax quarterly. The receipt under seal of the proper officer is prima facie evidence of tax payment.

(d) This section does not affect a law authorizing a county to impose a different tax rate.

[Acts 1981, 67th Leg., p. 1726, ch. 389, § 1, eff. Jan. 1, 1982.]

## SUBTITLE I. SEVERANCE TAXES

### CHAPTER 201. GAS PRODUCTION TAX

#### SUBCHAPTER A. GENERAL PROVISIONS

Section	
201.001.	Definitions.
201.002.	Measurement of Volume of Gas.

#### SUBCHAPTER B. TAX IMPOSED

201.051.	Tax Imposed.
201.052.	Rate of Tax.
201.053.	Gas Not Taxed.
201.054.	Tax on Liquid Hydrocarbons.
201.055.	Tax on Condensate.

#### SUBCHAPTER C. DETERMINING VALUE

201.101.	Market Value.
201.102.	Cash Sales.
201.103.	Value if Consideration Includes Extracts.
201.104.	Returned Cycle Gas.
201.105.	Value of Liquid Hydrocarbons Other Than Condensate.
201.106.	Value of Condensate.

#### SUBCHAPTER D. RECORDS

201.151.	Producer's Records.
201.152.	Purchaser's Records.

#### SUBCHAPTER E. REPORTS AND PAYMENTS

201.201.	Tax Due.
201.202.	Payment of Tax.
201.203.	Producer's Report.
201.204.	First Purchaser to Pay Tax.
201.205.	Tax Borne Ratably.
201.206.	Transfer of Ownership.

#### SUBCHAPTER F. LIABILITY FOR TAX

201.251.	Liability of Producer and Purchaser.
201.252.	Producer's Remedy.

#### SUBCHAPTER G. ENFORCEMENT

201.301.	Investigations.
201.302.	Audits.
201.303.	Tax Lien.
201.304.	Suit for Taxes; Sworn Denial.

#### SUBCHAPTER H. PENALTIES

201.351.	Delinquent Tax; Penalty.
201.352.	Unlawful Removal of Gas.
201.353.	Incomplete Records or Reports; Concealing Property Under Lien; Penalty.
201.354.	Collection of Civil Penalty.
201.355.	General Penalty.

#### SUBCHAPTER I. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

201.401.	Occupation Tax.
201.402.	Penalty Collected for Audits or Investigations.
201.403.	Tax Set Aside.
201.404.	Allocation of Revenue.

#### SUBCHAPTER A. GENERAL PROVISIONS

### § 201.001. Definitions

In this chapter:

(1) "Casinghead gas" means gas or vapor indigenous to an oil stratum and produced from the stratum with oil.

(2) "Condensate" means liquid hydrocarbon that is or can be recovered from gas by a separator, but does not include liquid hydrocarbon recovered from gas by refrigeration or absorption and separated by a fractionating process.

(3) "First purchaser" means a person who purchases gas from a producer.

(4) "Gas" means natural gas, casinghead gas, or other gas taken from the earth or water, whether produced from a gas well or a well also producing oil, distillate or condensate or both, or other products.

(5) "Producer" means a person who takes gas from the earth or water, a person who owns, controls, manages, or leases a gas well, or a person who owns an interest, including a royalty interest, in gas or its value, whether the gas is produced by the person owning the interest or by another on his behalf by lease, contract, or other arrangement.

(6) "Production" or "gas produced" means the gross amount of gas taken from the earth or water as determined by meter readings that show 100 percent of the gas taken expressed in cubic feet.

(7) "Royalty interest" means an interest in mineral rights in a producing leasehold in the state, but does not include the interest of the person having the management and operation of a well.

(8) "Sour gas" means gas with more than 1½ grains of hydrogen sulfide per 100 cubic feet or more than 30 grains of sulphur per 100 cubic feet.

(9) "Subsequent purchaser" means a person who purchases gas from a person other than the producer of the gas.

(10) "Sweet gas" means gas other than sour gas or casinghead gas.

[Acts 1981, 67th Leg., p. 1728, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 201.002. Measurement of Volume of Gas

The provisions of Section 91.052 of the Standard Gas Measurement Law, Subchapter C, Chapter 91, Natural Resources Code, apply to this code.

[Acts 1982, 67th Leg., p. 1729, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 201.003 to 201.050 reserved for expansion]

SUBCHAPTER B. TAX IMPOSED

§ 201.051. Tax Imposed

There is imposed a tax on each producer of gas. [Acts 1981, 67th Leg., p. 1729, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 201.052. Rate of Tax

(a) The tax imposed by this chapter is at the rate of 7.5 percent of the market value of gas produced and saved in this state by the producer.

(b) The minimum tax rate on sweet and sour gas produced and saved in this state is 121/1,500 on one cent for each 1,000 cubic feet.

[Acts 1981, 67th Leg., p. 1729, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 201.053. Gas Not Taxed

The tax imposed by this chapter does not apply to gas:

(1) injected into the earth in this state, unless sold for that purpose;

(2) produced from oil wells with oil and lawfully vented or flared; or

(3) used for lifting oil, unless sold for that purpose.

[Acts 1981, 67th Leg., p. 1729, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 201.054. Tax on Liquid Hydrocarbons

(a) There is imposed on each producer a tax on the market value of liquid hydrocarbons, other than condensate, recovered from gas produced in the state by a producer.

(b) The rate of the tax imposed by this section is the same as the rate of the tax imposed by Section 201.052 of this code.

[Acts 1981, 67th Leg., p. 1729, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 201.055. Tax on Condensate

(a) There is imposed on each producer a tax measured by the amount of condensate recovered from gas produced in this state by a producer.

(b) The tax imposed by this section is at the same rate as the rate of the tax imposed on oil by Section 202.052 of this code.

[Acts 1981, 67th Leg., p. 1729, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 201.056 to 201.100 reserved for expansion]

SUBCHAPTER C. DETERMINING VALUE

§ 201.101. Market Value

The market value of gas is its value at the mouth of the well from which it is produced.

[Acts 1981, 67th Leg., p. 1730, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 201.102. Cash Sales

If gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. Payments from a purchaser of gas to a producer for the purpose of reimbursing the producer for taxes due under this chapter are not part of the gross cash receipts.

[Acts 1981, 67th Leg., p. 1730, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.103. Value if Consideration Includes Extracts**

If the consideration for the sale of gas includes products extracted from the gas, a portion of the residue gas, or both, the tax shall be computed on the gross value of all things of value received by the producer, including a bonus or premium.

[Acts 1981, 67th Leg., p. 1730, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.104. Returned Cycle Gas**

(a) If gas is processed for its liquid hydrocarbon content and the residue gas is returned to a gas-producing formation by cycling methods, as distinguished from repressuring or pressure maintenance methods, the taxable value of the gas is three-fifths the value of all liquid hydrocarbons extracted, separated, and saved from the gas.

(b) The value of the liquid hydrocarbons for the purpose of this section is the highest posted price of crude oil in the field where the gas is produced. If no oil is produced in that field, the value is the highest posted price for crude oil in the nearest oil field.

(c) The value of the liquid hydrocarbons is determined when they are extracted and separated from gas and before they are absorbed, refined, or processed. The quantity of the liquid hydrocarbons is the yield from the gas at the processing plant.

(d) The valuation method prescribed by this section controls over the valuation methods described in Sections 201.102 and 201.103 of this code only in circumstances in which Subsection (a) of this section applies.

[Acts 1981, 67th Leg., p. 1730, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.105. Value of Liquid Hydrocarbons Other Than Condensate**

The taxable value of liquid hydrocarbons other than condensate is the producer's total gross receipts for all liquid hydrocarbons, including condensate, recovered from gas produced by him less the taxable value of the condensate recovered from that gas.

[Acts 1981, 67th Leg., p. 1730, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.106. Value of Condensate**

The value of condensate for the purpose of computing the tax due on it is the prevailing price for condensate in the general area where it is recovered.

[Acts 1981, 67th Leg., p. 1730, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 201.107 to 201.150 reserved for expansion]

SUBCHAPTER D. RECORDS

**§ 201.151. Producer's Records**

A producer shall keep accurate records of all gas the producer produces. The records shall be kept in the state.

[Acts 1981, 67th Leg., p. 1731, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.152. Purchaser's Records**

A purchaser shall keep accurate records of all gas the purchaser purchases. The records shall be kept in the state.

[Acts 1981, 67th Leg., p. 1731, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 201.153 to 201.200 reserved for expansion]

SUBCHAPTER E. REPORTS AND PAYMENTS

**§ 201.201. Tax Due**

The tax imposed by this chapter is due at the office of the comptroller in Austin on the last day of each calendar month for gas produced and saved during the preceding calendar month.

[Acts 1981, 67th Leg., p. 1731, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.202. Payment of Tax**

The tax imposed by this chapter must be paid by legal tender or cashier's check payable to the state treasurer.

[Acts 1981, 67th Leg., p. 1731, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.203. Producer's Report**

(a) On or before the last day of each calendar month, each producer shall file a report with the comptroller on forms prescribed by the comptroller. The report must contain the following information concerning gas produced during the preceding calendar month:

- (1) the gross amount of gas produced that is subject to the tax imposed by this chapter;
- (2) the leases from which the gas was produced;
- (3) the names and addresses of the first purchasers of the gas; and
- (4) other information the comptroller may reasonably require.

(b) If the producer is required to pay a tax on gas reported under this section, the producer shall pay the tax when he files the report.

[Acts 1981, 67th Leg., p. 1731, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.204. First Purchaser to Pay Tax**

(a) A first purchaser shall pay the tax imposed by this chapter on gas that the first purchaser purchases from a producer and takes delivery on the premises where the gas is produced.

(b) A first purchaser shall withhold from payments to the producer the amount of the tax that the first purchaser is required to pay. This subsection does not affect a lease or contract between the state or a political subdivision of the state and a producer.

(c) Money withheld by a first purchaser under this section is held in trust for the use and benefit of the state and may not be commingled with other funds of the first purchaser.

[Acts 1981, 67th Leg., p. 1731, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.205. Tax Borne Ratably**

The tax shall be borne ratably by all interested parties, including royalty interests. Producers or purchasers of gas, or both, are authorized and required to withhold from any payment due interested parties the proportionate tax due and remit it to the comptroller.

[Acts 1981, 67th Leg., p. 1731, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.206. Transfer of Ownership**

(a) If a gas-producing lease is transferred or is to be transferred, the producer transferring the lease shall note the name and address of the producer acquiring the lease and the date of the transfer on the last report that covers the lease and that he is required by Section 201.203 of this code to file.

(b) If a gas-producing lease is transferred, the producer acquiring the lease shall note the date of the transfer and the name and address of the person from whom the lease was acquired on the first report that covers the lease and that he is required by Section 201.203 of this code to file.

[Acts 1981, 67th Leg., p. 1732, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 201.207 to 201.250 reserved for expansion]

**SUBCHAPTER F. LIABILITY FOR TAX**

**§ 201.251. Liability of Producer and Purchaser**

The tax imposed by this chapter is the primary liability of the producer and is a liability of the first purchaser and each subsequent purchaser. Failure of the first purchaser to pay the tax does not relieve the producer or a subsequent purchaser from liability for the tax. A purchaser of gas produced in the state shall satisfy himself that the tax on that gas has been or will be paid by the person liable for the tax.

[Acts 1981, 67th Leg., p. 1732, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.252. Producer's Remedy**

If a purchaser withholds the amount of the tax imposed by this chapter from payments to a producer for the sale of gas and fails to pay the tax as

provided by this chapter, the producer may sue the purchaser to recover the amount of the tax withheld, penalties and interest that have accrued from failure to pay the tax, court costs, and reasonable attorney's fees.

[Acts 1981, 67th Leg., p. 1732, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 201.253 to 201.300 reserved for expansion]

**SUBCHAPTER G. ENFORCEMENT**

**§ 201.301. Investigations**

The comptroller may enter the premises of a taxpayer liable for a tax imposed by this chapter or any other premises necessary to determine tax liability in order to examine books or records of a person subject to a tax imposed by this chapter or to secure any information related to the enforcement of this chapter.

[Acts 1981, 67th Leg., p. 1732, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.302. Audits**

(a) The comptroller shall employ auditors and other technical assistants to verify reports and investigate the affairs of producers and purchasers to determine whether the tax is properly reported and paid.

(b) A producer who has failed to pay the proper amount of tax, a penalty, or interest due is liable for the reasonable expenses incurred by representatives of the comptroller in the investigation or the reasonable value of their services. The amount for which the producer is liable under this subsection is an additional penalty.

[Acts 1981, 67th Leg., p. 1732, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.303. Tax Lien**

(a) If a tax imposed by this chapter is delinquent or if interest or a penalty on a delinquent tax has not been paid, the state has a prior lien for the tax, penalty, and interest on all property and equipment used by the producer to produce gas.

(b) The lien may be enforced by a suit filed by the attorney general. Venue of the suit is in Travis County.

[Acts 1981, 67th Leg., p. 1733, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 201.304. Suit for Taxes; Sworn Denial**

Rule 185, Texas Rules of Civil Procedure, applies to a suit by the attorney general for taxes imposed by this chapter if:

- (1) the attorney general files as an exhibit a report or audit of the taxpayer; and
- (2) the exhibit is supported by the comptroller's affidavit that the taxes shown to be due are past

due and unpaid and that all payments and credits have been allowed.

[Acts 1981, 67th Leg., p. 1733, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 201.305 to 201.350 reserved for expansion]

#### SUBCHAPTER H. PENALTIES

##### § 201.351. Delinquent Tax; Penalty

(a) If a tax imposed by this chapter is not paid on or before the day it is due, it becomes delinquent, and a penalty of five percent of the amount of the tax due is added to the amount due.

(b) If a tax imposed by this chapter is not paid within 30 days after the day on which the tax is due, an additional penalty of five percent of the amount of the tax due shall be added. The minimum penalty is \$1.

[Acts 1981, 67th Leg., p. 1733, ch. 389, § 1, eff. Jan. 1, 1982.]

##### § 201.352. Unlawful Removal of Gas

On notice from the comptroller, no person may produce or remove natural or casinghead gas from a lease in this state if the owner or operator of the lease has failed to file a report as required by this chapter.

[Acts 1981, 67th Leg., p. 1733, ch. 389, § 1, eff. Jan. 1, 1982.]

##### § 201.353. Incomplete Records or Reports; Concealing Property Under Lien; Penalty

(a) A person commits an offense if the person:

(1) with intent to defraud the state, knowingly fails to keep a complete record that the person is required by this chapter to keep;

(2) knowingly fails to file a complete report on or before the day the person is required by this chapter to file the report; or

(3) with intent to defraud the state, conceals property or equipment that is under a lien authorized by Section 201.303 of this code.

(b) An offense under this section is a misdemeanor or punishable by:

(1) a fine of not less than \$100 nor more than \$1,000;

(2) confinement in county jail for not more than 12 months; or

(3) both a fine and confinement.

(c) In addition to the criminal penalty, a person is liable for a civil penalty of \$1,000 if the person:

(1) performs any act constituting an offense under Subsection (a) of this section;

(2) with intent to defraud the state, makes a false entry in any record the person is required by this chapter to keep;

(3) destroys, damages, or conceals a record the person is required by this chapter to keep;

(4) falsifies a report the person is required by this chapter to file; or

(5) violates any rule promulgated under this section.

[Acts 1981, 67th Leg., p. 1733, ch. 389, § 1, eff. Jan. 1, 1982.]

##### § 201.354. Collection of Civil Penalty

(a) The attorney general shall bring a suit for the collection of a penalty imposed by Section 201.353(c) of this code.

(b) Venue of a suit under this section is in the county where the violation occurs.

(c) A suit under this section may be joined with any other civil suit provided for by this chapter.

[Acts 1981, 67th Leg., p. 1734, ch. 389, § 1, eff. Jan. 1, 1982.]

##### § 201.355. General Penalty

(a) A person commits an offense if the person violates or fails to comply with any provision of this chapter.

(b) An offense under this section is a misdemeanor or punishable by a fine of not less than \$100 nor more than \$1,000. A separate offense is committed each day that a violation of a provision of this chapter continues.

[Acts 1981, 67th Leg., p. 1734, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 201.356 to 201.400 reserved for expansion]

#### SUBCHAPTER I. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

##### § 201.401. Occupation Tax

The tax imposed by this chapter is an occupation tax.

[Acts 1981, 67th Leg., p. 1734, ch. 389, § 1, eff. Jan. 1, 1982.]

##### § 201.402. Penalty Collected for Audits or Investigations

A penalty collected for the expense or value of audits or investigations authorized by Section 201.302 of this code shall be deposited in the general revenue fund.

[Acts 1981, 67th Leg., p. 1734, ch. 389, § 1, eff. Jan. 1, 1982.]

##### § 201.403. Tax Set Aside

One-half of one percent of the tax collected under this chapter shall be set aside in the state treasury for the use of the comptroller to administer and enforce the provisions of this chapter, subject to appropriation by the legislature. Money set aside by this section that is not spent at the end of a fiscal

year reverts proportionally to the other funds to which the taxes imposed by this chapter are paid. [Acts 1981, 67th Leg., p. 1734, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 201.404. Allocation of Revenue

After deducting the amount required to be deposited by Section 201.403 of this code, the comptroller shall deposit one-fourth of the revenue collected from the tax imposed by this chapter to the credit of the available school fund and three-fourths to the general revenue fund.

[Acts 1981, 67th Leg., p. 1734, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, § 9(h), eff. Jan. 1, 1982.]

CHAPTER 202. OIL PRODUCTION TAX

SUBCHAPTER A. GENERAL PROVISIONS

Section	
202.001.	Definitions.
202.002.	Production and Measurement of Oil.
202.003.	Agreement to Pay Tax Not Impaired.
202.004.	Inspection of Records and Reports.
202.005.	Employment of Auditors.

SUBCHAPTER B. TAX IMPOSED

202.051.	Tax Imposed.
202.052.	Rate of Tax.
202.053.	Market Value.

SUBCHAPTER C. RECORDS

202.101.	Producer's Records.
202.102.	First Purchaser's Records.
202.103.	Subsequent Purchaser's Records.
202.104.	Royalty Owner's Records.
202.105.	Carrier's Records.

SUBCHAPTER D. PAYMENTS

202.151.	Tax Due.
202.152.	Payment of Tax.
202.153.	First Purchaser to Pay Tax.
202.154.	Producer to Pay Tax on Oil Not Sold.
202.155.	Purchaser to Pay Tax on Oil From Property Under Legal Constraint.
202.156.	Tax Borne Ratably.

SUBCHAPTER E. REPORTS

202.201.	Producer's Report.
202.202.	First Purchaser's Report.
202.203.	Subsequent Purchaser's Report.
202.204.	Reports of Carrier.
202.205.	Transfer of Ownership.

SUBCHAPTER F. LIABILITY FOR TAX

202.251.	Liability of Producer and Purchaser.
202.252.	Producer's Remedy.

SUBCHAPTER G. ENFORCEMENT AND PENALTIES

202.301.	Delinquent Taxes: Penalty.
202.302.	Tax Lien.
202.303.	Forced Sale by Officer.
202.304.	Suit for Taxes; Sworn Denial.
202.305.	Unlawful Removal of Oil.
202.306.	Inspector Has Free Access.
202.307.	Incomplete Records or Reports; Concealing Property Under Lien; Penalty.

SUBCHAPTER H. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

Section	
202.351.	Occupation Tax.
202.352.	Tax Set Aside.
202.353.	Allocation of Revenue.

SUBCHAPTER A. GENERAL PROVISIONS

§ 202.001. Definitions

In this chapter:

(1) "Carrier" means a person who owns, operates, or manages a means of transporting oil.

(2) "First purchaser" means a person who purchases crude oil from a producer.

(3) "Oil" means crude oil or other oil taken from the earth, regardless of the gravity of the oil.

(4) "Producer" means a person who takes oil from the earth or water in any manner, a person who owns, controls, manages, or leases an oil well, or a person who owns an interest, including a royalty interest, in oil or its value, whether the oil is produced by the person owning the interest or by another on his behalf by lease, contract, or any other arrangement.

(5) "Royalty interest" means an interest in mineral rights in a producing leasehold in the state, but does not include the interest of a person having the management and operation of a well.

(6) "Subsequent purchaser" means a person who purchases oil from a person other than the producer of the oil, or a person operating a reclamation plant, topping plant, treating plant, refinery, or processing plant.

[Acts 1981, 67th Leg., p. 1736, ch. 389, § 1, eff. Jan. 1, 1982.]

§ 202.002. Production and Measurement of Oil

(a) "Production" means the total gross amount of oil produced, including royalty and other interests.

(b) The amount of production shall be measured or determined by:

(1) tank tables compiled to show 100 percent of the capacity of the tanks without deduction for overage or losses in handling; or

(2) meter or other measuring devices that accurately determine the amount of production.

(c) If the amount of production has been measured or determined by a tank table compiled to show less than 100 percent of the full capacity of a tank, the amount must be raised to a basis of 100 percent.

(d) When measuring or determining the amount of production, a reasonable deduction may be made for basic sediment and water and a reasonable allowance may be made for correction of the temperature to 60 degrees Fahrenheit.

(e) This section does not authorize the use of metering devices for the measurement of oil on a well without the express permission of the operator of the well.

[Acts 1981, 67th Leg., p. 1736, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.003. Agreement to Pay Tax Not Impaired**

This code does not impair a contract in which any person has agreed to pay any part of the tax imposed by this chapter. This code does not relieve any person of any contractual liability.

[Acts 1981, 67th Leg., p. 1737, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.004. Inspection of Records and Reports**

A person required by this chapter to make and keep a record shall keep the record open for inspection by the comptroller or the attorney general at all times. Reports filed under this chapter are open to inspection by the attorney general.

[Acts 1981, 67th Leg., p. 1737, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.005. Employment of Auditors**

The comptroller may employ auditors and supervisors to verify reports and investigate the affairs of producers and purchasers to determine whether the tax imposed by this chapter is being properly reported and paid.

[Acts 1981, 67th Leg., p. 1737, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 202.006 to 202.050 reserved  
for expansion]

**SUBCHAPTER B. TAX IMPOSED****§ 202.051. Tax Imposed**

There is imposed a tax on the production of oil.

[Acts 1981, 67th Leg., p. 1737, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.052. Rate of Tax**

The tax imposed by this chapter is at the rate of 4.6 percent of the market value of oil produced in this state or 4.6 cents for each barrel of 42 standard gallons of oil produced in this state, whichever rate results in the greater amount of tax.

[Acts 1981, 67th Leg., p. 1737, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.053. Market Value**

The market value of oil is the actual market value plus any bonus, premium, or other thing of value paid for the oil or that the oil will reasonably bring if lawfully produced.

[Acts 1981, 67th Leg., p. 1737, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 202.054 to 202.100 reserved  
for expansion]

**SUBCHAPTER C. RECORDS****§ 202.101. Producer's Records**

A producer shall keep accurate records in the state. The records must show:

(1) the counties in which the producer produces oil;

(2) the names of the leases from which the producer produces oil;

(3) the total number of barrels of oil produced from each lease;

(4) for each sale or delivery to a first purchaser, the name and address of the first purchaser, the number of barrels sold or delivered, and the price received for the oil;

(5) the amount and disposition of oil refined, processed, or used on the lease where it is produced;

(6) the location and number of barrels in storage that the producer owns and has not sold; and

(7) the name and address of each pipeline or refinery that is storing oil that the producer has not sold.

[Acts 1981, 67th Leg., p. 1737, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.102. First Purchaser's Records**

A first purchaser shall keep accurate records in the state. The records must show:

(1) the name and address of each producer from which the first purchaser buys oil;

(2) for each producer, the counties where the oil is produced;

(3) for each producer, the name of the lease from which the oil is produced;

(4) the number of barrels of oil purchased from each producer and the price paid each producer for the oil;

(5) the number of barrels purchased and used, refined, or processed by the first purchaser; and

(6) for each sale to a subsequent purchaser, the name and address of the subsequent purchaser, the number of barrels sold, and the price received for the oil.

[Acts 1981, 67th Leg., p. 1738, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.103. Subsequent Purchaser's Records**

A subsequent purchaser shall keep accurate records in the state. The records must show:

(1) the name and address of each person who sells oil to the subsequent purchaser, the number of barrels sold, the price paid to each seller, and the date of each sale;

(2) the disposition of all oil purchased by the subsequent purchaser;

(3) the number of barrels of oil used, refined, or processed by the subsequent purchaser; and

(4) the name and address of each person who buys oil from the subsequent purchaser, the number of barrels sold or delivered to each buyer, the price received for the oil from each buyer, and the date of the sale or delivery.

[Acts 1981, 67th Leg., p. 1738, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.104. Royalty Owner's Records**

The owner of a royalty interest shall keep:

- (1) a record of all money received as royalty from each producing leasehold in the state; and
- (2) a copy of all settlement sheets furnished by a purchaser or operator or other statement showing the number of barrels of oil for which a royalty was received and the amount of tax deducted.

[Acts 1981, 67th Leg., p. 1738, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.105. Carrier's Records**

A carrier shall keep accurate monthly records of oil the carrier transports for hire, for itself or for its owners. The records shall be kept within the state and must show, for each shipment:

- (1) the date the oil was received;
- (2) the number of barrels of oil received;
- (3) the person from whom the oil was received;
- (4) the point of delivery;
- (5) the person to whom the oil was delivered; and
- (6) the manner of transportation.

[Acts 1981, 67th Leg., p. 1738, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 202.106 to 202.150 reserved for expansion]

SUBCHAPTER D. PAYMENTS

**§ 202.151. Tax Due**

The tax imposed by this chapter is due at the office of the comptroller on the 25th day of each calendar month for oil produced during the preceding calendar month.

[Acts 1981, 67th Leg., p. 1739, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.152. Payment of Tax**

The tax imposed by this chapter must be paid by legal tender or cashier's check payable to the state treasurer.

[Acts 1981, 67th Leg., p. 1739, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.153. First Purchaser to Pay Tax**

(a) A first purchaser shall pay the tax imposed by this chapter on oil that the first purchaser purchases from a producer and takes delivery on the premises where the oil is produced.

(b) A first purchaser shall withhold from payments to the producer the amount of tax that the first purchaser is required by Subsection (a) of this section to pay. This subsection does not affect a lease or contract between the state or a political subdivision of the state and a producer.

[Acts 1981, 67th Leg., p. 1739, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.154. Producer to Pay Tax on Oil Not Sold**

If the producer does not sell oil produced in the same month it is produced, the producer shall pay the tax imposed by this chapter as if the oil were sold that month. In such a case, the working interest operator may pay the tax and deduct it from the interest of other interest holders.

[Acts 1981, 67th Leg., p. 1739, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.155. Purchaser to Pay Tax on Oil From Property Under Legal Constraint**

(a) A purchaser shall pay the tax imposed by this chapter on oil purchased from property in bankruptcy, receivership, covered by an assignment, or subject to a legal proceeding.

(b) The purchaser shall withhold the amount of tax required to be paid by Subsection (a) of this section from payments to the producer, trustee, assignee, or other person claiming the payments and from payments the purchaser impounds or places in escrow.

(c) The purchaser is not liable for the amount of tax paid as required by this section to any claimant of payments for the purchase of oil.

[Acts 1981, 67th Leg., p. 1739, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.156. Tax Borne Ratably**

The tax shall be borne ratably by all interested parties, including royalty interests. Producers or purchasers of oil, or both, are authorized and required to withhold from any payment due interested parties the proportionate amount of tax due.

[Acts 1981, 67th Leg., p. 1739, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 202.157 to 202.200 reserved for expansion]

SUBCHAPTER E. REPORTS

**§ 202.201. Producer's Report**

On or before the 25th day of each calendar month, each producer or his authorized agent shall file a report with the comptroller. The report must contain the following information concerning oil produced during the preceding calendar month:

- (1) the number of barrels of oil produced;
- (2) the counties in which oil was produced;
- (3) the names of the leases from which the oil was produced;
- (4) the name and address of each first purchaser of the oil;
- (5) the price received for the oil from each first purchaser; and
- (6) other information the comptroller may reasonably require.

[Acts 1981, 67th Leg., p. 1740, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.202. First Purchaser's Report**

(a) On or before the 25th day of each calendar month, each first purchaser or his authorized agent shall file a report with the comptroller. The report must contain the following information concerning oil purchased from a producer during the preceding calendar month:

- (1) the number of barrels of oil purchased from each producer;
- (2) the price paid each producer for the oil;
- (3) the name and address of each producer;
- (4) the counties in which the oil was produced;
- (5) the names of the leases from which the oil was produced; and
- (6) other information the comptroller may reasonably require.

(b) If the first purchaser is required to pay a tax on oil reported under this section, the first purchaser shall pay the tax when the report is filed.

[Acts 1981, 67th Leg., p. 1740, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.203. Subsequent Purchaser's Report**

On or before the 25th day of each calendar month, each subsequent purchaser or his authorized agent shall file a report with the comptroller. The report must contain the following information concerning oil purchased by the subsequent purchaser during the preceding calendar month:

- (1) the name and address of each person from whom the subsequent purchaser has purchased oil;
- (2) the number of barrels of oil purchased from each person;
- (3) the price paid each person for the oil;
- (4) the disposition of the oil;
- (5) the number of barrels of oil used, refined, or processed in any manner by the subsequent purchaser;
- (6) the name and address of each person to whom the oil is sold;
- (7) the number of barrels of oil sold to each person; and
- (8) the price received from each person for each sale.

[Acts 1981, 67th Leg., p. 1740, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.204. Reports of Carrier**

A carrier shall provide information and file reports on the movements of oil if requested by the comptroller as often as required by the comptroller. [Acts 1981, 67th Leg., p. 1740, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.205. Transfer of Ownership**

(a) If an oil-producing lease is transferred, or is to be transferred, the producer transferring the lease shall note the name and address of the producer

acquiring the lease and the date of the transfer on the last report covering the lease that he is required by Section 202.201 of this code to file.

(b) If an oil-producing lease is transferred, the producer acquiring the lease shall note the date of the transfer and the name and address of the person from whom the lease was acquired on the first report covering the lease that he is required by Section 202.201 of this code to file.

[Acts 1981, 67th Leg., p. 1740, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 202.206 to 202.250 reserved for expansion]

**SUBCHAPTER F. LIABILITY FOR TAX****§ 202.251. Liability of Producer and Purchaser**

The tax imposed by this chapter is the primary liability of the producer and is a liability of the first purchaser and each subsequent purchaser. Failure of the first purchaser to pay the tax does not relieve the producer or a subsequent purchaser from liability for the tax. A purchaser of oil produced in the state shall satisfy himself that the tax on that oil has been or will be paid by the person liable for the tax.

[Acts 1981, 67th Leg., p. 1741, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.252. Producer's Remedy**

If a purchaser withholds the amount of the tax imposed by this chapter from payments to a producer for the sale of oil and fails to pay the tax as provided by this chapter, the producer may sue the purchaser to recover the amount of the tax withheld, penalties and interest that have accrued from failure to pay the tax, court costs, and reasonable attorney's fees.

[Acts 1981, 67th Leg., p. 1741, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 202.253 to 202.300 reserved for expansion]

**SUBCHAPTER G. ENFORCEMENT AND PENALTIES****§ 202.301. Delinquent Taxes: Penalty**

(a) If a tax imposed by this chapter is not paid on or before the day it is due, the tax is delinquent, and a penalty of five percent of the delinquent tax is added to the amount due.

(b) If a tax imposed by this chapter is not paid within 30 days after it is due, an additional penalty of five percent is added to the amount due.

(c) The minimum penalty under this section is \$1. [Acts 1981, 67th Leg., p. 1741, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.302. Tax Lien**

The state has a prior and preferred lien for the amount of the taxes, penalties, and interest imposed by this chapter on:

- (1) the oil to which the tax applies that is possessed by the producer, first purchaser, or subsequent purchaser;
  - (2) the leasehold interest, oil rights, the value of oil rights, and other interests, including oil produced and oil runs, owned by a person liable for the tax;
  - (3) equipment, tools, tanks, and other implements used on the lease from which the oil is produced; and
  - (4) any other property not exempt from forced sale owned by the person liable for the tax.
- [Acts 1981, 67th Leg., p. 1741, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.303. Forced Sale by Officer**

- (a) A peace officer may levy on oil for which the tax imposed by this chapter is due and unpaid by notice to the owner or person in charge of the oil.
  - (b) After notice to the owner or person in charge, the peace officer shall post a notice at the site of the oil that the oil will be sold to the highest bidder 10 days after the notice has been posted.
  - (c) After the notice has been posted for 10 days, the peace officer shall sell the oil to the highest bidder.
  - (d) The peace officer, except a ranger, may deduct 10 percent of the proceeds of the sale of the oil as his commission. The officer shall forward the balance, up to the amount of tax due, to the comptroller. The officer shall deliver any proceeds in excess of the tax due and the officer's commission, if any, to the owner of the oil.
- [Acts 1981, 67th Leg., p. 1742, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.304. Suit for Taxes; Sworn Denial**

- Rule 185, Texas Rules of Civil Procedure, applies to a suit by the attorney general for taxes imposed by this chapter if:
- (1) the attorney general files as an exhibit a report or audit of the taxpayer; and
  - (2) the exhibit is supported by the comptroller's affidavit that the taxes shown to be due are past due and unpaid and that all payments and credits have been allowed.

[Acts 1981, 67th Leg., p. 1742, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.305. Unlawful Removal of Oil**

On notice from the comptroller, no person may remove oil from a lease in this state if the owner or operator of the lease has failed to file a report as required by this chapter.

[Acts 1981, 67th Leg., p. 1742, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.306. Inspector Has Free Access**

A person appointed by the Railroad Commission of Texas and holding the commission's certificate authorizing him to inspect oil wells, oil leases, pipelines, or railroad cars or tanks has the right of free access at all times to the wells, leases, pipelines, railroad cars and tanks, and motortruck tanks for the purpose of inspecting the production or transportation of oil.

[Acts 1981, 67th Leg., p. 1742, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.307. Incomplete Records or Reports; Concealing Property Under Lien; Penalty**

- (a) A person commits an offense if the person:
  - (1) with intent to defraud the state, knowingly fails to keep a complete record that he is required by this chapter to keep;
  - (2) knowingly fails to file a complete report that he is required by this chapter to file;
  - (3) with intent to defraud the state, conceals property or equipment that is under a lien authorized by Section 202.302 of this code; or
  - (4) fails or refuses to permit the comptroller or attorney general to inspect a record or report required by this chapter.
- (b) An offense under this section is a misdemeanor punishable by:
  - (1) a fine of not less than \$25 nor more than \$5,000;
  - (2) confinement in county jail for not less than one month nor more than six months; or
  - (3) both a fine and confinement.

[Acts 1981, 67th Leg., p. 1742, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 202.308 to 202.350 reserved for expansion]

SUBCHAPTER H. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

**§ 202.351. Occupation Tax**

The tax imposed by this chapter is an occupation tax.

[Acts 1981, 67th Leg., p. 1743, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.352. Tax Set Aside**

One-half of one percent of the tax collected under this chapter shall be deposited in the state treasury for the use of the comptroller to administer and enforce the provisions of this chapter, to be expended in the amounts and for the purposes prescribed in the General Appropriations Act. Money deposited under this section that is not spent at the end of a fiscal year reverts proportionally to the other funds to which the tax imposed by this chapter is paid.

[Acts 1981, 67th Leg., p. 1743, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 202.353. Allocation of Revenue**

After deducting the amount required to be deposited by Section 202.352 of this code, the comptroller shall deposit one-fourth of the revenue collected from the tax imposed by this chapter to the credit of the available school fund and three-fourths to the general revenue fund.

[Acts 1981, 67th Leg., p. 1743, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, § 9(h), eff. Jan. 1, 1982.]

**CHAPTER 203. SULPHUR PRODUCTION TAX****SUBCHAPTER A. TAX IMPOSED**

Section	
203.001.	Producer.
203.002.	Tax Imposed.
203.003.	Rate of Tax.

**SUBCHAPTER B. RECORDS, PAYMENTS, AND REPORTS**

203.051.	Producer's Records.
203.052.	Producer's Reports.
203.053.	When Tax Due.

**SUBCHAPTER C. ENFORCEMENT AND PENALTIES**

203.101.	Delinquent Tax Penalty.
203.102.	Failure to Keep Records: Penalty.

**SUBCHAPTER D. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE**

203.151.	Occupation Tax.
203.152.	Allocation of Revenue.

**SUBCHAPTER A. TAX IMPOSED****§ 203.001. Producer**

In this chapter, "producer" means a person who owns, controls, manages, leases, or operates a sulphur mine, well, or shaft, or who produces sulphur by any method, system, or manner.

[Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 203.002. Tax Imposed**

There is imposed a tax on each producer of sulphur.

[Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 203.003. Rate of Tax**

The tax imposed by this chapter is at the rate of \$1.03 a long ton or fraction of a long ton of sulphur produced in this state.

[Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 203.004 to 203.050 reserved for expansion]

**SUBCHAPTER B. RECORDS, PAYMENTS, AND REPORTS****§ 203.051. Producer's Records**

(a) A producer shall keep a complete record of all sulphur he produces in this state. A producer may destroy a record required by this section three years after the last entry in the record.

(b) The record shall be open at all times to inspection by the comptroller and the attorney general. [Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 203.052. Producer's Reports**

(a) On the first day of each January, April, July, and October each producer shall file a report with the comptroller on forms prescribed by the comptroller. The report must show the total amount of sulphur produced in the state by the person during the calendar quarter next preceding the day the report is due.

(b) A producer shall file other information or reports with the comptroller that the comptroller may reasonably require.

(c) The report shall be signed by the person making the report. If the person is not an individual, the report shall be signed by the president, secretary, or other authorized officer.

[Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 203.053. When Tax Due**

The tax imposed by this chapter for each quarter is due at the time that the report required by Section 203.052 of this code is required to be filed for the quarter. Payment shall be to the treasurer.

[Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 203.054 to 203.100 reserved for expansion]

**SUBCHAPTER C. ENFORCEMENT AND PENALTIES****§ 203.101. Delinquent Tax Penalty**

(a) If a tax imposed by this chapter is not paid by the day it is due, the tax is delinquent.

(b) If a tax imposed by this chapter is not paid by the 30th day after it is due, a penalty of 10 percent of the amount due is added to the amount due.

(c) The minimum penalty under this section is \$1.

(d) The attorney general, or a district or county attorney at the direction of the attorney general, shall bring suit in the name of the state to recover a delinquent tax imposed by this chapter and penalties and interest that have accrued from failure to pay the tax.

[Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 203.102. Failure to Keep Records: Penalty**

(a) A person who fails to keep a record that he is required by this chapter to keep shall forfeit to the state a penalty of not less than \$500 nor more than \$5,000.

(b) A person is subject to a separate penalty for each 10 days that he fails to keep a record that he is required by this chapter to keep.

[Acts 1981, 67th Leg., p. 1745, ch. 389, § 1, eff. Jan. 1, 1982.]

[Sections 203.103 to 203.150 reserved for expansion]

**SUBCHAPTER D. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE**

**§ 203.151. Occupation Tax**

The tax imposed by this chapter is an occupation tax.

[Acts 1981, 67th Leg., p. 1745, ch. 389, § 1, eff. Jan. 1, 1982.]

**§ 203.152. Allocation of Revenue**

One-fourth of the revenue collected from the tax imposed by this chapter shall be deposited to the credit of the available school fund and three-fourths to the general revenue fund.

[Acts 1981, 67th Leg., p. 1745, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, § 9(h), eff. Jan. 1, 1982.]

**SUBTITLE J. INHERITANCE TAX**

**CHAPTER 211. INHERITANCE AND ESTATE TAX**

**SUBCHAPTER A. DEFINITIONS AND GENERAL PROVISIONS**

Section	
211.001.	Definitions
211.002.	Day of Death of Presumed Decedent.
211.003.	References to Internal Revenue Code.

**SUBCHAPTER B. INHERITANCE TAXES: FEDERAL ESTATE TAX CREDIT AND GENERATION-SKIPPING TRANSFER TAX CREDIT**

211.051.	Tax on Property of Resident.
211.052.	Tax on Property of Nonresident.
211.053.	Tax on Property of Alien.
211.054.	Tax on Property Included in Generation-Skipping Transfer.
211.055.	Minimum Tax.
211.056.	Cooperation With Internal Revenue Service.

**SUBCHAPTER C. COLLECTION AND PAYMENT OF TAX**

211.101.	Payment by Personal Representative.
211.102.	Day on Which Payment is Due.
211.103.	Postponement of Day on Which Payment is Due.
211.104.	Report of Determination of Federal Taxes.
211.105.	Date Due of Taxes on Generation-Skipping Transfers.
211.106.	Returns.
211.107.	Receipt for Payment.
211.108.	Personal Liability.
211.109.	Compromise Agreement on Domicile.
211.110.	Forms.

**SUBCHAPTER D. TRANSFER OR DELIVERY OF PROPERTY AFTER DECEDENT'S DEATH**

Section	
211.201.	Transfer of Property Before Tax is Paid.
211.202 to 211.207.	Repealed.

**SUBCHAPTER E. ENFORCEMENT**

211.251.	Comptroller's Authority to Examine Books and Other Property.
211.252.	Tax Lien.
211.253.	Duration of Lien.
211.254.	Property Exempt from Lien.
211.255.	Suit to Enforce Lien.
211.256.	Release of Lien After Tax is Paid.
211.257.	Release of Lien Before Tax is Paid.
211.258.	Penalty for Failure to Pay Tax or for Late Payment.
211.259.	Interest on Delinquent Taxes.
211.260, 211.261.	Renumbered.
211.262.	Repealed.

**SUBCHAPTER F. DISPOSITION OF REVENUE**

211.301.	General Revenue Fund.
----------	-----------------------

**SUBCHAPTER A. DEFINITIONS AND GENERAL PROVISIONS**

*Former chapter 211, Inheritance and Estate Tax, derived from Acts 1981, 67th Leg., p. 1748, ch. 389, § 1, was revised by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a).*

**§ 211.001. Definitions**

In this chapter:

(1) "Alien" means a decedent who, at the time of the decedent's death, was not domiciled in Texas or any other state of the United States and was not a citizen of the United States.

(2) "Death tax" means an estate, inheritance, legacy, or succession tax.

(3) "Decedent" means a deceased natural person.

(4) "Federal credit" means the maximum amount of the credit for state death taxes allowable under Section 2011, Internal Revenue Code, and, in the case of an alien, under Section 2102, Internal Revenue Code.

(5) "Federal estate tax" means the tax payable to the federal government under Subtitle B, Chapter 11, Internal Revenue Code.

(6) "Federal generation-skipping transfer tax" means the tax payable to the federal government under Subtitle B, Chapter 13, Internal Revenue Code.

(7) "Federal tax" means the federal estate tax and the federal generation-skipping transfer tax.

(8) "Generation-skipping transfer" means a transfer for which a credit for state taxes is allowable under Section 2602(c)(5)(C), Internal Revenue Code.

(9) "Generation-skipping transfer tax credit" means the maximum amount of the credit for state death taxes allowable under Section 2602(c)(5)(C), Internal Revenue Code.

(10) "Gross estate" means the gross estate as defined by Sections 2031 through 2045, Internal Revenue Code, and, in the case of an alien, by Section 2103, Internal Revenue Code.

(11) "Nonresident" means a decedent, other than an alien decedent, who was not domiciled in Texas at the time of the decedent's death.

(12) "Personal representative" means an executor, independent executor, administrator, temporary administrator, trustee, or another person administering the affairs of a decedent's estate.

(13) "Resident" means a decedent who was domiciled in Texas on his date of death.

(14) "Value" means value as finally determined and used for purposes of computing the federal tax.

(15) "Will" includes a codicil and includes a testamentary instrument that appoints an executor or that revokes another will.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

The amendment of this chapter by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), was made to conform to the amendment, repeal or addition of various provisions of Taxation—General, art. 14.00A, et seq. by Acts 1981, 67th Leg., p. 3291, ch. 862, §§ 1 to 6, eff. Sept. 1, 1981. Section 7 of Acts 1981, 67th Leg., p. 3294, ch. 862, provides:

"(a) This Act takes effect on September 1, 1981, and applies to the estates of decedents who die on or after September 1, 1981.

"(b) The inheritance taxes imposed by Chapter 14, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as in effect on August 31, 1981, apply to the estates of decedents who die before September 1, 1981, and those taxes shall be reported, collected, enforced, and paid as though this Act were not in effect."

Section 6(b) of Acts 1981, 67th Leg., p. 2770, ch. 752, provides:

"Section 7, H.B. 325, 67th Legislature, Regular Session, 1981 [ch. 862], is not repealed by this Act. Section 7 of H.B. 325 applies to the conforming amendments made by this Act in the same manner that it applied to H.B. 325."

### § 211.002. Day of Death of Presumed Decedent

If a court enters a final decree presuming a missing person to be dead, the day of the person's death for the purposes of this chapter is the day on which the court enters the decree establishing the fact of death regardless of the presumed day of death established by the decree.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

### § 211.003. References to Internal Revenue Code

A citation of or a reference to a subtitle, a chapter, or a section of the Internal Revenue Code of 1954 includes that subtitle, chapter, or section as it exists on September 1, 1981, or as amended after that date and also includes any other provision of the Internal Revenue Code enacted after September 1, 1981, that is similar to or a replacement of the subtitle, chapter, or section cited or referred to.

[Amended by Acts 1981, 67th Leg. p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

[Sections 211.004 to 211.050 reserved for expansion]

## SUBCHAPTER B. INHERITANCE TAXES: FEDERAL ESTATE TAX CREDIT AND GENERATION-SKIPPING TRANSFER TAX CREDIT

### § 211.051. Tax on Property of Resident

(a) A tax equal to the amount of the federal credit is imposed on the transfer at death of the property of every resident.

(b) If the estate of a resident is subject to a death tax imposed by another state or states for which the federal credit is allowable, the amount of the tax due under this section is reduced by the lesser of:

(1) the amount of the death tax paid the other state or states and that is allowable as the federal credit; or

(2) an amount determined by multiplying the federal credit by a fraction, the numerator of which is the value of the resident's gross estate less the value of the property of a resident, as defined by Section (c) of this section, that is included in the gross estate and the denominator of which is the value of the resident's gross estate.

(c) Property of a resident includes real property having an actual situs in this state whether or not held in trust; tangible personal property having an actual situs in this state; and all intangible personal property, wherever the notes, bonds, stock certificates, or other evidence, if any, of the intangible personal property may be physically located or wherever the banks or other debtors of the decedent may be located or domiciled; except that real property in a personal trust is not taxed if the real property has an actual situs outside this state.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

### § 211.052. Tax on Property of Nonresident

(a) A tax is imposed on the transfer at death of the property located in Texas of every nonresident.

(b) The tax is an amount determined by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in Texas that is included in the gross estate and the denominator of which is the value of the nonresident's gross estate.

(c) Property located in Texas of a nonresident includes real property having an actual situs in this state whether or not held in trust and tangible personal property having an actual situs in this state, but intangibles that have acquired an actual situs in this state are not taxable.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

### § 211.053. Tax on Property of Alien

(a) A tax is imposed on the transfer at death of the property located in Texas of every alien.

(b) The tax is an amount determined by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in Texas

that is included in the gross estate and the denominator of which is the value of the alien's gross estate.

(c) Property located in Texas of an alien includes real property having an actual situs in this state whether or not held in trust; tangible personal property having an actual situs in this state; and intangible personal property if the physical evidence of the property is located within this state or if the property is directly or indirectly subject to protection, preservation, or regulation under the law of this state, to the extent that the property is included in the decedent's gross estate.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

**§ 211.054. Tax on Property Included in Generation-Skipping Transfer**

(a) A tax is imposed on every generation-skipping transfer.

(b) The tax is an amount determined by multiplying the generation-skipping transfer tax credit by a fraction, the numerator of which is the value of the property located in Texas included in the generation-skipping transfer and the denominator of which is the value of all property included in the generation-skipping transfer.

(c) Property located in Texas includes real property having an actual situs in this state whether or not held in trust; tangible personal property having an actual situs in this state; and tangible personal property owned by a trust having its principal place of administration in this state at the time of the generation-skipping transfer.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

**§ 211.055. Maximum Tax**

The amount of taxes imposed by this chapter, when added to the federal tax as finally assessed and determined, may not exceed the amount of the federal tax which, without application of this chapter and the federal credit and the generation-skipping transfer tax credit to which it refers, would otherwise be payable to the federal government under Subtitle B, Chapters 11, and 13, Internal Revenue Code.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

**§ 211.056. Cooperation with Internal Revenue Service**

(a) The comptroller shall confer with the Internal Revenue Service of the United States to determine the value of a decedent's estate that is located in this state and that is valued by the United States for tax purposes.

(b) The comptroller shall cooperate with the Internal Revenue Service on matters relating to a decedent's estate located in this state. The comptroller

may exchange information with the service about these matters.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

[Sections 211.057 to 211.100 reserved for expansion]

**SUBCHAPTER C. COLLECTION AND PAYMENT OF TAX**

**§ 211.101. Payment by Personal Representative**

The personal representative of a decedent's estate shall pay to the comptroller a tax determined under this chapter on the estate.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

**§ 211.102. Day on Which Payment is Due**

Payment of a tax imposed by Section 211.051, 211.052, or 211.053 of this code on a decedent's estate is due nine months after the day of the decedent's death.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

**§ 211.103. Postponement of Day on Which Payment is Due**

If the date of the filing of the federal estate tax return and the payment of the federal estate tax is extended by the Internal Revenue Service, a tax imposed by Section 211.051, 211.052, or 211.053 of this code is due on the date specified by the Internal Revenue Service in granting any request for extension. The personal representative of the estate shall notify the comptroller within 30 days after an extension granted by the Internal Revenue Service.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

**§ 211.104. Report of Determination of Federal Tax**

Within 30 days after receiving notice or information of the final assessment and determination of the value of the taxable estate assessed and determined by the federal government for the purpose of fixing federal estate taxes on that estate, the personal representative shall make to the comptroller a report of the value of the estate as so fixed and determined. The report shall be made in a form and contain information as the comptroller directs.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

Former § 211.104 was renumbered as § 211.107 by Acts 1981, 67th Leg., 1st C.S., p. 190, ch. 17, art. 2, § 1.

### § 211.105. Date Due of Taxes on Generation-Skipping Transfers

The taxes on generation-skipping transfers are due and payable at the same time as the federal tax on generation-skipping transfers unless such date for the filing of the federal tax return and the payment of the federal tax is extended by the Internal Revenue Service, in which event the taxes on generation-skipping transfers levied by this chapter shall be due and payable on the date specified by the Internal Revenue Service in granting any request for extension. The person responsible for payment of the taxes shall notify the comptroller within 30 days after any extension granted by the Internal Revenue Service.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

### § 211.106. Returns

A payment shall be accompanied by a tax return containing any information the comptroller considers necessary for the enforcement of this chapter. In the event no federal tax has been paid or is due on the estate of a decedent, the personal representatives shall file a declaration of no tax due in lieu of the tax return required by this section. The declaration shall be filed with the comptroller within nine months of the date of death of the decedent, shall be signed by the personal representative on his oath, shall recite that no federal estate tax nor federal generation-skipping transfer tax has been paid by or is due from the decedent's estate, and shall contain other information as the comptroller considers necessary for the enforcement of this chapter.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

### § 211.107. Receipt for Payment

The comptroller shall issue a receipt for payment of a tax imposed by this chapter. The comptroller shall deliver the receipt to the person making the payment or to the person's attorney of record.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; renumbered from § 211.104 by Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

### § 211.108. Personal Liability

Any person acquiring any property subject to taxation under this chapter, to the extent of the value of all property so acquired, shall be personally liable for the tax imposed by this chapter and be charged with notice of the existence of all of the unpaid taxes, penalties, interest, and costs.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; renumbered from § 211.107 and amended by Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

A former § 211.108, relating to discharge of liability of personal representative, added by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982, was deleted by Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.

### § 211.109. Compromise Agreement on Domicile

(a) If the comptroller claims that a decedent was domiciled in this state at the time of death and a taxing authority of another state claims that the decedent was domiciled in that state at the time of death, the comptroller may agree in writing to a compromise with the other taxing authority and the personal representative of the decedent's estate.

(b) The compromise agreement shall set an amount that is accepted by the comptroller in satisfaction of the tax that is determined under this chapter on the decedent's estate and in satisfaction of any related penalty or interest imposed under this chapter before the agreement takes effect. The agreement shall set the amount that the other taxing authority accepts in satisfaction of a death tax, penalty, or interest.

(c) To be valid, the agreement must be approved by the attorney general.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

### § 211.110. Forms

The comptroller shall prescribe a form for a tax return or report required by this chapter and shall prescribe other forms that request information necessary for the comptroller to collect the taxes imposed by this chapter.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; renumbered from § 211.155 Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

[Sections 211.111 to 211.200 reserved for expansion]

## SUBCHAPTER D. TRANSFER OR DELIVERY OF PROPERTY AFTER DECEDENT'S DEATH

### § 211.201. Transfer of Property Before Tax is Paid

(a) The personal representative of a decedent's estate may not transfer or deliver any of a decedent's property to any person unless a tax determined under this chapter on the property is paid.

(b) The personal representative, other person responsible for the payment of the tax, or bondsman of a representative or other person who violates Subsection (a) of this section is liable for the tax, a related penalty, interest, and the costs of the collection of the tax, penalty, and interest.

(c) A corporation, bank, stock transfer agent, safe deposit institution or other depository or institution, or person in actual or constructive possession of any property of the decedent as agent of the decedent or custodian of the property or any similar relationship such as debtor, bailor, or lessor (other than a personal representative, spouse, transferee, trustee, person in possession of property by reason of the exercise or release of a power of appointment, legatee, devisee,

heir, or beneficiary who has received property) shall not be liable for any tax, penalty, or interest imposed by this chapter.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

**§§ 211.202 to 211.207. Repealed by Acts 1981, 67th Leg., 1st C.S. p. 193, ch. 17, art. 2, § 7, eff. Jan. 1, 1982.**

The repealed sections, relating to transfer or delivery of property, were derived from Acts 1981, 67th Leg., p. 1754, ch. 389, § 1; Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a).

[Sections 211.208 to 211.250 reserved for expansion]

**SUBCHAPTER E. ENFORCEMENT**

**§ 211.251. Comptroller's Authority to Examine Books and Other Property**

The comptroller may examine books, records, documents, or other property if the examination is necessary for the comptroller to enforce this chapter. [Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

**§ 211.252. Tax Lien**

(a) A lien is imposed on a decedent's estate to secure the payment of the taxes determined under this chapter on the decedent's estate and to secure the payment of related penalties, interest, or costs imposed by this chapter. For the enforcement of the taxes imposed by Sections 211.052 and 211.053 of this code, the lien provided by this section applies only to property located in this state that is included in the gross estate.

(b) A part of a decedent's estate that is exempted or deductible from the estate before the tax imposed by this chapter is determined is not exempt from the lien.

(c) The lien is in force beginning on the day of the decedent's death.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 192, ch. 17, art. 2, § 2, eff. Jan. 1, 1982.]

**§ 211.253. Duration of Lien**

(a) The lien imposed by this chapter is in force for five years after the day of the decedent's death unless:

(1) the comptroller releases the lien on an earlier day; or

(2) a suit to collect a tax imposed by this chapter and to enforce the lien is filed before the expiration of the five-year period.

(b) The lien on a decedent's estate is not affected by the filing or the failure to file a probate proceeding on the estate.

(c) The limitation under Subsection (a) of this section does not apply if the return required by

Sections 211.104 and 211.106 of this code is not filed as provided by those sections.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 192, ch. 17, art. 2, § 3, eff. Jan. 1, 1982.]

**§ 211.254. Property Exempt from Lien**

(a) In this section, "inventory of goods" includes tangible personal property that is normally sold in the operation of a business.

(b) The lien imposed by this chapter on a decedent's estate does not attach to a business entity's inventory of goods that is part of the estate.

(c) The lien attaches to the proceeds from the sale of a business entity's inventory of goods.

(d) Repealed by Acts 1981, 67th Leg., 1st C.S., p. 193, ch. 17, art. 2, § 7, eff. Jan. 1, 1982.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 192, ch. 17, art. 2, §§ 4, 7, eff. Jan. 1, 1982.]

**§ 211.255. Suit to Enforce Lien**

(a) The attorney general may bring suit in the name of the state to enforce the lien imposed by this chapter.

(b) Except as limited by Section 211.253 of this code, the lien may be enforced in a suit brought to collect a tax, penalty, interest, or cost imposed by this chapter.

(c) The lien may be enforced in any other manner provided by law.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

**§ 211.256. Release of Lien After Tax is Paid**

(a) If a tax determined under this chapter on a decedent's estate and any related penalty, interest, and cost imposed by this chapter are paid, the comptroller shall release the tax lien imposed by this chapter on the estate.

(b) The comptroller shall give notice of the release to the county clerk.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

**§ 211.257. Release of Lien Before Tax is Paid**

(a) The comptroller, before a tax determined under this chapter on a decedent's estate is paid, may release the lien imposed by this chapter on the property if:

(1) a sale or transfer of the specific property is necessary to pay the tax or to pay a federal estate tax or is necessary to preserve the estate;

(2) the sale or transfer is made for adequate consideration; and

(3) the property remaining in the estate is sufficient to assure payment of the tax and a claim or lien that arises before the sale or transfer or a surety guarantees the payment.

(b) The lien imposed by this chapter on a decedent's estate attaches to the proceeds of a sale or transfer under Subsection (a) of this section.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C. S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

**§ 211.258. Penalty for Failure to Pay Tax or for Late Payment**

(a) A person who is liable for a tax imposed by this chapter and who does not pay the tax on or before the day the tax is due shall pay to the comptroller a penalty.

(b) The penalty is five percent of the amount of the tax that is delinquent.

(c) If the amount that is delinquent is not paid within 30 days after the due date, a penalty of an additional five percent of the delinquent amount is due.

(d) A penalty is not imposed by this section on a person who is liable for the tax if the person shows to the comptroller that the failure to pay the tax is due to a reasonable cause and not due to wilful neglect.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; renumbered from § 211.260 Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

A former § 211.258, relating to penalty as to improper transfer of property, derived from Acts 1981, 67th Leg., p. 1756, ch. 389, § 1, eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982, was deleted by Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.

**§ 211.259. Interest on Delinquent Taxes**

(a) A tax imposed by this chapter that is delinquent draws interest at the rate set by Section 111.060 of this code.

(b) The interest begins to accrue nine months after the day of the death of the decedent on whose estate the tax is determined or, in the case of taxes on generation-skipping transfers, on the original due date of the taxes.

(c) If the accrued interest is less than \$5, it does not have to be paid.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982; renumbered from § 211.261 and amended by Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.]

A former § 211.259, relating to penalty for failure to file report or return, derived from Acts 1981, 67th Leg., p. 1756, ch. 389, § 1, eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a) eff. Jan. 1, 1982, was deleted by Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982.

**§§ 211.260, 211.261. Renumbered as §§ 211.258, 211.259 by Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 2, § 1, eff. Jan. 1, 1982**

**§ 211.262. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 193, ch. 17, art. 2, § 7, eff. Jan. 1, 1982**

The repealed section, relating to criminal penalty for failure to file report, was derived from Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a).

[Sections 211.263 to 211.300 reserved for expansion]

**SUBCHAPTER F. DISPOSITION OF REVENUE**

**§ 211.301. General Revenue Fund**

The revenue from a tax, interest, or penalty imposed by this chapter shall be deposited in the state treasury to the credit of the general revenue fund.

[Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, § 6(a), eff. Jan. 1, 1982.]

**SUBTITLE K. POLL TAX [REPEALED]**

**CHAPTER 251. POLL TAX**

Section  
251.001 to 251.012. Repealed.

**§§ 251.001 to 251.012. Repealed by Acts 1981, 67th Leg., p. 2757, ch. 752, § 3, eff. Jan. 1, 1982**

The repealed sections, relating to poll tax, were derived from Acts 1981, 67th Leg., p. 1766, ch. 389, § 1.

\*



# DISPOSITION TABLE

Showing where provisions of former articles of the Civil Statutes and Title 122A, Taxation—General, are covered in Title 2 of the Tax Code.

Civ.St. Article	Tax Code Section
1269l—7, § 21 (part) .....	171.072
1396—50.01, § 44 (part) .....	171.075
1407 (part) .....	171.070
1528b, § 30 (part) .....	171.079
1528c, § 29 (part) .....	171.080
2461—2.10 (part) .....	171.077
2512 (part) .....	171.076
2518 (part) .....	171.071
4437f—1, § 6 (part) .....	171.073
4447r, § 6 (part) .....	171.075
5190.6, § 32 (part) .....	171.074
5764 (part) .....	171.069
6675a—3aa (part) .....	152.082
7047a .....	192.001
	to
	192.003
	192.009
	192.010
7047a—20, § 1 .....	111.001
§§ 2, 3 .....	111.002
§ 4 .....	111.013
§ 5 .....	—
§ 6 .....	111.002
§§ 7, 8 .....	—
7048 .....	192.009
	192.010
7049 .....	192.004
7052 .....	192.002
	192.008
7053 .....	192.005
	192.006
7054 .....	192.007
7057b, § 1 .....	112.051
§ 2 .....	112.001
	112.052
	to
	112.055
	112.057
§ 2a .....	112.056
	112.057
§ 3 .....	112.058
§ 4 .....	112.059
	112.060

Civ.St. Article	Tax Code Section
7080 .....	182.086
	191.089
7081 .....	182.087
	191.089
7082 .....	182.088
	182.104
	191.089
7083 .....	182.103
	182.104
7083a .....	—
7083a.1 .....	—
7083a.2, § 3 .....	—
7260 .....	—
7359a, § 1 .....	141.001
§ 2 .....	141.002
§ 3 .....	141.003
§ 4 .....	141.004
§ 5 .....	141.005

  

Tax.-Gen. Article	Tax Code Section
1.01 .....	101.003
	to
	101.006
1.03 .....	111.003
1.031, § (1) .....	111.004
	111.005
§ 2 .....	111.004
§§ (3), (4) .....	111.006
1.031A .....	111.0041
1.032, §§ (A), (B) .....	111.008
§§ (C), (D) .....	111.009
1.032A, § (a) .....	111.102
§ (b) .....	111.101
§ (c) .....	111.103
1.033 .....	111.052
1.034 .....	111.051
1.035, § (1) .....	111.006
§ (2) .....	111.007
1.036 .....	111.0042
1.037 .....	111.0043
1.038 .....	111.0044
1.04 .....	111.010

TAX CODE

1837B

Tax.-Gen. Article	Tax Code Section
1.045, § (A)	111.201
	111.205
§ (B)	111.202
§ (C)	111.203
§ (D)	111.204
§ (E)	111.207
§ (F)	111.206
§ (G)	111.107
1.05, § (1)	112.051
§ (2)	112.001
	112.052
	to
	112.055
	112.057
§ (3)	112.056
	112.057
§ (4)	112.058
§ (5)	112.059
	112.060
1.06, § (1)	112.101
§ (2)	112.101
	112.104
§ (3)	112.102
§ (4)	112.103
§ (5)	112.104
	112.105
§ (6)	112.001
§ (7)	112.105
§ (8)	112.106
§ (9)	112.106
§ (10)	112.107
1.07, § (1)(b)	113.001
§ (1)(c)	113.101
§ (1)(d)	111.015
§ (1)(e)(i)	113.002
	113.006
§ (1)(e)(ii)	113.003
§ (1)(f)(i)	113.102
§ (1)(f)(ii)	113.103
§ (1)(g)	113.104
§ (1)(h)(i)	111.251
	111.252
§ (1)(h)(ii)	111.253
§ (1)(h)(iii)	111.254
§ (1)(h)(v)	111.255
§ (2)	111.016
§ (3)	111.015
1.07A, § (1)(a)	113.004
§ (1)(b), (c)	113.005
§ (1)(d)	113.005
	113.006
§ (1)(e)	113.005
§ (2)(a)(i)	113.007
§ (2)(a)(ii), (iii)	113.009
§ (2)(a)(iv)	113.011

Tax.-Gen. Article	Tax Code Section
1.07A, § (3)	113.010
§ (4)	113.008
1.07A-1	113.005
1.07B, § (1)	113.105
§§ (2), (3)	113.106
§ (4)	113.107
1.07C, § 1	113.201
§ 2	113.202
§ 3	113.203
§ 4	113.204
§ 5	113.205
1.08	111.013
1.09	101.008
1.10	111.002
1.11A, §§ (1) to (3)	111.104
§ (4)	111.104
	111.105
§ (6)	111.105
	112.151
	to
	112.153
§ (7)	112.151
§ (8)	112.152
	112.154
§§ (9), (10)	112.155
§ (11)	111.106
§ (12)	111.104
§ (13)	111.015
§ (14)	112.156
§ (15)	111.108
1.12	111.059
1.13, §§ (a), (b)	111.054
§ (c)	111.055
§ (d)	111.056
§ (e)	111.053
§ (f)	101.003
§ (g)	111.054
§ (h)	111.057
§ (i)	111.058
1.14, §§ (a), (b)	111.011
§ (c)	111.012
1.15	111.014
2.01	—
3.01, § (1)	201.051
	201.052
	201.401
§ (2)	201.053
3.02, § (1)	201.101
	to
	201.104
§ (2)	201.001
	201.054
	201.055
	201.105
	201.106

## DISPOSITION TABLE

Tax.-Gen. Article	Tax Code Section	Tax.-Gen. Article	Tax Code Section
3.03, § (1)	201.151	4.03, § (8)	202.151
	201.203		to
	201.251		202.154
§ (2)	201.152	§ (9)	202.151
	201.201		202.251
	201.202		202.252
	201.204	§ (10)	111.060
§ (3)	201.201		202.301
	to	4.04, § (1)	202.101
	201.203	§ (2)	202.004
	201.251		202.201
	201.252	§ (3)	202.004
§ (4)	111.060		202.102
	201.351		202.202
§ (5)	201.205	§ (4)	202.103
3.04, §§ (1) to (3),		§ (5)	202.004
(5) to (8), (11)	201.001		202.203
§ (12)	201.002	§ (6)	202.004
§ (13)	201.001		202.104
3.05, § (1)	201.204	§ (7)	202.003
	201.251		202.004
§ (3)	201.251		202.105
§ (4)	201.204		202.156
	201.251		202.204
3.06	201.301	4.05	202.155
	201.302	4.06	111.060
	201.403		202.152
3.08	201.302		202.202
	201.303		202.301
	201.353	4.07, § (1)	202.302
	201.355	§ (2)	202.303
	201.402	§ (3)	202.304
3.09, § (2)	201.304	4.09	202.305
3.10, § (1)	201.352	4.10	202.205
§ (2)	201.206	4.11	202.005
3.12	201.353		202.352
	201.354	4.12	202.307
4.01, §§ (1) to (7)	202.001	4.13	202.306
§ (8)	202.002	5.01	203.001
§§ (9) to (11)	202.001		to
4.02	202.002		203.003
	202.051		203.052
	to		203.053
	202.053		203.151
	202.351	5.02	203.051
4.03, § (1)	202.153		203.102
	202.251	5.03, § (1)	111.060
§ (3)	202.251		203.101
§ (4)	202.153	§ (2)	203.052
	202.251	6.01, § (1)	152.021
	202.302		152.066
§ (5)	202.154	§ (2)	152.022
§ (6)	202.156	§ (3)	152.023
§ (7)	202.101	§ (4)	152.024
	202.201	§ (5)	152.025
	202.251		

TAX CODE

1837D

Tax.-Gen. Article	Tax Code Section
6.01, § (6)	152.026
§ (7)	152.027
	152.042
	152.121
§ (8)	152.083
6.02	152.003
6.03	152.001
	152.002
6.04, § (1)	152.041
§ (2)	152.043
§ (3)	152.045
	152.065
§ (4)	152.045
§§ (5) to (7)	152.046
6.041	152.061
6.042	152.068
6.05, § (1)	152.024
	152.062
	152.101
§§ (2), (3)	152.063
6.06, § (1)	152.044
	111.060
	152.067
§ (2)	152.103
6.07	152.064
	152.121
6.08	152.102
6.09, § (1)	152.081
§ (2)	152.001
	152.087
§ (3)	152.001
	152.082
	152.088
§ (3)(a), (b)	152.086
§ (3)(c)	152.001
§ (4)	152.084
§ (5)	152.085
7.01, §§ (1), (2), (4) to (9)	154.001
§§ (11), (12)	101.003
§§ (13) to (16)	154.001
7.02, § (1)	154.021
	154.022
	154.024
	154.603
§ (2)	154.041
	154.043
§ (3)	154.023
7.04	154.601
7.05	154.043
	to
	154.045
7.06, § (1)	154.021
	154.022
	154.024

Tax.-Gen. Article	Tax Code Section
7.06, § (2)	154.041
	154.043
§ (3)	154.603
7.061	154.024
7.07	154.048
	154.049
7.08, § (1)	154.053
§ (2)	154.042
	154.052
	154.053
§ (3)	154.054
	154.058
	154.059
	154.114
§ (4)	154.053
	154.054
	154.513
	154.517
§ (5)	154.054
	154.307
§ (6)	154.043
	154.046
	154.060
§ (7)	154.055
	to
	154.057
	154.602
§ (8)	154.047
§ (9)	154.050
	154.051
7.09, § (1)	154.101
	154.111
§ (2)	154.101
	154.105
	to
	154.107
§§ (3), (4)	154.114
§ (5)	154.105
	154.109
§ (6)	154.101
	154.108
	154.111
§ (7)	154.110
	154.115
	154.116
§ (8)	154.117
	to
	154.119
§ (9)	154.120
7.10	154.041
	to
	154.043
7.11	154.152
	154.153
7.12	154.151

## DISPOSITION TABLE

Tax.-Gen. Article	Tax Code Section	Tax.-Gen. Article	Tax Code Section
7.13	154.201	7.29, § (6)	154.506
	154.209		154.507
7.14, § (1)	154.202	7.30, § (1)	154.403
	154.209		154.405
§ (2)	154.203	§ (2)	154.404
	154.209	§ (3)	154.405
§ (3)	154.204	§ (4)	154.406
§ (4)	154.205	7.31	154.407
	154.209	§§ (1), (2)	154.408
§ (5)	154.001	§ (3)	154.408
	154.206		154.409
	154.209	7.32	154.410
7.15	154.301	7.33	154.302
	154.413		154.411
	154.414	7.34	154.412
7.16, § (1)	154.001	7.35, § (2)	154.305
	154.102	§ (3)	154.306
	154.111	7.36	154.502
	154.114		to
	154.115		154.510
	154.211	7.37	154.511
§ (2)	154.509		to
	154.510		154.519
7.17	154.210	7.38	154.520
7.18	154.401	7.39	154.602
7.19	154.402	7.40	154.303
7.20	154.209	7.41	154.601
7.21	154.114	8.01	155.001
	154.115	8.02	155.021
7.22	154.121	8.03	155.022
7.23, § (1)	154.103		to
	to		155.024
	154.105	8.04	155.023
	154.111		155.026
§ (3)	154.208		155.027
	154.209		155.111
§ (4)	154.212	8.05, § (a)	155.101
§ (5)	154.111		155.110
§§ (6), (7)	154.112	§ (b)	155.102
§ (8)	154.113		155.110
7.24	154.501	§ (c)	155.103
7.25	154.308	§ (d)	155.104
7.26	154.521		155.110
7.27	154.304	§ (e)	155.105
7.28	154.207		155.106
7.29, § (1)	154.041		155.110
	154.503	8.06, § (a)	155.041
	154.515		155.045
§ (2)	154.503		to
	154.511		155.047
	154.515		155.049
§ (3)	154.513	§ (b)	155.048
§ (4)	154.502		155.050
	154.514		155.052
§ (5)	154.502		to
			155.056

TAX CODE

1837F

Tax.-Gen. Article	Tax Code Section
8.07	155.042
	155.049
	155.052
	155.060
	155.112
	155.207
	155.208
8.08, § (a)	155.061
§ (b)	155.059
	155.062
	155.063
§ (c)	155.064
8.09	155.153
	155.154
	155.181
8.10	155.141
8.11	155.142
8.12	155.057
	155.109
	155.110
8.13	155.025
8.14	155.052
	155.059
8.15	155.058
8.16, § (a)	155.043
	155.046
	155.049
§ (b)	155.044
§ (c)	155.108
	155.110
§ (d)	155.113
8.17	155.201
8.18	155.183
8.19	155.107
8.20	155.202
	to
	155.205
	155.209
	155.211
8.21	155.143
	to
	155.149
8.22	155.150
8.23	155.151
	155.182
8.24	155.152
8.25, § (b)	155.184
8.26, §§ (a) to (c)	155.202
§ (d)	155.203
§ (e)	155.204
§ (f)	155.205
§ (g)	155.206
§§ (h) to (l)	155.207
§ (m)	152.207
	155.208

Tax.-Gen. Article	Tax Code Section
8.27	155.214
§§ (a) to (c)	155.209
§ (d)	155.210
§ (e)	155.211
§§ (f) to (j)	155.212
§ (k)	155.212
	155.213
8.28	155.215
8.29	155.049
	155.051
8.32	155.185
9.001	153.001
9.002	153.002
9.003	153.003
9.004	153.004
9.005	153.005
9.006, §§ (1) to (4)	153.006
§§ (5) to (7)	153.007
9.007	153.008
9.008	153.009
9.009	153.010
9.010, §§ (1) to (4)	153.011
§§ (5) to (7)	153.012
9.011	153.013
9.012	111.060
	153.401
9.013	153.014
9.014	153.402
9.015	153.403
9.016	153.404
9.017	153.405
9.018	153.406
9.019	153.407
9.101, § (1)	153.101
	153.102
§ (1)(A) to (E)	153.104
§ (1)(F)	153.102
§ (1)(G)	153.104
§§ (2) to (5)	153.103
§ (6)	153.015
9.102	153.106
9.103	153.107
9.104	153.108
9.105	153.109
9.106	153.110
9.107	153.106
9.108	153.111
9.109	153.112
9.110	153.113
9.111	153.114
9.112, §§ (1) to (5)	153.105
§ (6)	153.115
9.113	153.116
9.114	153.117
9.115	153.118

## DISPOSITION TABLE

Tax.-Gen. Article	Tax Code Section	Tax.-Gen. Article	Tax Code Section
9.116	153.119	11.02	182.121
9.117	153.120	§ (1)	182.001
9.118	153.121		182.002
9.119	153.122		182.081
9.120, § (1)	153.501		182.082
§ (2)	153.502	§ (2)	182.003
§§ (3), (4)	153.503		182.004
9.201, § (1)	153.201	11.03, § (1)	182.021
	153.202		182.022
§ (1)(A) to (E)	153.203		182.026
§ (1)(F)	153.202		182.081
§ (1)(G), (H)	153.203		182.082
§§ (2) to (5)	153.204	§ (2)	182.023
§ (6)	153.015	§ (3)	182.024
9.202	153.205		to
9.203	153.206		182.026
9.204	153.207	11.04	182.041
9.205	153.208		182.042
9.206	153.209		182.081
9.207	153.210		182.082
9.208	153.211		182.121
9.209	153.212	11.06	182.121
9.210	153.213	§ (1)	182.061
9.211	153.207		182.062
9.212	153.214		182.064
9.213	153.215		182.081
9.214	153.216		182.082
9.215	153.217	§ (2)	182.063
9.216	153.218		182.064
9.217	153.219	11.07	182.083
9.218	153.220	11.08	182.084
9.219	153.221		182.085
9.220	153.222	11.09	182.103
9.221	153.223		182.104
9.222, §§ (1) to (3)	153.224	11.10	182.101
§ (4)	153.223	11.11	111.060
9.223	153.225		182.102
9.224, § (1)	153.501	12.01, § (1)	171.001
§ (2)	153.505		171.002
9.301, § (1)	153.301		171.101
§§ (2), (3)	153.302		171.151
§ (4)	153.015		171.154
9.302	153.303		171.202
9.303	153.304	§ (2)	171.003
9.304	153.305	§ (6)	171.107
9.305	153.306	12.02, § (1)(a)	171.106
9.306	153.303	§ (1)(b)	171.103
9.307	153.307	§ (1)(c)	171.104
9.308	—	§ (1)(d)	171.105
9.309	153.308	§ (2)	171.108
9.310	153.309	12.03, § (1)	171.052
9.311	153.310		to
9.312	153.311		171.068
9.313, § (1)	153.501		171.081
§ (2)	153.504		171.107

TAX CODE

1837H

Tax.-Gen. Article	Tax Code Section	Tax.-Gen. Article	Tax Code Section
12.03, §§ (2) to (4)	171.063	12.17, § (1)	171.304
§§ (5), (6)	171.051	§ (2)	171.309
12.04	171.158	to	
12.06, § (1)	171.155	171.311	
§ (2)	171.151	§ (3)	171.255
	171.153	to	171.305
	171.155	171.308	
	171.201	171.306	
§ (3)	171.156	171.307	
§ (4)	171.157	171.312	
12.065	171.152	to	
12.07	171.204	171.315	
12.08	171.153	12.18	171.005
	171.202		171.102
12.09	171.201	12.19, §§ (1), (2)	171.004
12.10, § (a)	171.203	§ (3)	171.202
	171.206	to	171.206
	171.207	171.211	
	171.209	14.00A	211.001
§ (b)	171.210	to	211.002
12.10A	171.208	14.00B	211.003
	171.361	14.01	
12.11	171.201	to	
	to	14.12	—
	171.203	14.12A	211.051
	171.354	14.12B	211.052
12.12	171.201	14.12C	211.053
	to	14.12D	211.054
	171.203	14.12E	211.055
	171.205	14.13, § (B)	211.110
	171.207	to	211.251
	171.211	to	211.255
	171.251	§ (C)	211.056
	171.301	§ (D)	211.109
12.13	171.356	14.14	—
	to	14.15	—
	171.360	14.16, § (A)	211.102
12.14, § (1)	111.060	to	211.103
	171.362	§ (B)	211.104
§ (2)	171.251	§ (C)	211.105
	to	§ (D)	211.106
	171.254	§ (E)	211.101
	171.257	to	211.107
§ (3)	171.255	14.17	211.258
12.15	171.256	to	211.259
	171.258	14.18, § (A)	211.252
	171.301	to	211.253
	to	§ (B)	211.254
	171.303	§ (C)	211.253
12.16, § (1)	171.303	to	211.255
	171.351	14.19, § (A)	211.256
	to	§ (B)	211.257
	171.353		
§ (2)	171.355		

## DISPOSITION TABLE

Tax.-Gen. Article	Tax Code Section	Tax.-Gen. Article	Tax Code Section
14.20, § (A)	211.108	20.01, § (H)	151.007
§ (B)	211.201	§ (I)	151.052
§ (C)	211.201	§ (J)(1)	151.008
14.21	—	§ (J)(2)	151.024
14.22	—	§ (K)	151.005
18.01	181.001	§ (L)	151.007
	181.002	§ (M)	151.008
18.02, § (1)	181.003	§§ (N), (O)	151.011
	181.051	§ (P)	151.009
§ (2)	181.052	§ (Q)	101.003
§ (3)	181.103	§ (R)	151.011
18.03	111.060	§ (S)	151.006
	181.101	§ (T)	151.056
	181.102	§ (U)	151.318
	181.104	§ (W)	151.010
	181.105	§ (X)	151.801
18.04	181.004	§ (Y)(1)	151.319
	181.151	§ (Y)(2)	151.320
19.01	191.121	§ (AA)	151.002
§ (2)	191.001	20.02	151.051
	to	20.021, § (A)	151.007
	191.003		151.052
§ (7)	191.021		151.053
	to		151.701
	191.023	§ (B)	151.704
§ (7)(a)	191.026	§ (C)	151.202
§ (7)(b)	191.024	§ (D)	151.201
§ (7)(d)	191.025	§ (E)	151.203
§ (9)	191.041		to
	191.042		151.205
§ (10)(a)	191.062	§ (F)	151.054
§ (10)(b)	191.061	§ (G)	151.054
§ (10)(c)	191.063		151.151
	191.064	§ (H)	151.152
19.02	191.121	§ (I)	151.154
§ (2)	191.081	§ (J)	151.707
	191.082	§ (K)	151.153
§ (3)	191.083	§§ (L), (M)	151.426
	191.084	§ (N)(1)	151.251
§ (4)	191.085		151.253
§ (5)	111.060	§ (N)(2)	151.251
	191.086		151.252
	to	§ (N)(3)	151.251
	191.088		151.254
19.03	191.102		151.255
19.04	191.101	§ (N)(5)	151.254
20.01	151.001		151.255
	151.002	§ (N)(6)	151.257
§ (C)	151.003		151.259
§ (D)(1)	151.007		to
	151.427		151.262
§ (D)(2)	151.007	§ (N)(7)	151.262
§ (E)	151.004	§ (N)(8)	151.256
§ (F)	151.304		151.261
§ (G)	151.005		151.262

TAX CODE

1837J

Tax.-Gen. Article	Tax Code Section
20.03	151.101
20.031, § (A)	151.102
§ (B)	151.103
	151.107
§ (C)	151.704
§ (D)	151.704
	151.705
§ (E)	151.106
§ (F)	151.104
§ (G)	151.104
	151.151
§ (H)	151.152
§ (I)	151.154
§ (J)	151.707
§ (K)	151.153
§ (L)	151.105
§ (M)	151.106
§ (N)	151.028
	151.702
20.04, § (A)	151.301
§ (B)(1), (2)	151.155
§ (B)(3)	151.706
§ (C)	151.307
§ (D)(1)	151.308
§ (D)(2)	151.315
§ (D)(3)	151.323
§ (D)(4), (5)	151.308
§ (E)(1)	151.318
§ (E)(2)	151.321
§ (E)(3)	151.322
§ (F)	151.314
§ (G)	151.330
§ (H)(1) to (5)	151.309
§ (H)(6)	151.310
§ (H)(7)	151.332
§ (I)	151.304
§§ (J), (K)	151.303
§ (L)	151.314
§ (M)	151.313
§ (N)	151.316
§ (O)(1)	151.302
§ (O)(2), (3)	151.055
§ (P)	151.324
	151.329
§ (Q)	151.328
§ (R)	151.317
§ (S)	151.331
§ (T)	151.312
§ (U)	151.305
§ (V)	151.306
§ (W)	151.324
§ (X)	151.324
§ (Y)	151.311
§ (Z)	151.327
§ (AA)	151.310

Tax.-Gen. Article	Tax Code Section
20.04, § (BB)(1)	151.319
§ (BB)(2)	151.321
§ (BB)(3), (4)	151.319
§ (CC)	151.325
§ (DD)	151.310
§ (EE)	151.314
§ (FF)	151.320
	151.326
§ (GG)	151.310
§ (JJ)	151.310
20.05, § (A)	151.401
§ (B)	151.410
	151.411
§ (C)(1)	151.402
	151.406
§ (C)(2)	151.403
§ (C)(3)	151.406
§ (C)(4)	151.408
§ (C)(5)	151.404
§ (D)	151.406
§ (E)	151.423
	to
	151.425
§ (F)	151.405
§ (G)	151.409
§ (H)	111.060
	151.703
§ (I)(1)(a)	151.412
§ (I)(1)(b)	151.413
§ (I)(1)(c)	151.414
§ (I)(2)	151.412
§ (I)(3)	151.415
§ (J)	151.416
§ (K)	151.417
§ (K)(1)	151.419
§ (K)(2)	151.418
§ (K)(3)	151.420
	151.422
§ (K)(4)	151.421
	151.422
20.06, § (A)(1)	151.501
	151.515
§ (A)(2)	151.504
§ (B)	151.502
§ (C)	151.514
§ (D)(1), (2)	151.507
§ (E)(1)	151.503
§ (E)(2)	151.504
§ (F)	151.508
§ (G)	151.514
20.07, §§ (A), (B)	151.506
§ (C)	151.509
20.08, § (A)(1)	151.509
§ (A)(2)	151.505
§ (B)	151.510

## DISPOSITION TABLE

Tax.-Gen. Article	Tax Code Section	Tax.-Gen. Article	Tax Code Section
20.08, § (C)	151.511	20.12, § (C)	151.709
§ (E)	151.513	§ (E)	151.711
§ (F)	151.514	20.13	151.801
§ (G)	111.060	20.14	151.029
	151.512	20.16	151.614
20.09, § (A)	151.609	20.17	151.615
§ (B)	151.601	23.01, § (a)	156.001
	151.607	§§ (b) to (d)	156.051
§ (C)	151.601	§ (g)	156.001
§ (D)	151.605	§ (h)	156.101
§ (E)	151.603	23.02, § (a)	156.051
§ (F)	151.606		156.052
§ (G)(1)	151.601	§ (b)	156.101
	to	§ (c)	156.102
	151.604	23.03	156.053
	151.606	23.04, § (1)	156.151
	151.607	§ (2)	156.153
§ (G)(2) to (4)	151.608	23.05	156.152
§ (H)(1)	151.610	23.06	156.203
§ (H)(2)	151.611	23.07	111.060
§ (H)(3), (4)	151.612		156.201
§ (I)	151.613		156.202
§ (J)	151.251	24.01, § (1)	154.603
	151.258		155.241
20.11, § (A)	151.022		171.401
§ (B)	151.021		181.202
§ (C)	151.025		182.122
§ (D)	151.023		191.122
§ (E)	151.026		201.404
§ (F)	151.407		202.353
§ (G)	151.027		203.152
20.12, § (A)	151.708	§§ (2), (3)	101.009
§ (B)	151.707		

# INDEX TO TAX CODE

References are to Sections

## ABATEMENT OF ACTIONS OR PROCEEDINGS

Delinquencies, homesteads, aged persons, deferred collection, 33.06.

## ABSENCE AND ABSENTEES

Cigarette tax, stamps, 154.041.

## ABUSE

Shelters, exemptions, 11.18.

## ACCOUNTANTS

Sales and use tax, employment, 151.021.

## ACCOUNTS AND ACCOUNTING

Quotation services, receipts, 192.005, 192.007.

Sales and use tax, reports, basis, 151.408.

## ACTIONS AND PROCEEDINGS

Cement production tax, delinquencies, 181.103.

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

Costs, generally, this index.

Delinquent Tax Suits, generally, this index.

Franchise Taxes, this index.

Gross Receipts Tax, this index.

Hotel Occupancy Tax, this index.

Inheritance taxes, liens, 211.255.

Injunctions, generally, this index.

Judgments and Decrees, generally, this index.

Jurisdiction, generally, this index.

Limitation of Actions, generally, this index.

Manufactured housing, movement reports or records, 21.24.

Mobile homes and mobile home parks, movement reports, records, 21.24.

Motor Fuel Taxes, this index.

Motor Vehicle Sales Tax, this index.

Occupation Taxes, this index.

Oil and Gas, this index.

Process, generally, this index.

Sales and Use Tax, this index.

Subpoenas, generally, this index.

Taxing units, appraisal districts, suits against, 43.01 et seq.

## ADDRESS

Notice, delivery, property owner, 1.07.

## ADMINISTRATION

Exemptions, 11.41 et seq.

## ADMINISTRATIVE LAW AND PROCEDURE

Appeal and review, administrative provisions, 41.61 et seq.

## ADMINISTRATIVE LAW AND PROCEDURE—Cont'd

Motor fuel taxes, permit cancellations, 153.006.

Post-appeal administrative procedure, 42.41 et seq.

## ADVERSE OR PECUNIARY INTEREST

Appeal and review, hearings, board members, 41.69.

## ADVERTISEMENTS

Cigarette tax, seized property, sales, 154.406.

Sales and use tax, fines and penalties, 151.704.

## ADVISORY COMMITTEES

Multistate tax compact, 141.004.

## AFFIDAVITS

Appraisals and appraisers, chief appraiser, submission of appraisals, 25.22.

County assessor-collector, submission of appraisals, 25.22.

Defined, state taxes, 101.003.

Franchise taxes, liquidating dividends, 171.102.

Motor Vehicle Sales Tax, this index.

## AFFIRMATIONS

Oaths and Affirmations, generally, this index.

## AGED PERSONS

Affidavits, delinquencies, homesteads, deferred collection, 33.06.

Charities, exemptions, 11.18.

Franchise taxes, convalescent homes, exemptions, 171.067.

Homesteads,

Exemption, 11.13.

Limitation of school tax, 11.26.

Limitation of school tax, homesteads, 11.26.

Sales and use tax, organization sales, exemptions, 151.332.

## AGENTS

Inheritance taxes, privileges and immunities, 211.201.

Sales and use tax, 151.107.

Acting as retailer, 151.024.

## AGREEMENTS

Contracts, generally, this index.

## AGRICULTURAL LANDS

Additional taxes, qualified open space land, change of use, back taxes, 23.55.

## AGRICULTURAL LANDS—Cont'd

Aliens, eligibility for appraisal as open space land, 23.56.

Applications,

Appraisals and appraisers, post. Validity, 23.57.

Appraisals and appraisers, 23.41 et seq., 23.51 et seq.

Action on applications, agricultural use, 23.44.

Additional tax, open space land, change of use, 23.55.

Aliens, eligibility for appraisal as open space land, 23.56.

Application, 23.43.

Denial, 23.57.

Qualified open space land, 23.54.

Validity, 23.57.

Back taxes, qualified open space land, change of use, 23.55.

Capitalization rate, qualified open space land, 23.53.

Change of use of land, qualified open space land, 23.55.

Eligibility, 23.42, 23.56.

Forms, application for qualified open space land, 23.54.

Incorporated land, eligibility of open space land, 23.56.

Late applications, 23.541.

Notice, denial of application for agricultural use, 23.44.

Protest, application denial, 23.57.

Qualified agricultural land, 23.52.

Tax liens, qualified open space land, change of use, back taxes, 23.55.

Time,

Application for qualified open space land, 23.54.

Late applications, 23.43, 23.541.

Appurtenances, appraisal, 23.41.

Capitalization rate, appraisals and appraisers, qualified open space land, 23.53.

Change in use of land,

Additional taxation, 23.46.

Appraisal, qualified open space land, 23.55.

Qualified timber land, back taxes, 23.76.

Collections, appraisal applications, late fees, 23.431.

Confidential or privileged information, application for agricultural use appraisal, 23.45.

Crimes and offenses, designation for agricultural use, disclosure of confidential information, 23.45.

Deferred taxation, 23.46.

Definitions, appraisal of agricultural land, 23.42, 23.51.

## INDEX TO TAX CODE

References are to Sections

**AGRICULTURAL LANDS—Cont'd**

- Denial, application for agricultural use appraisal, 23.44.
- Depreciation, appurtenances, appraisal, 23.41.
- Designation for agricultural use, 23.41 et seq.
  - Action on application, 23.44.
  - Additional taxation, 23.46.
  - Application, 23.43.
  - Appraisal, 23.41.
  - Change of use, additional tax, payment, 23.46.
- Confidential or privileged information, applications, 23.45.
- Crimes and offenses, disclosure of confidential information on applications, 23.45.
- Denial of application, 23.44.
- Disclosure, confidential information, 23.45.
- Eligibility, 23.42.
- Forms, application, 23.43.
- Interest, additional tax, change of use, 23.46.
- Notice, denial of application, 23.44.
- Disapproval, application for agricultural use appraisal, 23.44.
- Disclosure, confidential information, designation for agricultural use, applications, 23.45.
- Eligibility, appraisal, qualified open space land, 23.56.
- Exemptions, implements, 11.161.
- Fines and penalties,
  - Appraisals applications, late applications, 23.431, 23.541.
  - Change of use, notice violation, 23.54.
- Forms,
  - Application, appraisal for agricultural use, 23.43.
  - Appraisal and appraisers, applications, qualified open space land, 23.54.
- Incorporated land, eligibility, appraisal of agricultural land, 23.56.
- Interest, additional taxes, 23.46.
- Late applications, appraisals, 23.431, 23.541.
- Manuals, appraisal manuals, qualified agricultural land, 23.52.
- Notice,
  - Change of use, 23.54.
  - Denial of application for agricultural use appraisal, 23.44.
  - Designation for agricultural use, denial of application, 23.44.
- Protest, appraisal applications, denial, 23.57.
- Publication, appraisal applications, 23.43, 23.54.
- Rules and regulations, appraisal, 23.41.
- Schools and school districts, county owned, taxability, 11.11.
- Tax liens, change of use of land, qualified open space land, 23.55.
- Time. Appraisals and appraisers, ante.
- Validity, appraisal applications, 23.57.

**AGRICULTURAL MACHINERY AND EQUIPMENT**

Exemptions, 11.161.

**AGRICULTURAL PRODUCTS**

- Broker or factor, occupation tax, 191.001 et seq.
- Exemptions, personal property taxation, 11.16.

**AGRICULTURAL PRODUCTS—Cont'd**

- Occupation taxes, brokers and factors, 191.001 et seq.
- Personal property taxation, exemptions, 11.16.
- Quotation services, occupation taxes, 192.001 et seq.

**AGRICULTURAL USE**

Defined, appraisal of agricultural land, 23.51.

**AGRICULTURE**

- Agricultural Lands, generally, this index.
- Animals, generally, this index.
- Farm supplies, personal property taxation exemption, 11.15.
- Farmers cooperative societies, franchise tax exemptions, 171.071.
- Franchise taxes, exemptions, 171.060.
- Machinery and equipment, exemptions, 11.161.
- Products. Agricultural Products, generally, this index.
- Sales and use tax, exemption, 151.316.

**AIRCRAFT**

- Cigars and tobacco products tax, permits, applications, 155.056.
- Motor Fuel Taxes, generally, this index.
- Sales and use tax, exemptions, 151.328.

**AIRPORTS AND LANDING FIELDS**

- Appeal and review, public access appraisal, 23.95.
- Appraisal and appraisers,
  - Leasehold, 25.07.
  - Public access, 23.91 et seq.
  - Records, 25.011.
- Defined, appraisals, 23.91.
- Fines and penalties, public access appraisals, 23.97.
- Leases, appraisals, 25.07.
- Notice, public access appraisal, denial, 23.95.
- Public access airport property, appraisal, 23.91 et seq.

**ALCOHOLIC BEVERAGES**

Sales and use tax, exemption, 151.054.

**ALIENS**

- Defined, inheritance tax, 211.001.
- Inheritance taxes, 211.053.
- Timber land, eligibility for qualified timber land appraisal designation, 23.77.

**ALLOCATION**

See specific index headings.

**AMBULANCES**

- Franchise taxes, exemptions, 171.083.
- Motor vehicle sales tax, exemptions, 152.087.

**AMERICAN G. I. FORUM**

Veterans organizations, exemptions, 11.23.

**AMERICAN LEGION**

Veterans organizations, exemptions, 11.23.

**AMERICAN VETERANS OF WORLD WAR II**

Veterans organizations, exemptions, 11.23.

**ANIMALS**

- Broker or factor, occupation tax, 191.001 et seq.
- Buffalo, personal property taxation exemption, 11.23.
- Cattalo, personal property tax exemption, 11.23.
- Charities, humane treatment, exemptions, 11.18.
- Exemptions, 11.16.
  - Buffalo and cattalo, personal property taxation, 11.23.
  - Humane treatment, charities, 11.18.
- Experimental breeding, buffalo and cattalo, personal property tax exemption, 11.23.
- Humane treatment, charities, exemptions, 11.18.
- Occupation taxes, brokers and factors, 191.001 et seq.

**ANNEXATION OF PROPERTY**

Assessments, during tax year, 26.14.

**ANSWERS**

Delinquent tax suits, 33.45.

**APPEAL AND REVIEW**

- Generally, 41.01 et seq.
- Action by court, judicial review, 42.24.
- Additional tax, corrected and supplemental tax bills, postappeal administrative procedures, 42.42.
- Adverse or pecuniary interest, hearings, board members, 41.69.
- Airports and landing fields, public access appraisals, 23.95.
- Assessment rolls, lists and books, correction, postappeal administrative procedures, 42.41.
- Assistance, request for state assistance in appraisals, 41.65.
- Attorney fees, taxpayers, erroneous valuation, 42.27.
- Bills, corrected and supplemental acts bills, postappeal administrative procedures, 42.42.
- Challenges,
  - Local review, post.
  - Taxing unit, 42.031.
- Clerical errors,
  - Local review, correction, 41.09.
- Compensation and salaries, subpoenaed witnesses, 41.63.
- Completion of review,
  - Local review, 41.12.
- Conflict of interest, hearings, board members, 41.69.
- Cost,
  - Judicial review, 42.07.
  - State assistance, appraisals, 41.65.
- Determination, protest, 41.47.
- Enforcement, subpoenas, 41.62.
- Erroneous value, additional remedy, judicial review, 42.27.
- Errors, clerical errors,
  - Local review, correction, 41.09.
- Evidence, 41.67.
- Excessive appraisals, judicial review, remedies, 42.25.
- Exclusive remedies, judicial review, 42.09.
- Exemptions, protest, right of protest, 41.41.
- Forfeiture, remedy for nonpayment of taxes, judicial review, 42.08.
- Franchise taxes, forfeiture judgments, 171.304.
- Grounds, protest, 41.44.

# INDEX TO TAX CODE

References are to Sections

1840

## APPEAL AND REVIEW—Cont'd

Hearings,  
Local review, challenges, 41.05.  
Protest, 41.45.  
Records of proceedings, 41.68.  
Inequality of appraisal, protest, 41.43.  
Inspections and inspectors, tax records, 41.64.  
Judgments and decrees, district courts judgments, 42.28.  
Jury trial, judicial review, 42.23.  
Local review, 41.01 et seq.  
Challenges,  
Determination, 41.07.  
Hearings, 41.05.  
Notice,  
Hearings, 41.06.  
Property owner, change resulting in increased tax liability, 41.11.  
Petition, 41.04.  
Taxing units, 41.03.  
Clerical errors, correction, 41.09.  
Completion, 41.12.  
Conformity, requirements of law, order to correct, 41.02.  
Correction of records, orders of board, 41.08.  
Date, completion of review, 41.12.  
Determination of challenges, 41.07.  
Errors, clerical errors, correction, 41.09.  
Hearings,  
Challenges, 41.05.  
Procedures, 41.66.  
Mail and mailing, notice, 41.07.  
Notice,  
Challenge hearings, 41.06.  
Mailing, 41.07.  
Orders, written orders, correction of appraisals or records, 41.02.  
Partial exemptions, scope of review, 41.01.  
Petitions, challenged petitions, 41.04.  
Records and recordation,  
Correction,  
Order of board, 41.08.  
Recommendation of chief appraiser, 41.10.  
Scope of review, 41.01.  
Scope of review, 41.01.  
Time, date, completion of review, 41.12.  
Uniformity of appraisals, 41.01.  
Motor fuel taxes, permit cancellation, 153.007.  
Motor vehicle sales tax, permit revocation or suspension, 152.068.  
Nonpayment of taxes, forfeiture of remedy, judicial review, 42.08.  
Notice,  
Judicial review, 42.06.  
Local review,  
Challenge hearings, 41.06.  
Property owner, challenge resulting in increased tax liability, 41.11.  
Protest hearings, 41.44, 41.46.  
Official notice, evidence, 41.67.  
Orders,  
Actions by court, judicial review, 42.24.  
Local review, written orders, appraisals or corrections of records, 41.02.  
Protest determinations, 41.47.  
Parties, state property tax board, 42.05.  
Petitions,  
Judicial review, 42.21.  
Local review, challenged petitions, 41.04.

## APPEAL AND REVIEW—Cont'd

Postappeal administrative procedures, 42.41 et seq.  
Protest, 41.41 et seq.  
Affidavits, hearings, property owner, appearance by, 41.45.  
Determination, 41.47.  
Exemptions, right of protest, 41.41.  
Grounds, 41.44.  
Hearings, 41.45.  
Inequality of appraisal, 41.42.  
Notice, hearings, 41.44, 41.46.  
Right to protest, 41.41.  
Situs, 41.42.  
Submission for, 25.22.  
Time, notice, 41.44.  
Valuation, right of protest, 41.41.  
Records and recordation,  
Hearings, proceedings, 41.68.  
Inspection, tax records, 41.64.  
Local review, ante.  
Scope of review, 41.01.  
Reduction, excessive appraisals, judicial review remedy, 42.25.  
Refunds, postappeal administrative procedures, 42.43.  
Right of appeal, 42.01 et seq.  
Chief appraiser, 42.02.  
County, 42.03.  
Property owner, 42.01.  
Taxing unit, 42.031.  
Rolling stock, railroads, personal property tax appraisals, 24.35.  
Sales and use tax, permit revocation or suspension, 151.205.  
Scope of review,  
Judicial review, 42.23.  
Service of process, subpoenas, 41.62.  
Situs, protest, 41.42.  
State assistance, request for, appraisals, 41.65.  
State property tax board, party to proceedings, 42.05.  
Submission for appraisals, 25.22.  
Subpoenas,  
Compensation, witnesses, 41.63.  
Enforcement, 41.62.  
Service, 41.62.  
Witnesses, 41.61.  
Taxing unit, 42.031.  
Time,  
Local review, completion date, 41.12.  
Notice of appeal, judicial review, 42.06.  
Petitions, judicial review, 42.21.  
Protest, notice, 41.44.  
Unequal appraisals, remedies, judicial review, 42.26.  
Valuation,  
Erroneous value, additional remedy, judicial review, 42.27.  
Protest, right of protest, 41.41.  
Venue, judicial review, 42.22.  
Witnesses, compensation, 41.63.  
**APPLICATION OF LAW**  
Generally, 1.02.  
**APPLICATIONS**  
Agricultural land,  
Appraisal,  
Agricultural use, 23.43.  
Qualified open space land, 23.54.  
Timber land, appraisal of qualified timber land, 23.75.  
**APPORTIONMENT**  
Transportation business intangibles tax, intrastate apportionment, 24.07.

## APPRAISAL DISTRICTS

Generally, 6.01 et seq.  
Actions and proceedings, taxing units, suits against, 43.01 et seq.  
Administrator, appraisal office, 6.05.  
Adoption of budgets, 6.06.  
Allocation, cost of operations, taxing units, 6.06.  
Amendments, budgets, 6.06.  
Banks and banking, depository, 6.09.  
Bids and bidding, 6.11.  
Depositories, 6.09.  
Board of directors, 6.03 et seq.  
Boundaries, 6.02.  
Taxing units, changes, notice, 6.07.  
Budgets, 6.06.  
Board of directors, meetings, 6.04.  
Changes,  
Boundaries, taxing units, notice, 6.07.  
Cost, operations, 6.061.  
Directors, 6.031.  
Chief appraiser, 6.05.  
Choice, appraisal district, extension into two counties, 6.02.  
Compensation and salaries,  
Board of directors, 6.04.  
Chief appraiser, 6.05.  
Officers and employees, 6.05.  
Contracts,  
Bids and bidding, 6.11.  
Offices, 6.05.  
Copies, proposed budgets, delivery to taxing units, 6.06.  
Costs,  
Changes, 6.061.  
Operation,  
Allocation to taxing units, 6.06.  
Appraisal district in territory outside the county, 6.02.  
Changes, 6.061.  
Delegation and duties, chief appraiser, 6.05.  
Depositories, 6.09.  
Directors, 6.03 et seq.  
Disapproval, board actions, 6.10.  
Disbursements, funds, procedure, 6.06.  
Elections, directors, changes, 6.03, 6.031.  
Establishment, 6.01.  
Exemptions, optional exemptions, notice of changes, 6.08.  
Expenses and expenditures, board of directors, 6.04.  
Financing, 6.06.  
Hearings, notice, adoption of budget, 6.06.  
Membership, board of directors, 6.03.  
Mileage, board of directors, 6.04.  
Notice,  
Consideration of budget, taxing units, 6.06.  
Contracts, 6.11.  
Directors, changes, 6.031.  
Optional exemptions, changes, 6.08.  
Taxing units, boundary changes, 6.07.  
Voting entitlement, governing bodies, election of directors, 6.03.  
Officers and employees, 6.05.  
Offices, 6.05.  
Optional exemptions, notice of changes, 6.08.  
Organization, board of directors, 6.04.  
Payment, cost of operation, taxing units, time, 6.06.  
Privileges and immunities, cost of operations, 6.06.  
Quorum, board of directors, 6.04.  
Ratio study, 5.10.

## INDEX TO TAX CODE

References are to Sections

**APPRAISAL DISTRICTS—Cont'd**

Resolutions,  
 Directors, changes, 6.031.  
 Disapproval, board actions, 6.10.  
 Operations cost, changes, 6.061.  
 Savings and loan associations, deposits, 6.09.  
 Studies, ratio studies, 5.10.  
 Term of office, board of directors, 6.03.  
 Time,  
 Adoption of budget, 6.06.  
 Directors, changes, 6.031.  
 Disapproval, board actions, 6.10.  
 Hearings, adoption of budget, 6.06.  
 Operations cost, changes, 6.061.  
 Payment of allocations of cost of operation, 6.06.  
 Travel expenses, board of directors, 6.04.  
 Voting entitlement, governing bodies within district, election of board of directors, 6.03.

**APPRAISAL REVIEW BOARD**

Generally, 6.41 et seq.  
 Local review, generally. Appeal and Review, this index.

**APPRAISALS AND APPRAISERS**

Generally, 21.01 et seq., 23.01 et seq.  
 Action by courts, appeals, judicial review, 42.24.  
 Actions and proceedings, taxing units, suits against appraisal districts, 43.01 et seq.  
 Affidavits, chief appraiser, submission of appraisals, 25.22.  
 Agricultural Lands, this index.  
 Airports and Landing Fields, this index.  
 Appeal and Review, generally, this index.  
 Applications, reappraisal, limitations, 26.011.  
 Appraisal Districts, generally, this index.  
 Archaeological sites, 23.81 et seq. Records, 25.011.  
 Banks and Banking, this index.  
 Boundaries, overlapping taxing unit boundaries, separate listing of property, 25.17.  
 Camps and camping,  
 Recreational areas, 23.81 et seq. Records, 25.011.  
 Certificates and certification, taxing units, estimates of total appraised value of property and district, 25.20.  
 Chief appraiser,  
 Affidavits, submission of appraisals, 25.22.  
 Appeal and review, right of appeal, 42.02.  
 Corrections,  
 Records on order of board, 41.08.  
 Records on recommendations of, 41.10.  
 Colleges and universities, permanent university fund land, 25.07.  
 Common property, nonprofit homeowners organizations, 23.18.  
 Communications, fiduciary, delivery to, 1.11.  
 Computation, disasters, reappraisal, 23.02.  
 Condominiums,  
 Listing in records, 25.09.  
 Nonprofit homeowners organizations, common property, 23.18.  
 Conservation,  
 Scenic areas, 23.81 et seq. Records, 25.011.

**APPRAISALS AND APPRAISERS**

—Cont'd  
 Contents,  
 Notice of appraised value, 25.19.  
 Records, 25.02.  
 Contract of sale, exempt property, new owner not entitled to exemption, 25.13.  
 Contracts, private firms, appraisal services for the district, 25.01.  
 Correction,  
 Appraisal rolls, 25.25.  
 Records, mistakes, 25.02.  
 County public school fund agricultural land, 25.07.  
 Courses of instruction, training and education, state property tax board, 5.04.  
 Description, records, 25.03.  
 Determination and market value, 23.01.  
 Disasters, reappraisal, 23.02.  
 Districts. Appraisal Districts, generally, this index.  
 Education, courses of instruction, state property tax board, 5.04.  
 Erroneous value, additional remedies, judicial review, 42.27.  
 Errors,  
 Clerical errors, correction on appraisal roll, 25.25.  
 Records, 25.02.  
 Estimates, certified estimates, notice to taxing units, appraised value of property and district, 25.20.  
 Evidence, manuals and schedules, 5.05.  
 Excessive appraisals, judicial review, remedy, 42.25.  
 Exemptions,  
 Leaseholds, listing in records, 25.07.  
 Property losing exemption during tax year, 25.16.  
 Expenses and expenditures, attending required training courses, reimbursement by taxing unit, 5.04.  
 Fairgrounds, 25.07.  
 Fees, training courses, reimbursement by local taxing unit, 5.04.  
 Fiduciaries, communications, delivery to, 1.11.  
 Foreign-trade zones, 25.07.  
 Form, records, 25.02.  
 Historical sites, 23.81 et seq. Records, 25.011.  
 Homeowners organizations, common property, 23.18.  
 Improvements, listing on records, 25.08.  
 Inequality of appraisal, protest, 41.43.  
 Insurance, intangibles, special appraisal provisions, 23.15.  
 Intangibles,  
 Insurance, special appraisal provisions, 23.15.  
 Savings and loan associations, special appraisal provisions, 23.16.  
 Inventory, special appraisal provisions, 23.12.  
 Joint tenancy, listing in records, 25.11.  
 Leases, listing in records, 25.07.  
 Life estates, separate listing, 25.05.  
 Limitations, reappraisal, 26.011.  
 Manuals, preparation and issue by state property tax board, 5.05.  
 Market places, 25.07.  
 Market value, determination, 23.01.  
 Meeting halls, nonprofit homeowners organizations, 23.18.

**APPRAISALS AND APPRAISERS**

—Cont'd  
 Mines and minerals,  
 Interest not being produced, special appraisal provisions, 23.17.  
 Separate interest, 25.12.  
 Mistakes, records, 25.02.  
 Mortgages, encumbered property, listing on records, 25.06.  
 Motor fuel taxes, seized property, 153.011.  
 Natural disasters, reappraisals, 23.02.  
 Nonprofit homeowners organizations, common property, 23.18.  
 Notice,  
 Appraised value, 25.19.  
 Decreased value of property, reports, personal property taxation, 22.03.  
 Fiduciary, delivery to, 1.11.  
 Improvements, change in tax status, other owner, 25.08.  
 Joint tenancy, qualification for separate taxation by one owner, 25.11.  
 Taxing units, certified estimates, over-appraised value of property and district, 25.20.  
 Undivided interest, application for one owner for separate taxation, 25.11.  
 Omitted property, prior year taxes, 25.21.  
 Orders, correction of records, order of board, 41.08.  
 Overlapping taxing unit boundaries, separate listing, 25.17.  
 Parks, this index.  
 Periodic reappraisals, 25.18.  
 Personal Property Taxation, this index.  
 Planned unit developments, listing in records, 25.09.  
 Preparation, appraisal records, 25.01.  
 Prior year taxes, omitted property, 25.21.  
 Property losing exemption during tax year, listing, 25.16.  
 Protest, submission for, 25.22.  
 Public access airport property, 23.91 et seq. Records, 25.011.  
 Ratio studies, 5.10.  
 Reappraisal,  
 Limitations, 26.011.  
 Natural disasters, 23.02.  
 Periodic reappraisals, 25.18.  
 Records and recordation,  
 Content, 25.02.  
 Correction,  
 Appraisal rolls, 25.25.  
 Records, order of board, 41.08.  
 Description, 25.03.  
 Errors, 25.02.  
 Form, 25.02.  
 Mistakes, 25.02.  
 Preparation, 25.01.  
 Rolls, records constitute appraisal rolls, 25.24.  
 Separate estates or interest, listing, 25.04.  
 Special appraisals, 25.011.  
 Submission for review and determination of protest, 25.22.  
 Supplemental appraisal records, 25.23.  
 Recreation and recreational areas, 23.81 et seq. Records, 25.011.  
 Reduction, excessive appraisals, judicial review, 42.25.  
 Rolls, appraisal rolls, 25.24.  
 Correction, 25.25.  
 Rules and regulations, standards, property description records, 25.03.

# INDEX TO TAX CODE

References are to Sections

1842

## APPRAISALS AND APPRAISERS

—Cont'd

Savings and loan associations, intangibles, special appraisal provisions, 23.16.  
Scenic lands, 23.81 et seq.  
Records, 25.011.  
Scientific sites, 23.81 et seq.  
Records, 25.011.  
Security interest, encumbered property, listing on records, 25.06.  
Separate estates or interests, 25.04.  
Separate listing, joint tenancy, written request for separate taxation, 25.11.  
Separate owners, improvements in lands, notice, change of status, other owner, 25.08.  
Special appraisal provisions, 23.11 et seq.  
Banks and banking, 23.11.  
Insurance, intangibles, 23.15.  
Intangibles, savings and loan associations, 23.16.  
Inventory, 23.12.  
Leases, taxable leaseholds, 23.13.  
Mines and minerals, interest not being produced, 23.17.  
Records, 25.011.  
Savings and loan associations, intangibles, 23.16.  
Taxable leaseholds, 23.13.  
Unincorporated banks, 23.14.  
Standards, descriptions of property, records, 25.03.  
Standing timber, listing on record, 25.10.  
State assistance, request for, appeal and review, 41.65.  
Studies, ratio studies, 5.10.  
Submission for review and protest, 25.22.  
Supplemental appraisal records, 25.23.  
Swimming pools, nonprofit homeowners organizations, 23.18.  
Taxable leaseholds, special appraisal provisions, 23.13.  
Taxing units, boundaries, overlapping boundaries, separate listings, 25.17.  
Technique, generally accepted appraisal techniques, 23.01.  
Tennis courts, nonprofit homeowners organizations, 23.18.  
Timber and lumber, standing timber, listing on record, 25.10.  
Timber Land, this index.  
Time,  
Reappraisals, 25.18.  
Submission of appraisals for review and protest, 25.22.  
Townhouses, nonprofit homeowners organizations, common property, 23.18.  
Training programs, state property tax board, 5.04.  
Transportation Business Intangibles Tax, this index.  
Undivided interest, listing in records, 25.11.  
Unequal appraisal, remedies, judicial review, 42.26.  
Uniform appraisals, inventories, 23.12.  
Unincorporated bank, special appraisal provisions, 23.14.  
Updates, periodic reappraisals, 25.18.  
Values,  
Notice of appraised value, 25.19.  
Periodic reappraisals, 25.18.  
Weighted average level, 1.12.  
Ratio studies, 5.10.

## APPRAISED VALUE

Defined, 1.04.

## ARBITRATION

Multistate tax compact, 141.001 et seq.

## ARCHAEOLOGICAL SITES

Appraisal and appraisers, 23.81 et seq.  
Records, 25.011.

## ASSESSED VALUE

Defined, 1.04.

## ASSESSMENT ROLLS, LISTS AND BOOKS

Appraisal rolls, 25.24.  
Communications, fiduciary, delivery to, 1.11.  
Correction, 26.15.  
Postappeal administrative procedures, 42.41.  
Cumulative tax rolls, delinquent taxes, 33.03.  
Current rolls, delinquent tax rolls, 33.03.  
Delinquent tax rolls, 33.03.  
Electronic data-processing, records, 1.10.  
Fiduciaries, communications, delivery to, 1.11.  
Notice, fiduciary, delivery to, 1.11.  
Records and recordation, electronic data-processing, 1.10.  
Submission to taxing units, 26.01.

## ASSESSMENTS

Generally, 21.01 et seq., 26.01 et seq.  
Adoption, rate of assessment, 26.05.  
Annexation of property, during tax year, 26.14.  
Appraisal roll, submission to governing body, 26.04.  
Calculation,  
Tax, 26.09.  
Tax rate, 26.04.  
Cigarette tax, projecting, 111.0042.  
Cigars and tobacco products tax,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Communications, fiduciary, delivery to, 1.11.  
Consolidation, taxing unit during year, 26.13.  
Corrections, tax roll, 26.15.  
Creation, units during tax year, 26.12.  
Elections, repeal of increase in taxes, 26.07.  
Eminent domain, proration of taxes, 26.11.  
Exemptions, loss, prorating taxes, 26.10.  
Fiduciaries, communications, delivery to, 1.11.  
Franchise taxes,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Governing body, vote on tax increase, 26.06.  
Government, acquisition of property, proration of taxes, 26.11.  
Gross receipt tax,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Hearings,  
Adoption of higher rates, 26.05.  
Increase in taxes, 26.06.  
Hotel occupancy tax,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Increases,  
Limitations, 26.011.  
Notice, 26.06.

## ASSESSMENTS—Cont'd

Limitations, 26.011.  
Loss of exemption, prorating taxes, 26.10.  
Mail and mailing, notice, hearing, increase in tax rate, 26.06.  
Method, calculation of tax, 26.09.  
Motor fuel taxes,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Motor Vehicle Sales Tax, this index.  
Newspaper, publication, increase in tax rate, hearing, 26.06.  
Notice,  
Adoption of higher rates, 26.05.  
Fiduciary, delivery to, 1.11.  
Increase in taxes, hearings, 26.06.  
Occupation taxes,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Percentage of appraised value, basis for assessment, prohibition, 26.02.  
Petition, election to repeal increase, 26.07.  
Prior year taxation, omitted taxes, calculation, 26.09.  
Proration of taxes,  
Acquisition by government, 26.11.  
Loss of exemptions, 26.10.  
Publication,  
Notice, hearing on increase in taxes, 26.06.  
Tax rate, 26.04.  
Purchases, property by government, proration of taxes, 26.11.  
Rate of assessments, adoption, 26.05.  
Rates and charges,  
Adoption, 26.05.  
Increase, notice in hearing, 26.06.  
Limitations, 26.011.  
Units created during tax year, 26.12.  
Ratios,  
Limitations, 26.011.  
Prohibition, 26.02.  
State assessment ratio, 26.03.  
Refunds, corrections decreasing tax liability, 26.15.  
Repeal of increases, election, 26.07.  
Rolls, lists and books, correction, 26.15.  
Sales and use tax,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Schools and school districts, elections,  
Limitation of school taxes, 26.08.  
Signatures, election to repeal increases in taxes, 26.07.  
State assessment ratio, 26.03.  
Submission,  
Appraisal rolls to governing body, 26.04.  
Appraisal rolls to taxing units, 26.01.  
Supplemental tax bill, correction of tax liability, 26.15.  
Taxing districts, units created during tax year, 26.12.  
Taxing units, submission of appraisal rolls to, 26.01.  
Time,  
Publication, tax rates, 26.04.  
Tax increase, vote on tax increase, 26.06.  
Units created during tax year, 26.12.

## ASSESSORS AND COLLECTORS

Generally, 6.21 et seq.  
Bonds (officers and fiduciaries), 6.29.  
Boundaries, elections for other units to collect taxes, boundary limits, 6.26.

## INDEX TO TAX CODE

References are to Sections

**ASSESSORS AND COLLECTORS**

—Cont'd  
 Communications, fiduciary, delivery to, 1.11.  
 Compensation and salaries, 6.27.  
 Consolidation of functions, elections, 6.26.  
 Contracts, collection of taxes for other units, 6.23, 6.24.  
 Costs, taxing units, election for other units, to perform function, 6.26.  
 County Assessors-Collectors, generally, this index.  
 Defined, 1.04.  
 Deposit, monthly deposit of collected taxes, 31.10.  
 Determination, 6.22.  
 Duties, 6.23.  
 Elections, consolidation of functions, 6.26.  
 Fiduciaries, communications, delivery to, 1.11.  
 Governing bodies of taxing units, requiring county to assess and collect taxes, 6.22.  
 Home-rule cities, determination, 6.22.  
 Notice, fiduciary, delivery to, 1.11.  
 Petitions, consolidation of functions, elections, 6.26.  
 Powers and duties, 6.23.  
 Premiums, bonds (officers and fiduciaries) payment by taxing unit, 6.29.  
 Remittances, reports of state taxes, 31.09.  
 Reports,  
   Remittance,  
     Other taxes, 31.10.  
     State taxes, 31.09.

**ASSIGNMENTS**

Cigarette Tax, this index.  
 Motor Fuel Taxes, this index.  
 Oil and gas, occupation tax, purchases from, 202.155.  
 State taxes, 111.251 et seq.  
 Liens, 113.107.

**ASSOCIATIONS AND SOCIETIES**

Charities, generally, this index.  
 Credit associations, franchise taxes, exemptions, 171.076.  
 Exemptions, private enterprise demonstration associations, 11.23.  
 Franchise taxes, exemptions, 171.069 et seq.  
 Homeowners associations, franchise taxes, exemptions, 171.082.  
 Marketing associations, franchise taxes, exemptions, 171.069.  
 Motor fuel taxes, crimes and offenses, 153.406.  
 Private enterprise demonstration associations, exemptions, 11.23.  
 Religious Associations and Societies, generally, this index.  
 Youth development associations, exemptions, 11.19.

**ATHLETICS**

Boys and girls clubs, charities, 11.18.

**ATTACHMENT**

Liens and incumbrances, 32.01.  
 Sales and use tax, 151.605.

**ATTORNEY FEES**

Appeal and review, taxpayer, erroneous valuation, 42.27.

**ATTORNEY FEES—Cont'd**

Delinquent tax suits,  
 Partition, 33.46.  
 Recovery, payments, 33.48.  
 Foreclosure, transferred liens, 33.06.  
 Oil and gas, occupation tax, delinquencies, 202.252.

**ATTORNEY GENERAL**

Defined, state taxes, 101.003.

**ATTORNEYS**

Appraisal review board, employment, 6.43.  
 Cigarette tax, forfeiture proceedings, 154.405.  
 Cigars and tobacco products tax, seized property proceedings, 155.145.  
 Delinquencies, contracts, 6.24.  
 Fees. Attorney Fees, generally, this index.

**AUCTIONS AND AUCTIONEERS**

Cigarette tax, seized property, 154.406.  
 Cigars and tobacco products tax, seized property, 155.146.  
 Sales and use tax, seized property, 151.610 et seq.

**AUDITS AND AUDITORS**

Cigarette Tax, this index.  
 Cigars and Tobacco Products Tax, this index.  
 Compacts, multistate tax compact, 141.001 et seq.  
 Franchise Taxes, this index.  
 Gross Receipts Tax, this index.  
 Hotel Occupancy Tax, this index.  
 Motor Fuel Taxes, this index.  
 Motor Vehicle Sales Tax, this index.  
 Multistate tax compact, 141.001 et seq.  
 Occupation Taxes, this index.  
 Oil and gas, occupation tax, 201.302, 202.005.  
 Sales and Use Tax, this index.

**AUTOMOBILES**

Motor Vehicles, generally, this index.

**AVIATION FUEL DEALER**

Defined, motor fuel tax, 153.001.

**BAD DEBTS**

Sales and use tax, credits and refunds, 151.426.

**BAILMENT**

Inheritance taxes, privileges and immunities, 211.201.  
 Personal property taxation, reports, property held for another, 22.04.  
 Reports, property held for another, personal property taxation, 22.04.

**BALLOTS**

Elections, assessors and collectors, consolidation of functions, 6.26.

**BANKRUPTCIES**

Oil and gas, occupation tax, purchases from, 202.155.

**BANKS AND BANKING**

Appraisal districts, 6.09.  
 Appraisals and appraisers,  
   Shares, listing in name of bank, 25.14.  
   Special appraisal provisions, 23.11.  
 Unincorporated bank, special appraisal provisions, 23.14.

**BANKS AND BANKING—Cont'd**

Broker and factor, occupation tax, 191.001 et seq.  
 Cigarette tax, stamp orders, shipping to, 154.047.  
 Depositories, generally, this index.  
 Franchise taxes, exemptions, 171.078.  
 Inheritance taxes, transfers, 211.201.  
 Intangible personal property taxation,  
   Shares and shareholders, 11.02.  
   Taxable situs, 21.09.  
 Leases, personal property, list by appraiser on tax rolls, 25.15.  
 Occupation taxes, brokers and factors, 191.001 et seq.  
 Personal property taxation,  
   Leased property, list in name of lessee, 25.15.  
   Rendition of property, 22.06.  
 Rendition, personal property taxation, 22.06.  
 Reports, rendition of property, personal property taxation, 22.06.  
 Shares and shareholders,  
   Appraisal, stock listed in name of bank, 25.14.  
   Intangible personal property taxation, 11.02.  
   Taxable situs, 21.09.  
 Special appraisal provisions, personal property taxation, 23.11.  
 Taxable situs, intangible personal property taxation, shares, 21.09.  
 Unincorporated bank, appraisals and appraisers, special appraisal provisions, 23.14.

**BIDS AND BIDDING**

Appraisal districts, 6.11.  
 Depositories, 6.09.

**BILL OF EXCHANGE**

Commercial Paper, generally, this index.

**BILL OF SALE**

Motor fuel taxes, seized property, 153.012.

**BILLIARD TABLES**

Owners and operators, occupation taxes, 191.061 et seq.

**BILLS**

Corrected and supplemental tax bills,  
 mailing, explanation, 42.42.  
 Fiduciaries, delivery to, 1.11.

**BIOMEDICAL RESEARCH CORPORATIONS**

Exemptions, 11.23.

**BOARDS AND COMMISSIONS**

Appraisal districts, directors, 6.03 et seq.  
 Appraisal review board, 6.41 et seq.  
 County Commissioners Court, generally, this index.  
 Multistate tax commission, 141.001 et seq.  
 State Property Tax Board, generally, this index.

**BOATS AND BOATING**

Cigars and tobacco products tax, permits, application, 155.056.

**BONA FIDE PURCHASERS**

Personal property taxation, liens, 32.03.

References are to Sections

**BONDS (OFFICERS AND FIDUCIARIES)**

Assessors and collectors, 6.29.  
 Broker or factor, occupation tax, 191.001 et seq.  
 Cigarette Tax, this index.  
 Cigars and Tobacco Products Tax, this index.  
 County assessors-collectors, 6.28.  
 Franchise taxes,  
     Injunctions, 112.104.  
     Payments, 111.012.  
 Gross receipts tax,  
     Injunctions, 112.104.  
     Payments, 111.012.  
 Hotel occupancy tax,  
     Injunctions, 112.104.  
     Payments, 111.012.  
 Judgments and decrees, district court, appeal, 42.28.  
 Motor Fuel Taxes, this index.  
 Motor vehicle sales tax,  
     Injunctions, 112.104.  
     Payments, 111.012.  
 Occupation Taxes, this index.  
 Personal property taxation, seizure for payment, prevention, 33.24.  
 Sales and Use Tax, this index.

**BOOKS AND PAPERS**

Assessment Rolls, Lists and Books, generally, this index.  
 Cigarette Tax, this index.  
 Cigars and Tobacco Products Tax, this index.  
 Franchise Taxes, this index.  
 Gross Receipts Tax, this index.  
 Hotel Occupancy Tax, this index.  
 Inheritance taxes, examination, 211.251.  
 Mail and mailing, timeliness of action, 1.08.  
 Motor Fuel Taxes, this index.  
 Motor Vehicle Sales Tax, this index.  
 Occupation Taxes, this index.  
 Sales and Use Tax, this index.  
 Timeliness, action by mail, 1.08.

**BOUNDARIES**

Appraisal districts, 6.02.  
     Taxing unit boundary change, notice, 6.07.  
 Assessors and collectors, election to collect taxes for other units, boundary limits, 6.26.

**BRACKETS**

Sales and use tax, 151.053.

**BROADCASTING STATION**

Sales and use tax, exemptions, 151.326.

**BROKERS**

Occupation tax, 191.001 et seq.

**BUDGETS**

Appraisal districts, 6.06.  
     Board of directors, meetings, 6.04.

**BUFFALO**

Personal property taxation exemption, 11.23.

**BUILDING**

Defined,  
     Charitable exemptions, 11.18.  
     Private schools exemptions, 11.21.

**BULLION**

Occupation taxes, broker and factor, 191.001 et seq.

**BURIAL CORPORATIONS**

Franchise taxes, exemptions, 171.059.

**BUSES**

Transportation Business Intangibles Tax, generally, this index.

**BUSINESS AND COMMERCE**

Corporations, generally, this index.  
 Defined,  
     Car companies, 182.041.  
     Miscellaneous gross receipts taxes, 182.001.  
     Sales and use tax, 151.003.  
     Telephone companies, 182.061.  
     Utility companies, 182.021.  
 Occupation Taxes, generally, this index.

**CALCULATION**

Assessment of tax, 26.09.

**CALIBRATION**

Motor fuel taxes, cargo tanks and containers, 153.009.

**CAMPS AND CAMPING**

Appraisal and appraisers, 23.81 et seq.  
 Records, 25.011.

**CANALS**

Agricultural lands, appraisal, 23.41.

**CANCELLATION**

See specific index headings.

**CANVASSER**

Sales and use tax, 151.107.  
     Acting as retailer, 151.024.

**CAR COMPANIES**

Defined, miscellaneous gross receipts tax, 182.041.  
 Miscellaneous gross receipts tax, 182.041, 182.042.

**CARGO MANIFEST**

Motor fuel taxes,  
     Examination, 153.010.  
     Transporting documents, 153.004.

**CARGO TANKS**

Motor Fuel Taxes, this index.

**CARRIERS**

Cigarette tax, records, 154.207.  
 Cigars and tobacco products tax, records, 155.107.

Defined,

    Oil and gas, 202.001.  
     Sales and use tax, 157.001.  
 Interstate motor carrier sales and use tax, 157.001 et seq.  
 Motor Fuel Taxes, generally, this index.  
 Motor Vehicle Sales Tax, generally, this index.  
 Railroads, generally, this index.  
 Sales and use tax,  
     Exemptions, 151.330.  
     Interstate motor carriers, 157.001 et seq.  
 Transportation Business Intangibles Tax, generally, this index.

**CARS**

Motor Vehicles, generally, this index.

**CASINGHEAD GAS**

Defined, occupation tax, 201.001.

**CATEGORY**

Defined, appraisal of agricultural land, 23.51.

**CATEGORY OF LAND**

Defined, appraisal of timber land, 23.71.

**CATHOLIC WAR VETERANS**

Veterans organizations exemptions, 11.23.

**CATTALO**

Exemptions, personal property taxation, 11.23.

**CATTLE**

Animals, generally, this index.

**CEMENT PRODUCTION TAX**

Generally, 181.001 et seq.

**CEMETERIES AND CEMETERY COMPANIES**

Exemptions, 11.17.

**CERTIFICATE OF AUTHORITY**

Franchise taxes,  
     Deposit requirement, 171.155 et seq.  
     Forfeitures, 171.301 et seq.

**CERTIFICATE OF WITHDRAWAL**

Franchise taxes, foreign corporations, 171.158.

**CERTIFICATES AND CERTIFICATION**

Appraisals and appraisers, notice, taxing units, total appraised value of property and district, 25.20.  
 Coercion, 31.07.  
 Delinquent taxes, penalties and interest, units of property, 31.08.  
 Fees, tax status of unit properties, 31.08.  
 Franchise taxes, forfeitures, 171.302.  
 Fraud, 31.08.  
 Manufactured housing, exemption, 158.101.  
 Motor fuel taxes, calibration, 153.009.  
 Motor vehicle sales tax, rental certificates, 152.061.  
 Rolling stock,  
     Intrastate apportionment, personal property taxation, 24.38.  
     Railroads, personal property tax appraisals, 24.36.  
 Sales and Use Tax, this index.  
 Transportation business intangibles tax, apportioned values, 24.11.

**CHALLENGES**

Appeal and review, local review, taxing units, 41.03.

**CHANGES**

See specific index headings.

**CHARGES**

Rates and Charges, generally, this index.

**CHARITIES**

Biomedical research corporations, exemptions, 11.23.  
 Exemptions, real and personal property, 11.18.  
 Franchise taxes, exemptions, 171.062.  
 Hotel occupancy tax, exemptions, 156.102.

## INDEX TO TAX CODE

References are to Sections

**CHARITIES—Cont'd**

Manufactured housing, sales and use tax exemption, 158.101.  
 Personal property taxation, exemptions, 11.18.  
 Qualification, exemptions, 11.18.  
 Sales and use tax, exemptions, donations, 151.154.

**CHARTERS**

Franchise taxes,  
 Deposit requirement, 171.155 et seq.  
 Forfeitures, 171.301 et seq.

**CHECKS**

Collection, medium of payment, 31.06.

**CHIEF APPRAISER**

Appraisals and Appraisers, this index.

**CHILDREN AND MINORS**

Defined, military forces exemption, 11.22.  
 Dependent or neglected children, charities, exemptions, 11.18.  
 Exemptions,  
 Killed while on active duty in military forces, 11.22.  
 Youth development associations, 11.19.  
 Surviving children of person killed while on active duty in military forces, 11.22.  
 Youth development associations, exemptions, 11.19.

**CHURCHES**

Religious Associations and Societies, generally, this index.

**CIGAR**

Defined, products tax, 155.001.

**CIGARETTE TAX**

Generally, 154.001 et seq.  
 Absence and absentees, stamps, 154.041.  
 Accounts and accounting, investigations, 111.003.  
 Actions and proceedings, 154.401 et seq., 112.001 et seq.  
 Deficiencies, 111.010.  
 Evidence, generally, post.  
 Fines and penalties, 154.501.  
 Jurisdiction, generally, post.  
 Liens, validity, 113.106.  
 Protest, 112.051 et seq.  
 Refunds, 112.151 et seq.  
 Venue, generally, post.  
 Advertisements, seized property, sales, 154.406.  
 Allocation, permit revenue, 154.121.  
 Appeal and review, protest payments, 112.057.  
 Application,  
 Deposits, 101.009.  
 Permit, 154.103, 154.106, 154.109.  
 Assessments,  
 Limitation of actions, 111.201.  
 Projecting, 111.0042.  
 Assignments,  
 Claims, 111.251 et seq.  
 Liens, 113.107.  
 Permits, 154.104, 154.110.  
 Attorneys, forfeiture proceedings, 154.405.  
 Auctions and auctioneers, seized property, 154.406.  
 Audits and auditors, 111.0043, 154.301.  
 Actions, 154.401 et seq.  
 Projecting assessments, 111.0042.

**CIGARETTE TAX—Cont'd**

Banks and banking, stamp orders, shipping to, 154.047.  
 Boards, confidential or privileged information, 154.308.  
 Bonds (officers and fiduciaries),  
 Injunctions, 112.104.  
 Interstate business, 154.153.  
 Interstate stock, 154.152.  
 Payments, 111.012.  
 Stamps, payment, 154.051.  
 Summary proceedings, 154.408.  
 Books and papers,  
 Confidential or privileged information, 154.308.  
 Crimes and offenses, 154.516.  
 Examination, 111.004.  
 Fines and penalties, 154.516.  
 Investigations, 111.003.  
 Liens, 113.004.  
 Cancellation, stamps, 154.060.  
 Fines and penalties, 154.505.  
 Carriers, records, 154.207.  
 Certificates and certification, liens, 113.202.  
 Changes, stamp, 154.058, 154.059.  
 Cigars and Tobacco Products Tax, generally, this index.  
 Class actions, 112.055.  
 Collection, 111.001 et seq.  
 Actions, 154.401 et seq.  
 Compromise and settlement, 111.101 et seq.  
 Liability, 111.016.  
 Limitation of actions, 111.202 et seq.  
 Common carriers, records, 154.207.  
 Common law, construction, 101.004.  
 Compromise and settlement, 111.101 et seq.  
 Forfeiture proceedings, 154.411.  
 Concealment, fines and penalties, 154.506.  
 Confidential or privileged information, 111.006, 154.308.  
 Construction,  
 Common law, 101.004.  
 Statutes, 101.002.  
 Contracts, limitation of actions, 111.203.  
 Copies,  
 Stamp order, 154.044.  
 Stamps, inventory, 154.058.  
 Counterfeiting, stamps, 154.520.  
 Credit,  
 Permit, unexpired permit, 154.119.  
 Refunds, 111.106 et seq.  
 Crimes and offenses,  
 Books and records, 154.516.  
 Disclosures, 111.007.  
 Inspection, 154.512.  
 Overlapping penalties, 154.518.  
 Stamps, post.  
 Transportation, 154.511.  
 Unstamped cigarettes, 154.515.  
 Damages, stamps, refunds, 154.305.  
 Deception, 154.506.  
 Defenses, seized property, 154.410.  
 Deficiencies, 111.008.  
 Actions and proceedings, 111.010.  
 Injunctions, 111.011.  
 Limitation of actions, 111.202 et seq.  
 Redetermination, 111.009.  
 Definitions, 154.001.  
 State taxes, 101.003.  
 Delinquencies,  
 Compromise and settlement, 111.101 et seq.  
 Interest, 111.060.

**CIGARETTE TAX—Cont'd**

Denial, permit, 154.107.  
 Denomination changes, stamps, 154.058, 154.059.  
 Depositions, 111.0043.  
 Deposits, 101.009, 154.601 et seq.  
 Design, stamps, 154.053.  
 Disasters, extensions, 111.058.  
 Disclosures,  
 Crimes and offenses, 111.007.  
 Records, 154.521.  
 Discount, stamps, 154.052.  
 Dismissal and nonsuit, injunction, 112.105, 112.106.  
 Display, permit, 154.117.  
 Encumbrances. Liens and incumbrances, generally, post.  
 Enforcement fund, 154.602.  
 Evidence, 154.401.  
 Graphic matter, 111.014.  
 Liens, 113.007.  
 Examination and examiners,  
 Reciprocity, 154.308.  
 Records, 111.004, 154.304.  
 Exchanges, stamps, 154.054, 154.055, 154.306.  
 Exemptions,  
 Limitation of actions, 111.205, 111.206.  
 Permits, personal use, 154.108.  
 Expenses and expenditures, audits, 154.301.  
 Exports and imports, small quantities, 154.024.  
 Federal Tax Lien Registration Act, 113.201 et seq.  
 Fees,  
 License, 154.111, 154.112.  
 Liens, 113.204.  
 Seized property, sales, 154.406.  
 Witnesses, 111.0043.  
 Financial institutions, liens, 113.103.  
 Fines and penalties, 154.501 et seq.  
 Amounts, 154.510.  
 Books and papers, 154.516.  
 Collection, 111.002.  
 Disclosures, 111.007.  
 Fraud, 154.507.  
 Inspection, 154.512.  
 Licenses and permits, 154.509.  
 Overlapping, 154.518.  
 Payments, 111.056.  
 Double amount, 154.302.  
 Possession, quantities less than package, 154.504.  
 Records, 154.516.  
 Disclosure, 154.521.  
 Reports, 111.056.  
 Stamps, post.  
 Surrendering, refusal, 154.508.  
 Transportation, 154.511.  
 Unstamped cigarettes, 154.502, 154.515.  
 First sale, 154.022.  
 Fiscal year, 101.006.  
 Foreign states, 154.151 et seq.  
 Records, 154.204.  
 Forfeitures, 154.405 et seq.  
 Collection, 111.002.  
 Forms,  
 Permit, 154.103, 154.105, 154.109.  
 Reports, 111.052.  
 Stamp order, 154.044.  
 Stamps, meter settings, 154.049.  
 Fraud, 154.507.  
 Hearings, 111.0043.  
 Forfeiture proceedings, 154.405.  
 Refunds, 111.105.

# INDEX TO TAX CODE

1846

References are to Sections

## CIGARETTE TAX—Cont'd

Holidays, reports or payments, 111.053.  
 Impact, 154.023.  
 Imports, small quantities, 154.024.  
 Incumbrances. Liens and incumbrances, generally, post.  
 Injunctions, 111.011, 112.101 et seq.  
 Inspection and inspectors, 154.304.  
     Compromise, 154.411.  
     Confidential or privileged information, 154.308.  
     Fines and penalties, 154.512.  
     Records, 111.0041, 112.209.  
     Stamp orders, 154.044.  
     Stamps, 154.303.  
 Interest,  
     Delinquencies, 111.060.  
     Refunds, 111.105.  
 Interstate business, 154.151 et seq.  
     Records, 154.204.  
 Inventory,  
     Examination, 154.304.  
     Interstate stock, 154.152.  
     Stamps, denomination changes, 154.058.  
 Investigations and investigators, 111.003.  
 Invoices, stamps, 154.046.  
 Judgments and decrees,  
     Assignments, 111.251 et seq.  
     Refunds, 112.155.  
 Jurisdiction, 112.001.  
     Fines and penalties, 154.501.  
     Seizure, 154.405.  
 Licenses and permits, 154.101 et seq.  
     Additional permits, 154.118.  
     Allocation, revenue, 154.121.  
     Applications, 154.103, 154.106, 154.109.  
     Assignments, 154.104, 154.110.  
     Credit, unexpired permit, 154.119.  
     Denial, 154.107.  
     Display, 154.117.  
     Exemption, personal use, 154.108.  
     Fees, 154.111, 154.112.  
     Fines and penalties, 154.501, 154.509.  
     Forms, 154.103, 154.105, 154.109.  
     Issuance, 154.104, 154.110.  
     More than a year, 154.113.  
     Motor vehicles, 154.120.  
     Multiple years, 154.113.  
     Notice, revocation or suspension, 154.114.  
     Number, 154.101.  
     Personal use, exemption, 154.108.  
     Railroads, 154.120.  
     Revenue, 154.121.  
     Revocation or suspension, 154.114, 154.115.  
     Solicitors permit, 154.102.  
     Suspension, 154.114, 154.115.  
     Time, expiration, 154.111.  
     Unexpired permit, credit, 154.119.  
     Vending machines, 154.120.  
     Year, 154.111.  
 Liens and incumbrances, 113.001 et seq., 154.413, 154.414.  
     Assignments, 111.251 et seq.  
     Federal Tax Lien Registration Act, 113.201 et seq.  
 Limitation of actions, 111.201 et seq.  
 Local parks, recreation and open space fund, 154.603.  
 Mail and mailing,  
     Assignments, notice, 111.252.  
     Reports and payments, 111.054.  
 Manufacturers and manufacturing, stamps, 154.053.  
 Supervision, 154.303.

## CIGARETTE TAX—Cont'd

Marking, stamps, 154.060.  
 Meters, stamps, 154.048 et seq.  
 Motor vehicles, permits, 154.120.  
 Mutilation, stamps, 154.060.  
 Notice,  
     Assignment, 111.252.  
     Deficiencies, 111.008.  
     Forfeiture proceedings, 154.405.  
     Liens, 113.002, 113.006.  
     Filing, 113.201.  
     Permit revocation or suspension, 154.114.  
     Refunds, hearings, 111.105.  
     Seized property, sales, 154.406.  
     Stamp, absence, 154.041.  
     Subpoenas, 111.0044.  
     Summary proceedings, 154.408.  
 Numbers and numbering, permits, 154.101.  
 Oaths and affirmations, 111.004, 111.059.  
 Obsolete stamps, 154.057.  
 Occupation tax, application of law, 154.601.  
 Offenses. Crimes and offenses, generally, ante.  
 Official bond. Bonds (officers and fiduciaries), generally, ante.  
 Orders,  
     Seized property, sale, 154.406.  
     Stamps, 154.043 et seq.  
 Papers. Books and papers, generally, ante.  
 Payments, 154.412.  
     Bonds (officers and fiduciaries), 111.012.  
     Disasters, extensions, 111.058.  
     Double amount, penalties, 154.302.  
     Extensions, 111.058.  
     Fines and penalties, 111.056.  
     Holidays, 111.053.  
     Injunctions, 111.011.  
     Liability, 111.016.  
     Limitation of actions, 111.202 et seq.  
     Mail and mailing, 111.054.  
     Protest, 112.051 et seq.  
     Security, 111.012.  
     Stamps, 154.050, 154.051.  
     Time, 111.051 et seq.  
 Penalties. Fines and penalties, generally, ante.  
 Performance bond. Bonds (officers and fiduciaries), generally, ante.  
 Permits. Licenses and permits, generally, ante.  
 Personal use, permit exemption, 154.108.  
 Petitions, redetermination, 111.009.  
 Possession,  
     Designated amount, crimes and offenses, 154.515.  
     Fines and penalties, 154.504.  
 Priorities and preferences, liens, 113.104, 154.413.  
 Proceedings. Actions and proceedings, generally, ante.  
 Production of books and papers, 111.0043.  
 Protest, payments, 112.051 et seq.  
 Railroads, permits, 154.120.  
 Rates and charges, 154.021.  
 Reassignments, 111.254.  
 Recall, stamps, 154.045.  
 Reciprocity, examinations, 154.308.  
 Records and recordation, 154.201 et seq.  
     Assignment, 111.255.  
     Carriers, 154.207.  
     Confidential and privileged information, 154.308.

## CIGARETTE TAX—Cont'd

Records and recordation—Cont'd  
 Crimes and offenses, 154.516.  
 Disclosure, 154.521.  
 Distributing agents, 154.208.  
 Examination, 111.004, 154.304.  
 Fines and penalties, 154.501, 154.516.  
 Injunctions, 112.102.  
 Inspection, 111.0041, 154.209.  
 Interstate business, 154.204.  
 Liens, 113.005.  
 Salesmen, 154.205.  
 Solicitors, 154.206.  
 Stamps, 154.202, 154.307.  
 Recovery, refund or credit, 111.108.  
 Redemption, stamps, 154.054.  
 Refunds, 111.104 et seq.  
     Actions and proceedings, 112.151 et seq.  
     Injunctions, 112.107.  
     Oaths and affirmation, 111.059.  
     Protest, 112.060.  
     Stamp, 154.056.  
     Damage, 154.305.  
 Refusal, stamp sale, 154.116.  
 Releases, liens, 113.008.  
 Reports,  
     Disasters, extensions, 111.058.  
     Distributing agents, 154.212.  
     Distributors, 154.210.  
     Evidence, 154.401.  
     Extensions, 111.057, 111.058.  
     Fines and penalties, 111.056, 154.501.  
     Forms, 111.052.  
     Holidays, 111.053.  
     Injunctions, 111.011, 112.103.  
     Interstate business, 154.204.  
     Investigations, 111.003.  
     Mail and mailing, 111.054.  
     Oaths and affirmation, 111.059.  
     Sales, 154.203.  
     Searches and seizures, 154.404.  
     Solicitors, 154.211.  
     Time, 111.051 et seq.  
 Res judicata, refund suits, 112.156.  
 Returns, oaths and affirmation, 111.059.  
 Revenue, permits, 154.121.  
 Revocation or suspension, permit, 154.114, 154.115.  
 Rules and regulations,  
     Interstate business, 154.151 et seq.  
     Stamp meter, 154.048.  
 Salesmen, records, 154.205.  
 Sample packs, stamp requirement, 154.041.  
 School fund, 154.601.  
 Searches and seizures, 154.403 et seq.  
 Security, payments, 111.012.  
 Service of process, forfeiture proceedings, 154.405.  
 Settlement, 111.101 et seq.  
     Forfeiture proceedings, 154.411.  
 Signatures, stamp invoice, 154.046.  
 Small quantities, imports, 154.024.  
 Solicitors,  
     Permits, 154.102.  
     Records, 154.206.  
     Report, 154.211.  
 Stamps, 154.041 et seq.  
     Absence, 154.041.  
     Bank order, shipping, 154.047.  
     Bonds (officers and fiduciaries), payment, 154.051.  
     Cancellation, 154.060.  
     Fines and penalties, 154.505.  
     Changes, 154.058, 154.059.

## INDEX TO TAX CODE

References are to Sections

**CIGARETTE TAX—Cont'd**

Stamps—Cont'd  
Copies,  
Inventory, 154.058.  
Order, 154.044.  
Counterfeiting, 154.520.  
Crimes and offenses,  
Counterfeiting, 154.520.  
Defined, 154.413.  
Design, 154.513.  
Sales, 154.514.  
Damages, refunds, 154.305.  
Defined, 154.001.  
Design, 154.053.  
Fines and penalties, 154.513.  
Discontinuance, 154.051.  
Discount, 154.052.  
Distributors, 154.042.  
Exchanges, 154.054, 154.055, 154.306.  
Fines and penalties,  
Cancellation, 154.505.  
Design, 154.513.  
Discount violations, 154.052.  
Sales, 154.514.  
Forms,  
Meter settings, 154.049.  
Orders, 154.044.  
Inspection and inspectors, 154.303.  
Orders, 154.044.  
Inventory, denomination changes,  
154.058.  
Invoices, 154.046.  
Manufacturers and manufacturing,  
154.053.  
Supervision, 154.303.  
Marking, 154.060.  
Meters, 154.048 et seq.  
Mutilating, 154.060.  
Nomination changes, 154.058, 154.059.  
Obsolete, 154.057.  
Orders, 154.043 et seq.  
Payment, 154.050, 154.051.  
Purchases, 154.044.  
Recall, 154.045.  
Records and recordation, 154.202,  
154.307.  
Redemption, 154.054.  
Refunds, 154.056.  
Damages, 154.305.  
Refusal, 154.116.  
Sales, 154.043.  
Refusal, 154.116.  
Sample packs, 154.041.  
Shipping, banks, 154.047.  
Signatures, invoices, 154.046.  
Supervision, 154.303.  
Time,  
Affixing, 154.042.  
Denomination changes, 154.059.  
Payment, 154.050.  
Unstamped cigarettes, generally, post.  
State parks fund, 154.603.  
Statutes, construction, 101.002.  
Statutes of limitations, 111.201 et seq.  
Subpoenas, 111.0043, 111.0044.  
Suits. Actions and proceedings, generally, ante.  
Summary proceedings, seized property,  
154.407, 154.408.  
Surety bond. Bonds (officers and fiduciaries), generally, ante.  
Surrendering, fines and penalties, refusal,  
154.508.  
Suspension, permit, 154.114, 154.115.  
Third-party orders, subpoenas, 111.0044.  
Time,  
Forfeiture proceedings, 154.405.

**CIGARETTE TAX—Cont'd**

Time—Cont'd  
License expiration, 154.111.  
Liens, validity, 113.105.  
Reports, 154.210.  
Solicitors report, 154.211.  
Stamps, ante.  
Summary proceedings, claim, 154.408.  
Tolling, limitation of actions, 111.207.  
Trains, permits, 154.120.  
Transportation, crimes and offenses,  
154.511.  
Traveling expenses, witnesses, 111.0043.  
Trial de novo, 112.054.  
Uniform Federal Tax Lien Registration  
Act, 113.201 et seq.  
Unstamped cigarettes, 154.409.  
Crimes and offenses, 154.515.  
Fines and penalties, 154.502, 154.503.  
Vending machines, permits, 154.120.  
Venue, 154.402, 154.519.  
Assignments, 111.253.  
Stamps, counterfeiting, 154.520.  
Waiver, forfeiture proceedings, 154.411.  
Witnesses, 111.0043.  
Year,  
Fiscal year, 101.006.  
License expiration, 154.111.

**CIGARS AND TOBACCO PRODUCTS TAX**

Generally, 155.001 et seq.  
Accounts and accounting, investigations,  
111.003.  
Actions and proceedings, 112.001 et seq.  
Bonds (officers and fiduciaries),  
155.064.  
Deficiencies, 111.010.  
Evidence, 155.141.  
Fines and penalties, 155.201.  
Liens, validity, 113.106.  
Protest, 112.051 et seq.  
Refunds, 112.151 et seq.  
Seized property, forfeiture, 155.145 et  
seq.  
Venue, generally, post.  
Aircraft, permits, application, 155.056.  
Allocation, 101.009, 155.241.  
Revenue, 155.058.  
Seized property, proceeds, 155.146.  
Appeal and review, protest payments,  
112.057.  
Assessments,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Assignments,  
Claims, 111.251 et seq.  
Liens, 113.107.  
Attorneys, seized property proceedings,  
155.145.  
Auctions and auctioneers, seized property,  
155.146.  
Audits and auditors, 111.0043.  
Cost, 155.181.  
Evidence, 155.141.  
Liens, 155.153.  
Projecting assessments, 111.0042.  
Boats and boating, permits, application,  
155.056.  
Bonds (officers and fiduciaries), 155.061  
et seq.  
Injunctions, 112.104.  
Payments, 111.012.  
Seized property, summary proceedings,  
155.148.  
Books and papers,  
Examination, 111.004.

**CIGARS AND TOBACCO PRODUCTS TAX—Cont'd**

Books and papers—Cont'd  
Fines and penalties, 155.212, 155.213.  
Investigations, 111.003.  
Liens, 113.004.  
Venue, 155.215.  
Carriers, records, 155.107.  
Certificates and certification, liens,  
113.202.  
Class actions, 112.055.  
Collection, 111.001 et seq., 155.022.  
Compromise and settlement, 111.101 et  
seq.  
Deposits, 155.241.  
Liability, 111.016.  
Limitation of actions, 111.202 et seq.  
Venue, 155.027.  
Common law, construction, 101.004.  
Compromise and settlement, 111.101 et  
seq., 155.151.  
Concealment, fines and penalties,  
155.204.  
Confidential or privileged information,  
111.006, 155.185.  
Construction,  
Common law, 101.004.  
Statutes, 101.002.  
Contracts, limitation of actions, 111.203.  
Cost, audits, 155.181.  
Credits,  
Payments, 155.184.  
Permit, return, 155.055.  
Refunds, 111.106 et seq.  
Crimes and offenses,  
Books and records, 155.212, 155.213.  
Venue, 155.215.  
Disclosures, 111.007.  
Deception, fines and penalties, 155.204.  
Defenses, seizure or sale, 155.150.  
Deficiencies, 111.008.  
Actions and proceedings, 111.010.  
Injunctions, 111.011.  
Limitation of actions, 111.202 et seq.  
Redetermination, 111.009.  
Definitions, 155.001.  
State taxes, 101.003.  
Delinquencies,  
Audits, 155.181.  
Compromise and settlement, 111.101 et  
seq.  
Fines and penalties, 155.026.  
Interest, 111.060.  
Seized property, payments, 155.149.  
Depositions, 111.0043.  
Deposits, 101.009.  
Allocation, 155.241.  
Disasters, extensions, 111.058.  
Disclosures, crimes and offenses,  
111.007.  
Dismissal and nonsuit, injunction,  
112.105, 112.106.  
Display, permit, 155.053.  
Distributing agents, permits, 155.043,  
155.044.  
Evidence, 155.141.  
Graphic matter, 111.014.  
Liens, 113.007.  
Possession, nonpayment, 155.203.  
Examination and examiners, records,  
111.004.  
Exemptions, 155.024.  
Limitation of actions, 111.205, 111.206.  
Permits, 155.047.  
Federal Tax Lien Registration Act,  
113.201 et seq.

# INDEX TO TAX CODE

1848

References are to Sections

## CIGARS AND TOBACCO PRODUCTS

**TAX—Cont'd**  
 Fees, 155.048, 155.049.  
 Joint permit, 155.055.  
 Late fees, 155.051.  
 Liens, 113.204.  
 Payments, 155.050.  
 Seized property, forfeiture proceedings, 155.146.  
 Service fee, 155.051.  
 Vending machines, 155.025.  
 Witnesses, 111.0043.  
 Financial institutions, liens, 113.103.  
 Fines and penalties, 155.201 et seq.  
 Books and papers, 155.212, 155.213.  
 Collection, 111.002.  
 Concealment, 155.204.  
 Disclosures, 111.007.  
 Fraud, 155.205.  
 Inspection, 155.209, 155.210.  
 Payments, 111.056, 155.026, 155.202.  
 Permits, 155.207.  
 Possession, 155.203, 155.211.  
 Records, 155.201, 155.212, 155.213.  
 Reports, 111.056, 155.201.  
 Transportation, 155.209.  
 First sale, 155.022.  
 Fiscal year, 101.006.  
 Foreign states, records and reports, 155.103.  
 Forfeitures, 155.143.  
 Collection, 111.002.  
 Permits, 155.048.  
 Seized property, 155.145 et seq.  
 Forms,  
 Permits, 155.041, 155.046.  
 Reports, 111.052.  
 Fraud, 155.205.  
 Funds, general revenue fund, deposits, 155.241.  
 General revenue fund, deposits, 101.009, 155.241.  
 Hearings, 111.0043.  
 Refunds, 111.105.  
 Seized property, forfeiture proceedings, 155.145.  
 Holidays, reports or payments, 111.053.  
 Injunctions, 111.011, 112.101 et seq.  
 Inspection and inspectors, 155.183.  
 Confidential information, 155.185.  
 Fines and penalties, 155.209, 155.210.  
 Forfeiture proceedings, compromises and waivers, 155.151.  
 Records, 111.0041, 155.110.  
 Seized property reports, 155.144.  
 Interest,  
 Delinquencies, 111.060.  
 Delinquent taxes, 155.026.  
 Refunds, 111.105.  
 Interstate business, records, 155.103.  
 Inventory, 155.101.  
 Investigations and investigations, 111.003.  
 Invoices, 155.101 et seq.  
 Joint permit, 155.045.  
 Judgments and decrees,  
 Assignments, 111.251 et seq.  
 Refunds, 112.155.  
 Jurisdiction, 112.001.  
 Late fees, 155.051.  
 Licenses and permits, 155.041 et seq.  
 Additional permits, 155.054.  
 Airplanes, applications, 155.056.  
 Application, 155.041, 155.056.  
 Boats and boating, applications, 155.056.  
 Bonds (officers and fiduciaries), 155.061 et seq.

## CIGARS AND TOBACCO PRODUCTS

**TAX—Cont'd**  
**Licenses and permits—Cont'd**  
 Credit, return, 155.055.  
 Display, 155.053.  
 Distributing agent, 155.043, 155.044.  
 Exemptions, 155.047.  
 Expiration, time, 155.049.  
 Fees, generally, ante.  
 Fines and penalties, 155.207.  
 Forfeitures, 155.048.  
 Forms, 155.041, 155.046.  
 Issuance, 155.048.  
 Joint permit, 155.045.  
 Motor vehicles,  
 Applications, 155.056.  
 Display, 155.053.  
 Multiple permits, 155.054.  
 New permits, 155.052.  
 Payments, 155.050.  
 Railroads,  
 Applications, 155.056.  
 Display, 155.053.  
 Return, credit, 155.055.  
 Revocation or suspension, 155.048, 155.059.  
 Payment violations, 155.050.  
 Solicitors permit, 155.060.  
 Solicitors, 155.042.  
 Revocation or suspension, 155.060.  
 Time, expiration, 155.049.  
 Vending machines, post.  
 Liens and incumbrances, 113.001 et seq., 155.153, 155.154.  
 Assignments, 111.251 et seq.  
 Confidential information, 155.185.  
 Federal Tax Lien Registration Act, 113.201 et seq.  
 Limitation of actions, 111.201 et seq.  
 Mail and mailing,  
 Assignments, notice, 111.252.  
 Reports and payments, 111.054.  
 Motor vehicles, permits,  
 Application, 155.056.  
 Display, 155.053.  
 New permits, 155.052.  
 Notice,  
 Assignment, 111.252.  
 Deficiencies, 111.008.  
 Liens, 113.002, 113.006.  
 Filing, 113.201.  
 Refunds, hearings, 111.105.  
 Seized property,  
 Auction, 155.146.  
 Forfeiture proceedings, 155.145.  
 Subpoenas, 111.0044.  
 Summary proceedings, 155.148.  
 Surety, release, 155.063.  
 Oaths and affirmations, 111.004, 111.059.  
 Paper. Books and papers, generally, ante.  
 Payment, 155.023.  
 Bonds (officers and fiduciaries), 111.012.  
 Credit, 155.184.  
 Disasters, extensions, 111.058.  
 Double amount, 155.182.  
 Extensions, 111.058.  
 Fines and penalties, 111.056, 155.026, 155.202.  
 Forfeiture proceedings, 155.151, 155.152.  
 Holidays, 111.053.  
 Injunctions, 111.011.  
 Liability, 111.016.  
 Limitation of actions, 111.202 et seq.  
 Mail and mailing, 111.054.

## CIGARS AND TOBACCO PRODUCTS

**TAX—Cont'd**  
**Payment—Cont'd**  
 Permits, 155.050.  
 Protest, 112.051 et seq.  
 Security, 111.012.  
 Seized property, 155.149.  
 Shorter intervals, bond insufficiency, 155.062.  
 Time, 111.051 et seq.  
 Penalties. Fines and penalties, generally, ante.  
 Permits. Licenses and permits, generally, ante.  
 Petitions, redetermination, 111.009.  
 Possession, fines and penalties, 155.203, 155.211.  
 Preferred liens, 155.153, 155.154.  
 Priorities and preferences, liens, 113.104, 155.153.  
 Proceedings. Actions and proceedings, generally, ante.  
 Process, seized property, forfeiture proceeding, 155.145.  
 Production of books and papers, 111.0043.  
 Protest, payments, 112.051 et seq.  
 Railroads,  
 Permits,  
 Application, 155.056.  
 Display, 155.052.  
 Rates and charges, 155.021.  
 Delinquent taxes, interest, 155.026.  
 Reassignments, 111.254.  
 Receipts, 155.101 et seq.  
 Records and recordation, 155.101 et seq.  
 Assignment, 111.255.  
 Carriers, 155.107.  
 Confidential information, 155.185.  
 Crimes and offenses, 155.212, 155.213.  
 Venue, 155.215.  
 Distributing agents, 155.108.  
 Examination, 111.004.  
 Fines and penalties, 155.212, 155.213.  
 Injunctions, 112.102.  
 Inspection, 111.0041, 155.110, 155.183.  
 Interstate business, 155.103.  
 Liens, 113.005.  
 Salesmen, 155.104.  
 Separate records, 155.106.  
 Solicitors, 155.105.  
 Vending machines, 155.109.  
 Recovery, refund or credit, 111.108.  
 Refunds, 111.104 et seq.  
 Actions and proceedings, 112.151 et seq.  
 Injunctions, 112.107.  
 Oaths and affirmation, 111.059.  
 Protest, 112.060.  
 Releases,  
 Liens, 113.008.  
 Surety, 155.063.  
 Reports, 155.101 et seq.  
 Confidential information, 155.185.  
 Disasters, extensions, 111.058.  
 Distributing agents, 155.113.  
 Distributors reports, 155.111.  
 Evidence, 155.141.  
 Extensions, 111.057, 111.058.  
 Fines and penalties, 111.056, 155.201.  
 Forms, 111.052.  
 Holidays, 111.053.  
 Injunctions, 111.011, 112.103.  
 Interstate business, 155.103.  
 Investigations, 111.003.  
 Mail and mailing, 111.054.  
 Oaths and affirmation, 111.059.

## INDEX TO TAX CODE

References are to Sections

**CIGARS AND TOBACCO PRODUCTS TAX—Cont'd****Reports—Cont'd**

- Seized property, 155.144.
- Shorter intervals, bond insufficiencies, 155.062.
- Solicitors, 155.112.
- Time, 111.051 et seq.
- Res judicata, refunds, suits, 112.156.
- Returns, oaths and affirmation, 111.059.
- Revenue, allocation, 155.058.
- Revocation or suspension. Licenses and permits, ante.
- Salesmen, records, 155.104.
- School funds, deposits, 101.009.
- Searches and seizures, 155.143.
- Securities in lieu of bond, 155.064.
- Security, payments, 111.012.
- Service fee, 155.051.
- Settlement, 111.101 et seq.
- Signatures, seized property reports, 155.144.
- Solicitors,
  - Permits, 155.042.
  - Revocation, 155.060.
  - Records, 155.105.
  - Reports, 155.112.
- Statutes, construction, 101.002.
- Statutes of limitations, 111.201 et seq.
- Subpoenas, 111.0043, 111.0044.
- Suits. Actions and proceedings, generally, ante.
- Summary proceedings, seized property, 155.147, 155.148.
- Surety, release, 155.063.
- Surrendering, refusal, 155.206.
- Suspension. Revocation or suspension, generally, ante.
- Third-party orders, subpoenas, 111.0044.
- Time,
  - Fees, late fees, 155.051.
  - Liens, validity, 113.105.
  - Permit, expiration, 155.049.
  - Records, inspection, 155.110.
  - Seized property, auction notice, 155.146.
- Tolling, limitation of actions, 111.207.
- Transportation, fines and penalties, 155.209.
- Traveling expenses, witnesses, 111.0043.
- Trial de novo, 112.054.
- Uniform Federal Tax Lien Registration Act, 113.201 et seq.
- Vending machines,
  - Dealers permit, 155.057.
  - Licenses and permits,
    - Applications, 155.056.
    - Display, 155.053.
    - Fees, 155.025.
    - Permit fee, 155.025.
  - Permits,
    - Application, 155.056.
    - Dealers permit, 155.057.
    - Display, 155.053.
  - Records, 155.109.
- Venue, 155.142.
- Assignments, 111.253.
- Books and records, 155.215.
- Collection, 155.027.
- Fines and penalties, 155.201.
- Waiver, forfeiture proceedings, 155.151.
- Witnesses, 111.0043.
- Year, fiscal year, 101.006.

**CITIES, TOWNS AND VILLAGES**

- Agricultural land, eligibility for appraisal as open space land, 23.56.

**CITIES, TOWNS AND VILLAGES****—Cont'd**

- Billiard table owners or operators, occupation taxes, 191.063.
- Cement production tax, 181.151.
- Contracts, exemptions, 11.28.
- Exemptions,
  - Contracts, 11.28.
  - Public property, 11.11.
- Franchise taxes,
  - Exemptions, 171.057.
  - Natural gas facility, 171.066.
- Gross Receipts Tax, this index.
- Home-rule cities, fiscal year, 1.05.
- Occupation Taxes, this index.
- Public property, exemptions, 11.11.
- Public utilities, charges, 182.025.
- Quotation services, 192.009.
- Rates and charges, utilities, 182.025.
- Sales and use tax, exemptions, 151.309.
- Telegraph and telephone companies, miscellaneous gross receipts tax, 182.003, 182.004.
- Timber land, eligibility for qualified timber land designation, 23.77.
- Utilities, charges, 182.025.

**CITY FISCAL YEAR**

- Home-rule cities, 1.05.

**CLASS ACTIONS**

- State taxes, 112.055.

**COAL AND COAL MINING**

- Occupation taxes, broker and factors, 191.001 et seq.

**COERCION**

- Certificates, tax certificates, 31.08.

**COIN-OPERATED DEVICES**

- Vending Machines, generally, this index.

**COIN-OPERATED VENDING MACHINES**

- Sales and use tax, exemption, 151.305.

**COLLECTION**

- Generally, 31.01 et seq.
- Affidavits, deferred collection, aged persons homestead, delinquencies, 33.06.
- Aged persons, homesteads, deferred collection, 33.06.
- Agricultural lands, appraisal applications, late fees, 23.431.
- Amount of tax due and date, statement accompanying tax bill, 31.01.
- Authorization, payment by person other than owner, 32.06.
- Certain payments accepted, 31.07.
- Checks, medium of payment, 31.06.
- Cigarette Tax, this index.
- Cigars and Tobacco Products Tax, this index.
- Compacts, multistate tax compact, 141.001 et seq.
- Currency, United States currency, medium of payment, 31.06.
- Dates,
  - Delinquency date, 31.02.
  - Postponement of delinquency date, 31.04.
- Deferred collection, certain taxes, 33.06.
- Delinquency date, 31.02.
- Discounts, early payment, 31.05.
- Early payment, discounts, 31.05.
- Erroneous payments, refunds, 31.11.
- Failure to send statement, effect on validity of tax, 31.01.

**COLLECTION—Cont'd**

- Franchise Taxes, this index.
- Gross Receipts Tax, this index.
- Homesteads, aged persons, deferred collection, 33.06.
- Hotel Occupancy Tax, this index.
- Information statement, mailing with tax bill, 31.01.
- Liens and incumbrances, bad check or money order, 31.06.
- Limitation of actions, 33.05.
- Delinquencies, 33.05.
- Mail and mailing, tax bills, 31.01.
- Manufactured housing, sales and use tax, 158.153, 158.155.
- Money orders, medium of payment, 31.06.
- Motor Fuel Taxes, this index.
- Motor Vehicle Sales Tax, this index.
- Multistate tax compact, 141.001 et seq.
- Notice,
  - Bad check or money order, 31.06.
  - Governing body, postponement of delinquency date, 31.04.
- Oaths and affirmations, annual report, accounting for all taxes of a taxing unit, 31.10.
- Occupation Taxes, this index.
- Options, split payment of taxes, 31.03.
- Overpayments, refunds, 31.11.
- Payments,
  - Discounts, early payment, 31.05.
  - Erroneous payments, refunds, 31.11.
  - Medium of payment, 31.06.
  - Overpayments, refunds, 31.11.
  - Postponement of delinquency date, 31.04.
  - Refunds, 31.11.
- Same property, different taxing units, separation of taxes prohibited, 31.07.
- Separate payments, acceptance, 31.07.
- Split payment of taxes, 31.03.
- Permanent university fund land, mailing of tax bill to comptroller, 31.01.
- Personal liability, 32.07.
- Postponement, delinquency date, 31.04.
- Rates and charges, federal tax rate, inclusion on separate statement, 31.01.
- Refunds, overpayments or erroneous payments, 31.11.
- Remittance, other taxes, 31.10.
- Reports,
  - Remittance, 31.10.
  - State taxes, 31.09.
- Resolutions,
  - Discounts, 31.05.
  - Split payments, option, 31.03.
- Sales and Use Tax, this index.
- Separation of property, separate payments, 31.07.
- Split payment of taxes, 31.03.
- State taxes,
  - Reports and remittances, 31.09.
  - Split payment of taxes, 31.03.
- Time,
  - Delinquency date, 31.02.
  - Refunds, 31.11.
- Validity of tax, penalty or interest, failure to send or receive tax bill, 31.01.

**COLLECTORS**

- Assessors and Collectors, generally, this index.

**COLLEGES AND UNIVERSITIES**

- Appraisal and appraisers, permanent university fund land, 25.07.
- Exemptions, 11.18.

# INDEX TO TAX CODE

1850

References are to Sections

## COMITY

Sales and use tax, 151.615.

## COMMERCE

Business and Commerce, generally, this index.

## COMMERCIAL MOTOR VEHICLE

Defined, sales and use tax, 157.001.

## COMMERCIAL PAPER

Broker and factor, occupation tax, 191.001 et seq.  
Collection, medium of payment, 31.06.  
Occupation taxes, broker and factor, 191.001 et seq.

## COMMERCIAL USE

Defined, sales and use tax, 151.317.

## COMMISSIONS

Boards and Commissions, generally, this index.

## COMMITTEES

Multistate tax compact advisory committee, 141.004.

## COMMON CARRIERS

Carriers, generally, this index.

## COMMON LAW

State taxes, 101.004.

## COMMON PROPERTY

Nonprofit homeowners organizations, appraisals and appraisers, 23.18.

## COMMON SCHOOL DISTRICTS

Schools and School Districts, generally, this index.

## COMMUNITY PROPERTY

Exemptions,  
Homestead, 11.13.  
Qualifications for exemption, 11.41.

## COMMUNITY SERVICE CLUBS

Exemptions, 11.23.

## COMPACTS

Multistate tax compact, 141.001 et seq.

## COMPENSATION AND SALARIES

Appeal and review, subpoenaed witnesses, 41.63.  
Appraisal Districts, this index.  
Appraisal review board, 6.42.  
Assessors and collectors, 6.27.  
County assessors-collectors, 6.27.  
Seizure, prohibition, payment of delinquent taxes, 33.21.  
State property tax board, members, 5.01.

## COMPROMISE AND SETTLEMENT

Cigarette tax, forfeiture proceedings, 154.411.  
Cigars and tobacco products tax, 155.151.  
Inheritance taxes, domicile, 211.109.  
State taxes, delinquencies, 111.101 et seq.

## COMPROLLER

Defined, state taxes, 101.003.  
Officers and employees, 151.021.

## COMPUTATIONS

See specific index headings.

## CONCEALMENT

Cigars and tobacco products tax, fines and penalties, 155.204.  
Motor fuel taxes, 153.403 et seq.  
Oil and gas, occupation tax, lien property, 202.307, 202.353.

## CONDENSATE

Defined, occupation tax, 201.001.  
Oil and gas,  
Occupation tax, 201.055.  
Value, 201.106.

## CONDOMINIUMS

Appraisals and appraisers, listing in records, 25.09.  
Nonprofit homeowners organizations, common property, appraisals, 23.18.

## CONFIDENTIAL OR PRIVILEGED INFORMATION

Agricultural lands, application for agricultural use designation, 23.45.  
Cigarette tax, 154.308.  
Cigars and tobacco products tax, 155.185.  
Disclosure, rendition reports, 22.27.  
Franchise taxes, 171.206 et seq.  
Personal property taxation, rendition reports, 22.27.  
Rendition reports, 22.27.  
Sales and use tax, 151.027.  
State taxes, 111.006.

## CONFLICT OF INTEREST

Appeal and review, hearings, board members, 41.69.

## CONGRESS OF PARENTS AND TEACHERS

Exemptions, 11.23.

## CONSERVATION

Exemptions, charities, 11.18.  
Franchise taxes, exemptions, 171.064.  
Scenic lands,  
Appraisal, 23.81 et seq.  
Records, 25.011.

## CONSOLIDATION

Assessments, taxing units during year, 26.13.

## CONSTITUTION OF TEXAS

Sales and use tax, exemptions, 151.307.

## CONSTRUCTION OF TITLE

Generally, 1.03.

## CONTAINERS

Motor fuel taxes, calibration, 153.009.  
Sales and use tax, exemptions, 151.322.

## CONTINUANCES

Motor vehicle sales tax, deficiencies, re-determination hearing, 152.067.

## CONTRACT CARRIERS

Transportation Business Intangibles Tax, generally, this index.

## CONTRACT OF SALE

Appraisals and appraisers, exempt property, new owner not entitled to exemption, listing, 25.13.

## CONTRACTORS

Sales and use tax, 151.056.  
Exemptions, improvements, 151.311.

## CONTRACTS

Appraisal Districts, this index.  
Appraisals and appraisers, private firms, appraisal services for the district, 25.01.  
Assessors and collectors, collection of taxes for other units, 6.23, 6.24.  
Cities and towns, exemptions, 11.28.  
Delinquencies,  
Attorneys, 6.24.  
Written contracts, installment payments, 33.02.  
Inheritance taxes, domicile, compromise, 211.109.  
Oil and gas, occupation tax, payments, 202.003.  
Payment of taxes, transfer of tax liens, 32.06.  
Sales and use tax, 151.056.  
State property tax board, consultants, 5.03.

## CONVALESCENT HOMES

Franchise taxes, exemptions, 171.067.

## CONVEYANCES

Deeds and Conveyances, generally, this index.

## COOPERATIVES

Franchise taxes, exemptions, 171.068, 171.075, 171.076.

## COPIES

See specific index headings.

## CORPORATIONS

Banks and Banking, generally, this index.  
Franchise Taxes, generally, this index.  
Inheritance taxes, transfers, 211.201.  
Motor fuel taxes, crimes and offenses, 153.406.  
Nonprofit Corporations, generally, this index.  
Religious Associations and Societies, generally, this index.  
Savings and Loan Associations, generally, this index.

## CORRECTIONS

Assessments, tax roll, 26.15.

## COSTS

Appeal and review,  
Judicial review, 42.07.  
Request for state assistance, 41.65.  
Appraisal Districts, this index.  
Assessors and collectors, collection for other tax unit, 6.26.  
Cigars and tobacco products tax, audits, 155.181.  
Delinquent Tax Suits, this index.  
Hotel occupancy tax, collection, reimbursements, 156.153.  
Oil and gas, occupation tax, delinquencies, 202.252.  
Sales, resales, distribution of proceeds, 34.06.  
State property tax board,  
Model forms, printing and distributing, 5.07.  
Professional and technical assistance, property appraisals, 5.08.

## COTTON

Quotation services, occupation taxes, 192.001 et seq.

## INDEX TO TAX CODE

References are to Sections

**COUNSEL**

Attorneys, generally, this index.

**COUNTERFEIT STAMP**

Defined, cigarette tax, 154.001.

**COUNTIES**

Appeal and review, right of appeal, 42.03.

Appraisal Districts, generally, this index.

Compacts, multistate tax compact, 141.001 et seq.

Exemptions, public property, 11.11.

Franchise taxes, exemptions, 171.057.

Multistate tax compact, 141.001 et seq.

Occupation Taxes, this index.

Pistol dealers, occupation taxes, 191.026.

Public property, exemptions, 11.11.

Quotation services, occupation tax, 192.010.

Sales and use tax, exemptions, 151.309.

Transportation business intangibles tax, intrastate apportionment, 24.07.

**COUNTY AND ROAD DISTRICT HIGHWAY FUND**

Motor fuel taxes, allocation, 153.503.

**COUNTY ASSESSORS—COLLECTORS**

Generally, 6.21 et seq.

Affidavits, submission of appraisals, 25.22.

Amount, bonds (officers and fiduciaries), 6.28.

Bonds (officers and fiduciaries), 6.28.

Compensation and salaries, 6.27.

Contracts,

Collection of taxes for other units, 6.23, 6.24.

Determination, 6.21.

Duties, 6.23.

Exemptions, application for, 11.43.

Fees,

State tax collector, 6.27.

Taxing units, collection for, 6.27.

Powers and duties, 6.23.

Premiums, bonds (officers and fiduciaries), payment by county, 6.28.

Records and recordation, oath and bond, 6.28.

Remittances, state taxes, 31.09.

Reports, remittances of state taxes, 31.09.

**COUNTY ATTORNEYS**

Delinquent taxes, collection, representation of taxing unit, 6.30.

**COUNTY COMMISSIONERS COURT**

Hearings, procedures, appeal and review, 41.66.

**COUNTY PUBLIC SCHOOL FUND AGRICULTURAL LAND**

Appraisal and appraisers, 25.07.

**CREDIT ASSOCIATIONS**

Franchise taxes, exemptions, 171.076.

**CREDIT UNIONS**

Franchise taxes, exemptions, 171.077.

**CREDITORS**

Debtors and Creditors, generally, this index.

**CREDITS**

See specific index headings.

**CRIMES AND OFFENSES**

Agricultural lands, designation for use as, disclosure of confidential information, application, 23.45.

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

Fraud, generally, this index.

Motor fuel taxes, 153.403 et seq.

Motor Vehicle Sales Tax, this index.

Oil and gas, occupation tax, 201.353.

Personal property taxation, illegal disclosure of rendition reports, 22.27.

Rendition reports, 22.27.

**CROPS**

Agricultural Products, generally, this index.

**CRUELTY TO ANIMALS**

Charities, exemptions, prevention, 11.18.

Prevention, exemptions, charities, 11.18.

**CURRENCY**

United States currency, medium of payment, collection of taxes, 31.06.

**DAIRY AND DAIRY PRODUCTS**

Sales and use tax, exemptions, 151.314.

**DAMAGES**

Cigarette tax, stamps, refunds, 154.305.

Motor fuel taxes, cargo tanks or containers, 153.009.

**DAMS AND RESERVOIRS**

Agricultural lands, appraisal, 23.41.

**DATES**

Collection,

Delinquency date, 31.02.

Postponement of delinquency date, 31.04.

Exemptions, qualification date, 11.42.

**DEALERS**

Cigarette Tax, generally, this index.

Cigars and Tobacco Products Tax, generally, this index.

Motor Fuel Taxes, generally, this index.

Motor vehicle sales tax,

Metal plate,

Collection, 152.042.

Rate, 152.027.

**DEATH**

Inheritance Taxes, generally, this index.

**DEATH TAX**

Defined, inheritance tax, 211.001.

**DEBTORS AND CRÉDITORS**

Inheritance taxes, privileges and immunities, 211.201.

Liens and incumbrances, priorities, 32.05.

Priorities, liens and incumbrances, 32.05.

**DECEDENT**

Defined, inheritance tax, 211.001.

**DECEDENTS ESTATE**

Inheritance Taxes, generally, this index.

**DECEPTION**

Cigarette tax, 154.506.

Cigars and tobacco products tax, fines and penalties, 155.204.

**DECREES**

Judgments and Decrees, generally, this index.

**DEDUCTIONS**

See specific index headings.

**DEED RESTRICTION**

Defined,

Airport appraisal, 23.91.

Appraisal, 23.81.

**DEEDS AND CONVEYANCES**

Airports and landing fields, public access property, 23.91 et seq.

Fraud, impeachment, sales, 34.01.

Motor fuel taxes, seized property, 153.012.

Parks, appraisal, 23.81 et seq.

Recreation and recreational areas, appraisal, 23.81 et seq.

Sales, 34.01.

Resales, taxing units, 34.05.

Scenic lands, appraisal, 23.81 et seq.

**DEFENSES**

Cigarette tax, seized property, 154.410.

Cigars and tobacco products tax, seizures or sales, 155.150.

**DEFICIENCIES**

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

Hotel Occupancy Tax, this index.

Motor Vehicle Sales Tax, this index.

Occupation Taxes, this index.

**DEFINITIONS**

Words and Phrases, generally, this index.

**DELINQUENCIES**

Generally, 33.01 et seq.

Abatement of actions or proceedings, deferred collection, homesteads of aged persons, 33.06.

Actions and proceedings. Delinquent Tax Suits, generally, this index.

Affidavits, aged persons, homesteads, deferred collection, 33.06.

Aged persons, deferred collection, homesteads, 33.06.

Assessment rolls, lists or books, 33.03.

Attorneys,

Collection, representation of taxing units, 6.30.

Contracts, 6.24.

Bonds (officers and fiduciaries), property taxation, prevention of seizure of property, 33.24.

Cement production tax, 181.101 et seq.

Certificates and certification, issuance for units of property, 31.08.

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

Collection by taxing units, attorneys, representation, 6.30.

Contracts, attorneys, 6.24.

Costs, fines and penalties, 33.07.

County attorneys, collection for taxing units, 6.30.

Date of delinquency, 31.02.

Deferred collection, homesteads of aged persons, 33.06.

District attorneys, collection of taxes, representation of taxing units, 6.30.

# INDEX TO TAX CODE

1852

References are to Sections

**DELINQUENCIES—Cont'd**

Fines and penalties, 33.01.  
Collection costs, 33.07.  
Franchise Taxes, this index.  
Gross Receipts Tax, this index.  
Homesteads, aged persons, deferred collection, 33.06.  
Hotel Occupancy Tax, this index.  
Inheritance taxes, interest, 211.259.  
Installment payments, 33.02.  
Institution of seizure, personal property, 33.22.  
Interest, 33.01.  
Interstate motor carrier sales and use tax, 157.204.  
Liens and incumbrances, 33.07.  
Limitation of actions, 33.05.  
Mail and mailing, certified mail, notice of delinquencies, 33.04.  
Manufactured housing, sales and use tax, 158.151.  
Motor carriers, interstate sales and use tax, 157.204.  
Motor Fuel Taxes, this index.  
Motor Vehicle Sales Tax, this index.  
Notice, 33.04.  
Postponement of delinquency date, governing body, 31.04.  
Time, 33.07.  
Occupation Taxes, this index.  
Oil and Gas, this index.  
Payment, installment payment, 33.02.  
Personal property, seizure, 33.21 et seq.  
Sales and Use Tax, this index.  
Sulfur production tax, penalties, 203.101.  
Time, notice, 33.07.  
Warrants, personal property taxation, 33.23.  
Written contracts, installment payments, 33.02.

**DELINQUENT TAX SUITS**  
Generally, 33.41 et seq.  
Adjudged value, foreclosure, 33.50.  
Answers, 33.45.  
Attorney fees,  
Partition, 33.46.  
Recovery, taxing units, 33.48.  
Attorneys, contracts, 6.24.  
Contracts, attorneys, 6.24.  
Costs,  
Liability of taxing unit for, 33.49.  
Partition, 33.46.  
Taxing unit recovery, 33.48.  
Current taxes, judgments and decrees, 33.52.  
Evidence, records, 33.47.  
Expenses and expenditures, recovery, taxing units, 33.48.  
Fees, taxing units, 33.48.  
Foreclosure,  
Adjudged value, 33.50.  
Current taxes, judgment, 33.52.  
Expenses, taxing unit recovery, 33.48.  
Judgment for current taxes, 33.52.  
Liens, 33.41.  
Petition, 33.43.  
Taxes included in suit, 33.42.  
Writ of possession, 33.51.  
Inclusions, all delinquent taxes on property, 33.42.  
Joinder of parties, other taxing units, 33.44.  
Judgments and decrees,  
Adjudged value, 33.50.  
Current taxes, 33.52.  
Jurisdiction, 33.41.**DELINQUENT TAX SUITS—Cont'd**

Limitation of actions, property sold for taxes, 33.54.  
Order of sale, 33.53.  
Other taxing units, joinder of parties, 33.44.  
Partition, real property, 33.46.  
Personal liability, enforcement, 33.41.  
Petitions, sufficient petitions, 33.43.  
Pleadings, 33.45.  
Publication, notices, cost, 33.49.  
Purchasers, property sold for taxes, limitation of actions, 33.54.  
Records and recordation, tax records, evidence, 33.47.  
Recovery, cost and expenses, taxing units, 33.48.  
Sales,  
Limitation of actions, property sold for taxes, 33.54.  
Order of sale, 33.53.  
Value, adjudged value, foreclosure, 33.50.  
Writs of possession, 33.51.

**DENTISTS AND DENTISTRY**

Sales and use tax, exemptions, 151.313.  
Schools, development, exemption, 11.23.

**DEPENDENT OR NEGLECTED CHILDREN**

Charities, exemptions, 11.18.  
Exemptions, charities, 11.18.

**DEPOSITIONS**

State taxes, 111.0043.

**DEPOSITORIES**

Appraisal districts, 6.09.  
Assessors and collectors, deposit of units collected taxes, 31.10.  
Inheritance taxes, privileges and immunities, 211.201.

**DEPOSITS**

See specific index headings.

**DEPRECIATION**

Agricultural lands, appurtenances, appraisal, 23.41.

**DESCENT AND DISTRIBUTION**

Inheritance Taxes, generally, this index.

**DESIGN**

Cigarette tax, stamps, 154.053.

**DESIGNATION FOR AGRICULTURAL USE**

Agricultural Lands, this index.

**DEVELOPMENT CORPORATIONS**

Franchise taxes, exemptions, 171.074.

**DIESEL BULK DELIVERY**

Defined, motor fuel taxes, 153.001.

**DIESEL FUEL**

Defined, motor fuel tax, 153.001.

**DIESEL FUEL TAX**

Motor Fuel Taxes, this index.

**DIESEL USER**

Defined, motor fuel taxes, 153.001.

**DIRECTORS**

Franchise taxes, indemnity, 171.252, 171.255.

**DISABILITY RATING**

Defined, disabled veterans, exemption, 11.22.

**DISABLED**

Defined, homestead exemption, 11.13.

**DISABLED AMERICAN VETERANS**

Veterans organizations, exemptions, 11.23.

**DISABLED PERSONS**

Handicapped Persons, generally, this index.

**DISABLED VETERANS**

Defined, exemption, 11.22.  
Exemptions, 11.22.

**DISASTERS**

Appraisal, reappraisal, 23.02.  
Taxes, filing extension, 111.058.

**DISCLOSURE**

Agricultural lands, confidential or privileged information, applications for designation of agricultural use, 23.45.  
Cigarette tax, records, 154.521.  
Franchise taxes, reports and records, 171.208.  
Personal property taxation, rendition reports, confidential information, 22.27.  
Rendition reports, 22.27.  
State taxes, 111.007.

**DISCOUNTS**

Cigarette tax, stamps, 154.052.  
Collection of taxes, early payment, 31.05.  
Sales and use tax,  
Forfeitures, 151.425.  
Prepayment, 151.424.

**DISMISSAL AND NONSUIT**

State taxes, injunctions, 112.105, 112.106.

**DISPLAY**

See specific index headings.

**DISTRIBUTING AGENT**

Defined,  
Cigarette tax, 154.001.  
Cigars and tobacco products tax, 155.001.

**DISTRIBUTORS AND DISTRIBUTION**

Cement production tax, 181.001 et seq.  
Cigarette Tax, generally, this index.  
Cigars and Tobacco Products Tax, generally, this index.  
Motor Fuel Taxes, generally, this index.

**DISTRICT ATTORNEYS**

Delinquent taxes, collections, representing taxing units, 6.30.

**DISTRICT COURTS**

Appeal and Review, generally, this index.

**DISTRICTS**

Appraisal Districts, generally, this index.

**DITCHES**

Agricultural lands, appraisal, 23.41.

**DIVIDENDS**

Franchise taxes, liquidation, affidavit, 171.102.

## INDEX TO TAX CODE

References are to Sections

**DOMICILE AND RESIDENCE**

Homestead, exemption, 11.13.  
 Hotel occupancy tax, exemption, 156.101.  
 Inheritance taxes, compromise agreement, 211.109.  
 Interstate motor carriers sales and use tax, 157.101.  
 Motor carriers, interstate sales and use tax, 157.101.  
 Motor vehicle sales tax, new resident, rate, 152.023.  
 State property tax board, membership requirements, 5.01.

**DONATIONS**

Sales and use tax, exemption, 151.154.

**DRIVER TRAINING VEHICLES**

Sales tax, exemption, 152.081.

**DROP SHIPMENT**

Defined,  
 Cigarette tax, 154.001.  
 Cigars and tobacco products tax, 155.001.

**DRUGS AND MEDICINE**

Franchise taxes, receipts, deductions, 171.104.  
 Sales and use tax exemptions, 151.313.

**DWELLINGS**

Homesteads, generally, this index.

**EDUCATION**

Exemptions, 11.18.  
 Franchise taxes, exemptions, 171.061.  
 Hotel occupancy tax, exemptions, 156.102.  
 Manufactured housing, sales and use tax exemption, 158.101.  
 Medical, dental or nursing school, development, exemption, 11.23.  
 Sales and use tax, exemptions, 151.310.  
 Schools and School Districts, generally, this index.

**EFFECTS**

Defined, state taxes, 101.003.

**ELDERLY PERSONS**

Aged Persons, generally, this index.

**ELECTIONS**

Appraisal districts, directors, 6.03, 6.031.  
 Assessments, repeal of increases in taxes, 26.07.  
 Assessors and collectors, consolidation of collections, 6.26.  
 Ballots, assessors and collectors, consolidation of functions, 6.26.  
 Increase in assessments, repeal, 26.07.  
 Schools and school districts, limitation on taxes, 26.08.

**ELECTRIC COOPERATIVE CORPORATIONS**

Franchise taxes, exemptions, 171.079.

**ELECTRICITY**

Sales and use tax, exemptions, 151.317.

**ELECTRONIC DATA-PROCESSING**

Assessment rolls, lists or books, records, 1.10.

**EMBLEMETS**

Agricultural Products, generally, this index.

**EMERGENCY MEDICAL SERVICE CORPORATIONS**

Franchise taxes, exemptions, 171.083.

**EMERGENCY MEDICAL SERVICES**

Motor vehicle sales tax, exemptions, 152.087.  
 Sales and use tax, exemptions, 151.310.

**EMINENT DOMAIN**

Proration of taxes, acquisition of property by government, 26.11.

**EMPLOYEES**

Officers and Employees, generally, this index.

**ENCUMBRANCES**

Liens and Incumbrances, generally, this index.

**ENFORCEMENT FUND**

Cigarette tax, 154.602.

**ENVIRONMENT**

Conservation, generally, this index.

**EQUIPMENT**

Sales and use tax, examination, 151.023.

**ERRORS**

Collection, refunds, 31.11.

**ESTATE TAXES**

Inheritance Taxes, generally, this index.

**ESTIMATES**

See specific index headings.

**EVIDENCE**

Appeal and review, hearings, 41.67.  
 Appraisals and appraisers, manuals and schedules, 5.05.  
 Cigarette Tax, this index.  
 Cigars and Tobacco Products Tax, this index.  
 Delinquent tax suits, records, 33.47.  
 Franchise Taxes, this index.  
 Inheritance taxes, death, 211.002.  
 Motor Fuel Taxes, this index.  
 Motor Vehicle Sales Tax, this index.  
 Occupation Taxes, this index.  
 Official notice, appeal and review, 41.67.  
 Oil and gas, occupation taxes, 201.304, 202.304.  
 Redemption, evidence of title, 34.22.  
 Sales and Use Tax, this index.

**EXAMINATIONS AND EXAMINERS**

Cigarette tax, 154.308.  
 Records, 154.304.  
 Franchise taxes, reports and records, 171.208 et seq.  
 Inheritance taxes, books and records, 211.251.  
 Motor Fuel Taxes, this index.  
 Sales and use tax,  
 Books and records, 151.023.  
 Out-of-state records, 151.026.

**EXCESSIVE APPRAISALS**

Appeal and review, remedies, judicial review, 42.25.

**EXCISE TAX**

Sales and Use Tax, generally, this index.

**EXEMPTIONS**

Abuse, temporary shelters, 11.18.

**EXEMPTIONS—Cont'd**

Additional information, request, approval of application, 11.45.  
 Administration of exemptions, 11.41 et seq.  
 Aged persons,  
 Charities, 11.18.  
 Homestead, 11.13.  
 Aggregation, disabled veterans and surviving family, 11.22.  
 Agricultural machinery and equipment, 11.161.  
 Agricultural products, personal property taxation, 11.16.  
 American G.I. forum, veterans organizations, 11.23.  
 American Legion veterans organizations, 11.23.  
 American veterans of World War II, veterans organizations, 11.23.  
 Animals, this index.  
 Appeal and review,  
 Local review, scope, 41.01.  
 Protest, right of protest, 41.41.  
 Application of law, partial ownership, 11.41.  
 Applications, 11.43.  
 Forms, 11.43.  
 Notice of requirements, 11.44.  
 Appraisal districts, optional exemptions, notice of changes, 6.08.  
 Appraisals and appraisers, leaseholds, listing on records, 25.07.  
 Approval of application, 11.45.  
 Associations and societies, youth development associations, 11.19.  
 Athletics, boys and girls, charities, 11.18.  
 Biomedical research corporations, 11.23.  
 Brokers and factors, occupation taxes, 191.003.  
 Cancellation, notice, 11.43.  
 Catholic war veterans, veterans organizations, 11.23.  
 Cement production tax, interstate commerce, 181.004.  
 Cemeteries and cemetery companies, 11.17.  
 Charities, 11.18.  
 Children and minors, youth development associations, 11.19.  
 Churches, 11.20.  
 Cigarette tax, permit, personal use, 154.108.  
 Cigars and tobacco products tax, 155.024.  
 Permits, 155.047.  
 Cities and towns,  
 Contracts, 11.28.  
 Public property, 11.11.  
 Colleges and universities, 11.18.  
 Community property,  
 Owners, 11.13.  
 Qualification for exemption, 11.41.  
 Community service clubs, 11.23.  
 Compilation, partial exemptions, 11.46.  
 Congress of parents and teachers, 11.23.  
 Conservation, wildlife, charities, 11.18.  
 Contract of sale, exempt property sold to person not entitled to exemption, appraisal listing, 25.13.  
 Counties, public property, 11.11.  
 County assessor-collectors, application for exemption, 11.43.  
 Delivery, forms, prior year holders of exemptions, 11.44.  
 Dependent or neglected children, charities, 11.18.

# INDEX TO TAX CODE

References are to Sections

1854

## EXEMPTIONS—Cont'd

Determination of right to exemption, 11.45.  
Disabled American veterans, veterans organizations, 11.23.  
Disabled persons, homestead, 11.13.  
Disabled veterans, 11.22.  
Disapproval of application, 11.45.  
Education, 11.18.  
Effective date, qualified property, 11.42.  
Explanation, denial or modification of exemption, 11.45.  
Family supplies, personal property taxation, 11.15.  
Farm products, personal property taxation, 11.16.  
Federal exemptions, 11.12.  
Federation of womens clubs, 11.23.  
Fine arts, charities, 11.18.  
Fire departments, charities, 11.18.  
Fish and game, conservation, charities, 11.18.  
Forms, application forms, 11.43.  
Franchise Taxes, this index.  
Gross Receipts Tax, this index.  
Handicapped persons,  
Homestead, 11.13.  
Residential care, 11.18.  
Historical and landmark sites, 11.24.  
Preservation, charities, 11.18.  
Homesteads, this index.  
Hotel Occupancy Tax, this index.  
Household goods, personal property taxation, 11.14.  
Humane treatment of animals, charities, 11.18.  
Inheritance Taxes, this index.  
Intangible personal property taxation, 11.02.  
Jewish war veterans, veterans organizations, 11.23.  
Juvenile delinquents and dependents, residential care, 11.18.  
Landmark sites, 11.24.  
Libraries, charities, 11.18.  
Lists, partial exemptions, yearly publication, 11.46.  
Literary organizations, 11.18.  
Livestock, 11.16.  
Loss of exemption, prorating taxes, 26.10.  
Machinery and equipment, agriculture, 11.161.  
Manufactured housing,  
Sales and use tax, 158.101.  
Taxable situs, 21.25.  
Medical care and treatment, charities, 11.18.  
Medical center developments, 11.23.  
Miscellaneous exemptions, 11.23.  
Mobile homes and mobile home parks,  
Homestead, 11.13.  
Taxable situs, 21.25.  
Modification, applications, 11.45.  
Motor Fuel Taxes, this index.  
Motor Vehicle Sales Tax, this index.  
Museums, charities, 11.18.  
Nature Conservancy of Texas, Inc., 11.23.  
Nonprofit corporations, medical center development, 11.23.  
Notice,  
Application requirements, 11.44.  
Cancellation, 11.43.  
Modification or denial of exemption, written notice, 11.45.  
Nurseries and nursery products, 11.16.  
Occupation Taxes, this index.

## EXEMPTIONS—Cont'd

Orchestras, symphony orchestras, charities, 11.18.  
Parent teachers congress, 11.23.  
Partial exemptions, compilation, 11.46.  
Partial ownership of exempt property, limitation on exemption, 11.41.  
Permanent university fund, public lands, owned by, 11.11.  
Personal effects, personal property taxation, 11.14.  
Personal Property Taxation, this index.  
Pistol dealers, occupation taxes, 191.025.  
Political subdivisions, public property, 11.11.  
Poultry and poultry products, 11.16.  
Preservation, historic and landmark sites, 11.24.  
Private enterprise demonstration associations, 11.23.  
Private schools, 11.21.  
Property losing exemptions during tax year, appraisal listing, 25.16.  
Proration of taxes, loss of exemptions, 26.10.  
Publication, list of partial exemptions, 11.46.  
Qualifications,  
Date, 11.42.  
Part ownership, limitation of exemption, 11.41.  
Quotation services, occupation taxes, 192.003.  
Ranches, implements, 11.161.  
Religious associations and societies, youth spiritual development associations, 11.19.  
Religious organizations, 11.20.  
Research, biomedical research corporations, 11.23.  
Residence, homestead, 11.13.  
Residential care, 11.18.  
Rules and regulations, contents of notice, 11.44.  
Sales and Use Tax, this index.  
Schools and school districts, private schools, 11.21.  
Scientific organizations, 11.18.  
Society for the prevention of cruelty to animals, charities, 11.18.  
Solar energy devices, 11.27.  
State,  
Public property, 11.11.  
Qualification date, 11.42.  
Structures, historic structures, 11.24.  
Surviving spouse, man killed on active duty in military forces, 11.22.  
Symphonic orchestra, charities, 11.18.  
Texas federation of womens clubs, 11.23.  
Theater, charities, 11.18.  
Theater schools, 11.23.  
Time,  
Additional information, applications, 11.45.  
Applications for exemption, 11.43.  
Homestead, 11.13.  
Qualification date, 11.42.  
Transportation business intangibles tax, gross receipts tax, 24.14.  
Veterans, disabled veterans, 11.22.  
Veterans of foreign wars, veterans organizations, 11.23.  
Volunteer fire departments, charities, 11.18.  
Water companies, charities, 11.18.  
Wildlife, conservation, charities, 11.18.  
Wind-powered devices, 11.27.

## EXEMPTIONS—Cont'd

Womens clubs, 11.23.  
Yearly application, retaining eligibility, 11.43.  
YMCA,  
Charities, 11.18.  
Youth development associations, 11.19.  
Youth development associations, 11.19.  
YWCA,  
Charities, 11.18.  
Youth development associations, 11.19.  
Zoos, charities, 11.18.

## EXPENSES AND EXPENDITURES

Appraisal districts, board of directors, 6.04.  
Appraisal review board, 6.42.  
Cigarette tax, audits, 154.301.  
Delinquent tax suits, recovery, taxing units, 33.48.  
Sales, resales, distribution of proceeds, 34.06.  
State property tax board, members, 5.01.

## EXPORTS AND IMPORTS

Cigarette tax, small quantities, 154.024.

## FACTORS

Occupation taxes, 191.001 et seq.

## FAIRS AND EXPOSITIONS

Appraisal and appraisers, 25.07.

## FAMILIES

Defined, personal property taxation exemption, 11.25.  
Motor vehicles, personal property taxation exemption, 11.25.

## FAMILY SUPPLIES

Exemption, personal property taxation, 11.15.

## FARM PRODUCTS

Exemption, personal property taxation, 11.16.

## FARMERS COOPERATIVE SOCIETIES

Franchise taxes, exemptions, 171.071.

## FARMS AND FARMERS

Agriculture, generally, this index.

## FEDERAL CREDIT

Defined, inheritance tax, 211.001.

## FEDERAL ESTATE TAX

Defined, inheritance tax, 211.001.

## FEDERAL EXCISE TAX

Sales and use tax, 151.028.  
Collection, 151.702.

## FEDERAL EXEMPTIONS

Generally, 11.12.

## FEDERAL GENERATION-SKIPPING TRANSFER TAX

Defined, inheritance tax, 211.001.

## FEDERAL GOVERNMENT

United States, generally, this index.

## FEDERAL TAX

Defined, inheritance tax, 211.001.

## INDEX TO TAX CODE

References are to Sections

**FEDERAL TAX LIEN REGISTRATION ACT**

Generally, 113.201 et seq.

**FEES**

Appraisals and appraisers, training programs, reimbursement by local taxing unit, 5.04.

Attorney Fees, generally, this index.

Billiard table owners or operators, licenses, 191.064.

Certificates and certification, tax status of unit property, 31.08.

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

County assessor-collectors, State taxes, 6.27.

Taxing units, collection for, 6.27.

Delinquent tax suits, taxing units, 33.48.

Franchise taxes, witnesses, 111.0043.

Gross receipts tax, witnesses, 111.0043.

Hotel occupancy tax, witnesses, 111.0043.

Motor Fuel Taxes, this index.

Motor vehicle sales tax, witnesses, 111.0043.

Occupation Taxes, this index.

Sales and use tax, witnesses, 111.0043.

State property tax board, appraisal manuals and other publications, 5.05.

State taxes, witnesses, 111.0043.

**FELONIES**

Crimes and Offenses, generally, this index.

**FERRIES**

Transportation Business Intangibles Tax, generally, this index.

**FIDUCIARIES**

Bonds (Officers and Fiduciaries), generally, this index.

Communications, delivery to, 1.11.

Personal property taxation, rendition of property for, 22.01.

**FILMS**

Sales and use tax, exemption, 151.327.

**FINANCIAL INSTITUTIONS**Banks and Banking, generally, this index.  
Inheritance taxes, privileges and immunities, 211.201.

Intangible personal property taxation, taxable situs, 21.08.

Savings and Loan Associations, generally, this index.

Taxable situs, intangible personal property taxation, 21.08.

**FINE ARTS**

Charities, exemptions, 11.18.

Exemptions, charities, 11.18.

**FINES AND PENALTIES**

Agricultural lands, Appraisals, late applications, 23.431, 23.541.

Change of use, notice violations, 23.54.

Airports and landing fields, public access appraisals, 23.97.

Cement production tax, 181.104, 181.105.

Certificates and certification, issuance for amount due on individual units of property, 31.08.

Cigarette Tax, this index.

**FINES AND PENALTIES—Cont'd**

Cigars and Tobacco Products Tax, this index.

Delinquencies, 33.01.

Franchise Taxes, this index.

Gross Receipts Tax, this index.

Hotel Occupancy Tax, this index.

Interstate motor carrier sales and use tax, 157.204.

Manufactured housing,

Movement reports or records, 21.24.

Sales and use tax, 158.151.

Mobile homes and mobile home parks, movement reports or records, 21.24.

Motor carriers, interstate sales and use tax, 157.204.

Motor Fuel Taxes, this index.

Motor Vehicle Sales Tax, this index.

Occupation Taxes, this index.

Oil and Gas, this index.

Parks, appraisal, 23.87.

Recreation and recreational areas, appraisal, 23.87.

Sales and Use Tax, this index.

Scenic lands, appraisal, 23.87.

Sulfur production tax, 203.101, 203.102.

Timber land, appraisals, 23.75, 23.751.

Transportation business intangibles tax, appraisals, failure or refusal to deliver required information, 24.04.

**FIREMEN AND FIRE DEPARTMENTS**

Motor vehicle sales tax, exemptions, 152.087.

Volunteer Fire Departments, generally, this index.

**FIRES AND FIRE PROTECTION**

Alarm and extinguishing companies, sales and use tax, exemption, 151.310.

**FIRST PURCHASER**

Defined,

Occupation tax, 201.001.

Oil and gas, 202.001.

**FIRST SALE**

Cigarette tax, 154.022.

Defined, 154.001.

**FIRST-CLASS MAIL**

Delivery of notice, property owners, 1.07.

**FISCAL YEAR**

Home-rule cities, 1.05.

State taxes, 101.006.

**FISH AND GAME**

Conservation, exemption, charities, 11.18.

Exemptions, conservation, dues, charities, 11.18.

**FOOD**

Franchise taxes, receipts, deductions, 171.104.

Sales and use tax, exemptions, 151.314.

**FOR SALE**

Defined, cigars and tobacco products tax, 155.001.

**FORECLOSURE**

Delinquent Tax Suits, this index.

Transferred tax liens, 32.06.

**FOREIGN CORPORATIONS**

Franchise taxes, payments, 171.156 et seq.

**FOREIGN COUNTRIES**

Motor vehicle sales tax, rate, 152.023.

**FOREIGN STATES**

Carriers, interstate sales and use tax, 157.001 et seq.

Cigarette tax, 154.151 et seq.

Records, 154.204.

Cigars and tobacco products tax, records and reports, 155.103.

Compacts, multistate tax compact, 141.001 et seq.

Motor carriers, interstate sales and use tax, 157.001 et seq.

Motor vehicle sales tax, rate, 152.022, 152.023.

Sales and Use Tax, this index.

**FOREIGNERS**

Aliens, generally, this index.

**FOREIGN-TRADE ZONES**

Appraisal and appraisers, 25.07

**FOREST AND FORESTRY**

Franchise taxes, exemptions, 171.064.

**FORFEITURE**

Appeal and review, remedy for nonpayment of taxes, judicial review, 42.08.

Cigarette tax, 154.405 et seq.

Cigars and Tobacco Products Tax, this index.

Franchise Taxes, this index.

Hotel occupancy tax, reimbursements, 156.153.

Manufactured housing, sales and use tax violations, 158.151.

Motor fuel taxes, bonds (officers and fiduciaries), 153.007.

Sales and Use Tax, this index.

**FORMS**

Agricultural lands,

Application, appraisal for agricultural use, 23.43.

Appraisals and appraisers, qualified open space land, 23.54.

Availability by taxing unit, 1.09.

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

Franchise taxes, liens, releases, 171.359.

Gross receipts tax,

Permits, 182.086.

Reports, 182.085.

Inheritance taxes, 211.110.

Interstate motor carrier sales and use tax, 157.205.

Manufactured housing,

Movement record, 21.22.

Permits, 158.054.

Mobile homes and mobile home parks, movement records, 21.22.

Motor carriers, interstate sales and use tax, 157.205.

Motor Fuel Taxes, this index.

Motor Vehicle Sales Tax, this index.

Personal property taxation, rendition reports, 22.24.

Sales and Use Tax, this index.

Timber land, appraisal of qualified timber land, application forms, 23.75.

Transportation business intangibles tax, appraisal information reports, 24.02.

References are to Sections

**FRANCHISE TAXES**

Generally, 171.001 et seq.  
 Accounts and accounting, investigations, 111.003.  
 Actions and proceedings, 112.001 et seq., 171.351 et seq.  
     Confidential or privileged information, 171.210.  
     Deficiencies, 111.010.  
     Forfeiture, 171.303 et seq.  
         Affirmative relief, 171.253.  
     Liens, validity, 113.106.  
     Protest, 112.051 et seq.  
     Refunds, 112.151 et seq.  
 Affidavits, liquidating dividends, 171.102.  
 Aged persons, convalescent homes, exemption, 171.067.  
 Agent for service of process, 171.354, 171.355.  
 Agriculture,  
     Cooperative societies, 171.071.  
     Exemptions, 171.060.  
 Allocations, 101.009.  
     Capital, taxable capital, 171.106 et seq.  
 Ambulance services, exemptions, 171.083.  
 Appeal and review,  
     Forfeiture judgments, 171.304.  
     Protest payments, 112.057.  
 Application, exemption, 171.051.  
 Assessments,  
     Limitation of actions, 111.201.  
     Projecting, 111.0042.  
 Assignments,  
     Claims, 111.251 et seq.  
     Liens, 113.107.  
 Audits and auditing, 111.0043.  
     Projecting assessments, 111.0042.  
 Banks and banking, exemptions, 171.078.  
 Bonds (officers and fiduciaries),  
     Injunctions, 112.104.  
     Payments, 111.012.  
 Books and papers,  
     Confidential information, 171.206 et seq.  
     Examination, 111.004.  
     Investigations, 111.003.  
     Liens, 113.004.  
 Burial corporations, exemptions, 171.059.  
 Capital, taxable capital, 171.101 et seq.  
 Certificate of authority,  
     Deposit requirement, 171.155 et seq.  
     Forfeitures, 171.301 et seq.  
 Certificate of withdrawal, foreign corporations, 171.158.  
 Certificates and certification,  
     Forfeiture, 171.302.  
     Liens, 113.202.  
 Charities, exemptions, 171.062.  
 Charter,  
     Deposit requirement, 171.155 et seq.  
     Forfeiture, 171.301 et seq.  
 Cities and towns, exemptions, 171.057.  
     Natural gas facilities, 171.066.  
 Class actions, 112.055.  
 Collection, 111.001 et seq.  
     Compromise and settlement, 111.101 et seq.  
     Liability, 111.016.  
     Limitation of actions, 111.202 et seq.  
     Common law, construction, 101.004.  
     Compromise and settlement, 111.101 et seq.  
 Computation, 171.153.  
 Confidential or privileged information, 111.006, 171.206 et seq.  
 Conservation, exemptions, 171.064.

**FRANCHISE TAXES—Cont'd**

Construction,  
     Common law, 101.004.  
     Statutes, 101.002.  
 Contracts, limitation of actions, 111.203.  
 Convalescent homes, exemptions, 171.067.  
 Cooperative associations, exemptions, 171.075.  
 Cooperative credit associations, exemptions, 171.076.  
 Cooperative housing, exemptions, 171.068.  
 Counties, exemptions, 171.057.  
 Credit associations, exemptions, 171.076.  
 Credit unions, exemptions, 171.077.  
 Credits,  
     Deposits, 171.155.  
     Refunds, 111.106 et seq.  
 Crimes and offenses, disclosures, 111.007.  
 Deductions,  
     Food and medicine receipts, 171.104.  
     Silver energy devices, 171.107.  
 Deficiencies, 111.008.  
     Actions and proceedings, 111.010.  
     Injunctions, 111.011.  
     Limitation of actions, 111.202 et seq.  
     Redetermination, 111.009.  
 Definitions, state taxes, 101.003.  
 Delinquencies,  
     Compromise and settlement, 111.101 et seq.  
     Interest, 111.060.  
 Depositions, 111.0043.  
 Deposits, 101.009.  
     General revenue fund, 171.401.  
     Payments, 171.155 et seq.  
 Development corporations, exemptions, 171.074.  
 Director, indemnification, 171.252, 171.255.  
 Disasters, extensions, 111.058.  
 Disclosures,  
     Crimes and offenses, 111.007.  
     Fines and penalties, 171.361.  
     Reports and records, 171.208.  
 Dismissal and nonsuit, injunction, 112.105, 112.106.  
 Dividends, liquidation, affidavit, 171.102.  
 Drugs and medicine, receipts, deductions, 171.104.  
 Educational organizations, exemptions, 171.061.  
 Electric cooperative corporations, exemptions, 171.079.  
 Emergency medical service corporations, exemptions, 171.083.  
 Evidence,  
     Exemptions, 171.051.  
     Graphic matter, 111.014.  
     Liens, 113.007.  
 Examination and examiners,  
     Records, 111.004.  
     Reports and records, 171.208 et seq.  
 Exemptions, 171.051 et seq.  
 Aged persons, convalescent homes, 171.067.  
 Agriculture, 171.060.  
     Cooperative societies, 171.071.  
 Ambulance services, 171.083.  
 Application, 171.051.  
 Banks and banking, 171.078.  
 Burial corporations, 171.059.  
 Charities, 171.062.  
 Cities and towns, 171.057.  
     Natural gas facilities, 171.066.

**FRANCHISE TAXES—Cont'd**

**Exemptions—Cont'd**  
     Confidential or privileged information, 171.207.  
     Conservation, 171.064.  
     Convalescent homes, 171.067.  
     Cooperative associations, 171.075.  
     Cooperative credit associations, 171.076.  
     Cooperative housing, 171.068.  
     Counties, 171.057.  
     Credit associations, 171.076.  
     Credit unions, 171.077.  
     Development corporations, 171.074.  
     Duplicative exemptions, 171.081.  
     Educational organizations, 171.061.  
     Electric cooperative corporations, 171.079.  
     Emergency medical service corporations, 171.083.  
     Evidence, 171.051.  
     Farmers cooperative societies, 171.071.  
     Federal income tax exemption, 171.063.  
     Foreign corporations, deposits, 171.157.  
     Forests and forestry, 171.064.  
     Forfeitures, 171.254.  
     Homeowners associations, 171.082.  
     Hospital laundry cooperative associations, 171.073.  
     Housing, cooperative housing, 171.068.  
     Housing finance corporations, 171.072.  
     Insurance, 171.052.  
     Investments, open-end companies, 171.055.  
     Liens and incumbrances, confidential or privileged information, 171.207.  
     Limitation of actions, 111.205, 111.206.  
     Lodges, 171.070.  
     Marketing associations, 171.069.  
     Natural gas facilities, 171.066.  
     Nonprofit corporations, 171.057 et seq.  
     Open-end investment companies, 171.055.  
     Railway terminal corporation, 171.053.  
     Religious organizations, 171.058.  
     Reports, confidential or privileged information, 171.207.  
     Rescue services, 171.083.  
     Savings and loan associations, 171.054.  
     Sewers and sewer systems, 171.065.  
     Solar energy, 171.056.  
     Surety companies, 171.052.  
     Telephone cooperative corporations, 171.080.  
     Water supply, 171.065.  
     Farmers cooperative societies, exemptions, 171.071.  
 Federal income tax exemption, 171.063.  
 Federal Tax Lien Registration Act, 113.201 et seq.  
 Fees,  
     Liens, 113.204.  
     Witnesses, 111.0043.  
 Financial institutions, liens, 113.103.  
 Fines and penalties,  
     Collection, 111.002.  
     Disclosures, 111.007, 171.361.  
     Liens, 171.358.  
     Payments, 111.056.  
     Failure to, 171.362.  
     Reports, post.  
 Fiscal year, 101.006.  
 Food receipts, deductions, 171.104.  
 Foreign corporations, payments, 171.156 et seq.  
 Forests and forestry, exemptions, 171.064.

## INDEX TO TAX CODE

References are to Sections

## FRANCHISE TAXES—Cont'd

Forfeitures, 171.251 et seq.  
 Charter or certificate of authority, 171.301 et seq.  
 Collection, 111.002.  
 Foreign corporations, deposits, 171.156.  
 Forms,  
 Liens, release, 171.359.  
 Reports, 111.052.  
 Franchise taxes, foreign corporations, deposits, 171.156.  
 Funds, general revenue fund, deposits, 171.401.  
 General revenue fund, deposits, 101.009, 171.401.  
 Gross receipts, determination, 171.103 et seq.  
 Hearings, 111.0043.  
 Refunds, 111.105.  
 Holidays, reports or payments, 111.053.  
 Homeowners associations, exemptions, 171.082.  
 Hospital laundry cooperative associations, exemptions, 171.073.  
 Housing, cooperative housing, exemptions, 171.068.  
 Housing finance corporations, exemptions, 171.072.  
 Indemnity, forfeiture proceedings, 171.252.  
 Index, liens, 171.358.  
 Information reports, 171.204, 171.205.  
 Inheritance taxes, payments, 211.258.  
 Injunctions, 111.011, 112.101 et seq., 171.352.  
 Inspection and inspectors,  
 Books and records, 171.206 et seq.  
 Records, 111.0041.  
 Insurance, exemptions, 171.052.  
 Interest,  
 Delinquencies, 111.060.  
 Refunds, 111.106.  
 Investigations and investigators, 111.003.  
 Records, 171.211.  
 Investments, open-end companies, exemption, 171.055.  
 Judgments and decrees,  
 Assignments, 111.251 et seq.  
 Forfeitures, 171.304.  
 Refunds, 112.155.  
 Jurisdiction, 112.001.  
 Liability, directors and officers, 171.252, 171.255.  
 Liens and incumbrances, 113.001 et seq., 171.356 et seq.  
 Assignments, 111.251 et seq.  
 Confidential or privileged information, 171.207.  
 Federal Tax Lien Registration Act, 113.201 et seq.  
 Limitation of actions, 111.201 et seq.  
 Liens, 171.360.  
 Liquidation, taxable capital, 171.102.  
 Lodges, exemptions, 171.070.  
 Mail and mailing,  
 Assignments, notice, 111.252.  
 Forfeiture notice, 171.256.  
 Judgments, forfeiture, 171.304.  
 Process, 171.355.  
 Reports and payments, 111.054.  
 Marketing associations, exemptions, 171.069.  
 Medicine receipts, deductions, 171.104.  
 Name, forfeiture, 171.315.  
 Natural gas facilities, exemptions, 171.066.  
 Nonprofit corporations, exemptions, 171.057 et seq.

## FRANCHISE TAXES—Cont'd

Notice,  
 Assignment, 111.252.  
 Deficiencies, 111.008.  
 Forfeitures, 171.256.  
 Liens, 113.002, 113.006, 171.357, 171.358.  
 Filing, 113.201.  
 Refunds, hearings, 111.105.  
 Subpoenas, 111.0044.  
 Oaths and affirmations, 111.004, 111.059.  
 Officers and employees, indemnification, 171.252, 171.255.  
 Papers. Books and papers, generally, ante.  
 Payments, 171.151 et seq.  
 Bonds (officers and fiduciaries), 111.012.  
 Deposits, 171.155 et seq.  
 Designated payor, 171.154.  
 Disasters, extensions, 111.058.  
 Extensions, 111.058.  
 Fines and penalties, 111.056, 171.362.  
 Foreign corporations, 171.156 et seq.  
 Forfeitures, 171.251 et seq., 171.301 et seq.  
 Holidays, 111.053.  
 Injunctions, 111.011.  
 Liability, 111.016.  
 Limitation of actions, 111.202 et seq.  
 Mail and mailing, 111.054.  
 Protest, 112.051 et seq.  
 Security, 111.012.  
 Time, 111.051 et seq., 171.151, 171.152.  
 Penalties. Fines and penalties, generally, ante.  
 Petitions, redetermination, 111.009.  
 Priorities and preferences, liens, 113.104.  
 Privileges and immunities, revival, 171.258, 171.308 et seq.  
 Proceedings. Actions and proceedings, generally, ante.  
 Process, 171.354, 171.355.  
 Production of books and papers, 111.0043.  
 Protest, payments, 112.051 et seq.  
 Public information reports, 171.203.  
 Railway terminal corporation, exemption, 171.053.  
 Rates and charges, 171.002 et seq.  
 Reassignments, 111.254.  
 Receipts, gross receipts, determination, 171.103 et seq.  
 Receivers and receivership, 171.353.  
 Records and recordation,  
 Assignment, 111.255.  
 Confidential information, 171.206 et seq.  
 Examination, 111.004, 171.211.  
 Forfeitures, 171.301 et seq., 171.311.  
 Setting aside, 171.307.  
 Injunctions, 112.102.  
 Inspection, 111.0041.  
 Liens, 113.005.  
 Notice, 171.357.  
 Recovery, refund or credit, 111.108.  
 Refunds, 111.104 et seq.  
 Actions and proceedings, 112.151 et seq.  
 Injunctions, 112.107.  
 Oaths and affirmations, 111.059.  
 Protest, 112.060.  
 Releases, liens, 113.008, 171.359.  
 Religious organizations, exemptions, 171.058.  
 Reports, 171.201 et seq.  
 Annual reports, 171.202.

## FRANCHISE TAXES—Cont'd

Reports—Cont'd  
 Confidential and privileged information, 171.206 et seq.  
 Disasters, extensions, 111.058.  
 Disclosures, fines and penalties, 171.361.  
 Examination, 171.208 et seq.  
 Extensions, 111.057, 111.058.  
 Fines and penalties, 111.056.  
 Disclosures, 171.361.  
 Failure to file, 171.362.  
 Forfeitures, 171.251 et seq.  
 Forms, 111.052.  
 Holidays, 111.053.  
 Information reports, 171.204, 171.205.  
 Initial report, 171.201.  
 Injunctions, 111.011, 112.103.  
 Investigations, 111.003.  
 Mail and mailing, 111.054.  
 Oaths and affirmations, 111.059.  
 Public information reports, 171.203.  
 Time, 111.051 et seq.  
 Res judicata, refund suits, 112.156.  
 Rescue services, exemptions, 171.083.  
 Returns, oaths and affirmations, 111.059.  
 Revival,  
 Charter or certificate of authority, 171.305.  
 Corporate privileges, 171.258, 171.308 et seq.  
 Savings and loan associations, exemption, 171.054.  
 School funds, deposits, 101.009.  
 Security, payments, 111.012.  
 Service of process, 171.354, 171.355.  
 Setting aside, judicial forfeiture, 171.306 et seq.  
 Settlement, 111.101 et seq.  
 Sewers and sewer systems, exemptions, 171.065.  
 Shares and shareholders, records and reports, examination, 171.208, 171.209.  
 Solar energy devices,  
 Deductions, 171.107.  
 Exemptions, 171.056.  
 Statutes, construction, 101.002.  
 Statutes of limitations, 111.201 et seq.  
 Liens, 171.360.  
 Subpoenas, 111.0043, 111.0044.  
 Suits. Actions and proceedings, generally, ante.  
 Surety, exemption, 171.052.  
 Telegraph companies, 182.004.  
 Telephone cooperative corporations, exemptions, 171.080.  
 Third-party orders, subpoenas, 111.0044.  
 Time,  
 Forfeitures, 171.251 et seq.  
 Liens, validity, 113.105.  
 Payments, 171.151, 171.152.  
 Report, filing, 171.201 et seq.  
 Tolling, limitation of actions, 111.207.  
 Traveling expenses, witnesses, 111.0043.  
 Trial de novo, 112.054.  
 Uniform Federal Tax Lien Registration Act, 113.201 et seq.  
 Vacating or setting aside, judicial forfeiture, 171.306 et seq.  
 Venue, 171.351.  
 Assignments, 111.253.  
 Water supply, exemption, 171.065.  
 Withdrawal, foreign corporations, 171.158.  
 Witnesses, 111.0043.  
 Year, fiscal year, 101.006.

# INDEX TO TAX CODE

1858

References are to Sections

## FRAUD

Certificates, tax certificates, 31.08.  
Cigarette tax, 154.507.  
Cigars and tobacco products tax,  
155.205.  
Oil and gas, occupation taxes, 201.353,  
202.307.  
Sales, deeds, impeachment, 34.01.

## FREIGHT

Occupation taxes, ships and shipping,  
191.041, 191.042.

## FUEL

Motor Fuel Taxes, generally, this index.

## FUNDS

Enforcement fund, cigarette tax, 154.602.  
Permanent university fund, land owned  
by, exemption, 11.11.  
State highway fund, sales and use tax,  
proceed disposition, 151.801.  
Tax administration fund, motor fuel tax-  
es, 153.501.

## FUNERAL EXPENSES

Liens and incumbrances, priorities, 32.05.

## FUNGIBLE GOODS

Sales and use tax, resale certificate, com-  
mingled goods, 151.153.

## GAME

Conservation, exemption, charities, 11.18.

## GAME, FISH, AND WATER SAFETY FUND

Motor fuel taxes, allocation, 153.502.

## GAS

Oil and Gas, generally, this index.

## GAS PRODUCED

Defined, occupation tax, 201.001.

## GASOHOL

Motor fuel taxes, 153.123.

## GASOLINE AND ALCOHOL MIX- TURE FUND

Motor fuel taxes, 153.123.

## GASOLINE TAX

Motor Fuel Taxes, this index.

## GENERAL ELECTIONS

Elections, generally, this index.

## GENERATION-SKIPPING TRANS- FERS

Inheritance Taxes, this index.

## GIFTS

Motor vehicle sales tax, rate, 152.025.

## GOODS, WARES AND MERCHAN- DISE

Sales and Use Tax, generally, this index.

## GOVERNOR

Appointments, state property tax board,  
5.01.  
State property tax board, annual report,  
copy, 5.09.

## GRAIN

Agricultural Products, generally, this in-  
dex.

## GROSS ESTATE

Defined, inheritance taxes, 211.001.

## GROSS RECEIPTS

Certificates and certification, liens,  
113.202.  
Franchise taxes, determination, 171.103  
et seq.  
Reports, extensions, 111.057, 111.058.  
Sales and use tax, presumption, 151.054.

## GROSS RECEIPTS TAX

Accounts and accounting, investigations,  
111.003.  
Actions and proceedings, 112.001 et seq.  
Cement production, delinquencies,  
181.103.  
Collection, 182.103.  
Deficiencies, 111.010.  
Liens, validity, 113.106.  
Protest, 112.051 et seq.  
Refunds, 112.151 et seq.  
Venue, generally, post.  
Allocation, 101.009.  
Cement production tax, 181.202.  
Deposits, 182.122.  
Appeal and review, protest payments,  
112.057.  
Application, permit, 182.087.  
Application of law, utilities, miscellane-  
ous tax, 182.026.  
Assessments,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Assignments,  
Claims, 111.251 et seq.  
Liens, 113.107.  
Audits and auditors, 111.0043.  
Projecting assessments, 111.0042.  
Bonds (officers and fiduciaries),  
Injunctions, 112.104.  
Payments, 111.012.  
Books and papers,  
Examination, 111.004.  
Investigations, 111.003.  
Liens, 113.004.  
Car companies, miscellaneous tax,  
182.041, 182.042.  
Cement production tax, 181.001 et seq.  
Charges. Rates and charges, generally,  
post.  
Cities and towns,  
Cement production tax, 181.151.  
Telegraph companies, exemption,  
182.003, 182.004.  
Utility companies, miscellaneous tax,  
182.024 et seq.  
Class actions, 112.055.  
Collection, 111.001 et seq.  
Actions, 182.103.  
Compromise and settlement, 111.101 et  
seq.  
Liability, 111.016.  
Limitation of actions, 111.202 et seq.  
Common law, construction, 101.004.  
Compromise and settlement, 111.101 et  
seq.  
Computation, cement production tax,  
181.001.  
Confidential or privileged information,  
111.006.  
Construction,  
Common law, 101.004.  
Statutes, 101.002.  
Contracts, limitation of actions, 111.203.  
Credit, refunds, 111.106 et seq.  
Crimes and offenses, disclosures,  
111.007.

## GROSS RECEIPTS TAX—Cont'd

Deficiencies, 111.008.  
Actions and proceedings, 111.010.  
Injunctions, 111.011.  
Limitation of actions, 111.202 et seq.  
Redetermination, 111.009.  
Definitions,  
Car company, 182.041.  
State taxes, 101.003.  
Telegraph companies, 182.001.  
Telephone companies, 182.061.  
Utility companies, 182.021.  
Delinquencies,  
Cement production tax, 181.101 et seq.  
Compromise and settlement, 111.101 et  
seq.  
Interest, 111.060.  
Permit suspension, 182.088.  
Depositions, 111.0043.  
Deposits, 101.009.  
Allocation, 182.122.  
Cement production tax, 181.202.  
Disasters, extensions, 111.058.  
Disclosures, crimes and offenses,  
111.007.  
Dismissal and nonsuit, injunction,  
112.105, 112.106.  
Encumbrances. Liens and incumbrances,  
generally, post.  
Evidence,  
Graphic matter, 111.014.  
Liens, 113.007.  
Examination and examiners, records,  
111.004.  
Exemptions,  
Cement production tax, interstate com-  
merce, 181.004.  
Cities and towns, 182.024 et seq.  
Limitation of actions, 111.205, 111.206.  
Telegraph companies, miscellaneous  
tax, 182.003, 182.004.  
Federal Tax Lien Registration Act,  
113.201 et seq.  
Fees,  
Liens, 113.204.  
Witnesses, 111.0043.  
Financial institutions, liens, 113.103.  
Fines and penalties,  
Cement production, 181.104, 181.105.  
Collection, 111.002.  
Disclosures, 111.007.  
Payments, 111.056.  
Failure to pay, 182.102.  
Permit violations, 182.104.  
Reports, 111.056.  
Failure to make, 182.101.  
Fiscal year, 101.006.  
Forfeitures, collection, 111.002.  
Forms,  
Permits, 182.086.  
Reports, 111.052, 182.085.  
Hearings, 111.0043.  
Refunds, 111.105.  
Holidays, reports or payments, 111.053.  
Incumbrances. Liens and incumbrances,  
generally, post.  
Injunctions, 111.011, 112.101 et seq.  
Cement production tax, 181.103.  
Inspection and inspectors, records,  
111.0041.  
Interest,  
Cement production tax, delinquencies,  
181.101.  
Delinquencies, 111.060.  
Refunds, 111.106.  
Interstate commerce, cement production  
tax, exemption, 181.004.  
Investigations and investigators, 111.003.

## INDEX TO TAX CODE

References are to Sections

**GROSS RECEIPTS TAX—Cont'd**

Judgments and decrees,  
 Assignments, 111.251 et seq.  
 Refunds, 112.155.  
 Jurisdiction, 112.001.  
 Collection, 182.103.  
 Leases, car companies, miscellaneous tax, 182.041, 182.042.  
 Licenses and permits, 182.086 et seq.  
 Fines and penalties, 182.104.  
 Liens and incumbrances, 113.001 et seq.  
 Assignments, 111.251 et seq.  
 Cement production tax, delinquencies, 181.102.  
 Federal Tax Lien Registration Act, 113.201 et seq.  
 Limitation of actions, 111.201 et seq.  
 Mail and mailing,  
 Assignments, notice, 111.252.  
 Reports and payments, 111.054.  
 Miscellaneous gross receipts taxes, 182.001 et seq.  
 Municipalities. Cities and towns, generally, ante.  
 Notice,  
 Assignment, 111.252.  
 Deficiencies, 111.008.  
 Liens, 113.002, 113.006.  
 Filing, 113.201.  
 Permit suspension, delinquencies, 182.088.  
 Refunds, hearings, 111.105.  
 Subpoenas, 111.0044.  
 Oaths and affirmations, 111.004, 111.059.  
 Papers. Books and papers, generally, ante.  
 Payments, 182.083.  
 Bonds (officers and fiduciaries), 111.012.  
 Cement production tax, 181.003.  
 Disasters, extensions, 111.058.  
 Extensions, 111.058.  
 Fines and penalties, 111.056, 182.102.  
 Holidays, 111.053.  
 Injunctions, 111.011.  
 Liability, 111.016.  
 Limitation of actions, 111.202 et seq.  
 Mail and mailing, 111.054.  
 Protest, 112.051 et seq.  
 Security, 111.012.  
 Time, 111.051 et seq., 182.082.  
 Utilities, miscellaneous tax, 182.023.  
 Penalties. Fines and penalties, generally, ante.  
 Permits, 182.086 et seq.  
 Fines and penalties, 182.104.  
 Petitions, redetermination, 111.009.  
 Political subdivisions,  
 Cities and towns, generally, ante.  
 Telegraph companies, exemptions, 182.003.  
 Utilities, miscellaneous tax, 182.024 et seq.  
 Priorities and preferences, liens, 113.104.  
 Proceedings. Actions and proceedings, generally, ante.  
 Production of books and papers, 111.0043.  
 Protest, payments, 112.051 et seq.  
 Public utilities, miscellaneous tax, 182.021 et seq.  
 Railroads, miscellaneous tax, 182.041, 182.042.  
 Rates and charges,  
 Car companies, 182.042.  
 Cement production tax, 181.002.  
 Railroads, 182.042.

**GROSS RECEIPTS TAX—Cont'd**

Rates and charges—Cont'd  
 Telegraph companies, 182.002.  
 Telephone companies, miscellaneous tax, 182.062.  
 Utilities, 182.025.  
 Miscellaneous tax, 182.022.  
 Reassignments, 111.254.  
 Records and recordation,  
 Assignment, 111.255.  
 Cement production tax, 181.052.  
 Examination, 111.004.  
 Injunctions, 112.102.  
 Inspection, 111.0041.  
 Liens, 113.005.  
 Recovery, refund or credit, 111.108.  
 Refunds, 111.104 et seq.  
 Actions and proceedings, 112.151 et seq.  
 Injunctions, 112.107.  
 Oaths and affirmations, 111.059.  
 Protest, 112.060.  
 Releases, liens, 113.008.  
 Reports, 182.081, 182.084.  
 Cement production tax, 181.051.  
 Disasters, extensions, 111.058.  
 Fines and penalties, 111.056, 182.101.  
 Forms, 111.052.  
 Holidays, 111.053.  
 Injunctions, 111.011, 112.103.  
 Investigations, 111.003.  
 Mail and mailing, 111.054.  
 Oaths and affirmations, 111.059.  
 Time, 111.051 et seq.  
 Res judicata, refund suits, 112.156.  
 Returns, oaths and affirmations, 111.059.  
 Revocation or suspension, permit, 182.088.  
 Rolling stock, miscellaneous tax, 182.041, 182.042.  
 Rules and regulations, cement production tax, records, 181.052.  
 School funds, deposits, 101.009, 182.122.  
 Security, payments, 111.012.  
 Settlement, 111.101 et seq.  
 Statutes, construction, 101.002.  
 Statutes of limitations, 111.201 et seq.  
 Subpoenas, 111.0043, 111.0044.  
 Suits. Actions and proceedings, generally, ante.  
 Suspension, permit, 182.088.  
 Telegraphs and telephones, miscellaneous tax, 182.001 et seq., 182.061 et seq.  
 Third-party orders, subpoenas, 111.0044.  
 Time,  
 Cement production tax, report filing, 181.051.  
 Liens, validity, 113.105.  
 Payments, 182.082.  
 Reports, 182.081.  
 Tolling, limitation of actions, 111.207.  
 Towns. Cities and towns, generally, ante.  
 Transportation business intangibles tax, exemption, 24.14.  
 Traveling expenses, witnesses, 111.0043.  
 Trial de novo, 112.054.  
 Uniform Federal Tax Lien Registration Act, 113.201 et seq.  
 Utility companies, miscellaneous tax, 182.021 et seq.  
 Venue,  
 Assignments, 111.253.  
 Cement production, delinquencies, 181.103.  
 Collection, 182.103.  
 Witnesses, 111.0043.  
 Year, fiscal year, 101.006.

**GROSS RENTAL RECEIPTS**

Defined, motor vehicle sales tax, 152.001.

**HALFWAY HOUSES**

Exemptions, 11.18.

**HANDICAPPED PERSONS**

Disabled veterans, exemptions, 11.22.  
 Homestead exemption, 11.13.  
 Motor vehicle sales tax, exemption, 152.086.  
 Residential care, exemptions, 11.18.

**HEALTH AND SANITATION**

Sales and use taxes, supplies, exemptions, 151.313.

**HEARING AIDES**

Sales and use tax, exemptions, 151.313.

**HEARINGS**

See specific index headings.

**HIGHWAYS AND ROADS**

Personal property taxation, rolling stock, interstate allocation, 24.34.  
 Private roads, agricultural lands, appraisal, 23.41.

**HISTORICAL LANDMARKS OR SITES**

Appraisal and appraisers, 23.81 et seq.  
 Records, 25.011.  
 Exemptions, 11.24.  
 Charities, preservation, 11.18.

**HOLIDAYS**

Last day for performance of an act, next regular business day, 1.06.  
 State taxes, 111.053.

**HOMEOWNERS ASSOCIATION**

Franchise taxes, exemptions, 171.082.

**HOMEOWNERS ORGANIZATIONS**

Appraisal and appraisers, 23.18.

**HOME-RULE CITIES**

Fiscal year, 1.05.

**HOMESTEADS**

Aged persons,  
 Deferred collection, 33.06.  
 Limitation of school tax, 11.26.  
 Appraisals and appraisers, nonprofit homeowners organizations, 23.18.  
 Collection, deferred collection, aged persons, 33.06.  
 Cooperative housing, franchise taxes, exemption, 171.068.  
 Exemptions, 11.13.  
 Solar and wind-powered energy devices, 11.27.  
 Survey, mail and mailing, 11.47.  
 Time, late application, 11.431.  
 Wind-powered energy devices, 11.27.  
 Late application, exemption, 11.431.  
 Liens and incumbrances, priorities, 32.05.  
 Limitation of school tax, elderly, 11.26.  
 Mail and mailing, exemption surveys, 11.47.  
 Manufactured housing, sales and use tax, 158.001 et seq.  
 Nonprofit homeowners organizations, appraisal and appraisers, 23.18.  
 Priorities, liens and incumbrances, 32.05.  
 Solar energy devices, exemptions, 11.27.  
 Surveys, exemptions, 11.47.

# INDEX TO TAX CODE

1860

References are to Sections

## HOMESTEADS—Cont'd

Time,  
Exemptions, late application, 11.431.  
Filing, 11.13.  
Wind-powered energy devices, exemp-  
tions, 11.27.

## HOSPITALS

Exemptions, 11.23.  
Laundry cooperative associations, fran-  
chise taxes, exemptions, 171.073.

## HOTEL OCCUPANCY TAX

Generally, 156.001 et seq.  
Accounts and accounting, investigations,  
111.003.  
Actions and proceedings, 112.001 et seq.  
Deficiencies, 111.010.  
Judgments and decrees, generally, post.  
Liens, validity, 113.106.  
Protest, 112.051 et seq.  
Refunds, 112.151 et seq.  
Allocation, 101.009.  
Appeal and review, protest payments,  
112.057.  
Assessments,  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Assignments,  
Claims, 111.251 et seq.  
Liens, 113.107.  
Audits and auditors, 111.0043.  
Projecting assessments, 111.0042.  
Bonds (officers and fiduciaries),  
Injunctions, 112.104.  
Payments, 111.012.  
Books and papers,  
Examination, 111.004.  
Inspection, 156.152.  
Investigations, 111.003.  
Liens, 113.004.  
Certificates and certification, liens,  
113.202.  
Charities, exemptions, 156.102.  
Class actions, 112.055.  
Collection, 111.001 et seq., 156.053.  
Compromise and settlement, 111.101 et  
seq.  
Liability, 111.016.  
Limitation of actions, 111.202 et seq.  
Reimbursements, 156.153.  
Common law, construction, 101.004.  
Compromise and settlement, 111.101 et  
seq.  
Confidential or privileged information,  
111.006.  
Construction,  
Common law, 101.004.  
Statutes, 101.002.  
Contracts, limitation of actions, 111.203.  
Costs, collection, reimbursements,  
156.153.  
Credits, refunds, 111.106 et seq.  
Crimes and offenses, disclosures,  
111.007.  
Deficiencies, 111.008.  
Actions and proceedings, 111.010.  
Injunctions, 111.011.  
Limitation of actions, 111.202 et seq.  
Definitions, 156.001.  
State taxes, 101.003.  
Delinquencies, 156.201, 156.202.  
Compromise and settlement, 111.101 et  
seq.  
Interest, 111.060.  
Redetermination, 111.009.  
Depositions, 111.0043.

## HOTEL OCCUPANCY TAX—Cont'd

Deposits, 101.009, 156.251.  
Disasters, extensions, 111.058.  
Disclosure, crimes and offenses, 111.007.  
Dismissal and nonsuit, injunction,  
112.105, 112.106.  
Domicile and residence, exemption,  
156.101.  
Educational organizations, exemptions,  
156.102.  
Encumbrances. Liens and incumbrances,  
generally, post.  
Evidence,  
Graphic matter, 111.014.  
Liens, 113.007.  
Examination and examiners, records,  
111.004.  
Exemptions,  
Limitation of actions, 111.205, 111.206.  
Permanent resident, 156.101.  
Religious, charitable, or educational or-  
ganizations, 156.102.  
Federal Tax Lien Registration Act,  
113.201 et seq.  
Fees,  
Liens, 113.204.  
Witnesses, 111.0043.  
Financial institutions, liens, 113.103.  
Fines and penalties, 156.202, 156.203.  
Collection, 111.002.  
Disclosures, 111.007.  
Payments, 111.056.  
Reports, 111.056.  
Fiscal year, 101.006.  
Forfeitures,  
Collection, 111.002.  
Reimbursements, 156.153.  
Forms, reports, 111.052.  
Funds, deposits, 101.009, 156.251.  
Hearings, 111.0043.  
Refunds, 111.105.  
Holidays, reports or payments, 111.053.  
Incumbrances. Liens and incumbrances,  
generally, post.  
Injunctions, 111.011, 112.101 et seq.  
Inspection and inspectors, books and rec-  
ords, 111.0041, 156.152.  
Interest,  
Delinquencies, 111.060, 156.201.  
Refunds, 111.105.  
Investigations and investigators, 111.003.  
Judgments and decrees,  
Assignments, 111.251 et seq.  
Refunds, 112.155.  
Jurisdiction, 112.001.  
Liens and incumbrances, 113.001 et seq.  
Assignments, 111.251 et seq.  
Federal Tax Lien Registration Act,  
113.201 et seq.  
Limitation of actions, 111.201 et seq.  
Mail and mailing,  
Assignments, notice, 111.252.  
Reports and payments, 111.054.  
Notice,  
Assignment, 111.252.  
Deficiencies, 111.008.  
Inspection, 156.152.  
Liens, 113.002, 113.006.  
Filing, 113.201.  
Refunds, hearings, 111.105.  
Subpoenas, 111.0044.  
Oaths and affirmations, 111.004, 111.059.  
Papers. Books and papers, generally,  
ante.  
Payments, 156.151.  
Bonds (officers and fiduciaries),  
111.012.

## HOTEL OCCUPANCY TAX—Cont'd

Payments—Cont'd  
Disasters, extensions, 111.058.  
Extensions, 111.058.  
Fines and penalties, 111.056, 156.202,  
156.203.  
Holidays, 111.053.  
Injunctions, 111.011.  
Liability, 111.016.  
Limitation of actions, 111.202 et seq.  
Mail and mailing, 111.054.  
Protest, 112.051 et seq.  
Security, 111.012.  
Time, 111.051 et seq.  
Penalties. Fines and penalties, generally,  
ante.  
Permanent resident, exemption, 156.101.  
Petitions, redetermination, 111.009.  
Priorities and preferences, liens, 113.104.  
Proceedings. Actions and proceedings,  
generally, ante.  
Production of books and papers,  
111.0043.  
Protest, payments, 112.051 et seq.  
Rates and charges, 156.052.  
Reassignments, 111.254.  
Records and recordation,  
Assignments, 111.255.  
Examination, 111.004.  
Injunctions, 112.102.  
Inspection, 111.0041, 156.152.  
Liens, 113.005.  
Recovery, refund or credit, 111.108.  
Refunds, 111.104 et seq.  
Actions and proceedings, 112.151 et  
seq.  
Injunctions, 112.107.  
Oaths and affirmations, 111.059.  
Protest, 112.060.  
Reimbursements, collection, 156.153.  
Releases, liens, 113.008.  
Religious organizations, exemption,  
156.102.  
Reports, 156.151.  
Disasters, extensions, 111.058.  
Extensions, 111.057, 111.058.  
Fines and penalties, 111.056, 156.203.  
Forms, 111.052.  
Holidays, 111.053.  
Injunction, 111.011, 112.103.  
Investigations, 111.003.  
Mail and mailing, 111.054.  
Oaths and affirmations, 111.059.  
Reimbursements, forfeiture, 156.153.  
Time, 111.051 et seq.  
Res judicata, refund, suits, 112.156.  
Returns, oaths and affirmations, 111.059.  
Security, payments, 111.012.  
Settlement, 111.101 et seq.  
Statutes, construction, 101.002.  
Statute of limitation, 111.201 et seq.  
Subpoenas, 111.0043, 111.0044.  
Suits. Actions and proceedings, general-  
ly, this index.  
Third-party orders, subpoenas, 111.0044.  
Time,  
Liens, validity, 113.105.  
Payments, 156.151.  
Fines and penalties, 156.202.  
Permanent resident, exemption,  
156.101.  
Reports, failure to make, 156.153.  
Tolling, limitation of actions, 111.207.  
Traveling expenses, witnesses, 111.0043.  
Trial de novo, 112.054.  
Uniform Federal Tax Lien Registration  
Act, 113.201 et seq.

## INDEX TO TAX CODE

References are to Sections

**HOTEL OCCUPANCY TAX—Cont'd**  
Venue, assignments, 111.253.  
Witnesses, 111.0043.  
Year, fiscal year, 101.006.

**HOUSE TRAILERS**  
Motor Vehicle Sales Tax, generally, this index.

**HOUSEHOLD GOODS**  
Defined, personal property tax exemption, 11.14.  
Exemption, personal property taxation, 11.14.

**HOUSING**  
Homesteads, generally, this index.

**HOUSING FINANCE CORPORATIONS**  
Franchise taxes, exemptions, 171.072.

**IMMUNITIES**  
Privileges and Immunities, generally, this index.

**IMPEACHMENT**  
Deeds and conveyances, fraud, sales, 34.01.

**IMPLEMENTS OF HUSBANDRY**  
Exemptions, 11.161.

**IMPORTS**  
Cigarette tax, small quantities, 154.024.

**IMPOUNDMENT**  
Motor fuel taxes, 153.011.

**IMPROVEMENTS**  
Appraisals and appraisers, listing on records, 25.08.  
Defined, property, 1.04.

**IN THIS STATE**  
Defined, sales and use tax, 151.004.

**INCOME CAPITALIZATION**  
Defined, appraisal of agricultural land, 23.51.

**INCUMBRANCES**  
Liens and Incumbrances, generally, this index.

**INDEMNITY**  
Franchise taxes, forfeitures, 171.252.

**INDEX**  
Franchise taxes, lien, 171.358.

**INFANTS**  
Children and Minors, generally, this index.

**INHERITANCE TAXES**  
Generally, 211.001 et seq.  
Actions and proceedings, liens, 211.255.  
Agents, transfers, 211.201.  
Aliens, 211.053.  
Bailor, privileges and immunities, 211.201.  
Banks and banking, transfers, 211.201.  
Books and papers, examination, 211.251.  
Compromise and settlement, domicile, 211.109.  
Computations,  
Aliens, 211.053.  
Maximum tax, 211.055.

**INHERITANCE TAXES—Cont'd**  
Computations—Cont'd  
Nonresident, 211.052.  
Resident, 211.051.  
Contracts, domicile, compromise, 211.109.  
Corporations, transfers, 211.201.  
Credits, 211.051.  
Debtors and creditors, privileges and immunities, 211.201.  
Declaration of no tax due, 211.106.  
Definitions, 211.001.  
Delinquencies, interest, 211.259.  
Depositories, privileges and immunities, 211.201.  
Deposits, 211.301.  
Domicile and residence, compromise agreement, 211.109.  
Encumbrances. Liens and incumbrances, generally, post.  
Evidence, death, presumption, 211.002.  
Examination and examiners, books and records, 211.251.  
Exemptions,  
Liens, 211.254.  
Federal government. United States, generally, post.  
Financial institutions, privileges and immunities, 211.201.  
Fines and penalties, payments, 211.258.  
Forms, 211.110.  
Generation-skipping transfers, 211.054.  
Defined, 211.001.  
Delinquencies, interest, 211.259.  
Payments, 211.105.  
Incumbrances. Liens and incumbrances, generally, post.  
Interest, delinquencies, 211.259.  
Internal revenue code, references, 211.003.  
Internal revenue service, cooperation, 211.056.  
Lessor, privileges and immunities, 211.201.  
Liability, 211.108.  
Transfers, 211.201.  
Liens and incumbrances, 211.252 et seq.  
Actions, 211.255.  
Exemptions, 211.254.  
Limitation of actions, 211.253.  
Releases, 211.256, 211.257.  
Time, 211.252, 211.253.  
Limitation of actions, liens, 211.253.  
Maximum tax, 211.055.  
Nonresidents, 211.052.  
Oaths and affirmations, declaration of no tax due, 211.106.  
Payments, 211.101 et seq.  
Fines and penalties, 211.258.  
Generation-skipping transfers, 211.105.  
Personal representative, 211.101.  
Postponement, 211.103.  
Receipts, 211.107.  
Time, 211.102.  
Generation-skipping transfers, 211.105.  
Personal liability, 211.108.  
Personal representative, payments, 211.101.  
Postponement, payments, 211.103.  
Presumption, death, 211.002.  
Privileges and immunities, transfers, 211.201.  
Rates and charges, delinquencies, interest, 211.259.  
Receipts, payments, 211.107.  
Records and recordation, examination, 211.251.  
Releases, liens, 211.256, 211.257.

**INHERITANCE TAXES—Cont'd**  
Reports,  
Federal estate taxes, valuation, 211.104.  
Forms, 211.110.  
Resident decedent, 211.051.  
Returns, 211.106.  
Forms, 211.110.  
Safe deposit institutions, privileges and immunities, 211.201.  
Signatures, declaration of no tax due, 211.106.  
Statute of limitations, liens, 211.253.  
Stock transfer agents, privileges and immunities, 211.201.  
Time,  
Death, presumption, 211.002.  
Declaration of no tax due, 211.106.  
Liens, 211.252, 211.253.  
Payment, 211.102.  
Transfers, 211.201 et seq.  
Generation-skipping transfers, generally, ante.  
Rights, 211.201.  
United States,  
Federal estate taxes, value, report, 211.104.  
Internal revenue code, references, 211.003.  
Internal revenue service, cooperation, 211.056.  
Resident, federal credit, 211.051.  
Value, federal estate taxes, reports, 211.104.

**INITIATIVE AND REFERENDUM**  
Application of law, 1.02.

**INJUNCTIONS**  
Cement production tax, 181.103.  
Franchise taxes, 171.352.  
Gross receipts tax, cement production, 181.103.  
Motor fuel taxes, 153.007.  
Sales and use tax, 151.262.  
State taxes, 111.011.

**INN**  
Hotel Occupancy Tax, generally, this index.

**INSPECTIONS AND INSPECTORS**  
Appeal and review, tax records, 41.64.  
Cigarette Tax, this index.  
Cigars and Tobacco Products Tax, this index.  
Franchise taxes, books and records, 171.206 et seq.  
Gas. Oil and Gas, this index.  
Hotel occupancy tax, books and records, 156.152.  
Motor Fuel Taxes, this index.  
Occupation Taxes, this index.  
Oil and Gas, this index.  
Personal property taxation, 22.07.  
Pistol dealers, occupation taxes, records, 191.024.  
Sales and use tax, records, 151.027.  
Sulfur production tax, records, 203.051.

**INSURANCE**  
Appraisals and appraisers, intangibles, special appraisal provisions, 23.15.  
Franchise taxes, exemption, 171.052.  
Intangible personal property taxation, taxable situs, 21.08.  
Intangibles, appraisals and appraisers, special appraisal provisions, 23.15.

# INDEX TO TAX CODE

1862

References are to Sections

## INSURANCE—Cont'd

Special appraisal provisions, intangibles, 23.15.

## INTANGIBLE PERSONAL PROPERTY

Defined, 1.04.

## INTANGIBLE PERSONAL PROPERTY TAXATION

Apportionment,

Certain transportation businesses, 21.07.

Taxable situs, 21.06.

Authority to tax, 11.02.

Banks and banking, shares, 11.02.

Taxable situs, 21.09.

Certain financial institutions, taxable situs, 21.08.

Certain transportation businesses, apportionment, 21.07.

Financial institutions, taxable situs, 21.08.

Insurance, taxable situs, 21.08.

Jurisdiction, 11.02.

Savings and loan associations, taxable situs, 21.08.

Taxable situs, 21.06.

Banks and banking, shares, 21.09.

Financial institutions, 21.08.

Transportation businesses, 21.07.

Transportation Business Intangibles Tax, generally, this index.

Transportation businesses, apportionment, 21.07.

## INTEREST

Agricultural lands, additional taxes, 23.46.

Cement production tax, delinquent taxes, 181.101.

Certificates and certification, issuance on amount due on individual units of property, 31.08.

Cigars and Tobacco Products Tax, this index.

Delinquencies, 33.01.

Gross Receipts Tax, this index.

Hotel occupancy tax, delinquent taxes, 156.202.

Interstate motor carrier sales and use tax, 157.204.

Manufactured housing, sales and use tax, 158.151.

Motor carriers, interstate sales and use tax, 157.204.

Motor Vehicle Sales Tax, this index.

Sales and Use Tax, this index.

## INTERNAL REVENUE CODE

Inheritance taxes, references, 211.003.

## INTERNAL REVENUE SERVICE

Inheritance taxes, cooperation, 211.056.

## INTERSTATE ALLOCATION

Personal property taxation, 21.03.

Railroads, rolling stock, personal property taxation, 24.34.

## INTERSTATE MOTOR CARRIER SALES AND USE TAX

Generally, 157.001 et seq.

## INTERSTATE MOTOR VEHICLE

Defined, sales and use tax, 157.001.

## INTERSTATE TRANSPORTATION

Transportation business intangibles tax, appraisals, method of allocation, 24.06.

## INTERSTATE TRUCKERS

Motor Fuel Taxes, generally, this index.

## INTOXICATING LIQUORS

Sales and use tax, exemptions, 151.054.

## INTRASTATE APPORTIONMENT

Railroads, rolling stock, personal property taxation, 24.37.

Transportation business intangibles tax, 24.07.

## INVENTORY

Appraisals and appraisers, special appraisal provisions, 23.12.

Cigarette Tax, this index.

Cigars and tobacco products tax, 155.101.

Motor fuel taxes, seized property, 153.011.

## INVESTIGATIONS AND INVESTIGATORS

Franchise taxes, records, 171.211.

Motor fuel taxes, 153.010.

Oil and gas, occupation tax, 201.301.

Sales and use tax, employment, 151.021.

State taxes, 111.003.

## INVESTMENTS

Open-end investment companies, franchise tax exemption, 171.055.

## INVOICES

Cigarette tax, stamps, 154.046.

Cigars and tobacco products tax, 155.101 et seq.

Motor Fuel Taxes, this index.

Sales and use tax, 151.025.

## JEOPARDY DETERMINATION

Sales and use tax, 151.506.

## JOBBER

Defined, motor fuel taxes, 153.001.

## JOINDER OF PARTIES

Delinquent tax suits, other taxing units, 33.44.

## JOINT AFFIDAVITS

Motor Vehicle Sales Tax, this index.

## JOINT OWNERSHIP

Sales and use tax, exemptions, 151.306.

## JOINT TENANCY

Homestead exemption, 11.13.

## JUDGMENT LIENS

Sales and use tax, 151.608.

## JUDGMENTS AND DECREES

Appeal and review, district courts judgments, 42.28.

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

Delinquent tax suits, current taxes, 33.52.

Franchise Taxes, this index.

Gross Receipts Tax, this index.

Hotel Occupancy Tax, this index.

Motor Fuel Taxes, this index.

Motor Vehicle Sales Tax, this index.

## JUDGMENTS AND DECREES

—Cont'd

Occupation Taxes, this index.

Sales and Use Tax, this index.

State taxes,

Assignments, 111.251 et seq.

Refund suits, 112.155.

## JUDICIAL REVIEW

Appeal and Review, generally, this index.

## JURISDICTION

Authority to levy taxes, 11.01, 11.02.

Cigarette Tax, this index.

Cigars and tobacco products tax, 111.0044.

Delinquent tax suits, 33.41.

Franchise taxes, 111.0044.

Gross receipts tax, 111.0044.

Collection, 182.103.

Hotel occupancy tax, 111.0044.

Motor fuel taxes, 111.0044, 153.007.

Motor vehicle sales tax, 111.0044.

Occupation taxes, 111.0044.

Sales and use taxes, 111.0044.

State taxes, 111.0044, 112.001.

## JURY

Appeal and review, judicial review, trial by jury, 42.23.

## JUVENILE DELINQUENTS AND DEPENDENTS

Residential care, exemptions, 11.18.

## LANDING FIELDS

Airports and Landing Fields, generally, this index.

## LANDMARK SITES

Exemptions, 11.24.

Charities, preservation, 11.18.

Historical Landmarks or Sites, generally, this index.

## LAWYERS

Attorneys, generally, this index.

## LEASES

Airports and landing fields, appraisals, 25.07.

Appraisals and appraisers,

Listing in records, 25.07.

Taxable leaseholds, special appraisal provisions, 23.13.

Car companies, miscellaneous gross receipts tax, 182.041, 182.042.

Defined, motor vehicles, 152.001.

Inheritance taxes, privileges and immunities, 211.201.

Interstate motor carrier sales and use tax, 157.001 et seq.

Motor carriers, interstate sales and use tax, 157.001 et seq.

Motor Vehicle Sales Tax, generally, this index.

Personal property taxation, property held for another, reports, 22.04.

Pistol dealers, occupation taxes, 191.021 et seq.

Railroads, miscellaneous gross receipts tax, 182.041, 182.042.

Reports, property held for another, personal property taxation, 22.04.

Sales and Use Tax, generally, this index.

Sulfur production tax, occupation tax, 203.001 et seq.

Taxable leaseholds, appraisals and appraisers, special appraisal provisions, 23.13.

## INDEX TO TAX CODE

References are to Sections

**LEGAL COUNSEL**

Attorneys, generally, this index.

**LEGISLATURE**

State property tax board, annual report, copies to members, 5.09.

**LESSOR**

Defined, motor fuel taxes, 153.001.

**LIABILITY**

Liens, personal liability, 32.07.

**LIBRARIES**Charities, exemptions, 11.18.  
Exemptions, charities, 11.18.**LICENSES AND PERMITS**

Billiard table owners or operators, cities and towns, 191.064.

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

Gross receipts tax, 182.086 et seq.  
Fines and penalties, 182.104.

Interstate motor carrier sales and use tax, 157.201.

Manufactured housing, sales and use tax, 158.054.

Motor carriers, interstate sales and use tax, 157.201.

Motor Fuel Taxes, this index.

Motor vehicle sales tax, 152.065.

Revocation or suspension, 152.068.

Occupation Taxes, this index.

Oil and gas, occupation taxes, well services, 191.089, 191.101, 191.102.

Pistol dealers, occupation taxes, 191.023.

Sales and Use Tax, this index.

**LIENS AND INCUMBRANCES**

Generally, 32.01 et seq.

Agricultural lands, qualified open space land, change of use, back taxes, 23.55.

Attachment, 32.01.

Cement production tax, delinquencies, 181.102.

Cigarette Tax, this index.

Cigars and Tobacco Products Tax, this index.

Collection, payment by check or money order, dishonor or failure to pay, 31.06.

Contracts, payment of taxes, 32.06.

Creditors, priorities, 32.05.

Debtors and creditors, priorities, 32.05.

Delinquencies, 33.07.

Delinquent tax suits, foreclosure, 33.41.

Federal Tax Lien Registration Act, 113.201 et seq.

Franchise taxes, 171.356 et seq.  
Confidential or privileged information, 171.207.

Funeral expenses, priorities, 32.05.

Gross Receipts Tax, this index.

Hotel Occupancy Tax, this index.

Inheritance Taxes, this index.

Last illnesses, expenses, priorities, 32.05.  
Manufactured housing, sales and use tax, 158.152.

Mines and minerals,

Restrictions, 32.02.

Severance from surface estate, restriction on tax lien, 32.02.

Motor Vehicle Sales Tax, this index.

Occupation Taxes, this index.

Oil and Gas, this index.

**LIENS AND INCUMBRANCES**

—Cont'd

Other property interest, priorities, 32.05.

Payment, taxes by another person, transfer of tax lien, 32.06.

Personal liability, 32.07.

Mineral interest, 32.02.

Personal property taxation, restrictions, 32.03.

Priorities, 32.04.

Quotation services, occupation taxes, 192.008.

Records and recordation, transferred tax liens, 32.06.

Restrictions, mineral interest, 32.02.

Sales and use tax, 151.608.

Survivors allowance, priorities, 32.05.

Timber lands, qualified timber lands, change of use of land, back taxes, 23.76.

Transfer of tax lien, payment of taxes by another person, 32.06.

United States, priorities, 32.04.

**LIEUTENANT GOVERNOR**

State property tax board, annual report, copy, 5.09.

**LIFE ESTATES**

Appraisals and appraisers, separate listing, 25.05.

**LIGHT TRUCK**

Defined, motor fuel taxes, 153.001.

**LIMITATION OF ACTIONS**

Delinquencies, 33.05.

Delinquent tax suits, property sold for taxes, 33.54.

Franchise taxes, liens, 171.360.

Inheritance taxes, liens, 211.253.

Personal property taxation, delinquencies, 33.05.

Sales, excess proceeds, claims, 34.04.

Sales and Use Tax, this index.

State taxes, 111.201 et seq.

**LIMITATION OF CRIMINAL PROSECUTIONS**

Sales and use tax, 151.711.

**LIMITED SALES, EXCISE, AND USE TAX**

Sales and Use Tax, generally, this index.

**LIQUEFIED GAS**

Defined, motor fuel taxes, 153.001.

**LIQUEFIED GAS TAX**

Motor Fuel Taxes, this index.

**LIQUID HYDROCARBONS**

Oil and gas,

Occupation tax, 201.054.

Value, 201.104, 201.105.

**LIQUIDATION**

Franchise taxes, taxable capital, 171.102.

**LISTS**

Assessment Rolls, Lists and Books, generally, this index.

Motor Fuel Taxes, this index.

**LITERARY ORGANIZATIONS**

Exemptions, 11.18.

**LIVESTOCK**

Animals, generally, this index.

**LOCAL APPRAISAL**

Appraisals and Appraisers, generally, this index.

**LOCAL LAWS**

Application of law, 1.02.

**LOCAL PARKS, RECREATION AND OPEN SPACE FUND**

Cigarette tax, 154.603.

**LOCAL REVIEW**

Appeal and Review, this index.

**LODGES AND LODGING**

Franchise taxes, exemptions, 171.070.

Hotel Occupancy Tax, generally, this index.

**LOGS AND LOGGING**

Timber and Lumber, generally, this index.

**LUMBER**

Timber and Lumber, generally, this index.

**MACHINERY AND EQUIPMENT**

Agricultural machinery and equipment, exemptions, 11.161.

Sales and use tax, examination, 151.023.

**MAGAZINES**

Sales and use tax, exemptions, 151.320.

**MAIL AND MAILING**

Assessments, increase, notice of hearing, 26.06.

Collections, tax bills, 31.01.

Delinquencies, notice, 33.04.

First-class mail, delivery of notice to property owner, 1.07.

Franchise Taxes, this index.

Homesteads, exemption survey, 11.47.

Motor Fuel Taxes, this index.

Motor Vehicle Sales Tax, this index.

Notice, delivery, property owner, 1.07.

Payment, timeliness of action, 1.08.

Sales and Use Tax, this index.

Time, delivery of notice, 1.07.

Timeliness, action, property owner, 1.08.

Transportation business intangibles tax, notice, hearings, appraisals, 24.09.

**MANUFACTURED HOUSING**

Records, 21.22 et seq., 158.055.

Lien, 158.152.

Sales and use tax, 158.055.

Sales and use tax, 158.001 et seq.

Tables situs, 21.21 et seq.

**MANUFACTURERS AND MANUFACTURING**

Cement production tax, 181.001 et seq.

Cigarette tax,

Stamps, 154.053.

Supervision, 154.303.

Defined, sales and use tax, 158.002.

Housing, sales and use tax, 158.001 et seq.

Sales and Use Tax, this index.

**MARKET VALUE**

Defined, property, 1.04.

**MARKETS AND MARKETING**

Appraisal and appraisers, 25.07.

Associations, franchise taxes, exemptions, 171.069.

# INDEX TO TAX CODE

1864

References are to Sections

## MEALS

Sales and use tax, exemptions, 151.314.

## MEASURERS

Oil and gas, occupation tax, 201.002.

## MEDICAL CARE AND TREATMENT

Charities, exemptions, 11.18.

## MEDICAL CENTER DEVELOPMENT

Exemptions, 11.23.

## MEDICAL SCHOOLS

Development, exemption, 11.23.

## MEETINGS

See specific index headings.

## MENTAL INSTITUTIONS

State taxes, liens, 113.103.

## MERGER AND CONSOLIDATION

Assessments, taxing units during year, 26.13.

## METERS

Cigarette tax, stamps, 154.048 et seq.

## MILEAGE

Travel Expenses, generally, this index.

## MINERALS

Mines and Minerals, generally, this index.

## MINES AND MINERALS

Appraisals and appraisers, separate interest, 25.12.

Interest not being produced, special appraisal provisions, 23.17.

Liens and incumbrances, restrictions, 32.02.

Restrictions, tax liens, 32.02.

Sales and use tax, exemptions, 151.324.

Severance from surface estate, restriction on tax lien, 32.02.

Special appraisal provisions, interest not being produced, 23.17.

Sulfur production tax, occupation tax, 203.001 et seq.

## MINORS

Children and Minors, generally, this index.

## MISCELLANEOUS EXEMPTIONS

Generally, 11.23.

## MISCELLANEOUS GROSS RECEIPTS TAXES

Generally, 182.001 et seq.

## MISCELLANEOUS OCCUPATION TAXES

Occupation Taxes, generally, this index.

## MISREPRESENTATION

Fraud, generally, this index.

## MOBILE HOMES AND MOBILE HOME PARKS

Actions and proceedings, movement reports or records, 21.24.

Defined, situs, 21.21.

Exemptions, movement reports or records, 21.25.

Fines and penalties, movement reports or records, 21.24.

Homestead exemption, 11.13.

Manufactured Housing, generally, this index.

## MOBILE HOMES AND MOBILE HOME PARKS—Cont'd

Movement,

Record, 21.22 et seq.

Taxable situs, 21.21 et seq.

Reports, movements, 21.23 et seq.

Sales and use tax, manufactured housing, 158.001 et seq.

Situs, 21.21 et seq.

Taxable situs, 21.21 et seq.

Venue, movement reports or records, 21.24.

## MONEY

Occupation taxes, broker and factors, 191.001 et seq.

## MONEY ORDERS

Collection, medium of payment, 31.06.

## MONTH

Defined, state taxes, 101.003.

## MORTGAGES

Appraisals and appraisers, encumbered property, listing on records, 25.06.

## MOTELS AND TOURIST COURTS

Hotel Occupancy Tax, generally, this index.

## MOTION PICTURE FILMS

Sales and use tax, exemptions, 151.327.

## MOTOR CARRIERS

Carriers, generally, this index.

Transportation Business Intangibles Tax, generally, this index.

## MOTOR FUEL TAXES

Generally, 152.001 et seq.

Accounts and accounting, investigations, 111.003.

Actions and proceedings, 112.001 et seq.

Collection, 153.014.

Deficiencies, 111.010.

Delinquencies, 153.007.

Liens, validity, 113.106.

Protest, 112.051 et seq.

Refunds, 112.151 et seq.

Administrative law and procedure, permit cancellations, 153.006.

Allocations, 101.009, 153.501 et seq.

Appeal and review,

Permit cancellation, 153.007.

Protest payments, 112.057.

Appraisals and appraisers, seized property, 153.011.

Assessments,

Limitation of actions, 111.201.

Projecting, 111.0042.

Assignments,

Claims, 111.251 et seq.

Gasoline tax, refunds, 153.119.

Liens, 113.107.

Associations and societies, crimes and offenses, 153.406.

Audits and auditors, 111.0043.

Crimes and offenses, 153.403 et seq.

Deficiencies, 153.007.

Projecting assessments, 111.0042.

Bill of sale, seized property, 153.012.

Bonds (officers and fiduciaries),

Diesel fuel taxes, 153.208, 153.209, 153.218.

Forfeitures, 153.007.

Gasoline tax, 153.116.

Impoundment, 153.011.

## MOTOR FUEL TAXES—Cont'd

Bonds (officers and fiduciaries)—Cont'd

Injunctions, 112.104.

Interstate truckers, 153.002.

Payments, 111.012.

Books and papers,

Crimes and offenses, 153.403 et seq.

Examination, 111.004, 153.007, 153.008.

Investigations, 111.003.

Liens, 113.004.

Calibration, cargo tanks and containers, 153.009.

Cancellation, permit, 153.006, 153.007.

Cargo manifest,

Examination, 153.010.

Transporting documents, 153.004.

Cargo tanks,

Calibration, 153.009.

Examination, 153.008.

Impoundment, 153.011.

Certificates and certification,

Calibration, 153.009.

Liens, 113.202.

Charges. Rates and charges, generally, post.

Class actions, 112.055.

Collection, 111.001 et seq.

Compromise and settlement, 111.101 et seq.

Diesel fuel tax, 153.206.

Gasoline tax, 153.105.

Liability, 111.016.

Limitation of actions, 111.202 et seq.

Venue, 153.014.

Common Law, construction, 101.004.

Compromise and settlement, 111.101 et seq.

Computation,

Diesel fuel tax, 153.204.

Gasoline tax, 153.103.

Liquified gas tax, 153.308.

Concealment, 153.403 et seq.

Confidential or privileged information, 111.006.

Construction,

Common Law, 101.004.

Statutes, 101.002.

Containers,

Calibration, 153.009.

Examination, 153.008.

Contracts, limitation of actions, 111.203.

Corporations, fines and penalties, 153.406.

County and road district highway fund, allocation, 153.503.

Credits,

Gasoline and alcohol mixtures, 153.123.

Refunds, 111.106 et seq.

Crimes and offenses, 153.403 et seq.

Disclosures, 111.007.

Damages, cargo tanks or containers, 153.009.

Decal permit, liquified gas tax, 153.305.

Decals, liquified gas tax, transfers, 153.311.

Deeds and conveyances, seized property, 153.012.

Deficiencies, 111.008.

Actions and proceedings, 111.010.

Audits, 153.007.

Injunctions, 111.011.

Limitation of actions, 111.202 et seq.

Redetermination, 111.009.

Time, 153.007.

Definitions, 153.001.

States taxes, 101.003.

## INDEX TO TAX CODE

References are to Sections

## MOTOR FUEL TAXES—Cont'd

Delinquencies,  
 Actions, 153.007.  
 Compromise and settlement, 111.101 et seq.  
 Interest, 111.060.  
 Redetermination, 153.005.  
 Depositions, 111.0043.  
 Deposits, 101.009.  
 Gasoline tax, unclaimed refunds, 153.502.  
 Diesel fuel tax, 153.201 et seq.  
 Allocation, 153.504.  
 Application, permits, 153.207.  
 Aviation fuel dealers permit, 153.213.  
 Bonds (officers and fiduciaries), 153.218.  
 Permits, 153.208, 153.209.  
 Collection, 153.206.  
 Computation, 153.204.  
 Definitions, 153.001.  
 Display, permit, 153.216.  
 Exemptions, 153.203.  
 Fees,  
 Refunds, 153.225.  
 Trip permits, 153.212.  
 Forms, refunds, 153.223.  
 Free fuel, statement, 153.205.  
 Inspection and inspectors, records, 153.219.  
 Interstate truckers permit, 153.211.  
 Invoices, 153.220.  
 Licenses and permits, 153.207 et seq.  
 Application, 153.207.  
 Aviation fuel dealers permit, 153.213.  
 Bonds (officers and fiduciaries), 153.208, 153.209.  
 Display, 153.216.  
 Interstate truckers, 153.211.  
 List, 153.217.  
 Prepaid user permit, 153.210.  
 Time, validity, 153.215.  
 Trip permits, 153.212.  
 Validity, time, 153.215.  
 List, 153.217.  
 Nonhighway use, refunds, 153.205, 153.222.  
 Payments, 153.206, 153.221.  
 Prepaid user permit, 153.210.  
 Rates and charges, 153.202.  
 Records and recordation, 153.219.  
 Refunds, 153.222 et seq.  
 Nonhighway use, 153.205.  
 Reports, 153.221.  
 Statement, free fuel, 153.205.  
 Suppliers, 153.214.  
 Tables, 153.204.  
 Time,  
 Payments, 153.221.  
 Permit, validity, 153.215.  
 Refunds, filing, 153.224.  
 Trip permits, 153.212.  
 Validity, permit, time, 153.215.  
 Disasters, extensions, 111.058.  
 Disclosures, crimes and offenses, 111.007.  
 Dismissal and nonsuit, injunction, 112.105, 112.106.  
 Display,  
 Diesel fuel tax permit, 153.216.  
 Fines and penalties, 153.402.  
 Gasoline tax permit, 153.113.  
 Liquefied gas tax permit, 153.303.  
 Duplicative taxes, 153.015.  
 Evidence,  
 Graphic matter, 111.014.  
 Liens, 113.007.  
 Permit cancellations, 153.006.

## MOTOR FUEL TAXES—Cont'd

Examination and examiners,  
 Books and records, 153.007, 153.008.  
 Cargo manifest or invoices, 153.010.  
 Crimes and offenses, 153.403 et seq.  
 Fines and penalties, 153.402.  
 Records, 111.004.  
 Exemptions,  
 Diesel fuel taxes, 153.203.  
 Gasoline tax, 153.104.  
 Limitations of actions, 111.205, 111.206.  
 Federal Tax Lien Registration Act, 113.201 et seq.  
 Fees,  
 Cargo tank calibration, 153.009.  
 Diesel fuel tax,  
 Refunds, 153.225.  
 Trip permit, 153.212.  
 Gasoline tax, refund claim, 153.122.  
 Liens, 113.204.  
 Trip permits, gasoline tax, 153.109.  
 Witnesses, 111.0043.  
 Financial institutions, liens, 113.103.  
 Fines and penalties, 153.401 et seq.  
 Collection, 111.002.  
 Disclosures, 111.007.  
 Payments, 111.056.  
 Failure to make, 153.401.  
 Reports, 111.056.  
 Failure to make, 153.401.  
 Fiscal year, 101.006.  
 Forfeitures,  
 Bonds (officers and fiduciaries), 153.007.  
 Collection, 111.002.  
 Forms,  
 Diesel fuel tax, refunds, 153.223.  
 Gasoline tax, refunds, 153.120.  
 Reports, 111.052.  
 Free fuel, diesel fuel tax, statement, 153.205.  
 Funds,  
 Gasoline and alcohol mixture fund, 153.123.  
 Tax administration fund, 153.501.  
 Game, fish and water safety fund, allocation, 153.502.  
 Gasohol, 153.123.  
 Gasoline and alcohol mixture fund, 153.123.  
 Gasoline tax, 153.101 et seq.  
 Airplanes, exemptions, 153.104.  
 Allocation, 153.502, 153.503.  
 Application, permits, 153.106.  
 Aviation fuel dealers permit, 153.110.  
 Bonds (officers and fiduciaries), 153.116.  
 Collection, 153.105.  
 Computation, 153.103.  
 Definitions, 153.001.  
 Display, permit, 153.113.  
 Distributors permit, 153.107, 153.111.  
 Exemptions, 153.101.  
 Fees,  
 Refund claim, 153.122.  
 Trip permits, 153.109.  
 Forms, refund claims, 153.120.  
 Interstate truckers permit, 153.108.  
 Licenses and permits, 153.106 et seq.  
 Application, 153.106.  
 Aviation fuel dealers permit, 153.110.  
 Display, 153.113.  
 Distributors permit, 153.107, 153.111.  
 Interstate truckers permit, 153.108.  
 Time, validity, 153.112.  
 Trip permits, 153.109.  
 Validity, time, 153.112.

## MOTOR FUEL TAXES—Cont'd

Gasoline tax—Cont'd  
 List, dealers, 153.114.  
 Payments, 153.115, 153.118.  
 Rates and charges, 153.102.  
 Records, 153.117.  
 Refunds, 153.119.  
 Unclaimed refunds, 153.502.  
 Reports, 153.118.  
 Tables, 153.103.  
 Time,  
 Payments, 153.118.  
 Permit, validity, 153.112.  
 Refund claim, 153.120, 153.121.  
 Trip permits, 153.109.  
 Unclaimed refunds, 153.502.  
 Validity, permits, time, 153.112.  
 Hearings, 111.0043.  
 Delinquency redeterminations, 153.005.  
 Permit cancellation, 153.006.  
 Refunds, 111.105.  
 Holidays, reports or payments, 111.053.  
 Impoundment, 153.011.  
 Injunctions, 111.011, 112.101 et seq., 153.007.  
 Inspection and inspectors, 153.008.  
 Carrier records, 153.003.  
 Crimes and offenses, 153.403 et seq.  
 Diesel fuel tax, records, 153.219.  
 Fines and penalties, 153.402.  
 Liquefied gas tax, records, 153.309.  
 Records, 111.0041.  
 Seized property report, 153.011.  
 Interest,  
 Delinquencies, 111.060.  
 Refunds, 111.106.  
 Interstate truckers,  
 Leased vehicles, 153.002.  
 Licenses and permits, gasoline tax, 153.106 et seq.  
 Presumptions, 153.013.  
 Inventories, seized property, 153.011.  
 Investigations and investigators, 111.003, 153.010.  
 Invoices,  
 Diesel fuel tax, 153.220.  
 Examination, 153.010.  
 Liquefied gas tax, 153.309.  
 Judgments and decrees,  
 Assignments, 111.251 et seq.  
 Refunds, 112.155.  
 Jurisdiction, 112.001, 153.007.  
 Leases, interstate truckers, 153.002.  
 Licenses and permits,  
 Cancellation, 153.006, 153.007.  
 Crimes and offenses, 153.403 et seq.  
 Diesel fuel tax, ante.  
 Examination, 153.010.  
 Fines and penalties, 153.402.  
 Gasoline tax, ante.  
 Liquefied gas tax, post.  
 Liens and incumbrances, 113.001 et seq.  
 Assignments, 111.251 et seq.  
 Federal Tax Lien Registration Act, 113.201 et seq.  
 Limitation of actions, 111.201 et seq.  
 Liquefied gas tax, 153.301 et seq.  
 Allocation, 153.505.  
 Application, permits, 153.303.  
 Computation, 153.308.  
 Dealers permit, 153.304.  
 Decal permit, 153.305.  
 Decals, transfers, 153.311.  
 Definitions, 153.001.  
 Display, permit, 153.303.  
 Inspection, records, 153.309.  
 Interstate truckers permit, 153.306.

# INDEX TO TAX CODE

1866

References are to Sections

## MOTOR FUEL TAXES—Cont'd

Liquefied gas tax—Cont'd  
Invoices, 153.309.  
Licenses and permits, 153.303 et seq.  
Dealers permit, 153.304.  
Decal permit, 153.305.  
Interstate truckers, 153.306.  
Time, validity, 153.307.  
Validity, time, 153.307.  
Payments, 153.302, 153.308, 153.310.  
Rates and charges, 153.301.  
Records, 153.309.  
Refunds, 153.311.  
Reports, 153.308, 153.310.  
Time,  
Payments, 153.310.  
Permits, validity, 153.307.  
Records, inspection, 153.309.  
Transfer, decals, 153.311.  
Validity, permits, time, 153.307.  
List,  
Diesel fuel taxes, dealers, 153.217.  
Gasoline tax dealers, 153.114.  
Mail and mailing,  
Assignments, notice, 111.252.  
Delinquency redetermination hearings,  
notice, 153.005.  
Permit cancellation notice, 153.006.  
Reports and payments, 111.054.  
Seized property sale, notice, 153.012.  
Nonhighway use, diesel fuel, 153.205.  
Refunds, 153.222.  
Notice,  
Assignment, 111.252.  
Deficiencies, 111.008.  
Delinquencies, redetermination hearings,  
153.005.  
Liens, 113.002, 113.006.  
Filing, 113.201.  
Permit cancellation, 153.006.  
Refunds, hearings, 111.105.  
Seized property, sales, 153.012.  
Subpoenas, 111.0044.  
Oaths and affirmations, 111.004, 111.059.  
Orders, permit cancellation, 153.006,  
153.007.  
Papers. Books and papers, generally,  
ante.  
Payments,  
Bonds (officers and fiduciaries),  
111.012.  
Diesel fuel tax, 153.206, 153.221.  
Disasters, extensions, 111.058.  
Extensions, 111.058.  
Fines and penalties, 111.056, 153.401.  
Gasoline tax, 153.115, 153.118.  
Holidays, 111.053.  
Injunctions, 111.011.  
Liability, 111.016.  
Limitation of actions, 111.202 et seq.  
Liquefied gas tax, 153.302, 153.308,  
153.310.  
Mail and mailing, 111.054.  
Protest, 112.051 et seq.  
Security, 111.012.  
Time, 111.051 et seq.  
Penalties. Fines and penalties, generally,  
ante.  
Permits. Licenses and permits, general-  
ly, ante.  
Petitions,  
Delinquency redeterminations, 153.005.  
Redetermination, 111.009.  
Prepaid user permit, diesel fuel tax,  
153.210.  
Presumptions, 153.013.  
Priorities and preferences, liens, 113.104.

## MOTOR FUEL TAXES—Cont'd

Proceedings. Actions and proceedings,  
generally, ante.  
Production of books and papers,  
111.0043.  
Protest, payments, 112.051 et seq.  
Rates and charges,  
Diesel fuel tax, 153.202.  
Gasoline tax, 153.102.  
Liquefied gas tax, 153.301.  
Reassignments, 111.254.  
Records and recordation,  
Assignment, 111.255.  
Carrier records, 153.003.  
Crimes and offenses, 153.403 et seq.  
Diesel fuel tax, 153.219.  
Examination, 111.004, 153.007, 153.008.  
Gasoline and alcohol mixtures, 153.123.  
Gasoline tax, 153.117.  
Injunctions, 112.102.  
Inspection, 111.0041, 153.008.  
Liens, 113.005.  
Liquefied gas tax, 153.309.  
Presumptions, 153.013.  
Transporting documents, 153.004.  
Recovery, refund or credit, 111.108.  
Redetermination, delinquencies, 153.005.  
Refunds, 111.104 et seq.  
Actions and proceedings, 112.151 et  
seq.  
Diesel fuel tax, 153.222 et seq.  
Nonhighway use, 153.205.  
Gasoline and alcohol mixture, 153.123.  
Gasoline tax, 153.119.  
Unclaimed refunds, 153.502.  
Injunctions, 112.107.  
Liquefied gas tax, 153.311.  
Oaths and affirmations, 111.059.  
Protest, 112.060.  
Releases, liens, 113.008.  
Repairs, cargo tanks or containers,  
153.009.  
Reports,  
Diesel fuel tax, 153.221.  
Disasters, extensions, 111.058.  
Extension, 111.057, 111.058.  
Fines and penalties, 111.056, 153.401,  
153.402.  
Forms, 111.052.  
Gasoline and alcohol mixtures, 153.123.  
Gasoline tax, 153.118.  
Holidays, 111.053.  
Injunctions, 111.011, 112.103.  
Investigations, 111.003.  
Liquefied gas tax, 153.308, 153.310.  
Mail and mailing, 111.054.  
Oaths and affirmations, 111.059.  
Permit cancellation, 153.006.  
Seizures, 153.011.  
Time, 111.051 et seq.  
Res judicata, refund suits, 112.156.  
Returns, oaths and affirmations, 111.059.  
Samples, 153.008, 153.010.  
School funds, allocation, 153.502 et seq.  
Searches and seizures, 153.011, 153.012.  
Security, payments, 111.012.  
Settlement, 111.101 et seq.  
State highway fund, allocation, 153.503  
et seq.  
Statements,  
Crimes and offenses, 153.403 et seq.  
Diesel fuel tax, free fuel, 153.205.  
Fines and penalties, 153.402.  
Statutes, construction, 101.002.  
Statutes of limitations, 111.201 et seq.  
Stopping vehicles, 153.010.  
Subpoenas, 111.0043, 111.0044.

## MOTOR FUEL TAXES—Cont'd

Suits. Actions and proceedings, general-  
ly, ante.  
Tables,  
Diesel fuel tax, 153.204.  
Gasoline tax, 153.103.  
Tanks. Cargo tanks, generally ante.  
Tax administration fund, 153.501.  
Third-party orders, subpoenas, 111.0044.  
Time,  
Carrier records, keeping, 153.003.  
Deficiencies, 153.007.  
Delinquencies, redetermination,  
153.005.  
Diesel fuel tax, ante.  
Gasoline and alcohol mixture fund,  
transfers, 153.123.  
Gasoline tax, ante.  
Liens, validity, 113.105.  
Liquefied gas tax, ante.  
Permit cancellation, 153.006.  
Seized property sale, notice, 153.012.  
Trial, 153.007.  
Tolling, limitation of actions, 111.207.  
Transfers,  
Gasoline and alcohol mixture fund,  
153.123.  
Liquefied gas tax, decals, 153.311.  
Transporting documents, 153.004.  
Traveling expenses, witnesses, 111.0043.  
Trial de novo, 112.054, 153.007.  
Trip permits,  
Diesel fuel tax, 153.212.  
Gasoline tax, 153.109.  
Uniform Federal Tax Lien Registration  
Act, 113.201 et seq.  
Venue, 153.007.  
Assignments, 111.253.  
Collection, 153.014.  
Criminal prosecutions, 153.407.  
Witnesses, 111.0043.  
Year, fiscal year, 101.006.  
**MOTOR VEHICLE SALES TAX**  
Generally, 152.001 et seq.  
Accounts and accounting, investigations,  
111.003.  
Actions and proceedings, 112.001 et seq.  
Deficiencies, 111.010.  
Evidence, generally, post.  
Liens, validity, 113.106.  
Protest, 112.051 et seq.  
Refunds, 112.151 et seq.  
Venue, assignments, 111.253.  
Affidavits. Joint affidavits, generally,  
post.  
Allocation, 101.009, 152.122.  
Ambulances, exemptions, 152.087.  
Appeal and review,  
Permit revocation or suspension,  
152.068.  
Protest payments, 112.057.  
Assessments,  
Handicapped persons, exemption viola-  
tions, 152.086.  
Limitation of actions, 111.201.  
Projecting, 111.0042.  
Assignments,  
Claims, 111.251 et seq.  
Liens, 113.107.  
Audits and auditors, 111.0043.  
Projecting assessments, 111.0042.  
Bonds (officers and fiduciaries),  
Injunctions, 112.104.  
Payments, 111.012.  
Books and papers,  
Examination, 111.004.

## INDEX TO TAX CODE

References are to Sections

## MOTOR VEHICLE SALES TAX

—Cont'd

Books and papers—Cont'd  
 Investigations, 111.003.  
 Liens, 113.004.  
 Certificates and certification,  
 Liens, 113.202.  
 Rentals, 152.061.  
 Class actions, 112.055.  
 Collection, 111.001 et seq., 152.041 et  
 seq.  
 Change in tax status, 152.046.  
 Compromise and settlement, 111.101 et  
 seq.  
 Gross rental receipts, 152.045, 152.046.  
 Liability, 111.016.  
 Limitation of actions, 111.202 et seq.  
 Metal dealers, 152.042.  
 Nonresidents, 152.043.  
 Reports, 152.045.  
 Seller, joint affidavit, failure to deliver,  
 152.044.  
 Supervision, 152.003.  
 Common Law, construction, 101.004.  
 Compromise and settlement, 111.101 et  
 seq.  
 Confidential or privileged information,  
 111.006.  
 Consideration, total consideration,  
 152.002.  
 Construction,  
 Common Law, 101.004.  
 Statutes, 101.002.  
 Continuances, deficiencies, redetermina-  
 tion hearing, 152.067.  
 Contracts, limitation of actions, 111.203.  
 Copies,  
 Invoices, 152.063.  
 Joint affidavits, 152.062.  
 Receipts, 152.064.  
 Rules, 152.003.  
 Credit, refunds, 111.106 et seq.  
 Crimes and offenses,  
 Affidavits, false signatures, 152.101.  
 Disclosures, 111.007.  
 Payment violations, 152.102.  
 Dealers, metal plates,  
 Collection, 152.042.  
 Rate, 152.027.  
 Deficiencies, 111.008, 152.066.  
 Actions and proceedings, 111.010.  
 Injunctions, 111.011.  
 Limitation of actions, 111.202 et seq.  
 Redetermination, 111.009, 152.067.  
 Definitions, 152.001, 152.002.  
 State taxes, 101.003.  
 Delinquencies,  
 Compromise and settlement, 111.101 et  
 seq.  
 Interest, 111.060.  
 Depositions, 111.0043.  
 Deposits, 101.009, 152.121, 152.122.  
 Destroyed vehicles, gross rental receipts,  
 152.026.  
 Disasters, extensions, 111.058.  
 Disclosures, crimes and offenses,  
 111.007.  
 Dismissal and nonsuit, injunction,  
 112.105, 112.106.  
 Domicile and residence, new residents,  
 rate, 152.023.  
 Driver training vehicles, exemptions,  
 152.081.  
 Duplicate tax, exemption, 152.089.  
 Emergency medical services, exemptions,  
 152.087.  
 Encumbrances. Liens and incumbrances,  
 generally, post.

## MOTOR VEHICLE SALES TAX

—Cont'd

Evidence,  
 Deficiencies, redetermination, 152.067.  
 Graphic matter, 111.014.  
 Liens, 113.007.  
 Examination and examiners, records,  
 111.004.  
 Exchange of property, rate, 152.024.  
 Exemptions, 152.081 et seq.  
 Ambulances, 152.087.  
 Driver training vehicles, 152.081.  
 Duplicate tax, 152.089.  
 Emergency medical services, 152.087.  
 Fire trucks, 152.087.  
 Handicapped persons, 152.086.  
 Limitation of actions, 111.205, 111.206.  
 Public agencies, 152.082 et seq.  
 Religious organizations, 152.088.  
 Rent, post.  
 Volunteer fire departments, 152.087.  
 False affidavits, 152.101.  
 Federal Tax Lien Registration Act,  
 113.201 et seq.  
 Fees,  
 Liens, 113.204.  
 Witnesses, 111.0043.  
 Financial institutions, liens, 113.103.  
 Fines and penalties, 152.101 et seq.  
 Affidavits, false signatures, 152.101.  
 Collection, 111.002.  
 Deficiencies, 152.066.  
 Disclosures, 111.007.  
 Payments, 111.056.  
 Violations, 152.102.  
 Records, failure to keep, 152.103.  
 Reports, 111.056.  
 Seller, joint affidavit, failure to deliver,  
 152.044.  
 Firemen and fire departments, exemp-  
 tion, 152.087.  
 Fiscal year, 101.006.  
 Foreign countries, rate, 152.023.  
 Foreign states, rate, 152.022, 152.023.  
 Forfeitures, collection, 111.002.  
 Forms,  
 Joint affidavits, 152.062.  
 Receipts, 152.064.  
 Rental certificates, 152.061.  
 Reports, 111.052.  
 Gifts, rate, 152.025.  
 Gross rental receipts,  
 Collection, 152.045, 152.046.  
 Rate, 152.026.  
 Handicapped persons, exemptions,  
 152.086.  
 Hearings, 111.0043.  
 Deficiencies, redetermination, 152.067.  
 Permit revocation or suspension,  
 152.068.  
 Refunds, 111.105.  
 Holidays, reports or payments, 111.053.  
 Incumbrances. Liens and incumbrances,  
 generally, post.  
 Injunctions, 111.011, 112.101 et seq.  
 Inspection and inspectors, records,  
 111.0041.  
 Interest,  
 Deficiencies, 152.066.  
 Delinquencies, 111.060.  
 Refunds, 111.106.  
 Investigations and investigators, 111.003,  
 Invoices, 152.063.  
 Joint affidavits, 152.062.  
 False signatures, 152.101.  
 Sellers failure to deliver, 152.044.

## MOTOR VEHICLE SALES TAX

—Cont'd

Judgments and decrees,  
 Assignments, 111.251 et seq.  
 Refunds, 112.155.  
 Jurisdiction, 112.001.  
 Licenses and permits, 152.065.  
 Revocation or suspension, 152.068.  
 Liens and incumbrances, 113.001 et seq.  
 Assignments, 111.251 et seq.  
 Federal Tax Lien Registration Act,  
 113.201 et seq.  
 Limitation of actions, 111.201 et seq.  
 Mail and mailing,  
 Assignments, notice, 111.252.  
 Permit hearing, revocation or suspen-  
 sion, 152.068.  
 Reports and payments, 111.054.  
 Metal dealer plates,  
 Collection, 152.042.  
 Rate, 152.027.  
 Mileage records, 152.063.  
 New resident, rate, 152.023.  
 Nonresident, collection, 152.043.  
 Notice,  
 Assignment, 111.252.  
 Deficiencies, 111.008, 152.066.  
 Liens, 113.002, 113.006.  
 Filing, 113.201.  
 Permit hearing, revocation or suspen-  
 sion, 152.068.  
 Refunds, hearings, 111.105.  
 Subpoenas, 111.0044.  
 Oaths and affirmations, 111.004, 111.059.  
 Offenses. Crimes and offenses, general-  
 ly, ante.  
 Papers. Books and papers, generally,  
 ante.  
 Payments,  
 Bonds (officers and fiduciaries),  
 111.012.  
 Deficiencies, 152.066.  
 Disasters, extensions, 111.058.  
 Extensions, 111.058.  
 Fines and penalties, 111.056, 152.102.  
 Holidays, 111.053.  
 Injunctions, 111.011.  
 Liability, 111.016.  
 Limitation of actions, 111.202 et seq.  
 Mail and mailing, 111.054.  
 Protest, 112.051 et seq.  
 Security, 111.012.  
 Seller, joint affidavit, failure to deliver,  
 152.044.  
 Time, 111.051 et seq.  
 Penalties. Fines and penalties, generally,  
 ante.  
 Permits, 152.065.  
 Revocation or suspension, 152.068.  
 Petitions, redetermination, 111.009,  
 152.067.  
 Plates, metal dealers,  
 Collection, 152.042.  
 Rate, 152.027.  
 Priorities and preferences, liens, 113.104.  
 Proceedings. Actions and proceedings,  
 generally, ante.  
 Proceeds, disposition, 152.121, 152.122.  
 Production of books and papers,  
 111.0043.  
 Protest, payments, 112.051 et seq.  
 Public agencies, exemptions, 152.082 et  
 seq.  
 Rates and charges, 152.021 et seq.  
 Deficiencies, interest, 152.066.  
 Reassignments, 111.254.  
 Receipts, 152.064.

# INDEX TO TAX CODE

1868

References are to Sections

## MOTOR VEHICLE SALES TAX

—Cont'd

Records and recordation, 152.063.  
Assignment, 111.255.  
Examination, 111.004.  
Fines and penalties, 152.103.  
Injunctions, 112.102.  
Inspection, 111.0041.  
Liens, 113.005.  
Recovery, refund or credit, 111.108.  
Refunds, 111.104 et seq.  
Actions and proceedings, 112.151 et seq.  
Injunctions, 112.107.  
Oaths and affirmations, 111.059.  
Protest, 112.060.  
Registration, 152.065.  
Rentals, 152.061.  
Releases, liens, 113.008.  
Religious organizations, exemptions, 152.088.  
Rent,  
Collection,  
Change in status, 152.046.  
Gross rental receipts, 152.045.  
Exemptions, 152.084.  
Public agencies, 152.084.  
Religious organizations, 152.088.  
Gross rental receipts, 152.046.  
Rate, 152.026.  
Public agencies, exemption, 152.084.  
Records, keeping, 152.063.  
Registration, 152.061.  
Reports,  
Collection, 152.045.  
Disasters, extensions, 111.058.  
Extensions, 111.057, 111.058.  
Fines and penalties, 111.056.  
Forms, 111.052.  
Holidays, 111.053.  
Injunctions, 111.011, 112.103.  
Investigations, 111.003.  
Mail and mailing, 111.054.  
Oaths and affirmations, 111.059.  
Time, 111.051 et seq.  
Res judicata, refund, suits, 112.156.  
Returns, oaths and affirmations, 111.059.  
Revocation or suspension, permit, 152.068.  
Rules and regulations,  
Deficiencies, redetermination, 152.067.  
Handicapped persons, exemptions, 152.086.  
Value, 152.003.  
School funds, deposits, 101.009.  
Security, payments, 111.012.  
Settlement, 111.101 et seq.  
Signatures, false affidavits, 152.101.  
State treasury, deposits, 152.121.  
Statutes, construction, 101.002.  
Statutes of limitations, 111.201 et seq.  
Stolen vehicles, gross rental receipts, 152.026.  
Subpoenas, 111.0043, 111.0044.  
Suits. Actions and proceedings, generally, ante.  
Supervision, collection, 152.003.  
Third-party orders, subpoenas, 111.0044.  
Time,  
Deficiencies, payment, 152.066.  
Liens, validity, 113.105.  
Records, keeping, 152.063.  
Tolling, limitation of actions, 111.207.  
Total consideration, 152.002.  
Traveling expenses, witnesses, 111.0043.  
Trial de novo, 112.054.  
Uniform Federal Tax Lien Registration Act, 113.201 et seq.

## MOTOR VEHICLE SALES TAX

—Cont'd

Value, rules and regulations, 152.003.  
Venue, assignments, 111.253.  
Volunteer fire department, exemptions, 152.087.  
Witnesses, 111.0043.  
Year, fiscal year, 101.006.

## MOTOR VEHICLES

Cigarette tax, permits, 154.120.  
Cigars and tobacco products tax,  
Permits,  
Applications, 155.056.  
Display, 155.053.  
Defined,  
Fuel taxes, 153.001.  
Sales and use tax, 151.801, 152.001.  
Exemptions, personal property taxation, 11.25.  
Fuel. Motor Fuel Taxes, generally, this index.  
Interstate motor carrier sales and use tax, 157.001 et seq.  
Personal property taxation, exemptions, 11.25.  
Sales and use tax, interstate motor carriers, 157.001 et seq.  
Sales tax. Motor Vehicle Sales Tax, generally, this index.

## MOTORBOAT

Defined, motor fuel taxes, 153.001.

## MOVEMENT

Mobile homes and mobile home parks, 21.21 et seq.

## MULTISTATE TAX COMMISSION

Generally, 141.001 et seq.

## MULTISTATE TAX COMPACT

Generally, 141.001 et seq.

## MULTISTATE TAX COMPACT ADVISORY COMMITTEE

Generally, 141.004.

## MUNICIPALITIES

Cities, Towns and Villages, generally, this index.

## MUSEUMS

Exemptions, charities, 11.18.

## NAMES

Franchise taxes, forfeiture, 171.315.

## NATIONAL BANKS

Intangible personal property taxation, 11.02.

## NATURAL DISASTERS

Appraisals, reappraisals, 23.02.

## NATURAL GAS

Motor Fuel Taxes, generally, this index.  
Oil and Gas, generally, this index.

## NATURAL GAS FACILITIES

Franchise tax, exemptions, 171.066.

## NATURE CONSERVANCY OF TEXAS, INC.

Exemptions, 11.23.

## NEGOTIABLE PAPER

Commercial Paper, generally, this index.

## NET TO LAND

Defined,  
Appraisal of agricultural land, 23.51.  
Appraisal of timber land, 23.71.

## NEWSPAPERS

Assessments, increase in tax rate, notice of hearing, 26.06.  
Sales and use tax, exemptions, 151.319.

## NONPROFIT CORPORATIONS

Charities, generally, this index.  
Franchise taxes, exemptions, 171.057 et seq.  
Homeowners organizations, appraisals and appraisers, 23.18.  
Medical center development, exemptions, 11.23.  
Sales and use tax, 151.310.

## NONPROFIT HOMEOWNERS ORGANIZATIONS

Appraisal and appraisers, 23.18.

## NONRESIDENTS

Defined, inheritance tax, 211.001.  
Inheritance taxes, 211.052.  
Motor vehicle sales tax, collection, 152.043.

## NONRETURNABLE CONTAINER

Defined, sales and use tax, 151.322.

## NONSUIT

State taxes, injunction, 112.105, 112.106.

## NOTES

Commercial Paper, generally, this index.

## NOTICE

Address, delivery, property owner, 1.07.  
Agricultural Lands, this index.  
Appeal and Review, this index.  
Appraisal Districts, this index.  
Appraisals and Appraisers, this index.  
Assessments, this index.  
Cigarette Tax, this index.  
Cigars and Tobacco Products Tax, this index.  
Collection, postponement of delinquency date, governing body, 31.04.  
Delinquencies, this index.  
Delivery, property owner, first-class mail, 1.07.  
Exemptions, this index.  
First-class mail, delivery of notice to property owner, 1.07.  
Franchise Taxes, this index.  
Gross Receipts Tax, this index.  
Hotel Occupancy Tax, this index.  
Mail and mailing, first-class mail, delivery to property owner, 1.07.  
Motor Fuel Taxes, this index.  
Motor Vehicle Sales Tax, this index.  
Occupation Taxes, this index.  
Official agency, delivery, property owner, 1.07.  
Personal Property Taxation, this index.  
Protest, appeal, 41.44.  
Quotation services, occupational taxes, liens, 192.008.  
Redemption, filing of payment of records, 34.21.  
Reports and landing fields, public access appraisal, denial, 23.95.  
Rolling stock, railroads, personal property taxation, 24.35.  
Sales, resale, taxing units, 34.05.

## INDEX TO TAX CODE

References are to Sections

**NOTICE—Cont'd**

- Sales and Use Tax, this index.
- Timber and lumber, standing timber, separate owners, qualification for separate taxation, 25.10.
- Timber land,
  - Appraisal applications,
    - Denial, 23.79.
    - Eligibility, 23.75.
- Time, delivery, deposit in mail, 1.07.
- Transportation business intangibles tax, appraisals, protest hearings, 24.09.

**NUMBERS AND NUMBERING**

See specific index headings.

**NURSERIES AND NURSERY PRODUCTS**

Exemption, 11.16.

**NURSES AND NURSING**

Schools, development, exemption, 11.23.

**OATHS AND AFFIRMATIONS**

- Assessors and collectors, annual report, accounting for all taxing of a taxing unit, 31.10.
- Inheritance taxes, declaration of no tax due, 211.106.
- State taxes, 111.003.

**OBSOLETE STAMPS**

Cigarette tax, 154.057.

**OCCASIONAL SALES**

- Sales and use tax, 151.055.
- Exemption, 151.304.

**OCCUPATION**

Defined, appraisal of agricultural land, 23.42.

**OCCUPATION TAXES**

- Generally, 191.001 et seq.
- Accounts and accounting,
  - Investigations, 111.003.
  - Quotation services, receipts, 192.005, 192.007.
- Actions and proceedings, 112.001 et seq.
  - Deficiencies, 111.010.
  - Liens, validity, 113.106.
  - Protest, 112.051 et seq.
  - Refunds, 112.151 et seq.
- Allocations, 101.009, 191.122.
  - Sulfur production tax, 203.152.
- Appeal and review, protest payments, 112.057.
- Assessments,
  - Limitation of actions, 111.201.
  - Projecting, 111.0042.
- Assignments,
  - Claims, 111.251 et seq.
  - Liens, 113.107.
- Audits and auditors, 111.0043.
  - Projecting assessments, 111.0042.
- Billiard tables, owners or operators, 191.061 et seq.
- Bonds (officers and fiduciaries),
  - Broker and factor, 191.001 et seq.
  - Injunctions, 112.104.
  - Payments, 111.012.
- Books and papers,
  - Examination, 111.004.
  - Investigations, 111.003.
  - Liens, 113.004.
- Brokers, 191.001 et seq.
  - Ships, 191.041, 191.042.
- Cement production tax, 181.001 et seq.

**OCCUPATION TAXES—Cont'd**

- Certificates and certification, liens, 113.202.
- Charges. Rates and charges, generally, post.
- Cigarette tax, application of law, 154.501.
- Cities and towns,
  - Application of law, 101.008.
  - Billiard table owners or operators, 191.063.
    - Licenses, 191.064.
  - Pistol dealers, 191.026.
  - Quotation services, 192.009.
- Class actions, 112.055.
- Collection, 111.001 et seq.
  - Compromise and settlement, 111.101 et seq.
    - Liability, 111.016.
    - Limitation of actions, 111.202 et seq.
  - Common Law, construction, 101.004.
- Compromise and settlement, 111.101 et seq.
- Confidential or privileged information, 111.006.
- Construction,
  - Common Law, 101.004.
  - Statutes, 101.002.
- Contracts, limitation of actions, 111.203.
- Cotton, quotation services, 192.001 et seq.
- Counties,
  - Application of law, 101.008.
  - Pistol dealers, 191.026.
  - Quotation services, 192.010.
- Credit, refunds, 111.106 et seq.
- Crimes and offenses, disclosures, 111.007.
- Dealers, pistols, 191.021 et seq.
- Deficiencies, 111.008.
  - Actions and proceedings, 111.010.
  - Injunctions, 111.011.
  - Limitation of actions, 111.202 et seq.
  - Redetermination, 111.009.
- Definitions,
  - Billiard table, 191.061.
  - Brokers or factors, 191.001.
  - Pistol dealers, 191.021.
  - Quotation services, 192.001.
  - Ship broker, 191.041.
  - State taxes, 101.003.
  - Sulfur production tax, 203.001.
- Delinquencies,
  - Compromise and settlement, 111.101 et seq.
    - Interest, 111.060.
    - Sulfur production tax, 203.101.
- Depositions, 111.0043.
- Deposits, 101.009.
  - Sulfur production tax, 203.152.
- Disasters, extensions, 111.058.
- Disclosures, crimes and offenses, 111.007.
- Dismissal and nonsuit, injunction, 112.105, 112.106.
- Display, permits, 191.102.
- Evidence,
  - Claims, 111.013.
  - Graphic matter, 111.014.
  - Liens, 113.007.
- Examination and examiners, records, 111.004.
- Exemptions,
  - Billiard tables, owners or operators, licenses, 191.064.
  - Brokers and factors, 191.003.
  - Limitation of actions, 111.205, 111.206.
  - Pistol dealers, 191.025.
  - Quotation services, 192.003.

**OCCUPATION TAXES—Cont'd**

- Factors, 191.001 et seq.
- Federal Tax Lien Registration Act, 113.201 et seq.
- Fees,
  - Billiard table owners or operators, licenses, 191.064.
  - Liens, 113.204.
  - Witnesses, 111.0043.
- Financial institutions, liens, 113.103.
- Fines and penalties,
  - Collection, 111.002.
  - Delinquencies, sulfur production tax, 203.101.
  - Disclosures, 111.007.
  - Payments, 111.056.
  - Permits, display, 191.102.
  - Records, sulfur production tax, 203.102.
  - Reports, 111.056.
  - Sulfur production tax, 203.101, 203.102.
- Fiscal year, 101.006.
- Forfeitures, collection, 111.002.
- Forms, reports, 111.052.
- Freight, ships, 191.041, 191.042.
- Gas. Oil and Gas, this index.
- General revenue fund,
  - Allocation, 191.122.
  - Deposits, 101.009.
  - Sulfur production tax, deposits, 203.152.
- Grain, quotation services, 192.001 et seq.
- Gross Receipts Tax, generally, this index.
- Hearings, 111.0043.
  - Refunds, 111.105.
- Holidays, reports or payments, 111.053.
- Hotel Occupancy Tax, generally, this index.
- Injunctions, 111.011, 112.101 et seq.
- Inspection and inspectors,
  - Pistol dealers, records, 191.024.
  - Records, 111.0041.
  - Sulfur production tax, records, 203.051.
- Interest,
  - Delinquencies, 111.060.
  - Refunds, 111.106.
- Investigations and investigators, 111.003.
- Judgments and decrees,
  - Assignments, 111.251 et seq.
  - Refunds, 112.155.
- Jurisdiction, 112.001.
- Licenses and permits,
  - Billiard owners or operators, cities or towns, 191.064.
  - Display, 191.102.
  - Pistol dealer, 191.023.
- Liens and incumbrances, 113.001 et seq.
  - Assignments, 111.251 et seq.
  - Concealment, 201.353.
  - Federal Tax Lien Registration Act, 113.201 et seq.
  - Quotation services, 192.008.
- Limitation of actions, 111.201 et seq.
- Mail and mailing,
  - Assignments, notice, 111.252.
  - Reports and payments, 111.054.
- Mines and mining, sulfur production tax, 203.001 et seq.
- Miscellaneous gross receipts taxes, 182.001 et seq.
- Municipal corporations. Cities and towns, generally, ante.
- Notice,
  - Assignment, 111.252.
  - Deficiencies, 111.008.
  - Liens, 113.002, 113.006.
  - Filing, 113.201.

References are to Sections

**OCCUPATION TAXES—Cont'd**

Notice—Cont'd  
 Quotation services, liens, 192.008.  
 Refunds, hearings, 111.105.  
 Subpoenas, 111.0044.  
 Oaths and affirmations, 111.004, 111.059.  
 Oil and Gas, this index.  
 Papers. Books and papers, generally, ante.  
 Payments,  
   Bonds (officers and fiduciaries), 111.012.  
   Disasters, extensions, 111.058.  
   Extensions, 111.058.  
   Fines and penalties, 111.056.  
   Holidays, 111.053.  
   Injunctions, 111.011.  
   Liability, 111.016.  
   Limitation of actions, 111.202 et seq.  
   Mail and mailing, 111.054.  
   Protest, 112.051 et seq.  
   Quotation services, 192.002, 192.004 et seq.  
   Security, 111.012.  
   Sulfur production tax, time, 203.053.  
   Time, 111.051 et seq.  
 Permits. Licenses and permits, generally, ante.  
 Petitions, redetermination, 111.009.  
 Pistol dealers, 191.021 et seq.  
 Political subdivisions, application of law, 101.008.  
 Priorities and preferences, liens, 113.104.  
 Production of books and papers, 111.0043.  
 Protest, payments, 112.051 et seq.  
 Public utilities, miscellaneous gross receipts tax, 182.021 et seq.  
 Quotation services, 192.001 et seq.  
 Rates and charges,  
   Billiard tables, owners or operators, 191.062.  
   Brokers and factors, 191.002.  
   Pistol dealers, 191.022.  
   Quotation services, 192.002.  
   Ship brokers, 191.042.  
   Sulfur production tax, 203.003.  
 Reassignments, 111.254.  
 Receipts,  
   Permit acting as, 191.101.  
   Quotation services, 192.005 et seq.  
 Records and recordation,  
   Assignment, 111.255.  
   Examination, 111.004.  
   Fines and penalties, sulfur production tax, 203.102.  
   Injunctions, 112.102.  
   Inspection, 111.0041.  
   Liens, 113.005.  
   Pistol dealers, 191.024.  
   Sulfur production tax, 203.051.  
   Penalties, 203.102.  
 Recovery, refund or credit, 111.108.  
 Recreation and recreational areas, billiard table owners and operators, 191.061 et seq.  
 Refunds, 111.104 et seq.  
   Actions and proceedings, 112.151 et seq.  
   Injunctions, 112.107.  
   Oaths and affirmations, 111.059.  
   Protest, 112.060.  
 Releases, liens, 113.008.  
 Reports,  
   Disasters, extensions, 111.058.  
   Extensions, 111.057, 111.058.  
   Fines and penalties, 111.056.

**OCCUPATION TAXES—Cont'd**

Reports—Cont'd  
   Forms, 111.052.  
   Holidays, 111.053.  
   Injunctions, 111.011, 112.103.  
   Investigations, 111.003.  
   Mail and mailing, 111.054.  
   Oaths and affirmations, 111.059.  
   Sulfur production tax, 203.052.  
   Time, 111.051 et seq.  
 Res judicata, refund suits, 112.156.  
 Returns, oaths and affirmations, 111.059.  
 School funds,  
   Allocation, 191.122.  
   Deposits, 101.009.  
   Sulfur production tax, deposits, 203.152.  
 Security, payments, 111.012.  
 Settlement, 111.101 et seq.  
 Ships and shipping, brokers, 191.041, 191.042.  
 Statutes, construction, 101.002.  
 Statutes of limitations, 111.201 et seq.  
 Stock market, quotation services, 192.001 et seq.  
 Subpoenas, 111.0043, 111.0044.  
 Sulfur production tax, 203.001 et seq.  
 Third-party orders, subpoenas, 111.0044.  
 Time,  
   Liens, validity, 113.105.  
   Sulfur production tax, 203.053.  
   Payments, 203.053.  
   Reports, 203.052.  
 Tolling, limitation of actions, 111.207.  
 Traveling expenses, witnesses, 111.0043.  
 Trial de novo, 112.054.  
 Uniform Federal Tax Lien Registration Act, 113.201 et seq.  
 Utility companies, miscellaneous gross receipts tax, 182.021 et seq.  
 Venue, assignments, 111.253.  
 Vessels, brokers, 191.041, 191.042.  
 Weapons, dealers, 191.021 et seq.  
 Wells, sulfur production tax, 203.001 et seq.  
 Witnesses, 111.0043.  
 Year, fiscal year, 101.006.  
**OFFENSES**  
 Crimes and Offenses, generally, this index.  
**OFFICERS AND EMPLOYEES**  
 Comptroller, 151.021.  
 Franchise taxes, indemnity, 171.252, 171.255.  
 Public Officers and Employees, generally, this index.  
 Time, state taxes, 101.003.  
**OFFICES**  
 Appraisal districts, 6.05.  
 Sales and use tax, application of law, 151.107.  
**OFFICIAL BONDS**  
 Bonds (Officers and Fiduciaries), generally, this index.  
**OFFSETS**  
 Sales and use tax, delinquencies, 151.508.  
**OIL AND GAS**  
 Actions and proceedings. Occupation tax, post.  
 Allocation, occupation tax, 201.402 et seq., 202.352, 202.353.  
 Well services, 191.122.

**OIL AND GAS—Cont'd**

Assignments, occupation tax, purchases from, 202.155.  
 Attorney fees, occupation tax, delinquencies, 201.252.  
 Audits and auditors, occupation tax, 201.302, 202.005.  
 Bankruptcies, occupation tax, purchases from, 202.155.  
 Books and papers, examination, 201.301.  
 Charges. Rates and charges, generally, post.  
 Commission, occupation tax, forced sale, 202.303.  
 Concealment, occupation tax, lien property, 201.353, 202.307.  
 Condensate, occupation tax, 201.055.  
   Value, 201.106.  
 Contracts, occupation tax, payments, 202.003.  
 Costs, occupation tax, delinquencies, 201.252, 202.252.  
 Crimes and offenses, occupation tax, 201.353, 202.307.  
 Definitions, occupation tax, 191.081, 201.001, 202.001.  
 Delinquencies. Occupation tax, post.  
 Deposits, occupation tax, 201.402 et seq.  
 Display, well services permit, occupation taxes, 191.102.  
 Encumbrances. Liens and incumbrances, generally, post.  
 Evidence, occupation tax, 201.304, 202.304.  
 Examinations and examiners, occupation tax, books and records, 201.301.  
 Exemptions, occupation tax, 201.053.  
 Fines and penalties,  
   Lien property, concealment, 202.307.  
   Occupation tax, post.  
 Forced sale, occupation tax, 202.303.  
 Forms, occupation tax, producers report, 201.203.  
 Fraud, occupation tax, 201.353, 202.307.  
 Hydrocarbons, occupation tax, 201.054.  
 Incumbrances. Liens and incumbrances, generally, post.  
 Inspection and inspectors. Occupation tax, post.  
 Investigations and investigators, 201.301.  
 Joinder of actions, civil penalties, 201.354.  
 Licenses and permits, occupation taxes, well services, 191.089, 191.101, 191.102.  
 Liens and incumbrances. Occupation tax, post.  
 Liquid hydrocarbons, occupation tax, 201.054.  
   Value, 201.104, 201.105.  
 Market value, occupation tax, 201.101 et seq., 202.053.  
 Measurement, occupation tax, 201.002, 202.002.  
 Notice, occupation tax, forced sale, 202.303.  
 Occupation tax, 201.001 et seq.  
   Actions and proceedings, 201.304, 202.304.  
   Delinquent taxes, 201.252, 202.252.  
   Fines and penalties, collection, 201.354.  
   Allocation, 201.402 et seq., 202.352, 202.353.  
   Assignments, purchases from, 202.155.  
   Attorneys fees, delinquencies, 201.252, 202.252.

## INDEX TO TAX CODE

References are to Sections

**OIL AND GAS—Cont'd**

Occupation tax—Cont'd  
 Audits and auditors, 201.302, 202.005.  
 Bankruptcies, purchases from, 202.155.  
 Books and papers, examination, 201.301.  
 Carriers;  
   Records, 202.105.  
   Reports, 202.204.  
 Commission, forced sale, 202.303.  
 Concealment, lien property, 201.353, 202.307.  
 Condensate, 201.055.  
   Value, 201.106.  
 Contracts, payments, 202.003.  
 Costs, delinquencies, 201.252, 202.252.  
 Crimes and offenses, 201.353, 202.307.  
 Definitions, 201.001, 202.001.  
 Delinquencies,  
   Actions and proceedings, 201.252, 202.252.  
   Fines and penalties, 201.351, 202.301.  
 Deposits, 202.352, 202.353.  
   Allocation, 201.402 et seq.  
 Display, well services permit, 191.102.  
 Evidence, 201.304, 202.304.  
 Examination, books and records, 201.301.  
 Exemptions, 201.053.  
 Fines and penalties, 201.351 et seq., 202.301 et seq.  
   Actions, 201.354.  
   Delinquencies, 201.351, 202.301.  
   Records, 202.307.  
   Fraud, 201.353.  
   Removal, 201.352.  
   Reports, 202.307.  
   Fraud, 201.353.  
   Well services, 191.086, 191.087.  
   Permit display, 191.102.  
 First purchaser, payments, 201.204.  
 Forced sale, 202.303.  
 Forms, producers report, 201.203.  
 Fraud, 201.353, 202.307.  
 Hydrocarbons, 201.054.  
   Value, 201.104, 201.105.  
 Inspections and inspectors, 201.301, 202.306.  
   Records and reports, 202.004.  
   Well services, records, 191.085.  
 Investigation and investigators, 201.301.  
 Joinder of actions, civil penalties, 201.354.  
 Liability, 202.251.  
   Payments, 201.251.  
 Liens and incumbrances, 201.303, 202.302.  
   Concealment, 201.353, 202.307.  
   Well services, 191.088.  
 Liquid hydrocarbons, 201.054.  
   Value, 201.104, 201.105.  
 Market value, 201.101 et seq., 202.053.  
 Measurement, 201.002, 202.002.  
 Notice, forced sale, 202.303.  
 Ownership, transfer, 201.206.  
 Payments, 201.202, 202.151 et seq.  
   Assignments, purchases from, 202.155.  
   Bankruptcies, purchases from, 202.155.  
   Contracts, 202.003.  
   First purchaser, 201.204, 202.153.  
   Liability, 201.251.  
   Oil not sold, 202.154.  
   Ratably payable, 201.205, 202.156.  
   Receivers and receivership, purchases from, 202.155.

**OIL AND GAS—Cont'd**

Occupation tax—Cont'd  
 Payments—Cont'd  
   Time, 201.201, 202.151.  
   Well services, 191.084.  
 Rates and charges, 201.052, 202.052.  
   Hydrocarbons, 201.054.  
   Well services, 191.083.  
 Receipts, well services, 191.101.  
 Receivers and receivership, purchases from, 202.155.  
 Records and recordation, 201.151, 201.152, 202.101 et seq.  
   Carriers, 202.105.  
   Examination, 201.301.  
   Fines and penalties, 201.353, 202.307.  
   First purchasers, 202.102.  
   Inspection, 202.004.  
   Producers records, 202.101, 202.103.  
   Royalty owners, 202.104.  
   Well services, 191.085.  
 Removal, 202.305.  
   Fines and penalties, 201.352.  
 Reports, 202.201 et seq.  
   Carriers, 202.204.  
   Fines and penalties, 201.353.  
   First purchases, 202.202.  
   Inspection, 202.004.  
   Producers, 201.203, 202.201.  
   Subsequent purchasers, 202.203.  
   Well services, 191.084.  
 Royalty owners, records, 202.104.  
 Sale, forced sale, 202.303.  
 School fund, 202.353.  
   Well services, 191.122.  
 Time,  
   Delinquencies, penalties, 201.351, 202.301.  
   Payments, 201.201, 202.151.  
   Transfer of ownership, 201.206, 202.205.  
 Value, 201.101 et seq.  
   Market value, 202.053.  
 Venue, civil penalty, 201.354.  
 Weights and measurement, 202.002.  
 Well services, 191.081 et seq.  
 Payments. Occupation tax, ante.  
 Penalties. Fines and penalties, generally, ante.  
 Permits, occupation taxes, well services, 191.089, 191.101, 191.102.  
 Proceedings. Actions and proceedings, generally, ante.  
 Production tax. Occupation tax, generally, ante.  
 Rates and charges. Occupation tax, ante.  
 Receipts, occupation taxes, well services, 191.101.  
 Receivers and receivership, occupation tax, purchases from, 202.155.  
 Records and recordation. Occupation tax, ante.  
 Removal, occupation tax, 202.305.  
   Fines and penalties, 201.352.  
 Reports. Occupation tax, ante.  
 Sale, occupation tax, forced sale, 202.303.  
 Sales and use tax, exemption, 151.317.  
 School fund, occupation tax,  
   Deposits, 202.353.  
   Well services, 191.122.  
 Suits. Actions and proceedings, generally, ante.  
 Time. Occupation tax, ante.  
 Transfers, occupation tax, 201.206, 202.205.

**OIL AND GAS—Cont'd**

Value, occupation tax, 201.101 et seq., 202.053.  
 Venue, civil penalty, 201.354.  
 Weights and measures, occupation tax, 201.002, 202.002.  
 Wells, services, occupation tax, 191.081 et seq.

**OIL PIPELINES**

Transportation Business Intangibles Tax, generally, this index.

**OLD AGE**

Aged Persons, generally, this index.

**OPEN-END INVESTMENT COMPANY**

Franchise taxes, exemptions, 171.055.

**ORCHESTRAS**

Charities, exemptions, 11.18.  
 Exemptions, charities, 11.18.

**ORDERS**

Appeal and Review, this index.

Cigarette tax,  
   Seized property, sales, 154.406.  
   Stamps, 154.043 et seq.  
 Delinquent tax suits, sales, 33.53.  
 Motor fuel taxes, permit cancellation, 153.006, 153.007.  
 Taxing units, suits against appraisal offices, 43.03.

**ORTHOPEDICALLY HANDICAPPED PERSONS**

Defined, motor vehicle sales tax, 152.001.

**OWNER OF A MOTOR VEHICLE**

Defined, sales tax, 152.001.

**PACKAGES**

Cigarette Tax, generally, this index.  
 Sales and use tax, supplies, exemptions, 151.321.

**PAPERS**

Books and Papers, generally, this index.

**PARENT-TEACHER CONGRESS**

Exemptions, 11.23.

**PARKS**

Appraisal and appraisers, 23.81 et seq., 25.07.  
   Nonprofit homeowners organizations, 23.18.  
   Records, 25.011.  
 Nonprofit homeowners organizations, appraisal, 23.18.

**PARTIAL EXEMPTION**

Defined, 1.04.

**PARTITION**

Delinquent tax suits, real property, 33.46.

**PASSENGER CAR**

Defined, motor fuel taxes, 153.001.

**PAYMENTS**

Cement production tax, 181.003.  
 Cigarette Tax, this index.  
 Cigars and Tobacco Products Tax, this index.  
 Collection, this index.  
 Filing, reports, etc., timeliness of action by mail, 1.08.

# INDEX TO TAX CODE

1872

References are to Sections

## PAYMENTS—Cont'd

Franchise Taxes, this index.  
Gross Receipts Tax, this index.  
Hotel Occupancy Tax, this index.  
Inheritance Taxes, this index.  
Interstate motor carrier sales and use tax, 157.102.  
Mail and mailing, action by, timeliness, property owner, 1.08.  
Manufactured housing.  
Sales and use tax, 158.056.  
Fines and penalties, 158.151.  
Motor carriers, interstate sales and use tax, 157.102.  
Motor Fuel Taxes, this index.  
Motor Vehicle Sales Tax, this index.  
Occupation Taxes, this index.  
Oil and Gas, this index.  
Public utilities, miscellaneous gross receipts tax, 182.023.  
Quotation services, occupation taxes, 192.002, 192.004 et seq.  
Sales and Use Tax, this index.  
Split payment of taxes, 31.03.  
Sulfur production tax, 203.053.  
Timeliness, action by mail, property owner, 1.08.  
Utilities, miscellaneous gross receipts tax, 182.023.

## PEDDLER

Sales and use tax, acting as retailer, 151.024.

## PENALTIES

Fines and Penalties, generally, this index.

## PER DIEM

Appraisal review board, members, 6.42.

## PERMANENT UNIVERSITY FUND

Real estate, exemption, 11.11.

## PERMANENT UNIVERSITY FUND LAND

Collection, mailing of bill to comptroller, 31.01.

## PERMITS

Licenses and Permits, generally, this index.

## PERSON

Defined,  
Manufactured housing sales and use tax, 158.002.  
Motor carrier sales and use tax, 157.001.  
State taxes, 111.0043.

## PERSONAL EFFECTS

Defined, personal property taxation exemption, 11.14.  
Exemption, personal property taxation, 11.14.

## PERSONAL PROPERTY

Auctions and Auctioneers, generally, this index.  
Bailment, generally, this index.  
Defined, 1.04.  
Inheritance Taxes, generally, this index.  
Institution of seizure, delinquencies, 33.22.  
Sales and Use Tax, generally, this index.  
Seizure, payment of delinquent taxes, penalties or interests, 33.21 et seq.

## PERSONAL PROPERTY TAXATION

Administrative proceedings, disclosure of rendition report, 22.27.  
Allocation, interstate allocation, 21.03.  
Animals, exemption, 11.16.  
Apportionment,  
Railroad rolling stock, 21.04.  
Appraisals and appraisers,  
Banks, leased personal property, appraisal listing, 25.15.  
Records and recordation, form and content, 25.02.  
Reports of decreased value of property, 22.03.  
Authority to tax, 11.01.  
Automobiles, exemptions, 11.25.  
Bailment, reports of property held for another, 22.04.  
Banks and banking, rendition of property, 22.06.  
Bona fide purchasers, tax liens, restrictions, 32.03.  
Bonds (officers and fiduciaries), seizure, prevention, 33.24.  
Buffalo, exemptions, 11.23.  
Cars, exemptions, 11.25.  
Cattalo, exemption, 11.23.  
Charities, exemptions, 11.18.  
Confidential and privileged information, rendition reports, 22.27.  
Controlled property, rendition for taxation, 22.01.  
Crimes and offenses, illegal disclosure or rendition reports, 22.27.  
Decreased value, reports, rendition for taxation, 22.03.  
Delinquencies, limitation of actions, 33.05.  
Delinquent tax suits, 33.41 et seq.  
Disclosure, rendition reports, confidential information, 22.27.  
Exemptions,  
Animals, 11.16.  
Buffalo, 11.23.  
Cattalo, 11.23.  
Charities, 11.18.  
Family supplies, 11.15.  
Farm products, 11.16.  
Household goods and personal effects, 11.14.  
Livestock, 11.16.  
Loss of exemption during year, rendition of property for taxation, 22.02.  
Medical center development, 11.23.  
Motor vehicles, 11.25.  
Nurseries and nursery products, 11.16.  
Poultry and poultry products, 11.16.  
Private schools, 11.21.  
Public property, 11.11.  
Religious organizations, 11.20.  
Extension, filing date, rendition statements and reports, 22.23.  
Families, motor vehicles, exemption, 11.25.  
Family supplies, exemption, 11.15.  
Farm products, exemption, 11.16.  
Fiduciaries, rendition of property for, 22.01.  
Filing date, rendition statements and reports, 22.23.  
Forms, rendition, report forms, 22.24.  
Formulas, interstate allocation, 21.03.  
Halfway houses, exemption, 11.18.  
Information from taxpayers, rendition, 22.01 et seq.  
Inspection, 22.07.  
Institution of seizure, delinquencies, 33.22.

## PERSONAL PROPERTY TAXATION

—Cont'd  
Intangible Personal Property Taxation, generally, this index.  
Interstate allocation, 21.03.  
Judicial proceedings, disclosure of confidential rendition reports, 22.27.  
Leases, property held for another, reports, 22.04.  
Liens and incumbrances, restrictions, 32.03.  
Limitation of actions, delinquencies, 33.05.  
Literary organizations, exemptions, 11.18.  
Livestock, exemptions, 11.16.  
Location, January 1, taxable situs, 21.02.  
Managed property, rendition for taxation, 22.01.  
Medical center development, exemption, 11.23.  
Method, requiring renditions or reports, 22.22.  
Motor vehicles, exemptions, 11.25.  
Nonprofit organizations, exemptions, 11.18.  
Normal location, taxable situs, 21.02.  
Notice,  
Bona fide purchases, restrictions on tax liens, 32.03.  
Decision on request for decreased value, 22.03.  
Rendition requirements and procedures, 22.21.  
Sales, 33.25.  
Nurseries and nursery products, exemption, 11.16.  
Omitted property, prior year taxation, 25.21.  
Poultry and poultry products, exemption, 11.16.  
Principal place of business, taxable situs, 21.02.  
Prior year taxes, omitted property, 25.21.  
Private schools, exemptions, 11.21.  
Property held for production of income, rendition, 22.01 et seq.  
Public property, exemptions, 11.11.  
Publication, rendition requirements and procedures, 22.21.  
Railroads, this index.  
Religious organizations, exemptions, 11.18, 11.20.  
Removal from county, seizure to prevent, payment of taxes, 33.22.  
Rendition, 22.01 et seq.  
Banks and banking, 22.06.  
Confidential or privileged information, reports, 22.27.  
Crimes and offenses, illegal disclosure of reports, 22.27.  
Disclosure, reports, confidential information, 22.27.  
Extension, filing date for statements and reports, 22.23.  
Filing date, reports or statements, 22.23.  
Forms, report forms, 22.24.  
Loss of exemption during tax year, report, 22.02.  
Method for requiring rendition of report, 22.22.  
Notice, requirements and procedures, 22.21.  
Place and manner of filing, reports, 22.25.  
Publication, requirements and procedures, 22.21.  
Railroad property, 22.05.

## INDEX TO TAX CODE

References are to Sections

**PERSONAL PROPERTY TAXATION**

—Cont'd

**Rendition—Cont'd****Reports,**

Confidential or privileged information, 22.27.

Filing date, 22.23.

Forms, 22.24.

Method for requiring, 22.22.

Place and manner of filing, 22.25.

Subpoenas, 22.27.

Requirements and procedures, 22.21 et seq.

Signatures, report forms, 22.26.

Statistics, disclosure of reports, 22.27.

Subpoenas, reports, 22.27.

Time, filing date for statements and reports, 22.23.

**Reports,**

Bailee, lessee or other possessor, property owned by another, 22.04.

Banks and banking, rendition of property, 22.06.

Decreased value, rendition for taxation, 22.03.

Method for requiring rendition reports, 22.22.

Railroads, rendition of property, 22.05.

Rendition, ante.

Requirements and procedures, rendition, 22.21 et seq.

Rolling stock, railroads, 21.04.

Rules and regulations, interstate allocation, 21.03.

Sales, notice, 33.25.

Scientific organizations, exemptions, 11.18.

Seizure, personal property, delinquencies, 33.21 et seq.

Signatures, rendition report forms, 22.26.

Statistics, rendition reports, disclosure, 22.27.

Storage, normal location, taxable situs, 21.02.

Subpoenas, rendition reports, 22.27.

Taxable situs, 21.02 et seq.

**Time,****Rendition,**

Property for taxation, loss of exemption, 22.02.

Statements and reports, filing date, 22.23.

Warrants, seizure of property, delinquent taxes, 33.23.

**PERSONAL REPRESENTATIVE**

Defined, inheritance tax, 211.001.

**PETITIONS**

Appeal and Review, this index.

Assessments, election to repeal increase, 26.07.

Assessors and collectors, consolidation of functions, elections, 6.26.

Delinquent tax suits, sufficient petitions, 33.42.

Motor fuel taxes, delinquency redeterminations, 153.005.

Motor vehicle sales tax, redetermination, 152.067.

Sales, claims, excess proceeds, 34.04.

Sales and use tax, delinquencies, redetermination, 151.509, 151.510.

School taxes, election limit, 26.08.

**PETROLEUM**

Motor Fuel Taxes, generally, this index.

Oil and Gas, generally, this index.

**PHYSICALLY DISABLED PERSONS**

Handicapped Persons, generally, this index.

**PIPELINES**

Transportation Business Intangibles Tax, generally, this index.

**PISTOL**

Defined, occupation taxes, 191.021.

**PISTOL DEALERS**

Occupation taxes, 191.021 et seq.

**PLACE OF BUSINESS**

Defined, cigarette tax, 154.001.

**PLANNED UNIT DEVELOPMENT ASSOCIATION**

Defined, appraisal, 25.09.

**PLANNED UNIT DEVELOPMENTS**

Appraisals and appraisers, listing in records, 25.09.

Proportioned imposition of taxes, majority vote, 25.09.

**PLAYGROUNDS AND RECREATION CENTERS**

Recreation and Recreational Facilities, generally, this index.

**PLEADINGS**

Delinquent tax suits, 33.45.

**POLITICAL SUBDIVISIONS**

Appraisal Districts, generally, this index.

Compacts, multistate tax compact, 141.001 et seq.

Gross Receipts Tax, this index.

Multistate tax compact, 141.001 et seq.

Occupation Taxes, this index.

Public property, exemptions, 11.11.

Sales and use tax, exemptions, 151.309.

**POPULAR NAME LAWS**

Federal Tax Lien Registration Act, 113.206.

Limited Sales, Excise and Use Tax Act, 151.001.

Manufactured Housing Sales and Use Tax Act, 158.001.

Sales and Use Tax, 151.001.

**POSSESSION**

Cigars and tobacco products tax, fines and penalties, 155.203, 155.211.

**POSSESSORY INTEREST**

Defined, 1.04.

**POSTAPPEAL ADMINISTRATIVE PROCEDURES**

Generally, 42.41 et seq.

**POSTPONEMENT**

Delinquency date, collection of tax, 31.04.

**POULTRY AND POULTRY PRODUCTS**

Exemptions, 11.16.

Sales and use tax, exemptions, 151.314.

**PRECEDING YEAR**

Defined, motor carrier sales and use tax, 157.001.

**PREFERENCES**

Priorities and Preferences, generally, this index.

**PREMIUMS**

Assessors and collectors, bonds (officers and fiduciaries), payment by taxing unit, 6.29.

County assessor-collectors, bonds (officers and fiduciaries), payment by county, 6.28.

**PRESUMPTIONS**

Inheritance taxes, death, 211.002.

Sales and use tax, gross receipts, 151.054.

**PREVIOUSLY USED STAMP**

Defined, cigarette tax, 154.001.

**PRIORITIES AND PREFERENCES**

Cigarette tax, lien, 154.413.

Cigars and tobacco products tax, liens, 155.153.

Liens and incumbrances, 32.04.

Redemption, superior title, 34.22.

**PRIVATE ENTERPRISE DEMONSTRATION ASSOCIATIONS**

Exemptions, 11.23.

**PRIVATE SCHOOLS**

Exemptions, 11.21.

Theater schools, 11.23.

**PRIVILEGED INFORMATION**

Confidential or Privileged Information, generally, this index.

**PRIVILEGES AND IMMUNITIES**

Appraisal districts, operations cost, 6.06.

Franchise taxes, revival, 171.258, 171.308 et seq.

Inheritance taxes, transfers, 211.201.

**PROBATE PROCEEDINGS**

Inheritance Taxes, generally, this index.

**PROCEEDINGS**

Actions and Proceedings, generally, this index.

**PROCESS**

Cigarette tax, forfeiture proceedings, 154.405.

Cigars and tobacco products tax, seized property, forfeiture proceedings, 155.145.

Franchise taxes, 171.354, 171.355.

Sales and use tax, collection actions, 151.606.

Service of process,

Cigarette tax, forfeiture proceedings, 154.405.

Franchise taxes, 171.354, 171.355.

Sales and use tax, collection actions, 151.606.

Subpoenas, 41.62.

**PRODUCER**

Defined,

Occupation tax, 201.001.

Oil and gas, 202.001.

Sulfur production tax, 203.001.

**PRODUCTION**

Defined,

Occupation tax, 201.001.

Oil and gas, 202.002.

# INDEX TO TAX CODE

1874

References are to Sections

## PRODUCTION OF BOOKS AND PAPERS

State taxes, 111.0043.

## PRODUCTION TAX

Oil and Gas, this index.

Sulfur production tax, 203.001 et seq.

## PROMISSORY NOTES

Commercial Paper, generally, this index.

## PROOF

Evidence, generally, this index.

## PROPERTY

Defined, 1.04.

## PROPERTY TAX BOARD

State Property Tax Board, generally, this index.

## PRORATION OF TAXES

Acquisition by government, 26.11.

Loss of exemption, 26.10.

## PROSTHETIC DEVICES

Sales and use tax, exemptions, 151.313.

## PROTEST

Agricultural lands, appraisal application, denial, 23.57.

Appeal and Review, this index.

State taxes, 112.051 et seq.

Timber land, appraisal applications, 23.79.

## PUBLIC AGENCIES

Defined, motor vehicle sales tax, 152.001.

Motor vehicle sales tax, exemption, 152.082 et seq.

## PUBLIC HIGHWAY

Defined, motor fuel taxes, 153.001.

## PUBLIC OFFICERS AND EMPLOYEES

Appraisal districts, 6.05.

Appraisal review board, 6.43.

State property tax board, 5.02.

## PUBLIC PROPERTY

Exemptions, 11.11.

## PUBLIC SCHOOLS

Schools and School Districts, generally, this index.

## PUBLIC SERVICE ORGANIZATIONS

Sales and use tax, exemptions, 151.310.

## PUBLIC UTILITIES

Gross receipts tax, miscellaneous tax, 182.021 et seq.

Miscellaneous gross receipts tax, 182.021 et seq.

Sales and use tax, gas and electricity, exemptions, 151.317.

## PUBLICATION

Agricultural lands, appraisal applications, 23.43, 23.54.

Assessments, increase, notice in hearing, 26.06.

Exemptions, lists of partial exemptions, 11.46.

Personal property taxation, rendition requirements and procedures, 22.21.

State property tax board, annual report, 5.09.

## PUBLICATION—Cont'd

Tax rates, 26.04.

Time, assessments, rate of assessments, 26.04.

## PURCHASE

Defined,

Motor carrier sales and use tax, 157.001.

Sales and use tax, 151.005.

## QUALIFIED OPEN SPACE LAND

Defined, appraisal of agricultural land, 23.51.

## QUARTERLY PERIOD

Defined, hotel occupancy tax, 156.001.

## QUORUM

See specific index headings.

## QUOTATION SERVICES

Occupation taxes, 192.001 et seq.

## RADIO AND TELEVISION

Sales and use tax, exemptions, 151.326.

## RAILROADS

Apportionment, personal property taxation, rolling stock, 21.04.

Cigarette tax, permits, 154.120.

Cigars and tobacco products tax,

Permits,

Applications, 155.056.

Display, 155.053.

Definitions, miscellaneous gross receipts tax, 182.041.

Gross receipts tax, miscellaneous tax, 182.041, 182.042.

Imposition of tax, rolling stock personal property tax, 24.39.

Intrastate apportionment, rolling stock, personal property taxation, 24.37.

Leases, miscellaneous gross receipts tax, 182.041, 182.042.

Miscellaneous gross receipts tax, 182.041, 182.042.

Personal property taxation,

Appraisals and appraisers, rolling stock, 24.31.

Imposition of tax, rolling stock, 24.39. Rendition, 22.05.

Rolling stock, 21.04, 24.31 et seq.

Appeal and review, appraisals, protest hearings, 24.35.

Apportionment, intrastate apportionment, 24.37.

Appraisal, 24.31.

Back taxes, omitted property, 24.40. Certificates and certification,

Appraised value, 24.36.

Intrastate apportionment, 24.38.

Imposition of tax, 24.39.

Intrastate apportionment, 24.37.

Notice, protest hearings, appraisals and allocations, 24.35.

Omitted property, back taxes, 24.40.

Protest, appraisals or allocations, hearings, 24.35.

Reports,

Information reports, 24.32.

Leased rolling stock forwarded, 24.33.

Rules and regulations, interstate allocation, 24.34.

Rates and charges, miscellaneous gross receipts tax, 182.042.

Rendition, personal property taxation, 22.05.

## RAILROADS—Cont'd

Reports,

Rendition of property, 22.05.

Rolling stock information reports, personal property taxation, 24.32.

Rolling stock. Personal property taxation, ante.

Sales and use tax, exemptions, 151.331.

Transportation Business Intangibles Tax, generally, this index.

## RAILWAY TERMINAL CORPORATION

Franchise taxes, exemption, 171.053.

## RANCHES

Exemptions, implements, 11.161.

## RATES AND CHARGES

Assessments, this index.

Billiard table owners or operators, occupation taxes, 191.062.

Car companies, miscellaneous gross receipts tax, 182.042.

Cigarette tax, 154.021.

Cigars and tobacco products tax, 155.021.

Delinquent taxes, interest, 155.026.

Franchise taxes, 171.002 et seq.

Gross Receipts Tax, this index.

Hotel occupancy tax, 156.052.

Inheritance taxes, delinquencies, interest, 211.259.

Interstate motor carrier sales and use tax, 157.102.

Manufactured housing, sales and use tax, 158.051, 158.057.

Motor carriers, interstate sales and use tax, 157.102.

Motor Fuel Taxes, this index.

Motor vehicle sales tax, 152.021 et seq. Deficiencies, interest, 152.066.

Occupation Taxes, this index.

Oil and Gas, this index.

Pistol dealers, occupation taxes, 191.022.

Public utilities, miscellaneous tax, 182.022.

Quotation services, occupation taxes, 192.002.

Railroads, miscellaneous gross receipts tax, 182.042.

Sales and Use Tax, this index.

Ships and shipping, brokers, 191.042.

Sulfur production tax, 203.003.

Telegraph and telephones, miscellaneous gross receipts tax, 182.002, 182.062.

Utilities, miscellaneous tax, 182.022.

## RATIOS

Appraisals and appraisers, 5.10.

Assessments, this index.

## REAL ESTATE

Auctions and Auctioneers, generally, this index.

Defined, 1.04.

Inheritance Taxes, generally, this index.

Sales and use tax, seized property sales, 151.610 et seq.

## REAPPRAISAL

Appraisals and Appraisers, this index.

## RECALL

Cigarette tax, stamps, 154.045.

## RECEIPTS

Cigars and tobacco products tax, 155.101 et seq.

## INDEX TO TAX CODE

References are to Sections

**RECEIPTS—Cont'd**

Defined, sales and use tax, 151.007.  
 Franchise taxes, gross receipts, 171.103 et seq.  
 Gross Receipts, generally, this index.  
 Gross Receipts Tax, generally, this index.  
 Miscellaneous gross receipts taxes, 182.001 et seq.  
 Motor vehicle sales tax, 152.064.  
 Occupation taxes, permit acting as, 191.101.  
 Oil and gas, occupation taxes, well services, 191.101.  
 Quotation services, occupation taxes, 192.005 et seq.  
 Sales and Use Tax, this index.

**RECEIVERS AND RECEIVERSHIP**

Franchise taxes, 171.353.  
 Oil and gas, occupation tax, purchases from, 202.155.

**RECIPROCITY**

Cigarette tax, examinations, 154.308.

**RECORDS AND RECORDATION**

Appeal and Review, this index.  
 Appraisals and Appraisers, this index.  
 Assessment rolls, lists or books, electronic data-processing, 1.10.  
 Cement production tax, 181.052.  
 Cigarette Tax, this index.  
 Cigars and Tobacco Products Tax, this index.  
 County assessor-collectors, 6.28.  
 Delinquent tax suits, evidence, 33.47.  
 Electronic data-processing, assessment rolls, lists or books, 1.10.  
 Franchise Taxes, this index.  
 Gross Receipts Tax, this index.  
 Hotel Occupancy Tax, this index.  
 Inheritance taxes, examinations, 211.251.  
 Interstate motor carrier sales and use tax, 157.203.  
 Manufactured Housing, this index.  
 Mobile homes and mobile home parks, movements, 21.22 et seq.  
 Motor carriers, interstate sales and use tax, 157.203.  
 Motor Fuel Taxes, this index.  
 Motor Vehicle Sales Tax, this index.  
 Occupation Taxes, this index.  
 Oil and Gas, this index.  
 Pistol dealers, occupation taxes, 191.024.  
 Redemption, payment, filing, notice, 34.21.  
 Sales and Use Tax, this index.  
 State property tax board, uniform record systems, 5.07.  
 Sulfur production tax, 203.051.  
 Fines and penalties, 203.102.

**RECREATION AND RECREATIONAL FACILITIES**

Appraisal and appraisers, 23.81 et seq.  
 Records, 25.011.  
 Billiard tables, owners and operators, occupation taxes, 191.061 et seq.

**RECREATIONAL, PARK, OR SCENIC USE**

Defined, appraisal, 23.81.

**REDEMPTION**

Generally, 34.21 et seq.  
 Cigarette tax, stamps, 154.054.  
 Distribution of proceeds, 34.23.  
 Evidence of title, 34.22.

**REDEMPTION—Cont'd**

Notice,  
 Filing of payment on records, 34.21.  
 Payment, filing on record, 34.21.  
 Priorities and preferences, superior title, 34.22.  
 Proceeds, distribution, 34.23.  
 Right of redemption, 34.21.  
 Taxing units, distribution of proceeds, 34.23.

**REFUNDS**

Appeal and review, postappeal administrative procedures, 42.43.  
 Cigarette Tax, this index.  
 Cigars and Tobacco Products Tax, this index.  
 Collection, overpayments or erroneous payments, 31.11.  
 Franchise Taxes, this index.  
 Gross Receipts Tax, this index.  
 Hotel Occupancy Tax, this index.  
 Manufactured housing, sales and use tax, 158.155.  
 Motor Fuel Taxes, this index.  
 Motor Vehicle Sales Tax, this index.  
 Occupation Taxes, this index.  
 Sales and Use Tax, this index.

**REGISTERED GROSS WEIGHT**

Defined, motor fuel taxes, 153.001.

**REGISTRATION**

Motor vehicle sales tax, 152.065.  
 Rentals, 152.061.  
 Sales and use tax, 151.106.

**RELEASE**

Franchise taxes, lien, 171.359.  
 Inheritance taxes, liens, 211.256, 211.257.  
 Sales and use tax, security, 151.254.  
 State taxes, liens, 113.008 et seq.

**RELIGIOUS ASSOCIATIONS AND SOCIETIES**

Exemptions, 11.20.  
 Youth spiritual development associations, 11.19.  
 Franchise taxes, exemptions, 171.058.  
 Hotel occupancy tax, exemption, 156.102.  
 Manufactured housing, sales and use tax exemption, 158.101.  
 Motor vehicle sales tax, exemptions, 152.088.  
 Sales and Use Tax, this index.

**RELIGIOUS WORSHIP**

Defined, exemptions, 11.20.

**REMEDIES**

Appeal and Review, generally, this index.

**RENDITION**

Personal Property Taxation, this index.

**RENT**

Interstate motor carrier sales and use tax, 157.001 et seq.  
 Motor carriers, interstate sales and use tax, 157.001 et seq.  
 Motor Vehicle Sales Tax, this index.  
 Sales and Use Tax, generally, this index.

**RENTAL**

Defined, motor vehicle sales tax, 152.001.

**REPAIRMEN**

Defined, sales and use tax, 151.056.  
 Sales and use tax, 151.056.

**REPAIRS**

Motor fuel taxes, cargo tanks and containers, 153.009.

**REPORTS**

Assessors and collectors, remittances, Other taxes, 31.10.  
 State taxes, 31.09.  
 Cement production tax, 181.051.  
 Cigarette Tax, this index.  
 Cigars and Tobacco Products Tax, this index.  
 Defined, state taxes, 101.003.  
 Franchise Taxes, this index.  
 Gross Receipts Tax, this index.  
 Hotel Occupancy Tax, this index.  
 Interstate motor carriers sales and use tax, 157.202.  
 Mail and mailing, timeliness of action, 1.08.  
 Manufactured housing, Movements, 21.23 et seq.  
 Sales and use tax, 158.056, 158.151.  
 Mobile homes and mobile home parks, movement, 21.23 et seq.  
 Motor carriers, interstate sales and use tax, 157.202.  
 Motor Fuel Taxes, this index.  
 Motor Vehicle Sales Tax, this index.  
 Occupation Taxes, this index.  
 Oil and Gas, this index.  
 Personal Property Taxation, this index.  
 Remittance of tax, 31.10.  
 Rendition reports, confidential or privileged information, 22.27.  
 Rolling stock, railroads, personal property tax appraisals, Information reports, 24.32.  
 Leased rolling stock forwarded, 24.33.  
 Sales and Use Tax, this index.  
 State property tax board, annual report, 5.09.  
 State taxes, remittance, 31.09.  
 Sulfur production tax, 203.052.  
 Timeliness of action, mail and mailing, 1.08.  
 Transportation business intangibles tax, property information reports, appraisals, 24.02.

**REPOSSESSIONS**  
 Sales and use tax, credits and refunds, 151.426.

**RES JUDICATA**  
 Sales and use tax, application, 151.614.  
 State taxes, refund suits, 112.156.

**RESALE**  
 Sales and Use Tax, this index.

**RESALE CERTIFICATES**  
 Sales and use tax, 151.151 et seq.

**RESCUE SERVICES**  
 Franchise taxes, exemptions, 171.083.

**RESEARCH**  
 Biomedical research corporations, exemptions, 11.23.

**RESERVOIRS**  
 Agricultural lands, appraisal, 23.41.

**RESIDENCE**  
 Domicile and Residence, this index.

# INDEX TO TAX CODE

1876

References are to Sections

## RESIDENCE HOMESTEAD

Defined, homestead exemption, 11.13.

## RESIDENT

Defined, inheritance tax, 211.001.

## RESIDENTIAL CARE

Exemptions, 11.18.

## RESIDENTIAL USE

Defined, sales and use tax, 151.317.

## RESOLUTIONS

Appraisal Districts, this index.

Collection,

Discounts, 31.05.

Split payment, options, 31.03.

## RETAIL DEALER

Defined, cigarette tax, 154.001.

## RETAIL GROCER

Defined, sales and use tax, 151.414.

## RETAIL PRICE

Defined, cigars and tobacco products tax, 155.001.

## RETAILER

Cigars and Tobacco Products Tax, generally, this index.

Defined,

Manufactured housing sales and use tax, 158.002.

Sales and use tax, 151.008.

Manufactured housing, sales and use tax, 158.001 et seq.

Sales and Use Tax, generally, this index.

## RETURNABLE CONTAINER

Defined, sales and use tax, 151.322.

## RETURNED MERCHANDISE

Sales and use tax, credits and refunds, 151.426.

## RETURNS

Compacts, multistate tax compact, 141.001 et seq.

Inheritance Taxes, this index.

Multistate tax compact, 141.001 et seq.

Sales and Use Tax, this index.

## REVIEW

Appeal and Review, generally, this index.

## REVIVAL

Franchise Taxes, this index.

## REVOCAION

See specific index heading.

## RGW

Defined, motor fuel taxes, 153.001.

## RIGHT OF APPEAL

Appeal and Review, this index.

## RIPARIAN WATER RIGHTS

Agricultural lands, appraisal, 23.41.

## ROADS

Personal property taxation, rolling stock, interstate allocation, 24.34.

Private roads, agricultural lands, appraisal, 23.41.

## ROLLS

Assessment Rolls, Lists and Books, generally, this index.

## ROOMING HOUSES

Hotel Occupancy Tax, generally, this index.

## ROYALTY INTEREST

Defined,

Occupation tax, 201.001.

Oil and gas, 202.001.

## RULES AND REGULATIONS

See specific index headings.

## SAFE DEPOSIT INSTITUTIONS

Inheritance taxes, privileges and immunities, 211.201.

## SALARIES

Compensation and Salaries, generally, this index.

## SALE FOR RESALE

Defined, sales and use tax, 151.006.

## SALES

Generally, 34.01 et seq.

Auctions and Auctioneers, generally, this index.

Brokers and factors, occupation taxes, 191.001 et seq.

Cement production tax, 181.001 et seq.

Cigarette Tax, generally, this index.

Cigars and Tobacco Products Tax, generally, this index.

Claims, excess proceeds, 34.04.

Collusion, purchaser and officer making sale, recision of sale, 34.05.

Costs,

Distribution of proceeds, 34.02.

Resale, distribution of proceeds, 34.06.

Deeds and conveyances, 34.01.

Resales, 34.05.

Defined,

Motor fuel taxes, 153.001.

Motor vehicles, 152.001.

Sale and use tax, 151.005.

Delinquent tax suits, order of sale, 33.53.

Disposition, excess proceeds, 34.03.

Distribution of proceeds, 34.02.

Resale, 34.06.

Division of property, sales portion to pay tax, 34.01.

Excess proceeds,

Claims, 34.04.

Disposition, 34.03.

Expenses and expenditures, resales, distribution of proceeds, 34.06.

Foreclosed property, transferred liens, 32.06.

Fraud,

Deeds, impeachment, 34.01.

Purchaser and officer making sale, voiding sale, 34.05.

Gross Receipts Tax, generally, this index.

Hearings, claims, excess proceeds, 34.04.

Impeachment, fraud, deeds, 34.01.

Liens and incumbrances, subrogation, purchaser, 34.07.

Limitation of actions, excess proceeds claims, 34.04.

Manufactured housing, sales and use tax, 158.001 et seq.

Motor Fuel Taxes, generally, this index.

Motor Vehicle Sales Tax, generally, this index.

Notice,

Personal property taxation, 33.25.

Resale, taxing units, 34.05.

Occupation Taxes, generally, this index.

## SALES—Cont'd

Petitions, claims, excess proceeds, 34.04.

Pistols, occupation taxes, 191.021 et seq.

Pro rata distribution, taxing units, insufficient funds, 34.02.

Proceeds, distribution, 34.02.

Purchaser, subrogation, void sales, 34.07.

Redemption, generally, this index.

Resales,

Distribution of proceeds, 34.06.

Taxing units, 34.05.

Sales and Use Tax, generally, this index.

State, defined as taxing unit, 34.08.

Subrogation, purchaser, void sales, 34.07.

Taxing units, purchase, 34.01.

Use tax. Sales and Use Tax, generally, this index.

Void sales, subrogation, purchaser, 34.07.

Written request, division of property and sale of parts, 34.01.

## SALES AND USE TAX

Generally, 151.001 et seq.

Accountants, employment, 151.021.

Accounts and accounting,

Investigations, 111.003.

Reports, basis, 151.408.

Actions and proceedings, 112.001 et seq., 151.262.

Collection, 151.051 et seq.

Comity, 151.615.

Deficiencies, 111.010.

Delinquencies, 151.515.

Liens, validity, 113.106.

Protest, 112.051 et seq.

Refunds, 112.151 et seq.

Res judicata, 151.614.

Venue, generally, post.

Advertisements, 151.704.

Aged persons, organization sales, exemptions, 151.332.

Agents, 151.107.

Acting as retailer, 151.024.

Agriculture, exemptions, 151.316.

Aircraft, exemptions, 151.328.

Alcoholic beverages, exemptions, 151.054.

Allocations, 101.009.

Appeal and review,

Permit revocation or suspension, 151.205.

Protest payments, 112.057.

Application,

Direct payments, 151.419.

Permit, 151.202.

Assessments,

Limitation of actions, 111.201.

Projecting, 111.0042.

Assignments,

Claims, 111.251 et seq.

Liens, 113.107.

Attachment, 151.605.

Auctions and auctioneers, seized property, 151.610 et seq.

Audits and auditors, 111.0043.

Employment, 151.021.

Projecting assessments, 111.0042.

Bad debts, credits and refunds, 151.426.

Bonds (officers and fiduciaries), 151.251 et seq.

Injunctions, 112.104.

Payments, 111.012.

Books and papers,

Examination, 111.004, 151.023.

Investigations, 111.003.

Liens, 113.004.

Brackets, 151.053.

## INDEX TO TAX CODE

References are to Sections

## SALES AND USE TAX—Cont'd

Broadcasting stations, exemptions, 151.326.  
 Cancellation, direct payment permit, 151.422.  
 Canvasser, 151.107.  
   Acting as retailer, 151.024.  
 Carriers,  
   Exemptions, 151.330.  
   Interstate motor carriers, 157.001 et seq.  
 Certificates and certification,  
   Amount due, 151.613.  
   Delinquencies, 151.603.  
   Exemptions, 151.155.  
     Fines and penalties, 151.706.  
     Manufactured housing, 158.101.  
   Liens, 113.202.  
   Manufactured housing exemption, 158.101.  
   Resale, 151.151 et seq.  
     Fines and penalties, 151.707.  
   State highway fund, proceed disposition, 151.801.  
 Charges. Rates and charges, generally, post.  
 Charitable organizations,  
   Exemptions, donations, 151.154.  
   Manufactured housing, exemption, 158.101.  
 Cities, towns and villages, exemptions, 151.309.  
 Class actions, 112.055.  
 Coin-operated vending machine, exemptions, 151.305.  
 Collection, 111.001 et seq., 151.052, 151.103.  
   Actions, 151.601 et seq.  
   Compromise and settlement, 111.101, et seq.  
   Disposition, 151.801.  
   Federal excise tax, 151.702.  
   Fines and penalties, 151.705.  
   Liability, 111.016.  
   Limitation of actions, 111.202 et seq.  
   Manufactured housing, 158.153, 158.155.  
   Reimbursement, 151.423.  
   Termination of business, 151.613.  
 Comity, foreign state liability, 151.615.  
 Commingled fungible goods, resale certificate, 151.153.  
 Commingled receipts, 151.416.  
 Common carriers, exemptions, 151.330.  
 Common interest, transfers, exemptions, 151.306.  
 Common Law, construction, 101.004.  
 Compromise and settlement, 111.101 et seq.  
 Computation, manufactured housing, 158.052.  
 Confidential or privileged information, 111.006, 151.027.  
 Constitution of Texas, exemptions, 151.307.  
 Construction,  
   Common Law, 101.004.  
   Statutes, 101.002.  
 Containers, exemptions, 151.322.  
 Contractors, 151.056.  
   Exemptions, improvements, 151.311.  
 Contracts, 151.056.  
   Limitation of actions, 111.203.  
 Counties, exemptions, 151.309.  
 Credits,  
   Bad debts, returned merchandise, and repossession, 151.426.  
   Refunds, 111.106 et seq.

## SALES AND USE TAX—Cont'd

Crimes and offenses, disclosures, 111.007.  
 Dairy and dairy products, exemptions, 151.314.  
 Deductions, resale, 151.427.  
 Deficiencies, 111.008.  
   Actions and proceedings, 111.010.  
   Injunctions, 111.011.  
   Limitation of actions, 111.202 et seq.  
   Redetermination, 111.009.  
 Definitions, 151.002 et seq.  
   Manufactured housing, 158.002.  
   Retail grocer, 151.414.  
   Retailers, 151.107.  
   State taxes, 101.003.  
 Delinquencies, 151.501 et seq.  
   Actions and proceedings, 151.262, 151.515, 151.601 et seq.  
   Certificates, evidence, 151.603.  
   Compromise and settlement, 111.101 et seq.  
   Discontinued businesses, 151.504.  
   Estimates, 151.503.  
   Evidence, certificate, 151.603.  
   Final determination, 151.505.  
   Fines and penalties, 151.502, 151.503, 151.703.  
   Hearings, redetermination, 151.510.  
   Holders of assets, notice, 151.609.  
   Interest, 111.060, 151.512, 151.703.  
   Interstate motor carriers, 157.204.  
   Jeopardy determination, 151.506.  
   Limitations, 151.507.  
   Manufactured housing, 158.151.  
   Notice,  
     Determination, 151.514.  
     Holders, assets, 151.609.  
   Offsets, 151.508.  
   Payments, 151.513.  
   Petitions, determination, 151.509, 151.510.  
   Redetermination, 151.509 et seq.  
   Reports, 151.501.  
 Dentists and dentistry, exemptions, 151.313.  
 Depositions, 111.0043.  
 Deposits, 101.009.  
 Direct payments, 151.417 et seq.  
 Disasters, extensions, 111.058.  
 Disclosures, crimes and offenses, 111.007.  
 Discontinued businesses, delinquencies, 151.504.  
 Discounts,  
   Forfeiture, 151.425.  
   Prepayment, 151.424.  
 Dismissal and nonsuit, injunction, 112.105, 112.106.  
 Display, permits, 151.201.  
 Disposition, proceeds, 151.801.  
 Domicile and residence, interstate motor carriers, 157.101.  
 Donations, exemptions, 151.154.  
 Drugs and medicine, exemption, 151.313.  
 Duplication,  
   Exemptions, 151.303, 151.308.  
   Manufactured housing, 158.154.  
 Dwellings, manufactured housing, 158.001 et seq.  
 Educational organizations,  
   Exemptions, 151.310.  
   Manufactured housing exemption, 158.101.  
 Electricity, exemption, 151.317.  
 Eleemosynary organizations, manufactured housing, exemption, 158.101.

## SALES AND USE TAX—Cont'd

Emergency medical services, exemptions, 151.310.  
 Equipment, examination, 151.023.  
 Estimates, delinquencies, 151.503.  
 Evidence,  
   Delinquencies, 151.603.  
   Graphic matter, 111.014.  
   Gross receipts, 151.054.  
   Liens, 113.007.  
   Storage, use or consumption, 151.104, 151.105.  
 Examinations and examiners, books and records, 111.004, 151.023.  
 Out-of-state records, 151.026.  
 Exemptions, 151.301 et seq.  
   Aged persons, organization sales, 151.332.  
   Agriculture, 151.316.  
   Aircraft, 151.328.  
   Alcoholic beverages, 151.054.  
   Bonds (officers and fiduciaries), 151.254.  
   Broadcasting stations, 151.326.  
   Carriers, 151.330.  
   Certificates and certification, ante.  
   Charitable organizations, donations, 151.154.  
     Manufactured housing, 158.101.  
   Cities, towns and villages, 151.309.  
   Coin-operated vending machines, 151.305.  
   Common carriers, 151.330.  
   Common interest, transfers, 151.306.  
   Constitution of Texas, 151.307.  
   Containers, 151.322.  
   Contractors, 151.056.  
     Improvements, 151.311.  
   Counties, 151.309.  
   Dairy and dairy products, 151.314.  
   Dentists and dentistry, 151.313.  
   Donations, 151.154.  
   Drugs and medicine, 151.313.  
   Duplication, 151.303, 151.308.  
   Educational organizations, 151.310.  
     Manufactured housing, 158.101.  
   Electricity, 151.317.  
   Eleemosynary organizations, manufactured housing, 158.101.  
   Emergency medical services, 151.310.  
   Films, motion pictures, 151.327.  
   Fire alarm answering companies, 151.310.  
   Food, 151.314.  
   Foreign states, shipments, 151.330.  
   Governmental annuities, 151.309.  
   Health care supplies, 151.313.  
   Hearing aides, 151.313.  
   Housing, manufactured housing, 158.101.  
   Interstate shipments, 151.330.  
   Intoxicating liquors, 151.054.  
   Joint ownership, transfers, 151.306.  
   Limitation of actions, 111.205, 111.206.  
   Magazines, 151.320.  
   Manufactured housing, 158.101.  
   Manufacturers and manufacturing, 151.318.  
   Meals, 151.314.  
   Mines and mining, 151.324.  
   Motion picture films, 151.327.  
   Newspapers, 151.319.  
   Nonprofit organizations, 151.310.  
   Occasional sales, 151.304.  
   Oil and gas, 151.317.  
   Packaging supplies, 151.321.  
   Periodicals, religious organizations, 151.312.

# INDEX TO TAX CODE

1878

References are to Sections

## SALES AND USE TAX—Cont'd

Exemptions—Cont'd  
 Political subdivisions, 151.309.  
 Poultry and poultry products, 151.314.  
 Previously taxed items, 151.303.  
 Prosthetic devices, 151.313.  
 Public service organizations, 151.310.  
 Public utilities, gas and electricity, 151.317.  
 Radio and television, 151.326.  
 Railroads, 151.331.  
 Religious organizations, 151.310.  
     Periodicals and writings, 151.312.  
 Repairmen, 151.056.  
 Resale, 151.302.  
 Security, 151.254.  
 Senior citizen organization, 151.332.  
 Ships and shipping, 151.329.  
 Solar energy devices, 151.325.  
 Special districts, 151.309.  
 Supplies, packages, 151.321.  
 Telegraph and telephone service, 151.323.  
 Telephones, 151.305, 151.323.  
 Television and radio, 151.326.  
 Therapeutic appliances, 151.313.  
 Transfers, common interest, 151.306.  
 United States, 151.307, 151.309.  
     Manufactured housing, 158.101.  
 Utilities, gas and electricity, 151.317.  
 Vegetables, 151.314.  
 Vending machines, 151.305.  
 Vessels, 151.329.  
 Water, 151.315.  
 Wrapping supplies, 151.321.  
 Writing, religious organizations, 151.312.  
 Federal excise tax, 151.028.  
     Collection, 151.702.  
 Federal Tax Lien Registration Act, 113.201 et seq.  
 Fees,  
     Liens, 113.204.  
     Witnesses, 111.0043.  
 Films, motion pictures, exemptions, 151.327.  
 Financial institutions, liens, 113.103.  
 Fines and penalties, 151.703 et seq.  
     Advertising, 151.704.  
     Certificates,  
         Exemption, 151.706.  
         Resale, 151.707.  
     Collection, 111.002, 151.705.  
     Delinquencies, 151.502, 151.503, 151.703.  
     Disclosures, 111.007.  
     Exemption certificates, 151.706.  
     Interstate motor carriers, 157.204.  
     Licenses and permits, 151.708.  
     Manufactured housing, 158.151.  
     Payments, 111.056.  
     Reporting methods, 151.415.  
     Reports, 111.056.  
         Failure to make, 151.703, 151.709.  
         Resale certificate, 151.707.  
 Fire alarm answering companies, exemptions, 151.310.  
 Fiscal year, 101.006.  
 Food, exemptions, 151.314.  
 Foreign states,  
     Comity, 151.615.  
     Motor carriers, 157.001 et seq.  
     Shipments, exemptions, 151.330.  
 Forfeitures,  
     Collection, 111.002.  
     Discounts or reimbursement, 151.425.  
     Manufactured housing violations, 158.151.  
     Security, 151.257.

## SALES AND USE TAX—Cont'd

Forms,  
     Actions, 151.604.  
     Interstate motor carriers, 157.205.  
     Manufactured housing, permits, 158.054.  
     Permit, application, 151.201.  
     Receipt, 151.103.  
     Records, 151.025.  
     Reports, 111.052, 151.406.  
     Resale certificate, 151.152.  
 Fungible goods, commingling, resale certificate, 151.153.  
 Gas, exemptions, 151.317.  
 General revenue funds,  
     Deposits, 101.009.  
     Proceed disposition, 151.801.  
 Governmental annuities, exemptions, 151.309.  
 Gross receipts, presumption, 151.054.  
 Health care supplies, exemptions, 151.313.  
 Hearing aides, exemptions, 151.313.  
 Hearings, 111.0043.  
     Delinquencies, redetermination, 151.510.  
     Permits, revocation or suspension, 151.203.  
     Refunds, 111.105.  
 Holidays, reports or payments, 111.053.  
 Housing, manufactured housing, 158.001 et seq.  
 Injunctions, 111.011, 112.101 et seq., 151.262.  
 Inspection and inspectors, records, 111.0041, 151.027.  
 Interest,  
     Delinquencies, 111.060, 151.512, 151.703.  
     Interstate motor carriers, 157.204.  
     Manufactured housing, 158.151.  
     Refunds, 111.106.  
 Interstate motor carriers, 157.001 et seq.  
 Interstate shipments, exemptions, 151.330.  
 Intoxicating liquors, exemptions, 151.054.  
 Investigations and investigators, 111.003.  
     Employment, 151.021.  
 Invoices, 151.025.  
 Jeopardy determinations, 151.506.  
 Joint ownership, exemptions, 151.306.  
 Judgments and decrees, 151.608.  
     Assignments, 111.251 et seq.  
     Liens, 151.608.  
         Assignments, 113.107.  
         Refunds, 112.155.  
 Jurisdiction, 112.001.  
 Liability, 151.102.  
     Comity, 151.615.  
     Resale certificate, 151.154.  
 Licenses and permits, 151.201 et seq.  
     Appeal and review, revocation or suspension, 151.205.  
     Application, 151.202.  
     Direct payment, 151.419.  
     Bonds (officers and fiduciaries), 151.251 et seq.  
     Cancellation, direct payment permit, 151.422.  
     Direct payments, 151.418 et seq.  
     Display, 151.201.  
     Fines and penalties, 151.708.  
     Forms, application, 151.202.  
     Interstate motor carriers, 157.201.  
     Manufactured housing, 158.054.  
     New permit, 151.204.  
     Notice, revocation or suspension, 151.261.

## SALES AND USE TAX—Cont'd

Licenses and permits—Cont'd  
     Payments, direct payments, 151.418 et seq.  
     Reissuance, 151.204.  
     Revocation or suspension, 151.203 et seq.  
         Direct payment permit, 151.420.  
         Security, failure to provide, 151.256 et seq.  
     Security, 151.251 et seq.  
     Signature, 151.202.  
     Temporary permit, 151.252.  
     Termination, direct payment permit, 151.422.  
 Liens and incumbrances, 113.001 et seq., 151.608.  
     Assignments, 111.251 et seq.  
     Federal Tax Lien Registration Act, 113.201 et seq.  
     Manufactured housing, 158.152.  
 Limitation of actions, 111.201 et seq.  
     Collection, 151.607.  
     Criminal prosecutions, 151.711.  
     Deficiencies, 151.507.  
     Termination of business, collection, 151.613.  
 Limitation of criminal prosecutions, 151.711.  
 Limitations, 151.029.  
 Machinery and equipment, examination, 151.023.  
 Magazines, exemptions, 151.320.  
 Mail and mailing,  
     Assignments, notice, 111.252.  
     Certificates, amount due, 151.613.  
     Delinquencies, determination, 151.507.  
     Permit revocation or suspension, 151.203.  
     Reports and payments, 111.054.  
     Security, sale, 151.258.  
     Service of process, 151.606.  
 Manufactured housing, 158.001 et seq.  
 Manufacturers and manufacturing,  
     Exemptions, 151.318.  
     Housing, 158.001 et seq.  
     Reports, 151.404.  
 Meals, exemption, 151.314.  
 Mines and mining, exemptions, 151.324.  
 Motion picture films, exemptions, 151.327.  
 Motor Vehicle Sales Tax, generally, this index.  
 Multiple taxes, manufactured housing, 158.154.  
 New permit, 151.204.  
 Newspapers, exemptions, 151.319.  
 Nonprofit organizations, exemptions, 151.310.  
 Notice,  
     Assignment, 111.252.  
     Deficiencies, 111.008.  
     Delinquencies, determination, 151.514.  
     Direct payment permit,  
         Cancellation or termination, 151.422.  
         Voluntary relinquishment, 151.421.  
     Holders of assets, 151.609.  
     Liens, 113.002, 113.006.  
         Filing, 113.201.  
     Permit, revocation or suspension, 151.261.  
         Hearing, 151.203.  
     Refunds, hearings, 111.105.  
     Registration, revocation or suspension, 151.261.  
     Security, 151.255.  
     Sales, 151.258.

## INDEX TO TAX CODE

References are to Sections

## SALES AND USE TAX—Cont'd

Notice—Cont'd  
 Seized property, sales, 151.611.  
 Subpoenas, 111.0044.  
 Oaths and affirmations, 111.004, 111.059.  
 Occasional sales, 151.055.  
 Exemptions, 151.304.  
 Offices, application of law, 151.107.  
 Oil and gas, exemptions, 151.317.  
 Out-of-state records, 151.026.  
 Packaging supplies, exemptions, 151.321.  
 Papers. Books and papers, generally, ante.  
 Payments, 151.401.  
 Bonds (officers and fiduciaries), 111.012.  
 Delinquencies, generally, ante.  
 Direct payments, 151.417 et seq.  
 Disasters, extensions, 111.058.  
 Discounts, prepayments, 151.424.  
 Disposition, 151.801.  
 Extensions, 111.058.  
 Failure to make, penalties, 151.703.  
 Fines and penalties, 111.056.  
 Holidays, 111.053.  
 Injunctions, 111.011.  
 Interstate motor carriers, 157.102.  
 Liability, 111.016.  
 Limitation of actions, 111.202 et seq.  
 Location, 151.409.  
 Mail and mailing, 111.054.  
 Manufactured housing, 158.056.  
 Fines and penalties, 158.151.  
 Offsets, 151.508.  
 Protest, 112.051 et seq.  
 Security, 111.012.  
 Time, 111.051 et seq.  
 Periodicals, religious organizations, exemptions, 151.312.  
 Permits. Licenses and permits, generally, ante.  
 Petitions,  
 Delinquencies, redetermination, 151.509, 151.510.  
 Redetermination, 111.009.  
 Political subdivisions, exemptions, 151.309.  
 Poultry and poultry products, exemptions, 151.314.  
 Prepayments, discounts, 151.424.  
 Presumption,  
 Gross receipt, 151.054.  
 Storage, use or consumption, 151.104, 151.105.  
 Priorities and preferences, liens, 113.104.  
 Proceedings. Actions and proceedings, generally, ante.  
 Proceeds, disposition, 151.801.  
 Process, service of process, collection actions, 151.606.  
 Production of books and papers, 111.0043.  
 Prosthetic devices, exemptions, 151.313.  
 Protest, payments, 112.051 et seq.  
 Public service organization, exemptions, 151.310.  
 Public utilities, gas and electricity, exemptions, 151.317.  
 Radio and television, exemptions, 151.326.  
 Railroads, exemptions, 151.331.  
 Rates and charges, 151.051, 151.101.  
 Interstate motor carriers, 157.102.  
 Manufactured housing, 158.051, 158.057.  
 Security, 151.253.  
 Real estate, seized property, sales, 151.610 et seq.  
 Reassignments, 111.254.

## SALES AND USE TAX—Cont'd

Receipts, 151.025, 151.103.  
 Commingled receipts, 151.416.  
 Records and recordation, 151.025.  
 Assignment, 111.255.  
 Confidential or privileged information, 151.027.  
 Examination, 111.004, 151.023.  
 Out-of-state record, 151.026.  
 Injunctions, 112.102.  
 Inspection, 111.0041, 151.027.  
 Interstate motor carriers, 157.203.  
 Judgment lien, 151.608.  
 Liens, 113.005.  
 Manufactured housing, 158.055.  
 Lien, 158.152.  
 Out-of-state records, 151.026.  
 Recovery, refund or credit, 111.108.  
 Redetermination, delinquencies, 151.509 et seq.  
 Refunds, 111.104 et seq.  
 Actions and proceedings, 112.151 et seq.  
 Advertising, fines and penalties, 151.704.  
 Bad debts, returned merchandise and repossessions, 151.426.  
 Injunctions, 112.107.  
 Manufactured housing, 158.155.  
 Oaths and affirmations, 111.059.  
 Protest, 112.060.  
 Security, 151.254.  
 Registration, 151.106.  
 Revocation or suspension, notice, 151.261.  
 Reimbursement,  
 Collections, 151.423.  
 Forfeitures, 151.425.  
 Releases,  
 Liens, 113.008 et seq.  
 Security, 151.254.  
 Religious associations and societies,  
 Exemptions, 151.310.  
 Manufactured housing, exemption, 158.101.  
 Periodicals and writings, 151.312.  
 Repairmen, 151.056.  
 Reports, 151.401 et seq.  
 Confidential and privileged information, 151.027.  
 Delinquencies, 151.501.  
 Disasters, extensions, 111.058.  
 Extensions, 111.057, 111.058.  
 Failure to make, penalties, 151.703.  
 Fines and penalties, 111.056, 151.415.  
 Failure to make, 151.709.  
 Forms, 111.052.  
 Holidays, 111.053.  
 Injunctions, 111.011, 112.103.  
 Interstate motor carriers, 157.202.  
 Investigations, 111.003.  
 Mail and mailing, 111.054.  
 Manufactured housing, 158.056.  
 Fines and penalties, 158.151.  
 Oaths and affirmations, 111.059.  
 Time, 111.051 et seq.  
 Repossessions, credits and refunds, 151.426.  
 Representatives, 151.107.  
 Acting as retailer, 151.024.  
 Res judicata,  
 Application, 151.614.  
 Refund suits, 112.156.  
 Resale,  
 Deductions, 151.427.  
 Exemption, 151.302.

## SALES AND USE TAX—Cont'd

Resale certificates, 151.151 et seq.  
 Fines and penalties, 151.707.  
 Returned merchandise, credits, and refunds, 151.426.  
 Returns,  
 Oaths and affirmations, 111.059.  
 Security, forfeiture, 151.257.  
 Time, 151.405.  
 Revocation or suspension,  
 Direct payment permit, 151.420.  
 Licenses and permits, ante.  
 Rules and regulations, 151.022.  
 Interstate motor carriers, 157.205.  
 Manufactured housing, 158.153.  
 Salesman, 151.107.  
 Acting as retailer, 151.024.  
 Sample rooms, application of law, 151.107.  
 Schedules, 151.053.  
 School funds, deposits, 101.009.  
 Searches and seizures, 151.610 et seq.  
 Security, 151.251 et seq.  
 Delinquencies, redetermination petition, 151.509.  
 Payments, 111.012.  
 Senior citizen organizations, exemptions, 151.332.  
 Service of process, collection actions, 151.606.  
 Settlement, 111.101 et seq.  
 Ships and shipping, exemptions, 151.329.  
 Signatures,  
 Permits, 151.200.  
 Resale certificate, 151.152.  
 Small grocers, recording method, 151.413.  
 Solar energy devices, exemptions, 151.325.  
 Special districts, exemptions, 151.309.  
 Special use tax, reports, 151.407.  
 Stamps, 151.701.  
 State highway fund, proceed disposition, 151.801.  
 Statute of limitations. Limitation of actions, generally, ante.  
 Statutes, construction, 101.002.  
 Subpoenas, 111.0043, 111.0044.  
 Subsidiaries, application of law, 151.107.  
 Suits. Actions and proceedings, generally, ante.  
 Supervisors, acting as retailers, 151.024.  
 Supplies, packages, exemptions, 151.321.  
 Suspension. Revocation or suspension, generally, ante.  
 Tables, 151.053.  
 Telegraph and telephones, exemptions, 151.305, 151.323.  
 Television and radio, exemptions, 151.326.  
 Temporary permit, 151.252.  
 Termination,  
 Collection, 151.613.  
 Delinquencies, generally, ante.  
 Direct payment permit, 151.422.  
 Therapeutic appliances, exemptions, 151.313.  
 Third-party orders, subpoenas, 111.0044.  
 Time,  
 Discontinued business, delinquencies, 151.504.  
 Discounts, prepayment, 151.424.  
 Liens, validity, 113.105.  
 Payments, 151.401.  
 Reports, 151.402.  
 Tokens, 151.701.  
 Tolling, limitation of actions, 111.207.

# INDEX TO TAX CODE

1880

References are to Sections

## SALES AND USE TAX—Cont'd

Transfers, common interest, exemptions, 151.306.  
Traveling expenses, witnesses, 111.0043.  
Trial de novo, 112.054.  
Uniform Federal Tax Lien Registration Act, 113.201 et seq.  
United States,  
Exemptions, 151.307, 151.309.  
Manufactured housing, exemption, 158.101.  
Utilities, gas and electricity, exemptions, 151.317.  
Vegetables, exemptions, 151.314.  
Vending machines, exemption, 151.305.  
Venue,  
Assignments, 111.253.  
Collection, 151.602.  
Delinquent payments, 151.262.  
Vessels, exemptions, 151.329.  
Warehouses, application of law, 151.107.  
Water, exemptions, 151.315.  
Witnesses, 111.0043.  
Wrapping supplies, exemptions, 151.321.  
Writing, religious organizations, 151.312.  
Year, fiscal year, 101.006.

## SALES PRICE

Defined, sales and use tax, 151.007.

## SALESMEN

Cigarette tax, records, 154.205.  
Cigars and tobacco products tax, records, 155.104.  
Sales and use tax, acting as retailer, 151.024.

## SAMPLE ROOMS

Sales and use tax, application of law, 151.107.

## SAMPLES

Motor fuel taxes, 153.008, 153.010.

## SATURDAY

Last day for performance of an act, next regular business day, 1.06.

## SAVINGS AND LOAN ASSOCIATIONS

Appraisal districts, deposits, 6.09.  
Appraisals and appraisers, intangibles, special appraisal provisions, 23.16.  
Franchise taxes, exemption, 171.054.  
Intangible personal property taxation, taxable situs, 21.08.  
Intangibles, special appraisal provisions, 23.16.  
Special appraisal provisions, intangibles, 23.16.  
Taxable situs, intangible personal property taxation, 21.08.

## SCENIC LANDS

Appraisal and appraisers, 23.81 et seq.  
Records, 25.011.

## SCHEDULES

Sales and use tax, 151.053.

## SCHOOL FUNDS

Occupation Taxes, this index.

## SCHOOL TAXES

Elections, limitation of taxes, 26.08.

## SCHOOLS AND SCHOOL DISTRICTS

Aged persons, homesteads, limitation of school tax, 11.26.

## SCHOOLS AND SCHOOL DISTRICTS

—Cont'd

Agricultural lands, county owned, taxability, 11.11.  
Assessments, election to limit taxes, 26.08.  
Defined, homestead exemption, 11.13.  
Elections, limitation of taxes, 26.08.  
Exemptions,  
Homestead, 11.13.  
Private schools, 11.21.  
Homesteads,  
Elderly, limitation of school tax, 11.26.  
Exemption, 11.13.  
Limitation of school tax, homestead of elderly, 11.26.  
Petitions, limitation of school taxes, election, 26.08.  
Private schools,  
Exemptions, 11.21.  
Theater schools, exemptions, 11.23.  
Signatures, election to limit school taxes, 26.08.  
Theater schools, exemptions, 11.23.

## SCIENTIFIC ORGANIZATIONS

Exemptions, 11.18.

## SCIENTIFIC SITES

Appraisal and appraisers, 23.81 et seq.  
Records, 25.011.

## SEARCHES AND SEIZURES

Cigarette tax, 154.403 et seq.  
Cigars and tobacco products tax, 155.143.  
Delinquent taxes, personal property, 33.21 et seq.  
Motor fuel taxes, 153.011, 153.012.  
Process, forfeiture proceedings, 154.405.  
Sales and use tax, 151.610 et seq.

## SECRETS AND SECRECY

Confidential or Privileged Information, generally, this index.

## SECURITIES

Cigars and tobacco products tax, 155.064.

## SECURITY

Sales and Use Tax, this index.

## SECURITY INTEREST

Appraisals and appraisers, encumbered property, listing on records, 25.06.

## SEIZURES

Searches and Seizures, generally, this index.

## SELLER

Defined, sales and use tax, 151.008.

## SEMITRAILERS

Defined, sales and use taxes, 157.001.

## SENIOR CITIZENS

Aged Persons, generally, this index.

## SENTENCE AND PUNISHMENT

Crimes and Offenses, generally, this index.

## SERVICE CLUBS

Community service clubs, exemptions, 11.23.

## SERVICE OF PROCESS

Appeal and review, subpoenas, 41.62.  
Process, this index.

## SETTLEMENT

Compromise and Settlement, generally, this index.

## SEWERS AND SEWER SYSTEMS

Franchise taxes, exemptions, 171.065.

## SHARES AND SHAREHOLDERS

Banks and Banking, this index.  
Broker and factor, occupation tax, 191.001 et seq.  
Franchise taxes, records and reports, examination, 171.208, 171.209.  
Occupation taxes, brokers and factors, 191.001 et seq.

## SHIP BROKER

Defined, occupation taxes, 191.041.

## SHIPS AND SHIPPING

Occupation taxes, brokers, 191.041, 191.042.  
Sales and use tax, exemptions, 151.329.

## SIGNATURES

Assessments, election to repeal, 26.07.  
Cigarette Tax, stamp invoice, 154.046.  
Cigars and tobacco products tax, seized property reports, 155.144.  
Inheritance taxes, declaration of no tax due, 211.106.  
Manufactured housing, movement reports, 21.23.  
Mobile homes and mobile home parks, movement reports, 21.23.  
Motor vehicle sales tax, false affidavits, 152.101.  
Personal property taxation, rendition report forms, 22.26.  
Sales and Use Tax, this index.  
School taxes, election to limit, 26.08.

## SITUS

Taxable Situs, generally, this index.

## SOCIETIES

Associations and Societies, generally, this index.

## SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

Exemptions, 11.18.

## SOLAR ENERGY DEVICES

Defined,  
Exemption, 11.27.  
Franchise taxes, 171.107.  
Franchise taxes,  
Deductions, 171.107.  
Exemptions, 171.056.  
Sales and use tax, exemptions, 151.325.

## SOLICITORS

Cigarette Tax, this index.  
Cigars and Tobacco Products Tax, this index.  
Defined,  
Cigarette tax, 154.001.  
Cigars and tobacco products tax, 155.001.

## SOUR GAS

Defined, occupation tax, 201.001.

## INDEX TO TAX CODE

References are to Sections

**SPECIAL APPRAISAL PROVISIONS**  
Appraisals and Appraisers, this index.**SPECIAL DISTRICTS**

Sales and use tax, exemptions, 151.309.

**SPECIAL OR LOCAL LAWS**

Application of law, 1.02.

**SPLIT PAYMENT**

Collection of taxes, 31.03.

**STAMPS**Cigarette Tax, this index.  
Sales and use tax, 151.701.**STANDARD TIME**

Defined, state taxes, 101.003.

**STANDARDS**

State property tax board, establishment for taxing units, 5.03.

**STATE**Assessment ratio, 26.03.  
Defined, taxing unit for sales purposes, 34.08.  
Exemptions, 11.11.  
Public property, exemption, 11.11.  
Purchase of property, proration of taxes, 26.11.**STATE AGENCIES**Exemptions, 11.11.  
Public property, exemptions, 11.11.  
Transportation business intangibles tax, appraisals, assistance, 24.05.**STATE PROPERTY TAX BOARD**Generally, 5.01 et seq.  
Annotated digest, property law taxation, preparation and issue, 5.05.  
Appeal and review, party, 42.05.  
Appraisal manuals, preparation and issue, 5.05.  
Clerical personnel, employment, 5.02.  
Compensation and salaries, 5.01.  
Consultation, property appraisers, 5.08.  
Contracts, consultants, 5.03.  
Copies, annual report, distribution, 5.09.  
Costs,  
    Professional and technical assistance, property appraisals, 5.08.  
    Property tax forms, printing and distributing, 5.07.  
Courses of instruction, appraisers, 5.04.  
Depreciation schedules, preparation and issue, 5.05.  
Director, executive director, 5.02.  
Domicile and residence, membership eligibility, 5.01.  
Education, appraisers, courses of instruction, 5.04.  
Establishment, 5.01.  
Executive director, 5.02.  
Expenses and expenditures, members, 5.01.  
Explanation, taxpayer remedies, preparation and publication of pamphlets, 5.06.  
Fees, appraisal manuals and other publications, 5.05.  
Forms, model forms, distribution to local officials, 5.07.  
Governor, appointment, 5.01.  
Handbook, rules, preparation and issue, 5.05.  
Manuals, appraisal manuals, preparation and issue, 5.05.**STATE PROPERTY TAX BOARD**—Cont'd  
Meetings, 5.01.  
Membership, 5.01.  
Officers and employees, 5.02.  
Pamphlets, explanation of taxpayer remedies, publication, 5.06.  
Personnel, 5.02.  
Powers and duties, 5.03.  
Professional and technical assistance property appraisals, 5.08.  
Protest, preparing and presenting, pamphlets explaining, 5.06.  
Publication, annual report, 5.09.  
Quorum, 5.01.  
Records and recordation, uniform record systems, 5.07.  
Reference bulletins, preparation and issue, 5.05.  
Reimbursement,  
    Cost of printing and distributing forms, 5.07.  
    Professional and technical assistance, property appraisal, 5.08.  
Reports,  
    Annual reports, 5.09.  
    Requirement from districts or offices appraising property, 5.03.  
Residence, membership requirements, 5.01.  
Rules and regulations, standards of appraisal, 5.03.  
Special appraisal manuals, preparation and issue, 5.05.  
Standards, operation of taxing districts, establishment, 5.03.  
Technical assistance, property appraisals, 5.08.  
Terms of office, members, 5.01.  
Training, appraisers, courses of instruction, 5.04.  
Travel expenses, members, 5.01.  
Uniformity, forms, 5.07.**STATE TAXES**Generally, 101.001 et seq.  
Discounts, early payment, 31.05.  
Remittances, reports, 31.09.  
Reports, remittances, 31.09.**STATE TREASURY**

Motor vehicle sales tax, deposits, 152.121.

**STATEMENTS**

Motor Fuel Taxes, this index.

**STATISTICS**

Personal property taxation, disclosure of rendition reports, 22.27.

**STATUTES**Construction, state taxes, 101.002.  
State taxes, construction, 101.002.**STATUTES OF LIMITATIONS**

Limitation of Actions, generally, this index.

**STOCK AND STOCKHOLDERS**

Shares and Shareholders, generally, this index.

**STOCK MARKET**

Quotation services, occupation taxes, 192.001 et seq.

**STOCK TRANSFER AGENTS**

Inheritance taxes, privileges and immunities, 211.201.

**STORAGE**Defined, sales and use tax, 151.011.  
Sales and Use Tax, generally, this index.**STUDIES**

Appraisals and appraisers, ratio studies, 5.10.

**SUBPOENAS**Appeal and Review, this index.  
Personal property taxation, rendition reports, 22.27.  
Rendition reports, 22.27.  
State taxes, 111.0043, 111.0044.**SUBROGATION**

Sales, purchasers, void sales, 34.07.

**SUBSEQUENT PURCHASER**Defined,  
    Occupation tax, 201.001.  
    Oil and gas, 202.001.**SUBSIDIARIES**

Sales and use tax, application of law, 151.107.

**SUFFRAGE**

Elections, generally, this index.

**SUITS**

Actions and Proceedings, generally, this index.

**SULFUR PRODUCTION TAX**

Occupation tax, 203.001 et seq.

**SUMMARY PROCEEDINGS**Cigarette tax, seized property, 154.407, 154.408.  
Cigars and tobacco products tax, seized property, 155.148, 155.149.**SUNDAY**

Last day for performance of an act, next regular business day, 1.06.

**SUPPLIERS**Defined, motor fuel taxes, 153.001.  
Motor Fuel Taxes, generally, this index.**SUPPLIES**

Packages, sales and use tax, exemptions, 151.321.

**SURETY**

Franchise taxes, exemption, 171.052.

**SURVEYS**

Homesteads, exemptions, mailing, 11.47.

**SURVIVING SPOUSE**Defined, disabled veterans exemptions, 11.22.  
Military forces, man killed on active duty, exemptions, 11.22.**SURVIVORS ALLOWANCE**

Liens and incumbrances, priorities, 32.05.

**SUSPENSION**

See specific index heading.

**SWEET GAS**

Defined, occupation tax, 201.001.

# INDEX TO TAX CODE

1882

References are to Sections

## SWIMMING POOLS

Nonprofit homeowners organizations, appraisals, 23.18.

## TABLES

Motor Fuel Taxes, this index.  
Sales and use tax, 151.053.

## TANGIBLE PERSONAL PROPERTY

Defined, 1.04.  
Sales and use tax, 151.009.  
Sales and Use Tax, generally, this index.

## TAX ADMINISTRATION FUND

Motor fuel taxes, 153.501.

## TAX YEAR

Defined, 1.04.

## TAXABLE ITEMS

Defined, sales and use tax, 151.010.

## TAXABLE LEASEHOLDS

Appraisals and appraisers, special appraisal provisions, 23.13.

## TAXABLE SITUS

Generally, 21.01 et seq.  
Insurance, intangible personal property taxation, 21.08.  
Intangible Personal Property Taxation, this index.  
Manufactured housing, 21.21 et seq.  
Mobile homes and mobile home parks, 21.21 et seq.  
Personal property taxation, 21.02 et seq.  
Protest, appeal and review, 41.42.

## TAXABLE VALUE

Defined, 1.04.

## TAXING UNITS

Application of law, 1.02.  
Defined, 1.04.

## TAXING UNITS OF LIKE KIND

Defined, severance of annexed territory, 26.14.

## TAXPAYER

Defined, state taxes, 101.003, 111.0043.

## TAXPAYER PROTEST

Protest, generally. Appeal and Review, this index.

## TELEGRAPHS AND TELEPHONES

Cooperative corporations, franchise taxes, exemptions, 171.080.  
Definitions, miscellaneous gross receipts tax, 182.001.  
Gross receipts taxes, miscellaneous tax, 182.001 et seq., 182.061 et seq.  
Miscellaneous gross receipts tax, 182.001 et seq., 182.061 et seq.  
Occupation taxes, miscellaneous gross receipts tax; 182.001 et seq., 182.061 et seq.  
Rates and charges, miscellaneous gross receipts tax, 182.062.  
Sales and use tax, exemptions, 151.305, 151.323.

## TELEPHONES

Telegraphs and Telephones, generally, this index.

## TELEVISION AND RADIO

Sales and use tax, exemptions, 151.326.

## TENNIS COURTS

Nonprofit homeowners organizations, appraisals, 23.18.

## TERMINATION

See specific index headings.

## TERMS OF OFFICE

Appraisal districts, board of directors, 6.03.  
Appraisal review board, members, 6.41.  
State property tax board, members, 5.01.

## TERRACES

Agricultural lands, appraisal, 23.41.

## TESTIMONY

Evidence, generally, this index.  
Witnesses, generally, this index.

## TEXAS FEDERATION OF WOMENS CLUBS

Exemptions, 11.23.

## THEATER

Charities, exemptions, 11.18.  
Exemptions, charities, 11.18.

## THEATER SCHOOLS

Exemptions, 11.23.

## THERAPEUTIC APPLIANCES

Sales and use tax, exemptions, 151.313.

## THIRD-PARTY RECORDKEEPER

Defined, state taxes, 111.0044.

## TIMBER AND LUMBER

Appraisals and appraisers, standing timber, listing on record, 25.10.  
Broker or factor, occupation tax, 191.001 et seq.  
Occupation taxes, brokers and factors, 191.001 et seq.  
Separate owners, land and standing timber, notice of qualification of separate taxation, 25.10.  
Timber Land, generally, this index.

## TIMBER LAND

Generally, 23.71 et seq.  
Aliens, eligibility for qualified timber land appraisal designation, 23.77.  
Applications, appraisal of qualified timber land, 23.75.  
Appraisals and appraisers,  
Aliens, eligibility for qualified timber land appraisal designation, 23.77.  
Applications, 23.79.  
Qualified timber land, 23.75.  
Back taxes, change of use of qualified timber land, 23.76.  
Capitalization rate, determining value of qualified timber land, 23.74.  
Change of use of land, payment of back taxes, 23.76.  
Cities and towns, eligibility of incorporated land for qualified timber appraisal designation, 23.77.  
Denial, applications, 23.79.  
Eligibility, qualified timber land, 23.77.  
Fines and penalties, 23.75.  
Forms, applications for qualified timber land appraisal, 23.75.  
Late applications, 23.751.  
Manuals, qualified timber land appraisal, 23.73.  
Method, appraisal of qualified timber land, 23.73.

## TIMBER LAND—Cont'd

Appraisals and appraisers—Cont'd  
Minimum taxable value, 23.78.  
New applications, 23.75.  
Notice,  
Denial, 23.79.  
Eligibility, 23.75.  
Qualifications for productivity appraisal, 23.72.  
Tax liens, change of use of land, back taxes, 23.76.  
Time, application for qualified timber land, 23.75.  
Validity, applications, 23.79.  
Value, minimum taxable value, 23.78.  
Back taxes, appraisal of qualified timber land, change of use, 23.76.  
Capitalization rate, appraisals and appraisers, determining value of qualified timber land, 23.74.  
Cities and towns, incorporated land, eligibility for qualified timber appraisal, 23.77.  
Denial, appraisal applications, 23.79.  
Eligibility, appraisal as qualified timber land, 23.77.  
Fines and penalties, appraisal applications, 23.75, 23.751.  
Forms, appraisal of qualified timber lands, applications, 23.75.  
Late applications, appraisals, 23.751.  
Manuals, appraisal manuals for qualified timber land, 23.73.  
Method, appraisal of qualified timber land, 23.73.  
Minimum taxable value, 23.78.  
New applications, appraisal, 23.75.  
Notice,  
Appraisal applications,  
Denial, 23.79.  
Eligibility, 23.75.  
Protest, appraisal applications, denial, 23.79.  
Qualification, productivity appraisals, 23.72.  
Tax liens, change of use of qualified timber land, back taxes, 23.76.  
Time, appraisal of qualified timber land, application date, 23.75.  
Value, minimum taxable value, 23.78.

## TIME

Agricultural Lands, this index.  
Appeal and Review, this index.  
Appraisal Districts, this index.  
Assessments, publication, tax rates, 26.04.  
Cigarette Tax, this index.  
Cigars and Tobacco Products Tax, this index.  
Collection,  
Delinquency date, 31.02.  
Refunds, 31.11.  
Delinquencies, notice, 33.07.  
Exemptions, this index.  
Franchise Taxes, this index.  
Gross Receipts Tax, this index.  
Homesteads, exemption, 11.13.  
Hotel Occupancy Tax, this index.  
Inheritance Taxes, this index.  
Last day for performance of an act, next regular business day, 1.06.  
Mail and mailing, timeliness of action, 1.08.  
Manufactured housing, movement reports, 21.23.  
Mobile home and mobile home parks, movement reports, 21.23.

## INDEX TO TAX CODE

References are to Sections

**TIME—Cont'd**

Motor Fuel Taxes, this index.  
 Motor Vehicle Sales Tax, this index.  
 Notice, delivery, deposit in mail, 1.07.  
 Occupation Taxes, this index.  
 Oil and Gas, this index.  
 Personal Property Taxation, this index.  
 Protest, appeal and review, notice, 41.44.  
 Sales and Use Tax, this index.  
 Sulfur production tax,  
   Payments, 203.053.  
   Reports, 203.052.  
 Timber land, application for qualified  
 timber land appraisal, 23.75.  
 Transportation business intangibles tax,  
 appraisals, protest hearings, 24.08.

**TITLE TO PROPERTY**

Redemption, evidence, 34.22.

**TOBACCO**

Cigarette Tax, generally, this index.  
 Cigars and Tobacco Products Tax, gener-  
 ally, this index.

**TOBACCO PRODUCT**

Defined, cigar tax, 155.001.

**TOKENS**

Sales and use tax, 151.701.

**TOLL BRIDGES**

Transportation Business Intangibles Tax,  
 generally, this index.

**TOLL ROADS**

Transportation Business Intangibles Tax,  
 generally, this index.

**TOTAL ASSETS**

Defined, franchise taxes, 171.004.

**TOTAL CONSIDERATION**

Defined, motor vehicle sales tax, 152.002.

**TOURIST COURTS**

Hotel Occupancy Tax, generally, this in-  
 dex.

**TOWNHOUSES**

Nonprofit homeowners organizations,  
 common property, appraisals, 23.18.

**TOWNS**

Cities, Towns and Villages, generally,  
 this index.

**TRACTORS**

Agricultural machinery and equipment,  
 exemptions, 11.161.

**TRAILERS**

Defined, sales and use tax, 157.001.  
 Motor Vehicle Sales Tax, generally, this  
 index.

**TRAINS**

Railroads, generally, this index.

**TRANSFERS**

Brokers and factors, occupation taxes,  
 191.001 et seq.  
 Inheritance Taxes, this index.  
 Motor fuel taxes, liquefied gas tax, de-  
 cals, 153.311.  
 Sales and use tax, common interest, ex-  
 emption, 151.306.

**TRANSIT COMPANY**

Defined, motor fuel taxes, 153.001.

**TRANSPORTATION**

Cigarette tax, crimes and offenses,  
 154.511.  
 Cigars and tobacco products tax, fines  
 and penalties, 155.209.  
 Intangible personal property taxation,  
 certain transportation businesses,  
 21.07.  
 Interstate motor carrier sales and use  
 tax, 157.001 et seq.  
 Sales and use tax, interstate motor carri-  
 ers, 157.001 et seq.  
 Taxable situs, intangible personal prop-  
 erty taxation, 21.07.

**TRANSPORTATION BUSINESS IN-  
TANGIBLES TAX**

Generally, 24.01 et seq.  
 Additional information, appraisals, 24.03.  
 Allocation, property used in more than  
 one state, appraisals, 24.06.  
 Apportionment, intrastate apportionment,  
 24.07.  
 Appraisals and appraisers,  
 Additional information, 24.03.  
 Allocation, property used in more than  
 one state, 24.06.  
 Certificates and certification, appor-  
 tioned value, 24.11.  
 Fines and penalties, failure or refusal  
 to deliver required information,  
 24.04.  
 Forms, property information reports,  
 24.02.  
 Hearings, protest hearings, 24.08,  
 24.09.  
 Imposition of tax, 24.13.  
 Interstate business, method of alloca-  
 tion, 24.06.  
 Intrastate apportionment, 24.07.  
 Method, 24.06.  
 Notice, protest hearings, 24.09.  
 Omitted property, prior year appraisal  
 and allocation, 24.12.  
 Protest hearings, 24.08, 24.09.  
 Reports, property information reports,  
 24.02.  
 Rules and regulations, 24.10.  
 State agencies, assistance, 24.05.  
 Time, protest hearings, 24.08.  
 Certificates and certification, apportioned  
 value, 24.11.  
 Exemptions, gross receipts tax, 24.14.  
 Fines and penalties, failure or refusal to  
 deliver required information, apprais-  
 als, 24.04.  
 Forms, appraisals, property information  
 reports, 24.02.  
 Gross receipt tax, exemption, 24.14.  
 Hearings, protest hearings, appraisals,  
 24.08, 24.09.  
 Imposition of tax, 24.13.  
 Interstate business, appraisal, method of  
 allocation, 24.06.  
 Intrastate apportionment, 24.07.  
 Mail and mailing, appraisals, notice of  
 protest hearings, 24.09.  
 Method, appraisal, 24.06.  
 Notice, protest hearings, appraisals,  
 24.08.  
 Omitted property, appraisal and alloca-  
 tion for years property omitted from  
 taxation, 24.12.  
 Protest hearings, appraisals, 24.08, 24.09.

**TRANSPORTATION BUSINESS IN-  
TANGIBLES TAX—Cont'd**

Reports, property information reports,  
 appraisals, 24.02.  
 Rules and regulations, 24.10.  
 State agencies, appraisals, assistance,  
 24.05.  
 Time, appraisals, protest hearings, 24.08.

**TRAVEL EXPENSES**

Appraisal districts, board of directors,  
 6.04.  
 Appraisal review board, members, 6.42.  
 Motor vehicles sales tax, records,  
 152.063.  
 State property tax board, members, 5.01.  
 State taxes, witnesses, 111.0043.

**TREASURER**

Defined, state taxes, 101.003.

**TRIAL**

Appeal and review, appraisals, jury trial,  
 42.23.

**TRIAL DE NOVO**

Motor fuel taxes, 153.007.  
 State taxes, 112.054.

**TRIP PERMITS**

Motor Fuel Taxes, this index.

**TRIP-LEASE EQUIPMENT**

Defined, sales and use taxes, 157.001.

**TRUCK-TRACTOR**

Defined, sales and use tax, 157.001.

**UNEQUAL APPRAISALS**

Appeal and Review, remedies, judicial re-  
 view, 42.26.

**UNIFORM FEDERAL TAX LIEN  
REGISTRATION ACT**

Generally, 113.201 et seq.

**UNITED STATES**

Inheritance Taxes, this index.  
 Liens, priorities, 32.04.  
 Manufactured housing, sales and use tax  
 exemption, 158.101.  
 Proration, property acquisition, 26.11.  
 Sales and use tax, exemptions, 151.307,  
 151.309.

**USE**

Defined,  
 Manufactured housing, sales and use  
 tax, 158.057.  
 Sales and use taxes, 151.011.

**USE TAX**

Sales and Use Tax, generally, this index.

**UTILITIES**

Public Utilities, generally, this index.

**UTILITY COMPANY**

Defined, miscellaneous gross receipts  
 taxes, 182.021.

**VACANCIES IN OFFICE**

Appraisal review board, 6.41.

**VACATING OR SETTING ASIDE**

Franchise taxes, judicial forfeiture,  
 171.306 et seq.



## INDEX TO TAX CODE

References are to Sections

## WORDS AND PHRASES—Cont'd

Effects, state taxes, 101.003.  
 Factor, occupation taxes, 191.001.  
 Family, personal property taxation exemption, 11.25.  
 Federal credit, inheritance tax, 211.001.  
 Federal estate tax, inheritance, 211.001.  
 Federal generation-skipping transfer tax, inheritance tax, 211.001.  
 Federal tax, inheritance tax, 211.001.  
 First purchaser,  
   Occupation tax, 201.001.  
   Oil and gas, 202.001.  
 First sale, cigarette tax, 154.001.  
 Food, sales and use tax, 151.314.  
 For sale, cigars and tobacco products tax, 155.001.  
 Gas, occupation tax, 201.001.  
 Gas produced, occupation tax, 201.001.  
 Gasoline, motor fuel tax, 153.001.  
 Gasoline or diesel bulk users, motor fuel taxes, 153.001.  
 Generation-skipping transfer, inheritance tax, 211.001.  
 Generation-skipping transfer tax credit, inheritance tax, 211.001.  
 Gross estate, inheritance taxes, 211.001.  
 Gross rental receipts, motor vehicle sales tax, 152.001.  
 Hotel, occupancy tax, 156.001.  
 Household goods, personal property, tax exemption, 11.14.  
 Improvement, property, 1.04.  
 In this state, sales and use tax, 151.004.  
 Income capitalization, appraisal of agricultural land, 23.51.  
 Individual package of cigarettes, tax, 154.001.  
 Intangible personal property, 1.04.  
 Interstate motor vehicle, sales and use tax, 157.001.  
 Interstate trucker, motor fuel taxes, 153.001.  
 Jobber, motor fuel taxes, 153.001.  
 Lease, motor vehicles, 152.001.  
 Lessor, motor fuel taxes, 153.001.  
 Light truck, motor fuel taxes, 153.001.  
 Liquefied gas, motor fuel taxes, 153.001.  
 Liquefied gas tax decal user, motor fuel taxes, 153.001.  
 Magazine, sales and use tax, 151.320.  
 Manufactured home,  
   Sales and use tax, 158.002.  
   Situs, 21.21.  
 Manufacturer, sales and use tax, 158.002.  
 Market value, property, 1.04.  
 Mobile home, situs, 21.21.  
 Month, state taxes, 101.003.  
 Motor carrier, sales and use tax, 157.001.  
 Motor fuel, taxes, 153.001.  
 Motor vehicles,  
   Fuel taxes, 153.001.  
   Sales and use tax, 151.801.  
   Sales tax, 152.001.  
   Use for religious purposes, sales tax, 152.001.  
 Motorboat, motor fuel taxes, 153.001.  
 Multistate tax compact, 141.001.  
 Net to land,  
   Appraisal of agricultural land, 23.51.  
   Appraisal of timber land, 23.71.  
 Nonresident, inheritance tax, 211.001.  
 Nonreturnable container, sales and use tax, 151.322.  
 Occasional sale, sales and use tax, 151.304.  
 Occupation, appraisal of agricultural lands, 23.42.

## WORDS AND PHRASES—Cont'd

Officer, state taxes, 101.003.  
 Oil, occupation tax, 202.001.  
 Orthopedically handicapped person, motor vehicle sales tax, 152.001.  
 Owner of a motor vehicle, sales tax, 152.001.  
 Packaging supplies and materials, sales and use tax, 151.321.  
 Partial exemption, 1.04.  
 Passenger car, motor fuel taxes, 153.001.  
 Person,  
   Manufactured housing sales and use tax, 158.002.  
   Motor carrier sales and use tax, 157.001.  
   State taxes, 111.0043.  
 Personal effects, personal property taxation exemption, 11.14.  
 Personal property, defined, 1.04.  
 Personal representative, inheritance taxes, 211.001.  
 Pistol, occupation taxes, 191.021.  
 Pistol dealer, occupation taxes, 191.021.  
 Place of business, cigarette tax, 154.001.  
 Planned unit development association, appraisal, 25.09.  
 Possessory interest, 1.04.  
 Preceding year, motor carrier sales and use tax, 157.001.  
 Previously used stamp, cigarette tax, 154.001.  
 Producer,  
   Occupation tax, 201.001.  
   Oil and gas, 202.001.  
   Sulfur production tax, 203.001.  
 Production,  
   Occupation tax, 201.001.  
   Oil and gas, 202.002.  
 Property, 1.04.  
 Public access airport property, appraisal, 23.91.  
 Public agency, motor vehicle sales, 152.001.  
 Public highways, motor fuel taxes, 153.001.  
 Purchase,  
   Sales and use tax, 151.005.  
   Motor carriers, 157.001.  
 Qualified open space land, appraisal of agricultural land, 23.51.  
 Quarterly period, hotel occupancy tax, 156.001.  
 Quotation service, occupation tax, 192.001.  
 Real property, 1.04.  
 Receipts, sales and use tax, 151.007.  
 Recreational, park or scenic use, appraisal, 23.81.  
 Registered gross weight, motor fuel taxes, 153.001.  
 Religious worship, exemptions, 11.20.  
 Rental, motor vehicle sales tax, 152.001.  
 Repairmen, sales and use tax, 151.056.  
 Report, state taxes, 101.003.  
 Residence homestead, homestead exemption, 11.13.  
 Resident, inheritance taxes, 211.001.  
 Residential use, sales and use tax, 151.317.  
 Retail dealer, cigarette tax, 154.001.  
 Retail grocer, sales and use tax, 151.414.  
 Retail price, cigars and tobacco products tax, 155.001.  
 Retail sale, motor vehicles, 152.001.  
 Retailer,  
   Cigars and tobacco products tax, 155.001.

## WORDS AND PHRASES—Cont'd

Retailer—Cont'd  
   Manufactured housing sales and use tax, 158.002.  
   Sales and use tax, 151.008, 151.107.  
 Returnable containers, sales and use tax, 151.322.  
 RGW, motor fuel taxes, 153.001.  
 Royalty interest,  
   Occupation tax, 201.001.  
   Oil and gas, 202.001.  
 Sale for resale, sale and use tax, 151.006.  
 Sales,  
   Motor fuel taxes, 153.001.  
   Motor vehicle, 152.001.  
   Sale and use tax, 151.005.  
   Sales price, sales and use tax, 151.007.  
 School district, homestead exemption, 11.13.  
 Semitrailer, sales and use taxes, 157.001.  
 Ship broker, occupation taxes, 191.041.  
 Solar energy device,  
   Exemption, 11.27.  
   Franchise taxes, 171.107.  
   Sales and use tax, 151.325.  
 Solicitor,  
   Cigarette tax, 154.001.  
   Cigars and tobacco products tax, 155.001.  
 Sour gas, occupation tax, 201.001.  
 Stamp, cigarette tax, 154.001.  
 Standard time, state taxes, 101.003.  
 State, taxing unit for sales purposes, 34.08.  
 Storage, sales and use tax, 151.011.  
 Subsequent purchaser,  
   Occupation tax, 201.001.  
   Oil and gas, 202.001.  
 Supplier, motor fuel taxes, 153.001.  
 Surviving spouse, 11.22.  
 Sweet gas, occupation tax, 201.001.  
 Tangible personal property, 1.04.  
   Sales and use tax, 151.009.  
 Tax year, 1.04.  
 Taxable item, sales and use tax, 151.010.  
 Taxable value, 1.04.  
 Taxing unit, 1.04.  
 Taxing units of like kind, assessment of annexed territory, 26.14.  
 Taxpayer, state taxes, 101.003, 111.0043.  
 Telegraph company, miscellaneous gross receipts tax, 182.001.  
 Telephone company, miscellaneous gross receipts taxes, 182.061.  
 Third-party recordkeeper, state taxes, 111.0044.  
 Tobacco product, cigar tax, 155.001.  
 Total assets, franchise taxes, 171.004.  
 Total consideration, motor vehicle sales tax, 152.002.  
 Trailer, sales and use tax, 157.001.  
 Transit company, motor fuel taxes, 153.001.  
 Treasurer, state taxes, 101.003.  
 Trip-lease equipment, sales and use tax, 157.001.  
 Truck-tractor, sales and use tax, 157.001.  
 Use,  
   Manufactured housing, 158.057.  
   Sales and use tax, 151.011.  
 Utility company, miscellaneous gross receipts taxes, 182.021.  
 Value, inheritance tax, 211.001.  
 Volunteer fire department, motor vehicle sales tax, 152.001.  
 Weighted average level of appraisal, 1.12.

# INDEX TO TAX CODE

1886

References are to Sections

## WORDS AND PHRASES—Cont'd

Wholesale dealer,  
Cigarette tax, 154.001.  
Cigars and tobacco products tax,  
155.001.  
Wholesaler, motor fuel taxes, 153.001.  
Will, inheritance tax, 211.001.  
Wind-powered energy device, exemption,  
11.27.  
Wrapping, sales and use tax, 151.321.  
Year, state taxes, 101.003.

## WORSHIP

Religious organizations, exemptions,  
11.20.

## WRAPPING SUPPLIES

Sales and use tax, exemptions, 151.321.

## WRITS OF POSSESSION

Delinquent tax suits, 33.51.

## YEAR

Defined, state taxes, 101.003.  
Fiscal year, state taxes, 101.006.

## YMCA

Charities, exemption, 11.18.  
Exemptions, youth development associa-  
tions, 11.19.

## YOUTH DEVELOPMENT ASSOCIA- TIONS

Exemptions, 11.19.

## YWCA

Charities, exemptions, 11.18.  
Exemptions, youth development associa-  
tions, 11.19.

## ZOOS

Charities, exemptions, 11.18.

# TITLE 122. TAXATION

## CHAPTER ONE. LEVY OF TAXES AND OCCUPATION TAXES

### Article

- 7041a. Repealed.  
7057g. Validation of Unenforceable Tax Levies and Junior College District Boundary Changes.  
7057h. Validation of School Tax Levies.

**Art. 7041. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7041a. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

The repealed article, which applied the Sunset Act to the board to calculate the ad valorem tax rate, was added by Acts 1977, 65th Leg., p. 1855, ch. 735, § 2.170.

**Arts. 7042 to 7045. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7047a. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7047a-20. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), (e)(6), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7047c. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7047c-3. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), (e)(7), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7047k-1. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7047n. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7048. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, this article was amended by Acts 1979, 66th Leg., p. 2316, ch. 841, § 4(g), effective Jan. 1, 1982.

**Arts. 7048a, 7048b. Transferred to arts. 2353b, 2353c, by Acts 1981, 67th Leg., p. 1784, ch. 389, § 38(b), (c), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, transferring these articles, enacted Title 2 of the Tax Code.

**Arts. 7049 to 7054. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

**Arts. 7055, 7056. Transferred to arts. 5221h, 5221i by Acts 1981, 67th Leg., p. 1784, ch. 389, § 38(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, transferring these articles, enacted Title 2 of the Tax Code.

**Art. 7057b. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, this article was amended by Acts 1979, 66th Leg., p. 98, ch. 59, § 4.

**Art. 7057c. Repealed by Acts 1975, 64th Leg., p. 2306, ch. 719, art. V, § 1, eff. Sept. 1, 1975**

**Art. 7057f. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7057g. Validation of Unenforceable Tax Levies and Junior College District Boundary Changes**

*Unenforceable Tax Levies and Boundary Changes*

Sec. 1. (a) All tax levies and junior college district boundary changes heretofore made by and for any tax unit, which levies or boundary changes are unenforceable because not made in strict compliance with the form and manner required by statute or because of any other defect which may be cured by the legislature, are hereby validated and declared enforceable the same as though they had been regularly made in proper form and manner.

(b) If for any cause any tax unit hereafter fails to make a valid tax levy for any year or years, the tax unit's last valid tax levy prior to such omitted year or years shall be continued in force as the tax levy of such tax unit for each year in which a valid levy was not made, so that there shall never be a year hereafter for which some valid levy is not in force.

*Levies Not Recorded*

Sec. 2. Should any tax unit fail to make a proper record of a tax levy for any year or years, but taxes were assessed and collected by the tax unit for that year or years and the tax rate(s) used can be determined by examining the tax rolls for such year or years, the tax unit's governing body may take testimony and make other inquiry and determine that a proper tax levy was regularly and validly made for each such year but was not recorded, and the governing body may order that a proper tax levy ordinance or other order for each such year be entered in the official records nunc pro tunc, and this record shall be prima facie evidence that the tax unit's levy for such year was properly and regularly made. This provision shall be cumulative of and in addition to all other rights and remedies now available to any tax unit in such cases.

*Tax Unit Defined*

Sec. 3. A tax unit or unit as used in this Act is any governmental agency or subdivision of the state which levies a property tax (ad valorem or otherwise).

*Inapplicability of this Act*

Sec. 4. This Act shall not affect nor apply to any suit pending in any court on the effective date of this Act in which the invalidity or nonrecord of any tax levy, or both of them, has heretofore been pleaded.

*Savings Clause*

Sec. 5. This Act will not affect pending litigation nor any disputed property valuation notice of which has been given to the tax unit involved.

*Partial Invalidity*

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other

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

[Acts 1977, 65th Leg., p. 1441, ch. 586, §§ 1 to 6, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 803, ch. 362, § 4, eff. Aug. 27, 1979.]

**Saved from Repeal**

*This article was saved from repeal by § 39(c)(1) of Acts 1981, 67th Leg., p. 1785, ch. 389, which enacted Title 2 of the Tax Code.*

**Art. 7057h. Validation of School District Tax Levies**

Sec. 1. The governmental acts and proceedings performed by the governing bodies of all school districts relating to the setting of tax rates or assessment ratios are validated as of the date of the act or proceeding insofar as these acts or proceedings may be invalid because they were not accomplished by ordinance.

Sec. 2. This Act does not apply to any act or proceeding involved in litigation on the date this Act takes effect if the litigation, ultimately results against the legality of the act or proceeding. This Act does not apply to any act or proceeding which has been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1979, 66th Leg., p. 803, ch. 362, §§ 1, 2, eff. Aug. 27, 1979.]

**Saved from Repeal**

*This article was saved from repeal by § 39(c)(2) of Acts 1981, 67th Leg., p. 1785, ch. 389, which enacted Title 2 of the Tax Code.*

**CHAPTER TWO. TAXES BASED UPON GROSS RECEIPTS**

*Article*

- 7064b. Interest on Insurance Premium Tax Not Paid by March 1.
- 7064c. Penalty on Insurance Premium Tax Not Paid by March 1 of Following Year.
- 7064d. Suit by Attorney General to Recover Delinquent Insurance Premium Taxes.
- 7064e. Authority of State Board of Insurance to Verify Insurance Premium Taxes; Rules and Regulations.

**Art. 7060½. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7060b. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7064. Transferred to Insurance Code, art. 4.10, by Acts 1981, 67th Leg., p. 1780, ch. 389, § 36, eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, transferring this article, enacted Title 2 of the Tax Code.

**Art. 7064½. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7064a. Transferred to Insurance Code, art. 4.11, by Acts 1981, 67th Leg., p. 1780, ch. 389, § 36, eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, transferring this article, enacted Title 2 of the Tax Code.

**Art. 7064a-1. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7064b. Interest on Insurance Premium Tax Not Paid by March 1**

Any insurance carrier and any person, corporation, association, or entity or any receiver thereof to which Article 7064, Revised Civil Statutes of Texas, 1925,<sup>1</sup> shall apply, which fails to pay the tax on or before March 1 as provided herein, shall pay interest to the State Board of Insurance to be deposited in the general revenue fund at an annual rate of nine percent for the period from March 1 of the taxable year until the date such taxes are paid in addition to the taxes due.

[Added by Acts 1981, 67th Leg., p. 3215, ch. 844, § 2, eff. Jan. 1, 1982.]

<sup>1</sup> Transferred to Insurance Code, art. 4.10.

**Repeal**

*Acts 1981, 67th Leg., p. 3215, ch. 844, § 2, added this article, without reference to the repeal of "all laws compiled in Volume 20, Vernon's Texas Civil Statutes" by § 39(b) of Acts 1981, 67th Leg., p. 1785, ch. 389, which enacted Title 2 of the Tax Code.*

Sections 6 and 7 of Acts 1981, 67th Leg., p. 3216, ch. 844, provide:  
"Sec. 6. This Act takes effect January 1, 1982, and applies to taxes on all premiums collected by an insurance carrier after that date.

"Sec. 7. Nothing in this Act shall apply to any suit for refund of taxes paid in prior years, pending on the effective date of this Act."

**Art. 7064c. Penalty on Insurance Premium Tax Not Paid by March 1 of Following Year**

Any insurance carrier which either fails to file a tax return as provided in Article 7064, Revised Civil Statutes of Texas, 1925,<sup>1</sup> or fails to pay any taxes imposed by Article 7064, Revised Civil Statutes of Texas, 1925, on or before the due date of March 1 in the year following the taxable year, shall pay to the State Board of Insurance to be deposited in the general revenue fund a penalty equal to five percent

of the amount of taxes due for each month or portion of a month for which such return or payment is late. Any penalty assessed under this article shall not exceed 20 percent of the amount of taxes due. Payment of such penalty is in addition to payment of the taxes due.

[Added by Acts 1981, 67th Leg., p. 3215, ch. 844, § 3, eff. Jan. 1, 1982.]

<sup>1</sup> Transferred to Insurance Code, art. 4.10.

**Repeal**

*Acts 1981, 67th Leg., p. 3215, ch. 844, § 3, added this article, without reference to the repeal of "all laws compiled in Volume 20, Vernon's Texas Civil Statutes" by § 39(b) of Acts 1981, 67th Leg., p. 1785, ch. 389, which enacted Title 2 of the Tax Code.*

**Art. 7064d. Suit by Attorney General to Recover Delinquent Insurance Premium Taxes**

All delinquent taxes under Article 7064, Revised Civil Statutes of Texas, 1925,<sup>1</sup> including penalties, which are due and owing to the State of Texas shall be recovered by the attorney general in a suit brought by him in the name of the State Board of Insurance on behalf of the State of Texas. The venue and jurisdiction of all suits arising hereunder are hereby conferred upon the courts of Travis County, Texas. For delinquent taxes, penalties and interest herein provided for, the state shall have a prior and preferred lien on every Texas investment and other thing of value owned by the delinquent taxpayer which shall extend to and be enforceable against any property, either real or personal, or both, owned by the delinquent insurance carrier which property is not exempt from forced sale by reason of existing laws or the constitution of this state or the United States. In addition to the authority to file suit against an insurance organization for delinquent taxes, penalties, and interest, the attorney general, by a suit in the name of the State Board of Insurance, shall have the right to enjoin such delinquent insurance carrier from engaging in the business of insurance in the State of Texas until such delinquent taxes, penalties, and interest are paid in full. Venue for a suit of this nature is also fixed in Travis County, Texas.

[Added by Acts 1981, 67th Leg., p. 3215, ch. 844, § 4, eff. Jan. 1, 1982.]

<sup>1</sup> Transferred to Insurance Code, art. 4.10.

**Repeal**

*Acts 1981, 67th Leg., p. 3215, ch. 844, § 4, added this article, without reference to the repeal of "all laws compiled in Volume 20, Vernon's Texas Civil Statutes" by § 39(b) of Acts 1981, 67th Leg., p. 1785, ch. 389, which enacted Title 2 of the Tax Code.*

**Art. 7064e. Authority of State Board of Insurance to Verify Insurance Premium Taxes; Rules and Regulations**

The State Board of Insurance shall have authority for the purpose of verifying reports and investigating the affairs of insurance carriers in order to determine whether the tax due under Article 7064, Revised Civil Statutes of Texas, 1925,<sup>1</sup> is being properly reported and paid. Such authority shall include the power to enter upon the premises of any taxpayer liable for such a tax, and any other premises necessary, in determining the correct tax liability and to examine, or cause to be examined, any books or records of any person employed by the insurance carrier subject to such tax, and to secure any other information, directly or indirectly, concerned in the enforcement of Article 7064, Revised Civil Statutes of Texas, 1925. The State Board of Insurance shall further have the authority to promulgate and enforce, according to law, rules and regulations pertinent to Article 7064, Revised Civil Statutes of Texas, 1925, and such rules and regulations shall have the full force and effect of law.

[Added by Acts 1981, 67th Leg., p. 3216, ch. 844, § 5, eff. Jan. 1, 1982.]

<sup>1</sup> Transferred to Insurance Code, art. 4.10.

**Repeal**

*Acts 1981, 67th Leg., p. 3216, ch. 844, § 5, added this article, without reference to the repeal of "all laws compiled in Volume 20, Vernon's Texas Civil Statutes" by § 39(b) of Acts 1981, 67th Leg., p. 1785, ch. 389, which enacted Title 2 of the Tax Code.*

**Art. 7066c. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7067a. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), (e)(2), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7070a. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7073. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Arts. 7074, 7075. Transferred to Insurance Code, arts. 4.13, 4.14, by Acts 1981, 67th Leg., p. 1784, ch. 389, § 37(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, transferring these articles, enacted Title 2 of the Tax Code.

**Art. 7076a. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), (e)(4), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Art. 7077. Transferred to Insurance Code, art. 4.15, by Acts 1981, 67th Leg., p. 1784, ch. 389, § 37(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, transferring this article, enacted Title 2 of the Tax Code.

**Arts. 7079 to 7083. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

**Arts. 7083a to 7083a.2. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 2256, ch. 540, § 15(1) to (3), eff. Sept. 1, 1981**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

Prior to repeal, art. 7083a was amended by Acts 1977, 65th Leg., p. 112, ch. 55, § 2.

**Art. 7084b. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**CHAPTER FOUR. INTANGIBLE TAX BOARD**

**Article**

7098b. Repealed.

**Arts. 7098, 7098a. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7098b. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

The repealed article, subjecting the State Tax Board to the Sunset Act, was added by Acts 1977, 65th Leg., p. 1855, ch. 735, § 2.168.

**Art. 7099. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7100. Repealed by Acts 1975, 64th Leg., p. 898, ch. 334, § 11, eff. Sept. 1, 1975**

**Arts. 7105 to 7116. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(c), eff. Jan. 1, 1980**

Acts 1979, 66th Leg., ch. 841, repealing these articles, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

## CHAPTER SIX. PROPERTY SUBJECT TO TAXATION AND RENDITION

### Article

7150.1 to 7150.6. Repealed.

7150i to 7150o. Repealed.

7174A, 7174B. Repealed.

**Art. 7145. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(d), eff. Jan. 1, 1980**

Acts 1979, 66th Leg., ch. 841, repealing this article, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7146 to 7149. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Prior to repeal, art. 7146 was amended by Acts 1979, 66th Leg., p. 479, ch. 220, § 1.

**Art. 7150. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(d), eff. Jan. 1, 1980**

Acts 1979, 66th Leg., ch. 841, repealing this article, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

Prior to repeal, this article was amended by:

Acts 1975, 64th Leg., p. 2314, ch. 719, art. XIV, § 1, art. XIX, § 1.

Acts 1977, 65th Leg., p. 1909, ch. 760, § 1.

Acts 1977, 65th Leg., p. 2192, ch. 865, § 1.

Acts 1979, 66th Leg., p. 697, ch. 302, art. 12, § 1.

**Art. 7150.1. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 1786, ch. 13, § 167(b), eff. Aug. 14, 1981**

The repealed article, relating to exemption of solar and wind-powered energy devices from ad valorem taxes, was added by Acts 1979, 66th Leg., p. 197, ch. 107, § 1.

See, now, Tax Code, § 11.27.

**Arts. 7150.2 to 7150.6. Repealed by Acts 1979, 66th Leg., p. 2331, ch. 841, § 6(f)(1), eff. Jan. 1, 1980**

Acts 1979, 66th Leg., ch. 841, repealing these articles, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

Former art. 7150.2, relating to household goods and personal effects, was added by Acts 1979, 66th Leg., p. 687, ch. 302, art. 4, § 1.

Former art. 7150.3, relating to exemption of automobiles, was added by Acts 1979, 66th Leg., p. 688, ch. 302, art. 5, § 1.

Former art. 7150.4, relating to definition of residence homestead, was added by Acts 1979, 66th Leg., p. 689, ch. 302, art. 6, § 1.

Former art. 7150.5, relating to residence homesteads, was added by Acts 1979, 66th Leg., p. 690, ch. 302, art. 7, § 1.

Acts 1981, 67th Leg., p. 3082, ch. 814, eff. June 17, 1981, as amended by Acts 1981, 67th Leg., 1st C.S., p. 181, ch. 13, § 165, eff. Aug. 14, 1981, provides:

"Sec. 1. An individual who, in 1979, qualified for but did not receive the limitation on increases in school district taxes on his residence homestead pursuant to Section 7, Article 7150.5, Revised Civil Statutes of Texas, 1925, as it existed December 31, 1979, may file an application with the chief appraiser to limit taxes imposed by the school district on the homestead for 1982 to the amount of taxes the district would have imposed for 1979 if the individual had applied for and received in 1979 the residence homestead exemption for individuals 65 years of age or older. The application must be filed before April 1, 1982.

"Sec. 2. (a) The chief appraiser with whom an application is filed pursuant to Section 1 of this Act shall determine the validity of the application before April 15, 1982, or as soon thereafter as practicable.

(b) The chief appraiser shall give each applicant written notice of the denial or modification of the exemption within five days after the date he makes that determination.

"Sec. 3. (a) If the chief appraiser determines that an applicant was qualified in 1979 for the residence homestead exemption for individuals 65 years of age or older, he shall make an entry on the appraisal records of the school district in which the homestead is taxable reflecting that the individual is entitled to a limitation on school district taxes on his homestead for 1982.

"(b) Taxes imposed by the school district for 1982 on the applicant's homestead may not exceed the amount of taxes the district would have imposed on the homestead for 1979 if the individual had applied for and received in 1979 the residence homestead exemption for individuals 65 years of age or older.

"Sec. 4. (a) The chief appraiser shall publish in a newspaper a notice of the tax relief provided by this Act. The notice shall be published once each week for three weeks immediately preceding the date of the deadline prescribed by Section 1 of this Act for filing an application for the tax relief.

"(b) The chief appraiser of each appraisal district shall include a notice of the availability of the tax relief provided by this Act with each application form sent pursuant to Section 11.44(a) of the Tax Code in the 1982 tax year to the previous year's claimants of a homestead exemption provided by Section 11-13(c) of the Tax Code.

"(c) Notice required by this section shall briefly identify the tax relief available and describe the procedure for obtaining the relief."

Former art. 7150.6, relating to exemption of intangible property, was added by Acts 1979, 66th Leg., p. 686, ch. 302, art. 3, § 1.

**Arts. 7150b to 7150i. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(d), eff. Jan. 1, 1980**

Acts 1979, 66th Leg., ch. 841, repealing these articles, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

Prior to repeal, art. 7150f was amended by Acts 1977, 65th Leg., p. 1332, ch. 530, § 1.

Prior to repeal, art. 7150h was amended by Acts 1975, 64th Leg., p. 2316, ch. 719, art. XX, § 1.

Former art. 7150i, relating to exemption of historic sites, was added by Acts 1977, 65th Leg., p. 950, ch. 358, § 1.

**Art. 7150j. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Former art. 7150j, relating to notice of homestead exemption availability to persons 65 or older, was derived from Acts 1975, 64th Leg., p. 2322, ch. 719, art. XXVII, § 1.

**Art. 7150k. Repealed by Acts 1979, 66th Leg., p. 697, ch. 302, art. 12, § 1, eff. May 31, 1979; Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Acts 1979, 66th Leg., ch. 841, repealing this article, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7150l to 7150n. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Former art. 7150l, relating to valuation of property owned by nonprofit associations or corporations, was derived from Acts 1977, 65th Leg., p. 1975, ch. 790.

Former art. 7150m, relating to assessment of property taxes in planned unit development, was derived from Acts 1977, 65th Leg., p. 2037, ch. 815.

Former art. 7150n, relating to appraisal of land limited in use to recreational, park, or open space purposes by deed or voluntary restrictions, was derived from Acts 1977, 65th Leg., p. 2065, ch. 818.

**Art. 7150o. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 182, ch. 13, § 167(b), eff. Aug. 14, 1981**

The repealed article, relating to reappraisal of property damaged in natural disaster area, was derived from Acts 1979, 66th Leg., p. 336, ch. 153, § 3.

See, now, Tax Code, § 23.02.

**Arts. 7151 to 7155. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7155a. Transferred to art. 2353d by Acts 1981, 67th Leg., p. 1784, ch. 389, § 38(d), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, transferring this article, enacted Title 2 of the Tax Code.

**Arts. 7156 to 7168. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7169. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(c), eff. Jan. 1, 1980**

Acts 1979, 66th Leg., ch. 841, repealing this article, enacts the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7169a to 7174. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Prior to repeal, art. 7173 was amended by Acts 1977, 65th Leg., p. 1523, ch. 617, § 1.

Prior to repeal, art. 7174 was amended by Acts 1977, 65th Leg., p. 1195, ch. 461, § 1; Acts 1977, 65th Leg., p. 1524, ch. 617, § 2.

**Arts. 7174A, 7174B. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(f)(2), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Former art. 7174A, relating to appraisal of agricultural land, was added by Acts 1979, 66th Leg., p. 680, ch. 302, art. 1, § 1.

Former art. 7174B, relating to appraisal of timber land, was added by Acts 1979, 66th Leg., p. 684, ch. 302, art. 2, § 1.

**Arts. 7175, 7176. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

## CHAPTER SEVEN. ASSESSMENT AND ASSESSORS

### Article

7244b. Assessors Registration and Professional Certification Act.  
7244c. Increases in Effective Tax Rate by Taxing Unit.

**Art. 7181a. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7183 to 7226. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7227. Transferred to art. 6626d by Acts 1981, 67th Leg., 1st C.S., p. 176, ch. 13, § 160, eff. Jan. 1, 1982**

Section 160 of the 1981 Act provided:

"The repeal of Article 7227, Revised Civil Statutes of Texas, 1925, by Section 6(a)(1), Chapter 841, Acts of the 66th Legislature, 1979, is repealed. That article is transferred, effective January 1, 1982, to Title 115, Revised Civil Statutes of Texas, 1925, and redesignated as Article 6626d."

Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), was effective January 1, 1982.

**Arts. 7242 to 7244a. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7244b. Assessors Registration and Professional Certification Act**

### Purpose of Act

Sec. 1. The Constitution of Texas requires that taxation be equal and uniform. It provides for taxation in proportion to value. The responsibility for assessing property in compliance with constitutional requirements is that of the tax assessor-collector. The purpose of the legislature by this Act is to assure the people of Texas that the responsibility of assessing property for taxation is entrusted only to those persons duly registered and competent according to the regulations provided by this Act. The legislature further intends that the assessing of property for taxation be practiced and regulated as a learned profession and that the practitioners in this state be accountable to the public.

### Definitions

#### Sec. 2. In this Act:

(1) "Tax assessor" means the officer or employee responsible for assessing property taxes as set forth by Chapter 26, Title 1, Tax Code.

(2) "Assessors code of ethics" means an ethical standard of conduct for tax assessors and property tax appraisers established by the Board of Tax Assessor Examiners according to Section 7 of this Act.

(3) "Board" means the Board of Tax Assessor Examiners.

(4) "Candidate" means a person who is qualified and duly authorized by the board to seek certification as a registered professional assessor.

(5) "Governing body" means a county commissioners court, city council, board of trustees, or governmental board of a political subdivision of this state.

(6) "Chief appraiser" means the chief administrator of the district appraisal office as defined by Section 6.05, Title 1, Tax Code.

(7) "Registered Texas assessor" means a person who is duly registered and qualified to act as an assessor or to engage in the practice of appraising property for ad valorem taxation according to the terms of this Act.

(8) "Registered professional assessor" means a person who is registered and holds a certificate for professional assessors issued by the Board of Tax Assessor Examiners according to Section 18 of this Act.

(9) "Property tax appraiser" means a person duly registered under this Act to engage in part or all of the appraisal process required to esti-

mate the appraised value of property for taxation.

(10) "Practice of assessing" means to engage in the practice of any or all phases of the assessing process, including the appraisal or valuation of property for taxation and the assessment duties imposed by Chapter 26, Title 1, Tax Code.

**Short Title**

Sec. 3. This Act shall be known as "The Texas Assessors Registration and Professional Certification Act."

**Board of Tax Assessor Examiners; Establishment; Vacancies; Qualifications; Term of Office**

Sec. 4. (a) The Board of Tax Assessor Examiners is established.

(b) The board consists of six members appointed by the governor with the advice and consent of the senate. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(c) To be eligible to serve on the board an individual must be a resident of this state, be actively engaged in assessing property for property tax purposes, and have at least five years experience in property appraisals. At least four of the members must hold a certificate issued under this Act. However, for the members first appointed, certification by a recognized professional association of assessors or appraisers satisfies the certification requirement for eligibility.

(d) Members hold office for terms of six years, with the terms of two members expiring on March 1 of each odd-numbered year. In making the initial appointments, the governor shall designate two members for terms expiring on March 1, 1979, two members for terms expiring on March 1, 1981, and two members for terms expiring on March 1, 1983.

**Expenses**

Sec. 5. Board members receive no compensation for their services, but each is entitled to be reimbursed for the necessary expenses incurred in the discharge of his duties.

**Regular and Special Meetings; Election of Officers; Quorum**

Sec. 6. (a) The board shall hold at least four regular meetings each year. Special meetings shall be held at such times as are required, according to the bylaws and rules of procedure enacted by the board.

(b) Members of the board shall receive notice of special meetings at least 15 days in advance of the meeting date.

(c) The board shall elect annually from its membership a chairman, vice-chairman, and secretary-treasurer. The election of officers shall be held at the first regular meeting of each calendar year. A majority of the members constitute a quorum.

**Rules and Regulations; Examination of Applicants and Issuance of Certificates**

Sec. 7. (a) The board may make and enforce all rules and regulations necessary for the performance of its duties, establish standards of professional practice, conduct, education and ethics for assessors in keeping with the purposes and intent of the Act, and insure strict compliance with and enforce all provisions of this Act.

(b) The board may promulgate and amend rules of professional conduct appropriate to establish and maintain a high standard of integrity in the practice of assessing and collecting ad valorem taxes, after all persons registered under Section 12 of this Act are notified. The notice shall set forth the proposed rules of professional conduct or amendments to the rules. No rule or amendment shall become operative until it is approved by a majority of the registered professional assessors practicing in this state. The board shall adopt reasonable means for voting on such measures and shall declare the results of elections and proclaim the effective date of the rules or amendments and notify all persons registered by this Act.

(c) Members of the board who are registered professional assessors have the sole authority, responsibility, and duty of performing all acts relating to the examination of applicants for candidacy and the issuance of certificates for professional assessors, registered according to Sections 17 and 18 of this Act.

**Receipt and Accounting of Money; Assessors Registration Fund; Record of Proceedings; Roster of Registrants**

Sec. 8. (a) The board shall receive and account for all money derived under the provisions of this Act and shall pay it to the State Treasurer. The State Treasurer shall designate a separate fund to be known as the "Assessors Registration Fund," which may be used only by the board for the purpose of administering this Act.

(b) The board shall keep an accurate record of all proceedings, which shall be available to the public at all times. The board shall also maintain a roster of all assessors registered with the board, showing their names and places of employment as well as the type of registration. Copies of the roster shall be mailed to all persons registered with the board, and the roster shall be placed on file with the Secretary of State. Copies of the roster shall be made available to the public on request.

**Executive Director; Clerical and Other Personnel**

Sec. 9. The board may employ an executive director and clerical and other personnel to assist it in the performance of its duties under this Act. The board may delegate its powers and duties to the executive director.

**Initiation of Proceedings; Notice**

Sec. 10. The board may initiate proceedings under this Act, either on its own motion or on the

complaint of any person, to insure strict compliance with this Act and the enforcement of this Act and of all rules and regulations adopted by the board. The violation of a provision of this Act, or a rule or regulation of the board, by a person practicing assessing in Texas is sufficient reason or ground to refuse, suspend, or revoke his registration granted under the terms of this Act. The board may institute action in its own name against an individual person to enjoin a violation of a provision of this Act or a rule or regulation of the board. The board is not required to give an appeal bond in a cause arising under this Act. Prior to the initiation of proceedings for a violation of this Act, a written notice shall be sent by certified mail to the prospective defendant stating the nature of the charge and the time and place of the hearing before the board. The notice shall be mailed at least 20 days before the hearing.

Persons Required to Register

Sec. 11. The following persons shall register with the board:

(1) all persons elected or appointed to act as assessors, chief deputies, assistants, or employees engaged in the practice of assessing for a county, independent school district, city, municipal water district, navigation district, or other political subdivision requiring the services of an assessor as set forth by Chapter 26, Title 1, Tax Code;

(2) all chief appraisers, appraisal supervisors and assistants, property tax appraisers, appraisal engineers, and other employees or any person with authority to render judgment, recommend, or certify appraised values to the board of review; and

(3) all persons engaged in appraisals of real or personal property for ad valorem tax purposes for an appraisal district or a taxing authority.

Identification Card; Classifications

Sec. 12. While on official duty, persons duly registered and authorized to engage in the practice of assessing shall carry a serially numbered card of identification issued by the board stating the expiration date, if any, of the registration and describing the classification into which the holder is placed for purposes of registration. The classifications are:

(1) registration permit holder, which includes newly elected or newly appointed assessors, tax appraisers, or persons without previous experience as employees of a tax department or in the practice of assessing or appraising for tax purposes, evidenced by an identification card that bears the title "Registration Permit to Practice Assessing in Texas";

(2) registered Texas assessor, which class includes persons who have sufficient experience and training to engage in the practice of assess-

ing, and which is evidenced by an identification card describing the holder as a "Registered Texas Assessor" and, for persons initially registered, a letter of confirmation;

(3) registered Texas assessor and candidate for certification, which class includes persons engaged in the practice of assessing who are eligible to meet the provisions required for registered Texas assessors and the prerequisites required for candidates described under Section 17 of this Act, in which case the board shall issue a letter listing the achievements of each candidate and a card of identification showing the holder to be a "Registered Texas Assessor and Candidate for Professional Certification"; and

(4) registered professional assessor, which class includes persons engaged in assessing who hold a comparable certificate awarded by a recognized professional association of assessors issued prior to January 1, 1978, and candidates registered after January 1, 1978, under the provisions of this Act, who shall be awarded the title of professional assessor following the completion of all requirements described under Section 18 of this Act to the satisfaction of the board, and to each of these persons, the board shall issue a Certificate for Professional Achievement, a letter testifying to the qualifications required for professional status, and an identification card identifying the person as a "Registered Professional Assessor of Texas."

Annual and Renewal Fees; Reinstatement

Sec. 13. Registrants shall pay to the board an annual fee not to exceed \$25. The annual registration period expires on December 31 of each year, but may be renewed annually for a period of one year. The board shall determine the amount of the renewal fee for each coming year on or before December 1 of each year and mail notices to all persons registered under the terms of this Act on or before that date. A person registered under this Act who fails to pay the annual renewal fee on or before January 31 of each year shall be deleted from the list of persons duly registered to practice assessing in Texas according to the provisions of this Act. Persons applying for reinstatement within 30 days shall pay a penalty, not to exceed \$25, set by the board. Reinstatement thereafter shall be denied except on regular application and examination satisfactory to the board. The board may not waive the collection of a fee or penalty described under this Act.

Applications for Registration; Processing Fee; Examination; Remission of Fee

Sec. 14. All original applications for registration shall be made on printed forms provided by the board, and applications made otherwise may not be accepted. Information required on the form shall include the applicant's name, residence address, educational background, work experience, character and

employment references, a recent photograph of the applicant, and other information as the board deems necessary. The form shall be accompanied by the code of ethics and the other limiting conditions required by the rules and regulations prescribed by the board. All applications, including the code of ethics, shall be subscribed and sworn to before a notary public or other person qualified to administer oaths. Initial application for registration shall be accompanied by a processing fee of \$30 which shall be retained by the board without regard to the disposition of the application. The board shall act on all applications within 60 days after they are received by the secretary-treasurer. Applicants approved by the board shall be notified of the time and place where examination for all classes of registration will be conducted. Applicants shall be allowed a maximum of one year to pass the required examinations for classifications described under Subdivisions (1) and (2), Section 12 of this Act. The maximum time for complying with classifications described under Subdivisions (3) and (4), Section 12 of this Act shall be in accord with the rules and regulations for professional certification prescribed by the board. After notification that all requirements for registration are in compliance with the provisions of this Act, the applicant shall remit the annual registration fee to the secretary-treasurer before he is duly registered to practice assessing.

#### Qualifications of Applicants

Sec. 15. An applicant qualifying for a registration permit shall be a resident of the State of Texas and a person of good moral character. A registrant in this class shall have favorable recommendations from at least three persons, one of whom is a practicing assessor duly registered under the provisions of this Act. Each shall subscribe the assessors code of ethics and pass an examination for minimum qualifications in accordance with the rules and regulations of the board.

#### Qualifications of Registrants

Sec. 16. A registered Texas assessor shall be at least 18 years of age and a resident of the State of Texas. He shall be a person of good moral character confirmed by at least five persons who have known the applicant for at least three years. In addition, the application for registered Texas assessor shall list at least three persons who can vouch for the applicant's qualifications, one of whom shall be a registered professional assessor. The minimum educational requirement is satisfactory completion of the 12th grade of high school or the equivalent. Registered Texas assessors with birthdates prior to January 1, 1950, may substitute special training and experience for the minimum educational requirement at the discretion of the board. All registered Texas assessors shall subscribe the assessors code of ethics and pass a written examination prepared by the board to confirm the assessor's ability to value and assess property for taxation. Registered Texas

assessors shall furnish satisfactory evidence of their work experience and qualification as practicing assessors in compliance with the rules and regulations prescribed by the board. All persons qualifying under this section must within five years from the date of their original registration satisfactorily demonstrate to the board a level of competence gained through educational achievement and experience to qualify under the requirements of Section 17 of this Act.

#### Qualifications of Certification Candidates; Level of Competence

Sec. 17. (a) A candidate for certification shall be engaged in the practice of assessing and qualified to register under Section 16 of this Act and shall:

(1) be recommended by at least three registered professional assessors having knowledge of the applicant's qualifications to become registered as a candidate for certification;

(2) have at least two years of education above the high school level, or have equivalent education and training beyond high school deemed satisfactory by the board;

(3) have at least three years of experience in some phase of assessing or work related to ad valorem taxation, one year of which must be in-service training deemed satisfactory to the board; and

(4) pass an examination conducted by the board for the purpose of testing the applicant's knowledge of fundamental valuation theory and the assessors code of professional ethics as set forth by the board's rules and regulations.

(b) All persons qualifying under this section must within five years from the date of qualification under Section 17 of this Act satisfactorily demonstrate to the board a level of competence gained through educational achievement and experience to qualify under the requirements of Section 18 of this Act.

#### Issuance of Certificates; Contents of Examinations

Sec. 18. (a) Certificates for registered professional assessors shall be issued by the board to persons:

(1) who hold a comparable certificate issued by a recognized professional association of assessors prior to January 1, 1978; or

(2) who are registered candidates authorized by this Act who are at least 25 years of age and have at least 5 years experience in the practice of assessing, 1 year of which must be in-service training meeting requirements set forth by the board and have:

(A) completed the educational training courses required by the board's regulations or furnished evidence of passing grades for related examinations conducted by professional organizations approved by the board;

(B) submitted demonstration appraisals required by the board's regulations; and

(C) passed a written examination conducted by the board to test the candidate's knowledge of real and personal property valuation theory, the three approaches to value, collection, accounting, and general ad valorem tax administration, and an oral examination if the board deems it necessary.

(b) Examinations conducted by the board shall be prepared to test the candidate's knowledge and ability to estimate value by use of the income, cost, and market approaches to value. The candidate shall be tested for knowledge and ability to apply and calculate all forms of depreciation and obsolescence. A candidate must show by examination the ability to estimate value by use of the mass appraisal concept. The examination shall include general tax administration and test the candidate's knowledge and understanding of the assessors code of ethics described in the board's rules and regulations.

#### Unauthorized Use of Title

Sec. 19. No person may assume or use the title of registered Texas assessor, candidate for certification, or registered professional assessor, unless he holds a valid registration approved by the Board of Tax Assessor Examiners. No person may indicate or imply that he is a registered Texas assessor, candidate for certification, or registered professional assessor, unless he is registered under the terms of this Act. A person who violates this section is subject to board action under Section 10 of this Act.

#### Official Acts Unrestricted

Sec. 20. This Act does not restrict an official act required by the Texas Constitution and performed according to law.

#### Discrimination Prohibited

Sec. 21. No person may be denied the right to register under the terms of this Act because of race, color, creed, sex, or ethnic origin.

#### Unprofessional Manner or Violation of Act Required by Governing Body Prohibited

Sec. 22. No governing body of a taxing jurisdiction of this state may, as a necessity for employment, require that an assessor act in an unprofessional manner or commit acts in violation of this Act. A complaint of a violation of this section shall be thoroughly investigated by the board. A proceeding for a violation shall be conducted according to Section 10 of this Act.

#### Rights and Prohibited Acts of Registrants; Suspension or Revocation for Violations

Sec. 23. (a) An assessor registered under the terms of this Act shall:

(1) assess property in his jurisdiction on a fair and equal basis to the best of his ability, using the estimated true market value as the basis for judgment except when required otherwise by the Texas Constitution or by law; and

(2) hold confidential any information received while performing duties as an assessor which could be used for personal gain, unless the information is public information or is required by law to be public.

(b) An assessor registered under the terms of this Act may not:

(1) give or use an arbitrary opinion of value for any property in his jurisdiction unless the opinion is based on available and known facts;

(2) accept an assignment for assessing services, if his or her employment is contingent on the reporting of a specific predetermined amount of value or is contingent on the reporting of specific findings other than those known by the assessor to be facts at the time of the accepting of the assignment;

(3) accept remuneration other than the official salary or fee for assessing services rendered;

(4) act in a manner or engage in a practice that is dishonest or fraudulent or involves deceit or misrepresentation that will bring discredit on the honor and dignity of the assessing profession; or

(5) violate the board's rules and regulations, the assessors code of ethics, or any part of this Act.

(c) Violations named in this section are sufficient reason for the board to suspend or revoke the registration of such persons.

#### Penalty for Failure to Register

Sec. 24. A person who is required under Section 11 of this Act to register with the board commits a Class C misdemeanor if he fails to register.

#### Compliance With Educational and Examination Requirements

Sec. 24A. Notwithstanding any provision of this Act, it is expressly provided that any person who is able to comply with the educational and examination requirements of this Act for the registration classifications pursuant to Section 12 of this Act shall be entitled to receive from the board a statement of certification evidencing same.

[Acts 1977, 65th Leg., p. 1068, ch. 391, §§ 1 to 24A, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 206, ch. 116, § 1, eff. May 9, 1979; Acts 1981, 67th Leg., p. 3224, ch. 848, §§ 1 to 5, eff. Oct. 1, 1981.]

#### Saved from Repeal

*This article was saved from repeal by § 39(c)(5) of Acts 1981, 67th Leg., p. 1785, ch. 389, which enacted Title 2 of the Tax Code.*

**Art. 7244c. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.  
The repealed article, relating to increases in the effective tax rate by taxing unit, was derived from:

Acts 1978, 65th Leg., 2nd C.S., p. 18, ch. 8, §§ 1 to 7.

Acts 1979, 66th Leg., p. 1475, ch. 644, § 1.

Acts 1981, 67th Leg., p. 3229, ch. 851, § 1.

Sections 2 and 3 of Acts 1981, 67th Leg., p. 3229, ch. 851, effective August 31, 1981, provide:

"Sec. 2. This Act does not affect the repeal of the law this Act amends by Senate Bill No. 621, Acts of the 66th Legislature, Regular Session, 1979, effective January 1, 1982.

"Sec. 3. This Act does not apply to a taxing unit that has delivered notices of reappraisal on or before the effective date of this Act.

## CHAPTER EIGHT. COLLECTION AND COLLECTOR

### Article

7261.1. Repealed.

7261a. Acceptance of Checks by Tax Collector for Payment of Fees and Taxes.

**Arts. 7245 to 7255. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7255b to 7258. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7258b, 7259. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7260. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, this article was amended by Acts 1975, 64th Leg., p. 629, ch. 260, § 1; Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(h).

Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(h), amending this article effective January 1, 1982, was repealed by Acts 1981, 67th Leg., p. 3149, ch. 827, § 16(a), effective January 2, 1982.

Acts 1961, 57th Leg., p. 27, ch. 17, § 2 (see note under this article in Compact Edition, Volume 3), was repealed by Acts 1981, 67th Leg., p. 1786, ch. 389, § 39(e)(10).

**Art. 7261. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Art. 7261.1. Repealed by Acts 1981, 67th Leg., 1st C.S., p. 182, ch. 13, § 167(b), eff. Aug. 14, 1981**

The repealed article, relating to refunds of overpayments or erroneous payments, was derived from Acts 1979, 66th Leg., p. 803, ch. 362, § 3.

**Art. 7261a. Acceptance of Checks by Tax Collector for Payment of Fees and Taxes**

### Definitions

Sec. 1. In this Act:

(1) "Tax collector" means the county tax assessor-collector.

(2) "Check" means an instrument signed by the maker; containing an unconditional promise

or order to pay a sum certain in money and containing no other promise, order, obligation, or power given by the maker; payable on demand; and drawn on a bank.

(3) "Maker" means the drawer of a check.

### Acceptance of Check for Payment of Certain Fees Permitted

Sec. 2. A tax collector may, but is not required to, accept a check for the payment of motor vehicle registration fees (Article 6675a-1 et seq., Vernon's Texas Civil Statutes); motor vehicle sales taxes imposed by Chapter 6, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925; occupation taxes paid to the tax collector under Chapter 19, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925; motor vehicle title transfer fees under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes); license or permit fees under the Texas Liquor Control Act (Article 666-1 et seq., Vernon's Texas Penal Auxiliary Laws), and property taxes.

### Issuance Conditional on Bank's Honoring Check

Sec. 3. The acceptance of a check for the payment of taxes and fees listed in Section 2 of this Act does not constitute payment of the tax or fee, and the tax or fee is not considered paid until the check is honored by the bank on which the check is drawn. This section does not prohibit a tax collector from issuing receipts, license plates, certificates, or other instruments on the receipt of a check, but the issuance is conditional on the payment of the check by the drawee bank.

### Identification Required

Sec. 4. When a tax collector receives a check as conditional payment of a tax or fee listed in Section 2 of this Act, he shall require adequate identification of the maker and note on the check or otherwise record the type of identification of the maker and information from the identification to assist in locating the maker in the event the check is not honored.

### Liability of Tax Collector and Bondsman

Sec. 5. Except as provided in Section 8 of this Act, a tax collector and his bondsman are not liable for the amount of any taxes and fees for which the tax collector has accepted a check that is not honored by the drawee bank if the tax collector complied with the requirements of Section 4 of this Act and if the tax collector did not know or should not reasonably have known that the check was not properly drawn or that it would not be honored.

### Procedures for Collection of Dishonored Checks

Sec. 6. A tax collector may establish procedures for the collection of dishonored checks. The procedures may include:

(1) official notification to the maker that the check has not been honored and that the receipt, registration, certificate, or other instrument issued on the receipt of the check is not valid until payment of the tax or fee is made;

(2) notification of the sheriff or other law enforcement officers that a check has not been honored and that the receipt, registration, certificate, or other instrument held by the maker is not valid; and

(3) notification to the State Department of Highways and Public Transportation, the State Comptroller of Public Accounts, or the Department of Public Safety that the receipt, registration, certificate, or instrument held by the maker is not valid.

Dishonored Checks; Remission Not Required; Notice; Assistance in Collection

Sec. 7. If taxes and fees listed in Section 2 of this Act are required to be remitted to the State Comptroller of Public Accounts or the State Department of Highways and Public Transportation and if payment was made to the tax collector by a check that was not honored by the drawee bank, the amount of the tax or fee is not required to be remitted, but the tax collector shall notify the appropriate department of the amount of the fee or tax, the type of fee or tax involved, and the name and address of the maker. The State Department of Highways and Public Transportation and the State Comptroller of Public Accounts shall assist the tax collector in collecting the fee or tax and may cancel or revoke any receipt, registration, certificate, or instrument issued in the name of the state conditioned on the payment of the fee or tax.

Liability of Tax Collector for Violations of Act

Sec. 8. If the State Comptroller of Public Accounts or the State Department of Highways and Public Transportation determines that the tax collector of a county has accepted payment for fees and taxes to be remitted to that department in violation of Section 4 of this Act or that more than two percent of the fees and taxes to be received from the tax collector are not remitted because of the acceptance of checks that are not honored by the drawee bank, the department may notify the tax collector that he may not accept a check for the payment of any fee or tax to be remitted to that department. A tax collector who, after notice that he may not receive a check for the payment of fees or taxes to be remitted to a department, accepts a check for the payment of a fee or tax, is liable to the state for the amount of the check accepted.

Rules for Acceptance of Checks and Collection of Dishonored Checks

Sec. 9. The State Comptroller of Public Accounts and the State Department of Highways and Public Transportation may make rules concerning the acceptance of checks by tax collectors and for the collection of dishonored checks.

[Acts 1977, 65th Leg., p. 2121, ch. 847, §§ 1 to 9, eff. Aug. 29, 1977.]

### Saved from Repeal

*This article was saved from repeal by § 39(c)(7) of Acts 1981, 67th Leg., p. 1785, ch. 389, which enacted Title 2 of the Tax Code.*

**Arts. 7262 to 7264a. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7265 to 7294. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7295 to 7298. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Prior to repeal, art. 7298 was amended by Acts 1979, 66th Leg., p. 479, ch. 220, § 2.

### CHAPTER NINE. BACK TAXES ON UNRENDERED LANDS

**Arts. 7299 to 7318. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

### CHAPTER TEN. DELINQUENT TAXES

Article

7328.2. Repealed.

7345b-3. Repealed.

7345f. Repealed.

**Arts. 7319 to 7331. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Former art. 7328.2, relating to procedure for sale of property under tax foreclosure sale, was derived from Acts 1977, 65th Leg., p. 145, ch. 70, § 1.

Prior to repeal, art. 7329a was amended by Acts 1977, 65th Leg., p. 1677, ch. 661, § 1.

**Arts. 7332 to 7336a. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**Arts. 7336c to 7345f. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Prior to repeal, art. 7345b was amended by Acts 1977, 65th Leg., p. 1240, ch. 479, § 1; Acts 1977, 65th Leg., p. 1244, ch. 481, § 1.

Former art. 7345b-3, relating to limitation on actions to recover real property sold at tax sale, was derived from Acts 1977, 65th Leg., p. 1680, ch. 663, § 1.  
Former art. 7345f, relating to right to appeal by property owner, was added by Acts 1977, 65th Leg., p. 1912, ch. 764, § 1.

**CHAPTER ELEVEN. IN CERTAIN CASES**

**Arts. 7346 to 7359. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.  
Prior to repeal, art. 7359 was amended by Acts 1975, 64th Leg., p. 663, ch. 278, § 2.

**CHAPTER TWELVE. MULTISTATE  
TAX COMPACT**

**Art. 7359a. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(b), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, this article was amended by Acts 1977, 65th Leg., p. 1856, ch. 735, § 2.172.

# TITLE 122A. TAXATION—GENERAL

## CHAPTER 1. GENERAL PROVISIONS

### Article

- 1.032A. Repealed.
- 1.034, 1.035. Repealed.
- 1.07A.1. Repealed.
- 1.13A. Repealed.

### Arts. 1.01 to 1.031. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 1.031 was amended by Acts 1981, 67th Leg., p. 192, ch. 89, § 1, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(k); and was also amended by Acts 1981, 67th Leg., p. 235, ch. 102, § 1, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(l).

### Art. 1.031A. Repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(l), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

The repealed article, relating to the length of time records should be kept open to inspection, was derived from Acts 1981, 67th Leg., p. 235, ch. 102, § 2.

### Arts. 1.032 to 1.035. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Former art. 1.032A, relating to compromises or settlements, was added by Acts 1977, 65th Leg., p. 1357, ch. 538, § 1.

Former art. 1.034, relating to dates for filing reports and making payments, was added by Acts 1975, 64th Leg., p. 2315, ch. 719, art. XV, § 1.

Former art. 1.035, relating to confidentiality of federal tax information; was added by Acts 1977, 65th Leg., p. 1342, ch. 534, § 1.

### Arts. 1.036 to 1.038. Repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(l), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Former art. 1.036, relating to sampling in auditing and projecting assessments, was added by Acts 1981, 67th Leg., p. 235, ch. 102, § 3.

Former art. 1.037, relating to general audit and prehearing powers, was added by Acts 1981, 67th Leg., p. 236, ch. 102, § 4.

Former art. 1.038, relating to special procedures for third party orders and subpoenas, was added by Acts 1981, 67th Leg., p. 238, ch. 102, § 5.

### Arts. 1.04 to 1.10. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 1.045 was amended by:

Acts 1979, 66th Leg., p. 98, ch. 59, § 2.

Acts 1981, 67th Leg., p. 25, ch. 20, § 3.

Acts 1981, 67th Leg., p. 241, ch. 102, § 6.

Acts 1981, 67th Leg., p. 25, ch. 20, § 3, was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h) and Acts 1981, 67th Leg., p. 241, ch. 102, § 6, was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(i).

Section 10 of Acts 1981, 67th Leg., p. 243, ch. 102, provides:

"The amendment by this Act in narrowing the period of limitations for collection of tax does not apply to the estates of persons who died prior to the effective date of this Act."

Prior to repeal, art. 1.05 was amended by Acts 1979, 66th Leg., p. 98, ch. 59, § 5.

Prior to repeal, art. 1.07 was amended by Acts 1981, 67th Leg., p. 242, ch. 102, § 7, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 309, § 39(i).

Former art. 1.07A-1, relating to filing state tax liens and statement of fees, was derived from Acts 1979, 66th Leg., p. 909, ch. 417, § 1.

### Art. 1.11. Repealed by Acts 1981, 67th Leg., p. 30, ch. 20, § 19, eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

### Arts. 1.11A to 1.13. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

Prior to repeal, art. 1.11A was amended by Acts 1979, 66th Leg., p. 97, ch. 59, § 1; Acts 1981, 67th Leg., p. 24, ch. 20, §§ 1, 2, eff. Jan. 1, 1982. Sections 1 and 2 of Acts 1981, 67th Leg., p. 24, ch. 20, were repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h), eff. Jan. 1, 1982.

Prior to repeal, art. 1.13 was amended by Acts 1975, 64th Leg., p. 1092, ch. 412, § 1; Acts 1979, 66th Leg., p. 336, ch. 153, § 1.

### Art. 1.13A. Repealed by Acts 1977, 65th Leg., p. 1357, ch. 538, § 2, eff. Aug. 29, 1977

The repealed article, waiving penalty and interest charges where taxpayer has exercised reasonable diligence to comply with this title, was derived from Acts 1975, 64th Leg., p. 1093, ch. 413, § 1.

See, now, Tax Code, § 111.103.

### Arts. 1.14, 1.15. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

## CHAPTER 2. POLL TAX

### Art. 2.01. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3149, ch. 827, § 17, eff. Aug. 31, 1981

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

## CHAPTER 3. TAX ON PRODUCERS OF NATURAL GAS

### Arts. 3.01 to 3.12. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 3.03 was amended by Acts 1979, 66th Leg., p. 80, ch. 51, § 1; Acts 1981, 67th Leg., p. 25, ch. 20, § 4, eff. Jan. 1, 1982. Acts 1981, 67th Leg., p. 25, ch. 20, § 4, was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h), eff. Jan. 1, 1982.

#### CHAPTER 4. OCCUPATION TAX ON OIL PRODUCED

**Arts. 4.01 to 4.14. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, arts. 4.03 and 4.06 were amended by Acts 1979, 66th Leg., p. 80, ch. 51, §§ 2, 3; Acts 1981, 67th Leg., p. 26, ch. 20, §§ 5, 6. Sections 5 and 6 of Acts 1981, 67th Leg., p. 26, ch. 20, was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

#### CHAPTER 5. OCCUPATION TAX ON SULPHUR PRODUCTS

**Arts. 5.01 to 5.03. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 5.03 was amended by Acts 1979, 66th Leg., p. 81, ch. 51, § 4; Acts 1981, 67th Leg., p. 26, ch. 20, § 7. Section 7 of Acts 1981, 67th Leg., p. 26, ch. 20, was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

#### CHAPTER 6. MOTOR VEHICLE RETAIL SALES AND USE TAX

Article

6.041, 6.042. Repealed.

**Arts. 6.01 to 6.09. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 6.01 was amended by:

Acts 1975, 64th Leg., p. 167, ch. 71, § 1.

Acts 1975, 64th Leg., p. 2308, ch. 719, art. X, § 1.

Acts 1977, 65th Leg., p. 629, ch. 233, § 1.

Prior to repeal, art. 6.03 was amended by Acts 1975, 64th Leg., p. 2308, ch. 719, art. X, § 2; Acts 1977, 65th Leg., p. 629, ch. 233, § 1.

Prior to repeal, arts. 6.04 and 6.05 were amended by Acts 1977, 65th Leg., p. 629, ch. 233, § 1.

Former art. 6.041, relating to registration of motor vehicles purchased for rental, was added by Acts 1977, 65th Leg., p. 634, ch. 233, § 2.

Former art. 6.042, relating to revocation and suspension of motor vehicle retail seller's permits, was added as art. 6.041 by Acts 1975, 64th Leg., p. 2315, ch. 719, art. XVII, § 1, and renumbered by Acts 1977, 65th Leg., p. 634, ch. 233, § 3.

Prior to repeal, art. 6.06 was amended by:

Acts 1977, 65th Leg., p. 634, ch. 233, § 4.

Acts 1979, 66th Leg., p. 81, ch. 51, § 5.

Acts 1981, 67th Leg., p. 26, ch. 20, § 8.

Acts 1981, 67th Leg., p. 26, ch. 20, § 8, was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

Prior to repeal, art. 6.09 was amended by:

Acts 1977, 65th Leg., p. 635, ch. 233, § 5.

Acts 1977, 65th Leg., p. 1011, ch. 375, § 1.

Acts 1977, 65th Leg., p. 1121, ch. 417, § 1.

Acts 1977, 65th Leg., p. 1393, ch. 559, § 1.

Acts 1981, 67th Leg., p. 633, ch. 254, § 1.

Acts 1981, 67th Leg., p. 2380, ch. 591, § 2.

Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

#### CHAPTER 7. CIGARETTE TAX LAW

Article

7.061. Repealed.

**Arts. 7.01 to 7.05. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 7.02 was amended by Acts 1979, 66th Leg., p. 901, ch. 411, § 1.

#### Art. 7.06. Additional Tax

(1) to (3) Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982.

(4)(a) For the period beginning on September 1, 1981, and extending through August 31, 1983, only, three cents of the tax allocated under Section (3)(b) of this Article on each 1,000 cigarettes shall be credited to a special fund in the State Treasury called the Sesquicentennial Museum Fund. Provided, no portion of the revenues allocated under this Section shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided, further, the revenues allocated under this Section may be credited daily to the Omnibus Clearance Fund hereafter referred to in this Act and on the first day of each month following the collection of the revenues allocated under this Section, the said revenues shall be credited to the Sesquicentennial Museum Fund except that the revenues allocated under this Section during the month of August of each year shall be credited to the Sesquicentennial Museum Fund on the thirty-first day of August of each year; it being specifically understood that no portion of the said revenues allocated under this Section shall remain or be distributed under the provisions governing the said Clearance Fund.

(b) The remaining net revenue derived from the tax levied under this Article after allocating the amounts specified in Subsection (a) of this Section shall be credited to the General Fund of this State. Provided, no portion of the revenues allocated under this Subsection shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided, further, the revenues allocated under this Subsection may be credited daily to the Omnibus Clearance Fund hereafter referred to in this Act and on the first day of each month following the collection of the revenues allocated under this Subsection, the said revenues shall be credited to the General Fund, except that the revenues allocated under this Subsection during the month of August of each year shall be credited to the General Fund on the thirty-first day of August of each year; it being specifically understood that no portion of the said revenues allocated under this

Subsection shall remain or be distributed under the provisions governing the said Clearance Fund.

[Amended by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 2450, ch. 630, § 3, eff. Sept. 1, 1981.]

### Repeal

*Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a) repealed this article without reference to amendment of this article by Acts 1981, 67th Leg., p. 2450, ch. 630, § 3.*

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, art. 7.06 was amended by:

Acts 1979, 66th Leg., p. 901, ch. 411, § 2.

Acts 1979, 66th Leg., p. 2021, ch. 793, § 1.

Acts 1981, 67th Leg., p. 2251, ch. 540, § 4.

Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

Acts 1979, 66th Leg., p. 1737, ch. 710, § 2, eff. Sept. 1, 1979, amending subsec. (3) of this article was repealed by Acts 1979, 66th Leg., p. 2022, ch. 793, § 5, eff. Sept. 1, 1979.

**Arts. 7.061 to 7.41. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Former art. 7.061, regulating the importation of small quantities of cigarettes, was added by Acts 1979, 66th Leg., p. 903, ch. 411, § 4.

Prior to repeal, art. 7.08 was amended by:

Acts 1975, 64th Leg., p. 2321, ch. 719, art. 26, § 1.

Acts 1981, 67th Leg., p. 2666, ch. 721, § 1.

Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

Prior to repeal, arts. 7.25 and 7.26 were amended by Acts 1979, 66th Leg., p. 1822, ch. 740, §§ 1, 2.

Prior to repeal, art. 7.37 was amended by Acts 1979, 66th Leg., p. 901, ch. 411, § 3.

Prior to repeal, arts. 7.39 and 7.41 were amended by Acts 1981, 67th Leg., p. 2251, ch. 540, §§ 5, 6; Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

## CHAPTER 8. CIGARS AND TOBACCO PRODUCTS TAX

Article

8.32. Repealed.

**Arts. 8.01 to 8.32. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 8.02 was amended by Acts 1975, 64th Leg., p. 2319, ch. 719, art. XXIII, § 1; Acts 1977, 65th Leg., p. 1623, ch. 637, § 1.

Prior to repeal, art. 8.04 was amended by Acts 1981, 67th Leg., p. 27, ch. 20, § 9, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

Former art. 8.32, relating to the confidential status of cigarette tax information, was added by Acts 1979, 66th Leg., p. 1824, ch. 740, § 5.

## CHAPTER 9. MOTOR FUEL TAXES

### SUBCHAPTER A. GENERAL PROVISIONS

Article

9.001. to 9.005. Repealed.

9.006. Cancellation of Permits.

### SUBCHAPTER B. GASOLINE TAX

Article

9.101 to 9.120. Repealed.

### SUBCHAPTER C. DIESEL FUEL TAX

9.201 to 9.224. Repealed.

### SUBCHAPTER D. LIQUEFIED GAS TAX

9.301 to 9.313. Repealed.

*This Chapter was revised and Chapter 10 was repealed by Acts 1979, 66th Leg., p. 626, ch. 291, §§ 1 and 3, effective January 1, 1980. Sections 4 and 5 of the 1979 Act provided:*

*“Sec. 4. (a) This Act does not affect rights, privileges, duties, obligations, or powers that matured, penalties that were incurred, or proceedings that were begun before its effective date.*

*“(b) The provisions of Chapters 9 and 10, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, as they existed before the effective date of this Act, remain in effect only for the purpose of collecting, administering, and allocating the taxes imposed under those chapters before the effective date of this Act, except in those circumstances that the comptroller of public accounts determines that the provisions of Chapter 9, Title 122A, as amended by this Act, may be applied to the collection and administration of taxes imposed before the effective date of this Act and except as provided by Subsections (c), (d), and (e) of this section.*

*“(c) A bond or other security provided by a permittee under Chapters 9 and 10, Title 122A, before the effective date of this Act continues in effect after the effective date of this Act according to the terms of the bond or security agreement, and if a reduction of the amount of a bond or security or if additional bonding or security is required or permitted under Chapter 9, Title 122A, as amended by this Act, the reduction or addition shall be made under the regulations of the comptroller.*

*“(d) A claim for a refund of taxes paid on motor fuels purchased after July 1, 1979, may be filed at any time before the expiration of one year after the date of the purchase.*

*“(e) Offenses defined by Chapter 9, Title 122A, as amended by this Act, apply only to conduct occurring on or after the effective date of this Act. Offenses defined by Chapters 9 and 10, Title 122A, as they existed before the effective date of this Act and the punishments for those offenses apply to conduct occurring before the effective date of this Act, and the provisions of Chapters 9 and 10, Title 122A, as amended*

before the effective date of this Act, are continued in effect for the purpose of the prosecution of and punishment for those offenses, except that a defendant found guilty of an offense committed before the effective date of this Act may elect before the sentencing hearing held after the effective date of this Act to be punished under the penalties in effect on and after the effective date of this Act if the offense for which the defendant is found guilty is defined by Chapter 9, Title 122A, as amended by this Act.

"Sec. 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 1980.

"(b) Effective September 1, 1979, the comptroller of public accounts may adopt rules and regulations in anticipation of the effective date of the amendment of Chapter 9, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, by this Act, and may prescribe, print, and distribute forms and other information that will be needed on the effective date of the amendment.

**Disposition Table**

Showing where provisions of former Chapter 9 were covered in revised Chapter 9.

Former Article	New Article	Former Article	New Article
9.01	9.001	9.15	9.007
9.02	9.101, 9.112	9.16	9.006
9.03	9.115	9.17	—
9.04	9.015, 9.017	9.18	9.012 to 9.014
9.05	—	9.19	9.008, 9.009
9.06	9.102 to 9.105, 9.107, 9.109, 9.110	9.20	9.009, 9.010
9.07	9.113	9.21	9.020
9.08	—	9.22	9.011
9.09	9.114	9.23	9.021
9.10	9.114	9.24	—
9.11	9.003, 9.114	9.25	9.120
9.12	—	9.26	9.015 to 9.017
9.13	9.116 to 9.120	9.27	9.015 to 9.017
9.14	—		

**SUBCHAPTER A. GENERAL PROVISIONS**

**Arts. 9.001 to 9.005. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2, of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

**Art. 9.006. Cancellation of Permits**

(1) to (6) Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982.

(7) An appeal from an order of the comptroller cancelling or refusing the issuance or reissuance of a permit may be taken to the district court of Travis County, Texas, by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits with the following exceptions:

(A) an appeal shall be perfected and filed within 30 days after the effective date of the order, decision, or ruling of the comptroller;

(B) the trial of the case shall commence within 10 days after its filing; and

(C) the order, decision, or ruling of the comptroller may be suspended or modified by the court pending a trial on the merits.

[Amended by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 2626, ch. 707, § 4(34), eff. Aug. 31, 1981.]

**Repeal**

Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), repealed this article without reference to the amendment of this article by Acts 1981, 67th Leg., p. 2644, ch. 707, § 34.

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**Arts. 9.007 to 9.021. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, art. 9.012 was amended by Acts 1981, 67th Leg., p. 27, ch. 20, § 10, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

Prior to repeal, art. 9.014 was amended by Acts 1981, 67th Leg., p. 3096, ch. 817, § 1, which was repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

Former art. 9.18 was also amended by Acts 1979, 66th Leg., p. 81, ch. 51, § 6.

Prior to repeal, art. 9.015, was amended by:

Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

Acts 1981, 67th Leg., p. 3062, ch. 806, § 1.

Acts 1981, 67th Leg., p. 3097, ch. 817, § 2.

**SUBCHAPTER B. GASOLINE TAX**

**Arts. 9.101 to 9.120. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 9.101 was amended by:

- Acts 1981, 67th Leg., p. 85, ch. 45, § 1.
- Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(i).
- Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.
- Acts 1981, 67th Leg., p. 3064, ch. 806, § 2.

Prior to repeal, art. 9.106 was amended by Acts 1981, 67th Leg., p. 85, ch. 45, § 2, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(i).

Prior to repeal, art. 9.112, was amended by Acts 1981, 67th Leg., p. 3065, ch. 806, § 3, which was repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

Prior to repeal, art. 9.120 was amended by:

- Acts 1981, 67th Leg., p. 13, ch. 10, § 9.
- Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(g).
- Acts 1981, 67th Leg., p. 2252, ch. 540, § 7.
- Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

**SUBCHAPTER C. DIESEL FUEL TAX**

**Arts. 9.201 to 9.224. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, art. 9.201 was amended by:

- Acts 1981, 67th Leg., p. 86, ch. 45, § 3.
- Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(i).
- Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.
- Acts 1981, 67th Leg., p. 3065, ch. 806, § 4.

Prior to repeal, art. 9.203 was amended by Acts 1981, 67th Leg., p. 3066, ch. 806, § 5, which was repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

Prior to repeal, art. 9.210 was amended by Acts 1981, 67th Leg., p. 86, ch. 45, § 4, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(i).

**SUBCHAPTER D. LIQUEFIED GAS TAX**

**Arts. 9.301 to 9.307. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, arts. 9.301 to 9.304, 9.306 and 9.307 were amended by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17; Acts 1981, 67th Leg., p. 3099, ch. 817, §§ 3 to 8.

**Art. 9.308. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3101, ch. 817, § 11**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

Acts 1981, 67th Leg., p. 2786, ch. 752, § 17, eff. Jan. 1, 1982, repealed § 11 of Acts 1981, 67th Leg., p. 3101, ch. 817.

**Arts. 9.309 to 9.313. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

Prior to repeal, these articles were amended by:

- Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.
- Acts 1981, 67th Leg., p. 3101, ch. 817, §§ 9 to 11.

Prior to repeal, art. 9.310 was also amended by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17; Acts 1981, 67th Leg., p. 3101, ch. 817, §§ 9, 10.

**CHAPTER 10. SPECIAL FUELS TAX  
LAW [REPEALED]**

**Disposition Table**

*Showing where provisions of former Chapter 10 were covered in revised Chapter 9.*

Former Article	New Article	Former Article	New Article
10.01	-----	10.51	-----
10.02	-----9.001	10.52	-----9.001
10.03	-----9.201 to 9.203	10.53	-----9.301, 9.309
10.04	-----	10.54	-----9.301
10.05	-----9.105	10.55	-----9.015, 9.017
10.06	-----9.105	10.56	-----9.015, 9.017
10.07	-----9.002, 9.003, 9.004	10.57	-----9.002
10.08	-----9.203	10.58	-----9.301
10.09	-----9.204	10.59	-----9.302
10.10	-----9.216	10.60	-----9.308
10.11	-----9.006, 9.205 to 9.214	10.61	-----9.006, 9.303 to 9.307
10.12	-----9.003, 9.004, 9.217, 9.218	10.62	-----9.003, 9.004, 9.310
10.13	-----9.219	10.63	-----9.311
10.14	-----9.220 to 9.223	10.64	-----9.312
10.15	-----	10.65	-----
10.16	-----9.011	10.66	-----9.011
10.17	-----	10.67	-----
10.18	-----9.012 to 9.014	10.68	-----9.012 to 9.014
10.19	-----9.010	10.69	-----9.010
10.20	-----	10.70	-----
10.21	-----9.021	10.71	-----9.021
10.22	-----9.224	10.72	-----9.313
10.23	-----9.015, 9.017	10.73	-----9.015, 9.017
10.24	-----9.015 to 9.017, 9.019	10.74	-----9.015 to 9.019
10.25	-----9.015 to 9.017	10.75	-----9.015 to 9.017

**SUBCHAPTER A. DIESEL FUEL TAX LAW**

**Arts. 10.01 to 10.25. Repealed by Acts 1979, 66th Leg., p. 663, ch. 291, § 3, eff. Jan. 1, 1980**

Section 1 of the 1979 Act revised Chapter 9.  
Prior to repeal, art. 10.18 was amended by Acts 1979, 66th Leg., p. 83, ch. 51, § 7.

**SUBCHAPTER B. LIQUEFIED GAS TAX LAW**

**Arts. 10.51 to 10.75. Repealed by Acts 1979, 66th Leg., p. 663, ch. 291, § 3, eff. Jan. 1, 1980**

Section 1 of the 1979 Act revised Chapter 9.  
Prior to repeal, art. 10.68 was amended by Acts 1979, 66th Leg., p. 83, ch. 51, § 8.

**CHAPTER 11. MISCELLANEOUS TAXES  
BASED ON GROSS RECEIPTS**

**Art. 11.01. Repealed by Acts 1975, 64th Leg., p. 2306, ch. 719, art. IV, § 1, eff. Jan. 1, 1976**

**Arts. 11.02 to 11.04. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.  
For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

**Art. 11.05. Repealed by Acts 1975, 64th Leg., p. 2306, ch. 719, art. III, § 1, eff. Jan. 1, 1976**

**Arts. 11.06 to 11.11. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.  
For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.  
Prior to repeal, art. 11.11 was amended by Acts 1979, 66th Leg., p. 84, ch. 51, § 9, and by Acts 1981, 67th Leg., p. 28, ch. 20, § 11, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

**CHAPTER 12. FRANCHISE TAX**

**Arts. 12.01, 12.02. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.  
For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.  
Prior to repeal, art. 12.01 was amended by Acts 1975, 64th Leg., p. 2310, ch. 719, art. XII, § 1, art. XXI, § 2; Acts 1981, 67th Leg., p. 47, ch. 22, § 1, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(f).

**Art. 12.03. Corporations Exempt**

(1) The franchise tax imposed by this chapter shall not apply to:

(a) an insurance company; surety, guaranty, or fidelity company; transportation company; sleeping, palace car, and dining company now required to pay an annual tax measured by their gross receipts;

(b) a corporation organized as a railway terminal corporation and having no annual net income from the business done by it;

(c) a nonprofit corporation organized for the exclusive purpose of promoting the public interest of any county, city, or town, or other area within the state;

(d) a nonprofit corporation organized for the purpose of religious worship;

(e) a nonprofit corporation organized for the purpose of providing places of burial;

(f) a nonprofit corporation organized for the purpose of holding agricultural fairs and encouraging agricultural pursuits;

(g) a nonprofit corporation organized for strictly educational purposes, including a corporation organized for the sole purpose of providing a student loan fund or student scholarships;

(h) a nonprofit corporation organized for purely public charity;

(i) a savings and loan association chartered or authorized to operate as a building or savings and loan association under the provisions of the Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes);

(j) an open-end investment company, as defined in and subject to the Federal Investment Company Act of 1940 (15 U.S.Code, secs. 80a—1 et seq.), and which also is registered as such investment company under The Securities Act, as amended (Articles 581—1 et seq., Vernon's Texas Civil Statutes);

(k) a nonprofit corporation organized for the sole purpose of educating the public in the protection and conservation of fish, game, and other wildlife, as well as grasslands and forests;

(l) a nonprofit water supply or sewer service corporation organized in behalf of cities or towns pursuant to Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 1434a, Vernon's Texas Civil Statutes);

(m) a nonprofit corporation organized for the purpose of constructing, acquiring, owning, leasing, or operating a natural gas facility in behalf of and for the benefit of a city or residents of a city;

(n) a nonprofit corporation organized for the purpose of providing convalescent homes or other housing for persons 62 years of age or older or for handicapped or disabled persons without regard to whether the corporation is for purely public charity;

(o) a nonprofit corporation engaged exclusively in the business of owning residential property for the purpose of providing cooperative housing for any person or persons;

(p) a corporation exempted from the payment of a franchise tax by the provisions of any of the laws of this state other than this chapter;

(q) a nonprofit corporation which has been exempted from the federal income tax under the provisions of Section 501(c)(3), (4), (5), (6), or (7) of the Internal Revenue Code of 1954, as amended, as it existed on January 1, 1975;

(r) corporations engaged exclusively in the business of manufacturing, selling, or installing solar energy devices, which term, for the purposes of this chapter, means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power or both by means of collecting and transferring solar-generated energy and includes mechanical or chemical devices having the capacity for storing solar-generated energy for use in heating or cooling or in the production of power; and

(s) a nonprofit corporation organized under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(2) to (6) Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982.

[Amended by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3035, ch. 792, § 13, eff. June 17, 1981.]

**Repeal**

*Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982, repealed this article without reference to amendment of subd. (1) of this article by Acts 1981, 67th Leg., p. 3035, ch. 792, § 13, eff. June 17, 1981.*

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), this article was amended by:

- Acts 1975, 64th Leg., p. 2311, ch. 719, art. XII, § 2.
- Acts 1977, 65th Leg., p. 1439, ch. 584, § 1.
- Acts 1981, 67th Leg., p. 915, ch. 332, § 1.
- Acts 1981, 67th Leg., p. 2305, ch. 565, § 1.
- Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

**Arts. 12.04 to 12.21. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 12.06 was amended by Acts 1975, 64th Leg., p. 2313, ch. 719, art. XII, § 3; Acts 1979, 66th Leg., p. 161, ch. 89, § 1.

Prior to repeal, art. 12.12 was amended by Acts 1977, 65th Leg., p. 1191, ch. 458, § 1.

Prior to repeal, art. 12.14 was amended by:

- Acts 1977, 65th Leg., p. 1692, ch. 671, § 1.
- Acts 1979, 66th Leg., p. 84, ch. 51, § 10.
- Acts 1981, 67th Leg., p. 28, ch. 20, § 12.
- Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

Prior to repeal, art. 12.15 was amended by Acts 1977, 65th Leg., p. 1693, ch. 671, § 2.

**Art. 12.211. Repealed by Acts 1975, 64th Leg., p. 2314, ch. 719, art. XII, § 4, eff. Sept. 1, 1975**

**Art. 12.22. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

**CHAPTER 13. TAX ON COIN-OPERATED MACHINES [TRANSFERRED]**

*This chapter was transferred to Civil Statutes, arts. 8801 to 8817, by Acts 1981, 67th Leg., p. 1779, ch. 389, § 33, eff. Jan. 1, 1982.*

**CHAPTER 14. INHERITANCE TAX AND FEDERAL ESTATE TAX CREDIT**

**Art. 14.00A. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

Acts 1981, 67th Leg., p. 3291, ch. 862, § 1, eff. Sept. 1, 1981, amending this article, was repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17, eff. Jan. 1, 1982. Section 7 of Acts 1981, 67th Leg., p. 3294, ch. 862, provided:

"(a) This Act takes effect on September 1, 1981, and applies to the estates of decedents who die on or after September 1, 1981.

"(b) The inheritance taxes imposed by Chapter 14, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as in effect on August 31, 1981, apply to the estates of decedents who die before September 1, 1981, and those taxes shall be reported, collected, enforced, and paid as though this Act were not in effect."

Acts 1981, 67th Leg., p. 2770, ch. 752, § 6(b), specifically saved § 7 of Acts 1981, 67th Leg., p. 3294, ch. 862, from repeal. See note following Tax Code, § 211.001.

**Art. 14.00B. Repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17, eff. Jan. 1, 1982**

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

The repealed article, relating to references to the Internal Revenue Code, was added by Acts 1981, 67th Leg., p. 3292, ch. 862, § 2.

**Arts. 14.01 to 14.11. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3294, ch. 862, § 6, eff. Sept. 1, 1981**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

Acts 1981, 67th Leg., p. 3294, ch. 862, § 6, was repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17, eff. Jan. 1, 1982. Section 7 of Acts 1981, 67th Leg., p. 3294, ch. 862, provides:

"(a) This Act takes effect on September 1, 1981, and applies to the estates of decedents who die on or after September 1, 1981.

"(b) The inheritance taxes imposed by Chapter 14, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as in effect on August 31, 1981, apply to the estates of decedents who die before September 1, 1981, and those taxes shall be reported, collected, enforced, and paid as though this Act were not in effect."

Acts 1981, 67th Leg., p. 2770, ch. 752, § 6(b), specifically saved § 7 of Acts 1981, 67th Leg., p. 3294, ch. 862, from repeal. See note following Tax Code, § 211.001.

Prior to repeal, art. 14.015 was amended by:

- Acts 1977, 65th Leg., p. 194, ch. 96, § 1.
- Acts 1978, 65th Leg., 2nd C.S., p. 3, ch. 2, art. 1, § 2.
- Acts 1979, 66th Leg., p. 1143, ch. 549, § 1.

Prior to repeal, art. 14.02 was amended by Acts 1978, 65th Leg., 2nd C.S., p. 2, ch. 2, art. 1, § 1.

**Art. 14.12. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3294, ch. 862, § 6, eff. Sept. 1, 1981**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

Acts 1981, 67th Leg., p. 3294, ch. 862, § 6, was repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

**Arts. 14.12A to 14.12E. Repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17, eff. Jan. 1, 1982**

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

The repealed articles, relating to the imposition of the state inheritance tax and the state generation-skipping transfer tax, were added by Acts 1981, 67th Leg., p. 3292, ch. 862, § 3.

Section 7 of Acts 1981, 67th Leg., p. 3294, ch. 862, provides:

"(a) This Act takes effect on September 1, 1981, and applies to the estates of decedents who die on or after September 1, 1981.

"(b) The inheritance taxes imposed by Chapter 14, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as in effect on August 31, 1981, apply to the estates of decedents who die before September 1, 1981, and those taxes shall be reported, collected, enforced, and paid as though this Act were not in effect."

Acts 1981, 67th Leg., p. 2770, ch. 752, § 6(b), specifically saved § 7 of Acts 1981, 67th Leg., p. 3294, ch. 862, from repeal. See note following Tax Code, § 211.001.

**Art. 14.13. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing this article enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, this article was amended by Acts 1981, 67th Leg., 1st C.S., p. 186, ch. 17, art. 1, § 8, of said 1981 amendatory act, provided: "This article expires on January 1, 1982."

**Arts. 14.14, 14.15. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 1, §§ 7(1), (2), eff. Sept. 1, 1981**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

**Arts. 14.16 to 14.20. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, these articles were amended by Acts 1981, 67th Leg., 1st C.S., p. 186, ch. 17, art. 1, §§ 2 to 6, eff. Sept. 1, 1981. Article 1 of said 1981 amendatory act expired by its own terms on January 1, 1982.

Article 4, § 2 of Acts 1981, 67th Leg., 1st C.S., p. 195, ch. 17, provides: "The requirements imposed by Chapter 14, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as in effect immediately before the effective date of this Act, apply to the estates of decedents who die before the effective date of this Act, and those taxes shall be reported, collected, enforced, and paid as though this Act were not in effect."

Prior to repeal, art. 14.17 was also amended by:

Acts 1979, 66th Leg., p. 84, ch. 51, § 11.

Acts 1981, 67th Leg., p. 28, ch. 20, § 13.

Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

**Art. 14.21. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 189, ch. 17, art. 1, § 7(3), eff. Sept. 1, 1981**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

**Art. 14.22. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 194, ch. 17, art. 3, § 2, eff. Sept. 1, 1981**

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

Article 4, § 2 of Acts 1981, 67th Leg., 1st C.S., p. 195, ch. 17, provides: "The requirements imposed by Chapter 14, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as in effect immediately before the effective date of this Act, apply to the estates of decedents who die before the effective date of this Act, and those taxes shall be reported, collected, enforced, and paid as though this Act were not in effect."

**CHAPTER 18. CEMENT PRODUCTION TAX**

**Arts. 18.01 to 18.04. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, art. 18.03 was amended by Acts 1979, 66th Leg., p. 84, ch. 51, § 12, and by Acts 1981, 67th Leg., p. 28, ch. 20, § 14, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

**CHAPTER 19. MISCELLANEOUS OCCUPATION TAX**

**Arts. 19.01 to 19.04. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 19.01 was amended by Acts 1975, 64th Leg., pp. 827, 830, ch. 320, § 12; Acts 1979, 66th Leg., p. 2025, ch. 795, § 1.

Prior to repeal, art. 19.02 was amended by Acts 1979, 66th Leg., p. 85, ch. 51, § 13 and by Acts 1981, 67th Leg., p. 29, ch. 20, § 15, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

**CHAPTER 20. LIMITED SALES, EXCISE AND USE TAX**

**Arts. 20.01 to 20.031. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982**

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 20.01 was amended by:

Acts 1975, 64th Leg., p. 262, ch. 108, § 1.

Acts 1975, 64th Leg., p. 2307, ch. 719, art. VIII, § 1, art. XI, § 1.

Acts 1977, 65th Leg., p. 146, ch. 71, § 1.

Acts 1977, 65th Leg., p. 161, ch. 81, § 1.

Acts 1978, 65th Leg., 2nd C.S., p. 4, ch. 2, art. 2, § 2.

Acts 1981, 67th Leg., p. 140, ch. 64, § 1, 2.

Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(j).

Prior to repeal, art. 20.021 was amended by:

Acts 1977, 65th Leg., p. 1159, ch. 439, § 1.

Acts 1977, 65th Leg., p. 1656, ch. 652, § 1.

Acts 1981, 67th Leg., p. 142, ch. 64, § 3.

Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(j).

Prior to repeal, art. 20.031 was amended by:

Acts 1975, 64th Leg., p. 2307, ch. 719, art. VIII, § 2.

Acts 1981, 67th Leg., p. 142, ch. 64, § 4.

Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(j).

**Art. 20.04. Exemptions**

(A) to (GG) Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982.

(HH) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease, or rental of any taxable items to or the storage, use, or other consumption of taxable items by any nonprofit corporation formed under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), if the items are for the exclusive use and benefit of the nonprofit corporation. The exemption provided by this section does not apply to an item that is a project or a part of a project that is to be leased, sold, or lent by the nonprofit corporation.

(JJ) Repealed by Acts 1981, 67th Leg., p. 2786, ch. 752, § 17, eff. Jan. 1, 1982.

[Amended by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 3036, ch. 792, § 14, eff. June 17, 1981.]

#### Repeal

*Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982, repealed this article without reference to amendment of this article by Acts 1981, 67th Leg., p. 3036, ch. 792, § 14.*

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, this article was amended by:

Acts 1975, 64th Leg., p. 669, ch. 282, § 1.

Acts 1975, 64th Leg., p. 2306, ch. 719, art. VI, § 1, art. VII, § 1, art. XI, § 2, art. XIII, § 1, art. XVI, § 1, art. XVIII, § 1, art. XXI, § 1, art. XXII, § 1.

Acts 1977, 65th Leg., p. 162, ch. 81, §§ 2, 3.

Acts 1977, 65th Leg., p. 558, ch. 194, § 5.

Acts 1977, 65th Leg., p. 607, ch. 218, § 1.

Acts 1977, 65th Leg., p. 614, ch. 224, § 1.

Acts 1977, 65th Leg., p. 1035, ch. 380, § 1.

Acts 1977, 65th Leg., p. 1393, ch. 559, § 2.

Acts 1977, 65th Leg., p. 1718, ch. 685, § 1.

Acts 1977, 65th Leg., p. 2094, ch. 840, § 1.

Acts 1978, 65th Leg., 2nd C.S., p. 4, ch. 2, art. 2, § 1.

Acts 1979, 66th Leg., p. 823, ch. 370, art. 2, § 1.

Acts 1981, 67th Leg., p. 143, ch. 64, § 5.

Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(j).

Acts 1981, 67th Leg., p. 2380, ch. 591, § 1.

Acts 1981, 67th Leg., p. 2652, ch. 710, §§ 1, 2.

Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

#### Art. 20.05. Return and Payments

(A) to (K) Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982.

(L) A retailer who sells taxable items on credit or under any other deferred payment agreement and charges interest or time price differential on the amount of the credit extended for the payment of sales price of the item and the amount of all sales taxes and who remits the tax and files tax reports to the Comptroller on the basis of the cash system of accounting under Section (C)(4) of this Article shall, in addition to any other taxes imposed by this Chapter; the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes); Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes); and Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), pay to the Comptroller at the time of making each tax report under this Chapter an amount, calculated according to whichever of the following yields the greater amount:

(1) one-half (½) of the amount of interest or time price differential received by the retailer on credit extended to the purchaser for the payment of the amount of all sales taxes imposed; or

(2)(a) the amount of interest or time price differential received by the retailer on credit

extended to the purchaser for the payment of the amount of all sales taxes imposed, less

(b) an amount of interest or time price differential at a rate of nine percent (9%) per year received on credit extended by the retailer to the purchaser for the payment of the sales tax, provided,

(c) the deduction described in the foregoing Subsection (b) shall be allowed only if the rate of interest or time price differential charged by the retailer on the credit extended for payment of the sales tax and the method of computing such interest or the time price differential is uniform with the rate charged by the retailer on the credit extended on the sales price and the method of computing such interest or time price differential.

With the exception of Article 20.05(E) of this Chapter, all reporting collection, penalty, and refund provisions of Chapters 1 and 20 of Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, shall apply to this Section. All payments made by a retailer under this Section to the Comptroller shall be deposited by the Comptroller to the credit of the higher education available fund created by H.J.R. No. 111 of the 67th Legislature, Regular Session, 1981. For the period beginning on January 1, 1982, and extending until the Secretary of State certifies the vote on the proposition proposed by H.J.R. No. 111, the Comptroller shall retain the revenue received under this Section in a suspense account to be allocated as provided by this Section. If H.J.R. No. 111 is not approved by the voters, all revenue received under this Section shall be deposited as provided by Article 20.13 of this Chapter.

[Amended by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982; Acts 1981, 67th Leg., p. 2529, ch. 670, § 1, eff. Jan. 1, 1982.]

#### Repeal

*Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982, repealed this article without reference to amendment of this article by Acts 1981, 67th Leg., p. 2529, ch. 670, § 1.*

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, this article was amended by:

Acts 1979, 66th Leg., p. 85, ch. 51, § 14.

Acts 1981, 67th Leg., p. 29, ch. 20, § 16.

Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

Acts 1981, 67th Leg., p. 2659, ch. 715, § 1.

Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

#### Arts. 20.06 to 20.09. Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing these articles enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 20.06 was amended by Acts 1981, 67th Leg., p. 143, ch. 64, § 6, eff. Jan. 1, 1982, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(j), eff. Jan. 1, 1982.

Prior to repeal, art. 20.08 was amended by Acts 1979, 66th Leg., p. 85, ch. 51, § 15, and by Acts 1981, 67th Leg., p. 29, ch. 20, § 17, which was repealed by Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(h).

**Art. 20.10.** Repealed by Acts 1979, 66th Leg., p. 98, ch. 59, § 3, eff. Aug. 27, 1979

**Arts. 20.11 to 20.17.** Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

### CHAPTER 21. ADMISSIONS TAX [REPEALED]

**Arts. 21.01 to 21.04.** Repealed by Acts 1979, 66th Leg., p. 1024, ch. 456, § 1, eff. Sept. 1, 1979

Prior to repeal, art. 21.02 was amended by Acts 1975, 64th Leg., p. 2307, ch. 719, art. IX, § 1, art. XXIV, § 1.

Prior to repeal, art. 21.04 was amended by Acts 1979, 66th Leg., p. 86, ch. 51, § 16.

### CHAPTER 22. SEVERANCE BENEFICIARY TAX

**Arts. 22.01 to 22.09.** Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

### CHAPTER 23. HOTEL OCCUPANCY TAX

**Arts. 23.01 to 23.07.** Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing these articles, enacted Title 2 of the Tax Code.

For disposition of the subject matter of the repealed articles, see Disposition Table following the Tax Code.

Prior to repeal, art. 23.04 was amended by Acts 1981, 67th Leg., p. 960, ch. 366, § 1; Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

Prior to repeal, art. 23.07 was amended by:

Acts 1979, 66th Leg., p. 86, ch. 51, § 17.

Acts 1981, 67th Leg., p. 30, ch. 20, § 18.

Acts 1981, 67th Leg., p. 1787, ch. 389, § 39(b).

### CHAPTER 24. ALLOCATION OF TAX REVENUES

**Art. 24.01.** Repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a), eff. Jan. 1, 1982

Acts 1981, 67th Leg., ch. 389, repealing this article, enacted Title 2 of the Tax Code.

For the disposition of the subject matter of the repealed article, see Disposition Table following the Tax Code.

Prior to repeal, this article was amended by:

Acts 1981, 67th Leg., p. 2249, ch. 540, § 3.

Acts 1981, 67th Leg., p. 2786, ch. 752, § 17.

Acts 1981, 67th Leg., p. 3145, ch. 827, § 10.

\*



# WATER CODE

## TITLE 2. STATE WATER ADMINISTRATION

Chapter	Section
15. Texas Water Assistance Program	15.001

## TITLE 3. RIVER COMPACTS

46. Red River Compact	46.001
47. Caddo Lake Compact	47.001

## TITLE 4. GENERAL LAW DISTRICTS

64. Water Import Authorities	64.001
------------------------------	--------

## TITLE 1. GENERAL PROVISIONS

### CHAPTER 1. GENERAL PROVISIONS

#### SUBCHAPTER A. PURPOSE AND POLICY

##### § 1.003. Public Policy

It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

(1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;

(2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of the state's overflowed land and other land needing drainage;

(4) the conservation and development of its forest, water, and hydroelectric power;

(5) the navigation of the state's inland and coastal waters; and

(6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources.

[Amended by Acts 1975, 64th Leg., p. 925, ch. 344, § 1, eff. June 19, 1975.]

## TITLE 2. STATE WATER ADMINISTRATION

### SUBTITLE A. EXECUTIVE AGENCIES

#### CHAPTER 5. TEXAS DEPARTMENT OF WATER RESOURCES

##### SUBCHAPTER A. GENERAL PROVISIONS

Section	
5.001.	Definitions.
5.002.	Scope of Chapter.

##### SUBCHAPTER B. ORGANIZATION OF THE TEXAS DEPARTMENT OF WATER RESOURCES

Section	
5.011.	Declaration of Policy.
5.012.	Department as Agency of the State; Division of Department of Functions.
5.0121.	Application of Sunset Act.
5.013.	Legislative Functions.
5.014.	Executive Functions.
5.015.	Judicial Functions.
5.016.	General Duties and Responsibilities; Interpretation.
5.017.	Construction of Title.
5.018.	Purpose of Act.

##### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

5.051.	Funds From Other State Agencies.
5.052.	Copies of Documents, Proceedings, Etc.
5.053.	Documents, Etc., State Property; Open for Inspection.
5.054.	Seal.
5.055.	Reports to Governor.

##### SUBCHAPTER D. TEXAS WATER DEVELOPMENT BOARD

5.091.	State Agency.
5.0911.	Application of Sunset Act.
5.092.	Members of the Board; Appointment.
5.093.	Officers of the State; Oath.
5.094.	Terms of Office.
5.095.	Board Officers.
5.096.	Board Meetings.
5.097.	Compensation; Expenses.
5.098.	Seal.

##### SUBCHAPTER E. GENERAL POWERS AND DUTIES OF THE BOARD

5.131.	Rules.
5.132.	General Policy.
5.133.	Budget Approval.
5.134.	Advisory Councils.
5.135.	Appointment.

##### SUBCHAPTER F. EXECUTIVE DIRECTOR

5.171.	General Responsibilities of the Executive Director.
5.172.	Administrative Organization of Department.
5.173.	Appearances at Hearings.
5.174.	Contracts.
5.175.	Enforcement.
5.176.	Travel Expenses.
5.177.	Employee Moving Expenses.
5.178.	Gifts and Grants.
5.179.	Applications and Other Documents.
5.180.	Development Fund Manager.
5.181.	Public Interest Office.
5.182.	Fees.

##### SUBCHAPTER G. TEXAS WATER COMMISSION

5.221.	Creation of Commission.
5.2211.	Application of Sunset Act.
5.222.	Members of Commission; Appointment.
5.223.	Officers of State; Oath.
5.224.	Terms of Office.

- Section  
 5.225. Full-Time Service.  
 5.226. Officers; Meetings.  
 5.227. Chief Clerk.

SUBCHAPTER H. GENERAL POWERS AND DUTIES  
 OF THE COMMISSION

- 5.261. Scope of Subchapter.  
 5.262. Rules.  
 5.263. Applications and Other Documents.  
 5.264. Hearings; Recess, Etc.  
 5.265. Power to Administer Oaths.  
 5.266. Seal.  
 5.267. Commission to be Knowledgeable.  
 5.268. Conservation and Quality of Water.

SUBCHAPTER I. OFFICE OF HEARING EXAMINERS

- 5.311. Creation of Office.  
 5.312. Organization of Office of Hearing Examiners.  
 5.313. Delegation of Responsibility.

SUBCHAPTER J. JUDICIAL REVIEW

- 5.351. Judicial Review of Department Acts.  
 5.352. Remedy for Executive Director, Commission, or Board  
 Inaction.  
 5.353. Diligent Prosecution of Suit.  
 5.354. Venue.  
 5.355. Appeal of District Court Judgment.  
 5.356. Appeal by Executive Precluded.  
 5.357. Law Suits; Citation.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. Sections 8 to 12 of the Act provided:*

*"Sec. 8. (a) On the effective date of this Act, the governor shall appoint the initial members to the Texas Water Commission.*

*"(b) The persons initially appointed to the commission shall be designated to serve by the governor as follows: one member of the commission to serve a two-year term, one member of the commission to serve a four-year term, and one member of the commission to serve a six-year term.*

*"(c) The initial members of the commission shall take office on September 1, 1977.*

*"Sec. 9. (a) The Texas Department of Water Resources and the Texas Water Commission, as provided in Section 1 of this Act, are created effective September 1, 1977, and the existing Texas Water Rights Commission and Texas Water Quality Board are abolished on September 1, 1977.*

*"(b) The department is the successor to the Texas Water Quality Board and Texas Water Rights Commission and incorporates the Texas Water Development Board and shall carry out their respective duties, responsibilities, and functions from the effective date of this Act as*

*provided by law, including acts of this legislature.*

*"(c) The abolishment of the Texas Water Rights Commission shall not affect or impair any act done or obligation, right, license, permit, or penalty accrued or existing under the authority of the prior law, and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning such obligation, right, license, permit, or penalty. No action or proceeding commenced prior to the effective date of this Act shall be affected by its enactment.*

*"(d) The rights, powers, and duties delegated by law to the Texas Water Rights Commission which are not expressly assigned to the Texas Water Commission are expressly transferred to the Texas Department of Water Resources in accordance and consistent with Title 2, Subtitle A, Chapter 5, Subchapter B of this code.*

*"(e) The abolishment of the Texas Water Quality Board shall not affect or impair any act done or obligation, right, license, permit, water quality criteria, standard or requirement, or penalty accrued or existing under the authority of the prior law, and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning such obligation, right, license, permit, water quality criteria, standard or requirement, or penalty. No action or proceeding commenced prior to the effective date of this Act shall be affected by its enactment.*

*"(f) The rights, powers, and duties delegated by law to the Texas Water Quality Board are expressly transferred to the Texas Department of Water Resources as is provided herein or in accordance and consistent with Title 2, Subtitle A, Chapter 5, Subchapter B of this code.*

*"Sec. 10. The members of the Texas Water Development Board serving as members of the board on the effective date of this Act shall continue in office until the expiration of their respective terms.*

*"Sec. 11. On September 1, 1977, all personnel, equipment, data, documents, facilities, and other items of the Texas Water Rights Commission, the Texas Water Development Board, and the Texas Water Quality Board shall be transferred to the Texas Department of Water Resources.*

*"Sec. 12. The officers and employees of the existing Texas Water Rights Commission, the Texas Water Development Board, and the Texas Water Quality Board shall cooperate fully with the reorganization."*

## WATER CODE

## DISPOSITION TABLE

Showing where provisions of former Title 2 of the Water Code are now covered in revised Title 2.

Former Sections	Revised Sections	Former Sections	Revised Sections	Former Sections	Revised Sections
5.001	11.001	5.094	11.094	5.205	11.205
5.002	11.002	5.095	11.095	5.206	11.206
5.003	11.003	5.096	11.096	5.207	11.207
5.004	11.004	5.121	11.121	5.301	11.301
5.005	11.005	5.1211	11.122	5.302	11.302
5.021	11.021	5.122	11.123	5.303	11.303
5.022	11.022	5.123	11.124	5.304	11.304
5.023	11.023	5.124	11.125	5.305	11.305
5.024	11.024	5.125	11.126	5.306	11.306
5.025	11.025	5.126	11.127	5.307	11.307
5.026	11.026	5.127	11.128	5.308	11.308
5.027	11.027	5.128	11.129	5.309	11.309
5.028	11.028	5.129	11.130	5.310	11.310
5.029	11.029	5.130	11.131	5.311	11.311
5.030	11.030	5.131	11.132	5.312	11.312
5.031	11.031	5.132	11.133	5.313	11.313
5.032	11.032	5.133	11.134	5.314	11.314
5.033	11.033	5.134	11.135	5.315	11.315
5.034	11.034	5.135	11.136	5.316	11.316
5.035	11.035	5.136	11.137	5.317	11.317
5.036	11.036	5.137	11.138	5.318	11.318
5.037	11.037	5.1371	11.139	5.319	11.319
5.038	11.038	5.138	11.140	5.320	11.320
5.039	11.039	5.139	11.141	5.321	11.321
5.040	11.040	5.140	11.142	5.322	11.322
5.041	11.041	5.141	11.143	5.323	11.323
5.042	11.042	5.142	11.144	5.324	11.324
5.043	11.043	5.143	11.145	5.325	11.325
5.044	11.044	5.144	11.146	5.326	11.326
5.045	11.045	5.145	11.147	5.327	11.327
5.046	11.046	5.171	11.171	5.328	11.328
5.047	11.047	5.172	11.172	5.329	11.329
5.048	11.048	5.173	11.173	5.330	11.330
5.049	11.049	5.174	11.174	5.331	11.331
5.050	11.050	5.175	11.175	5.332	11.332
5.051	11.051	5.176	11.176	5.333	11.333
5.052	11.052	5.177	11.177	5.334	11.334
5.081	11.081	5.178	11.178	5.335	11.335
5.082	11.082	5.179	11.179	5.336	11.336
5.083	11.083	5.180	11.180	5.337	11.337
5.084	11.084	5.181	11.181	5.338	11.338
5.085	11.085	5.182	11.182	5.339	11.339
5.086	11.086	5.183	11.183	5.340	11.340
5.087	11.087	5.184	11.184	5.341	11.341
5.088	11.088	5.185	11.185	5.401	11.401
5.089	11.089	5.186	11.186	5.402	11.402
5.090	11.090	5.201	11.201	5.403	11.403
5.091	11.091	5.202	11.202	5.404	11.404
5.092	11.092	5.203	11.203	5.405	11.405
5.093	11.093	5.204	11.204	5.406	11.406

# WATER CODE

1914

Former Sections	Revised Sections	Former Sections	Revised Sections	Former Sections	Revised Sections
5.407	11.407	11.024(1)	5.174(c)	11.212	17.082
5.408	11.408	11.024(2)	16.137(b)	11.213	17.083
5.409	11.409		16.181(b)	11.214	17.084
6.001	12.001	11.025	5.131	11.215	17.085
6.011	5.221	11.026	5.055	11.216	17.086
6.012	5.222	11.061	5.171	11.217	17.087
6.013	5.224		16.011	11.218	17.088
6.014	—	11.062	16.012	11.251	16.091
6.015	5.223	11.063	16.013	11.252	16.092
6.016	5.223	11.064	16.014	11.301	16.131
6.017	5.225	11.015	16.015	11.302	16.132
6.018	5.226	11.066	16.016	11.303	16.133
6.019	—	11.067	16.017	11.304	16.134
to	—	11.068	16.018	11.305	16.135
6.025	—	11.069	16.019	11.306	16.136
6.026	5.266	11.070	16.021	11.307	16.137
6.051	5.261	11.071	5.173	11.308	16.138
6.052	5.267	11.072	16.020	11.309	16.139
6.053	5.268	11.101	16.051	11.310	16.140
6.054	12.014	11.102	16.052	11.311	16.141
6.055	5.262	11.103	16.053	11.351	16.181
6.056	12.013(a)	11.104	16.054	11.352	16.182
6.057	12.011	11.105	16.055	11.353	16.183
6.058	5.264	11.106	16.056	11.354	16.184
6.059	5.265	11.107	16.057	11.355	16.185
6.060	—	11.108	16.058	11.356	16.186
to	—	11.141	17.011	11.357	16.187
6.062	—	11.1411	17.011 note	11.3571	[16.1871]
6.063	12.015	11.142	17.012	11.358	16.188
6.064	12.016	11.143	17.013	11.359	16.189
6.065	12.017	11.144	17.014	11.360	16.190
6.066	—	11.145	17.015	11.361	16.191
6.067	12.012	11.146	17.016	11.362	16.192
6.068	5.182	11.147	17.017	11.363	16.193
6.069	12.112	11.148	17.018	11.364	16.194
6.070	12.113	11.149	17.019	11.365	16.195
6.071	12.114	11.150	17.020	11.366	16.196
6.072	5.052(a)	11.151	17.021	11.367	16.197
6.073	12.051	11.152	17.022	11.368	16.198
6.0731	12.052	11.153	17.023	11.401	17.121
6.074	12.081	11.154	17.024	11.402	17.122
6.075	12.082	11.155	17.025	11.403	17.123
6.076	12.141	11.156	17.026	11.404	17.124
6.101	5.351	11.157	17.027	11.405	17.125
6.102	5.352	11.158	17.028	11.406	17.126
6.103	5.353	11.159	17.029	11.407	17.127
6.104	5.354	11.160	17.030	11.408	Repealed
6.105	5.355	11.161	17.031	11.409	17.128
11.001	16.001	11.162	17.032	11.410	17.129
	17.001	11.163	17.033	11.411	17.130
11.011	5.091	11.164	17.034	11.412	17.131
11.012	5.092	11.201	17.071	11.413	17.132
11.013	5.093	11.202	17.072	11.414	17.133
11.014	5.094	11.203	17.073	11.415	17.134
11.015	5.095	11.204	17.074	11.416	17.135
11.016	5.096	11.205	17.075	11.417	17.136
11.017	5.097	11.206	17.076	11.418	17.137
11.018	5.172	11.207	17.077	11.419	17.138
11.019	5.135	11.208	17.078	11.420	17.139
11.020	5.180	11.209	17.079	11.451	16.231, Deleted
11.021	5.176	11.210	17.080	11.452	16.232, Deleted
11.022	—	11.211	17.081	11.453	16.231
11.023	5.098				

## WATER CODE

Former Sections	Revised Sections	Former Sections	Revised Sections	Former Sections	Revised Sections
11.454	16.232	21.001	---	21.203	26.083
11.455	16.233	21.002	26.003	21.204	26.084
11.456	16.234	21.003	26.001	21.2041	26.085
11.457	16.235	21.004	26.002	21.205	26.086
11.458	16.236	21.005	---	21.206	[26.087]
11.501	16.271	21.006	---	21.251	26.121
11.502	16.272	21.021	---	21.252	26.122
11.503	16.273	to	---	21.253	26.123
11.601	17.171	21.031	---	21.254	26.124
11.602	17.172	21.032	5.177	21.255	26.125
11.603	17.173	21.033	5.051	21.256	26.126
11.604	17.174	21.034	5.178	21.257	26.127
11.605	17.175	21.035	---	21.258	26.128
11.606	17.176	21.036	5.052(a)	21.259	26.129
11.607	17.177	21.037	5.052(b)	21.260	26.130
11.608	17.178	21.038	5.053	21.261	26.131
11.609	17.179	21.039	5.055	21.262	26.132
11.610	17.180	21.040	5.054	21.263	26.133
12.001	---	21.061	26.011	21.264	26.134, Repealed
to	---	21.062	26.012	21.265	26.135
12.067	Prec. 12.001 note	21.063	26.013	21.351	26.171
14.001	18.001	21.064	26.014	21.352	26.172
14.002	18.002	21.065	26.015	21.353	26.173
14.011	18.011	21.066	26.016	21.354	26.174
14.012	18.012	21.067	26.017	21.355	26.175
14.013	18.013	21.068	26.018	21.356	26.176
14.014	18.014	21.069	5.131	21.357	26.177
14.015	18.015	21.070	26.019	21.451	5.351
14.016	18.016	21.071	26.0191	21.551	26.211
14.017	18.017	21.072	26.020	21.552	26.212
14.018	18.018	21.073	26.021	21.553	26.213
14.019	18.019	21.074	26.022	21.5531	26.214
14.020	18.020	21.075	26.023	21.554	26.215
14.021	18.021	21.076	26.024	21.555	26.216
14.022	18.022	21.077	26.025	21.556	26.217
14.023	---	21.078	26.026	21.557	26.218
14.041	18.051	21.079	26.027	21.558	26.219
14.042	18.052	21.080	26.028	21.559	26.220
14.043	18.053	21.081	26.029	21.560	26.221
14.044	18.054	21.082	26.030	21.561	26.222
14.045	18.055	21.083	26.031	21.562	26.223
14.046	18.056	21.084	26.032	21.563	26.224
14.061	18.081	21.085	26.033	21.564	26.225
14.062	18.082	21.086	26.034	21.601	---
14.063	18.083	21.087	26.035	to	---
14.084	18.084	21.088	26.036	21.610	17.221
14.0841	18.0841	21.089	26.037	to	---
14.065	18.085	21.0891	Repealed	17.230, Repealed	---
14.066	18.086	21.090	26.038	21.611	---
14.067	18.087	21.091	26.039	21.612	---
14.068	18.088	21.092	26.040	to	---
14.069	18.089	21.093	26.041	21.617	17.231
14.070	18.090	21.094	26.042	to	---
14.071	18.091	21.095	26.043	17.236, Repealed	---
14.091	18.121	21.096	[Blank]	21.701	17.271
14.0911	18.1211	21.097	26.044	21.702	17.272
14.092	18.122	21.0971	26.045	21.703	17.273
14.093	18.123	21.098	26.046	21.704	17.274
14.101	18.151	21.099	[26.047]	21.705	17.275
14.102	18.152	21.101	[26.048]	21.706	17.276
14.111	18.171	21.201	26.081	21.707	17.277
14.112	18.172	21.202	26.082	21.708	17.278

**WATER CODE**

**1916**

<b>Former Sections</b>	<b>Revised Sections</b>	<b>Former Sections</b>	<b>Revised Sections</b>	<b>Former Sections</b>	<b>Revised Sections</b>
21.709	17.279	22.101	27.101	25.022	30.022
21.710	17.280	22.102	27.102	25.023	30.023
21.711	17.281	22.103	27.103	25.024	30.024
21.712	17.282	22.104	27.104	25.025	30.025
21.713	17.283	23.001	28.001	25.026	30.026
21.714	—	23.002	28.002	25.027	30.027
21.715	17.284	23.003	28.003	25.028	30.028
21.801	26.261	23.004	28.004	25.029	30.029
21.802	26.262	24.001	29.001	25.030	30.030
21.803	26.263	24.001	29.002	25.031	30.031
21.804	26.264	24.011	29.011	25.032	30.032
21.805	26.265	24.012	29.012	25.033	30.033
21.806	26.266	24.013	29.013	25.034	30.034
21.807	26.267	24.014	29.014	25.035	30.035
21.808	26.268	24.015	29.015	25.051	30.051
22.001	27.001	24.016	29.016	25.052	30.052
22.002	27.002	24.017	29.017	25.053	30.053
22.011	27.011	24.018	29.018	25.054	30.054
22.012	27.012	24.019	29.019	25.055	30.055
22.013	27.013	24.020	29.020	25.056	30.056
22.014	27.014	24.021	29.021	25.057	30.057
22.015	27.015	24.031	29.031	25.058	30.058
22.016	27.016	24.032	29.032	25.059	30.059
22.017	27.017	24.033	29.033	25.060	30.060
22.018	27.018	24.041	29.041	25.061	30.061
22.019	27.019	24.042	29.042	25.062	30.062
22.031	27.031	24.043	29.043	25.063	30.063
22.032	27.032	24.044	29.044	25.064	30.064
22.033	27.033	24.045	29.045	25.065	30.065
22.034	27.034	24.046	29.046	25.066	30.066
22.051	27.051	25.001	30.001	25.101	30.101
22.052	27.052	25.002	30.002	25.102	30.102
22.053	27.053	25.003	30.003	25.103	30.103
22.054	27.054	25.004	30.004	25.104	30.104
22.055	27.055	25.005	30.005	25.105	30.105
22.056	27.056	25.021	30.021	25.106	30.106

## SUBCHAPTER A. GENERAL PROVISIONS

## § 5.001. Definitions

In this chapter:

(1) "Department" means the Texas Department of Water Resources.

(2) "Board" means the Texas Water Development Board.

(3) "Commission" means the Texas Water Commission.

(4) "Executive director" means the executive director of the Texas Department of Water Resources.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 5.002. Scope of Chapter

The powers and duties enumerated in this chapter are the general powers and duties of the department and those incidental to the conduct of its business. The department has other specific powers and duties as prescribed in other sections of this code and other laws of this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.003 to 5.010 reserved for expansion]

## SUBCHAPTER B. ORGANIZATION OF THE TEXAS DEPARTMENT OF WATER RESOURCES

## § 5.011. Declaration of Policy

The Texas Department of Water Resources is the agency of the state given primary responsibility for implementing the provisions of the constitution and laws of this state relating to water. To assure that fundamental safeguards of the constitution are enjoyed by persons subject to the jurisdiction of the department, this title of the code provides for the formal separation of the legislative, executive, and judicial functions of the department and creates an office of public interest within the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 5.012. Department as Agency of the State; Division of Department by Functions

(a) The Texas Department of Water Resources is an administrative agency of the state and is responsible for carrying out the legislative, executive, and judicial functions provided in this title and delegated to it by the constitution and other laws of this state.

(b) With respect to the department, the terms "legislative," "executive," and "judicial" mean those functions of the department that most closely resemble the same functions of the three branches of the state government.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 5.0121. Application of Sunset Act

The Texas Department of Water Resources is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the board is abolished effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1848, ch. 735, § 2.118, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

## § 5.013. Legislative Functions

The legislative functions of the department are vested in the Texas Water Development Board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 5.014. Executive Functions

(a) The executive functions of the department are vested in the executive director.

(b) The executive director shall employ a deputy director, subject to the approval of the board. In the absence of the executive director, the deputy director shall assume the executive director's duties and functions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 5.015. Judicial Functions

The judicial functions of the department are vested in the Texas Water Commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 5.016. General Duties and Responsibilities; Interpretation

(a) The board, the executive director, and the commission shall carry out their respective powers and duties as provided by law and in a manner that respects the separation of governmental functions.

(b) The board, commission, or executive director shall act in the name of and for the department, and duly authorized acts of the board, commission, or executive director are to be considered as acts of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 5.017. Construction of Title

This title shall be liberally construed to allow the board, the executive director, and the commission to carry out their powers and duties in a manner that respects the separation of governmental functions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 5.018. Purpose of Act

Consistent with the objectives of the Joint Advisory Committee on Government Operations, the purpose of this Act is to assign the duties, responsibilities, and functions of the Texas Water Quality Board and Texas Water Rights Commission to a new

department, and it is not the intention of this Act to make any substantive changes in the laws of the State of Texas.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.019 to 5.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 5.051. Funds From Other State Agencies

Any state agency that has statutory responsibilities for water pollution or water quality control and that receives a legislative appropriation for these purposes may transfer to the department any amount mutually agreed on by the department and the agency, subject to the approval of the governor.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.052. Copies of Documents, Proceedings, Etc.

(a) Except as otherwise specifically provided in this code and subject to the specific limitations provided in this code, on application of any persons, the department shall furnish certified or other copies of any proceeding or other official record or of any map, paper, or document filed with the board or commission. A certified copy with the seal of the department or commission as appropriate and the signature of the chairman of the board or commission or the executive director or chief clerk of the commission is admissible as evidence in any court or administrative proceeding.

(b) The board shall provide in its rules the fees that will be charged for copies and is authorized to furnish copies, certified or otherwise, to a person without charge when the furnishing of the copies serves a public purpose. Other statutes concerning fees for copies of records do not apply to the department, except that the fees set by the board for copies prepared by the board shall not exceed those prescribed in Article 3913, Revised Civil Statutes of Texas, 1925, as amended.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.053. Documents, Etc., State Property; Open for Inspection

*Text of section effective until delegation of NPDES permit authority*

All information, documents, and data collected by the department in the performance of its duties are the property of the state. Subject to the limitations of Section 26.134 of this code, all records are open to inspection by any person during regular office hours.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES permit authority, see § 5.053, post*

§ 5.053. Documents, Etc., State Property; Open for Inspection

*Text of section effective upon delegation of NPDES permit authority*

All information, documents, and data collected by the department in the performance of its duties are the property of the state. Records, reports, data, or other information obtained relative to or from sources or potential sources of discharges of water pollutants shall be available to the public during regular office hours; except that, if a showing satisfactory to the executive director is made by any person that such records, reports, data, or other information (other than effluent data) would divulge methods or processes entitled to protection as trade secrets, then the department shall consider such records, reports, data, or other information as confidential. Nothing in this chapter shall be construed to make confidential any effluent data, including effluent data in records, reports, or other information, and including effluent data in permits, draft permits, and permit applications. Any records, data, or other information considered confidential may be disclosed or transmitted to officers, employees, or authorized representatives of the State of Texas or of the United States with responsibilities in water pollution control; provided such disclosure or transmittal is made only after adequate written assurance is given to the executive director that the confidentiality of the disclosed or transmitted records, data, or other information will be afforded all reasonable protection allowed by law by the receiving officer, employee or authorized representative on behalf of, and under the authority of, the receiving agency or political entity. The executive director shall not disclose or transmit records, data, or other information considered confidential if he has reason to believe the recipient will not protect their confidentiality to the most reasonable extent provided by law.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective until delegation of NPDES permit authority, see § 5.053, ante*  
*For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.*

§ 5.054. Seal

The department shall have a seal bearing the words "Texas Department of Water Resources" encircling the oak and olive branches common to other official seals.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.055. Reports to Governor

The department shall make biennial reports in writing to the governor and the members of the legislature. Each report shall include a statement of the activities of the board, commission, and executive director and their respective or joint recommendations for necessary and desirable legislation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.056 to 5.090 reserved for expansion]

SUBCHAPTER D. TEXAS WATER  
DEVELOPMENT BOARD

§ 5.091. State Agency

The Texas Water Development Board is an agency of the state and shall exercise the legislative functions of the department as defined herein.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.0911. Application of Sunset Act

The Texas Water Development Board is subject to the Texas Sunset Act,<sup>1</sup> but it is not abolished under that Act. The board shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished effective September 1 of 1985 and of every 12th year after 1985 are reviewed.

[Added by Acts 1977, 65th Leg., p. 1848, ch. 735, § 2.117, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

§ 5.092. Members of the Board; Appointment

(a) The board is composed of six members who are appointed by the governor with the advice and consent of the senate.

(b) The governor shall make the appointments in such a manner that each member is from a different section of the state and has no conflict of interest prohibited by state or federal law.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.093. Officers of State; Oath

Each member of the board is an officer of the state as that term is used in the constitution, and each member shall qualify by taking the official oath of office.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.094. Terms of Office

(a) The members of the board hold office for staggered terms of six years, with the terms of two members expiring every two years. Each member holds office until his successor is appointed and has qualified.

(b) No person appointed to the board may serve for more than two six-year terms.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.095. Board Officers

(a) The governor shall designate one member as chairman of the board to serve at the will of the governor.

(b) The members of the board shall elect a vice-chairman every two years. The board shall fill a vacancy in the office of vice-chairman for the remainder of the unexpired term.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.096. Board Meetings

(a) The board shall meet at least once each month on a day and at a place within the state selected by it, subject to recesses at the discretion of the board. The chairman or two board members may call a special meeting at any time by giving notice to the other members.

(b) The chairman or in his absence the vice-chairman shall preside at all meetings of the board.

(c) A majority of the members constitute a quorum to transact business.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.097. Compensation; Expenses

A member is entitled to receive an amount as provided in the General Appropriations Act for each day he serves in the performance of his duties, together with travel and other necessary expenses.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.098. Seal

The board shall have a seal bearing the words "Texas Water Development Board" encircling the oak and olive branches common to other official seals.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.099 to 5.130 reserved for expansion]

SUBCHAPTER E. GENERAL POWERS AND  
DUTIES OF THE BOARD

§ 5.131. Rules

(a) The board shall make any rules necessary to carry out the powers and duties under the provisions of this code and other laws of this state.

(b) The executive director and the commission may recommend to the board for its consideration any rules that they consider necessary.

(c) Rules shall be adopted in the manner provided in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.132. General Policy

The board, in the rules, shall establish and approve all general policy of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.133. Budget Approval

The board shall examine and approve all budget recommendations for the department that are to be transmitted to the legislature. The commission may provide as a supplement to those recommendations statements of particular concern to the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.134. Advisory Councils**

The board may create and consult with advisory councils, including councils for the environment, councils for public information, or any other councils which the board may consider appropriate.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.135. Appointment**

(a) The board shall appoint an executive director of the department to serve at the will of the board.

(b) The board shall exercise the powers of appointment which the Texas Water Rights Commission had the authority to exercise on August 30, 1977, except for those powers of appointment expressly provided to the Texas Water Rights Commission in Chapters 50 through 63 inclusive, of the Water Code, which are delegated to the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2184, ch. 834, § 1, eff. Aug. 27, 1979.]

[Sections 5.136 to 5.170 reserved for expansion]

**SUBCHAPTER F. EXECUTIVE DIRECTOR**

**§ 5.171. General Responsibilities of the Executive Director**

The executive director shall manage the administrative affairs of the department and shall exercise the executive functions of the department, including the execution of the rules, orders, and decisions of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.172. Administrative Organization of Department**

The executive director may organize and reorganize the administrative sections and divisions of the department in a manner and in a form that will achieve the greatest efficiency and effectiveness.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.173. Appearances at Hearings**

The position of and information developed by the department shall be presented by the executive director or his designated representative at hearings of the board and the commission and at hearings held by federal, state, and local agencies on matters affecting the public's interest in the state's water resources, including matters that have been determined to be policies of the state. The executive director shall be named a party in hearings before the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.174. Contracts**

(a) The executive director, on behalf of the department, may negotiate with and with the consent of the board enter into contracts with the United States or any of its agencies for the purpose of carrying out the powers, duties, and responsibilities of the department.

(b) The executive director, on behalf of the department, may negotiate with and with the consent of the board enter into contracts or other agreements with states and political subdivisions of this state or any other entity for the purpose of carrying out the powers, duties, and responsibilities of the department.

(c) The executive director, on behalf of the department, shall obtain the approval of the attorney general as to the legality of a resolution of the board authorizing state ownership in a project.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.175. Enforcement**

The executive director may enforce the terms and conditions of any permit, certified filing, certificate of adjudication, order, standard, or rule by injunction or other appropriate remedy in a court of competent jurisdiction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.176. Travel Expenses**

The executive director shall be entitled to receive actual and necessary travel expenses. Other employees of the department are entitled to receive travel expenses as provided in the General Appropriations Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.177. Employee Moving Expenses**

If provided by the legislative appropriation, the department may pay the costs of transporting and delivering the household goods and effects of employees transferred by the executive director from one permanent station to another when, in the judgment of the executive director, the transfer will serve in the best interest of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.178. Gifts and Grants**

The executive director may apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out the powers and duties under this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.179. Applications and Other Documents**

(a) An application, petition, or other document requiring action of the department shall be present-



SUBCHAPTER G. TEXAS WATER COMMISSION

§ 5.221. Creation of Commission

The Texas Water Commission is created as an agency of the state and shall exercise the judicial functions of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.2211. Application of Sunset Act

The Texas Water Commission is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the commission is abolished effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1849, ch. 735, § 2.119, eff. Aug. 29, 1977.]

<sup>1</sup>Civil Statutes, art. 5429k.

§ 5.222. Members of Commission; Appointment

(a) The commission is composed of three members who are appointed by the governor with the advice and consent of the senate.

(b) The governor shall make the appointments in such a manner that each member is from a different section of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.223. Officers of State; Oath

Each member of the commission is an officer of the state as that term is used in the constitution, and each member shall qualify by taking the official oath of office.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.224. Terms of Office

(a) The members of the commission hold office for staggered terms of six years, with the terms of one member expiring every two years. Each member holds office until his successor is appointed and has qualified.

(b) No person appointed to the commission may serve for more than two six-year terms.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.225. Full-Time Service

Each member of the commission shall serve on a full-time basis.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.226. Officers; Meetings

(a) The governor shall designate the chairman of the commission. He shall serve as chairman until the governor designates a different chairman.

(b) The chairman may designate another commissioner to act for him in his absence.

(c) The chairman shall preside at the meetings and hearings of the commission.

(d) The commission shall hold regular meetings and all hearings at times specified by a commission order and entered in its minutes. The commission may hold special meetings at the times and places in the state that the commission decides are appropriate for the performance of its duties. The chairman or acting chairman shall give the other members reasonable notice before holding a special meeting.

(e) A majority of the commission is a quorum. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.227. Chief Clerk

(a) The commission shall employ a chief clerk who shall assist the commission in carrying out its duties under this code.

(b) The chief clerk shall issue notice of public hearings held under the authority of the commission. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.228 to 5.260 reserved for expansion]

SUBCHAPTER H. GENERAL POWERS AND DUTIES OF THE COMMISSION

§ 5.261. Scope of Subchapter

The powers and duties enumerated in this subchapter are the general powers and duties of the commission and those incidental to the conduct of its business. The commission has other specific powers and duties as prescribed in other sections of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.262. Rules

(a) The commission shall adopt reasonable procedural rules to be followed in a commission hearing.

(b) Rules shall be adopted in the manner provided in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.263. Applications and Other Documents

Applications and other documents to be filed with the commission for final action under this code shall be filed with the executive director and handled in the manner provided in this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.264. Hearings; Recess, Etc.

The commission may recess any hearing or examination from time to time and from place to place.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.265. Power to Administer Oaths**

Each member of the commission, the chief clerk, or a hearing examiner may administer oaths in any hearing or examination on any matter submitted to the commission for action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.266. Seal**

The commission shall adopt an official seal.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.267. Commission to be Knowledgeable**

The commission shall be knowledgeable of the water courses of the state and of the needs of the state concerning the use, storage, and conservation of water and of the need to maintain the quality of water in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.268. Conservation and Quality of Water**

The commission shall administer the law so as to promote the judicious use and the maximum conservation and protection of quality of water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.269 to 5.310 reserved for expansion]

#### SUBCHAPTER I. OFFICE OF HEARING EXAMINERS

**§ 5.311. Creation of Office**

Within the commission there is created an office of hearing examiners to assist the commission in carrying out its powers and duties under this code. The office of hearing examiners is independent of the board, the executive director, and the divisions of the board and is under the exclusive control of the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.312. Organization of Office of Hearing Examiners**

(a) The office of hearing examiners shall be under the direction of the chief hearing examiner.

(b) The chief hearing examiner and all assistant hearing examiners employed in the office of hearing examiners shall be attorneys licensed to practice law in this state and shall be employed by the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.313. Delegation of Responsibility**

(a) The commission may delegate to a hearing examiner the responsibility to hear any matter before the commission.

<sup>1</sup> West's Tex.Stats. & Codes '81 Supp.—42

(b) A hearing examiner shall prepare for and hold any hearing as directed by the commission and shall report to the commission on the hearing in the manner provided by law.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.314 to 5.350 reserved for expansion]

#### SUBCHAPTER J. JUDICIAL REVIEW

**§ 5.351. Judicial Review of Department Acts**

(a) A person affected by a ruling, order, decision, or other act of the department may file a petition to review, set aside, modify, or suspend the act of the department.

(b) A person affected by a ruling, order, or decision of the department must file his petition within 30 days after the effective date of the ruling, order, or decision. A person affected by an act other than a ruling, order, or decision must file his petition within 30 days after the date the department performed the act.

(c) Orders, decisions, or other actions of the board pursuant to Subchapters E and F of Chapter 16<sup>1</sup> and Chapter 17 of this code are not subject to appeal.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> Sections 16.131 et seq., 16.181 et seq.

**§ 5.352. Remedy for Executive Director, Commission, or Board Inaction**

A person affected by the failure of the executive director, commission, or board to act in a reasonable time on an application to appropriate water or to perform any other duty with reasonable promptness may file a petition to compel the executive director, commission, or board to show cause why it should not be directed by the court to take immediate action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.353. Diligent Prosecution of Suit**

The plaintiff shall prosecute with reasonable diligence any suit brought under Section 5.351 or 5.352 of this code. If the plaintiff does not secure proper service of process or does not prosecute his suit within one year after it is filed, the court shall presume that the suit has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff after receiving due notice can show good and sufficient cause for the delay.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.354. Venue**

A suit instituted under Section 5.351 or 5.352 of this code must be brought in the district court of Travis County.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.355. Appeal of District Court Judgment**

A judgment or order of a district court in a suit brought for or against the department is appealable as are other civil cases in which the district court has original jurisdiction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.356. Appeal by Executive Precluded**

No ruling, order, decision, or other act of the board or the commission may be appealed by the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 5.357. Law Suits; Citation**

Law suits filed by and against the board, commission, or executive director shall be in the name of the department. In suits against the department, board, commission, or executive director, citation may be served on the executive director or deputy director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Chapters 6 to 10 reserved for expansion]

**SUBTITLE B. WATER RIGHTS**

**CHAPTER 11. WATER RIGHTS**

**SUBCHAPTER A. GENERAL PROVISIONS**

- |         |   |
|---------|---|
| Section |   |
| 11.001. | Vested Rights Not Affected.                               |
| 11.002. | Definitions.  |
| 11.003. | Streams That Form Boundaries Included.                    |
| 11.004. | Department to Receive Certified Copies of Judgments, Etc. |
| 11.005. | Applicability to Works Under Federal Reclamation Act.     |

**SUBCHAPTER B. RIGHTS IN STATE WATER**

- |         |  |
|---------|--|
| 11.021. | State Water.                                   |
| 11.022. | Acquisition of Right to Use State Water.       |
| 11.023. | Purposes for Which Water May Be Appropriated.  |
| 11.024. | Appropriation: Preferences.                    |
| 11.025. | Scope of Appropriative Right.                  |
| 11.026. | Perfection of an Appropriation.                |
| 11.027. | Rights Between Appropriators.                  |
| 11.028. | Exception.                                     |
| 11.029. | Title to Appropriation by Limitation.          |
| 11.030. | Forfeiture of Appropriation.                   |
| 11.031. | Annual Report.                                 |
| 11.032. | Records.                                       |
| 11.033. | Eminent Domain.                                |
| 11.034. | Reservoir Site: Land and Rights-of-Way.        |
| 11.035. | Condemnation of Private Property.              |
| 11.036. | Conserved or Stored Water: Supply Contract.    |
| 11.037. | Water Suppliers: Rules and Regulations.        |
| 11.038. | Rights of Owners of Land Adjoining Canal, Etc. |
| 11.039. | Distribution of Water During Shortage.         |
| 11.040. | Permanent Water Right.                         |
| 11.041. | Denial of Water: Complaint.                    |
| 11.042. | Delivering Water Down Banks and Beds.          |
| 11.043. | Recordation of Conveyance of Irrigation Work.  |
| 11.044. | Roads and Highways.                            |
| 11.045. | Ditches and Canals.                            |
| 11.046. | Return Unused Water.                           |
| 11.047. | Failure to Fence.                              |
| 11.048. | Cost of Maintaining Irrigation Ditch.          |

- |         |   |
|---------|---|
| Section |   |
| 11.049. | Examination and Survey.                       |
| 11.050. | Tidewater Gates, Etc.                         |
| 11.051. | Irrigation: Lien on Crops.                    |
| 11.052. | Activities Under the Federal Reclamation Act. |

**SUBCHAPTER C. UNLAWFUL USE, DIVERSION, WASTE, ETC.**

- |          |   |
|----------|---|
| 11.081.  | Unlawful Use of State Water.                          |
| 11.082.  | Unlawful Use: Civil Penalty.                          |
| 11.083.  | Other Unlawful Taking.                                |
| 11.084.  | Sale of Permanent Water Right Without a Permit.       |
| 11.085.  | Interwatershed Transfers.                             |
| 11.086.  | Overflow Caused by Diversion of Water.                |
| 11.087.  | Diversion of Water on International Stream.           |
| 11.0871. | Temporary Diversion of Water on International Stream. |
| 11.088.  | Destruction of Waterworks.                            |
| 11.089.  | Johnson Grass or Russian Thistle.                     |
| 11.090.  | Polluting and Littering.                              |
| 11.091.  | Interference With Delivery of Water Under Contract.   |
| 11.092.  | Wasteful Use of Water.                                |
| 11.093.  | Abatement of Waste as Public Nuisance.                |
| 11.094.  | Penalty for Use of Works Declared Public Nuisance.    |
| 11.095.  | Penalty for Waste.                                    |
| 11.096.  | Obstruction of Navigable Streams.                     |

**SUBCHAPTER D. PERMITS TO USE STATE WATER**

- |         |  |
|---------|--|
| 11.121. | Permit Required.   |
| 11.122. | Amendments to Water Rights Required.                     |
| 11.123. | Permit Preferences.                                      |
| 11.124. | Application for Permit.                                  |
| 11.125. | Map or Plat.   |
| 11.126. | Department Requirements.                                 |
| 11.127. | Additional Requirements: Drainage Plans.                 |
| 11.128. | Payment of Fee.  |
| 11.129. | Review of Application; Amendment.                        |
| 11.130. | Recording Applications.                                  |
| 11.131. | Examination and Denial of Application Without Hearing.   |
| 11.132. | Notice of Hearing.                                       |
| 11.133. | Hearing.   |
| 11.134. | Action on Application.                                   |
| 11.135. | Issuance of Permit.                                      |
| 11.136. | Recording of Permit.                                     |
| 11.137. | Seasonal Permits.  |
| 11.138. | Temporary Permits.                                       |
| 11.139. | Emergency Permits.                                       |
| 11.140. | Permits for Storage for Project Development.             |
| 11.141. | Date of Priority.  |
| 11.142. | Domestic and Livestock Reservoir—Permit Exemption.       |
| 11.143. | Domestic and Livestock Reservoir—Use for Other Purposes. |
| 11.144. | Approval for Alterations.                                |
| 11.145. | When Construction Must Begin.                            |
| 11.146. | Forfeitures and Cancellation of Permit for Inaction.     |
| 11.147. | Effects of Permit on Bays and Estuaries.                 |

**SUBCHAPTER E. CANCELLATION OF PERMITS, CERTIFIED FILINGS, AND CERTIFICATES OF ADJUDICATION FOR NONUSE**

- |         |   |
|---------|---|
| 11.171. | Definitions.                                |
| 11.172. | General Principle.                          |
| 11.173. | Cancellation in Whole.                      |
| 11.174. | Department to Initiate Proceedings.         |
| 11.175. | Notice.                                     |
| 11.176. | Hearing.                                    |
| 11.177. | Commission Finding; Action.                 |
| 11.178. | Cancellation in Part.                       |
| 11.179. | Department May Initiate Proceedings.        |
| 11.180. | Notice.                                     |
| 11.181. | Hearing.                                    |
| 11.182. | Commission Finding; Action.                 |
| 11.183. | Reservoir.                                  |
| 11.184. | Municipal Certified Filing.                 |
| 11.185. | Effect of Inaction.                         |
| 11.186. | Subsequent Proceedings on Same Water Right. |

## SUBCHAPTER F. ARTESIAN WELLS

Section	
11.201.	Artesian Well Defined.
11.202.	Right to Drill Artesian Well.
11.203.	Artesian Well: Drilling Record.
11.204.	Report of New Artesian Well.
11.205.	Wasting Water From Artesian Well.
11.206.	Improperly Cased Well: Nuisance.
11.207.	Annual Report.

## SUBCHAPTER G. WATER RIGHTS ADJUDICATION ACT

11.301.	Short Title.
11.302.	Declaration of Policy.
11.303.	Recordation and Limitation of Certain Water Rights Claims.
11.304.	Adjudication of Water Rights.
11.305.	Investigation.
11.306.	Notice of Adjudication.
11.307.	Filing of Sworn Claims.
11.308.	Hearings on Claims; Notice.
11.309.	Preliminary Determination of Claims.
11.310.	Evidence Open to Inspection.
11.311.	Date for Filing Contests.
11.312.	Notice of Preliminary Determination; Copies.
11.313.	Filing Contests.
11.314.	Hearing on Contest; Notice.
11.315.	Final Determination.
11.316.	Application for Rehearing.
11.317.	Filing Final Determination With District Court.
11.318.	Exceptions to Final Determination.
11.319.	Hearings on Exceptions.
11.320.	Scope of Judicial Review.
11.321.	Evidence.
11.322.	Final Decree.
11.323.	Certificate of Adjudication.
11.324.	Recordation of Certificate.
11.325.	Water Divisions.
11.326.	Appointment of Watermaster.
11.327.	Duties of Watermaster.
11.328.	Watermaster's Notice Posted.
11.329.	Compensation and Expenses of Watermaster.
11.330.	Outlet for Free Passage of Water.
11.331.	Measuring Devices.
11.332.	Installation of Flumes.
11.333.	Failure to Comply With Board Rules.
11.334.	Suit Against Department for Injury.
11.335.	Administration of Water Rights Not Adjudicated.
11.336.	Administration of Permits Issued After Adjudication.
11.337.	Hearings: Notice and Procedure.
11.338.	Cancellation of Water Rights.
11.339.	Underground Water Not Affected.
11.340.	Abatement of Certain Civil Suits.
11.341.	Limitation on Actions.

## SUBCHAPTER H. COURT-APPOINTED WATERMASTER

11.401.	Scope of Subchapter.
11.402.	Appointment and Authority of Watermaster.
11.403.	Compensation of Watermaster.
11.404.	Expenses and Assessment of Costs of Watermaster.
11.405.	Failure to Pay Assessed Costs.
11.406.	Judicial Custody of Water During Appeal.
11.407.	Allocation and Distribution of Water During Appeal.
11.408.	Retention of Watermaster During Appeal.
11.409.	Violations of Court Orders.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

## SUBCHAPTER A. GENERAL PROVISIONS

## § 11.001. Vested Rights Not Affected

(a) Nothing in this code affects vested private rights to the use of water, except to the extent that provisions of Subchapter G of this chapter might affect these rights.

(b) This code does not recognize any riparian right in the owner of any land the title to which passed out of the State of Texas after July 1, 1895. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 11.002. Definitions

In this chapter and in Chapter 12 of this code:

(1) "Commission" means the Texas Water Commission.

(2) "Board" means the Texas Water Development Board.

(3) "Executive director" means the executive director of the Texas Department of Water Resources.

(4) "Department" means the Texas Department of Water Resources.

(5) "Beneficial use" means use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose.

(6) "Water right" means a right acquired under the laws of this state to impound, divert, or use state water.

(7) "Appropriator" means a person who has made beneficial use of any water in a lawful manner under the provisions of any act of the legislature before the enactment of Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended, and who has filed with the State Board of Water Engineers a record of his appropriation as required by the 1913 Act, as amended, or a person who makes or has made beneficial use of any water within the limitations of a permit lawfully issued by the commission or one of its predecessors.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 11.003. Streams That Form Boundaries Included

This chapter applies to all streams or other sources of water supply lying upon or forming a part of the boundaries of this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 11.004. Department to Receive Certified Copies of Judgments, Etc.

When any court of record renders a judgment, decree, or order affecting the title to any water right, claim, appropriation, or irrigation facility or

affecting any matter over which the department is given supervision by law, the clerk of the court shall immediately transmit to the department a certified copy of the judgment, decree, or order.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.005. Applicability to Works Under Federal Reclamation Act**

This chapter applies to the construction, maintenance, and operation of irrigation works constructed in this state under the federal reclamation act, as amended (43 U.S.C. Sec. 371 et seq.), to the extent that this chapter is not inconsistent with the federal act or the regulations made under that act by the secretary of the interior.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.006 to 11.020 reserved for expansion]

SUBCHAPTER B. RIGHTS IN STATE WATER

**§ 11.021. State Water**

(a) The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state is the property of the state.

(b) Water imported from any source outside the boundaries of the state for use in the state and which is transported through the beds and banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state is the property of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.022. Acquisition of Right to Use State Water**

The right to the use of state water may be acquired by appropriation in the manner and for the purposes provided in this chapter. When the right to use state water is lawfully acquired, it may be taken or diverted from its natural channel.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.023. Purposes for Which Water May be Appropriated**

(a) State water may be appropriated, stored, or diverted for:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

(3) irrigation;

(4) mining and recovery of minerals;

(5) hydroelectric power;

(6) navigation;

(7) recreation and pleasure;

(8) stock raising;

(9) public parks; and

(10) game preserves.

(b) State water also may be appropriated, stored, or diverted for any other beneficial use.

(c) Unappropriated storm water and floodwater may be appropriated to recharge underground fresh-water bearing sands and aquifers in the portion of the Edwards underground reservoir located within Kinney, Uvalde, Medina, Bexar, Comal, and Hays counties if it can be established by expert testimony that an unreasonable loss of state water will not occur and that the water can be withdrawn at a later time for application to a beneficial use. The normal or ordinary flow of a stream or watercourse may never be appropriated, diverted, or used by a permittee for this recharge purpose.

(d) When it is put or allowed to sink into the ground, water appropriated under Subsection (c) of this section loses its character and classification as storm water or floodwater and is considered percolating groundwater.

(e) The amount of water appropriated for each purpose mentioned in this section shall be specifically appropriated for that purpose, subject to the preferences prescribed in Section 11.024 of this code.

(f) The water of any arm, inlet, or bay of the Gulf of Mexico may be changed from salt water to sweet or fresh water and held or stored by dams, dikes, or other structures and may be taken or diverted for any purpose authorized by this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 5.023 by Acts 1977, 65th Leg., p. 249, ch. 116, § 1.

**§ 11.024. Appropriation: Preferences**

In order to conserve and properly utilize state water, the public welfare requires not only recognition of beneficial uses but also a constructive public policy regarding the preferences between these uses, and it is therefore declared to be the public policy of this state that in appropriating state water preference shall be given to the following uses in the order named:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

(3) irrigation;

- (4) mining and recovery of minerals;
- (5) hydroelectric power;
- (6) navigation;
- (7) recreation and pleasure; and
- (8) other beneficial uses.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.025. Scope of Appropriative Right

A right to use state water under a permit or a certified filing is limited not only to the amount specifically appropriated but also to the amount which is being or can be beneficially used for the purposes specified in the appropriation, and all water not so used is considered not appropriated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.026. Perfection of an Appropriation

No right to appropriate water is perfected unless the water has been beneficially used for a purpose stated in the original declaration of intention to appropriate water or stated in a permit issued by the commission or one of its predecessors.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.027. Rights Between Appropriators

As between appropriators, the first in time is the first in right.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.028. Exception

Any appropriation made after May 17, 1931, for any purpose other than domestic or municipal use is subject to the right of any city or town to make further appropriations of the water for domestic or municipal use without paying for the water. However, this section does not apply to any stream which constitutes or defines the international boundary between the United States of America and the Republic of Mexico.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.029. Title to Appropriation by Limitation

When an appropriator from a source of water supply has used water under the terms of a certified filing or a permit for a period of three years, he acquires title to his appropriation by limitation against any other claimant of water from the same source of water supply and against any riparian owner on the same source of water supply.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.030. Forfeiture of Appropriation

If any lawful appropriation or use of state water is wilfully abandoned during any three successive

years, the right to use the water is forfeited and the water is again subject to appropriation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.031. Annual Report

(a) Not later than March 1 of every year, every person who takes water during the preceding calendar year from a stream or reservoir shall submit a written report to the department on a form prescribed by the department. The report shall contain all information required by the department to aid in administering the water law and in making inventory of the state's water resources. However, with the exception of public utilities and political subdivisions which furnish water for municipal uses, no report is required of persons who take water solely for domestic or livestock purposes.

(b) A person who fails to file an annual report with the department as required by this section is liable to a penalty of \$25, plus \$1 per day for each day he fails to file the statement after March 1. However, the maximum penalty under this section is \$150. The state may sue to recover the penalty.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.032. Records

(a) A person who owns and operates a system of waterworks used for a purpose authorized by this code shall keep a detailed record of daily operations so that the quantity of water taken or diverted each calendar year can be determined.

(b) If the water is used for irrigation, the record must show the number of acres irrigated, the character of the crops grown, and the yield per acre. No survey is required to determine the exact number of acres irrigated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.033. Eminent Domain

The right to take water necessary for domestic and municipal supply purposes is primary and fundamental, and the right to recover from other uses water which is essential to domestic and municipal supply purposes is paramount and unquestioned in the policy of the state. All political subdivisions of the state and constitutional governmental agencies exercising delegated legislative powers have the power of eminent domain to be exercised as provided by law for domestic, municipal, and manufacturing uses and for other purposes authorized by this code, including the irrigation of land for all requirements of agricultural employment.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.034. Reservoir Site: Land and Rights-of-Way

An appropriator who is authorized to construct a dam or reservoir is granted the right-of-way, not to

exceed 100 feet wide, and the necessary area for the site, over any public school land, university land, or asylum land of this state and the use of the rock, gravel, and timber on the site and right-of-way for construction purposes, after paying compensation as determined by the commission. An appropriator may acquire the reservoir site and rights-of-way over private land by contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.035. Condemnation of Private Property**

(a) An appropriator may obtain rights-of-way over private land and may obtain the land necessary for pumping plants, intakes, headgates, and storage reservoirs by condemnation.

(b) The party obtaining private property by condemnation shall cause damages to be assessed and paid for as provided by the statutes of this state relating to eminent domain.

(c) If the party exercising the power granted by this section is not a corporation, district, city, or town, he shall apply to the department for the condemnation.

(d) The executive director shall have the proposed condemnation investigated. After the investigation, the commission may give notice to the party owning the land proposed to be condemned and hold a hearing on the proposed condemnation.

(e) If after a hearing the commission determines that the condemnation is necessary, the executive director may institute condemnation proceedings in the name of the State of Texas for the use and benefit of the party who applied for the condemnation and all others similarly situated.

(f) The parties at whose instance a condemnation suit is instituted shall pay the costs of the suit and condemnation in proportion to the benefits received by each party as fixed by the commission. Before using any of the condemned rights or property, a party receiving the rights or property shall pay the amount of costs fixed by the commission.

(g) If, after the costs of the condemnation proceedings have been paid, a party seeks to take the benefits of the condemnation proceedings, he shall apply to the department for the benefits. The commission may grant the application and fix the fees and charges to be paid by the applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.036. Conserved or Stored Water: Supply Contract**

(a) A person, association of persons, corporation, or water improvement or irrigation district having in possession and control any storm water, floodwater, or rainwater that is conserved or stored as authorized by this chapter may contract to supply the water to any person, association of persons, corporation, or water improvement or irrigation district having the right to acquire use of the water.

(b) The price and terms of the contract shall be just and reasonable and without discrimination, and the contract is subject to the same revision and control as provided in this code for other water rates and charges. If any person uses the stored or conserved water without first entering into a contract with the party that conserved or stored it, the user shall pay for the use at a rate determined by the commission to be just and reasonable, subject to court review as in other cases.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.037. Water Suppliers: Rules and Regulations**

Every person, association of persons, corporation, or irrigation district conserving or supplying water for any of the purposes authorized by this chapter shall make and publish reasonable rules and regulations relating to:

- (1) the method of supply;
- (2) the use and distribution of the water; and
- (3) the procedure for applying for the water and paying for it.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.038. Rights of Owners of Land Adjoining Canal, Etc.**

(a) A person who owns or holds a possessory interest in land adjoining or contiguous to a canal, ditch, flume, lateral, dam, reservoir, or lake constructed and maintained under the provisions of this chapter and who has secured a right to the use of water in the canal, ditch, flume, lateral, dam, reservoir, or lake is entitled to be supplied from the canal, ditch, flume, lateral, dam, reservoir, or lake with water for irrigation of the land and for mining, milling, manufacturing, development of power, and stock raising, in accordance with the terms of his contract.

(b) If the person, association of persons, or corporation owning or controlling the water and the person who owns or holds a possessory interest in the adjoining land cannot agree on a price for a permanent water right or for the use of enough water for irrigation of the person's land or for mining, milling, manufacturing, development of power, or stock raising, then the party owning or controlling the water, if he has any water not contracted to others, shall furnish the water necessary for these purposes at reasonable and nondiscriminatory prices.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.039. Distribution of Water During Shortage**

(a) If a shortage of water in a water supply results from drouth, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

(b) Nothing in Subsection (a) of this section precludes the person, association of persons, or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.040. Permanent Water Right

(a) A permanent water right is an easement and passes with the title to land.

(b) A written instrument conveying a permanent water right may be recorded in the same manner as any other instrument relating to a conveyance of land.

(c) The owner of a permanent water right is entitled to use water according to the terms of his contract. If there is no contract, the owner is entitled to use water at a just, reasonable, and nondiscriminatory price.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.041. Denial of Water: Complaint

(a) Any person entitled to receive or use water from any canal, ditch, flume, lateral, dam, reservoir, or lake or from any conserved or stored supply may present to the department a written petition showing:

(1) that he is entitled to receive or use the water;

(2) that he is willing and able to pay a just and reasonable price for the water;

(3) that the party owning or controlling the water supply has water not contracted to others and available for the petitioner's use; and

(4) that the party owning or controlling the water supply fails or refuses to supply the available water to the petitioner, or that the price or rental demanded for the available water is not reasonable and just or is discriminatory.

(b) If the petition is accompanied by a deposit of \$25, the executive director shall have a preliminary investigation of the complaint made and determine whether or not there are probable grounds for the complaint.

(c) If, after preliminary investigation, the executive director determines that probable grounds exist for the complaint, the commission shall enter an order setting a time and place for a hearing on the petition.

(d) The commission may require the complainant to make an additional deposit or execute a bond satisfactory to the commission in an amount fixed by the commission conditioned on the payment of all costs of the proceeding.

(e) At least 20 days before the date set for the hearing, the commission shall transmit by registered mail a certified copy of the petition and a certified

copy of the hearing order to the person against whom the complaint is made.

(f) The commission shall hold a hearing on the complaint at the time and place stated in the order. It may hear evidence orally or by affidavit in support of or against the complaint, and it may hear arguments. On completion of the hearing, the commission shall render a written decision.

(g) If, after the preliminary investigation, the executive director determines that no probable grounds exist for the complaint, the executive director shall dismiss the complaint. The department may either return the deposit or pay it into the State Treasury.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.042. Delivering Water Down Banks and Beds

Under rules prescribed by the board, a person, association of persons, corporation, or water improvement or irrigation district supplying stored or conserved water under contract as provided in this chapter may use the bank and bed of any flowing natural stream in the state to convey the water from the place of storage to the place of use or to the diversion plant of the appropriator. The board shall prescribe rules for this purpose.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.043. Recordation of Conveyance of Irrigation Work

(a) A conveyance of a ditch, canal, or reservoir or other irrigation work or an interest in such an irrigation work must be executed and acknowledged in the same manner as a conveyance of real estate. Such a conveyance must be recorded in the deed records of the county in which the ditch, canal, or reservoir is located.

(b) If a conveyance of property covered by Subsection (a) of this section is not made in the prescribed manner, it is null and void against subsequent purchasers in good faith and for valuable consideration.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.044. Roads and Highways

(a) An appropriator has the right to construct ditches, canals, or pipelines along or across all roads and highways necessary for the construction of waterworks. Bridges, culverts, or siphons shall be constructed at all road and highway crossings as necessary to prevent any impairment of the uses of the road or highway. Approval of the construction plans and specifications shall be obtained from the owner of the road or highway prior to the installation of conveyance facilities.

(b) If any public road, highway, or public bridge is located on the ground necessary for a damsite, reservoir, or lake, the commissioners court shall change the road and remove the bridge so that it does not

interfere with the construction of the proposed dam, reservoir, or lake. The party desiring to construct the dam, reservoir, or lake shall pay the expense of moving the bridge or roadway.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 939, ch. 353, § 1, eff. Aug. 31, 1981.]

Acts 1981, 67th Leg., p. 939, ch. 353, § 1, purported to amend § 5.044 which became § 11.044 in the revision of Title 2 by Acts 1977, 65th Leg., p. 2207, ch. 870. The text set out above incorporates the 1981 amendment.

**§ 11.045. Ditches and Canals**

An appropriator is entitled to construct ditches and canals along or across any stream of water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.046. Return Unused Water**

A person who takes or diverts water from a running stream for the purposes authorized by this code shall conduct surplus water back to the stream from which it was taken if the water can be returned by gravity flow and it is reasonably practicable to do so.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.047. Failure to Fence**

If a person, association of persons, corporation, or water improvement or irrigation district that owns or controls a ditch, canal, reservoir, dam, or lake does not keep it securely fenced, there is no cause of action against the owner of livestock that trespass.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.048. Cost of Maintaining Irrigation Ditch**

(a) If an irrigation ditch is owned or used by two or more persons, mutual or cooperative companies, or corporations, each party who has an interest in the ditch shall pay his proportionate share of the cost of operating and maintaining the ditch.

(b) If a person who owns a joint interest in a ditch refuses to do or to pay for his proportionate share of the work that is reasonably necessary for the proper maintenance and operation of the ditch, the other owners may, after giving him 10 days written notice, proceed themselves to do his share of the necessary work and recover from him the reasonable expense or value of the work or labor performed. The action for the cost of the work may be brought in any court having jurisdiction over the amount in controversy.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.049. Examination and Survey**

A person may make any necessary examination and survey in order to select the most advantageous sites for a reservoir and rights-of-way to be used for any of the purposes authorized by this chapter, and for this purpose a person may enter the land or water of any other person.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.050. Tidewater Gates, Etc.**

(a) An appropriator authorized to take water for irrigation, subject to the laws of the United States and the regulations made under its authority, may construct gates or breakwaters, dams, or dikes with gates, in waters wholly in this state, as necessary to prevent pollution of the fresh water of any river, bayou, or stream due to the ebb and flow of the tides of the Gulf of Mexico.

(b) The work shall be done in such a manner that navigation of vessels on the stream is not obstructed, and where any gate is used, the appropriator shall at all times keep a competent person at the gate to allow free navigation.

(c) A dam, dike, or breakwater constructed under this section may not be placed at any point except where Gulf tides ebb and flow and may not be constructed so as to obstruct the flow of fresh water to any appropriator or riparian owner downstream.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.051. Irrigation: Lien on Crops**

(a) A person who constructs a ditch, canal, dam, lake, or reservoir for the purpose of irrigation and who leases, rents, furnishes, or supplies water to any person for irrigation, with or without a contract, has a preference lien superior to every other lien on the irrigated crops. However, when any irrigation district or conservation and reclamation district obtains a water supply under contract with the United States, the board of directors of the district, by resolution entered in its minutes, with the consent of the secretary of the interior, may waive the preference lien in whole or in part.

(b) To enforce the lien, the lienholder has all the rights and remedies prescribed by Articles 5222 through 5239, Revised Civil Statutes of Texas, 1925.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.052. Activities Under the Federal Reclamation Act**

The Secretary of the Interior of the United States is authorized to conduct any activities in this state necessary to perform his duties under the federal reclamation act, as amended (43 U.S.C. Section 371 et seq.).

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.053 to 11.080 reserved for expansion]

**SUBCHAPTER C. UNLAWFUL USE,  
DIVERSION, WASTE, ETC.**

**§ 11.081. Unlawful Use of State Water**

(a) No person may wilfully take, divert, or appropriate any state water for any purpose without first complying with all applicable requirements of this chapter.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.

(c) A person commits a separate offense each day he continues to take, divert, or appropriate water in violation of this section.

(d) Possession of state water when the right to its use has not been acquired according to the provisions of this chapter is prima facie evidence of a violation of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.082. Unlawful Use: Civil Penalty

(a) A person who wilfully takes, diverts, or appropriates state water without complying with the applicable requirements of this chapter is also liable to a civil penalty of not more than \$1,000 for each day he continues the taking, diversion, or appropriation.

(b) The state may recover the penalties prescribed in Subsection (a) of this section by suit brought for that purpose in a court of competent jurisdiction.

(c) An action to collect the penalty provided in this section must be brought within two years from the date of the alleged violation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

#### § 11.083. Other Unlawful Taking

(a) No person may wilfully open, close, change, or interfere with any headgate or water box without lawful authority.

(b) No person may wilfully use water or conduct water through his ditch or upon his land unless he is entitled to do so.

(c) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than six months.

(d) The possession or use of water on his land by a person not entitled to the water by the provisions of this code is prima facie evidence of a violation of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.084. Sale of Permanent Water Right Without a Permit

(a) No person may sell or offer to sell a permanent water right unless he has perfected a right to appropriate state water by a certified filing, or unless he has obtained a permit from the commission, authorizing the use of the water for the purposes for which the permanent water right is conveyed.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.085. Interwatershed Transfers

(a) No person may take or divert any of the water of the ordinary flow, underflow, or storm flow of any stream, watercourse, or watershed in this state into any other natural stream, watercourse, or watershed to the prejudice of any person or property situated within the watershed from which the water is proposed to be taken or diverted.

(b) No person may transfer water from one watershed to another without first applying for and receiving a permit from the commission to do so. Before issuing such a permit, the commission shall hold a hearing to determine the rights that might be affected by the transfer. The commission shall give notice and hold the hearing in the manner prescribed by its procedural rules.

(c) A person who takes or diverts water in violation of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$500 or by confinement in the county jail for not more than six months.

(d) A person commits a separate offense each day he continues to take or divert water in violation of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.086. Overflow Caused by Diversion of Water

(a) No person may divert or impound the natural flow of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded.

(b) A person whose property is injured by an overflow of water caused by an unlawful diversion or impounding has remedies at law and in equity and may recover damages occasioned by the overflow.

(c) The prohibition of Subsection (a) of this section does not in any way affect the construction and maintenance of levees and other improvements to control floods, overflows, and freshets in rivers, creeks, and streams or the construction of canals for conveying water for irrigation or other purposes authorized by this code. However, this subsection does not authorize any person to construct a canal, lateral canal, or ditch that obstructs a river, creek, bayou, gully, slough, ditch, or other well-defined natural drainage.

(d) Where gullies or sloughs have cut away or intersected the banks of a river or creek to allow floodwaters from the river or creek to overflow the land nearby, the owner of the flooded land may fill

the mouth of the gullies or sloughs up to the height of the adjoining banks of the river or creek without liability to other property owners.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.087. Diversion of Water on International Stream**

(a) When storm water or floodwater is released from a dam or reservoir on an international stream and the water is designated for use or storage downstream by a specified user who is legally entitled to receive it, no other person may store, divert, appropriate, or use the water or interfere with its passage downstream.

(b) The board may make and enforce rules and orders to implement the provisions of this section, including rules and orders designed to:

(1) establish an orderly system for water releases and diversions in order to protect vested rights and to avoid the loss of released water;

(2) prescribe the time that releases of water may begin and end;

(3) determine the proportionate quantities of the released water in transit and the water that would have been flowing in the stream without the addition of the released water;

(4) require each owner or operator of a dam or reservoir on the stream between the point of release and the point of destination to allow free passage of the released water in transit; and

(5) establish other requirements the board considers necessary to effectuate the purposes of this section.

(c) Orders made by the commission to effectuate the board's regulations under this section need not be published, but the commission shall transmit a copy of every such order by certified mail to each diverter of water and to each reservoir owner on the stream between the point of release and the point of destination of the released water as shown by the records of the department.

(d) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both. A person commits a separate offense each day he continues to violate this section. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.0871. Temporary Diversion of Water on International Stream**

(a) The commission may authorize, under conditions stated in an order, a watermaster to provide for the temporary diversion and use by holders of water rights of storm water or floodwater that spills from dams and reservoirs on an international stream and otherwise would flow into the Gulf of Mexico without opportunity for beneficial use.

(b) In an order made by the commission under this section, the commission may not discriminate between holders of water rights from an international stream except to the extent necessary to protect the holders of water rights from the same source of supply.

(c) The commission shall give notice by mail to holders of water rights from an international stream and shall hold an evidentiary hearing before entry of an order under this section.

[Added by Acts 1981, 67th Leg., p. 293, ch. 117, § 1, eff. May 13, 1981.]

**§ 11.088. Destruction of Waterworks**

(a) No person may wilfully cut, dig, break down, destroy, or injure or open a gate, bank, embankment, or side of any ditch, canal, reservoir, flume, tunnel or feeder, pump or machinery, building, structure, or other work which is the property of another, or in which another owns an interest, or which is lawfully possessed or being used by another, and which is used for irrigation, milling, mining, manufacturing, the development of power, domestic purposes, or stock raising, with intent to:

(1) maliciously injure a person, association, corporation, water improvement or irrigation district;

(2) gain advantage for himself; or

(3) take or steal water or cause water to run out or waste out of the ditch, canal, or reservoir, feeder, or flume for his own advantage or to the injury of a person lawfully entitled to the use of the water or the use or management of the ditch, canal, tunnel, reservoir, feeder, flume, machine, structure, or other irrigation work.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than two years or by both. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.089. Johnson Grass or Russian Thistle**

(a) No person who owns, leases, or operates a ditch, canal, or reservoir or who cultivates land abutting a reservoir, ditch, flume, canal, wasteway, or lateral may permit Johnson grass or Russian thistle to go to seed on the waterway within 10 feet of the high-water line if the waterway crosses or lies on the land owned or controlled by him.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$500 or by confinement in the county jail for not less than 30 days nor more than six months or by both.

(c) The provisions of this section are not applicable in Tom Green, Sterling, Irion, Schleicher, McCulloch, Brewster, Menard, Maverick, Kinney, Val Verde, and San Saba counties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.090. Polluting and Littering**

(a) No person may deposit in any canal, lateral, reservoir, or lake, used for a purpose named in this chapter, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, bailing or barbed wire, earth, offal, or refuse of any character or any other article which might pollute the water or obstruct the flow of a canal or similar structure.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$100 or by confinement in the county jail for not more than six months or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.091. Interference With Delivery of Water Under Contract**

(a) No person may wilfully take, divert, appropriate, or interfere with the delivery of conserved or stored water under Section 11.042 of this code.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.

(c) A person commits a separate offense each day he continues to violate this section.

(d) On the petition of any interested party, the district court of any county through which the water may pass shall enjoin any actual or threatened act prohibited by this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.092. Wasteful Use of Water**

A person who owns or has a possessory right to land contiguous to a canal or irrigation system and who acquires the right by contract to use the water from it commits waste if he:

(1) permits the excessive or wasteful use of water by any of his agents or employees; or

(2) permits the water to be applied to anything but a beneficial use.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.093. Abatement of Waste as Public Nuisance**

(a) A person who permits an unreasonable loss of water through faulty design or negligent operation of any waterworks using water for a purpose named in this chapter commits waste, and the commission may declare the works causing the waste to be a public nuisance. The commission may take the necessary action to abate the nuisance. Also, any person who may be injured by the waste may sue in the district court having jurisdiction over the works causing the waste to have the operation of the works abated as a public nuisance.

(b) In case of a wasteful use of water defined by Section 11.092 of this code, the commission shall declare the use to be a public nuisance and shall act to abate the nuisance by directing the person supplying the water to close the water gates of the person wasting the water and to keep them closed until the commission determines that the unlawful use of water is corrected.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.094. Penalty for Use of Works Declared Public Nuisance**

(a) No person may operate or attempt to operate any waterworks or irrigation system or use any water under contract with any waterworks or irrigation system that has been previously declared to be a public nuisance.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,000 or by confinement in the county jail for not more than one year or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.095. Penalty for Waste**

A person who wilfully or knowingly commits waste as provided in Section 11.092 or 11.093(a) of this code is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.096. Obstruction of Navigable Streams**

(a) No person may obstruct the navigation of any stream which can be navigated by steamboats, keelboats, or flatboats by cutting and felling trees or by building on or across the stream any dike, milldam, bridge, or other obstruction.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$500.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.097 to 11.120 reserved for expansion]

SUBCHAPTER D. PERMITS TO USE  
STATE WATER

**§ 11.121. Permit Required**

Except as provided in Section 11.142 of this code, no person may appropriate any state water or begin construction of any work designed for the storage, taking, or diversion of water without first obtaining a permit from the commission to make the appropriation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.122. Amendments to Water Rights Required**

(a) All holders of permits, certified filings, and certificates of adjudication issued under Section 11.323 of this code shall obtain from the commission authority to change the place of use, purpose of use, point of diversion, rate of diversion, acreage to be irrigated, or otherwise alter a water right.

(b) The board shall adopt rules to effectuate the provisions of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.123. Permit Preferences**

The commission shall give preference to applications in the order declared in Section 11.024 of this code and to applications which will effectuate the maximum utilization of water and are calculated to prevent the escape of water without contribution to a beneficial public service.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.124. Application for Permit**

(a) An application to appropriate unappropriated state water must:

- (1) be in writing and sworn to;
- (2) contain the name and post-office address of the applicant;
- (3) identify the source of water supply;
- (4) state the nature and purposes of the proposed use and the amount of water to be used for each purpose;
- (5) state the location and describe the proposed facilities;
- (6) state the time within which the proposed construction is to begin; and
- (7) state the time required for the application of water to the proposed use.

(b) If the proposed use is irrigation, the application must also contain:

- (1) a description of the land proposed to be irrigated; and
- (2) an estimate of the total acreage to be irrigated.

(c) If the application is for a seasonal permit, under the provisions of Section 11.137 of this code, the application must also state the months or seasons of the year the water is to be used.

(d) If the application is for a temporary permit under the provisions of Section 11.138 of this code, the application must also state the period of the proposed temporary use.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.125. Map or Plat**

(a) The application must be accompanied by a map or plat drawn on tracing linen on a scale not less than one inch equals 2,000 feet.

- (b) The map or plat must show substantially:
- (1) the location and extent of the proposed facilities;

(2) the location of the headgate, intake, pumping plant, or point of diversion by course and distance from permanent natural objects or landmarks;

(3) the location of the main ditch or canal and the locations of the laterals or branches of the main ditch or canal;

(4) the course of the water supply;

(5) the position, waterline, and area of all lakes, reservoirs, or basins intended to be used or created;

(6) the point of intersection of the proposed facilities with any other ditch, canal, lateral, lake, or reservoir; and

(7) the location of any ditch, canal, lateral, reservoir, lake, dam, or other similar facility already existing in the area, drawn in a different colored ink than that used to represent the proposed facilities, and the name of the owner of the existing facility.

(c) The map or plat must also contain:

(1) the name of the proposed facility or enterprise;

(2) the name of the applicant; and

(3) a certificate of the surveyor, giving the date of his survey, his name and post-office address, and the date of the application which the certificate accompanies.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.126. Department Requirements**

(a) If the proposed taking or diversion of water for irrigation exceeds nine cubic feet per second, the executive director may require additional information as prescribed by this section.

(b) The executive director may require a continuous longitudinal profile, cross sections of the proposed channel, and the detail plans of any proposed structure, on any scales and with any definition the executive director considers necessary or expedient.

(c) If the application proposes construction of a dam greater than six feet in height either for diversion or storage, the executive director may also require filing a copy of all plans and specifications and a copy of the engineer's field notes of any survey of the lake or reservoir. No work on the project shall proceed until approval of the plans is obtained from the executive director.

(d) If the applicant is a corporation, the commission may require filing a certified copy of its articles of incorporation, a statement of the names and addresses of its directors and officers, and a statement of the amount of its authorized capital stock and its paid-up capital stock.

(e) If the applicant is not a corporation, the commission may require filing a sworn statement showing the name and address of each person interested in the appropriation, the extent of his interest, and his financial condition.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3155, ch. 828, § 2, eff. June 17, 1981.]

### § 11.127. Additional Requirements: Drainage Plans

If the commission believes that the efficient operation of any existing or proposed irrigation system may be adversely affected by lack of adequate drainage facilities incident to the work proposed to be done by an applicant, the commission may require the applicant to submit to the executive director for approval plans for drainage adequate to guard against any injury which the proposed work may entail.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

### § 11.128. Payment of Fee

If the applicant is not exempted from payment of the filing fee under Section 12.112 of this code, he shall pay the filing fee prescribed by Section 12.111(b) of this code at the time he files the application. The commission shall not record, file, or consider the application until the executive director certifies to the commission that the fee is paid.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.129. Review of Application; Amendment

The commission shall determine whether the application, maps, and other materials comply with the requirements of this chapter and the rules of the board. The commission may require amendment of the application, maps, or other materials to achieve necessary compliance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.130. Recording Applications

(a) The executive director shall have all applications for appropriations recorded in a well-bound book kept for that purpose in the department's office.

(b) The executive director shall have the applications indexed alphabetically in the name of:

(1) the applicant;

(2) the stream or source from which the appropriation is sought to be made; and

(3) the county in which the appropriation is sought to be made.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.131. Examination and Denial of Application Without Hearing

(a) The commission shall make a preliminary examination of the application, and if it appears that there is no unappropriated water in the source of supply or that the proposed appropriation should not be allowed for other reasons, the commission may deny the application.

(b) If the commission denies the application under this section and the applicant elects not to proceed further, the commission may order any part of the fee submitted with the application returned to the applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.132. Notice of Hearing

(a) The commission shall give notice of the hearing on the application as prescribed by this section.

(b) In the notice, the commission shall:

(1) state the name and address of the applicant;

(2) state the date the application was filed;

(3) state the purpose and extent of the proposed appropriation of water;

(4) identify the source of supply and the place where the water is to be stored or taken or diverted from the source of supply;

(5) specify the time and place of the hearing; and

(6) give any additional information the commission considers necessary.

(c) If the proposed use is for irrigation, the commission shall include in the notice a general description of the location and area of the land to be irrigated.

(d) The notice shall be published once a week for two consecutive weeks before the date stated in the notice for the hearing in some newspaper having a general circulation in the section of the state where the source of water is located.

(e) The commission shall also mail a copy of the notice by first-class mail, postage prepaid, to each claimant or appropriator of water from the source of water supply, the record of whose claim or appropriation has been filed in the office of the commission. The notice shall also be mailed by first-class mail, postage prepaid, to all navigation districts within the watershed concerned. The inadvertent failure of the commission to mail a notice to a navigation district which is not a claimant or appropriator of water does not prevent the hearing on the application.

(f) The notice shall be mailed and first published not less than 20 days before the date set for the hearing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.133. Hearing

At the time and place stated in the notice, the commission shall hold a hearing on the application. Any person may appear at the hearing in person or by attorney or may enter his appearance in writing. Any person who appears may present objection to the issuance of the permit. The commission may receive evidence, orally or by affidavit, in support of or in opposition to the issuance of the permit, and it may hear arguments.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.134. Action on Application

(a) After the hearing, the commission shall make a written decision granting or denying the application. The application may be granted or denied in whole or in part.

(b) The commission shall grant the application only if:

- (1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;
- (2) unappropriated water is available in the source of supply; and
- (3) the proposed appropriation:
  - (A) contemplates the application of water to any beneficial use;
  - (B) does not impair existing water rights or vested riparian rights; and
  - (C) is not detrimental to the public welfare.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.135. Issuance of Permit

(a) On approval of an application, the commission shall issue a permit to the applicant. The applicant's right to take and use water is limited to the extent and purposes stated in the permit.

(b) The permit shall be in writing and attested by the seal of the commission, and it shall contain substantially the following information:

- (1) the name of the person to whom the permit is issued;
- (2) the date the permit is issued;
- (3) the date the original application was filed;
- (4) the use or purpose for which the appropriation is to be made;
- (5) the amount or volume of water authorized to be appropriated for each purpose;
- (6) a general description of the source of supply from which the appropriation is proposed to be made;
- (7) the time within which construction or work must begin and the time within which it must be completed; and
- (8) any other information the board prescribes.

(c) If the appropriation is for irrigation, the commission shall also place in the permit a description and statement of the approximate area of the land to be irrigated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.136. Recording of Permit

(a) The commission shall transmit the permit by registered mail to the county clerk of the county in which the appropriation is to be made.

(b) When the county clerk receives the permit and is paid the recording fee (as prescribed by Article 3930, Revised Civil Statutes of Texas, 1925, as

amended), he shall file and record the permit in a well-bound book kept for that purpose. He shall index the permit alphabetically in the name of the applicant and of the stream or source of water supply. After he has recorded the permit, the county clerk shall deliver the permit, on demand, to the applicant.

(c) When the permit is filed in the office of the county clerk, it is constructive notice of:

- (1) the filing of the application;
- (2) the issuance of the permit; and
- (3) all the rights arising under the filing of the application and the issuance of the permit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.137. Seasonal Permits

(a) The commission may issue seasonal permits in the same manner that it issues regular permits. The provisions of this chapter governing issuance of regular permits apply to issuance of seasonal permits.

(b) The right to take, use, or divert water under seasonal permit is limited to the portion or portions of the calendar year stated in the permit.

(c) In a seasonal permit, the commission shall specify the conditions necessary to fully protect prior appropriations or vested rights on the stream.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.138. Temporary Permits

(a) The commission may issue temporary permits for beneficial purposes to the extent that they do not interfere with or adversely affect prior appropriations or vested rights on the stream from which water is to be diverted under such temporary permit. The commission may, by appropriate order, authorize any member of the commission to approve and issue temporary permits without notice and hearing if it appears to such issuing party that sufficient water is available at the proposed point of diversion to satisfy the requirements of the temporary permit as well as all existing rights. No temporary permit issued without notice and hearing shall authorize more than 10 acre-feet of water, nor may it be for a term in excess of one year.

(b) The commission may prescribe rules governing notice and procedure for the issuance of temporary permits.

(c) As between temporary permits, the one applied for first has priority.

(d) The commission may not issue a temporary permit for a period exceeding three calendar years.

(e) A temporary permit does not vest in its holder a permanent right to the use of water.

(f) A temporary permit expires and shall be cancelled by the commission in accordance with the terms of the permit.

(g) The board may prescribe by rule the fees to be paid for issuance of temporary permits, but no fee for issuance or extension of a temporary permit shall exceed \$500.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, §§ 5, 42, eff. June 10, 1981.]

The text of this section incorporates the amendment to former § 5.137 by Acts 1977, 65th Leg., p. 319, ch. 152, § 1.

### § 11.139. Emergency Permits

(a) The commission may grant an emergency permit for the diversion and use of water for a period of not more than 30 days if it finds that emergency conditions exist which threaten the public health, safety, and welfare and which override the necessity to comply with established statutory procedures.

(b) An emergency permit may be granted for a period of not more than 30 days, and no extension or additional emergency permit may be granted at the expiration of the original permit.

(c) An emergency permit may be granted under this section without the necessity to comply with statutory and other procedures required for granting other permits issued by the commission.

(d) The board may prescribe rules and adopt fees which are necessary to carry out the provisions of this section.

(e) An emergency permit does not vest in the permittee any right to the diversion and use of water and shall expire and be cancelled in accordance with its terms.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.140. Permits for Storage for Project Development

The commission may issue permits for storage solely for the purpose of optimum development of projects. The commission may convert these permits to permits for beneficial use if application to have them converted is made to the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.141. Date of Priority

When the commission issues a permit, the priority of the appropriation of water and the claimant's right to use the water date from the date of filing of the application.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.142. Domestic and Livestock Reservoir—Permit Exemption

Without obtaining a permit, a person may construct on his own property a dam or reservoir to impound or contain not more than 200 acre-feet of water for domestic and livestock purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.143. Domestic and Livestock Reservoir—Use for Other Purposes

(a) The owner of a dam or reservoir exempted under Section 11.142 of this code who desires to use water from the dam or reservoir for purposes other than domestic or livestock use shall obtain a permit to do so. He may obtain a regular permit, a seasonal permit, or a permit for a term of years. He may elect to obtain the permit by proceeding under this section or under the other provisions of this chapter governing issuance of permits.

(b) If the applicant elects to proceed under this section, he shall submit to the department a sworn application, on a form furnished by the department, containing the following information:

(1) the name and post-office address of the applicant;

(2) the nature and purpose of the use and the amount of water to be used annually for each purpose;

(3) the major watershed and the tributary (named or unnamed) on which the dam or reservoir is located;

(4) the county in which the dam or reservoir is located;

(5) the approximate distance and direction from the county seat of the county to the location of the dam or reservoir;

(6) the survey or the portion of the survey on which the dam or reservoir is located and, to the best of the applicant's knowledge and belief, the distance and direction of the midpoint of the dam or reservoir from a corner of the survey, which information the executive director may require to be marked on an aerial photograph or map furnished by the department;

(7) the approximate surface area, to the nearest acre, of the reservoir when it is full and the average depth in feet when it is full; and

(8) the approximate number of square miles in the drainage area above the dam or reservoir.

(c) If the permit is sought for irrigation, the application must also specify:

(1) the total number of irrigable acres in the area;

(2) the number of acres to be irrigated within the area in any one year; and

(3) the approximate distance and direction of the land to be irrigated from the midpoint of the dam or reservoir.

(d) Before the commission may approve the application and issue the permit, it shall give notice and hold a hearing as prescribed by this section.

(e) In the notice, the commission shall:

(1) state the name and post-office address of the applicant;

(2) state the date the application was filed;

(3) state the purpose and extent of the proposed appropriation of water;

(4) identify the source of supply and the place where the water is stored; and

(5) specify the time and place of the hearing.

(f) The notice shall be published only once, at least 20 days before the date stated in the notice for the hearing on the application, in a newspaper having general circulation in the county where the dam or reservoir is located. At least 15 days before the date set for the hearing, the commission shall transmit a copy of the notice by first-class mail to each person whose claim or appropriation has been filed with the department and whose diversion point is downstream from that described in the application.

(g) The applicant shall pay the filing fee prescribed by Section 12.111(b) of this code at the time he files the application.

(h) The commission shall approve the application and issue the permit as applied for in whole or part if it determines that:

- (1) there is unappropriated water in the source of supply;
- (2) the applicant has met the requirements of this section;
- (3) the water is to be used for a beneficial purpose;
- (4) the proposed use is not detrimental to the public welfare or to the welfare of the locality; and
- (5) the proposed use will not impair existing water rights.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.144. Approval for Alterations**

All holders of permits and certified filings shall obtain the approval of the commission before making any alterations, enlargements, extensions, or other changes to any reservoir, dam, main canal, or diversion work on which a permit has been granted or a certified filing recorded. A detailed statement and plans for alterations or changes shall be filed with the department and approved by the executive director before the alterations or changes are made. This section does not apply to the ordinary maintenance or emergency repair of the facility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

**§ 11.145. When Construction Must Begin**

(a) If a permit is for appropriation by direct diversion, construction of the proposed facilities shall begin within the time fixed by the commission, which shall not exceed two years after the date the permit is issued. The appropriator shall work diligently and continuously to the completion of the construction. The commission may, by entering an order of record, extend the time for beginning construction. The board may establish fees, not to exceed \$1,000, for extending the time to begin construction of the proposed facilities.

(b) If the permit contemplates construction of a storage reservoir, construction shall begin within the time fixed by the commission, not to exceed two years after the date the permit is issued. The commission, by entering an order of record, may extend the time for beginning construction. The board may fix fees, not to exceed \$1,000, for extending the time to begin construction of reservoirs. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3155, ch. 828, § 3, eff. June 17, 1981.]

**§ 11.146. Forfeitures and Cancellation of Permit for Inaction**

(a) If a permittee fails to begin construction within the time specified in Section 11.145 of this code, he forfeits all rights to the permit, subject to notice and hearing as prescribed by this section.

(b) After beginning construction if the appropriator fails to work diligently and continuously to the completion of the work, the appropriation is subject to cancellation in whole or part, subject to notice and hearing as prescribed by this section.

(c) If the commission believes that an appropriation or permit should be declared forfeited under this section or any other sections of this code, it should give the appropriator or permittee 30 days notice and provide him with an opportunity to be heard.

(d) After the hearing, the commission by entering an order of record may cancel the appropriation in whole or part. The commission shall immediately transmit a certified copy of the cancellation order by certified mail to the county clerk of the county in which the permit is recorded. The county clerk shall record the cancellation order.

(e) If a permit has been issued for the use of water, the water is not subject to a new appropriation until the permit has been cancelled in whole or part as provided by this section.

(f) Except as provided by Subchapter E of this chapter, none of the provisions of this code may be construed as intended to impair, cause, or authorize or may impair, cause, or authorize the forfeiture of any rights acquired by any declaration of appropriation or by any permit if the appropriator has begun or begins the work and development contemplated by his declaration of appropriation or permit within the time provided by the law under which the declaration of appropriation was made or the permit was granted and has prosecuted or continues to prosecute it with all reasonable diligence toward completion. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.147. Effects of Permit on Bays and Estuaries**

In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.148 to 11.170 reserved for expansion]

SUBCHAPTER E. CANCELLATION OF PERMITS,  
CERTIFIED FILINGS, AND CERTIFICATES OF  
ADJUDICATION FOR NONUSE

§ 11.171. Definitions

As used in this subchapter:

(1) "Other interested person" means any person other than a record holder who is interested in the permit or certified filing or any person whose direct interest would be served by the cancellation of the permit or certified filing in whole or part.

(2) "Certified filing" means a declaration of appropriation or affidavit that was filed with the State Board of Water Engineers under the provisions of Section 14, Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended.

(3) "Certificate of adjudication" means a certificate issued by the commission under Section 11.323 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.172. General Principle

A permit, certified filing, or certificate of adjudication is subject to cancellation in whole or part for 10 years nonuse as provided by this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.173. Cancellation in Whole

If no part of the water authorized to be appropriated under a permit, certified filing, or certificate of adjudication has been put to beneficial use at any time during the 10-year period immediately preceding the cancellation proceedings authorized by this subchapter, then the appropriation is presumed to have been wilfully abandoned, and the permit, certified filing, or certificate of adjudication is subject to cancellation in whole as provided by this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.174. Department to Initiate Proceedings

When the department finds that its records do not show that any water has been beneficially used under a permit, certified filing, or certificate of adjudication during the past 10 years, the executive director shall initiate proceedings, terminated by public hearing, to cancel the permit, certified filing, or certificate of adjudication.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.175. Notice

(a) At least 30 days before the date of the hearing, the commission shall send notice of the hearing to the holder of the permit, certified filing, or certificate of adjudication being considered for cancellation. Notice shall be sent by certified mail, return receipt requested, to the last address shown by the records of the commission. The commission shall

also send notice by regular mail to all other holders of permits, certified filings, certificates of adjudication, and claims of water rights pursuant to Section 11.303 of this code in the same watershed.

(b) The commission shall also have the notice of the hearing published once a week for two consecutive weeks, at least 30 days before the date of the hearing, in a newspaper published in each county in which diversion of water from the source of supply was authorized or proposed to be made and in each county in which the water was authorized or proposed to be used, as shown by the records of the commission. If in any such county no newspaper is published, then the notice may be published in a newspaper having general circulation in the county. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.176. Hearing

The commission shall hold a hearing and shall give the holder of the permit, certified filing, or certificate of adjudication and other interested persons an opportunity to be heard and to present evidence that water has, or has not, been beneficially used for the purposes authorized by the permit, certified filing, or certificate of adjudication during the 10-year period.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.177. Commission Finding; Action

At the conclusion of the hearing if the commission finds that no water has been beneficially used for authorized purposes during the 10-year period, the appropriation is deemed to have been wilfully abandoned, of no further force and effect, and the commission shall cancel the permit, certified filing, or certificate of adjudication.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.178. Cancellation in Part

If some part of the water authorized to be appropriated under a permit, certified filing, or certificate of adjudication has not been put to beneficial use at any time during the 10-year period immediately preceding the cancellation proceedings authorized by this subchapter, then the permit, certified filing, or certificate of adjudication is subject to partial cancellation, as provided by this subchapter, to the extent of the 10 years nonuse.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.179. Department May Initiate Proceedings

When the department finds that its records do not show proof that some portion of the water has been used during the past 10 years, the executive director may initiate proceedings, terminated by public hearing, to cancel the permit, certified filing, or certificate of adjudication in part.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.180. Notice**

The commission shall give notice of the hearing as provided by Section 11.175 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.181. Hearing**

The commission shall hold a hearing and shall give the holder of the permit, certified filing, or certificate of adjudication and other interested persons an opportunity to be heard and to present evidence on any matter pertinent to the questions at issue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.182. Commission Finding; Action**

(a) At the conclusion of the hearing, the commission shall cancel the permit, certified filing, or certificate of adjudication to the extent that it finds that:

(1) any portion of the water appropriated under the permit, certified filing, or certificate of adjudication has not been put to an authorized beneficial use during the 10-year period;

(2) the holder has not used reasonable diligence in applying the unused portion of the water to an authorized beneficial use; and

(3) the holder has not been justified in the nonuse or does not then have a bona fide intention of putting the unused water to an authorized beneficial use within a reasonable time after the hearing.

(b) In determining what constitutes a reasonable time as used in Subsection (a)(3) of this section, the commission shall give consideration to:

(1) the expenditures made or obligations incurred by the holder in connection with the permit, certified filing, or certificate of adjudication;

(2) the purpose to which the water is to be applied;

(3) the priority of the purpose; and

(4) the amount of time usually necessary to put water to a beneficial use for the same purpose when diligently developed.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.183. Reservoir**

If the holder of a permit, certified filing, or certificate of adjudication has facilities for the storage of water in a reservoir, the commission may allow him to retain the impoundment to the extent of the conservation storage capacity of the reservoir for domestic, livestock, or recreation purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.184. Municipal Certified Filing**

Regardless of other provisions of this subchapter, no portion of a certified filing held by a city, town,

village, or municipal water district, authorizing the use of water for municipal purposes, shall be cancelled if water has been put to use under the certified filing for municipal purposes at any time during the 10-year period immediately preceding the institution of cancellation proceedings.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.185. Effect of Inaction**

Failure to initiate cancellation proceedings under this subchapter does not validate or improve the status of any permit, certified filing, or certificate of adjudication in whole or in part.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.186. Subsequent Proceedings on Same Water Right**

Once cancellation proceedings have been initiated against a particular permit, certified filing, or certificate of adjudication and a hearing has been held, further cancellation proceedings shall not be initiated against the same permit, certified filing, or certificate of adjudication within the five-year period immediately following the date of the hearing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.187 to 11.200 reserved for expansion]

SUBCHAPTER F. ARTESIAN WELLS

**§ 11.201. Artesian Well Defined**

An artesian well is an artificial water well in which the water, when properly cased, will rise by natural pressure above the first impervious stratum below the surface of the ground.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.202. Right to Drill Artesian Well**

A person is entitled to drill an artesian well on his own land for domestic purposes or for stock raising without complying with the general provisions of this code regulating the use of water. However, he shall have the well properly and securely cased, and when water is reached containing mineral or other substances injurious to vegetation or agriculture, he shall have the well securely capped or its flow controlled so as not to injure another person's land or shall fill the well so as to prevent the water from rising above the first impervious stratum below the surface of the ground.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.203. Artesian Well: Drilling Record**

(a) A person who drills an artesian well or has one drilled shall keep a complete and accurate record of the depth, thickness, and character of the different

strata penetrated and when the well is completed shall transmit a copy of the record to the department by registered mail.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.204. Report of New Artesian Well

Within one year after an artesian well is drilled, the owner or operator shall transmit to the department a sworn report stating the result of the drilling operation, the use to which the water will be applied, and the contemplated extent of the use.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.205. Wasting Water From Artesian Well

(a) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste to wilfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found.

(b) It is not waste to use water from an artesian well, if suitable, for proper irrigation of trees on a street, road, or highway or for ornamental ponds or fountains or for the propagation of fish.

(c) A person who commits waste as defined in this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.206. Improperly Cased Well: Nuisance

An artesian well that is not tightly cased, capped, and furnished with mechanical appliances that readily and effectively prevent water from flowing out of the well and running over the surface of the ground about the well or wasting through the strata through which it passes is a public nuisance and subject to abatement by the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

#### § 11.207. Annual Report

(a) Not later than March 1 of each year, a person who during any part of the preceding calendar year owned or operated an artesian well for any purpose other than domestic use shall file a report to the department on a form supplied by the department.

(b) The report shall state:

- (1) the quantity of water which was obtained from the well;
- (2) the nature of the uses to which the water was applied;

(3) the change in the level of the well's water table; and

(4) other information required by the department.

(c) If water from the well was used for irrigation, the report shall also state the acreage and yield of each crop irrigated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.208 to 11.300 reserved for expansion]

### SUBCHAPTER G. WATER RIGHTS ADJUDICATION ACT

#### § 11.301. Short Title

This subchapter may be cited as the Water Rights Adjudication Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.302. Declaration of Policy

The conservation and best utilization of the water resources of this state are a public necessity, and it is in the interest of the people of the state to require recordation with the department of claims of water rights which are presently unrecorded, to limit the exercise of these claims to actual use, and to provide for the adjudication and administration of water rights to the end that the surface-water resources of the state may be put to their greatest beneficial use. Therefore, this subchapter is in furtherance of the public rights, duties, and functions mentioned in this section and in response to the mandate expressed in Article XVI, Section 59 of the Texas Constitution and is in the exercise of the police powers of the state in the interest of the public welfare.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 11.303. Recordation and Limitation of Certain Water Rights Claims

(a) This section applies to:

- (1) claims of riparian water rights;
- (2) claims under Section 11.143 of this code to impound, divert, or use state water for other than domestic or livestock purposes, for which no permit has been issued;

(3) claims of water rights under the Irrigation Acts of 1889 and 1895<sup>1</sup> which were not filed with the State Board of Water Engineers in accordance with the Irrigation Act of 1913,<sup>2</sup> as amended; and

(4) other claims of water rights except claims under permits or certified filings.

(b) Any claim to which this section applies shall be recognized only if valid under existing law and only to the extent of the maximum actual application of water to beneficial use without waste during any calendar year from 1963 to 1967, inclusive. How-

ever, in any case where a claimant of a riparian right has prior to August 28, 1967, commenced or completed the construction of works designed to apply a greater quantity of water to beneficial use, the right shall be recognized to the extent of the maximum amount of water actually applied to beneficial use without waste during any calendar year from 1963 to 1970, inclusive.

(c) On or before September 1, 1969, every person claiming a water right to which this section applies shall file with the department a statement setting forth:

- (1) the name and address of the claimant;
- (2) the location and the nature of the right claimed;
- (3) the stream or watercourse and the river basin in which the right is claimed;
- (4) the date of commencement of works;
- (5) the dates and volumes of use of water; and
- (6) other information the department may require to show the nature and extent of the claim.

(d) A person who files a statement as provided in this section shall certify under oath that the statements made in support of his claim are true and correct to the best of his knowledge and belief.

(e) A claimant who desires recognition of a right based on use from 1968 to 1970, inclusive, as provided in Subsection (b) of this section shall file an additional sworn statement on or before July 1, 1971.

(f) The department shall prescribe forms for the sworn statements required by this section, but use of the department forms is not mandatory.

(g) On or before January 1, 1968, and June 1, 1969, the commission shall cause notice of the requirements of this section to be published once each week for two consecutive weeks in newspapers having general circulation in each county of the state and by first-class mail to each user of surface water who has filed a report of water use with the commission.

(h) On sworn petition, notice, and hearing as prescribed for applications for permits and upon finding of extenuating circumstances and good cause shown for failure to timely file, the commission may authorize the filing of the sworn statement or statements required by this section until entry of a preliminary determination of claims of water rights in accordance with Section 11.309 of this code which includes the area described in the petition or, if a preliminary determination has not been entered, until September 1, 1974.

(i) Since the filing of all claims to use public water is necessary for the conservation and best utilization of the water resources of the state, failure to file a sworn statement in substantial compliance with this section extinguishes and bars any claim of water rights to which this section applies.

(j) A sworn statement submitted under this section is binding on the person submitting it and his

successors in interest, but is not binding on the commission or any other person in interest.

(k) Nothing in this section shall be construed to recognize any water right which did not exist before August 28, 1967.

(l) This section does not apply to use of water for domestic or livestock purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, § 2, eff. June 10, 1981.]

<sup>1</sup> Acts 1889, 21st Leg., p. 100, ch. 88; Acts 1895, 24th Leg., p. 21, ch. 21.  
<sup>2</sup> Acts 1913, 33rd Leg., p. 358, ch. 1.71.

**§ 11.304. Adjudication of Water Rights**

The water rights in any stream or segment of a stream may be adjudicated as provided in this subchapter:

- (1) on the commission's own motion;
- (2) on petition to the commission signed by 10 or more claimants of water rights from the source of supply; or
- (3) on petition of the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 11.305. Investigation**

(a) Promptly after a petition is filed under Section 11.304 of this Code, the commission shall consider whether the adjudication would be in the public interest. If the commission finds that an adjudication would be in the public interest, it shall enter an order to that effect, designating the stream or segment to be adjudicated. The executive director shall have an investigation made of the area involved in order to gather relevant data and information essential to the proper understanding of the claims of water rights involved. The results of the investigation shall be reduced to writing and made a matter of record in the department's office.

(b) In connection with the investigation, the executive director shall have a map or plat made showing with substantial accuracy the course of the stream or segment and the location of reservoirs, diversion works, and places of use, including lands which are being irrigated or have facilities for irrigation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, § 3, eff. June 10, 1981.]

**§ 11.306. Notice of Adjudication**

(a) The commission shall prepare a notice of adjudication which describes the stream or segment to be adjudicated and the date by which all claims of water rights in the stream or segment shall be filed with the department. The date shall not be less than 90 days after the date the notice is issued.

(b) The notice shall be published once a week for two consecutive weeks in one or more newspapers having general circulation in the counties in which the stream or segment is located.

(c) The notice shall also be sent by first-class mail to each claimant of water rights whose diversion is within the stream or segment to be adjudicated, to the extent that the claimants can reasonably be ascertained from the records of the department. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, § 4, eff. June 10, 1981.]

#### § 11.307. Filing of Sworn Claims

(a) Every person claiming a water right of any nature, except for domestic or livestock purposes, from the stream or segment under adjudication shall file a sworn claim with the department within the time prescribed in the notice of adjudication, including any extensions of the prescribed time, setting forth:

- (1) the name and post-office address of the claimant;
- (2) the location and nature of the right claimed, including a description of any permit or certified filing under which the claim is made;
- (3) the purpose of the use;
- (4) a description of works and irrigated land; and
- (5) all other information necessary to show the nature and extent of the claim.

(b) The department shall prescribe forms for claims, but use of the department forms is not mandatory.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 11.308. Hearings on Claims; Notice

The commission shall set a time and a place for hearing all claims. Not less than 30 days before commencement of the hearings, the commission shall give notice of the hearings by certified mail to all persons who have filed claims in accordance with Section 11.307 of this code, or this notice may be included in the notice of adjudication provided in Section 11.306 of this code. The hearings shall be conducted as provided in Section 11.337 of this code. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.309. Preliminary Determination of Claims

(a) On completion of the hearings, the commission shall make a preliminary determination of the claims to water rights under adjudication.

(b) One copy of the preliminary determination shall be furnished without charge to each person who filed a claim in accordance with Section 11.307 of this code. Additional copies of the preliminary determination shall be made available for public inspection at convenient locations throughout the river basin, as designated by the commission. Copies shall also be made available to other interested persons at a reasonable price, based on the cost of reproduction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.310. Evidence Open to Inspection

All evidence presented to or considered by the commission shall be open to public inspection for a period of not less than 60 days, as fixed by the commission, after the notice prescribed in Section 11.312 of this code is issued.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.311. Date for Filing Contests

The commission shall set a date for filing contests on the preliminary determination, which date shall not be less than 30 days after the period for public inspection of the evidence has closed.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.312. Notice of Preliminary Determination; Copies

(a) Promptly after the preliminary determination is made as provided in Section 11.309 of this code, the commission shall publish notice of the determination once a week for two consecutive weeks in one or more newspapers having general circulation in the river basin in which the stream or segment that is the subject of the adjudication is located.

(b) The commission shall also send notice by first-class mail to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the department.

(c) Each notice shall state:

(1) the place and the period of time that the preliminary determination and evidence presented to or considered by the commission will be open for public inspection;

(2) the locations throughout the river basin where copies of the preliminary determination will be available for public inspection;

(3) the method of ordering copies of the preliminary determination and the charge for copies;

(4) the date by which contests on the preliminary determination must be filed.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.313. Filing Contests

(a) Any water right claimant affected by the preliminary determination, including any claimant to water rights within the river basin but outside the stream or segment under adjudication, who disputes the preliminary determination may within the time for filing contests prescribed by the commission in the notice, including any extension of the time, file a written contest with the commission, stating with reasonable certainty the grounds of his contest.

(b) The statement filed to contest a preliminary determination must be verified by an affidavit of the contestant, his agent, or his attorney.

(c) If the contest is directed against the preliminary determination of the water rights of other claimants, a copy shall be served on each of these claimants or his attorney by certified mail, and proof of service shall be filed with the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.314. Hearing on Contest; Notice**

After the time for filing contests has expired, the commission shall prepare a notice setting forth the part of the preliminary determination to which each contest is directed and the time and place of a hearing on the contest. The notice shall be sent to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the department. The hearing shall be conducted as provided in Section 11.337 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 11.315. Final Determination**

On completion of the hearings on all contests, the commission shall make a final determination of the claims to water rights under adjudication. The commission shall send a copy of the final determination and any modification of the final determination to each claimant whose rights are adjudicated and to each contesting party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.316. Application for Rehearing**

Within 30 days from the date of the final determination, any affected party may apply to the commission for a rehearing. Applications for rehearing which in the opinion of the commission are without merit may be denied without notice to other parties, but no application for rehearing shall be granted without notice to each claimant whose rights are adjudicated and to each contesting party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.317. Filing Final Determination With District Court**

(a) As soon as practicable after the disposition of all applications for rehearing, the commission shall file a certified copy of the final determination, together with all evidence presented to or considered by the commission, in a district court of any county in which the stream or segment under adjudication is located. However, if the stream or segment under adjudication includes all or parts of three or more counties and if 10 or more affected persons who appeared in the proceedings petition the commission to do so, the commission shall file the action in a convenient district court of a judicial district which

is not within the river basin of the stream or segment under adjudication.

(b) The commission shall obtain an order from the court fixing a time not less than 30 days from the date of the order for the filing of exceptions to the final determination and also fixing a time not less than 60 days from the date of the order for the commencement of hearings on exceptions.

(c) The commission shall immediately give written notice of the court order by certified mail to all parties who appeared in the proceedings before the commission. The commission shall file proof of the service with the court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.318. Exceptions to Final Determination**

(a) Any affected person who appeared in the proceeding before the commission may file exceptions to the final determination. An exception must state with a reasonable degree of certainty the grounds for the exception and must specify the particular paragraphs and pages of the determination to which the exception is taken.

(b) Three copies of the exceptions shall be filed in court, and a copy shall be served on the commission. The commission shall make copies of all exceptions available at a reasonable price, based on the cost of reproduction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.319. Hearings on Exceptions**

(a) The court shall hear any exceptions that have been filed. The commission and all affected persons who appeared in the proceedings before the commission are entitled to appear and be heard on the exceptions. The court may permit other parties in interest to appear and be heard for good cause shown.

(b) The court may conduct nonjury hearings and proceedings at any convenient location within the state. Actual expenses incurred by the court outside its judicial district shall be taxed as costs.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.320. Scope of Judicial Review**

(a) In passing on exceptions, the court shall determine all issues of law and fact independently of the commission's determination. The substantial evidence rule shall not be used. The court shall not consider any exception which was not brought to the commission's attention by application for rehearing. The court shall not consider any issue of fact raised by an exception unless the record of evidence before the commission reveals that the question was genuinely in issue before the commission.

(b) A party in interest may demand a jury trial of any issue of fact, but the court may in its discretion

have a separate trial with a separate jury of any such issue.

(c) The legislature declares that the provisions of this section are not severable from the remainder of this subchapter and that this subchapter would not have been passed without the inclusion of this section. If this section is for any reason held invalid, unconstitutional, or inoperative in any way, the holding applies to the entire subchapter so that the entire subchapter is null and void.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.321. Evidence

Any exception heard by the court without a jury may be resolved on the record of evidence before the commission, or the court may take additional evidence or direct that additional evidence be heard by the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.322. Final Decree

(a) After the final hearing, the court shall enter a decree affirming or modifying the order of the commission.

(b) The court may assess the costs as it deems just.

(c) An appeal may be taken from the decree of the court in the same manner and with the same effect as in other civil cases.

(d) The final decree in every water right adjudication is final and conclusive as to all existing and prior rights and claims to the water rights in the adjudicated stream or segment of a stream. The decree is binding on all claimants to water rights outside the adjudicated stream or segment of a stream.

(e) Except for domestic and livestock purposes or rights subsequently acquired by permit, a water right is not recognized in the adjudicated stream or segment of a stream unless the right is included in the final decree of the court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.323. Certificate of Adjudication

(a) When a final determination of the rights to the waters of a stream has been made in accordance with the procedure provided in this subchapter and the time for a rehearing has expired, the commission shall issue to each person adjudicated a water right a certificate of adjudication, signed by the chairman and bearing the seal of the commission.

(b) In the certificate, the commission shall include:

(1) a reference to the final decree;

(2) the name and post-office address of the holder of the adjudicated right;

(3) the priority, extent, and purpose of the adjudicated right and, if the right is for irrigation, a description of the irrigated land; and

(4) all other information in the decree relating to the adjudicated right.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.324. Recordation of Certificate

(a) The commission shall transmit the certificate of adjudication or a true copy to the county clerk of each county in which the appropriation is made.

(b) On receipt of the recording fee from the holder of the certificate, the county clerk shall file and record the certificate in a well-bound book provided and kept for that purpose only. The clerk shall index the certificate alphabetically under the name of the holder of the certificate of adjudication and under the name of the stream or source of water supply.

(c) When a certificate of adjudication is filed and recorded as provided in this section, the county clerk shall deliver the certificate on demand to the holder.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.325. Water Divisions

The board shall divide the state into water divisions for the purpose of administering adjudicated water rights. Water divisions may be created from time to time as the necessity arises. The divisions shall be constituted to secure the best protection to the holders of water rights and the most economical supervision on the part of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 11.326. Appointment of Watermaster

(a) The executive director may appoint one watermaster for each water division.

(b) A watermaster holds office until a successor is appointed. The executive director may remove a watermaster at any time.

(c) The executive director may employ assistant watermasters and other employees necessary to aid a watermaster in the discharge of his duties.

(d) In a water division in which the office of watermaster is vacant, the executive director has the powers of a watermaster.

(e) The executive director shall supervise and generally direct the watermaster in the performance of his duties. A watermaster is responsible to the executive director for the proper performance of his duties.

(f) A person dissatisfied with any action of a watermaster may apply to the executive director for relief.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.327. Duties of Watermaster**

(a) A watermaster shall divide the water of the streams or other sources of supply of his division in accordance with the adjudicated water rights.

(b) A watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(c) A watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.328. Watermaster's Notice Posted**

If, in the performance of his duties, a watermaster regulates diversion works or the controlling works of reservoirs, he shall attach to the works a written notice, properly dated and signed, stating that the works have been properly regulated and are wholly under his control. The notice is legal notice to all parties interested in the diversion and distribution of the water served by the diversion works or reservoir.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.329. Compensation and Expenses of Watermaster**

(a) The department shall pay the compensation and necessary expenses of a watermaster, assistant watermasters, and other necessary employees, but the holders of water rights that have been determined or adjudicated and are to be administered by the watermaster shall reimburse the department for the compensation and expenses.

(b) After the adjudication decree becomes final, the executive director shall notify each holder of water rights under the decree of the amount of compensation and expenses that will be required annually for the administration of the water rights so determined.

(c) The commission shall hold a public hearing to determine the apportionment of the costs of administration of adjudicated water rights among the holders of the rights. After a public hearing, the commission shall issue an order assessing the annual cost against the holders of water rights to whom the water will be distributed under the final decree. The commission shall equitably apportion the costs. The executive director may provide for payments in installments and shall specify the dates by which payments shall be made to the department.

(d) The executive director shall transmit all collections under this section to the State Treasurer.

(e) No water shall be diverted, taken, or stored by, or delivered to, any person while he is delinquent in the payment of his assessed costs.

(f) An order of the commission assessing costs remains in effect until the commission issues a further order. The commission may modify, revoke, or supersede an order assessing costs with a subsequent order. The commission may issue supplementary orders from time to time to apply to new diversions. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.330. Outlet for Free Passage of Water**

The owner of any works for the diversion or storage of water shall maintain a substantial headgate at the point of diversion, or a gate on each discharge pipe of a pumping plant, constructed so that it can be locked at the proper place by the watermaster, or a suitable outlet in a dam to allow the free passage of water that the owner of the dam is not entitled to divert or impound. The board shall adopt rules, and the executive director shall enforce the rules, governing the type and location of the headgates or gates and the outlets to allow the free passage of water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

**§ 11.331. Measuring Devices**

The board, by rule, may require the owner of any works for the diversion, taking, storage, or distribution of water to construct and maintain suitable measuring devices at points that will enable the watermaster to determine the quantities of water to be diverted, taken, stored, released, or distributed in order to satisfy the rights of the respective users.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

**§ 11.332. Installation of Flumes**

The board, by rule, may require flumes to be installed along the line of any ditch if necessary for the protection of water rights or other property.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

**§ 11.333. Failure to Comply With Board Rules**

If the owner of waterworks using state water refuses or neglects to comply with the rules adopted pursuant to Section 11.330, 11.331, or 11.332 of this code, the executive director, after 10 days notice or after a period of additional time that is reasonable under the circumstances, may direct the watermaster to make adjustments of the control works to prevent the owner of the works from diverting, taking, storing, or distributing any water until he has fully complied with the rules.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

**§ 11.334. Suit Against Department for Injury**

Any person who is injured by an act of the department under this subchapter may bring suit against the commission to review the action or to obtain an injunction. If the water right involved has been adjudicated as provided in this subchapter, the court shall issue an injunction only if it is shown that the department has failed to carry into effect the decree adjudicating the water right.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.335. Administration of Water Rights Not Adjudicated**

(a) If any area in which water rights of record in the office of the department have not been adjudicated, the claimants of the rights and the commission may enter into a written agreement for their administration.

(b) An agreement made under authority of this section shall provide:

(1) the basis and manner of distribution of the water to which the agreement relates;

(2) the services of a special watermaster, and assistants if necessary, to carry out the agreement; and

(3) the allocation, collection, and payment of the annual costs of administration.

(c) An agreement to administer unadjudicated water rights shall be recorded in the offices of the department and of the county clerk of each county in which any of the works or lands affected by the agreement are located.

(d) The administration of water rights by agreement is governed by the provisions of this subchapter except as regards allocation and payment of the expenses of the administration.

(e) No agreement authorized by this section impairs any vested right to the use of water or creates any additional rights to the use of water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.336. Administration of Permits Issued After Adjudication**

Permits, other than temporary permits, that are issued by the commission to appropriate water from an adjudicated stream or segment are subject to administration in the same manner as is provided in this subchapter for adjudicated water rights.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.337. Hearings: Notice and Procedure**

(a) The commission shall give notice of a hearing or other proceeding it orders under this subchapter in the manner prescribed in the procedural rules of the commission, unless this subchapter specifically provides otherwise.

(b) In any proceeding in any part of the state, the commission may:

(1) take evidence, including the testimony of witnesses;

(2) administer oaths;

(3) issue subpoenas and compel the attendance of witnesses in the same manner as subpoenas are issued out of the courts of the state;

(4) compel witnesses to testify and give evidence; and

(5) order the taking of depositions and issue commissions for the taking of depositions in the same manner as depositions are obtained in civil actions.

(c) Evidence may be taken by a duly appointed reporter before the commission or before an authorized representative who has the power to administer oaths.

(d) If a person neglects or refuses to comply with an order or subpoena issued by the commission or refuses to testify on any matter about which he may be lawfully interrogated, the commission may apply to a district court of the county in which the proceeding is held to punish him in the manner provided by law for such disobedience in civil actions.

(e) The commission may adjourn its proceedings from time to time and from place to place.

(f) When a proceeding before the commission is concluded, the commission shall render a decision as to the matters concerning which the proceeding was held.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.338. Cancellation of Water Rights**

Nothing in this subchapter recognizes any abandoned or cancelled water right or impairs in any way the power of the commission under general law to forfeit, cancel, or find abandoned any water right, including adjudicated water rights.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.339. Underground Water Not Affected**

This subchapter does not apply to underground water as defined in Chapter 52 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.340. Abatement of Certain Civil Suits**

(a) Nothing in this subchapter prevents or precludes a person who claims the right to divert water from a stream from filing and prosecuting to a conclusion a suit against other claimants of the right to divert or use water from the same stream. However, if the commission has ordered a determination of water rights as provided in this subchapter or if the commission orders such a determination within 90 days after notice of the filing of a suit, the suit shall be abated on the motion of the commission or any party in interest as to any issues involved in the water rights determination.

(b) If a suit is abated as provided in Subsection (a) of this section, the court may grant or continue any temporary relief necessary to preserve the status quo pending a final determination of the water rights involved.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.341. Limitation on Actions**

This subchapter does not affect any action or proceeding instituted before August 28, 1967, or any right accrued before that date except those specifically provided for in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.342 to 11.400 reserved for expansion]

SUBCHAPTER H. COURT-APPOINTED WATERMASTER

**§ 11.401. Scope of Subchapter**

The provisions of this subchapter apply to a suit if:

- (1) the state is a party;
- (2) the purpose of the suit is to determine the right of the parties to divert or use water of a surface stream; and
- (3) rights are asserted to use water in, or divert water to, not more than four counties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.402. Appointment and Authority of Watermaster**

(a) A court having jurisdiction over a suit described in Section 11.401 of this code may appoint a watermaster with power to allocate and distribute, under the supervision of the court, the water taken into judicial custody.

(b) The court may not appoint a watermaster with authority to act both upstream and downstream from an existing reservoir on any surface stream of the state. However, once a watermaster is appointed, the construction of a new reservoir does not invalidate his appointment or restrict his authority over that portion of the stream contemplated by the original order of appointment.

(c) Under terms and conditions prescribed by the court, the watermaster may incur necessary expenses, appoint necessary deputies and assistants, and perform duties and assume responsibilities delegated to him by the court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.403. Compensation of Watermaster**

The court shall fix the compensation of the watermaster and his staff.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.404. Expenses and Assessment of Costs of Watermaster**

(a) The trial court shall assess the costs and expenses of the watermaster and his staff against all persons receiving an allocation of the water in judicial custody. The court shall assess the costs and expenses monthly or at other time intervals ordered by the court.

(b) The court shall assess the costs and expenses on the basis of:

- (1) acreage;
- (2) acre-feet of allocated water;
- (3) per capita; or
- (4) any other formula the court, after notice and hearing, determines to be the most equitable.

(c) During the pendency of an appeal, the trial court, in its discretion, may assess costs against some parties on one basis and against other parties on another basis.

(d) The costs and expenses are not to be taxed as ordinary court costs, but are to be considered costs necessary to protect the rights and privileges of the parties receiving allocations of water during the litigation and are to be paid by those parties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.405. Failure to Pay Assessed Costs**

If the costs and expenses assessed are not paid within the time prescribed by the court, the court after notice and hearing may withdraw or limit allocations of water to any party failing or refusing to pay his share until all costs and expenses assessed against him are paid in full.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.406. Judicial Custody of Water During Appeal**

If a party appeals the judgment of the trial court, that court may retain custody of the water which it has previously taken into judicial custody and over which it has appointed a watermaster. Until final judgment is entered in the case, the trial court has exclusive jurisdiction to administer, allocate, and distribute the water retained in its custody, as provided in Section 11.407 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 11.407. Allocation and Distribution of Water During Appeal**

During the pendency of an appeal, the trial court shall limit the allocation and distribution of the water in its custody to the parties adjudicated to have a valid right to use the water. However, if any party prosecutes an appeal and files a supersedeas bond, the trial court shall make any necessary adjustments in the water allocations and allocate to that party the same amount of water that he received during the proceedings in the trial court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.408. Retention of Watermaster During Appeal

During the pendency of an appeal, the trial court may retain the watermaster in office with the same authority he had during the trial proceedings.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 11.409. Violations of Court Orders

If a party violates any order of the trial court either during trial proceedings or during an appeal, the trial court may limit or withdraw his allocation of water until he corrects the violation to the satisfaction of the court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## CHAPTER 12. PROVISIONS GENERALLY APPLICABLE TO WATER RIGHTS

### SUBCHAPTER A. GENERAL PROVISIONS

Section

12.001. Definitions.

### SUBCHAPTER B. GENERAL POWERS AND DUTIES RELATING TO WATER RIGHTS

- 12.011. Permit Applications.
- 12.0111. Application of Sunset Act.
- 12.012. Evaluation of Outstanding Permits.
- 12.013. Rate-Fixing Power.
- 12.014. Use of Department Surveys; Policy.
- 12.015. Power to Condemn Works.
- 12.016. Power to Inspect.
- 12.017. Power to Enter Land.

### SUBCHAPTER C. PROJECTS

- 12.051. Federal Projects.
- 12.052. Dam Safety.

### SUBCHAPTER D. WATER DISTRICTS

- 12.081. Continuing Right of Supervision of Districts Created Under Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution.
- 12.082. Duty to Investigate Fresh Water Supply District Projects.
- 12.083. Districts; Creation, Investigations and Bonds.

### SUBCHAPTER E. FEES

- 12.111. Renumbered.
- 12.112. Fees: Exemptions.
- 12.113. Disposition of Fees, Etc.
- 12.114. Disposition of Fees Pending Determination.

### SUBCHAPTER F. PENALTIES

- 12.141. Violations of Rules, Orders, Certified Filings, Permits, Certificates of Adjudication.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

*Former Chapter 12, Texas Offshore Terminal Commission, as added by Acts 1972, 62nd Leg.,*

*4th C.S., p. 31, ch. 14, § 1, and amended by Acts 1977, 65th Leg., p. 1842, ch. 735, § 2.074, was deleted from Title 2 of the Water Code as revised by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1.*

### SUBCHAPTER A. GENERAL PROVISIONS

#### § 12.001. Definitions

The definitions contained in Subchapter A, Chapter 11 of this code apply to this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 12.002 to 12.010 reserved for expansion]

### SUBCHAPTER B. GENERAL POWERS AND DUTIES RELATING TO WATER RIGHTS

#### § 12.011. Permit Applications

The department shall receive, administer, and act on all applications for permits and permit amendments:

(1) to appropriate public water for beneficial use or storage; or

(2) to construct works for the impoundment, storage, diversion, or transportation of public water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 12.0111. Application of Sunset Act

The Texas Offshore Terminal Commission is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the commission is abolished, and this chapter expires effective September 1, 1983.

[Added by Act 1977, 65th Leg., p. 1842, ch. 735, § 2.074, eff. Aug. 29, 1977.]

#### § 12.012. Evaluation of Outstanding Permits

The department shall actively and continually evaluate outstanding permits and certified filings and shall carry out measures to cancel wholly or partially the certified filings and permits that are subject to cancellation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 12.013. Rate-Fixing Power

(a) The commission shall fix reasonable rates for the furnishing of raw or treated water for any purpose mentioned in Chapter 11 or 12 of this code.

(b) The term "political subdivision" when used in this section means incorporated cities, towns or villages, counties, river authorities, water districts, and other special purpose districts.

(c) The commission in reviewing and fixing reasonable rates for furnishing water under this section

may use any reasonable basis for fixing rates as may be determined by the commission to be appropriate under the circumstances of the case being reviewed; provided, however, the commission may not fix a rate which a political subdivision may charge for furnishing water which is less than the amount required to meet the debt service and bond coverage requirements of that political subdivision's outstanding debt.

(d) The commission's jurisdiction under this section relating to incorporated cities, towns, or villages shall be limited to water furnished by such city, town, or village to another political subdivision on a wholesale basis.

(e) The commission may establish interim rates and compel continuing service during the pendency of any rate proceeding.

(f) The commission may order a refund or assess additional charges from the date a petition for rate review is received by the commission of the difference between the rate actually charged and the rate fixed by the commission, plus interest at the statutory rate.

(g) No action or proceeding commenced prior to January 1, 1977, before the Texas Water Rights Commission shall be affected by the enactment of this section.

(h) Nothing herein contained shall affect the jurisdiction of the Public Utility Commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 6.056 by Acts 1977, 65th Leg., p. 1650, ch. 647, § 1.

**§ 12.014. Use of Department Surveys; Policy**

The commission shall make use of surveys, studies, and investigations conducted by the staff of the department in order to ascertain the character of the principal requirements of the district regional division of the watershed areas of the state for beneficial uses of water, to the end that distribution of the right to take and use state water may be more equitably administered in the public interest, that privileges granted for recognized uses may be economically coordinated so as to achieve the maximum of public value from the state's water resources, and that the distinct regional necessities for water control and conservation and for control of harmful floods may be recognized.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 12.015. Power to Condemn Works**

(a) The commission may condemn existing works if their existence or operation may, in the judgment of the commission, become a public menace or dangerous to life and property.

(b) In all cases of proposed condemnation, the commission shall notify the interested party of the contemplated action and shall specify a time for him to appear and be heard.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 12.016. Power to Inspect**

The executive director or his authorized agent may inspect any impoundment, diversion, or distribution works during construction to determine whether or not they are being constructed in a safe manner and whether or not they are being constructed according to the order of the commission. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 12.017. Power to Enter Land**

Any member or employee of the department may enter any person's land, natural waterway, or artificial waterway for the purpose of making an investigation that would, in the judgment of the executive director, assist the department in the discharge of its duties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 12.018 to 12.050 reserved for expansion]

SUBCHAPTER C. PROJECTS

**§ 12.051. Federal Projects**

(a) In this section:

(1) "Federal project" means an engineering undertaking or work to construct, enlarge, or extend a dam, lake, reservoir, or other water-storage or flood-control work or a drainage, reclamation, or canalization undertaking or any combination of these financed in whole or in part with funds of the United States.

(2) "Engineering report" means the plans, data, profiles, maps, estimates, and drawings prepared in connection with a federal project.

(3) "Federal agency" means the Corps of Engineers of the United States Army, the Bureau of Reclamation of the Department of Interior, the Soil Conservation Service of the Department of Agriculture, the United States Section of the International Boundary and Water Commission, or any other agency of the United States, the function of which includes the conservation, development, retardation by impounding, control, or study of the water resources of Texas or the United States.

(b) When the governor receives an engineering report submitted by a federal agency seeking the governor's approval of a federal project, he shall immediately forward the report to the department for its study concerning the feasibility of the federal project.

(c) The board shall hold a public hearing to receive the views of persons and groups who might be affected by the proposed federal project. The board shall publish notice of the time, date, place, nature, and purpose of the public hearing once each week for two consecutive weeks before the date stated in the notice in a newspaper having general circulation

in the section of the state where the federal project is to be located or the work done.

(d) After hearing all the evidence both for and against approval of the federal project, the board shall enter its order approving or disapproving the feasibility of the federal project, and the order shall include the board's reasons for approval or disapproval.

(e) In determining feasibility, the board shall consider, among other relevant factors:

(1) the effect of the federal project on water users on the stream as certified by the commission;

(2) the public interest to be served;

(3) the development of damsites to the optimum potential for water conservation;

(4) the integration of the federal project with other water conservation activities;

(5) the protection of the state's interests in its water resources; and

(6) the engineering practicality of the federal project, including cost of construction, operation, and maintenance.

(f) The board shall forward to the governor a certified copy of its order. The board's finding that the federal project is either feasible or not feasible is final, and the governor shall notify the federal agency that the federal project has been either approved or disapproved.

(g) The provisions of this section do not apply to the state soil conservation board as long as that board is designated by the governor as the authorized state agency having supervisory responsibility to approve or disapprove of projects designed to effectuate watershed-protection and flood-prevention programs initiated in cooperation with the United States Department of Agriculture.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 12.052. Dam Safety

(a) The department shall make and enforce rules and orders and shall perform all other acts necessary to provide for the safe construction, maintenance, repair, and removal of dams located in this state.

(b) Rules and orders made by the board shall be made after proper notice and hearing as provided in the rules of the board.

(c) If the owner of a dam that is required to be constructed, reconstructed, repaired, or removed in order to comply with the rules and orders promulgated under Subsection (a) of this section wilfully fails or refuses to comply within the 30-day period following the date of the commission's order to do so or if a person wilfully fails to comply with any rule or other order issued by the commission under this section within the 30-day period following the effective date of the order, he is liable to a penalty of not more than \$1,000 a day for each day he continues to

violate this section. The state may recover the penalty by suit brought for that purpose in the district court of Travis County.

(d) If the commission determines that the existing condition of the dam is creating or will cause extensive or severe property damage or economic loss to others or is posing an immediate and serious threat to human life or health and that other procedures available to the department to remedy or prevent the occurrence of the situation will result in unreasonable delay, the commission may issue an emergency order, either mandatory or prohibitory in nature, directing the owner of a dam to repair, modify, maintain, dewater, or remove the dam which the commission determines is unsafe. The emergency order may be issued without notice to the dam owner or with notice the commission considers practicable under the circumstances. The notice does not have to comply with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(e) If the commission issues an emergency order under authority of this section without notice to the dam owner, the commission shall fix a time and place for a hearing which shall be held as soon as practicable to affirm, modify, or set aside the emergency order. The notice does not have to comply with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). If the nature of the commission's action requires further proceedings, those proceedings shall be conducted as appropriate under the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(f) Nothing in this section or in rules or orders made by the department shall be construed to relieve an owner or operator of a dam or reservoir of the legal duties, obligations, or liabilities incident to ownership or operation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

[Sections 12.053 to 12.080 reserved for expansion]

#### SUBCHAPTER D. WATER DISTRICTS

#### § 12.081. Continuing Right of Supervision of Districts Created Under Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution

(a) The powers and duties of all districts and authorities created under Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution are subject to the continuing right of supervision of the State of Texas by and through the department or its successor, and this supervision may include but is not limited to the authority to:

(1) inquire into the competence, fitness, and reputation of the officers and directors of any district;

(2) require, on its own motion or on complaint by any person, audits or other financial information, inspections, evaluations, and engineering reports;

(3) issue subpoenas for witnesses to carry out its authority under this subsection;

(4) institute investigations and hearings using examiners appointed by the commission; and

(5) issue rules necessary to supervise the districts.

(b) The provisions of this section shall not apply to any river authority encompassing 10 or more counties which was not subject to the continuing right of supervision of the State of Texas by and through the commission or its predecessors on June 10, 1969. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 12.082. Duty to Investigate Fresh Water Supply District Projects**

(a) In this section:

(1) "District" means fresh water supply district.

(2) "Designated agent" means any licensed engineer selected by the executive director to perform the functions specified in this section.

(b) The department shall investigate and report on the organization and feasibility of all districts created under Chapter 53 of this code which issue bonds under the provisions of that chapter.

(c) A district that wants to issue bonds for any purpose shall submit to the department a written application for investigation, together with a copy of the engineer's report and a copy of the data, profiles, maps, plans, and specifications made in connection with the engineer's report.

(d) The executive director or his designated agent shall examine the application and other information and shall visit the project and carefully inspect it. The executive director or his designated agent may ask for and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(e) The executive director or his designated agent shall file with the commission written suggestions for changes and improvements and shall furnish a copy of the suggestions to the board of the district. If the commission finally approves or refuses to approve the project or the issuance of bonds for the improvements it shall make a full written report, file it in its office, and furnish a copy of the report to the board of the district.

(f) During the course of construction of the project and improvements, no substantial alterations shall be made in the plans and specifications without the approval of the executive director. The executive director or his designated agent has full authority to inspect the improvements at any time during construction to determine if the project is being

constructed in accordance with approved plans and specifications.

(g) If the executive director finds that the project is not being constructed in accordance with the approved plans and specifications, the executive director immediately shall notify in writing by certified mail each member of the board of the district and its manager. If, within 10 days after the notice is mailed, the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the executive director shall give written notice of that fact to the attorney general.

(h) After the attorney general receives the notice, he may bring an action for injunctive relief, or he may bring quo warranto proceedings against the directors. Venue for either of these actions is exclusively in the district of Travis County.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 12.083. Districts; Creation, Investigations and Bonds**

(a) The commission succeeds to the duties and responsibilities of the Texas Water Rights Commission with regard to the creation of districts as defined by Section 50.001(1) of this code and to approve or disapprove the issuance of the bonds of all such districts.

(b) The executive director shall investigate and report on the organization and feasibility of all districts as defined by Section 50.001(1) of this code. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 12.084 to 12.110 reserved for expansion]

**SUBCHAPTER E. FEES**

**§ 12.111. Renumbered as § 5.182 by Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981**

**§ 12.112. Fees: Exemptions**

The board and the Parks and Wildlife Commission are exempted from payment of any filing, recording, or use fees required by this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 12.113. Disposition of Fees, Etc.**

(a) The department shall immediately deposit in the State Treasury the fees and charges it collects.

(b) The department shall deposit all costs collected under Subchapter F, Chapter 11 of this code<sup>1</sup> in the State Treasury to the credit of the water rights administration fund, from which the department shall pay all expenses necessary to efficiently administer and perform the duties described in Sections 11.325 through 11.335 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> Section 11.201 et seq.

### § 12.114. Disposition of Fees Pending Determination

The department shall hold all fees, except filing fees, which are paid with an application until the commission finally determines whether the application should be granted. If the application is not granted, the department shall return the fees to the applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 12.115 to 12.140 reserved for expansion]

#### SUBCHAPTER F. PENALTIES

### § 12.141. Violations of Rules, Orders, Certified Filings, Permits, Certificates of Adjudication

A person who wilfully violates any of the rules or orders adopted by the board or any of the terms and conditions contained in declarations of appropriations (certified filings), permits, certificates of adjudication, and orders of the commission is subject to a civil penalty of not more than \$1,000 for each act of violation and for each day that the violation continues to take place. An action to collect the penalty provided in this section must be brought within two years from the date of the alleged violation.

(b) An action to collect the penalty provided in this section must be brought within two years from the date of the alleged violation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

[Chapters 13 and 14 reserved for expansion]

#### SUBTITLE C. WATER DEVELOPMENT

### CHAPTER 15. TEXAS WATER ASSISTANCE PROGRAM

#### SUBCHAPTER A. GENERAL PROVISIONS

Section	
15.001.	Definitions.
15.002.	Purpose.
15.003.	Power to Define Purposes.
15.004.	Transbasin Diversion.
15.005.	Consideration of Certain Applications.

#### SUBCHAPTER B. WATER ASSISTANCE FUND

15.011.	Water Assistance Fund.
15.012.	Management of Fund.

#### SUBCHAPTER C. WATER LOAN ASSISTANCE PROGRAM

15.101.	Water Loan Assistance Fund.
15.102.	Financial Assistance.
15.103.	Application for Assistance.
15.104.	Certificate of Commission or Approval by Commission.
15.105.	Considerations in Passing on Application.
15.106.	Approval of Application.
15.107.	Method of Financial Assistance.
15.108.	Approval and Registration.
15.109.	Contracts Incontestable.
15.110.	Inspection of Projects.

Section	
15.111.	Alteration of Plans.
15.112.	Certificate of Approval.

#### SUBCHAPTER E. STORAGE ACQUISITION PROGRAM

15.301.	Fund Created.
15.302.	Authorized Projects.
15.303.	Joint Ventures.
15.304.	Permits Required.
15.305.	Storing Water.
15.306.	Board Findings.
15.307.	Facilities Wanted by Political Subdivision.
15.308.	Contracts: General Authority.
15.309.	Specific Contracts Authorized.
15.310.	Contracts: Facilities Acquired for a Term of Years.
15.311.	Maintenance Contracts.
15.312.	Recreational Facilities.
15.313.	Board May Sell or Lease Projects.
15.314.	Permit Required.
15.315.	Contract Must be Negotiated.
15.316.	Reservoir Land.
15.317.	Price of Sale.
15.318.	Price of Sale: Facilities Acquired Under Contracts With the United States.
15.319.	Costs Defined.
15.320.	Lease Payments.
15.321.	Sale or Lease: Condition Precedent.
15.322.	Disposition of Proceeds.
15.323.	Sale of Stored Water.
15.324.	Sale Contract: Provisions, Limitations.
15.325.	Emergency Releases of Water.
15.326.	Preferences.
15.327.	Lease of Land Prior to Project Construction.
15.328.	Lease Contribution Equivalent to Taxes.
15.329.	Inspection of Projects.
15.330.	Alteration of Plans.
15.331.	Certificate of Approval.

#### SUBCHAPTER F. RESEARCH AND PLANNING PROGRAM

15.401.	Program Creation.
15.402.	Research and Planning Fund.
15.403.	Rules.
15.404.	Research Contracts.
15.405.	Planning Contracts.

#### SUBCHAPTER A. GENERAL PROVISIONS

### § 15.001. Definitions

In this chapter:

- (1) "Board" means the Texas Water Development Board.
- (2) "Commission" means the Texas Water Commission.
- (3) "Executive director" means the executive director of the Texas Department of Water Resources.
- (4) "Department" means the Texas Department of Water Resources.
- (5) "Political subdivision" means a city, county, district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, any other political subdivision of the state, or any interstate compact commission to which the state is a party.
- (6) "Project" means any undertaking or work to conserve, convey, and develop surface or subsurface water resources of the state, to provide for the maintenance and enhancement of the quality

of the water of the state, to provide flood control and drainage, and to carry out other purposes defined by board rules.

(7) "Fund" means the water assistance fund.

(8) "Loan fund" means the water loan assistance fund.

(9) "Conservation" as used herein shall include but not be limited to projects to develop water resources as well as projects to reduce consumption of water and projects to promote more efficient use of water.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.002. Purpose**

(a) The legislature finds that it is in the public interest and to the benefit of the general public of the state to encourage and to assist in the planning and construction of projects to develop and conserve the storm water and floodwater as well as the ordinary flows of the rivers and streams of the state, to maintain and enhance the quality of the water of the state, to provide protection to the state's citizens from the floodwater of the rivers and streams of the state, and other purposes as provided by law or board rule.

(b) The legislature finds that the conventional means of financing projects are inadequate to meet current and anticipated needs of the state. Therefore, it is the further intent of the legislature to provide a means of coordinating the development of projects throughout the state through the board and to provide political subdivisions the maximum opportunity to finance projects through programs provided by this chapter.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.003. Power to Define Purposes**

The board, by rule, may define in greater detail the purposes enumerated in Section 15.002.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.004. Transbasin Diversion**

Money on deposit in a fund created under Article VIII, Section 24(b),<sup>1</sup> of the Texas Constitution shall not be used to finance or in aid of any project under this chapter that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

<sup>1</sup> Proposed adoption of Const. Art. 8, § 24, defeated at election held November 3, 1981.

**§ 15.005. Consideration of Certain Applications**

(a) On submission of a project application under this chapter, the executive director shall determine if the application includes a project that will have flood control as one of its purposes and if the political subdivision submitting the application includes all of the watershed in which the project is to be located.

(b) If the executive director finds that the application includes a project that has flood control as one of its purposes and that the watershed in which the project is located is partially located outside the political subdivision making the application, the executive director shall require the applicant to submit a written memorandum of understanding relating to the management of the watershed in which the project is to be located.

(c) The memorandum of understanding must be approved by all governing bodies of political subdivisions located in the watershed in which the project is to be located and must be signed by the presiding officers of each of those political subdivisions.

(d) The board shall not consider any application for which a memorandum of understanding must be filed under this section until that memorandum of understanding is filed with the executive director.

(e) The board shall adopt rules for carrying out this section.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

[Sections 15.006 to 15.010 reserved for expansion]

**SUBCHAPTER B. WATER ASSISTANCE FUND**

**§ 15.011. Water Assistance Fund**

(a) The water assistance fund is created and shall be administered by the board under this chapter and rules adopted by the board.

(b) After notice and hearing and subject to any limitations established by the General Appropriations Act, the board may transfer money from the fund to the loan fund created under Subchapter C of this chapter,<sup>1</sup> the storage acquisition fund created under Subchapter E of this chapter,<sup>2</sup> and the research and planning fund created under Subchapter F of this chapter.<sup>3</sup>

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

<sup>1</sup> Section 15.101 et seq.

<sup>2</sup> Section 15.301 et seq.

<sup>3</sup> Section 15.401 et seq.

**§ 15.012. Management of Fund**

(a) The board may invest, reinvest, and direct the investment of money accumulated in the fund.

(b) Revenues accumulated pursuant to Article VIII, Section 24(b),<sup>1</sup> of the Texas Constitution and money appropriated by the legislature to the fund shall be deposited in this fund.

(c) Money appropriated to the fund by the legislature for a specific purpose stated in Subchapter C, E, or F of this chapter<sup>2</sup> shall be placed in the appropriate fund created by that subchapter.

(d) The money held in the fund will be invested as provided by law for investment of money in the water development fund in accordance with procedures in Chapter 401, Acts of the 60th Legislature, 1967, as amended (Article 6252-5a, Vernon's Texas Civil Statutes).

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

<sup>1</sup> Proposed adoption of Const. Art. 8, § 24, defeated at election held November 3, 1981.

<sup>2</sup> Section 15.101 et seq., 15.301 et seq., or 15.401 et seq.

[Sections 15.013 to 15.100 reserved for expansion]

#### SUBCHAPTER C. WATER LOAN ASSISTANCE PROGRAM

##### § 15.101. Water Loan Assistance Fund

(a) The water loan assistance fund is created, to be funded by the board at its discretion from the fund.

(b) Repayments of loans shall be deposited in the water assistance fund.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

##### § 15.102. Financial Assistance

The loan fund may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, improvement, or enlargement of projects as defined by this chapter and the board rules.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

##### § 15.103. Application for Assistance

(a) In an application to the board for financial assistance from the loan fund, the applicant shall include:

- (1) the name of the political subdivision and its principal officers;
- (2) a citation of the law under which the political subdivision operates and was created;
- (3) the total cost of the project;
- (4) the amount of state financial assistance requested;
- (5) the plan for repaying the total cost of the project; and
- (6) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for financial assistance from the loan fund unless it is submitted in affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules.

(c) The rules shall not restrict or prohibit the board from requiring additional factual material from an applicant.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

##### § 15.104. Certificate of Commission or Approval by Commission

(a) Except as provided by Subsection (b) of this section, the board shall not deliver funds pursuant to an application for financial assistance from the loan fund until the political subdivision has furnished the board a resolution adopted by the commission certifying:

(1) that an applicant proposing surface-water development has the necessary water right authorizing it to appropriate and use the water that the project will provide; or

(2) that an applicant proposing underground water development has the right to use water that the project will provide.

(b) If an applicant includes a proposal for a waste water treatment plant, the part of the application relating to the waste water treatment plant does not need to be certified by the commission, but the board may not deliver funds for the waste water treatment plant until the political subdivision has obtained written evidence of approval of the plans for the waste water treatment plant from the executive director.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

##### § 15.105. Considerations in Passing on Application

In passing on an application from a political subdivision for financial assistance from the loan fund, the board shall consider but is not limited to:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the political subdivision from all sources for the ultimate repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs; and

(4) the ability of the applicant to finance the project without state assistance.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

##### § 15.106. Approval of Application

After notice and hearing, the board, by resolution, may approve an application if after considering the factors listed in Section 15.105 of this code and any other relevant factors, the board finds:

(1) that the public interest requires state participation in the project; and

(2) that in its opinion the revenue or taxes or both revenue and taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.107. Method of Financial Assistance**

The board may provide financial assistance by using the money in the loan fund to contract with a political subdivision under terms and conditions and within limitations established by the board, for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by a political subdivision. Subject only to constitutional limitations, all contracting political subdivisions may issue and execute those bonds, notes, or other obligations necessary to conform to and comply with repayment obligations adopted by the board. Financial assistance to a political subdivision under this subchapter shall be repaid to the board, and the payments made to the board by the political subdivision for this financial assistance shall be made in compliance with terms and conditions established by the board.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.108. Approval and Registration**

The board shall not contract for the payment of the principal of or interest on or both the principal of and interest on any bonds or other obligations that have not been approved by the attorney general and registered by the comptroller.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.109. Contracts Incontestable**

Contracts entered into by the board for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued by a political subdivision are valid, binding, and incontestable after:

- (1) approval of the bonds or other obligations by the attorney general;
- (2) registration of the bonds or other obligations by the comptroller; and
- (3) purchase by and delivery of the bonds or other obligations to the purchaser.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.110. Inspection of Projects**

(a) The department may inspect the construction of a project any time to assure that:

- (1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and
- (2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.111. Alteration of Plans**

After board approval of engineering plans, a political subdivision shall not make any substantial or material alteration in the plans unless the executive director authorizes the alteration.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.112. Certificate of Approval**

The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

- (1) failure to construct the project according to the director's plans as approved by the board or as altered with the executive director's approval;
- (2) failure to construct the works in accordance with sound engineering principles; or
- (3) failure to comply with any terms of the contract.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

[Sections 15.113 to 15.300 reserved for expansion]

SUBCHAPTER D

*A Subchapter D, Water Bond Guaranty Program, consisting of §§ 15.201 to 15.218, was added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, effective only if the constitutional amendment proposed by Acts 1981, 67th Leg., 1st C.S., H.J.R. No. 6, was adopted. The constitutional amendment so proposed was not adopted.*

SUBCHAPTER E. STORAGE ACQUISITION PROGRAM

**§ 15.301. Fund Created**

There is created a revolving fund in the state treasury to be known as the storage acquisition fund which is to be funded by transfers from the fund at the discretion of the board.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.302. Authorized Projects**

(a) The board may use the storage acquisition fund for projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of any existing or proposed water storage project.

(b) In addition, the board may, at its discretion and in accordance with its rules, contract with a political subdivision, under terms and conditions es-

established by the board, to pay the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by a political subdivision.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.303. Joint Ventures

The board may act singly or in a joint venture in partnership with any political subdivision, with the United States, or with any other state to the extent permitted by law.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.304. Permits Required

The board shall obtain permits from the commission for the storage, transportation, and application to beneficial use of water in reservoirs and associated works constructed by the board.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.305. Storing Water

The board may use any reservoir acquired, leased, constructed, reconstructed, developed, or enlarged by it under this chapter to store unappropriated state water and other water acquired by the state.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.306. Board Findings

Before the board may acquire storage facilities in any reservoir, the board shall find affirmatively that:

(1) it is reasonable to expect that the state will recover its investment in the facilities;

(2) the cost of the facilities exceeds the current financing capabilities of the area involved, and the facilities cannot be reasonably financed by local interests without state participation;

(3) the public interest will be served by acquisition of the facilities; and

(4) the facilities to be constructed or reconstructed contemplate the optimum development of the site which is reasonably reserved under all existing circumstances of the site.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.307. Facilities Wanted by Political Subdivision

The board shall not acquire any facility to the extent that the board finds that the political subdivision:

(1) is willing and reasonably able to finance the acquisition of the facility;

(2) has qualified by obtaining the necessary permit; and

(3) has proposals that are consistent with the objectives of the state water plan.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.308. Contracts: General Authority

(a) The board may execute contracts which include but are not limited to the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation, or maintenance, singularly or in any combination, of any existing or proposed storage project.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.309. Specific Contracts Authorized

Contracts authorized by Section 15.308 of this code include but are not limited to the following:

(1) federal grants or grants from other sources;

(2) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the state for purchase of water and facilities necessary to supply present and future regional and local water requirements;

(3) contracts for goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, implementation, operation, or maintenance of any existing or proposed project or portion of the project; and

(4) contracts secured by the pledge of all or any part of funds in the storage acquisition fund.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.310. Contracts: Facilities Acquired for a Term of Years

If facilities are acquired for a term of years, the board may include in the contract provisions for renewal that will protect the state's investment.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.311. Maintenance Contracts

The board may execute contracts for the operation and maintenance of the state's interest in any project and may agree to pay reasonable operation and maintenance charges allocable to the state interest.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.312. Recreational Facilities

The board may execute contracts with the United States and with state agencies and political subdivisions and with others to the extent authorized for the development and operation of recreational facilities at any project in which the state has acquired an interest. Income received by the board under these contracts shall be deposited in the water assistance fund.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.313. Board May Sell or Lease Projects**

(a) The board may sell, transfer, or lease, to the extent of its ownership, a project acquired, constructed, reconstructed, developed, or enlarged with money from the storage acquisition fund.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.314. Permit Required**

Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure a permit for water use from the commission. If the facilities are to be leased, the permit may be for a term of years.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.315. Contract Must be Negotiated**

The commission may issue a term permit until the applicant has executed a contract with the board for acquisition of the facilities.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.316. Reservoir Land**

The board may lease acquired reservoir land until construction of the dam is completed without the necessity of a permit issued by the commission.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.317. Price of Sale**

(a) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1981, other than a facility acquired under a contract with the United States, shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the date of acquisition by the amount of board money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of the disbursement of funds to the date or dates of the sale or transfer of the state facility, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) The purchaser of the board's interest in a state facility shall also assume, to the extent disclosed by the board at or before the sale, any and all direct, conditional, or contingent liabilities of the board attributed to the project in direct relation to the percentage of the project acquired by the purchaser.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.318. Price of Sale: Facilities Acquired Under Contracts With the United States**

(a) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1981, under a contract with the United States shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the time of acquisition, by the amount of board money disbursed for the acquisition of the facility times the number of years and fraction of a year from the date or dates of disbursement of the money to the date or dates of sale or transfer, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) If, in transferring any contract, the board remains in any way directly, conditionally, or contingently liable for the performance of any part of the contract, then the transferee, in addition to the payments prescribed by Subsection (a) of this section, as applicable, shall pay to the board annually one-half of one percent of the remaining amount owed to the other party to the contract, and shall continue these payments until the board is fully released from the contract.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.319. Costs Defined**

With reference to the sale of a state facility, "direct cost of acquisition" means the principal amount the board has paid plus the amounts the board has agreed to pay under obligations not transferred to the purchaser for a facility up to the date of sale, but does not include the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.320. Lease Payments**

In leasing a state facility for a term of years, the board shall require annual payments not less than the total of:

- (1) the annual principal and interest requirements applicable to the debt incurred by the state in acquiring the facility; and
- (2) the state's annual cost for operation, maintenance, and rehabilitation of the facility.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.321. Sale or Lease: Condition Precedent**

(a) No sale, transfer, or lease of a state facility is valid unless the board first makes the following affirmative findings:

- (1) that the applicant has a permit granted by the commission;

(2) that the sale, transfer, or lease serves the public interest; and

(3) that the consideration for the sale, transfer, or lease is fair, just, reasonable, and in full compliance with the law.

(b) The consideration for a sale or transfer may be either money or revenue bonds which for the purposes of this section shall be deemed the same as money.

(c) The amount of money shall be equal to the price for purchasing the facilities as prescribed by Sections 15.317–15.318 of this code, or if revenue bonds constitute the consideration, the principal amount of revenue bonds shall be equal to the price for purchasing the facilities as prescribed by the provisions of Sections 15.317–15.318 of this code, and the revenue bonds shall bear interest at the rate prescribed in Section 17.128 of this code with regard to bonds purchased with the proceeds of the Texas water development fund.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.322. Disposition of Proceeds

The money received from any sale, transfer, or lease of facilities, or in the case of a sale or transfer involving revenue bonds, the money received as matured interest or principal on the bonds shall be placed in the water assistance fund.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.323. Sale of Stored Water

The board may sell any unappropriated public water of the state and other water acquired by the state that is stored by or for it. The price shall be determined by the board. The money received from any sale shall be placed in the water assistance fund.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.324. Sale Contract: Provisions, Limitations

(a) The board may determine the consideration and other provisions to be included in water sale contracts, but the consideration and other provisions shall be fair, reasonable, and nondiscriminatory. The board may include charges for standby service, which means holding water and conservation storage space for use and for actual delivery of water.

(b) The board shall make the same determinations with respect to the sale of water as are required by Section 15.321 of this code with respect to the sale or lease of facilities.

(c) The board shall not compete with any political subdivisions in the sale of water when this competition jeopardizes the ability of the political subdivision to meet obligations incurred to finance its own water supply projects.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.325. Emergency Releases of Water

(a) All water owned by the board in any facility may be released at the discretion of the board, with or without charge, to relieve any emergency condition arising from drought, public calamity, or any other reason causing a severe water shortage, if the commission first determines the existence of the emergency and requests the board to release water to alleviate the emergency condition.

(b) The executive director may authorize the release of water owned by the state from any facility in which the state has an interest under this subchapter for a period of not to exceed 72 hours from time of authorization to relieve an emergency condition that poses an imminent threat of flooding. The commission must approve any release of water that must be made beyond the 72-hour period provided by this subsection.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.326. Preferences

The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 11.123 of this code. The board and the commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.327. Lease of Land Prior to Project Construction

The board may lease tracts of land acquired for project purposes for a term of years for any purpose not inconsistent with ultimate project construction. The lease shall provide for expiration before initiation of project construction. The money received from such leases shall be placed in the water assistance fund.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

#### § 15.328. Lease Contribution Equivalent to Taxes

The lease may provide for contribution by the lessee to units of local government of amounts equivalent to ad valorem taxes or special assessments.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.329. Inspection of Projects**

(a) The department may inspect the construction of a project any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.330. Alteration of Plans**

After board approval of engineering plans, a political subdivision shall not make any substantial or material alteration in the plans unless the executive director authorizes the alteration.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.331. Certificate of Approval**

The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to plans approved by the board or as altered with the executive director's approval;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

[Sections 15.332 to 15.400 reserved for expansion]

SUBCHAPTER F. RESEARCH AND PLANNING PROGRAM

**§ 15.401. Program Creation**

The research and planning program is created to provide money for research into the proper conservation and development of the state's water resources and for flood control planning by political subdivisions.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.402. Research and Planning Fund**

The research and planning fund is created in the state treasury to be funded at the discretion of the board from the money in the fund.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.403. Rules**

The board shall adopt rules to carry out this chapter.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.404. Research Contracts**

(a) The board may enter into a contract with any person for research into any matter relating to the conservation and development of the state's water resources.

(b) Before a contract is awarded, the board may prepare written specifications for the proposed contract and may require each prospective contractor to prepare and submit to the board a written proposal that includes:

(1) a description of the proposed research project;

(2) a detailed estimate of the cost of the proposed research project;

(3) the estimated time required to complete the research project; and

(4) any other information requested by the board or required by the board's rules.

(c) At a regular or specially called meeting of the board, the board may award a research contract to any person and may provide money from the research and planning fund in any amount the board considers adequate to carry out the research project under the contract.

(d) The board shall adopt rules providing criteria for research projects and for eligibility of persons to receive contract awards under this section.

(e) A contract made by the board under this section shall include:

(1) a detailed description of the research project;

(2) the time in which the research project is to be completed;

(3) the total amount of money to be paid by the board from the research and planning fund for the research project; and

(4) any other terms and conditions required by the board's rules or agreed to by the contracting parties.

(f) The board may enter into a supplemental contract with a contractor under this section to change any of the provisions of a contract awarded under this section including extension of time to complete the project, the award of more research funds, or changes in the planned research.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

**§ 15.405. Planning Contracts**

(a) The board may enter into contracts with political subdivisions to pay from the research and planning fund all or part of the cost of developing flood control plans for the political subdivision.

(b) A political subdivision that desires money from the research and planning fund for flood control planning shall submit a written application to the board in the manner and form required by board rules.

(c) The application shall include:

(1) the name of the political subdivision;

(2) a citation to the laws under which the political subdivision was created and is operating in-

cluding specific citation of all laws providing flood control authority;

(3) the amount requested from the board for flood control planning; and

(4) any other information required by the board in its rules or specifically requested by the board.

(d) After notice and hearing, the board may award the applicant all or part of the requested funds that are considered necessary by the board for the political subdivision to carry out adequate flood control planning.

(e) If the board grants an application under this section and awards funds for flood control planning, the board shall enter into a contract with the political subdivision that includes:

(1) a detailed statement of the purpose for which the money is to be used;

(2) the total amount of money to be paid from the research and planning fund under the contract; and

(3) any other terms and conditions required by board rules or agreed to by the contracting parties.

(f) The board shall adopt rules establishing criteria of eligibility for flood control planning money that considers:

(1) the relative need of the political subdivision for the money;

(2) the legal authority of the political subdivision to plan for and control flooding; and

(3) the effect of flood control planning by the political subdivision on overall flood control in the state and within the area in which the political subdivision is located.

(g) The board may require that flood control plans developed under contracts entered into under this section be made available to the department as provided by board rules.

[Added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

## CHAPTER 16. PROVISIONS GENERALLY APPLICABLE TO WATER DEVELOPMENT

### SUBCHAPTER A. GENERAL PROVISIONS

Section  
16.001. Definitions.

### SUBCHAPTER B. DUTIES OF THE EXECUTIVE DIRECTOR

16.011. General Responsibilities of the Executive Director.  
16.012. Studies, Investigations, Surveys.  
16.013. Engineering, Hydrologic, and Geologic Functions.  
16.014. Silt Load of Streams, Etc.  
16.015. Studies of Underground Water Supply.  
16.016. Pollution of Red River Tributaries.  
16.017. Typographic and Geologic Mapping.  
16.018. Soil Resource Planning.  
16.019. Cooperative Agreements.  
16.020. Master Plans of Districts, Etc.  
16.021. Centralized Data Bank.

### SUBCHAPTER C. PLANNING

Section  
16.051. State Water Plan.  
16.052. Interbasin Water Transfer.  
16.053. Hearing on Preliminary Plan.  
16.054. Hearing on Completed State Water Plan.  
16.055. Effect of Plan.  
16.056. Amendment of Plan.  
16.057. Federal Assistance in Financing Plan.  
16.058. Studies of Bays and Estuaries.

### SUBCHAPTER D. COOPERATION WITH FEDERAL GOVERNMENT

16.091. Designation of Department.  
16.092. Local Sponsors for Projects.

### SUBCHAPTER E. ACQUISITION AND DEVELOPMENT OF FACILITIES

16.131. Authorized Projects.  
16.132. Joint Ventures.  
16.133. Permits Required.  
16.134. Storing Water.  
16.135. Board Findings.  
16.136. Facilities Wanted by Political Subdivision.  
16.137. Contracts: General Authority.  
16.138. Specific Contracts Authorized.  
16.139. Contracts: Facilities Acquired for a Term of Years.  
16.140. Maintenance Contracts.  
16.141. Recreational Facilities.

### SUBCHAPTER F. SALE OR LEASE OF FACILITIES

16.181. Board May Sell or Lease Projects.  
16.182. Permit Required.  
16.183. Permit; Paramount Consideration of Commission.  
16.184. Contract Must be Negotiated.  
16.185. Reservoir Land.  
16.186. Price of Sale.  
16.187. Price of Sale: Facilities Acquired Under Contracts.  
[16.1871.] Acquisition Date.  
16.188. Costs Defined.  
16.189. Lease Payments.  
16.190. Sale or Lease: Condition Precedent.  
16.191. Disposition of Proceeds.  
16.192. Sale of Stored Water.  
16.193. Permit.  
16.194. Sale Contract: Provisions, Limitations.  
16.195. Emergency Releases of Water.  
16.196. Preferences.  
16.197. Lease of Land Prior to Project Construction.  
16.198. Lease Contributions Equivalent to Taxes.

### SUBCHAPTER G. IMPROVEMENTS

16.231. Design of Improvements or System of Improvements.  
16.232. Location of Projects; Reports.  
16.233. Cooperation with Other Agencies.  
16.234. Advice to Districts.  
16.235. Districts to File Information With Department.  
16.236. Construction of Levee Without Approval of Plans.  
16.237, 16.238. Renumbered.

### SUBCHAPTER H. NAVIGATION FACILITIES

16.271. Improvement of Streams and Canals and Construction of Facilities Within Cypress Creek Drainage Basin.  
16.272. Long-Term Contracts With the United States.  
16.273. Temporary Authority to Act for District.

### SUBCHAPTER I. FLOOD INSURANCE

16.311. Short Title.  
16.312. Purpose.  
16.313. Definitions.  
16.314. Cooperation of Texas Department of Water Resources.  
16.315. Political Subdivisions; Compliance With Federal Requirements.

Section	
16.316.	Coordination of Local, State, and Federal Programs by Department.
16.317.	Cooperation of State Board of Insurance.
16.318.	Rules.
16.319.	Qualification.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

SUBCHAPTER A. GENERAL PROVISIONS

§ 16.001. Definitions

In this chapter:

- (1) "Board" means the Texas Water Development Board.
- (2) "Commission" means the Texas Water Commission.
- (3) "Chairman" means the chairman of the Texas Water Development Board.
- (4) "Executive director" means the executive director of the Texas Department of Water Resources.

(5) "Department" means the Texas Department of Water Resources.

(6) "Political subdivision" means a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party.

(7) "Project" means any engineering undertaking or work to conserve and develop surface or subsurface water resources of the state, including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, including underground storage projects, filtration and water treatment plants including any system necessary to transport water from storage to points of distribution, or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers, by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods.

(8) "Bonds" means all Texas Water Development Bonds now or hereafter authorized by the Texas Constitution.

(9) "Waste" has the same meaning as provided in Section 26.001 of this code.

(10) "Water development bonds" means the Texas Water Development Bonds authorized by Section 49-c, as amended, and Section 49-d, as amended, of Article III of the Texas Constitution.

(11) "Lending rate" means an amount of interest calculated when one-half of one percent is added to the weighted average net effective interest rate on the three most recent issues of bonds issued under this chapter.

(12) "Net effective interest rate" means the rate of interest computed by dividing the total value of all interest coupons attached to the bonds included in an issue issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond included in the issue.

(13) "State facility" means a project in which the board has acquired an ownership interest.

(14) "Acquisition of a state facility" means the act or series of actions by the board in making payment for a state facility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.001 by Acts 1977, 65th Leg., p. 671, ch. 254, § 1.

[Sections 16.002 to 16.010 reserved for expansion]

SUBCHAPTER B. DUTIES OF THE EXECUTIVE DIRECTOR

§ 16.011. General Responsibilities of the Executive Director

The executive director shall determine the responsibilities of each administrative division of the department and its staff in carrying out the authority, duties, and functions provided in this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.012. Studies, Investigations, Surveys

(a) The executive director shall make studies, investigations, and surveys of the occurrence, quantity, quality, and availability of the surface water and groundwater of this state. For these purposes the staff shall collect, receive, analyze, and process basic data concerning the water resources of the state.

(b) The executive director shall:

- (1) determine suitable locations for future water facilities, including reservoir sites;
- (2) locate land best suited for irrigation;
- (3) make estimates of the cost of proposed irrigation works and the improvement of reservoir sites;
- (4) examine and survey reservoir sites; and
- (5) investigate the effects of fresh water inflows upon the bays and estuaries of Texas.

(c) The executive director shall keep full and proper records of his work, observations, data, and

calculations, all of which are the property of the state.

(d) In performing his duties under this section, the executive director shall assist the commission in carrying out the purposes and policies stated in Section 12.014 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.013. Engineering, Hydrologic, and Geologic Functions

The executive director shall advise and assist the board and the commission with regard to engineering, hydrologic, and geologic matters concerning the water resources of the state. The executive director shall evaluate, prepare, and publish engineering, hydrologic, and geologic data, information, and reports relating to the water resources of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.014. Silt Load of Streams, Etc.

The executive director shall determine the silt load of streams, make investigations and studies of the duty of water, and make surveys to determine the water needs of the distinct regional divisions of the watershed areas of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.015. Studies of Underground Water Supply

The executive director may make studies and investigations of the physical characteristics of water-bearing formations and of the sources, occurrence, quantity, and quality of the underground water supply of the state and may study and investigate feasible methods to conserve, preserve, improve, and supplement this supply. The work shall first be undertaken in areas where, in the judgment of the board, the greatest need exists, and in determining the need, the board shall consider all beneficial uses essential to the general welfare of the state. Water-bearing formations may be explored by coring or other mechanical or electrical means when the area to be investigated has more than a local influence on water resources.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.016. Pollution of Red River Tributaries

Within the limits of available money and facilities, the executive director shall study salt springs, gypsum beds, and other sources of natural pollution of the tributaries of the Red River and shall study means of eliminating this natural pollution and preventing it from reaching the Red River.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.017. Topographic and Geologic Mapping

The executive director shall carry out the program for topographic and geologic mapping of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.018. Soil Resource Planning

The executive director may contract with the State Soil Conservation Board for joint investigation and research in the field of soil resource planning. The State Soil Conservation Board may appoint a representative to advise and work with the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.019. Cooperative Agreements

With the approval of the board, the executive director may negotiate and execute contracts with persons or with federal, state, or local agencies for joint or cooperative studies and investigations of the occurrence, quantity, and quality of the surface water and groundwater of the state; the topographical mapping of the state; and the collection, processing, and analysis of other basic data relating to the development of the water resources of the state and for the administration and performance of these contracts.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.020. Master Plans of Districts, Etc.

The executive director shall review and analyze master plans and other reports of conservation districts, river authorities, and state agencies and shall make its recommendations to the board or the commission in all cases where approval of the board or commission is required by law or is requested by a district, authority, or agency.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.021. Centralized Data Bank

The executive director shall create a centralized data bank incorporating all hydrological data collected by state agencies.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.022 to 16.050 reserved for expansion]

### SUBCHAPTER C. PLANNING

#### § 16.051. State Water Plan

(a) The executive director shall prepare, develop, and formulate a comprehensive state water plan.

(b) The plan shall define and designate river basins and watersheds as separate units for the purpose of water development and interwatershed transfers.

(c) The executive director shall be governed in his preparation of the plan by a regard for the public interest of the entire state. The executive director shall direct his efforts toward the orderly development and management of water resources in order that sufficient water will be available at a reasonable cost to further the economic development of the entire state.

(d) The executive director shall also give consideration in the plan to the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and to the effect of the plan on navigation. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.052. Interbasin Water Transfer**

The executive director shall not prepare or formulate a plan which contemplates or results in the removal of surface water from the river basin of origin if the water supply involved will be required for reasonably foreseeable water supply requirements within the river basin of origin during the next ensuing 50-year period, except on a temporary, interim basis.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.053. Hearing on Preliminary Plan**

(a) After the executive director completes his preliminary planning of the water resources development within a river basin, he shall hold a public hearing, after notice, at some central location within the river basin. If the proposed plan involves the transfer of water from one basin to another, the hearing shall be held at some location convenient to the areas affected.

(b) The executive director shall present the proposed plan of development and hear evidence for and against the plan.

(c) After the hearing, the executive director shall consider the effect the plan will have on the present and future development, economy, general welfare, and water requirements of the river basin or the areas affected.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.054. Hearing on Completed State Water Plan**

When the executive director has prepared and examined the completed preliminary plan, the board shall hold a public hearing on the plan to determine whether or not it gives adequate consideration to the protection of existing water rights in this state and whether or not it takes into account modes and procedures for the equitable adjustment of water rights affected by the plan. After the hearing, the board may formally adopt the state water plan. A majority vote is necessary for adoption.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.055. Effect of Plan**

(a) The state water plan, as formally adopted by the board, shall be a flexible guide to state policy for the development of water resources in this state.

(b) The commission shall take the plan into consideration in matters coming before it but is not bound by the plan.

(c) Nothing in the state water plan or any amendment or modification of the plan affects any vested right existing before August 30, 1965.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.056. Amendment of Plan**

(a) The board shall amend or modify the plan as experience and changed conditions require after holding a public hearing on any amendment or modification in the manner and for the purposes provided by Section 16.054 of this code.

(b) Any amendment or modification adopted by the board becomes a part of the plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.057. Federal Assistance in Financing Plan**

The executive director may take all necessary action to qualify for federal assistance in financing the development and improvement of the plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.058. Studies of Bays and Estuaries**

The executive director shall carry out comprehensive studies of the effects of fresh water inflows upon the bays and estuaries of Texas. The studies shall include the development of methods of providing and maintaining the ecological environment thereof suitable to their living marine resources. The studies shall be completed and the results published by December 31, 1979. The General Land Office, the Parks and Wildlife Department, and the Texas Coastal and Marine Council are authorized and directed to assist and cooperate in all possible ways with the department in this undertaking.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.059 to 16.090 reserved for expansion]

**SUBCHAPTER D. COOPERATION WITH FEDERAL GOVERNMENT**

**§ 16.091. Designation of Department**

The department is designated as the state agency to cooperate with the Corps of Engineers of the United States Army and the Bureau of Reclamation of the United States Department of the Interior in the planning of water resource development projects in this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.092. Local Sponsors for Projects**

(a) When a project is proposed for planning or development by the department, the Corps of Engineers of the United States Army, or the Bureau of Reclamation of the United States Department of the Interior, any political subdivision may apply to the

executive director for designation as the cooperating local sponsor of the project.

(b) In the application the applicant shall:

(1) describe the purposes of the project;

(2) state the reasons for the application, the contemplated use of water the applicant might derive from the project if a permit for the use is subsequently granted by the commission; and

(3) cite the contributions the applicant is prepared to make to the planning or development of the project.

(c) No application for designation as a local sponsor shall cover more than one proposed project.

(d) The commission shall prescribe the form to be used in applications for designation as cooperating local sponsor. Before accepting the application, the commission may require that the applicant complete the prescribed form.

(e) Before making any designation of local sponsorship, the commission shall set the application for hearing and give public notice of the hearing. Any interested party may appear and be heard for or against the designation of the applicant as project sponsor.

(f) More than one cooperating local sponsor may be designated for each project, but each applicant must comply with the provisions of this section.

(g) After a public hearing, the commission, by written order, shall grant or reject the application and shall state its reasons. The commission may set a reasonable time period for any sponsorship designation.

(h) In granting any future permit for use of water stored in a project for which it has designated a local sponsor, the commission shall fully recognize that sponsor's contributions to the planning and development of the project.

(i) To the extent that no local cooperator is prepared to undertake local sponsorship of a federal project in whole or part or to the extent that the board has an interest in the project, the board may be designated as sponsor of the project or as an additional cooperating sponsor.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.093 to 16.130 reserved for expansion]

#### SUBCHAPTER E. ACQUISITION AND DEVELOPMENT OF FACILITIES

##### § 16.131. Authorized Projects

The board may use the development fund for projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of any existing or proposed project.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

##### § 16.132. Joint Ventures

The board may act singly or in a joint venture in partnership with any person or entity, including any agency or political subdivision of this state, or with another state or its political subdivisions, or with the United States, or with a foreign nation, to the extent permitted by law.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

##### § 16.133. Permits Required

The board shall obtain permits from the commission for the storage, transportation, and application to beneficial use of water in reservoirs and associated works constructed by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

##### § 16.134. Storing Water

The board may use any reservoir acquired, leased, constructed, reconstructed, developed, or enlarged by it under this chapter to store unappropriated state water and other water acquired by the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

##### § 16.135. Board Findings

Before the board may acquire storage facilities in any reservoir, the board shall find affirmatively that:

(1) it is reasonable to expect that the state will recover its investment in the facilities;

(2) the cost of the facilities exceeds the current financing capabilities of the area involved, and the facilities cannot be reasonably financed by local interests without state participation;

(3) the public interest will be served by acquisition of the facilities; and

(4) the facilities to be constructed or reconstructed contemplate the optimum development of the site which is reasonably reserved under all existing circumstances of the site.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

##### § 16.136. Facilities Wanted by Political Subdivision

The board shall not acquire any facility to the extent that the board finds that the political subdivision:

(1) is willing and reasonably able to finance the acquisition of the facility;

(2) has qualified by obtaining the necessary permit; and

(3) has proposals that are consistent with the objectives of the state water plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.137. Contracts: General Authority**

(a) The board may execute contracts to the full extent that contracts are constitutionally authorized and not limited for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation, or maintenance, singularly or in any combination, of any existing or proposed project.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.138. Specific Contracts Authorized**

Contracts authorized by Section 16.137 of this code shall include but are not limited to the following:

(1) contracts secured by the general credit of the state which shall constitute general obligations of the state in the same manner and with the same effect as water development bonds, and principal and interest on these contracts shall be paid in the manner provided for payment of principal and interest on state bonds by the constitution;

(2) federal grants or grants from other sources;

(3) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the state for purchase of water and facilities necessary to supply present and future regional and local water requirements;

(4) contracts with any person, including but not limited to the United States, local public agencies, power cooperatives, and investor-owned utilities, for financing, constructing, and operating facilities to operate and deliver pumping energy required for projects; and

(5) contracts for goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, implementation, operation, or maintenance of any existing or proposed project or portion of the project.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.139. Contracts: Facilities Acquired for a Term of Years**

If facilities are acquired for a term of years, the board may include in the contract provisions for renewal that will protect the state's investment.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.140. Maintenance Contracts**

The board may execute contracts for the operation and maintenance of the state's interest in any project and may agree to pay reasonable operation

and maintenance charges allocable to the state interest.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.141. Recreational Facilities**

The board may execute contracts with the United States and with state agencies and political subdivisions and with others to the extent authorized for the development and operation of recreational facilities at any project in which the state has acquired an interest. Income received by the board under these contracts may be used for the same purposes as income from the sale of water. The legislature may appropriate money for the development and operation of recreational facilities at projects in which the state has acquired an interest.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.142 to 16.180 reserved for expansion]

**SUBCHAPTER F. SALE OR LEASE OF FACILITIES**

**§ 16.181. Board May Sell or Lease Projects**

(a) The board may sell, transfer, or lease, to the extent of its ownership, a project acquired, constructed, reconstructed, developed, or enlarged with money from the water development account.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.182. Permit Required**

Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure a permit for water use from the commission. If the facilities are to be leased, the permit may be for a term of years.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.183. Permit: Paramount Consideration of Commission**

In passing on an application for a permit under this subchapter whether it proposes a use of water inside or outside the watershed of the impoundment, the commission shall give paramount consideration to recouping the state's investment in order to protect the public interest and promote the general welfare.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.184. Contract Must be Negotiated**

The commission shall not issue the permit until the applicant has executed a contract with the board for acquisition of the facilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 16.185. Reservoir Land

The board may lease acquired reservoir land until construction of the dam is completed without the necessity of a permit issued by the commission. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 16.186. Price of Sale

(a) The price of the sale or transfer of a state facility acquired prior to September 1, 1977, other than a facility acquired under a contract with the United States, shall be the sum of the direct cost of acquisition, plus an amount of interest calculated when one-half of one percent is added to the weighted average effective interest rate in effect at the date of sale or transfer of the state facility times the amount of board money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of purchase or acquisition to the date or dates of sale or transfer, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1977, other than a facility acquired under a contract with the United States, shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the date of acquisition by the amount of board money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of the purchase or acquisition to the date or dates of the sale or transfer of the state facility, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(c) The purchaser of the board's interest in a state facility shall also assume, to the extent disclosed by the board at or prior to the sale, any and all direct, conditional, or contingent liabilities of the board attributed to the project in direct relation to the percentage of the project acquired by the purchaser. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.356 by Acts 1977, 65th Leg., p. 671, ch. 254, § 2.

### § 16.187. Price of Sale: Facilities Acquired under Contracts with the United States

(a) The price of the sale or transfer of a facility acquired prior to September 1, 1977, under a contract with the United States shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by adding one-half of one percent to the weighted average effective interest rate in effect at the date of the sale or transfer of the state facility times the amount of board money disbursed for the

acquisition times the number of years and fraction of a year for which the board paid interest to the other party to the contract, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1977, under a contract with the United States shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the time of acquisition by the amount of board money disbursed for the acquisition of the facility times the number of years and fraction of a year from the date or dates of purchase or acquisition to the date or dates of sale or transfer, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility, less any payments received by the board from the lease of the facility or the sale of water from it.

(c) If, in transferring any contract, the board remains in any way directly, conditionally, or contingently liable for the performance of any part of the contract, then the transferee, in addition to the payments prescribed by Subsection (a) or (b) of this section, as applicable, shall pay to the board annually one-half of one percent of the remaining amount owed to the other party to the contract, and shall continue these payments until the board is fully released from the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.357 by Acts 1977, 65th Leg., p. 671, ch. 254, § 2.

### [§ 16.1871.]<sup>1</sup> Acquisition Date

(a) If the board has made an initial payment prior to September 1, 1977, to acquire a state facility, other than a facility acquired under a contract with the United States, the state facility shall be deemed to have been acquired prior to September 1, 1977, for purposes of Section 11.356 of this code.<sup>2</sup> If the board makes its initial payment on or after September 1, 1977, to acquire a state facility, other than a facility acquired under a contract with the United States, the state facility shall be deemed to have been acquired on or after September 1, 1977, for purposes of Section 11.356 of this code.

(b) If the board has executed a contract with the United States prior to September 1, 1977, to purchase a state facility, the state facility shall be deemed to have been acquired prior to September 1, 1977, for purposes of Section 11.357<sup>3</sup> of this code. If the board executes a contract with the United States on or after September 1, 1977, to purchase a state facility, the state facility shall be deemed to have been acquired on or after September 1, 1977, for purposes of Section 11.357 of this code.

[Added by Acts 1977, 65th Leg., p. 673, ch. 254, § 3, eff. May 25, 1977.]

<sup>1</sup> Enacted as § 11.3571 by Acts 1977, 65th Leg., p. 673, ch. 254, § 3 and editorially reclassified.

<sup>2</sup> See, now, § 16.186.

<sup>3</sup> See, now, § 16.187.

**§ 16.188. Costs Defined**

With reference to the sale of a state facility, "direct cost of acquisition" means the principal amount the board has paid or agreed to pay for a facility up to the date of sale, but does not include the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.358 by Acts 1977, 65th Leg., p. 671, ch. 254, § 2.

**§ 16.189. Lease Payments**

In leasing a state facility for a term of years, the board shall require annual payments not less than the total of:

(1) the annual principal and interest requirements applicable to the debt incurred by the state in acquiring the facility; and

(2) the state's annual cost for operation, maintenance, and rehabilitation of the facility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.190. Sale or Lease: Condition Precedent**

(a) No sale, transfer, or lease of a state facility is valid unless the board first makes the following affirmative findings:

(1) that the applicant has a permit granted by the commission;

(2) that the sale, transfer, or lease will contribute to the conservation and development of the water resources of the state; and

(3) that the consideration for the sale, transfer, or lease is fair, just, and reasonable and in full compliance with the law.

(b) The consideration for any such sale or transfer may be either money or revenue bonds, which revenue bonds for the purposes hereof shall be deemed the same as money.

(c) The amount of money shall be equal to the price for purchasing the facilities as prescribed by the provisions of Section 16.187 of this code, or if revenue bonds constitute the consideration, the principal amount of revenue bonds shall be equal to the price for purchasing the facilities as prescribed by the provisions of Section 16.187 of this code, and such revenue bonds shall bear interest at the rate prescribed in Section 17.128 of this code with regard to bonds purchased with the proceeds of the Texas Water Development Fund.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.191. Disposition of Proceeds**

(a) The money received from any sale, transfer, or lease of facilities as cash, or in the case of a sale or transfer involving revenue bonds, the money received as matured interest or principal on the bonds shall be used to pay the principal of and interest on water development bonds or to meet contractual obligations incurred by the board. The money shall be collected and credited to the proper special fund as is money received in payment of principal and interest on loans to political subdivisions under this code, taking into consideration the manner in which the facilities were acquired.

(b) When enough money has been collected to pay all outstanding indebtedness, including the principal of all state bonds and contractual obligations and the full amount of interest to accrue on these debts, the board may use any further amounts received from the sale, transfer, or lease of facilities to acquire additional facilities or to provide assistance to political subdivisions for water supply projects.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.192. Sale of Stored Water**

The board may sell any unappropriated public water of the state and other water acquired by the state that is stored by or for it. The price will be determined by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.193. Permit**

(a) The board may not sell the water stored in a facility to any person who has not obtained a permit from the commission. The rights of the applicant in the water are governed by the terms and conditions of the permit. The permit may be for a term of years.

(b) Whether the application for a permit involves a proposed use of water inside or outside the watershed of the impoundment, the commission shall give paramount consideration to recouping the state's investment in order to protect the public interest and promote the general welfare.

(c) The permit shall be conditioned on continued payment of the obligations assumed under the contract with the board and may provide for cancellation at any time on breach of the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.194. Sale Contract: Provisions, Limitations**

(a) The board may determine the consideration and other provisions to be included in water sale contracts, but the consideration and other provisions shall be fair, reasonable, and nondiscriminatory. The board may include charges for standby service,

which means holding water and conservation storage space for use and for actual delivery of water.

(b) The board shall make the same determinations with respect to the sale of water as are required in Section 16.190 of this code with respect to the sale or lease of facilities.

(c) The board shall not compete with any political subdivision in the sale of water when this competition jeopardizes the ability of the political subdivision to meet obligations incurred to finance its own water supply projects.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.195. Emergency Releases of Water

Unappropriated water and other water of the state stored in any facility acquired by and under the control of the board may be released without charge to relieve any emergency condition arising from drought, severe water shortage, or public calamity, if the commission first determines the existence of the emergency and requests the board to release water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.196. Preferences

The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 11.123 of this code relating to preferences in the appropriation and use of state water. The board and the commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.197. Lease of Land Prior to Project Construction

The board may lease tracts of land acquired for project purposes for a term of years for any purpose not inconsistent with ultimate project construction. The lease shall be scheduled to expire before initiation of project construction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 16.198. Lease Contributions Equivalent to Taxes

The lease may provide for contribution by the lessee to units of local government of amounts equivalent to ad valorem taxes or special assessments.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.199 to 16.230 reserved for expansion]

### SUBCHAPTER G. IMPROVEMENTS

#### § 16.231. Design of Improvements or System of Improvements

Insofar as possible, improvements necessary to reclaim overflowed land, swampland, and other land in this state that is not suitable for use because of temporary or permanent excessive accumulation of water on or contiguous to the land for agricultural or other use shall be designed with primary consideration to the topographic and hydrographic conditions and in such a manner that each division of a project shall be a complete, united project forming a coordinate part of an ultimately finished series of projects so constituted that the successful operation of each united project shall coordinate with the successful operation of other projects within the same hydraulic influence.

[Formerly § 16.233, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered § 16.231 and amended by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

Former § 16.231, relating to purpose of this subchapter, was derived from Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, and was deleted by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8.

#### § 16.232. Location of Projects; Reports

The executive director shall maintain files reflecting engineering reports, studies, drawings, and staff findings and recommendations pertaining to the location and effect of reclamation projects.

[Formerly § 16.234, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered § 16.232 and amended by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

Former § 16.232, relating to surveys and planning, was derived from Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, and was deleted by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8.

#### § 16.233. Cooperation With Other Agencies

In performing his functions, the executive director may confer with federal and state agencies and with political subdivisions and, with the approval of the board, may execute cooperative agreements with them. The executive director may cancel any such agreement on 10 days notice to the other party.

[Formerly § 16.235, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered § 16.233 by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

#### § 16.234. Advice to Districts

The executive director shall confer with districts requesting technical advice on the adequate execution of proposed levee and drainage improvements.

[Formerly § 16.236, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered § 16.234 by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

#### § 16.235. Districts to File Information With Department

Immediately before having its bonds approved by the attorney general, each drainage district and

levee improvement district shall file with the department, on forms furnished by the department, a complete record showing each step in the organization of the district, the amount of bonds to be issued, and a description of the area and boundaries of the district, accompanied by plans, maps, and profiles of improvements and the district engineer's estimates and reports on them.

[Formerly § 16.237, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered § 16.235 by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

**§ 16.236. Construction of Levee Without Approval of Plans**

(a) No person may construct, attempt to construct, cause to be constructed, maintain, or cause to be maintained any levee or other such improvement on, along, or near any stream of this state that is subject to floods, freshets, or overflows so as to control, regulate, or otherwise change the floodwater of the stream without first obtaining approval of the plans by the commission.

(b) Any person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100. A separate offense is committed each day a structure constructed in violation of this section is maintained.

(c) At the request of the executive director, the attorney general shall file suit in a district court of Travis County to enjoin any violation or threatened violation of this section. In the suit, the attorney general may seek to have the illegal levee or other improvement removed and the preexisting conditions restored and may also collect civil penalties of up to \$100 a day for each day a violation occurs.

(d) This section does not apply to:

(1) dams permitted by the commission or recognized as valid by final decree in any proceeding begun under Subchapter G, Chapter 11, of this code;<sup>1</sup>

(2) dams authorized by Section 11.142 of this code;

(3) a levee or other improvement within the corporate limits of a city or town provided: (a) plans for the construction or maintenance or both must be approved by the city or town as a condition precedent to starting the project and (b) the city or town requires that such plans be in substantial compliance with rules and standards adopted by the board; or

(4) a levee or other improvement within the boundaries of any political subdivision which has qualified for the National Flood Insurance Program as authorized by the National Flood Insurance Act of 1968 (Title 42, U.S.C., Sections 4001-4127) provided: (a) plans for the construction or maintenance or both must be approved by the political subdivision which is participating in the

national flood insurance program as a condition precedent to starting the project and (b) the political subdivision requires that such plans be in substantial compliance with rules and standards adopted by the board;

(5) projects implementing soil and water conservation practices set forth in a conservation plan with a landowner or operator and approved by the governing board of a soil and water conservation district organized under the State Soil Conservation Law, as amended (Article 165a-4, Vernon's Texas Civil Statutes),<sup>2</sup> provided that the governing board finds the practices do not significantly affect stream flooding conditions on, along, or near a state stream.

(e) On projects located within the corporate limits of a city or town or within the boundaries of any political subdivision which are exempt from the provisions of this section by Subdivision (3) or (4) of Subsection (d) above, any person whose property is located outside of the corporate limits of such city or town or of the boundaries of such a political subdivision and whose property is affected or potentially affected by the effect of the project on the floodwaters of the stream may appeal the decision of such political subdivision. The appeal shall be in writing and shall specify the grounds therefor and a copy shall be sent by certified mail to the project applicant and to the city or town or such political subdivision. The timely filing of such an appeal with the executive director suspends the decision of the city or town or political subdivision until a final decision is rendered by the department. The executive director shall review the complaint and investigate the facts surrounding the nature of the complaint. If the executive director finds that the complaint is frivolous or nonmeritorious or made solely for purposes of harassment or delay, then he shall dismiss the appeal. Otherwise, the executive director shall refer the appeal to the commission which shall after due notice hold a hearing to determine whether the project should be approved using the standards established by the department and shall hear such appeal de novo under the procedural rules established by the commission for other reclamation projects.

[Formerly § 16.238, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1375, ch. 615, § 1, eff. Aug. 27, 1979. Renumbered § 16.236 by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

<sup>1</sup> Section 11.301 et seq.

<sup>2</sup> Repealed; see, now, Agriculture Code, § 201.001 et seq.

Section 2 of the 1979 amendatory act provided:

"However, this section does not apply to any stream which constitutes or defines the international boundary between the United State of America and the Republic of Mexico."

**§§ 16.237, 16.238. Renumbered as §§ 16.235, 16.236 by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981**

[Sections 16.239 to 16.270 reserved for expansion]

## SUBCHAPTER H. NAVIGATION FACILITIES

**§ 16.271. Improvement of Streams and Canals and Construction of Facilities Within Cypress Creek Drainage Basin**

The board may improve streams and canals and construct all waterways and other facilities necessary to provide for navigation within the Cypress Creek drainage basin which is located in the north-east portion of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.272. Long-Term Contracts With the United States**

The board may execute long-term contracts with the United States or any of its agencies for the acquisition and development of improvements and facilities under Section 16.271 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.273. Temporary Authority to Act for District**

The board may act in behalf of a local district or districts until they can take over the project or projects in accordance with the board's agreement with the district or districts in acting as the sponsor.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.274 to 16.310 reserved for expansion]

## SUBCHAPTER I. FLOOD INSURANCE

**§ 16.311. Short Title**

This subchapter may be cited as the Flood Control and Insurance Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.312. Purpose**

The State of Texas recognizes the personal hardships and economic distress caused by flood disasters since it has become uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions. Recognizing the burden of the nation's resources, congress enacted the National Flood Insurance Act of 1968, as amended (42 U.S.C. Sections 4001 through 4127), whereby flood insurance can be made available through coordinated efforts of the federal government and the private insurance industry, by pooling risks, and the positive cooperation of state and local government. The purpose of this subchapter is to evidence a positive interest in securing flood insurance coverage under this federal program and to so procure for those citizens of Texas desiring to participate and in promoting the public interest by providing appropriate protection against the perils of flood losses and in encouraging sound land use by minimizing exposure of property to flood losses.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> West's Tex.Stats. & Codes '81 Supp.—43

**§ 16.313. Definitions**

In this subchapter:

(1) "Political subdivision" means any political subdivision or body politic and corporate of the State of Texas and includes any county, river authority, conservation and reclamation district, water control and improvement district, water improvement district, water control and preservation district, fresh water supply district, irrigation district, and any type of district heretofore or hereafter created or organized or authorized to be created or organized pursuant to the provisions of Article XVI, Section 59 or Article III, Section 52 of the Constitution of the State of Texas; "political subdivision" also means any interstate compact commission to which the State of Texas is a party, municipal corporation, or city whether operating under the Home Rule Amendment of the Constitution or under the General Law.

(2) "National Flood Insurance Act" means the National Flood Insurance Act of 1968, as amended (42 U.S.C. Sections 4001 through 4127), and the implementation and administration of the Act by the Secretary of the United States Department of Housing and Urban Development.

(3) "Secretary" means the Secretary of the United States Department of Housing and Urban Development.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.314. Cooperation of Texas Department of Water Resources**

In recognition of the necessity for a coordinated effort at all levels of government, the department shall cooperate with the Federal Insurance Administrator of the United States Department of Housing and Urban Development in the planning and carrying out of state participation in the National Flood Insurance Program; however, the responsibility for qualifying for the National Flood Insurance Program shall belong to any interested political subdivision, whether presently in existence or created in the future.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.315. Political Subdivisions; Compliance With Federal Requirements**

All political subdivisions are hereby authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program, including but not limited to:

(1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;

(2) guiding the development of proposed future construction, where practicable, away from location which is threatened by flood hazards;

(3) assisting in minimizing damage caused by floods;

(4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;

(5) engaging in floodplain management and adopting enforcing permanent land use and control measures consistent with the criteria established under the National Flood Insurance Act;

(6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the secretary, or whomever he designates, of such property;

(7) consulting with, giving information to, and entering into agreements with the Department of Housing and Urban Development for the purpose of:

(A) identifying and publishing information with respect to all flood areas, including coastal areas; and

(B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;

(8) cooperating with the secretary's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(9) taking steps to improve the long-range management and use of flood-prone areas;

(10) purchasing, leasing, and receiving property from the secretary when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Department of Housing and Urban Development or other appropriate legal representative of the United States Government;

(11) requesting aid pursuant to the entire authorization from the board;

(12) satisfying criteria adopted and promulgated by the department pursuant to the National Flood Insurance Program; and

(13) adopting permanent land use and control measures with enforcement provisions which are consistent with the criteria for land management and use adopted by the secretary.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.316. Coordination of Local, State, and Federal Programs by Department**

(a) The department shall aid, advise, and coordinate the efforts of present and future political subdivisions endeavoring to qualify for participation in the National Flood Insurance Program.

(b) Pursuant to the National Flood Insurance Program and state and local efforts complementing the program, the department shall aid, advise, and cooperate with political subdivisions, the State Board of Insurance, and the United States Department of Housing and Urban Development when aid, advice, and cooperation are requested or deemed advisable by the board.

(c) The aforementioned aid may include but is not necessarily limited to:

(1) coordinating local, state, and federal programs relating to floods, flood losses, and floodplain management;

(2) evaluating the present structure of all federal, state, and political subdivision flood control programs within or adjacent to the state, including an assessment of the extent to which public and private floodplain management activities have been instituted;

(3) carrying out studies with respect to the adequacy of present public and private measures, laws, regulations, and ordinances in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(4) evaluating all available engineering, hydrologic, and geologic data relevant to flood-prone areas and flood control in those areas; and

(5) carrying out floodplain studies and mapping programs of floodplains, flood-prone areas, and flood-risk zones.

(d) On the basis of such studies and evaluations, the department, to the extent of its capabilities, shall periodically identify and publish information and maps with respect to all floodplain areas, including the state's coastal area, which have flood hazards, and where possible aid the federal government in identifying and establishing flood-risk zones in all such areas.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.317. Cooperation of State Board of Insurance**

Pursuant to the National Flood Insurance Program, the State Board of Insurance shall aid, advise, and cooperate with political subdivisions, the department, and the United States Department of Housing and Urban Development when such aid, advice, and cooperation are requested or deemed advisable by the State Board of Insurance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 16.318. Rules**

Political subdivisions which qualify for the National Flood Insurance Program, the State Board of Insurance, and the board may adopt and promulgate reasonable rules which are necessary for the orderly effectuation of the respective authorizations herein.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 16.319. Qualification

Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Department of Housing and Urban Development and by:

(1) evidencing to the secretary a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the secretary satisfactory assurance that measures will have been adopted for the political subdivision which measures will be consistent with the comprehensive criteria for land management and use developed by the Department of Housing and Urban Development, and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling elevations is available.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1977, 65th Leg., 1st C.S., p. 58, ch. 4, § 3, eff. Sept. 1, 1977.]

Section 2 of Acts 1977, 65th Leg., 1st C.S., p. 58, ch. 4, provided: "All proceedings and actions of any political subdivision as defined in the Flood Control and Insurance Act with respect to participation in and compliance with the National Flood Insurance Program under the Flood Control and Insurance Act are in all things and all respects ratified, confirmed, approved, and validated even though these proceedings and actions may not have occurred within the time limit provided in the Flood Control and Insurance Act; provided, however, that any proceeding or action taken under the Flood Control and Insurance Act by a political subdivision which took action to qualify under Section 9 of that Act after June 30, 1970, and before the effective date of this Act shall expire on the 60th day after the effective date of this Act unless the proceeding or action is reenacted by the governing body of the political subdivision after the effective date of this Act and before the 60th day after the effective date of this Act."

## CHAPTER 17. PUBLIC FUNDING

### SUBCHAPTER A. GENERAL PROVISIONS

Section  
17.001. Definitions.

### SUBCHAPTER B. WATER DEVELOPMENT BONDS

17.011. Issuance of Water Development Bonds.  
17.012. Description of Bonds.  
17.013. Sale of Price of Bonds.  
17.014. Interest on Bonds.  
17.015. Form, Denomination, Place of Payment.  
17.016. Maturity of Bonds.  
17.017. Redemption Before Maturity.  
17.018. Registered and Bearer Bonds.  
17.019. Notice of Bond Sale.  
17.020. Competitive Bids.  
17.021. Security for Bids.  
17.022. Approval of Bonds; Registration.  
17.023. Execution of Bonds.  
17.024. Facsimile Signatures and Seals.  
17.025. Signature of Former Officer.  
17.026. Bonds Incontestable.  
17.027. Payment by Treasurer.  
17.028. Payment Enforceable by Mandamus.  
17.029. Refunding Bonds.  
17.030. Bonds Negotiable Instruments.  
17.031. Bonds Not Taxable.  
17.032. Authorized Investments.  
17.033. Security for Deposit of Funds.  
17.034. Mutilated, Lost, Destroyed Bonds.

### SUBCHAPTER C. FUNDING PROVISIONS

Section  
17.071. Disposition of Money Received.  
17.072. Development Fund.  
17.073. Water Development Clearance Fund.  
17.074. Interest and Sinking Fund.  
17.075. Administrative Fund.  
17.076. Combined Facilities Operation and Maintenance Fund.  
17.077. Credits to Clearance Fund.  
17.078. Transfers at End of Fiscal Year.  
17.079. Transfers to Interest and Sinking Fund.  
17.080. Additional Funds for Payment of Bonds.  
17.081. Transfers to Administrative Fund.  
17.082. Transfers to Development Fund.  
17.083. Investment of Reserve Money.  
17.084. Limitation on Board Investment.  
17.085. Interest and Sinking Fund Investments.  
17.086. Development Fund Investments.  
17.087. Sale of Securities.  
17.088. Transfers to be Made by Comptroller.

### SUBCHAPTER D. ASSISTANCE TO POLITICAL SUBDIVISIONS FOR PROJECTS

17.121. Financial Assistance.  
17.122. Application for Assistance.  
17.123. Certificate of Commission or Approval by Commission.  
17.124. Considerations in Passing on Application.  
17.125. Approval of Application.  
17.126. Method of Financial Assistance.  
17.127. Bond Maturity.  
17.128. Interest Rate.  
17.129. Approval and Registration.  
17.130. Bonds Incontestable.  
17.131. Security for Bonds.  
17.132. Default.  
17.133. Sale of Bonds by Board.  
17.134. Proceedings From Sale.  
17.135. Construction Contract Requirements.  
17.136. Filing Construction Contract.  
17.137. Inspection of Projects.  
17.138. Alteration of Plans.  
17.139. Certificate of Approval.

### SUBCHAPTER E. BOND PURCHASES FOR WATER QUALITY ENHANCEMENT PURPOSES

17.171. Financial Assistance.  
17.172. Other Financial Assistance.  
17.173. Bond Maturity.  
17.174. Interest Rate.  
17.175. Approval and Registration.  
17.176. Bonds Incontestable.  
17.177. Security for Bonds.  
17.178. Default.  
17.179. Sale of Bonds by Board.  
17.180. Proceeds From Sale.

### SUBCHAPTER F. PROGRAM FOR FINANCIAL ASSISTANCE FOR WASTE TREATMENT CONSTRUCTION

17.221 to 17.236. Repealed.

### SUBCHAPTER G. ALTERNATIVE PROGRAM FOR FINANCIAL ASSISTANCE FOR CONSTRUCTION OF TREATMENT WORKS

17.271. Purpose.  
17.272. Definitions.  
17.273. Financial Assistance.  
17.274. Authority of Political Subdivision.  
17.275. Application for Assistance.  
17.276. Considerations in Passing on Application.  
17.277. Action on Application.  
17.278. Approval of Application.  
17.279. Construction Contract Requirements.  
17.280. Filing Construction Contract.

Section	
17.281.	Department Inspection.
17.282.	Alteration of Plans.
17.283.	Certificate of Approval.
17.284.	Obtaining Financial Assistance.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

SUBCHAPTER A. GENERAL PROVISIONS

§ 17.001. Definitions

In this chapter:

- (1) "Board" means the Texas Water Development Board.
- (2) "Commission" means the Texas Water Commission.
- (3) "Executive director" means the executive director of the Texas Department of Water Resources.
- (4) "Department" means Texas Department of Water Resources.
- (5) "Political subdivision" means a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party.
- (6) "Project" means any engineering undertaking or work to conserve and develop surface or subsurface water resources of the state, including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, including underground storage projects, filtration and water treatment plants, including any system necessary to transport water from storage to points of distribution or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods.
- (7) "Weighted average effective interest rate" means the rate of interest computed by dividing the total value of all coupons attached to the pertinent bonds issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond previously issued.
- (8) "Bonds" means all Texas Water Development Bonds now or hereafter authorized by the Texas Constitution.

(9) "Waste" has the same meaning as provided in Section 26.001 of this code.

(10) "Water development bonds" means the Texas Water Development Bonds authorized by Section 49-c, as amended, and Section 49-d, as amended, of Article III of the Texas Constitution.

(11) "Water quality enhancement bonds" means the Texas Water Development Bonds authorized by Section 49-d-1, as amended, of Article III of the Texas Constitution.

(12) "Lending rate" means an amount of interest calculated by adding one-half percent to the weighted average of the cost of uncommitted funds secured from the sale of Texas Water Development Bonds as of the date of the latest sale of Texas Water Development Bonds.

(13) "Net effective interest rate" means the rate of interest computed by dividing the total value of all interest coupons attached to the bonds included in an issue issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond included in the issue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Acts 1981, 67th Leg., p. 3155, ch. 828, § 4, eff. June 17, 1981.]

The text of this section incorporates the amendment to former § 11.001 by Acts 1977, 65th Leg., p. 671, ch. 254, § 1.

[Sections 17.002 to 17.010 reserved for expansion]

SUBCHAPTER B. WATER DEVELOPMENT BONDS

§ 17.011. Issuance of Water Development Bonds

(a) The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount not to exceed \$400 million pursuant to the provisions of Article III, Section 49-c and Section 49-d, as amended, of the Texas Constitution, and the issuance of additional negotiable bonds in an aggregate amount not to exceed \$200 million pursuant to the provisions of Article III, Section 49-d-1, as amended, of the Texas Constitution.

(b) The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount of not to exceed the total principal amount the board has obligated the Texas Water Development Fund for the acquisition of storage facilities by the execution of a contract with the United States or any of its agencies under Article III, Section 49-d, of the Texas Constitution, and to the extent the bond proceeds are utilized to reduce the board's obligation under a contract with the United States or any of its agencies under Article III, Section 49-d, of the Texas Constitution, the bonds may not be considered in determining the aggregate amount of bonds issued under Article III, Sections 49-c and 49-d, of the Texas Constitution, in

addition to the contract with the United States or any of its agencies.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

The text of this section incorporates the amendment to former § 11.141 by Acts 1977, 65th Leg., p. 941, ch. 352, § 1.

#### § 17.012. Description of Bonds

The bonds shall be on a parity and shall be called Texas Water Development Bonds. The board may issue them in one or several installments and shall date the bonds of each issue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.013. Sale Price of Bonds

The board may not sell an installment or series of bonds for an amount less than the face value of all of the bonds comprising the installment or series with accrued interest from their date of issuance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.014. Interest on Bonds

The bonds of each issue shall bear interest payable annually or semi-annually at the option of the board.

#### § 17.015. Form, Denomination, Place of Payment

The board shall:

- (1) determine the form of the bonds, including the form of any interest coupons to be attached;
- (2) fix the denomination of the bonds; and
- (3) fix the places of payment of the principal and interest.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.016. Maturity of Bonds

The bonds of each issue shall mature, serially or otherwise, not more than 50 years from their date of issuance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.017. Redemption Before Maturity

In the resolution providing for the issuance of bonds, the board may fix the price, terms, and conditions for redemption of bonds before maturity.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.018. Registered and Bearer Bonds

The resolution may provide for registration of the bonds as to ownership, successive conversion and reconversion from registered to bearer bonds, and successive conversion and reconversion from bearer to registered bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.019. Notice of Bond Sale

After the board decides to call for bids for the sale of bonds, the board shall publish an appropriate notice of the sale at least one time in one or more recognized financial publications of general circulation published within the state and one or more recognized financial publications published outside the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.020. Competitive Bids

The board shall sell the bonds only after competitive bidding to the highest and best bidder. The board may reject any or all bids.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.021. Security for Bids

The board shall require every bidder, except administrators of state funds, to include with the bid an exchange or cashier's check for a sum the board considers adequate as a forfeit guaranteeing acceptance of and payment for all bonds covered by the bids and accepted by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.022. Approval of Bonds; Registration

Before bonds are delivered to the purchasers, the bonds and the record pertaining to their issuance shall be submitted to the attorney general for his approval. When the attorney general's approval is obtained, the bonds shall be registered in the office of the state comptroller.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.023. Execution of Bonds

The bonds shall be executed on behalf of the board as general obligations of the state in the following manner: the chairman of the board and the development fund manager shall sign the bonds; the board shall impress its seal on the bonds; the governor shall sign the bonds; and the Secretary of State shall attest the bonds and impress on them the state seal.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.024. Facsimile Signatures and Seals

The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which the board in executing the bonds and appurtenant coupons may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals. Interest coupons may be signed by the facsimile signatures of the chairman of the board and the development fund manager.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.025. Signature of Former Officer**

If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on any coupon ceases to be an officer before the bond is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.026. Bonds Incontestable**

After approval by the attorney general, registration by the comptroller, and delivery to the purchasers, the bonds are incontestable and constitute general obligations of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.027. Payment by Treasurer**

The State Treasurer shall pay the principal of the bonds as they mature and the interest as it becomes payable.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.028. Payment Enforceable by Mandamus**

Payment of the bonds and performance of official duties prescribed by Article III, Section 49-c, Section 49-d, as amended, and Section 49-d-1, as amended, of the Texas Constitution and by the provisions of this subchapter may be enforced in any court of competent jurisdiction by mandamus or other appropriate proceeding.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.029. Refunding Bonds**

The board may provide by resolution for the issuance of refunding bonds to refund outstanding bonds issued under this chapter and their accrued interest. The board may sell these bonds and use the proceeds to retire the outstanding bonds issued under this chapter, or the board may exchange the refunding bonds for the outstanding bonds. The issuance of the refunding bonds, their maturity, the rights of the bondholders, and the duties of the board with respect to refunding bonds are governed by the provisions of this chapter relating to original bonds to the extent that they may be made applicable.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.030. Bonds Negotiable Instruments**

The bonds issued under the provisions of this chapter are negotiable instruments under the laws of this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.031. Bonds Not Taxable**

Bonds issued under this chapter, the income from the bonds, and the profit made on their sale are free from taxation within the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.032. Authorized Investments**

Bonds issued under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.033. Security for Deposit of Funds**

Bonds issued under this chapter when accompanied by all appurtenant unmatured coupons are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or any other agency or political subdivision of the state at the par value of the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.034. Mutilated, Lost, Destroyed Bonds**

The board may provide for the replacement of any mutilated, lost, or destroyed bond.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 17.035 to 17.070 reserved for expansion]

SUBCHAPTER C. FUNDING PROVISIONS

**§ 17.071. Disposition of Money Received**

All money received by the board shall be deposited in the State Treasury and credited to the proper special fund as provided in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.072. Development Fund**

(a) The Texas Water Development Fund, referred to as the "development fund," is a special revolving fund in the State Treasury.

(b) All proceeds from the sale of water development bonds, together with all proceeds (excluding accrued interest which shall be deposited into the interest and sinking fund) from the sale, refunding,

or prepayment of political subdivision bonds acquired in carrying out the purposes set out in article III, Sections 49-c and 49-d, of the Texas Constitution, shall be deposited in a special account in the development fund designated "water development account," and other money for deposit therein as provided in this chapter shall be credited to the water development account.

(c) The water development account may be used for any project and in any manner consistent with the provisions of the constitution, but the development fund may not be used for retail distribution or for transportation of water solely to retail purchasers.

(d) All proceeds from the sale of water quality enhancement bonds, together with all proceeds (excluding accrued interest which shall be deposited into the interest and sinking fund) from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes in Article III, Section 49-d-1, of the Texas Constitution, shall be deposited in a special account in the development fund designated "water quality enhancement account," and other money for deposit therein as provided in this chapter shall be credited to the water quality enhancement account.

(e) The water quality enhancement account may be used for construction of treatment works in any manner consistent with the provisions of the constitution and this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3155, ch. 828, § 5, eff. June 17, 1981.]

#### § 17.073. Water Development Clearance Fund

The Texas Water Development Clearance Fund, referred to as the "clearance fund," is a special fund in the State Treasury. Transfers shall be made from this fund as provided by this subchapter. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.074. Interest and Sinking Fund

The Texas Water Development Bonds Interest and Sinking Fund, referred to as the "interest and sinking fund," is a special fund in the State Treasury into which there shall be paid, from sources specified in this chapter, amounts sufficient to:

- (1) pay the interest coming due on all outstanding bonds during the ensuing fiscal year;
- (2) pay the principal on all bonds that mature during the ensuing fiscal year, plus collection charges and exchanges on the bonds; and
- (3) establish a reserve equal to the average annual principal and interest requirements on all outstanding bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.075. Administrative Fund

The Texas Water Development Board Administrative Fund, referred to as the "administrative fund," is a special fund in the State Treasury. From sources specified in this chapter, money shall be credited to this fund in amounts sufficient to pay the administrative expenses of the board as authorized by legislative appropriation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.076. Combined Facilities Operation and Maintenance Fund

(a) The Combined Facilities Operation and Maintenance Fund is a special fund in the State Treasury.

(b) Money received from the sale of water, standby service, and the lease of land needed for operation and maintenance of facilities shall be credited to this fund. Any of the money which is not needed for operation and maintenance of facilities may be credited to the interest and sinking fund or used to meet contractual obligations incurred by the board in acquiring facilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.077. Credits to Clearance Fund

Except for proceeds from the sale of bonds and proceeds from the sale, refunding, or prepayment, of political subdivision bonds acquired in carrying out the purposes in Article III, Sections 49-c, 49-d, and 49-d-1, of the Texas Constitution, which shall be deposited in accordance with Sections 17.072, 17.134, and 17.180 of this code, and the proceeds from the sale, refinancing, or other liquidation of the investments made under Sections 17.083, 17.085, and 17.086 of this code which shall be deposited in the fund that provided the money for the investment, all money received by the board in any fiscal year, including all amounts received as repayment of loans to political subdivisions and interest on those loans, shall be credited to the clearance fund. Money in the clearance fund may be transferred at any time to the interest and sinking fund until the reserve in that fund is equal to the average annual principal and interest requirements on all outstanding bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

#### § 17.078. Transfers at End of Fiscal Year

Not later than 15 days after the end of each fiscal year, any money credited to the clearance fund at the end of the fiscal year shall be transferred to the other special funds as prescribed by Sections 17.079 through 17.082 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.079. Transfers to Interest and Sinking Fund**

(a) The board shall determine:

- (1) the amount of interest coming due on all bonds outstanding;
- (2) the amount of principal of bonds maturing and becoming payable during the fiscal year; and
- (3) the average annual principal and interest requirements on all outstanding bonds.

(b) The comptroller shall transfer to the interest and sinking fund, after taking into account any money and securities on deposit in the interest and sinking fund, an amount necessary to pay:

- (1) all principal and interest maturing on the bonds during the fiscal year;
- (2) all collection charges and exchanges on the bonds; and
- (3) the money sufficient to establish and maintain an additional reserve equal to the average annual principal and interest requirements on all outstanding bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.080. Additional Funds for Payment of Bonds**

If the amount transferred from the clearance fund plus the money and securities in the interest and sinking fund are insufficient to pay the interest coming due and the principal maturing on the bonds during the fiscal year, then after the transfer to the interest and sinking fund of as much money as is available in the clearance fund, the State Treasurer shall transfer out of the first money coming into the treasury, not otherwise appropriated by the constitution, the amount required to pay principal and interest on the bonds during the fiscal year.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.081. Transfers to Administrative Fund**

If money remains in the clearance fund after making the transfers provided in section 17.079 of this code, then to the extent possible the comptroller shall transfer to the administrative fund an amount sufficient to cover the legislative appropriation for administrative expenses of the board for the fiscal year.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.082. Transfers to Development Fund**

If money remains in the clearance fund after making the transfers provided in Sections 17.079 and 17.081 of this code, the comptroller shall transfer the balance to the appropriate account in the development fund at the end of each fiscal year to be used for any purpose for which proceeds of bonds in such account may be used.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.083. Investment of Reserve Money**

The board may invest any money credited to the reserve portion of the interest and sinking fund in:

- (1) direct obligations of the United States;
- (2) other obligations unconditionally guaranteed by the United States;
- (3) bonds of the State of Texas; and
- (4) bonds of counties, cities, and other political subdivisions of the state, except bonds issued by a political subdivision to finance a project or treatment works described in this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.084. Limitation on Board Investment**

The board is bound to the extent that the resolution authorizing the issuance of the bonds further restricts the investment of money in bonds of the United States.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.085. Interest and Sinking Fund Investments**

The board may invest the money in the interest and sinking fund, except the money in the reserve portion of the fund, only in direct obligations of the United States or obligations unconditionally guaranteed by the United States that are scheduled to mature prior to the date the board must have money available for its intended purpose.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.086. Development Fund Investments**

Surplus money in the development fund that is not needed for at least 90 days shall be invested in direct obligations of the United States or in other obligations unconditionally guaranteed by the United States maturing on or before the contemplated date on which the money will be needed.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.087. Sale of Securities**

All of the bonds and obligations owned in the interest and sinking fund or in the development fund are defined as securities. The board may sell securities owned in the interest and sinking fund or in any account in the development fund at the governing market price.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.088. Transfers to be Made by Comptroller**

The comptroller shall make the transfers required by this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 17.089 to 17.120 reserved for expansion]

SUBCHAPTER D. ASSISTANCE TO POLITICAL  
SUBDIVISIONS FOR PROJECTS

§ 17.121. Financial Assistance

The water development account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of projects.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 17.122. Application for Assistance

(a) In an application to the board for financial assistance, the applicant shall include:

- (1) the name of the political subdivision and its principal officers;
- (2) a citation of the law under which the political subdivision operates and was created;
- (3) the total cost of the project;
- (4) the amount of state financial assistance requested;
- (5) the plan for repaying the total cost of the project; and
- (6) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for financial assistance unless it is submitted in affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules. The rules do not restrict or prohibit the board from requiring additional factual material from an applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.123. Certificate of Commission or Approval  
by Commission

(a) Except as provided in Subsection (b) of this section, the board shall not deliver funds pursuant to an application for financial assistance until the political subdivision has furnished the board a resolution adopted by the commission certifying:

- (1) that an applicant proposing surface-water development has the necessary water right authorizing it to appropriate and use the water which the project will provide; or
- (2) that an applicant proposing underground water development has the right to use water that the project will provide.

(b) If an application includes a proposal for a waste water treatment plant, the part of the application relating to the waste water treatment plant does not need to be certified by the commission, but the board may not deliver funds for the waste water treatment plant until the political subdivision has obtained written evidence of approval of the plans for the waste water treatment plant from the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.124. Considerations in Passing on Application

In passing on an application from a political subdivision for financial assistance, the board shall consider:

- (1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;
- (2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest;
- (3) whether the political subdivision can reasonably finance the project without assistance from the state;
- (4) the relationship of the project to the overall, statewide water needs; and
- (5) the relationship of the project to the state water plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.125. Approval of Application

The board by resolution may approve an application if, after considering the factors listed in Section 17.124 of this code and any other relevant factors, the board finds:

- (1) that the public interest requires state participation in the project;
- (2) that the political subdivision cannot reasonably finance the project without state assistance in the amount finally approved by the board; and
- (3) that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision during the succeeding period of not more than 50 years.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.126. Method of Financial Assistance

The board may provide financial assistance by using money in the water development account to purchase bonds or other securities issued by the political subdivision to finance the project. The board may purchase bonds or securities that are secondary or subordinate to other bonds or securities issued by the political subdivision to finance the same project. The board may purchase outstanding prior lien bonds previously issued by the political subdivision when this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the board. However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.127. Bond Maturity**

The board may not purchase bonds or other securities which have a maturity date more than 50 years from the date of issuance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.128. Interest Rate**

(a) Except as provided in Subsection (b) of this section, bonds and securities purchased by the board on or after September 1, 1977, with money derived from the sale of bonds issued under this chapter shall bear interest at the lending rate. The bonds shall bear coupons evidencing interest at a rate or combination of rates that will approximate the lending rate as nearly as the board deems practicable. The lending rate shall be affected by the payment of premiums or the deduction of discounts as necessary.

(b) Bonds and securities purchased by the board pursuant to applications for financial assistance approved by the board prior to September 1, 1977, shall bear interest at the rate prescribed by Subsection (a) of this section prior to this amendment. Outstanding prior lien bonds purchased by the board under Section 17.126 of this code need not bear the interest rate provided in Subsection (a) of this section, but the board may pay such price or prices for outstanding prior lien bonds which in its discretion will accomplish the objective of Section 17.126 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.409 by Acts 1977, 65th Leg., p. 671, ch. 254 § 2.

**§ 17.129. Approval and Registration**

The board shall not purchase any bonds or securities that have not been approved by the attorney general and registered by the comptroller.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.130. Bonds Incontestable**

The bonds or other securities issued by a political subdivision are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) purchase by and delivery to the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.131. Security for Bonds**

(a) Bonds purchased by the board shall be supported by:

- (1) all or part of the net revenue from the operation of the project;
- (2) taxes levied by the political subdivision for the purpose; or
- (3) a combination of taxes and net revenue, and revenue from other available sources.

(b) The board may require that the bonds be supported both by taxes and by net revenue from the operation of the project in any ratio the board considers necessary to fully secure the investment. The board shall establish other conditions and requirements it considers to be consistent with sound investment practices and in the public interest.

(c) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds superior to those purchased by the board and the amount necessary to pay the cost of maintaining and operating the project.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.132. Default**

(a) In the event of a default in payment of the principal of or interest on bonds purchased by the board or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County.

(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.133. Sale of Bonds by Board**

(a) The board may sell or dispose of bonds purchased with money in the water development account. The board may not sell the bonds for less than amortized value and accrued interest.

(b) The board shall first offer the bonds at their amortized value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.

(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds at amortized value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale, all in the manner provided for the sale of bonds, except the board may waive any requirement for good faith checks.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.134. Proceeds From Sale**

The proceeds from the sale of political subdivision bonds held by the board shall be credited to the water development account, except that accrued interest shall be credited to the interest and sinking fund.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.135. Construction Contract Requirements**

The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; and

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 90 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the 10 percent retainage may be made by the political subdivision with approval of the executive director;

(5) that payment of the retainage remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the executive director in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices; and

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 17.136. Filing Construction Contract**

The political subdivision shall file with the department a certified copy of each construction contract it enters into for the construction of all or part of a project. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.137. Inspection of Projects**

(a) The department may inspect the construction of a project at any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.138. Alteration of Plans**

After the executive director approves of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the executive director authorizes the alteration in accordance with rules of the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 17.139. Certificate of Approval**

The executive director may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to approved plans;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any term of the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

[Sections 17.140 to 17.170 reserved for expansion]

**SUBCHAPTER E. BOND PURCHASES FOR WATER QUALITY ENHANCEMENT PURPOSES****§ 17.171. Financial Assistance**

The board shall use funds in the water quality enhancement account to provide financial assistance through the purchase of bonds or other obligations of political subdivisions pursuant to an application for financial assistance approved by it.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.172. Other Financial Assistance**

The board may purchase bonds or other obligations that are secondary or subordinate to other bonds or obligations issued by the political subdivision, including outstanding prior lien bonds previously issued by the political subdivision when this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the board. However,

the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.173. Bond Maturity**

The board may not purchase bonds or other obligations which have a maturity date more than 50 years from the date of issuance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.174. Interest Rate**

(a) Except as provided in Subsection (b) of this section, bonds and other obligations purchased by the board on or after September 1, 1977, with money in the water quality enhancement account pursuant to Subchapters F and G of this chapter<sup>1</sup>, shall bear interest at the lending rate. The bonds shall bear coupons evidencing interest at a rate or combination of rates that will approximate the lending rate as nearly as the board deems practicable. The lending rate shall be affected by the payment of premiums or the deduction of discounts as necessary.

(b) Outstanding prior lien bonds purchased by the board under Section 17.172 of this code may but need not bear the interest rate provided in Subsection (a) of this section, but may be purchased for such price or prices as will accomplish the objectives of Section 17.172 of this code.

[Amended by Acts 1977, 65th Leg., p. 2278, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> Sections 17.221 et seq., 17.271 et seq.  
The text of this section incorporates the amendment to former § 11.604 by Acts 1977, 65th Leg., p. 671, ch. 254, § 2.

**§ 17.175. Approval and Registration**

The board shall not purchase any bonds or other obligations that have not been approved by the attorney general and registered by the comptroller. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.176. Bonds Incontestable**

The bonds or other obligations issued by a political subdivision are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) purchase by and delivery to the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.177. Security for Bonds**

(a) Bonds or other obligations purchased by the board under this subchapter shall be supported by:

- (1) all or part of the net revenue from the operation of the treatment works;
- (2) taxes levied by the political subdivision for the purpose; or

(3) a combination of taxes and net revenue, and revenue from other available sources.

(b) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds, if any, superior to those purchased by the board and the amount necessary to pay the cost of maintaining and operating the treatment works.

(c) The board has the exclusive responsibility to specify terms and conditions of the financial assistance, including all maturity schedules which are necessary in the opinion of the board to achieve the best security for the state which the applicant is reasonably capable of providing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, § 6, eff. June 10, 1981.]

**§ 17.178. Default**

(a) In the event of a default in payment of the principal of or interest on bonds or other obligations purchased by the board or of a default in payment of amounts due under a loan agreement executed under the provisions of Subchapters F and G of this chapter<sup>1</sup> or of a failure to perform any term or condition agreed to or of any other default as defined in the proceedings or indentures authorizing the issuance of the bonds or in any other obligation or loan agreement, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County.

(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> Sections 17.221 et seq., 17.271 et seq.

**§ 17.179. Sale of Bonds by Board**

(a) The board may sell or dispose of bonds or other obligations purchased with money in the water quality enhancement account at not less than amortized value and accrued interest.

(b) The board shall first offer the bonds or other obligations at their amortized value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.

(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds or other obligations at amortized value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale of such bonds or other obligations so purchased, all in the manner provided for the sale of bonds, except the board may waive any requirement for good faith checks.

**§ 17.180. Proceeds From Sale**

The proceeds from the sale of such political subdivision bonds or other obligations held by the board shall be credited to the water quality enhancement account, except that accrued interest shall be credited to the interest and sinking fund.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 17.181 to 17.220 reserved for expansion]

**SUBCHAPTER F. PROGRAM FOR FINANCIAL ASSISTANCE FOR WASTE TREATMENT CONSTRUCTION**

**§§ 17.221 to 17.236. Repealed by Acts 1981, 67th Leg., p. 986, ch. 367, § 46, eff. June 10, 1981**

The repealed sections, relating to a program for financial assistance for waste treatment construction were derived from Acts 1977, 65th Leg., p. 2207, ch. 870, § 1.

[Sections 17.237 to 17.270 reserved for expansion]

**SUBCHAPTER G. ALTERNATIVE PROGRAM FOR FINANCIAL ASSISTANCE FOR CONSTRUCTION OF TREATMENT WORKS**

**§ 17.271. Purpose**

The purpose of this subchapter is to provide for making loans of water quality enhancement funds authorized by Article III, Section 49-d-1, as amended, of the Texas Constitution to political subdivisions of the state for the construction of treatment works.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.272. Definitions**

In this subchapter:

(1) "Water quality enhancement" means the construction of treatment works by political subdivisions with loans provided with water quality enhancement funds.

(2) "Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of waste to implement this chapter or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including sites therefor and acquisition of the land that will be a part of or used in connection with the treatment process or is used for ultimate disposal of residues resulting from such treatment; and any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutralizing, or

stabilizing waste; or facilities to provide for the collection, control, and disposal of waste heat.

(3) "Construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, title, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, the expense of any condemnation or other legal proceeding, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(4) "Water quality enhancement funds" means the proceeds from the sale of Texas Water Development Bonds issued under the authority of Article III, Section 49-d-1, as amended, of the Texas Constitution.

(5) "Political subdivision" means the state, a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party.

(6) "Loans" means purchase by the state of the bonds or other obligations of a political subdivision with water quality enhancement funds.

(7) "Financial assistance" means any loan of water quality enhancement funds made to a political subdivision for the construction of treatment works through the purchase of bonds or other obligations of the political subdivision.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.273. Financial Assistance**

The board may use water quality enhancement funds to provide financial assistance to political subdivisions for purposes of water quality enhancement.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.274. Authority of Political Subdivision**

A political subdivision may apply to the board for financial assistance and may use water quality enhancement funds for construction of treatment works in the manner provided in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.275. Application for Assistance**

In an application to the board for financial assistance, the applicant shall include:

(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision operates and was created;

(3) the estimated total cost of construction of the treatment works;

(4) the amount of state financial assistance requested;

(5) the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision;

(6) the plan for repaying the financial assistance; and

(7) any other information the board requires.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.276. Considerations in Passing on Application**

In passing on an application from a political subdivision for financial assistance, the board shall consider:

(1) the water quality needs of the waters into which effluent from the treatment works will be discharged and the benefit of the treatment works to such water quality needs in relation to the needs of other waters requiring state assistance in any manner and the benefits of those treatment works to the other waters;

(2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the treatment works, including interest;

(3) whether the political subdivision can reasonably finance the treatment works without assistance from the state;

(4) the relationship of the treatment works to the overall, statewide water quality needs;

(5) the relationship of the treatment works to water quality planning for the state; and

(6) whether the political subdivision has been designated, pursuant to Section 26.082 of this code, to provide a regional system to serve all or part of the waste disposal needs of a defined area, the development of such systems being the declared policy of the legislature.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 21.706 by Acts 1977, 65th Leg., p. 1651, ch. 648, § 1.

**§ 17.277. Action on Application**

(a) After an application is received for financial assistance, the executive director shall submit the application to the board together with comments and recommendations of the development fund manager concerning the best method of making financial assistance available.

(b) The board may grant the application in whole or part or may deny the application.

(c) The board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided, the amount of any such assistance, and in consultation with and pursuant to agreement with the political

subdivision, the board shall determine the location, time, design, scope, and all other aspects of the construction of treatment works to be performed.

(d) The executive director shall review and approve plans and specifications for all treatment works for which financial assistance is provided in any amount from water quality enhancement funds or funds granted under the Federal Water Pollution Control Act, as amended.<sup>1</sup> The Texas Department of Health shall review and approve plans in those cases where such assistance has not been requested except when notice of intention to apply for the financial assistance has been given to the executive director in which case the executive director shall perform review and approval functions. Duplicate review and approval will not be performed and actions on review and approval shall be fully interchangeable between the executive director and the Texas Department of Health.

(e) The deliberations, proposals, decisions, and other actions of the board under this subchapter do not require the concurrence or approval of any other governmental agency, board, commission, council, political subdivision, or other governmental entity.

(f) If the board grants an application in whole or part, financial assistance shall be funded by the board in accordance with Subchapter E of this chapter.<sup>2</sup> When bonds or other obligations are purchased by the board, water quality enhancement funds shall be delivered to the political subdivisions entitled to receive them and shall be used only to pay construction costs of treatment works approved in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 979, ch. 367, § 7, eff. June 10, 1981.]

<sup>1</sup> 33 U.S.C.A. § 1251 et seq.  
<sup>2</sup> Section 17.171 et seq.

**§ 17.278. Approval of Application**

The board by resolution may approve an application if, after considering the factors listed in Section 17.276 of this code and any other relevant factors, the board finds:

(1) that the public interest will benefit from state participation in the financing of the treatment works; and

(2) that the political subdivision cannot reasonably finance the treatment works without state assistance in the amount finally approved by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 17.279. Construction Contract Requirements**

The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of treatment works:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded either a design/construct contract or construction contract furnish performance and payment bonds each of which shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices and each of which shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision;

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 90 percent of the amount due at the time of the payment as shown by the engineer of the project but if the project is substantially complete, the 10 percent retainage requirement may be reduced by the political subdivision with approval of the executive director;

(5) that payment of the retainage remaining due on completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the executive director in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices; and

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 17.280. Filing Construction Contract

The political subdivision shall file with the department a certified copy of each construction contract it enters into for the construction of all or part of the treatment works. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.281. Department Inspection

(a) The department may inspect the construction of treatment works at any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the treatment works as submitted when approval of the feasibility of the treatment works was sought; and

(2) the treatment works are being constructed in accordance with sound construction principles.

(b) Inspection of treatment works by the department does not subject the state to any civil liability. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.282. Alteration of Plans

After board approval of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the board authorizes the alteration.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 17.283. Certificate of Approval

The executive director may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the treatment works according to approved plans;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any term of the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 17.284. Obtaining Financial Assistance

(a) In order to obtain financial assistance under this subchapter, a political subdivision may authorize and issue revenue bonds for the purpose of constructing treatment works and sell such bonds to the board in such amounts as may be determined by the governing body of the political subdivision and approved by the board.

(b) Notwithstanding the provisions of Article 1112, Revised Civil Statutes of Texas, 1925, as amended, or any other general or special law or charter provisions to the contrary, a political subdivision may authorize, issue, and sell such revenue bonds as provided herein and create any encumbrance in connection therewith by a majority vote of the governing body of the political subdivision without the necessity of any election.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## CHAPTER 18. WEATHER MODIFICATION

### SUBCHAPTER A. GENERAL PROVISIONS

Section	Short Title.
18.001.	Definitions.

### SUBCHAPTER B. POWERS AND DUTIES OF BOARD

18.011.	Rules—In General.
18.012.	Rules—Licenses and Permits.
18.013.	Rules—Safety.
18.014.	Studies; Investigations; Hearings.

- Section
- 18.015. Advisory Committees.
- 18.016. Personnel.
- 18.017. Material and Equipment.
- 18.018. Interstate Compacts.
- 18.019. Contracts, Cooperative Agreements, Etc.
- 18.020. Promotion of Research and Development.
- 18.021. Grants, Gifts, Etc.
- 18.022. Disposition of License and Permit Fees.

**SUBCHAPTER C. LICENSES AND PERMITS**

- 18.051. License and Permit Required.
- 18.052. Exemptions.
- 18.053. Issuance of License.
- 18.054. License Fee.
- 18.055. Expiration Date.
- 18.056. Renewal License.
- 18.081. Issuance of Permit.
- 18.082. Permit Fee.
- 18.083. Scope of Permit.
- 18.084. Application and Notice of Intention.
- 18.0841. Election for Approval of a Permit That Includes Authorization for Hail Suppression.
- 18.085. Content of Notice.
- 18.086. Publication of Notice.
- 18.087. Proof of Publication; Affidavit.
- 18.088. Proof of Financial Responsibility.
- 18.089. Modification of Permit.
- 18.090. Scope of Activity.
- 18.091. Records and Reports.

**SUBCHAPTER D. SANCTIONS**

- 18.121. Suspension; Revocation; Refusal to Renew.
- 18.1211. Permit Violation.
- 18.122. Hearing Required.
- 18.123. Record of Hearing.
- 18.151. Immunity of State.
- 18.152. Private Legal Relationships.
- 18.171. Penalty.
- 18.172. Enforcement.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977, for disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 18.001. Short Title**

This chapter may be cited as the Weather Modification Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.002. Definitions**

As used in this chapter:

- (1) "Commission" means the Texas Water Commission.
- (2) "Board" means the Texas Water Development Board.
- (3) "Executive director" means the executive director of the Texas Department of Water Resources.
- (4) "Department" means the Texas Department of Water Resources.

(5) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods the natural development of atmospheric cloud forms or precipitation forms which occur in the troposphere.

(6) "Operation" means the performance of weather modification and control activities entered into for the purpose of producing or attempting to produce a certain modifying effect within one geographical area over one continuing time interval not exceeding four years.

(7) "Research and development" means theoretical analysis, exploration, experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.003 to 18.010 reserved for expansion]

**SUBCHAPTER B. POWERS AND DUTIES OF BOARD**

**§ 18.011. Rules—In General**

The board may make rules necessary to exercise the powers and to perform their duties under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.012. Rules—Licenses and Permits**

In order to effectuate the purposes of this chapter, the commission may make rules establishing procedures and conditions for the issuance of licenses and permits.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.013. Rules—Safety**

The board may make rules establishing standards and instructions to govern the carrying out of research or projects in weather modification and control that the board considers necessary or desirable to minimize danger to health or property.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.014. Studies; Investigations; Hearings**

The department may make any studies or investigations, obtain any information, and hold any hearings necessary or proper to administer or enforce this chapter or any rules or orders issued under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.015. Advisory Committees**

The board may establish advisory committees to advise the department and to make recommendations to the department concerning legislation, policies, administration, research, and other matters. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2068, ch. 808, § 4, eff. June 13, 1979.]

**§ 18.016. Personnel**

The executive director may, as provided by the General Appropriations Act, appoint and fix the compensation of any personnel, including specialists and consultants, necessary to perform duties and functions under this chapter. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.017. Materials and Equipment**

The department may acquire in the manner provided by law any materials, equipment, and facilities necessary to the performance of its duties and functions under this chapter. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.018. Interstate Compacts**

The executive director may represent the state in matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.019. Contracts, Cooperative Agreements, Etc.**

- (a) The department may cooperate with public or private agencies to promote the purposes of this chapter.
- (b) The department may enter into cooperative agreements with the United States or any of its agencies, or with counties and cities of this state, or with any private or public agencies for conducting weather modification or cloud-seeding operations.
- (c) The department may represent the state, counties, cities, and public and private agencies in contracting with private concerns for the performance of weather modification or cloud-seeding operations. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.020. Promotion of Research and Development**

- (a) In order to assist in expanding the theoretical and practical knowledge of weather modification and control, the department shall promote continuous research and development in:
- (1) the theory and development of methods of weather modification and control, including processes, materials, and devices related to these methods;

(2) the utilization of weather modification and control for agricultural, industrial, commercial, and other purposes; and

(3) the protection of life and property during research and operational activities.

(b) The executive director with approval of the board may conduct and may contract for research and development activities relating to the purposes of this section. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.021. Grants, Gifts, Etc.**

Subject to any limitations imposed by law, the department may accept federal grants, private gifts, and donations from any other source. Unless the use of the money is restricted or subject to any limitations provided by law, the department may spend it for the administration of this chapter or may by grant, contract, or cooperative arrangement use the money to encourage research and development by a public or private agency. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.022. Disposition of License and Permit Fees**

The department shall deposit all license and permit fees in the State Treasury. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.023 to 18.050 reserved for expansion]

**SUBCHAPTER C. LICENSES AND PERMITS****§ 18.051. License and Permit Required**

Except as provided by rule of the board under Section 18.052 of this code, no person may engage in activities for weather modification and control:

- (1) without a weather modification license and a weather modification permit issued by the commission; or
- (2) in violation of any term or condition of the license or the permit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.052. Exemptions**

The board, to the extent it considers exemptions practical, shall provide by rule for exempting the following activities from the license and permit requirements of this chapter:

- (1) research, development, and experiments conducted by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations;
- (2) laboratory research and experiments;
- (3) activities of an emergent nature for protection against fire, frost, sleet, or fog; and

(4) activities normally conducted for purposes other than inducing, increasing, decreasing, or preventing precipitation or hail.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.053. Issuance of License**

(a) The commission, in accordance with the rules, shall issue a weather modification license to each applicant who:

- (1) pays the license fee; and
- (2) demonstrates, to the satisfaction of the commission, competence in the field of meteorology which is reasonably necessary to engage in weather modification and control activities.

(b) If the applicant is an organization, the competence must be demonstrated by the individual or individuals who are to be in control and in charge of the operation for the applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.054. License Fee**

The fee for an original or renewal license is \$50.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.055. Expiration Date**

Each original or renewal license expires at the end of the state fiscal year for which it was issued.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.056. Renewal License**

At the expiration of the license period, the commission shall issue a renewal license to each applicant who pays the license fee and who has the qualifications necessary for issuance of an original license.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.057 to 18.080 reserved for expansion]

**§ 18.081. Issuance of Permit**

(a) The commission, in accordance with the rules and on a finding that the weather modification and control operation as proposed in the permit application will not significantly dissipate the clouds and prevent their natural course of developing rain in the area where the operation is to be conducted to the material detriment of persons or property in that area, and after approved at an election if covered by Section 18.0841 of this code, may issue a weather modification permit to each applicant who:

- (1) holds a valid weather modification license;
- (2) pays the permit fee;
- (3) publishes a notice of intention and submits proof of publication as required by this chapter; and

(4) furnishes proof of financial responsibility.

(b) The commission shall, if requested by at least 25 persons, hold at least one public hearing in the area where the operation is to be conducted prior to the issuance of a permit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2068, ch. 808, § 5, eff. June 13, 1979.]

The text of this section incorporate the amendment to former § 14.061 by Acts 1977, 65th Leg., p. 952, ch. 360, § 1.

**§ 18.082. Permit Fee**

The fee for each permit is \$25.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.083. Scope of Permit**

A separate permit is required for each operation. If an operation is to be conducted under contract, a permit is required for each separate contract. The commission shall not issue a permit for a contracted operation unless it covers a continuous period not to exceed four years.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.084. Application and Notice of Intention**

Before undertaking any operation, a licensee shall file an application for a permit and shall have a notice of intention published as required by this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.0841. Election for Approval of a Permit That Includes Authorization for Hail Suppression**

(a) In this section:

(1) "Target area" means that area described by metes and bounds or other specific bounded description set out in the application for a permit.

(2) "Operational area" means that area that joins the target area which is reasonably necessary to use in order to effectuate the purposes over the target area without affecting the land or land owners in the operational area, but in no event to exceed eight miles from the limits of the target area. The operational area shall be described by metes and bounds or other specific bounded description and shall be set out in the application for a permit. If the application for a permit does not describe the operational area, the commission may designate an area located inside and up to eight miles from the outer limits of the target area described in the application as the operational area of the permit for the purposes of this chapter.

(b) No permit may be issued by the commission before the end of the 30-day period immediately following the first publication of notice and then only in those counties or parts of counties in the target area or operational area in which the majori-

ty of the qualified voters voting have approved or have not disapproved the issuance of a permit if an election has been held, or in any county or part of a county in the target area or operational area if no petition for an election has been filed.

(c) Persons eligible to vote in elections held under this section shall include qualified voters in counties or parts of counties included in the target area or operational area. Where the target area or operational area includes only part of a county, an election held under this section may be held only in the election precincts which are included entirely within or are partially included in said areas. All qualified voters in such precincts shall be entitled to vote in these elections.

(d) On written request of at least 25 qualified voters residing in the target area or operational area mentioned in the notice requesting an election accompanied by unsigned petitions, the county clerk of each county within the target area or operational area shall certify and mark for identification petitions for circulation. An application for a petition seeking an election to disapprove the issuance of a permit shall be headed: "Application for Election to Disapprove a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants stating the following: "It is the hope, purpose, and intent of the applicants whose signatures appear on this application to see disapproved the issuance of a permit for weather modification including hail suppression." An application for a petition seeking an election to approve the issuance of a permit shall be headed: "Application for Election to Approve a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear on this petition to see approved the issuance of a permit for weather modification including hail suppression." Upon the return to the county clerks of such petitions signed by at least 10 percent of the qualified voters residing in each county within the target area or operational area in the notice requesting an election the commissioners court of each county shall call and hold an election. Notice under Chapter 549, Acts of the 60th Legislature, Regular Session, 1967 (Article 29e, Vernon's Texas Civil Statutes), of the commissioners court meeting to call and hold the election is not required. The date of the election shall be determined by the commissioners court in accordance with this section notwithstanding Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code). The petition must be filed with the clerk of each county within 30 days immediately following the first publication of notice. The election shall be held within 45 days after the petition is received to determine whether or not the qualified voters in the target area or operational area approve the issuance of the permit. Immediately on calling the election, the clerk of each county

within the target area or operational area shall notify the executive director of the date of the election. Except as otherwise provided in this chapter, elections shall be held in accordance with the Texas Election Code.

(e) The petition for the election shall read substantially as follows: "The following qualified voters of \_\_\_\_\_ County request the Commissioners Court of \_\_\_\_\_ County to call an election at which the qualified voters shall be asked to vote on the proposition of whether or not they approve of the issuance of a weather modification permit that includes authorization for hail suppression (description of area)." Each qualified voter signing the petition shall give his full name and address and voter registration number. Within five days after receiving a petition under this section, the commissioners court shall have the county clerk of the county check the names on the petition against the voter registration lists of the county and certify to the commissioners court the number of qualified voters signing the petition as reflected by checking the county's voter registration lists. If only a part of a county is included in the target area or operational area, the county clerk shall also certify that those signing the petition reside in an election precinct in the county totally or partially included in the target area or operational area. On certification by the county clerk, the petition shall be filed with the official records of the county and shall be available for public inspection.

(f) A person filing a petition with the county clerk shall deposit with the county clerk an amount of money estimated by the county clerk to be sufficient to cover the costs of the election, to be held by the county clerk until the result of the election to approve or disapprove the issuance of the permit is officially announced. If the result of the election favors the party petitioning for the election, the county clerk shall return the deposit to the person filing the petition or his agent or attorney, but if the result of the election does not favor the party petitioning for the election, the county clerk shall pay the cost and expenses of the election from the deposit and return the balance of the deposit to the person filing the petition or his agent or attorney.

(g) The ballots for an election under this section shall be printed to provide for voting for or against the proposition: "The issuance of a permit providing for weather modification including authorization for hail suppression and control in (description of area)."

(h) The order calling the election shall provide for the time and place or places for holding the election, the form of the ballots, and the presiding judge for each voting place.

(i) The commissioners court shall publish a copy of the election order in a newspaper of general circulation in the county or in the part of the county within the target area or operational area at least 30 days preceding the day of the election.

(j) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the commissioners court within five days after the election. A copy of the results are to be filed with the county clerk and become a public record.

(k) Within five days after the results are filed, the commissioners court shall declare the results.

(l) The commissioners court of each county holding an election shall send certified copies of the results of the election to the executive director within 24 hours after the results are declared under Subsection (j) of this section.

(m) If a majority of the qualified voters voting in the election precincts any part of which are located in the target area vote against issuance of the permit, no permit may be issued. If a majority of the qualified voters voting in the election precincts any part of which are located within the target area vote in favor of issuance of the permit, the commission may issue the permit as provided in this subchapter, provided, however, if a majority of the qualified voters voting in either of the following areas vote against issuance of the permit, those areas shall be excluded from the coverage of the permit:

(1) any election precinct any part of which is located in the operational area; or

(2) any election precinct located wholly within the target area and contiguous with its outer boundary. If, however, the commission finds that a weather modification and control operation is still feasible, a permit may be issued covering areas in which no election is requested or areas in which the voters give their approval as provided in this section.

(n) If a permit is denied under Subsection (m) of this section, no application for a permit covering all or part of the same target area or operational area so denied may be considered, and no permit under that application may be issued by the commission, for a period of two years following the date of the election nor may an election be held pursuant to this chapter.

(o) If a permit including authorization for hail suppression is to cover only a part of a county, only those qualified voters residing in an election precinct or precincts of the county included in the target area or operational area are eligible to sign a petition and to vote at an election under this section, and in computing the vote, only a majority of those qualified voters residing in such areas and voting in the election shall be necessary to carry the proposition in that county.

(p) No permit shall be issued which provides for or allows the seeding of clouds for hail suppression outside the target area or within those counties or parts of counties located in the operational or target areas which were excluded from the coverage of the permit by virtue of an election under Subsection (m)

of this section. However, seeding may be done in those counties or parts of counties located in the operational or target area which were not excluded from the coverage of the permit by virtue of an election under Subsection (m) of this section, provided it is reasonably calculated to take effect only within the target area. This shall not prohibit the observation of cloud and cloud formations.

(q) The department may monitor any program under such conditions as the department deems advisable.

(r) The provisions of this section do not apply to any permits in effect at the time this section becomes law.

(s) Upon petition as provided in this section, the commissioners court of any county outside but adjacent to a county included in the operational area of an existing or proposed permit shall call and hold an election on the proposition of whether or not the qualified voters of the county approve of the issuance of any permit authorizing hail suppression in the county. If the county voters voting in such election disapprove the issuance of permits authorizing hail suppression, the commission may not issue any such permit covering the county until the proposition has been approved by a subsequent election.

(t) If any county or part of a county has disapproved the issuance of a permit at the previous election held under the provisions of this section, that county or part of a county shall not be included in any permit issued by the commission until the voters of that county or part of a county have participated in a subsequent election at which a permit is approved. The applicant for a permit which includes that county or part of a county shall have the burden of petitioning for an election and depositing costs in the manner provided by this section for the original election to approve or disapprove a permit.

(u) The board by rule shall define the term hail suppression as used in this section, using the most current scientifically accepted technological concepts.

[Added by Acts 1977, 65th Leg., p. 952, ch. 360, § 2, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 2064, ch. 808, §§ 1, 3, eff. June 13, 1979.]

**§ 18.085. Content of Notice**

In the notice of intention, the applicant shall include:

- (1) the name and address of the licensee;
- (2) the nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (3) the area in which and the approximate time during which the operation is to be conducted;
- (4) the area which is intended to be affected by the operation; and
- (5) the materials and methods to be used in conducting the operation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.086. Publication of Notice**

The notice of intention shall be published at least once a week for three consecutive weeks in a newspaper of general circulation published in each county in which the operation is to be conducted and in each county which includes any part of the affected area. If in any such county no newspaper of general circulation is published, then publication shall be made in a newspaper having general circulation in the county.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.087. Proof of Publication; Affidavit**

The applicant shall file proof of the publication, together with the publishers' affidavits, with the commission during the 15-day period immediately following the date of the last publication.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.088. Proof of Financial Responsibility**

Proof of financial responsibility is made by showing to the satisfaction of the commission that the licensee has the ability to respond in damages for liability which might reasonably result from the operation for which the permit is sought.

**§ 18.089. Modification of Permit**

The commission may modify the terms and conditions of a permit if:

(1) the licensee is first given notice and a reasonable opportunity for a hearing on the need for a modification; and

(2) it appears to the commission that a modification is necessary to protect the health or property of any person.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.090. Scope of Activity**

(a) Once a permit is issued, the licensee shall confine his activities substantially within the limits of time and area specified in the notice of intention, except to the extent that the limits are modified by the commission. He shall also comply with any terms and conditions of the permit as originally issued or as subsequently modified by the commission.

(b) Failure of a licensee to comply with the provisions of Subsection (a) of this section constitutes a violation of this chapter and subjects the licensee to the sanctions provided in Sections 18.121 and 18.122 of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2067, ch. 808, § 2, eff. June 13, 1979.]

**§ 18.091. Records and Reports**

(a) A licensee shall keep a record of each operation conducted under permit, showing:

- (1) the method employed;
- (2) the type of equipment used;
- (3) the kind and amount of each material used;
- (4) the times and places the equipment is operated;
- (5) the name and post-office address of each individual, other than the licensee, who participates or assists in the operation; and
- (6) other information required by the department.

(b) The department shall require written reports covering each operation, whether it is exempt or conducted under a permit.

(c) At the time and in the manner required by the department, a licensee shall submit a written report containing the information described in Subsection (a) of this section.

(d) All information on an operation shall be submitted to the department before it is released to the public.

(e) The reports and records in the custody of the department shall be kept open for public inspection.  
[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2068, ch. 808, § 4, eff. June 13, 1979.]

[Sections 18.092 to 18.120 reserved for expansion]

**SUBCHAPTER D. SANCTIONS****§ 18.121. Suspension; Revocation; Refusal to Renew**

(a) The commission may suspend or revoke a license or permit if it appears that the licensee:

(1) no longer has the qualifications necessary for the issuance of an original license or permit; or

(2) has violated any provision of this chapter.

(b) The commission may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provision of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.1211. Permit Violation**

(a) In this section, "permit area" means the area affected and the area of operations covered by a permit.

(b) After notice and hearing, the commission may issue a warning or, if a warning has already been issued, may suspend a permit up to a period of two years if the board finds that a permittee, through carelessness, performed all or any part of a weather modification and control operation outside the boundaries of the permit area. The commission may suspend the permit up to a period of two years without prior issuance of a warning if the permittee, through gross carelessness, performed all or any part

of a weather modification and control operation outside the boundaries of a permit area.

(c) A person who violates a provision of a permit is guilty of a Class A misdemeanor.

[Added by Acts 1977, 65th Leg., p. 955, ch. 360, § 3, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 2068, ch. 808, § 4, eff. June 13, 1979.]

**§ 18.122. Hearing Required**

The commission may not suspend or revoke a license or permit without first giving the licensee notice and a reasonable opportunity to be heard with respect to the grounds for the commission's proposed action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.123. Record of Hearing**

The commission shall have a record made of all proceedings at each hearing held under Section 18.122 of this code and shall have the record filed with its findings and conclusions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.124 to 18.150 reserved for expansion]

**§ 18.151. Immunity of State**

The state and its officers and employees are immune from liability for all weather modification and control activities conducted by private persons and groups.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.152. Private Legal Relationships**

(a) This chapter does not affect private legal relationships, except that an operation conducted under the license and permit requirements of this chapter is not an ultrahazardous activity which makes the participants subject to liability without fault.

(b) The fact that a person holds a license or permit under this chapter or that he has complied with this chapter or the regulations issued under this chapter is not admissible as evidence in any legal proceeding brought against him.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.153 to 18.170 reserved for expansion]

**§ 18.171. Penalty**

(a) A person who violates any provision of this chapter or any valid regulation or order issued under this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by confinement in the county jail for not more than 10 days, or by both.

(b) A separate offense is committed each day a violation continues.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 18.172. Enforcement**

(a) Whenever it appears that a person has violated or is violating or is threatening to violate any provision of this chapter or any rule, license, permit, or order of the commission or board, then the executive director may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, license, permit, or order of the commission or board, the district court shall grant the injunctive relief the facts may warrant.

(c) At the request of the executive director, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty as authorized in Subsection (a) of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**CHAPTER 19. TEXAS DEEPWATER PORT AUTHORITY**

**SUBCHAPTER A. GENERAL PROVISIONS**

- Section 19.001. Policy.
- 19.002. Definitions.
- 19.003. Authorization for Deepwater Port.
- 19.004. Expiration.
- 19.005. Tidelands.

**SUBCHAPTER B. ADMINISTRATIVE PROVISIONS**

- 19.011. Texas Deepwater Port Authority.
- 19.012. Commissioners; Appointment.
- 19.013. Terms of Office; Vacancies.
- 19.014. Officers.
- 19.015. Board Meetings.
- 19.016. Compensation and Expenses.
- 19.017. Powers and Duties of the Board; Delegation.
- 19.018. General Manager.
- 19.019. Employees; Compensation; Etc.
- 19.020. Rules.
- 19.021. Documents, Etc.; Open for Inspection.

**SUBCHAPTER C. INITIAL ACTIVITIES AND STUDIES**

- 19.036. Securing of License.
- 19.037. Engineering and Environmental Studies.
- 19.038. Financial Feasibility.
- 19.039. Final Report of Commission; Submission of Report to Governor.
- 19.040. Submission to Natural Resources Council.
- 19.041. Action by the Governor.
- 19.042. Approval Necessary for Construction and Issuance of Bonds.

**SUBCHAPTER D. POWERS AND DUTIES**

- 19.051. General Powers and Duties.
- 19.052. Specific Powers and Duties.

Section	
19.053.	State-owned Water Bottoms; Lease; Etc.
19.054.	Development of a Deepwater Port.
19.055.	Authority Contracts.

#### SUBCHAPTER E. ENVIRONMENTAL PROTECTION

19.101. Protection of the Environment.

#### SUBCHAPTER F. FINANCIAL PROVISIONS

19.131.	General Provisions.
19.132.	Form and Terms of Bonds and Notes.
19.133.	Execution of Bonds, Notes, and Coupons.
19.134.	Security Provisions, Etc.
19.135.	Provisions of Resolution.
19.136.	Default Provisions.
19.137.	Additional Security.
19.138.	Bond Proceeds.
19.139.	Depository.
19.140.	Refunding.
19.141.	Approval and Registration of Bonds and Notes.
19.142.	Incontestability.
19.143.	Duties Enforceable by Mandamus.
19.144.	Bonds Negotiable.
19.145.	Bonds and Notes not Taxable.
19.146.	Authorized Investments.
19.147.	Security for Deposit of Funds.
19.148.	Source of Repayment.
19.149.	State Credit not Pledged.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### § 19.001. Policy

It is the policy, intent, and determination of the legislature that:

- (1) Texas urgently needs an offshore deepwater port capable of accommodating supertankers for the importation of crude oil and other fluid commodities that may be carried in ships of that size;
- (2) it is most desirable for private enterprise to own, construct, and operate such an offshore port;
- (3) in the absence of any active and viable plan to develop a deepwater, offshore port by private enterprise, the State of Texas should construct such a facility, which should be self-supporting and whose design, construction, and operation should be carried out by private companies under contract;
- (4) protecting the environment is essential to the proper operation of such a port;
- (5) the credit of the State of Texas shall not be pledged to finance such a port; and
- (6) the Texas Deepwater Port Authority be created to implement this policy.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

##### § 19.002. Definitions

In this chapter:

- (1) "General manager" means the General Manager of the Texas Deepwater Port Authority.
- (2) "Authority" means the Texas Deepwater Port Authority.
- (3) "Board" means the Board of Commissioners of the Texas Deepwater Port Authority.

(4) "Commissioner" means a member of the Board of Commissioners of the Texas Deepwater Port Authority.

(5) "Deepwater port" means the facilities defined in Section 3(10) of the Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., and also includes the onshore storage tank facilities and the pipelines located within the State of Texas that connect the onshore storage facilities with the offshore facilities of a deepwater port.

(6) "Petroleum" means petroleum, crude oil, natural gas, and any substance refined from crude oil or natural gas.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

##### § 19.003. Authorization for Deepwater Port

In order to insure that the policy stated in this chapter is not circumvented, the Texas Deepwater Port Authority created by this chapter shall not commence operations unless and until the governor determines, and so states by executive order, that no active and viable plan to develop a deepwater, offshore port by private enterprise exists in Texas and that the Texas Deepwater Port Authority should carry out its responsibilities under this chapter. [Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

##### § 19.004. Expiration

If the governor has not made the finding and issued the executive order provided in Section 19.003 of this code, all provisions of this chapter, including the existence of the Texas Deepwater Port Authority, shall expire on January 1, 1979.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

##### § 19.005. Tidelands

None of the provisions of this chapter shall be interpreted or construed to affect Texas's claim to its tidelands or the location of Texas's coastline as interpreted by the State of Texas.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.006 to 19.010 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

##### § 19.011. Texas Deepwater Port Authority

The Texas Deepwater Port Authority is created as an agency of the state and pursuant to Article XVI, Section 59, Subsection (a) of the Texas Constitution. [Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

##### § 19.012. Commissioners; Appointment

The authority shall be governed by a board of commissioners with nine members, who shall be appointed by the governor with the advice and consent of the senate.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.013. Terms of Office; Vacancies**

(a) Of the initial appointees to the board, the governor shall designate three persons to serve until January 31, 1979, three persons to serve until January 31, 1981, and three persons to serve until January 31, 1983.

(b) Except for the initial appointees, each commissioner shall hold office for a staggered term of six years and until his successor is appointed and has qualified.

(c) Any vacancy that occurs on the board shall be filled for the unexpired term in the manner provided in Section 19.012 of this code for making the original appointment.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.014. Officers**

(a) Before June 1 of each even-numbered year, the board of commissioners shall elect a chairman, except for the initial election of chairman which shall be made as soon as possible after the effective date of this chapter.

(b) The board may elect other officers at the times and by the means as it may provide by rule. [Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.015. Board Meetings**

(a) The board shall meet at least once every three months and may hold other meetings at the call of the chair or of five of the commissioners.

(b) The board shall provide by rule for the conduct of meetings.

(c) A majority of the commissioners shall constitute a quorum for the transaction of business.

(d) All meetings of the board shall be open to the public to the same extent as may be provided by general law for meetings of state boards and agencies.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.016. Compensation and Expenses**

Each commissioner is entitled to receive reimbursement for travel and other necessary expenses resulting from the performance of his duties under this chapter and is entitled to receive as compensation \$75 a day for each day actually engaged in the work of the authority.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.017. Powers and Duties of the Board; Delegation**

(a) The board shall formulate general policy to govern the authority and its activities.

(b) The board shall exercise the powers and duties of the authority and may delegate to the agents and employees of the authority such powers and duties as the board may provide.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.018. General Manager**

(a) The board shall employ a general manager to serve at the pleasure of the board.

(b) The general manager shall be the chief administrative officer of the authority and shall manage the executive and administrative functions of the authority under policies adopted by the board.

(c) The general manager shall have kept full and accurate minutes of all transactions and proceedings of the authority.

(d) The general manager shall have any other duties the board may direct.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.019. Employees; Compensation; Etc.**

(a) The general manager shall employ necessary attorneys, accountants, engineers, technical personnel, and other employees as the board may consider necessary.

(b) In employing persons under Subsection (a) of this section, the general manager shall comply with all federal laws and rules relating to equal employment opportunity and shall employ for each position the best qualified person for that position.

(c) The employees of the authority shall receive the compensation provided by the board.

(d) Employees of the authority shall not be considered employees of the State of Texas.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.020. Rules**

The board shall, after proper notice and hearings, adopt rules governing the conduct of authority operations and the manner of carrying out its powers, duties, and responsibilities.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.021. Documents, Etc.; Open for Inspection**

(a) All information, documents, and data collected by the authority in the performance of its duties are open to inspection by any person to the same extent as if that information or the documents or data were the property of the state.

(b) The general manager shall be the custodian of all the files and records of the authority.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.022 to 19.035 reserved for expansion]

SUBCHAPTER C. INITIAL ACTIVITIES AND STUDIES

**§ 19.036. Securing of License**

(a) Prior to the acquisition of any facilities, the sale of any bonds or notes, or the borrowing of any money, the authority shall secure all necessary li-

censes and permits for the acquisition, construction, and operation of a deepwater port facility.

(b) No license or permit may be requested or accepted by the authority nor may the state be a party to a license or permit which would impose on the State of Texas or the authority any liability or financial obligation by virtue of contract, tort, or otherwise unless that liability or financial obligation is fully indemnified without expense of state funds.

(c) With the exception of the initial appropriations from the General Revenue Fund to the Texas Deepwater Port Authority and revenues of the authority, the state may not pledge its faith and credit or contribute any state funds to a project of the Texas Deepwater Port Authority or for expenses of carrying out the powers and duties of the authority. Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the state or a pledge of the faith and credit of the state. The authority is not authorized to incur any liability or financial obligations which cannot be serviced from the revenues of the authority or from the initial appropriations.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 29, ch. 19, § 1, eff. March 3, 1979.]

#### § 19.037. Engineering and Environmental Studies

Concurrent with any applications for licenses and permits for the construction and operation of a deepwater port facility, the authority shall conduct or cause to be conducted engineering and environmental impact studies to determine engineering feasibility of the proposed facility and to determine that adverse effects on the environment will be minimized. The authority may receive information concerning engineering and environmental impact data from any person, firm, or corporation possessing that information and, if construction of such deepwater port facility is commenced, may compensate that person, firm, or corporation a reasonable amount for the information, as determined by the authority.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.038. Financial Feasibility

After securing all necessary licenses and permits to enable the acquisition, construction, and operation of a deepwater port facility, the authority shall conduct a study to determine the financial feasibility of constructing and operating a deepwater port facility. In addition to any financial details or other matters it deems relevant, the authority shall specifically investigate financing alternatives and determine which alternative is feasible and most attractive to the state. In no event does the authority have the ability to pledge the general credit of the state.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.039. Final Report of Commission; Submission of Report to Governor

After consideration of the studies required by Sections 19.036 through 19.038 of this code, the authority shall determine whether or not the facility is feasible and in the public interest and shall submit a detailed report of its findings to the governor and the legislature.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.040. Submission to Natural Resources Council

On receiving the report containing the findings of the authority, the governor shall transmit a copy of the report to the Natural Resources Council. The Natural Resources Council shall review the report of the authority and submit a recommendation to the governor on the report. If the council has objections to any part of the report, it shall state those objections in detail in its recommendation to the governor. If the council fails to act within 60 days after the report of the authority is received from the governor, the report is deemed approved by the council.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.041. Action by the Governor

The governor shall, within 120 days after the report of the authority is received, either approve or disapprove the findings of the authority. If the report is disapproved, the governor shall state in detail his reasons for disapproval of the report. If the governor disapproves the report of the authority, the authority may revise its report or undertake additional studies and submit a new report to meet the objections of the governor. If the governor has taken no action on the report within 120 days after submission, it is deemed approved.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.042. Approval Necessary for Construction and Issuance of Bonds

Prior to the acquisition of any property or construction of any facilities to be used as a part of a deepwater port facility, the sale of any bonds or notes, or the borrowing of any money, both the authority and the governor must find that the construction and operation of a deepwater port facility is feasible and in the public interest.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.043 to 19.050 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 19.051. General Powers and Duties

(a) The authority has the powers and duties specifically prescribed by this chapter and all other powers necessary or convenient to carry out its responsibilities.

(b) The authority shall have, in general, all the powers that are permitted to a corporation by the general laws of this state.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.052. Specific Powers and Duties

(a) In addition to its powers and duties under Section 19.051 of this code, the authority shall have the following specific powers and duties as to each individual deepwater port facility:

(1) to acquire by purchase, lease, gift, or in any other manner other than by condemnation and to maintain, use, and operate property of any kind, real, personal, or mixed, or any interest in that property, within or without the boundaries of the State of Texas necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter;

(2) to acquire by condemnation property of any kind, real, personal, or mixed, other than minerals or interests in minerals, or any interest in that property, within or without the boundaries of the State of Texas necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter, in the manner provided by Title 52 of the Revised Civil Statutes of Texas, 1925, as amended;<sup>1</sup>

(3) subject to the provisions of this chapter, from time to time to sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest in that property that shall not be necessary to carry on the business of the authority;

(4) subject to the limitations of Subsection (a) of Section 19.054 of this chapter, to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate, any and all facilities of any kind necessary or convenient to the exercise of such powers, rights, privileges, and functions;

(5) to sue and be sued in its corporate name;

(6) to adopt, use, and alter a corporate seal;

(7) to make bylaws for the management and regulation of its affairs;

(8) to make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter;

(9) to borrow money for its corporate purposes and without limitation of the generality of the foregoing, to borrow money and accept grants

from the United States or from any corporation or agency created or designated by the United States, and in connection with any such loan or grant, to enter into agreements as the United States or the corporation or agency may require, and to make and issue its bonds and notes for money borrowed, in the manner and to the extent provided in Subchapter F of this chapter;

(10) to apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out its duties; and

(11) to do any and all other acts or things necessary or convenient to the exercise of the powers, rights, privileges, or functions conferred on it by this chapter or any other law.

(b) If the authority requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, or facilities, or pipelines in the exercise of the power of eminent domain, all of the relocation, raising, lowering, rerouting, or changes in grade or alteration of construction due to the exercise of the power of eminent domain shall be the sole expense of the authority. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 3264 et seq.

§ 19.053. State-owned Water Bottoms; Lease; Etc.

(a) The School Land Board shall lease to the authority state-owned water bottoms that are necessary for the construction, operation, and maintenance of a deepwater port.

(b) The School Land Board shall not lease to any third party any water bottoms that may be necessary for construction, operation, or maintenance of a deepwater port unless the authority certifies to the School Land Board that those water bottoms are not required for use by the authority.

(c) Necessary water bottoms shall be leased to the authority on the terms and for the compensation to which the School Land Board and the authority shall mutually agree.

(d) Mineral rights and interests in the leased areas are reserved to the state; however, the School Land Board may not lease for mineral development any areas leased to the authority without the consent of the authority unless the mineral lease will not adversely affect the deepwater port.

(e) The School Land Board, the authority, and the lessee may enter into agreements to coordinate the use of sites needed by the authority if the sites have existing mineral leases.

(f) Nothing in this section shall authorize the authority to explore for, develop, or produce any minerals of whatever kind.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.054. Development of a Deepwater Port

(a) The authority shall, as soon as possible after the effective date of this chapter:

(1) have designed, licensed, developed, built, operated, maintained, or modified any deepwater port or ports as it shall determine to be necessary from time to time;

(2) provide that the engineering, design, construction, operation, and maintenance of those deepwater ports shall be carried out by suitable private enterprise under the regulation and supervision of the authority;

(3) finance those deepwater ports through self-supporting revenue bonds backed by tariffs charged the users of the facilities and by any other means that may be necessary or convenient and consistent with the provisions of this chapter;

(4) enter into contracts with public or private entities necessary to carry out the provisions of this chapter, provided, however, that no contract for purposes of operation of a deepwater port may be entered into by the authority unless the contract stipulates that the public or private entities contracting with the authority shall assume any liability of the authority for any causes of action arising from environmental damage;

(5) apply for any necessary licenses, permits, or other permissions necessary to carry out the provisions of this chapter;

(6) set and collect those charges the authority may determine are appropriate for any service or other action performed by or requested of the authority;

(7) take any actions the authority may determine are necessary or cause to be done any of the things required of the authority under this chapter;

(8) enter into agreements with port and navigation districts and other political subdivisions or agencies of the state regarding matters of mutual concern;

(9) make payments in lieu of taxes to the state and political subdivisions of the state to the same extent as if the property of the authority were privately owned, provided, however, that any payments in lieu of taxes shall be based on full value less the value of the interests of any public or private entities contracted with to operate the facility; and

(10) take any other actions determined by the board to be necessary for the authority to carry out its duties and responsibilities in implementing the provisions of this chapter.

(b) In addition to the foregoing, the authority may:

(1) own, construct, maintain, lease as lessor or lessee, and sell by installment sale or otherwise, deepwater mooring facilities, wharves, sheds, pipelines, pumping stations, tanks, tank farms and facilities, heliports, warehouses, vessels, and other property, structures, equipment, and other facilities functionally related to a deepwater port;

(2) dredge and maintain shipways, channels, anchorage, roadsteads, and fairways;

(3) establish, operate, and maintain navigable waterway systems in the immediate area of the facilities constructed hereunder, in cooperation with the United States, this state, and political subdivisions of this state;

(4) enter into a contract with any public or private entity to provide public utility service to the authority and its facilities, or provide its own utility services;

(5) negotiate with and enter into contracts, compacts, and other agreements with the United States and other states of the United States concerning development programs including jurisdictional aspects of the location of deepwater ports and adoption and enforcement of rules governing authority operations;

(6) adopt tolls, fees, rates, tariffs, and charges for use of the terminal or terminals or any of its facilities;

(7) provide for use of existing port facilities and provide for rates, wharfage fees, and other matters of mutual interest, by agreements with existing port authorities and navigation districts; and

(8) enter into contracts or agreements with any person, corporation, trust, or partnership for the financing, construction, operation, maintenance, and sale by installment or otherwise of a deepwater port or any facilities relative to a deepwater port.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.055. Authority Contracts

(a) The authority may let any contracts for the purchase of materials, machinery, and equipment to constitute the plant, works, facilities, and improvements of a deepwater port, for construction, or for other purposes.

(b) All these contracts shall be let to the lowest responsible bidder after sealed bids are solicited by public notice.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.056 to 19.100 reserved for expansion]

SUBCHAPTER E. ENVIRONMENTAL PROTECTION

§ 19.101. Protection of the Environment

(a) The authority shall take all reasonable steps to protect the coastal environment and the high seas from any short-term or long-term damage or harm that might occur from any action the authority may take.

(b) The general manager, under the direction of the board, shall formulate an environmental protection plan as soon as possible, which shall be adopted by the authority after proper notice and hearing.

(c) In preparing and adopting the environmental protection plan, the authority shall consult and coordinate with any federal, state, and local agencies that have responsibility for environmental protection within the state and shall comply with applicable rules.

(d) The environmental protection plan may be amended at any time by the authority after proper notice and hearing.

(e) Environmental protection shall be a primary responsibility of the authority, and costs incurred to develop the plan to protect the environment shall be considered a necessary cost to the authority and shall be considered a cost to the same extent that economic, engineering, or promotional programs are considered costs.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.102 to 19.130 reserved for expansion]

SUBCHAPTER F. FINANCIAL PROVISIONS

§ 19.131. General Provisions

The authority may:

(1) borrow money from time to time for any corporate purpose or in aid of any corporate purpose;

(2) issue and sell notes and provide the terms and conditions for repayment with interest and the rights of the holders of the notes;

(3) issue and sell bonds and provide the terms and conditions for repayment with interest and the rights of the bondholders;

(4) pledge, hypothecate, or otherwise encumber all or any designated part of the revenues and receipts of the authority as security for any of its notes or bonds;

(5) invest money held in any sinking fund, reserve fund, or other fund or money not required for immediate use or disbursement in such securities as it shall determine;

(6) apply for, accept, and administer grants, loans, and other assistance from the United States or any agency or instrumentality of the United States and any agency or instrumentality of this state to carry out the purpose of this chapter, and enter into any agreement in relation to those

grants, loans, or other assistance as may be provided by the authority subject to the provisions of Section 19.036, which is not in conflict with the constitution of this state; and

(7) fix, charge and alter, and collect reasonable rentals, rates, fees, and other charges for the use of any works and facilities or for any services rendered by the authority and provide for the imposition of reasonable penalties for any of those rates, fees, and charges that are delinquent.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.132. Form and Terms of Bonds and Notes

(a) Bonds and notes issued under the provisions of this chapter together with any interest coupons shall be authorized by resolution of the board and shall have the form and characteristics and bear the designation as are therein provided.

(b) Bonds and notes shall:

(1) be authorized by resolution or resolutions of the board;

(2) bear the date or dates, mature at the time or times, serially, terms, or otherwise in not more than 50 years from their dates; and

(3) be callable prior to stated maturity on the terms and at the prices, bear interest at such rate or rates, be payable annually, semiannually, or otherwise, be in the denominations, be in the form, either coupon or registered, carry the registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or notes or vice versa and successive exchange of bonds or notes of one denomination for bonds or notes of other denominations, be executed in the manner, and be payable at the place or places within or without the state as the resolution or resolutions may provide.

(c) Bonds or notes may be issued in one or more installments and from time to time as required and sold at a price or prices and under terms determined by the board to be the most advantageous reasonably obtainable.

(d) The proceeds of the sale of bonds or notes shall be deposited in the bank or banks or trust company or trust companies and shall be paid out pursuant to the terms and conditions that may be agreed on between the authority and the purchasers.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.133. Execution of Bonds, Notes, and Coupons

(a) Bonds or notes issued under the provisions of this chapter shall be signed by the chairman or vice-chairman of the board, be attested by its general manager, and bear the seal of the authority.

(b) Any interest coupons appurtenant to the bonds or notes shall be signed by the chairman or the vice-chairman of the board and be attested by its general manager.

(c) The resolution or resolutions authorizing the issuance of an installment or any series of bonds or notes may prescribe the extent to which the authority, in executing the bonds, notes, or appurtenant coupons, may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals.

(d) If an officer whose manual or facsimile signature appears on a bond or note or whose facsimile signature appears on any coupons ceases to be an officer before the bond or note is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

(e) Neither the members of the board nor officers of the authority nor anyone executing the bonds or notes for and on behalf of the authority shall be liable personally on the bonds or notes of the authority by reason of participation in any way in the issuance of the bonds or notes.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.134. Security Provisions, Etc.

(a) The bonds or notes may be secured by a pledge of all or any part of the revenues or receipts of the authority or by the revenues of any one or more leases or other contracts theretofore or thereafter made or other revenues or income specified by the resolution of the board or in the trust indenture or other instrument securing the bonds or notes. A pledge may reserve the right, under conditions specified in it, to issue additional bonds or notes that will be on a parity with or subordinate to the bonds or notes then being issued.

(b) A pledge or security instrument made by the authority is valid and binding from the time when it is made. The revenues or money pledged and entrusted and thereafter received by the authority shall immediately be subject to the lien of the pledge or security instrument without any physical delivery of it or further act. The lien of the pledge or security instrument is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any security instrument or other instrument by which a pledge or security interest is created need be recorded or filed, and compliance with any provision of any other law is not required in order to perfect the pledge or other security interest.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

#### § 19.135. Provisions of Resolution

A resolution authorizing bonds or notes or a trust indenture under which bonds or notes may be issued may contain provisions, which shall be a part of the agreement with the holders of bonds or notes, as to:

(1) pledging all or any part of the rentals, rates, fees, and other charges made or received by the authority and other money received or to be received from the planning, financing, ownership, operation, or sale of or otherwise in connection with any project to secure the payment of the bonds or notes or of any issue of the bonds or notes;

(2) pledging all or any part of the assets of the authority, including any obligation acquired by the authority, to secure the payment of the bonds or notes or any issue of the bonds or notes;

(3) the use and disposition of rentals, rates, fees, and other charges made or received by the authority;

(4) pledging to establish, alter, and collect rates and other charges with respect to each property or facility sufficient to produce revenues adequate to pay all expenses necessary to the operation and maintenance of such to be made in respect of any of those bonds or notes payable out of those revenues as the bonds or notes become due and payable, and to fulfill the terms of any agreement made with the holders of the bonds or notes and with any person in their behalf;

(5) the setting aside of reserves or sinking funds and the regulation and disposition of those reserves and sinking funds;

(6) limitations on the purpose to which the proceeds from the sale of the bonds may be applied and pledging the proceeds to secure the payment of the bonds, notes, or any issue of the notes or bonds;

(7) limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds or notes;

(8) the acquisition, construction, improvement, operation, extension, enlargement, maintenance, and repair of any project and the duties of the authority with reference thereto;

(9) the procedure, if any, by which the terms of any agreement with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which are required to give consent thereto, and the manner in which the consent may be given;

(10) limitations on the amount of money to be spent by the authority for administrative or other expenses;

(11) vesting in a trustee or other fiduciary, property, rights, powers, and duties in trust the authority determines, which may include any of the rights, powers, and duties of the trustee appointed by the bondholders or noteholders pursuant to this chapter, and abrogating the right of the bondholders or noteholders to appoint a trustee under this chapter or limiting the rights, powers, and duties of the trustee;

(12) placing the management, operation, and control of specified works and facilities of the authority in the hands of a board of trustees to be named in the resolution or trust indenture and specifying the terms of office of the trustees, their powers and duties, the manner of exercising the same, the appointment of successors, and all matters pertaining to their organization and duties; and

(13) any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes or the bondholders or noteholders.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.136. Default Provisions**

The resolution authorizing the issuance of the bonds or notes or the trust indenture or other instrument securing them may provide that in the event of a default or, under the conditions therein stated, a threatened default in the payment of principal or of interest on bonds or notes, any court of competent jurisdiction may, on petition of the holders of outstanding bonds or notes, appoint a receiver with authority to collect and receive pledged income, and those instruments may limit or qualify the rights of less than all of the holders of the outstanding bonds or notes payable from the same source to institute or prosecute any litigation affecting the authority's properties or revenues.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.137. Additional Security**

(a) Any bonds or notes, including refunding bonds, authorized by this chapter may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers situated either within or without the state.

(b) The bonds or notes, within the discretion of the board, may be additionally secured by a mortgage or a deed of trust lien or security interest on works and facilities of the authority and all real property, franchises, easements, leases, and contracts and all rights appurtenant to those properties, vesting in the trustee power to sell those works and facilities for the payment of the indebtedness and to operate those works and facilities, and all other powers and authority for the further security of the bonds or notes.

(c) The trust indenture, regardless of the mortgage or the deed of trust lien or security interest in the properties, may contain any provisions prescribed by the authority for the security of the bonds or notes and the preservation of the trust estate, may make provision for amendment or modification thereof, may condition the right to spend the authority's money or sell the authority's works and facilities on approval of a registered professional engineer selected as provided in the trust indenture, and may

make any other provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as may be reasonable and proper and not in violation of the law. The trust indenture may also contain provisions governing the issuance of bonds and notes to replace lost, stolen, or mutilated bonds or notes.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.138. Bond Proceeds**

(a) The board may direct the investment of money in the funds created by the resolutions, trust indentures, or other instruments securing the bonds or notes.

(b) From the proceeds from the sale of the bonds or notes, the board may set aside amounts for payments into the interest and sinking fund until completion of construction and until adequate revenue is available from operations to pay principal and interest and amounts for payments into reserve funds, and provisions for such may be made in the resolution authorizing the bonds, notes, or the trust indenture or other instrument securing the bonds or notes.

(c) Proceeds from the sale of the bonds or notes shall be used for the payment of all expenses of issuing and selling the bonds or notes.

(d) The proceeds from the sale of the bonds or notes and money in any funds created in connection with the bonds or notes may be invested in:

(1) direct or indirect obligations of or obligations unconditionally guaranteed by the United States government or one of its agencies maturing in the manner that may be specified by the resolution authorizing the bonds or notes or the trust indenture or other instrument securing the bonds or notes; or

(2) certificates of deposit of any bank or trust company whose deposits are secured by the obligations described in Subdivision (1) of this subsection.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.139. Depository**

Any bank or trust company located in this state and incorporated under the laws of the United States or any state in the United States may be designated by resolution to act as depository for the proceeds of bonds, notes, or contract or lease revenues or other revenues of the authority. The bank or trust company shall furnish indemnifying bonds or pledge securities to secure those deposits to the same extent as may be required by general law to secure the deposit of state funds.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.140. Refunding**

(a) The board may provide by resolution for the issuance of refunding bonds or notes to refund outstanding bonds or notes issued under this chapter and their accrued interest.

(b) The authority may sell these bonds or notes and use the proceeds to retire the outstanding bonds or notes issued under this chapter or the authority may exchange the refunding bonds or notes for the outstanding bonds or notes.

(c) The issuance of the refunding bonds or notes, their maturity, the rights of the bondholders and the duties of the authority with respect to refunding bonds or notes are governed by the provisions of this chapter relating to original bonds or notes, to the extent that they may be made applicable.

(d) The authority may also refund any bonds or notes under the provisions of general law.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.141. Approval and Registration of Bonds and Notes**

(a) After bonds and notes, including refunding bonds and notes, are authorized by the board, those bonds and notes and the record relating to their issuance shall be submitted to the attorney general for his examination as to their validity.

(b) If the bonds and notes recite that they are secured by a pledge of the proceeds of any lease or other contract previously made between the authority and any person, those leases and contracts may also be submitted to the attorney general.

(c) If those bonds or notes have been validly authorized and if those leases or contracts have been made in accordance with the constitution and laws of the state, the attorney general shall approve the bonds or notes, and the leases or contracts and the bonds or notes shall be registered by the state comptroller.

(d) The attorney general in approving bonds or notes issued in anticipation of being refunded by other bonds and notes shall not require as a condition of his approval that those bonds or notes being examined have pledged to them sufficient revenues to retire the bonds and notes before the time they will be refunded in accordance with such anticipation.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.142. Incontestability**

After the bonds or notes, and the leases or other contracts, if any, have been approved by the attorney general, and the bonds and notes have been registered by the state comptroller and delivered to the purchasers, those bonds and notes and any underlying leases and contracts are incontestable for any cause.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.143. Duties Enforceable by Mandamus**

Payment of any bonds and notes according to the term and tenor, performance of agreements with the holders of bonds or notes or any person in their behalf, and performance of official duties prescribed by the provisions of this chapter in connection with any bonds or notes may be enforced in any court of competent jurisdiction by mandamus or other appropriate proceeding.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.144. Bonds Negotiable**

Bonds issued under the provisions of this chapter and coupons, if any, representing interest on those bonds, shall, when delivered, be deemed and construed to be a "security" within the meaning of Chapter 8 of the Uniform Commercial Code, as amended.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.145. Bonds and Notes not Taxable**

Bonds and notes issued under the provisions of this chapter, the interest on the bonds and notes, and the profit from the sale of the bonds and notes shall be exempt from taxation, except inheritance taxes, by the state or by any municipal corporation, county, or other political subdivision or taxing district of the state.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.146. Authorized Investments**

Bonds and notes issued under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees; and
- (8) sinking funds of the state and of cities, towns, villages, counties, school districts, and all political corporations, subdivisions, and public agencies of the state.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

**§ 19.147. Security for Deposit of Funds**

Bonds and notes issued under the provisions of this chapter, when accompanied by all appurtenant unmatured coupons if any, are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or any other agency or political corporation or subdivision of the state, at the par value of the bonds.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.148. Source of Repayment

Bonds and notes issued under the provisions of this chapter together with the interest on the bonds and notes shall be secured by and payable solely from the revenues and receipts of the authority and other money available therefor, including, without limitation, rentals, rates, fees, and other charges made and received by the authority and other money received and to be received from grants and assistance, and other money received and to be received from the planning, financing, ownership, or operation of any works and facilities of the authority, and other money available therefor from proceeds of bonds or notes.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.149. State Credit not Pledged

(a) The provisions of this chapter shall not be construed to authorize the giving or lending of the credit of the state or to be a pledge of the credit of the state for the payment of any bonds or notes issued under the provisions of this chapter, and the purchasers and successive holders of any bonds or notes shall never have the right to demand payment from any money or revenues of the authority except those pledged to the payment of bonds or notes.

(b) This chapter shall not be construed as obligating this state to the holders of any of those bonds or notes nor to constitute a contract on the part of this state to make money available for any of the authority's needs.

(c) This state, however, pledges and agrees to the holders of any bonds or notes issued under this chapter that it will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof consistent herewith, or in any way impair the rights and remedies of the holders until the bonds and notes, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses for which the authority is liable in connection with any action or proceedings by or on behalf of the holders, are fully met and discharged. The authority shall include this pledge and agreement of the state in any agreements it makes with the holders of the bonds or notes.

[Added by Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Chapter 20 to 25 reserved for expansion]

SUBTITLE D. WATER QUALITY CONTROL

CHAPTER 26. WATER QUALITY CONTROL

SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

Section	
26.001.	Definitions.
26.002.	Ownership of Underground Water.
26.003.	Policy of This Subchapter.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Section	
26.011.	In General.
26.012.	State Water Quality Plan.
26.013.	Research, Investigations.
26.014.	Power to Enter Property.
26.015.	Power to Examine Records.
26.016.	Enforcement Proceedings.
26.017.	Cooperation.
26.018.	Contracts, Instruments.
26.019.	Orders.
26.0191.	Temporary Orders and Authorizations to Discharge Untreated or Partially Treated Wastewater.
26.020.	Hearing Powers.
26.021.	Delegation of Hearing Powers.
26.022.	Notice of Hearings; Continuance.
26.023.	Water Quality Standards.
26.024.	Hearings on Standards; Consultation.
26.025.	Hearings on Standards; Notice to Whom.
26.026.	Standards to be Published.
26.027.	Commission May Issue Permits.
26.028.	Action on Application.
26.029.	Conditions of Permit; Amendment; Revocation and Suspension.
26.030.	Permit: Effect on Recreational Water.
26.031.	Private Sewage Facilities.
26.032.	Control by Counties.
26.033.	Rating of Waste Disposal Systems.
26.034.	Approval of Disposal System Plans.
26.035.	Federal Grants.
26.036.	Water Quality Management Plans.
26.037.	Approval of Plans.
26.038.	Fiscal Control on Water Quality Management Planning.
26.039.	Accidental Discharges and Spills.
26.040.	Control of Certain Waste Discharges by Rule.
26.041.	Health Hazards.
26.042.	Monitoring and Reporting.
26.043.	The State of Texas Water Pollution Control Compact.
26.044.	Disposal of Boat Sewage.
26.045.	Pump-Out Facilities for Boat Sewage.
26.046.	Hearings on Protection of Edwards Aquifer From Pollution.
26.047.	Permit Conditions and Pretreatment Standards Concerning Owned Treatment Works.
26.048.	Federal Grants for the Construction of Treatment Works; Processing Fees.

SUBCHAPTER C. REGIONAL AND AREA-WIDE SYSTEMS

26.081.	Regional or Area-Wide Systems; General Policy.
26.082.	Hearing to Define Area of Regional or Area-Wide Systems.
26.083.	Hearing to Designate Systems to Serve the Area Defined; Order; Etc.
26.084.	Actions Available to Commission After Designations of Systems.
26.085.	Inclusion at a Later Time.
26.086.	Rates for Services by Designated Systems.
[26.087.]	Election for Approval of Regional or Area-Wide System or Systems.

SUBCHAPTER D. PROHIBITION AGAINST POLLUTION; ENFORCEMENT

26.121.	Unauthorized Discharges Prohibited.
26.122.	Civil Penalty.
26.123.	Enforcement by Department.
26.124.	Enforcement by Others.
26.125.	Venue and Procedure.
26.126.	Disposition of Civil Penalties.
26.127.	Department as Principal Authority.
26.128.	Groundwater Quality.
26.129.	Duty of Parks and Wildlife Department.
26.130.	Duty of Department of Health Resources.
26.131.	Duties of Railroad Commission.
26.132.	Act of God, War, Etc.
26.133.	Effect on Private Remedies.

Section	
26.134.	Repealed.
26.135.	Effect on Other Laws.

## SUBCHAPTER E. AUTHORITY OF LOCAL GOVERNMENTS

26.171.	Inspection of Public Water.
26.172.	Recommendations to Board.
26.173.	Power to Enter Property.
26.174.	Enforcement Action.
26.175.	Cooperative Agreements.
26.176.	Disposal System Rules.
26.177.	Water Pollution Control Duties of Cities.

## SUBCHAPTER F. CRIMINAL PROSECUTION

26.211.	Definitions.
26.212.	Criminal Offense.
26.213.	Criminal Penalty.
26.214.	Criminal Penalty for Violation of Private Sewage Facility Order.
26.215.	Peace Officers.
26.216.	Act of God, War, etc.
26.217.	Venue.
26.218.	Allegations.
26.219.	Summons and Arrest.
26.220.	Service of Summons.
26.221.	Arraignment and Pleadings.
26.222.	Appearance.
26.223.	Fine Treated as Judgment in Civil Action.
26.224.	Cumulative Provisions.
26.225.	Effect on Certain Other Laws.

## SUBCHAPTER G. COASTAL OIL AND HAZARDOUS SPILL PREVENTION AND CONTROL

26.261.	Short Title.
26.262.	Policy.
26.263.	Definitions.
26.264.	Administrative Provisions.
26.265.	Texas Coastal Protection Fund.
26.266.	Removal of Accidental Discharge.
26.267.	Exemptions.
26.268.	Penalties.

## SUBCHAPTER H. INACTIVE HAZARDOUS SUBSTANCE, POLLUTANT, AND CONTAMINANT DISPOSAL FACILITIES

26.301.	Definitions.
26.302.	Administrative Provisions.
26.303.	Contracts and Cooperative Agreements.
26.304.	Disposal Facility Response Fund.
26.305.	Consultation with Federal Government.
26.306.	State to Provide Information.
26.307.	State Response.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977, for disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

## SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

## § 26.001. Definitions

*Text of section effective until delegation of NPDES permit authority*

As used in this chapter:

- (1) "Board" means the Texas Water Development Board.
- (2) "Commission" means the Texas Water Commission.

(3) "Executive director" means the executive director of the Texas Department of Water Resources.

(4) "Department" means the Texas Department of Water Resources.

(5) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.

(7) "Sewage" means waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation.

(8) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system.

(9) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area.

(10) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products. The term "agricultural waste" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

(11) "Industrial waste" means waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business.

(12) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste, that may cause impairment of the quality of water in the state. "Other waste" also includes tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farmland that may cause impairment of the quality of the water in the state.

(13) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality

of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(14) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(15) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste.

(16) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

(17) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution.

(18) "Permit" means an order issued by the commission in accordance with the procedures prescribed in this chapter establishing the treatment which shall be given to wastes being discharged into or adjacent to any water in the state to preserve and enhance the quality of the water and specifying the conditions under which the discharge may be made.

(19) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES permit authority, see § 26.001, post*

**§ 26.001. Definitions**

*Text of section effective upon delegation of NPDES permit authority*

As used in this chapter:

(1) "Board" means the Texas Water Development Board.

(2) "Commission" means the Texas Water Commission.

(3) "Executive director" means the executive director of the Texas Department of Water Resources.

(4) "Department" means the Texas Department of Water Resources.

(5) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water,

natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.

(7) "Sewage" means waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation.

(8) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system.

(9) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area.

(10) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products. The term "agricultural waste" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farmland.

(11) "Industrial waste" means waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business.

(12) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste.

(13) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state. The term "pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland.

(14) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(15) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(16) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste.

(17) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

(18) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution.

(19) "Permit" means an order issued by the commission in accordance with the procedures prescribed in this chapter establishing the treatment which shall be given to wastes being discharged into or adjacent to any water in the state to preserve and enhance the quality of the water and specifying the conditions under which the discharge may be made.

(20) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

(21) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants or wastes are or may be discharged into or adjacent to any water in the state.

(22) "Identified state supplement to an NPDES permit" means any part of a permit on which the board has entered a written designation to indicate that the board has adopted that part solely in order to carry out the board's duties under state statutes and not in pursuance of administration undertaken to carry out a permit program under approval by the Administrator of the United States Environmental Protection Agency.

(23) "NPDES" means the National Pollutant Discharge Elimination System under which the Administrator of the United States Environmental Protection Agency can delegate permitting authority to the State of Texas in accordance with Section 402(b) of the Federal Water Pollution Control Act.<sup>1</sup>

(24) "Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of waste to implement this chapter or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including:

(A) intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances;

(B) extensions, improvements, remodeling, additions, and alterations of the items in Paragraph (A) of this subdivision;

(C) elements essential to provide a reliable recycled supply such as standby treatment units and clear-well facilities;

(D) any works, including sites and acquisition of the land that will be a part of or used in connection with the treatment process or is used for ultimate disposal of residues resulting from such treatment;

(E) any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutralizing, or stabilizing waste; and

(F) facilities to provide for the collection, control, and disposal of waste heat.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 985, ch. 367, § 43, eff. June 10, 1981.]

<sup>1</sup> 33 U.S.C.A. § 1342(b).

*For text of section effective until delegation of NPDES permit authority, see § 26.001, ante*

Section 12 of Acts 1977, 65th Leg., p. 1647, ch. 644, provided:

"This Act shall take effect upon full or partial delegation of NPDES permit authority to the board by the Administrator of the United States Environmental Protection Agency pursuant to Section 402(b) of the Federal Water Pollution Control Act but shall not be construed to affect persons discharging, proposing to discharge or threatening to discharge wastes or pollutants over which the board does not have such delegated NPDES permit authority. In no event, however, shall this Act become effective prior to October 1, 1977. The provisions of this Act shall be effective only during such periods that the board maintains such NPDES permit authority."

### § 26.002. Ownership of Underground Water

Nothing in this chapter affects ownership rights in underground water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 26.003. Policy of This Subchapter

It is the policy of this state and the purpose of this subchapter to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 26.004 to 26.010 reserved for expansion]

SUBCHAPTER B. GENERAL POWERS  
AND DUTIES

§ 26.011. In General

Except as otherwise specifically provided, the department shall administer the provisions of this chapter and shall establish the level of quality to be maintained in, and shall control the quality of, the water in this state as provided by this chapter. Waste discharges or impending waste discharges covered by the provisions of this chapter are subject to reasonable rules or orders adopted or issued by the department in the public interest. The department has the powers and duties specifically prescribed by this chapter and all other powers necessary or convenient to carry out its responsibilities. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.012. State Water Quality Plan

The executive director shall prepare and develop a general, comprehensive plan for the control of water quality in the state which shall be used as a flexible guide by the department when approved by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.013. Research, Investigations

The executive director shall conduct or have conducted any research and investigations it considers advisable and necessary for the discharge of the duties under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.014. Power to Enter Property

*Text of section effective until delegation of NPDES permit authority*

The members of the commission and employees and agents of the department are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state. Members, employees, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, or agent is refused the right to enter in or on public or private property under this authority, the executive director may invoke the remedies authorized in Section 26.123 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES permit authority, see § 26.014, post*

§ 26.014. Power to Enter Property

*Text of section effective upon delegation of NPDES permit authority*

The members of the commission and employees and agents of the department are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the department. Members, employees, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, or agent is refused the right to enter in or on public or private property under this authority, the executive director may invoke the remedies authorized in Section 26.123 of this code.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective until delegation of NPDES permit authority, see § 26.014, ante*

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.015. Power to Examine Records

*Text of section effective until delegation of NPDES permit authority*

The members of the commission and employees and agents of the department may examine during regular business hours any records or memoranda pertaining to the operation of any sewer system, disposal system, or treatment facility or pertaining to any discharge of waste.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES permit authority, see § 26.015, post*

§ 26.015. Power to Examine Records

*Text of section effective upon delegation of NPDES permit authority*

The members of the commission and employees and agents of the department may examine and copy during regular business hours any records or memoranda pertaining to the operation of any sewer system, disposal system, or treatment facility or pertaining to any discharge of waste or pollutants into any water in the state, or any other records required to be maintained.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective until delegation of NPDES permit authority, see § 26.015, ante*

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

**§ 26.016. Enforcement Proceedings**

The executive director may institute court proceedings to compel compliance with the provisions of this chapter or the rules, orders, permits, or other decisions of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.017. Cooperation**

The department shall:

(1) encourage voluntary cooperation by the people, cities, industries, associations, agricultural interests, and representatives of other interests in preserving the greatest possible utility of water in the state;

(2) encourage the formation and organization of cooperative groups, associations, cities, industries, and other water users for the purpose of providing a medium to discuss and formulate plans for attainment of water quality control;

(3) establish policies and procedures for securing close cooperation among state agencies that have water quality control functions; and

(4) cooperate with the governments of the United States and other states and with official or unofficial agencies and organizations with respect to water quality control matters and with respect to formulation of interstate water quality control compacts or agreements, and when representation of state interests on a basin planning agency for water quality purposes is required under Section 3(c) of the Federal Water Pollution Control Act, as amended,<sup>1</sup> or other federal legislation having a similar purpose, the representation shall include an officer or employee of the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> See 33 U.S.C.A. § 1252(c).

**§ 26.018. Contracts, Instruments**

With the approval of the board, the executive director may make contracts and execute instruments that are necessary or convenient to the exercise of the department's powers or the performance of its duties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.019. Orders**

(a) The commission is authorized to issue orders and make determinations necessary to effectuate the purposes of this chapter.

(b) The commission shall set forth the findings on which it bases any order granting or denying special relief requested of the commission or involving a determination following a hearing on an alleged violation of Section 26.121 of this code or directing a person to perform or refrain from performing a certain act or activity.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.0191. Temporary Orders and Authorizations to Discharge Untreated or Partially Treated Wastewater**

(a) The commission may issue temporary or emergency orders relating to the discharge of waste or pollutants without notice and hearing, or with such notice and hearing as the commission considers practicable under the circumstances, when this is necessary to enable action to be taken more expeditiously than is otherwise provided by this chapter to effectuate the policy and purposes of this chapter.

(b) If the commission issues a temporary or emergency order under this authority without a hearing, the order shall fix a time and place for a hearing to be held before the commission, which shall be held as soon after the temporary or emergency order is issued as is practicable.

(c) At the hearing, the commission shall affirm, modify, or set aside the temporary or emergency order. If the nature of the commission's action requires, further proceedings shall be conducted as appropriate under provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and the rules of the department.

(d) The executive director may authorize the discharge of untreated or partially treated wastewater from a permitted facility into or adjacent to water in the state if he determines that the discharge is unavoidable to prevent loss of life, serious injury, or severe property damage or to make necessary and unforeseen repairs to the facility and that there are no feasible alternatives to the discharge, and the commission shall hold a hearing as provided for in Subsection (b) of this section.

(e) The requirements of Section 26.022 of this code relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to a hearing held under this section, but such general notice of the hearing shall be given as the commission, under Subsections (a) and (c) of this section or the executive director under Subsection (d) of this section, considers practicable under the circumstances.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

**§ 26.020. Hearing Powers**

The commission may call and hold hearings, administer oaths, receive evidence at the hearing, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the hearing, and make findings of fact and decisions with respect to administering the provisions of this chapter or the rules, orders, or other actions of the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.021. Delegation of Hearing Powers**

(a) Except for those hearings required to be held before the commission under Section 26.0191(b) of this code, the commission may authorize the chief hearing examiner to call and hold hearings on any subject on which the commission may hold a hearing.

(b) The commission may also authorize the chief hearing examiner to delegate to one or more hearing examiners the authority to hold any hearing called by him.

(c) At any hearing called by the chief hearing examiner, he or the person delegated the authority by him to hold the hearing is empowered to administer oaths and receive evidence.

(d) The individual or individuals holding a hearing under the authority of this section shall report the hearing in the manner prescribed by the commission. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 979, ch. 367, § 8, eff. June 10, 1981.]

**§ 26.022. Notice of Hearings; Continuance**

(a) Except as otherwise provided in Sections 26.0191 and 26.176 of this code, the provisions of this section apply to all hearings conducted in compliance with this chapter.

(b) Notice of the hearing shall be published at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, the commission has reason to believe persons reside who may be affected by the action that may be taken as a result of the hearing. The date of the publication shall be not less than 20 days before the date set for the hearing.

(c) If notice of the hearing is required by this chapter to be given to a person, the notice shall be served personally or mailed not less than 20 days before the date set for the hearing to the person at his last address known to the commission. If the party is not an individual, the notice may be given to any officer, agent, or legal representative of the party.

(d) The individual or individuals holding the hearing, called the hearing body, shall conduct the hearing at the time and place stated in the notice. The hearing body may continue the hearing from time to time and from place to place without the necessity of publishing, serving, mailing, or otherwise issuing a new notice.

(e) If a hearing is continued and a time and place for the hearing to reconvene are not publicly announced by the person conducting the hearing at the hearing before it is recessed, a notice of any further setting of the hearing shall be served personally or mailed in the manner prescribed in Subsection (c) of this section at a reasonable time before the new setting, but it is not necessary to publish a newspaper notice of the new setting.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.023. Water Quality Standards**

The board by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The board has the sole and exclusive authority to set water quality standards for all water in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.024. Hearings on Standards; Consultation**

Before setting or amending water quality standards, the board shall:

(1) hold public hearings at which any person may appear and present evidence under oath, pertinent for consideration by the board; and

(2) consult with the executive director to insure that the proposed standards are not inconsistent with the objectives of the state water plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.025. Hearings on Standards; Notice to Whom**

Notice of a hearing under Section 26.024 of this code shall be given to each of the following that the board believes may be affected:

(1) each local government whose boundary is contiguous to the water in question or whose boundaries contain all or part of the water, or through whose boundaries the water flows;

(2) the holders of rights to appropriate water from the water in question as shown by the records of the department; and

(3) the holders of permits from the commission to discharge waste into or adjacent to the water in question.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.026. Standards to be Published**

The department shall publish its water quality standards and amendments and shall make copies available to the public on written request.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.027. Commission May Issue Permits**

*Text of section effective until delegation of NPDES permit authority*

(a) The commission may issue permits and amendments to permits for the discharge of waste into or adjacent to water in the state.

(b) A person desiring to obtain a permit or to amend a permit shall submit an application to the department containing all information reasonably required by the department.

(c) A person may not commence construction of a treatment facility until the commission has issued a permit to authorize the discharge of waste from the facility, except with the approval of the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES permit authority, see § 26.027, post*

### § 26.027. Commission May Issue Permits

*Text of section effective upon delegation of NPDES permit authority*

(a) The commission may issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. No permit shall be issued authorizing the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste. The commission may refuse to issue a permit when the commission finds that issuance of the permit would violate the provisions of any state or federal law or rule or regulation promulgated thereunder, or when the commission finds that issuance of the permit would interfere with the purpose of this chapter.

(b) A person desiring to obtain a permit or to amend a permit shall submit an application to the department containing all information reasonably required by the department.

(c) A person may not commence construction of a treatment facility until the commission has issued a permit to authorize the discharge of waste from the facility, except with the approval of the commission.

(d) The commission may not require under this chapter any permit for the placing of dredged or fill materials into or adjacent to water in the state for the purpose of constructing, modifying, or maintaining facilities or structures, but this does not change or limit any authority the commission may have with respect to the control of water quality. The commission may adopt rules and regulations to govern and control the discharge of dredged or fill materials consistent with the purpose of this chapter.

[Amended by Acts 1977, 65th Leg., p. 1645, ch. 644, § 7; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective until delegation of NPDES permit authority, see § 26.027, ante*

*For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.*

### § 26.028. Action on Application

(a) Except as provided in Subsections (b) and (c) of this section, notice shall be given to the persons who in the judgment of the commission may be affected by an application for a permit, permit amendment, or renewal of a permit. The commission, on the motion of a commissioner, or on the request of the executive director or any affected person, shall hold a public hearing on the application for a permit, permit amendment, or renewal of a permit.

(b) An application to amend a permit to improve the quality of waste authorized to be discharged may be set for consideration and may be acted on by the commission at a regular meeting without the necessity of holding a public hearing if the applicant does not seek to increase significantly the quantity of waste authorized to be discharged or change

materially the pattern or place of discharge. Notice of the application shall be mailed to the mayor and health authorities for the city or town, and the county judge and health authorities for the county, in which the waste is or will be discharged, at least 10 days before the commission meeting, and they may present information to the commission on the application.

(c) An application to renew a permit for a confined animal feeding operation which was issued between July 1, 1974, and December 31, 1977, may be set for consideration and may be acted on by the commission at a regular meeting without the necessity of holding a public hearing if the applicant does not seek to discharge into or adjacent to water in the state and does not seek to change materially the pattern or place of disposal.

(d) For the purposes of Subsection (a), the commission may act on the application without holding a public hearing if all of the following conditions are met:

(1) not less than 30 days before the date of action on the application by the commission, the applicant has published the commission's notice of the application at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge;

(2) not less than 30 days before the date of action on the application by the commission, the applicant has served or mailed the commission's notice of the application to persons who in the judgment of the commission may be affected. As part of his application the applicant shall submit an affidavit which lists the names and addresses of the persons who may be affected by the application and includes the source of the list;

(3) within 30 days after the date of the newspaper publication of the commission's notice, neither a commissioner, the executive director, nor an affected person who objects to the application has requested a public hearing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1984, ch. 781, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 3156, ch. 828, § 6, eff. June 17, 1981.]

### § 26.029. Conditions of Permit; Amendment; Revocation and Suspension

*Text of section effective until delegation of NPDES permit authority*

(a) In each permit, the commission shall prescribe the conditions on which it is issued, including:

(1) the duration of the permit;

(2) the location of the point of discharge of the waste;

(3) the maximum quantity of waste that may be discharged under the permit at any time and from time to time;

(4) the character and quality of waste that may be discharged under the permit; and

(5) any monitoring and reporting requirements prescribed by the commission for the permittee.

(b) After a public hearing, notice of which shall be given to the permittee, the commission may require the permittee, from time to time, for good cause, to conform to new or additional conditions. The commission shall allow the permittee a reasonable time to conform to the new or additional conditions, and on application of the permittee, the commission may grant additional time.

(c) A permit does not become a vested right in the permittee. After a public hearing, notice of which shall be given to the permittee, the commission may revoke or suspend a permit for good cause on any of the following grounds:

- (1) the permittee has failed or is failing to comply with the conditions of the permit;
- (2) the permit is subject to cancellation or suspension under Section 26.084 of this code;
- (3) the permit or operations under the permit have been abandoned; or
- (4) the permit is no longer needed by the permittee.

(d) The notice required by Subsections (b) and (c) of this section shall be sent to the permittee at his last known address as shown by the records of the department.

(e) If the permittee requests or consents to the revocation or suspension of the permit, the executive director may revoke or suspend the permit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 985, ch. 367, § 44, eff. June 10, 1981.]

*For text of section effective upon delegation of NPDES authority, see § 26.029, post*

**§ 26.029. Conditions of Permit; Amendment; Revocation and Suspension**

*Text of section effective upon delegation of NPDES permit authority*

(a) In each permit, the commission shall prescribe the conditions on which it is issued, including:

- (1) the duration of the permit;
- (2) the location of the point of discharge of the waste;
- (3) the maximum quantity of waste that may be discharged under the permit at any time and from time to time;
- (4) the character and quality of waste that may be discharged under the permit; and
- (5) any monitoring and reporting requirements prescribed by the commission for the permittee.

(b) After a public hearing, notice of which shall be given to the permittee, the commission may require the permittee, from time to time, for good cause, in conformance with applicable laws, to conform to new or additional conditions.

(c) A permit does not become a vested right in the permittee. After a public hearing in conformance with applicable laws, notice of which shall be given to the permittee, the commission may revoke or suspend a permit for good cause on any of the following grounds:

- (1) the permittee has failed or is failing to comply with the conditions of the permit;
- (2) the permit is subject to cancellation or suspension under Section 26.084 of this code;
- (3) the permit or operations under the permit have been abandoned;
- (4) the permit is no longer needed by the permittee;
- (5) the commission finds that a change in conditions requires elimination of the discharge;
- (6) revocation or suspension is necessary in order to maintain the quality of water in the state consistent with the objectives of this chapter; or
- (7) the permit was obtained by misrepresentation or failure to disclose fully all relevant facts.

(d) The notice required by Subsections (b) and (c) of this section shall be sent to the permittee at his last known address as shown by the records of the department.

(e) If the permittee requests or consents to the revocation or suspension of the permit, the executive director may revoke or suspend the permit.

[Amended by Acts 1977, 65th Leg., p. 1646, ch. 644, § 8; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 985, ch. 367, § 44, eff. June 10, 1981.]

*For text of section effective until delegation of NPDES permit authority, see § 26.029, ante*

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001. Section 45 of the 1981 amendatory act provides:

"Section 26.029, Water Code, as amended by this Act, takes effect at the same time as other sections of this Act and shall remain in effect without regard to the assumption of full or partial delegation of NPDES permit authority by the department from the administrator of the United States Environmental Protection Agency under Section 402(b) of the Federal Water Pollution Control Act or the maintenance of the NPDES permit authority."

**§ 26.030. Permit: Effect on Recreational Water**

In considering the issuance of a permit to discharge effluent into any body of water having an established recreational standard, the commission shall consider any unpleasant odor quality of the effluent and the possible adverse effect that it might have on the receiving body of water, and the commission may consider the odor as one of the elements of the water quality of the effluent. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.031. Private Sewage Facilities**

(a) As used in this section and Section 26.032 of this code, "private sewage facilities" means septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems, and methods used for the disposal of sewage

other than disposal systems operated under a permit issued by the commission.

(b) Whenever it appears that the use of private sewage facilities in an area is causing or may cause pollution or is injuring or may injure the public health, the board may hold a public hearing in or near the area to determine whether rules should be adopted controlling or prohibiting the installation or use of private sewage facilities in the area.

(c) Before the board adopts its rules, the executive director shall consult with the commissioner of the Texas Department of Health for recommendations concerning the impact of the use of private sewage facilities in the area on public health and present the recommendations at the hearing.

(d) If the board finds after the hearing that the use of private sewage facilities in an area is causing or may cause pollution or is injuring or may injure the public health, the board may adopt rules as it may consider appropriate to abate or prevent pollution or injury to public health.

(e) The rules may, without limitation, do one or more of the following:

(1) limit the number and kind of private sewage facilities which may be used in the area;

(2) prohibit the installation and use of additional private sewage facilities or kinds of private sewage facilities in the area;

(3) require modifications or improvements to existing private sewage facilities or impose limitations on their use; and

(4) provide for a gradual and systematic reduction of the number or kinds of private sewage facilities in the area.

(f) The board may provide in the rules for a system of licensing of private sewage facilities in the area, including procedures for cancellation of a license for violation of this section, the license, or the rules of the department. The board may also provide in the system of licensing for periodic renewal of the licenses, but this may not be required more frequently than once a year.

(g) The board may delegate the licensing function and the administration of the licensing system to the executive director or to any local government whose boundaries include the area or which has been designated by the board under Sections 26.081 through 26.086 of this code as the agency to develop a regional waste disposal system which includes the area or to any district or authority created and existing under Article XVI, Section 59 or Article III, Section 52 of the Texas Constitution, which owns or operates a dam or reservoir project within the area regulated.

(h) The board also may prescribe and require the payment of reasonable license fees by an applicant for a license, including fees for periodic renewal of a license. The board may change the amount of the license fees from time to time. The amount of the fees shall be based on the reasonable cost of per-

forming the licensing function and administering the licensing system, including, where applicable, costs of soil percolation and other tests to determine the suitability of using a particular type or types of private sewage facilities in the area or at any location within the area, field inspections, travel, and other costs directly attributable to performing the licensing function and administering the licensing system.

(i) If the board or the executive director has the responsibility for performing the licensing function, the license fees shall be paid to the department. Those fees shall not be deposited in the General Revenue Fund of the state but shall be deposited in a special fund for use by the department in performing the licensing function and administering the licensing system, and the fees so deposited are hereby appropriated to the department to use for those purposes only.

(j) If a local government has the responsibility for performing the licensing function, the fees shall be paid to the local government.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 26.032. Control by Counties

(a) Whenever it appears to the commissioners court of any county that the use of private sewage facilities in an area within the county is causing or may cause pollution or is injuring or may injure the public health, the county may proceed in the same manner and in accordance with the same procedures as the board to hold a public hearing and enter an order, resolution, or other rule as it may consider appropriate to abate or prevent pollution or injury to public health.

(b) The order, resolution, or other rule may provide the same restrictions and requirements as are authorized for an order of the board entered under this section.

(c) Before the order, resolution, or other rule becomes effective, the county shall submit it to the board and obtain the board's written approval.

(d) In the event of any conflict within an area between rules adopted by the board and an order, resolution, or other rule adopted by a county under this section, the rules of the board shall take precedence.

(e) Where a system of licensing has been adopted by the board or the commissioners court of a county, no person may install or use private sewage facilities required to be licensed without obtaining a license. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 26.033. Rating of Waste Disposal Systems

(a) After consultation with the Texas Department of Health Resources, the board shall provide by rule

for a system of approved ratings for municipal waste disposal systems and other waste disposal systems which the board may designate.

(b) The owner or operator of a municipal waste disposal system which attains an approved rating has the privilege of erecting signs of a design approved by the board on highways approaching or inside the boundaries of the municipality, subject to reasonable restrictions and requirements which may be established by the State Department of Highways and Public Transportation.

(c) In addition, the owner or operator of any waste disposal system, including a municipal system, which attains an approved rating has the privilege of erecting signs of a design approved by the board at locations which may be approved or established by the board, subject to such reasonable restrictions and requirements which may be imposed by any governmental entity having jurisdiction.

(d) If the waste disposal system fails to continue to achieve an approved rating, the commission may revoke the privilege. On due notice from the commission, the owner or operator of the system shall remove the signs.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, off. Sept. 1, 1977.]

§ 26.034. Approval of Disposal System Plans

(a) The executive director shall review and approve plans and specifications for treatment works for which financial assistance is provided in any amount from water quality enhancement funds or funds granted under the Federal Water Pollution Control Act, as amended. The Texas Department of Health shall review and approve plans in those cases where such financial assistance or federal grant has not been requested except when notice of intention to apply for the financial assistance or federal grant has been given to the executive director in which case the executive director shall perform review and approval functions. Duplicate review and approval will not be performed and actions on review and approval shall be fully interchangeable between the executive director and the Texas Department of Health.

(b) Before beginning construction, every person who proposes to construct or materially alter the efficiency of any treatment works to which this section applies shall submit completed plans and specifications to the executive director for review and approval.

(c) The executive director shall approve the plans and specifications if they conform to the waste discharge requirements and water quality standards established by the commission and the board respectively.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, off. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 387, § 1, off. June 10, 1981.]

§ 26.035. Federal Grants

The executive director with the approval of the board may execute agreements with the United States Environmental Protection Agency or any other federal agency that administers programs providing federal cooperation, assistance, grants, or loans for research, development, investigation, training, planning, studies, programming, and construction related to methods, procedures, and facilities for the collection, treatment, and disposal of waste or other water quality control activities. The department may accept federal funds for these purposes and for other purposes consistent with the objectives of this chapter and may use the funds as prescribed by law or as provided by agreement.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, off. Sept. 1, 1977.]

§ 26.036. Water Quality Management Plans

(a) The executive director shall develop and prepare, and from time to time revise, comprehensive water quality management plans for the different areas of the state, as designated by the board.

(b) The executive director may contract with local governments, regional planning commissions, planning agencies, other state agencies, colleges and universities in the state, and any other qualified and competent person to assist the department in developing and preparing, and from time to time revising, water quality management plans for areas designated by the board.

(c) With funds provided for the purpose by legislative appropriation, the board may make grants or interest-free loans to, or contract with, local governments, regional planning commissions, and planning agencies to pay administrative and other expenses of such entities for developing and preparing, and from time to time revising, water quality management plans for areas designated by the board. The period of time for which funding under this provision may be provided for developing and preparing or for revising a plan may not exceed three consecutive years in each instance. Any loan made pursuant to this subsection shall be repaid when the construction of any project included in the plan is begun.

(d) Any person developing or revising a plan shall, during the course of the work, consult with the department and with local governments and other federal, state, and local governmental agencies which in the judgment of the executive director may be affected by or have a legitimate interest in the plan.

(e) Insofar as may be practical, the water quality management plans shall be reasonably compatible with the other governmental plans for the area, such as area or regional transportation, public utility, zoning, public education, recreation, housing, and other related development plans.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, off. Sept. 1, 1977.]

**§ 26.037. Approval of Plans**

(a) After a water quality management plan has been prepared or significantly revised as authorized in Section 26.036 of this code, it shall be submitted to the board and to such local governments and other federal, state, and local governmental agencies as in the judgment of the executive director may be affected by or have a legitimate interest in the plan.

(b) After a reasonable period of time as determined by the board for the persons to whom the plan was submitted to review and consult on the plan, a public hearing shall be held on whether the plan should be approved or whether the plan should be modified in any way. Notice of the hearing shall be given to the person or persons who prepared or revised the plan and to the persons to whom the plan was submitted for review.

(c) After the public hearing if the board finds that the plan complies with the policy and purpose of this chapter and the rules and policies of the board, it shall approve the plan. If the board does not so find, it may disapprove the plan, modify the plan as necessary so that it will comply, or return it for further development and later resubmission to the board, in accordance with the procedure in Section 26.036 of this code.

(d) When a water quality management plan has been approved as provided in this section, the plan may be furnished to the Federal Environmental Protection Agency, the Federal Water Quality Administration, or any other federal official or agency in fulfillment of any federal water quality management planning requirement specified for any purpose by the federal government.

(e) The board and the commission may use an approved water quality management plan or a plan in progress but not completed or approved in reviewing and making determinations on applications for permits and on applications for financial assistance for construction of treatment works.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.038. Fiscal Control on Water Quality Management Planning**

In administering the program for making grants and loans to and contracting with local governments, regional planning commissions, and planning agencies as authorized in Subsection (c) of Section 26.036 of this code, the board shall adopt rules and procedures for the necessary engineering review and supervision, fiscal control, and fund accounting. The fiscal control and fund accounting procedures are supplemental to other procedures prescribed by law.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.039. Accidental Discharges and Spills**

(a) As used in this section:

(1) "Accidental discharge" means an act or omission through which waste or other substances are inadvertently discharged into water in the state.

(2) "Spill" means an act or omission through which waste or other substances are deposited where, unless controlled or removed, they will drain, seep, run, or otherwise enter water in the state.

(3) "Other substances" means substances which may be useful or valuable and therefore are not ordinarily considered to be waste, but which will cause pollution if discharged into water in the state.

(b) Whenever an accidental discharge or spill occurs at or from any activity or facility which causes or may cause pollution, the individual operating, in charge of, or responsible for the activity or facility shall notify the department as soon as possible and not later than 24 hours after the occurrence.

(c) Activities which are inherently or potentially capable of causing or resulting in the spillage or accidental discharge of waste or other substances and which pose serious or significant threats of pollution are subject to reasonable rules establishing safety and preventive measures which the board may adopt or issue. The safety and preventive measures which may be required shall be commensurate with the potential harm which could result from the escape of the waste or other substances.

(d) The provisions of this section are cumulative of the other provisions in this chapter relating to waste discharges, and nothing in this section exempts any person from complying with or being subject to any other provision of this chapter. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.040. Control of Certain Waste Discharges by Rule**

Whenever the board determines that the quality of water in an area is adversely affected or threatened by the combined effects of several relatively small-quantity discharges of wastes being made for which it is not practical to issue individual permits or that the general nature of a particular type of activity which produces a waste discharge is such that requiring individual permits is unnecessarily burdensome both to the waste discharger and the department, the board may by rule regulate and set the requirements and conditions for the discharges of waste.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.041. Health Hazards**

The department may use any means provided by this chapter to prevent a discharge of waste that is injurious to public health.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.042. Monitoring and Reporting

*Text of section effective until delegation of NPDES permit authority*

The board may prescribe reasonable requirements for a person making waste discharges to monitor and report on his waste collection, treatment, and disposal activities. When in the judgment of the commission significant water quality management benefits will result or water quality management needs justify, the commission may also prescribe reasonable requirements for any person or persons making waste discharges to monitor and report on the quality of any water in the state which the commission has reason to believe may be materially affected by the waste discharges.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES authority, see § 26.042, post*

§ 26.042. Monitoring and Reporting

*Text of section effective upon delegation of NPDES authority*

(a) The board may prescribe reasonable requirements for a person making discharges of any waste or of any pollutant to monitor and report on his activities concerning collection, treatment, and disposal of the waste or pollutant.

(b) The board may, by regulation, order, permit, or otherwise require the owner or operator of any source of a discharge of pollutants into any water in the state or of any source which is an industrial user of a publicly owned treatment works to:

- (1) establish and maintain such records;
- (2) make such reports;
- (3) sample any discharges in accordance with such methods, at such locations, at such intervals, and in such manner as the board shall prescribe; and
- (4) provide such other information relating to discharges of pollutants into any water in the state or to introductions of pollutants into publicly owned treatment works as the board may reasonably require.

(c) When in the judgment of the commission significant water quality management benefits will result or water quality management needs justify, the commission may also prescribe reasonable requirements for any person or persons making discharges of any waste or of any pollutant to monitor and report on the quality of any water in the state which the commission has reason to believe may be materially affected by the discharges.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective until delegation of NPDES permit authority, see § 26.042, ante*

*For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.*

§ 26.043. The State of Texas Water Pollution Control Compact

(a) The legislature recognizes that various river authorities and municipal water districts and authorities of the state have signed, and that others are authorized to sign and may sign, a document entitled "The State of Texas Water Pollution Control Compact" (hereinafter called the "compact"), which was approved by Order of the Texas Water Quality Board on March 26, 1971, and which is now on file in the official records of the department, wherein each of the signatories is by law an official agency of the state, created pursuant to Article XVI, Section 59 of the Texas Constitution and operating on a multiple county or regional basis, and that collectively those signatories constitute an agency of the state authorized to agree to pay, and to pay, for and on behalf of the state not less than 25 percent of the estimated costs of all water pollution control projects in the state, wherever located, for which federal grants are to be made pursuant to Clause (7), Subsection (b), Section 1158,<sup>1</sup> Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1158), or any similar law, in accordance with and subject to the terms and conditions of the compact. The compact provides a method for taking advantage of increased federal grants for water pollution control projects by virtue of the state payment which will be made from the proceeds from the sale of bonds by the signatories to the compact. The compact is hereby ratified and approved, and it is hereby provided that Section 30.026 of this code shall not constitute a limitation or restriction on any signatory with respect to any contract entered into pursuant to the compact or with respect to any water pollution control project in the state, wherever located, for which the aforesaid federal grants are to be made, and such signatory shall not be required to obtain the consent of any other river authority or conservation and reclamation district which is not a signatory with respect to any such contract or project. Each signatory to the compact is empowered and authorized to do any and all things and to take any and all action and to execute any and all contracts and documents which are necessary or convenient in carrying out the purposes and objectives of the compact and issuing bonds pursuant thereto, with reference to any water pollution control project in the state, wherever located, for which the aforesaid federal grants are to be made.

(b) It is further found, determined, and enacted that all bonds issued pursuant to said compact and all bonds issued to refund or refinance same are and will be for water quality enhancement purposes, within the meaning of Article III, Section 49-d-1, as amended, of the Texas Constitution and any and all bonds issued by a signatory to said compact to pay for all or any part of a project pursuant to the compact and any bonds issued to refund or refinance any such bonds may be purchased by the Texas Water Development Board with money received

from the sale of Texas Water Development Board bonds pursuant to said Article III, Section 49-d-1, as amended, of the Texas Constitution. The bonds or refunding bonds shall be purchased directly from any such signatory at such price as is necessary to provide the state payment and any other part of the cost of the project or necessary to accomplish the refunding, and all purchases shall constitute loans for water quality enhancement. The bonds or refunding bonds shall have the characteristics and be issued on such terms and conditions as are acceptable to the board. The proceeds received by any such signatory from the sale of any such bonds shall be used to provide the state payment pursuant to the compact and any other part of the cost of the project, and the proceeds from the sale of any such refunding bonds to refund any outstanding bonds issued pursuant to the compact shall be used to pay off and retire the bonds being refunded thereby.

(c) This subsection is not intended to interfere in any way with the operation of Article III, Section 49-d-1, as amended, of the Texas Constitution or the enabling legislation enacted pursuant thereto, and the aforesaid compact shall constitute merely a complementary or supplemental method for providing the state payment solely in instances that it is deemed necessary or advisable by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> See, now, 33 U.S.C.A. § 1281 et seq.

#### § 26.044. Disposal of Boat Sewage

(a) As used in this section, "boat" means any vessel or other watercraft, whether moved by oars, paddles, sails, or other power mechanism, inboard or outboard, or any other vessel or structure floating on water in this state, whether or not capable of self-locomotion, including but not limited to cabin cruisers, houseboats, barges, marinas, and similar floating objects.

(b) The board shall issue rules concerning the disposal of sewage from boats located or operated on inland fresh waters in this state. The rules of the board shall include but not be limited to provisions for the establishment of standards for sewage disposal devices, the certification of sewage disposal devices, including on-shore pump-out facilities, and the visible and conspicuous display of evidence of certification of sewage disposal devices on each boat equipped with such device and on each on-shore pump-out device.

(c) The board may delegate the administration and performance of the certification function to the executive director or to any other governmental entity. The board may prescribe and require the payment, by applicants for certification, of reasonable fees based on the costs of administering and performing the certification function. All certification fees shall be paid to the entity performing the certification function. All fees collected by any state agency shall be deposited in a special fund for

use by that agency in administering and performing the certification function and shall not be deposited in the General Revenue Fund of the state.

(d) Before issuing any rules under Subsection (b) of this section, the board or any person authorized by it under Section 26.021 of this code shall hold hearings thereon in Austin and in five other locations in the state in order to provide the best opportunity for all citizens of the state to appear and present evidence to the board.

(e) Notice of the hearing in Austin shall be published at least once in one or more newspapers having general circulation in the state. Notice of each of the other hearings shall be published at least once in one or more newspapers having general circulation in the region in which each hearing is to be held.

(f) Copies of each rule issued by the board under this section shall be filed in the offices of the department in Austin, Texas, in the office of the Secretary of State in Austin, and the office of the county clerk in each county in the state. The board shall provide for publication of notice of each rule issued under this section in at least one newspaper of general circulation in each county of the state and shall furnish the county judge of each county of the state a copy of the rules.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.045. Pump-Out Facilities for Boat Sewage

(a) In this section:

(1) "Boat" means the same as defined in Section 26.044(a), Water Code.

(2) "Boat pump-out station" means any private or public shoreside installation either independent of or in addition to an organized waste collection, treatment, and disposal system used to receive boat sewage.

(3) "Shoreside installation" means marinas and other installations servicing boats on fresh water of Texas.

(4) "Fresh water" means as geographically applied all of the surface lakes, streams, and reservoirs of the state, exclusive of the extent of ordinary tidal action on this water.

(b) After a public hearing and after making every reasonable effort to bring about the establishment of an adequate number of boat pump-out stations on fresh water, the commission may enter an order requiring the establishment of boat pump-out stations by a local government that has any jurisdiction over at least a portion of the fresh water or over land immediately adjacent to the fresh water.

(c) If a local government is authorized to issue authorization for the operation of shoreside installations, the local government may require the installation and operation of boat pump-out stations where necessary. The local government shall require the installation and operation of boat pump-out stations if required by the commission.

(d) A local government responsible for establishing boat pump-out stations may issue bonds or may use general revenue funds from normal operations to finance the construction and operation of the pump-out facilities. Pump-out stations established as a result of this section will be self-sustaining with respect to costs and revenues collected from users of said facilities, and local governments are authorized to levy reasonable, appropriate charges or fees to recover cost of installation and operation of the pump-out stations. Nothing in this section is to be construed to require any local government to rebate to the State of Texas funds collected pursuant to this program.

(e) The hearings required by this section and other acts of the commission in carrying out the provisions of this section shall be handled as provided in the rules of the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.046. Hearings on Protection of Edwards Aquifer From Pollution**

(a) As used in this section, "Edwards Aquifer" means that portion of an arcuate belt of porous, waterbearing limestones composed of the Comanche Peak, Edwards, and Georgetown formations trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Kendall, Comal, and Hays counties, respectively, and as defined in the most recent rules of the board for the protection of the quality of the potable underground water in those counties.

(b) Annually, the board shall hold a public hearing in Kinney, Uvalde, Medina, Bexar, Kendall, Comal, or Hays County, and a hearing in any other of those counties whose commissioners court requests that a hearing be held in its county, to receive evidence from the public on actions the board should take to protect the Edwards Aquifer from pollution. Notice of the public hearing shall be given and the hearing shall be conducted in accordance with the rules of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**[§ 26.047.]<sup>1</sup> Permit Conditions and Pretreatment Standards Concerning Publicly Owned Treatment Works**

*Text of section added effective upon delegation of NPDES permit authority*

(a) The board shall impose as conditions in permits for the discharge of pollutants from publicly owned treatment works requirements for information to be provided by the permittee concerning new introductions of pollutants or substantial changes in the volume or character of pollutants being introduced into such treatment works.

(b) The board is authorized to impose as conditions in permits for the discharge of pollutants from

publicly owned treatment works appropriate measures to establish and insure compliance by industrial users with any system of user charges required under state or federal law or any regulations or guidelines promulgated thereunder.

(c) The board is authorized to apply, and to enforce pursuant to Subchapter E of this code,<sup>2</sup> against industrial users of publicly owned treatment works, toxic effluent standards and pretreatment standards for the introduction into such treatment works of pollutants which interfere with, pass through, or otherwise are incompatible with such treatment works.

[Added by Acts 1977, 65th Leg., p. 1646, ch. 644, § 9.]

<sup>1</sup> Enacted as § 21.099 by Acts 1977, 65th Leg., p. 1646, ch. 644, § 9, and editorially reclassified.

<sup>2</sup> See, now, Subchapter D of this chapter, § 26.121 et seq. For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

**[§ 26.048.]<sup>1</sup> Federal Grants for the Construction of Treatment Works; Processing Fees**

(a) The board may execute agreements with the United States Environmental Protection Agency or its successor agency and any other federal agency that administers programs providing federal grants to local governments for the construction of treatment works, as defined in Section 21.602<sup>2</sup> of this code. The board may exercise all duties and responsibilities required for the administration by the board of the federal construction grant program.

(b) Each applicant for a federal construction grant, under a grant program administered by the board, shall pay to the board a reasonable grant processing fee as prescribed by the board. The grant processing fee charged by the board shall be cost-eligible under the grant program and shall not exceed one-half of one percent of the total eligible project cost, including the planning, design, and construction phases, for any one project. The board shall promulgate regulations establishing schedules for timely payment of grant processing fees. For grants awarded in steps under a federal program, the time schedule for payment of grant processing fees shall provide for payment reasonably apportioned among each step grant awarded. The grant processing fee for each step grant or for any other grant not awarded in steps shall be due and payable immediately following the award of such grant. No grant processing fee shall be levied for any grant awarded prior to the effective date of this Act; but the grant processing fee established in this Subsection (b) shall be levied on grants awarded on or after the effective date of this Act where the board has processed the grant pursuant to an agreement with the United States Environmental Protection Agency, or its successor agency, or any other federal agency that administers programs providing federal grants to local governments for the construction of treatment works.

(c) All grant processing fees collected by the board shall be deposited in a special fund of the state treasury for use by the board in processing and

administering the grant programs, and shall not be deposited in the general revenue fund of the state. [Added by Acts 1977, 65th Leg., p. 253, ch. 120, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> Enacted as § 21.101 by Acts 1977, 65th Leg., p. 253, ch. 120, § 1, and editorially reclassified.

<sup>2</sup> See, now, § 17.222.

[Sections 26.049 to 26.080 reserved for expansion]

#### SUBCHAPTER C. REGIONAL AND AREA-WIDE SYSTEMS

##### § 26.081. Regional or Area-Wide Systems; General Policy

(a) The legislature finds and declares that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.

(b) Within any standard metropolitan statistical area in the state, the department is authorized to implement this policy in the manner and in accordance with the procedure provided in Sections 26.081 through 26.086 of this code.

(c) In those portions of the state which are not within a standard metropolitan statistical area, the department shall observe this state policy by encouraging interested and affected persons to cooperate in developing and using regional and area-wide systems. The department may not use the procedure specified in Sections 26.081 through 26.086 of this code in these areas to implement this policy. However, this does not affect or diminish any authority which the department may otherwise have and exercise under other provisions of this chapter.

(d) The term "standard metropolitan statistical area," as used in this section, means an area consisting of a county or one or more contiguous counties which is officially designated as such by the United States Office of Management and Budget or its successor in this function.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

##### § 26.082. Hearing to Define Area of Regional or Area-Wide Systems

(a) Whenever it appears to the board that because of the existing or reasonably foreseeable residential, commercial, industrial, recreational, or other economic development in an area a regional or area-wide waste collection, treatment, or disposal system or systems are necessary to prevent pollution or maintain and enhance the quality of the water in the state, the board may hold a public hearing in or near the area to determine whether the policy stated in Section 26.081 of this code should be implemented in that area.

(b) Notice of the hearing shall be given to the local governments which in the judgment of the board may be affected.

(c) If after the hearing the board finds that a regional or area-wide system or systems are necessary or desirable to prevent pollution or maintain and enhance the quality of the water in the state, the board may enter an order defining the area in which such a system or systems are necessary or desirable.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

##### § 26.083. Hearing to Designate Systems to Serve the Area Defined; Order; Election; Etc.

(a) At the hearing held under Section 26.082 of this code or at a subsequent hearing held in or near an area defined under Section 26.082 of this code, the board may consider whether to designate the person to provide a regional or area-wide system or systems to serve all or part of the waste collection, treatment, or disposal needs of the area defined.

(b) Notice of the hearing shall be given to the local governments and to owners and operators of any waste collection, treatment, and disposal systems who in the judgment of the board may be affected.

(c) If after the hearing the board finds that there is an existing or proposed system or systems then capable or which in the reasonably foreseeable future will be capable of serving the waste collection, treatment, or disposal needs of all or part of the area defined and that the owners or operators of the system or systems are agreeable to providing the services, the board may enter an order designating the person to provide the waste collection, treatment, or disposal system or systems to serve all or part of the area defined.

(d) After the board enters an order under Subsection (c) of this section and if the board receives a timely and sufficient request for an election as provided in Section 21.206, the board shall designate a presiding judge for an election, to determine whether the proposed regional or area-wide system or systems operated by the designated regional entity should be created.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 21.203 by Acts 1977, 65th Leg., p. 255, ch. 121, § 1.

##### § 26.084. Actions Available to Commission After Designations of Systems

(a) After the board has entered an order as authorized in Section 26.083 of this code, the commission

may, after public hearing and after giving notice of the hearing to the persons who in the judgment of the commission may be affected, take any one or more of the following actions:

(1) enter an order requiring any person discharging or proposing to discharge waste into or adjacent to the water in the state in an area defined in an order entered under Section 26.082 of this code to use a regional or area-wide system designated under Section 26.083 of this code for the disposal of his waste;

(2) refuse to grant any permits for the discharge of waste or to approve any plans for the construction or material alteration of any sewer system, treatment facility, or disposal system in an area defined in an order entered under Section 26.082 of this code unless the permits or plans comply and are consistent with any orders entered under Sections 26.081 through 26.086 of this code; or

(3) cancel or suspend any permit, or amend any permit in any particular, which authorizes the discharge of waste in an area defined in an order entered under Section 26.082 of this code.

(b) Before exercising the authority granted in this section, the commission shall find affirmatively:

(1) that there is an existing or proposed regional or area-wide system designated under Section 26.083 of this code which is capable or which in the reasonably foreseeable future will be capable of serving the waste collection, treatment, or disposal needs of the person or persons who are the subject of an action taken by the commission under this section;

(2) that the owner or operator of the designated regional or area-wide system is agreeable to providing the service;

(3) that it is feasible for the service to be provided on the basis of waste collection, treatment, and disposal technology, engineering, financial, and related considerations existing at the time, exclusive of any loss of revenue from any existing or proposed waste collection, treatment, or disposal systems in which the person or persons who are the subject of an action taken under this section have an interest;

(4) that inclusion of the person or persons who are the subject of an action taken by the commission under this section will not suffer undue financial hardship as a result of inclusion in a regional or area-wide system; and

(5) that a majority of the votes cast in any election held under Section 21.206<sup>1</sup> of this code favor the creation of the regional or area-wide system or systems operated by the designated regional entity.

(c) An action taken by the commission under Section 26.085 of this code, excluding any person or persons from a regional or area-wide system because the person or persons will suffer undue financial

hardship as a result of inclusion in the regional or area-wide system, shall be subject to a review at a later time determined by the commission in accordance with the criteria set out in this section, not to exceed three years from the date of exclusion.

(d) If a person or persons excluded from a regional or area-wide system fail to operate the excluded facilities in a manner that will comply with its permits, the permits shall be subject to cancellation after review by the commission, and the facilities may become a part of the regional or area-wide system.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> See [§ 26.087].

The text of this section incorporates the amendment to former § 21.204 by Acts 1977, 65th Leg., p. 255, ch. 121, § 2.

**§ 26.085. Inclusion at a Later Time**

Any person or persons who are the subject of an action taken by the commission under Section 26.084 of this code and who are excluded from a regional or area-wide system because the person or persons will suffer undue financial hardship as a result of inclusion in the regional or area-wide system may be added to the system at a later time under the provisions of Section 26.084 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.086. Rates for Services by Designated Systems**

(a) On motion of any interested party and after a public hearing, the commission may set reasonable rates for the furnishing of waste collection, treatment, or disposal services to any person by a regional or area-wide system designated under Section 26.083 of this code.

(b) Notice of the hearing shall be given to the owner or operator of the designated regional or area-wide system, the person requesting the hearing, and any other person who in the judgment of the commission may be affected by the action taken by the commission as a result of the hearing.

(c) After the hearing, the commission shall enter an order setting forth its findings and the rates which may be charged for the services by the owner or operator of the designated regional or area-wide system.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**[§ 26.087.]<sup>1</sup> Election for Approval of Regional or Area-Wide System or Systems**

(a) After the board, under Sections 21.202<sup>2</sup> and 21.203<sup>3</sup> of this code, enters an order: defining an area for a regional or area-wide system or systems; designating a regional entity to operate the regional or area-wide system or systems; and appointing a presiding judge for the election, an election shall be held within the boundaries of the proposed regional or area-wide system or systems to be operated by

the designated regional entity upon the filing of a timely and sufficient request for an election except as provided in Subsection (i) of this section.

(b) Any person located within the boundaries of the proposed regional or area-wide system or systems requesting an election for the approval of the proposed regional or area-wide system or systems to be operated by the designated regional entity shall file a written request with the board within 30 days of the date the board enters an order under Section 21.203. The request shall include a petition signed by 50 persons holding title to the land within the proposed regional or area-wide system or systems, as indicated by the county tax rolls.

(c) Notice of the election shall state the day and place or places for holding the election, and the proposition to be voted on. The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which the regional or area-wide system or systems is to be located. The first publication of the notice shall be at least 14 days before the day set for the election. Notice of the election shall be given to the local governments and to owners and operators of any waste collection, treatment, and disposal systems who in the judgment of the board may be affected.

(d) Absentee balloting in the election shall begin 10 days before the election and shall end as provided in the Texas Election Code. The ballots for the election shall be printed to provide for voting for or against the regional or area-wide system to be operated by the designated regional entity.

(e) Immediately after the election, the presiding judge shall make returns of the result to the executive director of the board. The executive director shall canvass the returns and report to the board his findings of the results at the earliest possible time.

(f) If a majority of the votes cast in the election favor the creation of the regional or area-wide system or systems operated by the designated regional entity, then the board shall declare the regional system is created and enter the results in its minutes. If a majority of the votes cast in the election are against the creation of the regional or area-wide system or systems operated by the designated regional entity, then the board shall declare that the regional system was defeated and enter the result in its minutes.

(g) The order canvassing the results of the confirmation election shall contain a description of the regional system's boundaries and shall be filed in the deed records of the county or counties in which the regional system is located.

(h) The legislature, through the General Appropriations Act, may provide funds for the conduct of elections required under this section. If no funds are appropriated for this purpose, the costs of conducting the election shall be assessed by the board.

(i) This subsection applies to regional or area-wide system or systems and regional entities which have been designated prior to the effective date of this Act. An election to approve creation of a regional or area-wide system or systems and the designation of a regional entity to operate those systems as provided in this section shall not be required for those regional systems or entities to which this subsection applies.

[Added by Acts 1977, 65th Leg., p. 256, ch. 121, § 3, eff. Aug. 29, 1977.]

<sup>1</sup> Enacted as § 21.206 by Acts 1977, 65th Leg., p. 256, ch. 121, § 3, and editorially reclassified.

<sup>2</sup> See, now, § 26.082.

<sup>3</sup> See, now, § 26.083.

[Sections 26.088 to 26.120 reserved for expansion]

#### SUBCHAPTER D. PROHIBITION AGAINST POLLUTION; ENFORCEMENT

### § 26.121. Unauthorized Discharges Prohibited

*Text of section effective until delegation of NPDES permit authority*

(a) Except as authorized by a rule, permit, or order issued by the department, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state; or

(3) commit any other act or engage in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Railroad Commission of Texas, in which case this subdivision does not apply.

(b) In the enforcement of Subdivisions (2) and (3) of Subsection (a) of this section, consideration shall be given to the state of existing technology, economic feasibility, and the water quality needs of the water that might be affected.

(c) No person may cause, suffer, allow, or permit the discharge of any waste or the performance of any activity in violation of this chapter or of any rule, permit, or order of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES permit authority, see § 26.121, post*

### § 26.121. Unauthorized Discharges Prohibited

*Text of section effective upon delegation of NPDES permit authority*

(a) Except as authorized by a rule, permit, or order issued by the department, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state; or

(3) commit any other act or engage in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Railroad Commission of Texas, in which case this subdivision does not apply.

(b) In the enforcement of Subdivisions (2) and (3) of Subsection (a) of this section, consideration shall be given to the state of existing technology, economic feasibility, and the water quality needs of the water that might be affected.

(c) No person may cause, suffer, allow, or permit the discharge of any waste or the performance of any activity in violation of this chapter or of any rule, permit, or order of the department.

(d) Except as authorized by a rule, permit, or order issued by the department, no person may discharge any pollutant, sewage, municipal waste, recreational waste, agricultural waste, or industrial waste from any point source into any water in the state.

(e) No person may cause, suffer, allow, or permit the discharge from a point source of any waste or of any pollutant, or the performance or failure of any activity other than a discharge, in violation of this chapter or of any rule, regulation, permit, or other order of the board.

[Amended by Acts 1977, 65th Leg., p. 1643, ch. 644, § 2; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective until delegation of NPDES permit authority, see § 26.121, ante*  
For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

**§ 26.122. Civil Penalty**

*Text of section effective until delegation of NPDES permit authority*

A person who violates any provision of this chapter or any rule, permit, or order of the department is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation to be recovered as provided in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES permit authority, see § 26.122, post*

**§ 26.122. Civil Penalty**

*Text of section effective upon delegation of NPDES permit authority*

(a) A person who violates any provision of this chapter, other than Subsection (d) or Subsection (e) of Section 21.251,<sup>1</sup> or who violates any rule, permit, or order of the department is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation to be recovered as provided in this subchapter.

(b) A person who violates Subsection (d) or Subsection (e) of Section 21.251 of this chapter is subject to a civil penalty of not more than \$10,000 for each act of violation and for each day of violation, to be recovered as provided in this subchapter; provided, however, that in suits instituted pursuant to this subsection, the civil penalty, if any, assessed against the person who committed or who is committing the violation shall be no more than \$1,000 for each act of violation and for each day of violation where the violation is of a limitation or condition included in a permit issued by the department prior to delegation by the Administrator of the United States Environmental Protection Agency of NPDES permit authority under Section 402(b) of the Federal Water Pollution Control Act,<sup>2</sup> or of any limitation or condition included in an identified state supplement to an NPDES permit issued after NPDES permit delegation by the Administrator of the United States Environmental Protection Agency.

[Amended by Acts 1977, 65th Leg., p. 1643, ch. 644, § 3; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> See, now, § 26.121.  
<sup>2</sup> 33 U.S.C.A. § 1342(b).

*For text of section effective until delegation of NPDES permit authority, see § 26.122, ante*

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

**§ 26.123. Enforcement by Department**

*Text of section effective until delegation of NPDES permit authority*

(a) Whenever it appears that a person has violated or is violating or is threatening to violate any provision of this chapter or any rule, permit, or order of the department, then the executive director may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) On application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, permit, or order of the department, the district court shall grant the injunctive relief the facts may warrant.

(c) At the request of the executive director, the attorney general shall institute and conduct a suit in

the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty as authorized in Subsection (a) of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES authority, see § 26.123, post*

### § 26.123. Enforcement by Department

*Text of section effective upon delegation of NPDES authority*

(a) Whenever it appears that a person has violated or is violating or is threatening to violate any provision of this chapter, other than Subsection (d) or Subsection (e) of Section 21.251,<sup>1</sup> or has violated or is violating, or is threatening to violate, any rule, permit, or order of the department, then the executive director may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) Whenever it appears that a person has violated or is violating, or is threatening to violate, Subchapter (d) or Subchapter (e) of Section 21.251 of this chapter, then the executive director may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not more than \$10,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty; provided, however, that in suits instituted pursuant to this subsection, the civil penalty, if any, assessed against the person who committed or who is committing the violation shall be no more than \$1,000 for each act of violation and for each day of violation where the violation is of a limitation or condition included in a permit issued by the board prior to delegation by the Administrator of the United States Environmental Protection Agency of NPDES permit authority under Section 402(b) of the Federal Water Pollution Control Act,<sup>2</sup> or of any limitation or condition included in an identified state supplement to an NPDES permit issued after NPDES permit delegation by the Administrator of the United States Environmental Protection Agency.

(c) On application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, permit, or order of the department, the district court shall grant the injunctive relief the facts may warrant.

(d) At the request of the executive director, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief

or to recover the civil penalty or for both injunctive relief and penalty as authorized in Subsection (a) or (b) of this section.

[Amended by Acts 1977, 65th Leg., p. 1644, ch. 644, § 4; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> See, now, § 26.121.

<sup>2</sup> 33 U.S.C.A. § 1342(b).

*For text of section effective until delegation of NPDES permit authority, see § 26.123, ante*

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

### § 26.124. Enforcement by Others

(a) Whenever it appears that a violation or threat of violation of any provision of Section 26.121 of this code or any rule, permit, or order of the department has occurred or is occurring within the jurisdiction of a local government, exclusive of its extraterritorial jurisdiction, the local government, in the same manner as the department, may have a suit instituted in a district court through its own attorney for the injunctive relief or civil penalties or both, as authorized in Subsection (a) of Section 26.123 of this code, against the person who committed or is committing or threatening to commit the violation. This power may not be exercised by a local government unless its governing body adopts a resolution authorizing the exercise of the power. In a suit brought by a local government under this section, the department is a necessary and indispensable party.

(b) Whenever it appears that a violation or a threat of violation of any provision of Section 26.121 of this code or any rule, permit, or order of the department has occurred or is occurring that affects aquatic life or wildlife, the Parks and Wildlife Department, in the same manner as the department, may have a suit instituted in a district court for injunctive relief or civil penalties or both, as authorized in Section 26.123(a) of this code, against the person who committed or is committing or is threatening to commit the violation. The suit shall be brought in the name of the State of Texas through the county attorney or the district attorney, as appropriate, of the county where the defendant resides or in the county where the violation or threat of violation occurs.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

### § 26.125. Venue and Procedure

(a) A suit for injunctive relief or recovery of a civil penalty or for both injunctive relief and penalty may be brought either in the county in which the defendant resides or in the county in which the violation or threat of violation occurs.

(b) In any suit brought to enjoin a violation or threat of violation of this chapter or any rule, permit, or order of the department, the court may grant the department, the Parks and Wildlife Department, or the local government, without bond or other undertaking, any prohibitory or mandatory injunc-

tion the facts may warrant, including temporary restraining orders, after notice and hearing temporary injunctions, and permanent injunctions.

(c) A suit brought under this chapter shall be given precedence over all other cases of a different nature on the docket of the appellate court.

(d) Either party may appeal from a final judgment of the court as in other civil cases.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(42), eff. Aug. 31, 1981.]

**§ 26.126. Disposition of Civil Penalties**

(a) All civil penalties recovered in suits instituted by the State of Texas under this chapter through the department or the Parks and Wildlife Department shall be paid to the General Revenue Fund of the State of Texas.

(b) All civil penalties recovered in suits instituted by a local government or governments under this chapter shall be equally divided between the State of Texas and the local government or governments first instituting the suit, with 50 percent of the recovery to be paid to the General Revenue Fund of the State of Texas and the other 50 percent paid equally to the local government or governments first instituting the suit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.127. Department as Principal Authority**

The department is the principal authority in the state on matters relating to the quality of the water in the state. The executive director has the responsibility for establishing a water quality sampling and monitoring program for the state. All other state agencies engaged in water quality or water pollution control activities shall coordinate those activities with the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.128. Groundwater Quality**

The executive director shall have investigated all matters concerning the quality of groundwater in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.129. Duty of Parks and Wildlife Department**

The Parks and Wildlife Department and its authorized employees shall enforce the provisions of this chapter to the extent that any violation affects aquatic life and wildlife as provided in Section 26-124(b) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.130. Duty of Department of Health Resources<sup>1</sup>**

The Texas Department of Health Resources shall continue to apply the authority vested in it by Chapter 178, Acts of the 49th Legislature, 1945, as amended (Article 4477-1, Vernon's Texas Civil Statutes), in the abatement of nuisances resulting from pollution not otherwise covered by this chapter. The Texas Department of Health Resources shall investigate and make recommendations to the department concerning the health aspects of matters related to the quality of the water in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup>Name changed to Department of Health; see Civil Statutes, art. 4418g.

**§ 26.131. Duties of Railroad Commission**

The Railroad Commission of Texas is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from activities associated with the exploration, development, and production of oil or gas or geothermal resources, and, except to the extent the activities are regulated by the Texas Department of Health under Chapter 72, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 4590f, Vernon's Texas Civil Statutes), from activities associated with uranium exploration consisting of the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of uranium ore. The Railroad Commission of Texas may issue permits for the discharge of waste resulting from these activities, and discharge of waste into water in this state resulting from these activities shall meet the water quality standards established by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 395, ch. 185, § 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 413, ch. 171, § 2, eff. May 20, 1981.]

**§ 26.132. Act of God, War, Etc.**

Any pollution, or any discharge of waste without a permit or in violation of a permit, caused by an act of God, war, strike, riot, or other catastrophe is not a violation of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.133. Effect on Private Remedies**

Nothing in this chapter affects the right of any private corporation or individual to pursue any available common-law remedy to abate a condition of pollution or other nuisance or to recover damages.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.134. Repealed by Acts 1977, 65th Leg., p. 1647, ch. 644, § 11**

Acts 1977, 65th Leg., p. 1647, ch. 644, § 11, repealed former § 21.264, which was identical to this section, as revised by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1.

See, now, § 5.053.

**§ 26.135. Effect on Other Laws**

(a) Nothing in this chapter affects the powers and duties of the department and the Railroad Commission of Texas with respect to injection wells as provided in Chapter 27 of this code.

(b) The department and the Water Well Drillers Board shall continue to exercise the authority granted to them in The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes).

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 26.136 to 26.170 reserved for expansion]

**SUBCHAPTER E. AUTHORITY OF  
LOCAL GOVERNMENTS**

**§ 26.171. Inspection of Public Water**

A local government may inspect the public water in its area and determine whether or not:

(1) the quality of the water meets the state water quality standards adopted by the board;

(2) persons discharging effluent into the public water located in the areas of which the local government has jurisdiction have obtained permits for discharge of the effluent; and

(3) persons who have permits are making discharges in compliance with the requirements of the permits.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.172. Recommendations to Board**

A local government may make written recommendations to the board as to what in its judgment the water quality standards should be for any public water within its territorial jurisdiction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.173. Power to Enter Property**

(a) A local government has the same power as the department has under Section 26.014 of this code to enter public and private property within its territorial jurisdiction to make inspections and investigations of conditions relating to water quality. The local government in exercising this power is subject to the same provisions and restrictions as the department.

(b) When requested by the executive director, the result of any inspection or investigation made by the local government shall be transmitted to the department for its consideration.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.174. Enforcement Action**

A local government may bring an enforcement action under this chapter in the manner provided in Subchapter D of this chapter<sup>1</sup> for local governments.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup>Section 26.121 et seq.

**§ 26.175. Cooperative Agreements**

(a) A local government may execute cooperative agreements with the department or other local governments:

(1) to provide for the performance of water quality management, inspection, and enforcement functions and to provide technical aid and educational services to any party to the agreement; and

(2) for the transfer of money or property from any party to the agreement to another party to the agreement for the purpose of water quality management, inspection, enforcement, technical aid and education, and the construction, ownership, purchase, maintenance, and operation of disposal systems.

(b) When in the opinion of the executive director it would facilitate and enhance the performance by a local government of its water quality management, inspection, and enforcement functions pursuant to a cooperative agreement between the local government and the department as authorized in Subsection (a) of this section, the executive director may assign and delegate to the local government during the period of the agreement such of the pertinent powers and functions vested in the department under this chapter as in the judgment of the executive director may be necessary or helpful to the local government in performing those management, inspection, and enforcement functions.

(c) At any time and from time to time prior to the termination of the cooperative agreement, the executive director may modify or rescind any such assignment or delegation.

(d) The executive director shall notify immediately a local government to whom it assigns or delegates any powers and functions pursuant to Subsections (b) and (c) of this section or as to when it modifies or rescinds any such assignment or delegation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.176. Disposal System Rules**

(a) Every local government which owns or operates a disposal system is empowered to and shall, except as authorized in Subsection (c) of this section, enact and enforce rules, ordinances, orders, or resolutions, referred to in this section as rules, to control and regulate the type, character, and quality of waste which may be discharged to the disposal system and, where necessary, to require pretreatment of waste to be discharged to the system, so as to protect the health and safety of personnel maintaining and operating the disposal system and to prevent unreasonable adverse effects on the disposal system.

(b) The local government in its rules may establish the charges and assessments which may be made to and collected from all persons who discharge waste to the disposal system or who have conduits or other facilities for discharging waste connected to

the disposal system, referred to in this subsection as "users." The charges and assessments shall be equitable as between all users and shall correspond as near as can be practically determined to the cost of making the waste disposal services available to all users and of treating the waste of each user or class of users. The charges and assessments may include user charges, connection fees, or any other methods of obtaining revenue from the disposal system available to the local government. In establishing the charges and assessments, the local government shall take into account:

- (1) the volume, type, character, and quality of the waste of each user or class of users;
- (2) the techniques of treatment required;
- (3) any capital costs and debt retirement expenses of the disposal system required to be paid for from the charges and assessments;
- (4) the costs of operating and maintaining the system to comply with this chapter and the permits, rules, and orders of the department; and
- (5) any other costs directly attributable to providing the waste disposal service under standard, accepted cost-accounting practices.

(c) A local government may apply to the commission for an exception from the requirements of Subsections (a) and (b) of this section or for a modification of those requirements. The application shall contain the exception or modifications desired, the reasons the exception or modifications are needed, and the grounds authorized in this subsection on which the commission should grant the application. A public hearing on the application shall be held in or near the territorial area of the local government, and notice of the hearing shall be given to the local government. If after the hearing the commission in its judgment determines that the volume, type, character, and quality of the waste of the users of the system or of a particular user or class of users of the system do not warrant the enactment and enforcement of rules containing the requirements prescribed in Subsections (a) and (b) of this section or that the enactment and enforcement of the rules would be impractical or unreasonably burdensome on the local government in relation to the public benefit to be derived, then the commission in its discretion may enter an order granting an exception to those requirements or modifying those requirements in any particular in response to circumstances shown to exist.

(d) At any time and from time to time as circumstances may require, the commission may amend or revoke any order it enters pursuant to Subsection (c) of this section. Before the commission amends or revokes such an order, a public hearing shall be held in or near the territorial area of the local government in question, and notice of the hearing shall be given to the local government. If after the hearing the commission in its judgment determines that the circumstances on which it based the order have changed significantly or no longer exist, the commis-

sion may revoke the order or amend it in any particular in response to the circumstances then shown to exist.

(e) In the event of any conflict between the provisions of this section and any other laws or parts of laws, the provisions of this section shall control. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.177. Water Pollution Control Duties of Cities**

(a) Every city in this state having a population of 5,000 or more inhabitants shall, and any city of this state may, establish a water pollution control and abatement program for the city. The city shall employ or retain an adequate number of personnel on either a part-time or full-time basis as the needs and circumstances of the city may require, who by virtue of their training or experience are qualified to perform the water pollution control and abatement functions required to enable the city to carry out its duties and responsibilities under this section.

(b) The water pollution control and abatement program of a city shall encompass the entire city and may include areas within its extraterritorial jurisdiction which in the judgment of the city should be included to enable the city to achieve the objectives of the city for the area within its territorial jurisdiction. The city shall include in the program the services and functions which, in the judgment of the city or as may be reasonably required by the commission, will provide effective water pollution control and abatement for the city, including the following services and functions:

- (1) the development and maintenance of an inventory of all significant waste discharges into or adjacent to the water within the city and, where the city so elects, within the extraterritorial jurisdiction of the city, without regard to whether or not the discharges are authorized by the department;
- (2) the regular monitoring of all significant waste discharges included in the inventory prepared pursuant to Subdivision (1) of this subsection;
- (3) the collecting of samples and the conducting of periodic inspections and tests of the waste discharges being monitored to determine whether the discharges are being conducted in compliance with this chapter and any applicable permits, orders, or rules of the department, and whether they should be covered by a permit from the commission;
- (4) in cooperation with the department, a procedure for obtaining compliance by the waste dischargers being monitored, including where necessary the use of legal enforcement proceedings; and
- (5) the development and execution of reasonable and realistic plans for controlling and abating pollution or potential pollution resulting from generalized discharges of waste which are not tracea-

ble to a specific source, such as storm sewer discharges and urban runoff from rainwater.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 26.178 to 26.210 reserved for expansion]

#### SUBCHAPTER F. CRIMINAL PROSECUTION

##### § 26.211. Definitions

As used in this subchapter:

(1) "Water" includes both surface and subsurface water, and "water in the state" means any water within the jurisdiction of the state.

(2) "Water pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, any of the water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable purpose.

(3) "Person" means an individual or private corporation.

(4) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste defined in this section.

(5) "Sewage" means waterborne human or animal wastes from residences, buildings, industrial establishments, cities, towns, or other places together with groundwater infiltration and surface water with which it is commingled.

(6) "Municipal waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that result from any discharge arising within or emanating from, or subject to the control of, any municipal corporation, city, town, village, or municipality.

(7) "Recreational waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that arise within or emanate from any public or private park, beach, or recreational area.

(8) "Agricultural waste" means waterborne liquid, gaseous, solid, or other waste substances that arise from any type of public or private agricultural activity, including poisons and insecticides used in agricultural activities.

(9) "Industrial waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that result from any process of industry, manufacturing, trade, or business.

(10) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste that may cause the quality of water in the state to be impaired.

(11) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

##### § 26.212. Criminal Offense

*Text of section effective until delegation of NPDES permit authority*

(a) No person may discharge or cause or permit the discharge of any waste into or adjacent to any water in the state which causes or which will cause water pollution unless the waste is discharged in compliance with a permit or order issued by the department or the Railroad Commission of Texas.

(b) No person to whom the commission has issued a permit or other order authorizing the discharge of any waste at a particular location may discharge or cause or permit the discharge of the waste in violation of the requirements of the permit or order.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES authority, see § 26.212, post*

##### § 26.212. Criminal Offense

*Text of section effective upon delegation of NPDES authority*

(a) No person may discharge or cause or permit the discharge of any waste into or adjacent to any water in the state which causes or which will cause water pollution unless the waste is discharged in compliance with a permit or order issued by the department or the Railroad Commission of Texas.

(b) No person to whom the commission has issued a permit or other order authorizing the discharge of any waste at a particular location may discharge or cause or permit the discharge of the waste in violation of the requirements of the permit or order.

(c) No person may wilfully or negligently cause, suffer, allow, or permit the discharge from a point source, of any waste or of any pollutant, or the performance or failure of any activity other than a discharge, in violation of this chapter, or of any rule, regulation, permit, or other order of the department.

(d) No person may knowingly make any false statement, representation, or certification in any application, notice, record, report, plan, or other document filed or required to be maintained under this chapter, or under any rule, regulation, permit, or other order of the department.

(e) No person may falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter, or under any rule, regulation, permit, or other order of the department.

[Amended by Acts 1977, 65th Leg., p. 1645, ch. 644, § 5; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 979, ch. 367, § 9, eff. June 10, 1981.]

*For text of section effective until delegation of NPDES permit authority, see § 26.212, ante*

*For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.*

§ 26.213. Criminal Penalty

*Text of section effective until delegation of NPDES permit authority*

A person who violates the provisions of Section 26.212 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES authority, see § 26.213, post*

§ 26.213. Criminal Penalty

*Text of section effective upon delegation of NPDES authority*

(a) A person who violates the provisions of Subsection (a) or Subsection (b) of Section 26.212 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense.

(b) A person who violates the provisions of Subsection (c), (d), or (e) of Section 26.212 is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25,000; provided, however, that violations of limitations or conditions included in permits issued by the commission prior to delegation by the Administrator of the United States Environmental Protection Agency of NPDES permit authority under Section 402(b) of the Federal Water Pollution Control Act,<sup>1</sup> or violations of limitations or conditions included in an identified state supplement to an NPDES permit issued after NPDES permit delegation by the Administrator, shall be punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense.

[Amended by Acts 1977, 65th Leg., p. 1645, ch. 644, § 6; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> 33 U.S.C.A. § 1342(b).

*For text of section effective until delegation of NPDES permit authority, see § 26.213, ante*

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.214. Criminal Penalty for Violation of Private Sewage Facility Order

(a) A person who violates any rule entered by the board under Section 26.031 of this code or order adopted by a county under Section 26.032 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(b) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(c) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 979, ch. 367, § 10, eff. June 10, 1981.]

§ 26.215. Peace Officers

For purposes of this subchapter, the authorized agents and employees of the Parks and Wildlife Department are constituted peace officers. These agents and employees are empowered to enforce the provisions of this subchapter the same as any other peace officer, and for such purpose shall have the powers and duties of peace officers as set forth in the Code of Criminal Procedure, 1965, as amended. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.216. Act of God, War, Etc.

Any waste discharge otherwise punishable under this subchapter which is caused by an act of God, war, riot, or other catastrophe is not a violation of this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.217. Venue

*Text of section effective until delegation of NPDES permit authority*

Venue for prosecution of any alleged violation is in the county court, the county criminal court, or the county court at law of the county in which the violation is alleged to have occurred.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

*For text of section effective upon delegation of NPDES permit authority, see § 26.217, post*

§ 26.217. Venue

*Text of section effective upon delegation of NPDES permit authority*

Venue for prosecution of any alleged violation of Section 21.552<sup>1</sup> is in the county court, the county criminal court, or the county court-at-law of the county in which the violation is alleged to have occurred.

[Amended by Acts 1977, 65th Leg., p. 1645, ch. 644, § 6; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> See, now, § 26.212.

*For text of section effective until delegation of NPDES permit authority, see § 26.217, ante*

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.218. Allegations

In alleging the name of a defendant private corporation, it is sufficient to state in the complaint, indictment, or information the corporate name or to state any name or designation by which the corporation is known or may be identified. It is not neces-

sary to allege that the defendant was lawfully incorporated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.219. Summons and Arrest

(a) After a complaint is filed or an indictment or information presented against a private corporation under the provisions of this subchapter, the court or clerk shall issue a summons to the corporation. The summons shall be in the same form as a *capias* except that:

(1) it shall summon the corporation to appear before the court named at the place stated in the summons;

(2) it shall be accompanied by a certified copy of the complaint, indictment, or information; and

(3) it shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 20 days after it is served with summons, except when service is made upon the Secretary of State, in which instance the summons shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 30 days after the Secretary of State is served with summons.

(b) No individual may be arrested upon a complaint, indictment, or information against a private corporation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.220. Service of Summons

(a) A peace officer shall serve a summons on a private corporation by personally delivering a copy of it to the corporation's registered agent for service. If a registered agent has not been designated or cannot with reasonable diligence be found at the registered office, the peace officer shall serve the summons by personally delivering a copy of it to the president or a vice-president of the corporation.

(b) If the peace officer certifies on the return that he diligently but unsuccessfully attempted to effect service under Subsection (a) of this section or if the corporation is a foreign corporation that has no certificate of authority, he shall serve the summons on the Secretary of State by personally delivering a copy of it to him or to the assistant secretary of state or to any clerk in charge of the corporation department of his office. On receipt of the summons copy, the Secretary of State shall immediately forward it by certified or registered mail, return receipt requested, addressed to the defendant corporation at its registered office or, if it is a foreign corporation, at its principal office in the state or country under whose law it was incorporated.

(c) The Secretary of State shall keep a permanent record of the date and time of receipt and his disposition of each summons served under Subsec-

tion (b) of this section together with the return receipt.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.221. Arraignment and Pleadings

In all criminal actions instituted against a private corporation under the provisions of this subchapter:

(1) appearance is for the purpose of arraignment; and

(2) the corporation has 10 full days after the day the arraignment takes place and before the day the trial begins to file written pleadings.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.222. Appearance

(a) A defendant private corporation appears through counsel or its representative.

(b) If a private corporation does not appear in response to summons or appears but fails or refuses to plead, it is considered to be present in person for all purposes, and the court shall enter a plea of not guilty in its behalf and may proceed with trial, judgment, and sentencing.

(c) After appearing and entering a plea in response to summons, if a private corporation is absent without good cause at any time during later proceedings, it is considered to be present in person for all purposes, and the court may proceed with trial, judgment, or sentencing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.223. Fine Treated as Judgment in Civil Action

If a private corporation is found guilty of a violation of this subchapter and a fine imposed, the fine shall be entered and docketed by the clerk of the court as a judgment against the corporation, and the fine shall be of the same force and effect and be enforced against the corporation in the same manner as if the judgment were recovered in a civil action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.224. Cumulative Provisions

Nothing in this subchapter repeals or amends any of the provisions of Subchapters A through E of this chapter, Chapter 27 of this code, or Article 6029a, Revised Civil Statutes, 1925, as added, but this subchapter is cumulative of those acts and they remain in full force and effect.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.225. Effect on Certain Other Laws

To the extent that any general or special law makes an act or omission a criminal offense and which act or omission also constitutes a criminal

offense under this subchapter, the other general or special law is repealed, but only to that extent. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 26.226 to 26.260 reserved for expansion]

**SUBCHAPTER G. COASTAL OIL AND HAZARDOUS SPILL PREVENTION AND CONTROL**

**§ 26.261. Short Title**

This subchapter may be cited as the Texas Oil and Hazardous Substances Spill Prevention and Control Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.262. Policy**

It is the policy of this state to prevent the spill or discharge of oil and other hazardous substances into the coastal waters of the state and to cause the removal of such discharges without undue delay.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.263. Definitions**

As used in this subchapter:

(1) "Coastal land or water" means any land or water in the coastal area as defined in this section.

(2) "Coastal area" refers to the geographic area comprising all counties of Texas having any tide-water shoreline, including that portion of the bed and waters of the Gulf of Mexico within the jurisdiction of the State of Texas.

(3) "Discharge or spill" means an act or omission by which oil or hazardous substances in harmful quantities are spilled, leaked, pumped, poured, emitted, entered, or dumped onto or into coastal waters of this state or by which those substances are deposited where, unless controlled or removed, they may drain, seep, run, or otherwise enter coastal water in this state. The term "discharge" or "spill" shall not include any discharge which is authorized by a permit issued pursuant to federal law or any other law of this state.

(4) "Fund" means the Texas Coastal Protection Fund.

(5) "Harmful quantity" means that quantity of oil or hazardous substance the discharge or spill of which is determined to be harmful to the public health or welfare by the administrator of the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act<sup>1</sup> and by the board.

(6) "Hazardous substance" means any substance designated as such by the administrator of the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act and by the board.

(7) "Oil" means oil of any kind or in any form, including but not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged soil.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> 33 U.S.C.A. § 1251 et seq.

**§ 26.264. Administrative Provisions**

(a) The department shall administer this subchapter. The department shall cooperate with other agencies, departments, and subdivisions of this state and of the United States in implementing this subchapter.

(b) The board may issue rules necessary and convenient to carry out the purposes of this subchapter.

(c) The executive director shall enforce the provisions of this subchapter and any rules given effect pursuant to Subsection (b) of this section.

(d) The executive director with the approval of the board may contract with any public agency or private persons or other entity for the purpose of implementing this subchapter.

(e) The executive director shall solicit the assistance of and cooperate with local governments, the federal government, other agencies and departments of this state, and private persons and other entities to develop regional contingency plans for prevention and control of oil and hazardous substance spills and discharges.

(f) The department and the State Department of Highways and Public Transportation, in cooperation with the governor and the United States Coast Guard, shall develop a contractual agreement whereby personnel, equipment, and materials in possession or under control of the State Department of Highways and Public Transportation may be diverted and utilized for spill and discharge cleanup as provided for in this subchapter. Under the agreement, the following conditions shall be met:

(1) the department and the State Department of Highways and Public Transportation shall develop and maintain written agreements and contracts on how such utilization will be effected, and designating agents for this purpose;

(2) personnel, equipment, and materials may be diverted only with the approval of the department and the State Department of Highways and Public Transportation, acting through their designated agents, or by action of the governor;

(3) all expenses and costs of acquisition of such equipment and materials or resulting from such cleanup activities shall be paid from the fund, subject to reimbursement as provided in this subchapter; and

(4) subsequent to such activities, a full report of all expenditures and significant actions shall be prepared and submitted to the governor, the Legislative Budget Board, and the state auditor, and shall be reviewed by the board.

(g) The executive director shall develop and revise from time to time written action and contractual plans with the designated on-scene coordinator provided for by federal law.

(h)(1) In developing rules and plans under this subchapter and in engaging in cleanup activities, the board shall recognize the authority of the pre-designated United States Coast Guard on-scene coordinator to oversee, coordinate, and direct all private and public activities related to cleanup of discharges and spills. The executive director shall place the resources of the state at the disposal of the on-scene coordinator, if he is present, or shall engage in cleanup activities when directed to do so by the on-scene coordinator.

(2) Nothing in this subchapter shall prevent the executive director from acting independently if no on-scene coordinator is present and no action is being taken by an agency of the federal government.

(3) The department shall seek reimbursement from the designated agencies of the federal government for the reasonable costs incurred in cleanup operations, including but not limited to costs of personnel, equipment, the use of equipment, and supplies.

(i) The executive director shall after appropriate investigation prepare a report on the discharge or spill, and this report shall provide the following information:

(1) a description of the incident, including location, amount, and characteristics of the material discharged or spilled and the prevailing weather conditions;

(2) the time and duration of discharge or spill and the time and method by which the discharge or spill was reported;

(3) the action taken, and by whom, to contain and clean up the discharge or spill;

(4) an assessment of both the short-term and long-term environmental impact of the accidental discharge or spill;

(5) the estimated cost of cleanup operations and the source of payment of these costs;

(6) an evaluation of the principal causes of the discharge or spill and an assessment of how similar incidents might be prevented in the future; and

(7) a description of any legal action being taken to levy penalties or collect damages.

(j) This subchapter is cumulative of all other powers of the department.

(k) In the event that a discharge or spill presents or threatens to present an occurrence of disaster proportions, the governor shall utilize the authority granted him under the Texas Disaster Act of 1975 (Article 6889-7, Vernon's Texas Civil Statutes) to make available and bring to bear all resources of the state to prevent or lessen the impact of such a disaster.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.265. Texas Coastal Protection Fund

(a) There is hereby created the Texas Coastal Protection Fund. This fund shall not exceed \$5 million, exclusive of fines and penalties received under this subchapter.

(b) The fund shall consist of money appropriated to it by the legislature and any fines or other reimbursement to the fund provided for under this subchapter. It is the intent of the legislature that the state attempt to recover money spent from the fund according to the following priority:

(1) direct reimbursement from the federal government as provided by federal law for costs incurred in cleanup operations;

(2) in the event that federal reimbursement is not available, the state shall seek to recover cleanup costs from the responsible party. If the responsible party refuses to pay, the state shall initiate legal action to collect the actual costs, provided, however, that such recovery may not exceed \$5 million; and

(3) if federal reimbursement occurs but is insufficient to repay the fund, the state shall take action to collect the remainder from the responsible party as provided in Subdivision (2) of this subsection.

(c) Money in the fund may be expended only for the purpose of obtaining personnel, equipment, and supplies required in the cleanup of discharges and spills, including restoration of beaches and marine resources.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 26.266. Removal of Accidental Discharge

(a) Any person discharging or spilling oil or hazardous substances into coastal waters shall immediately undertake all feasible actions to abate and remove the discharge or spill subject to applicable federal and state requirements.

(b) In the event that the responsible party is unwilling or in the opinion of the executive director is unable to remove the discharge or spill, or the removal operation of such party is inadequate, the department may undertake the removal of the discharge or spill and may retain agents for these purposes who shall operate under the direction of the executive director.

(c) Any discharge or spill of oil or hazardous substance, the source of which is unknown, occurring in coastal waters or in waters beyond the jurisdiction of this state and which may reasonably be expected to enter coastal water may be removed by or under the direction of the executive director. Any expense involved in the removal of an unexplained discharge pursuant to this subsection shall be paid, on the board's approval, from the fund, subject to the authority of the board to seek reimbursement from an agency of the federal government, and from the responsible party if the identity of that party is discovered.

(d) In any activity undertaken pursuant to this section, the department shall act in accordance with the national contingency plan authorized by the Federal Water Pollution Control Act, as amended,<sup>1</sup> and with Section 26.264(h) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> See 33 U.S.C.A. § 1321(c)(2).

**§ 26.267. Exemptions**

(a) No person shall be held liable under this subchapter for any accident resulting from an act of God, act of war, third party negligence, or an act of government.

(b) Nothing in this subchapter shall in any way affect or limit the liability of any person to any other person or to the United States, or to this state except as specifically provided in Section 26.265(b)(2) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 26.268. Penalties**

(a) This section is cumulative of all penalties and enforcement provisions provided elsewhere to the department.

(b) Any person who violates any provision of this subchapter or of a department rule or order issued pursuant to this subchapter is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation.

(c) Any person operating, in charge of, or responsible for a facility or vessel which causes a discharge or spill as defined in this subchapter and fails to report said spill or discharge upon discovery thereof shall be guilty of a Class A misdemeanor.

(d) Any person who knowingly falsifies records or reports concerning the prevention or cleanup of a discharge or spill of oil or hazardous substance as provided for in this subchapter is guilty of a felony of the third degree.

(e) The penalties authorized by this subchapter for discharges and spills shall not apply to any discharge or spill promptly reported and removed by the responsible party in accordance with the rules and orders of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**SUBCHAPTER H. INACTIVE HAZARDOUS SUBSTANCE, POLLUTANT, AND CONTAMINANT DISPOSAL FACILITIES**

**§ 26.301. Definitions**

In this subchapter:

(1) "Disposal facility" means a site or area at which a hazardous substance, pollutant, or contaminant has been deposited, stored, disposed of, or placed or otherwise come to be located that no longer receives hazardous substances, pollutants, and contaminants.

(2) "Fund" means the disposal facility response fund.

(3) "Environmental response law" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law No. 96-510).<sup>1</sup>

(4) "Hazardous substance" means:

(A) a substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321);

(B) an element, compound, mixture, solution, or substance designated pursuant to Section 102 of the environmental response law;<sup>2</sup>

(C) a hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6921), excluding waste, the regulation of which under the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) has been suspended by Act of Congress;

(D) a toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act (33 U.S.C. 1317);

(E) a hazardous air pollutant listed under Section 112 of the federal Clean Air Act, as amended (42 U.S.C. 7412); and

(F) any imminently hazardous chemical substance or mixture with respect to which the administrator of the Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act (15 U.S.C. 2606).

The term does not include petroleum, including crude oil or any fraction of crude oil that is not otherwise specifically listed or designated as a hazardous substance under Paragraphs (A) through (F) of this subdivision, or natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel mixtures of natural gas and such synthetic gas.

(5) "Pollutant or contaminant" includes any element, substance, compound, or mixture, including disease-causing agents, that after release into the environment and on exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations in those organisms or their offspring. The term does not include petroleum, including crude oil and any fraction of crude oil that are not otherwise specifically listed or designated as hazardous substances under Sections 101(14)(A) through (F) of the environmental response law,<sup>3</sup> nor does it include natural gas, liquefied natural gas, or synthetic gas of pipeline quality or mixtures of natural gas and such synthetic gas.

(6) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes:

(A) a release that results in exposure to persons solely within a workplace, with respect to a claim which those persons may assert against the employer of those persons;

(B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

(C) release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of that Act,<sup>4</sup> or, for the purposes of Section 104 of the environmental response law<sup>5</sup> or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under Section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912 and 7942); and

(D) the normal application of fertilizer.

(7) "Removal" means the cleanup or removal of released hazardous substances, pollutants, or contaminants from the environment; the actions necessary to be taken in the event of the threat of release of hazardous substances, pollutants, or contaminants into the environment; the actions necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, pollutants, or contaminants; the disposal of removed material; or the taking of other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment that may otherwise result from a release or threat of release. The term also includes security fencing or other measures to limit access, provision of alternate water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under Section 104(b) of the environmental response law, and any emergency assistance that may be provided under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(8) "Remedial action" means those actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance, pollutant, or contaminant into the environment to prevent or minimize the release of hazardous substances, pollutants, or contaminants so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes such actions at the location of the release as storage, confinement,

perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances, pollutants, contaminants, or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, on-site treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that those actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President of the United States determines that alone or in combination with other measures this relocation is more cost effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition off site of hazardous substances, pollutants, or contaminants, or may otherwise be necessary to protect the public health or welfare. The term does not include off-site transport of hazardous substances or the storage, treatment, destruction, or secure disposition off site of the hazardous substances, pollutants, contaminants, or contaminated materials unless the president determines that those actions:

(A) are more cost effective than other remedial actions;

(B) will create new capacity to manage, in compliance with Subtitle C of the federal Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), hazardous substances in addition to those located at the affected facility; or

(C) are necessary to protect public health or welfare or the environment from a present or potential risk that may be created by further exposure to the continued presence of those substances, pollutants, contaminants, or materials;

(9) "Response" means removal and remedial action.

[Added by Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

<sup>1</sup> See 42 U.S.C.A. § 9601 et seq.

<sup>2</sup> 42 U.S.C.A. § 9602.

<sup>3</sup> 42 U.S.C.A. § 9601 (14)(A) to (F).

<sup>4</sup> 42 U.S.C.A. § 2210.

<sup>5</sup> 42 U.S.C.A. § 9604.

### § 26.302. Administrative Provisions

(a) The department shall administer this subchapter.

(b) The department shall cooperate with cities and towns and with agencies, departments, and political subdivisions of this state and the United States and its agencies in implementing this subchapter and the environmental response law.

(c) The board may adopt rules necessary to carry out this subchapter.

[Added by Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

**§ 26.303. Contracts and Cooperative Agreements**

(a) The department may enter into contracts and cooperative agreements with the federal government to carry out removal and remedial action for a specific disposal facility as authorized by Section 104(c)(3) of the environmental response law<sup>1</sup> or to carry out removal and remedial action with regard to a disposal facility under Section 104(d)(1) of the environmental response law.<sup>2</sup>

(b) After notice and hearing, the board may authorize the executive director to enter into contracts and agreements on behalf of the department under Subsection (a) of this section pursuant to terms and conditions stated in the board's order.

(c) If the department enters into a contract or cooperative agreement under Section 104(c)(3) of the environment response law, the board shall include in the contract or agreement terms and conditions:

(1) to assure future maintenance of the removal and remedial actions provided for the expected life of those actions as determined by the federal government;

(2) to assure the availability of a hazardous waste disposal facility acceptable to the federal government that complies with Subtitle C of the federal Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) for any necessary off-site storage, destruction, treatment, or secure disposition of the hazardous substances, pollutants or contaminants; and

(3) to assure payment by the state of:

(A) 10 percent of the costs of the remedial actions, including future maintenance; or

(B) at least 50 percent or more of the costs as determined appropriate by the federal government, taking into account the degree of responsibility of the state for any amount spent in response to a release at a disposal facility that was owned by the state at the time of disposal of hazardous substances at the disposal facility.

(d) A contract entered into with the federal government under Section 104(d)(1) of the environmental response law is subject to the same cost-sharing requirements provided for contracts in Subdivision (3) of Subsection (c) of this section.

(e) The state's share of reasonable response costs shall be paid from the fund.

[Added by Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

<sup>1</sup> 42 U.S.C.A. § 9604(c)(3).  
<sup>2</sup> 42 U.S.C.A. § 9604(d)(1).

**§ 26.304. Disposal Facility Response Fund**

(a) The disposal facility response fund is established in the State Treasury and may be used for the purposes provided by Subsection (c) of this section.

(b) The fund shall include money appropriated to it by the legislature and any other money received by the department from the federal government.

(c) Money in the fund may be used only to provide the state's required share of funds under Section 104 of the environmental response law<sup>1</sup> and to pay for removal and remedial action as required by the federal government with regard to a disposal facility.

(d) Money in the fund may not be used for normal administrative and operating expenses of the department.

[Added by Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

<sup>1</sup> 42 U.S.C.A. § 9604.

**§ 26.305. Consultation with Federal Government**

Before entering into a contract or cooperative agreement under Section 26.303 of this code, the department shall consult and work with the federal government in determining the response that will be necessary under the contract or cooperative agreement with regard to the particular disposal facility.

[Added by Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

**§ 26.306. State to Provide Information**

The department shall collect and shall file with the federal government any information required by the environmental response law and rules adopted under that law.

[Added by Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

**§ 26.307. State Response**

The department may exercise any authority granted under this chapter if necessary to accomplish the purposes and requirements of the contract or cooperative agreement with the federal government.

[Added by Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

**CHAPTER 27. INJECTION WELLS**

**SUBCHAPTER A. GENERAL PROVISIONS**

Section	
27.001.	Short Title.
27.002.	Definitions.
27.003.	Policy and Purpose.

**SUBCHAPTER B. JURISDICTION OF DEPARTMENT**

27.011.	Permit From Commission.
27.012.	Application for Permit.
27.013.	Information Required of Applicant.
27.014.	Application Fee.
27.015.	Letter From Railroad Commission.
27.016.	Inspection of Well Location.
27.017.	Recommendations From Other Agencies.
27.018.	Hearing on Permit Application.
27.019.	Rules, Etc.
27.020.	Mining of Sulfur.

**SUBCHAPTER C. OIL AND GAS WASTE**

27.031.	Permit From Railroad Commission.
27.032.	Information Required of Applicant.

- Section  
27.033. Letter From Executive Director.  
27.034. Railroad Commission Rules, Etc.

**SUBCHAPTER D. ISSUANCE OF PERMITS: TERMS AND CONDITIONS**

- 27.051. Issuance of Permit.  
27.052. Copies of Permit; Filing Requirements.  
27.053. Record of Strata.  
27.054. Electric or Drilling Log.  
27.055. Casing Requirements.  
27.056. Factors in Setting Casing Depth.

**SUBCHAPTER E. GENERAL POWERS**

- 27.071. Power to Enter Property.  
27.072. Power to Examine Records.  
27.073. Financial Responsibility.

**SUBCHAPTER F. CIVIL AND CRIMINAL REMEDIES**

- 27.101. Civil Penalty.  
27.102. Injunction, Etc.  
27.103. Procedure.  
27.104. Effect of Permit on Civil Liability.  
27.105. Criminal Fines.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977, for disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

*Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, amending this Chapter, changed the heading from "Disposal Wells" to "Injection Wells".*

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 27.001. Short Title**

This chapter may be cited as the Injection Well Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870; § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.002. Definitions**

In this chapter:

- (1) "Commission" means the Texas Water Commission.
- (2) "Board" means the Texas Water Development Board.
- (3) "Executive director" means the executive director of the Texas Department of Water Resources.
- (4) "Department" means the Texas Department of Water Resources.
- (5) "Railroad commission" means the Railroad Commission of Texas.
- (6) "Pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that makes it harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public

enjoyment of the water for any lawful or reasonable purpose.

(7) "Industrial and municipal waste" means any liquid, gaseous, solid, or other waste substance, or combination of these substances, which may cause or might reasonably be expected to cause pollution of fresh water and which result from:

(A) processes of industry, manufacturing, trade, or business;

(B) development or recovery of natural resources other than oil or gas; or

(C) disposal of sewage or other wastes of cities, towns, villages, communities, water districts, and other municipal corporations.

(8) "Oil and gas waste" means waste arising out of or incidental to drilling for or producing of oil, gas, or geothermal resources, waste arising out of or incidental to the underground storage of hydrocarbons other than storage in artificial tanks or containers, or waste arising out of or incidental to the operation of gasoline plants, natural gas processing plants, or pressure maintenance or repressurizing plants. The term includes but is not limited to salt water, brine, sludge, drilling mud, and other liquid or semi-liquid waste material.

(9) "Fluid" means a material or substance that flows or moves in a liquid, gaseous, solid, semi-solid, sludge, or other form or state.

(10) "Fresh water" means water having bacteriological, physical, and chemical properties which make it suitable and feasible for beneficial use for any lawful purpose.

(11) "Casing" means material lining used to seal off strata at and below the earth's surface.

(12) "Disposal well" means an injection well that is used for the injection of industrial and municipal waste or oil and gas waste.

(13) "Injection well" means an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transmit, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well initially drilled to produce oil and gas which is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well used for the injection of any other fluid; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste.

(14) "Extraction of minerals" means the use of an injection well for the development or recovery of natural resources other than resources subject to the jurisdiction of the railroad commission, and includes solution mining of minerals, in situ uranium mining, and mining of sulfur by the Frasch process, but does not include the solution mining of salt when leaching a cavern for the storage of hydrocarbons.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.003. Policy and Purpose**

It is the policy of this state and the purpose of this chapter to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries, and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

[Added by Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.004 to 27.010 reserved for expansion]

SUBCHAPTER B. JURISDICTION OF DEPARTMENT

**§ 27.011. Permit From Commission**

Unless the activity is subject to the jurisdiction of the railroad commission or authorized by a rule of the department, no person may continue utilizing an injection well or begin drilling an injection well or converting an existing well into an injection well to dispose of industrial and municipal waste, to extract minerals, or to inject a fluid without first obtaining a permit from the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

Section 5 of the 1981 amendatory act provides:

"Each injection well permit or other authorization issued by the railroad commission before the effective date of this Act whose issuance is within the jurisdiction of the railroad commission under this Act is validated as of the date of its issuance, and the permit or authorization may not be held invalid on the basis of lack of jurisdiction of the railroad commission to issue it."

Acts 1977, 65th Leg., p. 1647, ch. 644, § 10, amended former § 22.011 (now, this section) effective upon delegation of NPDES permit authority. As so amended, the section read:

"No person may continue utilizing a disposal well or begin drilling a disposal well or converting an existing well into a disposal well to dispose of industrial and municipal waste without first obtaining a permit from the commission."

For complete provisions as to effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

**§ 27.012. Application for Permit**

The department shall prescribe forms for application for a permit and shall make the forms available on request without charge.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.013. Information Required of Applicant**

An applicant shall furnish any information the executive director considers necessary to discharge his duties under this chapter and the rules of the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.014. Application Fee**

With each application for a disposal well permit, the department shall collect a fee of \$25 for the benefit of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.015. Letter From Railroad Commission**

A person making application to the department for a disposal well permit under this chapter shall submit with the application a letter from the railroad commission stating that drilling or using the disposal well and injecting industrial and municipal waste into the subsurface stratum will not endanger or injure any oil or gas formation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.016. Inspection of Well Location**

On receiving an application for a permit, the executive director shall have an inspection made of the location of the proposed disposal well to determine the local conditions and the probable effect of the well and shall determine the requirements for the setting of casing, as provided in Sections 27.051, 27.055, and 27.056 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.017. Recommendations From Other Agencies**

The executive director shall submit to the Texas Department of Health, the Water Well Drillers Board, and to other persons which the board may designate, copies of every application received in proper form. These agencies, persons, and divisions may make recommendations to the commission concerning any aspect of the application and shall have reasonable time to do so as the board may prescribe.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.018. Hearing on Permit Application**

(a) If it is considered necessary and in the public interest, the commission may hold a public hearing on the application. The commission shall hold a hearing on a permit application for an injection well to dispose of industrial and municipal waste if a hearing is requested by a local government located in the county of the proposed disposal well site or by an affected person. In this subsection, "local government" has the meaning provided for that term by Chapter 26 of this code.

(b) The board by rule shall provide for giving notice of the opportunity to request a public hearing on a permit application. The rules for notice shall include provisions for giving notice to local governments and affected persons. The board shall define "affected person" by rule.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.019. Rules, Etc.**

(a) The department shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this chapter.

(b) Copies of any rules under this chapter proposed by the board shall before their adoption be sent to the railroad commission, the executive director, the Texas Department of Health, the Water Well Drillers Board, and any other persons the board may designate. Any agency or person to whom the copies of proposed rules are sent may submit comments and recommendations to the board and shall have reasonable time to do so as the board may prescribe.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

#### § 27.020. Mining of Sulfur

The department is authorized to develop a regulatory program with respect to the injection of fluid associated with the mining of sulfur by the Frasch process in accordance with the provisions of this chapter. The department may not impose any requirements more stringent than those promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal Safe Drinking Water Act, 42 U.S.C. 300h et seq., as amended, unless the department determines that more stringent regulations are necessary to protect human health or the environment.

[Added by Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.021 to 27.030 reserved for expansion]

### SUBCHAPTER C. OIL AND GAS WASTE

#### § 27.031. Permit From Railroad Commission

No person may continue using a disposal well or begin drilling a disposal well or converting an existing well into a disposal well to dispose of oil and gas waste without first obtaining a permit from the railroad commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

#### § 27.032. Information Required of Applicant

The railroad commission shall require an applicant to furnish any information the railroad commission considers necessary to discharge its duties under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

#### § 27.033. Letter From Executive Director

A person making application to the railroad commission for a permit under this chapter shall submit with the application a letter from the executive director stating that drilling and using the disposal well and injecting oil and gas waste into the subsurface stratum will not endanger the freshwater strata in that area and that the formation or stratum to be used for the disposal is not freshwater sand.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

#### § 27.034. Railroad Commission Rules, Etc.

(a) The railroad commission shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this chapter, including rules for notice and procedure of public hearings. The rules for notice shall include provisions for giving notice to local governments and affected persons. The railroad commission shall define "affected person" by rule.

(b) Copies of any rules under this chapter proposed by the railroad commission shall, before their adoption, be sent to the department, the Texas Department of Health, the Water Well Drillers Board, and any other persons the railroad commission may designate. Any agency or person to whom the copies of proposed rules and regulations are sent may submit comments and recommendations to the railroad commission and shall have reasonable time to do so as the railroad commission may prescribe.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.035 to 27.050 reserved for expansion]

### SUBCHAPTER D. ISSUANCE OF PERMITS: TERMS AND CONDITIONS

#### § 27.051. Issuance of Permit

(a) The commission or railroad commission may grant an application in whole or part and may issue the permit if it finds:

(1) that the use or installation of the injection well is in the public interest;

(2) that no existing rights, including, but not limited to, mineral rights, will be impaired;

(3) that, with proper safeguards, both ground and surface fresh water can be adequately protected from pollution; and

(4) that the applicant has made a satisfactory showing of financial responsibility if required by Section 27.073 of this code.

(b) In the permit the commission or railroad commission shall impose terms and conditions reasonably necessary to protect fresh water from pollution, including the necessary casing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

#### § 27.052. Copies of Permit; Filing Requirements

(a) The department shall furnish the railroad commission, the Texas Department of Health, and the Water Well Drillers Board with a copy of each permit the commission issues. The railroad commission shall furnish the department with a copy of each permit the railroad commission issues and the executive director shall in turn forward copies to the Texas Department of Health and the Water Well Drillers Board.

(b) Before beginning injection operations, a person receiving a permit to inject industrial and municipal waste shall file a copy of the permit with the health authorities of the county, city, and town where the well is located.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.053. Record of Strata**

The commission or railroad commission may require a person receiving a permit or authorization by rule under this chapter to keep and furnish a complete and accurate record of the depth, thickness, and character of the different strata penetrated in drilling the injection well.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.054. Electric or Drilling Log**

If an existing well is to be converted to an injection well, the commission or railroad commission may require the applicant to furnish an electric log or a drilling log of the existing well.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.055. Casing Requirements**

The casing shall be set at the depth, with the materials, and in the manner required by the commission or railroad commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.056. Factors in Setting Casing Depth**

Before setting the depth to which casing shall be installed, the commission or railroad commission shall consider:

- (1) known geological and hydrological conditions and relationships;
- (2) foreseeable future economic development in the area; and
- (3) foreseeable future demand for the use of fresh water in the locality.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.057 to 27.070 reserved for expansion]

**SUBCHAPTER E. GENERAL POWERS**

**§ 27.071. Power to Enter Property**

Members of the board and the railroad commission and employees of the department and the railroad commission may enter public or private property to inspect and investigate conditions relating to injection well or disposal well activities within their

respective jurisdictions or to monitor compliance with a rule, permit, or other order of the department or railroad commission. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

[Added by Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.072. Power to Examine Records**

Members of the board and the railroad commission and employees of the department and railroad commission may examine and copy those records or memoranda of a business they are investigating as provided by Section 27.071 of this code that relate to the operation of an injection or disposal well, or any other records required to be maintained by law.

[Added by Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.073. Financial Responsibility**

A person to whom an injection well permit is issued may be required by the department or railroad commission to maintain a performance bond or other form of financial security to ensure that an abandoned well is properly plugged.

[Added by Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.074 to 27.100 reserved for expansion]

**SUBCHAPTER F. CIVIL AND CRIMINAL REMEDIES**

**§ 27.101. Civil Penalty**

(a) A person who violates any provision of this chapter, any rule of the board or the railroad commission made under this chapter, or any term, condition, or provision of a permit issued under this chapter shall be subject to a civil penalty in any sum not exceeding \$5,000 for each day of noncompliance and for each act of noncompliance.

(b) The action may be brought by the executive director or the railroad commission in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.102. Injunction, Etc.**

The executive director or the railroad commission may enforce this chapter, any valid rule made under this chapter, or any term, condition, or provision of a permit issued by the commission or railroad commission under this chapter by injunction or other appropriate remedy. The suit shall be brought in a court of competent jurisdiction in the county where the offending activity is occurring.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.103. Procedure**

(a) At the request of the executive director or the railroad commission, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in Sections 27.101 and 27.102 of this chapter.

(b) Any party to a suit may appeal from a final judgment as in other civil cases.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.104. Effect of Permit on Civil Liability**

The fact that a person has a permit issued under this chapter does not relieve him from any civil liability.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

**§ 27.105. Criminal Fines**

(a) A person who knowingly or intentionally violates this chapter, a rule of the board or railroad commission, or a term, condition, or provision of a permit issued under this chapter is subject to a fine of not more than \$5,000 for each violation and for each day of violation.

(b) Venue for prosecution of an alleged violation is in the county in which the violation is alleged to have occurred or where the defendant resides.

[Added by Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

Section 4 of the 1981 Act provides:

"Section 27.105 as added by this Act to Chapter 27, Water Code, as amended, applies only to violations of that chapter and of rules and permits that occur on or after the effective date of this Act."

**CHAPTER 28. WATER WELLS**

## Section

28.001.	Definitions.
28.002.	Underground Water: Regulations.
28.003.	Certain Wells to be Plugged or Cased.
28.004.	Penalty.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

**§ 28.001. Definitions**

In this chapter:

(1) "Department" means the Texas Department of Water Resources.

(2) "Commission" means the Texas Water Commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 28.002. Underground Water: Regulations**

The department shall make and enforce rules and regulations for conserving, protecting, preserving, and distributing underground, subterranean, and percolating water located in this state and shall do all other things necessary for these purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 28.003. Certain Wells to be Plugged or Cased**

The owner of a water well which encounters salt water or water containing mineral or other substances injurious to vegetation or agriculture shall securely plug or case the well in a manner that will effectively prevent the water from escaping from the stratum in which it is found into another water-bearing stratum or onto the surface of the ground.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 28.004. Penalty**

If the owner of a well that is required to be cased or plugged by this chapter fails or refuses to case or plug the well within the 30-day period following the date of the commission's order to do so or if a person fails to comply with any other order issued by the commission under this chapter within the 30-day period following the date of the order, he is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$500. He commits a separate offense each day the failure or refusal continues after the 30-day period.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**CHAPTER 29. SALT WATER HAULERS****SUBCHAPTER A. GENERAL PROVISIONS**

## Section

29.001.	Short Title.
29.002.	Definitions.

**SUBCHAPTER B. PERMITS**

29.011.	Application for Permit.
29.012.	Application Form.
29.013.	Contents of Application.
29.014.	Rejecting an Application.
29.015.	Bond.
29.016.	Expiration of Permit.
29.017.	Renewal of Permit.
29.018.	Suspension; Refusal to Renew.
29.019.	Appeal.
29.020.	Suit to Compel Railroad Commission to Act.
29.021.	Venue.

**SUBCHAPTER C. RULES**

29.031.	Rulemaking Power.
29.032.	Copies of Rules.
29.033.	Effective Date of Rules.

**SUBCHAPTER D. OFFENSES; PENALTIES**

29.041.	Hauling Without Permit.
29.042.	Exception.
29.043.	Using Haulers Without Permit.

- Section  
 29.044. Disposing of Salt Water.  
 29.045. Use of Unmarked Vehicles.  
 29.046. Penalty.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

SUBCHAPTER A. GENERAL PROVISIONS

§ 29.001. Short Title

This chapter may be cited as the Salt Water Haulers Act.  
 [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.002. Definitions

In this chapter:

(1) "Person" means an individual, association of individuals, partnership, corporation, receiver, trustee, guardian, executor, or a fiduciary or representative of any kind.

(2) "Railroad commission" means the Railroad Commission of Texas.

(3) "Salt water" means water containing salt or other mineralized substances produced by drilling an oil or gas well or produced in connection with the operation of an oil or gas well.

(4) "Hauler" means a person who transports salt water for hire by any method other than by pipeline.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 29.003 to 29.010 reserved for expansion]

SUBCHAPTER B. PERMITS

§ 29.011. Application for Permit

Any person may apply to the railroad commission for a permit to haul and dispose of salt water.  
 [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.012. Application Form

The railroad commission shall prescribe a form on which an application for a permit may be made and shall provide the form to any person who wishes to submit an application.  
 [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.013. Contents of Application

The application for a permit shall:

(1) state the number of vehicles the applicant plans to use for salt water hauling;

(2) affirmatively show that the vehicles are designed so that they will not leak during transportation of salt water;

(3) include an affidavit from a person who operates an approved system of salt water disposal stating that the applicant has permission to use the approved system;

(4) state the applicant's name, business address, and permanent mailing address; and

(5) include other relevant information required by railroad commission rules.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.014. Rejecting an Application

If an application for a permit does not comply with Section 29.013 of this code or with reasonable rules of the railroad commission, the railroad commission may reject the application.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.015. Bond

Before issuing a permit to a person whose application it has approved, the railroad commission shall require the person to file with it a bond in the amount of \$5,000, guaranteed by a corporate surety company and conditioned on the payment of full damages to any person who may acquire a judgment against the permittee for damages done to the person's property by the permittee's improper hauling, handling, or disposal of salt water. However, the railroad commission may dispense with the bond requirement on a proper showing of financial responsibility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.016. Expiration of Permit

Permits issued under this chapter expire on August 31 of each year.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.017. Renewal of Permit

A permittee may apply to renew his permit by submitting an application for renewal on or before August 31 of each year.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.018. Suspension; Refusal to Renew

The railroad commission shall suspend or refuse to renew a permit for a period not to exceed one year if the permittee:

(1) violates the provisions of this chapter;

(2) violates reasonable rules promulgated under Section 29.031 of this code; or

(3) does not maintain his operation at the standards that entitled him to a permit under Section 29.013 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 24.018 by Acts 1977, 65th Leg., p. 1654, ch. 650, § 1.

**§ 29.019. Appeal**

Any person whose permit application is refused, whose permit is suspended, or whose application for permit renewal is refused by the railroad commission may file a petition in an action to set aside the railroad commission's act within the 30-day period immediately following the day he receives notice of the railroad commission's action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.020. Suit to Compel Railroad Commission to Act**

If the railroad commission does not act within a reasonable time after a person applies for a permit or for renewal of a permit, the applicant may notify the railroad commission of his intention to file suit. After 10 days have elapsed since the day the notice was given, the applicant may file a petition in an action to compel the railroad commission to show cause why it should not be directed by the court to take immediate action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.021. Venue**

The venue in actions under Sections 29.019 and 29.020 of this code is fixed exclusively in the district courts of Travis County.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 29.022 to 29.030 reserved for expansion]

**SUBCHAPTER C. RULES****§ 29.031. Rulemaking Power**

The railroad commission shall adopt rules to effectuate the provisions of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.032. Copies of Rules**

The railroad commission shall print the rules and provide copies to persons who apply for them.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.033. Effective Date of Rules**

No rule or amendment to a rule is effective until after the 30-day period immediately following the day on which a copy of the rule is filed with the Secretary of State.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 29.034 to 29.040 reserved for expansion]

**SUBCHAPTER D. OFFENSES; PENALTIES****§ 29.041. Hauling Without Permit**

No hauler may haul and dispose of salt water off the lease, unit, or other oil or gas property where it is produced unless the hauler has a permit issued under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.042. Exception**

A person may haul salt water for use in connection with drilling or servicing an oil or gas well without obtaining a hauler's permit under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.043. Using Haulers Without Permit**

No person may knowingly utilize the services of a hauler to haul and dispose of salt water off the lease, unit, or other oil or gas property where it is produced if the hauler does not have a permit as required under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.044. Disposing of Salt Water**

(a) No hauler may dispose of salt water on public roads or on the surface of public land or private property in this state in other than a railroad commission-approved disposal pit without written authority from the railroad commission.

(b) No hauler may dispose of salt water on property of another without the written authority of the landowner.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.045. Use of Unmarked Vehicles**

No person who is required to have a permit under this chapter may haul salt water in a vehicle that does not bear the owner's name and the hauler's permit number. This information shall appear on both sides and the rear of the vehicle in characters not less than three inches high.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 29.046. Penalty**

A person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than 10 days or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

CHAPTER 30. REGIONAL WASTE DISPOSAL

SUBCHAPTER A. GENERAL PROVISIONS

- Section
- 30.001. Short Title.
- 30.002. Purpose.
- 30.003. Definitions.
- 30.004. Cumulative Effect of Chapter.
- 30.005. Construction of Chapter.

SUBCHAPTER B. REGIONAL WASTE DISPOSAL SYSTEMS

- 30.021. Disposal System.
- 30.022. Purchase and Sale of Facilities.
- 30.023. Lease of Facilities.
- 30.024. Operating Agreements.
- 30.025. Waste Disposal Contracts by District.
- 30.026. Contracts by River Authority.
- 30.027. Contract With Public Agency.
- 30.028. Contract Provisions.
- 30.029. Continued Use of District Facilities.
- 30.030. Source of Contract Payments.
- 30.031. Rates.
- 30.032. Service to More Than One Public Agency.
- 30.033. Property Acquired by Condemnation or Otherwise.
- 30.034. Cost of Relocating, Altering, Etc.
- 30.035. Elections.

SUBCHAPTER C. DISTRICT REVENUE BONDS

- 30.051. Issuance of Bonds.
- 30.052. Form, Denomination, Interest Rate.
- 30.053. Refunding Bonds.
- 30.054. Sale or Exchange of Bonds.
- 30.055. Interim Bonds.
- 30.056. Attorney General's Examination
- 30.057. Registration by Comptroller.
- 30.058. Validation Suit.
- 30.059. Bonds Incontestable.
- 30.060. Negotiable Instruments.
- 30.061. Investment Securities Under Uniform Commercial Code.
- 30.062. Bonds as Authorized Investments.
- 30.063. Security for Deposits.
- 30.064. Funds Set Aside From Bond Proceeds.
- 30.065. Investment of Proceeds.
- 30.066. Rates and Charges.

SUBCHAPTER D. RIVER AUTHORITY PLANNING

- 30.101. Authorization of Regional Plans.
- 30.102. Planning in Related Fields.
- 30.103. Joint Planning.
- 30.104. Coordination With Other Planning Agencies.
- 30.105. Financial Assistance.
- 30.106. Supervision by Texas Department of Water Resources.

*Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.*

SUBCHAPTER A. GENERAL PROVISIONS

§ 30.001. Short Title

This chapter may be cited as the Regional Waste Disposal Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.002. Purpose

The purpose of this chapter is to authorize public agencies to cooperate for the safe and economical collection, transportation, treatment, and disposal of waste in order to prevent and control pollution of water in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.003. Definitions

In this chapter:

(1) "City" means any incorporated city or town, whether operating under general law or under its home-rule charter.

(2) "District" means any district or authority created and existing under Article XVI, Section 59 or Article III, Section 52 of the Texas Constitution, including any river authority.

(3) "Public agency" means any district, city, or other political subdivision or agency of the state which has the power to own and operate waste collection, transportation, treatment, or disposal facilities or systems, and any joint board created under the provisions of Section 14, Chapter 114, Acts of the 50th Legislature, Regular Session, 1947 (Article 46d-14, Vernon's Texas Civil Statutes).

(4) "River authority" means any district or authority created by the legislature which contains an area within its boundaries of one or more counties and which is governed by a board of directors appointed or designated in whole or in part by the governor, or by the Texas Water Development Board, including without limitation the San Antonio River Authority.

(5) "River basins" and "coastal basins" mean the river basins and coastal basins now defined and designated by the Texas Water Development Board as separate units for the purposes of water development and inter-watershed transfers, and as they are made certain by contour maps on file in the offices of the Texas Department of Water Resources, including but not limited to the rivers and their tributaries, streams, water, coastal water, sounds, estuaries, bays, lakes, and portions of them, as well as the lands drained by them.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, waste heat, or other waste that may cause impairment of the quality of water in the state, including storm waters.

(7) The terms "sewage," "municipal waste," "recreational waste," "agricultural waste," "industrial waste," "other waste," "pollution," "water," or "water in the state," and "local government" shall have the meanings defined in Section 26.001 of this code.

(8) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(9) "Treatment facility" means any devices and systems used in the storage, treatment, recycling, and reclamation of waste to implement Chapter 26 of this code or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, out-fall sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; any works, including sites therefor and acquisition of the land that will be part of or used in connection with the treatment process or is used for ultimate disposal of residues resulting from such treatment; and any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutralizing, or stabilizing waste or facilities to provide for the collection, control, and disposal of waste heat.

(10) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2185, ch. 834, § 3, eff. Aug. 27, 1979.]

#### § 30.004. Cumulative Effect of Chapter

(a) This chapter is cumulative of other statutes governing the Texas Department of Health Resources<sup>1</sup> and the Texas Department of Water Resources relating to:

- (1) the issuance of bonds;
- (2) the collection, transportation, treatment, or disposal of waste; and
- (3) the design, construction, acquisition, or approval of facilities for these purposes.

(b) The powers granted to districts and public agencies by this chapter are additional to and cumulative of the powers granted by other laws. This chapter is full authority for any district or public agency to enter into contracts authorized by it and for any district to authorize and issue bonds under its provisions without reference to the provisions of any other law or charter. No other law or charter provision which limits, restricts, or imposes additional requirements on matters authorized by this chapter shall apply to any action or proceeding under this chapter unless expressly provided to the contrary in this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> Name changed to Department of Health; see Civil Statutes, art. 4418g.

#### § 30.005. Construction of Chapter

The terms and provisions of this chapter shall be liberally construed to accomplish its purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 30.006 to 30.020 reserved for expansion]

### SUBCHAPTER B. REGIONAL WASTE DISPOSAL SYSTEMS

#### § 30.021. Disposal System

A district may acquire, construct, improve, enlarge, extend, repair, operate, and maintain one or more disposal systems.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.022. Purchase and Sale of Facilities

A district may contract with any person to purchase or sell by installments over such term as considered desirable any waste collection, transportation, treatment, or disposal facilities or systems.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.023. Lease of Facilities

A district may lease to or from any person for such term and on such conditions as may be considered desirable any waste collection, transportation, treatment, or disposal facilities or systems.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.024. Operating Agreements

A district may make operating agreements with any person for such terms and on such conditions as may be considered desirable for the operation of any waste collection, transportation, treatment, or disposal facilities or systems of any person by the district.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.025. Waste Disposal Contracts by District

A district may make contracts with any person, including any public agency located inside or outside the boundaries of the district, under which the district will collect, transport, treat, or dispose of waste for the person.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.026. Contracts by River Authority

Each river authority may make contracts authorized by this chapter with any person, including any public agency situated wholly or partly inside its boundaries and any public agency situated wholly or partly inside the river basin and any public agency situated wholly or partly inside the coastal basins adjoining its boundaries, but a river authority may not make contracts to serve a public agency situated wholly inside the boundaries of another river authority or to serve facilities of a person situated wholly within the boundaries of another river authority, except with the consent of the other river authority.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.027. Contract With Public Agency**

A public agency may make contracts with a district under which the district will make a disposal system available to the public agency and will furnish waste collection, transportation, treatment, and disposal services to the public agency, group of public agencies, or other persons through the district's disposal system.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.028. Contract Provisions**

(a) The contract may provide for:

(1) duration of the contract for a specified period or until issued and unissued bonds and refunding bonds of the district are paid;

(2) assuring equitable treatment of parties who contract with the district for waste collection, transportation, treatment, and disposal services from the same disposal system;

(3) requiring the public agency to regulate the quality and strength of waste to be handled by the disposal system;

(4) sale or lease to or use by a district of all or part of a disposal system owned or to be acquired by the public agency;

(5) the district operating all or part of a disposal system owned or to be acquired by the public agency; and

(6) other terms the district or the governing body of the public agency consider appropriate or necessary.

(b) The contract shall specify the method for determining the amounts to be paid by the public agency to the district.

(c) A contract made by a city may provide that the district shall have the right to use the streets, alleys, and public ways and places inside the city during the term of the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.029. Continued Use of District Facilities**

After amortization of the district's investment in the disposal system, the public agency is entitled to continued performance of the service during the useful life of the disposal system, on payment of reasonable charges reduced to take into consideration the amortization.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.030. Source of Contract Payments**

(a) A public agency may pay for the waste collection, transportation, treatment, and disposal services with income from its waterworks system, sanitary sewer system, or both systems, or its combined water and sanitary sewer system, as prescribed by the contract. In the alternative, a joint board defined as a public agency in Section 30.003, Subdivision (3),

may pay for these services from any revenue or other funds within its control specified in the contract if the city councils of the cities which created the joint board approve, by ordinance, the contract between the joint board and the district. These payments constitute an operating expense of each system whose revenue is so used.

(b) The obligation of contract payments on the income of the public agency's water system is subordinate to the obligation imposed by any bonds that are payable solely from the water system net revenue and that are outstanding at the time the contract is made, unless the ordinance or resolution authorizing the bonds expressly reserved the right to give the contract payments a priority over the bond requirements.

(c) If a public agency having taxing power holds an election substantially according to the applicable provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,<sup>1</sup> relating to the issuance of bonds by cities and it is determined that the public agency is authorized to levy an ad valorem tax to make all or part of the payments under a contract with a district, then the contract is an obligation against the taxing power of the public agency to the extent authorized, and payments under the contract may be payable from and constitute solely an obligation against the taxing powers of the city or may be payable both from taxes and from revenue prescribed in the contract. Otherwise, neither the district nor the holders of the district's bonds are entitled to demand payment of the public agency's obligation out of any tax revenue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

<sup>1</sup> Civil Statutes, art. 701 et seq.

**§ 30.031. Rates**

(a) When all or part of the payments under a contract are to be made from revenue of the waterworks system, sanitary sewer system, both systems, or a combination of both systems, the public agency shall establish, maintain, and periodically adjust the rates charged for services of the systems, so that the revenue, along with any taxes levied in support of the indebtedness, will be sufficient to pay:

(1) the expenses of operating and maintaining the systems;

(2) the obligations to the district under the contract; and

(3) the obligations of bonds that are secured by revenue of the systems.

(b) The contract may require the use of consulting engineers and financial experts to advise the public agency on the need for adjusting rates.

(c) Notwithstanding any provision of this chapter or any other law to the contrary, a district may use the proceeds of bonds issued for the purpose of constructing a waste disposal system or systems, and payable wholly or in part from ad valorem taxes, for

the purchase of capacity in, or a right to have the wastes of the district treated in, a waste collection, treatment, or disposal system and facilities owned or to be owned exclusively or in part by another public agency, and a district may issue bonds payable wholly or in part from ad valorem taxes specifically for such purpose if a majority of the resident electors of the district have authorized the governing body of the district to issue bonds for that purpose or for the purpose of constructing a waste disposal system or systems. The bonds shall be issued in accordance with the provisions of, and shall be subject to the same terms and conditions of, the laws authorizing the district to issue bonds for the purpose of constructing waste collection, treatment, and disposal systems, except as otherwise provided in this subsection.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.032. Service to More Than One Public Agency

A contract or group of contracts may provide for the district to render services concurrently to more than one person through constructing and operating a disposal system and may provide that the cost of these services be allocated among the persons as provided in the contract or group of contracts. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.033. Property Acquired by Condemnation or Otherwise

(a) To accomplish the purposes of this chapter, a district may acquire by purchase, lease, gift, or in any other manner all or any interest in property inside or outside the boundaries of the district and may own, maintain, use, and operate it.

(b) To accomplish the purposes of the chapter, a district may exercise the power of eminent domain to acquire all or any interest in property inside or outside the boundaries of the district. The power shall be exercised according to the laws applicable or available to the district.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.034. Cost of Relocating, Altering, Etc.

If a district makes necessary the relocating, raising, rerouting, changing the grade of, or altering the construction of any highway, railroad, electric transmission line, pipeline, or telephone or telegraph properties or facilities in the exercise of powers granted under this chapter, the district shall pay all of the actual cost of the relocating, raising, rerouting, changing in grade, or altering of construction and shall pay all of the actual cost of providing comparable replacement of facilities without enhancement, less the net salvage value of the facilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.035. Elections

No election is required for the exercise of any power under this chapter except for the tax levy as provided by Section 30.030(c) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 30.036 to 30.050 reserved for expansion]

### SUBCHAPTER C. DISTRICT REVENUE BONDS

#### § 30.051. Issuance of Bonds

In order to acquire, construct, improve, enlarge, extend, or repair disposal systems, the district may issue bonds secured by a pledge of all or part of the revenue from any contract entered into under this chapter and other income of the district.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.052. Form, Denomination, Interest Rate

The governing body of the district shall prescribe the form, denomination, and rate of interest for the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.053. Refunding Bonds

A district may refund any bonds issued under this chapter on the terms and conditions and at the rate of interest the governing body prescribes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.054. Sale or Exchange of Bonds

A district may sell bonds issued under this chapter at public or private sale at the price or prices and on the terms determined by the governing body, or it may exchange the bonds for property or any interest in property of any kind considered necessary or convenient to the purposes authorized in this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.055. Interim Bonds

Pending the issuance of definitive bonds, a district may issue negotiable interim bonds or obligations eligible for exchange or substitution by use of definitive bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

#### § 30.056. Attorney General's Examination

(a) After issuance of the bonds is authorized, the bonds and the record relating to their issuance may be submitted to the attorney general for examination.

(b) When the bonds recite that they are secured by a pledge of the proceeds from a contract between the district and a public agency, a copy of the

contract and the proceedings of the public agency authorizing the contract may also be submitted to the attorney general.

(c) If the attorney general finds that the bonds are authorized and that the contract is made in accordance with the constitution and laws of this state, he shall approve the bonds and the contract. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.057. Registration by Comptroller**

After the bonds have been approved by the attorney general, they shall be registered by the state comptroller.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.058. Validation Suit**

(a) Instead of or in addition to obtaining the approval of the attorney general, the district may have the bonds validated by suit in the district court as provided in Chapter 316, Acts of the 56th Legislature, Regular Session, 1959 (Article 717m, Vernon's Texas Civil Statutes).

(b) The governing body of the district may wait until after termination of the validation suit to fix the interest rate and sale price of the bonds.

(c) If the proposed bonds recite that they are secured by the proceeds of a contract between the district and a public agency, the petition shall so allege, and the notice of the suit shall mention this allegation and shall specify the public agency's funds or revenues from which the contract payments are to be made.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.059. Bonds Incontestable**

After the bonds are approved by the attorney general and registered with the comptroller, the bonds and the contract are incontestable.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.060. Negotiable Instruments**

Bonds issued under this subchapter are negotiable instruments.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.061. Investment Securities Under Uniform Commercial Code**

Bonds issued under this subchapter are investment securities governed by Chapter 8, Uniform Commercial Code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.062. Bonds as Authorized Investments**

Bonds issued under this chapter are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees, and for the sinking funds of cities, towns, villages, school districts, and other political corporations or subdivisions of the state. [Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.063. Security for Deposits**

The bonds are eligible to secure deposits of any public funds of the state or any political subdivision of the state and are lawful and sufficient security for the deposits to the extent of their value when accompanied by unmatured coupons attached to the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.064. Funds Set Aside From Bond Proceeds**

The district may set aside out of the proceeds from the sale of bonds:

(1) interest to accrue on the bonds and administrative expenses to the estimated date when the disposal system will become revenue producing; and

(2) reserve funds created by the resolution authorizing the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.065. Investment of Proceeds**

Pending their use, proceeds from the sale of bonds may be invested in securities or time deposits as specified in the resolution authorizing the issuance of the bonds or the trust indenture securing the bonds. The earnings on these investments shall be applied as provided in the resolution or trust indenture.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**§ 30.066. Rates and Charges**

While any bonds are outstanding, the governing body of the district shall fix, maintain, and collect for services furnished or made available by the disposal system rates and charges adequate to:

(1) pay maintenance and operating costs of and expenses allocable to the disposal system;

(2) pay the principal of and interest on the bonds; and

(3) provide and maintain the funds created by the resolution authorizing the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 30.067 to 30.100 reserved for expansion]

## SUBCHAPTER D. RIVER AUTHORITY PLANNING

## § 30.101. Authorization of Regional Plans

Each river authority may prepare regional plans for water quality management, control, and abatement of pollution in any segment of its river basin and adjoining coastal basins which:

(1) are consistent with any applicable water quality standards established under current law within the river basin;

(2) recommend disposal systems which will provide the most effective and economical means of collection, storage, treatment, and purification of waste, and means to encourage rural, municipal, and industrial use of the works and systems; and

(3) recommend maintenance and improvement of water quality standards within the river basin and methods of adequately financing the facilities necessary to implement the plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 30.102. Planning in Related Fields

River authorities may conduct planning in related or affected fields reasonably necessary to give meaning to the water quality management and pollution control planning carried out under this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 30.103. Joint Planning

(a) River authorities may join in the performance of planning functions with any district or public agency and enter into planning agreements for the term and on the conditions considered desirable to provide coordinated planning on a basin-wide scale, including adjacent coastal basins.

(b) River authorities may provide for river basin planning committees as entities with powers, responsibilities, functions, and duties conferred by mutual agreement.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 30.104. Coordination With Other Planning Agencies

A river authority performing planning functions under this subchapter shall coordinate its efforts and cooperate with other public planning agencies having significant planning interests in any segment of the river basin in or for which the planning is being conducted by the river authority.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 30.105. Financial Assistance

River authorities may make applications and enter into contracts for financial assistance in comprehensive planning which are appropriate under Section 3(c) of the Federal Water Pollution Control Act, as

amended under 33 U.S.C. Section 1926 et seq., under 40 U.S.C. Section 461 et seq., and under any other relevant statutes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

## § 30.106. Supervision by Texas Department of Water Resources

The Texas Department of Water Resources is authorized to exercise continuing supervision on behalf of the state of comprehensive plans prepared under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Chapters 31 to 40 reserved for expansion]

## TITLE 3. RIVER COMPACTS

## CHAPTER 41. RIO GRANDE COMPACT

Section  
41.0031. Application of Sunset Act.

## § 41.0031. Application of Sunset Act

The office of Rio Grande Compact Commissioner for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.093, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

## CHAPTER 42. PECOS RIVER COMPACT

Section  
42.0031. Application of Sunset Act.

## § 42.0031. Application of Sunset Act

The office of Pecos River Compact Commissioner for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.091, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

## CHAPTER 43. CANADIAN RIVER COMPACT

Section  
43.0031. Application of Sunset Act.

## § 43.0031. Application of Sunset Act

The office of Canadian River Compact Commissioner for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1844, ch. 735, § 2.090, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

**CHAPTER 44. SABINE RIVER COMPACT**

Section  
44.0031. Application of Sunset Act.

**§ 44.0031. Application of Sunset Act**

The office of Sabine River Compact Administrator for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.094, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

**§ 44.006. Compensation; Expenses**

Each member is entitled to compensation as provided by legislative appropriation and to reimbursement for actual expenses incurred in the discharge of his or her duties.

[Amended by Acts 1979, 66th Leg., p. 5, ch. 4, § 1, eff. Feb. 22, 1979.]

**CHAPTER 45. NEGOTIATION OF RED RIVER COMPACT**

Section  
45.0011. Application of Sunset Act.

**§ 45.0011. Application of Sunset Act**

The office of Red River Compact Commissioner for Texas is subject to the Texas Sunset Act;<sup>1</sup> and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Added by Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.092, eff. Aug. 29, 1977.]

<sup>1</sup> Civil Statutes, art. 5429k.

**CHAPTER 46. RED RIVER COMPACT**

Section  
46.001. Ratification.  
46.002. Original Copy.  
46.003. Commissioner.  
46.004. Term of Office.  
46.005. Oath.  
46.006. Compensation; Expenses.  
46.007. Powers and Duties.  
46.008. Executive Director.  
46.009. Employees; Administrative Expenses.  
46.010. Cooperation of Texas Department of Water Resources.  
46.011. Notification of Other Parties; Copies.  
46.012. Time When Compact Binding.  
46.013. Text of Compact.

**§ 46.001. Ratification**

The Red River Compact, the text of which is set out in Section 46.013 of this code, is ratified and confirmed in all respects after having been signed at Denison Dam, on the Texas-Oklahoma border, on May 12, 1978, by John P. Saxton, commissioner for the State of Arkansas, Orville B. Saunders, commissioner for the State of Oklahoma, Arthur R. Theis,

commissioner for the State of Louisiana, and Fred Parkey, commissioner for the State of Texas, and approved by R. C. Marshall, representative of the United States.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

**§ 46.002. Original Copy**

An original copy of the compact is on file in the office of the secretary of state.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

**§ 46.003. Commissioner**

The governor, with the advice and consent of the senate, shall appoint a commissioner to represent this state on the commission established by Article IX of the compact.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

**§ 46.004. Term of Office**

The appointed commissioner holds office for a term of two years and until his or her successor is appointed and qualified.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

**§ 46.005. Oath**

The appointed commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his or her duties as commissioner.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

**§ 46.006. Compensation; Expenses**

(a) The appointed commissioner is entitled to receive as compensation \$15,600 a year until otherwise provided by legislative appropriation and is entitled to reimbursement for actual and necessary expenses while traveling in the discharge of official duties.

(b) The appointed commissioner is not covered by Chapter 352, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6223a, Vernon's Texas Civil Statutes).

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

**§ 46.007. Powers and Duties**

The appointed commissioner is responsible for administering the provisions of the compact and has all the powers and duties prescribed by the compact.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

**§ 46.008. Executive Director**

(a) The executive director of the Texas Department of Water Resources or a designated representative selected from the staff of the department shall also serve as a commissioner and represent this state on the commission established by Article IX of the compact.

(b) The executive director or the designated representative may exercise the powers and shall discharge the duties provided by the compact.

(c) The executive director or the designated representative is not entitled to additional compensation for performing the duties under the compact but is entitled to reimbursement for actual and necessary expenses incurred while traveling in the discharge of official duties.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

#### § 46.009. Employees; Administrative Expenses

The commissioners, in conjunction with other members of the commission and as authorized by the legislature, may employ engineering and clerical personnel and may incur necessary office expenses for the appointed commissioner and other expenses incident to the proper performance of their duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

#### § 46.010. Cooperation of Texas Department of Water Resources

The Texas Department of Water Resources shall cooperate with the commissioners in the performance of their duties and shall furnish them any factual data and information that are available.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

#### § 46.011. Notification of Other Parties; Copies

The governor shall notify the Governor of Arkansas, the Governor of Louisiana, the Governor of Oklahoma, and the President of the United States of the ratification of the compact by this state. On request of the governor, the secretary of state shall furnish to each of these other governors and the president a certified copy of the Act adopting this chapter of the code.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

#### § 46.012. Time When Compact Binding

The compact is binding and obligatory when it is ratified by the legislatures of Arkansas, Louisiana, and Oklahoma and consented to by the United States under Article XIII of the compact.

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

#### § 46.013. Text of Compact

The Red River Compact reads as follows:

##### "PREAMBLE

"The States of Arkansas, Louisiana, Oklahoma, and Texas, pursuant to the acts of their respective Governors or legislatures, or both, being moved by considerations of interstate comity, have resolved to compact with respect to the water of the Red River and its tributaries. By Act of Congress, Public Law No. 346 (84th Congress, First Session), the consent of the United States has been granted for said states to negotiate and enter into a compact providing for an equitable apportionment of such water; and pursuant to that Act the President has designated the representative of the United States.

"Further, the consent of Congress has been given for two or more states to negotiate and enter into agreements relating to water pollution control by the provisions of the Federal Water Pollution Control Act (P.L. 92-500, 33 U.S.C. Subsection 1251 et seq.).

"The Signatory States acting through their duly authorized Compact Commissioners, after several years of negotiations, have agreed to an equitable apportionment of the water of the Red River and its tributaries and do hereby submit and recommend that this compact be adopted by the respective legislatures and approved by Congress as hereinafter set forth:

##### "ARTICLE I

##### "PURPOSES

"§ 1.01. The principal purposes of this Compact are:

- "(a) To promote interstate comity and remove causes of controversy between each of the affected states by governing the use, control and distribution of the interstate water of the Red River and its tributaries;
- "(b) To provide an equitable apportionment among the Signatory States of the water of the Red River and its tributaries;
- "(c) To promote an active program for the control and alleviation of natural deterioration and pollution of the water of the Red River Basin and to provide for enforcement of the laws related thereto;
- "(d) To provide the means for an active program for the conservation of water, protection of lives and property from floods, improvement of water quality, development of navigation and regulation of flows in the Red River Basin; and
- "(e) To provide a basis for state or joint state planning and action by ascertaining and identifying each state's share in the interstate water of the Red River Basin and the apportionment thereof.

“ARTICLE II

“GENERAL PROVISIONS

“§ 2.01. Each Signatory State may use the water allocated to it by this Compact in any manner deemed beneficial by that state. Each state may freely administer water rights and uses in accordance with the laws of that state, but such uses shall be subject to the availability of water in accordance with the apportionments made by this Compact.

“§ 2.02. The use of water by the United States in connection with any individual Federal project shall be in accordance with the Act of Congress authorizing the project and the water shall be charged to the state or states receiving the benefit therefrom.

“§ 2.03. Any Signatory State using the channel of Red River or its tributaries to convey stored water shall be subject to an appropriate reduction in the amount which may be withdrawn at the point of removal to account for transmission losses.

“§ 2.04. The failure of any state to use any portion of the water allocated to it shall not constitute relinquishment or forfeiture of the right to such use.

“§ 2.05. Each Signatory State shall have the right to:

- “(a) Construct conservation storage capacity for the impoundment of water allocated by this Compact;
- “(b) Replace within the same area any storage capacity recognized or authorized by this Compact made unusable by any cause, including losses due to sediment storage;
- “(c) Construct reservoir storage capacity for the purposes of flood and sediment control as well as storage of water which is either imported or is to be exported if such storage does not adversely affect the delivery of water apportioned to any other Signatory State; and
- “(d) Use the bed and banks of the Red River and its tributaries to convey stored water, imported or exported water, and water apportioned according to this Compact.

“§ 2.06. Signatory States may cooperate to obtain construction of facilities of joint benefits to such states.

“§ 2.07. Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States, or those claiming under its authority, in, over and to water of the Red River Basin.

“§ 2.08. Nothing in this Compact shall be construed to include within the water apportioned by this Compact any water consumed in each state by livestock or for domestic purposes; provided, how-

ever, the storage of such water is in accordance with the laws of the respective states but any such impoundment shall not exceed 200 acre-feet, or such smaller quantity as may be provided for by the laws of each state.

“§ 2.09. In the event any state shall import water into the Red River Basin from any other river basin, the Signatory State making the importation shall have the use of such imported water.

“§ 2.10. Nothing in this Compact shall be deemed to:

- “(a) Interfere with or impair the right or power of any Signatory State to regulate within its boundaries the appropriation, use, and control of water, or quality of water, not inconsistent with its obligations under this Compact;
- “(b) Repeal or prevent the enactment of any legislation or the enforcement of any requirement by any Signatory State imposing any additional conditions or restrictions to further lessen or prevent the pollution or natural deterioration of water within its jurisdiction; provided nothing contained in this paragraph shall alter any provision of this Compact dealing with the apportionment of water or the rights thereto; or
- “(c) Waive any state’s immunity under the Eleventh Amendment of the Constitution of the United States, or as constituting the consent of any state to be sued by its own citizens.

“§ 2.11. Accounting for apportionment purposes on interstate streams shall not be mandatory under the terms of the Compact until one or more affected states deem the accounting necessary.

“§ 2.12. For the purposes of apportionment of the water among the Signatory States, the Red River is hereby divided into the following major subdivisions:

- “(a) Reach I—the Red River and tributaries from the New Mexico-Texas State boundary to Denison Dam;
- “(b) Reach II—the Red River from Denison Dam to the point where it crosses the Arkansas-Louisiana state boundary and all tributaries which contribute to the flow of the River within this reach;
- “(c) Reach III—the tributaries west of the Red River which cross the Texas-Louisiana state boundary, the Arkansas-Louisiana state boundary, and those which cross both the Texas-Arkansas state boundary and the Arkansas-Louisiana state boundary.
- “(d) Reach IV—the tributaries east of the Red River in Arkansas which cross the Arkansas-Louisiana state boundary; and

“(e) Reach V—that portion of the Red River and tributaries in Louisiana not included in Reach III or in Reach IV.

“§ 2.13. If any part or application of this Compact shall be declared invalid by a court of competent jurisdiction, all other severable provisions and applications of this Compact shall remain in full force and effect.

“§ 2.14. Subject to the availability of water in accordance with this Compact, nothing in this Compact shall be held or construed to alter, impair, or increase, validate, or prejudice any existing water right or right of water use that is legally recognized on the effective date of this Compact by either statutes or courts of the Signatory State within which it is located.

### “ARTICLE III

#### “DEFINITIONS

“3.01. In this Compact:

- “(a) The States of Arkansas, Louisiana, Oklahoma, and Texas are referred to as ‘Arkansas,’ ‘Louisiana,’ ‘Oklahoma,’ and ‘Texas,’ respectively, or individually as ‘State’ or ‘Signatory State,’ or collectively as ‘States’ or ‘Signatory States.’
- “(b) The term ‘Red River’ means the stream below the crossing of the Texas-Oklahoma state boundary at longitude 100 degrees west.
- “(c) The term ‘Red River Basin’ means all of the natural drainage area of the Red River and its tributaries east of the New Mexico-Texas state boundary and above its junction with Atchafalaya and Old Rivers.
- “(d) The term ‘water of the Red River Basin’ means the water originating in any part of the Red River Basin and flowing to or in the Red River or any of its tributaries.
- “(e) The term ‘tributary’ means any stream which contributes to the flow of the Red River.
- “(f) The term ‘interstate tributary’ means a tributary of the Red River, the drainage area of which includes portions of two or more Signatory States.
- “(g) The term ‘intrastate tributary’ means a tributary of the Red River, the drainage area of which is entirely within a single Signatory State.
- “(h) The term ‘Commission’ means the agency created by Article IX of this Compact for the administration thereof.
- “(i) The term ‘pollution’ means the alteration of the physical, chemical, or biological characteristics of water by the acts or instrumentalities of man which create or are likely to result in a material and adverse effect upon human beings, domestic or wild animals, fish and other aquatic life, or adversely

affect any other lawful use of such water; provided, that for the purposes of this Compact, ‘pollution’ shall not mean or include ‘natural deterioration.’

- “(j) The term ‘natural deterioration’ means the material reduction in the quality of water resulting from the leaching of solubles from the soils and rocks through or over which the water flows naturally.
- “(k) The term ‘designated water’ means water released from storage, paid for by non-Federal interests, for delivery to a specific point of use or diversion.
- “(l) The term ‘undesignated water’ means all water released from storage other than ‘designated water.’
- “(m) The term ‘conservation storage capacity’ means that portion of the active capacity of reservoirs available for the storage of water for subsequent beneficial use, and it excludes any portion of the capacity of reservoirs allocated solely to flood control and sediment control, or either of them.
- “(n) The term ‘runoff’ means both the portion of precipitation which runs off the surface of a drainage area and that portion of the precipitation that enters the streams after passing through the portions of the earth.

### “ARTICLE IV

#### “APPORTIONMENT OF WATER—REACH I

##### “OKLAHOMA—TEXAS

“Subdivision of Reach I and apportionment of water therein. Reach I of the Red River is divided into topographical subbasins, with the water therein allocated as follows:

- “§ 4.01. Subbasin 1—Interstate streams—Texas.
  - “(a) This includes the Texas portion of Buck Creek, Sand (Lebos) Creek, Salt Fork Red River, Elm Creek, North Fork Red River, Sweetwater Creek, and Washita River, together with all their tributaries in Texas which lie west of the 100th Meridian.
  - “(b) The annual flow within this subbasin is hereby apportioned sixty (60) percent to Texas and forty (40) percent to Oklahoma.
- “§ 4.02. Subbasin 2—Intrastate and Interstate streams—Oklahoma.
  - “(a) This subbasin is composed of all tributaries of the Red River in Oklahoma and portions thereof upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west, beginning from Denison Dam and upstream to and including Buck Creek.
  - “(b) The State of Oklahoma shall have free and unrestricted use of the water of this subbasin.
- “§ 4.03. Subbasin 3—Intrastate streams—Texas.

“(a) This includes the tributaries of the Red River in Texas, beginning from Denison Dam and upstream to and including Prairie Dog Town Fork Red River.

“(b) The State of Texas shall have free and unrestricted use of the water in this subbasin.

“§ 4.04. Subbasin 4—Mainstem of the Red River and Lake Texoma.

“(a) This subbasin includes all of Lake Texoma and the Red River beginning at Denison Dam and continuing upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west.

“(b) The storage of Lake Texoma and flow from the mainstem of the Red River into Lake Texoma is apportioned as follows:

“(1) Oklahoma 200,000 acre-feet and Texas 200,000 acre-feet, which quantities shall include existing allocations and uses; and

“(2) Additional quantities in a ratio of fifty (50) percent to Oklahoma and fifty (50) percent to Texas.

“§ 4.05. Special Provisions.

“(a) Texas and Oklahoma may construct, jointly or in cooperation with the United States, storage or other facilities for the conservation and use of water; provided that any facilities constructed on the Red River boundary between the two states shall not be inconsistent with the Federal legislation authorizing Denison Dam and Reservoir project.

“(b) Texas shall not accept for filing, or grant a permit, for the construction of a dam to impound water solely for irrigation, flood control, soil conservation, mining and recovery of minerals, hydroelectric power, navigation, recreation and pleasure, or for any other purpose other than for domestic, municipal, and industrial water supply, on the mainstem of the North Fork Red River or any of its tributaries within Texas above Lugert-Altus Reservoir until the date that imported water, sufficient to meet the municipal and irrigation needs of Western Oklahoma is provided, or until January 1, 2000, whichever occurs first.

“ARTICLE V

“APPORTIONMENT OF WATER—REACH II

“ARKANSAS, OKLAHOMA, TEXAS AND LOUISIANA

“Subdivision of Reach II and allocation of water therein. Reach II of the Red River is divided into topographic subbasins, and the water therein is allocated as follows:

“§ 5.01. Subbasin 1—Intrastate streams—Oklahoma.

“(a) This subbasin includes those streams and their tributaries above existing, authorized or proposed last downstream major damsites, wholly in Oklahoma and flowing into Red River below Denison Dam and above the Oklahoma-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Island-Bayou	Albany	85,200	33°51.5'N	96°11.4'W
Blue River	Durant	147,000	33°55.5'N	96°04.2'W
Boggy River	Boswell	1,243,800	34°01.6'N	95°45.0'W
Kiamichi River	Hugo	240,700	34°01.0'N	95°22.6'W

“(b) Oklahoma is apportioned the water of this subbasin and shall have unrestricted use thereof.

“§ 5.02. Subbasin 2—Intrastate streams—Texas.

“(a) This subbasin includes those streams and their tributaries above existing authorized or proposed last downstream major damsites, wholly in Texas and flowing into Red River below Denison Dam and above the Texas-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Shawnee Creek	Randall Lake	5,400	33°48.1'N	96°34.8'W
Brushy Creek	Valley Lake	15,000	33°38.7'N	96°21.5'W
Bois d'Arc Creek	New Bonham Reservoir	130,600	33°42.9'N	95°58.2'W
Coffee Mill Creek	Coffee Mill Lake	8,000	33°44.1'N	95°58.0'W
Sandy Creek	Lake Crockett	3,900	33°44.5'N	95°55.5'W
Sanders Creek	Pat Mayse	124,500	33°51.2'N	95°32.9'W
Pine Creek	Lake Crook	11,011	33°43.7'N	95°34.0'W
Big Pine Creek	Big Pine Lake	138,600	33°52.0'N	95°11.7'W
Pecan Bayou	Pecan Bayou	625,000	33°41.1'N	94°58.7'W
Mud Creek	Liberty Hill	97,700	33°33.0'N	94°29.3'W
Mud Creek	KVW Ranch Lakes (3)	3,440	33°34.8'N	94°27.3'W

“(b) Texas is apportioned the water of this subbasin and shall have unrestricted use thereof.

“§ 5.03. Subbasin 3—Interstate Streams—Oklahoma and Arkansas.

“(a) This subbasin includes Little River and its tributaries above Millwood Dam.

“(b) The States of Oklahoma and Arkansas shall have free and unrestricted use of the water of this subbasin within their respective states, subject, however, to the limitation that Oklahoma shall allow a quantity of water equal to 40 percent of the total runoff originating below the following existing, authorized or proposed last downstream major damsites in Oklahoma to flow into Arkansas:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Little River	Pine Creek	70,500	34°06.8'N	95°04.9'W
Glover Creek	Lukfata	258,600	34°08.5'N	94°55.4'W
Mountain Fork River	Broken Bow	470,100	34°08.9'N	94°41.2'W

“(c) Accounting will be on an annual basis unless otherwise deemed necessary by the States of Arkansas and Oklahoma.

“§ 5.04. Subbasin 4—Interstate streams—Texas and Arkansas.

“(a) This subbasin shall consist of those streams and their tributaries above existing, authorized or proposed last downstream major damsites, originating in Texas and crossing the Texas-Arkansas state boundary before flowing into the Red River in Arkansas. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
McKinney Bayou Trib.	Bringle Lake	3,052	33°30.6'N	94°06.2'W
Barkman Creek	Barkman Reservoir	15,900	33°29.7'N	94°10.3'W
Sulphur River	Texarkana	386,900	33°18.3'N	94°09.6'W

“(b) The State of Texas shall have the free and unrestricted use of the water of this subbasin.

“§ 5.05. Subbasin 5—Mainstem of the Red River and tributaries.

“(a) This subbasin includes that portion of the Red River, together with its tributaries, from Denison Dam down to the Arkansas-Louisiana state boundary, excluding all tributaries included in the other four subbasins of Reach II.

“(b) Water within this subbasin is allocated as follows:

“(1) The Signatory States shall have equal rights to the use of run-off originating in subbasin 5 and undesignated water flowing into subbasin 5, so long as the flow of the Red River at the Arkansas-Louisiana state boundary is 3,000 cubic feet per second or more, provided no state is entitled to more than 25 percent of the water in excess of 3,000 cubic feet per second.

“(2) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary is less than 3,000 cubic feet per second, but more than 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow to flow into the Red River for delivery to the State of Louisiana a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 and 40 percent of undesignated water flowing into subbasin 5; provided, however, that this require-

ment shall not be interpreted to require any state to release stored water.

“(3) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary falls below 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow a quantity of water equal to all the weekly runoff originating in subbasin 5 and all undesignated water flowing into subbasin 5 within their respective states to flow into the Red River as required to maintain a 1,000 cubic foot per second flow at the Arkansas-Louisiana state boundary.

“(c) Whenever the flow at Index, Arkansas, is less than 526 c.f.s., the states of Oklahoma and Texas shall each allow a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 within their respective states to flow into the Red River; provided however, this provision shall be invoked only at the request of Arkansas, only after Arkansas has ceased all diversions from the Red River itself in Arkansas above Index, and only if the provisions of Sub-sections 5.05(b)(2) and (3) have not caused a limitation of diversions in subbasin 5.

“(d) No state guarantees to maintain a minimum low flow to a downstream state.

“§ 5.06. Special Provisions.

“(a) Reservoirs within the limits of Reach II, subbasin 5, with a conservation storage capacity of 1,000 acre feet or less in existence or authorized on the date of the Compact pursuant to the rights and privileges granted by a Signatory State authorizing such reservoirs, shall be exempt from the provisions of Section 5.05; provided, if any right to store water in, or use water from, an existing exempt reservoir expires or is cancelled after the effective date of the Compact the exemption for such rights provided by this section shall be lost.

“(b) A Signatory State may authorize a change in the purpose or place of use of water from a reservoir exempted by subparagraph (a) of this section without losing that exemption, if the quantity of authorized use and storage is not increased.

“(c) Additionally, exemptions from the provisions of Section 5.05 shall not apply to direct diversions from Red River to off-channel reservoirs or lands.

#### “ARTICLE VI

#### “APPORTIONMENT OF WATER—REACH III

#### “ARKANSAS, LOUISIANA, AND TEXAS

“Subdivision of Reach III and allocation of water therein. Reach III of the Red River is divided into

topographic subbasins, and the water therein allocated, as follows:

“§ 6.01. Subbasin 1—Interstate streams—Arkansas and Texas.

“(a) This subbasin includes the Texas portion of those streams crossing the Arkansas-Texas state boundary one or more times and flowing through Arkansas into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

“(b) Texas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Arkansas is entitled to forty (40) percent of the runoff of this subbasin.

“§ 6.02. Subbasin 2—Interstate streams—Arkansas and Louisiana.

“(a) This subbasin includes the Arkansas portion of those streams flowing from Subbasin 1 into Arkansas, as well as other streams in Arkansas which cross the Arkansas-Louisiana state boundary one or more times and flow into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

“(b) Arkansas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Louisiana is entitled to forty (40) percent of the runoff of this subbasin.

“§ 6.03. Subbasin 3—Interstate streams—Texas and Louisiana.

“(a) This subbasin includes the Texas portion of all tributaries crossing the Texas-Louisiana state boundary one or more times and flowing into Caddo Lake, Cypress Creek-Twelve Mile Bayou or Cross Lake, as well as the Louisiana portion of such tributaries.

“(b) Texas and Louisiana within their respective boundaries shall each have the unrestricted use of the water of this subbasin subject to the following allocation:

“(1) Texas shall have the unrestricted right to all water above Marshall, Lake O’ the Pines, and Black Cypress damsites; however, Texas shall not cause runoff to be depleted to a quantity less than that which would have occurred with the full operation of Franklin County, Titus County, Ellison Creek, Johnson Creek, Lake O’ the Pines, Marshall, and Black Cypress Reservoirs constructed, and those other impoundments and diversions existing on the effective date of this Compact. Any depletions of runoff in excess of the depletions described above shall be charged against Texas’ apportionment of the water in Caddo Reservoir.

“(2) Texas and Louisiana shall each have the unrestricted right to use fifty (50) per-

cent of the conservation storage capacity in the present Caddo Lake for the impoundment of water for state use, subject to the provision that supplies for existing uses of water from Caddo Lake, on date of Compact, are not reduced.

“(3) Texas and Louisiana shall each have the unrestricted right to fifty (50) percent of the conservation storage capacity of any future enlargement of Caddo Lake, provided, the two states may negotiate for the release of each state’s share of the storage space on terms mutually agreed upon by the two states after the effective date of this Compact.

“(4) Inflow to Caddo Lake from its drainage area downstream from Marshall, Lake O’ the Pines, and Black Cypress damsites and downstream from other last downstream dams in existence on the date of the signing of the Compact document by the Compact Commissioners, will be allowed to continue flowing into Caddo Lake except that any manmade depletions to this inflow by Texas will be subtracted from the Texas share of the water in Caddo Lake.

“(c) In regard to the water of interstate streams which do not contribute to the inflow to Cross Lake or Caddo Lake, Texas shall have the unrestricted right to divert and use this water on the basis of a division of runoff above the state boundary of sixty (60) percent to Texas and forty (40) percent to Louisiana.

“(d) Texas and Louisiana will not construct improvements on the Cross Lake watershed in either state that will affect the yield of Cross Lake; provided, however, this subsection shall be subject to the provisions of Section 2.08.

“§ 6.04. Subbasin 4—Intrastate streams—Louisiana.

“(a) This subbasin includes that area of Louisiana in Reach III not included within any other subbasin.

“(b) Louisiana shall have free and unrestricted use of the water of this subbasin.

“ARTICLE VII

“APPORTIONMENT OF WATER—REACH IV

“ARKANSAS AND LOUISIANA

“Subdivision of Reach IV and allocation of water therein. Reach IV of the Red River is divided into topographic subbasins, and the water therein allocated as follows:

“§ 7.01. Subbasin 1—Intrastate streams—Arkansas.

“(a) This subbasin includes those streams and their tributaries above last downstream major damsites originating in Arkansas and crossing the Arkansas-Louisiana state boundary before flowing into the Red River in Louisiana. Those major last downstream damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Ouachita River	Lake Catherine	19,000	34°26.6'N	93°01.6'W
Caddo River	DeGray Lake	1,377,000	34°13.2'N	93°06.6'W
Little Missouri River	Lake Greeson	600,000	34°08.9'N	93°42.9'W
Alum Fork, Salline River	Lake Winona	63,264	32°47.8'N	92°51.0'W

“(b) Arkansas is apportioned the waters of this subbasin and shall have unrestricted use thereof.

“§ 7.02. Subbasin 2—Interstate Streams—Arkansas and Louisiana.

“(a) This subbasin shall consist of Reach IV less subbasin 1 as defined in Section 7.01(a) above.

“(b) The State of Arkansas shall have free and unrestricted use of the water of this reach subject to the limitation that Arkansas shall allow a quantity of water equal to forty (40) percent of the weekly runoff originating below or flowing from the last downstream major damsite to flow into Louisiana. Where there are no designated last downstream damsites, Arkansas shall allow a quantity of water equal to forty (40) percent of the total weekly runoff originating above the state boundary to flow into Louisiana. Use of water in this subbasin is subject to low flow provisions of subparagraph 7.02(b).

“§ 7.03. Special Provisions.

“(a) Arkansas may use the beds and banks of segments of Reach IV for the purpose of conveying its share of water to designated downstream diversions.

“(b) The State of Arkansas does not guarantee to maintain a minimum low flow for Louisiana in Reach IV. However, on the following streams when the use of water in Arkansas reduces the flow at the Arkansas-Louisiana state boundary to the following amounts:

“(1) Ouachita—780 cfs

“(2) Bayou Bartholomew—80 cfs

“(3) Boeuf River—40 cfs

“(4) Bayou Macon—40 cfs

the state of Arkansas pledges to take affirmative steps to regulate the diversions of runoff originating or flowing into Reach IV

in such a manner as to permit an equitable apportionment of the runoff as set out herein to flow into the State of Louisiana. In its control and regulation of the water of Reach IV any adjudication or order rendered by the State of Arkansas or any of its instrumentalities or agencies affecting the terms of this Compact shall not be effective against the State of Louisiana nor any of its citizens or inhabitants until approved by the Commission.

#### “ARTICLE VIII

##### “APPORTIONMENT OF WATER—REACH V

“§ 8.01. Reach V of the Red River consists of the mainstem Red River and all of its tributaries lying wholly within the State of Louisiana. The State of Louisiana shall have free and unrestricted use of the water of this subbasin.

#### “ARTICLE IX

##### “ADMINISTRATION OF THE COMPACT

“§ 9.01. There is hereby created an interstate administrative agency to be known as the ‘Red River Compact Commission,’ hereinafter called the ‘Commission.’ The Commission shall be composed of two representatives from each Signatory State who shall be designated or appointed in accordance with the laws of each state, and one Commissioner representing the United States, who shall be appointed by the President. The Federal Commissioner shall be the Chairman of the Commission but shall not have the right to vote. The failure of the President to appoint a Federal Commissioner will not prevent the operation or effect of this Compact, and the eight representatives from the Signatory States will elect a Chairman for the Commission.

“§ 9.02. The Commission shall meet and organize within 60 days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

“§ 9.03. Each of the two Commissioners from each state shall have one vote; provided, however, that if only one representative from a state attends he is authorized to vote on behalf of the absent Commissioner from that state. Representatives from three states shall constitute a quorum. Any action concerned with administration of this Compact or any action requiring compliance with specific terms of this Compact shall require six concurring votes. If a proposed action of the Commission affects existing water rights in a state, and that action is not expressly provided for in this Compact, eight concurring votes shall be required.

“§ 9.04.

“(a) The salaries and personal expenses of each state’s representative shall be paid by the government that it represents, and the sal-

aries and personal expenses of the Federal Commissioner will be paid for by the United States.

- “(b) The Commission’s expenses for any additional stream flow gaging stations shall be equitably apportioned among the states involved in the reach in which the stream flow gaging stations are located.
- “(c) All other expenses incurred by the Commission shall be borne equally by the Signatory States and shall be paid by the Commission out of the ‘Red River Compact Commission Fund.’ Such Fund shall be initiated and maintained by equal payments of each state into the fund. Disbursement shall be made from the fund in such manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of the state; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become a part of the annual report of the Commission. Each state shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

“ARTICLE X

“POWERS AND DUTIES OF THE COMMISSION

“§ 10.01. The Commission shall have the power to:

- “(a) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;
- “(b) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;
- “(c) Employ or contract with such engineering, legal, clerical and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of any Signatory State; provided that such employees shall be paid by and be responsible to the Commission and shall not be considered employees of any Signatory State.
- “(d) Acquire, use and dispose of such real and personal property as it may consider necessary;
- “(e) Enter into contracts with appropriate State or Federal agencies for the collection, correlation and presentation of factual data, for the maintenance of records and for the preparation of reports;
- “(f) Secure from the head of any department or agency of the Federal or State government such information as it may need or deem to be useful for carrying out its functions and

as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;

- “(g) Make findings, recommendations or reports in connection with carrying out the purposes of this Compact, including, but not limited to, a finding that a Signatory State is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of any Signatory State, or the United States, as may have any interest in or jurisdiction over the subject matter. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent to the instituting or maintaining of any action or proceeding of any kind by a Signatory State in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and
  - “(h) Print or otherwise reproduce and distribute its proceedings and reports.
- “§ 10.02. The Commission shall:
- “(a) Cause to be established, maintained, and operated such stream, reservoir and other gaging stations as are necessary for the proper administration of the Compact;
  - “(b) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;
  - “(c) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;
  - “(d) Prepare and submit to the governor of each of the Signatory States a budget covering the anticipated expenses of the Commission for the following fiscal biennium;
  - “(e) Prepare and submit an annual report to the governor of each Signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;
  - “(f) Make available to the governor or to any official agency of a Signatory State or to any authorized representative of the United

States, upon request, any information within its possession;

“(g) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of any of the Signatory States; and

“(h) Make available to a Signatory State or the United States in any action arising under this Compact, without subpoena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

#### “ARTICLE XI

##### “POLLUTION

“§ 11.01. The Signatory States recognize that the increase in population and the growth of industrial, agricultural, mining and other activities combined with natural pollution sources may lead to a diminution of the quality of water in the Red River Basin which may render the water harmful or injurious to the health and welfare of the people and impair the usefulness or public enjoyment of the water for beneficial purposes, thereby resulting in adverse social, economic, and environmental impacts.

“§ 11.02. Although affirming the primary duty and responsibility of each Signatory State to take appropriate action under its own laws to prevent, diminish, and regulate all pollution sources within its boundaries which adversely affect the water of the Red River Basin, the states recognize that the control and abatement of the naturally-occurring salinity sources as well as, under certain circumstances, the maintenance and enhancement of the quality of water in the Red River Basin may require the cooperative action of all states.

“§ 11.03. The Signatory States agree to cooperate with agencies of the United States to devise and effectuate means of alleviating the natural deterioration of the water of the Red River Basin.

“§ 11.04. The Commission shall have the power to cooperate with the United States, the Signatory States and other entities in programs for abating and controlling pollution and natural deterioration of the water of the Red River Basin, and to recommend reasonable water quality objectives to the states.

“§ 11.05. Each Signatory State agrees to maintain current records of waste discharges into the Red River Basin and the type and quality of such discharges, which records shall be furnished to the Commission upon request.

“§ 11.06. Upon receipt of a complaint from the governor of a Signatory State that the interstate water of the Red River Basin in which it has an interest are being materially and adversely affected by pollution and that the state in which the pollution originates has failed after reasonable notice to take

appropriate abatement measures, the Commission shall make such findings as are appropriate and thereafter provide such findings to the governor of the state in which such pollution originates and request appropriate corrective action. The Commission, however, shall not take any action with respect to pollution which adversely affects only the state in which such pollution originates.

“§ 11.07. In addition to its other powers set forth under this Article, the Commission shall have the authority, upon receipt of six concurring votes, to utilize applicable Federal statutes to institute legal action in its own name against the person or entity responsible for interstate pollution problems; provided, however, sixty (60) days before initiating legal action the Commission shall notify the Governor of the state in which the pollution source is located to allow that state an opportunity to initiate action in its own name.

“§ 11.08. Without prejudice to any other remedy available to the Commission, or any Signatory State, any state which is materially and adversely affected by the pollution of the water of the Red River Basin by pollution originating in another Signatory State may institute a suit against any individual, corporation, partnership, or association, or against any Signatory State or political or governmental subdivision thereof, or against any officer, agency, department, bureau, district or instrumentality of or in any Signatory State contributing to such pollution in accordance with applicable Federal statutes. Nothing herein shall be construed as depriving any persons of any rights of action relating to pollution which such person would have if this Compact had not been made.

#### “ARTICLE XII

##### “TERMINATION AND AMENDMENT OF COMPACT

“§ 12.01. This Compact may be terminated at any time by appropriate action of the legislatures of all of the four Signatory States. In the event of such termination, all rights established under it shall continue unimpaired.

“§ 12.02. This Compact may be amended at any time by appropriate action of the legislatures of all Signatory States that are affected by such amendment. The consent of the United States Congress must be obtained before any such amendment is effective.

#### “ARTICLE XIII

##### “RATIFICATION AND EFFECTIVE DATE OF COMPACT

“§ 13.01. Notice of ratification of this Compact by the legislature of each Signatory State shall be given by the governor thereof to the governors of each of the other Signatory States and to the Presi-

dent of the United States. The President is hereby requested to give notice to the governors of each of the Signatory States of the consent to this Compact by the Congress of the United States.

“§ 13.02. This Compact shall become effective, binding and obligatory when, and only when:

“(a) It has been duly ratified by each of the Signatory States; and

“(b) It has been consented to by an Act of the Congress of the United States, which Act provides that:

“Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

“which involves the construction or application of this Compact;

“in which one or more of the Signatory States to this Compact is a plaintiff or plaintiffs; and

“which is within the judicial power of the United States as set forth in the Constitution of the United States;

“and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy:

“The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

“§ 13.03. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur.

SIGNED AND APPROVED on the 12th day of May 1978 at Denison Dam.

John P. Saxton  
John P. Saxton, Commissioner  
State of Arkansas

Orville B. Saunders  
Orville B. Saunders, Commissioner  
State of Oklahoma

Arthur R. Theis  
Arthur R. Theis, Commissioner  
State of Louisiana

Fred Parkey  
Fred Parkey, Commissioner  
State of Texas

R. C. Marshall  
R. C. MARSHALL, Major General  
Representative  
United States of America”

[Added by Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

CHAPTER 47. CADDO LAKE COMPACT

Section	
47.001.	Ratification.
47.002.	Original Copy.
47.003.	Commissioner.
47.004.	Oath.
47.005.	Powers and Duties.
47.006.	Executive Director.
47.007.	Employees; Administrative Expenses.
47.008.	Cooperation of Texas Department of Water Resources.
47.009.	Notification of Other Parties; Copies.
47.010.	Time When Compact Binding.
47.011.	Text of Compact.

§ 47.001. Ratification

The Caddo Lake Compact, the text of which is set out in Section 47.011 of this code, is ratified and confirmed in all respects after having been signed at Marshall, Texas, on January 26, 1979, by Arthur R. Theis, Red River Compact Commissioner for the State of Louisiana, Fred Parkey, Red River Compact Commissioner for the State of Texas, William M. Huffman, Marshall, Texas, Senator Ed Howard, Texarkana, Texas, Senator Don Williamson, Shreveport, Louisiana, and Calhoun Allen, Shreveport, Louisiana.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.003. Commissioner

(a) The appointed Red River Compact Commissioner shall serve as a commissioner to represent this state on the commission established by Section 6 of the compact. Additionally, the governor with the advice and consent of the senate shall appoint a local commissioner from the Caddo Lake area in Texas to serve as another commissioner to represent the state on the commission established by Section 6 of the compact.

(b) The appointed Red River Compact Commissioner shall receive no additional compensation for serving as a Caddo Lake Compact Commissioner.

(c) The appointed local commissioner shall receive no compensation for serving as Caddo Lake Compact Commissioner but shall be entitled to reimbursement for actual and necessary expenses incurred in the discharge of official duties.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.004. Oath

The appointed Red River Compact Commissioner and local commissioner shall each take the constitu-

tional oath of office and shall each also take an oath to faithfully perform his or her duties as commissioner.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

#### § 47.005. Powers and Duties

The appointed Red River Compact Commissioner and local commissioner are responsible for administering the provisions of the compact and have all the powers and duties prescribed by the compact.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

#### § 47.006. Executive Director

(a) The executive director of the Texas Department of Water Resources or a designated representative selected from the staff of the department shall also serve as a commissioner and represent this state on the commission established by Section 6 of the compact.

(b) The executive director or the designated representative may exercise the powers and shall discharge the duties provided by the compact.

(c) The executive director or the designated representative is not entitled to additional compensation for performing the duties under the compact but is entitled to reimbursement for actual and necessary expenses incurred while traveling in the discharge of official duties.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

#### § 47.007. Employees; Administrative Expenses

The commissioners, in conjunction with other members of the commission and as authorized by the legislature, may employ engineering and clerical personnel and may incur necessary office expenses for the appointed Red River Compact Commissioner and other expenses incident to the proper performance of their duties and the proper administration of the compact. However, the commissioners shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

#### § 47.008. Cooperation of Texas Department of Water Resources

The Texas Department of Water Resources shall cooperate with the commissioners in the performance of their duties and shall furnish them any factual data and information that is available.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

#### § 47.009. Notification of Other Parties; Copies

The governor shall notify the Governor of Louisiana and the President of the United States of the ratification of the compact by this state. On request of the governor, the secretary of state shall furnish to the Governor of Louisiana and the President of the United States a certified copy of the Act adopting this chapter of the code.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

#### § 47.010. Time When Compact Binding

This compact is binding and obligatory when the Red River Compact has been ratified by the State of Texas and this compact is ratified by the Legislature of Louisiana and consented to by the United States.

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

#### § 47.011. Text of Compact

The Caddo Lake Compact reads as follows:

##### "CADDO LAKE COMPACT

##### PREAMBLE

The States of Louisiana and Texas, by acts of their respective governors, and based upon previous acts of their legislatures, have appointed representatives, including their respective Red River Compact Commissioners, to negotiate, in the interest of interstate comity and equitable apportionment and use of water, a Compact on Caddo Lake to augment and amplify the provisions of the Red River Compact dealing with Caddo Lake.

The Act of Congress, Public Law No. 346 (84th Congress, First Session), grants consent of federal government to the negotiation of this Compact; pursuant to that act, the President has designated the representative of the United States.

Because the water and water rights of the States of Oklahoma and Arkansas under the Red River Compact are completely unaffected by this Compact, Oklahoma and Arkansas have no objection to this Compact and did not participate in the negotiation of this Compact.

In order to resolve current controversies regarding the use of Caddo Lake water, controversies not adequately dealt with in the Red River Compact, the States of Texas and Louisiana, acting through their authorized representatives, have agreed to an equitable apportionment and use of the water of Caddo Lake and do hereby submit this Compact to amplify the Red River Compact and recommend that it be adopted by their respective legislatures and approved by Congress as hereinafter set forth:

##### Sec. 1. Purposes

In addition to the purposes specified in the Red River Compact, this compact is intended to preserve and protect Caddo Lake as a valuable environmental, cultural and natural resource and enhance water

resource and recreational potentials, while allowing its utilization for water needs of adjacent portions of Louisiana and Texas. A primary means of accomplishing these purposes is to raise the spillway elevation of Caddo Lake to an elevation of 170.5 feet above mean sea level.

Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States or those claiming under its authority in, over, and to water of Caddo Lake; nor shall this Compact be construed as interfering with the application of the National Environmental Policy Act of 1969.<sup>1</sup>

<sup>1</sup> 42 U.S.C.A. § 4321 et seq.

**Sec. 2. Relation to the Red River Compact**

(a) This compact augments and amplifies the Red River Compact. It shall be construed harmoniously with the Red River Compact; it is not intended to amend, replace, or supersede any provisions of the Red River Compact, nor are any of the provisions of the Red River Compact intended to prevent the effective implementation of this Compact.

(b) In the event the Red River Compact is not enacted by all concerned states and ratified by Congress, or in the event that such action occurs after the effective date of this Compact, this Compact shall be fully effective pursuant to the provisions of Section 9.

**Sec. 3. Dedication**

The States of Louisiana and Texas hereby dedicate the water of Caddo Lake below 167.5 feet above mean sea level to serve as a recreation and navigation pool. Neither Louisiana nor Texas shall allow the diversion or consumptive use of the water of Caddo Lake below that level except as authorized in this Compact.

**Sec. 4. Diversion of Dedicated Water**

(a) In order to divert water when the level of Caddo Lake is below 167.5 feet above mean sea level, any water user diverting more than 1,000 gallons per day from Caddo Lake must submit water use plans to the Caddo Lake Commission providing for conservation and efficient use of water.

(b) The Caddo Lake Commission shall authorize users with approved water use plans to divert water from Caddo Lake when the lake level is below 167.5 feet above mean sea level, at times and under conditions authorized by the Caddo Lake Commission. The Caddo Lake Commission shall give priority to domestic users, municipalities or municipal use by political subdivisions and industries, in that order.

(c) In the event any user of water from Caddo Lake shall purchase water which is delivered into Caddo Lake from another source, that user making the purchase shall have the use of such purchased water, minus transportation or storage losses if any, as determined by the Commission, free from the regulation of the Caddo Lake Commission.

**Sec. 5. Operating Rules**

As provided in Section 7, the Caddo Lake Commission shall have the power to establish operating criteria to govern the diversion and use of water from Caddo Lake. Unless modified, supplemented or changed by the Caddo Lake Commission, the following rules shall govern the diversion and use of water from Caddo Lake.

(a) The following operating rules shall be in effect until Caddo Lake is enlarged by raising the spillway level as provided in Section 8.

(1) Whenever water is spilling over the existing spillway at 168.5 feet above mean sea level, each state may withdraw or divert water from Caddo Lake without restriction.

(2) Whenever Caddo Lake is not spilling over the existing spillway at 168.5 feet above mean sea level, the total consumptive use by each state shall not exceed 8,400 acre-feet during the drawdown period; provided that neither state shall divert more than 3,600 acre-feet during any one month or 4,800 acre-feet during any two consecutive months.

(3) In addition to the requirements of Section 5(a)(2), when the lake level of Caddo Lake is at or below 167.5 feet above mean sea level,

(a) Any diversion by either state must be approved by the Caddo Lake Commission, as provided in Section 4; and,

(b) The total consumptive use by each state shall not exceed an average of 1,000 acre-feet per month, or more than 3,000 acre-feet during any two consecutive months; however,

(c) The limitations above shall not apply to a municipality or political subdivision during an emergency caused by the destruction or contamination of the municipality's or political subdivision's other water source.

(b) The following operating rules shall be in effect after Caddo Lake is enlarged by raising the spillway level as provided in Section 8.

(1) Whenever water is spilling over the raised spillway level, each state may withdraw or divert water from Caddo Lake without restriction.

(2) Whenever Caddo Lake is not spilling over the raised spillway, and the lake surface elevation is above 167.5 feet above mean sea level,

(a) If each state obtains 50% of the water above 168.5 feet above mean sea level, as authorized in Section 8, each state shall be entitled to divert 16,800 acre-feet during a drawdown period.

(b) If each state does not obtain 50% of the water above 168.5 feet above mean sea level, as authorized in Section 8, the total consumptive use by that state shall not be reduced below the amount of water to which it was entitled under Section 5(a).

(3) Whenever Caddo Lake is at or below 167.5 feet above mean sea level, no diversions from Caddo Lake may be made except in the case of a catastrophic event (such as destruction of a municipality or political subdivision's other water supply source or a drawdown which is more severe than the critical drawdown of record). Any emergency withdrawal or diversion must be specifically authorized by the Caddo Lake Commission, as provided in Section 4.

(c) The term 'drawdown' as used herein means that period commencing on the first day water ceases spilling over the existing spillway (or the raised spillway, if Caddo Lake is enlarged as authorized in Section 8) and continuing so long as the Caddo Lake surface elevation continues to fall, until the day when appreciable inflow reaches Caddo Lake, causing the Caddo Lake surface elevation to rise leading to a spill from Caddo Lake.

#### Sec. 6. Administration

(a) There is hereby created an interstate administrative agency to be known as the 'Caddo Lake Commission,' also referred to herein as the 'Commission.' It shall be composed of the Commissioners of Louisiana and Texas who serve as Red River Compact Commissioners and an appointed commissioner from each state who resides within one of the parishes or counties in which Caddo Lake is located. The Commissioners shall choose one member of the Commission to serve as a voting chairman. In the event this Compact becomes effective prior to, or without, the Red River Compact, the Governors of Texas and Louisiana shall each appoint three Commissioners to serve as Caddo Lake Commissioners. These Commissioners, or their successors, shall serve until the Red River Compact becomes effective and the offices of the nonlocal commissioners are assumed by the states' Red River Compact Commissioners.

(b) The Commission shall meet and organize within sixty (60) days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

(c) Each Commissioner shall have one vote; however, if one or more commissioners from a state is absent, the Commissioner(s) in attendance from that state is authorized to vote on behalf of the absent Commissioner(s) from that state. Any action concerning the administration of this Compact shall require four votes.

(d) The salaries and personal expenses of each state's Commissioners shall be paid by that state.

(e) All expenses incurred by the Commission shall be borne equally by the States of Louisiana and Texas and shall be paid by the Commission out of the 'Caddo Lake Commission Fund'. Such fund shall be initiated and maintained by equal payments of each state into the fund. Disbursements shall be made from the fund in such a manner as may be

authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of either state; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become part of the annual report of the Commission. Each state shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

#### Sec. 7. Duties and Powers

(a) The Commission shall have the power to:

(1) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;

(2) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;

(3) Employ or contract with such engineering, legal, clerical and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of Louisiana or Texas; provided that such employees shall be paid by and be responsible to the Commission and shall not be considered employees of any state;

(4) Acquire, use and dispose of such real and personal property as it may consider necessary;

(5) Enter into contracts with appropriate state or federal agencies for the collection, correlation and presentation of factual data, for the maintenance of records and for the preparation of reports;

(6) Secure from the head of any department or agency of the federal or state government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;

(7) Make findings, recommendations or reports in connection with carrying out the purposes of this Compact, including, but not limited to, a finding that Louisiana or Texas is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of Louisiana or Texas or the United States, as may have any interest in or jurisdiction over the subject matter. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent

to the instituting or maintaining of any action or proceeding of any kind by Louisiana or Texas, in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

(8) Print or otherwise reproduce and distribute its proceedings and reports.

(b) The Commission shall:

(1) Cause to be established, maintained, and operated such stream, reservoir and other gaging stations as are necessary for the proper administration of the Compact;

(2) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;

(3) Adopt reasonable standards and criteria for the approval of water use plans required by Section 4, and procedures for the submission thereof;

(4) Establish operating criteria to govern the diversion and use of water from Caddo Lake;

(5) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;

(6) Prepare and submit to the Governors of Louisiana and Texas a budget covering the anticipated expenses of the Commission for the following fiscal year or biennium;

(7) Prepare and submit an annual report to the Governors of Louisiana and Texas and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(8) Make available to the governor or to any official agency of Louisiana or Texas or to any authorized representative of the United States, upon request, any information within its possession;

(9) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of Louisiana or Texas; and

(10) Make available to Louisiana or Texas or the United States in any action arising under this Compact, without subpoena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

**Sec. 8. Enlargement of Caddo Lake**

(a) It is the intention of Louisiana and Texas to enlarge Caddo Lake by raising the spillway level two feet. Each state has the guaranteed right to obtain 50% of the water above 168.5 feet above mean sea

level made available from such an enlargement, subject to paying one-half of the total costs. Total costs of enlargement are equal to the sum of the cost of spillway construction, the cost of land and flowage easements in Texas, the current market value of land and flowage easements in Louisiana, as well as the administrative expenses incurred for each of the above listed items.

(b) Each state may obtain a proportionately larger share of the water resulting from the enlargement by paying the portion of the cost which would otherwise be paid by the other state under Section 8(a).

(c) Should Louisiana, or one of its political subdivisions, unilaterally raise the Caddo Lake spillway level without obtaining flowage easements in Texas, Louisiana would have the right to all water made available by the enlargement; provided, however, this provision constitutes an express waiver of any sovereign immunity or Eleventh Amendment defenses which might otherwise be available to the State of Louisiana in an action for damages by a Caddo Lake property owner in Texas for damage resulting from such action.

(d) This section does not prevent the enlargement of Caddo Lake by raising the spillway level some amount less than two feet, nor does it prevent a subsequent enlargement of Caddo Lake which might ultimately raise the level of Caddo Lake's spillway more than two feet.

**Sec. 9. Ratification and Effective Date of Compact**

(a) Notice of ratification of this Compact by the Legislatures of Louisiana and Texas shall be given by the Governor thereof to the Governor of the other state and to the President of the United States. The President is hereby requested to give notice to the Governors of Texas and Louisiana of the consent to this Compact by the Congress of the United States.

(b) This Compact shall become effective, binding and obligatory when, and only when:

(1) It has been duly ratified by Louisiana and Texas;

(2) The Red River Compact has been duly ratified by the State of Texas; and

(3) It has been consented to by an Act of the Congress of the United States, which Act provides that:

Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

which involves the construction or application of this Compact; in which Louisiana or Texas is a plaintiff; and

which is within the judicial power of the United States as set forth in the Constitution of the United States;

and without any requirement, limitation or regard as to the sum or value of the matter in

controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy:

The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

(c) The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Louisiana and Texas; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur.

SIGNED AND APPROVED THIS 26th DAY OF JANUARY, 1979.

William M. Huffman  
WILLIAM M. HUFFMAN  
Marshall, Texas

Ed Howard  
SENATOR ED HOWARD  
Texarkana, Texas

Fred Parkey  
FRED PARKEY  
Red River Compact Commissioner  
for Texas

Don Williamson  
SENATOR DON WILLIAMSON  
Shreveport, Louisiana

Calhoun Allen  
CALHOUN ALLEN  
Shreveport, Louisiana

Arthur R. Theis  
ARTHUR R. THEIS, Red River  
Compact Commissioner for  
Louisiana"

[Added by Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

## TITLE 4. GENERAL LAW DISTRICTS

### CHAPTER 50. PROVISIONS GENERALLY APPLICABLE TO DISTRICTS

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Section	
50.025.	Service on Districts.
50.026.	Disqualification of Members of Governing Boards.
50.026.	Emergency Approval of District Projects
50.055.	Fire Departments.
50.056.	Prohibited Charges and Fees.
50.056.	Operation of Certain Motor Vehicles on or Near Public Water Facilities.

#### SUBCHAPTER D. REPORTS TO EXECUTIVE DIRECTOR

50.107. Commission Approval of Issuance of District Bonds.

#### SUBCHAPTER G. DISSOLUTION OF INACTIVE DISTRICTS

50.257. Assets Escheat to State.

#### SUBCHAPTER I. NOTICE

50.303. Posting Notice in the District.

#### SUBCHAPTER K. AUDIT OF DISTRICTS

50.377. Financially Dormant Districts.  
50.378. Audit Report Exemption.  
50.379. Fiscal Year.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### § 50.001. Definitions

As used in this chapter:

(1) "District" means any district or authority created by authority of either Article III, Section 52, (Subsection (b), Subdivisions (1) and (2)), or Article XVI, Section 59, of the Texas Constitution.

(2) "Commission" means the Texas Water Commission.

(3) "Board" means the governing body of a district.

(4) "Executive director" means the executive director of the Texas Department of Water Resources.

(5) "Department" means the Texas Department of Water Resources.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

##### § 50.024. Disqualification of Members of Governing Boards

*This section was renumbered as § 50.026 by Acts 1981, 67th Leg., p. 961, ch. 367, § 1. See first § 50.026, post.*

##### § 50.025. Service on Districts

The president or the general manager of any district shall be the agent of the district on whom process, notice, or demand required or permitted by law to be served upon the district may be served. [Added by Acts 1975, 64th Leg., p. 1838, ch. 568, § 1, eff. June 19, 1975.]

##### § 50.026. Disqualification of Members of Governing Boards

*Text of section as renumbered by Acts 1981, 67th Leg., p. 961, ch. 367, § 1*

(a) A person is disqualified from serving as a member of a governing board of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district and created by special act of the legislature if:

(1) he is related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the governing board of the district, or the manager, engineer, or attorney for the district;

(2) he is an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;

(3) he is a developer of property in the district;

(4) he is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a develop-

er of property in the district in connection with the district or property located in the district; or (5) he is:

(A) a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence or establishing a commercial business within the district.

(b) Within 60 days after the governing board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as a member of the governing board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as a member of a governing board and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board of a district covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

[Formerly § 50.024, amended by Acts 1975, 64th Leg., p. 600, ch. 248, § 1, eff. May 20, 1975. Renumbered § 50.026 by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

*For text as added by Acts 1981, 67th Leg., p. 3158, ch. 828, § 9, see § 50.026, post*

**§ 50.026. Emergency Approval of District Projects**

*Text of section as added by Acts 1981, 67th Leg., p. 3158, ch. 828, § 9*

(a) This section applies to all districts created under Article XVI, Section 59, of the Texas Constitution and to which Section 12.081 of this code applies.

(b) If a district experiences an emergency that could lead to a serious health hazard or unreasonable economic loss to the district, the executive director shall have the authority to authorize approval of repairs necessary to correct the damaged system by negotiated bids if completion time of the repairs is of the essence to preclude serious health hazards or unreasonable economic loss to the district.

[Added by Acts 1981, 67th Leg., p. 3158, ch. 828, § 9, eff. June 17, 1981.]

*For text as renumbered by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, see § 50.026, ante*

**SUBCHAPTER C. POWERS AND DUTIES**

**§ 50.051. Special Law Districts: Powers of Officers**

In any district or authority that is created by legislative act under Article XVI, Section 59, of the Texas Constitution, and that has the power to provide a water supply for municipal or other uses, the directors, employees, and engineers have the same authority with respect to making surveys and attending to other business of the district or authority that directors, employees, and engineers of a water control and improvement district have under Chapter 51 of this code.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 50.053. District Office**

*This section was renumbered § 50.057 by Acts 1981, 67th Leg., p. 961, ch. 367, § 1. See § 50.057, post.*

**§ 50.055. Fire Departments**

(a) A district may establish, operate, and maintain a fire department to perform all fire-fighting activities within the district as provided in this section and may issue, with voter approval, bonds for financing the establishment of the fire department including the construction and purchase of necessary buildings, facilities, and equipment and the provision of an adequate water supply.

(b) After approval of the district electors of a plan to operate or jointly operate a fire department, the district or districts shall provide an adequate system and water supply for fire-fighting purposes and may construct and purchase necessary buildings, facilities, and equipment and may employ all necessary personnel including supervisory personnel to operate the fire department.

(c) Bonds issued for establishment of the fire department shall be authorized and issued, and a district shall be authorized to levy a tax to pay the principal of and interest on such bonds, as provided by law for authorization and issuance of other bonds of the district.

(d) Two or more districts may contract to operate a joint fire department for their districts and shall include in the contract a system for joint administration and operation of the fire department, the extent of services to be provided, a method for funding the department from funds of each district, and any other terms and conditions the parties consider necessary.

(e) A district may contract with any other person to perform fire-fighting services within the district.

(f) Before a district establishes a fire department, contracts to operate a joint fire department, or contracts with another person to perform fire-fighting services within the district, the district must comply with the provisions of Subsections (g), (h), and (i) of this section.

(g) A district or districts proposing to act jointly shall develop a detailed plan for the establishment, operation, and maintenance of the proposed department, including a detailed presentation of all financial requirements. If a district is entering into a contract under Subsection (e) of this section, the district shall develop a plan that describes in detail the facilities and equipment to be devoted to service to the district and all proposals for providing the service and that includes a presentation of the financial requirements under the contract. Before adoption of a plan and any contract by the district, the governing board of the district shall hold a hearing at which any person residing in the district may present testimony for and against the proposed plan and any proposed contract. Notice of the hearing and the place at which the plan and any contract may be examined shall be posted in two public places within the district at least 10 days before the date of the hearing.

(h) After adoption of the plan and any contract by the governing board, the plan and financial presentation, together with any contract and a written report in a form prescribed by the executive director describing existing fire departments and fire-fighting services available within 25 miles of the boundaries of the district, shall be submitted to the executive director for consideration by the commission under rules adopted by the board. Before approval or disapproval, the commission shall hold a hearing. Notice of the hearing before the commission shall be posted by the governing board of the district in at least two public places in the district at least five days before the hearing. Before the commission approves the application, it must find that it is economically feasible for the district to implement the plan and meet the provisions of any contract and shall take into consideration in giving its approval the general financial condition of the district and the economic feasibility of the district carrying out the plan or meeting the obligations of the contract.

(i) After approval by the commission, the district shall submit to the electors of the district at the election to approve bonds for financing the plan, or if no bonds are to be approved, at an election called

for approval of the plan, the proposition of whether or not the plan should be implemented or entered into by the district. The ballots at the election shall be printed, as applicable, to provide for voting for or against the proposition: "The implementation of the plan for (operation/joint operation) of a fire department"; or "The plan and contract to provide fire-fighting services for the district."

(j) No funds of the district may be used to establish a fire department, to enter into joint operation of a fire department, or to contract for fire-fighting services without the approval of a plan by the electors as provided in this section. However, the district may use available funds for preparation of a plan and any contract.

[Added by Acts 1977, 65th Leg., p. 1404, ch. 568, § 1. Amended by Acts 1979, 66th Leg., p. 2185, ch. 834, § 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2067, ch. 457, § 2, eff. Aug. 31, 1981.]

Section 2 of the 1977 Act provided:

"This Act takes effect only on adoption by the qualified electors of the constitutional amendments proposed in H. J. R. No. 42 of the 65th Legislature."  
H.J.R. No. 42 was approved by the voters in an election held November 7, 1978.

Sections 1 and 3 of the 1981 amendatory act provide:

"Sec. 1. The purpose of this Act is to confirm the intent of the legislature to authorize the levy, by districts and authorities organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, of a tax to provide for payment of the principal of and interest on bonds issued pursuant to Section 50.055, Water Code, as amended, to the same extent as authorized to pay other bonds issued by such districts. No substantive modification to existing law is intended."

"Sec. 3. All plans, approvals, elections, contracts, bond issues, tax levies, and other proceedings adopted, given, held, executed, delivered, or otherwise initiated or undertaken prior to the effective date of this Act and subsequent to the effective date of Section 50.055, Water Code, as amended, are validated to the extent the same are consistent with the provisions of such Section 50.055 as amended by this Act."

### § 50.056. Prohibited Charges and Fees

*Text as added by Acts 1979, 66th Leg., p. 437, ch. 198, § 1.*

(a) In this section, "undeveloped property" means property within the district to which water or sewer services are actually available and to which no water or sewer connections have been made.

(b) Except as provided in Subsection (c) of this section, no water control and improvement district or municipal utility district in which the ratio of the assessed valuation of property to the amount of bonded indebtedness of the district is at least 15 to 1, which is created by special act of the legislature and which proposes to provide or actually provides water and sewer services or either of these services to household users as the principal function of the district, may adopt and impose on the owners of undeveloped property in the district a charge or fee on the undeveloped property that is in addition to taxes levied by the district on that property.

(c) If the governing board of a district covered by this section desires to adopt and impose a charge or fee prohibited by Subsection (b) of this section, it shall submit to the commission a petition for authority to adopt and impose the charge or fee. If the commission finds that it will be in the best interest of the district and property owners of the district, the commission shall approve the adoption and imposition of the charge or fee for a period of not more

than three years. The imposition of a charge or fee may be renewed for additional periods of three years in the manner provided in this section for initial approval of the charge or fee.

[Added by Acts 1979, 66th Leg., p. 437, ch. 198, § 1, eff. Jan. 1, 1980.]

*For text as added by Acts 1979, 66th Leg., p. 1395, ch. 621, § 1, see § 50.056, post*

Section 2 of Acts 1979, 66th Leg., ch. 198, provided:  
 "This Act shall not apply to districts which do not as a principal function provide water and sewer services or either of these services to household users."

**§ 50.056. Operation of Certain Motor Vehicles on or Near Public Water Facilities**

*Text as added by Acts 1979, 66th Leg., p. 1395, ch. 621, § 1*

(a) In this section, "motor vehicle" means a self-propelled device in, upon, or by which a person or property is or may be transported or drawn on a road or highway.

(b) Except as provided in Subsections (c) and (d) of this section, a person may not operate a motor vehicle on a levee, in a drainage ditch, or on land adjacent to a levee, canal, ditch, exposed conduit, pumping plant, or other facility for the transmission or storage of water or sewage that is owned or controlled by a district.

(c) A district may authorize the use of motor vehicles on land that it owns or controls by posting signs on the property.

(d) This section does not prohibit a person from:

- (1) driving on a public road or highway; or
- (2) operating a motor vehicle that is being used for repair or maintenance of public water facilities.

(e) A person who operates a motor vehicle in violation of Subsection (b) of this section commits an offense. An offense under this section is a Class C misdemeanor, except that if a person has been convicted of an offense under this section, a subsequent offense is a Class B misdemeanor.

[Added by Acts 1979, 66th Leg., p. 1395, ch. 621, § 1, eff. Sept. 1, 1979.]

*For text as added by Acts 1979, 66th Leg., p. 437, ch. 198, § 1, see § 50.056, ante*

**§ 50.057. District Office**

(a) Each district created by special act of the legislature, proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district, after at least 25 qualified electors are residing in the district, shall maintain a district office located within the district, and on majority vote of the governing board at a public meeting, may maintain an office outside the district.

(b) After at least 25 qualified electors are residing in a district, on written request of at least five of these electors, the board shall designate a meeting

place within the district. On the failure to designate the location of the meeting place within the district, five electors may petition the commission to designate a location, which may be changed by the board after the next election of members to the board.

[Formerly § 50.053. Renumbered § 50.057 by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**SUBCHAPTER D. REPORTS TO EXECUTIVE DIRECTOR**

**§ 50.101. Order or Act Creating District**

Within 60 days after the date a district is created, the district shall file with the executive director a certified copy of the order or legislative act creating the district or authorizing its creation.

[Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

**§ 50.102. Boundary Change**

Within 60 days after the date of any boundary change, a district shall file with the executive director a certified copy of the order of the district's governing body changing the boundaries.

[Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

**§ 50.103. List of Directors**

(a) After any election or selection of a director, a district shall notify the executive director within 30 days after the date of the election of the name of the director chosen and the date on which his term of office expires.

(b) If there is a change of directors due to resignation or death, the district shall immediately notify the executive director of the name of the newly elected or appointed member.

[Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

**§ 50.104. Audit Report**

(a) Within 15 days after the date any audit of its affairs is completed, a district shall file a copy of the audit report with the executive director and with the county clerk of the county in which the district's headquarters are located.

(b) This section applies only to those districts whose audit is performed by the state auditor.

[Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

**§ 50.105. Information Open to Public**

The executive director shall adopt a system for filing the information required by Sections 50.101-50.104 of this code, and shall allow public inspection of this file during the office hours of the department.

[Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

**§ 50.106. Penalty**

A district that fails to comply with the provisions of Sections 50.101–50.104 of this code is subject to a civil penalty of not less than \$50 nor more than \$100 a day for each day the district willfully continues to violate these sections after receipt of written notice of violation from the executive director by certified mail, return receipt requested. The state may sue to recover the penalty.

[Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

**§ 50.107. Commission Approval of Issuance of District Bonds**

Notwithstanding any provision of this code to the contrary, the commission may approve the issuance of bonds of a district without the submission of plans and specifications of the improvements to be financed with the bonds, if the bond proceeds which are to be used to finance the improvements for which plans and specifications are not submitted are deposited in escrow with a bank under terms and conditions ordered by the commission. The bond proceeds held in escrow shall be released to the district when plans and specifications are submitted to and approved by the commission.

[Added by Acts 1981, 67th Leg., p. 2788, ch. 754, § 1, eff. June 16, 1981.]

**SUBCHAPTER G. DISSOLUTION OF INACTIVE DISTRICTS****§ 50.251. Dissolution Authority**

After notice and hearing, the commission may dissolve any district which is inactive for a period of five consecutive years and has no outstanding bonded indebtedness.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 50.252. Notice of Hearing**

*[See Compact Edition, Volume 1 for text of (a) and (b)]*

(c) The commission shall give notice of the hearing by first class mail addressed to the directors of the district according to the last record on file with the executive director.

[Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 11, eff. June 10, 1981.]

**§ 50.253. Investigation**

The executive director shall investigate the facts and circumstances of the district to be dissolved and the result of the investigation shall be included in a written report.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 50.257. Assets Escheat to State**

Upon the dissolution of a district by the commission, all assets of the district shall escheat to the State of Texas. The assets shall be administered by the state treasurer and shall be disposed of in the manner provided by Article 3272a, Revised Civil Statutes of Texas, 1925, as amended.

[Added by Acts 1977, 65th Leg., p. 1510, ch. 610, § 1, eff. Aug. 29, 1977.]

**SUBCHAPTER H. WATER SUPPLY CONTRACTS****§ 50.275. Approval by the Commission**

No contract shall be final until approved by the commission if the source of water to be provided under the provisions of this subchapter is public surface water.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**SUBCHAPTER I. NOTICE****§ 50.302. Filing Information**

*[See Compact Edition, Volume 1 for text of (a) to (f)]*

(g) If a district fails to file the information required by this section in the time required, the executive director, on his own or on request by any person, may request the attorney general, or the district or the county attorney of the county in which the district is located to seek a writ of mandamus to force the governing board of the district to prepare and file the necessary information.

*[See Compact Edition, Volume 1 for text of (h) and (i)]*

(j) A copy of all information forms, maps, plats, and amendments to these filed under this section shall also be filed with the executive director. [Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 12, eff. June 10, 1981.]

**§ 50.303. Posting Notice in the District**

(a) Any district created under this title or by special act of the legislature, which is providing or proposing to provide, as the district's principal function, water and sewer services, or either of these services to household users, shall, within 30 days after the effective date of this section or the creation of the district, post signs indicating the existence of the district at at least two principal entrances to the district.

(b) The size and exact location of and the information contained on the signs shall be determined by the executive director.

[Added by Acts 1975, 64th Leg., p. 246, ch. 96, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 13, eff. June 10, 1981.]

[Sections 50.304 to 50.330 reserved for expansion]

SUBCHAPTER K. AUDIT OF DISTRICTS

§ 50.371. Duty to Audit

(a) The governing board of each district created under the general law or by special act of the legislature shall have the district's fiscal accounts and records audited annually at the expense of the district.

(b) In all areas of conflict the provisions of this subchapter shall take precedence over all prior statutory enactments.

(c) The person who performs the audit shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy.

(d) The audit required by this section shall be completed within 120 days after the close of the district's fiscal year, except for districts audited by the state auditor; district audits by the state auditor shall be completed within 12 months of the close of the district's fiscal year.

[Amended by Acts 1975, 64th Leg., p. 624, ch. 255, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 68, ch. 35, § 1, eff. Aug. 29, 1977.]

§ 50.372. Form of Audit

The executive director shall adopt an accounting and auditing manual, and except as otherwise provided by this manual, the audit shall be performed according to the generally accepted auditing standards adopted by the American Institute of Certified Public Accountants, hereinafter referred to as generally accepted auditing standards, and shall include the auditor's representation that the financial statements have been prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants, hereinafter referred to as generally accepted accounting principles.

[Amended by Acts 1977, 65th Leg., p. 68, ch. 35, § 2, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.374. Filing of Audits, Affidavits, and Financial Reports

(a) After the governing board of the district has approved the audit, it shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year unless the audit is performed by the state auditor, in which case it will be filed in accordance with Section 50.104 of this code.

(b) If the governing board of the district refuses to approve the annual audit report, the governing board shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year, except as specified in Subsection (a) of this section, accompanied by a statement from the board explaining the reasons for its failure to approve the report.

(c) Copies of the audit or the annual financial dormancy affidavit or annual financial report described in Sections 50.377 and 50.378 of this code shall be filed annually in the office of the district and with the city secretary or other designated city official in whose extraterritorial jurisdiction the district is located. If the district is not located within the extraterritorial jurisdiction of a city, the audit, annual financial dormancy affidavit, or annual financial report shall be filed annually with the clerk of the county within which the district is located; provided, however, this subsection shall not apply to any district which is located within all or parts of more than two counties; however, each such district shall file a copy of its annual audit, annual financial dormancy affidavit, or annual financial report with the county clerk of the county within which the greater part of the district resides.

(d) Each district shall file with the executive director an annual filing affidavit in a format prescribed by the executive director, executed by the current president or chairman of the board, a member of the board designated by the presiding officer, the attorney representing the district, or by a county judge who is presiding as chairman of the governing board, stating that all copies of the annual audit report, annual financial dormancy affidavit, or annual financial report have been filed under this section.

(e) The annual filing affidavit shall be submitted with the applicable annual document when it is submitted to the executive director for filing as prescribed by this subchapter.

(f) The executive director shall file with the attorney general the names of any districts that do not comply with the provisions of this subchapter.

(g) Any district that violates the provisions of this subchapter is subject to a civil penalty of not less than \$50 nor more than \$100 a day for each act of violation and for each day a violation continues. Before a district is subject to the penalty provided in this subsection, it must continue to violate this subchapter after receipt of written notice of violation from the executive director sent by certified mail, return receipt requested.

[Amended by Acts 1975, 64th Leg., p. 247, ch. 97, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 624, ch. 255, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 68, ch. 35, § 3, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.375. Review by Executive Director

(a) The executive director shall review the audit report of each district, and if the executive director has any objections or determines any violations of generally accepted auditing standards or accounting principles, statutes, or board rules, or if the executive director has any recommendations, he shall notify the governing board of the district.

(b) Before the audit report may be accepted by the executive director as being in compliance with

the provisions of this subchapter, the governing board and the auditor shall remedy objections and correct violations of which they have been notified by the executive director.

(c) If the audit report indicates that any penal law has been violated, the executive director shall notify the appropriate county or district attorney and the attorney general.

[Amended by Acts 1977, 65th Leg., p. 69, ch. 35, § 4, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 50.376. Access to and Maintenance of District Records

(a) The executive director shall have access to all vouchers, receipts, district fiscal and financial records, and other district records which the executive director considers necessary for the review, analysis, and approval of an audit report.

(b) All district fiscal records shall be prepared on a timely basis and maintained in an orderly manner in accordance with generally accepted accounting principles. The fiscal records shall be available for public inspection during regular business hours. A district's fiscal records may be removed from the district's office for the purpose of recording its fiscal affairs and for preparing an audit, during which time the fiscal records are under the control of the district's auditor. Those districts proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district and having at least 100 qualified electors residing in the district shall maintain all district fiscal records in a district office located in the district.

[Amended by Acts 1977, 65th Leg., p. 69, ch. 35, § 5, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 980, ch. 367, § 14, eff. June 10, 1981.]

#### § 50.377. Financially Dormant Districts

(a) Those districts which can satisfy the criteria contained in this section may elect to submit to the executive director for filing a financial dormancy affidavit in lieu of compliance with Section 50.371 of this code:

(1) the district had no revenue from operations, tax assessments, or any other sources during the calendar year;

(2) the district had no expenditures of funds during the calendar year; and

(3) the district had no bonds or any other liabilities outstanding during the calendar year.

(b) The required annual calendar year affidavit shall be prepared in a format prescribed by the executive director and shall be submitted for filing by the district's current president or chairman of the board, a member of the board designated by the presiding officer, its attorney, or by a county judge who is presiding as chairman of the governing board.

(c) The affidavit must be filed annually on or before January 31 with the executive director and other governmental entities prescribed by Subsection (c) of Section 50.374 of this code, until such time as the district becomes financially active and the governing board adopts a fiscal year; thereafter, the district shall file annual audit reports as prescribed by this subchapter.

(d) A district that becomes financially dormant after having been financially active shall be required to file annual financial dormancy affidavits on or before January 31, until such time the district is either dissolved or again becomes financially active.

(e) Districts governed by this section are subject to periodic audits by the executive director.

[Added by Acts 1977, 65th Leg., p. 70, ch. 35, § 6, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 50.378. Audit Report Exemption

(a) A district may elect to file annual financial reports with the executive director and the other governmental entities prescribed by Subsection (c) of Section 50.374 of this code in lieu of the district's compliance with Section 50.371 of this code provided:

(1) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(2) the district did not have gross revenues in excess of \$5,000 during the fiscal period; and

(3) the district's cash, receivables, and temporary investments were not in excess of \$20,000 during the fiscal period.

(b) The annual financial report must be accompanied by an affidavit attesting to the accuracy and authenticity of the financial report signed by the district's current president or chairman of the board, or by a county judge who is presiding as chairman of the governing board.

(c) The annual financial report and affidavit in a format prescribed by the executive director must be on file with the executive director and other governmental entities prescribed by Subsection (c) of Section 50.374 of this code within 45 days after the close of the district's fiscal year.

(d) Districts governed by this section are subject to periodic audits by the executive director.

[Added by Acts 1977, 65th Leg., p. 70, ch. 35, § 7, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 50.379. Fiscal Year

Within 30 days after a district becomes financially active, the governing board of that district shall adopt a fiscal year by a formal board resolution and so note it in the district's minutes. The president or chairman of the governing board or a member of the board designated by the presiding officer or the attorney representing the district shall notify the executive director of the adopted fiscal year within 30 days after adoption.

[Added by Acts 1977, 65th Leg., p. 71, ch. 35, § 8, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**CHAPTER 51. WATER CONTROL AND IMPROVEMENT DISTRICTS**

**SUBCHAPTER D. POWERS AND DUTIES**

- Section  
 51.1751. Additional Sources for Payment of Lease.  
 51.195. Prohibited Charges and Fees.

**SUBCHAPTER K. ISSUANCE OF BONDS**

- 51.4371. Authorized Investments.

**SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY AND CONSOLIDATING DISTRICTS**

- 51.737. Exclusion of Land.  
 51.738. Applicable Only to Land Annexed After Formation of District.  
 51.739. Application to Exclude Land.  
 51.740. Hearing.  
 51.741. Notice of Hearing.  
 51.742. Hearing Procedure.  
 51.743. Grounds for Exclusion.  
 51.744. Findings by the Board.  
 51.745. Excluding Land.  
 51.746. Payment of Taxes.  
 51.747. Review.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 51.001. Definitions**

In this chapter:

- (1) "District" means a water control and improvement district.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commissioners court" means the commissioners court of the county in which a district or part of a district is located.
- (5) "Commission" means the Texas Water Commission.
- (6) "Executive director" means the executive director of the Texas Department of Water Resources.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

**SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT**

**§ 51.016. Commissioners Court or Commission to Consider Creation of District**

If the land to be included in a district is within one county, the creation of the district shall be considered and ordered by the commissioners court, but if the land to be included in a district is in two or more counties, the creation of the district shall be considered and ordered by the commission.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 51.024. Single-County District: Hearing in District; Procedure**

(a) The district court, either in term time or in vacation time, shall schedule the appeal for hearing with all reasonable dispatch.

[See Compact Edition, Volume 1 for text of (b) to (d)]

[Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(43), eff. Aug. 31, 1981.]

**SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

**§ 51.0721. Disqualification of Members of the Board**

(a) A person is disqualified from serving as a member of the board of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district, if:

- (1) he is related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the board, or the manager, engineer, or attorney for the district;
- (2) he is an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;
- (3) he is a developer of property in the district;
- (4) he is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district; or
- (5) he is:
  - (A) a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or
  - (B) a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence or establishing a commercial business within the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as a director and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land

located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board of a district covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

[Amended by Acts 1975, 64th Leg., p. 601, ch. 248, § 2, eff. May 20, 1975.]

#### § 51.0731. Election Date for Certain Directors

The election date for directors of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district shall be the first Saturday in April.

[Amended by Acts 1975, 64th Leg., p. 625, ch. 256, § 1, eff. Sept. 1, 1975.]

#### § 51.086. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

### SUBCHAPTER D. POWERS AND DUTIES

#### § 51.123. Acquisition of Property

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) The district may acquire the title to or an easement on property other than land held in fee. [Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 15, eff. June 10, 1981.]

#### § 51.139. Contracts for Materials, Machinery, Construction, Etc., for more than \$10,000

[See Compact Edition, Volume 2 for text of (a) to (e)]

(f) Repealed by Acts 1977, 65th Leg., p. 379, ch. 187, § 2, eff. Aug. 29, 1977.

[Amended by Acts 1977, 65th Leg., p. 379, ch. 187, § 2, eff. Aug. 29, 1977.]

#### § 51.140. Construction Bids

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a cashier's check on a responsible bank in the state for at least two percent of the total amount of the bid, or a bid bond of at least two percent of the total amount of the bid

issued by a surety legally authorized to do business in this state.

[See Compact Edition, Volume 1 for text of (b)]

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he forfeits the amount of the cashier's check which accompanied his bid, or if a bid bond has been given, the district shall have the legal remedies available under the bond.

[Amended by Acts 1977, 65th Leg., p. 378, ch. 187, § 1, eff. Aug. 29, 1977.]

#### § 51.1751. Additional Sources for Payment of Lease

(a) Notwithstanding any other provision of this chapter, a district may make payments from tax revenue under a lease of all or any part of an irrigation system as provided in Section 51.173 of this code if the lease is approved by a majority of the qualified voters voting at an election held for that purpose.

(b) An election for the approval of a lease shall be called and conducted, the returns canvassed, and notice of the election given under the same procedure as a bond election in the district. The election may be held on the same day as a bond election of the district.

(c) If the lease is approved at the election and authorized by the board of directors, it shall constitute an obligation against the taxing power of the district, and the district shall levy, assess, and collect taxes to the extent provided in the lease.

[Added by Acts 1979, 66th Leg., p. 883, ch. 403, § 2, eff. June 6, 1979.]

#### § 51.184. Preference in Use of Water

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) The board may implement the action prescribed in Subsection (b) or in Subsections (b) and (c) above, and shall obtain necessary amendments to the district's permit, certified filing, or certificate of adjudication in the manner provided in Section 11-122 of this code.

[Amended by Acts 1975, 64th Leg., p. 1250, ch. 473, § 1, eff. June 19, 1975; Acts 1981, 67th Leg., p. 980, ch. 367, § 16, eff. June 10, 1981.]

Section 2 of the 1975 Act provided:

"No action or proceeding commenced prior to the effective date of this Act and no right accrued by actual change prior to the effective date of this Act shall be affected by the enactment of this Act."

Section 3 thereof, the emergency provision, provided in part:

"The fact that a recent decision of the Austin Court of Civil Appeals may have limited the primary jurisdiction of the Texas Water Rights Commission to supervise and regulate changes in water rights and may have affected the jurisdiction of the commission to regulate and cancel water rights, and to administer the Water Rights Adjudication Act, creates an emergency."

#### § 51.190. Obtaining Topographic Maps and Data

The executive director shall furnish to a district topographic maps and data concerning all projects for the control of floods undertaken by the district

and all projects for the storage of water or creation of reservoirs undertaken by the district.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 51.195. Prohibited Charges and Fees**

(a) In this section, "undeveloped property" means property within the district to which water or sewer services are actually available and to which no water or sewer connections have been made.

(b) Except as provided in Subsection (c) of this section, no district in which the ratio of the assessed valuation of property to the amount of bonded indebtedness of the district is at least 15 to 1, proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district, may adopt and impose on the owners of undeveloped property in the district a charge or fee on the undeveloped property that is in addition to taxes levied on that property.

(c) If the board of directors of a district covered by this section desires to adopt and impose a charge or fee prohibited by Subsection (b) of this section, it shall submit to the commission a petition for authority to adopt and impose the charge or fee. If the commission finds that it will be in the best interest of the district and property owners of the district, the commission shall approve the adoption and imposition of the charge or fee for a period of not more than three years. The imposition of a charge or fee may be renewed for additional periods of three years in the manner provided in this section for initial approval of the charge or fee.

[Added by Acts 1979, 66th Leg., p. 437, ch. 198, § 1, eff. Jan. 1, 1980.]

Section 2 of the 1979 Act provided:

"This Act shall not apply to districts which do not as a principal function provide water and sewer services or either of these services to household users."

**SUBCHAPTER F. EMINENT DOMAIN**

**§ 51.273. Procedure for Trial**

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) The hearing shall be concluded with all reasonable dispatch, and shall be as summary in character as is consistent with full and complete justice. [Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(44), eff. Aug. 31, 1981.]

**§ 51.275. Appeal from Court's Decree**

The judgment of the district court may be appealed as in civil cases, and each appeal shall constitute a separate cause on the docket of the court of appeals. [Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 95, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part: "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

**SUBCHAPTER H. WASTE DISPOSAL AND CONTROL OF STORM WATER**

**§ 51.333. Approval of Petition Creating District**  
[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) The executive director and the division of sanitary engineering of the Texas Department of Health shall render technical aid concerning the petition and plans of the district.

[See Compact Edition, Volume 1 for text of (d)]  
[Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 17, eff. June 10, 1981.]

**SUBCHAPTER I. GENERAL FISCAL PROVISIONS**

**§ 51.356. Selection of Depository**

[See Compact Edition, Volume 1 for text of (a)]

(b) The depository shall execute a good and sufficient bond or security that will be the same as provided by law for a county depository approved by the board to fully protect the district and to guarantee the preservation of the funds and the accountability of the depository as provided by law. The bond or security shall be recorded in the district office and kept in a fireproof vault or safe.

[See Compact Edition, Volume 1 for text of (c)]  
[Amended by Acts 1975, 64th Leg., p. 566, ch. 223, § 1, eff. May 20, 1975.]

**§ 51.359. Repealed by Acts 1981, 67th Leg., p. 986, ch. 367, § 46, eff. June 10, 1981**

**SUBCHAPTER K. ISSUANCE OF BONDS**

**§ 51.409. Purposes for Issuance of Bonds**

The district may issue bonds to include:

- (1) the cost of organization of the district;
- (2) incidental expenses;
- (3) the cost of investigation and making plans;
- (4) the engineer's work and other incidental expenses;
- (5) the cost of retirement of preliminary bonds;
- (6) the cost of issuing and selling bonds;
- (7) the estimated discount on the bonds;
- (8) the cost of operation of district for the period of construction of the plant and improvements stated in the engineer's report;
- (9) an amount to pay interest on the bonds during the period stated in the engineer's report, which shall be not more than three years from the time the bonds are sold;
- (10) any additional cost or expense made necessary by any change or modification made in the proposed work by the district; and
- (11) the payment of interest on or the creation of a reasonable reserve to pay interest on bonds and notes of the district for a period of time not to exceed three years from the date of the bonds and notes of the district.

[Amended by Acts 1979, 66th Leg., p. 883, ch. 403, § 1, eff. June 6, 1979.]

**§ 51.421. Authority of Commission Over Issuance of District Bonds**

(a) The executive director shall investigate and report on the organization and feasibility of all districts that issue bonds under this chapter.

(b) Any district that desires to issue bonds under this chapter shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report which it shall file in its office and a copy of the report shall be furnished to the district.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 51.422. Commission Supervision of Projects and Improvements**

[See Compact Edition, Volume 1 for text of (a)]

(b) The executive director may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission.

[See Compact Edition, Volume 1 for text of (c) to (e)]

[Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 18, eff. June 10, 1981.]

**§ 51.425. Procedure in Validation Suit**

[See Compact Edition, Volume 1 for text of (a) to (d)]

(e) Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(50), eff. Aug. 31, 1981.

[Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(50), eff. Aug. 31, 1981.]

**§§ 51.434, 51.435. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 51.4371. Authorized Investments**

(a) Bonds and notes issued by a district are legal and authorized investments of banks, savings banks, trust companies, savings and loan associations, insur-

ance companies, fiduciaries, trustees, and sinking funds of cities, towns, counties, school districts, or other political subdivisions of the state and for all public funds of the state or its agencies, including the state permanent school fund.

(b) The bonds and notes of the district are eligible to secure deposits of public funds of the state or cities, towns, counties, school districts, or other political subdivisions or corporations of the state and are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

[Added by Acts 1981, 67th Leg., p. 323, ch. 129, § 1, eff. Aug. 31, 1981.]

**§ 51.445. Issuance of Bonds and Levy of Tax**  
[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) The bonds may be approved by the attorney general and registered by the comptroller before the filing of the report of the commission under Section 51.421 of this code.

[Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 19, eff. June 10, 1981.]

**SUBCHAPTER L. TAX PLAN**

**§ 51.509. Lien Created; No Limitation**

Charges or assessments imposed by a district for maintenance and operation of works, facilities, and services of the district shall constitute a lien against the land to which the charges or assessments have been established. No law providing limitation against actions for debt shall apply.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 51.534. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 51.537. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**SUBCHAPTER M. TAXATION ON THE AD VALOREM BASIS**

**§ 51.561. Assessment and Collection of District Taxes**

The assessor and collector shall assess and collect taxes for the district.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§§ 51.562 to 51.590. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§§ 51.592 to 51.601. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

SUBCHAPTER N. TAXATION ON THE  
BENEFIT BASIS

§ 51.652. **Setting Annual Value of Land Unnecessary**

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all land in the district, and it is not necessary to annually fix the value of the land. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land. [Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.653. **Preparing Tax Rolls**

(a) The board shall examine the tax rolls to determine if all property subject to taxation appears on the tax rolls under the proper classification. The board shall add to the tax roll any property which was left off and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board that his property has not been properly classified. The board shall consider the protest and enter its findings in the minutes. [Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.654. **Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 51.655. **Law Governing Administration of Benefit Tax Plan**

In a district that levies taxes on a benefit basis, the rate of taxation and the assessment and collection of taxes shall be governed by the law relating to ad valorem taxes to the extent applicable. [Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY AND CONSOLIDATING DISTRICTS

§ 51.712. **Duty to Advise Executive Director**

The board shall furnish the executive director a detailed description of the land excluded and a detailed description of the land included within 30 days after the exclusion and inclusion of land under the provisions of Sections 51.702-51.711 of this code. [Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 51.717. **Granting and Recording Petition**

The addition of land to the district by landowner's petition is final at the time the board grants the petition, and no other procedure, election, or action is required. A petition which is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county in which the land is located. [Amended by Acts 1981, 67th Leg., p. 324, ch. 129, § 2, eff. Aug. 31, 1981.]

Section 3 of the 1981 amendatory act provided:

"(a) This section applies to any water control and improvement district that has added or has attempted to add land by petition of a landowner to the district under Sections 51.714 through 51.717, Water Code, before the effective date of this section.

"(b) The proceedings for addition of land by each water control and improvement district covered by this section are validated in all respects as of the date on which the proceedings occurred. The proceedings may not be held invalid because any proceeding relating to the addition of land was not in accordance with law.

"(c) Without limiting Subsection (b) of this section, it is expressly provided that an attempted addition of land by a water control and improvement district covered by this section that occurred before the effective date of this section may not be held invalid because it did not comply with the procedures for addition of land by petition of a landowner to the district under Sections 51.714 through 51.717, Water Code, or because an election under Section 51.722, Water Code, was not held."

§ 51.734. **Governing Consolidated Districts**

[See Compact Edition, Volume 1 for text of (a) to (e)]

(f) The consolidation agreement may provide for the establishment of five voting precincts described in the agreement and for the election of one director from each precinct. A district that adopts the precinct method of election will retain that method if it elects to be governed by another chapter of this code.

[Amended by Acts 1977, 65th Leg., p. 1764, ch. 712, § 1, eff. Aug. 29, 1977.]

§ 51.737. **Exclusion of Land**

After a district is organized, acquires facilities, and votes, issues, and sells bonds for the purposes for which the district was organized, any land that has been added to the district by an order resulting from a petition of the owner or owners of the land added, may be excluded from the district by complying with the provisions of Sections 51.738 through 51.747 of this code.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.738. **Applicable Only to Land Annexed After Formation of District**

Sections 51.737 through 51.747 of this code shall only be applicable to land which was annexed after the district was formed and bonds were voted, issued, and sold.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.739. **Application to Exclude Land**

(a) A petition for exclusion of land under Sections 51.737 through 51.747 of this code must accurately describe the land to be excluded by metes and bounds or by reference to a plat recorded in the plat records of the county or counties in which the district is located.

(b) A petition for exclusion by the owner or owners of the land to be excluded shall be filed with the district at least 15 days before the hearing on the petition for exclusion and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**§ 51.740. Hearing**

On receipt of a petition to exclude land as provided in Sections 51.737 through 51.747 of this code, the board shall hold a hearing to consider the petition for exclusion.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**§ 51.741. Notice of Hearing**

When the board sets a hearing as provided in Section 51.740 of this code, the board shall publish notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 15 days and not more than 40 days before the date of the hearing.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**§ 51.742. Hearing Procedure**

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. At the hearing, the board shall first consider the petition or petitions for exclusion of land and shall hear evidence as to the grounds for exclusion. The board shall then give any voter or property owner within the district or other interested party an opportunity to be heard and present evidence with regard to approval of or protest against the proposed exclusion.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**§ 51.743. Grounds for Exclusion**

The board shall exclude land meeting the prerequisites of Sections 51.737 and 51.738 of this code, if it finds that either of the following grounds are present:

(1) to provide to the land to be excluded the necessary benefits, services, and protections on a basis substantially equal with the remainder of the district would create an undue economic burden on the remainder of the district, the land to be excluded, or the facilities of the district; or

(2) the anticipated or necessary financing for or availability of the necessary facilities, benefits, services, or protections to the land to be excluded are not reasonably available and no economically feasible alternative exists to provide the necessary facilities, benefits, services, or protections.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**§ 51.744. Findings by the Board**

Before determining to exclude any land under Sections 51.737 through 51.747 of this code, the board shall make the following findings:

(1) no district facilities have been installed on the land to be excluded;

(2) no district funds have been spent to construct or enlarge the facilities of the district for the sole purpose of providing benefits, services, or protections to the land to be excluded; and

(3) no bonds have been approved by the voters and issued by the district after the land to be excluded was annexed to the district.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**§ 51.745. Excluding Land**

After considering all engineering data and other evidence presented to it, if the board makes the findings provided in Section 51.744 of this code and determines that it would be in the best interest of the district to exclude the land, the board shall enter an order excluding all land meeting the conditions and shall redefine the boundaries of the district in order to embrace all land not excluded.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**§ 51.746. Payment of Taxes**

Before an order excluding land under Sections 51.737 through 51.747 of this code becomes effective, all taxes levied and assessed by the district on the land to be excluded shall be fully paid.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**§ 51.747. Review**

Any person owning an interest in land affected by the order excluding land may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order. The venue of the action shall be in a district court located in the county in which the district is located and shall be tried in accordance with Sections 51.699 through 51.701 of this code.

[Added by Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

**SUBCHAPTER P. DISSOLUTION OF DISTRICT****§ 51.804. Determining Amount of Tax**

(a) The value of all of the taxable property of the district shall be taken at the assessed value as determined in the manner provided by the Property Tax Code, and an amount equal to the total of the principal and all interest to maturity on the bonds voted plus the estimated cost of collection of taxes shall be assessed against the taxable property of the district on the ad valorem basis.

(b) The tax against the taxable property of each owner shall be that portion of the total principal and interest of the dissolution bonds and costs of collection which the assessed value of the taxable property of the owner bears to the total assessed values in the district.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 51.812. Dissolution Tax Roll**

Before the issuance and delivery of the bonds, the board shall have the amount of dissolution tax imposed on each property in the district and its orders relating to the time and manner of payment of the tax entered on the current tax roll for the district. [Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§§ 51.813 to 51.818. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 51.819. Filing Dissolution Tax Roll**

After the preparation of the dissolution tax roll, the board shall file the tax roll with the assessor and collector of the county or counties in which the district is located. [Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 51.820. Collection of Taxes**

The assessor and collector shall collect the taxes determined under Section 51.804 of this code on the land located in the county for which he is assessor and collector at the time and in the manner specified by the board in its various orders issuing the dissolution bonds and levying the taxes. [Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 51.824. Foreclosure of Lien**

The lien may be foreclosed in the manner prescribed in the Property Tax Code in a suit or suits brought in the name of the district by the board, or by the trustee or his successor as provided by the board. [Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 51.836. Taxes to Pay Indebtedness After Dissolution**

If a district has outstanding bonds or other indebtedness maturing beyond the current year in which the dissolution occurs, the commissioners court of the county in which the district is located shall levy and have assessed and collected, in the manner prescribed in the Property Tax Code sufficient taxes on all taxable property in the district to pay the principal of and interest on the bonds and other indebtedness when due. [Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**CHAPTER 52. UNDERGROUND WATER CONSERVATION DISTRICTS**

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 52.001. Definitions**

In this chapter:

(1) "Commission" means the Texas Water Commission.

(2) "Executive director" means the executive director of the Texas Department of Water Resources.

(3) "District" means an underground water conservation district created under this chapter.

(4) "Underground water" means water percolating below the surface of the earth and that is suitable for agricultural, gardening, domestic, or stock raising purposes, but does not include defined subterranean streams or the underflow of rivers.

(5) "Underground water reservoir" means a specific subsurface waterbearing reservoir having ascertainable boundaries and containing underground water that can be produced from a well at a rate of 150,000 gallons or more a day.

(6) "Subdivision of an underground water reservoir" means a reasonably definable part of an underground water reservoir in which the underground water supply will not be unreasonably affected by withdrawing water from any part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered.

(7) "Waste" means:

(A) withdrawal of underground water from an underground water reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from an underground water reservoir if the water produced is not used for a beneficial purpose;

(C) escape of underground water from an underground water reservoir to any other reservoir that does not contain underground water;

(D) pollution or harmful alteration of underground water in an underground water reservoir by salt water, other deleterious matter admitted from another stratum or from the surface of the ground; or

(E) wilfully causing, suffering, or permitting underground water to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well.

(8) "Use for a beneficial purpose" means use for:

(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

(C) any other purpose that is useful and beneficial to the user.

(9) "Segregated irrigated area" means an irrigated area separated from other irrigated areas by at least five miles of unirrigated land.

(10) "Subsidence" means the lowering in elevation of the land surface caused by withdrawal of groundwater.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### SUBCHAPTER B. CREATION OF DISTRICT

##### § 52.024. Designation of Reservoirs and Subdivisions

[See Compact Edition, Volume 1 for text of (a)]

(b) On the request of any person interested in the petition, or on the request of the commission, the executive director shall prepare available evidence relating to the existence, area, and characteristics of the reservoir or subdivision. Before making the designation, the commission shall consider the evidence prepared by the executive director and other evidence submitted at the hearing.

[See Compact Edition, Volume 1 for text of (c) and (d)]

[Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 20, eff. June 10, 1981.]

### CHAPTER 53. FRESH WATER SUPPLY DISTRICTS

#### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Section 53.0861. Election of Supervisors by Positions.

#### SUBCHAPTER B. CREATING AND DIVIDING A DISTRICT

##### § 53.029. Division of Certain Districts

A district located in a county having a population of 900,000 or more, according to the last preceding federal census, may be divided into two new districts if it has no outstanding bonded debt and is not levying ad valorem taxes. The division procedure is prescribed by Sections 53.030 to 53.041 of this code. [Amended by Acts 1981, 67th Leg., p. 598, ch. 237, § 139, eff. Sept. 1, 1981.]

#### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

##### § 53.062. Board of Supervisors

A district created under this chapter is governed by a board of five elected supervisors. Specific provisions for the election of supervisors are found in Section 53.021, Section 53.086, and Section 53.0861 of this code.

[Amended by Acts 1981, 67th Leg., p. 2665, ch. 720, § 2, eff. Aug. 31, 1981.]

##### § 53.0631. Disqualification of Members of the Board

(a) A person is disqualified from serving as a member of the board if:

(1) he is related within the third degree of affinity or consanguinity to a developer of property in the district or to a member of the board or the manager, engineer, or attorney for the district;

(2) he is an employee of any developer of property in the district or any other director, or the manager, engineer, or attorney for the district;

(3) he is a developer of property in the district;

(4) he is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district; or

(5) he is:

(A) a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence or establishing a commercial business within the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as a supervisor and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots

or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board of a district covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

[Amended by Acts 1975, 64th Leg., p. 602, ch. 248, § 3, eff. May 20, 1975.]

**§ 53.064. Terms of Office and Succession**

(a) The two first elected supervisors who receive the fewest number of votes at the creation election hold office until the first general election of officers following their election and the three first elected supervisors who receive the highest number of votes at the creation election hold office until the second general election of officers following their election. Their successors hold office for a term of two years.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1981, 67th Leg., p. 2665, ch. 720, § 1, eff. Aug. 31, 1981.]

Section 4 of the 1981 amendatory act provides:

“(a) Of the supervisors who are in office on the effective date of this Act, the two supervisors who received the fewest votes at the last district general election hold office until the first general election of officers of the district following the effective date of this Act, and the three supervisors who received the highest number of votes at the last district general election hold office until the second general election of officers of the district following the effective date of this Act. Successors to these directors serve for two-year terms.

“(b) If a supervisor holding office on the effective date of this Act was appointed to fill a vacancy and was not elected at the last general election, he is considered as being among those who received the fewest votes at the last general election.

“(c) In the case of a tie in number of votes at the last general election, the affected persons shall determine their priority under Subsection (a) by lot.”

**§ 53.074. Repealed by acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§§ 53.078 to 53.083. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 53.086. Date for General Elections**

(a) The district shall hold a general election every year to elect the appropriate number of supervisors. The District shall hold the election on the first Saturday in April.

(b) The assessor and collector shall be elected at the district's general election in even-numbered years.

[Amended by Acts 1981, 67th Leg., p. 2665, ch. 720, § 2, eff. Aug. 31, 1981.]

**§ 53.0861. Election of Supervisors by Positions**

The supervisors may adopt an order assigning position numbers to each supervisor's office, and

after adoption of the order, supervisors will be elected by position.

[Added by Acts 1981, 67th Leg., p. 2665, ch. 720, § 3, eff. Aug. 31, 1981.]

**§ 53.090. District Office**

[See Compact Edition, Volume 1 for text of (a)]

(b) After at least 25 qualified electors are residing in a district, on written request of at least five of these electors, the board shall designate a meeting place within the district. On the failure to designate the location of the meeting place within the district, five electors may petition the Texas Water Commission to designate a location, which may be changed by the board after the next election of members to the board.

[Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 21, eff. June 10, 1981.]

**SUBCHAPTER E. GENERAL FISCAL PROVISIONS**

**§ 53.149. Repealed by Acts 1981, 67th Leg., p. 986, ch. 367, § 46, eff. June 10, 1981**

**SUBCHAPTER F. BOND AND TAX PROVISIONS**

**§§ 53.191 to 53.196. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§§ 53.199, 53.200. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**CHAPTER 54. MUNICIPAL UTILITY DISTRICTS**

**SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT**

Section 54.0161. Review of Creation by County.

**SUBCHAPTER D. POWERS AND DUTIES**

54.2041. Prohibited Charges and Fees.  
54.2271. County Standards.

**SUBCHAPTER F. ISSUANCE OF BONDS**

54.5161. Review of Bond Projects by Counties.  
54.521. Use of Bond Proceeds to Pay Certain Interest.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 54.001. Definitions**

In this chapter:

(1) "District" means a municipal utility district operating under this chapter.

(2) "Board" means the board of directors of a district.

962

(3) "Director" means a member of the board of directors of a district.

(4) "Commission" means the Texas Water Commission.

(5) "Executive director" means the executive director of the Texas Department of Water Resources.

(6) "Public agency" means any city, the United States, the State of Texas, and any district or authority created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution, including any river authority, or any other political subdivision or governmental agency of the United States or the State of Texas.

(7) "City" means any incorporated city, town, or village of the State of Texas whether operating under general law or under its home-rule charter.

(8) "Extraterritorial jurisdiction" means the extraterritorial jurisdiction of a city as defined in Article I, Chapter 160, Acts of the 58th Legislature, 1963, as amended (Article 970a, Vernon's Texas Civil Statutes).

(9) "Sole expense" means the actual cost of the relocation, raising, rerouting, or changing grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

[Amended by Acts 1981, 67th Leg., p. 951, ch. 367, § 1, eff. June 10, 1981.]

#### SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT

##### § 54.016. Consent of City

[See Compact Edition, Volume 1 for text of (a)]

(b) If the governing body of a city fails or refuses to grant permission for the inclusion of land within its extraterritorial jurisdiction in a district within 120 days after receipt of a written request, a majority of the electors in the area proposed to be included in the district or the owner or owners of 50 percent or more of the land to be included may petition the governing body of the city and request the city to make available to the land the water or sanitary sewer service contemplated to be provided by the district.

[See Compact Edition, Volume 1 for text of (c) to (e)]

(f) A city may provide in its written consent for the inclusion of land in a district that a contract ("allocation agreement") between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district. The allocation agreement shall contain the following provisions:

(1) a method by which the district shall continue to exist following the annexation of all territory within the district by the city, if the district is

initially located outside the corporate limits of the city;

(2) an allocation of the taxes or revenues of the district or the city which will assure that, following the date of the inclusion of all the district's territory within the corporate limits of the city, the total annual ad valorem taxes collected by the city and the district from taxable property within the district does not exceed an amount greater than the city's ad valorem tax upon such property;

(3) an allocation of governmental services to be provided by the city or the district following the date of the inclusion of all of the district's territory within the corporate limits of the city;

(4) such other terms and conditions as may be deemed appropriate by the city.

(g) In addition to all the rights and remedies provided by the laws of the state in the event a district violates the terms and provisions of a city's written consent, the city shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the district and its officials to observe and comply with the terms and provisions prescribed in the city's written consent to the inclusion of land within the district.

(h) A city with a population of 1 million or less may provide in its written consent for the inclusion of land in a district that after annexation the city may set rates for water and/or sewer services for property that was within the territorial boundary of such district at the time of annexation, which rates may vary from those for other properties within the city for the purpose of wholly or partially compensating the city for the assumption of obligation under this code providing that:

(1) such written consent contains a contract entered into by the city and the persons petitioning for creation of the district setting forth the time and/or the conditions of annexation by the city which annexation shall not occur prior to the installation of 90 percent of the facilities for which district bonds were authorized in the written consent; and that

(2) the contract sets forth the basis on which rates are to be charged for water and/or sewer services following annexation and the length of time they may vary from those rates charged elsewhere in the city; and that

(3) the contract may set forth the time, conditions, or lands to be annexed by the district; and that

(4)(A) Each purchaser of land within a district which has entered into a contract with a city concerning water and/or sewer rates as set forth

herein shall be furnished by the seller at or prior to the final closing of the sale and purchase with a separate written notice, executed and acknowledged by the seller, which shall contain the following information:

- (i) the basis on which the monthly water and/or sewer rate is to be charged under the contract stated as a percentage of the water and/or sewer rates of the city;
- (ii) the length of time such rates will be in effect;
- (iii) the time and/or conditions of annexation by the city implementing such rates.

The provisions of Sections 50.301(d) through Section 50.301(n), as amended, and Section 50.301(p), Water Code, are herein incorporated by reference thereto, and are applicable to the separate written notice required by Section 54.016(h)(4).

A suit for damages under the provisions of these referenced sections must be brought within 90 days after the purchaser receives his or her first water and/or sewer service charge following annexation, or the purchaser loses his or her right to seek damages under this referenced section.

(B) The governing board of any district covered by the provisions of this subsection shall file with the county clerk in each of the counties in which all or part of the district is located a duly affirmed and acknowledged statement which includes the information required in Section 54.016(h)(4)(A) and a complete and accurate map or plat showing the boundaries of the district.

The provisions of Sections 50.302(c) through Section 50.302(j), Water Code, as amended, are herein incorporated by reference thereto.

[Amended by Acts 1975, 64th Leg., p. 247, ch. 98, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 2026, ch. 796, §§ 1, 4, eff. Aug. 27, 1979.]

Sections 2, 3, 5 and 6 of the 1979 amendatory act provided:  
 "Sec. 2. Each allocation agreement must be approved by the Texas Department of Water Resources prior to its implementation.  
 "Sec. 3. Notwithstanding any contrary provision of the law, a district which is a party to an allocation agreement, in accordance with Section 54.016(f), Water Code, as amended, shall continue to exist and perform those services provided by said contract after annexation of all of the territory within the district by the city which has entered into the contract. The district shall be abolished and the city shall succeed to all the remaining properties, powers, duties, assets, debts, liabilities, and obligations of the district on the date specified in the contract."  
 "Sec. 5. The provisions of this Act are severable. If any word, phrase, clause, paragraph, sentence, section, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be valid; and the legislature hereby declares that the Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, section, part, or provision.  
 "Sec. 6. All laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict."

**§ 54.0161. Review of Creation by County**

(a) If all or part of a proposed district is to be located outside the extraterritorial jurisdiction of a city, the commissioners court of the county in which the district is to be located may review the petition for creation and other evidence and information relating to the proposed district that the commissioners consider necessary. Petitioners for the cre-

ation of a district shall submit to the county commissioners court any relevant information requested by the commissioners court in the event a review is done.

(b) In the event of a review, the commissioners court shall submit to the commission, at least 10 days before the date set for the hearing on the petition, a written opinion stating whether or not the county would recommend the creation of the proposed district and stating any findings, conclusions, and other information that the commissioners think would assist the commission in making a final determination on the petition.

(c) In passing on a petition under this subchapter, the commission shall consider the written opinion submitted by the county commissioners.  
 [Added by Acts 1975, 64th Leg., p. 1293, ch. 485, § 1, eff. Sept. 1, 1975.]

**§ 54.019. Notice of Hearing**

(a) Notice of the hearing shall be published in a newspaper with general circulation in the county or counties in which the district is located once a week for two consecutive weeks. The first publication shall be at least 30 days before the date of the hearing.

(b) Notice of the hearing shall also be given by mailing a copy of the notice to each city which has extraterritorial jurisdiction in the county or counties in which the proposed district is located and which has formally requested notice of the creation of all districts in the county or counties in which the city's extraterritorial jurisdiction is located.

(c) The request by a city for notice of hearings on the creation of districts shall be filed annually with the commission during the month of January. The request shall state the names of not more than two persons who are to receive the notice on behalf of the city and the mailing address of the persons.

(d) A certificate of a representative of the commission that notice was mailed to all cities which have extraterritorial jurisdiction in the county or counties in which the proposed district is located and which have formally requested notice shall be conclusive evidence that notice was properly mailed to all these cities.

(e) At least 30 days before the date of the hearing, the petitioner shall send the notice of the hearing by certified mail, return receipt requested, to all fee simple landowners, as reflected on the county tax rolls, whose property is located within the proposed district except property owners who have signed the petition for creation. Ownership of the property shall be certified by the tax assessor and collector from the tax rolls as of the date of the filing of the petition with the Texas Department of Water Resources.

[Amended by Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

**§ 54.021. Granting or Refusing Petition**

(a) After the hearing of the petition if it is found that the petition conforms to the requirements of Section 54.015 of this code and that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district, the commission shall so find by its order and grant the petition.

(b) In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
  - (A) land elevation;
  - (B) subsidence;
  - (C) groundwater level within the region;
  - (D) recharge capability of a groundwater source;
  - (E) natural run-off rates and drainage;
  - (F) water quality; and
  - (G) total tax assessments on all land located within a district.

(c) If the commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, the commission shall so find and exclude all land which is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.

(d) If the commission finds that the petition does not conform to the requirements of Section 54.015 of this code or that the project is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall so find by its order and deny the petition.

(e) A copy of the order of the commission granting or denying a petition shall be mailed to each city having extraterritorial jurisdiction in the county or counties in which the district is located who requested notice of hearings as provided in Section 54.019 of this code.

[Amended by Acts 1975, 64th Leg., p. 1292, ch. 484, § 1, eff. Sept. 1, 1975.]

**§ 54.024. Supervision by Department**

The rights, powers, privileges, authority, and functions conferred on a district by granting of a petition for creation shall be subject to the continuing right of supervision of the state to be exercised by and through the Texas Department of Water Resources. [Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 54.029. Results of Election**

[See *Compact Edition, Volume 1 for text of (a) and (b)*]

(c) The order canvassing the results of the confirmation election shall contain a description of the district's boundaries, and shall be filed with the executive director and in the deed records of the county or counties in which this district is located.

[See *Compact Edition, Volume 1 for text of (d)*]

(e) Unless otherwise agreed, the two directors elected who received the fewest number of votes shall serve until the election following the confirmation election and the three who received the highest number of votes shall serve until the second succeeding election after the confirmation election.

[Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 22, eff. June 10, 1981.]

**§ 54.033. Conversion of District; Findings**

[See *Compact Edition, Volume 1 for text of (a) and (b)*]

(c) The findings of the commission entered under this section shall be subject to appeal or review within 30 days after entry of the order of the commission granting or denying the conversion.

[See *Compact Edition, Volume 1 for text of (d)*]

[Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 23, eff. June 10, 1981.]

**§ 54.036. Directors to Continue Serving**

The existing board of a district converted to a municipal utility district under the provisions of this chapter shall continue to serve as the board of the converted district until the first election dated provided by Article 2.01b of Vernon's Texas Election Code following conversion of the district, at which time five directors shall be elected to serve for such period of time and in the same manner as provided in Section 54.029 of this code for directors first elected for a district.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**SUBCHAPTER C. ADMINISTRATIVE PROVISIONS****§ 54.1021. Disqualification of Members of the Board**

(a) A person is disqualified from serving as a member of the board of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district, if:

(1) he is related within the third degree of affinity or consanguinity to a developer of property in the district or to a member of the board or the manager, engineer, or attorney for the district;

(2) he is an employee of any developer of property in the district or any other director, manager, engineer, or attorney for the district;

(3) he is a developer of property in the district;

(4) he is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district; or

(5) he is:

(A) a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence or establishing a commercial business within the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as director and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board of a district covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

[Amended by Acts 1975, 64th Leg., p. 600, ch. 248, § 4, eff. May 20, 1975.]

**§ 54.103. Election of Directors; Term of Office**

1983

(a) On the first available election date following the confirmation election provided in Article 2.01b of Vernon's Texas Election Code, an election shall be held in a district for the election of two directors who shall each serve two-year terms. One year after the election of the two directors for the two-year terms, an election shall be held in the district

for the election of three directors who shall be elected to serve two years. Thereafter, on the same date in each following year, there shall be an annual election of two directors in one year and three directors in the next year in continual sequence.

(b) All elections of directors shall be held in districts on one of the dates provided in Article 2.01b of Vernon's Texas Election Code.

(c) The permanent directors may assign position number to each director's office, in which case directors shall thereafter be elected by position and not at large.

[Amended by Acts 1975, 64th Leg., p. 263, ch. 109, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 54.123. Tax Assessor-Collector; Deputies**

[See Compact Edition, Volume 1 for text of (a)]

(b), (c) Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.

[See Compact Edition, Volume 1 for text of (d) and (e)]

[Amended by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.]

**SUBCHAPTER D. POWERS AND DUTIES**

**§ 54.204. Fees and Charges**

(a) A district may adopt and enforce all necessary charges, fees, including standby charges or rentals, in addition to taxes, for providing any district facilities or service.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1981, 67th Leg., p. 3156, ch. 828, § 7, eff. June 17, 1981.]

**§ 54.2041. Prohibited Charges and Fees**

(a) In this section, "undeveloped property" means property within the district to which water or sewer services are actually available and to which no water or sewer connections have been made.

(b) Except as provided in Subsection (c) of this section, no district in which the ratio of the assessed valuation of property to the amount of bonded indebtedness of the district is at least 15 to 1 may adopt and impose on the owners of undeveloped property in the district a charge or fee on the undeveloped property that is in addition to taxes levied by the district on that property.

(c) If the board of directors of a district covered by this section desires to adopt and impose a charge or fee prohibited by Subsection (b) of this section, it shall submit to the commission a petition for authority to adopt and impose the charge or fee. If the commission finds that it will be in the best interest of the district and property owners of the district, the commission shall approve the adoption and imposition of the charge or fee for a period of not more

than three years. The imposition of a charge or fee may be renewed for additional periods of three years in the manner provided in this section for initial approval of the charge or fee.

[Added by Acts 1979, 66th Leg., p. 437, ch. 198, § 1, eff. Jan. 1, 1980.]

Section 2 of the 1979 Act provided:  
 "This Act shall not apply to districts which do not as a principal function provide water and sewer services or either of these services to household users."

#### § 54.205. Adopting Rules and Regulations

A district may adopt and enforce reasonable rules and regulations to:

- (1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;
- (2) preserve the sanitary condition of all water controlled by the district;
- (3) prevent waste or the unauthorized use of water controlled by the district;
- (4) regulate privileges on any land or any easement owned or controlled by the district; and
- (5) provide and regulate a safe and adequate freshwater distribution system.

[Amended by Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 54.221. Repealed by by Acts 1981, 67th Leg., p. 3158, ch. 828, § 10, eff. June 17, 1981

#### § 54.2271. County Standards

Construction work of a district located wholly or partly outside the extraterritorial jurisdiction of a city shall meet standards established by the commissioners court of the county in which the district is located to protect local drainage and to prevent flooding in flood-prone areas.

[Added by Acts 1975, 64th Leg., p. 1294, ch. 485, § 2, eff. Sept. 1, 1975.]

#### § 54.228. Payment for Construction Work

(a) The district shall pay the contract price of construction contracts as provided in this section.

(b) The district will make progress payments under construction contracts monthly as the work proceeds, or at more frequent intervals as determined by the district engineer, on estimates approved by the district engineer.

(c) If requested by the district engineer, the contractor shall furnish a breakdown of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the district engineer may authorize material delivered on the site and preparatory work done to be considered if the consideration is specifically authorized by the contract and if the contractor furnishes satisfactory evidence that he has acquired title to the material and that it will be utilized on the work covered by this contract.

(d) In making progress payments, 10 percent of the estimated amount shall be retained until final completion and acceptance of the contract work. However, if the board, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, it shall authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, at its discretion may release to the contractor all or a portion of the excess amount.

(e) On completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(f) When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository to pay any balance due on the contract.

[Amended by Acts 1979, 66th Leg., p. 1801, ch. 733, § 1, eff. Aug. 27, 1979.]

#### SUBCHAPTER E. GENERAL FISCAL PROVISIONS

§ 54.309. Repealed by Acts 1981, 67th Leg., p. 986, ch. 367, § 46, eff. June 10, 1981; Acts 1981, 67th Leg., p. 3158, ch. 828, § 10, eff. June 17, 1981

#### SUBCHAPTER F. ISSUANCE OF BONDS

§ 54.516. Authority of Commission Over Issuance of District Bonds

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

[See Compact Edition, Volume 1 for text of (e)]  
 [Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 24, eff. June 10, 1981.]

§ 54.5161. Review of Bond Projects by Counties

(a) Before the commission gives final approval on any bond issue for the purpose of financing a project of a district located wholly or partly outside the extraterritorial jurisdiction of a city, the commission shall notify the county commissioners of the county in which the district is located that an application has been filed and give the county an opportunity within 30 days after notification to examine all

information on file and submit a written opinion from the commissioners court stating any findings, conclusions, or other information that the commissioners court considers important to the commission's final determination.

(b) In passing on the approval of a bond issue under this section, if a written opinion is submitted by the commissioners court, the commission shall consider the written opinion before taking final action.

[Added by Acts 1975, 64th Leg., p. 1294, ch. 485, § 3, eff. Sept. 1, 1975.]

**§ 54.517. Department Supervision of Projects and Improvements**

(a) During construction of projects and improvements approved by the commission, no substantial alterations may be made in the plans and specifications without the approval of the department in accordance with board rules.

(b) The executive director may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission.

(c) If the executive director finds that the project is not being constructed in accordance with the approved plans and specifications, he shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the executive director shall give written notice of this fact to the attorney general.

(e) After the attorney general receives this notice, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 54.521. Use of Bond Proceeds to Pay Certain Interest**

The district may use bond proceeds to pay or to establish a reasonable reserve to pay not more than three years' interest on the notes and bonds of the district as provided in the bond orders or resolutions. [Added by Acts 1979, 66th Leg., p. 882, ch. 402, § 1, eff. Aug. 27, 1979.]

**SUBCHAPTER G. TAXES**

**§ 54.602. Establishment of Tax Rate in Each Year**  
(a) Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 54.604. Assessment and Collection of District Taxes**

The assessor and collector shall assess and collect taxes for the district.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§§ 54.605 to 54.637. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code. Prior to repeal, § 54.633 was amended by Acts 1979, 66th Leg., p. 372, ch. 167, § 1.

**SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY; CONSOLIDATING AND DISSOLVING DISTRICTS**

**§ 54.727. Duty to Advise Executive Director**

The board shall furnish the executive director a detailed description of any land excluded from or annexed to the district within 30 days after the exclusion or annexation or as soon after that time as practicable.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**CHAPTER 55. WATER IMPROVEMENT DISTRICTS**

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 55.001. Definitions**

In this chapter:

(1) "District" means a water improvement district created under this chapter.

(2) "Board" means the board of directors of a water improvement district.

(3) "Commission" means the Texas Water Commission.

(4) "Executive director" means the executive director of the Texas Department of Water Resources.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION TO ARTICLE XVI, SECTION 59, DISTRICT**

**§ 55.040. Multi-County District: Petition**

Creation of a district composed of land in two or more counties may be initiated by presenting a petition to the commission signed by the owners of more than half the land in the proposed district or by 50 qualified property taxpaying electors of the territory of the proposed district. The petition shall describe the boundaries of the proposed district, request a hearing to determine the advisability of creating the district, and request an order for an election.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 55.041. Multi-County District: Notice of Hearing**

The commission shall give notice, stating the time and place of the hearing, to the commissioners court of each county where land in the proposed district is located. The county clerk of each county shall post a notice of the time and place of the hearing at the courthouse door.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

**§ 55.104. Election Date: General Rule**

Except as provided by Section 55.106 of this code, the general election of five directors shall be held in the district as provided by the Texas Election Code. [Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 55.107. Optional Conversion to Staggered Terms**

[See Compact Edition, Volume 1 for text of (a)]

(b) On the first available election date as provided by Article 2.01b of Vernon's Texas Election Code immediately succeeding adoption of the resolution, five directors shall be elected. Of the five elected, the two receiving the fewest votes shall serve for one year and the other three shall serve for two years. However, if the vote is such that two of them do not receive fewer votes than the other three, then the directors shall determine by lot which two will serve one year and which three will serve two years.

(c) After the election provided for in Subsection (b) of this section on the same date in each following year there shall be an annual election to elect successors for the directors whose terms expire, to hold office for terms of two years.

[Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 25, eff. June 10, 1981.]

**§ 55.117. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**SUBCHAPTER D. POWERS AND DUTIES**

**§ 55.193. Selling Water Rights**

(a) Any district which has a permit issued by the commission to construct a reservoir and to appropriate water from a stream or watershed for irrigation or other purposes may convey to another district an interest in the reservoir or water rights.

(b) The conveyance shall be recorded in the office of the county clerk of the county in which the property is located and in the office of the executive director.

(c) The conveyance, when filed, shall convey all rights in the interest conveyed which were held

under the permit by the district conveying the interest.

(d) After the conveyance is filed in the office of the executive director, the rights conveyed vest in the district to which the conveyance was made as if the rights were granted directly by the commission. [Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 55.198. Pumping and Delivering Water to Land Near District**

The district may enter into a contract with a person who owns or uses land in the vicinity of the district and who has a permit from the commission to appropriate water for use in irrigation or for domestic or commercial uses to pump or deliver the water to the person's land.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**SUBCHAPTER K. BORROWING MONEY**

**§ 55.455. Taxes on Uniform Basis**

(a) Any district which has the principal function of furnishing water for irrigation in the district may provide for the payment of principal and interest on any debts or obligations by levying taxes on land in the district on an equal or uniform basis with an equal charge per acre on each acre of land to be irrigated.

(b) The tax collector shall prepare a special tax roll showing each tract of land in the district, the number of acres in each tract, the total assessment of benefits on each tract, and the amount to be paid each year on each tract, and the roll shall be prepared or amended annually.

(c) The tax roll shall be examined, corrected, and approved by the board.

(d) The tax roll shall be prepared at the time and in the manner provided in the Property Tax Code. The valuation fixed on property shall be the assessment charge against each acre of land at the time the debt or obligation is incurred.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 55.458. Loan Fund**

[See Compact Edition, Volume 1 for text of (a) to (d)]

(e) After the loan fund is created and pledged, the action of the board in fixing the amount of the charge and in fixing the total annual charges for maintenance and operation may not be reviewed by the commission regardless of any law to the contrary.

[Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 26, eff. June 10, 1981.]

SUBCHAPTER L. ISSUANCE OF BONDS

§ 55.503. **Texas Department of Water Resources to Investigate and Report on Districts Issuing Bonds**

(a) The executive director shall investigate and report on the organization and feasibility of all districts issuing bonds under Texas law.

(b) Any district which desires to issue bonds shall submit to the commission a written application for investigation, together with a copy of the engineer's report and a copy of the data, profiles, maps, plans, and specifications prepared in connection with the report.

(c) The executive director shall examine these documents and shall visit the project and carefully inspect it, and may request and shall be supplied with additional data and information necessary to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and furnish a copy to the board of directors of the district.

(e) If the commission finally approves or refuses to approve the project or the issuance of the bonds for any improvement, it shall make a full written report, file the report in its office, and furnish a copy of the report to the board of directors of the district.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 55.508. **Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(51), eff. Aug. 31, 1981**

§ 55.528. **Operating Under a Limitation on Power to Incur Debt**

[See Compact Edition, Volume 1 for text of (a)]

(b) The board shall issue bonds in excess of the limitation to complete these works only after the commission has approved the plans and specifications of the original and uncompleted works together with the estimates of their cost.

[Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 27, eff. June 10, 1981.]

§ 55.529. **Issuing Bonds in Excess of Debt Limitation**

(a) If the plans, specifications, and estimates under Section 55.528 of this code are approved by the commission, the district shall publish notice once a week for three weeks that it intends to issue bonds in excess of the debt limitation to complete the works. The notice shall include the amount of the proposed bond issue and the time when a hearing will be held.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 28, eff. June 10, 1981.]

SUBCHAPTER M. AD VALOREM TAXATION

§ 55.581. **Assessment and Collection of District Taxes**

The assessor and collector shall assess and collect taxes for the district.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 55.582 to 55.599. **Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§§ 55.602, 55.603. **Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§§ 55.605 to 55.619. **Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Former § 55.610 was amended by repealing subsec. (c) by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(52).

§§ 55.621 to 55.624. **Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections enacted the Property Tax Code, constituting Title 1 of the Tax Code.

SUBCHAPTER N. TAXATION ON A BENEFIT BASIS

§ 55.673. **Setting Annual Value of Land Unnecessary**

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all land in the district, and it is not necessary to annually fix the value of the land. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 55.674. **Preparing Tax Rolls**

(a) The board shall examine the tax rolls to determine if all property subject to taxation appears on the tax rolls under the proper classification. The board shall add to the tax roll any property which was left off and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board that his property has not been properly classified. The board shall consider the protest, hear evidence, and enter its findings in the minutes.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 55.675. **Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

### § 55.676. Law Governing Administration of Benefit Tax Plan

In a district that levies taxes on a benefit basis, the rate of taxation and the assessment and collection of taxes shall be governed by the law relating to ad valorem taxes to the extent applicable.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

## CHAPTER 56. DRAINAGE DISTRICTS

### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

#### Section

- 56.0641. Election Procedures.  
56.0642. Applicability to Special Law Districts.

#### SUBCHAPTER I. ADDITION OF LAND

- 56.714. Adding Land by Petition of Landowner.  
56.715. Petition Signed and Executed.  
56.716. Hearing and Determination of Petition.  
56.717. Recording Petition.  
56.718. Adding Certain Territory by Petition.  
56.719. Hearing on Petition.  
56.720. Notice of Hearing.  
56.721. Resolution to Add Territory.  
56.722. Elections to Ratify Annexation of Land.  
56.723. Notice and Procedure of Election.  
56.724. Liability of Added Territory.  
56.725. Liability of Land Added to a District Operating Under Article XVI, Section 59, of the Texas Constitution.

### SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION TO ARTICLE XVI, SECTION 59, DISTRICT

#### § 56.022. Survey and Preliminary Plans

[See Compact Edition, Volume 1 for text of (a)]

(b) The engineer shall obtain information regarding land and outlets inside the proposed district from the Texas Department of Water Resources and from other sources, and he shall cooperate with the Texas Department of Water Resources in the discharge of its duties.

[See Compact Edition, Volume 1 for text of (c) to (e)]

[Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 29, eff. June 10, 1981.]

### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

#### § 56.064. Election of Directors

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) The first elected directors of the district hold office until the next regular election for state and county officers, and subsequent directors of the district are elected every two years at the general election except as otherwise provided by Subsection (e).

(e) The first elected directors of the districts in Calhoun, Galveston, Matagorda, and Victoria Counties hold office until April 15 of the next succeeding

odd-numbered year or until their successors have qualified. Subsequent directors of the district are elected every two years on the first Saturday in April in each odd-numbered year, for a term of two years beginning on April 15 following the election. [Amended by Acts 1975, 64th Leg., p. 1847, ch. 575, §§ 1 and 2, eff. Sept. 1, 1975.]

Section 5 of the 1975 amendatory act provided:

"In all drainage districts subject to this Act, the directors elected at the general election held on November 5, 1974, continue to hold office under the provisions of Article XVI, Section 17, of the Texas Constitution, until the directors chosen at the election on April 2, 1977, have qualified."

#### § 56.0641. Election Procedures

(a) In those districts referred to in Subsection (e) of Section 56.064, until otherwise ordered by the board of directors, the three persons receiving the highest number of votes at each election are elected. By order made before the 60th day preceding an election for directors, the board of directors in those districts referred to in Subsection (e) of Section 56.064 may order that the election of directors for that district shall be by position or place, designated as Place No. 1, Place No. 2, and Place No. 3. The order shall designate the place numbers in relation to the directors then in office, and these place designations shall be observed in all future elections. The person receiving the highest number of votes for each position or place is elected. Once the board of directors has adopted the place system for election, neither that board nor their successors may rescind the action.

(b) A person wishing to have his name printed on the ballot as a candidate for director in those districts referred to in Subsection (e) of Section 56.064 shall file a signed application with the secretary of the board of directors not later than 5 p.m. of the 31st day preceding the election.

(c) The board of directors in those districts referred to in Subsection (e) of Section 56.064 shall order the election, appoint the election judges, canvass the returns, and declare the results of the election. In other respects, the procedures for conducting the election and for voting are as specified in the Texas Election Code. The expenses of holding the election shall be paid out of the construction and maintenance fund of the district.

[Added by Acts 1975, 64th Leg., p. 1847, ch. 575, § 3, eff. Sept. 1, 1975.]

#### § 56.0642. Applicability to Special Law Districts

Subsection (e) of Section 56.064 and Section 56.0641 of this code apply to drainage districts created or governed by special law where the special law expressly adopts the provisions of Section 56.064 of this code or its predecessor statute (Article 8119, Revised Civil Statutes of Texas, 1925) or repeats its provisions, without change in substance, as those provisions existed at the time the special law was enacted; but they do not apply to any district established, reestablished, or otherwise affected by special law where the special law contains specific provisions relating to the method of selecting the govern-

ing body of the district which were at variance with the provisions of Section 56.064 of this code or its predecessor at the time the special law was enacted. [Added by Acts 1975, 64th Leg., p. 1848, ch. 575, § 4, eff. Sept. 1, 1975.]

**§ 56.073. Tax Assessor and Collector**

The county assessor and collector shall assess and collect taxes for the district.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§§ 56.074, 56.075. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 56.077. Separate Assessor and Collector**

(a) After a district is created and on the petition of 25 resident freeholders of the district, the commissioners court may order an election to determine whether or not the district will have a separate tax assessor and collector to assess and collect taxes. Notice of the election shall be given as in the original election.

(b) If the proposition is approved by a two-thirds vote, the commissioners court shall appoint a suitable person as assessor and collector, and the appointee shall assess and collect the district's taxes.

(c) The Property Tax Code governs the assessing and collecting of district taxes.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**SUBCHAPTER D. POWERS AND DUTIES**

**§ 56.119. Eminent Domain**

(a) Any district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through public and private lands necessary for making canals, drains, levees, and improvements in the district and for making necessary outlets thereto in any county in the state. A district which is not operating under Article XVI, Section 59, of the Texas Constitution may not condemn property used for cemetery purposes. No district may condemn right-of-way through any part of any incorporated city without the consent of the lawful authorities.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1975, 64th Leg., p. 253, ch. 102, § 1, eff. April 30, 1975.]

**SUBCHAPTER G. TAXATION PROVISIONS**

**§§ 56.243 to 56.246. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 56.250. Law Governing Districts Levying Taxes on the Benefit Basis**

A district that levies taxes on the benefit basis is governed by the provisions of this chapter. However, the rate of taxation and the assessment and collection of taxes is governed by the law relating to ad valorem taxes to the extent applicable and not inconsistent with this chapter.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**SUBCHAPTER H. DISSOLUTION**

**§ 56.298. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**SUBCHAPTER I. ADDITION OF LAND**

**§ 56.714. Adding Land by Petition of Landowner**

The owner of land may file with the board a petition requesting that the land described by metes and bounds in the petition be included in the district.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.715. Petition Signed and Executed**

The petition of the landowner to add his land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.716. Hearing and Determination of Petition**

The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the improvements of the district are sufficient to serve the added land without injuring land already in the district.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.717. Recording Petition**

A petition that is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county in which the land is located.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.718. Adding Certain Territory by Petition**

Landowners of a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board signed by a majority of the landowners in the territory or by 50 landowners if the number of landowners is more than 100.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.719. Hearing on Petition**

The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than 30 days from the date of the order.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.720. Notice of Hearing**

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least 15 days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least 15 days before the day of the hearing.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.721. Resolution to Add Territory**

If the board finds on hearing the petition that the addition would be of benefit to the district and that the district's improvements are sufficient to serve the added territory without injuring the land already in the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.722. Elections to Ratify Annexation of Land**

(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts, or taxes if the land is added to the district.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.723. Notice and Procedure of Election**

The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by Subchapter E of Chapter 58, Water Code.<sup>1</sup>

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

<sup>1</sup> Section 58.221 et seq.

**§ 56.724. Liability of Added Territory**

The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**§ 56.725. Liability of Land Added to a District Operating Under Article XVI, Section 59, of the Texas Constitution**

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit basis instead of the ad valorem basis. The agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment.

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose.

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district.

[Added by Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

**CHAPTER 57. LEVEE IMPROVEMENT DISTRICTS****SUBCHAPTER F. FISCAL PROVISIONS**

Section 57.178. Alternative Authority for Appointment and Duties of District Officials.

**SUBCHAPTER G. ISSUANCE OF BONDS**

57.217. Eligibility of District Bonds for Investments and Public Funds.

**SUBCHAPTER A. GENERAL PROVISIONS****§ 57.001. Definitions**

In this chapter:

[See Compact Edition, Volume 1 for text of (1) to (4)]

(5) "Executive director" means the executive director of the Texas Department of Water Resources.

(6) "Department" means the Texas Department of Water Resources.

(7) "Commission" means the Texas Water Commission.

[Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 30, eff. June 10, 1981.]

SUBCHAPTER B. CREATION OF DISTRICT

§ 57.015. Notice of Hearing

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) The order of the commissioners court shall direct the county clerk to mail notice of the hearing to the executive director in Austin, Texas. The notice shall state that the petition has been filed and shall include a statement of the petition's general purpose and the time and the place of the hearing. [Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 31, eff. June 10, 1981.]

§ 57.016. Investigation by Executive Director

(a) When the executive director receives the notice provided for in Section 57.015(d), he shall examine the proposed district, and do the work required to determine the necessity, feasibility, and probable costs of reclaiming the land of the district from overflow and of draining it properly. The executive director shall also determine the costs of organizing the district and maintaining it for two years.

(b) A representative of the executive director shall attend the hearing on the petition to create the district and file a written report with the commissioners court on matters which have been investigated. The executive director shall furnish the commissioners court any additional information that is required.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.025. Trial of Appeal and Judgment

(a) The district court shall set the appeal for a hearing. The appeal shall be tried de novo.

(b) The judgment of the district court shall be final and conclusive, and the decision shall be certified to the commissioners court for its further action.

[Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(45), eff. Aug. 31, 1981.]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 57.057. Election of Board of Directors

After creation of a district, an election may be held to determine whether or not directors for the district will be elected rather than appointed.

[Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, § 5a, eff. Aug. 29, 1977.]

§ 57.058. Number of Elected Directors

In districts which have elected boards, there shall be five directors on the board. In countywide districts, one director shall be elected by the electors of the entire district and one director elected from each county commissioners precinct by the electors of that precinct. In other districts, all five directors shall be elected from precincts within the district to be established by the commissioners court.

[Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, § 5b, eff. Aug. 29, 1977.]

§ 57.060. Petition

Before an election is held under Section 57.057 of this code, a petition, signed by at least 25 electors in each county commissioners precinct who are qualified to vote at an election for directors if a countywide election, or by 50 electors if less than countywide, shall be presented to the county judge requesting that an election be held in the district to determine whether or not directors for the district should be elected and, if so, to elect directors to serve until the next regular election for state and county officers. The petition shall include the name of one or more nominees for each director's position.

[Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 5c, eff. Aug. 29, 1977.]

§ 57.061. Procedure for Election

[See Compact Edition, Volume 1 for text of (a)]

(b) The election order shall designate the polling places which shall be the same as the polling places used in the last general election in the county, if a countywide election is held.

[See Compact Edition, Volume 1 for text of (c) and (d)]

(e) The district shall pay all expenses incident to calling and holding the election.

[Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 5d, eff. Aug. 29, 1977.]

SUBCHAPTER D. POWERS AND DUTIES

§ 57.092. General Powers of District

(a) The district may enter into all necessary and proper contracts and employ all persons and means necessary to purchase, acquire, build, construct, complete, carry out, maintain, protect, and in case of necessity, add to and rebuild all works and improvements within the district necessary or proper to fully accomplish a reclamation plan lawfully adopted for the district.

(b) The powers granted in this section are subject to the supervision and direction of the department or other authority created by law.

[Amended by Acts 1977, 65th Leg., p. 1247, ch. 483, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 983, ch. 367, § 32, eff. June 10, 1981.]

§ 57.093. Repealed by Acts 1979, 66th Leg., p. 1376, ch. 615, § 3, eff. Aug. 27, 1979

§ 57.094. Protesting Decision of Commission

(a) If the board or any interested person is dissatisfied with the action of the commission in finally approving or disapproving any plan of reclamation for the district, the board or the person may, within 15 days after the final action, file suit against the commission in the district court of the county in which the court of jurisdiction is located. The district shall be made a party defendant if the suit is on behalf of any other complaining person.

(b) The petition shall include the cause or causes of objection to the commission's action and shall show what interests of the petitioner are injuriously affected by the action.

(c) Process shall issue as in other cases.

(d) Upon final hearing, the court shall render its judgment and decree approving or disapproving the plan of reclamation, in whole or in part, in the manner that it may find to be equitable and just. The judgment stands for the action of the commission in such matters.

(e) An appeal may be taken, as in ordinary cases, from the judgment of the trial court, and the appeal shall have preference of hearing in the court of civil appeals. The judgment of the court of civil appeals is final and shall stand for the action of the commission with respect to the matters at issue in the suit. [Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 96, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981; Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(46), eff. Aug. 31, 1981.]

#### § 57.095. Authority to Go on Land

(a) The board, the engineer, the employees of the district, and representatives of the executive director are authorized to enter any land or go on any water for the purpose of examining the land with reference to the location of levees, drainage ditches, and all other kinds of improvements to be constructed for the district and for any other lawful purpose connected with their plan of reclamation, and may take any necessary teams, help, and instruments on the land or water.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1981, 67th Leg., p. 983, ch. 367, § 33, eff. June 10, 1981.]

#### § 57.101. Construction of Levees by Railroad Companies and Other Authorities

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) If a railroad or other authority undertakes to construct an improvement for the district, the design or manner of construction must be satisfactory to the district and must be approved by the commission.

[Amended by Acts 1981, 67th Leg., p. 983, ch. 367, § 34, eff. June 10, 1981.]

#### § 57.102. Repealed by Acts 1979, 66th Leg., p. 1376, ch. 615, § 3, eff. Aug. 27, 1979

#### § 57.104. Duty to Construct Approved Improvements

The district shall construct all improvements included in the plan of reclamation approved by the commission.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 57.108. Conditions of Contract

(a) In order to complete the acquisition or construction of planned improvements for the amount of money or bonds available for that purpose, the contract shall include all levee improvements proposed to be constructed and authorized by the approved plan of reclamation.

(b) Contracts may be awarded or entered in sections for the purpose of the purchase, acquisition, construction, and improvement of pumping equipment, reservoirs, culverts, bridges, and drainage improvements as these may become necessary, but as funds are available, the district shall comply with Section 57.104.

[Amended by Acts 1977, 65th Leg., p. 1247, ch. 483, § 2, eff. Aug. 29, 1977.]

#### § 57.109. Contractor's Bond

The contractor shall execute corporate surety bonds as required by general law for public works to guarantee the completion of the contract and the payment of laborers, subcontractors, materialmen, and suppliers.

[Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, § 3, eff. Aug. 29, 1977.]

#### § 57.117. Inspection and Report by Executive Director

(a) The executive director shall inspect the construction of a levee or other improvement once every 60 days after the construction work has commenced, and if he finds that the work has been done in strict accordance with the contract, the executive director shall certify this fact, and his certificate shall give a full description of the work done up to the date of inspection.

(b) If the executive director finds that the work has not been done in strict accordance with the contract, he shall officially certify this fact, and in the certificate he shall state where the contractor has failed to comply with the approved plan of reclamation.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 57.118. Compliance With Contract

After the board receives a report that the contractor has failed to comply with the contract, it shall demand that the contractor comply with the requirements of the approved plan of reclamation at his own expense, and no further accounts, claims or vouchers submitted by the contractor shall be approved or paid until the contractor complies with the requirements of the executive director by constructing the improvement in accordance with the plan of reclamation.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.120. Authority to Act Jointly

A district may act jointly with other districts, with cities and towns and other political subdivisions of the state, with the State of Texas, with other states, and with the United States in the performance of any of the powers and duties permitted by this chapter. The joint acts shall be done on terms agreed upon by the board, subject to the approval of the commission.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

SUBCHAPTER E. PLAN OF RECLAMATION

§ 57.151. Authority of Engineer

The engineer, subject to the authority of the department, shall control the engineering work of the district.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.152. Permission to Make Survey

The district may apply in writing to the executive director for authority to obtain information by proper surveys on the feasibility of reclaiming lands which may be later incorporated in the district, and if the executive director is satisfied that the applicant is competent and acting in good faith, he shall issue to the applicant express written authority to make surveys to obtain the desired information.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.154. Survey and Report

[See Compact Edition, Volume 1 for text of (a)]

(b) A duplicate of the engineer's report shall be filed with and approved by the commission.

[Amended by Acts 1981, 67th Leg., p. 983, ch. 367, § 35, eff. June 10, 1981.]

§ 57.156. Plan of Reclamation

(a) Before the engineer's report is adopted, the commission or the board, with the approval of the commission, may modify the report.

(b) When the engineer's report is approved by the commission and adopted by the board, it shall be known as "The Plan of Reclamation."

(c) An approved plan of reclamation cannot be modified or changed in any manner if the cost of the plan is over \$1,000 unless a petition, signed by the owners of a majority of the acreage in the district is presented to and approved by the commission.

(d) A copy of the plan of reclamation and of any amendments to it shall be filed with the county clerk in each county in which any land lies which will be affected by the plan of reclamation. The filing is notice of the contents of the plan of reclamation to all persons owning or having any interest in any lands in the county in which it is filed.

[Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS

§ 57.172. District Depository

[See Compact Edition, Volume 1 for text of (a)]

(b) The depository so selected shall provide for the security of the district's funds deposited in demand or time deposits in the manner provided by general law for the security of county deposits.

[Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, § 4, eff. Aug. 29, 1977.]

§ 57.174. Duties of Tax Assessor and Collector

The county assessor and collector shall assess and collect taxes for the district.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 57.175, 57.176. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 57.177. Financing the District Without Bonds

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c) If the district creates an indebtedness under this section, the indebtedness may not be more than:

- (1) the cost of construction of improvements included in the plan of reclamation;
- (2) the cost as approved by the commission of maintaining the improvements for two years; and
- (3) an additional amount equal to 10 percent to meet emergencies, modifications, and changes lawfully made, plus damages awarded against the district.

[Amended by Acts 1981, 67th Leg., p. 983, ch. 367, § 36, eff. June 10, 1981.]

§ 57.178. Alternative Authority for Appointment and Duties of District Officials

Notwithstanding any section or provision of this chapter to the contrary, the commissioners court of jurisdiction on its own motion may adopt and enter upon the minutes of such court an order permitting the district to select and appoint a treasurer and tax assessor and collector for the district. Thereafter, the board shall annually select and appoint the district's treasurer and tax assessor and collector and provide for their oaths, bonds, and compensation. Upon the appointment and qualification of such officials, the board and the district treasurer and the district tax assessor and collector shall have the powers, functions, duties, and responsibilities with respect to the levy of taxes, including maintenance taxes, when authorized, and the accounting, payment, investment, and handling of the district's funds, and the assessment and collection of taxes of the district as would otherwise be conferred in this chapter upon the county judge or commissioners court and the county treasurer and county tax assessor and collector respectively.

[Added by Acts 1977, 65th Leg., p. 1248, ch. 483, § 5, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

## SUBCHAPTER G. ISSUANCE OF BONDS

## § 57.202. Petition

[See Compact Edition, Volume 1 for text of (a)]

(b) The petition shall state the maximum rate of interest to be borne by the bonds and shall request that an election be held in the district to determine whether or not bonds should be issued by the district for the purposes indicated in this section and for the amount stated and whether or not taxes should be levied in the district to pay for the bonds.

(c) The amount of bonds stated in the petition shall not be more than the sum of:

(1) the estimated cost of the acquisition or construction of improvements to be made according to the adopted plan of reclamation approved by the commission;

(2) an amount to pay interest on the bonds during the period stated in the engineer's report, which shall not be more than two years from the time the bonds are issued as approved by the commission;

(3) the cost of maintenance of the improvements for two years as approved by the commission;

(4) an additional 10 percent to meet emergencies, modifications, and charges lawfully made; and

(5) all damages awarded against the district.

[Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 6, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 983, ch. 367, § 37, eff. June 10, 1981.]

## § 57.208. Issuance of Bonds

(a) If the issuance of bonds and the levy of taxes to pay for the bonds are approved by the electors of the district, the board may order the issuance of the bonds in one or more installments as the board may deem necessary from time to time up to the amount approved at the election.

[See Compact Edition, Volume 1 for text of (b)]

(c) The bonds shall be:

[See Compact Edition, Volume 1 for text of (c)(1)]

(2) signed by the chairman of the board; and

(3) attested by the secretary of the board with the seal of the district affixed to the bonds.

(d) The board shall fix the denominations, terms and conditions of the bonds and make them payable at an expedient time not more than 30 years from the date on the bonds.

[Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 7, eff. Aug. 29, 1977.]

## § 57.209. Approval of Bonds by Attorney General

(a) Before the bonds are delivered to the purchasers, a certified copy of all proceedings relating to organization of the district and issuance of the bonds and other relevant information shall be sent to the attorney general.

[See Compact Edition, Volume 1 for text of (b)]

[Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 7, eff. Aug. 29, 1977.]

## § 57.211. Sale of Bonds

(a) After the bonds are approved by the electors of the district, the board may appoint the county judge or another suitable person to assist in the sale of the bonds on the best terms and for the best price possible.

(b) The board shall give notice of all bond sales in the manner prescribed by Section 50.053, Water Code, as added by Chapter 262, Acts of the 63rd Legislature, Regular Session, 1973, and shall approve all bond sales, and no sale is complete until approved by the board.

(c) The county judge or other person appointed by the district to assist in selling the bonds is entitled to receive, as full compensation for his services in selling the bonds, an amount approved by the board.

(d) The board shall promptly pay the proceeds from the bond sales to the proper treasurer or depository, to the credit of the district.

[Amended by Acts 1977, 65th Leg., p. 1250, ch. 483, § 8, eff. Aug. 29, 1977.]

## § 57.213. Refunding Bonds

[See Compact Edition, Volume 1 for text of (a) to (c)]

(d) A district that taxes on the benefit basis and that is located in a county with a population of over 800,000, according to the last preceding federal census, may refund outstanding bonds or matured interest coupons on bonds issued by the district with new coupon bonds payable not more than 75 years from their date.

[See Compact Edition, Volume 1 for text of (e) to (h)]

[Amended by Acts 1981, 67th Leg., p. 598, ch. 237, § 140, eff. Sept. 1, 1981.]

## § 57.216. Providing for Additional Funds

[See Compact Edition, Volume 1 for text of (a)]

(b) If the board creates additional indebtedness or issues additional bonds, the indebtedness or bonds are subject to the provisions of this chapter relating to the issuance of bonds. The new or amended plan of reclamation must be approved by the commission.

[Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 38, eff. June 10, 1981.]

## § 57.217. Eligibility of District Bonds for Investments and Public Funds

A district's bonds, when certified and approved by the attorney general and registered by the comptroller as herein provided, shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns,

villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. A district's bonds shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons attached to them.

[Added by Acts 1977, 65th Leg., p. 1250, ch. 483, § 9, eff. Aug. 29, 1977.]

SUBCHAPTER H. TAX PROVISIONS

§ 57.251. Levy of Taxes on the Ad Valorem Basis

(a) If a district levies taxes on the ad valorem basis, it shall levy and have assessed and collected taxes on all taxable property in the district.

(b) The taxes must be sufficient to pay the interest on the bonds as it is due, and to raise a sufficient amount to create a sinking fund to redeem and discharge the bonds at maturity.

[Amended by Acts 1977, 65th Leg., p. 1251, ch. 483, § 10, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 57.252 to 57.257. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code. Prior to repeal, § 57.252 was amended by Acts 1977, 65th Leg., p. 1251, ch. 483, § 10.

§ 57.258. Assessment and Collection of Taxes for Districts With Land in More Than One County

[See Compact Edition, Volume 1 for text of (a) and (b)]

(c), (d) Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.

[Amended by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 57.266. Report of Commissioners of Appraisalment

(a) The commissioners of appraisalment shall prepare a report of their findings. The report shall include:

- (1) the name of the owner of each piece of property examined and assessed;
- (2) a description which will identify each piece of property; and
- (3) the value of all property to be taken or acquired for rights-of-way or any other purposes connected with carrying out the plan of reclamation as finally approved by the commission.

[See Compact Edition, Volume 1 for text of (b) to (d)]

[Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 39, eff. June 10, 1981.]

§ 57.277. Levy of Maintenance Tax

(a) If a maintenance tax is approved at an election, the commissioners court of each county in which any portion of the district is located shall levy and have assessed and collected taxes on all taxable property inside the district based on the net benefits to the property that will be accomplished by the plan of reclamation if the district provides for levying taxes on a benefit basis or on the value of each piece of property if the district provides for levying taxes on the ad valorem basis.

(b) The tax rate shall not be more than the specific rate approved at the election.

(c) The district shall use money obtained from the maintenance tax only for maintenance, upkeep, and repair, to make additions to the levees and other improvements in the district, and for other purposes stated in this chapter.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 57.279. Collection of Delinquent Taxes

(a) Taxes levied on the benefit basis under this chapter are a first and prior lien on all property against which they are assessed and are payable, mature, and become delinquent as provided in the Property Tax Code for ad valorem taxes.

(b) The Property Tax Code governs the collection of delinquent taxes levied on the benefit basis and the sale of property for the payment of the taxes.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 57.280 to 57.284. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

SUBCHAPTER I. DISSOLUTION

§ 57.345. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

CHAPTER 58. IRRIGATION DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Section 58.001. Definitions.

SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT

- 58.011. Creation of District.
- 58.012. Composition of District.
- 58.013. Petition.
- 58.014. Contents of Petition.
- 58.015. Place of Filing; Recording.
- 58.016. Board or Commission to Consider Creation of District.
- 58.017. Single-County District Hearing.
- 58.018. Single-County District; Notice of Hearing.
- 58.019. Single-County District; Name.

Section	
58.020.	Single-County District; Testimony at Hearing.
58.021.	Single-County District; Granting or Refusing Petition.
58.022.	Single-County District; Appeal from Order of Commissioners Court.
58.023.	Single-County District; Record on Appeal; Notice of Appeal.
58.024.	Single-County District; Hearing in District Court; Procedure.
58.025.	Single-County District; Judgment of District Court; Appeal.
58.026.	Single-County District; Appointment of Directors Bond.
58.027.	Multicounty District: Hearing by Commission.
58.028.	Multicounty District: Notice of Hearing.
58.029.	Multicounty District: Deposit Accompanying Petition.
58.030.	Multicounty District: Hearing of Commission; Procedure.
58.031.	Multicounty District: Appeal from Commission Decision.
58.032.	Multicounty District: Appointment of Directors by Commission; Bond.
58.033.	Order of Confirmation Election; Holding of Election; Preliminary Bond Proposition.
58.034.	Result of Election; Entry of Order.
58.035.	Inclusion of City, Town, or Municipal Corporation in District.
58.036.	Confirmation Election in District Including Land in More Than One County.
58.037.	Exclusion of Parts of District; Dissolution.
58.038.	Conversion of Certain Districts Into Districts Operating Under This Chapter.
58.039.	Conversion of District; Notice.
58.040.	Conversion of District; Findings.
58.041.	Effect of Conversion.
58.042.	Reservation of Certain Powers for Converted Districts.

## SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

58.071.	Board of Directors.
58.072.	Qualifications.
58.073.	Election of Directors; Term of Office.
58.0731.	Election of Directors from Precincts.
58.074.	Election to Replace Directors Temporarily Appointed by Commission.
58.075.	Application to Get on Ballot.
58.076.	Organization of Board.
58.077.	Director's Oath.
58.078.	Director's Bond.
58.079.	Compensation of Directors.
58.080.	Officers; Quorum.
58.081.	Vacancies.
58.082.	General Manager.
58.083.	Director as Manager.
58.084.	District Tax Assessor and Collector.
58.085.	Tax Assessor and Collector's Bond.
58.086.	Deputy Tax Assessor and Collector.
58.087.	Compensation of Tax Assessor and Collector and Deputies.
58.088.	Additional Duties.
58.089.	Bonds of Officers of a District Acting as Fiscal Agent or Collecting Money for the United States.
58.090.	Employees of the District.
58.091.	Employees' Compensation and Terms of Employment.
58.092.	Officer's and Employee's Bond.
58.093.	District Office.
58.094.	Meetings.
58.095.	Minutes.
58.096.	Recording Proceedings.
58.097.	Contracts.
58.098.	Suits.
58.099.	Payment of Judgment Against District.
58.100.	Actions Contesting District, Bonds, or Contracts; Suit by Attorney General.

## SUBCHAPTER D. POWERS AND DUTIES

58.121.	Purposes of District.
58.122.	Powers of District.

Section	
58.123.	Acquisition of Property.
58.124.	Planning.
58.125.	Construction of Improvements.
58.126.	Purchase of Machinery and Supplies.
58.127.	Adopting Rules.
58.128.	Effect of Rules.
58.129.	Publication of Rules.
58.130.	Effective Date of Rules.
58.131.	Penalties for Violation of Rule.
58.132.	Enforcement by Peace Officers.
58.133.	Constructing Bridges and Culverts across and over County and Public Roads.
58.134.	Constructing Culverts and Bridges across and under Railroad Tracks, Roadways, and Interurban or Street Railways.
58.135.	Right to Enter Land.
58.136.	Power to Contract.
58.137.	Investigation and Report to Engineer.
58.138.	Contracts for Materials, Machinery, Construction, Etc., for More Than \$10,000.
58.139.	Construction Bids.
58.140.	Reports Furnished to Prospective Bidders.
58.141.	Provisions of Contracts for Construction Work.
58.142.	Executing and Recording Construction Contract.
58.143.	Contractor's Bond.
58.144.	Reports on Construction Work.
58.145.	Payments under Construction Contract.
58.146.	Partial Payment of Construction Work.
58.147.	Joint Ownership Contracts.
58.148.	Election to Approve a Joint Ownership and Construction Contract.
58.149.	General Manager for Joint Projects.
58.150.	Transactions in District Names under Joint Ownership and Construction Contract.
58.151.	Joint Projects under Joint Ownership and Construction Contracts.
58.152.	Additional Powers of Districts under Joint Ownership and Construction Contracts.
58.153.	Contract with the United States.
58.154.	Construction Charges under a Contract with the United States.
58.155.	Election to Approve a Contract with the United States.
58.156.	Conveying Property to the United States.
58.157.	Consent of United States to Alter District's Boundaries.
58.158.	Taxes Levied by District under Contract with the United States.
58.159.	Assessments for Contracts with the United States.
58.160.	Duration of Annual Levies for Contracts with the United States.
58.161.	Superiority of Lien to Secure Contract with the United States.
58.162.	District's Authority to Solicit Cooperation, Donations, and Contributions from Other Agencies.
58.163.	Expense of Procuring Cooperation and Contributions from Other Agencies.
58.164.	Authority of Contributor.
58.165.	Issuance of Bonds by Contributor.
58.166.	Annual Tax by Contributor.
58.167.	Contributions from Unappropriated or Available Funds of Contributor.
58.168.	Liability on Contracts of Acquired Irrigation System.
58.169.	Authority to Lease Irrigation System Serving the District.
58.170.	Covenants and Agreements Included in Lease.
58.171.	Revenue for Payment of Lease Rental.
58.172.	Receiver for Leased Irrigation System.
58.173.	Joint Lease by Two or More Districts.
58.174.	Authority to Acquire Irrigation System Subject to Mortgage.
58.175.	Revenue for Payment of Mortgage.
58.176.	Election to Approve Revenue for Payment of Mortgage.
58.177.	Joint Acquisition of Mortgaged System by Two or More Districts.
58.178.	Authority to Lease Facilities to Water Customers.
58.179.	Expense of Relocation of Facilities.
58.180.	Amendments to Water Rights.

- Section
- 58.181. Suit to Protect Water Rights.
- 58.182. Transfer to Water Right.
- 58.183. Selling Waterpower Privileges.
- 58.184. Selling Surplus Water.
- 58.185. Pumping Water to Another District.
- 58.186. Obtaining Topographic Maps and Data.
- 58.187. Sale of Property not Required for District's Plans.
- 58.188. Notice of Sale of Property not Required for District's Plans.
- 58.189. Use of Proceeds from Sale of Property not Required for District's Plans.
- 58.190. Sale of Property not Acquired to Carry Out the Plans of the District.

SUBCHAPTER E. ELECTION PROVISIONS

- 58.221. Election Procedure.
- 58.222. Notice of Election.
- 58.223. Preparation and Delivery of Returns.
- 58.224. Canvass of Returns.

SUBCHAPTER F. EMINENT DOMAIN

- 58.261. Applicable Statutes.

SUBCHAPTER G. WATER CHARGES AND ASSESSMENTS

- 58.301. Statement Estimating Water Requirements and Payment of Charge.
- 58.302. Contracts with Person Using Water.
- 58.303. Authority to Determine Rules and Regulations.
- 58.304. Board's Estimate of Maintenance and Operation Expenses.
- 58.305. Distribution of Assessment.
- 58.306. Notice of Assessments.
- 58.307. Payment of Assessments.
- 58.308. Collection of Assessment by Tax Assessor and Collector.
- 58.309. Lien Against Crops.
- 58.310. List of Delinquent Assessments.
- 58.311. Water Service Discontinued.
- 58.312. Suits for Delinquent Assessments.
- 58.313. Interest and Collection Fees.
- 58.314. Rights of the United States.
- 58.315. Surplus Assessments.
- 58.316. Insufficient Assessments.
- 58.317. Determining Maintenance and Operation Charges.
- 58.318. Charges for Maintenance Expenses.
- 58.319. Charge to Cities and Towns.
- 58.320. Loans for Maintenance and Operating Expenses.
- 58.321. Water Service: Refused.

SUBCHAPTER H. GENERAL FISCAL PROVISIONS

- 58.351. Construction Fund.
- 58.352. Maintenance Fund.
- 58.353. Amortization and Emergency Fund.
- 58.354. Expenditure of District Funds.
- 58.355. Depository.
- 58.356. Selection of Depository.
- 58.357. Functions and Duties of Depository.
- 58.358. Selecting a Bank as Depository in Which a District Director Has an Interest.
- 58.359. District Audit.
- 58.360. Maintenance Tax.
- 58.361. Maintenance Tax Election.
- 58.362. Expenditure of Surplus Maintenance Tax Funds.

SUBCHAPTER I. BORROWING MONEY

- 58.391. Authority to Borrow Money.
- 58.392. Security for Loan.
- 58.393. Maturity Date of Loan.
- 58.394. Loan Secured by Bonds.
- 58.395. Expenditure of Loan Proceeds.
- 58.396. Loans Accomplished by Sale of District Bonds.
- 58.397. Pledge of Commercial Income.
- 58.398. Evidence of Debt.
- 58.399. Retiring Bonds.

SUBCHAPTER J. ISSUANCE OF BONDS

- Section
- 58.431. Authority to Issue Bonds of Districts Operating under Article III, Section 52, of the Texas Constitution.
- 58.432. Authority to Issue Bonds of Districts Operating under Article XVI, Section 59, of the Texas Constitution.
- 58.433. Amount of Debt Limited by Constitution.
- 58.434. Issuance of Preliminary Bonds.
- 58.435. Election on Preliminary Bonds.
- 58.436. Conditions of Preliminary Bonds.
- 58.437. Tax to Pay Preliminary Bonds.
- 58.438. Issuance of Bonds.
- 58.439. Purposes for Issuance of Bonds.
- 58.440. Engineer's Report.
- 58.441. Election Order.
- 58.442. Notice of Election.
- 58.443. Ballots.
- 58.444. Vote at Election.
- 58.445. Order to Issue Bonds or Execute Contract.
- 58.446. Record of Bond Proceedings Submitted to Attorney General.
- 58.447. Approval and Registration of Bonds.
- 58.448. Validity of Bonds.
- 58.449. Conditions of Bonds.
- 58.450. Form of Bonds.
- 58.451. Authority of Commission over Issuance of District Bonds.
- 58.452. Department Supervision of Projects and Improvements.
- 58.453. Validation Suit.
- 58.454. Effect of Prior Registration.
- 58.455. Procedure in Validation Suit.
- 58.456. Notice of Validation Suit.
- 58.457. Duties of Attorney General in Validation Suit.
- 58.458. Judgment in Validation Suit.
- 58.459. Effect of Validation Suit.
- 58.460. Certified Copy of Decree.
- 58.461. Registration of Bonds and Decree.
- 58.462. Sale of Bonds.
- 58.463. Tax Levy.
- 58.464. Adjustment of Tax Levy.
- 58.465. Repealed.
- 58.466. Interest and Sinking Fund.
- 58.467. Investment of Sinking Fund.
- 58.468. Refunding Bonds.
- 58.469. Limitation of Authority to Incur Debt and Issue Bonds.
- 58.470. Issuing Bonds in Excess of Limitation.
- 58.471. Modifications or Improvements.
- 58.472. Issuance of Additional Bonds or Creation of Additional Indebtedness under Certain Conditions.
- 58.473. Interim Bonds.
- 58.474. Limitations on Interim Bonds.
- 58.475. Issuance of Bonds and Levy of Tax.
- 58.476. Deposit of Bonds to Secure Interim Bonds.
- 58.477. Procedure for Issuance and Sale of Interim Bonds.
- 58.478. Payment of Interim Bonds.
- 58.479. Redemption of Interim Bonds.
- 58.480. Alternate Methods for Paying Bonds.
- 58.481. Taxes to Secure Certain Bonds.
- 58.482. Election.
- 58.483. Hearing and Election on Certain Bonds.
- 58.484. Hearing Before Issuing Certain Bonds.

SUBCHAPTER K. TAX PLAN

- 58.501. Tax to Pay Preliminary Bonds.
- 58.502. Hearing to Determine Basis of Taxation.
- 58.503. Notice of Hearing.
- 58.504. Conduct of Hearing.
- 58.505. Order.
- 58.506. Changing Tax Plan.
- 58.507. Effect of Sections 58.501 to 58.506 of This Code.
- 58.508. Unlimited Authority to Collect Service Charges and Taxes.
- 58.509. Lien Created; No Limitation.
- 58.510. Purpose of Sections 58.511 to 58.529 of Code.
- 58.511. Authority to Adopt Alternative Plans of Taxation.
- 58.512. Alternative Plans of Taxation.
- 58.513. Adoption of Plan of Taxation.

- Section  
 58.514. Notice of Adoption of Plan and Hearing.  
 58.515. Order Adopting Tax Plan.  
 58.516. Obtaining Funds to Construct, Administer, Maintain, and Operate Improvements and Facilities in Defined Part of District.  
 58.517. Defining Area and Designating Property to be Benefited by Improvements; Adopting Tax Plan.  
 58.518. Notice and Hearing.  
 58.519. Board's Order.  
 58.520. Procedure for Election.  
 58.521. Election not Required in Separate Election Precinct.  
 58.522. Ballots.  
 58.523. Declaring Result and Issuing Order.  
 58.524. Pledge of Faith and Credit.  
 58.525. Election in Separate Election Precinct.  
 58.526. Issuance of Bonds and Levy of Tax for Defined Area or Designated Property.  
 58.527. Contract to Provide Improvements, Facilities, and Services to Designated Property or Area.  
 58.528. Authority of District.  
 58.529. Administrative Authority of Board.

#### SUBCHAPTER L. TAXATION ON THE AD VALOREM BASIS

- 58.561. Assessment of District Property.  
 58.562. Law Governing Property Subject to Taxation.  
 58.563 to 58.584. Repealed.  
 58.585. Permanent Finance Ledger.  
 58.586 to 58.600. Repealed.  
 58.601. Audit.

#### SUBCHAPTER M. TAXATION ON THE BENEFIT BASIS

- 58.631. Method of Taxation for District under Contract with the United States.  
 58.632. Assessment Record.  
 58.633. Notice of Taxes.  
 58.634. Decision after Hearing.  
 58.635. Method of Taxation for District not under Contract with the United States.  
 58.636. Commissioners of Appraisalment.  
 58.637. Compensation of Commissioners.  
 58.638. Notice of Appointment and Meeting.  
 58.639. First Meeting of Commissioners.  
 58.640. Assistance for Commissioners.  
 58.641. Viewing Land and Other Property and Improvement in District.  
 58.642. Commissioners Report.  
 58.643. Notice of Hearing.  
 58.644. Hearing.  
 58.645. Witnesses at the Hearing.  
 58.646. Costs of Hearing.  
 58.647. Commissioners' Decree.  
 58.648. Effect of Final Judgment and Decree.  
 58.649. Fixing Tax as Equal Sum on Each Acre.  
 58.650. Election.  
 58.651. Setting Annual Value of Land Unnecessary.  
 58.652. Preparing Tax Rolls.  
 58.653. Rendition of Property.  
 58.654. Law Governing Administration of Benefit Tax Plan.  
 58.655. Irrigating Nonirrigable Land.

#### SUBCHAPTER N. ADDING AND EXCLUDING TERRITORY AND CONSOLIDATING DISTRICTS

- 58.691. Excluding Land from District.  
 58.692. Hearing to Announce Proposed Exclusions and to Receive Petitions.  
 58.693. Notice of Hearing.  
 58.694. Petition.  
 58.695. Grounds for Exclusion.  
 58.696. Hearing Procedure.  
 58.697. Order Excluding Land.  
 58.698. Suit to Review, Etc.  
 58.699. Venue of Suit.  
 58.700. Trial Procedure.

- Section  
 58.701. Appeal.  
 58.702. Exclusion of Nonagricultural and Nonirrigable Land from the District.  
 58.703. Prerequisite to Application for Exclusion.  
 58.704. Substituting Land of Equal Acreage and Value.  
 58.705. Securing Application to Substitute Land.  
 58.706. Application of Owner of New Land to be Substituted.  
 58.707. Consent of Outstanding Bondholders.  
 58.708. Notice of Hearing on Applications.  
 58.709. Hearing Procedure.  
 58.710. Board's Resolution to Substitute Land.  
 58.711. Liability of Excluded and Included Land.  
 58.712. Duty to Advise Commission.  
 58.713. Right to Serve New Land Included in District.  
 58.714. Adding Land by Petition of Landowner.  
 58.715. Petition Signed and Executed.  
 58.716. Hearing and Determination of Petition.  
 58.717. Recording Petition.  
 58.718. Adding Certain Territory by Petition.  
 58.719. Hearing on Petition.  
 58.720. Notice of Hearing.  
 58.721. Resolution to Add Territory.  
 58.722. Elections to Ratify Annexation of Land.  
 58.723. Notice and Procedure of Election.  
 58.724. Liability of Added Territory.  
 58.725. Liability of Land Added to a District Operating under Article XVI, Section 59, of the Texas Constitution.  
 58.726. Consolidation of Districts.  
 58.727. Elections to Approve Consolidation.  
 58.728. Governing Consolidated Districts.  
 58.729. Debts of Original Districts.  
 58.730. Assessment and Collection of Taxes.

#### SUBCHAPTER O. DISSOLUTION OF DISTRICT

- 58.781. Dissolution of District Prior to Issuance of Bonds.  
 58.782. Notice of Hearing.  
 58.783. Hearing.  
 58.784. Board's Order to Continue or Dissolve District.  
 58.785. Judicial Review of Board's Order.  
 58.786. Appointment of Trustee.  
 58.787. Discharge of District's Obligations by Trustees.  
 58.788. Discharge of Trustee.  
 58.789. Final Order of Dissolution.  
 58.790. Water Rights of Dissolved District.  
 58.791. Taxes in Excess of District's Obligations.  
 58.792. Permanent Record of Dissolved District.  
 58.793. Dissolution of District for Failure to Complete Plant.  
 58.794. Resolution to Dissolve District.  
 58.795. Statements of Indebtedness and Expenses.  
 58.796. Election to Approve Dissolution of District and Issuance of Dissolution Bonds.  
 58.797. Maximum Amount, Interest Rate, and Maturity of Bonds.  
 58.798. Notice of Election.  
 58.799. Procedure for Holding Election.  
 58.800. Issuance and Sale of Dissolution Bonds.  
 58.801. Destroying Unsold Bonds.  
 58.802. Board's Authority to Contract.  
 58.803. Tax to Pay Dissolution Bonds.  
 58.804. Determining Amount of Tax.  
 58.805. Payment of Tax.  
 58.806. Advance Payment of Taxes in Cash.  
 58.807. Computing Amount of Advance Cash Payment.  
 58.808. Surrender of Bonds in Payment of Taxes.  
 58.809. Computing Amount of Payment Made by Surrendering Bonds.  
 58.810. Use by Trustee of Advance Payments of Tax.  
 58.811. Approval and Registration of Dissolution Bonds.  
 58.812. Preparing Tax Roll.  
 58.813. Repealed.  
 58.814. Notice of Meeting as Board of Equalization.  
 58.815. Meeting as Board of Equalization.  
 58.816. Authority and Procedure as Board of Equalization.  
 58.817. Approving Tax Roll.  
 58.818. Approved Tax Roll not Subject to Revision.

Section  
 58.819. Repealed.  
 58.820. Collection of Dissolution Taxes.  
 58.821. Appointment of Trustee.  
 58.822. Authority to the Trustee.  
 58.823, 58.824. Repealed.  
 58.825. Default in Payment of Tax Installment.  
 58.826. Penalty and Attorney's Fee.  
 58.827. Discharge of Lien.  
 58.828. District Considered Dissolved.  
 58.829. Dissolution of District in Counties of Less Than 11,000 Population.  
 58.830. Petition for Dissolution of District.  
 58.831. Signatures on Petition.  
 58.832. Procedure for Holding Election.  
 58.833. Election in District Including City, Town, or Municipal Corporation.  
 58.834. Subsequent Election.  
 58.835. District Dissolved.  
 58.836. Taxes to Pay Indebtedness after Dissolution.

SUBCHAPTER A. GENERAL PROVISIONS

§ 58.001. Definitions

In this chapter:

- (1) "District" means an irrigation district.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commissioners court" means the commissioners court of the county in which a district or part of a district is located.
- (5) "Commission" means the Texas Water Commission.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 40, eff. June 10, 1981.]

[Sections 58.002 to 58.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT;  
 CONVERSION OF DISTRICT

§ 58.011. Creation of District

An irrigation district may be created under and subject to the authority, conditions, and restrictions of either Article III, Section 52, of the Texas Constitution, or Article XVI, Section 59, of the Texas Constitution.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.012. Composition of District

(a) A district may include all or part of one or more counties, including any town, village, or municipal corporation, and may include any other political subdivision of the state or any defined district, providing the land contained therein is agricultural in character.

(b) The areas composing a district do not have to be contiguous but may consist of separate bodies of land separated by land not included in the district; however, each segregated area, before it may be

included in the district, must cast a majority vote in favor of the creation of the district.

(c) No district may include territory located in more than one county except by a majority vote of the electors residing within the territory in each county sought to be included in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.013. Petition

(a) A petition requesting creation of a district shall be signed by a majority of the persons who hold title to land in the proposed district which represents a total value of more than 50 percent of the value of all the land in the proposed district as indicated by the county tax rolls. If there are more than 50 persons holding title to land in the proposed district, the petition is sufficient if signed by 50 of them.

(b) The petition may be signed and filed in two or more copies.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.014. Contents of Petition

The petition shall include:

- (1) the name of the district;
- (2) the area and boundaries of the district;
- (3) the provision of the Texas Constitution under which the district is to be organized;
- (4) the purpose or purposes of the district;
- (5) a statement of the general nature of the work to be done and the necessity and feasibility of the project, with reasonable detail and definiteness to assist the court or commission passing on the petition in understanding the purpose, utility, feasibility, and need; and
- (6) a statement of the estimated cost of the project based on the information available to the person filing the petition at the time of filing.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.015. Place of Filing; Recording

(a) The petition shall be filed in the office of the county clerk of the county in which the district is located. If land in more than one county is included in the district, copies of the petition certified by the clerk shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(b) The petition shall be recorded in a book kept for that purpose in the office of the county clerk.

(c) If more than one petition is filed and the petitions are identical except for the signature, one copy of the petition shall be recorded and all signatures on the other petitions shall be included.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

*see Hester*  
 \*

**§ 58.016. Board or Commission to Consider Creation of District**

If the land to be included in a district is within one county, the creation of the district shall be considered and ordered by the commissioners court, but if the land to be included in a district is in two or more counties, the creation of the district shall be considered and ordered by the commission.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.017. Single-County District; Hearing**

(a) If a petition is filed for the creation of a district within one county, the county judge shall issue an order setting the date of hearing on the petition by the commissioners court and shall endorse the order on the petition or on a paper attached to the petition.

(b) After the order is issued, the county clerk shall issue notice of the hearing.

(c) The petition may be considered at a regular or special session of the court.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.018. Single-County District; Notice of Hearing**

(a) The notice of hearing on the petition shall include a statement of the nature and purpose of the district and the date, time, and place of hearing.

(b) The notice shall be prepared with one original and three copies. The county clerk shall retain one copy of the notice in his files and deliver the original and two copies to the county sheriff.

(c) The sheriff shall post one copy of the notice at the courthouse door 15 days before the day of the hearing and shall publish one copy in a newspaper of general circulation in the county once a week for two consecutive weeks. The first newspaper publication shall be made at least 20 days before the day of the hearing.

(d) Before the hearing, the sheriff shall make due return of service of the notice with copy and affidavit of publication attached to the original.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.019. Single-County District; Name**

(a) A district located in one county may be named the \_\_\_\_\_ County Irrigation District Number \_\_\_\_\_ (insert the name of the county and proper consecutive number).

(b) A district may be known and designated by any term descriptive of the location of the district and descriptive of the principal powers to be exercised by the district; however, the word "district" shall be included in the designation and a consecutive number shall be assigned to it if other districts of the same name have been created in the county.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.020. Single-County District; Testimony at Hearing**

(a) At the hearing on the petition, any person whose land is included in or would be affected by the creation of the district may appear and contest the creation of the district and may offer testimony to show that the district:

(1) is or is not necessary;

(2) would or would not be a public utility or benefit to land in the district; and

(3) would or would not be feasible or practicable.

(b) The hearing may be adjourned from day to day.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.021. Single-County District; Granting or Refusing Petition**

(a) The commissioners court or the commission shall grant the petition requesting the creation of a district if it appears at the hearing that:

(1) organization of the district as requested is feasible and practicable;

(2) the land to be included and the residents of the proposed district will be benefited by the creation of the district;

(3) there is a public necessity or need for the district; and

(4) the creation of the district would further the public welfare.

(b) If the commissioners court or the commission fails to make the findings required by Subsection (a) of this section, it shall refuse to grant the petition.

(c) If the commissioners court or the commission finds that any of the land sought to be included in the proposed district will not be benefited by inclusion in the district, it may exclude that land not to be benefited and shall redefine the boundaries of the proposed district to include only the land that will receive benefits from the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.022. Single-County District: Appeal from Order of Commissioners Court**

(a) If the commissioners court grants or refuses to grant the petition, any person who signed the petition or any person who appears and protests the petition and offers testimony against the creation of the district may appeal from the order of the court by giving notice of appeal in open court at the time of the entry of the order, which shall be entered on the court's docket, and by filing with the clerk of the commissioners court within five days a good and sufficient appeal bond in the amount of \$2,500.

(b) The appeal bond shall be approved by the clerk of the commissioners court payable to the county judge conditioned for the prosecution of the appeal

with effect and the payment of all costs incurred with the appeal in the event the final decree of the court is against the appellant.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.023. Single-County District: Record on Appeal; Notice of Appeal**

(a) On completion of an appeal as provided in Section 58.022 of this code, the clerk of the commissioners court shall, within 10 days, prepare a certified transcript of all orders entered by the commissioners court and transmit them with all original documents, processes, and returns on processes to the clerk of the district court to which the appeal is taken.

(b) All persons shall be charged with notice of the appeal without notice or service of notice. No person who fails to appear by petition, in person, or by attorney in the commissioners court may be permitted to intervene in the district court trial.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.024. Single-County District: Hearing in District Court; Procedure**

(a) The district court, either in term time or in vacation time, shall schedule the appeal for hearing with all reasonable dispatch.

(b) In the proceeding in the district court, formal pleadings shall not be required but, with the court's permission, may be filed.

(c) The trial and decision shall be by the court without the intervention of a jury, and the hearing shall be conducted as though the jurisdiction of the district court were original jurisdiction.

(d) The following matters may be contested in the district court:

(1) all matters that were or might have been presented in the commissioners court;

(2) the validity of the Act under which the district is proposed to be created; and

(3) the regularity of all previous proceedings.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(47), eff. Aug. 31, 1981.]

**§ 58.025. Single-County District: Judgment of District Court; Appeal**

(a) In the appeal, the district court shall apply to the determination its full powers to the end that substantial justice may be done.

(b) An appeal from the judgment of the district court may be taken as in other civil causes, but appeals filed under Section 58.022 of this code shall be given precedence on the docket of any higher court over all causes that are not of similar public concern.

(c) The final judgment of the district court, or other court to which an appeal may be prosecuted,

shall be certified and transmitted to the clerk of the commissioners court with all original documents and processes which were transmitted from the commissioners court to the district court on appeal.

(d) The commissioners court shall enter its order on the petition to conform to the decree entered by the court of final jurisdiction and shall enter other and further orders as may be required by law to execute the intent of the certified decree.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.026. Single-County District: Appointment of Directors; Bond**

(a) If the commissioners court grants a petition for creation of a district, it shall appoint five directors who shall serve until their successors are elected or appointed in accordance with law.

(b) Each director shall, within 15 days after appointment, file his official bond in the office of the county clerk, and the county clerk shall present the bond to the county judge for approval. The county judge shall pass on the bond and approve it, if it is proper and sufficient, or disapprove it and shall endorse his action on the bond and return it to the county clerk.

(c) If approved, the bond of a director shall be recorded in a record kept for that purpose in the office of the county clerk, but if a bond is not approved, a new bond may be furnished within 10 days after disapproval.

(d) If any director appointed under this section fails to qualify, the commissioners court shall appoint another person to replace him.

(e) Each director appointed under this section shall take the oath of office as provided by Section 58.077 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.027. Multicounty District: Hearing by Commission**

(a) The commission shall have exclusive jurisdiction and power to hear and determine all petitions for creation of a district that will include land or property located in two or more counties.

(b) The orders of the commission concerning the organization of a district shall be final, unless an appeal is taken from the orders as provided in this subchapter.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.028. Multicounty District: Notice of Hearing**

(a) When a petition is filed, the commission shall give notice of a hearing in the manner provided in Section 58.018 of this code.

(b) The notice shall be posted at the courthouse door, on the bulletin board used for posting legal notices, in each county in which the district may be located.

(c) The notice shall be published in one or more newspapers with general circulation in the area of the proposed district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.029. Multicounty District: Deposit Accompanying Petition**

(a) A petition to create a multicounty district shall be accompanied by a deposit of ~~\$250~~<sup>\$600</sup> for the use of the state, and no part of the deposit may be returned except as provided in Subsection (c) of this section.

(b) The deposit shall be placed with the state treasurer to be held in trust outside the state treasury until the commission either grants or refuses the petition. At the time of action on the petition, the commission shall direct the state treasurer to transfer the deposit into the general revenue fund.

(c) If at any time before the hearing on the petition, the petitioners withdraw the petition, and only in that event, the commission shall direct the refund of the deposit to petitioners or their attorney of record. The receipt of the attorney of record shall be sufficient receipt for the return of the money.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.030. Multicounty District: Hearing of Commission; Procedure**

(a) The commission shall hear, consider, and determine on the issues a petition filed under Section 58.028 of this code.

(b) At the hearing of the petition, the commission shall be governed by the provisions of Section 58.021 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.031. Multicounty District: Appeal from Commission Decision**

(a) When the commission grants or refuses a petition, any person who comes within the requirements specified in Sections 58.020–58.025 of this code may prosecute an appeal from the judgment of the commission under Sections 58.022–58.025 of this code.

(b) The appeal may be taken to any district court in any county in which part of the proposed district is located or to a district court in Travis County.

(c) The time within which an appeal bond may be approved and filed is 15 days after the entry of the final order by the commission.

(d) On the perfection of the appeal, the appellant shall pay the actual cost of the transcript of the record, which will be assessed as part of the costs incurred on the appeal.

(e) Whenever practicable, the original documents and processes with the returns attached shall be sent to the district court.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.032. Multicounty District: Appointment of Directors by Commission; Bond**

(a) If the commission grants the petition for creation of the district, it shall appoint five directors, who shall serve until their successors are elected or appointed.

(b) A certified copy of the order of the commission granting a petition and naming the directors shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(c) Each director named in the order shall, within 15 days after appointment, file his official bond in the office of the county clerk of the county of his residence. The county clerk shall present the bond to the county judge for approval.

(d) The county judge shall act on each bond in the manner provided in Section 58.026 of this code.

(e) If any director appointed under this section fails to qualify, the commissioners court of the county in which he lives shall appoint some qualified person to replace him.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.033. Order of Confirmation Election; Holding of Election; Preliminary Bond Proposition**

(a) Within 30 days after the date of the first meeting of the board and before the district may incur any indebtedness other than for its operation and the holding of an election, the board shall issue and publish an order calling an election in the district to confirm the creation of the district.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Confirmation of the district."

(c) The election shall be held in the manner provided for other elections.

(d) At the election, the proposition for the issuance of preliminary bonds may also be submitted to the district electors. Separate ballot boxes shall be provided for the different classifications of voters.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.034. Result of Election; Entry of Order**

(a) If the majority of those voting at an election held under Section 58.033 of this code vote in favor of the confirmation of the district, the district is confirmed and ratified, but if the majority of those voting at the election vote against the confirmation of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

(b) If the majority of those voting at the election favor the confirmation of the district and the result is declared, the board shall enter in their minutes an order substantially as follows: "An election having

been held in \_\_\_\_\_ district on the \_\_\_ day of \_\_\_, for the purpose of voting on the confirmation of the creation of the district and the results of the election resulted in a vote of \_\_\_ votes for confirmation and \_\_\_ votes against confirmation of the district. The district is therefore declared to have been legally organized with the following boundaries: (Describe boundaries)."

(c) The order shall be signed by a majority of the board and acknowledged by the president of the board. The order shall be filed for record in the office of the county clerk of any county in which the district is situated and recorded in the deed records. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.035. Inclusion of City, Town, or Municipal Corporation in District**

(a) No city, town, or municipal corporation may be included within any district created under this chapter unless the proposition for the creation of the district has been adopted by a majority of the electors in the city, town, or municipal corporation.

(b) Any municipal corporation included within a district shall be a separate voting district, and the ballots cast within the municipal corporation shall be counted and canvassed separately from the remainder of the district.

(c) No district that includes a city, town, or municipal corporation may include land outside of the municipal corporation unless the election to confirm and ratify the creation of the district favors the creation of the district independent of the vote within the municipal corporation.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.036. Confirmation Election in District Including Land in More Than One County**

No district, the major portion of which is located in one county, may be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is adopted by those voting in the other county.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.037. Exclusion of Parts of District; Dissolution**

(a) If any portion of a district governed by Sections 58.035 and 58.036 of this code votes against the creation of the district and the remainder of the district votes for the creation, the district is confirmed and ratified in those portions of the district voting for the creation, and the district is composed only of those portions.

(b) The excluded portions of the district shall be excluded from all debts and obligations incurred after the election; however, all land and property

included in the original district shall be subject to the payment of taxes for the payment of all debts and obligations, including organizational expenses, incurred while it was a part of the district.

(c) If a district is created and portions of the proposed district are excluded by the vote in those portions, 10 percent of the voters in the district may file with the Board a petition asking for a new election on the issue. A new election shall be ordered and held for the remaining portion of the district or the district organization may be dissolved by order of the board and a new district formed.

(d) A petition requesting a new election shall be filed within 30 days after the day on which the result of the election is canvassed and declared by the board.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.038. Conversion of Certain Districts Into Districts Operating under This Chapter**

(a) Any water improvement district or water control and improvement district which furnishes water for irrigation and does not furnish treated water or sewer services may be converted into a district operating under this chapter.

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that, in its judgment, conversion into an irrigation district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.039. Conversion of District; Notice**

(a) Notice of the adoption of a resolution under Section 58.038 of this code shall be given by publishing the resolution in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication not less than 14 full days before the time set for a hearing.

(c) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the resolution in full; and
- (3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.040. Conversion of District; Findings**

(a) If, on a hearing, the governing body of the district finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding and the district shall become a district operating under this chapter.

(b) If the governing body finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the governing body of a district entered under this section are final and not subject to appeal or review.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.041. Effect of Conversion**

A district that converts into a district operating under this chapter shall:

(1) be constituted an irrigation district operating under and governed by this chapter;

(2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and

(3) have and may exercise all the powers, authority, functions, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.042. Reservation of Certain Powers for Converted Districts**

(a) Any water improvement district or water control and improvement district, after conversion under Section 58.038 of this code, may continue to exercise all necessary specific powers under any specific conditions provided by the chapter of this code under which the district was operating before conversion, except that no district, after conversion, may engage in the treatment or delivery of treated water for domestic consumption or the construction, maintenance, or operation of sewage facilities.

(b) At the time of making the order of conversion, the governing body shall specify in the order the specific provisions of the chapter of the code under which the district had been operating which are to be preserved and made applicable to the operations of the district after conversion into a district operating under this chapter.

(c) A reservation of a former power under Subsection (a) of this section may be made only if this chapter does not make specific provision concerning a matter necessary to the effectual operation of the converted district.

(d) In all cases in which this chapter does make specific provision, this chapter shall, after conversion, control the operations and procedure of the converted district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.043 to 58.070 reserved for expansion]

**SUBCHAPTER C. ADMINISTRATIVE PROVISIONS****§ 58.071. Board of Directors**

The governing body of a district is the board of directors, which shall consist of five directors.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.072. Qualifications**

To be qualified for election as a director, a person must be a resident of the state, be the owner of record of fee simple title to land in the district, and be at least 18 years of age.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.073. Election of Directors; Term of Office**

(a) An election shall be held in the district on the first available election date provided by Article 2.01b of Vernon's Texas Election Code following the confirmation election to elect five directors.

(b) The three directors receiving the highest number of votes shall serve as directors for two years, and the other two directors shall serve for one year.

(c) One year after election of the two directors for one-year terms, two directors shall be elected to serve for two years.

(d) After the second election of directors, an election shall be held each year with three directors elected one year and two the next year in continuing sequence.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 58.0731. Election of Directors from Precincts**

A district that elected one director from each of five precincts before it converted to a district operating under this chapter shall continue to elect its directors in the same manner from precincts.

[Added by Acts 1979, 66th Leg., p. 70, ch. 44, § 1, eff. April 11, 1979.]

**§ 58.074. Election to Replace Directors Temporarily Appointed by Commission**

(a) A district organized by order of the commission shall elect five directors at the election which is held to confirm the creation of the district. The names of the five appointed directors shall be placed on the ballot, with a blank space left to write in the names of other persons.

(b) If the appointed directors are elected, they shall be confirmed without the necessity of furnishing new bonds and shall continue in office.

(c) If any of the appointed directors are not elected, the person or persons elected in their places must furnish bond, which shall be approved in the manner provided for directors first appointed.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.075. Application to Get on Ballot**

A candidate for the office of director or other elective office may file an application with the secretary of the board to have his name printed on the election ballot. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed at least 20 days before the date of the election.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.076. Organization of Board**

After a district is created and the directors have qualified, the board shall meet, elect a president, vice-president, and secretary, and begin the discharge of its duties.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.077. Director's Oath**

Each director shall take the oath of office prescribed by law for county commissioners.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.078. Director's Bond**

(a) Each director shall execute a good and sufficient bond for \$5,000, payable to the district, conditioned on the faithful performance of his duties.

(b) After the creation of the district and the qualification of the first board of directors, all bonds required to be given by a director or other officer of the district are subject to the approval of the board.

(c) The county clerk of the county in which the director lives shall record each bond in the bond records of the county. The bond also shall be recorded in a bond record in the district office and filed for safekeeping in the depository of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.079. Compensation of Directors**

(a) A director is entitled to receive compensation of not more than \$25 a day for each day he actually spends performing his duties as a director, but the fees shall not be more than \$100 for any one month.

(b) Before a director may receive compensation for his services, he shall file with the secretary a verified statement showing the number of days actually spent in the service of the district. The

statement shall be filed on the last day of the month or as soon after that time as possible.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.080. Officers; Quorum**

(a) The president is the chief executive officer of the district and presides at all meetings of the board. The vice-president shall act as president in case of the absence or disability of the president. The secretary is secretary of the board and is responsible for seeing that all records and books of the district are properly kept. In the case of the absence or inability of the secretary to act, the board shall select a secretary pro tem.

(b) Three directors constitute a quorum for any meeting, and a concurrence of three is sufficient for transacting any business of the district except letting construction contracts and drawing warrants on the depository for payment of the contracts, which require the concurrence and signatures of four directors. Warrants to pay current expenses, salaries, and accounts may be drawn by an officer or employee designated by standing order entered in the minutes when these accounts have been contracted and ordered paid by the directors.

[Added by Acts 1977, 65th Leg., p. 1527, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.081. Vacancies**

(a) All vacancies on the board and in other offices shall be filled for the unexpired term by appointment of the board.

(b) If the number of directors is reduced to fewer than three, the vacancies shall be filled by special election order by the remaining members of the board. If the director or directors fail to order an election within 15 days after the vacancies occur, any voter or creditor of the district may petition the district judge of any judicial district in which land of the district is located, and the judge may order the election, fixing the date, ordering the publication of notice by any county sheriff, and naming the officers to hold the election.

(c) The returns of the election ordered by a district judge shall be made and filed in the office of the clerk of the court and he shall declare the result of the election.

(d) The officers elected shall furnish bond and qualify in the manner provided in this chapter for directors first appointed for a district on its creation.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.082. General Manager**

The board may employ a general manager and give him full authority in the management and operation of the affairs of the district subject only to the orders of the board.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.083. Director as Manager**

A director may be employed as general manager with compensation fixed by the other four directors. When so employed, he shall continue to perform the duties of a director.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.084. District Tax Assessor and Collector**

The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.085. Tax Assessor and Collector's Bond**

(a) The tax assessor and collector shall execute a good and sufficient bond for \$5,000, signed by at least two sufficient sureties or a surety company and approved by the board. The bond shall be conditioned on the faithful performance of his duties and on his paying to the depository all money or other things of value that he received in his capacity as tax assessor and collector.

(b) The board may require the tax assessor and collector to give additional bonds or security of a larger bond at any time.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.086. Deputy Tax Assessor and Collector**

(a) The board may appoint one or more deputies to assist the tax assessor and collector for a period not to exceed one year.

(b) Each deputy may be required to furnish a bond with similar conditions to the bond required by the tax assessor and collector.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.087. Compensation of Tax Assessor and Collector and Deputies**

The board shall fix the compensation of the tax assessor and collector and each deputy.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.088. Additional Duties**

The board may require the tax assessor and collector to perform duties other than those specified in this chapter.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.089. Bonds of Officers of a District Acting as Fiscal Agent or Collecting Money for the United States**

(a) If a district is appointed fiscal agent for the United States or if a district is authorized to make collections of money for the United States in connec-

tion with a federal reclamation project, each director and officer of the district including the tax assessor and collector shall execute an additional bond in the amount required by the Secretary of the Interior, conditioned on the faithful discharge of his respective office and on the faithful discharge by the district of its duties as fiscal or other agent of the United States under its appointment or authorization.

(b) The additional bonds shall be approved, recorded, and filed as provided in this chapter for other official bonds.

(c) Suit may be brought on the bonds by the United States or any person injured by the failure of the officers or directors of the district to fully, promptly, and completely perform their respective duties.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.090. Employees of the District**

The board shall employ all persons necessary for the proper handling of the business and operation of the district, its plant and improvements. It may employ attorneys, bookkeepers, engineers, laborers, and a civil engineer, who shall be an officer of the district, to be known as "District Engineer."

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.091. Employees' Compensation and Terms of Employment**

The board shall determine the term of office and compensation to be paid to the general manager and all employees. All employees may be removed by the board.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.092. Officer's and Employee's Bond**

(a) The board shall require an officer or employee who collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of his duties and on accounting for all funds and property of the district coming into his hands.

(b) The bond may be signed by individual sureties or by surety companies authorized to do business in the state.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.093. District Office**

The board shall maintain a regular office for conducting the business of the district. The office shall be located inside the district, or if the district does not include towns which are within or adjoining the territory included in the district, it may be located in a nearby town that is best suited for the transaction of business.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.093/ → 1983

**§ 58.094. Meetings**

The board shall hold regular meetings at the district office on the first Monday in February, May, August, and November of each year at 10 a. m. and may hold meetings at other times when required for the business of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.095. Minutes and Records of the District**

The board shall keep a true and complete account of all its meetings and proceedings, and shall preserve its minutes, contracts, records, notices, accounts, receipts, and records of all kinds in a fireproof vault or safe. All minutes, contracts, records, notices, accounts, receipts, and other records are the property of the district and subject to public inspection.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.096. Recording Proceedings**

All proceedings of the board and all decrees and orders of any court affecting the creation, boundaries, or validity of the district must be recorded in a special record book kept for that purpose in the office of the county clerk of each county in which the district is located. This recording is in addition to other recording provisions in this chapter.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.097. Contracts**

District contracts shall be executed by the board in the name of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.098. Suits**

A district may sue and be sued in the courts of this state in the name of the district by and through its board. All courts shall take judicial notice of the creation of the district and of its boundaries.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.099. Payment of Judgment Against District**

Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.100. Actions Contesting District, Bonds, or Contracts; Suit by Attorney General**

(a) Except as provided in Subsection (b) of this section, and as provided in Sections 58.021–58.025 of this code, no suit may be instituted in any court of this state contesting:

(1) the validity of the creation and boundaries of a district created under this chapter;

(2) any bonds or other obligations authorized under this chapter; or

(3) the validity or the authorization of a contract with the United States by the district.

(b) The matters listed in Subsection (a) of this section may be judicially inquired into at any time and determined in any suit brought by the State of Texas, through the attorney general, on his own motion or on the motion of any person affected by the existence or plans of the district. The action shall be brought on good cause shown, except where otherwise provided by other provisions of this chapter or by the Texas Constitution.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.101 to 58.120 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

**§ 58.121. Purposes of District**

(a) Irrigation districts operating under this chapter are limited purpose districts established primarily to deliver untreated water for irrigation and to provide for the drainage of lands and such other functions as are incidental to the accomplishment of such limited purposes. An irrigation district shall not engage in the treatment or delivery of treated water for domestic consumption or the construction, maintenance, or operation of sewage facilities or provide any other similar municipal services. An irrigation district may cooperate with the United States under the federal reclamation laws for the purpose of:

(1) construction of irrigation and drainage facilities necessary to maintain the irrigability of the land;

(2) purchase, extension, operation, or maintenance of constructed facilities; or

(3) assumption, as principal or guarantor of indebtedness to the United States on account of district lands.

(b) An irrigation district operating under this chapter may contract with municipalities, political subdivisions, water supply corporations, or water users for the delivery of untreated water.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.122. Powers of District**

The district has the functions, powers, authority, rights, and duties which will permit the accomplishment of the purposes for which it was created, including the investigation and, in case a plan for improvements is adopted, the construction, maintenance, and operation of necessary improvements, plants, works, and facilities, and the acquisition of water rights and all other properties, land, tenements, materials, borrow and waste ground, easements, rights-of-way, and everything considered nec-

essary, incident, or helpful to accomplish by any practicable mechanical means any one or more of the objects authorized for the district, subject only to the restrictions imposed by the Constitutions of Texas or the United States. A district also may acquire property deemed necessary for the extension or enlargement of the plant, works, improvements, or service of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.123. Acquisition of Property

(a) A district may acquire the land material, borrow and waste ground, rights-of-way, easements, or other property by gift, grant, purchase, or condemnation.

(b) The district may acquire either the fee simple title to or an easement on all land, public or private, located inside or outside the district.

(c) The district may acquire the title to or an easement on property other than land held in fee. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.124. Planning

The board may make investigations and plans necessary to the operation of the district and the construction of improvements. It may employ engineers, attorneys, bond experts, and other agents and employees required to perform this duty.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.125. Construction of Improvements

A district may construct all works and improvements necessary:

- (1) for the irrigation of land in the district;
- (2) for the drainage of land in the district, including drainage ditches or other facilities for drainage; and
- (3) for the construction of levees to protect the land in the district from overflow.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.126. Purchase of Machinery and Supplies

The board may purchase machinery, materials, and supplies needed in the construction, operation, maintenance, and repair of district improvements. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.127. Adopting Rules

A district may adopt and make known reasonable rules to:

- (1) prevent waste or the unauthorized use of water; and
- (2) regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges on any body or stream of water, or any

body of land, or any easement owned or controlled by the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.128. Effect of Rules

After the required publication, rules adopted by the district under Section 58.127 of this code shall be recognized by the courts as if they were penal ordinances of a city.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.129. Publication of Rules

(a) The board shall publish once a week for two consecutive weeks a substantive statement of the rules and the penalty for their violation in one or more newspapers with general circulation in the area in which the property of the district is located.

(b) The substantive statement shall be as condensed as is possible to intelligently explain the purpose to be accomplished or the act forbidden by the rule.

(c) The notice must advise that breach of the rules will subject the violator to a penalty and that the full text of the rules is on file with the principal office of the district where it may be read by any interested person.

(d) Any number of rules may be included in one notice.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.130. Effective Date of Rules

The penalty for violation of a rule is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published rules shall be in effect and ignorance of it is not a defense for a prosecution for the enforcement of the penalty.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.131. Penalties for Violation of Rule

(a) The board may set reasonable penalties for the breach of any rule of the district, which shall not exceed fines of more than \$200 or imprisonment for more than 30 days, or both.

(b) These penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.132. Enforcement by Peace Officers**

A district may employ its own peace officers with power to:

(1) make arrests when necessary to prevent or abate the commission of any offense against the rules of the district and against the laws of the state when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; or

(2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.133. Constructing Bridges and Culverts across and over County and Public Roads**

The district shall build necessary bridges and culverts across and over district canals, laterals, and ditches which cross county or public roads. Funds of the district shall be used to construct the bridges and culverts.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.134. Constructing Culverts and Bridges across and under Railroad Tracks, Roadways, and Interurban or Street Railways**

(a) The district, at its own expense, may build necessary bridges and culverts across or under any railroad tracks or roadways of any railroad or any interurban or street railway to enable the district to construct and maintain any canal, lateral, ditch, or other improvement of the district.

(b) Before the district builds a bridge or culvert, the board shall deliver written notice to the local agent, superintendent, roadmaster, or owner. The railroad company or its owner shall have 60 days in which to build the bridge at its own expense and according to its own plans.

(c) The canal, culvert, ditch, or structure shall be constructed of sufficient size and proper plan to serve the purpose for which it is intended.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.135. Right to Enter Land**

The board, the district engineer, and the employees of the district may enter any land inside or outside the district to make surveys for reservoirs, canals, rights-of-way, dams, or other contemplated improvements and to attend to any business of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.136. Power to Contract**

The district may enter into a contract for the use by another of its water, facilities, or service, either inside or outside the district, except that a contract may not be made which impairs the ability of the district to serve lawful demands for service within the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.137. Investigation and Report of Engineer**

(a) The district engineer shall make a thorough study and investigation of all plans of the district and make and file in the district office a report on all plans for construction of plants and improvements.

(b) The board shall provide and keep a book in the district office, to be known as the "Engineer's Record," in which all reports and recommendations made by the district engineer shall be recorded. The "Engineer's Record" shall be open to public inspection.

(c) A contract for more than \$20,000 may not be made by the district unless the district has a district engineer who has made a proper study and report on it.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.138. Contracts for Materials, Machinery, Construction, Etc., for More Than \$10,000**

(a) With the exception of a district operating under a contract with the United States, the board shall not let a contract for more than \$10,000 for the purchase of materials, machinery, and all things to constitute the plant, works, facilities, and improvements of the district or for construction except as specified in Subsections (b)-(d) of this section.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers with general circulation in the state, and one or more newspapers published in each county in which all or part of the district is located to give general circulation in the district. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient. The notice shall be published once a week for three consecutive weeks prior to the date that the bids are opened, and the first publication shall be at least 21 days before the opening of sealed bids.

(c) A contract may cover all the improvements to be provided by the district, or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts.

(d) A contract may provide for the payment of a total sum which is the completed cost of the improvement or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers.

(e) A contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plant, improvements, facilities, and works.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.139. Construction Bids

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a cashier's check on a responsible bank in the state for at least two percent of the total amount of the bid, or a bid bond of at least two percent of the total amount of the bid issued by a surety legally authorized to do business in the state.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he forfeits the amount of the cashier's check which accompanied his bid, or if a bid bond has been given, the district shall have the legal remedies available under the bond.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.140. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work, and who requests it in writing, a copy of the engineer's report which shows the work to be done and all details of it. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.141. Provisions of Contracts for Construction Work

(a) Any contract made by the board for construction work shall conform to the provisions of this chapter, and the provisions of this chapter will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict.

(b) The contract shall contain, or have attached to it, the specifications, plans, and details for work included in the contract, and all work shall be done in accordance with these plans and specifications

under the supervision of the board and the district engineer.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.142. Executing and Recording Construction Contract

(a) Contracts for construction work shall be in writing and signed by the board and the contractor.

(b) A copy of the contract shall be filed with the county clerk, and the county clerk shall record the contract in a book kept for that purpose.

(c) The contract shall be available for public inspection.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.143. Contractor's Bond

(a) The contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond shall provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default or complete the contract according to its terms.

(c) All sureties signing the bond are bound by it to the same extent that the principal is bound, regardless of the technical defenses.

(d) The bond shall be deposited in the district depository, and a true record of it shall be entered in a record book in the district office.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.144. Reports on Construction Work

During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report showing whether or not the contractor has fully complied with the contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.145. Payments under Construction Contract

(a) The district shall pay the contract price of a contract as provided in this section.

(b) The district will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the district engineer, on estimates approved by the district engineer. If requested by the district engineer, the contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress pay-

ments. In the preparation of estimates the district engineer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the contractor at locations other than the site may also be taken into consideration:

- (1) if such consideration is specifically authorized by the contract; and
- (2) if the contractor furnishes satisfactory evidence that he has acquired title to the material and that it will be utilized on the work covered by this contract.
- (c) In making progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the directors, at any time after 50 percent of the work has been completed, find that satisfactory progress is being made, they may authorize any of the remaining progress payments to be made in full. Also, whenever the work is substantially complete, the directors, if they consider the amount retained to be in excess of the amount adequate for the protection of the district, at their discretion, may release to the contractor all or a portion of the excess amount.

(d) On completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.146. Partial Payment of Construction Work**

The board may pay for a construction contract in partial payments as the work progresses, but partial payments shall not be more than 85 percent of the amount due at the time of the partial payment as shown by the report of the district engineer.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.147. Joint Ownership Contracts**

(a) Two or more districts may enter into a contract to jointly own and construct irrigation works and reservoirs, levees, drainage systems, and all other plants, works, and improvements which they are authorized to own or construct. The contract may include provisions for joint construction and operation, but the terms and conditions may not conflict with the laws providing for the creation and operation of the districts.

(b) The parties joining in the contract shall have the terms of their agreement incorporated into a written or printed contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.148. Election to Approve a Joint Ownership and Construction Contract**

(a) Before the districts may be bound by a joint ownership and construction contract made under Section 58.147 of this code, an election to approve the contract must be held in each of the districts.

(b) The election to approve the contract shall be held on the same day in each district.

(c) Notice of the election shall be the same as notice of the election for the creation of a district under this chapter.

(d) At least 15 days before the day of the election, a copy of the contract must be filed in the office of each of the districts and be made available for public inspection, and each district must furnish a copy of the contract to any elector who appears at the office and requests a copy.

(e) If a majority of the electors in each district approve the contract at the election, the contract is adopted and is binding.

(f) The contract may be amended in the manner provided for adopting the original contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.149. General Manager for Joint Projects**

The boards of the districts which are parties to a joint ownership and construction contract may employ a general manager for the joint project. The duties of the general manager may be included in the provisions of the joint contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.150. Transactions in District Names under Joint Ownership and Construction Contract**

All bids, bonds, contracts, and other transactions made under a joint ownership and construction contract may be made in the names of the districts which are parties to the contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.151. Joint Projects under Joint Ownership and Construction Contracts**

(a) When districts operating under a joint ownership and construction contract plan to construct any improvements, the districts may call jointly for bids on these improvements.

(b) The bids may be opened and considered at the office of either of the districts which are parties to the contract.

(c) The boards shall approve the award of the contract and the contractor's bond. The boards may meet for this purpose either at an office outside the districts or at an office established for transaction of all business of the joint project.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.152. Additional Powers of Districts under Joint Ownership and Construction Contracts**

Districts which are acting under a joint ownership and construction contract may exercise jointly all powers which may be exercised by a single district. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.153. Contract with the United States**

(a) The board may enter into a contract or other obligation with the United States for the investigation, construction, extension, operation, and maintenance of any federal reclamation project of benefit to the district and authorized under the National Reclamation Act of 1902, as amended.<sup>1</sup>

(b) The board may contract to secure a district water supply from the federal reclamation project and to pay to the United States the agreed cost of it in the form of construction charges, operation and maintenance charges, and water rental charges, as shown by the contract and in accordance with the terms and conditions of the national reclamation law.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> 43 U.S.C.A. § 372 et seq.

**§ 58.154. Construction Charges under a Contract with the United States**

The construction charges under a contract with the United States may include the cost of drainage and flood-control works necessary to control floods or to maintain the irrigability of district land. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.155. Election to Approve a Contract with the United States**

(a) The electors of the district shall vote to approve every contract involving the payment of construction charges to the United States. The provisions of this chapter relating to the election to approve the validation of district bonds shall be followed, including the prosecution of an action in court to determine the validity of the contract.

(b) The notice of election shall state the maximum amount, exclusive of operation and maintenance charges, water rental charges, interest, and penalties, payable by the district to the United States under the contract.

(c) The ballot shall be printed to provide for voting for or against the proposition: "The contract with the United States and levy of taxes to make payments under the contract". This is the only proposition that may appear on the ballot. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.156. Conveying Property to the United States**

A district may convey any property to the United States necessary for the construction, operation, or maintenance of federal reclamation works used or to be used for the benefit of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.157. Consent of United States to Alter District's Boundaries**

Until all money has been paid by the district which is due to the United States under a contract relating to a federal reclamation project, the United States must consent to any change in the boundaries of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.158. Taxes Levied by District under Contract with the United States**

(a) A district that enters into a contract with the United States shall levy annually sufficient taxes to provide payment of all installments required by the contract.

(b) The board may pay construction charges when provided by contract on the basis of the average gross annual acre income of the land of the district or designated divisions or subdivisions of the district. The Secretary of the Interior shall determine the annual gross acre income.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.159. Assessments for Contracts with the United States**

The board shall levy annually sufficient assessments to collect the money required to pay all of the district's obligations in full when due regardless of any delinquency in payment of assessments by any tract of land. If collections in any year are insufficient to pay the obligations of the district, the levy shall be increased sufficiently the following year to cover the deficit.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.160. Duration of Annual Levies for Contracts with the United States**

The board shall continue annual levies for payment of construction charges each year against each tract of land in the district even though construction charges apportioned against other tracts of land in the district may be paid sooner or later.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.161. Superiority of Lien to Secure Contract with the United States**

The lien against district land created by a contract with the United States shall be superior to the lien

created by any district bonds approved subsequent to the date of the contract with the United States. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.162. District's Authority to Solicit Cooperation, Donations, and Contributions from Other Agencies**

A district organized under the provisions of this chapter may solicit cooperation, donations and contributions from:

- (1) the United States, the state or nation;
- (2) any county, municipality, water improvement district, water control and improvement district, drainage district, or any other political subdivision of the state; or
- (3) any person, copartnership, corporation, or association.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.163. Expense of Procuring Cooperation and Contributions from Other Agencies**

A district may incur reasonable expense to procure cooperation under Section 58.162 of this code in adding to the area of the district or with contributions to the cost of improvements made by the district. The contributions may be either a percentage of cost or a definite annual sum.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.164. Authority of Contributor**

(a) Any water improvement district, water control and improvement district, levee improvement district, irrigation district, county, city, town, or other political subdivision of the state may contract to contribute to the cost of the construction of drainage and irrigation water distribution system improvements. The improvements to be constructed may be outside the contributing district, municipality, or other political subdivision of the state, and may be located outside the state or the United States.

(b) The works may be constructed by any agency.

(c) The contribution shall be proportionate to the benefit which the contributor will derive from the proposed improvements.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.165. Issuance of Bonds by Contributor**

(a) The contract may provide for the issuance of bonds by the contributor and for direct payment from the proceeds of the bonds to contractors on the estimates of the engineer for the contributor.

(b) Before issuing bonds, a contributing political subdivision shall submit the contract for contribution to its electors for approval and for authority to issue the bonds, fix a lien to secure the bonds, and levy, assess, and collect taxes to retire the bonds. The

procedure by a contributing political subdivision of the state shall conform to the applicable law under which the political subdivision was organized and authorized to create bonded indebtedness.

(c) The disposition of the proceeds of the bond shall conform to the approved contract of contribution.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.166. Annual Tax by Contributor**

(a) The contract for contribution may provide that instead of issuing bonds the contributor may levy, assess, and collect an annual tax in a specific sum. The levy or assessment is a lien on the property subject to the contributor's taxing power.

(b) The contributor shall collect the tax at its own expense and pay it annually to the district to which the contribution is to be made. The district shall hold the annual payment as a trust fund and annually apply it to the bonds issued by it to provide funds for the construction of the improvements to which the contribution is made.

(c) The contributor shall submit the contract of contribution to its electors for approval and for authority to levy and assess a sufficient tax to meet the annual payments fixed in the contract. The election for the approval of the contract and the authorized taxes for the fulfillment of the contract shall conform to appropriate law under which the contributing political subdivision was organized and authorized to create bonded indebtedness.

(d) Payment of the annual sums of contribution shall conform to the contract of contribution.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.167. Contributions from Unappropriated or Available Funds of Contributor**

(a) If the proposed contributor has an unappropriated fund or a fund which is not required for actual use even though otherwise appropriated, the fund may be withdrawn from the project which does not need it and may be applied to pay contributions to the cost of the improvements considered to be a benefit to the contributor but to be constructed by another agency or jointly by the contributor and another agency.

(b) The board of the contributing political subdivision may contract for contributions and contribute from an unappropriated or available fund without submitting the contract and contributions to a vote of the electors of the contributor. However, the contributions shall not be made if they impair the ability of the contributor to meet any outstanding obligation or to adequately and economically discharge the contributor's duty to its electorate or constituency.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.168. Liability on Contracts of Acquired Irrigation System**

If a district acquires an established irrigation system which has contracted to supply water to others and the holders of the contracts or the lands entitled to service of water are not within the district, the contracts and duties shall be performed by the district in the same manner and to the same extent that any other purchaser of the system would be bound.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.169. Authority to Lease Irrigation System Serving the District**

(a) The board, by resolution, may lease all or part of any irrigation system serving all or part of the district, including distribution laterals, trunk or transmission canals, pumping plants, intakes, and all usual or necessary appurtenances. The board's resolution will specify the term of the lease, which may not be more than 40 years.

(b) The board may lease property located partly outside the boundaries of the district and may sell surplus untreated water to other districts and to other consumers.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.170. Covenants and Agreements Included in Lease**

(a) The lease shall expressly state that the sums payable under the terms of the lease and the lease itself shall not constitute an indebtedness or pledge of the general credit of the district within the meaning of any constitutional or statutory limitation of indebtedness. The lease shall contain a statement that payments due under it are not payable from any funds raised or to be raised by taxation.

(b) The lease may contain covenants and agreements which are not inconsistent with the provisions of this code which authorize the lease for:

- (1) the management and operation of the leased properties;
- (2) the imposition and collection of charges for water;
- (3) the disposition of the proceeds of charges;
- (4) the insurance, protection, and maintenance of the leased properties;
- (5) the creation of other obligations payable from the revenues derived from the operation of the leased properties;
- (6) the keeping of books and records by the district; and
- (7) other pertinent provisions which the board considers desirable to assure the payment of amounts due under the lease.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.171. Revenue for Payment of Lease Rental**

(a) All money due the lessor under the lease shall be payable solely from the revenue derived by the district from the sale of water supplied through the leased system.

(b) The board shall set and collect charges for the water supplied through the leased properties to produce sufficient revenue at all times to allow for delinquencies and to pay promptly all rental payments becoming due under the terms of the lease. The board may agree to deposit this money in a separate fund as a first charge on the gross revenue received each year from sales of water, and which shall not be used for any other purpose.

(c) The board may agree in the lease to pay all expenses of operating and maintaining the leased properties from the fund provided by the board each year for the maintenance and operation expenses of the district so that the gross revenue from sale of water will be available exclusively for payment of rentals until the amount required for rentals each year is paid into the separate rental fund.

(d) If the board includes this agreement in the lease, the board shall provide for the payment of sums into the maintenance fund from sources other than the remaining portions of the gross revenue from the sale of water not required to pay rentals which are sufficient each year to pay all expenses of operating the district and maintaining and operating its properties and facilities, including the leased properties.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.172. Receiver for Leased Irrigation System**

(a) If the district defaults in the payments due under a lease, the lessor may petition a court of competent jurisdiction to appoint a receiver for the leased properties.

(b) The receiver shall operate the properties and collect and distribute the revenue according to the terms of the lease and the direction of the court.

(c) The receiver has the same rights and powers as the board in its operation of the leased properties.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.173. Joint Lease by Two or More Districts**

The boards of two or more districts may adopt resolutions to enter into a joint lease under the provisions of Section 58.169 of this code. The joint lease shall specify clearly the respective rights and liabilities of the districts and shall be subject to all the provisions of Sections 58.169 and 58.172 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.174. Authority to Acquire Irrigation System Subject to Mortgage**

A district may acquire by gift, grant, or purchase any part of an irrigation system serving the district which is subject to a mortgage or encumbrance. The mortgage or encumbrances shall not be assumed by the district and shall not be an indebtedness of the district but shall constitute solely a charge on the encumbered property and the revenue from it. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.175. Revenue for Payment of Mortgage**

(a) The board may determine conclusively by resolution whether the mortgage or encumbrance represents all or part of the cost of the acquired property and constitutes a purchase money lien on the property.

(b) The board may contract to use and pledge its revenue derived solely from the sale of water and services supplied through the acquired properties for the payment of a purchase money lien.

(c) The board also may use revenue from taxation or from the issuance and sale of bonds to pay all or part of the amount due under the encumbrance if a majority of the electors of the district voting at an election on this proposition approve its use. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.176. Election to Approve Revenue for Payment of Mortgage**

(a) If tax and bond revenue is pledged to pay amount due under the encumbrance, the district must hold an election and receive the approval of the electors.

(b) An election to approve the use of tax and bond revenue shall be held in the same manner and with the same voters' qualifications as provided for elections on the issuance of the bonds of the district. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.177. Joint Acquisition of Mortgaged System by Two or More Districts**

(a) Two or more districts jointly may acquire by gift, grant, or purchase any part of an irrigation system serving the districts subject to a mortgage or encumbrances in the same manner that a single district may acquire the system.

(b) In the proceedings authorizing the acquisition, the boards of the respective districts shall define clearly the respective rights, interest, and liability of the districts in the acquired property and in the mortgage or encumbrance. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.178. Authority to Lease Facilities to Water Customers**

(a) A district may lease to any person, firm, or corporation which is a bona fide water customer of the district any of its facilities and may also lease any of the district's land which is appropriate to the utilization of the leased facilities, including, but not limited to land acquired by eminent domain.

(b) The board and the lessee shall agree on the form of the lease and its terms, conditions, provisions, and stipulations; however, the duration of the lease shall not be longer than the duration of the water contract between the district and the lessee under the primary term of the water contract and any renewal or extension of it.

(c) After a lease to a water customer is authorized by the board, the lease shall be executed by the president or vice-president of the board and attested by the secretary. The lease is valid and effective without any other requirement or prerequisite by the district. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.179. Expense of Relocation of Facilities**

If any district operating under this chapter requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties, or facilities, or pipelines in the exercise of the power of eminent domain or police power, or any other power, all of the relocation, raising, lowering, rerouting or changes in grade or alteration of construction shall be the sole expense of the district. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility. This section does not apply to projects under construction or financed or for which bonds were voted and approved by another type of district on or prior to August 27, 1961, and which such district has subsequently elected to convert into a district operating under this chapter, unless the acts of the district authorizing the construction or financing are contained in the provisions of this section. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.180. Amendments to Water Rights**

The board may apply to the commission to amend its water rights as provided by Section 11.122 of this code and the rules of the commission. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 58.181. Suit to Protect Water Rights**

The board may institute and maintain any suit or suits to protect the water supply or other rights of the district, to prevent any unlawful interference with the water supply or other rights of the district, or to prevent a diversion of its water supply by others.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.182. Transfer of Water Right**

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as the land from which the water was transferred.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.183. Selling Waterpower Privileges**

(a) The district may enter into a contract to sell waterpower privileges if power can be generated from water flowing from the district's reservoirs within its canal system.

(b) The sale of waterpower privileges may not interfere with the district's obligation to furnish an adequate supply of water for the purpose for which the district was organized and for municipal purposes in districts that furnish water for municipal purposes.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.184. Selling Surplus Water**

The district may sell any surplus district water for use in irrigation or for domestic or commercial uses to any person who owns or uses land in the vicinity of the district or to other districts which include land in the same vicinity.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.185. Pumping Water to Another District**

If the board considers it advisable, it may contract to pump for or supply another district any water in which the other district has a right. The board shall provide the terms of the contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.186. Obtaining Topographic Maps and Data**

The department shall furnish to a district topographic maps and data concerning projects undertaken by the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 58.187. Sale of Property not Required for District's Plans**

The board may sell at a public or private sale any property or land owned by the district which is not required to carry out the plans of the district. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.188. Notice of Sale of Property not Required for District's Plans**

Before either a public or a private sale of property not required by the district's plans, the district shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.189. Use of Proceeds from Sale of Property not Required for District's Plans**

(a) If the district has outstanding bonds, the proceeds of the sale of property not required for the district's plans shall be applied to retire outstanding emergency warrants, if any, issued to protect ultimate liability of the district in condemnation proceedings as provided in this chapter and the remainder, if any, to be placed in the interest and sinking fund account provided for the retirement of outstanding bonds of the district.

(b) If the district does not have money available from other sources to complete the plans for which its construction work and its bonds were authorized, the board may use the proceeds derived from the sale of the property or land not required to carry out the plans of the district to complete the work included in its plans for improvements to the degree required, and any excess of the proceeds shall be applied as provided in Subsection (a) of this section. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.190. Sale of Property not Acquired to Carry Out the Plans of the District**

The board may sell property bid in by it at any sale under foreclosure of its tax lien or of its lien for charges or assessments, or any property acquired by it other than for the purpose of carrying out the plans of the district, without formally determining that the property is not required to carry out the plans of the district, without giving notice of the intent of the district to sell the property, and without applying the proceeds of the sale as provided in Sections 58.188 and 58.189 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.191 to 58.220 reserved for expansion]

SUBCHAPTER E. ELECTION PROVISIONS

§ 58.221. Election Procedure

(a) The board shall provide for holding elections and giving notice and shall appoint officers to hold the election at the time the election is ordered.

(b) The officers for the election shall include a presiding judge and an assistant judge and two clerks. More clerks may be appointed if necessary.

(c) The board shall name the polling places, and if more than one polling place is necessary, the board shall divide the district into election precincts. The polling places may be changed from time to time as required.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.222. Notice of Election

(a) Notice of an election shall be given by order of the board.

(b) The notice shall be signed by the president and secretary of the board and shall state:

- (1) the purpose of the election;
- (2) the propositions and officers to be voted on;
- (3) the polling places; and
- (4) the names of the election officers.

(c) The notice shall be published once a week for three consecutive weeks in a newspaper with general circulation published in the county or counties in which the district is located. If no newspapers are published in these counties, the notice shall be published in the county nearest to the district. The first publication shall be not less than 21 days nor more than 35 days before the day of the election.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.223. Preparation and Delivery of Returns

(a) The election officers shall make and deliver the election returns in triplicate. One copy shall be retained by the election judge, one copy shall be delivered to the president of the board, and one copy shall be delivered to the secretary of the board.

(b) The election officers shall give to the newspapers and to other persons requesting them the returns of the election in that box at the time the returns are made.

(c) The ballot boxes and other election records and supplies shall be delivered to the secretary of the board at the district office.

(d) The ballot boxes containing the voted or mutilated ballots shall be preserved for one year after the date of the election subject to the order of any court in which a contest of the election is filed.  
[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.224. Canvass of Returns

The board shall meet and canvass the returns of the election not less than five nor more than seven days after the day of the election. If the returns cannot be canvassed within seven days after the date of the election, they shall be canvassed as soon as possible after that time.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.225 to 58.260 reserved for expansion]

SUBCHAPTER F. EMINENT DOMAIN

§ 58.261. Applicable Statutes

Districts operating under this chapter have the power of eminent domain and shall exercise that power in accordance with the general law of eminent domain contained in Articles 3264 through 3271, Revised Civil Statutes of Texas, 1925, as amended.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.262 to 58.300 reserved for expansion]

SUBCHAPTER G. WATER CHARGES AND ASSESSMENTS

§ 58.301. Statement Estimating Water Requirements and Payment of Charge

(a) Each person who desires to receive water at any time during the year shall furnish the secretary of the board a written statement of the acreage he intends to irrigate and the different crops he intends to plant with the acreage of each crop.

(b) At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board.

(c) If a person does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.302. Contracts with Person Using Water

(a) The board may require each person who desires to use water during the year to enter into a contract with the district which states the acreage to be watered, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) If a person irrigates more land than his contract specifies, he shall pay for the additional service.

(c) The directors also may require a person using water to execute a negotiable note or notes for all or part of the amount owed under the contract.

(d) The contract is not a waiver of the lien given to the district under Section 58.309 of this code against the crops of a person using water for the service furnished to him.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.303. Authority to Determine Rules and Regulations

The board may adopt, alter, and rescind rules, and standing and temporary orders which do not conflict with the provisions of this subchapter and which govern:

- (1) methods, terms, and conditions of water service;
- (2) applications for water;
- (3) assessments for maintenance and operation;
- (4) payment and the enforcement of payment of the assessments;
- (5) furnishing water to persons who did not apply for it before the date of assessment; and
- (6) furnishing water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.304. Board's Estimate of Maintenance and Operation Expenses

The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the irrigation system for the next 12 months.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.305. Distribution of Assessment

(a) Not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses shall be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system.

(b) The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine from year to year the proportionate amount of the expenses which will be borne by water users.

(c) The remainder of the estimated expenses shall be paid by assessments against persons in the district who use or who make application to use water. The board shall prorate the remainder as equitably as possible among the applicants for water and may consider the acreage each applicant will plant, the crop he will grow, and the amount of water per acre he will use.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.306. Notice of Assessments

(a) Public notice of all assessments shall be given by posting printed notices of the assessment in at least three public places in the district.

(b) Notice shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) The notice shall be posted in a public place and mailed to each landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.307. Payment of Assessments

(a) All assessments shall be paid in installments at the times fixed by the board.

(b) If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.308. Collection of Assessments by Tax Assessor and Collector

(a) Under the direction of the board, the assessor and collector, or other person designated by the board, shall collect all assessments for maintenance and operating expenses.

(b) The assessor and collector shall execute a bond in an amount determined by the board, conditioned on the faithful performance of his duties and accounting for all money collected.

(c) The assessor and collector shall keep an account of all money collected and shall deposit the money as collected in the district depository. He shall file with the secretary of the board a statement of all money collected once each week.

(d) The assessor and collector shall use a duplicate receipt book, give a receipt for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.309. Lien Against Crops

The district shall have a first lien, superior to all other liens, against all crops grown on each tract of land in the district to secure the payment of the assessment, interest, and collection or attorney's fees.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.310. List of Delinquent Assessments**

Within 10 days after any assessment is due, the board shall post in a public place in the district a list of all persons who are delinquent in paying their assessments and shall keep posted a correct list of all persons who are delinquent in paying assessments. If a person who owes an assessment has executed a note and contract as provided in Section 58.302 of this code, he shall not be placed on the delinquent list until after the maturity of the note and contract. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.311. Water Service Discontinued**

If a landowner fails or refuses to pay a water assessment when due, his water supply shall be cut off, and no water may be furnished to the land until all back assessments are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land for which assessments are due. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.312. Suits for Delinquent Assessments**

Suits for delinquent water assessments may be brought either in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments provided in this subchapter. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.313. Interest and Collection Fees**

(a) All assessments shall bear interest from the date payment is due at the rate of 10 percent a year.  
 (b) If suit is filed to foreclose a lien on crops or if a delinquent assessment is collected by any legal proceeding, an additional amount of 10 percent on unpaid principal and interest shall be added as collection or attorney's fees. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.314. Rights of the United States**

(a) If the board enters into a contract with the United States, the remedies in this subchapter available to the district also shall apply to enforce payment of charges due to the United States. The federal reclamation laws shall also apply.  
 (b) The directors shall distribute and apportion all water acquired by the district under a contract with the United States in accordance with acts of Congress, rules and regulations of the Secretary of the Interior, and provisions of the contract. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.315. Surplus Assessments**

If assessments made under this subchapter are more than sufficient to pay the necessary expenses

of the district, the balance shall be carried over to the next year.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.316. Insufficient Assessments**

If the assessments made under this subchapter are not sufficient to pay the necessary expenses of the district, the unpaid balance shall be assessed pro rata, in accordance with the assessments made for the current year. The additional assessments shall be paid under the same conditions and penalties within 30 days after the date of assessment.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.317. Determining Maintenance and Operation Charges**

The board may make, establish, and collect maintenance and operation charges for service on the basis of the quantity of water furnished or appropriate measure of the service rendered.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.318. Charges for Maintenance Expenses**

(a) If maintenance charges are based on the quantity of water used, a fixed minimum charge may be made on all land, water connections, or other service entitled to receive and use water. An additional charge may be made for the use of more water than that covered by the minimum charge.

(b) The board may install proper measuring devices or require that they be installed.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.319. Charge to Cities and Towns**

If a district supplies untreated water, the charge for the use of the water and the time and manner of payment shall be determined by the board or fixed by the contract made with the board.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.320. Loans for Maintenance and Operating Expenses**

The board may borrow money to pay maintenance and operating expenses at an interest rate of not more than 10 percent a year and may pledge as security any of its notes or contracts with water users or accounts against them.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.321. Water Service: Refused**

The board may refuse water service to any person who refuses to pay the charges and assessments for water service or who fails or refuses to pay any taxes levied against his property after six months from the date the taxes become delinquent.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.322 to 58.350 reserved for expansion]

## SUBCHAPTER H. GENERAL FISCAL PROVISIONS

## § 58.351. Construction Fund

(a) The proceeds from the sale of bonds shall be deposited in the construction fund.

(b) Money deposited in the construction fund shall be used to pay expenses, debts, and obligations necessarily incurred in the creation, establishment, and maintenance of the district and to pay the purchase price of property and construction contracts, including purchases for which the bonds were issued.

(c) If the bonds were issued in accordance with a contract with the United States, debts and obligations may be paid from the construction fund under the terms of or incident to the contract.

(d) After the payment of obligations for which the bonds were issued, any remaining money in the construction fund may be transferred to the maintenance fund.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

## § 58.352. Maintenance Fund

(a) The district shall have a maintenance fund which shall include money collected by assessment or other method for the maintenance, repair, and operation of the properties and plant of the district or for temporary annual rental due to the United States.

(b) The maintenance fund shall be used to pay all expenses of maintenance, repair, and operation of the district except the expenses of assessing and collecting taxes for the interest and sinking fund shall be paid from the interest and sinking fund.

(c) The district may pay from the maintenance fund other expenses for which the payment is not provided in this chapter.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

## § 58.353. Amortization and Emergency Fund

(a) The board shall have a competent engineer make an inspection and valuation of the physical property of the district which is subject to decay, obsolescence, injury, or damage by sudden, accidental, or unusual causes, and based on the inspection and valuation, the engineer shall determine as nearly as he can a sufficient amount to be set aside annually to pay for replacement of each item of physical property at the end of its economic life or for the restoration or replacement of any item of physical property if it is lost, injured, or damaged.

(b) The board shall set aside a portion of the maintenance fund as it is collected equal to the amount determined under Subsection (a) of this section and shall place this money in the amortization and emergency fund. No part of this fund may be spent except to replace amortized property or to replace or restore lost, injured, or damaged property.

(c) Any amount in the amortization and emergency fund which is not spent for the purposes for which the fund was created may be invested in bonds or interest-bearing securities of the United States.

(d) The board is not required to create an amortization and emergency fund, but if the board does create the fund, it shall be kept up and maintained. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

## § 58.354. Expenditure of District Funds

Funds of the district shall be paid out on order of the board with warrants drawn for that purpose. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

## § 58.355. Depository

Before bonds are sold, the board shall select a depository for the district as provided in this chapter, and the proceeds of the bonds shall be placed in the depository and disbursed as provided in this chapter.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

## § 58.356. Selection of Depository

(a) The board shall select a depository for the district in the manner provided for the selection of a county depository and shall perform all duties provided by law for the selection of a depository, acceptance and approval of bonds, and other acts.

(b) The depository shall execute a good and sufficient bond approved by the board to fully protect the district and to guarantee the preservation of the funds and the accountability of the depository as provided by law. The bond shall be recorded in the district office and kept in a fireproof vault or safe.

(c) Except as otherwise provided, the duties and the bond and security of the depository shall be the same as provided by law for a county depository. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

## § 58.357. Functions and Duties of Depository

(a) Funds of the district shall be deposited in the depository and shall be paid out as provided in this chapter.

(b) The funds shall be deposited in the interest and sinking fund account, the construction account, or the maintenance account, and each account shall be maintained separately.

(c) No money may be paid from the interest and sinking fund account except to pay interest and principal on bonds and to pay the expenses of assessing and collecting taxes to pay for the bonds.

(d) The depository shall make a report of all money received and paid out by it at the end of each month and shall file the report and the vouchers with the records of the district in the depository

vault. A copy of the report shall be made available for inspection by any taxpayer and shall be delivered to the successor of the depository.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.358. Selecting a Bank as Depository in Which a District Director Has an Interest**

(a) If the highest and best bidder to become the district depository is a bank in which a district director is a stockholder or a director, the bank may be selected as the depository if the interested director does not vote on the selection and the approval of the bond.

(b) Before the selection of the bank and the approval of the bond are effective, they must be submitted to and approved by the county judge in the county in which the district is located.

(c) If the county judge fails to approve the depository selected or the bond, new bids shall be requested and another bank selected as district depository. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.359. District Audit**

The board shall have a yearly audit prepared and filed in accordance with the provisions of Sections 50.371 through 50.376 of this code, but the board shall have the authority to select its own fiscal year. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.360. Maintenance Tax**

(a) A district may levy and collect a tax for maintenance purposes, including funds for planning, maintaining, repairing, and operating all necessary plants, properties, facilities, and improvements of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) A maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.361. Maintenance Tax Election**

(a) The maintenance tax election may be held at the same time and in conjunction with the election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

(b) If only a maintenance tax election is called, the order calling the election shall be issued at least 15 days before the day of the election, and the election notice shall be published at least twice in a newspaper of general circulation in the district. The first publication of the notice shall be at least 14 days before the day of the election. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.362. Expenditure of Surplus Maintenance Tax Funds**

If a district has any surplus maintenance tax funds which are not needed for the purposes for which they were collected, the funds maybe used for any lawful purpose.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.363 to 58.390 reserved for expansion]

**SUBCHAPTER I. BORROWING MONEY**

**§ 58.391. Authority to Borrow Money**

The board may declare that funds are not available to meet lawfully authorized obligations of the district, thereby creating an existing emergency, and may borrow money at a rate of not more than 10 percent a year on notes of the district to pay obligations.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.392. Security for Loan**

To secure the loan, the board may pledge up to 85 percent of any levied tax of the district which has not been collected by the district or may pledge as collateral any district bonds which have been authorized but not sold.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.393. Maturity Date of Loan**

(a) If taxes are pledged to pay for the loan, the loan shall mature not later than the following April 1.

(b) If preliminary or construction bonds are pledged to pay the loan, the loan shall mature not later than six months from the date it is made.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.394. Loan Secured by Bonds**

The amount of the loan may not be more than 25 percent of the district's unsold bonds and the par value of the bonds may not be more than 10 percent of the amount of the loan.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.395. Expenditure of Loan Proceeds**

No money obtained from a loan under Section 58.391 of this code may be spent for any purpose other than the purposes for which the pledged tax was levied or the pledged bonds were authorized.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

### § 58.396. Loans Accomplished by Sale of District Bonds

If the loan is secured by the sale of district bonds, the district may enter into an obligation to be conditioned conformably with the usages of investment banking to repurchase the bonds within the five-year period immediately following the date of the loan.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

### § 58.397. Pledge of Commercial Income

(a) The term "commercial income" means income other than revenue derived from taxation.

(b) If required to do so, a district may pledge its existing and expected commercial income to secure a loan to the extent the pledge will not obviously substantively impair the ability of the district to pay obligations which are held by others.

(c) If a district expects commercial income in the future but does not have the demonstrated income in an amount adequate to discharge the loan when it matures, the district may pledge the expected commercial income as provided in Subsection (b) of this section and in addition, or as an alternative, may pledge with a power of sale its unsold bonds in a par amount which shall not be more than the amount of the loan plus 10 percent. The district is not required to impound the bonds. The rate of interest on the loan may not be more than six percent.

(d) After commercial income is pledged, it may not be used for any purpose except to pay the debt which it secures, and it shall be applied to the reduction of the secured debt as rapidly as practicable.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

### § 58.398. Evidence of Debt

To evidence loans which are not secured by the sale of bonds, the district may execute and deliver to the lender certificates of indebtedness, notes, or obligations and may pledge its full faith and credit for their payment to the same extent that it may be pledged by district bonds.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

### § 58.399. Retiring Bonds

If bonds are impounded or pledged to secure a loan made to a district, as the loan is repaid a proportionate amount of the bonds may be withdrawn, cancelled, and retired.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.400 to 58.430 reserved for expansion]

## SUBCHAPTER J. ISSUANCE OF BONDS

### § 58.431. Authority to Issue Bonds of Districts Operating under Article III, Section 52, of the Texas Constitution

A district which is operating under Article III, Section 52, of the Texas Constitution, may issue bonds and lend its credit in an amount of not more than one-fourth of the assessed valuation of the real property in the district. However, the total indebtedness of any city or town may never be more than the limits imposed by the Texas Constitution.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

### § 58.432. Authority to Issue Bonds of Districts Operating under Article XVI, Section 59, of the Texas Constitution

A district operating under Article XVI, Section 59, of the Texas Constitution, may incur debt evidenced by the issuance of bonds which is necessary to provide improvements and maintenance of improvements to achieve the purposes for which the district was created.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

### § 58.433. Amount of Debt Limited by Constitution

No district may issue bonds or create indebtedness in an amount which is more than that authorized by the Texas Constitution.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

### § 58.434. Issuance of Preliminary Bonds

A district may issue preliminary bonds to create a fund to pay:

- (1) costs of organization;
- (2) costs of making surveys and investigations;
- (3) attorney's fees;
- (4) costs of engineering work;
- (5) costs of the issuance of bonds; and
- (6) other costs and expenses incident to organization of the district and its operation in investigating and determining plans for its plant and improvements and in issuing and selling bonds to provide for permanent improvements.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

### § 58.435. Election on Preliminary Bonds

(a) The proposition for the issuance of preliminary bonds shall be submitted to the electors of the district.

(b) The election may be held at the same time as the election to confirm the creation of the district or at a later time:

(c) The board shall make an estimate of the expenses to be paid with the proceeds of the preliminary bonds and shall include this estimate in the notice of election.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.436. Conditions of Preliminary Bonds**

(a) After preliminary bonds have been authorized at an election, the board may order the issuance of the bonds in an amount which is not more than the amount stated in the notice of election.

(b) The bonds may be paid serially or on amortization at any time not more than 10 years from their date.

(c) Although the bonds will be known and designated in the records as preliminary bonds, it is not necessary to make this designation on the bonds. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.437. Tax to Pay Preliminary Bonds**

At the time preliminary bonds are issued, a tax shall be levied to pay principal and interest as the bonds mature and to pay the cost of assessing and collecting the taxes.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.438. Issuance of Bonds**

(a) After a district is created and has adopted plans for construction of a plant and improvements, it may issue bonds to pay for constructing the plant and improvements and to pay costs and charges incident to the construction including the cost of necessary property and the retirement of preliminary bonds.

(b) The maximum amount of bonds which may be issued may not be more than the amount of the engineer's estimate plus the additional amounts added by the board in the election order.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.439. Purposes for Issuance of Bonds**

The district may issue bonds to include:

- (1) the cost of organization of the district;
- (2) incidental expenses;
- (3) the cost of investigation and making plans;
- (4) the engineer's work and other incidental expenses;
- (5) the cost of retirement of preliminary bonds;
- (6) the cost of issuing and selling bonds;
- (7) the estimated discount on the bonds;
- (8) the cost of operation of a district for the period of construction of the Plant and improvements stated in the engineer's report;
- (9) an amount to pay interest on the bonds during the period stated in the engineer's report, which shall not be more than three years from the time the bonds are sold; and

(10) any additional cost or expense made necessary by any change or modification made in the proposed work by the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.440. Engineer's Report**

(a) Before an election is held to authorize the issuance of bonds, an engineer's report, which includes the plans and improvements to be constructed together with maps, plats, profiles, and data showing and explaining the engineer's report, shall be filed in the office of the district and shall be available for public inspection.

(b) The engineer's report shall contain a detailed estimate of the cost of improvements, including the cost of any property to be purchased, and an estimate of the time required to complete the improvements to the degree to which they may provide service.

(c) The board shall consider the engineer's report and may make changes in the report and note them in the minutes.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.441. Election Order**

(a) After the engineer's report is filed and approved, the board may order an election in the district to authorize the issuance of bonds.

(b) In the order, the board shall estimate the total amount of money needed to cover the items listed in Section 58.439 of this code.

(c) The election order shall state:

- (1) the proposed maximum interest rate on the bonds;
- (2) the maximum maturity date of the bonds;
- (3) the time and places for holding the election; and
- (4) the names of the election officers.

(d) The election order shall be entered in the minutes of the board.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.442. Notice of Election**

(a) Notice of the bond election, signed by the president and secretary of the board, shall be published once a week for four consecutive weeks in a newspaper with general circulation in the county or counties in which all or part of the district is located. The first publication shall be at least 28 days before the day of the election.

(b) The notice shall include:

- (1) the maximum amount of bonds to be issued;
- (2) the proposed maximum interest rate;
- (3) the maximum maturity date;
- (4) the time and places for holding the election;
- (5) a substantial statement of the proposition;
- (6) a summary of the engineer's estimate of the cost of the proposed improvements; and
- (7) a statement of any estimate or estimates made by the board in its order calling the election.

(c) If a contract with the United States is proposed at the election, the notice shall state the maximum amount of money to be paid for construction purposes, exclusive of penalties and interest.

(d) A copy of the election notice, together with a copy of the published notice with publisher's affidavit attached, shall be filed in the office of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.443. Ballots

(a) The proposition to be voted on shall be the issuance of the total amount of bonds covered by the engineer's estimate plus additional estimates made by the board.

(b) The ballots shall be printed to provide for voting for or against: "The issuance of bonds and the levy of taxes to pay for the bonds."

(c) If a contract is proposed with the United States under the federal reclamation laws, the ballots shall be printed to provide for voting for or against: "The contract with the United States and the levy of a tax to pay the contract."

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.444. Vote at Election

(a) Bonds of a district operating under the provisions of Article III, Section 52, of the Texas Constitution, may be issued only with the approval of two-thirds of the electors of the district participating in the election.

(b) In a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, bonds may be issued or indebtedness created only with the approval of a majority of the electors of the district participating in the election.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.445. Order to Issue Bonds or Execute Contract

After the vote is canvassed and the results are declared to be favorable to the proposition, the board shall make and enter an order directing the issuance of the bonds or the execution of a contract with the United States. The bonds or contract shall be in a sufficient amount to pay for the improvements together with all necessary incidental expenses, but the amount may not be more than the amount specified in the election order and notice of election.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.446. Record of Bond Proceedings Submitted to Attorney General

(a) After a district issues bonds other than preliminary bonds, but before they are sold, the record showing all the proceedings in the creation of the

district and the issuance of the bonds shall be filed in the office of the attorney general.

(b) The attorney general shall examine the record and give his opinion on it.

(c) The record may be presented to the attorney general before the bonds are printed, and the bonds may be executed after the record is completed.

(d) After the record is approved, the bonds shall be issued or duly executed.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.447. Approval and Registration of Bonds

(a) After the bonds are issued and executed, they shall be submitted to the attorney general for approval.

(b) If the attorney general finds that the bonds are issued according to law and are valid, binding obligations of the district, he shall officially certify the bonds and execute a certificate, which shall be filed with the comptroller and recorded in the book kept for that purpose.

(c) The bonds may not be registered with the comptroller until 20 days after the day of the election authorizing the issuance of the bonds.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.448. Validity of Bonds

After the bonds are approved by the attorney general and registered by the comptroller, they shall be held to be valid, binding obligations of the district in any suit testing their validity. Any person interested in the bonds may file a suit before the bonds are registered to test the validity, but may not bring suit to test validity after the bonds are registered.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.449. Conditions of Bonds

(a) The bonds may be issued to mature at the end of a term of years or to mature serially at any date which is not later than the maximum maturity date stated in the election order.

(b) The bonds may be issued at any rate of interest which is not more than the rate of interest set in the election order.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.450. Form of Bonds

(a) The bonds shall be issued in the name of the district and shall be signed by the president and attested by the secretary, with the seal of the district attached.

(b) The bonds shall be issued in denominations of \$100 or multiples of \$100 and shall be payable annually or semiannually.

(c) The board shall determine and include in the bonds the time, place, manner, and condition of

payment of principal and interest on the bonds, but none of the bonds may be made payable more than 40 years from their date.

(d) The lien for payments due to the United States under a contract that was not accompanied by a deposit of bonds with the United States shall be a preferred lien to that of any issue of bonds of any series or any issue of bonds subsequent to the date of the contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.451. Authority of Commission over Issuance of District Bonds**

(a) The executive director shall investigate and report on the organization and feasibility of all districts that issue bonds under this chapter.

(b) Any district that desires to issue bonds under this chapter shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report which it shall file in its office and a copy of the report shall be furnished to the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 58.452. Department Supervision of Projects and Improvements**

(a) During construction of projects and improvements approved by the commission, no substantial alterations may be made in the plans and specifications without the approval of the commission.

(b) The executive director may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications by the commission.

(c) If the executive director finds that the project is not being constructed in accordance with the approved plans and specifications, he shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives this notice, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

**§ 58.453. Validation Suit**

(a) A district may file a suit to determine the validity of the creation of the district and the bonds.

(b) If requested by the Secretary of the Interior, the district shall file a suit to validate a contract made with the United States.

(c) If a validation suit is filed, the bonds do not have to be approved by the attorney general.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.454. Effect of Prior Registration**

If bonds are approved by the attorney general and registered by the comptroller before a validation suit is filed, the filing of the suit cancels the prior registration.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.455. Procedure in Validation Suit**

(a) A validation suit shall be brought by the district in the district court of any county in which all or part of the district is located or in a district court in Travis County.

(b) The suit shall be in the nature of a proceeding in rem.

(c) Any person who is interested in the suit may intervene and file an answer.

(d) The issue shall be tried and determined by the court and judgment shall be entered on the findings.

(e) Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(53), eff. Aug. 31, 1981.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(53), eff. Aug. 31, 1981.]

**§ 58.456. Notice of Validation Suit**

(a) To obtain jurisdiction of all parties to the validation suit, a general notice shall be published.

(b) The notice shall be published once a week for at least two consecutive weeks before the term of the court at which the notice is to be returned. The notice shall be published in a newspaper with general circulation in the county or counties in which the district is located, but if no newspaper is published

inside the district, the notice shall be published in a newspaper in the nearest county in which a paper is published.

(c) Notice also shall be served on the attorney general in the manner provided in civil suits.

(d) The attorney general may waive notice if he is furnished a full transcript of the proceedings held in connection with the creation of the district and the issuance of the bonds or held in connection with the authorization of a contract with the United States. A copy of the contract with the United States also must be furnished.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.457. Duties of Attorney General in Validation Suit

(a) The attorney general shall examine all the proceedings and shall require any further evidence and make any further examination which he considers advisable.

(b) The attorney general then shall file an answer to the suit, submitting the issue of whether the proceedings are valid and the bonds are legal and binding obligations of the district, or whether the contract with the United States is legal and binding on the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.458. Judgment in Validation Suit

(a) After the trial of the validation suit, if the judgment of the court is adverse to the district on any issue, the district may make an exception and point out the error, and the error may be corrected by the judge in the manner directed by the court.

(b) The judgment shall be rendered showing that the corrections have been made and that the bonds or the contract with the United States are binding obligations of the district.

(c) After the judgment is entered, it is res judicata in all cases which may arise in connection with:

- (1) the collection of the bonds or their interests;
- (2) any taxes levied to pay charges or any money required to pay a contract with the United States; and

(3) all matters relating to the organization and validity of the district or the validity of the bonds or contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.459. Effect of Validation Suit

(a) After a final judgment is rendered in the validation suit, the bonds or the contract with the United States shall be incontestable.

(b) No suit may be brought in any court of this state to contest or enjoin the validity of the creation of the district, any bonds which are issued, any contract with the United States, or the authorization

of a contract with the United States, except in the name of the State of Texas by the attorney general on his own motion or on the motion of any party affected on good cause shown.

(c) The attorney general may not file or prosecute such a suit unless it is based on allegations of fraud disclosed or found after the final judgment in the validation suit was rendered.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.460. Certified Copy of Decree

(a) After the judgment of the district court is entered, the clerk of the court shall make a certified copy of the decree which shall be filed with the comptroller. The comptroller shall record the decree in the book kept for that purpose.

(b) The certified copy of the decree or a certified copy of the comptroller's record of the decree shall be received in evidence in any suit which may affect the validity of the organization of the district or the validity of the bonds or the contract and shall be conclusive evidence of validity.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.461. Registration of Bonds and Decree

On the presentation of the bonds together with a certified copy of the decree of the court, the comptroller shall register the bonds in a book kept for that purpose. The comptroller shall attach to each bond a certificate stating that the court's decree has been filed and recorded in his office and shall sign the certificate and attach his official seal.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.462. Sale of Bonds

(a) After the bonds are issued by the district, the board shall sell the bonds on the best terms and for the best price possible.

(b) The board shall pay the proceeds from the sale of the bonds to the district depository.

(c) The district may exchange bonds for property acquired by purchase or to pay the contract price of work done for the use and benefit of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.463. Tax Levy

(a) At the time the bonds are voted, the board shall levy a tax on all property inside the district subject to district taxation in a sufficient amount to redeem and discharge the bonds at maturity.

(b) The board annually shall levy or have assessed and collected taxes on all property inside the district in a sufficient amount to pay installments and interest as they become due.

(c) If a contract is made with the United States, the board annually shall levy taxes on property

inside the district in a sufficient amount to pay installments and interest as they become due.

(d) The board may issue the bonds in serial form or payable in installments, and the tax levy shall be sufficient if it provides an amount sufficient to pay the interest on the bonds, the proportionate amount of the principal of the next maturing bond, and the expenses of assessing and collecting the taxes for that year.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.464. Adjustment of Tax Levy**

(a) The board may from time to time increase or diminish the tax to adjust it for the taxable values of the property subject to taxation by the district and the amount required to be collected.

(b) The board shall raise an amount sufficient to pay the annual interest of and principal on all outstanding bonds.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 58.465. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

**§ 58.466. Interest and Sinking Fund**

(a) The district shall have an interest and sinking fund which shall include all taxes collected under this chapter.

(b) Money in the interest and sinking fund may be used only:

- (1) to pay principal and interest on the bonds;
- (2) to defray the expenses of assessing and collecting the taxes; and
- (3) to pay principal and interest due under a contract with the United States if bonds have not been deposited with the United States.

(c) Money in the fund shall be paid out of the fund on warrants by order of the board as provided in this chapter.

(d) The depository shall receive and cancel each interest coupon and bond as it is paid and shall deliver it to the board to be recorded, cancelled, and destroyed.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.467. Investment of Sinking Fund**

(a) The board may invest any portion of the sinking fund of the district in bonds of the United States, the state, any county or city in the state, any irrigation or water improvement district, school district, or other tax bonds issued under the laws of the state.

(b) The funds may be invested if the bonds to be paid with them do not mature within three years

from the time the investment is made and if it is necessary to preserve the best interest of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.468. Refunding Bonds**

(a) The district may refund any bonds issued by it by issuing new bonds.

(b) Refunding bonds may be issued only if the old bonds are taken in exchange at their face value or less or new bonds can be sold at a premium and the old bonds retired without loss to the district.

(c) The comptroller may not register the refunding bonds until the old bonds for which the refunding bonds are being issued are presented to him for cancellation or until a valid contract providing for the purchase or exchange of the old bonds is executed and a copy filed in his office.

(d) The comptroller shall keep the refunding bonds until the old bonds are presented to him for exchange or payment, and if the old bonds are presented for payment, the district shall pay them before the refunding bonds are registered.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.469. Limitation of Authority to Incur Debt and Issue Bonds**

(a) For the benefit of purchasers or holders of bonds to be issued or sold, the board of a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may limit the authority of the district to incur debt or issue bonds.

(b) The board shall limit the authority by adopting a resolution which states that during a period of not more than 15 years the district will not issue bonds in an amount of more than 25 percent of the assessed value of taxable real property in the district according to the last assessment for district purposes or in an amount of more than a fixed sum or for certain named purposes.

(c) The board shall publish notice of the adoption of the resolution once a week for two consecutive weeks in a newspaper with general circulation in the district. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 20 percent of the electors of the district is presented within 20 days after the first publication of the notice.

(d) If a petition is filed against the limitation, the resolution will not take effect until it is approved at an election held in the district.

(e) The ballots for the election shall be printed to provide for voting for or against: "The limitation during the term of years of the maximum debt of the district to \_\_\_\_\_." (The blank space shall be filled with the purpose of the election).

(f) If the limitation is approved at an election or if no petition is filed against the resolution, the district

may not issue bonds under any statute or constitutional provision in excess of the limitation during the designated term of years except to complete and make repairs to improvements whose cost will be within the debt limitation.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.470. Issuing Bonds in Excess of Limitation

(a) A district may issue bonds in excess of a limitation made under Section 58.469 of this code only after the commission has approved the plans and specifications with the estimate of costs.

(b) If the plans, specifications, and estimate are approved, notice of the intention to issue the bonds shall be published once a week for three consecutive weeks in a newspaper with general circulation in the district. The notice shall include a statement of the purpose for issuing the bonds, the amount of the proposed bond issue, and the time the hearing is to be held, which may not be less than 30 days after the notice is first published.

(c) The board shall hold the hearing and any taxpayer, bondholder, or other interested person may appear and be heard.

(d) If the board approves the issuance of the additional bonds in the amount and for the purpose stated in the notice, the question of issuing the bonds shall be submitted to the electors of the district at an election.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.471. Modifications or Improvements

(a) After bonds are issued or a contract is entered into with the United States, the board may give notice of an election to be held to authorize the issuance of additional bonds or a further contract with the United States.

(b) Additional bonds may be issued or a supplemental contract made if the board considers it necessary to:

(1) make modifications in the district or its improvements;

(2) construct further or additional improvements and issue additional bonds on the report of the engineer;

(3) make a supplemental contract with the United States; and

(4) make, on its own motion, additional improvements or purchase additional property to accomplish the purposes of the district and to serve the best interest of the district.

(c) The board shall enter its findings in the minutes.

(d) The election shall be held and the returns made in the manner provided in this chapter for the original election.

(e) If the result of the election favors the issuance of the bonds or the supplemental contract with the United States, the board may order the bonds issued or the contract made with the United States in the manner provided in this chapter.

(f) If a supplemental contract is made with the United States and bonds are not to be deposited with the United States, it is not necessary to issue bonds. If the district is required to raise money in addition to the amount of the contract, the bonds shall be issued only in the additional amount needed.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.472. Issuance of Additional Bonds or Creation of Additional Indebtedness under Certain Conditions

(a) A district may issue additional bonds or create additional indebtedness:

(1) if works, improvements, and facilities constructed under a plan provided in Section 58.440 or 58.452 of this code are inadequate to accomplish the beneficial results which the district's location and conditions demand;

(2) if it is considered necessary to make repairs, replacements, or additions to the district's improvements which cost more than \$25,000; or

(3) if additional money is needed to complete the improvements as planned.

(b) The district shall provide the additional money for the particular purpose in accordance with the provisions of this chapter regulating the creation of bond obligations subject to every limitation with respect to the original proceedings and the substantial protection of the substantive rights of holders of any of the district's outstanding obligations.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.473. Interim Bonds

After bonds, other than preliminary bonds or notes, are voted by a district, the board may declare an existing emergency with relation to money being unavailable to pay for engineering work, purchase of land, rights-of-way, construction sites, construction work, and legal and other necessary expenses and may issue interim bonds on the faith and credit of the district in the manner provided in Sections 58.474-58.479 of this code to pay these expenses.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.474. Limitations on Interim Bonds

(a) Interim bonds shall mature not later than 10 years from the date they are issued, and shall be redeemable at any time before they mature, as provided in this subchapter.

(b) The principal amount of the interim bonds may not be more than 25 percent of the principal amount of the district's bonds which have been voted but not sold.

(c) Before the issuance of the interim bonds, the board, by resolution, may limit the issue to any amount less than 25 percent, and after the amount is determined and fixed by the resolution, no additional interim bonds may be issued and sold until all outstanding interim bonds are paid.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.475. Issuance of Bonds and Levy of Tax**

(a) After bonds other than preliminary bonds are voted, the board may authorize the issuance of the bonds in whole or in part as they are needed by the district.

(b) The board shall levy and annually assess and collect sufficient taxes to pay principal and interest on the bonds.

(c) The bonds may be approved by the attorney general and registered by the comptroller before the filing of the report of the Texas Water Rights Commission under Section 58.451 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.476. Deposit of Bonds to Secure Interim Bonds**

(a) As the interim bonds are issued and sold, the board, by order, shall deposit bonds of the district which have been validated by a court or approved by the attorney general and registered by the comptroller as provided in Section 58.447 of this code in the district depository.

(b) The bonds deposited shall be credited to the interest and sinking fund account created to pay the interim bonds.

(c) The principal amount of the bonds deposited shall total at least 110 percent of the principal sum of the series of interim bonds which the bonds are deposited to secure.

(d) The interest rate on the interim bonds may not be more than the interest rate on the bonds deposited to secure them.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.477. Procedure for Issuance and Sale of Interim Bonds**

(a) Interim bonds shall be issued in the name of the district, signed by the president, and attested by the secretary, with the district seal attached to each bond.

(b) The interim bonds may be issued in the denominations determined by the board and shall be approved by the attorney general and registered by the comptroller in the same manner as provided in Section 58.447 of this code.

(c) The interim bonds may be sold in the same manner and on the same terms provided by law for the sale of other bonds of the district.

(d) If interim bonds are sold at less than par value and accrued interest, the improvement bonds issued by the district must be sold at an increase over the price authorized by law in an amount sufficient to equal the discount allowed on the interim bonds.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.478. Payment of Interim Bonds**

(a) The board shall appropriate the tax levied to pay the bonds deposited to the credit of the interest and sinking fund to pay the interim bonds or as much of that tax as necessary to secure the loan evidenced by the interim bonds.

(b) The proceeds of the tax shall be devoted exclusively to the payment of the principal and interest on the interim bonds.

(c) None of the provisions of this subchapter relating to interim bonds shall be construed as prohibiting the sale of bonds deposited to the credit of the interest and sinking fund to pay interim bonds or of any other bonds of the district, but if any of these bonds are sold, the district depository shall apply the proceeds to the payment of principal and accrued interest on the interim bonds and the remainder to the purposes for which the bonds were authorized.

(d) If none of the bonds are sold at the time an installment on the principal and interest of interim bonds matures, the depository shall cancel the deposited bonds and attached interest coupons in an amount equal to the principal and interest of the interim bonds paid off and discharged.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.479. Redemption of Interim Bonds**

(a) At the option of the board, interim bonds may be redeemed at any time or times before maturity on payment by the district of the principal and accrued interest to the date fixed for redemption by the board.

(b) When interim bonds are called for redemption before maturity, the secretary shall give written notice of the redemption to the bank or banking house named as the place of payment in the bonds or to its successor or assign.

(c) In the notice, the secretary shall designate the bond or bonds called for redemption and payment and shall state the number or numbers of the bonds.

(d) The notice shall include the redemption date which shall not be more than 60 days after the date notice of call for payment is made.

(e) If any of the bonds which are called for redemption are not presented, they shall cease to bear interest from and after the date fixed for redemption.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.480. Alternate Methods for Paying Bonds**

(a) As used in this section and in Sections 58.481–58.484 of this code, “net revenue” means income or increment which may come from ownership and operation of the improvements which are encumbered less the proportion of the district’s revenue income reasonably required to provide for administration, efficient operation, and adequate maintenance of the district’s services and facilities which are encumbered. Net revenue does not include money derived from taxation.

(b) A district which expects net revenue from operations may secure its bonds in any one of the following:

- (1) as provided in Section 58.463 of this code;
- (2) by entering into a contract to pledge the net revenue of the district and to mortgage and encumber part or all of the property and facilities, franchise, revenue, and income from operations, and everything acquired or to be acquired by the district; or

(3) as provided in both Subdivisions (1) and (2) of this subsection.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.481. Taxes to Secure Certain Bonds**

(a) If bonds are secured as provided in Section 58.480(b)(3) of this code, at the time that net revenue together with money derived from taxes accumulates a surplus in the sinking fund equal to the amount required in the succeeding year to liquidate the interest and principal on the district’s bonds maturing in that year, the district’s annual tax levies may be lowered to produce not less than 25 percent of the bond maturities for the succeeding year.

(b) If three successive years demonstrate that this net revenue is adequate to protect the district’s bonds as they mature, the district’s tax may be discontinued until further experience demonstrates the necessity to continue the tax to avoid default in the payment of the district’s bonds as they mature. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.482. Election**

(a) If the district proposes to issue bonds which will be secured under either Section 58.480(b)(2) or 58.480(b)(3) of this code, the proposition shall be presented at an election held under Section 58.443 of this code.

(b) The ballots for the election shall be printed to provide for voting for or against one of the following propositions:

- (1) “The issuance of bonds and the pledge of net revenue for the payment of the bonds.”;
- (2) “The issuance of bonds, the pledge of net revenue, and the creation of a lien on physical property to secure payment of the bonds.”; or

(3) “The issuance of bonds, the pledge of net revenue, and the levy of adequate taxes to pay the bonds.”

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.483. Hearing and Election on Certain Bonds**

(a) A district which plans to issue bonds payable from and secured by a pledge of net revenue and a lien on the physical property, either or both, without the levy of taxes, is not required to hold a hearing to exclude land or adopt a plan of taxation.

(b) The proposition for issuance of bonds may be submitted at the election held to confirm the creation of the district or at an election called by the board.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.484. Hearing Before Issuing Certain Bonds**

If a district issues its original bonds under Section 58.480(b)(2) of this code and later desires to issue bonds payable in whole or in part from taxes or to levy a tax for maintenance purposes, the district shall hold a hearing to exclude land, and at the time provided by law, shall hold another hearing to adopt a plan of taxation. These hearings shall be held before an election is called to approve the issuance of tax-supported bonds or the levy of a maintenance tax.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.485 to 58.500 reserved for expansion]

**SUBCHAPTER K. TAX PLAN****§ 58.501. Tax to Pay Preliminary Bonds**

Taxes to pay principal and interest on preliminary bonds shall be levied and collected on the ad valorem basis.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.502. Hearing to Determine Basis of Taxation**

After the board adopts plans for construction of a plant and improvements to accomplish the purposes of the district and after an election is held to authorize the issuance of construction bonds and the levy of a tax to pay for the bonds, the board shall hold a public hearing to determine whether the taxes to pay the construction bonds and maintenance, operation, and administrative costs of the district shall be levied, assessed, and collected on:

- (1) the ad valorem basis;
- (2) the basis of assessment of specific benefits;
- (3) the basis of assessment of benefits on an equal sum per acre; or
- (4) the ad valorem basis for part of the total tax or defined area or property and on the benefit

basis for the other part of the tax or defined area or property.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.503. Notice of Hearing**

Notice of the time and place of the hearing and the proposition to be determined shall be published once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall be made not less than 10 days before the day of the hearing set in the notice.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.504. Conduct of Hearing**

(a) At the hearing, any person who is a taxpayer in the district may appear and offer testimony to show which plan of taxation will be most conducive to equitable distribution of taxes.

(b) The hearing may be adjourned from day to day until all persons wishing to testify have been heard.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.505. Order**

(a) The board shall adopt the plan of taxation which will, in its judgment under the evidence, be most conducive to the equitable distribution of the district's tax.

(b) If the plan adopted by the board is made under the provisions of Section 58.512 of this code, the order shall specify the proportion of the tax which falls under each designated classification.

(c) The order of the board is final and cannot be reviewed or questioned in any court except on the ground of fraud or palpable and arbitrary abuse of discretion.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.506. Changing Tax Plan**

If after a tax plan is adopted the directors find that the best interest of the district and the necessity to maintain adequately and equitably the district's tax requires a change in the tax plan, the board may give notice, hold a hearing, and determine a new plan in the manner provided in Sections 58.502-58.505 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.507. Effect of Sections 58.501-58.506 of This Code**

Nothing in Sections 58.501-58.506 of this code shall be held to alter provisions of this chapter relating to districts which have contracts with the United States or to alter or impair the provisions of this code relating to taxes levied to provide local

improvements to a defined area which do not affect the entire district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.508. Unlimited Authority to Collect Service Charges and Taxes**

The provisions of this subchapter do not alter or impair the right of a district:

(1) to make, establish, and collect maintenance and operation charges for service rendered;

(2) to levy and collect taxes to secure funds to maintain, repair, and operate all works and facilities; and

(3) to give and maintain proper service for the purposes of its organization.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.509. Lien Created; No Limitation**

Charges or assessments imposed by a district for maintenance and operation of works, facilities, and services of the district shall constitute a lien against the land to which the charges or assessments have been established. No law providing limitation against actions for debt shall apply.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 58.510. Purpose of Sections 58.511-58.529 of Code**

The purpose of Sections 58.511-58.529 of this code is to give a district the flexibility of taxing power which will permit and cause the tax of the district to be equitably distributed and which will give the highest practicable degree of service under the peculiar physical and economic conditions of the district. To this end, these sections shall be liberally and sympathetically construed.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.511. Authority to Adopt Alternative Plans of Taxation**

A district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, shall adopt a tax plan under the alternative provisions of Sections 58.512-58.529 of this code either at the time of its creation or before the appointment of commissioners of appraisalment under this chapter.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.512. Alternative Plans of Taxation**

(a) The district's taxes for all purposes, except to pay the cost of preliminary surveys, may be levied, assessed, and collected on an adopted basis to be chosen from the alternatives provided in this section.

(b) The district's tax plan may be based on any one of the following:

- (1) ad valorem basis;
- (2) benefit basis;
- (3) ad valorem basis to obtain a part or percentage of the total tax or to apply to a specific part of the district and benefit basis applied to the other part of percentage of the tax or to the remaining part of the district; or

(4) either ad valorem or benefit basis on designated property or defined areas of the district to pay for improvements, facilities, or service peculiar to the defined part of the district and not generally and directly benefiting the district as a whole.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.513. Adoption of Plan of Taxation

(a) Except as provided in Section 58.512(b)(4) of this code, before the commission of appraisal is appointed and the construction bonds are sold, the board shall adopt a proposed plan of taxation as provided in Sections 58.502–58.505 of this code.

(b) If the tax plan is not based wholly on the ad valorem basis or on the benefit basis, the order adopting the proposed plan shall specify the portion of the tax to be based on the ad valorem basis and the portion to be based on the benefit basis. The board also shall state the physical and economic reasons, the peculiar diverse local needs, or the comparative potential benefits of different areas of designated property in the district which make it necessary or equitable to levy all or part of the tax on a defined part of the district on the ad valorem or benefit basis.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.514. Notice of Adoption of Plan and Hearing

(a) After the tax plan is adopted, the board shall publish notice once a week for two consecutive weeks in one or more newspapers with general circulation in the county or counties in which the district is located.

(b) The notice shall state:

- (1) that the tax plan has been adopted;
- (2) that the plan is available for public inspection in the district's office;
- (3) that a hearing on the plan will be held by the board at a specified place and at a particular time, which shall not be less than 15 days nor more than 20 days after the first publication of notice; and
- (4) that all interested persons may appear and support or oppose all or part of the proposed tax plan and offer testimony.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.515. Order Adopting Tax Plan

(a) After all persons have been heard, the board may approve the proposed tax plan or may change or modify the plan.

(b) The board shall adopt a tax plan which it considers, under the evidence before it, most equitably distributes the tax burden and conserves the public welfare.

(c) The board shall enter its order establishing the tax plan, and the plan shall become the basis for the assessment and collection of taxes until the district adopts a different plan.

(d) The order is not subject to judicial review except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

(e) A new plan may be adopted if required to preserve equity of distribution in the manner provided for adopting the original plan; however, no change may be made in the tax plan which will impair the ability of the district promptly to meet all outstanding obligations of the district within the intent of Sections 58.464 and 58.467 of this code. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.516. Obtaining Funds to Construct, Administer, Maintain, and Operate Improvements and Facilities in Defined Part of District

On adoption of the plan of taxation provided in Section 58.512(b)(4) of this code, the district, in the manner provided in Sections 58.517–58.523 of this code, may provide, pay for, maintain, and operate improvements, service, or facilities peculiar to a designated area or defined property which do not affect the whole district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.517. Defining Area and Designating Property to be Benefited by Improvements; Adopting Tax Plan

(a) The board shall define the particular area to be taxed by metes and bounds or designate the property to be served, affected, and taxed.

(b) The board shall adopt a plan for improvements in the defined area or to serve the designated property in the manner provided in Sections 58.440–58.441 of this code.

(c) The board shall adopt a plan of taxation to apply to the defined area or designated property which may or may not be in addition to other taxes imposed by the district on the same area or property. The proportional tax or income contributions of the defined area or designated property and the proportional and equitable interest of the entire district shall be taken into consideration in imposing any tax to an area or piece of property.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.518. Notice and Hearing**

The board shall give notice and hold a hearing in the same manner and for the same purpose as provided in Sections 58.514–58.515 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.519. Board's Order**

At the hearing, if the board decides to define and serve the proposed separate tax area or separate designated property, it shall enter an order in the record, and if the proposal involves the issuance of bonds, the board shall call an election in the whole district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.520. Procedure for Election**

(a) The election shall conform to the provisions of this code relating to an election to authorize the issuance of construction bonds.

(b) The board shall submit the appropriate issues to the electors, and the issues may be submitted on the same ballot to be used in another election.

(c) The notice of election shall define the area to be designated and the plan of taxation to be applied.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.521. Election not Required in Separate Election Precinct**

If proposed improvements are considered to be required to promote the public welfare or if the owners of the land in a defined area file a petition acknowledged as required for deeds requesting the district to provide improvements and assess a tax only in the defined area, it is not necessary to constitute the area a separate election precinct and have a separate election in that area.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.522. Ballots**

The ballots for an election under this subchapter shall be printed to provide for voting for or against substantially the proposition: "Designation of the area, issuance of bonds, and levy of a tax to retire the bonds."

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.523. Declaring Result and Issuing Order**

If a majority of the electors approve the proposal, the board shall declare the result and, by order, shall establish the area and define it by metes and bounds or designate the specific property and shall fix the tax basis for the area or property. A certified copy of the order shall be recorded in the minutes of the district and shall constitute notice.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.524. Pledge of Faith and Credit**

If at an election the electors approve the issuance of bonds and the levy of a tax which applies only to a defined area, the district may issue bonds which pledge only the faith and credit based on the property values in the defined area; however, the district may pledge the full faith and credit of the entire district under the condition of authorization in Section 58.528 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.525. Election in Separate Election Precinct**

(a) If the improvements to be provided in a defined area are considered peculiarly for the benefit of that area and not required to conserve the public or general welfare in the district as a whole, and if the proposed improvements in that area will require the imposition of a tax only on the property in the area, the defined area is constituted a separate election precinct in which a separate election shall be held to determine if the improvements will be provided and a separate tax levied.

(b) The election shall be held in the manner provided for issuance of bonds under this subchapter.

(c) If a majority of the electors in the defined area approve the propositions, the district shall provide money when necessary and shall provide the improvements and levy the tax.

(d) At an election in the defined area, each qualified elector of the district who owns property in the defined area may elect to vote in the area and not in the precinct of his residence.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.526. Issuance of Bonds and Levy of Tax for Defined Area or Designated Property**

(a) After the order is recorded, the district may issue its bonds to provide the specific plant, works, and facilities included in the plans adopted for the area or to serve the property and shall provide the plant, works, and facilities.

(b) In the appropriate case, the board shall levy, assess, and collect taxes on the property located in the defined area or on the designated property in conformity with the adopted tax plan.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.527. Contract to Provide Improvements, Facilities, and Services to Designated Property or Area**

(a) Property or areas inside or outside the district may, by contract, be designated to obtain improvements, facilities, or service for the designated area or property.

(b) The designation shall be based on a written petition in conformity with the laws authorizing contracts by a petitioner or person owning, control-

ling, or governing the property or area to be designated.

(c) The board may make the designation in a contract to provide, administer, maintain, and operate the desired improvements, facilities, or service for the designated area or property, and the designated area or property shall be subject to a tax lien in an amount to retire the obligations incurred by the district to provide the facilities, improvements, or service and to cover the expenses necessary to administer, maintain, and operate the improvements and facilities under the contract.

(d) The contract may not violate the law of this state or the United States and may not result in impairing a vested right or causing the district to fail to serve fully and permanently water demands in the district in the order of preference of uses.

(e) The contract may provide that one governing body may establish the contractual and statutory tax lien in behalf of the district and may levy, assess, and collect the tax for and on behalf of the district.

(f) The district may not issue bonds pledging the full faith and credit of the district under this section or under Section 58.517 of this code without submitting the proposition to the electors of the whole district under the provisions of this subchapter or under the provisions authorizing the issuance of construction bonds.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.528. Authority of District

(a) If a majority of the electors in the whole district approve the proposal, the district may issue its bonds to provide the plant, improvements, and facilities peculiar to the defined area or designated property or peculiar to a contract for services and may pledge the full faith and credit of the district to pay for the bonds.

(b) The district shall have a lien on the property in the defined area or on the designated property and may levy, assess, and collect or have levied, assessed, and collected taxes in the area or on the property to protect the district from or to compensate any liability incurred on behalf of the defined area or designated property.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.529. Administrative Authority of Board

The board shall administer all business incident to the creation and operation of a defined area or service to designated property unless otherwise provided by contract.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.530 to 58.560 reserved for expansion]

### SUBCHAPTER L. TAXATION ON THE AD VALOREM BASIS

#### § 58.561. Assessment of District Property

The assessor and collector shall assess all taxable property in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.562. Law Governing Property Subject to Taxation

The property subject to taxation in the district shall be determined by and governed by the Property Tax Code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1979. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

#### §§ 58.563 to 58.584. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed sections, relating to rendition of property and board of equalization, were added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1.

#### § 58.585. Permanent Finance Ledger

(a) The board shall provide a permanent finance ledger in which the assessor and collector shall be charged with the total assessment of property shown on the tax rolls.

(b) Credit shall be entered in the permanent finance ledger of all collections paid to the depository.

(c) The permanent finance ledger and the books and accounts of the assessor and collector shall be audited by the board semiannually on January 1 and July 1 of each year and at any other times ordered by the board.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### §§ 58.586 to 58.600. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed sections, relating to delinquent taxes and county or city assessor and collector, were added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1.

#### § 58.601. Audit

(a) The district under the contract may elect to require the county auditor to audit annually the collections and accounts of the county assessor and collector and furnish the district with a report of his finding.

(b) The district shall pay to the county the actual cost of the audit.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.602 to 58.630 reserved for expansion]

SUBCHAPTER M. TAXATION ON THE  
BENEFIT BASIS

§ 58.631. **Method of Taxation for District under Contract with the United States**

A district which is operated under contract with the United States may adopt the plan to levy and collect taxes on the benefit basis instead of the ad valorem basis and determine taxes under the provisions of Sections 58.632-58.634 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.632. **Assessment Record**

When necessary, the board shall apportion and assess the benefits conferred on property subject to taxation in the district and shall make a record showing the amount and value of benefits to accrue on property in the district and the amount of taxes to be levied and collected on the property. No taxes assessed or adjudged against the property subject to taxation may be more than the benefit which accrues to the property from the organization, operation, and maintenance of the district and its improvements.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.633. **Notice of Taxes**

After the board makes the record, it shall mail to each property owner whose name appears in the record notice of the amount of taxes levied on his property and the date and place at which the property owner may appear and contest the correctness and equitableness of the tax.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.634. **Decision after Hearing**

After the hearing, the board shall determine whether or not the tax is equitable and shall sustain, reduce, or increase the tax to an amount which in the board's judgment is equitable. The decision of the board is final.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.635. **Method of Taxation for District not under Contract with the United States**

If a district which is not operating under contract with the United States adopts the benefit basis plan for taxation, the levy, assessment, equalization of property values, and collection of taxes shall be made in the manner provided in Sections 58.636-58.648 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.636. **Commissioners of Appraisalment**

As soon as practicable after the approval of the engineer's report and the adoption of the plan for

improvements to be constructed, the board shall appoint three disinterested commissioners of appraisalment. The commissioners shall be freeholders but not owners of land within the district which they represent.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.637. **Compensation of Commissioners**

On approval by the board, each commissioner is entitled to receive \$25 a day for each day he actually serves, plus all necessary expenses.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.638. **Notice of Appointment and Meeting**

Immediately after the commissioners of appraisalment are appointed, the secretary of the board shall give written notice to each appointee of his appointment and of the time and place of the first meeting of the commissioners.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.639. **First Meeting of Commissioners**

(a) The commissioners shall meet at the time specified in the notice from the secretary or as soon after that time as possible.

(b) At the meeting the commissioners shall take and subscribe an oath to discharge faithfully and impartially their duties as commissioners and make a true report of the work which they perform. They shall then organize by electing one commissioner as chairman and one commissioner as vice-chairman.

(c) The secretary of the board or, in his absence, a person appointed by the board shall serve as secretary to the commissioners of appraisalment and shall furnish to the commissioners any information and assistance which is necessary for the commissioners to perform their duties.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.640. **Assistance for Commissioners**

Within 30 days after the commissioners qualify and organize, they shall begin to perform their duties, and in the exercise of their duties they may obtain legal advice and information relative to their duties from the district's attorney and, if necessary, may require the presence of the district engineer or one of his assistants at any time and for as long as necessary to properly perform their duties.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.641. **Viewing Land and Other Property and Improvements in District**

The commissioners shall view the land in the district which will be affected by the district's reclamation plans and shall assess the amount of the benefits and damages that will accrue to the irrigable

land in the district from the construction of the improvement.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.642. Commissioners Report

(a) The commissioners shall prepare a report and file it with the secretary of the board. The report shall be signed by at least a majority of the commissioners.

(b) The report shall include:

(1) the name of the owner of each tract of land which is subject to assessment;

(2) a description of the property;

(3) the amount of the benefits or damages assessed on each tract of land;

(4) the time and place at which a hearing will be held on the report to hear objections; and

(5) the number of days each commissioner served and the actual expenses incurred during his service as commissioner.

(c) The day set in the report for the hearing may not be later than 20 days after the report is filed.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.643. Notice of Hearing

(a) After the commissioners' report is filed, the secretary of the board shall publish notice of the hearing on the report at least once a week for two consecutive weeks in a newspaper published in each county in which part of the district is located. The secretary shall mail written notice of the hearing to each person whose property will be affected if his address is known.

(b) The notice shall state:

(1) the time and place of the hearing;

(2) that the commissioners' report has been filed;

(3) that interested persons may examine the report and make objections to it; and

(4) that the commissioners will meet at the time and place indicated to hear and act on objections to the report.

(c) On the day of the hearing, the secretary shall file in his office the original notice and his affidavit stating the manner of publication, the names of persons to whom notice was mailed, and the names of persons to whom notice was not mailed because the secretary by reasonable diligence could not ascertain their addresses. Copies of the notice and affidavit shall also be filed with the commissioners of appraisal and the clerk of the commissioners court.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.644. Hearing

(a) At or before the hearing on the commissioners' report, an owner of land that is affected by the report or the reclamation plans may file exceptions to all or part of the report.

(b) At the hearing, the commissioners shall hear and make determinations on the objections submitted and may make necessary changes and modifications in the report for objections which are sustained.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.645. Witnesses at the Hearing

At the hearing, interested parties may appear in person or by attorney and are entitled, on demand, to have the chairman of the commissioners of appraisal issue process for witnesses. The commissioners shall have the same power as a court of record to enforce the attendance of witnesses.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.646. Costs of Hearing

The commissioners may adjudge and apportion the costs of the hearing in any manner they consider equitable.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.647. Commissioners' Decree

(a) After the commissioners have made a final decision, they shall issue a decree confirming their report insofar as it remains unchanged and shall approve and confirm changes in the report.

(b) The final decree and judgment of the commissioners shall be entered in the minutes of the board, and certified copies shall be filed as a permanent record with the county clerk of each county in which part of the district is located and shall be notice to all persons of the contents and purpose of the decree.

(c) The findings of the commissioners which relate to benefits and damages to irrigable land in the district are final and conclusive.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.648. Effect of Final Judgment and Decree

The final judgment and decree of the commissioners shall form the basis for all taxation in the district. Taxes shall be apportioned and levied on each tract of irrigable land in the district in proportion to the net benefits to the land stated in the final judgment and decree.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.649. Fixing Tax as Equal Sum on Each Acre**

At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of any district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system, and also the benefit to land in the district that cannot be irrigated by gravity flow. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.650. Election**

(a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 58.649 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Uniform assessment of benefits of \$\_\_\_ per acre on all irrigable land in the district."

(c) The board shall determine the amounts to fill the space in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.651. Setting Annual Value of Land Unnecessary**

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all irrigable land in the district, and it is not necessary to annually fix the value of the land. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 27, 1979. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 58.652. Preparing Tax Rolls**

(a) The board shall examine the tax rolls to determine if all property subject to taxation appears on the tax rolls. The board shall add to the tax roll any property which was left off and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board that his property has not been properly classified.

The board shall consider the protest and enter its findings in the minutes in the manner provided by law.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 58.653. Rendition of Property**

Land which is taxed on the uniform acreage valuation shall be rendered for taxation as subject to irrigation. When land is rendered, the value need not be stated, and it is unnecessary for the person rendering the property to include the value of the land in an affidavit or for the assessor and collector to set a value on the land.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.654. Law Governing Administration of Benefit Tax Plan**

In a district that levies taxes on a benefit basis, the rate of taxation and the assessment and collection of taxes shall be governed by the law relating to ad valorem taxes to the extent applicable.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 58.655. Irrigating Nonirrigable Land**

If land which is classified as nonirrigable is later irrigated by the district, before the owner of the land receives the water, he shall pay to the district an amount equal to the entire amount that would have been charged to the owner if the land had been originally classified as irrigable.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.656 to 58.690 reserved for expansion]

**SUBCHAPTER N. ADDING AND EXCLUDING TERRITORY AND CONSOLIDATING DISTRICTS**

**§ 58.691. Excluding Land from District**

After a district is organized, preliminary surveys are completed, and plans adopted by the district for the construction of a plant and improvements, and before the board calls an election for the authorization of construction bonds, the board must exclude land or other property from the district under the provisions of Sections 58.692-58.701 of this code, if the exclusions are practicable, just, or desirable.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.692. Hearing to Announce Proposed Exclusions and to Receive Petitions**

Before the election to authorize construction bonds, the board shall give notice of a time and place of a hearing to announce its own conclusions relating to land or other property to be excluded and to

receive petitions for exclusion of land or other property.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.693. Notice of Hearing

(a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 15 days and not more than 40 days before the day of the hearing.

(b) The notice shall advise all interested property owners of their right to present petitions for exclusions and to offer evidence in support of the petitions and their right to contest any proposed exclusion based on either a petition or the board's own conclusions and to offer evidence in support of the contest.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.694. Petition

(a) A petition for exclusion of land must accurately describe by metes and bounds the land to be excluded. A petition for exclusion of other property must describe the property to be excluded for identification.

(b) A petition for exclusion shall be filed with the district at least 10 days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.695. Grounds for Exclusion

Exclusions from the district may be made on the grounds that:

(1) to retain certain land or other property within the district's taxing power would be arbitrary, would be unnecessary to conserve the public welfare, would impair or destroy the value of the property desired to be excluded, and would constitute the arbitrary imposition of a confiscatory burden;

(2) to retain any given land or other property in the district and to extend to it, either presently or in the future, the benefits, service, or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(3) the land desired to be excluded cannot be served with water or drained so as to make it useful for irrigation purposes, or otherwise benefited by the district's proposed improvements.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.696. Hearing Procedure

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. The board immediately shall specifically describe all property which it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.697. Order Excluding Land

After considering all engineering data and other evidence presented to it, the board shall determine whether the facts disclose the affirmative of the propositions stated in Subdivision (1) or (2) or, if appropriate, in Subdivision (3) of Section 58.695 of this code. If the affirmative exists, the board shall enter an order excluding all land or other property falling within the conditions defined by the respective subdivisions and shall redefine the boundaries of the district in the order to embrace all land not excluded.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.698. Suit to Review, Etc.

Any person owning an interest in land affected by the order may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.699. Venue of Suit

The venue in any action shall be in any district court which has jurisdiction in the county in which the district is located. If the district includes land in more than one county, the venue shall be in the district court having jurisdiction in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.700. Trial Procedure

(a) A suit to review, modify, suspend, or set aside the order of the board shall be a trial de novo as that term is understood in an appeal from a justice of the peace court to a county court. The trial shall be strictly de novo with no presumption of validity or reasonableness or presumption of any character in favor of the order.

(b) The decision shall be made on a preponderance of the evidence and facts found in the trial as in other civil cases, independently of any action taken by the board.

(c) The procedure for the trial and the determination of the orders and judgments to be entered shall be governed solely by the rules of law, evidence, and procedure of the state courts according to the consti-

tution, statutes, and rules of procedure for the trial of civil actions.

(d) The so-called "substantial evidence" rule enunciated by the courts for orders of other administrative or quasi-judicial agencies shall not apply in the trial.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.701. Appeal**

A person may appeal from the judgment or order of a district court in a suit brought under the provisions of Sections 58.698-58.700 of this code to the court of civil appeals and supreme court as in other civil cases in which the district court has original jurisdiction. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.702. Exclusion of Nonagricultural and Nonirrigable Land from the District**

After the district is organized, acquires facilities with which to function as an irrigation district, and votes, issues, and sells bonds for the purposes for which the district was organized, land within the district subject to taxation which is not agricultural land or cannot be irrigated in a practicable manner may be excluded from the district by complying with the provisions of Sections 58.703-58.713 of this code. The land may also be excluded pursuant to the provisions contained in either Chapter 119, Acts of the 47th Legislature, Regular Session, 1941, as amended, or Chapter 86, Acts of the 62nd Legislature, Regular Session, 1971,<sup>1</sup> in the same manner as if the district was a water control and improvement district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> See Water Code Special Laws Table, arts. 7880-76c, 8280-3.2.

**§ 58.703. Prerequisite to Application for Exclusion**

The owner of land in the district which is not agricultural land or cannot be irrigated in a practicable manner may apply for its exclusion from the district if all taxes levied and assessed by the district on the land to be excluded have been fully paid, including all bond tax and flat water rate assessment.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.704. Substituting Land of Equal Acreage and Value**

Land which can be irrigated in a practicable manner of at least equal acreage and equal value to the land being excluded must be added to the district simultaneously with the exclusion of the nonagricultural or nonirrigable land.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.705. Securing Application to Substitute Land**

The board may require an owner of land in the district who has applied for the exclusion of his nonagricultural or nonirrigable land from the district to procure an application of the owner of land adjoining the boundaries or the canals of the district, and capable of being irrigated in a practicable manner from the facilities of the district, for inclusion in the district of his land in an amount and value at least equal to the land which is to be excluded under the application of the owner of nonagricultural or nonirrigable land. Each application shall set forth the facts concerning the land to be excluded from and the land to be added to the district, including evidence of their reasonable market value.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.706. Application of Owner of New Land to be Substituted**

The owner of the new land to be added shall submit an application setting forth that the owner of the new land assumes the payment of all taxes to be levied on his land by the district after the date the land is added to the district. The application also shall set forth an agreement by the owner of the new land that the land will be subject to future taxes for bond tax and flat rate and all other assessments levied and assessed by the district as though the land had been incorporated originally in the district. The application also shall contain an agreement by the owner of the new land that the land will be subject to the same liens and provisions as all other land in the district and subject to the statutes governing all other land in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.707. Consent of Outstanding Bondholders**

(a) The board shall communicate the contents of the applications to exclude nonagricultural or nonirrigable land and to include an equal amount of irrigable land to the holders of outstanding bonds voted, issued, sold, and delivered by the district and payable from taxes levied on property in the district.

(b) If the consent in writing of 95 percent or more of the bondholders to the plan is filed with the board, the board may hold a hearing on the applications.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.708. Notice of Hearing on Applications**

The board shall give notice of the hearing on the applications by publishing the time, place, and nature of the hearing one time in a newspaper published in a county in which all or part of the district is located. The newspaper must have been published regularly for more than 12 months preceding the date of the publication of the notice and must have circulation in the district. The notice shall be pub-

lished not less than 10 days nor more than 20 days before the date of the hearing.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.709. Hearing Procedure

The board shall hear all interested parties and all evidence in connection with the applications.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.710. Board's Resolution to Substitute Land

If the board finds that all the conditions provided for the exclusion of land and inclusion of other land in the district exist, it may adopt and enter in its minutes a resolution to exclude land which is nonagricultural or nonirrigable in a practicable manner and include land which may be irrigated from the facilities of the district in a practicable manner.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.711. Liability of Excluded and Included Land

The land excluded from the district is free from any lien or liability created on the excluded land by reason of its having been included in the district. Land added to the district is subject to all laws, liens, and provisions governing the district and the land in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.712. Duty to Advise Commission

The board shall furnish the commission a detailed description of the land excluded and a detailed description of the land included within 30 days after the exclusion and inclusion of land under the provisions of Sections 58.702–58.711 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

#### § 58.713. Right to Serve New Land Included in District

The district has the same right to furnish water service to the included land that it previously had to furnish service to the excluded land. The mere inclusion of a larger total acreage than that excluded does not give the district the right to irrigate a larger total acreage or to appropriate a larger quantity or volume of public water for irrigation than the district would have had the right to irrigate or to appropriate before the exclusion and inclusion of the land.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.714. Adding Land by Petition of Landowner

The owner of land may file with the board a petition requesting that the land described by metes and bounds in the petition be included in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.715. Petition Signed and Executed

The petition of the landowner to add his land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.716. Hearing and Determination of Petition

The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the water supply, canals, and other improvements are sufficient to supply the added land without injuring land already in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.717. Recording Petition

A petition which is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county in which the land is located.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.718. Adding Certain Territory by Petition

Landowners of a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board signed by a majority of the landowners in the territory or by 50 landowners if the number of landowners is more than 50.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.719. Hearing on Petition

The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than 30 days from the date of the order.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.720. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least 15 days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least 15 days before the day of the hearing.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.721. Resolution to Add Territory**

If the board finds on hearing the petition that the addition would be of benefit to the district and that the water supply, canals, and other improvements are sufficient to supply the added territory without injuring the land already in the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.722. Elections to Ratify Annexation of Land**

(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.723. Notice and Procedure of Election**

The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters shall be governed by the provisions of Subchapter E of this chapter.<sup>1</sup>

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> Section 58.221 et seq.

**§ 58.724. Liability of Added Territory**

The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.725. Liability of Land Added to a District Operating under Article XVI, Section 59, of the Texas Constitution**

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit basis instead of the ad valorem basis. The agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment.

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the

added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose.

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.726. Consolidation of Districts**

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 58.727–58.730 of this code. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.727. Elections to Approve Consolidation**

(a) After the directors of each district have agreed on the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.728. Governing Consolidated Districts**

(a) After two or more districts are consolidated, they become one district, except for the payment of debts created before consolidation, and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to wind up the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next general election or name persons to serve as officers of the consolidated district until the next general election if all officers of the original districts agree to resign.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current board shall approve the bond of each new officer.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.729. Debts of Original Districts**

After two or more districts are consolidated, the debts of the original districts are protected and are not impaired. These debts may be paid by taxes or assessments levied on the land in the original districts as if they had not consolidated or contributions from the consolidated district on terms stated in the consolidation agreement.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.730. Assessment and Collection of Taxes**

After consolidation, the officers of the consolidated district shall assess and collect taxes on property in the original district to pay debts created by the original district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.731 to 58.780 reserved for expansion]

**SUBCHAPTER O. DISSOLUTION OF DISTRICT****§ 58.781. Dissolution of District Prior to Issuance of Bonds**

(a) If the electors of a district reject the proposal to issue construction bonds by a constitutional or statutory majority vote, the board must dissolve the district and liquidate the affairs of the district as provided in Sections 58.781–58.792 of this code.

(b) Subject to the provisions of Subchapter G of Chapter 50 of this code,<sup>1</sup> if a district finds at any time before the authorization of construction bonds or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

(c) Subject to the provisions of Subchapter G of Chapter 50 of this code, if 20 percent of the qualified voters of a district petition the board for a hearing on a proposal to dissolve the district and deposit with the board an amount estimated to cover the actual cost of giving notice and holding the hearing, the board shall publish notice of the hearing within 10 days and shall hold the hearing within 40 days after the filing of the petition, as provided in Sections 58.782–58.785 of this code. If the finding is against the petition, the deposit shall be applied to pay the cost of giving notice and holding the hearing.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> Section 50.251 et seq.

**§ 58.782. Notice of Hearing**

The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district. The notice must be posted at least 10 days before the hearing on the proposed dissolution of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.783. Hearing**

The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.784. Board's Order to Continue or Dissolve District**

The board shall determine from the evidence whether the best interests of the persons, land, and property in the district will be promoted by prosecuting the district's plans or whether the best interests of the persons and property in the district will be served by dissolving the district, and the board shall enter the appropriate findings and order in the record.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.785. Judicial Review of Board's Order**

The board's decree to continue or to dissolve the district shall be final and cannot be judicially reviewed except on the ground of fraud, palpable error, or gross abuse of discretion.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.786. Appointment of Trustee**

(a) If the board orders the dissolution of the district, it shall appoint a director or some other competent person as trustee to close the affairs of the district as soon as practicable.

(b) The board shall determine the term of service and the amount of compensation for the trustee.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.787. Discharge of District's Obligations by Trustees**

(a) The trustee shall reduce all assets and resources of the district to possession and money and apply them to discharge the outstanding obligations of the district, having regard to specific funds.

(b) If required, the board shall levy, assess, and collect sufficient additional taxes to pay all necessary expenses and outstanding obligations of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.788. Discharge of Trustee**

The trustee shall be discharged when all obligations of the district are paid and the trustee's account is verified and settled.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.789. Final Order of Dissolution**

After all obligations are paid and the trustee is discharged, the board shall enter its final order of dissolution and record the final order in the deed records of the county or counties in which the district is located.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.790. Water Rights of Dissolved District**

Water rights held from the state shall revert to the state and may not be assigned by the district in anticipation of dissolution.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.791. Taxes in Excess of District's Obligations**

(a) If taxes have been collected by the dissolved district in excess of the amount required to liquidate the obligations of the district, the excess shall be paid ratably to the county treasurer or treasurers of the county or counties in which the district was located.

(b) The commissioners courts shall credit the money received from the dissolved district to the interest and sinking fund for any outstanding county bonds. If the county has no outstanding bonds, the money may be applied as the commissioners court lawfully directs.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.792. Permanent Record of Dissolved District**

All records, vouchers, and accounts of the district shall be delivered to the commissioners court of the county in which the district's principal office was located and shall be preserved as a permanent record.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.793. Dissolution of District for Failure to Complete Plant**

Subject to the provisions of Subchapter G of Chapter 50 of this code,<sup>1</sup> if a district has not within 10 years from the date of its creation commenced and completed the construction of a plant and improvements to carry out the purposes of its creation in accordance with the plans adopted by the district, the board may enter a resolution in its minutes to dissolve the district under the provisions of Sections 58.794–58.828 of this code. After compliance with these provisions, a vote of the electors of the district, and the payment of its valid, enforceable indebtedness, the district may be dissolved.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

<sup>1</sup> Section 50.251 et seq.

**§ 58.794. Resolution to Dissolve District**

The board shall find in its resolution to dissolve the district that the plans of the district are impracticable or that the purposes of the district should be abandoned and shall state the reasons for the finding.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.795. Statements of Indebtedness and Expenses**

The board shall prepare or have prepared and shall approve a statement of all valid, enforceable indebtedness of the district and shall enter the statement in the minutes. The board shall prepare or have prepared an estimate of all expenses incurred or to be incurred in the dissolution of the district and in the collection of sufficient taxes to pay all valid, enforceable indebtedness of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.796. Election to Approve Dissolution of District and Issuance of Dissolution Bonds**

The board shall enter an order calling an election to determine whether or not the district shall be dissolved and bonds issued to pay the district's indebtedness and estimated expenses.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.797. Maximum Amount, Interest Rate, and Maturity of Bonds**

The maximum amount of bonds to be voted on and issued shall not be more than the total amount of the approved valid, enforceable indebtedness and the estimate of expenses, exclusive of the estimated cost of collection of taxes. The maximum amount of bonds, exclusive of interest and expenses of collection, to be issued for fees and expenses of dissolution of the district shall not be more than an amount equal to \$2 times the number of acres in the district. The bonds shall mature serially over a period of not more than seven years.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.798. Notice of Election**

(a) The president and secretary of the board shall issue notice of the election, stating:

- (1) the findings of the board with reference to the dissolution of the district;
- (2) the amount of bonds to be issued;
- (3) the interest rate on the bonds; and
- (4) the time and place of the election.

(b) The notice also shall contain a statement of the estimates and the expenses incurred and to be incurred in the dissolution of the district and the collection of taxes for the payment of the bonds and

shall state that the bonds will be payable by the levy of taxes on the taxable property in the district in proportion to the values of the property as provided in Section 58.804 of this code.

(c) The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the day of the election.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.799. Procedure for Holding Election

(a) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the district and issuance of dissolution bonds and the levy of taxes for the payment of the bonds."

(b) The election shall be conducted and returns made and canvassed according to the provisions in this chapter for construction bond elections.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.800. Issuance and Sale of Dissolution Bonds

(a) If a majority of the electors at the election vote in favor of the dissolution of the district and the issuance of bonds and the levy of taxes for the payment of the bonds, the board shall issue and sell the bonds or any part of them. The bonds shall be known as "dissolution bonds."

(b) The board may deliver the dissolution bonds or any part of them in satisfaction of the valid, enforceable indebtedness of the district for which the bonds are issued, or in payment of expenses incurred or to be incurred in connection with the dissolution of the district, or in payment of services rendered or to be rendered to the district.

(c) The dissolution bonds shall be:

(1) serially numbered, commencing with the first maturities;

(2) issued in the name of the district;

(3) signed by the president; and

(4) attested by the secretary, with the seal of the district attached.

(d) The board shall determine the maturities of the bonds not to exceed seven years from their date, the denominations of the bonds, and the interest.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.801. Destroying Unsold Bonds

If a majority of the electors at the election vote in favor of the dissolution of the district, the board shall destroy all unsold bonds of the district and enter an order cancelling all unissued and unsold bonds authorized by the electors. After the destruction and the entry of the order, the bonds shall have no further force or effect.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.802. Board's Authority to Contract

The board may contract with trustees, engineers, attorneys, and others it considers necessary or desirable to properly liquidate and wind up the affairs of the district. The board also may assume obligations made by others for the benefit of the district, or from which the district benefited, which in its judgment may be fair and equitable.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.803. Tax to Pay Dissolution Bonds

The order issuing the dissolution bonds shall provide that the principal of and interest on the bonds shall be payable from the proceeds of a tax to be levied on the taxable property located in the district. The tax shall be in an amount sufficient for the payment of the principal and interest.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.804. Determining Amount of Tax

(a) The value of all of the taxable property of the district shall be taken at the assessed value, and an amount equal to the total of the principal and all interest to maturity on the bonds voted plus the estimated cost of collection of taxes shall be assessed against the taxable property of the district on the ad valorem basis.

(b) The tax against the taxable property of each owner shall be that portion of the total principal and interest of the dissolution bonds and costs of collection which the assessed value of the taxable property of the owner bears to the total assessed values in the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

#### § 58.805. Payment of Tax

The amount of the tax on the taxable property of each owner shall be payable in equal annual installments, during the period in which the bonds mature, on dates specified in the order issuing the bonds.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.806. Advance Payment of Taxes in Cash

The order issuing the bonds shall provide that a property owner may secure release of the entire amount of his taxable property as assessed on the rolls from the tax levied for the dissolution bonds by the payment in cash of the full amount of tax.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

#### § 58.807. Computing Amount of Advance Cash Payment

(a) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each

unpaid installment of taxes for the number of years the installment of taxes must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installment of taxes.

(b) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid past-due installment of taxes for the number of years the installment has been past due, and 10 percent of the face amount of each installment that is past due shall be added as a penalty. The total of the items computed shall be added to the unpaid installments.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.808. Surrender of Bonds in Payment of Taxes**

The order issuing the bonds shall provide that any of the bonds with all unmatured interest and all appurtenant coupons may be surrendered at any time in payment of all unpaid installments of the taxes. The amount of taxes found to be due by the method provided in Section 58.809 of this code may be discharged by the surrender of the proper amount of dissolution bonds, together with all unpaid appurtenant interest coupons at the face value of the bonds and coupons.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.809. Computing Amount of Payment Made by Surrendering Bonds**

(a) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installments of taxes.

(b) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied to each unpaid installment of taxes for the number of years the installment has been past due and 10 percent of the face amount of each installment of taxes that is past due shall be added as penalty. The total of the items computed shall be added to the face amount of each unpaid installment of taxes.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.810. Use by Trustee of Advance Payments of Tax**

The order issuing the bonds shall provide that the bonds shall be called and redeemed by the trustee in the inverse order of their maturity and in the inverse order of their serial numbers. They shall be paid out of any funds received in advance payment of taxes that are not required for meeting any past-due and unpaid principal and interest or the next maturing installment of principal and interest.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.811. Approval and Registration of Dissolution Bonds**

After the dissolution bonds are issued by the board and before they are put in circulation, the bonds, at the option of the board, shall either be submitted to and approved by the attorney general and registered by the comptroller as provided in Sections 58.446-58.448 of this code or be validated by suit as provided in Sections 58.453-58.461 of this code. The provisions of these sections of this code which are not inconsistent with the provisions of this subchapter are applicable to the dissolution bonds provided for in this subchapter.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.812. Preparing Tax Roll**

Before the issuance and delivery of the bonds, a tax roll shall be prepared in the manner provided by the Property Tax Code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 58.813. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed section, relating to filing tentative tax roll, was added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1.

**§ 58.814. Notice of Meeting as Board of Equalization**

(a) After the tax roll has been filed for at least five days, the board shall publish a notice once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the meeting of the board of equalization.

(b) The notice shall call attention to the filing of the tax roll and the name and place or places where the tax roll is filed and available for inspection, and shall notify all interested persons of the time and place of the meeting of the board for the purpose of acting as a board of equalization to examine, correct, equalize, appraise, and approve the valuations of the taxable property of the district and improvements on taxable property as set forth in the tax roll.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.815. Meeting as Board of Equalization**

At the time and place stated in the notice, the board shall meet and examine the tax roll. The board shall equalize as nearly as possible the value of all property for taxation and fix the value of all property for taxation.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.816. Authority and Procedure as Board of Equalization**

(a) Any interested person may appear at the meeting and offer evidence for or against any matter being considered by the board of equalization. The board may send for persons and papers, and may administer oaths to persons who testify before the board, and may ascertain the full true value of all property subject to taxation.

(b) The board may lower or raise the valuation of all property listed on the tax roll and place property on the roll which did not appear on it. The board shall correct any errors of assessment and equalize the value of property appearing on the roll.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.817. Approving Tax Roll**

After the board of equalization finally fixes the valuation of all taxable property in the district and the tax roll of the district is finally prepared, the board shall meet and consider the tax roll, make all necessary corrections in the tax roll, and endorse its approval on the roll.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.818. Approved Tax Roll not Subject to Revision**

The action of the board in finally approving the tax roll is final and is not subject to revision by the board or any other tribunal.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.819. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed section, relating to filing approved tax roll, was added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1.

**§ 58.820. Collection of Dissolution Taxes**

The county assessor and collector shall collect the taxes shown on the tax roll on the land located in the county for which he is assessor and collector.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

**§ 58.821. Appointment of Trustee**

(a) Before the issuance and delivery of dissolution bonds, the board shall appoint a trustee of the funds to be collected from the taxes. The trustee shall be an individual or a bank or trust company in the county or one of the counties in which the district is located.

(b) The board may determine the powers, rights, duties, liabilities, and other matters relating to the trusteeship and the appointment of successor trustees which the board considers proper to effectuate the purpose of the trusteeship.

(c) The board may determine the bond to be given by the trustee and the amount to be paid to the trustee from the funds collected from the taxes. [Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.822. Authority of the Trustee**

The trustee shall receive from the assessor and collector all proceeds from the assessments less the assessor and collector's charges and shall be the paying agent of the district for the bonds. The bonds shall be payable at the place of business of the trustee. The trustee shall be authorized by the order providing for the issuance of the bonds to institute suits in the name of the district for the use and benefit of the holders of the bonds and to apply all sums of money recovered in the suits to the payment of the bonds.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§§ 58.823, 58.824. Repealed by acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982**

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed sections, relating to tax lien and foreclosure of lien, respectively, were added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1.

**§ 58.825. Default in Payment of Tax Installment**

(a) Default in the payment of an installment of taxes levied for the payment of dissolution bonds for 60 days after the installment becomes due and payable as provided by the board shall, at the option of the board or the trustee, immediately mature the remaining installments and cause the entire amount of the taxes to immediately become due and payable.

(b) The trustee shall bring suit for the collection of the entire amount of the taxes and for the foreclosure of the lien securing the payment of the taxes.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.826. Penalty and Attorney's Fee**

(a) A penalty of 10 percent of the unpaid amount of taxes shall accrue immediately on default of payment of taxes after the 60 days.

(b) An attorney's fee of 10 percent of the unpaid amount of the taxes is due and payable immediately on institution of suit for collection and foreclosure.

(c) The penalty and attorney's fee shall be recovered in the suit and shall constitute an addition to the taxes and shall be secured by the tax lien.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.827. Discharge of Lien**

(a) On the final payment of the taxes, either the assessor and collector or the trustee shall issue a certificate certifying that the taxes have been fully satisfied and the lien is released.

(b) The execution and acknowledgment of the certificate and the recording of the certificate in the deed records of the county in which the property is located shall be full and conclusive evidence of the discharge of the taxes and liens.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.828. District Considered Dissolved**

(a) On the issuance and sale or delivery of the dissolution bonds and the appointment and qualification of the trustee, the secretary shall deposit all available existing records of the district in the office of the county clerk of the county or one of the counties in which the district is located.

(b) The district immediately is considered dissolved for all purposes, except that the taxes levied against the taxable property may be enforced in the name of the district on behalf of the bondholders by the trustee or his successors. The surviving board may meet from time to time until the dissolution bonds are paid and discharged and may delegate its powers and give instructions to the trustee or his successors as the board sees fit and circumstances warrant. After the payment of all dissolution bonds, interest, and costs of collection the board shall be dissolved.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.829. Dissolution of District in Counties of Less Than 11,000 Population**

Subject to the provisions of Sections 50.251-50.256 of this code, a district located entirely in a county having a population of less than 11,000, according to the last preceding federal census, may be abolished by a majority vote of those entitled to vote and voting at an election held for the purpose of determining whether or not the district should be dissolved.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.830. Petition for Dissolution of District**

A petition for the dissolution of the district shall be filed with the board and shall state the name of the district and the purpose for which the election is requested. The petition may refer to the order establishing the district for boundaries, limits, and area of the district.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.831. Signatures on Petition**

A petition for dissolution of the district may be signed and filed in two or more copies. The petition shall be signed by a majority in number of the property owners with land in the district and the property owners of a majority in value of the land in the district, as shown by the tax rolls of the district, or 50 landowners if the number of landowners in the district is more than 50.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.832. Procedure for Holding Election**

(a) An election to determine whether or not the district shall be dissolved shall be held in accordance with the provisions of Subchapter E of this chapter.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The dissolution of district."

(c) The returns of the election shall be canvassed and the result declared by the board. The board shall enter an order in its minutes declaring the result of the election, which order shall be made and entered in accordance with Section 58.034 of this code. The order shall be filed in the office of the county clerk and recorded in the deed records of the county as provided in Section 58.034 of this code.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.833. Election in District Including City, Town, or Municipal Corporation**

In an election to dissolve a district in which a city, town, or municipal corporation is located, the city, town, or municipal corporation shall be a separate voting precinct, and the ballots cast in the city, town, or municipal corporation shall be counted and canvassed to show the result of the election there. If the city, town, or municipal corporation votes against the dissolution of the district and the balance of the district votes for the dissolution of the district, the district shall be dissolved.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.834. Subsequent Election**

If the proposition to dissolve the district fails to carry at the election held for that purpose, no other election for the same purpose shall be held within one year after the date of the election.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.835. District Dissolved**

If a majority of those voting at the election vote in favor of dissolving the district, the district shall be dissolved and shall have no further authority after the election, except that any debts incurred shall be paid and the organization shall be maintained until all the debts are paid.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

**§ 58.836. Taxes to Pay Indebtedness after Dissolution**

If a district has outstanding bonds or other indebtedness maturing beyond the current year in which the dissolution occurs, the commissioners court of the county in which the district is located shall levy and have collected, as county taxes are assessed and collected, sufficient taxes on all taxable property in the district to pay the principal of and interest on the bonds and other indebtedness when due.

[Added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Chapter 59 reserved for expansion]

**CHAPTER 60. NAVIGATION  
DISTRICTS—GENERAL  
PROVISIONS**

**SUBCHAPTER C. ADDITIONAL POWERS AND  
DUTIES OF CERTAIN DISTRICTS**

**§ 60.038. Sale or Lease of Land**

(a) A district may sell or lease all or any part of land owned by it, whether the land is acquired by gift or purchase, in settlement of any litigation, controversy, or claim in behalf of the district, or in any other manner, except that lands or flats heretofore purchased from the State of Texas under Article 8225, Revised Civil Statutes of Texas, 1925,<sup>1</sup> or granted by the State of Texas in any general or special act, may be sold only to the State of Texas or exchanged with the State of Texas for other lands or exchanged for adjacent littoral land as authorized by Section 61.117 of this code.

(b) Land which is sold or leased shall be declared surplus land and shall not be needed for use by the district in connection with the development of a navigation project.

(c) Sale or lease of land shall be made as provided by Sections 60.039–60.042 of this code.

[Amended by Acts 1975, 64th Leg., p. 801, ch. 310, § 1, eff. May 27, 1975.]

<sup>1</sup> Repealed; see, now, §§ 61.115 to 61.117.

Sections 4 and 5 of the 1975 amendatory act provided:

"Sec. 4. Venue for any action arising under this Act brought by or against the State of Texas, or involving the state's claim to title to land conveyed or sought to be conveyed under this Act, shall lie in a district court of Travis County, Texas.

"Sec. 5. Any and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict."

**CHAPTER 61. ARTICLE III, SECTION 52,  
NAVIGATION DISTRICTS**

**SUBCHAPTER D. POWERS AND DUTIES**

**§ 61.116. Lease of State Owned Lands and Flats**

(a) Any district organized under this chapter or any special law or any general law under which navigation districts may be created may apply for a lease from the State of Texas of the surface estate of any lands and flats belonging to the state which are covered or partly covered by the water of any of the bays or other arms of the sea; however, any navigation district created after the effective date of this Act may not lease the surface estate of any such lands or flats which are located within 10 miles of the boundary of any navigation district in existence on the effective date of this Act, without first receiving the written approval of the district now in existence. The words "navigation district," "district," or "districts" as used in Sections 61.116, 61.117, and 60.038 of the Texas Water Code shall apply to any incorporated city in this state which owns and operates wharves, docks, and other marine port facilities.

(b) The state, through the School Land Board, may lease these state owned lands or flats to eligible navigation districts only for purposes reasonably related to the promotion of navigation. The term "navigation" as used herein refers to marine commerce and immediately related activities, including but not limited to port development; channel construction and maintenance; commercial and sport fishing; recreational boating; industrial site locations; transportation, shipping, and storage facilities; pollution abatement facilities; and all other activities necessary or appropriate to the promotion of marine commerce; but specifically does not refer to residential development.

(c) In making application for a lease of state owned lands or flats, the district shall include the following information:

(1) a description of the lands or flats sought to be leased;

(2) a plan showing how it proposes to utilize the land and a timetable indicating approximately when such utilization will take place;

(3) a draft environmental impact statement assessing the effect of the proposed use on the environment, which statement shall generally conform to the requirements of the National Environmental Policy Act,<sup>1</sup> until such time as the legislature shall impose different requirements; however, a draft environmental impact statement shall not be required if the proposed use requires no dredging, filling, or bulkheading. If the proposed use does require dredging, filling, or bulkheading, but<sup>2</sup> the lease shall be processed as provided in Subsections (d), (e), and (f) of this section without the filing of a draft environmental impact statement if the applicant so requests in writing; but in such a case, the School Land Board shall include in the lease provisions requiring (i) that the draft environmental impact statement required by federal law be filed with the School Land Board before the district makes any use of such lands or flats which requires dredging, filling, or bulkheading; (ii) that approval of such use be obtained from the School Land Board after copies of the summary of the draft environmental impact statement and a description of the proposed use are circulated for comment and a hearing held as provided in Subsections (d) and (e) of this section and the School Land Board shall be authorized to give its approval to make such amendments to the lease as may then be deemed necessary by it as a result of information developed in the draft environmental impact statement; and (iii) that the lease shall cease to be effective at a time specifically stated in the lease unless prior to that time accord concerning environmental issues has been reached between the district and the School Land Board;

(4) proof satisfactory to the board establishing the public convenience and necessity for acquisition of lands sought to be leased.

(d) Upon receipt of an application and accompanying information, the School Land Board shall submit copies thereof to the member agencies of the Inter-agency Council on Natural Resources and the Environment and all other appropriate state agencies for review and comment. In addition, the board shall submit for review and comment the proposed terms and conditions of the lease. The board shall allow 30 days for such review and comment, and may extend the review period for an additional 30 days upon written request by the executive director of any state agency.

(e) Following the expiration of the period provided for review and comment, or following the expiration of the 30 day extension of such period, if applicable, the School Land Board shall cause a hearing to be held in the county in which the land proposed to be leased is located. Notice of the hearing shall be given by publication for at least three days, not less than two weeks nor more than four weeks prior to the hearing, in the daily paper having the greatest circulation in the county. Members of the board or their designated representatives shall conduct the hearing, at which any party may offer testimony in support of or in opposition to the application, and the board shall consider the record of the hearing in making a decision on the application.

(f) After submission of all evidence, the School Land Board shall authorize the issuance or denial of the proposed lease and shall determine the reasonable cost to the district, term of years, special limitations, if any, and other conditions necessary to best serve the interest of the general public. In establishing the consideration to be paid to the state for the lease, due weight shall be given to the depth of the water over the submerged land, its proximity to development activities, and its proposed use. Final action shall be taken by the board no more than 60 days following the public hearing.

(g) The funds derived from the lease shall be paid to the General Land Office for transfer to the proper funds of the state.

(h) Districts may sublease lands leased from the state under the provisions of this section to third parties for activities reasonably related to navigation, but such sublease shall be subject to the approval of the School Land Board according to the procedures, requirements, and criteria set forth in Subsections (c) and (d) of Section 61.116 of this code; provided, however, that no approval by the School Land Board shall be required if the sublease is for a purpose contemplated by the district and approved by the board in the district's original lease. It is further provided that no environmental impact statement shall ever be necessary for any sublease which requires no dredging, filling, or bulkheading, and which would not have a substantial impact upon the environment, or which requires only insubstantial dredging, filling, or bulkheading, as determined by the board; nor shall a district in obtaining ap-

proval for a sublease under any circumstances be required to reveal the name of the tenant to whom the sublease is to be made.

(i) If lands or flats leased from the state under the provisions of this section are utilized by the district or its sublessee for any purpose or use not approved by the School Land Board, the district shall be given notice and an opportunity to change and correct the use. If the use is not changed and corrected within a reasonable time after receipt of such notice, the lease may be terminated by the School Land Board and the lands or flats shall revert to the State of Texas.

[Amended by Acts 1975, 64th Leg., p. 801, ch. 310, § 2, eff. May 27, 1975.]

<sup>1</sup> 42 U.S.C.A. § 4321 et seq.

<sup>2</sup> So in enrolled bill.

Sections 4 and 5 of the 1975 amendatory act provided:

"Sec. 4. Venue for any action arising under this Act brought by or against the State of Texas, or involving the state's claim to title to land conveyed or sought to be conveyed under this Act, shall lie in a district court of Travis County, Texas.

"Sec. 5. Any and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict."

**§ 61.117. Limitations on Sales and Use of State Lands and Flats**

(a) The State of Texas shall retain its rights in all mines and minerals, including oil, gas, and geothermal resources, in and under the land, together with the right to enter the land for the purpose of development when it leases land under Section 61.116 of this code.

(b) All leases of land under Section 61.116 are subject to oil, gas, or mineral leases in existence at the time of the lease to the district.

(c) Any land which has been franchised or leased or is being used by any navigation district or by the United States for the purpose of navigation, industry, or other purpose incident to the operation of a port shall not be entered or possessed by the State of Texas or by anyone claiming under the State of Texas for the purpose of exploring for oil, gas, or other minerals except by directional drilling. No easement, lease, or permit may be granted on land which has been leased to a navigation district which will interfere with the proposed use of the land by the navigation district, and the prior approval of the navigation district shall be obtained for such purpose.

(d) No surface drilling location may be nearer than 660 feet and special permission from the Commissioner of the General Land Office is necessary to make any surface location nearer than 2,160 feet, measured at right angles from the nearest bulkhead line designated by a navigation district or the United States as the bulkhead line or from the nearest dredged bottom edge of any channel, slip, or turning basin which has been dredged, or which has been authorized by the United States as a federal project for future construction, whichever is nearer.

(e) In the event land is leased to a navigation district for construction of a navigation project, the School Land Board may in the lease designate the

district to be the agent of the State of Texas with authority to grant to the United States of America such easements for dredging and disposal of dredged material as may be required for federal participation in the project. In designating the district to be the agent of the State of Texas for the purpose of granting spoil easements, the board may include a requirement that the district obtain the approval of the board before granting any such easement. Such approval may be given in the form of accepting a master plan for spoil disposal.

(f) Districts which, prior to the enactment of this provision, have obtained patents to state owned lands or flats under Article 8225, Revised Civil Statutes of Texas, 1925,<sup>1</sup> or under any general or special act, and which still claim title to any such lands or flats, may not hereafter dispose of any such lands or flats which were conveyed to them by the State of Texas and may not lease such lands or flats for a use for which districts are not authorized to lease their other lands; however, in the event a district possesses lands it finds to be in excess of its needs, it may sell such surplus lands or flats back to the State of Texas for the same consideration as originally paid to the state or exchange them for other lands with the State of Texas. It is further provided that the limitation on resale of lands or flats acquired from the State of Texas shall not prevent a district from exchanging such lands or flats for land, or rights in land, of an adjacent littoral owner for the purpose of adjusting or straightening the boundary between such lands. All such exchanges made after December 31, 1973, shall be subject to the approval of the School Land Board.

(g) Any district which, prior to the effective date of this Act has maintained, and which at the effective date of this Act is maintaining, any channel, dredged material disposal site, or other navigational aid or improvement on state owned lands to which the district holds no patent or lease from the state shall notify the General Land Office of the boundaries of such submerged land used by furnishing a map or other drawing acceptable to the General Land Office.

[Amended by Acts 1975, 64th Leg., p. 801, ch. 310, § 3, eff. May 27, 1975.]

<sup>1</sup> Repealed.

Sections 4 and 5 of the 1975 amendatory act provided:

"Sec. 4. Venue for any action arising under this Act brought by or against the State of Texas, or involving the state's claim to title to land conveyed or sought to be conveyed under this Act, shall lie in a district court of Travis County, Texas.

"Sec. 5. Any and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict."

#### SUBCHAPTER E. PORT FACILITIES

##### § 61.169. Contracts

The provisions governing the award of contracts by districts shall apply in all cases consistent with the provisions of this subchapter except that in case of emergency contracts may be let by the commission for not more than \$5,000 without advertisement for bids. In case of urgent necessity or present calamity, advertisement for bids may be waived. [Amended by Acts 1977, 65th Leg., p. 804, ch. 299, § 1, eff. Aug. 29, 1977.]

#### SUBCHAPTER G. BOND AND TAX PROVISIONS

##### § 61.232. Limitation on Bond Issue

Outstanding bonds and additional bonds which are authorized may not be more than one-fourth of the assessed value of the real property in the district, as shown by the last tax roll for the district.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

##### § 61.237. Assessment and Collection of Taxes

The tax assessor and collector of each county in the district shall assess and collect district taxes.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

### CHAPTER 62. ARTICLE XVI, SECTION 59, NAVIGATION DISTRICTS

#### SUBCHAPTER D. POWERS AND DUTIES

##### § 62.110. Notice of Bids

Notice that a contract is to be awarded shall be given by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the state and by posting notice for at least 14 days in five public places in the county of jurisdiction, one of which shall be the courthouse door and at least two of which shall be inside the district.

[Amended by Acts 1977, 65th Leg., p. 805, ch. 299, § 2, eff. Aug. 29, 1977.]

#### SUBCHAPTER E. GENERAL FISCAL PROVISIONS

##### § 62.153. Duties of District Treasurer

The district treasurer shall:

(1) open an account for all funds received by him for the district and all district funds which he pays out;

(2) pay out money on vouchers signed by the chairman of the commission, any two members of the commission, or the commissioners court, or any two of any number of persons delegated by the commission with authority to sign vouchers, provided that the commission may, in such delegation, limit the authority of such persons and may require that each furnish a fidelity bond in such amount as the commission shall specify and subject to commission approval;

(3) carefully preserve all orders for the payment of money; and

(4) render a correct account to the commissioners court of all matters relating to the financial condition of the district as often as required by the commissioners court.

[Amended by Acts 1975, 64th Leg., p. 1915, ch. 618, § 1, eff. Sept. 1, 1975.]

Section 2 of the 1975 amendatory act provided:

"Any and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict."

SUBCHAPTER F. BOND PROVISIONS

§ 62.196. Duties of Attorney General

(a) Before the bonds are offered for sale, the district shall send to the attorney general:

- (1) a copy of the bonds to be issued;
- (2) a certified copy of the order of the commissioners court levying the tax;
- (3) a copy of the order of the commissioners court levying the tax to pay interest and provide a sinking fund;
- (4) a statement of the total bonded indebtedness of the district, including the series of bonds proposed and the assessed value of property for the purpose of taxation, as shown by the last official assessment by the district or, if the district has made no prior assessment, the last official assessment by the county; and
- (5) other information which the attorney general may require.

(b) The attorney general shall carefully examine the bonds in connection with the facts, the constitution, and the laws on the execution of the bonds.

(c) If as the result of the examination the attorney general finds that the bonds were issued in conformity with the constitution and laws and that they are valid and binding obligations on the district, he shall officially certify the bonds.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

SUBCHAPTER G. TAX PROVISIONS

§ 62.251. Assessment and Collection of Taxes

The assessor and collector of each county in which the district is located shall assess and collect the taxes levied by the district in the county.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 62.252 to 62.259. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

CHAPTER 63. SELF-LIQUIDATING NAVIGATION DISTRICTS

SUBCHAPTER I. ANNEXATION

Section	
63.371.	Annexation Authority.
63.372.	Petition.
63.373.	Scheduling Petition for Hearing; Notice.
63.374.	Hearing.
63.375.	Election Order.
63.376.	Notice of Election.
63.377.	Ballots.
63.378.	Election Officials.
63.379.	Canvass of Vote; Entry of Order.

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 63.089. Election of Commissioners

(a) An election shall be held in the district on the first Tuesday after the first Monday in November of each even numbered year to elect the three commissioners. However, the commissioners may, by adopting an order duly entered on the minutes, determine to hold the election on the first Tuesday after the first Monday in October of each even numbered year to elect the commissioners authorized by law.

(b) Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code), requiring that certain elections be held on specified uniform dates, does not apply to the election provided for in this section.

[Amended by Acts 1977, 65th Leg., p. 1978, ch. 791, § 1, eff. Aug. 29, 1977.]

§ 63.090. Placing Names of Candidates on Ballot

A candidate for commissioner must file an application with the secretary not later than 5 p. m. of the 31st day before the day of the election to have his name printed on the ballot. Also, a candidate's name may be placed on the ballot by petition of 20 or more qualified electors of the district filed with the secretary by the deadline stated in the preceding sentence.

[Amended by Acts 1977, 65th Leg., p. 1978, ch. 791, § 2, eff. Aug. 29, 1977.]

§ 63.093. Notice of Election

[See Compact Edition, Volume 1 for text of (a)]

(b) The notice shall be published once a week for four consecutive weeks in a newspaper published in the district or, if a newspaper is not published in the district, in a newspaper located nearest to the boundaries of the district. The first publication shall be made not less than 32 days nor more than 46 days before the day of the election.

[Amended by Acts 1977, 65th Leg., p. 1978, ch. 791, § 3, eff. Aug. 29, 1977.]

§ 63.098. Commissioner's Compensation

(a) Each commissioner shall receive a fee of not more than \$50 a day for each day of service necessary to the discharge of his duties, unless otherwise provided in accordance with Subsection (b) of this section.

(b) The commission may provide by an order entered in its minutes that compensation shall not be paid for the commissioners' services for a period of more than two years from the date of the order. [Amended by Acts 1977, 65th Leg., p. 159, ch. 79, § 1, eff. April 25, 1977.]

§ 63.102. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

## SUBCHAPTER D. POWERS AND DUTIES

## § 63.168. Bids for Contract

(a) Before the commission enters into a contract requiring the expenditure of \$5,000 or more, it shall submit the proposed contract for competitive bids.

[See Compact Edition, Volume 1 for text of (b) and (c)]

[Amended by Acts 1977, 65th Leg., p. 805, ch. 299, § 3, eff. Aug. 29, 1977.]

## § 63.181. Peace Officers

The district may appoint peace officers to protect life and property in the district and the property of the district. The officers shall have the same rights, powers, and authority as policemen of a city or town. [Amended by Acts 1981, 67th Leg., p. 72, ch. 32, § 1, eff. April 15, 1981.]

## SUBCHAPTER G. TAX PROVISIONS

## § 63.284. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

## § 63.285. Duty of Assessor and Collector

The assessor and collector shall assess and collect taxes for the district.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

## §§ 63.286 to 63.297. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

## SUBCHAPTER H. ASSESSMENTS

## § 63.327. Board of Equalization

(a) If the commission finds in favor of levying assessments, it shall appoint three persons who are electors of the district to be commissioners on the board of equalization and shall designate the time for the meeting of the board of equalization.

(b) The board of equalization shall meet at the time fixed by the commission to receive the assessment lists or books of the district for examination, correction, equalization, and approval.

(c) The secretary of the commission shall act as secretary for the board of equalization and shall keep a permanent record of the proceedings of the board of equalization.

(d) Before beginning to perform the duties of the board of equalization, each member shall take the following oath: "I \_\_\_\_\_ do solemnly swear (or affirm) that I will, to the best of my ability, make a full and complete examination, correction, and equalization of all property contained in the district as shown by the assessment lists or books of the

assessor and collector and add all property not included of which I have knowledge."

(e) The oath shall be entered in the minutes by the secretary.

(f) The completed tax roll shall be submitted to the board of equalization.

[Amended by Acts 1979, 66th Leg., p. 2312, ch. 841, § 4(r), eff. Jan. 1, 1982.]

## § 63.329. Hearing by Board of Equalization

The owners of property shall have an opportunity to present evidence in hearings before the board of equalization. All interested persons shall have an opportunity to appear and present evidence as to the benefits or lack of benefits to property in which they are interested.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

## § 63.339. Suit for Collection

(a) After the delinquent roll has been posted in the district office for 20 days, the attorney for the district may file suit for collection in any court with jurisdiction.

(b) An attorney's or collection fee of 10 percent on the amount of principal and interest due at the time of filing the suit shall accrue against the property owner and shall be charged as costs of court. The attorney's or collection fee is collectible against the property owner and the property from the date of the filing of the suit.

(c) Except as otherwise provided in this section, the suit shall be filed and prosecuted in the same manner as suits for the collection of delinquent ad valorem taxes.

(d) It is not necessary in the suit to specifically plead and prove the orders, notices, rules, and regulations of the commission relating to the assessment or reassessment. It is sufficient for the petition or other pleading to allege that the proceedings with reference to the making of the improvements and the assessments or reassessments were held in compliance with the law and that all prerequisites to the fixing of the assessment lien on the assessed property and the personal liability of the owner were performed.

[Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

## SUBCHAPTER I. ANNEXATION

## § 63.371. Annexation Authority

A district created under this chapter or converted from a district created under Article III, Section 52 of the Texas Constitution, into a conservation and reclamation district under Article XVI, Section 59 of the Texas Constitution, may extend its boundaries and annex adjacent territory.

[Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**§ 63.372. Petition**

Before territory is annexed to the district, a petition signed by 50 or a majority of the electors residing in the adjacent territory proposed to be annexed shall be presented to the commission requesting an election in the adjacent territory to determine whether or not the territory will be annexed and whether or not it will assume its pro rata part of the outstanding bonded debt of the district. [Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**§ 63.373. Scheduling Petition for Hearing; Notice**

(a) After a petition is presented under Section 63.372 of this code, the commission shall set the petition for a hearing to be held within 10 days from the date of presentation of the petition.

(b) Notice of the hearing shall be posted at three public places in the territory proposed to be annexed for at least five days before the hearing on the petition. The notice shall include the time and place of the hearing and the boundaries of the territory proposed to be annexed.

[Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**§ 63.374. Hearing**

The commission shall hold the hearing on the subject of annexation of adjacent territory by the district, and any person who has taxable property in the territory proposed to be annexed may appear in person or by counsel and offer testimony or argument for or against the inclusion of all or any part of the land proposed to be annexed.

[Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**§ 63.375. Election Order**

If after the hearing the commission finds that inclusion of the territory proposed to be annexed would be a direct benefit to all the land in that territory, the commission shall order an election to be held in the territory proposed to be annexed. [Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**§ 63.376. Notice of Election**

(a) The election shall be held not less than 20 nor more than 30 days from the day of the election order and after notice is given.

(b) Notice of the election shall be published once a week for 20 days immediately preceding the election in some newspaper published in the territory proposed to be annexed. If no newspaper is published in the territory, notice shall be posted in three public places inside the territory for at least 20 days immediately preceding the election.

(c) The notice:

(1) shall give the time and place or places for holding the election;

(2) shall give the boundaries of the territory proposed to be annexed; and

(3) may contain the substance of the order of the commission ordering the election.

(d) The secretary of the commission shall have the notice published or posted.

[Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**§ 63.377. Ballots**

The ballots for the election shall be printed to allow for voting for or against: "Annexation to the navigation district" and "Assumption of a pro rata part of the bonded debt of the navigation district."

[Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**§ 63.378. Election Officials**

The commission shall appoint one judge and two clerks for each election box or place to hold the election. The judge and clerks shall be electors in the territory proposed to be annexed and shall reside near the place for holding the election.

[Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**§ 63.379. Canvass of Vote; Entry of Order**

(a) The election judges shall certify the election returns to the commission, and the commission shall canvass the returns.

(b) If a majority of the electors voting at the election favor annexation and assumption of the pro rata part of the bonded debt of the district, the commission shall enter an order in its minutes annexing the territory, and from and after the entry of the order, the annexed territory shall be a part of the district with all the rights, benefits, and burdens of property originally situated in the district.

(c) If a majority of the electors voting at the election favor annexation and the proposition to assume the bonded debt fails to carry, the commission shall enter an order in its minutes annexing the territory to the district, and from and after the entry of the order, the annexed territory shall be a part of the district with the exception of the assumption of the outstanding bonded indebtedness. The annexed territory shall be subject to a tax for maintenance and operation and shall be liable for all other bonded indebtedness and other indebtedness thereafter legally imposed by the district.

(d) After an order of annexation has been entered in the minutes of the commission, a certified copy of the order shall be prepared by the secretary of the commission and shall include the boundaries of the territory annexed. The secretary shall record the order or have it recorded in the real estate records of the county or counties in which the territory is located.

[Added by Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

**TITLE 4. GENERAL LAW DISTRICTS****CHAPTER 64. WATER IMPORT AUTHORITIES****SUBCHAPTER A. GENERAL PROVISIONS**

Section	
64.001.	Authorization of the Ogallala Water Import Authority.
64.002.	Territory Included in Authority.
64.003.	Definitions.

**SUBCHAPTER B. CREATION OF THE AUTHORITY**

64.011.	Designation of the Import Area.
64.012.	Method of Creating Authority; Name.
64.013.	Consent of Districts Not Required.
64.014.	Findings and Action by Development Board.
64.015.	Dividing Authority into Precincts.
64.016.	Confirmation of Authority.

**SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

64.051.	Governing Body.
64.052.	Qualification of Directors.
64.053.	Board Action; Duties; Quorum; Compensation and Expenses.
64.054.	Officers.
64.055.	Advisory Council.
64.056.	Executive Director; Employees.
64.057.	Authority Office; Books, Records, Etc.

**SUBCHAPTER D. POWERS AND DUTIES**

64.091.	Purposes.
64.092.	General Powers.
64.093.	Contracts With Districts.
64.094.	Awarding Construction or Purchase Contracts.
64.095.	Contracts with the United States, the State of Texas or Their Agencies; Elections.
64.096.	Municipal Utility District Laws Applicable When not in Conflict.
64.097.	Land to Remain in Authority.
64.098.	Adoption of Rules; Public Powers and Penalties.
64.099.	Appeal.
64.100.	Authority May Acquire Water Permits.
64.101.	Underground Water Rights.
64.102.	Prior Districts Inviolable.

**SUBCHAPTER E. GENERAL FISCAL PROVISIONS**

64.121.	Audits.
64.122.	Authority Depository and Methods of Selecting the Depository.
64.123.	Financial Aid.

**SUBCHAPTER F. BONDS**

64.131.	Issuance of Bonds.
64.132.	Bond Conditions.
64.133.	Security for Bonds.
64.134.	Levy of Taxes to Pay Bonds and Interest.
64.135.	Revenues to Pay Bonds and Interest.
64.136.	Proceeds of Bonds.
64.137.	Default on Bonds.
64.138.	Approval and Registration of Bonds.
64.139.	Interim on Temporary Bonds.
64.140.	Refunding Bonds.
64.141.	Securing Bonds with Trust Indenture.
64.142.	Approval of Bonds at an Election.
64.143.	Bonds as Investments and Security.
64.144.	District Free from Taxes.

**SUBCHAPTER G. TAXATION**

64.181.	Tax Procedures.
64.182.	Tax Officers.

## Section

**SUBCHAPTER H. ASSESSMENTS**

64.211.	Authorization of Assessments.
64.212.	Considerations in Making Assessments and Establishing Zones.
64.213.	Notice and Hearing.
64.214.	Basis of Assessment.
64.215.	Election.

**SUBCHAPTER I. ANNEXATION**

64.251.	Annexation Authority.
64.252.	Petition for Annexation.
64.253.	Hearing.
64.254.	Notice of Hearing.
64.255.	Hearing Procedure.
64.256.	Findings and Resolution; Election.
64.257.	Notice of Election.
64.258.	Voter Qualification; Election Procedure.
64.259.	Conduct of Elections.
64.260.	Canvass and Election Results.
64.261.	Assumption of Debt; Taxes.
64.262.	Other Method of Annexation.
64.263.	Furnishing Description.

**SUBCHAPTER J. DISANNEXATION**

64.301.	Disannexation Authority.
64.302.	Petition for Disannexation.
64.303.	Election.
64.304.	Notice of Election.
64.305.	Voter Qualification; Election Procedure.
64.306.	Conduct of Elections.
64.307.	Canvass and Election Results.
64.308.	Taxes on Disannexed Land.

**SUBCHAPTER A. GENERAL PROVISIONS****§ 64.001. Authorization of the Ogallala Water Import Authority of Texas**

Pursuant to and as expressly authorized by Article XVI, Section 59, of the Texas Constitution, there may be created within the State of Texas a water import authority to be known as The Ogallala Water Import Authority of Texas, a governmental agency and body politic and corporate, authorized to exercise all of the powers essential to the accomplishment of the purposes of that constitutional provision and to exercise the rights, powers, duties, privileges, and functions provided in this chapter and as may be contemplated and implied by Article XVI, Section 59, of the Texas Constitution and by this chapter and other laws of this state.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.002. Territory Included in Authority**

The authority shall include all of the area in Texas that has beneath it the subsurface formation known as the Ogallala Formation as that area is determined, fixed, and certified by the Texas Water Development Board, together with all of any county, a part of which is included in that area, provided that the area in Borden, Crosby, Dickens, and Garza Counties, and any county which does not have at least a portion of the Ogallala Formation beneath it shall not be initially included in the import area. A county or any portion of a county which is not

included in the import area shall not be subject to assessment or taxation by the authority unless subsequently annexed to the authority:

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.003. Definitions

In this chapter:

(1) "Authority" means The Ogallala Water Import Authority of Texas.

(2) "Development board" means the Texas Water Development Board.

(3) "Import area" means the area or territory to be included in the authority.

(4) "Net revenues" means the gross revenues of the authority from all sources other than taxes, after deduction of amounts used to pay the costs of maintaining and operating the authority and its properties.

(5) "Board" means the board of directors of the authority.

(6) "United States" means the United States of America and includes any department, bureau, or agency of the United States of America.

(7) "State" means the State of Texas, and its officers, corporations, agencies, instrumentalities, departments, bureaus, and commissions acting for it, but excludes political entities that do not have statewide jurisdiction.

(8) "District" means a river authority, irrigation district, soil and water conservation district, flood control district, water control and improvement district, water supply district, underground water conservation district, municipal utility district, county, municipality, city, town, or any other district or political subdivision of the state located totally or partially within the authority and authorized by law to impound, manage, appropriate, use, reuse, store, treat, conserve, protect, control, or otherwise deal with water or deliver water to water users.

(9) "Attorney general" means the attorney general of the State of Texas.

(10) "Comptroller" means the comptroller of public accounts of the State of Texas.

(11) "Water," unless the term is coupled with some other qualifying or limiting term, means all water including surface water, underground water, water naturally existing locally, reclaimed waste water, and imported water.

(12) "Underground water" means the water existing below the earth's surface, including water injected by a person or district to a subsurface formation for later withdrawal by the person or district, but does not include defined subterranean streams or the underflow of rivers or imported water that has been injected by the authority for underground storage and transmission as defined in this chapter.

(13) "Surface water" means water other than underground water.

(14) "Imported water" means surface water brought to the area of the authority for beneficial use in the authority from a source or sources not in or naturally tributary to the area.

(15) "Underground water reservoir" means a specific subsurface formation capable of storing water.

(16) "Importer" means any person bringing imported water from outside the authority to any point inside the authority or handling any part of the movement of imported water from its source toward the area of an authority for the purpose of making imported water available in the authority.

(17) "Underground storage and transmission" means the placing of water in subsurface formations or cavities through artificial recharge for storage underground and for lateral conveyance through the subsurface formations to points of withdrawal for beneficial use.

(18) "Waste" means:

(A) the failure to put to a beneficial use any water;

(B) the pollution or harmful alteration of the character of water within a surface reservoir, surface conduit, or underground reservoir by means of salt water or other deleterious matter; or

(C) wilfully causing<sup>1</sup> suffering, or permitting water to escape into any river, creek, natural water course, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or on land other than that on which it has been delivered for ultimate use.

(19) "Beneficial use" means the use of water for:

(A) agricultural, gardening, domestic, stock raising, municipal, or mining purposes;

(B) exploring for, producing, handling, and treating oil, gas, sulphur, or other minerals;

(C) manufacturing, industrial, commercial, recreational, or pleasure purposes; or

(D) any other use that is beneficial to the user of the water.

(20) "Work" means:

(A) dams and dam sites, treatment facilities, reservoirs and reservoir sites, underground reservoirs and storage space, wells, pumping plants, artificial recharge facilities, drainage facilities, waste water reclamation and treatment facilities, and all conduits and other facilities necessary and useful in the control, protection, conservation, storage, diversion, transmission, treatment, or distribution of water;

(B) any replacement, renovation, or improvement of the foregoing; and

(C) land, property, franchises, easements, rights-of-way, and privileges necessary or useful to operate or maintain any of the foregoing. [Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> So in enrolled bill.

[Sections 64.004 to 64.010 reserved for expansion]

#### SUBCHAPTER B. CREATION OF THE AUTHORITY

##### § 64.011. Designation of the Import Area

(a) On its own motion or on receiving a petition signed by at least 50 landowners in the proposed import area, the development board, after notice and hearings, shall define and certify the import area.

(b) The development board shall schedule and conduct a minimum of five hearings within the import area to allow adequate opportunity for testimony from those who wish to appear. Notice of the hearings shall be published in a newspaper or newspapers with general circulation within the import area at least 14 days before the day of the hearing.

(c) Additional special hearings may be conducted in each county for which a petition containing the signatures of not less than 10 percent of the registered voters in that county is submitted if the petition is submitted within 30 days after the development board hearings begin, requesting a special hearing to be conducted in that county. Notice of each special hearing, if any, shall be published in a newspaper with general circulation within the county in which the special hearing is to be held at least 14 days before the day of the special hearing.

(d) The executive director of the Department of Water Resources shall prepare available evidence relating to the import area demonstrating the cost and benefit to be reasonably expected from the importation of water into the area and the estimated quantities of water that are or may be made available and are required for import into the area, as well as evidence showing the economic, environmental, and human costs and benefits that will result within each county within the import area if water is imported into the area.

(e) The development board shall give consideration to all relevant evidence presented at the public hearing held by it and shall not authorize an election until it determines that adequate water would be contractually available on an equitable basis for all the water needs existing within the authority for import into the area.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

##### § 64.012. Method of Creating Authority; Name

After the import area has been defined and certified, the authority may be created. Except as otherwise provided in this chapter, the provisions of Chapter 54 of this code apply to the creation of this water

import authority to the extent those provisions are applicable.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

##### § 64.013. Consent of Districts Not Required

The consent of any district located wholly or partially in the import area is not required before the authority may be created.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

##### § 64.014. Findings and Action by Development Board

(a) If the development board finds, after public hearing, that the authority is feasible and practicable, that it would be a benefit to the area included in the authority, and that it would be a public benefit or utility, the development board shall make these findings and shall grant the petition, otherwise the petition shall be denied.

(b) The development board's findings of benefit to the land included in the authority are final and conclusive unless judicial review is sought in the manner provided in Subchapter J of Chapter 5 of this code<sup>1</sup> for appeals from other orders of the development board, and after the development board's order of creation is final, no land may be excluded from the authority, but land may be added and annexed in the manner provided in this chapter. [Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> Section 5.351 et seq.

##### § 64.015. Dividing Authority into Precincts

At the time a petition for creation is granted, the development board, in its order, shall divide the authority into 15 precincts, with each precinct having approximately the same number of persons residing in its area as each of the other precincts. [Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

##### § 64.016. Confirmation of Authority

(a) Within 180 days from the effective date of the order of the development board granting the petition for creation of the authority, the board of the authority shall order an election to be held throughout the authority within 60 days, at which there is to be submitted the question of whether or not the establishment of the authority is confirmed, the question of election of directors, the question of levying, assessing, and collecting an ad valorem tax throughout the authority, and any other questions required by this chapter or by the board.

(b) Notice of the election shall be published in a newspaper or newspapers that individually or collectively have general circulation in the authority at least 14 days but not more than 30 days before the date set for the election.

(c) The board shall appoint a presiding judge for each of the voting places determined by the board, and each of the presiding judges shall appoint the necessary judges and clerks to assist him or her in holding the election. The qualifications of voters in all elections authorized by this chapter are as specified by the Texas Election Code for those voting in the general election.

(d) If a majority of the votes cast in the election favor confirmation of the authority, the board shall declare the results, and the authority is created and shall have all of the powers and authority conferred by this chapter. If a majority of the votes cast in the election do not confirm the authority, no further election may be held for confirmation for at least 12 months, and if the authority is not confirmed within five years from the day of the development board's order granting the petition to create the authority or if the voters refuse to authorize the levy, assessment, and collection of an ad valorem tax through the authority within the five-year period, the authority is null and void, and the development board is to enter an order to this effect.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.017 to 64.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 64.051. Governing Body

(a) The authority's powers and duties shall be exercised through a board of directors. The first directors shall be appointed by the development board in its order of creation, naming one director from each precinct, and subsequent directors shall be elected from each of the precincts into which the authority is divided, with one director being elected from each precinct.

(b) At the election called for confirmation of the authority, a director shall be elected from each precinct by a plurality vote of the qualified voters casting votes in the precinct for the election of director. Immediately after the first election, the 15 directors, by lot, shall determine which 7 of their number are to serve for an initial term of one year, and which 8 are to serve for an initial term of two years. The election day for directors is to be on the same day of the same month every year, or as near to that time as the board of directors deems practicable.

(c) The election of directors of the authority shall be conducted in the manner provided for election of directors in Chapter 54 of this code, except as otherwise provided in this chapter.

(d) In the event of a vacancy on the board, the remaining directors may fill the vacancy for the unexpired term.

(e) The board of directors may redesignate or redistrict the precinct boundary lines from time to time as may be necessary in order to comply with

the principle of equal representation. The changes by the board are to be accomplished only on an affirmative vote of at least eight directors.

(f) If the boundaries of precincts are redesignated or redistricted as provided in Subsection (e) of this section, at the next election all directors are to stand for election in the manner provided in this section, and after the election, the 15 directors shall draw lots for terms of office in the manner provided in this section.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.052. Qualification of Directors

To be qualified for membership on the board, a person shall possess all qualifications to vote in a general election under Texas law and be a bona fide resident in the authority and in the precinct from which he or she is elected or appointed. Each director shall subscribe to the oath of office, with conditions in the oath as required by law for members of the county commissioners court, shall execute a bond for the faithful performance of his or her duties in the amount of \$10,000, and shall hold office until his or her successor has been elected and qualified.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.053. Board Action; Duties; Quorum; Compensation and Expenses

(a) The board shall perform official actions by motions or by resolutions, and a majority of its membership constitutes a quorum for transaction of business. A majority of the quorum present is sufficient in all official actions, including final adoption of resolutions, except as otherwise specifically provided in this chapter.

(b) The board shall hold regular meetings at least once each month at times established in the authority's bylaws or by resolution of the board. The president or any three board members may call necessary special meetings in the administration of the authority's business, but at least five days before the meeting date for a special meeting, the secretary of the board shall mail notice of the meeting to the current address of each board member. Notice of any meeting may be waived in writing by a director.

(c) Expenses of directors incurred in connection with performing their duties shall be reimbursed on the basis authorized by the board. In addition to expenses, a per diem of not to exceed \$50 a day may be paid directors at the discretion of the board.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.054. Officers

(a) The board shall elect annually from among its members a president of the board. The president shall preside at the meetings of the board and shall perform all other functions that customarily are incident to his or her office.

(b) One or more vice-presidents shall be elected annually by the board from among its members, and if more than one is elected, they shall be designated in numerical order, and in that numerical order shall act as president in the event of the absence, inability, or failure of the president or a higher-numbered vice-president to act.

(c) A secretary and, at the option of the board, an assistant secretary shall be elected annually by the board with the board having discretion as to whether these officers are to be chosen from among the members of the board. The secretary and assistant secretary are charged with the duty of seeing that all books and records of the authority are properly kept.

(d) Except in the case of the secretary and assistant secretary, only members of the board are eligible to serve as officers of the board.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.055. Advisory Council

(a) If the authority is confirmed, an advisory council is created with authority to make and submit recommendations to the board.

(b) The advisory council shall act by majority vote of its duly qualified members. The membership of the advisory council consists of one resident representative from each county within the boundaries of the authority. Selection of these county representatives on the advisory council is by written resolution of each county commissioners court, filed with the authority, and each representative shall serve at the will of the commissioners court appointing him or her.

(c) No person may serve as a member of the board and as a member of the advisory council at the same time, and any attempt to do so disqualifies the person from serving as a member of the advisory council.

(d) The first meeting of the advisory council is to be called by the board within 30 days after the confirmation of the authority. At the first meeting of the advisory council, the president of the board shall preside for the purpose of the election of a chairman, vice-chairman, and secretary of the advisory council, each being elected for a term of one year by a majority vote of the advisory council members. Also, at the first meeting of the advisory council, an annual meeting date shall be determined for the election of officers of the advisory council. The chairman may call a meeting of the group by giving five days' notice of the meeting by mail to each member.

(e) The chairman of the advisory council shall act as an ex officio board member without the right to vote on the board and is entitled to sit in all board meetings and report to the board the action, if any, of the advisory council.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 26, 1979.]

#### § 64.056. Executive Director; Employees

(a) The board may employ an executive director for the authority and may delegate full power and authority to him or her in the management and operation of the affairs of the authority, subject only to the orders of the board, and may determine his or her compensation. The board may employ a deputy executive director with the authority the board may delegate.

(b) The board may also employ a treasurer and other employees including engineers, hydrologists, geologists, technical experts, accountants, attorneys, economists, and assistants to its officers, and determine the compensation of those employees, including reimbursement of expenses, as it may deem appropriate to the proper conduct of the authority's affairs. The board may provide for the discharge of any employee.

(c) The treasurer of the authority has charge of its funds, shall see that the funds are kept safely, and shall account for the funds to the board. The funds of the authority are disbursed only on checks, drafts, or other instruments signed by the treasurer and other persons authorized by the board.

(d) The executive director, deputy executive director, and treasurer each shall execute a bond in an amount as may be required by the board, but in no event less than \$50,000.

(e) All bonds required to be executed by the directors, officers, and employees of the authority are to be executed by a surety company authorized to do business in this state. The authority may pay the premiums on the bonds. The directors may also require bonds on any employee.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.057. Authority Office; Books, Records, Etc.

(a) A regular office shall be established and maintained for the conduct of the authority's business which shall be at a location within the authority to be determined by the board. The board may establish branch offices.

(b) The board shall have a true and full account of the proceedings of its meetings kept in writing and shall preserve originals or copies of its minutes, contracts, records, notices, accounts, receipts, and records of any character, all of which are public records, in the manner and for the length of time specified by the state auditor.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.058 to 64.090 reserved for expansion]

### SUBCHAPTER D. POWERS AND DUTIES

#### § 64.091. Purposes

The authority is created:

(1) to obtain supplemental supplies of imported water for use on an equitable basis within the boundaries of the authority;

(2) to preserve, conserve, protect, replenish, prevent waste, recharge, store, manage, treat, distribute, drain, exchange, and sell imported water;

(3) to contract for imported water; and

(4) to provide for the storage, sale, management, treatment, drainage, and distribution of imported water.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.092. General Powers

In addition to those specifically otherwise provided, the authority may exercise the following powers:

(1) contract with the State of Texas or any state, the United States, and any district, or any person for a supply of imported water, for the financing and construction of works, for the operation and maintenance of works, for the purchase of storage space, and for any purpose consistent with this chapter;

(2) purchase, lease, store, control, conserve, protect, distribute, process, treat, transport, utilize, contract for, sell, exchange, and otherwise manage and deal with imported water, and prevent waste of imported water;

(3) provide by purchase, contract, lease, gift, or in any other lawful manner, and to develop all facilities and works deemed necessary or useful for the purpose of storing, purchasing, leasing, acquiring, controlling, conserving, protecting, distributing, processing, treating, utilizing, contracting for, exchanging, and selling imported water, and the transportation of imported water to or from any point within the authority chosen by the board for municipal, domestic, agricultural, livestock, industrial, and other beneficial or useful purposes permitted by law;

(4) construct, operate, repair, improve, maintain, renew, replace, discontinue, relocate, and extend works;

(5) acquire and develop any available source of imported water supply and construct, acquire, develop, operate, and maintain all facilities deemed necessary or useful with respect to an imported water supply;

(6) establish or otherwise provide for public parks and recreational facilities, acquire land adjacent to any reservoir in which the authority owns water storage rights for those purposes, and contract for the lease of land acquired by it for recreational or concession purposes under terms that the board may determine;

(7) contract with districts and persons for the sale and distribution of imported water, provided, however, that the authority shall not contract with any person or other entity being supplied water by an existing district unless the district is unable or unwilling to make available adequate water to meet those persons' or entities' requirements;

(8) exchange water over which the authority has control for other property rights or things of value;

(9) acquire by purchase, construction, lease, gift, or in any other lawful manner, and maintain, use, and operate property of any kind or any interest in property within or without the boundaries of the authority necessary for the exercise of the powers, rights, functions, and purposes possessed by the authority under this chapter;

(10) acquire by condemnation, property of any kind except water or any interest in property except water necessary to the exercise of the powers, functions, and purposes possessed by the authority in the manner provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended,<sup>1</sup> relating to eminent domain. The amount and character of the property to be acquired shall be determined by the board, provided, however, that as against districts that have the power of eminent domain, the fee title may not be condemned, but the authority may condemn only an easement; and provided further that the power of eminent domain shall apply only to property located within the boundaries of the authority;

(11) sell or otherwise dispose of surplus property of any kind or any interest in property that is not necessary for the operation of the authority, provided, that in all cases in which the board considers the value of the property to be in excess of \$25,000, the property shall be sold only on competitive bids after adequate advertisement as provided in Section 54.220(b) of this code;

(12) formulate, promulgate, and enforce rules for the purpose of conserving, preserving, and protecting imported water, but those rules shall not supercede existing district rules pertaining to all other water;

(13) formulate, promulgate, and enforce rules to prevent waste of imported water and for the other purposes included in this chapter;

(14) acquire land and the use of land for the construction, erection, maintenance, replacement, alteration, removal, improvement, and expansion of, and otherwise to deal with works for the purpose of transporting imported water to and from works and for the other purposes included in this chapter;

(15) have made, in cooperation with any governmental or private entity or by competent professionals, surveys, investigations, and studies for acquisition of supplies, transportation, storage, distribution, sale, and management of imported water, as well as the environmental, economic, legal, and sociological impact and related problems, and determine the quantity of water that may be available from various sources and that may be feasible to market and use within the authority, taking into consideration the improvements, developments, works, and operations that may be required in connection with them;

(16) develop comprehensive plans for the realization and carrying out of the purposes of the authority;

(17) enforce by injunction, mandatory injunction, or other appropriate remedy in courts of competent jurisdiction, rules adopted by the authority, provided that no rule shall be effective until a brief resume of the rule has been published once a week for two consecutive weeks in one or more newspapers individually or collectively having general circulation within the authority and the rule shall be effective not less than 14 days after the date of first publication;

(18) in the event that the authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the authority;

(19) cooperate and contract with the State of Texas, or any other state, the United States, any district, or any person for an imported supply of water, for the purposes of financing or construction of works, for the acquisition, purchase, extension, or operation and maintenance of those works, for the assumption as principal or guarantor of indebtedness, or for carrying out any powers and purposes of the authority;

(20) utilize the subsurface formations for underground storage and transmission of imported water and subsequently recapture imported water placed in underground storage by the authority at the same place or other locations away from the locations where the water was placed in storage;

(21) make contracts and execute instruments necessary to the exercise of the powers, functions, and purposes of the authority;

(22) incur indebtedness for any of the purposes for which the authority is created;

(23) borrow money for its lawful purposes, and, without limitation to the generality of the foregoing, borrow money and accept grants, gratuities, services, or other support from any source, and in connection with any loan, grant, or other support, enter into agreements as the board deems advisable;

(24) adopt, use, and alter a seal;

(25) sue and be sued;

(26) adopt bylaws for the management and regulation of its affairs;

(27) fix and collect charges and rates for water services and for water furnished by the authority, that shall be uniform for each class of entity within the authority receiving water or services;

(28) fix and collect assessments in accordance with this statute;

(29) impose penalties for failing to pay charges, assessments, and rates when due;

(30) levy, assess, and collect ad valorem taxes to provide funds necessary to carry out the purposes, powers, and functions granted the authority, provided, that the levy and assessment of ad valorem taxes shall not exceed 50 cents on each \$100 of the fair market value of property;

(31) establish zones of benefit within the authority that reflect the degree of benefit resulting to each zone from the provision of an imported water supply from the authority, and levy assessments in proportion to benefits;

(32) provide for the compilation of information on facilities for producing imported water from subsurface formations underlying the authority or use from imported water supplies;

(33) regulate, manage, and control activities on the authority's property and protect the property from waste and damage;

(34) make contracts, employ labor and other personnel, and do all acts necessary for the full exercise of its powers, functions, and purposes, and construction or other work may be performed or carried out by contracts or by the authority;

(35) act jointly with or cooperate with the United States, the state, any district, and any person or other entity to carry out the provisions and purposes of this chapter, and in joint or cooperative activity, the authority may act within or without its boundaries; and

(36) do any and every lawful act within or without the authority necessary in order that sufficient water may be made available for any present or future beneficial use or uses of the land or inhabitants within the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> Civil Statutes, art. 3264 et seq.

#### § 64.093. Contracts with Districts

(a) The authority may cooperate with and enter into contracts with districts and persons for the purpose of supplying and selling water to them. A contract may be on terms and for the time the parties may agree, and it may also provide that it will continue in effect until the authority's bonds, specified in the contract, and refunding bonds issued in lieu of those bonds, are fully paid.

(b) If the law requires a ratification of a proposed contract by the electorate, the contract becomes effective only when it is approved by a majority vote of the qualified voters voting at an election held for that purpose in the affected district, and if applicable, in the authority. The election shall be called, conducted, and results canvassed and announced in the manner provided in Chapter 54 of this code for tax bond elections.

(c) Should the board of directors, in regular meeting, adopt a plan of financing involving the issuance

of bonds, contracts, or other obligations to be supported or secured wholly or partially by revenues to be derived from contracts for the sale of water or other services to one or more districts, the board shall promptly direct a certified copy of its resolution to that effect, together with a copy of the proposed contract, to each district in which the election is to be held. In this resolution, the board may designate a limit of time of not less than 60 days from the time of notice to the district in which the district's governing body is to call the contract election, if appropriate. If the governing body of any district notified fails or refuses to call the election within the specified time, or if the election is held but results adversely to the approval of the proposed contract, the district is not entitled to any of the rights under the proposed contract.

(d) After having negotiated to contract with the authority for a water supply, no district may be eliminated from the boundaries or jurisdiction of the authority by virtue of its failure to call an election or approve a contract under the procedures in this section, but on this failure, the authority is not obligated to furnish the district the services or facilities to be supplied or constructed with the proceeds of the authority's bonds or other obligations, that are supported in any part by the money due the authority under the contracts.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.094. Awarding Construction or Purchase Contracts**

(a) No contract requiring an expenditure of more than \$25,000 is made until after publication of a notice to bidders in a manner and for a time deemed adequate by the board.

(b) The notice is sufficient if it states the time and place the bids will be opened, the general nature of the work to be done, or the material, equipment, or supplies to be purchased, and states when and on what terms copies of the plans and specifications may be obtained.

(c) Contracts for personal or professional services, and contracts with any entity for emergency work, materials, or services, and contracts with the United States, or the state or a district are exempt from the provisions of this section.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.095. Contracts with the United States, the State of Texas, or Their Agencies; Elections**

(a) The authority may contract with the United States or the state and any of the agencies of either under any of the federal or state laws for the construction, operation, and maintenance of a work or facility by which imported water may be supplied and distributed to the authority under an act of congress or the legislature. In the event a contract

is proposed to be made under which the authority is to be obligated to make payments wholly or partially from ad valorem taxes or otherwise, the contract may not be entered into unless authorized by an election at which a majority of the qualified voters voting at the election favor the execution of the contract. The procedures for calling the election, giving notice, and other requirements are the same as those provided in Chapter 54 of this code relative to issuance of bonds.

(b) In the event the authority enters into a contract with the United States or the state or any of the agencies of either, there may be no subsequent alteration of the territorial limits of the authority, and no proceedings for the exclusion of any area from the authority may be undertaken under the provisions of any law unless the alterations or exclusions have first received the approval of the United States or the state or its contracting agency, as the case may be.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.096. Municipal Utility District Laws Applicable When not in Conflict**

(a) All powers conferred by Chapter 54 of this code relating to municipal utility districts are applicable to the authority created under the provisions of this chapter insofar as those powers are not in conflict with the provisions of this chapter.

(b) Except as otherwise provided in this chapter, the signing of petitions, the filing of petitions, the notices, public hearings, voting, elections, canvassing of results, contest of elections, and all other administrative and procedural matters relating to formation, administration, and alterations of the authority are subject to the requirements of Chapter 54 of this code, and if the requirements are met, the proceedings are conclusively presumed to be in accordance with all of the requirements of the laws of this state.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.097. Land to Remain in Authority**

Once land is included within the authority and the authority is confirmed, the land may not be removed from the authority except as provided in Subchapter J of this chapter.<sup>1</sup> An unfavorable vote on any issue in some portion of the authority does not constitute grounds for excluding that portion from the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

<sup>1</sup> Section 64.301 et seq.

**§ 64.098. Adoption of Rules; Public Powers and Penalties**

(a) The board may adopt and enforce rules, subject to the restrictions of Section 64.092(12) of this code, relating to the quality of all water in and to flow into a reservoir or conduit owned by the au-

thority or that by contract or otherwise, it may control to prevent trespass, vandalism, waste of water, or the unauthorized use of water. The board may regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges above, on, and in the reservoir, conduit, or any body of land or easement owned or controlled by the authority.

(b) On conviction in a court of competent jurisdiction of a violation of a rule adopted under this section, a fine shall be assessed in an amount of not less than \$100 nor more than \$1,000, or confinement in the county jail shall be imposed for not less than one day nor more than 30 days, or both. Each day of violation constitutes a separate offense. All fines are to be promptly paid to and become the exclusive property of the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.099. Appeal

(a) An interested person affected by a law, rule, order, or act entered, made, or adopted by the authority who is dissatisfied with the law, rule, order, or act, is entitled to file a suit in a court of competent jurisdiction in the county in which the authority has its principal office to test the validity of this chapter or a law, rule, order, or act, or any of them. The suit shall be advanced for trial and be determined as expeditiously as possible, and no postponement or continuance may be granted except for a reason deemed imperative by the court. In these trials, the burden of proof is on the party complaining of the law, rule, order, or act, and the law, rule, order, or act is deemed *prima facie* valid.

(b) The trial is *de novo* and the court or jury shall determine independently all issues of fact and of law with respect to the validity and reasonableness of the law, rule, order, or act.

(c) The provisions of this section are cumulative of all rights of the affected parties and do not impair or restrict their right to equitable relief.

(d) The authority is not required to give a cost or supersedeas bond or to pay a cost deposit on any appeal from the judgment of any court of this state. [Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.100. Authority May Acquire Water Permits

The authority is authorized to acquire and own water permits on compliance with the provisions of Chapter 11, Water Code.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.101. Underground Water Rights

The ownership and rights of the owner of the land, his or her lessees and assigns, in underground water are recognized. Nothing in this chapter is to be construed as depriving or divesting the owner, his or her assigns or lessees, of the ownership or right

subject to the rules promulgated by the authority pursuant to this chapter. Underground water naturally occurring within the import authority is not to be construed as surplus or imported and the authority shall not buy, sell, or transport that water as part of an import water supply.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.102. Prior Districts Inviolate

Nothing in this chapter shall ever be construed as giving the Ogallala Water Import Authority the right or the power to supercede, preempt, or otherwise interfere with the exercise of the powers, rights, duties, or functions of any other district existing as of the date of creation of the Ogallala Water Import Authority. Each such prior district shall continue to operate and carry out its authorized functions after creation of the Ogallala Water Import Authority. Provided, however, that this section shall not prevent any district from entering into a contract with the Ogallala Water Import Authority and the performance by the authority of such functions of the district as may be made its responsibility on terms of such contract acceptable to the district and the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.103 to 64.120 reserved for expansion]

### SUBCHAPTER E. GENERAL FISCAL PROVISIONS

#### § 64.121. Audits

(a) The board shall keep complete and accurate accounts, conforming to approved methods of book-keeping, and those accounts and contracts, documents, and records of the authority are to be kept at its principal office and shall be open to public inspection at all reasonable times.

(b) Within 90 days after the end of each calendar year, the board shall have an audit made of books of account and financial records of the authority for the preceding calendar year by an independent, certified public accountant, or firm of certified public accountants.

(c) Copies of the written report of the audit, certified to by the accountant or accountants, shall be placed and kept on file at the office of the authority and shall be open to public inspection at all reasonable times. A copy of the audit shall be filed with the Department of Water Resources.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.122. Authority Depository and Methods of Selecting the Depository

(a) The board shall designate one or more banks within the authority to serve as depository for the funds of the authority. Funds of the authority shall be deposited in the depository bank or banks, except

those pledged to pay bonds that are deposited with the trustee bank or paying agent named in the bond proceedings and to the extent provided in the proceedings. To the extent that funds in the depository bank and the trustee bank are not insured by the F.D.I.C., they are to be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the board shall issue a notice stating the time and place the board will meet to make the designation, and shall invite the banks in the authority to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. The notice shall be published one time in a newspaper or newspapers published in the authority and specified by the board, and the publication shall be completed at least 10 days before the date of the board meeting.

(c) At the time mentioned in the notice, the board shall consider the applications, the management and condition of the banks filing them, and other matters as may be to the best interest of the authority, and shall designate as depositories, the bank or banks that offer the most favorable terms and conditions for the handling of the funds of the authority, and that the board funds have proper management and are in condition to warrant handling the authority's funds.

(d) If no acceptable applications are received by the time stated in the notice, the board shall designate a bank or banks within or without the authority on terms and conditions advantageous to the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.123. Financial Aid**

In consideration of the fact that the authority may be incurring some obligations and making some expenditures before funds are available to pay the obligations and expenditures, for the purpose of providing funds needed to procure necessary engineering or economic surveys or to prepare for and conduct hearings and elections, the collection and compilation of data relating to general conditions influencing the determination of the character and extent of the improvements, works, and facilities to be used in connection with the accomplishment of any purpose of the authority, it is provided that the state or any district wholly or partially located within the authority may loan funds or its services for any or all of those purposes. Any district located wholly or partially within the authority may appropriate and spend money from its general funds or funds legally available for that purpose, and loan the funds to the authority. The authority may contract with the United States, the state, or any district to repay any money advanced as a loan to the authority or to reimburse the state or any district for the cost of services performed.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.124 to 64.130 reserved for expansion]

SUBCHAPTER F. BONDS

**§ 64.131. Issuance of Bonds**

For the purpose of providing a source of imported water for beneficial purposes permitted by law, and for the purpose of carrying out any other authority conferred by this chapter, the authority may issue its negotiable bonds to be payable from all or any part of its net revenues or from taxes, or from both revenues and taxes of the authority pledged by resolution of the board of directors. In addition to the authority to issue bonds for those purposes, the authority is further authorized to contract in any other lawful manner and to prescribe the method of payment of any contract either by the use of all or any part of its net revenues, taxes, or both.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.132. Bond Conditions**

Bonds may be authorized by resolution of the board, bear the date or dates, mature at the time or times, bear interest at the rate or rates, and be issued in the denominations the board may determine. The bonds shall be signed by the president and attested by the secretary, and have the seal of the authority impressed on them. Bonds may be sold at the price and under the terms determined by the board to be the most advantageous and reasonably obtainable, provided that the interest cost to the authority calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed 10 percent a year. Within the discretion of the board, bonds may be made callable and subject to redemption before their maturity at the times and at the prices prescribed in the authorizing resolution. Interest on all bonds may be payable annually or semiannually within the discretion of the board. Bonds may be issued on one or more than one series and from time to time as required in carrying out the purposes of this chapter. The bonds shall be in the form, either coupon or registered, carry the registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds of one denomination for bonds of other denominations, and be payable at the place or places within or without the State of Texas as the board determines and prescribes in the resolution or resolutions authorizing the bonds.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.133. Security for Bonds**

Bonds may be secured by a pledge of all or any part of the net revenues or by all or any part of the taxes of the authority or by the net revenues of any one or more contracts or by other revenues in the manner specified by resolution of the board. Any pledge may reserve the right under conditions speci-

fied in the pledge to issue additional bonds which are to be on a parity with or subordinate to the bonds then being issued.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.134. Levy of Taxes to Pay Bonds and Interest

If bonds are issued payable wholly or partially from ad valorem taxes, it is the duty of the board to levy a tax sufficient to pay the bonds and the interest on the bonds as the bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues that may be available for the payment of the principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.135. Revenues to Pay Bonds and Interest

If bonds or other contracts payable wholly or partially from revenues are issued or entered into, it is the duty of the board to establish by contract, with all member units that contract with it for a water supply or water facilities, the rates or compensation for water sold and services rendered by the authority sufficient to pay the expenses of operating and maintaining the authority and its facilities, and to pay as they mature all those obligations incurred including the reserve and other funds as may be provided for the bonds or other contracts under the terms of those obligations, and as may be provided in the board's resolution pertaining to those obligations.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.136. Proceeds of Bonds

From the proceeds of the sale of bonds, the authority may set aside an amount for the payment of interest expected to accrue during construction and for a reserve interest and sinking fund, which provisions are to be made in the resolution authorizing the bonds. Proceeds from the sale of bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which the authority is created, including expenses of issuing and selling bonds. Pending the use of bond proceeds for the purpose for which the bonds were issued, the board, in its discretion, may invest them in obligations of the State of Texas or the United States, or in obligations secured by the United States.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.137. Default on Bonds

In the event of a default or a threatened default in the payment of principal of or interest on bonds

payable wholly or partially from revenues, any court of competent jurisdiction may, on petition of the holders of at least 25 percent of the outstanding bonds of the issue in default or threatened with default, appoint a receiver with authority to collect and receive all income of the authority except taxes, employ and discharge agents and employees of the authority, take charge of funds on hand except funds received from taxes that can be identified and manage the proprietary affairs of the authority without consent, interference, or hindrance by the directors. The receiver may also be authorized to sell or make contracts for the sale of water or renew contracts with the approval of the court appointing him or her.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.138. Approval and Registration of Bonds

Bonds issued by the authority under this subchapter constitute negotiable instruments within the meaning of the law of this state pertaining to negotiable instruments. Before any bonds are sold by the authority, a certified copy of the proceedings for the issuance thereof, including the form of the bonds, together with any other information which the attorney general may require, shall be submitted to the attorney general, and if he or she finds that the bonds are issued in accordance with the law, including compliance with Section 54.516 of this code, he or she shall approve the bonds and execute a certificate of approval that shall be filed in the office of the state comptroller and shall be recorded in a record kept for that purpose. No bonds are to be issued until registered by the state comptroller, who is to register the bonds if the attorney general has filed with the comptroller his or her certificate approving the bonds and the proceedings for the issuance of the bonds. If bonds or the proceedings pertaining to bonds recite that they are secured by a pledge of the proceeds of a contract made with the authority, a copy of the contract and proceedings of the contracting parties shall be submitted to the attorney general with the bond record, and if the bonds have been duly authorized and the contract made in compliance with law, the attorney general shall approve the bonds and contract and the bonds shall be registered by the state comptroller. If approved, the bonds and contract are valid and binding and incontestable for any cause. Whenever the authority has issued bonds, including interim or temporary bonds, or has contracted with the United States or the State of Texas, or any corporation or agency of either or any other entity in connection with the financing of its works or facilities, the authority may validate the bonds or contracts by suit in the manner and with the same effect as provided by Chapter 51 of this code.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.139. Interim or Temporary Bonds**

Pending the issuance of definitive bonds, the authority is authorized to issue and deliver interim or temporary bonds. The interim or temporary bonds issued may be taken up with the proceeds of the definitive bonds or the definitive bonds may be issued and delivered in exchange for and in substitution of the interim or temporary bonds. After any exchange and substitution, it is the duty of the authority to file proper certificates with the state comptroller, as to the exchange, substitution, and cancellation of the bonds. The certificates are to be recorded by the state comptroller.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.140. Refunding Bonds**

The board may issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this subchapter and the interest on the bonds without the necessity of an election. Refunding bonds may be issued to refund more than one series of outstanding bonds, and in the case of bonds secured in whole or in part by net revenues, the authority may combine the pledges for the outstanding bonds for the security of the refunding bonds and may secure them by other or additional revenues. The provisions of this subchapter with reference to the issuance of other bonds and their approval by the attorney general and the rights and remedies of the holders are to be applicable to refunding bonds. Refunding bonds are to be registered by the comptroller on the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they are to be sold and their proceeds deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the comptroller is to register them without concurrent surrender and cancellation of the original bonds.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.141. Securing Bonds with Trust Indenture**

Any bonds, including refunding bonds, authorized by this subchapter, not payable wholly from ad valorem taxes, may be secured additionally by a trust indenture under which the trustee is a bank having trust powers and is located either within or without the State of Texas. The trust indenture or mortgage may include provisions for a lien on all or any part of the physical properties of the authority and franchises, easements, water rights and appropriation permits, leases, and contracts, and all rights appurtenant to these properties, vesting in the trustee, in the event of default, power to operate the properties and all other powers for the further security of the bonds. The trust indenture, regardless of the existence of the deed of trust lien, may

contain any provisions prescribed by the board for the security of the bonds and the preservation of the trust estate, including provision for an amendment or modification of the trust indenture, and the issuance of bonds to replace lost or mutilated bonds secured by the trust indenture. Any purchaser in a sale under the deed of trust lien where one is given is the owner of the properties, facilities, and rights purchased and has the right to maintain and operate them during the period prescribed by the trust indenture.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.142. Approval of Bonds at an Election**

No bonds supported by taxes, except refunding bonds, may be issued unless authorized by an election in the manner provided by Chapter 54 of this code for bond elections.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.143. Bonds as Investments and Security**

All bonds of the authority are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the state or its agencies, including the permanent school fund. The bonds are eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and the bonds are lawful and sufficient security for those deposits to the extent of their par value when accompanied by all unmatured coupons appurtenant thereto.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.144. District Free from Taxes**

The accomplishment of the purposes stated in this chapter being for the benefit of the people of this state and for the improvement of their properties and industry, the authority in carrying out the purpose of this chapter will be performing an essential public function under the constitution and is not required to pay any tax or assessments on all or any part of the project, and the bonds or other obligations issued under this subchapter and their transfer and the income from the bonds including the profits on the sale of the bonds is at all times free from taxation by the state or by any district, municipal corporation, county, or other political subdivision or taxing authority of the state, provided that the authority shall be responsible for and subject to payment of ad valorem tax on all leased or owned

property within the state, but outside the jurisdiction of the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.145 to 64.180 reserved for expansion]

#### SUBCHAPTER G. TAXATION

##### § 64.181. Tax Procedures

After an election in which a majority of those voting give their approval, taxes may be levied, assessed, and collected by the authority on an ad valorem basis to provide funds for all lawful purposes of the authority, including maintenance, operation, administration, and other expenses. Provisions of Chapter 54 of this code relating to the election for voter approval and the levy, assessment, and collection of taxes, including enforcement, and the processes for the collection of delinquent taxes are applicable to an authority. Ad valorem taxes assessed and collected by an authority are to be uniform and equal.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

##### § 64.182. Tax Officers

(a) Where applicable and not in conflict with this subchapter, the laws contained in Chapter 54 of this code, with reference to tax assessors and collectors, boards of equalization, tax rolls, and the levy, assessment, and collection of taxes and delinquent taxes are applicable to the authority, except that the board of equalization to be appointed each year by the board is to consist of at least one qualified resident property taxpayer in each county, any portion of which is within the authority.

(b) Instead of proceeding for the assessment, equalization, and collection of taxes in the manner provided in this chapter, the board may adopt an order to have the taxes of the authority assessed and collected by the assessor and collector of taxes of any political subdivision of the state. On the adoption of the order, the taxes shall be assessed and collected by these officials and turned over to the authority depository. The compensation of these officials shall be as agreed upon by the officials and the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.183 to 64.210 reserved for expansion]

#### SUBCHAPTER H. ASSESSMENTS

##### § 64.211. Authorization of Assessments

For the purpose of making payments pursuant to contracts entered into by the authority with the United States, the state, or districts, the authority, in addition to the revenues and taxes otherwise provided in this chapter, may make assessments

apportioned in accordance with the benefits and, for this purpose, may establish zones of benefit which reflect the degree of benefit resulting to each zone from the contracts.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

##### § 64.212. Considerations in Making Assessments and Establishing Zones

(a) In ascertaining the benefits derived through a contract, and in establishing zones of benefit, the authority shall consider all of the following:

(1) improvement in the underground water supply;

(2) the contribution to the underground water supply by water made available independently of the authority;

(3) the adequacy of the water supply made available independently of the authority;

(4) the prospective need for a water supply;

(5) extractions from the underground water supply in excess of natural and artificial recharge, not including naturally occurring underground water;

(6) the economic impact resulting from the water supply made available under the contract or contracts;

(b) provided, however, areas not receiving a water supply or a direct improvement in the underground water supply by reason of the contract shall not be assessed;

(c) nor shall any area not within the authority be assessed by the authority; and

(d) benefits derived from all imported water used in similar zones of benefit shall be given equal consideration and assessed on an equal basis.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

##### § 64.213. Notice and Hearing

(a) No assessment is to be levied under this subchapter unless the board, by resolution, declares that it intends to do so and that a public hearing is held on the assessment at a specified day, hour, and place within the proposed zone of benefit at which all interested persons may appear and be heard.

(b) Notice of this resolution shall be published once a week for two consecutive weeks in a newspaper or newspapers of general circulation in the authority and in the general area of the proposed zone of benefit.

(c) The hearing may be adjourned from time to time at the discretion of the board, and at the conclusion of the hearing, the board may declare the zone or zones of benefit established and the assessment to be levied under this subchapter.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.214. Basis of Assessment**

Assessments made within zones of benefit shall be levied on all taxable property within the zone of benefit on an ad valorem basis.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.215. Election**

Before an assessment may be levied and collected in a zone of benefit, an election shall be held in the zone, as designated by the authority, in the same manner and under the same procedure as an election for a tax election conducted under Chapter 54 of this code.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.216 to 64.250 reserved for expansion]

SUBCHAPTER I. ANNEXATION

**§ 64.251. Annexation Authority**

Additional territory may be added to the authority with its prior consent by annexation in the manner provided in this subchapter.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.252. Petition for Annexation**

(a) A petition requesting annexation, signed by at least 50 or by a majority of the qualified voters residing within the territory to be annexed, who own taxable property in the territory and who have duly rendered the property for taxation to the city, town, county, or state, shall be filed with the board.

(b) The petition shall describe the territory proposed to be annexed by metes and bounds or by other appropriate description which fully identifies the territory in compliance with the laws of this state.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.253. Hearing**

If the petition is signed by the required number of qualified voters and complies with Section 64.252 of this code, the board, provided two-thirds of all members vote in favor thereof, shall adopt a resolution stating the conditions, if any, under which the territory may be annexed to the authority, and shall set a time and place for a hearing to be held on the questions of whether the territory will be benefitted by the proposed annexation, whether the annexation will result in an undue burden or disadvantage to the authority, and whether an election to approve the annexation should be called.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.254. Notice of Hearing**

(a) Notice of the adoption of a resolution setting the time and place of hearing shall be published at least one time in one or more newspapers designated by the board of directors, and the newspaper or newspapers individually or collectively shall have general circulation in the authority and in the territory proposed to be annexed. The notice shall be published at least 10 days before the date of the hearing.

(b) The notice shall describe the territory in the same manner as the petition.

(c) At least 30 days before the hearing, the secretary of the board also shall send, by certified mail, a notice of the hearing addressed to each of the following persons and entities:

(1) the mayor and the elected governing body of each incorporated city or town located in the existing authority;

(2) the mayor and the elected governing body of each incorporated city or town located in the territory propose to be annexed;

(3) the county judge and commissioners court of each county that is located in whole or in part in the authority;

(4) the county judge and the commissioners court of each county that is located in whole or in part in the territory proposed to be annexed; and

(5) each district that has previously entered into a written contract to purchase water from the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.255. Hearing Procedure**

(a) Interested persons who reside within the authority or within the territory seeking annexation may appear at the hearing and offer evidence for or against the proposed annexation.

(b) The hearing may proceed in the order and under the rules prescribed by the board, and the hearing may be recessed from time to time.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.256. Findings and Resolution; Election**

If, at the conclusion of the hearing, the board finds that the land in the territory will be benefitted by the proposed annexation, and further finds that the proposed annexation will not result in an undue burden or disadvantage to the existing authority, it shall adopt a resolution calling an election in the authority and in the territory to be annexed, stating the proposition or propositions to be voted on, the date of the election, and the place or places of holding the election, and appointing a presiding judge for each voting place. The presiding judge

shall appoint the necessary assistant judges and clerks to assist in holding the election. The authority is authorized to conduct the elections:

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.257. Notice of Election

Notice of election, stating the election date, the proposition or propositions to be voted on, the conditions under which the territory may be annexed, or making reference to the resolution of the board of directors fixing the conditions, and the place or places for holding the election, shall be published at least one time in a newspaper or newspapers designated by the board and published in the territory to be annexed, the newspaper or newspapers individually or collectively having general circulation in the territory, and also published one time in a newspaper or newspapers designated by the board and published within the authority, such newspaper or newspapers individually or collectively having general circulation in the authority. Each publication shall be made at least 10 days before the day set for the election. If, in the territory or in the authority, no newspaper or newspapers qualify, the authority or territory may accomplish publication by publishing at least 10 days before the date set for the election in a newspaper or newspapers, designated by the board, which individually or collectively have general circulation within the territory or the authority, as the case may be.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.258. Voter Qualification; Election Procedure

The qualifications of voters in elections held under this subchapter are those specified in the constitution and the procedures for conducting elections and for voting are those specified in the Texas Election Code, except as otherwise provided by this chapter.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.259. Conduct of Elections

The board may call, supervise, conduct, make returns, canvass, and declare results, and otherwise provide for the proper conduct of elections.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.260. Canvass and Election Results

(a) Not less than three nor more than seven days after the election, or as soon after that time as practicable, the board shall canvass the returns and shall adopt a resolution declaring the results.

(b) If the resolution shows that a majority of the votes cast in the election held within the authority and a majority of the votes cast in the election held within the territory both favor the annexation, the annexation shall be considered to be fully accomplished as of the time the board declares the results, and the annexation shall be incontestable except in the manner and within the time for contesting elections under Chapter 54 of this code.

(c) A certified copy of the order shall be recorded in the deed records of the county, and in each of the counties if there are more than one in which the territory is located.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.261. Assumption of Debt; Taxes

(a) In calling an election for the proposition of annexation of territory, the board of directors shall include as a part of the same election, the proposition of assumption of the proposed territory's proportionate part of all tax supported indebtedness and obligations of the authority then outstanding and in force and in the case of bonds, those previously voted, but not yet sold.

(b) The levy and collection of ad valorem taxes on taxable property in the territory are on the same basis as taxes are levied on the remainder of the authority.

(c) Unless the board finds it inequitable to do so at the same election there may be submitted in the territory to be annexed a proposition for assessment and collection of taxes in the territory to enable the territory to pay the authority, in installments as may be required by the board, an amount of money to be determined by the board which represents equitable reimbursement for a proper proportionate share of costs that the authority has previously paid or incurred for work or works which may afford benefits to the territory.

(d) If each of the propositions submitted carries by a majority vote, both in the territory and in the authority, the territory shall be annexed and shall become a part of the authority. Otherwise, the territory is not annexed.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

#### § 64.262. Other Method of Annexation

The owner or owners of land contiguous to an authority or otherwise may be included in the authority in the same manner and under the same conditions as provided by Sections 54.711 through 54.715 of this code.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.263. Furnishing Description**

The board shall furnish the development board a detailed description of land annexed to the authority within 30 days after the annexation.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.264 to 64.300 reserved for expansion]

SUBCHAPTER J. DISANNEXATION

**§ 64.301. Disannexation Authority**

A county in the authority may be disannexed from the authority in the manner provided in this subchapter.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.302. Petition for Disannexation**

(a) A petition requesting disannexation, signed by at least five percent of the qualified voters residing within the county to be disannexed, who own taxable property in the county and who have duly rendered the property for taxation to the county or to the state, shall be filed with the board. An election held under this section may not be held more than one time every 12 months.

(b) The petition shall name the county to be disannexed and shall request the board to call and hold an election in the county to determine whether or not the qualified voters of the county desire that the county be disannexed from the authority.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.303. Election**

On receiving a petition under Section 64.302 of this code, the board shall adopt a resolution calling an election in the county named in the petition, stating the proposition or propositions to be voted on, the date of the election, and the place or places of holding the election, and appointing a presiding judge for each voting place. The presiding judge shall appoint the necessary assistant judges and clerks to assist in holding the election. The authority is authorized to conduct the election.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.304. Notice of Election**

Notice of election, stating the election date, the proposition or propositions to be voted on, and the place or places for holding the election, shall be published at least one time in a newspaper or newspapers designated by the board and published in the county to be disannexed, the newspaper or newspapers individually or collectively having general circulation in the county. Publication of notice shall be made at least 10 days before the day set for the election. If, in the county, no newspaper or newspapers qualify, the authority may accomplish publication by publishing at least 10 days before the date set for the election in a newspaper or newspapers,

designated by the board, which individually or collectively have general circulation within the county. [Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.305. Voter Qualification; Election Procedure**

The qualifications of voters in elections held under this subchapter are those specified in the constitution and the procedures for conducting elections and for voting are those specified in the Texas Election Code, except as otherwise provided by this chapter.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.306. Conduct of Elections**

The board may call, supervise, conduct, make returns, canvass, and declare results, and otherwise provide for the proper conduct of elections.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.307. Canvass and Election Results**

(a) Not less than three nor more than seven days after the election, or as soon after that time as practicable, the board shall canvass the returns and shall adopt a resolution declaring the results.

(b) If the resolution shows that a majority of the votes cast in the election held within the county favor the disannexation, the disannexation shall be considered to be fully accomplished as of the time the board declares the results, and the disannexation shall be incontestable except in the manner and within the time for contesting elections under Chapter 54 of this code.

(c) A certified copy of the order shall be recorded in the deed records of the county.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

**§ 64.308. Taxes on Disannexed Land**

(a) If a county is disannexed from the authority at a time when the authority has outstanding debt, the disannexed county is not released from the payment of its pro rata share of the indebtedness.

(b) The authority shall continue to levy taxes each year on property in the county at the same rate levied on other property of the authority, until the taxes collected from the county equal its pro rata share of the indebtedness of the authority at the time of the disannexation of the county.

(c) The taxes collected under Subsection (b) of this section shall be charged only with the cost of levying and collecting the taxes and shall be applied exclusively to the payment of the pro rata share of the indebtedness.

[Added by Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

## NUMERICAL TABLE OF SPECIAL LAWS PERTAINING TO WATER

*The tabulation below lists the special laws from the 64th to the First Called Session of the 67th Legislatures pertaining to water arranged numerically in Vernon's Texas Civil Statutes classification order or, where not so classified, in order of legislative enactment by subject matter.*

Civ.St.Art.	Laws Citation	Subject Matter
7621d—2	1969, ch. 409 1971, ch. 202 1973, ch. 258 1973, ch. 466 1975, ch. 443 1979, ch. 630 1979, ch. 841	Gulf Coast Waste Disposal Authority
7621e	1965, ch. 409 1969, ch. 376 1971, ch. 387 1971, ch. 388 1973, ch. 266, § 22 1973, ch. 296 1977, ch. 735, § 2.034 1981, ch. 791	Water Well Drillers Act
7808 to 7880	1918, 4th C.S., ch. 43 1971, ch. 899 1979, ch. 841 1981, ch. 707, § 4(5)	Water Control and Preservation Districts
8161b	1947, ch. 437 1961, ch. 482 1975, ch. 453	Drainage districts—Commissioners —Powers, compensation, etc., counties of 150,000 to 350,000
8194 note	1961, ch. 520 1975, ch. 663	Nueces County Drainage and Conservation District No. 2, validation
8196 note	1963, ch. 236	Hidalgo, Willacy and Cameron County conservation and reclamation districts, contracts with U.S.
8198 note	1953, ch. 195 1957, ch. 291 1965, ch. 524 1977, ch. 701	Calhoun County Navigation District
8198 note	1963, ch. 1979 1967, ch. 25 1975, ch. 279 1979, ch. 25	Port of Port Arthur Navigation District of Jefferson County
8235a	1945, ch. 90 1947, ch. 242 1955, ch. 211 1957, ch. 71 1977, ch. 299, § 4	Navigation districts —District containing city of 375,000 or more
8248 to 8260	1920, 4th C.S., p. 3 1923, p. 42 1975, ch. 297 1981, ch. 606	—Pilots

Civ.St.Art.	Laws Citation	Subject Matter
8264 -----	1846, p. 79 -----	Pilots
to	1861, p. 19	
8280a	1951, ch. 148	
	1953, ch. 48	
	1955, ch. 224	
	1959, ch. 21	
	1961, 1st C.S., ch. 14	
	1963, ch. 459	
	1963, ch. 462	
	1965, ch. 552	
	1967, ch. 4	
	1969, ch. 728	
	1969, ch. 785	
	1981, ch. 185	
	1981, ch. 606	

**Districts Created and/or Validated Pursuant to Const. Art. 16, § 59**

8280—101 -----	1929, 2nd C.S., ch. 13 -----	Brazos River Authority
	1931, 1st C.S., ch. 5	—Creation; powers, etc.
	1935, ch. 19	
	1935, 1st C.S., ch. 368, § 14	
	1953, ch. 194, §§ 1, 2	
	1973, ch. 240	
8280—101 note -----	1934, 4th C.S., ch. 3 -----	—Donation of taxes; bonds, etc.
	1935, 1st C.S., ch. 368	
	1953, ch. 194, §§ 3 to 5	
	1975, ch. 152	
8280—106 -----	1933, 1st C.S., ch. 75 -----	Guadalupe-Blanco River Authority
	1935, 1st C.S., ch. 410	
	1969, ch. 432	
	1975, ch. 433	
8280—107 -----	1934, 4th C.S., ch. 7 -----	Lower Colorado River Authority
	1935, 1st C.S., ch. 405	
	1937, ch. 350	
	1939, Spec.L., p. 1048	
	1941, ch. 398	
	1949, ch. 61	
	1951, ch. 90	
	1955, ch. 165	
	1959, ch. 327	
	1962, 3rd C.S., ch. 11	
	1965, ch. 124	
	1967, ch. 655	
	1967, ch. 678	
	1971, ch. 174	
	1971, ch. 298	
	1971, ch. 820	
	1973, ch. 268, § 1	
	1973, ch. 271	
	1975, ch. 74	
8280—108 -----	1935, ch. 97 -----	Angelina and Neches River Authority
	1939, Spec.L., p. 1080	
	1945, ch. 287	
	1977, ch. 394	
8280—115 -----	1935, 1st C.S., ch. 427 -----	Nueces River Authority
	1937, 2nd C.S., ch. 20	
	1939, Spec.L., p. 1074	
	1943, ch. 390	
	1945, ch. 305	
	1971, ch. 695	
	1975, ch. 699	
	1979, ch. 138	

## WATER CODE

Civ.St.Art.	Laws Citation	Subject Matter
8280—119	1937, ch. 276 1939, Spec.L., p. 1083 1953, ch. 60 1957, ch. 504 1959, ch. 37 1961, ch. 233 1969, ch. 836 1975, ch. 301 1975, ch. 604 1981, ch. 60	San Antonio River Authority
8280—120	1937, ch. 360 1967, ch. 631 1975, ch. 593	Harris County Flood Control District —Creation, powers, etc.
8280—135	1949, ch. 282 1950, 1st C.S., ch. 45 1957, ch. 144 1969, ch. 362 1975, ch. 249	Trinity Bay Conservation District
8280—137	1949, ch. 340 1961, 1st C.S., ch. 4 1981, ch. 621	Colorado River Municipal Water District
8280—141	1951, ch. 62 1969, ch. 122 1975, ch. 90	North Texas Municipal Water District
8280—145	1951, ch. 373 1954, 1st C.S., ch. 24 1971, ch. 737 1975, ch. 639 1977, ch. 91	San Patricio Municipal Water District
8280—147	1953, ch. 78 1959, ch. 375 1959, 2nd C.S., ch. 28 1975, ch. 193	Northeast Texas Municipal Water District —Creation, powers, etc.
8280—154	1953, ch. 243 1955, ch. 196 1957, ch. 204 1961, ch. 67 1969, ch. 63 1981, ch. 42	Canadian River Municipal Water Authority
8280—160	1954, 1st C.S., ch. 35 1957, ch. 73 1961, ch. 174 1965, ch. 555 1973, ch. 172 1975, ch. 75 1979, ch. 383 1981, ch. 517	Green Belt Municipal and Industrial Water Authority
8280—163	1955, ch. 123 1965, ch. 15 1969, ch. 593 1977, ch. 720	Benbrook Sewer and Water Authority
8280—176	1955, ch. 376 1962, 3rd C.S., ch. 77 1977, ch. 532	Runnels County Water Authority
8280—181	1955, ch. 505 1979, ch. 222	Reagan County Water Supply District
8280—182	1955, ch. 506 1979, ch. 441	Bell County Water Control and Improvement District No. 3

Civ.St.Art.	Laws Citation	Subject Matter
8280—188	1955, ch. 518 1957, ch. 256 1957, 1st C.S., ch. 22 1959, 2nd C.S., ch. 29 1965, ch. 173 1967, ch. 273 1969, ch. 155 1969, ch. 156 1969, ch. 193 1969, ch. 198 1969, ch. 364 1979, ch. 87 1979, ch. 674	Trinity River Authority of Texas
8280—189	1955, ch. 523 1977, ch. 723	Bell County Water Control and Improvement District No. 1
8280—194	1957, ch. 126 1973, ch. 133 1981, ch. 659	Plum Creek Conservation District
8280—202	1957, ch. 279 1965, ch. 530 1977, ch. 722	Pond Creek Watershed Authority
8280—206	1957, ch. 368 1959, ch. 258 1961, ch. 258 1981, ch. 234	Bistone Municipal Water Supply District
8280—212	1957, 1st C.S., ch. 25 1961, ch. 134 1967, ch. 646 1975, ch. 465 1981, 1st C.S., ch. 19	Ecleto Creek Watershed District
8280—213	1957, 1st C.S., ch. 26 1961, ch. 64 1971, ch. 208 1975, ch. 464	Hondos Creek Watershed Improvement District
8280—219	1959, ch. 99 1979, ch. 69 1979, ch. 306	Edwards Underground Water District
8280—228	1959, ch. 279 1961, ch. 504 1967, ch. 570 1969, ch. 715 1969, ch. 856 1975, ch. 217 1977, ch. 529 1980, ch. 86	Red River Authority of Texas
8280—256	1961, ch. 364 1975, ch. 463	Escondido Watershed District
8280—257	1961, ch. 405 1965, ch. 542 1975, ch. 210	Upper Leon Pines Municipal Water District
8280—270	1962, 3rd C.S., ch. 12 1981, ch. 661	Alice Water Authority
8280—280	1963, ch. 101 1973, ch. 164 1977, ch. 786	Clear Lake City Water Authority
8280—285	1963, ch. 243 1979, ch. 34	Clear Creek Drainage District of Galveston County
8280—292	1963, ch. 307 1977, ch. 212	Orange County Drainage District of Orange County
8280—293	1963, ch. 312 1965, ch. 599 1969, ch. 136 1975, ch. 655	Lake Cities Municipal Utility Authority

## WATER CODE

Civ.St.Art.	Laws Citation	Subject Matter
8280—296	1963, ch. 337 1971, ch. 582 1979, ch. 271	Aransas County Conservation and Reclamation District
8280—335	1965, ch. 628 1981, ch. 473	Lipan Creek Flood Control District —Creation, powers, etc. —Directors, terms of office
8280—339	1965, ch. 712 1969, ch. 399 1979, ch. 708	Galveston County Water Authority
8280—384	1967, ch. 638 1981, ch. 475	Willow Creek Water Control District —Creation, duties, etc. —Directors, terms of office
8280—392	1967, ch. 653 1979, ch. 299	Lamar County Water Supply District
8280—411	1969, ch. 187 1979, ch. 31	San Patricio County Drainage District
8280—448	1969, ch. 481 1977, ch. 698	Kerrville South Utility District [repealed]
8280—476	1969, ch. 307 1979, ch. 420 1981, ch. 98	Brazoria County Conservation and Reclamation District No. 3 —Recreation, powers, etc.
8280—477	1971, ch. 135 1977, ch. 117	Irving Flood Control District
8280—487	1971, ch. 347 1977, ch. 44	Cibolo Creek Municipal Authority
8280—537	1971, ch. 647 1975, ch. 461	Northwest Harris County Public Utility District —No. 3
—	1973, ch. 438 1975, ch. 115	Palo Duro River Authority
—	1973, ch. 379 1979, ch. 812 1981, ch. 56	Sabine Pass Port Authority
—	1973, ch. 602 1977, ch. 691	Anna—Van Alstyne Water District
—	1975, ch. 36	Matador Water District
—	1975, ch. 201	Farmers Branch-Carrollton Flood Control District
—	1975, ch. 249	Parker County Utility District
—	1975, ch. 284 1977, ch. 557	Harris-Galveston Control Subsidence District
—	1975, ch. 437	Alvarado Water Authority
—	1975, ch. 742	West Cedar Creek Municipal Utility District
—	1977, ch. 208	Llano Estacado Water District
—	1977, ch. 264	Upton County Water District
—	1977, ch. 337	West Jefferson County Municipal Water District
—	1977, ch. 518	Fort Bend County Municipal Utility District No. 13
—	1977, ch. 535	Northeast Tarrant County Water District
—	1977, ch. 687	Northwest Forest Municipal Utility District
—	1977, ch. 693	Port O'Connor Municipal Utility District
—	1977, ch. 696	East Cedar Creek Fresh Water Supply District

## WATER CODE

2172

Civ.St.Art.	Laws Citation	Subject Matter
—	1977, ch. 713	Aquilla Water Supply District
—	1977, ch. 714	Meeker Municipal Water District
—	1979, ch. 97	Greater Texoma Municipal Utility District
—	1979, ch. 288	Bowie Water Supply District
—	1979, ch. 343	Itasca Municipal Water District
—	1979, ch. 344	Sienna Plantation Fresh Water Supply District
—	1979, ch. 376	Rayburn Municipal Utility District
	1981, ch. 36	
—	1979, ch. 421	Bois D'Arc Municipal Utility District
—	1979, ch. 432	Beeville Water Supply District
—	1979, ch. 435	Coryell City Water Supply District
—	1979, ch. 436	South Texas Water Authority
—	1973, ch. 600	Baytown Area Water Authority
	1981, ch. 649	
—	1981, ch. 97	Winnsboro-Quitman Water District
—	1981, ch. 104	Haciendas Del Norte Water Improvement District
—	1981, ch. 489	Glasscock County Underground Water Conservation District
—	1981, ch. 494	Mid-Tex Regional Water Supply District
—	1981, ch. 511	Southmost Regional Water Authority
—	1981, ch. 660	Dickinson Bayou Watershed Drainage District
—	1981, ch. 667	Graham Water Supply District
—	1981, ch. 729	La Porte Area Water Authority
—	1981, 1st C.S., ch. 8	Brazoria County Watershed Drainage Districts Nos. 3, 4, and 5

# INDEX TO WATER CODE

References are to Sections

## ABANDONMENT

Injection wells, bonds (officers and fiduciaries), 27.073.  
Water appropriation, 11.030.  
Cancellation of permits for nonuse, 11.173, 11.177.  
Water quality, license to discharge waste, suspension or revocation, 26.029.  
Water rights, 11.030, 11.338.

## ABATEMENT OF ACTIONS OR PROCEEDINGS

Water rights, actions between claimants, 11.340.

## ACCIDENTAL DISCHARGE

Defined, water quality, 26.039.  
Water quality, notice, 26.039.

## ACCIDENTS

Water supply shortages, preferences in distribution, 11.039.

## ACCOUNTANTS

Ogallala water import authority, 64.056.

## ACCOUNTS AND ACCOUNTING

Ogallala water import authority, 64.057, 64.121.  
Water quality,  
State loans and grants, preparation of water quality management plans, 26.038.

## ACKNOWLEDGMENTS

Irrigation works, conveyance, 11.043.

## ACTIONS AND PROCEEDINGS

Coastal protection fund, recovery of costs, 26.265.  
Collection, 12.141.  
District revenue bonds, regional waste disposal systems, validation, 30.058.  
Imported waters, 64.092, 64.099.  
Irrigation Districts, this index.  
Motor carriers, salt water haulers, show cause, licenses and permits, 29.020, 29.021.  
Penalties, violation of orders, rules and regulations of water commission, collection, 12.141.  
Regional waste disposal systems, district revenue bonds, validation, 30.058.  
Salt water haulers, show cause, licenses and permits, 29.020, 29.021.  
Trespassing animals, failure to fence ditches, canals, etc., 11.047.  
Water Rights, this index.

## ACTIONS AND PROCEEDINGS

—Cont'd  
Weather modification,  
Injunctive relief, 18.172.  
Licenses, evidence, actions against licensee, 18.152.

## ACTS OF GOD

Water quality, waste discharge violations, 26.132, 26.216.

## ADDRESS

Weather modification permit, notice of intention, contents, 18.085.

## ADJOINING LANDOWNERS

Water appropriation, 11.038.

## ADVERSE OR PECUNIARY INTEREST

Districts, board members, disqualification, 50.026.  
Irrigation districts, depository selection, 58.358.

## ADVISORY COMMITTEES

Weather modification, 18.015.

## ADVISORY COUNCILS

Ogallala water import authority, 64.055.  
Water development board, creation, 5.134.

## AFFECTED PERSON

Defined, injection wells, 27.034.

## AFFIDAVITS

Audits, filing by districts, 50.374.  
Districts, filing, 50.374.  
Filing, districts, 50.374.  
Financially dormant districts, 50.377.  
Water quality, discharge permits, hearing waiver, 26.028.  
Water resource development project, political subdivisions, application for financial assistance, 17.122.  
Weather modification licenses and permits, notice of intention, proof of publication, 18.087.

## AGRICULTURAL PRODUCTS

Pollution control, Regional Waste Disposal Act, 30.001 et seq.  
Regional Waste Disposal Act, 30.001 et seq.  
Water quality, Regional Waste Disposal Act, 30.001 et seq.

## AGRICULTURAL WASTE

Defined,  
Regional Waste Disposal Act, 30.003.  
Water quality control, 26.001.  
Criminal prosecution, 26.211.

## AGRICULTURAL WASTE—Cont'd

Regional Waste Disposal Act, 30.001 et seq.

## AGRICULTURE

Improvements, water accumulation on or contiguous to, 16.231 et seq.  
Regional Waste Disposal Act, 30.001 et seq.  
Water accumulation on or contiguous to land, improvements, 16.231 et seq.  
Water quality, animal feeding operations, discharge permit, 26.028.

## AMENDMENTS

Irrigation districts, water rights, 58.180.  
Water control and improvement districts, preference in water use, 51.184.  
Water rights, permits, certified filings and certificates, 11.122.

## AMORTIZATION AND EMERGENCY FUND

Irrigation districts, 58.353.

## ANIMALS

Dead animals, deposit in waters, 11.090.  
Permits to retain water in reservoir, purposes, 11.183.  
Water quality, discharge permit, feeding operations, 26.028.

## ANNEXATION OF TERRITORY

Drainage districts, 56.714 et seq.  
Ogallala water import authority, 64.251 et seq.  
Disannexation, 64.301 et seq.

## APPEAL AND REVIEW

Bond on appeal, water allocation and distribution during appeals involving water rights, 11.407.  
Imported waters, regulations, 64.099.  
Irrigation Districts, this index.  
Levee and flood control plans, 16.238.  
Motor carriers, salt water haulers, licenses and permits, 29.019, 29.021.  
Municipal utility districts, creation, districts outside extraterritorial jurisdiction of city, 54.0161.  
Water quality, 5.351.  
Waste discharge violations, injunctions, 26.125.  
Water resources department actions, 5.351.  
Water Rights, this index.  
Water supply, rates and charges, 11.036.

## APPEARANCE

Water appropriation, permits to take water, hearings, 11.133.

# INDEX TO WATER CODE

2174

References are to Sections

**APPEARANCE—Cont'd**

Water quality, corporations, waste discharge violations, 26.221, 26.222.

**APPRAISEMENT COMMISSIONERS**  
Irrigation Districts, this index.**APPROPRIATION OF WATER**

Generally, 11.001 et seq.

**APPROPRIATOR**

Defined, water rights, 11.002.

**AQUIFERS**

Edwards aquifer, protection, public hearings, 26.046.

**AREA-WIDE WASTE DISPOSAL SYSTEMS**

Generally, 26.081 et seq.

**ARKANSAS**

Red river compact, notice, 46.011.

**ARRAIGNMENT**

Water quality, corporations, waste discharge violations, 26.221.

**ARRESTS**

Water quality, corporations, waste discharge violations, 26.219.

**ARTESIAN WELLS**Generally, 11.201 et seq.  
Water Wells, this index.**ASHES**

Waters, deposit, 11.090.

**ATTESTATION**

Water quality, orders of board, 26.019.

**ATTORNEY GENERAL**

Defined, Ogallala water import authority, 64.003.

**ATTORNEYS**

Ogallala water import authority, 64.056.

**ATTORNEYS FEES**Irrigation districts,  
Delinquent tax assessments, 58.313.  
Dissolution, 58.826.**AUDITS AND AUDITORS**Affidavit of filing, districts, 50.374.  
Districts, 50.374, 50.375.  
Audited by the state, time, 50.371.  
Filing, districts, 50.374.  
Financially dormant districts, 50.377.  
Irrigation districts, 58.359.  
Ogallala water import authority, 64.121.  
Report exemption, 50.378.  
Water Districts, this index.**AUTHORITIES**Deepwater Port Authority, generally, this index.  
Defined,  
Ogallala water import authority, 64.003.  
Ogallala water import, 64.001 et seq.**AUTOMOBILES**

Operation, water facilities, 50.056.

**AWARDS**

Ogallala water import authority, contracts, 64.094.

**BALLOTS**

Forms, weather modification, hail suppression permits, 18.0841.

**BANKS AND BANKING**

Water development bonds, investments, 17.032.

**BAYS**Ecological environment, maintenance, 1.003.  
Fresh water inflows, investigation of effects, 16.012.  
Licenses and permits to store, take or divert water, effects, 11.147.  
Studies, fresh water inflows, 16.058.**BEACHES**

Oil and hazardous substances spill prevention and control, 26.261 et seq.

**BENEFICIAL USE**Defined,  
Ogallala water import authority, 64.003.  
Water rights, 11.002.**BIDS AND BIDDING**Irrigation districts, construction bids, 58.139.  
Water control and improvement districts, Construction bid bonds, 51.140.  
Water Development, this index.  
Water quality, construction contracts, 17.279.**BOARDS AND COMMISSIONS**Adverse or pecuniary interest, governing board members, disqualification, 50.026.  
Caddo lake compact, 47.011.  
Commissioner, 47.003.  
Canadian river compact, commissioner, office of, Sunset Act, application, 43.0031.  
Deepwater Port Authority, this index.  
Defined,  
Financial assistance, 15.001.  
Injection wells, 27.002.  
Irrigation districts, 58.001.  
Levee improvement districts, 57.001.  
Ogallala water import authority, 64.003.  
Red river compact, 46.013.  
Water development, 16.001.  
Public funding, 17.001.  
Water quality control, 26.001.  
Water resources department, 5.001.  
Water rights, 11.002.  
Water wells, 28.001.  
Weather Modification Act, 18.002.  
Disqualification, districts, 50.026.  
Equalization board, irrigation districts, 58.571 et seq.  
Pecos river compact, commissioner, office of, Sunset Act, application, 42.0031.Red River Compact, this index.  
Rio Grande compact, commissioner, office of, Sunset Act, application, 41.0031.  
Sabine river compact, administrator, office of, Sunset Act, application, 44.0031.Water Commission, generally, this index.  
Water Development Board, generally, this index.**BOATS AND BOATING**Defined,  
Sewage disposal systems, 26.044.  
Sewage pump-out facilities, 26.045.  
Sewage disposal, 26.044.  
Pump-out facilities, establishment by local government, 26.045.**BONDS**Boat sewage pump-out facilities, 26.045.  
Deepwater Port Authority, this index.  
Definition,  
Guaranty program, 15.201.  
Water development, 16.001.  
Public funding, 17.001.  
District revenue bonds, regional waste disposal systems, 30.051 et seq.  
Districts, 50.107.  
Fire departments, 50.055.  
Imported water, 64.131 et seq.  
Irrigation Districts, this index.  
Ogallala water import authority, 64.131 et seq.  
Pollution control, Regional Waste Disposal Act, 30.004 et seq.  
Regional Waste Disposal Act, 30.004 et seq.  
Regional waste disposal systems, district revenue bonds, 30.051 et seq.  
Water Development Bonds, generally, this index.  
Water district fire departments, 50.055.  
Water pollution control compact, 26.043.  
Water quality, Regional Waste Disposal Act, 30.004 et seq.  
Water resources development projects, Political subdivision bonds, 17.126.  
Sale of facilities, bonds as consideration, 16.190, 16.191.**BONDS (OFFICERS AND FIDUCIARIES)**Injection wells, 27.073.  
Irrigation Districts, this index.  
Ogallala water import authority, directors, 64.052, 64.056.  
Salt water haulers, 29.015.  
Water quality, waste discharge violations, injunctions, 26.125.  
Water rights, denial of water, hearing on complaints, 11.041.**BOOKS AND PAPERS**

Ogallala water import authority, 64.057, 64.121.

**BOUNDARIES**Irrigation districts, alteration, consent of United States, 58.157.  
Water rights, state boundaries, application of law, 11.003.**BRANCH OFFICES**

Ogallala water import authority, 64.057.

**BRINE**

Oil and gas products, injection wells, 27.001 et seq.

**BUILDING AND LOAN ASSOCIATIONS**

Water development bonds, investments, 17.032.

**BUSINESS AND COMMERCE**

Injection wells, pollution control, 27.001 et seq.

## INDEX TO WATER CODE

References are to Sections

**BYLAWS**

Ogallala water import authority, 64.092.

**CADDO LAKE COMPACT**

Generally, 47.001 et seq.

**CALHOUN COUNTY**Directors, drainage districts, election, 56.064, 56.0641.  
Special law districts, 56.0642.**CANADIAN RIVER COMPACT**

Commissioner, office of, Sunset Act, application, 43.0031.

**CANALS**

Destruction, 11.088.

Fences, failure to fence, trespassing animals, 11.047.

Garbage and refuse, deposits, 11.090.

Improvement, 16.271 et seq.

Water accumulation on or contiguous to land, 16.231 et seq.

Johnson grass or Russian thistle, adjoining land, 11.089.

Littering, 11.090.

Motor vehicles, operation, 50.056.

Obstructing natural drainage, construction of canals, 11.086.

Polluting, 11.090.

Water accumulated on or contiguous to land, improvements, 16.232.

Water accumulation, improvements, 16.231 et seq.

**CANCER**

Hazardous substances, disposal facilities, cleanups, 26.301 et seq.

**CASHIERS CHECKS**

Water control and improvement districts, construction bids, 51.140.

**CASING**

Defined, injection wells, 27.002.

Injection wells, pollution control, 27.055, 27.056.

**CAVES**

Injection wells, 27.001 et seq.

**CERTIFICATES AND CERTIFICATION**

Caddo lake compact, 47.009.

Red river compact, 46.011.

Sewage disposal devices, 26.044.

Water resource development projects, political subdivision receiving financial assistance, certificate of approval, 17.139.

Water rights, certificate of adjudication, 11.171 et seq., 11.323.

**CERTIFIED COPIES**

Water resources department, receipt, 11.004.

**CESSPOOLS**

Private cesspools, controlling or prohibiting, 26.031, 26.032.

**CHAIRMAN**

Defined, water development, 16.001.

**CHEMICAL TOILETS**

Water quality, controlling or prohibiting, 26.031, 26.032.

**CHEMICALS AND CHEMISTRY**

Hazardous substances, disposal facilities, cleanups, 26.301 et seq.

**CITIES, TOWNS AND VILLAGES**

Boat sewage pump-out facilities, 26.045.

Certificate of approval, construction contract, 15.112.

Construction, financial assistance, 15.001 et seq.

Contracts,

Financial assistance, 15.001 et seq.

Regional Waste Disposal Act, 30.004 et seq.

Control and improvement districts, investments, 51.4371.

Default, bonds, construction projects, 15.213.

Defined,

Bonds, 15.201.

Financial assistance, 15.001.

Regional Waste Disposal Act, 30.003.

Emergencies, releases, 15.325.

Financial assistance, construction projects, 15.001 et seq.

Funds, construction projects, 15.001 et seq.

Injection wells, 27.001 et seq.

Inspection and inspectors,

Construction projects, 15.216.

Financial assistance, 15.110.

Storage acquisition sites, 15.329.

Irrigation districts,

Charges, 58.319.

Elections, dissolution of districts, 58.833 et seq.

Joint ventures, storage acquisition projects, 15.303.

Leases, storage acquisition sites, 15.313 et seq.

Licenses and permits, storage acquisition program, 15.304, 15.314.

Loans, construction projects, 15.001 et seq.

Maintenance contracts, storage acquisition programs, 15.311.

Plans and specifications, construction projects, 15.001 et seq.

Pollution control,

Injection wells, 27.001 et seq.

Regional Waste Disposal Act, 30.001 et seq.

Priorities and preferences, storage acquisition projects, 15.326.

Recreation and recreational facilities, storage acquisition sites, 15.312.

Regional Waste Disposal Act, 30.001 et seq.

Registration, financial assistance, 15.108.

Releases, emergencies, 15.325.

Research, 15.401 et seq.

Resolutions, financial assistance, 15.104.

Sales, storage acquisition sites, 15.313 et seq.

Storage acquisition program, 15.301 et seq.

Waste, injection wells, 27.001 et seq.

Water assistance fund, 15.011, 15.012.

Water deposit bonds, security for deposit of funds, 17.033.

Water development bonds, investments, 17.032.

Water loan assistance fund, 15.101 et seq.

Water quality,

Injection wells, 27.001 et seq.

Regional Waste Disposal Act, 30.001 et seq.

**CITIES, TOWNS AND VILLAGES**

—Cont'd

Weather modification, cooperative agreements, 18.019.

Wells, injection wells, pollution control, 27.001 et seq.

**CITIES OF 1,000,000 OR LESS**

Municipal utility districts, 54.016.

**CLEANUPS**

Hazardous substances, disposal facilities, cleanups, 26.301 et seq.

**COAST GUARD**

Contracts, oil and hazardous substances spill prevention and control, 26.264.

**COASTAL AREA**

Defined, Oil and Hazardous Substances Spill Prevention and Control Act, 26.263.

**COASTAL BASINS**

Defined, Regional Waste Disposal Act, 30.003.

Regional Waste Disposal Act, 30.001 et seq.

**COASTAL LAND OR WATER**

Defined, Oil and Hazardous Substances Spill Prevention and Control Act, 26.263.

**COASTAL PROTECTION FUND**

Oil and hazardous substances spill prevention and control, 26.265.

**COASTAL WATERS**

Oil and hazardous substances spill prevention and control, 26.261 et seq.

**COLLECTIONS**

Red river compact commission, 46.013.

**COMBINED FACILITIES OPERATION AND MAINTENANCE FUND**

Water development, 17.076.

**COMMERCIAL INCOME**

Defined, irrigation districts, 58.397.

**COMMERCIAL PAPER**

Deepwater Port Authority, this index.

Water control and improvement districts, investments, 51.4371.

Water development bonds, 17.011 et seq.

**COMMISSIONERS COURTS**

Defined, irrigation districts, 58.001.

Municipal utility districts,

Bonds, project review, districts outside extraterritorial jurisdiction of city, 54.5161.

Review of creation, districts outside extraterritorial jurisdiction of city, 54.0161.

Standards of construction, districts outside extraterritorial jurisdiction of city, 54.2271.

**COMMITTEES**

Advisory committees, weather modification, 18.015.

**COMPACTS**

Caddo lake compact, 47.001 et seq.

Red River Compact, generally, this index.

# INDEX TO WATER CODE

2176

References are to Sections

## COMPACTS—Cont'd

Water pollution control, 26.043.  
Weather modification, 18.018.

## COMPENSATION AND SALARIES

Caddo lake compact commissioners, 47.003, 47.011.  
Irrigation Districts, this index.  
Ogallala water import authority, directors, 64.053.  
Red river compact, commissioners, 46.006, 46.013.  
Water development board, 5.097.  
Watermasters and employees, 11.329.  
Court-appointed watermasters and staff, 11.403.  
Weather modification personnel, 18.016.

## COMPLAINTS

Levee and flood control plans, 16.238.  
Water quality, corporations, waste discharge violations, 26.218.  
Water rights, denial of water, 11.041.

## COMPTROLLER

Defined, Ogallala water import authority, 64.003.

## CONSERVATION

Caddo lake compact, 47.011.  
Imported waters, 64.001 et seq.  
Red river compact, 46.001 et seq.  
Underground water, 28.001 et seq.

## CONSERVATION AND RECLAMATION DISTRICTS

Agent for service of process, president or general manager, 50.025.  
Lien on crops, water furnished for irrigation, 11.051.  
Priorities and preferences, lien on crops, water furnished for irrigation, 11.051.  
Private sewage facilities, licensing, 26.031.  
Service of process, agent for district, 50.025.  
Waiver, lien on crops, water furnished for irrigation, 11.051.  
Water commission, right of supervision, 12.081.

## CONSERVATION STORAGE CAPACITY

Defined, Red river compact, 46.013.

## CONSTRUCTION

Defined, financial assistance for waste treatment construction, alternative program, 17.272.  
Irrigation Districts, this index.  
Water Quality, this index.

## CONSTRUCTION FUND

Irrigation districts, 58.351.

## CONTAMINANT DISPOSAL FACILITIES

Cleanups, 26.301 et seq.

## CONTEMPT

Water commission, hearings, etc., 11.337.

## CONTINUANCE

Water quality hearings, 26.022.

## CONTRACTS

Bids and Bidding, generally, this index.  
Cities of 1,000,000 or less, municipal utility districts, 54.016.

## CONTRACTS—Cont'd

Contaminant disposal facilities, cleanups, 26.301 et seq.  
Deepwater port authority, bids, 19.065.  
Disposal facilities, hazardous substances, cleanup, 26.301 et seq.  
Fire departments, 50.055.  
Hazardous substances, disposal facilities, cleanups, 26.301 et seq.  
Imported waters, 64.001 et seq.  
Irrigation Districts, this index.  
Pollution control, Regional Waste Disposal Act, 30.004 et seq.  
Regional waste disposal systems, 30.004 et seq., 30.024 et seq.  
Research, flood control, 15.404.  
State highway department, oil and hazardous substances spill prevention and control, 26.264.  
Storage acquisition program, 15.308 et seq.  
Treatment facilities, Regional Waste Disposal Act, 30.004 et seq.  
Water appropriation, conserved or stored water, 11.036.  
Water Development, this index.  
Water development board, 5.174.  
Water district fire departments, services, 50.055.  
Water quality board, 26.018.  
Oil and hazardous substances spill prevention and control, 26.264.  
Water resource development projects, acquisition or development, 16.137 et seq.  
Water rights, administration of water rights not adjudicated, 11.335.  
Waterways, navigation improvements and facilities, 16.272.

## CORPORATIONS

Fines and penalties, violations of orders, rules and regulations, 12.141.  
Water quality, crimes and offenses, 26.218 et seq.

## COSTS

Water appropriation, eminent domain proceedings, 11.035.  
Water Rights, this index.  
Watermasters, court-appointed watermasters, assessment, 11.404.  
Failure to pay assessed costs, 11.405.

## COUNCILS

Advisory council, Ogallala water import authority, 64.055.

## COUNTIES

Bonds, construction projects, 15.001 et seq.  
Certificate of approval, construction contract, 15.112.  
Control and improvement districts, investment, 51.4371.  
Default, bonds, construction projects, 15.213.  
Definitions,  
Bonds, 15.201.  
Financial assistance, 15.001.  
Emergencies, releases, 15.325.  
Financial assistance, construction projects, 15.001 et seq.  
Import authorities, 64.001 et seq.  
Inspection and inspectors,  
Construction projects, 15.216.  
Financial assistance, 15.110.  
Storage acquisition sites, 15.329.

## COUNTIES—Cont'd

Joint ventures, storage acquisition projects, 15.303.  
Leases, storage acquisition sites, 15.313 et seq.  
Licenses and permits, storage acquisition program, 15.304, 15.314.  
Loans, construction projects, 15.001 et seq.  
Maintenance contracts, storage acquisition programs, 15.311.  
Ogallala water import authorities, 64.001 et seq.  
Plans and specifications, construction projects, 15.001 et seq.  
Priorities and preferences, storage acquisition projects, 15.326.  
Recreation and recreational facilities, storage acquisition sites, 15.312.  
Registration, financial assistance, 15.108.  
Releases, emergencies, 15.325.  
Research, 15.401 et seq.  
Resolutions, financial assistance, 15.104.  
Sales, storage acquisition sites, 15.313 et seq.  
Septic tanks, water quality, controlling or prohibiting, 26.032.  
Storage acquisition program, 15.301 et seq.  
Water assistance fund, 15.011, 15.012.  
Water development bonds, Investments, 17.032.  
Security for deposit of funds, 17.033.  
Water loan assistance fund, 15.101 et seq.  
Water quality, septic tanks, controlling or prohibiting, 26.032.  
Weather modification, cooperative agreements, 18.019.

## CRIMES AND OFFENSES

Artesian wells,  
Drilling records, 11.203.  
Wasting water, 11.205.  
Dams and reservoirs, destruction, etc., 11.088.  
Flood waters, levees controlling, regulating or changing, 16.238.  
Garbage and refuse, deposit in water, 11.090.  
Imported water violations, 64.098.  
International streams, diversion of water released, 11.087.  
Irrigation works, destruction, 11.088.  
Johnson grass, waterways, adjoining land, 11.089.  
Littering water, 11.090.  
Motor carriers, salt water haulers, 29.041 et seq.  
Motor vehicles, water facility operation, 50.056.  
Obstruction of navigable streams, 11.096.  
Oil and hazardous substances spill prevention and control, 26.268.  
Overflow caused by diversion of water, 11.086.  
Private sewage facilities, 26.214.  
Russian thistle, waterways, adjoining land, 11.089.  
Salt water haulers, 29.041 et seq.  
Second and subsequent offenses,  
Water wells, plugging or casing, 28.004.  
Weather modification, 18.171.  
Sewage facilities, private, 26.214.  
State water, unlawfully used, 11.081 et seq.

## INDEX TO WATER CODE

References are to Sections

**CRIMES AND OFFENSES—Cont'd**

Stealing water, 11.088.  
Wasteful use of water, 11.092 et seq.  
Water delivery under contract, interference, 11.091.  
Water headgates or water boxes, tampering, 11.083.  
Water rights, sale without permit, 11.084.  
Water Supply, this index.  
Weather modification, 18.171.  
Permits, 18.1211.

**CYPRESS CREEK DRAINAGE BASIN**

Waterways, navigation facilities, 16.271 et seq.

**DAMAGES**

Municipal utility districts, rates and charges, 54.016.  
Water appropriation, overflow caused by diversion of water, 11.086.  
Weather modification, proof of financial responsibility, licensees, 18.088.

**DAMS AND RESERVOIRS**

Compliance, rules, 11.333.  
Crimes and offenses,  
International streams, diversion of water, 11.087.  
Destruction, 11.088.  
Domestic and livestock reservoirs, permits, other use, 11.143.  
Emergency orders, safety, 12.052.  
Emergency releases of water, 16.195.  
Eminent domain, 11.035.  
Entry on property, examination and survey, selection of reservoir site, 11.049.  
Examinations, entry on property, selection of reservoir sites, 11.049.  
Fences, failure to fence, trespassing animals, 11.047.  
Fines and penalties,  
Destruction, etc., 11.088.  
International streams, diversion of water, 11.087.  
Safety, 12.052.  
Garbage and refuse, deposit, 11.090.  
Highways and roads, change of location, interference with construction, 11.044.  
Improvements, water accumulation on or contiguous to land, 16.231 et seq.  
International streams, diversion of released water, 11.087.  
Johnson grass or Russian thistle, adjoining land, 11.089.  
Littering, 11.090.  
Measuring devices, 11.331.  
Notice,  
Compliance, rules, 11.333.  
Rules and regulations, compliance, 11.333.  
Watermasters, 11.328.  
Orders, safety, emergencies, 12.052.  
Outlet for free passage of water, 11.330.  
Permits,  
Domestic and livestock reservoir, 11.142.  
Other use, 11.143.  
Polluting, 11.090.  
Rules and regulations, compliance, 11.333.  
Safety, water resources department, rules and orders, 12.052.  
Sale of stored water, 16.192.

**DAMS AND RESERVOIRS—Cont'd**

Stealing or taking water illegally, 11.088.  
Surveys, entry on property, selection of reservoir sites, 11.049.  
Water accumulated on or contiguous to land, 16.232.  
Water accumulation, improvements, 16.231 et seq.  
Water acquired by state, storing, 16.134.  
Water conservation, federal projects, 12.051.  
Water Development, this index.  
Water releases, emergencies, 16.195.  
Water resource development projects, permits, 16.133.  
Watermasters duties, 11.327.

**DEEDS AND CONVEYANCES**

Irrigation districts, United States, 58.156.  
Irrigation works, 11.043.  
Water rights,  
Permanent rights passing with title to land, 11.040.  
Title to land passing out of state after July 1, 1895, 11.001.

**DEEPWATER PORT AUTHORITY**

Generally, 19.001 et seq.  
Acquisition of property, 19.052.  
Administration, 19.011 et seq.  
Bids and bidding, 19.055.  
Boards and commissions. Commissioners, generally, post.  
Bonds,  
Additional security, 19.137.  
Approval,  
Issuance, 19.042.  
Registration, 19.141.  
Default provision, 19.136.  
Execution, 19.133.  
Form, terms, 19.132.  
Incontestability, 19.142.  
Negotiability, 19.144.  
Payment, 19.143.  
Proceeds, 19.138.  
Refunding, 19.140.  
Registration, approval, 19.141.  
Repayment, 19.148.  
Resolution authorizing, 19.135.  
Security provisions, 19.134.  
Taxation, 19.145.  
Trust indenture, 19.137.  
Claims, tidelands, 19.005.  
Commercial paper. Notes, generally, post.  
Commissioners,  
Appointment, 19.012.  
Compensation, 19.016.  
Expenses, 19.016.  
Meetings, 19.015.  
Powers and duties, delegation, 19.017.  
Terms of office, vacancies, 19.013.  
Compensation, employees, 19.019.  
Condemnation of property, 19.052.  
Construction, approval, 19.042.  
Contracts, bids, 19.065.  
Data, inspection, 19.021.  
Definitions, 19.002.  
Disposition of property, 19.052.  
Documents, inspection, 19.021.  
Dredging, 19.054.  
Employees, compensation, 19.019.  
Engineering, environmental studies, 19.037.  
Environmental protection, 19.101.  
Expiration, 19.004.  
Facilities, ownership, maintenance, 19.054.

**DEEPWATER PORT AUTHORITY**

—Cont'd  
Fees, use of facilities, 19.054.  
Final report, 19.039.  
Financial feasibility study, 19.038.  
General manager, 19.018.  
Incontestability, bonds, notes, contracts, 19.142.  
Information, inspection, 19.021.  
Investments, bond proceeds, 19.138.  
Leases, state owned water bottoms, 19.052.  
Licenses and permits, securing of licenses, 19.036.  
Navigable waterway systems, establishment, operation, 19.054.  
Notes,  
Additional security, 19.137.  
Approval, registration, 19.141.  
Default provision, 19.136.  
Execution, 19.133.  
Form, terms, 19.132.  
Incontestability, 19.142.  
Issuance, sales, 19.131.  
Payment, 19.143.  
Refunding, 19.140.  
Registration, approval, 19.141.  
Repayment, 19.148.  
Resolutions authorizing, 19.135.  
Security provisions, 19.134.  
Taxation, 19.145.  
Trust indenture, 19.137.  
Officers, 19.014.  
Plans and specifications, environmental protection, 19.101.  
Policy, 19.001.  
Port development, 19.054.  
Powers, 19.051 et seq.  
Rates and charges, 19.054.  
Reports,  
Final report of commission, submission to governor, 19.039.  
Governor, action on final report of commission, 19.041.  
Natural resources council, submission to, 19.040.  
Rules and regulations, 19.020.  
State owned water bottoms, leases, 19.053.  
Studies,  
Engineering and environmental feasibility, 19.037.  
Financial feasibility, 19.038.  
Taxation, bonds, notes, 19.145.  
Tidelands claims, 19.005.  
United States, contracts, 19.054.  
Vacancies, commissioners, 19.013.  
Water bottoms, state owned, leases, 19.053.  
**DEFAULT**  
Ogallala water import authority, bonds, 64.137.  
Water quality enhancement bonds, 17.178.  
Water resource development project, political subdivision bond financing, 17.132.  
**DEPARTMENT**  
Defined,  
Districts, 50.001.  
Financial assistance, 15.001.  
Injection wells, 27.002.  
Levee improvement districts, 57.001.  
Water development, 16.001.  
Public funding, 17.001.

# INDEX TO WATER CODE

2178

References are to Sections

## DEPARTMENT—Cont'd

### Defined—Cont'd

- Water resources department, 5.001.
- Water rights, 11.002.
- Water wells, 28.001.
- Weather Modification Act, 18.002.

## DEPOSITIONS

- Water commission hearings, 11.337.

## DEPOSITORIES

- Irrigation districts, 58.355 et seq.
- Ogallala water import authority, selecting, 64.122.

## DEPOSITS

- Water development moneys, 17.071.
- Water rights fees, 12.113.
- Weather modification, hail suppression, elections, 18.0841.

## DESIGNATED AGENTS

- Definition,
- Fresh water supply districts, 12.082.
- Irrigation districts, 58.451.

## DESIGNATED WATER

- Defined, Red river compact, 46.013.

## DEVELOPMENT BOARD

- Defined,
- Ogallala water import authority, 64.003.

## DEVELOPMENT FUND MANAGER

- Water development board, 5.180.

## DIKES

- Improvements, water accumulation on or contiguous to land, 16.231 et seq.
- Obstruction of navigable streams, 11.096.
- Water accumulation, improvements, 16.231 et seq.

## DIRECTORS

- Caddo lake compact, executive director, 47.006.
- Defined, irrigation districts, 58.001.
- Ogallala water import authority, 64.051 et seq.
- Red river compact, executive director, 46.008.

## DISASTERS

- Oil and hazardous substances spill prevention and control, 26.261 et seq.
- Storage acquisition programs, leases, emergencies, 15.325.

## DISCHARGE OR SPILL

- Defined, Oil and Hazardous Substances Prevention and Control Act, 26.263.
- Disposal facilities, 26.0191.
- Hazardous substances, cleanups, 26.301 et seq.
- Water quality, accidental discharges and spills, 26.039.

## DISCRIMINATION

- Water appropriation, contracts to supply conserved or stored water to others, 11.036.
- Water rights, permanent water rights, 11.040.

## DISEASES

- Hazardous substances, disposal facilities, cleanups, 26.301 et seq.

## DISMISSAL AND NONSUIT

- Water rights, 5.353.
- Complaints, 11.041.

## DISPOSAL FACILITIES

- Cleanups, 26.301 et seq.
- Defined, hazardous substances, 26.301.
- Discharge, 26.0191.

## DISPOSAL FACILITY RESPONSE FUND

- Generally, 26.304.

## DISPOSAL SYSTEM

- Boat sewage system, 26.044.
- Pump-out facilities, establishment by local government, 26.045.
- Defined,
- Regional Waste Disposal Act, 30.003.
- Water quality control, 26.001.

## DISPOSAL WELLS

- Generally, 27.001 et seq.

## DISSOLUTION

- Water districts, assets, escheat, 50.257.

## DISTRICT REVENUE BONDS

- Regional waste disposal systems, 30.051 et seq.

## DISTRICTS

- Adverse or pecuniary interest, board members, disqualification, 50.026.
- Affidavits, filing, 50.374.
- Audits and auditors, 50.374, 50.375.
- Boards and commissions, disqualification, 50.026.
- Bonds,
- Issuance, 50.107.
- Regional Waste Disposal Act, 30.004 et seq.
- Contracts, Regional Waste Disposal Act, 30.004 et seq.
- Creation, notice, 50.303.
- Defined,
- Fresh water supply district, 12.082.
- Irrigation districts, 58.001.
- Ogallala water import authority, 64.003.
- Regional Waste Disposal Act, 30.003.
- Emergencies, projects, 50.026.
- Escrow and escrow agents, bonds, 50.107.
- Exemptions, audit reports, 50.378.
- Filing, audits, affidavits, financial reports, 50.374.
- Financial statements and reports, filing, 50.374.
- Financially dormant districts, 50.377.
- Irrigation Districts, generally, this index.
- Meetings, 50.057.
- Notice,
- Agents for service, 50.025.
- Creation, 50.303.
- Offices, 50.057.
- Pollution control, Regional Waste Disposal Act, 30.001 et seq.
- Private sewage facilities, licensing, 26.031.
- Process, agents for service, 50.025.
- Projects, emergencies, 50.026.
- Records and recordation, 50.057.
- Maintenance, 50.376.
- Regional Waste Disposal Act, 30.001 et seq.

## DISTRICTS—Cont'd

- Water accumulation on or contiguous to land,
- Advice to, 16.236.
- Improvements, 16.234.
- Water commission,
- Creation, investigations and bonds, 12.083.
- Supervision of conservation and reclamation district, 12.081.
- Water quality, Regional Waste Disposal Act, 30.001 et seq.
- Waterways, navigation facilities, 16.271 et seq.

## DITCHES

- Destruction, 11.088.
- Disposal facilities, hazardous substances, cleanups, 26.301 et seq.
- Fences, trespassing animals, 11.047.
- Flumes, installation along ditchlines, 11.332.
- Hazardous substances, disposal facilities, cleanups, 26.301 et seq.
- Johnson grass or Russian thistle, adjoining land, 11.089.
- Motor vehicles, operation, 50.056.
- Obstructing natural drainage, construction of ditch, 11.086.

## DRAINAGE DISTRICTS

- Agents for service of process, president or general manager, 50.025.
- Annexation of territory, 56.714 et seq.
- Calhoun county,
- Director, election procedures, 56.064, 56.0641.
- Special law districts, 56.0642.
- Candidates, director, 56.0641.
- Directors,
- Candidates, 56.0641.
- Election, 56.0641.
- Election,
- Annexation of territory, 56.722, 56.723.
- Directors, 56.0641.
- Galveston county,
- Directors, election, 56.064, 56.0641.
- Special law districts, 56.0642.
- Hearings, annexation of territory, petitions, 56.716 et seq.
- Matagorda county,
- Directors, election, 56.064, 56.0641.
- Special law districts, 56.0642.
- Notice,
- Annexation of territory,
- Elections, 56.723.
- Hearings, 56.720.
- Petitions, annexation of territory, 56.714 et seq.
- Records and recordation, annexation of territory, petitions, 56.717.
- Signatures, annexation of territory, petitions, 56.715.
- Special law districts,
- Directors, election, 56.0642.
- Taxes, annexation of territory, 56.724, 56.725.
- Victoria county,
- Directors, election, 56.064, 56.0641.
- Special law districts, 56.0642.
- Water accumulation on or contiguous to land, improvements, 16.231 et seq.

## DRAINS AND DRAINAGE

- Imported waters, 64.001 et seq.
- Improvements, water accumulation on or contiguous to land, 16.231 et seq.

## INDEX TO WATER CODE

References are to Sections

**DRAINS AND DRAINAGE—Cont'd**

Motor vehicles, operation, 50.056.  
 Water accumulated on or contiguous to land, improvements, 16.232, 16.236.  
 Water accumulation, improvements, 16.231 et seq.  
 Water appropriation, drainage plans, permits to take water, 11.127.

**DRAWDOWN**

Defined, Caddo lake compact, 47.011.

**DREDGES**

Disposal facilities, hazardous substances, cleanups, 26.301 et seq.

**DRILLING LOG**

Ejection wells, 27.054.

**DROUGHTS**

Storage acquisition programs, releases, emergencies, 15.325.  
 Water supply,  
 Distribution during shortage, 11.039.  
 Storage in state facility, emergency releases, 16.195.

**EASEMENTS**

Water rights, permanent rights, 11.040.

**ECONOMIC DEVELOPMENT**

Water, state water plan, 16.051.

**ECONOMIST**

Ogallala water import authority, 64.056.

**EDWARDS AQUIFER**

Hearings, public, protection, 26.046.

**ELECTIONS**

Ballots, weather modification, hail suppression permits, 18.0841.  
 Bonds,  
 Regional waste disposal systems, 30.031.  
 Imported waters, assessments, 64.215.  
 Irrigation Districts, this index.  
 Notice,  
 Ogallala water import authority, 64.016, 64.257, 64.304.  
 Ogallala water import authority, 64.016, 64.051, 64.142, 64.256, 64.303 et seq.  
 Regional and area-wide waste disposal systems, 26.087.  
 Regional waste disposal systems, 30.035.  
 Weather modification, hail suppression, permits, 18.0841.

**ELECTRIC LOGS**

Injection wells, 27.054.

**ELECTRICITY**

Water appropriation, preferences, 11.023.  
 Water development, exploration of waterbearing formations, 16.015.

**EMERGENCIES**

Dams and reservoirs, safety, 12.052.  
 Districts, projects, 50.026.  
 Storage acquisition program, releases, 15.325.  
 Water appropriation, emergency permits to take water, 11.139.  
 Water quality, orders, 26.0191.  
 Water releases, 16.195.  
 Weather modification, license exemption, 18.052.

**EMINENT DOMAIN**

Imported waters, 64.092.  
 Irrigation, water supply, 11.033.  
 Irrigation districts, applicable statutes, 58.261.  
 Water rights, condemnation of existing works, 12.015.  
 Water supply, 11.033.

**ENGINEERS AND ENGINEERING**

Ogallala water import authority, 64.056.  
 Red river compact, officers and employees, 46.009.

**ENTRY ON PROPERTY**

Irrigation districts, 58.135.  
 Reservoir site selection, examination and survey, 11.049.  
 Rights-of-way selection, examination and survey, water facilities, 11.049.  
 Water commission, investigation, 12.017.  
 Water quality, inspection, 26.014.  
 Local governments, authority, 26.173.

**ENVIRONMENT**

Caddo lake compact, 47.011.  
 Deepwater port authority, environmental protection plan, 19.101.  
 Hazardous substances, disposal facilities, cleanups, 26.301 et seq.

**ENVIRONMENTAL IMPACT STATEMENTS**

Navigation districts, application to lease state-owned lands, 61.116.

**ENVIRONMENTAL RESPONSE LAW**

Defined, disposal facilities, 26.301.

**ESCHEAT**

Water districts, dissolution, 50.257.

**ESCROW AND ESCROW AGENTS**

Districts, bonds, 50.107.

**ESTUARIES**

Ecological environment, maintenance, 1.003.  
 Fresh water inflows, investigation of effects, 16.012.  
 Licenses and permits to store, take or divert water, effects, 11.147.  
 Studies, fresh water inflows, 16.058.

**EVIDENCE**

State water, unlawfully used, 11.081.  
 Water quality, hearings, 26.020, 26.021.  
 Water Rights, this index.  
 Weather modification, licenses and permits, actions against licensee, 18.152.

**EXAMINATIONS AND EXAMINERS**

Injection wells, records, 27.072.

**EXCLUSIONS**

Regional and area-wide waste disposal systems, 26.084, 26.085.

**EXECUTIVE DIRECTOR**

Defined,  
 Financial assistance, 15.001.  
 Injection wells, 27.002.  
 Levee improvement districts, 57.001.  
 Municipal utility districts, 54.001.  
 Underground water conservation district, 52.001.  
 Water control improvement districts, 51.001.  
 Water development, 16.001.  
 Public funding, 17.001.

**EXECUTIVE DIRECTOR—Cont'd**

Defined—Cont'd  
 Water improvement districts, 55.001.  
 Water quality, 26.001.  
 Water resources department, 5.001.  
 Water rights, 11.002.  
 Weather Modification Act, 18.002.

**EXEMPTIONS**

Audit report exemptions, 50.378.  
 Levees and flood control regulations, 16.238.  
 Licenses and permits, domestic and livestock reservoir, 11.142.  
 Oil and hazardous substances spill prevention and control, 26.267.  
 Water rights, fees, 12.112.  
 Weather modification, licenses and permits, 18.052.

**EXPENSES AND EXPENDITURES**

Caddo lake compact commission, 47.003, 47.007, 47.011.  
 Ogallala water import authority, directors, 64.053.  
 Red river compact,  
 Commissioner, 46.006.  
 Executive director, 46.008.

**EXPERIMENTS**

Weather modification, licenses and permits, exemptions, 18.052.

**EXPORTS AND IMPORTS**

Ogallala water import authority, 64.001 et seq.

**EXTRACTION OF MINERALS**

Defined, injection wells, 27.002.

**FACILITIES**

Motor vehicles, operation, 50.056.

**FEDERAL AGENCIES**

Defined, water rights, 12.051.  
 Water accumulation on or contiguous to land, cooperation, 16.235.  
 Water development, contracts, joint or cooperative studies, 16.019.

**FEDERAL AID**

Sewers and sewer systems,  
 Disposal of waste or other water quality control activities, 26.035.  
 Treatment works, water quality board, grant processing fees, 26.048.  
 Water development, financing state water plan, 16.057.  
 Water quality, disposal of waste or other water quality control activities, 26.035.  
 Weather modification, 18.021.

**FEDERAL PROJECTS**

Defined, water rights, 12.051.  
 Water resource development projects, designation of local sponsor, 16.092.  
 Water rights, 12.051, 12.052.

**FEDERAL RECLAMATION ACT**

Irrigation works construction, maintenance and operation, application of water code, 11.005.  
 Secretary of Interior, authority to conduct activities within state, 11.052.

**FEEES**

Generally, 5.182 et seq.

References are to Sections

**FEES—Cont'd**

Boat sewage pump-out facilities, 26.045.  
 Certification, sewage disposal devices, 26.044.  
 Injection wells, permits, 27.014.  
 Irrigation, 5.182.  
 Petitions, 5.182.  
 Records and recordation, 5.182.  
 Undeveloped property, 50.056.  
 Water appropriation,  
     Eminent domain proceedings, 11.035.  
     Time extension, 11.145.  
 Water control and improvement districts, undeveloped property, 50.056, 51.195.  
 Water districts, undeveloped property, 50.056.  
 Water quality board, federal grants, processing fees, 26.048.

**FENCES**

Water rights, trespassing animals, fencing ditches, canals, etc., 11.047.

**FIDUCIARIES**

Control and improvement districts, investments, 51.4371.  
 Water development bonds, investments, 17.032.

**FINANCIAL ASSISTANCE**

Defined,  
     Financial assistance for waste treatment construction, alternative program, 17.272.  
 Ogallala water import authority, 64.123.

**FINANCIAL STATEMENTS AND REPORTS**

Districts, filing, 50.374.  
 Financially dormant districts, 50.377.  
 Irrigation districts, dissolution, 58.795.  
 Water appropriation, permits to take water, applications, 11.126.

**FINES AND PENALTIES**

Artesian wells,  
     Drilling records, 11.203.  
     Wasting water, 11.205.  
 Collection, limitation of actions, 12.141.  
 Dams and Reservoirs, this index.  
 Disqualification, governing board members, districts, 50.026.  
 Flood waters, levees controlling, regulating or changing, 16.238.  
 Garbage and refuse, deposit in waters, 11.090.  
 Imported water violations, 64.098.  
 Industrial and municipal waste, injection wells, 27.101 et seq.  
 Injection wells, pollution control, 27.101 et seq.  
 Irrigation Districts, this index.  
 Irrigation works, destruction, 11.088.  
 Levees, controlling, regulation or changing flood waters, approval of plans, 16.238.  
 Limitation of actions, collection, 12.141.  
 Littering waters, 11.090.  
 Misdemeanors, levees controlling, regulating or changing flood waters, 16.238.  
 Motor carriers, salt water haulers, 29.041 et seq.  
 Motor vehicles, water facility operation, 50.056.  
 Municipal waste, injection wells, 27.101 et seq.  
 Navigable streams, obstruction, 11.096.

**FINES AND PENALTIES—Cont'd**

Oil and gas waste, injection wells, 27.101 et seq.  
 Oil and hazardous substances spill prevention and control, 26.268.  
 Orders, rules and regulations of water commission, violation, 12.141.  
 Pollution control, injection wells, 27.101 et seq.  
 Private sewage facilities, 26.214.  
 Salt water haulers, 29.041 et seq.  
 Sewage facilities, private, 26.214.  
 State water, unlawfully used, 11.081, 11.082.  
 Stealing water, 11.088.  
 Waste, injection wells, 27.101 et seq.  
 Wasteful use of water, 11.094, 11.095.  
 Water, delivery under contract, interference, 11.091.  
 Water pollution, 11.090.  
 Water Supply, this index.  
 Waterhead gates or water boxes, tampering, 11.083.  
 Waterways, Johnson grass or Russian thistle on adjoining land, 11.089.  
 Weather modification, 18.171, 18.172.

**FIREMEN AND FIRE DEPARTMENTS**

District organization, 50.055.  
 Water districts, establishment, operation, maintenance, 50.055.

**FLOOD CONTROL AND INSURANCE ACT**

Generally, 16.311 et seq.  
 Cooperation, state board of insurance, 16.317.  
 Cooperation, water resources department, 16.314.  
 Coordination, local, state and federal programs, 16.316.  
 Definitions, 16.313.  
 Federal programs, coordination, 16.316.  
 Insurance, state board of, cooperation, 16.317.  
 Local programs, coordination, 16.316.  
 Political subdivisions,  
     Compliance with federal requirements, 16.315.  
     Rules and regulations, 16.318.  
     Time, compliance, 16.319.  
 Purpose, 16.312.  
 Rules and regulations, political subdivisions, 16.318.  
 State programs, coordination, 16.316.  
 Time, political subdivisions, compliance, 16.319.

**FLUID**

Defined, injection wells, 27.002.

**FLUMES**

Destruction, 11.088.  
 Ditchlines, installation, 11.332.

**FOREIGN CORPORATIONS**

Water quality, service of summons, 26.220.

**FOREIGN COUNTRIES**

Water resource development projects, joint ventures, 16.132.

**FOREIGN STATES**

Caddo lake compact, 47.001 et seq.  
 Red river compact, 46.001 et seq.  
 Water resource development project, joint ventures, 16.132.

**FORFEITURES**

Water appropriation, 11.030.  
     Permits to take water, construction of facilities, time, 11.146.  
 Water control and improvement districts, cashiers check, successful bidder failing to enter into contract, 51.140.  
 Water rights, 11.030, 11.338.

**FRESH WATER**

Defined,  
     Boat sewage pump-out facilities, 26.045.  
     Injection wells, 27.002.

**FRESH WATER SUPPLY DISTRICTS**

Bonds, application for investigation, 12.082.  
 Elections, supervisors, 53.0861.  
 Projects, 12.082.  
 Supervisors, elections, 53.0861.  
 Water commission, investigation and report, 12.082.

**FUNDS**

Caddo lake commission, 47.011.  
 Coastal protection fund, oil and hazardous substances spill prevention and control, 26.265.  
 Defined,  
     Disposal facilities, 26.301.  
     Oil and hazardous substances spill prevention and control, 26.263.  
     Water assistance, 15.001.  
 Disposal facility response fund, 26.304.  
 Irrigation Districts, this index.  
 Ogallala water import authority, deposit, 64.122.  
 Regional waste disposal systems, district revenue bonds proceeds, 30.064.  
 Research and planning, flood control, 15.402.  
 Storage acquisition fund, 15.301 et seq.  
 Water assistance, 15.011, 15.012.  
 Water loan assistance, 15.101 et seq.  
 Water rights administration fund, deposit of costs collected, 12.113.

**GALVESTON COUNTY**

Directors, drainage districts,  
     Election, 56.064, 56.0641.  
     Special law districts, 56.0642.

**GAME PRESERVES**

Water appropriation, 11.023.

**GARBAGE AND REFUSE**

Injection wells, 27.001 et seq.  
 Regional Waste Disposal Act, 30.001 et seq.  
 Waters, deposit, 11.090.

**GENERAL MANAGER**

Notice, agent for service on district, 50.025.  
 Process, agent for service on district, 50.025.

**GEOLOGIST**

Ogallala water import authority, 64.056.

**GIFTS, DEVISES AND BEQUESTS**

Imported waters, 64.092.  
 Water development board, 5.178.  
 Weather modification, funds for research and development, 18.021.

## INDEX TO WATER CODE

References are to Sections

**GOVERNOR**

Appointments,  
 Caddo lake compact, commissioner,  
 47.003.  
 Red river compact, commissioner,  
 46.003.  
 Water commission, 5.222.  
 Water development board, 5.092.  
 Deepwater port authority, action on final  
 report of commission, 19.041.

**GRANTS**

Water development board, 5.178.

**GROUNDWATER**

Studies, investigations and surveys,  
 16.012.

**GUARANTEED BONDS**

Defined, construction projects, 15.201.

**GUARDIAN AND WARD**

Water development bonds, investments,  
 17.032.

**GULF OF MEXICO**

Water as state property, 11.021.

**HAIL SUPPRESSION**

Defined, weather modification, 18.0841.  
 Weather Modification, this index.

**HARMFUL QUANTITY**

Defined, Oil and Hazardous Substances  
 Spill Prevention and Control Act,  
 26.263.

**HAULERS**

Defined, Salt Water Haulers Act, 29.002.  
 Salt water haulers, 29.001 et seq.

**HAZARDOUS SUBSTANCE**

Cleanups, disposal facilities, 26.301 et  
 seq.

**Defined,**

Disposal facilities, 26.301.

Oil and Hazardous Substances Spill  
 Prevention and Control Act,  
 26.263.

Disposal facilities, cleanups, 26.301 et  
 seq.

Funds, disposal facility response fund,  
 26.304.

Oil and Hazardous Substances Spill Pre-  
 vention and Control Act, 26.261 et  
 seq.

**HEADGATES**

Water appropriations, outlets for free  
 passage of water, 11.330.

**HEALTH, DEPARTMENT OF**

Water quality enforcement, 26.130.

**HEALTH AND SANITATION**

Hazardous substances, disposal facilities,  
 cleanups, 26.301 et seq.

Waste, injection wells, 27.001 et seq.

**HEAT**

Waste heat, Regional Waste Disposal  
 Act, 30.001 et seq.

**HIGHWAYS AND ROADS****Bridges,**

Dam or reservoir site, removal of  
 roads, 11.044.

Lake site, removal of bridge, 11.044.

Obstruction of navigable streams,  
 11.096.

**HIGHWAYS AND ROADS—Cont'd****Bridges—Cont'd**

Water appropriation, removal of  
 bridge, interference with water fa-  
 cilities, 11.044.

Dam or reservoir site, change of location  
 of road, 11.044.

Lake site, change of location of road,  
 11.044.

Water appropriator, right to construct  
 water facilities along or across roads,  
 11.044.

**HYDROCARBONS**

Injection wells, 27.001 et seq.

**HYDROLOGISTS**

Ogallala water import authority, 64.056.

**IMPORT AREA**

Defined, Ogallala water import authority,  
 64.003.

**IMPORTED WATER**

Defined, Ogallala water import authority,  
 64.003.

**IMPORTS**

Defined, Ogallala water import authority,  
 64.003.

Ogallala water import authority, 64.001  
 et seq.

**IMPROVEMENTS**

Irrigation districts, construction, 58.125.  
 Water accumulation on or contiguous to  
 land, 16.231 et seq.

Waters and watercourses, streams and  
 canals, 16.271 et seq.

**INCINERATORS**

Regional Waste Disposal Act, 30.001 et  
 seq.

**INDICTMENT AND INFORMATION**

Water quality, corporations, waste dis-  
 charge violations, 26.218.

**INDUSTRIAL AND MUNICIPAL  
WASTE**

Defined, injection wells, 27.002.

**INDUSTRIAL WASTE****Defined,**

Regional Waste Disposal Act, 30.003.

Water quality control, 26.001.

Criminal prosecution, 26.211.

Injection wells, 27.001 et seq.

**Pollution control,**

Regional Waste Disposal Act, 30.001 et  
 seq.

Regional Waste Disposal Act, 30.001 et  
 seq.

**INJECTION WELLS**

Pollution control, 27.001 et seq.

Water quality, application of law, 26.135.

**INJUNCTION**

Flood waters, levees controlling, regulat-  
 ing or changing, 16.238.

Fresh water supply districts, projects,  
 12.082.

Imported waters, 64.092.

Injection wells, pollution control, 27.102,  
 27.103.

Waste, injection wells, 27.102, 27.103.

Water, interference with delivery of  
 water under contract, 11.091.

**INJUNCTION—Cont'd**

Water commission, acts of water re-  
 sources department, 11.334.

Water supply, fresh water supply district  
 project, 12.082.

Weather modification, 18.172.

Wells, disposal wells, pollution control,  
 27.102, 27.103.

**INSPECTION AND INSPECTOR**

Cities, Towns and Villages, this index.  
 Counties, this index.

Disposal wells, 27.071.

District records, 50.376.

Injection wells, 27.016, 27.071.

Levees and Flood Control, this index.

Ogallala water import authority, records,  
 64.121.

Political Subdivisions, this index.

Water Conservation, this index.

Water Development, this index.

Water resources department, records,  
 5.053.

Water resources development project,  
 political subdivision receiving finan-  
 cial assistance, 17.137.

Weather modification, reports and re-  
 cords, 18.090.

**INSURANCE**

Control and improvement districts, in-  
 vestments, 51.4371.

Flood insurance, 16.311 et seq.

Water development bonds, investments,  
 17.032.

**INTEREST**

Irrigation Districts, this index.

Water Development, this index.

Water Development Bonds, this index.

Water quality enhancement bonds,  
 17.174.

Water resources development project,  
 political subdivision bonds and secu-  
 rities financing, 17.128.

**INTERNATIONAL STREAMS**

Water rights, diversion, 11.0871.

**INTERNATIONAL WATERS**

Division of water released from dam or  
 reservoir on international stream,  
 11.087.

**INTERSTATE TRIBUTARY**

Defined, Red river compact, 46.013.

**INTRASTATE TRIBUTARY**

Defined, Red river compact, 46.013.

**INVESTMENTS**

Deepwater port authority, bonds, notes,  
 authorized investments, 19.146.

District revenue bonds, regional waste  
 disposal systems, 30.051 et seq.,  
 30.065.

Irrigation districts, interest and sinking  
 fund, 58.467.

Ogallala water import authority, 64.143.

Water Development, this index.

Water development bonds, 17.032.

**IRRIGATION**

Acknowledgment, conveyance of irriga-  
 tion work, 11.043.

**Actions,**

Joint use of irrigation ditch, expenses,  
 11.048.

# INDEX TO WATER CODE

2182

References are to Sections

## IRRIGATION—Cont'd

### Actions—Cont'd

Lien on crops for water furnished, enforcement, 11.051.  
Appropriation of water, 11.023.  
Adjoining land owners, 11.038.  
Preference, 11.024.  
Records, 11.032.  
Artesian wells, reports, 11.207.  
Certificate of adjudication of water rights, 11.323.  
Compliance, rules, 11.333.  
Contempt, orders or subpoenas of water commission, 11.337.  
Crimes and offenses,  
  Use of works declared public nuisance, 11.094.  
  Wasteful use of water, 11.092, 11.093, 11.095.  
Deeds and conveyances, recordation, conveyance of irrigation work, 11.043.  
Depositions, hearings, 11.337.  
Destruction, irrigation facilities, 11.088.  
Drainage plans, permits to take water, 11.127.  
Eminent domain, water supply, 11.033.  
Evidence, hearings, 11.337.  
Expenses maintaining irrigation ditch, joint use, 11.048.  
Federal Reclamation Act works, application of law, 11.005.  
Fees, 5.182 et seq.  
Fines and penalties,  
  Use of works declared public nuisance, 11.094.  
  Wasteful use of water, 11.095.  
Hearings, 11.337.  
Joint use, expense of maintaining irrigation ditch, 11.048.  
Licenses and permits,  
  Permits to take water, 11.121 et seq.  
  Applications, 11.124 et seq.  
  Contents, 11.135.  
  Dams or reservoirs, 11.143.  
  Drainage plans, 11.127.  
  Hearings, notice of hearing, 11.132.  
Lien on crops, for water furnished, 11.051.  
Mail and mailing, permits to take water, notice of hearing, 11.132.  
Measuring devices, 11.331.  
Negligence, wasteful use of water, 11.093.  
Notice,  
  Compliance, rules, 11.333.  
  Expenses, joint use of irrigation ditch, 11.048.  
  Hearing, 11.337.  
  Permits to take water, hearings, 11.132.  
  Rules and regulations, compliance, 11.333.  
Nuisance, abatement, wasteful use of water, 11.093.  
Oaths and affirmations, hearings, 11.337.  
Obstructing natural drainage, construction of irrigation facilities, 11.086.  
Outlets for free passage of water, 11.330.  
Overflow caused by diversion of water, constructing canals for irrigation purposes, 11.086.  
Priorities and preferences, liens on crops, for water furnished, 11.051.  
Publication, permits to take water, notice of hearing, 11.132.  
Rates and charges, appropriation of water, adjoining landowners, 11.038.

## IRRIGATION—Cont'd

### Records,

Appropriation of water, 11.032.  
Conveyance of irrigation work, 11.043.  
Reports, artesian wells, 11.207.  
Rules and regulations, compliance, 11.333.  
Subpoenas, hearings, 11.337.  
Tidewater gates, Gulf of Mexico, construction in state waters, 11.050.  
Venue, recovery of expenses, joint use of irrigation ditch, 11.048.  
Wasteful use of water, 11.092 et seq.  
  Abatement of waste as public nuisance, 11.093.  
  Penalty for use of works declared public nuisance, 11.094.  
  Penalty for waste, 11.095.  
Water development, locating suitable land, 16.012.  
Water rights, fees, 12.111.  
Witnesses, hearings, 11.337.

## IRRIGATION DISTRICTS

Generally, 58.001 et seq.  
Acquisition of property, 58.123.  
Actions and proceedings, 58.100.  
  Delinquent tax assessments, 58.312.  
  Delinquent taxes, collection, 58.591, 58.592.  
  Exclusions, 58.698 et seq.  
  Standing, 58.098.  
  Validation, district creation and bond issuance, 58.453 et seq.  
  Water rights protection, 58.181.  
Adding certain territory, 58.718 et seq.  
Adding land, 58.714 et seq.  
Additional bonds, issuance, 58.471, 58.472.  
Agents for service of process, president or general manager, 50.025.  
Alternate methods, bonds, payment, 58.480.  
Amendments, water rights, 58.180.  
Amortization and emergency fund, 58.353.  
Appeal and review,  
  Dissolution of continuation of districts, 58.785.  
  Exclusions, 58.701.  
  Multi-county districts, commission decisions, 58.031.  
  Single-county districts,  
    Commissioners' court order, 58.022, 58.023.  
    District court judgments, 58.025.  
Application of laws, 58.570.  
Applications, nonirrigable land substitution, 58.705 et seq.  
Appraisalment commissioners, 58.636 et seq.  
  Appointment, notice, 58.638.  
  Assistants, 58.640.  
  Compensation, 58.637.  
  Meetings, 58.638, 58.639.  
  Notice, appointment and meeting, 58.638.  
  Powers and duties, 58.641 et seq.  
Attorneys fees,  
  Delinquent tax assessments, 58.313.  
  Dissolution of districts, taxation, 58.826.  
Audits, 58.359.  
Bids and bidding, construction, 58.139.  
Board of directors, 58.071 et seq.  
  Adverse or pecuniary interest, depository selection, 58.358.  
  Application, ballot, 58.075.

## IRRIGATION DISTRICTS—Cont'd

### Board of directors—Cont'd

Appointment,  
  Multi-county districts, 58.032.  
  Single-county districts, 58.026.  
Bonds (officers and fiduciaries), 58.078.  
Compensation and salaries, 58.079.  
Election, 58.073, 58.0731.  
  Replacement of temporary appointees, 58.074.  
General manager, 58.082, 58.083.  
Meetings, 58.094.  
Minutes and records, 58.095.  
Oaths and affirmations, 58.077.  
Office, 58.093.  
Officers, 58.080.  
Organization, 58.076.  
Powers and duties, 58.082 et seq.  
Qualifications, 58.072.  
Quorum, 58.080.  
Term of office, 58.073.  
Vacancies, 58.081.  
Board of equalization, 58.571 et seq.  
Appointment, 58.571.  
Compensation and salaries, 58.574.  
Meeting date, 58.576.  
Meetings, 58.572.  
Oaths and affirmations, 58.573.  
Powers and duties, 58.577.  
Secretary, 58.575.  
Bonds, 58.431 et seq.  
  Contributors, 58.165.  
  Destruction, unsold bonds, 58.801.  
  Dissolution, 58.797, 58.800.  
  Forms, 58.450.  
  Loan payment, 58.391 et seq.  
  Unsold bonds, destruction, 58.801.  
Bonds (officers and fiduciaries),  
  Board of directors, 58.078.  
  Construction contractors, 58.143.  
  County tax assessor and collector, 58.599.  
  Directors, single-county districts, 58.026.  
  Multi-county districts, 58.032.  
  Officers and employees, 58.092.  
  Officers acting as fiscal agents or collecting money for the United States, 58.089.  
  Tax assessor and collector, 58.085.  
Boundaries, alteration, consent of United States, 58.157.  
Bridges, construction, 58.133, 58.134.  
Cities, towns and villages,  
  Inclusion in district, 58.035.  
  Rates and charges, 58.319.  
Collection, tax assessments, 58.308.  
Commercial income,  
  Defined, 58.397.  
  Pledge, 58.397.  
Compensation and salaries,  
  Appraisalment commissioners, 58.637.  
  Board of directors, 58.079.  
  Board of equalization, 58.574.  
  County or city tax assessor and collector, 58.596.  
  Officers and employees, 58.091.  
  Tax assessor and collector and deputies, 58.087.  
Complaints, board of equalization, 58.578.  
Composition, 58.012.  
Confirmation elections, creation of districts, 58.033 et seq.  
Consolidation of districts, 58.726 et seq.  
Construction,  
  Culverts and bridges, 58.133, 58.134.  
  Improvements, 58.125.

## INDEX TO WATER CODE

References are to Sections

## IRRIGATION DISTRICTS—Cont'd

Construction contractors, bonds (officers and fiduciaries), 58.143.  
 Construction fund, 58.351.  
 Contracts, 58.136 et seq.  
   Construction, 58.138 et seq.  
   Dissolution of districts, 58.802.  
   Execution, 58.097.  
   Joint ownership and construction contracts, 58.147 et seq.  
   Persons using water, 58.302.  
   Supply conserved or stored water to others, 11.036.  
   Tax assessment, equalization and collection, 58.597, 58.598, 58.600.  
   United States, 58.153 et seq.  
 Contributions, solicitation, 58.162 et seq.  
 Conversion, 58.038 et seq.  
 Counties of less than 11,000 population, dissolution of district, 58.829 et seq.  
 County or city tax assessor and collector, Assessment and collection, 58.595.  
   Bonds (officers and fiduciaries), 58.599.  
   Compensation, 58.596.  
 Creation, 58.011.  
   Consideration by board or commission, 58.016.  
 Crops, liens and encumbrances, 58.309.  
 Culverts, construction, 58.133, 58.134.  
 Deeds and conveyances, United States, 58.156.  
 Definitions, 58.001.  
 Delinquent tax assessments, 58.310 et seq.  
   Interest and collection fees, 58.313.  
 Delinquent taxes, 58.587 et seq.  
 Delivering water down stream, banks and beds, 11.042.  
 Depositories, 58.355 et seq.  
 Deposits, multi-county districts, petitions, 58.029.  
 Deputy tax assessor and collector, 58.086.  
 Designated agent, defined, 58.451.  
 Destruction, unsold bonds, 58.801.  
 Directors. Board of directors, generally, ante.  
 Discontinuance, water service, 58.311.  
 Dissolution bonds, 58.800.  
 Dissolution of districts, 58.781 et seq.  
 District court judgments, single-county districts, appeal, 58.025.  
 Elections, 58.221 et seq.  
   Annexation of land, ratification, 58.722, 58.723.  
 Bonds, 58.441 et seq.  
   Secured bonds, issuance, 58.482 et seq.  
 Cities, towns and villages, dissolution of districts, 58.833 et seq.  
 Confirmation elections, creation of district, 58.033 et seq.  
 Consolidation of districts, 58.727.  
 Contracts, United States, 58.155.  
 Directors, 58.0731.  
 Dissolution of districts, 58.796 et seq.  
   Cities, towns and villages, 58.833 et seq.  
   Counties of less than 11,000 population, 58.832.  
 Joint ownership and construction contracts, 58.148.  
 Mortgages, acquisition of irrigation systems, 58.176.  
 Tax assessments, method of assessing benefits, 58.650.  
 Tax plan, designated area, 58.520 et seq.

## IRRIGATION DISTRICTS—Cont'd

Eminent domain, applicable statutes, 58.261.  
 Engineers report,  
   Bond issuance, 58.440.  
   Construction contracts, 58.137.  
 Entry on property, 58.135.  
 Equalization board. Board of equalization, generally, ante.  
 Estimates, maintenance and operation expenses, 58.304.  
 Exclusions, 58.691 et seq.  
   Nonagricultural and nonirrigable land, 58.702 et seq.  
   Portions, 58.037.  
 Expenses, relocation of facilities, 58.179.  
 Fences, failure to fence ditches, canals, etc., trespassing animals, 11.047.  
 Filing, petition, creation of district, 58.015.  
 Financial statements and reports, dissolution of districts, 58.795.  
 Fines and penalties,  
   Breach of rules, 58.131.  
   Delinquent taxes, 58.588.  
   Dissolution of districts, taxation, 58.826.  
   Violations of orders, rules and regulations, 12.141.  
 Forms, bonds, 58.450.  
 Funds,  
   Amortization and emergency fund, 58.353.  
   Construction fund, 58.351.  
   Contributors, 58.167.  
   Expenditures, 58.354.  
   Interest and sinking fund, 58.466.  
   Investment, 58.467.  
   Maintenance fund, 58.352.  
 General manager, 58.082, 58.083.  
 Joint ownership and construction projects, 58.149.  
 Hearings,  
   Adding certain territory, 58.719 et seq.  
   Adding land, 58.716.  
   Appraisalment commissioners report, 58.644 et seq.  
   Bonds, secured bonds, 58.483, 58.484.  
   Dissolution of districts, 58.782, 58.783.  
   District court, single-county districts, 58.024.  
   Exclusions, 58.692 et seq.  
   Multi-county districts, creation, 58.027 et seq.  
   Nonirrigable land, substitution, 58.708, 58.709.  
   Single-county districts,  
     Creation, 58.017 et seq.  
     District court, 58.024.  
   Tax assessment roles, lists and books, complaints, 58.580 et seq.  
   Tax plan, 58.502 et seq.  
 Improvements, construction, 58.125.  
 Insufficient tax assessments, 58.316.  
 Interest,  
   Delinquent tax assessments, 58.313.  
   Delinquent taxes, 58.588.  
   Interest and sinking fund, 58.466.  
   Investment, 58.467.  
 Interim bonds, 58.473 et seq.  
 Investigations, construction of plants and improvements, 58.137.  
 Investments, interest and sinking fund, 58.467.  
 Joint acquisition of mortgaged irrigation system, 58.177.  
 Joint leases, 58.173.

## IRRIGATION DISTRICTS—Cont'd

Joint ownership and construction contracts, 58.147 et seq.  
 Judgments and decrees,  
   Appraisalment commissioners, 58.647, 58.648.  
   Payment, 58.099.  
   Validation actions, 58.458.  
     Certified copy, 58.460.  
 Leases, 58.169 et seq.  
   Water customers, 58.178.  
 Liens and incumbrances,  
   Contracts with United States, 58.161.  
   Crops, 58.309.  
   Water charges, 11.051.  
 Limitations, 58.509.  
 Loans, 58.391 et seq.  
   Maintenance and operating expenses, 58.320.  
 Machinery, purchase, 58.126.  
 Maintenance fund, 58.352.  
 Maintenance tax, 58.360 et seq.  
 Maps and data, obtaining, 58.186.  
 Mortgages, acquisition of irrigation system, 58.174 et seq.  
 Multi-county districts, 58.027 et seq.  
 Names, single-county districts, 58.019.  
 Nonagricultural and nonirrigable land, exclusions, 58.702 et seq.  
 Notice,  
   Appeals, single-county districts, 58.023.  
   Appraisalment commissioners, appointment and meeting, 58.638.  
   Conversion, 58.039.  
   Delinquent tax list, 58.590.  
   Dissolution of districts, board of equalization meeting, 58.814.  
   Elections, 58.222.  
   Annexation of land, ratification, 58.723.  
   Bond issuance, 58.442.  
   Dissolution of districts, 58.798.  
 Hearing,  
   Adding certain territory, 58.720.  
   Appraisalment commissioners report, 58.643.  
   Dissolution of districts, 58.782.  
   Exclusions, 58.693.  
   Multi-county districts, creation, 58.028.  
   Nonirrigable land, substitutions, 58.708.  
   Single-county districts, creation, 58.018.  
   Tax assessment roles, lists and books, complaints, 58.581.  
   Tax plan, 58.503.  
 Sale, property not required for district's plans, 58.187.  
 Single-county districts, appeals, 58.023.  
 Tax assessments, 58.306.  
 Tax plan, adoption and hearing, 58.514.  
 Tax plan adoption, designated area, 58.518.  
 Taxation, benefit basis, 58.633.  
 Validation action, 58.456.  
 Oaths and affirmations,  
   Board of directors, 58.077.  
   Board of equalization members, 58.573.  
   Tax assessor and collector, administration, 58.569.  
   Taxation, property owner, 58.565.  
 Officers and employees, 58.090 et seq.  
   Board of directors, 58.080.  
 Orders,  
   Bond issuance or contract execution, 58.445.

# INDEX TO WATER CODE

2184

References are to Sections

## IRRIGATION DISTRICTS—Cont'd

### Orders—Cont'd

- Confirmation election, district creation, 58.033, 58.034.
- Dissolution of continuation of district, 58.784.
- Elections, bond issuance, 58.441.
- Exclusions, 58.697.
- Final orders, dissolution of districts, 58.789.
- Tax plan,
  - Adoption, 58.505, 58.515.
  - Designated area, 58.519.
- Partial payments, construction contracts, 58.146.
- Payment,
  - Bonds, alternate methods, 58.480.
  - Construction contracts, 58.145.
  - Interim bonds, 58.478.
  - Partial payment, construction contracts, 58.146.
  - Tax assessments, 58.307.
- Peace officers, powers, 58.132.
- Petitions,
  - Adding land, 58.714 et seq.
  - Creation of district, 58.013 et seq.
  - Dissolution of districts, counties of less than 11,000 population, 58.830, 58.831.
  - Exclusions, 58.692 et seq.
  - Multi-county districts, 58.027 et seq.
  - Signatures, counties of less than 11,000 population, dissolution of districts, 58.831.
  - Single-county districts, 58.017 et seq.
- Planning, 58.124.
- Pledges, commercial income, 58.397.
- Powers, 58.122.
- Precincts, directors, election, 58.0731.
- Preliminary bond proposition, 58.033.
- Preparation, tax assessment roles, lists and books, 58.652.
- Priorities and preferences, lien on crops, water furnished, 11.051.
- Proceeds, sale of property not required for district's plans, 58.189.
- Publication, rules, 58.129.
- Purchase, machinery and supplies, 58.126.
- Purposes, 58.121.
- Rates, charges and assessments, 58.317 et seq.
- Receivers, leased irrigation systems, 58.172.
- Records and recordation, 58.096.
  - Bond proceedings, 58.446.
  - Dissolved districts, 58.792.
- Petition,
  - Adding land, 58.717.
  - Creation of district, 58.015.
  - Tax assessments, benefit basis, 58.632.
- Redemption,
  - Interim bonds, 58.479.
  - Property on which delinquent taxes are owed, 58.594.
- Refunding bonds, 58.468.
- Refusal, water service, 58.321.
- Registration, bonds and decree, validation actions, 58.461.
- Relocation of facilities, expenses, 58.179.
- Reports,
  - Appraisalment commissioners, 58.642.
  - Construction plans, bidders, 58.140.
  - Construction work, progress reports, 58.144.
  - Engineers report,
    - Bonds, issuance, 58.440.

## IRRIGATION DISTRICTS—Cont'd

### Reports—Cont'd

- Engineers report—Cont'd
  - Construction of plants and improvements, 58.137.
- Resolutions,
  - Adding certain territory, 58.721.
  - Dissolution of districts, 58.794.
- Rules and regulations, 58.127 et seq.
  - Authority to determine, 58.303.
- Sales,
  - Bonds, 58.462.
  - Interim bonds, 58.477.
  - Property not acquired to carry out district plans, 58.190.
  - Property not required for districts planned, 58.187 et seq.
  - Property sale, delinquent tax payment, 58.593.
  - Surplus water, 58.184.
  - Waterpower privileges, 58.183.
- Service of process, agents, 50.025.
- Single-county districts, 58.017 et seq.
- Sole expenses, defined, 58.179.
- Statements, water requirements and payment of charges, 58.301.
- Substitution, nonirrigable land, 58.704 et seq.
- Supplies, purchase, 58.126.
- Surplus tax assessments, 58.315.
- Surplus water, sales, 58.184.
- Tax assessment roles, lists and books, 58.579 et seq.
  - Dissolution of districts, 58.812 et seq.
  - Preparation, 58.652.
- Tax assessments, 58.305 et seq.
- Tax assessors and collectors, 58.084 et seq.
- Tax liens, dissolution of districts, 58.823.
  - Discharge of lien, 58.827.
  - Foreclosure, 58.824.
- Tax plan, 58.501 et seq.
- Taxation, 58.561 et seq.
  - Benefit basis method, 58.631 et seq.
  - Bond issuance, 58.463 et seq.
  - Contracts with United States, 58.158 et seq.
  - Contributors, 58.166.
  - Delinquent taxes, 58.587 et seq.
  - Dissolution of districts, 58.803 et seq.
- Title to property, acquisition, 58.123.
- Transfer, water rights, 58.182.
- Trials, exclusions, 58.700.
- Trustees, dissolution of districts, 58.786 et seq.
  - Bonds, 58.821, 58.822.
- United States,
  - Contracts, 58.153 et seq.
  - Deeds and conveyances, 58.156.
  - Unsold bonds, destruction, 58.801.
  - Venue, exclusions, 58.699.
  - Waiver, lien on crops for charges for water furnished, 11.051.
- Water charges and assessments, 58.301 et seq.
- Water rights, 58.180 et seq.
  - Dissolved districts, 58.790.
  - Water service, refusal, 58.321.
  - Waterpower privileges, sale, 58.183.
- Witnesses,
  - Hearings,
    - Appraisalment commissioners report, 58.645.
    - Single-county districts, 58.020.

## ISSUER

- Defined, bond guaranty, 15.201.

## JOHNSON GRASS

- Waterways, adjoining land, 11.089.

## JOINT VENTURES

- Storage acquisition programs, 15.303.
- Water resources development projects, 16.132.

## JUDGMENTS AND DECREES

- Irrigation Districts, this index.
- Municipal utility districts, attorneys fees, 54.633.
- Water quality, corporations, fines, waste discharge violations, 26.223.

## JURY

- Water rights adjudication, hearings on exceptions to final determinations, 11.320.

## JUSTICE OF THE PEACE COURTS

- Private sewage facilities, crimes and offenses, 26.214.

## LABOR DISPUTES

- Water quality, discharge of waste caused by strike, 26.132.

## LABORATORIES

- Weather modification, research experiments, license exemption, 18.052.

## LAKES AND PONDS

- Bridges, removal, interference with construction of proposed lake, 11.044.
- Caddo lake compact, 47.001 et seq.
- Fences, failure to fence, trespassing animals, 11.047.
- Garbage and refuse, deposit, 11.090.
- Highways and roads, change of location, interference with construction of proposed lake, 11.044.
- Littering, 11.090.
- Polluting, 11.090.
- State property, 11.021.

## LEASES

- Imported waters, 64.001 et seq.
- Irrigation districts, 58.169 et seq.
- Regional Waste Disposal Systems, 30.023.
- Storage acquisition sites, 15.313 et seq.
- Water Development, this index.
- Water resource development projects, 16.131 et seq., 16.181 et seq.

## LEGISLATURE

- Water resources department, reports, 5.055.

## LEVEE IMPROVEMENT DISTRICTS

- Acquisition of levees, 57.092.
- Agents for service of process, president or general manager, 50.025.
- Alternative authority for appointment of district officials, duties, 57.178.
- Bonds,
  - Investments, 57.217.
  - Notice of sale, 57.211.
- Contracts,
  - Payment, bonds, 57.109.
- Countywide districts, elected directors, number, 57.058.
- Directors,
  - Countywide districts, elected directors, number, 57.058.
- Investment,
  - Bonds, 57.217.

## INDEX TO WATER CODE

References are to Sections

**LEEVE IMPROVEMENT DISTRICTS**  
—Cont'd

Notice,  
Bond sales, 57.211.  
Officers and employees,  
Appointment authority, duties, 57.178.  
Powers, district officials, alternative authority for appointment, duties, 57.178.  
Process, agents for service of process, 50.025.  
Purchase of levees, 57.092.  
Water accumulation on or contiguous to land, improvements, 16.231 et seq.  
Water on or contiguous to land, improvements, approval of bond, 16.237.

**LEEVES AND FLOOD CONTROL**

Bonds, construction projects, 15.001 et seq.  
Construction, financial assistance, 15.001 et seq.  
Crimes and offenses, levees controlling, regulating or changing flood waters, 16.238.  
Default, bonds, construction projects, 15.213.  
Definitions,  
Bonds, 15.201.  
Financial assistance, 15.001.  
Emergencies, releases, 15.325.  
Exemptions, regulations, 16.238.  
Financial assistance, construction projects, 15.001 et seq.  
Fines and penalties, levees controlling, regulating or changing flood waters, 16.238.  
Funds, construction projects, 15.001 et seq.  
Improvements, water accumulation on or contiguous to land, 16.231 et seq.  
Injunction, levees controlling, regulating or changing flood waters, 16.238.  
Inspection and inspectors,  
Construction projects, 15.216.  
Financial assistance, 15.110.  
Storage acquisition sites, 15.329.  
Joint ventures, storage acquisition projects, 15.303.  
Licenses, storage acquisition sites, 15.313 et seq.  
Loans, construction projects, 15.001 et seq.  
Maintenance contracts, storage acquisition programs, 15.311.  
Motor vehicles, operation, 50.056.  
Overflow caused by diversion of water, constructing and maintaining flood control facilities, 11.086.  
Plans and specifications,  
Construction projects, 15.001 et seq.  
Construction to control, regulate or change flood waters, approval, 16.238.  
Priorities and preferences, storage acquisition projects, 15.326.  
Recreation and recreational facilities, storage acquisition sites, 15.312.  
Red river compact, 46.001 et seq.  
Registration, financial assistance, 15.108.  
Releases, emergencies, 15.325.  
Research, 15.401 et seq.  
Resolutions, financial assistance, 15.104.  
State property, floodwater, 11.021.  
Storage acquisition program, 15.301 et seq.  
Water accumulation, improvements, 16.231 et seq.

**LEEVES AND FLOOD CONTROL**  
—Cont'd

Water assistance fund, 15.011, 15.012.  
Water loan assistance fund, 15.101 et seq.

**LICENSES AND PERMITS**

Dams and reservoirs,  
Domestic and livestock reservoirs, 11.142, 11.143.  
Defined, water quality control, 26.001.  
Imported waters, 64.100.  
Injection wells, pollution control, 27.001 et seq.  
Irrigation, this index.  
Oil and gas waste,  
Discharge, water quality, 26.131.  
Pollution control, injection wells, 27.001 et seq.  
Private sewage facilities, 26.031, 26.032.  
Salt water haulers, 29.011 et seq.  
Storage acquisition programs, 15.304, 15.314.  
Waste, injection wells, 27.001 et seq.  
Water Development, this index.  
Water Rights, this index.

**LIENS AND INCUMBRANCES**

Irrigation, lien on crops for charges for water furnished, 11.051.  
Irrigation Districts, this index.

**LIMITATION OF ACTIONS**

Fines and penalties, collection, 12.141.  
Water, penalties for unlawful use, collection, 11.082.  
Water commission, penalties for violations of orders, rules and regulations, collection, 12.141.

**LITTERING**

Waters, 11.090.

**LOAN FUND**

Defined, water assistance, 15.001.

**LOANS**

Alternative program, 17.272.  
Imported waters, development, 64.092.  
Irrigation districts, 58.391 et seq.  
Maintenance and operating expenses, 58.320.

**LOCAL AGENCIES**

Water development, contracts, joint or cooperative studies and investigations, 16.019.

**LOCAL GOVERNMENT**

Defined,  
Injection wells, 27.018.  
Water quality control, 26.001.

**LOCAL SPONSORS**

Water resource development projects, 16.092.

**LOST OR DESTROYED DOCUMENTS**

Water development bonds, replacement, 17.034.

**LOUISIANA**

Caddo lake compact, 47.001 et seq.  
Red river compact, notice, 46.011.

**MACHINERY AND EQUIPMENT**

Irrigation districts, purchase, 58.126.  
Weather modification, 18.017.

**MAIL AND MAILING**

Certified or registered mail,  
Artesian wells, drilling record, filing copy, 11.203.  
International streams, water rights, diversion, 11.0871.  
Irrigation, permits to take water, notice of hearing, 11.132.

**MAINTENANCE FUND**

Irrigation districts, 58.352.

**MANAGER AND MANAGEMENT**

Imported waters, 64.001 et seq.

**MANDAMUS**

Water development bonds, enforcing payment, 17.028.  
Water resource development projects, political subdivision bonds financing project, default, 17.132.

**MANUFACTURERS AND MANUFACTURING**

Injection wells, pollution control, 27.001 et seq.  
Water appropriation, 11.023.  
Adjoining landowners, 11.038.  
Preferences, 11.024.

**MAPS AND PLATS**

Water accumulation on or contiguous to land, improvements, 16.232, 16.235.  
Water appropriation, permits to take water, 11.125 et seq.  
Water development, topographic and geologic mapping, 16.017.  
Water rights, adjudication of claims, 11.305.

**MATAGORDA COUNTY**

Directors, drainage districts,  
Election, 56.064, 56.0641.  
Special law districts, 56.0642.

**MEASURING DEVICES**

Water appropriations, 11.331.

**MEETINGS**

Districts, 50.057.  
Ogallala water import authority, 64.053.  
Red river compact, commission, 46.013.  
Water commission, 5.226.  
Water development board, 5.096.

**MILL DAMS**

Obstruction of navigable streams, 11.096.

**MINES AND MINERALS**

Injection wells, 27.001 et seq.  
Water appropriation, 11.023.  
Adjoining landowners, 11.038.  
Preferences, 11.024.

**MORTGAGES**

Irrigation districts, acquisition of irrigation systems, 58.174 et seq.

**MOTOR CARRIERS**

Actions, salt water haulers, show cause, licenses and permits, 29.020, 29.021.  
Appeals, salt water haulers, licenses and permits, 29.019, 29.021.  
Bond (official), salt water haulers, 29.015.  
Crimes and offenses, salt water haulers, 29.041 et seq.  
Fines and penalties, salt water haulers, 29.041 et seq.

References are to Sections

**MOTOR CARRIERS—Cont'd**

Licenses and permits,  
 Appeals, salt water haulers, 29.019, 29.021.  
 Crimes and offenses, salt water haulers, 29.041 et seq.  
 Fines and penalties, salt water haulers, 29.041 et seq.  
 Refusal to renew, salt water haulers, 29.018.  
 Salt water haulers, 29.011 et seq.  
 Suspension, salt water haulers, 29.018.  
 Rules and regulations, salt water haulers, 29.031 et seq.  
 Salt water haulers, 29.001 et seq.  
 Unmarked vehicles, salt water haulers, 29.045, 29.046.  
 Venue, salt water haulers, licensing proceeding, 29.021.

**MOTOR VEHICLES**

Defined, water facilities, operation, 50.056.  
 Operation, water facilities, 50.056.

**MOVING EXPENSES**

Water development board, employees, 5.177.

**MUNICIPAL BONDS**

Construction projects, 15.001 et seq.  
 Regional Waste Disposal Act, 30.004 et seq.  
 Water quality control, Regional Waste Disposal Act, 30.004 et seq.

**MUNICIPAL UTILITY DISTRICTS**

Actions and proceedings, rates and charges, 54.016.  
 Allocation agreements, 54.016.  
 Appeal and review, creation, districts outside extraterritorial jurisdiction of city, 54.0161.  
 Bonds,  
 Interest, payments, 54.521.  
 Review of project, districts outside extraterritorial jurisdiction of city, 54.5161.  
 Cities of 1,000,000 or less, 54.016.  
 Construction of facilities,  
 Standards, county, districts outside extraterritorial jurisdiction of city, 54.2271.  
 Contracts, allocation agreements, 54.016.  
 Creation,  
 Review, districts outside extraterritorial jurisdiction of city, 54.0161.  
 Damages, rates and charges, 54.016.  
 Estimates, construction work, 54.228.  
 Fees, undeveloped property, 50.056, 54.2041.  
 Imported waters, 64.001 et seq.  
 Interest, bond proceed payments, 54.521.  
 Judgments and decrees, attorneys fees, 54.633.  
 Mail and mailing, development hearings, 54.019.  
 Ogallala water import authority, 64.001 et seq.  
 Payments, interest, bond proceeds, 54.521.  
 Petition,  
 Charges or fees, undeveloped property, 50.056, 54.2041.  
 Creation, feasibility, 54.021.  
 Progress payments, construction work, 54.228.

**MUNICIPAL UTILITY DISTRICTS**

—Cont'd  
 Rates, charges and assessments,  
 Actions, 54.016.  
 Undeveloped property, 50.056, 54.2041.  
 Review of creation, districts outside extraterritorial jurisdiction of city, 54.0161.  
 Standards of construction, county, districts outside extraterritorial jurisdiction of city, 54.2271.  
 Standby charges, 54.204  
 Taxation,  
 Allocation, 54.016.  
 Undeveloped property, charges, 50.056, 54.2041.

**MUNICIPAL WASTE**

Defined,  
 Regional Waste Disposal Act, 30.003.  
 Water quality control, 26.001.  
 Criminal prosecution, 26.211.  
 Injection wells, 27.001 et seq.  
 Regional Waste Disposal Act, 30.001 et seq.

**NAMES**

Irrigation districts, single-county districts, 58.019.  
 Weather modification, license application, notice of intention, 18.085.

**NATIONAL FLOOD INSURANCE ACT**

Defined, Flood Control and Insurance Act, 16.313.

**NATURAL DETERIORATION**

Defined, Red river compact, 46.013.

**NATURAL RESOURCES**

Injection wells, pollution control, 27.001 et seq.  
 Review of creation, districts outside extraterritorial jurisdiction of city, 54.0161.  
 Standards of construction, county, districts outside extraterritorial jurisdiction of city, 54.2271.

**NAVIGATION DISTRICTS**

Agents for service of process, president or general manager, 50.025.  
 Annexation of territory, 63.371 et seq.  
 Bonds (official),  
 Persons delegated authority to sign vouchers, 62.153.  
 Channels,  
 State-owned lands, use without patent or lease, notice, 61.117.  
 Collection, taxes, 62.251.  
 Draft environmental impact statement, lease of state-owned lands, 61.116.  
 Dredged material disposal site, state-owned lands, use without patent or lease, notice, 61.117.  
 Elections,  
 Annexation of territory, 63.375 et seq.  
 Environmental impact statement, application for lease of state-owned lands, 61.116.  
 Examination, assessment lists or books, 63.327.  
 Hearings,  
 Annexation petitions, 63.373 et seq.  
 Notice of hearings,  
 Annexation of territory, 63.373.

**NAVIGATION DISTRICTS—Cont'd**

Notice,  
 Election,  
 Annexation of territory, 63.376.  
 State lands, use without patent or lease, 61.117.  
 Oaths and affirmations, equalization board, 63.327.  
 Payment of money, persons authorized, bonds (officers and fiduciaries), 62.153.  
 Petitions,  
 Annexation of territory, 63.372 et seq.  
 Records, equalization board, 63.327.  
 Service of process, agents, 50.025.  
 State lands and flats,  
 Use without patent or lease, notice, 61.117.  
 Tax assessments, rolls, and books, examination, 63.327.  
 Tax collections, 62.251.  
 Treasurer,  
 Duties, 62.153.  
 Water appropriation, permits to take water, notice of hearings, 11.132.

**NEGLIGENCE**

Water, wasteful use, 11.093.

**NET REVENUE**

Defined,  
 Ogallala water import authority, 64.003.  
 Water resource development projects, political subdivision bonds financing, 17.131.

**NOTICE**

Caddo lake compact, ratification, 47.009.  
 Districts,  
 Agents for service, 50.025.  
 Creation, posting notice for creation, 50.303.  
 Drainage districts,  
 Annexation of territory, 56.720.  
 Elections, 56.723.  
 Imported waters, assessment, 64.213.  
 International streams, water rights, diversion, 11.0871.  
 Irrigation, this index.  
 Irrigation Districts, this index.  
 Ogallala water import authority, election, confirmation, 64.016.  
 Red river compact, 46.011.  
 Water accumulation on or contiguous to land, improvements, cancellation of cooperative agreement, 16.233, 16.235.  
 Water development bonds, sale, 17.019, 17.133.  
 Watermasters, 11.328.  
 Weather modification, licenses, modification, hearings, 18.089.

**NUCLEAR ENERGY**

Hazardous substances, disposal facilities, cleanups, 26.301 et seq.

**NUISANCE**

Abatement,  
 Water, wasteful use, 11.093.  
 Water quality, private remedies, 26.133.  
 Artesian wells, improperly cased or capped wells, 11.206.  
 Water, wasteful use, 11.093.  
 Water quality, abatement, 26.130.  
 Private remedies, 26.133.

## INDEX TO WATER CODE

References are to Sections

**NUISANCE—Cont'd**

Water supply, wasteful use of water, 11.093.

Water wells, artesian wells, improperly cased or capped wells, 11.206.

**OATHS AND AFFIRMATIONS**

Caddo lake compact commissioner, 47.004.

Irrigation Districts, this index.

Ogallala water import authority, directors, 64.052.

Red river compact, commissioner, 46.005. Water commission, 5.223, 5.265.

Hearings, 11.337.

Water development board, 5.093.

Water quality, hearings, 26.020, 26.021.

Water Rights, this index.

**OBSTRUCTIONS**

Navigable streams, 11.096.

**ODORS**

Water quality, discharge of waste into recreational waters, permits, 26.030.

**OGALLALA WATER IMPORT AUTHORITIES**

Generally, 64.001 et seq.

**OIL AND GAS**

Definitions,

Oil and Hazardous Substances Spill Prevention and Control Act, 26.263.

Injection wells, pollution control, 27.001 et seq.

Licenses and permits,

Water quality, discharge of waste, 26.131.

Records and recordation, injection wells, pollution control, 27.053.

Salt water haulers, 29.001 et seq.

Spill prevention and control, 26.261 et seq.

Waste, injection wells, pollution control, 27.001 et seq.

Water quality,

Discharge of waste, 26.131.

Injection wells, pollution control, 27.001 et seq.

**OIL AND GAS WASTE**

Defined, injection wells, 27.002.

**OIL AND HAZARDOUS SUBSTANCES SPILL PREVENTION AND CONTROL ACT**

Generally, 26.261 et seq.

**OKLAHOMA**

Red river compact, notice, 46.011.

**OPERATION**

Defined, Weather Modification Act, 18.002.

**OPERATIONAL AREA**

Defined, weather modification, 18.0841.

**ORDERS**

Dams and reservoirs, safety, emergencies, 12.052.

Imported waters, appeal, 64.099.

Irrigation Districts, this index.

Water rights, approval or disapproval of federal project, 12.051.

**OTHER WASTE**

Defined, water quality control, 26.001.

**PARKS**

Water appropriation, 11.023.

**PARKS AND WILDLIFE, DEPARTMENT OF**

Water quality enforcement, 26.129.

Peace officers, 26.215.

**PARKS AND WILDLIFE COMMISSION**

Water use fees, exemption, 12.112.

**PARTIES**

Water appropriation, eminent domain proceedings, 11.035.

**PAYMENT**

Irrigation Districts, this index.

Water Development Bonds, this index.

Water resource development project facility, lease payments, 16.189.

**PEACE OFFICERS**

Irrigation districts, law enforcement, 58.132.

Parks and wildlife, department of agents and employees, water quality enforcement, 26.215.

Water quality enforcement, 26.215.

**PECOS RIVER COMPACT**

Commissioner, office of, Sunset Act, application, 42.0031.

**PENDING PROCEEDINGS**

Water rights, claims involving, preservation of status quo, 11.340.

**PER DIEM**

Ogallala water import authority, directors, 64.053.

Water development board, 5.097.

**PERSON**

Defined,

Salt Water Haulers Act, 29.002.

Water quality, criminal prosecution, 26.211.

**PIPES AND PIPELINES**

Water appropriation, construction, 11.044.

**PLANS AND SPECIFICATIONS**

Fire departments, 50.055.

Flood water control, regulation change, levees, approval of plans, 16.238.

Imported waters, development, 64.001 et seq.

Irrigation districts, 58.124.

Water accumulation on or contiguous to land, improvements, 16.232, 16.235.

Water appropriation, permits to take water, approval of alterations of water facilities, 11.144.

Water district fire departments, 50.055.

Water resources development projects, political subdivision receiving financial assistance, alteration of plans, 17.138.

**PLEADINGS**

Water quality, corporations, waste discharge violations, 26.221.

Water rights, petition for adjudication of water rights, 11.304.

**PLEAS**

Water quality, corporations, waste discharge violations, 26.222.

**PLEDGES**

Irrigation districts, commercial income, 58.397.

**PLUGGING**

Water wells, 28.003.

Crimes and offenses, 28.004.

**POINT SOURCE**

Defined, 26.001.

**POLITICAL SUBDIVISIONS**

Bonds, construction projects, 15.001 et seq.

Certificate of approval, construction contract, 15.112, 17.283.

Construction, financial assistance, 15.001 et seq.

Contracts, financial assistance, 15.001 et seq.

Control and improvement districts, investments, 51.4371.

Default, bonds, construction projects, 15.213.

Defined,

Bonds, 15.201.

Financial assistance, 15.001.

Waste treatment construction alternative program, 17.272.

Flood Control and Insurance Act, 16.313.

Rate-fixing, 12.013.

Water development, 16.001, 17.001.

Water rights, 12.013.

Emergencies, releases, 15.325.

Financial assistance,

Construction of treatment works, alternative programs, 17.271 et seq.

Construction projects, 15.001 et seq.

Flood Control and Insurance Act, federal requirements, compliance, 16.315.

Funds, construction projects, 15.001 et seq.

Injection wells, pollution control, 27.001 et seq.

Inspection and inspectors,

Construction projects, 15.216.

Financial assistance, 15.110.

Storage acquisition sites, 15.329.

Joint ventures, storage acquisition projects, 15.303.

Leases, storage acquisition sites, 15.313 et seq.

Licenses and permits, storage acquisition program, 15.304, 15.314.

Loans, construction projects, 15.001 et seq.

Maintenance contracts, storage acquisition programs, 15.311.

Plans and specifications, construction projects, 15.001 et seq.

Pollution control, injection wells, 27.001 et seq.

Priorities and preferences,

Purchase or lease of state facilities, 16.196.

Storage acquisition projects, 15.326.

Recreation and recreational facilities, storage acquisition sites, 15.312.

Registration, financial assistance, 15.108.

Releases, emergencies, 15.325.

Research, 15.401 et seq.

Resolutions, financial assistance, 15.104.

References are to Sections

**POLITICAL SUBDIVISIONS**—Cont'd  
 Sales, storage acquisition sites, 15.313 et seq.  
 Storage acquisition program, 15.301 et seq.  
 Waste, injection wells, 27.001 et seq.  
 Water accumulation on or contiguous to land, improvements, cooperation, 16.233, 16.235.  
 Water assistance fund, 15.011, 15.012.  
 Water Development, this index.  
 Water development bonds, Investments, 17.032.  
 Security for deposit of funds, 17.033.  
 Water loan assistance fund, 15.101 et seq.  
 Water quality, injection wells, 27.001 et seq.  
 Water quality enhancement bonds, 17.171 et seq.  
 Water resource development projects, Joint ventures, 16.132.  
 Local sponsor, 16.092.  
 Water supply projects, proceeds from sale, transfer or lease of state facilities, 16.191.  
 Wells, injection wells, pollution control, 27.001 et seq.

**POLLUTANT**  
 Defined, 26.001.

**POLLUTANT OR CONTAMINANT**  
 Defined, disposal facilities, 26.301.

**POLLUTION**  
 Defined,  
 Red river compact, 46.013.  
 Water quality control, 26.001.  
 Red river tributaries, studies, 16.016.  
 Salt water haulers, 29.001 et seq.

**POPULAR NAME LAWS**  
 Flood Control and Insurance Act, 16.311 et seq.  
 Injection Well Act, 27.001 et seq.  
 Oil and Hazardous Substances Spill Prevention and Control Act, 26.261 et seq.  
 Regional Waste Disposal Act, 30.001 et seq.  
 Salt Water Haulers Act, 29.001 et seq.  
 State of Texas Water Pollution Control Compact, 26.043.  
 Water Rights Adjudication Act, 11.301 et seq.  
 Weather Modification Act, 18.001 et seq.

**PRECINCTS**  
 Irrigation districts, directors, election, 58.0731.  
 Ogallala water import authority, division, 64.015.

**PRESIDENT**  
 Notice, agent for service on district, 50.025.  
 Ogallala water import authority, 64.054.  
 Process, agent for service on district, 50.025.

**PRIORITIES AND PREFERENCES**  
 Irrigation, lien on crops for charges for water furnished, 11.051.  
 Storage acquisition program, 15.326.  
 Water, permits to use water, 11.123.  
 Water appropriation, 11.024.  
 Water development, studies and investigations, 16.015.

**PRIORITIES AND PREFERENCES**  
 —Cont'd  
 Water resources development project facilities, purchase or lease, 16.196.  
 Water Rights, this index.  
 Water supply, distribution during shortage, 11.039.

**PRIVATE SEWAGE FACILITIES**  
 Controlling or prohibiting, 26.031.  
 Counties, 26.032.  
 Defined, water control, 26.031.

**PRIVILEGES AND IMMUNITIES**  
 Weather modification, state, 18.151.

**PROCESS**  
 Districts, agents for service, 50.025.

**PROGRAM**  
 Defined, bond guaranty, 15.201.

**PROJECTS**  
 Defined,  
 Financial assistance, 15.001.  
 Water development, 16.001, 17.001.

**PUBLIC AGENCIES**  
 Contracts, regional waste disposal systems, 30.027 et seq.  
 Defined, Regional Waste Disposal Act, 30.003.  
 Regional waste disposal systems, 30.001 et seq.

**PUBLIC CALAMITY**  
 Water stored in state facility, emergency release, 16.195.

**PUBLIC POLICY**  
 Construction projects, financial assistance, 15.002.  
 Financial assistance, construction projects, 15.002.  
 Injection wells, 27.003.  
 Sewers and sewer systems, regional and area-wide waste disposal systems, 26.081.  
 Water development, state water plan, 16.051.  
 Water quality, 26.003.  
 Water resources development, state water plan, 16.055.

**PUBLICATION**  
 Imported waters, assessments, notice, 64.213.  
 Irrigation, permits to take water, notice of hearing, 11.132.  
 Irrigation districts, rules, 58.129.  
 Ogallala water import authority, hearings, designation, 64.011.  
 Water quality,  
 Hearings, notice, 26.022.  
 Standards, 26.026.  
 Water supply, rules and regulations, 11.037.  
 Weather modification licenses and permits, notice of intention, 18.081, 18.084 et seq.

**QUO WARRANTO**  
 Water supply, fresh water supply district project, 12.082.

**RAILROAD COMMISSION**  
 Defined,  
 Injection wells, 27.002.  
 Salt Water Haulers Act, 29.002.

**RAINWATERS**  
 State property, 11.021.

**RATES, CHARGES AND ASSESSMENTS**  
 Generally, 5.182 et seq.  
 Boat sewage pump-out facilities, 26.045.  
 Cities of 1,000,000 or less, municipal utility districts, 54.016.  
 Imported water services, 64.092.  
 Irrigation districts, 58.317 et seq.  
 Regional waste disposal systems, 30.031.  
 Outstanding bonds, 30.051 et seq., 30.066.  
 Undeveloped property, 50.056.  
 Water control and improvement districts, undeveloped property, 50.056, 51.195.  
 Water districts, undeveloped property, 50.056.  
 Water rights, 5.182 et seq.

**RAW WATER**  
 Water commission, rate-fixing, 12.013.

**REAL ESTATE**  
 Imported waters, 64.001 et seq.

**RECEIVERS AND RECEIVERSHIPS**  
 Irrigation districts, leased irrigation systems, 58.172.

**RECLAMATION**  
 Water accumulation on or contiguous to land, 16.231 et seq.

**RECORDS AND RECORDATION**  
 Artesian wells, drilling records, 11.203.  
 Disposal wells, examination, 27.072.  
 Districts, 50.057.  
 Maintenance, 50.376.  
 Fees, 5.182.  
 Injection wells,  
 Examination, 27.072.  
 Pollution control, 27.053.  
 Irrigation,  
 Appropriation of water, 11.032.  
 Recordation of conveyance of irrigation work, 11.043.  
 Irrigation Districts, this index.  
 Ogallala water import authority, 64.057.  
 Inspection, 64.121.  
 Secretary of state, water quality, service of summons on corporation, 26.220.  
 Water accumulated on or contiguous to land, improvements, 16.234.  
 Drainage districts and levee improvement districts, bond approval, 16.237.  
 Water development, 16.012.  
 Water districts, fiscal records audited, 50.371.  
 Water quality, examination, 26.015.  
 Water resources department,  
 Copies, 5.052.  
 Inspection, 5.053.  
 Water Rights, this index.  
 Water wells, artesian wells, drilling records, 11.203.  
 Waterworks operation, appropriation of water, 11.032.  
 Weather modification,  
 Licensees, 18.091.  
 Suspension or revocation of license, hearings, 18.123.

**RECREATION AND RECREATIONAL FACILITIES**  
 Caddo lake compact, 47.011.

## INDEX TO WATER CODE

References are to Sections

**RECREATION AND RECREATIONAL FACILITIES—Cont'd**

Fees, 5.182.  
Permits to retain water in reservoir, purposes, 11.183.  
Pollution control, Regional Waste Disposal Act, 30.001 et seq.  
Regional Waste Disposal Act, 30.001 et seq.  
Storage acquisition sites, 15.312.  
Water appropriation, 11.023.  
Preference, 11.024.  
Water quality, recreational waters, discharge of waste, permits, 26.030.  
Water resource development projects, contracts, 16.141.  
Water use, fees, 12.111.

**RECREATIONAL WASTE**

Defined,  
Regional Waste Disposal Act, 30.003.  
Water quality control, 26.001.  
Criminal prosecution, 26.211.  
Regional Waste Disposal Act, 30.001 et seq.

**RED RIVER**

Defined, compact, 46.013.

**RED RIVER BASIN**

Defined, compact, 46.013.

**RED RIVER COMPACT**

Generally, 46.001 et seq.  
Commission, 46.013.  
Caddo lake compact member, 47.003.  
Members, 46.003 et seq.  
Sunset Act, application, 45.0011.  
Commissioner, officer of, Sunset Act, application, 45.0011.

**RED RIVER TRIBUTARIES**

Water development, studies of natural pollution, 16.016.

**REGIONAL AND AREA-WIDE WASTE DISPOSAL SYSTEMS**

Generally, 26.081 et seq.  
Elections, 26.087.

**REGIONAL WASTE DISPOSAL**

Generally, 30.001 et seq.

**REGISTRATION**

Irrigation districts, validation actions, bonds and decrees, 58.461.  
Ogallala water import authority, bonds, 64.138.

**RELEASES**

Defined, disposal facilities, 26.301.  
Storage acquisition program, emergencies, 15.325.

**REMEDIAL ACTION**

Defined, disposal facilities, 26.301.

**REMOVAL**

Defined, disposal facilities, 26.301.

**REORGANIZATION**

Water development board, 5.172.

**REPORTS**

Artesian wells, 11.207.  
New wells, 11.204.  
Audit reports exemption, 50.378.  
Deepwater Port Authority, this index.  
Irrigation Districts, this index.

**REPORTS—Cont'd**

Ogallala water import authority, audit, 64.121.  
Sewers and sewer systems, waste collection and treatment, 26.042.  
Water accumulation on or contiguous to land, improvements, 16.232, 16.234, 16.235.  
Water appropriation, 11.031.  
Water development, engineering, hydrologic and geologic data, 16.013.  
Water Quality Board, this index.  
Water resources department, governor, 5.055.  
Water wells, artesian wells, 11.207.  
New wells, 11.204.  
Weather modification, licensees, 18.091.

**RES JUDICATA**

Water rights, adjudication, 11.322.

**RESEARCH**

Defined, Weather Modification Act, 18.002.  
Flood control planning, 15.401 et seq.  
Sewers and sewer systems, federal aid, 26.035.  
Water development, soil resource planning, 16.018.  
Water quality, 26.013.  
Federal aid, 26.035.

**RESEARCH AND PLANNING FUND**

Flood control, 15.402.

**RESERVE FUNDS**

Water development, investment, 17.083.

**RESOLUTIONS**

District boards, district becoming financially active, 50.379.  
Drainage districts, annexation of territory, 56.721.  
Water development bonds, 17.011.

**RESPONSE**

Defined, disposal facilities, 26.301.

**RIGHT OF WAY**

Entry on property, examination and survey, water facilities sites, 11.049.  
Water appropriation,  
Dam or reservoir site, 11.034.  
Eminent domain, 11.035.

**RIO GRANDE COMPACT**

Commissioner, office of, Sunset Act, application, 41.0031.

**RIOTS AND MOBS**

Water quality,  
Discharge of waste caused by riot, 26.132.  
Waste discharge violations, 26.216.

**RIVER AUTHORITIES**

Bonds, Regional Waste Disposal Act, 30.004 et seq.  
Contracts, Regional Waste Disposal Act, 30.004 et seq.  
Defined, Regional Waste Disposal Act, 30.003.  
Planning, water quality control, 30.101 et seq.  
Pollution control, Regional Waste Disposal Act, 30.001 et seq.  
Regional Waste Disposal Act, 30.001 et seq.

**RIVER AUTHORITIES—Cont'd**

Water commission, supervision, 12.081.  
Water quality, Regional Waste Disposal Act, 30.001 et seq.

**RIVER BASINS**

Defined, Regional Waste Disposal Act, 30.003.  
Pollution control, Regional Waste Disposal Act, 30.001 et seq.  
Regional Waste Disposal Act, 30.001 et seq.  
Water development, state water plan, 16.051 et seq.

**RIVERS AND STREAMS**

International streams,  
Diversion of water released from dams or reservoirs, 11.087.  
Water rights, diversion, 11.0871.  
Mail and mailing, international streams, diversion notice, 11.0871.  
Notice, international streams, diversion, 11.0871.  
Obstruction of navigable streams, 11.096.  
Red river compact, 46.001 et seq.  
Water rights, international streams, diversion, 11.0871.

**RULES AND REGULATIONS**

Water appropriation, supplying water to others, 11.037.  
Water commission, 5.262.  
Water development board, 5.131.

**RUNOFF**

Defined, Red river compact, 46.013.

**RUSSIAN THISTLE**

Waterways, adjoining land, 11.089.

**SABINE RIVER COMPACT**

Administrator, office of, Sunset Act, application, 44.0031.

**SAFETY**

Dam safety, 12.052.  
Disposal wells, 27.071.  
Injection wells, 27.071.  
Water quality,  
Accidental discharge, 26.039.  
Entry on property, inspection, 26.014.  
Weather modification, rules and regulations, 18.013.

**SALES**

Imported waters, 64.001 et seq.  
Irrigation Districts, this index.  
Regional waste disposal systems, facilities, 30.022.  
Storage acquisition sites, 15.313 et seq.  
Water Development, this index.  
Water development bonds,  
Interest and sinking fund securities, 17.087.  
Notice, 17.019.  
Water of state, stored water, 16.192.  
Permit, 16.193.  
Water quality enhancement bonds, 17.179.  
Proceeds, 17.180.  
Water resource development project facilities, 16.181 et seq.

**SALT WATER**

Defined, Salt Water Haulers Act, 29.002.

# INDEX TO WATER CODE

2190

References are to Sections

## SALT WATER HAULERS ACT

Generally, 29.001 et seq.

## SAMPLES

Water quality, 26.127.

## SAVINGS AND LOAN ASSOCIATIONS

Water control and improvement districts, investments, 51.4371.

## SAVINGS BANKS

Water development bonds, investments, 17.032.

## SCHOOLS AND SCHOOL DISTRICTS

Control and improvement districts, investment, 51.4371.

Water development bonds, security for deposit of funds, 17.033.

## SEALS

Ogallala water import authority, 64.092.

Water commission, 5.266.

Water development board, 5.098.

Water development bonds, 17.023, 17.024.

Water resources department, 5.054.

## SECOND AND SUBSEQUENT OFFENSES

Water wells, plugging or casing, 28.004.

Weather modification, 18.171.

## SECRETARIES

Defined, Flood Control and Insurance Act, 16.313.

## SECURITIES

Water development bonds, interest and sinking fund, sale, 17.087.

Water resource development projects, political subdivision bonds financing project, 17.126 et seq.

## SECURITY

Water control and improvement district depositories, 51.356.

Water development bonds, deposit of funds, 17.033.

## SEPTIC TANKS

Water quality, controlling or prohibiting, 26.031.

Counties, 26.032.

## SEWAGE

Defined, water quality control, 26.001.

Criminal prosecution, 26.211.

## SEWERS AND SEWER SYSTEMS

Adverse or pecuniary interest, governing board members, districts, 50.026.

Approval, plans and specifications, 26.034.

Assessments, disposal systems, use, 26.176.

Boat sewage, disposal devices, 26.044.

Pump-out facilities, establishment by local governments, 26.045.

Bonds,

Regional Waste Disposal Act, 30.004 et seq.

Cesspools, controlling or prohibiting, 26.031.

Counties, 26.032.

## SEWERS AND SEWER SYSTEMS

—Cont'd

Chemical toilets, controlling or prohibiting, 26.031.

Counties, 26.032.

Contracts,

Regional Waste Disposal Act, 30.004 et seq.

Counties, private sewage facilities, control, 26.032.

Definitions,

Regional Waste Disposal Act, 30.003.

Water quality control, 26.001.

Design of waste disposal systems, approval, 26.033.

Disposal system plans, 26.034.

Disqualification, governing board members, districts, 50.026.

Districts, creation, notice, posting notice, 50.303.

Employees, municipal pollution control programs, 26.177.

Federal aid,

Disposal of waste or other water quality control activities, 26.035.

Fees, private sewage facilities, 26.031.

Governing board members, disqualification, 50.026.

Hearings,

Disposal systems rules, 26.176.

Private sewage facilities, controlling or prohibiting, 26.031.

Private sewage facilities, controlling or prohibiting, counties, 26.032.

Regional and area-wide waste disposal systems,

Establishing, notice, 26.082, 26.083.

Rates, 26.086.

Injection wells, pollution control, 27.001 et seq.

Investigation, federal aid, 26.035.

Licenses and permits,

Private sewage facilities, 26.031.

Counties, 26.032.

Regional and area-wide waste disposal systems, discharge of waste, 26.084.

Monitoring and reporting of waste collection and treatment, 26.042.

Motor vehicles, operation, 50.056.

Municipal pollution control, 26.177.

Notice,

Approved waste disposal system, revocation, 26.033.

Regional and area-wide waste disposal systems,

Hearings to establish, 26.082, 26.083.

Rates, hearings, 26.086.

Oil and hazardous substances spill prevention and control, 26.261 et seq.

Orders, regional and area-wide waste disposal systems,

Establishing system, 26.082, 26.083.

Requiring discharge of waste into system, 26.084.

Rates, 26.086.

Plans and specifications,

Approval, 26.034.

Federal aid, 26.035.

Regional and area-wide waste disposal system, 26.084.

Water pollution control programs, cities, 26.177.

Pollution control, cities, 26.177.

Regional Waste Disposal Act, 30.001 et seq.

Pretreatment of waste to be discharged to disposal system, 26.176.

## SEWERS AND SEWER SYSTEMS

—Cont'd

Private sewage facilities, controlling or prohibiting, 26.031.

Counties, 26.032.

Rates and charges,

Disposal systems, 26.176.

Regional and area-wide disposal systems, hearings, 26.086.

Rating of waste disposal systems, 26.033.

Regional and area-wide waste disposal systems, 26.081 et seq.

Elections, 26.087.

Requests for, 26.083, 26.087.

Exclusions, 26.084, 26.085.

Findings, 26.084.

Hearings,

Establishment, notice, 26.082, 26.083.

Rates, 26.086.

Notice,

Hearings to establish, 26.082, 26.083.

Rates, hearings, 26.086.

Orders,

Establishing system, 26.082, 26.083.

Rates, 26.086.

Requiring use of discharge system, 26.084.

Permits for discharge of waste, 26.084.

Plans and specifications, 26.084.

Public policy, 26.081.

Rates for services, hearings, 26.086.

Regional Waste Disposal Act, 30.001 et seq.

Reporting on waste collection and treatment, 26.042.

Research, federal aid, 26.035.

Revocation, approved rating, waste disposal system, 26.033.

Rules and regulations,

Disposal systems, 26.176.

Monitoring and reporting on waste collection and treatment, 26.042.

Rating of waste disposal systems, 26.033.

Septic tanks, controlling or prohibiting, 26.031.

Counties, 26.032.

Signs, rating of waste disposal systems, approval, 26.033.

Waste, injection wells, 27.001 et seq.

Water quality control,

Injection wells, 27.001 et seq.

Regional Waste Disposal Act, 30.001 et seq.

Wells, disposal wells, pollution control, 27.001 et seq.

## SHORES

Oil and hazardous substances spill prevention and control, 26.261 et seq.

## SHORTAGES

Storage acquisition programs, releases, emergencies, 15.325.

## SIGNATURES

Irrigation districts, dissolution petitions, counties of less than 11,000, 58.831.

Water Development Bonds, this index.

## SIGNS

Districts, creation, posting notice of creation, 50.303.

Sewers and sewer systems, rating of waste disposal systems, approval, 26.033.

Water facilities, motor vehicle operation, 50.056.

## INDEX TO WATER CODE

References are to Sections

**SINKING FUNDS**

Water development bonds, investment of municipal sinking funds, 17.032.

**SLUDGE**

Oil and gas products, injection wells, 27.001 et seq.

**SOIL CONSERVATION BOARD**

Water rights, federal projects, application of law, 12.051.

**SOIL RESOURCE PLANNING**

Water development, joint investigation and research, 16.018.

**SPILLS**Defined, water quality, 26.039.  
Discharge or Spill, generally, this index.**STANDARD METROPOLITAN STATISTICAL AREA**

Defined, regional and area-wide disposal systems, 26.081.

**STANDBY CHARGES**

Municipal utility districts, 54.204.

**STATE**

Control and improvement districts, investments, 51.4371.

Defined,

Ogallala water import authority, 64.003.

Red river compact, 46.013.

Emergency releases, state waters, 16.195.

Sale, stored water, 16.192.

Water as property of state, 11.021.

Water resource development projects, storing water, 16.134.

Weather modification, governmental immunity, 18.151.

**STATE AGENCIES**

Control and improvement districts, investments, 51.4371.

Water accumulated on or contiguous to land,

Cooperation, 16.235.

Improvements, 16.233.

Water commission, 5.221.

Water development,

Contracts, joint or cooperative studies and investigations, 16.019.

Cooperation with federal government, 16.091.

Water development board, 5.091.

Water development bonds, investments, 17.032.

Water quality, control and preservation, cooperation, 26.017.

Water resource development projects, joint ventures, 16.132.

Water resources department, 5.012.

**STATE AID**

Water resources development projects, political subdivision, 17.121 et seq.

**STATE BONDS**

Water development bonds, state obligations, 17.026.

**STATE LANDS**

Navigation districts,

Use without patent or lease, notice, 61.117.

**STATE OFFICERS AND EMPLOYEES**

Water commission, 5.223.

Water development board, 5.093.

Weather modification, governmental immunity, 18.151.

**STATE TREASURY**

General revenue fund, water quality, civil penalties, deposit, 26.126.

Water development, combined facilities operation and maintenance fund, 17.076.

Water development board administrative fund, 17.075.

Water development bonds, Interest and sinking fund, 17.074.

Security for deposit of funds, 17.033.

Water development clearance fund, 17.073.

Water development fund, 17.071, 17.072.

Water quality, civil penalties, disposition, 26.126.

Water rights fees and costs, deposit, 12.113.

Weather modification, license fees, deposits, 18.022.

**STATE WATER PLAN**

Water development, 16.051 et seq.

**STEAM POWER PLANT**

Fees, 5.182.

Water use, fee, 12.111.

**STORAGE**

Acquisition program, 15.301 et seq.

Disposal facilities, hazardous substances, cleanups, 26.301 et seq.

Fees, 5.182.

Hazardous substances, disposal facilities, cleanups, 26.301 et seq.

Imported waters, 64.001 et seq.

Injection wells, 27.001 et seq.

Motor vehicles, operation near, 50.056.

Water,

Application for permit, 12.011.

Effect on bays and estuaries, 11.147.

Emergency releases, 16.195.

Recreation or pleasure use, fee, 12.111.

Sale, 16.192.

Permit, 16.193.

Water appropriation, 11.023.

Water resource development projects, permits, 16.133.

**STORAGE ACQUISITION FUND**

Generally, 15.301 et seq.

**STORM WATER**

Financial assistance, construction projects, 15.001 et seq.

**STREAMS**

Rivers and Streams, generally, this index.

**STRIKES**

Water quality, discharge of waste caused by strike, 26.132.

**STUDIES**

Water commission, 12.014.

Weather modification, water development board, 18.014.

**SUBPOENAS**

Water commission hearings, 11.337.

Water quality, hearings, 26.020.

**SULFUR**

Injection wells, 27.001 et seq.

**SUMMONS**

Water quality, corporations, Service, 26.220.

Waste discharge violations, 26.219.

**SUNSET ACT**

Canadian river compact, commissioner, 43.0031.

Pecos river compact, commissioner, 42.0031.

Red river compact, commissioner, 45.0011.

Rio Grande compact, commissioner, 41.0031.

Sabine river compact administrator, 44.0031.

Water commission, 5.2211.

Water development board, 5.0911.

Water resources, department of, 5.0121.

**SUPERSEDEAS OR STAY**

Water allocation and distribution during appeal involving water rights, 11.407.

**SURFACE WATER**

Defined, Ogallala water import authority, 64.003.

**SURFACE WATER DEVELOPMENT**

Water rights, political subdivision proposing, certificate of commission, 17.123.

**SURVEYS AND SURVEYORS**

Reservoir site, entry on property, 11.049.

Rights of way, water facilities, entry on property, 11.049.

Water accumulation on or contiguous to land, improvements, 16.232.

Water development,

Surface water and ground water, 16.012.

Water needs, regional divisions of watershed areas, 16.014.

Water resources department, use by water commission, 12.014.

**SWAMPLAND**

Water accumulation on or contiguous to land, improvement, 16.231 et seq.

**TARGET AREA**

Defined, weather modification, 18.0841.

**TAX ASSESSMENT ROLLS, LISTS AND BOOKS**

Irrigation Districts, this index.

**TAX ASSESSMENTS**

Imported waters, 64.211 et seq.

Irrigation districts, 58.305 et seq.

**TAX ASSESSMENTS—SPECIAL**

Water resources development projects, equivalent lease contributions, 16.198.

**TAX EXEMPTION**

Water development bonds, 17.031.

**TAX LIENS**

Irrigation Districts, this index.

**TAXATION**

Deepwater port authority, bonds, notes, 19.145.

# INDEX TO WATER CODE

2192

References are to Sections

## TAXATION—Cont'd

Imported waters, 64.181, 64.182.  
Bond payments, 64.134.  
Irrigation Districts, this index.  
Water resource development projects,  
Leases, contributions equivalent to taxes, 16.198.  
Security for political subdivision bonds financing project, 17.131.

## TERRITORY

Ogallala water import authority, 64.002.

## THEFT

Water, taking from ditches, canals, etc., 11.088.

## TIME

Caddo lake compact, binding, 47.010.  
Districts audited by the state, 50.371.  
Drainage districts, annexation of territory, hearings, 56.719, 56.720.  
Flood Control and Insurance Act, political subdivisions, 16.319.  
Red river compact, finding, 46.012.  
Water appropriation, extension, fees, 11.145.  
Water quality, pleadings, corporations, waste discharge violations, 26.221.  
Water Rights, this index.  
Weather modification,  
Elections, permits, 18.0841.  
Permit notice of intention, contents, 18.085.

## TITLE TO PROPERTY

Irrigation districts, acquisition, 58.123.  
Underground water, water quality control effect, 26.002.

## TOWN BONDS

Regional Waste Disposal Act, 30.004 et seq.

## TOXIC POLLUTION

Disposal facilities, hazardous substances, cleanups, 26.301 et seq.

## TRAFFIC RULES AND REGULATIONS

Signs, generally, this index.

## TRANSPORTATION

Imported waters, 64.001 et seq.  
Motor vehicles, operation near, 50.056.  
Salt water haulers, 29.001 et seq.  
Water resource development projects, permit, 16.133.

## TRAVELING EXPENSES

Red river compact,  
Commissioner, 46.006.  
Executive director, 46.008.  
Water development board, 5.097, 5.176.

## TREASURER

Ogallala water import authority, 64.056.

## TREATED WATER

Water rights commission, rate-fixing, 12.013.

## TREATMENT FACILITY

Defined,  
Regional Waste Disposal Act, 30.003.  
Water quality control, 26.001.

## TREATMENT WORKS

Defined, water quality, 26.001.  
Alternative program, 17.272.

## TREES

Obstruction of navigable streams, cutting and felling trees, 11.096.

## TRESPASS

Animals, failure to fence ditches, canals, etc., 11.047.

## TRIAL

Irrigation districts, exclusions, 58.700.

## TRIBUTARY

Defined, Red river compact, 46.013.

## TRUST COMPANIES

Water control and improvement districts, investments, 51.4371.  
Water development bonds, investments, 17.032.

## TRUST INDENTURES

Ogallala water import authority, bonds, 64.141.

## TRUSTS AND TRUSTEES

Control and improvement districts, investments, 51.4371.  
Irrigation districts, dissolution, 58.786 et seq.  
Water development bonds, investments, 17.032.

## UNDERGROUND STORAGE AND TRANSMISSION

Defined, Ogallala water import authority, 64.003.

## UNDERGROUND WATER

Application of law, 11.339.  
Defined, Ogallala water import authority, 64.003.

## UNDERGROUND WATER RESERVOIR

Defined, Ogallala water import authority, 64.003.

## UNDESIGNATED WATER

Defined, Red river compact, 46.013.

## UNDEVELOPED PROPERTY

Defined,  
Municipal utility district charges, 54.2041.  
Water control and improvement districts, 51.195.  
Water district charges, 50.056.

## UNITED STATES

Defined,  
Ogallala water import authority, 64.003.  
Irrigation districts, contracts, 58.153 et seq.  
Red river compact,  
Commissioner, 46.013.  
Notice, 46.011.  
Water Development, this index.  
Water resource development projects, joint venture, 16.132.  
Waterways, contracts for navigation facilities, 16.272.

## UNITED STATES AGENCIES AND INSTITUTIONS

Water accumulation on or contiguous to land, improvements, 16.233.  
Water quality, cooperation, control in preservation, 26.017.  
Weather modification, cooperative agreements, 18.019.

## UNITED STATES SECRETARY OF THE INTERIOR

Federal Reclamation Act, authority to perform duties within state, 11.052.

## URANIUM

Injection wells, 27.001 et seq.  
Water quality, discharge of waste, 26.131.

## VEHICLES

Water facilities, operation, 50.056.

## VENUE

Injection wells, 27.105.  
Irrigation, expenses, joint use of irrigation ditch, 11.048.  
Irrigation districts, exclusions, 58.699.  
Justice of the peace courts, private sewage facilities, illegal acts, prosecution, 26.214.  
Motor carriers, salt water haulers, licensing proceedings, 29.021.  
Private sewage facilities, illegal acts, prosecutions, 26.214.  
Salt water haulers, licensing proceedings, 29.021.  
Water quality, waste discharge violations, 26.124 et seq.  
Water rights, 5.354.  
Water supply proceeding, fresh water supply districts project, 12.082.

## VICE PRESIDENT

Ogallala water import authority, 64.054.

## VICE-CHAIRMAN

Water development board, 5.095.

## VICTORIA COUNTY

Directors, drainage districts,  
Election, 56.064, 56.0641.  
Special law districts, 56.0642.

## WAIVER

Water quality, hearings, discharge permits, 26.028.

## WAR AND NATIONAL DEFENSE

Water quality, discharge of waste, 26.132.  
Violations, 26.216.

## WASTE

Artesian wells, 11.205.  
Cleanups, disposal facilities, 26.301 et seq.  
Contaminant disposal facilities, cleanups, 26.301 et seq.  
Defined,  
Disposal facilities, 26.301.  
Ogallala water import authority, 64.003.  
Regional Waste Disposal Act, 30.003.  
Water development, 16.001.  
Public funding, 17.001.  
Water quality control, 26.001.  
Criminal prosecution, 26.211.  
Disposal facilities, cleanups, 26.301 et seq.

## INDEX TO WATER CODE

References are to Sections

**WASTE—Cont'd**

- Financial assistance,
  - Political subdivisions, construction, acquisition or improvement of waste water treatment plants, 17.121 et seq.
- Funds, disposal facility response fund, 26.304.
- Injection wells, pollution control, 27.001 et seq.
- Pollution control, injection wells, 27.001 et seq.
- Regional Waste Disposal Act, 30.001 et seq.
- Water wells, artesian wells, 11.205.

**WATER APPROPRIATIONS**

- Generally, 11.001 et seq.
- Abandonment, 11.030.
  - Cancellation of permits for nonuse, 11.173, 11.177.
- Abatement of actions, claimants to water rights, 11.340.
- Accidents, distribution of water during shortage, 11.039.
- Acquisition of right to use water, 11.022.
- Actions and proceedings,
  - Abatement, claimants to water rights, 11.340.
  - Claimants to water rights, 11.340.
  - Court-appointed watermaster, 11.401 et seq.
  - Overflow caused by diversion of water, damages, 11.086.
  - Penalties, recovery, unlawful use of water, 11.082.
  - Violations of court orders during trial proceedings, 11.409.
  - Water commission, acts of water resources department, 11.334.
- Adjoining landowners, 11.038.
- Adjudication of water rights, certificate of adjudication, 11.171 et seq.
- Administration, permits issued after adjudication, 11.336.
- Alteration of water facilities, approval, 11.144.
- Animals, livestock reservoir, permits, 11.142.
- Appeals, 11.406 et seq.
  - Allocation and distribution of water during appeals, 11.407.
  - Judicial custody of water during appeal, 11.406.
  - Rates and charges, supplying water to others, 11.036.
  - Retention of court-appointed watermaster during appeal, 11.408.
  - Violation of court orders during appeals, 11.409.
- Application of law, 11.341.
- Bays, effects of permits, 11.147.
- Beneficial use, 11.023.
- Bonds, denial of water, hearings on complaints, 11.041.
- Boundary waters of state, application of law, 11.003.
- Bridges, removal, interference with water facilities, 11.044.
- Canals, construction, 11.044, 11.045.
- Certificate of adjudication, 11.171 et seq.
  - Amendments, 11.122.
  - Defined, cancellation of permits for nonuse, 11.171.
- Certified copies of judgments, etc., filing, 11.004.

**WATER APPROPRIATIONS—Cont'd**

- Certified filing,
  - Defined, cancellation of permits for nonuse, 11.171.
  - Scope of appropriative rights, 11.025.
- Certified mail,
  - Cancellation of permits for nonuse, notice of hearing, 11.175.
- International streams, diversion of water, copy of order, 11.087.
- Complaint, denial of water, 11.041.
- Compliance, rules, 11.333.
- Construction, 11.044.
  - Fees, time extension, 11.145.
- Construction of ditches and canals, 11.045.
- Construction of law, forfeiture or cancellation of permits for inaction, 11.146.
- Constructive notice, recording of permit to take water, 11.136.
- Contempt, orders or subpoenas of water commission, 11.337.
- Contracts to supply conserved or stored water to others, 11.036.
- Costs, eminent domain proceedings, 11.035.
- Crimes and offenses,
  - Destruction of waterworks, 11.088.
  - Interference with delivery of water under contract, 11.091.
  - International streams, diversion of water released from dams or reservoirs, 11.087.
  - Interwatershed transfers, 11.085.
  - Sale of permanent water right without permit, 11.084.
  - Tampering with headgates or water boxes, 11.083.
  - Unlawful use of water, 11.081 et seq.
  - Use of works declared public nuisance, 11.094.
  - Wasteful use of water, 11.092, 11.093, 11.095.
- Dam or reservoir site, right of way, 11.034.
- Damages,
  - Eminent domain, 11.035.
  - Overflow caused by diversion of water, 11.086.
- Deeds and conveyances, title to land passing out of state after July 1, 1895, 11.001.
- Definitions, 11.002, 12.001.
  - Cancellation of permits to take water for nonuse, 11.171.
  - State water, 11.021.
- Delivering water down stream banks and beds, 11.042.
- Denial of water, hearing on complaint, 11.041.
- Depositions, hearings, 11.337.
- Deposits, complaints, denial of water, 11.041.
- Destruction of water facilities, 11.088.
- Discrimination,
  - Contracts to supply conserved or stored water to others, 11.036.
  - Rates and charges,
    - Adjoining landowners, 11.038.
    - Complaint, 11.041.
- Dismissal of complaint, denial of water, 11.041.
- Distribution of water during shortage, 11.039.
- Ditches, construction, 11.044, 11.045.
- Diversion of water,
  - Application for permit, 12.011.

**WATER APPROPRIATIONS—Cont'd**

- Diversion of water—Cont'd
  - Permits, effects on bays and estuaries, 11.147.
- Drainage plans, permits to take water, 11.127.
- Droughts, distribution of water during shortage, 11.039.
- Emergency permits to take water, 11.139.
- Eminent domain, 11.033.
  - Dam or reservoir site, right of way, 11.034.
  - Rights of way, 11.035.
- Entry on property, examination and surveys, 11.049.
- Estuaries, effects of permits, 11.147.
- Evidence,
  - Cancellation of permits for nonuse, partial cancellation, 11.181.
  - Denial of water, hearing on complaint, 11.041.
  - Hearings, 11.337.
  - Permits to take water, 11.133.
  - Unlawful use of water, 11.081, 11.083.
- Examinations and surveys, entry on property, 11.049.
- Exceptions, 11.028.
- Exemptions, permits, domestic and livestock reservoir, 11.142.
- Fees, 5.182 et seq., 12.111.
  - Eminent domain proceedings, 11.035.
  - Extending time to begin construction of facilities, 11.145.
  - Permits to take water,
    - Application, filing fee, 11.128.
    - Dams or reservoirs, 11.143.
    - Temporary permits, 11.138.
    - Time extension, 11.145.
- Fines and penalties,
  - Destruction of waterworks, 11.088.
  - Interference with delivery of water under contract, 11.091.
  - International streams, diversion of water released from dams or reservoirs, 11.087.
  - Interwatershed transfers, 11.085.
  - Limitation of action to collect penalty for unlawful use of water, 11.082.
  - Reports, 11.031.
  - Sale of permanent water right without permit, 11.084.
  - Tampering with headgates or water boxes, 11.083.
  - Unlawful use of water, 11.081, 11.082.
  - Use of works declared public nuisance, 11.094.
  - Violations of court orders, 11.409.
  - Violations of rules, orders and regulations, 12.141.
  - Wasteful use of water, 11.095.
- Forfeiture, 11.030.
  - Permits to take water, construction of facilities, time, 11.146.
- Headgates, 11.330.
- Hearings, 11.337.
  - Denial of water, complaints, 11.041.
  - Eminent domain, necessity, 11.035.
- Highways and roads, right of appropriator to construct water facilities along or across, 11.044.
- Impairment of road or highway used by water appropriator, 11.044.
- Impounding of water, application for permit, 12.011.
- Injunctions,
  - Interference with delivery of water under contract, 11.091.
  - Water resources department, 11.334.

References are to Sections

**WATER APPROPRIATIONS—Cont'd**  
 Interference, delivery of water under contract, 11.091.  
 International streams, diversion of water released from dams or reservoirs, 11.087.  
 Interwatershed transfers, 11.085.  
 Investigations,  
     Denial of water, 11.041.  
     Eminent domain, necessity of proceeding, 11.035.  
 Irrigation water appropriator, Gulf of Mexico, tidewater gate construction, 11.050.  
 Judicial custody of water during appeal, 11.406.  
 Jurisdiction, judicial custody of water during appeal, 11.406.  
 Limitations,  
     Action to recover penalty for unlawful water use, 11.082.  
     Allocations of water, violations of court orders, 11.409.  
 Mail and mailing, permits to take water, notice of hearing, 11.132.  
     Dams or reservoirs, 11.143.  
 Maps or plats, permits to take water, 11.125.  
 Measuring devices, 11.331.  
 Municipal certified filings, cancellation, 11.184.  
 Negligence, wasteful use of water, 11.093.  
 Notice,  
     Constructive notice, recording of permit to take water, 11.136.  
     Hearings, 11.337.  
         Proposed eminent domain proceedings, 11.035.  
     Interwatershed transfers, hearings on permits, 11.085.  
     Rules and regulations, compliance, 11.333.  
 Nuisance, abatement of wasteful use of water as nuisance, 11.093.  
 Oaths and affirmations, hearings, 11.337.  
 Obstructing natural drainage, construction of canals, 11.086.  
 Orders of court, violations, 11.409.  
 Outlet for free passage of water, 11.330.  
 Overflow caused by diversion of water, 11.086.  
 Parties, eminent domain proceedings, 11.035.  
 Pending proceedings to determine rights, preservation of status quo, 11.340.  
 Perfection of an appropriation, 11.026.  
 Permits to take water, 11.121 et seq.  
     Abandonment of appropriation, 11.173.  
     Administration, permits issued after adjudication of water rights, 11.336.  
     Affidavits, hearings, 11.133.  
     Amendments, 11.122.  
         Applications, maps, or other materials, 11.129.  
     Applications, 11.124 et seq., 12.011.  
         Additional information required, 11.126.  
         Dams or reservoirs, 11.126, 11.143.  
         Fees, filing fees, 11.128.  
         Filing fee, 11.128.  
         Financial statement, 11.126.  
         Grant or denial, 11.134.  
         Maps or plats, 11.125.  
         Recording, 11.130.  
         Review of application, 11.129.

**WATER APPROPRIATIONS—Cont'd**  
 Permits to take water—Cont'd  
     Approval for alteration of water facilities, 11.144.  
     Bays, effects, 11.147.  
     Beginning construction of facilities, time, 11.145.  
     Cancellation for nonuse, 11.171 et seq.  
         Commission finding, partial cancellation, 11.182.  
         Definitions, 11.171.  
         Effect of commission inaction, 11.185.  
         Evidence, 11.176.  
             Partial cancellation, 11.181.  
         Hearings, 11.174, 11.176.  
             Partial cancellation, 11.179, 11.181.  
         Initiation of proceedings, 11.174.  
         Municipal certified filings, 11.184.  
         Notice of hearing, 11.175.  
             Partial cancellation, 11.180.  
         Partial cancellation, 11.172, 11.178 et seq.  
         Reservoir facilities, 11.183.  
         Subsequent proceedings on same permit, 11.186.  
         Time, hearings, 11.174.  
         Total cancellation, 11.173.  
     Certificate of adjudication, 11.171 et seq.  
     Construction of facilities,  
         Beginning, time, forfeiture and cancellation of permit, 11.146.  
         Direct diversion, time, 11.145.  
     Constructive notice, 11.136.  
     Contents, 11.135.  
     Dams or reservoirs, 11.143.  
     Denial of application without hearing, 11.131.  
     Domestic and livestock reservoir, 11.142.  
         Other use, 11.143.  
     Drainage plans, 11.127.  
     Effect on bays and estuaries, 11.147.  
     Emergency permits, 11.139.  
     Estuaries, effects, 11.147.  
     Evidence, 11.133.  
     Examination and denial of application without hearing, 11.131.  
     Fees,  
         Dams or reservoirs, 11.143.  
         Temporary permits, 11.138.  
     Fines and penalties, violation of orders, rules and regulations, 12.141.  
     Forfeiture for failure to begin construction within proper time, 11.146.  
     Grant or denial of application, 11.134.  
     Hearings, 11.133.  
         Dams or reservoirs, 11.143.  
         Denial of application without hearing, 11.131.  
         Forfeiture and cancellation of permit for inaction, 11.146.  
         Notice of hearing, 11.132.  
     Interwatershed transfers, 11.085.  
     Issuance, 11.135.  
     Mailing notice of hearing, 11.132.  
         Dams or reservoirs, 11.143.  
     Notice of hearing, 11.132.  
         Forfeiture and cancellation of permit for inaction, 11.146.  
     Priority, 11.023, 11.141.  
     Publication, notice of hearing, 11.132.  
         Cancellation, 11.175.  
         Dams or reservoirs, 11.143.  
     Records and recordation, 11.136.  
         Cancellation of permit for inaction, 11.146.

**WATER APPROPRIATIONS—Cont'd**  
 Permits to take water—Cont'd  
     Review of application, 11.129.  
     Scope of appropriative right, 11.025.  
     Seasonal permits, 11.137.  
         Applications, 11.124.  
     Storage for project development, 11.140.  
     Temporary permits, 11.138.  
         Applications, 11.124.  
         Time, nonuse, 11.172.  
     Petitions, denial of water, 11.041.  
     Pipes and pipelines, construction, 11.044.  
     Plans and specifications, alteration of water facilities, approval, 11.144.  
     Priorities and preferences, 11.024.  
         Distribution of water during shortage, 11.039.  
     Permits to take water, 11.141.  
     Rights as between appropriators, 11.027.  
     Publication, rules and regulations, supplying water to others, 11.037.  
     Purposes, 11.023.  
     Rates and charges,  
         Adjoining landowners, 11.038.  
         Contracts to supply conserved or stored water to others, 11.036.  
         Discrimination, complaint, 11.041.  
         Supplying to others, 11.036.  
     Records and recordation, 11.032.  
         Cancellation of permit for inaction, 11.146.  
         Permits to take water, 11.136.  
     Reports, 11.031.  
     Return of unused water, 11.046.  
     Rights as between appropriators, 11.027.  
     Rights of way,  
         Dam or reservoir site, 11.034.  
         Eminent domain, 11.035.  
     Rules and regulations,  
         Compliance, 11.333.  
         International streams, diversion of water released from dams or reservoirs, 11.087.  
         Supplying water to others, 11.037.  
     Scope of appropriative right, 11.025.  
     Seasonal permits to take water, 11.137.  
         Applications, 11.124.  
     Shortage of water, distribution of water, 11.039.  
     State boundary waters, application of law, 11.003.  
     Storage of water, application for permit, 12.011.  
     Subpoenas, hearings, 11.337.  
     Supersedeas bond, allocation and distribution of water during appeals, 11.407.  
     Temporary permits to take water, 11.138.  
         Applications, 11.124.  
     Time,  
         Beginning construction of facilities, permits to take water, 11.145.  
         Cancellation of permits for nonuse, 11.172 et seq.  
         Subsequent proceedings on same permit, 11.186.  
     Construction of facilities, permit to take water, forfeiture and cancellation of permit, 11.146.  
     Extension, fee, 11.145.  
     Facilities for appropriation of water by direct diversion, beginning construction, 11.145.  
     Forfeiture of appropriation, 11.030.  
     Reports, 11.031.

## INDEX TO WATER CODE

References are to Sections

**WATER APPROPRIATIONS—Cont'd**  
Time—Cont'd

Rights as between appropriators, 11.027.  
Title to appropriation by limitation, 11.029.  
Title to appropriation by limitation, 11.029.  
Transportation of water, application for permit, 12.011.  
Unlawful use of water, 11.081 et seq.  
Unused water, return, 11.046.  
Vested rights, 11.001.  
Wasteful use of water, 11.092 et seq.  
Abatement of waste as public nuisance, 11.093.  
Watermasters, generally, this index.  
Withdrawing allocations of water, violations of court orders, 11.409.  
Witnesses, hearings, 11.337.

**WATER ASSISTANCE FUND**

Generally, 15.011, 15.012.

**WATER AUTHORITIES**

Private sewage facilities, licensing, 26.031.

**WATER COMMISSION**

Generally, 5.221 et seq.  
Appointment of members, 5.222.  
Chairman, 5.226.  
Full-time service, 5.225.  
Hearing examiners office, 5.311 et seq.  
Hearings, recess, 5.264.  
Jurisdiction, rate fixing, 12.013.  
Meetings, 5.226.  
Oath of office, 5.223.  
Oaths and affirmations, power to administer, 5.265.  
Powers and duties, 5.261 et seq.  
Quorum, 5.226.  
Recess, hearings, 5.264.  
Rules and regulations, 5.262.  
Seal, 5.266.  
State agency, 5.221.  
State officers, 5.223.  
Sunset Act, application, 5.2211.  
Terms of office, 5.224.  
Water rights commission, succession to duties and responsibilities, 12.083.

**WATER CONSERVATION**

Administration of law, water commission, 5.268.  
Bonds, construction projects, 15.001 et seq.  
Certificate of approval, construction contract, 15.112.  
Construction, financial assistance, 15.001 et seq.  
Default, bonds, construction projects, 15.213.  
Definitions,  
Bonds, 15.201.  
Financial assistance, 15.001.  
Emergencies, releases, 15.325.  
Federal project, development of dam site, 12.051.  
Funds, construction projects, 15.001 et seq.  
Inspection and inspectors,  
Construction projects, 15.216.  
Financial assistance, 15.110.  
Storage acquisition sites, 15.329.  
Joint ventures, storage acquisition projects, 15.303.

**WATER CONSERVATION—Cont'd**

Leases, storage acquisition sites, 15.313 et seq.  
Licenses and permits, storage acquisition program, 15.304, 15.314.  
Loans, construction projects, 15.001 et seq.  
Maintenance contracts, storage acquisition programs, 15.311.  
Priorities and preferences, storage acquisition projects, 15.326.  
Recreation and recreational facilities, storage acquisition sites, 15.312.  
Registration, financial assistance, 15.108.  
Releases, emergencies, 15.325.  
Research, 15.401 et seq.  
Resolutions, financial assistance, 15.104.  
Sales, storage acquisition sites, 15.313 et seq.  
Storage acquisition program, 15.301 et seq.  
Underground water supply, studies and investigations, 16.015.  
Water assistance fund, 15.011, 15.012.  
Water commission, knowledge of state needs, 5.267.  
Water loan assistance fund, 15.101 et seq.

**WATER CONTROL AND IMPROVEMENT DISTRICTS**

Agents,  
Service of process, 50.025.  
Amendment, preference in water use, 51.184.  
Appeal and review,  
Excluding territory, 51.747.  
Applications,  
Excluding territory from district, 51.737 et seq.  
Banks and banking, investments, 51.4371.  
Bids and bidding,  
Bonds, 51.140.  
Bonds, investments, 51.4371.  
Bonds (officers and fiduciaries),  
Bid bonds, construction, 51.140.  
Cashiers check, bid, 51.140.  
Cities, towns and villages, investments, 51.4371.  
Commercial paper, investments, 51.4371.  
Condition precedent, findings of board, sale or lease of state facility, 16.190.  
Contracts,  
Failure or refusal to enter into contract after successful bid, forfeiture of cashiers check, 51.140.  
Cost,  
Sale of state facility, 16.188.  
Counties, investments, 51.4371.  
Dams and reservoirs, lease of reservoir land, 16.185.  
Depositories,  
Security, 51.356.  
Directors,  
Election,  
Consolidated districts, 51.734.  
Disposition, proceeds of sale, transfer or lease of facilities, 16.191.  
Dissolution tax, 51.812.  
Elections,  
Directors,  
Consolidated districts, 51.734.  
Leases, 51.1751.  
Notice, leases, 51.1751.  
Emergencies,  
Releases, water stored in water resources development project facility, 16.195.

**WATER CONTROL AND IMPROVEMENT DISTRICTS—Cont'd**

Excluding territory from district, 51.737 et seq.  
Fees, undeveloped property, 50.056, 51.195.  
Fiduciary, investments, 51.4371.  
Findings of fact,  
Excluding territory, 51.744.  
Sale, transfer or lease of state facility, 16.190.  
Forfeitures,  
Cashiers checks, successful bidder failing to enter into contract, 51.140.  
Funds,  
Proceeds of sale, transfer or lease of state facilities, 16.191.  
General manager,  
Agent for service of process, 50.025.  
Hearings,  
Excluding territory, 51.740 et seq.  
Imported waters, 64.001 et seq.  
Insurance, investments, 51.4371.  
Investments, 51.4371.  
Leases,  
Election, 51.1751.  
Reservoir land, 16.185.  
Water resources development project facilities, 16.181 et seq.  
Maintenance and repairs,  
Contracts, water resources development projects, 16.140.  
Notice,  
Excluding territory, hearing, 51.741.  
Ogallala water import authority, 64.001 et seq.  
Orders of board,  
Excluding territory, 51.745.  
Payments, leases, tax revenue, 51.1751.  
Petitions,  
Annexation of land, exclusions, 51.737 et seq.  
Charges or fees, undeveloped property, 50.056, 51.195.  
Political subdivisions, investments, 51.4371.  
President of board of directors,  
Agent for service of process, 50.025.  
Price, sale or transfer of state facility, 16.186.  
Facility acquired under contract, 16.187.  
Priorities and preferences,  
Amendment, 51.184.  
Purchase or lease of state facilities, 16.196.  
Proceeds from sale, transfer or lease of state facility, 16.191.  
Projects, sale or lease of facilities, 16.181 et seq.  
Rates and charges, undeveloped property, 50.056, 51.195.  
Sales,  
Stored water, 16.192 et seq.  
Water resource development project facilities, 16.181 et seq.  
Savings and loan associations, investments, 51.4371.  
Savings banks, investments, 51.4371.  
Schools and school districts, investments, 51.4371.  
State, investments, 51.4371.  
State agencies, investments, 51.4371.  
Storage of water,  
Sale, 16.192 et seq.  
Tax assessments, excluding territory, payment, 51.746.

# INDEX TO WATER CODE

2196

References are to Sections

## WATER CONTROL AND IMPROVEMENT DISTRICTS—Cont'd

Taxation,  
Dissolution tax, 51.812.  
Leases, payments, 51.1751.  
Trust companies, investments, 51.4371.  
Trusts and trustees, investments, 51.4371.  
Unappropriated public water, sale of stored water, 16.192 et seq.  
Undeveloped property, charges, 50.056, 51.195.

## WATER DEVELOPMENT

Generally, 16.001 et seq.  
Additional funds, payment of bonds, 17.080.  
Administrative fund, 17.075.  
Transfers, 17.081.  
Adoption of state water plan, 16.054.  
Affidavits, application for aid, political subdivision constructing, acquiring or improving project, 17.122.  
Alteration of plans, project constructed by political subdivision receiving financial assistance, 17.138.  
Amendment, state water plan, 16.056.  
Application, political subdivision proposing project, financial assistance, 17.122 et seq.  
Approval,  
Financial assistance application, political subdivision proposing project, 17.125.  
Political subdivision bonds or securities financing project, 17.129.  
Area needs, political subdivision proposing project, application for financial assistance, 17.124.  
Bids and bidding,  
Bonds, 17.020.  
Financial assistance contracts, 17.135.  
Political subdivision bonds financing project, 17.133.  
Board. Water Development Board, generally, this index.  
Bonds. Water Development Bonds, generally, this index.  
Centralized data bank, 16.021.  
Certificate of approval, construction contract, 15.112.  
Project constructed by political subdivision receiving financial assistance, 17.139.  
Certification, right of political subdivision to use water, financial assistance application, 17.123.  
Clearance fund, 17.073.  
Credits, 17.077.  
Combined facilities operation and maintenance fund, 17.076.  
Completed state water plan, hearing, 16.054.  
Comptroller, transfer of funds, 17.088.  
Construction, financial assistance, 15.001 et seq.  
Construction contracts, political subdivision receiving financial assistance, 17.135 et seq.  
Certificate of approval, 17.139.  
Contracts,  
Acquisition of development of projects, 16.137 et seq.  
Financial assistance, 15.001 et seq.  
Joint or cooperative studies and investigations, 16.019.  
Maintenance and repairs, water resources development projects, 16.140.

## WATER DEVELOPMENT—Cont'd

Contracts—Cont'd  
Political subdivision receiving financial assistance, 17.135 et seq.  
Sale of stored water, 16.194.  
Water resource development projects, 16.137.  
Purchase or lease of facilities, negotiation of contract, 16.184.  
Specific contracts, 16.138.  
Cooperating local sponsor, water resource development projects, 16.092.  
Credits, clearance fund, 17.077.  
Dams and reservoirs,  
Lease of reservoir land, 16.185.  
Permit for storage, transportation and beneficial use of water, 16.133.  
Sites, determining suitable locations, 16.012.  
Storing water, 16.134.  
Board findings, 16.135.  
Default,  
Bonds, construction projects, 15.213.  
Political subdivision bonds financing project, 17.132.  
Definitions, 16.001.  
Bonds, 15.201.  
Financial assistance, 15.001.  
Deposit of moneys, 17.071.  
Development account, 17.072.  
Financial assistance, political subdivisions, 17.121 et seq.  
Development fund, 17.072.  
Authorized projects, 16.131.  
Development accounts, proceeds, 17.072.  
Investments, 17.086.  
Manager, 5.180.  
Political subdivisions, financial assistance, 17.121 et seq.  
Proceeds, sale of political subdivision bonds financing project, 17.134.  
Projects, use of fund, 16.131.  
Transfers, 17.082.  
District plans, review and analysis, 16.020.  
Emergencies, releases, 15.325.  
Engineering advice and assistance, 16.013.  
Executive director, powers and duties, 16.011 et seq.  
Exploration, water-bearing formations, 16.015.  
Facilities, acquisition and development, 16.131 et seq.  
Federal aid, financing state water plan, 16.057.  
Federal water resource development project,  
Designation of sponsor, 16.092.  
Protection of state's interest, 12.051.  
Filing, construction contract, political subdivision receiving financial assistance, 17.136.  
Financial assistance, construction projects, 15.001 et seq.  
Foreign countries, joint ventures, 16.132.  
Funds, 17.072.  
Additional fund for payment of bonds, 17.080.  
Administrative fund, transfers, 17.081.  
Clearance fund, 17.073.  
Credits, 17.077.  
Combined facilities operation and maintenance fund, 17.076.  
Construction projects, 15.001 et seq.  
Development board administrative fund, 17.075, 17.081.

## WATER DEVELOPMENT—Cont'd

Geologic advice and assistance, 16.013.  
Geologic mapping, 16.017.  
Guide, state policy for development of water resources, 16.055.  
Hearings,  
Amendment, state water plan, 16.056.  
State water plan, 16.053, 16.054.  
Water resource development projects, application of cooperating local sponsor, 16.092.  
Hydrologic advice and assistance, 16.013.  
Hydrological data, centralized data bank, 16.021.  
Incontestability, political subdivision bonds or securities financing project, 17.130.  
Inspection and inspectors,  
Construction projects, 15.216.  
Financial assistance, 15.110.  
Project constructed by political subdivision receiving financial assistance, 17.137.  
Storage acquisition sites, 15.329.  
Interbasin water transfer, state water plan, 16.052.  
Interest, political subdivision bonds and securities financing project, 17.128.  
Interest and sinking fund, 17.074.  
Investment, 17.085.  
Political subdivision bonds financing project, accrued interest, 17.134.  
Securities, sale, 17.087.  
Transfers, 17.079.  
Investigations, 16.014.  
Underground water supply, 16.015.  
Investments,  
Development fund, 17.086.  
Interest and sinking fund, 17.085.  
Limitation, 17.084.  
Reserves, 17.083.  
Irrigation land and works, 16.012.  
Joint venture,  
Projects, 16.132.  
Storage acquisition projects, 15.303.  
Leases,  
Contributions equivalent to taxes, 16.198.  
Reservoir land, 16.185.  
Storage acquisition sites, 15.313 et seq.  
Water resource development project facilities, 16.181 et seq.  
Lending rate, defined, 16.001, 17.001.  
Licenses and permits,  
Reservoir water, storage, transportation and beneficial use, 16.133.  
Sale of stored water, 16.193.  
Storage acquisition program, 15.304, 15.314.  
Water resource development project facilities, purchase of lease, 16.182 et seq.  
Limitation, investments, 17.084.  
Loans, construction projects, 15.001 et seq.  
Local sponsors, water resource development projects, 16.092.  
Maintenance contracts, storage acquisition programs, 15.311.  
Mandamus, political subdivision bonds financing project, default, 17.132.  
Notice, sale of political subdivision bonds financing project, 17.133.  
Plans, alteration, project constructed by political subdivision receiving financial assistance, 17.138.  
Construction projects, 15.001 et seq.

## INDEX TO WATER CODE

References are to Sections

**WATER DEVELOPMENT—Cont'd**

Political subdivisions,  
 Bonds or security financing project, 17.126 et seq.  
 Facilities acquired by state board, 16.136.  
 Financial assistance, construction, acquisition or improvement of projects, 17.121 et seq.  
 Joint venture, 16.132.  
 Preliminary state water plan, hearing, 16.053.  
 Priorities and preferences,  
 Storage acquisition projects, 15.326.  
 Studies and investigations, 16.015.  
 Proceeds, sale of political subdivision bonds, financing project, 17.134.  
 Projects,  
 Authorized projects, 16.131.  
 Political subdivisions, financial assistance, 17.121 et seq.  
 Records, 16.012.  
 Recreational facilities,  
 Contracts, water resource development projects, 16.141.  
 Storage acquisition sites, 15.312.  
 Red River tributaries, studies of natural pollution, 16.016.  
 Registration,  
 Financial assistance, 15.108.  
 Political subdivision bonds or securities financing project, 17.129.  
 Releases, emergencies, 15.325.  
 Renewal, contracts, facilities acquired for term of years, 16.139.  
 Reports, engineering, hydrologic and geologic data, 16.013.  
 Research, 15.401 et seq.  
 Reserves, investment, 17.083.  
 Resolutions, financial assistance, 15.104.  
 Revenue from project, security for political subdivision bonds financing project, 17.131.  
 Sales,  
 Political subdivision bonds purchased to finance project, 17.133.  
 Securities, 17.087.  
 Storage acquisition sites, 15.313 et seq.  
 Stored water, 16.192 et seq.  
 Water resource development project facilities, 16.181 et seq.  
 Securities, sale, 17.087.  
 Security, political subdivision bonds financing project, 17.131.  
 Silt load of streams, 16.014.  
 Soil resource planning, investigation and research, 16.018.  
 State agency,  
 Cooperation with federal government, 16.091.  
 Joint ventures, 16.132.  
 State facility, defined, 16.001, 17.001.  
 State water plan, 16.051 et seq.  
 Storage acquisition program, 15.301 et seq.  
 Storage of water, findings of board, 16.135.  
 Stored water, sale, 16.192 et seq.  
 Studies, 16.014.  
 Surface water and groundwater, 16.012.  
 Underground water supply, 16.015.  
 Surveys,  
 Surface water and groundwater, 16.012.  
 Water needs, district and regional divisions of watershed areas, 16.014.

**WATER DEVELOPMENT—Cont'd**

Taxation, security for public subdivision bonds financing project, 17.131.  
 Term of years, facilities acquired, contracts, 16.139.  
 Topographic mapping, 16.017.  
 Transfers,  
 Administrative fund, transfers, 17.081.  
 Clearance fund, 17.077.  
 End of fiscal year, 17.078.  
 Comptroller, 17.088.  
 Development fund, 17.082.  
 Interest and sinking fund, 17.079.  
 Underground water supply, studies, 16.015.  
 United States,  
 Facilities acquired under contract, 16.187, 16.1871.  
 Joint ventures, 16.132.  
 State agency for cooperation, 16.091.  
 Water assistance fund, 15.001, 15.012.  
 Water loan assistance fund, 15.101 et seq.  
 Water quality enhancement account, 17.072.  
 Water quality enhancement bonds, 17.171 et seq.  
 Water resources development projects,  
 Condition precedent, sale or lease of facilities, 16.190.  
 Contracts, purchase or lease of facilities, negotiation, 16.184.  
 Costs, sale of state facility, 16.188.  
 Facilities, 16.131 et seq.  
 Lease payment, 16.189.  
 Facilities acquired under contracts, sale or transfer, 16.187.  
 Financial assistance, political subdivisions, 17.121 et seq.  
 Land lease, prior to project construction, 16.197.  
 Lease of land, prior to project construction, 16.197.  
 Licenses and permits, purchase of lease, 16.182 et seq.  
 Political subdivisions, financial assistance, 17.121 et seq.  
 Price, sale or transfer of facilities, 16.186.  
 Proceeds, disposition, sale, transfer or lease of facilities, 16.191.  
 Sale or lease of facilities, condition precedent, 16.190.  
 Sale or transfer,  
 Facilities acquired under contracts, 16.187.  
 Price, 16.186.

**WATER DEVELOPMENT BOARD**

Generally, 5.091 et seq.  
 Administrative sections and divisions, 5.172.  
 Appointment of members, 5.092.  
 Powers, 5.135.  
 Approval of resolutions authorizing state ownership, attorney general, 5.174.  
 Chairman, 5.095.  
 Compensation and salaries, 5.097.  
 Development fund manager, 5.180.  
 Executive director, 5.135.  
 Powers and duties, 5.171 et seq., 16.011 et seq.  
 Traveling expenses, 5.176.  
 Fees for water use, exemption, 12.112.  
 Gifts, 5.178.  
 Grants, 5.178.  
 Hearings, appearance of water development board members, 5.173.

**WATER DEVELOPMENT BOARD**

—Cont'd  
 Investigations, surface water and groundwater, 16.012.  
 Meetings, 5.096.  
 Moving expenses, employees, 5.177.  
 Oath of office, 5.093.  
 Officers and employees, moving expenses, 5.177.  
 Organization, 5.172.  
 Per diem, 5.097.  
 Powers, and duties,  
 Appointments, 5.135.  
 Weather modification, 18.011 et seq.  
 Public interest office, water development, 5.181.  
 Quorum, 5.096.  
 Reorganization, 5.172.  
 Resolutions authorizing state ownership, approval of attorney general as to legality, 5.174.  
 Rules and regulations, 5.131.  
 Seal, 5.098.  
 State agency, 5.091.  
 State officers, 5.093.  
 Sunset Act, application, 5.0911.  
 Term of office, 5.094.  
 Traveling expenses, 5.097, 5.176.  
 Vicechairman, 5.095.

**WATER DEVELOPMENT BOARD ADMINISTRATIVE FUND**

Administrative fund, 17.075.  
 Transfers, 17.081.

**WATER DEVELOPMENT BONDS**

Generally, 17.011 et seq.  
 Additional funds for payment, 17.080.  
 Approval, 17.022.  
 Bearer bonds, conversion from registered bonds, 17.018.  
 Bids and bidding, 17.020.  
 Security, 17.021.  
 Construction projects, 15.001 et seq.  
 Conversion, registered to bearer bonds, 17.018.  
 Defined, water development, 16.001.  
 Public funding, 17.001.  
 Denominations, 17.015.  
 Description, 17.012.  
 Destroyed bonds, replacement, 17.034.  
 Execution, 17.023.  
 Facsimile signatures, 17.024.  
 Form, 17.015.  
 General obligations of state, 17.026.  
 Incontestability, 17.026.  
 Installments, issuance, 17.012.  
 Interest, 17.014.  
 Coupons, signature, 17.024.  
 Payments, 17.027.  
 Interest and sinking fund, 17.074.  
 Sale of securities, 17.087.  
 Transfers, 17.079.  
 Investments, 17.032.  
 Issuance of bonds, 17.011.  
 Procedure, 17.012.  
 Lost bonds, replacement, 17.034.  
 Mandamus enforcing payment, 17.028.  
 Maturity, 17.016.  
 Redemption before maturity, 17.017.  
 Mutilated bonds, replacement, 17.034.  
 Negotiability, 17.030.  
 Notice, sale of bonds, 17.019.  
 Payment,  
 Additional fund, 17.080.  
 Mandamus enforcing, 17.028.  
 Principal and interest, 17.027.  
 Place, 17.015.

References are to Sections

**WATER DEVELOPMENT BONDS**

—Cont'd

Political subdivision bonds financing project, sale, 17.133.  
 Proceeds from sale, disposition, 17.011 note.  
 Redemption before maturity, 17.017.  
 Refunding bonds, 17.029.  
 Registration, 17.018, 17.022.  
     Conversion to bearer bonds, 17.018.  
 Replacement, mutilated, lost or destroyed bonds, 17.034.  
 Resolutions, 17.011.  
 Sales, 17.019 et seq.  
     Price, 17.013.  
 Seals, facsimile seals, 17.024.  
 Security, deposits of funds, 17.033.  
 Signatures, 17.023.  
     Facsimile signatures, 17.024.  
     Former officer, 17.025.  
 State seal, 17.023.  
     Facsimile seal, 17.024.  
 Tax exemption, 17.031.  
 Time, maturity, 17.016.

**WATER DEVELOPMENT CLEARANCE FUND**

Generally, 17.073.

**WATER DISTRICTS**

Agent for service of process, 50.025.  
 Assets, escheat upon dissolution, 50.257.  
 Audits and auditors,  
     Financially dormant districts, 50.377.  
     Fiscal year, 50.379.  
     Report exemptions, 50.378.  
 Dissolution, assets, escheat, 50.257.  
 Fees, undeveloped property, 50.056.  
 Fire departments, 50.055.  
 Imported waters, 64.001 et seq.  
 Meetings, 50.057.  
 Motor vehicles, operation, 50.056.  
 Offices, 50.057.  
 Ogallala water import authority, 64.001 et seq.  
 Petitions, undeveloped property, charges or fees, 50.056.  
 Rates and charges, undeveloped property, 50.056.  
 Records and recordation, 50.057.  
 Undeveloped property, charges, 50.056.  
 Vehicles, operation, 50.056.

**WATER DIVISIONS**

Division of state into water divisions, 11.325.  
 Watermasters, appointment, 11.326.

**WATER FACILITIES**

Motor vehicles, operation, 50.056.

**WATER IMPROVEMENT DISTRICTS**

Adverse or pecuniary interest, governing board members, disqualification, 50.026.  
 Agents and agencies,  
     Service of process, president or general manager, 50.025.  
 Boards and commissions, disqualification, members, 50.026.  
 Contracts,  
     Supply conserved or stored water to others, 11.036.  
 Delivering water down stream, banks and beds, 11.042.  
 Fences, failure to fence ditches, canals, etc., trespassing animals, 11.047.

**WATER IMPROVEMENT DISTRICTS**

—Cont'd

Fines and penalties,  
     Violations of orders, rules and regulations, 12.141.  
 General manager,  
     Agent for service of process, 50.025.  
 Meetings, 50.057.  
 Offices, 50.057.  
 President,  
     Agent for service of process, 50.025.  
 Records and recordation, 50.057.  
 Service,  
     Agent for service of process, 50.025.

**WATER LOAN ASSISTANCE FUND**

Generally, 15.101 et seq.

**WATER POLLUTION**

Control compact, 26.043.  
 Defined, water quality, criminal prosecution, 26.211.

**WATER POLLUTION CONTROL COMPACT**

Generally, 26.043.

**WATER QUALITY**

Generally, 26.001.  
 Abandonment,  
     License to discharge waste, suspension or revocation, 26.029.  
 Abatement of nuisances, 26.130.  
     Private remedies, application of law, 26.133.  
 Accidental discharge, notice, 26.039.  
 Accounts and accounting,  
     State loans and grants, preparation of water quality management plans, 26.038.  
 Actions and proceedings,  
     Compliance with law, rules or decisions of board, 26.016.  
     Local governments, enforcement action, 26.174.  
     Private corporations or individuals, remedies, 26.133.  
     Waste discharge violations, 26.124, 26.125.  
 Acts of God, 26.132.  
     Waste discharge violations, 26.216.  
 Administration, 26.011.  
 Affidavits, discharge permits, hearing waiver, 26.028.  
 Animal feeding operations, discharge permits, 26.028.  
 Appeal and review, 5.351.  
     Injunctions, waste discharge violations, 26.125.  
 Appearance, corporations, waste discharge violations, 26.221, 26.222.  
 Application of law, statutes, 26.135.  
 Applications,  
     Discharge of waste, permits, 26.027, 26.028.  
     State financial assistance, construction of waste treatment facilities, alternative programs, 17.275 et seq.  
 Arraignment, corporations, waste discharge violations, 26.221.  
 Arrest, corporations, waste discharge violations, 26.219.  
 Assessments, disposal systems operated by local governments, 26.176.  
 Attestation, orders of board, 26.019.  
 Attorney general, waste discharge violations, instituting action, 26.123.

**WATER QUALITY—Cont'd**

Attorneys, waste discharge violations, 26.124.  
 Bids and bidding, construction contracts, 17.279.  
 Bonds,  
     Construction projects, 15.001 et seq.  
     Regional Waste Disposal Act, 30.004 et seq.  
     Water quality enhancement bonds, 17.171 et seq.  
 Bonds (officers and fiduciaries), waste discharge violations, injunctions, 26.125.  
 Caddo lake compact, 47.011.  
 Cancellation, license to discharge waste, 26.029.  
 Catastrophes, waste discharge violations, 26.132, 26.216.  
 Certificate of approval, construction contract, 15.112.  
 Cesspools, controlling or prohibiting, 26.031, 26.032.  
 Chemical toilets, controlling or prohibiting, 26.031, 26.032.  
 Cleanups, disposal facilities, 26.301 et seq.  
 Complaints, corporations, waste discharge violations, 26.218.  
 Conditions, permit to discharge waste, 26.029.  
 Confined feeding animal operation, discharge permit, 26.028.  
 Construction,  
     Financial assistance, 15.001 et seq.  
     Construction of law, 26.225.  
 Contaminant disposal facilities, cleanups, 26.301 et seq.  
 Continuance, hearings, 26.022.  
 Contracts,  
     Disposal facilities, cleanups, 26.301 et seq.  
     Financial assistance, 15.001 et seq.  
     Local governments,  
         Cooperative agreements, 26.175.  
     Regional Waste Disposal Act, 30.004 et seq.  
     Water quality management plans, 26.036.  
 Cooperation between governmental agencies and private industries, 26.017.  
 Cooperative agreements, local governments, 26.175.  
 Coordination of programs, state agencies, 26.127.  
 Copies, standards, 26.026.  
 Corporations, waste discharge violations, 26.218 et seq.  
 Counties,  
     Private sewage facilities, control, 26.032.  
     Septic tanks, controlling or prohibiting, 26.032.  
 County attorneys, waste discharge violations, prosecutions, 26.124.  
 Crimes and offenses, 26.211 et seq.  
     Appearance, corporations, waste discharge violations, 26.222.  
     Arraignment, corporations, waste discharge violations, 26.221.  
     Complaints, corporations, waste discharge violations, 26.218.  
     Corporations, waste discharge violations, 26.218 et seq.  
     Definitions, 26.211.  
     Licenses and permits, violations, 26.212.

## INDEX TO WATER CODE

References are to Sections

**WATER QUALITY—Cont'd****Crimes and offenses—Cont'd**

- Pleadings, corporations, waste discharge violations, 26.221.
- Pleas, corporations, waste discharge violations, 26.222.
- Prosecutions, 26.211 et seq.
- Second and subsequent offenses, 26.213.
- Service of summons, corporations, 26.220.
- Summons, corporations, waste discharge violations, 26.219.
- Venue, 26.217.
- Cumulative provisions, 26.224.
- Decisions, hearings, 26.020.
- Default, bonds, construction projects, 15.213.
- Definitions, 26.001.
  - Bonds, 15.201.
  - Disposal facilities, 26.301.
  - Financial assistance, 15.001.
  - Injection wells, 27.002.
  - Private sewage facilities, controlling or prohibiting, 26.031.
- Delegation of hearing powers, 26.021.
- Delegation of state authority to local government executing cooperative agreements, 26.175.
- Discharge of waste,
  - Accidental discharges and spills, 26.039.
  - Biological warfare agent, 26.027.
  - Chemical warfare agent, 26.027.
  - High level radioactive waste, 26.027.
  - Licenses and permits, 26.027 et seq.
    - Cities, 26.177.
    - Inspection, local governments, 26.171.
    - Oil and gas production, 26.131.
    - Rules and regulations, 26.040.
    - Prohibition, 26.121 et seq.
    - Radiological warfare agent, 26.027.
- Disposal facilities, cleanups, 26.301 et seq.
- Disposal system rules, local governments, 26.176.
- Disposition of civil penalties, 26.126.
- District attorneys, waste discharge violations, prosecutions, 26.124.
- Educational services, local governments, cooperative agreements, 26.175.
- Emergencies,
  - Orders, 26.0191.
  - Releases, 15.325.
- Enforcement, local governments, authority, 26.174.
- Entry on property, inspection, 26.014.
  - Local governments, authority, 26.173.
- Evidence, hearings, 26.020, 26.021.
- Examination of records, 26.015.
- Farming, animal feeding operation, discharge permit, 26.028.
- Federal agencies, furnishing water quality management plans to, 26.037.
- Fees, private sewage facilities, licenses, 26.031.
- Financial assistance, construction projects, 15.001 et seq.
- Findings of fact,
  - Hearings, 26.020.
  - Investigations, groundwater quality, reports, 26.128.
  - Orders of board, 26.019.
- Fines and penalties, 26.213.
  - Corporations, waste disposal violation, judgments, treated as, 26.223.

**WATER QUALITY—Cont'd****Fines and penalties—Cont'd**

- Disposal wells, 27.101 et seq.
- Disposition, 26.126.
- Docketing corporations, waste discharge violations, 26.223.
- Injection wells, 27.101 et seq.
- Local governments, disposition of penalties, 26.126.
- State treasury, deposit, 26.126.
- Unauthorized discharge of waste, 26.122 et seq.
- Foreign corporations, service of summons, 26.220.
- Forms, summons, corporations, waste discharge violations, 26.219.
- Funds,
  - Accounting, grants and loans to local agencies, etc., water quality management plans, 26.038.
  - Construction projects, 15.001 et seq.
  - Disposal facility response fund, 26.304.
  - Federal and state grant, loan and contract programs, accounting, 26.038.
  - Transfer, 5.051.
- Garbage and refuse, deposit in waters, 11.090.
- Hazardous substances, disposal facilities, cleanups, 26.301 et seq.
- Hazards to health, discharge of waste, 26.041.
- Health hazards, 26.041.
- Hearings,
  - Continuance, 26.022.
  - Decisions, 26.020.
  - Delegation of powers, 26.021.
  - Disposal systems rules, local governments, 26.176.
  - Emergency orders, 26.0191.
  - Evidence, 26.020, 26.021.
  - Findings of fact, 26.020.
  - Licenses and permits, discharge of waste water, application, 26.028.
    - Suspension or revocation, 26.029.
  - Mail and mailing, notice, 26.022.
  - Notice, 26.022.
    - Water management plans, 26.037.
  - Oaths and affirmations, 26.020, 26.021.
  - Orders of board, 26.019.
  - Private sewage facilities, controlling or prohibiting, 26.031.
    - Counties, 26.032.
    - Publication, notice, 26.022.
    - Reports, 26.021.
  - Septic tanks, controlling or prohibiting, 26.031.
    - Counties, 26.032.
  - Standards, 26.024.
    - Notice, 26.025.
  - Subpoenas, 26.020.
  - Temporary orders prior to notice and hearing, 26.0191.
  - Water quality management plans, 26.037.
    - Witnesses, subpoenas, 26.020.
- Indictments, corporations, waste discharge violations, 26.218.
- Industrial waste, disposal wells, 27.001 et seq.
- Injection wells, 27.001 et seq.
  - Application of law, 26.135.
- Injunctions,
  - Injection wells, 27.102, 27.103.
  - Refusing right of entry on property for inspection, 26.014.
- Waste discharge violations, 26.123, 26.124.
- Venue, 26.125.

**WATER QUALITY—Cont'd**

- Injurious to public health, discharge of water, 26.041.
- Inspection and inspectors,
  - Cities, 26.177.
  - Construction projects, 15.216.
    - Financial assistance, 15.110.
  - Cooperative agreements, local governments, 26.175.
  - Entry on property, 26.014.
    - Local governments, authority, 26.173.
    - Local governments, authority, 26.171.
    - Storage acquisition sites, 15.329.
  - Inventory, waste discharges by cities, 26.177.
  - Investigations, 26.013.
    - Entry on property, 26.014.
      - Inspection, local governments, authority, 26.173.
    - Federal aid, 26.035.
    - Groundwater quality, reports, 26.128.
  - Joint ventures, storage acquisition projects, 15.303.
  - Judgments, fines against corporations, waste discharge violations, 26.223.
  - Jurisdiction, waste discharge violations, 26.124.
  - Labor disputes, discharge of waste caused by strike, 26.132.
  - Leases, storage acquisition sites, 15.313 et seq.
  - Licenses and permits,
    - Conditions, pretreatment standards, 26.047.
    - Crimes and offenses, discharge of waste, 26.212.
    - Discharge of waste, ante.
    - Private sewage facilities, 26.031.
    - Storage acquisition program, 15.304, 15.314.
    - Counties, 26.032.
  - Loans,
    - Construction projects, 15.001 et seq.
    - Water quality management plans, 26.036 et seq.
  - Local governments, authority, 26.171 et seq.
  - Mail and mailing,
    - License to discharge waste, applications, notice of hearing, 26.028.
    - Notice, hearings, 26.022.
    - Service of summons on corporations, 26.220.
  - Maintenance contracts, storage acquisition programs, 15.311.
  - Monitoring and reporting on waste collection and treatment, 26.042, 26.127.
    - Cities, 26.177.
  - Motions for dismissal, appeals and writs of error, 5.351.
  - Municipal pollution control programs, 26.177.
  - Municipal waste, injection wells, 27.001 et seq.
  - Notice,
    - Accidental discharge, 26.039.
    - Delegation of state authority to local government executing cooperative agreements, 26.175.
    - Emergency orders, 26.0191.
    - Entry on property, inspection, 26.014.
    - Hearings, 26.022.
    - License to discharge waste, suspension or revocation, 26.029.
    - Standards, hearings, 26.025.
    - Temporary orders prior to hearing, 26.0191.

References are to Sections

**WATER QUALITY—Cont'd**

Notice—Cont'd  
 Waste water, application for license to discharge, hearings, 26.028.  
 Water quality management plans, 26.037.  
 Nuisances, abatement, 26.130.  
 Private remedies, application of law, 26.133.  
 Oaths and affirmations, hearings, 26.020, 26.021.  
 Odors, discharge of waste into recreational waters, permits, 26.030.  
 Oil and gas waste,  
 Injection wells, 27.001 et seq.  
 Orders, 26.019.  
 Accidental discharges and spills, 26.039.  
 Appeals and writs of error, 5.351.  
 Septic tanks, controlling or prohibiting, 26.031, 26.032.  
 Standards, 26.023.  
 Temporary orders prior to notice and hearing, 26.0191.  
 Parks and wildlife, department of, enforcement duties, 26.129.  
 Peace officers, 26.215.  
 Petitions, appeals and writs of error, 5.351.  
 Plans and specifications,  
 Alterations, financial assistance, construction of treatment facilities, alternative program, 17.282.  
 Cities, pollution control programs, 26.177.  
 Construction projects, 15.001 et seq.  
 Control of water quality, 26.012, 26.036 et seq.  
 Cooperation, control and preservation of quality, 26.017.  
 Federal aid, 26.035.  
 Pleadings, complaints, corporations, waste discharge violations, 26.218, 26.221.  
 Pleas, corporations, waste discharge violations, 26.222.  
 Policies and procedures, cooperation, control and preservation of quality, 26.017.  
 Pretreatment of waste to be discharged into disposal system, 26.176.  
 Priorities and preferences, storage acquisition projects, 15.326.  
 Private remedies, application of law, 26.133.  
 Private sewage facilities, controlling or prohibiting, 26.031.  
 Counties, 26.032.  
 Prosecution of offenses, 26.211 et seq.  
 Protection, water commission, 5.268.  
 Public policy, 26.003.  
 Publication,  
 Hearings, notice, 26.022.  
 Standards, 26.026.  
 Railroad commission, enforcement duties, 26.131.  
 Rates and charges, disposal systems operated by local governments, 26.176.  
 Recommendations,  
 Water quality board, local governments, 26.172.  
 Records, examination, 26.015.  
 Recreation and recreational facilities, storage acquisition sites, 15.312.  
 Recreational waters, discharge of waste, permits, 26.030.  
 Red river compact, 46.001 et seq.

**WATER QUALITY—Cont'd**

Red River tributaries, studies of natural pollution, 16.016.  
 Regional and area-wide waste disposal systems, 26.081 et seq.  
 Regional Waste Disposal Act, 30.001 et seq.  
 Registration, financial assistance, 15.108.  
 Releases, emergencies, 15.325.  
 Reports,  
 Groundwater quality, investigations, 26.128.  
 Hearings, 26.021.  
 Investigations, groundwater quality, 26.128.  
 Waste collection and treatment, 26.042.  
 Research, 15.401, 26.013.  
 Federal aid, 26.035.  
 Resolutions, financial assistance, 15.104.  
 Revocation or suspension, license to discharge waste, 26.029.  
 Riots or mobs, waste discharge violations, 26.132, 26.216.  
 Rules and regulations, 26.011.  
 Accidental discharges and spills, 26.039.  
 Discharge of waste, 26.040.  
 Disposal system rules, local governments, 26.176.  
 Monitoring and reporting on waste collection and treatment, 26.042.  
 Safety,  
 Accidental discharge, 26.039.  
 Entry on property, inspection, 26.014.  
 Sales, storage acquisition sites, 15.313 et seq.  
 Sampling, 26.127.  
 Collection by cities, 26.177.  
 Second and subsequent offenses, 26.213.  
 Secretary of state, service of summons, corporations,  
 Agent for service, 26.220.  
 Waste discharge violations, 26.219.  
 Septic tanks, controlling or prohibiting, 26.031.  
 Counties, 26.032.  
 Service of summons, corporations, waste discharge violations, 26.219, 26.220.  
 Spills and accidental discharges, 26.039.  
 Standards, 26.023 et seq.  
 Consultation, objectives of state water plan, 26.024.  
 Copies, 26.026.  
 Hearings, 26.024.  
 Notice, 26.025.  
 Pretreatment, 26.047.  
 Publication, 26.026.  
 Recommendations to water quality board, local government, 26.172.  
 State agencies,  
 Cooperation, control and preservation of quality, 26.017.  
 Coordination of programs, 26.127.  
 State aid, water quality management plans, 26.036 et seq.  
 Statutes, application of lot, 26.135.  
 Storage acquisition program, 15.301 et seq.  
 Strikes, discharge of waste caused by, 26.132.  
 Subpoenas, hearings, 26.020.  
 Summons, corporations, waste discharge violations, 26.219, 26.220.  
 Suspension or revocation, license to discharge waste, 26.029.  
 Technical aid, local government, cooperative agreements, 26.175.

**WATER QUALITY—Cont'd**

Temporary orders prior to notice and hearing, 26.0191.  
 Time,  
 Appeals and writs of error, 5.351.  
 Pleadings, corporations, waste discharge violations, 26.221.  
 Title to underground water, 26.002.  
 Unauthorized discharge of waste, 26.121 et seq.  
 Underground water, title, 26.002.  
 United States agencies, control and preservation, cooperation, 26.017.  
 Uranium exploration, discharge of waste, 26.131.  
 Venue, waste discharge violations, 26.124, 26.125.  
 Waiver, hearing, discharge permits, 26.028.  
 Wars, state discharge violations, 26.132, 26.216.  
 Water assistance fund, 15.011, 15.012.  
 Water loan assistance fund, 15.101 et seq.  
 Water quality enhancement bonds, 17.171 et seq.  
 Water wells, 28.001 et seq.  
 Witnesses, hearings, subpoenas, 26.020.  
**WATER QUALITY BOARD**  
 Delegation of powers and duties, 26.021.  
 Enforcement, 26.123.  
 Federal grants, treatment works, fees, 26.048.  
 Fees, federal grants, processing fees, 26.048.  
 Grant processing fees, 26.048.  
 Hearings, 26.020 et seq.  
 Powers and duties, 26.011 et seq.  
 Regional and area-wide waste disposal systems, elections, 26.087.  
 Reports,  
 Oil and hazardous substances spill prevention and control, contracts with state highway department, 26.264.  
 Trade secrets, confidentiality, 5.053.  
 Water pollutants, availability, 5.053.  
 Rules and regulations, 26.011.  
 Trade secrets, confidentiality, 5.053.  
**WATER QUALITY ENHANCEMENT ACCOUNT**  
 Generally, 17.072.  
**WATER QUALITY ENHANCEMENT BONDS**  
 Generally, 17.171 et seq.  
 Approval, 17.175.  
 Default, 17.178.  
 Incontestability, 17.176.  
 Interest rate, 17.174.  
 Maturity, 17.173.  
 Proceeds, sale, 17.180.  
 Registration, 17.175.  
 Sale, 17.179.  
 Proceeds, 17.180.  
 Security for bonds, 17.177.  
**WATER RESOURCES, DEPARTMENT OF**  
 Generally, 5.001 et seq.  
 Charter, scope, 5.002.  
 Construction of title, 5.017.  
 Cooperation,  
 Caddo lake compact, 47.008.  
 Red river compact, 46.010.  
 Copies, documents, proceedings, etc., 5.052.

## INDEX TO WATER CODE

References are to Sections

**WATER RESOURCES, DEPARTMENT OF—Cont'd**

Definitions, 5.001.  
 Executive functions, 5.014.  
 Funds, state agencies, 5.051.  
 General duties and responsibilities, 5.016.  
 Governor, reports, 5.055.  
 Judicial functions, 5.015.  
 Legislative functions, 5.013.  
 Policy, 5.011.  
 Purpose, 5.018.  
 Records and recordation,  
   Copies, 5.052.  
   Inspection, 5.053.  
 Reports, governor, 5.055.  
 Scope, charter, 5.002.  
 Seal, 5.054.  
 State agencies, 5.012.  
 Sunset Act, application, 5.0121.

**WATER RIGHTS**

Generally, 11.001 et seq., 12.001 et seq.  
 Abandonment, 11.030, 11.338.  
 Abatement of actions, claimants to water rights, 11.340.  
 Accidents, distribution of water during shortage, 11.039.  
 Acquisition, 11.022.  
 Actions and proceedings,  
   Claimants to water rights, 11.340.  
   Court orders, violation, 11.409.  
   Court-appointed watermaster, 11.401 et seq.  
   Diligent prosecution, 5.353.  
   Water commission, acts of water resources department, 11.334.  
 Adjoining landowners, 11.038.  
 Adjudication of water rights, 11.301 et seq.  
 Administration,  
   Permits issued after adjudication, 11.336.  
   Water rights not adjudicated, 11.335.  
 Application for rehearing, 11.316.  
 Application of law, 11.303.  
 Certificate of adjudication, 11.171 et seq.  
   Recording, 11.324.  
 Claims, 11.303.  
 Contesting preliminary determination of claims, 11.311.  
 Copies of determination, claimants, 11.315.  
 Costs, final decree, 11.322.  
   Hearings, exceptions to final determination, 11.319.  
 Evidence, public inspection, 11.310.  
 Exceptions to final determination, 11.318 et seq.  
 Filing,  
   Final determination with district court, 11.317.  
   Sworn claims, 11.307.  
 Final determination, 11.315 et seq.  
 Hearings on claims, 11.308, 11.319.  
 Investigations, 11.305.  
 Jury trial, hearings on exceptions to final determination, 11.320.  
 Limitation of certain claims, 11.303.  
 Maps or plats, 11.305.  
 Modification of final determination, 11.315.  
 Motion of commission to adjudicate claim, 11.304.  
 Notice, 11.306.  
   Application for rehearing, 11.316.  
   Final determination, court order, 11.317.

**WATER RIGHTS—Cont'd**

Adjudication of water rights—Cont'd  
 Notice—Cont'd  
   Hearing, 11.303, 11.308.  
   Preliminary determination of claims, 11.312, 11.314.  
 Order to adjudicate claim, 11.305.  
 Orders of court, final determination, 11.317.  
 Petitions, 11.303, 11.304.  
 Policy declaration, 11.302.  
 Preliminary determination of claims, 11.309 et seq.  
 Recordation, 11.303.  
   Investigation, 11.305.  
 Rehearings, 11.316.  
 Res judicata, 11.322.  
 Statements,  
   Contesting preliminary determination of claims, 11.313.  
   Filing by claimants, 11.303.  
   Types of claims, 11.303.  
 Administration of water rights not adjudicated, 11.335.  
 Amendments, permits, certified filing and certificates, 11.122.  
 Appeal and review, 11.406 et seq.  
   Adjudication of water rights, 11.322.  
   Court orders, violation during appeal, 11.409.  
   Court-appointed watermaster, retention during appeal, 11.408.  
   District court judgment, 5.355.  
   Executive director, 5.356.  
   Judicial custody of water during appeal, 11.406.  
   Water commission, 5.351.  
 Application of law, 11.341.  
 Bonds (officers and fiduciaries), denial of water, hearings, 11.041.  
 Boundary waters of state, application of law, 11.003.  
 Cancellation, 11.338.  
   Certified filings and permits, 12.012.  
 Certificate of adjudication, 11.171 et seq.  
   Recording, 11.324.  
 Certified copies,  
   Filing, 11.004.  
   Water commission, proceedings or documents, 5.052.  
 Certified filing, perfecting water rights, 11.084.  
 Certified mail, adjudication of water rights, notice of hearing on claims, 11.308.  
 Claims to water rights, filing, 11.307.  
 Complaint, denial of water, 11.041.  
 Condemnation of existing works, 12.015.  
 Conservation and reclamation districts, supervision by water commission, 12.081.  
 Contempt, orders or subpoenas of water commission, 11.337.  
 Contracts, administration of water rights not adjudicated, 11.335.  
 Costs,  
   Adjudication of water rights, 11.322.  
   Deposit in state treasury, 12.113.  
   Hearings on exceptions to final determination, 11.319.  
 Crimes and offenses, sale of permanent water rights without a permit, 11.084.  
 Deeds and conveyances,  
   Title to land passing out of state after July 1, 1895, 11.001.  
   Water right passing with title to land, 11.040.

**WATER RIGHTS—Cont'd**

Definitions, 11.002, 12.001.  
   State water, 11.021.  
 Delivering water down stream banks and beds, 11.042.  
 Denial of water, hearing on complaint, 11.041.  
 Depositions, hearings, 11.337.  
 Deposits,  
   Complaints, denial of water, 11.041.  
   Fees and charges, 12.113.  
 Discrimination, rates and charges,  
   Adjoining landowners, 11.038.  
   Complaints, 11.041.  
 Dismissal,  
   Action, failure to prosecute, 5.353.  
   Complaint, denial of water, 11.041.  
 Distribution works, construction, inspection, 12.016.  
 District court judgment, appeal, 5.355.  
 Diversion of water,  
   Application for permit, 12.011.  
   International streams, 11.0871.  
 Diversion works, construction, inspection, 12.016.  
 Division of state into water divisions, 11.325.  
 Droughts, distribution of water during shortage, 11.039.  
 Easements, permanent water rights, 11.040.  
 Emergency permits to take water, 11.139.  
 Eminent domain, condemnation of existing works, 12.015.  
 Entry on land, investigation, 12.017.  
 Evaluation, outstanding permits, 12.012.  
 Evidence,  
   Denial of water, hearing on complaint, 11.041.  
   Exceptions to final determination, 11.320, 11.321.  
   Hearings, 11.337.  
   Inspection, 11.310.  
 Exceptions, 11.028.  
   Final determination of water rights, 11.318 et seq.  
 Federal projects, 12.051, 12.052.  
 Fees, 5.182 et seq., 12.111.  
   Certified copies furnished by commission, 5.052.  
   Disposition, 12.113, 12.114.  
   Exemption, 12.112.  
   Permits, unpaid, effect, statements, 12.111 note.  
 Fines and penalties,  
   Court orders, violations, 11.409.  
   Sale of permanent water right without a permit, 11.084.  
 First class mail,  
   Adjudication of water rights, notice of hearing on claims, 11.306.  
   Preliminary determination, 11.312.  
 Forfeiture, 11.030, 11.338.  
 Fresh water supply districts, projects, investigations, 12.082.  
 Hearings, 11.337.  
   Adjudication of water rights, 11.303, 11.308.  
   Annulled permits, 12.111.  
   Condemnation of existing works, notice, 12.015.  
   Denial of water, complaints, 11.041.  
   Federal projects, 12.051.  
   Final determination of water rights, exceptions, 11.319.  
   Preliminary determination of rights, 11.314.  
 Imported waters, 64.101.

# INDEX TO WATER CODE

2202

References are to Sections

## WATER RIGHTS—Cont'd

Impounding water,  
Application for permit, 12.011.  
Fee, 5.182, 12.111.  
Impounding works, construction, inspection, 12.016.  
Injunctions, water resources department, 11.334.  
Inspection, impounding, diversion or distribution works, 12.016.  
International streams, diversion, 11.0871.  
Investigations,  
Adjudication of water rights, 11.305.  
Denial of water, 11.041.  
Entry on land or waterway, 12.017.  
Fresh water supply districts, 12.082.  
Judgments and decrees,  
Appeal, 5.355.  
Final determination of water rights, 11.322.  
Judicial custody of water during appeal, 11.406.  
Jurisdiction, judicial custody of water during appeal, 11.406.  
Land title passing out of state after July 1, 1895, 11.001.  
Licenses and permits,  
Annulled permits, effect, hearings, 12.111.  
Applications, 12.011.  
Filing fee, 5.182, 12.111.  
Evaluation, 12.012.  
Fees, unpaid, validity of permits, 12.111 note.  
Validity, 12.111 note.  
Limitations,  
Allocations of water,  
Court orders, violations, 11.409.  
Water rights or claims, 11.303.  
Mail and mailing,  
Certified mail,  
Adjudication of water rights, notice of hearing, 11.308.  
Contest against preliminary determination of water rights, copies, 11.313.  
Final determination of water rights, notice, 11.317.  
First class mail,  
Adjudication of water rights, notice of adjudication, 11.306.  
Preliminary determination, 11.312.  
International streams, diversion, 11.0871.  
Maps or plats, adjudication of water rights, 11.305.  
Notice,  
Adjudication of water right, ante.  
Condemnation of existing works, 12.015.  
Federal project hearing, 12.051.  
Hearings, 11.337.  
International streams, diversion, 11.0871.  
Oaths and affirmations,  
Claims to water rights, 11.307.  
Hearings, 11.337.  
Statements, filing by claimants, 11.303.  
Orders, federal project, approval or disapproval, 12.051.  
Orders of court, final determination of water rights, 11.317.  
Pending proceedings to determine water rights, preservation of status quo, 11.340.  
Perfection of right to appropriate water, 11.026.  
Permanent water rights, 11.040.

## WATER RIGHTS—Cont'd

Petitions,  
Adjudication of water rights, 11.303, 11.304.  
Denial of water, 11.041.  
Review of department's actions, 5.351.  
Political subdivisions, certificate in application for financial assistance for water development project, 17.123.  
Priorities and preferences, 11.024, 11.141.  
Distribution of water during shortage, 11.039.  
Rights as between appropriators, 11.027.  
Rates and charges, 5.182 et seq.  
Adjoining landowners, 11.038.  
Discrimination, complaint, 11.041.  
Exemption from fees, 12.112.  
Fees, 5.182, 12.111.  
Fixing, 12.013.  
Records and recordation, 11.303.  
Agreement to administer unadjudicated water rights, 11.335.  
Certificate of adjudication, 11.324.  
Conveying permanent water rights, 11.040.  
Fee, 5.182, 12.111.  
Investigations, 11.305.  
Rehearings, adjudication of water rights, 11.316.  
Remedies, executive director, commission or board inaction, 5.352.  
Reports,  
Federal agency's engineering report, 12.051.  
Fresh water supply districts, 12.082.  
Res judicata, adjudication of water rights, 11.322.  
Return of unused water, 11.046.  
River and streams, international streams, diversion, 11.0871.  
Shortage of water, distribution of water, 11.039.  
State boundary waters, application of law, 11.003.  
Statements, filing by claimants, 11.303.  
Stealing or taking water from persons holding water rights, 11.088.  
Storage of water, application for permit, 12.011.  
Subpoenas, hearings, 11.337.  
Supersedeas bond, allocation and distribution of water during appeals, 11.407.  
Temporary diversion, international streams, 11.0871.  
Time,  
Adjudication of water rights, 11.306 et seq.  
Forfeiture of rights, 11.030.  
Hearing, condemnation of existing works, 12.015.  
Petition for review of department's act, 5.351.  
Rights as between appropriators, 11.027.  
Title to appropriation by limitation, 11.029.  
Title to appropriation by limitation, 11.029.  
Transportation of water, application for permit, 12.011.  
Underground, imported waters, 64.101.  
Unused water, return, 11.046.  
Venue, 5.354.  
Fresh water supply district projects, 12.082.

## WATER RIGHTS—Cont'd

Vested rights, 11.001.  
Distribution of water during shortage, 11.039.  
International streams, water released from dams or reservoirs, 11.087.  
Water divisions,  
Division of state into water divisions, 11.325.  
Watermasters, generally, this index.  
Withdrawing allocations of water, court orders, violations, 11.409.  
Witnesses, hearings, 11.337.

## WATER RIGHTS ADJUDICATION ACT

Generally, 11.301 et seq.

## WATER RIGHTS ADMINISTRATION FUND

Costs collected, deposit, 12.113.

## WATER SUPPLY

Actions and proceedings, water commission, acts of water resources department, 11.334.  
Adjoining landowners, 11.038.  
Adverse or pecuniary interest, governing board members, disqualification, 50.026.  
Appeals, rates and charges, 11.036.  
Appropriation of water, 11.023.  
Preference, 11.024.  
Cancellation of municipal certified filings to take water, 11.184.  
Compliance, rules, 11.333.  
Contempt, orders or subpoenas of water commission, 11.337.  
Contracts, 11.036.  
Crimes and offenses,  
Destruction of waterworks, 11.088.  
Use of works declared public nuisance, 11.094.  
Wasteful use of water, 11.092, 11.093, 11.095.  
Depositions, hearings, 11.337.  
Destruction of waterworks, 11.088.  
Discrimination, 11.036.  
Rates and charges, adjoining landowners, 11.038.  
Disqualification, governing board members, districts, 50.026.  
Distribution of water during shortage, 11.039.  
Districts, creation, notice, posting notice, 50.303.  
Droughts, distribution of water during shortage, 11.039.  
Eminent domain, 11.033.  
Evidence, hearings, 11.337.  
Fines and penalties,  
Destruction of waterworks, 11.088.  
Use of works declared public nuisance, 11.094.  
Wasteful use of water, 11.095.  
Governing boards, disqualification, 50.026.  
Headgates, 11.330.  
Hearings, 11.337.  
Imported waters, 64.001 et seq.  
Injunctions, water resources department, 11.334.  
Measuring devices, 11.331.  
Negligence, wasteful use of water, 11.093.  
Notice,  
Compliance, rules, 11.333.

## INDEX TO WATER CODE

References are to Sections

**WATER SUPPLY—Cont'd**

## Notice—Cont'd

- Hearings, 11.337.
- Rules and regulations, compliance, 11.333.
- Nuisance, abatement of wasteful use of water as nuisance, 11.093.
- Oaths and affirmations, hearings, 11.337.
- Outlets for free passage of water, 11.330.
- Permits to retain water in reservoir, purposes, 11.183.
- Priorities and preferences,
  - Distribution of water during shortage, 11.039.
  - Water appropriation, 11.024.
- Publication, rules and regulations, 11.037.
- Rates and charges, 11.036.
  - Adjoining landowners, 11.038.
- Reports, appropriation of water, 11.031.
- Rules and regulations, 11.037.
  - Compliance, 11.333.
- Shortage in supply, distribution of water, 11.039.
- Stealing or taking water illegally, 11.088.
- Subpoenas, hearings, 11.337.
- Wasteful use of water, 11.092 et seq.
- Witnesses, hearings, 11.337.

**WATER WELLS**

- Generally, 28.001 et seq.
- Artesian wells, 11.201 et seq.
  - Copy of drilling record, filing, 11.203.
- Crimes and offenses,
  - Drilling records, 11.203.
  - Wasting water, 11.205.
- Defined, 11.201.
- Drilling records, 11.203.
- Fines and penalties,
  - Drilling records, 11.203.
  - Wasting water, 11.205.
- Improperly cased or capped wells, nuisance, 11.206.
- New wells, reports, 11.204.
- Nuisance, improperly cased or capped wells, 11.206.
- Records, drilling records, 11.203.
- Reports, 11.207.
  - New wells, 11.204.
- Right to drill artesian wells, 11.202.
- Wasting water, 11.205.
- Casing, 28.003.
- Crimes and offenses, 28.004.
- Definitions, 28.001.
- Fines and penalties, 28.004.
- Plugging, 28.003.
- Pollution control, 28.001 et seq.
- Second and subsequent offenses, plugging or casing, 28.004.

**WATERMASTERS**

- Generally, 11.326 et seq.
- Application of law, court-appointed watermasters, 11.401.
- Compensation and salaries, 11.329.
- Court-appointed watermasters, 11.401 et seq.
  - Compensation of watermaster and employees, 11.403.
  - Costs, assessment, 11.404, 11.405.
  - Expenses, 11.402, 11.404.
    - Assessment, failure to pay assessed costs, 11.405.
  - Powers and duties, retention of watermaster during appeal, 11.408.
  - Reservoirs, authority, 11.402.
  - Retention of watermaster during appeal, 11.408.

**WATERMASTERS—Cont'd**

- Duties, 11.327.
- Expenses, 11.329.
- Hearings, apportionment of compensation and expenses, 11.329.
- Notices, 11.328.
- Reimbursement by water right holders, compensation and expenses, 11.329.

**WATERS AND WATERCOURSES**

- Accumulation of water on or contiguous to land, improvements, 16.231 et seq.
- Bays, generally, this index.
- Coastal waters, oil and hazardous substances spill prevention and control, 26.261 et seq.
- Construction, providing for navigation, 16.271 et seq.
- Definitions,
  - Water quality control, 26.001.
  - Criminal prosecution, 26.211.
- Diversion, application for permit, 12.011.
- Estuaries, generally, this index.
- Improvements,
  - Excess accumulation on or contiguous to land, 16.231 et seq.
  - Streams and canals, 16.271 et seq.
- Obstruction of navigable streams, 11.096.
- Oil and hazardous substances spill prevention and control, coastal waters, 26.261 et seq.
- Sale of stored water, 16.192 et seq.
- Silt load of streams, determination, 16.014.
- State property, 11.021.
- Stored water, sale, 16.192 et seq.
- Underground water, application of law, 11.339.
- Water commission, knowledge of watercourses, 5.267.

**WATERSHEDS**

- Interwatershed transfers, 11.085.
- Regional division, survey or water needs, 16.014.
- Water development, state water plan, 16.051.

**WEATHER MODIFICATION**

- Generally, 18.001 et seq.
- Actions and proceedings,
  - Evidence, actions against licensee, 18.152.
  - Injunctive relief, 18.172.
- Advisory committees, 18.015.
- Affidavits, notice of intention, proof of publication, 18.087.
- Applications, licenses and permits, 18.084.
- Compacts, 18.018.
- Compensation, personnel, 18.016.
- Consultants, compensation, 18.016.
- Contracts,
  - Federal, state or local agencies, cooperative agreements, 18.019.
  - Permits, scope, 18.083.
  - Public or private agencies, 18.019.
  - Research and development activities, 18.020.
- Cooperative agreements, federal, state or local agencies, 18.019.
- Counties, cooperative agreements, 18.019.
- Crimes and offenses, 18.171.
- Damages, proof of financial responsibility, licenses, 18.088.
- Definitions, 18.002.

**WEATHER MODIFICATION—Cont'd**

- Development and research,
  - Gifts or grants, 18.021.
  - Promotion, 18.020.
- Donations, funds for research and development, 18.021.
- Elections, hail suppression, permits, 18.0841.
- Emergencies, license exemption, 18.052.
- Evidence, licenses and permits, actions against licensee, 18.152.
- Exemptions, licenses and permits, 18.052.
- Experiments, licenses and permits, exemptions, 18.052.
- Expiration, licenses, 18.055.
- Federal aid, 18.021.
- Fees, licenses and permits, 18.053, 18.054, 18.081, 18.082.
  - Disposition, 18.022.
- Financial responsibility, proof, licenses and permits, 18.081, 18.088.
- Findings and conclusions, hearings, license suspension or revocation, 18.123.
- Fines and penalties, 18.171, 18.172.
- Foreign states, interstate compacts, 18.018.
- Gifts, funds for research and development, 18.021.
- Governmental immunity, 18.151.
- Hail suppression, permits, elections, 18.0841.
- Hearings,
  - License modification, notice, 18.089.
  - License suspension or revocation, 18.122.
  - Records, 18.123.
  - Licenses and permits, 18.081.
  - Water development board, 18.014.
- Immunity of state, 18.151.
- Injunctions, violation of law, etc., 18.172.
- Inspection reports and records, 18.090.
- Interstate compacts, 18.018.
- Investigations, water development board, 18.014.
- Laboratory research and experiments, license exemption, 18.052.
- Licenses and permits, 18.051 et seq.
  - Actions against licensee, evidence, 18.152.
  - Applications, 18.084.
  - Competence, applicants, 18.053.
  - Contracts, scope of permit, 18.083.
  - Damages, proof of financial responsibility, 18.088.
  - Disposition of fees, 18.022.
  - Evidence, actions against licensee, 18.152.
  - Exemptions, 18.052.
  - Expiration, 18.055.
  - Fees, 18.053, 18.054, 18.081, 18.082.
    - Disposition, 18.022.
  - Financial responsibility, proof, 18.088.
  - Hail suppression, elections, 18.0841.
  - Hearings,
    - Modification of license, 18.089.
    - Suspension or revocation, 18.122.
    - Records, 18.123.
  - Injunctions, 18.172.
  - Issuance, 18.053, 18.081.
  - Limitation, scope of activity, 18.090.
  - Modification, 18.089.
  - Notice of intention,
    - Contents, 18.085.
    - Proof of publication, 18.081.
    - Publication, 18.084.
  - Period of permit, 18.083.

# INDEX TO WATER CODE

2204

References are to Sections

## WEATHER MODIFICATION—Cont'd

Licenses and permits—Cont'd  
Permit violations, 18.1211.  
Proof of financial responsibility, 18.088.  
Publication, notice of intention, applications, 18.084.  
Qualifications, 18.053, 18.081.  
Records, 18.091.  
Suspension or revocation, hearings, 18.123.  
Refusal to renew, 18.121.  
Renewal, 18.056.  
Fees, 18.054.  
Refusal, 18.121.  
Reports, 18.091.  
Revocation, 18.121.  
Hearings, 18.122.  
Records, 18.123.  
Rules and regulations, 18.012.  
Scope of activity, 18.090.  
Suspension, 18.121.  
Hearings, 18.122.  
Records, 18.123.  
Terms and conditions, compliance, 18.090.  
Limitations, licenses, scope of activity, 18.090.  
Machinery and equipment, 18.017.  
Materials, 18.017.  
Modification of permits, 18.089.  
Municipalities, cooperative agreements, 18.019.  
Name, licensee, notice of intention, 18.085.  
Notice, license modification, hearings, 18.089.  
Notice of intention,  
Publication, 18.086.  
Proof of publication, affidavit, 18.087.  
Operational area, defined, 18.0841.  
Permit area, defined, 18.1211.  
Personnel, compensation, 18.016.  
Petitions, permit disapproval, 18.0841.  
Private legal relationships, effect of chapter, 18.152.  
Privileges and immunities, state, liability, 18.151.  
Proof of publication, notice of intention, licenses and permits, 18.081.  
Publication, notice of intention, 18.086.  
Applications, 18.084.  
Proofs,  
Affidavit, 18.087.  
Licenses and permits, 18.081.  
Records,  
License suspension or revocation, hearings, 18.123.  
Licenses, 18.091.  
Renewal license, 18.056.  
Fees, 18.054.  
Refusal, 18.121.  
Reports, licensees, 18.091.  
Research and development,  
Exemptions, licenses and permits, 18.052.  
Gifts or grants, 18.021.  
Promotion, 18.020.  
Revocation of licenses, 18.121.  
Hearings, 18.122.  
Records, 18.123.  
Rules and regulations, 18.011 et seq.  
Licenses and permits, 18.012.  
Safety, 18.013.  
Safety regulations, 18.013.  
Scope of activity, licenses, terms and conditions, 18.090.  
Scope of permit, 18.083.

## WEATHER MODIFICATION—Cont'd

Second and subsequent offenses, 18.171.  
State, immunity, liability, 18.151.  
State treasury, license fees, deposits, 18.022.  
Studies, water development board, 18.014.  
Suspension of licenses, 18.121.  
Hearings, 18.122.  
Records, 18.123.  
Target area, defined, 18.0841.  
Terms and conditions of permit, compliance, 18.090.  
Time, elections, permits, 18.0841.  
United States agencies, cooperative agreements, 18.019.  
Water development board, 18.001 et seq.

## WEATHER MODIFICATION AND CONTROL

Defined, Weather Modification Act, 18.002.

## WEIGHTED AVERAGE EFFECTIVE INTEREST RATE

Defined, water development, public funding, 17.001.

## WITNESSES

Irrigation districts, hearings,  
Appraisalment commissioners report, 58.645.  
Single-county districts, 58.020.  
Water appropriations, hearings, 11.337.  
Water quality, hearings, subpoenas, 26.020.

## WORDS AND PHRASES

Accidental discharge, water quality, 26.039.  
Acquisition of state facilities, water development, 16.001, 17.001.  
Affected person, injection wells, 27.034.  
Agricultural waste,  
Regional Waste Disposal Act, 30.003.  
Water quality control, 26.001.  
Criminal prosecution, 26.211.  
Appropriator, water rights, 11.002.  
Artesian wells, 11.201.  
Attorney general, Ogallala water import authority, 64.003.  
Authority,  
Deepwater port authority, 19.002.  
Ogallala water import, 64.003.  
Beneficial use,  
Ogallala water import authority, 64.003.  
Water rights, 11.002.  
Board,  
Deepwater port authority, 19.002.  
Financial assistance, 15.001.  
Injection wells, 27.002.  
Irrigation districts, 58.001.  
Ogallala water import authorities, 64.003.  
Water development, 16.001.  
Public funding, 17.001.  
Water quality control, 26.001.  
Water resources department, 5.001.  
Water rights, 11.002.  
Weather Modification Act, 18.002.  
Boat,  
Sewage disposal systems, 26.044.  
Sewage pump-out facilities, 26.045.  
Bonds, water development, 16.001.  
Guaranty program, 15.201.  
Public funding, 17.001.

## WORDS AND PHRASES—Cont'd

Casing, injection wells, 27.002.  
Certificate of adjudication, water appropriation, cancellation of permits for nonuse, 11.171.  
Certified filing, water appropriation, cancellation of permits for nonuse, 11.171.  
Chairman, water development, 16.001.  
City,  
Regional Waste Disposal Act, 30.003.  
Coastal area, Oil and Hazardous Substances Spill Prevention and Control Act, 26.263.  
Coastal basins, Regional Waste Disposal Act, 30.003.  
Coastal land or water, Oil and Hazardous Substances Spill Prevention and Control Act, 26.263.  
Commercial income, irrigation districts, 58.397.  
Commission,  
Financial assistance, 15.001.  
Injection wells, 27.002.  
Levee improvement districts, 57.001.  
Red river compact, 46.013.  
Water development, 16.001.  
Public funding, 17.001.  
Water quality control, 26.001.  
Water resources department, 5.001.  
Water rights, 11.002.  
Water wells, 28.001.  
Weather Modification Act, 18.002.  
Commissioner, deepwater port authority, 19.002.  
Commissioner court, irrigation districts, 58.001.  
Comptroller, Ogallala water import authority, 64.003.  
Conservation financial assistance, 15.001.  
Conservation storage capacity, Red river compact, 46.013.  
Construction, financial assistance for waste treatment construction, alternative program, 17.272.  
Deepwater port, deepwater port authority, 19.002.  
Department,  
Districts, 50.001.  
Financial assistance, 15.001.  
Injection wells, 27.002.  
Levee improvement districts, 57.001.  
Water development, 16.001.  
Public funding, 17.001.  
Water resources department, 5.001.  
Water rights, 11.002.  
Water wells, 28.001.  
Weather Modification Act, 18.002.  
Designated agent,  
Fresh water supply districts, 12.082.  
Irrigation districts, 58.451.  
Designated water, Red river compact, 46.013.  
Developer of property in the district, board members, 50.026.  
Development board, Ogallala water import authority, 64.003.  
Direct cost of acquisition, water resource development project facility sale, 16.188.  
Directors, irrigation districts, 58.001.  
Discharge or spill, Oil and Hazardous Substances Prevention and Control Act, 26.263.  
Disposal facilities, hazardous substances, 26.301.

## INDEX TO WATER CODE

References are to Sections

## WORDS AND PHRASES—Cont'd

Disposal system,  
Regional Waste Disposal Act, 30.003.  
Water quality control, 26.001.

Disposal wells, permits, 27.002.

District,  
Fresh water supply district, 12.082.  
Irrigation districts, 58.001.  
Ogallala water import authorities,  
64.003.  
Regional Waste Disposal Act, 30.003.

Drawdown, Caddo lake compact, 47.011.

Edwards aquifer, 26.046.

Engineering report, federal projects,  
12.051.

Environmental response law, disposal facilities, 26.301.

Executive director,  
Financial assistance, 15.001.  
Injection wells, 27.002.  
Levee improvement districts, 57.001.  
Municipal utility districts, 54.001.  
Underground water conservation district, 52.001.

Water control and improvement districts, 51.001.

Water development, 16.001.  
Public funding, 17.001.  
Water improvement districts, 55.001.  
Water quality control, 26.001.  
Water resources department, 5.001.  
Water rights, 11.002.  
Weather Modification Act, 18.002.

Extraction of minerals, injection wells,  
27.002.

Federal agency, federal projects, 12.051.  
Federal project, water rights, 12.051.

Financial assistance, financial assistance for waste treatment construction, alternative program, 17.272.

Fluid, injection wells, 27.002.

Fresh water,  
Boat sewage pump-out facilities,  
26.045.  
Injection wells, 27.002.

Fund,  
Disposal facility, 26.301.  
Oil and hazardous substances spill prevention and control, 26.263.  
Water assistance, 15.001.

General manager, deepwater port authority, 19.002.

Guaranteed bonds, construction projects,  
15.201.

Hail suppression, weather modification,  
18.0841.

Harmful quantity, oil and hazardous substances spill prevention and control,  
26.263.

Hauler, Salt Water Haulers Act, 29.002.

Hazardous substances,  
Disposal facilities, 26.301.  
Oil and Hazardous Substance Spill Prevention and Control Act, 26.263.

Identified state supplement to NPDES permit, Water Quality Act, 26.001.

Imported water, Ogallala water import authority, 64.003.

Importer, Ogallala water import authority, 64.003.

Industrial and municipal waste, injection wells, 27.002.

Industrial waste,  
Regional Waste Disposal Act, 30.003.  
Water quality control, 26.001.  
Criminal prosecution, 26.211.

Intrastate tributary, Red river compact,  
46.013.

## WORDS AND PHRASES—Cont'd

Issuer, bond guaranty, 15.201.

Lending rate, water development, 16.001,  
17.001.

Loan fund,  
Water loan assistance, 15.001.

Local government,  
Injection wells, 27.018.  
Water quality control, 26.001.

Maximum aggregate loan guarantee,  
bonds, 15.201.

Motor vehicles, water facilities, operation, 50.056.

Municipal waste,  
Regional Waste Disposal Act, 30.003.  
Water quality, criminal prosecution,  
26.211.  
Water quality control, 26.001.

National Flood Insurance Act, Flood Control and Insurance Act, 16.313.

Natural deterioration, Red river compact,  
46.013.

Net effective interest rate, water development, 16.001, 17.001.

Net revenue,  
Ogallala water import authorities,  
64.003.  
Water resource development project,  
bonds of political subdivision financing, 17.131.

NPDES, Water Quality Act, 26.001.

Oil, Oil and Hazardous Substances Spill Prevention and Control Act, 26.263.

Oil, spill prevention and control, 26.263.

Oil and gas waste, injection wells,  
27.002.

Operation, Weather Modification Act,  
18.002.

Operational area, weather modification,  
18.0841.

Other interested person, water appropriation, cancellation of permits for non-use, 11.171.

Other substances, water quality, 26.039.

Other waste, water quality control,  
26.001.  
Criminal prosecution, 26.211.

Permit, water quality control, 26.001.

Permit area, weather modification,  
18.1211.

Person,  
Salt Water Haulers Act, 29.002.  
Water quality, criminal prosecution,  
26.211.

Petroleum, deepwater port authority,  
19.002.

Point source, Water Quality Act, 26.001.

Political subdivision,  
Financial assistance, 15.001.  
Alternative program, 17.272.  
Flood Control and Insurance Act,  
16.313.  
Rate-fixing, 12.013.  
Water development, 16.001.  
Public funding, 17.001.  
Water rights, 12.013.

Pollutant, Water Quality Act, 26.001.

Pollutant or contaminant, disposal facilities, 26.301.

Pollution,  
Injection wells, 27.002.  
Red river compact, 46.013.  
Water quality control, 26.001.

Private sewage facilities,  
Controlling or prohibiting, 26.031.  
Water quality, 26.031.

Program, bond guaranty, 15.201.

## WORDS AND PHRASES—Cont'd

Project,  
Financial assistance, 15.001.  
Public funding, 17.001.  
Water development, 16.001.

Public agency,  
Regional Waste Disposal Act, 30.003.

Railroad commission,  
Injection wells, 27.002.  
Salt Water Haulers Act, 29.002.

Recreational waste,  
Regional Waste Disposal Act, 30.003.  
Water quality control, 26.001.  
Criminal prosecution, 26.211.

Red river, compact, 46.013.

Red river basin, compact, 46.013.

Release, disposal facilities, 26.301.

Remedial action, disposal facilities,  
26.301.

Removal, disposal facilities, 26.301.

Research and development, Weather Modification Act, 18.002.

Response, disposal facilities, 26.301.

River authority, Regional Waste Disposal Act, 30.003.

River basins, Regional Waste Disposal Act, 30.003.

Runoff, Red river compact, 46.013.

Salt water, Salt Water Haulers Act,  
29.002.

Secretary, Flood Control and Insurance Act, 16.313.

Sewage, water quality control, 26.001.  
Criminal prosecution, 26.211.

Sewer system, water quality control,  
26.001.

Sole expense, irrigation districts, 58.179.

Spill, water quality, 26.039.

Standard metropolitan statistical area, regional and area-wide waste disposal systems, 26.081.

Standby service, water sale contracts,  
16.194.

State,  
Ogallala water import authority,  
64.003.  
Red river compact, 46.013.

State facility, water development, 16.001,  
17.001.

State water, 11.021.

Surface water, Ogallala water import authority, 64.003.

Target area, weather modification,  
18.0841.

To discharge, water quality control,  
26.001.  
Criminal prosecution, 26.211.

Treatment facility,  
Regional Waste Disposal Act, 30.003.  
Water quality control, 26.001.

Treatment works, water quality, 26.001.

Tributary, Red river compact, 46.013.

Underground storage and transmission,  
Ogallala water import authority,  
64.003.

Underground water, Ogallala water import authority, 64.003.

Underground water reservoir, Ogallala water import authority, 64.003.

Undesignated water, Red river compact,  
46.013.

Undeveloped property,  
Municipal utility district charges,  
54.2041.  
Water control and improvement districts, 51.195.  
Water district charges, 50.056.

# INDEX TO WATER CODE

2206

References are to Sections

## WORDS AND PHRASES—Cont'd

United States, Ogallala water import authorities, 64.003.

### Waste,

Ogallala water import authority, 64.003.

Regional Waste Disposal Act, 30.003.

Water development, 16.001.

Public funding, 17.001.

Water quality control, 26.001.

Criminal prosecution, 26.211.

### Water,

Ogallala water import authorities, 64.003.

Water quality control, 26.001.

Criminal prosecution, 26.211.

## WORDS AND PHRASES—Cont'd

Water development bonds, water development, 16.001.

Public funding, 17.001.

Water in the state, water quality control, 26.001.

Water pollution, water quality, criminal prosecution, 26.211.

Alternative program, 17.272.

Water quality enhancement bond, water development board, public funding, 17.001.

Alternative program, 17.272.

Water rights, 11.002.

Weather Modification and Control,

Weather Modification Act, 18.002.

## WORDS AND PHRASES—Cont'd

Weighted average effective interest rate, water development, public funding, 17.001.

Work, Ogallala water import authority, 64.003.

## WORK

Defined, Ogallala water import authority, 64.003.

†